

From: [Jay](#)
To: [ANDREW THOMAS](#); [Kathleen Livermore](#)
Subject: Owner's response to August 2, 2016 petition re 1200 Park Street
Date: Tuesday, November 15, 2016 12:06:52 PM
Attachments: [Photos - Parking 10-19-16 2pm lores r.pdf](#)
[Photos - Parking 10-24-16 9-30am lores r.pdf](#)
[Photos - Parking 10-28-16 1pm lores r.pdf](#)

Planning Board,
City of Alameda

November 14, 2016

Ladies and Gentleman,

We were recently informed that a petition had been submitted by residents of Alameda on August 2, 2016 regarding the business activities at 1200 Park Street/2407 San Jose Avenue. We're writing now to respond to the concerns raised in that petition.

The petition suggests that the property is too small for "this type of business ". That would imply that such a business could not be successful in the long run. In response, we would simply remind everyone that the business in question has been operating successfully at this location for nearly thirty five years. The site is clearly not too small for "this type of business".

As the City undoubtedly recalls, this, and related issues, were addressed by the planning board in hearings held in 2015 in response to a similar petition, and a grace period of sorts was granted by the City to provide an opportunity for the business to address any perceived problems related to the offsite parking of vehicles and other elements of the Conditional Use Permit that has been in effect since 1989. No previous complaints have been presented to the City nor have been aired before the Planning Board. We would remind interested parties, including City staff and members of the Planning Board, that our tenant has availed himself of the grace period and acquired an additional property where vehicles can be parked if and when needed and is, therefore, in compliance with the element of the CUP currently under discussion.

The petitioners, again this year, suggest that "...overflow parking needs would impact the surrounding neighborhood". We interpret this to mean that they are concerned that while there quite clearly isn't an impact now there may be one in the future. We, however, do not see any reason to expect that there will be an impact, either positive or negative, on the neighborhood resulting from the business activities at 1200 Park Street as neither the petitioners nor we have been able to demonstrate any evidence that there is currently any impact on the neighborhood beyond what would normally be expected in a residential area that abuts on a commercial district, such as those adjacent to the businesses on Encinal Avenue, Lincoln Avenue, Webster Street, and elsewhere in the City. Furthermore, given that the business in question has been operating on the site for some thirty five years without any ongoing or currently demonstrable negative impact on the neighboring residential area, we do not have any reason to believe that there is likely to be any such impact in the future. It is also noteworthy that there have been automotive related activities at this site now for some ninety years.

As owners of the property we can't directly control our tenant's activities. We can, however, monitor them. And what we've observed over the ensuing eleven months following the 2015 hearing was that there was, in fact, minimal, if any, impact related to the availability of parking in the

few blocks surrounding the business that could even remotely be attributed to the business activities in question. We would also point out that neither the previous petitioners nor the City staff have documented any adverse effect on parking availability. All parties who participated in the 2015 hearings, including the Planning Board itself, apparently relied on anecdotal complaints submitted without providing or requiring supporting documentation.

Because no documentation was presented at either the previous hearing or with the current petition, we have endeavored to investigate and document our observations which have been made randomly over the past months and more frequently over the three or so weeks since we received notice of the petition. As documentation of our observations we are now submitting copies of just a few of the numerous photos which clearly show the presence of ample empty parking spaces in the adjacent neighborhood. These were taken on different days of the week, but always during the business hours at 1200 Park Street. And what we've observed and documented is that there have been anywhere from fifteen to more than twenty-five available unmetered spaces on Park Avenue and on San Jose between Park Street and Regent Street during our recent surveys of the area. In addition to these there were empty metered and unmetered spaces on Park Street and across Park Street on San Jose. As noted, we concentrated our attention along the two sides of Jackson Park (Park Avenue) as well as on San Jose and on Park Street. We observed available marked, unmarked, and/or metered spaces on each of the streets.

We've focused our attention on this issue more closely during the past few weeks since the recent petition came to our attention in early to mid-October. And while we're sympathetic to our neighbors' concerns it appears to us that their suggestion that the availability of parking spaces is being negatively impacted by the adjacent business activities is without merit.

The City should recognize that the residents on Park Avenue across from Jackson Park have access to more than twice as many parking spaces as virtually any other resident of the City in that they have parking spaces available to them, not only on their own side of the street, but also across the street along the park which is further enhanced by the absence driveways which exist on their own side of the street. And we believe further that there are precious few Alameda residents who have the benefit of having a more than doubled availability of parking spaces in immediate proximity to their homes and apartments.

Addressing another point mentioned by the petitioners, we would point out that any potentially hazardous materials related to the business activities at 1200 Park Street are handled and removed according regulations. This is accomplished by contracting with appropriately licensed third parties as is the case with dry cleaners and other businesses that may use and/or produce similarly regulated substance as they engage in their normal business activities.

To summarize the above, we do not agree with the petitioners that there is, in fact, any documented significant negative impact on their neighborhood resulting from the business activities at 1200 Park Street.

We would next like to address the Conditional Use Permit that was put in place in the 1980s. It is our understanding that this was intended to permit the business activities to continue at 1200 Park Street after the City imposed a more restrictive zoning ordinance on the neighborhood. We believe that it was entirely reasonable for the City to grandfather these activities which had been in practice there since the mid-1920s. And we believe it is reasonable to continue to grant this exception to the changes in zoning that the City has made over the past many years.

We note, however that what may be the most significant element of the CUP that of the requirement to lease offsite parking, is unique, as far as we've been able to determine, to this one Alameda business site. We note further that as mentioned above, the tenant has acquired additional property, as required, for potential use if the need for offsite parking becomes apparent.

It appears that such burden has not been attached to any other business permits in the City, let alone those of other automotive related businesses operating immediately adjacent to residential neighborhoods. And while some, if not all, of these other businesses apparently park vehicles in the neighboring residential areas, none has been required to discontinue this practice and obtain offsite property for vehicle parking.

The same requirement to obtain offsite parking might just as reasonably be applied to all of the merchants along Park Street, Webster Street, and elsewhere in the City. Is the City not concerned about the welfare of the residents of these other neighborhoods that must certainly be impacted by the parking of employee's and customer's vehicles that can't be accommodated by using the metered spaces located in front of these business? And while many would consider this to be an extreme solution to the problem of limited parking in our commercial areas it does highlight the unique nature of the burden placed on one single business owner in the City, the owner of the business operating at 1200 Park Street. It would seem equitable and fair to give parity to this site, particularly when there is no demonstrable evidence of a negative impact related to parking.

Besides, it is our understanding that since the owners of the business currently operating at 1200 Park Street have acquired additional property where overflow parking is available if and when needed that they are in compliance with this major condition of the CUP. And thus, as we've documented in the discussion above there is, in fact, no negative effect on the neighborhood related to the parking of vehicles, we would ask the Planning Board to address this condition and we suggest that it's time to remove this unique burden from the permit. Not only do we think that it would be appropriate to remove it as it appears that there is not now, and probably never has been, a negative impact related to the parking of vehicles by our tenant at 1200 Park Street, but we submit that it shouldn't have been part of the CUP in the first place.

On a more general note, we'd like to point out that as long time residents of Alameda we, too, are concerned with the impact that business activities and increasingly dense housing have on surrounding neighborhoods. And on a personal level, we recall the time when several of us lived in the apartments across the street from the gas station that was formerly on this corner. And we remember climbing the trees in Jackson Park when we visited our grandparents who built their home on Park Avenue in the 1930s and lived there for the next fifty years.

We would also like to share our observation that not only did our grandparents contribute to the prosperity of Alameda by investing in it and raising their family here, they were vocal opponents to the proposed destruction of the texture of Park Street that was promulgated by a handful of local business people who sought to impose Federally funded redevelopment on Alameda in the 1960s. We believe this demonstrates our families long standing support for preserving the classic atmosphere of the City's business districts in general and Park Street in particular.

In summary, we believe we've shown that there is, in fact, no negative impact on the neighboring residential community related to parking availability or to the minimal presence of materials classified as hazardous. We believe that the requirement to lease offsite parking is not only unnecessary, but is unfairly applied as it is unique to our property. And finally, we note that the automotive related activities on the site haven't changed significantly over the past ninety years. In fact, there is less impact given that gasoline is no longer dispensed there. To the best of our knowledge there was never a question of compliance with the regulations on the part of the businesses operating there until someone changed the rules. And even after the rules were changed in the 1980s the City had not considered it necessary to evaluate the business's activities which had changed only minimally, if at all, until a petition was filed more than thirty years later. And now we believe we've demonstrated that the concerns voiced in the petition lack demonstrable, let alone significant, merit.

In view of these observations and the discussion of the facts presented above, we respectfully request that the Petition be denied and request further that the burdens imposed by the Conditional

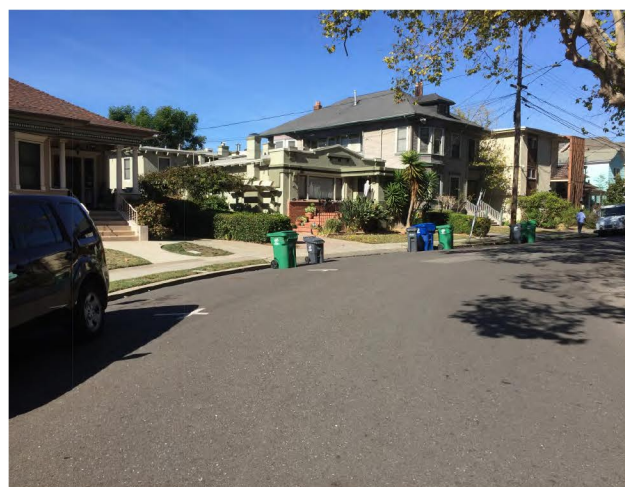
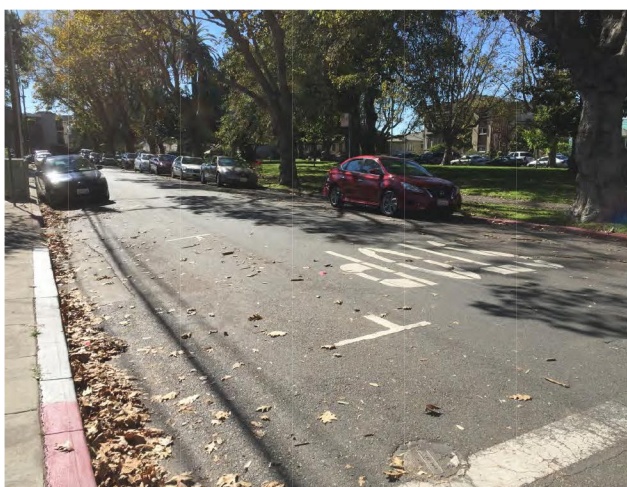
Use Permit be rescinded by the City, including the imposition of requiring additional offsite parking. And we further request that should the City elect not to remove the burdensome elements of the CUP, that future tenants be granted the opportunity to comply with them as our current tenant has done.

Respectfully,

Jay Garfinkle,

Representing the owners of 1200 Park Street

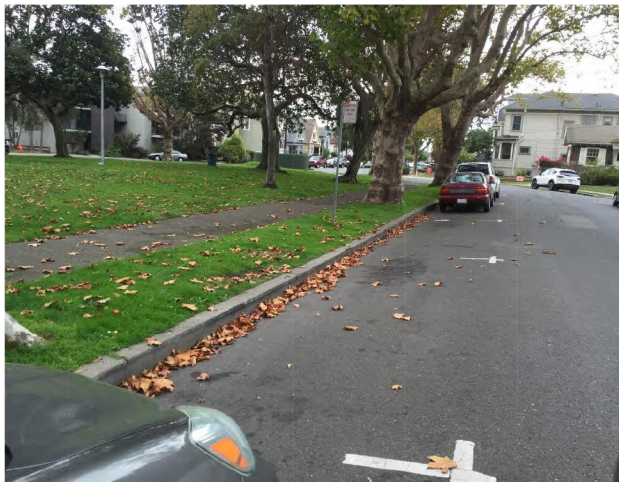
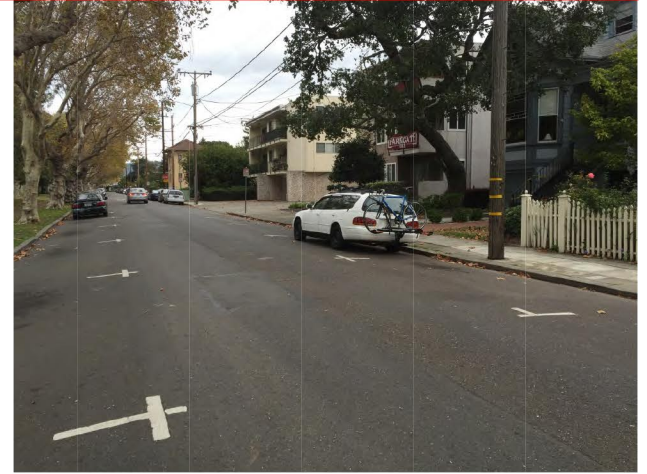
10/19/16 @ 2PM, 27 spaces on Park Ave., 4 metered spaces on San Jose, 8 prox spaces on San Jose between Park Ave and Regent







10/24/16 @ 9:30AM, 24 spaces Park Ave., 0 metered spaces on San Jose, 11 prox spaces on San Jose between Park Ave & Regent





10/28/16 @ 1PM, 37 spaces Park Ave., 2 free + 4 metered on San Jose, many spaces on San Jose between Park Ave & Regent



