



## **SUBJECT**

Proposed Establishment of a Drive Thru Coffee Shop and Convenience Store at 28590 Mission Boulevard (APN: 078C-0626-003-25), Requiring Approval of a Conditional Use Permit, Site Plan Review and Variance for Building Maximum Front and Side Street Setback where 12'-0" Maximum Is Required and where 107'-6" and 18'-6" Are Proposed. Application No. 201800093; Tony Singh (Applicant), Bhubinder Singh (Owner).

## **RECOMMENDATION**

That the Planning Commission approve the Conditional Use Permit, Site Plan Review and Variance Application No. 201800093, 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 applicant proposes to demolish an existing 1,618-square-foot Gas Station/Auto Repair Shop and construct a new 2,763-square-foot Convenience Store and 1,210-square-foot Drive Thru Coffee Shop. Though development standards require that the buildings be located a maximum of 12'-0" from the front and side street property lines, the existing location of the gas pumps, underground storage tanks and City easement make it infeasible to locate the building along the frontage and the applicant requests a variance on the maximum setbacks. In addition, the applicant plans to continue to operate the gas station from a temporary sales kiosk during construction.

## **BACKGROUND**

The project site currently contains a Gas Station with Convenience Store and an Auto Repair Shop, which faces the rear of the property. The applicant proposes to demolish the existing building and construct two, new contemporary designed buildings with large storefront windows to accommodate the gas station with 2,763-square-foot Convenience Store and 1,210-square-foot Drive-Thru Coffee Shop, which is proposed to be operated by Starbucks.

*Public Outreach:* An initial Notice of Receipt of the project application was sent to property owners, businesses and, residents within a 300-foot radius of the site on January 18, 2018. At that time, staff did not receive any responses to the Notice.

On March 26, 2021, public hearing notices related to the Conditional Use Permit, Site Plan Review and Variance was published in The Daily Review and sent to all property owners, residents, and businesses within a 300-foot radius of the project site. To date, no comments have been received on the project.

## PROJECT DESCRIPTION

*Existing Conditions:* The subject parcel currently contains a 1,617-square foot building with a Convenience Store and an Auto Repair Shop, which is proposed to be demolished to accommodate the project. The existing gas station canopy and gas pumps will remain. The 0.73-acre site is relatively flat, but becomes steep towards the rear of the parcel.

The project site has vehicular access from both Mission Boulevard and Tennyson Road and is approximately 0.17-miles from the South Hayward BART Station. Additionally, the site is located on a heavily traveled mixed-use corridor that contains several bus routes. The site is adjacent to Elias Motors to the north, Saudagar Grocery store to the south, Mission Heights Apartment to the east; and an ARCO gas station to the west. The subject property is zoned Mission Boulevard - Corridor Center (MB-CC) and has a Sustainable Mixed Use (SMU) land use designation in the *Hayward 2040 General Plan*.

*Proposed Project:* The applicant is proposing a Drive Thru Coffee Shop and Convenience Store. The Convenience Store would be 2,763 square feet and would operate 24 hours a day, seven days a week. The site would also have a 1,210-square foot Drive Thru Coffee Shop. The Coffee Shop is anticipated to operate from 6 am to 10 pm and would be strictly take out. No sitting areas would be provided inside the Coffee Shop.

The project also proposes new landscaping, a trash enclosure and site lighting. Additionally, the applicant is proposing to add nine (9) standard parking spaces, one van-accessible ADA space and bicycle racks that can accommodate up to six bicycles.

*Building Architecture:* The proposed buildings include a mixture of materials, including storefront glazing, composite panel, stucco, and metal awnings, and an earth-toned color palette. The Convenience Store front façade has an articulated entry with large storefront windows. Accent panels and metal awnings will further provide building articulation and visual interest to the overall design of the Convenience Store. The same design elements would be carried over to the Drive Thru Coffee Shop.

*Landscaping Plan.* The applicant has submitted a landscaping and irrigation plan (Attachment IV), which will comply with the Bay-Friendly Water Efficient Landscape Ordinance (WELO), by requiring sustainable landscaping materials by using drought-tolerant native species, appropriate irrigation methods, and water budget calculations. Much of the landscaping proposed along the perimeter of the site will help screen the parking and drive-thru areas from the street and adjacent residential neighborhoods through the planting of new trees, shrubs and groundcovers.

*Sustainability Features:* As required by the CALGreen Building Code, the project will incorporate some sustainable building features, including the installation of low flow toilets, and bicycle parking spaces. In addition, the landscaping areas and irrigation system will be compliant with WELO, which requires the use of drought tolerant planting with water-efficient irrigation systems. Furthermore, the applicant will comply with ordinances related to construction debris and recycling to divert waste from landfills.

## POLICY CONTEXT AND CODE COMPLIANCE

**Mission Boulevard Code:** The project site is located within the Mission Boulevard – Corridor Center (MB-CC). The MB-CC District is described as a transit-oriented mixed-use, urban center with high-intensity, residential and non-residential uses located within close proximity to South Hayward BART Station. While the proposed project meets a majority of the development standards in the Mission Boulevard Code, the applicant is requesting a variance to increase the maximum building setback. Per Section 10-24.2.2.060 of the HMC<sup>1</sup>, all buildings are required to be setback a maximum of 12 feet from the front and side street property lines. Since the project is proposing to deviate from this requirement, a Variance must be granted in order to increase the allowable building setback. To approve the Variance, the Planning Commission must make the following findings:

- A. There are special circumstances applicable to the property, including size, shape, topography, location, or surroundings, or other physical constraints.
- B. Strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity under the same zoning classification.
- C. The variance does not constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated.

Staff believes the Planning Commission can make the findings to support the Variance and has included additional analysis in Attachment II.

**Conditional Use Permit:** The project is proposing to construct a new Drive Thru Coffee Shop, which is the subject to Conditional Use Permit. Pursuant to HMC-Section 10-1-3200<sup>2</sup>, the purpose for requiring a Conditional Use Permit is 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. As such, the Planning Commission must find that the proposed use is desirable for the public convenience or welfare; will not impair the character and integrity of the zoning district and surrounding area; will not be detrimental to the public health, safety, or general welfare; and is in harmony with applicable City policies and the intent and purpose of the zoning district involved. Staff has included more detailed analysis to support the Conditional Use Permit in Attachment II.

**Site Plan Review:** The project is proposing to construct two new buildings, which is subject to Site Plan Review. Pursuant to HMC - Section 10-1.3005<sup>3</sup>, the purpose for requiring Site Plan Review is aimed at fostering development and the establishment of uses which take into account on-site and surrounding structures and uses, which contributes to an attractive City, physical and environmental constraints and traffic circulation, so that new development is accomplished in an orderly manner, complies with the intent of City development policies and regulations, and is operated in a manner determined to be acceptable and compatible with surrounding development. Aside from the requested

<sup>1</sup>[https://library.municode.com/ca/hayward/codes/municipal\\_code?nodeId=HAYWARD\\_MUNICIPAL\\_CODE\\_CH10PLZOSU\\_ART24MIBOCO](https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART24MIBOCO)

<sup>2</sup>[https://library.municode.com/ca/hayward/codes/municipal\\_code?nodeId=HAYWARD\\_MUNICIPAL\\_CODE\\_CH10PLZOSU\\_ART1Z00R\\_S10-1.3200COUSPE](https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1Z00R_S10-1.3200COUSPE)

<sup>3</sup>[https://library.municode.com/ca/hayward/codes/municipal\\_code?nodeId=HAYWARD\\_MUNICIPAL\\_CODE\\_CH10PLZOSU\\_ART1Z00R\\_S10-1.3000SIPLRE](https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1Z00R_S10-1.3000SIPLRE)

Variance, the proposed Convenience Store and Drive Thru Coffee Shop is consistent with the other development standards of the MB-CC zoning district. Additional staff analysis for the site plan review findings is provided in Attachment II, Findings.

*Hayward 2040 General Plan*: The project site contains a Sustainable Mixed-Use (SMU)<sup>4</sup> General Plan land use designation in the *Hayward 2040 General Plan*. The SMU designation generally applies to areas near regional transit that are planned as walkable urban neighborhoods which contain a range of housing types, commercial buildings and mixed-use buildings. Among the uses allowed are retail, dining and service uses. The proposed Convenience Store and Drive Thru Coffee Shop are consistent with the following policies and guidelines of the *Hayward 2040 General Plan*:

ED-3 (Business Expansion and Retention): Grow the local economy and employment base by supporting efforts to expand and retain local businesses.

Goal ED- 5: Encourage economic investment by enhancing the image and reputation of Hayward.

ED-5.5 (Quality Development): The City shall require new development to include quality site, architectural and landscape design features to improve and protect the appearance and reputation of Hayward.

## STAFF ANALYSIS

Staff believes the proposed Drive Thru Coffee Shop complements the other similar uses on the property and provides the added convenience of remaining in your car while picking up a cup of coffee or snack. It reduces the need to provide additional on-site parking spaces and allows the driver to make quick purchases without getting out of the car. It would appeal to both nearby residents and surrounding businesses as well as those who are just passing through Hayward.

Staff also believes the proposed design of the Convenience Store and Drive Thru Coffee Shop further enhances the street frontage and building types along Mission Boulevard. The vertical entry element will provide articulation and visual attraction to the convenience store and staff believes the proposed investment will improve the overall appearance of the existing gas station.

As previously mentioned in the Code Compliance section of this report, the recently adopted Mission Boulevard Code requires that new buildings in the MB-CC zoning district be setback a maximum of 12 feet from front and side street property lines. For this site, staff notes that the gas station fueling positions and the canopy are existing and as such, the required setbacks coupled with the underground storage tanks and drive aisle, would not render the development feasible without completely demolishing the entire site and redesigning the fueling areas and driveways. In addition, by setting the building further back from the busy intersection, it would increase site visibility and provide additional vehicular queuing on-site, which would contribute to a safer driving

---

<sup>4</sup> <https://www.hayward2040generalplan.com/land-use/mixed>

environment. Staff believes that the Commission can make the findings to approve the Conditional Use Permit for the Drive Thru Coffee Shop, the Site Plan Review for the new Buildings and landscaping and the Variance for building setbacks.

## **ENVIRONMENTAL REVIEW**

The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15332 Infill, of the CEQA Guidelines in that the project site is no more than five acres and is substantially surrounded by urban uses, the project location is not environmentally sensitive and is adequately served by all required utilities and public services.

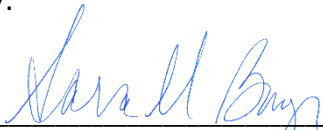
## **NEXT STEPS**

If the Planning Commission approves the Conditional Use Permit, Site Plan Review and Variance, then a 10-day appeal period will commence from the date of decision. If no appeal is filed, then the decision will be deemed final. If an appeal is filed within the 10-day time frame, then the application will be heard by the City Council for final disposition.

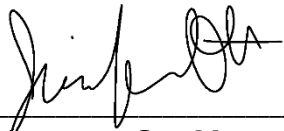
Prepared by: Carl Emura, ASLA, Associate Planner

Recommended by: Jeremy Lochirco, Acting Planning Manager

Approved by:



Sara Buizer, AICP, Acting Deputy Development Services Director



Jennifer Ott, Assistant City Manager/Development Services Director