



CITY OF
HAYWARD
HEART OF THE BAY

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DATE: March 18, 2008

TO: Mayor and City Council

FROM: City Clerk and Director of Community and Economic Development

SUBJECT: Resolution Approving the Mitigated Negative Declaration and Zone Change Application and Denying Use Permit Application No. PL- 2007-0558 Associated with Proposed Sale of Alcohol and Adoption of an Ordinance Amending the Zoning Ordinance, Chapter 10, Article 1 of the Hayward Municipal Code, by Modifying a Planned Development District to Allow Additional Uses, Pursuant to Zone Change Application No. PL-2005-0536

RECOMMENDATION

That the City Council adopts the attached Resolution and Ordinance.

BACKGROUND

At its February 26 meeting, the City Council voted 4 to 3 to approve a Zone Change application that would allow additional uses at the Mt. Eden Business Park in a Planned Development Zoning District located at the northwest corner of State Route 92 and Industrial Parkway. The City Council placed conditions on the Zone Change approval that prohibit the sale of alcohol for any of those additional uses, including at a proposed 7-Eleven convenience store, and restricted operating hours for any new uses from 5:00 am to 10:00 pm. Such restrictions are reflected in the attached revised ordinance.

Due to concerns associated with the proposed sale of alcohol, the City Council denied the request to allow alcohol sales at any new uses in the business park. Such concerns related to potential negative impacts the proposed alcohol sales would have on the surrounding businesses and residential areas and the need for additional police services in an area that currently has limited services due to the lack of activity.

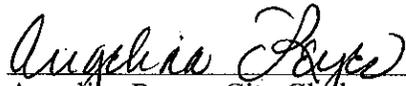
The ordinance was introduced at the February 26, 2008, meeting of the City Council with the following vote:

AYES:	Council Members:	Quirk, Ward, Dowling, Henson
NOES:	Council Members:	Rodriquez, Halliday
	Mayor:	Sweeney
ABSENT:	Council Members:	None
ABSTAIN:	Council Members:	None

Because the resolution presented to the City Council at the February 26 meeting indicated support for the alcohol sales, the resolution (see attached) has been revised to provide findings for denial for the Conditional Use Permit application.

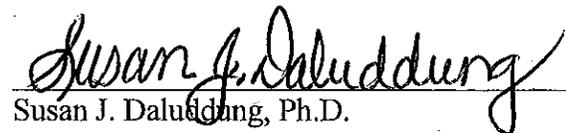
The ordinance was published in the Hayward Daily Review on March 8, 2008. Adoption at this time is therefore appropriate.

Recommended by:



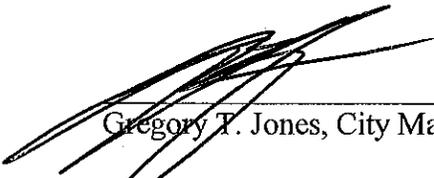
Angelina Reyes, City Clerk

Recommended by:



Susan J. Daludding, Ph.D.
Community and Economic Development Director

Approved by:



Gregory T. Jones, City Manager

Attachment: Draft Resolution and Ordinance

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. 08-

me
3/4/08

Introduced by Council Member _____

**RESOLUTION ADOPTING THE NEGATIVE
DECLARATION AND APPROVING ZONE CHANGE
APPLICATION NO. PL 2005-0536 AND DENYING USE
PERMIT APPLICATION NO. PL-2007-0558**

WHEREAS, Zone Change Application No. 2005-0536 and Use Permit Application No. PL-2007-0558 concern a request by Russ Pitto for Simeon Commercial Properties (Applicant)/Sim Vest Real Estate I, LLC (Owner) to modify a Planned Development District to allow a neighborhood-serving retail center, including a drive-thru coffee shop and a convenience store selling beer and wine for off-site consumption, on a 1.5-acre parcel at the Mt. Eden Business Park, located at 26251 Industrial Boulevard adjacent to and north of Highway 92; and

WHEREAS, a negative declaration has been prepared and processed in accordance with City and CEQA guidelines; and

WHEREAS, the Planning Commission held public hearings on December 13, 2007 and January 10, 2008, regarding Zone Change Application No. 2005-0536 and Use Permit Application No. PL-2007-0558, in accordance with the procedures contained in the Hayward Zoning Ordinance, codified as Article 1, Chapter 10 of the Hayward Municipal Code, and recommended approval of the negative declaration, zone change and use permit; and

WHEREAS, the City Council of the City of Hayward has independently reviewed and considered the information contained in the initial study upon which the negative declaration is based, certifies that the negative declaration has been completed in compliance with the requirements of the California Environmental Quality Act, and finds that the negative declaration reflects the independent judgment of the City of Hayward; and

WHEREAS, the City Council of the City of Hayward hereby finds and determines as follows:

1. The project will have not significant impact on the environment, cumulative or otherwise, the project reflects the City's independent judgment, and, therefore, a Negative Declaration has been prepared.

ZONE CHANGE

- 2. The modification would be in substantial harmony with the surrounding residential, industrial and educational uses, with applicable City policies and the intent and purpose of the underlying Planned Development zoning district, in that the approved Planned Development allows for a neighborhood- serving retail center with a variety of uses, to serve adjacent business park workers, hotel employees and customers, nearby college students and faculty and residential neighborhoods in the area.**
- 3. Existing streets and utilities are adequate to serve the traffic, sewer and water needs of the uses proposed for the retail center. On and off-site circulation would not be impacted by traffic generated by the proposed uses. Industrial Boulevard and nearby State Highway 92 are designed to accommodate the amount of traffic that is anticipated to be generated by the retail center. An on-site circulation analysis prepared by Fehr and Peers and accepted by City Transportation Engineering staff concluded that the proposed uses of a drive-thru coffee shop, take-out food and convenience store, as well as other anticipated retail uses in the proposed tenant spaces, could be accommodated by the proposed parking lot and circulation plan. The existing sewer system and water mains can accommodate the propose uses of the retail center.**
- 4. The applicant has asked for an exception to allowed additional uses that are not traditionally found in industrial areas. The exceptions would result in providing needed services to the adjacent residential neighborhood, industrial area and educational institutions.**
- 5. The proposed modification would be in conformity with applicable performance standards, the 1.5 acre parcel is an appropriate size and location for the proposed development and the uses and would create an environment of sustained desirability and stability, since the uses proposed would serve the other uses within the business park and the surrounding neighborhoods. The proposed retail center is desirable for the public convenience or welfare in that the uses would serve the neighborhood by offering a variety of products and services that are currently lacking within the immediate area and would not have a substantial adverse effect upon surrounding development.**

USE PERMIT

- 6. The proposed sale of beer and wine at a convenience store for off-site consumption would not be desirable for the public convenience or welfare, in that off-sale alcoholic beverage establishments have been associated with increased public consumption of alcohol, loitering and an increase in crimes associated with the sale of alcoholic beverages, including disturbing the peace. In addition, other outlets selling alcohol for off-site consumption are in relatively close proximity to the project, including another 7-Eleven store within 1.5 miles.**

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

PUBLIC NOTICE OF AN INTRODUCTION OF AN ORDINANCE BY THE CITY
COUNCIL OF THE CITY OF HAYWARD

AN ORDINANCE AMENDING CHAPTER 10, ARTICLE 1 OF THE HAYWARD MUNICIPAL CODE BY MODIFYING A PLANNED DEVELOPMENT DISTRICT TO ALLOW ADDITIONAL USES PURSUANT TO ZONE CHANGE APPLICATION NO. PL-2005-0536

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

Section 1. Modification of Uses in Planned Development District. Chapter 10, Article 1 of the Hayward Municipal Code is hereby amended to modify a Planned Development District to allow the following uses on a 1.5-acre parcel located at 26251 Industrial Boulevard adjacent to and north of Highway 92 at the southeast corner of Mt. Eden Business Park. All uses are restricted to the business hours of 5 a.m. to 10 p.m. and the sale of alcoholic beverages is prohibited.

*(Items 1 – 55)**

Section 2. In accordance with the provisions of section 620 of the City Charter, this ordinance shall become effective immediately upon adoption.

Introduced at a meeting of the Hayward City Council held February 26, 2008, the above-entitled ordinance was introduced by Council Member Dowling.

This ordinance will be considered for adoption at the next meeting of the Hayward City Council, to be held on March 18, at 8:00 p.m., in the Council Chambers, 777 B Street, Hayward, California.
*The full text of this ordinance is available for examination by the public in the Office of the City Clerk.

DATED: March 8, 2008

Angelina Reyes, City Clerk
City of Hayward

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