

COUNTY OF PLACER
Community Development/Resource Agency

Michael J. Johnson, Agency Director

**PLANNING
SERVICES DIVISION**

Paul Thompson
Deputy Planning Director

MEMORANDUM

TO: Honorable Board of Supervisors

FROM: Michael J. Johnson, AICP
Agency Director

DATE: August 21, 2012

**SUBJECT: THIRD-PARTY APPEAL – PLANNING COMMISSION APPROVAL OF A VARIANCE TO FREESTANDING SIGN HEIGHT (PVAA 20110304)
“LUCKY’S TRAVEL PLAZA”**

ACTION REQUESTED

1. Accept the applicant's written withdrawal of Variance Application PVAA 20110304,
2. Void the Planning Commission's May 24, 2012 approval of a Variance to sign height, and
3. Deny the appeal filed by the Friends of the North Fork of the Planning Commission's May 24, 2012 action as moot.

BACKGROUND

On September 9, 2011, RBS Holdings, Inc. submitted an application for a Variance to the freestanding sign height restriction of 35 feet to allow for the relocation and replacement of an existing 35-foot-tall sign with a 65-foot-tall sign to advertise the Cisco Valero fueling station on the subject parcel.

The Zoning Administrator approved the Variance request at a public hearing on February 16, 2012. This approval was appealed by Michael Garabedian, on behalf of Friends of the North Fork.

The Planning Commission heard the Appeal request on May 24, 2012. At that hearing, the Commission considered reports from the Development Review Committee staff, recommendations from the Donner Summit MAC and received oral testimony from the appellant, the applicant, the Sierra Club and other public input from local residents and business owners. The Commission voted 3-2 (Moss, Brentnall, Johnson – yes; Roccucci, Gray - no) to approve the project with modified conditions specifically addressing concerns raised by the public and the appellant.

LETTER OF APPEAL

On June 4, 2012, Mr. Garabedian, again on behalf of Friends of the North Fork, filed an Appeal of the Planning Commission's approval of the sign height Variance.

WITHDRAWAL OF VARIANCE APPLICATION

Following distribution of the legal notice for this item before the Board of Supervisors, staff received a letter from the applicant stating that the Variance application is being withdrawn (Exhibit 1). As the applicant no longer wishes to pursue the variance application, the present appeal is moot. Therefore, staff recommends the Board take the actions outlined at the beginning of this memorandum.

EXHIBITS:

Exhibit 1 – Variance Withdrawal Letter

cc: Michael Garabedian – Appellant
Shute, Mihaly and Weinberger, LLP
RBS Holdings, Lucky Singh – Property Owner
Gary Heinz, DEF-CON – Applicant
Michael Johnson – C/DRA Director
Paul Thompson – Deputy Planning Director
Karin Schwab – County Counsel's Office
Sharon Boswell – Engineering and Surveying
Justin Hansen – Environmental Health
PCAPCD
Subject file

August 8, 2012

Placer County Board of Supervisors
Attn: Jennifer Montgomery
175 Fulweiler Avenue
Auburn, CA 95603

Re: Variance Appeal: Lucky's Travel Plaza Sign
Variance PVAA 20110304

This appeal determines whether I will be permitted to replace an existing service station sign, standing approximately 35 feet above Interstate 80, with a taller sign from a lower elevation, standing no more than 35 feet above Interstate 80. I want to replace an old sign with a new sign that will be better positioned for drivers to see, especially during the snowy winter months. Due to the uneven topography of my property, I need a taller sign. I need a variance to have a taller sign. This simple sign height variance has garnered two appeals, a hearing before the County Board of Supervisors and a 15 page letter with over 150 pages of attached exhibits from appellant, Friends of the North Fork and its President Michael Garabedian; all in the name of which service station sign will stand 35 feet above Interstate 80 in the years to come.

I am running a business. I try to do so in a logical way that will minimize costs and maximize profits. I am faced with this question: what is my sign variance worth? How much money? How much time?

If I prevail before this Board, and my variance is upheld, it is all too likely that Mr. Garabedian, an attorney, will file a lawsuit against Placer County. Thereafter, the indemnification provision of the variance will leave me on the hook for all costs and fees involved in defending the lawsuit, tens of thousands of dollars. If the County prevails in superior court, it is all too likely that Mr. Garabedian will appeal. Again, I will be responsible to pick up the tab. The appeals process will not be quick or cheap either.

The cost of opposing this variance appeal does not pencil out. Accordingly, I am withdrawing my request for the subject sign variance. The old sign will continue to stand 35 feet above I - 80 and the Friends of the North Fork (Michael Garabedian) will sleep easier at night.

With that said, I would like to bring the larger issue here to the Board's attention.

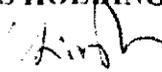
Mr. Garabedian and appeals like this are an impediment to business in Placer County. I never requested to do anything remotely out of the ordinary. I merely wanted to install a new sign. It was going to replace old signs and stand the exact same height above the freeway. The fact that this variance was challenged, that this hearing was scheduled, that I had to write this letter, all defies common sense.

Mr. Garabedian, an attorney, is charged \$520 to appeal the planning department decisions in this matter. For only about \$1000, this matter gets to the Board of Supervisors, where I am expected to respond to lengthy legal arguments (a 15 page letter with 150 plus pages of exhibits) prepared by attorneys. Worse, if the variance is upheld, I will be responsible to pay Placer County's attorneys to fight the inevitable lawsuit. I will pay for a lawsuit over which I have little input and I will pay for attorneys that I have no control over.

I am hopeful that the Board will recognize the problems this system causes for businesses like mine. The Board should consider taking any measures possible to prevent appeals and challenges similar to this one. Increasing fees or erecting additional hurdles to discourage appellants like Friends of the North Fork and Michael Garabedian may be in order. I am not the only business that has suffered as a result of actions like this. In addition, the County should consider occasionally defending lawsuits generated under circumstances like this, on its own. Demonstrating a willingness to protect businesses in Placer County will attract more businesses to this County and discourage appeals like this one.

Sincerely,

RBS HOLDINGS LLC



LUCKY SINGH