



CITY OF HAYWARD
AGENDA REPORT

Planning Commission

Meeting Date 11/18/04

Agenda Item 2

TO: Planning Commission

FROM: Carl T. Emura, Associate Planner

SUBJECT: Use Permit No. PL-2003-0701 – Lewis Larimer (Applicant/Owner)
Request for Outdoor Storage of Welding Contractor's Equipment and Products

The Property Is Located at 3322 Baumberg Avenue in the Industrial (I) District

RECOMMENDATION:

Staff recommends that the Planning Commission find that the project is categorically exempt from environmental review and approve the Conditional Use Permit subject to the attached findings and conditions of approval.

DISCUSSION:

The project involves the storage of construction material and equipment in three cargo containers laid out in an "L" shaped configuration and to screen the site with trees planted at 20' on center. The project involves exceptions to the City's "*Minimum Design and Performance Standards*" with regard to the design of the storage buildings and paving. The Planning Commission, on October 7, 2004, directed staff (5:1) to conduct the necessary environmental review, prepare the findings and conditions of approval and return the application for outdoor storage for final action.

Planning Commissioners indicated that the improvements to the property would enhance the neighborhood which is transitioning from Limited Industrial (industrial uses not detrimental to residential environment) to Industrial. Recognizing that the residences in the area will lose their nonconforming status in 2015 (June 6, 2015), a suggestion was made to cause the use permit to expire co-terminus with that date. There was also some indication that a gravel surface would be acceptable provided a paved a travel aisle is installed. These suggestions are reflected in the conditions of approval.

ENVIRONMENTAL REVIEW:

The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15304, Class 4 Minor Alterations to Land.

PUBLIC NOTICE:

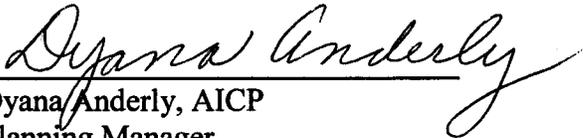
On November 8, 2004 a Notice of Public Hearing for the Planning Commission meeting was mailed to property owners and tenants within 300 feet of the subject property and to all interested parties.

Prepared by:



Carl T. Emura, ASLA
Associate Planner

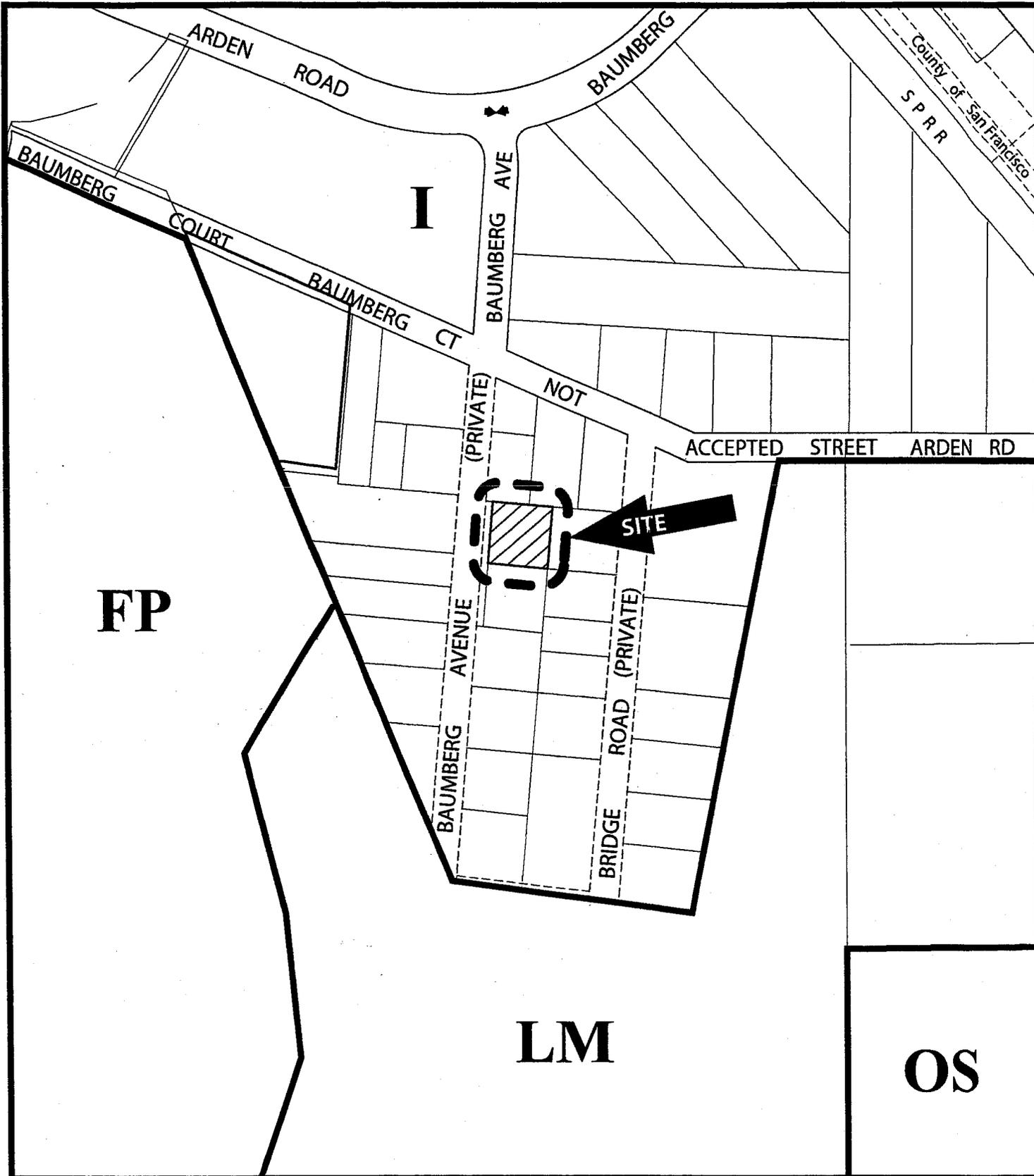
Recommended by:



Dyana Anderly, AICP
Planning Manager

Attachments:

- A. Area Map
- B. Findings for Approval
- C. Conditions of Approval
- D. Planning Commission Agenda Report/Minutes- October 7, 2004
Plans



Area & Zoning Map

PL-2003-0701 UP

Address: 3322 Baumberg Avenue

Applicant: Lewis Larimer

Owner: Lewis Larimer

- FP-Flood Plain
- I-Industrial
- LM-Light Manufacturing
- OS- Open Space



FINDINGS FOR APPROVAL
Conditional Use Permit - PL-2003-0701
3322 Baumberg Avenue
Lewis Larimer (Applicant/Owner)

1. The proposed project is Categorical Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15304, Class 4 *Minor Alterations to Land*.
2. The proposed use is desirable for the public welfare in that the property improvements will enhance the surrounding neighborhood which is transitioning from Limited Industrial to Industrial and the use will expire when the single-family residences lose their nonconforming status in 2015.
3. The proposed use will not impair the character and integrity of the Industrial District and surrounding area in that the cargo storage units will be located as far from the single family residential dwellings as possible and the perimeter of the site will be screened with trees and fencing.
4. The proposed outdoor storage will be not detrimental to the public health, safety and general welfare in that the cargo storage units will be located as far from the single family residential dwellings as possible and the perimeter of the site will be screened with trees.
5. The proposed outdoor storage area use is in harmony with applicable City policies and the intent and purpose of the zoning district involved in that the site is intended for industrial development and use and the open storage area is a conditionally permitted use in the industrial district.

CONDITIONS OF APPROVAL
Conditional Use Permit - PL-2003-0701
3322 Baumberg Avenue
Lewis Larimer (Applicant/Owner)

1. Use Permit Application No. 2003-0701 is approved for outdoor storage of welding contractor's equipment and products, subject to conformance with the specific conditions listed below. The improvements shall be constructed prior to use of the storage area and operated in accordance with Exhibit A.
2. This approval is void 90 days after the effective date of approval (February 16, 2005), unless the approved improvements have been installed. Applicant shall contact planning to arrange an inspection of the installation. Any modification of the approved plans shall require review and approval by the Planning Director.
3. The property owner shall maintain in good repair all fencing, gravel areas and driveways. The premises shall be kept clean and in an orderly fashion.
4. The cargo containers shall be painted beige.
5. Any materials stored outside the cargo containers shall not protrude above the 6-foot high chainlink fence or the 6-foot high wood fence.
6. One 24" box street tree is required for every 20 – 40 lineal feet of frontage. Spacing of the trees is dependant on the species of trees. Trees shall be planted according to the City Standard Detail SD-122.
7. A new 6-foot chain link fence with slats shall be erected 35 feet from the west/front property line (west/front property line is located in the center of Baumberg Avenue) and along the south/side property line. South/front fence shall be continuously buffered with shrubs and vines.
8. Landscaping and irrigation plans shall comply with the City's *Water Efficient Landscape Ordinance*.
9. One 15-gallon evergreen tree for every 20 lineal feet of property line shall be planted to screen the cargo containers from the adjacent properties.
10. Landscaping shall be maintained in a healthy, weed-free condition at all times. The owner's representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% die-back) 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 Municipal Code.

11. Landscape improvements shall be installed according to the approved plans and a Certificate of Substantial Completion, and an Irrigation Schedule shall be submitted to the City Landscape Architect. The landscape shall be inspected and approved prior to February 16, 2005.
12. The property owner shall enter into a Deferred Street Improvement Agreement that will require the installation of concrete curb, gutter and sidewalks for the entire property frontage within 30 days (December 20, 2005) from approval of this permit.
13. The proposed asphalt driveways shall be designed to maintain the existing street surface runoff along Baumberg Avenue. Driveway shall be approved by the City Engineer. Asphalt paving shall have 2 inches of asphalt concrete and 6 inches of aggregate base minimum.
14. The gravel surface shall be 6 inches deep minimum.
15. If a case hardened lock is used for the manual gate, a Fire Department lock box shall be required for the property. Otherwise, a breakaway type lock or security chain that can be easily cut shall be used.
16. The storage yard shall have security lighting installed that complies with the City Security Ordinance. The lighting plan shall be designed by a qualified lighting designer.
17. This Use Permit shall automatically expire on June 6, 2015 without the need for further action by the Planning Commission. The applicant must cease use of the property for outdoor storage and remove all cargo containers and materials stored outdoors.
18. Violation of these conditions is cause for revocation of the use permit after a public hearing before the duly authorized review body.



CITY OF HAYWARD

AGENDA REPORT

Planning Commission

Meeting Date 10/7/04

Agenda Item 4

TO: Planning Commission

FROM: Carl T. Emura, Associate Planner

SUBJECT: Use Permit No. PL-2003-0701 – Lewis Larimer (Applicant/Owner)
Request for Outdoor Storage of Welding Contractor's Equipment and Products

The Property Is Located at 3322 Baumberg Avenue in the Industrial (I) District

RECOMMENDATION:

Staff recommends that the Planning Commission find that the project is categorically exempt from environmental review and deny the Conditional Use Permit based on the attached findings for denial.

DISCUSSION:

The applicant was cited by Community Preservation staff for use of two adjacent properties at 3322 and 3340 Baumberg Avenue for major outdoor storage without approval of a Conditional Use Permit. The applicant applied for use of both properties for major outdoor storage, but the application remained incomplete for a lengthy period for lack of response from the applicant. He subsequently changed the application to include only the 3322 Baumberg Avenue property because of financial considerations.

The property is zoned Industrial District and contains approximately 9,737 square feet. It is bordered on the north and east side of the property by legal, non-conforming single-family residential dwellings, which have replacement rights through June 6, 2015. The lot to the south (3340 Baumberg Avenue), owned by the applicant, is vacant. The applicant's office is located directly across the street. The applicant proposes to continue to use the 3322 Baumberg Avenue property to store construction material and equipment in three 8'-0" wide, by 9'-6" high, by 40'-0" long cargo containers laid out in an "L" shaped configuration.

The applicant proposes to provide an asphalt concrete driveway to the cargo containers and to cover the remaining open storage area with crushed gravel. A new 6-foot chain-link fence with slats would be added along the west and south property line. Screening evergreen trees would be planted at 20-foot intervals along the side and rear property lines. Street trees, shrubs and groundcover would be planted along the street frontage.

Although the applicant's plans indicate a 6-foot-high chain-link along the front property line, he has agreed to move it back 10 feet in order to comply with the zoning ordinance regulations. The existing 6-foot wood fences along the north and east property lines would remain.

The City of Hayward Design Guidelines requires that outdoor storage facilities near residential areas be screened. *"No outdoor storage should be visible from a residence or along a street serving residences."* Though the applicant proposes mitigation measures (screening trees and setting containers away from the common property lines), the cargo containers would protrude 3'-6" above the 6-foot-high fence and be visible from the street and surrounding properties. Although the applicant has indicated he would be willing to increase the height of the chain-link fence to 8 feet, the containers could still be visible.

The purpose of a Conditional Use Permit is to ensure that the proposed use occur in maximum harmony with the surrounding area and in accordance with City policies. The cargo containers proposed by the applicant would not meet the Industrial District's Minimum Design and Performance Standards, which call for articulation of blank walls when they are visible from the street. Staff believes that allowing cargo containers to serve in place of a building(s) that meets the standards would set a detrimental precedent for the Industrial District. While a 10-foot-high fence or wall could shield the containers from view, staff believes that a fence at that height would be oppressive to the surrounding homes. Furthermore, a masonry wall would be more compatible with the adjacent residences than the proposed chain-link fence.

The Minimum Standards also require that "all open areas no landscaped shall be treated or paved with an all-weather, dustless material, such as an asphaltic surface." The use of gravel as a ground cover does not meet this requirement and does not typically stand up to weather. It would also set a detrimental precedent as the use of gravel has only been approved for heavy earth-moving equipment that would crush asphalt. If the application were to be approved, the applicant would have to pave the areas on which the containers sit and landscape the remainder of the property.

ENVIRONMENTAL REVIEW:

The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15304, Class 4 Minor Alterations.

PUBLIC NOTICE:

On December 8, 2003, a Referral Notice was mailed to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records. The Referral Notice provided an opportunity for persons to comment on the project. There was one comment in response to the Referral Notice. The person indicated she reported

overgrown weeds to Community Preservation and not the Outdoor Storage and had no further comments. The overgrown weeds were subsequently trimmed back. On September 27, 2004 a Notice of Public Hearing for the Planning Commission meeting was mailed.

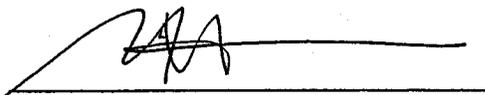
CONCLUSION:

The proposed development of the site does not meet the minimum design and performance standards for the Industrial District and approval of this project would set a detrimental precedent. The Baumberg area has been plagued by unsightly and poorly-maintained development, and staff believes that this project would exacerbate this condition. Therefore staff recommends denial of the application. If the Planning Commission is inclined to support the application, it would have to be returned to staff for the preparation of appropriate findings and conditions of approval.

Prepared by:


for Carl T. Emura, ASLA
Associate Planner

Recommended by:


for Dyana Anderly, AICP
Planning Manager

Attachments:

- A. Area Map
- B. Findings for Denial
Plans

FINDINGS FOR DENIAL
Conditional Use Permit - PL-2003-0701
3322 Baumberg Avenue
Lewis Larimer (Applicant/Owner)

1. The proposed project is Categoricaly Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15304, Class 4 *Minor Alterations*.
2. The proposed use is not desirable for the public welfare in that the cargo storage units and the development of the site do not meet the design and performance standards for the Industrial District and will be visible from Baumberg Avenue.
3. The proposed use will impair the character and integrity of the Industrial District and surrounding area in that the cargo storage units will be visible from Baumberg Avenue and the adjacent residential units.
4. The proposed outdoor storage is detrimental to and general welfare in that it will visually impair the surrounding area. The cargo storage units will be visible from Baumberg Avenue and the adjacent residential units.
5. The proposed use is not in harmony with applicable City polices and the intent and purpose of the Industrial District in that it does not comply with the Design and Performance standard of that district which calls for articulation of blank walls when structures are visible from the street.



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, October 7, 2004, 7:30 p.m.
777 B Street, Hayward, CA 94541**

Commissioner Thnay commended the business owner especially for the initiative of added security. He moved, seconded by Commissioner Bogue to approve the Use Permit Application, per staff recommendation.

Commissioner McKillop also commended the owner of the establishment for a spotless record for the area and stated she would be supporting the motion.

Commissioner Zermefio stated that he and his wife had visited the establishment and had eaten there. He also commended the applicant for the added security and stated that he should make sure that one patrols the parking lot on a regular basis.

Commissioner Peixoto also supported the motion noting the business is good for the area.

Commissioner Thnay moved, seconded by Commissioner Bogue, and unanimously carried, that the Planning Commission find that the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15301, Class 1 (A) Existing Facilities and approve the Use Permit Application subject to the attached findings and conditions of approval. The applicant was requested to have a security guard regularly patrol the parking lot.

The motion **carried** by the following vote:

AYES:	COMMISSIONERS	McKillop, Bogue, Thnay, Peixoto, and Zermefio
	CHAIRPERSON	Sacks
NOES:		None
ABSENT:		None (One Vacancy)
ABSTAIN:		None

- 4. Use Permit No. PL-2003-0701 – Lewis Larimer (Applicant/Owner) - Request for Outdoor Storage of Welding Contractor's Equipment and Products. The Project is Located at 3322 Baumberg Avenue**

Staff report submitted by Associate Planner Emura, dated October 7, 2004, was filed.

Associate Planner Emura presented the staff report. He responded to questions from Commissioners.

Commissioner Zermefio asked if it would be possible to place shrubs or trees in front of the property to block the view of the containers, and avoid a hardship on a small business owner.

Planning Manager Anderly stated that the City's Design Guidelines do not allow for use of shipping containers in lieu of a building.

Commissioner Bogue discussed the area, noting that it is presently in transition. While some of it is industrial, many people still live there. He asked about setting a date for the Use Permit until 2015.

Chair Sacks opened the public hearing at 8:17 p.m.

Lew Larimer, owner of the business since 1974, described the property, and noted that it was in a noisy and not particularly attractive area. He uses the containers for locking up his equipment and they were a major expense to him. The surrounding houses and buildings are in poor shape, there is a lot of non-compliant activity, and any improvement is a big improvement to the area. He showed pictures of the other properties surrounding his. He said he is willing to make the submitted improvements and paint the containers as required.

Mr. Larimer responded to questions from Commissioners and there was additional discussion regarding the poor condition of the surrounding properties. He noted that 2015 as the termination date of the Use Permit was acceptable.

Jason Christodoulou, stated that he was there for the fence item that was continued. However, he spoke on behalf of Mr. Larimer and commented that after seeing the pictures that were shown, Mr. Larimer's property is a great improvement to the area.

Wade Winblad spoke in favor of the applicant and allowing him to keep the containers.

Chair Sacks closed the public hearing at 8:31 p.m.

Commissioner McKillop moved, seconded by Commissioner Zermeño, that the project be brought back with findings and conditions for approval.

Commissioner Peixoto asked about setting a precedent.

Planning Manager Anderly stated that it is important that the recommendation be distinctive regarding this application and that it does not apply to small businesses throughout the city, as other businesses might consider using containers for storage. Each application will have to be considered on its own merits.

Chair Sacks stated that the distinction can be shown by the present condition of the area.

Commissioner Bogue suggested some additional conditions, i.e., additional trees for the landscaping and painting the containers a color that would blend in with the surroundings. He asked that staff confirm that the asphalt area is large enough so that there is sufficient maneuverability and that they are not forced to drive on gravel. The date of the permit to be 2015 with the possibility of extension if the area does not appear to be transitioning as anticipated.

Chair Sacks agreed with Commissioner Bogue and noted that she opposes an 8 foot fence due to the scale of the houses in the area.



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, October 7, 2004, 7:30 p.m.
777 B Street, Hayward, CA 94541**

Commissioner McKillop moved, seconded by Commissioner Zermefio, and unanimously carried, that the Planning Commission finds that the project is categorically exempt from environmental review and have staff bring back the request for a Conditional Use Permit with findings and conditions for approval.

The motion **carried** by the following vote:

AYES: COMMISSIONERS McKillop, Bogue, Thnay, Zermefio
CHAIRPERSON Sacks
NOES: Peixoto
ABSENT: None (One Vacancy)
ABSTAIN: None

ADDITIONAL MATTERS

5. Oral Reports on Planning and Zoning Matters

None

6. Commissioners' Announcements, Referrals

Commissioner Thnay acknowledged Commissioner's Zermefio's column in the Daily Review and said he enjoyed reading it.

APPROVAL OF MINUTES

The minutes of September 23, 2004 were approved.

ADJOURNMENT

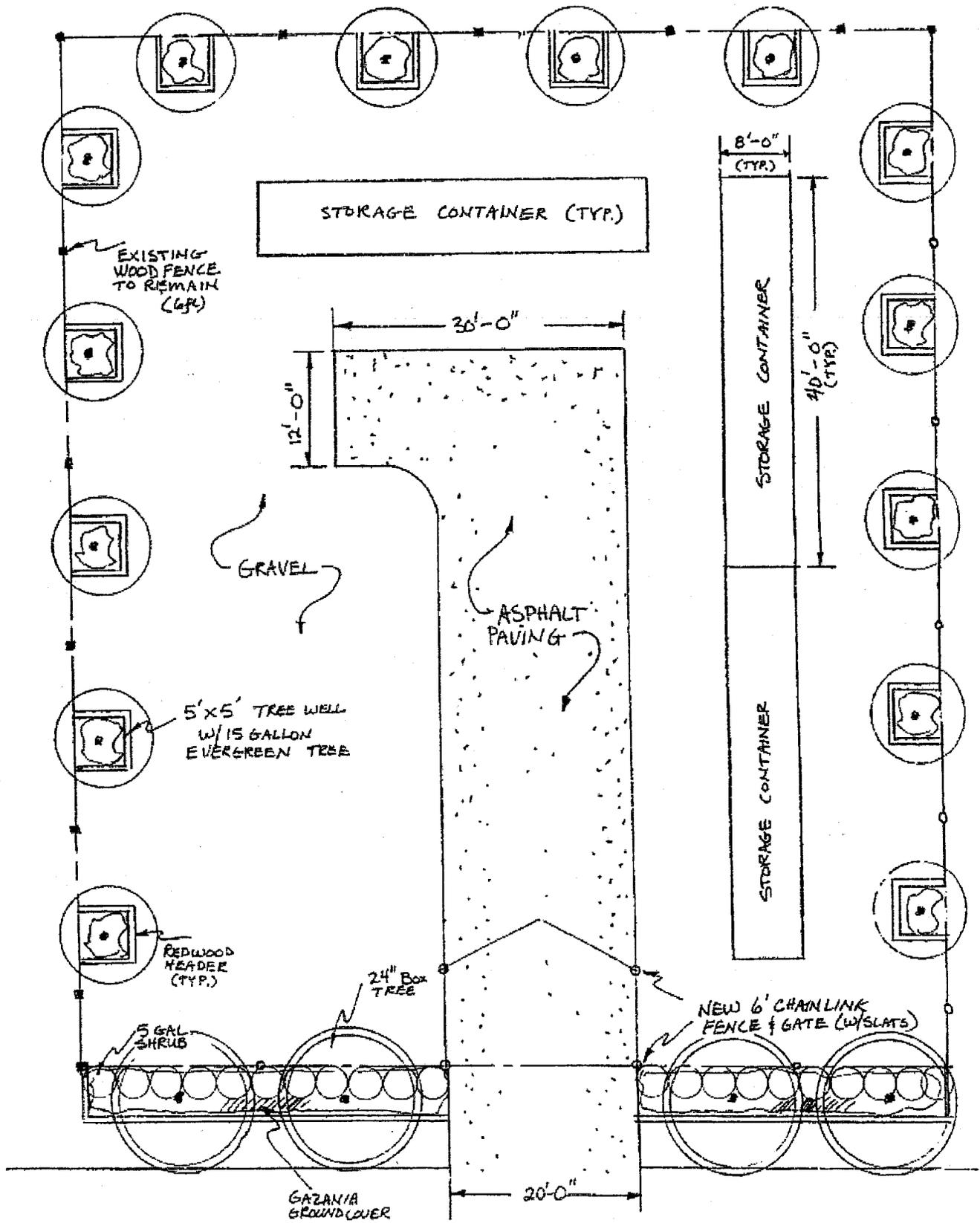
The meeting was adjourned by Chair Sacks at 8:44 p.m.

APPROVED:

Julie McKillop, Secretary
Planning Commission

ATTEST:

Connie G. Macias
Deputy City Clerk



3322 BAUMBURG AVENUE

