

**PLANNING COMMISSION MEETING
THURSDAY, APRIL 8, 2021**

**DOCUMENTS RECEIVED AFTER
PUBLISHED AGENDA**

ITEM #1 PH 21-032

**Proposed Establishment of a Drive Thru Coffee Shop
and Convenience Store, Application No. 201800093
Located at 28590 Mission Boulevard**

Staff Response to Commissioner Questions



April 8, 2021 – Planning Commission Questions

28590 Mission Boulevard

201800093 CUP

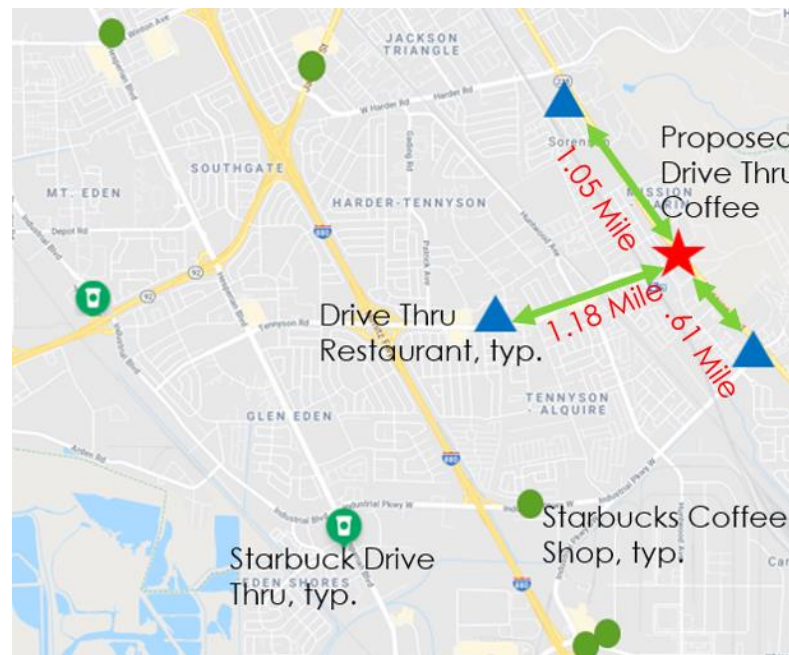
ITEM #	QUESTION	STAFF RESPONSE
#1	<p>This proposal reduces the parking from 26 spaces to 9. Employees alone will need at least 4 spaces. So that leaves at most 5 parking spaces for an enlarged convenience store (71% bigger) plus the new coffee shop.</p> <ul style="list-style-type: none"> How does staff justify such limited parking? Where would overflow parking go? Is there street parking? Is there accessible parking on nearby properties? 	<p>Zoning Districts under the Mission Boulevard Code do not have minimum parking requirements like our older Zoning Districts which refers to the Off-Street Parking Regulations to determine the parking requirements. If the Off-Street Parking Regulations were applied to this project, the parking requirement for the Gas Station, Convenience Store and Drive through Coffee Shop with 4 employees would be 16. Nine parking spaces, and eight fueling station parking spaces plus an eight-car drive thru lane are provided. In addition, six bicycle parking spaces are provided.</p> <p>The bulk of the customer who will visit the Convenience Store are also people who are filling up on gas, and a significant number of customers who are filling up with gas are pay remotely at the pump and will leave the site quickly.</p> <p>There are no provisions for overflow parking or parking on adjacent properties, however, in order to maximize onsite parking for customers, the owner indicated that he will direct the staff at the time of hiring to either use easily available public transit or to park along Mission Blvd. Street parking is available on the west side of Mission Blvd as well as AC Transit and BART are conveniently located near the site. Staff notes that the proposed sales floor (1193 sf) is less than half the store area (2763 sf).</p>
#1	<p>The drive thru line at Hayward's other Starbucks can be 12-20 cars long, especially during the morning rush.</p> <ul style="list-style-type: none"> Where would a 12-20 car queue go for this site? Excess customers have no parking spaces to park in as a way to mitigate queue length. So they 	<p>The Traffic Study prepared by PHA Transportation Consultants and approved by the City Traffic Engineer anticipates 13 cars during peak hours. The site is already designed with a provision to accommodate 13 cars including 8 inside drive thru' lane plus 5 along the landscaping curb abutting Elias Motors towards North. More than 25 ft. space between gas pump & planter curb will help in keeping the gas pumps accessible, while 5 cars are waiting in queue, during peak coffee hours. Six bicycle parking spaces will also cater to 6 neighborhood customers using. Additionally, coffee can be purchased by walk up customers, while filling up on gas and would not</p>

	<p>would likely be forced to stay in the queue even if it spills out onto Mission Blvd.</p> <ul style="list-style-type: none"> • Wouldn't the excess drive thru queue (>6-8 cars) back up into the turning radius for the gas pumps and block access to the gas pumps? • Wouldn't the excess drive thru queue (>8-10 cars) back up onto Mission Blvd and block traffic lanes? That would happen at a point where Mission is already merging from 3 lanes to 2 lanes. • How do the city traffic engineers justify this likely travel lane blockage during peak morning rush hour? • What happens if the drive thru queue does block traffic on Mission after the building is built and the businesses open? • What recourses, if any, would the City have to force changes at that point? 	<p>have to wait in the queuing line. Unbranded coffee could also be purchased from the Convenience Store.</p> <p>If issues should arise regarding the queuing, Condition #10 (<i>If determined to be necessary for the protection of the public peace, safety and general welfare, the City of Hayward may impose additional conditions or restrictions on this permit...</i>) allows the City to impose additional conditions or restrictions. The traffic report recommends installing cameras to monitor vehicle queues at the drive thru lane and assign additional personnel to help taking orders as needed. This is something that some operators, such as In and Out Burger, has done at several of their locations during the pandemic. The use of apps for ordering and paying could also improve the drive-thru lanes.</p> <p>Additionally, in the event vehicular queuing becomes an issue, one of the gas dispenser lanes could be converted to a queuing lane as necessary during the morning rush hour.</p>
#1	<p>City Council has a policy that limits all new drive-thru restaurants city-wide. That policy grants exceptions only for businesses that are unique to the city. We already have a Starbucks drive thru in Hayward, so this use is not unique in Hayward. This Council-imposed rule was not addressed in the staff report.</p>	<p>There is no formal City Council adopted policy or rule that mandates that new-drive-throughs are only allowed if they are unique to the City of Hayward and this was not codified when the City Council adopted the Zoning Text Amendment pertaining to Drive Thru uses.</p> <p>On July 24, 2018, the City Council held a public hearing and voted 7-0 to approve a Zoning Text Amendment application via Ordinance No. 18-11 and Resolution 18-183 (see attached) to incorporate flexibility within the City's zoning ordinance to grant developers the ability to simply apply for discretionary land use applications through the Use Permit process for new drive-through restaurants and espresso shops that are within a ½ mile of existing similar drive-through establishments. Prior to the adoption of the ordinance and resolution, the Hayward Municipal</p>

	<ul style="list-style-type: none"> • How does staff justify approving a second Starbucks drive thru? • Is staff exempting drive-thru coffee shops from this city-wide rule limiting drive thrus? 	<p>Code included a strict prohibition with no flexibility that precluded developers from even submitting land use applications if a proposed drive-through restaurant or espresso shop was within a ½ mile of an existing similar facility. The revised language within the City’s zoning ordinance can be found in Ordinance No. 18-11 under Exhibit “A” and is underlined accordingly to emphasize the new text.</p> <p>As part of the July 24th City Council agenda packet, the staff report (Page 3, first paragraph) did disclose that at that time City staff was processing two Use Permit applications for two new Starbucks cafes: the first at 28899 Hesperian Boulevard at the Eden Shores development which has now been approved, and the second at 25980 Mission Boulevard situated at the northeastern corner of Mission Boulevard and Tennyson Road (this project site) - both of which are and will be outside a ½ mile of an existing drive-through restaurant facility and did not need to rely on the flexibility provided by the ordinance and resolution. It is important to note that Conditional Use Permit applications for drive-through establishments, although submitted, are still discretionary land use applications subject to review and approval by the decision-making body, and thus are not permitted by-right. That said, the City is precluded from discriminating against specific business operators and the report prepared by staff is limited to the proposed land use operation itself and its associated impacts, including recommendations on whether the Planning Commission can make the required Findings per the Municipal Code for Use Permits.</p> <p>In 2020, in response to an inquiry from a developer, the City Attorney’s Office provided clarification and direction to Planning Division staff that the ½ mile prohibition codified and referenced within the City’s standard industrial and commercial zoning districts does not apply to properties located within the Mission Boulevard form-based code plan area; however, said drive-in establishments such as drive-through restaurants and espresso shops are still required to undergo their respective discretionary review through the means of a Conditional Use Permit (CUP) that shall be reviewed by the Planning Commission, or by the City Council via appeal or “call-up”.</p> <p>As noted in the map below, staff notes that the project site is more than ½ mile from another Drive Thru Restaurant and staff notes the proposed Drive Thru Coffee Shop meets that distance</p>
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requirement. The proposed drive-thru use is approximately 1.05 miles from McDonalds to the North, .61 miles from Burger King to the South and 1.18 miles from Jack in the Box to the west. Therefore, approving the Drive Thru Coffee Shop would not be exempting a City-wide rule limiting Drive Thru Coffee Shop. Staff was not able to find a restriction limiting Drive Thru Coffee Shops or Restaurants that are considered businesses that are unique to the City.

Staff notes that the City's General Plan contains policies that support the expansion of existing uses and improvements to a site. The General Plan Economic Development Policy ED-3 Business Expansion and Retention state *"Grow the local economy and employment base by supporting efforts to expand and retain local businesses."* The ED Policy also state *"Encourage economic investment by enhancing the image and reputation of Hayward."*



Staff believes the Starbucks Drive Thru Coffee Shop will be located in an area that services a different and separate throughfare in the City. On the map above, the "green dot with the cup" show the current location of other Starbucks drive thru locations and the other green dots are their other coffee shops in the vicinity.

<p>#1</p>	<p>New hours of operation are 24/7 for the convenience store and 6am-10pm for the coffee shop. What hours of operation does the existing CUP allow for the existing convenience store?</p>	<p>The original Use Permit was approved in 1971 and there were no conditions on the hours of operation. There are no restrictions on the hours of operation of Convenience Store/Gas Station or Drive Thru Coffee Shop.</p> <p>To date, staff has not received any concerns from the members of the public regarding this project. Staff notes that the nearest residential units are approximately 130 feet from the rear drive thru lane and is about 50 feet higher than the drive thru lane. <i>Condition #8 requires that the "Drive Thru Coffee shop shall comply with the City's Noise Regulations, in case noise should become an issue."</i> The existing Convenience Store on-site operates between 5am to 12 midnight.</p> <div data-bbox="758 725 1297 1179">  </div> <div data-bbox="1318 638 1906 1179">  </div>
<p>#1</p>	<p>Pretty much every gas station and convenience store in Hayward violates the city's sign ordinance by posting multiple, temporary signs all over their properties. COA #20 requires this</p>	<p>Condition # 20 essentially makes the owner aware of the sign ordinance and the requirement to obtain permits. The condition does not give any additional leverage to enforce the sign ordinance. The City's enforcement of the Sign Regulation is complaint based. If a violation is reported to Code Enforcement, the Sign Ordinance will be enforced. Fines are assessed until the violation is corrected. Below are fines for each inspection until the signs are brought into compliance.</p>

	<p>station to abide by the city’s sign ordinance.</p> <ul style="list-style-type: none">Does COA #20 give the city additional leverage to enforce our sign ordinance?Could violations of the sign ordinance potentially lead to revocation of this CUP?	<p>2. Violation of Community Preservation, Sign, Vehicle, Weed Abatement, Building, Public Nuisance, Zoning Ordinances, and HMC Code violations</p> <p>a. First Violation</p> <table><tr><td>(1) Initial inspection</td><td>No Charge</td></tr><tr><td>(2) Reinspection shows violation eliminated</td><td>No Charge</td></tr><tr><td>(3) Reinspection shows violation still exists</td><td>\$ 626 + \$400 penalty</td></tr><tr><td>(4) Second inspection violation still exists</td><td>\$ 626 + \$800 penalty</td></tr><tr><td>(5) Third, Fourth, Fifth and Subsequent inspection shows violation still exists</td><td>\$ 626 + \$1,600 penalty</td></tr></table> <p>b. Subsequent violation(s)</p> <table><tr><td>(1) Initial inspection and notices</td><td>\$ 743 + \$800 penalty</td></tr><tr><td>(2) Each subsequent inspection violation still exists</td><td>\$ 626 + \$1,600 penalty</td></tr></table> <p>c. Abatement costs (per parcel)</p> <table><tr><td></td><td>\$ 1,325 plus contractor costs</td></tr></table> <p>d. Lien/Special Assessment (per parcel)</p> <table><tr><td></td><td>\$ 1,811 per parcel</td></tr></table> <p>When Drive Thru operators and other businesses are sited with a sign violation, they are required to comply or face penalties that are codified in the Municipal Code. If the operator illegally puts up the signs again, there’s a double penalty for repeat/subsequent violations. Since this compliance with the sign ordinance is not directly tied to the Use Permit and/or the operation of the drive-thru coffee shop, staff would not support revocation based on sign violations.</p>	(1) Initial inspection	No Charge	(2) Reinspection shows violation eliminated	No Charge	(3) Reinspection shows violation still exists	\$ 626 + \$400 penalty	(4) Second inspection violation still exists	\$ 626 + \$800 penalty	(5) Third, Fourth, Fifth and Subsequent inspection shows violation still exists	\$ 626 + \$1,600 penalty	(1) Initial inspection and notices	\$ 743 + \$800 penalty	(2) Each subsequent inspection violation still exists	\$ 626 + \$1,600 penalty		\$ 1,325 plus contractor costs		\$ 1,811 per parcel
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#1	<p>The application complies with all mandated sustainability regulations.</p> <ul style="list-style-type: none">Does it include any non-mandated sustainability features (i.e. above the minimum required)?Do either of the new buildings include solar panels? There is no mention in the COAs.Does the CUP require any electric car charging stations? There is no mention in the COAs. Customers may not often stay long enough to use them, but employees certainly will.	<p>Though not required, the owner has indicated that the site will be provided with two Electric Charging Stations. Electric Charging Stations are only required when you have 10 or more parking spaces. In that case Fifteen percent of those parking spaces must be provided with Electric Charging Stations.</p> <p>Though the owner does not plan to install Solar Panels at this time, the Building Permit Plans submitted for the proposed buildings will be Solar Ready in compliance with California Energy Code. Solar Zones will be earmarked on the plans with areas reserved on roofs for the solar panels and conduits installed for access to Main Switch Board.</p> <p>Other Sustainability measures include Trash Enclosure to have separate bins for Recyclable Organics and Materials. Landscaping and Irrigation to comply with Model Water Efficient Landscape Ordinance. Four additional Bicycle Parking Spaces above the 2 that is required by the California Green Buildings Standards Code will be provided.</p> <p>While staff does not believe there is a nexus or correlation to require the project provide solar panels and electric charging stations due to the need for a Use Permit and variance,</p>																		

	<ul style="list-style-type: none"> Given that this CUP requires an exemption be granted by the City/PC, does the PC have the authority to add COAs requiring solar panels to both buildings and 2 electric charging stations? 	
#1	<p>Required finding for approval of the <12' setback rule: "There are special circumstances applicable to the <u>property</u>, including size, shape, topography, location, or surroundings, or other physical constraints." There is no mention of existing use as a special circumstance of a property as justification that a variance be granted. However, staff does list the existing use (i.e. the gas pumps) as justification for the variance. The gas pumps are a use...not a "special circumstance" of the property itself. Is an existing use a valid cause for granting a variance to the <12' setback rule?</p>	<p>The purpose of variance provisions is to authorize in specific cases departure from the terms of the Ordinance if not contrary to the public interest where, owing to special conditions, literal enforcement would result in unnecessary hardship. The special circumstance includes location or surrounding or other physical constraints.</p> <p>The gas pumps, underground storage tanks and soil nail easement along Tennyson Road are physical constraints that prevent the Convenience Store and Drive Thru Coffee Shop from being located \leq than 12 feet from the front and side street property line. The building can't be located over the underground storage tanks or the soil nail easement which stabilizes the retaining wall along Tennyson Road. The location of the gas pumps in relation to the underground storage tank, driveways and Gas Truck Circulation are all intertwined and not easily adjustable and would be unnecessary burdensome if required to do so.</p> <p>In addition, the location of the buildings toward the rear of the property accentuates, defines the major intersection of the two major thoroughfares through the City while screening the drive thru lane. Practical difficulties and unusual hardship would arise in complying strictly with the standards of this code.</p>

HAYWARD CITY COUNCIL

RESOLUTION NO. 18-183

Introduced by Council Member Zermeño

RESOLUTION TO ADOPT A ZONING TEXT AMENDMENT TO CHAPTER 10, ARTICLE 1 (ZONING ORDINANCE), SECTIONS 10-1.845.J (5) AND (6); AND 10-1.1045.J (5) AND (6) (MINIMUM DESIGN AND PERFORMANCE STANDARDS) OF THE HAYWARD MUNICIPAL CODE RELATED TO DRIVE-THROUGH RESTAURANTS AND DRIVE-THROUGH COFFEE/ESPRESSO SHOPS IN THE CITY OF HAYWARD

WHEREAS, On May 1, 2018, the United Growth Capital Management, LLC submitted a Zoning Text Amendment request to amend Chapter 10, Article 1 (Zoning Ordinance) of the Hayward Municipal Code (HMC) to allow additional flexibility for the establishment of new drive-through restaurants and drive-through coffee/espresso shops in the City within half-mile of another establishment;

WHEREAS, Current minimum design and performance standards within the Zoning Ordinance for drive-through restaurants and drive-through coffee/espresso shops prohibit the establishment of any drive-through restaurant or drive-through coffee/espresso shop within half-mile radius of another establishment as measured from the building walls of existing or proposed buildings;

WHEREAS, The proposed amendments would allow additional flexibility for the establishment of new drive-in and drive-through restaurants and coffee/espresso shops in the City within half-mile of another establishment if certain required findings can be made related the site location in addition to the findings required for the Administrative or Conditional Use Permit;

WHEREAS, On July 12, 2018, the Planning Commission considered Zoning Text Amendment Application No. 201802227 at a public hearing, and voted (4-0-0), that the City Council approve the Zoning Text Amendment; 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 July 24, 2018.

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

CALIFORNIA ENVIRONMENTAL QUALITY ACT

1. The proposed Zoning Text Amendment is exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3), as an activity that is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The proposed Zoning Text Amendment to the Hayward Zoning Ordinance will allow additional flexibility related to the minimum distance requirements of drive-through establishments from one another. Future projects will be subject to additional CEQA review to evaluate any potential environmental impacts associated with that project.

FINDINGS FOR A ZONING TEXT AMENDMENT TO THE HAYWARD MUNICIPAL CODE

A. Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward;

The proposed Zoning Text Amendment (ZTA) would allow for flexibility, where appropriate, in the locations that currently conditionally permit the development of drive-through restaurants and expresso shops within the City of Hayward. The ZTA would ensure that drive-throughs be located appropriate by including required findings that would be in addition to those of the Administrative Use Permit (AUP) or Conditional Use Permit (CUP). The proposed Text Amendment would provide additional use permit findings that relate to the geographical location of any potential development site for a drive-through restaurant or expresso shop; the proximity of the site to Interstate-880 and State-Route 92; the impacts on private and public circulation; the establishment of adequate buffers from adjacent residential properties; and the consistency with adopted policies related to multi-modal transportation, streets, and mobility. With the inclusion of these findings and additional analysis required to grant greater flexibility, the proposed Amendment will promote public health by limiting the over-concentration of drive-through establishments in residential areas, and mixed-use areas in the City that are focused on improving and expanding bicycle and pedestrian access, such as Mission Boulevard, Foothill Boulevard, and Downtown Hayward.

B. The proposed change is in conformance with all applicable, officially adopted policies and plans;

The proposed ZTA would not conflict with the underlying General Plan goals and policies, or the Bicycle Master Plan. The proposed text amendment would support the City's Complete Communities and Complete Streets Strategic Initiative by providing additional flexibility for establishment of drive-through businesses in the City that would not have a detrimental impact on the multi-modal Complete Streets network. The proposed ZTA includes language and verbiage to ensure and strive for ongoing consistency and compatibility with these documents, stipulating that new drive-

through establishments be approved only upon demonstrating that they will not conflict with such long-range goals. Additionally, the proposed ZTA is consistent with the following Land Use and Economic Development General Plan Policies:

- Land Use Policy LU-5.2 - Flexible Land Use Regulations. To maintain flexible land use regulations that allow the establishment of economically productive uses in regional and community centers.
- Economic Development Policy ED-6.7 - Business Incentives. To provide incentives to attract, expand, and retain businesses that offer high quality jobs, generate local sales tax revenue, and/or provide needed goods or services to residents.

C. Streets and public facilities existing or proposed are adequate to serve all uses permitted when the property is reclassified; and

No properties are proposed to be reclassified, rezoned, or amended with this application. Rather, the proposed ZTA would introduce flexibility in where drive-through restaurants and expresso shops are conditionally permitted. Such land uses would still be required to obtain the appropriate review and approval of either a AUP or CUP, based on location and zoning district. The determination of whether the streets and public facilities, existing and proposed are adequate to serve the conditionally permitted uses would be reviewed as part of the standard AUP or CUP development review process.

D. All uses permitted when property is reclassified will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations.

No properties are proposed to be reclassified, rezoned, or amended with this application. As stated previously, the proposed ZTA introduces flexibility in where drive-through establishments and expresso shops are conditionally permitted. Currently, the Zoning Ordinance does allow for drive-through establishments as conditional uses. However, the minimum design and performance standards for drive-through restaurants and expresso shops prohibit the establishment of similar facilities within a half-mile from each other – as measured from the exterior walls. The proposed Amendment would maintain the existing distance separation but incorporate a mechanism to allow for additional drive-through restaurants within a half-mile of each other upon meeting the new, required findings aimed to prevent an over-concentration or addition of drive-throughs in areas not deemed appropriate (i.e. Mission Boulevard, Downtown Hayward, Foothill Boulevard).

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 Zoning Text Amendment Application No. 201802227, subject to the adoption of the companion Ordinance.

BE IT RESOLVED that this resolution shall become effective on the date that the companion Ordinance (Ordinance No. 18-11) becomes effective.

IN COUNCIL, HAYWARD, CALIFORNIA July 24, 2018

ADOPTED BY THE FOLLOWING VOTE:

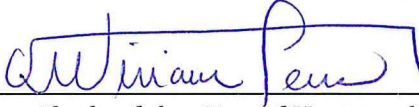
AYES: COUNCIL MEMBERS: Zermeno, Márquez, Mendall, Peixoto, Lamnin, Salinas
MAYOR: Halliday

NOES: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

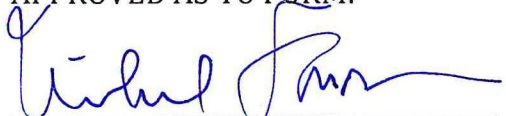
ABSENT: COUNCIL MEMBERS: None

ATTEST:



City Clerk of the City of Hayward

APPROVED AS TO FORM:



City Attorney of the City of Hayward

ORDINANCE NO. 18-11

AN ORDINANCE AMENDING CHAPTER 10, ARTICLE 1, SECTIONS 10-1.845.j (5) and (6); AND 10-1.1045.j(5) and (6) (MINIMUM DESIGN AND PERFORMANCE STANDARDS) OF THE HAYWARD MUNICIPAL CODE RELATED TO DRIVE-THROUGH RESTAURANTS AND DRIVE-THROUGH COFFEE/ESPRESSO SHOPS IN THE CITY OF HAYWARD

WHEREAS, On July 24, 2018, the City Council held a public hearing and adopted findings in support of the requested zoning text amendment as set forth in the companion Resolution (No. 18-11);

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. Provisions. The City Council incorporates by reference the findings contained in Resolution No. 18-11 approving the text changes to the Hayward Municipal Code requested in Zoning Text Amendment Application No. 201802227.

Section 2. Chapter 10, Planning, Zoning, and Subdivisions of the Hayward Municipal Code, which establishes minimum performance and design standards for all zoning districts within City boundaries, is hereby amended to add certain text (as indicated by underline) and delete certain provisions (as indicated by strikethrough) in the attached Exhibit "A", related to Drive-In Establishments in the City, introduced herewith and as specifically shown in this Ordinance.

Section 3. Severance. Should any part of this Ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this Ordinance, which shall continue in full force and effect, provided that the remainder of the Ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

Section 4. Effective Date. In accordance with the provisions of Section 620 of the City Charter, the Ordinance shall become effective immediately upon adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the 24th day of July 2018, by Council Member Zermeño.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the 18th day of September 2018, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS: Zermeño, Mendall, Peixoto, Lamnin, Salinas
MAYOR: Halliday

NOES: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: Márquez

APPROVED: Bruce Halliday
Mayor of the City of Hayward

DATE: September 24, 2018

ATTEST: William Perez
City Clerk of the City of Hayward

APPROVED AS TO FORM: William S. Shaw
City Attorney of the City of Hayward

"EXHIBIT A"

CHAPTER 10 – PLANNING, ZONING, AND SUBDIVISIONS

ARTICLE 1 – ZONING ORDINANCE

NEIGHBORHOOD COMMERCIAL (CN) ZONING DISTRICT

SEC. 10-1.845 - MINIMUM DESIGN AND PERFORMANCE STANDARDS.

The City recognizes that high-quality design of commercial structures can contribute to a positive appearance of commercial districts and neighborhoods and improve the overall character of the community. This Section establishes design and performance standards that shall apply to the construction of residential and commercial buildings and certain commercial uses in the CN District, including but not limited to cultural, educational, religious or recreational facilities. The development of CN-zoned properties in the South of Route 92 planning area is also subject to the provisions of the South of Route 92/Oliver and Weber Properties Specific Plan and the Development Guidelines for the South of Route 92 Oliver/Weber Properties.

Commercial Buildings and Uses.

For commercial buildings (including second story residential uses) refer to the design criteria contained in the City of Hayward Design Guidelines, the Hillside Design and Urban/Wildland Interface Guidelines and the following specific criteria and standards.

j. **Drive-in Establishments - Special Standards and Conditions.**

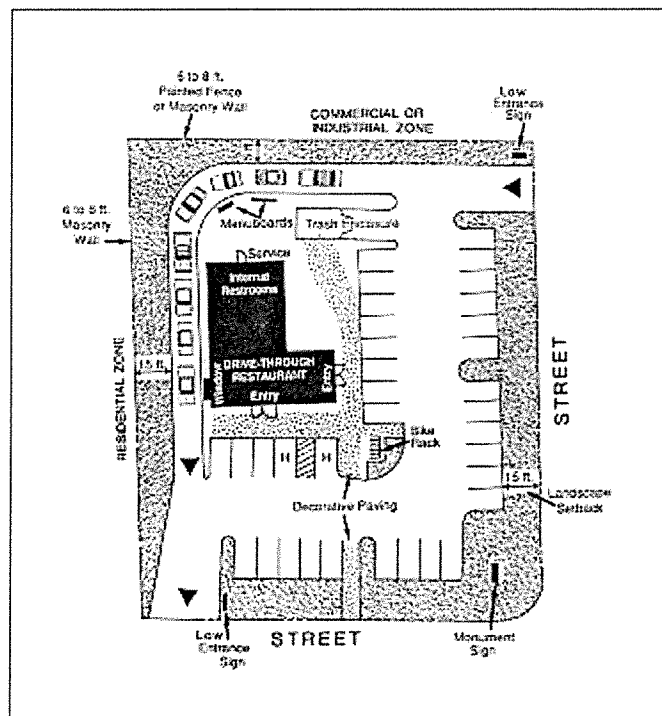
(5) **Drive-Through Restaurants.**

(a) Drive-in or drive-through restaurants shall be prohibited within ½-mile radius of one another as measured from the building walls of existing or proposed buildings, unless all the following required findings are met:

- i. The drive-in or drive-through restaurants are located within one-half mile from the Interstate 880 (Nimitz Freeway) or State Route 92 (Jackson Freeway) rights-of-way as measured by the existing roadway network;
- ii. The location of the drive-in or drive-through restaurants will not have a substantial adverse effect on vehicular (including bicycle), pedestrian circulation and safety, or transit accessibility;

- iii. The drive-in or drive-through restaurants will not conflict with City adopted goals and policies including, but not limited to, the General Plan and Bicycle Master Plan; and
 - iv. The site is suitable and adequate for the proposed use because the drive-in or drive-through restaurant lanes and service windows will be located at least seventy-five (75) feet away from residential uses and residentially zoned properties.
- (b) For each drive-in restaurant a bicycle rack shall be installed with a capacity for at least five bicycles.
 - (c) Drive-through lanes installed in connection with drive-in restaurants shall have a capacity for at least eight vehicles, at 20 feet per vehicle, unless adequate access and circulation is provided to minimize spillover onto public property.
 - (d) Pedestrian circulation areas located within drive-in restaurant developments with drive-up windows shall consist of decorative paving such as brick, paving stones, or Bomanite.
 - (e) Access to bathroom facilities located within drive-in restaurant developments shall be from within the structure, with no direct access from the parking area.
 - (f) Roof lights, refrigeration units or other extraneous features which are not integral parts of the main structure, inflexible building prototypes which result in an ability to meet setback and compatibility requirements, and unattractive building elevations visible to customers or passersby are prohibited.
 - (g) Identification signs for drive-in restaurants (excluding directional signs and the menu board) 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. Total area for wall signs may include logos not to exceed 24 inches in height.
 - (h) All required yard areas abutting streets and not used for vehicle maneuvering or parking shall be landscaped. In all zoning districts a landscaped setback at least 15 feet wide shall be installed parallel to the street right(s) of way or precise plan line(s) and on interior property lines where drive-through aisles abut residential zoning districts.
 - (i) Minimum building site (lot area or lease area) shall be 25,000 square feet in area, unless adequate access and cross-parking is provided.

- (j) Drive-through aisles shall not be located between the building and the right-of-way and pick-up windows shall not face the right-of-way unless their visibility is minimized through the use of innovative building architecture and mounded or bermed landscaping to minimize their visual impact from the street. Menu board shall be placed so as to not be visible from the street.
- (k) Drive-through restaurants shall have an architectural theme that is unique for a given area as specified by City standards and policies or as determined by the Planning Director; franchise architecture shall be avoided where possible.



(6) Drive-Through Coffee/Esspresso Shops

(a) Drive-through coffee/esspresso shops shall be prohibited within ½-mile radius of one another as measured from the building walls of existing or proposed buildings, unless all the following required findings are met:

- i. The drive-through coffee/esspresso shops located within one-half mile from the Interstate 880 (Nimitz Freeway) or State Route 92 (Jackson Freeway) rights-of-way as measured by the existing roadway network;
- ii. The location of the drive-through coffee/esspresso shops will not have a

substantial adverse effect on vehicular (including bicycle), pedestrian circulation and safety, or transit accessibility;

- iii. The drive-through coffee/espresso shops will not conflict with City adopted goals and policies including, but not limited to, the General Plan and the Bicycle Master Plan; and
 - iv. The site is suitable and adequate for the proposed use because the drive- through coffee/espresso shop lanes and service windows will be located at least seventy-five (75) feet away from residential uses and residentially zoned properties.
- (b) Drive-through coffee/espresso shop buildings shall not exceed 500 square feet in area.
 - (c) Drive-through lanes for drive-up windows shall have a capacity for at least two vehicles, at 20 feet per vehicle, unless adequate access and circulation is provided to minimize spillover onto public property.
 - (d) Drive-through lanes shall consist of decorative paving such as brick, paving stones, or Bomanite.
 - (e) Public bathroom facilities shall be provided inside the drive-through building, unless public bathroom facilities are located within 200 feet on the same property and are accessible during coffee shop business hours.
 - (f) Roof lights, refrigeration units or other extraneous features which are not integral parts of the main structure, inflexible building prototypes which result in an ability to meet setback and compatibility requirements, and unattractive building elevations visible to customers or passersby are prohibited.
 - (g) Identification signs for drive-through coffee/espresso shops shall comply with the Hayward Sign Ordinance and shall be limited to one monument sign not to exceed 6 feet in height and two wall signs with letters not to exceed 18 inches in height. Total area for wall signs may include logos not to exceed 24 inches in height.
 - (h) All required yard areas abutting streets and not used for vehicle maneuvering or parking shall be landscaped. In all zoning districts a landscaped setback at least 10 feet wide shall be installed parallel to the street right-of-way or precise plan line and on interior property lines where drive-through aisles abut residential zoning districts.
 - (i) Minimum building site (lot area or lease area) shall be sufficient to accommodate the building and required circulation, maneuvering and

parking.

- (j) Drive-through aisles and pick-up windows may be located between the building and the right-of-way, but their visibility should be minimized through the use of innovative building architecture and mounded or bermed landscaping to minimize their visual impact from the street. Menu board(s) shall be placed so as to not be visible from the street.
- (k) Drive-through coffee/espresso shops shall have an architectural theme that is unique for a given area as specified by City standards and policies or as determined by the Planning Director; franchise architecture shall be avoided where possible

GENERAL COMMERCIAL (CG) ZONING DISTRICT

SEC. 10-1.1045 - MINIMUM DESIGN AND PERFORMANCE STANDARDS.

The City recognizes that high-quality design of commercial structures can contribute to a positive appearance of neighborhoods and improve the overall character of the community. This Section establishes design and performance standards that shall apply to residential and commercial development allowed in the CG District, including but not limited to cultural, educational, religious or recreational facilities.

Commercial Buildings and Uses.

For commercial buildings and use, refer to the design criteria contained in the City of Hayward Design Guidelines, applicable Special Design Districts, the Hillside Design and Urban/Wildland Interface Guidelines and the following specific criteria and standards:

j. Drive-in Establishments - Special Standards and Conditions.

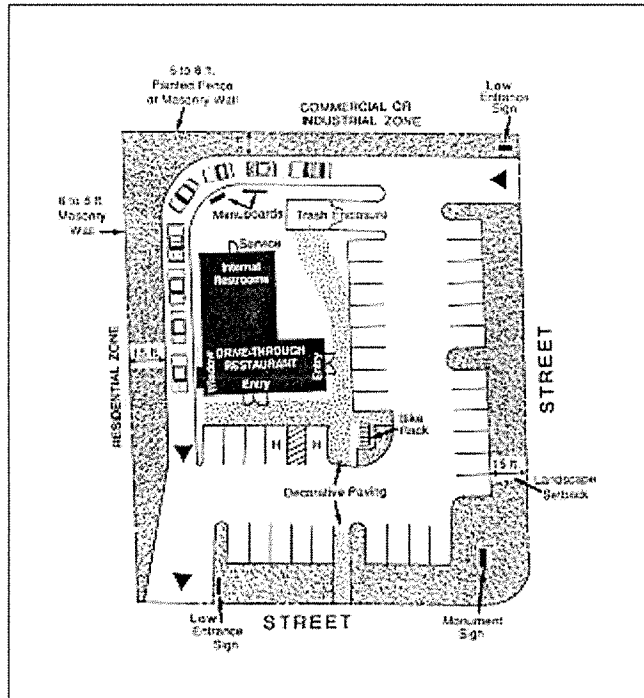
(5) Drive-Through Restaurants.

(a) Drive-in or drive-through restaurants shall be prohibited within ½-mile radius of one another as measured from the building walls of existing or proposed buildings, unless all the following required findings are met:

- i. The drive-in or drive-through restaurants are located within one-half mile from the Interstate 880 (Nimitz Freeway) or State Route 92 (Jackson Freeway) rights-of-way as measured by the existing roadway network;
- ii. The location of the drive-in or drive-through restaurants will not have a substantial adverse effect on vehicular (including bicycle), pedestrian circulation and safety, or transit accessibility;
- iii. The drive-through coffee/espresso shops will not conflict with City adopted goals and policies including, but not limited to, the General Plan and the Bicycle Master Plan; and
- iv. The site is suitable and adequate for the proposed use because the drive-in or drive-through restaurant lanes and service windows will be located at least seventy-five (75) feet away from residential uses and residentially zoned properties.

(b) For each drive-in restaurant a bicycle rack shall be installed with a capacity for at least five bicycles.

- (c) Drive-through lanes installed in connection with drive-in restaurants shall have a capacity for at least eight vehicles, at 20 feet per vehicle, unless adequate access and circulation is provided to minimize spillover onto public property.
- (d) Pedestrian circulation areas located within drive-in restaurant developments with drive-up windows shall consist of decorative paving such as brick, paving stones, or Bomanite.
- (e) Access to bathroom facilities located within drive-in restaurant developments shall be from within the structure, with no direct access from the parking area.
- (f) Roof lights, refrigeration units or other extraneous features which are not integral parts of the main structure, inflexible building prototypes which result in an ability to meet setback and compatibility requirements, and unattractive building elevations visible to customers or passersby are prohibited.
- (g) Identification signs for drive-in restaurants (excluding directional signs and the menu board) 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. Total area for wall signs may include logos not to exceed 24 inches in height.
- (h) All required yard areas abutting streets and not used for vehicle maneuvering or parking shall be landscaped. In all zoning districts a landscaped setback at least 15 feet wide shall be installed parallel to the street right(s) of way or precise plan line(s) and on interior property lines where drive-through aisles abut residential zoning districts.
- (i) Minimum building site (lot area or lease area) shall be 25,000 square feet in area, unless adequate access and cross-parking is provided.
- (j) Drive-through aisles shall not be located between the building and the right-of-way and pick-up windows shall not face the right-of-way unless their visibility is minimized through the use of innovative building architecture and mounded or bermed landscaping to minimize their visual impact from the street. Menu board shall be placed so as to not be visible from the street.
- (k) Drive-through restaurants shall have an architectural theme that is unique for a given area as specified by City standards and policies or as determined by the Planning Director; franchise architecture shall be avoided where possible.



(6) Drive-Through Coffee/Esspresso Shops

(a) Drive-through coffee/espresso shops shall be prohibited within ½-mile radius of one another as measured from the building walls of existing and proposed buildings, unless all the following required findings are met:

- i. The drive-through coffee/espresso shops located within one-half mile from the Interstate 880 (Nimitz Freeway) or State Route 92 (Jackson Freeway) rights-of-way as measured by the existing roadway network;
- ii. The location of the drive-through coffee/espresso shops will not have a substantial adverse effect on vehicular (including bicycle), pedestrian circulation and safety, or transit accessibility;
- iii. The drive-through coffee/espresso shops will not conflict with City adopted goals and policies including, but not limited to, the General Plan and the Bicycle Master Plan; and
- iv. The site is suitable and adequate for the proposed use because the drive-through coffee/espresso shop lanes and service windows will be located at least seventy-five (75) feet away from residential uses and residentially zoned properties.

(b) Drive-through coffee/espresso shop buildings shall not exceed 500 square feet in area.

- (c) Drive-through lanes for drive-up windows shall have a capacity for at least two vehicles, at 20 feet per vehicle, unless adequate access and circulation is provided to minimize spillover onto public property.
- (d) Drive-through lanes shall consist of decorative paving such as brick, paving stones, or Bomanite.
- (e) Public bathroom facilities shall be provided inside the drive-through building, unless public bathroom facilities are located within 200 feet on the same property and are accessible during coffee shop business hours.
- (f) Roof lights, refrigeration units or other extraneous features which are not integral parts of the main structure, inflexible building prototypes which result in an ability to meet setback and compatibility requirements, and unattractive building elevations visible to customers or passersby are prohibited.
- (g) Identification signs for drive-through coffee/espresso shops shall comply with the Hayward Sign Ordinance and shall be limited to one monument sign not to exceed 6 feet in height and two wall signs with letters not to exceed 18 inches in height. Total area for wall signs may include logos not to exceed 24 inches in height.
- (h) All required yard areas abutting streets and not used for vehicle maneuvering or parking shall be landscaped. In all zoning districts a landscaped setback at least 10 feet wide shall be installed parallel to the street right-of-way or precise plan line and on interior property lines where drive-through aisles abut residential zoning districts.
- (i) Minimum building site (lot area or lease area) shall be sufficient to accommodate the building and required circulation, maneuvering and parking.
- (j) Drive-through aisles and pick-up windows may be located between the building and the right-of-way, but their visibility should be minimized through the use of innovative building architecture and mounded or bermed landscaping to minimize their visual impact from the street. Menu board(s) shall be placed to not be visible from the street.
- (k) Drive-through coffee/espresso shops shall have an architectural theme that is unique for a given area as specified by City standards and policies or as determined by the Planning Director; franchise architecture shall be avoided where possible.