CITY OF
HAYWARD
HEART OF THE BAY

2

**DATE:** September 6, 2007

**TO:** Planning Commission

**FROM:** Arlynne J. Camire, AICP, Associate Planner

**SUBJECT:** Zone Change Application No. PL–2005–0536 - Susan Cronk for Simeon Commercial Properties (Applicant) / SimVest Real Estate I, LLC (Owner) – A Request to Modify a Planned Development District to Allow a Neighborhood-Serving Retail Center on a 1.5-acre parcel at Mt. Eden Business Park

The project is located at 26250 Industrial Boulevard adjacent to and north of Highway 92.

## RECOMMENDATION:

Staff recommends that the Planning Commission:

1. Find the project statutorily exempt from Section 152709(a) (Projects that are Disapproved) of the California Environmental Quality Act (CEQA) Guidelines; and

2. Deny the modification to Planned Development No. 97-120-05, based on the attached findings.

## SUMMARY

Simeon Commercial Properties requests to modify the existing Planned Development District to allow neighborhood-serving retail uses in place of the previously planned full-service restaurant. The central issue is whether the range of uses allowed under the Planned Development District, approved by the City Council and supported by staff, including a full-service restaurant, should be those located at the site, versus other uses, including a convenience market and take-away foods and beverages that the project proponent is proposing.

Staff does not recommend approval of this project which would introduce uses that vary from the full-service restaurant and other uses that were contemplated by the Planning Commission and City Council in 1997 when the business park proposal was approved (see Attachment H, pages 9-11 (List of 1997-Approved Uses); Attachment G, page 2, item #7 (1997 City Council Resolution) and Attachment E, bottom of page 4 (1997

Planning Commission meeting minutes). Both the Planning Commission and the City Council envisioned an up-scale development with a retail component providing services lacking in the industrial area. Staff acknowledges that the retail services that are being offered by the proposed project would provide services that are lacking; however, staff is of the opinion that higher quality services with a wider variety of products would better serve the community.

The applicant is of the opinion that it would be difficult to operate a full-service restaurant and requests the modification that would allow more options to develop the site (Attachment J). In 2005, the applicant marketed the site to over 50 full-service restaurants that declined to operate at this location. The applicant states in the August, 2005 attachment that although retail is viable, a full-service restaurant is not supportable for the following reasons: 1) residents will not go west of Hesperian Boulevard to seek retail, dining or entertainment uses; 2) a restaurant on the site would be "out positioned" for weekday lunch business due to the larger variety of eating establishments on Hesperian Boulevard; and 3) the site lacks night and weekend traffic generators, such as a movie theater or shopping center that would be necessary to support a sit-down restaurant.

Staff is of the opinion that a full-service restaurant is viable as it is a use not currently provided in this industrial corridor and would complement the existing hotel. A hotel served by a restaurant would provide a better conference facility for the businesses in the industrial corridor, especially for the growing bio-tech sector. The large customer base of employees of the industrial area and the students of the colleges would frequent the restaurant for breakfast, lunch and dinner. In addition, residents east of the site in the adjacent neighborhoods west of Hesperian Boulevard, and the new neighborhoods south of Highway 92 and in the Mt. Eden annexation area north of Highway 92 would be served by the restaurant. A restaurant at this location would also provide an alternative to driving east of Hesperian Boulevard.

**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. Phase 2 of the project secured the potential for the development of a hotel and a full-service restaurant or a seventh industrial building on a three-acre parcel (Attachment B, first page).

The subject Planned Development District allows a wide variety of service and light manufacturing uses for the Mt. Eden Business Park (Attachment H, condition 28, pages 9-11). In addition to a restaurant, among the listed allowed uses are administrative offices, business service and consulting offices, travel agency, delicatessen, manufacture's representative, engineering and design facilities, financial institution, cultural or commercial recreation, micro-brewery and catalog sales.

Simeon Commercial Properties requests to modify Condition No. 28 associated with the Planned Development District to allow neighborhood-serving retail uses. Specifically, a

convenience store with beer and wine sales, and a coffee shop with a drive-thru window are proposed, along with other yet unidentified retail and service uses (Attachment C). The applicant believes that the uses proposed are considered to be in compliance with "Hotel and related on-site and retail uses" allowed by Condition No. 28. However, it is staff's position that this provision allows these uses within the hotel and not on the adjacent vacant parcel or in other locations within the business park. In addition, Condition No. 4 allows the Planning Director to allow uses if they are similar to the allowed uses. However, the uses were not similar to those approved by the City Council. Therefore, the requested modification of the Planned Development District and associated conditions of approval is required.

## DISCUSSION

Mt. Eden Business Park consists of six building tilt-up concrete buildings with a total area of 372,107 square feet. Phase 1 included four buildings on the northwest side of the business park which was completed in March 1999. Phase 2 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. A lot split of the 3-acre parcel was completed which facilitated the construction of the Quality Inn and Suites, an 84-room extended-stay hotel, which was completed November 2001. The hotel is now a Fairfield Inn and Suites by Marriot.

*Proposal Summary*

The applicant proposes construction of two retail buildings: a 1,838-square-foot drive-through Starbucks and an 8,250-square-foot multi-tenant building for three to five tenants (Attachment C). Take-away restaurants such as *Subway* and *Jamba Juice*, delicatessens, a convenience store which sells beer and wine and other service such as 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. The applicant describes the convenience store as an up-scale 7-Eleven that would offer a wider range of items not usually found in a convenience store, such as produce, quality wines, fresh baked goods, fresh salads and sandwiches. The tenants for the remaining retail spaces have not been secured. The applicant's goal is to provide a retail mix that would provide services to visitors to the area, to employees of the business park and to the adjacent residential neighborhoods west of Hesperian Boulevard. Should the project be approved, the uses of clothing store, dry cleaner and drug store would also be required to be added to the list of allowed uses

The design of the buildings would be contemporary with a stucco finish and brick veneer entries with fabric awnings. Parking would be located adjacent to the Industrial Boulevard frontage (see attached plans).

*Staff Assessment*

The approved uses of the Planned Development District are intended to have community rather than regional appeal. To meet all retail service needs, the employees at Mt. Eden Business Park, Heald College and Life Chiropractic College West, and residents in the neighborhoods west of Hesperian must drive to restaurants and services located on Hesperian Boulevard. To best serve the business park and the adjacent area, the retail center is proposed to provide variety of service and food options. However, a full-service restaurant as envisioned by the Planning Commission and the City Council is not one of the options proposed by the applicant. The Planned Development District allows the uses of full-service restaurant and delicatessen, which would offer a wide variety of dining options. It is common for a delicatessen to offer coffee and grocery items which would also meet the needs of residents located west of Hesperian Boulevard as well as the employees at the business park and the college students and employees. In addition, the allowed uses of business service office and financial institution would allow for a copy center and a bank branch, which could serve the business park as well as the adjacent residential neighborhoods.

The uses of take-away or fast-food restaurant, convenience store, and drive-through coffee shop are designed to serve motorists, especially during the morning peak commuting hours. A fast-food restaurant would have a limited menu unlike a full-service restaurant. Convenience store merchandise is usually limited to quick-sales items of beverages, pre-packaged sandwiches and microwavable food, snack foods, tobacco products, and magazines in addition to incidental grocery items.

A delicatessen, a bank branch, and a copy center are uses that are currently allowed by the Planned Development District and would fulfill the unmet needs of the community. Additional uses that staff would support would include coffee shop, full-service grocery store, drug store and dry cleaner. These uses have community appeal and would better suit the site by providing retail services not currently located in the vicinity. The closer proximity of these services would result in shorter and fewer vehicle trips and would encourage pedestrian activity. The staff-supported uses would not negatively impact the immediate area by introducing a significant number of peak-hour trips unlike the trips that would be generated by a convenience store, or a fast-food tenant and a drive-thru coffee shop in conjunction with a convenience store, particularly during the morning peak commuting hour. These additional trips could negatively impact traffic circulation on Industrial Boulevard and Cryer Street, a residential collector.

Staff supports a full-service restaurant because it would provide a wide variety of choices for meals throughout the day and would provide a higher-quality dining experience to the community in the surrounding industrial area and the several residential neighborhoods that are located west of Hesperian Boulevard and South of 92. It would be an available option to employees, students and residents who presently drive east of Hesperian Boulevard to access up-scale dining. The restaurant, in conjunction with the hotel, would provide a conference facility for the businesses and educational facilities in the industrial corridor. In addition, a full-service restaurant would not impact traffic circulation on Industrial Boulevard during morning and evening peak commuting hours.

If the Planning Commission desires to recommend approval of the project to City Council, staff should be directed to conduct an environmental impact analysis. Such analysis would require the applicant to submit an assessment of the traffic impacts of the proposed uses since these impacts were not assessed as part of the original business park project environmental analysis. In addition, staff should be directed to return to the Planning Commission with findings and conditions of approval.

**ENVIRONMENTAL REVIEW:**

The proposed project is statutorily exempt from Section 152709(a), Projects that are Disapproved, of the California Environmental Quality Act (CEQA) Guidelines.

**PUBLIC NOTICE:**

On October 5, 2005, a Referral Notice was mailed to every property owner and occupant as noted on the latest assessor's records within 300 feet of the Mt. Eden Business Park, Eden Garden-Parkwest Homeowners Association and the Mt. Eden Task Force. On August 27, 2007, a notice of public hearing was mailed. Staff has received a petition and letters of support for the project from both tenants of the business park and from residents, who all indicate the proposed project would provide services and conveniences that currently do not exist in the immediate area (Attachment I).

*Prepared by:*

David Rizk for

Arlynne J. Camire, AICP
Associate Planner

*Recommended by:*

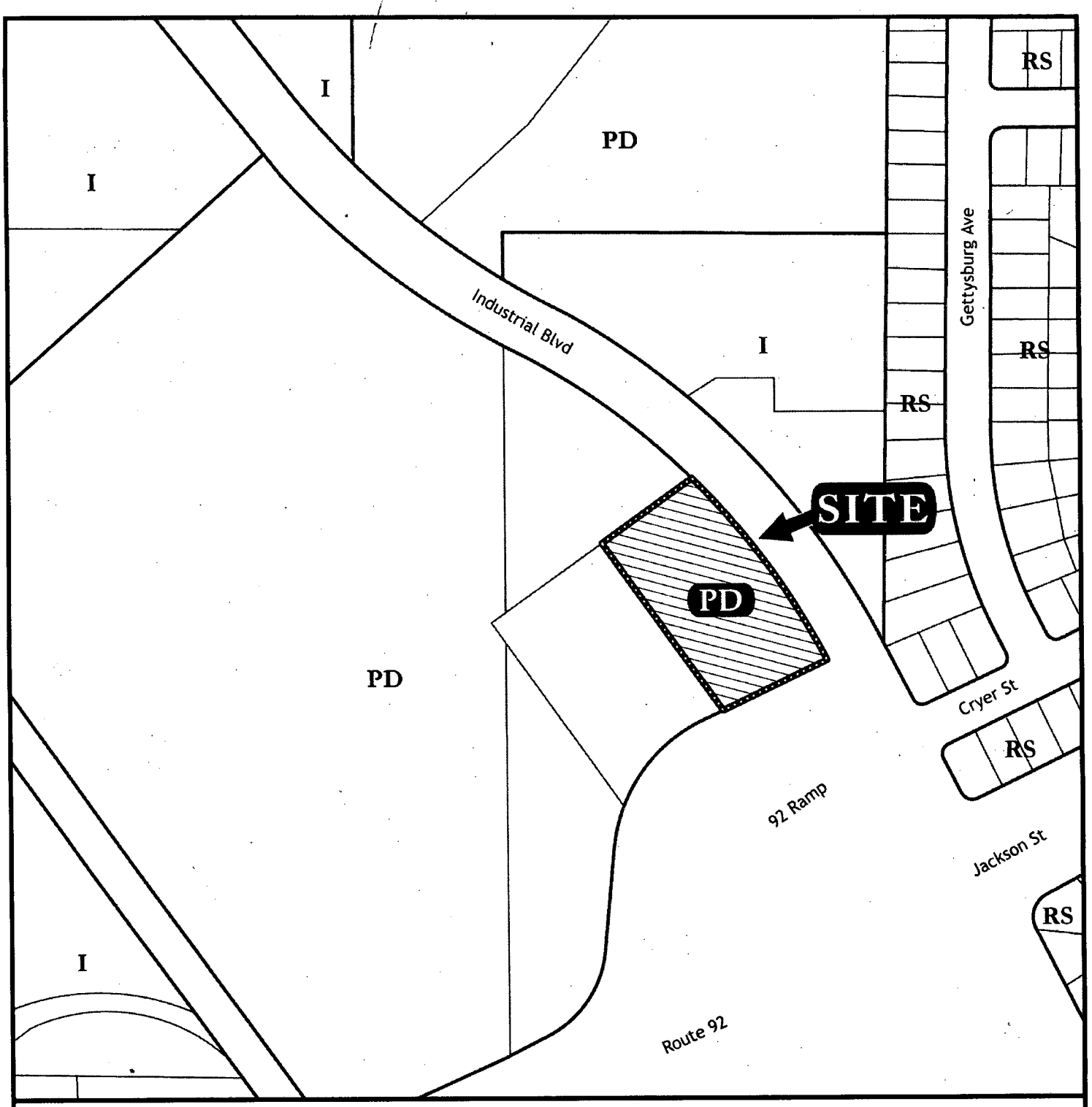
David Rizk

David Rizk, AICP
Planning Manager

Attachments:

A Zoning Map
B Mt. Eden Business Park Site Plans (1997 proposal and current proposal)
C Project Description from Project Proponent including Letter dated January 24, 2006 describing project
D Findings for Denial
E Planning Commission Minutes dated October 2, 1997
F City Council Minutes dated October 21, 1997
G City Council Resolution No. 97-168 dated October 21, 1997
H Conditions of Approval for Zone Change No. 97-120-05
I Letters and Petition of Support from Business Park Tenants and Residents
J Mt. Eden Business Park Industrial Boulevard Retail Site report submitted by Project Proponent

Plans




# Area & Zoning Map

PL 97-120-05 PD

*Address:* 25801 Industrial Blvd

*Applicant:* Susan Cronk

*Owner:* Simeon

**Zoning Classifications**

***RESIDENTIAL***

**RS** Single Family Residential, min lot size 5000 sqft

***INDUSTRIAL***

**I** Industrial

***OTHER***

**PD** Planned Development

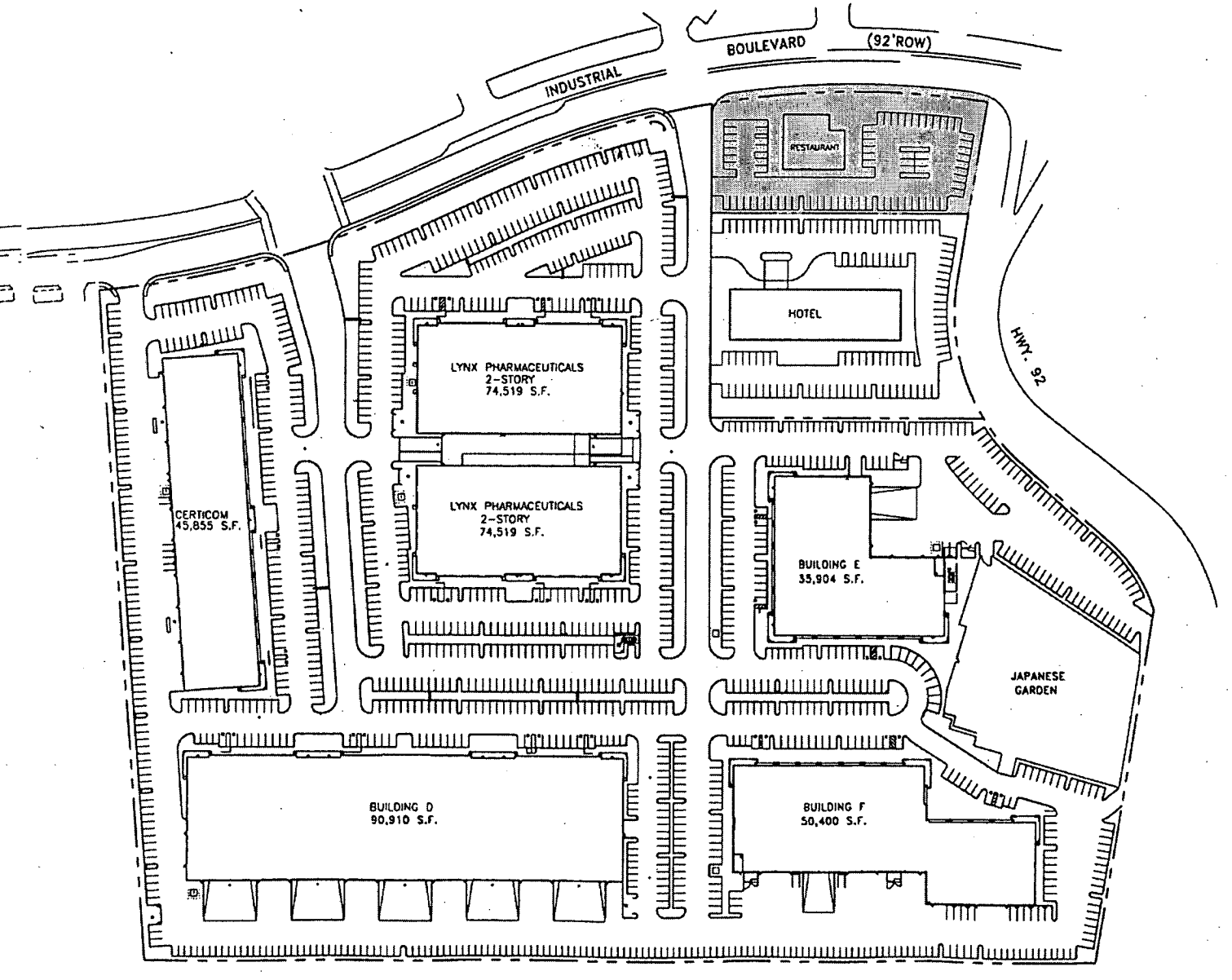
N

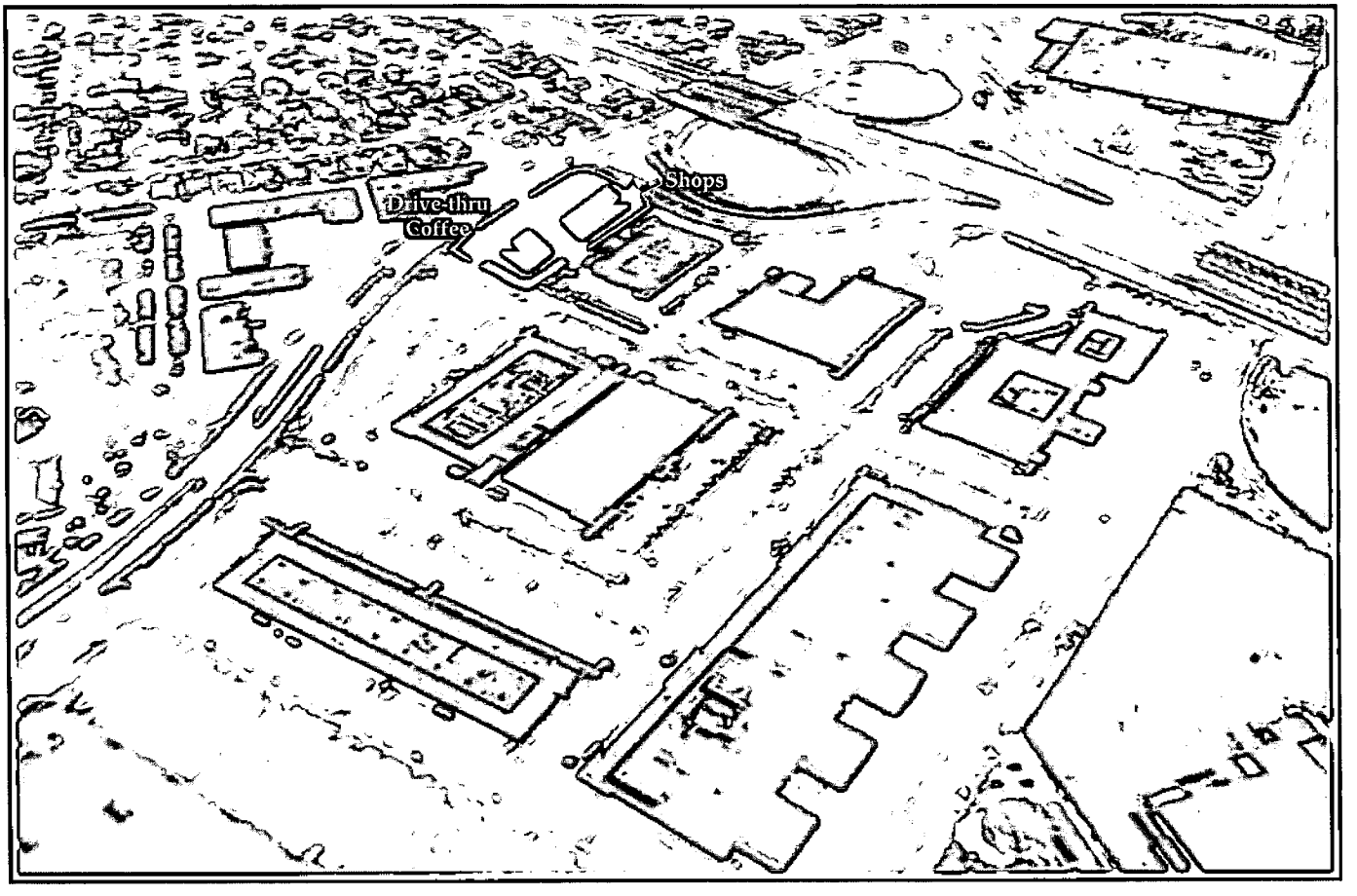
FEET 200 400

**ATTACHMENT A**

ATTACHMENT B

MT EDEN
BUSINESS PARK






Proposed Retail Site Plan Aerial

SIMEON

**Mt. Eden Shops**
**Project Description**

The Mt. Eden Shops project is a 10,088 square foot neighborhood serving retail center on 1.5 acres of unimproved land in Hayward, California. The property is located at the intersection of Industrial Boulevard and Highway 92, in the east corner of the Mt. Eden Business Park. The project will serve the neighboring business park and adjacent residences with retail services which currently do not exist in the area.

Uses surrounding the property include: a hotel and an industrial park immediately to the north and west along Industrial Boulevard and Highway 92, as well as business park and residential uses across Industrial Boulevard and Highway 92.

The site plan for the project includes two small retail buildings. The "Retail A" building will be an inline shops building, totaling 8,250 square feet. This building is designed for three to five small shops. "Retail B" building is a stand alone building, designed to accommodate a drive through coffee shop, which will be 1,838 square feet. There are two curb cuts into the site in order to maximize traffic circulation and flow. Building elevations are 18 feet.

The project is intended to be of benefit to the neighborhood, in terms of both services provided and aesthetics. The site will be a gateway into the community from 92, offering conveniences to residents and visitors with an upscale architectural feel. The buildings have been designed to be compatible with the existing Mt. Eden Business Park and the adjacent Fairfield Inn. The design is contemporary in nature and includes materials such as brick veneer, stucco siding, fabric awnings and painted metal canopies. A unified signage program and ample landscaping add to the overall quality of the project.

Parking provided on site will total 53 stalls. The drive through lane will accommodate queuing for eleven cars.

Trash enclosures will be provided adjacent to "Retail B" and at the east corner of the parking lot for "Retail A". The size of the enclosures has been designed per the City of Hayward Solid Waste and Recycling Guidelines. The enclosure for the "Retail A" building will accommodate a 7 cubic yard dumpster, based on an estimate of twelve employees. The enclosure at the "Retail B" building will accommodate a four cubic yard dumpster, based on an estimate of six employees.

Tenants being sought for the retail center include convenience stores, take away food establishments, delis, restaurants, coffee shops, and other retail uses such as dry cleaner, copy center, drugstore, clothing store and other small shops supplying retail services, products or food to the public. Currently, there are not any neighborhood-serving shopping establishments within one mile of the site; it is not possible to get a quart of milk or cup of coffee without driving out of the neighborhood. These types of uses are ideal for serving the office/R&D employees of the Mt. Eden Business Park as well as the surrounding residences and schools. The proposed retail mix will provide a natural link to the residential neighborhoods from the commercial uses.

The planning approval required for the project is a Site Plan Review and Modification of the PD Zoning, to allow for drive-through coffee shop, take-out restaurant, and convenience store uses.

**ATTACHMENT C**

RECEIVED

JAN 2 6 2006

PLANNING DIVISION

SIMEON

January 24, 2006

Ms. Arlynne Camire
Associate Planner
City of Hayward
777 B Street
Hayward, CA 94541

**Re: Mt. Eden Business Park PD Modification**
**No. 97-120 - 05**

Dear Ms. Camire,

We are responding to your correspondence of October 20, 2005 and our subsequent discussions in which you informed us that our application has been deemed complete, and requesting justification for the convenience store use proposed for Mt. Eden Business Park.

We offer the following points as substantial justification for a convenience store use to accompany our neighborhood-serving, "food and beverage" – oriented retail project:

1. There are no neighborhood-serving, general shopping establishments within approximately one-mile of the site. Currently, for ordinary, everyday household items and "quick fixes" (canned goods, beverages, snacks, soap, toothbrush, cooking oil, milk, cereal, etc.) area residents and workers must go as far as Hesperian and Clawiter to purchase such items.

2. This location is ideal to serve neighborhood residents, workers and commuters so that its success is highly probable. This is demonstrated in the Letter of Interest and supporting market information submitted by 7-11, Inc. (attached).

3. This use is ideal as a compliment to the office/R&D uses and tenancies at Mt. Eden Business Park, which itself is a "buffer" between the manufacturing uses west of the site and schools/residential uses to the east. Ostensibly, the retail mix proposed for this project, overall, provides the natural link to the existing neighborhood. Moreover, it is consistent with and complimentary to the hotel next door.

4. The buildout of the site is contingent on economic uses, including sufficient rent, to make the development worthwhile. As anchors, 7-11 and Starbucks have demonstrated strong interest in the proposed project. Interest of this magnitude is a major factor in SIMEON's initiative to pursue this project. Other shops, including food and beverage establishments, will complete the desired mix reflected in our application.

655 MONTGOMERY STREET, SUITE 1190 SAN FRANCISCO, CA 94111-2658
PH: 415.986.2002 • FAX: 415.986.2130 • www.simeonproperties.com

To summarize our understanding of the 7-11 operation, each store operates independently. Franchises are typically awarded to entrepreneurs who are well acquainted with the local market. Some operate stores in the same community or might be "recruited" through a local civic organization, such as the Chamber of Commerce. Most importantly, each store is responsive to the demands of the local community, because operators are astute at putting products that sell on the shelves. Moreover, orders are filled by local suppliers.

To illustrate the concept of the convenience store use, we have provided interior photos of the 7-11store located in a commercial/residential neighborhood in Pleasant Hill. You will note that this store offers a wide variety of household goods, in attention to the "quick serve" items that are commonly associated with convenience shopping.

Naturally, we are happy to arrange a meeting with 7-11 representatives to discuss the 7-11 store concept in more detail. We certainly hope that you appreciate the improvement in the retail services available to the neighborhood and of course the sales and property tax to be generated by this store, and the project overall.

As you and I discussed earlier, we would like to meet with you to discuss this matter before we proceed with scheduling the public hearing. I will call you later this week to follow-up. Thanks.

Yours truly,
SIMEON LLC

Todd W. Clayter
Project Manager

Cc:
Jesus Armas, City of Hayward
Tina Essegian, Terranomics
Russ Pitto, SIMEON

**Zone Change Application No. PL-2005-0536**
**Request to Modify Planned Development District No. 97-120-05**
**Mt. Eden Business Park**
**Susan Cronk for Simeon Commercial Properties (Applicant)**
**SimVest Real Estate I, LLC (Owner)**

FINDINGS FOR DENIAL

1. The project is statutorily exempt from review under parameters set forth in the California Environmental Quality Act (CEQA) Guidelines, Section 152709(a) Projects that are Disapproved.

2. The modification would not be in substantial harmony with applicable City policies and the intent and purpose of the underlying Industrial zoning district in that allowing the use of a convenience store as a primary use independent of a gasoline service station is a departure from the permitted uses. In addition, the non-restaurant sale of alcoholic beverages at a convenience store adjacent to a freeway entrance has been discouraged at similar locations throughout the City.

3. The proposed modification would not create an environment of sustained desirability and stability since the uses proposed would not best serve the other uses within the business park or the surrounding neighborhoods. Retail developments consisting of small tenant spaces occupied solely by take-away food and convenience retail and service uses are not desirable for the public convenience or welfare in that uses in such developments tend to be transitional and would not provide high-quality services with a wide variety of products. A restaurant, as previously contemplated for the business park, would complement the needs of the hotel and encourage the use of the hotel/restaurant as a conference center for the surrounding industrial uses, especially the growing bio-tech industry, and the nearby educational centers, specifically Life Chiropractic and Heald Colleges. Furthermore, there is a lack of full-service restaurants to serve the industrial corridor and the residential neighborhoods westerly of Hesperian Boulevard.

4. On and off-site circulation and access could be impacted by traffic generated by the proposed uses. According to the trip generation figures provided by the ITE Manual, the trips generated by the project would be greater than those expected from the previously analyzed full-service restaurant. It is expected that the trips generated by the proposed project would impact circulation, especially during the peak hour traffic periods, while trips associated with a full-service restaurant would likely be spread more evenly throughout the day.

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

Public Hearing Closed 7:53 p.m.

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

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

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

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

Public Hearing Opened, 8:13 p.m.

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

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

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

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

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

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

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

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

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

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

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

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

Public Hearing Closed, 9:59 p.m.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chairperson Bennett called for a five minute recess.

## ADDITIONAL MATTERS

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

4. Commissioners' Announcements, Referrals

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

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

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

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

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

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

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

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

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

## HEARINGS

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

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

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

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

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



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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 polices 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

Roberta Cooper, Mayor
City of Hayward

**ATTEST:**

Angelina Reyes

Angelina Reyes, City Clerk,
City of Hayward

HAYWARD CITY COUNCIL

RESOLUTION NO. 97-163

Introduced by Council Member WARD

RESOLUTION APPROVING THE APPLICATION FOR PRELIMINARY DEVELOPMENT PLAN NO. 97-120-05 IN CONNECTION WITH APPROVAL OF ZONE CHANGE APPLICATION NO. 97-190-03, FILED BY YOSHITO AND MARI SHIBATA (APPLICANTS, AND MT. EDEN NURSERY, INC. (OWNER)

WHEREAS, Zone Change Application No. 97-190-03, filed by Yoshito and Mari Shibata (Applicants) and Mt. Eden Nursery, Inc. (Owner), concerns the reclassification of an approximately 28-acre property located on four parcels at the intersection of State Route 92 and Industrial Boulevard, from Industrial and Agricultural districts to a Planned Development district to develop a two-phased project known as Planned Development No. 97-120-05; and

WHEREAS, the proposal for Phase 1 development consists of a business park with a potential full service restaurant in Phase 1, to be known as the "Mt. Eden Business Park"; and Phase 2 contemplates development of a hotel or business park, with the existing Japanese style garden on the site to be retained; and

WHEREAS, the Planning Commission considered the matter and its action thereon is on file in the office of the City Clerk and is hereby referred to for further particulars; and

WHEREAS, the City Council considered the matter at a public hearing held on October 21, 1997; and

WHEREAS, City staff has prepared an Initial Study and a mitigated negative declaration pursuant to City and state CEQA guidelines; and

WHEREAS, the City Council hereby finds and determines, based on the staff report, other documents, and comments submitted at the October 21, 1997, public hearing that:

1. The initial study, mitigated negative declaration, and conditions of approval, as revised by the City Council, conform with the requirements of the California Environmental Quality Act and reflect the independent judgment of the City Council.

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2. Therefore, the mitigated negative declaration, as revised on October 21, 1997, is approved.

3. The Council finds that the proposed development of Phase 1 is in substantial harmony with the surrounding area and conforms to the General Plan in that the Mt. Eden Business Park and will be a quality project with adequate on-site parking, landscape buffers, and traffic mitigation measures, which will mitigate any environmental impacts based on the other mitigation measures and development conditions which were revised and approved by the City Council at its October 21, 1997, public hearing.

4. In addition, the proposal for potential development of a hotel or a business park in Phase 2 also conforms to the General Plan, and will complement Phase 1 and the surrounding area.

5. The existing streets and utilities, as conditioned, are adequate to serve the development.

6. The proposed development contemplated by the preliminary development plan, as conditioned, will conform 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 not have a substantial effect on surrounding development.

7. Any latitude or exceptions to development regulations and policies are adequately offset or compensated for by providing functional facilities and amenities, as conditioned, not otherwise required and exceeding other required development standards in that surplus on-site parking and attractive landscaping will be provided, and the possibility for a hotel and full service restaurant use is present. No exceptions have been made.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby approves as a preliminary plan those plans drawn by Cabak Rooney Jordan Associates, Architects, Menlo Park, California, consisting of six sheets numbered and dated as follows: P-1, Preliminary Site Plan; EL-1, Building "A" Elevations; two sheets titled EL-2 Buildings "B" and "C" Elevations; EL-3, Building "D" Elevations; and PL-1, Preliminary Landscape Plan, labeled "Preliminary Plan," dated received October 16, 1997, a copy of which is on file in the Planning Department; and subject to the revised conditions of approval, which are attached to this resolution.

BE IT FURTHER RESOLVED that this resolution shall become operative upon the effective date of the ordinance introduced on October 21, 1997, adopting the zone change specified in Zone Change Application No. 97-190-03.

IN COUNCIL, HAYWARD, CALIFORNIA October 21, 1997

ADOPTED BY THE FOLLOWING VOTE:

| | | |
|---|---|---|
| AYES: | COUNCIL MEMBERS: | Jimenez, Hilson, Rodriquez, Ward, Hulteen, Henson |
| | MAYOR: | Cooper |
| NOES: | COUNCIL MEMBERS: | None |
| ABSTAIN: | COUNCIL MEMBERS: | None |
| ABSENT: | COUNCIL MEMBERS: | None |

ATTEST: Angelina Reyes
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

# 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 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.

illumina®

Illumina, Inc.
25861 Industrial Boulevard
Hayward, CA 94545-2991
tel 510.670.9300
fax 510.670.9302
www.illumina.com

July 25, 2007

RECEIVED
JUL 27 2007
PLANNING DIVISION

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

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

Dear Ms. Camire:

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

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

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

Thank you for your consideration.

Sincerely,

Kirsten Ostler
Human Resources Representative
Illumina, Inc.

**Attachment I**

MIPOX
INTERNATIONAL CORPORATION

July 25, 2007

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

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

Thank you for your consideration.

Sincerely,

Mipox International Corporation

Shirley D. Trujillo
Production/Human Resource Manager

25821 Industrial Blvd. Suite 200 ☰ Hayward, CA 94545-3718 ☰ Telephone 510 785.0740 ☰ Fax 510 785.0746

Thermage®
*Reshaping Your Future*

July 25, 2007

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

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

Thank you for your consideration.

Sincerely,

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

July 27, 2007

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

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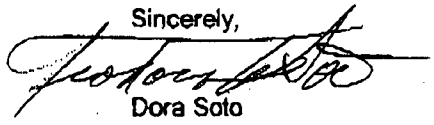
The stores would provide choices and convenience that currently do not exist in the immediate area. The proposed project would provide staple products, food, drink, aspirin, magazines and newspapers not otherwise available in a nearly two mile radius. I am hopeful that in addition to those tenants, there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

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

Thank you for your consideration.

Sincerely,



Dora Soto
31943 Albany Street
Hayward, CA 94544

July 27, 2007

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

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

Thank you for your consideration.

Sincerely,

Ana Fernandez
702 Pinedale Court
Hayward, CA 94544

July 27, 2007

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

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

Thank you for your consideration.

Sincerely,

George Viterbo
2445 Cobblestone Drive
Hayward, CA 94545

July 27, 2007

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

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Thank you for your consideration.

Sincerely,

Alvin Timbang
1015 Evans Court
Hayward, CA 94544

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

Chris Hawkins

Rich Meade

Andy Kuss.

[illegible]

A Cabrera

Peggy Bean

Joe Manner Jr.

Barbara Nelson

[illegible]

[illegible]

J Nagase

JOSE Parra

DUE TO THE SIZE AND

COLOR OF THE FOLLOWING

ATTACHMENTS, THEY

HAVE BEEN INCLUDED AS

SEPARATE LINKS