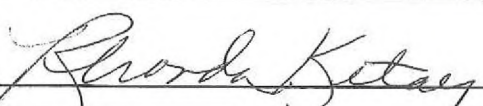


## TRANSMITTAL TO CITY COUNCIL

<b>Case No.(s)</b>	<b>C.D. Nos.</b>		
APCNV-2012-3551-ZC-CU-1A	12		
<b>Planning Staff Name(s) and Contact No.:</b>	<b>Last Day to Appeal:</b>		
Milena Zasadzien (818) 374-5054	July 2, 2013		
<b>Name(s), Applicant / Representative, Address, Phone Number and (Email if available).</b>			
<p><b>Applicant:</b> Tab Johnson                  Rich Development Enterprises                  600 N. Tustin Ave, Ste. 150                  Santa Ana, CA 92705                  Tel No. (714) 835-3311</p>			
<b>Name(s), Appellant / Representative, Address, and Phone Number (Email if available).</b>			
<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <p><b>Appellant:</b> Meyer Salloway                      9010 Reseda Blvd                      Northridge, CA 91324                      Tel No. (952) 926-5454                      lsrla@aol.com</p> </td> <td style="width: 50%; vertical-align: top;"> <p><b>Representative:</b> Tab Johnson                      Rich Development Enterprises                      600 N. Tustin Ave, Ste. 150                      Santa Ana, CA 92705                      Tel No. (714) 835-3311                      tab#richdevelopment.com</p> </td> </tr> </table>		<p><b>Appellant:</b> Meyer Salloway                      9010 Reseda Blvd                      Northridge, CA 91324                      Tel No. (952) 926-5454                      lsrla@aol.com</p>	<p><b>Representative:</b> Tab Johnson                      Rich Development Enterprises                      600 N. Tustin Ave, Ste. 150                      Santa Ana, CA 92705                      Tel No. (714) 835-3311                      tab#richdevelopment.com</p>
<p><b>Appellant:</b> Meyer Salloway                      9010 Reseda Blvd                      Northridge, CA 91324                      Tel No. (952) 926-5454                      lsrla@aol.com</p>	<p><b>Representative:</b> Tab Johnson                      Rich Development Enterprises                      600 N. Tustin Ave, Ste. 150                      Santa Ana, CA 92705                      Tel No. (714) 835-3311                      tab#richdevelopment.com</p>		
<b>Final Project Description: COMPLETE ONLY IF DIFFERENT FROM STAFF REPORT</b>			
<p><b>Project description:</b> The demolition of two (2) existing two-story commercial buildings, and the construction of two (2) new single-story commercial buildings with retail and drive-through restaurant uses, totaling 7,800 sq-ft in floor area and measuring a maximum of 32-ft in height. The project also includes the second-floor demolition and a facade remodel of a third existing two-story 5,000 sq-ft commercial building. A total of 100 surface parking spaces will be provided on the 1.63-acre site.</p> <ol style="list-style-type: none"> <li>1. Adopted the environmental clearance Mitigated Negative Declaration ENV-2012-3550-MND.</li> <li>2. Approved and recommended that the City Council approve the Zone Change from C2-1VL and P-1VL to (T)(Q)C2-1VL for the subject property, with the Conditions of Approval.</li> <li>3. Approved in part a Conditional Use for the operation <u>of two one</u> drive-through fast-food establishment in the C Zone located on a lot adjacent to a residential zone and use, with the Conditions of Approval.</li> <li>4. Adopted the Findings.</li> <li>5. Advised the applicant that, pursuant to California State Public Resources Code Section 21081.6, the City shall monitor or require evidence that mitigation conditions are implemented and maintained throughout the life of the project and the City may require any necessary fees to cover the cost of such monitoring.</li> </ol>			

 Commission Executive Assistant	Date: <u>July 3, 2013</u>
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# MASTER APPEAL FORM

# ORIGINAL

City of Los Angeles – Department of City Planning

APPEAL TO THE: City Council

(DIRECTOR, AREA PLANNING COMMISSION, CITY PLANNING COMMISSION, CITY COUNCIL)

REGARDING CASE #: APCNV-2012-3551-ZC-CU / CEQA: ENV-2012-3550-MND

PROJECT ADDRESS: 9000-9034 N. Reseda Blvd., Northridge, CA

FINAL DATE TO APPEAL: July 2, 2013

TYPE OF APPEAL:

1.  Appeal by Applicant
2.  Appeal by a person, other than the applicant, claiming to be aggrieved
3.  Appeal by applicant or aggrieved person from a determination made by the Department of Building and Safety

## APPELLANT INFORMATION – Please print clearly

Name: Meyer Salloway

- Are you filing for yourself or on behalf of another party, organization or company?

Self

Other: \_\_\_\_\_

Address: 9010 Reseda Blvd

Northridge, CA

Zip: 91324

Telephone: 952.926.5454

E-mail: lsrla@aol.com

- Are you filing to support the original applicant's position?

Yes

No

## REPRESENTATIVE INFORMATION

Name: Tab Johnson

Address: 600 N. Tustin Avenue, Ste 150

Santa Ana, CA

Zip: 92705

Telephone: 714.835.3311

E-mail: tab@richdevelopment.com

This application is to be used for any appeals authorized by the Los Angeles Municipal Code for discretionary actions administered by the Department of City Planning.

**JUSTIFICATION/REASON FOR APPEALING** – Please provide on separate sheet.

Are you appealing the entire decision or parts of it?

Entire

Part

Your justification/reason must state:

- The reasons for the appeal
- How you are aggrieved by the decision
- Specifically the points at issue
- Why you believe the decision-maker erred or abused their discretion

**ADDITIONAL INFORMATION/REQUIREMENTS**

- Eight (8) copies of the following documents are required (1 original and 7 duplicates):
  - ✓ Master Appeal Form
  - ✓ Justification/Reason for Appealing document
  - ✓ Original Determination Letter
- ✓ Original applicants must provide the original receipt required to calculate 85% filing fee.
- Original applicants must pay mailing fees to BTC and submit copy of receipt.
- Applicants filing per 12.26 K "Appeals from Building Department Determinations" are considered original applicants and must provide notice per 12.26 K 7.
- Appeals to the City Council from a determination on a Tentative Tract (TT or VTT) by the City (Area) Planning Commission must be filed within 10 days of the written determination of the Commission.
- A CEQA document can only be appealed if a non-elected decision-making body (i.e. ZA, APC, CPC, etc...) makes a determination for a project that is not further appealable.

*"If a nonelected decision-making body of a local lead agency certifies an environmental impact report, approves a negative declaration or mitigated negative declaration, or determines that a project is not subject to this division, that certification, approval, or determination may be appealed to the agency's elected decision-making body, if any."*

--CA Public Resources Code § 21151 (c)

I certify that the statements contained in this application are complete and true:

Appellant Signature: M. Salloway Date: June 25, 2013

**Planning Staff Use Only**

Amount <u>\$19474.35</u>	Reviewed and Accepted by <u>Rodriguez</u>	Date <u>July 1, 2013</u>
Receipt No. <u>12084</u>	Deemed Complete by <u>Jernigan/Dent</u>	Date <u>7/1/13</u>

Determination Authority Notified

Original Receipt and BTC Receipt (if original applicant)

## Reasons for Appeal

The North Valley Area Planning Commission (NVAPC) adopted or approved all aspects of the project except that it overruled the Planning Staff and removed one of two drive-throughs from the project. Instead, a Conditional Use has been granted to allow one drive-through establishment. The applicant appeals the change to one drive-through because without two drive-throughs for the potential tenants, the project is not designed to its higher and better use based upon the needs of the community and the studies and reviews made by agencies of the City of Los Angeles. .

## Specifically the Points at Issue

- a) The NVAPC acts were arbitrary and capricious. The actions of the NVAPC to overrule the Planning Staff and eliminate a drive-through were arbitrary and capricious; nowhere in the Determination is there any stated legal or factual basis for this action.
- b) The proposed project has strong community support. In its first meeting to consider the project, the NVAPC granted both drive-throughs as a Conditional Use. However, this act was not effective because an insufficient number of Commissioners were present. One hundred and fifty neighbors signed a petition in support of the proposed project. These signatures were obtained in two to three days - undoubtedly many more could be obtained based on discussions with the neighbors.
- c) The LADOT approved the traffic study that found that there were no significant traffic or circulation impacts as a result of the proposed project. Importantly, this finding was accepted by the NVAPC; consequently, an adverse impact on traffic cannot be a basis for overruling the Planning Staff.
- d) The Determination misapplies LADOT's review. On page F-4 in paragraph 2.b., the Determination uses the LADOT approved traffic study that found that there would be no traffic impact from two drive-throughs as a rationale to approve a single drive-through. We feel it should apply for the approval of two drive-throughs as planned.

## How are you aggrieved by the Decision?

With only a single drive-through, the project is not being developed at its highest and best use based upon the available data both from the Planning Department and LADOT review of the project. Many potential tenants were identified. Of those identified, it immediately became apparent that two drive-throughs would be required to attract financially sound, attractive tenants for the project that would be acceptable to the neighborhood and result in an inviting and appealing development along with businesses that will supply many good paying jobs for the local resident population.

## **Why you believe the Decision-Maker Erred or Abused Their Discretion**

The NVAPC failed to carefully consider the Planning Staff's recommendation or the LADOT approved traffic study. It appears that the NVAPC also failed to consider the strong neighborhood support for the planned project; rather, it appears that it responded to vocal individuals at the second meeting who opposed the project. Apparently, without understanding the economic benefits of the proposed development, the NVAPC felt that it could "split the difference" and appease the vocal individuals present at the meeting by eliminating a drive-through. Unfortunately, this act, without any stated factual or legal basis, destroys one of the key lynchpins of the project and extinguishes its viability. The potential result is the continued existence of a 1970's vintage complex rather than a new and inviting development with attractive tenants.