

CITY OF DALY CITY

Regular Meeting - CITY COUNCIL

AGENDA

Monday, March 10, 2014 - 7:00 PM
City Hall Council Chambers – 2nd Floor
333 – 90th Street, Daly City, CA 94015

Live Telecast: Comcast Channel 27, Astound 26, AT&T U-Verse 99

Webcast: www.dalycity.org/meetings

DRAFT

For those wishing to address the City Council on any Item on the Agenda or under Public Appearances/Oral Communications, please complete a Speaker Card located at the entrance to the Council Chambers and submit to a Staff Member as early in the meeting as possible.

Persons with disabilities who require auxiliary aids or services in attending or participating in this meeting should call the office of the City Clerk at 991-8078 as soon as possible.

CALL TO ORDER:

PLEDGE TO THE FLAG:

ROLL CALL:

PRESENTATIONS:

Proclaiming March 2014 Women's History Month (Dorothy Fertado)

APPROVAL OF AGENDA:

CONSENT AGENDA

All items listed on the Consent Agenda are considered to be routine and may be approved by one roll call vote of the City Council. There shall be no separate discussion of the matters on the Consent Agenda unless requested by a member of the City Council. If discussion is required, that item will be removed from the Consent Agenda and will be considered separately at the end of the Agenda.

Resolutions:

AVAILABILITY OF PUBLIC RECORDS:

All public record to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the City Clerk's Office, City Hall located at 333 90th Street, Daly City, CA during normal business hours, at the same time that the public records are distributed or made available to the legislative body.

1. Requesting Use of Federal Asset Forfeiture (DEA) to Purchase a Cardiff Pines Burn Safe and Gas Ram for the Daly City SWAT Team
2. Approving Use of Federal Asset Forfeiture Funds to Purchase Individual First Aid Kits for Daly City Police SWAT Members
3. Setting Time and Place for Public Hearing to Consider Repeal of the City's Inclusionary Housing Ordinance and Adoption of an Affordable Housing Ordinance
4. Setting Time and Place for a Public Hearing to Consider One-Year HUD Action Plan for Fiscal Year 2014-2015
5. Accepting as Complete - Muirwood Drive and Teresa Street Water Mains Improvement Project
6. Approving Use of Federal Asset Forfeiture Funds to Purchase Police Department Computers

END OF CONSENT AGENDA

COMMUNICATIONS:

7. Resolution Approving City Treasurer Stipend

Staff:

Martel

Recommended Action:

Adopt Resolution

Roll Call

8. Consideration of Appointment to Fill unexpired Term of City Treasurer

Staff:

Martel

Recommended Action:

Adopt Resolution

Roll Call

PUBLIC HEARINGS:

9. Public Hearing on Claim to Lien Property at 26 Edgemar Street (APN 004-411-170)

Staff:

Campbell

Recommended Action:

Open/Close Hearing
Adopt Resolution
Roll Call

10. Public Hearing on Claim to Lien Property at 563 Delong Street (APN 002-252-250)

Staff:
Campbell
Recommended Action:
Open/Close Hearing
Adopt Resolution
Roll Call

11. Public Hearing on Claim to Lien Property at 661 Sylvan Street (APN 006-453-210)

Staff:
Campbell
Recommended Action:
Open/Close Hearing
Adopt Resolution
Roll Call

12. Amendment to Use Permit UPR-7-13-7618 - Modification to Automobile Service Station Fueling Dispensers and Canopy at 505 Skyline Drive

Staff:
VanLonkhuysen
Recommended Action:
Open/Close Hearing
Adopt Resolution A, B & C
Roll Call

PUBLIC APPEARANCES/ORAL COMMUNICATIONS:

NOTE: Speakers are limited to two minutes, unless modified by the Mayor. The Council cannot take action on any matter raised under this item

APPOINTMENTS: Board/Commission Membership Committee Appointments

REPORTS:

13. Council Committee

- A Council Committee Meetings, February 24 -
March 9, 2014

Agenda – City Council
Monday, March 10, 2014
Page 4

14. City Council

15. Staff

ADJOURNMENT:



City Council Meeting Agenda Report

Item # _____

Meeting Date: March 10, 2014

Subject: Requesting Use of Federal Asset Forfeiture (DEA) to Purchase a Cardiff Pines Burn Safe and Gas Ram for the Daly City SWAT Team

Recommended Action

Staff recommends Council approve the use of Federal Asset Forfeiture Funds to purchase (DEA) one Cardiff Pines Burn Safe and one Cardiff Pines Gas Ram for the Daly City SWAT Team.

Background

The Daly City SWAT Team trains for and has responded to barricaded subjects in the past. These types of situations can be hostile, exhaustive on resources and a threat to the community. Typically these types of situations create an unfavorable condition for SWAT teams due to the fact that the subject deciding to barricade themselves has done so in the confines of a familiar space. This provides them resources allowing them to fend off a timely and safe resolution. One of the tactical considerations during a barricaded subject is the use of chemical agents to encourage the subject to move to a specific location, or preferably out of the location. There are many deployment options for chemical agents. The most effective is the burning of a pyrotechnic device to distribute the chemical agent in the resulting smoke, which is known as "hot gas." One concern with "hot gas" is that it requires pyrotechnics, which if not properly deployed, has the ability to start a fire. As a result specific devices are utilized to deploy the agent to reduce the likelihood of fire. The Burn Safe and the Gas Ram are two of these devices which safely control the pyrotechnics.

Discussion

After identifying the need to incorporate "hot gas" into the Daly City SWAT Team capabilities, our chemical agent experts researched the best methods. The Burn Safe allows the pyrotechnic dispersal device to be inserted into the structure, deployed, and retrieved with very limited likelihood of fire. The Gas Ram is a similar device, in that it contains the pyrotechnic aspect of the deployment for the operator to directly control. It allows the team the ability to specifically deploy the agent into pre-determined locations. These devices have been tested in flammable environments with successful outcomes.

Fiscal Impact

Funding is available through the use of Federal Asset Forfeiture Funds. The one time purchase cost for the Cardiff Pines Burn Safe and Gas Ram is quoted at \$3,380.00.



City Council Meeting Agenda Report

Item # _____

Summary/Conclusion

The Daly City SWAT Team trains for and is prepared to respond to situations involving barricaded subjects. The goal in these situations is to utilize minimal force to ensure the safety of the barricaded subject and the community in the surrounding area. The use of "hot gas" chemical agents is extremely effective and safe when deployed in the proper manner. The Burn Safe and the Gas Ram are the tools necessary to ensure the Daly City SWAT Team has this ability and is capable of safely resolving these tense situations.

Staff is available to provide any additional information desired by the Mayor or Councilmembers.

Respectfully submitted,

John Gamez
Captain

Manuel Martinez Jr.
Chief of Police



City Council Meeting Agenda Report

Item # _____

Meeting Date: March 10, 2014

Subject: Requesting Use of Federal Asset Forfeiture (DEA) to Purchase Individual First Aid Kits for SWAT Members

Recommended Action

Staff recommends Council approve the use of Federal Asset Forfeiture Funds (DEA) to purchase 22 individual first aid kits and six additional kit contents for the Daly City SWAT Team.

Background

The Daly City SWAT Team operates in potentially hostile and dangerous conditions. During an active threat response, the ability for medical personnel to assist an injured operator may not be an option. Upon the threat being contained, medical assistance may be too late for many types of traumatic injuries associated to penetrating wounds. As a result of this, many law enforcement and military special operations units are employing **Individual First Aid Kits (IFAKs)**. These kits are carried by each operator and are intended for that specific operator use. They contain a tourniquet, a chest seal, a trauma dressing, and wound packing gauze. These items have been tested in both controlled and field environments, and have been identified as the items most crucial to life saving efforts for immediate trauma control.

Discussion

After identifying the need to equip each operator of the Daly City SWAT Team with an IFAK, a committee was comprised to determine the best carrying option and content necessities for successful deployment. After consulting with medical, military and law enforcement personnel, the decision was made to utilize the 5.11 pouch with a C.A.T. Tourniquet, a HyFin Chest Seal, an Israeli style trauma dressing, and the Kerlix wound packing gauze. The 5.11 pouch can be purchased directly through 5.11, and the medical contents would be purchased through the county American Medical Response group in order to ensure that the contents would be properly tracked for quality control purposes. 22 units would be purchased to outfit all SWAT members and six additional kit contents would be purchased for use during training exercises.

Fiscal Impact

Funding is available through the use of Federal Asset Forfeiture Funds (DEA). The one time purchase cost for the above listed IFAKs and contents is quoted at \$1,863.08

Summary/Conclusion

Staff is available to provide any additional information desired by the Mayor or Councilmembers.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Gamez".

John Gamez
Captain

A handwritten signature in black ink, appearing to read "Manuel Martinez Jr.".

Manuel Martinez Jr.
Chief of Police



City Council Meeting Agenda Report

Item # _____

Meeting Date: March 10, 2014

Subject: Setting Time and Place for Public Hearing to Consider Repeal of the City's Inclusionary Housing Ordinance and Adoption of an Affordable Housing Ordinance

Recommended Action

Set a Public Hearing for the purpose of citizen review and comment on repeal of the City's Inclusionary Housing Ordinance and adoption of an Affordable Housing Ordinance for Monday, April 14, 2014.

Background

On March 5, 2014 the Affordable Housing Committee comprised of Council members Guingona and Torres reviewed a draft Housing Nexus Study prepared by Keyser Marston and Associates. Staff is recommending that the City's existing Inclusionary Housing Ordinance be repealed and replaced by an Affordable Housing Ordinance that incorporates the findings of the Nexus Study.

Discussion

The Affordable Housing Ordinance will require that developers of market rate housing provide either affordable units or impact fee payments that are equivalent to the affordable housing needs generated by market rate development.

Summary/Conclusion

The Affordable Housing Committee recommends that the Council set time and place for a public hearing regarding repeal of the City's Inclusionary housing ordinance and adoption of an Affordable Housing Ordinance.

Staff is available to provide any additional information desired by the Mayor or Councilmembers.

Respectfully submitted,

Betsy ZoBell
Housing and Community Development Supervisor

Tatum Mothershead
Interim Director, Economic & Community
Development



City Council Meeting Agenda Report

Item # _____

Meeting Date: March 10, 2014

Subject: Set Time and Place for a Public Hearing to Consider One-Year HUD Action Plan for Fiscal Year 2014-2015

Recommended Action

Set a Public Hearing for April 28, 2014 for the purpose of citizen review and comment on Daly City's One-Year Action Plan under the Community Development Block Grant (CDBG) and HOME programs for FY 2014-2015.

Background

The One-Year Action Plan identifies how CDBG and HOME monies will be allocated. Prior to Council allocating these funds for FY 2014-2015, the Department of Housing and Urban Development (HUD) requires the City to hold a public hearing to allow for citizen comment on Daly City's proposed One-Year Action Plan for Fiscal Year 2014-2015.

Discussion

CDBG funds can be used for various activities including Administration, Economic Development, Capital Projects, Housing and Public Services. HOME funds may be used for activities that expand the supply of decent, affordable housing for lower income families.

Pursuant to the City's Citizen Participation Plan, the draft FY 2014-2015 Action Plan will be available at City Hall and all City libraries for a 30-day review and comment period beginning March 27, 2014 through April 28, 2014. Notice of the availability of this document and a summary of the draft FY 2014-15 Action Plan will be published in *The Examiner* and made available on the City's web site.

Summary/Conclusion

Staff is available to provide any additional information desired by the Mayor or Councilmembers.

Respectfully submitted,

Betsy ZoBell
Housing and Community Development Supervisor

Tatum Mothershead
Interim Director, Economic & Community
Development



City Council Agenda Report

Item # _____

Meeting Date: March 10, 2014

Subject: Acceptance of Completion - Muirwood Drive and Teresa Street Water Main Improvement Project

Recommended Action

Accept as complete all work performed by Stoloski & Gonzalez construction company, of Half Moon Bay, CA. associated with the construction/rehabilitation of Muirwood Drive and Teresa Street Water Main Improvement project in the amount of \$546,446.07.

Background

Muirwood Drive and Teresa Street water mains were identified as no longer meeting current fire flow requirements, coupled with increasing rate of failures causing undue inconvenience to customers.

Discussion

The project included the installation of approximately 1,000 feet of larger 8-inch ductile iron water main in Muirwood Drive and approximately 370 feet of larger 6-inch ductile iron water main in Teresa Street. Existing water services were transferred to the new mains and the old 2-inch water mains located within or behind sidewalks on both sides of the streets were abandoned.

The curb access ramps were upgraded and the pavement on Muirwood Drive received an asphalt concrete overlay following the water main improvements. Teresa Street was to receive an application of slurry seal following the completion of the water line installation, however, the cold weather would not allow for that work to take place. Street slurry seal was removed from this project and will be included on the 2014-15 street slurry seal project proposed for later this year.

Fiscal Impact

Four (4) change orders were issued for the project totaling \$25,290.02; 4.8% of original bid. One of the change orders was a credit for \$7,919.98 for a change in pipe material. Two change orders increased the quantities of asphalt concrete replaced and minor concrete installed. During the project, it was discovered that the 2 inch water main on the north side of Cottonwood Drive was in such poor shape the project could not be completed as designed. A change order, transferring 6 services on Cottonwood Drive to a larger main on the opposite side of the street was executed. This change order included an application of slurry seal on Cottonwood Drive. Payment of \$5,000 for the slurry seal on Cottonwood Drive and \$12,327 for the slurry seal and pavement striping on Teresa Street was withheld because the work was not performed. The slurry seal work will be bid with the 2014-15 street slurry seal project. The total cost of the project is \$546,446.07 with sufficient funds available in accounts 41-385-752-4507 – Mains and Improvements and 87-920-617-4507- Street Resurfacing Sewer Mains.

Summary/Conclusion

The contracted work has been completed consistent with City's Standards and Specification. Staff recommends acceptance of the improvements under this construction contract in the amount of \$546,446.07.

Staff is available to provide any additional information desired by the Mayor or Councilmembers.

Respectfully submitted,

Patrick Sweetland
Director of Water and Wastewater Resources



City Council Meeting Agenda Report

Item # _____

Meeting Date: March 10, 2014

Subject: Purchase of Laptops and Tablet Using Federal (DEA) Asset Forfeiture Funds

Recommended Action

Staff recommends that Council authorize the Police Department to use Federal Asset Forfeiture Funds (DEA) to purchase eight laptops, one tablet, and associated software and protective cases.

Background

The Police Department Command Staff does not have access to the network files and the Records Management System from outside of the Department. Allowing that access would provide real-time information to the Command Staff when not in the facility and needing information in a timely manner.

Discussion

The Police Department continues to operate in a dynamic environment requiring the use of technology to keep pace. Command Staff would benefit from access to the network files and the Records Management System when not in the Police Department facility. Currently, we do not have that ability. The purchase of this hardware and software will provide secure, uninterrupted access to mission critical applications assisting with our core public safety mission.

Fiscal Impact

The total cost of the purchase is approximately \$16,800. This amount includes the purchase of eight laptops, one tablet, associated software, and protective cases. All funds will be taken from Federal Asset Forfeiture Funds (DEA). There will be no cash match or other costs to the City.

Summary/Conclusion

Staff is available to provide any additional information desired by the Mayor or Councilmembers.

Respectfully submitted,

Patrick Hensley
Captain

Manuel Martinez Jr.
Chief of Police



City Council Meeting Agenda Report

Item # _____

Meeting Date: March 10, 2014

Subject: Resolution for City Treasurer Stipend

Recommended Action

It is recommended that the City Council adopt a Resolution establishing a monthly stipend for the City Treasurer.

Background

The duties of the City Treasurer are set forth in the Government Code Sections 41000 through 41007. The majority of the functions are performed by the Finance Director, and many of the duties are ministerial and do not require the services of a full-time position.

On March 14, 2014, the City Council adopted Ordinance No. 1376, amending the Municipal Code to clarify that the position of the City Treasurer is not a full-time position and as such, should not receive compensation and benefits comparable to full-time employees, including vacation and sick leave. In addition, Ordinance No. 1376 amended the Municipal Code to provide: "The City Treasurer shall receive a monthly stipend in an amount to be set by resolution of the City Council."

The proposed monthly stipend for the position of the City Treasurer is \$1,666 per month. This amount will ensure compensation commensurate with the duties of the City Treasurer, and will be the sole compensation paid to the City Treasurer.

Fiscal Impact

Providing a monthly stipend would result in budget savings of approximately \$100,000 annually.

Summary/Conclusion

It is recommended that the City Council adopt a resolution establishing the monthly stipend for the position of the City Treasurer as \$1,666 per month.

Staff is available to provide any additional information desired by the Mayor or Councilmembers.

Respectfully submitted,

Patricia E. Martel
City Manager



City Council Meeting Agenda Report

Item #

Meeting Date: March 10, 2014

Subject: Consideration of Appointment for City Treasurer Vacancy

Recommended Action

It is recommended that the City Council consider the appointment of a qualified elector to fill the remaining term of the City Treasurer.

Background

Tony Zidich, former City Treasurer, retired on February 28, 2014 (see attached). Government Code Section 36512 provides that this vacancy shall be filled by the Council within 30 days from the commencement of the vacancy either by appointment, or by calling a special election.

A person appointed to fill the vacancy holds the office for the un-expired term of the former incumbent. In order to hold office, if appointed, the person at the time of assuming office must be an elector (qualified voter) of the City.

The Deputy City Treasurer has been an employee of the City since 2001 and has been performing the duties of the City Treasurer in his absence for over ten years. She is both qualified and experienced to perform such duties moving forward. The Deputy City Treasurer is also an elector of the City. Therefore, the Deputy City Treasurer may assume the duties of the City Treasurer now that the incumbent has officially retired. As a resident of Daly City, the Deputy is qualified to serve as the City Treasurer.

An appointed City Treasurer would serve the remainder of the un-expired term of the former incumbent, until November 2016, at which time the incumbent would be required to stand for election.

Fiscal Impact

The appointment of the Deputy City Treasurer to be City Treasurer will result in cost savings, as the City would not be required to call for a Special Election to fill the vacancy.

Summary/Conclusion

It is recommended that the City Council consider the immediate appointment of the Deputy City Treasurer, a qualified elector, to the position of City Treasurer to fill the remainder of the unexpired term of the former incumbent.

Staff is available to provide any additional information desired by the Mayor or Councilmembers.

Respectfully submitted,

Patricia E. Martel
City Manager

Attachment

**City of Daly City
Interoffice Memo**

January 9, 2014

Honorable Mayor and City Council,

This is to inform you that I will be retiring on February 28, 2014 after 41+ years of service. I would like to thank the Mayor and City Council for all your help. It has been an honor and privilege to work with you all of these years.

Sincerely,

A handwritten signature in cursive script that reads "Tony Zidich".

Anthony J. Zidich
City Treasurer



City Council Meeting Agenda Report

Item # _____

Meeting Date: March 10, 2014

Subject: Public Hearing on Claim to Lien Property at 26 Edgemar Street (APN 004-411-170)

Recommended Action

Staff recommends that the City Council approve the penalties and fees associated with the code enforcement case at 26 Edgemar Street to be made a lien on the subject property and adopt a resolution confirming the amount of the lien as provided in Chapter 8.16.400 through 8.16.430 of the Daly City Municipal Code.

Background

This case involves a single family residence at 26 Edgemar Street (APN 004-411-170) that contains construction without permits which involves an unfinished sub-basement that was dug out to build an unpermitted bedroom downstairs, and a two-story addition built on the rear of the house. The property owner of record is Michael J. Lavorini.

The Administrative Hearing Board heard the case on December 11, 2012, and ordered the property owner to obtain a permit that addressed the structural integrity of the foundation and the two-story addition, as it relates to the abatement of the cited violations. To date, the property owner has not corrected the cited violations.

A Notice of Violation was placed on the subject property through the San Mateo County Recorder's Office and will remain on the title to prevent sale or transfer of ownership without addressing the violations. In addition, a Notice of Pending Claim of Lien was also placed on the property through the San Mateo County Recorder's Office so that enforcement fees and penalty fines can be collected should the property go into foreclosure or is sold before a lien is recorded.

Discussion

The administrative cost and penalty fines assessed by the Administrative Order total \$11,994.00 and a letter requesting payment was mailed to the property owner on June 13, 2013 (Exhibit A). To date, the City has not received any payment for the assessed fees and fines. A lien is required to be recorded on the property with the San Mateo County Recorder's Office to recover the administrative fees and penalties owed to the City of Daly City.

Fiscal Impact

There is no specific fiscal impact from the recommended action.

City Council Agenda Report

Subject: Public Hearing on Claim to Lien Property at 26 Edgemar Street (APN 004-411-170)

Meeting Date: March 10, 2014

Page 2 of 2

Staff is available to provide any additional information desired by the Mayor or Council members.

Respectfully submitted,



Kathy Campbell, Code Enforcement Officer
Economic and Community Development



Tatum Mothershead, Interim Director
Economic and Community Development

Attachments

Attachment A - Letter Sent to Property Owner dated June 13, 2013



CITY OF DALY CITY

333 - 90TH STREET
DALY CITY, CA 94015-1895
PHONE: (650) 991-8000

June 13, 2013

Michael J. Lavorini
26 Edgemar Street
Daly City, CA 94014

**RE: Administrative Order to Abate Violations property located at 26 Edgemar Street
(APN 004-411-170) – Case# 209664**

Dear Mr. Lavorini:

As you are aware, an Administrative Hearing regarding your property at 26 Edgemar St. was conducted on December 11, 2012, in which the Administrative Hearing Board reviewed the violations on your property and determined the presence of a public nuisance. A copy of the Administrative Order was sent to you on December 17, 2012, and a copy is enclosed with this letter for your convenience.

There has been no action taken by you to comply with the Administrative Order by abating the violations since the initial submittal of plans on January 25, 2013, and penalty fines have accrued. *The violations that were cited on your property continue to exist and must be abated.* You are required to complete the plan check process for a building permit, obtain the permit and correct the cited violations immediately.

Building permits issued to abate code violations are valid 60 days from the permit issuance date, and all completed work must be inspected and finalized by a city inspector to the satisfaction of the Building Division.

You currently owe \$11,994.00 in code enforcement fees and penalty fines. This amount is due and payable to the City of Daly City. An invoice detailing the charges has been enclosed with this letter, which must be included when you remit your payment. Failure to immediately pay all associated fees and fines due to the City or enter into a payment plan with the City will result in a lien recorded on the subject property with the San Mateo County Recorder's Office.

ATTACHMENT A

26 Edgemar St. – Administrative Order/Action Required and Payment Due – Code Case#209664–
Michael J. Lavorini, Property Owner
June 13, 2013
Page 2 of 2

Please be advised that payment of fees and fines does not absolve you of the requirement to correct the violations at the subject property. A Notice of Violation has been recorded with the San Mateo County Recorder's Office and will remain on the property until the cited violations have been abated. Failure to take the appropriate action may result in further code enforcement action. If you have any questions regarding this matter, I may be reached at (650) 991-8261.

Sincerely,



Kathy Campbell
Code Enforcement Officer

Enc: Copy of Administrative Order originally mailed on 12/17/12
Code Invoice

**FINDINGS AND ORDER OF THE
DALY CITY ADMINISTRATIVE HEARING BOARD**

SUBJECT PROPERTY: 26 EDGEMAR STREET, CA 94014
APN 004-411-1700

PROPERTY OWNER(S): MICHAEL J. LAVORINI

HEARING HELD ON DECEMBER 11, 2012

FINDINGS

WHEREAS, the Building Department referred this matter to the Administrative Hearing Board pursuant to section 8.16.070, *et seq.*, of the Daly City Municipal Code; **and,**

WHEREAS, the Board determined that the property owner(s) received proper notice documentation by staff of the violations and required abatement action and appeared at the hearing; **and,**

WHEREAS, the Board reviewed evidence, testimony of staff and the staff report pertaining to property current violations: **and,**

WHEREAS, the property owner, Michael Lavorini, his attorney, Douglas G. Murken, and civil engineer, Javier Chavarria, appeared and provided testimony; **and,**

WHEREAS, one or more Municipal Code violations defined as a public nuisance, pursuant to section 8.16.030 *et seq.*, are now present and remain unabated after the timeline established for abatement in the staff notice of violation; **and,**

WHEREAS, the property is a public nuisance pursuant to Municipal Code Section 8.16.030 due to violations of the uniform codes, as adopted by Daly City, and Chapter 15 of the Daly City Municipal Code, including construction without permits; **and,**

WHEREAS, pursuant to Daly City Municipal Code section 8.16.150, if this Board determines that a violation occurred which was not corrected within the time period specified in the staff notification of nuisance, the Board shall issue an administrative order which imposes any or all of the following:

- A. An order to correct, including a schedule for correction when appropriate;
- B. Administrative Penalties as provided in section 8.16.160 of the Daly City Municipal Code.
- C. Administrative costs as provided in section 8.16.160 of the Daly City Municipal Code.

ORDER

NOW THEREFORE, HAVING DETERMINED THE PRESENCE OF A PUBLIC NUISANCE AT 26 EDGEMAR STREET, THE BOARD HEREBY ORDERS ABATEMENT OF THE VIOLATIONS, AND ASSESSMENT OF ADMINISTRATIVE COSTS AND PENALTIES AS FOLLOWS:

THE PROPERTY OWNER SHALL:

- 1) Within 45 calendar days of the notification date of the Board Order the owner shall submit a permit application with plans designed by a professional engineer that address the structural integrity of the foundation and the two-story addition, as it relates to the abatement of the cited violations.
- 2) Within 60 calendar days of the permit application date the owner shall complete the plan check process and obtain the required permit(s) to correct the cited violations
- 3) Within 120 calendar days of the date of the permit(s) issuance the owner shall have a licensed contractor perform all structural remedial work with the remainder of the permitted work to be completed no later than 180 calendar days of the permit issuance date. All work stated in the scope of work for the permit(s) shall be completed and inspected and finalized to the satisfaction of the Building Division.
- 4) Assess the property owner \$1,994.00 administrative fee (to cover costs associated with presenting this case to the Board) and make full payment to the City or have entered into a payment plan with the City through the Finance Department should any of the above stated timelines not be achieved.
- 5) Upon failure to adhere to any stated timeline in the Order of the Administrative Hearing Board, staff request that the owner be assessed \$500.00 a day penalty fine for each day a violation continues to be present, up to the maximum amount of \$10,000.00.
- 6) The Notice of Violation shall remain on the title of the subject property to prevent sale or transfer of ownership without addressing the violations. To remove the NOV, all required abatement shall be completed, inspected and finalized to the satisfaction of the Building Division.
- 7) In the event that the property owner does not comply with this order and pay all associated fees and fines, all cost due to the City shall be secured through a lien recorded on the subject property with the County Recorder which may carry additional charges as set forth by resolution of the City Council.

LEGAL ADMONISHMENT

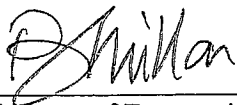
NOTICE is given to the property owner(s) and others holding an interest in the subject property that:

- 1) Failure to abate the violations and complete other requirements as enumerated may result in the imposition of other legal and criminal action, as well as the vacating of the subject property until all required work is completed, and/ or the abatement of such violations by City forces at the expense of the owner(s).
- 2) Upon entry of a second or subsequent finding within a two-year period that a condition of property constitutes a public nuisance under Section 8.16.030 of the Daly City Municipal Code, the owner(s) may be liable for treble the costs of abatement.

APPEAL RIGHTS

Pursuant to Daly City Municipal Code section 8.16.300, the owner(s) of the subject property or a business owner receiving an administrative order from this Board may only appeal such order only if they attended the hearing. To exercise this appeal right the owner must file a written appeal request with the City Clerk within ten (10) days of the date of service of the administrative order, with a non-refundable filing fee of \$100 included with the request. The City Clerk will normally set the hearing date within 10-30 days. You should contact the City Clerk for specific information about this process and the required information you must supply in the request.

AFFIRMED BY: _____



Brian Millar, Director of Economic and Community Development Department, Board Chair

HEARING BOARD CHAIR ON: Dec 11, 2012

FOR OFFICE USE

DATE OF SERVICE _____ METHOD OF SERVICE: _____ 1st class mail _____ Cert. Mail _____ Pers. Svc.

BY _____ TITLE _____

COMMENTS: Administrative Hearing Board – 12/11/2012 – 26 Edgemar St – Case 209664



City of Daly City
333 90th Street
Daly City, CA 94015
(650) 991-8061

CODE INVOICE

06/12/2013

INV-4-13-549747
INV-4-13-549747

Case Number: 00209664

Invoice Date: 04/17/2013

Invoice Number: INV-4-13-549747

Bill To:

Michael J Lavorini
26 Edgemar ST
Daly City, CA 94014-

Return To:

City of Daly City
333 90th Street
Daly City, CA 94015-

INVOICE FEES

Date	Fee Name	Account Number	Trans Code	Fee Amount
04/17/2013	Administrative Hearing Board Fee	01-300-341-3797	0615	\$1,994.00
04/17/2013	Administrative Hearing Board Penalty	01-300-341-3797	0615	\$10,000.00
Total Fees:				\$11,994.00

PLEASE MAKE CHECK PAYABLE TO: CITY OF DALY CITY

ATTACHMENT A



City Council Meeting Agenda Report

Item # _____

Meeting Date: March 10, 2014

Subject: Public Hearing on Claim to Lien Property at 563 Delong Street (APN 002-252-250)

Recommended Action

Staff recommends that the City Council approve the penalties and fees associated with the code enforcement case at 563 Delong Street to be made a lien on the subject property and adopt a resolution confirming the amount of the lien as provided in Chapter 8.16.400 through 8.16.430 of the Daly City Municipal Code.

Background

This case involves a single family residence at 563 Delong Street (APN 002-252-250) that contains construction without permits which involves three non-permitted rooms and a bedroom downstairs, a non-permitted kitchen remodel which includes the removal of two interior walls upstairs, a non-permitted water heater installed with improper vent connectors, an improperly vented floor furnace for the upstairs level, and a permanently blocked door opening upstairs. The property owner of record is Amavelis A. Tobar.

The Administrative Hearing Board heard the case on October 25, 2012, and ordered the property owner to obtain a permit that addressed the non-permitted rooms and installations, as it relates to the abatement of the cited violations. To date, the property owner has not corrected the cited violations.

A Notice of Violation was placed on the subject property through the San Mateo County Recorder's Office and will remain on the title to prevent sale or transfer of ownership without addressing the violations. In addition, a Notice of Pending Claim of Lien was also placed on the property through the San Mateo County Recorder's Office so that enforcement fees and penalty fines can be collected should the property go into foreclosure or is sold before a lien is recorded.

Discussion

The administrative cost and penalty fines assessed by the Administrative Order total \$11,794.00 and a letter requesting payment was mailed to the property owner on September 24, 2013 (Exhibit A). To date, the City has not received any payment for the assessed fees and fines. A lien is required to be recorded on the property with the San Mateo County Recorder's Office to recover the administrative fees and penalties owed to the City of Daly City.

City Council Agenda Report

Subject: Public Hearing on Claim to Lien Property at 563 Delong Street (APN 002-252-250)

Meeting Date: March 10, 2014

Page 2 of 2

Fiscal Impact

There is no specific fiscal impact from the recommended action.

Staff is available to provide any additional information desired by the Mayor or Council members.

Respectfully submitted,



Kathy Campbell, Code Enforcement Officer
Economic and Community Development



Tatum Mothershead, Interim Director
Economic and Community Development

Attachments

Attachment A - Letter Sent to Property Owner dated September 24, 2013



CITY OF DALY CITY

333 - 90TH STREET
DALY CITY, CA 94015-1895
PHONE: (650) 991-8000

September 24, 2013

Amavelis A. Tobar
563 Delong Street
Daly City, CA 94014

**Subject: Administrative Order to Abate Violations issued October 25, 2012 for 563
Delong St. – (APN 002-252-250) – Code Case-8-10-1416**

Dear Ms. Tobar:

As you are aware, an Administrative Hearing regarding your property at 563 Delong St. was conducted on October 25, 2012. The Hearing Board reviewed the cited violations for your property and determined the presence of a public nuisance. A copy of the Board Order was sent to you on November 5, 2012, and a copy is enclosed with this letter for your convenience.

Our records indicate that on April 9, 2013, you reactivated the plan check to address the cited violations. However, the reactivated plan check expired on June 9, 2013, and no further action has been taken. The violations that were cited on your property continue to exist and must be abated. You are advised to obtain a building permit and required to make the corrections noted below:

A permit must be obtained to address three non-permitted rooms and a bedroom downstairs, a non-permitted kitchen remodel which includes the removal of two interior walls upstairs, a non-permitted water heater installed with improper vent connectors, an improperly vented floor furnace for the upstairs level, and permanently blocked door openings upstairs.

In addition, enforcement fees and penalty fines have been assessed in the amount of \$11,794.00. This amount is due now and payable within 30 days to the City of Daly City. An invoice detailing the charges has been enclosed with this letter. Please include the invoice with your payment. Be advised that payment of fees and fines does not release you from the requirement to correct the violations at the subject property.

ATTACHMENT A

Amavelis A. Tobar - Administrative Order for 563 Delong St. - Non-Compliance Letter -
Case-8-10-1416
September 24, 2013
Page 2 of 2

If you do not have the funds to pay the assessed code fees at this time, you have the option to sign up for a payment plan which is administered through the Finance Department. If you are interested in a payment plan, you may contact me for more information.

The Notice of Violation that has been recorded with the San Mateo County Recorder's Office will remain on the subject property until the violations are abated. Failure to pay assessed fees and fines may result in a lien recorded on the property with the county Recorder's Office, as stated in the Administrative Order.

If you have any questions regarding this letter, please contact me at (650) 991-8261 during business hours, or you may email me at kcampbell@dalycity.org.

Sincerely,



Kathy Campbell
Code Enforcement Officer

Enc: Copy of Administrative Order for 563 Delong St. dated October 25, 2012
Code Invoice

**FINDINGS AND ORDER OF THE
DALY CITY ADMINISTRATIVE HEARING BOARD**

SUBJECT PROPERTY: 563 DELONG ST, CA 94014
APN 002-252-250

PROPERTY OWNER(S): AMAVELIS TOBAR

HEARING HELD ON OCTOBER 25, 2012

FINDINGS

WHEREAS, the Building Department referred this matter to the Administrative Hearing Board pursuant to section 8.16.070, *et seq.*, of the Daly City Municipal Code; **and,**

WHEREAS, the Board determined that the property owner(s) received proper notice documentation by staff of the violations and required abatement action and appeared at the hearing; **and,**

WHEREAS, the Board reviewed evidence, testimony of staff and the staff report pertaining to property current violations: **and,**

WHEREAS, the property owner, Amavelis Tobar, appeared and provided testimony; **and,**

WHEREAS, one or more Municipal Code violations defined as a public nuisance, pursuant to section 8.16.030 *et seq.*, are now present and remain unabated after the timeline established for abatement in the staff notice of violation; **and,**

WHEREAS, the property is a public nuisance pursuant to Municipal Code Section 8.16.030 due to violations of the uniform codes, as adopted by Daly City, and Chapter 15 of the Daly City Municipal Code, including construction without permits; **and,**

WHEREAS, pursuant to Daly City Municipal Code section 8.16.150, if this Board determines that a violation occurred which was not corrected within the time period specified in the staff notification of nuisance, the Board shall issue an administrative order which imposes any or all of the following:

- A. An order to correct, including a schedule for correction when appropriate;
- B. Administrative Penalties as provided in section 8.16.160 of the Daly City Municipal Code.
- C. Administrative costs as provided in section 8.16.160 of the Daly City Municipal Code.

ORDER

NOW THEREFORE, HAVING DETERMINED THE PRESENCE OF A PUBLIC NUISANCE AT 563 DELONG STREET, THE BOARD HEREBY ORDERS ABATEMENT OF THE VIOLATIONS, AND ASSESSMENT OF ADMINISTRATIVE COSTS AND PENALTIES AS FOLLOWS:

THE PROPERTY OWNER SHALL:

- 1) Within 30 calendar days of the notification date of the Board Order, the owner shall submit a permit application with plans to correct the cited violations which includes three non-permitted rooms and a bathroom in the downstairs area, a non-permitted kitchen remodel which includes removal of two interior walls upstairs, a non-permitted water heater installed with improper vent connectors, improperly vented floor furnace for the upstairs, and permanently blocked door openings upstairs.
- 2) Within 60 calendar days of the permit application date, the owner shall complete the plan check process and obtain the required permit(s) to correct the cited violations.
- 3) Within 60 calendar days of the date of the permit(s) issuance, the owner shall perform all remedial work stated in the scope of work for the permit(s) to be completed and inspected and finaled to the satisfaction of the Building Division.
- 4) Upon failure to adhere to any stated timeline in the Order of the Administrative Hearing Board, the owner shall be assessed \$500.00 a day in penalty fines for each day a violation continues to be present, up to the maximum amount of \$10,000.00. All outstanding code enforcement fees and penalty fines due to the City shall be paid in full prior to plans submittal or permit issuance; or the owner may enter into a payment plan with the City through the Finance Department prior to plans submittal or permit issuance.
- 5) In the event that the cited violations are not abated and inspected, and the building permit is not finaled within the 150-day abatement period referenced above in items #1 through #3, the owner shall be assessed \$1,994.00 in administrative fees (to cover cost associated with presenting this case to the Board).
- 6) The Notice of Violation shall remain on the title of the subject property to prevent sale or transfer of ownership without addressing the violations. To remove the NOV all required abatement shall be completed, inspected and finaled to the satisfaction of the Building Division.
- 7) In the event that the property owner does not comply with this order and pay all associated fees and fines, all cost due to the City shall be secured through a lien recorded on the subject property with the County Recorder which may carry additional charges as set forth by resolution of the City Council.

LEGAL ADMONISHMENT

NOTICE is given to the property owner(s) and others holding an interest in the subject property that:

- 1) Failure to abate the violations and complete other requirements as enumerated may result in the imposition of other legal and criminal action, as well as the vacating of the subject property until all required work is completed, and/ or the abatement of such violations by City forces at the expense of the owner(s).
- 2) Upon entry of a second or subsequent finding within a two-year period that a condition of property constitutes a public nuisance under Section 8.16.030 of the Daly City Municipal Code, the owner(s) may be liable for treble the costs of abatement.

APPEAL RIGHTS

Pursuant to Daly City Municipal Code section 8.16.300, the owner(s) of the subject property or a business owner receiving an administrative order from this Board may only appeal such order only if they attended the hearing. To exercise this appeal right the owner must file a written appeal request with the City Clerk within ten (10) days of the date of service of the administrative order, with a non-refundable filing fee of \$100 included with the request. The City Clerk will normally set the hearing date within 10-30 days. You should contact the City Clerk for specific information about this process and the required information you must supply in the request.

AFFIRMED BY: _____

Patrick Sweetland, Director of Water/Wastewater Resources Department, Board Chair

HEARING BOARD CHAIR ON: 11/5, 2012

FOR OFFICE USE

DATE OF SERVICE 11/5/12 METHOD OF SERVICE: ☒ 1st class mail ☒ Cert. Mail ☐ Pers. Svc.

BY Juanita Buckley TITLE Office Assistant II

COMMENTS: Administrative Hearing Board – 10/25/2012 – 563 Delong St – Case-8-10-1416



City of Daly City
333 90th Street
Daly City, CA 94015
(650) 991-8061

CODE INVOICE

09/24/2013

Case Number: CASE-8-10-1416
Site Address: 563 DELONG ST
Invoice Date: 12/11/2012
Invoice Number: INV-12-12-546307

Bill To:

Amavelis Tobar
563 Delong ST
Daly City, CA 94014-

Return To:

City of Daly City
333 90th Street
Daly City, CA 94015-

INVOICE FEES

Date	Fee Name	Account Number	Trans Code	Fee Amount
12/11/2012	Administrative Hearing Board Penalty	01-300-341-3797	0615	\$500.00
06/10/2013	Administrative Hearing Board Penalty	01-300-341-3797	0615	\$500.00
06/11/2013	Administrative Hearing Board Penalty	01-300-341-3797	0615	\$500.00
06/12/2013	Administrative Hearing Board Penalty	01-300-341-3797	0615	\$500.00
06/19/2013	Administrative Hearing Board Penalty	01-300-341-3797	0615	\$500.00
06/19/2013	Administrative Hearing Board Penalty	01-300-341-3797	0615	\$500.00
06/19/2013	Administrative Hearing Board Penalty	01-300-341-3797	0615	\$500.00
06/19/2013	Administrative Hearing Board Penalty	01-300-341-3797	0615	\$500.00
06/19/2013	Administrative Hearing Board Penalty	01-300-341-3797	0615	\$500.00
06/19/2013	Administrative Hearing Board Penalty	01-300-341-3797	0615	\$500.00
06/19/2013	Administrative Hearing Board Penalty	01-300-341-3797	0615	\$500.00
06/25/2013	Administrative Hearing Board Penalty	01-300-341-3797	0615	\$500.00
06/25/2013	Administrative Hearing Board Penalty	01-300-341-3797	0615	\$500.00
06/25/2013	Administrative Hearing Board Penalty	01-300-341-3797	0615	\$500.00
06/25/2013	Administrative Hearing Board Penalty	01-300-341-3797	0615	\$500.00
06/25/2013	Administrative Hearing Board Penalty	01-300-341-3797	0615	\$500.00
06/27/2013	Administrative Hearing Board Penalty	01-300-341-3797	0615	\$500.00
06/27/2013	Administrative Hearing Board Penalty	01-300-341-3797	0615	\$500.00
07/01/2013	Administrative Hearing Board Penalty	01-300-341-3797	0615	\$500.00
07/01/2013	Administrative Hearing Board Penalty	01-300-341-3797	0615	\$500.00
04/15/2013	Administrative Hearing Board Fee	01-300-341-3797	0615	\$1,994.00

FOR OFFICE USE ONLY



P

ATTACHMENT A

Case Number: CASE-8-10-1416
Site Address: 563 DELONG ST
Invoice Date: 12/11/2012
Invoice Number: INV-12-12-546307

Bill To:

Amavelis Tobar
563 DeLong ST
Daly City, CA 94014-

Return To:

City of Daly City
333 90th Street
Daly City, CA 94015-

INVOICE FEES

Date	Fee Name	Account Number	Trans Code	Fee Amount
			Total Fees:	\$11,994.00

PAYMENTS

Payment Date	Payment Type	Check #	Amount Paid
12/12/2012	Cash	-1	\$200.00

TOTAL PAYMENT: \$200.00
BALANCE DUE: \$11,794.00

FOR OFFICE USE ONLY



P

ATTACHMENT A



City Council Meeting Agenda Report

Item # _____

Meeting Date: March 10, 2014

Subject: Public Hearing on Claim to Lien Property at 661 Sylvan Street (APN 006-453-210)

Recommended Action

Staff recommends that the City Council approve the penalties and fees for the code enforcement case at 661 Sylvan Street to be made a lien on the subject property and adopt a resolution confirming the amount of the lien as provided in Chapter 8.16.400 through 8.16.430 of the Daly City Municipal Code.

Background

This case involves a four unit occupied multi family residence at 661 Sylvan Street (APN 006-453-210) that contains building maintenance problems which involve required repairs to restore the fire-rated assemblies in the garage and corridors, repairs to fix active leaks and repair wiring, and expose the suspected dry rot under the decks to determine what repairs are required and make fire code corrections identified by the Fire Department. The property owners of record are J. Mason & Anne M. Stubblefield Et al.

The Administrative Hearing Board heard the case on May 30, 2013, and ordered the property owners to obtain a permit that addressed the repair of active leaks, replacement of the drywall and completion of all remedial work to the satisfaction of the Building Division and Fire Department. To date, the property owners have not corrected the cited violations.

A Notice of Violation was placed on the subject property through the San Mateo County Recorder's Office and will remain on the title to prevent sale or transfer of ownership without addressing the violations. In addition, a Notice of Pending Claim of Lien was also placed on the property through the San Mateo County Recorder's Office so that enforcement fees and penalty fines can be collected should the property go into foreclosure or is sold before a lien is recorded.

Discussion

The administrative cost and penalty fines assessed by the Administrative Order total \$13,074.00 and a letter requesting payment was mailed to the property owner on September 24, 2013 (Exhibit A). To date, the City has not received any payment for the assessed fees and fines. A lien is required to be recorded on the property with the San Mateo County Recorder's Office to recover the administrative fees and penalties owed to the City of Daly City.

City Council Agenda Report

Subject: Public Hearing on Claim to Lien Property at 661 Sylvan Street (APN 006-453-210)

Meeting Date: March 10, 2014

Page 2 of 2

Fiscal Impact

There is no specific fiscal impact from the recommended action.

Staff is available to provide any additional information desired by the Mayor or Council members.

Respectfully submitted,



Kathy Campbell, Code Enforcement Officer
Economic and Community Development



Tatum Mothershead, Interim Director
Economic and Community Development

Attachments

Attachment A - Letter Sent to Property Owner dated September 24, 2013



CITY OF DALY CITY

333 - 90TH STREET
DALY CITY, CA 94015-1895
PHONE: (650) 991-8000

September 24, 2013

J. Mason Stubblefield Et al. & Anne M. Stubblefield
C/o Robert J. & C.T. Stubblefield
56 Idlewood Dr.
South San Francisco, CA 94080

**Subject: Administrative Order to Abate Violations issued May 30, 2013 for 661 Sylvan St.
– (APN 006-453-210) – Code Case-3-12-1760**

Dear Mr. and Ms. Stubblefield Et al:

As you are aware, an Administrative Hearing regarding your property at 661 Sylvan St. was conducted on May 30, 2013. The Hearing Board reviewed the cited violations for your property and determined the presence of a public nuisance. A copy of the Board Order was sent to you on June 5, 2013, and a copy is enclosed with this letter for your convenience.

Our records indicate that there has not been any action taken by you to comply with the Board Order and abate the violations. The violations that were cited on your property continue to exist and must be abated. You are required to make the corrections noted below:

A permit must be obtained to abate the violations by performing the necessary repairs to restore the fire-rated assemblies in the garage and corridors, fix all active leaks and repair the wiring, and expose the suspected dry rot under the decks to determine what repairs are required and make fire code corrections identified in by Fire Department, including meeting the requirement for the 5-year inspection requirement for stand pipes.

You are required to hire the services of a licensed contractor, obtain a permit to repair the active leaks, replace the drywall and complete all remedial work to the satisfaction of the Building Division.

In addition, enforcement fees and penalty fines have been assessed in the amount of \$13,074.00. This amount is due now and payable within 30 days to the City of Daly City. An invoice detailing the charges has been enclosed with this letter. Please include the invoice with your

ATTACHMENT A

J. Mason Stubblefield & Anne M. Stubblefield Et al - Administrative Order for 661 Sylvan St. – Non-Compliance Letter – Case 3-12-1760
September 24, 2013
Page 2 of 2

payment. Be advised that payment of fees and fines does not release you from the requirement to correct the violations at the subject property.

If you do not have the funds to pay the assessed code fees at this time, you have the option to sign up for a payment plan which is administered through the Finance Department. If you are interested in a payment plan, you may contact me for more information.

The Notice of Violation that has been recorded with the San Mateo County Recorder's Office will remain on the subject property until the violations are abated. Failure to pay assessed fees and fines may result in a lien recorded on the property with the county Recorder's Office, as stated in the Administrative Order.

If you have any questions regarding this letter, please contact me at (650) 991-8261 during business hours, or you may email me at kcampbell@dalycity.org.

Sincerely,



Kathy Campbell
Code Enforcement Officer

Enc: Copy of Administrative Order for 661 Sylvan St. dated May 30, 2013
Code Invoice

ATTACHMENT A

**FINDINGS AND ORDER OF THE
DALY CITY ADMINISTRATIVE HEARING BOARD**

SUBJECT PROPERTY: 661 SYLVAN STREET, CA 94015-3229
APN 006-453-210

PROPERTY OWNER(S): J. MASON & ANNE STUBBLEFIELD, ET AL

HEARING HELD ON MAY 30, 2013

FINDINGS

WHEREAS, the Code Enforcement Division referred this matter to the Administrative Hearing Board pursuant to section 8.16.070, *et seq.*, of the Daly City Municipal Code; **and,**

WHEREAS, the Board determined that the property owner(s) received proper notice documentation by staff of the violations and required abatement action; **and,**

WHEREAS, the Board reviewed evidence, testimony of staff and the staff report pertaining to property current violations: **and,**

WHEREAS, the property owners, J. Mason & Anne Stubblefield, Et Al, were not present and therefore lost all appeal rights: **and**

WHEREAS, one or more Municipal Code violations defined as a public nuisance, pursuant to section 8.16.030 *et seq.*, are now present and remain unabated after the timeline established for abatement in the staff notice of violation; **and,**

WHEREAS, the property is a public nuisance pursuant to Municipal Code Section 8.16.030 due to violation of Chapter 15 of the Daly City Municipal Code, including building maintenance problems; **and,**

WHEREAS, pursuant to Daly City Municipal Code section 8.16.150, if this Board determines that a violation occurred which was not corrected within the time period specified in the staff notification of nuisance, the Board shall issue an administrative order which imposes any or all of the following:

- A. An order to correct, including a schedule for correction when appropriate;
- B. Administrative Penalties as provided in section 8.16.160 of the Daly City Municipal Code.
- C. Administrative costs as provided in section 8.16.160 of the Daly City Municipal Code.

ORDER

NOW THEREFORE, HAVING DETERMINED THE PRESENCE OF A PUBLIC NUISANCE AT 661 SYLVAN STREET, THE BOARD HEREBY ORDERS ABATEMENT OF THE VIOLATIONS, AND ASSESSMENT OF ADMINISTRATIVE COSTS AND PENALTIES AS FOLLOWS:

THE PROPERTY OWNER SHALL:

- 1) Within 30 calendar days of the notification date of the Administrative Board Order, submit a permit application to abate the violations by performing the necessary repairs to restore the fire rated assemblies in the garage and corridors, fix all active leaks and repair the wiring, and expose the suspected dry rot under the decks to determine what repairs are required and make fire code corrections identified in Attachment (A) which is attached to this Order, including meeting the requirement for the 5-year inspection requirement for stand pipes.
- 2) Within 60 calendar days of the date of the permit(s) issuance, the owner shall perform all remedial work stated in the scope of work for the permit(s) to be completed and inspected and finalized to the satisfaction of the Building Division and North County Fire Authority.
- 3) Be assessed both a \$1,080.00 enforcement fee and a \$1,994.00 administrative fee (to cover costs associated with presenting this case to the Board) and make full payment to the City at the time of permit application per condition #1(above), or have entered into a payment plan with the City through the Finance Department prior to the permit application.
- 4) Upon failure to adhere to any stated timeline in the Order of the Administrative Hearing Board, be assessed \$500.00 a day for each day a violation continues to be present, up to the maximum amount of \$10,000.00.
- 5) Remit payment for the business license taxes including all penalties and substantiating documentation required by the Municipal Code for all years through 2012.
- 6) The Notice of Violation shall remain on the title of the subject property to prevent sale or transfer of ownership without addressing the violations. To remove the NOV, all violations shall be abated, inspected, and the permit finalized by a City inspector.
- 7) In the event that the property owner does not comply with this order and pay all associated fees and fines, all cost due to the City shall be secured through a lien recorded on the subject property with the County Recorder which may carry additional charges as set forth by resolution of the City Council.
- 8) In the event that the property owner does not comply with this order and pay all associated fees and fines, all cost due to the City shall be secured through a lien recorded on the subject property with the County Recorder which may carry additional charges as set forth by resolution of the City Council.

LEGAL ADMONISHMENT

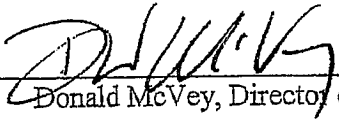
NOTICE is given to the property owner(s) and others holding an interest in the subject property that:

- 1) Failure to abate the violations and complete other requirements as enumerated may result in the imposition of other legal and criminal action, as well as the vacating of the subject property until all required work is completed, and/ or the abatement of such violations by City forces at the expense of the owner(s).
- 2) Upon entry of a second or subsequent finding within a two-year period that a condition of property constitutes a public nuisance under Section 8.16.030 of the Daly City Municipal Code, the owner(s) may be liable for treble the costs of abatement.

APPEAL RIGHTS

Pursuant to Daly City Municipal Code section 8.16.300, the owner(s) of the subject property or a business owner receiving an administrative order from this Board may only appeal such order only if they attended the hearing. To exercise this appeal right the owner must file a written appeal request with the City Clerk within ten (10) days of the date of service of the administrative order, with a non-refundable filing fee of \$100 included with the request. The City Clerk will normally set the hearing date within 10-30 days. You should contact the City Clerk for specific information about this process and the required information you must supply in the request.

AFFIRMED BY: _____


Donald McVey, Director of Finance, Board Chair

HEARING BOARD CHAIR ON: _____, 2013

FOR OFFICE USE

DATE OF SERVICE 6/5/13 METHOD OF SERVICE: ☒ 1st class mail ☒ Cert. Mail ☐ Pers. Svc.

BY Juanita Buckley TITLE Office Assistant II
Juanita Buckley

COMMENTS: Administrative Hearing Board – 5/30/13 – 661 Sylvan St. – Case-3-12-1760



North County Fire Authority

Serving the Cities of Brisbane, Daly City, Pacifica

Ron D. Myers
Fire Chief

10 Wembley Drive
Daly City, California 94015-4314

Administration
Phone 650-991-8138
Fax 650-991-8090

2/24/12

CERTIFIED AND REGULAR MAIL

Robert Stubblefield
56 Idlewood Dr.
South San Francisco, CA
94080

Re: Outstanding Fire Code Violations at 661 Sylvan Str., Daly City CA

Dear Mr. Stubblefield

Your property at the subject address was inspected on 12/16/11 and 2/3/12. All violations must be **corrected immediately** in accordance with the California Fire Code. A fee of 212.00 is charged for each inspection.

A final inspection will occur on 3/9/12. It is urgent that the following items be corrected immediately to ensure the life and safety of your tenants and to protect your property:

1. Service fire extinguishers.
2. Label gas meters for the addresses they serve.
3. Hallways must be lit at all times.
4. Remove all storage from hallways.
5. Patch all holes in walls of garage.
6. Provide coverplate for receptacle at dryer
7. Patch all holes in garage ceiling
8. Remove hazardously wired lights in dryer area and disconnect and remove brown extension cord.

A reinspection will occur on 3/9/12.

Failure to comply may result in an Administrative Hearing Notice with possible daily fines.

Please call me at 650-991-8152 if you have any questions.

Sincerely,

Klaus Zalinskis, Safety Inspector

Attachment A



City of Daly City
333 90th Street
Daly City, CA 94015
(650) 991-8061

CODE INVOICE

09/24/2013

Case Number: CASE-3-12-1760

Site Address: 661 SYLVAN ST

Invoice Date: 03/27/2012

Invoice Number: INV-3-12-533145

Bill To:

J Mason Et Al & Anne M Stubblefield
56 Idlewood DR
So San Francisco, CA 94080-

Return To:

City of Daly City
333 90th Street
Daly City, CA 94015-

INVOICE FEES

Date	Fee Name	Account Number	Trans Code	Fee Amount
03/27/2012	Building Maintenance Problem (Abated 1 - 3	01-300-341-3797	0615	\$300.00
05/03/2012	Building Maintenance Problem (Abated 31 -	01-300-341-3797	0615	\$390.00
06/12/2012	Building Maintenance Problem (Abated 61 -	01-300-341-3797	0615	\$390.00
05/31/2013	Administrative Hearing Board Fee	01-300-341-3797	0615	\$1,994.00
08/09/2013	Administrative Hearing Board Penalty	01-300-341-3797	0615	\$10,000.00
Total Fees:				\$13,074.00

FOR OFFICE USE ONLY



P

ATTACHMENT A



City Council Meeting Agenda Report

Item # _____

Meeting Date: March 10, 2014

**Subject: Amendment to Use Permit UPR-7-13-7618 —
Modification to Automobile Service Station Fueling Dispensers and Canopy
at 505 Skyline Drive**

Recommended Action

Approve the Amendment to the Use Permit, subject to the Findings and Conditions as outlined herein.

Introduction

On October 28, 2013, the applicant, Javier Chavarria representing Mike Nasjdani, received City Council approval to reconstruct a service station where a service station previously existed at 505 Skyline Drive (see Attachment A – Location Map). Conditions of Approval adopted by the City Council at that time required a structural review of the existing fueling canopy, to ensure its structural integrity. With input from structural engineers, the applicant has discovered that significant work will be necessary to ensure the safety of the fuel pump canopy to the extent that replacing the canopy entirely is the best option. To justify the expense and maximize branding options for the station, the applicant is proposing to expand the canopy size and number of fuel dispensers from two to four. Because the use permit granted by the City Council in October only identified two fuel dispensers, a use permit amendment is required to expand the canopy and increase the number of fuel dispensers.

Discussion

As approved in October, the new service station would add approximately 1,615 square feet to the station floor, for a total of 3,210 square feet, and conduct limited vehicle repair in three auto repair bays. Interior improvements approved include modifications to the sales counter and restroom facilities that would improve accessibility by disabled persons, and an increase to the overall area devoted to product display. The location of buildings, fueling canopy, and site access would be exactly the same as it was before, although the applicant now seeks to increase the number fuel dispensers from two to four.

In consideration of the request to expand the canopy and increase the number of fuel dispensers, staff has evaluated a modified site plan for the station (see Attachment B – Modified Site Plan). The modified plan identifies the location of the larger fuel canopy essentially in same location as that which the City Council approved, with the additional dispensers and larger canopy occupying previously occupied by two parking spaces adjacent to the Skyline Drive right-of-way.

Removal of these spaces from the project site plan is permitted by the Zoning Ordinance because up to fifty percent of the fuel dispensary parking spaces may be considered for inclusion in the required parking under a use permit, which, in the case of the current gasoline station would be four

parking spaces because the new canopy would provide eight total fuel dispensing positions. Where the project site plan approved in October identified 11 parking spaces, not including spaces beneath the station canopy used by patrons pumping gasoline, the current site plan includes nine spaces because the addition of four dispensing positions provides an additional credit of two spaces.

Canopy Design

The proposed design of the fuel canopy is the generally same as that approved by the City Council in October 2013, although the physical size of the canopy has been enlarged. Consequently, the canopy now is connected to and extends from the convenience store/auto repair building to near the Skyline Drive right-of-way. The Conditions of Approval for the gasoline station would be unchanged, although staff has proposed an additional Condition of Approval requiring architectural integration of the canopy to the convenience store/auto repair building.

Findings

Staff has found that the amendment of Use Permit UPR-7-13-7618 is in compliance with Title 17 (Zoning) of the Daly City Municipal Code. Approval of the amendment to the use permit would not be detrimental to the health, safety, morals, comfort and general welfare of persons residing in or working in the neighborhood, or be injurious or detrimental to the property and improvements in the neighborhood or the general welfare of the city. These findings are based on the following facts:

1. In accordance with Title 17 of the Daly City Municipal Code, as well as applicable State zoning enabling legislation, the City Council conducted a public hearing on March 10, 2014. Legal public notice of said hearing was provided by newspaper publication on Saturday, March 1, 2014, posting and via first class mailing to property owners within 300 feet of the site.
2. The City Council has reviewed the proposal under the requirements of the California Environmental Quality Act (CEQA) and has determined the project is Categorically Exempt per Section 15303 (New Construction).
3. The proposed project is consistent with Zoning Ordinance Chapter 17.44 (Use Permits) and Chapter 17.34 (Off-Street Parking and Loading).
4. The subject property is zoned C-1 (Light Commercial), which requires a use permit for service station uses and expansions thereof.
5. The proposed development is located within the Daly City Coastal Zone. The General Plan Coastal Element specifically cites the subject gasoline station as conforming the element to the Daly City Coastal Program and therefore the station's operation is a vital component of the Program.
6. In an effort to ensure the long-term viability of the station and maximize the potential for the station's owner to realize a successful business venture at this location, the City Council has approved a modification of Use Permit UPR-7-13-7618 to allow an increase in size to

the fueling station canopy and an increase in the number fueling dispensers from two to four;

7. The City Council furthermore desires to ensure the long-term viability of the gasoline station use on the subject property and has, for this reason, adopted Conditions of Approval intended to ensure that gasoline and visitor-oriented merchandise sales remain viable products offered for sale on the subject property.
8. The City Council finds that site visibility and general positive appearance from adjacent State Route 35 are imperative to the long-term viability of the gasoline station, and it is for this reason that the Council adopts specific measures intended to further ensure the economic life of visitor-serving uses on the property, as prescribed by the Coastal Element.
9. The City Council's imposition of limitations on the automobile repair and prohibition on truck rentals is intended to ensure that these secondary uses do not replace visitor-serving commercial uses (primarily gasoline sales), in contradiction with the Coastal Element.
10. The applicant has demonstrated a willingness, through the application now before the City Council and by accepting the attached Conditions of Approval, to operate the service station in a manner that will further the goals of the Coastal Element through continued operation of the gasoline station.

Revised Conditions of Approval (see **BOLD** text)

A. DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT

General

1. Within thirty (30) days of Council approval, the applicant shall file with the City Clerk a Declaration of Acceptance of all conditions. Until said declaration is filed, the project shall not be granted for any permits sought from the City.
2. If building permits are not issued and construction diligently pursued within one year of approval of the use permit approval, the use permit shall become invalid.
3. The applicant shall submit signage material details for review and approval by the Planning Division.
4. The Use Permit and Design Review shall be valid for a period of one year from the date of City Council approval. The approval shall terminate if a building permit has not been obtained and construction commenced within one-year of City Council approval of the project.

Operational Requirements and Restrictions

5. All new floor space shall be devoted to the retail sale of visitor serving goods and merchandise such as snacks, beverages, maps, and similar products. Deliveries to the service station shall occur during daylight hours only.
6. Truck and trailer rental operations and other similar uses that do not further the visitor-serving objective shall be prohibited at the site. Rental vehicle drop-off shall be prohibited.
7. Auto repair performed at the subject site shall be limited to automobile maintenance and minor repair such as oil changes, and tire, shocks, and brakes replacement involving same day service.
8. Outdoor overnight storage of vehicles shall be limited to two vehicles.
9. The use of the public right-of-way to store vehicles waiting for repair, or for any on- or off-loading of vehicles, for any duration, shall be prohibited.
10. Auto repair performed at the subject site shall only occur between the hours of 7:00 AM to 6:30 PM, Monday through Saturday, and from 9:00 AM to 4:00 PM on Sunday.
11. Auto repair shall occur in the interior repair bays only, i.e., not in outside parking spaces.
12. The number of vehicles on-site awaiting repair or pick-up shall not exceed four.
13. No vehicle shall be stored on site for more than five contiguous days.
14. Repair work shall be limited to vehicles with one-ton or less carrying capacity. Work on vehicles up to two tons may occur, but shall be limited to two such vehicles per week.
15. Repair of boats and other large vehicles shall be prohibited.
16. Washing any vehicle shall be prohibited.
17. The use of exterior lighting shall not result in adverse glare to adjacent residential neighbors. Should the Planning Division determine that exterior lighting is causing adverse glare, the applicant may be required to make adjustments to lighting, provide additional shielding to lights, or reduce or eliminate the use of certain lights to comply with this Condition.
18. The service station shall continually provide water and air pump dispensers to customers. These dispensers shall be relocated so as to provide easy access to at least one parking space on the site.
19. The service station shall continually provide functioning bathroom facilities to customers.

Building and Site Design

20. The applicant shall revise the project plans to identify the placement of a slurry seal over the entire parking lot. The seal shall not include work that results in the removal of existing asphalt surfaces. Once the seal is applied, the applicant shall restripe the lot in conformance with the approved parking lot layout.
21. The applicant shall revise the project plans to include the placement of a trash enclosure on the site. The enclosure shall be constructed from concrete (CMU is acceptable) with decorative cap, painted to match the building color, and shall receive a powder-coated metal door painted to match the building color. The capacity, design, and location of the structure shall be approved by both the Planning Division and Allied Waste Services prior to incorporation in the project plans that are submitted to the Building Division for permit issuance. The enclosure shall not displace required parking or landscaping.
22. The propane tank and existing Healy tank shall be painted to match the color of the service station building. The propane tank shall not stand upright and shall instead be arranged horizontally on the site.
23. The applicant shall replace the existing wood fence at the southern property boundary with a six foot masonry wall, except along the adjacent residential zone setback area (15 feet from front property line), where the wall shall be reduced to three feet in height. The wall shall be painted the color of the service station building on all sides, and shall receive a decorative cap. The proposed wall design, location, height, and painting requirements shall be identified in plans submitted for the service station building permit.
24. Any new rooftop mechanical equipment shall be completely screened from view in a manner acceptable to the Planning Division.
25. The applicant shall restripe the customer parking and sales lots in conformance with the approved parking lot layout. All parking spaces shall conform to the Daly City Zoning Ordinance parking dimensions. All parking spaces shall receive wheel stops.
26. The applicant shall develop a more-detailed landscape plan for the Westmoor Avenue and Skyline Drive street frontages. The landscape plan shall incorporate an irrigation system, be of a design quality to the City's satisfaction, and shall serve to increase the overall visibility of the station and gasoline pump island from SR35. All landscaping shall be installed prior to final building inspection.
27. **The applicant shall architectural integrate the canopy to the convenience store/auto repair building. At a minimum, the canopy shall provide the same architectural treatments such as body and trim color, veneer treatment, and similar design measures to architecturally unify both.**

Signs

28. All signs at the subject property shall receive sign permits and shall remain in conformance with the Daly City Municipal Code. Banners, streamers, balloons, and any other device intended to attract visual attention shall be prohibited. Box signs shall be prohibited, except where allowed on the monument and pole sign.
29. The monument sign at the Westmoor/Skyline Drive intersection shall be reduced to six feet total height.
30. All signs shall be architecturally integrated to match the building on the site. For example, the monument sign at the Westmoor/Skyline Drive intersection shall receive a solid base, with veneer and decorative trim and cap to complement the design of the new service station.
31. Illuminated wall signs above the auto repair bays shall be prohibited, as shall illuminated signs on the canopy south elevation.

Site Maintenance

32. The site shall be maintained in a safe, sanitary and litter free condition at all times.
 - a. No outside storage shall be allowed, except in the approved trash enclosure area.
 - b. Doors to the trash enclosure area shall be kept closed except when necessary to dispose of trash or to store material to be recycled.
 - c. The buildings and appurtenances shall be painted as often as necessary to maintain a weatherproof coating.
33. A maintenance plan for on-site litter control acceptable to the Public Works Streets Supervisor shall be submitted by the applicant and will include:
 - a. All sidewalks, walkways, driveways, parking lot facilities, and easements within and adjacent to the property, including weeds. The requirement shall not apply to adjacent State-owned highway.
 - b. All outdoor storage areas shall be screened from public view.
 - c. Garbage storage areas are to be kept sanitary and free of litter and debris.
 - d. During construction, litter and construction debris shall be put into closed containers at the end of each day. Subsequent to construction activity, all recyclable material shall be stored exclusively inside the recycling material enclosure area.

- e. The accumulation of trash in the garbage dumpster or located anywhere on the premises shall be removed and disposed of in a proper manner. Motor oil that has accumulated in parking stalls and driveway areas shall be cleaned as soon as possible to prevent oil from entering the storm drain system.

- 34. The applicant shall submit a site maintenance program that includes maintaining the sidewalk area in front of the business prior to the issuance of any building permits.

B. ENGINEERING DIVISION

- 35. The applicant shall upgrade to current standards the accessibility conditions of the site frontage, including primarily the ADA ramps at the Westmoor Avenue/Skyline Drive intersection, the sidewalk, and driveways.
- 36. All boundary line fences shall be on private property.
- 37. The project plans shall be revised to show correct location of right-of-way lines, including those of Caltrans and the City of Daly City. All work on City of Daly City right of way shall require a permit from City's Public Works Department.
- 38. The project shall provide on-site trash capture on a minimum of 90 percent of all storm runoff.

C. DEPARTMENT OF WATER AND WASTEWATER RESOURCES

- 39. All costs associated with any improvements required by the City as a result of this project shall be borne by the applicant.
- 40. The applicant shall verify the intent to abandon or reuse the existing sewer lateral. If the intent is to reuse, applicant must video inspect and perform a watertight test that is subject to review by DWW. A DWW representative shall be on site during the testing and televising. If the lateral is not to be used the lateral shall be abandoned per Section 02720, 3.08 of the City of Daly City Standard Specifications and Drawings. The abandonment shall be completed prior to any demolition of the previous building or construction of the new building. All costs associated with the testing, video inspection and abandonment shall be borne by the applicant.
- 41. The applicant shall verify the intent to abandon or reuse the existing water service. Only copper or ductile iron services shall be reused. If the intent is to reuse, applicant must provide evidence of the material type to DWW/Engineering. If the service is not to be used, the service shall be abandoned per Section 02710, 3.15 of the City of Daly City Standard Specifications and Drawings. The abandonment shall be completed prior to any demolition of the previous building or construction of the new building. All costs associated with the abandonment shall be borne by the applicant.
- 42. RP type backflow devices are required for all water services.

43. All costs associated with any improvements required by the City as a result of this project shall be borne by the applicant.

D. BUILDING DIVISION

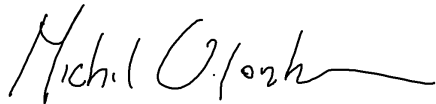
44. The applicant shall obtain the opinion of a licensed structural engineer to determine the structural integrity of the gasoline station canopy. The engineer's report shall be submitted to the City at the time of building permit and any recommendations identified in the report shall be incorporated into the plan submittal.

Recommended Action

Staff recommends that the City Council take the following actions:

1. Adopt the Findings as outlined herein;
2. Affirm the Environmental Assessment; and
3. Approve the Amendment to Use Permit UPR-7-13-7618, subject to the Findings and Conditions outlined herein.

Respectfully submitted,



Michael VanLonkhuysen
Interim Planning Manager



Tatum Mothershead
Interim Director of Economic and
Community Development

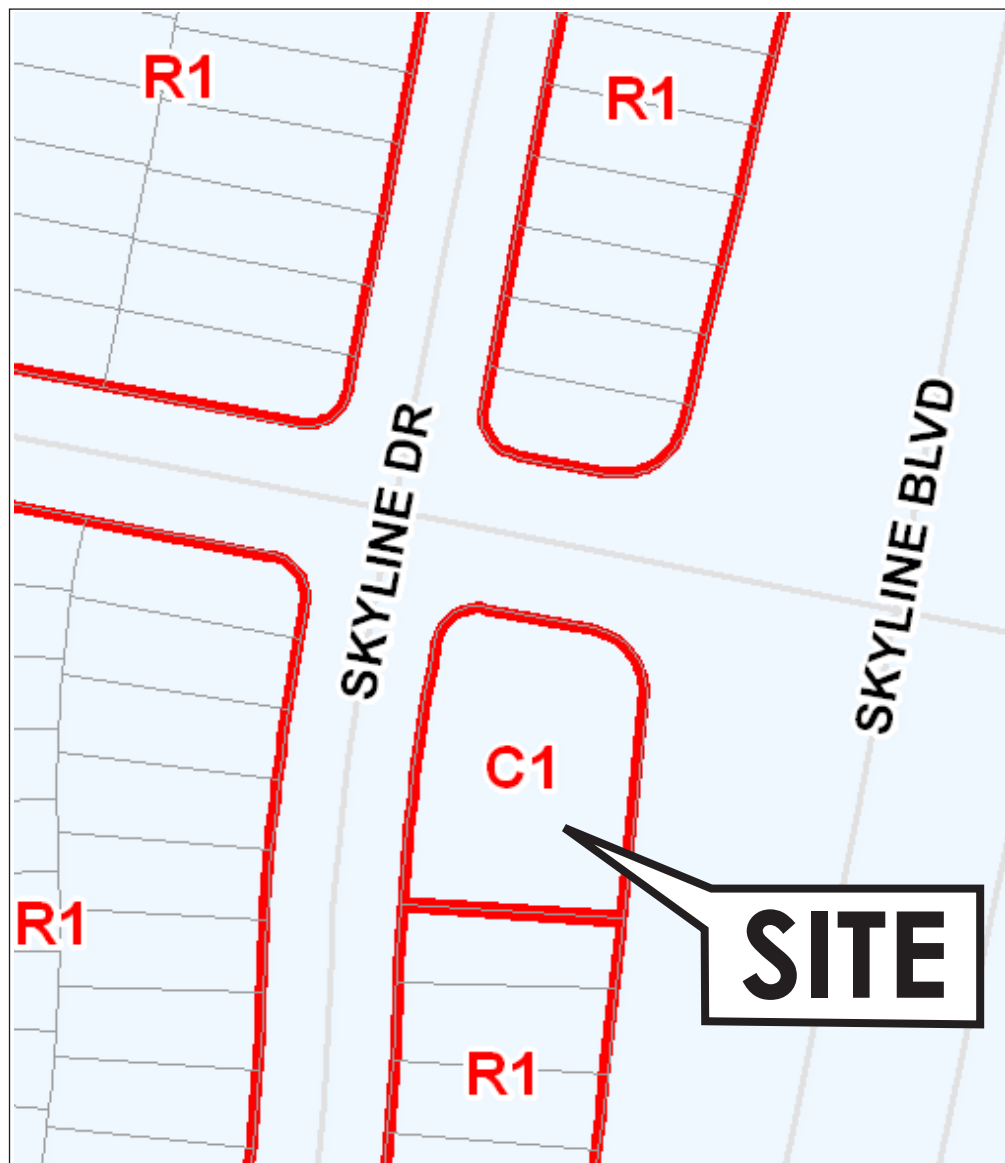
Attachments

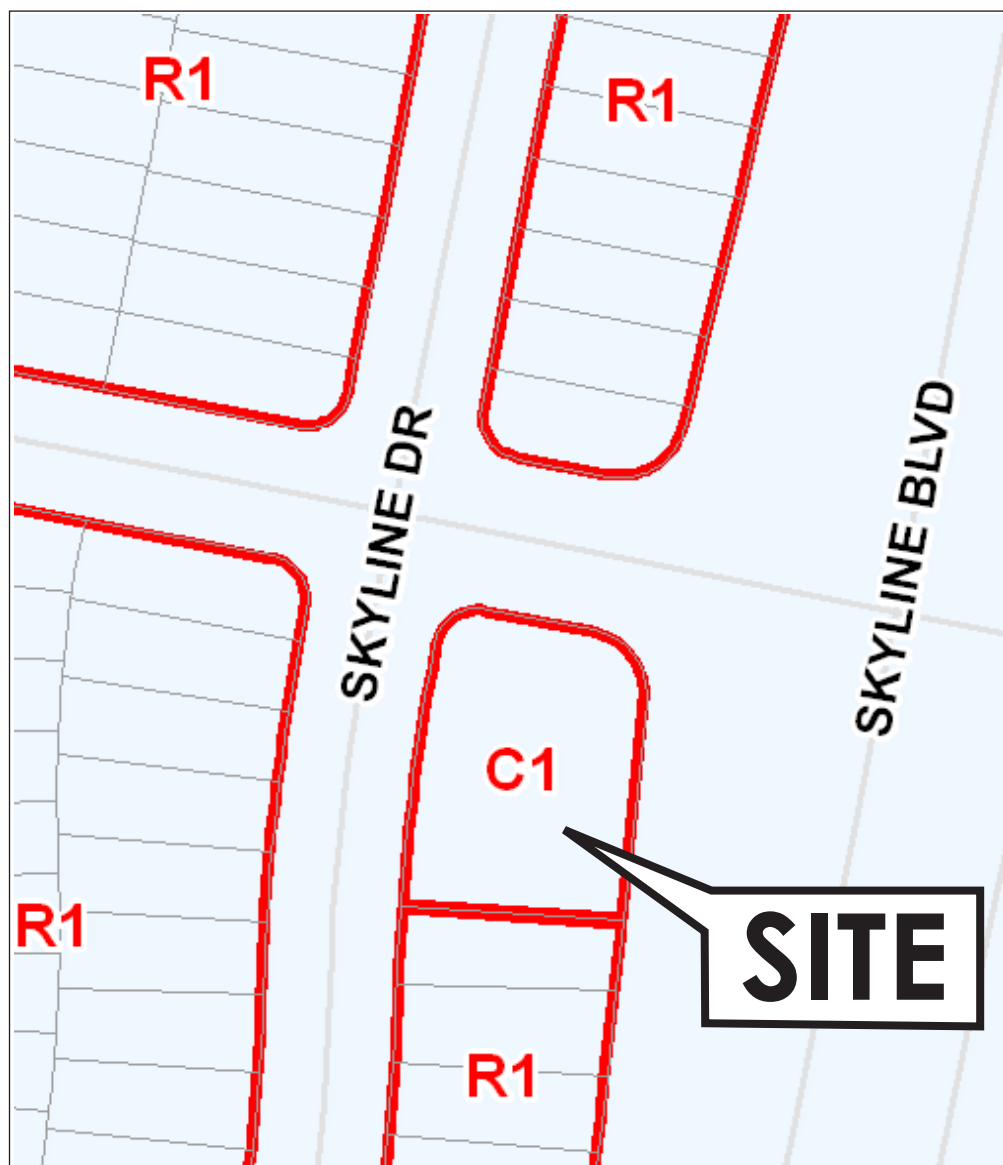
Attachment A – Location Map
Attachment B – Modified Site Plan

LOCATION MAP



Use Permit UPR-7-13-7618 and
Design Review DR-7-13-7619
505 Skyline Drive (APN 008-053-010)
Construction of new gasoline service station
City Council Review







Scale: 1/8" = 1'-0"



- ## PLANT MATERIAL LIST

SYMBOL	QUANT	BOTANICAL AND COMMON NAME	SIZE
SHRUBS			
S - 1	5	AZALEA (AZALEA SPP)	5 GALLON
S - 2	30	BOXWOOD (BUXUS GREEN BEAUTY)	5 GALLON
GROUND COVER			
G-1	AS REQ.	EVERGREEN CLEMATIS (CEANOTHUS CARMEL CREEPER)	1 GALLON



City Council Meeting Agenda Report

Item # _____

Meeting Date: March 10, 2014

To: Honorable City Council
From: Anna Mostella, City Manager's Office
Date: March 5, 2014
Subject: Council Committee Meetings, February 24 – March 9, 2014

Date of Meeting:

March 5, 2014

Meeting:

Inclusionary Housing Ordinance Update

In Attendance:

Michael P. Guingona
Sal Torres
Patricia E. Martel
Rose Zimmerman
Tatum Mothershead
Betsy ZoBell
Lenelle Suliguin

/am

DALY CITY INTER-OFFICE MEMORANDUM

DATE: February 26, 2014

TO: Housing Committee
Councilmembers Michael Guingona and Sal Torres

FROM: Betsy ZoBell, Housing and Community Development Supervisor

CC: Patricia Martel, City Manager
Rose Zimmerman, City Attorney
Kelly Schott, Assistant City Attorney
Tatum Mothershead, Interim Director Economic and Community Development
Lenelle D. Suliguin, Housing Coordinator

SUBJECT: Inclusionary Housing Ordinance Update

With the loss of redevelopment and reductions in State and Federal funding for affordable housing, Inclusionary Housing requirements are the City's most effective tool to create and preserve housing that is affordable to seniors and low to moderate income working households. The purpose of our meeting on February 26 is to discuss proposed changes to the City's Inclusionary Housing Ordinance that will strengthen the City's ability to address affordable housing needs.

Background

In 2007 The Council adopted an Inclusionary Housing Ordinance. The Ordinance requires that all new housing developments over a certain size contribute to the production of affordable housing by providing a certain percentage of deed-restricted units affordable to households of low and/or moderate income. The Ordinance also establishes an in-lieu fee that developers can pay, with the approval of the City Manager, as an alternative to the development of affordable units. As envisioned, in-lieu fees will be deposited to a reserve account and utilized by the City to subsidize the development of new affordable housing pursuant to City-defined goals and objectives relating to location, income targeting and tenure.

Legal Challenges

Since adoption of the ordinance two significant cases were decided which impact the regulatory options available for inclusionary housing. The first case involved a lawsuit filed by the Building Industry Association of Central California against the City of Patterson (*Patterson*) that challenged how that city applied and calculated an affordable housing in-lieu fee that had been provided for in a development agreement. The Patterson court analyzed the in-lieu fee as an impact fee rather than as a the cash-equivalent of satisfying a land use regulation (a traditional police power regulatory standard) and applied legal principles applicable to impact fees in

reaching its conclusion that the city had not shown a proper “nexus” between the amount of the fee and the impact of the project at issue. The decision in Patterson suggests that preparation of a traditional impact fee nexus study in setting the inclusionary fee levels is advisable.

The second lawsuit, filed by developer Geoffrey Palmer against the City of Los Angeles (*Palmer*), challenged Los Angeles’ affordable housing ordinance as it applied to development of market-rate rental housing units. The Palmer court held that Los Angeles was prohibited by State law from requiring a developer to set aside affordable units in market-rate rental projects that were not receiving, or requesting, any City assistance. This law does not apply to ownership housing projects.

In addition to the Palmer and Patterson decisions, several pending cases have implications for ownership housing development and raise questions about whether inclusionary requirements are an allowable exercise of the City’s police powers or whether they are an exaction under the Mitigation Fee Act. One in particular, *California Building Industry Association v. City of San Jose*, which currently is pending before the Supreme Court (Cal. S. Ct. No. S212072) suggests that fees charged for affordable housing purposes, should be based on an assessment of the affordable housing “burden” created by new development.

If the BIA prevails in the San Jose case, cities and counties considering the adoption or update of an inclusionary housing ordinance should be prepared to conduct a more thorough and expensive impact or nexus study. This study would need to document how the inclusionary housing requirements are reasonably related to minimizing the negative impacts of building new housing and that the requirements are not larger than necessary to address those negative impacts.

KMA Nexus Study

In response to these decisions and other pending cases, the City of Daly City retained the firm of Keyser Marston and Associates (KMA) to prepare a Residential Nexus Analysis to estimate and quantify the nexus between new residential development in Daly City and the new demand for affordable housing that would be caused by that new development. The Nexus Analysis identifies maximum supportable affordable housing impact fees (“fees”) for ownership units that ranged from \$34.11 per square foot for apartment units to \$21.27 per square foot for single family detached homes.

Table 1 summarizes the supportable impact fees for Daly City identified in the Keyser Marston analysis.

Table 1
Keyser Marston Housing Nexus Study
Supported Fee

	<u>Single Family</u>	<u>Townhome</u>	<u>Condominium</u>	<u>Rental</u>
Total Supported Fee	\$21.27	\$24.00	\$29.43	\$34.11

Source: November 2013 Draft Nexus Study prepared by Keyser Marston Associates

Discussion

The City's Inclusionary Ordinance can no longer require developers to provide affordable units within rental housing development. Therefore, it is recommended that the Inclusionary Ordinance be repealed, and replaced with an Affordable Housing Ordinance that establishes an impact fee for rental housing development. The impact fee should be based on the KMA study.

Despite the court decisions described previously that impact inclusionary housing requirements on new rental projects, cities can still require affordable housing to be constructed within new ownership housing projects or allow impact/in-lieu fees on those types of units instead. In light of pending lawsuits, however, staff recommends that the City's Affordable Housing Ordinance should stipulate that fees paid by developers of ownership housing are based on the Nexus Analysis.

The recommended revisions to the Inclusionary Housing Ordinance and the corresponding Impact Fee Schedule Resolution will ensure that the Ordinance is legally defensible and is based on a proper nexus between the amount of the impact fee charged and the cost of providing affordable housing in Daly City.

Table 2 shows the impact fee levels that staff recommends should be reflected in the proposed Impact Fee Resolution. These fees are approximately 75 percent of the amount supported by the KMA study. They are less than the amount a developer would currently pay if they paid an in-lieu fee under the City's existing ordinance. The proposed fees are roughly consistent with adopted impact fees in surrounding Bay Area cities.

Table 2
Recommended Affordable Housing Impact Fees

	<u>Single Family</u>	<u>Townhome</u>	<u>Condominium</u>	<u>Rental</u>
Fee Per Square Foot of New Development	\$14 psf	\$18 psf	\$22 psf	\$25 psf

Additional recommended revisions would ensure that the Ordinance is consistent with the City's larger affordable housing goals, preserves long term affordability and results in the production of housing that meets the needs of Daly City's low and moderate income households. The proposed revisions include:

1. Rental developments are no longer required to provide affordable units. They are required to pay the fees described in the Impact Fee Resolution.
2. Ownership developments are required to provide affordable units. Developers of ownership housing may propose the payment of an impact fee as an alternative. Approval of this alternative is subject to the City Manager's approval.
3. Developers will no longer be given a choice between providing 10 percent of the units affordable to households at 60 percent of area median income or 20 percent of the units affordable to households at 100 percent of area median income. In light of concerns over the marketability and sustainability of ownership housing targeted at 60 percent AMI, all affordable ownership units provided under the Inclusionary Ordinance will be affordable to households at or below 100% AMI.

Conclusion

The Ordinance is critical to the City's production of affordable housing, both by allowing the construction of affordable units concurrently and contiguously with market rate units, and by allowing for impact fee payments which can be significantly leveraged (an average of 1:7) towards the development of subsidized projects that are 100% affordable. Both contributions are valuable.

The adoptions of these revisions to the Ordinance will allow the City to be prepared to act on rental project applications, to meet the most recent legal requirements and still support production of affordable housing.

Recommendation

Staff recommends that the Committee forward a recommendation to the City Council to repeal the existing Inclusionary Housing Ordinance and adopt an Affordable Housing Ordinance and Impact Fee Resolution based on the Keyser Marston Nexus Study.