

Drogos, Donna, Env. Health

From: Tim Fallin [tfallin@accenv.com]
Sent: Thursday, February 26, 2009 2:54 PM
To: Drogos, Donna, Env. Health
Cc: jsiudyla; Lynn Berard
Subject: Re: 3761 Park Boulevard Way, Oakland

Follow Up Flag: Follow up
Flag Status: Completed

Hi Donna,

I wanted to follow up with Lynn's email regarding review of the nearby LUST sites in relation to 3761 Park Boulevard property. The Phase I ESA dated November 3, 2008 and uploaded to the ACEH website on February 2, 2009 per your office's request includes a narrative of LUST sites in the area (on page 11 of the ESA). One property, Mobil 3635 13th Street, Oakland, CA, was within 1/8th mile of the subject property and is discussed in the ESA. The two additional properties were either closed or beyond the 1/8 (0.125) mile radius and not directly addressed in the ESA. A summary of ACC's review of these properties follow based on the readily available information on Geotracker and information obtained from Alameda County LOP Document Search site.

Shell Station Site at 3600 Park Boulevard (Closed LUST Site, 0.17 miles WSW of Subject Property)

This site is a recently closed leaking underground storage tank site. This site has only has minor detections of the constituents of concern for the last year or more. Groundwater flow direction at this site is documented to flow to the west/northwest away from the subject property. Based on the distance and lower elevation of the Shell Station site coupled the fact that the site is now closed, this site is unlikely to have an adverse environmental impact on the subject property.

Mobil Site at 3635 13th (Active LUST Site, 0.12 miles SSW of Subject Property)

This site is a open leaking underground storage tank site. Groundwater flow direction at this site is documented to flow to the south/southeast away from the subject property. Based on the distance, the lower elevation and the identified groundwater flow direction, the Mobil site is unlikely to have an adverse environmental impact on the subject property.

Desert Petroleum/J&M Service Station at 4035 Park Boulevard (Active LUST Site, 0.26 miles ENE of Property)

This site is an open leaking underground site. This site has a significant sized groundwater contamination plume. However, the full extent of this plume has been identified and it does not impact the subject property. Groundwater treatment is ongoing at this site. Groundwater flow direction at this site has been identified to flow to the west. Based on the distance of this site from the subject property, the fact that the extent of the impacted groundwater plume has been delineated and groundwater treatment at this site is ongoing, it is unlikely that this site would have an adverse environmental impact on the subject property.

ACC has not verified the groundwater flow direction at the subject property. Groundwater flow direction can fluctuate due to a number of factors including, but not limited to: subsurface geology, temperature, variations in rainfall, local and regional water use, and as a result of subsurface utilities. Because groundwater flow direction varied between the three closest documented sites (west/northwest, south/southeast and west), ACC was unable to confidently assume groundwater flow direction based on the readily available information. An overall regional groundwater flow direction was not evident. In these circumstances site specific topography can often be the best indication of site specific groundwater flow direction. Based on a

review the site surveys and topographic maps of the subject property, topography at the subject property slopes down to the north. Groundwater flow direction at the subject property is presumed, based on topography, to be towards the north. However, this is just a presumed groundwater flow direction.

Please let us know if you should need any additional information or if you have any questions. We are happy to help in any way that can assist your review.

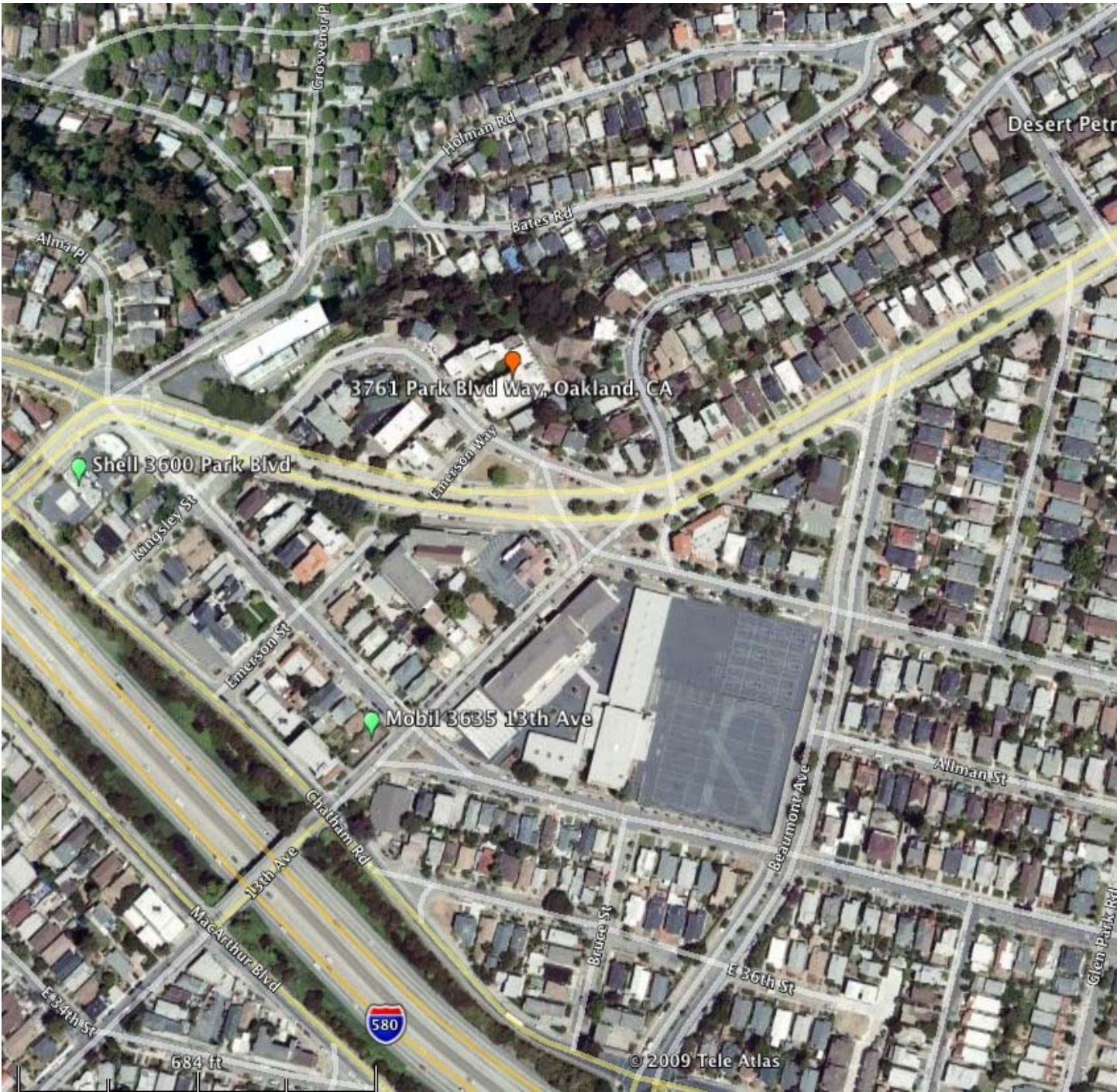
Thanks, Tim

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Drogos, Donna, Env. Health

From: Lynn Berard [lberard@eahhousing.org]
Sent: Thursday, February 26, 2009 11:40 AM
To: Drogos, Donna, Env. Health
Cc: Firth, Daniel, Env. Health; Matt Steinle; Al Bonnett; De Reyes, Amy, BOS Dist 5; Wadhawan, Sheena; Reyes, Mateo, BOS Dist 5
Subject: RE: 3761 Park Boulevard Way, Oakland
Attachments: Re: Park Village - Review of nearby sites
Importance: High

Donna,

I am attaching an email from Julia Siuylda, the project geologist at ACC Environmental that prepared the Phase I and Phase II reports provided to you. She describes the review they conducted of the nearby sites.

As I indicated in my email to you on 2/20, the seller will not permit additional drilling until a response has been received from your office regarding the information already provided. Therefore, there is nothing else to provide at this time.

I realize that all agencies are very busy and that trying to coordinate timelines of environmental review and real estate closings is difficult for both sides. However, given the critical public purpose nature of this transaction, which will impact the affordability of housing for seniors, the unpredictability of the seller, the facts in the reports already submitted evidencing the minimal levels of contamination and the lack of threat to humans and the environment, we urgently need a letter (ideally, a case closure letter, as requested) from your department immediately so that we may proceed to preserve this property. Acknowledging that you cannot accommodate all the requests you receive for expediting review, we still have an urgent need for a directive or closure letter before March 16. Thank you for any effort that can be made to accelerate this.

Regards,
Lynn Berard

Lynn Berard
Senior Project Manager
EAH Housing

415-295-8825
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From: Drogos, Donna, Env. Health [mailto:donna.drogos@acgov.org]
Sent: Monday, February 23, 2009 12:27 PM
To: Lynn Berard
Cc: Firth, Daniel, Env. Health; Matt Steinle; Al Bonnett; De Reyes, Amy, BOS Dist 5; Wadhawan, Sheena
Subject: RE: 3761 Park Boulevard Way, Oakland

Hi Lynn,

I did respond to your last voice mail message of 02/06 and left you a voice mail message stating that I would have your case listed by the end of the month of February. I have not completed the listing of your case, however that time estimate remains accurate. Our turnaround time for report review (& case listing) is 60 days. At completion of case

listing, the case is assigned to a caseworker and an initial directive letter is sent within 30 days. Thereafter reports are responded to within 60 days.

I did attempt to expedite listing of your case, at your request, however I found that all of the environmental reports were not submitted, hence my requests for additional information. I also preliminarily discussed the apparent data gaps existing at your site with your consultant, yourself, representatives of your firm, and the City of Oakland's attorney.

I also discussed with you, representatives of your firm, and the City of Oakland's attorney, in detail, the process of environmental investigation, remediation, regulatory review, etc., and that the nature of this work precludes it from being completed to closure along real estate transaction timeframes. I gave you contact information for the city of Oakland to follow-up for possible alternatives that would allow your property transaction to continue along environmental regulatory review timelines. As such, I am unable to commit to closing your environmental case by your timeframe below.

If you have completed the additional test drilling of your 02/11 e-mail (attached), please post that report to our ftp site so that the caseworker can review that data and issue a complete directive letter for this site. If you have completed additional review of environmental data for sites in the vicinity please also post the results of your review in report format at the same time.

At your request, I will again expedite your case and request that the caseworker issue a directive letter in 15 days rather than 30 days, so approximately March 16. Please keep in mind that regulatory agencies, ACEH included, have many environmental contamination cases (including high priority human health risk sites) and are unable to accommodate every case review expedite request.

Donna

Donna L. Drogos, PE
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Online case files are available at the website below
<http://www.acgov.org/aceh/index.htm>

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From: Lynn Berard [mailto:lberard@eahhousing.org]
Sent: Friday, February 20, 2009 5:59 PM
To: Drogos, Donna, Env. Health
Cc: Firth, Daniel, Env. Health; Matt Steinle; Al Bonnett
Subject: 3761 Park Boulevard Way, Oakland
Importance: High

Donna,

I have not heard from you regarding this property since your voice message to me on Feb. 6 indicating you had received the reports from our consultant, ACC Environmental. I had indicated to you in an email dated 2/12 that we had plans to do additional drilling and testing, but that we still wanted to have the information already provided to you be reviewed and responded to even without any additional work that we may do. We have been in discussion with the seller and he has stated that he will not permit us to do any further work at the property until we have received a response from your office.

Our concern is that we have been in contact with you and providing information since December 19 and as of yesterday, there is still no evidence that a case has been opened. The following describes the interactions with your department and materials that have been provided to you:

1. December 17, 2008 –
You and I spoke about the initial test information we had received on the property and discussed the need to file a UAR and open a case.
2. December 19, 2008 – Documents submitted via website to ACEH
 - Underground Storage Tank Unauthorized Release (Leak)/Contamination Report signed by Mort Howard, current owner
 - Soil borings report (Phase II Environmental Site Assessment/Limited Soil Characterization). This information was provided at the same time to the Oakland Fire Department. They responded on December 30, saying that since the incident was over 30 years ago, they were not doing any further investigation.
3. January 13, 2009 – Additional documentation submitted via website
 - At the end of December we had proceeded with additional drilling to obtain more detailed information on the site. On January 13, ACC uploaded via website the Additional Phase II Environmental Site Assessment/UST Closure Report, which includes all information provided in the Phase II Environmental site Assessment (ESA) Report/Limited Soil Characterization. The Additional Phase II/UST Closure Report recommends that there be no further action on this site.
4. January 20, 2009 –
 - ACC reported that you had told our consultant that you would not open a case until mid-February. You stated that based upon your preliminary review you would probably not issue a closure letter as a result of the information already provided and that this case was not a high priority. You also requested a copy of the Phase I and a summary of the transaction and EAH's involvement.
5. January 23, 2009 –
 - I spoke with you to obtain information on what you wanted in the transaction summary and if there was any additional information needed. You confirmed that you had told ACC the information conveyed to us by our consultant.
6. January 27, 2009 – Additional documentation submitted via website
 - Pre-construction site survey showing location of the gas station and garage
 - As-built survey post construction showing current building
 - Phase I Environmental Site Assessment by ACC Environmental
 - Transaction Summary and Ownership Structure (provided by ACC via website and by me directly to you via email)
7. February 2, 2009 –
 - I called you to inquire about the status of the case. You stated that the case had not been opened and that you had not received the Phase I. You stated you knew this was a priority case, but could not discuss it until the case was opened, a caseworker assigned and the material reviewed.
8. February 6, 2009 – Items previously submitted on January 27 were re-submitted via website
 - Pre-construction site survey showing location of the gas station and garage
 - As-built survey post construction showing current building
 - Phase I Environmental Site Assessment by ACC Environmental
 - Transaction Summary and Ownership Structure

9. February 6, 2009 –

- I sent you an email and left a voice message asking you to confirm that you had received the documents that were re-submitted. You left a return voice message that you had received the reports and the case would be listed by the end of the month.

As I explained to you when we first spoke in December and then again in January, and as we described in the transaction summary provided to you, this property was built in 1978 using HUD money and has been restricted to low –income seniors ever since. The owner has expressed his intention and initiated action to convert this property to market rate housing thereby removing a valuable resource for low income senior households. The City of Oakland and the Oakland Housing Authority have great interest in preserving this as affordable housing, to the extent that the Housing Authority has committed \$12 million for the acquisition of the property.

Although the purchase and sale contract has expired, the seller is willing to enter into an amended contract with a very short timeline to close. The key factor in moving forward on this closing is obtaining a resolution of the environmental question related to the contamination from the former gas station that was on this site over 50 years ago.

There has been a residential building on this property for 30 years. After acquisition, the property will be undergoing rehabilitation, but there will be no new buildings constructed on this property and no disturbance of the soil under the existing structure. The contamination consists of low levels of residual aged-gasoline in limited locations at limited soil levels. Heavy-range hydrocarbons (motor oil and diesel) were detected in one location at a very low level of concentration just marginally above the threshold limits.

Based upon the information contained in the Phase II report provided to you in January, both our outside environmental consultant and our own staff person who is a licensed geologist with extensive experience in this area, concur that this site should not be considered a threat to human health or the environment.

Due to the critical nature of this transaction in terms of preserving affordable housing and the time constraints to close, and the high visibility of the project within the City and the Housing Authority, it is crucial that your review be completed within the next week and that the property receive a case closure letter.

I would appreciate receiving confirmation from you that you have received all the materials listed and that your review will be concluded and a written response provided by February 27. Thank you.

Regards,

Lynn Berard

Lynn Berard
Senior Project Manager
EAH Housing

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"A non-profit housing corporation creating community by developing, managing, and promoting quality affordable housing since 1968"

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