CITY OF HAYWARD
AGENDA REPORT

Meeting Date: 07/01/04

Agenda Item: 1

TO: Planning Commission

FROM: Dyana Anderly, AICP, Planning Manager

SUBJECT: Zone Change Application PL-2004-0322 – To Change the Zoning from Central City - Plaza and Central City – Commercial to Planned Development District to Construct a Commercial Complex Containing a 12-screen Cinema, Restaurants, Retail Spaces, and a Four-Level Parking Structure, and to Allow Sales of Alcoholic Beverages

Field Paoli Architects (Applicant), Hayward Redevelopment Agency (Owner) – The Project is Located at 22695 Foothill Boulevard, West Side, Between B and C Streets

RECOMMENDATION:

It is recommended that the Planning Commission recommend that the City Council approve the Mitigated Negative Declaration and Mitigation Monitoring Program, the zone change to Planned Development, the Preliminary Development Plan, find that the public convenience or necessity would be served by allowing the sale of alcoholic beverages, and that approval action is in accordance with the attached findings and subject to the conditions of approval.

DISCUSSION:

The applicant is seeking to change the zoning of the project site to Planned Development in order to create a major entertainment venue at the entry to the downtown spine in a creative manner that meets the intent of the *Downtown Design Plan.* A "Preliminary Development Plan" is required as part of a Planned Development District, which the Planning Commission is being asked to consider. As part of the Planned Development process, a Precise Development Plan with greater detail is to follow. The Precise Development Plan is subject to the approval of the Planning Director as long as the finding can be made that the Precise Development Plan is in substantial conformance with the Preliminary Plan.

The Preliminary Development Plan shows that the northern portion of the project, fronting on B Street and Foothill Boulevard, is on two levels, with the theater rotunda projecting from the second level to a height of 72 feet. The ground floor level is devoted to a major retailer, with

additional lease spaces fronting on B Street and Foothill Boulevard to provide for a variety of retail and restaurant activities. The second level, accessed by an impressive staircase from B Street, an escalator and an elevator, features the cinema lobby within a large rotunda, a 12-screen cinema, and lease spaces envisioned primarily for restaurants. It is likely that the major retailer on the first level will sell wine and beer, and there may be other establishments within the complex where alcohol is sold as on and off premises consumption. Because the census tract wherein the project lies has been identified by the State Department of Alcohol Beverage Control as, according to their standards, over-concentrated with licenses for the sale of alcoholic beverages, a finding must be made that the sale of alcoholic beverages from the project will serve the public convenience or necessity.

Building Elevations

The project is designed to create a highly visible landmark on the B Street/Foothill Boulevard frontages through its energizing design features. The most eye-catching elevation of the complex is on B Street, which features a dramatic staircase to the second level, public areas, a major (18,240 square-foot) retailer, and a 72-foot-high rotunda bedecked with striking neon lighting. A "water wall" facing B Street and traveling up the staircase creates an interesting visual and acoustic diversion. An open decorative guardrail separates the second level terrace from the street. The mass of the upper floors of the cinema/retail structure is reduced through variation in building setbacks and in building heights. The B Street elevation is consistent with the *Downtown Design Plan,* which indicates that commercial buildings should have pedestrian-oriented elements which could be used for shelter, advertising, browsing or resting and that pedestrian-oriented spaces should also have outdoor spaces highlighted with tables and chairs for restaurants.

Along B Street, plans reveal that the design concept essentially breaks the eastern portion (toward Foothill Boulevard) of the retail/cinema building into a number of smaller forms along B Street to give the impression of a collection of small buildings, which reduces the discontinuity between the scale of the project building and the existing lower-density, smaller-scale character of surrounding commercial development. Fin walls extend out toward the street along the B Street and Foothill Boulevard elevations from a point east of the grand staircase on B around the corner for a distance of approximately 70 feet along Foothill.

As seen along B Street, the western portion of the complex is designated for a major retailer on the ground floor with the cinema on the second floor. The building wall along the lower floor is broken up with storefront windows associated with the major retailer; and banners, horizontal blades of neon lighting, and a "Century Theaters" sign are on the upper level. The upper portion of the does not have the strong architectural divisions of the eastern portion of the building. In staff's opinion, this area could be made more interesting with the use of varied colors, dramatic lighting and generous score lines, and a condition of approval requires greater details on the western portion of the B Street elevation.

The Foothill Boulevard elevation features retail storefronts on the first level. Because Foothill Boulevard is curved between B and C Streets, the building is modulated to correspond with the curve of the street. The cinema is located on the upper floor atop the retail shops where graphic displays and accent or strip neon lights mounted under horizontal blades are intended to soften

the massiveness of the structure. The content of the graphic display panels have not been specified, although the applicant indicates that they could be general advertising or theater posters. Staff recommends that these graphic displays not be used for general advertising, and a condition of approval requires more consideration of the graphic displays with the Precise Development Plan. The Foothill Boulevard elevation also contains a marquee sign of significant size and height (discussed further below under "Signs.")

The parking garage is also found along Foothill Boulevard, where one of the entries into the garage is located. To create walls with interest at the pedestrian level, theater poster displays, metal wall grills and vines are used. Because the Foothill Boulevard frontage is so highly visible, staff is recommending that the design of the parking structure be modified to provide a more impressive streetscape, which could be achieved by using a more dramatic automobile access point (e.g., arches, change in material etc.), stucco pony walls with decorative metal rails, a mural, and illumination that is set into the garage ceiling to avoid glare splashing into the surrounding streets. A condition of approval requires greater attention to the parking garage as part of the Precise Development Plan.

The C Street elevation consists primarily of the parking structure, with the back of the cinema and rotunda being visible. A sign structure is located at the intersection of Foothill Boulevard and C Street. The design of the garage as seen from C Street is much like that found on Foothill Boulevard. There is no direct entry to the garage from C Street, rather, motorists will enter an alley off C Street and from there gain access to the parking structure. A stairwell to upper levels of the parking garage is located adjacent to the alley on C Street. Because the Foothill/C Street intersection is so prominent, staff recommends that the structure incorporate greater architectural interest at this point.

The westerly elevation faces an alley that provides access to the garage from B and C Streets, as well as a garage exit to C Street via the alley. This elevation includes storefront windows near B Street, decorative lighting, and accent or strip neon lights mounted under horizontal blades on the upper level over the first approximately 55 feet from B Street. To break up the vastness of this elevation, a large (over 2000 square-foot) sign spans the upper level of the cinema. The architect included this feature in response to a suggestion a City Council work session that a sign might be incorporated into the western elevation to add interest. As designed, staff believes that the large sign is too dominant and not eye-appealing. As an alternative, staff suggests creating a sign with artistic script, and integrating the sign within a decorative metal feature that carries out the design theme of the building. Backlighting this feature would both break up the massiveness of the building and be more appealing. It would also likely be visible from BART. .

Parking and Traffic Circulation

The *Downtown Design Plan* recognizes that the property at the southwest corner of Foothill Boulevard and B Street should be reconfigured to place a building directly on B Street, with parking to the rear to provide for a more vital, attractive presence on B Street and to provide for a more efficient parking arrangement, including within a parking structure. The *Plan* also suggests working out a plan for interim parking while a new structure is being built. The proposed parking structure is designed to accommodate visitors to the project as well as to provide parking

for downtown shoppers. The four-level parking structure containing 356 parking stalls is in keeping with the scale of the theater/restaurant/retail complex. When construction is over and the project is occupied, motorists will be able to park not only in the attached parking garage, but in an expanded Municipal Lot No. 2 directly across B Street or in the expanded Municipal parking structure at B/Mission/Watkins.

The adequacy of the future parking supply to accommodate the parking needs of the project was analyzed. The future downtown core area parking supply is estimated to be 1,934 spaces. Studies show that an "effective capacity" of parking is about 90 percent of supply, which is defined as the level at which the number of spaces is considered adequate to prevent the public from circling around trying to find parking. Consequently, in this case, the effective capacity of the future parking supply would be 1,741 spaces. Since the projected future parking demand with the project is forecast to be 1,688 and 1,496 during the Friday and Saturday peak times, respectively, the future parking supply should be more than adequate to accommodate the demand.

It should be noted that the total parking demand indicated above is a "worst case" situation, i.e., the demand for the parking to be generated by the mixed use development is added to the existing p.m. peak hour demand. In reality, however, the peak demand for the theaters and restaurants occurs on Friday and Saturday nights at about 8:00 p.m. Since many of the users of the existing parking spaces, i.e., City Hall and some of the service-related businesses which close at 5:00 or 6:00 p.m., will not be using those spaces after 6:00 p.m., an additional 200 ± spaces should be available at the time of peak use for the mixed-use development. It should also be noted that the parking analysis did not assume any trips were to be made by public transit. Given that the Cinema Place project will be in proximity to a BART station as well as to several AC Transit lines, it is reasonable to assume that some trips by customers and employees will be made by public transit. Consequently, the demand for parking should be reduced even further.

With regard to traffic, all intersections within the study area currently operate in compliance with the City of Hayward's level of service standard (LOS D) except for the intersection of A Street and Foothill Boulevard, which operates at LOS E during the p.m. peak hour. Much of this delay is due to inadequate storage for northbound right turns because the northbound right turns must share the lane with the through traffic.

The project would result in minimal changes to traffic operations during the a.m. peak hour; and even with the increase in p.m. peak hours at the A Street/Foothill intersection, the LOS would still remain at E. If a significant number of theater patrons chose to attend late afternoon matinees, the delay at this intersection can be expected to increase.

The *Downtown Design Plan* indicates that B Street should be directly accessible by automobile from any neighboring street, and a new left-turn pocket from northbound Foothill Boulevard to B Street will provide improved access to B Street. In order to achieve a left-turn lane of sufficient length (300 feet), 31 on-street parking spaces would be removed along Foothill, and to improve traffic flow at the Foothill/A Street intersection identified above, parking is to be prohibited during the p.m. peak period at 6 parking spaces along the east side of Foothill Boulevard just south of A Street, which would allow for a 150 foot northbound right turn only lane.

Landscaping

Landscaping along B Street will be required to carry out the theme established along B Street in the downtown, and this objective is appropriate along C Street as well. Given the mass of the structure on a major arterial, larger scale trees are appropriate along Foothill Boulevard. A condition of approval requires that the Precise Development Plan reflect this perspective.

Height

The *Downtown Hayward Design Plan* establishes a maximum height restriction by areas in the downtown. The height limit for the project site is 42 feet along B Street in the Central-City Plaza District (first 25 feet) and 55 feet for the remainder of the area. Within the Central-City Plaza District, the B Street storefronts and restaurant areas generally comply with this requirement; however, the project deviates from the 42-foot height limit along B Street where the cinema is situated over the major retailer (approximately 60 feet high at this location). At the approximate height of 62 feet, the cinema exceeds the 55-foot height limit. At 72 feet, the rotunda is the tallest element of the project. The height of the parking structure does not exceed height limitations. In staff's opinion, the height of the project distinguishes Foothill and B Street as the entry to the downtown spine and the use of the property as a major entertainment venue. The site will serve as an anchoring point for the downtown between Foothill and the City Hall. The *Downtown Design Plan* envisioned a series of commercial projects that would be in scale with the remainder of the street. While the design of the project in part incorporates a rhythm to mimic that of the downtown shops, by its stature it is more symbolic of that of a downtown landmark. One of the purposes of the Planned Development zoning district is to foster diversification in the relationship of uses, buildings, and architectural design that is not achievable under other zoning districts. As such, staff believes that the design of the project, including the height of the structure, is consistent with this intent.

Signs

The City's Sign Regulations allow up to 1100 square feet for signs identifying the cinema, plus additional area for "theater display cases." The maximum height permitted for a marquee sign is 45 feet. The requested square footage for signs exceeds the maximum area allowed by about 90 square feet, excluding the large "Cinema Place" sign on the westerly, which is recommended to be design as an artistic feature of the building. Given the size of the project and considering that all four elevations are visible from three street frontages, staff is supportive of the sign program requested as long as the recommended changes are incorporated into the Cinema Place sign.

The Sign Regulations limit the height limit of marquee signs to 45 feet, and the proposed marquee sign is approximately 72 feet high, which is also the height of the rotunda. This sign extends above the roof line, which is also not permitted by the Sign Regulations. It would appear that the Sign Regulations did not envision that a cinema would be as tall as 72 feet since, a marquee limited to 45 feet on a building of this size could be considered out of scale. Given the significance, intent, size, and location of the project on three street frontages, the proposed sign program would, in staff's opinion, add vitality to the project. Staff recommends, however,

that an attractive base to the marquee sign be added to "ground" the sign and to better integrate it with the building.

For the reasons stated above, a departure from the Sign Regulations is appropriate for the project. In staff's opinion, the height of the proposed building on the property poses special circumstances as the height of the marquee sign would be out of scale with the size and height of the building were it to be reduced to no more than 45 feet. Another special circumstance is that, unlike other development, the complex signals a major entertainment venue and the entry to the downtown, and the proposed signs are appropriate beacons for this activity. Because the sign program is part of the Planned Development zoning designation, technically, approval of a variance is not required.

Downtown Design Plan

The "B Street/Business Revitalization" section of the City Of Hayward *Downtown Design Plan* identifies B Street as the focus of commercial activity in the downtown core. The fundamental principle that must drive changes to B Street is that there be continuous, active retail uses visible and directly accessible from the street. To achieve this end, the *Design Plan* states that both the north and south sides of B Street should have continuous ground floor retail with storefronts, with primary entries onto B Street. An activity proposed in the *Plan* is marketing and promoting downtown, including enhancing Hayward's downtown image. In staff's opinion, a striking commercial center with interesting and lively graphics and signs will serve this purpose.

Alcohol Related Uses

The *Downtown Design Plan* recognizes that consumption of alcohol in the downtown is a part of community life.

> *As we look to the future of downtown Hayward, preventive planning to avoid alcohol-related problems must be recognized as an essential element in the revitalization process. It is important to manage alcohol availability in our downtown in a positive way that enhances the economic and social character of this vital area of our City. The restaurants and entertainment facilities, many of which will sell alcoholic beverages and will hopefully become an asset to downtown [sic]. Policymakers should be afforded the opportunity to review and impose conditions of approval for certain alcohol related outlets to insure such uses are not a detriment to the downtown.*

The *Plan* recognized that the City anticipated the adoption of a use permit process by which to review applications for businesses that intend to sell alcoholic beverages. The Zoning Ordinance, as it relates to the sale of alcoholic beverages, exempts bona fide restaurants and large retailers (over 10,000 square-feet) from use permit requirements, and it is expected that there will be a large retailer where sales of un-refrigerated beer and wine will be a small portion of their sales. There may be other entertainment opportunities engaged in the sale of alcoholic beverages, such as restaurants with separate bars, where use permits are typically required and where the number and spacing of these types of businesses are limited by the Zoning Ordinance. However, the

project is intended to function as a single entertainment venue where there will be numerous consumer choices with respect to restaurants and alcohol consumption, and the Zoning Ordinance does not address this type of collective entertainment opportunity.

The establishment of the entertainment complex within a Planned Development district is intended to provide the opportunity to examine this aspect of the project in relation to its compatibility with surrounding uses and the intent of the *General Plan* and the *Downtown Design Plan.* In staff's opinion, there should be opportunities for the sale of alcoholic beverages along with careful consideration of appropriate limits to the sales. These limitations should include a restriction against any "single purpose" bars in the development, there should be no more than one retail business that sells off-sale alcoholic beverages as an incidental share of the sales, where there are no more than two restaurants with full bars. It is also suggested that restaurants without bars be able to serve alcoholic beverages to diners.

The Alcoholic Beverage Outlet Regulations are intended to ameliorate problems relating to impacts on peace, health, safety and welfare of residents and visitors to Hayward. The use permit process is a means to review the effects of establishments selling alcoholic beverages on neighboring uses on a case-by-case basis and to prevent undue concentration of and undesirable impacts on the community stemming from such uses. In this instance, the Planned Development District can serve to address these issues and provide an opportunity to impose conditions of approval to insure that the intent of the Regulations are carried out and that oversight will be as stringent as if individual use permits were required. In addition, the Planning Director and the Chief of Police have the authority to review the backgrounds of the applicants and their proposed methods of operation to ensure that they would be operating in a manner consistent with the intent and limitations of the Planned Development. Limitations with respect to the sales of alcoholic beverages are found in the conditions of approval, and additional conditions of approval can be added to the ABC license to address issues relating to individual establishments. The review of the Precise Development Plan will provide an opportunity to add additional condition, if necessary.

Environmental Analysis

This proposal is defined as a "project" under the parameters set forth in the California Environmental Quality Act (CEQA) Guidelines. The environmental checklist prepared by staff indicates that the project may have potential impacts, unless mitigation measures are incorporated into the project. These potential impacts include noise during construction and severe shaking during a major earthquake. Conditions of approval are intended to address these issues, which include a contact number for an individual responsible for construction-related noise and building code requirements to ensure life safety during a major earthquake. Therefore, a Mitigated Negative Declaration has been prepared.

Public Notices

On May 13, 2004, a notice was mailed to property owners and tenants within 300 feet of the project boundaries and to all other known interested parties advising them that the City had received a development application for the site. In response to this notice, staff received one e-mail from an individual supporting the application. The City Council Downtown Committee met

on February 24, 2003, to discuss the project, and the sentiment of this body was generally favorable to the concept of conversion.

On June 1, 2004, a public hearing notice was published in the "Daily Review" and on June 10, 2004, a public hearing notice was mailed to surrounding property owners/residents. In a telephone conversation with a Commpre staff member, Commpre expressed a willingness to work with staff to develop a positive approach to the sale of alcoholic beverages.

Conclusion

The project would create a new focus of activity near the entry to the major downtown retail spine. The proposed entertainment-related uses would promote after-hours use of the downtown by encouraging downtown workers to remain after work, encourage new patrons to come to the downtown, and provide an entertainment venue for those who currently live and who are anticipated to live in and about Hayward's downtown. The downtown location of the theater will provide opportunities for people to enjoy location entertainment without traveling freeways, with public transit as an attractive option. The entertainment center will also encourage chance meetings with local neighbors and fellow citizens.

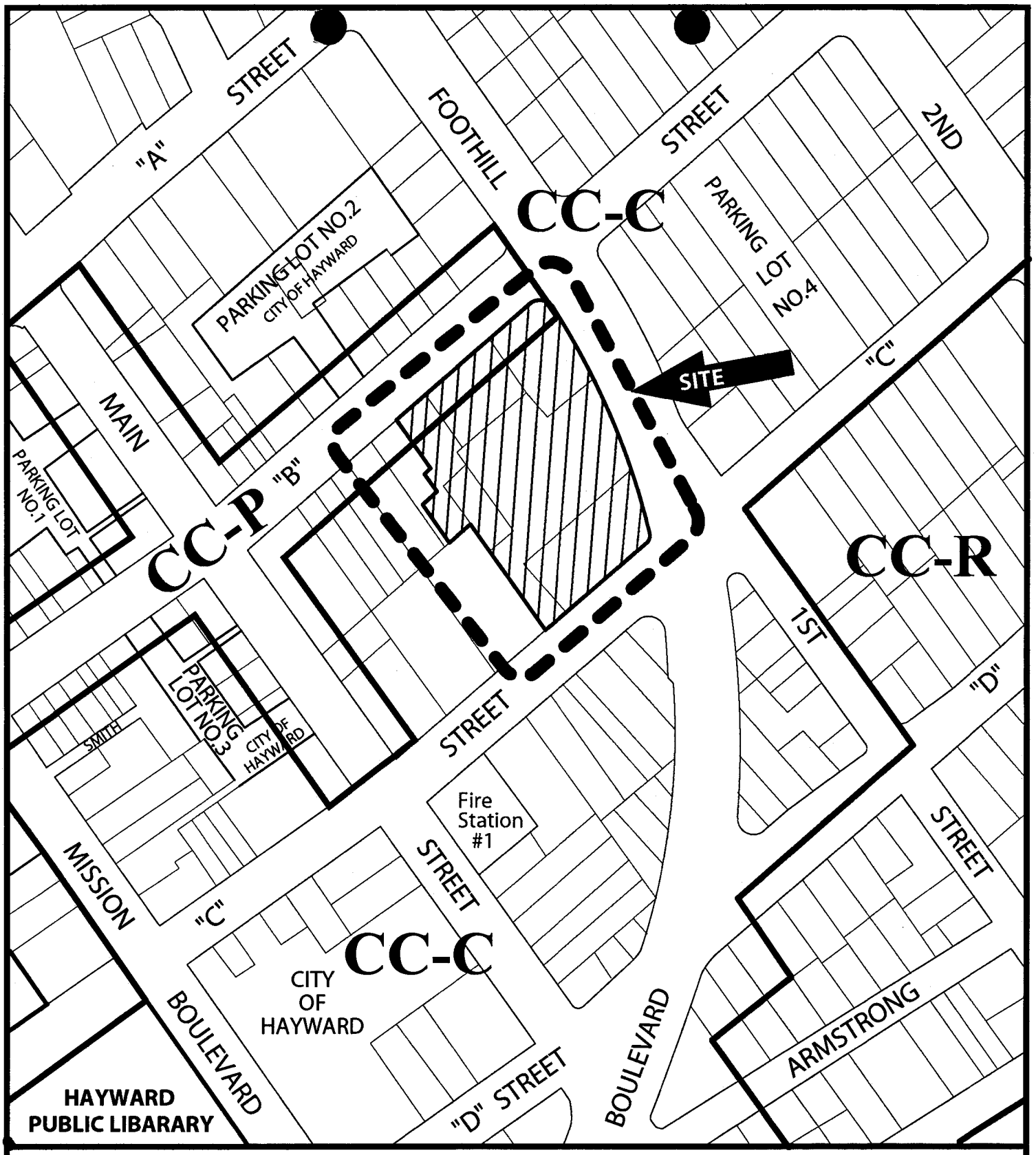
Prepared by:

Dyana Anderly

Dyana Anderly, AICP
Planning Manager

Attachments:

A. Area Map
B. Findings for Approval
C. Conditions of Approval
D. Negative Declaration, Environmental Checklist
E. Mitigation Monitoring Program
Plans



Area & Zoning Map

PL-2004-0262 UP & PL-2004-0265 AVR

Address: 22695 Foothill Blvd.

Applicant: Steven Lovell

Owner: City of Hayward

CC-C-Centrial City-Commercial
CC-P-Centrial City-Plaza
CC-R-Centrial City-Residential

North

ATTACHMENT A

Zone Change Application No. PL. 2004-0322

22695 Foothill Boulevard
Field Paoli (Applicant)
Hayward Redevelopment Agency (Owner)

FINDINGS FOR APPROVAL

A. The project application has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study Environmental Evaluation Checklist has been prepared for the proposed project. The Initial Study has determined that the proposed project, with the recommended mitigation measures, could not result in significant effects on the environment, and a Mitigated Negative Declaration has been prepared.

B. The zone change to Planned Development is in substantial harmony with the surrounding area and conforms to the General Plan and applicable city policies in that the *Downtown Design Plan* indicates that commercial buildings should have pedestrian-oriented elements which could be used for shelter, advertising, browsing or resting and that pedestrian-oriented spaces should also have outdoor spaces highlighted with tables and chairs for restaurants, which the project provides; the *Downtown Design Plan* recognizes that the property at the southwest corner of Foothill Boulevard and B Street should be reconfigured to place a building directly on B Street, with parking to the rear to provide for a more vital, attractive presence on B Street and to provide for a more efficient parking arrangement, including within a parking structure, which the project provides; the *Plan* suggests working out a plan for interim parking while a new structure is being built, which is to be accomplished; the *Downtown Design Plan* indicates that B Street should be directly accessible by automobile from any neighboring street, and a new left-turn pocket from northbound Foothill Boulevard to B Street will provide improved access to B Street; the "B Street/Business Revitalization" section of the City Of Hayward *Downtown Design Plan* identifies B Street as the locus of commercial activity in the downtown core, and the project carries out this intent; the fundamental principle that must drive changes to B Street is that there be continuous, active retail uses visible and directly accessible from the street, and to achieve this end, the *Design Plan* states that both the north and south sides of B Street should have continuous ground floor retail with storefronts, with primary entries onto B Street, which the project provides; an activity proposed in the *Downtown Design Plan* is marketing and promoting downtown, including enhancing Hayward's downtown image, which the striking commercial center with interesting and lively graphics and signs will promote

C. Streets and utilities are adequate to serve the development.

D. The development will generally be in conformity 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 have no substantial adverse effect upon surrounding development.

E. That latitudes and exceptions to development regulations or policies, such as departing from height and sign regulations, is adequately offset or compensated for by providing landmark functional facilities and amenities not otherwise required.

F. That the sale of alcoholic beverages in conjunction with the project will serve the convenience or necessity of the downtown customers. The *Downtown Design Plan* recognizes that consumption of alcohol in the downtown is a part of community life.

CONDITIONS OF APPROVAL
Planned Development District No. PL-2004-0322
Foothill Boulevard/B Street/C Street
Field Paoli (Architect/Applicant), Hayward Redevelopment Agency (Owner)
For a Commercial Complex Consisting of a 12-Screen Cinema,
Commercial Lease Spaces, and a 4-Level Parking Garage

GENERAL REQUIREMENTS

1. Prior to occupancy or onset of any business related to Planned Development District No. PL-2004-0322 to the project shall be constructed in accordance with the plans approved by the City Council on _____, 2004, and in accordance with these conditions of approval and the Precise Plan

2. This approval is void one year after the effective date of approval unless the Precise Development Plan has been submitted for review and processing in accordance with all conditions of the Preliminary Development Plan. If the Precise Development Plan is not submitted within the time period provided, a maximum of two, 1-year extensions may be approved by the City Council. A request for an extension of time must be submitted to the Planning Division at least 30 days prior to the expiration date.

3. 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.

4. All improvements shall be designed and constructed in accordance with the City of Hayward Municipal Code – Chapter 10, Article 3, and Standard Specification and Details – unless otherwise indicated hereinafter.

5. Restaurants without bars may serve alcoholic beverage do diners. Other establishments that sell alcoholic beverages are limited to (a) no more than one retail business that sells non-cooled, off-sale alcoholic beverages as an incidental share of their sales and (b) no more than two restaurants with full bars. No single-purpose bars are permitted.

6. Street improvements indicated in the environmental checklist shall be constructed.

PRECISE PLAN REQUIREMENTS

7. Within a year of the effective date of the Preliminary Plan, a Precise Plan shall be submitted for approval by the Planning Director and shall include
   a.) A detailed landscaping and irrigation plans, prepared by a licensed landscape architect, which shall consist of landscape and irrigation on all three street frontages.

ATTACHMENT C

(i) A design that complies with the City's *Water Efficient Landscape Ordinance* and which incorporates irrigation practices to reduce runoff, promote surface filtration, and minimize the use of fertilizers and pesticides.

(ii) Plans showing that where landscaped areas adjoin driveways or parking areas, Class B Portland Cement concrete curbs are to be constructed to a height of 6 inches above the adjacent finished pavement.

(iii) Street trees shall be a minimum size of 36-inch box specimen. The species along Foothill Boulevard shall be of large upright varieties. The trees and landscaping along B Street shall be similar in types and quantities to the recently installed landscaping to the north and west. Species along C Street shall be upright varieties of pear trees.

b.) Details for decorative paving, including type and where located. Decorative paving shall be reflected in the alley way and where the public congregates.

c.) Details for exterior illumination. Exterior lighting for the building, parking structure and theater alley shall be provided and maintained which is adequate for the illumination and protection of the premises but does not produce a light level that provides glare to motorists. Within the parking lot, the minimum requirement is 1-foot candle of light across the entire surface. Lighting fixtures shall be of a decorative design that complements the architectural style of the buildings. Additional pedestrian lighting similar to the B Street recent improvement shall be provided at the new crosswalk. A plan for additional lighting on C Street shall be provided.

d.) Architectural details of the commercial complex, including

i) Details of graphic displays, or alternative architectural features to soften the massiveness of the building

ii) Details of storefronts, with emphasis on vertical separations of storefront windows of major retailer

iii) Details of architectural enhancements of façade above major retailer

iv) Enhancement of the upper portion of the western elevation (e.g., use of varied colors, dramatic lighting and generous score lines, and use of a metal art feature that is back-lit in lieu of Cinema Place sign.

v) The access off Foothill Blvd. shall be enhanced to create a more noticeable and dramatic entry point;

vi) The design of the structure at the corner of Foothill Blvd. and C Street shall be enhanced significantly;

vii) The design of the open stairway on the west side of the parking structure that is visible from C Street shall be enhanced.

viii) Enhancement of shear walls and low, vehicle screen walls (e.g., pony walls with decorative metal rail trim)

e.) Samples of exterior colors and building materials.

f.) Details of screening of all above-ground utilities meters.

g.) Location of transformers which shall not be visible from the street.

h.) Location of meters and screening devices.

i.) Design and location of trash receptacles, trash compactors, recycling bins, in accordance with City standards, including proposed size, number and type of

refuse and recycling containers, major collection points, and conveniently placed customer trash receptacles. Trash dumpsters must be covered.

j.) Design and location of street furniture.

k.) Design showing that all roof mechanical equipment for the buildings and any satellite dish will be fully screened from ground-level view within 150 feet of the property, with the screening devices being incorporated into the architectural design of the roof structure.

l.) Modifications to public right-of-way to include modification to the north side of B Street for the removal of the existing crosswalk and construction of new decorative crosswalk in designated area. Design of crosswalks across B Street to include artistic design for greater visibility and display

m.) Sign specifications, including decorative base on the marquee sign

n.) Design for sign/artistic metal work on western elevation.

o.) Show that garage access on Foothill includes both right turn in and right turn out.

8. Circulation plan shall be provided for the project site showing the following:

a.) Locations for pedestrian drop off and pick-up and entrances and exits off both Foothill Boulevard and C Street into the parking garage.

b.) "Theatre Alley," including the entrance and exit, shall be designed to accommodate delivery trucks, garbage trucks and fire vehicles.

c.) Signs shall be posted prohibiting stopping or parking within the alleyway.

d.) Demonstrate how deliveries to the tenant spaces and restaurants will be accomplished without vehicles blocking travel lanes on Foothill Boulevard, B Street or Theatre Alley.

9. The developer may utilize a uninstall design for the layout of the parking spaces within the garage. Aisle and driveway widths shall conform to City Standards. Motorcycle and bicycle spaces shall be provided as required by the Off-street Parking Regulations.

BUILDING PERMIT/GRADING PERMIT REQUIREMENTS

10. The building permit plans shall reflect the conceptual Planned Development plans and the approved Precise Plan. The conditions of approval of the Preliminary and Precise Plans shall be included on the face sheet of the building permit plans. Prior to issuance of a building permit, the following must be provided:

a.) The gallon per minute water demand to determine proper meter size. Water service is available subject to standard conditions and fees in effect at the time of application.

b.) A tree removal permit shall be obtained from the City before removing any live tree. The value of the trees shall be determined by a certified arborist according to the "Trunk Appraisal Method" contained in the Guide for Plant Appraisal (1992) published by the International Society of Arboriculture. Mitigation measures shall be as determined by the City, based upon the arborist's report, and may include planting additional trees on-site and/or upgrading the size of new street trees. Salvage existing Crepe Myrtles on B Street.

c.) Protect all trees to be preserved in place during construction.

d.) The project shall be designed to comply with the requirements of the Hayward Security Ordinance, dated October 16, 1990.

e.) A plan for construction staging and worker parking shall be submitted to the City Engineer for approval, prior to issuance of a building permit.

11. Plans shall include a new fire hydrant on the private alley and shall be in a location acceptable to the Fire Department. Calculations shall show that the Fire flows will meet a minimum of 2,500 gallons per minute (gpm) at 20 PSI, and the type of fire hydrant shall be double steamer; crash post protection may be required for the new fire hydrant if susceptible to vehicular impact;

12. The building permit application shall reflect the following conditions relating to fire safety:

a.) Automatic fire sprinkler system throughout the 2-story cinema/retail building and 4-story parking structure as required by the California Fire Code (CFC), Article 10. System design and installation shall be in compliance with NFPA 13 Standards;

b.) Dedicated underground fire service line required (per NFPA 24 Standards);

c.) Class 1 (wet-combined) standpipe system required (per NFPA 14 Standards) within the parking structure with hose outlets in locations as approved by the Fire Department;

d.) Manual and automatic fire alarm system (A2.1 Occupancy - Cinema) with voice activation, horns/strobes, common area smoke/heat detectors and manual pull stations. (See elevator requirements item #h);

e.) Retail stores (M Occupancy) and the parking structure (S-4 Occupancy) shall have interior audible alarm devices installed and interconnected to the buildings' fire sprinkler system;

f.) Manual pull stations will be required within each individual retail tenant space;

g.) Exterior fire sprinkler system alarm bell(s) shall be required on the building in locations acceptable to the Fire Department;

h.) Central station monitoring for all life safety and fire protection systems;

i.) Exiting, exit lighting, emergency lighting, aisle widths, seating arrangements, doors and emergency escapes shall be met per Chapter 10 of the CBC and Articles 12 and 25 of the CFC;

j.) Elevator requirements shall meet the CBC and NFPA 72 Standards for installation and recall services;

k.) Commercial cooking equipment within any of the retail spaces and/or within the theater (snack bar area) shall be protected with an automatic fire extinguishing system;

13. An encroachment permit must be obtained from CalTrans prior to the start of construction of any improvements within the right-of-way of Foothill Boulevard.

14. Existing driveways on B Street, C Street, and Foothill Boulevard to be abandoned shall be removed and replaced with standard curb, gutter and sidewalk

15. Water service lines and sanitary sewer laterals shall have a minimum 6-foot separation. All existing water services and sewer laterals shall be identified on the plans and be labeled to be reused or abandoned.

16. The building permit plans shall identify and incorporate Best Management Practices (BMP's) appropriate to the building and uses on site in order to limit the entry of pollutants into storm water runoff to the maximum extent practicable. It is highly recommended that surface runoff be directed to a grassy swale or landscaped area prior to entry into a storm drain system. If a mechanical unit is utilized, such as a CDS, Stormceptor, Vortechs, Bay Saver or Downstream Defender, a maintenance agreement shall be prepared and recorded.

17. The leaseholder shall prepare and record a Maintenance Agreement (sample available at Engineering and Transportation) to ensure that the responsibility for maintenance of BMP's is tied to the property and leaseholder in perpetuity.

18. All on-site storm drain inlets must be labeled "No Dumping – Drains to Bay," or equivalent, using methods approved by the City.

19. Prior to the commencement of any demolition, clearing or grading of the site, the developer/leaseholder shall submit evidence to the City that a Notice of Intent (NOI) has been submitted to the State Water Resources Control Board.

20. Prior to the issuance of a grading permit and/or the beginning of any construction activity on-site, the Developer's Engineer shall complete the Development Building Application Forms: 1) Impervious Material Form, and 2) Operation and Maintenance Information Form.

21. A Storm Water Pollution Prevention Plan (SWPPP), showing how storm water quality will be protected during and after construction, shall be submitted for review and approval of the City Engineer.

22. Submit a chemical inventory worksheet to the Fire Department regarding any use and/or storage of hazardous materials (for each type of use); Need to verify the elevator hydraulic reservoir capacity for the (2) elevators that are being proposed. Submit amounts and attach to the chemical inventory worksheet.

DECONSTRUCTION OF EXISTING STRUCTURE

23. The applicant is required to submit for review by the Solid Waste Manager an on-site recycling plan, which would be implemented during the entire demolition and construction phases. The plan must:
    a.) Show the anticipated start and completion dates of the project.
    b.) Estimate the quantities of construction and demolition waste that will be generated by the project.

c.) Estimate the quantities of material that will be recycled and identify the facilities that will be used.

DURING CONSTRUCTION

The following control measures for construction noise, grading and construction activities shall be adhered to, unless otherwise approved by the Planning Director or City Engineer:

24. A construction sign shall be placed on the properties displaying the name and phone number of an individual that can respond to complaints of noise and dust. All adjacent property owners and occupants and shall be informed by letter of construction dates prior to commencement of construction.

25. In the event that archaeological resources, prehistoric or historic artifacts are discovered during construction or excavation, the following procedures shall be followed: Construction and/or excavation activities shall cease immediately and the Planning Division shall be notified. A qualified archaeologist shall be consulted to determine whether any such materials are significant prior to resuming groundbreaking construction activities. Standardized procedures for evaluation of accidental finds and discovery of human remains shall be followed.

26. 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. All such construction debris must be recycled. Applicant is required to retain all receipts of waste removed from the site in order to document compliance with this requirement. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to storm water pollution.

27. 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.

28. Grading and construction activities shall be limited to the hours of 8:00 a.m. to 5:00 p.m. weekdays. No work shall be done on weekends or City holidays without the prior approval of the City Engineer.

29. No site grading shall occur during the rainy season, between October 15 and April 15, unless approved erosion control measures are in place;

30. Grading and construction equipment shall be properly muffled;

31. Unnecessary idling of grading and construction equipment is prohibited;

32. Stationary noise-generating construction equipment, such as compressors, shall be located as far as practical from residential housing units and businesses;

33. The site shall be watered twice daily during site grading and earth removal work, and at other times as may be needed to control dust emissions;

34. All grading and earth removal work shall follow remediation plan requirements, if soil contamination is found to exist on the site;

35. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;

36. Apply (non-toxic) soil stabilizers or hydroseed to inactive construction areas (previously graded areas inactive for 10-days or more);

37. Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.).

38. Remove all dirt, gravel, rubbish, refuse and green waste from the sidewalk, street pavement, and storm drain system adjoining the project site on a weekly basis. During wet weather, avoid driving vehicles off paved areas and other outdoor work;

39. 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; 2) site dewatering activities; or 3) street washing activities; and 4) saw cutting asphalt or concrete, or 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;

40. 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;

41. Never clean machinery, tools, brushes, etc., or rinse containers into a street, gutter, storm drain or stream. See *"Building Maintenance/Remodeling"* flyer for more information;

42. Ensure that concrete/gunite supply trucks or concrete/plasters finishing operations do not discharge washwater into street gutters or storm drains;

43. The applicant/developer shall immediately report any soil or water contamination noticed during construction to the City Fire Department Hazardous Materials Division, the Alameda County Department of Health and the Regional Water Quality Control Board.

44. Construction Administration services shall be provided by the project landscape architect. Services to include:
    a.) Observation of irrigation system before burying pipes;
    b.) Observation of plant material upon delivery to the site;
    c.) Observation of layout and placement of plant material upon delivery to the site;

d.) Observation for maintenance period commencement; and
e.) Observation for final acceptance.

PRIOR TO OCCUPANCY OR ONSET OF BUSINESS

45. Prior to the issuance of any Certificates of Occupancy, all improvements and conditions of approval shall be completed to the satisfaction of the City Engineer and the Planning Manager.

46. Landscaping shall be installed per the Precise Plan and a Certificate of Substantial Completion and an Irrigation schedule shall be submitted prior to issuance of a Certificate of Occupancy.

47. Decorative materials (including theater carpeting) shall be flame treated and shall have a certificate of proof presented to the Fire Department;

48. Portable fire extinguishers (size and type may vary pending area of use) shall be installed throughout the building and parking structure;

49. Installation of a separate irrigation meter to avoid sanitary sewer charges on water used for landscape purposes is required.

50. Provide keys/access code/automatic gate opener to utilities for all meters enclosed by a fence/gate per Hayward Municipal Code 11-2.02.1.

51. The development shall be served by radio read meters.

52. The developer shall pay the Supplemental Building Construction and Improvement Tax; the amount of the tax shall be in accordance with the tax schedule in effect at the time of issuance of the building permits;

53. Any damaged curb, gutter and/or sidewalk along the City's or Caltrans's rights-of-way shall be repaired or replaced to the satisfaction of the City Engineer.

54. A reduced pressure backflow preventer shall be installed behind the water meter per City of Hayward Standard Detail 202.

55. Prior to granting occupancy, water services shall be installed by City crews at the developer's expense. The application for water services shall be presented to the City Inspector.

56. The on-site street light electroliers shall be in operating condition as approved by the Planning Director and the City Engineer.

57. Blue reflective fire hydrant marker shall be installed on the pavement adjacent to the fire hydrant location.

58. Sewer connection fees shall be paid in accordance with the fee schedule in effect at the time of payment.

PERFORMANCE STANDARDS

59. No outdoor storage of material, crates, boxes etc. shall be permitted anywhere on site, except within the trash enclosure area as permitted by fire codes. No material shall be stacked higher than the height of the trash enclosure screen wall and gate.

60. Any business selling food for both on-site and off-site consumption including but not limited to a coffee shop, restaurant or delicatessen, shall pick up any litter attributable to their use twice daily for a distance of 200 feet along B Street, Foothill Boulevard and C Street.

61. There shall be no use and/or storage of hazardous materials within the building unless reviewed and approved by the Fire Department.

62. The entity responsible for the maintenance of the site shall maintain in good repair all structures and building exteriors, walls, lighting, trash enclosure, drainage facilities, driveways and parking areas. The premises shall be kept clean. Any graffiti painted on the property shall be painted out or removed within seven days of occurrence.

63. Landscaping shall be maintained in a healthy, weed-free condition at all times. The owner's representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30 percent dieback) shall be replaced within ten days of the inspection. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species selected by, and size determined by the City Landscape Architect, within the timeframe established by the City and pursuant to Municipal Code.

64. The businesses selling alcoholic beverages shall adhere to the following condition:
    a.) There shall be no on-site advertisement of the sale of alcoholic beverages visible from the exterior of the building.
    b.) There shall be no off-sale of refrigerated beverages.
    c.) Beer, malt beverages and wine coolers in containers of 16 oz. or less shall not be sold by single containers, but must be sold in manufacturer pre-packaged multi-unit quantities.
    d.) Wine shall not be sold in bottles or containers smaller than 750 ml. and wine coolers, beer coolers, or pre-mixed distilled spirit cocktails (if allowed by the license) must be sold in manufacturer pre-packaged multi-unit quantities.
    e.) The permittee shall prominently post signs inside permittee's premises and adjacent to each entrance/exit door stating that the consumption of alcoholic beverages in public is prohibited by law pursuant to Section 4-2.10 of the Hayward Municipal Code.\

f.) The permittee and all employees engaged in the dispensing of alcoholic beverages shall attend Responsible Beverage Service training within 6 months of approval of this permit. Any employee hired after this permit is approved shall attend Responsible Beverage Service training within 6 months of his/her date of hire.

g.) Any violation by the permittee or any employee of the premises of these conditions or of any rule or regulation issued by the Department of Alcoholic Beverage Control or any law concerning the sale and distribution of alcohol is cause for revocation of the permit before the duly authorized review body.

65. Water Pollution Source Control requirements shall include but not be limited to the following:

a.) All condensate drains and HVAC drains shall discharge to the sanitary sewer.

b.) Provide for mat washing and all other clean up to discharge to the sanitary sewer system. No washing or other wastewater discharges shall go to the storm drains.

c.) Stormwater BMPs for the Construction Industry shall be employed for this project.

d.) The sanitary sewer discharge from this facility shall be in compliance with the City's Wastewater Discharge Regulations.

66. Only City Water Distribution Personnel shall perform operation of valves on the Hayward Water System.

67. The owner of the cinema shall be responsible for providing police/security as determined by the Chief of Police.

68. Violation of these conditions is cause for revocation of permit, after a public hearing before the duly authorized review body.

CITY OF HAYWARD
MITIGATED NEGATIVE DECLARATION

Notice is hereby given that the City of Hayward finds that could not have a significant effect on the environment as prescribed by the California Environmental Quality Act of 1970, as amended will occur for the following proposed project:

I. PROJECT DESCRIPTION:

Project title: Cinema Place – Zone Change Application PL-2004-0322 – To Change the Zoning from Central City-Plaza and Central City – Commercial to Planned Development District and to Construct a Commercial Complex Containing a 12-screen Cinema, Restaurants, Retail Spaces, and a Four-Level Parking Structure.

Description of project:

The project consists of a Mixed-Use Theater/Retail/Restaurant Complex on two levels with a four-level parking garage. The rotunda of the proposed structure would be 72' high, and the theater space would be 62' high, the B Street frontage and the parking garage would have a height of 42'.

The project is proposed to contain 26,721-28,000 sq. ft. of retail space, 28,160-29,600 sq. ft. of restaurant space, and 35,880-37,700 sq. ft. of theater space, and 7,018 sq. ft. of ancillary use area. The theater would contain 12 screens. The ground-floor retail would accommodate two retail and eight restaurant tenants; the second floor restaurant space could accommodate a single tenant or be subdivided for multiple tenants. Actual division and uses of the ground-floor retail/restaurant space is subject to opportunities as may be presented after construction of the project. The parking garage would contain 141,400-142,604 sq. ft. on 4 levels with a footprint of 35,000-35,390 sq. ft. A total of 356 parking spaces would be provided in the garage with 86 spaces on the ground and second levels, 89 spaces on the third level, and 95 spaces on the fourth level.

The total site area is 2.44 acres. The ground floor footprint consists of 90,090 square feet, covering 81 percent of the site.

II. FINDING PROJECT WILL NOT SIGNIFICANTLY AFFECT ENVIRONMENT:

The proposed project, as mitigated, could not have a significant effect on the environment.

FINDINGS SUPPORTING DECLARATION:

1. The proposed project has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study Environmental Evaluation Checklist has been prepared for the proposed project. The Initial Study has determined that the proposed project could not result in significant effects on the environment that could not be mitigated as indicated below.

ATTACHMENT D

2. The project site is not within the Earthquake Hazard zone, although it may be subject to strong seismic ground shaking during a strong earthquake. The Earthquake Zone is approximately 125 feet west of the site; there is an approximately-located trace of the Hayward Fault that appears to be about 550 feet west of the site. In order to mitigate effects of ground shaking, the buildings area required to be constructed in accordance with Uniform Building Code requirements relating to earthquake safety in commercial structures.

3. The project will not lead to the exposure of people to hazardous materials. To ensure that potential impacts relating to the presence of hazardous materials remain at a level of insignificance, the following mitigation measures have been incorporated as conditions of approval of the project:

   - The City of Hayward and its environmental consultants, along with the applicant, must continue to work with the California RWQCB – San Francisco Bay Region to obtain environmental and health-based site clearance.
   - Prior to construction activities, the applicant and/or the City must obtain a health-based clearance and meet conditions of clearance from the California RWQCB.
   - The City and applicant must cooperate and allow reasonable access to responsible parties and their environmental agents in the pursuit to monitor and remediate contamination emanating from the Hayward Gas Mart.

4. To insure that traffic impacts are mitigated to a level that is not significant, left-turn lanes will be provide for northbound Foothill Boulevard traffic to westbound B Street and for southbound Foothill Boulevard traffic to eastbound C Street.

5. In order to insure that adequate parking is provided, a third-floor parking structure will be provided, as well as a third deck on the municipal lot at B Street, Watkins and Mission, and additional grade-level parking on A Street.

6. The project will not result in significant impacts related to changes into air quality since any impacts would be temporary occurring during the construction phase. The measures taken to mitigate impacts are required to meet the State air quality standards specified in the Clean Air Plan adopted by the Bay Area Quality Management District.

7. The requested use permit for a theater/entertainment/commercial complex is consistent with City goals and policies for the downtown.

8. The project will not result in significant impacts to cultural resources including historical resources, archaeological resources, paleonotological resources, unique topography or disturb human remains because the project will be developed on a lot that is already developed and covered with impervious material.

III. PERSON WHO PREPARED INITIAL STUDY:

Dyana Anderly, AICP, Planning Manager
Dated: May 28, 2004

I. ***COPY OF ENVIRONMENTAL CHECKLIST IS ATTACHED***

For additional information, please contact the City of Hayward, Planning Division, 777 B Street, Hayward, CA 94541-5007, telephone (510) 583-4200

DISTRIBUTION/POSTING

- Provide copies to all organizations and individuals requesting it in writing.
- Provide a copy to the Alameda County Clerk's Office.
- Reference in all public hearing notices to be distributed 20 days in advance of initial public hearing and/or published once in Daily Review 20 days prior to hearing.
- Project file.
- Post immediately upon receipt at the City Clerk's Office, the Main City Hall bulletin board, and in all City library branches, and do not remove until the date after the public hearing.

Environmental Checklist Form

1. Project title: Cinema Place – Use Permit/Variance (PL-2004-0322) – Mixed-Use Theater/Retail/Restaurant Complex on 2 Levels with 4-Level Parking Garage; Variance to Exceed the Height Limitations of 42'/55' for Maximum Height of 72'

2. Lead agency name and address: City of Hayward, Department of Community & Economic Development, 777 B Street, Hayward, CA 94541-5007

3. Contact person and phone number: Dyana Anderly, AICP, Planning Manager, 510-583-4214
email: dyana.anderly@hayward-ca.gov

4. Project location: APN 428-0066-034-008. Current address of this parcel is 22695 Foothill Boulevard (State Route 238) between B and C Streets, Hayward 94541.

5. Project sponsor's name and address: Applicant is Field Paoli Architects, 150 California Street, 7th Floor, San Francisco, CA 94111 Attention: Steven Lovell.

6. General plan designation: Retail & Office Commercial (ROC) – Downtown-City Center

7. Zoning: Central City Commercial/Plaza (CC-C/P) Subdistricts

8. Description of project:
The project consists of a zone change to Planned Development to allow for the construction of a Mixed-Use Theater/Retail/Restaurant Complex on 2 Levels with a 4-Level Parking Garage. A variance to the Height Limit has been requested; the rotunda of the proposed structure would be 72' high, and the theater space would be 62' high, where the CC-P Subdistrict limits height to 42' and the CC-C Subdistrict to 55'; the B Street frontage and the parking garage would have a height of 42'.

The project is proposed to contain 26,721-28,000 sq.ft. of retail space, 28,160-29,600 sq.ft. of restaurant space, and 35,880-37,700 sq.ft. of theater space, and 7,018 sq.ft. of ancillary use area. The theater would contain 12 screens. The ground-floor retail would accommodate two retail and eight restaurant tenants; the second floor restaurant space could accommodate a single tenant or be subdivided for multiple tenants. Actual division and uses of the ground-floor retail/restaurant space is subject to opportunities as may be presented after construction of the project. The parking garage would contain 141,400-142,604 sq.ft. on 4 levels with a footprint of 35,000-35,390 sq.ft. A total of 356 parking spaces would be provided in the garage with 86 spaces on the ground and second levels, 89 spaces on the third level, and 95 spaces on the fourth level.

The total site area is 2.44 acres. The ground floor footprint consists of 90,090 square feet, covering 81 percent of the site.

9. Surrounding land uses and setting:
To the east of the site, across Foothill Boulevard, is a row of retail and office buildings of 1-2 stories, and a gas station, under various ownerships. To the north of the site, across B Street, is a row of retail and office buildings of one to three stories, under various ownerships. To the west of the site, along B Street, is a row of retail and office buildings of one to two stories under various ownerships; along C Street is the two-story Herndon Professional Building, an historic

Spanish Revival structure. To the south of the site is the two-story Hayward Fishery restaurant.

10. Other public agencies whose approval is required:

CalTrans (encroachment permits for sidewalk, curb and gutter on Foothill Boulevard, and for intersection modifications)

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

☐ Aesthetics	☐ Agriculture Resources	☐ Air Quality
☐ Biological Resources	☐ Cultural Resources	☒ Geology /Soils
☒ Hazards & Hazardous Materials	☐ Hydrology / Water Quality	☐ Land Use / Planning
☐ Mineral Resources	☐ Noise	☐ Population / Housing
☐ Public Services	☐ Recreation	☒ Transportation/Traffic
☐ Utilities / Service Systems	☐ Mandatory Findings of Significance	

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☒ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Dyana Anderly — 06/25/04

Signature — Date

Dyana Anderly, AICP — Department of Community & Economic Development Agency

Printed Name

ENVIRONMENTAL ISSUES:

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
I. **AESTHETICS** -- Would the project:				
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒

Comment: Currently, the site contains a vacant 1-story concrete block building and associated surface parking, which would be demolished to accommodate the project.

The proposed project consists of a theater/retail/restaurant complex with various sections of the buildings having heights of 42 feet, 62 feet and 72 feet. The project would be developed within the densely-developed Hayward Downtown-City Center. The project would be constructed at the sidewalk along all street frontages as is typical for the Downtown. From the Downtown streets, there are no long-range vistas. This project would not interfere with any view of the historic All Saints Church, the view of which is to be protected by policy of the Downtown Design Plan. The proposed project is intended to become a landmark in and of itself to identify the Downtown core to travelers along Foothill Boulevard (State Route 238). The height will assist in identifying the structure as an entertainment center.

b)Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒

Comment: Currently, the site contains a vacant 1-story concrete block building and associated surface parking, which would be demolished to accommodate the project. This site lacks historical significance. Surrounding historic buildings would not be affected by the proposed project. The immediately adjacent historic buildings are two and three stories in height and would not be overwhelmed by the proposed project.

c) Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☐	☒

Comment: See I. a) above.

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☒	☐

Comment: Currently, the site contains a vacant 1-story concrete block building and associated surface parking, which would be demolished to accommodate the project. The surface parking lot contains pole-mounted lighting fixtures, which have remained operable for safety reasons. The surrounding streets contain pole-mounted street lights provided for both traffic and pedestrian safety.

Given the amount of light currently on and surrounding the project site, the proposed project would provide a significant increase in the level of light in the immediate area. However, the level of light would not be atypical for a downtown area. Lighting would be provided by neon accent lighting on the decorative wall surfaces, neon band lighting on vertical architectural fins, decorative neon lighting on horizontal architectural blades, accent neon lighting mounted under horizontal architectural blades, the various signs, and the storefronts. None of the lighting sources would be directed away from the project and would provide surface lighting of the structure to enhance the projects role as a Downtown landmark. Lighting associated with signs would be internalized and storefront lighting would enhance pedestrian safety at the sidewalk. There are no residential structures adjacent to or across from the site.

To ensure that the impact remains at a level of insignificance, the following mitigation measure shall be implemented as a condition of approval:

- **Lighting shall be designed so that no light spills off-site, especially on adjacent streets.**

II. **AGRICULTURE RESOURCES**: Would the project:

a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒

Comment: There are no agricultural uses in the vicinity or on-site that would be affected by the proposed development. No agricultural resource impacts are anticipated.

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒

Comment: See II. a) above.

c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	☐	☐	☐	☒

Comment: See II. a) above.

III. **AIR QUALITY** -- Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☒	☐

Comment: The traffic volumes associated with this project are anticipated to be typical for the anticipated future development of the project site. Therefore, a significant increase in air emission or deterioration of ambient air quality attributed to the project, over that projected, is not anticipated. It should be noted that the latest information provided by the Bay Area Air Quality Management District (BAAQMD) indicates that the Bay Area is designated a non-attainment area for ozone and particulate matter (PM10). Typically, the BAAQMD does not require site-specific air quality analyses for projects that do not meet minimum size threshold, which this project would not meet.

Best Management Practices (BMP) is required as a condition of approval regarding use of equipment during the grading phase of construction. The project will be conditioned to require that all trucks be covered and that daily street sweeping and site watering be implemented during this phase. In addition, vehicle wheels may be required to be washed before entering the public street.

b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☐	☒

Comment: See III. a) above.

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	☐	☐	☐	☒
Comment: See III. a) above.				
d) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☐	☒
Comment: See III. a) above.				
e) Create objectionable odors affecting a substantial number of people?	☐	☐	☐	☒
Comment: See III. a) above. The proposed restaurants could be a source of food preparation odors, which generally are not considered to be objectionable. Such odors should dissipate before having a chance to reach residential properties.				
IV. **BIOLOGICAL RESOURCES** -- Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☐	☒
Comment: As previously described, the site contains a vacant one-story concrete block building and associated surface parking, which would be demolished to accommodate the project. The Natural Diversity Database, California Department of Fish and Game, (4/02) shows no species that could be impacted by this project.				
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	☐	☐	☐	☒
Comment: See IV. a) above.				

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒
Comment: There are no identified wetlands on the project site.				
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☐	☒
Comment: See IV. a) above.				
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒
Comment: See IV. a) above.				
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☒
Comment: See IV. a) above.				
V. **CULTURAL RESOURCES** -- Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	☐	☐	☒	☐
Comment: There are no known cultural resources in the project area and it is unlikely that any cultural resources will be encountered during site development. Potential impacts related to unknown cultural resources that may be encountered during the construction phase can be mitigated to a level of insignificance with the implementation of the following mitigation measure:				

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
• **In the event that archaeological resources, prehistoric or historic artifacts are discovered during construction or excavation, the following procedures shall be followed: Construction and/or excavation activities shall cease immediately and the Planning Division shall be notified. A qualified archaeologist shall be consulted to determine whether any such materials are significant prior to resuming groundbreaking construction activities. Standardized procedure for evaluation accidental finds and discovery of human remains shall be followed as prescribed in Sections 15064.f and 151236.4 of the California Environmental Quality Act.**				
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	☐	☐	☒	☐
Comment: See V.a) above.				
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☒	☐
Comment: See V. a) above.				
d) Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☒	☐
Comment: See V. a) above.				
VI. **GEOLOGY AND SOILS** -- Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	☐	☐	☒	☐
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?	☐	☐	☐	☒
Comment: The project site is not within the Earthquake Hazard zone. The Zone is approximately 125 feet west of the site; there is an approximately-located trace of the Hayward Fault that appears to be about				

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
550 feet west of the site. According to a geotechnical investigation performed by Peter Kaldveer & Assoc., dated March 1977, surface reconnaissance, aerial photography interpretation and subsurface exploration indicate no evidence of active faulting on the site. The investigation concludes that the risk of structural damage due to fault offset is negligible at this location.				
ii) Strong seismic ground shaking?	☐	☒	☐	☐
Comment: The project site is not within the Earthquake Hazard zone. The Zone is approximately 125 feet west of the site; there is an approximately-located trace of the Hayward Fault that appears to be about 550 feet west of the site. The San Andreas Fault passes about 12 miles west of the site. During a moderate to severe earthquake within the San Francisco Bay Area, strong ground shaking of the site will occur. The predicted earthquake intensity at this site from a large earthquake on the Hayward Fault is classified as "very violent". The Uniform Building Code requires new building construction to meet requirements for construction in earthquake-prone areas, which is intended to minimize any potential impacts related to seismic events. The following mitigation measure is recommended in order to reduce potentially significant impacts related to soils and grading to a less than significant level:				
• **The buildings shall be constructed in accordance with Uniform Building Code requirements relating to earthquake safety in commercial structures.**				
iii) Seismic-related ground failure, including liquefaction?	☐	☐	☐	☒
Comment: See VI a) i) above. The site is located within an area where historical occurrence of liquefaction, or local geological, geotechnical and ground-water conditions indicate a potential for permanent ground displacements. However, according to a geotechnical investigation performed by Peter Kaldveer & Assoc., dated March 1977, the likelihood of liquefaction at this site is extremely remote because the clays and silts found there are not subject to liquefaction and the underlying sand is dense and confined.				

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
iv) Landslides?	☐	☐	☐	☒

Comment: The before-mentioned geotechnical investigation indicates that the site has a natural slope of less than two percent and there are no creeks or depressions in the vicinity. These conditions make it extremely unlikely that landsliding will occur at this location during strong earthshaking.

b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☒

Comment: The project site is level and covered with asphalt and/or structures.

c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☐	☒

Comment: See VI. a) above. The cohesive character of the soils makes it extremely unlikely that lateral spreading will occur at this location.

d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☐	☐	☒

Comment: See VI. a) above. Because the soils are predominantly cohesive and not subject to particle rearrangement, differential compaction at this site is unlikely.

e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	☐	☐	☐	☒

Comment: Sewers are available for this site.

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
VII. **HAZARDS AND HAZARDOUS MATERIALS** - Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☒
Comment: No hazardous materials of a significant threshold are anticipated to be used at the site.				
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☐	☒
Comment: See VII. a) above.				
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒
Comment: See VII. a) above.				
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				

Comment: In July 2002, Niland Consultants conducted a Phase I Environmental Site Assessment that found, historically, a dry cleaners and a photo shop have been identified on the subject property. A mortuary has been identified adjacent to the property. Dry cleaners and gas stations have been identified on near-by properties. The Hayward Gas Mart, located across Foothill Boulevard at C Street, is the location of a known petroleum release where elevated concentrations of petroleum constituents, including benzene and MTBE, have been detected. The Phase I investigation made the following recommendations: 1) a limited soil and groundwater investigation at the site should be undertaken to determine if there has been contamination to soil or groundwater as a result of historical operations on site or in the vicinity of the site; 2) a geophysical sweep of the site should be undertaken to determine if underground heating oil tanks may remain due to the historic operation of a school on the site; and 3) prior to any demolition or change-out of cooling equipment from the existing building, Freon should be purged from the equipment in such a manner as not to cause releases to the atmosphere.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact
A Lead Based Paint Survey Report was prepared for the former supermarket by ACC Environmental Consultants on July 2, 2002. The study found no paints that contain lead at levels considered to be "lead-based" according to HUD and DHS standards. However, lower levels of lead were found in paint samples in various locations. OSHA regulations would apply when workers disturb paint that contains any detectable amounts of lead, and precautions must be taken based upon the activity and exposure level. This would particularly apply during demolition of the structure.	☐	☒	☐	☐

A groundwater sampling program and soil vapor/soil investigation were undertaken by Geomatrix Consultants, Inc. in 2002, which were summarized in reports dated September 10 and October 2, 2002, respectively. Groundwater samples revealed that MTBE was present in the shallow groundwater, and tetrachloroethene (PCE) and trichloroethene (TCE) were detected in two of the grab groundwater samples. Soil vapor samples indicated the presence of PCE vapors at seven locations. The highest concentrations of soils vapor were detected at depths from 3.5 and 8 feet below ground surface in the northeast portion of the site near the location of the historic dry cleaning operations. Borings for soil samples revealed relatively low concentrations of PCE in the soil samples at the two boring locations. The two reports containing the analytical data were submitted to and discussed with representatives of the Regional Water Quality Control Board. Pursuant to these discussions, additional soil vapor sampling was undertaken in April 2004, which confirmed the general locations and concentrations of PCE in soil vapor. In addition, in April 2004, consultants for Hayward Gas Mart installed six groundwater monitoring wells on site to monitor levels of MTBE in groundwater. MTBE was detected in the samples collected from the six wells by the Hayward Gas Mart consultant. One of these wells was selected for additional groundwater testing for PCE. The groundwater samples collected from this well by Geomatrix contained MTBE and PCE. The other wells were not sampled for PCE.

The latest reports will be submitted and discussed with the RWQCB. Based on data gathering to date, it will be recommended that the presence of chemicals in soil vapor should be considered in planning development of the site, and that the placement of engineering controls, such as installation of a vapor intrusion barrier be undertaken at the time any soils are exposed and foundations are constructed for the proposed development

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
The RWQCB may recommend additional remediation actions, including a program of continued groundwater monitoring for PCE. It should be noted that the Hayward Gas Mart is proceeding under the direction of the Hayward Fire Department towards remediation of its MTBE contamination plume via a proposed groundwater pump and treat system on its own property. To ensure that the impact remains at a level of insignificance, the following mitigation measure shall be implemented as a condition of approval: • **The City of Hayward and its environmental consultants, along with the applicant, shall continue to work with the California RWQCB – San Francisco Bay Region to obtain environmental and health-based site clearance.** • **Prior to construction activities, the applicant and/or the City shall obtain a health-based clearance and shall meet conditions of clearance from the California RWQCB.** • **The City and applicant shall cooperate and allow reasonable access to responsible parties and their environmental agents in the pursuit to monitor and remediate contamination emanating from the Hayward Gas Mart.**				
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒
Comment: This site is not located within an airport land use plan or within two miles of a public airport or public use airport.				
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒
Comment: See VII. e) above.				

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
Comment: This project will not impair the implementation of or interfere with an adopted emergency response plan.				
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☒
Comment: The project is not in an area subject to wild land fires.				
VIII. **HYDROLOGY AND WATER QUALITY** -- Would the project:				
a) Violate any water quality standards or waste discharge requirements?	☐	☐	☐	☒
Comment: A drainage plan will have to be submitted and approved by the City Engineer prior to issuance of building permits. The San Francisco Bay Regional Water Quality Control Board has authority over drainage on the site, and their approval is required before issuance of any building permits for the development.				
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level?	☐	☐	☐	☒
Comment: This project will not deplete or interfere substantially with groundwater supplies or recharge.				
c) Substantially alter the existing drainage pattern of the site or area, including the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	☐	☐	☐	☒
Comment: See VIII. a) above. The Sulfur Creek drainage culvert, a concrete arch culvert, traverses the site. The culvert is enclosed and runs under buildings on B Street as well as under Foothill Boulevard. The culvert was inspected in 2003 by consultants to the City of Hayward Public Works Department, and found to be in good condition. The culvert is adequately sized to serve the existing drainage needs of Sulfur Creek. The culvert is accessed by a manhole in B Street, adjacent to the site. It is proposed that the development be built over the existing culvert, by engineering the building foundations in such a way that the building load structurally spans the culvert.				

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
d)Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	☐	☐	☐	☒
Comment: See VIII. a) above.				
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☐	☒
Comment: See VIII. a) above.				
f) Otherwise substantially degrade water quality?	☐	☐	☐	☒
Comment: See VIII. a) above.				
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☐	☒
Comment: No. This project does not contain housing.				
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	☐	☐	☐	☒
Comment: This project is located primarily within Flood Zone C. The C Street corridor in this area is located within Flood Zone B, which includes area between the limits of 100-year and 500-year floods, or areas subject to 100-year flooding with average depths less than 1 foot. The C Street roadway would carry resultant flows, and the proposed parking garage would be located at the site of the existing building, not creating any additional impedance to flood flows.				
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☐	☒
Comment: The site is not affected by a watercourse containing levees or a dam.				

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
j) Inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☒

Comment: The site is several miles inland from the San Francisco Bay shoreline. The potential for inundation due to tsunami and/or seiche is considered remote.

IX. **LAND USE AND PLANNING** - Would the project:

a) Physically divide an established community?	☐	☐	☐	☒

Comment: The project area is the Downtown-City Center, characterized by a combination of multi-family housing and commercial uses. Developing this property with a theater/retail/restaurant complex would be consistent with the intent of the downtown and would not divide the community or have a negative impact on the surrounding area.

b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☒

Comment: This 2.44-acre parcel is presently zoned Central City – Commercial/Plaza (CC-C/P) Subdistricts and shown on the General Plan as Retail & Office Commercial – Downtown-City Center (ROC). The proposal is consistent with these classifications and is consistent with the policies of relevant downtown land use and design plans.

c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☒

Comment: There is no habitat conservation plan or natural community conservation plan that applies to this site.

X. **MINERAL RESOURCES** -- Would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒

Comment: There are no known mineral resources on the site.

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒

Comment: See X. a) above.

XI. **NOISE** - Would the project result in:

a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☐	☒

Comment: The project site has frontage on Foothill Boulevard (State Route 238), a major arterial serving the region. Both passenger vehicles and heavy truck traffic on the street create a noise impact on adjacent development. However, the proposed project is compatible with the level of noise created by this thoroughfare and does not expose people to new noise sources.

b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☐	☒

Comment: See XI. a) above.

c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☒

The proposed project would not result in an increase in the ambient noise levels in the vicinity.

d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☒

Comment: During construction of the project, there may be an increase of ambient noise levels in the vicinity. Noise generated during the temporary construction phase of the project will be mitigated to an insignificant level by the implementation of measures required as conditions of approval. These measures include:

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*

- Construction equipment with internal combustion engines used on the project site must be properly muffled and maintained in good working condition.
- Unnecessary idling of internal combustion engines will be prohibited.
- All stationary noise generating construction equipment, such as air compressors and portable power generators, must be located as far as practical from noise-sensitive receptors.

A "noise disturbance coordinator" must be employed who will be responsible for responding to any local complaints about construction noise. The disturbance coordinator must determine the cause of the noise complaint and require reasonable measures warranted to correct the problem. The telephone number of the coordinator must be conspicuously posted at the construction site and it must also be mailed to neighboring businesses and include the construction schedule.

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒

Comment: The project is not located within an airport land use plan or within two miles of a public airport or public use airport.

f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒

Comment: See XI.e) above.

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
XII. **POPULATION AND HOUSING** -- Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☒
Comment: The project would allow the construction of a theater/retail/restaurant complex on a previously developed commercial parcel in the Downtown-City Center. The proposed project is consistent with the intent of the downtown and is located in an area with existing infrastructure to support it.				
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒
Comment: There are no impacts related to displacement of housing units or people.				
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒
Comment: See XII. b) above.				
XIII. **PUBLIC SERVICES**				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire protection?	☐	☐	☐	☒
Comment: Since this is a theater/retail/restaurant project, which is consistent with the purposes of the Downtown-City Center and which is adequately served by existing infrastructure including streets, the project would result in no substantial adverse impacts. Fire Station #1 is located 150 feet from the project site.				

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
Police protection?	☐	☐	☒	☐
Comment: Given the urban context of the development and its consistency with the surrounding area, public service impacts related to police protection are anticipated to be less than significant. A condition of approval requires the hiring of security guards or a provision for additional police protection if it is likely that additional security measures will be necessary.				
Schools?	☐	☐	☐	☒
Comment: The project does not include any housing units and, therefore, would not generate any new students. However, the project would contribute funds to the Hayward Unified School District through the payment of school district fees of 34¢ per square foot.				
Parks?	☐	☐	☐	☒
Comment: The project would not include any housing units and, therefore, would not generate populations using parks. The project, however, would provide entertainment facilities not otherwise provided in the community.				
Other public facilities?	☐	☐	☐	☒
Comment: This project will not impact any other public facilities.				

XIV. **RECREATION** --

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	☒
Comment: The project would not include any housing units and, therefore, would not generate populations using parks. The project, however, would provide entertainment facilities not otherwise provided in the community.				

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☒

Comment: See XIV.a) above.

XV. **TRANSPORTATION/TRAFFIC** -- Would the project:

a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system?	☐	☒	☐	☐

Comment: A traffic study was prepared by Dowling Associates, Inc. dated May 5, 2004. The study addresses the feasibility of providing the following access to the Cinema Place project site: 1) leave C Street one-way eastbound with left-turn access into and out of the Cinema Place site; 2) provide a left-turn into the site from B Street; 3) provide a right-in/right-out driveway to serve the site from Foothill Boulevard; and 4) provide a northbound left-turn lane on Foothill Boulevard at B Street.

The report indicates that all intersections within the study area currently operate in compliance with the City of Hayward's level of service standard (LOS D) except for the intersection of A Street and Foothill Boulevard, which operates at LOS E during the p.m. peak hour. The Cinema Place project would generate approximately 7,700 daily trips, 100 a.m. peak hour trips, and 570 p.m. peak hour trips. Construction of the project would result in minimal changes to traffic operations during the a.m. peak hour but would be significant during the p.m. peak hour at the A Street/Foothill Boulevard intersection where the project would increase the average stop delay by more than 5 seconds per vehicle.

To ensure that the impact remains at a level of insignificance, the following mitigation measure shall be implemented as a condition of approval:

- **Prohibit parking during the p.m. peak period at 6 spaces along the east side of Foothill Boulevard just south of A Street and extend the northbound right-turn lane 150 feet to the south.**
- **Install a northbound left-turn lane on Foothill Boulevard at B Street.**

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
The design concept for Foothill Boulevard provides space for the new left-turn lane at B Street by removing parking (31 spaces) along both sides of Foothill Boulevard and shifting thru –lanes away from the centerline. No changes are proposed to the curb lines. The raised median would be relocated to accommodate the left-turn lane. The design would allow for 12-foot-wide travel lanes.				
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☒
Comment: See XV.a) above.				
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☒
Comment: The project will have no impact on air traffic patterns.				
d) Substantially increase hazards due to a design feature or incompatible uses?	☐	☐	☐	☒
Comment: The project would include design features that increase efficiency of traffic operations.				
e) Result in inadequate emergency access?	☐	☐	☐	☒
Comment: The project would have access from public streets on 3 sides, and from a private alley along the 4th side.				
f) Result in inadequate parking capacity?	☐	☐	☒	☐
Comment: The City plans a 354-space net increase over the existing downtown parking supply. The future parking supply is projected to be adequate to accommodate both the existing and future parking demand generated by the project.				

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
The total existing parking supply, including all of the municipal lots, other miscellaneous lots, and on-street parking, numbers 1,603 spaces. The supply of parking spaces in the future was obtained by adding the proposed 356 new parking spaces from the construction of a garage at Cinema Place and 170 spaces from construction of a 3rd deck at the City parking garage (Municipal Lot 8). The future supply was adjusted by subtracting the 135 spaces currently on the site and the removal of 37 spaces on Foothill Boulevard to accommodate street design changes. Consequently, the net change in parking supply is projected to be an increase of 354 spaces to a total of 1,957 spaces. Previous studies of downtown parking note that a parking supply is considered adequate if the parking demand does not exceed 85-90 percent of the available supply. Consequently, the "effective capacity" of the future parking supply is 1,761 spaces. Since the utilization of downtown parking with Cinema Place development is projected to be 1,752 and 1,595 for the weekday and Saturday peak periods respectively, it may be concluded that the future parking supply will be adequate to accommodate future demand with the development.				
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	☐	☐	☐	☒
Comment: This project does not conflict with policies, plans or programs for alternative transportation.				
XVI. **UTILITIES AND SERVICE SYSTEMS** - Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☐	☒
Comment: The project has been reviewed by the City of Hayward Utilities (Water) Division. Water and sewer service will be made available subject to standard conditions and fees in effect at the time of application for service.				
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒
Comment: No. City of Hayward Utilities (Water) Division has determined that the requirements of this development can be met within the existing capacity.				

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒
Comment: See XVI. b) above.				
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☐	☒
Comment: See XVI. b) above.				
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☒
Comment: See XVI. b) above.				
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☐	☒
Comment: The project site will be served by Waste Management of Alameda County. Residents will be provided with all necessary waste/recycling containers and the project as a whole will be required to comply with all statutes and regulations related to solid waste.				
g) Comply with federal, state, and local statutes and regulations related to solid waste?	☐	☐	☐	☒
Comment: See XVI. f) above.				

XVII. **MANDATORY FINDINGS OF SIGNIFICANCE --**

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☐	☒
Comment: As the proposed project is an in-fill project in the midst of an urban Downtown-City Center, the proposed theater/retail/restaurant complex is not anticipated to result in significant cumulative impacts. No special-status wildlife species were observed on the site due to previous development and none are expected due to the extent of the disturbance of the site from surrounding development and activity.				
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☐	☒
Comment: See XVII. a) above.				
b) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☐	☒
Comment: See XVII. a) above.				

MITIGATION MONITORING PROGRAM

Zone Change Application No. PL. 2004-0322

22695 Foothill Boulevard
Field Paoli (Applicant)
Hayward Redevelopment Agency (Owner)

1. ***AESTHETICS*** – No mitigation required.

2. ***AGRICULTURAL RESOURCES*** – No mitigation required.

3. ***AIR QUALITY*** – No mitigation required.

4. ***BIOLOGICAL RESOURCES*** – No mitigation required.

5. ***CULTURAL RESOURCES*** – No mitigation required.

6. ***GEOLOGY / SOILS***

Mitigation Measure: The buildings shall be constructed in accordance with Uniform Building Code requirements relating to earthquake safety in residential, industrial and commercial structures.
Implementation Responsibility: City of Hayward
Verification Responsibility: City Building Official
Monitoring Schedule during Plan Review: Plan check prior to issuance of building permit to ensure compliance with Uniform Building Code standards
Monitoring Schedule during Construction/Implementation: On-going inspections during construction and final inspection prior to issuance of certificate of occupancy to ensure compliance with approved plans

7. ***HAZARDS & HAZARDOUS MATERIALS***

Mitigation Measures:

- **The City of Hayward and its environmental consultants, along with the applicant, shall continue to work with the California RWQCB – San Francisco Bay Region to obtain environmental and health-based site clearance.**
- **Prior to construction activities, the applicant and/or the City shall obtain a health-based clearance and shall meet conditions of clearance from the California RWQCB.**
- **The City and applicant shall cooperate and allow reasonable access to responsible parties and their environmental agents in the pursuit to monitor and remediate contamination emanating from the Hayward Gas Mart.**

Implementation Responsibility: City of Hayward
Verification Responsibility: City Hazardous Materials Office and Planning Manager

Monitoring Schedule during Plan Review: Plan check prior to issuance of building permit to ensure compliance with these conditions
Monitoring Schedule during Construction/Implementation: On-going inspections during construction and final inspection prior to issuance of certificate of occupancy to ensure compliance with these conditions

8. ***HYDROLOGY / WATER QUALITY*** – No mitigation required

9. ***LAND USE / PLANNING*** – No mitigation required

10. ***MINERAL RESOURCES*** – No mitigation required

11. ***NOISE*** – **No mitigation required.**

12. ***POPULATION / HOUSING*** – No mitigation required

13. ***PUBLIC SERVICES*** – No mitigation required

14. ***RECREATION*** – No mitigation required

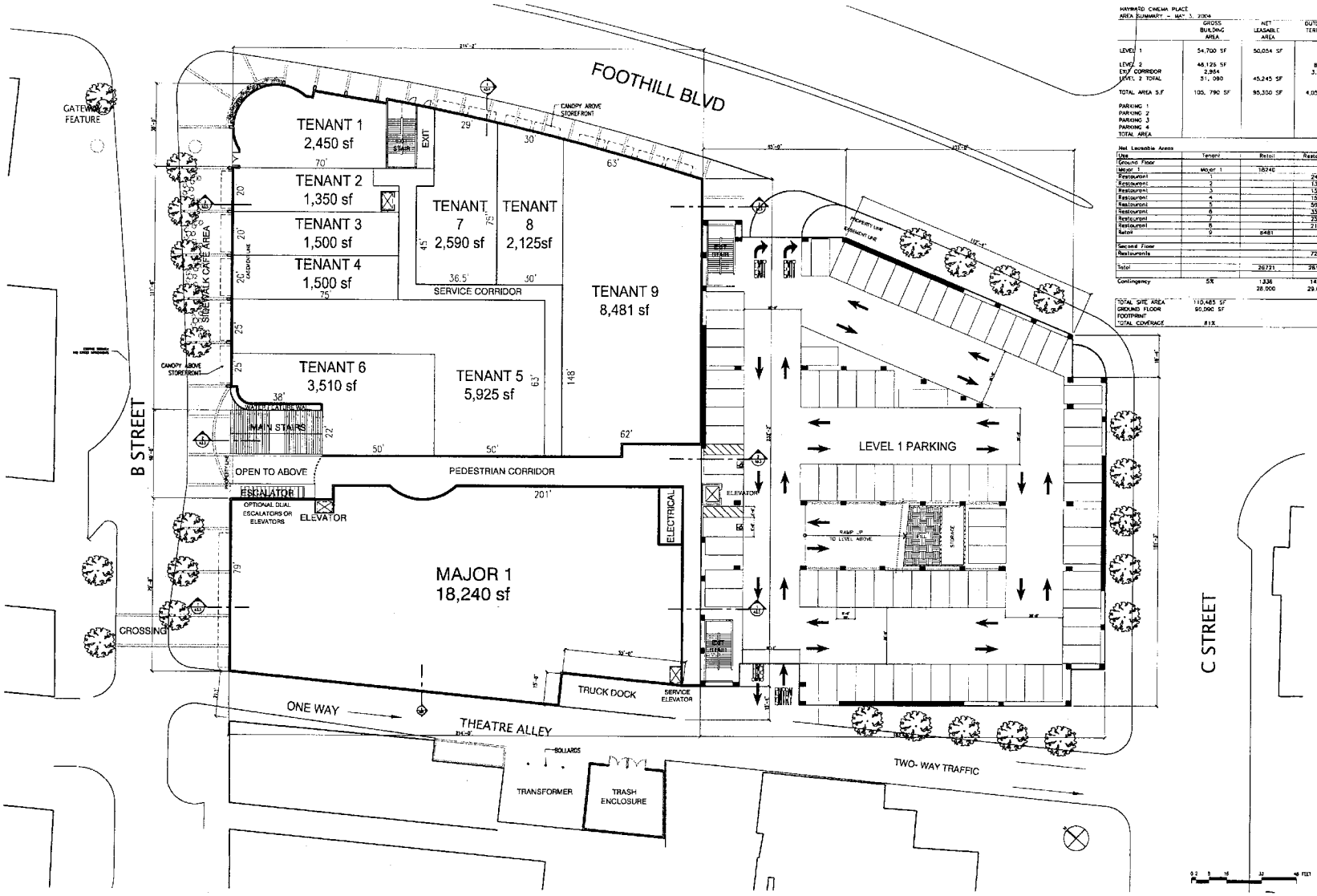
15. ***TRANSPORTATION / TRAFFIC***

Mitigation Measures:

- **Prohibit parking during the p.m. peak period at 6 spaces along the east side of Foothill Boulevard just south of A Street and extend the northbound right-turn lane 150 feet to the south.**
- **Install a northbound left-turn lane on Foothill Boulevard at B Street.**

Implementation Responsibility: City of Hayward, Caltrans
Verification Responsibility: City Engineer and Planning Manager
Monitoring Schedule during Plan Review: City Engineer to coordinate review with Caltrans and oversee plan preparation.
Monitoring Schedule during Construction/Implementation: On-going inspections during construction and final inspection to ensure compliance with these conditions.

16. ***UTILITIES / SERVICE SYSTEMS*** – No mitigation required



HAYWARD CINEMA PLACE
AREA SUMMARY – MAY. 3, 2004

	GROSS BUILDING AREA	NET LEASABLE AREA	OUTDOOR TERRACES	PARKING GARAGE
LEVEL 1	54,700 SF	50,054 SF		
LEVEL 2	46,125 SF		882	
EXIT CORRIDOR	2,864		3,172	
LEVEL 2 TOTAL	51, 090	45,245 SF		
TOTAL AREA S.F	105, 790 SF	95,300 SF	4,054 SF	
PARKING 1				35,390
PARKING 2				35,390
PARKING 3				35,912
PARKING 4				35,912
TOTAL AREA				142,604

Net Leasable Areas

Use	Tenant	Retail	Restaurant	Theatre
Ground Floor				
Major 1	Major 1	18240		
Restaurant	1		2450	
Restaurant	2		1350	
Restaurant	3		1500	
Restaurant	4		1500	
Restaurant	5		5925	
Restaurant	6		3510	
Restaurant	7		2590	
Restaurant	8		2125	
Retail	9	8481		
Second Floor				
Restaurants			7210	
Total		26721	28160	35880
Contingency	5%	1336	1430	1800
		28,000	29,600	37,700

TOTAL SITE AREA	110,485 SF
GROUND FLOOR FOOTPRINT	90,090 SF
TOTAL COVERAGE	81%

GROUND FLOOR PLAN

May 3, 2004
Rev. 6-9-04

A2.1

CINEMA PLACE
HAYWARD, CALIFORNIA

BLAKE HUNT VENTURES

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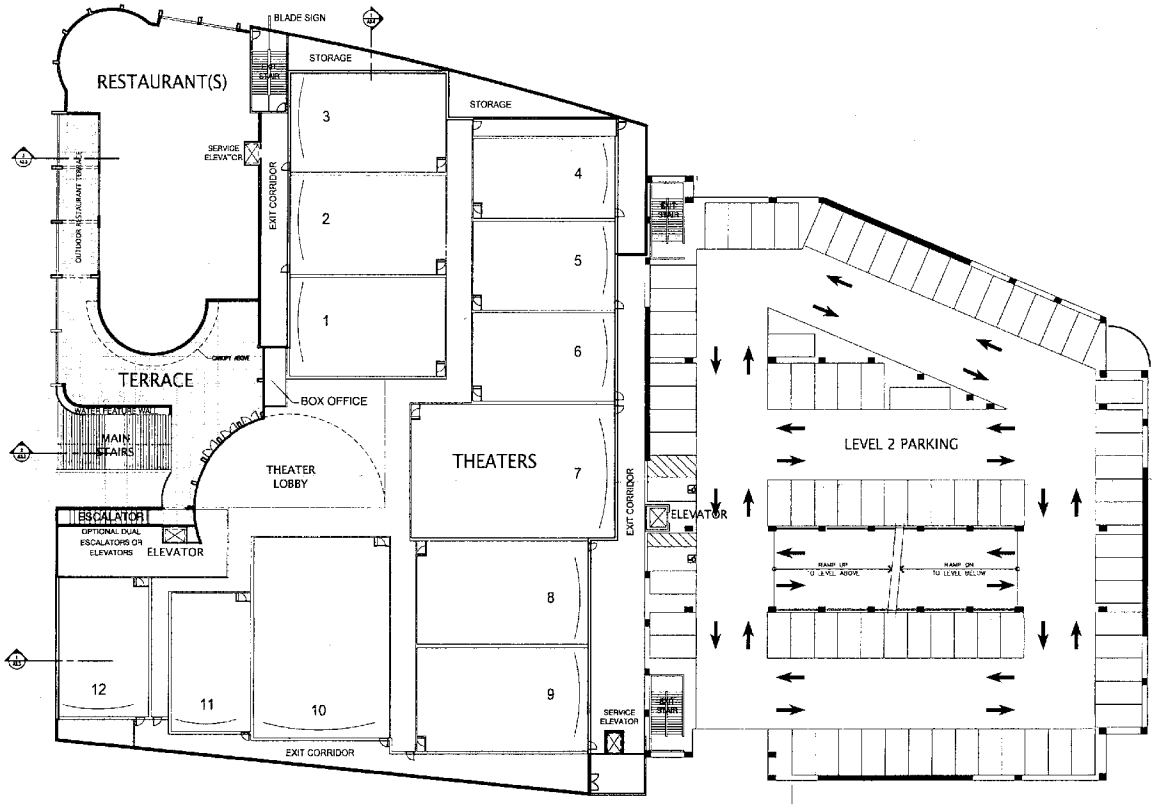
415.788.8606
FAX 415.788.6650
FIELD PAOLI



SECOND FLOOR PLAN

May 3, 2004
Rev. 6-9-04

A2.2

CINEMA PLACE
HAYWARD, CALIFORNIA

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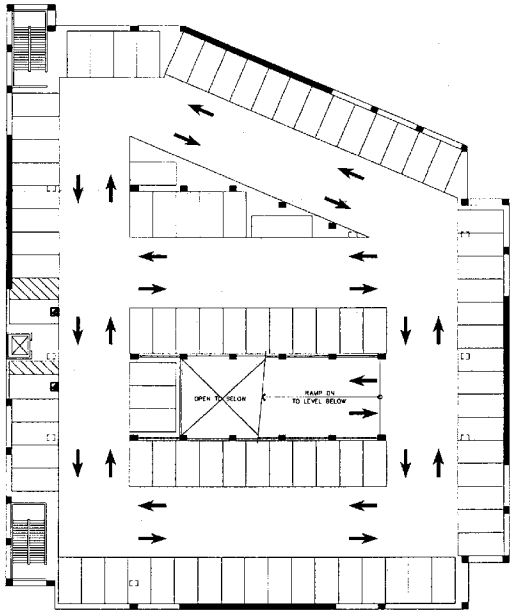
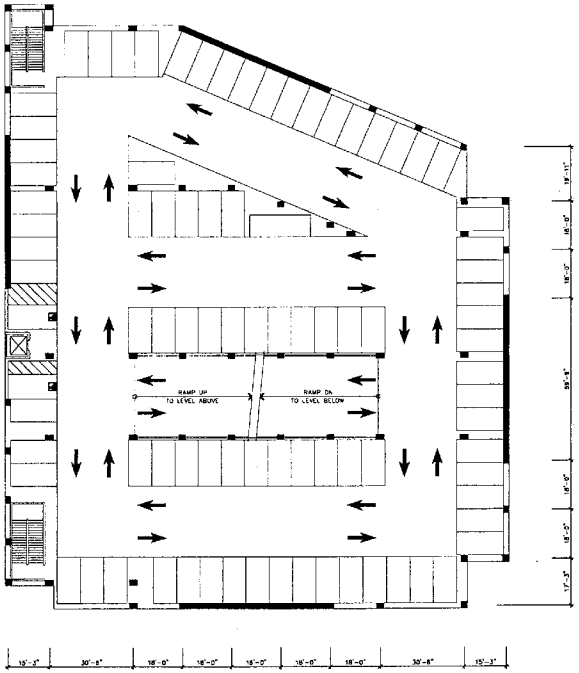
SUMMATION CHART						04-27-04
LEVEL	UNISTALL (8'-6" x 17'-0")	PARALLEL (8'-0" x 22'-0")	ACCESSIBLE (9'-0" x 18'-0")	TOTAL	SQ. FOOTAGE	SQ. FT. / STALL
FOURTH	92	1	2	95	35,100	369
THIRD	86	1	2	89	35,900	403
SECOND	83	1	2	86	35,400	412
GROUND	83	1	2	86	35,000	407
TOTAL:	344	4	8	356	141,400	397



FOURTH FLOOR GARAGE PLAN



THIRD FLOOR GARAGE PLAN

May 3, 2004

A2.3

CINEMA PLACE

HAYWARD, CALIFORNIA

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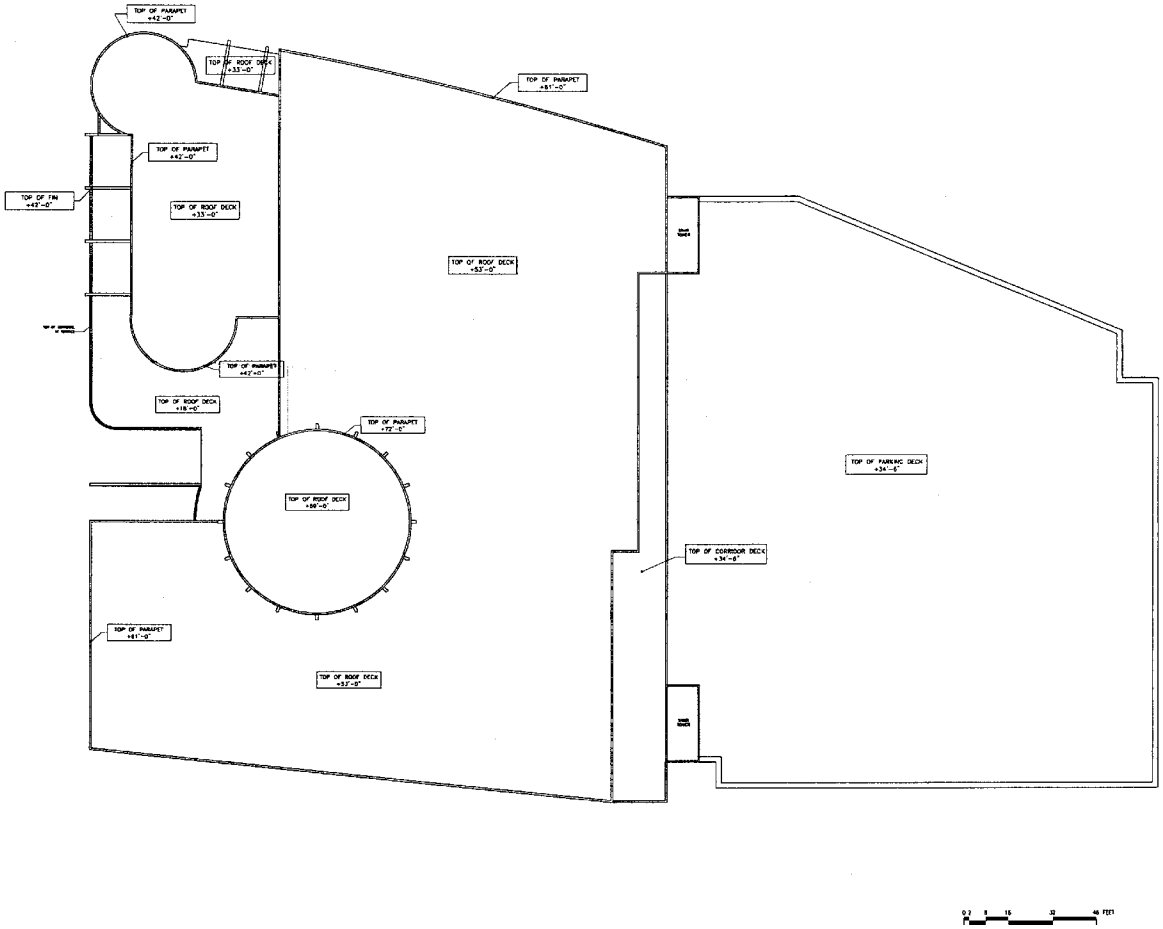

ROOF PLAN

May 3, 2004

A2.4

CINEMA PLACE

HAYWARD, CALIFORNIA

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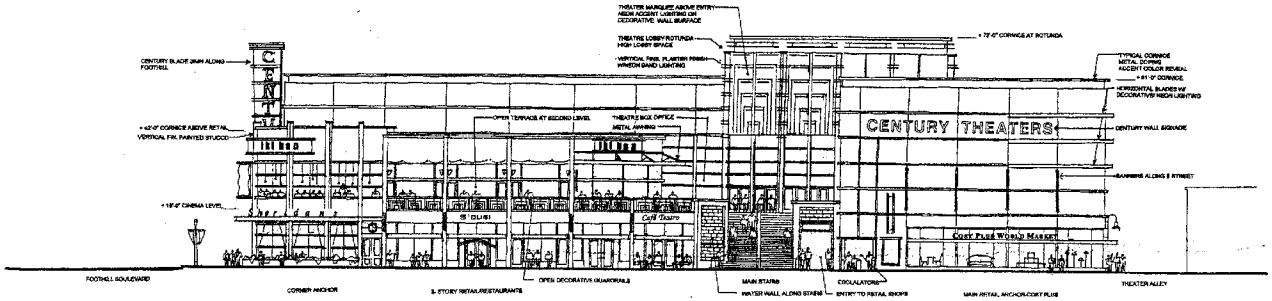
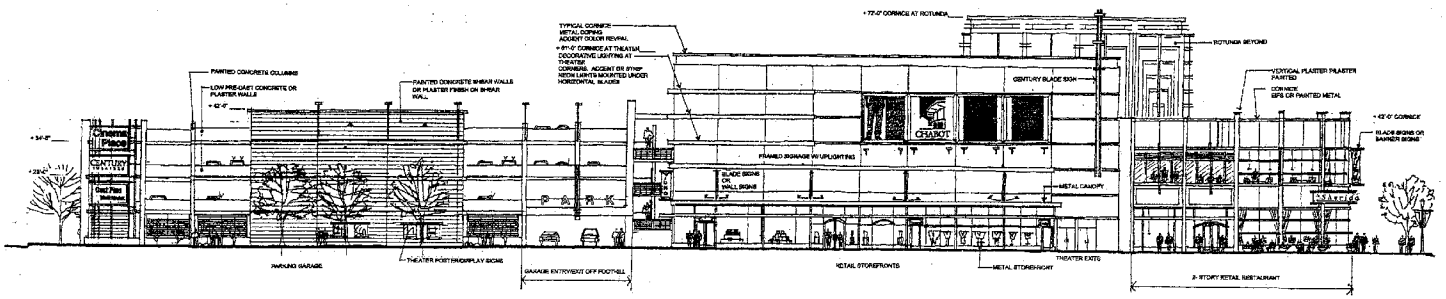


Elevation Along Foothill Boulevard



Elevation Along B Street

Sheet Title
EXTERIOR ELEVATIONS

May 1, 2004

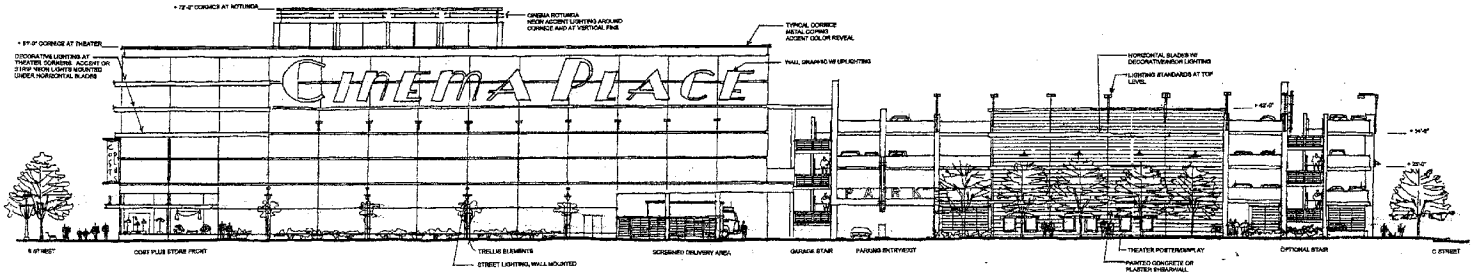
A3.1

CINEMA PLACE
HAYWARD, CALIFORNIA

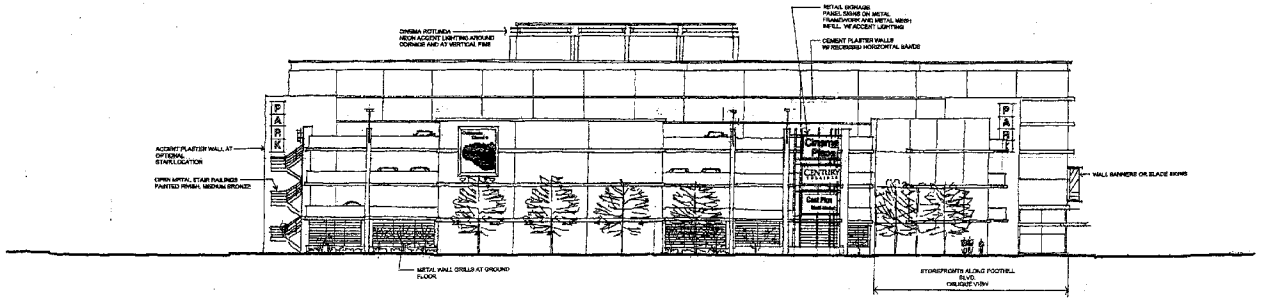
Consultant Logo and

Architecture & Planning
150 California Street, 7th Floor
San Francisco, CA 94111
415 788 6808

FIELD



Elevation Along Theater Alley



Elevation Along C Street

EXTERIOR ELEVATIONS

May 1, 2004

A3.2

CINEMA PLACE

HAYWARD, CALIFORNIA

Consultant Logo and

Architecture & Planning
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San Francisco, CA 94111
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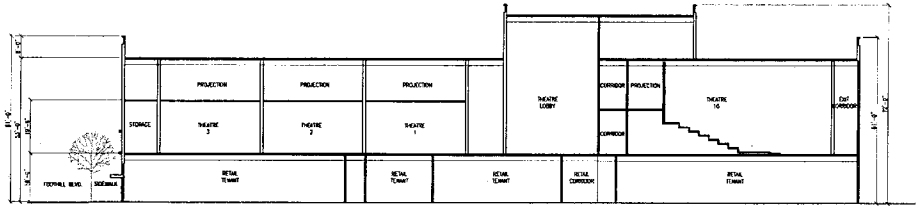
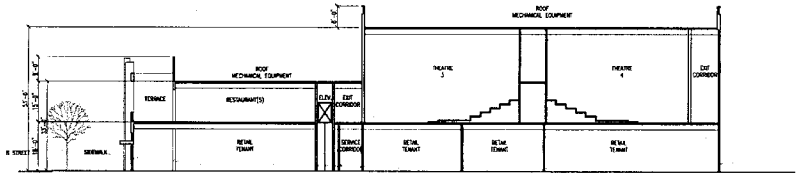
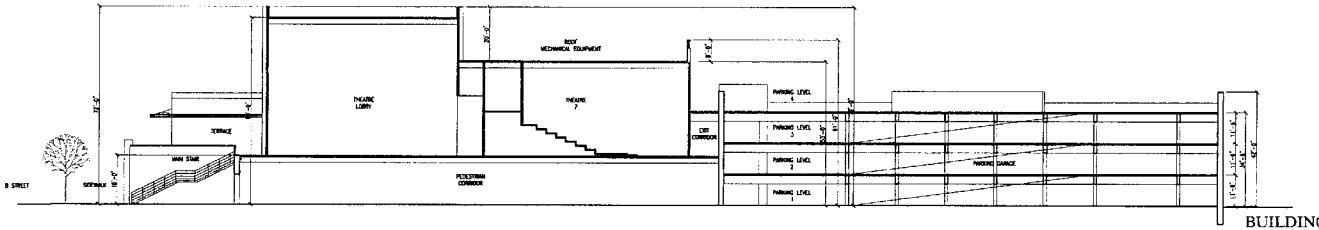
FIELD



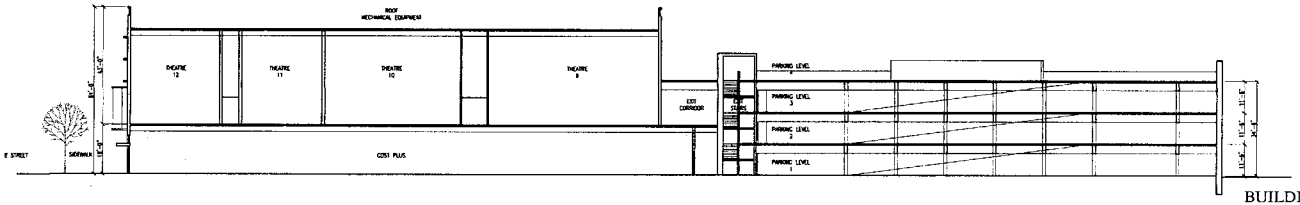
BUILDING SECTION 4 / A3.3



BUILDING SECTION 3 / A3.3



BUILDING SECTION 2 / A3.3



BUILDING SECTION 1 / A3.3

BUILDING SECTIONS

0 2 8 16 32 48 FEET

May 3, 2004
Rev. 6-9-04

A3.3

BLAKE HUNT VENTURES

CINEMA PLACE

HAYWARD, CALIFORNIA

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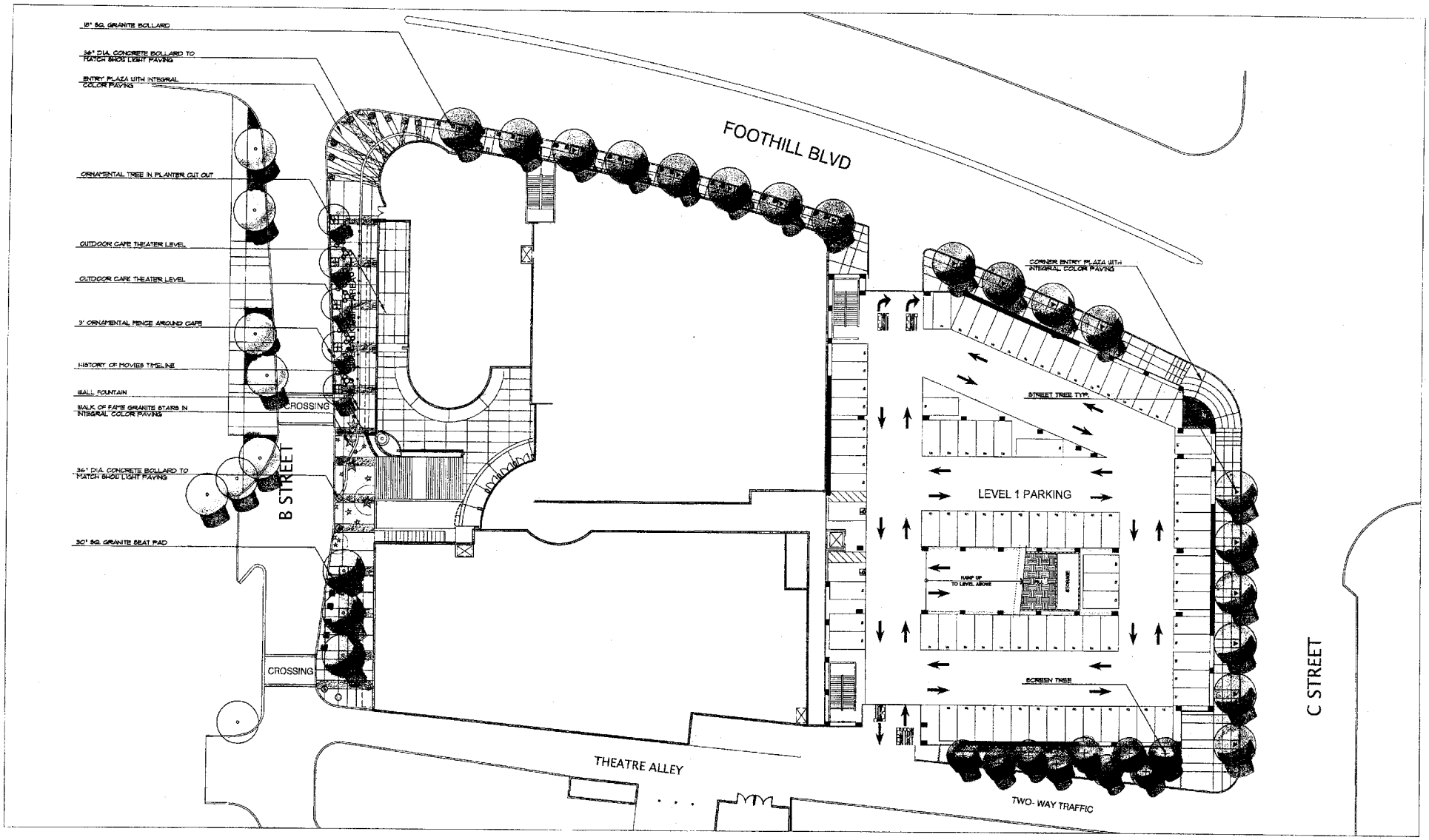

LANDSCAPE CONCEPT

June 15, 2004

CINEMA PLACE

HAYWARD, CALIFORNIA

GATES & ASSOCIATES
LANDSCAPE ARCHITECTURE
LAND PLANNING URBAN DESIGN
2440 TASSAJARA LN. DANVILLE, CA. 94506

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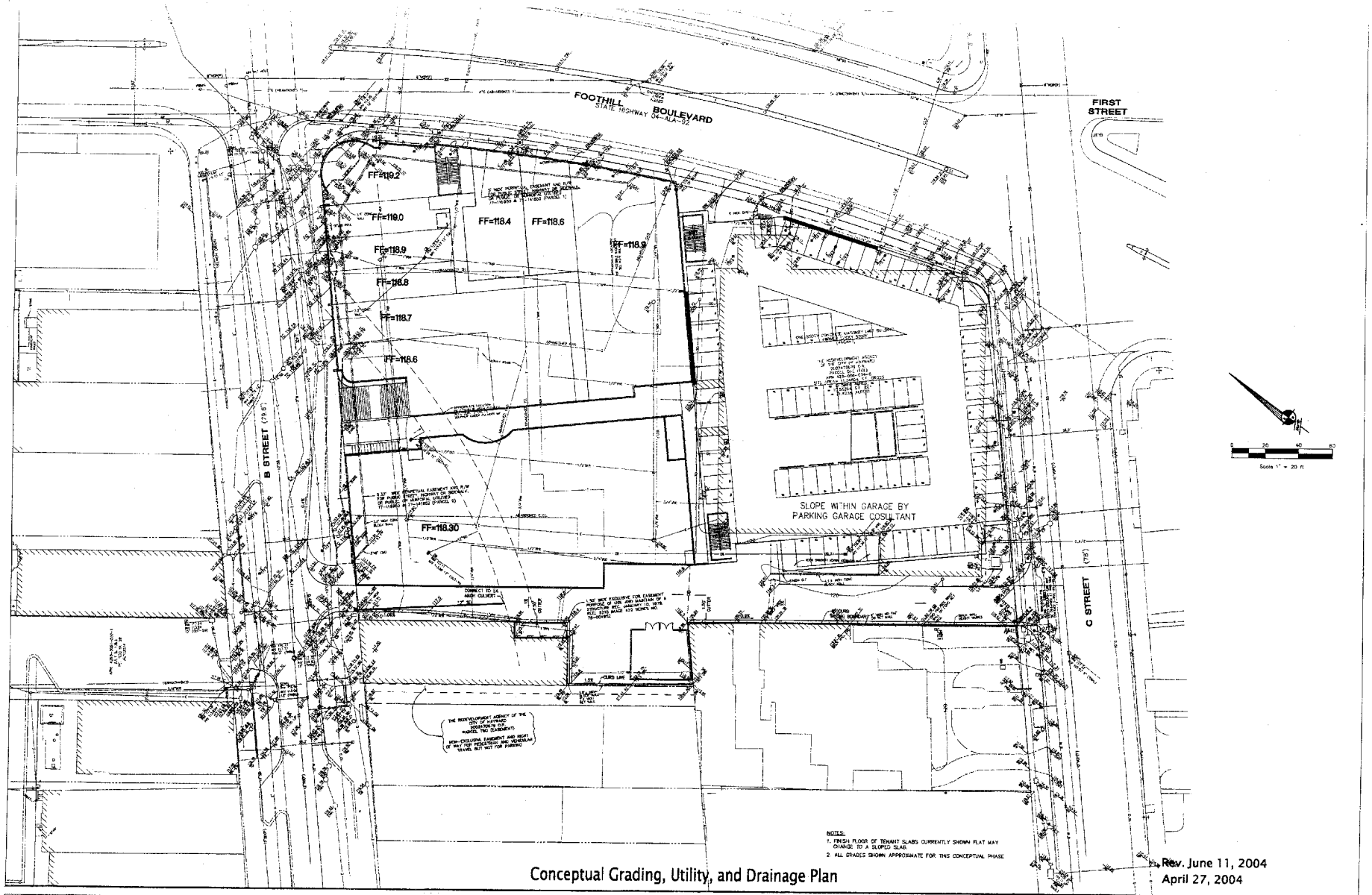

NOTES:
1. FINISH FLOOR OF TENANT SLABS CURRENTLY SHOWN FLAT MAY CHANGE TO A SLOPED SLAB.
2. ALL GRADES SHOWN APPROXIMATE FOR THIS CONCEPTUAL PHASE

Conceptual Grading, Utility, and Drainage Plan

Rev. June 11, 2004
April 27, 2004

CINEMA PLACE
HAYWARD, CALIFORNIA

BLAKE HUNT VENTURES

KIER & WRIGHT
CIVIL ENGINEERS & SURVEYORS, INC.

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