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MICHAEL AARONSON
(1910-1998)
KENNETH M. DICKERSON
(1926-2008)
MELVIN E. COHN
(Superior Court Judge/Retired)
OF COUNSEL

October 29, 2012

Chair Whitaker and Member of the Planning Commission
PlanningCommission@cityofsanmateo.org
San Mateo City Hall
330 W. 20th Ave.
San Mateo, CA 94403

Re: 7-Eleven, 501 N. San Mateo Ave., San Mateo (PA 12-071)

Dear Chair Whitaker and Member of the Planning Commission:

This law firm represents certain neighbors of the former Stangelini's Deli building located at 501 N. San Mateo which, despite its residential zoning designation, operated as a market/deli for over seventy years until it closed nearly two years ago and has since remained vacant. We understand that the property has been leased by the current owners for use as a 7-Eleven 24-hours a day, seven days a week, and that the City has issued building permits (on 10/16/12, 9/13/12 and (presumably) 6/02/12)¹ authorizing certain physical modifications of the building to facilitate use of the building as a 7-Eleven. (Attachment 1.) Our clients are gravely concerned about the impact this unprecedented use in their neighborhood would have on their lives with respect to safety, noise, traffic, aesthetics, and property values. They are quite frankly outraged that the City would permit use of the former Stangelini's deli as a 7-Eleven without any discretionary approval, environmental review, notice or opportunity to comment.

We understand that the Planning Commission will take action next Tuesday night on whether or not to recommend termination of the 7-Eleven use of the property within two to five years pursuant to San Mateo City Code ("Code") Section 27.72.050. While our clients appreciate this effort to respond to their concerns, this action is premature. Before considering whether or not to terminate a legal nonconforming use pursuant to Section 27.72.050, the use

¹ Contrary to the Staff Report, and as confirmed by Senior Planner Stephen Scott, there was no building permit issued on August 30, 2012.

must first be established as legal nonconforming pursuant to Section 27.72.030 and this status has not and cannot be established for the reasons set forth in this letter.

Based on our review of the public records related to this property and our analysis of the applicable Code provisions and governing case law, we conclude that the previous legal nonconforming use of the property as a deli/market has been terminated for the following independent reasons, each of which is discussed in detail below:

- 1. The previous legal nonconforming use of the property as a deli/market was terminated by discontinuance pursuant to San Mateo City Code ("Code") Section 27.72.020(b).**
- 2. Unnecessary physical changes were made to the building on the property; therefore, in accordance with Code Section 27.72.010(b), the legal nonconforming use may not be continued.**

Therefore, because the former legal nonconforming use has been terminated by discontinuance and/or physical changes to the property, use of the property must now adhere to the residential zoning district regulations governing the property.

Moreover, even if the legal nonconforming use had not been terminated, use of the property as a 7-Eleven is not and cannot be classified as a continuance of the previously legal nonconforming market/deli use for the following reasons:

- 3. Even if the Nonconforming Use Was Not Terminated, The 7-Eleven Would be an Illegal Extension and Intensification of the Previous Legal Nonconforming Market/Deli use Per Code Section 27.72.060(a) and California Case Law**
- 4. The 7-Eleven use is so substantially different from the previous use by Stangelini's that it would be "a change to another nonconforming use" requiring a special use permit per Code Section 27.72.040**

Therefore, for all of the foregoing reasons, the building permits which facilitate use of this property as a 7-Eleven were erroneously issued by the City's Building Department and the ultimate use of the property as a 7-Eleven – without obtaining a zone change -- would violate the City's laws and regulations. As such, we respectfully urge you to reject the recommendation set forth in the Planning Commission Staff Report dated 10/25/2012 ("Staff Report"). Instead, we urge you to initiate a determination and ultimately determine, pursuant to Code Section 27.72.030, that the intended 7-Eleven use of the property is an illegal nonconforming use that may not occur unless a zoning amendment is obtained.

1. The Previous Legal Nonconforming Use of the Property as a Deli/Market was Terminated by Discontinuance Pursuant to San Mateo City Code ("Code") Section 27.72.020(b)

Code Section 27.72.020(b) provides that "[w]henver a nonconforming use of a building or structure, or part thereof, has been discontinued for a period of six consecutive months, such use shall not after being discontinued or abandoned be reestablished, and the use of the premises thereafter shall be in conformity with the regulations of the district." Strangelini's deli closed in the fall of 2010 and has remained vacant ever since. Therefore, the previous legal

nonconforming market/deli use has been discontinued for approximately 24 months or four times the requisite period of time required by the Code. As such, the legal nonconforming market/deli use of the property terminated in the spring of 2011 and use of the property must comply with the regulations of the property's residential zoning district. These regulations preclude use of the property as a 7-Eleven. (Code §§ 27.24.010, 27.24.020.)

This was the exact same conclusion that planning staff reached in October of 2011 after consulting with the City Attorney's office. In an email dated October 14, 2011 (See Attachment 2, p.1.) from Senior Planner Stephen Scott to the architect of the intended 7-Eleven project (John Lucchesi of Councilmember John Matthew's architectural firm John Matthews Architects), Mr. Scott stated "we do not see how a new retail use can go back onto that site given the existing language in the non-conforming section of the Zoning Code. As we've discussed, if the property has been vacant for more than 6 months, it needs to revert to a conforming use, and we can't see any way of interpreting that language and this particular situation in any way that would allow a retail use to be re-established." Mr. Scott reiterated this position in a letter dated October 26, 2011 to the property owners, stating "According to Zoning Code Section 27.72.020 the site must now revert to a use that conforms to the R4 standards... after further consultation with the Chief of Planning and the Assistant City Attorney, we see no way of interpreting this situation any differently at this time, given that code provision. "

Over seven months later in June of 2012, the City made a surprising 180 degree turnaround by issuing a building permit² for "[i]nterior remodel for new 7-Eleven store of 2,103sf to replace previous Italian market. S1-Install wall sign to storefront. "7-Eleven" sign. 8 square feet area." There is nothing in the record which adequately explains this changed position. The only apparent explanation is an email to the Assistant City Attorney from Cecilia Quick, who we understand was acting as special outside counsel to the city. Ms. Quick's email states that while the Code uses both the words "discontinue" and "abandon", "it appears that the code intends for those words to be synonymous." She then states when determining whether a use has been "abandoned", there must be evidence of an "intent" to abandon and merely ceasing use is not enough to prove this intent.

While we agree that *abandonment* requires intent, *discontinuance* does not. We adamantly disagree with Ms. Quick's underlying assumption that the Code intended for the use of the words "discontinue" and "abandon" to be synonymous. The Code uses the terms "discontinue" and "abandon" in the alternative. It states "[w]hen a nonconforming use of a building or structure, or part thereof, has been discontinued for a period of six consecutive months, such use shall not after being discontinued or abandoned be reestablished, and the use of the premises thereafter shall be in conformity with the regulations of the district." (Code § 27.72.020(b).) As such, abandonment and discontinuance are alternative grounds for termination. In other words, termination can be triggered **either** by abandonment **or** discontinuance. As explained in one Ninth Circuit court of appeal case, discontinuance does not require intent: "'[a] nonconforming use may be terminated by ordinance after the lapse of a reasonable period of time regardless of whether the property owner intends to abandon that use.' (citations omitted)." Here, the code provides that a nonconforming use be terminated

² While the "issue date" is blank, it expired on 12/03/12 so, like the subsequent building permits issued on the property, it was presumably issued six months prior on 6/02/12.

after a reasonable period of six months and therefore, intent to abandon is not required. (Code § 27.72.020(b).)

Even if intent to abandon were required to terminate the nonconforming use (which as just discussed, it is not), evidence in the record demonstrates such intent. Attachment 3 includes a series of photos of Stangelini's immediately before and after it closed. Note the linoleum flooring, partition walls, deli counter and shed which housed cooling and evaporation units to chill market products. In February of 2011, the property owners obtained a building permit for "general demolition of interior walls; partitions; and removal of rear shed." (see Attachment 4.) As you will see in Attachment 5, the photos listing the property for lease show that the interior walls, partition walls, deli counter, and linoleum flooring were removed and carpeting was installed. Carpeting in and of itself is clearly inconsistent with a market/deli use. As such, contrary to the Staff Report, the February 2011 building permit was *not* issued to prepare the space for another market use but to change the use to office. Further, the MLS listing markets the property as a "MEDICAL/DENTAL OFFICE". The physical modifications to the building combined with the MLS listing of the property for "MEDICAL/DENTAL OFFICE" evidence the property owner's purposeful intent to abandon use of the property as the previously legal nonconforming market use and instead convert it to a medical/dental office use.

2. Unnecessary physical changes were made to the building on the property; therefore, in accordance with Code Section 27.72.010(b), the legal nonconforming use may not be continued.

Code Section 27.72.010(b) states that "[a]ny legal nonconforming building or structure may be continued in use provided there is no physical change other than necessary maintenance and repair, except as otherwise permitted herein." As just discussed, the February 2011 building permit authorized "general demolition of interior walls; partitions; and removal of rear shed." (Attachment 6.) As shown in Attachment 6, these physical modifications to the building were completed. These modifications are structural changes that were not "necessary for maintenance and repair" of the building. Moreover, they were inconsistent with the previous nonconforming market use. Furthermore, additional physical changes to the building are being carried out pursuant to the building permits the City just issued in violation of its own Code.³ (Attachment 1.) Because these physical changes were not necessary for maintenance and repair of the building, the former legal nonconforming use of the property as a market may not be continued pursuant to Code Section 27.72.010(b).

³ It is important to note that while these building permits reference the "7-Eleven", building permits only authorize physical modifications to a property; they do not authorize use of a property. The staff report states that the building permits and the improvements made based on the issuance of these permit grant the property owner "a vested right to continue to operate a market at this location." This is not the case given the building permits were issued in violation of the City's own Code, and in any event, it certainly does not grant the property owner a vested right to use the property for a 24-hour 7-Eleven.

3. Even if the Nonconforming Use Was Not Terminated, The 7-Eleven Would be an Illegal Extension and Intensification of the Previous Legal Nonconforming Market/Deli use Per Code Section 27.72.060(a) and California Case Law

Code Section 27.72.060(a) states that "[n]ormal maintenance of a building or other structure containing a nonconforming use is permitted, including necessary nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming use."

The physical alternations to accommodate the 7-Eleven use (pursuant to building permits issued in June, September and October of 2012) extend and intensify the former use of the property as a small, quiet corner deli/ market that operated during normal business hours to a national chain store operating 24 hours a day, seven days a week. According to Wikipedia, "7-Eleven, primarily operating as a franchise, is the world's largest operator, franchisor and licensor of convenience stores, with more than 46,000 outlets, surpassing the previous record-holder McDonald's Corporation in 2007 by approximately 1,000 retail stores."

The 7-Eleven use would greatly intensify the impacts on the neighborhood with respect to safety, noise, traffic, aesthetics, and property values. As acknowledged in the Staff Report, "alcohol sales and late night operations typical of convenience stores have been shown to be correlated with such incidents and subsequent reductions in property value" and the "traffic generated by a convenience market is higher than that of (*sic*) market."⁴ It further states that the San Mateo Police Department "anticipates that the proposed use could generate 50-60 responses for service calls or as many as 160" per year" and "off-sale retailers that are open 24 hours per day generate 89 responses per year."⁵ While the Staff Report tries to downplay these impacts by stating that 7-Eleven "is proposing to consider voluntarily agreeing to limit hours of operation" and "the store will open without the sale of beer and wine", the Staff report later states that "the City does not have the ability to condition the project, because there is no planning application and the property owner does not need any approvals from the City." As such, according to the City, if you follow Staff's recommendation to allow the 7-Eleven use, there is no mechanism to restrict and/or enforce operations to minimize the intensified impacts of the 7-Eleven use on the neighborhood.

Given the objective of zoning to ultimately eliminate all nonconforming uses, the California courts have generally followed a strict policy against their extension or enlargement. As stated by the court in *Paramount Rock Co. v. County of San Diego* (1960) 180 Cal.2d 217, 228 "[t]he ultimate purpose of zoning to confine certain classes of buildings and uses to particular localities and to reduce all nonconforming uses with the zone to conformity as speedily as is consistent with property safeguards for the interests of those affected."

Accordingly, courts have routinely disallowed the intensification or expansion of a nonconforming use. See *Wilson v. Edgar* (1923) 64 Cal.App. 654, 657 (holding that change from

⁴ The Staff Report does not even address other public health safety and welfare impacts such as noise and aesthetics.

⁵ Glaringly absent from the Staff Report is how these numbers compare to the data from the former Stangelini's -- i.e. how many service calls per year the former market use generated.

milk bottling to dyeing and cleaning is an illegal expansion of a nonconforming use); *Orange County v. Goldring* (1953) 121 Cal.app.2d. 442, 446 (holding that change from crop growing and occasional grazing to feeding and watering three thousand head of cattle – a formidable change which added noise and odors - is an illegal expansion of a nonconforming use); *County of San Diego v. MClurken* (1951) 37 Cal.App.2d 683(holding that change from bulk storage with movable gasoline tanks to larger oil storage tanks for a filling station is an illegal expansion of a nonconforming use); *Paramount Rock Co. v. County of San Diego* (1960) 180 Cal.2d 217 (holding that change from form sand pit and concrete mixing to rock crushing was an illegal expansion of a nonconforming use); and *Walnut Properties, Inc. v. City Council* (1980) 100 Cal.App. 3d 1018, 1024 (holding that change from usual neighborhood theater to adult entertainment theater was an illegal expansion of a nonconforming use).

Expansion of the previously legal nonconforming use of the property as a small, quiet locally owned deli/ market that operated during normal business hours into a 7-Eleven, the world's largest operator of convenience stores chain store operating 24 hours a day, seven days a week clearly would constitute an illegal expansion of a nonconforming use which is prohibited by Code Section 27.72.060(a) and California case law. It would also be contrary to public policy of phasing out and eliminating uses that do not comply with the underlying zoning designation.

4. Even if the Nonconforming Use Was Not Terminated, The 7-Eleven use is so substantially different from the previous use by Stangelini's that it would be "a change to another nonconforming use" requiring a special use permit per Code Section 27.72.040

Code Section 27.72.040(a) provides that "[t]he nonconforming use of any building, structure, or portion thereof, which is designed or intended for a use not permitted in the district in which it is located, may be changed to another nonconforming use thereof under the procedure provided for obtaining a special use permit." As previously discussed, the 7-Eleven so expands and intensifies the envelope of the previously nonconforming market use and its impacts that it essentially converts the nonconforming market use to "another nonconforming use." As such, it would not be a "continuation" of a legal nonconforming use under Code Section 27.72.010(b), and, accordingly, Code Section 27.72.040(a) requires that discretionary approval (which would require environmental review under the California Environmental Quality Act (CEQA), notice and a public hearing, and compliance with certain findings) be obtained to allow the 7-Eleven use.

Therefore, for all of the foregoing reasons, the building permits which facilitate use of this property as a 7-Eleven were erroneously issued by the City and the use of the property as a 7-Eleven – without obtaining a zone change -- would violate the City's laws and regulations. As such, we respectfully urge you to reject the recommendation set forth in the Staff Report. Instead, we urge you to initiate a determination and ultimately determine, pursuant to Code Section 27.72.030, that the intended 7-Eleven use of the property is an illegal nonconforming use that may not occur unless a zoning amendment is obtained. Unless this City takes this next step, our clients will have no other recourse but to take all legal action necessary to protect their rights and the rights of the surrounding neighborhood.

Sincerely,



Camas J. Steinmetz

cc: Mayor and City Council Members
Shawn Mason, City Attorney
Gabrielle Wheler, Assistant City Attorney
Susan Loftus, City Manager
Lisa Grote, Community Development Director
Ron Munekawa, Planning Director
Robert J. Lanzone, Esq.
Client

Attachments:

1. Building Permits issued between June and October of 2012
2. Staff correspondence to property owner/ architect
3. Photos of property prior to unnecessary physical changes
4. February 2011 building permit for demolition
5. MLS property listing and photos

Attachment 1

T.I.



City of San Mateo
Application & Permit
Development Review Counter
330 West 20th Avenue
San Mateo, CA 94403-1388
(650) 522-7172

Building Project

Project # bd2012-243155

PA:

Project

Project Location:

Parcel Number:

Total Project Valuation:

1 501 N SAN MATEO DR 1490
Structure ID Street # Dir. Street Name Unit # Business #

032-153-140

\$ 180,000.00

Project Description:

Interior remodel for new 7-Eleven store of 2,103sf to replace previous Italian market. S1-Install wall sign to storefront. "7-Eleven" sign. 8 square feet area.

Issued Date

Previous Use

Retail sales, basement and ground floor

Occupancy Code UBC

Expiration Date

12/03/2012

Proposed Use

Retail sales, basement and ground floor

PERMIT EXPIRATION: This project becomes null and void if work is not commenced within 180 days from date of project issuance if work is suspended at any time for more than 180 days or if work is done in violation of any city or state laws relating thereto.

#2 WHO WILL PERFORM THE WORK:

2a - CALIFORNIA LICENSED CONTRACTOR'S DECLARATION

I hereby affirm under penalty of perjury that I am licensed under provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

License Class and No.

422096-B

Print Name:

DUSTIN SMITH

Contractor Signature:

[Handwritten Signature]

#3 IDENTIFY WORKERS' COMPENSATION COVERAGE AND LENDING AGENCY:

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

WORKERS' COMPENSATION DECLARATION

I hereby affirm under penalty of perjury one of the following declarations:

() I have and will maintain a certificate of consent to self-insure for workers' compensation, issued by the Director of Industrial Relations as provided for by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued. Policy No.:

(X) I have and will maintain workers' compensation insurance, as required by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued. My workers' compensation insurance carrier and policy number are:

Carrier:

CHARTIS

Policy No.:

WC065256240

Expiration Date:

5/8/13

() I certify that, in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the workers' compensation laws of California, and agree that, if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions.

DECLARATION REGARDING CONSTRUCTION LENDING AGENCY

I hereby affirm under penalty of perjury that there is a construction lending agency for the performance of the work for which this permit is issued (Section 3097, Civil Code).

Lender's Name and Address:

#4 DECLARATION BY CONSTRUCTION PERMIT APPLICANT:

By my signature below, I certify to each of the following:

I am (X) a California licensed contractor or () the property owner* or () authorized to act on the property owner's behalf**.

I have read this construction permit application and the information I have provided is correct.

I agree to comply with all applicable city and county ordinances and state laws relating to building construction.

I authorize representatives of this city or county to enter the above-identified property for inspection purposes.

California Licensed Contractor, Property Owner* or Authorized Agent**:

*requires separate verification form

**requires separate authorization form

Signature:

[Handwritten Signature]

Date:

8/30/12

Contacts

Issued To:

Contractor
SMITH DEVELOPMENT AND CONSTRUCTION COMPANY
SMITH DEVELOPMENT AND CONSTRUCTION COMPANY
7803 MADISON AVENUE #700C
CITRUS HEIGHTS CA 95610-0000
(916) 966-7325

Owner:

CHOY ISAAC OJIN
1265 LA CANADA ROAD
HILLSBOROUGH CA 94010-0000

5094



City of San Mateo
Application & Permit
Development Review Counter
330 West 20th Avenue
San Mateo, CA 94403-1388
(650) 522-7172

Building Project

Project # bd2012-243155

PA:

Project

Project Location:					Parcel Number:	Total Project Valuation:
1	501	N	SAN MATEO DR	1490	032-153-140	\$ 180,000.00
Structure ID	Street #	Dir.	Street Name	Unit #	Business #	

Project Description: Interior remodel for new 7-Eleven store of 2,103sf to replace previous Italian market. S1-Install wall sign to storefront. "7-Eleven" sign. 8 square feet area.

Issued Date: 09/13/2012 Previous Use: Retail sales, basement and ground floor Occupancy Code UBC: []

Expiration Date: 03/12/2013 Proposed Use: Retail sales, basement and ground floor

PERMIT EXPIRATION: This project becomes null and void if work is not commenced within 180 days from date of project issuance if work is suspended at any time for more than 180 days or if work is done in violation of any city or state laws relating thereto.

#2 WHO WILL PERFORM THE WORK:

2a - CALIFORNIA LICENSED CONTRACTOR'S DECLARATION
I hereby affirm under penalty of perjury that I am licensed under provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

License Class and No. 826051-045
Print Name: STEVE PETERSON Contractor Signature: [Signature]

#3 IDENTIFY WORKERS' COMPENSATION COVERAGE AND LENDING AGENCY:

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

WORKERS' COMPENSATION DECLARATION
I hereby affirm under penalty of perjury one of the following declarations:

I have and will maintain a certificate of consent to self-insure for workers' compensation, issued by the Director of Industrial Relations as provided for by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued. Policy No.: _____

I have and will maintain workers' compensation insurance, as required by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued. My workers' compensation insurance carrier and policy number are:

Carrier: TRAVELERS Policy No: 4B6B758462 Expiration Date: 4/30/13

I certify that, in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the workers' compensation laws of California, and agree that, if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions.

DECLARATION REGARDING CONSTRUCTION LENDING AGENCY
I hereby affirm under penalty of perjury that there is a construction lending agency for the performance of the work for which this permit is issued (Section 3097, Civil Code).

Lender's Name and Address: _____

#4 DECLARATION BY CONSTRUCTION PERMIT APPLICANT:

By my signature below, I certify to each of the following:

I am a California licensed contractor or the property owner* or authorized to act on the property owner's behalf**.

I have read this construction permit application and the information I have provided is correct.

I agree to comply with all applicable city and county ordinances and state laws relating to building construction.

I authorize representatives of this city or county to enter the above-identified property for inspection purposes.

California Licensed Contractor, Property Owner* or Authorized Agent**
*requires separate verification form **requires separate authorization form

Signature: [Signature] Date: 9-13-12

Contacts

Issued To:
Contractor
AD ART SIGN/STEVE PETERSON
AD ART
652 LOCKHAVEN DRIVE
PACIFICA CA 94044-0000
(650) 255-9187

Owner:
CHOY ISAAC OOJIN
1265 LA CANADA ROAD
HILLSBOROUGH CA 94010-0000

Spencer



City of San Mateo
Application & Permit
Development Review Counter
330 West 20th Avenue
San Mateo, CA 94403-1388
(650) 522-7172

Building Project

Project # bd2012-243155

PA:

Project

Project Location:

1	501	N	SAN MATEO DR	1490
Structure ID	Street #	Dir.	Street Name	Unit # Business #

Parcel Number:

032-153-140

Total Project Valuation:

\$ 189,690.00

Project Description:

Interior remodel for new 7-Eleven store of 2,103sf to replace previous Italian market.
S1-Install wall sign to storefront. "7-Eleven" sign. 8 square feet area.
F1; Fire sprinkler system; 40 heads "7-Eleven".

Issued Date

10/16/2012

Previous Use

Retail sales, basement and ground floor

Occupancy Code UBC

Expiration Date

04/14/2013

Proposed Use

Retail sales, basement and ground floor

PERMIT EXPIRATION: This project becomes null and void if work is not commenced within 180 days from date of project issuance if work is suspended at any time for more than 180 days or if work is done in violation of any city or state laws relating thereto.

#2 WHO WILL PERFORM THE WORK:

2a - CALIFORNIA LICENSED CONTRACTOR'S DECLARATION

I hereby affirm under penalty of perjury that I am licensed under provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

License Class and No.

686091-016

Print Name:

ANTHONY ABARCA

Contractor Signature:

[Signature]

#3 IDENTIFY WORKERS' COMPENSTATION COVERAGE AND LENDING AGENCY:

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

WORKERS' COMPENSATION DECLARATION

I hereby affirm under penalty of perjury one of the following declarations:

I have and will maintain a certificate of consent to self-insure for workers' compensation, issued by the Director of Industrial Relations as provided for by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued. Policy No.:

I have and will maintain workers' compensation insurance, as required by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued. My workers' compensation insurance carrier and policy number are:

Carrier:

TECH. INS. CO

Policy No.:

TWC3318713

Expiration Date:

3/1/14

I certify that, in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the workers' compensation laws of California, and agree that, if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions.

DECLARATION REGARDING CONSTRUCTION LENDING AGENCY

I hereby affirm under penalty of perjury that there is a construction lending agency for the performance of the work for which this permit is issued (Section 3097, Civil Code).

Lender's Name and Address:

#4 DECLARATION BY CONSTRUCTION PERMIT APPLICANT:

By my signature below, I certify to each of the following:

I am a California licensed contractor or the property owner* or authorized to act on the property owner's behalf**.

I have read this construction permit application and the information I have provided is correct.

I agree to comply with all applicable city and county ordinances and state laws relating to building construction.

I authorize representatives of this city or county to enter the above-identified property for inspection purposes.

*requires separate verification form

**requires separate authorization form

California Licensed Contractor, Property Owner* or Authorized Agent**:

Signature:

[Signature]

Date:

10-16-12

Contacts

Issued To:

Fire Sprinkler Contractor
TRIAD FIRE PROTECTION
TRIAD FIRE PROTECTION
35465 DUMBARTON COURT
NEWARD CA 94560-0000
(510) 972-0004

Owner:

CHOY ISAAC OOJIN
1266 LA CANADA ROAD
HILLSBOROUGH CA 94010-0000

Attachment 2

Stephen Scott

From: Stephen Scott
Sent: Friday, October 14, 2011 1:13 PM
To: 'John Lucchesi'
Cc: Ronald "Ron" Munekawa
Subject: 501 N. San Mateo Drive

John –

I've discussed the 501 issue with Ron, and we do not see how a new retail use can go back onto that site given the existing language in the non-conforming section of the Zoning Code. As we've discussed, if the property has been vacant for more than 6 months, it needs to revert to a conforming use, and we can't see any way of interpreting that language and this particular situation in a way that would allow a retail use to be re-established.

Whether a 6-month period is appropriate given current economic conditions may be debatable, but we need to administer the code given the language that we have at this time.

I've attached the relevant code section below. Please contact me with any further questions.
Stephen

27.72.020 DISCONTINUANCE OF USE. (a) Whenever any part of a building, structure or land occupied by a nonconforming use is changed to or replaced by a use conforming to the provisions of this title, such premises shall not thereafter be used or occupied by a nonconforming use, even though the building may have been originally designed and constructed for the prior nonconforming use.

(b) ~~Whenever a nonconforming use of a building or structure or part thereof has been discontinued for a period of six consecutive months, such use shall not after being discontinued or abandoned be reestablished, and the use of the premises thereafter shall be in conformity with the regulations of the district.~~

(c) Where no enclosed building is involved, discontinuance of a nonconforming use for a period of six months constitutes abandonment, and the use of such premises shall thereafter conform with the regulations of the district and shall not thereafter be used in a nonconforming manner.

(d) A nonconforming use not authorized by the provisions of this code and amendments thereto in effect at the time this title becomes effective, shall be discontinued and not reestablished unless, pursuant to the provisions of this title, the use is conforming to the district in which it is then located.

Stephen Scott
Principal Planner/Zoning Administrator
City of San Mateo, Planning Division
330 W. 20th Avenue
San Mateo, CA 94403
(650) 522-7207
scott@cityofsanmateo.org



DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING DIVISION
OFFICE OF THE ZONING ADMINISTRATOR

330 W. 20th Avenue
San Mateo, CA 94403-1388
(650) 522-7202/Fax (650) 522-7201
Web Site: www.cityofsanmateo.org

October 26, 2011

Isaac O. Choy
Susan Lin
1265 La Canada Rd.
Hillsborough, CA 94010

506
Re: 510 N. San Mateo Dr. (APN 032-153-1412)

Dear Mr. Choy and Ms. Lin:

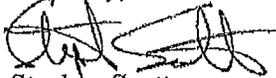
This is in response of your letter of October 18th. I am guessing that your letter was generated due to an email I sent to Jack Matthews office regarding the former grocery store use on this property. To summarize, the grocery store was considered a legally non-conforming use because it was a commercial use on a property zoned R4 -- High Density Multiple Family. According to Zoning Code Section 27.72.020, the site must now revert to a use that conforms to the R4 standards.

The Planning staff sees both sides of this issue. We support the general concept that over time, non-conforming uses should evolve into conforming uses to fulfill the vision provided by our General Plan as implemented by the Zoning Code. We also see that the economic times that we are in make such code provisions difficult to meet and may also result in undesirable consequences for the City.

Your letter makes a number of good points, with which staff would not necessarily disagree. However, after further consultation with the Chief of Planning and the Assistant City Attorney, we see no way of interpreting this situation any differently at this time, given that code provision. The only recourse we see is for the code to be amended.

Processing a code amendment is not necessarily a quick and easy task. There is generally some amount of research and groundwork necessary to properly present the issue to the Planning Commission and City Council. We would typically need to be given direction to take on a new item that was not already on our work program, which would need to be done in this case. If you wish to proceed, we would identify the best way for you to proceed.

Sincerely,


Stephen Scott
Zoning Administrator

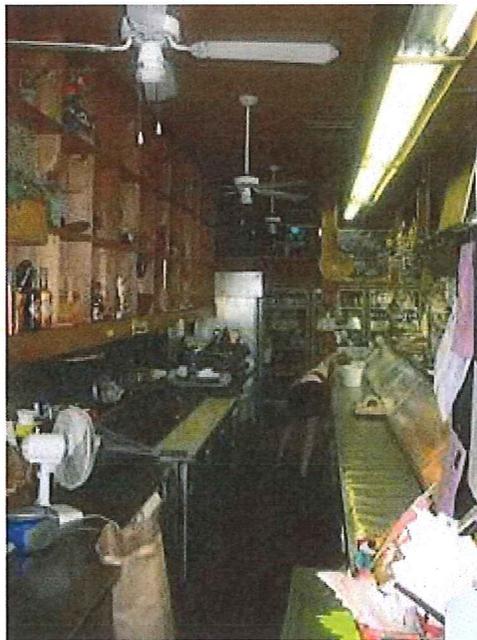
cc: Lisa Grote, Community Development director
Ronald Munekawa, Chief of Planning
Gabrielle Whelan, Assistant City Attorney

Attachment 3

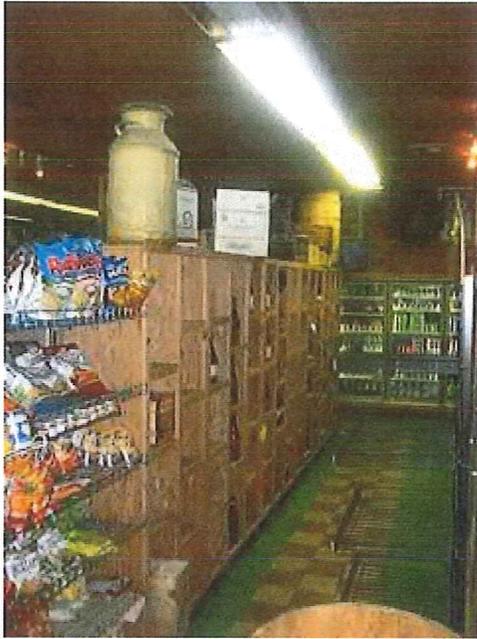
Camas Steinmetz

From: [redacted]
Sent: Friday, October 26, 2012 7:30 AM
To: [redacted]; [redacted].com;
Subject: [redacted], Camas Steinmetz
Photos from Stangelinis Before [redacted]

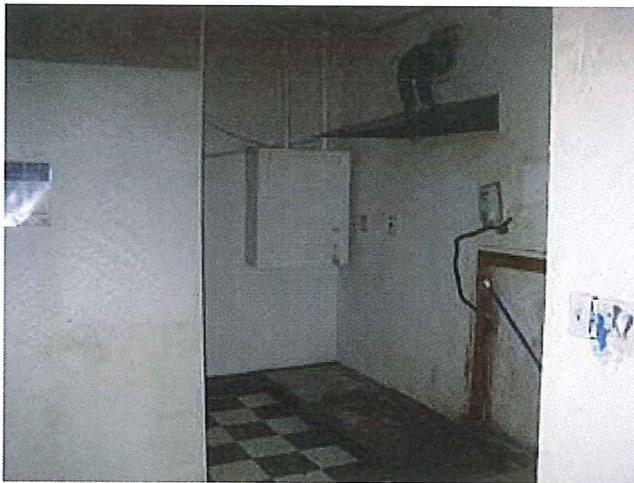












Attachment 4



City of San Mateo
 Application & Permit
 Development Review Counter
 330 West 20th Avenue
 San Mateo, CA 94403-1388
 (650) 522-7172

Building Project

Project # **BD2011-239070**

PA:

Project

Project Location:					Parcel Number:	Total Project Valuation:
1	501	N	SAN MATEO DR	1490	032-153-140	\$ 25,000.00
Structure ID	Street #	Dir.	Street Name	Unit #	Business #	

Project Description:
 General demolition of interior walls; partitions; and removal of rear shed.

Issued Date: 02/01/2011 Previous Use: Retail sales, basement and ground floor Occupancy Code UBC:

Expiration Date: 07/31/2011 Proposed Use: Other

PERMIT EXPIRATION: This project becomes null and void if work is not commenced within 180 days from date of project issuance if work is suspended at any time for more than 180 days or if work is done in violation of any city or state laws relating thereto.

#2 WHO WILL PERFORM THE WORK:

2n - CALIFORNIA LICENSED CONTRACTOR'S DECLARATION
 I hereby affirm under penalty of perjury that I am licensed under provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

License Class and No. 95492D # B

Print Name: X Yao Lin Zhang Contractor Signature: X [Signature]

#3 IDENTIFY WORKERS' COMPENSTATION COVERAGE AND LENDING AGENCY:

WARNING: FAILURE TO SECURE WORKERS' COMPENSTATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSTATION, DAMAGES AS PROVIDED FOR IN SECTION 3700 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

WORKERS' COMPENSTATION DECLARATION
 I hereby affirm under penalty of perjury one of the following declarations:

I have and will maintain a certificate of consent to self-insure for workers' compensation, issued by the Director of Industrial Relations as provided for by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued. Policy No.: _____

I have and will maintain workers' compensation insurance, as required by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued. My workers' compensation insurance carrier and policy number are:
 Carrier: _____ Policy No: _____ Expiration Date: _____

I certify that, in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the workers' compensation laws of California, and agree that, if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions.

DECLARATION REGARDING CONSTRUCTION LENDING AGENCY
 I hereby affirm under penalty of perjury that there is a construction lending agency for the performance of the work for which this permit is issued (Section 3097, Civil Code).

Lender's Name and Address: _____

#4 DECLARATION BY CONSTRUCTION PERMIT APPLICANT:

By my signature below, I certify to each of the following:

I am a California licensed contractor or the property owner* or authorized to act on the property owner's behalf*.

I have read this construction permit application and the information I have provided is correct.
 I agree to comply with all applicable city and county ordinances and state laws relating to building construction.
 I authorize representatives of this city or county to enter the above-identified property for inspection purposes.
 California Licensed Contractor, Property Owner* or Authorized Agent*: _____ *requires separate verification form
 Signature: X [Signature] Date: X 2/1/11 *requires separate authorization form

Contacts

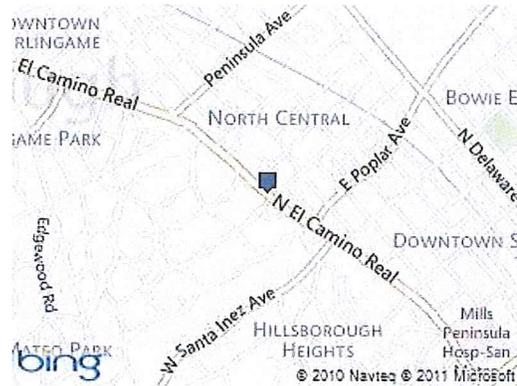
<p>Issued To:</p> <p>Contractor YAO LIN CONSTRUCTION YAO LIN CONSTRUCTION 640 ROLPH STREET SAN FRANCISCO CA 94112-0000 (415) 585-3718</p>	<p>Owner: CHOY ISAAC OOJIN 1285 LA CANADA ROAD HILLSBOROUGH CA 94010-0000</p>
--	---

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General Property Information

501 NORTH SAN MATEO DRIVE, San Mateo 94401		Status:	Expired	MLS #:	81115345
Class:	Commercial Lease	Orig Price:	\$4,999	List:	04/08/2011
Area:	Eastern Addition/Downtown Area (417)	List Price:	\$3,999	Original:	04/08/2011
County:	SAN MATEO COUNTY			Sale:	
Complex:				COE:	
Approx SqFt:	2,100 (Seller (Unverified))			DOM:	366
Approx Lot:	6,488 Sqft (Seller (Unverified))			Green doc:	No
Built/Age:	1961(Seller)/50			Walk Score:	57
Parcel:	Zone: RM100			Trnsf Tx:	
MLS City:	San Mateo	Lot/Blk:		Tax Amt:	
Tract:					
Unincorp:	No	City Limits:	Yes		
List Info:					
Remarks:	BUILDING QUALIFIES FOR MEDICAL/DENTAL OFFICE, GREAT LOCATION AT THE CORNER OF SAN MATEO AND BELLEVUE.				

Commercial Information

Tenants:	Mezz SF:	# Bldg:	1
Rollup Door:	Net Lse SF:	# Unit:	
Min Ht Clr:	Office SF:	# Park:	
Max Ht Clr:	Warehs SF:	# DrIn:	
Ceiling Ht:	Yard Sz SF:	# Docks:	
Owner Pays:			
Tenant Pays:	Gas, Water, Electric		

Commercial Lease Details

Date Avail:	04/08/2011	Security Dep:	\$6,000
Min Lse Mo:	12	Last Mo Rent:	
Max Lse Mo:		Rent per SF:	\$1.90
Load Factor:		Imprv Allow:	
Lse Info:	Security Deposit Required, Call L/A before writing Deposit Receipt, Credit Check Fee Required		

Features

Construct:	Wood Construction
Cool:	No Heating/Cooling
Energy Feat:	
Flooring:	Tile
Foundation:	
Heating:	Gas Central Forced Air Heat
Levels:	1 Story
Loading:	
Location:	Residential Location
Meters:	Master Electric Meter
Misc:	
Parking:	
Present Use:	Other
Roof:	Tar and Gravel Roof
Sewer:	Sewer in Street & Connected
Utilities:	Three Phase Electricity, Over 200 Amps
Water:	Water Company

Commercial Financials

Annual Expenses

Annual Income & Other Info

Prop Taxes: **\$1,161**
 Insurance:
 Prop Mgmt:
 Utilities:
 Wtr & Swr:
 Maintenance:
 Garbage:
 Landscape:
 Misc:
 Total Exp: **\$1,161**
 Data Source:
 Lse Period: 1+ to 3 Year Lease
 Lse Type: Triple Net Lease
 Operating:

Rental Inc:
 Other Inc:
 Grs Sc Inc:
 Vac Factor:
 Vac Amount:
 Grs Ann Inc:
 Ann Net Inc:
 Cap Rate:
 GRM:
 Inc Includes:

Listed By: **Stanley Lo, Green Banker Realty**

Property History

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Additional Photos

 **Click Arrow for Photos**

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501 NORTH SAN MATEO

Class: **Commer**
 Area: **Eastern /**
 County: **SAN MATEO**
 Complex:
 Approx SqFt: **2,100 (S**
 Approx Lot: **6,488 Sq**
 Built/Age: **1961(Selct / / 50**
 Parcel: **2 / 5**
 MLS City: **San Mateo**
 Tract:
 Unincorp: **No**
 List Info:
 Remarks:

Zone: **RM100**
 Lot/Blk:
 Green doc: **No**
 Walk Score: **57**
 Trnsf Tx:
 Tax Amt:

BUILDING QUALIFIES FOR MEDICAL/DENTAL OFFICE. GREAT LOCATION AT THE CORNER OF SAN MATEO AND BELLEVUE.

Commercial Information

Tenants:	Mezz SF:	# Bldg:	1
Rollup Door:	Net Lse SF:	# Unit:	
Min Ht Clr:	Office SF:	# Park:	
Max Ht Clr:	Warehs SF:	# DrIn:	
Ceiling Ht:	Yard Sz SF:	# Docks:	
Owner Pays:			
Tenant Pays:			

Commercial Lease Details

Date Avail:	04/08/2011	Security Dep:	\$6,000
Min Lse Mo:	12	Last Mo Rent:	
Max Lse Mo:		Rent per SF:	\$1.90
Load Factor:		Imprv Allow:	
Lse Info:	Security Deposit Required, Call L/A before writing Deposit Receipt, Credit Check Fee Required		

Features

Construct: **Wood Construction**
 Cool: **No Heating/Cooling**
 Energy Feat:
 Flooring: **Tile**
 Foundation:
 Heating: **Gas Central Forced Air Heat**
 Levels: **1 Story**
 Loading:
 Location: **Residential Location**
 Meters: **Master Electric Meter**
 Misc:
 Parking:
 Present Use: **Other**
 Roof: **Tar and Gravel Roof**
 Sewer: **Sewer in Street & Connected**
 Utilities: **Three Phase Electricity, Over 200 Amps**
 Water: **Water Company**

Commercial Financials

Annual Expenses

Annual Income & Other Info

Prop Taxes:
 Insurance: **\$1,161**
 Prop Mgmt:
 Utilities:
 Wtr & Swr:
 Maintenance:
 Garbage:
 Landscape:
 Misc:
 Total Exp: **\$1,161**
 Data Source:
 Lse Period: 1+ to 3 Year Lease
 Lse Type: Triple Net Lease
 Operating:

Rental Inc:
 Other Inc:
 Grs Sc Inc:
 Vac Factor:
 Vac Amount:
 Grs Ann Inc:
 Ann Net Inc:
 Cap Rate:
 GRM:
 Inc Includes:

Listed By: **Stanley Lo, Green Banker Realty**

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5 / 5 Zone: **RM100**
 Lot/Blk:

Green doc: **No**
 Walk Score: **57**
 Trnsf.Tx:
 Tax Amt:

Commercial Information

Tenants:	Mezz SF:	# Bldg:	1
Rollup Door:	Net Lse SF:	# Unit:	0
Min Ht Clr:	Office SF:	# Park:	2100
Max Ht Clr:	Warehs SF:	# DrIn:	0
Ceiling Ht:	Yard Sz SF:	# Docks:	0
Owner Pays:			
Tenant Pays:	Gas, Water, Electric		

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Commercial Financials

Annual Expenses

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Insurance:	\$1,161	Other Inc:	
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Wtr & Swr:		Vac Amount:	
Maintenance:		Grs Ann Inc:	
Garbage:		Ann Net Inc:	
Landscape:		Cap Rate:	
Misc:		GRM:	
Total Exp:	\$1,161	Inc Includes:	
Data Source:			
Lse Period:	1+ to 3 Year Lease		
Lse Type:	Triple Net Lease		
Operating:			

Listed By: **Stanley Lo, Green Banker Realty** _____ Property History _____

_____ Additional Photos _____

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