



## CITY OF HAYWARD AGENDA REPORT

Meeting Date 12/2/04  
Agenda Item 4

**TO:** Planning Commission

**FROM:** Tim R. Koonze, Assistant Planner

**SUBJECT:** Revocation of Administrative Use Permit No. PL-2003-0343 Allowing A Storage Facility For New Cars Only – Initiated by the Planning Director – Mathew Zahari (Owner)

The Project Location Is 24850 Mission Boulevard, in a General Commercial Special Design (CG-SD2) Zoning District

### RECOMMENDATION

Staff recommends that the Planning Commission find the project categorically exempt from CEQA review and consider extending the revocation hearing to December 16, 2004.

### DISCUSSION

On September 19, 2003, the Planning Director administratively approved an administrative use permit to allow the storage of new automobiles at 24850 Mission Boulevard. The conditions of approval for this project required various improvements to be made to the property before storing vehicles thereon and requiring that all improvements be installed within one year; otherwise, the use permit becomes void. The one year has passed, the improvements have not been installed per the conditions of approval, vehicles continue to be stored on the site, and the applicant has not applied for an extension of time. The Planning Commission is being asked to consider revocation of the use permit.

Through phone calls, emails, and a letter dated July 29, 2004 (see exhibit C), the City has requested the owner to finish these improvements. However, to date, they are still incomplete. The owner parked cars on the site for a period of time, despite incomplete improvements, until the City required that they be removed. Nonetheless, vehicles are again stored on the property and all required improvements have not been installed to meet City standards.

On October 19, 2004 the staff notified the owner that a hearing to consideration revocation of the use permit would be scheduled, and the owner responded indicated that all work would be completed within 10 days, or by October 29, 2004. The owner has completed some of the required improvements, although there are still outstanding improvements that need to be performed as outlined below. As of November 24, 2004, the applicant indicates he can complete all requirements by November 29, 2004, with the exception of replacing a damaged tree and providing irrigation to the redwood trees, which he is refusing to do.

At the time this report was prepared the following improvements had either not been installed or had been installed incorrectly:

- The irrigation is not in working order. There are missing sprinkler heads, irrigation has not been extended to the redwood trees, and additional work needs to be done to the irrigation valves;
- One of the trees recently installed has been damaged and needs to be replaced;
- Curbs must be modified to provide a better path for storm drain water to enter the landscape area;
- A section of curb has been damaged and needs to be replaced;
- The electrical boxes need to be screened; and
- Obtain an encroachment permit. Prior to any construction within the Mission Boulevard right-of-way the owner was required to obtain an encroachment permits from the City and Caltrans. Although the work has been completed, City records indicated that an encroachment permit was never issued for the work.

It should be pointed out that the owner is refusing to comply with and is in violation of condition of approval No. 2a which requires the applicant to install street trees (which assumes that they are in good condition) and condition of approval No. 4 requiring landscaping to be maintained in a healthy and weed free condition at all times. The conditions also require that the owner obtain an encroachment permit prior to removing the southernmost Mission Boulevard driveway and modifying the northernmost Mission Boulevard driveway. Although the work has been done with respect to removing and modifying the driveways, there is no record that the City issued an encroachment permit for the work violating condition Nos. 6 and 7. Because the City did not issue an encroachment permit, which would have considered the existing condition of the driveway, the resulting driveway remains in a deteriorated state and only the driveway flare was replaced. It is not known if an encroachment permit was obtained from Caltrans or if the work in the State right-of-way is consistent with State standards.

Staff is hopeful that the use of the land can operate in harmony with surrounding uses and in accordance with City standards and the conditions of approval. In staff's opinion, the conditions of approval are not onerous and are typical of those applied throughout Hayward when land is developed. Staff has been diligent in encouraging the owner to comply with the provisions of the use permit so that his business can flourish in accordance with City policies. However, if by the date of the Planning Commission hearing the conditions are not met and the owner refuses to comply, staff has no alternative but to recommend that the use permit be revoked. If the Planning Commission has been given some level of assurance by the property owner that conditions can and will be met expeditiously, then staff recommends that the hearing be continued until the December 16, 2004, meeting for further consideration.

**ENVIRONMENTAL REVIEW:**

The proposed project is exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15321, Enforcement Actions by Regulatory Agencies.

**PUBLIC NOTICE:**

On November 22, 2004, a Notice of Public Hearing for the public hearing was mailed. No responses were received as a result of this notice. Staff notified the owner, Mathew Zahari, of the revocation proceedings in writing on October 19, 2004.

*Prepared by:*



Tim R Koonze  
Assistant Planner

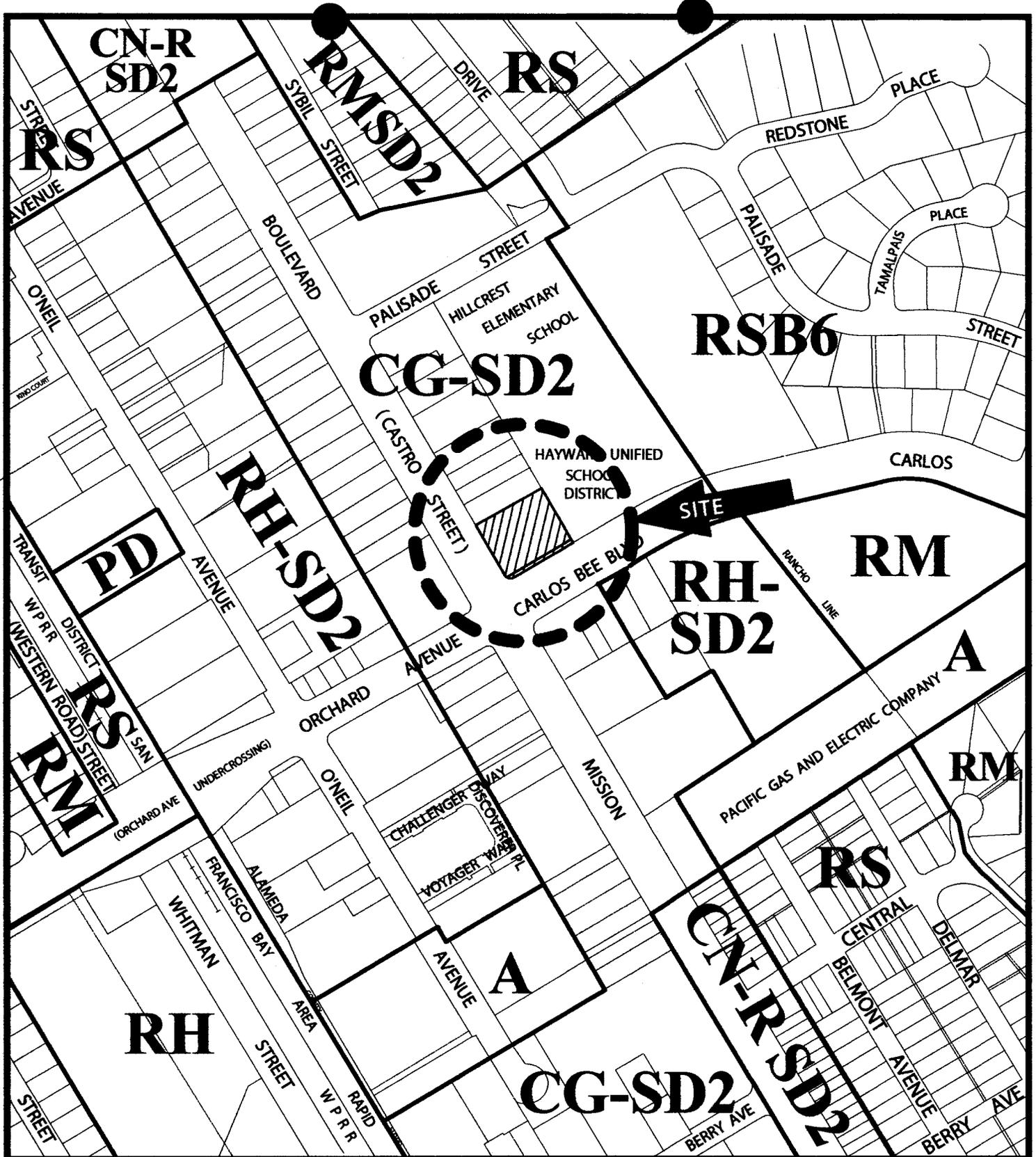
*Recommended by:*



Dyana Anderly, AICP  
Planning Manager

Attachments:

- A. Area Map
- B. Findings for Revocation
- C. Conditions of Approval
- D. Letter to owner dated July 29, 2004



**Area & Zoning Map**

PL-2002-0343 AUP

Address: 24850 Mission Boulevard

Applicant: Mathew Zaheri

Owner: Mathew Zaheri

- A-Agricultural-ABSA,AB10A,AB100A,AB160A
- CG-General Commercial
- CN-R-Neighborhood Commercial-residential
- PD-Planned Development
- RH-High Density Residential RHB 7
- RM-Medium Density Residential RMB 3.5, RMB 4
- RS-Single-Family Residential,RSB4,RSB6
- SD-Special Design



**ADMINISTRATIVE USE PERMIT PL-2003-0343**

**Mathew Zahari (Owner)**

**24850 Mission Boulevard**

**December 16, 2004**

**FINDINGS FOR REVOCATION**

1. The proposed project is statutorily exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15321, Enforcement Actions by Regulatory Agencies.
2. The applicant has not fully complied with or completed all conditions of approval or improvements indicated on the approved development plan and modification of the conditions or plan would not be in the public interest or would be detrimental to the public health, safety, or general welfare.
3. The proposed project would not be desirable for the public welfare in that granting the delays requested by the applicant would confer special privileges not extended to other developers.
4. The project would not be in harmony with applicable City policies in that it has not been demonstrated that the proposed project can comply with the City's minimum design standards in a timely manner.
5. The applicant has failed to Install the following improvements as required by the approved conditions of approval associated with the administrative use permit approval:
  - The irrigation is not in working order. There are missing sprinkler heads and additional work needs to be done to the irrigation valves;
  - One of the trees recently installed has been damaged and needs to be replaced;
  - Curbs need to be modified to provide a better path for storm drain water to enter the landscape area;
  - A section of curb has been damaged and needs to be replaced;
  - The electrical boxes need to be screened; and
  - The driveway from Mission Boulevard needs to be replaced as the driveway is failing and does not meet City of Hayward driveway standards.

**CITY OF HAYWARD  
PLANNING DIVISION  
ADMINISTRATIVE USE PERMIT APPROVAL**

**September 19, 2003**

**ADMINISTRATIVE USE PERMIT APPLICATION NO. 2003-0343: Mathew Zahari  
(Applicant/Owner) – To operate an automobile storage facility**

**The property is located at 24850 Mission Boulevard within a General Commercial Zoning District with a Special Design Overlay (CG-SD2)**

**CONDITIONS OF APPROVAL**

- 1) Administrative Use Permit Application No. 2003-0343, to allow for the storage of vehicles as an accessory to an automobile dealership in the General Commercial Zoning District, is approved by the Planning Director on September 19, 2003 subject to these conditions of approval and the plans, labeled Exhibit "A."
- 2) Within 30 days from the date of approval, a detailed landscape and irrigation plan shall be submitted for review and approval by the City Landscape Architect. The plans shall be prepared by a licensed landscape architect. The plans shall accurately depict the location, type and size of all existing trees on the site. The irrigation plan shall comply with the City's *Landscape Water Efficient Landscape Ordinance*. The landscape plans shall incorporate the following:
  - a) Show one 24-inch box street tree to be installed every 20 – 40 lineal feet of frontage along Mission Boulevard. Spacing of the trees is dependant upon the species of trees. Smaller trees will require closer spacing. Trees to be planted to fill vacancies in the street tree pattern, and to replace any declining or dead trees. Existing street trees along Carlos Bee Boulevard shall be preserved in place unless otherwise determined by the City Landscape Architect. Trees shall be planted according to the City Standard Detail SD-122.
  - b) Tree wells shall be installed every 20 lineal feet along the northerly and easterly property lines. One 24-inch box tree shall be installed in each tree well.
  - c) Landscape areas adjoining parking and circulation areas shall be separated by a six-inch high class "B" Portland cement concrete curb.
  - d) The parking lot design shall include one 15-gallon tree for every six parking stalls. Parking lot trees shall be planted in tree wells or landscape medians or islands located within the parking area. In addition, parking rows shall be capped with a landscaped island. All tree wells, islands, and medians shall be a minimum of 5-foot wide measured inside the curbs. The landscape areas along the street frontages shall have a minimum width of 10 feet inside the curbs.

- e) All above ground utilities, mechanical equipment and trash enclosures shall be screened from the street with shrubs.
  - f) The planting strip between the sidewalk and the curb along the Carlos Bee Street property frontage shall be included in the landscape plan and shall be landscaped according to the approved plan.
  - g) Should use of the City right-of-way along Carlos Bee Boulevard be denied or revoked, the landscape plans, and the resultant landscaping, shall be adjusted such that a 10-foot-wide landscape area is installed along the property line.
- 3) Prior to occupancy of the site, the site improvements, landscaping and irrigation shall be installed per Exhibit "A", these conditions, and the approved irrigation and landscape plans.
  - 4) Landscaping shall be maintained in a healthy and weed free condition at all times. The owner's representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% die-back) shall be replaced within ten days of the inspection. Trees shall not be severely pruned, topped or pollard. Any trees that are pruned in this manner shall be replaced with a tree species selected by, and size determined by the City Landscape Architect, within the time frame established by the City and pursuant to Municipal Code.
  - 5) Trees shall be preserved in accordance with the *Tree Preservation Ordinance*. Prior to the commencement of clearing and grading operations, all trees to be preserved or removed shall be indicated on the grading, site and landscape plans and trees to remain in place shall be noted and provided with tree protection measures in compliance with City codes. A tree removal permit is required for any trees removed, as determined by the City Landscape Architect. The redwood trees along the north property line shall be preserved.
  - 6) Prior to occupancy of the site, the driveway on Mission Boulevard located closest to the intersection of Carlos Bee shall be removed and replaced with curb gutter, sidewalk, and tie-in paving to match existing improvements. An encroachment permit must be obtained from the City and CalTrans prior to commencement of work.
  - 7) Prior to occupancy of the site, the driveway located at the northwest corner of the parcel shall be reduced to 26 feet wide. It shall be located so not to conflict with the parking spaces located along the northerly property line. The driveway flare must conform to City standard detail SD 110. An encroachment permit must be obtained from the City and CalTrans prior to commencement of work.
  - 8) The fountain, located on the corner of Carlos Bee Street and Mission Boulevard, and appurtenant walls, bench and mechanical equipment shall be removed and replaced with landscaping as indicated on exhibit "A".
  - 9) A drainage plan that meets the approval of the Planning Director and the City Engineer shall be submitted for site. The one-site drainage facilities must meet the requirements of the Alameda County Clean Water Program and run-off must be treated before it leaves the site.

- 10) The parking and circulation design for the six parking stalls along the north property line shall conform the City of Hayward's Off-Street Parking Ordinance.
- 11) No loud speakers will be used as part of the automobile storage facility.
- 12) A sign permit is required for all new signs. All signs are required to comply with the Sign Ordinance and shall integrate with landscaped areas in which they may be located.
- 13) The property owner/applicant shall maintain in good repair all, fences, lighting, trash enclosure, drainage facilities, driveways, parking areas and landscaping. The premises shall be kept clean. Outdoor storage of auto parts or miscellaneous items is not permitted. Any graffiti painted on the property shall be painted out or removed within 7 days of occurrence.
- 14) This permit becomes void one year after the effective date of approval unless prior to that time the site is occupied by the approved use in accordance with the requirements of this permit. Any modification to this permit shall require review and approval by the Planning Director.
- 15) If it comes to the attention of the Planning Director that there are problems occurring as a result of the approved use on this site, the Director may call the administrative use permit application up to the Planning Commission for consideration of imposing additional conditions or restrictions.
- 16) Violation of these conditions is cause for revocation of the administrative use permit after public hearing before the duly authorized review body.



CITY OF  
**HAYWARD**  
HEART OF THE BAY

July 29, 2004

Mr. Mathew Zahari  
22916 Mission Boulevard  
Hayward, CA 94541

**Subject: Administrative Use Permit Application 2003-0343**  
**24850 Mission Boulevard, Hayward**

Dear Mr. Zahari,

A recent site inspection shows that there are still several outstanding improvements required by the conditions of approval that have yet to be completed. These improvements shall be installed per City standard details. Driveways along Mission Boulevard will require permits from CalTrans. Prior to the lot being used the following improvements must be completed.

1) Landscaping:

- a) Show one 24-inch box street tree to be installed every 20 – 40 lineal feet of frontage along Mission Boulevard. Spacing of the trees is dependant upon the species of trees. Smaller trees will require closer spacing. Trees to be planted to fill vacancies in the street tree pattern, and to replace any declining or dead trees. Existing street trees along Carlos Bee Boulevard shall be preserved in place unless otherwise determined by the City Landscape Architect. Trees shall be planted according to the City Standard Detail SD-122.
- b) Tree wells shall be installed every 20 lineal feet along the northerly and easterly property lines. One 24-inch box tree shall be installed in each tree well.
- c) Landscape areas adjoining parking and circulation areas shall be separated by a six-inch high class "B" Portland cement concrete curb. *The curb installed appears to be an extruded curb placed on top of asphalt or dirt which does not conform to the City Standard Detail for curbing, SD-108. The curb has already cracked and failed in several places.*
- d) The planting strip between the sidewalk and the curb along the Carlos Bee Boulevard property frontage shall be included in the landscape plan and shall be landscaped according to the approved plan.
- e) Prior to occupancy of the site, the site improvements, landscaping and irrigation shall be installed per Exhibit "A", these conditions, and the approved irrigation and landscape plans.

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT  
PLANNING DIVISION

777 B STREET, HAYWARD, CA 94541-5007  
TEL: 510/583-4200 • FAX: 510/583-3649 • TDD: 510/247-3340

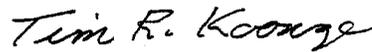
**ATTACHMENT D**

- f) Trees shall be preserved in accordance with the *Tree Preservation Ordinance*. Prior to the commencement of clearing and grading operations, all trees to be preserved or removed shall be indicated on the grading, site and landscape plans and trees to remain in place shall be noted and provided with tree protection measures in compliance with City codes. A tree removal permit is required for any trees removed, as determined by the City Landscape Architect. The redwood trees along the north property line shall be preserved. *Although the redwood trees on-site have been preserved mounds of dirt have been piled around the trunks. This dirt must be removed.*
- 2) Prior to occupancy of the site, the driveway on Mission Boulevard located closest to the intersection of Carlos Bee Boulevard shall be removed and replaced with curb, gutter, sidewalk, and tie-in paving to match existing improvements. An encroachment permit must be obtained from the City and CalTrans prior to commencement of work.
  - 3) Prior to occupancy of the site, the driveway located at the northwest corner of the parcel shall be reduced to 26 feet wide. It shall be located so not to conflict with the parking spaces located along the northerly property line. The driveway flare must conform to City Standard Detail SD 110. An encroachment permit must be obtained from the City and CalTrans prior to commencement of work.
  - 4) The fountain, located on the corner of Carlos Bee Boulevard and Mission Boulevard, and appurtenant walls, bench and mechanical equipment shall be removed and replaced with landscaping as indicated on Exhibit "A".
  - 5) A drainage plan that meets the approval of the Planning Director and the City Engineer shall be submitted for site. The one-site drainage facilities must meet the requirements of the Alameda County Clean Water Program and run-off must be treated before it leaves the site.
  - 6) The parking and circulation design for the six parking stalls along the north property line shall conform the City of Hayward's Off-Street Parking Ordinance.
  - 7) No loud speakers will be used as part of the automobile storage facility.
  - 8) A sign permit is required for all new signs. All signs are required to comply with the Sign Ordinance and shall integrate with landscaped areas in which they may be located.
  - 9) The property owner/applicant shall maintain in good repair all fences, lighting, trash enclosure, drainage facilities, driveways, parking areas and landscaping. The premises shall be kept clean. Outdoor storage of auto parts or miscellaneous items is not permitted. Any graffiti painted on the property shall be painted out or removed within 7 days of occurrence.
  - 10) This permit becomes void one year after the effective date of approval unless prior to that time the site is occupied by the approved use in accordance with the requirements of this permit. Any modification to this permit shall require review and approval by the Planning Director.
  - 11) If it comes to the attention of the Planning Director that there are problems occurring as a result of the approved use on this site, the Director may call the administrative use permit application up to the Planning Commission for consideration of imposing additional conditions or restrictions.

Violation of these conditions is cause for revocation of the administrative use permit.

If you have any questions or concerns, please contact me at (510) 583-4207 or e-mail me at [tim.koonze@hayward-ca.gov](mailto:tim.koonze@hayward-ca.gov).

Sincerely,

A handwritten signature in cursive script that reads "Tim R. Koonze".

Tim R. Koonze  
Assistant Planner