

HAYWARD CITY COUNCIL

RESOLUTION NO. 95-235

Introduced by Council Member WARD

RESOLUTION APPROVING USE PERMIT APPLICATION
NO. 94-102 AND VARIANCE APPLICATION
NO. 95-180-10 OF UNOCAL 76 PETROLEUM PRODUCTS
COMPANY

WHEREAS, Use Permit Application No. 94-102 and Variance Application No. 95-180-10 concerns a request of Unocal 76 Petroleum Products Company to construct a Unocal 76 gasoline station/food mart/drive-through restaurant building and a new pump island canopy with three islands for six fuel dispensers, and a request for a sign variance to allow a monument sign to be located 3 feet from the front property line where 10 feet is required and to allow a directional sign to include a business logo, on property located at 391 West A Street; and

WHEREAS, the Planning Commission denied the project applications at its meeting on September 14, and the matter has been appealed to the City Council in the time and manner required by law; and

WHEREAS, the City Council of the City of Hayward hereby finds and determines that the City Council has independently reviewed and considered the information contained in the initial study upon which the negative declaration is based, certifies that the negative declaration has been completed in compliance with the requirements of the California Environmental Quality Act, and finds that the negative declaration reflects the independent judgment of the City of Hayward; and

WHEREAS, the City Council hereby finds and determines that:

1. The negative declaration was prepared for the project in conformance with California Environmental Quality Act guidelines;
2. The proposed project, as conditioned, will not impair the character and integrity of the zoning district and surrounding area as the gasoline station and proposed food mart and drive-through restaurant should be compatible with adjacent residential uses to the north and with the surrounding commercial uses;
3. The proposed project, as conditioned, will not be detrimental to the public health, safety, or general welfare as evidenced by the fact that the operation of

this facility has not been a problem in the past and that this project will have added conditions of approval which will regulate the operational aspects of the business;

4. The proposed gasoline station, food mart, and drive-through restaurant uses, as conditioned, will be in harmony with applicable City policies, including the Hayward Design Guidelines and the performance standards for drive-in restaurants;
5. The existing location of the underground gasoline storage tanks and the close proximity to the I-880 freeway are special circumstances applicable to the subject property in support of granting the variance requests to allow the monument sign to be placed within three feet of the front property line and the placement of the restaurant logo on the two directional signs;
6. The strict application of the Zoning Ordinance would deprive the property of privileges enjoyed by other property in the vicinity under the same zoning classification, because the proposed businesses would not be able to adequately identify themselves due to the particular location of the site and the historic placement of the underground tanks;
7. The granting of the variances would not constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity in that the location of this site is unique; other properties in the vicinity do not have the same constraints presented by the proximity of I-880 and the historic location of the underground tanks.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that, based on the foregoing findings, Use Permit Application No. 94-102 and Variance Application No. 95-180-10 are hereby approved, subject to the attached conditions.

IN COUNCIL, HAYWARD, CALIFORNIA November 28, 1995

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS: Jimenez, Ward, Hulteen, Henson
MAYOR: Cooper
NOES: COUNCIL MEMBERS: Rodriquez

ABSTAIN: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: Hilson

ATTEST: Angelina Reyes
City Clerk of the City of Hayward

APPROVED AS TO FORM:

M. O'Neil
City Attorney of the City of Hayward

FINAL CONDITIONS OF APPROVAL

Use Permit Application No. 94-102

Variance Application No. 95-180-10

Unocal 76 Gasoline Station/Food Mart/Drive-Through Restaurant

1. The proposed Use Permit Application No. 94-102 and Variance No. 95-180-10, to construct a new 2,343-square-foot Unocal 76 gasoline station/food mart/drive-through restaurant building and new pump island canopy with three islands for six fuel dispensers and request for a Sign Variance to allow a monument sign to be located 3 feet from the front property line, where 10 feet is required and to allow a directional sign to include a business logo 391 West "A" Street shall be constructed according to the plans approved by the City Council on November 28, 1995, labeled Exhibit "A". This approval is void one year after the effective date of approval unless a building permit application has been submitted and accepted for processing by the Building Official. Any modification to the approved plans shall require review and approval by the Director of Community and Economic Development/Planning Director.
2. Prior to occupancy of the building, all pertinent conditions of approval and all improvements shall be completed to the satisfaction of the Director of Community and Economic Development/Planning Director.
3. Prior to construction, a building permit must be obtained from the Development Inspection Services Division. All improvements must be completed in accordance with the Uniform Building Code and Uniform Fire Code as adopted by the City of Hayward.
4. Before issuance of a building permit, the applicant shall submit the following to the Director of Community and Economic Development/Planning Director for review and approval:
 - a. Revised building and pump island canopy elevations that incorporate a Spanish tile roof material in place of the standing metal seam roof.
 - b. Revised building and pump island canopy elevations that eliminate the internally illuminated orange light tube.
 - c. A detailed color scheme of all building exteriors and materials.
 - d. A final sign program in compliance with the Hayward Sign Regulations, that includes details of all proposed on-site signage, including menu boards.
 - e. The base and framing of all freestanding signs shall reflect the architectural character, colors and materials of the building.
5. Submit to the Landscape Architect for approval before issuance of a building permit a detailed landscape and irrigation plan, prepared by a licensed landscape architect, that conforms to the City's Water Efficient Landscape Ordinance and includes:
 - a. Raised planter boxes on either side of the main entrance, to be sided with decorative gray tile to match the building.
 - b. Where landscaped areas adjoin driveways or parking areas, Class B Portland Cement concrete curbs shall be constructed to a height of 6 inches above the

USE PERMIT NO. 94-102 & VARIANCE NO. 95-180-10 - UNOCAL 76 PETROLEUM PRODUCTS COMPANY (APPLICANT/OWNER)

- finished pavement.
- c. Parking and driveway areas shall be buffered from the street with continuous shrubs and a two-foot high earth berm. The type and spacing of shrubs shall create a continuous 30-inch high screen within two years.
 - d. Above ground utilities shall be screened from the street with shrubs. Any new transformers shall not be located within required front or side yard setbacks.
 - e. Continuous vine and shrub planting shall be provided along the north and east property lines and around the trash enclosure to buffer the masonry walls.
 - f. The type and quantity of trees shall be installed and maintained per the approved landscape plan.
 - g. The on-site sidewalks and flat concrete areas shall exhibit a decorative finish, such as stamped concrete or exposed aggregate with tile bands. The material shall be approved by the City before issuance of a building permit.
 - h. Within all landscaped areas a complete automatic sprinkler system with an automatic on/off mechanism shall be installed and maintained. This system shall utilize a double-check, double-gate backflow device and shall include an individual adjustable flood bubbler to each tree.
 - i. Landscaping and irrigation plans shall comply with the City's Water Efficient Landscape Ordinance.
6. A tree removal permit is required prior to the removal of any tree 10 inches or more in diameter. Replacement trees shall be required for any trees authorized for removal as determined by the City Landscape Architect.
7. Landscaping shall be maintained in a healthy weed-free condition at all times with replacement plants provided where necessary. Required street trees that are severely pruned or topped shall be immediately replaced.
8. Before building occupancy or connection of utilities the following shall be completed:
- a. Landscaping shall be installed per the approved plans and a Certificate of Substantial Completion and an Irrigation Schedule shall be submitted prior to approval of occupancy.
 - b. All parking stalls and maneuvering areas shall meet the minimum standards of the City Parking Ordinance, the parking stalls shall be striped; and any compact stalls shall be clearly marked for compact vehicles only.
 - c. The new parking lot shall be paved to the satisfaction of the City Engineer.
 - d. The existing curb, gutter, curb-cuts, sidewalk and tie-in pavement along the West "A" Street and Arbor Avenue frontages shall be replaced, repaired or removed as determined to be necessary by the City Engineer.
 - e. Street numbers shall be no less than 10 inches in height with a minimum 1/2 inch stroke width and of a contrasting color to the background.
 - f. All mechanical roof equipment shall be screened from view.
 - g. Any broken, damaged or cracked curb, gutter, or sidewalk along either the West "A" Street and Arbor Avenue frontages shall be repaired to the satisfaction of the City Engineer.
 - h. Driveways shall be constructed to City standard SD 110.

USE PERMIT NO. 94-102 & VARIANCE NO. 95-180-10 - UNOCAL 76 PETROLEUM PRODUCTS COMPANY (APPLICANT/OWNER)

- i. A drainage plan that incorporates a closed conduit system that connects to the storm water inlet at West "A" Street. The plan shall meet the approval of the Director of Community and Economic Development/Planning Director.
9. The applicant shall comply with all requirements of the Uniform Fire Code and the City's Hazardous Materials Ordinance including but not limited to the following:
 - a. Must meet requirements of Article 87 of the uniform Fire Code for demolition and construction of structures.
 - b. If any commercial cooking is to be done a fire protection system is required and must submit specific plans for approval prior to construction.
 - c. Fuel dispensing subject to all requirements of the Uniform Building and Fire Codes.
 - d. Submittal and approval of a final soil and groundwater remediation system plan including monitoring wells and remediation equipment. Any modifications to the approved remediation system must be cleared through the Hazardous Materials office of the Fire Department.
 - e. Fire Extinguisher required per the Uniform Fire Code.
 - f. Any exterior awnings or canopies must meet City standards.
 - g. During demolition and construction the applicant must notify the Fire Department immediately of any tanks, abandoned piping or contamination if encountered.
 - h. Prior to submittal of a building permit the applicant must submit an update to the status of the remediation and indicate if during construction and demolition any contamination is encountered. In the event contamination is encountered within the area of the proposed food mart the applicant must update the existing remediation plan currently on file with the City and must propose a method of remediation that is acceptable to the City's Hazardous Materials Office.
 - i. Fire extinguishers to be placed within 75 feet of travel from any point in the building per UFC 10.505.a. 40BC type of extinguisher shall be required in the kitchen, 2A10BC type shall be provided in all other areas. Fire extinguishers to be provided within 75 feet of travel during construction as per UFC 87.103d.
 - j. Kitchen hood and duct system as per UFC 10.513a. The system shall provide protection to ventilating hoods, ducts, and cooking appliances. These shall be in accordance with UFC 10.513b. The type of system installed shall be in accordance with UFC 10.513c.
 - k. The working drawings shall be submitted to the Alameda County Health Services Department for approval.
10. Management of the use shall take necessary steps to assure the orderly conduct of employees, patrons, and visitors on the premises, including requesting that motorists not play radios to the degree that surrounding residents and commercial uses would be bothered and that loitering is not permitted. Signs shall be posted indicating that loitering is prohibited. Signs shall be approved by Police Chief. Station Management shall discourage patrons from loitering on the premises.
11. Free air, water and window washing facilities shall be provided to the public during hours of operation.

USE PERMIT NO. 94-102 & VARIANCE NO. 95-180-10 - UNOCAL 76 PETROLEUM PRODUCTS COMPANY (APPLICANT/OWNER)

12. The sale of alcoholic beverages is strictly prohibited.
13. The facility shall be made handicapped accessible in compliance with Title 24 and ADA requirements.
14. The premises shall be kept clean, and the operator shall make all reasonable efforts to see that no trash or litter originating from the use is deposited on adjacent properties. Employees shall be required to daily pick up trash or litter originating from the site upon the site and within 300 feet of the perimeter of the property.
15. No obnoxious odors shall be generated on the site.
16. A minimum of two restrooms shall be made available to the public during hours of operation.
17. The property owner/applicant shall maintain in good repair all building exteriors, awnings, 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.
18. The project shall comply with the requirements of the Hayward Security Ordinance.
19. Public telephone(s) shall be located within the interior of the building, unless otherwise authorized by the Director of Community and Economic Development/Planning Director.
20. The applicant/business operator shall not display any illegal banner signs, portable signs or other illegal signs on the property.
21. The permittee shall provide and maintain exterior lighting for the establishment which is adequate for the illumination and protection of the premises. Lighting shall be installed in such a manner that it does not shine into adjacent residential properties.
22. The permittee shall provide and maintain interior lighting for the establishment which is adequate for the illumination and protection of the premises and which allows the unaided inspection of personal identification by members of the Hayward Police Department while inside the premises.
23. No outside storage of material, crates, boxes, etc. shall be permitted anywhere on site, except within the trash enclosure area as permitted by fire codes.
24. The permittee shall discourage patrons and visitors from loitering in public rights-of-way, parking areas, and in front of adjacent properties.
25. Prior to issuance of a building permit the parcel of land (APN: 0429-0077-026) located in Alameda County shall be annexed to the City of Hayward and the three separate parcels of land shall be merged into one parcel.

USE PERMIT NO. 94-102 & VARIANCE NO. 95-180-10 - UNOCAL 76 PETROLEUM PRODUCTS COMPANY (APPLICANT/OWNER)

26. The loud speaker for ordering food items for the drive-through restaurant shall be shifted 20 feet further south. All loud speakers shall be monitored to ensure that the speaker is not audible from the adjacent residential properties. Noise levels measured at the property line shall not exceed the level of background noise normally found in the area or 65 db, whichever is greater.
27. The hours of operation of the drive-through restaurant and food mart shall be restricted to between 6:30 AM to 10:00 PM on Monday through Thursday, between 7:00 AM to 11:00 PM on Friday and Saturday and between 7:00 AM to 10:00 PM on Sunday. Gasoline sales may occur 24 hours a day.
28. Water Pollution Source Control requirements shall be as follows:
 - a. If there are to be any roof HVAC units, no polluted waters from these units shall be discharged to the storm drain via roof drains. Uncontaminated condensate is acceptable for storm drain discharge.
 - b. All washing operations shall be discharged to the sanitary sewer. This specifically includes mat cleaning and any washing of the trash area.
 - c. No storm water shall be discharged to the sanitary sewer without a Wastewater Discharge Permit, which will be issued only if there is no feasible alternative. This means that if washing takes place in the trash area, the wash water shall be discharged to the sanitary sewer. If this area is covered and protected from storm water runoff, a permit is not necessary. If it is not covered, a permit will be required.
 - d. The sanitary sewer discharge from this facility shall be in compliance with all wastewater discharge regulations, prohibitions and limitations to discharge, including the 300 milligram per liter oil and grease limit.
29. Prior to occupancy, the developer shall pay the appropriate tax required by the Interim Supplemental Building Construction and Improvement Tax.
30. Parking shall be prohibited (No Stopping Anytime) on the property frontages of West "A" Street.
31. The exterior of the trash enclosure shall match the primary structure. Access gates shall be solid decorative architectural metal. The final design shall be approved by the Director of Community and Economic Development/Planning Director before issuance of a building permit.
32. A copy of these conditions of approval shall be included in and made part of any rental and/or lease agreement for the subject site and shall be posted alongside the necessary business license and be visible at all times to employees and patrons.
33. Violation of these conditions is cause for revocation of permit after public hearing before the duly authorized review body.
34. If it comes to the attention of the Director of Community and Economic

USE PERMIT NO. 94-102 & VARIANCE NO. 95-180-10 - UNOCAL 76 PETROLEUM PRODUCTS COMPANY (APPLICANT/OWNER)

Development/Planning Director that there are problems occurring as a result of the gasoline station, food mart, or drive-through restaurant, the Director may bring this use permit application back to the Planning Commission for consideration of imposing additional conditions or restrictions.

35. The following restrictions on vendor deliveries to the site shall be adhered to:
- (a) No more than two vendor vehicles (trucks, vans, etc.) shall be allowed on the site at any one time.
 - (b) No more than two deliveries per week shall be made by the same vendor.
36. The following are additional conditions voluntarily agreed to by the applicant (Note: Conditions which were superseded by, redundant or less restrictive than City imposed conditions have been omitted):
- (a) The site operator and employees will be required to attend, participate and successfully complete a three week training program which will include and is not limited to training segments on safety, accident prevention, robbery deterrence, personal safety, responsible tobacco retailing, loitering deterrence, facility maintenance and litter control. Facility personnel must participate in quarterly reviews.
 - (b) All products sold at the Fastbreak food mart must be preapproved by Unocal.
 - (c) There shall be no sale or rental of any adult magazines, videos, tapes, discs or film at this location.
 - (d) There will be no coin operated amusement devices or video games on the premises.
 - (e) A sign will be posted in the window to identify that the cash register contains \$50.00 or less in cash and the drop safe is not accessible to employees.
 - (f) Applicant shall post signs at the food mart in compliance with any and all municipal codes notifying the public in both English and predominant second language in the area with regard to loitering and littering.
 - (g) The applicant shall post signage at the food mart precluding loitering and littering.
 - (h) The food mart shall be equipped with a silent alarm system registered at the nearest police department which can be activated by (3) buttons situated at strategic locations through the food mart.
 - (i) The food mart shall be equipped with a security camera that is capable of receiving an image on film or tape that can be made a permanent record and that can be enlarged through projection or other means. Cameras will be maintained in proper working order at all times and shall be subject to periodic inspection by the local police department.