

DATE: November 16, 2010

TO: Mayor and City Council

FROM: Development Services Director

SUBJECT: Zone Change Application No. PL-2010-0120 - Anderson Pugash for Simeon Commercial Properties (Applicant) / Sim First LLC (Owner) – A Request to Modify a Planned Development District to Allow a Neighborhood-Serving Retail Center including a Drive-Thru Coffee Shop and Neighborhood Serving Retail Uses 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 State Highway 92

RECOMMENDATION

That City Council adopts the attached resolution (Attachment I), approving the revised Negative Declaration, and introduces the attached Ordinance (Attachment II) approving the Planned Development District modification.

SUMMARY

Simeon Commercial Properties has requested modification of 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 upon original approval of the business park. Staff supports the request, given the lack of such uses in this portion of the City that includes residential neighborhoods, educational institutions (Life Chiropractic, Chabot College, and Heald Business School), and other business park uses. Additionally, existing and planned improvements would accommodate anticipated traffic and circulation resulting from the project.

BACKGROUND

On October 21, 1997, the City Council approved Planned Development District No. 97-120-05 allowing 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, completed in March 1999. Phase Two, completed in December 2000, included the remaining two buildings on the southeast side of the business park. A vacant three-acre parcel remained in anticipation of development of a hotel, a full-service restaurant, and/or other uses that would

support the business park and the adjacent area. The Quality Inn and Suites, an eighty-four-room extended-stay hotel, was completed in November 2001. The hotel is now a Fairfield Inn and Suites by Marriott.

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 restaurant, the other listed allowable uses include: 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 VI, Condition No. 28).

In 2007, Simeon Commercial Properties applied for a modification to the Planned Development District and Conditional Use Permit to allow a neighborhood-serving retail center, including a drive-thru coffee shop and convenience store selling beer and wine for off-site consumption. As part of the approval hearings for the modification, both the Planning Commission and the City Council expressed a preference for a full-service restaurant at the site. However, both bodies concurred that the applicant, while not successful, exercised due diligence to secure a full-service, sit-down restaurant. The Planning Commission supported the retail center with additional retail uses, such as a drive-thru coffee shop, restaurant, and a convenience store. In addition, the Planning Commission recommended the sale of beer and wine at the convenience store for off-site consumption with conditions of approval restricting the container sizes, restricting alcohol sales area to not more than five-percent of the floor area, and requiring sales to end at 10:00 p.m.

On March 8, 2008, the City Council adopted an ordinance approving a modification of the Planned Development District and the addition of the retail uses listed above. However, the City Council did not approve the Conditional Use Permit that would have allowed the sale of beer and wine at the convenience store. Due to economic conditions, the construction of the project did not occur and the original 2008 approval expired.

DISCUSSION

The applicant now proposes construction of two retail buildings: a 1,838-square-foot drive-through coffee shop, likely a Starbucks, and an 8,250-square-foot multi-tenant building for three to five tenants (see attached plans, Attachment XII). The applicant is pursuing food retailers such as *Subway* and *Jamba Juice*, delicatessens, and other services, such as a dry cleaner, copy center, drug store, clothing store, and small shops supplying retail merchandise to occupy the larger building. Except for the drive-thru coffee shop, 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, to students at the nearby educational institutions, and to the adjacent multi-family residential neighborhood on Industrial Boulevard and 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 again proposes that a limited number of additional uses be allowed based on those permitted in the Central Business (CB) District (Southland Mall). The uses, which Council approved in 2008, would include the

uses listed in the CB District: administrative and professional offices services; personal services; and retail commercial uses, which could include such uses as a dry cleaner, clothing store, and/or bank (see list of recommended allowed uses in Attachment II).

The applicant is proposing the Mt. Eden Park Shops buildings 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 design of the buildings would be contemporary with a stucco finish and brick veneer entries with canvas awnings. The design would be compatible with the hotel and the business park buildings with a strong sense of entry and articulated building façades with pop-out elements.

Parking would be located adjacent to the Industrial Boulevard frontage. The proposed parking is adequate to meet the needs of the retail center and meets the City's Off-Street Parking requirements. Patrons would access the parking lots directly from Industrial Boulevard as well as from the primary driveway serving the business park. Staff recommends that the developer be required to install a sidewalk on Industrial Boulevard to allow access to the bus stop, which AC Transit is willing to install.

The applicant hired transportation consultants, Fehr and Peers, , who completed a circulation study that demonstrates the queuing for the drive-thru Starbucks is adequate and that the proposed changes would not negatively impact on-site parking and on-site circulation. In addition, Fehr and Peers 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.

On September 23, 2010, the Planning Commission recommended the approval of the Revised Negative Declaration and approval of the proposed project (7:0:0). The Planning Commission recommended incorporating the applicant's request that convenience markets and food markets be included as permitted uses in the center. Staff brought to Planning Commission's attention that the conditions of approval adopted in 2008 required restricted business hours of 5:00 am to 10:00 pm. The Planning Commission commented that this condition may preclude a potential business, including retail opportunities for students who desire a late-night place to study and socialize, and felt that it should not be part of the approval. The Planning Commission also recommended that sales of alcoholic beverages for off-site consumption be prohibited, as approved by the City Council in 2008. The Planning Commission also encouraged the applicant to pursue local restaurant businesses as tenants. In addition, the Commission pointed out that a benefit to the City of the project's construction delay is the requirement that the project meet Green Building standards (Attachment IX).

Environmental Review - An Initial Study and Revised Negative Declaration have been prepared for the proposed Planned Development District modification and related proposed retail center pursuant to the California Environmental Quality Act (CEQA) (see Attachment VIII). Staff revised the Negative Declaration prior to the Planning Commission meeting. No significant environmental impacts, including those related to traffic and circulation as stated previously, are expected to result from the project. The Revised Negative Declaration determined that the retail center would result in

a less-than-significant impact related to traffic. Also, the Revised Negative Declaration indicates that queuing at the Starbucks drive-thru would not negatively affect on-site traffic circulation on Industrial Boulevard and the adjacent westbound on-ramp of Highway 92.

PUBLIC CONTACT

Staff has received a call of 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 typically inquire about the locations of restaurants or stores to buy lunch and coffee. Since the area is lacking convenient alternatives, potential tenants have chosen not to locate in the business park.

Prior to the September 23 Planning Commission hearing, staff also received an email from Nick Dahya, representing the owners of the adjacent Fairfield Inn and Suites by Marriott. The owners are in favor of the Starbucks and restaurants; however, they oppose a convenience store. The owner has concerns for the safety and security of hotel guests as it relates to a convenience store use (Attachment XI). However, the Planning Commission is recommending the convenience store use as a permitted use with the restrictions outlined above.

FISCAL IMPACT

The City would receive increased property tax revenues as a result from development, as well as sales tax revenue generated by the businesses. The developer is responsible for all construction costs associated with the project as well as permit fees to cover the staff time associated with the project. Staff anticipates police service calls to be negligible, which is typical of small retail centers.

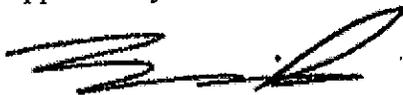
NEXT STEPS

If the Council approves the modification to the Planned Development District, the ordinance will be effective upon adoption and the applicant can proceed with the project.

Prepared by: Arlyne J. Camire, AICP, Associate Planner

Recommended by: David Rizk, AICP, Development Services Director

Approved by:



Fran David, City Manager

Attachments:

Attachment I	Resolution Approving the Revised Negative Declaration and Zone Change
Attachment II	Ordinance Approving List of Uses and Modification to the Planned Development District
Attachment III	Vicinity Map
Attachment IV	Zoning Map
Attachment V	Conditions of Approval
Attachment VI	Planned Development No. 97-120-05- Conditions of Approval
Attachment VII	Planning Commission Report, dated September 23, 2010 (Without Attachments)
Attachment VIII	Revised Negative Declaration and Revised Initial Study, with attachments A-C
Attachment IX	Planning Commission Meeting Minutes, dated September 23, 2010
Attachment X	City Council Meeting Minutes, dated October 21, 1997
Attachment XI	Email submitted by Nick Dahya, representing <i>Fairfield Inn</i> .
Attachment XII	Plans

HAYWARD CITY COUNCIL

RESOLUTION NO. 10-

Introduced by Council Member _____

RESOLUTION ADOPTING THE REVISED NEGATIVE
DECLARATION AND APPROVING ZONE CHANGE
APPLICATION NO. PL 2010-0120

WHEREAS, Zone Change Application No. 2010-0120 concern a request by Anderson Pugash for Simeon Commercial Properties (Applicant)/Sim First, LLC (Owner) to modify a Planned Development District to allow a neighborhood-serving retail center, including a drive-thru coffee shop and neighborhood serving retail 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 revised negative declaration has been prepared and processed in accordance with City and CEQA guidelines; and

WHEREAS, the Planning Commission held a public hearing on September 23, 2010, regarding Zone Change Application No. PL-2010-0120, 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 and zone change; 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 revised negative declaration is based, certifies that the revised 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 not have a significant impact on the environment, cumulative or otherwise, the project reflects the City's independent judgment, and, therefore, a Revised Negative Declaration has been prepared.
2. The modification would be in substantial harmony with the surrounding residential, industrial and educational uses, and development with the proposed conditions of approval. In addition, the use would be in substantial harmony 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, 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 proposed 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 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 not asked to vary from development standards. The applicant has asked an exception to allowed additional uses that are not traditionally found in industrial areas. However, 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 uses would serve the neighborhood by offering a variety of products and services that are currently lacking within the immediate area thereby not creating a substantial adverse effect upon surrounding development.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that, based on the findings noted above, the revised negative declaration and Zone Change Application No. PL-2010-0120 are hereby approved, subject to the conditions of approval contained in Exhibit A attached hereto and incorporated as a part of this resolution, and the adoption of the companion ordinance modifying the Planned Development District.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2010

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

ORDINANCE NO. 10-_____

AN ORDINANCE AMENDING CHAPTER 10, ARTICLE 1 OF THE HAYWARD MUNICIPAL CODE BY MODIFYING A PLANNED DEVELOPMENT DISTRICT TO ALLOW ADDITIONAL USES PURSUANT TO ZONE CHANGE APPLICATION NO. PL-2010-0120

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

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

1. Drive-Thru Coffee Shop
2. Convenience Market
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. Market
16. Martial arts studio
17. Music studio
18. Nail salon
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. Effective Date. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective upon adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward,
held the ____ day of ____, 2010, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held
the ____ day of ____, 2010, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

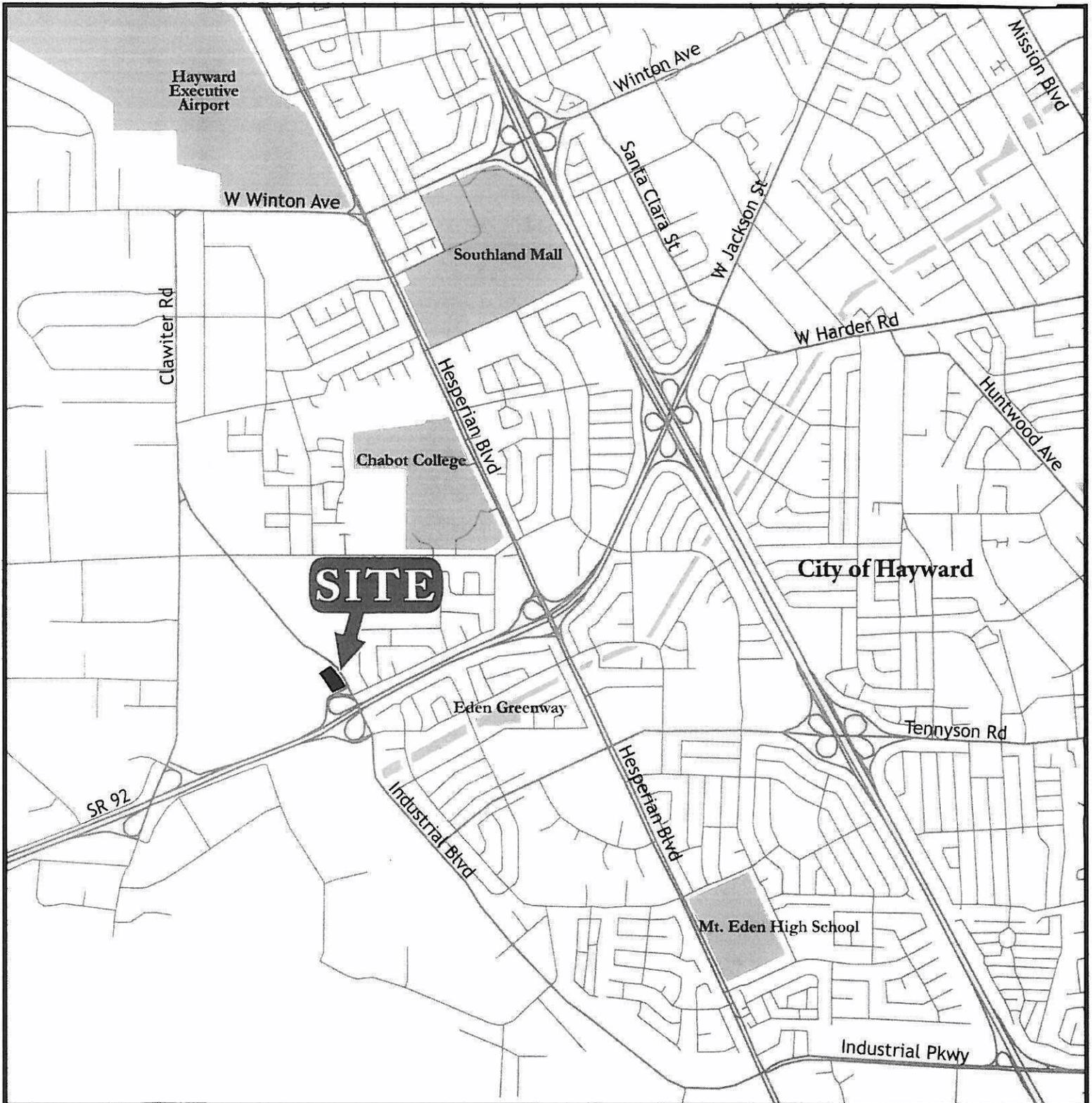
APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

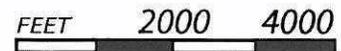
City Attorney of the City of Hayward

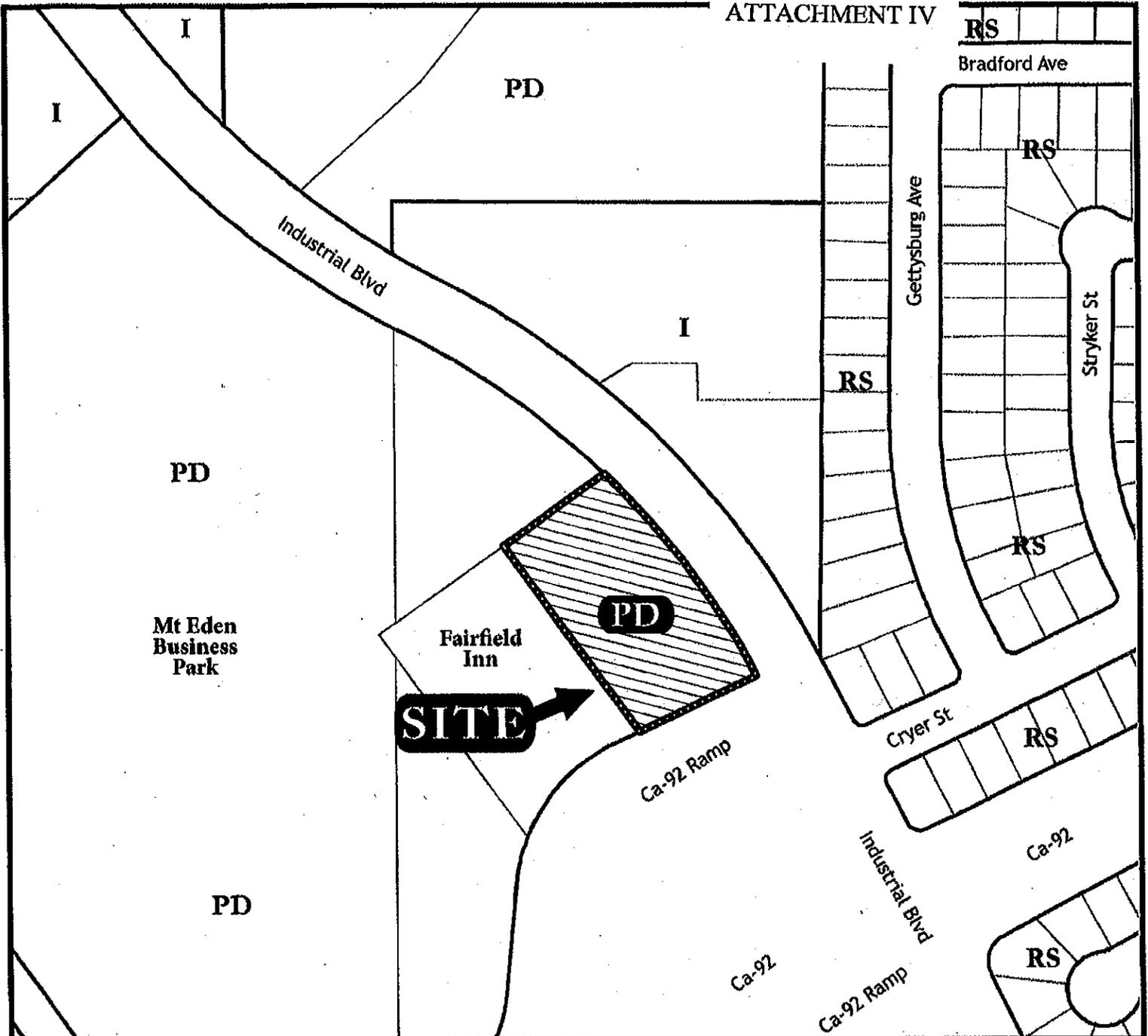


Vicinity Map

PL-2010-0120 PD MOD

26250 Industrial Boulevard





Area & Zoning Map

PL-2010-0120 PD

modification of PL-2005-0536 ZC

Address: 26250 Industrial Blvd

Applicant: Anderson Pugash

Owner: SimFirst, LLC c/o Simeon Commercial Properties

Zoning Classifications

RESIDENTIAL

RS Single Family Residential, min lot size 5000 sqft

INDUSTRIAL

I Industrial

OTHER

PD Planned Development



CONDITIONS OF APPROVAL
Zone Change Application No. PL-2010-0120
Anderson Pugash for Simeon Commercial Properties (Applicant)
Sim First LCC (Owner)
26251 Industrial Boulevard
(APN 441-45-7)

Zone Change Application No. PL-2010-0120, modify Zone Change Application No. 97-120-05, would allow a neighborhood-serving retail center including a drive-thru coffee shop, administrative and professional offices and services, personal services, and retail commercial uses, in lieu of a full service restaurant, shall be constructed according to these conditions of approval and the plans recommended for approval to the City Council by the Planning Commission on September 23, 2010 and approved by the City Council.

1. This approval is void three years after the effective date of approval unless prior to that time an extension is approved. Any modification to this permit shall require review and approval by the Planning Director. Two requests for a one-year extension-of-time, approval of which is not guaranteed, must be submitted to the Planning Division at least 30 days prior to one year from the date of conditional approval by the City Council and the second anniversary of approval by the City Council.
2. If a building permit is issued for construction of improvements authorized by the zone change and conditional use permit approval, the conditional approval shall be void two years after issuance of the building permit, or three years after approval of the application, whichever is later, unless the construction authorized by the building permit has been substantially completed or substantial sums have been expended in reliance upon the zone change and use permit approvals.
3. Unless otherwise required, all pertinent conditions of approval and all improvements shall be completed to the satisfaction of the Planning Director prior to final inspection and occupancy of any structures.
4. The permittee shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.
5. Violation of these conditions is cause for revocation of permit, after a public hearing before the duly authorized review body.
6. The conditions of approval of Zone Change Application No. 97-120-05 shall be observed by the developer.
7. In addition to the uses permitted in condition of approval No. 28 of Zone Change No. 97-120-05 (attached), the permitted uses for the subject property are a restaurant, coffee shop and coffee shop with a drive-thru window, and uses listed as Administrative and Professional Offices/Services, Personal Services, and Retail Commercial Uses in the Central Business District. In addition, other similar uses may be approved by the Planning Director with the determination that they support a neighborhood marketing base.

8. Prior to issuance of a building permit, all building materials and colors shall be approved by the Planning Director.
9. The design of the awnings shall be appropriate to the mass of the building as determined by the Planning Director; details shall be submitted for approval prior to submittal of an application for building permit. In addition, a color sample shall be approved by the Planning Director prior to installation.
10. Downspouts and other similar appurtenances shall be enclosed within the structure.
11. Continuous, connecting pedestrian walkways shall be delineated via decorative paving to match that existing in the Mt. Eden Business Park and are subject to approval by the Planning Director. Pedestrian walkways and circulation areas shall be raised 6-inches in height above the finished parking lot level.
12. All entry drives shall be constructed of decorative paving between the property line and the first cross-driveway. Materials shall be consistent with those used in the Mt. Eden Business Park and shall be indicated on building permit plans for review and approval by the Planning Director.
13. A minimum of 4 bicycle racks shall be installed. The location and design of the racks shall be approved by the Planning Director prior to submittal for building permit.
14. All roof-mounted mechanical equipment and any satellite dish shall be fully screened from State Highway 92, Industrial Boulevard, the adjacent hotel and Mt. Eden Business Park from ground-level view within 150 feet of the property.
15. No outside storage of material, crates, boxes, etc. shall be permitted anywhere on site, except within the trash enclosure area as permitted by fire codes. No material shall be stacked higher than the height of the trash enclosure screen wall and gate.
16. Tenant management shall take reasonable necessary steps to assure the orderly conduct of employees, patrons and visitors on the premises to the degree that customers of on-site and surrounding commercial uses would not be intimidated and that loitering does not occur.
17. Sidewalks and parking lots must be kept free of litter and debris and to minimize the amount of wind-blown debris into surrounding properties and streets. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. No cleaning agent may be discharged to the storm drain. If any cleaning agent or degreaser is used, washwater shall be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval, and conditions of the City wastewater treatment plant.
18. A minimum of one trash receptacle shall be placed at each customer entry. Trash receptacles shall be the same decorative, pre-cast concrete type with a self-closing metal lid. The design shall be approved by the Planning Director.
19. No vending machines shall be displayed outside the building, except for newspaper racks. The newspaper racks are not permitted to contain adult publications.

20. The developer, 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 48 hours of occurrence.
21. Prior to occupancy and the installation of any signs, the applicant shall submit a Sign Permit Application to the Planning Director for review and approval, subject to the following:
 - a. Compliance with the City of Hayward Sign Regulations;
 - b. The sign program may contain signs to be placed on the existing freeway-oriented sign and one monument sign;
 - c. The base and framing of any monument sign shall reflect the architectural design, colors and materials of the retail center;
 - d. Tenants shall use individual channel letters;
 - e. Logo signs are permitted;
 - f. Directional signs shall not exceed six square feet in area per face and three feet in height; and
 - g. The applicant/business operators shall not display any illegal banner signs, portable signs, inflatable signs, or other illegal signs on the property. Any temporary promotional material, such as grand opening banners, requires the issuance of a sign permit prior to display, in accordance with the City's Sign Ordinance.
 - h. The Fairfield by Marriot hotel sign may be required to be relocated if in conflict with development of the site. Relocation of this sign is required to be approved by the Planning Director and shall be included on a revised site plan of the retail center.
22. Exterior lighting for the center shall be maintained which is adequate for the illumination and protection of the premises, but does not exceed a light level that provides glare to motorists, nor spills onto nearby properties, or up into the sky. The fixtures shall be designed to keep the light from spilling onto adjacent properties and onto the adjacent State Highway 92 and Industrial Boulevard. Within the parking lot, the minimum requirement is one-foot candle of light across the entire surface. Luminaires shall be of a design that complements the architectural style of the building and the landscaping in developing a quality image of the City of Hayward and shall be approved by the Planning Director. The maximum height of the luminaires shall be no greater than 40 feet unless otherwise permitted by the Planning Director. The lighting and photometric plan shall be reviewed and approved by the Planning Director.
23. Businesses which occupy the individual tenant spaces shall obtain a City of Hayward Business License prior to occupying the space.
24. On-sale of alcoholic beverages is permitted at a bona fide restaurant or brew pub. However, off-sale of alcoholic beverages is prohibited.

Green Building

25. The project shall meet the requirements of the Hayward Green Building Ordinance and the City of Hayward Water Efficiency Ordinance. In addition the follow green building and sustainable development practices shall be followed:

- a. Use construction materials that contain recycled content and/or renewable materials, if feasible.
- b. Use building material from local distributors when possible.
- c. Advance ventilation practices shall be implemented and maintained.
- d. Install energy efficient mechanical systems.
- e. All HVAC ducts are required to be sealed with mastic and shall be tested. Ducts shall be insulated when possible.
- f. All windows shall be high-performance windows.
- g. A cool roof shall be installed.
- h. High-efficiency lighting shall be installed and maintained.
- i. Water-efficient fixtures shall be installed and maintained.
- j. Entryways shall be designed to reduce tracked-in contaminants.
- k. Sustainable flooring shall be used. Formaldehyde adhesives are prohibited. Low or no VOC adhesives and finishes are permitted.
- l. Building installation or insulated panels shall be installed shall not contain formaldehyde.
- m. All interior building finish and adhesives shall be low or no volatile organic compound (VOC) off-gassing.
- n. Low-flush toilets shall be installed.

Tenants are required to meet the following requirements:

- o. Install and maintain energy efficient appliances.
- p. Use low- or no- VOC cabinets, countertops, furniture, floor and wall finishes, and paints and adhesives.
- q. Use take-out containers that are made from recycled or alternative content.
- r. Apply to the Alameda County Green Business Program. Proof of application shall be submitted to the Planning Division prior one year from approval of the business license.
- s. Low-flush toilets shall be installed.

Landscaping

- 26. Prior to issuance of the first building permit, a licensed landscape architect shall prepare detailed landscape and irrigation improvement plans, wet stamped and signed, to be submitted for the review and approval by the City. Landscaping. The landscape and irrigation improvement plans shall be wet stamped to include signature and license number of the landscape architect preparing the plans.
- 27. Irrigation plans and all required submittals shall comply with the *City's Bay-Friendly Water Efficient Landscape Ordinance, Hayward Environmentally Friendly Landscape Guidelines and Checklist for the Landscape Professional, Tree Preservation Ordinance* and all other City policies, standards and regulations. For Planning Approval, conceptual landscape and irrigation plans and project information are required for submittal per the City's Guidelines and Checklist.
- 28. A Mylar of the approved improvement plans shall be submitted for approval and signature by City Landscape Architect and City Engineer. The size of Mylar shall be 24"x36", and a signature ready block of 4"x4" for the City's approval shall be located on the lower right corner on each Mylar sheet. The Mylar shall be submitted at the time of submitting detailed landscape and irrigation improvement plans, a landscape statement, a

completed Hayward Environmentally Friendly Landscape Checklist, and attachments in the Guidelines and Checklist for review and approval by the City.

29. A comprehensive arborist report prepared by a certified arborist shall be submitted for all existing trees for review and approval. The report shall clearly indicate trees to be removed and saved for this proposed development; the health, species, caliper, approximate height, canopy diameter, and appraised value; impacts from the proposed development on the trees to be saved; and recommendation of tree protection during the construction period. The report shall include a tree survey map accurately showing tree locations, species, caliper and tree canopy based on an accurately surveyed map. The value of trees shall be determined using the latest edition of "Guide for Plant Appraisal" by the International Society of Arboriculture. An individual ISA worksheet shall be submitted for each tree. The City would accept the arborists report to be submitted at the time of requesting a massing grading permit.
30. Trees shall be preserved in accordance with the Tree Preservation Ordinance. Prior to the commencement of clearing and grading operations, all trees to be preserved or removed shall be indicated on the grading, site and landscape plans, and trees to remain in place shall be noted and provided with tree protection measures as specified in the approved arborist report.
31. All trees that are proposed to be removed shall be mitigated based on approved value. Tree mitigation shall not be used toward meeting tree planting requirements in the ordinances and guidelines, such as street tree, parking lot shading and screening requirements. However total value of the required tree mitigation can be used for upsizing the proposed trees.
32. Prior to the issuance of a mass grading, the developer shall provide a tree preservation bond, surety or deposit, equal in value to the trees to be preserved. The bond, surety or deposit shall be returned when the tract is accepted if the trees are found to be in a healthy, thriving and undamaged condition. Any damaged trees during the construction period shall be replaced to the appraised value.
33. A separate tree removal permit is required prior to removal any trees.
34. Maximum Applied Water Allowance (MAWA) for the current standard is lower than the 2007 LWA and the same for ELWU, now called Estimated Total Water Use (ETWU); see City of Hayward Bay-Friendly Water Efficient Landscape Ordinance. The water budget calculation must be shown on the plan.
35. All new trees shall be provided with irrigation on a separate valve unless the new system will be connected to an existing valve that is dedicated for trees.
36. Prior to the issuance of Certificate of Occupancy, completed Certificate of Completion process per Hayward's Bay-Friendly Water Efficient Landscape Ordinance and the completed form must be submitted to the City Landscape Architect prior to requesting an inspection.
37. Once the project is accepted and the Certificate of Occupancy is issued by the City, the landscaping shall be maintained in a healthy, weed-free condition at all times and shall be designed with efficient irrigation practices to reduce runoff, promote surface filtration, and minimize the use of fertilizers and pesticides, which can contribute to runoff

pollution. The owner's representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% dieback) shall be replaced within ten days of the inspection. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species selected by, and size determined by the City Landscape Architect, within the timeframe established by the City and pursuant to the Municipal Code.

38. The following shall be indicated on the landscape and irrigation improvement plans:
- a. Minimum planting areas of 5 feet are required in all directions. Verify on the plans the planting width by the trash enclosure by the drive-thru.
 - b. Hydro-seeding is not allowed in commercial developments. Use California native sods that are developed for bio-swale/infiltration purposes. When using sod, additional *Carex barbarae* won't be necessary.
 - c. The planting plan seems to indicate that the bio-swale area won't have any plant covering. If planting is absent from bio-swale, runoff flow rate won't be slowed down or filtered/treated before entering the stormwater system. Runoff must be treated before entering the stormwater drainage system. The flow area/drainage area shall be planted.
 - d. Do not specify *Quercus agrifolia* in or near bio-swale, and narrow finger planting area, change to *Quercus shumardii* if Oak species must be used.
 - e. *Pinus canariensis* shall be replaced to the satisfaction of the City Landscape Architect. Needles dropping will create long term and constant maintenance issues especially when they are located next to a driveway, in this case drive-thru for a restaurant.
 - f. Groundcover in addition to shrub planting (*Raphiolepis* and *Dietes*) in parking finger islands won't be necessary in 5 – 6 feet wide planting areas. For wider finger islands, plant additional shrubs and perennials rather than adding groundcovers that will produce continual stream of green waste. Do not over plant.
 - g. *Arctostaphylos* 'Emerald Carpet' shall not be planted near the bio-swale or in small areas.
 - h. If the transformer is for PG&E, locating the vault next to the interior driveway where business needs to be interrupted for service may not be ideal. Locating two utility boxes next to the menu board and speaker directly in sight of customers where they would stop to order may not be the best business practice. Consider locating them in the sidewalk if possible. Conform to the PG&E requirement of 3 feet of clearance (no planting) from the edge of the vault on all sides.

Utilities

Water

39. Each business shall have its own domestic water meter. A separate irrigation water meter shall be installed for landscaping purposes. All domestic and irrigation water meters shall be radio-read type

40. Applicant's engineer shall provide the estimated water demand for domestic and irrigation, each separately, in gallons per minute, so that the supply lines and meters can be appropriately sized.
41. The applicant/developer shall install a Reduced Pressure Backflow Prevention Assembly on each domestic and irrigation water meter, per City Standard SD-202.
42. If fire sprinklers are required, a separate water service line to supply the fire sprinkler system shall be installed. All fire services shall have a double check detector assembly installed by City Water Distribution Personnel at the applicant's/developer's expense, per City Standard SD-204. Minimum sizing shall be per Fire Department's requirements.
43. Please note that SD-204 is currently being revised to include the double check detector assembly requirement.
44. Water meters and services to be located a minimum of two feet from top of driveway flare as per City Standard Details SD-213 thru SD-218.
45. Water mains and services, including the meters, must be located at least 10 feet horizontally from and one-foot vertically above any parallel pipeline conveying untreated sewage (including sanitary sewer laterals), and at least four feet from and on foot vertically above any parallel pipeline conveying storm drainage, per the current California Waterworks Standards, Title 22, Chapter 16, Section 64572. The minimum horizontal separation distances can be reduced by using higher grade piping materials.

Sewer

46. Each building shall have an individual sanitary sewer lateral.
47. The current Sanitary Sewer Connection fee for retail is \$32.65 per gallon of discharge per day. Additional information is needed from the owner/applicant, such as historic discharge from similar facilities and employee/customer estimates, to determine the final fee, which may be more or less than the range indicated above. Sewer Connection fees are due and payable prior to final inspection.
48. Show following notations on plans to be submitted at the Building Permit phase:
 - a. Provide keys/access code/automatic gate opener to utilities for all meters enclosed by a fence/gate as per Hayward Municipal Code 11-2.02.1.
 - b. Add the note, "Only City Water Distribution Personnel shall perform operation of valves on the Hayward Water System."
 - c. Add the note, "Water and Sewer Services are available and subject to standard conditions and fees in effect at the time of application and payment."
 - d. Add the note, "Sewer Capacity Fee is Due and Payable Prior to Final Inspection."

Fire Department

49. The developer is required to comply with the following Fire Department requirements:
 - a. Fire Department all weather access road shall be a minimum of 20 feet in-width or 26 feet in-width when buildings exceed 30 feet in-height, shall have a vertical clearance of 13 feet 6- inches. As indicated on plans, a 20- foot-wide access shall be located

between the two retail buildings. All road access shall be dedicated for Fire Department access and truck loading in this area is prohibited.

- b. Red-painted curbing shall be required on landscape islands and driveway opening flares that are abutting and are a part of the fire travel lane. Fire travel lanes shall be identified as such. White stenciled lettering shall be installed on all red-painted curbing stating "Fire Lane - No Parking". Red curbing and approved signage required and approved by the Hayward Fire Department.
- c. Trees located within the project shall meet Fire Department 13 feet 6- inch vertical clearance requirements.
- d. Fire Department access for use of heavy fire fighting apparatus shall be provided to the immediate job site at the start of construction. The all weather access road shall be surfaced with concrete or asphalt and shall be capable of supporting the imposed load of a fire apparatus 75,000 GVW. The all-weather fire access route shall be at least twenty feet in width, shall have an unobstructed vertical clearance of at least thirteen feet six inches and shall be capable of supporting the imposed load of fire apparatus weighing at least 75,000 pounds gross vehicle weight.
- e. With the Building Permit application, submit a site plan with the nearest public hydrant on Industrial Boulevard. The site plan shall include the distance from the hydrant to the property and the fire flow of the hydrant. Private hydrant fire flow shall be 5000 GPM with a reduction of 75 percent is allowed when the buildings are provided with an approved automatic sprinkler system. The resulting fire flow shall not be less than 1,500 gallons per minute @ 20 psi. Hydrant installation shall meet city detailed standards. Any portion of the building/facility should be within 400 feet of a hydrant.
- f. Any portion of the building/facility should be within 400 feet of a hydrant.
- g. Separate submittal to the Fire Department is required for the installation of new hydrants and new underground fire lines. Hydrant permits are required.
- h. Plans indicate that the underground fire line will feed the hydrant and sprinkler systems for both buildings with one Fire Department Connection (FDC) and Post Indicator Valve (PIV) and check valve. Each building shall have a PIV and FDC installed in a location approved by the Hayward Fire Department. Fire line shall be designed so that the PIV or valve controlling the riser will not shut water supply to hydrant or other riser when one of the PIV's are closed.
- i. The proposed project data (retail buildings) shall be reflected on the architectural plans and shall reflect the occupancy classifications, square footage, number of stories, type of construction and fire sprinkler system requirements.
- j. A permanent water source capable of supplying the required fire flow shall be made available as soon as combustible material accumulates at the site. Hydrants shall be maintained clear and accessible for fire protection during construction.
- k. Fire lines shall meet the City of Hayward detailed standards and NFPA 13 and NFPA 24.

- l. Obtain proper building permits for construction of new buildings. Building construction shall meet the 2007 California Building Code and all other applicable codes, standards and ordinances adopted by the City of Hayward Building Department. Separate submittal required for the installation of storage racks.
- m. Obtain fire sprinkler system permits from Hayward Fire Department for new fire sprinkler systems and shall meet requirements as per NFPA 13 and 2007 CFC. Sprinkler system shall provide adequate fire sprinkler protection for hazard classification.
- n. All new fire sprinkler systems shall discharge fire sprinkler test water and drain water to sanitary sewer system. For further information contact City of Hayward Public Works Department Engineering Division.
- o. Retail tenant spaces (protected with an automatic fire sprinkler system) shall have a manual pull station and audible alarm signaling device installed within each tenant space in a location approved by the Hayward Fire Department.
- p. Portable fire extinguishers shall be installed throughout each of the proposed building, including the individual retail tenant space and in any common area. Fire extinguishers shall be placed in centrally located areas as required by the Hayward Fire Department. Fire extinguishers shall have a minimum rating of 2A:10BC or other rating (as required by the Fire Code) specific to the tenant use.
- q. Obtain fire alarm permits from the Hayward Fire Department for new fire alarm systems and shall meet requirements as per NFPA 72 and 2007 CFC. Separate submittal required and additional permits required.
- r. UL300 Fire Suppression system shall be installed within commercial cooking with type I hood systems. Separate submittal and additional permits required.
- s. Retail tenant spaces shall be restricted for their specific use (M occupancy or B occupancy). There shall be no hazardous operations (i.e., welding, flammable finishing, woodworking, etc.) allowed within the tenant spaces unless reviewed and approved by the Hayward Fire Department.
- t. Fire permits shall be obtained for the installation of any fire protection and life safety systems required for the proposed retail development.
- u. Building and tenant space addressing shall meet Hayward Fire Department standards.

Hazardous Materials Office, Fire Department

- 50. A Phase I environmental assessment is required to verify any land contamination. The developer shall contact the Hayward Fire Department's hazardous Materials Coordinator, Hugh Murphy, for further requirements and information. Pending results of the Phase I further requirements may be necessary including environmental and health clearance from either the California Regional Water Quality Control Board-San Francisco Bay Region or California Department of Toxic Substance Control.
- 51. All retail tenants are responsible for submitting a chemical inventory if the business requires any storage and/or usage of hazardous materials.

Public Works -Solid Waste

52. The owner(s) and/or tenants shall participate in the City's recycling program. The applicant shall clearly indicate the proposed location and dimensions of each enclosure, indicating whether the trash and recyclables will be compacted. The applicant must also indicate the number and type of refuse and recycling containers that will be used. The space and available capacity provided for the storage of trash must be the same size as that provided for recyclables. The procedure that must be followed regarding sorting and collection of recyclables is provided for in Section 3.2.02 of the Franchise Agreement.
53. Two on-site trash enclosures shall be provided to the satisfaction of the Solid Waste Manager. The Federal Clean Water Act provisions require a roof on all outdoor trash enclosures. The enclosures shall have an area drain connected to the sanitary sewer line. For questions about the requirement for a roof on enclosures, please contact Jim Lear, Public Works Engineering & Transportation at (510) 583-4785.
54. Six-inch wide curb or parking bumpers must be provided along the interior perimeter of the two trash enclosure walls to protect them from damage by the dumpster. A 6-inch wide parking bumper, at least 3-foot long, should also be placed between the refuse dumpster(s) and the recycling containers.
55. A minimum space of 12 inches must be maintained between the dumpster(s) and the walls of the trash enclosures and the recycling carts/dumpster to allow for maneuvering the dumpster(s). A drain to the sanitary sewer should be provided beneath the refuse dumpster(s) wherever wet waste, such as food waste, is generated and wherever can washing areas are located.
56. If any equipment/trash enclosure is gated, the gates and hinges must be flush with the enclosure wall. It is important to ensure that the gates open straight out and that the hinges and that the gate be flush with the enclosure wall, in order to allow adequate maneuverability of the equipment/dumpster in and out of the enclosure to service it. All trash enclosures shall be covered.
57. The developer must ensure that there is adequate space for a garbage truck to service each dumpster. A 40-foot turning radius is adequate for garbage trucks.
58. The applicant is required to submit for review by the Solid Waste Manager an on-site recycling plan, which would be implemented during the entire construction phase.
59. The applicant must ensure that construction debris is removed from the site by a licensed contractor as an incidental part of a total construction, remodeling, or demolition service offered by that contractor, rather than as a separately contracted or subcontracted hauling service using debris boxes, or is directly loaded onto a fixed body vehicle and hauled directly to a disposal facility that holds all applicable permits.
60. Adequate indoor and outdoor storage space for recyclables is required by state law (California Public Resources Code 42910-42912 and Hayward Municipal Code 5-1.27). The applicant shall provide for adequate on-site storage capacity for recyclables within the buildings, including storage space for containers to store paper, glass/plastic/metal beverage containers, and other recyclables where these materials are generated. For more information, please contact Vera-Dahle Lacaze at (510) 583-4725 or email vera.dahle-lacaze@hayward-ca.gov.
61. The applicant shall ensure that the specifications of any compactor meet the approval of Waste Management.

62. The applicant must contact the City's franchised hauler, Waste Management of Alameda County, at 537-5500 to arrange for delivery of containers with sufficient capacity to store construction and demolition materials to be landfilled.

Public Works - Engineering

63. The project plan shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site in order to limit the entry of pollutants into storm water runoff to the maximum extent practicable. It is highly recommended that a grassy swale be installed to intercept the surface runoff.
64. The project shall comply with the hydraulic sizing design criteria for stormwater quality treatment.
65. The proposed BMPs shall be designed to comply with the hydraulic sizing criteria listed in Provision C.3.d of the Alameda County Clean Water Program NPDES permit (page 30). In addition, the California Stormwater Quality Association's Stormwater Best Management Practice Handbook New Development and Redevelopment, Subsection 5.5 on pages 5 - 12 has a section titled "BMP Design Criteria for Flow and Volume." This should be available on their website at www.cabmphandbooks.com.
66. A property owner and/or owners shall be responsible for maintaining the BMPs.
67. The proposed drainage swales for the clean water program shall have a minimum percolation rate of five inches per hour and shall be planted with grass.
68. Prior to the issuance of a grading permit and/or the beginning of any construction activity on-site, the Developer's Engineer shall complete a Development Building Application Form Information: 1) Impervious Material Form, and 2) Operation and Maintenance Information Form.
69. The owner shall prepare a Storm Treatment Measures Maintenance Agreement (available in the Engineering and Transportation Division); the Maintenance Agreement shall be recorded with the Alameda County Recorder's Office to ensure that the maintenance is bound to the property in perpetuity.
70. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration, and minimize the use of fertilizers and pesticides that can contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat stormwater runoff. Landscaping shall also comply with the City's "water efficient landscape ordinance" or equivalent.
71. All on-site and off-site storm drain inlets shall be labeled with "No Dumping - Drains to Bay or equivalent, using methods approved by the City.
72. The existing overhead line along the property frontage shall be underground. Show on revised plans to be submitted at Building Permit phase.
73. On revised plans to be submitted in the Building Permit phase, show the location of proposed decorative lights on the parking lots.
74. Install sidewalk along Industrial Boulevard including handicap ramps and crosswalk striping. Sidewalk, ramp and striping shall me City of Hayward Standard Details and shall be to the satisfaction of the City Engineer.

75. A copy of the Notice of Intent (NOI) from the State Water Resources Control Board shall be provided to the City prior to the start of grading.
76. A Storm Water Pollution Prevention Plan (SWPPP) shall be submitted to the City for review and approval by the City Engineer.
77. The hydraulic calculations for the storm drain system shall be reviewed and approved by the ACFC & WCD.
78. The location of the proposed water meters shall be as per City Standard Detail SD-213.
79. Label all top of curbs and finish pavements.
80. All parking stalls and maneuvering areas shall meet the minimum standards of the City Parking Ordinance. The parking areas shall be paved with either Portland cement or asphalt concrete and the area shall be striped to designate the parking stalls. The Planning Director shall approve the design of the driveway, curbing and materials to be used. Aisles, approach lanes, drive-through lanes and maneuvering areas shall be marked and maintained with directional arrows and striping to control traffic flow.
81. Vehicular circulation areas shall be signed as a fire lane and posted for no parking except within designated parking stalls and pick-up areas.
82. Existing street lights on Industrial Boulevard are required to be upgraded to 2-foot candle foot to the satisfaction of the City Engineer.

CONDITIONS OF APPROVAL
Planned Development No. 97-120-05
Mt. Eden Business Park
25801 Industrial Boulevard

Yoshito and Mari Shibata (Applicants), Mt. Eden Nursery, Inc. (Owner)

1. Planned Development No. 97-120-05 to construct a 375,633±-square-foot business park with an option to construct a hotel and full service restaurant is approved subject to the specific conditions listed below and the submittal and approval of a Precise Development Plan. This permit shall become void one year after the effective date of approval by the City Council unless the Precise Development Plan has been submitted for review and processing in accordance with all conditions of the preliminary development plan. A request for a one-year extension, approval of which is not guaranteed, must be submitted to the Development Review Services Division 30 days before the expiration date.
2. The Precise Development Plan shall be submitted for approval of the Director of Community and Economic Development/Planning Director. The requirements of the Precise Plan listed below must be submitted for Phase 1 of the development. Unless otherwise indicated herein, these same requirements apply to Phase 2 of the development, but submittal of the Precise Plan for Phase 2 may be postponed until development of the second phase is anticipated. The Precise Plan shall reflect the following conditions:

For Phase 1 and Phase 2

- a. Architectural elements about major entries and building ends shall extend a minimum of 5 feet from the building walls and shall recessed into the interior of the building a minimum of 3 feet; cornices located at the top of exterior building walls shall be a minimum of 12 inches high and extend at least 6 inches from building walls; windows located on the fronts and sides of Buildings "B" and "C" shall be recessed a minimum of 6 inches.
- b. Twelve truck docks that are not at grade (depressed) are permitted at the westerly side of Building "D." Buildings "B", "C", "E", "F" and "G" are permitted one truck dock at each building. Additional truck docks for any building require approval of a Conditional Use Permit.
- c. The fence improvements to the tea garden/pond shall be completed before occupancy of Phase 1.
- d. The design of trash/recycle enclosures shall be constructed of materials to match those the primary structures.
- e. A master sign program shall be submitted and shall include low monument signs to identify the project, a project directory sign, and building signs. Monument signs shall reflect the architectural character, colors and materials of the buildings and the size and height shall be kept to 6 feet in height. The signs shall be setback a minimum of 10 feet behind the sidewalk.
- f. Samples of colors and materials shall be submitted for all exterior building materials. The use of bright white or primary colors on the exterior of the buildings is prohibited.
- g. Plans shall indicate screening of all above ground utilities, transformers, and utility meters.

- h. The Precise Plan shall include detailed landscaping and irrigation plans, prepared by a licensed landscape architect, which shall comply with the City's Water Efficient Landscape Ordinance and the following requirements:
- (1) Elements of the tea garden/pond, which includes hardscape materials, such as rock gardens, boulder arrangements, and furniture shall be reflected throughout the project. The plant list shall reflect elements of the tea garden.
 - (2) With respect to the area about the tea garden/pond, redesign exterior approach to include landscaping and decorative paving. The existing decorative wood gates and fence shall be retained and maintained. The north end of the tea garden shall be enclosed by a wooden fence or a decorative metal fence upon the approval of Mt. Eden Nursery, Inc. and the Shibata Family. The design of the fence shall be reviewed and approved by the Director of Community and Economic Development/ Planning Director.
 - (3) Three prominent landscaped areas, which reflect the Japanese garden theme, shall be installed at the two entries on Industrial Boulevard and the garden access path located adjacent to southern interior roadway. These three areas shall be approved by the Director of Community and Economic Development/Planning Director prior to the issuance of a building permit.
 - (4) Decorative project entry features to complement elements of the tea garden.
 - (5) Parking areas shall include a minimum of one 15-gallon parking lot tree for every 6 parking stalls. Trees may be planted within or around the perimeter of the parking areas.
 - (6) A minimum of one 24-inch box street tree shall be provided for each 30 lineal feet of street frontage. Trees shall be double-staked per the City of Hayward Standard Detail 122.
 - (7) A fully automated irrigation system shall be installed for all landscaped areas, with bubblers or drip emitters provided to each tree. All landscaping shall be designed with efficient irrigation practices to reduce runoff, promote surface filtration, and minimize the use of fertilizers and pesticides which can contribute to runoff pollution.
 - (8) Where any landscaped adjoins driveways or parking areas, Class B Portland Cement concrete curbs shall be constructed to a height of 6 inches above the adjacent finished pavement.
 - (9) Landscaped earth berms adjacent to Industrial Boulevard shall be a minimum of 3 feet above finished grade of the sidewalk and 4 feet above the finished grade of adjacent parking lots.

- (10) Parking and loading areas shall be buffered from the interior roadways with shrubs or earth berms, as determined by the Director of Community and Economic Development/Planning Director. Where shrubs are used for buffering, the type and spacing of shrubs shall create a continuous 30-inch high screen within two years.
- i. Exterior lighting shall be designed by a qualified illumination engineer and shall be planned, erected, and maintained within the parking areas, driveways, unloading area and at the project entry points as well as along all pedestrian walkways. Luminaries shall be a standard or modified box down light with a dark bronze or other approved finish or other design which reflects the architectural style of the buildings on a maximum 22-foot-high pole unless waived by the Director of Community and Economic Development/Planning Director and the City Transportation Services Manager. The designer of the exterior lighting shall coordinate with the project landscape architect to avoid conflicts between trees and lighting fixtures.

For Phase 1

- a. The easterly elevation of Building "A" fronting Industrial Boulevard shall be enhanced by a window element that wraps around the northerly side of the building. Additional landscaping is required adjacent to the north corner of Building "A." The design of the window element and the landscaping shall be reviewed and approved by the Director of Community and Economic Development/Planning Director.
- b. Building "B" shall be two stories as reflected on Exhibit A, Page EL-2 of the Preliminary Plan; otherwise, the building shall be designed to progressively step back to the extent possible given the location of the storm drain and sanitary sewer line easements.
- c. The easterly elevation of Building "D" shall be designed with at least four architectural features, with one on each end and two along the easterly facade.
- d. Modify preliminary landscape plans to include landscape area at the secondary entry and a buffer along the interior road.

For Phase 2

- a. A minimum of 3 acres adjacent to Industrial Boulevard shall be designated as a hotel site for 15 months from the date of approval of the project. If after 15 months there has been no agreement reached with a hotel corporation to construct a hotel, this 3-acre area may be developed consistent with uses permitted in the remainder of the site and design theme of Phase 1. The Precise Plan will reflect one of these development schemes.
- b. Buildings to be developed in Phase 2 should be oriented toward the tea garden to the extent possible, without a net loss in floor area as reflected on the Precise Plan. The site plan shall be reviewed and approved by the Director of Community and Economic Development/Planning Director.

- c. A landscape buffer is required between the tea garden and parking areas.
- d. The design of the pylon sign for a hotel/restaurant development shall be on dual poles and carry out the design theme of the project.

GENERAL REQUIREMENTS

3. All improvements shown on the Precise Development Plan must be installed and all conditions of approval shall be completed to the satisfaction of the Director of Community and Economic Development/Planning Director before approval of occupancy for each of the two phases of development, unless otherwise noted.
4. Major modifications of either the Preliminary Development Plan or the Precise Development Plan may be accomplished by submitting a request for such modification subject to the planned development process. Minor modifications to architecture, landscaping, parking and circulation, or uses may be approved by the Director of Community and Economic Development/Planning Director; major modifications shall be processed through the Planning Commission and City Council.
5. A separate irrigation meter shall be installed to the satisfaction of the City Senior Utility Representative to avoid sanitary sewer charges on water used for landscaping purposes.
6. The developer shall install Reduced Pressure Backflow Prevention Assembly behind irrigation and building supply water meters in conformance with City of Hayward Standard Detail 202.
7. Above ground transformers and utility meters shall not be located within the landscaped areas adjacent to Industrial Boulevard. They shall be screened by either plant materials or decorative screen, allowing sufficient distance for reading access.
8. The developer shall pay the appropriate tax as required by the Interim Supplemental Building Construction and Improvement Tax before occupancy of the building.
9. Outside storage is prohibited, except within the trash enclosure area as permitted by Fire Codes.
10. Prior to the commencement of grading:
 - a. The developer shall submit a soils report acceptable to the City Engineer.
 - b. A survey of the entire site shall be conducted within 30 days of grading in order to confirm that Burrowing Owls or other migratory 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 (CDF). The survey shall be submitted to (CDF) for review prior to the issuance of a grading permit, with evidence of having accomplished this requirement provided to the Director of Community and Economic Development/Planning Director.

- c. A truck route for all grading and construction vehicles shall be submitted and approved by the Director of Public Works.
11. Prior to issuance of a building permit, the following must be submitted to the Director of Community and Economic Development/Planning Director:
- a. A grading and drainage plan, that includes the location of the storm drainage system, shall be submitted that meets the approval of the City Engineer. On-site drainage shall connect to the storm drain on-site.
 - b. This site is subject to the National Pollutant Discharge Elimination System (NPDES) Program. All drainage design must comply with NPDES standards. The developer shall provide evidence that the site is covered by statewide general permit. This will require confirmation that a Notice of Intent (NOI) was received by the State Water Resources Control Board. In addition, the developer shall submit a storm water quality plan for review and approval of the City Engineer. The plan shall include Best Management Practices (BMPs) appropriate to the uses conducted on the site to effectively prohibit the entry of pollutants into storm water runoff from this site.
 - c. A structural control, such as an oil/water separator, sand filter, or approved equal, must be installed (in the parking lots on-site) to intercept and pretreat storm water prior to discharging to the storm drain system. The design, locations, and a maintenance schedule must be submitted to the City Engineer for review and approval.
 - d. All on-site storm drain inlets must be labeled "No Dumping - Drains to Bay" using approved methods.
 - e. 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.
 - f. Submit a gallon-per-minute water demand to the City Senior Utility Service Representative to determine proper meter size.
 - g. A Storm Water Pollution Prevention Plan is required to be prepared and submitted to the California Regional Water Quality Control Board for review and approval before issuance of a State Construction Storm Water General Permit.
 - h. A Parcel Map, if required, shall be approved and recorded in the Office of the Alameda County Recorder.

- i. A parking and circulation plan including driveway location and design, dimensioned parking stalls, locations of handicap parking stalls, and truck circulation patterns, shall be submitted for review and approval. Driveway design shall conform to City of Hayward Standard Design 110A. All parking stalls and maneuvering areas shall meet the minimum standards of the City Parking Ordinance. The parking stalls shall be striped and any compact car stalls shall be clearly marked for compact vehicles only.
 - j. The developer shall submit a lighting plan to be reviewed and approved by the Director of Community and Economic Development/Planning Director. The design and location of light fixtures, shall be of a design that is consistent throughout the project. Lighting will be arranged to reflect light away from the adjacent residences, properties, and State Route 92 and shall be designed to conform with the City Security Ordinance.
12. Prior to construction, the developer shall submit a construction Best Management Practice (BMP) program for review and approval by the City prior to the issuance of any building or grading permits. These BMPs shall be implemented by the general contractor and all subcontractors and suppliers of material and equipment. Construction site cleanup and control of construction debris shall also be addressed in this program. Failure to comply with the approved construction BMPs will result in the issuance of correction notices, citations or a project stop work order.
13. During Construction:
- a. Gather all construction debris on a regular basis and place them in a dumpster or other container which is emptied or removed on a weekly basis. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to storm water pollution.
 - b. Remove all dirt, gravel, rubbish, refuse and green waste from the sidewalk, street pavement, and storm drain system adjoining the project site. During wet weather, avoid driving vehicles off paved areas and other outdoor work.
 - c. Broom sweep the sidewalk and public street pavement adjoining the project site on a daily basis. Caked on mud or dirt shall be scraped from these areas before sweeping.
 - d. Install filter materials (such as sandbags, filter fabric, etc.) at the storm drain inlet nearest the downstream side of the project site prior to:
 - (1) Start of the rainy season (October 15);
 - (2) Site dewatering activities;
 - (3) Street washing activities;
 - (4) Saw cutting asphalt or concrete;
 - e. In order to retain any debris or dirt flowing into the City storm drain system, filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding. Dispose of filter particles in the trash.

- f. Create a contained and covered area on the site for the storage of bags of cement, paints, flammables, oils, fertilizers, pesticides or any other materials used on the project site that have the potential for being discharged to the storm drain system through being windblown or in the event of a material spill.
 - g. Ensure that concrete/gunite supply trucks or concrete/plasters finishing operations do not discharge washwater into street gutters or drains.
 - h. All construction activities shall conform to the City of Hayward standard Construction regulations.
14. Sidewalks and parking lots must be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. No cleaning agent may be discharged to the storm drain. If any cleaning agent or degreaser is used, washwater shall not discharge to the storm drains; washwaters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval, and conditions of the wastewater treatment plant receiving the discharge.
 15. All on-site storm drains must be cleaned at least once a year immediately prior to the rainy season (October 15). Additional cleaning may be required by the City Engineer.
 16. Water Pollution Source Control requires that any roof HVAC units shall not discharge water pollutants to the storm drain via roof drains. Uncontaminated condensate is acceptable for storm drain discharge.
 17. Landscaping shall be installed per the approved plans and a Certificate of Substantial Completion and an Irrigation Schedule shall be submitted prior to approval of occupancy.
 18. Landscaping shall be maintained in a healthy, weed-free, condition at all times, with replacement plants provided where necessary. Required street and parking lot trees that are severely topped or pruned shall be immediately replaced, as determined by the City Landscape Architect.
 19. A tree removal permit is required prior to removal of any tree 10" or larger in diameter. Replacement trees shall be required for any trees authorized for removal as determined by the City Landscape Architect.
 20. No mechanical equipment shall be located on the roof unless adequately screened and approved by the Director of Community and Economic Development/Planning Director.
 21. All project features, including but not limited to building walls, windows, pavement, fences, lighting, drainage improvements, and landscaping, and the irrigation system, shall be maintained, including replacement where necessary.
 22. The following Traffic Mitigation Measures are required to be implemented prior to the occupancy of the project:

- a. The project will provide striping modifications and a raised median to improve channelization along its frontage on Industrial Boulevard.
 - b. 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.
 - c. The western entrance driveway will be restricted to right-in and right-out access only.
 - d. The developer shall enter into a street improvement agreement which specifies all the traffic mitigation measures for Industrial Boulevard.
23. The developer will contribute a proportionate share of the following intersection improvements based on cumulative impacts:
- a. Industrial Boulevard and State Route 92 Westbound Ramps - Reconstruct northbound approach to add a lane (one shared with right-turn).
 - b. Industrial Boulevard and State Route 92 Eastbound Ramps - Add one through lane on the northbound approach to the intersection.
 - c. 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.
 - d. 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.
24. All services to the building shall be "underground service" in accordance with the Pacific Gas and Electric Company, Pacific Bell Company and CATV Company regulations.
25. Development shall comply with the City's Security Ordinance.

PROJECT USES

26. The types of uses that will occupy the site may not 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.
27. A business using substances classified as hazardous materials is required to be examined on an individual basis to insure compatibility with surrounding businesses and residences. Based on the type and amount of hazardous materials used, the business must file a Hazardous Materials Plan with the Fire Department. An administrative use permit is required if the Fire Department determines that the type and amount of hazardous materials meet thresholds that would require additional regulations.

28. The following uses are permitted:
- a. Administrative, executive and business offices.
 - b. Business service office, including employment agency, accountant, notary, secretarial, addressing, computing, copying, and related services.
 - c. Business consultant office.
 - d. Design professions offices (engineering, architectural, drafting, etc.)
 - e. Research, development, analytical and scientific office.
 - f. Manufacturer's representative and sales office.
 - g. Headquarters or region-wide finance insurance and real estate offices.
 - h. Travel agency.
 - i. Publishing.
 - j. Hotel and related on-site service and retail uses.
 - k. Full service restaurant.
 - l. Delicatessen limited to a maximum of 3,000 square feet.
 - m. 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.
 - n. 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.
 - o. 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.
 - p. Manufacturing or combining processes of pharmaceutical products, provided no noxious or offensive fumes or odors are produced.
 - q. Manufacturing or combining processes of biological products, provided no noxious or offensive fumes or odors are produced.

- r. Manufacturing and assembly of clothing.
- s. Manufacturing and assembly of televisions and radios, including parts and components.
- t. Laboratories, including commercial, testing, research, experimental or other laboratories, including pilot plants.
- u. General office uses (including computer centers) where no office user shall have less than a minimum of 2,000 square feet of usable space.
- v. Printing, lithography and engraving.
- w. Manufacture's representatives and sales offices when sales constitute a final point of sale.
- x. 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.
- y. Regional retail and wholesale sales, minimum 50,000 square feet of floor area.
- z. Incidental retail sales associated with a permitted manufacturing use.
- aa. Engineering, drafting, interior design, and design facilities.
- bb. 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.
- cc. Warehousing and distribution shall be limited to a maximum of 100,000 square feet in area in Building "D."
- dd. Accessory uses and structures when related to and incidental to a permitted use; subject to an administrative use permit.
- ee. 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.
- ff. Financial Institution.
- gg. Radio, television, movie and video studios.

- hh. Cultural or commercial recreation uses.
 - ii. Micro-brewery.
 - jj. Catalog sales and mail order uses when sales constitute a final point of sale.
 - kk. 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.
29. Violation of conditions is cause for revocation of the planned development approval, subject to a public hearing before the City Council.



CITY OF
HAYWARD
HEART OF THE BAY

DATE: September 23, 2010

TO: Planning Commission

FROM: Arlyne J. Camire, AICP, Associate Planner

SUBJECT: Zone Change Application No. PL-2010-0120-Anderson Pugash for Simeon Commercial Properties (Applicant) / Sim First LLC (Owner) - A Request to Modify a Planned Development District to Allow a Neighborhood-Serving Retail Center including a Drive-Thru Coffee Shop and Neighborhood Serving Retail Uses 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 State Highway 92.

RECOMMENDATION

That the Planning Commission recommends to the City Council to approve the Negative Declaration and to approve the modification to the Planned Development District, based on the attached findings and the conditions of approval.

SUMMARY

Simeon Commercial Properties requests to modify the existing Planned Development District to allow neighborhood-serving retail uses and a retail center with a drive-thru coffee shop in place of the full-service restaurant approved with the Mt. Eden Business Park in 1997 (Attachment II). In 2008, the City Council determined that the neighborhood-serving retail uses (Attachment VI) and that the neighborhood serving retail center with a drive-thru coffee shop and a convenience store were appropriate uses and approved the project. However, this approval expired because of an unfavorable economic climate. The developer requests the approval of neighborhood-serving retail uses and the approval of a 10,088-square-foot retail center including a drive-thru coffee shop. At this time, a convenience store is not proposed.

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 V, Condition No. 27).

In 2007, Simeon Commercial Properties applied for a modification to the planned development to allow neighbor-serving retail center including a drive-thru coffee shop and convenience store selling beer and wine for off-site consumption. Both the Planning Commission and the City Council 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 coffee shop, restaurant, and a convenience store.

On March 8, 2008, the City Council adopted an ordinance approving a modification of the planned development and approved the addition of neighborhood-serving uses listed as Administrative and Professional Offices/Services, Personal Services, and Retail Commercial Uses in the Central Business District and a convenience store, however, the City Council did not approve the sale of beer and wine at the convenience store.

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, likely a Starbucks, and an 8,250-square-foot multi-tenant building for three to five tenants (see attached plans). Food retailers such as *Subway* and *Jamba Juice*, delicatessens, 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 the drive-thru coffee shop, 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 multi-family residential on Industrial Boulevard and 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 VI).

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 most likely 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 up to five small tenants. The design of the buildings would be contemporary with a stucco finish and brick veneer entries with canvas awnings. The design would be compatible with the hotel and the business park buildings with a strong sense of entry and articulated building façades with pop-out elements.

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.

Planned Development Findings-

- a. **The development is in substantial harmony with the surrounding area and conforms to the General Plan and applicable City Policies**

The modification would be in substantial harmony with the surrounding residential, industrial, and educational uses, and development with the proposed conditions of approval. In addition, the use would be in substantial harmony 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, to serve adjacent business park workers, hotel employees and customers, nearby college students and faculty and residential neighborhoods in the area.

- b. **Streets and utilities, existing or proposed, are adequate to serve the development.**

Existing streets and utilities are adequate to serve the traffic, sewer and water needs of the uses proposed for the proposed 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 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 proposed uses of the retail center.

- 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 the surrounding development.**

The applicant has not asked to vary from development standards. The applicant has asked an exception to allowed additional uses that are not traditionally found in industrial areas. However, the exceptions would result in providing needed services to the adjacent residential neighborhood, industrial area, and educational institutions.

- d. **Any latitude or exception(s) to development regulations or policies is adequately offset or compensated for by providing functional facilities or amenities not otherwise required or exceeding other required development standards.**

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 uses would serve the neighborhood by offering a variety of products and services that are currently lacking within the immediate area thereby not creating a substantial adverse effect upon surrounding development.

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

PUBLIC NOTICE

On April 27, 2010, 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 received one call in support from the manager of the Hayward Business Park located across the street from the project site.

On August 20, 2010, a notice of Public Hearing and Notice of Preparation of the Negative Declaration was published in *The Daily Review*. On August 19, 2010 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.

On September 4, 2010, a notice of Public Hearing and Notice of Preparation of the Revised Negative Declaration was published in *The Daily Review*. On September 3, 2010 a Notice of Public Hearing and Notice of Preparation of the Revised 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.

SCHEDULE

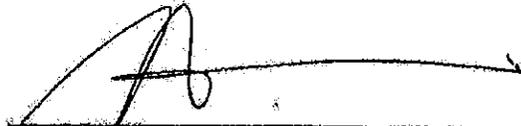
At the regularly-scheduled City Council meeting to be held on November 16, 2010, the City Council would review the recommendation of the Planning Commission. If the modification to the Planned Development and additional uses are approved, the ordinance is would be final 30 days after approval.

Prepared by:



Arlyne J. Camire, AICP
Associate Planner

Recommended by:



Richard Patenaude, AICP
Planning Manager

Attachments:

Attachment I	Vicinity Map
Attachment II	Area & Zoning Map
Attachment III	Findings for Approval
Attachment IV	Conditions of Approval
Attachment V	Planned Development No. 97-120-05- Conditions of Approval
Attachment VI	Planned Development Modification Uses for the Mt. Eden Business Park Retail Center
Attachment VII	Revised Negative Declaration and Initial Study, dated September 1, 2010 Plans



REVISED 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:

Zone Change Application No. PL-2010-0120 -Request to modify a Planned Development District to allow a 10,088-square-foot neighborhood-serving retail center on an approximately 1.5-acre parcel at Mt. Eden Business Park. The retail center would include a drive-thru coffee shop and up to four additional retail tenants.

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, the Mt. Eden Business Park, allowing two-phased construction of a 375,633±-square-foot business park with the potential for development of a full-service restaurant, and the potential for development of a hotel or business park in Phase 2 (Attachment A). 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 and forest resources. 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 1.4871-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 would not obstruct implementation of the Bay Area Air Quality Management District's Clean Air Plan.
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 1.4871-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 1.4871-acre 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 know 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 generate green house gas emissions that would have a significant impact on the environment as calculated using the Bay Area Air Quality Management District Greenhouse Gas Model. It has been determined that the project would comply with the June 2, 2010 adopted Air Quality CEQA Thresholds of Significance. The CO2e level will be lower than the 1,100 MT of CO2 emissions per year.
9. 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.
10. The project would meet all water quality standards. Drainage improvements would be made.
11. 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.
12. The project would not negatively impact mineral resources since the 1.4871-acre site is located within a business park within an urban area.
13. 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 7:00 am to 7:00 pm

Monday through Saturday and 10:00 am to 6:00 pm on Sunday. The construction noise will be temporary for a period of approximately four months.

14. The project would not cause a change in population or impact housing.
15. 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.
16. The project would not have an impact on recreation facilities or parks and would not create the need for additional recreational facilities.
17. 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.
18. 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:***



Arlyne J. Camire, AICP, Associate Planner

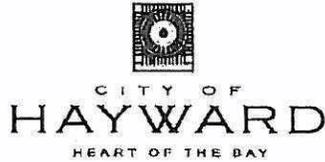
Dated: September 1, 2010

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 DEVELOPMENT SERVICES
Planning Division**

INITIAL STUDY CHECKLIST

Project Title: Zone Change Application No. PL-2010-0120

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

Contact person: Arlynn J. Camire, AICP

Project location: 26250 Industrial Boulevard, Hayward CA, 94545 (APN: 441-0045-007-00)

**Project sponsors
Name and Address:** Anderson Pugash for Simeon Commercial Properties, 655 Montgomery Street, Suite 1190, San Francisco, CA 94111

General Plan Designation: Industrial Corridor (IC)
Zoning: Planned Development (PD)

Project description: Request to modify Planned Development District No. 97-120-05 to allow a 10,088-square-foot neighborhood-serving retail center on an approximately 1.5-acre parcel at Mt. Eden Business Park. The retail center would include a 1,838-square-foot drive-thru coffee shop and a multi-tenant 8,250-square-foot neighborhood-serving retail building to be occupied by up to four retail tenants. Additional neighborhood-serving retail uses are also proposed to provide services to visitors to the area, to employees of Mt. Eden Business Park, and to the adjacent multi-family residential on Industrial Boulevard and residential neighborhoods west of Hesperian Boulevard.

In 1997, the City Council approved a 3-acre parcel to be developed with a hotel and a full-service restaurant. The western approximate 1.5-acre portion of the 3-acre site was developed with an extended stay hotel. The full-service restaurant was not built due to the economic climate. The remaining vacant portion of the 3-acre parcel would be developed with the proposed neighborhood-serving retail center.

A Revised Mitigated Negative Declaration and Initial Study was prepared on September 19, 1997 for Planned Development No. 97-120-05 for the Mt. Eden Business Park, allowing two-phased construction of a 375,633±-square-foot business park with the potential for development of

))
a full-service restaurant, and the potential for development of a hotel or business park in Phase 2 (attached). It 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 1.4871 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 Matco 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 and Forestry Resources | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Geology / Soils |
| <input type="checkbox"/> Greenhouse Gas Emissions | <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 Arjunveer J. Camire

Date 09/01/10

Printed Name ARJUNVEER CAMIRE

For _____

EVALUATION OF ENVIRONMENTAL IMPACTS:

ENVIRONMENTAL ISSUES:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
I. AESTHETICS -- Would the project:				
a) Have a substantial adverse effect on a scenic vista? Comment: <i>The vacant site is relatively flat. Surrounding structures are low-rise; up to three-stories. The proposed buildings would be 18 feet tall and would not obstruct the view of the baylands to the west from existing or future development. Therefore, the project would not have a substantial adverse effect on a scenic vista.</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? Comment: <i>The vacant site was graded in 1998 in preparation for the construction of Mt. Eden Business Park. Trees located along Industrial Boulevard remain. The site did not contain rock outcroppings or historic buildings. The site is not located along a scenic highway.</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? Comment: <i>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? Comment: <i>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"/>

Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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II. AGRICULTURE AND FOREST 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. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. -- 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: <i>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.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? Comment: <i>The project is not located in an agricultural district or an area used for agricultural purposes. See II a.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))? Comment: <i>The vacant site is located in an urban setting adjacent to an extended stay hotel and a business park in an urban area not in a forest land.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Result in the loss of forest land or conversion of forest land to non-forest use? <u>Comment:</u> See IIc.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use? <u>Comment:</u> The vacant site is located in an urban setting adjacent to an extended stay hotel and a business park in an urban area which will not result in the conversion of farmland.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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

a) Conflict with or obstruct implementation of the applicable air quality plan? <u>Comment:</u> The project would not obstruct implementation of the Bay Area Air Quality Management District's Clean Air Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? <u>Comment:</u> The project would not violate any air quality standard or contribute substantially to existing or projected air quality violation.	<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)? <u>Comment:</u> See IIIa. 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 create emissions. Conditions of approval require the developer to employ several sustainable construction and building operation methods that will off-set the impacts. Therefore, the amount of emissions are not in conflict with the June 2010 Bay Area Air Quality Management District CEQA Air Quality Guideline thresholds and would be within the standards of the City of Hayward General Plan	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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policies. 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". Additional air quality analysis was completed using the Urbemis and the Bay Area Air Quality Management District Greenhouse Gas Model. It has been determined that the project will comply with June 2, 2010 Adopted Air Quality CEQA Thresholds of Significance. CO2e level will be lower than 1,100 MT of CO2 emissions per year. This analysis included the drive-thru coffee shop.

d) Expose sensitive receptors to substantial pollutant concentrations? **Comment:** Air quality analysis was completed using the Urbemis and the Bay Area Air Quality Management District Greenhouse Gas Model and it has been determined that the project will comply with June 2, 2010 Adopted Air Quality CEQA Thresholds of Significance. CO2e level will be lower than 1,100 MT of CO2 emissions per year. Therefore, the project would not result in any development that would expose sensitive receptors to substantial pollutant concentrations.

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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e) Create objectionable odors affecting a substantial number of people? **Comment:** The project would not result in any development that would create objectionable odors affecting a substantial number of people.

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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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 graded and 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

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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 does not contain riparian or sensitive habitats.

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 does not contain 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.

e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? **Comment:** The project is in conformance with the General Policies Plan and will conform to the requirements of the Tree Preservation Ordinance.

Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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 is no habitat conservation plan, natural community conservation plan or other approved local, regional, or state habitat conservation plan 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.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5? <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"/>
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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"/>
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d) Disturb any human remains, including those	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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interred outside of formal cemeteries? **Comment:** 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.

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. **Comment:** The project is not located within the Hayward Fault Zone.

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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ii) Strong seismic ground shaking? **Comment:** The site is located within a known 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.

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

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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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 known 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? **Comment:** The project is not located within an area subject to landslides. The parcel is relatively flat surrounded by relatively flat land.

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Result in substantial soil erosion or the loss of topsoil? Comment: <i>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.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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: <i>The retail center would be located in known area of seismic liquefaction. See IVa.iii.</i> Impacts: <i>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 type="checkbox"/>	<input checked="" 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? Comment: <i>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 waste water disposal systems where sewers are not available for the disposal of waste water? Comment: <i>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. GREENHOUSE GAS EMISSIONS --

Would the project:

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment? Comment: <i>Using the Urbemis and the Bay Area Air Quality Management District Greenhouse Gas Model, it has been determined that the project will comply with June 2, 2010 Adopted Air Quality CEQA Thresholds of Significance. CO2e level will be lower than 1,100 MT of CO2 emissions per year.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comment: The project would not be in conflict with the City of Hayward Climate Action Plan adopted July 28, 2009.

VIII. 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: 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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? Comment: See VIIIa.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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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: See VIIIa.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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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: 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 requires 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. At the conclusion of the Phase I assessment, if mitigation is required, it will be completed prior to grading or construction activities commence.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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 VIII 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, 1.4871 acre parcel within Mt. Eden Business Park.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

IX. 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"/>
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</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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? 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.	<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? Comment: See VIX c.	<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? Comment: The 1.4871 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 VIXc.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Otherwise substantially degrade water quality? Comment: See VIXa.	<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? Comment: Residential units are not included in the proposed project.	<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? 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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? Comment: <i>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? Comment: <i>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"/>
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X. LAND USE AND PLANNING -- Would the project:

a) Physically divide an established community? Comment: <i>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"/>
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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: <i>The modification of Zone Change No. 97-120-05 allows the uses of drive-thru coffee shop and neighborhood-serving retail. 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"/>
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c) Conflict with any applicable habitat conservation plan or natural community conservation plan? Comment: <i>See IVf.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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XI. 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: <i>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.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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? <i>Comment: See XI a.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XII. 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>Comment: 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 groundborne vibration or groundborne noise levels? <i>Comment: See XIIIa.</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>Comment: See XIIIa.</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>Comment: Any noise impacts will be limited to the construction of the project, which will be limited to the hours of 7:00 am to 7:00 pm Monday through Saturday and 10:00 am to 6:00 pm Sunday. The construction noise will be temporary for a period of approximately four months.</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>Comment: 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>Comment: See XII e.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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XIII. POPULATION AND HOUSING --

Would the project:

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| 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>Comment: The retail center would not induce population growth but would serve the employees in the adjacent industrial area, students in the nearby college, the nearby residential development, and the patrons of the adjacent extended stay hotel.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? <i>Comment: This is a vacant parcel, 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: This is a vacant parcel; people will not be displaced due to the construction of the retail project.</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

XIV. PUBLIC SERVICES --

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

Fire protection?

<i>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"/>
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Police protection? *Comment: See XIV a.*

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Schools? *Comment: See XIV a.*

	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Parks? *Comment: See XIV a.*

	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Other public facilities? <i>Comment: See XIV a. All right-of-way and roadway improvements are 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"/>

XV. 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? <i>Comment: The construction and operation of the retail center would not increase the use of existing neighborhood and regional parks and their facilities.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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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? <i>Comment: The project would not include recreational facilities that might have an adverse physical effect on the environment.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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XVI. TRANSPORTATION/TRAFFIC --

Would the project:

a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit? <i>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</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<i>designed to handle the increase. The increase is considered less than significant</i>				
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways? Comment: See XVIa.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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 retail center would not substantially increase hazards.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in inadequate emergency access? Comment: The Hayward Fire Department has reviewed the project and finds the project acceptable to Hayward Fire Department requirements and standards as conditioned.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities? Comment: The project does not conflict with adopted policies supporting alternative transportation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XVII. UTILITIES AND SERVICE SYSTEMS

-- Would the project:

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? Comment: The retail center tenants' activities would not exceed wastewater treatment requirements.	<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? Comment: Existing water and wastewater treatment facilities are adequate to serve the retail center.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>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? <u>Comment:</u> Existing storm drains are adequate to serve the retail center.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? <u>Comment:</u> The retail center would not have an impact on the water supply; therefore, it can be served by existing entitlements and resources.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>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? <u>Comment:</u> The additional retail center's tenant's needs would not exceed wastewater treatment requirements. 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.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? <u>Comment:</u> The additional retail center's tenant's needs would not exceed the landfill capacity. Waste Management of Alameda County will dispose of the solid waste. The Altamont landfill is available to the City of Hayward until 2014 with 3 extension year options. This landfill 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.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>g) Comply with federal, state, and local statutes and regulations related to solid waste? <u>Comment:</u> 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</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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waste. The tenants will be required to participate in the City of Hayward required programs including; construction waste recycling, trash disposal, recycling and organics recycling. The project contains two trash enclosures that will accommodate the trash, recycling and organics containers.

XVIII. 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 property was once developed with a commercial nursery and the 1.4871 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)? **Comment:** The project in itself would not have cumulative effects and the development is consistent with surrounding zoning and development. The project will be consistent with the City's General Plan.

Aesthetics and Light and Glare: The Project would not affect scenic vistas nor light and glare. The project site is located in a substantially urbanized area with existing sources of light and glare, therefore, future development cumulative impacts would be considered less than significant. This project is designed to reduce the impacts of residential light or glare.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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Air Quality: All future development is required to meet construction dust control measures. Any impacts of future development are anticipated to be below the standard of air quality significance through the year 2025 as established by the Bay Area Air Quality Management District (BAAQMD). Furthermore, future development would be required to use low or no-off-gassing construction and interior materials that would improve indoor air quality.

Biological Resources: The site is vacant and was graded in 1998. The site is devoid of natural habitats. Cumulative biological impacts are not anticipated.

Cultural Resources: The general plan amendment and zone change would not adversely affect cultural resources.

Geology and Soils: The project site is located outside of the Hayward fault zone. It is anticipated that any future development would not have a cumulative effect.

Greenhouse Gas Emissions: The project will comply with June 2, 2010 Adopted Air Quality CEQA Thresholds of Significance. CO₂e level will be lower than 1,100 MT of CO₂ emissions per year. Analysis included grading, construction, paving, painting, and operation phases. It will not be in conflict with the City of Hayward Climate Action Plan.

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Hazards and Hazardous Materials: This project will not generate hazardous materials.

Hydrology and Water Quality: the project site is located within Flood Zone B. All future development would be required to be designed to mitigate any possible impacts. However, this would not result in a cumulative impact.

Land Use and Planning: The development of the retail center is consistent with Planned Development zoning district and the general plan.

Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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Mineral Resources have not been found on this site.

Noise: Cumulative noise impacts are not anticipated since any noise created by future development would be short-term; limited to the construction phase.

Population and Housing: Cumulative impacts to population, employment and housing are not anticipated.

Utilities and Public Services:

No cumulative impacts to solid waste services are anticipated.

Recreation: The development of the site with a retail center will not impact recreation in the area nor remove recreational amenities.

Transportation/Traffic: Cumulative impacts are not anticipated. The project site is within walking distance from a bus stop and adjacent to an on-ramp and off-ramp to Highway 92.

No cumulative impacts are anticipated to utility and service providers. The project site as infill development will be adequately served with water, sewer, police, fire and educational facilities.

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

***Comment:** The project in itself would not have a direct or indirect adverse impact on humans because the approved action because any anticipated impacts would be mitigated by the conditions of approval of the proposed modification to the Planned Development.*



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.

ATTACHMENT A

(OWNER)

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

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9/19/97



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: Arlyne 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.

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. <u>Geologic</u> (unstable earth conditions, changes in topography, increase in wind or water erosion, exposure of people or property to geologic hazards, such as earthquakes, landslides) | — | <u>X</u> | — |

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. <u>Air Quality</u> (substantial air emissions or deterioration of ambient air quality or creation of objectionable odors) | — | <u>X</u> | — |
|--|---|----------|---|

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)

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

— — X

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;

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)

— — X

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)

— — X

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

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.

—	—	<u>X</u>
—	—	<u>X</u>

REVISED INITIAL STUDY PLANNED DEVELOPMENT NO.9 (20-05-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.)

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.

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.

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

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

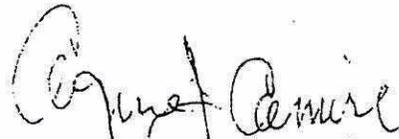
It is found that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

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)
By ASSOCIATE PLANNER
Title
City of Hayward
NOVEMBER 21, 1997
Date

ATTACHMENT B

ENVIRONMENTAL DECLARATIC)
(CALIF. FISH AND GAME CODE SEC. 711.4)

NAME AND ADDRESS OF APPLICANT OR LEAD AGENCY :

FOR COURT USE ONLY

City of Hayward

FILED
ALAMEDA COUNTY

25151 Clawiter Road

DEC 2 1997

Hayward CA 94545-2731

Attn: Arlyne Camire, Associate Planner

PATRICK O'CONNELL, County Clerk

By T. [Signature], Deputy

FILING NO. 1170-77

CLASSIFICATION OF ENVIRONMENTAL DOCUMENT:

CLERKS
USE ONLY
PLU 117

- 1. NOTICE OF EXEMPTION/STATEMENT OF EXEMPTION
 - A - STATUTORILY OR CATEGORICALLY EXEMPT
\$25.00 (Twenty-five Dollars) - CLERK'S FEE
 - B - DE MINIMIS IMPACT - CERTIFICATE OF FEE EXEMPTION REQUIRED PLU 117
\$25.00 (Twenty-five Dollars) - CLERK'S FEE

- 2. NOTICE OF DETERMINATION - FEE REQUIRED PLU 116
 - A - NEGATIVE DECLARATION
\$1,250.00 (Twelve Hundred Fifty Dollars) -
STATE FILING FEE
\$25.00 (Twenty-five Dollars) - CLERK'S FEE
 - B - ENVIRONMENTAL IMPACT REPORT PLU 115
\$850.00 (Eight Hundred Fifty Dollars) - STATE
FILING FEE
\$25.00 (Twenty-five Dollars) - CLERK'S FEE

- 3. OTHER (Specify) _____ PLU 117
\$25.00 (Twenty-five Dollars) - CLERK'S FEE

*THIS FORM MUST BE COMPLETED AND SUBMITTED WITH ALL ENVIRONMENTAL DOCUMENTS FILED WITH THE ALAMEDA COUNTY CLERK'S OFFICE.

FOUR COPIES OF ALL NECESSARY DOCUMENTATION ARE REQUIRED FOR FILING PURPOSES.

APPLICABLE FEES MUST BE PAID AT THE TIME OF FILING AN ENVIRONMENTAL DOCUMENT WITH THE ALAMEDA COUNTY CLERK'S OFFICE.

MAKE CHECK PAYABLE TO: ALAMEDA COUNTY CLERK

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.

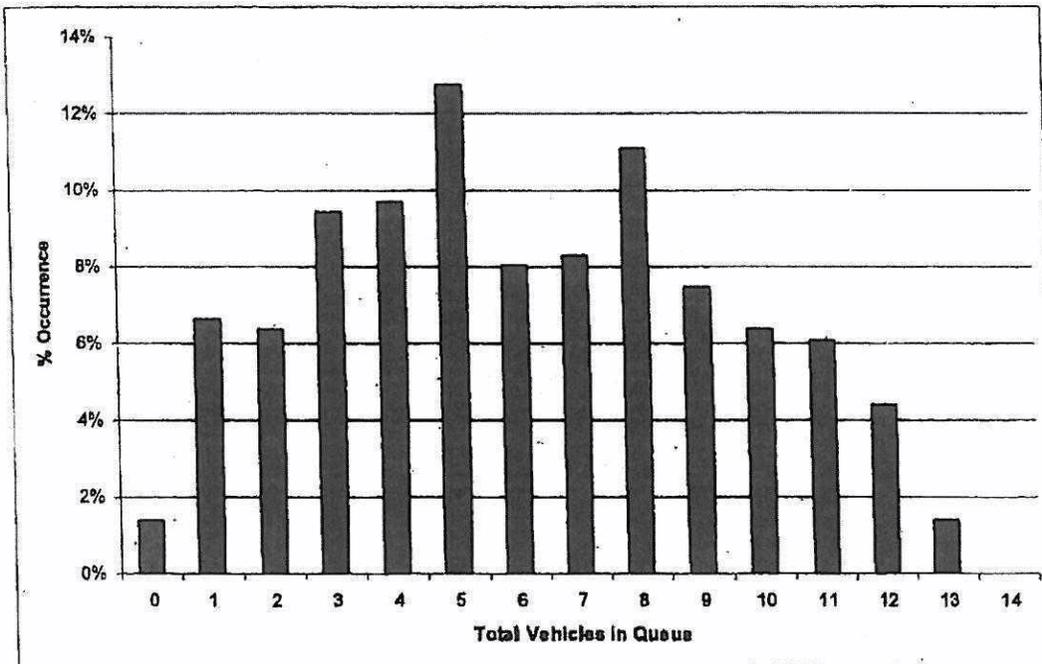
¹ A trip generation survey was performed by Fehr & Peers in 2001 for a Starbucks in Orinda, California. The results indicated that the midday and PM peak hour trip generation was less than half that of the AM peak hour.

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	6	6	8:59 AM	6	5
7:30 AM	1	3	8:15 AM	4	6	9:00 AM	5	6
7:31 AM	0	3	8:16 AM	3	6			
7:32 AM	1	2	8:17 AM	3	6			
7:33 AM	1	2	8:18 AM	5	6			
7:34 AM	0	3	8:19 AM	6	6			
7:35 AM	1	2	8:20 AM	5	6			
7:36 AM	2	1	8:21 AM	4	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			



MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION

Attachment IX

Council Chambers

Thursday, September 23, 2010, 7:00 p.m.

777 B Street, Hayward, CA 94541

2. Zone Change Application No. PL-2010-0120 - Anderson Pugash for Simeon Commercial Properties (Applicant) / Sim First LLC (Owner) - A Request to Modify a Planned Development District to Allow a Neighborhood-Serving Retail Center including a Drive-Thru Coffee Shop and Neighborhood Serving Retail Uses 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 State Highway 92

Due to a timing conflict, this item was heard first.

Senior Planner Erik Pearson gave a synopsis of the report indicating that one email was received from the owner of the Fairfield Inn & Suites stating opposition to a convenience market at that location due to possible loitering and the inability on the City's part to enforce limited hours of operation.

Commissioner Lamnin asked if the owner of this property also owned the business park development nearby. Senior Planner Pearson couldn't confirm that they owned the entire business park, just the 1.5 acre parcel under consideration. Commissioner Lamnin then cited Condition of Approval number 17 that discussed trash receptacles and asked if there are any plans for recycling bins. Mr. Pearson said the City's standard requirement says the trash enclosure must have equal sized areas for trash and recycling. Commissioner Lamnin asked if the requirement pertained to the receptacles for the customers too, but staff said only to the business.

Commissioner McDermott started with an apology explaining that she was new and to make an informed decision she may have to ask repetitive questions. She asked what input Fairfield Marriott would have on moving their existing sign, which she said, had good visibility for those traveling down Highway 92. Senior Planner Pearson said that hasn't been discussed and the owner of the parcel would have to agree to the relocation of the sign and that he didn't know if an easement existed for the sign. Commissioner McDermott asked the difference between an M and B occupancy as stated in the Conditions of Approval. Mr. Pearson explained that those were classifications used by the Building Division to determine appropriate construction type. Mr. Pearson explained that M and B are rated for retail use and that the building was not designed for hazardous materials.

Commissioner Lavelle thanked Mr. Pearson for presenting the report and Associate Planner Arlyne Camire, who was unable to attend the meeting, for the thoroughness of her report. Commissioner Lavelle said regarding the letter from the Fairfield Inn that objected to the convenient store on the basis of safety, she asked staff to comment on Condition of Approval number 21 and the proposed exterior lighting for the area and whether the City could require more lighting. Senior Planner Pearson said the City has lighting standards and a required lighting plan that will show where the fixtures will be situated. Commissioner Lavelle asked if the hours of operation for the coffee shop would be different than the other retail uses. Mr. Pearson said that was yet to be determined and could be included as a condition of approval. Commissioner Lavelle said

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**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, September 23, 2010, 7:00 p.m.
777 B Street, Hayward, CA 94541**

hours of operation should be taken into consideration when determining the lighting plan. She emphasized the importance of good lighting to make customers feel safe and hotel guests willing to cross the street to utilize the businesses.

Commissioner Lamnin said she visited the site at 5:30 pm that day and noticed traffic was fairly busy at the Highway 92 on and off-ramps. She asked staff if the current street configuration was expected to be problematic. Senior Planner Pearson said he shared the plans with the Engineering and Transportation division of Public Works and they didn't see any issues with the driveway location.

Commissioner Márquez said the report indicates that a drive-thru Starbucks would mostly likely be a tenant; she asked if there were any updates on the information. Staff said the owner could provide that update. Commissioner Márquez then asked if there were any updates on whether an AC Transit bus stop would be added to serve the area and staff indicated they didn't know.

Chair Loché opened the Public Hearing at 7:20 p.m.

Russ Pitto, business address on Montgomery St. in San Francisco, CEO of Simeon Commercial Properties (Applicant) said he started this project in 1997 and spent 10 years trying unsuccessfully to find a stand-alone restaurant for the 1.5 acre site. In 2008, he said his company came back to the Planning Commission with this same exact plan and now tonight is the third time through. Regarding Commissioner Lamnin's question about ownership, Mr. Pitto said Simeon developed the project as a joint venture, but said they no longer own the larger Mt. Eden project although they do own the land. Mr. Pitto said in 2008 Starbucks had already signed an agreement, but the City Council rejected a proposed 7-11 convenience store. He said the market crashed, the project was shelved, and Simeon missed the deadline to extend permits so they had to reapply and meet updated standards. Mr. Pitto said Starbucks is definitely ready to go, although the lease will have to be renegotiated once approvals are received. He said no other spaces are leased yet, but potential tenants are waiting to see if the project is approved.

Commissioner Faria asked Mr. Pitto when he anticipates the project starting. Mr. Pitto said once Council approves the project, they will renegotiate the lease with Starbucks. He said Simeon will need to recalculate their costs based on the new Green Building requirements, but said they want to start construction next February or March. Commissioner Faria confirmed that Simeon wasn't just renewing approvals for a later date and Mr. Pitto said, "No, we want to go."

Commissioner Márquez asked about the hours of operation for Starbucks. Mr. Pitto said he didn't remember the terms of the previous lease, but couldn't imagine them going past 10:00 pm.

Commissioner Lamnin asked if Mr. Pitto has considered any local businesses as potential tenants. Mr. Pitto said they just hired the leasing firm Colliers, based in the East Bay, and they have many contacts including local businesses. Mr. Pitto said he'd like to conduct more pre-leasing and pointed out that residents and businesses in the area are looking forward to getting some services.



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, September 23, 2010, 7:00 p.m.
777 B Street, Hayward, CA 94541**

Commissioner Mendall asked if Mr. Pitto if he would have problem with a condition that limited hours of operation to 5:00 am-10:00 pm for all businesses in the complex. Mr. Pitto said they hadn't agreed to that condition and didn't want to preclude any businesses, like a restaurant or brew pub, which might want to stay open after 10:00 pm.

Mr. Pitto asked staff if each business would have to apply individually for a use permit and Senior Planner Pearson said most tenants won't be required to have a use permit. What triggered the need for a use permit in the past, Mr. Pearson explained, was 7-11 wanted to include alcohol sales.

Mr. Pitto concluded by saying that it would be an encumbrance to the project to put a cap on hours of operation because some restaurants might want to stay open after 10:00 pm.

Chair Loché closed the Public Hearing at 7:29 p.m.

Commissioner Mendall praised Associate Planner Camire's staff report, saying he was pleased to see the cool roof requirement, and that all businesses are required to apply for the County's Green Business Certification. He said green building requirements will cost the landlord money, but suggested they charge higher rents because ultimately businesses will save money on future energy costs. Commissioner Mendall said the last time this application came before the Commission he voted against it because of the requested liquor license. That being removed, he said he had no objections and was in favor of the project.

Regarding hours of operation, Senior Planner Pearson indicated that in the conditions of approval from 2008, the list of permitted uses included a restaurant, convenience store, coffee shop, and a coffee shop with a drive-thru window with a limit on operating hours between 5:00 am and 10:00 pm. He said those hours were approved in 2008 and could be applied to the current application if the Commission desired to do so.

Chair Loché asked for clarification and Mr. Pearson reiterated that those hours of operation also applied to the coffee shop and convenience store.

Commissioner Lavelle said she was in favor of the project last time and would still like to see the project go forward. She pointed out that one of the benefits of the project's delay is now the applicant is subject to the Green Building Ordinance. She said it will be terrific to have another Starbucks on the way to Highway 92 and that students and businesses will appreciate the new services. She encouraged Mr. Pitto to pursue a mixed variety of businesses including local businesses. She also mentioned that Hayward has some great taco makers so a taqueria at that location would be appreciated. She also expressed concern that a past development had a difficult time finding tenants and ended up bringing in a cigarette store. She said she hoped Simeon wouldn't follow that example.



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, September 23, 2010, 7:00 p.m.
777 B Street, Hayward, CA 94541**

Commissioner Lavelle made a motion per staff recommendation that the City Council approve the revised Negative Declaration and approve the modification to the Planned Development District without any hour of operation restrictions. Commissioner Mendall seconded the motion.

Commissioner Mendall said he works near the development and the one coffee shop in that area recently closed down. He also mentioned that there are no pizzerias in the area either. Commissioner Mendall commented that high traffic times would most likely be mornings, lunch and possibly early dinner time so he said limiting hours wasn't necessary. He said he's very supportive of the motion and looks forward to the project being built and going there for lunch.

Commissioner Lamnin also spoke in favor of the motion. She commented that when she met with hotel representatives and asked them what kind of services guests are wanting, the number one request was food and restaurants. She pointed out that people from all over the world come to the Life Chiropractic to learn so there's a huge opportunity there.

Commissioner McDermott said she also works in the area and there is also a strong need for retail businesses. She agreed with Commissioner Mendall that not much business will take place in the evening but most certainly due to morning, lunch and some going home traffic. She said she also supported the motion.

Commissioner Márquez said she will also be supporting the motion and agreed with the earlier comments, but wanted the Commissioners to keep in mind that Chabot College, Heald Business School and Life Chiropractic are close by so students may use the Starbucks as a study location when determining hours of operation.

Chair Loché said he agreed with most of the comments made and mentioned that having alcohol for off-premises consumption as part of the previous application was a sticking point for him, so he was glad it has been removed. He said he looked forward to this project moving forward.

There being no other comments, the motion passed 7:0:0 with the following vote:

AYES:	Commissioners Faria, Márquez, Loché, Lamnin, McDermott, Lavelle Chair Loché
NOES:	None
ABSENT:	None
ABSTAINED:	None

Commissioner Lavelle returned to the dais.

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 Rodriguez, 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

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.

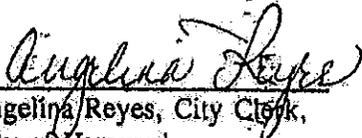
The meeting adjourned at 10:51 p.m.

APPROVED:



Roberta Cooper, Mayor
City of Hayward

ATTEST:



Angelina Reyes, City Clerk,
City of Hayward

Arlyne Camire

From: Narendra Dahya [ndahya@aol.com]
Sent: Thursday, September 23, 2010 9:17 AM
To: Arlyne Camire
Cc: 'Dilip Dahya'; 'Jay Keshav'
Subject: RE: (PD mod of 2005-0536 ZC) PL-2010-0120

Hello Arlyne

RE: (PD mod of 2005-0536 ZC) PL-2010-0120 Simeon Commercial Properties(Applicant), SimFirst, LLC c/o Simeon Commercial Properties(Owner)

This is Nick Dahya one of the owners of the hotel (Fairfield Inn & Suites-Marriott) next to the project that is being considered by the Planning Department.

I just wanted to let you know our opinion regarding the above mentioned project. We are in favor of having a Starbucks-type coffee shop along with sandwich shops and other neighborhood uses (i.e. flower shop, ups store, hair salon, exercise studio(curves or yoga), a dental place, and Hollywood video shop, neighborhood small restaurants etc). **However, we are NOT in favor of having any type of 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. Again a 24 Convenient Store will not be a favorable use at this location.

Please do not approve any convenience store. I think the retail development can be successful without a convenient store.

thank you

Nick Dahya
251 El Camino Real
San Carlos, CA 94070