



Community Development Department

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

APPLICATION FOR APPEAL TO CITY COUNCIL OF A PLANNING COMMISSION DECISION

APPELLANT INFORMATION*:

Name (person): TAYLOR MEGDAL
Company/Organization (if applicable): THE MEGDAL COMPANIES / MEGDAL THOUSAND OAKS, LLC
Address: 252 S. BEVERLY DRIVE, SUITE C
City/State/Zip: BEVERLY HILLS, CA 90212
Phone: (310) 277-0456 Email: TMEGDAL@ELLIOTMEGDAL.COM

If appellant is not the applicant, state the basis for filing this appeal as an "aggrieved person."

***NOTE: IF THE APPELLANT** is a Corporation, the name, address and title of all Officers shall accompany this application. If the appellant is a General Partner, the name and address of all General Partners shall accompany this application.

PLANNING COMMISSION DECISION:

Case #: SUP 2019-70299 Date of Decision: JULY 8, 2019

Community Development Department Decision was to (check only one):
 Approve application
 Deny application

I REQUEST THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTION:

(Check only one.)

- Approve the application subject to the conditions imposed by the Community Development Department.
- Approve the application, but add, delete or change one or more conditions (please attach a separate sheet with the specific condition changes you are requesting).
- Deny the application.

THE GROUNDS OF APPEAL ARE:

(If appeal requests changes to conditions imposed by the Community Development Department, justify each change – attach additional pages if necessary.)

SEE SEPRATE MEMO

SIGNATURE OF APPELLANT:



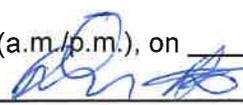
Signature of Appellant

~~7/17/19~~ 7/18/19

Date

**CERTIFICATION
(For Department Use Only)**

The Community Development Department hereby certifies that the appeal and filing fee have been received as follow:

At 12:52 (a.m./p.m.), on July 18, 2019.
By (Staff Accepting Appeal)  Filing Fee \$ 1555.00
Name of Project Planner: _____



2019 JUL 18 PM 12:53 *AMJ*
DSU

Grounds for City Council Appeal

I. Introduction.

On July 8th, 2019, the City of Thousand Oaks Planning Commission ("Planning Commission") denied Supplemental Use Permit No. SUP 2019-70299 ("SUP"), submitted by Taylor Megdal, an individual, for Megdal Thousand Oaks LLC (the "Applicant") concerning the development of a convenience store and gasoline service station on the property located at 2198 North Moorpark Road, Thousand Oaks, CA 91360 (the "Project"). Preceding this hearing, on April 1st, 2019, the Planning Commission denied without prejudice Supplemental Use Permit No. SUP 2018-70220, submitted by the same parties.

The Applicant brings the instant appeal to the City Council on the following grounds: (1) the Planning Commission's decision to deny the Applicant's SUP application was arbitrary and capricious and not supported by substantial evidence and (2) the Staff demonstrated prejudice and bias against the Project, imposing conditions and conclusions of compatibility in direct conflict with the binding code prescribed by the 1967 Service Station Criteria Regulations ("Design Criteria), impairing the Applicant's due process rights.¹ The City Council should therefore reverse the decision of the Planning Commission, grant the appeal, and approve the Project.

This appeal is timely filed within ten (10) calendar days pursuant to Section 9-4.2808 of the Thousand Oaks Municipal Code.

I. The Planning Commission's Ostensible Grounds for Denying the SUP Were Not Supported by Substantial Evidence.

During testimony, the Planning Commission made several findings, allegedly supported by "findings of fact," but many of these purported findings contain opinion, speculation, and conclusory statements not supported by the evidence. Accordingly, the Planning Commission's decision must be reversed. (*See Topanga Assn. for the Scenic Community v. County of L.A.* (1974) 11 Cal.3d 506, 514; *McMillan v. Am. Gen. Fin. Corp.* (1976) 60 Cal.App.3d 175, 177; *Code Civ. Proc.* § 1094.5.) Substantial evidence "include[s] facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts, but not argument, speculation, unsubstantiated opinion, or clearly erroneous evidence." (*San Franciscans Upholding the Downtown Plan v. City & County of S.F.* (2002) 102 Cal.App.4th 656, 675 (*San Franciscans*)). Further, to support denial, an agency "must set forth findings to bridge the analytic gap between the raw evidence and ultimate decision or order." (*See Topanga, supra*, 11 Cal.3d at 515) While the issuance of a special use permit is discretionary, a decision to deny such may be overturned by the courts if it is arbitrary and unreasonable. (*Cohn v. County Bd. of Sup'rs of Los Angeles County* (1955) 135 Cal.App.2d 180, 185.)

¹ The Applicant reserves his right to present further evidence to the City Council regarding the Planning Commission's errors or omissions.

Specifically, the Planning Commission's findings lack substantial evidence to support several of the findings that form the basis of the Planning Commission's denial of the Applicant's SUP. By way of example, the testimony contains the following findings:

1) **"It's the preponderance of the number of waivers in total that we look at as part of this application before that reason I cannot support this application."** (Commissioner David Newman, Findings at 187:52.) It should be noted that the only waivers sought were for 1) from a 100-foot setback from Moorpark Road that would render the lot unbuildable since it is only 90 feet wide; (this waiver has been granted to every development on this stretch of Moorpark Rd.) (*Delucchi v. County of Santa Cruz*, (1986) 179 Cal. App. 3d 814, 225 Cal. Rptr. 43 ([zoning ordinance may be held unconstitutional when its effect is to deprive the landowner of substantially all reasonable use of his property); 2) hours of operations beyond 6:00 a.m. – 11:00 p.m. and 3) a metal roof on the apex of the convenience market which is to code as evidenced by Exhibit A and does not require a waiver. Moreover, the number of waivers does not establish grounds for denial but rather a finding that one or more of those requested waivers is not appropriate is required. Neither these statements, nor the rest of the Commissioner's findings, are in compliance with established law and are therefore, arbitrary and capricious.

2) **"It's maybe something that its time has come and gone and three hours difference isn't enough to sway me."** (Commissioner Nelson Buss, Findings 190:02.) The Commission is basing its decision on the relevance and current viability of the gas station business, which is not a proper justification to deny a development application. 7-Eleven has 68,236 stores in its portfolio and has a right to pursue what they believe will be a profitable new location; they even have the right to pursue a business they deem antiquated and unprofitable if they so choose. A Commissioner isn't empowered to adjudicate the business model and feasibility of an application. Additionally, the Commission indicated its decision to deny was solely based on its belief that the updated application didn't sufficiently change from the prior 24-hour proposal. The only proper basis for denial is to make a finding that the updated proposal is not appropriate. An application not being sufficiently different from a previous application which was denied without prejudice is not an allowed basis.

3) **"A proposed driveway on Calle Jasmine that would have that would raise traffic concerns in proximity to residential and other sensitive uses."** (Commissioner Newman, Findings 186:45.) There is no evidence to support the "concern" that using the existing curb cuts may cause traffic congestion or create traffic hazards. The Commission also made a glaring mistake of fact; the Project proposes to close the existing Calle Jasmine curb cut as a concession to the adjacent residential neighborhood and install a large privacy wall. Moreover, the Applicant is also voluntarily closing a second existing curb-cut on Moorpark, closest to the intersection. In sum, the application reduces the existing curb-cuts by 50%, utilizing just two of the existing four curb cuts currently on site. As set forth above, "argument, speculation, [and] unsubstantiated opinion" do not

constitute evidence for purposes of the substantial evidence test. (*San Franciscans, supra*, 102 Cal.App.4th at p. 675.)

4) **"There's a lot...variance from the City's architectural guidelines in terms of design and materials."** (Commissioner Newman, Findings at 187:27.) The Staff Report indicated that "with the exception of the metal roofing, the design complies with the intent of the City's Architectural Design Guidelines." Again, the Applicant submitted code evidencing that the metal roof was not against code and did not warrant a waiver. Nevertheless, one slight deviation is not a substantial variation. Moreover, the Applicant worked closely with Planning Staff to integrate natural stone, wood accents, and premium materials throughout the project to beautify an otherwise unattractive land-use (rendering attached as Exhibit B).

5) **"There but two things really bother me. Its fine for me to have a gas station there but two things really bother me. One is it didn't seem that much to ask that you make it compatible with the neighborhood as far as the roof."** (Commissioner Sharon McMahon, Findings at 192:14.) To reiterate, the Applicant shared code with Staff indicating that the small metal roof feature, which was important to the proposed aesthetic design was not in conflict with code and did not require a waiver. Even so, the Commissioner implied she was personally bothered that the applicant wouldn't make this small change as a justification to penalize the entire application. The Staff report invited the Commission to condition the project with a concrete roof if they were to approve it. There is no room for slight of sensitivities in an objective code analysis tasked to the Planning Commission. Such motivation or even the suggestion thereto is the definition of arbitrary and capricious.

Accordingly, the findings lack substantial support for the Planning Commission's denial of the Applicant's SUP. For this reason, the Planning Commission's action must be reversed, and the City Council should approve the Project.

II. The Staff Report demonstrated prejudice and bias against the Project, imposing conditions and conclusions of non-compatibility in direct conflict with the binding code prescribed in the 1967 Service Station Criteria Regulations ("Design Criteria), impairing the Applicant's due process rights.

The Planning Staff failed to provide information for a fair and adequate public hearing on this Project. Two separate Staff Reports misstated the code and associated conditions contained in the binding Design Criteria, falsely depicting the Application's incompatibility.

- 1.) **"Should Planning Commission choose to approve the project, staff suggests imposing a condition limiting the hours of operation to 6:00 a.m. to 9:00 p.m. These hours are within the opening hour specified in the Service Station Design Criteria, with closing hour consistent with the limitation imposed on the nearly commercial developments."** (April 1, 2019 Staff Report, Page 8)

The Original Staff Report dated April 1, 2019 cited the exact code it subsequently abandons. In pertinent part, the Design Criteria states:

Y. Hours of Operation: Often disturbing and detrimental noise is commonly produced by service stations, particularly during automotive repair operations which are often allowed in close proximity to residential areas. In the light of these nuisances, it is found mandatory to limit the hours of operations that will normally be imposed in connection with special use permits for sites in close proximity to residential areas. The Planning Commission shall weigh the following guidelines on the merits of each individual application. If a special use permit is approved for a service station located in the commercial zones and within two-hundred (200) feet of residential property, a condition may be imposed stating that the station shall not conduct operations between the hours of 11:00 p.m. and 6:00 a.m. The conditions may further stipulate that all businesses activities except supply vehicles with gasoline and oil and emergency repair shall be confined to hours between 7:00 a.m. and 9:00 p.m. on weekdays and 10:00 a.m. and 8:00 p.m. on Sundays. (Resolution No. 72-337, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF THOUSAND OAKS AMENDING RESOLUTIONS 70-31, 67-133 AND 69-338 ADOPTING REVISED STANDARDS AND DESIGN CRITERIA FOR AUTOMOTIVE SERVICE STATION DEVELOPMENTS," October 31, 1972)

Only with a finding of unacceptable noise nuisance, may the Commission restrict service station hours, and then only between 6:00 a.m. and 11:00 p.m. The condition to restrict the development to "6:00 a.m. to 9:00 p.m." is thus an unlawful break from code. It is particularly inexplicable given the Staff Report's previous acknowledgement that the Mobil gas-station that occupied this lot for 40 years 1) operated a gas-station and auto-repair business, both of which were open from 6:00 a.m. to 11:00 p.m. and 2) was approved under and bound by the identical Design Criteria guidelines.

2.) "The Proposed accessory convenience store, with its proximity to sensitive uses, is inconsistent with the established pattern compatible uses at this intersection."
(April 1, 2019 Staff Report, Page 8)

The preamble to the Design Criteria notes that "a service station has several prominent elements that are different than most commercial developments, including but not limited to, its dependence on vehicular traffic, distinctive physical appearance, unenclosed nature of activities, extended hours of operation and storage of combustible materials." It was specifically codified to "accommodate these facilities" which given their uniqueness would otherwise be an incompatible use. This customized Design Criteria contains unique limitations and rights. Among them, the Design Criteria specifically allows for the "Sale of soft drinks, candy, and cigarettes sold via dispenser...[or] within the enclosed service building." As a result, a convenience market is compatible with the relevant Design Criteria and not "inconsistent."

Moreover, the Staff Report indicates that the "C1 zoning designation also specifies that the primary tenant will usually be a supermarket or drugstore, and the center will serve only the convenience needs, such as food, drugs, hardware, and personal services, of a residential area." In other words, a convenience market similar to the ancillary one proposed is the intended primary use of this C1 zone. Since it is a legal standalone use on the property and a legal ancillary use to a service station pursuant to the Design Criteria, it cannot be deemed incompatible.

3.) “Sale of tobacco or vaping products is prohibited.” (April 1, 2019 Staff Report, Page 7)

The Design Criteria specifically and expressly affords a service station the right to sell “soda, snacks, and tobacco” both in vending machines and within an enclosed store. Planning Staff is inappropriately trying to legislate an anti-tobacco policy. A City Council, similar to Beverly’s Hills, can codify a ban; however, short of this, Planning Staff and the Planning Commission cannot condition to controvert established law.

The Second Staff report dated July 8th, 2019, correctly removed this condition, clarifying, “There are no Federal, State, or local codes or policies that prohibit the sale of tobacco products on the site or within a certain proximity of the school site. That being the case, staff cannot recommend a condition prohibiting the sale of tobacco products.” However, the April 1st Planning Commission hearing was dominated by our rejection of this illegal condition and the denial without prejudice was issued in large part to determine whether 7-Eleven would make this concession.

It is important to note that the Applicant voluntarily agreed not to sell e-cigarettes given the vaping epidemic amongst our youth and proximity to the High School. However, smoker motorists typically purchase their cigarettes at service stations, so this was a large, complimentary shopping business that 7-Eleven could not proceed without. Moreover, 7-Eleven submitted expert testimony from corporate representatives about the technology, training, and transactional protections undertaken to prevent underage tobacco purchases. 7-Eleven and Officer Alvarez of T.O.P.D. both confirmed they had no record of any under-age violations committed by any of the five existing Thousand Oaks stores.

4.) “Staff suggests imposing a condition limiting the hours of operation to 6:00 a.m. to 11:00 p.m. for the fuel dispensers and 6:00 a.m. to 9:00 p.m. for the convenience store.” (July 8, 2019 Staff Report, Page 5)

The Design Criteria enumerates elective operating hour limitations based solely on a finding of noise nuisance to residences. As such, these hour limitations must be founded on an uncommon noise concern from the ancillary market use, which there is neither a discussion of, let alone a finding related to anywhere in either Staff Report. If gas station noise may justify a 6:00 a.m. – 11:00 p.m. limitation, then the Commission would need to conclude that the convenience market causes more noise than the gas-station to impose more stringent hours than the service station. It is inconceivable anyone could make this argument and the Staff Report does not make a finding to support this assumption.

It also bears mentioning that there is no convenience store in Thousand Oaks that closes before its services station. For operating purposes, the Design Criteria couldn’t have intended such a scenario, since gas-stations, for safety reasons, are required by the State to have an attendant (i.e the store clerk) on site during all fueling times. It also should be recalled that the original Mobil gas-station did not have a noise nuisance finding for its loud ancillary mechanical shop, which operated from 6:00 a.m. to 11:00 p.m. along with the service station for nearly four decades.

Even more perplexing, the Staff Report correctly notes that the Domino's across the street, which is the only true retailer in that shopping center, was awarded extended closing hours until 2:00 a.m. (Friday and Saturday) and 1:00 a.m. (all other nights) by the Planning Commission. It is noteworthy that while this business bustles with pick-up orders and delivery cars during these extended hours, there have been no negative impacts or complaints noted by Planning Staff.

When an agency acts in a quasi-judicial capacity, as the Planning Commission was acting when it denied the entitlements for the Project, procedural due process principles apply. (See *Nasha v. City of Los Angeles* (2004) 125 Cal.App.4th 470, 482, citing *Beck Development Co. v. Southern Pacific Transportation* (1996) 44 Cal.App.4th 1160, 1188.) Procedural due process in the administrative setting requires that the hearing be held before a "reasonably impartial, noninvolved reviewer." (*Nasha*, 125 Cal.App.4th at 483; see also *BreakZone Billiards v. City of Torrance* (2000) 81 Cal.App.4th 1205, 1234 ["that a fair hearing requires a neutral and unbiased decision maker is a fundamental component of a fair adjudication"].)

The Planning Staff consistently and unlawfully conditioned both applications with fewer operating hours than the Design Criteria required. Given that the hours of operation were the central variance sought by both applications, setting the hour conditions illegally low, framed both variance requests as unreasonable and biased the Planning Commission. As such, the Applicant was not given an impartial "fair adjudication" in either hearing, violating their due process rights.

5.) "A letter was also submitted by the Board of the Conejo Valley Unified School District, which does not formalize position regarding the project, but expressed concerns and items they would request the Planning Commission or City Council Consider." (April 1, 2019 Staff Report, Page 13)

The referenced letter ("School Board Letter" attached as Exhibit C) did indicate a list of concerns, but the Staff Report completely ignores its explanation of all the Applicant's proposed mitigation measures. In pertinent part,

Traffic Safety: Applicant agreed to close "one of the [existing] entry/exit points," closest to the cross-walk on Moorpark to ensure students traveling to the bus stop would be safe.

Security and Safety: Applicant agreed to upsize the site cameras to thirty-two, monitor the intersection, and feed all footage to T.O.P.D. via a closed-circuit private network. This would allow real time police monitoring to the extended student environment.

Age Restricted Merchandize: Applicant agreed to deed-restrict the property for vape and all alcohol sales during 7-Eleven's tenancy. Admittedly, 7-Eleven couldn't agree to not sell motorists cigarettes; however, they elaborated upon all the safety and security precautions in-place to prohibit the sale of them to minors.

Student Health/Nutrition: Applicant agreed to have 7-Eleven build their Fresh Fair prototype, which allocated roughly a third of the floor space to fresh fruit, vegetables, sandwiches, and healthy offerings, most of them daily-made and organic.

Most selectively biased though, while the Staff Report mentions the School Board Letter, it completely ignores the input of the T.O.H.S. principal, which Staff directed the Applicant to seek from the outset (attached as Exhibit D). To be fair, balanced, and offer the input of the single largest stakeholder at this intersection, it should have included 1) Principal Lichtl's (the T.O.H.S. Principal when the project was originally submitted) email correspondence with Staff indicating his lack of objection to the project and 2) Principal Bergman's (the current T.O.H.S. Principal) written letter of support for both the project and the extended hours (attached as Exhibit E and Exhibit F respectively).

This cherry-picked information established a clear bias whereby the Planning Commissioners could not be "reasonably impartial." Both hearings were predicated on an incomplete depiction of this critical input and could not be a "fair adjudication."

For the reasons discussed above, the Applicant respectfully requests that the City Council reverse the decision of the Planning Commission, grant the appeal, and approve the Project.

EXHIBIT A

Criteria to consider when selecting a roofing material include: the context and size of the project, the size and shape of the roof, the slope of the roof, and surrounding roofing materials. Select materials, which enhance and complement the roof shape. Roofing materials need not be the same as on adjacent structures.

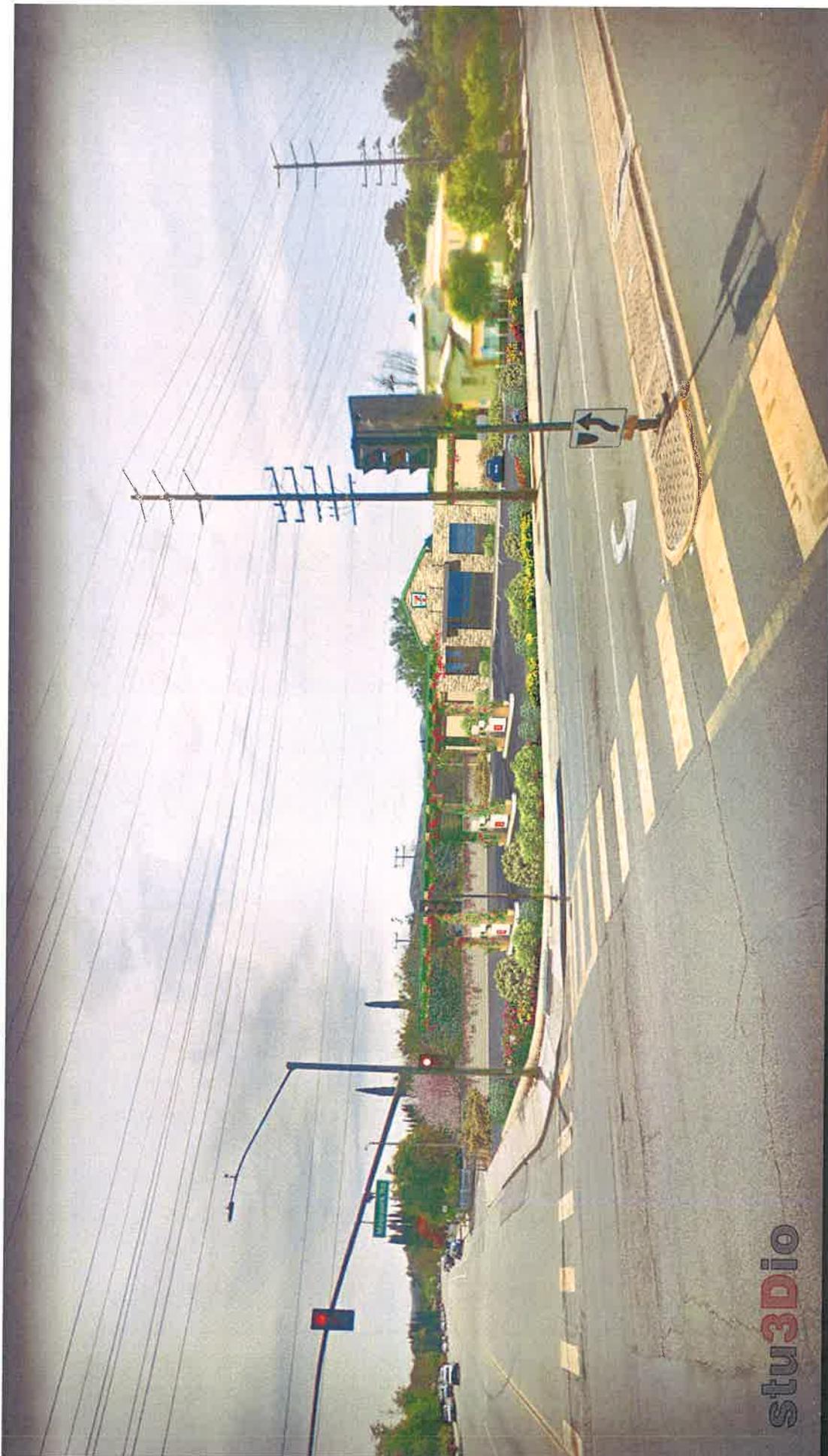
(1) Acceptable roof materials and colors:

- (a) Clay or concrete the roofing materials are encouraged in muted earth tone colors. (Barrel, S-shape or flat)
- (b) *Slate.
- (c) *Natural metals (with raised or standing seams) including copper.
- (d) *Glass elements.

*Metal, slate and glass roofs shall be sensitively selected, should consider adjacent properties, and be in scale with and enhance the architectural design of the project.

(2) Unacceptable roof materials and colors:

- (a) Wood shingles and shake roofs.
- (b) Corrugated metal.
- (c) Highly reflective surfaces (i.e., mirror glass, shiny metallic surfaces, glazed roofing tiles).
- (d) Composition/asphalt shingles.
- (e) Bright or primary colors.
- (f) Large areas of built up or membrane roofing, when exposed to public view.

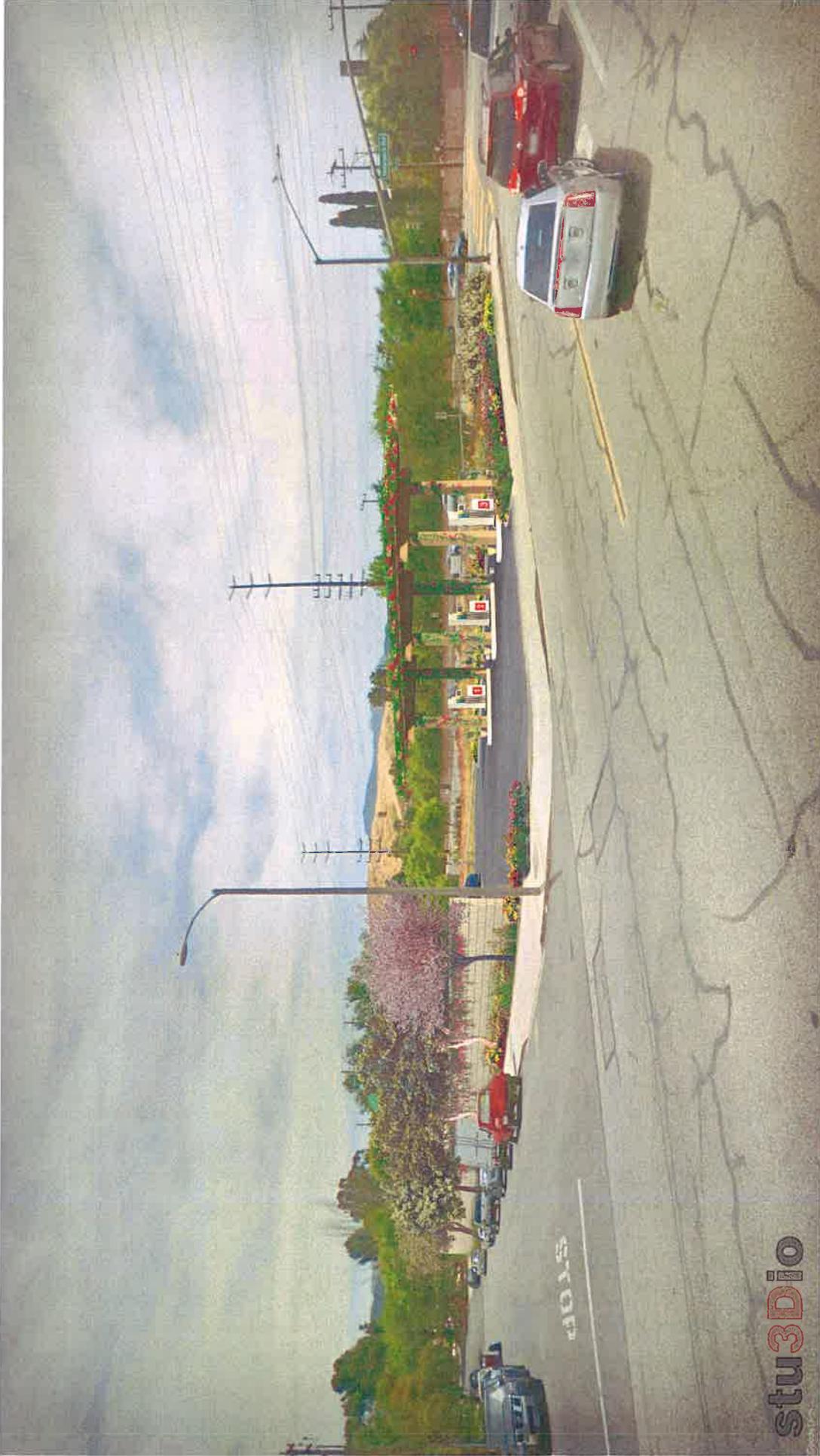


7-ELEVEN CONVENIENCE STORE

NEAL SCRIBNER ARCHITECTURE



stu3Dio



stu3Dio



7-ELEVEN CONVENIENCE STORE

NEAL SCRIBNER ARCHITECTURE

EXHIBIT C

Thousand Oaks City Council and Planning Commission

2100 Thousand Oaks Blvd.

Thousand Oaks, CA 91362

March 5, 2019

The Conejo Valley Unified School District School Board (CVUSD) has received numerous requests to take a position on the proposed development of a 7-Eleven (market and gas station) on the vacant lot near Thousand Oaks High School (TOHS). We understand the Thousand Oaks Planning Commission will be discussing this proposed development at its upcoming meeting in April. As CVUSD respects the jurisdiction of the Planning Commission and City Council on this issue, the purpose of this letter is not to take a position one way or another, but to communicate those issues of concern to CVUSD as a community partner and stakeholder in the eventual outcome. While we understand there are many more considerations that the Planning Commission and City Council must take into account in deciding on the proposed development, we hope that appropriate consideration will be given to the issues and concerns outlined below.

Central to each of the identified issues and concerns is the reality that the proposed development has the significant potential to affect the well-being of our district's student population given its proximity to TOHS. TOHS is comprised of 2,070 students that attend school across the street from the proposed development, and will assuredly comprise a large portion of the customers that patronize both the proposed 7-Eleven and adjacent gas station. For that reason, in order to evaluate the concerns and feedback received from CVUSD staff, parents, students and other stakeholders, the Board agreed to establish a two-member ad hoc committee comprised of board trustees Cindy Goldberg and Jenny Fitzgerald. That ad hoc committee identified the specific concerns and issues detailed in this letter based on meetings and discussions with the following:

- Superintendent Mark McLaughlin
- Developer Taylor Megdal of Elliot Megdal and Associates
- TOHS Principal Eric Bergmann
- TOHS School Resource Officer - Deputy Elson Molina
- TOHS teachers who attended a meeting open to all TOHS teachers
- TOHS Student Senate

- President of the TOHS PTSA
- TOHS School Site Council
- Various other community members

Based on the feedback received as part of these efforts, the matters and issues of concern that we believe to be pertinent to your review that relate to the well-being of our students (whether for the proposed 7-Eleven establishment or any future potential use of the currently vacant lot), include the following:

- Traffic safety: The developer indicated that certain steps will be taken to reduce issues with traffic flow, including closing one of the entry/exit points to the lot. However, we request your full evaluation of whether the proposed use of the property, including a gas station at this location, may lead to increased traffic incidents. As part of this evaluation, please consider the existing heightened school traffic and dangerous turns (U-turns and left turns) in the immediate area of the subject lot and possible additional safety measures to protect students, such as the installation of in-pavement LED crosswalk lighting. It is important to note that students and other community members, including those participating in certain after school activities, pass by this location on foot on a regular basis.
- Security and student safety: Given the higher than average crime rates that can be associated with convenience stores, concerns were expressed regarding the security of the proposed establishment and the perimeter of TOHS, as well as the safety of students. We understand the proposed 24 hour establishment will include the installation of lights requested by the Thousand Oaks Sheriff's office and 32 cameras with a live feed to the Thousand Oaks Police Department and the office of TOHS' safety officer. However, it is our understanding that these camera feeds will not be monitored in real time. Consequently, as such measures will only be useful to review a potential security incident after it has occurred, we request your thorough evaluation of whether any potential use of this lot may increase crime in an area so close to TOHS.
- Alcohol, tobacco, and vaping products: We request that you consider the inclusion of a deed restriction prohibiting the sale of alcohol, tobacco/tobacco related products, and vaping products for the longest period of time permitted by law. In addition, in the interest of all CVUSD students, please consider passing a local ordinance(s) prohibiting the sale of these products within a certain distance from schools for new developments.

- Student health/nutrition: Many have expressed concerns regarding the availability of unhealthy food and beverage options that may be available at a convenience store like 7-Eleven. We have communicated these concerns directly to the developer, who has advised that the proposed 7-Eleven will include a section with fresh food options in order to address this concern. However, concerns remain about the many food and beverage options that will remain available through the proposed development, and we believe that further consideration should be given to the availability of additional fresh, healthy food and beverage options should it ultimately be approved.

Should the Planning Commission or City Council require any additional information or detail concerning the above-identified issues and concerns, the identified ad-hoc committee is available to further discuss such matters as needed. It is also important to note that, despite the identified matters, CVUSD recognizes the value in improving the immediate corridor. Our hope is only that any proposed improvement appropriately recognizes and accounts for the interests of those students at TOHS that will undoubtedly patronize such development, and that it strives to provide an establishment that is beneficial for such students.

Thank you in advance for your evaluation of these items as you consider the proposed usage of the subject lot, and for your continued community partnership in ensuring the very best for our district's students and community.

Sincerely,

CVUSD



Taylor Megdal <tmegdal@elliottmegdal.com>

SEC Moorpark/Avenida del las Flores Opportunity - 7-ELEVEN GAS STATION

Haider Alawami <HALawami@toaks.org>

Thu, Jul 27, 2017 at 7:35 AM

To: Megdal Taylor <tmegdal@elliottmegdal.com>

Good morning Taylor:

I understand your client's needs. The City has a responsibility to protect adjacent property owners and the wishes that were expressed to the City by the School District regarding development in this area across from the High School.

I already forwarded to you City's staff comments and concerns. If your client and you still interested in pursuing this proposal, then you can go ahead. **The first thing you need to do is meet with the principal of Thousand Oaks High School** and then do an outreach to the homeowners and see what comments and concerns that they might have regarding the convenience store and opening 24 hours. City staff would like to know the feedback you get and we can move forward from there. Our position might not change regarding the store because it was not allowed for the property across from this site.

Haider

tmegdal@elliottmegdal.com

From: Lichtl, Luis A <llichtl@conejousd.org>
Sent: Monday, August 14, 2017 2:01 PM
To: Taylor Megdal
Subject: RE: 7-Eleven: E Avenida de Las Flores and Moorpark Vacant Lot

I reached out and sent the message that **this is not an issue for TOHS or our District.**

Good luck,

LL

Lou Lichtl, Principal
Thousand Oaks High School



From: Taylor Megdal [<mailto:tmegdal@elliottmegdal.com>]
Sent: Monday, August 14, 2017 11:20 AM
To: Lichtl, Luis A <llichtl@conejousd.org>
Subject: RE: 7-Eleven: E Avenida de Las Flores and Moorpark Vacant Lot

Principal -- so I move things along and didn't hear back, I sent it that email to the City folks. Look forward to working with you on the 7-Eleven project to make it a really nice amenity for the campus!

Taylor Megdal

Taylor Megdal, Esq.
252 South Beverly Drive, Suite 200
Beverly Hills, CA 90212

(310) 271-0438 Office
(310) 891-8992 Cell/Fax

From: Taylor Megdal [<mailto:tmegdal@elliottmegdal.com>]
Sent: Monday, August 07, 2017 5:54 PM
To: 'llichtl@conejousd.org' <llichtl@conejousd.org>
Subject: 7-Eleven: E Avenida de Las Flores and Moorpark Vacant Lot

EXHIBIT F

Attachment #5



Thousand Oaks High School
2323 Moorpark Road
Thousand Oaks, CA 91360-3198
Phone: (805)495-7491 Fax: (805)374-1165
www.conejousd.org/tohs
Eric Bergmann, Ed.D. Principal
Mark W. McLaughlin, Ed.D. Superintendent



August 9, 2018

Matt Chang, Associate Planner
City of Thousand Oaks
2100 E. Thousand Oaks Blvd.
Thousand Oaks, CA 91362
(805) 449-2317

Mr. Chang,

My name is Dr. Eric Bergman and I am the Principal of Thousand Oaks High School. Regarding the proposed 24-hour, 7-Eleven gas and convenience store proposed for the vacant lot (SUP 2018-70220) across the street from our school, the Developer has consulted my predecessor numerous times and visited me three times since I became Principal. I have really appreciated the good-faith and neighborly approach to gaining my input on the use in general, site-lay out, and most recently, the renderings and appearance.

He informed me recently that the City is recommending approval for the project but not the 24-hour operating hours. As the biggest neighbor and stakeholder on that corner, this is a real concern for us for a multitude of different reasons:

- 1.) When the lights go-off, instead of the bright, exposing light, and the safety it provides, we fear a criminal element will take advantage of the darkness.
- 2.) The 24/7 activated corner will have visible cameras and serve as a strong deterrent for criminals potentially lying in wait. We see this development as an addition to our security apparatus and crime prevention that will help ward off predators and protect my staff, students and campus.
- 3.) I have a real fear drug-deals could happen at a dark gas station and closed convenience store during late hours. The idea of pot deals or vape exchanges by my students under the disguise of darkness is inevitable and we must prevent.
- 4.) Even if my students aren't doing anything unsavory or illegal on the property during closed hours, it presents a location for loitering and hiding.

For all these reasons, by stripping the hours of operations down from 24/7, I am losing many of the benefits of this exciting addition to our neighborhood.

Sincerely,

A handwritten signature in blue ink, appearing to read "Eric Bergmann", with a long horizontal line extending to the right.

Dr. Eric W. Bergmann, Principal
Thousand Oaks High School
2323 N. Moor Park Road
Thousand Oaks, CA 91360