

CITY OF OAKLAND  
ENVIRONMENTAL  
PROTECTION



250 FRANK H. OGAWA PLAZA, SUITE 250 OAKLAND, CALIFORNIA 94612-2031

City Planning Commission

(510) 238-3912  
FAX (510) 238-4730  
TDD (510) 839-6451

October 6, 1999

**ALI SHIRAZIAN**  
409 PICADILLY PLACE, #6  
SAN BRUNO, CA 94066

**RE: CASE FILE VM65-567 - 4035 PARK BOULEVARD**

Dear Mr. Shirazian:

On October 6, 1999, the City Planning Commission voted to amend the conditions of approval of the above referenced case.

Commission action is indicated below. This action becomes final ten (10) days from the date of the Commission action unless an appeal to the City Council is filed by: October 18, 1999.

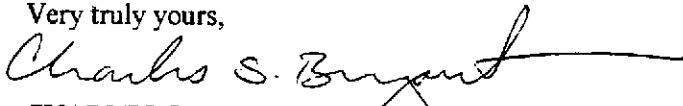
Appeals may be made to the City Council, at any time before that date on a form provided by the Community and Economic Development Agency/Zoning and filed with the required fee of \$413.00 at the Zoning Counter with a copy provided to the City Clerk

If there is an appeal, Council members or citizens may have questions regarding this case. It is therefore advisable that you inquire of the City Clerk at 510-238-3611 on the above date or as soon thereafter as possible, as to whether the decision was appealed, and if so, when it is set to be reviewed by the City Council.

If you have any questions please contact the case planner, **Crescentia Brown**, at 238-6190.

( X ) Granted with required conditions - (Vote: 6 ayes, 0 noes - to amend conditions)

Very truly yours,

  
CHARLES S. BRYANT, Secretary  
City Planning Commission

CSB:clb

Cc: "To All Interested Parties  
David Self, Attorney-at-Law  
Ralph Wheeler, City Attorney's Office

Calvin Wong, Building Services Division  
Raymond Derania, Code Compliance

**NOTICE TO ALL PARTIES**

The time within which judicial review must be sought of this decision of the Planning Commission is governed by Section 1094.6 of the Code of Civil Procedure of the State of California. With certain exceptions, the time is ninety (90) days from the date of the decision. If you challenge this application in court, you may be limited to raising only those issues you or someone else raised at the public hearing, or in written correspondence delivered to the Community and Economic Development Agency/Zoning at, or prior to, the public hearing.

(E-mail copy)

**TO:** City Planning Commission                      **DATE:** June 16, 1999  
**FROM:** Staff    **CASE FILE NO.:** VM65-567  
**SUBJECT:** Review of compliance with Zoning Regulations, consideration of adding conditions of approval, and consideration of revocation of a Major Variance for a service station at 4035 Park Boulevard in the "Detached Unit Residential" General Plan Land Use Classification and the R-50 Medium Density Residential Zone. (Environmental Determination: Exempt; Section 15261(b), State CEQA Guidelines; project approval predates CEQA.) (Historic Status: Non historic property (NHP), survey rating: X.) (Planning Area: Lower Hills)

**BACKGROUND:** A service station was originally constructed on the project site in 1931. In 1966, the Tidewater Oil Company reconstructed the station and expanded the auto services provided at the facility. The station was closed in 1989, after the Loma Prieta earthquake, when a faulty pipe replacement released gasoline on the site. In 1984, Desert Petroleum Inc. (former property owners) removed the underground tanks containing inflammable liquid, and gasoline was detected in the soil and groundwater during subsurface investigation of the site. No operations have occurred on the site since 1989. Key project events that have occurred since 1989 are outlined below:

1995. Current property owner, Ali Shirazian, applied to reopen the service station; Zoning Administrator determined that the proposal was consistent with original Major Variance (VM65-567) approved by the City Council.
- July 1996. Michael Gabriel of the Glenview Neighborhood Association (GNA) appealed Zoning Administrator's determination.
- October 1996. Public Hearing held on Administrative Appeal; Planning Commission called for a revocation hearing to review the facility's compliance with the Zoning Regulations, determine whether public nuisances existed, and consider revocation or modification of Major Variance (VM65-567).
- November 1996. Planning Commission determined that public nuisances (soil and groundwater contamination) existed at the site and approved staff report, all findings and additional conditions of approval. Commission reserved its right to allow the re-operation of the service station subject to its cleanup status, and requested 12-month compliance review.
- December 1996. Applicant appealed Commission's finding of public

(See Reverse Side)

nuisances and approval of additional conditions of approval.

- March 1997. City Council upheld Planning Commission's decision.
- Spring 1997. Applicant filed lawsuit against the City's determination.
- Sept. 1997. State Water Resources Control Board (SWRCB) issued pre-approval for preliminary cleanup costs (\$4,200).
- November 1997. City Attorney postponed 12-month compliance review pending resolution of litigation. Western Geo-Engineers and Desert Petroleum submitted workplan for on-site and off-site cleanup to the City of Oakland Fire Services Agency and Alameda County Department of Environmental Health (DEH).
- February 1998. Court's Order upheld City's determination.
- March 1998. Planning Commission held 12-month compliance review. Additional site analysis information needed by staff; Commission directed staff to continue monitoring preparation of workplan, and requested 6-month compliance review.
- October 1998. Planning Commission held 6-month compliance review. Development of cleanup workplan ongoing; Commission directed staff to continue monitoring preparation of workplan, and requested 6-month compliance review.

**STATUS OF SITE CONDITIONS AND CLEANUP:** Since the previous compliance review on October 1, 1998, Western Geo-Engineers submitted a final Risk-based Corrective Action workplan for on-site and off-site cleanup to Alameda County DEH and the City of Oakland Fire Services Agency. Alameda County DEH is responsible for reviewing and accepting the final workplan, which was accepted November 6, 1998. Western Geo-Engineers has subsequently submitted the workplan to the State Water Resources Control Board (SWRCB), which is the body that may pre-authorize reimbursement funding for site cleanup actions after the County approves the workplan. Mr. Peacock, manager of the Alameda County DEH, indicated that the SWRCB would consider the pre-authorization or reimbursement funding during June 1999.

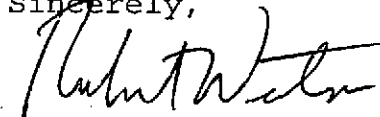
Additionally, since the October 1, 1998 compliance review, Western Geo-Engineers has prepared two quarterly reports on the status of the on-and off-site contamination. Based on staff's cumulative analysis of the Third Quarter 1998, Fourth Quarter 1998, and First Quarter 1999 Reports, the level of contamination on the project site is dissipating, especially at the southeast corner of the site (at Hampel Avenue & Park Blvd.). The quarterly

Tosco #30185  
December 21, 1998  
page 2 of 2

2. Maintain written records of all alarm conditions and their resolution. Maintain records of **all** maintenance performed on the tank system.
3. Perform annual operational tests on the electronic monitoring equipment by qualified technicians. The anniversary month for the certification is **November**. Submit a copy of the test results to this office within 30 days of the report.
4. Maintain certification of financial responsibility with documentation on-site.
5. Complete employee training and document such training at least annually.
6. Report unauthorized releases to this office within 24 hours of discovery. Provide a written report within 5 working days.
7. All changes in monitoring equipment must be pre-approved by this office prior to implementation.
8. Report changes in facility operator or tank owner on Form A within 30 days of the change.

This permit expires on December 14, 2002. If you have any questions regarding the operation of this tank system please contact me at (510) 567-6781.

Sincerely,



Robert Weston  
Sr. Hazardous Materials Specialist

enclosures

c: Tom Peacock, ACDEH  
Ho Yong Park, Dealer

reports also indicate that the contamination is migrating down gradient (along the rear yards of residential properties to the north, and westward toward Brighton Avenue). Although no monitoring wells currently exist on private residential properties along Brighton Avenue, evidence of the migration is based on groundwater samples from seven on-site wells and one off-site well in the Brighton Avenue right-of-way. Over time, the site's conditions might allow for natural attenuation of contaminants; however the proposed cleanup actions would significantly accelerate the cleanup process.

#### **Draft Cleanup Workplan**

The workplan for site cleanup proposes the following measures:

1. Install additional monitoring wells (for sampling groundwater) to assess the actual extent of off-site contamination. The proposed wells would be located on private residential lots between the site and the existing well on Brighton Avenue. Each property owner has granted access to allow the installation of the proposed monitoring wells on his or her property. Off-site monitoring and cleanup will be prohibited if access is not granted.
2. Install a new linear recovery trench (for catching contaminants down gradient and pumping them out for recovery) on the east side of Brighton Avenue in the public right of way, parallel to the street.
3. Install a new recovery well (for extracting intercepted contaminants) on the west side of Brighton Avenue in the public right of way, parallel to the street.
4. Add oxygen releasing compounds underground to aid in reducing concentrations of Benzene (a component of gasoline) located on and off the site.

Desert Petroleum may begin the site cleanup measures listed above when the SWRCB pre-authorizes reimbursement funding for the cost of cleanup activities. However, no circumstances exist that prohibit Desert Petroleum from paying the cost of cleanup upfront.

**STATUS OF APPEAL LITIGATION:** In December 1996, the applicant appealed the Commission's November 1996 (1) findings of public nuisances on the site; and (2) approval of modified conditions of approval) to the Superior Court, and subsequently to the California Court of Appeals. The applicant's legal counsel and the City of Oakland's counsel submitted their respective opening and response briefs to the Court of Appeals in November and December 1998. The applicant's attorney obtained several continuances on appeal due to illness and has yet to file a reply brief on appeal. The applicant's reply is due to be filed on June 29, 1999. However, the applicant's attorney recently sought a continuance in an unrelated case with the City because of his

recent illness, therefore it is highly possible that the applicant's reply brief will not be filed by June 29, 1999.

Upon receiving the required briefs from both parties, the Court of Appeals will schedule a date to hear oral arguments. The City Attorney has indicated that the scheduling process can take from three to six months. If the Court upholds the appeal, all or part of the City's decision relating to the gas station could be invalidated. Moreover, the City would be subject to a request for damages and attorneys fees. If the Court denies the appeal, the City decision should not be disturbed

**CITY AND COUNTY AGENCY ROLES:** The City of Oakland Fire Services Agency and the Alameda County Department of Environmental Health (DEH) Agency are the two bodies that are primarily involved in the review and oversight of the environmental-related activities involving the site. The Oakland Fire Services Agency, staffed by Leroy Griffin, is primarily responsible for enforcement of the underground tank law, which includes permitting new tanks or other hazardous materials facilities. As authorized by the State Certified Uniform Program Agency (CUPA) program (enacted by Senate Bill 1082) the City requested that the project site be overseen by the Alameda County DEH, which is managed by Thomas Peacock. The primary roles of the County are to review and accept the cleanup workplan, oversee the progress of cleanup activities, enforce cleanup standards, and determine when the site is "clean".

**STATUS OF CODE COMPLIANCE:** In October 1998, the Code Compliance Division of Building Services received a complaint regarding unsightly conditions on the project site. In response, a City code inspector visited the site, documented the site conditions, and notified the property owner. The applicant did not respond to the notice within the specified time period, therefore the City cleaned the site, erected a fence to prohibit unauthorized access on the site, and billed the property owner for the cost of work performed. The property owner has not remitted any payment as of the writing of this report. A subsequent complaint related to overgrowth on the site was received in March 1999. On May 3, 1999, Code Compliance staff mailed notice to the property owner, however the mailed notice was returned due to an incorrect address listed in the City's records. Code Compliance staff will re-notice the property owner on approximately June 4, 1999, and the owner will have approximately 10 days to respond before the City takes further action on the property.

Tom Peacock (Alameda County DEH), Leroy Griffin (Oakland Fire Services Agency), Code Compliance staff and a representative from Desert Petroleum Inc. will be present at the June 16, 1999 Commission meeting to provide information on activities that have occurred after to the preparation of this report.

following types of inspections must be conducted within the Unified Program and shall be conducted according to the standards contained in pertinent statute, regulation, or in the Unified Program regulations:

- . Hazardous waste generator inspections;
- . Inspection of onsite hazardous waste treatment activities under the conditionally exempt, conditionally authorized, and permit by rule tiers of Tiered Permitting;
- . Underground Storage Tank Program inspections;
- . Hazardous Materials Release Response Plans and Inventory Program inspections for aboveground storage tanks;
- . Risk Management and Prevention Program inspections; and
- . Other inspections that may be consolidated pursuant to HSC section 25404.2(a)(1).

In addition to the mandatory elements of the Unified Program, the CUPA may integrate optional waste reduction and pollution prevention programs into the Unified Inspection and Enforcement Program. The CUPA must encourage an integrated/multi-media enforcement approach to the unified inspection and enforcement program.

The Unified Program regulations shall not limit the authority of any state agency to investigate alleged violations of state law.

The Inspection and Enforcement Program Plan is to be developed by the applicant agency in cooperation with all proposed participating agencies, and must include:

- . An Inspection Component, which includes the following:
  - the number of regulated businesses within each program element and the mandated frequency of inspections for those regulated businesses;
  - a schedule of the frequency of inspections to be conducted, which shall meet the minimum inspection frequency(s) mandated in statute;
  - provisions to promote integrated multi-media inspections;
  - a mechanism to ensure that Unified Program inspector training meets or exceeds requirements currently set forth in statute or regulation;
  - efforts to cross-train staff and to coordinate, to the maximum extent feasible inspection and enforcement efforts between the CUPA and its participating agencies.
- . An Enforcement Component, which includes the following:
  - a description of responsible agency enforcement notification procedures which ensure appropriate confidentiality, coordination, consistency, and a graduated series of enforcement actions based on the severity of the violation; and
  - provisions for quarterly county and/or regional meetings of the CUPA with its participating agencies and between CUPAs in a county-wide or regional area involving multiple CUPAs.

The Inspection and Enforcement Program Plan must be reviewed by the CUPA annually at a minimum. The CUPA is required to prepare a summary of the annual plan review, discussing effectiveness and efficiency of the Inspection and Enforcement Program activities for the prior year. The CUPA is required to update the plan as necessary.

June 16, 1999

**RECOMMENDATIONS:**

1. Direct staff to continue monitoring implementation of the Tier II Risk Assessment and the implementation of the Risk-based Corrective Actions for the site;
2. Pending the results of the Tier II Risk Assessment and the outcome of ongoing litigation in the California Court of Appeals, conduct a compliance review in approximately six months.

Prepared by:

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Crescentia L. Brown, AICP  
Planner III

Approved by:

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WILLIE YEE  
Zoning Administrator

Approved and forwarded to the  
City Planning Commission:

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LESLIE GOULD  
Chief of Planning

**ATTACHMENTS:**

- A. Location Map
- B. Staff Report dated October 1, 1998 with Attachments



***What is a Single Fee System and how must it operate?***

Each applicant agency is required to develop and each CUPA must implement a Single Fee System which will replace within its jurisdiction, current fees for Tiered Permitting (HSC section 25205.14), Underground Storage Tanks (HSC section 25287), Hazardous Material Business Plans (HSC section 25513), Risk Management Prevention Plans (HSC section 25535.2) and any other fees levied by a local agency specifically to fund the implementation of the programs specified in the six programs consolidated. The Single Fee System may be used to charge fees for additional programs which are incorporated into the Unified Program. The Single Fee System will include a state surcharge levied on all regulated businesses.

Fees must be based on reasonable and necessary costs to implement and maintain programs. A participating agency is required to notify the CUPA of the cost of its program and the CUPA shall ensure that the funds collected on behalf of the participating agency are forwarded to the participating agency.

Each billing statement must itemize fees by program element. Fees for non-recurring activities may be billed separately from the single fee billing. The Single Fee System and the single fee billing will include the assessment of a state surcharge on each regulated business.

Each CUPA and the Secretary must implement a fee accountability program, designed to encourage more efficient and cost-effective operation of the program for which the single fee and surcharge are assessed. The fee accountability program shall be instituted before the single fee system is implemented and must contain at a minimum, the following elements:

- . A procedure of accounting for the fee schedule, the actual amount billed, and the revenue collected;
- . Discrete billable services, categorized as either site specific or general;
- . Staff work hours required to implement the program;
- . Direct program expenses including durable and disposable equipment;
- . Indirect program expenses including overhead for facilities and administrative functions;
- . The population of regulated businesses in each program element within the jurisdiction;
- . Total number of regulated businesses in the jurisdiction; and
- . Quantity and range of services provided, including frequency of inspection.

The CUPA and participating agencies must annually review and update the fee accountability program.

The Single Fee System must include mechanisms for the billing, collection and transmittal of the state surcharge.

The state surcharge will be determined annually by the Secretary, and shall cover the reasonable and necessary costs of Unified Program oversight for each state agency. The state surcharge assessed to each regulated business shall include components as follows:

- . A component for general program oversight, assessed on all regulated businesses;
- . An Underground Storage Tank component, assessed on regulated businesses with underground storage tanks;

TO: City Planning Commission                      DATE: October 6, 1999  
FROM: Staff    CASE FILE NO.: VM65-567  
SUBJECT: Review of compliance with Zoning Regulations, consideration of adding conditions of approval, and consideration of revocation of a Major Variance for a service station at 4035 Park Boulevard in the "Detached Unit Residential" General Plan Land Use Classification and the R-50 Medium Density Residential Zone. (Environmental Determination: Exempt; Section 15261(b), State CEQA Guidelines; project approval predates CEQA.) (Historic Status: Non historic property (NHP), survey rating: X.) (Planning Area: Lower Hills; continued from September 22, 1999 to October 6, 1999)

**BACKGROUND:** On September 22, 1999, the Planning Commission held a revocation hearing to determine whether the Major Variance (VM65-567) of the service station at 4035 Park Boulevard should be revoked because of public nuisance reasons and blighting conditions on the property. Based on information presented to it, the Commission determined that inadequate evidence existed to revoke the Major Variance on the basis of code compliance violations. However, the Commission did determine that performance-based conditions that address blight issues that have occurred on the site should be imposed on the property owner. The hearing did not concern the petroleum contamination issues.

The Commission unanimously adopted a straw vote to await the final decision of the California Court of Appeal before considering revocation of the Major Variance. If the court decision is favorable (denies the appeal), the Commission will then schedule a compliance hearing and consider revoking the Major Variance if adequate evidence exists. The Commission also decided that if the court fails to render a decision within 6 months, staff should bring a project status report to the Commission at the 6 month interval.

**FINDINGS:** Based on the evidence in the record, the Commission makes the following findings to support its determination and imposition of new conditions of approval:

1. The evidence indicates that, since 1996, the City's Code Compliance Division of Building Services has received and investigated numerous complaints about blighting conditions occurring on the property at 4035 Park Boulevard, and the investigations have resulted in the City's issuance of notices of violations and abatement orders to the property owner.

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ENVIRONMENTAL PROTECTION

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2. The City's Code Compliance Division on several occasions has documented specific blight violations at the property involving weeds, trash and debris.
3. The City, through written and verbal notices, has informed the property owner on several occasions about the code violations.
4. The property owner has failed to take reasonable action to continuously maintain the property free of blighting conditions.
5. The City, using City resources and contractors, has on several occasions abated the blighting conditions on the property.
6. The property owner has failed to provide the Commission with any credible evidence, other than unsupported statements made by his legal representative, as to why the property has not been maintained free of blighting conditions while under his ownership.
7. The blighting conditions on the property that have been documented by the City's Code Compliance staff, have amounted to a public nuisance.
8. The property owner's lack of compliance with prior City orders (except for the August 11, 1999 Notice to Abate), failure to diligently keep the 4035 Park Boulevard property free of blight, and failure to pay all City imposed fines and penalties relating to the City's abatement of blighting conditions on the property, create the necessity for the Commission to impose new performance-based conditions of approval to require the owner to maintain the property free of blight and to pay all outstanding fines and penalties owed the City.
9. The rainy season for this area generally begins October 15<sup>th</sup> annually and continues for several months. Growth of grasses, weeds and other plants can increase during the rainy season and become blight and a public nuisance if they are not properly controlled. Without new conditions imposed by the Commission, the property owner's track record suggests that grass, weeds and other plant growth will not be controlled on a regular basis during the rainy season.
10. The property owner's substantial compliance with the City's August 11, 1999 Notice to Abate, considering his overall track record regarding the upkeep of the property, does not overcome the City's need to amend the variance conditions of approval to prevent blighting conditions at the property and to prevent the unnecessary expenditure of City resources and finances on this issue.
11. As of Sept 22, 1999, the City had outstanding liens on the property for a total of \$11,144.50.

**ADDITIONAL CONDITIONS OF APPROVAL ATTACHED TO AND MADE A PART OF ZONING CASE FILE NO. VM65-567:** As specified by the City Planning Commission, the following performance based conditions outline specific actions required by the property owner relative to maintaining the site free of blight:

20. The property shall be maintained free from litter, weeds and other growth, and all structures on the site shall be secured and free of undue hazardous conditions at all times.
21. By November 1, 1999, 5:00 p.m., the property owner shall post a sign on the property that contains the name, address and telephone number of the owner of the property. The sign shall be designed, posted and maintained so that it is readable by the average person standing on the City's sidewalk that is adjacent to the property. The design of the sign shall be submitted to the Director of City Planning for approval prior to its installation.
22. By November 1, 1999, 5:00 p.m., the property owner shall contract with a third party to perform the removal of all weeds, trash and debris from the site on a weekly basis. Said contract shall be for 6 months minimum, to be renewed as needed, but shall not be allowed to lapse prior to issuance of City-issued building permits for the re-opening of the service station or prior to revocation of the variance. The property owner shall provide proof of the executed contract to the Director of City Planning by November 1, 1999. The contract at minimum shall identify the scope of work required by these conditions of approval and name, address and telephone number of each party to the contract. Beginning with the last working day of the month of November, and on the last working day of the each month thereafter, until this condition is lifted either by issuance of City-issued building permits for the re-opening of the service station or revocation of the variance, the property owner shall provide the Director of City Planning with written evidence and a statement made under penalty of perjury that the contract required under Condition No. 22 is in place and that the property owner is in compliance with Conditions No. 20 through No. 30.
23. At the time the property owner submits the information required under Condition No. 22, the property owner shall report to the Director of City Planning all activities related to property maintenance and cleanup that has been performed by the contractor, other property owner representatives and/or the property owner during the reporting period.

24. All trash and/or bulky items reported on the site shall be removed from the site by the property owner.
25. All buildings, facades and other on-site structures, which are or become defaced, deteriorated or marked with graffiti, must be repaired or removed within 72 hours of reported violation.
26. The property owner shall paint and maintain the entire facades of the on-site building in a single, neutral color, including any and all areas where graffiti has been or will be repaired or removed. The initial painting of the entire building façade shall be completed by November 1, 1999, 5:00 p.m.
27. The property owner by November 1, 1999, 5:00 p.m. shall pay all outstanding costs, expenses and disbursements paid or incurred by the City or any of its contractors in correction, abatement and prosecution of the violations or other related fees, charges and liens, totaling \$11,144.50, in addition to any charges incurred subsequent to the effective date of these conditions. If said payment is made to the County of Alameda, the property owner, by November 1, 1999, 5:00 p.m. shall provide the Director of City Planning with proof of payment of said \$11, 144.50 and any additional amount owed and paid to the County.
28. Within 5 days of any change of address or telephone number, the property owner shall provide the Director of City Planning with his new address and telephone number and within the same time, the property owner shall make appropriate changes to the sign required by Condition No. 21.
29. The property owner's compliance with these new conditions will be monitored by Code Enforcement staff and will be reviewed by the Commission at the 6 month interval, or approximately April 5, 2000, and provided that, should there be violation of these conditions of approval, the Commission may hold a hearing at any reasonable time to address the violations.
30. That violation of these conditions shall warrant immediate reconsideration of revocation of Major Variance VM65-567.

An appeal of the Commission's decision to amend the conditions of approval of the variance by imposing Condition No. 20 through No. 30 may be taken to the City Council by any interested party within 10 calendar days after the date of the

24. All trash and/or bulky items reported on the site shall be removed from the site by the property owner.
25. All buildings, facades and other on-site structures, which are or become defaced, deteriorated or marked with graffiti, must be repaired or removed within 72 hours of reported violation.
26. The property owner shall paint and maintain the entire facades of the on-site building in a single, neutral color, including any and all areas where graffiti has been or will be repaired or removed. The initial painting of the entire building façade shall be completed by November 1, 1999, 5:00 p.m.
27. The property owner by November 1, 1999, 5:00 p.m. shall pay all outstanding costs, expenses and disbursements paid or incurred by the City or any of its contractors in correction, abatement and prosecution of the violations or other related fees, charges and liens, totaling \$11,144.50, in addition to any charges incurred subsequent to the effective date of these conditions. If said payment is made to the County of Alameda, the property owner, by November 1, 1999, 5:00 p.m. shall provide the Director of City Planning with proof of payment of said \$11, 144.50 and any additional amount owed and paid to the County.
28. Within 5 days of any change of address or telephone number, the property owner shall provide the Director of City Planning with his new address and telephone number and within the same time, the property owner shall make appropriate changes to the sign required by Condition No. 21.
29. The property owner's compliance with these new conditions will be monitored by Code Enforcement staff and will be reviewed by the Commission at the 6 month interval, or approximately April 5, 2000, and provided that, should there be violation of these conditions of approval, the Commission may hold a hearing at any reasonable time to address the violations.
30. That violation of these conditions shall warrant immediate reconsideration of revocation of Major Variance VM65-567.

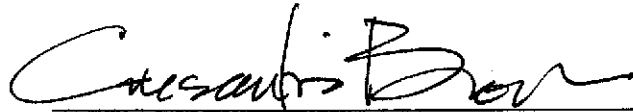
An appeal of the Commission's decision to amend the conditions of approval of the variance by imposing Condition No. 20 through No. 30 may be taken to the City Council by any interested party within 10 calendar days after the date of the

Commission's action or by the end of the next business day, which is 4:00 p.m. on Monday, October 18, 1999.

**RECOMMENDATION:**

1. Approve this staff report, including all findings and conditions of approval.
2. Await the outcome of a final decision from the California Court of Appeal. If the Court of Appeal's decision is favorable to the City and fully upholds the lower court decision, schedule a compliance hearing and consider revoking the Major Variance (VM65-567) if sufficient evidence exists.

Prepared by:



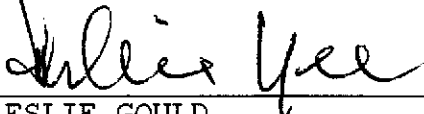
Crescentia L. Brown, AICP  
Planner III

Approved by:



WILLIE YEE  
Zoning Administrator

Approved and forwarded to the  
City Planning Commission:



LESLIE GOULD  
Director of Planning and  
Zoning