THOUSAND OAKS PLANNING COMMISSION

Supplemental Information Packet

Agenda Related Items - Meeting of April 1, 2019
Supplemental Packet Date: March 29, 2019

Supplemental Information:

Any agenda related public documents received and distributed to a majority of the Planning Commission after the Agenda Packet is printed are included in Supplemental Packets. Supplemental Packets are produced as needed, typically they are distributed on the Thursday or Friday preceding the Planning Commission meeting and/or on Monday before the meeting. Supplemental Packets produced on Thursday or Friday are available for public inspection in the Community Development Department, 2100 E. Thousand Oaks Boulevard, during normal business hours (main location pursuant to the Brown Act, G.C. 54957.5(2). All Supplemental Packets are available for public review at the Planning Commission meeting in the Andrew P. Fox City Council Chambers, 2100 E. Thousand Oaks Boulevard.

Americans with Disabilities Act (ADA):

In compliance with the ADA, if you need special assistance to participate in this meeting or other services in conjunction with this meeting, please contact the Community Development Department at (805) 449-2500. Assisted listening devices are available at this meeting. Ask Community Development staff if you desire to use this device. Upon request, the agenda and documents in this agenda packet, can be made available in appropriate alternative formats to persons with a disability. Notification at least 48 hours prior to the meeting or time when services are needed will assist City staff in assuring reasonable arrangements can be made to provide accessibility to the meeting or service.

City of Thousand Oaks

Community Development Department

MEMORANDUM

2100 Thousand Oaks Boulevard • Thousand Oaks, CA 91362
Planning Division • Phone 805/449.2323 • Fax 805/449.2350 • www.toaks.org
Building Division • Phone 805/449.2500 • Fax 805/449.2575 • www.toaks.org

To: Planning Commission

From: Kelvin Parker, Community Development Deputy Director

Date: April 1, 2019

Subject: Item 7A – SUP 2018-70220 – Megdal Thousand Oaks, LLC

Below is information provided by the applicant after the report was prepared, and additional correspondence and clarification to specific items contained in the staff report.

The applicant has submitted the attached topographic survey and email indicating a lot size of 20,043 s.f. (Attachment #1) and a letter from their attorney stating the applicant's position and reasons to support the project (Attachment #2). Staff has also received an additional email in opposition of the project (Attachment #3).

Staff Report clarifications:

In Table 2 on Page 10 – Lot size should indicate 19,943 s.f, not 19,166 s.f., and under "Standard" in row 7 of column 1, this should state "Number of Dispensers per Pump Island.

On Page 12 under the heading "Public Correspondence," several letters were miscategorized as partially for and against. These letters are in support of the proposal. The breakdown of correspondence should indicate a total of 75 letters and emails with 58 against, 1 partially for and against, and 16 in favor of the project.

On Page 13 under the heading "Staff Concerns," then #2 - "Waiver" category, the second sentence should state "There is one setback waiver required."

Attachments: #1 – Topographic Survey Submitted by Applicant
#2 – Letter from Applicant's Attorney
#3 – Letter of Opposition Received on March 28, 2019

ATTACHMENT #1

Stephen Kearns

From: Neal Scribner <neal@nscribner.com>
Sent: Friday, March 29, 2019 12:10 PM
To: Stephen Kearns
Subject: Fwd: Megdal-Moorpark 7/11
Attachments: 2198_Moorpark_Topo Survey.pdf

Sent from my iPhone

Begin forwarded message:

From: "Don Waite" <don.waite@westlandcivil.com>
Date: March 29, 2019 at 12:03:44 PM PDT
To: "'Neal Scribner'" <neal@nscribner.com>
Subject: FW: Megdal-Moorpark 7/11

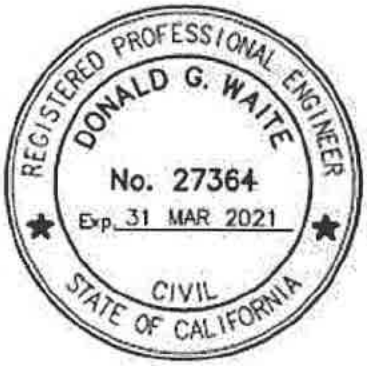
From: Don Waite [mailto:don.waite@westlandcivil.com]
Sent: Thursday, March 28, 2019 10:04 AM
To: 'Neal Scribner' <neal@nscribner.com>
Cc: 'Taylor Megdal' <tmegdal@elliotmegdal.com>
Subject: Megdal-Moorpark 7/11

Hi Neal, Attached is copy of Topo/Boundary Survey prepared by M&G Civil Engineering & Land Surveying supplied by Client. Westland did an independent area calc of the perimeter property line shown on the Topo Survey and came up with gross area of 20,043.0 sq ft.

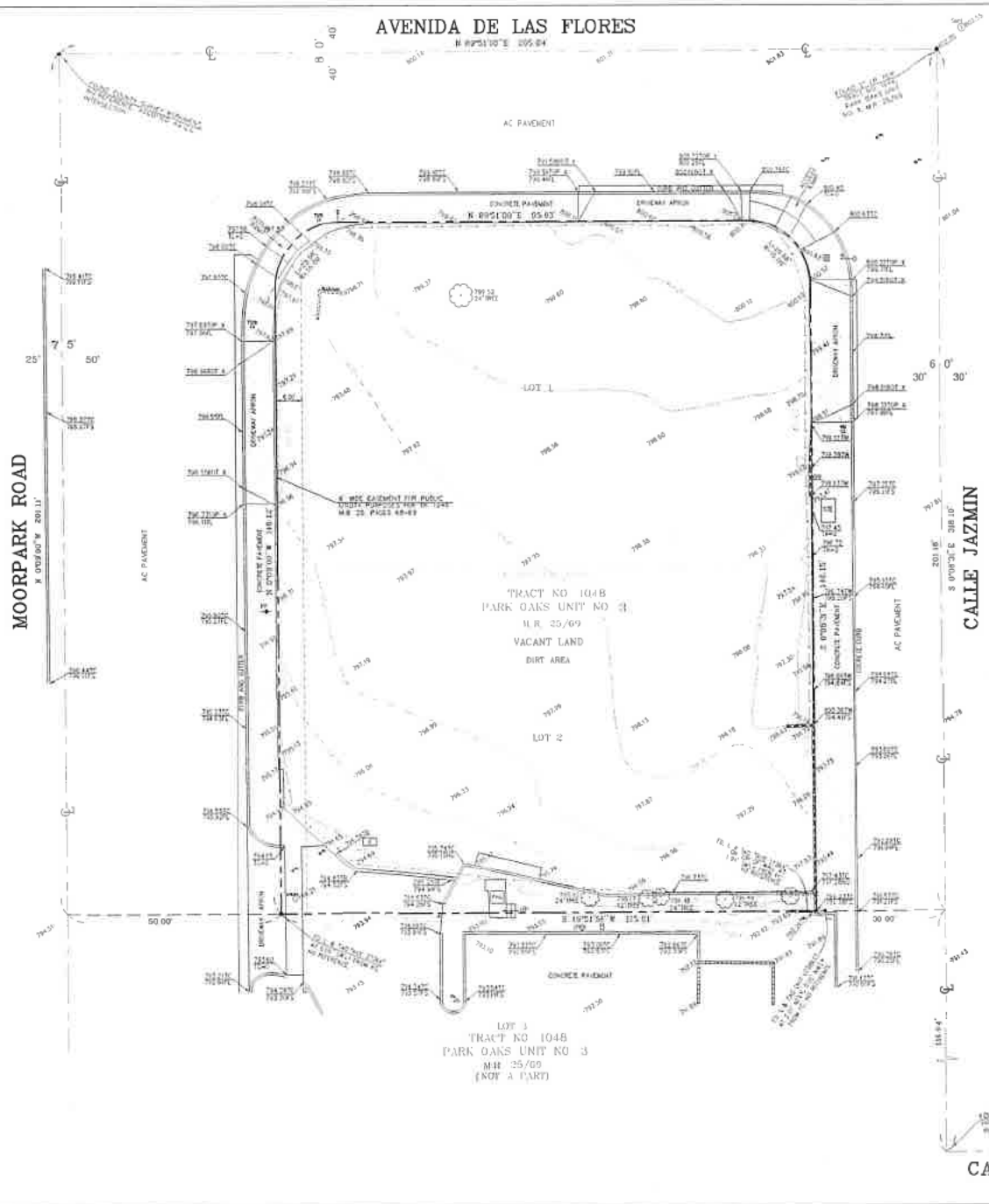
In my professional opinion this is an accurate gross area calculation of the proposed 7-Eleven Development.

Westland Civil, Inc.

Donald G. Waite, RCE 27364
Expires: March 31, 20121



DONALD G. WAITE
Westland Civil, Inc.
101 HODENCAMP ROAD, SUITE 216,
THOUSAND OAKS, CA 91360.
Ph: (805) 495-1330 Cell: (805) 320-9059



GRAPHIC SCALE

(IN FEET)
1 inch = 40 ft.

LEGAL DESCRIPTION

THE LAND REFERRED TO IN THIS SURVEY IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF VENTURA, AND IS DESCRIBED AS FOLLOWS:

LOTS 1 & 2 OF TRACT NO. 1048 (PARK OAKS UNIT NO. 3 AS PER MAP RECORDED IN BOOK 25 PAGE 69 OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY

APN 675-0-210-240

BASIS OF BEARINGS

THE BEARING NORTH 89° 51' 00" EAST, ON THE CENTERLINE OF AVENIDA DE LAS FLORES AS SHOWN ON TRACT NO. 1048, PARK OAKS UNIT NO. 3, IN THE CITY OF THOUSAND OAKS, COUNTY OF VENTURA, AS PER MAP RECORDED IN BOOK 25 PAGE 69 OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

BENCHMARK

2" DIAMETER BRASS DISK STAMPED "18-1 No 1 1988" ON TOP OF CONCRETE CURB, LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF MOORPARK ROAD WITH AVENIDA DE LOS FLORES, 11 FEET WESTERLY FROM A CURB RETURN

BM ID No: 84-1 PM 1 ELEVATION 788.253 FEET NAVD 1988

LAND AREA

[illegible] AREA OF 2[illegible] SQ. FT. OR [illegible] ACRES MORE OR LESS

LEGEND:

- A.C. - ASPHALT CONCRETE
- CCFT - CITY PARKING FACILITY
- E/SL - CENTERLINE
- CONC - CONCRETE
- FT - FINISH FLOOR ELEV
- FL - FLOW LINE
- G - GROUND SURFACE
- HP - HEIGHT OF HALF POLE
- LS - LAND SURVEYOR
- MB - MAP BOOK
- NG - NATURAL GRADE
- RCE - REGISTERED CIVIL ENGINEER
- TYP - TYPICAL
- TG - TOP OF CURB ELEVATION
- FG - TOP OF WALL ELEVATION
- HIGHWAY LINE
- CENTER LINE
- CONCRETE BLOCK WALL
- RETAINING WALL
- BUILDING LINE
- BLOCK LINK FENCE
- WOOD EDGE FENCE/LINE
- WROUGHT IRON FENCE/LINE
- CONTOUR LINE
- EDGE OF PAVEMENT

SYMBOLS:

- CATV VAULT
- FIRE HYDRANT
- IRRIGATION VALVE
- LIGHT POLE
- METROPOLITAN WATER DISTRICT MANHOLE
- PANEL
- STREET LIGHT
- TELEPHONE VAULT
- TRAFFIC LIGHT CONTROL BOX
- TRAFFIC LIGHT WITH STREET LIGHT
- TREE
- UTILITY VALVE
- WATER METER
- WATER VALVE

VICINITY MAP
NOT TO SCALE

M&G CIVIL ENGINEERING AND LAND SURVEYING

TOPOGRAPHIC SURVEY

2 W. MOORPARK ROAD, THOUSAND OAKS, CA 91360

CLIENT: [illegible]

SCALE: 1"=20'

DESIGNED BY: F.G. / J.A.

DRAWN BY: M.M. / J.A.

REVISED BY: C.G.

JOB NO: 03-5019

DATE: 08/14/03

REVISION NO:

SHEET 1 OF 1 SHEET

M&G CIVIL ENGINEERING & LAND SURVEYING

147 S. ANDERSON BLVD.
MOORPARK HILLS, CALIFORNIA 93015
TEL. (805) 498-8411 FAX (805) 499-0486
mandgcivil@aol.com www.mandgcivil.com

ATTACHMENT #2

Direct Dial: 805.418.1914
Email: msellers@jacksontidus.law
Reply to: Westlake Village
File No: 9704.126368

March 28, 2019

Planning Commission
City of Thousand Oaks
2100 Thousand Oaks Blvd.
Thousand Oaks, CA

Re: For The April 1, 2019 Meeting; Hearing on Special Use Permit No. 2018-70220 For A Proposed 7-Eleven Convenience Store On SE Corner Of Moorpark Road and Avenida De Las Flores Avenue.

Dear Honorable Commissioners:

This law firm represents the Applicant, Lompoc Ocean, LLC, which seeks a SUP to allow a 7-Eleven service station on the SE corner of Moorpark Road and Avenida De Las Flores. The SUP is required because this 7–Eleven will be selling motor fuel, and that is the only aspect of the project where there is an evaluation of a "use," business operations and possible use impacts. Historically, most "service stations" (defined in TOMC as "a place or station selling motor fuel and oil for motor vehicles; servicing batteries; furnishing repair service," which was enacted back in May 7, 1970) had automobile repair bays and that car repair work or use, with air wrenches and clanging metal, generated noise impacting residential neighbors. Due to that repair work and noise, requiring a SUP made sense in the C-1 zone. There will be no repair bays or automobile work at this 7-Eleven.

It is also important to note this site had been used as a Mobil "service station" selling some convenience items for over 40 years, and we are unaware of any complaints or incompatibility issues with selling motor fuel at this site with the residential neighbors. Nothing has changed in that neighborhood, therefore, selling motor fuel at this site has been and is compatible with this residential neighborhood. The selling of gasoline is only an incidental part of this 7–Eleven and the basic use is a small "food market." Food markets (*e.g.*, a "grocery store, supermarket, meat markets and other specialty types") are "permitted" uses with only a DP in this C-1 zone. For a food market, the only areas of City oversight or regulation are as to the project's layout and architecture and that process does not allow conditions on the site's use or operations. There is no evaluation of compatibility of a 7-Eleven convenience store use that is a food market with the

neighboring residential area or high school since by the City designating a food market as a permitted use in the C-1 zone establishes that compatibility.

Previously, the Applicant proposed a two-story office building that was rejected by the residential neighbors. The Applicant then proposed a Starbucks and later a Hawaiian BBQ, that were opposed by the High School since those operations had chairs and tables and some students might hang out in those establishments. The Applicant has worked extremely hard at finding a project that the High School could accept. The Applicant was told by City staff that if the High School and Police Department supported the 7-Eleven, the City staff would recommend approval of that project. The Applicant then obtained the support of the High School and Police Department.

We feel this 7-Eleven project should not, and cannot, be treated as a popularity contest for the neighbors and any decision based on unfounded speculation the students might congregate there, but this decision should be based on valid written objective standards for a C-1 site and the actual features and uses in this project. We are unaware of any study or actual reported and observed situation of students gathering and hanging out or congregating at a "service station" (only aspect where a use impact review is authorized). This 7-Eleven has no chairs, no tables and no patio area for students to gather in, or to hangout or congregate. 7-Eleven has training for handling and a strong no loitering policy. Here the business owner, who will have made a considerable investment in the store, will be highly motivated to control its operations and avoid such gatherings as such can bother customers.

In the exercise of this SUP discretion, that process must provide written criteria to govern its application so the rules will be fairly applied uniformly. Such an ordinance will be held invalid if it leaves its interpretation, administration, or application to the ungoverned discretion to the reviewing body.[1]

Based on the actual and true characteristics of this project, we believe this project should be approved by the Commission for the following reasons:

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[1] The City Codes on the Development Permit process does not mention the City has any discretion or power over, or the ability to restrict or condition activities or operations of a "use," if that use is described as a "permitted use" in the C-1 zone. If the sale of gasoline is eliminated, there is no City power to condition the hours of operation or products sold in a 7-Eleven convenience store. In essence, the City cannot expand the Development Permit design function into a SUP process. Such a Development Permit design ordinance will be held invalid if it leaves its interpretation, administration, or enforcement to the ungoverned or unbridled discretion of an administrative agency or review body. 66A Cal. Jur. 3d Zoning And Other Land Controls § 418.

- The C-1 Neighborhood Shopping Center Zone is to "serve only the convenience needs, such as food, drugs, hardware, and personal services, of a residential area" just as this proposed 7–Eleven food market or convenience store will do serving only the convenience needs of this residential area.

- The voiced or emailed objections are not about the SUP for selling fuel for vehicles, but about the type of people who might come to this small food market. Based on a history of the Mobil gas station there for over 40 years, that there are service stations at both SW and NW corners of Avenita Los Arboles and Moorpark Road in a C-1 zone just north of this site, that there is a Chevron station with a small food market and also a car wash on the SW corner of Olsen and Moorpark Road in a C-1 zone, which station adjoins occupied residential properties with no buffer street separating uses like on the subject site, there is no evidence of incompatibility with selling motor fuel and the nearby residential use. A licensed surveyor has determined the site is 20,042.99 square feet. Many objections seem to be just emotional speculation about who might come to the market.

- No alcohol or vaping products will be sold, so many of the e-mailed opposition concerns about students buying such, or others making a late night noisy alcohol run have been eliminated.

- Speculation about possible loitering is not supportable as security cameras will be installed and accessed by TOPD command center in real-time over a private closed circuit feed. In addition, 7-Eleven has training for handling and a strong no loitering policy.

- The property has been vacant for many years now and if this use is not approved, the site will remain an eye sore and an unlighted unattractive nuisance and will likely encourage dumping and people to meet there in the dark for suspicious activities, which adversely impacts property values.

- High school kids now get in their cars and drive to 7–Eleven on Wilbur Road for a Slurpee or food or they are forced to walk to Janss Road stores for a soda or food. 7-Eleven is expanding its selection of healthy fresh food offerings to meet health desires of today's shoppers. The Wilbur Road 7-Eleven is NOT the model for this store.

- The Project is compatible with the office building next door (and the owner and tenants of that property as the immediate neighbors support this project) and

a 7-Eleven is compatible with C-1 commercial uses to the north of Avenida De Las Flores.

- 7-Eleven stores have in-store surveillance camera equipment that is a digital video system with state-of-the-art capabilities/technology. This system includes a 360-degree camera, ability to pan, tilt and zoom, and images are recorded to a hard drive. TOPD is supportive of this project and has been involved, Officer Damian Alvarez, can speak about the safety and security enhancements 7-Eleven will bring. In particular, we will allow all our security cameras to be accessed by TOPD command center in real-time over a private closed circuit feed.

- The 24-hour use results in some night time activity on this site and with the lighting of this dark corner, improves security and is supported by the High School and Police Department.

We have not been provided any written criteria on the limitations of items sold in a market connected with a service station. Since this will be the new formatted 7-Eleven convenience store with a variety of items and fresh food offerings, we need to have two conditions revised, which should read:

61. Limitation of Items Sold in Store. The items sold in the sales area of the building shall be limited to goods which are accessory to the needs of motorists and for the convenience needs of the neighborhood and shall not include alcoholic beverages and vaping products. In addition, the installation of video games shall be prohibited. Items which may be allowed for sale are limited to the following:

<u>Non-Alcoholic Beverages</u>
Bottled and fountain drinks (*e.g.*, soda, juices, water, milk, coffee, etc.); Slurpees.

<u>Food</u>
Assorted pre-packaged foods (*e.g.*, candy, gum, cookies, chips, pre-packaged ice cream, pre-packaged sandwiches, pre-packaged burritos, etc.); Canned foods; Hot dogs and a range of hot and prepared food items; Donuts and pastries; Wholesome fresh food offerings, etc.

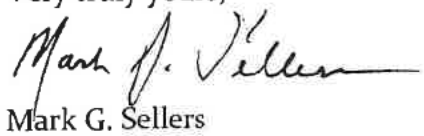
<u>Motorist/Neighborhood Needs</u>
Auto related goods (*i.e.*, gasoline, motor oil, radiator coolant, wiper blades, etc.); Tobacco products; Newspapers and magazines: Household products like cleaners, soaps, sponges, etc.; Lottery tickets.

Health Needs
Small packages of over the counter medications, bandages, hand creams, etc.

63. **Vaping Products**. Sale of vaping products is prohibited.[2]

The high school has been there for years and we do sincerely feel that having high school students have a nearby opportunity to buy some wholesome food, or even snacks, is NOT a bad thing. The bad thing is leaving this a vacant site, a non-use that attracts homeless and less desirable activities!

Very truly yours,



Mark G. Sellers

cc: Taylor Megdal
Neal Scribner

[2] Prohibition on tobacco is not needed as anyone who sells to another person who is under 21 years of age any tobacco, cigarette, or cigarette papers, or blunt wraps, or any other preparation of tobacco, or any other instrument or paraphernalia that is designed for the smoking or ingestion of tobacco, tobacco products is subject to a criminal action for a misdemeanor. Penal Code §308.

ATTACHMENT #3

Stephen Kearns

From: Randy Wagner [redacted]
Sent: Thursday, March 28, 2019 8:37 PM
To: Community Development Department; Stephen Kearns; Rob McCoy; Al Adam; claudia4slowgrowth@roadrunner.com; Bob Engler; Ed Jones
Cc: Cindy Wagner
Subject: Planning Commision case SUP 2018-70220

I ask you to deny this application to build a 7-11 mini-mart and gas station at the corner of Ave de las Flores and Moorpark Rd.

The 24 hr operation of a 7-11 does not fit into this residential neighborhood because of night-time noise and light pollution coming from such a business.

It will also add to severe traffic on Montgomery Rd, which the T.O. Traffic Commission found was highly above norm for a residential street. My concerns are borne by behavior that I was guilty of for 8 years while my kids were going to TO High School. There was a gas station previously at this corner which made a very convenient drop-off point for myself and hundreds of other parents when taking the kids to school in the morning. Traveling north on Moorpark Rd, pull into the gas station, kids jump out, and the driver exits onto Flores and finds their way back south thru the Waverly neighborhood. This saved 10 minutes of going thru the "approved" drop-off point in front of the school office. The in-appropriate drop off will resume again if there is a drive thru business opened here.

However, the biggest concern is the close proximity to the high school. Alcohol and tobacco product sales are a major source of profits to a 7-11 store. There is an ordinance that prohibits sale of alcohol or tobacco within 600 feet of a school, but that ordinance also allows an exception if granted by city planning. It is expected that the developer will appeal for a waiver a couple years after opening when he finds that he cannot sustain a viable business without the sales revenue from alcohol and tobacco. This cannot be allowed, ever. If you do approve this project, we demand that a perpetual ban on alcohol and tobacco be written into the approval.

The growing popularity of nicotine "vaping" products is a harmful epidemic among students. It is expected that state laws will soon be enacted that will restrict sale of vaping products to minors, same as alcohol and tobacco are now. The 7-11 developer/operator must also agree to abide by any vaping product sales restrictions if/when they are enacted.

Please see the petition against permitting this project. NoTO711.com
The petition has over 890 signatures by residents of Thousand Oaks. People who sign petitions also tend to be politically active voters. I ask that Council Members discuss this with each of your appointed Planning Commissioners.

We do not want to deny any owner of this now vacant lot from developing it into a successful business. But there are many other types of business suitable for this lot other than a 24 hour mini-mart.

Thank you.
from Randy and Cindy Wagner

Stephen K.: Please forward this email to each of the 5 Planning Commissioners. Their email contact information is not posted on the city website.