



CITY OF LONG BEACH

DEPARTMENT OF DEVELOPMENT SERVICES

333 West Ocean Blvd., 5th Floor

Long Beach, CA 90802

(562) 570-6194

FAX (562) 570-6068

July 20, 2017

CHAIR AND PLANNING COMMISSIONERS

City of Long Beach
California

RECOMMENDATION:

Deny an appeal and uphold the Zoning Administrator's decision to deny a Standards Variance request to allow the installation of four secondary wall signs, instead of a maximum of two secondary wall signs at an existing department store located at 2300 E. 7th Street. (District 2)

APPLICANT: DD's Discounts
c/o Mitch Chemers
6154 Lemona Avenue
Van Nuys, CA 91411
(Application No.1702-03)

DISCUSSION

The project site is located at 2300 E. 7th Street, between Junipero and Dawson Avenue within the Community Automobile-Oriented (CCA) District (Exhibit A – Location Map). The site is developed with an approximately 30,000-square-foot department store on a lot of 101,418 square feet. The applicant, DD's Discounts, has requested approval of a Standards Variance to allow the installation of four secondary wall signs (Exhibit B – Plans & Photos). Pursuant to Long Beach Municipal Code section 21.44.120A, the maximum number of secondary signs allowed per wall frontage is two.

Standards Variance requests are subject to review and approval by the Zoning Administrator (ZA). In order for the ZA to approve a Standards Variance, positive findings must be made. On May 22, 2017, the Zoning Administrator considered the request to allow the installation of the four secondary wall signs. The request was denied because the ZA could not make positive first and second findings (Exhibit C – Findings).

As indicated in section 21.15.2890 of the Municipal Code, a "Standards Variance" means "granting a property owner relief from development standards of the Zoning Regulations when, because of the particular physical or topographical condition of the property, compliance would result in undue hardship on the owner (as distinguished from a mere inconvenience or desire to make more money)." Therefore, the Standards Variance findings must be met by demonstrating a particular physical or topographical condition of the property.

Based on the preceding definition of a Standards Variance, the first finding required to grant approval is that the project site must be physically or topographically unique compared to the other sites in the same zone. The project site is within the CCA zone, in which retail and service uses are permitted and cater to an entire community. Within the City of Long Beach, properties in the CCA zone range from 1,000 square feet to 828,000 square feet, with the average lot size of individual parcels being 19,277 square feet. This average does not account for the multiple parcels that are unofficially combined to comprise single commercial developments. It only accounts for single parcels. The project site is 101,418 square feet with 37 other CCA properties in the City being larger. Furthermore, the building is on a flat site, and oriented to be parallel with 7th Street, a commercial arterial with significant site visibility. On the whole, the CCA zone consists of commercial development of varying sizes. Therefore, neither the project site, nor its improvements, are physically unique compared to other sites in the same zone.

The second finding is that the physical uniqueness of the project site must cause the applicant to experience a hardship. The hardship must deprive the applicant of a substantial right to use or develop their property in the same manner as other properties in the CCA zone. As there is nothing physically unique about the project site, the applicant does not experience any hardship that deprives them of the right to develop as other properties in the CCA zone. The applicant is requesting allowance of four secondary wall signs, instead of a maximum of two secondary wall signs. Since the project site does not have a hardship, in relation to wall signage requirements, it is subject to the same regulations as all other properties within the CCA zone.

On June 1, 2017, the applicant filed an appeal of the ZA's decision to deny the project and is requesting that the Planning Commission overturn that decision (Exhibit D – Appeals). The applicant has cited the necessity to advertise products to the public, limited storefront area to place signage, and the requirements to comply with the code as reasons why this site experiences hardship. The applicant also asserts that their brand will suffer a diminished loss in the ability to effectively communicate to new customers without approval of the Standards Variance to allow two additional signs per frontage.

Staff believes that approval of the request would grant a special privilege because the project site is not physically unique compared to others in its same zone, and it does not experience a hardship that prevents development similar to other properties in the CCA district. Although the allowance of additional secondary wall signage would not have direct adverse impacts on the surrounding community, variance approval without positive findings would set an undesirable example of allowing such approvals throughout the community, and citywide.

Staff recommends that the Planning Commission deny the appeal and uphold the decision of the Zoning Administrator to deny a Standards Variance to allow the installation of four secondary wall signs, instead of a maximum of two secondary wall signs.

PUBLIC HEARING NOTICE

A total of 1383 Public Hearing notices were distributed on July 5, 2017, in accordance with the provision of the Zoning Ordinance. No comments have been received as of the preparation of this report.

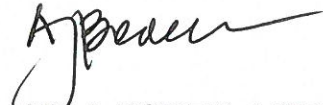
ENVIRONMENTAL REVIEW

In accordance with the Guidelines for Implementation of the California Environmental Quality Act, a Categorical Exemption was issued for the proposed project (Exhibit E – Categorical Exemption No. 17-037).

Respectfully submitted,



LINDA F. TATUM, AICP
PLANNING BUREAU MANAGER



AMY J. BODEK, AICP
DIRECTOR OF DEVELOPMENT SERVICES

AJB:LFT:CT:CJ

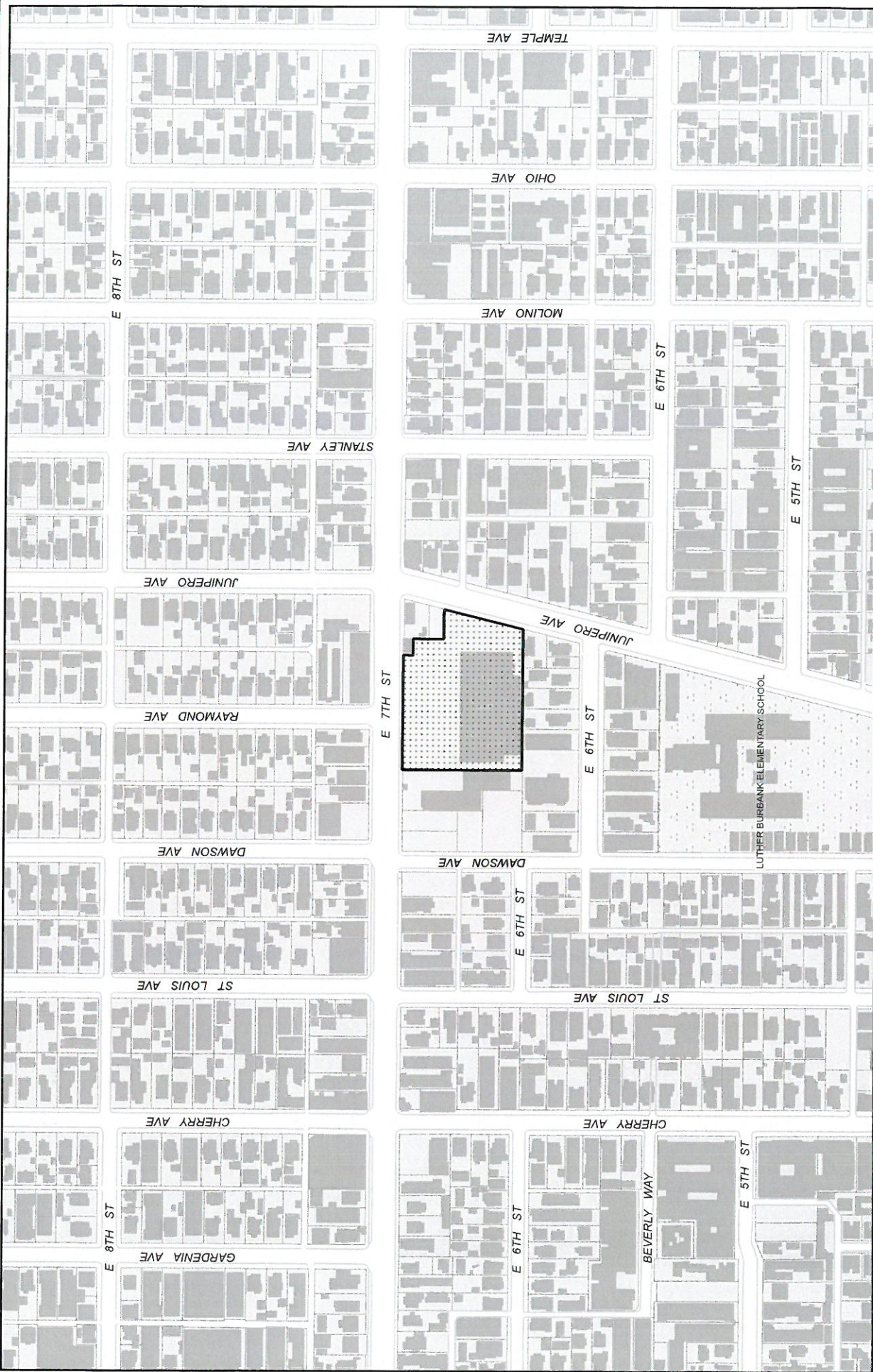
P:\Planning\PC Staff Reports (Pending)\2017\2017-07-20\2300 E. 7th Street\Staff Report - 2300 E. 7th Street - 1702-03.doc

Attachments: Exhibit A – Location Map
 Exhibit B – Plans & Photos
 Exhibit C – Findings
 Exhibit D – Application for Appeal
 Exhibit E – Categorical Exemption 17-037



Exhibit A

Subject Property:
2300 E 7th St
Application No. 1702-03
Council District 2
Zoning Code : CCA



STANDARDS VARIANCE FINDINGS

Application No. 1702-03

Date: July 20, 2017

1. THE SITE OR THE IMPROVEMENTS ON THE SITE ARE PHYSICALLY UNIQUE COMPARED TO THE OTHER SITES IN THE SAME ZONE;

The subject site is located in the CCA (Community Auto-Oriented Commercial) zone. It is developed with an approximately 30,000-square-foot department store on a lot of 101,418 square feet. Properties within the CCA zone in the City of Long Beach range from 1,000 square feet to 828,000 square feet. The average lot size of individual parcels in the CCA zone is 19,277 square feet (this number does not account for parcels that are unofficially combined to comprise a single commercial development). There are 37 properties in the CCA zone that are larger than the subject site. Furthermore, the building is on a topographically flat site, and oriented to be parallel with 7th Street, a commercial arterial with significant site visibility. As most properties within the CCA zone consist of commercial development of varying sizes, neither the subject site, nor its improvements, are physically unique compared to other sites in the same zone.

2. THE UNIQUE SITUATION CAUSES THE APPLICANT TO EXPERIENCE HARDSHIP THAT DEPRIVES THE APPLICANT OF A SUBSTANTIAL RIGHT TO USE OF THE PROPERTY AS OTHER PROPERTIES IN THE SAME ZONE ARE USED AND WILL NOT CONSTITUTE A GRANT OF SPECIAL PRIVILEGE INCONSISTENT WITH LIMITATIONS IMPOSED ON SIMILARLY ZONED PROPERTIES OR INCONSISTENT WITH THE PURPOSE OF THE ZONING REGULATIONS;

Since there is nothing physically unique about the subject site, in comparison to other sites in the CCA zone, the applicant does not experience a hardship that deprives them of a substantial right to use the property as other properties in the CCA zone are used. The applicant is requesting exemption from the signage requirements that restrict the number of secondary signs per wall frontage. As required by code, the maximum number of secondary wall signs allowed on any one frontage is two. The applicant is proposing four secondary wall signs. Because there is no hardship caused by a physical uniqueness, in relation to wall signage requirements, the project site is subject to the same requirements as all other properties within the CCA zone. Other commercial properties in the CCA zone must adhere to the requirement of a maximum of two secondary wall signs. Therefore, variance approval **would** constitute a grant of special privilege inconsistent with the limitations imposed on other commercial properties in the CCA zone.

3. THE VARIANCE WILL NOT CAUSE SUBSTANTIAL ADVERSE EFFECTS UPON THE COMMUNITY; AND

Although approval will not cause substantial adverse effects upon the community, it would set an undesirable example of allowing variance approval where no hardship exists.

4. IN THE COASTAL ZONE, THE VARIANCE WILL CARRY OUT THE LOCAL COASTAL PROGRAM AND WILL NOT INTERFERE WITH PHYSICAL, VISUAL, AND PSYCHOLOGICAL ASPECTS OF ACCESS TO OR ALONG THE COAST.

The project site is not located within the Coastal Zone.



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333 West Ocean Blvd., 5th Floor

Long Beach, CA 90802

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PLANNING BUREAU

APPLICATION FOR APPEAL

An appeal is hereby made to Your Honorable Body from the decision of the

- ☐ Site Plan Review Committee
☒ Zoning Administrator
☐ Planning Commission
☐ Cultural Heritage Commission

Which was taken on the 22 day of May, 20 17.Project Address: 2300 East 7th Street

I/We, your appellant(s), hereby respectfully request that Your Honorable Body **reject** the decision and ☒ **Approve** / ☐ **Deny** the application or permit in question.

ALL INFORMATION BELOW IS REQUIRED

Reasons for Appeal: See attached third page of this document.Appellant Name(s): RICHARD LIETZOrganization (if representing) Ross Stores, Inc.Address: 5130 Hacienda DriveCity Dublin State CA ZIP 94568 Phone 925-965-4832Signature(s) [Signature] Date 5/26/17

- A separate appeal form is required for each appellant party, except for appellants from the same address, or an appellant representing an organization.
- Appeals must be filed within 10 days after the decision is made (LBMC 21.21.502).
- You must have established *aggrieved* status by presenting oral or written testimony at the hearing where the decision was rendered; otherwise, you may not appeal the decision.
- See reverse of this form for the statutory provisions on the appeal process.

BELOW THIS LINE FOR STAFF USE ONLY

☒ Appeal by Applicant
 ☐ Appeal by Third Party
Received by: SLCase No.: 1702-03Appeal Filing Date: 5/31/17Fee: \$ 3,668.00☒ Fee PaidProject (receipt) No.: PLNB39190

Statutory Provisions for Appeal, from LBMC Chapter 21.21 (Administrative Procedures)

Division V. - Appeals

21.21.501 - Authorization and jurisdiction.

- A. Authorization. Any aggrieved person may appeal a decision on any project that required a public hearing.
- B. Jurisdiction. The Planning Commission shall have jurisdiction on appeals of interpretations made pursuant to Section 21.10.045 and decisions issued by the Zoning Administrator and Site Plan Review Committee, and the City Council shall have jurisdiction on appeals from the Planning Commission as indicated in Table 21-1. Decisions lawfully appealable to the California Coastal Commission shall be appealed to that body.

21.21.502 - Time to file appeal. An appeal must be filed within ten (10) days after the decision for which a public hearing was required is made.

21.21.503 - Form of filing. All appeals shall be filed with the Department of Planning and Building on a form provided by that Department.

21.21.504 - Time for conducting hearing of appeals. A public hearing on an appeal shall be held:

- A. In the case of appeals to the City Planning Commission, within sixty (60) days of the date of filing of the appeal with the Department of Planning and Building; or
- B. In the case of appeals to the City Council, within sixty (60) days of the receipt by the City Clerk from the Department of Planning and Building of the appeal filed with the Department.

21.21.505 - Findings on appeal. All decisions on appeal shall address and be based upon the same conclusionary findings, if any, required to be made in the original decision from which the appeal is taken.

21.21.506 - Finality of appeals.

- A. Decision Rendered. After a decision on an appeal has been made and required findings of fact have been adopted, that decision shall be considered final and no other appeals may be made except:
 - 1. Projects located seaward of the appealable area boundary, as defined in Section 21.25.908 (Coastal Permit—Appealable Area) of this title, may be appealed to the California Coastal Commission; and
 - 2. Local coastal development permits regulated under the city's Oil Code may be appealed to the city council.
- B. No Appeal Filed. After the time for filing an appeal has expired and no appeal has been filed, all decisions shall be considered final, provided that required findings of fact have been adopted.
- C. Local Coastal Development. Decisions on local coastal development permits seaward of the appealable area shall not be final until the procedures specified in Chapter 21.25 (Coastal Permit) are completed.

May 25, 2017

Attachment to Reason for Appeal. Regarding appeal to Standards Variance decision by Zoning Administrator for case #1702-03

Subject Address:

2300 East 7th St., Long Beach, CA 90804

APN: 7262-027-015

Property owner:

2300 E 7th Street Llc
2690 S Oak Knoll Ave.
San Marino, CA 91108

Applicant:

Jeff Sealy
c/o Ross Stores, Inc.,
5130 Hacienda Dr.
Dublin, CA 94568

Representative:

Jeffrey Aran, Esq
P.O. Box 22833
Sacramento, CA 95822
916-395-6000, Fax: 916-395-6028
jaraanatty@aol.com

Reasons for Appeal:

A. The success of applicant's business at this location relies on conveying its Federally-protected trademark, which includes what the city labels "secondary signage." Simply, without the product signage, DD's ability to adequately and meaningfully communicate its brand is compromised. Without the ability to convey those messages, this new store will not be able to fairly compete with similar stores in the same zone.

B. The proposed secondary signage does not constitute a special privilege, because each pair of grouped words ["LADIES KIDS" and "MENS SHOES"] qualify as an individual secondary sign within the spirit and intent of the code. Disallowing the combination of the two words into one sign, based on the code's arbitrary restrictions, constitutes an improper denial based on content. This results in an adverse, disparate impact on the applicant to which other businesses are not subject. For example, the city does not make such distinction with other businesses, such as:

Michael's
the arts and crafts store

Joann
Fabrics and Crafts

Ross
dress for less

Lowe's
Home Improvement Warehouse

Note: The city is not required to consider each word a separate sign, but is arbitrarily and unfairly choosing to do so.

Note: Applicant incorporates all grounds previously submitted to the city, as shown in the attached applicant-written findings on March 15, 2017.



NOTICE of EXEMPTION from EXHIBIT E

CITY OF LONG BEACH | DEPARTMENT OF DEVELOPMENT SERVICES
333 W. OCEAN BLVD., 5TH FLOOR, LONG BEACH, CA 90802
(562) 570-6194 FAX: (562) 570-6068
lbds.longbeach.gov

TO: ☐ Office of Planning & Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

FROM: Department of Development Services
333 W. Ocean Blvd, 5th Floor
Long Beach, CA 90802

☐ L.A. County Clerk
Environmental Fillings
12400 E. Imperial Hwy., Room 1201
Norwalk, CA 90650

Project Title: CE- 17-037

Project Location/Address: 2300 E 7th St

Project Activity/Description: Allow quantity of four (4) secondary wall signs in lieu of maximum allowable two (2) secondary wall signs, per Section 21.44.120.A of the Long Beach Municipal Code.

Public Agency Approving Project: **City of Long Beach, Los Angeles County, California**

Applicant Name: Ross Stores, Inc.

Mailing Address: 5130 Hacienda Dr., Dublin CA 94568

Phone Number: 925-965-4832

Applicant Signature: [Signature]

BELOW THIS LINE FOR STAFF USE ONLY

Application Number: 1702-03 Planner's Initials: CJ

Required Permits: Standards Variance

THE ABOVE PROJECT HAS BEEN FOUND TO BE EXEMPT FROM CEQA IN ACCORDANCE WITH STATE GUIDELINES SECTION 15301, class 1, Existing facilities (minor alterations)

Statement of support for this finding: g) New copy on existing on-premise signs located in a commercial zone - CCA zone

Contact Person: Craig Chalfant

Contact Phone: 562-570-6368

Signature: _____

Date: _____