

April 25, 2017

24055 Hesperian Blvd., Hayward, CA 94545

dd's Discounts

APN: 441-0010-002-05

Variance application request to allow 211.4 sq ft of primary wall sign area in lieu of the maximum 200 sq ft. This tenant space was previously a Circuit City that had a leased frontage of more than 200 feet. The existing "dd's DISCOUNTS" permitted signage was granted at its current size based on that previous tenant, as described by planning staff. The applicant requests a variance for additional wall sign area in order to include critical department names.

a. There are special circumstances applicable to the property including size, shape, topography, location, or surroundings, or other physical constraints.

The proposal is to allow additional wall sign area for a sign identifying five department names. The subject retail building/storefront is 175'-1" wide and is set back from the edge of Hesperian Blvd approximately 280'. The applicant's storefront and signage takes its visibility from Hesperian Blvd, as there's no visibility from Windon Ave and only small intermittent views from the intersection of Hesperian Blvd and Winton Ave. This tenant was granted a permit for their primary wall sign to read "dd's DISCOUNTS". Yet this business provides products that require explanation to the public. While this issue is common to similar business types such as grocery and department stores, there are very few similar business types in the commercial zones throughout the city. Of those businesses, most do not have the significant setback of the subject building, along with the challenge of visibility dramatically blocked by landscaped trees. Nor do many of those other sites require multiple department names as absolutely necessary to visually communicate their message and purpose to traffic and the public.

As an example, grocery stores in the same zone are able to communicate their message with a minimum of identity. It can be argued that grocery stores could communicate to the public and thrive in any community without any department names, as the average citizen is aware of what a grocery store does and the products & services it provides. While secondary signs expand their message and often contribute to their success, those secondary signs aren't foundational to the overall service grocery stores provide. In contrast, there are many types of department stores that offer a variety of products and services that aren't necessarily clear to the public. There are established department stores with products and services that the majority of the public is familiar with. Yet the applicant's store is not among them. Unlike most similar sites within Hayward, the applicant's business requires the department names to effectively communicate their business to the public.

b. Strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity under the same zoning classification.

With a frontage that is functionally visible to only one street, the applicant would experience challenges not commonly experienced by tenants within similar large shopping centers in the city. After recent extensive research and experience with hundreds of sites around the country, the applicant has confirmed that the department names are essential to compete with similar businesses in the city and specifically the CN zone.

However, without the variance dd's will suffer a material and diminished loss of the its ability to adequately and effectively communicate to existing and new customers. Denial of the sign variance would result in a disparity of visibility privileges which competitors and other buildings and tenants enjoy. In determining special circumstances, the California Supreme Court has held that disparities between properties need not be physical, but may also include a disparate impact of land use regulations in a particular zone. *Topanga Assoc for Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 520; *Craik v. County of Santa Cruz* (2000) 81 Cal.App.4th 880, 890.

c. The variance does not constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated.

The variance will not be considered a special privilege or cause cause substantial adverse effects on the community because the proposed sign is relatively small, especially compared to other sites in the community. In an effort to reduce the proposed sign's interpretation of special privilege, the words within the sign are arranged into one group in order to reduce their visual impact. While the applicant prefers to spread the department names across their storefront, they do reserve the method of grouping them together when necessary to conform as closely as possible to local sign codes. The applicant believes this grouping mitigates the appearance or impression that special privilege is being granted for the signs. And it contributes to balancing the availability of visibility that most other tenants within shopping centers don't suffer from.

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