



PORT OF OAKLAND

Notice of Determination

FOR

Variance from the Setback Requirement

111 Hegenberger Road (8520 Pardee Drive), Oakland, CA

Determination: The hearing resulted in a decision to grant a variance of up to 18 inches from the property line on the north side adjacent to the Harley Davidson property. This decision is on condition of final approval of the landscape and fence treatment along the building facing the adjacent property by that property owner. The variance will become final once a final permit is issued for the full site Development Permit.

Appeal: The decision is subject to appeal for 14 days. Contact Joe Marsh or see website for procedure. The appeal period ends on October 9 at 5:00 pm.

Project Applicant: Raymond Gallagher for 8520 Pardee Dr. LLC

Project Location: 8520 Pardee Drive, will change to 111 Hegenberger Road.

Project Description: The project Applicant proposes to construct three new buildings on the former Francesco's Restaurant site at the corner of Pardee Drive and Hegenberger Road. Two commercial "flex" buildings and one warehouse "flex" building are proposed for a total of approximately 47,000 square feet. The L-shaped site is approximately 3 acres.

The Applicant proposes to construct one of the commercial buildings within one foot of the north property line. The Applicant states that the shape of the lot and requirement for parking requires that the building be placed close to this property line, which is shared with the Harley Davidson dealer to the north. They propose landscaping on the north side of the new building to mitigate this variance.

Public Hearing: A hearing was held at 1:30 pm on Monday, September 25, 2017 at the Port offices located at 530 Water Street. The meeting was attended by: Richard Sinkoff, Permit Hearing Officer; Joe Marsh, Port Permit Coordinator; Colleen Liang, Port Environmental Supervisor; Liz Gallagher, Applicant/Property owner; Steven Hanson, Applicant Representative; Jess Bettencourt, Harley Davidson; Mike Genthner, Harley Davidson.

Justification: The hearing officer found that the evidence supported the request for variance from the Land Use and Development Code (LUDC, Port Ordinance No. 3760), Section 3.1 to reduce the setback along the north property line from 10 feet to 1.5 foot. The Applicant requested a 1-2 foot setback. By allowing a 1.5 foot setback, we do not negate the possibility of granting the neighbor the same variance, which would result in a 3 foot separation between buildings. There is no such request from the neighboring property owner at this time, and this decision has no impact on future consideration of any variance request. It is made solely in consideration of Finding #2 required under the ordinance.

The Application states that the setback reduction is necessary to allow for parking space and circulation between two buildings, with buildings having adequate depth to be useful to target retail/commercial tenants. This portion of the site is narrow, and has two "front" setbacks of 20

feet each because it is a corner site. A similar site with only a Hegenberger frontage would have two side setbacks totaling 20 feet. For this site, the two property lines perpendicular to Hegenberger will total 21.5 feet of setback.

Representatives of the Harley Davidson property attended the meeting. They have concerns about security, access, and the final landscaping, but they have met with Mr. Gallagher and are confident that the project will meet their needs. Special Condition #1 addresses this concern.

Special Conditions:

1. A detailed plan of the reduced setback area must be approved by the Permit Coordinator prior to final approval of the building permit. Such plan will include a planting plan, an irrigation system, and a maintenance plan. The applicant shall obtain sign-off from the neighboring property owner prior to final Port approval.
2. The Applicant must obtain approval for the Port Development Permit for the entire project, including all required permits from other agencies to validate the variance approval. The final Permit will address

Findings:

1. That because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of this Code will deprive such property of privileges enjoyed by other property in the Business Park within the same area of land use designation, as shown in Figure 2.1 in the LUDC;

Because the site is on the corner, and the opposite property line is considered a "front" property line requiring a 20 foot setback, the property owner cannot effectively utilize the site without a variance.

2. That granting of the variance will be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the Business Park within the same area of land use designation, as shown in Figure 2.1 in the LUDC; and,

The Applicant agrees to make improvements in the reduced setback area to mitigate the variance from the neighboring property, as agreed by the Permit Hearing Officer.

3. That granting of the variance will not authorize a use or activity, which is not otherwise allowed within the applicable land use designation of the Business Park.

The use is part of the Permit approval required under Special Condition #2..

4. The proposed variance will neither interfere with the operations of Oakland International Airport nor enable the establishment of uses that may be incompatible with the potential imposition of noise, light, smoke, air currents, electronic or other emissions, vibrations, discomfort, and/or inconvenience resulting from airport operations.

This condition will be considered under the Development Permit.

5. The Port has attached such conditions to approval of the variance as it deems reasonable or necessary to achieve the purposes of this Code, to reduce or to mitigate environmental impacts, and to address the project's anticipated burden on the Business Park and the Port, and which otherwise promote the health, safety, and welfare of the surrounding community.