



**PLANNING COMMISSION MEETING
REMOTE PARTICIPATION
Thursday, July 8, 2021, 7:00 p.m.**

This meeting was conducted utilizing teleconference and electronic means consistent with State of California Executive Order No. 29-20 dated March 17, 2020, regarding the COVID-19 pandemic. The Planning Commission, City Staff, and public members participated via the Zoom Webinar platform.

MEETING

The Planning Commission meeting was called to order at 7:00 p.m. by Chair Roche.

ROLL CALL

Present: COMMISSIONERS: Ali-Sullivan, Goldstein, Mendall, Oquenda, Stevens
CHAIRPERSON: Roche
Absent: COMMISSIONER: Bonilla

Staff Members Present: Billoups, Brick, Buizer, Chan, Lochirco, Nguyen, Patenaude, Schmidt

PUBLIC COMMENT:

There were none.

PUBLIC HEARING:

For agenda items Nos. 1 and 2, the decision of the Planning Commission is final unless appealed. The appeal period is 10 days from the date of the decision. If appealed, a public hearing will be scheduled before the City Council for final decision.

1. Proposed Addition of a Drive-Thru for a Proposed Starbucks Coffee Shop to a Previously Approve Mission Village Retail Structure at 411 Industrial Parkway, APN 078G-2651-011-02, Requiring Approval of Conditional Use Permit with Site Plan Review Application No. 202101267: Doug Rich, Valley Oak Partners LLC (Applicant)/Edwin Sommer LLC ETAL (Owner)

Consulting Planner Patenaude provided a synopsis of the staff report and PowerPoint presentation.

Mr. Doug Rich, applicant, spoke about the proposed project and the background of the change to the project with the addition of the proposed drive thru.



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Commissioner Mendall disclosed that he lived about a quarter of a mile from the project site and that there is not a conflict. Mr. Mendall mentioned that he has participated in project discussions over the years as a City Council Member and a member of the Council Economic Development Committee (CEDC) and that he has met with community members and the applicant many times.

Discussion ensued between staff, Planning Commission and applicant regarding the following: which landscape plan renderings were correct and what authority does the City have to enforce the landscaping plans moving forward; what metrics does Starbucks use when planning their stores and car queuing plans; the drive-thru's build out impact to the main project timeline; what are the plans to maintain trash commitment for the community and locally; and please post applicant's contact information for trash and other issues.

Consulting Planner Patenaude confirmed that the landscape plan presented this evening are the correct renderings.

Acting Principal Planner Schmidt said that landscape maintenance is part of the conditions of approval (COA); and that the City's Landscape Architect Koo ensures that there are sufficient COA to cover the landscape and maintenance into perpetuity for the life of the project. Ms. Schmidt shared that staff receives conceptual plans as part of the plans submittal and spoke about the process.

Mr. Rich explained the landscape plan process they will go through and that these plans will become part of the documented plans; spoke about the landscaping plans; provided Starbucks point of view of how to set up a drive-thru to make sure there is sufficient queuing within the space and cars will not impact the public thoroughfare. He spoke about a contingency plan for the cars; through their property management company they are committed to maintaining the trash. He said they are the owners; will remain the owners and they plan to be here in Hayward. Mr. Rich said the drive-thru will not impact the main project and elaborated on what is moving forward with the main project. Mr. Rich said that they can post contact information for the public in case there are any issues with the project.

Mr. Eric Tse, of Hextrans, spoke about the traffic study conducted in Pleasanton for Starbucks and how they were not able to conduct a Hayward study because of COVID limitations. Mr. Tse said they compared the Hayward site with the Pleasanton Starbucks as the settings are similar and was able to be used in the estimation for the car queuing. Mr. Tse noted that they also consulted with City Transportation Engineer Chang.

Chair Roche opened the public hearing at 7:38 p.m.



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Mr. Glen Kirby, spoke against the project, wants to see another alternative to allow for modest tenant space and local serving businesses. He spoke about the zoning, the lack of inclusionary housing, and the ratio between residential and retail.

Ms. Ro Aquilar, Hayward resident, spoke about the email that she submitted to the Commission; spoke against the project. She spoke about the need for housing and asked the Commission to oppose the drive-thru and suggested building low-income housing on top of the retail even if her suggested changes delays the project. She urged the Commission to not give in to the developer.

Ms. Mimi Bauer, Hayward resident, spoke in favor of the overall project and the added Starbucks drive thru. She said that this is the first project to revitalize Hayward and the Fairway Park community. Ms. Bauer spoke about the many efforts by the Fairway Park Association to bring affordable housing to the community including the efforts for seven years on this project and mentioned the many challenges the developer has had with this site. She asked the Commission to approve this project to keep the project moving forward.

Chair Roche closed the public hearing at 7.49 p.m.

Commissioner Goldstein said that he is familiar with the Fairway Park neighborhood and location and that he moved to Twin Bridges in 2005; spoke about the issues and concerns since the Holiday Bowl closed; this project is a major improvement and will be transformative for this neighborhood; appreciates the time and effort that the applicant has put into this project and that they are committed to seeing this through. He asked if inclusionary housing can be added to the retail component.

Consulting Planner Patenaude said he does not know the feasibility of adding housing and this would be a whole new study to add housing on top of the retail component.

Mr. Rich said they have included inclusionary housing in many of their project, but it would not be feasible at this time to add this element to this existing project.

Commissioner Stevens fully supports the project and commended both staff and applicant. Mr. Stevens suggested a modification to condition of approval #14 to have a landscape plan that is consistent with the plans that were presented to the Commission at this meeting.

Commissioner Ali-Sullivan said this project is a well-done and appreciates what the applicant has done on as this will be a significant, positive addition to the neighborhood. He noted a business reality is that Starbucks is taking revenue from the developer. Mr. Ali-Sullivan appreciates the significant landscaping, and he has been wanting to see a great development on this corner for a long time and is happy to support this item.



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Commissioner Mendall said it is worthy to note that if the project came before the Commission today that the plan would be different than what was approved six years ago. He said at that time this project was groundbreaking and forward looking, as it had both retail and residential elements and is walkable to the BART station; the City had a lot of trouble getting developers interested in developing this site. He said this developer had a lot of environmental challenges with this site from a previous use and it took time to resolve those issues. He said the project is underway and this drive-thru is the last piece to complete the project. Mr. Mendall said that as a Council Member, he made sure that a viable commercial element was part of the project which also included a park and retail for the community. He said the Starbucks drive thru is a good addition and will be popular with the community and will guarantee long term viability of this commercial/retail site. He had concerns about the look of that corner and other Commissioners have expressed the same concern and recommended to have a modification to COA #14 that the visuals presented tonight be part of the project plans. Mr. Mendall made a motion to approve the staff recommendation with a modification to COA #14 that the landscape visuals presented at this meeting are what the Commission expects to see in the long term and will be made part of the permanent plans.

Commissioner Ali-Sullivan seconded the motion.

Commissioner Oquenda appreciates the changes made by the applicant; appreciated the different opinions shared by the public speakers; he is an advocate of inclusionary housing; but this is not the best time to try to force the developer to modify the project given that it has been in front of the CEDC several times and the applicant has made modifications to the project based on those meetings and the feedback that he received from the CEDC. He said Starbucks will be a popular addition and appreciates and agrees with Commissioner Mendall's comments about how the development would be different if it came before the Commission today. Mr. Oquenda supports the project.

Chair Roche supports the project; noted that the bulk of the public email comments were in support of the project; this has been a long haul and wants this project completed. Ms. Roche said this will be a great gateway into this part of town as this site has been a blight on this corner for a long time. She said to include housing on top of the retail would block the view. Ms. Roche encouraged Ms. Aquilar and Mr. Kirby to continue being advocates for affordable housing just as the Commissioners are. Ms. Roche supports the project and appreciates everyone's work and effort on this project.

A motion was made by Commissioner Mendall seconded by Commissioner Ali-Sullivan, to approve the staff recommendation with a modification to condition of approval #14: no building permit shall be issued prior to approval of landscape and irrigation plans consistent



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with depictions presented in the City's staff report and as part of the Planning Commission presentation.

The motion passed with the following roll call votes:

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| AYES: | Commissioners Ali-Sullivan, Goldstein, Mendall, Oquenda, Stevens Chair Roche |
| NOES: | None |
| ABSENT: | Commissioner Bonilla |
| ABSTAIN: | None |

2. Proposed Development of a New Approximately 116,844 Square Foot Industrial Building Requiring Site Plan Review Approval and a Historic Resources Demolition Permit; Certification of an Environmental Impact Report; and Adoption of a Mitigation, Monitoring and Reporting Program and Statement of Overriding Considerations at 4150 Point Eden Way (APN 461-0085-020-02). Jerry Owen on Behalf of U-Haul (Applicant); Amerco Real Estate Co. (Property Owner)

Acting Principal Planner Schmidt provided a synopsis of the staff report and PowerPoint presentation. Ms. Schmidt said staff received a 20-page letter at 6 p.m. this evening which was forwarded to the Commission.

Mr. George Dix, City's consultant Rincon Consultants, spoke about the letter from Dr. Smallwood and that they provided written responses. Mr. Dix said they also received a rebuttal letter from Dr. Smallwood and the responses have been addressed and that the mitigation measures in the draft EIR were sufficient to reduce any concerns to less than significant.

Mr. Jerry Owen of U-Haul, spoke about the project and the many agencies that are involved in this project. He said that U-Haul understands that this will be a gateway to Hayward and that they worked on the design to show this and wants to make sure that they honor the historical value of the property and talked about placing signs along the Bay Trail.

Discussion ensued between staff, Commissioners and applicant and his team regarding the following: Will there be traffic impacts to local roads from trucks coming into the facility; will the salt pond preservation be maintained into perpetuity; mitigation credits one for one ratio and wetland credit; what would happen if building was left in place; to avoid flooding is there a height level requirement; will there be glare off SR92 on the glass part of the building; has the mitigation ratio for approved wetland back changed and why the western segment was not remediated to be wetlands; impacts by converting property to



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hardscape; and are there soft soils that will require mitigation before construction of the building.

Acting Principal Planner Schmidt responded that there is a flood plain ordinance; Public Works Engineering and Transportation Division looked at this project and staff determined that a local transportation analysis (LTA) was not warranted. Ms. Schmidt described the U-Haul low impact operation at this site. Ms. Schmidt said in the COAs the salt ponds are to be preserved and the applicant will hold it into perpetuity. Ms. Schmidt stated that the recommendations from the geotechnical report are mitigation measures in the COAs.

Mr. Owen said the project is to be the main warehouse for storage and distribution in this area and there will not be any truck rental at this site.

Ms. Hope Kingma of WRA, said the salt flats and salt ponds do not get tidal influence from the bay and that the Regional Water Quality Control Board oversees the salt ponds. She described the wetland credit; spoke about what would need to be done to mitigate the salt ponds to be able to return these to marshlands. Ms. Kingma said the 32 acres western portion is not part of the project and these waters are under the jurisdiction of the United States. She said there is a significant levy on the southern boundary that precludes any tidal action to flood this parcel.

Mr. Dix spoke about the existing structure, pollutants, and lead from paint and that the impacts from this toxic situation and issues with squatters. He spoke about the general impacts from sea level rise which will occur with or without this project.

Ms. Renata Tyler from AC Martin, spoke about the sea level rise and that the project provides the opportunity to continue working on this area with City staff and other agencies; the proposed building pad is currently two feet above and the only area that would flood is the loading dock; spoke about the soil remediation and that they are working to find the right solution and that the geotechnical report is attached to the EIR. Ms. Tyler stated that this is not an easy project.

Chair Roche opened the public hearing at 8:58 p.m.

Mr. Kim Huggett, Chamber of Commerce, spoke in favor of the project and that staff had relayed how it was very difficult to find a business who would want to take on this complex site. Mr. Huggett spoke about the positive aspects of the applicant.

Mr. Kevin Dowling, Hayward resident and former Council Member, spoke in favor of the project and asked if the City can request that U-Haul dedicate a portion of the land for signage that you are entering Hayward the Heart of the Bay.



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Michael Lozeau, spoke on behalf of Local 304 and the following concerns raised by Dr. Smallwood; impact to habitats; bird collisions; cumulative impacts from vehicles collisions; and noise impacts to neighboring wildlife.

Chair Roche closed the public hearing at 9:04 p.m.

Mr. Owens said that U-Haul is opened to discussing gateway signage with the City.

Acting Principal Planner Schmidt said the warehouse is not a noise generator and this warehouse is not going to have a generator or equipment that will generate noise. She said that the SR92 generates noise.

Mr. Dix responded about bird strikes and the mitigation measures they have incorporated such as the glass will have architectural features that will break up the glass, the glass is not reflective, and the building is only 50 feet tall.

Ms. Hope Kingma, spoke about the harvest mice and the upland areas are largely non-vegetative; in this case the project will not have a significant reduction in the upland areas and there will area preserved for the harvest mouse.

Commissioner Oquenda asked if there have been any discussions with labor groups about a labor agreement.

The applicant group said there has not been any discussions with labor groups.

Commissioner Ali-Sullivan asked if the signage will be added to the COA. Assistant City Attorney Brick confirmed as such.

Commissioner Mendall is not in favor of the proposed project and that this area along with other industrial areas were rezoned to exclude maintenance yards and to not allow the building of warehouses. This was done because the City does not want to attract warehouses; as the City goal is to attract office buildings; advanced manufacturing; food manufacturing; biotech; and high-tech uses. Mr. Mendall said that he used to work for a high-tech company on that street and shared that there is a hub of these types of uses that area which confirms the viability of the zoning for this area and that the application runs contrary to Council's approved zoning for this area. He said that the Planning Commission must make a statement of overriding consideration and to be able to do this, the Commission has to say that the proposed project is so good that it outweighs the environmental issues that cannot be mitigated. He said that if this was an office building, high-tech or biotech, then the Commission can make this finding as this use will align with job generation and Council goals.



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Mr. Mendall said that a regional warehouse does not serve the Hayward area and that there will only be 25 warehouse jobs. Mr. Mendall said this is a gateway site and the proposed project is in contradiction to City goals. He encouraged his colleagues to vote against this project.

Commissioner Stevens has concerns about the biological impacts as the plan calls for removal of salt marsh sections and once a salt marsh is disturbed, this is a nonstarter. He is having a hard time understanding why this project is before the Commission and the mitigations offered, that even though the mitigations are consistent with state regulations and U.S. Corp policies, he does not agree with this. Mr. Stevens said that a gateway has many meanings and agrees with Commissioner Mendall regarding a gateway for Hayward. He is strongly opposed to having a developer conditioned with the gateway signage as this should be a community event. Mr. Stevens is opposed to building on the bayfront as the bayfront buffer is important for ecological reasons and helps attenuate future sea level rise. Mr. Stevens said there is not sufficient analysis from the report that this will protect Hayward's future. He is very concerned that an analysis was not performed about the potential damage to the City's roadways. Mr. Stevens does not support the project.

Commissioner Goldstein said that both Commissioner Mendall and Commissioner Stevens have made compelling arguments. He concurs with Commissioner Stevens that a gateway memorial would need to have community input. He agrees with Commissioner Mendall about the type of use proposed. Mr. Goldstein said that he supports the project, likes the design and the preservation of the 32 acres is a huge benefit.

Commissioner Oquenda questions why unions have not been engaged in talks with the applicant; he stated that he tends to agree with Commissioner Mendall's aspirational comments about this site being a gateway and will be voting against the project. As discussion ensued, he reviewed the Hayward Shoreline Master Plan and has concerns about long term planning for this area and the ability for the City to address the climate crisis.

Chair Roche appreciates her colleagues' discussion about this item as she was weighing the pros and cons and saw the benefit of the 32 acres preserved into perpetuity and that the dilapidated building would be torn down. Ms. Roche wondered why we are building further out into the bay when the City needs to be shoring up the coastline because of sea level rise. She would like to see something great as a gateway, did not have an issue with the warehouse building, and appreciates Commissioner Mendall's comments the City's desire to have high-tech uses in this area. Ms. Roche said she asked about a conservation group taking over this property and would like the City to take more time to see what can be done to preserve more of this site or potentially build in a different way on this site. Ms. Roche said that while she is on the fence, she will not be supporting the item and appreciates the applicant's hard work



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and efforts to make this a good project both environmentally and help with Hayward's development.

Commissioner Stevens made a motion to deny the staff recommendation.

Commissioner Mendall seconded the motion.

A motion was made by Commissioner Stevens seconded by Commissioner Mendall, to deny the staff recommendation.

The motion passed with the following roll call votes:

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| AYES: | Commissioners Ali-Sullivan, Mendall, Oquenda, Stevens Chair Roche |
| NOES: | Commissioner Goldstein |
| ABSENT: | Commissioner Bonilla |
| ABSTAIN: | None |

APPROVAL OF MINUTES

3. Minutes of the Planning Commission Meeting of June 10, 2021.

A motion was made by Commissioner Oquenda, seconded by Commissioner Stevens, to approve the Planning Commission Meeting Minutes of June 10, 2021.

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| AYES: | Commissioners Ali-Sullivan, Goldstein, Mendall, Oquenda, Stevens Chair Roche |
| NOES: | None |
| ABSENT: | Commissioner Bonilla |
| ABSTAIN: | None |

4. Approval of the Planning Commission Meeting Minutes of June 24, 2021.

A motion was made by Commissioner Stevens seconded by Commissioner Ali-Sullivan, to approve the Planning Commission Meeting Minutes of June 24, 2021.

The motion passed with the following roll call votes:

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| AYES: | Commissioners Ali-Sullivan, Goldstein, Mendall, Oquenda, Stevens Chair Roche |
| NOES: | None |



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ABSENT: Commissioner Bonilla
ABSTAIN: None

COMMISSION REPORTS

Oral Report on Planning and Zoning Matters:

Acting Principal Planner Schmidt announced that for the July 22, 2021, meeting there will be three items that includes a Work Session with a report on transportation impact fees by the Public Works Department.

Commissioners' Announcements, Referrals:

Commissioner Stevens shared that the Alameda County Department of Public Works is working on a plan to design and construct a trail that will link Niles to Sunol and there will be a scoping meeting next Thursday from 6-8 p.m. to review their EIR. He said that information can be found at nilescanyontrail.org.

ADJOURNMENT

Chair Roche adjourned the meeting at 9:31 p.m.

APPROVED:

Robert Stevens, Secretary
Planning Commission

ATTEST:

Denise Chan, Senior Secretary
Office of the City Clerk