

**CITY OF HAYWARD**  
**AGENDA REPORT**

AGENDA DATE 09/18/01

AGENDA ITEM 4

WORK SESSION ITEM \_\_\_\_\_

**TO:** Mayor and City Council

**FROM:** Director of Community and Economic Development

**SUBJECT:** Appeal of Planning Commission's Denial of Modification of Use Permit 00-160-06 – Request to Amend the Conditions of Approval to Allow Vehicle Access from Smalley Avenue, Donald Boehm (Applicant/Owner) - The Property Is Located at 730 and 750 "A" Street, North Side, in the "CC-C" (Central City-Commercial) Subdistrict

**RECOMMENDATION:**

It is recommended that the City Council adopt the attached resolution, find that the project is categorically exempt from the requirements of CEQA, and deny the appeal, upholding the Planning Commission action.

**DISCUSSION:**

On March 9, 2000, the Planning Commission approved a use permit that allows the sales and installation of tires and wheels at Larry's Tire Express located in a former automobile dealership showroom and auto garage facility. By condition of approval (#21), the Planning Commission prohibited access to the site from Smalley Avenue (Exhibit A), a street with a variety of commercial and residential uses. The requested modification of this use permit would allow access to Smalley Avenue.

Subsequent to the Planning Commission action, one of the buildings on the site was occupied by Rent-A-Center, a primary use that does not require discretionary approval. Both businesses receive deliveries several times a week. According to the applicant and the tenants, on-site circulation is difficult due to:

- (1) Customers parking adjacent to the Larry's Tire Express showroom blocking the driveway used by customers to access the rear parking lot and by delivery trucks to access the storage areas and showrooms of both establishments.
- (2) Several delivery trucks arriving on-site at the same time and trying to maneuver without hitting each other or the buildings.

The applicant requests that only customer vehicles be allowed to access the site via Smalley Avenue and that delivery truck access continue to be restricted to "A" Street with a posted "Right Turn Only" exit. The applicant has stated that appropriate signs will be posted that would restrict the Smalley Avenue entrance to customer vehicles. The applicant has also made modifications to the building that allows for additional clear driveway area to facilitate delivery trucks maneuverability.

On July 12, 2001, the Planning Commission expressed concern that if the gate is open allowing access via Smalley Avenue, it would be difficult to enforce restrictions to just customer vehicles. In addition, the Commission reiterated concerns of the original approval of the use permit that any additional commercial traffic introduced into the adjacent neighborhood would have a negative impact. [Note: Staff became aware that even with the conditions in place prohibiting access from Smalley Avenue, the tenants have nonetheless allowed access to occur.]

To alleviate on-site congestion and to allow for easier maneuverability there are several measures that can be implemented, without modifying the original conditions of approval, including the following:

- (1) Post "No Parking" signs on the buildings adjacent to the driveway and stripe the effected area.
- (2) Post a customer parking directional sign.
- (3) Post a "Right Turn Only" sign at the driveway exit onto "A" Street.
- (4) Tenants should agree upon a delivery schedule so not more than one truck will be on-site at any one time.
- (5) Remove the canopy over the customer entrance of Larry's Tire Express to allow additional clear driveway area for trucks to maneuver.

#### CONCLUSION:

The Planning Commission and staff recommend that the modification of the use permit be denied thereby retaining condition #21. The Planning Commission and staff are of the opinion that the introduction of customer vehicles and any delivery trucks into the residential neighborhood would result in additional unwanted and unnecessary vehicle trips and traffic impacts. Once the emergency gate is opened to allow customer access, it would be difficult to enforce the restriction on trucks and actually may encourage delivery truck drivers to enter from Smalley Avenue or exit the site northward away from the "A" Street entrance. This could also result in delivery truck drivers using Montgomery Street to access Smalley Avenue, contrary to any posted truck restriction. In addition, on-site restrictions and conditions could be arranged by the tenants to correct vehicular conflicts. Therefore, it is recommended that the City Council uphold the Commission's decision and deny the appeal request.

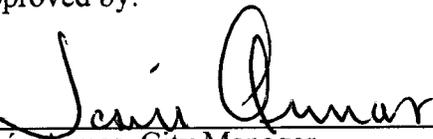
Prepared by:

  
\_\_\_\_\_  
Arlynn J. Camire, AICP  
Associate Planner

Recommended by:

  
\_\_\_\_\_  
Sylvia Ehrenthal  
Director of Community and Economic Development

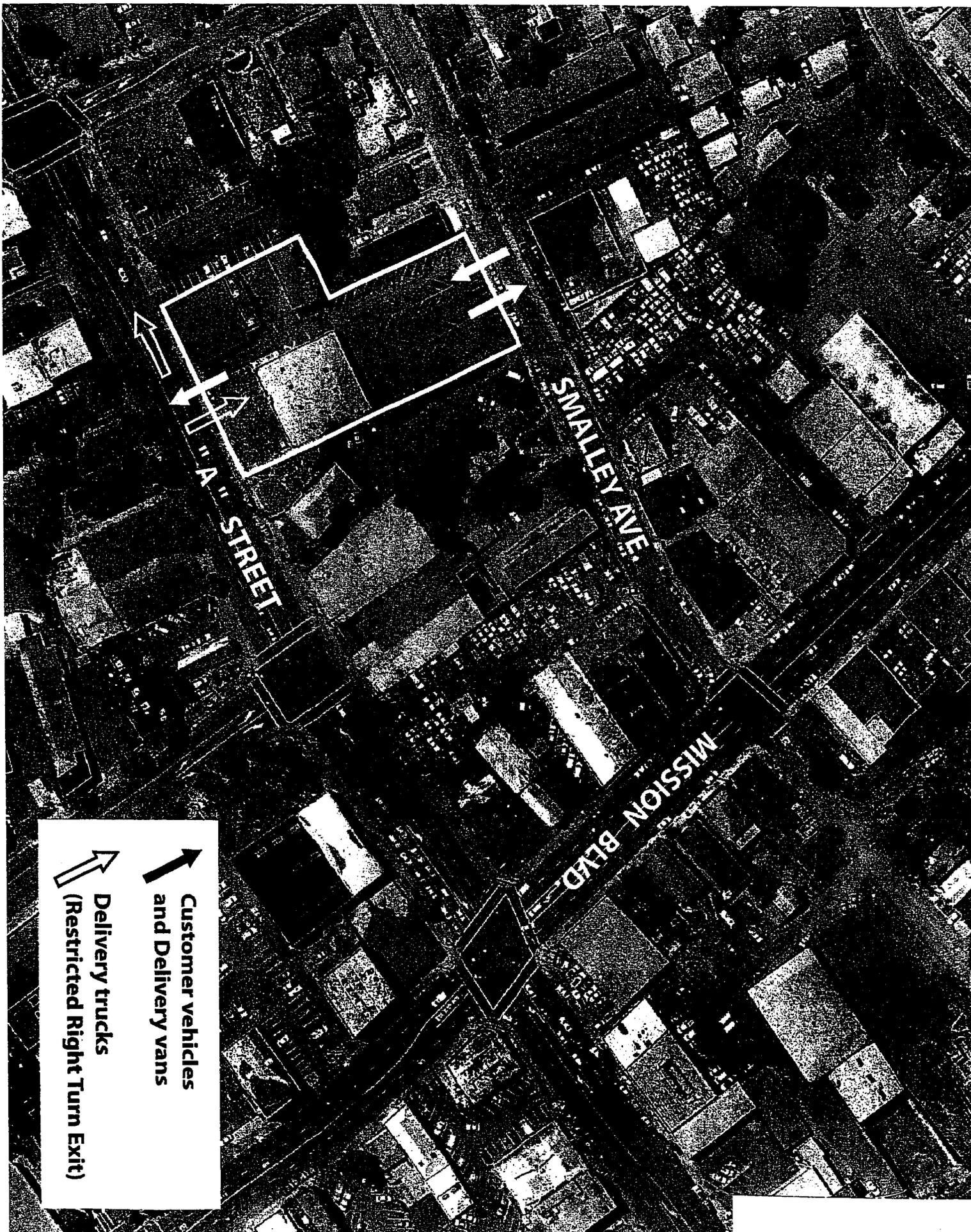
Approved by:

  
\_\_\_\_\_  
Jesús Armas, City Manager

Exhibits:

- A. Area Map
- B. Planning Commission Minutes and Staff Report, dated July 12, 2001
- C. Appeal Letter
- D. Correspondence Received Dated September. 10, 11 and 13, 2001  
Draft Resolution

9/05/01



 Customer vehicles  
and Delivery vans

 Delivery trucks  
(Restricted Right Turn Exit)

The public hearing opened at 8:04 p.m.

Arlene Marcello, property owner, said she was advised that if she wanted to sell or refinance, she would need to unmerge the lots. They were originally merged to make just one address.

Stan Roman, from the California State Licensing Board, noted that neither the merger nor the split of the lots would change the number of people licensed for each house.

The public hearing closed at 8:06 p.m.

Commissioner Halliday moved, seconded by Commissioner Sacks, to approve the staff recommendation.

Commissioner Bogue said he would support the motion. He noted that he was glad to hear there would be no change in the number of residents in each house.

The motion passed unanimously.

3. **Use Permit No. 01-160-06 - Donald Boehm (Applicant/Owner):** Request to Amend the Conditions of Approval of Use Permit Application No. 00-160-06 to Allow Truck Access from Smalley Avenue - The Property is Located at 730 and 750 A Street, North Side, In a CC-C (Central City-Commercial) Subdistrict

Associate Planner Camire made the report. She reminded Commissioners of the history of Larry's Tires relative to the Redevelopment District and Larry's Tires move into the former auto sales building on A Street. She noted the businesses near-by. At the time of the original use permit, a neighbor asked for no vehicle access to and from Smalley Avenue. Therefore the Smalley Avenue entrance is restricted to emergency vehicles. The applicant is asking for a change in the Use Permit conditions to allow customer vehicles and delivery vans to access and exit from the rear of the property onto Smalley. Delivery trucks would only use the A Street access. She noted that one of the reasons for the request is that customer vehicles park in the drive-way blocking delivery truck and van access resulting in damage to the buildings. In addition, circulation is hampered by both customer vehicles and delivery trucks. A partial solution suggested by staff is to modify the buildings by removing the canopies. Staff recommends denial because additional traffic will negatively impact the adjacent residential neighborhood and it would be difficult to enforce the prohibition of delivery truck access via Smalley. They also believe that the managers of the two sites could agree on coordinated scheduled deliveries.

The public hearing opened at 8:15 p.m.

Donald Boehm, property owner, commented that if the back gate were to be opened, exit and entrance on Smalley would enhance their business. They would agree to restrict truck access from Smalley. He said they were going to take down the canopy and raise the gutters on the buildings. He agreed that they could restrict the delivery trucks coming into the back. He noted that Larry's Tire Express averages 20 cars coming into the parking lot a day. He said he could install signage directing trucks to enter and exit on A Street. He also agreed to a "No



Parking" sign on the side of building. He asked to have the rear gate opened for customer convenience.

Commissioner Williams commented that residents wanted to minimize traffic on Smalley. He commented that the business owners could have done more by posting "No Parking" signs. He then added that allowing customers to exit on Smalley would not solve the problem. This solution would just create another problem for the residents on Smalley.

Mr. Boehm commented that he did not think there were too many residents who would complain, since the two closest neighbors, Mr. Varney and Mr. Baker, both have access to Smalley. He added that there should not be many more trucks.

Ray Baker, a neighboring property and business owner, said he does not have a problem with cars and small delivery vans entering and exiting the rear of the property onto Smalley, but he objects to 18-wheeler trucks. He noted that with 45 residential units on both sides of Smalley, the impacts of big trucks are a concern. He agreed that granting Larry's Tires customer access to the rear would be allowing them the same privilege of other property owners on the street.

The public hearing closed at 8:29 p.m.

Commissioner Zermeño asked about the process for opening the gate and enforcement of the provision of allowing only autos through the back gates. Associate Planner Camire described the use of the back gate for deliveries by a neighbor. He was told there would need to be enforcement through the Police Department. There would have to be signage prohibiting vans and trucks.

Acting Principal Planner Patenaude commented that if the Commission is inclined to approve the request, the item would have to come back for approval of conditions and findings. If used for trucks, it would have to come back again for modification of use permit.

Commissioner Halliday moved, seconded by Commissioner Sacks, to approve the request for cars only, asking staff to come back with findings and conditions that include posting of signage prohibiting truck access. She also asked for another condition restricting automobiles to a right-turn only onto Smalley. She added that although she has sympathy for both the businesses and the neighborhood, they need to compromise to accommodate these sorts of requests.

Chairperson Caveglia stated that this is not a good idea and he would vote against the motion. He noted that there is a lot of traffic and concern about Smalley Avenue. He felt that once the gate is opened, it would be difficult to enforce restrictions.

Commissioner Sacks said she agreed that this is a reasonable thing to do. Although a right-turn only may not be enforceable, it is a good idea. She suggested a "No Trucks" sign on

Mission and Smalley.

Commissioner Williams said he disagreed with the motion because this would result in more traffic on Smalley Avenue, which the Commission was against.

Commissioner Thnay said he appreciated the applicant's remodeling and beautifying the area. He commented that the applicant had not demonstrated that it is a hardship not to have access to the property in the rear. Once access is allowed on a residential street, it is difficult to enforce any restrictions. There will be a cumulative effect. In the residential area, trucks will push the threshold. He appreciated the proposal for posting signs on the property. He was more concerned about the neighborhood.

Commissioner Zermeño commented that, a year ago, the Commission was asked to protect the neighborhood.

Commissioner Bogue noted that it would be an improvement to add signage to eliminate customer parking by the building. He commented that the gate could be used by anyone. There would be no enforcement.

The measure lost by the following vote:

AYES: COMMISSIONERS Halliday, Sacks  
NOES: COMMISSIONERS Bogue, Thnay, Williams,  
Zermeño  
CHAIRPERSON Caveglia  
ABSENT: None  
ABSTAIN: None

A motion to support the staff recommendation to deny the appeal was made by Commissioner Williams, seconded by Commissioner Zermeño and passed by the following vote:

AYES: COMMISSIONERS Bogue, Thnay, Williams,  
Zermeño  
CHAIRPERSON Caveglia  
NOES: COMMISSIONER Halliday, Sacks  
ABSENT: None  
ABSTAIN: None

~~4. Draft Environmental Assessment/Environmental Impact Report (Draft EA/EIR) for the Airport Master Plan~~

~~Brent Shiner, Airport Manager, discussed the Master Plan of the Airport. He noted that the firm of Coffman and Associates were instructed to prepare a joint Environmental Assesment/Environmental Impact Report to comply with both the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). He commented that~~



**CITY OF HAYWARD**  
**AGENDA REPORT**

Planning Commission

Meeting Date: 07/12/01

Agenda Item: 3

**TO:** Planning Commission

**FROM:** Arlynn J. Camire, Associate Planner

**SUBJECT:** Use Permit No. 01-160-06 - Donald Boehm (Applicant/Owner): Request to Amend the Conditions of Approval of Use Permit Application No. 00-160-06 to Allow Vehicle Access from Smalley Avenue - The Property Is Located at 730 and 750 "A" Street, North Side, in the "CC-C" (Central City-Commercial) Subdistrict

**RECOMMENDATION:**

Staff recommends that the Planning Commission deny the request to modify the conditions of approval of the use permit subject to the attached findings.

**BACKGROUND:**

On March 9, 2000, the Planning Commission approved a use permit that allows the sales and installation of tires and wheels at Larry's Tire Express located in a former automobile dealership showroom and auto garage facility. By condition of approval (#21), the Planning Commission prohibited access to the site from Smalley Avenue (Attachment B). Subsequent to the Planning Commission action, one of the buildings on the site was occupied by Rent-A-Center, a primary use that does not require discretionary approval.

On June 21, 2001, the Planning Commission continued this item at the request of the applicant who needed more time to canvas the neighborhood for support. Since that meeting, the applicant has modified his request to restrict delivery truck access to the "A" Street entrance and to allow customer vehicle and delivery van access via both Smalley Avenue and "A" Street.

Setting

The property is a flat, flag-shaped, through parcel, with 189 feet of frontage on "A" Street and 125 feet of frontage on Smalley Avenue, and is approximately 295 feet in depth. Retail and commercial services are located on either side of the "A" Street frontage. An auto body garage with related auto storage, and single- and multi-family homes face Smalley Avenue.

Smalley Avenue is only 34 feet wide and parking is not permitted on the south side of the street from Montgomery Avenue eastward to Melvin Court.

The 45,650-square-foot site contains 3 buildings: a 12,300-square-foot building contains Larry's Tire Express; a 4,544 retail building contains Rent-A-Center furniture store; and a 1,792-square-foot garage is used by Rent-A-Center for furniture storage. A landscaped parking lot with 44 spaces and two-way circulation is located behind Larry's Tire Express (Attachment A).

### Proposal

The applicant has requested that the conditions of approval be modified to allow customer vehicles and delivery vans to access the site from either Smalley Avenue or "A" Street and restrict delivery trucks site access via A Street, restricting the exit to a right turn onto "A" Street (Attachment A). He indicates that this circulation system would resolve the conflict between customer vehicles and delivery truck access to the site. According to the applicant, several trucks, while turning around in the rear parking lot to exit back onto A Street, have struck and damaged the buildings that house Larry's Tire Express and Rent-A-Center furniture store while trying to avoid customer vehicles and other delivery trucks. He feels that allowing customer vehicles and delivery vans, such as Fed Ex and United Parcel Service, to enter and exit the rear of the property from Smalley Avenue or exit onto "A" Street would resolve some of the conflict between the smaller vehicles and the larger delivery trucks. The applicant proposes posting a large sign in the rear that indicates the customer entrance. The delivery truck drivers would receive instructions to use only the "A" Street entrance. In addition, the applicant has proposed to remove a lower canopy that is located above the customer entrance to Larry's Tires Express and to elevate the gutters to be flush with the roofline of both buildings.

According to the owner of Larry's Tire Express, it is not out of the ordinary for two delivery trucks to be on site at once, making it difficult to maneuver the site to exit back onto "A" Street. Therefore, according to the applicant, providing customer and delivery van access to the site from Smalley Avenue would allow for easier maneuverability by larger delivery trucks while entering and exiting the site. Larry's Tire Express receives one to three deliveries a week, 9:00 am to 4:30 pm, weekdays. Rent-A-Center receives up to three deliveries 7:00 am to 4:00 pm, Tuesday through Saturday. Both Larry's Tire Express and Rent-A-Center receive inventory from various sizes of delivery vans and trucks including 18-wheel semi-trucks.

During the March 2000 Planning Commission hearing, a neighbor claimed that traffic access to the site via Smalley Avenue would increase the number of trips into the neighborhood. The Planning Commission expressed concern that neighboring residents were going to continue to be impacted by commercial projects in the area, especially by traffic. Therefore, the Planning Commission added a condition of approval designed to mitigate traffic by restricting access from the site to Smalley Avenue to emergency vehicles.

Staff recommends that condition #21 not be modified. Staff is of the opinion that the introduction of customer vehicles and delivery vans into the residential neighborhood would introduce additional unwanted vehicle trips and traffic impacts. In addition, once the emergency gate is opened to allow customer and delivery van access, it would be difficult to enforce the restriction on trucks and actually may encourage delivery truck drivers to enter from Smalley Avenue or exit the site northward away from the "A" Street entrance. This may result in delivery truck drivers using Montgomery Street to access Smalley Avenue, contrary to any posted truck restriction. In fact, staff has noted that on more than one occasion, the condition of approval prohibiting access from Smalley Avenue has been violated. Rent-A-Center has admitted to allowing 18-wheel delivery trucks to enter from Smalley Avenue. They have also indicated that this is a preferred method of delivery because customers of Larry's Tire Express park in the driveway next to the tire and wheel showroom entrance rather than in customer parking located behind the building. This requires the semi-truck drivers to make a wide turn from the "A" Street entrance which has resulted in the truck striking the customer entrance canopy while trying to avoid hitting the customer's vehicle.

Rather than modify the condition, staff suggests that the managers of both retail establishments coordinate the times when deliveries can be received and post the sides of the buildings with "No Customer Parking". This alternative will assure that if a delivery truck enters the site, it will be the only delivery truck on-site, and conflicts with parked vehicles will be eliminated. Increased use of Smalley Avenue could create conflicts with residential and auto repair uses.

The possibility of a loading zone on A Street has been discussed with Rent-A-Center. However, because the sales personnel are required to unload the delivery trucks, it is more practical for the trucks to enter the site to assure easier access to the double doors and the storage building located behind the retail buildings that front "A" Street. It would also be more practical for tire delivery trucks to enter the site because the storage area is located to the rear of the building, accessible through a garage door. If at anytime a loading zone is necessary, the applicant, with the agreement of both business owners, may submit a written request to the Public Works Department to be reviewed by the Transportation Manager.

Another solution would be to remove the canopy from the building that houses Larry's Tire Express. This would allow large trucks to drive straight into the site unimpeded by a canopy that projects into the driveway envelope. The modification to the building can be completed through the building permit process. Staff believes the alternative solutions, which involve the coordination between the two retailers or modification of the building would be preferable over adding traffic on Smalley Avenue.

The North Hayward Neighborhood Plan requires the Montgomery Area to be preserved as a "family neighborhood" with "traditional features." The proposed path of travel includes a portion of Smalley Avenue that is included in the Montgomery Area. Therefore, the introduction of customer vehicles and delivery trucks into the Montgomery Area is contrary to the goal not to commercialize the residential neighborhood.

Environmental Review

The project is exempt from environmental review as defined by the California Environmental Quality Act (CEQA) Guidelines Section 15301, Class 1, Existing Facilities.

Public Notice

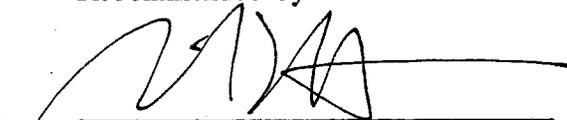
On June 8, 2001, a Notice of Public Hearing was mailed to every property owner and resident within 300 feet of the property as noted on the latest assessor's records. A request by the applicant to continue the hearing to July 12, 2001 was granted by the Planning Commission and a notice was sent out on July 2, 2001.

During the use permit referral process staff solicited comments from neighborhood residents and property owners regarding the request. Staff received a letter in opposition from the property owner of the adjacent multi-family units located to the west of the site and from an owner of Derek's Auto Tech, both on Smalley Avenue. In addition, staff has had several conversations with, and received a letter from, Mr. Ray Baker who owns the property to the east of the site. He opposes truck access from Smalley Avenue because he believes that the street is too small to accommodate delivery trucks in a residential neighborhood (Attachment C). However, Mr. Baker does not oppose customer and delivery van access via the Smalley Avenue entrance. He states that his property has that type of access and is of the opinion that the applicant's property should be allowed the same. In addition he suggests, if approved, that a condition of approval be adopted that would require the applicant to send written notice of the restricted site access to all vendors who deliver to the site.

Prepared by:

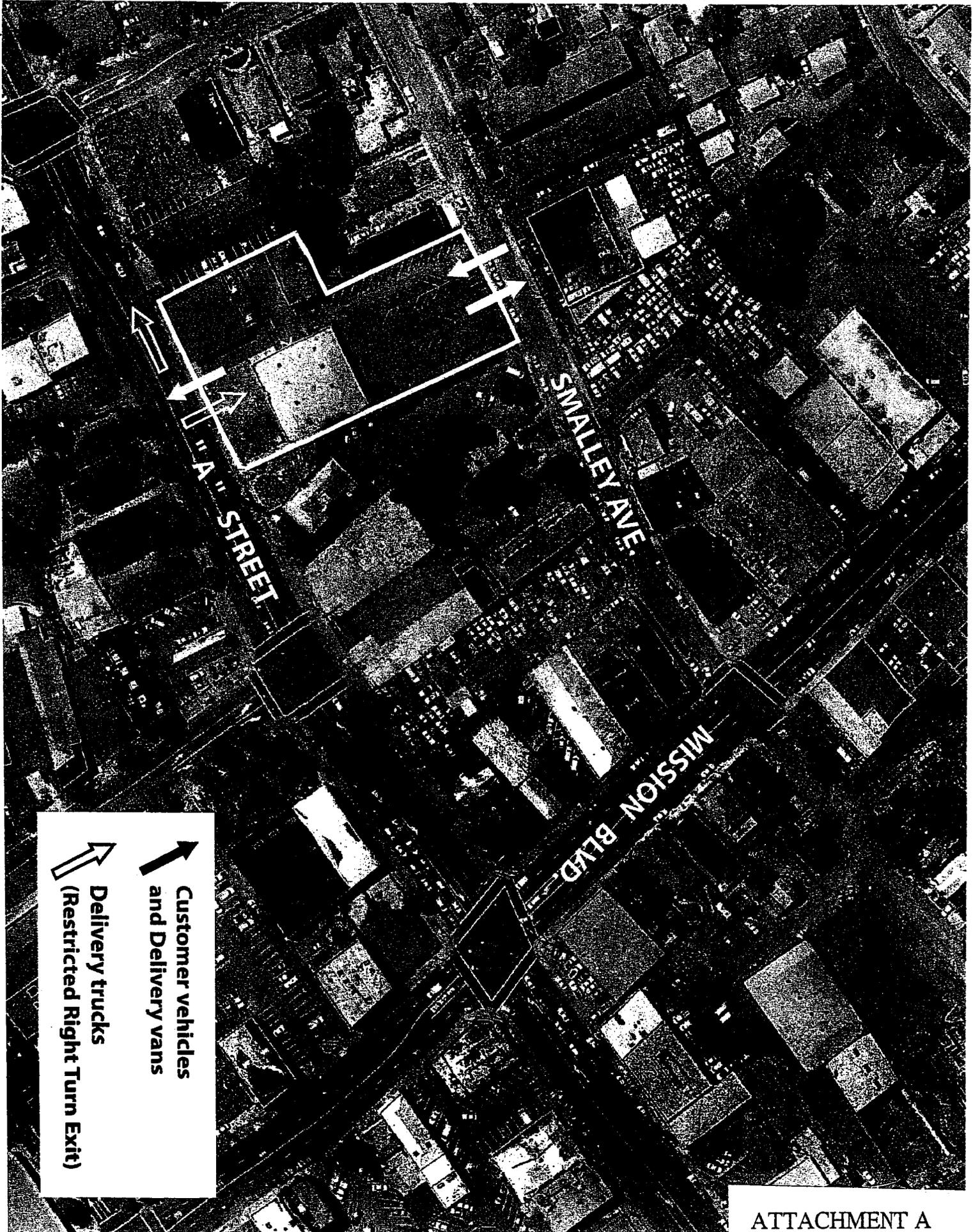
  
for Arlynn J. Camire, AICP  
Associate Planner

Recommended by:

  
for Dyana Anderly, AICP  
Planning Manager

Attachments:

- A. Proposed Path of Travel
  - B. Conditions of Approval (Use Permit No. 00-160-06)
  - C. Three Letters in Opposition to Delivery Truck Access via Smalley Avenue
  - D. Findings for Denial
- Plans



"A" STREET

SMALLEY AVE.

MISSION BLVD.


**Customer vehicles  
and Delivery vans**


**Delivery trucks  
(Restricted Right Turn Exit)**

**CONDITIONS OF APPROVAL**  
**Use Permit Application 00-160-06**  
**Larry's Tires**  
**750 A Street**

**General**

1. Use Permit Application No. 00-160-06 is approved subject to the specific conditions listed below. This permit becomes void on March 9, 2001, unless prior to that time building permit has been accepted for processing by the Building Official, or a time extension is approved. A request for a one year extension must be submitted to the Development Review Services Division 15 days prior to the above date.
2. All improvements indicated on the site plan labeled Exhibit "A" shall be installed prior to occupancy of the building.
3. Inoperable vehicles are not permitted to be stored on-site. All vehicles are required to be in working order.
4. Outdoor storage of tires or related equipment shall be prohibited on-site. Vehicular repair, storage, or related activity outside the building shall be prohibited.

Prior to the issuance of a building permit the applicant shall:

5. Submit a color board to be reviewed and approved by the Director of Community and Economic Development/Planning Director. The buildings are required to be painted light gray with teal trim.
6. Submit a complete set of construction documents including property survey, architectural/structural and/or electrical/mechanical plumbing/plans, calculations and specifications where possible.
7. Submit a site drainage plan including the design of a fossil filter system.
8. Submit a detailed landscape and irrigation plan prepared by a licensed Landscape Architect and for the review and approval by the City Landscape Architect. Landscaping and irrigation shall comply with the City's *Water Efficient Landscape Ordinance*.
9. Submit a detailed fencing plan for the entire property and including both the rear decorative metal fence and the side redwood fence to the Director of Community and Economic Development for review and approval. Razor wire or similar wire is required to be removed.

10. Submit to the Director of Community and Economic Development/Planning Director the design of the exterior trash enclosure and recycling enclosure. The materials shall be complementary to or reflect of materials used within the building. Proposed dimensions and design of the enclosures shall comply with the City's Recycling Ordinance and shall contain provisions for trash and recycling facilities such as a trash dumpster and recycling carts.
11. Submit an exterior lighting plan. Lighting shall be designed to reflect away from adjacent properties and shall incorporate decorative exterior fixtures and shall provide a minimum of one candle foot at ground level during hours of darkness.
12. Submit a revised parking lot plan that includes the following:
  - a. Provide a revised site plan that reflects the parking and circulation area shown on "Exhibit A";
  - b. The driveways shall conform to SD-110 (6-foot flares);
  - c. The driveway accessing Smalley Avenue shall be 24-feet-wide
  - d. The parking area between the two vacant buildings abutting the west property line. It is appropriate to locate the 2 required parking spaces for persons with physical disabilities within the parking area between the 2 vacant buildings abutting the west property line. Design a parking layout for this area.
13. The facades of the two retail buildings of A Street are required to have similar entry-way features.
14. Fire Department Requirements:
  - a. The tenant shall only perform tire service and repair. No other vehicle services shall be done at this building.
  - b. A one-hour separation between the "M" occupancy and "S-3" occupancy is required. All tenant improvements require a building permit.
  - c. An automatic fire sprinkler system is being proposed for the building. The system shall be designed for meeting overhead ceiling densities per NFPA 13 and 231-D (Storage of Rubber Tires) Standards. The underground fire service shall meet NFPA 24 Standards.
  - d. The building shall meet storage requirements as per the 1998 California Fire Code, Article 81, for Storage of Tires (High Hazard Commodity).
  - e. Tenant shall obtain appropriate permits for the installation of racks, if the tire racks exceed 6' in height.
  - f. Building shall have a carbon monoxide detection system installed within the "S-3" occupancy.
  - g. All use and/or storage of hazardous materials shall be reported to the fire department per previous meetings, the applicant has indicated that the tire service will only be conducted and no additional hazardous materials will be used.

- h. Provide an emergency access gate with a Fire Marshall approved lock box or equivalent locking device on the A Street and Smalley Avenue frontages. The design of the emergency access gate, including gate width, locking device(s) and location shall be approved by the Fire Marshal.
15. Prior to Connection of Utilities
- a. The on-site paving shall be repaired or replaced to the satisfaction of the City Engineer. The minimum thickness of asphalt concrete pavement shall be 3 inches and it shall be compacted to a relative compaction of not less than 95 percent;
  - b. The damaged sidewalk and curb along both property frontages shall be replaced to match existing.
  - c. The easterly driveway on Smalley Avenue shall be removed and replaced with curb, gutter, sidewalk and tie-in paving to match existing improvements. Replace the curb, gutter, sidewalk and tie-in pavement on Smalley Avenue as required by the City Engineer.
  - d. All catch basins shall be equipped with fossil filters or an equivalent device approved by the City Engineer.
  - e. Obtain encroachment permits prior to the commencement of any work to be done within the street right-of-way.
  - f. Replace all broken windows, broken rain gutters and broken downspouts.
16. Prior to occupancy the applicant shall:
- a. Submit a sign permit application for relocation of the existing business sign from the applicant's property at 835 A Street.
  - b. The applicant shall submit an on-site recycling plan to the City's Solid Waste Manager to be implemented prior to occupancy. The recycling plan shall call for the removal of used tires on a weekly basis.
17. All applicable requirements of the City's Security Ordinance shall be met.
18. Landscaping shall be maintained in a weed-free condition at all times with replacement plants provided where necessary. Required street and parking lot trees that are severely topped or pruned shall be immediately replaced, as determined by the City Landscape Architect.
19. The property owner shall maintain in good repair all building exteriors, walls, lighting, landscaping, trash enclosures, drainage facilities, driveways, and parking areas. The premises shall be kept clean and any graffiti shall be painted or removed within seven days of occurrence.

20. Prior to authorization for occupancy, including authorization for gas and electric meter service, staff shall ensure that the use arrangement, construction, and improvements are in conjunction with plans approved through verification of zoning compliance procedures.
21. Access to Smalley Avenue shall be limited to emergency vehicles only.
22. Violation of conditions is cause for revocation of this permit application at a public hearing before the duly authorized review body.

**VARNI PROPERTIES, INC.**

20987 MONTGOMERY AVENUE  
HAYWARD, CALIFORNIA 94541

April 16, 2001

By Fax:: 583-3649

Arlynne J. Camire, AICP  
Associate Planner  
CITY OF HAYWARD  
Planning Division  
777 B Street  
Hayward, CA 94541-5007

Re: Project: UP-01-160-06  
Donald Boehm For Larry's Tire Express  
750 A Street, Hayward, CA

Dear Ms. Camire:

I have received the notice concerning the proposed request from Larry's Tire Express.

I don't believe that it would be a good idea to allow the trucks access from Smalley Avenue due to the number of residential units on such street.

Very truly yours,

VARNI PROPERTIES, INC.

By

ANTHONY B. VARNI

ABV:jjs

ATTACHMENT C

LAW OFFICE OFFICE OF  
RAYMOND N. BAKER  
770 A STREET, SUITE 304  
HAYWARD, CALIFORNIA 94541  
(510) 537-2100 FAX (510) 537-4406

April 19, 2001

Arlynn J. Camire  
Hayward City Hall  
777 B Street  
Hayward, CA 94541

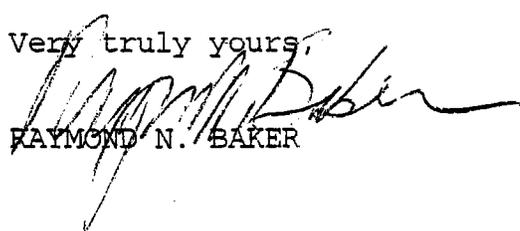
Dear Ms. Camire:

In regard to your request for comments concerning the request by the owner of the business and property at 750 A Street to allow delivery trucks access from Smalley Avenue I would like to state that I am opposed to permitting this use because it will allow very large trucks up to 45 feet in length to enter Smalley from Montgomery Street. All of the area on Montgomery Street and almost all of the area on Smalley from Montgomery Street easterly to Melvin Court is in residential use. Smalley from Montgomery Street easterly to Melvin Court is narrow; there is barely room for two lanes of traffic. Allowing oversized trucks on Smalley will impede the flow of traffic on that street.

I also want to point out that from my property where it fronts on Smalley easterly to Mission there are a number of businesses so that permitting oversized trucks on such a narrow street will have an impact on all of those businesses including my own, and that of my tenants. There are many vehicles entering and leaving leaving my property at 770 A Street exiting onto Smalley and allowing 45 foot trucks will interfere with that traffic.

Further, I do not believe that allowing delivery trucks to exit on Smalley from the tire business at 750 A Street is necessary because there is adequate room for oversized trucks to turn around in the Tire Express parking lot and to exit on A Street as they have been doing since the business was opened at that location several years ago. If there is a problem because the drivers have damaged the Tire Express building, the trucking company is responsible for taking appropriate action to insure the their drivers are careful not to hit the building.

Very truly yours,

  
RAYMOND N. BAKER

RNB;pb

ATTACHMENT C

June 21, 2001

Derek Wu  
Derek's Auto Tech  
820 Smalley Avenue  
Hayward, CA 94541

Planning Commission  
City of Hayward  
777 B Street  
Hayward, CA

RE: Large Trucks on Smalley Avenue, Hayward

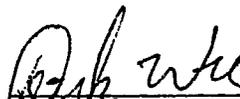
Dear Commissioners:

I have had an automobile repair business at 820 Smalley Avenue since 1983. There are body shops and other auto repair shops on this street along with several private homes, a large apartment complex, and a court of small apartments. Cars are parked all along the street on both sides.

In my business I constantly have to drive cars in and out of my shop. I rent parking spaces across the street to store cars until they can be repaired or until my customers can pick them up. Many times tow trucks are bringing cars to be repaired.

I strongly oppose allowing any long big rigs on this narrow street which would make it even more difficult and hazardous for residents and business owners to use the street.

Very truly yours,

  
DEREK WU

ATTACHMENT C

**FINDINGS FOR DENIAL**  
**Use Permit Application 01-160-06**  
**750 A Street**

1. Delivery truck and customer vehicle access from Smalley Avenue is not desirable for the public convenience or welfare in that large delivery trucks could drive through a residential neighborhood to access a commercial property;
2. Delivery truck and customer vehicle access from Smalley Avenue will impair the character and integrity of the adjacent Single-Family Residential and High-Density Residential Zoning Districts and the residentially-developed Central-City Commercial Zoning Subdistrict properties in that approval of the expansion of the commercial use is contrary to the residential character of the properties;
3. Delivery truck access and customer vehicle will be detrimental to the public health, safety, or general welfare in that the introduction of delivery truck traffic may negatively impact residential pedestrian and vehicular traffic. In addition, the proposed restriction on the path of travel for trucks on Smalley Avenue is not capable of effective enforcement. Furthermore, trucks are known to use the Smalley Avenue entrance in violation of the existing use permit in a manner currently adversely impacting the residential neighborhood and the surrounding area.
4. The project will not be in harmony with applicable City policies of the North Hayward Neighborhood Plan in that the Montgomery Area is to be preserved as a "family neighborhood" with "traditional features." The proposed path of travel includes a portion of Smalley Avenue that is included in the Montgomery Area. The introduction of delivery trucks or customer vehicle traffic into the Montgomery Area is determined to be contrary to the goal to not commercialize the neighborhood.

City Council

Case # 01-160-06

This is an appeal of the Planning Commission's <sup>decision to</sup> deny my request to open the rear gate located on Smalley Ave. for passenger cars only. The property is located at 730 and 750 A St. in Hayward.

These two locations are leased by Larry's Tire Express and Rent A Center. The above meeting of the Planning Commission took place on July 12<sup>th</sup> 2001.

RECEIVED

JUL 19 2001

PLANNING DIVISION

Thank you

Don Boehm

LAW OFFICES OF  
RAYMOND N. BAKER  
770 A STREET, SUITE 304  
HAYWARD, CALIFORNIA 94541  
(510) 537-2100 FAX (510) 537-4406

SEP 13 PM 4:20 CLK

September 13, 2001

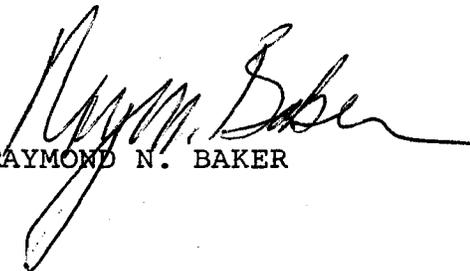
RE: Use Permit No. 01-160-06

Appeal from Hayward Planning Commission Decision

TO WHOM IT MAY CONCERN:

I am the owner of the property to the east of Mr. Boehn's property at 730 and 750 A Street. I have no objection to passenger sized vehicles entering and exiting from the Boehm property onto Smalley Avenue. I do have a problem with trucks using Smalley because ~~larger~~<sup>larger</sup> trucks using Smalley will create a hazard on that particular street. Smalley is only 30 to 34 feet in width; cars are usually parked on the street; and due to the narrowness of the street where it intersects with Mission and Montgomery will present a hazard to traffic traveling on both Mission Boulevard and Montgomery Street. There are at least 45 residential units on Smalley.

Very truly yours,



RAYMOND N. BAKER

RNB:pb

**RECEIVED**

SEP 13 2001

PLANNING DIVISION

**NOTICE OF PUBLIC HEARING****CITY OF HAYWARD  
CITY COUNCIL****RECEIVED**

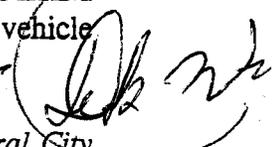
<b>DATE:</b>	September 18, 2001
<b>TIME:</b>	8:00 p.m.
<b>PLACE:</b>	City Hall, Council Chambers 777 B Street, Second Floor Hayward, CA 94541

SEP 11 2001

PLANNING DIVISION

On the above date, at or about the hour noted, the Hayward City Council will hold a public hearing to obtain citizen input on the following matter:

**APPEAL OF PLANNING COMMISSION'S DENIAL OF MODIFICATION OF USE PERMIT APPLICATION 00-160-06 - DONALD BOEHM (APPLICANT/OWNER) - Request to amend the conditions of approval to allow vehicle access from Smalley Avenue.**

*Jim OK For This Request*   
The property is located at 730 and 750 "A" Street, north side, in the CC-C (Central City - Commercial) Sub-District.

Projects that are denied do not require environmental review as defined by the California Environmental Quality Act (CEQA) Guidelines. Should the City Council consider approval of the use permit, staff will have to complete environmental review prior to approval.

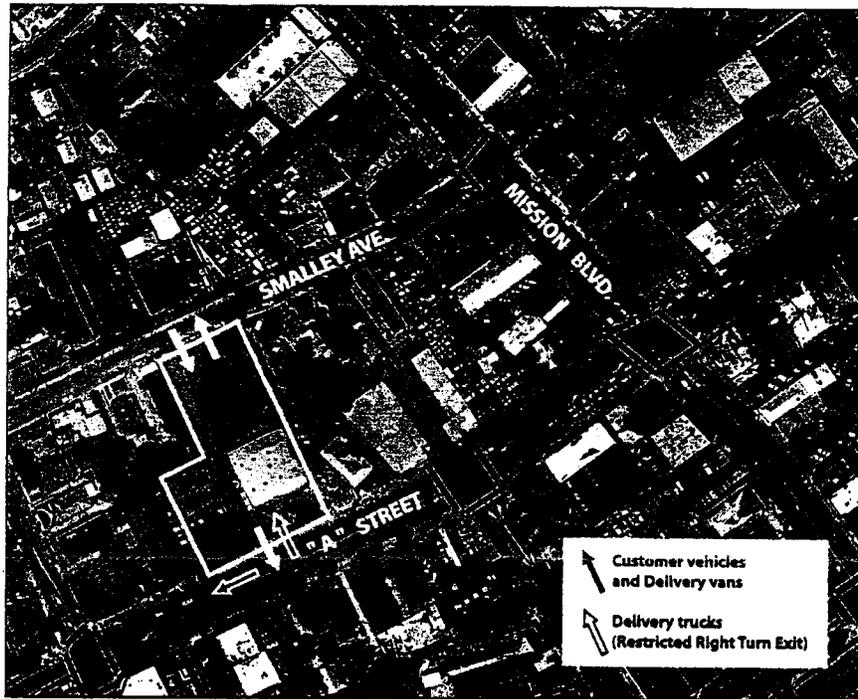
*at Derek's Auto TC  
820 Sm.  
Ave*

Persons interested in the above are invited to attend the meeting to speak or offer written evidence for or against this proposal. For additional information, please contact:

**Alyne J. Camire, Associate Planner  
City of Hayward, Planning Division  
777 B Street, First Floor  
Hayward, CA 94541-5007  
Phone No.: (510) 583-4206  
FAX: (510) 583-3649  
TDD: (510) 247-3340  
E-mail: arlyne@ci.hayward.ca.us**

**Printed on Recycled Paper**

## Area Map



**PLEASE TAKE NOTICE** that if you file a lawsuit challenging any final decision on the subject of this notice, the issues in the lawsuit may be limited to the issues which were raised at the City's public hearing or presented in writing to the City Clerk at or before the public hearing. By Resolution the City Council has imposed the 90-day time deadline set forth in C.C.P. Section 1094.6 for filing of any lawsuit challenging final action on an item which is subject to C.C.P. Section 1094.5.

**ASSISTANCE** will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities act of 1990. Persons needing accommodation should contact the City Clerk's office 48 hours in advance of the meeting at (510) 583-4400, or by using the TDD line for those with speech and hearing disabilities at (510) 247-3340.

**Dated:** September 07, 2001  
**ANGELINA REYES**  
**CITY CLERK OF THE CITY OF HAYWARD**

VARNI PROPERTIES, INC.

20987 MONTGOMERY AVENUE  
HAYWARD, CALIFORNIA 94541

RECEIVED

SEP 12 2001

OFFICE OF MAYOR

September 10, 2001

Honorable Roberta Cooper, Mayor  
CITY OF HAYWARD  
777 B Street  
Hayward, Ca 94541

Re: Application of LARRY'S TIRE EXPRESS  
750 A Street, Hayward, CA  
Hearing: September 18, 2001

Dear Mayor Cooper:

I am writing to you with regard to the application of Larry's Tire Service (Larry's Tire Express) for permission to change the traffic patterns of their business so as to allow the use of Smalley Avenue for delivery trucks. Varni Properties, Inc. is a property owner on Smalley Avenue. Due to the residential nature of the western portion of Smalley Avenue, we would have objection to truck traffic on Smalley Avenue. We would not, however, have objection to increased automobile traffic on Smalley Avenue. We therefore would not object to the use of the Smalley Avenue driveways of Larry's Tire Service for automobile traffic.

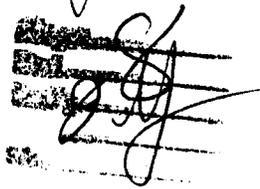
Very truly yours,

VARNI PROPERTIES, INC.

By

ANTHONY B. VARNI

ABV;jes

A handwritten signature in dark ink is written over a rectangular stamp. The stamp contains several lines of text that are mostly illegible due to the signature and the quality of the scan. The signature appears to be 'ABV'.

# DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_

Introduced by Council Member \_\_\_\_\_

*mal*  
*9/13/01*

RESOLUTION DENYING APPLICANT'S APPEAL OF THE  
PLANNING COMMISSION'S DENIAL OF USE PERMIT  
APPLICATION NO.01-160-06, CONCERNING A REQUEST  
FOR AMENDMENT OF USE PERMIT NO. 00-160-06

WHEREAS, Use Permit Application No. 00-160-06, concerning a request to allow the sale and installation for tires and wheels at Larry's Tire Express located at 730 and 750 A Street, in the CC-C (Central City-Commercial) Subdistrict, was approved by the Planning Commission on March 9, 2000; and

WHEREAS, by Condition of Approval # 21 of Use Permit No. 00-160-06, the Planning Commission restricted access to the site from Smalley Avenue to emergency vehicles only; and

WHEREAS, Use Permit Application No. 01-160-06 concerned a request by Donald Boehm (Applicant/Owner) to amend Condition of Approval # 21 of Use Permit No. 00-160-06, to allow customer vehicles and delivery trucks access to the business from Smalley Avenue; and

WHEREAS, on July 12, 2001, the Planning Commission denied Use Permit Application No. 01-160-06, expressing concerns that the additional commercial and customer traffic created by the requested modification would have a negative impact on the residential neighborhood of Smalley Avenue; and

WHEREAS, the City Council of the City of Hayward, hereby finds and determines that the project is categorically exempt from environmental review under the California Environmental Quality Act; that the additional commercial and/or customer traffic would have a negative impact on the residential neighborhood of Smalley Avenue; that it would be difficult to enforce a restriction permitting only customer vehicles to enter the premises from Smalley Avenue; that there is evidence that existing Condition of Approval No. 21 has been violated and delivery vehicles have been observed entering the premises through the restricted Smalley Avenue entrance; and that adequate alternative measures can be taken to alleviate on-site congestion without modifying the existing conditions of approval. Those measures include the following:

1. Post "No Parking" signs on the building adjacent to the driveway and strip the affected area;

2. Post customer parking directional signs;
3. Post a "Right Turn Only" sign at the driveway exit onto "A" Street;
4. Tenants should agree upon a delivery schedule so not more than one truck will be on-site at any one time; and
5. Remove the canopy over the customer entrance of Larry's Tire Express to allow additional clear driveway area for trucks to maneuver.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that, based upon the aforementioned findings, Use Permit Application No. 01-160-06, regarding a request to modify Condition of Approval No. 21 of Use Permit Application No. 00-160-06, is hereby denied, upholding the Planning Commission's Action.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2001

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward