



CITY OF HAYWARD AGENDA REPORT

Meeting Date 09/18/03

Agenda Item 1

TO: Planning Commission

FROM: Dyana Anderly, AICP, Planning Manager

SUBJECT: **Reconsideration** of a Request to Remodel a Service Station By Expanding the "Food Mart" with a Variance to Allow the Building on the Rear and Side Property Lines Where a Minimum Setback of 5 feet Is Required. [Use Permit Application No. PL-2003-0497 and Variance Application No. PL-2003-0498 – Parwani & Associates, Inc., Applicant; Shakil Bafaiz, Owner]

The Property Is Located at 392 West Harder Road in a Neighborhood Commercial (CN) District

RECOMMENDATION:

Staff recommends that the Planning Commission:

1. Find that the proposed project is exempt from the California Environmental Quality Act (CEQA) guidelines, Section 15301(c) Additions to existing structures of less than 2,500 square feet;
2. Approve the conditional use permit modification and variance request, subject to the attached findings and conditions of approval.

DISCUSSION:

Background

On June 19, 2003, the Planning Commission denied an application, without prejudice, to modify a service station by expanding the retail store area. (See attached Planning Commission staff report and minutes of that meeting.) As designed, the project had lacked adequate landscaping and parking. By denying the application without prejudice, the applicant is able to reapply with the same request within a year of the denial action. When a use permit application is denied *with prejudice*, which is the more typical denial action taken by the Planning Commission, the application that has been disapproved may not be applied for within one year of the final decision to disapprove the application except when the Planning Director finds that new evidence, a change of conditions, or a change in the project justifies reconsideration. Subsequent to the June 19 hearing, the applicant redesigned the project so that it meets as many of the current design standards for service stations as possible. Changes to the previous application include a considerable increase in the amount of landscaping, elimination of a Bishop Avenue driveway, relocation and reduction in size of the second Bishop Avenue driveway, attractive

signage, and architectural enhancements to the canopy over the service islands. Accordingly, the Planning Director finds that the changes to the project are sufficient to merit reconsideration.

As with the previous proposal, the applicant proposes to expand the floor area of the 864 square-foot food mart by adding 1081 square feet to provide additional commercial shelf space, expansion of the walk-in cooler area, the addition of public restrooms that meet current standards, and indoor storage. The proposed addition would envelop the building and extend to the rear and side property lines. Additional parking would be provided to accommodate the increase in floor area. Extensive improvements to the façade are proposed. The applicant continues to state that he will not expand the area devoted to the sale of alcoholic beverages

The current proposal includes the addition of a tile-appearing roof atop the canopy to complement the design of the food mart, and no changes to the canopy were proposed with the previous application. Air and water have been relocated to a more convenient location near the southerly property line. A substantial amount of landscaping is also being proposed. Landscaping is required to cover at least 20 percent of the site, or 2,141 square feet, and the proposed landscape area comprises 19 percent of the property. This increase in landscaping can, in part, be attributed to the elimination of a Bishop Avenue driveway and the reduction in the width of the second Bishop Avenue driveway. Also, a sign program has been submitted

With respect to the design of the building, other than stucco on a portion of the building, other building materials are not indicated. Although staff finds that in general the design is attractive, a condition of approval requires Planning Director approval of all materials and colors used on the building. A condition also requires that the side building elevations should be enhanced in order to provide more interest, and the top of the back of the building should be enhanced so as to improve its appearance as seen from the adjacent parcel. Staff also believes that the proposed cupola is not in scale with the building and should be reduced in height and made wider to better complement the remainder of the building.

Regarding the sign program, up to one monument sign and two wall signs are permitted, and a monument and a wall sign are proposed. The design of the monument sign is in keeping with the design of the building. However, it is shown too close to the intersection and must be relocated to avoid blocking motorists' vision at the intersection. No details were shown for the "food mart" sign, and a condition of approval requires that it consist of individual letters.

A minimum 6-foot-high masonry wall is proposed along portions of the side and rear property lines between the building and the sidewalk, which is consistent with the requirement for commercial activity that abuts a residential zoning district. However, staff recommends waiving this requirement for the following reasons:

- There is an ivy-covered chain-link fence separating subject property from the fire station property, which is an attractive entry feature to the back of the fire station.
- As the building will be situated on property lines, it will function as a wall between the commercial property and the adjacent fire station property.
- There is no living space in the fire station adjacent to the commercial property, as would be found in typical residential districts.

When an operator of a service station applies for a modification of a use permit, the operator is required to conform to as many of the design and site plan standards for new service stations as possible within the limits of the existing site layout and structural location. In staff's opinion, the proposed project meets all standards, with the exception of the request to locate the building along the rear property line. However, staff is supportive of the request for this exception as discussed below.

With respect to the requested variance to locate the building along the rear and side property line, the rear and side property lines border property occupied by a City of Hayward Fire Department station where the Fire Department driveway is adjacent to subject property on both the south and east sides, so there would be no appreciable negative impact on the adjacent property.

While there are similar retail opportunities available at the nearby Grocery Outlet and Albertson's, convenience markets associated with service stations are often as convenient to the adjacent neighborhoods as to motorists as the facilities are often within walking distance of homes. So, in this respect, staff is supportive of expanding the food mart.

Environmental Review

The proposed project is exempt from the California Environmental Quality Act (CEQA) Guidelines, pursuant to Section 15301(c) Additions to existing structures of less than 2,500 square feet.

Public Notice:

On August 26, 2003, a Referral Notice was mailed to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records, former members of the Jackson Triangle Neighborhood Plan Task Force and Commpre. No comments were received as a result of this referral.

On September 8, 2003, a Notice of Public Hearing for the Planning Commission meeting was mailed. As of the writing of this report, no additional public comment has been received regarding this matter.

CONCLUSION:

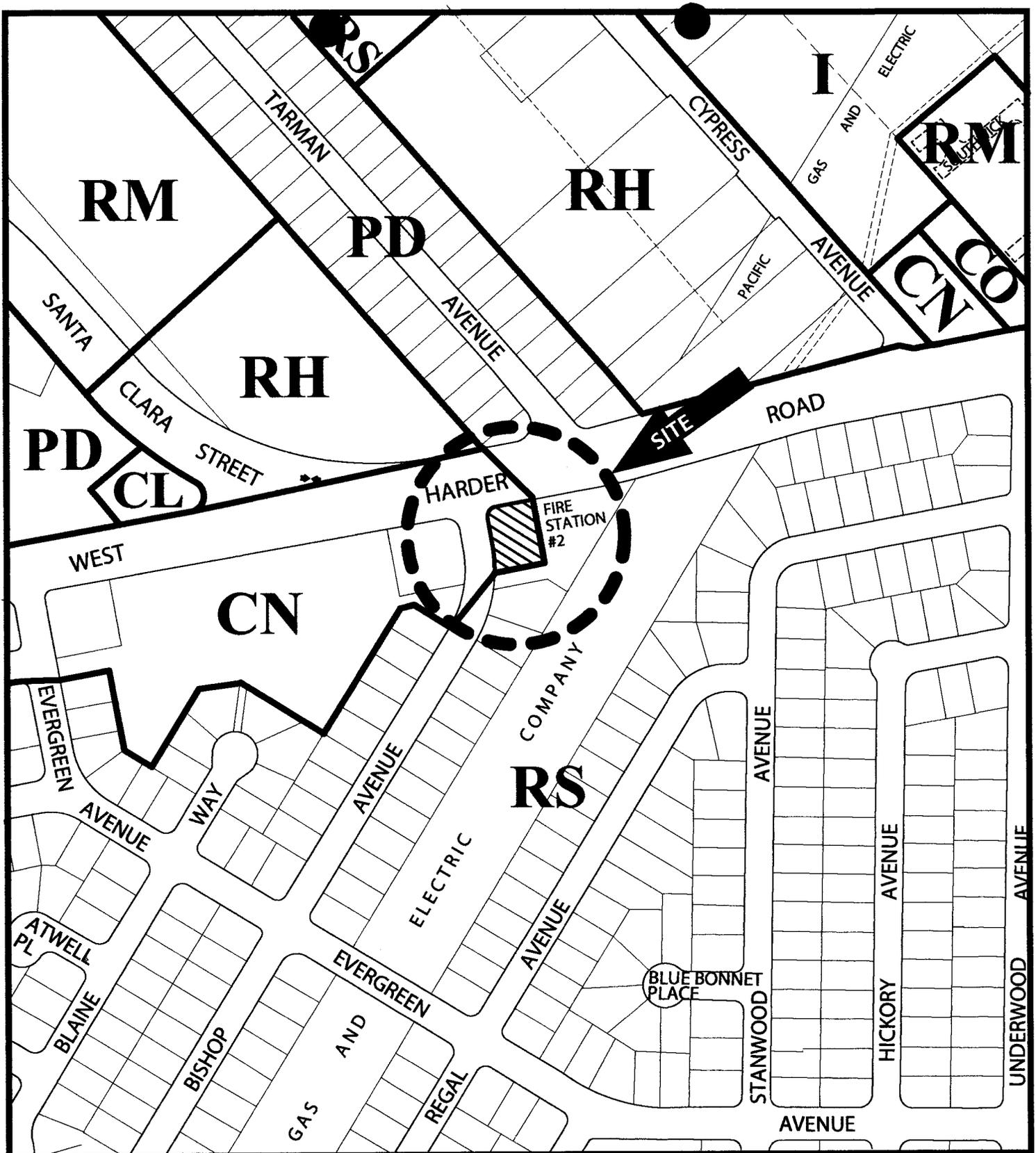
As the applicant has submitted a project that adheres to as many of the current design standards as practicable and which would contribute in a positive way to the streetscape, and considering that the service provided would be an asset to the neighborhood and motorists, staff is recommending approval of the application.

Prepared by:


Dyana Anderly, AICP
Planning Manager

Attachments:

- A. Area Map
- B. Planning Commission Report and Minutes of 6/12/03
- C. Findings for Approval
- D. Conditions of Approval
Plans



Area & Zoning Map

PL-2003-0497 UP

PL-2003-498 VAR UP/VAR

Address: 392 W. Harder Road

Applicant: Soheil Bafaiz

Owner: TD & LN Investments, Inc.

CL-Limited Access Commercial

CN-Neighborhood Commercial

CO-Commercial Office

I-Industrial

PD-Planned Development

RH-High Density Residential RHB 7

RM-Medium Density Residential RMB 3.5, RMB 4

RS-Single-Family Residential,RSB4,RSB6





CITY OF HAYWARD AGENDA REPORT

Planning Commission

Meeting Date 06/12/03

Agenda Item 1

TO: Planning Commission

FROM: Arlyne J. Camire, Associate Planner

SUBJECT: Use Permit Application No. PL-2003-0200 and Variance Application No. PL-2003-0201 – Parwani & Associates, Inc. (Applicant)/Shakil Bafaiz (Owner) – Modification of Existing Auto Service Station to Allow the Expansion of a Mini-Mart with a Variance to Allow Less Than 20 Percent Landscaped Area and Zero Lot Line Setbacks on a 10,703-Square-Foot Lot Where a 20,000-Square-Foot Lot Is Required

The Property Is Located at 392 West Harder Road in a Neighborhood Commercial (CN) District

RECOMMENDATION:

Staff recommends that the Planning Commission:

1. Find that the proposed project is Statutorily Exempt from the California Environmental Quality Act (CEQA) guidelines, Section 15270 (a), Projects Which Are Disapproved, and
2. Deny the conditional use permit modification and variance requests, subject to the attached findings.

BACKGROUND:

This commercial property is located at the southeast corner of West Harder Road and Bishop Avenue within the Harder-Tennyson Neighborhood. Hayward Fire Station No. 2 borders the parcel with its driveway wrapping around the easterly and southerly boundaries of the service station property. It is across Bishop Avenue from the Schafer Park Shopping Center. In 1959, the City Council approved a use permit allowing the construction of the service station. The parcel is developed with an 864-square-foot, one-story mini-mart and a canopy over two islands with two fuel pumps on each. The service station has a license to sell beer and wine, and it is the only service station in Hayward with an off-site sales license.

The existing building has plain metal walls that are painted white with blue trim. The mini-mart entrance is a typical storefront with large windows and a glass door within aluminum frames. The roof is flat with a parapet above the entry that contains the "Ultra Mart" sign of internally illuminated blue channel letters. The building is setback 10 feet from the side and rear property lines. The area behind the building is used for outdoor storage. The fuel pump canopy is blue metal with a flat roof supported by unembellished metal posts.

The applicant wishes to intensify the on-site uses by expanding the mini-mart, requiring a modification of the use permit. The applicant proposes to increase the floor area of the mini-mart by 1,081 square feet for a total of 1,945 square feet. The expansion would allow for the additional commercial shelf space, expansion of the walk-in cooler area, the addition of public restrooms that meet current standards and indoor storage. The building would be built to the rear and side property lines. Additional parking would be provided to accommodate the increase in floor area. Extensive improvements to the façade are proposed.

The proposed mini-mart façade improvements conform to the Design Guidelines. The mini-mart would be remodeled to be Spanish style with decorative brick veneer wainscoting, an arched entry and terra cotta tile shed roofs accenting the windows. The main roofs are hipped terra cotta above the side windows and the tower element. The walls would be earth-tone stucco. However, the applicant has not proposed any change to the canopy bring its design into conformance with the building.

According to the Department of Alcoholic Beverages Control, a Type 20 license, which permits the off-sale of beer and wine, was issued on December 18, 1991; at that time, a use permit was not required for the sale of alcoholic beverages. In 1993, the Zoning Ordinance was amended to include alcoholic beverage regulations that allowed existing licensed establishments to continue to sell alcoholic beverages until there was a substantial change in character of the operation such as an increase in the amount of area devoted to alcoholic beverage sales. Should this application be approved, the applicant would not be able to increase the amount of area devoted to the sale of these beverages. The applicant cannot apply for a new use permit, in this case, to expand the sale of alcoholic beverages as the property is located within 500 feet of a park (Eden Greenway).

Nonconforming Structures and Uses/Variances

Existing structures and uses that conform to the Zoning Ordinance at the time of construction but do not conform to the current regulations are considered to be legal, nonconforming uses. At the time of approval of the use permit in 1959, the station was in compliance with the development standards of the Zoning Ordinance. However, the automobile service station is now a legal, nonconforming use that is permitted to continue to operate in its current state. To further develop the site and intensify the use, the applicant has requested numerous variances from current standards. Typically, when an applicant requests permission to expand and intensify any use, the current Zoning Ordinance development standards are required to be met. As proposed, the project would not meet current development standards.

The 10,703-square-foot site is substantially smaller than that of the 20,000 square feet required to establish an automobile service station. The existing mini-mart has a legal nonconforming 10-foot rear set back where a 20-foot rear yard setback is now required. The proposed building addition would be built to the rear and side property lines.

Substandard front, side and rear yard landscape setbacks are also proposed. Landscaping is required to cover at least 20 percent of the site, or 2,141 square feet. The applicant proposes only 943 square feet to be landscaped, 112 square feet of which would be located behind the

mini-mart and not visible by the public. A 10-foot landscape setback is required adjacent to the front and street side property lines. The proposed landscape planters range from 1 to 8 feet deep. In addition, the applicant does not intend to provide a required minimum 5-foot landscape set back between the property lines and all parking spaces.

An increase in the depth of the landscape planters would result in the relocation and deletion of parking spaces. Since the canopy would not be relocated, on-site circulation is hampered and parking space siting is limited. Parking spaces would be forced to encroach into the travel ways. Furthermore, the required trash enclosure is proposed at the head of a parking space, behind a wheel stop and adjacent to the Bishop Avenue entrance making the trash enclosure inaccessible for collection. To provide an accessible trash enclosure, an additional parking space would be lost. The required air and water dispensers are awkwardly located in the landscape planter adjacent to the Bishop Avenue driveway.

Compliance with City Policies

The Harder-Tennyson Neighborhood Plan encourages land use and site development along Harder Road which would better serve residents of the area and meet design guidelines. While the mini-mart does provide services to the neighborhood, the products that can be purchased there are also available at Grocery Outlet in the adjacent shopping center and at Albertsons located at the nearby Gateway Plaza. Since the services do exist and numerous exceptions to Zoning Ordinance development standards are required, staff feels that the intensification of the use of this site is not necessary and the proposed variances cannot be justified. Furthermore, the Neighborhood Plan also calls to improve the general appearance of the neighborhood. Landscaping should be used to greatly enhance the general appearance of the area as well as to buffer differing land uses. The approval of variances that would allow less than minimum development standards for a commercial adjacent to a residential neighborhood would be contrary to this policy.

Furthermore, the findings for the number and nature of variances proposed cannot be made. There are not special circumstances unique to this property; in fact, the property is almost half the required minimum 20,000 square feet in area required for a service station. Other service station properties are required to contain 20,000 square feet in area in order to intensify on-site uses, such as expanding a mini-mart or adding a car wash. Furthermore, a special privilege would be granted since other service station sites would be required to meet minimum development standards in regard to setbacks, lot size and percentage of landscaping. In addition, justification for the modification of the use permit cannot be made since the applicants would not be providing a new service that is not already available and the granting of numerous variances would further increase the non-conforming status of the property.

Should the Planning Commission approve this application, staff should be directed to return with appropriate environmental review, findings and conditions of approval. In addition, staff suggests that the fuel pump canopy be modified to match the design of the mini-mart.

ENVIRONMENTAL REVIEW:

The proposed project is statutorily exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15270 (a). Projects Which are Disapproved.

PUBLIC NOTICE:

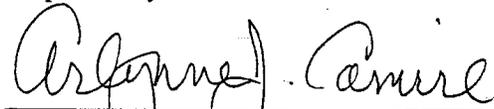
On April 4, 2003, a Referral Notice was mailed to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records, the Harder-Tennyson Community Organization and to the Harder-Tennyson Neighborhood and Jackson Triangle Plan Task Force members. Staff received two telephone calls in support from neighbors who believe that the proposed design would be an asset to the neighborhood.

On May 30, 2003, a Notice of Public Hearing for the Planning Commission meeting was mailed. No additional public comment has been received regarding this matter.

CONCLUSION:

The site is too small to accommodate relocation of the trash enclosure, relocation of the air and water dispensers, provision of required parking spaces, adequate on-site vehicle circulation, provision of required 20 percent landscaping and required setbacks. The findings cannot be made to justify the granting of a variance. The applicant can apply for a minor modification to the conditional use permit to allow façade improvements. If the Planning Commission is inclined to approve the modification to the use permit and the variance, staff should be directed to return with the appropriate environmental determination, findings and conditions of approval.

Prepared by:



Arlynn J. Camire, AICP
Associate Planner

Recommended by:



Dyana Anderly, AICP
Planning Manager

Attachments:

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



MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m. by Chairperson Bogue, followed by the Pledge of Allegiance.

ROLL CALL

Present: COMMISSIONERS Zermeño, McKillop, Sacks, Caveglia, Halliday, Thnay
 CHAIRPERSON Bogue
 Absent: COMMISSIONER None

Staff Members Present: Patenaude, DeLuz, Camire, Conneely, Looney, Pearson, Rizk

General Public Present: Approximately 30

PUBLIC COMMENT

AGENDA

1. Modification of Conditional Use Permit Application No. PL-2003-0200 and Variance Application No. PL-2003-0201 - Parwani & Associates, Inc. (Applicant), Shakil Bafaiz (Owner) - Modification of Existing Auto Service Station to Allow the Expansion of a Mini-Mart with a Variance to Allow Less Than 20 Percent Landscaped Area and Zero Lot Line Setbacks on a 10,703-Square-Foot Lot Where a 20,000-Square-foot Lot is Required - The Property is Located at 392 West Harder Road
- ~~2. Appeal of Planning Director Denial of Site Plan Review No. PL-2003-0012 - James Jensen (Applicant/Owner) - Request to Construct a Single-Family Dwelling with a Two-Car Garage that Exceeds 50 Percent of the Frontage of the Dwelling - The Property is Located at 24431 Second Street~~
- ~~3. Site Plan Review No. 01-130-11 and Variance No. PL-2003-0236 - Chris Zaballos for R. Zaballos & Sons, Inc. (Applicant)/Zaballos Enterprises and John Erickson (Owners) - Request to Remodel and Reface an Existing Warehouse Building, Demolish an Existing Residence and Build a Two-Story Retail/Office Building with No Setback along the Main Street Frontage Where 4-Feet is Required - The Project is Located at 22405 Through 22425 Main Street, at the Corner of Hotel Avenue~~
- ~~4. Site Plan Review PL-2003-0177/Vesting Tentative Map Tract 7436 PL-2003-0178 - The Olson Urban Housing LLC (Applicant)/City of Hayward Redevelopment Agency (Owner) - Request to Construct 46 Condominium Residences on 1.95 Acres - The Property is Bounded by Atherton, Watkins, "C" and "D" Streets~~

PUBLIC HEARINGS

1. Modification of Conditional Use Permit Application No. PL-2003-0200 and Variance Application No. PL-2003-0201 – Parwani & Associates, Inc. (Applicant), Shakil Bafaiz (Owner) – Modification of Existing Auto Service Station to Allow the Expansion of a Mini-Mart with a Variance to Allow Less Than 20 Percent Landscaped Area and Zero Lot Line Setbacks on a 10,703-Square-Foot Lot Where a 20,000-Square-foot Lot is Required – The Property is Located at 392 West Harder Road

Associate Planner Camire described the property and location. She explained that the owner is asking to expand the mini-mart. She noted that when the station was built in 1959, it conformed to development standards. This is the only mini-mart in Hayward associated with a service station that is licensed to sell beer and wine. She said that they are requesting to build to the lot lines. Current code requires the site to be at least 20,000 square feet. It is presently 53 percent of what would be required today. They would remodel the existing mini-mart in a Spanish style with stucco and terra cotta roof. The owner has stated that he has received calls from customers and neighbors asking for the mini-mart to be upgraded and restroom facilities added. Staff believes the zero lot line would cause difficulty and since there are too many driveways on the site, staff recommends denial. That the lot is too small to be developed as proposed since there is not enough space for vehicle circulation, landscaping, and parking to accommodate the mini-mart expansion.

Commissioner Thnay asked whether there was sufficient parking and whether the Fire Department next door had any comments on the variance.

Associate Planner Camire said that there was at this time it is sufficient, however with the move of the trash enclosure and plants, it would not be. She noted that the Fire Department had no comments. However, there is a driveway behind the station itself.

Commissioner Caveglia asked about the landscaping now.

Associate Planner Camire said the site is not landscaped.

Commissioner Zermeño asked what the alternatives would be.

Associate Planner Camire explained that with the administrative minor modifications to the Use Permit, the owner would be allowed to remodel the building but not enlarge it.

Public Hearing Opened at 7:42 p.m.

Joseph Halifax, architect, explained that currently there is enough parking but to follow the conditions, they would lose many parking spaces. He described the present setbacks at 10-feet. He said this is a busy intersection and they would place the building as far as possible from the street. He said the back of the building abuts the Fire Department driveway. As to the alcohol permit, they currently allow for sale beer and wine, which they will continue and will not increase the area of sales. He said they are not proposing a new structure but just to modify the



existing structure. He commented that the requirement for a building with 20-foot setback is a requirement for single-family residents. Currently there are no restrooms and one is proposed to be added.

Commissioner Halliday asked what they hoped to accomplish with this remodel and the increase in size.

The response was that they would be able to increase the variety of food in the market. He emphasized that there was no intention to increase the alcohol sales area. However, since this building is not good enough for the neighborhood, this would be an upgrade.

Commissioner Caveglia asked Mr. Bafaiz, the owner, how much beer and wine is sold.

Mr. Bafaiz said they estimate the amount of sales from beer and wine is from \$200-\$300 a month. He noted that they have received compliments from the Alcoholic Beverage Commission. He added that presently there is not a restroom.

Commissioner Sacks said she was curious to know why they do not just dress up the place to make it look good.

Principal Planner Patenaude explained that it is typical to ask the facility to comply with as much of the current code as possible when they remodel and expand. However, if they were just dressing up the existing building, a public hearing would not be required.

Commissioner Zermefio asked Mr. Bafaiz whether he was being asked to do the upgrade or whether he initiated it.

Mr. Bafaiz explained that he had received 300 signatures from customers asking that they do this. He added that the City of Hayward was not asking for it.

Commissioner McKillop asked how long he had owned the service station/mini mart and whether he had thought at the time of purchase to expand.

Mr. Bafaiz explained that he bought the service station five years ago and at the time could not afford to expand.

The public hearing was closed at 7:54 p.m.

Commissioner Thnay commented that he used to live in the neighborhood. The whole area of Schafer Park is being brought to a higher standard, although he indicated selling alcohol is a concern at this site. He noted that the setback criteria for this smaller lot might not be a fair application since it would basically condemn the site to no existence. This would only encroach on the Fire Department site. He noted that the building would not be too bulky. He asked staff

whether it would be a safety issue if the standard were not applied. He also noted that the alcohol sales would not be expanded and suggested relocating the trash enclosure to one of the parking spaces since there were enough of them. He agreed that it would be an asset to the area for this space to be cleaned up.

Principal Planner Patenaude again reiterated that this would not include expansion of area for alcohol sales. He said staff is trying to bring the site into conformance with today's standards. He added that the community might be better served with updating the area for the sale of gasoline and not focus on the retail, since there is other retail in the area. He added that there is no proposed circulation plan for the site in this application.

Commissioner McKillop said she was torn about this project since the site needs a lot of attention and is presently an eyesore. She said she would like to find a way for the owner to update the site without expansion, since with this proposal there are just too many things going on. She then moved, seconded by Commissioner Caveglia, to deny the Use Permit Application.

Commissioner Sacks commented that as she sat in her car looking at the site, she was wishing to find a way to improve it. It is unsightly. She noted in particular a flowerbed on the corner with nothing in it. She added that since nothing has been done to improve the site, it does not encourage or inspire confidence. She said she would support the motion.

Chairperson Bogue asked whether, if this application were denied, could the applicant still come back with some variances without the one-year waiting period.

Assistant City Attorney Conneely suggested that denial of this application be without prejudice, which would dismiss the one-year period.

Chairperson Bogue asked the maker of the motion and seconder whether they would include "without prejudice" in their motion for denial. Both agreed.

Commissioner Zermeño suggested alternatives to property owner. He said perhaps he might look towards the gas and pumps. They could sell more gas with the whole of Schaefer Park as a monopoly. He asked the applicant to come back with something different since the Commission seemed inclined to see the property improved.

Commissioner Halliday explained that it was difficult to deny since the owner is making an effort. However, increasing the size of the mini-mart might not be the answer since there is already too much on the site and no room to do what they want. As to the setback requirement, she noted that this is a commercial lot in a residential area. She said she would not oppose to some expansion.

Chairperson Bogue said he would like to see them redesign the canopy. Although the Fire station driveway is adjacent to this site, he would like to see landscaping along the fence since the next property is a residence. He suggested they look at the Fire station's site which shows that landscaping is important.



The motion passed 7:0. Chairperson Bogue noted that this could be appealed to the City Council.

~~2. Appeal of Planning Director Denial of Site Plan Review No. PL-2003-0012 - James Jensen (Applicant/Owner) - Request to Construct a Single-Family Dwelling with a Two-Car Garage that Exceeds 50 Percent of the Frontage of the Dwelling - The Property is Located at 24431 Second Street~~

~~Assistant Planner DeLuz presented. He noted that currently the property is vacant. The Landscape Architect is asking for an arborists report on trees at the site. He asked the Commission to uphold the Planning Director's denial of the site plan review since staff cannot find grounds to support the applicant.~~

~~Commissioner Halliday asked Assistant Planner DeLuz to discuss the applicant's indication that he was not told about the concern staff had with the garage location in the front of the site.~~

~~Assistant Planner DeLuz said that when he saw the application, the garage was an issue. He added that when the Parcel map report was filed in 1993. That would have been the time to dispute the garage requirement.~~

~~Commissioner Halliday discussed the design with garage doors on the east side and would parking in front of the garage would be blocking the view from the home. She noted that two other homes behind the lot use this driveway for access.~~

~~Commissioner Sacks asked for confirmation of the easement to the house from the back of the property and not the red fence house.~~

~~Assistant Planner DeLuz concurred that the easement presently was just to serve the two homes at the back.~~

~~Commissioner Zermeño asked about a letter in the staff report regarding a trench following the side of the driveway.~~

~~Assistant Planner DeLuz said it was not clear. However, there is a requirement to relocate the utilities underground. Since overhead service serves another property some accommodation will have to be made. He added he was not sure about the utility trench, however there has been discussion regarding the utility installation. This information would be presented at the building permit stage as to how the homes in back will be serviced.~~

~~The public hearing was opened at 8:18 p.m.~~

~~Kathy Catanho a neighbor to the back said she was not thrilled with the project of trenching down the driveway. She did support the applicant, though. It is a well-designed and well-~~

USE PERMIT APPLICATION NO. PL-2003-0497
VARIANCE APPLICATION NO. PL-2003-0498
PARWANI & ASSOCIATES, INC. (APPLICANT)
392 WEST HARDER ROAD
FINDINGS FOR APPROVAL

That the proposed project is exempt from the California Environmental Quality Act (CEQA) Guidelines, pursuant to Section 15301(c) Additions to existing structures of less than 2,500 square feet;

Use Permit Findings

- A. That the expansion of the food mart is desirable for the public convenience in that it would provide retail services in proximity to the neighborhoods and would better serve motorists;
- B. The expansion of the food mart will not impair the character and integrity of the Neighborhood Commercial zoning district and surrounding area in that minimum development standards are met to the extent practicable and the retail aspects of the project is considered a primary use in the Neighborhood Commercial zoning district;
- C. That the expansion of the food mart will not be detrimental to the public health, safety and general welfare in that adequate on-site vehicle circulation would be provided, adequate parking, restrooms, and landscaping;
- D. That the expansion of the food mart would be in harmony with applicable City policies, Design Guidelines, the Harder-Tennyson Neighborhood Plan, and the intent and purpose of the Neighborhood Commercial zoning district in that minimum development standards would be met and the expansion would provide a convenience to nearby residents as well as to motorists;

Variance

- E. That there are special circumstances applicable to this property in that the property is small for the use; the parcel has two street frontages furthering limiting its development potential; and abutting residentially zoned property, although zoned residential, is used as a fire station;
- F. That strict application of the Zoning Ordinance would deprive such property of privileges enjoyed by other properties under the same zoning classification in that variances to setbacks have been approved where properties abut residential districts with non-residential uses; and
- G. That the variance would not constitute a grant of a special privilege inconsistent with the limitations upon other properties in the Neighborhood Commercial District in which the property is situated in that other drive-ins under similar circumstances have been granted variances.

CONDITIONS OF APPROVAL

USE PERMIT APPLICATION NO. PL-2003-0497

VARIANCE APPLICATION NO. PL-2003-0498

Parwani & Associates, Inc. (Applicant)

382 West Harder Road

Expansion of Service Station

General:

1. Application Nos. PL-2003-0497 and PL-2003-0408 are approved subject to the conditions listed below and in accordance with Exhibit A as modified by staff. This permit becomes void one year after the effective date of approval, unless a building permit has been issued or a building permit application has been submitted for processing and said application has not expired. A request for a one-year extension, approval of which is not guaranteed, must be submitted to the Planning Division 15 days prior to the above date.
2. The building permit application shall include a copy of these conditions of approval printed upon the plans.
3. The amount of area devoted to the sale of alcohol shall be limited to no more than the area devoted to the sale of alcohol prior to the approval of this permit, which included 4 refrigerated sections, each having 6 shelves that are 28 inches wide and 2 feet deep, and there shall be no advertising of alcoholic beverages that is visible from outside the building.
4. Any pay telephones and newspaper racks shall be relocated to the inside of the building. No exterior pay telephones or newspaper racks are permitted.
5. No outside storage of materials, crates, boxes, etc. shall be permitted anywhere on site, except within the trash enclosure as permitted by the fire code.
6. The permittee shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.
7. All unused driveways across the property frontages shall be removed and replaced with curb, gutter and sidewalk.
8. Any proposal for alterations to the proposed site plan and/or design, including color, which does not require a variance to any zoning code, must be approved by the Planning Director prior to implementation.
9. Prior to use of the expanded portion of the building, site improvements, installation of canopy roofing, and conditions of approval shall be completed to the satisfaction of the Planning Director. Landscaping shall be installed per the approved plans. A Certificate of Substantial Completion and irrigation Schedule shall be submitted

by the project landscape architect prior to approval of occupancy of the expanded area of the building.

10. All improvements indicated on Exhibit "A" are hereby approved (except as noted below), and must be installed accordingly prior to occupancy of expanded area of the building.
11. Noise levels measured at the property line shall not exceed the level of background noise normally found in the area or 65 decibels whichever is greater.
12. The premises shall be kept clean, and the operator shall make all reasonable efforts to see that no trash or litter originating from the site is deposited on adjacent properties. The operator and the employees are responsible for picking up trash or litter daily originating from the site, upon the site and within 300 feet of the perimeter of the site.
13. No undesirable odors shall be generated from the site.
14. The on-site manager of the use shall take whatever steps are deemed necessary to assure the orderly conduct of employees, patrons, and visitors on the premises.
15. A copy of these performance standards and all conditional use permit conditions of approval shall be posted along side the necessary business licenses and be visible at all times to employee.
16. A minimum of two bathroom facilities shall be available to the public, with one for females and one for males.
17. No outside vending is permitted, such as coke machines.
18. A sign shall prominently posted on the exterior of the premises stating that consumption of alcoholic beverages in public is prohibited by law pursuant to Chapter 4 of the Hayward Municipal Code.
19. Management shall take necessary steps to assure the orderly conduct of employees, patrons and visitors on the premises.
20. 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.
21. The planting and maintenance of shrubs must not impair visibility at street intersections. The height of plant materials in areas where sight distance is critical is limited to three feet. Trees in these areas must be pruned such that the canopy provides adequate visibility.
22. The parking lot pavement shall be repaired or replaced as necessary as determined by the City Engineer to eliminate potholes and to provide a smooth, safe surface.
23. **Building Permit:** Plans for a building permit shall include the following information, which is subject to the approval of the Planning Director:

- a. Plans that reflect enhanced elevations that face Bishop Street and enhanced upper portions of the building that back onto adjoining property.
- b. Plans for a decorative trash/recycle enclosure, including landscaping which reflects that vines will soften the visual impact. The trash enclosure shall be constructed at the location as depicted on the site plan. The trash enclosure shall be constructed of a decorative 6-foot-high masonry wall, which incorporates the architectural style, color and materials of the primary structure(s), with a solid and lockable, decorative metal access gate. The enclosure shall include internal concrete curbs to protect the side walls. The enclosure shall provide for an equivalent amount of space for recycling containers as for trash containers.
- c. A property survey showing property lines and property improvements.
- d. Details of bicycle racks.
- e. Relocation of the utility pole adjacent to the southernmost driveway on Bishop Avenue.
- f. A color board that reflects colors to be used on the building and canopy. Stark colors and white are prohibited.
- g. An enhanced canopy structure, to include decorative columns.
- h. An easement approved by the City of Hayward that reflects access to City property for purposes of construction and building maintenance.
- i. An 18-inch curb between the parking stall and the western side of the building, with the size of the building reduced by 6 inches to accommodate the curb.
- j. Plans for any cooking facilities must be stamped by the Alameda County Environmental Health Department.
- k. A lighting plan, which shows that proposed lighting is adequate for the illumination and decorative in nature consistent with the design of the building. Lighting in the parking areas and exterior walkways shall conform to the Security Ordinance and be controlled by photocells.
- l. Plans shall show that downspouts shall be incorporated into the development design of the building.
- m. Plans shall show that utility meters are screened by cabinets that mimic the design of the building.
- n. A decorative trash enclosure, designed to incorporate architectural features and materials of the building.
- o. Plans shall reflect that any mechanical equipment, or solar collectors, that is placed on the roof is adequately screened from view by the roof structure.

- p. Plans shall reflect the specifications of decorative pre-cast concrete trash receptacles, with a self-closing metal lid, which shall be located near each of the exterior customer doors and the pump islands.
- q. Plans shall show that the Bishop Avenue driveway is constructed to City Standard SD-110.
- r. Each open parking space shall be provided with a Class "B" Portland Cement concrete bumper block or a continuous concrete curb not less than 6 inches in height above the finished pavement.
- s. An application for a sign permit shall be submitted with the building permit application showing relocation of the monument sign to an area that avoids conflicts with motorists' visibility as determined by the Planning Director. The wall sign shall consist of individual letters (no raceway).
- t. The plans shall show how the project complies with the provisions of the Security Ordinance that pertain to address numbers, and all newly installed doors, windows and locks.

24. **Landscaping:** A revised, detailed landscaping and irrigation plan prepared by a licensed landscape architect shall be submitted with the building permit. The following shall be included on the landscape plans:

- a. A minimum 3-foot radius shall be used on the landscape island adjacent to the handicap stall.
- b. Landscaping and irrigation plans shall comply with the City's Water Efficient Landscape Ordinance.
- c. Plans shall reflect that a complete automatic sprinkler system with an automatic on/off mechanism is to be installed and maintained within all landscaped areas. This system must utilize a double-check, double-gate backflow device and shall include an individual adjustable-flow bubbler to each tree.
- d. The landscaping plan shall reflect vines over the trash enclosure.
- e. The landscaping plan shall not reflect ivy as groundcover in the new planter areas as it is too invasive; rather use other lower growing groundcover.
- f. Screening shrubs shall be moved to the interior of the planter areas and a second right-of-way of smaller flowering shrubs shall be included on the outside at about 2 feet on center.
- g. The landscaping plan shall reflect three additional street trees for a total of five trees. The street tree on Harder Road must be in a 5' x 5' tree well with a walk-on grate.

- h. Trees shall not be severely topped or pruned at any time. Trees shall be maintained to ISA standards. Use the 'Yarwood' variety of Sycamore for resistance to mildew. Root barriers shall be used wherever trees are planted within 8 feet of paving. Submit plan for street trees.
- i. Annuals must be replaced three times per year, or whenever the planters become unkempt or plants have died back over 30 percent. The design of the planter pots is to be approved by the City Landscape Architect and must be permanent.
- j. An automatic irrigation or a hose bib for water shall be provided at each pump island, and each pot shall have a minimum of one large perennial plant for a focal point.
- k. Groundcover must be planted in all planters along with 2-inch bark mulch.

25. **Public Works/Division of Utilities**: The following information shall be reflects on plans submitted for a building permit.

- a. A Reduced Pressure Backflow Prevention Assembly shall be installed as Per City of Hayward Standard Detail 202 on all commercial, domestic & irrigation water meters.
- b. Show locations of existing and proposed water meters and sanitary sewer laterals on plans. Keep in mind that water meters are to be located 2 feet from top of driveway flare as per City of Hayward Standard Details 213 thru 218. Water meters to be located a minimum of 6 feet from sanitary sewer lateral as per State Health Code.
- c. Show following notes on plans:
 - a) Only Water Distribution Personnel shall perform operation of valves on the Hayward Water System.
 - b) Water and Sewer service available subject to standard conditions and fees in effect at time of application.

26. Violation of the conditions of the use permit is cause for revocation of this permit, subject to a public hearing before the duly authorized reviewing body.

CONDITIONS OF APPROVAL

USE PERMIT APPLICATION NO. PL-2003-0497

VARIANCE APPLICATION NO. PL-2003-0498

Parwani & Associates, Inc. (Applicant)

382 West Harder Road

Expansion of Service Station

General:

1. Application Nos. PL-2003-0497 and PL-2003-0408 are approved subject to the conditions listed below and in accordance with Exhibit A as modified by staff. This permit becomes void one year after the effective date of approval, unless a building permit has been issued or a building permit application has been submitted for processing and said application has not expired. A request for a one-year extension, approval of which is not guaranteed, must be submitted to the Planning Division 15 days prior to the above date.
2. The building permit application shall include a copy of these conditions of approval printed upon the plans.
3. The amount of area devoted to the sale of alcohol shall be limited to no more than the area devoted to the sale of alcohol prior to the approval of this permit, which included 4 refrigerated sections, each having 6 shelves that are 28 inches wide and 2 feet deep, and there shall be no advertising of alcoholic beverages that is visible from outside the building.
4. Any pay telephones and newspaper racks shall be relocated to the inside of the building. No exterior pay telephones or newspaper racks are permitted.
5. No outside storage of materials, crates, boxes, etc. shall be permitted anywhere on site, except within the trash enclosure as permitted by the fire code.
6. The permittee shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.
7. All unused driveways across the property frontages shall be removed and replaced with curb, gutter and sidewalk.
8. Any proposal for alterations to the proposed site plan and/or design, including color, which does not require a variance to any zoning code, must be approved by the Planning Director prior to implementation.
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by the project landscape architect prior to approval of occupancy of the expanded area of the building.

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