




**PORT OF OAKLAND**

**MEMO**

**BY:** Joe Marsh, Port Permit Coordinator   
**DATE:** November 1, 2017  
**SUBJECT: PORT PERMIT COORDINATOR DECISION  
for Work on Private Property**

The Port of Oakland (Port) Permits Section staff and Environmental Programs and Planning staff have reviewed the subject Port Development Permit Application. We find the proposal meets the applicable standards of the "Port of Oakland Land Use and Development Code (LUDC) for the Oakland Airport Business Park". Detailed analysis and findings are set forth below.

Port Permit No: 5147  
Permit Applicant: Raymond Gallagher  
Tenant: Hegenberger Business Center, previously Francesco's Restaurant  
Property Owner: Raymond Gallagher  
Project Location: 111 Hegenberger Road / 8520 Pardee Drive, Oakland  
Environ. Assessment: Categorically Exemption

### **Project Description**

The project site is located in the southwestern portion of the City of Oakland (City), in the vicinity of Oakland International Airport and Interstate 880 (I-880). The address of the proposed project is 111 Hegenberger Road, formerly 8520 Pardee Drive, Oakland, CA.

The project Applicant proposes to construct three buildings (A, B and C) on the site. The property is an L-shaped corner site, wrapping around the Harley-Davidson site to the north. The rear of the site abuts the site of the new hotel under construction at 195 Hegenberger Road. The proposal is to make a new driveway off Hegenberger Road with a one-way driveway between Buildings A and B, adjoining a two-way driveway circling Building C with two existing driveways to Pardee Drive. Buildings A and B have their long axes perpendicular to Hegenberger, with entrances facing the one-way driveway and parking between them. Building C has its long axis perpendicular to Pardee Drive, with parking on three sides.

Buildings A and B are intended for retail use, divisible up to 4 units each. Building C is intended for warehousing, distribution, or light manufacturing, and may include retail. The approximate square footages for each building are: Building A-11,170, Building B-8,600, Building C-32,450. The total square footage of 52,220, on approximately 3 acres yields an FAR of approximately 0.38. The building height is approximately 20 feet, with a clock tower on the corner of Building A at about 44 feet high. The site is planned for 125 parking spaces, including 49 compact and 5 accessible. All buildings will have stucco or similar exteriors with window shades, entrance awnings and other façade articulation. The street frontages along Hegenberger and Pardee will have similar façade articulation, and a clock tower at the corner of Pardee Drive and Hegenberger Road. The north side of Building B, facing the Harley-Davidson site, will be set back 18 inches from the property, and have trellises with plantings, subject to variance approval

and findings made on August 24, 2017. A new driveway cut is proposed from Hegenberger Road, subject to City of Oakland approval, that will provide entrance only access to the site. This driveway will continue to the rear portion of the site, and connect to two existing curb cuts on Pardee Drive.

Building C is to be constructed in the rear of the L-shaped site, with public entries on the east side, with roll-up doors and employee access on the west side. The building is 6 proposed full-depth units, with the possibility of dividing the end unit nearest Pardee Drive into two units with entries facing Pardee. This building is proposed with higher ceilings to accommodate mezzanine space if the tenant desires.

Site improvements include landscaping throughout, with some landscaping to accommodate required post construction stormwater control systems. A trash enclosure will be constructed on the west property line. New sidewalk will be installed along Pardee Dr. to connect with Hegenberger Rd. and the adjacent Pardee Dr. sidewalks. An art piece is proposed on the corner between the building and sidewalk. Buildings A and B are set back 20 feet from the property lines along the streets. This area will be landscaped and could provide outdoor seating for the project.

### **Surrounding Area**

The project site is located within the Oakland Airport Business Park, Commercial Corridor. Hegenberger Road is a commercial corridor leading to Oakland International Airport. The project site is also within the Coliseum/Hegenberger Planning District of the Coliseum Area Redevelopment Project Area established by the City of Oakland in 1995, and expanded to a total of 6,764 acres in 1997. The site is adjacent to the motorcycle dealer on Hegenberger Road to the north, and a new hotel under construction on an interior lot, also on the north side. West on Pardee Drive is the Comcast facility. The site is at the entrance to the area known as the "Distribution Center", with a number of larger facilities for warehouse and distribution along Pardee Dr. and Swan Way.

### **Land Use Analysis (from LUDC Section 2)**

The project site is located within the "Port Area" of the City of Oakland, and within the Commercial Corridor of the Oakland Airport Business Park, originally established by Port Ordinance No.1343 by the Board of Port Commissioners in 1966. Development in the Business Park is currently regulated by the "Port of Oakland Land Use and Development Code (LUDC)", adopted by the Board of Port Commissioners on June 2011. Buildings A and B of the project are for a mixed-use retail or restaurant, which are allowable uses under the LUDC at this location. Building C may be retail, but is also proposed for warehouse, general wholesale, distribution, and manufacturing. These uses are allowed per LUDC Section 2.2, paragraph 3: "Uses permitted in the Business Park Interior will be permitted in the Commercial Corridor where the proposed use is set back a minimum of 200 feet from Hegenberger..." Building C is at least 250 feet from Hegenberger Road. All tenants are subject to use consistency findings prior to occupation of the site.

City of Oakland Zoning requirements do not apply. The discussion of City Zoning requirements in the CEQA document is for the purpose of comparison only. Only the LUDC and General Plan (including the Coliseum Area Specific Plan) requirements are binding.

### **General Plan Conformity**

By approval of this permit, the Port makes a determination that the project conforms to the City of Oakland General Plan, including the Land Use and Transportation Element and the Coliseum Area Specific Plan. Detailed findings are part of the CEQA analysis in Attachment 2, pp 14-15. The final determination will be forwarded to the City of Oakland Planning Director for concurrence.

### **Findings (from LUDC Section 5.5)**

The Port approves this application for a Development Permit, as submitted, with the following findings:

1. The proposed project will not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons working, visiting, transiting through the Oakland Airport Business Park or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City. In fact, the existing building is potentially detrimental to the health and safety of the community in its current condition.
2. The proposed project is consistent with the City of Oakland's General Plan.
3. The proposed project complies with provisions of the LUDC.
4. The proposed project has been adequately evaluated under the California Environmental Quality Act (CEQA), see below for further details.
5. The proposed project has been approved, or has a reasonable chance of being approved, by all outside agencies having jurisdiction over the project, including, but not limited to: the City of Oakland, Bay Conservation and Development Commission, Federal Aviation Administration, San Francisco Bay Regional Water Quality Control Board, Alameda County Airport Land Use Commission, Alameda County Public Health Department, and the California State Lands Commission.
6. The proposed project 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 at Oakland International Airport.
7. The Port has attached such conditions to issuance of the Development Permit as it deems reasonable or necessary to achieve the purposes of the LUDC, to reduce or to mitigate environmental impacts, and to address the project's anticipated burden on the Business Park and the Port, and which conditions otherwise promote the health, safety, and welfare of the surrounding community.
8. The project is consistent with the purposes, use restrictions and development and design standards established by this Code for the Commercial Corridor area.

### **Environmental Findings**

The Port is the Lead Agency under CEQA, having land use jurisdiction over the Oakland Airport Business Park. The project boundaries are located in a developed area, and improvements will be made to an existing facility that was formerly used as a restaurant. The Port finds that this project is Categorical Exempt pursuant to CEQA Guidelines under Section 15332, Infill Projects. The findings summarized below are detailed in Attachment 2.

**Class 32 Categorical Exemption.** Pursuant to Public Resources Code Section 21084 and State CEQA Guidelines Section 15332, a Class 32 Categorical Exemption applies to infill development projects that meet the following criteria:

- Are consistent with applicable general plan policies and zoning designations
- Occur within a project site smaller than five acres and are substantially surrounded by urban uses
- Have no value as habitat for endangered, rare or threatened species
- Would not result in any significant effects relating to traffic, noise, air quality, or water quality
- Are located on a site that can be adequately served by all required utilities and public services

The analysis presented in the attachment provides substantial evidence that the Project qualifies for an exemption under CEQA Guidelines Section 15332 as a Class 32 urban infill development, and would not result in any new significant effects on the environment. In addition, none of the specific exceptions to CEQA categorical exemptions (CEQA Guidelines Section 15300.2) is applicable to the Project. Therefore, no further review or analysis under CEQA is required.

**SUSTAINABILITY:** The applicant will apply sustainability measures as possible for the project, including post construction controls for stormwater, compliance with the CA Green Building Code and the Oakland Construction Debris Recycling Ordinance. The Applicant plans to evaluate the potential for solar energy generation on site, and may add it to the project.

### **Permit Conditions**


1. All conditions of approval shall be printed on the final permit set of plans.
2. The project shall conform to Port-stamped approved plans, including the conditions of approval, unless otherwise approved by the Port. The applicant is responsible for including all details agreed upon, or conditions made by the Port, during the approval process. Failure to include any such details will not exempt the applicant from the Port for any changes prior to construction.
3. Each tenant will be subject to a use consistency determination prior to occupancy, and must obtain a City of Oakland Business License as required under the Municipal Code.
4. The applicant shall meet all conditions and requirements of all outside agencies having jurisdiction over the project, including but not limited to: the City of Oakland, San Francisco Bay Conservation and Development Commission (BCDC), Federal Aviation Administration, San Francisco Bay Regional Water Quality Control Board, Alameda

- County Airport Land Use Commission, Alameda County Public Health Department, and the California State Lands Commission. The applicant shall report any conflicts with Port requirements to the Port prior to construction. Any such conflicts must be resolved by the applicant to the satisfaction of the Port and the outside agency involved.
5. The applicant shall provide copies of authorizations or permits from agencies noted above.
  6. The Project Applicant shall obtain, at the Project Applicant's expense, all City of Oakland building permits required for the Project.
  7. The Project Applicant and the Project Applicant's contractor shall construct the Project according to the plans approved under Port and City permits. Modifications made to comply with City of Oakland permit requirements shall be subject to verification of compliance with Port permit conditions prior to the start of construction.
  8. The Project Applicant shall maintain the Project site in a clean and orderly condition during the entire term of the Development Permit. If there is a work stoppage at any time after construction has commenced for a period of more than 30 days, the Project Applicant shall secure any completed or uncompleted work and remove or screen any stored materials. The Chief Engineer of the Port may provide a 30-day notice and order to the Project Applicant to comply with this condition. If the Project Applicant fails to comply during that time period, or fails to present and implement an acceptable plan for compliance, the Port maintains the right at Port's discretion, to complete the necessary work and bill the Project Applicant for all related costs, or impose reasonable fines for violation of this condition of approval and/or the Port Chief Engineer's order. Any such fine shall be reasonably related to the nature of the violation and/or the cost to correct.
  9. To the maximum extent permitted by law, the Project Applicant shall defend, hold harmless, and indemnify the Port and its respective officers, agents and employees (whether the action is on behalf of the Port, or otherwise) (the "Indemnified Parties") against any and all liability, damages, claims, demands, judgments or other losses (including, without limitation, attorneys fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from, or caused by, any action or approval associated with the Project. This indemnity includes, without limitation, any legal or administrative challenge, referendum or initiative filed or prosecuted to overturn, setaside, stay or otherwise rescind any or all approvals granted in connection with the Project, any environmental determination made for the Project, and granting any permit issued in accordance with the Project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs as used herein shall include, without limitation, any attorney's fees, expert witness and consultant fees, court costs and other litigation fees, Port Attorney time and overhead costs, and other Port Staff overhead costs and normal day-to-day business expenses incurred by the Port ("Litigation Expenses"). The Indemnified Parties shall have the right to select counsel to represent the Indemnified Parties, at the Project Applicant's expense, in the defense of any action specified in this condition of approval. The Indemnified Parties shall take all reasonable steps to promptly notify the Project Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval.
  10. The Applicant shall comply with stormwater quality requirements, including Post Construction Stormwater Control measures and the Port's Stormwater Ordinance.

11. The Applicant shall comply with all terms and conditions of the setback variance approved for the project.
12. The Applicant shall agree to comply with any other conditions added by the Permit Coordinator as well as any other conditions listed in the LUDC not otherwise listed here.
13. The Applicant shall record an avigation easement prior to occupancy of the project.

**RECOMMENDED:**

Environmental Programs  
and Planning:

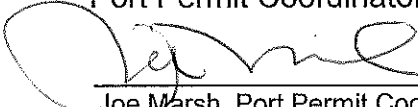
  
Colleen Liang, Port Environmental Supervisor

Date: 11/1/2017

**DECISION:**

Port Permit Coordinator:  Approve

Deny

  
Joe Marsh, Port Permit Coordinator

Date: 11/1/17

**Attachments:**

- Attachment 1 – Project Site Plan and Elevations
- Attachment 2 – Hegenberger Business Center Project, CEQA Analysis, October 2017
- Attachment 3 – Notice of Determination for Variance