



# CITY OF HAYWARD AGENDA REPORT

AGENDA DATE April 21, 1998

AGENDA ITEM 2

WORK SESSION ITEM \_\_\_\_\_

**TO:** Mayor and City Council

**FROM:** Director of Community and Economic Development

**SUBJECT:** **APPEAL OF DECISION BY PLANNING COMMISSION TO DENY ADMINISTRATIVE USE PERMIT 97-150-21 - BIG 4 RENTS (APPLICANT) - SELLAU PROPERTIES, INC. (OWNER) - Request to develop a 3.78±-acre site and existing building with an equipment rental and retail sales facility. Appealed by attorney representing Owner's trust.**

Property is located at 30150 Industrial Parkway Southwest, northeast corner of Industrial Parkway Southwest and Whipple Road in the Industrial District.

## RECOMMENDATION:

Staff and the Planning Commission recommend that City Council:

1. Disapprove the administrative use permit application (UP 97-150-21) based upon the evidence presented at the public hearing and the attached findings.

## DISCUSSION:

### Background

The property is a 3.78±-acre site and is irregular in shape and composed of two separate parcels at a prominent intersection visible from the I-880 corridor. Access to the site from Industrial Parkway Southwest is from a bridge structure across the Alameda County Flood Control District channel that separates the property from the street. The property has approximately 173 feet of frontage along Whipple Road and has approximately 713 feet of frontage along the flood control channel.

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The applicant proposes to utilize the property for their industrial equipment rental business by renovating the 23,000-square-foot metal building and by making exterior improvements to the land. These exterior improvements include new asphalt pavement for parking, vehicular circulation and driveway access to both Industrial Parkway Southwest and Whipple Road and by constructing a fuel island for the refueling of equipment and a covered wash rack for equipment maintenance. The refueling operation will not be for retail sales to the public. Approximately 30 percent of the site is shown as an unscreened outside storage area for equipment. This area is located at the corner of Whipple Road and Industrial Parkway SW and is indicated as a non-paved area only. A detailed description of the proposed work to the building and other project details regarding parking, landscaping, etc. can be found in the attached Planning Commission report.

**Issues To Be Addressed**

As discussed in the Planning Commission staff report, there are a few central issues which must be addressed in the review of the application which is the subject of this appeal. The application is for the location of a rental equipment facility at the intersection of Industrial Parkway Southwest and Whipple Road. This intersection is directly adjacent to a recently completed interchange of Interstate 880, that constitutes a major gateway into the industrial district of the City of Hayward and one of only three entryways to the City from the south. The applicant proposes to use a significant proportion of the site, and the area most publicly visible, for the storage of rental equipment and to surround that facility with varying types of open fencing to maximize the display of that equipment.

Staff has determined, and the Planning Commission has agreed, that the proposed use constitutes a use "not conducted completely within an enclosed building, such as, major outdoor storage as determined by the Director of Community and Economic Development/Planning Director," as set forth in the list of uses requiring an Administrative Use Permit in the Industrial District under the Zoning Ordinance.

The granting of an Administrative Use Permit is a discretionary action which requires staff to make several findings, including that the proposed use "will not impair the character and integrity of the zoning district and surrounding area" and "is in harmony with applicable City policies." As the staff was unable to make such findings, the matter was referred to the Planning Commission.

The staff was unable to find the proposed use was in harmony with applicable City policies and standards for a variety of reasons. The first was that the Minimum Design and Performance Standards for the Industrial District require, under the heading of "Outdoor Storage," that "all uses shall be conducted wholly within enclosed buildings. **Minor** open storage...is permitted provided...the storage is compatible with the adjoining uses (for example, adequately screened, set back or not too high)." Given that approximately one-third of the subject property is proposed to be devoted to storage, staff determined that outdoor storage constituted a significant proportion of the proposed use and was not minor. It was further determined that the application was designed to maximize the visibility of that outdoor storage, rather than screen it adequately as required by the standards. The proposed project also does not meet the requirement of the zoning ordinance that "all open areas not landscaped shall be treated or paved with an all-weather, dustless material, such as an asphalt surface....", in that it proposes that the storage area will be unpaved.

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The project as proposed is not congruent with the broader policy framework of the City, as set forth in the General Policies Plan and its component elements. The General Plan policy "to develop landscape standards to include screening of bulky buildings, parking, and outdoor storage..." and Economic Development Element policies and strategies to "identify blighted and/or declining 'gateway' areas...so that they can be revitalized" and to "promote and protect the appearance of the Industrial Area to encourage quality development," make it impossible to find that the project is in harmony with City policies.

This project site is pivotal to the Industrial Boulevard Southwest gateway image of the City. The recent efforts of the City Council to fund major improvements to City gateways, including the significant public works projects at West A Street, Foothill Boulevard and upper B Street, attest to the commitment which the city has made to improve its overall image by focusing its investment at gateways. The importance of gateways to the City is supported by the recent Council action directing staff to initiate the discussions and procedures leading to the annexation of the North Foothill Boulevard corridor in order to gain greater control over land use decisions at major City gateways. The concern about how gateways develop, particularly those adjacent to freeway interchanges, is further demonstrated by the recent revision to the Zoning Ordinance that allowed the "sale of retail goods with a regional or sub-regional marketing base, including but not limited to discount retail or warehouse retail, on parcels visible from Interstate 880 or State Highway 92."

The staff also finds the proposed use will impair the character of the surrounding area as envisioned by Council when it revised the Zoning Ordinance to substantially reduce the allowance for outside storage. Areas such as surrounding the Whipple Road interchange and along Route 92 that have open storage were found to be unappealing and detrimental to efforts to encourage higher quality and more intense development in these high visibility corridors and entryways. The subject site is a highly visible parcel at the intersection of two major streets, adjacent to the freeway interchange that constitutes the first entry point to the City of Hayward for parties approaching the city from the South. This intersection, as viewed both from the freeway itself and at ground level after having exited the freeway, presents the visitor with a first impression of both the City of Hayward and its vast industrial district. It is, therefore, a primary gateway to the City and the manner in which it develops is of significance to the image of the City.

**The Appeal**

The appellant suggests that the staff's interpretation of the zoning ordinance is not correct as the proposed use constitutes the "display" of rental equipment, not "storage," and does not have to be screened. While there are a variety of definitions of storage, the City has consistently applied this term to uses that involve the safekeeping of a wide variety of material goods in an area while they are not in use. This may involve their retention during the period between manufacture and sale, or after original purchase, their retention pending their use for their intended purpose. The term "display" has historically been applied to material goods which constitute an example of or advertisement for a product or item which is available, not a laying out of each and every individual item. While the two words are not mutually exclusive, they do not carry the same meaning. Stored items may also be on display. The fact that stored items are also on display does not negate the fact that they are in storage. The Zoning Ordinance Minimum Design and Performance Standards for the Industrial District specifically state that all uses shall be conducted wholly within enclosed buildings. Minor open storage is permitted only when compatible with adjoining uses and when adequately screened.

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Staff has investigated six equipment rental companies in the area and each has indicated that the equipment displayed is that which is rented to the customer and that they do not maintain a separate storage facility. A survey of these facilities indicated that much of the larger rental equipment is housed outside of the buildings while it is awaiting rental. Many pieces of equipment, such as forklifts and aerial lift trucks, in these facilities are extended above fencing to draw attention to the establishment and the equipment. Such common practices do not meet the screening requirements of the Hayward Zoning Ordinance and Design Guidelines.

The appeal also suggests that the zoning is appropriate and the surrounding area "is replete with industrial businesses far more unsightly and uncommercial than the proposed use by Big 4." Staff has surveyed the areas along Industrial Parkway Southwest and found other businesses have unscreened outdoor storage. These businesses are either operating as legal nonconforming uses (i.e., U-Save Rockery and Sunmetal America) or operating under use permits obtained prior to the amendments to the Zoning Ordinance quoted herein (Master Halco, 1965 use permit). Staff is unaware of any business in the Industrial District, which has been approved for major outdoor storage which is not screened since the adoption of the zoning ordinance provisions on such storage and screening in 1995. Even prior to 1995, major outside storage for uses such as the Bay Cities Auto Auction were required to be totally enclosed by a solid masonry wall and extensive landscaping. It is entirely within the discretion of the City to review and revise its development policies over time to address issues of concern such as outdoor storage. The fact that the City is unable to make such ordinance revisions retroactive and apply them to legal nonconforming or previously approved uses is irrelevant and does not negate the City's ability to apply such revised ordinances to applications for approval submitted after adoption of those revisions.

**Staff's Recommendation to Planning Commission**

The use of the property by Big 4 Rents requires an administrative use permit because of its outside storage of large equipment. This administrative use permit application was referred to the Planning Commission since staff could not recommend approval of the project given its conflicts with adopted City policies. Staff recommended that the Planning Commission deny the administrative use permit because the equipment rental facility is in conflict with the City's policies in several aspects: (1) The use, as proposed, violates Hayward Design Guidelines and the Industrial District Zoning Ordinance which allow only minor outdoor storage and require screening for exterior storage in the Industrial Corridor; (2) The use, as proposed, is not in harmony with Policy V, Strategy D of the Economic Development Element of the General Plan which calls for the creation of "opportunity zones along major highways to attract large retail operations, discounters, etc;" and, (3) The location of the property of the proposed use is at a major gateway to the southern part of the City and major industrial area and the use is not compatible with in keeping with the City policies to clean-up and enhance the City's gateways in order to improve the City's image and character.

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**Planning Commission Action**

At the February 26, 1998 Planning Commission meeting, the Planning Commission voted unanimously [7:0] to support the staff recommendation and denied the project. Commissioners stated that they should uphold the General Plan and that unscreened open storage at the proposed equipment rental facility was inappropriate for this prominent corner property at a major gateway to the City. The Planning Commission stated that their vote was not against the applicant nor the architecture of the building. None of the Commissioners stated that the subject property should be rezoned. However, the Planning Commission felt that the applicant's proposed use was not in harmony with the surrounding area, including the adjacent 8-acre parcel.

In addition to the testimony provided by the project applicant and his representatives, there were two other speakers who represented the development potential of the adjoining 8-acre parcel. Michael Clevenger of Pegasus Development, who was the applicant for a large retail center on the 8-acre parcel, requested that the Commission look forward to the possible retail development of the site. He indicated that they had tried to purchase the subject property but that it was not available. He indicated that access between the two properties would be highly desirable and make the development of the 8-acre site more viable. The last speaker was Todd Morse of Grubb & Ellis, who is representing the sale of the land for the owner. He said that it would greatly increase the potential for the site if both properties were working together in a fashion that there were cross-traffic and cross easement patterns across the parcels. He further stated that the problem with the proposed Big 4 Rents development is that, by virtue of their having storage yard on the corner, there is no ability to develop the cross-traffic patterns. He indicated that Big 4 Rents was not an appropriated tenant to mix into a retail development of the type that under discussion at this location.

**PUBLIC HEARING NOTICE**

On April 10, 1998, a notice of public hearing was mailed to every property owner within 300 feet of the perimeter of the property as noted on the latest Assessor's records, to the appellant, and to tenants of businesses and former members of the neighbor task force.

**ENVIRONMENTAL REVIEW**

In accordance with the California Environmental Quality Act Guidelines, the Initial Study and Negative Declaration were posted in the City Clerk's office and in the libraries prior to the Planning Commission hearing. A notice of its availability for review and notice of this hearing was sent to all property owner and occupants within 300 feet of the perimeter of the property.

If the City Council is inclined to deny the administrative use permit, it need not pass upon the sufficiency of the environmental documents. The Planning Commission at its February 26, 1998 hearing denied the Negative Declaration.

**CONCLUSION**

Staff continues to hold its original position that the proposed use does constitute major outdoor storage, that it is not in harmony with City policies and that, if implemented, it would impair the character of the gateway area. The approval or disapproval of this application and appeal is a discretionary action on the part of the City Council. The staff and the Planning Commission

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recommend that the Council uphold the unanimous decision of the Planning Commission that the use, as proposed, does not meet the criteria for the permit and thus the permit should be denied.

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**Prepared by:**



Sheldon R. McClellan  
Senior Planner

**Recommended by:**



Sylvia Ehrental  
Director of Community and Economic Development

**Approved by:**

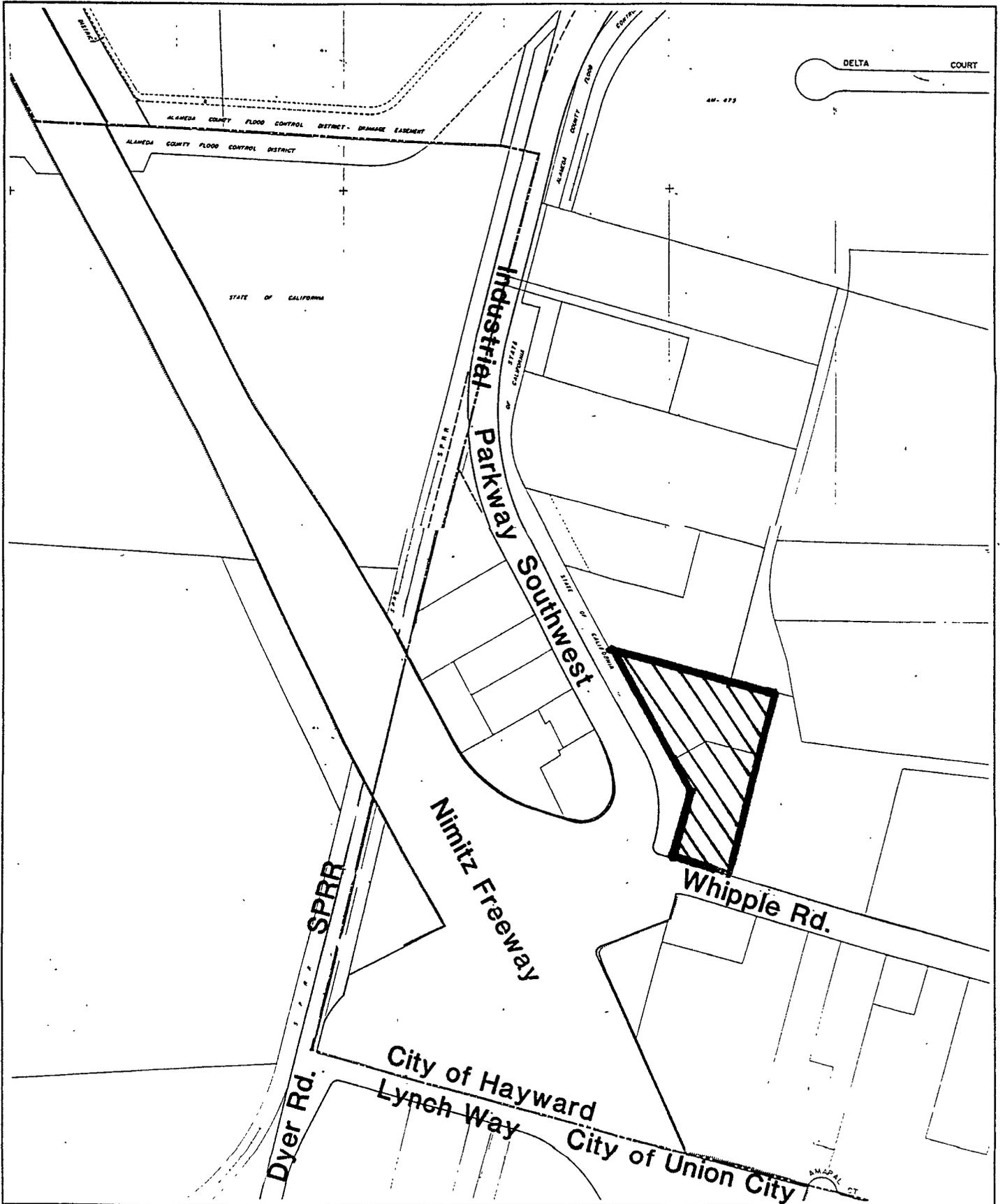


Jesús Armas  
City Manager

**Exhibits:**

- A. Area Map
- B. Findings for Denial
- C. Planning Commission Minutes and Staff Report, dated February 26, 1998
- D. Letter of Appeal, dated March 6, 1998
- E. Memorandum of Sheldon McClellan to City Council
- F. Hayward Design Guidelines, Page 41
- G. Hayward Zoning Ordinance §10-1.401(c)(3); §10-1.4015(a); §10-1.4904; §10-1.634; and, §10-1.630
- H. Webster's Third New International Dictionary Excerpt
- I. Photographs of Various Rental Equipment Storage Yards
- J. Economic Development Element Excerpt of General Plan  
Development Plans  
Draft Resolution

April 16, 1998



**AREA MAP ■ AUP 97-150-21**  
**Big 4 Rents (Applicant) ■ Sellau Properties, Inc. (Owner)**  
30150 Industrial Pkwy. SW

**FINDINGS FOR DENIAL**

Administrative Use Permit 97-150-21  
Big 4 Rents (Applicant) - Sellau Properties, Inc. (Owner)

Based upon the substantial evidence presented in the staff report and during the public hearing, the City Council makes the following findings:

1. Hayward Zoning Ordinance § 10-1.4904 and the Hayward Design Guidelines require that all uses be conducted wholly within enclosed buildings and only allows minor open storage as determined by the Planning Director that is compatible with adjoining uses having been adequately screened. The use, as proposed, by Big 4 Rents violates these policies.
2. The Hayward City Council has established a policy to require screening of all outdoor storage to improve the appearance of the Industrial Zone and to ensure that new administrative and conditional uses are in harmony with the City policies. The use as proposed by Big 4 Rents is not in harmony with City policy.
3. The use, as proposed by Big 4 Rents anticipates significant unscreened outdoor storage of rental equipment. Outdoor storage meaning the holding and housing of goods from the time of delivery until rental or re-rental.
4. The City Council finds that Big 4 Rents' claim to merely "display" as opposed to "store" its equipment outdoors is not supported by the substantial evidence obtained by staff during its survey of how similar businesses conduct their activities.
5. Existing unscreened storage in the Industrial Corridor are either legal non-conforming uses or operate under a use permit obtain prior to the zoning amendments requiring the screening of outdoor storage.
6. The City Council finds that additional outdoor storage in the Industrial Corridor would impair the character of the surrounding area and not be in harmony with City policies.
7. The City Council's determination is limited to the particular use as currently proposed by Big 4 Rents. The City Council has not made any decision on the appropriateness of any other industrial or administrative uses of the subject parcel.
8. The City Council finds that the project, as proposed, does not comply with General Plan policies regarding outdoor storage or policies of the Economic Development Element of the General Plan regarding revitalization of gateways and protection of the appearance of the industrial area.

## MINUTES

REGULAR MEETING OF THE PLANNING  
COMMISSION, CITY OF HAYWARD, Council  
Chambers, Thursday, February 26, 1998,  
7:30 p.m. 777 "B" Street, Hayward, CA 94541

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## MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m. by Chairperson Bennett, followed by the Pledge of Allegiance.

## ROLL CALL

Present: COMMISSIONERS Caveglia, Dowling, Fish, Halliday, Kirby, Williams  
CHAIRPERSON Bennett  
Absent: COMMISSIONER None

Staff Members Present: Anderly, Looney, McClellan, Peck, Penick

General Public Present: Approximately 12

## PUBLIC COMMENT

## AGENDA

## PUBLIC HEARINGS

1. **REFERRAL BY THE PLANNING DIRECTOR OF ADMINISTRATIVE USE PERMIT 97-150-21 - BIG 4 RENTS (APPLICANT), SELLAU PROPERTIES, INC. (OWNER)** - Request to develop a 3.78+-acre site and existing building with an equipment rental and retail sales facility. Property is located at 30150 Industrial parkway Southwest, northeast corner of Industrial Parkway Southwest and Whipple Road in the Industrial District.

Senior Planner McClellan presented the staff report and indicated that the application was referred to the Commission because of the open storage at the corner of the property and the conflict with the policy of the Economic Development Element of the General Plan which includes the direction to, "Create opportunity zones along major highways to attract large retail operations, discounters, etc." The Element provides guidance relating to economic development and calls for an analysis of benefits and disadvantages. The 8-acre parcel adjacent to this parcel is being ignored in this proposal even though it appears to impact the site to the extent that attracting a major retailer or similar commercial complex might not be feasible. He indicated that the proposed use and development of the site would not enhance a city gateway or the appearance of two very visible thoroughfares. He also noted for the record that, on page 2, Findings Against the Declaration, number 2 should read, "The project does not adhere to the City Design Guidelines..."

Public Hearing Opened 7:45 p.m.

Randall Schluntz, Associated Professions, 4200 East Avenue, Livermore, architect for the project, said the client has asked for them to coordinate the architecture of the building with the

adjoining project on the 8-acre site, when and if something is proposed.

Doug Caulfield, CFO of Big 4 Rents, 9462 Victoria Lane, Windsor, said tying the corner property into the adjacent 8-acres is difficult for everyone since the current owner is not willing to sell the property. He said they could improve the property, adjust the fencing, possibly review mutually compatible points of ingress and egress, and utilize landscaping and signage. In response to questions from Commissioners, he explained that they have looked at other sites and are looking for both a freeway access as well as a major arterial access. He said they would be looking for \$5 million annual revenue and would invest approximately \$600,000 to improve the site. He said they would be locating rental equipment toward the front part of the property for display purposes, as would a car dealer. He indicated that rentals do not garner sales tax, only sales would.

Michael Clevenger, Pegasus Development, applicant for the 8-acre site. They have had anchor tenants address them on the 8-acres, including a restaurant. The Dyer Triangle area in Union City is attracting a lot of retailers right now. He emphasized that access to this property must be maintained. The problem is joint access between the two properties. He said they have made previous offers through legal counsel to acquire the project site and it has been the position of the owners of the 3.8-acre site that they do not want to sell. He encouraged Commissioners to look forward to possible retail development on the site, which would produce further economic gains for the City. As an aside, he added that a number of years ago, his company produced a development plan for the same space on which the City Hall now stands. He encouraged the Commission to use the same foresight in recognizing the potential for this site.

Dennis Sullivan, 465 California Street, Suite 700, San Francisco, attorney for Sellau Properties, Inc., explained the history of the property and the Sellau family ownership of it. He said the owners don't want to sell the property at this point. They would be willing to work with the 8-acre parcel to do whatever is necessary with Big 4 so that access, signage, etc. can be achieved.

Todd J. Morse, Grubb & Ellis, 1646 N. California Boulevard, Suite 500, Walnut Creek, representing the sale for the owner of the 8-acre parcel. He said it would greatly increase the potential for the site if both parcels were working together in a fashion that there were cross-traffic and cross-easement patterns across the parcels. The problem with Big 4 Rents is that, by virtue of their having a storage yard on the corner, there is no ability to develop the cross-traffic patterns. He then indicated that Big 4 was just not an appropriate tenant to mix into a retail development of the type under discussion at that location.

Public Hearing Closed 8:33 p.m.

Commissioner Kirby said there is a lot of opportunity in that area now that Caltrans has finished the 880-Interchange. He **moved**, seconded by Commissioner Caveglia, to support the staff recommendation.

Commissioner Caveglia said the City has a strong interest in keeping this area open until it develops into a usable project. Letting it go to Big 4 Rents would be the end of it and there would be nothing developed on the 8-acres at all.

Commissioner Halliday said that she would support the findings for denial. The Commission should uphold the General Plan and the use being proposed is inappropriate for a major gateway intersection to the City.

Commissioner Dowling said the State government has put cities in a position to scramble for sales tax dollars. He said this use might be acceptable if the City was not so dependent on sales tax revenue. The City needs to protect the last few resources they have in order to compete for these dollars and attract "Big Box" retail.

Commissioner Fish said he would also support the motion and wanted to acknowledge that Commissioners comments should not be construed as either against the architecture or the project. It just needs a different site in the City.

Commissioner Williams said he would be supporting the motion because this particular site is not the site for this particular business.

Chairperson Bennett said she, too, would support the motion adding that she was convinced by the comment regarding the City's foresight in saving the downtown property for City Hall. She said she places a lot of importance on staff recommendations as well as public comments. Staff has the foresight to hold off at this period of time. It's important to have Big 4 in the area and she hoped they would find a site that would be suitable for location within the City.

The motion passed, 7:0.

2. **A REQUEST TO REMOVE A BUILDING FROM THE CITY OF HAYWARD'S LIST OF HISTORICALLY AND ARCHITECTURALLY SIGNIFICANT BUILDINGS AND USE PERMIT APPLICATION NO. 97-160-18 TO OPERATE TRANSITIONAL HOUSING (A GROUP HOME), FAMILY EMERGENCY SHELTER COALITION (FESCO), (APPLICANT/OWNER) -The property is located at 22651 Third Street, west side, one lot north of the intersection of 'C' and Third Streets in a Medium Density Residential (RM) Zoning District. (CONTINUED TO MARCH 12, 1998)**
3. **REFERRAL BY THE PLANNING DIRECTOR OF SITE PLAN REVIEW APPLICATION 98-130-01 - KREMER, TRAMPETTI AND HANSON (APPLICANTS/OWNERS) - Request to construct a 2,187 square-foot commercial building at 590-596 A Street (two parcels) at the northwest corner of A Street and Western Boulevard in a Neighborhood Commercial - Residential District.**

Development Review Services Director Anderly explained that the design of the application does not meet the City's Design Guidelines that state that development with a pedestrian and transit orientation is preferred. Buildings are to be generally set forward to maintain continuity of architecture and pedestrian interest. The recommendation is to locate the building so that much of it is along A Street and facing the street. Development of this site will set the tone for future development that will occur on the north side of A Street. One of the Design Guidelines asks to provide opportunities for shared parking to alleviate some of the drive-ways cut on West A Street. She said that, although the Traffic Department supported the applicants design for the drive-way cut, one of the issues with the location is that the handicapped parking stalls would be



ITEM NO: 1

AGENDA REPORT  
PLANNING COMMISSION ■ CITY OF HAYWARD

MEETING OF:  
February 26, 1998

TO: Planning Commission

FROM: Sheldon R. McClellan

SUBJECT: Referral by the Planning Director of Administrative Use Permit 97-150-21 Big 4 Rents (Applicant) - Sellau Properties, Inc. (Owner) - Request to develop a 3.78±-acre site and existing building with an equipment rental and retail sales facility. Property is located at 30150 Industrial Parkway Southwest, northeast corner of Industrial Parkway Southwest and Whipple Road in the Industrial District.

RECOMMENDATION:

That the Planning Commission:

1. Deny the attached Negative Declaration, find that the document is complete and final in accordance with the California Environmental Quality Act and reflects the independent judgement of the Planning Commission.
2. Disapprove the administrative use permit application (UP 97-150-21) subject to the attached findings.

DISCUSSION:

Surrounding Uses

All surrounding uses are within the Industrial District unless noted otherwise.

North - Industrial uses (many with outside storage)

East - An 8-acre vacant parcel

South - Across Whipple Road, BP Service Station, motel, truck freight terminal

West - Across Industrial Parkway Southwest Denny's Restaurant, Chevron Service Station, Motel 6 and McDonald's Restaurant (Planned Development District)

Site Description

The 3.78±-acre site is irregular in shape and is composed of two separate parcels at a prominent intersection visible from the I-880 corridor. Access to the site from Industrial Parkway Southwest

AUP 97 - 150 - 21 - BIG 4 RENTS (APPLICANT) - SELLAU PROPERTIES, INC.

is from a bridge structure across the Alameda County Flood Control District channel that separates the property from the street. The property has approximately 173 feet of frontage along Whipple Road and has approximately 713 feet of frontage along the flood control channel. The site is developed with a metal warehouse that will be upgraded for the intended use. Any pavement area that existed previously for the site operation appears to be now non-existent. The site, except for the building pad area, is generally characterized as covered with weeds and littered with junked vehicles and other equipment.

Project Description

The applicant intends to utilize the property for their industrial equipment rental business by renovating the 23,000-square-foot metal building and by making exterior improvements to the land which consists of asphalt pavement for parking, vehicular circulation and driveway access to both Industrial Parkway Southwest and Whipple Road and by constructing a fuel island for the refueling of equipment and a covered wash rack for equipment maintenance. The refueling operation will not be for retail sales to the public. Approximately 30 percent of the site is shown as outside storage area for equipment. This area is located at the corner of the two streets and is indicated as compacted base rock. Staff believes that the storage area, if approved, should be paved with asphalt or Portland concrete. The wash rack is shown to be 30' by 60' and is composed of a drained concrete pad with a raised metal canopy that is tied to an 8-inch-thick and 22'-3"-high concrete masonry parapet wall placed on the easterly property line. The structure is open on three sides and provides an 18-foot vehicle clearance. While the building design is very utilitarian, staff believes that the structure should be upgraded by providing a fascia to match the main facility and enclosing the structure with side walls to prevent rain water from entering the structure and thus flowing to the floor drain and ultimately to the sewer treatment plant.

The main building measures 120' by 194' and is to be divided into two major areas. The largest area of approximately 18,000 square feet is allocated for indoor equipment storage and service. The remaining 5,000± square feet will serve as office area and for retail sales of items tied to equipment rentals. The plans indicate that the metal siding material will be repaired and painted. Existing fiberglass panels at the top portion of the walls will be removed and replaced with new 24-inch wide metal siding. The metal roofing material will be repaired where needed. Plans also indicate new roll-up doors on the front and rear elevations. New storefront glazing and doors will also be added to the front building wall where retail sales are to occur. A small protruding metal canopy is to be placed above the main entry.

The fuel island is not detailed but City and State regulations require that the facility be placed on a concrete pad and sloped for containment of any fuel spills. The facility must also be covered to prevent rainwater from entering the basin.

Parking for the proposed use is indicated in two areas. An employee parking lot with 15 parking spaces is shown within an enclosed fenced and gated area at the west side of the metal building. Customer parking with provision of 12 spaces is to be provided at the front of the building on both sides of the service driveway. Parking requirements for this industrial use is set at 1 space per 2,000 square feet of floor area. The minimum parking requirement is 12 spaces where 27 spaces are

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provided.

The applicant indicates a 10-foot-wide landscape strip between the property and the Alameda County Flood Control District. A 15-foot-wide planter is proposed adjacent to the property frontage along Whipple Road. A narrow 5-foot-wide planter is proposed along the easterly property line to approximately the midpoint of the parcel. No landscaping is proposed along the continuation of the easterly property line and along the north property line. An 8-foot-high open wrought-iron fence is proposed between masonry pilasters for those areas where perimeter landscaping is shown. An 8-foot-high chainlink fence is proposed around the balance of the property. The applicant desires to have open-type fencing along the street frontages in order to maximize the display of their rental equipment to the public from the street. Staff on the other hand, believes that the open storage area at the corner should be screened from view so as not to detract from or negatively impact the streetscape. Furthermore, in keeping with City policy, staff believes that the applicant should provide street frontage improvement on both Whipple Road and along Industrial Parkway Southwest even though the property does not have actual frontage along Industrial Parkway Southwest. Frontage improvements would include curb, gutter, matching street pavement where required and the planting of street trees and shrubs and/or groundcover at the top of the slope of the flood control channel.

This administrative use permit application has been referred to the Planning Commission since staff cannot recommend approval of the project given its conflicts with adopted City policies. The proposed project is not in keeping with the policies of the Economic Development Element of the General Plan. Namely, the proposed equipment rental facility is in conflict with Policy V, Strategy D which calls out for the attraction of new business and the creation of opportunity zones along major highways to attract large retail operations, discounters, etc. In order to implement this policy, the City amended the Zoning Ordinance to permit as a conditional use within the Industrial District the **"sale of retail goods with a regional or sub-regional market base, including but not limited to discount retail or warehouse retail, on minimum 8-acre parcel which is visible from Interstate 880 or State Highway 92"** [see Z.O. Sec. 10-1.4015 (a)]. This amendment was designed to encourage this type of development on the few remaining parcels of substantial size in proximity to the freeway. Staff believes that this corner parcel, which is visible from I-880, is a key element to the success of the development of the vacant 8-acre property to the east of this site.

Since adoption of the Zoning Ordinance amendment, interest has been expressed in commercial development of the subject property as well as the adjacent 8-acre parcel. An application was submitted in 1997 for the adjacent 8-acre site, but one of the problems encountered in attracting a viable regional retail tenant for the proposed commercial center was the fact that any future development of the subject property might block the visibility of the site from Interstate 880 highway. At that time, the developer had expressed interest in combining the sites for a commercial development but was unable to secure the subject property. Staff believes that this property added to the larger development site would provide for greater flexibility in the development of the entire property and allow better signage for business attraction. It would also improve vehicular access from both streets which have heavy traffic counts. If the property owner (a German trust) is not willing to sell the site and allow it to be developed with the adjacent parcel, the development of the corner site should take into account the adjacent property and allow flexibility with compatible or

## AUP 97 - 150 - 21 - BIG 4 RENTS (APPLICANT) - SELLAU PROPERTIES, INC.

complementary uses. Cross easements to achieve a better vehicular circulation pattern and signage program would benefit both sites. As proposed, the development ignores the adjacent property and appears to impact the site so that it may not be feasible to achieve the Economic Development Element goal of attracting a major retailer or similar commercial complex to the site.

Staff believes that the proposed equipment rental facility could be established on almost any other industrial zoned site within the City. Another site, located away from a highly visible intersection, would not present the problems encountered at this particular property. Further, the applicant's desire to have the proposed use unscreened and placement of the open rental equipment storage area at the corner where the public will view it results in a project inconsistent with the approved policy and will substantially undermine the City's ability to achieve its policies and strategies in this high visibility City entryway.

### PUBLIC HEARING NOTICE

On February 6, 1998, a notice of the public hearing was mailed to every property owner within 300 feet of the perimeter of the property as noted on the latest Assessor's records, and to tenants of businesses and former members of the neighborhood task force.

### ENVIRONMENTAL REVIEW

In accordance with California Environmental Quality Act Guidelines, the Negative Declaration was posted in the City Clerk's office and the libraries. A notice of its availability for review and notice of this hearing was sent to all property owners and occupants within 300 feet of the perimeter of the property.

Due to the significant finding that the project is in conflict with the Economic Development Element policy which cannot be mitigated, staff recommends that the Planning Commission not approve the attached Negative Declaration, finding that the document is complete and final in accordance with the California Environmental Quality Act and reflects the independent judgement of the Planning Commission. Nevertheless, the Planning Commission is not required to act on the environmental document when they are denying a project.

### GENERAL POLICIES PLAN & ECONOMIC DEVELOPMENT ELEMENT

The General Plan Map designation for the property and surrounding area is "Industrial Corridor." The proposed rental equipment facility is in conformance with the plan designation.

Included within the Hayward General Plan is the Economic Development Element that was adopted by City Council on December 3, 1996. The element policies that apply to this application are as follows:

Policy I. Utilize an economic strategy that balances the need for development with other City goals and objectives.

**AUP 97 - 150 - 21 - BIG 4 RENTS (APPLICANT) - SELLAU PROPERTIES, INC.**

**Strategy A** Preserve and enhance Hayward's assets and character which make it attractive as a residential community and as an economic investment. A subpoint of this strategy is to continue to apply Design Guidelines to new development and changes to the facades of existing buildings.

**Policy II.** Create a sound local economy which attracts investment, increases the tax base, creates employment opportunities for residents and generates public revenues.

**Strategy A** Revitalize declining commercial and industrial areas and obsolete facilities through rezoning, redevelopment, rehabilitation and other available means. A subpoint of this strategy is to identify areas within the city that could benefit from becoming new redevelopment areas in order to upgrade blighted properties. Consolidate blighted parcels to create economically viable parcels for development.

**Strategy C** Ensure that there is adequate infrastructure capacity to support existing and new development. A subpoint of this strategy is to improve traffic conditions in the industrial area by coordinating roadway and transit improvements.

**Policy III.** Facilitate the development of employment opportunities for residents.

**Strategy A** Promote commercial and industrial development to create and maintain the maximum job opportunities for area residents.

**Policy V.** Attract new businesses.

**Strategy A** Business attraction efforts should focus on sales tax and employment generators; high performance, fast growing firms and community-serving retail as well as high technology and other industries that will enhance the local economy.

**Strategy D** Create opportunity zones along major highways to attract large retail operations, discounters, etc. A subpoint to this strategy is that the zoning code has been amended to allow large retail operations within close proximity of major highway interchanges.

The Economic Development Element of the City's General Plan provides a statement of the policies and goals of the City relating to economic development. As such, it serves as a source of information and a statement of public policy to aid residents, businesses, other agencies, and the city officials in making recommendations or decisions on matters relating to economic development. The Element provides guidance to the Planning Commission and the City Council when considering specific projects and calls for an analysis of benefits and disadvantages in order to provide decision-makers with information regarding long-term impacts.

**SUMMARY**

The proposed equipment rental facility is allowed within the Industrial District with the approval of an administrative use permit, which is required due to the open storage area of the business. Staff is not supportive of this application for reasons stated heretofore, and therefore, has referred the matter to the Planning Commission for a public hearing. Staff believes that the proposed use and development of the site will impact the area by creating a business that would not enhance a city gateway or the appearance of two very visible thoroughfares. It would impact development

AUP 97 - 150 - 21 - BIG 4 RENTS (APPLICANT) - SELLAU PROPERTIES, INC.

potential of the adjacent property by blocking the view corridor from the freeway and restricting vehicular access through the site. The Economic Development Element of the General Plan calls for the possible usage of the adjacent site in combination with the subject site to be used for retail commercial along a major highway. These properties are one of the few places in the city where this strategy of the policy can be executed.

Prepared by:

Sheldon R. McClellan

Sheldon R. McClellan  
Senior Planner

Recommended by:

Dyana Anderly

Dyana Anderly AICP  
Development Review Services Administrator

Attached Exhibits

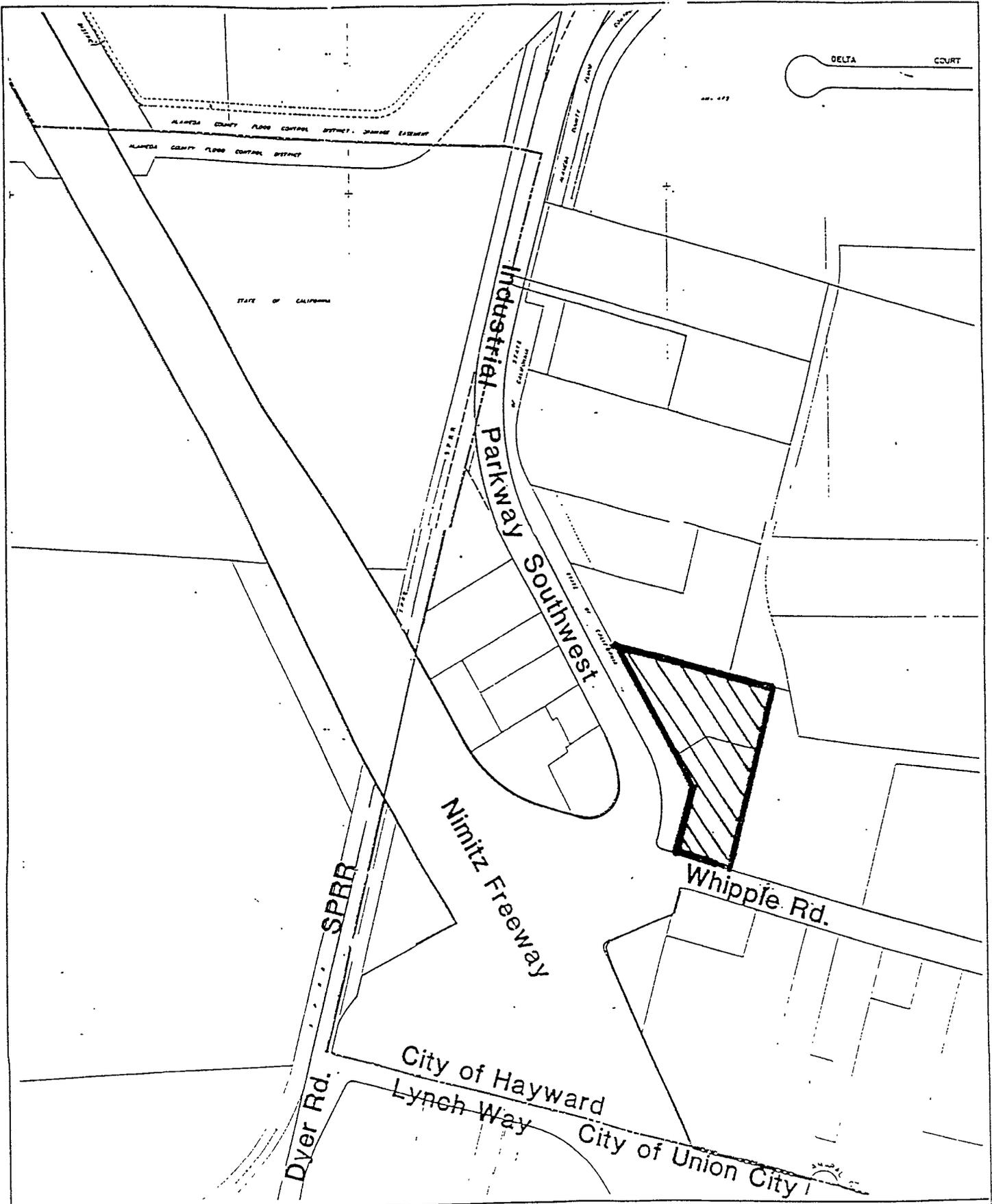
- A - Findings for Denial
- B - Area Map
- C - Wurrulla Limited Letter, dated December 10, 1997
- D - Negative Declaration  
Development Plans

K:\HOME\Sheldon\My Work\BIG 4 RENTS\Big 4 Rents PC Report.doc 2/20/98 12:33 PM

## FINDINGS FOR DENIAL

Administrative Use Permit 97-150-21  
Big 4 Rents (Applicant) - Sellau Properties, Inc. (Owner)

1. That the proposed use will impair the character and integrity of the zoning district and surrounding area since the open storage area of rental equipment is being placed at the corner of Industrial Parkway Southwest and Whipple Road and the applicant is not screening the use with a solid wall.
2. That the proposed use of the property is inconsistent with the applicable City policies and the intent of the Economic Development Element of the General Plan that has called for the attraction of new business and the creation of opportunity zones along major highways to attract large retail operations, discounters, etc. in that the development of the site proposed would significantly impact the development of the adjacent 8-acre property for retail uses and that the proposed use will block the visibility of the adjacent property from view of the I-880 freeway.
3. That the use does not follow the Design Guidelines which requires screening of parking for autos and trucks, exterior storage, trash bins, etc. and where the applicant is placing their open storage of equipment at the corner of two major streets and in view of the I-880 corridor and requesting approval of open type fencing



AREA MAP ■ AUP 97-150-21  
 Big 4 Rents (Applicant) ■ Sellau Properties, Inc. (Owner)  
 30150 Industrial Pkwy. SW

**FAXED**

# Wirrulla Limited.

720 Las Flores Road, Livermore CA 94550, U.S.A.  
Tel : (510) 449 7967 / 443 4950. Fax : (510) 449 7965.

December 10, 1997.

To : City of Hayward.

Atten : Sheldon McClellan.  
Development Review Services Division.

Fax. No : 293 5108 { 583 3649

AUP : 97-150-21  
Applicant : Doug Caulfield  
Address : 30150 Industrial Parkway SW  
Zoning : I (Industrial District).

I refer to your letter dated December 4, 1997 with regards to above mentioned application for equipment rental facility. The proposed site is in fact adjoining land owned by my company (APN Nos. 475-20-82 and 475-20-83).

We have had lengthy discussions with the City staff with regards development of our site and had concluded some time back that our site was too valuable for industrial purposes and since then we have been pursuing potential tenants for development of a retail center. Since the above mentioned site is right next to our parcel our opinion concurs with that of City Staff in that the best use would also be retail. An equipment rental facility on this site may also adversely affect marketability of our land.

We hope the City staff and City Council will take into consideration our comments

Yours sincerely,  
Wirrulla Ltd



Dan Bhanabhai



DEPARTMENT OF  
COMMUNITY AND ECONOMIC DEVELOPMENT  
Development Review Services Division

## NEGATIVE DECLARATION

Notice is hereby given that the City of Hayward finds that no significant effect on the environment as prescribed by the California Environmental Quality Act of 1970, as amended will occur for the following proposed project:

### I. *PROJECT DESCRIPTION:*

ADMINISTRATIVE USE PERMIT APPLICATION NO. 97-150-21 - BIG 4 RENTS (APPLICANT) SELLAU PROPERTIES, INC. (OWNER): Request to develop site and existing building with equipment rental and retail sale facility on a 3.78-acre-site. The equipment rental facility will have open storage of equipment on site. The existing building will house offices and a retail store of 5,000 square feet. The remaining 18,000 square feet will provide interior equipment storage and equipment bays. Other site improvements include a wash rack structure and a fuel island for re-fueling equipment only and not for retail sales.

The property is located at 30150 Industrial Parkway Southwest in an I (Industrial) District.

### II. *FINDING PROJECT WILL NOT SIGNIFICANTLY AFFECT ENVIRONMENT:*

The proposed project will have no significant effect on the area's resources, cumulative or otherwise.

### III. *FINDINGS SUPPORTING DECLARATION:*

1. The project application has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study Environmental Evaluation Checklist has been prepared with a determination that the project will not have a significant impact on the environment.
2. The project is in conformance with the General Policies Plan Map designation of "Industrial Corridor" for the property.
3. The project is in conformance with the intent and purpose of the Zoning Ordinance designation of I (Industrial) District for the property.
4. On-site water and sewage disposal are adequate to serve the project.
5. The site plan layout provides proper access, circulation and parking for the use.
6. There is no evidence of historical or archaeological resources within the project area.

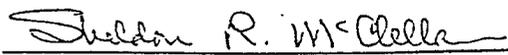
NEGATIVE DECLARATION - ADMINISTRATIVE USE PERMIT APPLICATION NO. 97-150-21 - BIG 4 RENTS (APPLICANT) SELLAU PROPERTIES, INC. (OWNER)

7. There is no evidence of rare or endangered plant or animal species within the project area.

**IV. FINDINGS AGAINST DECLARATION:**

1. The proposed equipment rental facility is inconsistent with the Economic Development Element of the General Plan in that the element calls out for the attraction of new business and the creation of opportunity zones along major highways to attract large retail operations, discounters, etc. While the subject property is under-sized as to the minimum lot area to be utilized for a large retail operation, it could be developed in conjunction with the adjacent property which has been designated as one of the key properties to meet this goal. Development of the site otherwise, could block visibility of the easterly 8-acre property from the I-880 corridor, and thus lessen the opportunity of fulfilling this goal.
2. The project does not adhere to the City Design Guidelines in that it calls for screening of loading and service areas on major streets like Industrial Parkway. The project proposes an open type fence to display the equipment storage area at a major gateway entry to the City and at the intersection of two major streets within the City.

**IV. PERSON WHO PREPARED INITIAL STUDY:**

  
Sheldon R. McClellan, Senior Planner

Dated: February 6, 1998

**V. COPY OF INITIAL STUDY IS ATTACHED**

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For additional information, please contact the City of Hayward Development Review Services Division, 777 B Street, Hayward, CA 94541-5007 or telephone (510) 583-4215

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**DISTRIBUTION/POSTING**

Provide copies to all organizations and individuals requesting it in writing.  
Provide notice of availability to all Security Gate Mailing List recipients.  
Reference in all public hearing notices to be distributed 20 days in advance of initial public hearing and/or published once in Daily Review 20 days prior to hearing.  
Project file.  
Post immediately upon receipt at the City Clerk's Office, the Main City Hall bulletin board, and in all City library branches, and do not remove until the date after the public hearing.

INITIAL STUDY CHECKLIST FORM

Project title: Administrative Use Permit Application No. 97-15-21

Lead agency name and address: City of Hayward, 777 B Street, Hayward, CA 94541

Contact persons and phone number: Sheldon R. McClellan, (510) 583-4215

Project location: 30150 Industrial Parkway SW

Project sponsor's name and address:

Big 4 Rents (Doug Caulfield), P.O. box 2939, Rohnert Park, CA 94927

General plan designation Industrial Corridor Zoning: Industrial District

Description of project To develop site and existing building with equipment rental and retail sale facility on a 3.78± acre-site. The equipment rental facility will have open storage of equipment on site. The existing building will house offices and a retail store of 5,000 ± square feet. The remaining 18,000± square feet will provide interior equipment storage and equipment bays. A fuel island is proposed for re-fueling equipment only, not for retail sales. A new equipment wash rack is proposed on site.

Surrounding land uses and setting:

The general area is industrial with commercial uses across the street to the west. The large property to the east is vacant and has been selected by the City as a potential site for a major box-retail use. The commercial area west of Industrial Parkway West includes a Denny's Restaurant, Motel 6, Chevron gas station and a McDonald's Restaurant, all within a PD (Planned Development) District. Other commercial uses are located south of Whipple Road and include a BP gas station and a motel.

Other public agencies whose approval is required: Alameda County Flood Control District for encroachment permits for drainage access to the flood control channel, and State Department of Fish and Game and the U.S. Army Corp of Engineers if any work is required within the channel.

**ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:**

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- |   |  |  |
|---|--|--|
| <input checked="" type="checkbox"/> Land Use and Planning   | <input type="checkbox"/> Transportation/Circulation      | <input type="checkbox"/> Public Services               |
| <input type="checkbox"/> Population and Housing             | <input checked="" type="checkbox"/> Biological Resources | <input type="checkbox"/> Utilities and Service Systems |
| <input type="checkbox"/> Geological Problems                | <input type="checkbox"/> Energy and Mineral Resources    | <input checked="" type="checkbox"/> Aesthetics         |
| <input type="checkbox"/> Water                              | <input type="checkbox"/> Hazards                         | <input type="checkbox"/> Cultural Resources            |
| <input type="checkbox"/> Air Quality                        | <input type="checkbox"/> Noise                           | <input type="checkbox"/> Recreation                    |
| <input type="checkbox"/> Mandatory Findings of Significance |  |  |

**DÉTERMINATION:** (To be completed by the Lead Agency)

On the basis of this initial evaluation:

- I find that the proposed project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described on an attached sheet have been added to the project. A **NEGATIVE DECLARATION** will be prepared.
- I find that the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.
- I find that the proposed project **MAY** have a significant effect(s) on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets, if the effect is a "potentially significant impact" or "potentially significant unless mitigated." An **ENVIRONMENTAL IMPACT REPORT** is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, there **WILL NOT** be a significant effect in this case because all potentially significant effects (a) have been analyzed adequately in an earlier EIR pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR, including revisions or mitigation measures that are imposed upon the proposed project.

Sheldon R. McClellan  
*Signature*

February 5, 1998  
*Date*

Sheldon R. McClellan  
*Printed name*

\_\_\_\_\_  
*For*

**ENVIRONMENTAL IMPACTS:**

	<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
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**I. LAND USE AND PLANNING. *Would the proposal:***

a) Conflict with general plan designation or zoning?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: The property is designated as Industrial Corridor on the General Policies Plan Map. The proposed Big 4 Rents facility is consistent with this designation. The zoning on the property allows rental facilities subject to the Administrative Use Permit for the open storage proposed on the 3.78 site.

b) Conflict with applicable environmental plans or policies adopted by agencies with jurisdiction over the project?

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Comment: The use of the property as proposed may be contrary to the Economic Development Policies of the General Plan in that the property will shield the adjacent property from freeway visibility where the element calls for the creation of opportunity zones along major highways to attract large retail operations, discounters, etc. The Zoning Ordinance was drafted with the adjacent property in mind to be used for retail sales. There is little to no other opportunities such as this adjacent to the I-880 corridor in Hayward where this policy can be enacted.

c) Be incompatible with existing land use in the vicinity?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comments: The project is consistent with other open storage industrial properties in the area along the east side of Industrial Parkway SW.

d) Affect agricultural resources or operations (e.g., impacts to soils or farmlands, or impacts from incompatible land uses)?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comments: There are no agricultural resources or operations within this area of the City.

e) Disrupt or divide the physical arrangement of an established community (including a low-income or minority community)?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: The project site is an infill area near the outer edge of the City and the proposed development adds to area fabric rather dividing adjacent land use development.

	<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
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**II. POPULATION AND HOUSING.** *Would the proposal:*

a) Cumulatively exceed official regional or local population projections?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Induce substantial growth in an area either directly or indirectly (e.g., through projects in an undeveloped area or extension of major infrastructure)?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: The local infrastructure took into account the development of the adjacent vacant or under-utilized properties. The surrounding area is fully developed, and therefore, the development of the subject site will not necessarily induce similar or larger projects in the area since vacant land is generally not available and the redevelopment of this partially developed site would have to take into account land assemblage and improving the under-utilized site.

c) Displace existing housing, especially affordable housing?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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**III. GEOLOGIC PROBLEMS.** *Would the proposal result in or expose people to potential impacts involving:*

a) Fault rupture?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: The property is outside the Hayward Special Studies Fault Zone. The site is approximately 2 miles west of the Hayward Fault trace.

b) Seismic ground shaking?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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Comment: The site will be subject to violent ground shaking in the event of a major earthquake on the Hayward Fault. The construction of the proposed wash rack facility and the remodeling of the existing main structure will be reviewed for seismic safety at the time of issuance of a building permit.

c) Seismic ground failure, including liquefaction?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: Liquidfaction and differential compaction will be reviewed at the time of the submission of a building permit and the review of the required soils investigation report.

d) Seiche, tsunami, or volcanic hazard?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
e) Landslides or mudflows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comment: The site is not in a hill area or subject to mudflows.

f) Erosion, changes in topography or unstable soil conditions from excavation, grading, or fill?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: The site is being retained as a flat site and grading will be minimal. Site improvements will be done outside the limits of the adjacent flood control channel.

g) Subsidence of land?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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h) Expansive soils?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: Prior to issuance of a building permit, engineering and building staff will review a geologic and soils investigation report to design adequately the building foundations for the soil type on the property.

i) Unique geologic or physical features?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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**IV. WATER.** *Would the proposal result in:*

a) Changes in absorption rates, drainage patterns, or the rate and amount of surface runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: The development of the site is not anticipated to significantly change the absorption rate of what previously occurred on the property.

b) Exposure of people or property to water related hazards such as flooding?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comments: The site is not known to be subject to flooding. The site is not within a 100-year flood zone and is designated as area C on the Flood Insurance Rate Maps of Alameda County.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Discharge into surface waters or other alteration of surface water quality (e.g., temperature, dissolved oxygen or turbidity)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Changes in the amount of surface water in any water body?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>Comment:</u> The site contains no water body.				
e) Changes in currents, or the course or direction of water movements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Change in the quantity of ground waters, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavations or through substantial loss of groundwater recharge capability?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comment: Approximately 55 percent of the site is to be covered with building structure or asphalt pavement. Staff does not believe that this amount will significantly alter the amount of ground water absorption on the property. The existing well on the property will be required to be capped. No new wells or water withdrawal from the aquifer is proposed.

g) Altered direction or rate of flow of groundwater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Impacts to groundwater quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comment: Storm drainage facilities will be required in all paved areas of the project which will be connected to the bay. Fossil fuel filters will be required to prevent oil and other material from going into the ground water supply. Permits from the Alameda County Flood Control District will be required for any connection to the adjacent channel.

i) Substantial reduction in the amount of groundwater otherwise available for public water supplies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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V. AIR QUALITY. *Would the proposal:*

a) Violate any air quality standard or contribute to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Expose sensitive receptors to pollutants?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Alter air movement, moisture, or temperature, or cause any	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	<i>Potentially Significant Unless Mitigation Incorporated</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
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change in climate?

Comments: The proposed project will be required to comply with all applicable requirements of the Bay Area Quality Management District. The developer will be required to develop and implement appropriate dust control measures during construction, if found required. The project is not likely to create objectional odors, or alter air movements, moisture, temperature or cause any change in climate. Implementation of the required conditions of approval will reduce any identified impacts to a non-significant level.

d) Create objectionable odors?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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**VI. TRANSPORTATION/CIRCULATION.** *Would the proposal result in:*

a) Increased vehicle trips or traffic congestion?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: the proposed project is not expected to significantly increase vehicle trips or cause traffic congestion. There may be a temporary increase in traffic due to construction movement, but would not constitute a significant impact. All proposed development will be reviewed for conformance with applicable codes and policies, adequacy of emergency access and sufficient parking on site.

b) Hazards to safety from design features (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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c) Inadequate emergency access or access to nearby uses?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comments: The Fire Department has reviewed the project plans and finds the project, subject to certain conditions, acceptable to Fire Department requirements and standards. Proposed roadways are of sufficient width to provide access to their emergency vehicles. New Fire hydrants will be required on site to serve the fire control.

d) Insufficient parking capacity onsite or offsite?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comments: The project provides sufficient parking on site for both customers and employees.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
e) Hazards or barriers for pedestrians or bicyclists?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflicts with adopted policies supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Rail, waterborne or air traffic impacts?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**VII. BIOLOGICAL RESOURCES.** *Would the proposal result in impacts to*

a) Endangered, threatened or rare species or their habitats (including but not limited to plants, fish, insects, animals, and birds)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comments: the site is mostly vacant and no known endangered, threatened or rare species or their habitats is known to exist on the property. Fossil fuel filters will be required for any storm drainage into the flood control channel. Separate permits will be required by the Alameda County Flood Control District.

b) Locally designated species (e.g., heritage trees)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Locally designated natural communities (e.g., oak forest, coastal habitat, etc.)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comment: The site is vacant of any significant landscaping.

d) Wetland habitat (e.g., marsh, riparian, and vernal pool)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: The site does not contain any wetlands. The site is adjacent to wetlands and any encroachment into the flood control channel will require separate review and permits from the U.S. Army Corp of Engineers and the State Department of Fish and Game.

e) Wildlife dispersal or migration corridors?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
---	--------------------------	--------------------------	--------------------------	-------------------------------------

**XIV. CULTURAL RESOURCES.** *Would the proposal:*

a) Disturb paleontological resources?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Disturb archaeological resources?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	<i>Potentially Significant Unless Mitigation Incorporated</i>	<i>Potentially Significant Impact</i>	<i>Potentially Significant Impact</i>	<i>No Impact</i>
--	---	---	---	------------------

Comment: No paleontological or archaeological resources are known to exist on the property. The site is developed with an industrial structure.

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| c) Have the potential to cause a physical change which would affect unique cultural values? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Restrict existing religious or sacred uses within the potential impact area?             | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

**XV. RECREATION. *Would the proposal:***

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Increase the demand for neighborhood or regional parks or other recreational facilities? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Affect existing recreational opportunities?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

**XVI. MANDATORY FINDINGS OF SIGNIFICANCE.**

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| a) Does the project have the potential to achieve short-term, to the disadvantage of long-term, environmental goals?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Does the project have impacts that individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

**XVII. EARLIER ANALYSES.**

- a) Earlier analyses used..
- b) Impacts adequately addressed..

LAW OFFICES

Dennis M. Sullivan

465 CALIFORNIA STREET, SUITE 700  
SAN FRANCISCO, CALIFORNIA 94104

March 6, 1998

DENNIS M. SULLIVAN

RECEIVED

MAR 9 1998

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VIA TELEFAX & HAND DELIVERY

(510) 583-3649

City of Hayward  
Department of Community and Economic Development  
Development Review Services  
Attn: Sheldon R. McClellan - Senior Planner  
777 B Street  
Hayward, CA 94541-5007

**RE: Administrative Use Permit Application No. 97-150-21  
30150 Industrial Parkway SW**

**Notice of Appeal and Appeal**

Dear Mr. McClellan:

At a regular meeting held on February 26, 1998, the Planning Commission considered and denied the application of Big 4 Rents for an administrative use permit to develop the above-referenced site with an equipment rental and retail sales facility. Sellau Properties, Inc., the owner of the real property located at 30150 Industrial Parkway SW, Hayward, California, herewith files its Notice of Appeal and Appeal from the decision of the Planning Commission denying the application of Big 4 Rents.

The grounds for this appeal are as follows:

1. The Findings for Denial are not supported by competent or substantial evidence in the following particulars:

(a) No competent evidence or other proof was submitted to support a finding that "the proposed use will impair the character and integrity of the zoning district and surrounding area." The zoning for the area is industrial and the immediate and surrounding area is replete with industrial businesses far more unsightly and uncommercial than the proposed use by Big 4. In addition, other businesses in the surrounding area with road frontage have unscreened open storage areas for vehicles and equipment.

Sheldon R. McClellan - Senior Planner  
March 6, 1998

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(b) No competent evidence or proof was submitted to support the need for a solid wall screening at the site. The testimony and evidence given by the Applicant clearly showed that the portion of the site in question was to be used as an attractive and well-designed display area for its vehicles and equipment and not for "storage" or "parking" requiring screening in the sense contemplated by City policies.

(c) No competent evidence or other proof was submitted to support the Finding that the need for screening "cannot be mitigated." Testimony by Big 4's architect and its Chief Financial Officer indicated a willingness to compromise and coordinate the development of the site in conjunction with the adjoining 8-acre parcel. The Commission ignored this evidence and offer of compromise in order to force a retail use only by de facto rezoning.

(d) No competent evidence or proof was submitted to support the Finding that the proposed use of the property "is inconsistent with the applicable City policies and the intent of the Economic Element of the General Plan." In considering this Application, the Planning Commission improperly sought to force the development of a 3.78 ± area site zoned for industrial use into a development for retail use consistent only with a larger 8 acre site. The proposed use is entirely consistent with zoning for the site and the applicable City policies set forth in the General Plan. To the extent that any portion of the Economic Development Element conflicts with the zoning elements and the applicable policies of the General Plan it must be disregarded.

(e) No competent evidence or proof was submitted to support the Finding that the development of the site as proposed "would significantly impact the development of the adjacent 8-acre property for retail uses." This Finding is purely speculative. The only "evidence" for such a Finding was the unsubstantiated opinions offered by Staff submitted without benefit of knowledgeable witnesses personally present, or by authenticated documents. Such hearsay evidence standing alone, even in quasi-judicial proceedings; can have no weight.

(f) No competent evidence or other proof was submitted to support the Finding that the proposed use by Big 4 "will block the visibility of the adjacent property from view of the I-880 freeway." In fact, the evidence submitted actually contradicts this Finding in its entirety.

(g) No competent evidence or other proof was submitted to support Finding No. 3 that the proposed use does not follow the Design Guidelines as reasonably interpreted. As noted previously, Big 4 does not intend to use the most prominent portion of the site for unsightly "storage," "parking" or "trash." The Application clearly shows, and the evidence introduced confirms, that the corner of the site would be for the appropriate and sightly *display* of clean, well-maintained equipment that would draw local consumers and major contractors to the area.

Sheldon R. McClellan - Senior Planner  
March 6, 1998

Page 3

2. The Findings for Denial of the Planning Commission conflict with the Findings Against Declaration (Negative Declaration) and are also inconsistent with the specific and underlying Factors set forth in the Initial Study Checklist Form prepared by Staff and adopted by the Commission.

3. The testimony and the comments of the Commissioners confirm that the peremptory denial of Big 4's Application was based on the impermissible consideration that the Commission wanted only retail use allowed on the site. This de facto rezoning of the property to retail use only is a legislative act outside the authority of the Planning Commission.

4. The disallowance by the Commission of a reasonable and fully-qualified industrial use of the site, and its insistence on a use incompatible with current zoning for the site, amounts to an unconstitutional "taking" of the property without consideration.

5. The testimony and comments of the Commissioners confirm that the Commission improperly engaged in a "spot zoning" practice to isolate the site with burdensome and unworkable conditions to deny its use as industrial property and to force its owner to develop it as retail property or not to use or develop it at all.

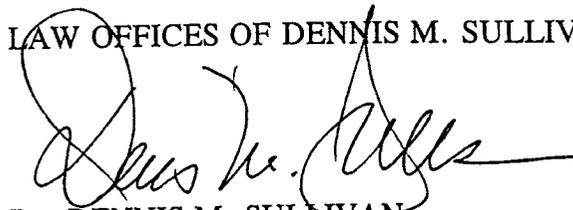
6. The Findings for Denial adopted by the Commission are fatally defective as they fail to bridge the analytic gap between the evidence considered and the conclusions reached as required by the case of *Topanga Assn. v. County of Los Angeles* (1974) 11 Cal.3d.506.

### REQUESTED ACTION

It is respectfully requested that the City Council grant this Appeal, reverse the decision of the Planning Commission, and approve the Application of Big 4.

Respectfully submitted,

LAW OFFICES OF DENNIS M. SULLIVAN



By: DENNIS M. SULLIVAN  
Attorneys for Sellau Properties, Inc.

cc: Big 4 Rents

wilhelm\appeal.ltr

# Memorandum

**To:** Mayor and City Council

**From:** Sheldon McClellan, Senior Planner

**Date:** 04/13/98

**Re:** Survey of Rental Equipment Businesses in Area Re: Storage / Display of Rental Equipment

---

On Thursday, April 9, 1998, I called the following rental equipment businesses in the area and found in all cases that the inventory of displayed stock of heavy equipment was the same as what was rented out. I was told that the displayed equipment was the same actual equipment rented out to customers. There is no separate inventory stored elsewhere on the property or at another location that is used for the rental business. The statement by Big 4 Rents that their inventory is display only and not considered storage of rental equipment is not true. I found that the applicant's facilities are operated in the same manner as their competitors where all displayed items are in deed the actual equipment rented to the customers. In some cases, larger pieces of equipment (large cranes, booms, etc) may not be available at every site, but can be transferred to another site on a rental agreement for that particular equipment. From my site visits to a number of different facilities, I found that in all those that I visited, except the Big 4 Rent facility in Livermore, the businesses were secured behind chain-link or other open-type fencing. The Big 4 Rent facility in Livermore was located behind an 8-foot high solid concrete wall. In this particular case, most of their equipment was hidden from view from Southfront Street and the adjacent I-580 Freeway, and only several pieces of equipment were viewable above the concrete wall. A portion of this property was not screened by the wall and was exposed to the frontage streets.

## **Equipment Rental Facilities Contacted by Phone**

Taylor Rental - 2450 Castro Valley Boulevard, Castro Valley

Lewis Rental - 15740 Hesperian Boulevard, San Lorenzo

U.S. Rentals - 700 98th Avenue, Oakland

Centerville Rents, Inc. - 36660n Fremont Boulevard, Fremont

Hertz Equipment Rental - 48887 Kato, Fremont

Big 4 Rents - 1475 Eastshore Highway, Berkeley

■ Provide easement for public access where industrial development adjoins baylands or water channels connecting to baylands. Improve as recreational amenity for outdoor eating, walking and cycling where appropriate.

■ Where appropriate, utilize retention ponds to lessen runoff.

■ Screen loading and service areas on major streets like Industrial Parkway that are also used to access residential areas.

➔ ■ Screen parking for autos and trucks, exterior storage and trash bins, etc., with earth berms, planting, walls, fences, grade changes or a combination of these elements.

■ Consider provision of recreational facilities such as volleyball courts, basketball courts and exercise courses, shaded outdoor eating, changing rooms and showers to reduce employee car trips and stress.

#### INDUSTRIAL: LIGHT INDUSTRY

"Light industry" is a general term referring to industrial uses which are more compatible with other land uses than "heavy" industry. "Heavy" industrial uses are incompatible because of obtrusive scale or with nuisance aspects like smell, noise, vibrations, smoke, heavy truck traffic or concentrations of hazardous materials. Many kinds of "Light Industrial" businesses can occur in close proximity to residential or commercial development if operated in a neighborly fashion and properly designed.

Industrial areas which should be limited to light industrial development are those within the Burbank, Jackson Triangle, Mt. Eden and Tennyson-Alquire neighborhoods and other locations within 400'-600' of designated residential areas.

■ Enclose industrial operations in a substantial building which is capable of containing operational noise and filtering out any fumes. Bays should not face residential development.

■ Provide landscaping and masonry wall on perimeters adjoining residential use and landscaping along public rights of way. Provide additional setbacks and landscaping to screen buildings of larger scale than adjoining development.

■ Site buildings to shield neighborhood from noise of arterials, railroad and industrial uses wherever feasible.

■ Screen outdoor storage facilities near residential areas. No outdoor storage should be visible from a residence or along street serving residences unless it serves needs of residents (such as boat and RV storage and home improvement equipment rental) and is not unsightly. Auto salvage yards are considered unsightly.

■ Provide direct access from an arterial truck route for large truck docks. Docks should not face residential use and truck parking should not be located adjacent to residential use; loading noise, tractor trailer truck traffic and overnight parking of refrigeration units severely compromise residential amenity.

■ Avoid frequent curb cuts along Clawiter Rd. and Industrial Parkway/Blvd. which would facilitate commercial strip development, hinder traffic flow, and reduce potential landscaping along street.

INDUSTRIAL DISTRICT

SEC. 10-1.400 INDUSTRIAL OR I DISTRICT. PURPOSE. The purpose of the Industrial (I) District is to provide for and encourage the development of industrial uses in areas suitable for same, and to promote a desirable and attractive working environment with a minimum of detriment to surrounding properties.

SEC. 10-1.401 USES PERMITTED.a. Primary Uses

The following uses are primary uses permitted in an I District when conducted completely within an enclosed building(s) provided that minor open storage shall be permitted as an ancillary use:

- (1) Manufacturing, repair, maintenance, preparation, compounding, processing, packing, treating, fabricating, or assembling, when not specified as an administrative or conditional use and subject to the following hazardous materials use limitations:

- (a) Certain Group B hazardous materials uses: Production, storage, handling, or similar activities utilizing hazardous materials classified as Group B hazardous materials by the Fire Chief or his or her designee which involve an aggregate amount at or less than: 5,000 pounds of solids, 550 gallons of liquids or 2,000 cubic feet of gases at standard temperatures and pressures.

Group B hazardous materials are any of the following:

- (i) Flammable liquids, namely liquids that have a flashpoint below 100° Fahrenheit
  - (ii) Flammable solids
  - (iii) Class 1 and 2 oxidizing materials
  - (iv) Flammable or oxidizing gases
  - (v) Corrosive materials
- (b) Certain Group C hazardous materials uses: Production, storage, handling, or similar activities utilizing hazardous materials classified as Group C hazardous materials by the Fire Chief or his or her designee which involve an aggregate amount at or less than: 50,000 pounds of solids, 5,500 gallons of liquids, or 20,000 cubic feet of gases at standard temperatures and pressures.

Group C hazardous materials are any of the following:

- (i) Combustible liquids, namely liquids that have a flashpoint at or above 100° Fahrenheit
  - (ii) Inert gases
  - (iii) Other regulated materials referred to in the following sources except Group A or B hazardous materials:
    - (1) 49 Code of Federal Regulations section 173.500, including amendments or successors thereto; and
    - (2) Hayward Municipal Code Section 3-8.06 except those materials exempted by Hayward Municipal Code Section 3-8.07, including amendments or successors to such provisions.
- (2) Wholesale establishments, warehousing, and bulk storage, when not specified as an administrative or conditional use and subject to the limitations on hazardous materials use identified in subsection (1) of this section.
  - (3) Copying or reproduction or newspaper printing facility, mailing or facsimile service
  - (4) Christmas tree lot
  - (5) (Deleted by Ord. 93-12, adopted May 4, 1993)
  - (6) Radio and television studio
  - (7) Administrative, business, finance, or professional office or clinic located in a building in a planned industrial park of 25 acres or more in area
  - (8) Reverse vending machine(s) when located in a convenience zone
  - (9) Interior design studio, engineering, drafting services, manufacturer's representative
  - (10) Research and development. laboratory
  - (11) Auto broker
  - (12) Barber and beauty shop within an industrial complex where the cumulative floor area of all retail uses therein does not constitute more than 10 percent of the floor area of the industrial complex

- (13) Sales of office supplies and equipment where the cumulative area of all retail/commercial uses does not constitute more than 10 percent of the first floor area of the industrial complex
- (14) Bank
- (15) Restaurant/delicatessen where the cumulative floor area of all retail/commercial establishments does not constitute more than 10 percent of the first floor area of the industrial complex
- (16) Weekend sales (maximum four weekends per calendar year) at retail of goods handled by the company where the sales are conducted
- (17) Fire house and City buildings in excess of 1,000 square feet
- (18) Ambulance service
- (19) Radio, cellular telephone and television transmission towers less than 50 feet in height

b. Secondary Uses

- (1) Accessory buildings and uses
- (2) Living quarters for security or switchboard personnel employees not to exceed 1200 square feet
- (3) (Deleted by Ord. 94-31, adopted December 20, 1994)

c. Administrative Uses

The following uses are permitted subject to approval of an administrative use permit:

- (1) (Deleted by Ord. 94-31, adopted December 20, 1994)
- (2) Temporary use
- (3) Uses not conducted completely within an enclosed building, such as, major outdoor storage as determined by the Director of Community and Economic Development/Planning Director
- (4) (Deleted by Ord. 95-02, adopted January 10, 1995)
- (5) Wind energy conversion system
- (6) Small collection facility when located within a convenience zone

- (7) Restaurant/bank where the first floor area would constitute more than 10 percent of the first floor area of the larger industrial complex in which it is located or where it is not located within a larger industrial complex
- (8) Sandblasting
- (9) Carnival
- (10) Small animal hospital, commercial cattery, commercial kennel
- (11) Certain Group B hazardous materials uses: Production, storage, handling, or similar activities utilizing hazardous materials classified as Group B hazardous materials by the Fire Chief or his or her designee which involve amounts exceeding the following thresholds: 5,000 pounds of solids, 550 gallons of liquids or 2,000 cubic feet of gases at standard temperatures and pressures.
- (12) Certain Group C hazardous materials uses: Production, storage, handling, or similar activities utilizing hazardous materials classified as Group C hazardous materials by the Fire Chief or his or her designee which involve amounts exceeding the following thresholds: 50,000 pounds of solids, 5,500 gallons of liquids, or 20,000 cubic feet of gases at standard temperatures and pressures.
- (13) Educational facility for persons above high school level  
(Amended by Ord. 94-31, adopted December 20, 1994)
- (14) Sale of office furniture or supplies, computers, and office equipment
- (15) Combination wholesale/retail sales and showroom for sales of household furniture and carpet
- (16) Retail sale of goods (beyond limitations allowed as a primary use), provided such sales are ancillary or incidental to the primary or conditional use engaged in or conducted on the site
- (17) Radio, television, and cellular telephone transmission towers exceeding 50 feet in height located east of Clawiter Road, Industrial Boulevard, or Industrial Parkway West
- (18) Barber and beauty shop, apparel, maintenance or repair shop
- (19) Retail automobile broker (outdoor display or storage only - maximum two vehicles)

- (20) Brewery or liquor distillery, grain elevator
  - (21) Perfume or vinegar manufacture
  - (22) Railroad yard and freight station, trucking and motor vehicle freight terminal
  - (23) Contractor's storage yard, auto dismantling
  - (24) Vehicle rental
  - (25) Sale at retail of building materials or sale at retail or rental of industrial equipment
  - (26) Hotel or motel
  - (27) Drive-in establishments, including a convenience market within a service station
- (Amended by Ord. 96-04, adopted January 23, 1996)
- (28) Cultural or recreational facility
  - (29) Commercial amusement or recreation facility
  - (30) Weekend retail sales of goods handled by the company where the sales are conducted in excess of four weekends per calendar year
- (Amended by Ord. 85-016 C.S., adopted July 16, 1985; Ord. 87-031 C.S., adopted November 10, 1987; Ord. 88-017 C.S., adopted July 5, 1988; Ord. 88-025 C.S., adopted November 15, 1988; Ord. 93-12, adopted May 4, 1993; Ord. 95-02, adopted January 10, 1995)

SEC. 10-1.4015 CONDITIONAL USES. The following uses are permitted subject to approval of a conditional use permit:

- a. Sale of retail goods with a regional or sub-regional marketing base, including but not limited to discount retail or warehouse retail, on a minimum 8-acre parcel which is visible from Interstate 880 or State Highway 92
- b. (Deleted by Ord. 95-02, adopted January 10, 1995)
- c. (Deleted by Ord. 95-02, adopted January 10, 1995)
- d. (Deleted by Ord. 95-02, adopted January 10, 1995)
- e. (Deleted by Ord. 95-02, adopted January 10, 1995)

- f. (Deleted by Ord. 95-02, adopted January 10, 1995)
- g. (Deleted by Ord. 95-02, adopted January 10, 1995)
- h. (Deleted by Ord. 95-02, adopted January 10, 1995)
- i. (Deleted by Ord. 95-02, adopted January 10, 1995)
- j. Group A hazardous materials uses: Production, storage, handling, or similar activities utilizing any amount of hazardous materials classified as Group A hazardous materials by the Fire Chief or his or her designee.  
Group A hazardous materials are any of the following:
  - (1) Explosives and blasting agents
  - (2) Reactive materials
  - (3) Unstable materials
  - (4) Radioactive materials
  - (5) Class 3 and 4 oxidizing materials
  - (6) Poisonous or toxic materials
  - (7) Corrosive, poisonous, or unstable gases
  - (8) State of California restricted hazardous wastes, including substances classified as extremely hazardous wastes
- k. (Deleted by Ord. 93-12, adopted May 4, 1993)
- l. Uses located on a parcel(s) abutting any R, A, MHP, or residential PD District
- m. Tavern
- n. When the floor area constitutes more than 10 percent of the floor area of the larger industrial complex or when not a part of an industrial complex
- o. (Deleted by Ord. 93-12, adopted May 4, 1993)
- p. (Deleted by Ord. 95-02, adopted January 10, 1995)
- q. (Deleted by Ord. 95-02, adopted January 10, 1995)

- r. Group home, housing no less than 50 persons, and operated in conjunction with a religious, counseling, or educational facility for persons above high school level, and which provides on-site jobs for residents; provided all residents thereof are ambulatory

(Added by Ord. 93-19, adopted July 27, 1993 and amended by Ord. 94-31, adopted December 20, 1994)

- s. Religious facility

(Amended by Ord. 88-017 C.S., adopted July 5, 1988; Ord. 88-025 C.S., adopted November 15, 1988; Ord. 91-30, adopted December 17, 1991; Ord. 93-12, adopted May 4, 1993; Ord. 93-19, adopted July 27, 1993; Ord. 95-02, adopted January 10, 1995)

#### SEC. 10-1.402 LOT REQUIREMENTS.

- a. Minimum Lot Size: 10,000 square feet
- b. Minimum Average Lot Width: 70 feet

#### SEC. 10-1.403 YARD REQUIREMENTS.

- a. Minimum Front Yard: 10 feet
- b. Minimum Street Side Yard: 10 feet
- c. Minimum Interior Side Yard or Rear Yard: None, except where an I District abuts a parcel in a C, A, R, MHP, or residential PD District, in which case it shall be a minimum of 20 feet, except where the Uniform Building Code adopted by City Council dictates that the setbacks must be greater  
(Amended by Ord. 88-017 C.S., adopted July 5, 1988)

#### SEC. 10-1.404 HEIGHT LIMIT.

Maximum Height Permitted:

- a. Industrial building - no limit
- b. Office building - 40 feet  
(Amended by Ord. 85-016 C.S., adopted July 16, 1985)

#### SEC. 10-1.405 LOT COVERAGE.

Maximum Coverage Permitted:

- a. Industrial building - no limit
- b. Office building - 40 percent  
(Amended by Ord. 85-016 C.S., adopted July 16, 1985)

LIMITED INDUSTRIAL DISTRICT

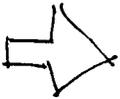
(Entire Section Deleted by Ord. 95-02, adopted January 10, 1995)

- (20) Brewery or liquor distillery, grain elevator
- (21) Perfume or vinegar manufacture
- (22) Railroad yard and freight station, trucking and motor vehicle freight terminal
- (23) Contractor's storage yard, auto dismantling
- (24) Vehicle rental
- (25) Sale at retail of building materials or sale at retail or rental of industrial equipment
- (26) Hotel or motel
- (27) Drive-in establishments, including a convenience market within a service station

(Amended by Ord. 96-04, adopted January 23, 1996)

- (28) Cultural or recreational facility
- (29) Commercial amusement or recreation facility
- (30) Weekend retail sales of goods handled by the company where the sales are conducted in excess of four weekends per calendar year

(Amended by Ord. 85-016 C.S., adopted July 16, 1985; Ord. 87-031 C.S., adopted November 10, 1987; Ord. 88-017 C.S., adopted July 5, 1988; Ord. 88-025 C.S., adopted November 15, 1988; Ord. 93-12, adopted May 4, 1993; Ord. 95-02, adopted January 10, 1995)



SEC. 10-1.4015 CONDITIONAL USES. The following uses are permitted subject to approval of a conditional use permit:

- a. Sale of retail goods with a regional or sub-regional marketing base, including but not limited to discount retail or warehouse retail, on a minimum 8-acre parcel which is visible from Interstate 880 or State Highway 92
- b. (Deleted by Ord. 95-02, adopted January 10, 1995)
- c. (Deleted by Ord. 95-02, adopted January 10, 1995)
- d. (Deleted by Ord. 95-02, adopted January 10, 1995)
- e. (Deleted by Ord. 95-02, adopted January 10, 1995)

INDUSTRIAL DEVELOPMENT  
MINIMUM DESIGN AND PERFORMANCE STANDARDS\*

After initial installation, all plantings shall be maintained in a reasonably weed-free and litter-free condition, including replacement where necessary. Required street, parking lot, and buffer trees shall not be severely pruned, topped, or pollarded.

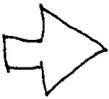
Within all required landscaped areas, an automatic water efficient sprinkler system shall be installed upon initial construction of any building or substantial alteration to any building or site. Where any landscaped area adjoins driveways or parking areas, Class B Portland Cement concrete curbs shall be constructed to a height of six inches above the finished pavement. Trees shall be preserved in accordance with the Tree Preservation Ordinance with measures included for tree protection during the construction period.

(Amended by Ord. 88-017 C.S., adopted July 5, 1988; Ord. 93-12, adopted May 4, 1993; Ord. 95-02, adopted January 10, 1995)

SEC. 10-1.4902 FENCING. Where the rear or side yard of an industrially developed parcel is contiguous to residentially or commercially zoned land, a minimum six-foot-high, view-obscuring, masonry wall (unless other materials are determined to be more appropriate by the approving authority) shall be installed which is designed, constructed, and maintained to withstand a 15-pound per square foot wind load and deterioration resulting from contact with soil, vermin, and weathering. There shall be no other fence, hedge, or wall height restriction, except a fence, hedge or wall shall not exceed four feet in height within any portion of a front or side street yard. For fences exceeding four feet in height, height shall be measured on that side of the fence with the higher grade. For fences required to be a maximum of four feet in height, the height limit shall not be exceeded at grade on either side of the fence. Barb or razor wire or similar fences shall not be located less than six feet above the ground along a common property line of R zoned or planned property. Said fencing shall not exceed three feet in height and where used shall be angled toward the industrial use.

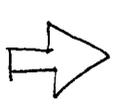
(Amended by Ord. 88-017 C.S., adopted July 5, 1988; Ord. 93-12, adopted May 4, 1993)

SEC. 10-1.4903 YARD EXCEPTIONS. Spur tracks, open bays for truck loading, and off-street parking spaces may be placed within rear or side yards, except when abutting any R, A, MHP, or residential PD District.

 SEC. 10-1.4904 OUTDOOR STORAGE. All uses shall be conducted wholly within enclosed buildings. Minor open storage, as determined by the Director of Community and Economic Development/Planning Director, is permitted provided the Director of Community and Economic Development/Planning Director determines the materials, products or equipment stored are necessary to the operation of a use being conducted on the site; the storage is not placed within required yard or parking areas; and the storage is compatible with the adjoining uses (for example, adequately screened, set back or not too high).

(Amended by Ord. 95-02, adopted January 10, 1995)

## ADMINISTRATIVE USE PERMITS

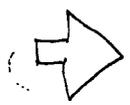


SEC. 10-1.630 PURPOSES. The purposes for requiring administrative use permit approval are to assure certain specified uses are permitted where there is community need, and to assure said uses occur in maximum harmony with the area and in accordance with official City policies.

SEC. 10-1.631 WHEN REQUIRED. All uses which require the issuance of an administrative use permit, as specified in the regulations for the various districts, shall be subject to the regulations and procedures contained herein.

SEC. 10-1.632 APPLICATION FORM AND SUBMITTAL. An application for an administrative use permit shall be submitted as specified in Section 10-1.542.  
(Amended by Ord. 93-12, adopted May 4, 1993; Ord. 95-02, adopted January 10, 1995)

SEC. 10-1.633 ADMINISTRATIVE OPTIONS. The Director of Community and Economic Development/Planning Director may approve, conditionally approve, disapprove, or refer an administrative use permit application to the Planning Commission, with or without a recommendation. Action must be based on the findings listed in Section 10-1.634.  
(Added by Ord. 93-12, adopted May 4, 1993; Ord. 95-02, adopted January 10, 1995)



SEC. 10-1.634 FINDINGS. The approving authority may approve or conditionally approve an application when all of the following findings are made:

- a. The proposed use is desirable for the public convenience or welfare;
- b. The proposed use will not impair the character and integrity of the zoning district and surrounding area;
- c. The proposed use will not be detrimental to the public health, safety, or general welfare; and
- d. The proposed use is in harmony with applicable City policies and the intent and purpose of the zoning district involved.

(Amended by Ord.93-12, adopted May 4, 1993)

SEC. 10-1.635 CONDITIONS. In the event of conditional approval, such conditions as may be reasonably necessary to achieve a beneficial affect may be imposed and may include but not be limited to:

- a. Activities and equipment permitted;
- b. Time of day activities shall be permitted;

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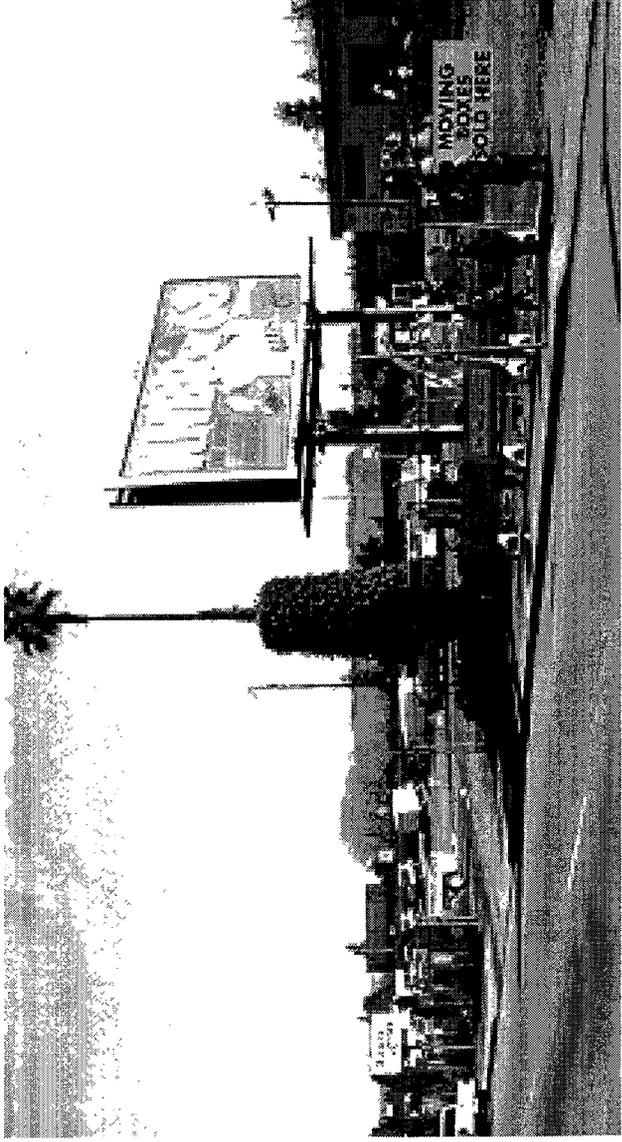
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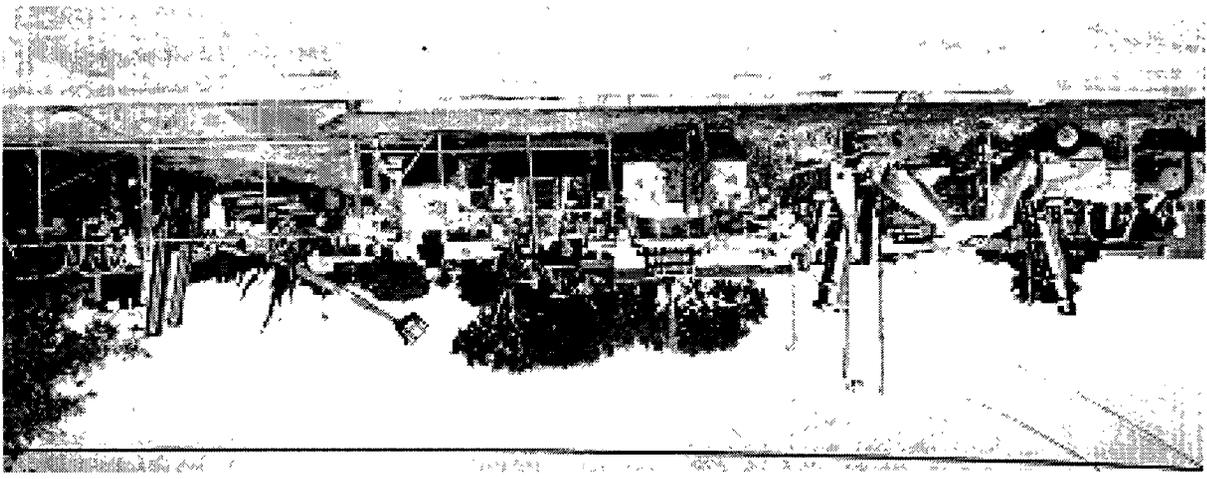
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Exhibit I

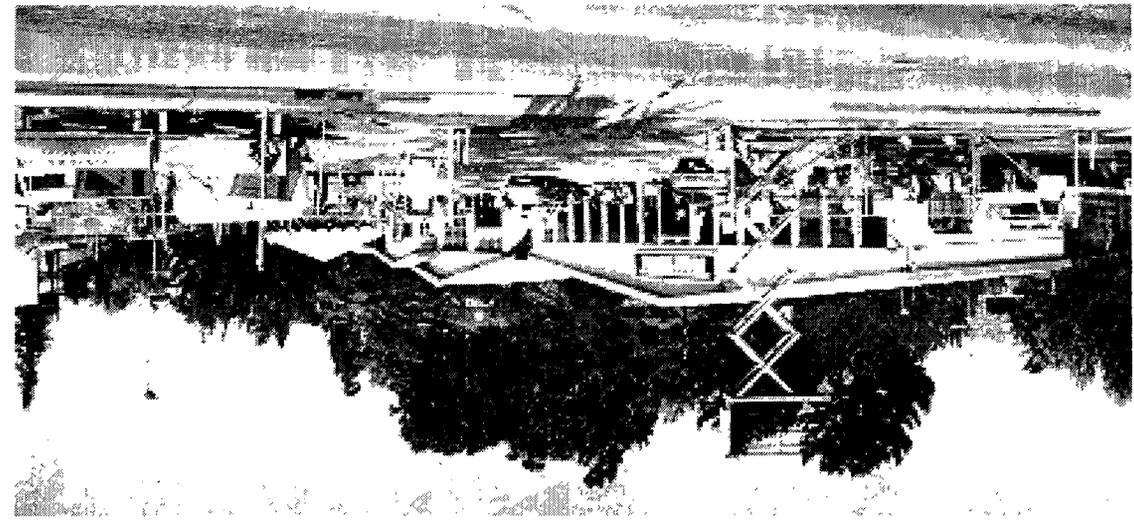


LEWIS RENTS 15740 Hesperian Blvd. San Lorenzo, CA

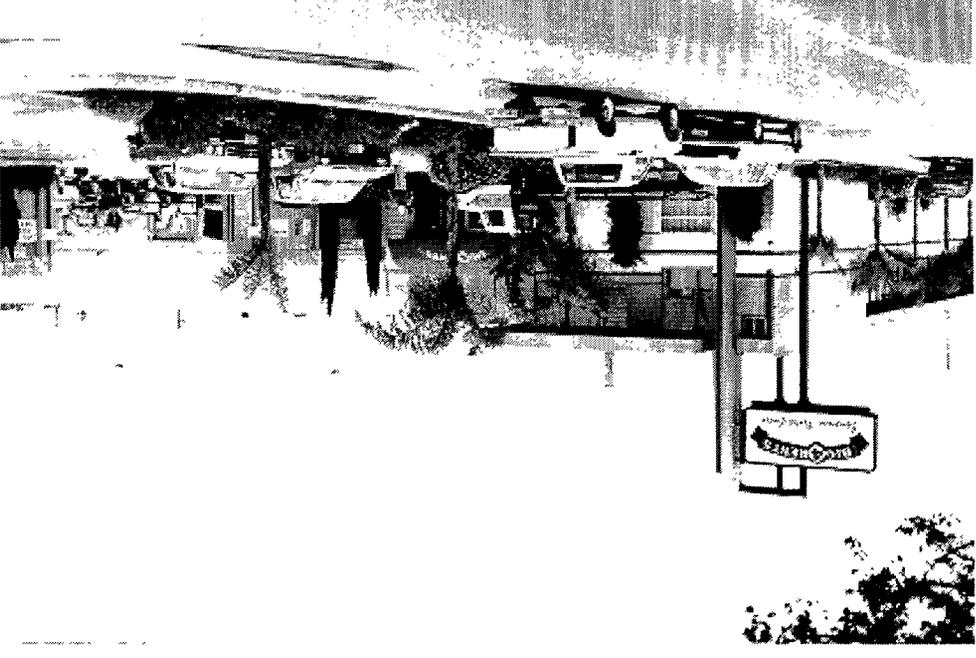
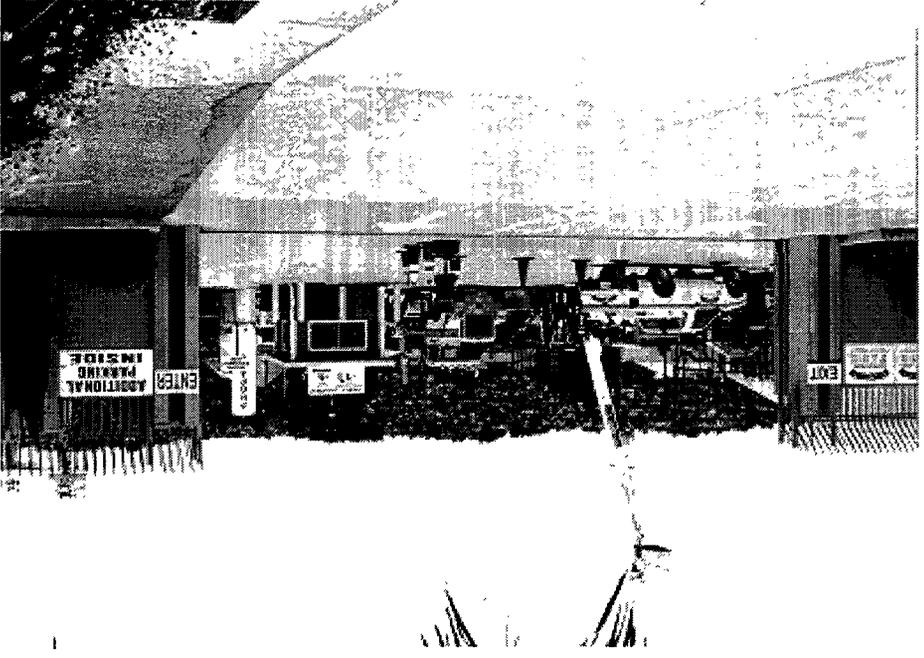
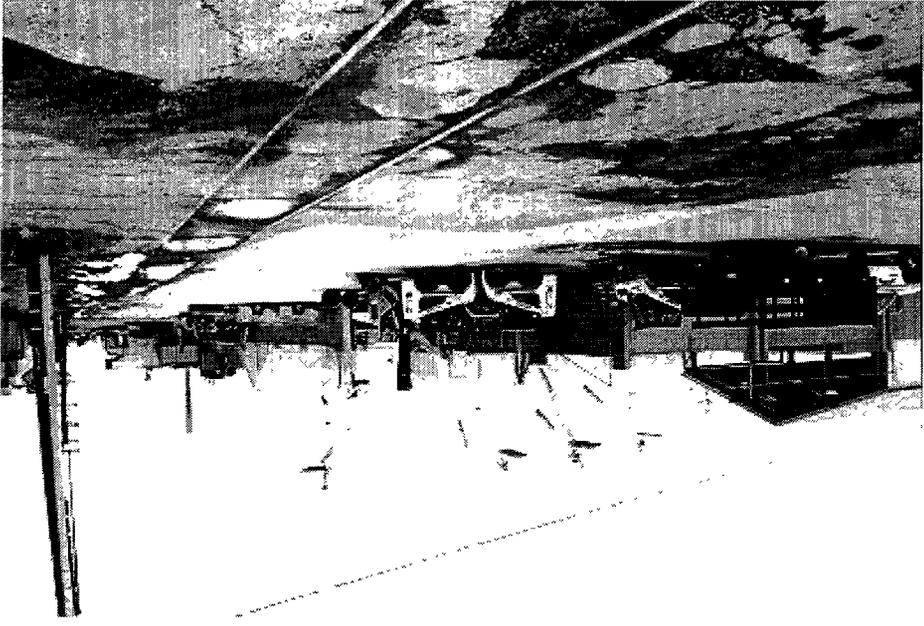
EQUIPMENT RENTAL FACILITY AT TRAYNOR COURT  
Hayward, CA



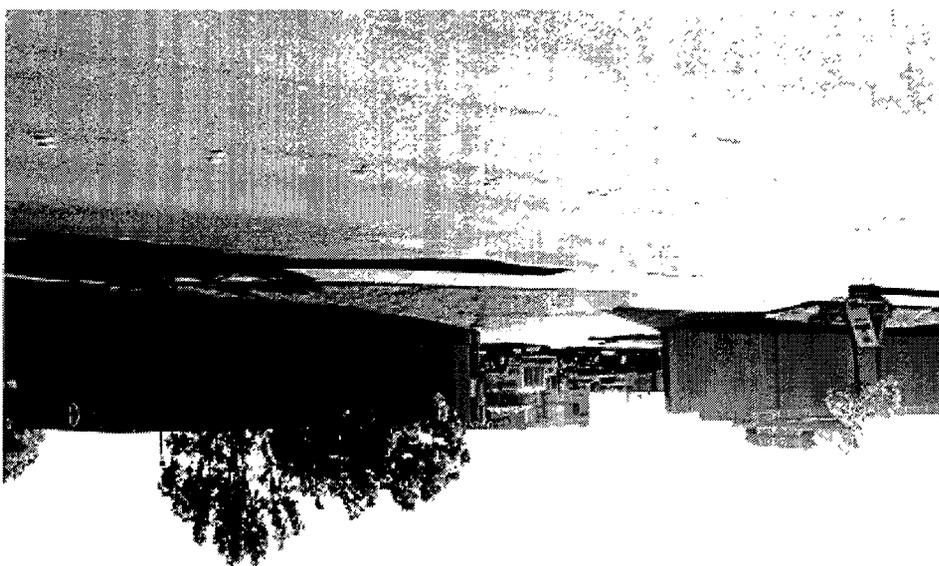
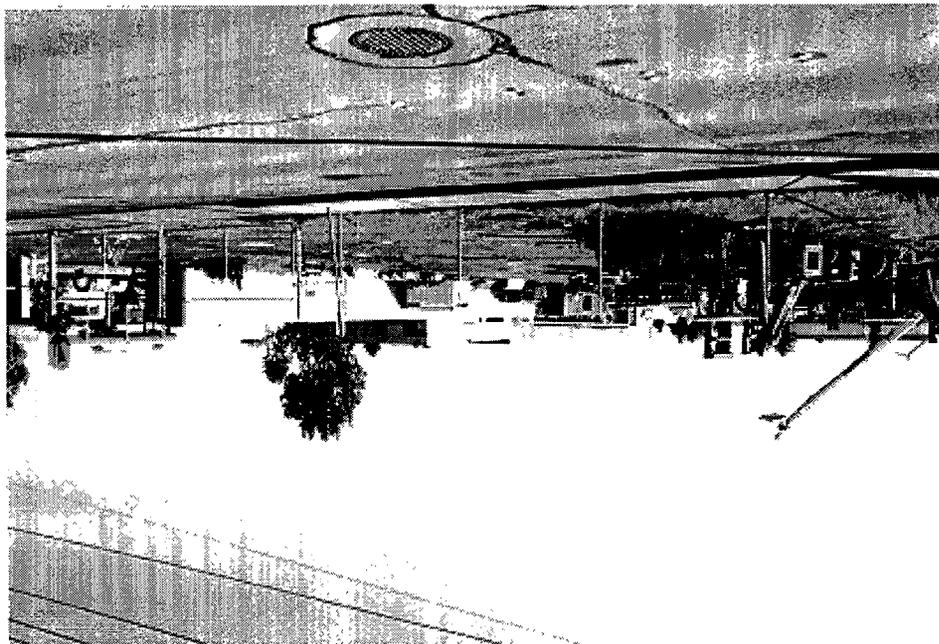
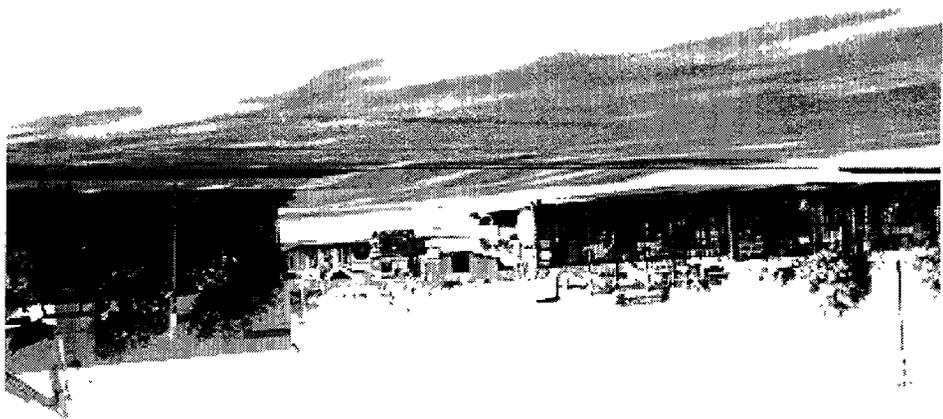
**TAYLOR RENTAL • 2450 Castro Valley Boulevard, Castro Valley, CA**



BIG 4 RENTS • BERKELEY, CA GOOD LANDSCAPING, BUT EQUIPMENT STORED IN PUBLIC RIGHT-OF-WAY AT SIDE AND REAR



**BIG 4 RENTS • LIVERMORE, CA USE IS PARTLY SCREENED BY 8-FOOT HIGH WALL BUT FACILITY IS STILL EXPOSED TO STREETS WHERE THERE IS NO FENCING OR WHERE EQUIPMENT EXTENDS ABOVE FENCE**



1. Inform business associations, realtors and brokers of Hayward's positive attributes as a place to do business.

Responsibility: Department of Community  
and Economic Development

## POLICY V. ATTRACT NEW BUSINESSES.

### STRATEGIES

A. Business attraction efforts should focus on sales tax and employment generators; high performance, fast-growing firms and community-serving retail as well as high technology and other industries that will enhance the local economy.

2. Work with site locators to obtain the types of community-serving retail businesses desired by Hayward residents.

Responsibility: Department of  
Community and Economic Development

C. Inventory available land and available facilities (in cooperation with the commercial real estate sector) for new business development and business expansion for sales tax and employment generators.

*SEE Program II.G.1.*



D. Create opportunity zones along major highways to attract large retail operations, discounters, etc.

1. The zoning code has been amended to allow large retail operations within close proximity of major highway interchanges.

Responsibility: Department of  
Community and Economic Development

E. Conduct outreach to identify upscale retail (such as bookstores, coffee stores, gourmet food shops, etc.) that could serve the Hayward community, the surrounding region and commuters.

**DRAFT**

*ASJ*  
*4/16/98*

HAYWARD CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_

Introduced by Council Member \_\_\_\_\_

**RESOLUTION DENYING USE PERMIT APPLICATION  
NO. 97-150-21 OF BIG 4 RENTS (APPLICANT) AND  
SELLAU PROPERTIES, INC (OWNER)**

WHEREAS, Use Permit Application No.97-150-21 concerns a request for approval of a use permit to develop a 3.78 acre site and existing building with an equipment rental and retail sales facility on property located at 30150 Industrial Parkway Southwest, at the northeast corner of Industrial Parkway Southwest and Whipple Road in an Industrial District; and

WHEREAS, the Planning Commission recommended denial of Use Permit Application No. 97-150-21 and its action is on file in the office of the City Clerk for further particulars; and

WHEREAS, the City Council hereby finds and determines that:

1. Hayward Zoning Ordinance § 10-1 .4904 and the Hayward Design Guidelines require that all uses be conducted wholly within enclosed buildings and only allow minor open storage, as determined by the Planning Director, that is compatible with adjoining uses having been adequately screened. The use, as proposed, by Big 4 Rents violates these policies.
2. The Hayward City Council has established a policy to require screening of all outdoor storage to improve the appearance of the Industrial Zone and to ensure that new administrative and conditional uses are in harmony with the City policies. The use as proposed by Big 4 Rents is not in harmony with this City policy.
3. The use, as proposed by Big 4 Rents anticipates significant unscreened outdoor storage of rental equipment. Outdoor storage meaning the holding and housing of goods from the time of delivery until rental or re-rental.
4. The City Council finds that Big 4 Rents' claim to merely "display" as opposed to "store" its equipment outdoors is not supported by the substantial evidence obtained by staff during its survey of how similar businesses conduct their activities.

5. Existing unscreened storage in the Industrial Corridor are either legal non-conforming uses or operate under a use permit obtain prior to the zoning amendments requiring the screening of outdoor storage.
6. The City Council finds that additional outdoor storage in the Industrial Corridor would impair the character of the surrounding area and not be in harmony with City policies.
7. The City Council's determination is limited to the particular use as currently proposed by Big 4 Rents. The City Council has not made any decision on the appropriateness of any other industrial or administrative uses of the subject parcel.
8. The City Council finds that the project, as proposed, does not comply with General Plan policies regarding outdoor storage or policies of the Economic Development Element of the General Plan regarding revitalization of gateways and protection of the appearance of the industrial area.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that Use Permit Application No. 96-160-20 is hereby denied.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 1996

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward

**Mayor and City Council  
Meeting of April 21, 1998**

The retail structures are designed to mimic the rhythm of other downtown shops by varying the depth of the retail spaces with building offsets. Because there are no bearing walls proposed within the retail space, the retail space can easily be reconfigured to accommodate multiple small tenants or fewer larger tenants. The design of the façade reflects elements similar to the new first station at C and Main Streets, such as the cornice and the horizontal reveals. The materials consist of a combination of brick and stucco on the façade, with a base of stone. The two center shops will have deeper setbacks, which will provide an opportunity for outdoor seating. Trash storage will be inconspicuously located at the western end of the service corridors that lie between the parking structure and the retail shops. Decorative exterior wall lights will illuminate the front of the stores and the central walkway to the parking garage.

**Environmental Review**

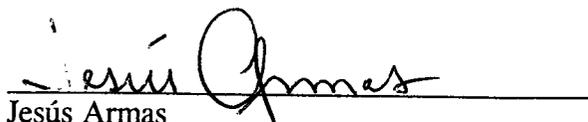
A program environmental impact report was prepared for the downtown redevelopment plan which addressed the environmental issues associated with development in the downtown. Since there have been some changes since certification of the program environmental impact report, particularly in terms of traffic circulation patterns, and since the current project focuses on a particular parcel where specific environmental impacts might be identified, an initial study and a negative declaration were prepared. These documents conclude that the project would have not significant adverse environmental impacts. In accordance with the California Environmental Quality Act Guidelines, the Negative Declaration was posted in the City Clerk's office and the libraries. A notice of its availability for review and notice of this hearing were sent to all property owners within 300 feet of the perimeter of the property and to others who had previously expressed interest in the project. The only comment received during the public review period was the letter from Caltrans referred to above.

**Prepared by:**



Sylvia Ehrenthal  
Director of Community and Economic Development

**Approved by:**



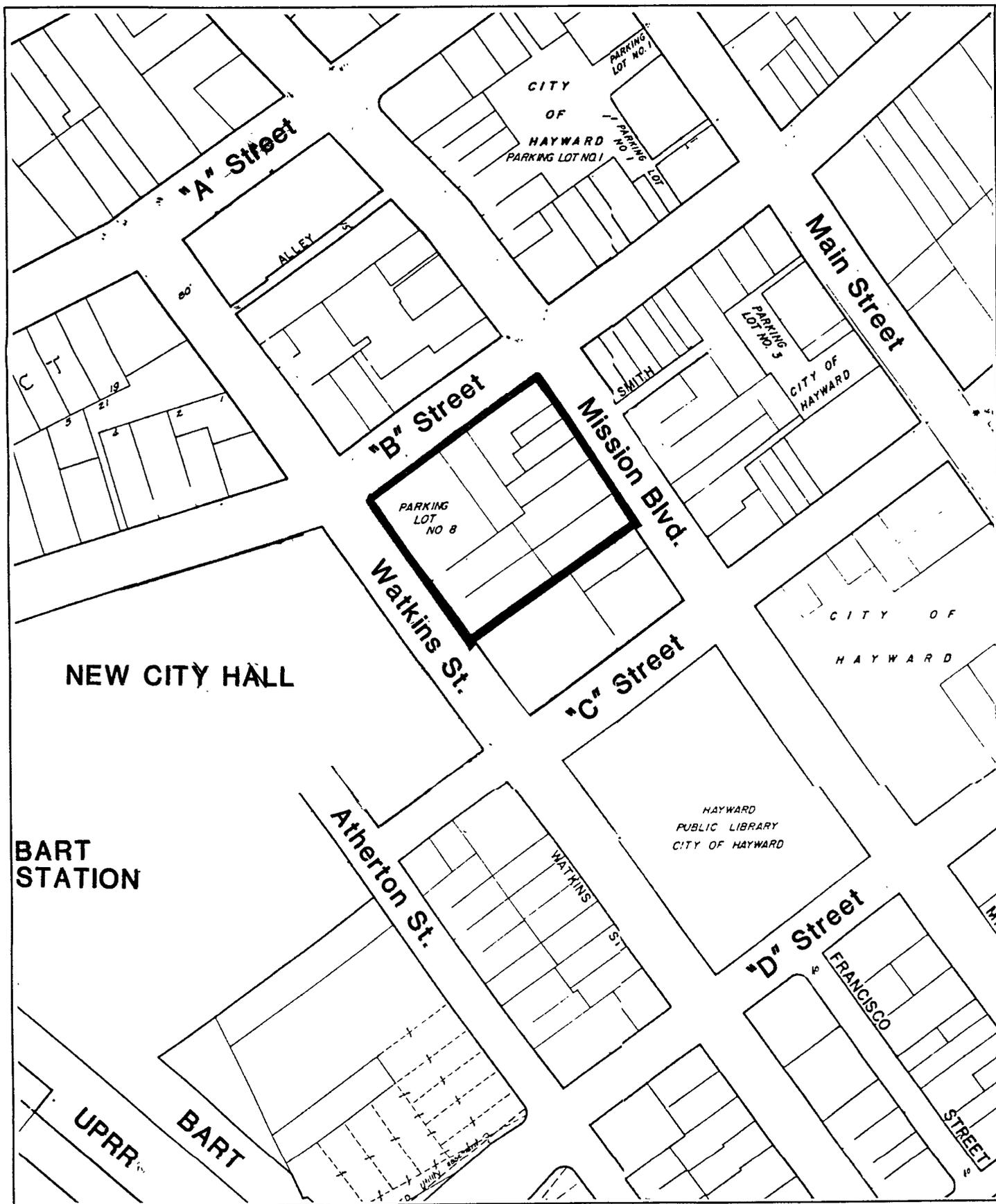
Jesús Armas  
City Manager

**Mayor and City Council  
Meeting of April 21, 1998**

**Exhibits:**

- A. Area Map
- B. Findings for Approval
- C. Conditions of Approval
- D. Negative Declaration and Initial Study
- E. Draft Planning Commission Minutes, dated April 9, 1998
- F. Caltrans Letter, dated April 8, 1998  
Development Plans  
Draft Resolution

15-Apr-98



**AREA MAP ■ UP 98-160-02**

Municipal Parking Garage

Block Bounded by Watkins St., "B" Street, and Mission Blvd.

**FINDINGS FOR APPROVAL**  
**USE PERMIT APPLICATION NO. 98-160-02**  
**Municipal Parking Structure/Commercial Shops**  
**B Street, Watkins Street, Mission Boulevard**

- A. That approval of Use Permit Application No. 97-160-17 will have no significant impact on the area's resources, cumulative or otherwise, and the Negative Declaration prepared for this project is complete and final in accordance with the California Environmental Quality Act and reflects the independent judgement of the Planning Commission and City Council;
- B. That the proposed municipal parking structure is desirable for the public convenience or welfare in that it will provide parking for persons working in and visiting city hall and the downtown commercial area;
- C. That the proposed municipal parking structure will not impair the character and integrity of the zoning district and surrounding area in that retail shops are incorporated into the design so that the project will complement the design theme of the downtown area and the parking structure will enhance the viability of the downtown by providing parking for customers;
- D. That the proposed municipal parking structure will not be detrimental to the public health, safety, or general welfare in that all building, fire, and seismic safety issues will be met in accordance with the Uniform Building and Fire Codes;
- E. That the proposed municipal parking structure is in harmony with applicable City policies, including the City of Hayward Design Guidelines, the Downtown Hayward Design Plan, and the Hayward Downtown Historic Rehabilitation District Commercial Design Manual, and the intent and purpose of the Central City Commercial zoning district, which is to promote the development of the downtown area as the central area of the City for business, government, cultural, financial, residential, office and entertainment uses.
- F. That the proposed structures are compatible with surrounding structures in that the retail shops mimic the bulk and form of other downtown shops and the parking structure complements the city hall and provides a transitional form of architecture between the downtown commercial buildings and downtown residences.
- G. That the development takes into consideration physical and environmental constraints, in that the garage is designed so as to not conflict or impair the Sulfur Creek containment structure that traverses the project site.
- H. That the development will be operated in a manner determined to be acceptable and compatible with surrounding development in that all applicable Zoning Ordinance performance standards are required to be met.

## CONDITIONS OF APPROVAL

1. The use permit shall become void one year after approval of the City Council unless, prior to that time, a building permit application has been accepted for processing by the Building Official or an extension has been approved.
2. All improvements shown on Exhibit "A" shall be completed for each phase of development prior to occupancy of that phase, unless exempted by the conditions below.
3. Before issuance of a building permit, a Certificate of Merger shall be completed and lot lines reconfigured to correspond to the development pattern.
4. A detailed grading and drainage plan shall be submitted for the review and approval of the City Engineer.
5. A detailed soils report, analyzing soil and fill expansion and liquefaction potentials, soil preparation, grading and building foundation designs shall be submitted for review and approval of the City Engineer.
6. Parking facilities shall be adequately lighted for safety and security as determined by the City Engineer. The minimum requirement is one-foot candle of light across the entire surface of the parking area. Exterior light shall be designed, erected and maintained so that light or glare is not directly cast upon adjacent properties or public rights-of-way.
7. Signs shall be installed in and about the parking garage to direct vehicles into the circulation pattern approved by the City Engineer. A sign program for the garage shall be approved by the Planning Director and City Engineer.
8. During construction:
  - Gather all construction debris on a regular basis and place in a dumpster or other container that is emptied or removed on a weekly basis. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to storm water pollution.
  - Remove all dirt, gravel, rubbish, refuse and green waste from the sidewalk, street pavement, and storm drain system adjoining the project site. During wet weather, avoid driving vehicles off paved areas and other outdoor work.
  - Broom sweep the sidewalk and public street pavement adjoining the project site on a daily basis. Caked on mud or dirt shall be scraped from these areas before sweeping.

- Install filter materials (such as sandbags, filter fabric, etc.) at the storm drain inlet nearest the downstream side of the project site prior to: 1) start of the rainy season (October 15), 2) site dewatering activities, or 3) street washing activities, 4) saw cutting asphalt or concrete, or order to retain any debris or dirt flowing into the City storm drain system. Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding. Dispose of filter particles in the trash.
  - Create a contained and covered area on the site for the storage of bags of cement, paints, flammables, oils, fertilizers, pesticides or any other materials used on the project site that have the potential for being discharged to the storm drain system through being windblown or in the event of a material spill.
  - Never clean machinery, tools, brushes, etc. or rinse containers into a street, gutter, storm drain or stream. See "Building Maintenance/Remodeling" flyer for more information.
  - Ensure that concrete/gunite supply trucks or concrete/plasters finishing operations do not discharge wash water into street gutters or drain.
  - The project plan measures shall also include erosion control measures to prevent soil, dirt and debris from entering the storm drain system, in accordance with the regulations outlined in the ABAG Erosion and Sediment Control Handbook.
  - The applicant is responsible for ensuring that all contractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction BMPs will result in the issuance of correction notices, citations or a project stop order.
  - All on-site storm drain inlets must be labeled "No Dumping - Drains to Bay" using approved methods.
9. Prior to the issuance of a building permit, the applicant shall comply with the following Utility (Water) Division requirements:
- a. Prior to granting occupancy, submit the maximum demand in gallons per minute to the Senior Utility Service representative to determine proper meter size.
  - b. Show the proposed locations for water meters and sanitary sewer lines. Water meters must be placed a minimum of 6 feet from sanitary sewer lines; a minimum 2 feet outside of the driveway, including the flair; and may not cross property lines.
10. The applicant shall comply with the following Fire Department requirements:

11. Should any cultural resources be unearthed during site development work, the provisions of CEQA Appendix K shall be followed to reduce impacts to a nonsignificant level.
12. The site shall conform to all requirements of the City Hazardous Materials Office regarding remediation.
13. The applicant shall comply with the following requirements of the Engineering/Transportation Division:
  - a. An encroachment permit shall be obtained from CALTRANS for any work within the Mission Boulevard right-of-way.
  - b. The driveway locations must be reviewed and approved by Caltrans and the City Engineer.
  - c. A structural control, such as an oil/water separator, sand filter, or approved equal, must be installed for the parking garage to intercept and pretreat storm water prior to discharging to the storm drain system. The design, location, and a maintenance schedule must be submitted to the City Engineer for review and approval prior to the issuance of a building permit.
14. Landscaping
  - a. Prior to the approval of the first building permit, detailed landscaping and irrigation plans shall be prepared by a licensed landscape architect and submitted for review and approval by the City. Landscaping and irrigation plans shall comply with the City's Water Efficient Landscape Ordinance.
  - b. A row of trees shall be planted along the south elevation of the parking garage. Shrubs shall be planted between the parking garage and the parking lot at the northwest corner of Mission and "C" Street.
  - c. The landscape area between the sidewalk and garage along Mission Boulevard and Watkins Street shall be planted with shrubs, vines and groundcovers. Topiary shall be incorporated, as appropriate.
  - d. Planters with hanging vines shall be placed at the garage parapet.
  - e. The planting on "B" Street shall match the existing streetscape. Trees shall be preserved to the greatest extent possible.
  - f. Landscaped areas adjoining drives and/or parking areas shall be separated by a 6" high class "B" Portland Cement concrete curb.

- g. Landscape improvements shall be installed according to the approved plans and a Certificate of Substantial Completion, and an Irrigation Schedule shall be submitted prior to the issuance of a Certificate of Occupancy.
  - h. Landscaping shall be maintained in a healthy, weed-free condition at all times. Plants shall be replaced when necessary.
15. The applicant shall comply with the following requirements of the Development Review Services Division pertaining to site development:
- a. All signage shall conform to the City's *Sign Ordinance*. A Master Sign Program shall be approved by the Planning Director before issuance of any sign permit for the retail shops. Signage design, colors and materials shall reflect the architectural style of the project and shall be approved by the Planning Director.
  - b. Lighting
  - c. Above ground utilities, water meters, mechanical equipment and transformer pads shall be screened by plant material or an architectural element.
  - d. Construction activities shall be limited to the hours between 6:00 AM and 6:00 PM, Monday through Friday, excluding holidays.
16. Violation of these conditions is cause for revocation of the use permit after a public hearing before the duly authorized review body.

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**CITY OF HAYWARD**  
**NEGATIVE DECLARATION**

Notice is hereby given that the City of Hayward finds that no significant effect on the environment as prescribed by the California Environmental Quality Act of 1970, as amended will occur for the following proposed project:

**I. PROJECT DESCRIPTION:**

**USE PERMIT APPLICATION NO. 98-160-02 - CITY OF HAYWARD (APPLICANT/OWNER)** To construct a municipal parking garage and an abutting retail/commercial structure.

The site is located on the northerly portion of the block bounded by Watkins Street, B Street, and Mission Boulevard (State Highway 238).

**II. FINDING PROJECT WILL NOT SIGNIFICANTLY AFFECT ENVIRONMENT:**

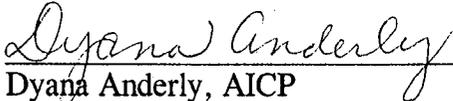
The proposed project will have no significant effect on the area's resources, cumulative or otherwise.

**III. FINDINGS SUPPORTING DECLARATION:**

1. The project site is outside the Earthquake Hazard Zone. Geotechnical reports prepared by Earth Systems Consultants, Merrill, Seeley, Mullen, Sandefur, Inc., and MS Geotechnical Consultants indicated there is no evidence of a fault trace on the site.
2. The parking garage is designed to accommodate visitors to and employees of the Hayward City Hall as well as proprietors and customers of nearby commercial establishments. The garage is to provide substitute parking for parking that currently occurs on a former BART parking lot and within a surface municipal parking lot on the site. Therefore, there is no net increase in the number of vehicle trips in the area associated with the project. Also, the Program EIR prepared for the Downtown Hayward Redevelopment Project Area addressed the traffic and parking issues for downtown uses as did a subsequent Environmental Assessment of the Downtown Hayward Design Plan, with both documents indicating that development consistent with these plans would not have a significant impact on the environment from a traffic standpoint.

3. The project site is within the Marks Historic District. However, the site is vacant and, therefore, lacks any structures of historic significance.
4. According to the City's Hazardous Materials Office of the Hayward Fire Department, the site has been cleared of hazardous materials to an acceptable standard level .

**IV. PERSON WHO PREPARED INITIAL STUDY:**

  
\_\_\_\_\_  
Dyana Anderly, AICP  
Development Review Services Administrator

Dated: March 4, 1998

**V. COPY OF INITIAL STUDY IS ATTACHED**

\_\_\_\_\_  
For additional information, please contact the City of Hayward Development Review Services Division, 777 B Street, Hayward, CA 94541-5007 or telephone (510) 583-4214.  
\_\_\_\_\_

**DISTRIBUTION/POSTING**

Provide copies to all organizations and individuals requesting it in writing.  
Provide notice of availability to all Security Gate Mailing List recipients.  
Reference in all public hearing notices to be distributed 20 days in advance of initial public hearing and/or published once in Daily Review 20 days prior to hearing.  
Project file.  
Post immediately upon receipt at the City Clerk's Office, the Main City Hall bulletin board, and in all City library branches, and do not remove until the date after the public hearing.

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**DEPARTMENT OF COMMUNITY AND  
ECONOMIC DEVELOPMENT  
Development Review Services**

**INITIAL STUDY CHECKLIST FORM**

**Project title:**

Use Permit Application 98-160-02 – Request to construct a municipal parking garage and an abutting retail/commercial structure.

**Lead agency name and address:**

City of Hayward, 777 B St. Hayward, CA 94541-5007

**Contact persons and phone number:**

Dyana Anderly (510) 583-4214

**Project location:**

On the northerly portion of the block bounded by Watkins Street, B Street, and Mission Boulevard (State Highway 238), Hayward

**Project sponsor's name and address:**

City of Hayward, 777 B Street, Hayward, CA 94541

**General Plan:** Commercial – Retail and Office Commercial

**Zoning:** Central City Commercial

**Description of Project:** Request to construct a multi-story municipal parking garage and abutting commercial structure for future retail uses.

**Surrounding land uses and setting:** Mixture of commercial and residential uses, including Hayward City Hall, small retail shops facing B Street and Mission Boulevard, and a United States Post Office.

**Other public agencies whose approval is required:**

Caltrans

Alameda County Congestion Management Agency

Caltrans (Mission Boulevard/State Highway 238)

**ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:**

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- 
- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Land Use and Planning                 | <input type="checkbox"/> Transportation/Circulation   | <input type="checkbox"/> Public Services               |
| <input type="checkbox"/> Population and Housing                | <input type="checkbox"/> Biological Resources         | <input type="checkbox"/> Utilities and Service Systems |
| <input type="checkbox"/> Geological Problems                   | <input type="checkbox"/> Energy and Mineral Resources | <input type="checkbox"/> Aesthetics                    |
| <input type="checkbox"/> Water                                 | <input type="checkbox"/> Hazards                      | <input type="checkbox"/> Cultural Resources            |
| <input type="checkbox"/> Air Quality                           | <input type="checkbox"/> Noise                        | <input type="checkbox"/> Recreation                    |
| <input type="checkbox"/> Mandatory Findings<br>Of Significance |   |  |

**DETERMINATION:** (To be completed by the Lead Agency)

A program Environmental Impact Report (EIR) was certified in 1986 for the "Downtown Hayward Redevelopment project Area" and an "Environmental Assessment of the Downtown Hayward Design Plan - 1991 Update and Focal Point Master Plan - December 1991" was prepared. The proposed municipal parking structure and ancillary commercial stores do not exceed the intensity of development analyzed in either of these two documents. Therefore, none of the environmental impacts discussed within this Initial Study will affect the environment to a greater degree than was found in the program EIR and the Environmental Assessment. The previously certified Program EIR and the Environmental Assessment provide the basis for preparing this Initial Study and should be referred to for a more complete discussion of potential impacts. The reports and plans that are referenced in this Initial Study are available for review at the Hayward City Hall, Community and Economic Development Department, Development Review Services Division.

On the basis the environmental documents described above and of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described on an attached sheet have been added to the project. A NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a significant effect(s) on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets, if the effect is a "potentially significant impact" or "potentially significant unless mitigated." An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, there WILL NOT be a significant effect in this case because all potentially significant effects (a) have been analyzed adequately in an earlier EIR pursuant to applicable standards, and (b) have been

avoided or mitigated pursuant to that earlier EIR, including revisions or mitigation measures that are imposed upon the proposed project.

Dyana Anderly  
Signature

March 4, 1998  
Date

Dyana Anderly  
Printed name

City of Hayward

**ENVIRONMENTAL IMPACTS:**

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>I. LAND USE AND PLANNING. <i>Would the proposal:</i></b>				
a) Conflict with general plan designation or zoning?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>The Downtown Hayward Design Plan (a component of the Downtown Core Area Specific Plan) recognizes that parking will occur at the subject site. The Plan also encourages parking for uses on the Focal Point (City Hall) to be at an alternative location. The proposed parking structure meets this direction.</i>				
b) Conflict with applicable environmental plans or policies adopted by agencies with jurisdiction over the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>The project includes a series of shops facing B Street which will result in a parking/commercial structure that is compatible with existing surrounding uses.</i>				
c) Be incompatible with existing land use in the vicinity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Affect agricultural resources or operations (e.g., impacts to soils or farmlands, or impacts from incompatible land uses)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Disrupt or divide the physical arrangement of an established community (including a low-income or minority community)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**II. POPULATION AND HOUSING. *Would the proposal:***

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Cumulatively exceed official regional or local population projections?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Induce substantial growth in an area either directly or indirectly (e.g., through projects in an undeveloped area or extension of major infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace existing housing, especially affordable housing?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**III. GEOLOGIC PROBLEMS.** *Would the proposal result in or expose people to potential impacts involving:*

a) Fault rupture?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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*The project lies outside the Earthquake Fault Zone. According to a "final Report of Preliminary Geological Investigation Phase I prepared by Earth Systems Consultants, there are no fault traces crossing the site, and the nearest active trace is located 200 feet to the northeast. Merrill, Seeley, Mullen, Sandefur, Inc., did a study of a portion of the site. Their work included the excavation of a single trench in a vacant lot off Mission Boulevard. The exposed soils, which consisted mostly of silty clays, were reportedly saturated but undisturbed. A layer of fill less than 2 feet thick was encountered throughout the trench*

*MS Geotechnical Consultants (formerly Merrill, Seeley, etc.) completed a study in the subject block by digging two trenches that, combined with the earlier trench, cover this entire block. Undisturbed sediments similar to those found in the 1987 trench were exposed in both excavations. No evidence of faulting was reported in any of the three trenches dug on the site.*

b) Seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Seismic ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Seiche, tsunami, or volcanic hazard?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
e) Landslides or mudflows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Erosion changes in topography or unstable soil conditions from excavation, grading, or fill?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Subsidence of land?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Expansive soils?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Unique geologic or physical features?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**IV. WATER.** *Would the proposal result in:*

a) Changes in absorption rates, drainage patterns, or the rate and amount of surface runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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*The site was previously used for commercial purposes, and much of the site is currently covered with impervious material. Therefore, the amount of surface runoff is not expected to increase significantly. A condition of approval requires that the drainage systems convey all storm waters from the project site into an approved storm drain system. Implementation of the City requirements for drainage will reduce any potential flood-related impacts to a non-significant level. Sulphur Creek traverses the site and can accommodate runoff from the site.*

b) Exposure of people or property to water related hazards such as flooding?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Discharge into surface waters or other alteration of surface water quality (e.g., temperature, dissolved oxygen or turbidity)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Changes in the amount of surface water in any water body?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Changes in currents, or the course or direction of water movements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
f) Change in the quantity of ground waters, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavations or through substantial loss of groundwater recharge capability?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Altered direction or rate of flow of groundwater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Impacts to groundwater quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Substantial reduction in the amount of groundwater otherwise available for public water supplies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**V. AIR QUALITY.** *Would the proposal:*

a) Violate any air quality standard or contribute to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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*Transportation sources would account for nearly all of the project-related emissions. The program EIR certified for the Redevelopment Area concludes, "cars will likely run cleaner and more efficiently than at present and, hence, cumulative air quality impacts are not expected to be substantial. In addition, the number of vehicle trips is not expected to increase as those drivers who use the municipal parking lot currently park in a temporary parking lot. In effect, the proposed garage merely relocates parking from the west side of Watkins Street to the east side of Watkins Street.*

b) Expose sensitive receptors to pollutants?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Alter air movement, moisture, or temperature, or cause any change in climate?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Create objectionable odors?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**VI. TRANSPORTATION/CIRCULATION.** *Would the proposal result in:*

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Increased vehicle trips or traffic congestion?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>The proposed municipal garage is designed to accommodate parking currently located on a BART parking lot and within a municipal lot on the subject site. The number of vehicle trips is not anticipated to increase significantly given that it is replacement parking. Moreover, the site was formerly used for commercial purposes, which generated traffic associated with retail activity. The new retail establishments replace the commercial activity that formerly occupied the site.</i>				
b) Hazards to safety from design features (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Although there is an access driveway to the municipal garage on Mission Boulevard, the driveway will be designed to accept right turn ingress and right turn egress only. Another access on Watkins Street, a less traveled street, will be available.</i>				
c) Inadequate emergency access or access to nearby uses?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Insufficient parking capacity onsite or offsite?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>The project results in increased opportunities for parking by providing a municipal garage available to employees and visitors to City Hall as well as customers and employees of nearby retail establishments.</i>				
e) Hazards or barriers for pedestrians or bicyclists?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflicts with adopted policies supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Rail, waterborne or air traffic impacts?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**VII. BIOLOGICAL RESOURCES.** *Would the proposal result in impacts to:*

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Endangered, threatened or rare species or their habitats (including but not limited to plants, fish, insects, animals, and birds)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Locally designated species (e.g., heritage trees)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Locally designated natural communities (e.g., oak forest, coastal habitat, etc.)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Wetland habitat (e.g., marsh, riparian, and vernal pool)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Wildlife dispersal or migration corridors?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**VIII. ENERGY AND MINERAL RESOURCES.**

*Would the proposal:*

a) Conflict with adopted energy conservation plans?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Use nonrenewable resources in a wasteful and inefficient manner?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in the loss of availability of a known mineral resource that would be of future value to the region and the residents of the State?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**IX. HAZARDS. *Would the proposal involve:***

a) A risk of accidental explosion or release of hazardous substances (including, but not limited to, oil, pesticides, chemicals or radiation)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Possible interference with an emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) The creation of any health hazard or potential health hazard?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Exposure of people to existing sources of potential health hazards?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e)				

	<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
f) Increased fire hazard in areas with flammable brush, grass, or trees?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**X. NOISE.** *Would the proposal result in:*

a) Increases in existing noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Exposure of people to severe noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**XI. PUBLIC SERVICES.** *Would the proposal have an effect upon, or result in a need for new or altered government services in any of the following areas:*

a) Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Maintenance of public facilities, including roads?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Other government services?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**XII. UTILITIES AND SERVICE SYSTEMS.** *Would the proposal result in a need for new systems or supplies, or substantial alterations to the following utilities?*

a) Power or natural gas?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Communications systems?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Local or regional water treatment or distribution facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Sewer or septic tanks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Storm water drainage?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
f) Solid waste disposal?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Local or regional water supplies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**XIII. AESTHETICS.** *Would the proposal?*

a) Affect a scenic vista or scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Have a demonstrable negative aesthetic effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Create light or glare?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**XIV. CULTURAL RESOURCES.** *Would the proposal:*

a) Disturb paleontological resources?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Disturb archaeological resources?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

*The property is within the Marks Historic Rehabilitation District. The "Downtown Hayward Historic Properties Evaluation," prepared in December 1993 by Nancy Elizabeth Stoltz, AIA, AICP, did not identify any historic structures on the site. Currently the site is vacant as all buildings have been razed.*

c) Have the potential to cause a physical change which would affect unique cultural values?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Restrict existing religious or sacred uses within the potential impact area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**XV. RECREATION.** *Would the proposal:*

a) Increase the demand for neighborhood or regional parks or other recreational facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Affect existing recreational opportunities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**XVI. MANDATORY FINDINGS OF SIGNIFICANCE.**

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

b) Does the project have the potential to achieve short-term, to the disadvantage of long-term, Environmental goals?

c) Does the project have impacts that individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)

d) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

**XVII. EARLIER ANALYSES.**

None.

a) **Earlier analyses used.** Program EIR for downtown Hayward Redevelopment Project Area" and Environmental Assessment of the Downtown Hayward Design Plan – 1991 Update and Focal Point Master Plan – December 1991..

b) **Impacts adequately addressed.**None.

c) **Mitigation measures.** Standard Conditions of Approval.

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