

EXHIBIT NO. 1

15
9-13-03

Docket Item #14
SPECIAL USE PERMIT #2003-0057

Planning Commission Meeting
September 4, 2003

ISSUE: Consideration of a request for a special use permit to change the ownership of an automobile repair garage.

APPLICANT: Kevin Hernandez

LOCATION: 1008 Madison Street

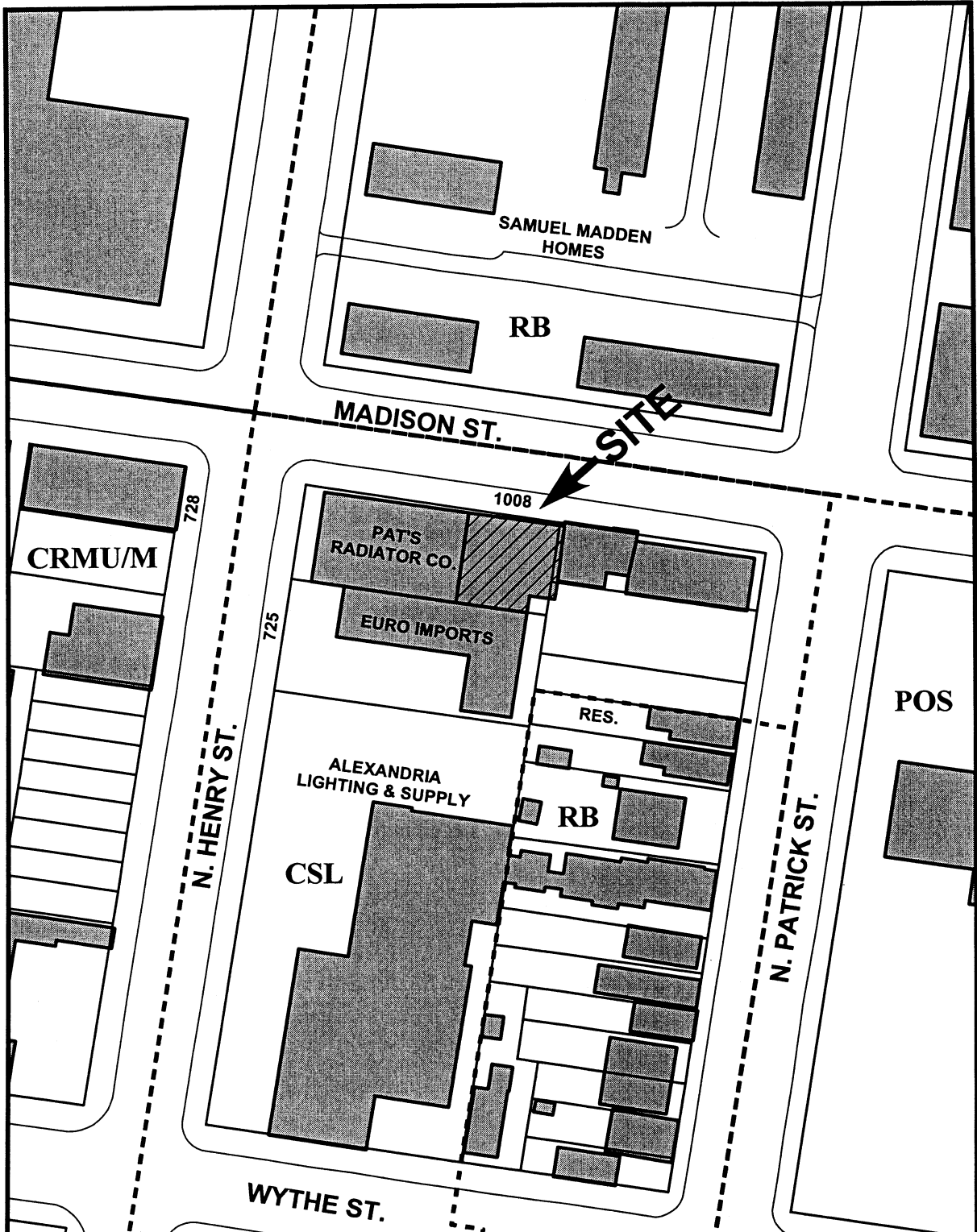
ZONE: CSL/Commercial service low

PLANNING COMMISSION ACTION, SEPTEMBER 4, 2003: On a motion by Mr. Dunn, seconded by Ms. Fossum, the Planning Commission voted to recommend approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendations and to amend Conditions #23 and #25. The motion carried on a vote of 6 to 0.

Reason: The Planning Commission supported the applicant in his business endeavor but expressed concern about the continued use of the site for auto repair. The Commission voted to approve the request but added a six month review and recommended that the SUP expire when the applicant's lease expires in December 2004. The Commission also requested that staff work with the applicant on understanding the conditions of the permit, and locating a new site for his business in Alexandria.

Speakers:

Bill Council, representing the applicant, spoke in support of the application. He requested that the permit expire in two to three years to give the applicant sufficient time to find a new location for his business. He stated that the applicant is a very good mechanic and has made some aesthetic improvements to the property. He said that since the applicant assumed ownership of the business in January, there has only been one violation, and that the applicant intends on continuing to comply with all of the conditions of the special use permit.



SUP #2003-0057

09/04/03



STAFF RECOMMENDATION:

Staff recommends **denial** of the request. If City Council approves the request, staff recommends that it be subject to compliance with all applicable codes and ordinances and the following conditions:

1. The special use permit shall be granted to the applicant only or to any business or entity in which the applicant has a controlling interest. (P&Z) (SUP #2754)
2. **CONDITION AMENDED BY STAFF:** Repair work done on the premises shall be restricted to light automobile repair only, which is limited to minor service work to automobiles or light trucks including tune up, lubrication, alignment, fuel system, brakes, mufflers, and replacement of small items but not to include general auto repair services. (P&Z) (SUP #2754)
3. No repair work shall be done outside. (P&Z) (SUP #2754)
4. Employee and customer vehicles shall be parked or stored inside the garage, or adjacent storage building. (P&Z) (SUP #2754)
5. **CONDITION AMENDED BY STAFF:** No vehicles, including customer, service or employee vehicles, shall be displayed, parked, or stored on a public right-of-way. (P&Z) (T&ES) (SUP #2754)
6. No vehicle parts, tires, or other materials shall be permitted to accumulate outside except in a dumpster or other suitable trash receptacle or enclosure. (P&Z) (SUP #2754)
7. No banners, streamers, flags or similar advertising devices shall be displayed on the premises, but signs advertising the general business conducted on the premises may be displayed in accordance with Article IX, Section 9-100 of the Zoning Ordinance of the City of Alexandria, Virginia. (P&Z) (SUP #2754)
8. The hours of operation shall be limited to 8:00 A.M. to 6:00 P.M., Monday through Saturday. (P&Z) (SUP #2754)
9. No loading or unloading may occur in the public right-of-way. (P&Z) (SUP #2754)
10. Not more than three vehicles shall be serviced within the garage (1008-1010) at any one time. (P&Z) (SUP #2754)

11. Parking shall be provided for at least five vehicles in the 1012 building. No repair or other service work shall occur in that building. (P&Z) (SUP #97-0066)
12. No amplified sound shall be audible at the property line. (P&Z) (Health) (SUP #97-0066)
13. **CONDITION AMENDED BY STAFF:** The applicant shall comply with the City of Alexandria Best Management Practices manual for automotive related industries. A copy can be obtained by contacting the Division of Environmental Quality at 703-519-3400 ext. 166.(T&ES) (SUP #97-0066)
14. **CONDITION AMENDED BY STAFF:** The new applicant shall contact the Crime Prevention Unit of the Alexandria Police Department at 703-838-4520 for a security survey for the business and a robbery awareness program for all employees. (Police) (SUP #97-0066)
15. **CONDITION DELETED BY STAFF:** ~~Prior to receiving a business license, certificate of occupancy or otherwise starting the auto repair business at the subject property, the prior unpaid zoning violation tickets from the Siam Auto business amounting to \$200.00 shall be paid to the City. (P&Z) (SUP #97-0066)~~
16. **CONDITION MAINTAINED BY STAFF:** The Director of Planning and Zoning shall docket the permit for revocation if he confirms that a violation of the permit has occurred. (P&Z)
17. No junked, abandoned, or stripped vehicles shall be displayed, parked, or stored outside. (P&Z)
18. **CONDITION AMENDED BY STAFF:** All vehicles on the ~~lot~~ premises shall be stored in a neat and orderly manner. (P&Z)
19. Loading and unloading of vehicles, if any, shall take place on-site and during the hours of operation. (P&Z)
20. **CONDITION AMENDED BY STAFF:** All waste products, including but not limited to organic compounds (solvents), motor oils, compressor lubricant, and antifreeze shall be disposed of in accordance with all local, state and federal ordinances or regulations and ~~shall~~ not be discharged into the sanitary or storm sewers or be discharged onto the ground. (T&ES)

21. **CONDITION ADDED BY STAFF:** The applicant shall control odors, smoke and any other air pollution from operations at the site and prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the Department of Transportation and Environmental Services. (T&ES)
22. **CONDITION ADDED BY STAFF:** All loudspeakers shall be prohibited from the exterior of the building and no amplified sound shall be audible at the property line. (T&ES)
23. **CONDITION AMENDED BY PLANNING COMMISSION:** This permit shall expire on **December 31, 2004** ~~two years from the date of approval.~~ (P&Z) (PC)
24. **CONDITION ADDED BY STAFF:** The applicant shall require its employees who drive to work to use off-street parking. (P&Z)
25. **CONDITION AMENDED BY PLANNING COMMISSION:** The Director of Planning and Zoning shall review the special use permit **six months** ~~one year~~ after approval and shall docket the matter for consideration by the Planning Commission and City Council if (a) there have been documented violations of the permit conditions, (b) the director has received a request from any person to docket the permit for review as a result of a complaint that rises to the level of a violation, or (c) the director has determined that there are problems with the operation of the use and that new or revised conditions are needed. (P&Z) (PC)

Staff Note: In accordance with section 11-506(c) of the zoning ordinance, construction or operation shall be commenced and diligently and substantially pursued within 18 months of the date of granting of a special use permit by City Council or the special use permit shall become void.

DISCUSSION:

1. The applicant, Kevin Hernandez, requests special use permit approval for the change of ownership of an existing light automobile repair business located at 1008 Madison Street.
2. The subject property is part of a lot of record with 136 feet of frontage on Madison Street, 50 feet of frontage on North Henry Street and a total lot area of 6,868 square feet. The lot is developed with a one and two story warehouse building totaling 7,523 square feet. The building is partitioned into separate tenant spaces and the principal tenant, Pat's Radiator Company, at the corner of Madison and Henry Streets, operates under a special use permit approved on February 16, 1953.
3. The applicant requests approval for a change of ownership of the auto repair garage. There are no changes proposed to the operation.
4. The change of ownership request is being brought to the Commission and Council, however, because there have been violations of the previous special use permit. Attached are a list of citations issued over the last several years, all except one of which relate to the prior owner. The applicant here, Mr. Hernandez, purchased the business last January, and did so without approval of the change of ownership. Since that time there has been only one citation, in February, and staff's conversations with Mr. Hernandez have resulted in a better operation and this application. The sale to Mr. Hernandez was likely the result of a series of staff conversations and zoning citations to the prior owner last year, including staff's threat of revocation of the permit.
5. Historically, a variety of uses have attempted to operate at this site. At one time a storefront church occupied a section of the building. Later, in 1965 and again in 1980, special use permit requests for amusement arcades were denied by City Council (SUP#644 and SUP#1332).

An automobile repair business occupied the site in the early 1950's. When a later auto repair business attempted to occupy the site in 1985, it was denied by Council (SUP#1738). Then in 1994, despite staff and the Planning Commission's contrary recommendations, an auto repair garage was approved by City Council, although it was not open for long (SUP#2754).

In 1997, Council approved a different auto repair garage, again over staff and the Commission's recommendations of denial, and Madison Auto Repairs operated there from 1997 until 2001.(SUP# 97-0066) In 2001, given a good history of performance, staff administratively approved a change of ownership to Mr. Hernandez' predecessor, Viet Quoc Do (SUP#2000-0156).

6. On August 4, 2003, staff visited the subject property to determine if the business was in compliance with the conditions of its special use permit. Staff determined that there was a violation of Condition #1, in that the permit was granted to Viet Quoc Do, not Mr. Hernandez. The current applicant informed staff that he has already assumed ownership of the business. Staff did not observe any other violations occurring at the time of the inspection, however, there was evidence of potential violations that staff discussed with the applicant.

Condition #2 of the SUP allows only light automobile repair, which does not allow engine or transmission rebuilding or replacement. Although staff did not observe general repair being conducted on the premises, staff observed two transmissions and a motor in the shop. The applicant informed staff that the transmission was bought only to remove the parts and that the motor was bought for another shop.

Condition #3 of the SUP states that all employee and customer vehicles shall be parked or stored inside the garage, or adjacent storage building. Staff observed only customer vehicles in the garage and adjacent storage building, but no employee vehicles. The applicant informed staff that none of the employees drive.

7. Zoning: The subject property is located in the CSL/Commercial Service Low zone. Section 4-303(P) of the zoning ordinance allows a light auto repair garage in the CSL zone only with a special use permit.
8. Master Plan: The proposed use is in the Braddock Road Metro Station Small Area Plan which designates the property for commercial service low use.

STAFF ANALYSIS:

Staff recommends denial of the request for a change of ownership at 1008 Madison Street. Although automobile repair has operated at this location in recent years, the history at the site shows that it is difficult for a repair business to operate successfully and in compliance with its special use permit. The history of violations and staff's concern that there will be more in the future relates not to the applicant, or even his predecessor, as much as it does to the physical limitations of the site. Staff has taken this position consistently in the past and continues to believe that the site is unsuitable for the proposed intense use.

Bounded by one way streets, the use occupies two separate parts of the building, using one for repairs and the other for parking vehicles. Both spaces are very small and a business that is even moderately successful will of necessity need additional space. Therefore, customer vehicles – including those being repaired – are often found outside the building, both in the driveway area and in the parking spaces along Madison Street. Using the space beyond the building for repair work and customer parking not only violates the special use permit, it brings unwelcome activity and an unattractive environment for the homes immediately across the street as well as for pedestrians on their way to the Braddock Metro. Automobile repair uses are inconsistent with the policies of the small area plan which envisions redevelopment of the area for mixed use development.

For these reasons, staff recommends that the site not be used for automobile repair uses.

If City Council approves the permit, staff recommends maintaining very restrictive conditions, and adding a condition that the permit be valid for only two years from the time of approval. The applicant is agreeable because he is in the process of looking for another location for when his lease expires at the end of 2004. Staff has also included a one year review and retained condition #16 which reinforces staff's authority to docket the case for revocation if a violation of the permit occurs. Staff deleted outdated conditions, updated others, and added standard conditions for auto uses.

STAFF: Eileen Fogarty, Director, Department of Planning and Zoning;
Barbara Ross, Deputy Director;
Valerie Peterson, Urban Planner.

CITY DEPARTMENT COMMENTS

Legend: C - code requirement R - recommendation S - suggestion F - finding

Transportation & Environmental Services:

- R-1 All waste products including but not limited to organic compounds (solvents), motor oil, compressor lubricant and antifreeze shall be disposed of in accordance with all local, state and federal ordinances or regulations and not be discharged to the sanitary or storm sewers or be discharged onto the ground.
- R-2 The applicant shall comply with the City of Alexandria Best Management practices manual for automotive related industries. A copy can be obtained by contacting the Division of Environmental Quality at 703-519-3400 ext. 166.
- R-3 The applicant shall control odors, smoke and any other air pollution from operations at the site and prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the Department of Transportation and Environmental Services.
- R-4 All loudspeakers shall be prohibited from the exterior of the building and no amplified sound shall be audible at the property line.
- C-1 The applicant shall comply with the City of Alexandria's Noise Control Code, Title 11, Chapter 5, which sets the maximum permissible noise level as measured at the property line.

Code Enforcement:

- C-1 A new fire prevention permit is required due to a change in ownership.

Health Department:

- F-1 No comments.

Police Department:

- R-1 The applicant is to contact the Crime Prevention Unit of the Alexandria Police Department at 703-838-4520 regarding a security survey for the business.
- R-2 The applicant is to contact the Crime Prevention Unit of the Alexandria Police Department at 703-838-4520 regarding a robbery awareness program for all employees.

APPLICATION for SPECIAL USE PERMIT # 2003-0057

[] Change of Ownership or [] Minor Amendment

[must use black ink or type]

PROPERTY LOCATION: 1008 Madison ST

TAX MAP REFERENCE: 54.04 05 01 ZONE: C54

APPLICANT Name: Kevin Hernandez

Address: 13651 KINGSMAN ROAD, Woodbridge, VA 22193-4608

PROPERTY OWNER Name: Patricia Iacone

Address: PO Box 849, BERRYVILLE, VA 22611-0849

SITE USE: Automobile repair garage

THE UNDERSIGNED hereby applies for a Special Use Permit for Change in Ownership, in accordance with the provisions of Article XI, Division A, Section 11-503 (5)(f) of the 1992 Zoning Ordinance of City of Alexandria, Virginia. THE UNDERSIGNED, having read and received a copy of the special use permit, hereby agrees to comply with all conditions of the current special use permit, including all other applicable City code and ordinances.

THE UNDERSIGNED hereby applies for a Special Use Permit for Minor Amendment, in accordance with the provisions of Article XI, Division A, Section 11-509 and 11-511 of the 1992 Zoning Ordinance of City of Alexandria, Virginia.

THE UNDERSIGNED, having obtained permission from the property owner, hereby requests this special use permit. The undersigned also attests that all of the information herein required to be furnished by the applicant are true, correct and accurate to the best of their knowledge and belief.

KEVIN HERNANDEZ
Print Name of Applicant or Agent


Signature

1008 MADISON ST
Mailing/Street Address

(703) 299-8856 (703) 299-0248
Telephone # Fax #

ALEXANDRIA, VA 22314
City and State Zip Code

Date

=====**DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY**=====

Application Received: _____ Date & Fee Paid: _____ \$ _____
Legal Advertisement: _____

ADMINISTRATIVE ACTION: _____

Date

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Director, Planning & Zoning

The following information must be furnished to the Department of Planning and Zoning to determine if the current use conducted on the premises complies with the special use permit provisions and all other applicable codes and ordinances.

1. Please describe prior special use permit approval for the subject use.

Most recent Special Use Permit # 2000-0156

Date approved: JULY / 1 / 05 / 2001
month day year

Name of applicant on most recent special use permit VIET QUOC DO

Use AUTOMOBILE REPAIR GARAGE

2. Describe below the nature of the existing operation in detail so that the Department of Planning and Zoning can understand the nature of the change in operation; include information regarding type of operation, number of patrons served, number of employees, parking availability, etc. (Attach additional sheets if necessary)

Automotive repairs

APPROX 5 TO 8 DAILY, 6 DAYS A WEEK

4 EMPLOYEES

NO PARKING FACILITIES

3. Describe any proposed changes to the business from what was represented to the Planning Commission and City Council during the special use permit approval process, including any proposed changes in the nature of the activity, the number and type of patrons, the number of employees, the hours, how parking is to be provided for employees and patrons, any noise emitted by the use, etc. (Attach additional sheets if necessary)

NO CHANGES

4. Is the use currently open for business? Yes No

If the use is closed, provide the date closed. _____ / _____ / _____
month day year

5. Describe any proposed changes to the conditions of the special use permit:

NONE

6. Are the hours of operation proposed to change? Yes No
If yes, list the current hours and proposed hours:

Current Hours:

Proposed Hours:

7. Will the number of employees remain the same? Yes No
If no, list the current number of employees and the proposed number.

Current Number of Employees:

Proposed Number of Employees:

4

8. Will there be any renovations or new equipment for the business? Yes No
If yes, describe the type of renovations and/or list any new equipment proposed.

9. Are you proposing any change in the sales or service of alcoholic beverages? Yes No
If yes, describe proposed changes:

10. Is off-street parking provided for your employees? Yes No
If yes, how many spaces, and where are they located?

11. Is off-street parking provided for your customers? Yes No
If yes, how many spaces, and where are they located?

N/A 12. Is there a proposed increase in the number of seats or patrons served? Yes No
If yes, describe the current number of seats or patrons served and the proposed number of seats and patrons served. For restaurants, list the number of seats by type (i.e. bar stools, seats at tables, etc.)

Current:

Proposed:

| | |
|-------|-------|
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13. Are physical changes to the structure or interior space requested? Yes No
If yes, attach drawings showing existing and proposed layouts. In both cases, include the floor area devoted to uses, i.e. storage area, customer service area, and/or office spaces.

14. Is there a proposed increase in the building area devoted to the business? Yes No
If yes, describe the existing amount of building area and the proposed amount of building area.

Current:

Proposed:

| | |
|-------|-------|
| <hr/> | <hr/> |
| <hr/> | <hr/> |
| <hr/> | <hr/> |

15. The applicant is the (check one) Property owner Lessee
 other, please describe: _____

16. The applicant is the (check one) Current business owner Prospective business owner
 other, please describe: _____

17. Each application shall contain a clear and concise statement identifying the applicant, including the name and address of each person owning an interest in the applicant and the extent of such ownership interest. If the applicant, or one of such persons holding an ownership interest in the applicant is a corporation, each person owning an interest in excess of ten percent (10%) in the corporation and the extent of interest shall be identified by name and address. For the purpose of this section, the term "ownership interest" shall include any legal or equitable interest held in the subject real estate at the time of the application. If a nonprofit corporation, the name of the registered agent must be provided.

Please provide ownership information here:

KEVIN HERNANDEZ 13651 KINGSMAN ROAD, WOODBRIDGE,
100% interest VA 22193 - 4608

Citations Issued to 1008 Madison Street

| | | |
|-------|----------|--|
| #2833 | 2/28/03 | Parking customer vehicles on the right-of-way |
| 2661 | 7/29/02 | Employee and customers parked on the right-of-way |
| 2593 | 6/3/02 | Repair services conducted outside of building; general repair being conducted when only light permitted |
| 2501 | 3/29/02 | Vehicle parked on public-right of way |
| 2439 | 2/8/02 | Vehicles parked on public right-of-way; SUP not on premises |
| 2429 | 1/29/02 | Employee and customer vehicles parked outside; vehicle parked on right-of-way |
| 2421 | 1/17/02 | Vehicles parked/stored on public right of way; employees not parked in off-street parking garage |
| 2453 | 3/4/02 | Vehicles parked/stored on public right-of-way |
| 2386 | 12/12/01 | Employee and customer vehicles parked on public right-of-way |
| 2339 | 10/17/01 | Repair conducted outside; employee and customer vehicles not parked in required off-street garage; vehicles parked on public right-of-way; general repair work being conducted when only light permitted |
| 1217 | 6/13/98 | Special advertising sign; repair work being conducted in parking only garage |