CITY OF HAYWARD
AGENDA REPORT

Planning Commission

Meeting Date 03/27/03
Agenda Item 3

TO: Planning Commission

FROM: Richard E. Patenaude, Principal Planner

SUBJECTS: Revocation of UP 99-160-18 – James Miller & Assoc. (Applicant) / Big "O" Tires, Inc. (Owners): Use Permit Application for a Big "O" Tires Auto Service Center

Revocation of SPR 00-130-09 – Daniel Gibbs, CEI Engineering Assoc. (Applicant) / AutoZone (Owners): Site Plan Review Application for an AutoZone Retail Auto Parts Store

The Projects Are Located at 28000 Mission Blvd. between Webster and Hancock Streets

RECOMMENDATION:

Staff recommends that the Planning Commission:
1) revoke UP 99-160-18 for construction of a 5,163-square-foot Big "O" Tires auto service center subject to the attached findings; and
2) revoke SPR 00-130-09 for construction of a 5,400-square-foot AutoZone retail auto parts store subject to the attached findings.

BACKGROUND:

The Planning Commission, on July 13, 2000, approved Conditional Use Permit applications for a Big "O" Tires auto service center (UP 99-160-18) and a fast-food restaurant with a drive-thru window (UP 00-160-14), and a Site Plan Review application for an AutoZone retail auto parts store (SPR 00-130-09). The projects are adjacent and were designed to share vehicular access and parking lots. The three buildings also shared a common architectural style. Although the three applications received separate action by the Planning Commission, they were reviewed together because of their planned design, parking and circulation interrelationships; mutual access and maintenance agreements have been recorded.

No subsequent building permit application was ever made for AutoZone. In the case of Big "O", a building permit application was made on March 21, 2001 and cancelled on November 21, 2001. There was a subsequent inquiry from a potential franchisee, but there has been no follow-through that might lead to new permit activity. The applicants further did not apply for extensions of time as allowed by the Zoning Ordinance. Carl's Jr., the operator of the proposed

fast-food restaurant, applied for a building permit on April 25, 2001, and this permit is still active. The Use Permit for the restaurant is not included in this action. However, the inactivity of the AutoZone and Big "O" projects has caused complications in the processing of the restaurant's permit as its parking requirement was to be partially satisfied through shared parking provided by the adjacent projects; staff and the applicant are pursuing options in this regard.

The Zoning Ordinance considers development projects void when there is inactivity following their approval. Conditional Use Permits and Site Plan Reviews are void one year after the date of approval unless a building permit application has been accepted for processing by the Building Official. The AutoZone Site Plan Review is considered void, as a building permit application was never submitted. Furthermore, another developer has since been working with staff regarding a hotel project for the AutoZone property. The Big "O" project does not have a current application for a building permit that has been accepted for processing by the Building Official and it has been almost three years since the approval of its Conditional Use Permit. Under the Zoning Ordinance, this Permit is also void.

In addition, the Zoning Ordinance provides that development permits may be revoked when the Planning Commission finds that the applicant has not fully completed all conditions of approval or improvements indicated on the approved development plan and modification is not in the public interest. The improvements for both Big "O" and AutoZone have not been commenced and there is no indication from either of an intent to proceed. Therefore, it is in the public interest to revoke the Conditional Use Permit and the Site Plan Review and promote development of the site to current policies and standards.

While the Zoning Ordinance provides thresholds for the voiding of inactive permits, the Planning Commission is being asked to formally revoke these permits. Due process requires a noticed hearing for official revocation of development permits.

The Planning Commission approved these permits subject to a finding that the projects are in harmony with applicable City policies as well as the intent and purpose of the zoning district in that the use will be compatible with adjacent commercial and residential activities. Since that time, the "interrelated" project has been separated into individual components that will not likely be developed according to the plan reviewed by either the Planning Commission or the City Council Commercial Center Improvement Committee (June 19, 2000). The properties are now also located within the City of Hayward Redevelopment Area adopted on June 28, 2002. The expectations were that the design of these projects would set a precedent for new development and redevelopment along the Mission Boulevard corridor with consistent architecture and landscape. There is no longer any assurance that the findings can be made that the individual projects are in harmony with applicable City policies.

PUBLIC NOTICE:

On March 17, 2003, a Notice of Public Hearing was mailed to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records. Notice was

also provided to the South Hayward Parish, the South Hayward Neighborhood Group, the Alta Vista Improvement Committee, and the Mission-Garin Neighborhood Task Force.

CONCLUSION:

Revocation of the Conditional Use Permit for Big "O" Tires and the Site Plan Review for AutoZone requires Planning Commission action. In addition, the projects were considered consistent with both the General Policies Plan and the Mission-Garin Neighborhood Plan when design as an interrelated project; this finding may not be applicable for the individual components. Therefore, staff recommends that the Planning Commission revoke the permits.

Prepared by:

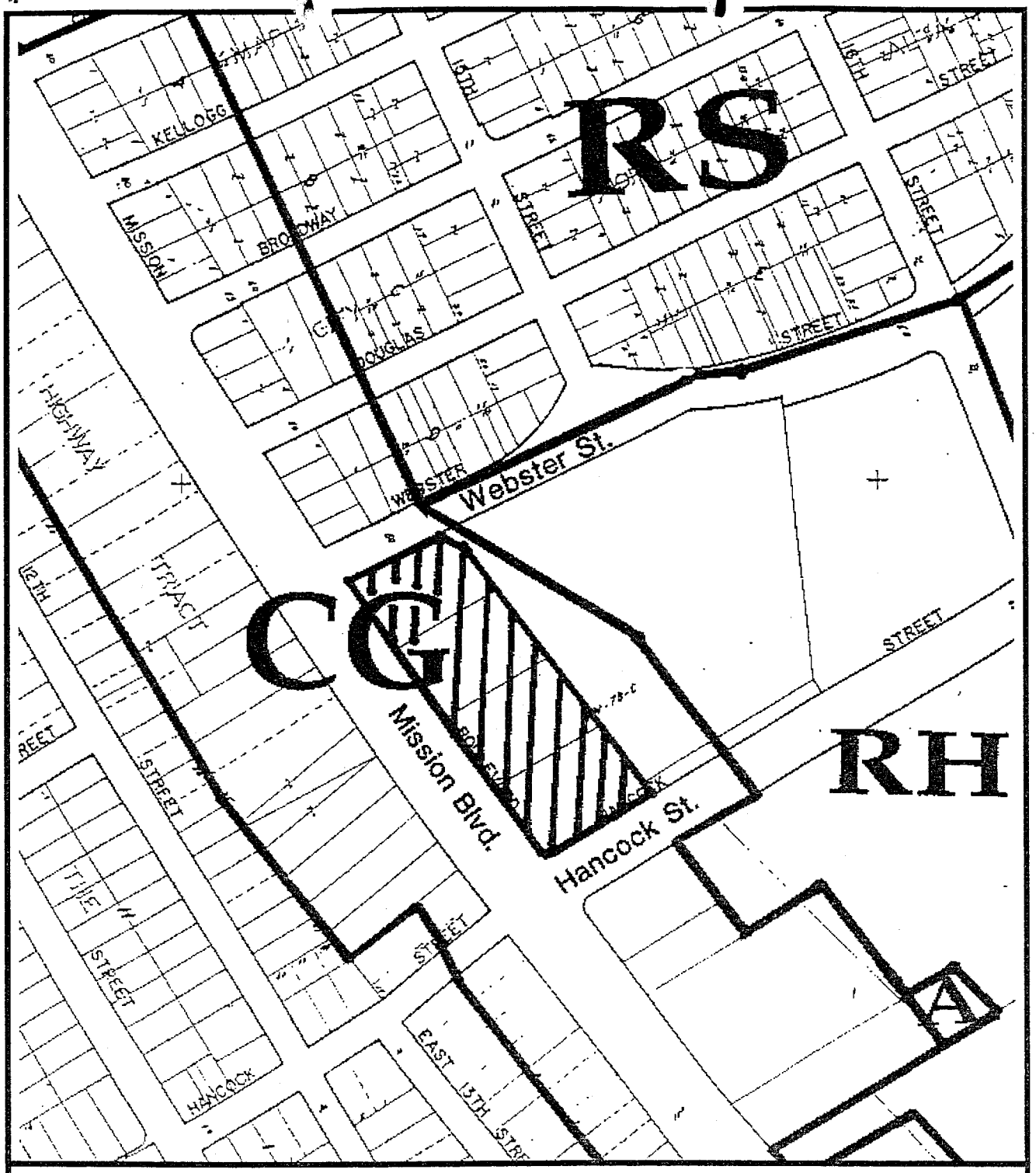
Richard E. Patenaude, AICP
Principal Planner

Recommended by:

Dyana Anderly, AICP
Planning Manager

Attachments:

A. Area Map
B. Findings
Plans



AREA MAP

UP 99-160-18 / UP 00-160-14 ■ James Miller & Assoc. (Applicant) / Big "O" Tires, Inc. (Owner)

SPR 00-130-09 ■ Daniel Gibbs, CEI Engineering Assoc. (Applicant) / AutoZone (Owner)

28000 Mission Boulevard

ATTACHMENT A

FINDINGS FOR REVOCATION
Use Permit Application No. 99-160-18
BIG "O"
James Miller & Assoc. (Applicant)
Big "O" Tires, Inc. (Owners)

Based on the staff report and the public hearing record:

1. The Zoning Ordinance states "conditional use permit approval is void one year after the effective date of approval unless a building permit application for the subject project has been accepted for processing by the Building Official...." While a building permit application was made on March 21, 2001, it was cancelled on November 21, 2001. There has not been an active building permit application in excess of 16 months. Therefore, the Conditional Use Permit is void.

2. The applicant did not apply for an extension of time, as allowed by the Zoning Ordinance, to keep the Conditional Use Permit active.

3. The Zoning Ordinance states that "[a] conditional use permit may be revoked when the Planning Commission finds that ... the applicant has not fully complied with or completed all conditions of approval or improvements indicated on the approved development plan and modification of the conditions or plan would not be in the public interest or would be detrimental to the public health, safety, or general welfare." This project was evaluated together UP 00-160-14 and SPR 00-130-09. SPR 00-130-09 is also considered void by the Zoning Ordinance due to permit inactivity. The improvements related to this project have not commenced and there is no indication of intent to proceed. It is not in the public interest to proceed with the improvements to this project at this time as an independent entity as development may not be in accord with current City policies and standards. Therefore, it is appropriate to revoke the Conditional Use Permit.

EXHIBIT B

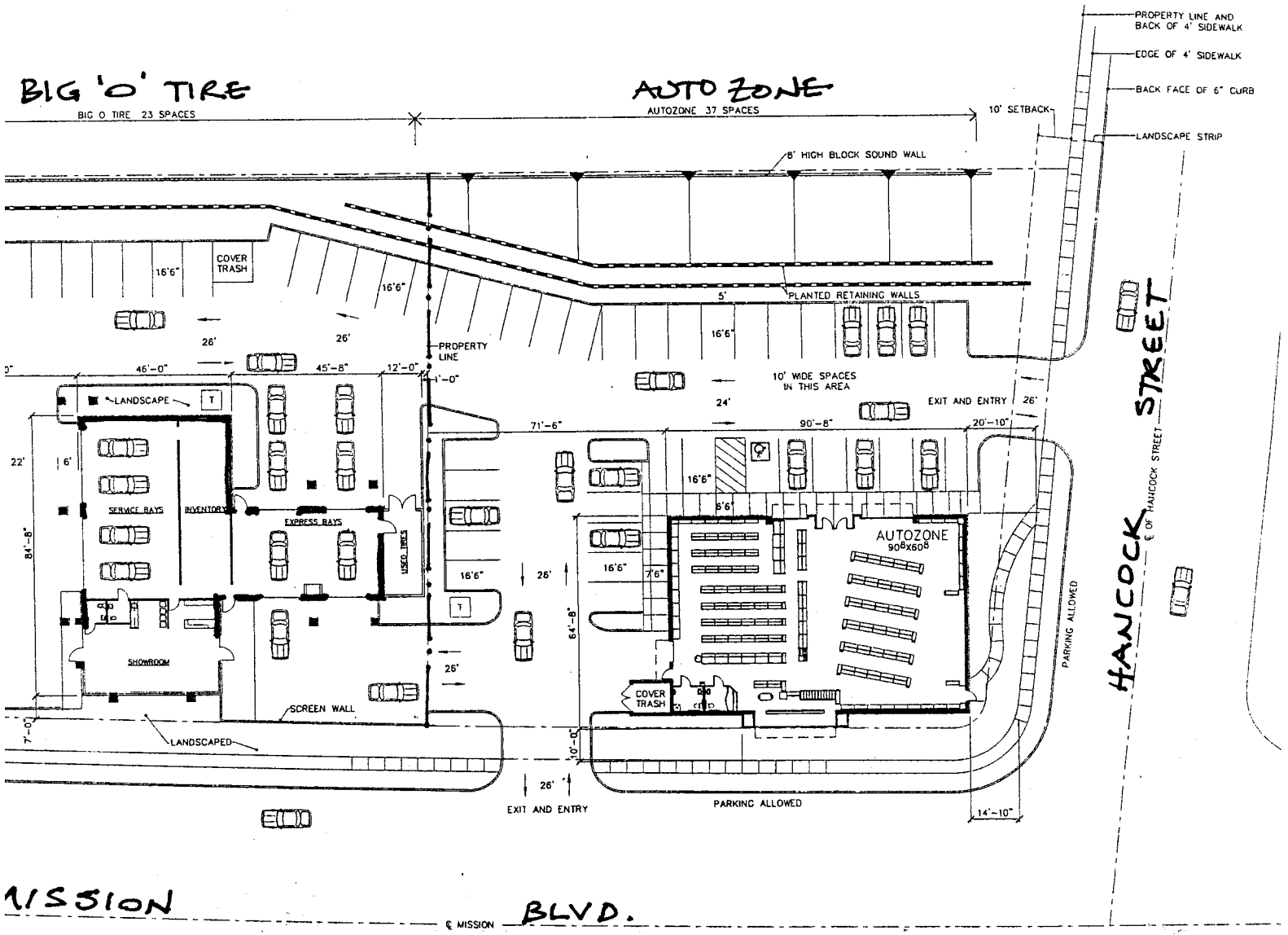
FINDINGS FOR REVOCATION
Site Plan Review Application No. 00-130-09
AUTO ZONE
Daniel Gibbs, CEI Engineering Assoc. (Applicant)
AutoZone (Owner)

Based on the staff report and the public hearing record:

1. The Zoning Ordinance states "site plan review approval is void one year after the effective date of approval unless a building permit application for the subject project has been accepted for processing by the Building Official...." No building permit application was ever made. Therefore, the Conditional Use Permit is void.

2. The applicant did not apply for an extension of time, as allowed by the Zoning Ordinance, to keep the Site Plan Review active.

3. The Zoning Ordinance states that "site plan review may be revoked when the Planning Commission finds that ... the applicant has not fully complied with or completed all conditions of approval or improvements indicated on the approved development plan and modification of the conditions or plan would not be in the public interest or would be detrimental to the public health, safety, or general welfare." This project was evaluated together UP 00-160-14 and UP 99-160-18. UP 99-160-18 is also considered void by the Zoning Ordinance due to permit inactivity. The improvements related to this project have not commenced and there is no indication of intent to proceed. It is not in the public interest to proceed with the improvements to this project at this time as an independent entity as development may not be in accord with current City policies and standards. Therefore, it is appropriate to revoke the Site Plan Review.



CONCEPT SITE PLAN

PLANNING DIRECTOR
APPROVED
INITIAL- RSP
DATE- 7/24/00
CITY OF HAYWARD