



Meeting Date: 1/08/2008

ACTION	TYPE OF ITEM
<input type="checkbox"/> Approved Recommendation	<input type="checkbox"/> Info/Consent
<input checked="" type="checkbox"/> Ord. No(s). _____	<input type="checkbox"/> Report
<input type="checkbox"/> Res. No(s). _____	<input checked="" type="checkbox"/> Public Hearing
<input type="checkbox"/> Other _____	<input type="checkbox"/> Other

Prepared By: Stephanie Diaz, Contract Planner ^{SD} Agenda Item No. L-2
 Reviewed By: City Manager [Signature] City Attorney [Signature] Finance [Signature] Other (Specify) _____

DATE: December 20, 2008

TO: City Council

FROM: Susan L. Martin, AICP [Signature]
 Planning Manager

SUBJECT: Appeal of the Planning Commission's Denial of PZ Nos. 06-500-01A&B (Special Use Permits), 06-510-07 (Special Use Permit), 07-500-17 (Special Use Permit) and 06-570-01 (Zone Change) to Permit Construction of a CVS Pharmacy Shopping Center, Located at 1117 and 1205 South Oxnard Boulevard. Filed by Heritage Equities, LLC, 1517 South Sepulveda Blvd., Los Angeles CA 90025.

RECOMMENDATION

That City Council adopt a resolution upholding the action of the Planning Commission denying the proposed CVS Pharmacy shopping center and zone change.

DISCUSSION

Project Description - The proposed development includes a commercial shopping center on a 2.8-acre site consisting of three buildings totaling 27,190 net square feet. Building A (14,870 square feet) is a proposed drugstore with alcohol sales and a drive-through pharmacy, Building B (3,100 square feet) is a proposed two-tenant building with a drive-through restaurant, and Building C (9,220 square feet) is a proposed multi-tenant building. The site is triangular in shape with Oxnard Boulevard on the north side and Saviers Road on the west side. Access to the site would be provided from two driveways on Oxnard Boulevard and one driveway on Saviers Road. Frontage improvements are proposed along Oxnard Boulevard and Saviers Road. The proposed pharmacy drive-through and the restaurant drive-through as well as off-site sales of alcohol at the drugstore require special use permits. The applicant requests 24-hour operation of the businesses. The project also includes demolition and replacement of an on-site billboard which requires a special use permit. The billboard is proposed to be located on the southwestern corner of the property. A zone change is requested to change the existing zone district from Commercial Manufacturing Planned Development (CM-PD) to General Commercial Planned Development (C-2-PD) for one parcel on the site. The project is in the Historic and Enhancement Redevelopment Oxnard (HERO) redevelopment area. The project site is located at 1117 and 1205 South Oxnard Boulevard, APNs: 204-0-060-220 and 204-0-060-230, in the Cal-Gisler Neighborhood.

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Planning Commission Review and Action - On October 18, 2007, the Planning Commission held a public hearing and considered the request for a CVS Pharmacy shopping center with two drive-through uses, alcohol sales and a new billboard, all which require a special use permit. Additionally, a zone change was requested for a portion of the project site for consistency with the proposed commercial/retail uses and the General Plan. At the hearing, the Commission discussed the following issues:

1. The project site is a City gateway, and the proposed architecture should be more spectacular; something special, like an icon, should be located on the site at the Five Points intersection.
2. The project proposes two drive-through uses which is not appropriate on this site.
3. The proposed parking areas allow too many cars to be visible from Oxnard Boulevard and Saviers Road, the public roads adjacent to the site.
4. The project will contribute a large amount of traffic to the Five Points intersection which is already impacted.
5. There are already too many billboards in the neighborhood, therefore, another one should not be permitted.
6. There is no pedestrian access to the site from the Five Points intersection.

Members of the public spoke in support of the CVS Pharmacy as a needed neighborhood-serving use but spoke against the proposed replacement billboard and the alcohol sales permit. At the hearing, the Planning Commission voted to deny staff's recommendation of approval for the shopping center with drive-through uses and zone change (5-0 and 4-1). The Commission also voted to adopt resolutions denying the billboard and alcohol requests (5-0 and 4-1) as recommended by staff.

Appeal Issues - On October 31, 2007, the applicant, Heritage Equities, LLC filed an appeal of the Planning Commission's denial of the special use permits and the zone change request. The appeal letter states that the project should be approved for the following reasons (see Attachment 5):

1. The project is consistent with the General Plan.
2. Responds to the planning staff's desire for a pedestrian presentation to the intersection.
3. Conforms to the zoning code for parking in a shopping center with mixed uses.
4. Provides three times the required landscaping area.
5. Responds to all recommendations of traffic engineers for road/signal improvements, site access, circulation and pedestrian access.
6. Offers control of alcoholic beverage sales.
7. Permits an existing out-of-date billboard to be modernized.

Alternative - Should City Council wish to consider approval of a shopping center on the site, a resolution for approval of the drive-through uses and a zone change ordinance are provided in

Attachment 6. This resolution and ordinance are consistent with staff's original recommendation to the Planning Commission and the following actions should be taken:

1. Adopt a resolution approving Mitigated Negative Declaration No. 07-06 (this document is included in the Planning Commission staff report, Attachment 3) and approving special use permits PZ 06-500-1 A&B for a commercial shopping center with two drive-through uses.
2. Approve the first reading by title only and subsequent adoption of an ordinance approving zone change (PZ 06-570-01) changing the zone district on the south parcel from Commercial Manufacturing Planned Development (CM-PD) to General Commercial Planned Development (C-2-PD)

Should City Council wish to approve alcohol sales, staff should be directed to return at the next Council meeting with a resolution approving a special use permit for alcohol sales.

FINANCIAL IMPACT

There is no financial impact associated with this recommendation.

Attachment 1 - Planning Commission Resolutions No. 2007- 44, 45, 46, 47, and 48. denying the Project.

- 2 - City Council Resolution For Denial
- 3 - Planning Commission Staff Report (dated October 4, 2007, except draft resolutions)
- 4 - Power Point Presentation from Planning Commission October 18, 2007 Hearing
- 5- Notice of Appeal Filed by Heritage Equities, LLC
- 6- For Approval: City Council Zone Change Ordinance, Resolution Adopting the MND and Special Use Permits for a Commercial Shopping Center with Drive-Through Lanes

Note: Attachments No.1, 3 and 6 have been provided to the City Council under separate cover. Copies are available for review at the Circulation Desk in the Library after 6:00 p.m. on Wednesday prior to the Council meeting, and at the City Clerk's Office after 8:00 a.m. on the Monday before the meeting.

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CITY COUNCIL OF THE CITY OF OXNARD
RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD UPHOLDING THE DECISION OF PLANNING COMMISSION DENYING PZ 06-500-01A&B (SPECIAL USE PERMITS), PZ 06-510-07 (SPECIAL USE PERMIT), PZ 07-500-17 (SPECIAL USE PERMIT) AND PZ 06-570-01 (ZONE CHANGE) TO PERMIT CONSTRUCTION OF A CVS PHARMACY SHOPPING CENTER LOCATED AT 1117 AND 1250 SOUTH OXNARD BOULEVARD (APN'S 204-0-060-220 and 204-0-060-230). FILED BY HERITAGE EQUITIES, LLC, 1517 SOUTH SEPULVEDA BLVD., LOS ANGELES, CA 90025

WHEREAS, the Planning Commission held a public hearing and denied applications for special use permits (PZ Nos. 06-500-1 A&B, 06-510-07, and 07-500-17) for a commercial shopping center; and

WHEREAS, the Planning Commission considered a zone change (PZ 06-570-01) and took action to recommend denial to the City Council; and

WHEREAS, the City Council has considered the appeal of the Planning Commission action to deny the special use permits, filed by the applicant, Heritage Equities, LLC and has carefully reviewed the decision of the Planning Commission; and

WHEREAS, section 15270(a) of the State Guidelines to the California Environmental Quality Act (CEQA) provides that CEQA does not apply to projects that are disapproved.

WHEREAS, the City Council of the City of Oxnard finds as follows:

1. The project as proposed is inconsistent with and does not conform to the 2020 General Plan, the City's zoning ordinance.
2. That the proposed use will adversely affect or be materially detrimental to the adjacent uses, buildings or structures or to the public health, safety or general welfare.
3. That the site for the proposed project is not adequate in size and shape to accommodate the drive-through, setbacks, parking and landscaping.
4. The variation in zone standards regarding loading zones is in appropriate for the site and the proposed use.
5. The site plan does not present an architectural gateway for the Five Points intersection.
6. The proposed two drive-through lanes are too many.

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ATTACHMENT 2
PAGE 1 OF 2

7. The proposed parking lots allow too many cars to be visible from the Oxnard Boulevard and Saviers Road, the public roads adjacent to the site.
8. The project is located on a designated thoroughfare and adjacent to existing industrial uses and the current Commercial Manufacturing Planned Development (CM-PD) zone designation should be retained to allow for compatible uses in the area.
9. The project will contribute a large amount of traffic to the Five Points intersection that already operates at Level of Service E.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Oxnard upholds the decision of the Planning Commission denying the applications for special use permits for the reasons stated in Finding Nos. 1 through 9.

BE IT FURTHER RESOLVED that the City Council denies the application for a zone change for the reasons stated in Finding No. 8.

BE IT FURTHER RESOLVED that the City Council would have denied the applications for the special use permits regardless of whether the application for a zone change were denied, and would have denied the applications for a zone change regardless of whether the application for the special use permits were denied

PASSED AND ADOPTED by the City Council of the City of Oxnard on the 8th day of January 2008, by the following vote:

AYES:

NOES:

ABSENT:

Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:


Gary L. Gillig, City Attorney

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ATTACHMENT 2
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CVS Pharmacy Shopping Center

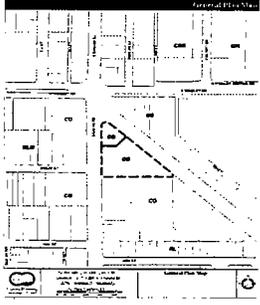
PZ 06-500-1 SUP Drive-Through
 PZ 07-500-17 SUP Billboard
 PZ 06-510-7 SUP Alcohol Sales
 PZ 06-570-1 Zone Change

Project Location



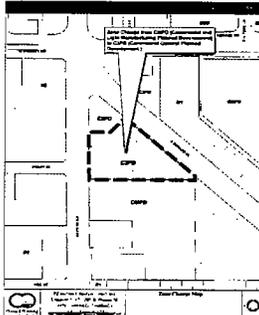
- Five Points Intersection
- 1117 and 1205 S. Oxnard Boulevard
- HERO Redevelopment Area

General Plan Designation



- Entire property is Commercial General

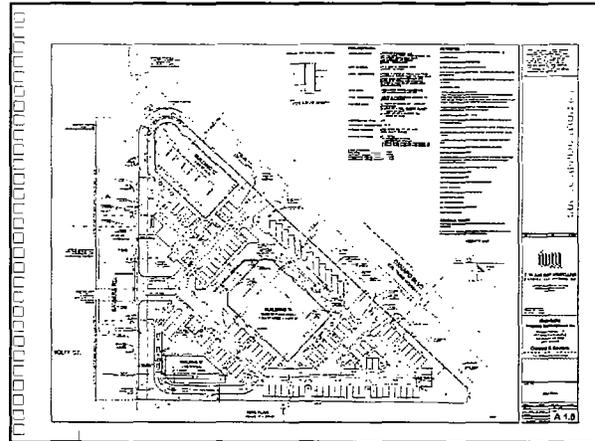
Existing and Proposed Zoning



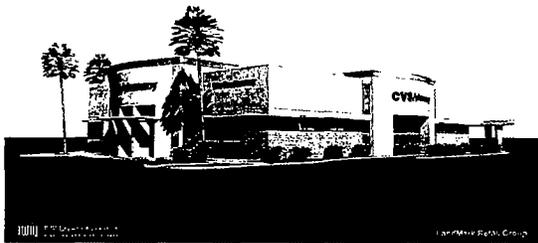
- North parcel: C-2 PD
- South parcel: C-M PD
- Zone change request to designate the south parcel C-2 PD to allow a commercial shopping center
- Request is consistent with the General Plan designation

Zoning Compliance

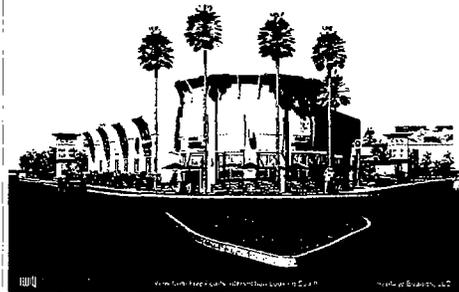
- The shopping center buildings are in compliance with the zone code requirements with the exception of one loading zone that is proposed to be 30 feet long instead of the required 40 feet.
- The shopping center is required to provide 109 parking spaces; 112 are provided.



View of CVS Pharmacy Architectural Design



Architectural Design, View from Five Points Intersection

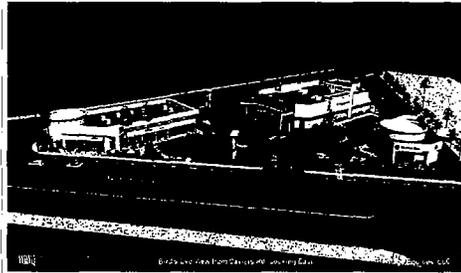


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Architectural Design, View from Oxnard Blvd.



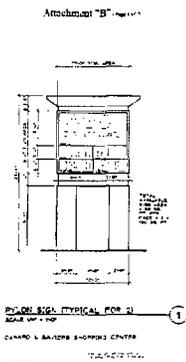
Architectural Design, View from Saviers Road



Master Sign Program

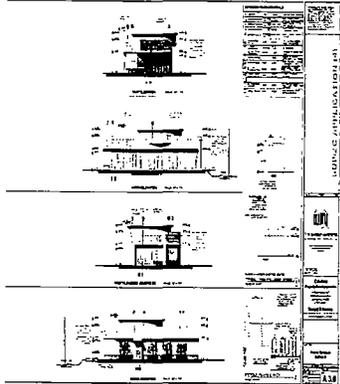
- Two free standing pylon signs (22'4" tall): one on Oxnard Blvd and one on Saviers Rd.
- One monument sign (3'6" tall) on Oxnard Blvd.
- Each building will have several attached signs above the windows and doors.
- Signs are individual channel letters.

Pylon Sign



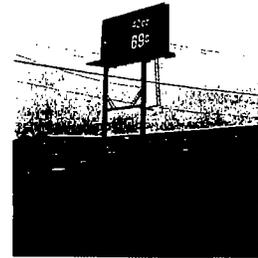
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Bldg. Signs



Existing Billboard: Removal Recommended

- No permits on file.
- Does not comply with 30 ft. rear yard setback, is on property line.
- Panel size is too large: 13x26 rather than 12x25.
- Board is 38 ft tall rather than required 32 ft.
- Does not comply with 1000 ft scenic highway and 30 ft right-of-way setbacks.



Proposed Billboard: Denial Recommended

- Does not comply with 15 ft rear yard setback; is to be located on the property line.
- Panel size is too large: 14 ft x 48 ft rather than required 12 ft x 25 ft.
- Billboard is too tall; 40 feet rather than required 32 ft.
- Does not comply with 1000 ft. scenic highway setback; would be setback 460 ft.
- Does not comply with 30 ft. right-of-way setback; would be located at the right-of-way.

Traffic Impacts

- The project is expected to generate 2,717 average daily trips, 132 AM peak hour trips and 239 PM peak hour trips.
- Significant impacts are anticipated for Wooley Road/E Street and the Five Points intersection.

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ATTACHMENT 4

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Traffic Mitigation

- Improve the Wooley and Oxnard lanes at Five Points.
- Improvements to westbound Wooley Road.
- Contribute to new signal at Saviers and Hill Street.
- Provide frontage improvements.
- Pay City Traffic Impact Fees
- Pay County Impact fees.

Alcohol Sales

- The applicant requests an SUP for off-sale alcohol sales at the CVS Pharmacy.
- There are currently 2 outlets within 350 feet and 8 outlets within 1000 feet.
- The neighborhood crime rate is 46% higher than the average city-wide.
- The Oxnard Police Dept. has expressed significant concerns and are opposed to additional alcohol sales in the neighborhood.

Environmental Review MND Prepared

Review Period August 10-August 30,2007
No Major Comments Received

- | | |
|----------------------|-------------------|
| ■ Aesthetics | ■ Hydrology/water |
| ■ Air quality | ■ Noise |
| ■ Cultural resources | ■ Public services |
| ■ Geology/soils | ■ Traffic |
| ■ Hazards | |

DAC Comments

- The DAC reviewed the project at two meetings. They commented on frontage improvements, loading zones, alcohol sales, billboard issues and pedestrian circulation to the site. These items have been address in the site design, conditions of approval or the staff recommendation.

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Cal Giser Neighborhood Comments

- Attendees spoke in favor of the project but expressed concerns for alcohol sales, pedestrian connections to the surrounding community and traffic trips.

Planning Commission Denial

- The Planning Commission denied the request for a shopping center with 2 drive-through lanes, a billboard and alcohol sales.
- They also recommended denial of a zone change from CM-PD to C-2 PD to allow a retail shopping center.
- The applicant, Heritage Equities, appealed the Planning Commission action.

Recommendation

- Adopt a resolution denying the appeal and upholding the Planning Commission's action denying the CVS shopping center and zone change.

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CITY OF OXNARD
CITY CLERK

07 OCT 31 PM 2:37

PLEASE PROVIDE ORIGINAL AND 2 COPIES

TO: Oxnard City Clerk

NOTICE OF APPEAL
(from member of the public)

I, Heritage Equities LLC, am aggrieved or directly affected by
(name of person filing appeal)

and appeal the 10-18-2007 decision from the Planning Commission regarding E2
(date of PC meeting) (number)

See attached Exhibit A
and description of matter)

The grounds for appeal are:
See attached Exhibit B

I request the following relief:
See attached Exhibit C

Laurie M Cole Date: 10/25/07
(signature) LAURIE M. COLE, MANAGING MEMBER
Heritage Equities LLC

1517 S. Sepulveda, Los Angeles CA 90025
(address)

- cc: City Attorney
- Project Planner
- Development Services Department
- Applicant

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2/01

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ATTACHMENT 5
PAGE 1 OF 5

Oxnard & Saviers
TWLA# 05006
1112-1117 Oxnard Blvd.
06-500-01, 06-510-07, 07-500-17 (Special Use Permits
06-570-01 (Zone Change)

Exhibit A

Excerpted Sections of Agenda for 10-18-2007 Hearing

CITY OF OXNARD PLANNING COMMISSION AGENDA

REGULAR MEETING
Council Chambers, 305 West Third Street
Thursday, October 18, 2007, 7:00 p.m.

E. CONTINUED PUBLIC HEARINGS

2. PLANNING AND ZONING PERMIT NOS. 06-500-01 (Special Use Permit), 06-510-07 (Special Use Permit), 07-500-17 (Special Use Permit) and 06-570-01 (Zone Change) for construction of a commercial shopping center consisting of three buildings totaling 27,190 square feet, including a drugstore with alcohol sales and restaurant with drive-through lanes and replacing an on-site billboard on a 2.8-acre site. Also requested is a zone change for the southern portion of the property from Commercial and Light Manufacturing Planned Development (C-M PD) to General Commercial Planned Development (C-2-PD). The project site is located between Saviers Road and Oxnard Boulevard (1117 and 1205 South Oxnard Boulevard, APNs: 204-0-060-220 and 204-0-060-230) south of the Five Points intersection. Mitigated Negative Declaration No. 07-06 has been prepared for the project. Filed by Heritage Equities, LLC, 1517 South Sepulveda Blvd., Los Angeles CA 90025.

PROJECT PLANNER: STEPHANIE DIAZ

ACTION: _____

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ATTACHMENT 5
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Oxnard & Saviers
TWLA# 05006
1112-1117 Oxnard Blvd.
06-500-01, 06-510-07, 07-500-17 (Special Use Permits
06-570-01 (Zone Change)

Exhibit B

Grounds for Appeal are

This appeal is of the decision to deny Planning and Zoning Permit Nos. 06-500-01 (Special Use Permit), 06-510-07 (Special Use Permit), 07-500-17 (Special Use Permit) and 06-570-01 (Zone Change) for construction of a commercial shopping center consisting of three buildings totaling 27,190 sf, including a drug store with alcohol sales and a restaurant with drive through lanes and replacing an on-site billboard on a 2.8 acre site. Also requested is a zone change for the southern portion of the property from Commercial and Light Manufacturing to General Commercial Planned Development (C-2-PD).

The applicant approached planning and engineering staff members in June 2005 with a proposed site plan and architectural design concept for the project prior to commencing detailed design drawings and submitting the subject applications to learn the City's goals and preferences for development of the site. Planning and engineering staff shared the city's realignment studies for Oxnard Blvd. and advised that the proposed commercial center and building design was a favorable enhancement of the property.

During the intervening 2 ½ years we have modified the proposed project site design resolving city desired improvements to Saviers Road requiring 15' of dedication for an additional traffic lane and bike lane, improvements to the median in Oxnard Blvd. and refinements to the building architecture responding to comments from planning staff and the city's architectural consultants. This was achieved through a detailed traffic analysis and report which studied 12 targeted intersections, a pedestrian access analysis evaluating several alternative solutions as well as on-site analysis of circulation, parking, loading and trash removal, all to the satisfaction of the city's various departments.

We are appealing the decision by the Planning Commission because we believe the proposed project:

- Is consistent with the City of Oxnard's General Plan.
- Responds to the planning staff's desire for a pedestrian presentation to the intersection.
- Responds to the request by the city's consulting architect for a taller building on the corner.
- Conforms to the zoning code for parking in a shopping center with mixed uses.
- Provides landscaping areas and setbacks (providing nearly three times as much landscaping area as required by the city code), and master sign program conforming to the city code.

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ATTACHMENT 5
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- Responds to all recommendations put forth by the traffic engineers for off-site improvements, site access, internal circulation and pedestrian access including:
 - Dedicating 15' along Saviers Road for an additional right turn lane and bike lane,
 - Installation of landscape medians in Saviers Road and landscape island at the intersection,
 - Construction of a raised median in Oxnard Blvd. once the city is granted control from Cal Trans
 - Participates with traffic signal improvements.
- Improves control of off-sale alcoholic beverages in the surrounding community by:
 - Replacing an existing off-sale alcohol license issued in 1975 without conditions, with one for a limited sales area (approximately 125 sf) within a drug store that is:
 - monitored with cameras both inside and outside the premises with,
 - sales hours limited from 7:00AM to 10:00PM with,
 - a security guard on the premises together with,
 - additional conditions as deemed appropriate by the City of Oxnard.
- Permits an existing out-of-date designed billboard to be modernized with a contemporary board consistent with the architecture of the center.

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Oxnard & Saviers
TWLA# 05006
1112-1117 Oxnard Blvd.
06-500-01, 06-510-07, 07-500-17 (Special Use Permits
06-570-01 (Zone Change)

Exhibit C

I Request the Following Relief

The property owner requests relief from the Planning Commission rejection of Planning and Zoning Permit Nos. 06-500-01 (Special Use Permit), 06-510-07 (Special Use Permit), 07-500-17 (Special Use Permit) and 06-570-01 (Zone Change) for construction of a commercial shopping center consisting of three buildings totaling 27,190 sf, including a drug store with alcohol sales and a restaurant with drive through lanes and replacing an on-site billboard on a 2.8 acre site. Also requested is a zone change for the southern portion of the property from Commercial and Light Manufacturing to General Commercial Planned Development (C-2-PD).

We respectfully request approval of the project including:

1. Approval of Zoning Permit No 06-570-01 to change the zone district for the southern portion of the property from Commercial and Light Manufacturing (C-M PD) to General Commercial Planned Development (C-2-PD), subject to the conditions proposed by staff.
2. Approval of Special Use Permit 06-500-01 to allow drive through service for a pharmacy and restaurant, subject to the conditions proposed by staff.
3. Approve Special Use Permit 07-500-17 for the construction of a new modern billboard.
4. Approve Special Use Permit 06-510-07 for off-site alcohol sales subject to the conditions noted in the grounds for appeal and other conditions deemed necessary by the City Council.

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