

CITY OF SAN JOSÉ, CALIFORNIA  
Department of Planning, Building and Code Enforcement  
801 North First Street, Room 400  
San José, California 95110-1795

Hearing Date/Agenda Number  
P.C. 02-23-05 Item 4a.

File Number  
H04-017

Application Type  
Site Development Permit

Council District  
6

Planning Area  
West Valley

Assessor's Parcel Number(s)  
230-18-092

## STAFF REPORT

### PROJECT DESCRIPTION

Completed by: Erin L. Morris

Location: South side of The Alameda approximately 90 feet westerly of Newhall Street

Gross Acreage: 1.14 Net Acreage: 1.14 Net Density: n/a

Existing Zoning: CP Commercial Pedestrian Existing Use: Office and parking lot

Proposed Zoning: n/a Proposed Use: Parking lot expansion

### GENERAL PLAN

Land Use/Transportation Diagram Designation  
General Commercial

Project Conformance:  
 Yes  No  
 See Analysis and Recommendations

### SURROUNDING LAND USES AND ZONING

North: Office A(PD) Planned Development and CO Commercial Office

East: Residential and Commercial R-1-8 Residence District and CN Commercial Neighborhood

South: Residential R-1-8 Residence District

West: Residential R-1-8 Residence District

### ENVIRONMENTAL STATUS

Environmental Impact Report found complete  
 Negative Declaration circulated on  
 Negative Declaration adopted on

Exempt  
 Environmental Review Incomplete

### FILE HISTORY

Annexation Title: College Park/Burbank Sunol

Date: 12-8-1925

### PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval  
 Approval with Conditions  
 Denial  
 Uphold Director's Decision

Date: February 16, 2005

Approved by: \_\_\_\_\_  
 Action  
 Recommendation

### APPELLANT/APPLICANT/OWNER

Jeff Tepper  
Care Access Silicon Valley  
2115 The Alameda  
San Jose, CA 95126

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**PUBLIC AGENCY COMMENTS RECEIVED**

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Completed by: ELM

**Department of Public Works**

See attached memorandum dated April 20, 2004.

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**Other Departments and Agencies**

See attached memorandum.

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**GENERAL CORRESPONDENCE**

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See Notice of Permit Appeal filed by Jeff Tepper on January 3, 2005.

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**ANALYSIS AND RECOMMENDATIONS**

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**BACKGROUND**

This is an appeal of the Director of Planning's decision to conditionally approve a Site Development Permit to allow parking lot expansion for an existing office building. The Site Development Permit was heard at the December 15, 2004, Director's Hearing and approved by the Planning Director on December 17, 2004 (see attached permit).

The subject site is an irregularly-shaped parcel. The existing office building faces The Alameda with a small parking area located immediately behind the building. Vehicular access to the site is provided via a driveway from Newhall Street. Uses surrounding the site include commercial uses to the north and west and commercial and residential uses to the east. The parking lot expansion area is located in the southern portion of the site and is surrounded by single-family residential uses to the west, south, and east, with commercial uses (including the subject office building) to the north.

The subject site is zoned CP Commercial Pedestrian. The adjoining commercial sites to the west and east are zoned CO Commercial Office and CN Commercial Neighborhood. All of the adjoining single-family residential properties are zoned R-1-8 Residence District.

On January 3, 2005, the applicant filed a Notice of Appeal (see attached) of the Director's decision to conditionally approve the Site Development Permit. Along with the Appeal, the applicant provided revised plans with modifications to the parking lot design.

**Permit History**

The existing 10,000 square foot office building was constructed in 1963. In 1972, the Director of Planning approved a Site Development Permit (File No. H72-402) for the subject property. The permit covered only the front portion of the site (from The Alameda back 250 feet into the property, including the "flag pole" shaped parcel that provides access to Newhall Street). The approved permit allowed a small addition to the 10,000 square foot office building on the portion of the site nearest The Alameda and the associated surface parking area. The rear portion of the site (surrounded by single-family uses) was not addressed in this permit.

On April 1, 2004, the Director of Planning approved a Permit Adjustment (File No. AD04-285) to allow exterior modifications to the existing office building, including replacement of doors and windows. On April 6, 2004, the site was rezoned from CO Commercial Office to CP Commercial Pedestrian (File No. C04-015).

### **Current Site Development Permit**

The subject Site Development Permit application (H04-017) was filed on April 6, 2004. The initial plans as first submitted included a small addition to the existing office building in addition to an updated façade. The plans included full improvements to the existing parking lot and expansion of the parking lot into the rear of site. The improved parking lot design included provision of 15 new trees and landscaping along the full perimeter of the entire project site and provided a total of 57 on-site parking spaces. The plans also included closure of an existing driveway from the parking lot to The Alameda, a new trash enclosure, and a gate at the Newhall entrance. The Site Development Permit application remained on file, but inactive, until the fall of 2004, when Planning staff requested that the applicant either proceed with the permit, or withdraw the application, use of the rear, unpermitted parking area would need to cease.

The applicant agreed to pursue the application, but requested separate approval of a portion of the proposed site improvements to allow completion of the building upgrades without landscape improvements. On October 8, 2004, the Director of Planning approved a Permit Adjustment (File No. AD04-980) to allow exterior modifications to the office building (including installation of awnings), reconfiguration of the existing parking lot, installation of a new trash enclosure, and closure of the driveway to The Alameda. The approved plans did not include any landscape improvements in the front portion of the site.

In early December 2004, the applicant proposed to reduce the width of all of the perimeter landscape planters in the rear portion of the parking lot below that proposed in the initial plan set from April 2004. The new proposal included a minimal setback along the portions of the site adjoining commercial uses, and a setback ranging from only 3 feet to 5 feet along portions of the parking lot adjoining single-family residential properties. The applicant stated that, with the reduced landscape strips, the new design would achieve a total of 65 parking spaces. The Director of Planning approved the Site Development Permit (H04-017) but included a revised plan condition requiring that a 10-foot setback be maintained between the parking lot and adjoining single-family residential, while allowing the parking lot setback adjoining commercial uses to be reduced to a minimal dimension of only 3 feet. This revised plan condition also required that the proposed vehicular gate be relocated from up near the Newhall Street entrance toward the interior of the site.

### **COMMUNITY OUTREACH**

Hearing notices were mailed to property owners within 500 feet of the subject property for both the Director's and Planning Commission Hearings in conformance with the Public Outreach Policy. Staff has been available to discuss the project with members of the public.

### **ENVIRONMENTAL REVIEW**

Under the provisions of Section 15303(e) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt pursuant to the

environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The Director of Planning has determined that the proposed project will not have a significant adverse effect on the environment.

## GENERAL PLAN CONFORMANCE

This site has a designation of *General Commercial* on the adopted San José 2020 General Plan Land Use/Transportation Diagram. The existing commercial use of the site is consistent with this designation.

## ANALYSIS

### Appeal

The applicant's appeal is specific to Condition #8d of the approved Site Development Permit (H04-017). Condition 8d requires the following:

8d. Revise the Site Plan to reduce the landscape strip adjoining commercial uses to a minimum of 3 feet in width. Provide 10 shade trees and assorted shrubs and ground cover within the perimeter landscape strips; the trees should be installed in the 10-foot wide landscape strips adjoining single-family residential uses.

The issues raised in the letter of Appeal are presented below followed by a staff response.

**Comment:** *Applicant operates a non-profit social service agency serving seniors and their caregivers in Santa Clara County. Applicant has occupied this property for more than 16 years. Currently, there are 68 FTE (full-time equivalent) staff members each working 37.5 hours per week, with some of them being permitted to telecommute once or twice per week. There are nine fleet vehicles used by staff to serve our clients and customers off-site. Additionally, there are daily visitors to the building typically arriving by private car. At present, the front of the lot (which is not the subject of the appeal) has the capacity to hold 13 vehicles, including 5 handicapped spaces. When coupled with the 54 spaces contained in the land locked portion of the back lot and shown on the amended application, there are 67 spaces. This capacity is barely adequate for the daily demand. By requiring 10-foot setbacks along the entire residential interface, the parking capacity will be reduced by 12 spaces. Applicant and adjoining neighbors are concerned about overflow parking on the residential streets adjacent to the subject property which would be the natural consequence of the reduction of parking area in the lot. The welfare of the residential neighbors would be compromised by the need to park this many vehicles on the residential streets and would not be mitigated in any meaningful way by the additional setback currently required by Condition 8d.*

**Staff Response:** The existing office building is currently legal non-conforming for parking in that the building was built prior to 1965 and the parking area approved at the time of the building's construction contains approximately 15 spaces, where as 34 are required by the current Zoning Ordinance. The proposal to expand the parking area would provide parking in excess of the current Zoning Code requirements for office use. The Commercial Design Guidelines specify that ten (.10) feet of landscaping should be provided along commercial property lines that adjoin residential uses. The initial plans provided by the applicant in April 2004 proposed 10 feet of landscaping along the perimeter of the parking area adjoining single-family residential

properties to the south, west, and east and included a total of 57 on-site parking spaces, 23 spaces in excess of the Zoning Code requirement. The parking lot sketch submitted with the Permit Appeal provides a total of 65 on-site parking spaces, 31 in excess of the Zoning Code requirement, and provides landscape strips between the parking lot site and adjoining single-family residential uses ranging from 3 feet 6 inches to 5 feet. The sketch, which is not to scale, appears to include a mixture of full-size and uniform-size parking spaces and aisle widths in excess of the Zoning Code requirements.

Based on analysis of the applicant's revised proposal, staff believes it is possible to achieve greater setbacks from adjoining single-family residential than shown on the applicant's sketch by including angled, uniform-sized parking stalls, and by reducing aisle widths to meet the minimum requirements of the Zoning Code for on-site automobile circulation. Although the Commercial Design Guidelines specify a 10-foot landscape setback between commercial and residential uses, staff believes that a 5-foot landscape setback could provide an adequate buffer between the parking area and the adjacent residential rear yards.

**Comment:** *The existing back parking lot is surrounded by existing fencing and mature landscaping effectively shielding the view for most residential neighbors 7 or more feet above grade. In addition to the significant reduction in the number of parking spaces available within the lot, requiring an additional 10 trees to be planted to further buffer the residential interface will result in increased upkeep and maintenance costs for the Applicant. By the nature of Applicant's business, strict caps on overhead expenses are dictated by the Applicant's funding sources. Though very efficient at present, the Applicant is already stretching its administrative overhead budget just to meet current levels of administrative support. Additional expenses incurred maintaining what is essentially an urban forest in a parking lot would place an unreasonable burden on the Applicant. Applicant's amended application provides approximately 1/2 of the setback area and 1/2 of the number of trees required by Condition #8d. Applicant argues that this compromise is an effective and meaningful mitigation of the impact of the commercial use adjacent to residential properties.*

**Staff Response:** The existing back parking lot is devoid of any trees except for two Italian Cypress located along the western property line. While mature vegetation exists on some of the adjoining single-family residential properties, there is little to no vegetation on the subject site. The Commercial Design Guidelines specify a landscaped setback to ensure that buffering is provided on commercial sites; it is not expected that residential properties provide the landscape buffer for adjoining commercial uses. Staff believes that the 10 trees required in the Permit approved by the Director of Planning provide an appropriate and necessary buffer for the proposed parking lot. While this is less than the desired ratio of one tree per four parking spaces, staff believes that the required perimeter trees will significantly improve the buffering of this parking lot from the single-family residential uses that surround it. In light of the applicant's concerns, staff has reduced the landscape setback requirement in the Draft Permit (see attached) to a minimum of five feet. The revised plan condition (Condition #8) also specifies that the parking lot design minimize pavement so that the landscape areas can be increased in width where this is possible without reducing the parking space yield.

## CONCLUSION

Staff believes that the parking lot can be redesigned to balance the desire of the applicant to provide the maximum number of parking spaces while achieving an adequate buffer between the parking lot and adjoining residential uses. While a 5-foot perimeter landscape strip is less wide

than specified by the Commercial Design Guidelines, staff believes that the area will be sufficient in width to accommodate trees. Provision of 10 trees within the parking lot expansion area is less than the City's standard ratio of 1 tree per four parking spaces; however, staff believes that the required perimeter trees will significantly improve the buffering of this parking lot from the single-family residential uses that surround it.

## **RECOMMENDATION**

Staff recommends that the Planning Commission uphold the Planning Director's decision to approve the Site Development Permit with the revised conditions included in the attached draft permit, and include the following facts and findings in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding the proposed project:

1. The subject site is located at 2115 The Alameda, on the south side of The Alameda approximately 90 feet westerly of Newhall Street.
2. The subject site is an irregularly-shaped parcel. The existing office building faces The Alameda with a small parking area located immediately behind the building. Vehicular access to the site is provided via a driveway from Newhall Street. Uses surrounding the site include commercial uses to the north and west and commercial and residential uses to the east.
3. The parking lot expansion area is located in the southern portion of the site and is surrounded by single-family residential uses to the west, south, and east, with commercial uses (including the subject office building) to the north.
4. The subject site is zoned CP Commercial Pedestrian. The adjoining commercial sites to the west and east are zoned CO Commercial Office and CN Commercial Neighborhood. All of the adjoining single-family residential properties are zoned R-1-8 Residence District.
5. The existing 10,000 square foot office building was constructed in 1963. In 1972, the Director of Planning approved a Site Development Permit (File No. H72-402) for the subject property. The permit covered only the front portion of the site (from The Alameda 250 feet into the property, including the "flag pole" shaped parcel that provides access to Newhall Street). The approved permit allowed a small addition to the 10,000 square foot office building on the portion of the site nearest The Alameda and the associated surface parking area. The rear portion of the site (surrounded by single-family uses) was not addressed in this permit.
6. On April 1, 2004, the Director of Planning approved a Permit Adjustment (File No. AD04-285) to allow exterior modifications to the existing office building, including replacement of doors and windows. On April 6, 2004, the site was rezoned from CO Commercial Office to CP Commercial Pedestrian (File No. C04-015).
7. The subject Site Development Permit application was filed on April 6, 2004. The initial plans included a small addition to the existing office building in addition to an updated façade. The plans included full improvements to the existing parking lot and expansion

of the parking lot into the rear of site. The improved parking lot design included provision of 15 new trees and landscaping along the full perimeter of the entire project site and provided a total of 57 on-site parking spaces. The plans also included closure of an existing driveway from the parking lot to The Alameda, a new trash enclosure, and a gate at the Newhall entrance.

8. The Site Development Permit application remained on file but inactive until fall of 2004, when Planning staff requested that the applicant either withdraw the application or cease the use of the rear, unpermitted parking area.
9. On October 8, 2004, the Director of Planning approved a Permit Adjustment (File No. AD04-980) to allow exterior modifications to the office building (including installation of awnings), reconfiguration of the existing parking lot, installation of a new trash enclosure, and closure of the driveway to The Alameda. The approved plans did not include any landscape improvements in the front portion of the site.
10. On December 15, 2004, the Director of Planning approved the subject Site Development Permit containing a revised plan condition (Condition #8) requiring that the 10-foot parking lot setbacks adjoining single-family residential be maintained, while allowing the parking lot setback adjoining commercial uses to be reduced to 3 feet in width. The revised plan condition also required that the proposed vehicular gate be relocated from the Newhall entrance toward the interior of the site.
11. On January 3, 2005, the applicant filed a Notice of Appeal (see attached) of the Director's decision to conditionally approve the Site Development Permit. Along with the Appeal, the applicant provided revised plans with modifications to the parking lot design.
12. The existing office building is currently legal non-conforming for parking in that the building was built prior to 1965 and the parking area approved at the time of the building's construction contains approximately 15 spaces where 34 are required by the current Zoning Ordinance.
13. The proposal to expand the parking area would provide parking in excess of the current Zoning Code requirements for office use.
14. The Commercial Design Guidelines specify that ten feet of landscaping should be provided along commercial property lines that adjoin residential uses.
15. Under the provisions of Section 15303(e) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt pursuant to the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The proposed project will not have a significant adverse effect on the environment.

Based on the above stated facts, the Planning Commission finds:

1. The interrelationship between the orientation, location and elevations of the proposed building(s) and structure(s) and other uses on-site are mutually compatible and aesthetically harmonious.

2. The orientation, location and elevation of the proposed building(s) and structure(s) and other uses on the site, as revised in Permit Condition #8, are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood in that a 5-foot perimeter landscape strip, planted with trees, will provide an adequate buffer between the parking area and the adjacent single-family residential rear yards.
3. The environmental impacts of the project will not have an unacceptable negative effect on adjacent property or properties in that this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The project will not have a significant adverse effect on the environment.
4. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility, and trash facilities, as revised in Permit Condition #8, are sufficient to maintain or upgrade the appearance of the neighborhood in that the parking lot will be buffered from adjacent single-family residential uses through provision of a 5-foot perimeter landscape strip.
5. Traffic access, pedestrian access and parking are adequate in that the proposed number and size of parking spaces complies with and exceeds the requirements of the Zoning Ordinance.
6. This site has a designation of General Commercial on the adopted San José 2020 General Plan Land Use/Transportation Diagram and this application is consistent with this designation.

Finally, based on the above stated facts and interim findings, this Planning Commission concludes and finds that:

1. The interrelationship between the orientation, location and elevations of the proposed building(s) and structure(s) and other uses on-site are mutually compatible and aesthetically harmonious.
2. The orientation, location and elevation of the proposed building(s) and structure(s) and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.
3. The environmental impacts of the project will not have an unacceptable negative effect on adjacent property or properties in that this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The project will not have a significant adverse effect on the environment.
4. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility, and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood.
5. Traffic access, pedestrian access and parking are adequate in that the proposed number and size of parking spaces complies with or exceeds the requirements of the Zoning Ordinance.

6. This site has a designation of General Commercial on the adopted San José 2020 General Plan Land Use/Transportation Diagram and this application is consistent with this designation.

**APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
2. **Building Permit.** Obtainment of a Building Permit is evidence of acceptance of all conditions specified in this document and the applicant's intent to fully comply with said conditions.
3. **Scope of Permit.** This permit allows parking lot expansion to encompass the rear portion of the site.
4. **Conformance with Plans.** Construction and development shall conform to approved Site Development plans entitled, "Council on Aging," dated March 22, 2004, as revised by Condition #8, on file with the Department of Planning, Building and Code Enforcement and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04).
5. **Deadline for Commencing Construction.** This Site Development Permit shall automatically expire two years from and after the date of issuance hereof by said Director if within such two-year period construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Site Development Permit. The date of issuance is the date this Permit is approved by the Director of Planning.
6. **Revocation.** This Site Development Permit is subject to revocation for violation of any of its provisions or conditions.
7. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
8. **Plan Revisions.** Within 60 days of the issuance of this Permit and prior to recordation, the Applicant shall revise the project plans to include the item(s) listed below to the satisfaction of the Director of Planning. Failure to provide said revisions within 60 days shall render this permit null and void.

- a. Revise the plans consistent with the approved Permit Adjustment (City File No. AD04-980) in the area of the existing office building and the existing, legal parking area immediately adjoining the building.
  - b. Revise the site and landscape plan to indicate the location and height of all proposed light fixtures. Sufficient lighting must be provided in the rear parking area and all lighting must be low-pressure sodium and fully shielded. Provide a detail of the proposed fixture that demonstrates conformance with the Zoning Ordinance and the City Council Policy on Outdoor Lighting.
  - c. Eliminate the chain-link gate proposed at the Newhall property line or relocate the gate a minimum of 60 feet from the Newhall property line. Provide a revised detail of the gate noting the height of the gate and that the gate will be constructed of tubular steel.
  - d. Revise the Site and Landscape Plans to provide landscape strips between the parking lot and adjoining single-family residential properties; the landscape strips shall be a minimum of 5 feet in width. Provide 10 shade trees and assorted shrubs and ground cover within the perimeter landscape strips; the trees should be installed in the 5-foot wide landscape strips adjoining single-family residential uses.
9. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
  10. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
  11. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. No outdoor storage is allowed/permitted unless designated on the approved plan set. Trash areas shall be maintained in a manner to discourage illegal dumping.
  12. **Outside Storage.** No outside storage is permitted.
  13. **Sign Approval.** No new signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
  14. **Tree Removals.** No tree larger than 56 inches in circumference, at a height of 24 inches above the natural grade slope, shall be removed without a Tree Removal Permit issued by the Director of Planning.
  15. **Street Cleaning and Dust Control.** During construction, the developer shall damp sweep the public and private streets within and adjoining the project site each working day sufficient to remove all visible debris and soil. On-site areas visible to the public from the public right-of-way shall be cleaned of debris, rubbish, and trash at least once a week.

While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site.

16. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
17. **Permit Expiration.** This Site Development Permit shall automatically expire two years from and after the date of approval by the Planning Commission, if within such two-year period, the proposed use of this site has not commenced, pursuant to and in accordance with the provisions of this Site Development Permit. The Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.

Attachments:

Location Map

Aerial Map

Zoning Map

Notice of Permit Appeal

General Correspondence

Agency Memos

Original Permit (H04-017)

Appellant's Drawing dated December 23, 2004

Original Plans dated April 6, 2004