

Case File Number APL19019 & APL19020

January 22, 2020

|                                     |   |                           |
|-------------------------------------|---|---------------------------|
| <b>Location:</b>                    | <b>0 Linden Street</b>  | <b>3319 Linden Street</b> |
| <b>Assessor's Parcel Number:</b>    | <b>005 0471-006-00</b>  | <b>005 0471-005-00</b>    |
| <b>Proposal:</b>                    | Appeal of the Zoning Manager's Determination that a Construction Operations Industrial Activity is operating without the benefit of required permits.   |                           |
| <b>Applicant:</b>                   | William H. McInerney Jr. (510) 465-7100   |                           |
| <b>Owner:</b>                       | Rahebi Properties LLC   |                           |
| <b>Appellant:</b>                   | William H. McInerney Jr.  |                           |
| <b>Case File Number:</b>            | <b>APL19020</b>   | <b>APL19019</b>           |
| <b>Original Case File Number:</b>   | <b>DET190068</b>  | <b>DET190067</b>          |
| <b>Planning Permits Required:</b>   | N/A   | N/A                       |
| <b>General Plan:</b>                | Mixed Housing   | Urban Residential         |
| <b>Zoning:</b>                      | RM-2  | RU-5                      |
| <b>Environmental Determination:</b> | Categorically Exempt under California Environmental Quality Act (CEQA) Guidelines Section 15306, Information collection and/or 15061(b)(3) (the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment.) |                           |
| <b>Historic Status:</b>             | N/A   |                           |
| <b>City Council District:</b>       | 3   |                           |
| <b>Status:</b>                      | 1 <sup>st</sup> Planning Commission Meeting on November 20,2019; The Zoning Decision Letter was mailed on July 2, 2019; Project appealed on July 11, 2019   |                           |
| <b>Staff Recommendation:</b>        | Deny the Appeal and uphold the Zoning Manager's Decision.   |                           |
| <b>Finality of Decision:</b>        | Final (not administratively Appealable pursuant to OMC Sec. 17.132.030)   |                           |
| <b>For Further Information:</b>     | Contact case Planner <b>Eva Wu</b> at <b>(510) 238-3785</b> or <b>ewu@oaklandca.gov</b>   |                           |

**SUMMARY**

This item is an appeal of two zoning determination regarding two contiguous vacant lots operating a construction yard without required permits. Staff recommends denial of the appeal because the proposed industrial activity is not permitted in either the Mixed Housing Residential or Urban Residential Zones and the appellant has not demonstrated, based on substantial evidence in the record, that there was an error or abuse of discretion made by the Zoning Manager in the determination that the activity is operating illegally.

This item was originally heard at the November 22, 2019, Planning Commission meeting. No decision was rendered at that meeting, and the Commissioners requested the applicant to submit the Phase 1 and Phase 2 Environmental Site Assessment and for staff to contact code enforcement to provide a timeline and procedure to vacate the premises. The Phase 1 and Phase 2 reports concludes there is not significant environmental contamination at the site. The Code Enforcement Division indicated to staff that they can allow a maximum of six months after the Planning Commission decision regarding the appeal for the applicant to vacate the premises.

## **BACKGROUND**

In January 2017, Rahebi Properties, LLC purchased two adjoining parcels located at 3319 Linden Street and 0 Linden Street in Oakland to store construction equipment and vehicles.

On May 4, 2018, the Bureau of Building issued two Notices of Violations (#1801414 and #1801415), after an inspection determined that the subject properties were used for the storage of large construction vehicles and equipment for Redgwick Construction Company without zoning approval.

William H. McInerney Jr. of McInerney & Dillon, the attorney on behalf of Rahebi Properties LLC, appealed the Notice of Violations and filed for two Zoning Manager's determination letters on June 3, 2019 (See Attachment A).

A July 2, 2019 determination letter from the Zoning Manager states that the City considers the construction vehicle yard to be a "Construction Operation Industrial Activity," as defined by Chapter 17.10 of the Planning Code (see Attachment B). The determination stated that all Industrial Activities are prohibited in the RM-2 and RU-5 Zones. The letter further stated that the Major Variance granted in 1976 for an auto-wrecking yard does not apply to the current use because the prior Variance approved an activity that falls under a different land use classification, "Scrap Operation Commercial Activity" under the 1976 Planning Code and "Warehousing, Storage, and Distribution Industrial Activity" under the current code. Therefore, the letter stated that a Major Variance is required to operate at the site, and staff cannot recommend the required findings for the activity in a residential zone.

The applicant appealed the determination on July 11, 2019 and went before the Planning Commission on November 22, 2019 (see Attachment C for the appeal). No decision was rendered, and the Commissioners requested the applicant to submit the Phase 1 and Phase 2 Environmental Site Assessment to staff for review and staff to contact code enforcement to provide a timeline and procedure to vacate the premises.

Attachment D contains a Phase 2 report that concluded there is not significant environmental contamination at the site. The Code Enforcement Division indicated to staff that they can allow a maximum of six months after the Planning Commission decision regarding the appeal to vacate the premises.

Per Section 17.132.020 of the City of Oakland Planning Code, to uphold the appeal, the Planning Commission must determine that an error or abuse of discretion was made by the Zoning Manager or the Zoning Manager's decision is not supported by evidence in the record. The arguments raised by the Appellant are summarized below in the "Basis for the Appeal" portion of this report, along with City staff's response to each argument.

## **PROPERTY AND NEIGHBORHOOD DESCRIPTION**

3319 Linden St. and 0 Linden Street are adjoining lots in two different zones. 3319 Linden Street abuts a warehouse to the north and west and a vacant lot (0 Linden Street) to the south. 0 Linden Street abuts a vacant lot (3319 Linden Street) to the north and residential homes to the west and south. The context of the surrounding area is mostly residential and commercial with three existing warehouses along 34<sup>th</sup> street.

## **ZONING ANALYSIS**

3319 Linden Street is in the Urban Residential – 5 (RU-5) Zone and 0 Linden Street is in the Mixed Housing Type Residential (RM-2) Zone. The intent of the RU-5 zone is to create, maintain, and enhance areas of the City that are appropriate for multi-unit, mid-rise, and high-rise residential structures and ground floor neighborhood business on the City's major corridors. The intent of the RM-2 Zone is to create, maintain, and enhance residential areas characterized by a mix of single-family homes, duplexes, townhouses, small multi-unit buildings, and neighborhood businesses where appropriate. All Industrial Activities are

prohibited in the two zones and a proposed construction yard clearly does not meet the intent of the RM-2 or RU-5 zones.

The applicant proposes to use the sites to store construction equipment and vehicles. Staff determined that the storage of construction equipment is not permitted at the sites because it is classified in Section 17.10.583 as a "Construction Operations Industrial Activity", which, per Section 17.17.030 and 17.19.030 of the Planning Code, is not permitted in the RM-2 or RU-5 Zones. Section 17.10.582 of the Planning Code describes this activity as the following:

*Construction Operations Industrial Activities include enclosed and unenclosed facilities and accessory yards for construction and incidental storage activities and/or fabrication activities performed by construction contractors on lots other than construction sites. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040. This classification includes, but is not limited to, the storage and custom cutting of stone for interior applications, roofing and plumbing component storage, and equipment storage for environmental contractors.*

The Major Variance issued in 1976 does not apply to the proposed Construction Operations Industrial Activity at the sites because it was granted to allow a different activity, "Scrap Operation Commercial Activity" under the 1976 Planning Code (see Attachment B for Permit #VM76-001) and "Automotive Salvage/Junk Yards" if it were classified under the current code. The following is the description of this activity in Section 17.10.583 of the current Planning Code:

*Warehousing, Storage, and Distribution Industrial Activities*

*Warehousing, Storage, and Distribution Industrial Activities include five (5) sub-classifications as described below. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.*

- A. *General Warehousing, Storage, and Distribution. General Warehousing, Storage, and Distribution Activities include the warehousing and storage, primarily within enclosed buildings, of commercial goods (other than primary storage of hazardous materials), and the associated distribution activities that occur on-site prior to delivery of goods to wholesale and retail outlets or direct shipment to customers. These activities may also include ancillary truck parking and dispatching; and accessory outdoor storage areas where outdoor storage, not including parking and loading areas, does not occupy more than thirty percent (30%) of the total site area.*
- B. *General Outdoor Storage. General Outdoor Storage Activities include principal outdoor storage of items for more than 24 hours where such storage activities occupy more than thirty percent (30%) of the site area. The principal storage of goods and materials, equipment or vehicles; as well as the storage of operating equipment for warehouses, such as forklifts, pallets, and racks. This classification excludes outdoor storage uses that are more specifically described in this Chapter, including but not limited to, container storage, salvage and junk yards and oil and gas storage. This classification includes, but is not limited to, construction trailers, outdoor sheds or accessory portable structures, secondary sites for storage of building materials that are not for resale on-site.*
- C. *Self- or Mini-Storage. Self- or Mini-Storage Activities consist of storage in small individual spaces, on average of four hundred (400) square feet or less that are exclusively and directly accessible to a specific tenant, offered on a monthly or other limited basis, and available to the general public.*
- D. *Container Storage. Container Storage Activities include the storage, repair, and "pre-tripping" of shipping containers, including refrigerated shipping containers, on open lots. Includes minor repair and cleaning of containers and may include the rehabilitation of containers for other uses*

- E. Automotive Salvage/Junk Yards. Automotive Salvage/Junk Yard Activities includes the storage and dismantling of vehicles and equipment for sale of parts.*

Note that each subcategory A through E is considered a standalone industrial activity classification because each is regulated separately in the Zoning Chapters. In other words, a permit granted for "Automotive Salvage/Junk Yards" does not apply to "General Outdoor Storage" or any other subcategory listed under "Warehousing, Storage, and Distribution Industrial Activities". Therefore, the 1976 permit for "Automotive Salvage/Junk Yards" would not apply to the activity even if a determination were made that the current construction equipment storage activity should be considered "General Outdoor Storage". However, staff continues to consider the existing operation a "Construction Operations Industrial Activity" because the description of the classification specifically includes the storage of construction equipment used by contractors.

### **ENVIRONMENTAL DETERMINATION**

The California Environmental Quality Act (CEQA) Guidelines statutorily and categorically exempts specific types of projects from Environmental Review. The zoning determination is Categorical Exempt under California Environmental Quality Act (CEQA) Guidelines Section 15306, Information Collection. And Section 15321 Enforcement Actions by Regulatory Agencies.

### **BASIS FOR APPEAL**

The appellant filed a timely Appeal of the Zoning Manager's determination on July 11, 2019. The following describes the issues raised in the appeal and staff's response. The issues are in **bold**; staff responses are in *italic*.

- 1) Since 1979, the prior owner's tenants had been using the two parcels as a junk/yard since 1976 under the attached permit (Exhibit 1). I have enclosed a copy of the aerial photograph of the site when it was used to store crushed vehicles and a picture of the property as its is currently being used.**

#### Staff Response

*As stated in the Determination Letter, in 1976, an auto wrecking yard operation (Scrap Operation Commercial Activity under the 1976 Planning Code) was approved through a Major Variance (VM76-001). The previous owner was permitted to use the two parcels for the storage of crushed vehicles. The sites are currently used as a construction yard, not an auto wrecking yard. These activities are in different use classifications and, therefore, the Major Variance issued in 1976 does not apply to the current operation (see Zoning Analysis, above).*

*Applicant mistaken Exhibit 1 as a permit. Exhibit 1 is a Negative Declaration (ER 76- 002) for the expansion of Auto Wrecking Yard in the C-30 Zone, not a permit.*

- 2) In January 2017, prior to the close of escrow for the purchase of the two parcels, Rahebi Properties, LLC' managing member, Bob Rahebi, reviewed with the City of Oakland's Permit Department its files on those two parcels. Exhibit 1, which is part of those files, was discussed with the Permit Department. Mr. Rahebi was informed that the LLC plan to use the two parcels to store construction equipment was grandfathered/ permitted under the 1976 permit. Based on that information, Rahebi Properties, LLC purchased the property.**

Staff Response

*Staff did not find any record of the conversation described by Mr. Rahebi nor did applicant submit meeting notes. As mentioned, Exhibit 1 is a Negative Declaration (ER 76-002) for the Expansion of Auto Wrecking Yard in C-30 Zone 3315 Linden Street (3315 is now 0 Linden Street), not a permit. Conversations at the "Permit Department" do not constitute approval and do not provide vested rights to perform an illegal activity (see response #1 and the Zoning Analysis section for a discussion of why the activity is not permitted at the site).*

- 3) **Based on the above facts, Rahebi Properties, LLC believes its current use of the two parcels as a storage yard for its construction equipment is permitted and is not in violation of the City of Oakland's Municipal Code.**

Staff Response

*See above responses and the Zoning Analysis Section of this report.*

**CONCLUSION**

The Appellant has not demonstrated, based on substantial evidence in the record, that there was an error or abuse of discretion made by the Zoning Manager in the determination. Staff made the appropriate interpretation of the Planning Code, and the history of the operation demonstrates illegal and nonconforming activities at the sites.

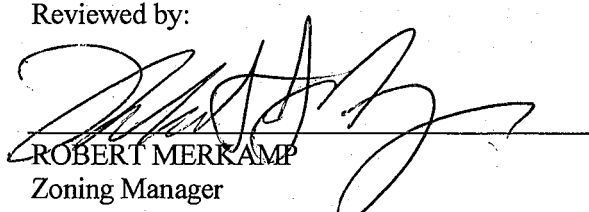
**RECOMMENDATIONS:**

1. Deny the Appeal, thereby upholding the Zoning Manager's determination that the Construction Operation Industrial Activities at 0 and 3319 Linden Street are in violation of the Planning Code.

Prepared by:

  
\_\_\_\_\_  
EVA WU  
Planner II

Reviewed by:

  
\_\_\_\_\_  
ROBERT MERRAMP  
Zoning Manager

Approved for forwarding to the  
City Planning Commission:



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EDWARD MANASSE  
Deputy Director  
Bureau of Planning

**ATTACHMENTS:**

- A. June 3, 2019 Request for Determination
- B. July 2, 2019 Determination Letter
- C. July 11, 2019 Appeal of Determination Letter
- D. Phase 1 & Phase 2 Environmental Site Assessment (ESA)

**LEGAL NOTICE:**

**ANY PARTY SEEKING TO CHALLENGE THIS DECISION IN COURT MUST DO SO WITHIN NINETY (90) DAYS OF THE ANNOUNCEMENT OF A FINAL DECISION, PURSUANT TO THE CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 1094.6, UNLESS A SHORTER PERIOD APPLIES.**

ATTACHMENT A

DET190868

**McInerney  
& Dillon**

PROFESSIONAL CORPORATION

wjr@mcinerney-dillon.com

June 3, 2019

**Via Messenger**

Sandra Smith, Administrative Manager  
City of Oakland  
Planning and Building Department  
250 Frank H. Ogawa Plaza, Suite 2340  
Oakland, CA 94612-2031

Re: Zoning Violation Appeal Process: Request for Zoning Determination  
Complaint Number: 1801415  
Property Address: 0 Linden Street  
Parcel Number: 005-0471-006-00

Dear Ms. Smith:

In response to your May 13, 2019 letter (re: Request for Zoning Determination) and on behalf of Rahebi Properties, I am respectfully requesting a zoning determination from the Zoning Manager. For the reasons set forth in the June 6, 2018 Violation Appeal Form, a complete copy of which is attached hereto as **Exhibit 1**, Rahebi Properties believes that its use of the 0 Linden Street property conforms to the applicable zoning designation and that there has been no Building Code or major zoning violations.

Also enclosed is the zoning determination fee of \$473.92 (Redgwick Construction Company Check No. 10365).

If additional information is needed, please do not hesitate to contact me by either phone or email and I will promptly respond.

Very truly yours,

  
William H. McInerney, Jr.

Enclosures

1801415

Menu Save Reset Update View Log Help

Record #  
1801415

Opened Date  
04/25/2018



Status  
Notice of Violation Sent

Type  
Enforcement/Private Property/Facility Complaint/Zoning

Application Name

Assigned to Department Current Department Assigned to Staff Current User

--Select--

--Select--

Description

Vacant lot-storage of large construction vehicles/equipment with no zoning approval

[check spelling](#)

|                       |                   |                |
|-----------------------|-------------------|----------------|
| <b>Total Invoiced</b> | <b>Total Paid</b> | <b>Balance</b> |
| 110.00                | 110.00            | 0.00           |

System ID  
18CAP-00000-13519

WING LOO - Inspector





CITY OF OAKLAND

**PAID**  
POS # 563183  
6-6-18 JEF

250 FRANK H. OGAWA PLAZA • SUITE 2340 • OAKLAND, CALIFORNIA 94612-2031

Planning and Building Department

Bureau of Building

Code Enforcement Services

[www.oaklandnet.com](http://www.oaklandnet.com)

(510) 238-6402

FAX: (510) 238-2959

TDD: (510) 238-3254

## VIOLATION APPEAL FORM

### Instructions

If you have received a Notice of Violation related to Code Enforcement or Zoning violations, you have the right to appeal. Please read the description of the appeal below and complete this form and mail it (along with supporting documentation to the Bureau of Building, at 250 Frank Ogawa Plaza, 2<sup>nd</sup> Floor, Oakland, CA 94612. Appeals forms must be received no later than the Deadline to Respond identified on the Notice of Violation.

Submital Date:

Property Address:

Complaint No.

APN:

Owner Name  
(Appellant)

Mailing Address:

Contact Number:

Email Address:

Name of Representative/Attorney (if any):

*W. H. McInerney, Jr.*

Representative's Mailing Address:  
Email/Phone Number

AGENT MUST PROVIDE NOTARIZED AUTHORIZATION

### Appeal

It is the responsibility of the property owner to maintain their property in accordance with the Oakland Municipal Code (OMC 8.24, 15.08 and Title 17). Once an inspection and verification of violations has occurred fees may be assessed, a lien recorded and if no payment is received all fees may be transferred to the property tax.

Below is a description of the Violation Appeal. Please submit a written explanation of why you are appealing.

### Violation Appeals

You should contact the inspector, as indicated in the Notice of Violation, if you have corrected the violation or to make arrangements to correct the violations.

If you feel the City erred and either: a. Mailed the notice to the incorrect owner or; b. Noticed you but you have no blighted conditions or code enforcement violations on your property you **must** submit this form along with the reason you feel the City erred by the Deadline to Respond identified on the Notice of Violation. You must pay a filing fee in the amount of \$110.00 at the time of submital.

City of Oakland

Violation Appeal Form

**EXHIBIT** 1

### REASON FOR THIS APPEAL

In January, 2017, Rahebi Properties, LLC purchased from FIG, LLC the two (2) adjoining parcels (APN #005-0471-005-00 and APN #005-0471-006-00) located at 3310 Linden Street and 0 Linden Street in Oakland that are the subject of these two appeals.

Since 1976, the prior owner's tenants had been using the two parcels as a junk/storage yard since 1976 under the attached permit (Exhibit 1). I have enclosed a copy of aerial photograph of the site when it was used to store crushed vehicles and a picture of the property as it is currently being used.

In January, 2017, prior to the close of escrow for the purchase of the two parcels, Rahebi Properties, LLC's managing member, Bob Rahebi, reviewed with the City of Oakland's Permit Department its files on those two parcels. Exhibit 1, which is part of those files, was discussed with the Permit Department. Mr. Rahebi was informed that the LLC's plan to use the two parcels to store construction equipment was grandfathered/permitted under the 1976 permit. Based on that information, Rahebi Properties, LLC purchased the property.

Based on the above facts, Rahebi Properties, LLC believes its current use of the two parcels as a storage yard for its construction equipment is permitted and is not a violation of the City of Oakland's Municipal Code.

CITY OF OAKLAND



CITY HALL • 14TH AND WASHINGTON STREETS • OAKLAND, CALIFORNIA 94612

Planning Department

DATE: January 5, 1976

FILE #: RR 76 - 002

TO: Alameda County Clerk  
1225 Fallon Street  
Oakland, CA. 94612

FROM: Oakland City Planning Commission, City Hall, Oakland, CA. 94612

SUBJECT: Filing of Negative Declaration pursuant to CEQA.

RE: Expansion of Auto Wrecking Yard in C-30 Zone 3316 Linden St.  
(project description - - - - - project location)

The City Planning Commission invites comments on Negative Declarations in order to test the accuracy and completeness of these informational documents. In order to allow adequate time for the project applicant to respond to questions, and for a final report to be prepared by the City Planning Staff, all comments should be returned to the City Planning Department by January 21, 1976.  
(date):

Comments should specifically address the following:

1. Appropriateness of basic assumptions and/or techniques used in the reporting of technical data.
2. Specific omissions of pertinent information and/or specific sources of such omitted data.

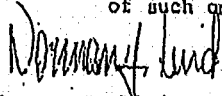
  
Norman J. Lind  
Director of City Planning

EXHIBIT L

DRAFT  
 FINAL

ER NO. 76-002  
REF. NO. DMW-01

NEGATIVE DECLARATION - Oakland, California

The City Planning Department will review this Draft as to the project's effect on the environment. If the project is found not to have a significant effect on the environment the Negative Declaration will be accepted. If project is found to have a significant effect, applicant will be asked to submit an Environmental Impact Report.

I. Party in Interest: Project Requiring Discretionary Action.

A. Project Applicant's Name: SAN PABLO AUTO W.R. Co.  
B. Applicant's Address: 3291 SAN PABLO AVE WARREN, CA.  
C. Applicant's Phone: 658-3101  
D. Type of Application:  
 Rezoning  
 Major Variance  
 Major Grading (over 1300 cu. yds or 10% slope)  
 Major Conditional Use Permit  
 Planned Unit Development  
 Tentative Subdivision Map  
 City Project  
 Other

II. Location and Description of Project:

A. Address of Project Site: 3315 Linden St.  
B. Size of Project Site: 35' x 135' 4725 (sq. ft.)  
 Residential  
Type (attached/detached) \_\_\_\_\_  
# units \_\_\_\_\_  
# bedrooms \_\_\_\_\_  
 Commercial  
 Industrial  
 Public  
 Other  
C. Additional Description:  
Type or Use \_\_\_\_\_ Building Height \_\_\_\_\_ Total Construction (sq. ft.) \_\_\_\_\_  
Estimated beginning/completion date \_\_\_\_\_  
Major Exterior Construction Material \_\_\_\_\_  
D. Describe project as proposed; (brief summary)

III. No-Impact Documentation:

Attach marked copy of Environmental Review Checklist. Explain any yes answers in the following space:

Please summarize briefly here why you think the project will not have a significant effect on the environment. LOT IS VACANT AND DEBRIS IS BEING DUMPED INTO.

IV. Negative Declaration: The proposed project described herein will not have any significant effect on the environment. I therefore submit this Negative Declaration in support of the described project.

12-22-1975  
Date

[Signature]  
Signature of applicant for project requiring Discretionary action.

\_\_\_\_\_  
Name of Person who prepared Initial Study

Attach: Initial Study Checklist.

CERTIFICATION OF ACCEPTANCE OF DECLARATION

The Initial Study and this Negative Declaration are accepted with the following comments:

by: (Planning Commission)  
(City Council)

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

OAKLAND, CALIFORNIA  
INITIAL STUDY

ER NO. 76-002  
REF. NO. 1001 76-001

PROJECT CHECK LIST

CALIFORNIA ENVIRONMENTAL QUALITY ACT OF 1970 (as amended):

PROJECT TYPE AND LOCATION:

1. Does the proposed project require rezoning of the site?  YES  NO  
2. Will the proposed project conflict with approved specific plans for the neighborhood?  YES  NO

PHYSICAL:

3. Will the proposed project involve a grading permit for more than 1300 cubic yards or involve grading on a slope in excess of 10%?  YES  NO  
4. Will the proposed project involve construction of facilities within 1/2 mile of an area which, according to Department of the Interior (USGS) Aerial and Engineering Geological mapping contains an earthquake fault or is subject to landslides?  YES  NO  
5. Will the proposed project involve construction immediately adjacent to or over a lagoon, bay, tideland, marsh or creek?  YES  NO  
6. Will the proposed project affect any important historical or archeological site or any natural or man-made feature which is unique, that is, not found in other parts of the region or state?  YES  NO  
7. Will the proposed project congest existing recreation or public school facilities, or burden existing public utilities serving the project area?  YES  NO

BIOLOGICAL:

8. Does the proposed project area serve as a habitat, food source, nesting place or source of water for rare or endangered fish or wildlife species?  YES  NO  
9. Are there rare or endangered plant species in the vicinity of the proposed project?  YES  NO  
10. Could the proposed project diminish the quantity of all fish or wildlife species in the project vicinity or interfere with migratory or other natural movement patterns?  YES  NO  
11. Will the proposed project cause the removal of large trees (twelve inches in diameter or larger as measured on the main trunk four feet above the ground)?  YES  NO

HEALTH:

12. Will the proposed project be of particular interest to the regional air quality or water quality agencies because of potential health hazard from air or water pollution; will the project result in the long-term generation of unusually high levels of noise as defined for residential and light manufacturing zones at Section 7700 of the Oakland Zoning Regulations?  YES  NO  
13. Could the proposed project endanger community residents or lead to the long-term disruption of the immediate neighborhood from unusual traffic increases?  YES  NO

SOCIO-ECONOMIC:

14. Will the proposed project serve to encourage the development of presently undeveloped areas near the project site?  YES  NO  
15. Will the proposed project involve any displacement of residents?  YES  NO  
16. Adequate roads and standard sewer, water, power and communication facilities do not exist adjacent to the project site?  YES  NO  
17. Has contact with homeowner's associations or other similar groups indicated probable opposition to the proposed use of the site or to the quality or appearance of the proposed project?  YES  NO  
18. Could the proposed project inhibit the extraction of any vital natural resource or the conservation of any scarce natural resource?  YES  NO

CHECK LIST PREPARED BY:

NAME

DATE

REVIEWED BY:

NAME

TITLE

DATE

[ ] SEE ATTACHED SHEET(S) FOR REVIEWER COMMENTS

ADDITIONAL COPIES AVAILABLE  
FROM: City Planning Department  
11th Floor City Hall  
Oakland, California 94612

ENVIRONMENTAL REPORT CHECK LIST

REPORT NUMBER ER 76-002 CROSS REFERENCE UM 76-001  
 (TRACT MAP, ZONING CASE, OTHER ER)

TYPE OF REPORT:  NEGATIVE DECLARATION  IMPACT REPORT

PROJECT LOCATION: 3315  
3319 Linden St.

PROJECT DESCRIPTION Expansion of auto wrecking Yd in C-30

REPORT SUBMITTED BY Robert Moskowitz

address 3291 San Pablo Ave.

phone 658-3101

REPORT PREPARED BY James

address \_\_\_\_\_

phone \_\_\_\_\_

| LISTED (DRAFT FILED)<br>SCHEDULED<br>FOR COMMISSION ACTION | 1/5/76<br>DATE | REMARKS |
|--|----------------|---------|
| 1/28/76  |                |         |
| PROPOSED FINAL REPORT DUE                                  |                |         |
| REFERRED TO: <u>O-8 (7)</u>                                | 1/5/76         |         |
| REFERRED TO:   |                |         |
| REFERRED TO:   |                |         |
| REFERRED TO:   |                |         |
| EIR NOTICE OF COMPLETION<br>SENT TO STATE                  |                |         |
| ND DRAFT TO COUNTY<br>CLERK                                | 1/5/76         |         |
| APPLICANT ADVISED OF<br>COMMISSION ACTION                  |                |         |
| NOTICE OF DETERMINATION TO<br>COUNTY CLERK                 |                |         |

ADDITIONAL REMARKS:

Google Maps 3310 Linden St



Imagery ©2018 Google, Map data ©2018 Google 20 ft



3310 Linden St  
Oakland, CA 94608



EXHIBIT 1A



CS # 1801414

3319 Linden St

4-27-18

EXHIBIT 1B



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )
County of Alameda )

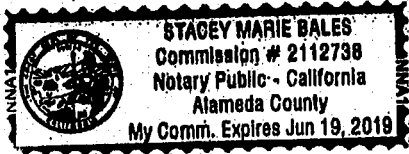
On 6-6-18 before me Stacey Marie Bales Notary Public
Date Here Insert Name and Title of the Officer

personally appeared William H McLevin, Jr
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Stacey Marie Bales
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Document Date:
Number of Pages: Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name:
Corporate Officer - Title(s):
Partner - Limited General
Individual Attorney in Fact
Trustee Guardian or Conservator
Other:
Signer Is Representing:

Signer's Name:
Corporate Officer - Title(s):
Partner - Limited General
Individual Attorney in Fact
Trustee Guardian or Conservator
Other:
Signer Is Representing:

**AUTHORIZATION TO FILE APPEAL**

Rahebi Properties, LLC's ("LLC") managing member, Bob Rahebi, authorizes William H. McInerney, Jr. to complete and to file the Violation Appeal Form for the Notice of Violation issued to the LLC for its use of Linden Street property to store its construction equipment.

**NOTARY ACKNOWLEDGMENT**

State of California

County of Alameda

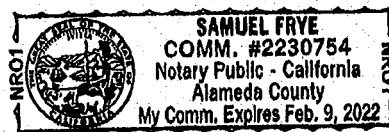
On June 6<sup>th</sup>, 2018, before me, Samuel Frye, Public Notary, personally appeared Bob Rahebi, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their, signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY of PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Samuel Frye

(Seal)



ATTACHMENT A

DET190007

**McInerney  
& Dillon**

PROFESSIONAL CORPORATION

wjr@mcinerney-dillon.com

June 3, 2019

**Via Messenger**

Sandra Smith, Administrative Manager  
City of Oakland  
Planning and Building Department  
250 Frank H. Ogawa Plaza, Suite 2340  
Oakland, CA 94612-2031

Re: Zoning Violation Appeal Process: Request for Zoning Determination  
Complaint Number: 1801414  
Property Address: 3319 Linden Street  
Parcel Number: 005-0471-005-00

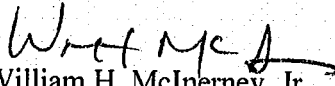
Dear Ms. Smith:

In response to your May 13, 2019 letter (re: Request for Zoning Determination) and on behalf of Rahebi Properties, I am respectfully requesting a zoning determination from the Zoning Manager. For the reasons set forth in the June 6, 2018 Violation Appeal Form, a complete copy of which is attached hereto as **Exhibit 1**, Rahebi Properties believes that its use of the 3319 Linden Street property conforms to the applicable zoning designation and that there has been no Building Code or major zoning violations.

Also enclosed is the zoning determination fee of \$473.92 (Redwick Construction Company Check No. 10364).

If additional information is needed, please do not hesitate to contact me by either phone or email and I will promptly respond.

Very truly yours,

  
William H. McInerney, Jr.

Enclosures

1801414

Menu Save Reset Update View Log Help

**Record #**

1801414

**Opened Date**

04/25/2018



**Status**

Notice of Violation Sent

**Type**

Enforcement/Private Property/Facility Complaint/Zoning

**Application Name**

**Assigned to Department** **Current Department** **Assigned to Staff** **Current User**

**Description**

Vacant lot-storage of large construction vehicles/equipment with no zoning approval

[check spelling](#)

**Total Invoiced**

110.00

**Total Paid**

110.00

**Balance**

0.00

**System ID**

18CAP-00000-13517



CITY OF OAKLAND

250 FRANK H. OGAWA PLAZA • SUITE 2340 • OAKLAND, CALIFORNIA 94612-2031

Planning and Building Department  
Bureau of Building  
Code Enforcement Services  
[www.oaklandnet.com](http://www.oaklandnet.com)

(510) 238-6402  
FAX: (510) 238-2959  
TDD: (510) 238-3254

PAID  
DOS # 863183  
6.6.18 Jef

## VIOLATION APPEAL FORM

### Instructions

If you have received a Notice of Violation related to Code Enforcement or Zoning violations, you have the right to appeal. Please read the description of the appeal below and complete this form and mail it (along with supporting documentation to the Bureau of Building, at 250 Frank Ogawa Plaza, 2<sup>nd</sup> Floor, Oakland, CA 94612. Appeals forms must be received no later than the Deadline to Respond identified on the Notice of Violation.

Submittal Date: June 6, 2018

Property Address: 3319 Linden Street, Oakland, CA 94608

Complaint No. 1801414

APN 005 047100500

Owner Name  
(Appellant) Rahebl Properties LLC

Mailing Address: 21 Hegenberger Court, Oakland, CA 94621

Contact Number: 510-465-7100

Email Address: wjr@mcinerney-dillon.com

Name of Representative/Attorney (if any): William H. McInerney, Jr.

Representative's Mailing Address:  
Email/Phone Number:

McInerney & Dillon, 1999 Harrison Street, Suite 1700, Oakland, CA 94612  
wjr@mcinerney-dillon.com / (510) 465-7100

AGENT MUST PROVIDE NOTARIZED AUTHORIZATION

### Appeal

It is the responsibility of the property owner to maintain their property in accordance with the Oakland Municipal Code (OMC 8.24, 15.08 and Title 17). Once an inspection and verification of violations has occurred fees may be assessed, a lien recorded and if no payment is received all fees may be transferred to the property tax.

Below is a description of the Violation Appeal. Please submit a written explanation of why you are appealing.

### Violation Appeals

You should contact the inspector, as indicated in the Notice of Violation, if you have corrected the violation or to make arrangements to correct the violations.

If you feel the City erred and either: a. Mailed the notice to the incorrect owner or; b. Noticed you but you have no blighted conditions or code enforcement violations on your property you must submit this form along with the reason you feel the City erred by the Deadline to Respond identified on the Notice of Violation. You must pay a filing fee in the amount of \$110.00 at the time of submittal.

City of Oakland

Violation Appeal Form

EXHIBIT 1

### REASON FOR THIS APPEAL

In January, 2017, Rahebi Properties, LLC purchased from FIG, LLC the two (2) adjoining parcels (APN #005-0471-005-00 and APN #005-0471-006-00) located at 3310 Linden Street and 0 Linden Street In Oakland that are the subject of these two appeals.

Since 1976, the prior owner's tenants had been using the two parcels as a junk/storage yard since 1976 under the attached permit (**Exhibit 1**). I have enclosed a copy of aerial photograph of the site when it was used to store crushed vehicles and a picture of the property as it is currently being used.

In January, 2017, prior to the close of escrow for the purchase of the two parcels, Rahebi Properties, LLC's managing member, Bob Rahebi, reviewed with the City of Oakland's Permit Department its files on those two parcels. **Exhibit 1**, which is part of those files, was discussed with the Permit Department. Mr. Rahebi was informed that the LLC's plan to use the two parcels to store construction equipment was grandfathered/permitted under the 1976 permit. Based on that information, Rahebi Properties, LLC purchased the property.

Based on the above facts, Rahebi Properties, LLC believes its current use of the two parcels as a storage yard for its construction equipment is permitted and is not a violation of the City of Oakland's Municipal Code.

CITY OF OAKLAND



CITY HALL • 14TH AND WASHINGTON STREETS • OAKLAND, CALIFORNIA 94612

Planning Department

DATE: January 5, 1976

FILE #: RR 76 - 002

TO: Alameda County Clerk  
1225 Fallon Street  
Oakland, CA. 94612

FROM: Oakland City Planning Commission, City Hall, Oakland, CA, 94612

SUBJECT: Filing of Negative Declaration pursuant to OEQA.

RE: Expansion of Auto Wrecking Yard in G-30 Zone      3316 Linden St.  
(project description - - - - - project location)

The City Planning Commission invites comments on Negative Declarations in order to test the accuracy and completeness of these informational documents. In order to allow adequate time for the project applicant to respond to questions, and for a final report to be prepared by the City Planning Staff, all comments should be returned to the City Planning Department by January 21, 1976.  
(date).

Comments should specifically address the following:

1. Appropriateness of basic assumptions and/or techniques used in the reporting of technical data.
2. Specific omissions of pertinent information and/or specific sources of such omitted data.

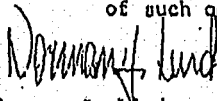
  
Norman J. Lind  
Director of City Planning

EXHIBIT 1

DRAFT  
 FINAL

ER NO. 76-002  
REF. NO. 00000-001

NEGATIVE DECLARATION - Oakland, California

The City Planning Department will review this Draft as to the project's effect on the environment. If the project is found not to have a significant effect on the environment the Negative Declaration will be accepted. If project is found to have a significant effect, applicant will be asked to submit an Environmental Impact Report.

**I. Party In Interest: Project Requiring Discretionary Action.**

A. Project Applicant's Name: SAN PABLO AUTO W.R. Co.  
B. Applicant's Address: 3291 SAN PABLO AVE OAKLAND, CA.  
C. Applicant's Phone: 668-3121  
D. Type of Application:  
 Rezoning  Major Conditional Use Permit  Tentative Subdivision Map  
 Major Variance  Planned Unit Development  City Project  
 Major Grading (over 1300 cu.yds or 10% slope)  Other

**II. Location and Description of Project:**

A. Address of Project Site: 3315 Linden St.  
B. Size of Project Site: 35' x 135' 4725 (sq. ft.)  
 Residential  Commercial  
Type (attached/detached) \_\_\_\_\_  Industrial  
# units \_\_\_\_\_  Public  
# bedrooms \_\_\_\_\_  Other  
C. Additional Description:  
Type or Use \_\_\_\_\_ Building Height \_\_\_\_\_ Total Construction(sq.ft.) \_\_\_\_\_  
Estimated beginning/completion date \_\_\_\_\_  
Major Exterior Construction Material \_\_\_\_\_  
D. Describe project as proposed: (brief summary)

**III. No-Impact Documentation:**

Attach marked copy of Environmental Review Checklist. Explain any yes answers in the following space:

Please summarize briefly here why you think the project will not have a significant effect on the environment. LOT IS VACANT AND DEBRIS IS BEING DUMPED INTO.

**IV. Negative Declaration:** The proposed project described herein will not have any significant effect on the environment. I therefore submit this Negative Declaration in support of the described project.

12-22-1975  
Date

[Signature]  
Signature of applicant for project requiring Discretionary action.

\_\_\_\_\_  
Name of Person who prepared Initial Study

Attach: Initial Study Checklist.

CERTIFICATION OF ACCEPTANCE OF DECLARATION

The Initial Study and this Negative Declaration are accepted with the following comments:

by: (Planning Commission)  
(City Council)

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date



OAKLAND CALIFORNIA  
INITIAL STUDY

ER NO. 76-002  
REF. NO. 76-001

PROJECT CHECK LIST

CALIFORNIA ENVIRONMENTAL QUALITY ACT OF 1970 (as amended):

PROJECT TYPE AND LOCATION:

1. Does the proposed project require rezoning of the site?  YES  NO
2. Will the proposed project conflict with approved specific plans for the neighborhood?  YES  NO

PHYSICAL:

3. Will the proposed project involve a grading permit for more than 1300 cubic yards or involve grading on a slope in excess of 10%?  YES  NO
4. Will the proposed project involve construction of facilities within 1/4 mile of an area which, according to Department of the Interior (USGS) Areal and Engineering Geological mapping contains an earthquake fault or is subject to landslides?  YES  NO
5. Will the proposed project involve construction immediately adjacent to or over a lagoon, bay, tideland, marsh or creek?  YES  NO
6. Will the proposed project affect any important historical or archeological site or any natural or man-made feature which is unique, that is, not found in other parts of the region or state?  YES  NO
7. Will the proposed project congest existing recreation or public school facilities, or burden existing public utilities serving the project area?  YES  NO

BIOLOGICAL:

8. Does the proposed project area serve as a habitat, food source, nesting place or source of water for rare or endangered fish or wildlife species?  YES  NO
9. Are there rare or endangered plant species in the vicinity of the proposed project?  YES  NO
10. Could the proposed project diminish the quantity of all fish or wildlife species in the project vicinity or interfere with migratory or other natural movement patterns?  YES  NO
11. Will the proposed project cause the removal of large trees (twelve inches in diameter or larger as measured on the main trunk four feet above the ground)?  YES  NO

HEALTH:

12. Will the proposed project be of particular interest to the regional air quality or water quality agencies because of potential health hazard from air or water pollution; will the project result in the long-term generation of unusually high levels of noise as defined for residential and light manufacturing zones at Section 7700 of the Oakland Zoning Regulations?  YES  NO
13. Could the proposed project endanger community residents or lead to the long-term disruption of the immediate neighborhood from unusual traffic increases?  YES  NO

SOCIO-ECONOMIC:

14. Will the proposed project serve to encourage the development of presently undeveloped areas near the project site?  YES  NO
15. Will the proposed project involve any displacement of residents?  YES  NO
16. Adequate roads and standard sewer, water, power and communication facilities do not exist adjacent to the project site?  YES  NO
17. Has contact with homeowner's associations or other similar groups indicated probable opposition to the proposed use of the site or to the quality or appearance of the proposed project?  YES  NO
18. Could the proposed project inhibit the extraction of any vital natural resource or the conservation of any scarce natural resource?  YES  NO

CHECK LIST PREPARED BY:

NAME

DATE

REVIEWED BY:

NAME

TITLE

DATE

[ ] SEE ATTACHED SHEET(S) FOR REVIEWER COMMENTS

ADDITIONAL COPIES AVAILABLE

FROM: City Planning Department  
11th Floor City Hall  
Oakland, California 94612

ENVIRONMENTAL REPORT CHECK LIST

REPORT NUMBER ER76-002 CROSS REFERENCE UM 76-001  
 (TRACT MAP, ZONING CASE, OTHER ER)

TYPE OF REPORT:  NEGATIVE DECLARATION  IMPACT REPORT

PROJECT LOCATION: 3315, 3319 Linden St.

PROJECT DESCRIPTION Expansion of auto wrecking yd in C-30

REPORT SUBMITTED BY Robert Moskowitz

address 3291 San Pablo Ave.

phone 658-3101

REPORT PREPARED BY Same

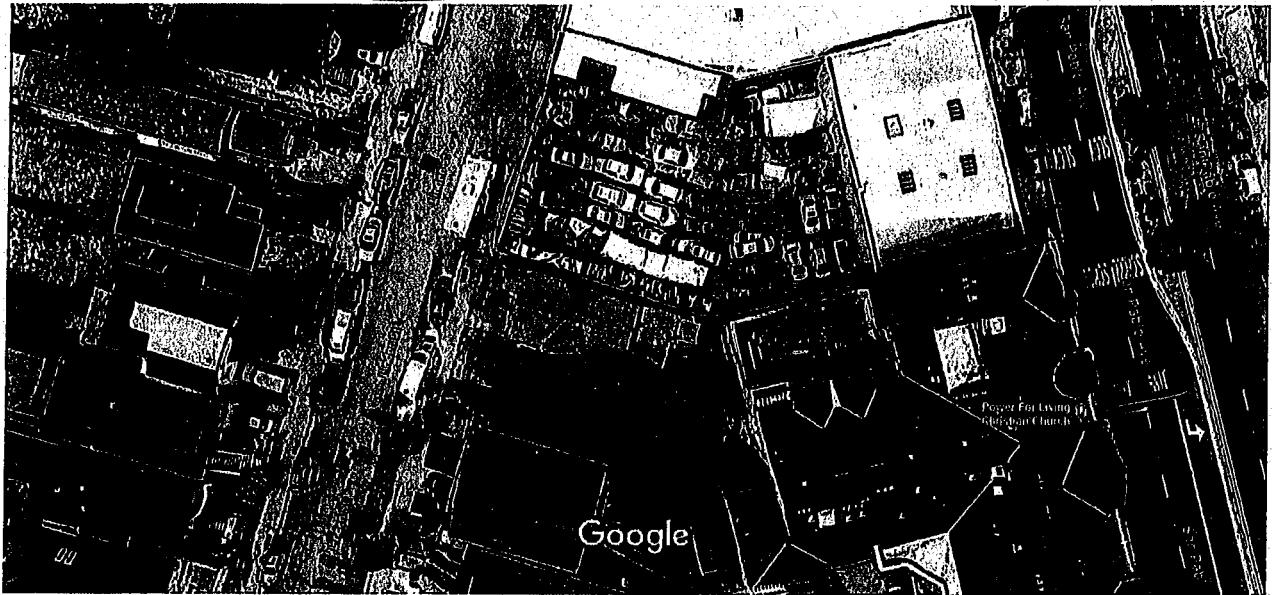
address \_\_\_\_\_

phone \_\_\_\_\_

| LISTED (DRAFT FILED)                    | 1/5/76<br>DATE | REMARKS |
|---|----------------|---------|
| SCHEDULED FOR COMMISSION ACTION         | 1/28/76        |         |
| PROPOSED FINAL REPORT DUE               |                |         |
| REFERRED TO:                            | 0-8 (7)        | 1/5/76  |
| REFERRED TO:                            |                |         |
| REFERRED TO:                            |                |         |
| REFERRED TO:                            |                |         |
| EIR NOTICE OF COMPLETION SENT TO STATE  |                |         |
| ND DRAFT TO COUNTY CLERK                | 1/5/76         |         |
| APPLICANT ADVISED OF COMMISSION ACTION  |                |         |
| NOTICE OF DETERMINATION TO COUNTY CLERK |                |         |

ADDITIONAL REMARKS:

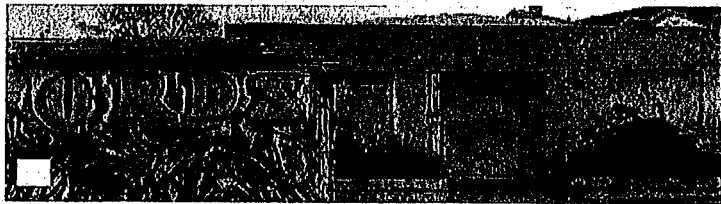
Google Maps 3310 Linden St



Imagery ©2018 Google, Map data ©2018 Google 20 ft



3310 Linden St  
Oakland, CA 94608



3319 / 0 Lin

EXHIBIT 1A



CS # 1801414

3319 Linden St

4-27-18

EXHIBIT 1B

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1180

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )
County of Alameda )

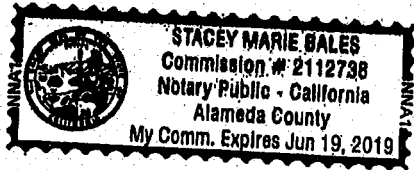
On 6-6-18 before me, Stacey Marie Bales, Notary Public,
Date Here Insert Name and Title of the Officer

personally appeared William N. DeMuney Jr.
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s); or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Stacey Marie Bales
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Document Date:

Number of Pages: Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name:

Corporate Officer - Title(s):

Partner - Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other:

Signer Is Representing:

Signer's Name:

Corporate Officer - Title(s):

Partner - Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other:

Signer Is Representing:

**AUTHORIZATION TO FILE APPEAL**

Rahebi Properties, LLC's ("LLC") managing member, Bob Rahebi, authorizes William H. McInerney, Jr. to complete and to file the Violation Appeal Form for the Notice of Violation issued to the LLC for its use of Linden Street property to store its construction equipment.

**NOTARY ACKNOWLEDGMENT**

State of California

County of Alameda

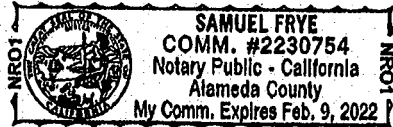
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I certify under PENALTY of PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

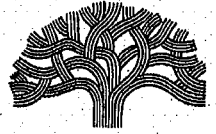
Signature Samuel Frye

(Seal)



ATTACHMENT B

CITY OF OAKLAND



DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA • SUITE 3315 • OAKLAND,  
CALIFORNIA 94612

Planning and Building Department  
Bureau of Planning

(510) 238-3941  
FAX (510) 238-6538  
TDD (510) 238-3254

Sent via U.S. Mail and Electronic Mail

July 2, 2019

William H. McInerney Jr.  
1999 Harrison St. Suite 1700  
Oakland, CA 94612

RE: Case File No.  
DET190067 - 3319 Linden St. ; APN:005-0471-005-00  
DET190068 - 0 Linden St. ; APN:005-0471-006-00

Dear Mr. McInerney Jr.,

You have submitted a request for a formal Determination from the Zoning Manager to affirm the approved Major Variance under ER-76-002 in 1976 for an Auto Wrecking Yard will allow the current use of the two parcels as a construction storage yard. This response is to address a violation appeal under complaints 1801414 and 1801415.

The site has the following planning permitting history:

1. On January 28, 1976, the Planning Commission denied an application (VM76-001) for a Major Variance to expand an existing auto wrecking yard at 3319 Linden Street into an adjacent vacant lot at 3315 Linden Street in the R-40 Garden Apartment Zone (see Attachment A)
2. The denial of VM76-001 was appealed, and the City Council overturned the denial on February 24, 1976.

As far as Zoning records, there is clear indication for a permitted auto wrecking yard operation at 3319 and 3315 Linden Streets (3315 is now 0 Linden Street). The auto wrecking yard would be a legal non-conforming operation under current Planning code if it has not ceased operation for more than two years. However, staff did not find a valid business license for a wrecking yard, and, therefore the auto wrecking yard is no longer a permitted activity at the subject properties.

Regardless, the site is currently a construction storage yard, not an auto wrecking yard. These activities are in different use classifications in Chapter 17.10 of the Planning Code. Therefore, the Major Variance granted in 1976 does not apply to the operation and the activity is in violation of the Planning Code.

Your current request to use the two parcels as a storage yard for construction equipment is classified as Construction Operations Industrial Activities, per Section 17.10.58 of the Planning Code:

17.10.582 - Construction Operations Industrial Activities.

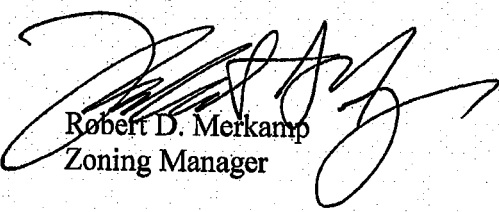
*Construction Operations Industrial Activities include enclosed and unenclosed facilities and accessory yards for construction and incidental storage activities and/or fabrication activities performed by construction contractors on lots other than construction sites. This classification also includes certain activities accessory to the above, as specified in Section 17.10.040. This classification includes, but is not limited to, the storage and custom cutting of stone for interior applications, roofing and plumbing component storage, and equipment storage for environmental contractors.*

3319 Linden Street is in the RU-5 zone and 0 Linden Street is in the RM-2 zone; both these zones prohibit Industrial Activities. Therefore, staff cannot support the Construction Operations Industrial Activity at the site.

If you, or any interested party, seeks to challenge this decision, an appeal must be filed by no later than ten calendar (10) days from the date of this letter, by 4:00 pm on July 12, 2019. An appeal shall be on a form provided by the Bureau of Planning of the Planning and Building Department, and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2114, to the attention of Eva Wu, Planner II. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion by the Zoning Manager or wherein his/her decision is not supported by substantial evidence and must include payment of \$1622.57 in accordance with the City of Oakland Master Fee Schedule. Failure to timely appeal will preclude you, or any interested party, from challenging the City's decision in court. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record which supports the basis of the appeal; failure to do so may preclude you, or any interested party, from raising such issues during the appeal and/or in court. However, the appeal will be limited to issues and/or evidence presented to the Zoning Manager prior to the close of the previously noticed public comment period on the matter.

If you have further questions regarding this matter, please contact Eva Wu, Planner II at (510) 238-3785 or [ewu@oaklandca.gov](mailto:ewu@oaklandca.gov)

Sincerely,

  
Robert D. Merkamp  
Zoning Manager

Attachments:

A: 1976 Zoning Register and 1/28/1976 PC Minutes

CC:

Sandra Smith  
Tim Low  
Katie Dignan



## ATTACHMENT A

Planning Commission  
January 28, 1976  
9:00 a.m., Room 115, City Hall  
San Francisco, California

DET190067 - 3319 Linden St. ; APN:005-0471-005-00

DET190068 - 0 Linden St. ; APN:005-0471-006-00

PRESENT: Chang, Durant, Gibb, Gibson, Johannes, Smith and Vogley. Gibson arrived after the meeting began.

ABSENT: None.

OFFICERS: Lind, Herbert and Doctor.

Vogley presided until Gibson assumed the chair after Item 5. The minutes of January 14 were approved.

### BUSINESS:

KRAMER, Stephen VM 75-423 (ER 75-141)

Approval with conditions of application for a Major Variance in order to retain as separate lots two contiguous lots approximately 2700 sq. ft. each joined as one through purchase by the same owner (permanent Residential Activity) at 87 and 91 Hamilton Place in the R-70 High Density Residential Zone. (Negative Declaration)

Staff report recommended approval with conditions. Vote on Negative Declaration approval with conditions: 6 ayes.

SAN PABLO AUTO WRECKING CO. VM 76-001 (ER 76-002)

Denial of application for a Major Variance in order to expand an existing auto wrecking yard (Scrap Operation Commercial Activity) into the vacant lot next door at 3315 Linden Street in the R-40 Garden Apartment Zone. (Negative Declaration)

Staff report recommended denial. Robert Moskowitz, 3291 San Pablo, spoke in support. Vote on approval: 0 ayes, 5 noes, 1 abstain (Smith).

MACEDA, Walter VM 75-420 (ER 75-140)

Denial of application for a Major Variance in order to convert an existing single family residence into a restaurant (Food Sales and Service Commercial Activity) at 483-58th Street in the R-40 Garden Apartment Residential Zone. (Negative Declaration)

Staff report recommended denial. Vote on approval: 0 ayes, 6 noes.

DOZIER MFG. CO. VM 75-411 (ER 75-138)

Approval with conditions of application for a Major Variance in order to expand light manufacturing activity to 4219 Grove Street in the C-10 Local Retail Commercial Zone. (Negative Declaration)

Staff report recommended approval with conditions. Vote on Negative Declaration and approval with conditions: 6 ayes.

### HEARINGS:

OFFICE OF PUBLIC WORKS CM 75-407 (ER 75-121)





**CITY OF OAKLAND  
APPEAL FORM  
FOR DECISION TO PLANNING COMMISSION, CITY  
COUNCIL OR HEARING OFFICER**

**PROJECT INFORMATION**

Case No. of Appealed Project: DET190068  
 Project Address of Appealed Project: 0 Linden Street  
 Assigned Case Planner/City Staff: Eva Wu, Planner II

**APPELLANT INFORMATION:**

Printed Name: William H. McInerney, Jr. Phone Number: 510-465-7100  
 Mailing Address: 1999 Harrison Street, Suite 1700 Alternate Contact Number: 510-506-2506  
 City/Zip Code Oakland 94612 Representing: Rahebi Properties  
 Email: wjr@mcinerney-dillon.com

An appeal is hereby submitted on:

**AN ADMINISTRATIVE DECISION (APPEALABLE TO THE CITY PLANNING COMMISSION OR HEARING OFFICER)**

**YOU MUST INDICATE ALL THAT APPLY:**

- Approving an application on an Administrative Decision
- Denying an application for an Administrative Decision
- Administrative Determination or Interpretation by the Zoning Administrator
- Other (please specify) Refusal to affirm major variance.

**Please identify the specific Administrative Decision/Determination Upon Which Your Appeal is Based Pursuant to the Oakland Municipal and Planning Codes listed below:**

- Administrative Determination or Interpretation (OPC Sec. 17.132.020)
- Determination of General Plan Conformity (OPC Sec. 17.01.080)
- Design Review (OPC Sec. 17.136.080)
- Small Project Design Review (OPC Sec. 17.136.130)
- Minor Conditional Use Permit (OPC Sec. 17.134.060)
- Minor Variance (OPC Sec. 17.148.060)
- Tentative Parcel Map (OMC Section 16.304.100)
- Certain Environmental Determinations (OPC Sec. 17.158.220)
- Creek Protection Permit (OMC Sec. 13.16.450)
- Creek Determination (OMC Sec. 13.16.460)
- City Planner's determination regarding a revocation hearing (OPC Sec. 17.152.080)
- Hearing Officer's revocation/impose or amend conditions (OPC Secs. 17.152.150 &/or 17.156.160)
- Other (please specify) Refusal to affirm major variance.

*(continued on reverse)*

(Continued)

- A DECISION OF THE CITY PLANNING COMMISSION (APPEALABLE TO THE CITY COUNCIL)**
  - Granting an application to: \_\_\_\_\_
  - OR  Denying an application to: \_\_\_\_\_

**YOU MUST INDICATE ALL THAT APPLY:**

**Pursuant to the Oakland Municipal and Planning Codes listed below:**

- Major Conditional Use Permit (OPC Sec. 17.134.070)
- Major Variance (OPC Sec. 17.148.070)
- Design Review (OPC Sec. 17.136.090)
- Tentative Map (OMC Sec. 16.32.090)
- Planned Unit Development (OPC Sec. 17.140.070)
- Environmental Impact Report Certification (OPC Sec. 17.158.220F)
- Rezoning, Landmark Designation, Development Control Map, Law Change (OPC Sec. 17.144.070)
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- Revocation of Deemed Approved Status (OPC Sec. 17.156.170)
- Other (please specify) \_\_\_\_\_

**FOR ANY APPEAL:** An appeal in accordance with the sections of the Oakland Municipal and Planning Codes listed above shall state specifically wherein it is claimed there was an error or abuse of discretion by the Zoning Administrator, other administrative decisionmaker or Commission (Advisory Agency) or wherein their/its decision is not supported by substantial evidence in the record, or in the case of Rezoning, Landmark Designation, Development Control Map, or Law Change by the Commission, shall state specifically wherein it is claimed the Commission erred in its decision.

**You must raise each and every issue you wish to appeal on this Appeal Form (or attached additional sheets). Failure to raise each and every issue you wish to challenge/appeal on this Appeal Form (or attached additional sheets), and provide supporting documentation along with this Appeal Form, may preclude you from raising such issues during your appeal and/or in court. However, the appeal will be limited to issues and/or evidence presented to the decision-maker prior to the close of the public hearing/comment period on the matter.**

**The appeal is based on the following:** *(Attach additional sheets as needed.)*

See attached Violation Appeal Form with supporting documents.

**Supporting Evidence or Documents Attached.** *(The appellant must submit all supporting evidence along with this Appeal Form; however, the appeal will be limited evidence presented to the decision-maker prior to the close of the public hearing/comment period on the matter.)*

(Continued on reverse)

(Continued)

William H. McInerney, Jr.  
Signature of Appellant or Representative of  
Appealing Organization William H. McInerney, Jr.  
Attorney for Rahebi Properties

July 11, 2019  
Date

Date/Time Received Stamp Below:

Below For Staff Use Only

Cashier's Receipt Stamp Below:



CITY OF OAKLAND

**PAID**  
POS # 883183  
6-6-18 def

250 FRANK H. OGAWA PLAZA • SUITE 2340 • OAKLAND, CALIFORNIA 94612-2031

Planning and Building Department  
Bureau of Building  
Code Enforcement Services  
[www.oaklandnet.com](http://www.oaklandnet.com)

(510) 238-6402  
FAX: (510) 238-2959  
TDD: (510) 238-3254

## VIOLATION APPEAL FORM

### Instructions

If you have received a Notice of Violation related to Code Enforcement or Zoning violations, you have the right to appeal. Please read the description of the appeal below and complete this form and mail it (along with supporting documentation to the Bureau of Building, at 250 Frank Ogawa Plaza, 2<sup>nd</sup> Floor, Oakland, CA 94612. Appeals forms must be received no later than the Deadline to Respond identified on the Notice of Violation.

Submittal Date: June 6, 2018

Property Address: 0 Linden Street, Oakland, CA 94608

Complaint No. 1801415

APN 005 047100600

Owner Name (Appellant) Rahebi Properties LLC

Mailing Address: 21 Hegenberger Court, Oakland, CA 94621

Contact Number: 510-465-7100

Email Address: [wjr@mcinerney-dillon.com](mailto:wjr@mcinerney-dillon.com)

Name of Representative/Attorney (if any):

William H. McInerney, Jr. *W. H. McInerney, Jr.*

Representative's Mailing Address:  
Email/Phone Number

McInerney & Dillon, 1999 Harrison Street, Suite 1700, Oakland, CA 94612  
[wjr@mcinerney-dillon.com](mailto:wjr@mcinerney-dillon.com) / (510) 465-7100

AGENT MUST PROVIDE NOTARIZED AUTHORIZATION

### Appeal

It is the responsibility of the property owner to maintain their property in accordance with the Oakland Municipal Code (OMC 8.24, 15.08 and Title 17). Once an inspection and verification of violations has occurred fees may be assessed, a lien recorded and if no payment is received all fees may be transferred to the property tax.

Below is a description of the Violation Appeal. Please submit a written explanation of why you are appealing.

### Violation Appeals

You should contact the inspector, as indicated in the Notice of Violation, if you have corrected the violation or to make arrangements to correct the violations.

If you feel the City erred and either: a. Mailed the notice to the incorrect owner or; b. Notified you but you have no blighted conditions or code enforcement violations on your property you must submit this form along with the reason you feel the City erred by the Deadline to Respond identified on the Notice of Violation. You must pay a filing fee in the amount of \$110.00 at the time of submittal.

City of Oakland

Violation Appeal Form

**EXHIBIT 1**

### REASON FOR THIS APPEAL

In January, 2017, Rahebi Properties, LLC purchased from FIG, LLC the two (2) adjoining parcels (APN #005-0471-005-00 and APN #005-0471-006-00) located at 3310 Linden Street and 0 Linden Street in Oakland that are the subject of these two appeals.

Since 1976, the prior owner's tenants had been using the two parcels as a junk/storage yard since 1976 under the attached permit (Exhibit 1). I have enclosed a copy of aerial photograph of the site when it was used to store crushed vehicles and a picture of the property as it is currently being used.

In January, 2017, prior to the close of escrow for the purchase of the two parcels, Rahebi Properties, LLC's managing member, Bob Rahebi, reviewed with the City of Oakland's Permit Department its files on those two parcels. Exhibit 1, which is part of those files, was discussed with the Permit Department. Mr. Rahebi was informed that the LLC's plan to use the two parcels to store construction equipment was grandfathered/permitted under the 1976 permit. Based on that information, Rahebi Properties, LLC purchased the property.

Based on the above facts, Rahebi Properties, LLC believes its current use of the two parcels as a storage yard for its construction equipment is permitted and is not a violation of the City of Oakland's Municipal Code.

CITY OF OAKLAND



CITY HALL · 14TH AND WASHINGTON STREETS · OAKLAND, CALIFORNIA 94612

Planning Department

DATE: January 5, 1976

FILE #: RR 76 - 002

TO: Alameda County Clerk  
1225 Fallon Street  
Oakland, CA. 94612

FROM: Oakland City Planning Commission, City Hall, Oakland, CA. 94612

SUBJECT: Filing of Negative Declaration pursuant to CEQA.

RE: Expansion of Auto Wrecking Yard in G-30 Zone      3316 Linden St.  
(project description - - - - - project location)

The City Planning Commission invites comments on Negative Declarations in order to test the accuracy and completeness of these informational documents. In order to allow adequate time for the project applicant to respond to questions, and for a final report to be prepared by the City Planning Staff, all comments should be returned to the City Planning Department by January 21, 1976  
(date):

Comments should specifically address the following:

1. Appropriateness of basic assumptions and/or techniques used in the reporting of technical data.
2. Specific omissions of pertinent information and/or specific sources of such omitted data.

*Norman J. Lind*  
Norman J. Lind  
Director of City Planning

EXHIBIT 1



OAKLAND, CALIFORNIA  
INITIAL STUDY

RR NO. 76-002  
REF. NO. 1000 76-002

PROJECT CHECK LIST

CALIFORNIA ENVIRONMENTAL QUALITY ACT OF 1970 (as amended):

PROJECT TYPE AND LOCATION:

1. Does the proposed project require rezoning of the site?  YES  NO  
2. Will the proposed project conflict with approved specific plans for the neighborhood?  YES  NO

PHYSICAL:

3. Will the proposed project involve a grading permit for more than 1900 cubic yards or involve grading on a slope in excess of 10%?  YES  NO  
4. Will the proposed project involve construction of facilities within 1/2 mile of an area which, according to Department of the Interior (USGS) Aerial and Engineering Geological mapping contains an earthquake fault or is subject to landslides?  YES  NO  
5. Will the proposed project involve construction immediately adjacent to or over a lagoon, bay, tideland, marsh or creek?  YES  NO  
6. Will the proposed project affect any important historical or archeological site or any natural or man-made features which is unique, that is, not found in other parts of the region or state?  YES  NO  
7. Will the proposed project congest existing recreation or public school facilities, or burden existing public utilities serving the project area?  YES  NO

BIOLOGICAL:

8. Does the proposed project area serve as a habitat, food source, nesting place or source of water for rare or endangered fish or wildlife species?  YES  NO  
9. Are there rare or endangered plant species in the vicinity of the proposed project?  YES  NO  
10. Could the proposed project diminish the quantity of all fish or wildlife species in the project vicinity or interfere with migratory or other natural movement patterns?  YES  NO  
11. Will the proposed project cause the removal of large trees (twelve inches in diameter or larger as measured on the main trunk four feet above the ground)?  YES  NO

HEALTH:

12. Will the proposed project be of particular interest to the regional air quality or water quality agencies because of potential health hazard from air or water pollution; will the project result in the long-term generation of unusually high levels of noise as defined for residential and light manufacturing zones at Section 7700 of the Oakland Zoning Regulations?  YES  NO  
13. Could the proposed project endanger community residents or lead to the long-term disruption of the immediate neighborhood from unusual traffic increases?  YES  NO

SOCIO-ECONOMIC:

14. Will the proposed project serve to encourage the development of presently undeveloped areas near the project site?  YES  NO  
15. Will the proposed project involve any displacement of residents?  YES  NO  
16. Adequate roads and standard sewer, water, power and communication facilities do not exist adjacent to the project site?  YES  NO  
17. Has contact with homeowner's associations or other similar groups indicated probable opposition to the proposed use of the site or to the quality or appearance of the proposed project?  YES  NO  
18. Could the proposed project inhibit the extraction of any vital natural resource or the conservation of any scarce natural resource?  YES  NO

CHECK LIST PREPARED BY:

*[Signature]*  
NAME

DATE

REVIEWED BY:

NAME

TITLE

DATE

[ ] SEE ATTACHED SHEET(S) FOR REVIEWER COMMENTS

ADDITIONAL COPIES AVAILABLE  
FROM: City Planning Department  
11th Floor City Hall  
Oakland, California 94612



DRAFT  
FINAL

ER NO. 76-002  
REF. NO. DP78-001

NEGATIVE DECLARATION - Oakland, California.

The City Planning Department will review this Draft as to the project's effect on the environment. If the project is found not to have a significant effect on the environment the Negative Declaration will be accepted. If project is found to have a significant effect, applicant will be asked to submit an Environmental Impact Report.

I. Party in Interest: Project Requiring Discretionary Action.

- A. Project Applicant's Name: SAN BABLO AUTO W.R. Co.
- B. Applicant's Address: 3291 SAN BABLO AVE OAKLAND, CA.
- C. Applicant's Phone: 658-8101
- D. Type of Application:
 

|   |  |  |
|---|--|--|
| <input type="checkbox"/> Reasoning                                      | <input checked="" type="checkbox"/> Major Conditional Use Permit | <input type="checkbox"/> Tentative Subdivision M |
| <input checked="" type="checkbox"/> Major Variance                      | <input type="checkbox"/> Planned Unit Development                | <input type="checkbox"/> City Project            |
| <input type="checkbox"/> Major Grading (over 1300 sq. yds or 10% slope) |  | <input type="checkbox"/> Other                   |

II. Location and Description of Project:

- A. Address of Project Site: 3815 Linden St.
- B. Size of Project Site: 35' x 135' 4725 (sq. ft.)
 

|                                      |                                     |
|--------------------------------------|-------------------------------------|
| <input type="checkbox"/> Residential | <input type="checkbox"/> Commercial |
| Type (attached/detached) _____       | <input type="checkbox"/> Industrial |
| # units _____                        | <input type="checkbox"/> Public     |
| # bedrooms _____                     | <input type="checkbox"/> Other      |
- C. Additional Description:
 

|  |                       |                                    |
|--|-----------------------|------------------------------------|
| Type or Use _____                          | Building Height _____ | Total Construction (sq. ft.) _____ |
| Estimated Beginning/Completion date _____  |                       |                                    |
| Major Exterior Construction Material _____ |                       |                                    |
- D. Describe project as proposed; (brief summary)

III. No-Impact Documentation:

Attach marked copy of Environmental Review Checklist. Explain any yes answers in the following space:

Please summarize briefly here why you think the project will not have a significant effect on the environment. LOT IS VACANT AND DEBRIS IS BEING DUMPED INTO.

IV. Negative Declaration: The proposed project described herein will not have any significant effect on the environment. I therefore submit this Negative Declaration in support of the described project.

12-22-1975  
Date

[Signature]  
Signature of applicant for project requiring Discretionary action.

\_\_\_\_\_  
Name of Person who prepared Initial Study

Attach: Initial Study Checklist.

CERTIFICATION OF ACCEPTANCE OF DECLARATION

The Initial Study and this Negative Declaration are accepted with the following comments:

by: (Planning Commission)  
(City Council)

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

Date

ENVIRONMENTAL REPORT CHECK LIST

REPORT NUMBER ER76-002      CROSS REFERENCE VM76-001  
(TRACT MAP, ZONING CASE, OTHER ER)

TYPE OF REPORT:     NEGATIVE DECLARATION       IMPACT REPORT

PROJECT LOCATION: 3315  
3319 Linden St.

PROJECT DESCRIPTION Expansion of auto wrecking yd in C-30

REPORT SUBMITTED BY Robert Moskowitz

address 3291 San Pablo Ave.

phone 658-3101

REPORT PREPARED BY James

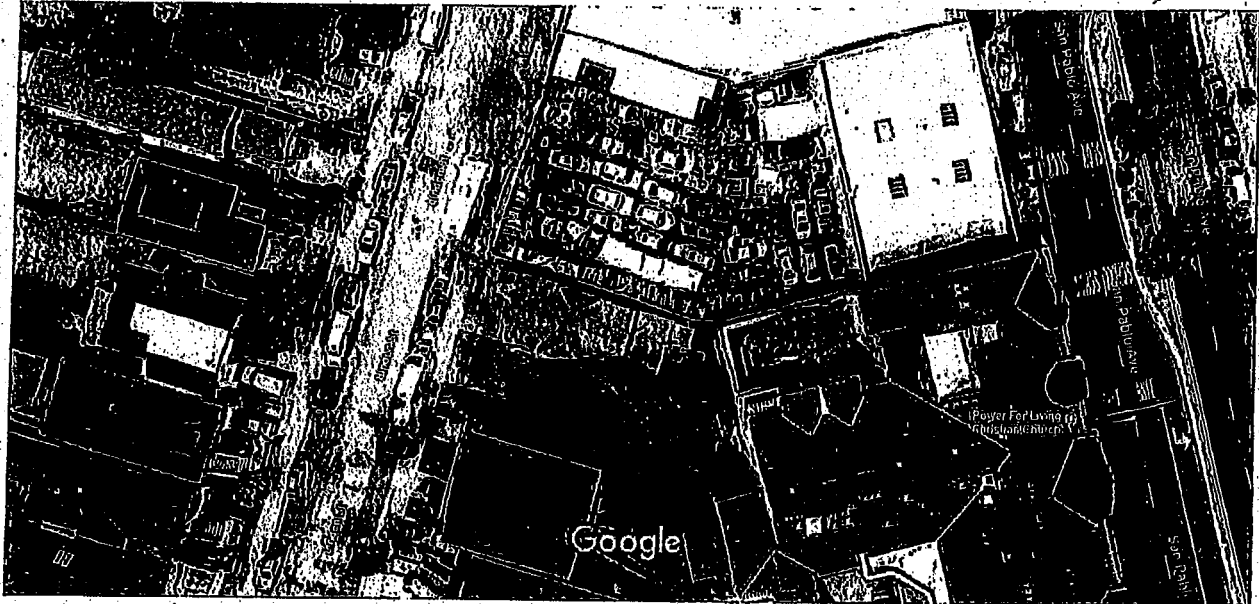
address \_\_\_\_\_

phone \_\_\_\_\_

| LISTED (DRAFT FILED)<br>SCHEDULED<br>FOR COMMISSION ACTION | DATE          | REMARKS |
|--|---------------|---------|
| <u>1/28/76</u>   |               |         |
| PROPOSED FINAL REPORT DUE                                  |               |         |
| REFERRED TO: <u>C-5 (7)</u>                                | <u>1/5/76</u> |         |
| REFERRED TO:   |               |         |
| REFERRED TO:   |               |         |
| REFERRED TO:   |               |         |
| BY NOTICE OF COMPLETION<br>SENT TO STATE                   |               |         |
| AND DRAFT TO COUNTY<br>CLERK                               | <u>1/5/76</u> |         |
| APPLICANT ADVISED OF<br>COMMISSION ACTION                  |               |         |
| NOTICE OF DETERMINATION TO<br>COUNTY CLERK                 |               |         |

ADDITIONAL REMARKS:

Google Maps 3310 Linden St



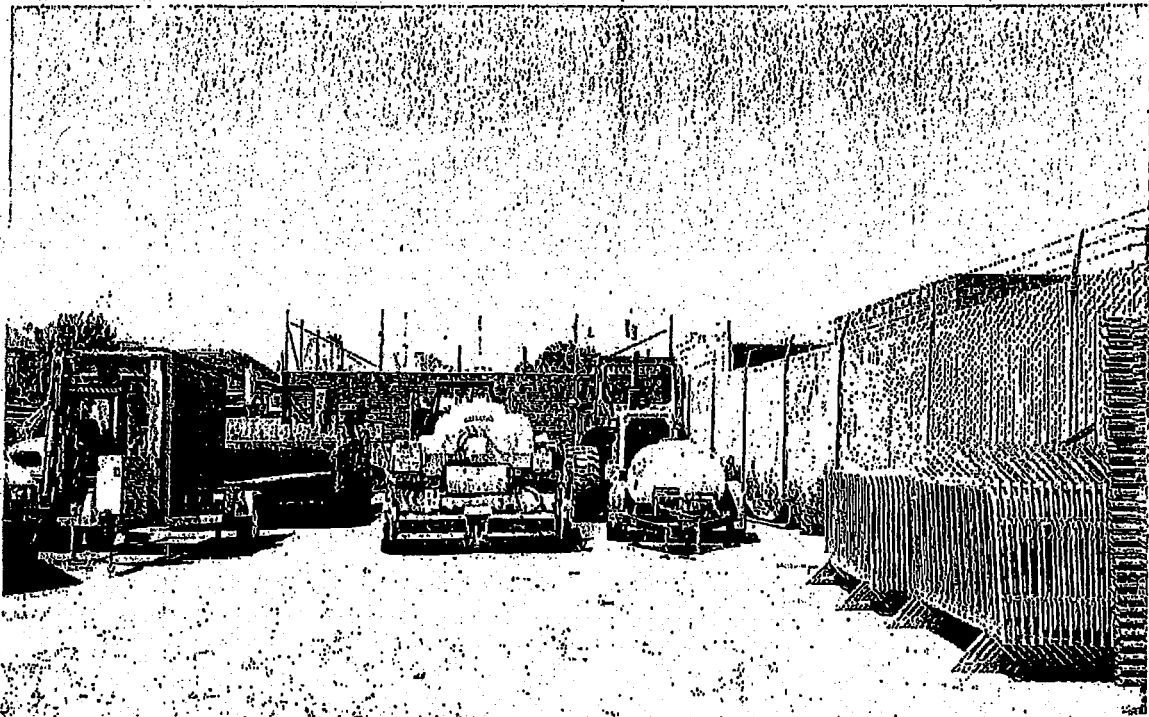
Imagery ©2018 Google, Map data ©2018 Google 20 ft



3310 Linden St  
Oakland, CA 94608



EXHIBIT 1A



CS # 1801414

3319 Linden St

4-27-18

EXHIBIT 1B

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

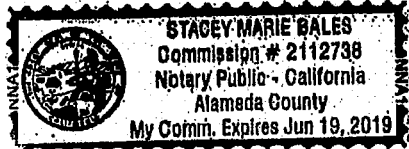
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )
County of Alameda )
On 6-6-18 before me, Stacey Marie Bales, Notary Public
Date Here Insert Name and Title of the Officer
personally appeared William H. McElreath, Jr.
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Stacey Marie Bales
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document
Title or Type of Document: Document Date:
Number of Pages: Signer(s) Other Than Named Above:
Capacity(ies) Claimed by Signer(s)
Signer's Name: Signer's Name:
Corporate Officer - Title(s): Corporate Officer - Title(s):
Partner - Limited General Partner - Limited General
Individual Attorney in Fact Individual Attorney in Fact
Trustee Guardian or Conservator Trustee Guardian or Conservator
Other: Other:
Signer Is Representing: Signer Is Representing:

**AUTHORIZATION TO FILE APPEAL**

Rahebi Properties, LLC's ("LLC") managing member, Bob Rahebi, authorizes William H. McInerney, Jr. to complete and to file the Violation Appeal Form for the Notice of Violation issued to the LLC for its use of Linden Street property to store its construction equipment.

**NOTARY ACKNOWLEDGMENT**

State of California

County of Alameda

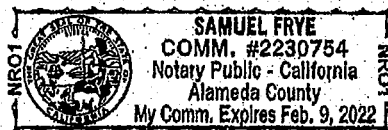
On June 6<sup>th</sup>, 2018, before me, Samuel Frye, Public Notary, personally appeared Bob Rahebi, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~ signature(~~s~~) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY of PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Samuel Frye

(Seal)





**CITY OF OAKLAND  
APPEAL FORM  
FOR DECISION TO PLANNING COMMISSION, CITY  
COUNCIL OR HEARING OFFICER**

**PROJECT INFORMATION**Case No. of Appealed Project: DET190067Project Address of Appealed Project: 3319 Linden StreetAssigned Case Planner/City Staff: Eva Wu, Planner II**APPELLANT INFORMATION:**Printed Name: William H. McInerney, Jr. Phone Number: 510-465-7100Mailing Address: 1999 Harrison Street, Suite 1700 Alternate Contact Number: 510-506-2506City/Zip Code Oakland 94612 Representing: Rahebi PropertiesEmail: wlr@mcinerney-dillon.com

An appeal is hereby submitted on:

**AN ADMINISTRATIVE DECISION (APPEALABLE TO THE CITY PLANNING COMMISSION OR HEARING OFFICER)**

**YOU MUST INDICATE ALL THAT APPLY:**

- Approving an application on an Administrative Decision
- Denying an application for an Administrative Decision
- Administrative Determination or Interpretation by the Zoning Administrator
- Other (please specify) Refusal to affirm major variance.

Please identify the specific Administrative Decision/Determination Upon Which Your Appeal is Based Pursuant to the Oakland Municipal and Planning Codes listed below:

- Administrative Determination or Interpretation (OPC Sec. 17.132.020)
- Determination of General Plan Conformity (OPC Sec. 17.01.080)
- Design Review (OPC Sec. 17.136.080)
- Small Project Design Review (OPC Sec. 17.136.130)
- Minor Conditional Use Permit (OPC Sec. 17.134.060)
- Minor Variance (OPC Sec. 17.148.060)
- Tentative Parcel Map (OMC Section 16.304.100)
- Certain Environmental Determinations (OPC Sec. 17.158.220)
- Creek Protection Permit (OMC Sec. 13.16.450)
- Creek Determination (OMC Sec. 13.16.460)
- City Planner's determination regarding a revocation hearing (OPC Sec. 17.152.080)
- Hearing Officer's revocation/impose or amend conditions (OPC Secs. 17.152.150 &/or 17.156.160)
- Other (please specify) Refusal to affirm major variance.

(continued on reverse)



(Continued)

- A DECISION OF THE CITY PLANNING COMMISSION (APPEALABLE TO THE CITY COUNCIL)**       Granting an application to:      OR       Denying an application to:

**YOU MUST INDICATE ALL THAT APPLY:**

Pursuant to the Oakland Municipal and Planning Codes listed below:

- Major Conditional Use Permit (OPC Sec. 17.134.070)
- Major Variance (OPC Sec. 17.148.070)
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---

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See attached Violation Appeal Form with supporting documents.

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Supporting Evidence or Documents Attached, *(The appellant must submit all supporting evidence along with this Appeal Form; however, the appeal will be limited evidence presented to the decision-maker prior to the close of the public hearing/comment period on the matter.*

(Continued on reverse)

(Continued)

William H. McInerney, Jr.  
Signature of Appellant or Representative of  
Appealing Organization William H. McInerney, Jr.  
Attorney for Rahebi Properties

July 11, 2019  
Date

Date/Time Received Stamp Below:

Below For Staff Use Only

Cashier's Receipt Stamp Below:



CITY OF OAKLAND

250 FRANK H. OGAWA PLAZA • SUITE 2340 • OAKLAND, CALIFORNIA 94612-2031

Planning and Building Department  
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TDD: (510) 238-3254

**PAID**  
POS # 883183  
6.6.18 Feb

### VIOLATION APPEAL FORM

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Submitted Date:

Property Address:

Complaint No.

APN

Owner Name (Appellant)

Mailing Address:

Contact Number:

Email Address:

Name of Representative/Attorney (if any):

Representative's Mailing Address:   
Email/Phone Number:

*(AGENT MUST PROVIDE NOTARIZED AUTHORIZATION)*

#### Appeal

It is the responsibility of the property owner to maintain their property in accordance with the Oakland Municipal Code (OMC 8.24, 15.08 and Title 17). Once an inspection and verification of violations has occurred fees may be assessed, a lien recorded and if no payment is received all fees may be transferred to the property tax.

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If you feel the City erred and either: a. Mailed the notice to the incorrect owner or; b. Noticed you but you have no blighted conditions or code enforcement violations on your property you must submit this form along with the reason you feel the City erred by the Deadline to Respond identified on the Notice of Violation. You must pay a filing fee in the amount of \$110.00 at the time of submittal.

City of Oakland

Violation Appeal Form

**EXHIBIT 1**

#### REASON FOR THIS APPEAL

In January, 2017, Rahebi Properties, LLC purchased from FIG, LLC the two (2) adjoining parcels (APN #005-0471-005-00 and APN #005-0471-006-00) located at 9310 Linden Street and 0 Linden Street in Oakland that are the subject of these two appeals.

Since 1976, the prior owner's tenants had been using the two parcels as a junk/storage yard since 1976 under the attached permit (Exhibit 1). I have enclosed a copy of aerial photograph of the site when it was used to store crushed vehicles and a picture of the property as it is currently being used.

In January, 2017, prior to the close of escrow for the purchase of the two parcels, Rahebi Properties, LLC's managing member, Bob Rahebi, reviewed with the City of Oakland's Permit Department its files on those two parcels. Exhibit 1, which is part of those files, was discussed with the Permit Department. Mr. Rahebi was informed that the LLC's plan to use the two parcels to store construction equipment was grandfathered/permitted under the 1976 permit. Based on that information, Rahebi Properties, LLC purchased the property.

Based on the above facts, Rahebi Properties, LLC believes its current use of the two parcels as a storage yard for its construction equipment is permitted and is not a violation of the City of Oakland's Municipal Code.

CITY OF OAKLAND



CITY HALL • 14TH AND WASHINGTON STREETS • OAKLAND, CALIFORNIA 94612

Planning Department

DATE: January 5, 1976

FILE #: ER 76 - 002

TO: Alameda County Clerk  
1225 Fallon Street  
Oakland, CA. 94612

FROM: Oakland City Planning Commission, City Hall, Oakland, CA, 94612

SUBJECT: Filing of Negative Declaration pursuant to CEQA.

RE: Expansion of Auto Wrecking Yard in C-30 Zone      3316 Linden St.  
(project description - - - - - project location)

The City Planning Commission invites comments on Negative Declarations in order to test the accuracy and completeness of these informational documents. In order to allow adequate time for the project applicant to respond to questions, and for a final report to be prepared by the City Planning Staff, all comments should be returned to the City Planning Department by January 21, 1976 (date).

Comments should specifically address the following:

1. Appropriateness of basic assumptions and/or techniques used in the reporting of technical data.
2. Specific omissions of pertinent information and/or specific sources of such omitted data.

*Norman J. Lind*  
Norman J. Lind  
Director of City Planning

EXHIBIT L

DRAFT  
 FINAL

ER. NO. 76-002  
RRF, NO. 1622-01

NEGATIVE DECLARATION - Oakland, California

The City Planning Department will review this Draft as to the project's effect on the environment. If the project is found not to have a significant effect on the environment the Negative Declaration will be accepted. If project is found to have a significant effect, applicant will be asked to submit an Environmental Impact Report.

**I. Party in Interest: Project Requiring Discretionary Action.**

A. Project Applicant's Name: SAN PABLO AUTO WDR. Co.  
B. Applicant's Address: 3291 SAN PABLO AVE DANFORD, Ca.  
C. Applicant's Phone: 658-8101  
D. Type of Application:  
 Rezoning  Major Conditional Use Permit  Tentative Subdivision M  
 Major Variance  Planned Unit Development  City Project  
 Major Grading (over 1200 sq. yds or 10% slope)  Other

**II. Location and Description of Project:**

A. Address of Project Site: 3315 Linden St  
B. Size of Project Site: 35 x 135' 4705 (sq. ft.)  
 Residential  Commercial  
Type (attached/detached) \_\_\_\_\_  Industrial  
# units \_\_\_\_\_  Public  
# bedrooms \_\_\_\_\_  Other  
C. Additional Description:  
Type or Use \_\_\_\_\_ Building Height \_\_\_\_\_ Total Construction(sq. ft.) \_\_\_\_\_  
Estimated beginning/completion date \_\_\_\_\_  
Major Exterior Construction Material \_\_\_\_\_  
D. Describe project as proposed: (brief summary)

[Empty box for project description summary]

**III. No-Impact Documentation:**

Attach marked copy of Environmental Review Checklist. Explain any yes answers in the following space:

Please summarize briefly here why you think the project will not have a significant effect on the environment. LOT IS VACANT AND DEBRIS IS BEING DUMPED INTO.

**IV. Negative Declaration:** The proposed project described herein will not have any significant effect on the environment. I therefore submit this Negative Declaration in support of the described project.

12-22-1976  
Date

[Signature]  
Signature of applicant for project requiring Discretionary action.

Name of Person who prepared Initial Study

Attach: Initial Study Checklist.

CERTIFICATION OF ACCEPTANCE OF DECLARATION

The Initial Study and this Negative Declaration are accepted with the following comments:

by: (Planning Commission)  
(City Council)

Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

OAKLAND CALIFORNIA  
INITIAL STUDY

ER NO. 76-002  
REF. NO. 100 76-001

PROJECT CHECK LIST

CALIFORNIA ENVIRONMENTAL QUALITY ACT OF 1970 (as amended):

PROJECT TYPE AND LOCATION:

1. Does the proposed project require rezoning of the site?  YES  NO
2. Will the proposed project conflict with approved specific plans for the neighborhood?  YES  NO

PHYSICAL:

3. Will the proposed project involve a grading permit for more than 1300 cubic yards or involve grading on a slope in excess of 10%?  YES  NO
4. Will the proposed project involve construction of facilities within 1/4 mile of an area which, according to Department of the Interior (USGS) Aerial and Engineering Geological mapping contains an earthquake fault or is subject to landslides?  YES  NO
5. Will the proposed project involve construction immediately adjacent to or over a lagoon, bay, tidal land, marsh or creek?  YES  NO
6. Will the proposed project affect any important historical or archeological site or any natural or man-made feature which is unique, that is, not found in other parts of the region or state?  YES  NO
7. Will the proposed project congest existing recreation or public school facilities, or burden existing public utilities serving the project area?  YES  NO

BIOLOGICAL:

8. Does the proposed project area serve as a habitat, food source, nesting place or source of water for rare or endangered fish or wildlife species?  YES  NO
9. Are there rare or endangered plant species in the vicinity of the proposed project?  YES  NO
10. Could the proposed project diminish the quantity of all fish or wildlife species in the project vicinity or interfere with migratory or other natural movement patterns?  YES  NO
11. Will the proposed project cause the removal of large trees (twelve inches in diameter or larger as measured on the main trunk four feet above the ground)?  YES  NO

HEALTH:

12. Will the proposed project be of particular interest to the regional air quality or water quality agencies because of potential health hazard from air or water pollution; will the project result in the long-term generation of unusually high levels of noise as defined for residential and light manufacturing zones at Section 7700 of the Oakland Zoning Regulations?  YES  NO
13. Could the proposed project endanger community residents or lead to the long-term disruption of the immediate neighborhood from unusual traffic increases?  YES  NO

SOCIO-ECONOMIC:

14. Will the proposed project serve to encourage the development of presently undeveloped areas near the project site?  YES  NO
15. Will the proposed project involve any displacement of residents?  YES  NO
16. Adequate roads and standard sewer, water, power and communication facilities do not exist adjacent to the project site?  YES  NO
17. Has contact with homeowner's associations or other similar groups indicated probable opposition to the proposed use of the site or to the quality or appearance of the proposed project?  YES  NO
18. Could the proposed project inhibit the extraction of any vital natural resources or the conservation of any scarce natural resources?  YES  NO

CHECK LIST PREPARED BY:

NAME

DATE

REVIEWED BY:

NAME

TITLE

DATE

[ ] SEE ATTACHED SHEET(S) FOR REVIEWER COMMENTS

ADDITIONAL COPIES AVAILABLE  
FROM: City Planning Department  
11th Floor City Hall  
Oakland, California 94612

ENVIRONMENTAL REPORT CHECK LIST

REPORT NUMBER ER76-002 CROSS REFERENCE V1076-001  
(TRACT MAP, ZONING CASE, OTHER ER)

TYPE OF REPORT:  NEGATIVE DECLARATION  IMPACT REPORT

PROJECT LOCATION: 3291 Linden St.

PROJECT DESCRIPTION: Expansion of auto wrecking yd in C-30

REPORT SUBMITTED BY: Robert Mostaowicz

address: 3291 Alameda Park Ave

phone: 658-3101

REPORT PREPARED BY: Same

address: \_\_\_\_\_

phone: \_\_\_\_\_

| LISTED (DRAFT FILED)<br>SCHEDULED<br>FOR COMMISSION ACTION | 1/5/76<br>DATE | REMARKS |
|--|----------------|---------|
| 1/28/76  |                |         |
| PROPOSED FINAL REPORT DUE                                  |                |         |
| REFERRED TO: O.S. (7)                                      | 1/5/76         |         |
| REFERRED TO:   |                |         |
| REFERRED TO:   |                |         |
| REFERRED TO:   |                |         |
| WR NOTICE OF COMPLETION<br>SENT TO STATE                   |                |         |
| NO DRAFT TO COUNTY<br>CLERK                                | 1/5/76         |         |
| APPLICANT ADVISED OF<br>COMMISSION ACTION                  |                |         |
| NOTICE OF DETERMINATION TO<br>COUNTY CLERK                 |                |         |

ADDITIONAL REMARKS:



Google Maps 3310 Linden St



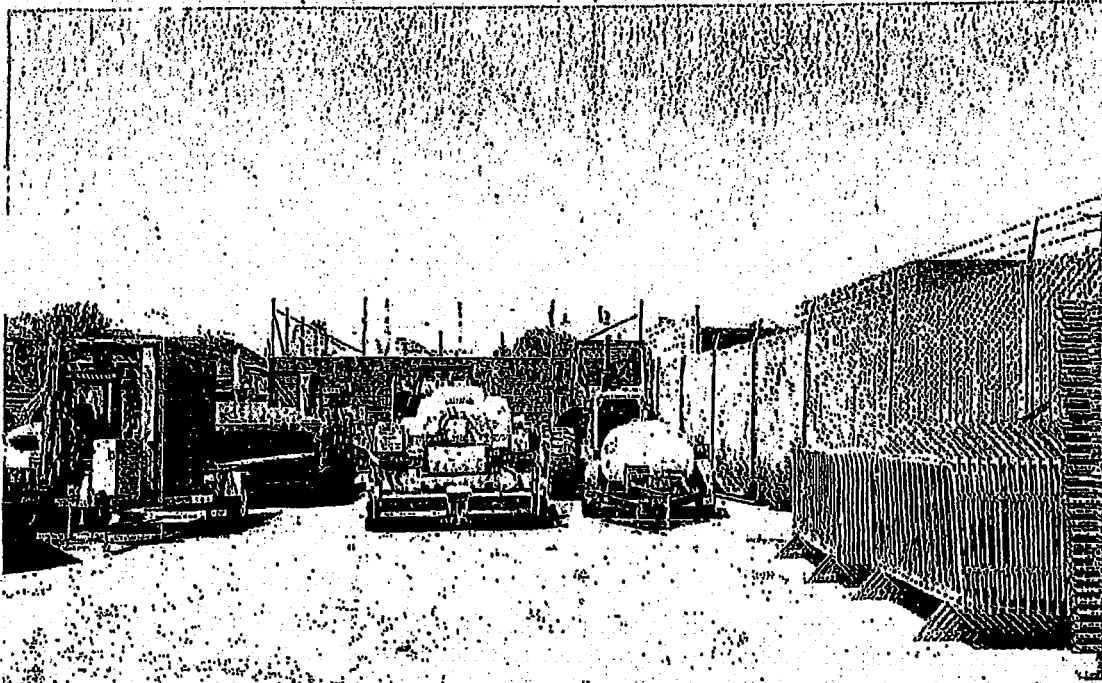
Imagery ©2018 Google, Map data ©2018 Google 20 ft



3310 Linden St  
Oakland, CA 94608



EXHIBIT 1A



CS # 1801414

3319 Linden St

4-27-18

EXHIBIT 1B

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )
County of Alameda )

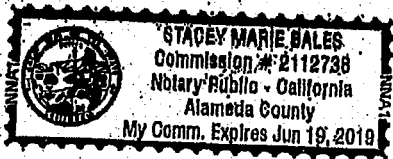
On 6-6-18 before me, Stacey Marie Bales, Notary Public,
Date Here Insert Name and Title of the Officer

personally appeared William N. DeMuney Jr.
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Stacey Marie Bales
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Document Date:

Number of Pages: Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name:

Corporate Officer - Title(s):

Partner - Limited General

Individual Attorney In Fact

Trustee Guardian or Conservator

Other:

Signer Is Representing:

Signer's Name:

Corporate Officer - Title(s):

Partner - Limited General

Individual Attorney In Fact

Trustee Guardian or Conservator

Other:

Signer Is Representing:

**AUTHORIZATION TO FILE APPEAL**

Rahebi Properties, LLC's ("LLC") managing member, Bob Rahebi, authorizes William H. McInerney, Jr. to complete and to file the Violation Appeal Form for the Notice of Violation issued to the LLC for its use of Linden Street property to store its construction equipment.

**NOTARY ACKNOWLEDGMENT**

State of California

County of Alameda

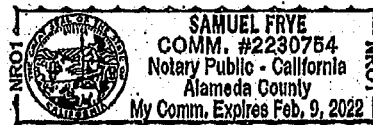
On June 6th, 2018, before me, Samuel Frye, Public Notary, personally appeared Bob Rahebi, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

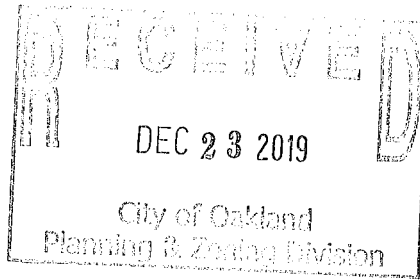
I certify under PENALTY of PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Samuel Frye

(Seal)





December 23, 2019

**Via Personal Delivery**

Eva Wu  
Bureau of Planning  
City of Oakland  
250 Frank H. Ogawa, Suite 2114  
Oakland, CA 94612

Re: **Rahebi Properties Appeal**  
**0 Linden Street, Oakland**  
**3319 Linden Street, Oakland**

Dear Ms. Wu:

I have enclosed both the Phase I and Phase II reports for 3319 Linden Street property.

On January 22<sup>nd</sup> of 2008, Schutze & Associates performed a Phase I (**Exhibit A**) on series of parcels owned by Alvin Auto Recycling. Based on their recommendation, a Phase II was performed (**Exhibit B**) by Schutze & Associates on April 21, 2008. Page 10 of the report is specific to 3319 Linden.

**G.4 3319 Linden Street Storage Yard (Borings B4 and B5)**

The two borings were drilled in the concrete-paved, fenced yard of the 3319 Linden Street parcel. The borings were drilled to depths of 12 ft bgs. Unconfined groundwater was measured at depths of 6.8 (B4) and 8.1 (B5) ft bgs.

**Soil:**

Based on field observations stained or odiferous soil was not observed. TPH, MTBE and BTEX were not detected in the soil samples collected at these boring locations.

**Groundwater:**

TPH: The concentration of hydrocarbon in groundwater at this location was 230 ug/L (B5). Based on the laboratory report, the contamination consisted of hydrocarbon in the diesel range.

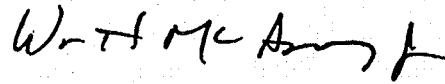
MBTEX: MTBE was not detected. Benzene, toluene and ethylbenzene were not detected. Xylenes were detected at low concentrations of 0.89 ug/L, which is below the ESL of 20.0 ug/L.

PNAs, VOCs and Fuel Additives were either not detected or existed at low concentrations.

Eva Wu  
Bureau of Planning  
December 23, 2019  
Page 2

It is Rahebi Properties' intention to develop plans and apply for a re-zoning of both lots to a RU-5 and develop them. This will take about 2 years. We ask that the City allow Rahebi Properties time to stay on the premise until it completes the planning and development of both properties.

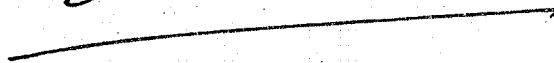
Very truly yours,

A handwritten signature in black ink, appearing to read "W. H. McInerney, Jr.", written in a cursive style.

William H. McInerney, Jr.

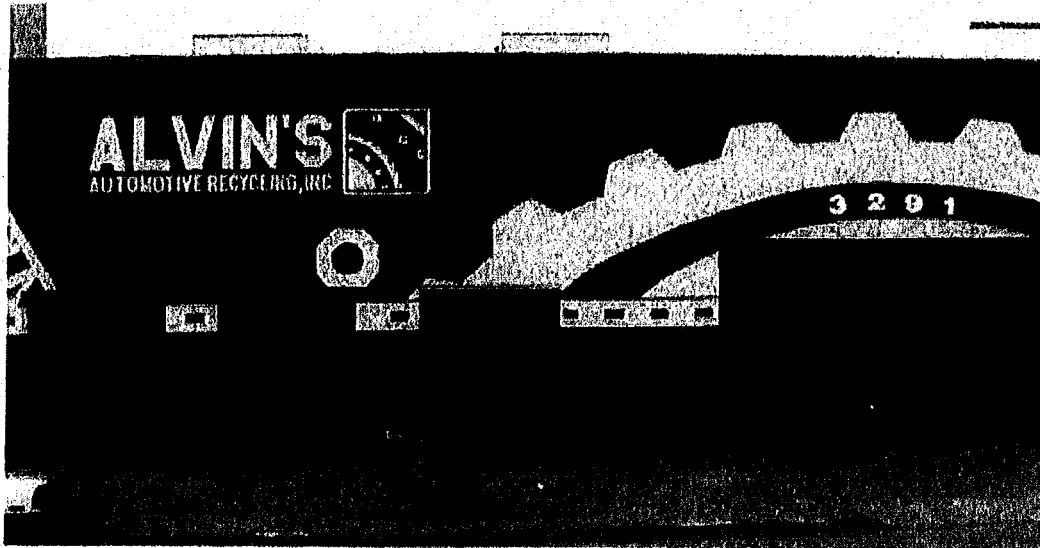
Enclosures

EXHIBIT A



**Phase I Environmental Site Assessment (ESA)  
Alvin's Auto Recycling  
3291 San Pablo Avenue and 3319 Linden Street  
Oakland, California 94608**

**FILE**



**Prepared for:**

**Ms. Gail Burke  
c/o Hamilton, Cohn, Thatcher and Associates  
8393 Capwell Drive, Suite 100  
Oakland, California 94621  
Attn: Mr. Thomas Thatcher**

**Prepared by:**

**SCHUTZE & Associates, Inc.  
436-14<sup>th</sup> Street, Suite 1216  
Oakland, California 94612**

**Project No. SCS269  
January 22, 2008**





436 14<sup>th</sup> Street, Suite 1216 • Oakland, CA 94612 • Tel (510) 625 8175 • Fax (510) 625 8176 • js@schutze-inc.com

January 22, 2008  
Project No. SCS269

**Ms. Gail Burke**  
**Trustee of the Michael Bullio Estate**  
14 Via Hermosa  
Orinda, CA 94563

**Reference: Alvin's Auto Recycling**  
**3291 San Pablo Avenue and 3319 Linden Street**  
**Oakland, California 94608**

**Subject: Report for Phase I Environmental Site Assessment (ESA)**

Dear Ms. Burke,

SCHUTZE & Associates, Inc. has completed a Phase I ESA, in conformance with the scope and limitations of ASTM Practice E 1527-05 and the AAI Final Rule (2005) of the EPA, for the following Oakland, California property:

| Address               | APN          | Approx. Parcel Sizes |
|-----------------------|--------------|----------------------|
| 3291 San Pablo Avenue | 005-0470-003 | 6,300 sq ft          |
| 3319 Linden Street    | 005-0471-005 | 4,000 sq ft          |

The site consisted of an approximately 6,300 sq ft (0.144 acres) parcel located at 3291 San Pablo Avenue (the "San Pablo Avenue parcel") and an approximately 4,000 sq ft (0.092 acres) parcel located at 3319 Linden Street (the "Linden Street parcel"). At the time of the site visit, the San Pablo Avenue parcel was occupied by an auto repair garage and salvage operation with part sales. The Linden Street parcel was occupied by an auto and auto parts storage yard.

Adjacent to the north of the San Pablo Avenue parcel was a restaurant and grocery store (Yummy World and J&K Market). To the northeast of the site, on the northeast corner of the intersection of San Pablo Avenue and 33<sup>rd</sup> Street, was a former gasoline service station facility; WB Auto Detailing was the existing tenant. To the east, across San Pablo Avenue, was a fenced, vacant lot. To the south was a recently constructed apartment building (Sylvester Rutledge Manor) at 3255 San Pablo Avenue. To the west of the San Pablo Avenue parcel was Linden Street, and further to the west were single family residences and the storage yard of the Alvin's Auto Recycling operation (the Linden Street parcel).

The subject site was located in the East Bay Plain in an area where the surface gradient gently slopes toward the San Francisco Bay, to the west-southwest. The gradient was approximately 40 vertical ft per horizontal mile. The area of the subject site had an elevation of approximately 25 ft above msl.

As part of the assessment, SCHUTZE & Associates, Inc. reviewed historical records for the subject site. The earliest historical record was a 1902 Sanborn fire insurance map, depicting the vicinity of the subject site as a residential neighborhood with intermittent commercial buildings. Based on the historical records, the building on the northern portion of the San Pablo Avenue parcel was constructed in the 1930s and has served since that time as an auto wrecking facility. The southern portion of the San Pablo Avenue parcel was occupied by a glass shop until the early 1950s. Approximately in 1958, the southern, adjoining building was constructed and became part of the auto wrecking operation. Auto dismantling was mostly performed in the formerly unpaved yard on the southwestern portion of the San Pablo Avenue parcel.

A warehouse structure occupied the northern portion of the Linden Street parcel until the 1940s. This structure was demolished in the 1950s and became an unpaved storage yard for the auto wrecking operation on the San Pablo Avenue parcel. The southern portion of the Linden Street parcel was, from the 1930s to the 1980s, occupied by a single-family residence. This building was demolished approximately in the 1980s and the site became part of the auto parts storage yard.

SCHUTZE & Associates, Inc. conducted a site reconnaissance on December 27, 2007. Mr. Jan Schutze walked over the entire property, and through all parts of the building complex. On the northern portion of the San Pablo Avenue parcel was a red brick structure with a wood-framed, domed roof. The eastern portion of the building served as a sales counter area. The central and back portion (adjacent to Linden Street) served as indoor parts storage areas. On the rear wall of the brick building, adjacent to Linden Street, was a drum storage area where 55-gallon drums were placed in a secondary containment area. The secondary containment area appeared to contain the drummed liquid waste adequately. All floors in this building were concrete-paved. The concrete slab was patched and fractured and oil stained in all areas.

The adjoining structure directly to the south of the brick building was constructed of concrete cinderblocks with a wood-framed roof structure and a composite roof. All areas were paved with a concrete slab. The downstairs area served as indoor parts storage. All floors in this building were concrete-paved. The concrete slab was patched and fractured and oil-stained in all areas.

There was an upstairs office area and a partial upstairs parts storage area. Directly below the office area was a wood-framed and dry-walled washroom. No issues of significant environmental concern were observed in the office or washroom areas. There is a potential that the drywall mud and flooring materials contain asbestos and testing should be performed prior to any renovation or demolition of these areas.

On the southwestern portion of the San Pablo Avenue parcel was an open yard area. The yard served as an outside parts storage area and also as an area where cars were dismantled. The ground was paved with a patchy concrete slab. Oil staining was observed in all areas.

The Linden Street parcel served as a parts storage area only. No auto wrecking or

dismantling was performed at this location at the time of the site reconnaissance. Only minor ground staining was observed at this location. The site was secured with a chain-link fence and gate.

No evidence of the presence of on-site fuel storage tanks, such as aboveground vents or piping, was observed during the site reconnaissance.

Regulatory agency environmental databases were searched within a one-mile radius from the subject site identifying sites with potential environmental issues. The subject site was listed in the agency files as the following facility:

- San Pablo Auto Wrecking, Inc., dba Alvin's Auto Recycling, located at 3291 San Pablo Avenue, Oakland, California. The site was listed as HAZNET and California Waste Disposal site. The listings indicated that automotive liquids in a mixture with water are collected on the site and discharged under current temporary EPA generator numbers. Neither the HAZNET nor the California Waste Disposal site list indicated reported spills, leaks or permit violations.

Based on the review of agency lists, the subject site is not on record as having caused soil or groundwater contamination. However, it is the opinion of SCHUTZE & Associates, Inc. that it is likely that, due to the auto wrecking practices on the site for the last 75 years, the soil and groundwater beneath the subject site has been affected. It is likely that adjacent and nearby sites have contributed to contamination in the area.

The subject site is located in an area where automotive wrecking activities have been performed since the 1940s. San Pablo Avenue has been a main traffic route in the East Bay and many industrial sites and gasoline service stations existed in the direct vicinity of the subject site; therefore, it is likely that the subsurface in the area of the subject site has been environmentally affected and that the groundwater quality is poor.

Nine LUST sites and four historical UST sites were listed within an  $\frac{1}{8}$ -mile search radius of the subject site. Three historical auto/gasoline service stations were located northeast and up-gradient of the subject site. These facilities were the McNeil & Shepherd Service Station at 3324 San Pablo Avenue, the California Service Station at 3350 San Pablo Avenue and the J.D. Shaker Service Station at 3266 San Pablo Avenue.

The Oakland Army Base is listed as a Department of Defense site at a distance of approximately 4,500 feet west-northwest and down-gradient from the subject site. Due to the distance and down-gradient location of this facility, there is low potential that activities at this site would environmentally impact the subject site.

Drycleaners were not listed in the vicinity of the subject site.

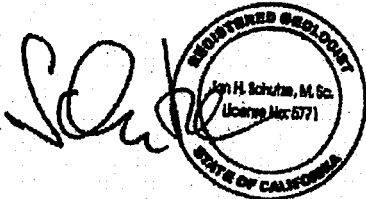
SCHUTZE & Associates, Inc. identified evidence of recognized environmental conditions (REC) in connection with the subject property. Various areas of the subject site have been used as auto dismantling areas.

SCHUTZE & Associates, Inc. recommends a Phase II Subsurface Investigation consisting of the advancement of at least five exploratory borings on the San Pablo Avenue parcel and two exploratory borings on the Linden Street parcel. Two of these borings should be positioned near to the up-gradient parcel boundaries to investigate the groundwater quality as it enters the area of the subject site.

We enjoy working on this project with you and appreciate the opportunity to be of service. Please call SCHUTZE & Associates, Inc. at (510) 625-8175 with any questions or comments about this report.

Respectfully submitted:

**SCHUTZE & ASSOCIATES, INC.**



Jan H. Schutze, M.Sc., P.G.  
President

EXHIBIT B

April 21, 2008  
Project No. SCS269.2

**Ms. Gail Burke,**  
**Trustee of the Michael Bullio Estate**  
14 Via Hermosa  
Orinda, CA 94563

**Reference: Alvin's Auto Recycling**  
**3291 San Pablo Avenue and 3319 Linden Street**  
**Oakland, California 94608**

**Subject: Agency File Review, and**  
**Phase II Subsurface Investigation**

Dear Ms. Burke,

SCHUTZE & Associates, Inc. is pleased to submit to you this Phase II Subsurface Investigation Report regarding 3291 San Pablo Avenue and 3319 Linden Street in Oakland, California (subject site). The purpose of the work was to assess potential soil and groundwater contamination related to the on-site auto wrecking operations at the subject site. The work was performed by a California Certified Professional Geologist.

The site consists of an approximately 6,300 sq ft (0.144 acre) parcel located at 3291 San Pablo Avenue (the "San Pablo Avenue parcel") and an approximately 4,000 sq ft (0.092 acre) parcel located at 3319 Linden Street (the "Linden Street parcel"). The San Pablo Avenue parcel is occupied by an auto wrecking/auto parts distribution facility, and the Linden Street parcel is occupied by an auto parts storage yard.

## **A. BACKGROUND**

SCHUTZE & Associates, Inc. conducted a site reconnaissance on December 27, 2007. On the northern portion of the San Pablo Avenue parcel was a red brick structure with a wood-framed, domed roof. The eastern portion of the building served as a sales counter area. The central and back portion (adjacent to Linden Street) served as indoor parts storage areas. On the rear wall of the brick building, adjacent to Linden Street, was a drum storage area where 55-gallon drums were placed in a secondary containment area. The secondary containment area appeared to adequately prevent leakage from the drummed liquid waste. All floors in this building were concrete-paved. The concrete slabs were patched and fractured. Oil-staining of the slabs was observed in all parts of the building.

The adjoining structure directly to the south of the brick building was constructed of concrete cinderblocks with a wood-framed roof structure and a composite roof. All areas were paved with a concrete slab. The downstairs area served as indoor parts

storage. All floors in this building were concrete-paved. The concrete slabs were patched and fractured. Oil-staining of the slabs was observed in all parts of the building.

On the southwestern portion of the San Pablo Avenue parcel was an open yard area. The yard served as an outside parts storage area and also as an area where cars were dismantled. The ground was partially paved with patchy concrete slabs. Significant oil-staining was observed in all areas.

The Linden Street parcel served as a parts storage area only. No auto wrecking or dismantling was performed at this location at the time of the site reconnaissance. Only minor ground-staining was observed at this location. The site was secured with a chain-link fence and gate.

No evidence of the presence of on-site fuel storage tanks, such as aboveground vents or piping, was observed during the site reconnaissance.

Regulatory agency environmental databases were searched within a one-mile radius from the subject site identifying sites with potential environmental issues. The subject site was listed in the agency files as the following facility:

- San Pablo Auto Wreckers, Inc., doing business as Alvin's Auto Recycling, located at 3291 San Pablo Avenue, Oakland, California. The site was listed as HAZNET and California Waste Disposal site. The listings indicated that automotive liquids in a mixture with water are collected on the site and discharged under current temporary EPA generator numbers. Neither the HAZNET nor the California Waste Disposal site list indicated reported spills, leaks or permit violations.

Based on the review of agency lists, the subject site was not on record as having caused soil or groundwater contamination. However, it is the opinion of SCHUTZE & Associates, Inc. that, due to auto wrecking activities for the last 75 years, the soil and groundwater beneath the subject site have been affected. It is likely that adjacent and nearby sites have contributed to the contamination in the area.

The subject site is located in an area where automotive wrecking activities have been performed since the 1940s. San Pablo Avenue has been a main traffic route in the East Bay and many industrial sites and gasoline service stations existed in the direct vicinity of the subject site; therefore, it is likely that the subsurface soil and groundwater in the area of the subject site have been environmentally affected.

Nine LUST sites and four historical UST sites were listed within a 1/8-mile search radius of the subject site. Three historical auto/gasoline service stations were located northeast and up-gradient of the subject site. These facilities are the McNeil & Shepherd Service Station at 3324 San Pablo Avenue, the California Service Station at 3350 San Pablo Avenue, and the J.D. Shaker Service Station at 3266 San Pablo Avenue.

## **B. GEOLOGY AND GEOGRAPHY**

The City of Oakland is located in California's Central Coast Ranges Geomorphologic Province which spans the Pacific Coast from California's northern border to the Transverse Ranges located just north of the Los Angeles basin. The Coast Ranges Geomorphologic Province is characterized by a series of parallel, northwesterly trending mountain chains and valleys consisting primarily of Mesozoic and Cenozoic sedimentary rocks. The San Andreas Fault also trends through the Coast Range Province in a similar northwesterly direction. Coastal Range peaks range from 2,000 to 4,000 feet elevation above sea level and continue to be uplifted and deformed by tectonic forces.

A depression containing the San Francisco Bay separates the Peninsular Ranges from the East Bay Ranges. Most of Oakland lies in this depression and, according to USGS geologic maps, is underlain by Holocene alluvial fan deposits, dune sands deposited during the Holocene and artificial fill that has been laid down over estuarine mud. The Oakland hills to the east consist of upper Jurassic-Lower Cretaceous marine sandstone and shale, Franciscan rocks and Cretaceous volcanic rocks.

The subject site is located approximately one mile east of San Francisco Bay in the East Bay Plain, a relatively flat area that, prior to urban development, consisted of tidal flats, estuaries and alluvial plains. The subject site appears to be underlain by 40 feet of alluvial fan deposits, which overlie estuarine mud (Bay Mud).

Based on a review of the Geoprobe boring logs, both parcels were underlain by organic sandy clays to depths between 2 to 8 ft bgs. Beneath the organic clays were alternating layers of clayey gravels and inorganic clay. Groundwater occurred in a thin sandy gravel aquifer beneath the clayey gravel and clay layers. At the San Pablo Avenue parcel, the depth to this aquifer was between 25 and 30 ft bgs and groundwater was confined. At the Linden Street parcel, the aquifer was at depths between 6.8 and 8.1 ft bgs and groundwater was unconfined.

## **C. AGENCY FILE REVIEW**

SCHUTZE & Associates, Inc. previously observed that the site adjacent to the south of the subject was formerly an automotive wrecking yard and had been recently developed with the Silvester Ridlege Manor at 3255 San Pablo Avenue. SCHUTZE & Associates, Inc. inquired which lead agency the pre-development environmental work had been completed under, and if significant amounts of soil and/or groundwater had been remediated.

SCHUTZE & Associates, Inc. contacted the following agencies:

- City of Oakland:
  - Community & Economic Development Department
    - Building Services & Permits
    - Design & Construction
    - Economic Development



- Housing & Community
- Planning & Zoning
- Fire Department
  - Fire Prevention Bureau
- Public Works Department
  - Environmental Services Division
- County of Alameda
  - Environmental Health Services (EHS)
  - Public Works Agency
- State of California
  - Regional Water Quality Control Board (RWQCB)
  - Department of Toxic Substances Control (DTSC)

SCHUTZE & Associates, Inc. was not able to locate historical environmental files for the Sylvester Rutledge Manor at 3255 San Pablo Avenue. Based on conversations with representatives of the above-mentioned agencies, environmental remediation was either not performed or not documented for this site. The building appeared to be designed in such a way that soil removal was not required and soil vapor migration into living spaces was prevented (ground floor parking garage).

As part of the previously completed Phase I Environmental Site Assessment, nine LUST sites and four historical UST sites were listed within an  $\frac{1}{8}$ -mile search radius of the subject site. Three historical auto/gasoline service stations were located northeast and up-gradient of the subject site. These facilities were the McNeil & Shepherd Service Station at 3324 San Pablo Avenue, the California Service Station at 3350 San Pablo Avenue and the J.D. Shaker Service Station at 3266 San Pablo Avenue.

#### **D. SUBSURFACE INVESTIGATION**

On March 5, 2008 SCHUTZE & Associates, Inc. conducted a Phase II Subsurface Investigation. The detailed tasks of this project were as follows:

- a. Prepared and implemented a site-specific Health and Safety Plan.
- b. Submitted a site plan, work plan, drilling contractor's credentials and permit application to the Alameda County Public Works Agency.
- c. Marked the proposed Geoprobe boring locations. Subsequently, the regional utility locating center and Underground Services Alert (USA) cleared the proposed boring locations for utilities.
- d. Drilled eight borings to a depth of groundwater. The boring locations were exhibited on the attached Site Plan (Figure 2).
- e. Collected one groundwater sample per boring, when possible, along with a duplicate sample, for a total of nine groundwater samples.
- f. Stored groundwater samples in a cooled container and transported them following Chain-of-Custody procedures.

- g. Submitted nine groundwater samples to a DHS<sup>1</sup>-certified laboratory. The following analyses were performed:
- TPH-g<sup>2</sup> and MBTEX<sup>3</sup> using EPA<sup>4</sup> Method 8015C-8021B,
  - TPH-d, TPH-mo, TPH-k and TPH-bo<sup>5</sup> using EPA Method 8015C,
  - VOCs<sup>6</sup> using EPA Method 8260B,
  - LUFT<sup>7</sup> 5 Metals using EPA Method E200.8.
- h. After reviewing the boring logs and groundwater analytical results, SCHUTZE & Associates, Inc. requested authorization from the client to analyze additional soil samples as follows:
- TPH-g and MBTEX using EPA Method 8015C-8021B,
  - TPH-d, TPH-mo, TPH-k and TPH-bo using EPA Method 8015C.
- i. Logged the geological properties of the drillcore extracted during the drilling process. Also recorded were water levels, hydrocarbon odors and oil staining. At drill intervals of 4 ft, sediment samples were collected, placed in plastic bags and tested for VOC vapors using a portable Photo Ionization Detector (PID). The field observations and measurements were summarized on the boring logs attached as Appendix B.
- j. Placed soil and water waste in DOT<sup>8</sup>-approved drums and disposed of in accordance with applicable regulations.
- k. Provided all necessary equipment and materials to perform the required services. These included soil boring equipment, concrete coring tools, and asphalt cold patch or concrete.
- l. Backfilled borings with concrete and patched the drilled areas with a concrete finish.
- m. Submitted a written report describing the subsurface conditions, laboratory results, conclusions and recommendations.

## **E. FIELD WORK**

### **E.1 Drilling**

Drilling was performed by ECA, Inc. on March 5 and 6, 2008, using GeoProbe direct-push equipment. Core samples from borings B1 and B3 were recovered in four-foot sections from the GeoProbe Macro-Core Sampler using 1.5 inch-diameter acetate

<sup>1</sup> State of California, Department of Health Services

<sup>2</sup> Total petroleum hydrocarbons as gasoline

<sup>3</sup> Methyl tert-butyl ether (MTBE), benzene, ethylbenzene, toluene and xylenes

<sup>4</sup> U.S. Environmental Protection Agency

<sup>5</sup> Total petroleum hydrocarbons as diesel (d), motor oil (mo), kerosene (k) and bunker oil (bo)

<sup>6</sup> Volatile organic compound(s)

<sup>7</sup> Leaking Underground Fuel Tank

<sup>8</sup> State of California, Department of Transportation

liners. The core samples were logged in the field and the data were subsequently converted to the boring logs attached as Appendix B.

Borings B2 was drilled using a Hydropunch sampler attached to GeoProbe direct push equipment. Hydropunch samplers are used to collect water at a specific depth bgs and assure that groundwater samples are not cross-contaminated by surface runoff or surficial contamination.

A Hydropunch sample was collected in boring B2 by driving a two-inch GeoProbe steel pipe with a sacrifice tip into the ground. Upon reaching the desired depth, the steel pipe was retracted, the sacrifice tip was released and the perforated hydro-punch sampler was exposed. Groundwater was then collected by pumping water up through the decontaminated steel pipe. Using this method, no cores were recovered and no soil samples were collected.

## **E.2 Water Samples**

Groundwater samples were collected using a peristaltic pump attached to a ¼-inch plastic tube. Samples were pumped into one-liter amber bottles, 20 ml volatile organics analysis (VOA) vials and 250 ml plastic bottles. The water samples were stored on ice in a picnic cooler and subsequently transported to the laboratory for analyses.

## **E.3 Soil Samples**

Soil samples were recovered from borings B1, B3, B4, B5, B6 and B7 at four-foot intervals from the GeoProbe Macro-Core Sampler in 1.5 inch-diameter acetate liners. The ends of the selected sections of acetate liner were sealed with Teflon film and plastic caps. The samples were stored on ice and subsequently transported to the laboratory for analyses following Chain-of Custody procedures. Samples not analyzed were placed on hold.

## **E.4 Photo Ionization Detector Readings**

During the drilling process, soil samples were field-screened at four-foot intervals using a portable Photo Ionization Detector (PID). The PID readings for the ambient air ranged between 0.1 and 1.0 ppm. According to the PID, VOCs were detected at the following concentrations:

**Table 1  
 PID Readings  
 3291 & 3283 San Pablo Avenue and 3319 Linden Street  
 Oakland, California**

| Boring No.     | B4                 | B5              | B3                  | B6   | B2              | B1   | B7   |
|----------------|--------------------|-----------------|---------------------|------|-----------------|------|------|
|                | WEST               |                 |                     |      |                 | EAST |      |
| Depth (ft bgs) | Linden Street Yard | San Pablo Drums | San Pablo Back Yard |      | San Pablo Front |      |      |
| Ambient        | 0.1                | 0.1             | 0.1                 | 0.1  | 0.1             | 0.1  | 0.1  |
| 4              | 0.4                | 0.7             | 0.7                 | 0.5  |                 |      | 4.1  |
| 8              | 0.5                | 0.6             | 2.1                 | 2.7  |                 |      | 6.2  |
| 12             | 0.6                |                 | 0.3                 | 40.5 | 72.0            |      | 58.6 |
| 16             |                    |                 | 8.5                 | 41.8 | 63.8            |      | 23.2 |
| 20             |                    |                 | 0.8                 | 4.9  | 27.2            |      | 0.5  |
| 24             |                    |                 | 0.3                 | 0.4  | 3.7             |      |      |
| 28             |                    |                 | 0.2                 |      | 3.3             |      |      |

PID = Photo Ionization Detector, Units in ppm of VOCs, Red = VOCs > 5.0 ppm

**F. QUALITY CONTROL AND CHAIN-OF-CUSTODY**

The drilling and sampling equipment was decontaminated between borings and all field procedures were appropriate to minimize external sample contamination. New VOA vials and one-liter amber bottles were provided by McCampbell Analytical, Inc., and the samples were delivered to McCampbell Analytical in accordance with Chain-of-Custody procedures. The laboratory provided "Level II" Quality Control Data Reporting, which consists of Laboratory Control Sample (LCS) and surrogate recoveries.

**G. GROUNDWATER AND SOIL ANALYTICAL RESULTS**

Analytical testing of groundwater and soil samples was performed by McCampbell Analytical, Inc, a DHS Certified Laboratory in Pittsburg, California. Analytical results are presented in Tables 2 and 3, on the Site Maps (Figures 2 and 3) and on a Cross-Section (Figure 4).

**G.1 The Outside Storage and Dismantling Area (Borings B1, B2 and B6)**

These three borings were drilled in the outside storage and dismantling area behind the 3285 San Pablo Avenue structure. The borings were drilled to depths between 24 and 30 ft bgs. At these depths a sandy-gravel aquifer was encountered, and groundwater from this aquifer entered the drill hole and rose to depths between 11.2

and 14.2 ft bgs. This indicated that confined groundwater conditions existed beneath the site.

**Soil:**

Based on field observations soil contamination existed from the surface to depths as low as approximately 20 ft bgs. An intense gasoline odor was noted to a depth of approximately 20 ft bgs. Below 20 ft bgs, the soil color and PID readings indicated significantly less hydrocarbon contamination. This suggested that the surficial soil contamination was separated from the aquifer by a layer of un- or less-contaminated soil.

TPH-g was detected in the soil beneath the backyard at concentrations of up to 310 mg/kg (B1-8 ft bgs). Benzene was detected at concentrations of up to 0.086 mg/kg (B6-18 ft bgs). These concentrations exceeded the ESLs of the RWQCB for TPH-g and benzene of 83 mg/kg and 0.044 mg/kg, respectively.

**Groundwater:**

TPH: The highest concentrations of hydrocarbon contamination in groundwater were indicated in Boring B1, where TPH concentrations were detected as high as 110,000 ug/L (TPH-k). The laboratory report for B1 indicated that the contamination consisted of hydrocarbon, mostly in the gasoline range. In B2 and B6 the TPH concentrations were as high as 330 and 2,800 ug/L, respectively, and the contamination consisted of hydrocarbons in the gasoline, diesel and motor oil ranges.

MBTEX: No significant concentrations of MTBE were detected. Benzene was detected at concentrations of up to 17,000 ug/L (B1), which significantly exceeds the ESL of 1 ug/L for benzene. Toluene, ethylbenzene and xylenes were detected at concentrations of up to 730, 3,600 and 12,000 ug/L, respectively. The ESLs for these compounds were 40, 30 and 20 ug/L, respectively.

PNAs, VOCs and Fuel Additives: 1,2-DCA and naphthalene were detected at concentrations of up to 5.9 and 57 ug/L, respectively, indicating the use and spilling of parts washing solvents at the site. The ESLs for 1,2-DCA and naphthalene were 0.5 and 17 ug/L, respectively.

Lead: Lead was detected at concentrations of up to 5.5 ug/L which was below the ESL of 15 ug/L.

**G.2 Entrance of 3283 San Pablo Avenue (Boring B7)**

Boring B7 was drilled in the eastern edge of the San Pablo Avenue parcel, adjacent to the pull-up door of 3283 San Pablo Avenue. The boring was drilled to a depth of 24 ft bgs which appeared to be slightly above the water bearing horizon, based on the slow rate at which groundwater entered the drill hole.

**Soil:**

Based on field observations, low levels of soil contamination existed from the surface to depths as low as 20 ft bgs. A slight gasoline odor was noted between 10 and 18 ft

bgs. Below 18 ft bgs, the soil color and PID readings indicated significantly less hydrocarbon contamination.

TPH-g was detected at concentrations of up to 130 mg/kg (B7-18 ft bgs). Benzene was detected at concentrations of up to 19 mg/kg (B6-18 ft bgs). These concentrations exceed the ESLs of the RWQCB for TPH and benzene of 83 mg/kg and 0.044 mg/kg, respectively. MTBE was not detected in the soil samples.

#### **Groundwater:**

TPH: The concentration of hydrocarbon contamination in groundwater in Boring B1 was 120,000 ug/L. The laboratory report for B7 indicated that the contamination consisted of hydrocarbons in the gasoline range. This area of groundwater contamination is likely connected with the contamination found in the outdoor dismantling yard (B1, B2 and B6).

MBTEX: No significant concentrations of MTBE were detected. Benzene was detected at concentrations of up to 1,900 ug/L which significantly exceeds the ESL of 1 ug/L. Toluene, ethylbenzene and xylenes were detected at concentrations of up to 82, 220 and <25 ug/L. The ESLs for these compounds were 40, 30 and 20 ug/L, respectively.

PNAs, VOCs and Fuel Additives: Naphthalene was detected at concentrations of up to 540 ug/L. The ESLs for naphthalene was 17 ug/L. Other VOCs, including propyl benzenes and butyl benzenes were also detected, indicating the use and spilling of fuel and parts washing solvents at the site.

Lead: Lead was detected at a concentration of 8.8 ug/L, which was below the ESL of 15 ug/L.

#### **G.3 Drum Storage Area (Boring B3)**

Boring B3 was drilled adjacent to the drum storage and secondary containment area in the back of the 3291 San Pablo Avenue structure. The boring was drilled to a depth of 30 ft bgs where an aquifer was encountered. Groundwater from this aquifer entered the drill hole and the water level rose to 11.2 ft bgs, indicating confined groundwater conditions beneath the site.

#### **Soil:**

Based on field observations lightly stained and odiferous soil was observed to a depth of 20 ft bgs. Below 20 ft bgs, the soil color and PID readings indicated significantly less hydrocarbon contamination. This suggested that the surficial soil contamination was separated from the aquifer by a layer of un- or less-contaminated soil.

TPH-g was detected at concentrations of up to 20 mg/kg which was below the ESL of the RWQCB. MTBE was detected at low concentrations of 0.16 mg/kg. Benzene was not detected.

**Groundwater:**

TPH: The concentration of hydrocarbon in groundwater at this location was 820 ug/L (TPH-bo). Based on the laboratory report, the contamination consisted of hydrocarbons in the gasoline, diesel and motor oil ranges.

MBTEX: Low concentrations of MTBE were detected at 5.3 ug/L (ESL=5.0ug/L). BTEX was not detected.

PNAs, VOCs and Fuel Additives were either not detected or existed at low concentrations.

**G.4 3319 Linden Street Storage Yard (Borings B4 and B5)**

The two borings were drilled in the concrete-paved, fenced yard of the 3319 Linden Street parcel. The borings were drilled to depths of 12 ft bgs. Unconfined groundwater was measured at depths of 6.8 (B4) and 8.1 (B5) ft bgs.

**Soil:**

Based on field observations stained or odiferous soil was not observed. TPH, MTBE and BTEX were not detected in the soil samples collected at these boring locations.

**Groundwater:**

TPH: The concentration of hydrocarbon in groundwater at this location was 230 ug/L (B5). Based on the laboratory report, the contamination consisted of hydrocarbon in the diesel range.

MBTEX: MTBE was not detected. Benzene, toluene and ethylbenzene were not detected. Xylenes were detected at low concentrations of 0.89 ug/L, which is below the ESL of 20.0 ug/L.

PNAs, VOCs and Fuel Additives were either not detected or existed at low concentrations.

Lead: Lead was detected at a concentration of 7.2 ug/L which is below the ESL of 15 ug/L.

**McInerney  
& Dillon**  
PROFESSIONAL CORPORATION

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wjr@mcinerney-dillon.com

January 13, 2020

**Via Personal Delivery**

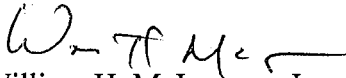
Eva Wu  
Bureau of Planning  
City of Oakland  
250 Frank H. Ogawa, Suite 2114  
Oakland, CA 94612

**Re: Rahebi Properties Appeal  
0 Linden Street, Oakland  
3319 Linden Street, Oakland**

Dear Ms. Wu:

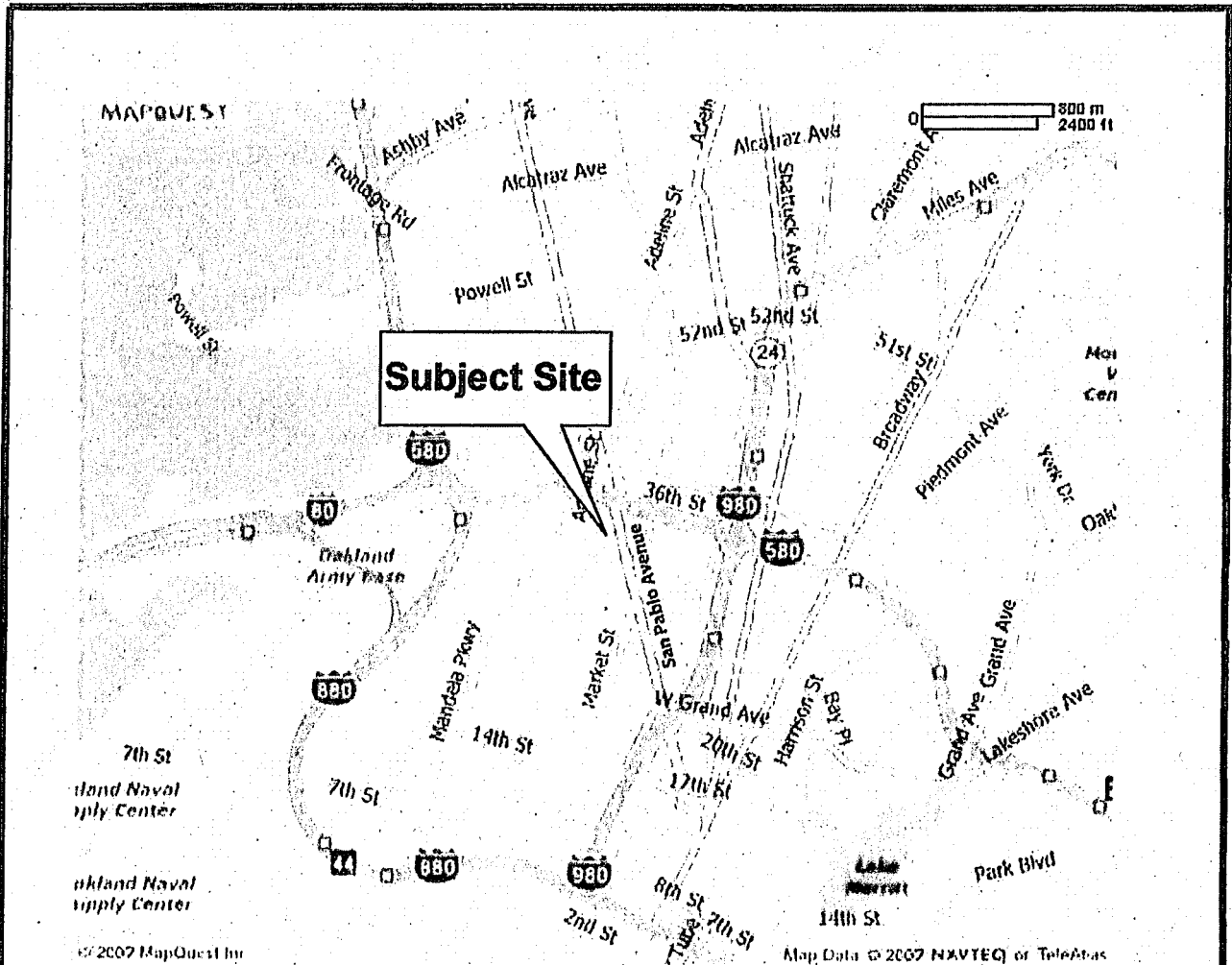
Pursuant to your request, enclosed are the boring logs and boring plan.

Sincerely,

  
William H. McInerney, Jr.

Enclosures





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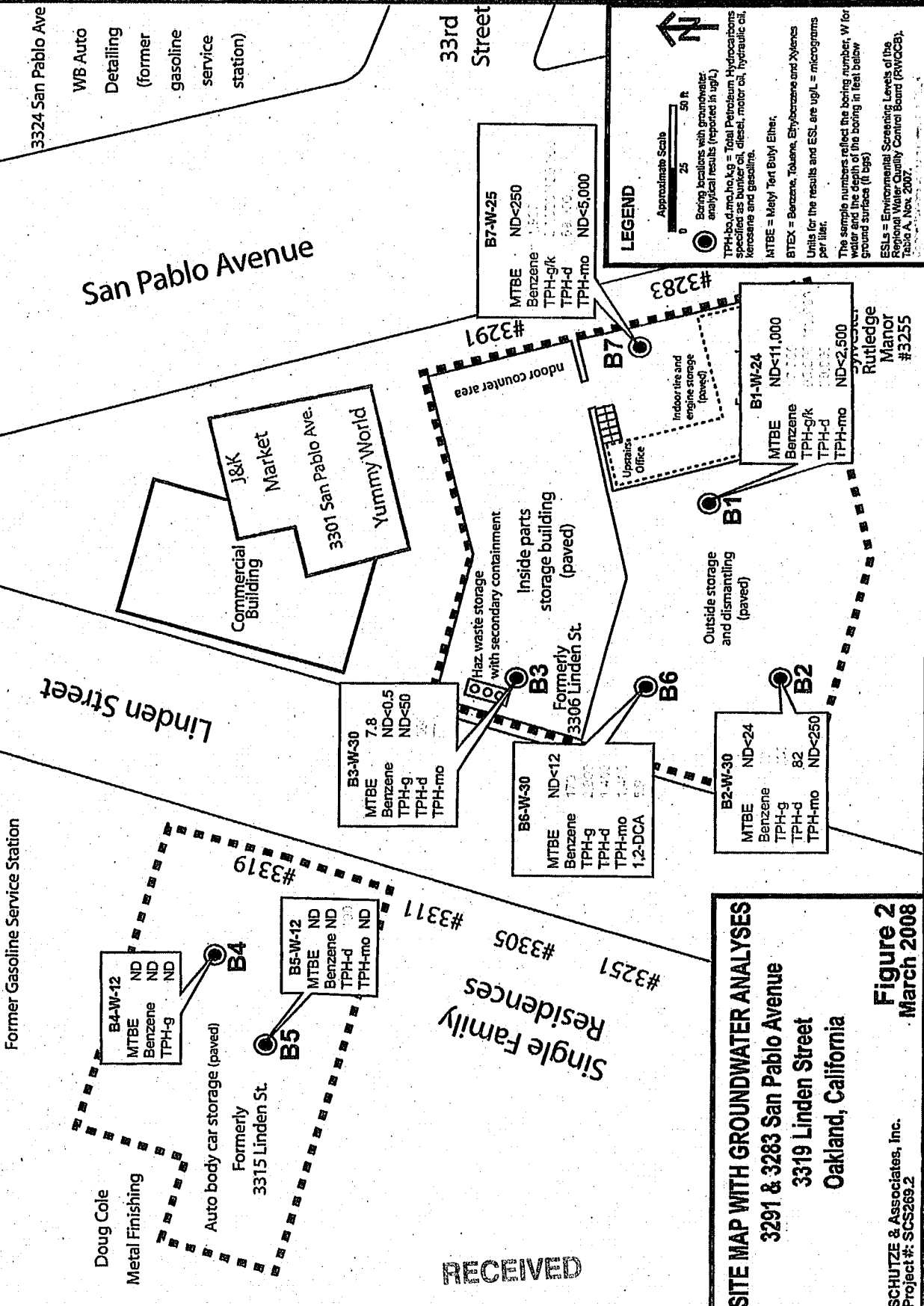


**Location Map**  
**3291 San Pablo Avenue and 3319 Linden Street**  
**Oakland, California 94608**

SCHUTZE & Associates, Inc.  
Project Number: SCS269

**FIGURE 1**  
January 2008

# GROUNDWATER



**SITE MAP WITH GROUNDWATER ANALYSES**  
 3291 & 3283 San Pablo Avenue  
 3319 Linden Street  
 Oakland, California

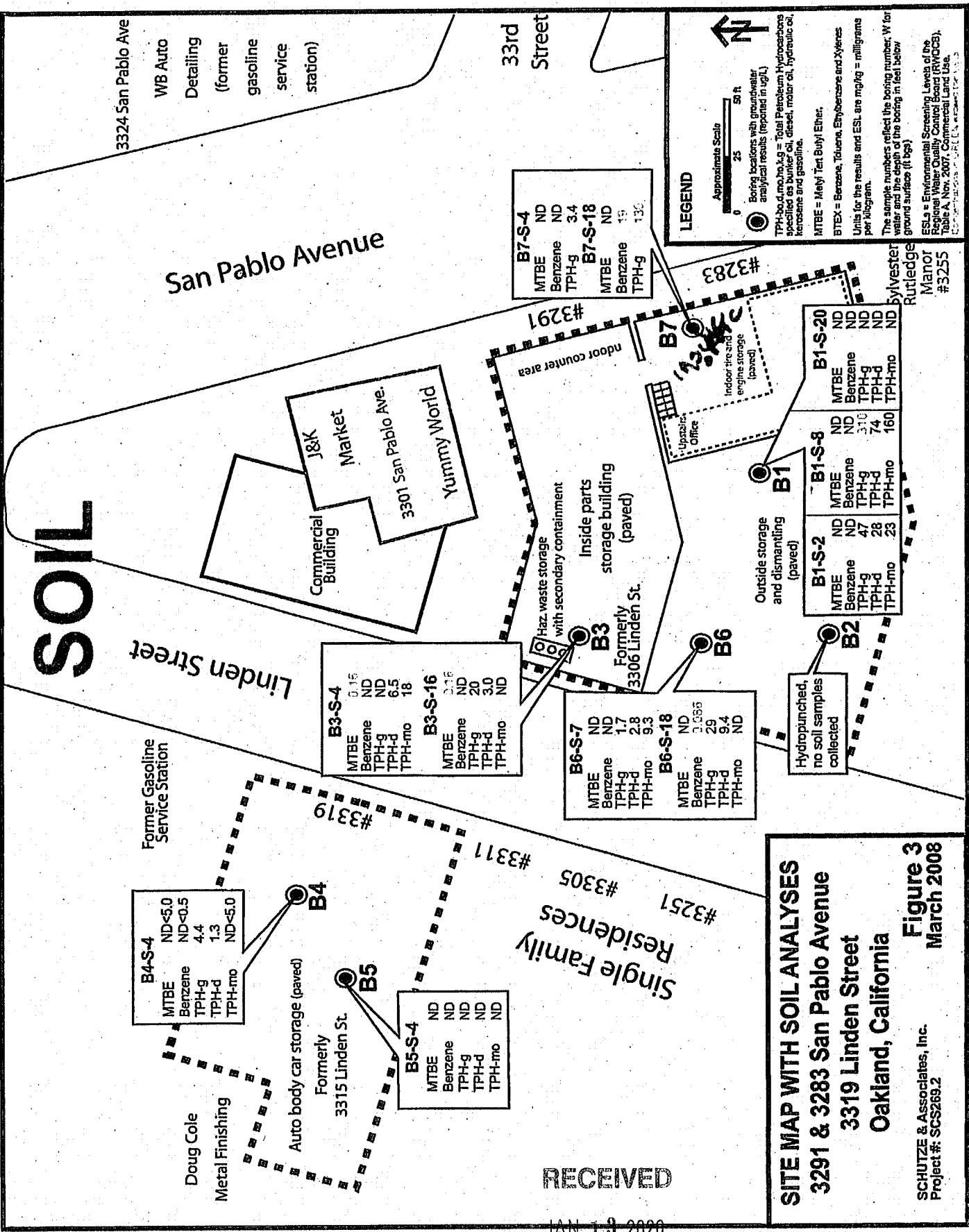
**Figure 2**  
 March 2008

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# SOIL



**SITE MAP WITH SOIL ANALYSES**  
 3291 & 3283 San Pablo Avenue  
 3319 Linden Street  
 Oakland, California

**Figure 3**  
 March 2008

SCHUTZE & Associates, Inc.  
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3324 San Pablo Ave  
 WB Auto  
 Detailing  
 (former  
 gasoline  
 service  
 station)

San Pablo Avenue

33rd Street

Linden Street

Former Gasoline Service Station

**B4-S-4**  
 MTBE ND<5.0  
 Benzene ND<0.5  
 TPH-g 4.4  
 TPH-d 1.3  
 TPH-mo ND<5.0

**B4**

Doug Cole  
 Metal Finishing

Auto body car storage (paved)  
 Formerly  
 3315 Linden St.

**B5**

**B5-S-4**  
 MTBE ND  
 Benzene ND  
 TPH-g ND  
 TPH-d ND  
 TPH-mo ND

**B3-S-4**  
 MTBE 0.15  
 Benzene ND  
 TPH-g 6.5  
 TPH-d 18

**B3-S-16**  
 MTBE 2.16  
 Benzene ND  
 TPH-g 20  
 TPH-d 3.0  
 TPH-mo ND

**B3**

**B6-S-7**  
 MTBE ND  
 Benzene 1.7  
 TPH-g 2.8  
 TPH-d 9.3

**B6**

**B6-S-18**  
 MTBE ND  
 Benzene 1.655  
 TPH-g 29  
 TPH-d 9.4  
 TPH-mo ND

Hydropunched,  
 no soil samples  
 collected

**B2**

**B1-S-2**  
 MTBE ND  
 Benzene ND  
 TPH-g 47  
 TPH-d 28  
 TPH-mo 23

Outside storage  
 and dismantling  
 (paved)

**B1**

**B1-S-8**  
 MTBE ND  
 Benzene ND  
 TPH-g 310  
 TPH-d 74  
 TPH-mo 160

**B1-S-20**  
 MTBE ND  
 Benzene ND  
 TPH-g ND  
 TPH-d ND  
 TPH-mo ND

**B7-S-4**  
 MTBE ND  
 Benzene ND  
 TPH-g 3.4

**B7-S-18**  
 MTBE ND  
 Benzene 19  
 TPH-g 130

**B7**

Haz. waste storage  
 with secondary containment

Inside parts  
 storage building  
 (paved)

Formerly  
 Linden St.  
 3306

Upstairs  
 Office

Indoor fire and  
 engine storage  
 (paved)

**B7**

Indoor counter area

J&K  
 Market  
 3301 San Pablo Ave.  
 Yummy World

Commercial  
 Building

#3291

#3283

Sylvester  
 Rutledge  
 Manor  
 #3255

B (SE)

San Pablo Avenue

San Pablo Street Property

B7

B1

B6

B3

Linden Street

Linden Street Property

B5

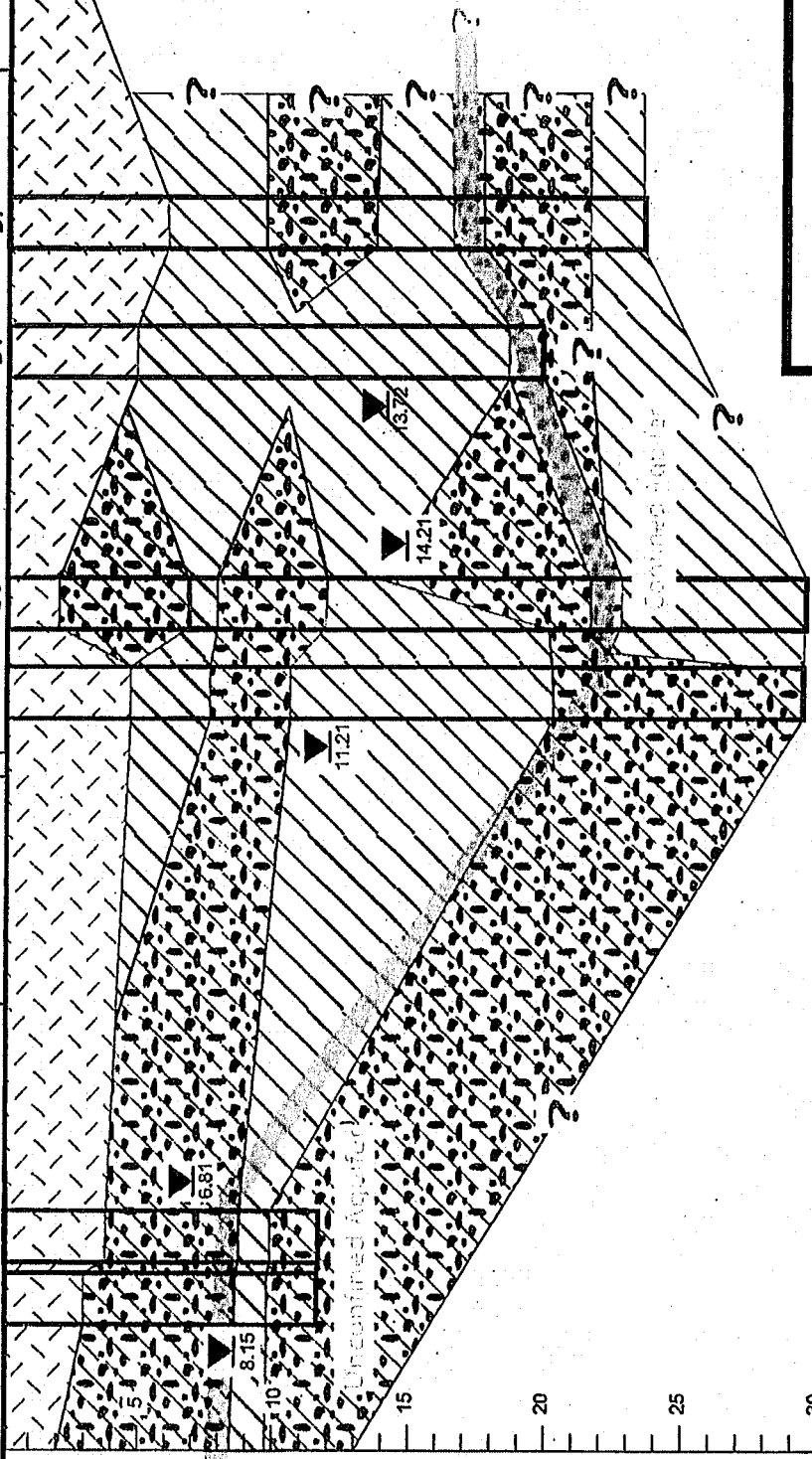
B4

A (NW)

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


**A-B Cross Section Including  
Lithologies and  
Potentiometric Surfaces**

**3291 & 3283 San Pablo Avenue  
3319 Linden Street  
Oakland, California**

Figure 4  
April 2008

SCHUTZE & Associates, Inc.  
Project: SCS269.2

**LEGEND**

-  GM Gravelly, silty or sandy clays (More than 1/2 of material is < than No. 200 sieve size)
-  GC Clayey Gravels, gravel-sand-clay mixtures
-  CL Inorganic clays, gravelly, silty or sandy clays (More than 1/2 of material is < than No. 200 sieve size)
-  OH Organic clays, silty or sandy clays (More than 1/2 of material is < than No. 200 sieve size)
-  Potentiometric surface (ft bgs)
-  Water bearing horizon

Horizontal scale: 1 inch = 100 feet  
Vertical scale: 1 inch = 6.25 feet  
Vertical exaggeration: x16

B (SE)

San Pablo Avenue

San Pablo Street Property

B7

B1

B6

B3

Linden Street

Linden Street Property

B5

B4

A (NW)

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**B7-S-4**  
MTBE ND  
Benzene ND  
TPH-g 3.4

**B7-S-11**  
MTBE ND  
Benzene 0.024  
TPH-g 3.4

**B7-S-18**  
MTBE ND  
Benzene 19  
TPH-g 130

**B7-W-24**  
MTBE ND<250  
Benzene 1,900  
TPH-g 27,000+120,000  
TPH-2/gk 74,000  
TPH-bo 63,000  
TPH-d ND<5,000  
TPH-mo ND<5,000

**B1-S-2**  
MTBE ND  
Benzene 47  
TPH-g 42  
TPH-bo 28  
TPH-d 23  
TPH-mo 23

**B1-S-8**  
MTBE ND  
Benzene ND  
TPH-g 310  
TPH-bo 190  
TPH-d 74  
TPH-mo 160

**B1-S-20**  
MTBE ND  
Benzene ND  
TPH-g

**B1-W-24**  
MTBE ND<11,000  
Benzene 17,000  
TPH-g 95,000+10,000  
TPH-bo 55,000  
TPH-d 38,000  
TPH-mo ND<25,000

**B6-S-7**  
MTBE ND  
Benzene ND  
TPH-g 17  
TPH-bo 11  
TPH-d 2.8  
TPH-mo 9.3

**B6-S-18**  
MTBE ND  
Benzene 0.086  
TPH-g 29  
TPH-bo 12  
TPH-d 9.4  
TPH-mo ND

**B6-W-30**  
MTBE ND  
Benzene 170  
TPH-g 2,800  
TPH-bo 2,300  
TPH-d 1,400  
TPH-mo 1,400

**B3-S-4**  
MTBE 0.16  
Benzene ND  
TPH-g ND  
TPH-bo 20  
TPH-d 8.5  
TPH-mo 13

**B3-S-16**  
MTBE ND  
Benzene 20  
TPH-g 5.0  
TPH-bo 3.0  
TPH-d ND  
TPH-mo ND

**B3-S-20**  
MTBE ND  
Benzene ND  
TPH-g 18  
TPH-bo 6.4  
TPH-d 2.4  
TPH-mo ND

**B3-W-30**  
MTBE 7.3  
Benzene ND  
TPH-g 820  
TPH-bo 380  
TPH-d 770

**B4-S-4**  
MTBE ND  
Benzene ND  
TPH-g 4.4  
TPH-bo 1.3  
TPH-d ND  
TPH-mo ND

**B4-W-12**  
MTBE ND  
Benzene ND  
TPH-g

**B5-S-4**  
MTBE ND  
Benzene ND  
TPH-g 5

**B5-W-12**  
TPH-bo 230  
TPH-d 100  
TPH-mo ND

**LEGEND**

Horizontal scale: 1 inch = 100 feet  
 Vertical scale: 1 inch = 6.25 feet  
 Vertical exaggeration: x16  
 TPH = Total Petroleum Hydrocarbons specified as  
 (g) gasoline, (d) diesel, (ho) heating oil, (mo) motor oil, (bo) bunker oil  
 MISTEX = MTBE, Benzene, toluene, ethylbenzene and xylenes  
 Water samples reported in ug/l  
 Soil samples reported in mg/kg

**A-B Cross Section Including  
Groundwater and Soil  
Analytical Results**

3291 & 3283 San Pablo Avenue  
3319 Linden Street  
Oakland, California

SCHUTZE & Associates, Inc.  
Project: SCS269.2

FIGURE 5  
April 2008