



CITY OF HAYWARD AGENDA REPORT

Meeting Date 11/4/04
Agenda Item 3

To: Planning Commission

From: Tim R. Koonze, Assistant Planner

Subject: Use Permit No. PL-2004-0371 – Parag Gandhi (Applicant/Owner) – Request to Sell Alcoholic Beverages at a Automobile Service Station

The Property Is Located at 391 West A Street at the Northeast Corner of Arbor Avenue in a Neighborhood Commercial (CN) Zoning District

RECOMMENDATION:

Staff recommends that the Planning Commission:

1. Find that the proposed project is Statutorily Exempt from the California Environmental Quality Act (CEQA); and
2. Deny the use permit application subject to the attached findings

DISCUSSION

The property is located on the north side of West A Street near the northbound on-ramp to Interstate 880. The parcels to the north, east and west are all within the jurisdiction of Alameda County. A vacant parcel zoned multi-family is to the north, a McDonald's restaurant is located to the west, and a Best Western motel and a dilapidated, former oil changing facility is located across the street to the south. The uses along both sides of the West A Street frontage are primarily commercial with both single- and multi-family residential development located behind them.

In 1995, the City Council approved a use permit for a Union 76 gasoline station with a Circle K mini-mart, and a drive-through restaurant that is no longer in use. The conditions of approval associated with that permit strictly prohibited the sale of alcoholic beverages.

The applicant proposes to sell packaged beer within the mini-mart that operates in conjunction with the service station. The mini-mart is open between 6:00 a.m. and 10:00 p.m., but the applicant indicates that alcohol sales would be limited to between 10:00 a.m. and 10:00 p.m. According to the State Department of Alcoholic Beverage Control (ABC) the owner would be required to obtain a type 20 license that allows for off-sale beer and wine.

Use Permit

In 1988 the City adopted an ordinance which allows for the concurrent sale of alcoholic beverages and gasoline in compliance with State law but only with the approval of a conditional use permit. The purpose of requiring a conditional use permit is to assure the use occurs in maximum harmony with the area and to assure that the use is permitted where there is a community need.

Allowing off-site alcohol sales would not be in maximum harmony with the area. This area is considered to be one of the higher crime sections of the City. Staff is concerned that the sale of alcohol could have a negative affect on a neighborhood that already experiences relatively high criminal activity. Over the years this area has been plagued with numerous problems, including:

- Gang activity;
- Drug dealing and usage;
- Disorderly conduct;
- Transience;
- Fighting; and
- Violent crimes

Many of these crimes have been alcohol related. A strong police presence has been required over the past two years to reduce the incidence of crime and the number of police calls. Approval of another alcohol outlet in this area may exacerbate an already difficult situation And may foster an increase in juvenile loitering, underage drinking and disorderly conduct.

In addition, the sale of alcoholic beverages at a gasoline station located in proximity to a freeway on-ramp may be detrimental to public health and safety in that it facilitates the purchase and consumption of alcoholic beverages while driving. Allowing alcohol sales within a service station in proximity to a major transportation corridor could send a mixed message about drinking and driving.

At a recent City Council work session on alcohol uses, serious concern was expressed by Councilmembers regarding the impact of concentrations of alcohol outlets on minority communities. While the Hispanic population citywide is 34 percent, it is 50 percent within a one-mile radius of this service station.

The Zoning Ordinance requires that establishments engaged in the off-sale of alcoholic beverages be located at least 500 feet apart and at least 500 feet away from any school, park library, playground recreation center day care center or similar use. The off-sale of alcohol at the service station would comply with the separation requirements. The only other nearby establishments engaged in the off-sale of alcoholic beverages are a liquor store approximately 700 feet to the west of this site and at Costco, located approximately 1000 feet to the east.

According to the Department of Alcoholic Beverage Control (ABC) a maximum of one off-sale establishment in the census tract in which the service station is located is appropriate, and one already exists. Notwithstanding this requirement, ABC may approve an off-sale beer and wine license where the premises are not located in a high-crime area and when the local governing body determines the "*public convenience or necessity would be served by the issuance.*" In staff's opinion, allowing the sale of beer at the service station would not serve the public convenience or necessity for the reasons discussed above.

Environmental Review

The proposed project is Statutorily Exempt from the California Environmental Quality Act (CEQA) guidelines pursuant to Section 15270, projects that public agencies disapprove.

Public Hearing Notice

On July 9, 2004 a notice was mailed to every property owner and occupant within 300 feet of the property as noted on the latest assessor's records announcing the proposed application. The City received only one response.

A letter was received from Commpre (Community Prevention of Alcohol Related Problems) dated July 14, 2004, opposing the sale of alcoholic beverages at the service station (Exhibit C). The letter cited that alcohol sales should not be allowed next to the family oriented MacDonald's restaurant which has a playground area. The increased exposure and availability puts youth at a higher risk for underage consumption of alcohol. In addition, the proximity to the 880 freeway on-ramp elevates the risk of drunk driving. They indicate research has shown that higher rates of driving under the influence are closely linked to the higher concentrations of alcohol outlets and gasoline stations.

On October 25, 2004, a Notice of Public Hearing was mailed to every property owner and occupant within 300 feet of the property as noted on the latest assessor's records.

Conclusion

It is staff's opinion that the sale of alcoholic beverages at this gasoline station would not be in maximum harmony with this area. Staff suggests that alcohol sales in this neighborhood could have a negative effect on a neighborhood already subject to criminal activity. In addition, alcoholic beverage sales at a service station may be detrimental to public health and safety in that it is at odds with the message that motorists should not drink and drive. This is particularly of concern when a service station is so close to the interstate freeway. The sale of alcoholic beverages from this site does not fulfill a community need in that ABC has determined that the area is saturated with off-site alcohol sales. If the Planning Commission approves the use permit application, staff would need to conduct an environmental review and prepare finding and conditions of approval.

Prepared by:

Tim R. Koonze

Tim R. Koonze
Assistant Planner

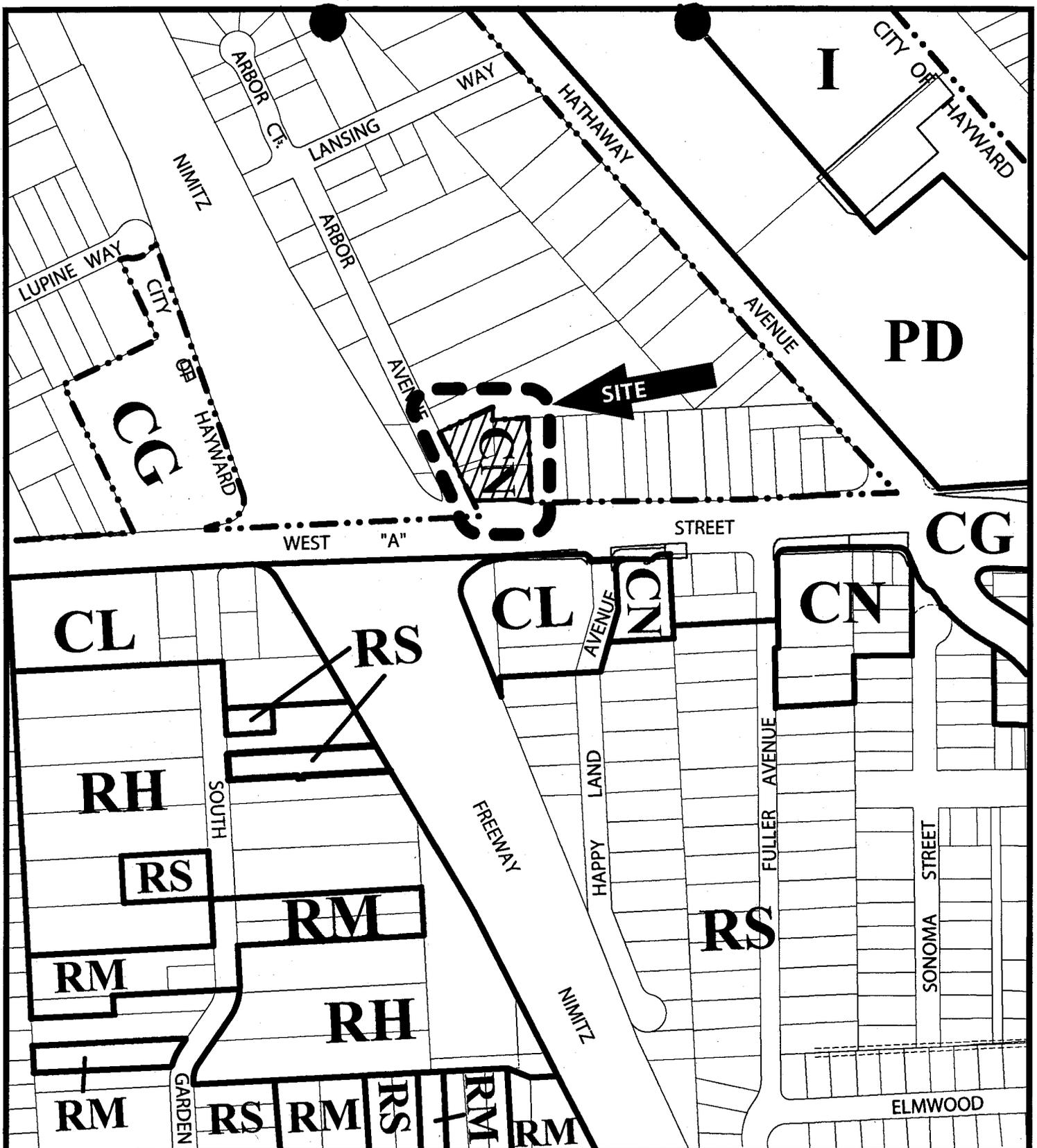
Recommended by:

Dyana Anderly

Dyana Anderly, AICP
Planning Manager

Attachments:

- A. Area Map
- B. Findings of Denial
- C. Letter From Commpr Dated July 14, 2004
Site Plan



Area & Zoning Map

PL-2004-0371 UP

Address: 391 West A Street

Applicant: Parag Gandhi

Owner: Parag Gandhi

CG-General Commercial

CL-Limited Access Commercial

CN-Neighborhood Commercial

I-Industrial

PD- Planned Development

RH-High Density Residential RHB 7

RM-Medium Density Residential RMB 3.5, RMB 4

RS-Single-Family Residential,RSB4,RSB6



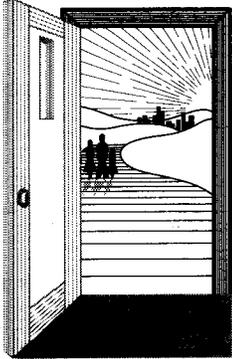
FINDINGS FOR DENIAL

**Use Permit No. PL-2004-0371 – Parag Ganhi (Applicant/Owner)
Request to Sell Alcoholic Beverages at a Service Station**

The Property is Located at 391 West A Street at the northeast corner of Arbor Avenue and A Street in a Neighborhood Commercial (CN) Zoning District

- A. The proposed project is Statutorily Exempt from the California Environmental Quality Act (CEQA) guidelines pursuant to Section 15270 projects that public agencies disapprove.**
- B. The proposed use is not desirable for the public convenience or welfare in that it does not fulfill a community need as there are other stores nearby where alcoholic beverages can be purchased.**
- C. The sale of alcoholic beverages at a gasoline station in close proximity to the freeway on-ramp is detrimental to public health and safety in that it encourages and inspires people to purchase and drink alcoholic beverages while driving.**
- D. The approval of another off-sale liquor license would create an over concentration of off-sale outlets in the area according to the State Department of Alcoholic Beverage Control (ABC).**
- E. The proposed use would detrimentally affect the surrounding neighborhood in that the sale of alcoholic beverages at a gasoline station in close proximity to the freeway on-ramp is detrimental to public health and safety in that it encourages and inspires people to purchase and drink alcoholic beverages while driving.**

COMMPRE



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



A program of
Horizon Services, Inc.

RECEIVED

JUL 16 2004

PLANNING DIVISION

July 14, 2004

Hayward Planning Commission
Tim Koonze, Assistant Planner
City of Hayward, Planning Division
777 "B" Street
Hayward, CA 94541

**RE: Conditional Use Permit, PL-2004-0371 UP
Parag Gandhi (Applicant/Owner)**

Dear Members of the Planning Division,

I am writing to express CommPre's opposition to an ABC license type 20 at the Unocal Service Station at 391 West "A" Street at Arbor Avenue.

We are opposed to this license on the grounds that the establishment is in close proximity to a children's playground and an active off-sale establishment.

Unocal Service Station is located next to a McDonalds Restaurant, which has a huge playground area for children. By giving a license to this gas station, it would place more alcohol in an area where children play and are supposed to enjoy themselves. Having a family oriented restaurant next to a liquor outlet guarantees that children will have more contact with the influences of alcohol. This increased exposure and availability puts youth at a higher risk for underage consumption of alcohol.

This establishment is also in a problematic location. The gas station is near entrances to Highway 880. By allowing a gas station to have a liquor license, the risk for drunk driving is elevated. Research has shown that higher rates of DUIs are closely linked to the higher concentration of alcohol outlets and gas stations.

ATTACHMENT C

Given the increased risks to the health and safety of the surrounding community, we are recommending that the Planning Commission deny this application.

Thank you,

A handwritten signature in black ink, appearing to read "Liz Morales". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Liz Morales
Prevention Specialist-Youth Community Organizer

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