



CITY OF
HAYWARD
HEART OF THE BAY

4

DATE: February 26, 2008

TO: Mayor and City Council

FROM: Susan J. Daluddung, Director of Community and Economic Development

SUBJECT: Zone Change Application No. PL-2005-0536 and Use Permit Application No. PL-2007-0558- Russ Pitto for Simeon Commercial Properties (Applicant)/SimVest Real Estate I, LLC (Owner) – A Request to Modify a Planned Development District to Allow a Neighborhood-Serving Retail Center Including a Drive-Thru Coffee Shop and a Convenience Store Selling Beer and Wine for Off-Site Consumption on a 1.5-Acre Parcel at the Mt. Eden Business Park

The Project is Located at 26251 Industrial Boulevard Adjacent to and North of Highway 92 Located at the Southeast Corner of the Mt. Eden Business Park

RECOMMENDATION

That City Council adopts the attached resolution approving the revised Negative Declaration, the Planned Development District modification, and the Conditional Use Permit, subject to the attached findings and conditions of approval, and introduces the attached ordinance.

SUMMARY

Simeon Commercial Properties requests to modify the existing Planned Development District to allow neighborhood-serving retail uses in place of the full-service restaurant contemplated by the Planning Commission and City Council in 1997 when the business park was approved. The central issues are whether the Planned Development District should be amended to allow neighborhood serving uses not originally contemplated, and whether beer and wine sales should be allowed at the convenience (7-Eleven) store at the proposed retail center.

BACKGROUND

On October 21, 1997, the City Council approved Planned Development District No. 97-120-05 that allowed the construction of a high-tech/biotech research and development business park (Exhibit G). The Mt. Eden Business Park consists of six tilt-up concrete buildings with a total area of 372,107 square feet. A vacant 3-acre parcel remained in anticipation of development of a hotel and a full-service restaurant or other uses specified in the conditions of approval that would support the business park and the adjacent area. Half of the 3-acre parcel was developed with an

84-room extended-stay hotel, which was completed in November 2001 and is now a Fairfield Inn and Suites by Marriot. The applicant proposes to develop the remaining 1.5 acres with a 10,088-square-foot retail center.

The retail center would consist of two retail buildings: a 1,838-square-foot drive-through coffee shop (*Starbucks*) and an 8,250-square-foot multi-tenant building for three to five tenants (see attached plans). Restaurants such as *Subway* and *Jamba Juice*, delicatessens, a convenience store (*7-Eleven*) that sells beer and wine, and other services, such as a dry cleaner, copy center, drug store, clothing store, and small shops supplying retail merchandise, are being sought by the applicant to occupy the larger building (Exhibit C). Except for *Starbucks* and *7-Eleven*, the tenants for the retail spaces have not been secured. The Planning Commission is satisfied with the applicant's goal to provide a retail mix that would offer services to visitors to the area, to employees of the business park, and to the adjacent residential neighborhoods west of Hesperian Boulevard.

To provide greater variety of potential uses in the proposed retail center, the Planning Commission recommends that a limited number of additional uses be allowed based on those permitted in the Central Business (CB) District (Southland Mall). The uses would include the uses listed in the CB District as administrative and professional offices services, personal services, and retail commercial uses, which include such uses as a dry cleaner, clothing store, and bank (Exhibit D).

DISCUSSION

Planning Commission Recommendation -

On December 13, 2007, the Planning Commission discussed the item and agreed to recommend approval of the modification of the Planned Development District to City Council, but could not agree to recommend approval of the Conditional Use Permit to allow the sale of beer and wine at the proposed *7-Eleven* convenience store. As reflected in the attached minutes, two motions were made that ended in a deadlocked vote of 3:3, with 1 absent (Attachment I). The agenda item was continued to January 10, 2008 to allow full Commission consideration.

On January 10, 2008, the Planning Commission voted to recommend approval of the project (4:3:0) (Exhibit K). The Planning Commission acknowledged that the applicant has conducted an extensive search for a full-service restaurant prior to proposing a retail center that includes the proposed uses (Exhibits C and K). The majority of the Planning Commissioners also felt that the convenience store would allow hotel guests and those on their way home from work to stop to buy necessities, saving drivers from making added trips to stores located further from the hotel and the industrial area.

During the public hearing, both the owner and the manager of the adjacent hotel, *Fairfield Inn by Marriot*, expressed concern for the safety of the hotel guests if the convenience store is permitted (Exhibit K). A condition of approval requires a security guard to patrol the Mt. Eden Business Park from 6 pm to 6 am. However, they expressed concern that this would not be adequate. In addition, they are concerned that *7-Eleven* customers would use the restrooms in the hotel lobby

and would follow behind guests who use their key cards to enter the hotel at night. The applicant has indicated that *7-Eleven* and the other tenants in the retail center will offer restrooms to their customers.

Conditional Use Permit -

The applicant requests to sell beer and wine at the convenience store (*7-Eleven*) for off-site consumption (off-sale). According to the State Department of Alcoholic Beverage Control (ABC), the proposed retail center would not be located in an area of over concentration of retail alcohol outlets. Six off-sale alcohol licenses are permitted in the tract that contains Mt. Eden Business Park. Currently, there are only two off-sale liquor establishments.

The Police Department has concerns for increase calls for service for the proposed retail center and the surrounding area, since the proposed project is adjacent to a high crime reporting district to the north. In addition, the Police are concerned that the convenience store may attract loiterers, which can lead to inappropriate behavior and an increase in crime within the area.

Three Commissioners were opposed to the sale of alcohol at the convenience store; however, they supported recommending approval of the retail center (Exhibit K).

The applicant has agreed to all recommended conditions of approval, including the condition to provide a security service between the hours of 6:00 pm to 6:00 am for the proposed retail center and Mt. Eden Business Park. The applicant has also agreed with the conditions of approval that were proposed by the Police Department to control business operations, requires the enforcement of "No Loitering", and has agreed to restrict the type of containers that can be sold. As part of the ABC license, the operator of the convenience store would be required to maintain the conditions approved by the City Council.

The *7-Eleven Convenience Stores* representative indicated that demographic research indicates that a *7-Eleven* would be successful at this site. He also expressed that it would not be necessary to restrict the hours of alcohol sales or hours of operation because all of the conditions of approval would be met, and that interior and exterior lighting and the security guard would deter loitering and panhandling. In addition, he indicated that *7-Eleven* is required to comply with the State Business and Professions Code that regulate alcohol and tobacco sales (Exhibit K).

PUBLIC CONTACT

The applicant submitted letters of support from the business owners of the Mt. Eden Business Park, business park employees, and adjacent residents (Exhibit M). The letters state that the retail center would provide choices and conveniences that do not presently exist. In addition, staff has received a call in support for the retail center from the manager of the Hayward Business Park located directly across Industrial Boulevard. The Hayward Business Park manager and owner, Fries Properties, supports the approval of the retail center and stated that potential tenants inquire where restaurants or stores are located to buy lunch and coffee, and has noted that since the area is lacking convenient alternatives, potential tenants have chosen not to locate in the business park.

Community Prevention of Alcohol-Related Problems (CommPre), a private organization whose mission is to reduce and prevent problems where alcohol is used, sold or promoted, submitted a letter in objection to beer and wine sales (Exhibit P), questioning whether residents need another off-sale liquor establishment and how the community would benefit. In addition, CommPre believes there would be a high potential of police calls for service for activities such as loitering, public drinking, and an increased youth access to alcohol. The majority of the Planning Commission was of the opinion that the recommended conditions of approval would adequately address these concerns.

In addition, CommPre submitted two petitions in opposition that contained 21 signatures from residents of Spanish Ranch I Mobile Homeowners Association and 8 signatures from the South Hayward Neighborhood Collaborative (Exhibit O). The signatures are from those who do not live within a close proximity of the site, but are concerned about the cumulative effect of the sale of alcoholic beverages within the city.

The two petitions state there is an over concentration in Hayward with 281 outlets including both restaurants and stores. This is one license per 526 residents. In comparison, according to the State Department of Alcoholic Beverage Control (ABC), the City of Fremont has 304 active licenses; one license per 696 residents and the City of San Leandro has 207 active licenses; one license per 385 residents.

However, a representative of the State Department of Alcoholic Beverage Control (ABC) emphasizes that alcohol sales are regulated by census tract and for purposes of concentration within a census tract, makes a distinction between restaurants and off-sale retail outlets. It is policy to follow ABC requirements to make findings of over-riding consideration if an off-sales outlet is located within a census tract that is over-concentrated. If the findings cannot be made, staff would not recommend adoption of the findings. In this instance, the census tract that would contain the proposed convenience store is not over-concentrated with on- or off-sale retail outlets. Also, the number of alcohol establishments in Hayward is not inconsistent with surrounding communities. Staff believes that the addition of an off-sale license at the proposed convenience store would not change the consumption of alcohol within Hayward and would be sufficiently regulated by the conditions of approval and the requirements of the ABC license.

Staff also received an email and letter in opposition to a 24-hour convenience store and alcohol sales from Nick Dahya, representing the owners of the adjacent *Fairfield Inn and Suites by Marriot*. The owners are in favor of the *Starbucks* and restaurants; however, they oppose the retail center containing a 24-hour convenience store and are opposed to the sale of beer and wine. The owners are concerned with the safety and security of hotel guests due to the potential for loitering, panhandling, and illegal activities resulting from the convenience store and the sale of beer and wine. Staff has also received a letter from Hassan Fallah, the hotel manager and a Chamber of Commerce board member, who is concerned that his business will decrease due to the illegal activities. He also points out that the products that would be sold at the *7-Eleven* are available at stores on Hesperian Boulevard (Exhibit P).

In addition, staff has received a call of opposition from a resident in the adjacent single-family neighborhood, who is concerned that alcohol would be purchased at the nearby convenience

store and that drivers would park within the neighborhood to consume the alcohol and leave the empty containers in gutters and front yards. She stated that people currently park within the neighborhood and litter her front yard and the gutter in front of her house. She is also concerned about the behavior that accompanies the consumption of alcoholic beverages.

The majority of the Planning Commission is of the opinion that the approval of beer and wine sales and issuance of an ABC license for the convenience store would be consistent with the uses in the Mt. Eden Business Park and the surrounding area. Furthermore, the Planning Commission is of the opinion that the recommended conditions of approval address the concerns of the Police Department, CommPre, the owners and manager of the hotel, the homeowners' association, neighborhood collaborative, and surrounding residents.

FISCAL IMPACT

There is not a substantial negative fiscal impact for this recommendation, because the developer is responsible for all construction costs associated with the project, and Police service calls are anticipated to be typical of such small centers. In addition, the City would receive increased property tax revenues as a result from development, as well as sales tax revenue generated by the businesses.

NEXT STEPS

If the request is approved, the second reading of the ordinance will occur at the following City Council meeting.

Prepared by:



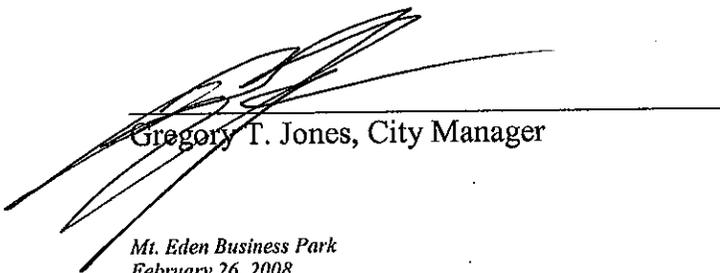
Arlyne J. Camire, AICP
Associate Planner

Recommended by:

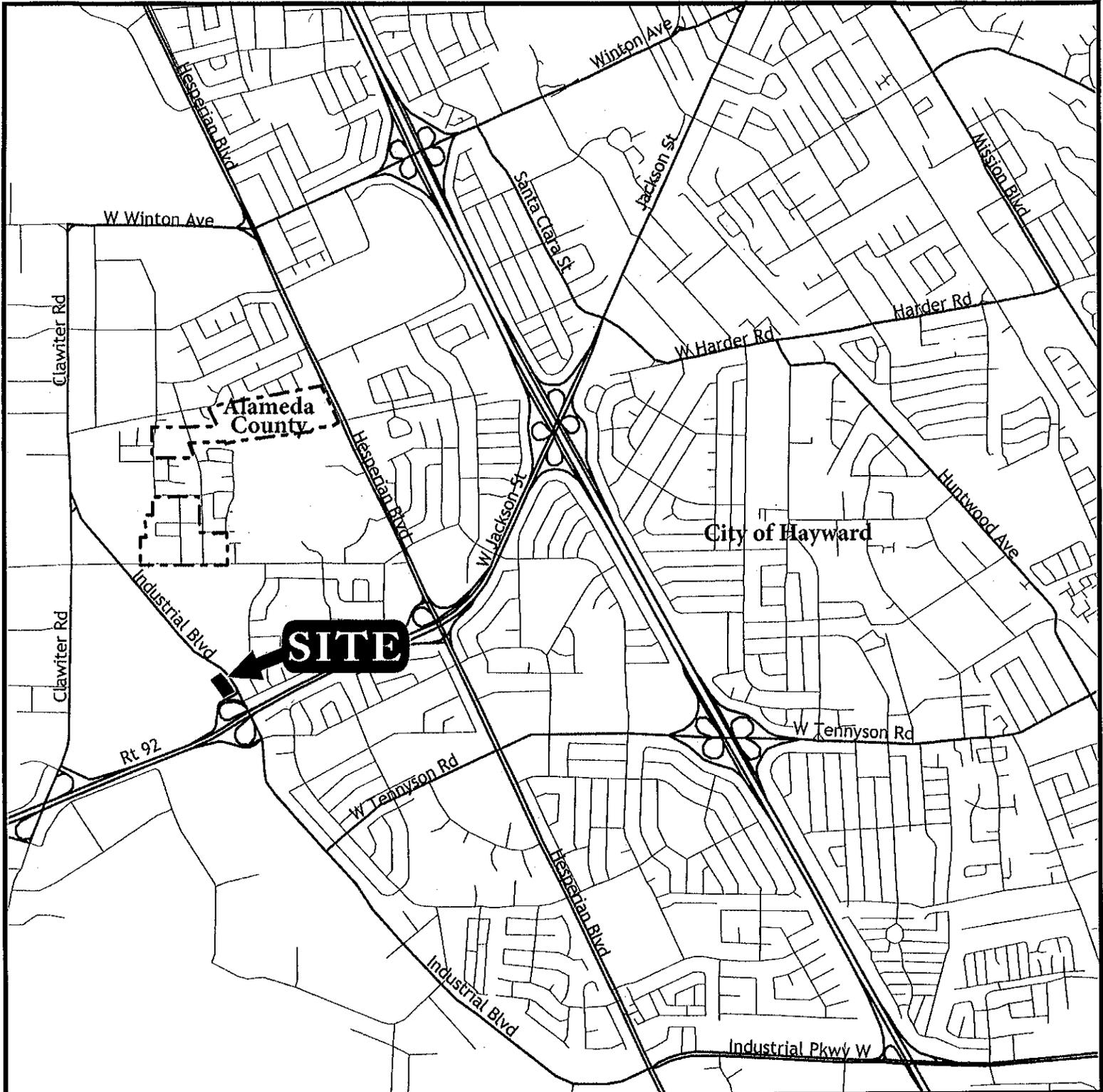


Susan J. Daludding
Director of Community and Economic Development

Approved by:


Gregory T. Jones, City Manager

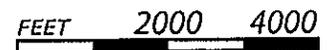
Attachments: Exhibit A: Vicinity Map
Exhibit B: Zoning Map
Exhibit C: Applicant's Market Analysis
Exhibit D: List of Approved and Proposed Uses
Exhibit E: Revised Negative Declaration and Revised Initial Study, with
attachments A-C
Exhibit F: Planning Commission Minutes, dated October 2, 1997
Exhibit G: City Council Minutes, dated October 21, 1997
Exhibit H: Planning Commission Minutes, dated September 6, 2007
Exhibit I: Planning Commission Minutes, dated December 13, 2007
Exhibit J: Planning Commission Report, dated December 13, 2007
Exhibit K: Planning Commission Minutes, dated January 10, 2008
Exhibit L: Planning Commission Report, dated January 10, 2008
Exhibit M: Letters of Support submitted by the Applicant
Exhibit N: Letter in Opposition submitted by CommPre
Exhibit O: Petitions in Opposition submitted by CommPre
Exhibit P: Email and Letters in Opposition submitted by Fairfield Inn, by
Marriot Manager and Owner
Draft Resolution and Draft Ordinance
Plans

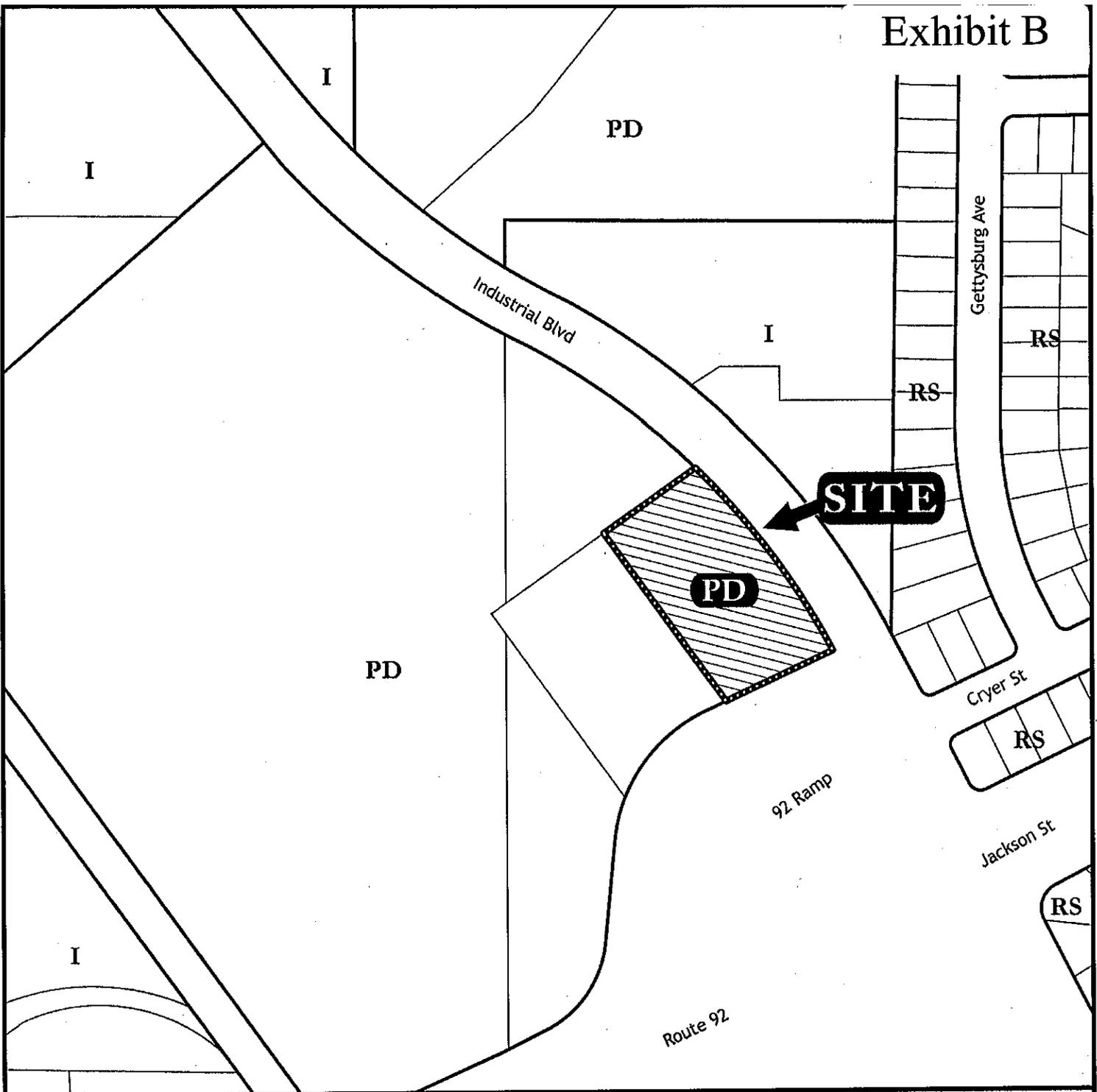


Vicinity Map

PL-2005-0536 Mod of ZC

Mt. Eden Business Park at Hwy 92 and Industrial Boulevard





Area & Zoning Map

PL 97-120-05 PD

Address: 25801 Industrial Blvd

Applicant: Susan Cronk

Owner: Simeon

Zoning Classifications

RESIDENTIAL

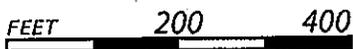
RS Single Family Residential, min lot size 5000 sqft

INDUSTRIAL

I Industrial

OTHER

PD Planned Development



**THE REFERENCED EXHIBIT(S) IS/ARE
ATTACHED AS A SEPARATE LINK**

List of Approved and Proposed Uses

Uses Approved by City Council Resolution No. 97-168

1. Administrative, executive and business offices.
2. Business service office, including employment agency, accountant, notary, secretarial, addressing, computing, copying, and related services.
3. Business consultant office.
4. Design professions offices (engineering, architectural, drafting, etc.)
5. Research, development, analytical and scientific office.
6. Manufacturer's representative and sales office.
7. Headquarters or region-wide finance insurance and real estate offices.
8. Travel agency.
9. Publishing.
10. Hotel and related on-site service and retail uses.
11. Full service restaurant.
12. Delicatessen limited to a maximum of 3,000 square feet.
13. Manufacture and assembly of business machines, including electronic data processing equipment, accounting machines, calculators, and related equipment. Manufacturing and assembly of computer hardware and software, communications, testing equipment, and furniture.
14. Manufacture and assembly of electrical supplies, such as coils, condensers, crystal holders, insulation, lamps, switches, and wire cable assembly, provided no noxious or offensive fumes or odors are produced.
15. Manufacture of scientific, medical, dental and drafting instruments, orthopedic and medical appliances, optical goods, watches and clocks, electronics equipment, precision instruments, musical instruments and cameras and photographic equipment except film.
16. Manufacturing or combining processes of pharmaceutical products, provided no noxious or offensive fumes or odors are produced.

17. Manufacturing or combining processes of biological products, provided no noxious or offensive fumes or odors are produced
18. Manufacturing and assembly of clothing.
19. Manufacturing and assembly of televisions and radios, including parts and components.
20. Laboratories, including commercial, testing, research, experimental, or other laboratories, including pilot plants.
21. General office uses (including computer centers) where no office user shall have less than a minimum of 2,000 square feet of usable space.
22. Printing, lithography, and engraving.
23. Manufacture's representatives and sales offices when sales constitute a final point of sale.
24. Sales (retail) of goods with a regional or sub-regional marketing base, including but not limited to discount retail or warehouse retail, as determined by the Director of Community and Economic Development/Planning Director.
25. Regional retail and wholesale sales, minimum 50,000 square feet of floor area.
26. Incidental retail sales associated with a permitted manufacturing use.
27. Engineering, drafting, interior design, and design facilities.
28. Research and development facilities which requires area available for laboratories to execute product development. Any research and development use may be operated in conjunction with any allowed light industrial use or office use. All typical uses associated with research and development and light manufacturing for the electronics, biomedical, and semiconductor industries.
29. Warehousing and distribution shall be limited to a maximum of 100,000 square feet in area in Building "D."
30. Accessory uses and structures when related to and incidental to a permitted use; subject to an administrative use permit.
31. Additional truck and loading docks beyond the permitted 12 truck docks at Building "D" and 1 at each of the remaining buildings, except Building "A", require the approval of a Conditional Use Permit.
32. Financial Institution

33. Radio, television, movie and video studios.
34. Cultural or commercial recreation uses.
35. Micro-brewery.
36. Catalog sales and mail order uses when sales constitute a final point of sale.
37. The owner of property identified as the tea garden and tea house in Planned Development No. 97-120-05 shall provide continued maintenance for the house and garden and shall demonstrate to the satisfaction of the City that such maintenance will be consistent with a designation as a historically significant structure and site. In the event that the owner desires to sell the property or propose a change in use, the owner will provide the City with 90 days advance written notice of its intention in order that the process leading to historic designation can be explored.

Proposed Additional Uses

1. Drive-Thru Coffee Shop
2. Convenience Store
3. Take-out Restaurant
4. Accounting and financial offices. (excluding check cashing stores)
5. Architectural and engineering offices.
6. Banks and financial institutions.
7. Chiropractic and acupuncture offices.
8. Insurance and real estate offices.
9. Law offices.
10. Medical and dental offices.
11. Travel and airline agency offices.
12. Barber or beauty shop.
13. Dance studio.
14. Dry cleaner/laundry.
15. Martial arts studio.
16. Music studio.
17. Nail salon.

18. Palm reading.
19. Photography studio.
20. Physical fitness studio.
21. Shoe repair shop.
22. Tailor/seamstress shop.
23. Antique store.
24. Appliance store.
25. Art and art supplies store.
26. Bakery.
27. Bicycle shop.
28. Bookstore.
29. Camera store.
30. Card shop.
31. Carpet/drapery store.
32. Clothing store.
33. Coffee/espresso shop.
34. Delicatessen.
35. Fabric store.
36. Floral shop.
37. Furniture store.
38. Garden supplies store.
39. Gift shop.
40. Hardware store.
41. Jewelry store.
42. Locksmith shop.
43. Music store.
44. Nursery (plant).
45. Paint/wallpaper store.
46. Pet grooming shop.
47. Pet store.
48. Plumbing and heating store.

49. Restaurant. (Where there is no bar)
50. Sporting goods store.
51. Stationary store.
52. Supermarket.
53. Theater. (Small Motion Picture or Live Performance only.)
54. Toy store.
55. Variety store.
56. Video sales and rental store.



**CITY OF HAYWARD
REVISED NEGATIVE DECLARATION**

Notice is hereby given that the City of Hayward finds that could not have a 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:

Zone Change Application No. PL-2005-0536 and Use Permit Application No. PL-2007-0558- Request to modify a Planned Development District to allow a 10,088-square-foot neighborhood-serving retail center on a 1.5-acre parcel at Mt. Eden Business Park. The retail center would include a drive-thru coffee shop, take-out food and a convenience store that would sell beer and wine for off-site consumption.

II. FINDING PROJECT WILL NOT SIGNIFICANTLY AFFECT ENVIRONMENT:

The proposed project could not have a significant effect on the environment.

FINDINGS SUPPORTING DECLARATION:

1. The proposed project 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 could not result in significant effects on the environment.

A Revised Mitigated Negative Declaration was prepared on September 19, 1997 for Planned Development No. 97-120-05. It was concluded that the project would not have a significant effect on the environment.

A report completed by H. T. Harvey & Associates dated April 7, 1997 concluded that the site did not contain rare or endangered species. Therefore, a De Minimis Impact exemption was filed and accepted by the Department of Fish and Game.

2. The project would not have an adverse impact on aesthetics. Scenic views would not be affected. In addition, the design of the retail center is compatible with Mt. Eden Business Park buildings and the adjacent hotel.
3. The project would not have an adverse impact on agricultural land. The property was once a commercial nursery and was partially zoned as Agricultural (A) and partially zoned as Industrial (I). The 1997 zone change to Planned Development District allowed the construction of the Mt. Eden Business Park, a hotel and a full-service restaurant. This

modification allows a retail center to be built on the 1.5 acre parcel that was to be developed with a full-service restaurant.

4. The project will not result in significant impacts related to changes into air quality. The project will not conflict with the Bay Area 2000 Clean Air Plan or the City of Hayward General Plan policies relating to air quality. Vehicle emissions would occur during the grading and the construction phases of the project. The retail center would be a destination and would generate vehicle trips. Idling vehicles at the coffee shop drive-thru will also create emissions. However, the amount of emissions is not in conflict with the Bay Area 2000 Clean Air Plan and within the standards of the City of Hayward General Plan policies. In addition, the Revised Negative Declaration and the Revised Initial Study dated September 19, 1997, concluded that "Potential air pollutants from vehicle emissions generated by the proposed development are not anticipated to generate volumes of emissions substantial enough to impact the air basin". The developer will employ several sustainable development building methods and resources in the construction and operation of the buildings that will off-set the impacts.
5. The project would not have a negative impact on biological resources since the entire business park site once developed with a commercial nursery and the 1.5 acre parcel to be developed with the retail center has been vacant since 1998.
6. The project would not result in a negative impact to cultural resources including historical resources, archaeological resources, paleontological resources, unique topography or disturb human remains because the project will be developed on a 1.5 vacant parcel within Mt. Eden Business Park.
7. The project site is not located within a "State of California Earthquake Fault Zone." However, the parcel is within a known area that maybe subject to seismic liquefaction during intense ground shaking. 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. The project would not lead to the exposure of people to hazardous materials. The parcel is not on the State list of sites describing hazardous materials and the proposed retail center tenants would not use or sell hazardous materials other than common household products.
9. The project would meet all water quality standards. Drainage improvements would be made.
10. The construction and operation of a neighborhood serving retail center is with City General Plan policies of the Industrial Corridor and Zoning Ordinance requirements and standards for the Planned Development District.
11. The project would not negatively impact mineral resources since the 1.5 acre site is located within a business park within an urban area.
12. The project will not have a significant noise impact. Any noise impacts will be limited to the construction of the project, which will be limited to the hours of 7 a.m. to 7 p.m.

13. The project would not cause a change in population or impact housing.
14. The project would have no impact on public services except for police. The Police Department would be required to expand the patrol area to accommodate the activities anticipated by the sale of beer and wine at the convenience store. To off-set the impact, security will be provided daily at the Mt. Eden Business Park between the hours of 6:00 pm to 6:00am.
15. The project would not have an impact on recreation facilities or parks and would not create the need for additional recreational facilities.
16. The project would result in a less than significant impact to traffic and on-site circulation. A side-walk is required to be installed on the Industrial Boulevard frontage that would allow pedestrians to access any future bus stop.
17. The project would not exceed wastewater treatment requirements and capacity of the City of Hayward wastewater facility would not be required to be increased. Current water supplies to the area are adequate to accommodate the retail center. Utilities and services would not require expansion to accommodate the retail center.

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


Arlynne J. Camire, AICP, Associate Planner
Dated: December 4, 2007

II. ***COPY OF ENVIRONMENTAL CHECKLIST IS ATTACHED***

For additional information, please contact the City of Hayward, Planning Division, 777 B Street, Hayward, CA 94541-5007, telephone (510) 583-4202

DISTRIBUTION/POSTING

- Provide copies to 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.



DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
Planning Division

REVISED INITIAL STUDY CHECKLIST FORM

Project title: Zone Change Application No. PL-2005-0536 and Use Permit Application No. PL-2007-0558

Lead agency name and address: City of Hayward, 777 "B" Street, Hayward, CA 94541-5007

Contact persons and phone numbers: Arlyne J. Camire, AICP, Associate Planner, (510) 583-4206

Project location: The project is located at 26251 Industrial Boulevard adjacent to and north of State Highway 92. (APN: 441004500700)

Project sponsor's name and address: Russ Pitto for Simeon Commercial Properties
655 Montgomery Street, Suite 1190
San Francisco, CA, 94111
(415) 986-2130—jrpitto@simprop.com

General Plan: Industrial Corridor (IC)

Zoning: Planned Development (PD)

Description of project: A request to modify a Planned Development District to allow a 10,088-square-foot neighborhood-serving retail center including a drive-thru coffee shop, take-out food and a convenience store that sells beer and wine for off-site consumption on a 1.5-acre parcel at Mt. Eden Business Park.

A Revised Mitigated Negative Declaration and Initial Study was prepared on September 19, 1997 for Planned Development No. 97-120-05 (attached). It was concluded that the project would not have a significant effect on the environment. A report completed by H. T. Harvey & Associates dated April 7, 1997 concluded that the site did not contain and could not impact rare or endangered species. Therefore, a De Minimis Impact Finding was filed and accepted by the Department of Fish and Game (Attachments A and B).

Surrounding land uses and setting: The site is a vacant 1.5 acre parcel at the southeastern corner within Mt. Eden Business Park. The business park consists of six tilt-up concrete buildings with a total area of 372,107 square feet, a Japanese Garden preserved for its historical merit, and an 84-room extended-stay hotel; (Fairfield Inn and Suites by Marriot). The site is bounded on the north and on the west by the business park. The site is bounded on the south by State Highway 92, providing access to Downtown and the Hayward-San Mateo

Bridge. Hayward Business Park and a residential neighborhood are to the east across Industrial Boulevard.

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

None

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

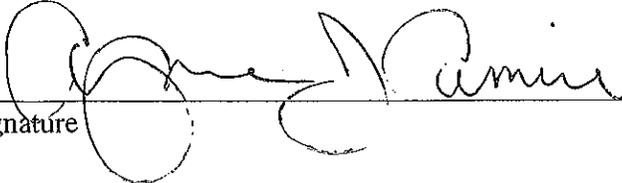
The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|--|---|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture Resources | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input 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 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

December 4, 2007
Date

INSTRUCTIONS FOR EVALUATION OF ENVIRONMENTAL IMPACTS
AND USE OF ENVIRONMENTAL CHECKLIST:

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
 - a) Earlier Analysis Used. Identify and state where they are available for review.
 - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
- 9) The explanation of each issue should identify:
 - a) the significance criteria or threshold, if any, used to evaluate each question; and
 - b) the mitigation measure identified, if any, to reduce the impact to less than significance

ENVIRONMENTAL ISSUES:

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
I. AESTHETICS -- Would the project:				
a) Have a substantial adverse effect on a scenic vista? <i>Comment: The project would not have a substantial adverse effect on a scenic vista. The site is relatively flat and surrounding structures are low-rise, up to three-stories. The project would not obstruct the view of the baylands to the west from existing or future development.</i>	<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? <i>Comment: The project will not damage any scenic resources.</i>	<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? <i>Comment: The project will not degrade the existing visual character and quality of the site and its surroundings. The architecture is compatible with the adjacent hotel and the buildings in Mt. Eden Business Park</i>	<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? <i>Comment: The project will not create a new source of light or glare that would adversely affect day or nighttime views in the area. Light would be contained on site and colors and materials would not create glare.</i>	<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>
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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:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: *The site was once developed as a commercial nursery and the property was in the Industrial and Agricultural Districts. However, Zone Change No 97-120-05 was approved in 1997 approving a Planned Development District that allowed the construction of the existing Mt. Eden Business Park, a hotel and a full-service restaurant. This modification allows a retail center to be built on the site that was to be developed by a restaurant.*

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: *The project is not located in an agricultural district or an area used for agricultural purposes. See II a.*

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: *The project area does not contain agricultural uses or farmland, See II a and b.*

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:

	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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- | | |
|---|--|
| a) Conflict with or obstruct implementation of the applicable air quality plan? | |
|---|--|

Comment: *The project will not conflict with the Bay Area 2000 Clean Air Plan or the City of Hayward General Plan policies relating to air quality.*

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? <i>Comment: See IIIa</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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 which exceed quantitative thresholds for ozone precursors)? <i>Comment: See IIIa. In addition, vehicle emissions would occur during the grading and the construction phases of the project. The retail center would be a destination and would generate vehicle trips. Idling vehicles at the coffee shop drive-thru will also create emissions. However, the amount of emissions are not in conflict with the Bay Area 2000 Clean Air Plan and within the standards of the City of Hayward General Plan policies. Furthermore, the Revised Negative Declaration and the Revised Initial Study dated September 19, 1997, concluded that "Potential air pollutants from vehicle emissions generated by the proposed development are not anticipated to generate volumes of emissions substantial enough to impact the air basin". The developer will employ several sustainable development building methods and resources in the construction and operation of the buildings that will off-set the impacts.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations? <i>Comment: See IIIa and c.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people? <i>Comment: See IIIa and c.</i>				

Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
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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?

Comment: *The property was once developed with a commercial nursery and has been vacant since 1998. There is no evidence of any candidate, sensitive, or special status species. A Revised Mitigated Negative Declaration and Revised Initial Study was prepared on September 19, 1997 for Planned Development No. 97-120-05. It was concluded that the project would not have a significant effect on the environment. A report completed by H. T. Harvey & Associates dated April 7, 1997 concluded that the site did not contain rare or endangered species. The site was surveyed as a possible Western Burrowing Owl habitat, however, no evidence of Western Burrowing Owls was found. It was also concluded that the potential for amphibians and reptiles was unlikely due to the isolation of the site from any waterways. Sixty-eight ground squirrels were found on the entire business park site prior to development, however, rare or endangered species were not found on site. The site did not contain species that are known to be Indigenous such as Alameda whipsnake, red-legged frog, California tiger salamander and the Western Burrowing Owl. Therefore, a De Minimis Impact Finding was filed and accepted by the Department of Fish and Game (Attachments A and B).*

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

Comment: *The site contains no riparian or sensitive habitat.*

- c) 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?

Comment: *The site contains no wetlands.*

- 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?

Comment: *The site does not contain habitat used by migratory fish or wildlife nor is it a migratory wildlife corridor.*

- | | Potentially Significant Impact | Potentially Significant Unless Mitigation Incorporation | Less Than Significant Impact | No Impact |
|--|--------------------------------|---|------------------------------|-------------------------------------|
| e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?
<i>Comment: The project is in conformance with the General Policies Plan and will conform to the requirements of the Tree Preservation Ordinance.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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?
<i>Comment: There are no habitat conservation plans affecting the property.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

V. CULTURAL RESOURCES -- Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?
<i>Comment: No known historical resources exist on-site.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?
<i>Comment: The Northwest Information Center, California Historical Resources Information System, that the proposed project site contains no recorded Native American or historic-period archaeological resources. Based on an evaluation of the environmental setting and features associated with known sites, Native American cultural resources in this part of Alameda County have been found adjacent to seasonal and perennial watercourses. The project area is located within a broad alluvial plane approximately one-mile from the baylands. Given the dissimilarity of these environmental factors, there is a low likelihood that unrecorded Native American cultural resources exist in the proposed project areas. Also, there is a low possibility of identifying historic-period archaeological resources. No known archaeological resources exist in on-site. However, during the grading or construction phase if archaeological resources are discovered, the appropriate authorities would be contacted.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?
<i>Comment: No known paleontological resources exist on-site.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Disturb any human remains, including those interred outside of formal cemeteries?
<i>Comments: There are no known human remains on-site. If human remains are discovered, grading or construction activities would cease and the appropriate authorities will be contacted.</i> | <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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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.

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: The project is not located within the Hayward Fault Zone.

ii) Strong seismic ground shaking?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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Comment: The site is located within a know area of seismic liquefaction. The construction methods used would be required to comply with the Uniform Building Code Standards to minimize seismic risk due to ground shaking.

Impacts: 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. This impact is considered less than significant.

iii) Seismic-related ground failure, including liquefaction?

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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Comment: The site is within a know area of possible seismic liquefaction.

Impacts: 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. However, the parcel is within a know area that maybe subject to seismic liquefaction during intense ground shaking. The new retail center would be required to comply with the Uniform Building Code Standards to minimize seismic risk due to ground shaking and to account for specific geologic unit/soil conditions.

iv) Landslides?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: The project is not located within an area subject to landslides.

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

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: The vacant site is located within Mt. Eden Business Park. Appropriate measures for wetting the soil would be observed during the grading and construction phases of the project.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
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? <i>Comment: The retail center would be located in know area of seismic liquefaction. See IVa.iii.</i> <i>Impacts: 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. This impact is considered less than significant. The new retail center would be required to comply with the Uniform Building Code Standards to minimize seismic risk due to ground shaking and to account for specific geologic unit/soil conditions</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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? <i>Comment: The site is not known to contain expansive soil.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater? <i>Comment: The retail center would be connected to the City of Hayward sewer system.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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? <i>Comment: The retail center site is located within the Mt. Eden Business Park. The retail center would not contain uses that would require the routine transport, use, or disposal of hazardous materials.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? <i>Comment: See VII a.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? <i>Comment: See VII a</i>	<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 |
|---|--------------------------------|---|-------------------------------------|-------------------------------------|
| 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?
<i>Comment: See VII a. A Phase I Environmental Assessment was completed for the entire Mt. Eden Business Park site in 1997, however, the Fire Department, Hazardous Materials Office would like a Phase I Environmental Assessment to be completed to confirm that the site is not considered contaminated based on updated standards of either the California Regional Water Quality Control Board-San Francisco Bay Region or California Department of Toxic Substance Control.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input 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 result in a safety hazard for people residing or working in the project area?
<i>Comment: The project is not located within an airport zone.</i> | <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 result in a safety hazard for people residing or working in the project area?
<i>Comment: See VII e.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?
<i>Comment: The project will not interfere with any known emergency response plan or emergency evacuation plan. The Hayward Fire Department serves the area. Emergency response times will be maintained.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 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>Comment: The project is not located in an area of wildlands and is not adjacent to wildlands. It is a vacant 1.5 acre parcel within Mt. Eden Business Park.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

VIII. HYDROLOGY AND WATER QUALITY -- Would the project:

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Violate any water quality standards or waste discharge requirements?
<i>Comment: The project will meet all water quality standards and waste discharge requirements for all retail and restaurant uses.</i> | <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
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)? <i>Comment: The site would be served with water by the City of Hayward and the retail center would not significantly increase water usage. Therefore, water quality standards would not be violated and groundwater supplies will not be depleted</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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? <i>Comment: The development of the site requires approval of a drainage plan in order to assure that the addition of the paving of the site would not alter the existing drainage patterns.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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? <i>Comment: See VIII c.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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? <i>Comment: The 1.5 acre site to be developed with a neighborhood serving retail center is within Mt. Eden Business Park and is not anticipated to increase runoff water. See VIIIc.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Otherwise substantially degrade water quality? <i>Comment: See VIII a.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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? <i>Comment: The proposed project would not contain housing.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? <i>Comment: According to the Nation Flood Insurance Program Flood Insurance Rate Map for the City of Hayward, California, Alameda County (Panel 19 of 29)the project is in Zone C which is defined as an area of minimal flooding..</i>	<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 |
|--|--------------------------------|---|------------------------------|-------------------------------------|
| 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?
<i>Comment: The site is not within the 100-year flood zone, is not near any levees and is not located downstream of a dam.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| j) Inundation by seiche, tsunami, or mudflow?
<i>Comment: The project is not in a location that would allow these phenomena to affect the site.</i> | <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>Comment: The project will not physically divide an established community. This is an infill retail project in an existing business park</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>Comment: The modification of Zone Change No. 97-120-05 allows the uses of convenience store, take-out restaurant and coffee shop with a drive-thru window. Land uses permitted in any other district may be permitted in the Planned Development District provided that the uses are in harmony with each other and serve to fulfill the function of the planned development while complying with the General Plan. The neighborhood serving retail center including a convenience store, take-out food and a drive-thru coffee shop does not conflict with any applicable land use plan, policy or regulation as conditioned.</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?
<i>Comment: See IV f.</i> | <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>
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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"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: *The project will not result in a significant impact to mineral resources since the subject site is located in an urbanized area that does not contain mineral resources that could be feasibly removed.*

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: *See X a*

Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
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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><u>Comment:</u> The retail center would be adjacent to Industrial Boulevard and State Hwy 92. Any noise generated would be dampened by the building walls and the traffic noise of Industrial Boulevard and Hwy 92.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Exposure of persons to or generation of excessive ground borne vibration or ground borne noise levels?

<i><u>Comment:</u> See XI a.</i> | <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?

<i><u>Comment:</u> See XI a.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

<i><u>Comment:</u> Any noise impacts will be limited to the construction of the project, which will be limited to the hours of 7 am to 7 pm.</i> | <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?

<i><u>Comment:</u> The project site is not located within an airport land use plan area and is not within two-miles of a public airport or public use airport. Airport plane noise would have no impact on this site.</i> | <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?

<i><u>Comment:</u> See XI e.</i> | <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><u>Comment:</u> The retail center would not induce population growth but would serve the employees in the adjacent industrial area, students in the nearby colleges and the nearby residential development.</i> | <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
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? <i>Comment: No housing will be removed.</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? <i>Comment: See XII b.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XIII. PUBLIC SERVICES

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:

a) Fire protection? <i>Comment: The proposed project would have no effect upon, or result in only a minimal need for new or altered government services in fire protection, schools, maintenance of public facilities, including roads, and in other government services.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Police protection? <i>Comment: The addition of a convenience store that sells beer and wine for off-site consumption would create the need for additional Police Department patrol and may increase the calls for service. Impact: As a condition of approval, the developer is required to provide security daily from 6:00pm to 6:00 am.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Schools? <i>Comment: See XIII a.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Parks? <i>Comment: See XIII a.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Other public facilities? <i>Comment: See XIII a. Any right-of-way or roadway improvements would be required to be completed at the expense of the developer. The addition of a sidewalk adjacent to Industrial Boulevard creates the potential for the setting of bus stop in front of the retail center.</i>	<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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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"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: *The construction and operation of the retail center would not increase the use of existing neighborhood and regional parks and their facilities.*

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: *The project would not include recreational facilities that might have an adverse physical effect on the environment.*

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 type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
|--|--------------------------|--------------------------|-------------------------------------|--------------------------|

Comment: *The addition of the retail center would increase vehicle trips. An on-site circulation analysis dated October 8, 2007, was completed by Fehr & Peers, Transportation Consultants. It was determined that queuing at the drive-thru coffee shop would not negatively affect on-site circulation (Attachment C). Industrial Boulevard and the adjacent west bound on-ramp of Hwy 92 are designed to handle the increase. The increase is considered less than significant.*

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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 type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: *See XV a.*

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: *The project will not affect air traffic patterns.*

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: *The retail center would not substantially increase hazards.*

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
e) Result in inadequate emergency access? <i>Comment: The Hayward Fire Department has reviewed the project and finds the project acceptable to Hayward Fire Department requirements and standards as conditioned.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Result in inadequate parking capacity? <i>Comment: It has been determined that the on-site parking to be provided would adequately serve the retail center.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)? <i>Comment: The project does not conflict with adopted policies supporting alternative transportation.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XVI. UTILITIES AND SERVICE SYSTEMS - Would the project:

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? <i>Comment: The retail center tenants' activities would not exceed wastewater treatment requirements.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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? <i>Comment: Existing water and wastewater treatment facilities are adequate to serve the retail center.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? <i>Comment: Existing storm drains are adequate to serve the retail center.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? <i>Comment: The retail center would not have an impact on the water supply; therefore, it can be served by existing entitlements and resources.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? <i>Comment: The additional retail center's tenant's needs would not exceed wastewater treatment requirements.</i>	<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
f) 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? <i>Comment: See XVI, e.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? <i>Comment: The retail center would not result in construction or expansion of storm water drainage facilities.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? <i>Comment: The retail center would not have an impact on the water supply; therefore, it can be served by existing entitlements and resources.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) 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? <i>Comment: The City of Hayward operates its own wastewater facility. This facility has the capacity to accommodate the amount of wastewater that will be generated by the tenants of the retail center.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? <i>Comment: Waste Management of Alameda County will dispose the solid waste. The Altamont landfill is available to the City of Hayward until 2009 and has sufficient capacity to handle the amount of solid waste generated by the project. The landfill recently received an approval that increases the capacity and adds 25 years to the life of the landfill to the year 2034.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
k) Comply with federal, state, and local statutes and regulations related to solid waste? <i>Comment: The project study area participates in the Waste Management of Alameda County recycling program. Construction and operation of the project will comply with all federal, state and local statutes and regulations related to solid waste.</i>	<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>
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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"/>
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***Comment:** The property was once developed with a commercial nursery and the 1.5 acre parcel has been vacant since 1998. There is no evidence of any sensitive, or special status species would be impacted. In addition, the project would not impact any wildlife or threaten any plant or animal community*

- 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"/>
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- 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"/>
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Attachments

- A Adopted Revised Mitigated Negative Declaration and Revised Initial Study dated September 19, 1997
- B De Minimis Impact Finding dated November 21, 1997
- C On-site Circulation Analysis dated October 8, 2007 prepared by Fehr & Peers, Transportation Consultants



CITY OF HAYWARD
REVISED 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:*

Planned Development No. 97-120-05 - Yoshito and Mari Shibata (Applicants), Mt. Eden Nursery Company (Owner) - Request to rezone four parcels equalling 27.8591 acres from Industrial and Agricultural Districts to Planned Development District to allow the two-phase construction of a 375,633 ±-square-foot business park with the potential for a full-service restaurant, and the potential for the development of a hotel or a business park in Phase 2.

The property is located at 25801 Industrial Boulevard, east side, at the intersection of Industrial Boulevard and Highway 92 in the Industrial and Agricultural Districts.

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

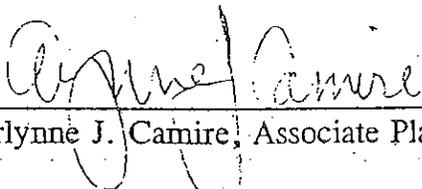
That the proposal as conditioned, will have no substantial effect on the area's resources, cumulative or otherwise.

III. *FINDINGS SUPPORTING DECLARATION:*

1. The project application has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study Environmental Evaluation Checklist has been prepared with a determination that the project will not have a significant impact on the environment.
2. The project is in conformance with the General Policies Plan Map designation of "Industrial Corridor" for the property.
3. The project is in conformance with the intent and purpose of the proposed Zoning Ordinance designation of "Planned Development" for the property.
4. Existing and anticipated public facilities, services and utilities, as conditioned, will be adequate to serve the project.
5. The site plan displays adequate access, circulation and parking for the employees and customers, trash storage and adequate landscaping to buffer the use from adjacent multiple-family residential properties to the northeast of the site, on the east side of Industrial Boulevard. The surrounding streets and State Highway Route 92 are adequate in size to handle the traffic generated by the proposed use. Traffic mitigation measures will be implemented as conditions of approval.

6. The site has been cleaned of hazardous materials to an acceptable standard and the site does not pose a threat to public health. If hazardous materials are present, a Hazardous Materials Management Plan will be required to be created for each business to be located in the industrial park to ensure the safe handling of hazardous materials used in connection with the operations of any business.
7. Safety mechanisms will be required by the City in conjunction with construction of the project to insure that building stability and public safety are achieved.
8. The site contains a Japanese tea garden and a tea house that is required to undergo the City of Hayward process to be reviewed and classified by the City Council as Historically Significant. The tea house and garden will be preserved as part of the project.
9. There is no evidence of rare or endangered plant or animal species within the project area.

IV. PERSON WHO PREPARED INITIAL STUDY:



Arlynn J. Camire, Associate Planner

Dated: September 19, 1997

V. COPY OF INITIAL STUDY IS ATTACHED:

For additional information, please contact the City of Hayward Development Review Services Division, 25151 Clawiter Road, Hayward, CA 94545, or telephone (510) 293-5416.

DISTRIBUTION/POSTING

- Provide copies to all organizations and individuals requesting same in writing.
- Provide to project applicants.
- Referenced in all public hearing notices distributed 30 days in advance of initial public hearing and published once in Daily Review 30 days prior to hearing.
- 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 day after the public hearing.
- Provided copies to: State Clearinghouse, California Department of Transportation (Caltrans), Congestion Management Association, Bay Area Air Quality Management District, and California Department of Fish and Game



CITY OF HAYWARD
COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT
DEVELOPMENT REVIEW SERVICES DIVISION

25151 Clawiter Road
Hayward, CA 94545-2731
Telephone No.: (510) 293-5276
FAX No.: (510) 293-5108

REVISED INITIAL STUDY

GENERAL INFORMATION:

Applicant: Yoshito and Mari Shibata
155 Callan Avenue, Ste B
San Leandro, CA 94577
(510) 352-2540

Person Preparing Initial Study: Arlynn J. Camire, AICP
Associate Planner

Telephone: (510) 293-5416

PROJECT DESCRIPTION:

Planned Development No. 97-120-05 - Request to rezone four parcels equalling 27.8591 acres from Industrial and Agricultural Districts to Planned Development District to allow the two-phase construction of a 375,633±-square-foot business park with the potential for the development of a full service restaurant, and the potential for the development of a hotel or business park in Phase 2.

ENVIRONMENTAL SETTING:

The site is composed of four parcels and once was the site of a commercial nursery. The property is zoned for industrial and agricultural uses and will be rezoned planned development district. The site contains buildings used for nursery productions and a Japanese tea garden and tea garden structure located in the southern portion of the site. The proposed Planned Development zoning designation will permit the site to be developed with office, commercial, research and development, warehouse and distribution, restaurant, and hotel uses. Properties to the south across Route 92, east, and west across the Southern Pacific Railroad right-of-way are developed with industrial uses, and a multiple-family residential complex is located at the northeast across Industrial Boulevard.

PROJECT LOCATION:

The property is located at 25801 Industrial Boulevard, west side, at the intersection of Industrial Boulevard and State Highway Route 92 in the Industrial and Agricultural Districts.

REVISED INITIAL STUDY-PLANNED DEVELOPMENT NO.97-120-05-YOSHITO AND MARI SHIBATA (APPLICANTS), MT. EDEN NURSERY COMPANY (OWNER)

POSSIBLE SIGNIFICANT ENVIRONMENTAL IMPACTS:

"Yes" and "Maybe" responses require comment. Mitigation measures, where appropriate, are included in the commentary. "No" responses are commented on when the preparer of the initial study determines that it is necessary to show how that conclusion was reached.

Yes Maybe No

1. Geologic (unstable earth conditions, changes in topography, increase in wind or water erosion, exposure of people or property to geologic hazards, such as earthquakes, landslides)

— X —

Impact: The site is located approximately 2.75 miles from the earthquake hazard zone. The site would experience nonstructural to moderate damage with an earthquake magnitude of 6.9 MM on the Northern Calaveras fault, a 7.1 MM on the Northern Hayward fault, a 7.0 MM on the Southern Hayward fault, or a 7.3 MM on the entire Hayward Fault (Source: On Shaky Ground--Cities of Hayward and Union City, April 1995.) The project is not located within a flood plain.

Mitigation: None needed.

2. Air Quality (substantial air emissions or deterioration of ambient air quality or creation of objectionable odors)

— X —

Impact: The San Francisco air basin is an attainment area for air pollutants. Potential air pollutants from vehicle emissions generated by the proposed development are not anticipated to generate volumes of emissions substantial enough to impact the air basin. The project may involve unknown industrial uses. Therefore, specific potential impacts on air quality are unknown at this time.

REVISED INITIAL STUDY-PLANNED DEVELOPMENT NO.97-120-05-YOSHITO AND MARI SHIBATA (APPLICANTS), MT. EDEN NURSERY COMPANY (OWNER)

Yes Maybe No

Mitigation: A condition of approval requires that the types of uses that occupy the site are not those that involve noxious odors, smoke, or other uses that negatively impact air quality either beyond acceptable standards of the Bay Area Air Quality Management District or that would negatively impact the adjacent residential uses.

3. Water Quality (increase in rate and amount of surface runoff, change in the amount of surface water in anywater body, exposure of people or property to water-related hazards, such as flooding or contaminated water supply, including groundwater)

— — X

Impact: Water quality impacts in the existing storm drain system would not be significant.

Mitigation:

A. Approval of a drainage plan will be required before issuance of a building permit. All storm water is conveyed into City of Hayward or Alameda County Flood Control District facilities located along Industrial Boulevard or to the storm drain on-site.

B. That the parking areas shall have a structural control, such as an oil/water separator, sand filter, or approved intercept and pretreat storm water prior to discharging to the storm drain system;

C. Storm water measures for the operation and maintenance of the project, which meets the approval by the City Engineer. The plan shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff;

D. 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;

REVISED INITIAL STUDY-PLANNED DEVELOPMENT NO.97-120-05-YOSHITO AND MARI SHIBATA (APPLICANTS), MT. EDEN NURSERY COMPANY (OWNER)

Yes Maybe No

E. The labeling of all on-site storm drain inlets in the Business park with "No Dumping - Drains to Bay," using approved methods; and

G. The cleaning of all on-site storm drains at least once a year immediately prior to the rainy season (October 15th). Additional cleaning may be required by the City Engineer. With these requirements, the potentially significant water quality impact is reduced to a less than significant level.

4. Plant Life (change in diversity or number of species of plants; reduction in the numbers of any unique, rare or endangered species)

Impact: A tea garden exists on-site and contains a manmade pond and non-native plant species. The tea garden will remain. The remainder of the site lacks significant vegetation.

Mitigation: None needed.

5. Animal Life (change in diversity or number of species, reduction of the numbers of any rare or endangered species, result in a barrier to the migration or movements of animals, or deterioration to fish and wildlife habitat)

Impact: The site was surveyed for possible Western Burrowing Owl habitat on March 30, 31 and April 1, 1997. No evidence of burrowing owls were found, however, the site contains habitat suitable for Burrowing Owls. It was determined that Burrowing Owls could use the site to nest due to the disturbed nature of the ground. A survey of the trees by the Tea Garden for the presence of raptor nests was completed on April 7, 1997. No nests were found. A pair of American Kestrels were found perching and foraging

— — X

— — X

REVISED INITIAL STUDY-PLANNED DEVELOPMENT NO.97-120-05-YOSHITO AND MARI SHIBATA (APPLICANTS), MT. EDEN NURSERY COMPANY (OWNER)

Yes Maybe No

on site, however, a nest was not observed. It was determined that the potential for amphibians and reptiles is unlikely due to the isolation of the site from any waterways. Sixty-eight active California ground squirrel burrows were found on site. Therefore, it has been determined that the site does not contain rare or endangered species found in the area such as: Alameda whipsnake, red-legged frog, California tiger salamander, and the Western Burrowing Owl (Source: Report prepared by H.T. Harvey & Associates dated April 9, 1997.)

Mitigation: The developer shall conduct a survey of the entire site within 30 days of grading in order to confirm that Burrowing Owls or other birds, including raptors, are not nesting on-site. The survey shall be to the satisfaction and follow the protocol of the California Department of Fish and Game. The report is required to be submitted to the California Department of Fish and Game for review prior to the issuance of a grading permit.

6. Noise Level (expose people to severe noise levels)

Impact: When the adjacent apartment development was approved, industrial development existed in the area and industrial development on subject parcels was anticipated. An 8-foot-high masonry wall was constructed on the Industrial Boulevard frontage of the Waterford Apartments. It is not anticipated people would be exposed to severe noise levels.

Mitigation: None needed.

7. Light and Glare (expose people to intensive light or glare)

Impact: The site would create a new light source, but it is not anticipated to impact adjacent uses.

— — X

— — X

REVISED INITIAL STUDY-PLANNED DEVELOPMENT NO.97-120-05-YOSHITO AND MARI SHIBATA (APPLICANTS), MT. EDEN NURSERY COMPANY (OWNER)

Yes Maybe No

Mitigation: A site lighting plan is required before issuance of a building permit. Lighting will be arranged to reflect light away from the adjacent residences and designed to conform with the City Security Ordinance.

8. General Plan, Neighborhood Plans, and Adopted City Environmental Plans and Goals (conformity)

— — X

Impact: The project site is identified on the General Plan Map as "Industrial - Industrial Corridor." The site will be rezoned from Industrial and Agricultural Districts to Planned Development District. The development will allow warehousing and distribution, office, commercial, hotel and restaurant uses which are consistent with the Map designation. The rezoning is also consistent with the General Plan Map Designation.

Mitigation: None needed.

9. Natural Resources (increase in the rate of use of any natural resources)

— — X

Impact: None.

Mitigation: None needed.

10. Risk of Upset (explosion, fire, hazardous substances)

— — X

Impact: The construction of the proposed concrete tilt-up buildings will require approval by the City Building Official and Fire Marshal, and construction practices in accordance with currently used building and fire codes. Pesticide affected soils containing chlordane concentrations were excavated and disposed of at a landfill. Subsequent soil tests were conducted and it was determined that the site has been cleaned to an acceptable standard (Source: Remedial Activities, Mount Eden Wholesale & Distribution, Hayward, California. Prepared by Innovative & Creative

REVISED INITIAL STUDY-PLANNED DEVELOPMENT NO.97-120-05-YOSHITO AND MARI SHIBATA (APPLICANTS), MT. EDEN NURSERY COMPANY (OWNER)

Yes Maybe No

Environmental Solutions (ICES) dated May 30, 1997 and a letter to ICES from the Alameda County Environmental Health Environmental Protection Services of the Alameda County Health Care Services Agency dated September 16, 1997.)

Mitigation: Uniform Building Codes and Uniform Fire Codes are required to be met. Business using substances classified as hazardous materials, based on the type, and amount used, must file a Hazardous Materials Plan with the Fire Department.

11. Population (alter location, distribution, growth rate)

— — X

Impact: None.

Mitigation: None needed.

12. Transportation/Circulation (generation of substantial additional vehicular trips, impact on existing parking facilities, impact upon existing transportation systems, create a vehicle or pedestrian hazard)

— X —

Impact: The project would generate approximately 650 AM peak hour trips and approximately 590 PM peak hour trips. The anticipated traffic volume generated from the site could be accommodated by the existing highway and road system with the implementation of traffic mitigation measures. The project does not cause unacceptable levels of service at any of the intersections analyzed under existing conditions but will contribute to cumulative impacts forecasted for the year 2010 at a number of intersections. New parking facilities are required and would be provided. This is an area of low pedestrian traffic, however, sidewalks and signalized crosswalks will be provided. (Traffic Impact Analysis prepared by Fehr & Peers Associates, Inc. dated June 11, 1997 amended August 7, 1997.)

REVISED INITIAL STUDY-PLANNED DEVELOPMENT NO.97-120-05-YOSHITO AND MARI SHIBATA (APPLICANTS), MT. EDEN NURSERY COMPANY (OWNER)

Yes Maybe No

Mitigation:

A. The project will provide a raised median to improve channelization along its frontage on Industrial Boulevard. Adequate access to Industrial Boulevard for traffic from both the project and existing developments will be provided by adding a signal at the project's eastern entrance which is opposite the main entrance driveway to the Hayward Business Park. The project's main entrance will make use of the existing signal at the Waterford Apartments. Also the western entrance driveway will be restricted to right-in and right-out access only.

B. The developer will contribute a proportionate share of the following intersection improvements based on cumulative impacts:

1. Industrial Boulevard and State Route 92 Westbound Ramps - Reconstruct northbound approach to three lanes (one shared with right-turn.) Restrict parking on westbound approach to allow for three westbound lanes (two left-turn lanes and one through lane shared with right-turn) in addition to one eastbound lane on Cryer Street.

2. Industrial Boulevard and State Route 92 Eastbound Ramps - Add one right-turn lane on the eastbound approach and on through lane on the northbound approach to the intersection.

3. Industrial Boulevard and Depot Road - Provide two exclusive left-turn lanes and two through lanes with one shared with right-turn on the northbound approach.

4. Industrial Boulevard and West Street - Signalized intersection and provide one extra through lane at the southbound approach and an exclusive right-turn lane at the northern approach.

With these requirements, the potentially significant Traffic/Circulation impact is reduced to a less than significant level.

REVISED INITIAL STUDY-PLANNED DEVELOPMENT NO.97-120-05-YOSHITO AND MARI SHIBATA (APPLICANTS), MT. EDEN NURSERY COMPANY (OWNER)

Yes Maybe No

13. Public Service (police, fire, schools, parks and recreation facilities, and maintenance of public facilities, e.g., storm drainage, water, sewer)

— X —

Impacts: Utilities are available to serve the proposed project:

A. **Police and Fire:** Police and fire service is available and currently serves the area. The project will not result in a significant impact on police and fire services.

B. **Water:** Existing water lines in the area are adequate to serve the proposed project.

C. **Sewer:** Existing sewer lines on-site and in Industrial Boulevard are adequate to serve the proposed project.

D. **Storm Water:** See #3.

E. **Parks:** The project will not add demands on the existing park system.

F. **Schools:** The project will not add demands on the existing school system.

Mitigation:

All public facilities (utilities) are required to be underground and appropriate fees are required to be paid.

14. Energy Use (use of substantial amounts of fuel or energy, increased demand upon existing sources of energy or the development of new energy sources)

— — X

Impact: None.

Mitigation: None needed.

REVISED INITIAL STUDY-PLANNED DEVELOPMENT NO.97-120-05-YOSHITO AND MARI SHIBATA (APPLICANTS), MT. EDEN NURSERY COMPANY (OWNER)

Yes Maybe No

15. Aesthetics (obstruction of any scenic vista or view open to the public or the creation of an aesthetically offensive project open to public view)

— — X

Impact: None.

Mitigation: City of Hayward Design Guidelines and the Zoning Ordinance development standards are required to be met.

16. Cultural Resources (archaeological, historical, or restriction of existing religious or cultural uses within the potential impact area)

X — —

Impact: The site contains a Japanese tea garden and tea house within the garden. The tea house and tea garden are particularly representative of an unique architectural style for the City of Hayward. The house is a traditional Japanese style of architecture and was built without the use of nails. The structure contains elements that demonstrate outstanding attention to architectural design and craftsmanship. The garden and the structure contained within represent a way of life that no longer exists within the City and is worthy of preservation.

Mitigation: The property owner is required to complete the City of Hayward process which will enable the City Council to declare the tea garden and structure historically significant.

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 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?

— — X

B. Does the project have the potential to achieve short-term, to the disadvantage of long-term, environmental goals? (A short-term impact on the environment is one that occurs in a relatively brief, definitive period of time while long-term impacts will endure well into the future.)

— — X

C. Does the project have impacts which are individually limited, but cumulatively considerable? (A project may impact on two or more separate resources where the impact on each resource is relatively small, but where the effect of the total of those impacts on the environment is significant.)

— — X

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

— — X

DETERMINATION

On the basis of this initial evaluation

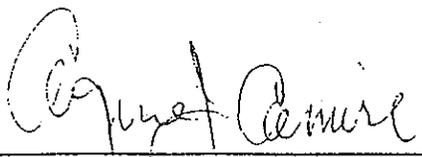
It is found that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

It is found that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because of the mitigation measures indicated above. A NEGATIVE DECLARATION will be prepared.

X

It is found that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

September 19, 1997



Arlyne J. Camire, AICP
Associate Planner

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9/19/97

CALIFORNIA DEPARTMENT OF FISH AND GAME
CERTIFICATE OF FEE EXEMPTION

De Minimis Impact Finding

Project Title/Location Name and Address of Project Proponent (include county):

Planned Development No. 97-120-05 - Mt. Eden Business Park

25801 Industrial Blvd., west side, at the intersection of State 92 and Industrial Blvd.

City of Hayward

County of Alameda

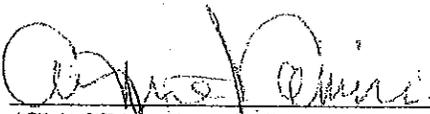
Project Description: Rezoning of 4 parcels, approximately 28 acres, from Industrial and Agricultural Districts to Planned Development District to allow for the 2-phased construction of a 375,633 square feet business park with the potential for development of a hotel and full service restaurant in Phase 2.

Findings of Exemption (attach required findings):

See attached Negative Declaration.

Certification:

I hereby certify that the lead agency has made the above findings of fact and that based upon the initial study and hearing record the project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.


(Chief Planning Official)
for
ASSOCIATE PLANNER
Title

City of Hayward

NOVEMBER 21, 1997

Date

MEMORANDUM

Date: October 8, 2007
To: Susan Cronk – Simeon Properties
From: Eddie Barrios, P.E. – Fehr & Peers
Subject: **Updated Mt. Eden Shops Site Plan Review**

WC07-2408

This memorandum updates the information presented in the *Mt. Eden Shops Site Plan Review* dated March 1, 2007. The memorandum has been updated to reflect the drive-through window queue observations for an existing Starbucks in Santa Clara, California. For completeness and easier reference, all of the information presented in the previous memorandum is included in this memorandum.

Fehr & Peers performed a site plan review for the Mt. Eden Shops development. The reviewed site plan is dated February 16, 2007. The Mt. Eden Shops development consists of two retail pads (Retail A and Retail B). Retail A is approximately 8,250 square feet, while Retail B is approximately 1,838 square feet. Retail B is anticipated to be occupied by a Starbucks that will provide a drive-through window. To estimate the extent vehicle queuing at the drive-through window for Retail B, queuing surveys were performed at three existing Starbucks with drive-through windows. The morning peak period was selected for analysis because it represents the period with the highest level of activity based on field observations and a previous trip generation survey performed by Fehr & Peers¹. Surveys were performed from 7:00 AM to 9:00 AM at the following Starbucks locations with drive-through windows:

- Starbucks in San Leandro (15555 E. 14th Street, San Leandro, CA)
- Starbucks in Concord (4125 Concord Boulevard, Concord, CA)
- Starbucks in Santa Clara (3605 El Camino Real, Santa Clara, CA)

DRIVE-THROUGH WINDOW QUEUE SURVEY RESULTS

The surveyed drive-through facilities are designed with an ordering station in advance of the pick-up window. Data at each site was recorded at one minute intervals between 7:00 AM and 9:00 AM. The results are summarized in Table 1. The detailed data is attached to this memorandum.

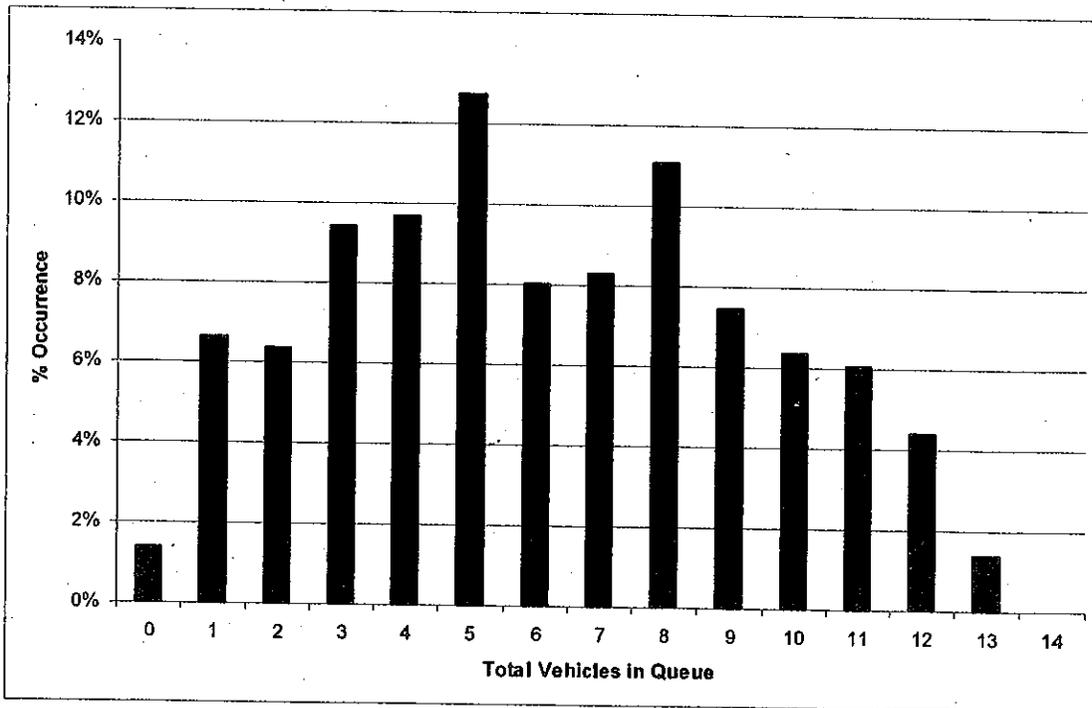
¹ A trip generation survey was performed by Fehr & Peers in 2001 for a Starbucks in Orinda, California. The results indicated that the midday and PM peak hour trip generation was less than half that of the AM peak hour.

Location	Average Queue		85 th Percentile Queue		Maximum Queue	
	Order	Pick-Up	Order	Pick-Up	Order	Pick-Up
San Leandro Starbucks	3	4	6	6	7	6
Concord Starbucks	2	2	4	4	8	5
Santa Clara Starbucks	3	3	6	4	9	4

Source: Fehr & Peers, 2007

Because the length of the queue at the pick-up window is limited by the actual distance provided between the pick-up window and the ordering station, both the pick-up window queue and ordering station queue should be considered together to determine the total length of the queue. Based on the results presented in Table 1, the maximum total queue was observed to be 13 vehicles, while the average queue ranged between 4 and 8 vehicles depending on location.

The data from all three locations was combined to estimate queuing characteristics for the proposed Mt. Eden Shops Starbucks. At all locations the queues at the ordering station and pick-up window were added together to determine the total queue. The chart below presents the percentage of time (percent occurrence) that individual queues were observed during the AM peak period. As shown below, the maximum queue (13 vehicles) was observed for only about 2 percent of the time which represents about 2.4 minutes (= 0.02*120 minutes).



SITE PLAN REVIEW

A project site plan review was performed to determine if adequate site access, circulation, and drive-through window vehicle storage would be provided by the project. The review is presented below.

Project Site Access

The project proposes to provide access via two driveways on Industrial Boulevard. The main project driveway is located on the northern project site boundary and is controlled by a traffic signal. The second driveway located between the main project driveway and the Highway 92 westbound on-ramp is side-street stop controlled where project traffic stops and yields to traffic on Industrial Boulevard. This driveway will be restricted to right-turn in/right-turn out. Both driveways will be at least 40 feet wide which is adequate for two-way travel and emergency vehicle access.

On-Site Vehicle Circulation

The project proposes to provide standard 90 degree parking with parking stall dimensions of 9 feet by 19 feet which is consistent with the City of Hayward Municipal Code. The parking aisles will be at least 26 feet wide which is adequate for 90 degree parking and two-way vehicle circulation. The two proposed internal drive aisles that do not provide direct parking will be 20 feet wide which is adequate for two-way vehicle circulation and emergency vehicle circulation.

The on-site vehicle turning radii including the drive-through lane appear to be adequate for all passenger vehicles. Based on information received from Simeon Properties all deliveries are anticipated to occur by either a single-unit truck (i.e. UPS, FedEx, etc.) or a semi-truck trailer. Based on information provided by the architect, the delivery circulation pattern will be to enter from the main project driveway, make a left-turn behind Retail B, and then another left-turn into the loading area which is located between the two retail pads. To exit, trucks would go straight towards the second driveway on Industrial Boulevard and make a right-turn. A turning radii analysis was performed to determine the largest truck that could maneuver within the site. The turning radii analysis indicates that both the single-unit truck and the WB 40 semi-truck trailer (about 41 feet in length) could maneuver within the site to load/unload. However, because truck circulation would require the temporary use of opposing travel lanes and would block one of the internal drive-aisles for an extended period of time, deliveries should be restricted to off-peak hours to avoid impacts to on-site vehicle circulation.

Pedestrian Circulation

Adequate on-site pedestrian circulation is provided by the project through several design features that include raised curb, new sidewalk, and marked crosswalks throughout the site. We understand that the City has raised concerns about the marked crosswalk at the drive-through lane that connects the two retail pads and about the lack of sidewalk on the Industrial Boulevard project site frontage. Based on the site layout, the marked crosswalk across the drive-through lane appears to be a reasonable location to connect the two retail pads for pedestrians. Pedestrians usually choose the path of least resistance. The location of the marked crosswalk is likely to be the location where pedestrians cross even if the marked crosswalk was not present. The current design allows drivers at the drive-through window to have an unobstructed view of pedestrians on the crosswalk. Vehicle and pedestrian conflicts could be minimized by making the crosswalk highly visible through the use of color and textured pavement.

The project proposes to provide sidewalk along the Industrial Boulevard frontage between the main project driveway and the right-turn in/right-turn out driveway. It does not propose to provide sidewalk along the Industrial Boulevard project site frontage south of the right-turn in/right-turn out driveway. This is because no sidewalk or crossing opportunities are provided on the west side of Industrial Boulevard across the Highway 92 interchange. Sidewalk is also not provided on the west side of Industrial Boulevard for at least 1,000 feet south of the interchange. Sidewalk along the Industrial Boulevard project site frontage south of the right-turn in/right-turn out driveway is not needed based on the existing setting. Furthermore, sidewalk may encourage illegal pedestrian activity across the Highway 92 interchange on the west side. We recommend that no sidewalk be provided along the Industrial Boulevard project site frontage south of the right-turn in/right-turn out driveway.

Drive-Through Vehicle Storage

Based on the site plan, the drive-through lane will store about 11 vehicles before the queue impacts on-site vehicle circulation. Based on the surveys, the estimated vehicle queues at the Mt. Eden Shops Starbucks are expected to exceed the vehicle storage (11 vehicles) about 6 percent of the time during the AM peak period. Assuming that all drive-through vehicles enter from the signalized Main Project Driveway/Industrial Boulevard intersection then impacts to the intersection are anticipated to occur when the queue reaches 13 vehicles or longer. This is anticipated to occur about 2 percent of the time (2.4 minutes) during the AM peak period. Queuing impacts to on-site circulation and at the Main Project Driveway/Industrial Boulevard intersection are not anticipated to occur outside the AM peak period.



QUEUE SURVEY DATA

Starbucks Queue Survey

Location: 4125 Concord Av., Concord

Date: Tuesday, 1/30/2007

Time	# of Cars in Queue to:		Time	# of Cars in Queue to:		Time	# of Cars in Queue to:	
	order	pick up		order	pick up		order	pick up
7:00 AM	1	2	7:45 AM	2	3	8:30 AM	2	3
7:01 AM	1	1	7:46 AM	2	2	8:31 AM	1	3
7:02 AM	0	1	7:47 AM	1	2	8:32 AM	0	3
7:03 AM	0	2	7:48 AM	0	1	8:33 AM	1	0
7:04 AM	1	2	7:49 AM	1	2	8:34 AM	3	1
7:05 AM	0	2	7:50 AM	0	1	8:35 AM	1	2
7:06 AM	0	1	7:51 AM	1	1	8:36 AM	2	2
7:07 AM	0	0	7:52 AM	0	2	8:37 AM	3	2
7:08 AM	0	0	7:53 AM	1	2	8:38 AM	1	2
7:09 AM	0	1	7:54 AM	1	2	8:39 AM	0	2
7:10 AM	0	1	7:55 AM	2	2	8:40 AM	1	1
7:11 AM	1	2	7:56 AM	1	3	8:41 AM	1	2
7:12 AM	1	2	7:57 AM	1	4	8:42 AM	1	3
7:13 AM	2	3	7:58 AM	3	3	8:43 AM	0	2
7:14 AM	2	2	7:59 AM	2	3	8:44 AM	0	1
7:15 AM	2	3	8:00 AM	1	4	8:45 AM	0	0
7:16 AM	4	4	8:01 AM	2	3	8:46 AM	1	0
7:17 AM	3	4	8:02 AM	2	3	8:47 AM	2	1
7:18 AM	3	4	8:03 AM	3	3	8:48 AM	3	2
7:19 AM	4	4	8:04 AM	3	3	8:49 AM	3	1
7:20 AM	2	4	8:05 AM	4	3	8:50 AM	1	3
7:21 AM	2	2	8:06 AM	3	3	8:51 AM	3	3
7:22 AM	1	3	8:07 AM	4	2	8:52 AM	2	3
7:23 AM	1	2	8:08 AM	4	3	8:53 AM	2	2
7:24 AM	2	3	8:09 AM	4	3	8:54 AM	1	1
7:25 AM	1	1	8:10 AM	6	3	8:55 AM	0	2
7:26 AM	0	1	8:11 AM	5	4	8:56 AM	0	1
7:27 AM	0	1	8:12 AM	8	3	8:57 AM	1	1
7:28 AM	1	1	8:13 AM	7	3	8:58 AM	2	1
7:29 AM	1	2	8:14 AM	5	5	8:59 AM	1	1
7:30 AM	2	3	8:15 AM	4	4	9:00 AM	0	2
7:31 AM	2	3	8:16 AM	5	3			
7:32 AM	3	3	8:17 AM	6	3			
7:33 AM	2	3	8:18 AM	4	4			
7:34 AM	2	3	8:19 AM	3	3			
7:35 AM	1	2	8:20 AM	2	4			
7:36 AM	2	4	8:21 AM	2	5			
7:37 AM	3	3	8:22 AM	5	4			
7:38 AM	3	4	8:23 AM	4	5			
7:39 AM	2	3	8:24 AM	4	3			
7:40 AM	2	3	8:25 AM	5	4			
7:41 AM	1	3	8:26 AM	4	4			
7:42 AM	1	2	8:27 AM	4	3			
7:43 AM	0	1	8:28 AM	2	4			
7:44 AM	2	2	8:29 AM	1	4			

Starbucks Queue Survey

Location: 15555 E. 14th St., San Leandro

Date: Wednesday, 1-31-07

Time	# of Cars in Queue to:		Time	# of Cars in Queue to:		Time	# of Cars in Queue to:	
	order	pick up		order	pick up		order	pick up
7:00 AM	1	1	7:45 AM	5	6	8:30 AM	6	6
7:01 AM	1	2	7:46 AM	3	5	8:31 AM	4	6
7:02 AM	0	2	7:47 AM	2	5	8:32 AM	4	6
7:03 AM	0	3	7:48 AM	1	4	8:33 AM	4	6
7:04 AM	0	1	7:49 AM	2	4	8:34 AM	5	5
7:05 AM	1	2	7:50 AM	0	6	8:35 AM	5	6
7:06 AM	1	2	7:51 AM	0	5	8:36 AM	6	5
7:07 AM	0	1	7:52 AM	2	5	8:37 AM	6	5
7:08 AM	1	0	7:53 AM	3	5	8:38 AM	7	5
7:09 AM	0	1	7:54 AM	2	6	8:39 AM	7	6
7:10 AM	0	2	7:55 AM	2	6	8:40 AM	7	6
7:11 AM	0	2	7:56 AM	3	5	8:41 AM	6	6
7:12 AM	1	1	7:57 AM	3	5	8:42 AM	6	6
7:13 AM	0	1	7:58 AM	6	5	8:43 AM	6	6
7:14 AM	1	0	7:59 AM	5	5	8:44 AM	6	5
7:15 AM	3	1	8:00 AM	6	5	8:45 AM	6	6
7:16 AM	2	2	8:01 AM	5	6	8:46 AM	5	6
7:17 AM	4	2	8:02 AM	4	6	8:47 AM	4	6
7:18 AM	3	2	8:03 AM	3	5	8:48 AM	5	6
7:19 AM	3	2	8:04 AM	2	5	8:49 AM	4	6
7:20 AM	1	4	8:05 AM	4	6	8:50 AM	4	5
7:21 AM	3	5	8:06 AM	3	6	8:51 AM	3	5
7:22 AM	3	5	8:07 AM	3	6	8:52 AM	4	5
7:23 AM	3	4	8:08 AM	7	6	8:53 AM	7	5
7:24 AM	1	5	8:09 AM	7	6	8:54 AM	6	5
7:25 AM	1	4	8:10 AM	7	6	8:55 AM	7	5
7:26 AM	1	3	8:11 AM	6	6	8:56 AM	7	5
7:27 AM	3	3	8:12 AM	5	6	8:57 AM	6	5
7:28 AM	2	3	8:13 AM	6	6	8:58 AM	6	4
7:29 AM	1	3	8:14 AM	4	6	8:59 AM	6	5
7:30 AM	1	3	8:15 AM	3	6	9:00 AM	5	6
7:31 AM	0	3	8:16 AM	3	6			
7:32 AM	1	2	8:17 AM	5	6			
7:33 AM	1	2	8:18 AM	6	6			
7:34 AM	0	3	8:19 AM	5	6			
7:35 AM	1	2	8:20 AM	4	6			
7:36 AM	2	1	8:21 AM	3	6			
7:37 AM	2	3	8:22 AM	3	6			
7:38 AM	2	3	8:23 AM	3	6			
7:39 AM	0	4	8:24 AM	4	5			
7:40 AM	1	3	8:25 AM	4	6			
7:41 AM	3	3	8:26 AM	2	6			
7:42 AM	2	5	8:27 AM	3	5			
7:43 AM	4	6	8:28 AM	4	5			
7:44 AM	3	5	8:29 AM	5	6			

Starbucks Queue Survey

Location: 3605 El Camino Real, Santa Clara

Date: Tuesday, 9-25-07

Time	# of Cars in Queue to:		Time	# of Cars in Queue to:		Time	# of Cars in Queue to:	
	order	pick up		order	pick up		order	pick up
7:00 AM	0	1	7:45 AM	5	4	8:30 AM	2	3
7:01 AM	1	1	7:46 AM	5	4	8:31 AM	4	3
7:02 AM	1	1	7:47 AM	6	3	8:32 AM	7	3
7:03 AM	0	1	7:48 AM	5	3	8:33 AM	6	3
7:04 AM	1	1	7:49 AM	4	3	8:34 AM	6	4
7:05 AM	1	2	7:50 AM	2	4	8:35 AM	7	3
7:06 AM	0	1	7:51 AM	2	3	8:36 AM	6	3
7:07 AM	0	0	7:52 AM	1	3	8:37 AM	7	3
7:08 AM	0	0	7:53 AM	0	3	8:38 AM	7	4
7:09 AM	0	1	7:54 AM	2	2	8:39 AM	7	4
7:10 AM	1	0	7:55 AM	2	3	8:40 AM	8	4
7:11 AM	2	1	7:56 AM	0	3	8:41 AM	9	3
7:12 AM	2	2	7:57 AM	0	2	8:42 AM	8	4
7:13 AM	2	3	7:58 AM	1	2	8:43 AM	6	2
7:14 AM	2	2	7:59 AM	2	3	8:44 AM	9	3
7:15 AM	3	2	8:00 AM	2	3	8:45 AM	8	2
7:16 AM	4	3	8:01 AM	4	3	8:46 AM	5	3
7:17 AM	3	4	8:02 AM	3	4	8:47 AM	5	3
7:18 AM	2	2	8:03 AM	3	3	8:48 AM	4	3
7:19 AM	2	1	8:04 AM	4	3	8:49 AM	3	2
7:20 AM	3	2	8:05 AM	3	3	8:50 AM	3	3
7:21 AM	2	2	8:06 AM	2	3	8:51 AM	2	3
7:22 AM	3	3	8:07 AM	1	3	8:52 AM	1	3
7:23 AM	2	4	8:08 AM	0	2	8:53 AM	1	3
7:24 AM	3	4	8:09 AM	1	3	8:54 AM	5	2
7:25 AM	4	3	8:10 AM	2	3	8:55 AM	5	3
7:26 AM	4	3	8:11 AM	2	4	8:56 AM	5	3
7:27 AM	3	2	8:12 AM	2	3	8:57 AM	7	3
7:28 AM	3	3	8:13 AM	3	3	8:58 AM	6	4
7:29 AM	4	2	8:14 AM	1	3	8:59 AM	8	3
7:30 AM	5	4	8:15 AM	1	3	9:00 AM	7	2
7:31 AM	5	2	8:16 AM	1	2			
7:32 AM	6	3	8:17 AM	2	3			
7:33 AM	5	3	8:18 AM	0	2			
7:34 AM	6	2	8:19 AM	2	2			
7:35 AM	5	3	8:20 AM	2	3			
7:36 AM	5	3	8:21 AM	3	2			
7:37 AM	6	2	8:22 AM	4	4			
7:38 AM	6	2	8:23 AM	4	4			
7:39 AM	5	3	8:24 AM	4	4			
7:40 AM	4	3	8:25 AM	4	4			
7:41 AM	5	3	8:26 AM	3	4			
7:42 AM	4	3	8:27 AM	5	4			
7:43 AM	5	3	8:28 AM	5	4			
7:44 AM	4	4	8:29 AM	4	4			

for Hayward. He added that there are minimal safety concerns regarding radio f and noted that standards in the industry have been improved recently.

Public Hearing Closed 7:53 p.m.

Commissioner Williams moved, seconded by Commissioner Kirby, for approval consistent with staff recommendations and conditions. The motion passed unanimously with Commissioner Fish absent.

2. PLANNED DEVELOPMENT NO. 97-120-05 - YOSHITO AND MARI SHIBATA (APPLICANTS), MT. EDEN NURSERY INC. (OWNER) - Request to allow four parcels, approximately 28 acres, to be used for the two-phased construction of a 375,633-square-foot business park with the potential for the development of a hotel and full service restaurant in Phase 2. The project site is located at 25801 Industrial Boulevard, on the west side of the street, at the intersection of State Route 92 and Industrial Boulevard in an Industrial (I) and an Agriculture (A) District (APNs: 441-0045-002-03, 004, 005-02 and 441-0055-009-01). (FROM SEPT. 25, 1997)

Associate Planner Camire made the staff report using slides to describe the project. She expressed staff concerns explained in the report including breaking up the long expansion of the building with attractive entry features and providing a variation in the plane of the building facade. Staff also proposed the use of water features to reflect the tea garden and tea house ambiance. Since this is the last large parcel in the City, staff would like to see a quality project which might attract high-tech users, provide jobs, and generate sales tax.

Planning Commissioner Caveglia expressed concern with the use which would allow for "warehousing."

Public Hearing Opened, 8:13 p.m.

Russ Pitto, Simeon Commercial Properties, 655 Montgomery St., Ste. 1190, San Francisco, began the developer's presentation. The Shibata family is the owner of the property and his firm will be the developer.

Yoshimi Shibata, 230 Catalpa Drive, Atherton, said his family has been in Hayward for 80 years and for the last 50 years has preserved the Japanese tea garden which is a reproduction of the Katsura Garden, a replica of the Imperial Garden in Japan. It will be controlled by the Shibata family with limited public use of the garden. He noted that Simeon was the only company that was interested in maintaining the garden.

Planning Commissioner Dowling was assured by Mr. Shibata that the family has a commitment to maintain the garden.

John Milburn, Cabak Rooney Jordon and Associates, c/o Simeon Commercial Properties, architect for CRJ Associates, specializes in designing research and development (R&D) type buildings. He stated that 42 percent of the project is R&D. The design would be of a campus-type, creating a cohesive unified design. He said they were trying to provide access to the tea garden by developing a flexible design with full landscaping to feature the tea garden. They would utilize trees to screen the railroad tracks along the rear and to screen the parking lot along

Industrial Boulevard. At the entry, landscaping will feature the Japanese tea garden theme. Traffic circulation was discussed. Two entrances and three exits are part of the project. There is some parking set aside to accommodate social functions at the tea house. The developer also enumerated the developmental concerns including financing for the R & D building, the tea garden historical designation, and the water feature element requirement.

Mr. Milburn then asked a representative of Lynx, a processing company for biological samples for pharmaceutical corporations, to speak. He said that although the contract is not finalized, their company is interested in moving into the business park in two of the buildings. The decision of the Commission would determine whether Lynx stays in Hayward.

Kate Funk, Kayser Marsten, 55 Pacific Avenue Mall, San Francisco, a real estate and urban and economic consulting firm, described the economic benefits for Hayward including the opportunity for approximately 800 positions when the buildings are all occupied. The job opportunities would be jobs of the future including bio-tech type of positions. She said the City could receive approximately \$66,000 as Hayward's share of the property taxes. She also noted the sales tax opportunities.

Dave Black, CB Commercial, c/o Simeon Commercial, Senior Vice President, spoke in support of the application. He worked with Mr. Pitto in South San Francisco on several projects. His job is to mask the site from its surroundings. He suggested a two-story structure would not be appropriate for this type of use. He said the project would be marketed to bring firms from the other side of the Bay.

Harry Coustic, also with CB Commercial, a hotel retail specialist, said hotel analysis results indicate that one hotel with 100-150 rooms would max out at this location. It would not be a full-service, banquet type hotel, but rather a business-type for use during the week. A full-service, family-style restaurant would be included.

Scott Raty, representing the Chamber of Commerce, 22561 Main Street, said this would be an outstanding project for the City. He commented that requiring water features would downplay the original beauty of the tea garden already there.

Walt Friez, 34678 Mission Boulevard, Fremont, spoke in support of the project but expressed concern about street improvements that would be needed, particularly a signed light at the main entrance.

Thomas White, 2023 Oakland Avenue, Piedmont, real estate broker, said this is an opportunity for Hayward. He also spoke in support of the Simeon firm adding that this will be a catalyst for Hayward's future.

Public Hearing Closed, 9:59 p.m.

Associate Planner Camire explained that Condition 11.a. requires the owner to pursue the historic designation process for the tea garden which is to be completed prior to issuance of Building permits for Phase 2. The variation of the facade on Building "B" is dependent on what

Lynx would need; either a second story mezzanine or a one story building. The water feature would be reviewed by staff and approved prior to issuance of the building permit.

Chairperson Bennett re-opened the public hearing at 10:07 p.m. to discuss the family's decision not to require the historic designation.

Edward Merrill, an attorney with the McCutchen firm, 3 Embarcadero, San Francisco, representing the Shibata family, said that the project will continue to be owned by the Mt. Eden Nursery and the Shibata family and only certain portions of the grounds would be leased on a long term basis. A portion not leased to Simeon will include the garden and tea house. The family would continue to look after both and prefer that it remain under their jurisdiction since they are not sure of the implications of government regulations regarding historical designation.

Public Hearing Re-Closed at 10:15 p.m.

Commissioner Kirby moved to recommend to the City Council the approval of the project with the revised mitigated negative declaration and revised conditions of approval, Exhibit B, with the following changes: Condition 2.a., the requirement for the extension of the building be changed from 8 feet to 5 feet minimum and 3-foot minimum interior space of the building; Condition 2.h.(3), a water feature, such as ponds or fountains, or another element that ties in with the theme of the garden...; and that Condition 11.a. be deleted at the family's request.

Assistant City Attorney Nakatsu indicated that the initial study indicates there will be a significant impact if the owner does not go through the historical designation. It would then be necessary for the Commission to make a determination that the mitigation is either not necessary or that there would be no significant impact.

Commissioner Kirby amended his motion, removing Condition 11.a., regarding historical designation. Commissioner Dowling seconded the motion.

Commissioner Williams said he was going to support the motion with the deletion of the condition which would require historical designation because he feels the right of ownership should be respected and the owner should not be required to pursue this designation.

Commissioner Dowling said he feels the key question is whether this is going to be a Silicon Valley type project that would attract a more up-scale development, or, a project typical for Hayward with light-industrial uses. He asked staff to comment.

Community and Economic Development Director Ehrental responded that this is viewed as an attempt to up-scale from the standard type of development. Staff understands and believes Simeon is trying to maintain the flexibility that they feel they need for their marketability. Staff has made an effort to make it as upscale as realistically possible.

Commissioner Dowling added further comments that this is not a huge departure for Hayward. He expressed disappointment with the hotel's lack of banquet and conference facilities but understands the marketing in the area. He said he was very disappointed that the restaurant may be Denny's or International House of Pancakes. He said he appreciated the family, and hopes they will understand that the City wants to designate the gardens and tea house as historically significant to ensure that 50 years from now this treasure will be preserved.

Commissioner Kirby added that he believed removing the historic designation would jeopardize the approval of the mitigated negative declaration. He said he is hopeful the family will be able to find that the conditions are not so onerous.

Chairperson Bennett said she had visited the tea garden and feels it is extremely important to the family. She said this is only a local designation, not a federal or state designation. She added that this would be a positive project for the city.

The motion carried by the following vote:

AYES: COMMISSIONERS Caveglia, Dowling, Halliday, Kirby
CHAIRPERSON Bennett
NOES: COMMISSIONER William
ABSENT: COMMISSIONER Fish
ABSTAIN: COMMISSIONER None

Chairperson Bennett called for a five minute recess.

ADDITIONAL MATTERS

3. Oral Report on Planning and Zoning Matters - Development Review Services Engineer reported regarding upcoming Planning Commission meetings as follow:
Joint City Council/Planning Commission Work Session on Tuesday, October 7, 5:00 p.m., regarding Circulation Element Update; no meeting on October 9; October 16 - Work Session and Public Hearing regarding the Subsequent Supplemental Draft EIR on Hayward 1900; October 23 - Bailey Ranch Primary Specific Plan Amendment, Zone Change, and Vesting Tentative Maps; and, no meeting on October 30. There are 2 meetings scheduled in November, on the 6th and 13th.

4. Commissioners' Announcements, Referrals

Commissioner Caveglia requested a report regarding the trenching on Hillcrest Avenue.

Commissioner Dowling inquired regarding dead and dying trees located on the property behind the Lucky Store, on the dead-end of West Harder, in the area that backs homes in Schafer Park area. He wanted to know if the property belongs to Caltrans.

Commissioner Williams noted a sign regarding 8 lots on Hayward Boulevard and Farm Hill. Development Review Services Engineer Peck stated that this was the result of a lot line adjustment from 12 to 8 lots; this was not a discretionary action.

Commissioner Halliday invited all to the FESCO celebration on October 11, from 11:00 a.m. to 4:00 p.m. FESCO will celebrate its past and future, providing housing for homeless families in Hayward. There will be a ground-breaking for a new project to provide long-term housing for homeless families.

Building Modifications, Project 6941, and Authorization for
Increase in Additional Professional Services"

3. Adoption of An Ordinance Amending Section 10-1.136 of Chapter 10, Article 1 of the Hayward Municipal Code by Rezoning Certain Territory at 795 and 799 Fletcher Lane Pursuant to Zone Change Application 97-190-05

Staff report submitted by City Clerk Reyes, dated October 21, 1997, was filed.

It was moved by Council Member Ward, seconded by Council Member Rodriquez, and unanimously carried by all present, to adopt the following:

Ordinance No. 97-15, "An Ordinance Amending Section 10-1.136 of Chapter 10, Article 1 of the Hayward Municipal Code by Rezoning Certain Territory at 795 and 799 Fletcher Lane Pursuant to Zone Change Application 97-190-05"

HEARINGS

4. Planned Development No. 97-120-05 - Yoshito and Mari Shibata (Applicants), Mt. Eden Nursery, Inc. (Owner) - Request to Allow Four Parcels, Approximately 28 Acres, to be Used for the Two-Phased Construction of a 375,633-Square-Foot Business Park - The project site is located at 25801 Industrial Boulevard

Staff report submitted by Associate Planner Camire, dated October 21, 1997, was filed.

Associate Planner Camire made the staff presentation, highlighting the recommendations and concerns of the Planning Commission. She noted the applicant's request for revisions to the conditions of approval and responded to questions from the Council.

Council Member Ward disagreed with staff's requirement of a water feature, noting that a sense of cohesiveness could be created in another manner. He questioned if there were other options that the developer could pursue to mitigate the negative declaration issue. He felt it was imperative that the garden be maintained and asked for legal clarification if there was another method for its preservation than designating it historical. It was noted by City Attorney O'Toole that language could be developed to address the negative declaration that states that it is an important cultural resource to this community and requiring that any plans to remove the garden be reviewed by both the Planning Commission and the City Council.

Council Member Hilson stated there should be a positive method of protecting that garden feature. He asked that staff point out the locations of the water features. Staff responded that the water features would be located along the roadways. He expressed concerns with traffic and indicated that the intersection could be extremely difficult to navigate. Council Member Hilson appreciated the research and development of the campus project. He mentioned that he does not favor warehouse and distribution

PUBLIC COMMENTS

Harold Mendenhall, no address provided, spoke in opposition of Measure A and submitted a statement in that regard.

Ed Mullins, 313-B Sea Mist Court, stated that the Chamber of Commerce supports Measure A. He discussed the merits of the measure and read a statement recently published in the Chamber newsletter.

Ruth Alexander, 965 Northfield Drive, spoke in support of Measure A. She described her positive experiences as a member of the Mayor's Blue Ribbon Library Task Force. She thanked Library Director Marilyn Baker-Madsen and the library staff for their efforts in providing the community with excellent library services in spite of economic constraints. She urged all citizens and senior citizens in particular to support this measure that would benefit children.

Bill Brunelli, 4187 Picea Court, read a statement in support of the recommendation of the Walpert Ridge Ad Hoc Committee regarding the Blue Rock Country Club development. He expressed disappointment that the Council did not accept its recommendation since it deliberated over eighty hours. He suggested that the Council allow the electorate to decide which plan, the current plan or the one submitted by the Ad Hoc Committee, would be best for this community.

Frank Goulart, 22248 Main Street, spoke in opposition to Measure A using the phrase "more services, not more palaces." and read from his argument as published in the voter pamphlet.

John Cavolowsky, Sixth Street, thanked the members of the Circulation Element Task Force for their efforts in developing the draft plan after reviewing mounds of information. He recognized Gary Calame, Senior Planner, and Deputy Director of Public Works Bob Bauman for their expertise and professionalism. On another topic, he thanked Mayor Cooper and the Council for their vision in bringing Hayward forward in support of the library. He spoke in support of Measure A, which will provide a library improvement fund. He looked forward to celebrating its passage.

CONSENT

Item #1 was removed for separate action because Council Member Ward was absent on October 7.

1. Approval of Minutes of the Regular Council Meeting of October 7, 1997

It was moved by Council Member Jimenez, seconded by Council Member Henson, and carried, with Council Member Ward abstaining, to approve the minutes of October 7, 1997.

2. Eggert Building Modifications Project - Authorization to Increase Administrative Change Order Amount, and Authorization for an Increase in Additional Professional Services

Staff report submitted by Deputy Director of Public Works Bauman, dated October 21, 1997, was filed.

It was moved by Council Member Ward, seconded by Council Member Rodriguez, and unanimously carried by all present, to adopt the following:

Resolution No. 97-167, "Resolution Approving Increase in Administrative Change Order Authorization for Eggert

at the site. In regards to a water feature, he felt they should be viewable by the general public as part of the streetscape. He expressed concern in regards to the neighborhood traffic impacts.

Council Member Jimenez spoke in support of the Shibata family and their integrity. He also spoke in favor of the project, noting that he felt some of the conditions were rather stringent. He felt that there were no significant residential impacts.

Council Member Henson commented on the concerns of the Planning Commission and was informed that the loading docks situation and road mounds issues were resolved.

Mayor Cooper opened the public hearing at 9:07 p.m.

Yoshimi Shibata, 230 Catalpa Drive, Atherton, emphasized that his family still owns the property and the tea house, which had been a home. He noted that it was designed as a replica of one in the emperor's palaces in Japan. He described the conditions of the long term lease with Simeon Commercial Properties that require continued maintenance of the garden. He spoke against the recommendation of the historic designation to the teahouse.

Russ Pitto, 655 Montgomery, Ste. 1190, San Francisco, described the firm, Simeon Commercial Properties, and showed slides of some of its projects. He noted that about fifty percent of his tenants are research and development, which is what is intended for the Mt. Eden project. He noted that staff has asked that three acres be set aside for a hotel which will be marketed for fifteen months. There are presently several offers and counter offers in that regard. He described design issues, cost issues, water feature, the Japanese theme throughout the project and orienting several of the buildings to the tea garden. He explained the orientation of the buildings in relation to the various constraints and noted that concessions have been made in favor of the City. The Japanese theme will be concentrated at the three entrances and at the tea garden entrance.

There was discussion about the two-story versus the one-story building issue. There was consensus that the water feature should not be a requirement. Mr. Pitto explained the basic structure of the use of the tea house and garden is limited to ten days.

Kate Funk, 55 Pacific Avenue Mall, San Francisco, summarized the economics of the project in relation to the generation of jobs in the high-tech arena, property taxes, and other revenues for the city.

Asish Prasad, 3832 Bay Center Place, representing Lynx Therapeutics, Incorporated, described the negotiations presently being considered relating to the building.

Goward S. Merrill, 3 Embarcadero, 18th, San Francisco, pointed out that he did not feel it necessary to mitigate the cultural resource in the initial study. He emphasized that the family will continue to own the garden and the tea house and did not desire to see this feature designated historical.

Scott Raty, representing the Chamber of Commerce, spoke in support of the project and the applicant. The Chamber of Commerce Government Relations Council has reviewed the project plans and agreed that this is consistent with the general plan policies and economic element. He spoke on behalf of the Shibata family in respect to preservation of the garden.

Al Reynolds, 2547 Erskine Lane, felt that the tea house and garden should be maintained. He spoke strongly against trucks that could come through Depot Road, Cryer Street and other neighborhood

avenues during the construction. It was his suggestion that this project be relocated south of highway 92.

Ed Bogue, 729 Poinciana Street, spoke in support of the project and suggested that a two-story building would serve as an a focal point for the development. He visited the garden and was impressed with its appearance. He asked whether the garden was a part of the planned development and was informed that the Shibata family continues to hold a ground lease and that the garden is still a part of the family.

Mr. McSweeney, a real estate agent on behalf of Simeon, spoke on behalf the applicant and explained the warehouse component and the aesthetics that would screen docks and trucks.

Thomas White, 2023 Oakland Avenue, Piedmont, real estate broker, said this is an opportunity that is desirable for the economic goals that Hayward seeks. It has been a challenge to attract a developer, the financial capital, and is the first commitment in over ten years. Hayward has been known as a warehouse city, but this project is another step towards attracting businesses in research and development. He spoke in support of this project.

Mayor Cooper closed the public hearing at 10:38 p.m.

Council Member Ward commended staff on this report. He noted that Hayward is ready to move into the next level in attracting businesses and spoke in favor of the project with certain modifications.

Council Member Ward moved, seconded by Council Member Jimenez, to delete the requirement for a water element and accept the applicant's proposal to highlight the two entry ways and access drive in path to the garden. In regards to the reorientation, the applicant is required to work with staff so that no net loss of building occurs, add a condition that is acceptable by staff replacing the historic designation, insure that garden facilities continue to be maintained and that any future changes must be reviewed by both the Planning Commission and the City Council, add a plan for construction that includes prohibiting trucks from going through the neighborhood and revise the negative declaration to address the issue of the garden's historic designation.

Staff recommended that Condition of Approval #2.a., be amended so that windows located on the fronts and sides of Buildings "B" and "C" shall be recessed from 12 inches to 6 inches. Also, that Condition of Approval #2.h. (3), be revised to replace "A water feature, such as a pond or fountain, or another element," with, "Three elements, two at the entryways and on the access drive-in path to the garden." Both the maker of the motion and the second concurred.

Council Member Henson spoke in support of the motion and appreciated the history as provided by Yoshito Shibata. He hoped that the garden would be preserved.

It was moved by Council Member Ward, seconded by Council Member Jimenez, and unanimously carried by all present, to introduce the ordinance and adopt the resolution as follow:

Ordinance 97-____, "An Ordinance Amending Section 10-1.145 of Chapter 10, Article 1 of the Hayward Municipal Code by Rezoning Certain Territory as a Planned

Development District Pursuant to Zone Change Application No. 97-190-03 of Yoshito and Mari Shibata (Applicants) and Mt. Eden Nursery, Inc. (Owner)"

Resolution No. 97-168, "Resolution Approving the Preliminary Development Plan in Connection with Zone Change Application No. 97-190-03 of Yoshito and Mari Shibata (Applicants), Mt. Eden Nursery, Inc. (Owner)"

COUNCIL REPORTS

There were no Council reports.

ADJOURNMENT

Mayor Cooper adjourned the meeting in memory of Anthony Stas, who was the FAA Tower Chief at the Hayward Air Terminal for the past six years. He served the FAA for over twenty-two years. He passed away on October 10. He will be missed by both the FAA Air Traffic Control Tower staff and the Hayward Airport staff. She asked that a tree be planted at the airport.

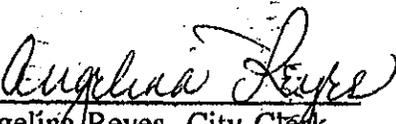
Council Member Jimenez adjourned the meeting in memory of Judge John J. Purchio, former Council Member, Mayor and member of the California Transportation Commission died on October 11. He was active in city affairs, dedicated to this community and will be missed. Council Member Jimenez noted that years ago, Judge Purchio was instrumental in saving the Shibata Japanese garden when Caltrans widened the San Mateo bridge.

The meeting adjourned at 10:51 p.m.

APPROVED:


Roberta Cooper, Mayor
City of Hayward

ATTEST:


Angelina Reyes, City Clerk,
City of Hayward

Chair Peixoto closed the public hearing at 8:17 p.m.

Commissioner Thnay commended Mr. Goulart's interest for maintaining historical buildings. He expressed his struggle for maintaining historical buildings and at the same time attracting more people to downtown. Mr. Thnay made a motion per staff recommendation and proposed that some elements of interest in the Palmtag Building should be preserved and incorporated into the design of the new building.

Commissioner Sacks seconded the motion.

Commissioner Loché inquired about a foreseen conflict with having a bank and a commercial establishment on the second floor. Planning Manager Rizk indicated that from a land use perspective, the ordinance would allow for such use.

Commissioner Mendall indicated that the approved half-million dollars for the façade improvement was not sufficient to change the building and was sympathetic to the historic nature, but favored improving the area. He supported Condition of Approval No. 3 and reluctantly supported the motion.

Commissioner Sacks expressed mixed feelings about the project; however, she indicated that the Palmtag Building disintegrated a long time ago and has not been functioning as a two-story building. Ms. Sacks echoed Commissioner Thnay's suggestion that the developer capture some of the elements and re-use them for the new building. She supported the motion.

Commissioner Mendall recommended that staff prioritize the half million dollars towards preserving other historic buildings.

Chair Peixoto indicated that there are historic buildings that do not have functionality and expressed that the proposed building will be actively used. He supported the motion.

Commissioner Thnay moved, seconded by Commissioner Sacks, and unanimously approved with Commissioners Lavelle and McKillop absent, to adopt the Initial Study and Negative Declaration, prepared pursuant to the California Environmental Quality Act (CEQA) guidelines, and approve the Site Plan Review application with revisions to Conditions of Approval Nos. 3, 5, 9, 11, 14, 18, 20, 34g, deletion of Condition of Approval No. 26 and addition of a condition that the applicant is encouraged to preserve existing elements of interest from the existing building and incorporate them into the new building.

- 2: Zone Change Application No. PL-2005-0536 - Susan Cronk for Simeon Commercial Properties (Applicant) / SimVest Real Estate I, LLC (Owner) - A Request to Modify a Planned Development District to Allow a Neighborhood-Serving Retail Center on a 1.5-acre parcel at Mt. Eden Business Park - The project is located at 26250 Industrial Boulevard adjacent to Highway 92

Staff report submitted by Associate Planner Camire, dated September 6, 2007, was filed.



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Council Chambers
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777 B Street, Hayward, CA 94541

Planning Manager Rizk summarized the report and clarified questions from the Commissioners.

Chair Peixoto opened the public hearing at 8:39 p.m.

Mr. Russ Pitto, CEO for Simeon Commercial Properties, indicated that he did the presentation for the original project in 1997. He mentioned that they have not been successful finding a full service restaurant that would commit to the area. After doing a study, they learned that what seems realistic for the area would be a retail center such as a drive-thru Starbucks, up-scale 7-Eleven and other prospective tenants. He indicated that surrounding neighbors such as the Life Chiropractor, the Fairfield Inn and Suites by Marriot and Heald Business College support the proposed project.

In response to Commissioner Mendall's inquiry regarding the space in the proposed project, Mr. Pitto indicated that a smaller restaurant or diner would fit but not a large franchise.

Commissioner Loché inquired if more housing would have an impact on the proposed project. Mr. Pitto indicated that the proposal would not change the dynamics of the neighborhood.

Commissioner Sacks indicated that there are certain destination restaurants that are successful. From past experience, she favored a place to eat, a gas station and a motel. She was not in favor of having a 7-Eleven next to the motel. Mr. Pitto indicated that they have not received opposition to the proposed 7-Eleven store.

Commissioner Thnay inquired if he would foresee viability to have a sit-down restaurant in the future, provided the project was approved. Mr. Pitto envisioned a better probability for a small diner for that area due to the increase of traffic that the convenience store would generate.

Mr. Solomon Ets-Hokin, Director of Real Estate for Simeon and former consultant for the viability of a restaurant in 2005, mentioned that he worked diligently to get a restaurant in that area, but there were no sustainable tenants.

Mr. Tom Greenland, Real Estate Manager for the 7-Eleven, indicated that his team was available for answers to concerns. In response to Commissioner Mendall, Mr. Greenland indicated that an upscale 7-Eleven has a different architecture, lightning, technology and delicatessen/snacks based on the demand.

Commissioner Sacks expressed concern for the social target that a 7-Eleven that sells liquor would represent for the neighborhood and specifically when located in close proximity to the motel. Ms. Sacks also indicated concern for hours of operation and security provisions.

Mr. Jeff Hetherington, Operations Manager with 7-Eleven, indicated that they build stores based on demographics, which are deemed safe for customers as well as employees. He indicated that from an engineering and lighting stand point the new stores look different. In regards to potential nuisance behavior, he indicated that the stores have enhanced services through technology that is

able to mitigate any nuisance and have trained employees to offer a better service. He indicated that 7-Eleven intends to be more of a convenience store in order to attract different operators.

Chair Peixoto closed the public hearing at 9:06 p.m..

Commissioner Mendall indicated that he works in close proximity to the proposed project and favored a sit-down restaurant. He was sympathetic to the fact that the place was not found feasible to attract what Council had originally envisioned. He indicated that he would be in support of a sit-down restaurant or drive-thru coffee shop, but not an up-scale 7-Eleven.

Commissioner Thnay indicated that the developer has done diligent work in attracting the right retail tenant. He indicated that having seen the place vacant for some time, he would like to see a new functional business.

Commissioner Loché indicated that the developer has made the attempt to find a sit-down restaurant and indicated that the area would not be best served with a 7-Eleven and would like to maintain Council's initial plan for the area.

Commissioner Sacks understood that a restaurant is not viable; however, indicated that small restaurants would be more appropriate for the area. Upon concurrence with Assistant City Attorney Conneely, Ms. Sacks made a motion to direct staff to conduct a California Environmental Quality Act (CEQA) review and prepare findings and conditions of approval to bring back without placing restrictions as far as prospective tenants.

Chair Thnay seconded the motion.

Commissioner Mendall did not support the motion because he disagreed with not having restrictions, specifically opposed consideration of an upscale 7-Eleven as a convenient store. He favored more restaurants. Commissioner Mendall offered a substitute motion to direct staff to conduct CEQA analysis and prepare findings and conditions of approval eliminating the consideration of a 7-Eleven as an approved use.

Commissioner Loché inquired about clarification on the difference between a fast food restaurant and a drive-thru shop.

In response to Commissioner Loché's inquiry for the difference between a fast-food drive-thru restaurant and a drive-thru coffee shop, Planning Manager Rizk indicated that the Municipal Code is less restrictive for small, kiosk-sized drive-thru coffee shops.

Commissioner Loché seconded the motion.

It was moved by Commissioner Mendall, seconded by Commissioner Loché, and failed by the following roll call vote:



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AYES: Commissioners Mendall, Loché
NOES: Commissioners Sacks, Thnay
Chair Peixoto
ABSENT: Commissioner Lavelle, McKillop
ABSTAINED: None

Commissioner Thnay agreed with the substitute motion and favored a sit-down restaurant, but indicated that he wanted more flexibility in terms of convenience stores, such as the up-scale 7-Eleven. Planning Manager Rizk indicated that a conditional use permit, to allow alcohol sales would also be required should the project come back after more analysis. Assistant City Attorney Conneely added that at this point, the Commission was not required to determine if a convenience store should be appropriate for the proposed project.

After discussion ensued, the Commissioners concurred to vote on the initial motion offered by Commissioner Sacks.

It was moved by Commissioner Sacks, seconded by Commissioner Thnay, and failed by the following roll call vote:

AYES: Commissioners Sacks, Thnay
Chair Peixoto
NOES: Commissioners Mendall, Loché
ABSENT: Commissioner Lavelle, McKillop
ABSTAINED: None

Assistant Attorney Connelly indicated that a new motion could be offered or, if the Commission preferred to deny the project, the applicant could appeal it to the City Council.

Commissioner Mendall noted that a majority of the Commission clearly agreed with letting the property owner pursue uses other than a sit-down restaurant. Their differences were about which other uses should be allowed. Commissioner Mendall offered to change his vote on Commissioner Sacks' motion so that the proposal could move forward.

Discussion ensued and the Commission concurred to vote again on the initial motion offered by Commissioner Sacks.

It was moved by Commissioner Sacks, seconded by Commissioner Thnay, and carried by the following roll call vote to direct staff to conduct a CEQA review and prepare findings and conditions of approval without placing restrictions as far as prospective tenants, such as convenience stores like an up-scale 7-Eleven:

AYES: Commissioners Sacks, Mendall, Thnay
Chair Peixoto
NOES: Commissioners Loché
ABSENT: Commissioner Lavelle, McKillop
ABSTAINED: None

3. Oral Report on Planning and Zoning Matters

Planning Manager Rizk announced forthcoming meetings.

Commissioner Sacks reported on reducing water use and availability of water.

4. Commissioners' Announcements, Referrals

Commissioner Mendall reported that the front yard at 367 Ashbrook Way has been under construction for five years and needs attention. He also reported that 30198 Bridgeview Way has garbage on the front yard and the lawn needs attention.

APPROVAL OF MINUTES

The minutes of July 26, 2007, were approved.

ADJOURNMENT

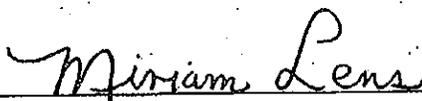
Chair Peixoto adjourned the meeting at 9:32 p.m.

APPROVED:



Al Mendall, Secretary
Planning Commissioner

ATTEST:



Miriam Lens
Commission Secretary

Commissioner Sacks noted that she visited the Mt. Eden area and complimented the project and the staff at the sales office.

In response to Commissioner Loché's inquiry for the next step in dealing with the land where the expansion was envisioned, Mr. Farmer indicated that the land owner has expressed interest for developing his property and the City is awaiting his application.

In response to Chair Peixoto, Mr. Farmer indicated that there would be one homeowners association for both phases. He added that there would be a property manager.

Chair Peixoto closed the public hearing at 8:47 p.m.

Commissioner Loché made a motion per staff recommendation indicating support for the project and its attractiveness.

Commissioner Mendall seconded the motion including the added Condition of Approval for the Tract related to payment of fees into the Benefit District. Mr. Mendall added that the project is a good fit for the neighborhood and encouraged City staff to continue the efforts to complete the expansion of the park.

Commissioner McKillop concurred with the importance to have the park expanded and congratulated Senior Planner Buizer for a very well done presentation.

Commissioner Sacks supported the motion and concurred with the sentiments for the park and its completion.

Commissioner Loché moved, seconded by Commissioner Mendall, and unanimously approved with Commissioner Thnay absent, to recommend to City Council to adopt the Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program and approve the Zone Change, Preliminary Development Plan and Tentative Map, subject to the findings and conditions of approval with the addition of a Condition of Approval for the Tract related to payment of fees into the Benefit District.

- 3. Zone Change Application No. PL-2005-0536 and Use Permit Application No. PL-2007-0558 – Russ Pitto for Simeon Commercial Properties (Applicant) / SimVest Real Estate I, LLC (Owner) – A Request to Modify a Planned Development District to Allow a Neighborhood-Serving Retail Center Including a Drive-Thru Coffee Shop, Restaurant and a Convenience Store Selling Beer and Wine for Off-Sale Consumption on a 1.5-Acre Parcel at Mt. Eden Business Park - The Project is Located at 26251 Industrial Boulevard Adjacent to and North of Highway 92 Located at the Southeast Corner of Mt. Eden Business Park**

Staff report submitted by Associate Planner Camire, dated December 13, 2007, was filed.

Associate Planner Camire summarized the staff report indicating that on September 6, 2007, the Commission reviewed the proposal for denial and directed staff to conduct the environmental



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Council Chambers

Thursday, December 13, 2007, 7:30 p.m.

777 B Street, Hayward, CA 94541

review and prepare findings and conditions of approval. Ms. Camire added that a representative of Community Prevention of Alcohol Related Problems (COMMPRE) was in attendance to address the Commission and she noted that COMMPRE received two petitions from members of the Spanish Ranch Mobile Homeowners Association and the South Hayward Neighborhood Collaborative in opposition to the modification of zoning to allow a convenience store with an alcohol license to sell wine and beer. The petition indicated that the City already had enough retail alcohol outlets and the problems associated with consumption of alcohol would increase the service calls to police. Ms. Camire added that she was in receipt of an e-mail from Mr. Nick Dahya, owner of Fairfield Inn & Suites-Marriott Hotel adjacent to the proposed project, who expressed support for the project; however, was in opposition of having a 24-hour convenience store such as a 7-Eleven Store that sells wine and beer. He also expressed safety concerns for the hotel guests.

Ms. Camire indicated that the applicant expressed the following concerns: Condition of Approval No. 22 (k) regarding green building and sustainable development practices, "*Natural linoleum or wood flooring alternatives shall be used,*" was too restrictive and Condition of Approval No. 23 (h), "*A minimum of one 15-gallon buffer tree shall be planted for every 20 lineal feet of property line adjacent of the state Highway. Understory shrubs shall be planted between the trees to achieve a solid screen within two years. This measurement shall be from the top of curb;*" would conflict the flow line of the swale at the location. Ms. Camire felt that the concerns could be resolved at staff level. In reference to the concern regarding Condition of Approval No. 24, "*A separate tree removal permit is required prior to the removal of any tree. Replacement trees equal in value to each tree that is removed shall be required for any trees removed, as required by the Tree Preservation Ordinance,*" Ms. Camire noted that it is a standard condition. In addition, regarding Condition of Approval No. 28, "*No more than five percent of the square footage of the sales area shall be dedicated to alcohol sales. Alcohol must be stored away from products oriented to youth, such as candy and non-alcoholic beverage,*" Ms. Camire indicated that Officer Hutchinson agreed to modify the Condition of Approval No. 28 to read, "*No more than five percent... Alcohol must be stored away from products oriented to youth, such as candy.*"

Upon request by the Commission, Associate Planner Camire clarified Conditions of Approval No. 22 (k), 23(h), 22(g), 22(q), 23(f), and 27 through 34.

Commissioner Lavelle, referencing the letter from COMMPRE, Attachment 1, Item 2, "*No cold storage or refrigeration of any alcohol products,*" and Item 6, "*Restrict the hours of sales of alcohol so that sales are stopped by 10:00 p.m.*" inquired why they were not included as part of the conditions of approval. Associate Planner Camire indicated that the Police Department did not deem item 2 necessary. In reference to item 6, she indicated that the Police Department does not restrict sale of off-sale businesses.

In response to Chair Peixoto's inquiry for the police stand regarding the proposal, Associate Planner Camire indicated that the main concern expressed by the Police Department was lack of available staff for the proposed area. She added that it would have fewer incidents for police surveillance, but the on-site security would be available from 6:00 p.m. to 6:00 a.m.

Chair Peixoto opened the public hearing at 9:15 p.m.

Mr. Russ Pitto, applicant for Simeon Commercial Properties, indicated that he was in attendance to respond to any questions.

In response to Commissioner Mendall's inquiry for the selection of a 7-Eleven and not a restaurant for the site, Mr. Pitto indicated that the 7-Eleven meets the demographics for the area and that efforts for a full service restaurant were proven unsuccessful. Mr. Pitto added that he will continue to look for other restaurants, but added that most likely a restaurant would sell beer, wine and possibly alcohol.

Commissioner Sacks inquired if a 7-Eleven would have surveillance cameras. Mr. Pitto indicated that 7-Eleven stores have surveillance cameras, and the project development would rely on the prospective tenants' ability to provide safety measures. He added that a security guard would be responsible for monitoring the retail center. Mr. Pitto added that by large, they have not received opposition from residents, other businesses, or neighbors.

In response to Commissioner Loché's inquiry about the limitation of size and packaging of the containers, Associate Planner Camire referenced Condition of Approval No. 31, "*The sale of individual containers of beer or malt beverages is prohibited. The sale of distilled spirits is prohibited;*" Condition of Approval No. 32, "*Beer, malt beverages, and wine coolers may be sold only in manufacturer pre-packaged multi-unit quantities;*" and Condition of Approval No. 33, "*Wine may not be sold in bottles or containers smaller than 750 ml.*" In reference to hours of sale of alcohol, Mr. Pitto indicated that the proposed 7-Eleven is not willing to restrict hours of sale of alcohol.

Mr. Cristobal Madueño, through translator Alfredo Coria, addressed the Commission. As resident of Hayward, he expressed concern for the existing 281 retail alcohol outlets. He strongly opposed another alcohol outlet because he felt that there is not enough police personnel to supervise current problems. He requested that the Commission oppose another alcohol establishment in the City of Hayward.

Mr. Alfredo Coria, representing COMMPRE, opposed the modification of the existing Planned District to allow an off-sale liquor outlet. Mr. Coria noted the current 281 retail alcohol outlets and indicated that approval of the application would lower the standards in Hayward. He referred to a sting operation by police which reported that about 27 adults purchased alcohol for minors at Hayward 7-Eleven stores. He indicated that there are four 7-Eleven stores within three miles of the proposed location with the closest one at 1.5 miles away. He referred to data that indicated that alcohol is one of the main revenues for 7-Eleven stores. He urged the Commission to consider that the adjacent reporting district has a higher rate of crime in Hayward. He respectfully requested denial of the application for sale of alcohol.

Chair Peixoto closed the public hearing at 9:31 p.m.

Commissioner Mendall expressed disagreement for any motion that would allow another liquor license for the proposed site. Mr. Mendall shared from personal experience that a 7-Eleven would



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not be a preferred service for the proposed area. He made a motion to approve the revised Negative Declaration; approve the modification to the Planned Development District; and deny the Use Permit.

Commissioner Loché seconded the motion.

Commissioner McKillop did not support the motion on the floor. She indicated that staff has been working with the applicant to find the right business. She disagreed that the proposed convenience store would add loitering or crime to the area, but rather, she indicated that it will be an added benefit for the area.

Commissioner Sacks did not support the motion indicating that she felt that people in the Mt. Eden Business Park requested services that would be delivered. Ms. Sacks noted from personal experience that 7-Eleven stores are convenient for frequent travelers.

Commissioner Loché understood that a restaurant might not be realistic for the proposed site; but disagreed that a 7-Eleven would be a good alternative. He expressed disapproval for another liquor establishment and disagreed that a 7-Eleven would represent a convenience to prospective patrons.

Commissioner Lavelle did not support the motion. Ms. Lavelle referred to the extensive list of restaurants that were contacted for the site and were proven unsuccessful. She believed that a 7-Eleven made sense for the proposal. She acknowledged the report presented by COMMPRE and was impressed with the willingness of City staff to work and compromise with the Police Department and COMMPRE staff.

Commissioner Mendall complimented staff for including the green building requirement in the report.

Chair Peixoto, referring to the e-mail by owner Narendra Dahya of Fairfield Inn & Suites-Marriot Hotel and the petitions by the Spanish Ranch Mobile Homeowners Association and the South Hayward Neighborhood Collaborative, was concerned that the approval of a business that sells beer and wine for off-site consumption could constitute damaging other businesses in the area. Mr. Peixoto was inclined to approve a 7-Eleven without the sale of alcohol. He commended the diligence of the developer in trying to secure a restaurant for the area; but felt that Hayward has enough alcohol establishments and lack of police personnel to patrol.

Interim City Attorney Conneely clarified the motion on the floor.

Commissioner Mendall moved, seconded by Commissioner Loché, and failed, to recommend to City Council to approve the Revised Negative Declaration; approve the modification to the Planned Development District, based on the findings and the conditions of approval; and deny the use permit, based on the findings and conditions.

AYES: Commissioners Mendall, Loché
Chair Peixoto
NOES: Commissioners McKillop, Sacks, Lavelle
ABSENT: Commissioner Thnay
ABSTAINED: None

Having failed the motion, Commissioner McKillop made another motion per staff recommendation.

Commissioner Lavelle seconded the motion indicating support for the 7-Eleven and noting that non-Hayward residents would be shopping at the store. She favored the proposed Starbucks. She offered two amendments: that Condition of Approval No. 28 regarding alcohol sales, "*No more than five percent of the square footage of the sales area shall be dedicated to alcohol sales. Alcohol must be stored away from products oriented to youth, such as candy and non-alcoholic beverages,*" be separated into two conditions of approval with "*Alcohol must be stored away from products oriented to youth, such as candy and non-alcohol beverage,*" as a separate condition. Also, that the condition recommended by COMMPRE, "*Restrict the hours of sale of alcohol so that sales are stopped by 10:00 p.m.*" be added as a condition of approval.

Commissioner McKillop accepted the amendments to the motion.

Commissioner Sacks supported the motion adding that the 7-Eleven would sell items other than alcohol.

Commissioner Mendall did not support the motion.

Commissioner McKillop moved, seconded by Commissioner Lavelle, and failed, to recommend to City Council to approve the Revised Negative Declaration; approve the modification to the Planned Development District based on the findings and the conditions of approval; and approve the use permit, based on the findings and conditions with two amendments: that Condition of Approval No. 28 be separated into two separate conditions with "*Alcohol must be stored away from products oriented to youth, such as candy and non-alcoholic beverages,*" listed as a separate condition; and to add a condition to restrict hours of sale of alcohol by 10:00 p.m.

AYES: Commissioners McKillop, Sacks, Lavelle
NOES: Commissioners Mendall, Loché
Chair Peixoto
ABSENT: Commissioner Thnay
ABSTAINED: None

Interim City Attorney Conneely indicated that since there was a deadlock (a 3:3:0 vote), she suggested that the Commission follow Council's procedures and continue the item until the full commission is in attendance. She added that in the event that there would be lack of consensus, the item would then be forwarded to Council without a recommendation.

Chair Peixoto exercised his Chair prerogative and continued the item until the full Commission is present.



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ADDITIONAL MATTERS

4. Oral Report on Planning and Zoning Matters

Planning Manager Rizk indicated forthcoming meetings in January, one scheduled for January 29 as part of a Joint City Council meeting regarding an update to the 238 Bypass Study.

5. Commissioners' Announcements, Referrals

Commissioner Sacks reported that the Tea Garden might need attention. She complimented Engineering/Traffic staff for their informative assistance and for the speed humps on Tennyson Road.

Commissioner Mendall reported on the power lines on Mission Boulevard at the Mission Paradise property that were used for the PG&E Underground Project.

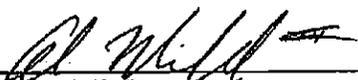
APPROVAL OF MINUTES

The minutes of November 15, 2007, were approved.

ADJOURNMENT

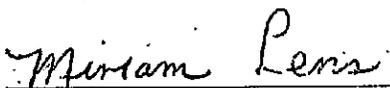
Chair Peixoto adjourned the meeting at 9:55 p.m., wishing everyone a Happy Holiday Season.

APPROVED:



Al Mendall, Secretary
Planning Commissioner

ATTEST:



Miriam Lens
Commission Secretary



DATE: December 13, 2007

TO: Planning Commission

FROM: Arlynn J. Camire, AICP, Associate Planner

SUBJECT: **Zone Change Application No. PL-2005-0536 and Use Permit Application No. PL-2007-0558- Russ Pitto for Simeon Commercial Properties (Applicant) / SimVest Real Estate I, LLC (Owner) – A Request to Modify a Planned Development District to Allow a Neighborhood-Serving Retail Center Including a Drive-Thru Coffee Shop, Restaurant and a Convenience Store Selling Beer and Wine for Off-Site Consumption on a 1.5-Acre Parcel at the Mt. Eden Business Park**

The project is Located at 26251 Industrial Boulevard Adjacent to and North of Highway 92 Located at the Southeast Corner of the Mt. Eden Business Park

RECOMMENDATION

That the Planning Commission recommend to the City Council:

1. Approval of the Revised Negative Declaration;
2. Approval of the modification to the Planned Development District, based on the attached findings and the conditions of approval; and
3. Approval of the use permit, based on the attached findings and conditions of approval.

SUMMARY

Simeon Commercial Properties requests to modify the existing Planned Development District to allow neighborhood-serving retail uses in place of the full-service restaurant contemplated by the Planning Commission and City Council in 1997 when the business park proposal was approved. The central issue is whether the uses at the retail center should continue to be restricted to the uses allowed under the Planned Development District versus the proposed uses, which consist of a convenience market that sells beer and wine, a restaurant and a drive-thru coffee shop.

On September 6, 2007, the Planning Commission reviewed the proposal with staff's recommendation for denial. However, as reflected in the attached meeting minutes (Attachment C), the Planning Commission directed staff to conduct the environmental review and prepare

findings and conditions of approval for the proposed project. The majority of the Planning Commission was of the opinion that the proposed uses would be appropriate for the site and that the proposed retail center would adequately serve the adjacent hotel and employees of the business park and adjacent industrial area, students at adjacent colleges, and residents to the east. Staff further recommends that a limited list of additional use be approved, including administrative and professional offices and services, personal services, and retail commercial uses, to serve the long-term needs of the community.

BACKGROUND

On October 21, 1997, the City Council approved Planned Development District No. 97-120-05 that allowed the construction of a high-tech/biotech research and development business park. The Mt. Eden Business Park consists of six tilt-up concrete buildings with a total area of 372,107 square feet. Phase One included four buildings on the northwest side of the business park, which was completed in March 1999. Phase Two included the remaining two buildings on the southeast side of the business park, which was completed in December 2000. A vacant 3-acre parcel remained in anticipation of development of a hotel and a full-service restaurant or other uses specified in the conditions of approval that would support the business park and the adjacent area. The Quality Inn and Suites, an 84-room extended-stay hotel, was completed in November 2001. The hotel is now a Fairfield Inn and Suites by Marriot.

The Planned Development District currently allows a wide variety of service and light manufacturing uses in the Mt. Eden Business Park. In addition to a restaurants, among the listed allowed uses are administrative offices, business service and consulting offices, travel agencies, delicatessens, manufacturer's representative offices, engineering and design facilities, financial institutions, cultural or commercial recreational uses, and micro-breweries (see Attachment H of Attachment D).

Simeon Commercial Properties requests to modify the Planned Development District to allow neighborhood-serving retail uses; specifically, a convenience store with beer and wine sales, a restaurant and a coffee shop with a drive-thru window, along with other yet unidentified retail and service uses (see Attachment C of the attached September 6, 2007 Planning Commission report, which is Attachment D to this report).

On September 6, 2007, the Planning Commission voted (4:1 with 2 absent) to direct staff to conduct environmental review and prepare appropriate findings and conditions for approval of the proposed project. Several Commissioners preferred a full-service restaurant at the site, but believed that the applicant, while not successful, exercised due diligence to secure a full-service, sit-down restaurant. The Planning Commission supported the retail center uses of a drive-thru Starbucks coffee shop, a restaurant and a convenience store. Several of the Planning Commissioners expressed concern for the alcohol sales at the convenience store, but did not want to restrict the type of potential tenants.

DISCUSSION

Zone Change-Modification of Planned Development District

The applicant proposes construction of two retail buildings: a 1,838-square-foot drive-through coffee shop (*Starbucks*) and an 8,250-square-foot multi-tenant building for three to five tenants (see attached plans). Restaurants such as *Subway* and *Jamba Juice*, delicatessens, a convenience store (*7-Eleven*) that sells beer and wine, and other services, such as a dry cleaner, copy center, drug store, clothing store and small shops supplying retail merchandise, are being sought by the applicant to occupy the larger building. Except for *Starbucks* and *7-Eleven*, the tenants for the retail spaces have not been secured. The applicant's goal is to provide a retail mix that would provide services to visitors to the area, to employees of the business park and to the adjacent residential neighborhoods west of Hesperian Boulevard.

To provide greater variety of potential uses in the proposed retail center to serve the long-term needs of the employees of the business park and the adjacent residents, staff proposes that a limited number of additional uses be allowed based on those permitted in the Central Business (CB) District (Southland Mall). The uses would include the uses listed in the CB District as administrative and professional offices services, personal services, and retail commercial uses, which include such uses as a dry cleaner, clothing store and bank (Attachment H).

The Mt. Eden Park Shops buildings are proposed on a 1.5 acre parcel at the southeasterly portion of the Mt. Eden Business Park with the storefronts facing Industrial Boulevard; the loading area would be between the two buildings. The smaller building (1,838 square feet) is proposed to be located in the northern portion of the site. A drive-thru Starbucks coffee shop would be the tenant in this building. The drive-thru entrance would be located at the entry to the parking lot adjacent to the southern business park driveway. The larger retail building (8,250 square feet) is located at the south side of the parcel adjacent to the State Highway 92 westbound on-ramp. This building is proposed to have two to four small tenants and a convenience store. The design of the buildings would be contemporary with a stucco finish and brick veneer entries with fabric awnings.

Parking would be located adjacent to the Industrial Boulevard frontage. The proposed parking is adequate to meet needs of the retail center and meets the City's Off-Street Parking requirements. The parking lots would be accessed directly from Industrial Boulevard as well as from the primary driveway serving the business park. Staff is recommending that the developer be required to install a sidewalk on Industrial Boulevard, which could accommodate a bus stop if AC Transit programs a bus route serving this site.

A circulation study was completed by Fehr and Peers, Transportation Consultants, who determined that the queuing for the drive-thru Starbucks is adequate and that on-site parking and on-site circulation would not be negatively impacted. In addition, it was determined that the queuing would not extend into the business park driveway or into Industrial Boulevard. The City's transportation planners concur with the conclusions of the consultant.

Conditional Use Permit

The applicant requests to sell beer and wine at the convenience store (7-Eleven) for off-site consumption (off-sale). A conditional use permit is required for all markets less than 10,000 square feet in area to operate as an off-sale liquor establishment. In addition, the State Department of Alcoholic Beverage Control (ABC) requires that the City make a determination that the public convenience or necessity would be served by another alcohol establishment when there is an over-concentration of off-sale liquor establishments in a census tract. A census tract is over concentrated when it exceeds the number of liquor establishments allowed by ABC for a census tract, which is one off-sale liquor establishment for every 1,250 persons within a census tract.

According to the ABC, the proposed retail center would not be located in an area of over concentration of retail alcohol outlets. Six off-sale alcohol licenses are permitted in the tract that contains Mt. Eden Business Park. Currently, there are only two off-sale liquor establishments.

The City Council adopted Resolution 06-005 in January, 2006 which states, "that no finding of public convenience or necessity shall be made to the Department of Alcoholic Beverage Control in connection with the licensing of bars or liquor stores in any census tract in which the ABC indicates that there is an over-concentration of ABC licenses." However, since the proposed project would not be located within an over-concentrated census tract, this finding is not required to be made.

The Police Department states that the proposed project is located in an area that has a limited need for police service, especially at night. However, it is located adjacent to a high crime reporting district to the north. The reported crime within the adjacent district is at 235.5 percent of the average crime for the entire city. Police are concerned that the project as proposed with a convenience store and associated alcohol sales would generate an increase of calls for service for the proposed center and in the surrounding area. Furthermore, the Police are concerned that the convenience store may attract loiterers and become a spot to "hang out," which can lead to inappropriate behavior and an increase in crime within the area. Therefore, staff recommends conditions of approval (27-34) that would require the maintenance of a security service between the hours of 6:00 pm to 6:00 am for the proposed retail center and Mt. Eden Business Park, control the operation at the convenience store and restrict the type of containers that can be sold. These conditions would also limit the size and packaging of the containers available for sale. The Police Department is requesting that these conditions of approval be included as requirements in the ABC liquor license.

CommPre sent a letter in objection to the proposal (Attachment I), based on the number of retail alcohol outlets in the City of Hayward. In addition, CommPre believes the convenience store is not an appropriate use for the site, because of the high potential of police calls for service for activities such as loitering, public drinking and an increased youth access to alcohol. CommPre questions whether the City residents need another off-sale liquor establishment and how the community would benefit. If the use permit is approved, they suggest a list of conditions for operation. Several of these recommended conditions have been incorporated as part of the staff-recommended conditions of approval for the project. Although not recommended by staff,

CommPre recommends that there be no cold storage of alcoholic beverages, that such beverages should be in locked storage and that sales of such beverages should occur not later than 10:00pm. The Police Department does not recommend a restriction on the hours of sale of alcoholic beverage for off-sale establishments.

Staff has received a call of opposition from a resident in the adjacent single-family neighborhood who is concerned that alcohol would be purchased at the nearby convenience store and that drivers would park within the neighborhood to consume the alcohol and leave the empty containers in gutters and front yards. She stated that people currently park within the neighborhood and litter her front yard and the gutter in front of her house. She is also concerned about the behavior that accompanies the consumption of alcoholic beverages.

Currently, the employees at Mt. Eden Business Park, students, faculty and staff of Heald College and Life Chiropractic College West, and residents in the neighborhoods west of Hesperian must drive to restaurants and services located on Hesperian Boulevard. The proposed uses: restaurants, a convenience store and a drive-through coffee shop, are designed to serve motorists, especially during the morning peak commuting hours. The convenience store would offer items that are not presently available in this area such as beverages, prepared meals, snack foods, incidental grocery and sundry items, and beer and wine. As reflected in the attached findings for approval, staff is of the opinion that the applicant has demonstrated that the retail center would provide an unmet need for the neighborhood and surrounding areas.

ENVIRONMENTAL REVIEW

An Initial Study and Negative Declaration have been prepared for the retail center pursuant to the California Environmental Quality Act (CEQA) (see Attachment G). No significant environmental impacts, including those related to traffic and circulation as stated previously, are expected to result from the project.

PUBLIC NOTICE

On October 5, 2005, a Referral Notice was mailed to every property owner and occupant as noted on the latest assessor's records within 300 feet of the Mt. Eden Business Park, Eden Garden-Park west Homeowners Association and the Mt. Eden Task Force. Staff had received a petition and letters of support for the project prior to the September hearing from both tenants of the business park and from residents, who all indicate the proposed project would provide services and conveniences that currently do not exist in the immediate area (see Attachment I of Attachment D).

On November 14, 2007, a notice of Public Hearing and Notice of Preparation of the Negative Declaration was published in *The Daily Review*. On November 13, 2007, a Notice of Public Hearing and Notice of Preparation of the Negative Declaration was mailed to every property owner and occupant within 300 feet of Mt. Eden Business Park as noted on the latest assessor's records, to the Eden Garden-Parkwest Homeowners Association and the Mt. Eden Task Force. Staff did not receive additional comments, other than from the resident previously identified.

Prepared by:

David Rizk
Arlynne J. Camire, AICP
Associate Planner

Recommended by:

David Rizk
David Rizk, AICP
Planning Manager

Attachments:

- A Vicinity Map
- B Zoning Map
- C Planning Commission Minutes Dated September 6, 2007
- D Planning Commission Report Dated September 6, 2007, with Attachments A through J
- E Findings for Approval
- F Conditions of Approval
- G Revised Negative Declaration and Revised Environmental Checklist dated December 4, 2007, with three attachments
- H Recommended Additional Allowed Uses
- I Letter from CommPre dated November 8, 2007
Plans



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MEETING

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

ROLL CALL

Present: COMMISSIONERS: Sacks, Lavelle, Mendall, Thnay, Loché
CHAIRPERSON: Peixoto
Absent: COMMISSIONER: McKillop

Commissioner McKillop came in at approximately 7:35 p.m.

Staff Members Present: Camire, Conneely, Rizk, Lens

General Public Present: Approximately 12

PUBLIC COMMENTS

Commissioner Mendall commented on discounts given to groups that purchase solar panels through Solar System Co.

Commissioner Thnay stated that he reviewed the DVD tape of the December 13, 2007 meeting.

PUBLIC HEARING

1. **Zone Change Application No. PL-2005-0536 and Use Permit Application No. PL-2007-0558 – Russ Pitto for Simeon Commercial Properties (Applicant) / SimVest Real Estate I, LLC (Owner) – A Request to Modify a Planned Development District to Allow a Neighborhood-Serving Retail Center Including a Drive-Thru Coffee Shop and a Convenience Store Selling Beer and Wine for Off-Sale Consumption on a 1.5-Acre Parcel at Mt. Eden Business Park - The Project is Located at 26251 Industrial Boulevard Adjacent to and North of Highway 92 Located at the Southeast Corner of Mt. Eden Business Park (continued from December 13, 2007)**

Staff report submitted by Associate Planner Camire, dated January 10, 2008, was filed.

Associate Planner Camire summarized the report indicating that the item was continued from December 13, 2007 and clarified questions from the Commission.

Chair Peixoto requested that Detective Hutchinson be available to answer questions. In response to Chair Peixoto regarding Police concerns expressed at the previous meeting, Detective Hutchinson indicated that increase in service calls, loitering and potential for further crime are still Police

concerns. He added that the site is not a typical travel road that is patrolled as frequently as others, which would take a longer response to a call for service.

In response to Commissioner McKillop's inquiry regarding the concern for loitering, Detective Hutchinson indicated that loitering could be generated by people "hanging out" in front of the proposed 7-Eleven. It was clarified that loitering could also be generated in front of any type of food business where people hang out.

In response to Commissioner Thnay, Detective Hutchinson indicated that establishments that sell alcohol tend to attract transients, which is the current concern. He added that proper security service could diminish the concerns raised.

Commissioner Loché inquired if the reduction of hours of operation at the proposed 7-Eleven would alleviate the concerns. Detective Hutchison indicated that it would alleviate potential calls of service.

In response to Commissioner Mendall, Detective Hutchison indicated that, from his experience, off-sale establishments that sell alcohol would generate more transients.

Chair Peixoto opened the public hearing at 7:55 p.m.

Ms. Susan Cronk, project applicant, indicated that the proposed project has received support from the companies at the Mt. Eden Business Park, Heald Business College and the Life Chiropractor College. Ms. Cronk added that the conditions of approval would regulate the sale of alcohol. She also noted that the full time security guard would patrol the Mt. Eden Business Park, the hotel and the retail center from 6:00 p.m. to 6:00 a.m. Finally, she indicated that the project would add vitality to a vacant lot.

Mr. Jeff Hetherington, 7-Eleven Convenience Stores representative, noted that the conditions set forth would satisfy the concerns expressed. Mr. Hetherington indicated that lighting and the security guard are components to deterring the concerns. He added that the State has a Business and Professions Code regulating ABC licenses to ensure a safe environment. He indicated that he has never had a 7-Eleven Store that has failed to meet the standards of the Business and Professions Code.

In response to Commissioner Mendall's inquiry regarding 7-Eleven stores that do not sell alcohol, Mr. Hetherington indicated four viable stores in San Francisco due to a census tract concentration issue.

Commissioner Sacks noted that she has favorably changed her views about 7-Eleven stores.

Mr. Alfredo Coria, Community Prevention of Alcohol Related Problems (COMMPRE) representative, noted objection to the proposed 7-Eleven Convenience Store with beer and wine sales. Mr. Coria noted that drug dealing, homelessness, loitering, panhandling and theft are occurring in the area and indicated that a license to sell alcohol and tobacco would add to the already existing nuisance in the area and to police calls. He added that according to Fairfield Inn Hotel management, the security guard that patrols the Mt. Eden Business Park is not effective. In



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addition, he stated that the Fairfield Inn Hotel and proposed Starbucks would offer the same products offered by the 7-Eleven Store with the exception of alcohol and tobacco. He expressed opposition to the proposed 7-Eleven Store.

Commissioner McKillop disagreed with Mr. Coria's remarks and indicated that 7-Eleven Stores have a broader range of products besides snacks and foods.

In response to Chair Peixoto's inquiry about the ineffectiveness of the security guard, Mr. Coria indicated that according to the Fairfield Inn Hotel manager, the security guard was an ineffective deterrent to drug problems, loitering and panhandling.

Mr. Hassan Fallah, Manager of Fairfield Inn Hotel, opposed the 7-Eleven Store indicating that the hotel clientele does not look for convenience stores with the exception of weekend visitors. He reported circumstances with panhandlers and drug dealers and added that the Police Department does not have enough staff to patrol the area.

In response to Commissioner Mendall's suggestion about a 7-Eleven Store without a liquor license, Mr. Fallah indicated that a 7-Eleven Store that does not sell alcohol might alleviate the problem, but would still cause loitering concerns. Mr. Fallah added that the security guard in the business park is inefficient to deal with drug dealers.

In response to Commissioner Loché's indication for a 7-Eleven Store that would not be opened 24 hours, Mr. Fallah noted that having a 7-Eleven Store would still pose a problem.

In response to Chair Peixoto's question regarding the corporate clientele during the week, Mr. Fallah indicated that the hotel offers a social hour to the guests, which is limited to two beer/wine drinks and that weekend guests are directed to restaurants on Hesperian for additional consumption. Mr. Fallah added that he had to fire the hotel security guard because of inefficiencies. Lastly, Mr. Fallah stated that 7-Eleven stores do not provide a bathroom for their clientele and he expressed concern that the hotel would have to provide the service for the 7-Eleven patrons.

Mr. Dilip Dahya, Fairfield Inn Hotel co-owner, reiterated Mr. Fallah's comments. Mr. Dahya added that a 7-Eleven Store would create more traffic through the hotel's parking lot and there would be potential for non-guests using the bathrooms. He expressed support for Starbucks and Quiznos type restaurant, but not for a 7-Eleven Store. He spoke unfavorably about the proposed security for the area.

In response to Mr. Dahya concern for lack of bathrooms in the area, Commissioner McKillop indicated that the hotel would benefit by having other stores in the area that could provide a bathroom. Mr. Dahya added that the hotel has a license to serve beer and wine.

Chair Peixoto closed the public hearing at 8:24 p.m.

Commissioner Lavelle indicated that she expressed her comments at the previous meeting and expressed that the opposition voiced was to societal problems that exist in different parts of Hayward, which are community problems that need to be addressed. Ms. Lavelle indicated that some of the products found at a 7-Eleven Store would be helpful and useful such as magazines, snacks and children's items among others. She indicated that the over-concentration identified by COMMPRE is not concentrated in the industrial part of Hayward. She was in agreement with the conditions of approval and made a motion per staff recommendation.

Commissioner McKillop seconded the motion indicating her same position stated at the previous meeting.

Commissioner Mendall thanked everyone for attending and facilitating discussion. He indicated that he does not disagree having a 7-Eleven Store, but he was in opposition to having another liquor store. He did not support a liquor license on the proposed site.

Commissioner Sacks noted support for the motion, indicating that this was not a request for a liquor store. Ms. Sacks apologized to 7-Eleven stores for remarks she made in the past. She indicated her visit to stores that were well maintained, well lighted and with products carefully displayed and without presentation of advertisement for alcohol. She stated that she uses convenience stores when she is traveling. In reference to loitering, she appreciated the comments by the detective and indicated that she is in support of developing the open space with responsible retails rather than having it empty.

Commissioner Thnay apologized for not attending the previous meeting. Mr. Thnay expressed his preference for a sit-down restaurant, but understood that the current proposal makes sense for the area. He indicated that the alcohol concerns were taken into consideration by taking appropriate measures through the conditions of approval. He indicated that failure to meet the standards set forth could constitute removal of permits. He supported the motion.

Commissioner Loché understood that a full-service restaurant was not feasible for the area, but indicated that a convenience store that sells alcohol would not be a positive addition to the area. He was content to learn that the hotel provides wine and beer, which provides convenience for guests. He did not support the motion and recommended that, should the motion be approved, the hours of operation be curbed.

Chair Peixoto expressed the same public safety concerns at the previous meeting, such as generation of increase of service calls to the center and surrounding areas with high crime rates. He indicated that there were mitigations proposed, but indicated that they were not sufficient to deter the potential for crime problems. He supported the Starbucks. He did not indicate opposition to the 7-Eleven Store, but to the alcohol component. He did not support the motion.

Commissioner Lavelle moved, seconded by Commissioner McKillop, and approved, to recommend to City Council to approve the Revised Negative Declaration; approve the modification to the Planned Development District based on the findings and the conditions of approval; and approve the Conditional Use Permit based on the findings and conditions of approval.



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, January 10, 2008, 7:30 p.m.
777 B Street, Hayward, CA 94541**

AYES: Commissioners McKillop, Sacks, Lavelle, Thnay
NOES: Commissioners Mendall, Loché
Chair Peixoto
ABSENT: None
ABSTAINED: None

ADDITIONAL MATTERS

2. Oral Report on Planning and Zoning Matters

Planning Manager Rizk indicated forthcoming community meetings regarding the 238 project. He also mentioned the Hayward City Hall 10-Year Anniversary scheduled for January 30, 2008.

3. Commissioners' Announcements, Referrals

Commissioner Loché announced that Schafer Park Residents and Keep Hayward Clean and Green Task Force members invite residents to clean up Hayward and have a potluck on Saturday, January 12, 2008.

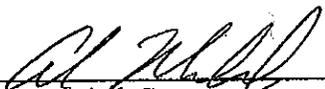
APPROVAL OF MINUTES

The minutes of December 13, 2007, were approved.

ADJOURNMENT

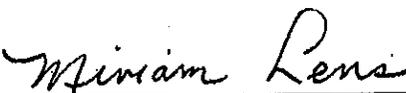
Chair Peixoto adjourned the meeting at 8:49 p.m.

APPROVED:



Al Mendall, Secretary
Planning Commissioner

ATTEST:



Miriam Lens
Commission Secretary



CITY OF
HAYWARD
HEART OF THE BAY

DATE: January 10, 2008

TO: Planning Commission

FROM: Arlynn J. Camire, AICP, Associate Planner

SUBJECT: **Zone Change Application No. PL-2005-0536 and Use Permit Application No. PL-2007-0558-- Russ Pitto for Simeon Commercial Properties (Applicant) / SimVest Real Estate I, LLC (Owner) – A Request to Modify a Planned Development District to Allow a Neighborhood-Serving Retail Center Including a Drive-Thru Coffee Shop and a Convenience Store Selling Beer and Wine for Off-Site Consumption on a 1.5-Acre Parcel at the Mt. Eden Business Park**

The project is Located at 26251 Industrial Boulevard Adjacent to and North of Highway 92 Located at the Southeast Corner of the Mt. Eden Business Park

RECOMMENDATION

That the Planning Commission recommends to the City Council:

1. Approval of the Revised Negative Declaration;
2. Approval of the modification to the Planned Development District, based on the attached findings and the conditions of approval; and
3. Approval of the Conditional Use Permit, based on the attached findings and conditions of approval.

SUMMARY

Simeon Commercial Properties requests to modify the existing Planned Development District to allow neighborhood-serving retail uses in place of the full-service restaurant contemplated by the Planning Commission and City Council in 1997 when the business park was approved. The central issue is whether beer and wine sales should be allowed at the convenience store proposed for the retail center. The Commission was split on such issue at its previous meeting on December 13, 2007, and continued the item to January 10, 2008, to allow for full Commission consideration.

BACKGROUND

On September 6, 2007, the Planning Commission voted (4:1 with 2 absent) to direct staff to conduct environmental review and prepare appropriate findings and conditions for approval of the proposed project. Several Commissioners preferred a full-service restaurant at the site, but believed that the applicant, while not successful, exercised due diligence to secure a full-service, sit-down restaurant. The Planning Commission supported the retail center uses of a drive-thru Starbucks coffee shop, a restaurant and a convenience store. Several of the Planning Commissioners expressed concern for the alcohol sales at the convenience store, but did not want to restrict the type of potential tenants.

On December 13, 2007, the Planning Commission discussed the item and expressed support to recommend approval of the modification of the Planned Development District to City Council, but could not agree to recommend approval of the Conditional Use Permit to allow the sale of beer and wine at the proposed 7-Eleven convenience store. As reflected in the attached draft minutes, two motions were made that ended in a deadlocked vote of 3:3, with 1 absent (Attachment F). The agenda item was continued to allow full Commission consideration. If there is a lack of consensus at the January 10, 2008 meeting, then the item would be forwarded to Council without a recommendation.

DISCUSSION

The December 13, 2007, staff report is included as Attachment E of this report. The Planning Commissioners recommending approval at the last meeting felt that the convenience store with beer and wine sales would allow travelers and those on their way home from work to stop to buy grocery items and beer and wine, saving drivers from making added trips to a separate liquor store. They acknowledged that the applicant has conducted an extensive search for a full-service restaurant prior to proposing a convenience store. Of the three Commissioners who were opposed to the sale of alcohol, two Commissioners were not opposed to the convenience store, but thought that the sale of beer and wine at this location was not necessary since alcohol is available for sale within 1 ½ miles from the site. Also discussed was the safety of the hotel guests, whether the sale of beer and wine would damage other businesses in the area, and whether a convenience store was appropriate for the site.

According to the applicant, demographic research indicated that a 7-Eleven would be successful at this site. The applicant also indicated that 7-Eleven would not be willing to restrict the hours of alcohol sales.

Upon the request of the applicant and agreement of the Planning Commission, three recommended conditions of approval have been modified (Attachment D). Condition No. 22 (k) requires the use of sustainable flooring and no longer specifies the type of flooring materials. Condition No. 23 (h) requiring a shrub and tree buffer adjacent to the State Highway 92 on-ramp has been modified to require only a shrub buffer because trees would interfere with a proposed bioswale and an easement. In addition, Cal Trans has planned to reconfigure the off-ramp including the planting of a wider landscape buffer area between the highway on-ramp and Mt.

Eden Shops and Business Park. Condition No. 28 clarifies that alcoholic beverages are to be kept separate from non-alcoholic beverages.

Staff is supportive of recommending approval of beer and wine sales at the convenience store because it offers a convenient option to nearby residents, hotel guests and nearby employees to buy beer and wine while they are shopping for grocery items or picking up dinner at restaurants in the retail center. In addition, the sale of beer and wine would be regulated by the conditions of approval recommended by the Police Department and required by the Alcohol Beverage Control Board. If the Planning Commission does not recommend approval of the sale of alcoholic beverages, new findings for denial would be recommended to the City Council.

PUBLIC NOTICE

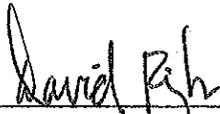
On December 21, a Notice of Continuation of the application was mailed to every property owner and occupant as noted on the latest assessor's records within 300 feet of the Mt. Eden Business Park, Eden Garden-Park west Homeowners Association and the Mt. Eden Task Force.

Prepared by:



Arlynn J. Camire, AICP
Associate Planner

Recommended by:



David Rizk, AICP
Planning Manager

Attachments:

- A Vicinity Map
- B Zoning Map
- C Findings for Approval
- D Revised Conditions of Approval
- E Planning Commission Report Dated December 13, 2007 (previously distributed to Commissioners)
- F Planning Commission Draft Minutes Dated December 13, 2007
- G Two Petitions Dated December 6, 2007 from the Spanish Ranch I Mobile Homeowners Association and South Hayward Neighborhood Collaborative
- H Email from Nick Dahya, Dated December 10, 2007

illumina

25661 Industrial Boulevard
Hayward, CA 94545-2991
Tel: 510.570.9300
Fax: 510.570.9302
www.illumina.com

July 25, 2007

Arlynn Camire
Associate Planner
City of Hayward
777 B Street
Hayward, CA 94541-5007

RECEIVED

JUL 27 2007

PLANNING DIVISION

RE: Planning Application #PL-2005-0536
Mt. Eden Shops

Dear Ms. Camire:

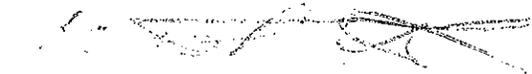
We have met with SIMEON and reviewed their plans for the proposed Mt. Eden Shops retail development at the corner of Industrial Boulevard and Hwy 92. We would like to go on record with our support of the proposed project and the proposed uses. Specifically, we support the Starbucks and 7-11 stores proposed as tenants for the project.

Our company is located at the Mt. Eden Business Park on Industrial Boulevard in Hayward. Currently, our employees must drive over a mile to pick up something to eat or drink. The proposed retail center adjacent to the business park would be a very welcome addition to the neighborhood. The stores would provide choices and convenience that currently do not exist in the immediate area. The proposed project would provide staple products, food, drink, aspirin, magazines and newspapers within walking distance of our office. In our opinion, the proposed project is exactly what is needed in this area.

We urge the City of Hayward to support the project as proposed by SIMEON.

Thank you for your consideration.

Sincerely,



Kirsten Ostler
Human Resources Representative
Illumina, Inc.



July 25, 2007

Arlynne Camire
Associate Planner
City of Hayward
777 B Street
Hayward, CA 94541-5007

RE: Planning Application #PL-2005-0536
Mt. Eden Shops

Dear Ms. Camire:

We have met with SIMEON and reviewed their plans for the proposed Mt. Eden Shops retail development at the corner of Industrial Boulevard and Hwy 92. We would like to go on record with our support of the proposed project and the proposed uses. Specifically, we support the Starbucks and 7-11 stores proposed as tenants for the project.

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We urge the City of Hayward to support the project as proposed by SIMEON.

Thank you for your consideration.

Sincerely,

Mipox International Corporation

A handwritten signature in cursive script, appearing to read "Shirley D. Trujillo".

Shirley D. Trujillo
Production/Human Resource Manager

July 25, 2007

Arlynn Camire
Associate Planner
City of Hayward
777 B Street
Hayward, CA 94541-5007

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We urge the City of Hayward to support the project as proposed by SIMEON.

Thank you for your consideration.

Sincerely,



Douglas W. Heigel
VP of Operations
Thermage, Inc.
25881 and 25901 Industrial Blvd.
Hayward, CA 94545

July 27, 2007

Arlynne Camire
Associate Planner
City of Hayward
777 B Street
Hayward, CA 94541-5007

RE: Planning Application #PL-2005-0536
Mt. Eden Shops

Dear Ms. Camire:

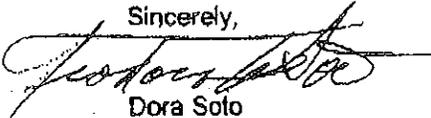
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The stores would provide choices and convenience that currently do not exist in the immediate area. The proposed project would provide staple products, food, drink, aspirin, magazines and newspapers not otherwise available in a nearly two mile radius. I am hopeful that in addition to those tenants, there will be other retail tenants who serve the convenience needs of the neighborhood and the business park. In my opinion, the proposed project is exactly what is needed in this area.

I urge the City of Hayward to support the project as proposed.

Thank you for your consideration.

Sincerely,



Dora Soto
31943 Albany Street
Hayward, CA 94544

July 27, 2007

Arlynne Camire
Associate Planner
City of Hayward
777 B Street
Hayward, CA 94541-5007

RE: Planning Application #PL-2005-0536
Mt. Eden Shops

Dear Ms. Camire:

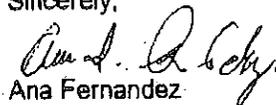
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I urge the City of Hayward to support the project as proposed.

Thank you for your consideration.

Sincerely,


Ana Fernandez
702 Pinedale Court
Hayward, CA 94544

July 27, 2007

Arlynn Camire
Associate Planner
City of Hayward
777 B Street
Hayward, CA 94541-5007

RE: Planning Application #PL-2005-0536
Mt. Eden Shops

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I urge the City of Hayward to support the project as proposed.

Thank you for your consideration.

Sincerely,



George Viterbo
2445 Cobblestone Drive
Hayward, CA 94545

July 27, 2007

Arlynne Camire
Associate Planner
City of Hayward
777 B Street
Hayward, CA 94541-5007

RE: Planning Application #PL-2005-0536
Mt. Eden Shops

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I urge the City of Hayward to support the project as proposed.

Thank you for your consideration.

Sincerely,


Alvin Timbang
1015 Evans Court
Hayward, CA 94544

I am in favor of putting the retail center in front of the Fairfield Inn and Suites by Marriott on Industrial Blvd.

Chris Hawks

Red Meade

Andy Kuron.

Ms. Maryna

A. Brown

Peggy Ben

Joe Thomas Jr.

Barbara Nelson

[Signature]

[Signature]

JOSE PARRAO

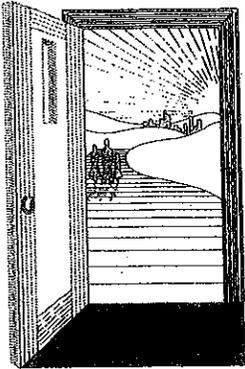
November 8, 2007

REGISTRATION

REV 13 2007

PLANNING DIVISION

COMMPRE



Hayward Planning Commission
c/o Arlyne Camire, Planner
City of Hayward
Community Economic Development
777 "B" Street
Hayward, CA 94541

**Re: Application for zoning modification to allow off-sale liquor outlet,
Eden Business Park**

Dear Ms. Camire:

22652 Second Street
Hayward, CA 94541
(510) 247-8207
(510) 247-8210 fax



A program of
Horizon Services, Inc.

This letter represents CommPre's request for denial of the modification of zoning to allow a convenience store with an alcohol license to sell wine and beer at Industrial Blvd., near the Hwy. 92 (westbound) ramp. Based on CommPre's analysis of the site and activities that occur at other 7-11 locations, it is reasonable to expect that there will be additional alcohol related problems, which will affect the surrounding businesses, residential neighborhood, and police services. These points represent our reasons for denial of the proposed convenience store:

- The city of Hayward currently has 281 retail alcohol outlets, 1 per 550 individuals. According to the Alcoholic Beverage Control Department there should be NO MORE than one off-sale alcohol outlet per 2,500 residents and NO MORE than one on-sale for 2,000 residents.
- The current zoning does not permit a convenience store with off-sales for alcohol (it was zoned specifically for a restaurant).
- The location at Highway 92 and next to a motel would be more conducive to other types of uses, i.e. Starbucks, and other eateries, not a 7-11. 7-11 is not a food store – it sells primarily snacks and liquor.
- The high potential for police calls for service, i.e. loitering, public drinking, and increased youth access to alcohol through shoulder tapping.

The greater question is, does Hayward really need another off-sale liquor establishment? And if so, how will it benefit the overall community? We think that the City should support the property owner to attract eateries that won't create an unsafe environment.

In the unfortunate event that the Planning Commission decides to approve modification of zoning to allow the convenience store with off-sales of beer and wine, CommPre would like to recommend conditions. The following conditions are intended to protect the community, including youth from accessing alcohol:

- 1) No singles sales of any alcohol product
- 2) No cold storage or refrigeration of any alcohol products
- 3) Alcohol must be locked up at all times
- 4) No more than 5% of the square footage of the sales space shall be dedicated to alcohol sales
- 5) Alcohol must be stored away from youth-friendly products such as candy and sodas
- 6) Restrict the hours of sales of alcohol so that sales are stopped by 10:00pm.
- 7) There shall be no exterior advertising or sign of any type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs, which are clearly visible to the exterior, shall constitute a violation of this condition.
- 8) No person under the age of 21 may sell alcoholic beverages.

Also, if the addition of this alcohol establishment will place a burden on the resources of the Hayward Police Department's patrol division, there should be a cost recovery fee for police and patrol services.

Thank you for your consideration of these conditions. We think they are reasonable conditions, based on this location. Since there are other crime-related problems in this area, it is important to mitigate any future problems that the sale of additional alcohol will likely contribute.

Sincerely,



Linda Pratt, M.A.
Program Director

City of Hayward/ Alcohol Outlet Zoning Petition

As a member of the *Spanish Ranch Mobile Homeowners Association*, I strongly oppose the modification of zoning to allow a convenience store with an alcohol license to sell wine and beer at Industrial Blvd., near the Hwy. 92 (westbound) ramp. The city of Hayward currently has 281 retail alcohol outlets, 1 per 550 individuals. Our youth, families, and loved ones already have easy access to alcohol, massive exposure to alcohol ads, and crimes linked to the use and abuse of alcohol. Therefore, I respectfully request the denial of the proposed alcohol outlet in the city Hayward.

James Higgins
Name
JEROME T. HIGGINS

SPANISH RANCH I MHP
Agency/Organization

6 Dec 2007
Date

Patricia Higgins
Name
PATRICIA HIGGINS

SPANISH RANCH MHP
Agency/Organization

12-6-07
Date

Jeanne Soares
Name
JEANNE SOARES

S. R. I
Agency/Organization

12-6-07
Date

Rey Abaya
Name
REY ABAYA

SPANISH RANCH I
Agency/Organization

12-6-07
Date

Colleen Lewinski
Name
Colleen Lewinski

SPANISH RANCH I
Agency/Organization

12-6-07
Date

RECEIVED

DEC 11 2007

PLANNING DIVISION

City of Hayward/ Alcohol Outlet Zoning Petition

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Paul Jones
Name

Spanish Ranch
Agency/Organization

12/6/07
Date

Sean Jefferson
Name

Spanish Ranch I
Agency/Organization

12/6/07
Date

June Hart
Name

SPANISH RANCH I
Agency/Organization

12/6/07
Date

Robin S. Thayer
Name

Spanish Ranch I
Agency/Organization

12/6/07
Date

Kevin Key
Name

Spanish Ranch I
Agency/Organization

12-6-07
Date

RECEIVED

DEC 7 1 2007

PLANNING DIVISION

City of Hayward/ Alcohol Outlet Zoning Petition

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PATRICIA SMITH SR1 12/6/07
Name Agency/Organization Date

Neoma R. Schultz Spanish Ranch 1 12-6-07
Name Agency/Organization Date

Linda Moy Spanish Ranch 1 12.6.07
Name Agency/Organization Date

Stacia Nigman Spanish Ranch 1 12/6/07
Name Agency/Organization Date

[Signature] Spanish Ranch 1 12/6/07
Name Agency/Organization Date

RECEIVED

DEC 17 2007

PLANNING DIVISION

City of Hayward/ Alcohol Outlet Zoning Petition

As a member of the *South Hayward Neighborhood Collaborative*, I strongly oppose the modification of zoning to allow a convenience store with an alcohol license to sell wine and beer at Industrial Blvd., near the Hwy. 92 (westbound) ramp. The city of Hayward currently has 281 retail alcohol outlets, 1 per 550 individuals. Our youth, families, and loved ones already have easy access to alcohol, massive exposure to alcohol ads, and crimes linked to the use and abuse of alcohol. Therefore, I respectfully request the denial of the proposed alcohol outlet in the city Hayward.

Paul Trumbull III resident
Name Agency/Organization

12/6/07
Date

Aara Lamas resident
Name Agency/Organization

12/6/07
Date

Daryl Beeman Hayward business owner
Name Agency/Organization

12/6/07
Date

Andrea Wilson Hayward Unified
Name Agency/Organization

12/6/07
Date

Karen Noell Resident
Name Agency/Organization

12/6/07
Date

RECEIVED

DEC 6 2007

PLANNING DIVISION

Arlynn Camire

From: Nick Dahy
Sent: Monday, December 10, 2007 9:56 AM
To: Arlynn Camire
Subject: re:December 13, 2007 Public Hearing - PL-2005-0536 ZC(Mod of PD 97-120-05& PL-2007-0558
UP SIMEON Commercial Properties

Hello Arlynn

RE: PL-2005-0536 ZC(Mod of PD 97-120-05& PL-2007-0558 UP SIMEON Commercial Properties

This is Nick Dahya one of the owners of the hotel(Fairfield Inn & Suites-Marriott) next to the the project that is going to be reviewed on December 13, 2007.

I just wanted to let you know our opinion regarding the above mentioned project. We are in favor of having a Starbuck coffee shop along with sandwich shops and other neighborhood uses(i.e dry cleaner, video shop etc): **However, we are NOT in favor of having a 24 hour convenience store such as a 7 Eleven selling beer and wine or any other convenience store. We are concerned with the safety and security for the guest staying at the hotel.**

thank you

Narendra (Nick) Dahya
251 El Camino Real
San Carlos, CA 94070



Dilip Dahya
25192 Industrial Blvd
Hayward, Ca 94545
January 16, 2008

City Of Hayward
777 B Street
Hayward, CA 94541

Dear City Council:

I represent the ownership group that owns the Fairfield Inn & Suites by Marriott on Industrial Blvd, across from the proposed Retail Center. We are in support of having a drive thru coffee shop and sit down restaurant for the center, but we are **NOT** in favor of having any convenience store especially a 7 Eleven that will operate 24-7.

As a hotel owner and operator we need to make sure that every guest that stay with us, have a safe, and secure place to stay while they do business in the City Of Hayward. At the same time having a convenience store that sell alcohol next to us will create an unlikable environment.

Our concerns are that people will be loitering, dealing drugs, writing graffiti and create a bigger problem that already exists, breaking into cars. Also we will have more people trying to use our restrooms and disturb the guest and employees. We already have people coming off the freeway and using our restrooms and leaving a mess. Furthermore during breakfast time we have people having food that are not our guest n. By having a 7 eleven will create even more of a problem.

As the council knows that the police department does not have enough police officer to patrol the many area in Hayward so why create another place for people to get alcohol and a place for people to hang around. There are many 7 eleven already near by and why do we need more. I ask you why put more logs into the fire.

By approving this convenience store would be damaging to the business and neighborhood in the area, especially the Fairfield Inn & Suites which stays open 24-7, while other business close up and leave for the day. This will also have an economic impact to the City, in which guest will feel insecure of the area and stay at the neighboring city, which will cause in lost revenue from Transit Occupancy Tax for the city.

I hope that you will seriously consider **NOT** approving the convenience store that sell alcohol, and create a place for drug dealers and panhandlers to hang around. We should create a safe environment for all guest that stay in our hotels and spend money in the City Of Hayward.

Sincerely,

Dilip Dahya
Owner

Fairfield Inn & Suites by Marriott
Oakland Hayward
25921 Industrial Boulevard, Hayward, CA 94546
Telephone (510) 782 5000 Facsimile (510) 782 5200
Marriott.com/OAKFI

Operated under a license agreement from Marriott International Inc.



Dear City Council Members

I am most distressed to hear that planning commission is in the process of allowing a convenient store to be built next to Fairfield Inn & Suites. Our neighborhood already has problems of its own and this will create an even bigger problem for us.

For the past seven years I have worked here and I can tell you that by opening a 24/7 Seven Eleven or any other convenient store that sells beer and wine in this area is a bad idea. We already have two or more stores which is less than 1/2 a mile away from here (Food Max, Seven Eleven, and 3 Gas Stations w/convenient store that sell beer). I have seen the negative impact it has in the area and this will have a negative effect on our property. Did you know that Beer & Wine is the top seller for Seven Eleven Stores? This is one of the facts posted on their website. By allowing a 24/7 Seven Eleven that sells Beer & Wine we are not promoting business to come to the area, instead we are driving them away and that is the truth.

I am also a Board Member for Hayward Chamber of Commerce and one of our agenda is to clean the area from drunks, homeless people, panhandlers, thieves, etc. We do not need another hang out area for the drunks and drug dealers so they can do their business and drive our corporate business travelers away. We already have issues with outsiders using our facility and trashing our property and creating disturbance for our registered guests. The fact of the matter is that Seven Eleven does not provide public restroom for their customers; therefore it is going to be an extra burden on the hotel staff and a disturbance for the hotel guest which is not going to be pleasant. I know some of the businesses in the Eden Business Park have no objection on having Seven Eleven in the area. They close their business at 5pm and are closed on weekends so they could care less. So far I have being informed by two people from Business Park that they are having problems with break-ins into cars and even the thieves are going under the SUVs and cutting out catalytic converters. I can provide you with more details if required. Right now whenever we do have an issue and call the police it takes them at least an hour to get here. By that time there is no point. By complaining to the police department the response was that we are under staff and they do not have enough manpower to take care of non emergency issues. I believe the police department can provide more information on that. We as business owners and operators need to have your support to keep the community safe and secure for the city and for the people traveling to our city.

Thank you for listening to my concerns. I just wanted to make you aware of this important situation. Please contact me if there is any way I can help save our community (HAYWARD).

Sincerely,

Hassan Fallah
25921 Industrial Blvd.
Hayward, CA 94545
ffi.oakfi.gm@marriott.com
(510)782-5000 ext 503

Fairfield Inn & Suites by Marriott
Oakland Hayward
25921 Industrial Boulevard, Hayward, CA 94545
Telephone (510) 782 5000 Facsimile (510) 782 5200
Marriott.com/OAKFI

Operated under a license agreement from Marriott International Inc.

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. 08-

Introduced by Council Member _____

*me
2/7/08*

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

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

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

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

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

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

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

ZONE CHANGE

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

USE PERMIT

6. The proposed sale of beer and wine at a convenience store for off-site consumption would be desirable for the public convenience or welfare, in that it offers a convenient option to nearby residents, hotel guests and industrial employees to buy beer and wine while shopping for grocery items and/or buying dinner at the retail center. In addition, it would save drivers from making additional trips to alcoholic beverage establishments.

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

DRAFT

ORDINANCE NO. 08-

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF CHAPTER 10, ARTICLE 1 OF THE HAYWARD MUNICIPAL CODE BY MODIFYING A PLANNED DEVELOPMENT DISTRICT TO ALLOW ADDITIONAL USES PURSUANT TO ZONE CHANGE APPLICATION NO. PL-2005-0536 AND USE PERMIT APPLICATION NO. PL 2007-0558

Mue
2/10/08

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

Section 1. The Zoning District Map of Chapter 10, Article 1 of the Hayward Municipal Code is hereby amended by modifying a Planned Development District to allow the following uses on a 1.5-acre parcel located at 26251 Industrial Boulevard adjacent to and north of Highway 92 at the southeast corner of Mt. Eden Business Park:

1. Drive-Thru Coffee Shop
2. Convenience Store
3. Take-out Restaurant
4. Accounting and financial offices (excluding check cashing stores)
5. Architectural and engineering offices
6. Banks and financial institutions
7. Chiropractic and acupuncture offices
8. Insurance and real estate offices
9. Law offices
10. Medical and dental offices
11. Travel and airline agency offices
12. Barber or beauty shop
13. Dance studio
14. Dry cleaner/laundry
15. Martial arts studio
16. Music studio
17. Nail salon
18. Palm reading
19. Photography studio
20. Physical fitness studio
21. Shoe repair shop
22. Tailor/seamstress shop
23. Antique store
24. Appliance store
25. Art and art supplies store

26. Bakery
27. Bicycle shop
28. Bookstore
29. Camera store
30. Card shop
31. Carpet/drapery store
32. Clothing store
33. Coffee/espresso shop
34. Delicatessen
35. Fabric store
36. Floral shop
37. Furniture store
38. Garden supplies store
39. Gift shop
40. Hardware store
41. Jewelry store
42. Locksmith shop
43. Music store
44. Nursery (plant)
45. Paint/wallpaper store
46. Pet Grooming shop
47. Pet store
48. Plumbing and heating store
49. Restaurant (Where there is no bar)
50. Sporting goods store
51. Stationary store
52. Supermarket
53. Theater (Small Motion Picture or Live Performance only.)
54. Toy store
55. Variety store
56. Video Sales and rental store

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

INTRODUCED at a regular meeting of the City Council of the City of

Hayward, held the _____ day of _____, 2008, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the _____ day of _____, 2008, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

**THE REFERENCED EXHIBIT(S) IS/ARE
ATTACHED AS A SEPARATE LINK**