

CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 07/20/99
AGENDA ITEM 7
WORK SESSION ITEM _____

TO: Mayor and City Council

FROM: Director of Community and Economic Development

SUBJECT: Appeal of Revocation of Use Permit No. 78-83 and Use Permit No. 91-75, Arthur D. & Beverly Bridges Trust and Vargas Enterprises, Inc. (Appellants/Owners) - Request of the City Council to Consider Reversal of a Revocation of Use Permits for Noncompliance to the Conditions of Approval

The Site is Located at 25751-25789 Dollar Street Approximately 550 Feet North of Harder Road, in a General Commercial (CG) Mission Corridor Special Design Overlay District (SD-2)

RECOMMENDATION:

It is recommended that the City Council uphold the Planning Commission's decision to revoke the use permits and direct staff to prepare the appropriate findings and return to Council.

BACKGROUND:

On March 25, 1999, the Planning Commission considered the revocation of two use permits regulating the use of the property. Use Permit No. 78-83 allowed the construction of two metal buildings to be used for auto parts and light indoor auto storage and repair. Use Permit No. 91-75 provided for limited auto sales (Attachment C.)

Over a period of several years, the property owner's property manager had been requested by Planning staff to bring the property into compliance with conditions of approval. During this period, most of the violations would be cleared but they would reoccur after only a few weeks or months. Subsequently, as part of a City Community Preservation investigation, the property owner, Arthur D. Bridges Family Trust, received several verbal and written notices over a nine-month period, but did not comply with the conditions of approval of the use permits. Therefore, Planning Director referred the use permits for revocation to the Planning Commission because of noncompliance with the conditions of approval. Specific violations, as outlined below, continued to be problematic:

- Landscaping and irrigation had not been installed in all required planting areas
- Landscaping and automatic irrigation suffered from lack of maintenance
- Graffiti continued to be problematic
- Inoperable vehicles were stored in parking spaces

- Trash enclosures had not been screened
- Parking spaces were not labeled with tenant names as required
- Lack of adequate customer and employee parking
- Inadequate emergency vehicle access due to over-flow parking in the travel aisles
- Buildings needed painting and maintenance
- Overall property maintenance was inadequate

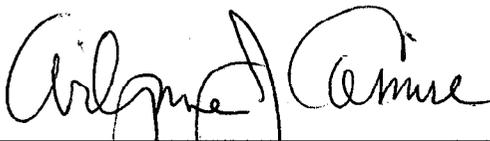
The Planning Commission gave the appellant until June 10, 1999, to meet all conditions of approval and to correct general maintenance violations. By June 10, all conditions of approval were met except the requirement for an automatic irrigation system. Therefore, in accordance with the action of the Planning Commission, the use permits were automatically revoked because not all conditions had been met.

On June 18, 1999, the property owner appealed the revocation (Attachment B). Since receipt of the appeal, staff noted that, although the automatic irrigation system was installed and is operable, other conditions that had been met during the Planning Commission hearing were again out of compliance. This situation appears to be a perpetuation of the past practice where efforts were made to achieve compliance only to have the same disorderly operations arise shortly thereafter. Specifically, it appears that non-operable vehicles that lack current registrations are being stored on the property whereas the use permit does not allow outdoor storage of vehicles other than for employees or short-term customer parking. In addition, vehicles are parked in the travel lanes making it impossible for vehicles to adequately maneuver on the site and impossible for emergency vehicles to access the site. This practice appears to be associated with several of the individual operators within the development. In staff's opinion, the lack of an on-site manager contributes to the situation. The property owner's representative has been advised of the conditions relating to vehicle parking and storage on numerous occasions, including subsequent to the Planning Commission revocation hearing.

CONCLUSION:

Because the property continues to be operated in a manner that conflicts with conditions of approval, and because past efforts to remedy the situation have not been successful, staff believes that denial of the appeal is appropriate.

Prepared by:



Arlyne J. Camire, AICP
Associate Planner

Recommended by:



Sylvia Ehrenthal
Director of Community and Economic Development

Approved by:

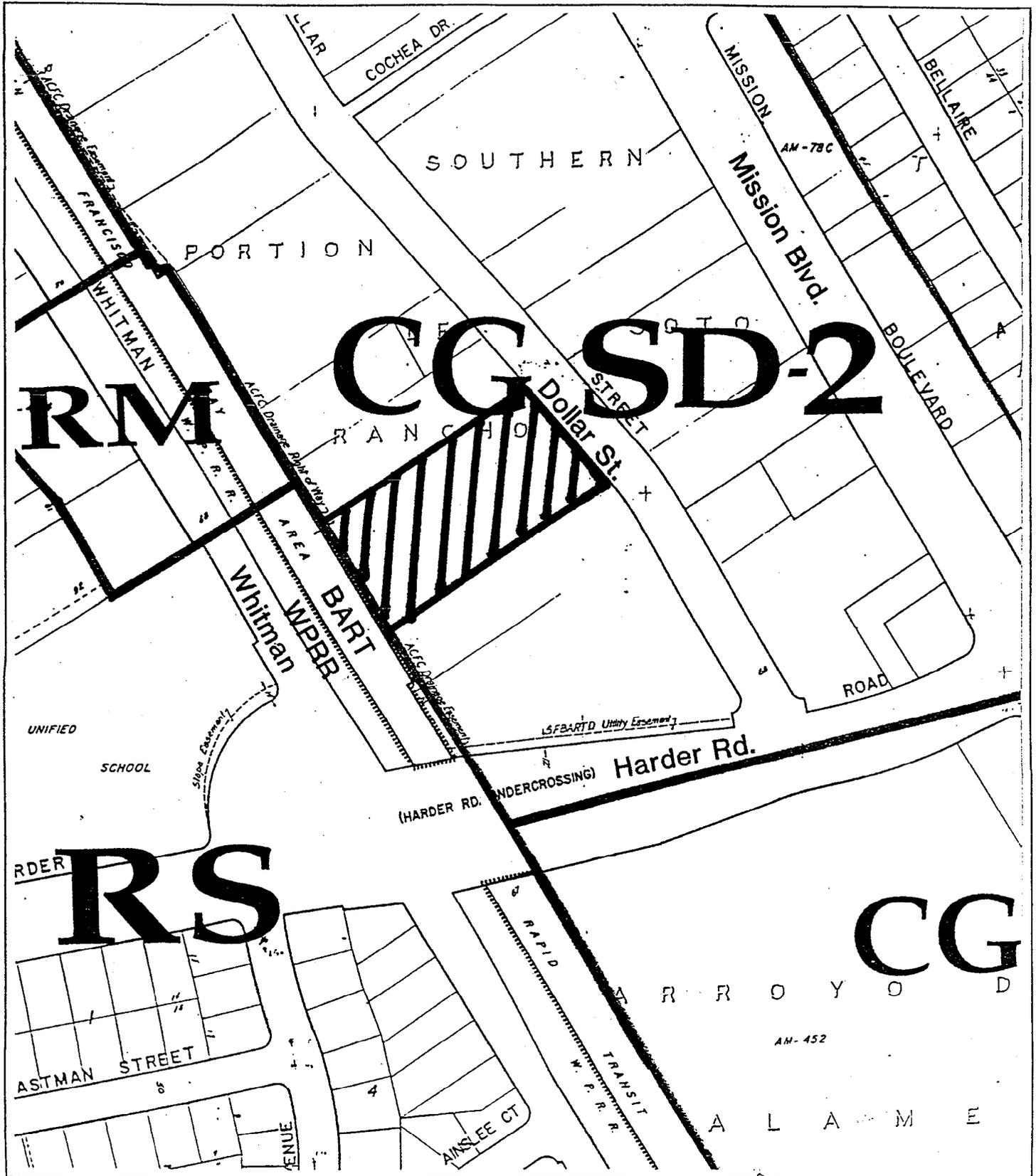


Jesús Armas, City Manager

Attachments:

- A Area Map
- B Letter Requesting an Appeal of the Planning Commission Decision dated June 18, 1999
- C Planning Commission Minutes and Staff Report dated March 25, 1999
Draft Resolution

7.14.99



ZONING/AREA MAP ■ UP 99-160-01

Planning Director (Appl.)

Arthur D. Bridges Trust (Owner)

25789 Dollar Street

ARTHUR D. BRIDGES FAMILY TRUST

P.O. Box 1037 • Alamo, CA 94507-7037 • (925) 551-7778 • fax (925) 551-7779

June 18, 1999

Dyana Anderly
Development Review Services Administrator
City of Hayward
777 B Street
Hayward, CA 94541-5007

HAND DELIVERED

Dear Ms. Anderly:

The trustees of the Arthur D. Bridges Family Trust appeal the revocation of the Use Permit at 25751-25789 Dollar Street. This action was taken by the Planning Commission, as evidenced by the attached letter dated June 10, 1999.

We believe that the revocation was inappropriate. Substantial improvements had been made to the property. Only a portion of the irrigation system was not completed. The completion of the irrigation system on June 10 could have been completed by the time of the meeting if we had known that the decision of the Planning Commission on March 25, 1999 was going to be interpreted as literally as it was.

We have acted in good faith and feel that the revocation of the Use Permit should not stand.



Dennis Garrison
Trustee



Beverly Bridges
Trustee

RECEIVED

JUN 18 1999

DEVELOPMENT REVIEW SERVICES

CITY OF
HAYWARD

HEART OF THE BAY

June 10, 1999

Mr. Dennis Garrison, Trustee
Arthur D. Bridges Family Trust
PO Box 1037
Alamo, CA 94307-7037

Via facsimile: 925.735.2364

Subject: Revocation of Use Permit at 25751-25789 Dollar Street, Hayward

Dear Mr. Garrison:

On March 25, 1999, the Planning Commission of the City of Hayward took the following action:

The Planning Commission finds that Owners have failed to comply with the use permit conditions, adopt the attached findings, but stay the revocation of the permit until June 10th, 1999, and impose the further conditions that the owners will comply with all conditions on or before June 10th, 1999, and that they will post a security in the amount of \$165,000 for the faithful performance of the conditions. In the event the conditions are not complied with by June 10th, 1999, the use permits will be revoked automatically, and Planning Director will serve a notice of revocation on owners. At that point, owners will have 10 days to appeal from the notice of revocation.

Because all conditions of approval have not been complied with as of this date, namely the irrigation system has not been installed in an operable condition, the permit is automatically revoked. You have ten days to appeal the revocation to the City Council. Because the tenth day falls on a Sunday when City offices are closed, you have until 5:00 p.m. Monday, June 21, 1999, to appeal the revocation. If you choose to appeal, we encourage you to do so immediately so as to get on the City Council agenda expeditiously. Please me at (510) 583-4214 if you have any questions.

Sincerely,



Dyana Anderly, AICP
Development Review Services Administrator

cc: Vargas Enterprises, 10970 Almond Road, Castro Valley, CA 94546
Joan Borger, Assistant City Attorney
Ken Jeffery, Community Preservation Inspector

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
DEVELOPMENT REVIEW SERVICES

777 B STREET, HAYWARD, CA 94541-5007

TEL: 510/583-4200 • FAX: 510/583-3649 • TDD: 510/247-3340

FINDINGS FOR REVOCATION
Use Permit Nos. 78-83 and 91-75
25751-25789 Dollar Street, Hayward, California
Arthur D. & Beverly Bridges Trust and Vargas Enterprises, Owners

Based upon the evidence contained in the staff report and attachments, and presented at the public hearing, the Planning Commission of the City of Hayward does hereby find:

1. On June 5, 1978, the Board of Adjustments of the City of Hayward approved Use Permit No. 78-83, subject to specified conditions, to allow the property at 25751-25789 Dollar Street, in Hayward, California ("the Property") to be used for the sale and storage of auto parts and light auto storage and repair; and
2. On January 6, 1992, the Board of Adjustments approved a modification to Use Permit 78-83 to allow limited used car sales at the Property (Use Permit No. 91-75). The Board of Adjustments continued the conditions originally required for Use Permit 78-83, and imposed additional conditions.
3. The Owners have failed to comply with the following conditions imposed pursuant to Use Permits 78-83 and 91-75:

A. Landscaping Conditions. Use Permit 78-83 condition numbers 2 and 3: After initial installation [of landscape plan], all plantings must be maintained, including replacement where necessary. Within all landscaped areas, a complete automatic sprinkler system with an automatic on/off mechanism shall be installed.

- Violations. Owners have failed to maintain landscaping on the site, and do not have an operational sprinkler system for any landscaping. Landscape areas are devoid of any plantings, and street trees are missing. Planters adjacent to the street are not maintained and contain weeds and damaged plants. Planters at the end of the parking aisles and adjacent to the east side of the northern building lack landscaping and contain used auto parts and litter. Landscaped areas in the rear of the property, adjacent to the BART tracks lack required plants.

B. Parking and Open Storage Conditions. Use Permit 78-83 conditions number 9 and 6, and Use Permit 91-75 condition numbers 2 and 5: Open storage is prohibited in paved areas which includes inoperative, dismantled vehicles. The number of vehicles for sale shall be limited to no more than six and the display area shall be limited to those designated parking stalls between the building and Dollar Street. All parking spaces assigned to the tenant by the owner shall be designated by the tenant's name on each space. Each parking space shall be provided with a Class "B" Portland Cement concrete bumper block or continuous concrete curb not less than six inches in height above the finished pavements.

- Violations. Owners allow more than the designated 6 spaces for display of used vehicles for sale. Inoperable and dismantled vehicles are stored in the parking areas, on the sides of the metal buildings and in areas designated for trash enclosures. Parking stalls do not contain the required 6-inch concrete wheel stops and tenant are not marked on each space.

C. Trash Enclosure Condition. Use Permit No. 91-75 condition number 4: Dumpsters shall be kept within the building or within a trash enclosure, the design of which shall first be approved by the Planning Director.

- Violation. There are no trash enclosures. Dumpsters are overflowing and stored in the open, amongst inoperable vehicles. Areas that are indicated as containing dumpsters are cluttered with automobile parts and inoperable vehicles.

D. Outside Utility Meter Condition. Use Permit Number 78-83 condition no. 7: Outside utility meters, when not enclosed in a cabinet, shall be screened allowing sufficient distance for reader access.

- Violation. Utility meters are not screened and appear to be inaccessible for reader access due to outdoor storage of automobile parts and inoperable vehicles in their immediate proximity.

4. The owners have not complied with the conditions of approval, as set forth in Finding 3, and modification of the conditions or use permit would not be in the public interest because the conditions are necessary to protect the public health, safety and welfare. In addition, owners have failed to comply with the conditions, despite notice and cooperation from the City, for a very extended period of time. Based upon owners years-long history of noncompliance, there is no likelihood that owners will comply in the near future.

5. Pursuant to Hayward Municipal Code section 10-1.622, for all of the above-stated reasons, Use Permits 78-83 and 91-75 are hereby revoked.

3. Revocation Of Use Permit No.78-83 And Use Permit No. 91-75, Arthur D. and Beverly Bridges Trust (Owners): Request of the Planning Director to revoke use permits due to noncompliance with the conditions of approval. The site is located at 25751-25789 Dollar Street approximately 550 feet north of Harder Road, in a General Commercial (CG) Mission Corridor Special Design Overlay District (SD-2).

Development Services Review Administrator Anderly reported on conditions at the property on Dollar Street and the steps taken by the City to improve conditions there. She indicated that it is not unusual to bring a revocation of a Use Permit to the Commission but that all other remedies had been exhausted. She then introduced Ken Jeffery, Community Preservation Inspector who had also been to the site numerous times and who had attempted to achieve compliance.

The Public Hearing Opened at 8:28 p.m.

Dennis Garrison, Trustee, Arthur Bridges Family Trust, P.O. Box 1037, Alamo, said they had been working with Associate Planner Camire in trying to alleviate the majority of problems. He indicated that they had plans to replace the parking lot within the next 60 days. He added that they would also like to work on the rest of the tenant issues during the next 60 days as well.

Mohammad Mehdavi, 4357 Santee Road, Fremont, one of the tenants (Trust Auto), showed photographs of all of the work the tenants had done to clean up the site. He indicated that there are 16 tenants at that location who would be shut down if the permit was revoked. He claimed that litter on the site was the result of lack of street sweeping on the City's part.

The Public Hearing Closed at 8:39 p.m.

Commissioner Zermeño asked whether the owners would have time to fix all of the problems by June 10th. Mr. Garrison responded that the 60-days should be just about right.

Commissioner Bennett said she appreciated the comments made but it sounded like an issue between the owner and the tenants. She moved, seconded by Commissioner Zermeño, that the Planning Commission find that Owners have failed to comply with the use permit conditions, adopt the attached findings, but stay the revocation of the permits until June 10th, 1999, and impose the further conditions that the owners will comply with all conditions on or before June 10th, 1999, and that they will post security in the amount of \$165,000 for the faithful performance of the conditions. In the event the conditions are not complied with by June 10th, 1999, the use permits will be revoked automatically, and Planning Director will serve a notice of revocation on owners. At that point, owners will have 10 days to appeal from the notice of revocation.

The motion passed unanimously 5:0:2, with Commissioners Caveglia and Williams absent.

4. 1998 State of the City Report

Senior Planner Calame reported on the State of the City, pointing out a number of improvements and accomplishments made in the City based on the various "quality of life" indicators established



CITY OF HAYWARD AGENDA REPORT

Planning Commission
Meeting Date 03/25/99
Agenda Item 3

TO: Planning Commission

FROM: Arlynn J. Camire, Associate Planner

SUBJECT: Revocation Of Use Permit No. 78-83 And Use Permit No. 91-75, Arthur D. & Beverly Bridges Trust and Vargas Enterprises, Inc. (Owners): Request of the Planning Director to consider revocation of a use permit and a modification of use permit to noncompliance to the conditions of approval.

The site is located at 25751-25789 Dollar Street approximately 550 feet north of Harder Road, in a General Commercial (CG) Mission Corridor Special Design Overlay District (SD-2).

RECOMMENDATION:

It is recommended that the Planning Commission consider the acceptance of a bond as collateral to assure that property improvements will be completed within 60 days. If compliance with the conditions of approval cannot be accomplished within 60 days, a hearing for the revocation of Use Permits Nos. 78-83 and 91-75 will be scheduled.

DISCUSSION:

Background

On June 5, 1978, the Board of Adjustments approved Use Permit Application No. 78-83 that allowed the construction of two metal buildings to be used for the sale and storage of auto parts and light auto storage and repair (Exhibit B).

On January 6, 1992, the Board of Adjustments approved a modification to the use permit to allow used car sales at Trust Auto Body and Repair Works (Exhibit C.) Because the conditions of approval of UP 78-83 had not been met, and even though the required parking based on the uses was provided, the site did not have adequate parking to accommodate all the tenants' needs, staff recommended denial of that modification. The Board, however, approved the modification and required a six-month review of the application to assure that the conditions of approval of UP78-83 were met.

On January 7, 1992, the Bridges Family Trust was informed, by letter, that the Board of Adjustments expressed dismay that the conditions of approval of UP78-83 had not been met. It was pointed out that inoperable vehicles were parked in parking spaces and the required

landscaping and irrigation was lacking along Dollar Street, the parking area and at the rear of the site. The property owner was given until July 2, 1992 to comply with the conditions of approval or the use permit would be brought before the Board for revocation. The conditions of approval were met in the specified 6-month period. Inoperable vehicles were removed, the irrigation system was repaired and landscaping was installed. On August 17, 1992, the Board reviewed and approved indefinitely for sales and auto repair (Exhibit D.) Subsequently, staff informed the property manager, Mr. Feldman, on 4 separate occasions by telephone that the property lacked adequate maintenance.

The Planning Director is referring this use permit and modification of use permit for revocation to the Planning Commission because of noncompliance with the conditions of approval. Specific violations, as outlined below, continue to be problematic:

- Landscaping suffers from lack of maintenance
- Graffiti has continued to be problematic
- Inoperable vehicles are stored in parking spaces,
- Trash enclosures have not been built
- Parking spaces are not labeled with tenant names as required
- Lack of adequate customer and employee parking
- Inadequate emergency vehicle access due to over-flow parking in the travel aisles
- Buildings need painting and maintenance, and
- Overall property maintenance is inadequate.

These issues are discussed below. Included in the discussion is the response from the owner and discussion of continued property neglect.

A Community Preservation Inspector initially visited the site on May 27, 1998 and again on July 21, 1998 and observed the same violations. The property management agency and the property owners were sent a Notice to Abate, which requested that the property be cleared of litter, rubbish and inoperable vehicles (Exhibit E.) On September 14, 1998, the site was reinspected. Storage of several dismantled and inoperable vehicles was observed in parking areas, required landscaping was missing, parking spaces were not identified as reserved for each tenant, and litter was not cleared. In addition, automobile parts were stored outdoors and auto repairs were occurring outdoors. It was also noted that because of the parking of inoperable vehicles in the designated parking area and overflow parking in the aisles, emergency vehicle access was not possible.

On September 15, 1998, a letter was sent requesting compliance by October 16, 1998 (Exhibit F.) Staff received a letter on October 14, 1998, from Mr. Dennis Garrison, Trustee for the Arthur D. Bridges Family Trust (the property managers for the site), responding that the site would be brought into compliance (Exhibit G). A reinspection on October 22, 1998 revealed that there were some improvements, however, the site was not in compliance with the conditions of approval. On November 17, 1998, a letter was sent to the property owner requesting compliance by December 18, 1998 (Exhibit H.) Included with the letter was an approved site plan that showed areas that are required to be landscaped.

The site was once again inspected on December 21, 1998 and it was observed that no apparent progress to comply with the condition of approval had occurred. On December 22, 1998, a final letter was sent to Mr. Dennis Garrison, Trustee for the Arthur D. Bridges Family Trust stating Community Preservation would recommend revocation of the use permits and that the matter had been referred to the Development Review Services Division to proceed with revocation. In addition, a \$226.00 inspection fee was assessed (Exhibit I.)

The Development Review Services staff inspected the site on January 25 and 26, and once again on February 2, 1999. It was observed that the conditions of approval had not been met. In addition to the violations observed by the Community Preservation Inspector, there were the following:

- Overflow parking in front of Trust Auto
- Automobile parts in the planter areas
- A dilapidated sign on the street frontage
- Parking lot needed repair and contained several potholes
- Trash throughout the property and overflowing dumpsters
- An overflowing dumpster wedged between inoperable vehicles in the parking area
- Absence of required trash enclosures
- Outdoor washing of automobiles with auto fluids possibly being washed into the storm drain
- Absence of 6-inch high bumper blocks for each parking space.
- General repair to the metal buildings is necessary
- Above ground utilities are not screened

Violations of the conditions of approval and various other Municipal Code requirements have continued for many years and based on the extended history of noncompliance on this site, there is no reason to believe that such violations will cease. Unfortunately, consideration of revocation of the use permits seems to be City's only recourse to end continual non-compliance.

The following is a list of conditions of approval, the manner in which they are violated and recommended remedies to bring the site into compliance.

Landscaping Conditions of Approval

- *A revised landscape plan shall be submitted prior to issuance of a building permit incorporating suggested landscaping including trees along the rear property line adjacent to BART tracks (taking into consideration the location of a flood control pipe line and that the selection of tree species should not include deciduous varieties to ensure adequate screening) (Condition No.12-UP No. 78-83.)*

- *After initial installation, all plantings must be maintained, including replacement where necessary (Condition No.2-UP No. 78-83.).*
- *Within all landscaped areas, a complete automatic sprinkler system with an automatic on/off mechanism shall be installed (Condition No. 3-UP No.78-83.).*

A revised landscape and irrigation plan has not been submitted. Landscape areas have not been maintained and street trees are missing. There are very few trees adjacent to the BART tracks. Planters adjacent to the street are not maintained and contained weeds and damaged plants. Planters at the end of the parking aisles and adjacent to the east side of the northern building lack landscaping and contain used auto parts and litter. Landscaped areas in the rear of the property, adjacent to the BART tracks lack required plants. It appears that the automatic irrigation system is damaged and inoperable.

➤ Recommended Remedy

Landscape and irrigation plans prepared by a licensed landscape architect must be submitted for review and approval. After appropriate fees are paid, an automatic irrigation system and landscaping are to be installed and maintained. Auto parts are not permitted to be stored within planters.

Parking and Open Storage Conditions of Approval

- *Open storage is prohibited in paved areas which includes inoperative, dismantled vehicles (Condition No. 9-UP No. 78-83.)*
- *The number of vehicles for sale shall be limited to no more than six and the display area shall be limited to those designated parking stalls between the building and Dollar Street (Condition No. 2-UP No. 91-75.)*
- *All parking spaces assigned to the tenant by the owner shall be designated by the tenant's name on each space (Condition No. 5-UP No. 91-75.)*
- *Each parking space shall be provided with a Class "B" Portland Cement concrete-bumper block or continuous concrete curb not less than six inches in height above the finished pavement (Condition No.6-UP No. 78-83.)*

Thirty-five parking stalls have been provided. The Parking Regulations at the time of approval required 24 spaces. However, staff observed in 1991 and 1992 and again in February 1999 that parking did not seem to meet the needs of the tenants. Currently, there are no spaces available for customers. It appears that Trust Auto has overflow parking in excess of the six spaces that were approved for the display of used cars for sale. Inoperable and dismantled vehicles are stored in the parking areas, on the sides of the metal buildings and in areas designated for trash enclosures. Parking stalls do not contain the required 6-inch concrete wheel stops and tenant names are worn or do not appear on the designated parking stalls.

➤ Recommended Remedy

Inoperable and dismantled vehicles must be removed. Trust Auto must remove used cars for sale that are in excess of six and maintain only six spaces for used car sales or their individual use permit will be subject to revocation. After repaving, stalls are to be striped and designated to tenants. Wheel stops must be installed. The property manager must enforce tenant compliance with conditions.

Trash Enclosure Condition of Approval

- *Dumpsters shall be kept within the building or within a trash enclosure, the design of which shall first be approved by the Planning Director (Condition No. 4-UP No 91-75.)*

Trash enclosures are not provided. Dumpsters are overflowing and stored in the open and among inoperable vehicles. Areas that are indicated as containing dumpsters are cluttered with automobile parts and inoperable vehicles.

➤ Recommended Remedy

Fire Code regulations no longer permit the dumpster storage in buildings. Therefore, areas designated for dumpsters are to be cleared of auto parts and inoperable vehicles, covered trash enclosures are to be built and all dumpsters and used auto parts for disposal are to be kept in the trash enclosures.

Utilities Condition of Approval

- *Outside utility meters, when not enclosed in a cabinet, shall be screened allowing sufficient distance for reader access (Condition No. 7-UP no. 78-83.)*

Utilities are not screened and appear to be inaccessible for reader access due to outdoor storage of automobile parts and inoperable vehicles.

➤ Recommended Remedy

Utilities are to be screened and made accessible.

Property Maintenance Issues

The overall condition of the property is poor. The pavement is in poor condition with several potholes with the pooling of water and auto fluids. The metal buildings need repair. The site is cluttered with litter and used auto parts. Fences are damaged or broken and some signs are dilapidated. Staff's requests for property maintenance have not been heeded.

➤ Recommended Remedy

All asphalt-paved surfaces must be resurfaced. The metal buildings require repair and painting. Signs must be refaced. Fences must be repaired where possible or replaced. Outdoor storage of auto parts must cease and all parts are to be stored within buildings.

On-Site Hazard Issues

Emergency vehicle and trash truck access is not possible due to vehicles blocking the parking aisles. Vehicles are washed outdoors and auto fluids are washed into the storm drain in violation of Water Pollution Source Control regulations.

➤ Recommended Remedy

A 20-foot aisle clearance must be maintained at all times for emergency vehicle and trash truck access. In addition, since the site is deeper than 150 feet, an on-site fire hydrant is required. Vehicles are not permitted to be washed outside and fluids are not permitted to be drained on to the pavement. If these activities are to continue, appropriate location must be designation and equipment that would prevent wash water and auto fluids from draining into the storm drain must be installed.

Dollar Street Property Maintenance History

Many properties located on Dollar Street have been poorly maintained for several years. During a public hearing held by the Board of Adjustments on July 16, 1984, for a use permit and variance at 25613 Dollar Street, it was pointed out by an property owner of 25571 Dollar Street that "the majority of the uses along Dollar Street are either automobile or motorcycle-oriented shops, and that many of the shops have poorly maintained buildings and parking areas." He cited instances of miscellaneous debris and wrecked cars strewn along the frontage of some properties, some of which block driveways. He also indicated that the area has a problem with accumulation of garbage and graffiti. In addition, a resident who lives on adjacent Cochea Drive commented on the unkempt condition of several existing businesses along Dollar Street.

Offer of Compliance

Staff met with Dennis Garrison, trustee for the Arthur D. Bridges Family Trust. He acknowledged the history of property mismanagement and neglect, and offered to post a bond with the City in the amount necessary to complete property improvements. Staff has estimated the cost of improvements at \$165,000. Given the history of mismanagement and noncompliance, staff is recommending acceptance of a bond in an amount of not less than \$165,000, and require that the improvements be completed within 60 days. If the improvements are not completed within 60 days, this matter will be scheduled for a public hearing before the Planning Commission for revocation of the use permits.

Public Notice

On February 22, 1999, notice of revocation was mailed to the property owners and the management agency. On March 11, 1999, a Notice of Public Hearing was hand-delivered to each business located on-site. On March 12, 1999, 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, the local homeowners association, to former members of the Mission-Foothills Neighborhood Task Force and to the tenants located on the subject property. No one has responded to the notice. In addition, the property owner and management company have been notified by mail.

Conclusion

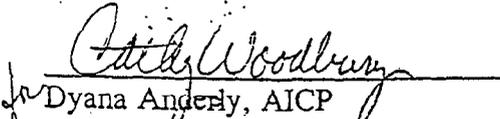
After receiving several verbal and written notices over a nine-month period, the property owner has not complied with the conditions of approval of the use permits. This property has had maintenance and parking problems since the 1980's. The management agency has offered to post a bond with the City as assurance that the work will be completed. Staff believes that 60 days is sufficient to complete needed improvements that will bring the property into compliance with the conditions of approval. If the improvements are not completed within 60 days, a revocation hearing will be scheduled.

Prepared by:



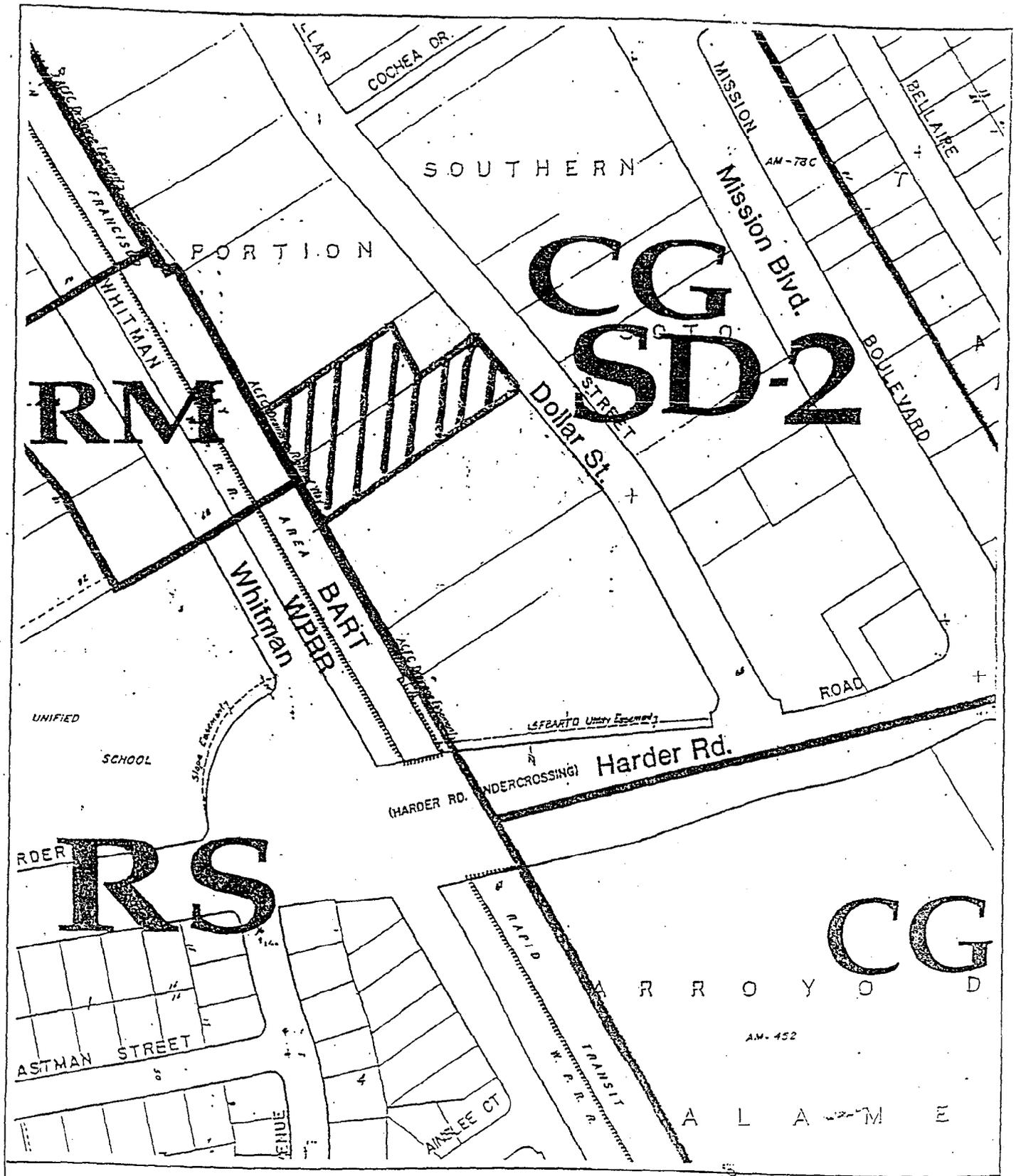
Arlynn J. Camire, AICP
Associate Planner

Recommended by:


for Dyana Anderly, AICP
Development Review Administrator

Attachments:

- Exhibit A Area Map
- Exhibit B Disposition of Permit Application and Board of Adjustments Work Sheet and Conditions of Approval date June 19, 1978
- Exhibit C Staff report dated December 2, 1991 and Board of Adjustment Minutes dated January 6, 1992
- Exhibit D Staff report and Board of Adjustment Minutes dated August 17, 1992
- Exhibit E Notice to Abate
- Exhibit F Community Preservation Letter dated September 15, 1998
- Exhibit G Letter from Property owner received October 14, 1998
- Exhibit H Community Preservation Letter dated November 17, 1998
- Exhibit I Community Preservation Letter dated December 22, 1998
- Site Plan



ZONING/AREA MAP ■ UP 99-160-01
 Planning Director (Appl.)
 Arthur D. Bridges Trust (Owner)
 25751-25789 Dollar Street



CITY OF HAYWARD

PLANNING DEPARTMENT
22300 FOOTHILL BOULEVARD
HAYWARD, CA. 94541
581-2345 EXT.241

APPLICATION
NUMBER UP 78-83

DISPOSITION OF PERMIT APPLICATION

APPLICANT Arthur D. Bridges 793-2490
ADDRESS P. O. Box 419, Hayward, California ZIP CODE 94543 PHONE 582-4436

OWNER Vargas Enterprises, Inc.
ADDRESS 19079 Almond Road, Castro Valley, California ZIP CODE 94546 PHONE _____

LOCATION OF PROPERTY 25789 Dollar Street

ASSESSOR'S MAP 444 BLOCK 78 PARCEL 4-2/6-5

ON April 7, 1978 APPLICANT APPLIED FOR a use permit

IN ORDER TO: Construct two single-story, metal buildings
to be used for auto parts and light automotive
storage and repair.

Subject property is located at 25789 Dollar Street,
west side, approximately 600' north of Harder Road
in a CG (General Commercial) District.

| REFERRED TO | ACTION TAKEN | DATE |
|-------------------------|------------------------------------|----------------|
| 1. BOARD OF ADJUSTMENTS | <i>dllo for redesign</i> | <i>6/5/78</i> |
| 2. BOARD OF ADJUSTMENTS | <i>Approved the Permit Request</i> | <i>6/19/78</i> |
| 3. | | |
| 4. | | |
| 5. | | |

FINAL ACTION ON APPLICATION WAS approval per Exhibit "A" for _____ by Board of Adjustme
TO PERMIT construction of two single-story, metal buildings to be used/auto parts & light autom
storage & repair at 25789 Dollar Street. DATE ISSUED 2/12/78

REGULAR MEETING, HAYWARD BOARD OF ADJUSTMENTS JUNE 19, 1978

With the finding that the project will not have a significant effect on the environment, it wa
moved (Lepore/Bachle) and unanimously carried that Use Permit Application No. 78-83 to constru
two single-story, metal buildings to be used for auto parts and light automotive storage and
repair be APPROVED with improvements to be constructed as outlined on the plans entitled, "Sit
plan, Industrial Bldgs. for Mr. Arthur Bridges, drawn by Juan Lavarello on Page 1 of 3, dated
1/6/78 (Revised), as amended by staff and marked Exhibit "A", with the finding that; subject to
conditions imposed; the proposed use will not be detrimental to the public health, safety and
general welfare. The conditions of approval are:

- All improvements indicated on the approved site and landscape plan, as amended by staff ar
labeled Exhibit "A", must be installed prior to authorization for gas or electric meter
service.

(SEE REVERSE)

EXHIBIT B

2. After initial installation, all plantings must be maintained, including replacement where necessary.
3. Within all landscaped areas, a complete automatic sprinkler system with an automatic on/off mechanism shall be installed.
4. Building elevation plans shall be revised to incorporate a five-foot metal fascia and (entirely around both proposed buildings and shall incorporate the use of decorative rock) as indicated on the approved plans.
5. Where any landscaped area adjoins driveways and/or parking areas, Class "B" Portland Cement concrete curbs shall be constructed to a height of six inches above the finished pavement.
6. Each parking space shall be provided with a Class "B" Portland Cement concrete bumper block or continuous concrete curb not less than six inches in height above the finished pavement.
7. Outside utility meters, when not enclosed in a cabinet, shall be screened allowing sufficient distance for reader access.
8. The developer shall contact the Fire Prevention Bureau for the location of standpipe systems, first aid fire appliances, and/or Fire Department connections.
9. Open storage is prohibited in paved parking areas which includes inoperative, dismantled vehicles.
10. Any lights provided to illuminate the development/paved parking area shall be arranged so as to reflect the light away from the premises in the abutting residential district.
11. Violation of conditions is cause for revocation of permit at public hearing before the duly authorized review body.
12. A revised landscape plan shall be submitted prior to issuance of a building permit incorporating suggested landscaping including trees along the rear property line adjacent to BART tracks (taking into consideration the location of a flood control pipe line and that the selection of tree species should not include deciduous varieties to ensure adequate screening).

BOARD OF ADJUSTMENTS WORKSHEET

June 19, 1978

ITEM 2: USE PERMIT APPLICATION NO. 78-83 - Arthur D. Bridges (Applicant) Vargas Enterprises (Owner) - Request to construct two single-story metal buildings to be used for auto parts and light automotive storage and repair. Subject property is located at 25789 Dollar Street, west side, approximately 600' north of Harder Road in a CG (General Commercial) District.

DISCUSSION: On June 5, 1978, the Board of Adjustments continued this matter to a future meeting to allow the applicant to redesign the proposed metal buildings. Revised building elevation plans have been submitted which are considered an improvement over the previous elevations.

The landscape plan has been revised incorporating the Parks Superintendent's recommendations except for additional landscaping adjacent to the BARTD tracks. According to the Alameda County Flood Control District, the storm drain pipe is located two feet below grade and they do not object to planting trees (landscaping) in the ACFC easement area provided trees, etc., are not placed directly above the concrete drain pipe. Therefore, the Parks Superintendent recommends landscaping with trees be required along the BARTD tracks as suggested in the original staff report.

The metal roof parapet has been extended entirely around the southerly building. In addition stucco stone exterior veneers have been proposed on the street and parking lot elevations as suggested by staff. However, the northerly building elevations have not been modified.

SUGGESTION: Require redesign of the northerly building to match the proposed southerly building elevation with an extended roof parapet around the entire building and stucco stone on the building exterior of the parking lot elevation.

Require submission of a revised landscape plan incorporating trees, etc., along the rear property line prior to issuance of a building permit.

From a visual standpoint, the proposed building elevation appears more aesthetically compatible and harmonious to the commercial district.

RECOMMENDATION: If, in the Board's opinion, the revised building elevations are acceptable, suggest conditional approval as follows since the proposed use appears compatible to surrounding uses, is in harmony with City policies, and complies with the minimum development standards.

1. All improvements indicated on the approved site and landscape plan, as amended by staff and labeled Exhibit "A", must be installed prior to authorization for gas or electric meter service.
2. After initial installation, all plantings must be maintained, including replacement where necessary.
3. Within all landscaped areas, a complete automatic sprinkler system with an automatic on/off mechanism shall be installed.
4. Building elevation plans shall be revised to incorporate a five-foot metal fascia around the entire northerly building elevation.
5. Where any landscaped area adjoins driveways and/or parking areas, Class "B" Portland Cement concrete curbs shall be constructed to a height of six inches above the finished pavement.
6. Each parking space shall be provided with a Class "B" Portland Cement concrete bumper block or continuous concrete curb not less than six inches in height above the finished pavement.

7. Outside utility meters, when not enclosed in a cabinet, shall be screened allowing sufficient distance for reader access.
8. The developer shall contact the Fire Prevention Bureau for the location of standpipe systems, first aid fire appliances, and/or Fire Department connections.
9. Open storage is prohibited in paved parking areas which includes inoperative, dismantled vehicles.
10. Any lights provided to illuminate the development/paved parking area shall be arranged so as to reflect the light away from the premises in the abutting residential district.
11. Violation of conditions is cause for revocation of permit at public hearing before the duly authorized review body.
12. A revised landscape plan shall be submitted prior to issuance of a building permit incorporating suggested landscaping including trees along the rear property line adjacent to BARTD tracks.

ATTACHMENTS:

Area Map
Site Plan
Elevations (Second Submission)

PLANNING DEPARTMENT REPORT
BOARD OF ADJUSTMENTS
DECEMBER 2, 1991

ITEM: 3

USE PERMIT APPLICATION NO. 91-75 - TAHER MEHDAVI (APPLICANT)
BRIDGES MANAGEMENT COMPANY (OWNER) - Request to operate a
used, car lot at 25789 Dollar Street, west side,
approximately 550 feet north of Harder Road in a CG (General
Commercial) District.

RECOMMENDATION: Denial of the application. If the Board
disagrees with this position, findings should be adopted
accordingly and the attached conditions of approval.

MAJOR PLANNING ISSUE

Will a used car lot, operated in conjunction with
an existing automotive repair business, occur in
maximum harmony with the area?

BACKGROUND/PROPOSAL

The applicant operates an automobile repair business and finds
that he has vehicles available to him for sale. He says he
would like to have five to six vehicles at a time for sale.
Vehicles would be displayed in the parking area between the
building and the sidewalk. The applicant indicates that 21
exterior parking stalls are available to him exclusively for
vehicle display, vehicle storage, and parking for customers and
employees of the automobile repair business and sales lot. In
addition, vehicles undergoing repair are stored inside the
building.

PROPERTY DESCRIPTION

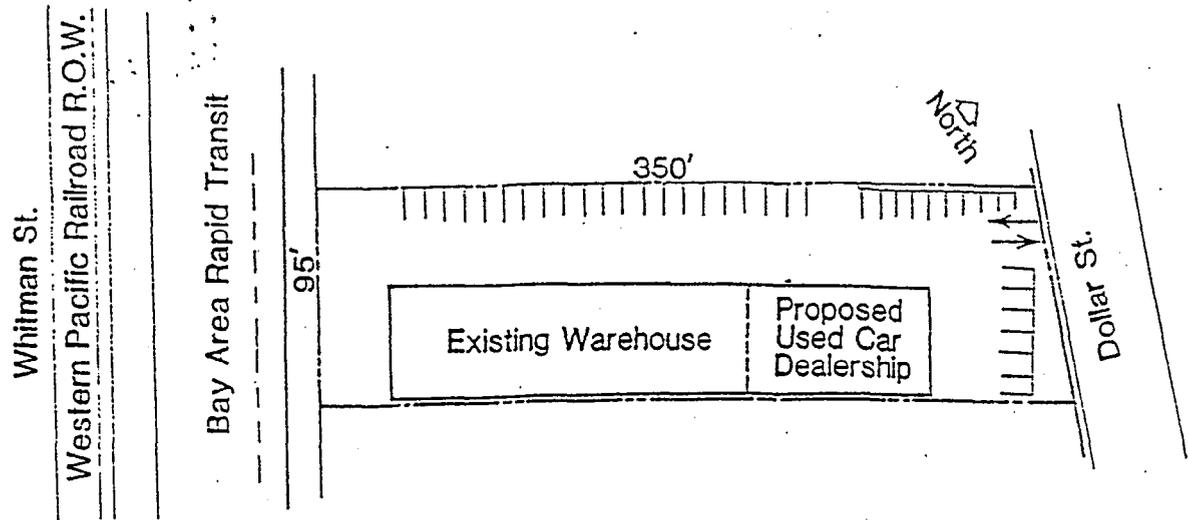
The parcel is approximately 0.75 acre with 95 feet of frontage
on Dollar Street. There is one large industrial-type building
on the property approved in 1978 for "auto parts and light auto
parts storage and light automotive storage and repair." When
the uses were approved, it was recognized that auto-related
businesses, located in proximity to auto row, were beneficial.

The building is divided into bays, at least three of which are
presently vacant. The applicant rents two of the bays. The
site has minimal landscaping and is generally crowded with
vehicles (both operative and dismantled) stored in the parking
area both within designated stalls and haphazardly about the
site. Pallets are also stored outside. Because there are
several businesses in the buildings, it is difficult to
determine if the vehicles are stored for the applicant or for
some of the other business operators.

EXHIBIT C

Adjacent uses are:

- North - Similar auto-repair related uses
- East - Across Dollar Street is a small retail center
- South - "Go Vacations" storage and repair facility for recreation vehicles
- West - BART right-of-way



LAND USE

The General Plan Map designates the area as "General Commercial." The proposed used car lot is consistent with this map designation.

The land lies within the Mission-Foothills Neighborhood. The neighborhood plan has not yet been adopted by City Council, and the plan will probably not reach City Council until early 1992. The draft neighborhood plan addresses the use of Dollar Street from two viewpoints.

- (1) If an auto mall is established away from the existing auto sales facilities, then the area should be used for other than automobile-related uses, such as a shopping center or a mixture of residential and neighborhood commercial uses.
- (2) If an auto mall is not established outside the area, then an auto row is encouraged to remain in the general area with frontages on Dollar Street and Torrono Avenue and no access or parking on Mission Boulevard.

Use Permit Application 91-75 - Mehdavi, Applicant

Since the neighborhood plan has not been adopted, nor is it known if these particular strategies will be adopted as part of the neighborhood plan, the above information is provided only as an insight to what some Hayward residents and business owners believe to be appropriate uses for the area.

Without the adoption of a neighborhood plan, the General Policies Plan must be used for guidance in terms of long-range goals for Hayward.

One of the policies of the General Policies Plan states, "The city will monitor and seek to strengthen important commercial sectors." A strategy for achieving this goal is:

Recognize and enhance Hayward's strong position as a retail center for consumer durable such as automobiles; recognize need for visibility, seek consolidation of frontage into special use areas such as Auto Row, and buffer surrounding uses.

The General Policies Plan recognizes the need to consolidate auto sales activities in the "Auto Row" area, which includes Dollar Street. The remaining issue is whether or not the site in question can accommodate the increased activity to the extent that the use would be in harmony with surrounding uses.

Another policy of the General Policies Plan states:

Parking standards and site plan review will take into account probable demand for parking, convenience, aesthetics, and impacts on vehicular traffic, pedestrians, transit and commerce.

A strategy for achieving this goal is "Seek to maintain parking requirements commensurate with anticipated demand for parking." Although technically the parking requirement is met for the site, practically speaking parking is inadequate due to the number of vehicles stored in the parking area.

PUBLIC HEARING NOTICE

On November 21, 1991, a notice of public hearing was mailed to tenants within subject building and every property owner as noted on the latest Assessor's records within 300 feet of the property.

ENVIRONMENTAL REVIEW

Pursuant to Section 15301 of the California Environmental Quality Act Guidelines, the project is exempt from environmental review.

SITE FEATURES

Architecture -

No changes are proposed to the building which is of a very utilitarian design. Although the building is dirty, it would be unfair to the applicant to make him responsible for the upkeep of the entire building or property.

Parking -

| <u>PARKING REQUIREMENT</u> <u>FOR USES ON PROPERTY</u> | <u>PARKING STALLS</u> <u>EXISTING</u> |
|-----------------------------------------------------------|------------------------------------------|
| 24 | 35 |

The number of on-site parking stalls exceeds the minimum number required by the Parking Regulations. Nonetheless, the amount of parking available for all tenants and their customers appears less than adequate.

Landscaping

A condition of approval of the original use permit for the property requires landscaping and irrigation to be installed in the front yard area, ends of the parking aisle, and the area between the building and the rear property line. Staff finds that, other than very minimal landscaping in the front yard, all plants are missing. Since landscaping and irrigation were required in conjunction with the original use permit, it is the responsibility of the property owner to maintain the landscaping and irrigation. Therefore, there is no condition of approval that requires the applicant to install landscaping.

Fences

The applicant proposes to install a rope fence in front of displayed vehicles for security and to prevent parking in the auto display area. Staff suggests that the barriers be attractive, using such barriers as attractive bollards connected by a heavy chain. This suggestion is included as a condition of approval.

Signs

If the automobile sales lot is approved, staff recommends that any information regarding vehicle sales be limited to the existing sign (change of copy would be necessary).

Trash

There are no trash enclosures, although a dumpster was noted in the parking area. A condition of approval requires that

Use Permit Application 91-75 - Mehdavi, Applicant

dumpsters used by the applicant be located within the building or within a trash enclosure, for which the design has been approved by the Planning Director.

DISCUSSION

The uses were established in 1978, subject to conditions of approval (copy attached). A condition requires landscaping the front yard setback, the ends of the parking aisle, and along the rear property line. Only very limited landscaping remains in the front yard, and there is no landscaping along the rear property line or at the ends of the parking aisle. Another condition prohibits open storage in paved parking area, but the parking area now has inoperative, dismantled vehicles within it.

Although the proposed auto sales business, in and of itself, could be an acceptable use on Dollar Street, the proposed use on the property being considered exacerbate the already crowded, unkempt condition of the property. This is not to say that poor maintenance of the property is the fault of the applicant. The failure of the property owner to maintain the property in accordance with the original use permit, i.e, regarding maintenance of landscaping and prohibition of outdoor storage, has been turned over to the Community Preservation Office.

While the applicant claims that there is adequate space to display used cars, repeated inspections of the site, both at night and during daytime hours, show that parking is not readily available and some vehicles must park outside designated stalls. Even if signs are installed to limit parking, it would be difficult for staff to enforce, as would limiting the number of vehicles for sale at any one time. To devote 21 parking stalls for the proposed use would further limit the number of parking stalls available to other tenants and their customers.

Prepared by,


Dyaná Anderly, Associate Planner

modspr78-24

Attachments

Findings for Denial
Conditions of Approval (UP 91-75)
Conditions of Approval (UP 78-83)
Area Map
Developer's Plans

REVISED CONDITIONS OF APPROVAL

1. All conditions of Use Permit 78-83 shall remain in effect.
2. The number of vehicles for sale shall be limited to no more than six, and the display area shall be limited to those designated parking stalls between the building and Dollar Street.
3. Sign area shall be limited to the existing sign area.
4. Dumpsters shall be kept within the building or within a trash enclosure, the design of which shall first be approved by the Planning Director.
5. All parking spaces assigned to the tenant by the owner shall be designated by the tenant's name on each space.
6. Within six months from the approval date of this application, an inspection shall be made on this property for compliance to the conditions of this use permit and Use Permit 78-53.
7. Violation of conditions is grounds for revocation of use permit at public hearing before the duly authorized review body.

modspr78-24

MINUTES

REGULAR MEETING OF THE BOARD OF ADJUSTMENTS, CITY OF HAYWARD, January 6, 1992, 7:30 P.M., MONDAY, CENTENNIAL HALL, ROOM 6, 22292 Foothill Blvd., Hayward, CA

The regular meeting of the Board of Adjustments was called to order at 7:33 P.M., by Chair Spence, followed by the Pledge of Allegiance.

ROLL CALL

Present: BOARDMEMBERS Devane, Kirby, Dowling, Minhas, Hulteen, Riley
CHAIR Spence
Absent: None

Staff Members Present McClellan, Koonze, Anderly, DeLuz, Taylor

General Public Present 30

PUBLIC COMMENT - Non-agenda items: NONE

AGENDA

1. Use Permit Application No. 91-75 - Taher Mehdavi (Applicant) Bridges Management Company (Owner)
2. Use Permit Application No. 91-101 - Ernie Silva (Applicant) - Mary Mikesell (Owner)
3. Site Plan Review Application No. 91-98 - Leon Mayer (Applicant/Owner)
4. Use Permit and Variance Application No. 91-115 - Seng Heng (Applicant), Peter G. Anast (Owner)
5. Use Permit Application No. 91-90 - Walburg Realty and Investments Corp. (Applicant), Charles and Jeanne Bettencourt (Owners)

PUBLIC HEARINGS

1. USE PERMIT APPLICATION NO. 91-75 - TAHER MEHDAVI (APPLICANT) - BRIDGES MANAGEMENT COMPANY (OWNER) - Request to operate a used car lot.

The property is located at 25789 Dollar Street, west side, approximately 550 feet north of Harder Road in a CG (General Commercial) District.

Continued from December 16, 1991 Hearing

Associate Planner Anderly presented additional information on the issues that were raised at the last meeting: storage of inoperative vehicles on the site in violation of the existing use permit; and whether or not there were enough parking spaces allocated to the applicant to take care of both the existing use of auto repair and the pending use as a used car lot. Technically, the parking requirement had been met. However, the Planning staff was skeptical that adequate parking would remain available to serve

MINUTES

REGULAR MEETING OF THE BOARD OF ADJUSTMENTS, CITY OF
HAYWARD, January 6, 1992, 7:30 P.M., MONDAY, CENTENNIAL HALL,
ROOM 6, 22292 Foothill Blvd., Hayward, CA

existing uses and the proposed automobile sales use. Associate Planner Anderly suggested that if the Board approved the use permit, that a condition of approval be added calling for periodic administrative review of the use.

There was discussion initiated by Boardmember Riley regarding the original use permit; the applicant could be in total compliance with the conditions of his use permit, but violations under the original use permit could remain. It was noted and confirmed by Associate Planner Anderly that the conditions of the original use permit regarding storage of inoperable vehicles outside the buildings, lack of required landscaping and irrigation along Dollar Street, in the parking area, and at the rear of the properties had not been done by the owner.

Public Hearing Reopened - 7:45 P.M.

Anil Kamleshian, 25789 Dollar Street, Hayward represented the applicant, and stated that Mr. Bridges had given him a letter confirming that 21 parking spaces, outside the building, had been allotted to them. Mr. Kamleshian said the premises had been cleaned, vehicles moved, and no cars were on hoists, stands, or blocks.

Public Hearing Closed - 7:50 P.M.

Boardmember Devane was in favor of the used car lot. Regarding the violations of the original conditions of the use permit, the owner should be given six months to comply, and if not the original use permit should be brought back to the Board.

Boardmember Kirby was in favor of this use permit with or without a condition requiring the owner to clean up. If the owner wants to keep the tenant he will be forced to clean up the property. In his opinion, the concerns of the Board from the previous meeting had been answered satisfactorily.

Boardmember Dowling agreed that the applicant had the right to add a used car lot to his present operation. However, a clear message should be given the owner to clean up the property in six months.

Boardmember Minhas did not believe the six month review period of the subject use permit was adequate to enforce the conditions of the original use permit. Associate Planner Anderly suggested that staff could send a letter to the owner and express the Board's concerns, and that the Board would consider revocation of the owner's use permit.

Boardmember Hulteen concurred with his colleagues, favored the application, and agreed that a letter should be sent to the owner from the staff.

Boardmember Riley did not believe the property had been cleaned up as much as she expected it to be. She reiterated that if the owner's use permit is revoked for non-compliance of the conditions, the applicant's use permit would be revoked also.

Boardmember Riley was in favor of the letter from staff to the owner.

Chair Spence was in favor of the application with a 6-month review and designated spaces for the applicant's use. She indicated that people would think twice before parking in the applicant's space if it was designated.

IT WAS MOVED BY BOARDMEMBER RILEY, SECONDED BY BOARDMEMBER KIRBY THAT USE PERMIT APPLICATION 91-75 BE APPROVED BASED UPON THE CONDITIONS OF APPROVAL PREPARED BY THE PLANNING DEPARTMENT, INCLUDING THE FOLLOWING ADDITIONAL CONDITION:

THAT ALL PARKING SPACES ASSIGNED TO THE TENANT BY THE OWNER SHALL BE DESIGNATED BY THE TENANT'S NAME ON EACH SPACE.

The motion CARRIED by the following roll call vote:

AYES: Devane, Kirby, Dowling, Spence, Minhas, Hulteen, Riley
NOES: None
ABSENT: None

The Boardmembers unanimously agreed that the Planning staff send a letter to the owner indicating that the use permit will be revoked six months from the date of the issuance of this use permit, if all the conditions have not been met.

- 2. USE PERMIT APPLICATION NO. 91-101 - ERNIE SILVA (APPLICANT) - MARY MIKESELL (OWNER) - Request to retain a portion of a garage converted to permanent storage space and to convert the remainder of the garage to living space.

The property is at 24461 Willimet Way, west side, approximately 30 feet north of Elmhurst Street in an RS (Single-Family Residential) District.

(Continued from December 16, 1991 hearing)

Associate Planner Anderly presented the Planning Department report dated January 6, 1992, and recommended that the application be denied. Slides of the home were used to amplify the report. A compliance schedule was outlined if the Board denied the application. Associate Planner Anderly noted a letter from the Southgate Homeowners Association requesting the Board to deny the application.

Senior Planner McClellan recalled an application for a garage conversion on Culp Street that was brought before the Board last June. The Board believed they were not in a position to take action because they wanted more direction from Council, and a policy, on garage conversions. Furthermore,

PLANNING DEPARTMENT REPORT
BOARD OF ADJUSTMENTS
AUGUST 17, 1992

ITEM: 4

REVIEW OF USE PERMIT 91-75 - TAHER MEHDAVI (APPLICANT) ADBRIDGE, INC. (OWNER) - Six month review of use permit as requested by the Board of Adjustments to determine if conditions of approval have been met and if there has been adequate parking for the use, i.e., auto repair and sales, known as TRUST AUTO.

The property is at 25789 Dollar Street, west side, approximately 550 feet north of Harder Road in a CG (General Commercial) District.

BACKGROUND

On January 6, 1992, the Board of Adjustments approved an application to conduct automobile sales in conjunction with an existing automobile repair business. Staff had recommended denial of the auto sales because of a perceived lack of adequate parking. The Board approved the use permit, and asked for a review of the use permit after the auto sales business had been operating for six months.

FINDINGS

- A. Six inspections of the site revealed that on four of the visits all parking stalls designated for the auto repair/sales business were full and there were no parking spaces within the stalls designated for Trust Auto for customers to park. On another visit all designated stalls except one were full, but two vehicles were parked outside designated stalls.
- B. The business complex in which the business is operated contains other leasable bays, some of which are vacant or underutilized as they appear to be used for storage. As a consequence, on several visits there were vacant parking spaces within the complex. On staff's last visit to the site, all parking stalls were occupied except for four stalls designated for Alameda Newspapers. As long as the other bays remain vacant or underutilized, and as long as the parking area is kept free of dismantled vehicles, there is greater chance of finding parking spaces. On-street parking was available.

Review of Use Permit 91-75 - Mehdavi, Applicant

- C. Conditions of the use permit covering the entire site (Use Permit 78-53) have been met in that landscaping and irrigation have been installed and most inoperable vehicles have been removed from the site. Since some vehicles are awaiting parts, technically they are not operable. It is difficult to distinguish vehicles awaiting parts from dismantled vehicles simply being stored in required parking stalls. The property owner states there is only one stored, dismantled vehicles which will be removed.

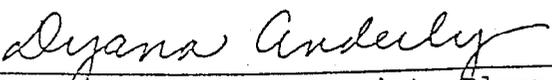
BOARD OPTIONS:

1. Approve the use permit for another specific time period (e.g., six months) since there is often on-site parking as long as other business spaces remain vacant or underutilized and dismantled vehicles are not stored on the parking area. The applicant would still be required to meet all other conditions of approval.
2. Approve the use permit indefinitely with no further Board review of compliance with conditions of approval. This action would establish that conditions of approval have adequately been met and that parking is sufficient.
3. Schedule a meeting to consider revocation of the use permit if the Board finds that conditions of approval are not met or that parking is inadequate.

PUBLIC HEARING NOTICE:

On August 7, 1992, a notice of public hearing was mailed to property owners as noted on the latest Assessor's records within 300 feet of the property.

Prepared by,


Dyana Anderly, Associate Planner

Attachments: Conditions of Approval
Report and Minutes of Board Hearings
Area Map

mehdavi.rpt

Use Permit Application 91-75 - Mehdavi, Applicant

CONTINUED FROM DECEMBER 2, 1991
USE PERMIT 91-75 - MEHDAVI, APPLICANT
ADDITIONAL STAFF COMMENTS

Technically, there are enough parking stalls on the site to meet the City's parking requirement for the uses and proposed use. However, from a practical standpoint, staff's observations have shown that there have not been enough stalls to meet the demand of existing uses, future uses (some bays have been vacant), and a more intensive use, i.e., automobile sales. This situation appears to be due to the number of inoperative vehicles that are stored on the site in violation of the existing use permit and the many vehicles associated with the automobile repair business. Even though the parking requirement is technically met, the Board has the authority under the use permit review process to deny a use that intensifies the demand for parking where there would be an obvious shortfall and where this would impact surrounding uses.

The applicant has been attempting to rid the site of inoperative vehicles, and the property manager has indicated he will be more diligent in requiring that tenants not store inoperative vehicles and materials outside the building. Staff remains skeptical that adequate parking will remain available to serve existing uses and the proposed automobile sales use. Therefore, if the Board is inclined to approve the use permit, staff suggests that a condition of approval be added that calls for periodic administrative review of the use. If staff determines that parking has become inadequate, then the use would again come before the Board for consideration of revocation.

BOARDMEMBER KIRBY THAT THE NEGATIVE DECLARATION, AND USE PERMIT APPLICATION NO. 92-28 BE APPROVED BASED UPON THE FINDINGS AND SUBJECT TO THE CONDITIONS PREPARED BY THE PLANNING DEPARTMENT, INCLUDING THE FOLLOWING MODIFICATIONS TO CONDITIONS 13 AND 14 AS FOLLOWS:

MODIFY Condition 13 - Upon the completion of the terminal, the terminal fleet shall replace the multi-carrier fleet. The total truck traffic, distributing products from the Rohm & Haas plant, shall not increase with the implementation of the Trimac replacement fleet.

MODIFY Condition 14 - The project access on Breakwater Avenue is temporary and the applicant shall close the driveway at the City's discretion.

The motion CARRIED by the following roll call vote:

- AYES: Hulteen, Kirby, Riley, Minhas, Dowling, A. Smith, H. Smith
- NOES: None
- ABSENT: None

Chair Minhas declared a recess. The meeting reconvened at 10:08 p.m.

- 4. REVIEW OF USE PERMIT 91-75 - TAHER MEHDAVI (APPLICANT). ADBRIDGE, INC. (OWNER) - Six-month review of use permit as requested by the Board of Adjustments to determine if conditions of approval have been met and if there has been adequate parking for the use, i.e., auto repair and sales, known as TRUST AUTO.

The property is located at 25689 Dollar Street, west side, approximately 550 feet north of Harder Road in a CG (General Commercial) District.

Associate Planner Anderly presented the Planning Department report, dated August 17, 1992. The issues of this review involve clean up of the site involving all the tenants; adequacy of parking for customers and Mr. Mehdavi's use. The owner had cleaned up the site, installed landscaping and repaired the irrigation system. Associate Planner Anderly noted it is difficult for staff to determine the adequacy of parking space. The issue before the Board was whether or not all conditions have been met, and whether or not the site is adequate for Mr. Mendavi's expanded use of auto sales with auto repair.

Public Hearing Opened - 10:20 p.m.

Anil Kamleshan, 25789 Dollar Street, Hayward, referred to the revised conditions of approval and said they do not exceed six vehicles in the designated parking stalls and would begin to use Dollar Street to park some of their vehicles freeing space in the designated parking area.

Public Hearing Closed - 10:25 p.m.

Boardmember Amy Smith had inspected the property and noted that all the parking spaces marked Trust Auto were full, but there were some vacant spaces in the back.

Boardmember Kirby noted the conditions that were not completed by the property owner and tenant seemed to have been taken care of, and it appeared that a congested situation has been rectified.

Boardmember Dowling noted that the landscaping had been taken care of as well as the parking spaces being marked.

Boardmember Hulteen was hopeful that the concerns of the Board would be resolved and it appeared they have been. He was glad to see visual prosperity which was good for the owner, applicant and the City.

Boardmember Riley noted it was nice to see such a vibrant business in today's economy, but did not see that it looked any better in the interior than when she first visited the site. She was not completely satisfied, but noted it was passable.

IT WAS MOVED BY BOARDMEMBER KIRBY, SECONDED BY BOARDMEMBER HULTEEN THAT USE PERMIT 91-75 BE APPROVED INDEFINITELY FOR SALES AND AUTO REPAIR USE BASED UPON THE FINDINGS AND SUBJECT TO THE CONDITIONS PREPARED BY THE PLANNING DEPARTMENT.

The motion CARRIED by the following roll call vote:

AYES: Hulteen, Kirby, Riley, Minhas, Dowling
A. Smith, H. Smith
NOES: None
ABSENT: None

5. USE PERMIT APPLICATION NO. 92-40 - SCHLARAFIA FRANCISCANA CALIFORNIA (APPLICANT) - CALIFORNIA SAVINGS (OWNER) - Request to locate a fraternal organization within a former savings and loan building.

The project site is at 620 Tennyson Road, north side, between East 12th and East 13th Streets in a CN (neighborhood Commercial) District.



CITY OF HAYWARD
 Community Preservation
 777 B Street
 Hayward, CA 94541-5007

NOTICE TO ABATE

Community Preservation and Improvement Ordinance
 (Ord. No. 95-07, H.M.C. Chapter 5, Article 7, Section 5-7.15)

File No.: 2498-915
 APN: 444-78-4-2
 Property Location:
25751 DOLLAR ST.
 Inspection Date: 7-21-98
 Notice Mailed: 8-12-98
 Inspector: Ken Jeffery #327

YAGGAS ENTERPRISES
19079 ALMOND RD
Castro Valley, Ca 94546

The Community Preservation and Improvement Ordinance was adopted to improve the appearance of Hayward by identifying and correcting nuisance violations. An inspection identified the following violations on your property which must be corrected:

- Accumulation of garbage, litter or debris.
 Note: City Ordinance states that all properties must have garbage service from Waste Management (telephone: 537-5500). (H.M.C. Sections 5-1.100 and 5-1.112)
- Clothes hanging in front yard, porch, or balcony.
- Trash cans, trash bags or other containers stored in yards.
- Junk, trash, salvage materials, lumber or other debris.
- Attractive nuisances dangerous to children including abandoned equipment, refrigerators, hazardous pools, or excavations.
- Broken or discarded furniture, household items, or shopping carts.
- Overgrown vegetation (obstruction to pedestrians or traffic visibility, or likely rodent harborage).
- Dead weeds, trees or other vegetation constituting a fire hazard or unsightly appearance.
- Boats, trailers, and other vehicles on the property which are not located on the designated paved driveway as required by H.M.C. Section 10-1.505.
- Inoperable vehicles and/or vehicle parts which are in yards or vehicles left in a state of partial construction or repair in violation of H.M.C. Sections 10-1.505 and 4-1.20.
- Unmounted campers or camper shells which are left on the property for an unreasonable period of time and are visible from a public street.
- Buildings which are unpainted or where the paint on the building exterior is mostly worn off.

Inspector's Comments: CLEAR PROPERTY OF LITTER RUBBISH
INOPERABLE VEHICLES
LETTER TO FOLLOW CONCERNING USE PERMIT VIOLATIONS.

PLEASE NOTE: We will reinspect your property on 8-27-98 to verify compliance. If a violation(s) is satisfactorily corrected within the abatement period, there is no charge for the compliance inspection process. If the violation(s) is not corrected by the above date, you will be charged a \$226.00 inspection fee. If further inspections are necessary, you will be charged \$81.00 per inspection. In addition, your property may be assigned to a contractor for abatement, and you will be assessed the contractor's cost. Charges that are unpaid may result in a lien being placed on your property to recover these fees, contractor's costs and related administrative charges.

Thank you for your cooperation. If you are unable to correct the above violation(s) by the deadline, or you wish to request an administrative hearing to discuss this abatement order before the City takes further action, please call (510) 583-4173 as soon as possible for assistance or to record a message. **EXHIBIT E**

arrangement, or construction other than that is authorized is a violation of the Zoning Ordinance

Therefore, the following shall be required to restore the approved conditions of Use Permits 91-75 and 78-83:

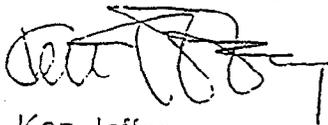
- 1) Removal of all dismantled and inoperable vehicles from outside of the structures;
- 2) Restore and maintain required landscaping as shown in plans submitted at time of permit application;
- 3) Cessation of outdoor auto repairs;
- 4) Discontinue outdoor storage of auto parts; and
- 5) Assign designated parking spaces for tenants by lettering each parking space.

A reinspection of the property will be conducted on October 16, 1998. Unless significant compliance is completed of the aforementioned requirements by this date, you shall be assessed a \$226.00 inspection fee and this office will proceed with any necessary civil and criminal measures to bring the property into compliance, including the recommendation of the Use Permit being revoked.

I recommend that you contact Development Review Services (Planning) at (510) 583-4200 should you have any questions concerning the Use Permits or to apply for a modification of the existing permits. I can be contacted at (510) 583-4173 if you need further clarification regarding the timeframe or corrections noted in this letter.

Your anticipated cooperation in this matter is appreciated.

For the City of Hayward,



Ken Jeffery
Community Preservation Inspector

Enclosures Use Permits 78-83 and 91-75

cc Dyana Anderly, Planning Director
UP 91-75

P 130 645 476

US Postal Service
Receipt for Certified Mail
No Insurance Coverage Provided.
Do not use for International Mail (See reverse)

| | |
|-------------------------------------------------------------|----|
| Sent to VARGAS ENI. | |
| Street & Number | |
| Post Office, State, & ZIP Code | |
| Postage | \$ |
| Certified Fee | |
| Special Delivery Fee | |
| Restricted Delivery Fee | |
| Return Receipt Showing to Whom & Date Delivered | |
| Return Receipt Showing to Whom, Date, & Addressee's Address | |
| TOTAL Postage & Fees | \$ |
| Postmark or Date | |

PS Form 3800 April 1995

9-15-98



CITY OF
HAYWARD
HEART OF THE BAY

COMMUNITY PRESERVATION
September 15, 1998

Vargas Enterprises Incorporated
10979 Almond Road
Castro Valley, CA 94546

Subject: Use Permit Non-Compliance
25789 Dollar Street
Case No. 98-915

Dear Property Owner:

Community Preservation was referred a complaint of violations of the Community Preservation and Zoning Ordinances upon your property located at 25789 Dollar Street, Hayward.

Inspections of the property proved those conditions of Use Permits (UP) 78-83 and 91-75 (copies enclosed) were not complied with. The following were violations of conditions of the Use Permits:

- Storage of several dismantled and inoperable vehicles in the outside parking areas;
- Required landscaping removed or missing; and
- Parking spaces missing tenants name on the space.

Please note items number 2 and 9 of UP 78-83 and item number 5 of UP 91-75 that address the maintenance of the landscaping, outdoor storage of inoperable, dismantled vehicles and tenant parking space designation

Additional violations include the outdoor storage of auto parts, auto repairs being conducted outdoors and the parking of vehicles outside of designated parking areas, which may impede the access of emergency vehicles to the businesses. These expanded uses of this property and non-compliance of the Use Permits are violations of Hayward Municipal Code (HMC) section 10-1.541, Conformance – Administrative Modification. This section states that permits and licenses are issued on the basis of plans and applications approved by the Director of Community and Economic Development/Planning Director are only valid for uses, arrangements, and construction set forth as approved. Any use,

ARTHUR D. BRIDGES FAMILY TRUST

P.O. Box 1037 • Alamo, CA 94507-7037 • (510) 551-7778 • fax (510) 551-7779

October 13, 1998

Mr. Ken Jeffery
Community Preservation Inspector
City of Hayward
777 B Street
Hayward, CA 94541-5007

Dear Mr. Jeffery:

I am following up on a letter you received from the Arthur D. Bridges Family Trust dated September 23, 1998. That letter was in response to a notice you sent to Vargas Enterprises Incorporated dated September 15, 1998.

We have made substantial improvements to the property since September 23, including painting the buildings, repairing sidewalks and fences and cleaning up the landscaping. We have directed the tenants to remove inoperable vehicles and auto parts and cease outdoor auto repairs. We are moving as rapidly as we can without violating the legal rights of the tenants.

We have not been able to repair the parking lot to the condition we would like. We are presently seeking bids to have the asphalt replaced. At that time we would be able to restripe and label the parking places.

I would be happy to meet you at the property when you do your next inspection. Please call me at 925-735-8500 if you wish for me to do so or if you need to discuss any other matters with me.

Sincerely,



Dennis Garrison
Trustee

EXHIBIT G



CITY OF
HAYWARD

HEART OF THE BAY

COMMUNITY PRESERVATION

November 17, 1998

Mr. Dennis Garrison, Trustee
Arthur D. Bridges Family Trust
P.O. Box 1037
Alamo, CA 94507-7037

Subject: Use Permit Non-Compliance
25789 Dollar Street
Case No. 98-915

Dear Mr. Garrison:

I want to thank you for meeting me at the Dollar Street site upon my October 22, 1998 reinspection of the property and discussing the issues concerning the Use Permit requirements.

Although the site showed some improvements, many of the Use Permit requirements still remain non-compliant. The following violations of the Use Permits are:

- 1) Continued outdoor storage of dismantled, inoperable vehicles and auto parts;
- 2) Missing substantial amounts of required landscaping and lack of adequate maintenance; and
- 3) Designation of tenant's parking spaces not provided and installed.

After discussing this matter with Dyana Anderly, Development Review Services Administrator, since the required landscaping of the site has been either never planted or removed, the landscaping shown on the enclosed site plans submitted with the Conditional Use Permit will have to be restored to its entirety. Another option would be to submit new landscape plans designed by a licensed landscape contractor. These plans would require review by the City Landscape Architect for approval. I have enclosed a copy of the current Landscape Design Checklist to assist in the preparation of new landscape plans, should you choose to take this option in restoring the missing landscaping from the property.

Another reinspection of the property will be conducted on December 18, 1998. This will allow you sufficient time to bring the property into compliance with the requirements specified in Conditional Use Permits 78-83 and 91-75. Should the

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
DEVELOPMENT INSPECTION SERVICES

777 B STREET, HAYWARD, CA 94541-5007

TEL: 510/533-4140 • FAX: 510/593-3642 • TDD: 510/247-3340

EXHIBIT H

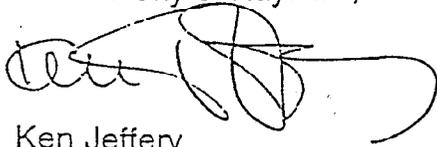
25751 Dollar Street
Case No. 98-915
Page 2

property not be brought into compliance with the conditions by this date, a failed inspection fee of \$226.00 shall be assessed to the property owner and this matter will be brought to the attention of the City Attorney's office for available legal measures. Furthermore, this office will recommend the revocation of the Use Permits for the site.

Please feel free to contact me at (510) 583-4173 should you have any questions concerning this letter. Questions concerning landscaping could be answered by contacting Cathy Woodbury, City Landscape Architect, at (510) 583-4210.

Thank you for your cooperation in this matter.

For the City of Hayward,



Ken Jeffery
Community Preservation Inspector

Enclosure Site Plan UP 78-83
 Landscape Design Checklist

cc Vargas Enterprises, Property Owner
 Dyana Anderly, Development Review Services Administrator
 Cathy Woodbury, City Landscape Architect



CITY OF HAYWARD
DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
COMMUNITY PRESERVATION

December 22, 1998

Mr. Dennis Garrison, Trustee
Arthur D. Bridges Family Trust
P.O. Box 1037
Alamo, CA 94507-7037

Subject: Use Permit Non-Compliance
25789 Dollar Street
Case No. 98-915

Dear Mr. Garrison:

This office conducted a reinspection of the 25789 Dollar Street property on December 21, 1998 and the results of that inspection showed the issues concerning the non-compliance with the conditions of Use Permits 78-83 and 91-75 still remain.

It was noted during the reinspection, that use of the site for the outdoor storage of dismantled/inoperable vehicles and auto parts continues. Furthermore, no apparent progress has been made in the replacement of required landscaping or the marking of tenants parking spaces. As indicated in my letter of November 17, 1998 (copy enclosed), should the conditions of the Use Permits not be complied with by December 18, 1998, this office would recommend the revocation of the permits. Therefore, this matter has been referred to Development Review Services (Planning) to proceed with the permit revocations. Additionally, a \$226.00 inspection fee has been assessed to the property for the failed inspection. Other measures, both civil and criminal, are also being considered in bringing the property into compliance.

Please contact me at (510) 583-4173 should you have any questions concerning this matter.

For the City of Hayward,

A handwritten signature in black ink, appearing to read "Ken Jeffery", written over a horizontal line.

Ken Jeffery
Community Preservation Inspector

Enclosure Letter of November 17, 1998

cc: Vargas Enterprises, Property Owner
Dyana Anderly, Development Review Services Administrator
Joan Borger, Assistant City Attorney
UP 78-83 and UP 91-75