



Meeting Date: 9/16/08

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

Prepared By: Stephanie Diaz, Contract Planner *SD* Agenda Item No. I-8

Reviewed By: City Manager *[Signature]* City Attorney *[Signature]* Finance *[Signature]* Other (Specify) \_\_\_\_\_

DATE: September 16, 2008

TO: City Council

FROM: Matthew Winegar, Development Services Director *[Signature]*  
Development Services Department

SUBJECT: **Review of Revised Architecture and Other Issues Related to the CVS Pharmacy Shopping Center, PZ 06-500-1, located at the Five Points Intersection. Filed by Heritage Equities, LLC.**

**RECOMMENDATION**

That City Council:

1. Approve the revised architecture for the CVS Pharmacy Shopping Center; and
2. Approve a Resolution with a condition prohibiting alcohol sales.

**DISCUSSION**

On March 25, 2008 the City Council approved permits related to a proposed shopping center at the Five Points Intersection (1107 and 1205 S. Oxnard Boulevard) consisting of three buildings totaling 28,872 gross square feet, including a CVS Pharmacy with a drive-through. The Council did not approve the request for alcohol sales at the CVS Pharmacy. At the time of approval, the City Council adopted Resolution No. 13,393 with a condition that the final shopping center building elevations be subject to City Council approval.

The project architect submitted revised elevations that include more building cornices, revised window canopies, larger window recesses, new ledgestone walls and trim, as well as larger windows for the building facing the Five Points intersection. The original and revised architecture are shown in Attachment 1. (The "revised/proposed" architecture is shown in the top illustration and the "original" architecture is shown in the bottom illustration.)

On June 24, 2008 the City Council considered the revised architecture and discussed concerns for potential future requests to sell alcohol, the continued operation of the existing CVS Pharmacy located at Fifth Street and Ventura Road, and the potential reuse of the proposed CVS store. CVS Caremark, a representative for the applicant has submitted a letter that addresses these issues. See Attachment 2. The letter explains that CVS intends to continue operating the store at Fifth and Ventura Road. It is also

stated that there is an agreement with the landlord for the CVS store at Five Points regarding re-use of the store. That agreement, with the exception of a pharmacy exclusive, waives all other exclusive uses. This provides the landlord greater latitude to re-lease the site to another user. The letter also indicates support for a new condition on the Five Points CVS project related to the prohibition on alcohol sales. The new condition outlined in the attached City Council Resolution states:

“The applicant, for itself and successors in interest, agrees not to apply for an off-site license to sell alcohol on the property.”

If the applicant wished to apply for alcohol sales in the future, an application to the City Council would be required for removal of this condition at a noticed public hearing. Assuming the City Council approved removal of the condition, CVS could then apply for a Special Use Permit to allow off-site sales of alcohol through the customary process in place at that time.

Under CEQA Section 15164, an Addendum to Mitigated Negative Declaration No. 07-05 was adopted by the City Council with the project approval. No new impacts are anticipated with the revised architecture and new condition related to alcohol sales prohibition. Therefore, additional environmental review is not necessary at this time.

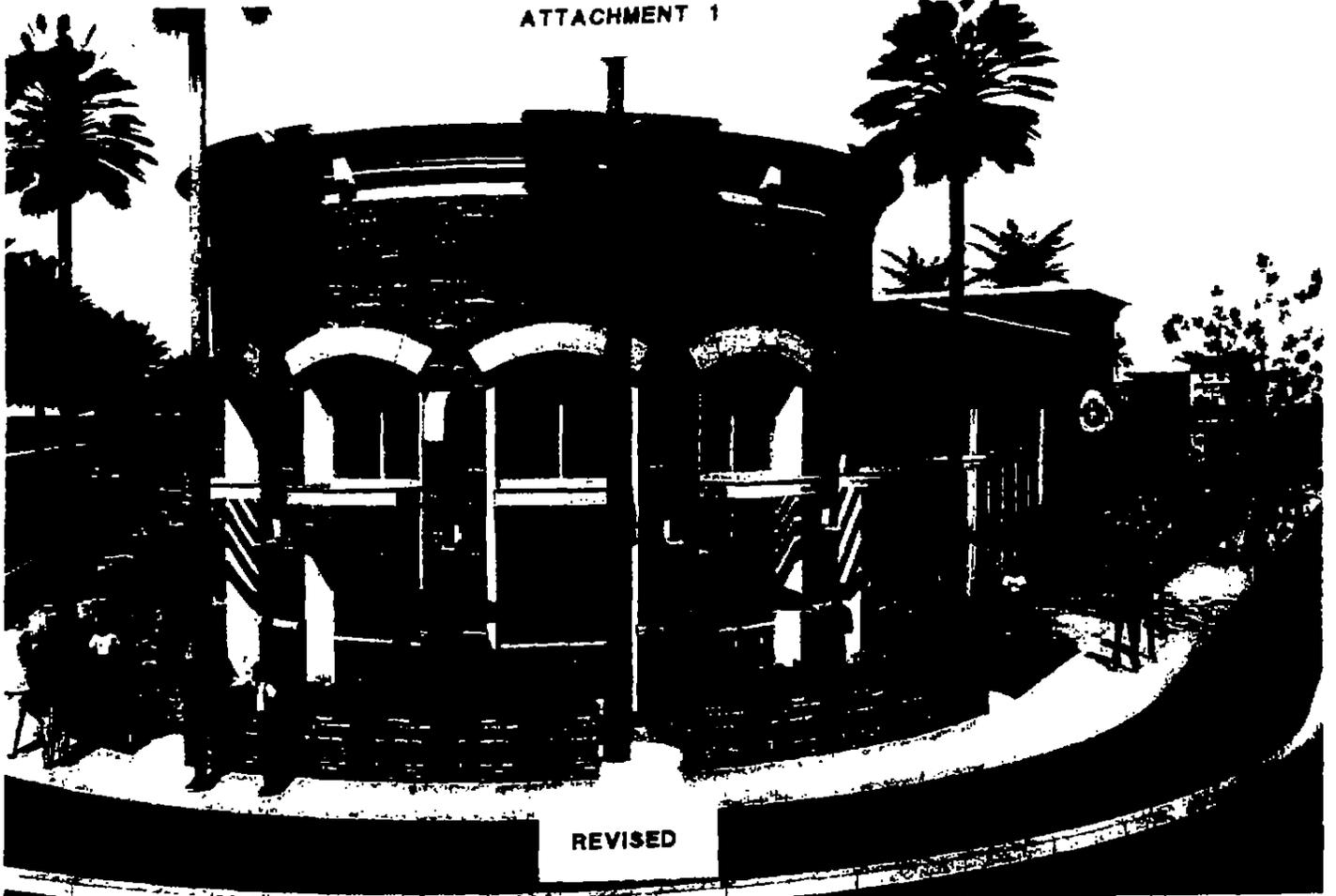
## **FINANCIAL IMPACT**

There is no financial impact.

SLD/sld

- Attachment #1 - Original and Revised Architectural Elevations
- Attachment #2 - Letter from CVS Caremark Corporation, August 29, 2008
- Attachment #3 - City Council Resolution

Note: Attachment # 1, the original and revised colored architectural elevations have been provided to the City Council. Copies are available for review at the Circulation Desk in the Library after 6:00 p.m. on the Thursday prior to the Council meeting and at the City Clerk's Office after 8:00 a.m. on September 12, 2008.



ORIGINAL

Build

Northwest

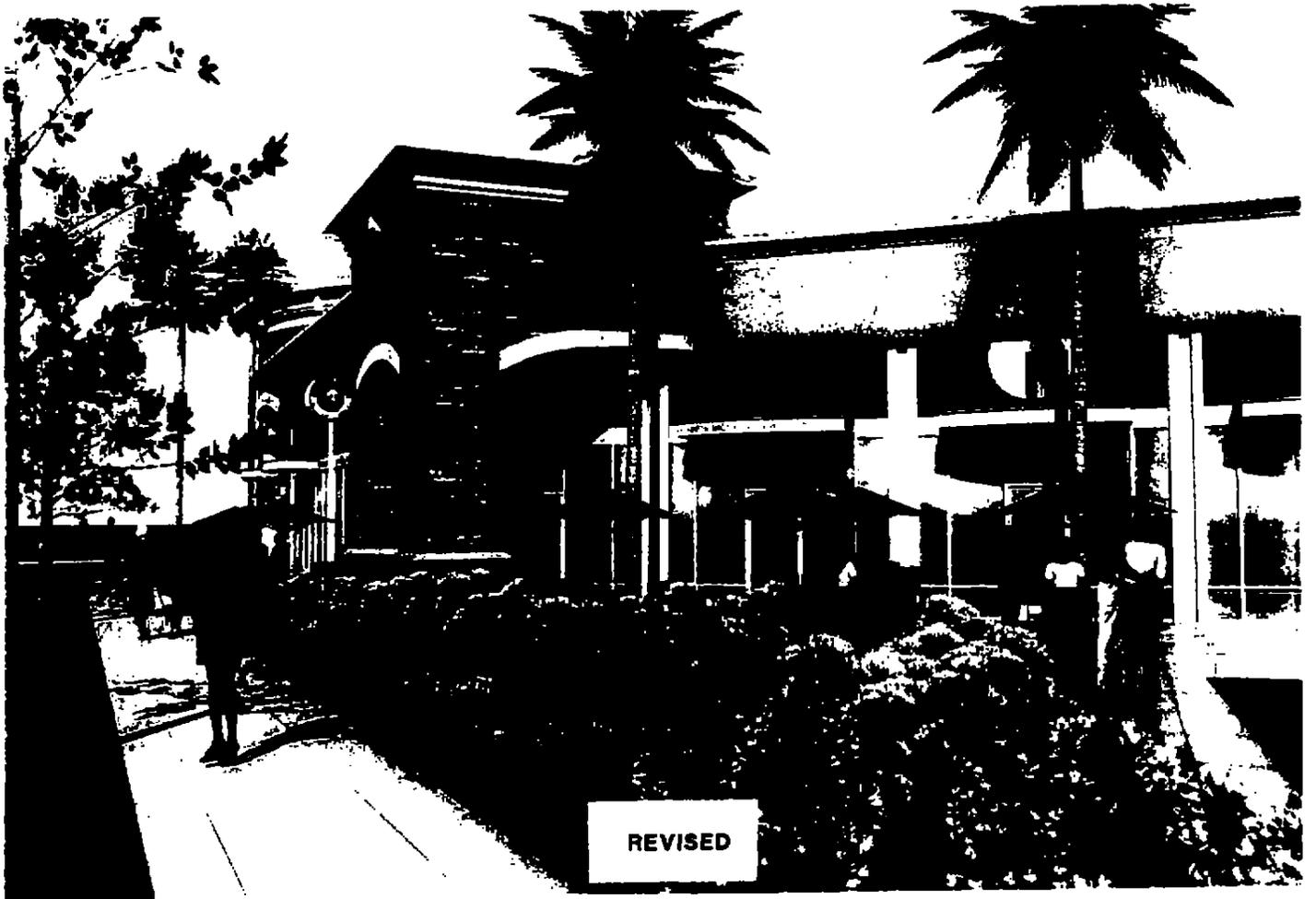
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ATTACHMENT 1  
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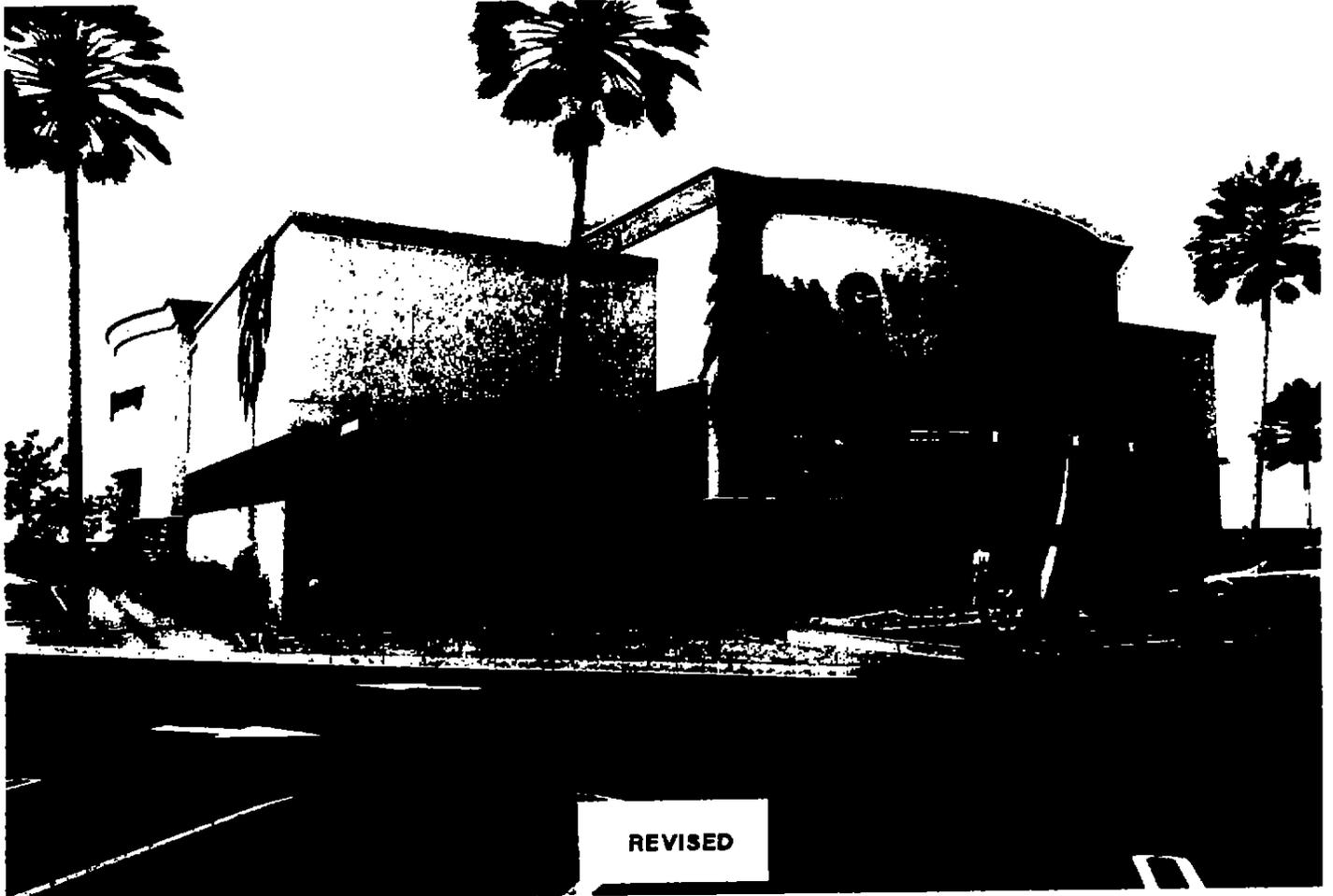
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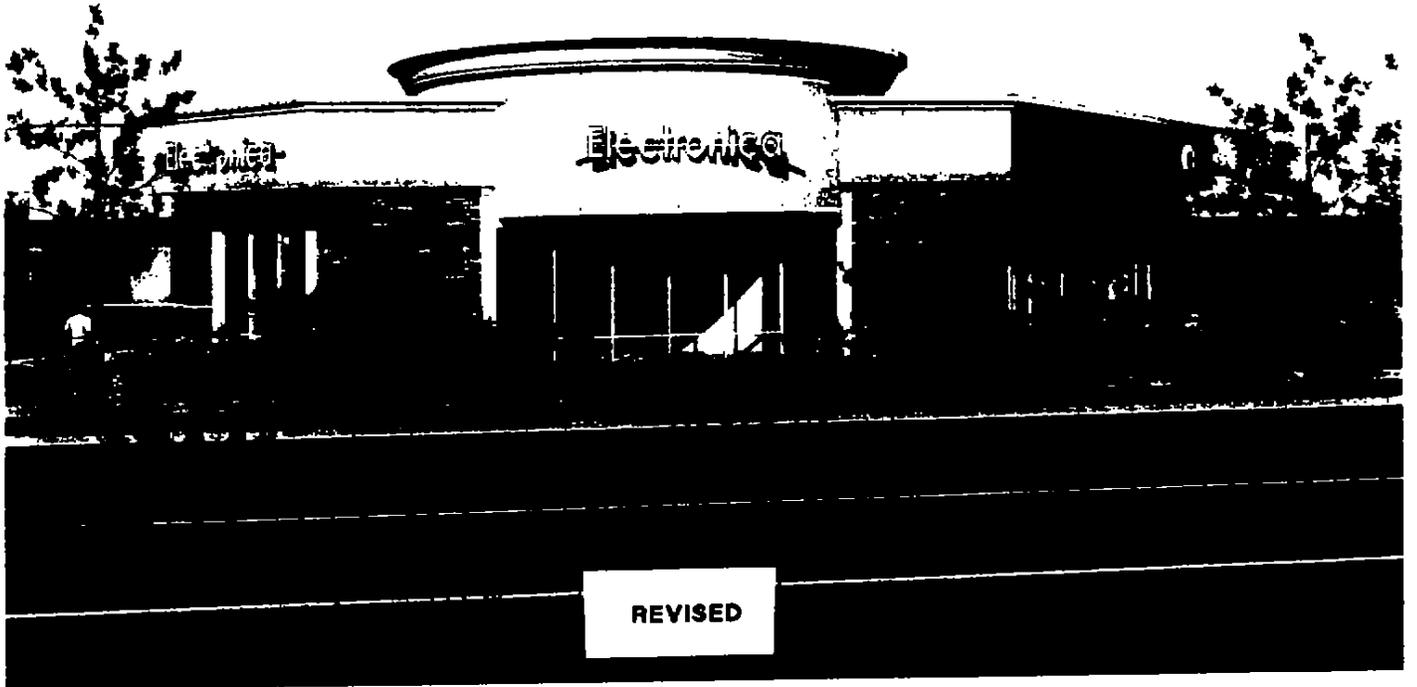
REVISED



ORIGINAL

ATTACHMENT 1  
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**CVS Realty Co.**

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RECEIVED  
SEP 2 2008  
BY: \_\_\_\_\_

August 29, 2008

Dr. Thomas E. Holden  
Mayor, City of Oxnard  
300 West Third Street  
4<sup>th</sup> Floor  
Oxnard, CA 93030

Re: CVS/pharmacy #8520  
SEC Oxnard Blvd. & Saviers Rd.  
Oxnard, CA (the "Property")

Dear Mayor Holden,

Thank you for your time Tuesday August 12, 2008 to meet with representatives of CVS CareMark Corporation ("CVS") and the owner of the Property to discuss the proposed new drugstore and additional retail at the referenced location in Oxnard (the "Project"). Based upon my understanding of the outstanding issues involved with the approval of a CVS/pharmacy on the Property, CVS represents the following:

1. CVS is currently operating a drug store at 551 S. Ventura Road, Oxnard, CA, more commonly known as CVS store #9695. Whether or not the City of Oxnard approves a new store on the Property, as of this date, CVS' intent is to continue operating store #9695. CVS is currently negotiating with the shopping center owner of store #9695 to redevelop that center, which redevelopment would include a new freestanding CVS drug store on the SWC of 5<sup>th</sup> & Ventura Road.
2. With the exception of a pharmacy exclusive, in the event CVS ceases to operate on the Property, CVS has agreed with the landlord to waive all other exclusive uses customarily found in a CVS lease in Southern California. By agreeing to such waiver the

ATTACHMENT 2  
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Dr. Thomas E. Holden  
Mayor, City of Oxnard  
August 22, 2008  
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landlord of the Property will have greater latitude to re-lease the Property to another user without the impairment of surviving exclusive uses.

3. The Property has been approved by the City of Oxnard for use by a drug store subject to the following condition: "X. The Applicant, for itself and successors in interest, agrees not to apply for an off-site license to sell alcohol on the Property." CVS will not apply for a Special Use Permit for the sale of alcohol (beer, wine and spirits) for off-premises consumption in the future unless the following shall first occur:
  - a. CVS first appeals to the Oxnard City Council for the removal of Condition X from the Use Permit; and
  - b. Assuming the Oxnard City Council approves such modification to the Project, CVS may then apply for such Special Use Permit through the customary process in place at that time.

Mayor Holden, we appreciate your continued support of this Project and look forward to opening CVS store #8520 in the near future.

Sincerely,

CVS CAREMARK CORPORATION



Mark J. Miller  
Area Vice President

cc: Joe Oertel  
Kristine Donabedian

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ATTACHMENT 2  
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CITY COUNCIL OF THE CITY OF OXNARD  
RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD ADDING A NEW  
CONDITON TO SPECIAL USE PERMIT PZ 06-500-01 TO PROHIBIT ALCOHOL  
SALES AT THE CVS PHARMACY SHOPPING CENTER LOCATED AT 1117 AND  
1205 SOUTH OXNARD BOULEVARD (APN'S 204-0-060-22 AND 204-0-060-23).  
FILED BY HERITAGE EQUITIES, LLC, 1517 SOUTH SEPULVEDA BOULEVARD,  
LOS ANGELES, CA 90025.

WHEREAS, on March 25, 2008, the City Council of the City of Oxnard considered an application  
for PZ 06-500-01, a special use permit for a pharmacy with drive-through and alcohol sales for the  
proposed CVS Pharmacy at 1117 and 1205 South Oxnard Boulevard, filed by Heritage Equities, in  
accordance with Section 16-530 through 16-553 of the Oxnard City code; and

WHEREAS, on March 25, 2008 the City Council approved special use permit PZ 06-500-1  
but did not approve the request for alcohol sales at the CVS Pharmacy; and

WHEREAS, at the time of approval, the City Council adopted Resolution No. 13,393 with a  
condition that the final shopping center building elevations be subject to City Council approval;  
and

WHEREAS, on June 24, 2008 the City Council considered the revised architecture, discussed  
concerns for potential future requests to sell alcohol and potential reuse of the CVS store. The item  
was then taken off calendar; and

WHEREAS, the City Council has considered the revised architecture as well as information  
related to reuse of the CVS store and a prohibition on alcohol sales provided by the applicant; and

WHEREAS, the City Council finds that the applicant agrees with the necessity of and accepts  
all elements, requirements, and conditions of this resolution as being a reasonable manner of  
preserving, protecting, providing for, and fostering the health, safety, and welfare of the citizenry in  
general and the persons who work or visit this establishment in particular.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Oxnard hereby  
approves this resolution related to Special Use Permit PZ 06-500-01, subject to the following  
condition:

1. The applicant, for itself and successors in interest, agrees not to apply for an off-site license  
to sell alcohol on the property. (PL)

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PASSED AND ADOPTED this 16th day of September 2008, subject to the condition above, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Dr. Thomas E. Holden, Mayor

ATTEST:

\_\_\_\_\_  
Daniel Martinez, City Clerk

APPROVED AS TO FORM:

  
Alan Holmberg, Acting City Attorney

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ATTACHMENT 3  
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