

DATE: January 20, 2009

TO: Mayor and City Council

FROM: Director of Development Services Department

SUBJECT: Zone Change Application No. PL-2007-0594 - Ram Paharia and Amos Picker (Applicants/ Owners) - Request to Rezone a Parcel from Commercial Office (CO) District to Planned Development (PD) District - The Property is Located at 1944 B Street, at the Northwest Corner of the Pearl Avenue and B Street intersection

RECOMMENDATION

That Council adopts the attached resolution adopting the attached Negative Declaration, and introduces the attached ordinance approving the Zone Change.

BACKGROUND

The site is located in the Upper B Street Corridor within an established neighborhood that contains single-family homes, multi-family units, and commercial uses. On August 28, 2001, the Planning Director approved an administrative Site Plan Review application to allow construction of the commercial building that exists on the site. The building was constructed in 2007, yet remains vacant.

The subject property is zoned Commercial Office (CO). The owner claimed the list of uses allowed in the CO District is too restrictive and limited his ability to successfully find tenants. In hopes of being able to find tenants by providing opportunity for a wider variety of possible uses, the owner initially petitioned for a zone change from the existing CO, which is primarily limited to office uses, to Neighborhood Commercial (CN), which allows for retail businesses.

At the June 12, 2008, Planning Commission hearing, staff recommended against rezoning the property from CO to CN, because it determined that there were certain primary uses allowed in the proposed CN district that would not be suitable for the site or the surrounding residential neighborhood, due to inadequate on-site parking and the potential to negatively impact the traffic flow on B Street, which is already congested during the peak hours. The Commission shared staff's concerns, but directed staff to explore a means to allow more flexibility in the uses allowed on the site, to facilitate occupancy of the new building.

At the November 20, 2008, Planning Commission meeting, staff presented a proposal to change the zoning to a Planned Development (PD) district, to include a custom list of permitted uses, including selected retail uses (see Exhibit D). The list also prohibits uses determined to be unsuitable for the site due to inadequate parking capacity or negative impacts to the surrounding streets or neighborhood. The Commission unanimously supported staff's proposal with an added condition to restrict liquor sales (Exhibit F).

DISCUSSION

The zoning along B Street is primarily CO and CN; therefore, the uses within these two zoning districts were analyzed to determine acceptable uses for the site. Staff used the Transportation Engineers Manual to determine the amount of traffic that would be generated by a particular type of use, and the City's Off-Street Parking Regulations to determine whether a sufficient amount of parking would be available within the 22-space on-site parking lot. According to the Institute of Transportation Engineers Manual, office uses typically generate 10 morning peak hour trips, which would have a minimal impact on the existing traffic flow. However, the previously proposed CN District would have allowed by right a wide variety of retail shops, some of which could have generated an estimated 110 peak hour trips, severely impacting a travel lane with a capacity of 800 vehicles per hour that is already over capacity (350 more vehicles per hour than its capacity).

Of the 73 uses permitted within the two zoning districts, staff determined that 53 are suitable for this site. Staff developed a list of acceptable uses and specifically prohibited those uses that would severely impact the traffic flow on B Street or where insufficient parking would be provided. The owner requested that four other uses, not specifically listed in either the CO or CN districts, be analyzed: cell phone store, ethnic clothing store, meat market, and spices and specialty food store. Staff determined that these uses are acceptable and they have been added to the list of permitted uses (see Exhibit D).

As indicated in the attached resolution, all of the required findings can be made for this zone change. The most relevant are City policies that support uses that have a beneficial effect on the surrounding neighborhood, while not significantly negatively impacting the on-street parking and traffic circulation in the surrounding area.

FISCAL AND ECONOMIC IMPACT

The 4,750-square-foot building is divided into five leasable bays ranging in size from 897 to 1,146 square feet. The proposed PD district would allow the owner to lease to retailers that, according to the City's Economic Development Specialist, could potentially generate \$300 per square foot in sales tax revenue per year for the City, or as much as \$1,425,000 total annually.

PUBLIC CONTACT

As a result of the noticing for the June 12, 2008, Planning Commission hearings, staff received two negative responses. One person cited concerns of the high failure rate of businesses in the area and stated that the current zoning provides a sufficient number of possible uses and a rezoning is not

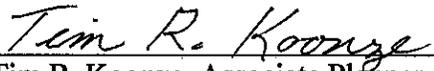
necessary. The other individual expressed disappointment with the vacant commercial building, stating that it creates an undesirable hang-out.

On January 9, 2009, a notice of the City Council public hearing was mailed to property owners and occupants within 300 feet of the project site, and on January 10, 2009, a notice of the City Council public hearing was published in *The Daily Review*. To date, no comments have been received in response to those notices.

NEXT STEPS

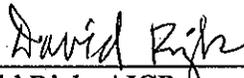
If the City Council approves the zone change, it will increase the number of permitted uses specific to that property, while respecting the impacts on the surrounding neighborhood, which will help facilitate attracting tenants. The owner has hired a real estate broker to assist in leasing the property.

Prepared by:



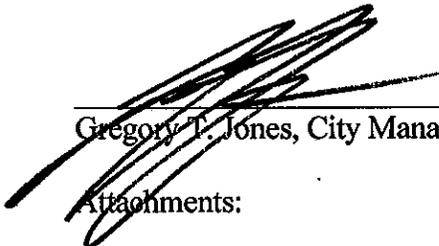
Tim R. Koonze, Associate Planner

Recommended by:



David Rizk, AICP
Director of Development Services Department

Approved by:



Gregory T. Jones, City Manager

Attachments:

- | | |
|------------|---|
| Exhibit A. | Vicinity Map |
| Exhibit B. | Area and Zoning Map |
| Exhibit C. | Aerial Photo |
| Exhibit D. | Recommended Conditions of Approval (includes list of allowed uses |
| Exhibit E. | November 20, 2008, Planning Commission Meeting Report |
| Exhibit F. | November 20, 2008, Draft Planning Commission Meeting Minutes |
| | Draft Resolution |
| | Draft Ordinance |



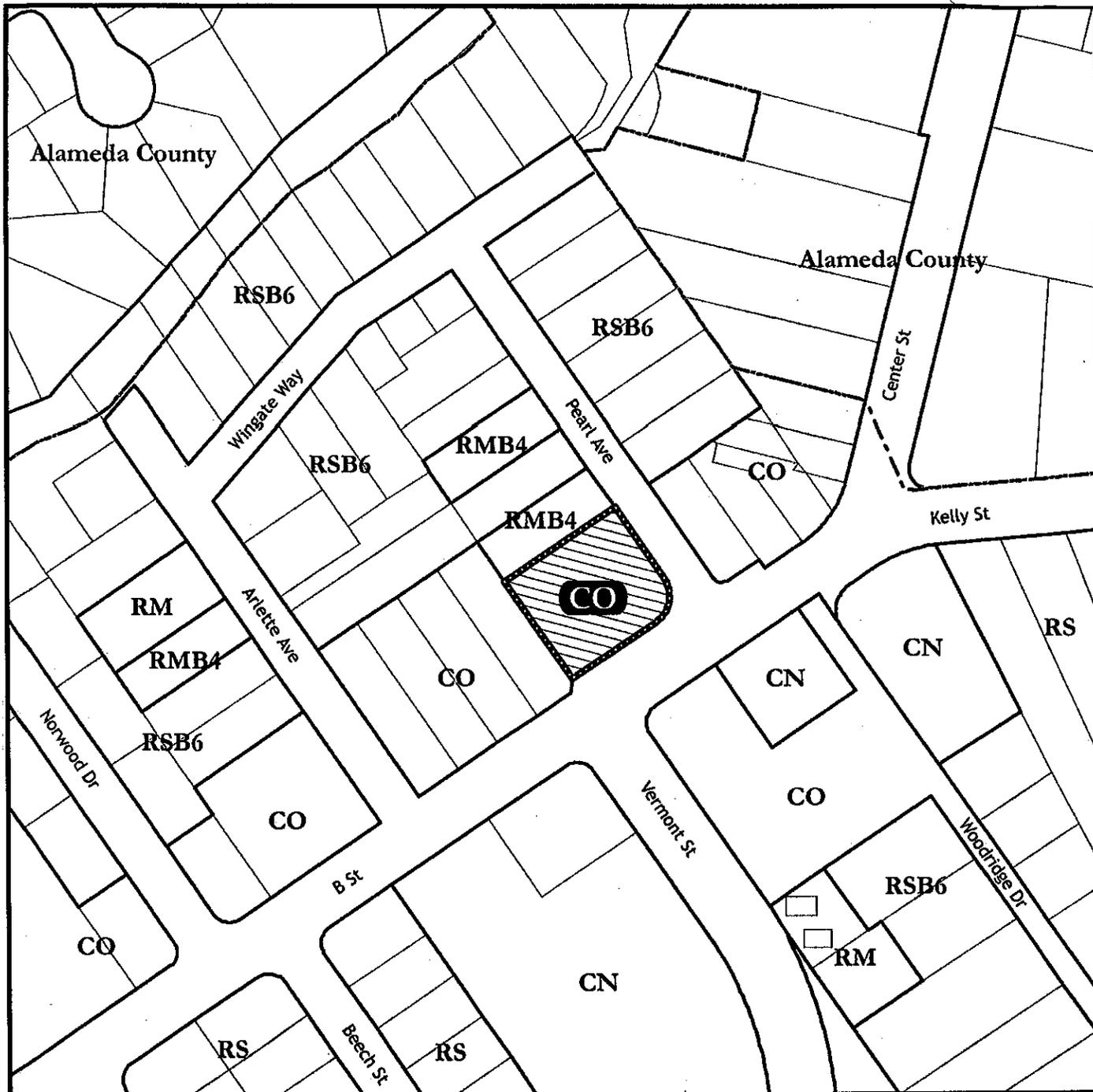
Vicinity Map

PL-2007-0594 ZC

1944 B Street

FEET 2000 4000





Area & Zoning Map

PL-2007-0594 ZC

Address: 1944 B Street

Applicant: Amos Picker

Owner: Ram Paharia &
Amos Picker

Zoning Classifications

RESIDENTIAL

- RM Medium Density Residential, min lot size 2500 sqft
- RMB4 Medium Density Residential, min lot size 4000 sqft
- RS Single Family Residential, min lot size 5000 sqft
- RSB6 Single Family Residential, min lot size 6000 sqft

COMMERCIAL

- CN Neighborhood Commercial
- CO Commercial Office



FEET 100 200

**DUE TO THE COLOR OF
THE REFERENCED
EXHIBIT, IT HAS
BEEN ATTACHED AS
A SEPARATE LINK**

CONDITIONS OF APPROVAL
Zone Change Application PL 2007-0594
1944 B Street Northwest corner of B Street and Pearl Avenue
Ram Paharia and Amos Picker (Applicants/ Owners)
Modified by the Planning Commission November 20, 2008

Zone Change Application No. PL-2007-0594 is approved subject to the conditions listed below:

Planning Division

1. The uses permitted shall be limited to retail and service commercial uses that are neighborhood serving. The uses shall be limited to:

Accounting and Financial Offices	Jewelry Store
Appliance Store	Law Offices
Antique Store	Locksmith Shop
Architect and Engineering Offices	Mailing or Facsimile Service
Art and Art Supply Store	Martial Arts Studio
Banks and Financial Institutions	Meat Market
Barber or Beauty Shop	Medical and Dental Offices
Bicycle Shop	Music Store
Bookstore	Music Studio
Camera Store	Nail Salon
Card Shop	Palm Reading Service
Carpet/Drapery Store	Paint/Wallpaper Store
Cell Phone Store	Pet Grooming
Chiropractic and Acupuncture Offices	Pet Store
Clothing Store	Photography Studio
Consignment Store	Plumbing and Heating Store
Copying or Reproduction Facility	Physical fitness Studio
Dance Studio	Restaurant (non fast food)
Day Care Center	Reverse Vending Machines
Dry Cleaner/Laundry	Shoe Repair Shop
Education Facility (less than 2,000 sq. ft.)	Spices and Specialty Foods
Ethnic Clothing Store	Sporting Goods Store
Fabric Store	Stationary Store
Floral Shop	Tailor/Seamstress Shop
Furniture Store	Thrift Shop
Garden Supply Store	Toy Store
Gift Shop	Travel and Airline Agency Offices
Hardware Store	Variety Store
Insurance and Real Estate Offices	

1. Prohibited uses include but are not limited to:

Ambulance Service
Animal Hospital
Bakery
Bar, Cocktail Lounge
Check Cashing Stores
Christmas Tree/Pumpkin Patch
Coffee/Espresso Shop
Convenience Store
Delicatessen
Ice Cream Store
Sale of Alcoholic Beverages

Massage Parlor
Medical/Dental Laboratory
Payday Loan Facility
Pharmaceutical Sales
Public Agency Facility
Recycling Collection Area
Religious Facility
Suntan Parlor
Take Out Restaurants
Video Sales and Rental Store

2. The Planning Director shall have the authority for to make interpretations on uses that would be considered similar. The Planning Director's interpretation may be appealed to the Planning Commission pursuant to Section 10-1,120 Reviewing Authorities of the Hayward Zoning Ordinance. Major modifications to the proposed uses shall require the approval of City Council. Minor modifications may be approved by the Planning Director.
4. The Conditions of Approval for Site Plan Review 00-130-18 shall remain in effect except as modified by this permit.
5. Tenant management shall take reasonable necessary steps to assure the orderly conduct of employees, patrons and visitors on the premises to the degree that surrounding commercial uses would not be bothered and that loitering is not permitted.
6. Sidewalks and parking lots must be kept free of litter and debris and to minimize the amount of wind-blown debris into the wetlands mitigation area and surrounding properties. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system and wetlands mitigation area. No cleaning agent may be discharged to the storm drain or wetlands mitigation area. If any cleaning agent or degreaser is used, washwater shall be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval, and conditions of the City wastewater treatment plant.
7. The applicant, owner(s) and/or tenants shall maintain in good repair all building exteriors, walls, lighting, trash enclosure, drainage facilities, driveways and parking areas. The premises shall be kept clean. Any graffiti painted on the property shall be painted out or removed within seven days of occurrence.
8. Violation of these conditions is cause for revocation of permit, after a public hearing before the duly authorized review body.



DATE: November 20, 2008

TO: Planning Commission

FROM: Tim R. Koonze, Associate Planner

SUBJECT: **Request to Rezone a Parcel from Commercial Office (CO) District to Planned Development (PD) District defining the type of uses that are permitted. Property is located at 1944 B Street at the Northwest Corner of Pearl Avenue**
Zone Change Application PL-2007-0594; Ram Paharia and Amos Picker
(Applicants/ Owners)
(continued from June 12, 2008 meeting)

RECOMMENDATION

Staff recommends that the Planning Commission recommend that the City Council approve the proposed zone change, including adoption of the attached Negative Declaration, subject to the attached findings and conditions of approval.

SUMMARY

There is an existing vacant commercial building located on the project site. The building was constructed in 2007 yet remains vacant. The owner petitioned for a zone change to Neighborhood Commercial (CN) claiming the list of uses allowed in the existing Commercial Office (CO) zoning district is too restrictive and limits his ability to successfully find tenants. At the June 12, 2008 Planning Commission meeting, staff recommended against changing the zone as some of the uses allowed in the CN District would have the potential to negatively impact parking and traffic circulation to the nearby street system. The Commission directed staff to explore a means to allow more flexibility in the uses allowed on the site, to assist the owner with finding a tenant for the newly constructed building. Staff now recommends the approval of the zone change to Planned Development (PD) District allowing for a wider variety of uses that are specified, while limiting the impacts of parking and traffic on the surrounding neighborhood.

BACKGROUND

Previous Reviews -

On August 28, 2001, the Planning Director approved an administrative Site Plan Review application to allow construction of the existing commercial building. The building construction was completed and finalized by the Building Division on December 6, 2007.

The applicant claims that he has had trouble leasing out the building and submitted an application to rezone the property from Commercial Office (CO) to a Neighborhood Commercial (CN) zoning district which allows a larger variety of retail uses. Staff determined that there were certain primary uses allowed in the CN district that would not be suitable for the surrounding residential neighborhood or for the site due to inadequate on-site parking and the potential for further traffic congestion on B Street, which is already stressed during the peak hours. As a result, staff recommended that the zone change request be denied.

On June 12, 2008, the Planning Commission held a hearing to analyze the applicant's request. The Commission directed staff to perform an environmental evaluation and develop a means to allow additional uses that would be compatible to the site and restrict the uses that would be detrimental to the traffic and parking conditions in the surrounding area. It is staff's opinion that the best option would be to rezone the property to Planned Development (PD) District that would allow certain uses from the CO and CN Districts that are best suited to the property. In addition, as directed by the Planning Commission, staff provided the applicant with the name of a local commercial real estate realtor to help market the leasable spaces within the existing building.

All zone change applications must be reviewed by the Planning Commission. The Commission can recommend approval of the zone change to the City Council or can deny the application. Normally, with the approval of a Planned Development, the City Council approves a Preliminary Development Plan. The applicant then submits a Precise Plan application whereby staff reviews and approves more detailed plans. In this case, there are no plans as the zone change is dealing with uses and not construction. The building exists and no modifications are proposed.

Project Description and Setting -

The 17,000-square-foot site is located at the northwest corner of B Street and Pearl Avenue. The applicant has constructed a 4,750 square foot commercial building consisting of five leasable areas ranging in size from 897 to 1,146 square feet. There are 22 on-site parking spaces to serve the project.

All properties along B Street, east of Fourth Street, are either residentially zoned or are within a CO Zoning District with the exception of three properties, located across the street from the subject site, on the south side of B Street: (1) the Vermont Plaza shopping center located at the southwest corner of B and Vermont Streets, (2) a produce stand located at the southwest corner of B Street and Woodridge Drive, and (3) a small commercial building located at the southeast corner of B Street and Woodridge Drive. These three properties are within a CN Zoning District.

There are multi-family residential units to the north and west of the site. A single-family residential structure to the east had long been used as a restaurant but is vacant now. The produce stand and multi-family apartments are located across B Street, to the south.

DISCUSSION AND STAFF ANALYSIS

A total of 73 uses currently permitted in the CO and CN Zoning Districts were analyzed as to whether the 22 on-site parking stalls could adequately serve the use and whether the use would have

a negative impact on nearby streets or on the residents of the surrounding neighborhood. Staff determined that 24 commercial uses from the current CO Zoning District and 29 additional uses from the CN Zoning District could be supported. (see Attachment C).

All the required findings can be made for this zone change, as detailed in the following paragraphs. Most relevant are City policies that support enhancing properties to better serve the surrounding neighborhood while not significantly impacting the on-street parking and traffic on the surrounding streets.

A. The development is in substantial harmony with the surrounding area and conforms to the General Plan and applicable City policies.

The zone change would be harmonious with the surrounding area in that the PD zoning district would only allow uses that the site and surrounding street system can accommodate and restricts the uses that could be detrimental to the surrounding area.

The proposed zoning designation conforms to the General Plan Land Use Policy:

Infill Development

Policy 8: Promote Infill Development that is compatible with the overall character of the surrounding neighborhood.

The proposed zoning would only allow uses that the site and surrounding street system could support. The uses that would be allowed are neighborhood serving and would prove beneficial to the surrounding neighborhood.

The proposed zoning designation conforms to the purpose of the Zoning Ordinance:

GENERAL PROVISIONS SECTION 10-1.110 PURPOSE

- a. Retain and enhance established residential neighborhoods, commercial and industrial districts, regional-serving uses and recreational amenities.*
- b. Allow for the infill and reuse areas at their prevailing scale and character.*
- c. Accommodate expansion of development into vacant and underutilized lands within environmental and infrastructure constraints.*

The proposed zoning conforms to the purpose of the Zoning Ordinance in that the PD zoning district would include a wider variety of neighborhood serving uses that would better serve the area, thereby enhancing that neighborhood while maintaining its prevailing scale and character. The proposed zoning district would also prohibit uses that would adversely impact the site, the surrounding street system and the neighborhood.

The proposed zoning designation conforms to the Upper "B" Street Neighborhood Plan:

LAND USE POLICIES

Policy 3: Recognize the benefit of the mixed residential/commercial corridor along "B" Street.

The proposed zoning conforms to the policies of the Upper "B" Street Neighborhood Plan in that the PD zoning district would allow the property to maximize its benefit to the neighborhood by providing a wider variety of neighborhood serving uses while being sensitive to the parking limitations and impacts on the surrounding streets.

B. Streets and utilities, existing or proposed, are adequate to serve the development.

The proposed zoning would restrict uses to those that would not negatively impact the surrounding on-street parking or traffic patterns, therefore, the streets and facilities are adequate to serve any approved uses.

C. In the case of nonresidential uses, that such development will be in conformity with applicable performance standards, will be appropriate in size, location, and overall planning for the purpose intended, will create an environment of sustained desirability and stability through the design and development standards, and will have no substantial adverse effect upon surrounding development.

The proposed PD zoning district would allow a wider variety of retail uses and, therefore, would have a greater benefit to the neighborhood which would not be obtainable under the existing regulations. Also, the existing building and parking lot were constructed in accordance with the development and performance standards of the existing CO district.

D. Any latitude or exception(s) to development regulations or policies is adequate to off-set or compensated for by providing functional facilities or amenities not otherwise required or exceeding other required development standards.

The applicant has not asked to vary from development standards. However, the applicant has asked an exception to allow additional uses that would otherwise not be allowed under the current zoning. There would be adequate parking for the proposed uses and they would have a minimal impact on the surrounding streets and neighborhood. The additional uses would better serve the surrounding neighborhood.

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 E). No significant environmental impacts, including those related to traffic and parking as stated previously, are expected to result from the project.

PUBLIC OUTREACH

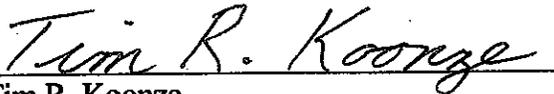
On November 7, 2008, a Notice of Public Hearing for the Planning Commission meeting was mailed to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records. No responses were received as a result of the notice.

On November 10, 2008, a Notice of Public Hearing and Availability of a Mitigated Negative Declaration was published in *The Daily Review*, and property owners and occupants within 300 feet of the project boundaries were notified, as were interested parties and appropriate public agencies. At the time of completion of this report, the Planning Division had not received any correspondence related to such notice.

SCHEDULE

The Planning Commission is acting as a recommending body and can recommend approval of the zone change to the City Council or can deny the application. If the Commission recommends approval of the application, it would be scheduled for a public hearing before the City Council on January 20, 2009.

Prepared by:



Tim R. Koonze
Associate Planner

Recommended by:



Richard Patenaude, AICP
Planning Manager

- ~~Attachment A: Vicinity Map~~
- ~~Attachment B: Area and Zoning Map~~
- ~~Attachment C: Proposed Uses for the Planned Development District~~
- ~~Attachment D: Findings for Approval~~
- ~~Attachment E: Conditions of Approval~~
- ~~Attachment F: Negative Declaration and Initial Study~~
- ~~Attachment G: Planning Commission Report and Minutes dated June 12, 2008~~
- ~~Attachment H: Application Form~~



**DEPARTMENT OF
COMMUNITY AND ECONOMIC DEVELOPMENT
Planning Division**

NEGATIVE DECLARATION

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

I. PROJECT DESCRIPTION:

**Request to Rezone a Parcel from the Commercial Office (CO) District to the Planned Development (PD) District defining the type of uses that are compatible with the site. Property is located at 1944 B Street at the Northwest Corner of Pearl Avenue and B Street Zone Change Application PL-2007-0594;
Ram Paharia and Amos Picker (Applicants/ Owners)**

II. FINDING PROJECT WILL NOT SIGNIFICANTLY AFFECT ENVIRONMENT:

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.
2. The project will not adversely affect any scenic resources.
3. The project will not have an adverse effect on agricultural land since the property is surrounded by urban uses and it is too small to be used for agriculture.
4. The project will not result in significant impacts related to changes into air quality as construction will not occur in conjunction with this project as the potential uses would not significantly impact air quality.
5. The project will not result in significant impacts to biological resources such as wildlife and wetlands since the site contains no such habitat and it is surrounded by urban uses.
6. The project will not result in significant impacts to known cultural resources including historical resources, archaeological resources, paleontological resources, unique topography or disturb human remains.

7. The project site is not located within a "State of California Earthquake Fault Zone", and no construction is proposed.
8. The potential uses associated with the project will not lead to the exposure of people to hazardous materials.
9. The project involves uses within an existing building and will have no affect on water quality standards.
10. The project is consistent with the policies of the City General Policies Plan, the Upper B Street Neighborhood Plan and the Zoning Ordinance.
11. The project could not result in a significant impact to mineral resources since no construction will take place as part of this project.
12. The project will not have a significant noise impact.
13. The project will not result in a significant impact to public services.
14. The project will not result in significant impacts to traffic or result in changes to traffic patterns or emergency vehicle access as the on-site parking and the surrounding street system are adequate to support potential uses.

IV. PERSON WHO PREPARED INITIAL STUDY:

Signature: Tim R. Koonze
 Tim R. Koonze, Associate Planner

Dated: October 21, 2008

V. COPY OF INITIAL STUDY IS ATTACHED

For additional information, please contact the City of Hayward Development Review Services Division, 777 B Street, Hayward, CA 94541-5007 or telephone (510) 583-4209

DISTRIBUTION/POSTING

- Provide copies to project applicants and all organizations and individuals requesting it in writing. Provide copy to Alameda County Clerks 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**

INITIAL STUDY CHECKLIST FORM

Project title: Zone Change Application PL-2007-0594; Request to Rezone a Parcel from the Commercial Office (CO) District to the Planned Development (PD) District defining the type of uses that are compatible with the site. Ram Paharia and Amos Picker (Applicants/ Owners).

Lead agency name and address:

City of Hayward, 777 "B" Street, Hayward, CA 94541-5007

Contact person:

Tim R. Koonze, Associate Planner
(510) 583-4207 tim.koonze@hayward-ca.gov

Project location:

Property is located at 1944 B Street at the Northwest Corner of Pearl Avenue and B Street.

Project sponsor's name and address:

Ram Paharia and Amos Picker
38350 Fremont Blvd., Suite 202
Fremont, CA 94536

General Plan:

Retail and Office Commercial (ROC)

Zoning:

Commercial Office (CO)

Description of project:

Proposal entails changing the zoning of the property, with an existing vacant 4,750 square-foot commercial building, from Commercial Office to Planned development to enable the site to expand the type of retail uses on the site while respecting the parking parameters and the traffic impact on the nearby streets. The uses would be limited to that would have a less than significant impact on parking and traffic.

Surrounding land uses and setting:

The uses surrounding the subject site include a mixture of single-family and multi-family residential units. A subdivision of detached single-family homes is located to the north, directly behind the subject site. There are apartments located to the south and west of the site within the CO District. There are older single-family homes, fronting on B Street, located to the east; these homes are also within the CO District.

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 "Potentially Significant Unless Mitigation Incorporation" 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 checked="" type="checkbox"/> Transportation/Traffic |
| <input type="checkbox"/> Utilities / Service Systems | <input type="checkbox"/> Mandatory Findings of Significance | |

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

- I find that the proposed project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A **MITIGATED NEGATIVE DECLARATION** will be prepared.
- I find that the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.
- I find that the proposed project **MAY** have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An **ENVIRONMENTAL IMPACT REPORT** is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or **NEGATIVE DECLARATION** pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or **NEGATIVE DECLARATION**, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature:

Tim R. Koonze
Tim R. Koonze, Associate Planner, City of Hayward

Date: October 15, 2008

ENVIRONMENTAL ISSUES:

I. AESTHETICS -- Would the project:

- a) Have a substantial adverse effect on a scenic vista?
Comment: *The proposal is a change in zoning and does not include any construction. The existing building is located in a flat land area and does not have a substantial adverse effect on a scenic vista.*

- b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?
Comment: *The building exists and no scenic resources exist in the area.*

- c) Substantially degrade the existing visual character or quality of the site and its surroundings?
Comment: *The proposal is a change in zoning and does not include any construction. The existing building is consistent with the surrounding neighborhood*

- d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?
Comment: *The building is located in an established neighborhood and will not create a new source of substantial light or glare.*

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?
Comment: *The project site does not contain such farmland.*

- b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?
Comment: *The project is not located in an agricultural district nor in an area used for agricultural purposes, nor is it subject to a Williamson Act contract.*

- 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?
Comment: *The project area does not contain agricultural uses or farmland.*

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

- a) Conflict with or obstruct implementation of the applicable air quality plan?
Comment: *The project will not conflict with the Bay Area Air Quality Management District's Bay Area 2000 Clean Air Plan. The project would not*

entail an amendment to the existing General Plan land use designation for the project site and the existing Hayward General Plan, adopted in March of 2002, has been determined to be consistent with the Air Quality District's Clean Air Plan (see Hayward General Plan Update DEIR, dated November, 2001, pages 8-12 to 8-16; EIR certified in March of 2002).

- b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?

Comment: *The building exists and no construction is proposed. Any increase in traffic would be insignificant and would not have a significant adverse impact on air quality.*

- 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)?

Comment: *The project would generate any criteria pollutant.*

- d) Expose sensitive receptors to substantial pollutant concentrations?

Comment: *The project does not include any construction; therefore, it would not expose any sensitive receptors.*

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

Comment: *The project will not create objectionable odors affecting a substantial number of people in that the project entails no construction and non of the potential uses that would be allowed to occupy the existing building would create objectionable odors.*

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 project will not have a substantial adverse affect on any wildlife species as no construction will be conducted as part of this project and the site is located within an established developed neighborhood.*

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

Comment: *The project would have no substantial adverse effect on any riparian habitat as the site is located within an established developed area.*

- 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:
There are no wetlands on or near this site.

- 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 in that it is located within an existing developed area..

- e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

Comment: No trees will be affected by this project..

- 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?

Comment: There are no habitat conservation plans affecting the property.

V. CULTURAL RESOURCES -- Would the project:

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

Comment: No buildings or known historical resources exist on the site.

- b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?

Comment: No construction will occur as part of this project and no known archaeological resources exist in on the site.

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

Comment: No known paleontological resources exist on the site.

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

Comment: No construction would occur as part of this project and no known human remains are located on-site.

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 Hayward 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.

Comment: The project is not located near any known earthquake fault.

- ii) Strong seismic ground shaking?

Comment: As stated above, the project is not located near any known earthquake fault. The existing building was constructed in conformance to the requirements of the 2001 California Building Code

- iii) Seismic-related ground failure, including liquefaction?
Comment: This project involves no construction and therefore, the project has no liquefaction hazards.
- iv) Landslides?
Comment: This project involves no construction and therefore, the project has no landslide hazards.
- b) Result in substantial soil erosion or the loss of topsoil?
Comment: This project involves no construction and therefore, the project would not cause erosion or loss of top soil.
- 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?
Comment: This project involves no construction and the property is located on flat land, therefore, the project would have no geologic hazards.
- d) Be located on expansive soil, as defined in the Uniform Building Code, creating substantial risks to life or property?
Comment: This project involves no construction and therefore, the project has no substantial risk due to expansive soils.
- 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?
Comment: There is no waste water system associated with this project.

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?
Comment: Uses involving hazardous materials would not be allowed to operate on this site.
- 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?
Comment: Uses involving hazardous materials would not be allowed to operate on this site.
- c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?
Comment: Uses involving hazardous materials would not be allowed to operate on this site.
- 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?
Comment: The project site is not on the State Cortese List, compiled pursuant to Government Code Section 65962.5.

- 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?

Comment: *The project is not located within an airport zone or within two miles of a public airport.*

- 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?

Comment: *The project is not located within the vicinity of a private airstrip*

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

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.*

- 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?

Comment: *There are no potential for wildland fires; the site is located in an established neighborhood.*

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

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

Comment: *The project would not violate any water quality standards or waste discharge requirements as the project does not involve any construction.*

- 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)?

Comment: *The project would not deplete ground water supplies or interfere substantially with ground water recharge as the project does not involve any construction.*

- 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 that would result in substantial erosion or siltation on- or off-site?

Comment: *The project would not substantially alter the existing drainage pattern as the project does not involve any construction.*

- 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?

Comment: *The project would not substantially alter the existing drainage pattern as the project does not involve any construction.*

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

Comment: *The project would not add impervious surfaces as the project does not involve any construction.*

- f) Otherwise substantially degrade water quality?
- Comment:** No other impacts associated with water quality are anticipated.
- 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?
- Comment:** There is no housing associated with this project.
- h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?
- Comment:** According to FEMA Flood Insurance Rate Maps (panel # 065033-00042E dated 2/9/00), this site is not within the 100-year flood hazard area.
- 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?
- Comment:** The site is not within the 100-year flood zone, is not near any levees and is not located downstream of a dam or in a dam failure inundation area.
- j) Inundation by seiche, tsunami, or mudflow?
- Comment:** The project is not in a location that would allow these phenomena to affect the site.

IX. LAND USE AND PLANNING - Would the project:

- a) Physically divide an established community?
- Comment:** The project will not physically divide the existing community as the commercial building associated with this project already exists.
- 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?
- Comment:** The project site has a Retail and Office General Plan land use designation. The uses proposed under the proposed Planned Development zoning would comply with the General Plan land use designation. The proposed Planned Development (PD) zoning would only allow uses that the site and surrounding street system could support. The uses that would be allowed are neighborhood serving uses that would prove beneficial to the surrounding neighborhood. The proposed PD zoning would meet the purpose of the current Commercial Office (CO) zoning designation in that the purpose is "...to provide for and to protect administrative, professional, business and financial organizations which may have unusual requirements for space, light and air, and which are clean and quiet and which are not detrimental to the residential use of adjacent properties".
- c) Conflict with any applicable habitat conservation plan or natural community conservation plan?
- Comment:** A habitat conservation plan does not exist nor a natural community conservation plan for the site or general vicinity.

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?

Comment: There is no impact to the availability of a known mineral resource as there is no construction associated with the project.

- 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?

Comment: The site is not designated as a locally important mineral resource recovery site.

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?

Comment: The subject property is not shown in an area that is or will be subject to significant noise impacts associated with roadway traffic, according to Appendix M of the Hayward General Plan.

- b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?

Comment: The project will not generate or expose persons to excessive groundborne vibration or noise levels in that the project is not located within the vicinity of a railroad, airport or any such use that would generate such impacts.

- c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?

Comment: The project would not be expected to substantially increase ambient noise levels in the project vicinity, as the project entails the allowance of uses that are compatible to residential neighborhoods.

- d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

Comment: There is no substantial or periodic increase in noise associated with this project.

- 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?

Comment: The project is not located within two miles of a public airport.

- 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?

Comment: The project is not located within the vicinity of a private airstrip.

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)?

Comment: The site of the project is currently improved and no new construction is proposed, therefore, there would be no potential for this project to induce a substantial population growth in the area.

- b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?
- Comment:** *No homes exist on the site.*
- c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?
- Comment:** *No homes exist on the site.*

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?
- Comment:** *No new fire protection facilities will be required as a result of the project.*
- b) Police protection?
- Comment:** *No new police protection facilities will be required as a result of the project.*
- c) Schools?
- Comment:** *No new school facilities will be required as a result of the project.*
- d) Parks?
- Comment:** *The project will not generate additional use of the park systems in the area.*
- e) Other public facilities?
- Comment:** *No other public facilities will be significantly impacted.*

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?
- Comment:** *The project will not generate additional use of the park systems in the area.*
- 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?
- Comment:** *The project will not generate additional use of the park systems in the area.*

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)?

Comment: The proposed zoning would only allow uses that the site and surrounding street system could support. The uses that would be allowed are neighborhood serving uses that would prove beneficial to the surrounding neighborhood. The City's Transportation Manager analyzed the uses proposed and determined that the traffic impacts generated by the proposed uses would have less than a significant impact on the surrounding street system.

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

Comment: Traffic generated by the proposed uses would have a minimal impact on the existing traffic flow and would not have an significant impact on the level of service according to the City of Hayward Transportation Manager.

- 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?

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)?

Comment: The project will not traffic hazards as no improvements are proposed. The proposed Planned Development (PD) zoning would only allow uses that the site and surrounding street system could support.

- e) Result in inadequate emergency access?

Comment: The project will have no affect on emergency access.

- f) Result in inadequate parking capacity?

Comment: The proposal meets the requirements for parking as specified in the City's Off-Street Parking Regulations.

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

Comment: The project does not conflict with adopted policies supporting alternative transportation.

XVI. UTILITIES AND SERVICE SYSTEMS - Would the project:

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

Comment: The existing building can support any of the proposed uses and therefore will not exceed wastewater treatment requirement.

- 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?

Comment: The existing water and wastewater facilities can adequately serve any of the proposed uses.

- 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?

Comment: No construction is proposed as part of this project therefore the project would not result in the construction or expansion of storm water facilities.

- d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?
- Comment:** *The existing water facilities can adequately serve any of the proposed uses.*
- e) Result in a determination by the wastewater treatment provider, which serves or may serve the project, that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?
- Comment:** *The existing wastewater facilities can adequately serve any of the proposed uses.*
- f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?
- Comment:** *Waste Management of Alameda County will serve the development. 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.*
- g) Comply with federal, state, and local statutes and regulations related to solid waste?
- Comment:** *The operation of the uses allowed by the project will comply with all federal, state and local statutes and regulations related to solid waste.*

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?

Comment: The project site is located within an established fully developed neighborhood and there is no construction associated with the project, therefore, the project would not have the potential to degrade the quality of the environment of any fish, wildlife, or plant.

- 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)?

Comments: The proposed zoning would only allow uses that the site and surrounding street system could support. The City Transportation Manger has determined that any traffic generated from the potential uses would be insignificant and that the existing parking lot is could accommodate the parking generated by the proposed possible uses.

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

Comments: The proposed zoning would only allow uses that the site and surrounding street system could support. The allowed uses are neighborhood serving uses that would prove beneficial to the surrounding neighborhood. The potential uses would not utilize hazardous materials in amounts that could cause substantial adverse effects on human beings.



**CITY OF HAYWARD
PLANNING DIVISION
APPLICATION FOR A DEVELOPMENT PERMIT**
777 B STREET, HAYWARD, CA 94541-5007
(510) 583-4200 ♦ TDD (510) 247-3340 ♦ FAX (510) 583-3649

APPLICATION NUMBER PL-2007-0594
TYPE Z.C.
TAKEN BY A.D.
DATE 11/27/07

APPLICANT(S) PICKER Amos
LAST NAME FIRST NAME

INITIAL FEE/DEPOSIT \$2,500
ADDITIONAL TIME & MATERIAL CHARGES NO LIMIT
(See Note 2)

COMPANY NAME (IF APPLICABLE) _____
STREET c/o SHOW & SELL REALTY
38350 FREMONT BLVD., SUITE 202
CITY FREMONT STATE CA ZIP CODE 94536 PHONE NO. _____

FAX NO. (510) 793-8770 E-MAIL _____ CELL PHONE _____

APPLICANT'S INTEREST IN PROPERTY: OWNER LESSEE OPTIONEE OTHER _____

INVOICES TO BE DIRECTED TO: OWNER APPLICANT OTHER _____
(Please provide address if other, see note 2)

PROPERTY OWNER(S) PAHARIA PICKER, RAM Amos PHONE NO. (510) 793-8600
LAST NAME FIRST NAME

STREET 38350 FREMONT, BLVD, SUITE 202 CITY FREMONT STATE CA ZIP CODE 94536

FAX NO. (510) 793-8772 E-MAIL Amos@amospicker.com CELL PHONE (510) 684-4303

TYPE OF PERMIT(S): SITE PLAN REVIEW GENERAL PLAN AMEND. PARCEL MAP TRACT MAP VARIANCE
 USE PERMIT ADMIN. USE PERMIT ZONE CHANGE FROM CO TO CN OTHER _____

PROJECT ADDRESS/LOCATION 1944 B STREET, HAYWARD

ASSESSOR'S PARCEL NO(S). 416-110-41 ZONING DISTRICT(S) CO

PROJECT DESCRIPTION (attach additional sheets if necessary) 5 UNITS COMMERCIAL (APPROX -
MARSLY 5000 SQ FT) COMPLETED IN 2006 AND UNABLE
TO LEASE UNDER CURRENT ZONING, BECAUSE UNCOMPATIBLE
IN THE AREA

I HEREBY CERTIFY THAT I AM THE OWNER OF RECORD OF THE PROPERTY DESCRIBED ABOVE AND, FURTHER THAT I APPROVE OF THE PROPOSED USE CONTAINED HEREIN. SEE NOTE 2.

I HEREBY STATE THAT THE FOREGOING STATEMENTS AND ANSWERS AND ALL DATA, INFORMATION AND EVIDENCE SUBMITTED HERewith ARE IN ALL RESPECTS, TO THE BEST OF MY KNOWLEDGE AND BELIEF, TRUE AND CORRECT.

OWNER SIGNATURE X

APPLICANT SIGNATURE X

STAFF REMARKS

THIS IS YOUR RECEIPT WHEN MACHINE VALIDATED

NOTE 1: FEES ARE NOT REFUNDABLE AND PAYMENT IN NO WAY GUARANTEES APPROVAL OF APPLICATION.
NOTE 2: THE OWNER IS RESPONSIBLE FOR PAYING ALL TIME AND MATERIAL CHARGES.

White - File Return to Planning
Canary - Control



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, November 20, 2008, 7:30 p.m.
777 B Street, Hayward, CA 94541**

MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m. by Chair Lavelle.

Chair Lavelle provided opportunity to City Clerk Reyes to introduce a new member of the City Clerk team, Suzanne Philis, who will be serving as Planning Commission Secretary beginning in December. Ms. Reyes noted that Ms. Philis transferred from the Redevelopment Agency division and has been with the City since 2001. She is a graduate from San Jose State, where she earned a degree in Journalism. Chair Lavelle welcomed her and requested her to take roll.

ROLL CALL

Present:	COMMISSIONERS:	McKillop, Márquez, Mendall, Peixoto, Thnay, Loché
	CHAIRPERSON:	Lavelle
Absent:	COMMISSIONER:	None

Chair Lavelle led in the Pledge of Allegiance.

Staff Members Present: Patenaude, Conneely, Koonze, Reyes, Philis

General Public Present: 5

PUBLIC COMMENTS

There were no public comments.

PUBLIC HEARING

- Request to Rezone a Parcel from Commercial Office (CO) to Planned Development (PD) District Defining the Type of Uses that are Permitted - The Property is Located at 1944 B Street at the Northwest Corner of Pearl Avenue - Zoning Application No. PL-2007-0594 – Ram Paharia and Amos Picker (Applicants/Owners)**

Associate Planner Koonze provided the staff report, noting the revised list of proposed uses for this development, which he distributed to each member. He pointed out that these additional proposed uses were included at the request of the applicant, Mr. Picker.

Chair Lavelle opened the public hearing at 7:38 p.m.

Mr. Amos Picker, the owner, spoke about his project, indicating that he felt the edifice and its tenants would be in harmony with the neighborhood. He was satisfied with the staff's proposed uses, and hoped to continue forward and lease the building.

Chair Lavelle closed the public hearing at 7:39 p.m.

Commissioner Márquez asked Mr. Picker if there were any potential business owners interested in opening such stores as the ethnic clothing store, cell phone, meat market and spices and specialty food stores as enumerated by Associate Planner Koonze. Mr. Picker responded that initially these were the only four business types that approached him and such uses would not impact parking requirements. Commissioner Márquez also asked whether the large sign on the building has attracted potential tenants. Mr. Picker deferred to his real estate agent.

Mike Tanzillo, real estate agent for Mr. Picker, stated that he was not successful with the CO zoning and with this current economic situation, there is not a strong market for office buildings. Mr. Tanzillo noted that he has experience in Hayward and is making every effort to lease the spaces. He later indicated that there is a potential tenant that is awaiting this approval.

Commissioner Thnay moved the recommendation, stating that he drives by the building everyday and it is a nice building. He agreed with the proposed list of uses for this building.

Commissioner Peixoto seconded his motion.

Commissioner Peixoto complemented Mr. Picker on his building, stating that it was a beautiful building and well-maintained in spite of its vacancy. He asked whether there were any issues with graffiti. Mr. Picker responded that he has frequent inspections and mentioned that if there is a problem, it is cleared immediately. Mr. Picker also mentioned that there is a pickup truck with a trailer that is parked nightly in front of his building that has a negative impact. He was urged to contact the police department if there is an issue.

Commissioner Mendall had several questions, which were responded to by Mr. Tanzillo, on the probability of leasing the building. He appreciated that Mr. Picker selected a professional agent to market the building. He thanked staff for working out a compromise and hoped that the building would be leased.

Commissioner Loché, in reviewing the proposed list of uses, asked staff to describe a reverse vending machine, which is a type of return facility for the recycling of beverage containers. He was satisfied with the proposed uses and the compromise and would be supporting the motion.

Chair Lavelle asked if an additional prohibited use could be added to that list. She requested that along with “bar and cocktail lounge” prohibition, that “retail liquor sales” be prohibited and included as part of this motion. She supported the motion and wished Mr. Picker well in leasing the building to tenants that will benefit that neighborhood. She reported that she visited the site and noted that there is a new restaurant just across the street from Mr. Picker’s building.

Commission Thnay accepted her friendly amendment.

Commissioner Thnay moved, seconded by Commissioner Peixoto, to recommend to the City Council, approval of the proposed zone change from Commercial Office (CO) District to Planned Development (PD) District, defining the type of uses that are permitted, subject to the findings and conditions of approval and with a friendly amendment to add to the list of prohibited uses, “retail



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
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liquor sales” as well as adopt the corresponding Negative Declaration, which was unanimously approved.

ADDITIONAL MATTERS

Planning Manager Patenaude reported that Grocery Outlet has applied to take over the previous Russell grocery store at the Vermont Plaza Center.

2. Oral Report on Planning and Zoning Matters

Planning Manager Patenaude announced that there will be a joint work session with the City Council on December 9 to discuss and review two topics, landscape guidelines and the housing element update.

Planning Manager Patenaude also encouraged those Planning Commissioners who represent the Planning Commission on other committees, such as Council committees or community-wide committees, to report back to the rest of the Planning Commission on their participation.

Commissioner Peixoto stated that he received a report on an administrative approval at 1122 B Street, for a use permit to operate a massage business in conjunction with a beauty salon business.

Planning Manager Patenaude explained that in considering massage operations, either an administrative permit or a conditional use permit could have been utilized. In this case, the Police Department investigated the license, cleared the applicant and thus, the administrative approval. He explained that hand and foot massages are already permitted as part of beauty salon operations.

Commissioner Peixoto expressed his concern on whether this was a policy issue, in particular on this side of town and not particularly, that the applicant was cleared by the Police Department.

3. Commissioners’ Announcements, Referrals

Commissioner Thnay expressed the need to clear the debris and weeds in front of the Target Shopping Center on Whipple. He was appalled by the amount of weeds fronting Industrial Parkway. Planning Manager Patenaude explained that there is a portion that is considered natural wetlands and may look like weeds that can cause some concern along that area, but he will follow up on this request.

Chair Lavelle stated that she distributed information regarding the Metropolitan Transportation Commission (MTC) project that is currently being featured related to transit-oriented development. More information is on its website, www.mtc.ca.gov. She noted that there are 5 cities highlighted as part of this project with Hayward being the first. She noted that MTC has developed an audio that can be downloaded and is called a TODcast. An individual can ride BART, then walk around and view the development while listening to that recording. She noted that Hayward’s TODcast

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. 09-

Introduced by Council Member _____

me

1/7/09

**RESOLUTION ADOPTING NEGATIVE DECLARATION
AND APPROVING ZONE CHANGE APPLICATION NO. PL-
2007-0594**

WHEREAS, Zone Change Application No. PL-2007-0594, submitted by Ram Paharia and Amos Picker (Applicants/Owners), concerns a request to change the zoning from Commercial Office (CO) District to Planned Development (PD) District, on the property located at 1944 B Street, at the northwest corner of B Street and Pearl Avenue (the "Project"); and

WHEREAS, at the June 12, 2008, Planning Commission hearing, staff recommended against rezoning the property from CO to Neighborhood Commercial (CN) District, because it determined that there were certain primary uses allowed in the proposed CN district that would not be suitable for the site or the surrounding residential neighborhood, because of inadequate on-site parking and the potential to negatively impact the traffic flow on B Street, which is already congested during peak commute hours; and

WHEREAS, the Planning Commission shared staff's concerns and directed staff to explore alternatives that would allow more flexibility in the uses permitted on the Project site, in order to facilitate occupancy of the new building; and

WHEREAS, on January 9, 2009, a notice of the City Council public hearing was mailed to property owners and occupants within 300 feet of the Project, and on January 10, 2009, notice of public hearing was published in the Daily Review as required by law.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby finds and determines that:

1. The Project will not have a significant impact pursuant to the California Environmental Quality Act in that approval of the zone change, as conditioned, will not cause a significant impact on the environment, as documented in the Initial Study. A Negative Declaration was prepared in accordance with the California Environmental Quality Act (CEQA) guidelines.
2. The Project is in substantial harmony with the surrounding area and conforms to the City's General Plan and applicable City policies that promote infill development compatible with the overall character of the surrounding neighborhood. The proposed uses would be harmonious with the surrounding area, in that the Planned Development district would only allow uses that the Project and surrounding street system can accommodate and restricts the uses that could be detrimental to the surrounding area. The uses that would be allowed are neighborhood serving uses that would prove beneficial to the surrounding neighborhood.

3. The Project conforms to the purpose of the Zoning Ordinance, in that the Planned Development District would include a wider variety of neighborhood-serving uses that would better serve the neighborhood, thereby enhancing the neighborhood while maintaining the prevailing scale and character of the neighborhood. The proposed zoning district would also restrict uses to those uses that the Project and surrounding street system could support.
4. The Project conforms to the policies of the Upper "B" Street Neighborhood Plan, in that the Planned Development District would allow the property to maximize its benefit to the neighborhood by providing a wider variety of neighborhood-serving uses that would better serve the neighborhood. The Planned Development District allows uses that give the commercial property its greatest potential, thereby better serving the needs of the surrounding neighborhood, while being sensitive to the parking limitations, traffic and related impacts on the surrounding streets.
5. Streets and utilities, existing or proposed, are adequate to serve the development in that the proposed zoning would only allow uses that are compatible to the site, based on traffic generation data; therefore, the streets and facilities are adequate to serve any approved uses.
6. The Project will be in conformity with applicable performance standards; will be appropriate in size, location, and overall planning for the purpose intended; will create an environment of sustained desirability and stability through design and development standards; and will have no substantial adverse effect upon surrounding development. The proposed Planned Development zoning would allow a wider variety of retail uses that would better serve the community and would, therefore, have a beneficial effect that would not be obtainable under the existing regulations.
7. The Project will not vary from development standards; therefore, no off-set or other compensation is required. There will be adequate parking for the proposed uses, and the proposed uses will have a minimal impact on the surrounding streets and neighborhood.

BE IT FURTHER RESOLVED that, based on the above findings, the Negative Declaration is hereby adopted and Zone Change Application No. PL-2007-0594 is hereby approved, subject to the adoption of the companion ordinance and the attached conditions of approval.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2009

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:
MAYOR:

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

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

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