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DATE: June 12, 2008
TO: Planning Commission
FROM: Tim R. Koonze, Associate Planner
SUBJECT: Zone Change Application No. PL-2007-0594 - Ram Paharia and Amos Picker (Applicant/ Owner) – Request to Rezone a Parcel from the Commercial Office (CO) District to the Neighborhood Commercial (CN) District

The Property is Located at 1944 B Street at the Northwest Corner of Pearl Avenue and B Street

RECOMMENDATION:

That the Planning Commission find the project is exempt from the California Environmental Quality Act and deny the Zone Change application, due to the inability to make the required findings, as stated within this report and attachment.

SUMMARY:

Staff recommends that the proposed Zone Change to the Neighborhood Commercial (CN) Zoning District be denied, in that such change would allow high intensity uses and associated traffic without the ability to regulate the intensity of such uses, which would result in negative impacts along an already-congested B Street and within the surrounding neighborhood.

BACKGROUND:

On August 28, 2001, the Planning Director approved an administrative Site Plan Review application to allow construction of the existing commercial building. The subject property was zoned Commercial Office (CO) at the time the Site Plan Review application was approved. The building construction was completed and finalized by the Building Inspection Division on December 6, 2007. The applicant claims that he has had trouble leasing out the building and has submitted an application for a Zone Change in hopes of being able to find tenants by providing opportunity for a wider variety of possible uses.

DISCUSSION:

Project Description and Setting --

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

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

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

The Planning Commission can either deny the request to rezone the property or could direct staff to perform an environmental evaluation and findings for approval of the Zone Change and findings for approval of an exception to the Off-Street Parking Ordinance and bring the items back to the Planning Commission for consideration. At that time the Planning Commission could recommend that the City Council approve the Zone Change and exception.

Project Analysis -

The purpose of the CO zoning district is "to provide for and to protect administrative, professional, business and financial organizations which may have unusual requirements for space, light, and air, and which are clean and quiet and which are not detrimental to the residential use of adjacent properties." The CO District allows primarily office uses and low intensity neighborhood serving uses such as barber shops and dry cleaners that have a low impact on the surrounding area and are compatible with residential uses. The CO District is an appropriate commercial zoning district for this location given that the subject property is primarily surrounded by residential uses.

The purpose of the CN zoning district is "to make provisions for a number of areas throughout the City carefully located in relationship to other Commercial Districts and to the Residential Districts served. The products and services intended are those primarily represented by convenience goods and services purchased frequently." The CN Districts are intended to be placed in a number of areas throughout the City to serve neighborhoods while complimenting other commercial uses. Because this district allows a large range of retail uses that include more intense uses, such as coffee

shops, ice cream parlors and donut shops, it must be carefully placed so there is not a negative impact on the surrounding residential area it serves.

The existing CN Districts in the area encompass established retail commercial buildings consisting of such neighborhood uses as small restaurants, grocery stores, a liquor store, a dry cleaner, a produce stand, and a bar. There is adequate parking provided at these locations. The largest of these uses is the Vermont Plaza shopping center, which provides access to Vermont Street from the parking area, allowing vehicles to enter B Street through a signalized intersection.

Limitations cannot be put on certain specific uses through a Zone Change approval. In other words, the City could not approve a CN zoning district, but restrict higher intensity uses permitted under it by right, such as coffee shops, supermarket, and ice cream parlors, which are primary uses (see attachment E). If a new zoning district is approved, all primary uses listed as allowed within that district must be allowed without the benefit of further staff review or the ability to impose conditions.

The Upper B Street Neighborhood Plan recognizes that there is a traffic problem on B Street, as indicated by the following statements in the plan: "During hours of heavy traffic, queues along B Street west of the Center-B-Kelly intersection become exceedingly long because of the limited capacity at the intersection. These long lines block side streets and restrict visibility of cross traffic. This traffic is further compounded by the large number of driveways and intersecting streets along B Street."

The subject property is located just west of the B-Center-Kelly intersection. The last traffic analysis of this intersection occurred in 2000. At that time the intersection Level of Service (LOS) was determined to have a rating of C which is acceptable. It is projected that the intersection will deteriorate to an LOS of F by 2025. Although the 2000 analysis of this intersection revealed an acceptable LOS of C, the traffic on B Street during peak hours exceeds travel lane capacities.

B Street has one travel lane for each direction. Traffic models prepared by the City's Transportation Services' Division calculate that each travel lane is capable of accommodating approximately 800 vehicles per hour. The current flow of traffic during the morning peak hour is approximately 1,150 vehicles traveling each direction, 350 more vehicles per hour than the travel lane is designed to accommodate.

According to the Institute of Transportation Engineers Manual, office uses typically generate 10 morning peak hour trips, which would have a minimal impact on the existing traffic flow. However, the proposed CN District would allow a wide variety of retail shops that could generate an estimated 110 trips during peak hour severely impacting a travel lane that is already over capacity.

Pursuant to the City's Off-Street parking Regulations, offices and similar primary uses allowed under the current CO District are calculated as one parking space per 200 square feet of gross floor area resulting in the 22 on-site parking spaces that are provided. However, the Off-Street Parking Regulations require one parking space per 175 square feet of gross floor area to accommodate

parking demands for the high-intensity retail businesses allowed as primary uses in the CN District which would result in 27 parking spaces.

The City's Senior Transportation Planner is concerned that if these higher intensity uses were to acquire one of the leasable spaces, the existing parking would not be adequate. The building is broken up into five leasable spaces ranging in size from 897 to 1,146 square feet. Pursuant to Institute of Transportation Engineers (ITE) parking standards, coffee shops would require an average of 16.6 parking spaces per 1,000 square feet.

Based on this figure, a coffee shop occupying one of the leasable spaces would require 15 to 19 parking spaces. These standards are based on a daily average and do not account for peak business hour needs. In either case, there is insufficient parking to serve a higher- intensity use in conjunction with the four remaining leasable spaces. An inadequate number of parking spaces would create an impact on the other businesses within the building and the surrounding neighborhood. Customers not finding on-site parking would park on nearby streets. It is the opinion of City staff that such uses are not compatible with this site.

Access to the on-site parking is via Pearl Avenue. The B Street and Pearl Avenue intersection is not signalized. According to the City's Senior Transportation Planner, putting a traffic signal at this intersection is not feasible, since installing a new signal within 150 feet of the existing signal at Vermont and B Streets would create a traffic signal coordination issue that would result in additional congestion problems.

Additionally, the single-family neighborhood to the north is served by a looped street system with Pearl Avenue connecting through Wingate Way and Arlette Avenue to B Street. It is anticipated that congestion at the B Street and Pearl Avenue intersection during peak hours would cause traffic to divert through the looped street system that serves the single-family neighborhood.

Findings -

Approving the Zone Change would allow uses that could not be supported by the existing traffic, roadway lane capacity and parking conditions, and would not be in keeping with the policies and strategies of the General Plan and the Upper B Street Neighborhood Plan. The following are staff's responses to the findings that must be made to approve the proposed Zone Change:

A. Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward.

The proposed Zone Change would not promote the public health, safety, convenience, and general welfare of the residents of Hayward as the proposed zoning would allow certain uses as permitted uses that would generate high volumes of traffic during peak hour periods of traffic flow thereby, in the opinion of the City's Transportation Planner, have a negative impact to the traffic condition on B Street.

B. The proposed change is in conformance with all applicable, officially adopted policies and plans.

The proposed Zone Change does not conform to the City's General Plan policies, the policies and strategies within the Upper B Street Neighborhood Plan, and the City's Off-Street Parking Regulations.

The Land Use Policies and Strategies of the General Plan include:

- *“Assure adequate infrastructure capacities to accommodate planned growth.”*

The proposed Zone Change would allow intense retail uses that, according to the Institute of Transportation Engineers (ITE) standards, could produce more than 10 times the number of peak hour trips than the office uses and low intensity service uses allowed under the current zoning. The City's Transportation/Development Section has determined that the traffic on B Street during peak hours is already beyond capacity and therefore cannot adequately accommodate the additional vehicle trips that would be generated by such intense retail uses.

The Circulation portion of the Upper B Street Neighborhood Plan recognizes that:

- *“During hours of heavy traffic, queues along B Street west of the Center-B-Kelly intersection become exceedingly long because of the limited capacity at the intersection. These long lines block side streets and restrict visibility of cross traffic. This traffic problem is further compounded by the large number of driveways and intersecting streets along B Street.”*

The proposed Zone Change would allow intense retail uses that would generate a significant amount of traffic on B Street during peak hour periods severely impacting an already congested street.

The City's Off-Street Parking Regulations requires one parking space per 200 square feet of gross floor area for offices and similar primary uses allowed under the CO Zoning District. Based on the existing square footage of the existing building, this would result in 22 parking spaces. However, the Off-Street Parking Regulations require one parking space per 175 square feet of gross floor area for the high-intensity retail businesses allowed as primary uses in the CN District, which would result in 27 parking spaces. There is no room on the site to create the five additional parking stalls needed to comply with City regulations.

C. Streets and public facilities existing or proposed are adequate to serve all uses permitted when the property is reclassified.

The existing B Street traffic flow already exceeds roadway capabilities during peak hours and could not adequately accommodate the potential additional peak hour vehicle trips generated by some of the more intense uses allowed by the CN District.

D. All uses permitted when property is reclassified will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations.

The uses permitted under the proposed CN District would not be compatible with the surrounding uses as they would have the potential to establish high intensity uses adjacent to residential uses. Pursuant to City of Hayward and Institute of Transportation Engineers (ITE) standards, the on-site parking is inadequate for high intensity uses; therefore, parking would likely overflow into adjacent streets, adversely impacting the adjacent residential neighborhood.

Peak-hour congestion at the B Street and Pearl Avenue intersection, caused by high intensity uses, would likely result in traffic diverting through the looped street system that serves the adjacent single-family neighborhood. Drivers seeking a less congested access to B Street would drive through the adjacent residential neighborhood to Arlette Avenue as an alternate access to B Street, further adversely impacting the adjacent residential neighborhood.

ENVIRONMENTAL REVIEW:

The project is statutorily exempt from environmental review, per the California Environmental Quality Act (CEQA) as a project that is denied. Should the Planning Commission wish to approve the project, staff should be directed to conduct environmental review and prepare the appropriate documentation for review by the Commission at a future hearing, along with findings in support of the Zone Change

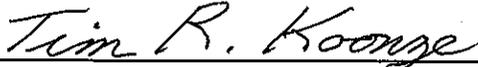
PUBLIC NOTICE:

On December 5, 2007, a notice of the Zone Change application was mailed to every property owner and occupant within 300 feet of the property as noted on the latest assessor's records. Two negative responses were received. One cited concerns of the high failure rate of businesses in the area and stated that the current zoning provides a sufficient number of possible uses and a rezoning is not necessary. The other expressed disappointment with the commercial building being constructed, adding that it would create a hang-out for drug addicts.

The applicant, Amos Picker, forwarded an email to City staff on May 16, 2008, expressing his opinions on possible uses, the condition of the neighborhood and the trouble he has had finding tenants for the building. His email has been attached for your review (see Attachment F).

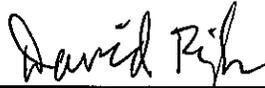
On May 30, 2008 a notice of public hearing was mailed to the same owners and occupants; no responses have been received.

Prepared by:



Tim R. Koonze, Associate Planner

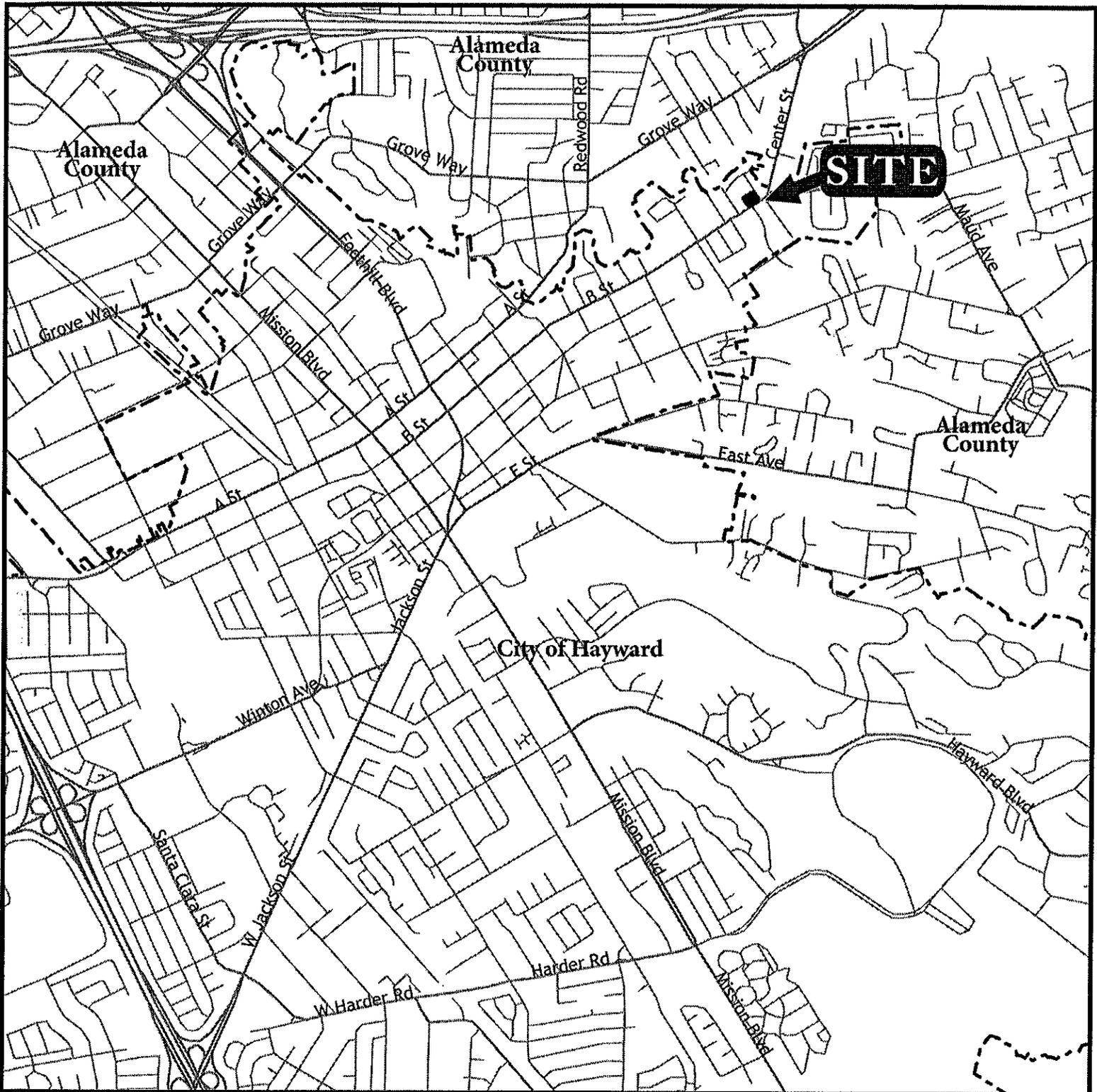
Recommended by:



David Rizk, AICP, Planning Manager

Attachments:

- A. Vicinity Map
- B. Area/Zoning Map
- C. Aerial Photograph of Project Area
- D. Primary Uses Allowed in the CN Zoning District
- E. Findings For Denial
- F. Email from Applicant, Amos Picker dated May 16, 2008

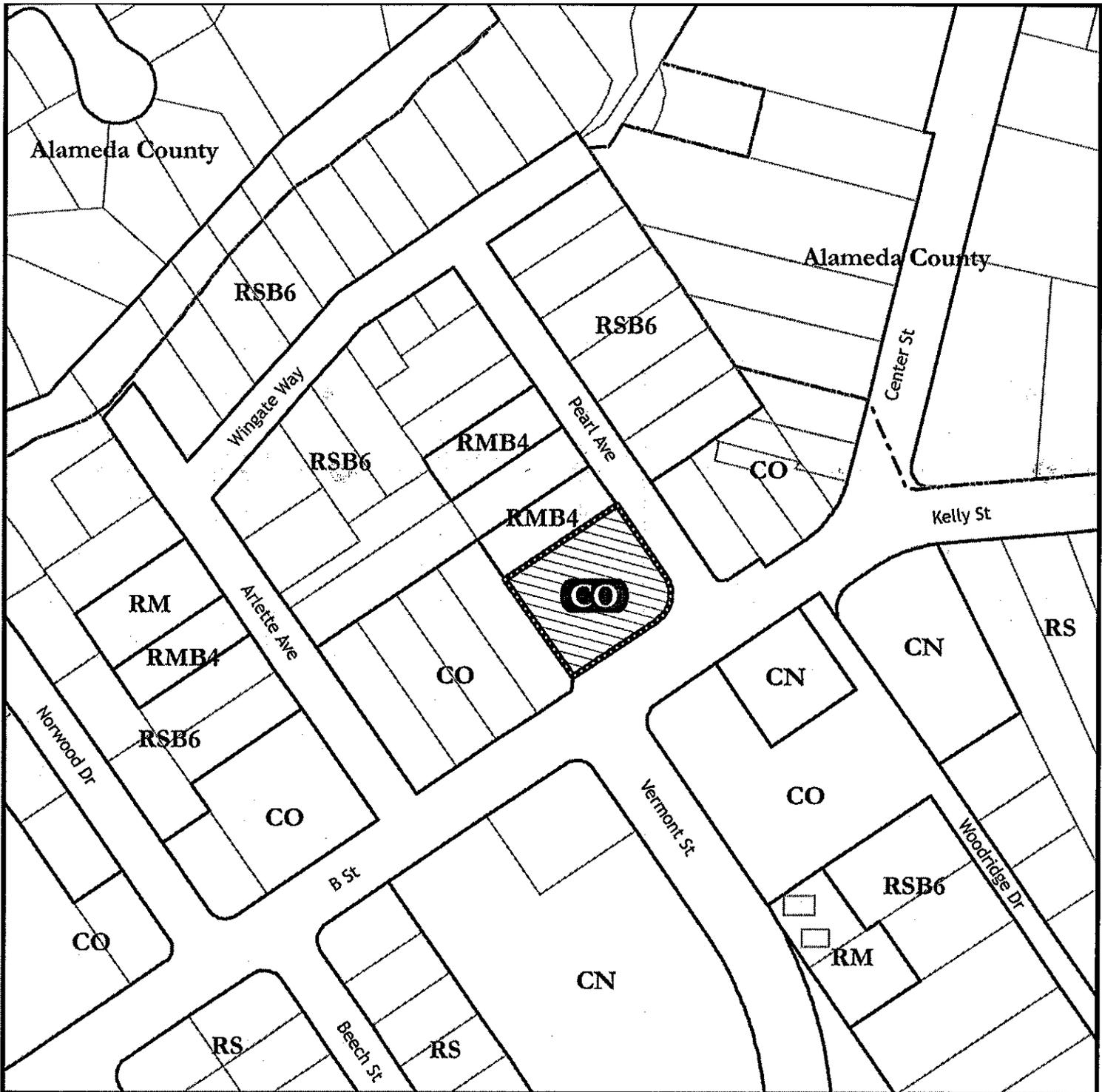


Vicinity Map

PL-2007-0594 ZC
1944 B Street

FEET 2000 4000





Area & Zoning Map

PL-2007-0594 ZC

Address: 1944 B Street

Applicant: Amos Picker

Owner: Ram Paharia &
Amos Picker

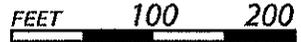
Zoning Classifications

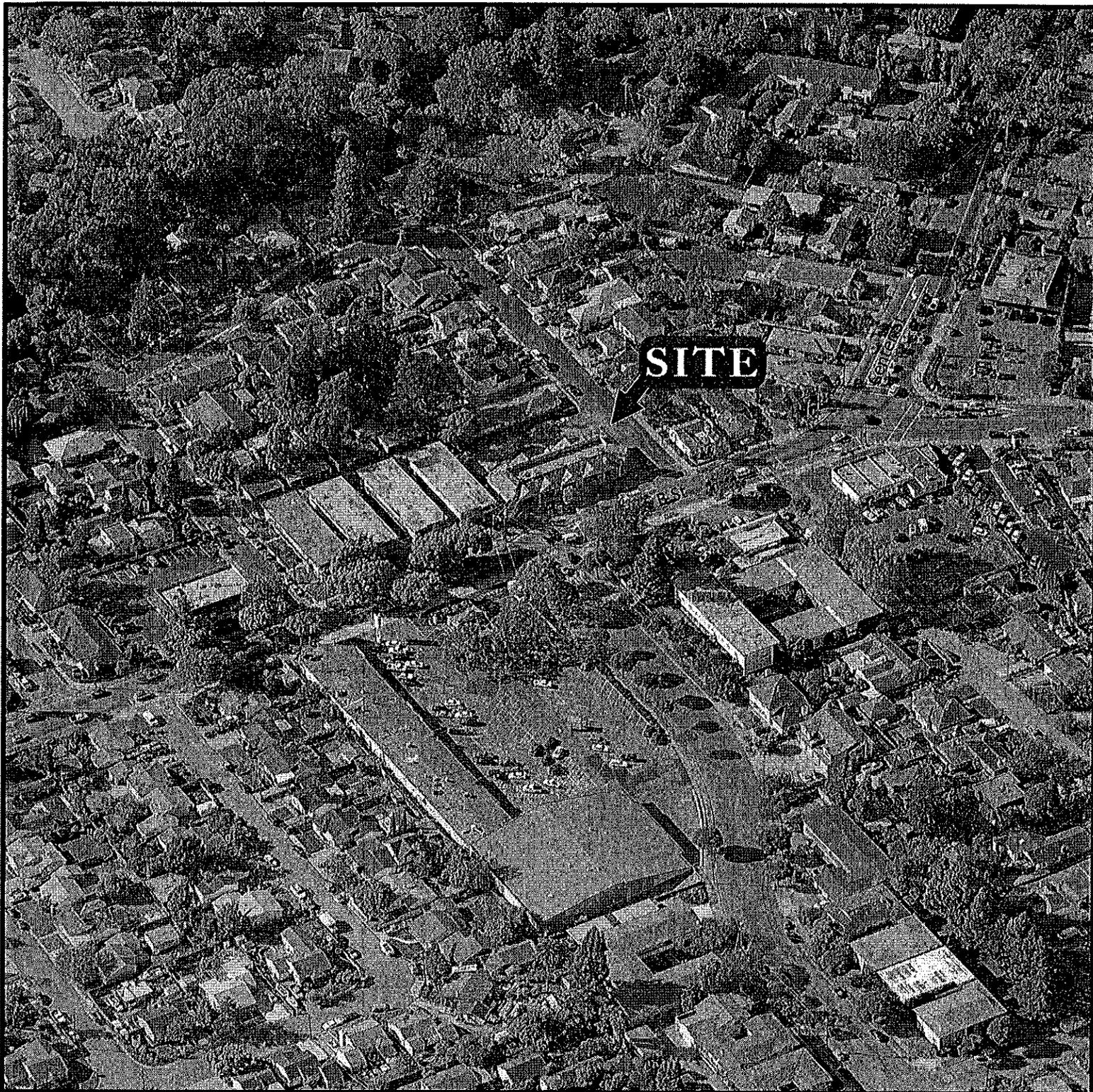
RESIDENTIAL

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

COMMERCIAL

- CN Neighborhood Commercial
- CO Commercial Office





Aerial View

PL-2007-0594 ZC

1944 B Street



SEC. 10-1.800 NEIGHBORHOOD COMMERCIAL DISTRICT (CN)

Sections:

- Section 10-1.805 Purpose.
- Section 10-1.810 Subdistricts.
- Section 10-1.815 Uses Permitted.
- Section 10-1.820 Conditionally Permitted Uses.
- Section 10-1.825 Lot Requirements.
- Section 10-1.830 Yard Requirements.
- Section 10-1.835 Height Limit.
- Section 10-1.840 Site Plan Review Required.
- Section 10-1.845 Minimum Design and Performance Standards.

SEC. 10-1.805 PURPOSE.

The CN District shall be subject to the following specific regulations in addition to the general regulations hereinafter contained, in order to make provision for a number of areas throughout the City carefully located in relationship to other Commercial Districts and to the Residential Districts served. The products and services intended are those primarily represented by convenience goods and services purchased frequently.

SEC. 10-1.810 SUBDISTRICTS.

Any combining B or SD District (See Sections 10-1.2400 and 10-1.2600).

SEC. 10-1.815 USES PERMITTED.

- a. **Primary Uses.** The following uses, or uses determined to be similar by the Planning Director, are permitted in the CN District as primary uses.
 - (1) **Administrative and Professional Offices/Services.**
 - (a) Accounting and financial offices (not including check-cashing business).
 - (b) Architectural and engineering offices.
 - (c) Banks and financial institutions.
 - (d) Chiropractic and acupuncture offices.
 - (e) Insurance and real estate offices.
 - (f) Law offices.
 - (g) Medical and dental offices.
 - (h) Travel and airline agency offices.
 - (2) **Automobile Related Uses.**
 - Automobile parts store.

- (3) Personal Services.
- (a) Barber or beauty shop.
 - (b) Dance studio.
 - (c) Dry cleaner/laundry.
 - (d) Martial arts studio.
 - (e) Music studio.
 - (f) Nail salon.
 - (g) Palm reading service.
 - (h) Photography studio.
 - (i) Physical fitness studio.
 - (j) Shoe repair shop.
 - (k) Tailor/seamstress shop.

- (4) Residential Uses.
Residential dwelling unit(s).

(Above first floor commercial uses only)

- (5) Retail Commercial Uses.
- (a) Antique store.
 - (b) Appliance store.
 - (c) Art and art supplies store.
 - (d) Bakery.
 - (e) Bicycle shop.
 - (f) Bookstore.
 - (g) Camera store.
 - (h) Card shop.
 - (i) Carpet/drapery store.
 - (j) Clothing store.
 - (k) Consignment store.
 - (l) Coffee/espresso shop.
 - (m) Delicatessen.
 - (n) Fabric store.
 - (o) Floral shop.
 - (p) Furniture store.
 - (q) Garden supplies store.
 - (r) Gift shop.
 - (s) Hardware store.
 - (t) Jewelry store.
 - (u) Locksmith shop.
 - (v) Music store.
 - (w) Nursery (plant).
 - (x) Paint/wallpaper store.
 - (y) Pet grooming shop.
 - (z) Pet store.
 - (aa) Plumbing and heating store.
-

- (bb) Restaurant. (Where not abutting a residential district or property and no bar)
- (cc) Sporting goods store.
- (dd) Stationary store.
- (ee) Supermarket.
- (ff) Theater. (Small Motion Picture or Live Performance only.)
- (gg) Thrift store.
- (hh) Toy store.
- (ii) Variety store.
- (jj) Video sales and rental store.

(6) Service Commercial Uses.

- (a) Copying or reproduction facility.
- (b) Mailing or facsimile service.
- (c) Reverse vending machine(s). (When located within a convenience zone)

(7) Other Uses.

- (a) Banquet hall. (Where not abutting a residential district or property and where no alcohol is served)
- (b) Catering facility.
- (c) Christmas tree or pumpkin patch lot. (See Section 10-1.2735d. for standards)
- (d) Day care home. (State-licensed, less than 24-hour care for children or adults, 14 or fewer persons, excluding staff. See definitions.)
- (e) Educational facility. Small, generally less than 2000 square feet, designed to augment the learning process of elementary and secondary students.
- (f) Public agency facilities.

b. Secondary Uses. The following uses are permitted as secondary or subordinate uses to the uses permitted in the CN District:

- (1) Accessory buildings and uses. (See Section 10.1.845)
- (2) Garage sales. (4 per year per dwelling. See General Regulations Section 10-1.2735e.)
- (3) Home Occupation. (See definitions)
- (4) Household pets.

SEC. 10-1.820 CONDITIONALLY PERMITTED USES.

a. Administrative Uses. The following uses are permitted in the OS District subject to approval of an administrative use permit:

- (1) Administrative and Professional Offices/Services.
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Findings for Denial

Zone Change No. PL-2007-00594
Ram Paharia and Amos Picker (Applicant/Owner)
Request to Rezone a Parcel from Commercial Office District
to Neighborhood Commercial District.

A. Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward.

The proposed Zone Change would not promote the public health, safety, convenience, and general welfare of the residents of Hayward as the proposed zoning would allow certain uses that generate high volumes of traffic during peak hour periods of traffic flow thereby, in the opinion of the City's Transportation Planner, would have a negative impact on traffic conditions on B Street.

B. The proposed change is in conformance with all applicable, officially adopted policies and plans.

The proposed Zone Change does not conform to the City's General Plan policies and the policies and strategies within the Upper B Street Neighborhood Plan.

The Land Use Policies and Strategies of the General Plan include:

- *"Assure adequate infrastructure capacities to accommodate planned growth."*

The proposed Zone Change would allow intense retail uses that, according to the Institute of Transportation Engineers (ITE) standards, could produce more than 10 times the number of peak hour trips than the office uses and low intensity service uses allowed under the current zoning. The City's Transportation/Development Section has determined that the traffic on B Street during peak hours is already beyond capacity and therefore cannot adequately accommodate accept the additional vehicle trips that would be generated by intense retail uses.

The Circulation portion of the Upper B Street Neighborhood Plan recognizes that:

- *"During hours of heavy traffic, queues along B Street west of the Center-B-Kelly intersection become exceedingly long because of the limited capacity at the intersection. These long lines block side streets and restrict visibility of cross traffic. This traffic problem is further compounded by the large number of driveways and intersecting streets along B Street."*

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C. Streets and public facilities existing or proposed are adequate to serve all uses permitted when the property is reclassified.

The existing B Street traffic flow already exceeds its capabilities during peak hours and could not accommodate the potential additional peak hour vehicle trips generated by some of the more intense uses allowed by the CN District.

D. All uses permitted when property is reclassified will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations.

The uses permitted under the proposed CN District would not be compatible with the surrounding uses as they would have the potential to establish high intensity uses adjacent to residential uses. Pursuant to Institute of Transportation Engineers (ITE) standards, the on-site parking is inadequate for high intensity uses; therefore, parking would overflow into adjacent streets, adversely impacting the adjacent residential neighborhood.

In the opinion of the City's Transportation Planner, peak hour congestion at the B Street and Pearl Avenue intersection, caused by high intensity uses, would result in traffic diverting through the looped street system that serves the adjacent single-family neighborhood. Drivers seeking a less congested access to B Street would drive through the adjacent residential neighborhood to Arlette Avenue as an alternate access to B Street, further adversely impacting the adjacent residential neighborhood.

Tim Koonze

From: amos picker [amos1000@sbcglobal.net]
Sent: Friday, May 16, 2008 11:41 AM
To: Tim Koonze
Subject: b st

I would like to know the status of our re=zone process.

Last, I thought you had scheduled a planning commission hearing for the 3rd of June. We got no official notice.

Is it still on?

I would like you to consider the fact that a day care with 40 to 60 kids, dropped in the morning 'rush hour' and picked up at the evening 'rush hour' are of a greater risk than an adult patron of coffee in the same intersection.

In any event, We had absolutely no response from any coffee store to locate one there, as the demography is NOT SUITABLE to a higher image and class clientele. As you can see, a fruit stand of the lowest image across the street, dilapidated apartment buildings, old dilapidated shopping strip in the county area across, are the local image. We have improved the sight and character of the area a lot, but unable to get the zoned uses as these are out of the demographic nature of the area.

The traffic is controlled by signals on BOTH side of the property, and the access risk is under the city's control, with proper program to the signals.

there is also a bus stop AT THE PROPERTY. would this bus be of lesser risk of accident than the private cars?

I would like to have you present in writing these comments to the planning commission, as a preliminary distribution prior to the meeting.

Amos Picker