

SUPPLEMENTAL

COUNCIL AGENDA: 11/29/2011
ITEM: 4.5



Memorandum

TO: HONORABLE MAYOR AND
COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: November 21, 2011

Approved

Date

11-21-11

COUNCIL DISTRICT: 3
SNI AREA: Five Wounds/
Brookwood Terrace

SUPPLEMENTAL

SUBJECT: PUBLIC HEARING ON THE APPEAL OF THE PLANNING COMMISSION'S CERTIFICATION OF THE FINAL ENVIRONMENTAL IMPACT REPORT FOR MOE'S STOP GAS AND SERVICE STATION AND ON THE APPEAL OF THE PLANNING COMMISSION'S APPROVAL OF THE CONDITIONAL USE PERMIT, FILE NO. CP11-049.

REASON FOR SUPPLEMENT

This supplement transmits a letter to the Council that I sent to the law offices of James M. Dombroski regarding the Moe's Stop Gas and Service Station. For the benefit of the Council, the attached letter documents that no improvements were made in the right-of-way for a driveway as alleged by Mr. Dombroski at the Planning Commission hearing of November 2, 2011.

/s/

JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

For questions, please contact John Davidson at 408/535-7895.

Attachment

November 7, 2011

Law Offices of James M. Dombroski
Attorney at Law
P.O. Box 751027
Petaluma, California, 94975-1027

Re: City File No. CP11-049 (formerly CP09-115)
Final EIR for Moe's Stop Gas & Service Station

Dear Mr. Dombroski:

This letter is pursuant to your letter dated November 1, 2011 and your testimony at the Planning Commission on November 2, 2011 that the applicant had constructed improvements for the driveway. As I stated at the Planning Commission meeting that evening, I would dispatch Code Enforcement staff to assess the situation and pursue enforcement if the applicant had constructed the driveway improvements. As you remember, the driveway was specifically not approved in the ministerial approval the City gave the applicant to complete minor site items not directly associated with expanding the gas station.

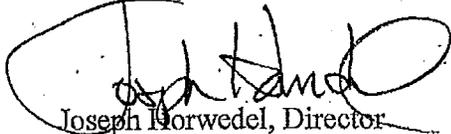
Because the meeting finished early, I personally drove to the site that evening and assessed if driveway improvements were constructed. I verified personally that NO improvements were made in the right of way for a driveway. The on site pavement was in place as has been in place for quite some time; a barricade was in place with a Road Closed sign.

The existing curb, gutter and sidewalk improvements at the site as viewed that evening appear to be the same improvements that existed months ago before the City approved those minor ministerial improvements. While persons may have chosen to drive across the curb onto the site, or even through the previous small off set driveway, those were not prohibited activities and did not occur on a newly constructed driveway.

Mr. James M. Dombroski
November 7, 2011.
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As a result of my personal field verification that evening, I can find no violation of approvals from the City and the City will not be opening a complaint for the issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph Horwedel", written over a large, stylized circular flourish.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Cc: City of San José Planning Commission
Renee Gurza, City of San José Attorney's Office
SHIRAZI AMIR ET AL