



**CITY OF HAYWARD**  
**AGENDA REPORT**

AGENDA DATE 04/20/04

AGENDA ITEM 3

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

**TO:** Mayor and City Council

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

**SUBJECT:** Appeal of Planning Commission Approval of PL-2004-0039 Use Permit – PacLand/Batavia Holdings (Applicant) / Frank J. Warn, Inc. (Owner) – Request for a Retail Center to Accommodate a Regional Retail Building (Circuit City) with Two Retail Shops Buildings – The Project Is Located at 2480 Whipple Road

**RECOMMENDATION:**

It is recommended that the City Council adopt the attached resolution denying the appeal and upholding the Planning Commission approval, subject to the attached conditions of approval.

**DISCUSSION:**

On March 25, 2004, the Planning Commission unanimously approved the use permit to accommodate construction of a retail center on approximately 5 acres, including a 34,000-square-foot regional retail building (Circuit City) with two retail shops buildings of 5,100 and 6,000 square feet. The site is occupied by the Crescent Truck terminal facility, which would be demolished to accommodate the proposed project.

The site is located within the Industrial (I) District at the southern gateway to Hayward. The Zoning Ordinance specifically recognizes this site as a prime location for regional or sub-regional retailers due to its location at the junction of two arterial roadways, access to the Nimitz Freeway (I-880), and high visibility. Commercial retail development of this nature is allowed in the I District on minimum 4-acre parcels visible from the freeway with the Planning Commission's approval of a Conditional Use Permit.

The buildings are designed in a classical architectural theme with strong detailing and a variety of textures that complement surrounding industrial and retail uses alike; all sides are developed attractively. The City Council Commercial Center Improvement Committee (CCCCIC), at its meeting of February 23, 2004, recommended that all elevations be highly articulated. The applicant responded well to the comments of the CCCCIC in arriving at the approved architectural treatment.

Access to the site is provided from two driveways from Whipple Road. The primary driveway would be opposite a realigned primary driveway for Target and would be signal controlled. The new traffic signal would benefit customers and employees of both the Target and the proposed Circuit City developments, and provide for a safer environment in general for vehicles traveling on Whipple Road. A secondary driveway to the west would access a small parking lot serving the forward retail

shops building and, from there, the main parking lot. The project has adequate on-site circulation and the parking supply exceeds the City's code requirements.

### *Appeal*

Gloria New, a Union City resident of the adjacent Central Park West Mobilehome Park, appealed the Planning Commission's approval of this project. The letter of appeal does not state any specific grounds for the appeal; however, Ms New expressed concern, while addressing the Planning Commission during its hearing of this project, that Whipple Road traffic is already negatively impacted. At the hearing, Ms New presented a petition, signed primarily by Union City residents, opposing the project due to traffic concerns. No other members of the public addressed the Commission on this matter.

The City of Union City submitted a letter (attached) citing concerns regarding the cumulative traffic impact of this project and asking for a number of design measures for the entry intersection. Staff believes that the conditions of approval are adequate in addressing the concerns of Union City staff in that the anticipated intersection design would include a tie-in between the new signal and the adjacent signals, and would provide left-turn pockets to serve the Target and Circuit City driveways; however, staff believes that the intersection would work efficiently without deceleration and acceleration lanes for the right-turn movements as suggested by Union City staff. A median barrier may be included in the design easterly of the intersection, but an earlier agreement with the gas station would require maintenance of the two-way left turn lane to the west; it has worked well since the installation of improvements with the Target project. Although the Union Landing project in Union City has impacted the intersection of Whipple Road/Industrial Parkway SW/I-880, several improvements have been made by the City of Hayward to alleviate traffic impacts. With the Target project, additional lanes were added and signal modifications were made; the City later improved the northbound freeway off-ramp and added a signal at Whipple and Wiegman Roads.

A Traffic Impact Analysis was prepared by Kimley-Horn and Associates, Inc. According to that report, none of the study intersections would operate at unacceptable levels (worse than LOS D) with the project. The City of Hayward has established a level of service ("LOS") policy to maintain LOS D or better at all signalized intersections (General Plan, Circulation Element, January 2002). With LOS D, congestion becomes noticeable with some unfavorable progression through the intersection and long cycle lengths; vehicles may experience delays between 25 and 40 seconds. Furthermore, residents of Central Park West Mobilehome Park have access by several points to both Whipple and Alvarado-Niles Roads. In addition, while no residences directly abut the project, an 8-foot-high masonry wall would shield the project's loading dock activities from the mobilehome park.

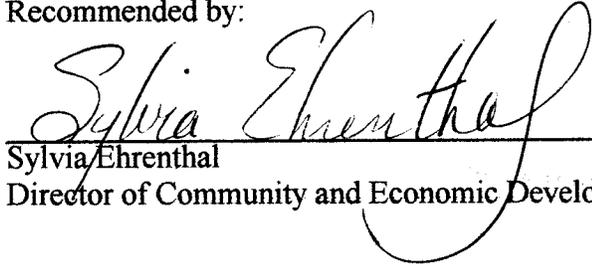
Circuit City's proposal is consistent with the City's goals and policies for development and will provide additional retail/service options in the City of Hayward. In consideration of its attractive design and the cooperative solution in mitigating traffic impacts, staff recommends that the City Council deny the appeal and uphold the Planning Commission's approval of this project.

Prepared by:



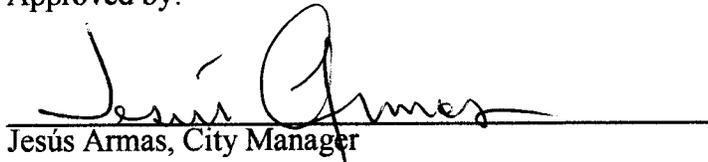
Richard E. Patenaude, AICP  
Principal Planner

Recommended by:



Sylvia Ehrenthal  
Director of Community and Economic Development

Approved by:



Jesús Armas, City Manager

Attachments:

- Exhibit A. Letter of Appeal/Letter from City of Union City
- Exhibit B. Planning Commission Report and Minutes of March 25, 2004  
Plans  
Draft Resolution

4/13/04

4-2-04

04/05/04 17:02 CLK

Waywardly City Council

Our Business community and residents have gotten together a petition to show our concern regarding the new stop & shop retail center located approximately 100' from the intersection of Industrial Blvd, and Whipple Rd. That's also the off and on ramps to I-880. After appealing to the planning Commission on the 24<sup>th</sup> we have a request to ~~defer~~ schedule time with your council.

Some interesting views have been expressed about a new location with easy access, and parking that would work well for the business and residential community as well.

The existing business in the area have been low key and work well with the flow of things for that location. They also operate during normal business hours.

Our citys have developed very conservatively over the years making well planned improvements which are your efforts of pretty much the whole county, it must reflect well to our state.

Sincerely

Lorvia New

Central Park West Mobile Home Community

2551 Mifflin Ave

Union City Ca

94587



34009 ALVARADO-NILES ROAD  
UNION CITY, CALIFORNIA 94587  
(510) 471-3232

March 24, 2004

Mr. Richard Patenaude, AICP  
Principal Planner  
City of Hayward  
777 B Street  
Hayward, CA 94541-5007

Dear Mr. Patenaude:

Thank you for the staff report and Mitigated Negative Declaration for the 45,100 square foot retail commercial center proposed at 2480 Whipple Road near Industrial Parkway. On previously proposed retail projects in this area, Union City staff has expressed through correspondences (June 16, 2000, August 31, 2000 and October 11, 2000) concerns regarding the intensification of land use and the inadequate traffic mitigations on Whipple Road, at the Whipple Road/Industrial Parkway intersection and the Whipple Road/Dyer Street intersection in Union City. The city of Hayward is now contemplating approval of an additional 45,100 square feet of retail in this area, and we believe that the mitigations proposed are not adequate to address the increase in traffic volume and traffic conflicts that exist on Whipple Road near the Industrial Parkway intersection. While we recognize Hayward's interest in redeveloping the underutilized lands in this area, we believe that adequate conditions of approval and appropriate future traffic planning have not been incorporated.

Whipple Road is a truck route and a primary east/west connector for Union City. It also provides access to the Central Bay Industrial Park in Union City and to the Hayward's industrial park off of Huntwood Avenue. Over time, truck traffic and auto traffic is expected to increase with the intensification of land uses. At this time, there is no engineered plan to illustrate the new signalized intersection on Whipple Road for the proposed retail center and Target. There is also no site plan that indicates how this project will interface with Whipple Road and the very nearby Industrial Parkway intersection, which is already heavily congested. With this in mind Union City staff has following comments:

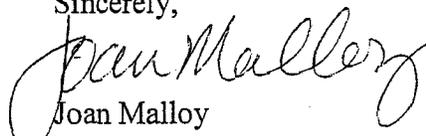
1. An engineered plan should be prepared to adequately analyze the traffic circulation issues in this area before this project is considered for approval. The plan should include existing and proposed development and should cover the area from I-880 to Wiegman Road. The plan should show the proposed intersection, turning movements at the intersection, and the possible widening of Whipple Road to accommodate retail development along the south side.

2. The retail center should provide a deceleration lane and an acceleration lane so that through traffic on Whipple Road is not impeded. As you know, traffic backs up onto I-880 Whipple Road off-ramp because there is inadequate capacity at the intersection. Planning for future roadway improvements and accommodating the right in/right out traffic movements of this development would be prudent.
3. Shops B should be setback from Whipple Road to accommodate this additional lane on the south side of Whipple Road as discussed above. As part of the project approvals the applicant should be required to dedicate land along the frontage of Whipple Road to accommodate future widening.
4. The proposed signalized intersection is less than 400 feet to the Whipple Road/Industrial Parkway intersection. This distance is less than the recommended minimum. As such, the new signal should be tied to the existing signal at Whipple Road and Industrial Parkway.
5. The existing and planned condition on Whipple Road includes a center, two-way left turn lane. This is a dangerous condition, especially in this highly congested area on Whipple Road adjacent to I-880. As part of the new intersection, median barriers should be installed in Whipple Road as a condition of this project to clearly delineate left turn lanes into Target and the proposed retail center. Other businesses on Whipple Road would need to be provided access to the signalized intersections or have right in/right out driveways only.

As a neighboring City, we are directly impacted by the increasing congestion in this area that is caused by the land use intensification adjacent to the Whipple Road/Industrial Parkway intersection. Approval of this project with the proposed mitigations in the draft Negative Declaration would be inadequate to address the impacts that additional commercial development will have on this highly congested portion of Whipple Road. Nor would these mitigations accommodate additional growth in the immediate area.

As we have stated in previous letters, we recognize there are constraints to the development in this area. Union City staff also recognizes the city of Hayward's desire to capture retail opportunities for the community. However, additional mitigation measures are needed to resolve the traffic impacts that will be generated by this project.

Sincerely,

  
Joan Malloy  
Planning Manager

Cc: Mark Leonard, Community Development Director  
Larry Cheeves, Public Works Director  
Roxy Carmichael-Hart, Senior Transportation Planner; City of Hayward



## CITY OF HAYWARD AGENDA REPORT

Meeting Date 03/25/04  
Agenda Item 3

**To:** Planning Commission

**From:** Richard Patenaude, Principal Planner

**Subject:** PL-2004-0039 Use Permit – Jim Towslee for PacLand/Batavia Holdings (Applicant) / Frank J. Warn, Inc. (Owner) – Request for a Retail Center to Accommodate a 34,000-Square-Foot Regional Retail Building (Circuit City) with Two Retail Shops Buildings of 5,100 and 6,000 Square Feet, on Approximately 5 Acres – *The Project Is Located at 2480 Whipple Road Easterly of the Intersection with Industrial Parkway Southwest and I-880*

### RECOMMENDATION:

Staff recommends that the Planning Commission adopt the Mitigated Negative Declaration, and approve the Use-Permit Application subject to the attached findings and conditions of approval.

### DISCUSSION:

This project is a request for a use permit to accommodate construction of a retail center on approximately 5 acres, including a 34,000-square-foot regional retail building (Circuit City) with two retail shops buildings of 5,100 and 6,000 square feet. For comparison of size, the *Costco Business Center* at West A Street and Hathaway Avenue contains 105,000 square feet, *The Home Depot* at Hesperian Boulevard and Sueirro Street contains 107,920 square feet with an accessory 23,928-square-foot garden center, and *Target*, across Whipple Road, contains 126,000 square feet with an accessory 7,886-square-foot garden center and an 8,000-square-foot retail pad.

The site is occupied by the Crescent Truck terminal facility. It is covered with asphalt paving and a total of 28,000 square feet of building. These improvements would be demolished to accommodate the proposed project. The site is bordered on the north by a Union 76 gas and service station, and by Whipple Road. Shurgard Storage Center is located easterly of the site. Amaral Court, in Union City, forms the southerly border and serves as access to Central Park West Mobilehome Park. The northbound I-880 off-ramp to Whipple Road forms the westerly border.

The site is located within the "T" District at the southern gateway to Hayward; it is designated as "Industrial Corridor" on the General Policies Plan Map. The Zoning Ordinance specifically recognizes this site as a prime location for regional or sub-regional retailers due to its location at the junction of two arterial roadways, access to the Nimitz Freeway (I-880), and high visibility.

Commercial retail development of this nature is allowed in the "T" District on minimum 4-acre parcels visible from the freeway with the Planning Commission's approval of a Conditional Use Permit.

The intent of the Conditional Use Permit is to allow retail sales with a regional or sub-regional marketing base within the Industrial District. While it could be difficult for the applicant to provide tenants in the smaller shop spaces that would be considered regional or subregional in nature, a list of approved uses is recommended as a condition of approval to retain as much consistency as possible with the intent of the Zoning Ordinance. Tenants could include restaurants, party supply stores, mattress stores, shoe stores, electronics retailers, bike shops, florists fitness equipment stores and other similar retail commercial uses, as well as banks, barber and beauty shops, and copying/reproduction facilities (such as Kinko's). Such uses would be supportive of the primary Circuit City store. Other personal services, administrative and professional offices/services, service commercial uses and automobile related uses would be prohibited.

### *Site Plan*

The *Circuit City* building is proposed at the southerly portion of the site with the storefront facing Whipple Road; the loading area would be at the rear of the building. The smaller retail shops building (5100 square feet) is attached to the *Circuit City* building, with the storefronts also facing Whipple Road. The larger retail shops building (6,000 square feet) is located at the northerly portion of the property at the Whipple Road entrance.

Access to the site is provided from two driveways from Whipple Road: the primary driveway would be opposite the realigned primary driveway for Target. This driveway would be signal controlled. A secondary driveway to the west would access a small parking lot serving the forward retail shops building and, from there, the main parking lot. The project has adequate on-site circulation. Furthermore, the parking supply is adequate and meets the City's code requirements.

Pedestrian access to Circuit City and the ancillary shops is provided from Whipple Road by way of a dedicated walkway through the parking lot. As conditioned, this walkway would be demarcated with decorative pavement. The site is served by AC Transit Route 210 from South Hayward BART Station and by Union City Transit Routes 2 and 3 from Union City BART Station. The bus stop would have to be relocated between the driveways and a new shelter would be added.

### *Architecture and Landscaping*

This site is at a primary entrance to the City, and this location will be the most prominent as northbound vehicles exit the Nimitz Freeway (I-880) to access the industrial corridor of Hayward. The City's Design Guidelines call for an "image zone" at major intersections to create a strong sense of entry for the project and, in this case, the City. The City Council Commercial Center Improvement Committee (CCCCIC), at its meeting of February 23, 2004, recommended that all elevations be highly articulated.

The buildings are designed in a classical architectural theme with strong detailing and a variety of textures that complement surrounding industrial and retail uses alike; all sides developed attractively. *Dark-tan*-colored split-face concrete block is proposed for the base of the building walls with a stucco surface above. A raised parapet and metal awning emphasize the main entry. The entry and other raised accent wall areas are of a stucco surface painted "Circuit City gold." The dark-tan-colored cornice and base details highlight the building. Columns establish a rhythm and break up the long horizontal building lines. The applicant responded well to the comments of the CCCCIC in arriving at the proposed architectural treatment.

A detailed landscape and irrigation plan will be prepared by a licensed landscape architect and submitted for review and approval by the Landscape Architect. A combination of vertical-growth landscaping and vine-covered trellises would be provided to soften the visual impact of building mass. A similar landscape treatment may be seen along the freeway-side of *Wal-Mart* on the westerly side of I-880, and on *The Home Depot* and *Target* to the north of the project. The parking lot contains adequate landscape islands and the perimeter of the site will be screened with landscape materials, especially along the freeway off-ramp.

As conditioned, a detailed sign program, subject to approval by the Planning Director, will also be required prior to the approval and installation of any individual signs. It is anticipated that, for the Circuit City store, there will be a wall sign on each street-facing elevation, a monument sign at the primary street entrance, and a freeway-oriented sign at the southerly end of the property adjacent to I-880. As conditioned, the red sign disc would be opaque and only the letters would be illuminated. The individual shops would be provided sign area over each storefront.

The applicant proposes that the chain-link fencing on the southerly and westerly property lines be replaced with a 6-foot-high wooden privacy fence. Staff recommends that the section of fence along Amaral Court, facing the mobilehome park, and along the southwesterly line (I-880), be replaced with masonry wall with detailing to match the Circuit City building. Furthermore, the fence along the easterly property line (Shurgard), as conditioned, would be replaced with a tubular steel fence supported by decorative pilasters also with matching detailing. The chain-link fence along the boundary with the gas station would be removed. CalTrans maintains chain-link fencing along the freeway off-ramp. The applicant proposes, if approved by CalTrans, to replace it with new vinyl-coated chain-link fencing; landscaping would form the needed buffer screening along the freeway.

### *External Traffic*

A Traffic Impact Analysis was prepared by Kimley-Horn and Associates, Inc. According to that report, none of the study intersections would operate at unacceptable levels (worse than LOS D) with the project in either the existing plus project or the cumulative plus project conditions. The City of Hayward has established a level of service ("LOS") policy to maintain LOS D or better at all signalized intersections (General Plan, Circulation Element, January 2002). However, this finding was made based upon the following assumptions: 1) the Target driveway would be modified to align with the project's primary driveway; 2) the intersection of the aligned driveways and Whipple Road would be signalized; and 3) the movements at the Shurgard driveway would be limited to right-in/right-out only. With LOS D, congestion becomes noticeable with some unfavorable progression through the intersection and long cycle lengths; vehicles may experience delays between 25 and 40 seconds.

### *Environmental Review*

The project has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study Checklist was prepared for the project. Issues with potentially significant impacts discussed in the checklist were in regard to air quality, geologic/seismic, and traffic/circulation. It was determined that the proposed project, as conditioned to include the recommended mitigation measures, would not result in significant effects on the environment.

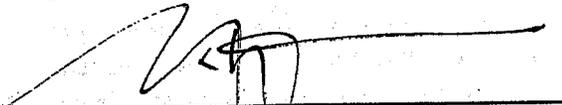
### *Public Hearing Notice*

On March 5, 2004, a Notice of Public Hearing and Notice of Preparation of the Mitigated Negative Declaration was mailed to every property owner and occupant within 300 feet of the property as noted on the latest assessor's records, to the City of Union City, and to all parties having previously expressed an interest in this project. The only response received was from the operator of the gas station in support of the project.

### *Conclusion*

*Circuit City's* proposal for a regional-based retail center is consistent with the City's goals and policies for development on this site and provides an anchor at Hayward's southern gateway. The proposed center will provide additional retail/service options in the City of Hayward. The architecture, building materials and signage are consistent with the design theme for this area of the City while remaining compatible with the industrial nature of the corridor. With the proposed conditions of approval, staff recommends that the Planning Commission approve this project.

Prepared by:

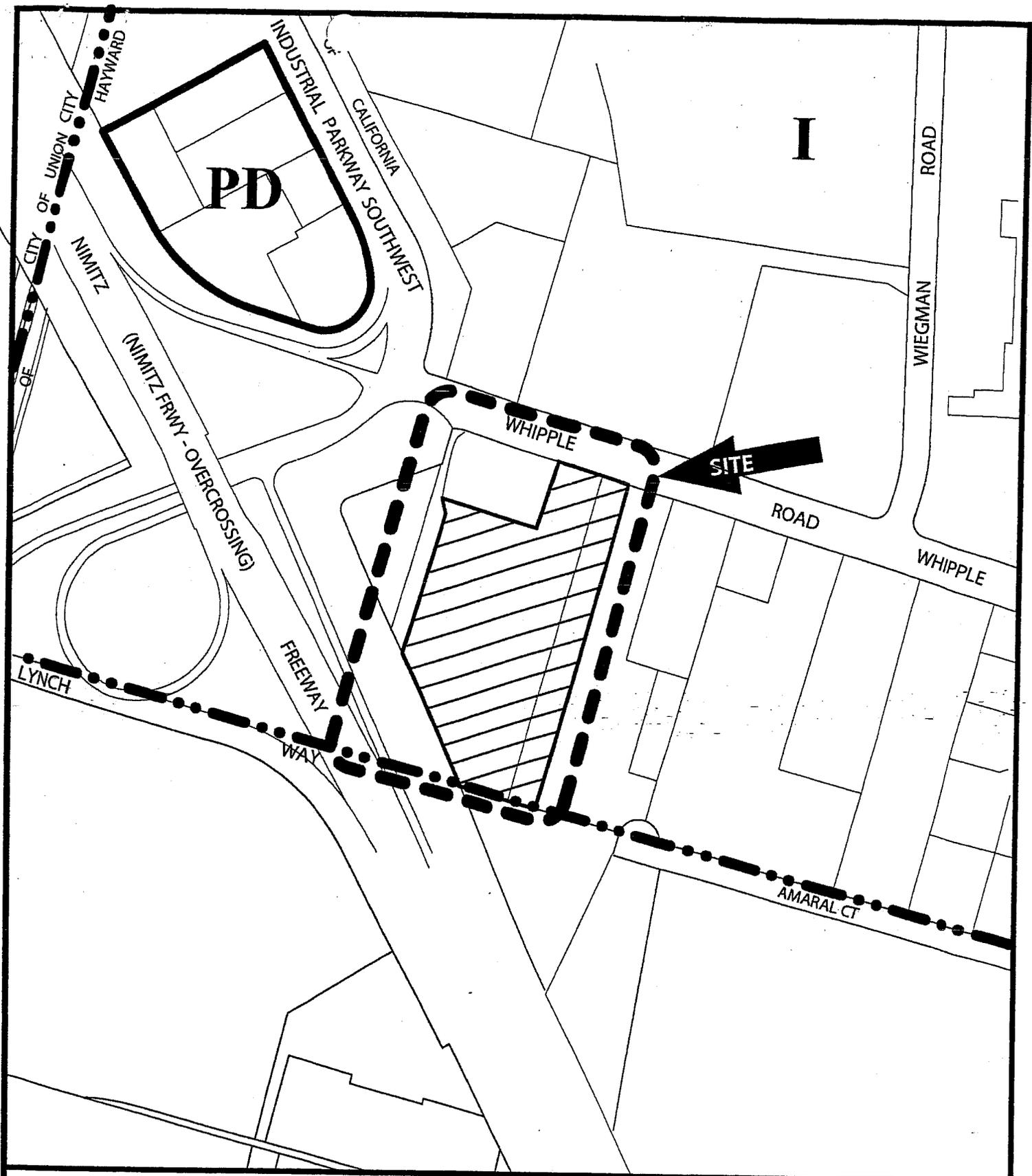
  
Richard E. Patenaude, AICP  
Principal Planner

Recommended by:

  
Dyana Anderly, AICP  
Planning Manager

Attachments:

- A. Area Map
- B. Findings for Approval
- C. Conditions of Approval
- D. Mitigated Negative Declaration/Environmental Checklist/Mitigation Monitoring Plan Plans



**Area & Zoning Map**

PL-2004-0039 UP/SPR  
 Address: 2480 Whipple Road  
 Applicant: Jim Towslee  
 Owner: Frank J. Warn, Inc.

I-Industrial  
 PD-Planned Development



**FINDINGS FOR APPROVAL**  
**Use Permit No. PL-2004-0039**  
**2480 Whipple Road**  
**Jim Towslee for PacLand/Batavia Holdings (Applicant)**  
**Frank J. Warn, Inc. (Owner)**

Based on the staff report and the public hearing record:

- A. 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 for the proposed project. The Initial Study has determined that the proposed project, with the recommended mitigation measures, could not result in significant effects on the environment.
- B. The project is in conformance with the General Policies Plan Map designation of Industrial Corridor. It has been determined that regional and subregional retail uses may be compatible on lands within the Industrial Corridor, which also have direct access to major transportation routes. The subject property is located proximate to the Nimitz Freeway (Route I-880).
- C. The project is in conformance with the intent and purpose of the Zoning Ordinance designation of Industrial (I) as proposed. Such district permits regional and subregional retail uses provided that such use complies with the General Policies Plan and that such uses are located on properties in excess of 4 acres. The subject property contains approximately 5 acres.
- D. The development, as conditioned, will provide a use that will be in conformity with applicable performance standards, will be appropriate in size, location and overall planning for the purpose intended, will create an environment of sustained desirability and stability through the design and development standards, and will have no substantial adverse effect upon surrounding commercial and industrial development in that the proposed use is permitted at this location. The project shall comply with the Hayward Design Guidelines, the Landscape Beautification Plan and all other applicable performance standards.
- E. The surrounding streets and utilities, with the required modifications, are adequate to serve the development.
- F. The project will not affect population projections, induce substantial growth or displace existing housing.
- G. The project site is not located within a "State of California Earthquake Fault Zone." Construction related to this project will be required to comply with the Uniform Building Code standards to minimize seismic risk due to ground-shaking.
- H. No endangered, threatened or rare species are known to inhabit the project site.

- I. A requirement to reduce dust generation and exhaust emissions during construction will reduce air quality impacts to a level of insignificance.
- J. The mitigation measures required for the project, as recommended by the traffic impact analysis will reduce the traffic impacts to a level of insignificance.
- K. Construction related to this project will be designed to perform to applicable codes, and, therefore, would not be in conflict with adopted energy conservation plans.
- L. The Fire Department will require appropriate measures to reduce any release of hazardous materials below an acceptable level of risk.
- M. The project will have no effect on government services or utilities.
- N. No known archaeological or paleontological resources exist on the project site.

## CONDITIONS OF APPROVAL

Use Permit No. PL-2004-0039

2480 Whipple Road

Jim Towslee for PacLand/Batavia Holdings (Applicant)

Frank J. Warn, Inc. (Owner)

### Planning Division

1. Use Permit No. PL-2004-0039 to accommodate construction of a commercial retail center consisting of a 34,000-square-foot regional retail building with two retail buildings of 5,100 and 6,000 square feet, shall be constructed according to these conditions of approval and the plans approved by the Planning Commission on March 25, 2004.
2. This approval is void one year after the effective date of approval unless prior to that time an extension is approved. Any modification to this permit shall require review and approval by the Planning Director. A request for a one-year extension-of-time, approval of which is not guaranteed, must be submitted to the Planning Division at least 30 days prior March 25, 2005.
3. If a building permit is issued for construction of improvements authorized by the site plan review approval, the site plan review approval shall be void two years after issuance of the building permit, or three years after approval of the application, whichever is later, unless the construction authorized by the building permit has been substantially completed or substantial sums have been expended in reliance upon the site plan review approval.
4. Unless otherwise required, all pertinent conditions of approval and all improvements shall be completed to the satisfaction of the Planning Director prior to final inspection and occupancy of any structures.
5. The permittee shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.
6. Violation of these conditions is cause for revocation of permit, after a public hearing before the duly authorized review body.
7. No outside storage of material, crates, boxes, etc. shall be permitted anywhere on site, except within the trash enclosure area as permitted by fire codes and within areas designated for outdoor display of merchandise for sale. No material shall be stacked higher than the height of the trash enclosure screen wall and gate.
8. Tenant management shall take reasonable necessary steps to assure the orderly conduct of employees, patrons and visitors on the premises to the degree that surrounding commercial uses would not be bothered and that loitering is not permitted.

9. Sidewalks and parking lots must be kept free of litter and debris and to minimize the amount of wind-blown debris into surrounding properties and streets. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. No cleaning agent may be discharged to the storm drain. If any cleaning agent or degreaser is used, washwater shall be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval, and conditions of the City wastewater treatment plant.
10. A minimum of two trash receptacles shall be placed at each customer entry to the primary building; one receptacle shall be placed at each customer entry in the "Shops" buildings. Trash receptacles shall be the same decorative, pre-cast concrete type with a self-closing metal lid.
11. No vending machines shall be displayed outside the building, except for newspaper racks.
12. The applicant, owner(s) and/or tenants shall maintain in good repair all building exteriors, walls, lighting, trash enclosure, drainage facilities, driveways and parking areas. The premises shall be kept clean. Any graffiti painted on the property shall be painted out or removed within seven days of occurrence.
13. The uses permitted in the "Shops" buildings shall be limited to those Retail Commercial Uses that have a regional/sub-regional marketing base and are listed in Section 10-1.1315a.(5) (Central Business District – Retail Commercial Uses). Other approved uses are banks, barber or beauty shops, and copying and mailing facilities. Other similar uses may be approved by the Planning Director with the determination that they support a regional/sub-regional marketing base. Prohibited uses include industrial uses, administrative and professional offices/services (except banks), automobile related uses, personal services (except barber or beauty shops), service commercial uses (except copying and mailing facilities), and residential uses.

#### Design

14. All roof mechanical equipment and any satellite dish shall be fully screened from the freeway and from ground-level view within 150 feet of the property.
15. Prior to occupancy and the installation of any signs, the applicant shall submit a Sign Permit Application to the Planning Director for review and approval, subject to the following:
  - a. compliance with the City of Hayward Sign Regulations;
  - b. the sign program may include one freeway-oriented sign and one monument sign;
  - c. the base and framing of any freestanding/monument sign shall reflect the architectural design, colors and materials of the building, and shall consist of pilasters on each side with a raised center panel to mimic the entry section of the Circuit City store;
  - d. only the letters in the sign for the major tenant may be illuminated;
  - e. wall signs for tenants in the "Shops" buildings shall use individual channel letters;
  - f. directional signs shall not exceed 6 sq.ft. in area per face and 3 feet in height; and
  - g. the applicant/business operators shall not display any illegal banner signs, portable signs, inflatable signs, or other illegal signs on the property.

16. Exterior lighting for the establishment shall be maintained which is adequate for the illumination and protection of the premises but does not exceed a light level that provides glare to motorists, nor spills onto nearby properties, or up into the sky. The fixtures shall be designed to keep the light from spilling onto adjacent properties. Within the parking lot, the minimum requirement is 1-foot candle of light across the entire surface. Luminaires shall be of a design that complements the architectural style of the building and the landscaping in developing a quality image of the City of Hayward and shall be approved by the Planning Director. The maximum height of the luminaires shall be no greater than the height of the structures unless otherwise permitted by the Planning Director. The lighting, and its related photometric, plan shall be reviewed and approved by the Planning Director.
17. The design of the metal awnings shall be appropriate to the mass of the building as determined by the Planning Director; details shall be submitted for approval prior to submittal of an application for building permit.
18. The pedestrian walkway between the "Shops B" building and the Circuit City building shall be delineated continuously by decorative paving subject to approval by the Planning Director. The portions of the walkway that cross vehicular drives shall be differentiated from the dedicated walkway, but the materials and colors of the various segments shall be coordinated.
19. The pedestrian "plazas" in front of the Circuit City store and the "Shops A" building shall architectural features, such as low walls, or landscape features to form a visual "barrier" between the vehicular and pedestrian areas.
20. The chain-link fence along the easterly property line (Shurgard) shall be replaced with an 8-foot-tall decorative open metal fence with decorative pilasters with detailing to match the buildings, subject to approval by the Planning Director.
21. The chain-link fence along the southerly and southwesterly property lines (Amaral Court and I-880) shall be replaced with a solid masonry wall with detailing to match the buildings, subject to approval by the Planning Director.
22. The chain-link fence between the project and the gas station shall be removed.
23. Changes in building color require the approval of the Planning Director.

#### Landscaping

24. The applicant shall submit detailed landscaping and irrigation plans prepared by a licensed landscape architect for review and approval by the City. Landscaping and irrigation plans shall comply with the City's Water Efficient Landscape Ordinance and the following requirements:
  - a. Parking areas shall include a minimum of one 15-gallon parking lot tree for every six parking stalls. The minimum dimension of any new tree well or landscape median shall be five feet, measured from back of curb.

- b. Parking areas shall be buffered from the street and freeway with shrubs; their type and spacing shall create a continuous 30-inch high screen within two years.
  - c. All blank building façades, at the discretion of the Planning Director, shall be softened with a combination of vertical-growth landscape materials and vines on decorative trellises.
  - d. Above ground utilities (e.g. gas or electric meters, backflow devices) shall be screened from public view with shrubs.
  - e. 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 adjacent finished pavement.
  - f. Street trees, low shrubs and groundcover shall be planted along Whipple Road. Trees shall be minimum 24-inch box planted 40 feet apart according to City Standard Detail SD-122.
  - g. Evergreen trees shall be planted every 20 feet along all interior property lines. Trees shall be minimum 15-gallon.
25. Landscaping shall be installed and a Certificate of Substantial Completion and an Irrigation Schedule shall be submitted prior to issuance of a Certificate of Occupancy.
26. Landscaping shall be maintained in a healthy, weed-free condition at all times and shall be designed with efficient irrigation practices to reduce runoff, promote surface filtration, and minimize the use of fertilizers and pesticides, which can contribute to runoff pollution. The owner's representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% dieback) shall be replaced within ten days of the inspection. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species selected by, and size determined by the City Landscape Architect, within the timeframe established by the City and pursuant to the Municipal Code.

#### Parking/Driveways

27. All parking stalls and maneuvering areas shall meet the minimum standards of the City Parking Ordinance. The parking areas shall be paved with either Portland cement or asphalt concrete and the area shall be striped to designate the parking stalls. The Planning Director shall approve the design of the driveway, curbing and materials to be used. Aisles, approach lanes, drive-through lanes and maneuvering areas shall be marked and maintained with directional arrows and striping to control traffic flow.
28. Vehicular circulation areas shall be signed as a fire lane and posted for no parking except within designated parking stalls and pick-up areas.
29. The primary Whipple Road driveway entry, between the property line and the first cross aisle, shall be enhanced with decorative pavement such as colored, stamped concrete (bomanite or equivalent), brick, concrete interlocking pavers, or other approved materials. The secondary driveway shall be so enhanced between the property line and the first parking space. The Planning Director shall approve the location, design and materials utilized.

30. A reciprocal, permanent and non-exclusive access and parking agreement shall be entered into between all property owners/tenants and recorded prior to issuance of any building permit. Such agreement shall include the installation and maintenance of lighting and landscaping. The City Attorney shall approve such agreement.
31. The property owner(s) shall provide for vehicular access connections into parking areas on the adjacent properties to reduce the need for street access if so desired by the adjacent property owner. Access agreements shall be made prior to occupancy of any building and may include provisions to exclude shared parking and to require maintenance obligations by all parties. Agreements may include reasonable exclusion of uses of adjacent properties subject to approval by the Planning Director. The developer shall install signs at the Shurgard driveway prohibiting left-hand turns onto Whipple Road.

### **Building Division**

32. The project plans shall include storm water measures for the operation and maintenance of the project for the review and approval of the City Engineer prior to occupancy. The project plan shall identify Best Management Practices (BMPS) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into stormwater runoff. Prior to issuance of a building permit, a drainage plan shall be submitted that meets the approval of the Planning Director, and shall include the following:
  - a. That all storm water is conveyed into City of Hayward or Alameda County Flood Control District facilities.
  - b. Structural controls such as a CDS unit with oil absorbent material, a Vortechs system or other approved devices per applicant's discretion which accomplish the same shall be installed to intercept and treat storm water prior to discharging to the storm drain system. The design, location, and a maintenance schedule shall be submitted to the City Engineer for review and approval prior to the issuance of a building permit.
  - c. Erosion control measures to prevent soil, dirt and debris from entering the storm drain system during construction, in accordance with the regulations outlined in the ABAG Erosion and Sediment Control Handbook.
  - d. The labeling of all on-site storm drain inlets in the shopping center with "No Dumping - Drains to Bay," using approved methods approved by the City.
  - e. The cleaning of all storm drains in the shopping center at least once a year immediately prior to the rainy season (October 15th). The City Engineer may require additional cleaning.
  - f. No storm water shall be discharged to the sanitary sewer without a Wastewater Discharge Permit, which will be issued only if there is no feasible alternative. This means that if washing takes place in the trash area, the wash water shall be discharged to the sanitary sewer. If this area is covered and protected from storm water runoff, a permit is not necessary.
  - g. Drains in any wash or process area shall not discharge to the storm drain system. Drains should connect to an approved collection system. The collection system is

subject to the review and approval of the City Engineer prior to the issuance of a building permit.

- h. Truck loading docks shall be constructed so to prevent run-off of drainage from outside the dock; and to minimize the discharge of dock area flows to the storm drain.
33. The National Pollution Discharge Elimination System (NPDES) standards shall be met. A Notice of Intent permit is required from the Regional Water Quality Control Board prior to the start of any grading. The applicant shall submit a construction Best Management Practice (BMP) program for review and approval by the City prior to the issuance of any building or grading permits. These BMPs shall be implemented by the general contractor and all subcontractors and suppliers of material and equipment. Construction site cleanup and control of construction debris shall also be addressed in this program. 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 work order. The NPDES program shall include the following items:
- a. Gather all construction debris on a regular basis and place them in a dumpster or other container, which 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.
  - b. 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.
  - c. 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.
  - d. 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, in order to retain any debris or dirt flowing into the City storm drain system as necessary. Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding. Dispose of filter particles in the trash.
  - e. 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.
  - f. Never clean machinery, tools, brushes, etc. or rinse containers into a street, gutter, storm drain or stream.
  - g. Ensure that concrete/gunite supply trucks or concrete/plasters finishing operations do not discharge washwater into street gutters or drains.
34. Water Pollution Source Control requirements shall include but not be limited to the following:
- a. No polluted waters from HVAC units shall be discharged to the storm drain via roof drains. Uncontaminated condensate is acceptable for storm drain discharge.
  - b. All wastewater and washing operations shall be discharged to the sanitary sewer and not the storm drain, including mat cleaning and any washing of the trash area.

- c. The sanitary sewer discharge from this facility shall be in compliance with all wastewater discharge regulations, prohibitions and limitations to discharge, including the 300-milligram per liter oil and grease limit. A monitoring structure (SD309) shall be constructed on the sewer lateral for each building.
- d. Materials, gasoline spill, oil spill, heavy stains, radiator fluid, litter, etc. shall be picked-up by dry methods and sweeping so as not to pollute stormwater runoff.
- e. All discharges and connections shall require approval from Water Pollution Source Control.

## Utilities

- 35. Prior to issuance of a building permit, the developer shall submit gallon per minute demand to determine proper meter size.
- 36. Install Reduced Pressure Backflow Prevention Assembly per City of Hayward Standard Detail 202 on all domestic & irrigation water meters. All water meters shall have remote radio read capability.
- 37. Installation of a separate irrigation meter to avoid sanitary sewer charges on water used for landscape purposes is recommended.
- 38. Only Water Distribution Personnel shall perform operation of valves on the Hayward Water System.
- 39. Provide keys/access code/automatic gate opener to utilities for all meters enclosed by a fence/gate per Hayward Municipal Code 11-2.02.1.
- 40. Water service shall be made available subject to standard conditions and fees in effect at time of application. Allow 4-6 weeks from time of application to installation of water services.
- 41. Sanitary connections for the new retail building shall be subject to the review, approval, and conditions of the City wastewater treatment plant. Sanitary sewer main shall always end with a manhole.
- 42. All water mains shall be looped.
- 43. Any water or sewer services that cross CalTrans right-of-way will require a CalTrans permit.
- 44. Water mains and sanitary sewer mains shall have a minimum separation of 10 feet.

## Public Safety

### Access

45. Prior to start of combustible construction, an all-weather access road shall be installed for the development.
46. Design and engineering of the site access roads shall meet Fire Code requirements and shall be capable of sustaining 50,000 lb. gross vehicle weight (GVW).
47. Curbs shall be painted red at driveway entrances and along all landscape islands that are in the driveable path. Fire lane signage shall be installed throughout the parking lot in locations approved by the Fire Department. Signage shall meet Hayward Fire Department Standards.
48. Fire Department lock boxes shall be installed on each building in locations approved by the Fire Department.

#### Water Supply

49. Provide civil engineered (site improvement/grading/utility) drawings to the Fire Department for review and approvals.
50. Provide fire flow calculations for each on-site fire hydrant. Fire flows shall meet a minimum of 2,500 gallons per minute (gpm) at 20 PSI (50% allowance has been granted for automatic fire sprinkler systems within each building).
51. Type of fire hydrant(s) shall be double steamers, equipped with 2 - 4 ½" outlets and 1 - 2 ½" outlet.
52. On-site fire hydrants are allowed to share the same fire service laterals serving the fire sprinkler systems for each building, but shall be installed independent of the fire service laterals so that they remain operational when a fire sprinkler system is shut-down for service and/or repair.
53. On-site fire hydrants shall be installed in accordance to NFPA 14 Standards and Hayward Fire Department Standards.
54. On-site fire hydrants shall be maintained as a private fire hydrant system and it shall be the responsibility of the property owner to keep accurate service and maintenance records.
55. Crash posts may be required at each fire hydrant to prevent any potential impact damage from moving vehicles and/or equipment.

#### Building Construction

56. The development (each building) will require the proper submission of plans and permits to the City of Hayward.
57. Building construction shall be in accordance with the California Building Code (CBC) and applicable City Ordinances and Standards.

58. Building addressing shall be established for each building within the property. Address numbers shall be installed on each building in locations approved by the Fire Department.

#### Fire Protection

59. Each building shall be fully protected with an automatic fire sprinkler system designed and installed per NFPA 13 Standards. If there is no known tenant, sprinkler system densities shall meet Fire Department Standards with a minimum of .33gpm/3,750 sq.ft.

60. Each building shall have a dedicated underground fire service line designed and installed per NFPA 24 Standards. Underground fire service lines shall also meet City of Hayward Fire Department Standards (Detail #204) for installation of check valve, fire department connection (FDC) and post indicator valve (PIV).

61. Portable fire extinguishers shall be installed within each building (once a tenant is established).

62. Fire sprinkler system(s) shall be provided with central station monitoring for waterflow activity.

63. Each building shall have an exterior audible alarm device and an interior audible alarm device installed as part of the fire sprinkler system, which will activate upon any waterflow alarm.

64. Building address shall be installed in an approved location on the structure. Minimum size of numbers shall be 6" on contrasting background, visible and legible from the street.

65. There shall be no use and/or storage of any hazardous materials within each building unless reviewed and approved by the Fire Department.

66. Each tenant shall be required to obtain a City of Hayward business license prior to occupancy. At that time, if there are any hazards listed on the business license application for the proposed use, the Fire Department will impose additional requirements as needed.

#### Hazardous Materials

67. Prior to issuance of a building permit, provide and submit a completed Hayward Fire Department Chemical Inventory Worksheet Packet for each proposed building.

68. Prior to issuance of a building permit, submit copies of the Phase I Environmental Site Assessment with recommendations to the Hazardous Materials Coordinator, Hugh Murphy (510) 583-4924.

69. The current Crescent Trucking facility did not conduct the required facility closure in coordination with the Hayward Fire Department. Prior to issuance of a building permit, complete this requirement to ensure the proper handling and disposal of hazardous materials/waste(s) as well as other closure requirements for the facility.

## Solid Waste

70. The owner(s) and/or tenants shall participate in the City's recycling program. The applicant shall clearly indicate the proposed location and dimensions of each enclosure, indicating whether the trash and recyclables will be compacted. The applicant must also indicate the number and type of refuse and recycling containers that will be used. The space and available capacity provided for the storage of trash must be the same size as that provided for recyclables. The procedure that must be followed regarding sorting and collection of recyclables is provided for in Section 3.2.02 of the Franchise Agreement.
71. A 6-inch wide curb or parking bumpers must be provided along the interior perimeter of trash enclosure walls to protect them from damage by the dumpster. A 6-inch wide parking bumper, at least 3 foot long, should also be placed between the refuse dumpster(s) and the recycling containers.
72. A minimum space of 12 inches must be maintained between the dumpster(s) and the walls of any trash enclosure and the recycling carts/dumpster to allow for maneuvering the dumpster(s). A drain to the sanitary sewer should be provided beneath the refuse dumpster(s) wherever wet waste, such as food waste, is generated and wherever can washing areas are located.
73. If any equipment/trash enclosure is gated, the gates and hinges must be flush with the enclosure wall. It is important to ensure that the gates open straight out and that the hinges and that the gate be flush with the enclosure wall, in order to allow adequate maneuverability of the equipment/dumpster in and out of the enclosure to service it. All trash enclosures shall be covered.
74. The applicant must ensure that there is adequate space for a garbage truck to service each dumpster. A 40-foot turning radius is adequate for garbage trucks.
75. The applicant is required to submit for review by the Solid Waste Manager an on-site recycling plan, which would be implemented during the entire demolition and construction phases. The plan must:
  - a. Show the anticipated start and completion dates of the project.
  - b. Estimate the quantities of construction and demolition waste that will be generated by the project.
  - c. Estimate the quantities of material that will be recycled and identify the facilities that will be used.
76. The applicant must ensure that construction and demolition debris is removed from the site by a licensed contractor as an incidental part of a total construction, remodeling, or demolition service offered by that contractor, rather than as a separately contracted or subcontracted hauling service using debris boxes, or is directly loaded onto a fixed body vehicle and hauled directly to a disposal facility that holds all applicable permits.

77. The applicant shall provide for adequate on-site storage capacity for recyclables within the buildings, including storage space for containers to store paper, glass/plastic/metal beverage containers, and other recyclables where these materials are generated.
78. The applicant shall ensure that the specifications of any compactor meet the approval of Waste Management.
79. The applicant must contact the City's franchised hauler, Waste Management of Alameda County, at 537-5500 to arrange for delivery of containers with sufficient capacity to store construction and demolition materials to be landfilled.

#### **Engineering/Transportation Division**

80. Developer must obtain an agreement from Target for the realignment of Target's main driveway on Whipple Road to line up with the Circuit City driveway. The design of the intersection caused by the alignment of the two driveways with Whipple Road shall be approved by the City Engineer. Changes to the Target site shall be approved by the Planning Director and plans shall include revised landscape plans. Improvement plans shall be approved prior to issuance of any grading permit. Improvements requirements due to this realignment shall be installed prior to occupancy of the project.
81. The developer shall design and install a traffic signal at the intersection of the aligned Circuit City/Target driveways with Whipple Road. The signal design shall include a timing plan for coordination and interconnection with the proximate signal(s) and shall be subject to approval by the City Engineer.
82. A preliminary soils report shall be submitted for review and approval of the City Engineer prior to the issuance of a building permit.
83. The applicant shall provide appropriate signage at project entrances and exits. Signage shall meet City standards. The applicant shall install "Right Turn Only" signs at the secondary, unsignalized, exit at Whipple Road.
84. All overhead utility lines along Whipple Road shall be placed underground.
85. Install a double-steamer fire hydrant on Whipple Road.
86. Install a standard street light on Whipple Road.
87. Remove and replace the cracked sidewalk along the Whipple Road frontage.
88. The applicant shall pay the appropriate Supplemental Building Construction & Improvement Tax prior to receipt of a certificate of occupancy.

89. Prior to commencement of any clearing, grading or excavation, the developer shall submit evidence to the City that a Notice of Intent (NOI) has been submitted to the State Water Resources Control Board.
90. The design of the drainage system shall be reviewed and approved by the Alameda County Flood Control District. The Hydrology & Hydraulics Criteria Summary, Alameda Flood Control & Water Conservation District, latest edition, shall be used to determine the storm drainage runoff.
91. Prior to the issuance of a grading permit and/or beginning of construction activity, the developer's engineer shall complete the Development Building Application Form Information, namely 1) Impervious Material Form and 2) Operation & Maintenance Information Form.
92. The developer/owner shall prepare a Maintenance Agreement for stormwater BMPs (available from Engineering & Transportation Division), and the Maintenance Agreement shall be recorded with the Alameda County Recorder's Office to ensure that the maintenance is bound to the property in perpetuity.
93. The applicant shall relocate the adjacent AC Transit/Union City Transit bus stop such that it can be placed along the Whipple Road frontage. The applicant shall pay for all relocation costs.



DEPARTMENT OF  
COMMUNITY AND ECONOMIC DEVELOPMENT  
Planning Division

**MITIGATED 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 PL-2004-0039 - JIM TOWSLEE FOR PACLAND (APPLICANT) / FRANK J. WARN, INC. (OWNER). Use Permit application to construct a Commercial Retail Center consisting of a retail building of approximately 28,000 square feet for a proposed Circuit City store, with two additional buildings for retail uses of approximately 5,100 and 6,000 square feet, on an approximately 5-acre site at 2480 Whipple Road.

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

The proposed project, as conditioned, 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 for the proposed project. The Initial Study has determined that the proposed project, with the recommended mitigation measures, could not result in significant effects on the environment.
2. The project is in conformance with the General Policies Plan Map designation of Industrial Corridor. It has been determined that regional commercial centers may be compatible on lands of 4 acres or greater with direct freeway access, such as the proposed project is located on a 5-acre parcel with access to I-880 (Nimitz Freeway).
3. The project is in conformance with the intent and purpose of the Zoning Ordinance designation of Industrial (I) as proposed.

4. The project will not affect population projections, induce substantial growth or displace existing housing.
5. The project site is not located within a "State of California Earthquake Fault Zone." Construction related to this project will be required to comply with the Uniform Building Code standards to minimize seismic risk due to ground-shaking and liquefaction.
6. No endangered, threatened or rare species are known to inhabit the project site.
7. A requirement to reduce dust generation and exhaust emissions during construction, and the facilitation of traffic flow by traffic signal management, will reduce air quality impacts to a level of insignificance.
8. The project provides a signalized intersection for entry to both this project and the Target store opposite Whipple Road. Intersections will continue to operate at LOS D or better.
9. Construction related to this project would be designed to perform to applicable codes, and, therefore, would not be in conflict with adopted energy conservation plans.
10. The Fire Department will require appropriate measures to reduce any release of hazardous materials below an acceptable level of risk.
11. The project will have no effect on government services or utilities.
12. The project shall comply with the Hayward Design Guidelines, the Landscape Beautification Plan and all other applicable performance standards.
13. No known archaeological or paleontological resources exist on the project site.

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

Richard E. Patenaude, AICP, Principal Planner

Dated: March 5, 2004

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

For additional information, please contact the City of Hayward Planning Division, 777 B Street, Hayward, CA 94541-5007 or telephone (510) 583-4213

**DISTRIBUTION/POSTING**

- Provide copies to project applicants and all organizations and individuals requesting it in writing.
- Provide a copy to the Alameda County Clerk's Office.
- 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.



## Environmental Checklist Form

1. Project title: *PL-2004-0039 Use Permit*
2. Lead agency name and address: *City of Hayward Planning Division*
3. Contact person and phone number: *Richard Patenaude, AICP, Principal Planner, 510-583-4213*
4. Project location: *2480 Whipple Road, easterly of the intersection with Industrial Parkway Southwest/I-880*
5. Project sponsor's name and address:  
*Jim Towslee, PacLand, 1144 Eastlake Ave. E, Seattle, WA 98109*

6. General plan designation: *Industrial Corridor*                      7. Zoning: *Industrial (I)*

8. Description of project: *Use Permit application to construct a Commercial Retail Center consisting of a retail building of approximately 28,000 square feet for a proposed Circuit City store, with two additional buildings for retail uses of approximately 5,100 and 6,000 square feet, on an approximately 5-acre site.*

*The site is currently developed as a truck terminal (Crescent), and is surrounded by a 6-foot chain-link fence. All related buildings will be removed/demolished to accommodate the proposed development.*

*The proposed Circuit City building will be located at the southerly portion of the site, with the storefront facing Whipple Road and the loading area facing I-880. One retail shops building is located adjacent, and attached to, the Circuit City store. Another retail shops building is located at the northerly portion of the site at Whipple Road.*

*Access to the site is provided from two driveways on Whipple Road. The primary driveway, opposite a proposed relocated driveway for Target, will be controlled by a traffic signal.*

*The buildings will be 42.5 feet in height and of concrete masonry units. It is designed in a classical architectural theme with strong detailing and a variety of textures that complement surrounding industrial and retail uses.*

*The project provides extensive landscape throughout the site. A combination of vertical-growth landscaping and vine-covered trellises will be provided along all elevations of both buildings to soften the visual impact of building mass.*

*A lighting plan has been prepared which proposes light poles in the main planters in the parking lot and wall-mounted fixtures across the wall surfaces of the buildings in order to illuminate the site.*

9. Surrounding land uses and setting: Briefly describe the project's surroundings:  
North: *Industrial (Unocal 76 Gasoline Station, adjacent, and Target store, opposite Whipple Road)*  
South: *Residential (Central Park West Mobilehome Park in Union City)*  
East: *Industrial (Shurgard Self-Storage facility)*  
West: *Transportation (Interstate 880 freeway)*

10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.)  
*None*

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"/> Aesthetics                    | <input type="checkbox"/> Agriculture Resources              | <input checked="" type="checkbox"/> Air Quality            |
| <input type="checkbox"/> Biological Resources          | <input type="checkbox"/> Cultural Resources                 | <input checked="" type="checkbox"/> Geology /Soils         |
| <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Hydrology / Water Quality          | <input type="checkbox"/> Land Use / Planning               |
| <input type="checkbox"/> Mineral Resources             | <input type="checkbox"/> Noise                              | <input type="checkbox"/> Population / Housing              |
| <input type="checkbox"/> Public Services               | <input type="checkbox"/> Recreation                         | <input checked="" type="checkbox"/> Transportation/Traffic |
| <input type="checkbox"/> Utilities / Service Systems   | <input type="checkbox"/> Mandatory Findings of Significance |  |

**DETERMINATION:** (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 revisions in the project have been made by or agreed to by the project proponent. A MITIGATED 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 "potentially significant impact" or "potentially significant unless mitigated" impact 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. 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, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature

3/5/04

Date

Richard E. Patenaude

Printed Name

City of Hayward

Agency

**ENVIRONMENTAL ISSUES:**

<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
---	--	---	----------------------

**I. AESTHETICS -- Would the project:**

- |  |                          |                          |                                     |                                     |
|--|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| a) Have a substantial adverse effect on a scenic vista?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| c) Substantially degrade the existing visual character or quality of the site and its surroundings?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?                                    | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |

*The development of the site may result in a negligible increase in light and glare generated from building and parking lot lighting, but will not have an adverse impact on surrounding areas. Under the proposed lighting plan, the height of the light poles will be 38-45 feet. The project will have a less than significant impact due to created light or glare.*

*The project is located in an area zoned for industrial and commercial uses. The site is surrounded by both industrial and commercial uses. Substantial efforts have been made to ensure the project design is consistent with the surrounding uses. The Circuit City building is designed in a classical architectural theme with strong detailing and a variety of textures that complement surrounding industrial and retail uses alike. The architectural style was specifically chosen as one appropriate to the use and location of the project. The materials and design depict and convey an industrial use which is consistent with its location and intended function. The shops buildings architecture will complement this architectural style.*

*The project provides extensive landscape throughout the site. A combination of vertical-growth landscaping and vine-covered trellises will be provided along all elevations of both buildings to soften the visual impact of building mass. Additional planters have been added to provide a tree for every six parking spaces.*

**II. AGRICULTURE RESOURCES:** In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

III. AIR QUALITY -- Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*See comments and Mitigation Measures for b) below.*

*The Bay Area Air Quality Management District ("BAAQMD") has established thresholds for determining the significance of potential air quality impacts. When operating, emissions from project related vehicle trips are not expected to reach a level that would violate these thresholds or contribute significantly to an existing or projected air quality violation.*

*There are five major air pollutants for which ambient air quality standards have been set by both Federal and State agencies: photochemical oxidants (ozone), carbon monoxide (CO), total suspended particulates (TSP), nitrogen dioxide (NO2), and sulphur dioxide (SO2). The ambient concentrations of these pollutants are continually measured by a network of monitoring stations maintained by the BAAQMD.*

*Approval of the project will result in short term air quality impacts related to grading and construction and on-going air quality impacts related to increased auto-trips and congestion. The short term impacts will include dust generated by clearing and grading activities, exhaust emissions from gas- and diesel powered construction equipment, and vehicular emissions associated with the commuting of construction, and it is likely that the State's particulate standard may be temporarily exceeded in surrounding areas. However, these impacts would be similar to impacts generated by similar retail development projects in the City.*

Mitigation Measure: *To mitigate the identified air quality impacts, the following measures should be incorporate into the project:*

Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
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- 1) Dust generated on the project site shall be controlled by watering all exposed areas at least twice daily during excavation, and especially during clearing and grading operations. Additional watering on windy or hot days is required to reduce dust emissions;
- 2) Cover stockpiles of sand, soil and similar materials with a tarp. Cover trucks hauling dirt or debris to avoid spillage;
- 3) Paving shall be completed as soon as is practicable to reduce the time that bare surfaces and soils are exposed. In areas where construction is delayed for an extended period of time, the ground shall be revegetated to minimize the generation of dust;
- 4) Street sweeping shall be conducted to control dust and dirt tracked from the project site; and
- 5) Designate a person to oversee the implementation of the dust control program.

Implementation of the above-stated mitigation measures will reduce the air quality impacts to a non-significant level.

- c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)?

See comments and Mitigation Measures for c) above.

- d) Expose sensitive receptors to substantial pollutant concentrations?  
The project would not involve emissions of toxic air contaminants or potential accidental release of hazardous air materials. There are no sources of toxic air contaminants or potential sources of accidental releases of acutely hazardous air materials within the immediate project vicinity.

If uncontrolled, dust generated by project grading activities could cause adverse health effects and nuisance concerns at downwind locations. However, the conditions of approval of required grading permits would include measures, such as watering of exposed earth, which would minimize construction-related dust emissions, as set forth above.

- e) Create objectionable odors affecting a substantial number of people?

The project would not involve activities that generate objectionable odors. In addition, the City Zoning Ordinance requires that industrial uses comply with regulations of the BAAQMD, which restrict the generation of objectionable odors.

<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
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IV. BIOLOGICAL RESOURCES -- Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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*The property is currently developed with a truck terminal. It was concluded that there are no federally-listed plants or animals on the site.*

b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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*See comments to a) above.*

b) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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V. CULTURAL RESOURCES -- Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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*No archaeological resources are known to exist at the project site.*

*If previously unknown resources are encountered during grading activities, this could result in a potentially significant impact. The project will adopt standard mitigation measures in connection with potential archaeological resources.*

Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
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*Any cultural remains exposed or discovered during the course of project work will be treated as an inadvertent discovery and procedures specified at 36 CFR §800.13 will be followed. Any Native American Graves Protection and Repatriation Act related discoveries made during the course of landscape modification will be handled with reference to a "Plan of Action" which will be developed. Any Native American cultural resources concerns involving traditional cultural properties or sacred sites will be duly considered prior to ground disturbance.*

*Implementation of these mitigation measures will ensure that the project has a less than significant impact related to cultural resources. The project will have a less than significant impact related to cultural resources.*

c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

*No paleontological resources are known to exist at the project site.*

d) Disturb any human remains, including those interred outside of formal cemeteries?

**VI. GEOLOGY AND SOILS -- Would the project:**

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

*The active Hayward, San Andreas, and Calaveras faults are located approximately 2.2 miles northeast, 16 miles southwest, and 14 miles northeast of the site, respectively. The project site is not within an Alquist-Priolo Earthquake Fault Zone, and no active shear zones are known to exist at the site.*

*Although it is likely that the site will be subjected to a major earthquake during the life of the proposed structure, no active faults are believed to exist within the project site. Therefore, during such an event it is unlikely that surface rupture due to faulting or severe ground shaking will occur at the site. Moreover, based on the thickness of the potentially liquefiable sand layer, the thickness of the unliquefiable layer of the sand layer, and the maximum ground horizontal acceleration, ground rupture is not anticipated at the site. The proposed structures will be designed in accordance with applicable seismic provisions of the building codes. For a code*

Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
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equivalent lateral force design, the procedures from the 1997 Uniform Building Code will be used.

The project will not result in or expose people to potential impacts due to fault rupture.

ii) Strong seismic ground shaking?

<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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According to the Geotechnical Investigation Report, historically the area has been subject to intense seismic activity. The site will likely be subjected to strong ground shaking from a major earthquake on the Hayward, San Andreas or Calaveras faults or other active faults in the Bay Area.

Mitigation Measure: The proposed project will be built to the most recent Uniform Building Code regulations.

The project, with incorporated mitigation measures, will not result in or expose people to potential impacts due to seismic ground shaking.

(See also comments under VI.a.i)

iii) Seismic-related ground failure, including liquefaction?

<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Ground shaking can be expected at the site during a moderate to severe earthquake, which is common to virtually all development in the general region. Potentially liquefiable material was encountered beneath the proposed structures in the site, which may result in settlement should a significant earthquake occur in the Bay Area.

Mitigation Measure: Soil improvement techniques, such as geogrid reinforcement or lime treatment of the near surface soils, will be utilized and will significantly reduce the total settlement due to potentially liquefiable material.

A shallow foundation system with special subgrade preparation, as set forth in the Geotechnical Investigation Report, will be implemented as appropriate in order to reduce total and differential settlement due to the soft soils, and due to possible liquefaction.

The project, with incorporated mitigation measures, will not result in or expose people to potential impacts due to seismic ground failure, including liquefaction.

iv) Landslides?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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The site is on relatively level land. The site and surrounding area does not contain steep slopes and is relatively devoid of topographic changes. The project will not result in or expose people to potential

Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
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*impacts involving landslides or mudflows*

b) Result in substantial soil erosion or the loss of topsoil?

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*Grading at the site for the Circuit City building will include an average of 3 feet of fill. The proposed construction will not increase the amount of impervious surface area on-site. Due to the fact that the site is relatively flat with existing drainage and the developed nature of the site and surrounding environment, site soil modifications are not expected to result in potentially significant impacts.*

*Placement of fill at the site will create settlement. However, since the buildings will be supported on a stiff foundation system, the impact of settlement due to fill placement should not significantly affect the differential settlement estimated for building loads.*

*The project will have less than significant impacts due to erosion, changes in topography or unstable soil conditions from excavation, grading or fill.*

c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?

<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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*See comments and Mitigation Measures to a) and b) above.*

d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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*Moderate to highly expansive surficial clayey soils are present at the site. Because of the presence of these soils, continuous footings will be used around the perimeter of the buildings. In order to reduce the impact of these soils on floor slabs, the floor slabs will be underlain by 6 inches of capillary break material over 12 inches of "non-expansive imported" fill, and beneath exterior flatwork and pavement areas, will be moisture conditioned. The project will have less than significant impacts due to expansive soils.*

*(See also comments under VI.a.i and VI.a.iii.)*

e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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**VII. HAZARDS AND HAZARDOUS MATERIALS - Would the project:**

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

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b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release

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of hazardous materials into the environment?

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?

f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?

g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
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<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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**VIII. HYDROLOGY AND WATER QUALITY -- Would the project:**

a) Violate any water quality standards or waste discharge requirements?

b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?

c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?

d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?

e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
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The proposed construction will not increase the amount of impervious surface area on-site. The Master Drainage Plan for this area, which was prepared by Alameda County Flood Control District, provides for collection of storm water runoff from this site in an existing underground storm drain system. The underground storm drain system proposed for this project will connect to the existing system in accordance with Alameda County Flood Control District standards.

In accordance with the requirements of the Alameda County Flood Control District, the on-site storm drain system will be oversized to provide onsite detention to limit post project flows to the original estimated storm water discharges anticipated by Alameda County's master drainage plan. It is anticipated that the total volume of runoff from the site will not exceed current volumes. However, with the onsite pipe detention system, the runoff rate will be metered to levels consistent with the Alameda County Storm Drain System.

The project is not expected to result in potentially significant impacts due to changes in absorption rates, drainage patterns, or the rate and amount of surface runoff.

f) Otherwise substantially degrade water quality?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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The project will result in the discharge of urban runoff into existing Alameda County Flood Control District facilities, which ultimately discharge into surface waters. The runoff from the site will be treated with underground vaults incorporating continuous deflective separation technology or other liquids/solids/oils separation technology to remove sediments and oil from site runoff. The project is not expected to result in potentially significant impacts with incorporation of these underground treatment facilities.

g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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According to Flood Insurance Rate Maps published by the Federal Emergency Management Agency, the site is located in Flood Zone C. Flood Zone C consists of areas of minimal flooding.

In addition, the finished floor of the proposed structures will be raised above elevated 9.0, which is the maximum local flood plain water surface elevation anticipated by Alameda Flood Control District. The project will not result in exposure of people or property to hazards such as flooding.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**IX. LAND USE AND PLANNING - Would the project:**

a) Physically divide an established community? <i>The project would not divide the established community in the project area.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? <i>The project site is surrounded by industrial and commercial development. The City has determined that retail and industrial uses are compatible in the area. The project is compatible with existing land uses in the vicinity. Substantial architectural efforts have been made to develop a design which is consistent with the retail/industrial mix in the community. The project will not be incompatible with existing land use in the vicinity</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**X. MINERAL RESOURCES -- Would the project:**

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**XI. NOISE - Would the project result in:**

a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? <i>Due to the project's location on Whipple Road, construction activities and future noise levels generated by the operation of the project are not anticipated to increase over existing noise levels.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**XII. POPULATION AND HOUSING -- Would the project:**

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? <i>The project would not induce substantial growth.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? <i>The project would not displace existing housing.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**XIII. PUBLIC SERVICES**

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Fire protection? <i>The proposed project would have no effect upon, or result in only a minimal need for new or altered government services in fire and police protection, maintenance of public facilities, including roads, and in other government services. Because the proposed project is a commercial development, it would have no effect on schools.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection? <i>See comment under XIII.a.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
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See comment under XIII.a.

Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**XIV. RECREATION --**

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**XV. TRANSPORTATION/TRAFFIC --** Would the project:

a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to-capacity ratio on roads, or congestion at intersections)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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*A Traffic Impact Analysis was prepared by Kimley-Horn and Associates, Inc. According to that report, none of the study intersections would operate at unacceptable (worse than LOS D) with the project in either the existing plus project or the cumulative plus project conditions. However, this finding was made based upon the following assumptions: 1) modification of the Target driveway to align with the project's primary driveway; 2) signalization of the intersection of the aligned driveways/Whipple Road; and 3) limiting the movements of the Shurgard driveway to right-in/right-out only.*

*The City of Hayward has established a level of service ("LOS") policy to maintain LOS D or better at all signalized intersections (General Plan, Circulation Element, January 2002). One exception to this standard is that LOS E is acceptable in certain conditions due to costs of mitigation or when there would be other unacceptable impacts.*

*The City has a high priority funded project to widen Industrial Parkway SW from a two-lane roadway to a four-lane roadway from just north of Whipple Road to the Home Depot Driveway. The improvements were incorporated into the Existing and Cumulative analyses.*

Mitigation Measures: 1) realign the Target driveway opposite the project driveway with the correct striping to accommodate a traffic signal; 2) signalize the intersection of the primary driveway/Target

<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
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driveway/Whipple Road; and 3) restrict the movements at the Shurgard driveway to right-in/right-out only.

Direct access to the Project site will be provided by two driveways on Whipple Road: a primary driveway aligned with the Target driveway, and a secondary driveway serving the "Shops B" building.

The project has adequate on-site circulation. Further the parking supply is adequate and meets the City's code requirements. The project, with incorporated mitigation measures, will not result in increased vehicle trips or traffic congestion.

b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?

<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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See response to a) above.

c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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d) Substantially increase hazards due to a design feature (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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e) Result in inadequate emergency access?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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f) Result in inadequate parking capacity?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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The City of Hayward Parking Ordinance requires the Project to provide 4 parking spaces per 1,000 square feet of retail building space and 1 per 1,000 for warehouse space. As a result, 170 parking spaces are required for the Project. The site plan provides 205 parking spaces. Therefore, the proposed Project meets the City's code requirement for parking.

g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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**XVI. UTILITIES AND SERVICE SYSTEMS - Would the project:**

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
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cause significant environmental effects?

*The project will connect to the existing Alameda County Flood control District Storm Drain System in Wiegman Road. In accordance with the requirements of the Alameda County Flood Control District, the on-site storm drain system will be oversized to provide onsite detention to limit post-Project flows to the original estimated storm water discharges anticipated by Alameda County's master drainage plan. The project will not result in a significant need for new systems or supplies, or substantial alterations to the existing storm water drainage.*

*(See also comments under VIII. Water.)*

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| g) Comply with federal, state, and local statutes and regulations related to solid waste?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

*See comment under XVI.c.*

**XVII. 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"/> |
| b) Does the project have impacts that are 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"/> |

MITIGATION MONITORING PROGRAM  
CIRCUIT CITY CENTER  
Use Permit No. PL-2004-0039  
2480 Whipple Road

1. *AESTHETICS* - No mitigation required
2. *AGRICULTURAL RESOURCES* - No mitigation required
3. *AIR QUALITY*

Mitigation Measure: Reduce intermittent air pollutants during construction phase

Implementation Responsibility: Developer

Verification Responsibility: City Building Division

Monitoring Schedule during Plan Review: N/A

Monitoring Schedule during Construction/Implementation: On-going during construction

4. *BIOLOGICAL RESOURCES* - No mitigation required
5. *CULTURAL RESOURCES* - No mitigation required
6. *GEOLOGY / SOILS*

Mitigation Measure: Submit final grading plan and comply with UBC

Implementation Responsibility: Developer

Verification Responsibility: City Building Division

Monitoring Schedule during Plan Review: Prior to approval of building permit

Monitoring Schedule during Construction/Implementation: On-going during construction and prior to issuance of certificate of occupancy

7. *HAZARDS & HAZARDOUS MATERIALS* - No mitigation required
8. *HYDROLOGY / WATER QUALITY* - No mitigation required
9. *LAND USE / PLANNING* - No mitigation required
10. *MINERAL RESOURCES* - No mitigation required
11. *NOISE* - No mitigation required
12. *POPULATION / HOUSING* - No mitigation required

13. *PUBLIC SERVICES* - No mitigation required

14. *RECREATION* - No mitigation required

15. *TRANSPORTATION / TRAFFIC*

**Mitigation Measure:** Align Target driveway with project driveway and signalize new intersection

**Implementation Responsibility:** Developer

**Verification Responsibility:** City Engineering Division

**Monitoring Schedule during Plan Review:** N/A

**Monitoring Schedule during Construction/Implementation:** Condition of Approval - Prior to opening of store to the public

16. *UTILITIES / SERVICE SYSTEMS* - No mitigation required



Satish Narayan explained that this property has been in bankruptcy twice because of the second anchor. This has been on going for the past 3 years. He said he appreciated what the Commission was trying to do. However, this is still a neighborhood shopping center.

The hearing was re-closed at 8:47 p.m.

The motion passed unanimously.

Chairperson Zermeño reminded everyone that they had 10 days to appeal.

3. Use Permit Application No. PL-2004-0039 - Jim Towslee/PacLand Batavia Holdings (Applicant) / Frank J. Warn, Inc. (Owner) - Request for a Retail Center to Accommodate a 34,000-Square-Foot Regional Retail Building (Circuit City) with Two Retail Shops Buildings of 5,100 and 6,000 Square Feet on Approximately 5 Acres - The Project is Located at 2480 Whipple Road Easterly of the Intersection with Industrial Parkway Southwest and I-880

Principal Planner Patenaude described the site and its location noting that the site is presently occupied by Crescent Truck Terminal. The Circuit City driveway would line up with a realigned Target driveway where a signal light would be installed. One feature of the proposal will be good pedestrian circulation pattern through the parking lot to the store. Two smaller shop areas would be located on the site as well. Changes were made to the design from suggestions of both staff and the commercial shopping center committee. At this point, Staff recommended approval of the application. He noted that the same conditions for accessory shops at the Target center would also apply to this center. Condition 31 was reworded with connections to adjacent properties. The Planning Manager from Union City sent a letter of concern regarding the traffic in this area. However, the traffic study shows no impacts on surrounding areas.

Commissioner Halliday said she was pleased with the pedestrian access throughout the center but one of the maps has it in a different location. She said the new map is much better. She also asked about condition 31 regarding a sign on the Shurgard driveway prohibiting left-hand turns onto Whipple Road.

Principal Planner Patenaude said staff had talked with the City Attorney and the City cannot require this applicant to erect signs on Shurgard property. The City of Hayward can require the signs if it is deemed to be a problem. The main concern is for Shurgard to get into and out of their property.

Commissioner Bogue commented on the under grounding of wires along Whipple Road as well as the size of the trash enclosure area. He noted the differences between what was under consideration versus the previous proposal to the Shopping Center Committee.

Principal Planner Patenaude said the waste disposal would determine the area needed.

Commissioner Fraas asked about the Union City letter. She commented that the traffic study seemed to address those question. Her second question was about the wetlands issue.

Principal Planner Patenaude commented that there would be no issue regarding the wetlands since the drive way is farther away.

Commissioner Thnay noted that there is no median in this section. To do it properly, a median at this intersection would protect the pedestrians and might be clearer. A non-raised median indicates that cars can go anywhere. Because it is so close to the off ramp, trying to turn into this lane might back up traffic. The right turn deceleration lane is necessary and should be considered. Safety is an issues to consider. He added that there is also no bike rack.

Commissioner Bogue asked whether a right turn lane would take property from the service station.

Principal Planner Patenaude said it would only be the width of the project itself. He said this is not the final design of the intersection because of agreement with Target. It might include a median and other safety factors. The traffic study said there would be no impact on adjacent intersections.

Chairperson Zermeño asked about a freeway sign to be nice and visible. He asked about the two billboards and would they remain in the way of the circulation in the driveway.

Principal Planner Patenaude said looks like it's in the way but it has a one-pole support. Staff was hoping they would be gone but they cannot be removed.

Chairperson Zermeño asked about a median for pedestrian and bicycle traffic as well as the size of this store versus the Hesperian store.

The public hearing opened at 9:16 p.m.

Jim Towslee for PacLand, complimented the professional staff at the City Of Hayward. He commented on the terrific visibility and challenging access at this site. They will need the traffic signal to make it a reality. Already they have an agreement in principal with Target as to the driveways and the signal light. He appreciated the great feedback from the subcommittee. He described the design as a pretty nice presentation. There are 93 conditions of approval. He asked whether on the Circuit City sign, 15 d., the perimeter white circle could be illuminated as well as the name. Condition 30, property owners shall mean "on-site" property owners. He said this is a great opportunity to co-anchor with Target. They are complimentary to each other. As to condition 31, they understand intra-party approvals but need to negotiate business terms. He said they applaud staff with their flexibility and see this as very positive. Condition 22., take down the fence at the gas station. He said they would cooperate with the station but since the fence is on their side of the property, they do not have the right to do so. Condition 20, they have no problem with, but why go to this expense, if Shurgard redevelops into retail they will not want this expensive fence. They would not want



an open fence if they do not redevelop. He suggested they be allowed to install a site obscuring, solid fence that might be temporary. Condition 21 as well, with Caltrans existing sound wall which is about halfway across their southern boundary. It seems to be an expensive redundancy. Building on the Caltrans Right of Way. They suggest putting up a nicer fence than what is presently there. They thought they were in great shape except for the traffic study. They are trying to get this on-line by the end of the year. He felt that they dealt with pedestrian safety on site. With a signal light you can have a crosswalk. He added that they would stipulate bike racks. As to the billboard, they are under a long-term lease, so they cannot make them go away.

Commissioner Sacks asked about condition 21 regarding fences.

Principal Planner Patenaude said staff would address all the fence conditions. As to condition number 20, we do not know when there might be redevelopment at the property. Temporary can be a long time, staff did not ask for a solid fence but for an attractive fence and cheaper. Also it has landscaping to screen the Shurgard doors. Wood fencing is not appropriate on any commercial projects. The southern part, condition #21, along Amaral Court, the immediate property is vacant right now. The fence will block noise levels to protect the residents of the mobile home park. On the southwest, staff will agree to no replacement of the fence along the off-ramp, also the parking lot with the landscaping will not be unattractive, vehicles will be able to see into the parking lot. Condition #22, the chain link fence sits atop a retaining wall, it functions as the property line. The chain link appears to be of the same era and construction as the rest of the chain link and barbed wire. They are wanting to see that removed.

Mr. Towslee said they do not disagree, they also want the chain link fence removed as well, they would like to work with their neighbor since it might not be appropriate for them to just go in and remove it. As to the mobile home residents, they will have a reduction in noise as opposed to the freeway and the present truck terminal today. They also cannot ask Caltrans to replace the fence. Erecting a fence will be a graffiti magnet and they do not want that as the backside of their store. They do not want to look at Shurgard. He said they would agree to a chain link with vinyl slats. Although these are small nuances, they add up to \$100,000. They intend to spend \$10 million more, so they are asking for consideration of those thoughts.

Thomas Almond, gas station owner, talked about the project. He said he just came from work. Circuit City could be very good for this area. When the Target Store came in, the street was redesigned and the traffic flow is better than he has ever seen it. Makes it easy to get in and out. Traffic congestion is relieved. He thought bike lanes on Whipple Road would be hazardous. Parking in front of the service station is now a red curb. Traffic is slowed because of the left hand turns into Target and the right turns into his service station. The light will make it better it will slow traffic down even more. He said a median would kill his business. Using the design of Mission and A is going to make it a great place. He commented that the chain link fence between their properties was put up by Crescent trucks and is on their property. He said he would like to see all the fencing go away. He said they have plans to

modernize their service station. It is a gateway to Hayward.

Chairperson Zermeño asked whether he knew who owns the property near the service station, which is still an eyesore. Mr. Almond did not.

Commissioner Fraas clarified that he had no objection to removing the chain link fence.

Mr. Almond said it is an ugly fence, he would have no objection to removing it. The way it's laid out, the City has done a good job.

Gloria New-Semore, speaking for the Central Parkwest mobile homeowner's association, said they only received the notice a week and a half ago. She presented a petition from a cross section of people of the community who oppose having the center there. She said the sentiments of the residents in the area is not to have this. They were concerned about the traffic in the area.

Commissioner Halliday asked about the fence and what their major objection would be to the whole project.

Ms. New-Semore responded that this is a 5-acre project, but there is a whole lot more going on. She said they do not need more empty buildings. The fence should be a shared expense.

Commissioner Fraas asked her about the traffic problems. She then asked her about the present truck line.

Ms. New-Semore said that Crescent truck line is not a problem.

Commissioner Sacks asked about the closeness of the fence to the mobile home park.

Ms. New-Semore described a present fence that lacked maintenance.

The public hearing was closed at 10:08 p.m.

Principal Planner Patenaude clarified that the applicant had also mentioned condition 15.d., including the outline for sign, staff would agree, condition 30 refers to onsite arrangements. Access in 31 will be okay. Regarding the boundary there is a street right-of-way between the mobile home and this property, it does exist. The zoning ordinance calls for masonry on commercial properties. There was no call for a variance for other type of materials. They would like to see no fencing between these properties but Suregard needs the safety and insurance of their property. Regarding the fencing on the southwest along I 880, there are a number of other situations in the City of Hayward along BART and other properties, staff usually requires vine pockets to grow and cover up the outside wall. There have not been issues with property owners having the right to maintain those.

Commissioner Bogue **moved**, seconded by Commissioner Fraas, to approve the staff recommendation as well as modifying conditions 20., allow them to modify the existing chain link fence on the eastern property line with repairs, replacement and black slats for sight



obscuring capability; condition 22, applicant to remove and replace the existing fence with the neighboring owner's permission; 31, current from staff; condition 30, on-site; 15 d. to include the circular outline lighting.

Commissioner Fraas indicated that she would support no change in Condition 21 since it is the current design standard so he said he did not see any reason to change it.

Commissioner Thnay asked about condition 21, staff mentioned the redwood tree instead of masonry wall.

Principal Planner Patenaude said the auto auction has a buffer landscaping of redwood trees.

Commissioner Thnay asked what it would accomplish on the 880 side for a masonry wall to be erected.

Principal Planner Patenaude said the standard on commercial properties is to require masonry walls.

Commissioner Sacks said it could be a safety issue.

Commissioner Thnay said he understood the issue of the intersection. To raise the intention of the median is for the frontage of this project area, adjacent to left hand pocket into Target and the right into this business. He asked what would prevent people to make a left hand turn out of the business. He asked staff to take this into consideration. It would add a bit of buffer, prevent cars from making a left turn, and be a safer path for pedestrians.

Chairperson Zermeño said he would support the motion.

Commissioner Bogue said the elevations of the building are much improved from the previous showing to the council. This is really a great improvement.

Commissioner Halliday thanked Ms. New-Semore for coming and apologized for shortness of notice. She commented that there should be an earlier notification of residents. However, she would support the motion. She commented that she was surprised that this property was in Hayward. She admitted that she usually avoids the area because of the traffic patterns in the area.

**The motion passed unanimously.**

Chairperson Zermeño said anyone who wanted to had 10-days to appeal this matter.

#### **ADDITIONAL MATTERS**

4. Oral Report on Planning and Zoning Matters

*DRAFT*

Principal Planner Patenaude commented that since this was Commissioner Halliday's last meeting, a resolution had been prepared for members to sign. However, it was inadvertently misplaced. The hope is she might come back to receive the resolution at a future date.

He then announced a scheduled meeting for April 8.

#### 5. Commissioners' Announcements, Referrals

Chairperson Zermeño congratulated the other commissioners for running a fine, clean campaign in their bid for City Council, and he particularly added his congratulations to Commissioner Halliday for winning the race.

Commissioner Sacks reported on her pleasure in seeing the various projects formerly approved by the Commission including the Chevron station at Grove, the home at Main and Hotel, the clinic on Mission, Tennyson open and doing business with the apartment above. She added that she had not seen one she did not like.

Commissioner Halliday said that as this was her last meeting, she will miss them a lot. This has been an excellent group who are fantastic to work with. She said she is proud of the work they have done. Thanks to staff and everyone. Congratulations to the other candidates. This campaign addressed the issues and was civil.

Chairperson Zermeño announced a conference in Riverside on "Healthy Cities and Smart Growth."

#### APPROVAL OF MINUTES

- January 22, 2004 Approved
- February 5, 2004 Approved

#### ADJOURNMENT

The meeting was adjourned by Chairperson Zermeño at 10:32 p.m.

APPROVED:

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Christopher Thnay, Secretary  
Planning Commission

ATTEST:

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Edith Looney  
Commission Secretary

HAYWARD CITY COUNCIL

RESOLUTION NO. 04-

Introduced by Mayor \_\_\_\_\_

*Mme*  
*4/12/04*

RESOLUTION DENYING THE APPEAL AND UPHOLDING  
THE PLANNING COMMISSION'S APPROVAL OF USE  
PERMIT PL-2004-0039

WHEREAS, on March 25, 2004, the Planning Commission unanimously approved Use Permit PL-2004-0039 of PacLand/Batavia Holdings (Applicant) and Frank J. Warn, Inc. (Owner) to accommodate construction of a retail center (Circuit City) with two retail shops, located at 2480 Whipple Road within the Industrial (I) District at the southern gateway to Hayward; and

WHEREAS, Gloria New, a Union City resident of the adjacent Central Park West Mobilehome Park, appealed the Planning Commission's approval in a letter dated April 2, 2004, and expressed concern at the Planning Commission hearing of this project that traffic on Whipple Road is already negatively impacted; and

WHEREAS, a Traffic Impact Analysis was prepared by Kimely-Horn and Associates, Inc., which indicated that none of the intersections would operate at unacceptable levels; and

WHEREAS, a Mitigated Negative Declaration has been prepared and processed pursuant to the requirements of the California Environmental Quality Act; and

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

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 for the proposed project. The Initial Study has determined that the proposed project, with the recommended mitigation measures, could not result in significant effects on the environment.
2. The project is in conformance with the General Policies Plan Map designation of Industrial Corridor. It has been determined that regional and subregional retail uses may be compatible on lands within the Industrial Corridor, which also have direct access to major transportation routes. The subject property is located proximate to the Nimitz Freeway (Route I-880).

3. The project is in conformance with the intent and purpose of the Zoning Ordinance designation of Industrial (I) as proposed. Such district permits regional and subregional retail uses provided that such use complies with the General Policies Plan and that such uses are located on properties in excess of 4 acres. The subject property contains approximately 5 acres.
4. The development, as conditioned, will provide a use that will be in conformity with applicable performance standards, will be appropriate in size, location and overall planning for the purpose intended, will create an environment of sustained desirability and stability through the design and development standards, and will have no substantial adverse effect upon surrounding commercial and industrial development in that the proposed use permitted at this location. The project shall comply with the Hayward Design Guidelines, the Landscape Beautification Plan and all other applicable performance standards.
5. The surrounding streets and utilities, with the required modifications, are adequate to serve the development.
6. The project will not affect the population projections, induce substantial growth or displace existing housing.
7. The project site is not located within a "State of California Earthquake Fault Zone." Construction related to this project will be required to comply with the Uniform Building Code standards to minimize seismic risk due to ground-shaking.
8. No endangered, threatened or rare species are known to inhabit this project site.
9. A requirement to reduce dust generation and exhaust emissions during construction will reduce air quality impacts to a level of insignificance.
10. The mitigation measures required for the project, as recommended by the traffic impact analysis will reduce the traffic impacts to a level of insignificance.
11. Construction related to this project will be designed to perform to applicable codes, and, therefore, would not be in conflict with adopted energy conservation plans.
12. The Fire Department will require appropriate measures to reduce any release of hazardous materials below and acceptable level or risk.
13. The project will have no effect on government service or utilities.
14. No known archaeological or paleontological resources exist on the project site.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the appeal of the Planning Commission's approval of Use Permit Application No. PL-2004-0039, regarding the request for a retail center to accommodate a regional retail building with two retail shops buildings, is denied, and the Planning Commission's adoption of the Mitigated Negative Declaration and Mitigation Monitoring Program and approval of the project is upheld, subject to the attached conditions of approval.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2004

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

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

APPROVED AS TO FORM:

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