



MILPITAS PLANNING COMMISSION AGENDA REPORT

PUBLIC HEARING

Meeting Date: June 27, 2012

APPLICATION: SIGN VARIANCE NO. VA12-0001

**APPLICATION
SUMMARY:**

A request to vary from the City's Sign Ordinance to allow for an additional 28 square feet of sign area (60 square feet total) for the Apex (Formerly "Centria West") residential community.

LOCATION: 1102 S Abel Street (APN: 086-12-021)

APPLICANT: Lyon Realty Advisors, Inc., 4901 Brich Street, Newport Beach, CA 92660

OWNER: Lyon Realty Advisors, Inc., 4901 Brich Street, Newport Beach, CA 92660

RECOMMENDATION: **Staff recommends that the Planning Commission: Adopt Resolution No. 12-027 subject to the attached conditions of approval.**

PROJECT DATA:

General Plan/

Zoning Designation: Zoned Multi-Family Very High Density with Site and Architectural and Transit Oriented Development Overlays (R4-S-TOD)

Specific Plans: Midtown Specific Plan

Related Permits: MT09-0001, SA09-0007, UP09-0009, EA09-0010

CEQA Determination: Categorically exempt from further Environmental Review Pursuant to Section 15311(a) for "Accessory Structures, On-premise Signs"

PJ# 2583

PLANNER: Tiffany Brown, Assistant Planner

ATTACHMENTS:

- A. Resolution No. 12-027
- B. Letter from Applicant
- C. Plans
- D. Letter from Public

LOCATION MAP



★ No scale
Sign Location

BACKGROUND

The approval for a two building, 481 unit Multi-Family project known and Centria was approved on August 16, 2005. The project proposal included a Major Tentative Map, which subdivided the property into two parcels, allowing the project to be built in two separate phases called Centria East and Centria West (*See location map on previous page*). Phase I of the project, known as Centria East, was built and completed in 2008 by D.R. Horton. This first building contains 137 condominium units.

Lyon Reality Advisors, Inc purchased Phase II of the project, known as Centria West in 2008 and submitted an application for additional units, enhanced amenities, and façade modifications to the approved project. On July 8, 2009, the Planning Commission approved:

- A new Major Tentative Map to allow for the addition of 54 units;
- Removed the obligation to provide affordable housing;
- A Conditional Use Permit to deviate from height development standard for the parking garage; and
- A Site Development Permit Amendment to allow for the façade changes to the originally approved façade for Centria West.

In 2011, Lyon received approval for additional exterior modifications to the approved façade and renamed the project Apex. Apex, is a five story multi-family building wrapped around an eight story parking structure with community center and pool located on the top floor of the parking structure. Currently the project is under construction.

Lyon Communities is now working on the signage to market their residential building. Due to the type of residential building (high rise, luxurious high density apartments) and the location of the site, the applicant proposes to have the signage located on the building as a wall sign versus an at grade monument sign. Since the sign will be about five stories from grade level, Lyon is finding it difficult to stay within the allowed square footage of signage and still have the sign be plausible and effective.

Per Section 24.02.c. for Conditional Uses in any Residential Zone, permanent signs shall not exceed 32 square feet in sign area with approval by the Planning Commission. Lyon feels that due to the height and location of their sign, this size will still be too small. Section 57.06.02 for Sign Variances, allows the applicant to request for an exception to the size, number, height, length and location requirements for signs with the Planning Commissions Approval. On May 29, 2012 the applicant submitted for a Sign Variance to allow for one 60 square foot sign.

SITE DESCRIPTION

The approved project is located on the southeast corner of S. Abel and Great Mall Parkway, just west of the Great Mall and parallel to the Great Mall Parkway Light Rail. The City owns a 0.48 acre site for a future park directly on the corner intersection of Great Mall Parkway and S. Abel Street. Apex is located in-between the future park and Centria East. See the following page for existing and future projects located along Great Mall Parkway.

APEX



CENTRIA EAST *(Constructed)*



SHEA PROPERTIES



INTEGRAL

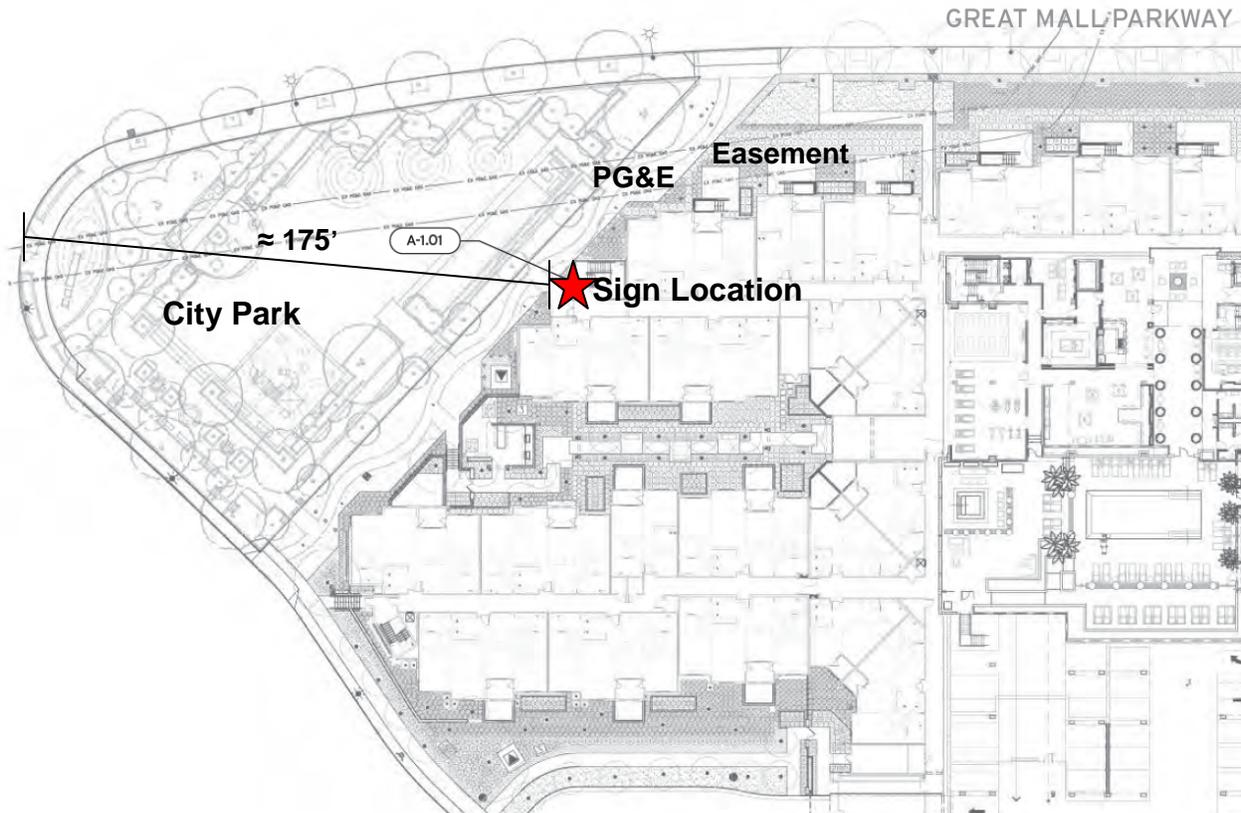


The new developments either built, under construction or soon to be constructed are consistent with the vision of the Midtown and Transit Area Specific Plans. The vision calls for the development along Great Mall Parkway to be higher density tall mixed use and residential buildings. The following describes the current and future street scene for the area. Beginning at S. Abel and Great Mall Parkway, the approved Apex project for 366 multi-family residential units would be five stories (64' tall) wrapped around the eight story parking structure with community center located on the top floor (96 feet tall). Adjacent to Apex is Centria East, built and completed in 2008 by D.R. Horton, containing 137 condominium units in a five story building (65' tall) wrapped around a seven story (70' tall) parking structure with pool and community center located on the bottom floor. At McCandless Drive and Great Mall Parkway, District 1 by Integral Communities, a mixed use product with 1,154 dwelling units and 87,023 square feet of commercial space on 12 acres and will stand 95 feet tall. One block south on Main Street from Great Mall Parkway, Shea Properties proposes 204 dwelling units on 2.72 acres, that will stand five stories (65' tall) with 72' tall element of the corner of S Main and S Abel Street.

Directly across the street from Apex is the light rail station, the Bridge housing development consisting of seven two and three story apartment buildings (33' tall), the Heald College Building, and the Great Mall are opposite the District 1 project.

PROJECT DESCRIPTION

The ideal location for signage at this site would be at the southeast corner intersection of S. Abel and Great Mall Parkway. However, that corner is the future location of a City park. Apex is set back 175 feet from the S Abel and Great Mall Parkway corner, leaving roughly 364 lineal feet of street frontage along Great Mall Parkway and 589 lineal feet along S Abel Street. There is a PG&E easement on the north side of the project, running parallel to Great Mall Parkway that does not allow for the construction of a monument sign within the easement. See graphic below.



Therefore, the applicant proposes a wall mounted sign. The applicant explains that in order for the sign to be visually affective, and aesthetically harmonious with the building, the sign must be at least 60 square feet in size.



Development Standards

The Zoning Ordinance for Signage allows Multi-Family Residential Project a maximum sign area of 10 square feet (XI-10.24.02.b) or with review and approval of a conditional use permit, a maximum sign area of 32 square feet. The applicant requests a Sign Variance to allow for a 60 square foot sign. See the Zoning Ordinance section on page 7 for further details.

ADOPTED PLANS AND ORDINANCES CONSISTENCY

General Plan

The table below outlines the project’s consistency with applicable General Plan Guiding Principles and Implementing Policies:

Table 1
General Plan Consistency

Policy	Consistency Finding
<i>2.a-I-10: Foster community pride and growth through beautification of existing and future development.</i>	Consistent. The proposed signage represents pride in identifying the location of the new residential community within Milpitas.

Zoning Ordinance

Section 57.06.02 for Sign Variances, allows the applicant to request for an exception to the size, number, height, length and location requirements for signs with the Planning Commissions Approval. The purpose and intent of a Sign Variance is to establish a procedure for granting exceptions to the strict application of the size, number, height, length and location requirements for signs. The Planning Commission has the approval authority provided the request meets the following findings:

1. Special conditions and extraordinary circumstances applicable to the property involved or its intended uses, which were not created by the owner or tenant, and which do not apply generally to other properties with the same land use exist that do not allow the site or business to achieve the goals and objectives of Chapter 10 Section 24 for adequate business identification.

Lyon’s Response: The configuration and location of the site create unusual circumstances related to project identification. Sandwiched between an existing residential development and a proposed park, there are no clear opportunities for erecting a traditional monument sign. To further complicate matters, there is also a utility easement that runs through a portion of the site along Great Mall Parkway. In summary, the site does not allow for the proper implementation of a monument identification sign. In order for approaching traffic to be made aware of the project, the most reasonable solution is to identify the property with a wall mounted sign that faces the corner of Great Mall Parkway and Abel Street. This will allow for appropriate identification, thereby achieving the intentions and provisions of the ordinance.

2. Literal enforcement of the provisions of the City of Milpitas the Sign Ordinance will result in unnecessary hardship inconsistent with the spirit and intent of the Sign Ordinance.

Lyon’s Response: Based upon the proposed location for the wall sign and the distance from which it must be viewed, the code allowance for square footage is inadequate. The location of this sign requires an attempt to interpret the spirit of the code. Given the height of the wall and the distance from the corner, the proposed sign area is actually quite moderate. In addition, the scale

relationship between the proposed sign and the wall mass behind it is well balanced. As proposed, this sign is in keeping with the spirit and intent of the ordinance.

3. The granting of the variance is not contrary to the intent of the General Plan, Zoning or Sign Ordinance, or any applicable Specific Plan and will not be contrary to, nor materially detrimental to public interest and welfare, or injurious to conforming signs in the City.

Lyon's Response: We are aware of no relevant plan or ordinance that will be negatively impacted by the approval of our proposal. The public interest will not be detrimentally impacted. In fact, we believe that the proposed sign will actually be beneficial to the public. There are no conforming sign locations that will be compromised by our proposal.

4. The variance to be granted is on that will require the least modification of the prescribed regulation, and the minimum variance that will accomplish that purpose.

Lyon's Response: Since the variance request involves a single sign at a strategically chosen location, granting approval is simplest and most direct method of achieving the stated goals.

5. The granting of a variance is not considered a grant of special privileges inconsistent with the limitations of other similarly situated properties.

Lyon's Response: Given the particular circumstances that have generated this request, we are not aware of a comparable situation.

ENVIRONMENTAL REVIEW

The Planning Division conducted an initial environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). Staff determined that the project is categorically exempt from further environmental review pursuant to Section 15311(a) for "Accessory Structures, On-premise Signs."

PUBLIC COMMENT/OUTREACH

Staff publicly noticed the application in accordance with City and State law. As of the time of writing this report, there has been one inquiry from the public against the project. Please see Attachment D.

CONCLUSION

Due to the public park being located at the ideal location for a monument sign for the apartments, the distance from the intersection to the building, and the restriction of not being able to build within the PG&E easement, staff is in support of the sign being located on the wall understanding that the sign will need to be increased in size in order to be visible from the ground level. Staff feels the sign matches the character of the new apartments and is aesthetically harmonious with the future high density residential and mixed use projects, such as Shea and Integral, currently in the building permit process.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission close the public hearing after hearing testimony and adopt Resolution No. approving Variance No. VA12-0001, subject to the attached Resolution and Conditions of Approval.

Attachments:

- A. Resolution No. 12-027
- B. Letter from applicant
- C. Project Plans
- D. Letter from Public

RESOLUTION NO. 12-027

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS,
CALIFORNIA, APPROVING VARIANCE NO.VA12-0001, APEX SIGNAGE, TO
ALLOW A MAXIMUM OF 60 SQUARE FEET OF SIGN AREA FOR THE NEW
RESIDENTIAL COMMUNITY
LOCATED AT 1102 S ABEL STREET**

WHEREAS, on May 29, 2012, an application was submitted by Lyon Communities LLC., 4901 Brich Street, Newport Beach, CA 92660, to vary from the City's Sign Ordinance to allow for an additional 28 square feet of sign area (60 square feet total) for the Apex residential community located at 1102 S Abel Street. The property is located within the Multi-Family Very High Density with Site and Architectural Review and Transit Oriented Development Overlay and is within the Midtown Specific Plan (R4-S-TOD). (APN 086-12-021); and

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determine this project exempt.

WHEREAS, on June 27, 2012, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

NOW THEREFORE, the Planning Commission of the City of Milpitas hereby finds, determines and resolves as follows:

Section 1: The recitals set forth above are true and correct and incorporated herein by reference.

Section 2: The application for a new sign is categorically exempt from further Environmental Review Pursuant to Section 15311(a) for "Accessory Structures, On-premise Signs."

Section 3: The proposed use is consistent with the Milpitas General Plan Policy 2.a-I-10 in the proposed sign represents pride in identifying the location of the new residential community within Milpitas.

Section 4: The proposed use is consistent with the Milpitas Zoning Ordinance Section 57.06.02 for Sign Variances findings as follows:

1. Special conditions and extraordinary circumstances applicable to the property involved or its intended uses, which were not created by the owner or tenant, and which do not apply generally to other properties with the same land use exist that do not allow the site or business to achieve the goals and objectives of Chapter 10 Section 24 for adequate business identification.

The configuration and location of the site creates unusual circumstances related to project identification. The City Park at the corner intersection of S Abel Street and Great Mall Parkway sets the building back 175' from the intersection. There is a PG&E easement that runs parallel to Great Mall Parkway. In summary, the site does not allow for the proper implementation of a monument identification sign. In order for approaching traffic to be made aware of the project, the most reasonable solution is to identify the property with a wall mounted sign, knowing that for a wall mounted sign to be visually affective, it needs to be increased in size. In this case 60 square feet maximum. This will allow for appropriate identification, thereby achieving the intentions and provisions of the ordinance.

2. Literal enforcement of the provisions of the City of Milpitas the Sign Ordinance will result in unnecessary hardship inconsistent with the spirit and intent of the Sign Ordinance.

Based upon the proposed location for the wall sign and the distance from which it must be viewed, the code allowance for square footage is inadequate. The location of this sign requires an attempt to interpret the spirit of the code. Given the height of the wall and the distance from the corner, the proposed sign area for 60 square feet is adequate and is in keeping with the spirit and intent of the ordinance. The design of the sign is consistent with the guidelines in the City's Sign Ordinance.

3. The granting of the variance is not contrary to the intent of the General Plan, Zoning or Sign Ordinance, or any applicable Specific Plan and will not be contrary to, nor materially detrimental to public interest and welfare, or injurious to conforming signs in the City.

No relevant plan or Ordinance will be negatively impacted by the approval of an additional 28 square feet of sign area. The public interest will not be detrimentally impacted. No conforming signs will be impacted by this proposal.

4. The variance to be granted is one that will require the least modification of the prescribed regulation, and the minimum variance that will accomplish that purpose.

Given the distance from the intersection corner, and the height of the wall where the sign will be mounted, 28 additional square feet of signage (60 square feet total) for the one sign is the minimum amount of square footage to be added and still be affective as an identification sign.

5. The granting of a variance is not considered a grant of special privileges inconsistent with the limitations of other similarly situated properties.

At the time of approval for this project, there is no comparable property situation.

Section 6: The Planning Commission of the City of Milpitas hereby approves VA12-0001, Apex Signage, subject to the above Findings, and Conditions of Approval attached hereto as Exhibit 1.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on June 27, 2012.

Chair

TO WIT:

I HEREBY CERTIFY that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on June 27, 2012, and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Lawrence Ciardella				
John Luk				
Rajeev Madnawat				
Sudhir Mandal				
Zeya Mohsin				
Gurdev Sandhu				
Steve Tao				
Garry Barbadillo				

EXHIBIT 1

**CONDITIONS OF APPROVAL
VARIANCE NO. VA12-0001**

A request to vary from the City's Sign Ordinance to allow for an additional 28 square feet of sign area (60 square feet total) for the APEX (Centria West) residential community.
1102 S Abel Street (APN: 086-12-021)

General Conditions

1. The owner or designee shall develop the approved project in conformance with the approved plans including color and materials approved by the Planning Commission on **June 27, 2012**, in accordance with these Conditions of Approval.

Any deviation from the approved sign location, sign elevations, materials, colors, or other approved submittal shall require that, prior to the issuance of building permits, the owner or designee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain approval of the Planning Commission, in accordance with the Zoning Ordinance. **(P)**

VA12-0001 shall become null and void if the project is not commenced within two (2) years from the date of approval unless in conjunction with a tentative map, then the project life coincides with the life of the map. Pursuant to Section 64.06(B) of the Zoning Ordinance of the City of Milpitas, commencement shall be:

- a. Completes a foundation associated with the project; or
 - b. Dedicates any land or easement as required from the zoning action; or
 - c. Complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.
2. Pursuant to Section 64.06(1), the owner or designee shall have the right to request an extension of **VA12-0001** if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein. **(P)**
 3. Prior to the issuance of building permits, the owner or designee shall include within the four first pages of the working drawings for a plan check, a list of all conditions of approval imposed by the final approval of the project. **(P)**

(P) = Planning



CAPITAL VENTURES • COMMUNITY DEVELOPMENT • PROPERTY MANAGEMENT

June 21, 2012

Tiffany Brown, Assistant Planner
City of Milpitas
455 E. Calaveras Blvd.
Milpitas, CA 95035

Subject: Apex Wall Sign Variance Findings – Variance No. VA12-0001

Dear Tiffany,

This letter is being provided to address how the following five findings are being met for the City of Milpitas Planning Commission to approve the sign variance application No. VA12-0001. The following is the list of findings followed by applicant response.

1. Special conditions and extraordinary circumstances applicable to the property involved or its intended uses, which were not created by the owner or tenant, and which do not apply generally to other properties with the same land use exist that do not allow the site or business to achieve the goals and objectives of Chapter 10 Section 24 for adequate business identification.

Response: The configuration and location of the site create unusual circumstances related to project identification. Sandwiched between an existing residential development and a proposed park, there are no clear opportunities for erecting a traditional monument sign. To further complicate matters, there is also a utility easement that runs through a portion of the site along Great Mall Parkway. In summary, the site does not allow for the proper implementation of a monument identification sign. In order for approaching traffic to be made aware of the project, the most reasonable solution is to identify the property with a wall mounted sign that faces the corner of Great Mall Parkway and Abel Street. This will allow for appropriate identification, thereby achieving the intentions and provisions of the ordinance.

2. Literal enforcement of the provisions of the City of Milpitas the Sign Ordinance will result in unnecessary hardship inconsistent with the spirit and intent of the Sign Ordinance.

Response: Based upon the proposed location for the wall sign and the distance from which it must be viewed, the code allowance for square footage is inadequate. The location of this sign requires an attempt to interpret the spirit of the code. Given the height of the wall and the distance from the corner, the proposed sign area is actually quite moderate. In addition, the scale relationship between the proposed sign and the wall mass behind it is well balanced. As proposed, this sign is in keeping with the spirit and intent of the ordinance.

3. The granting of the variance is not contrary to the intent of the General Plan, Zoning or Sign Ordinance, or any applicable Specific Plan and will not be contrary to, nor materially detrimental to public interest and welfare, or injurious to conforming signs in the City.

Response: We are aware of no relevant plan or ordinance that will be negatively impacted by the approval of our proposal. The public interest will not be detrimentally impacted. In fact, we believe that the proposed sign will actually be beneficial to the public. There are no conforming sign locations that will be compromised by our proposal.

4. The variance to be granted is one that will require the least modification of the prescribed regulation, and the minimum variance that will accomplish that purpose.

Response: Since the variance request involves a single sign at a strategically chosen location, granting approval is simplest and most direct method of achieving the stated goals.

5. The granting of a variance is not considered a grant of special privileges inconsistent with the limitations of other similarly situated properties.

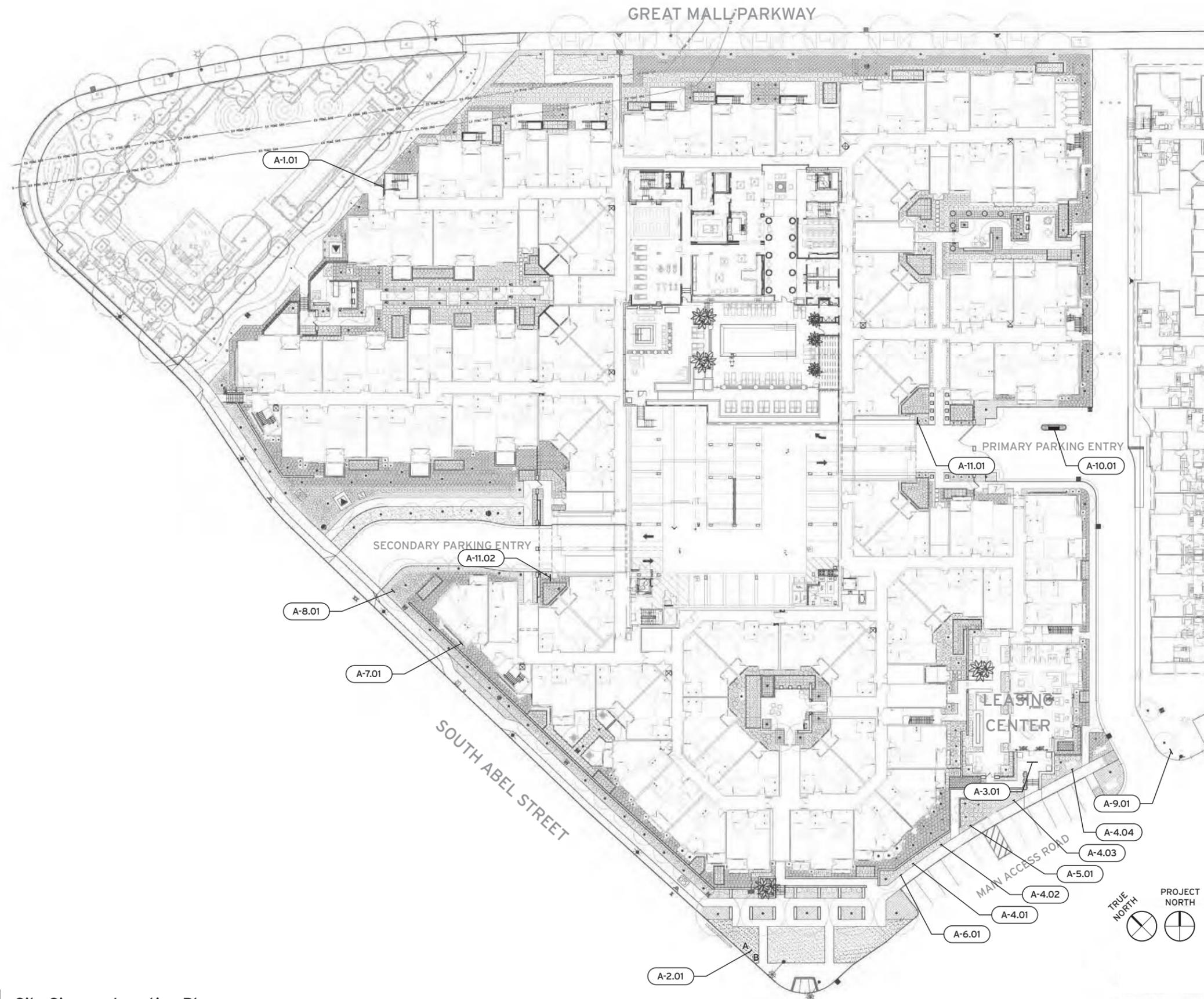
Response: Given the particular circumstances that have generated this request, we are not aware of a comparable situation.

Please feel free to contact me should you have any questions regarding this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill McKibbin".

Bill McKibbin
Senior Development Director,
Lyon Communities
4901 Birch Street
Newport Beach, CA 92660



Group A - Signage Summary

No.	Sign Types	Qty.
A-1	Project Identification Wall Sign - West Elevation	1

1 Site Signage Location Plan

Scale: 1" = 60'



TheDesignFactor

Contact

26432 Las Alturas Avenue, Laguna Hills, CA 92653
 Ph. (949) 360-5750 Fx. (949) 643-2863
 thedesignfactor@cox.net www.thedesignfactor.biz

Project

Apex
 Apartment Community

Sheet Title

Group A
 Site Signage
 Location Plan

Sheet Number

A - LP 1

Date
 05-24-12



Project Identification Sign - West Elevation

Fabricated painted aluminum reverse pan graphic forms with opaque faces and returns, clear acrylic back covers and internal L.E.D. halo lit illumination. "APEX" to have 6" deep returns and the "X" to have 4" deep returns. Letters to be spaced 2 1/2" from face of building.

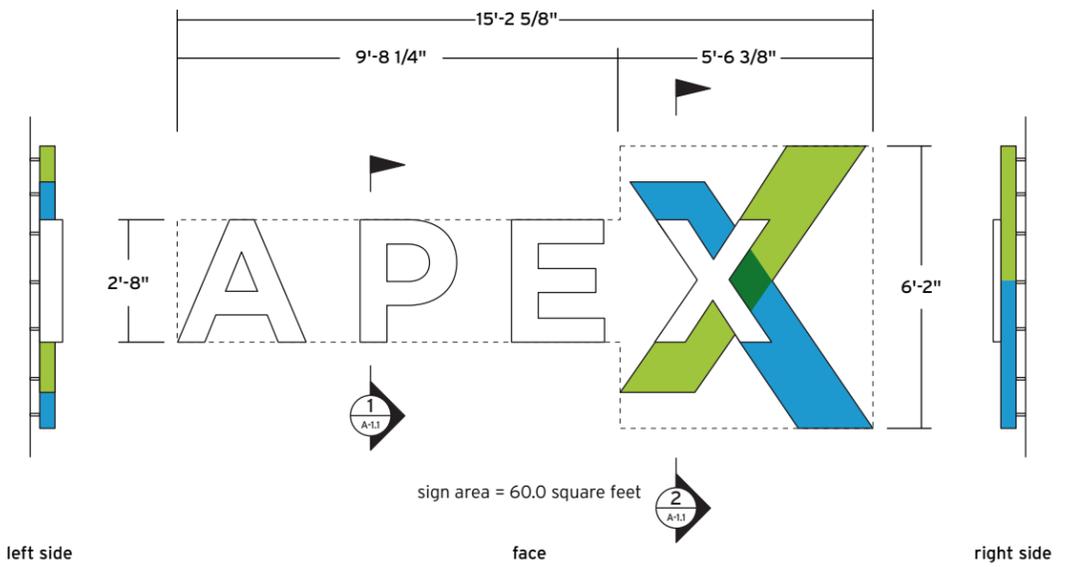


evening detail



day time detail

A-1.01



left side

face

right side

sign area = 60.0 square feet

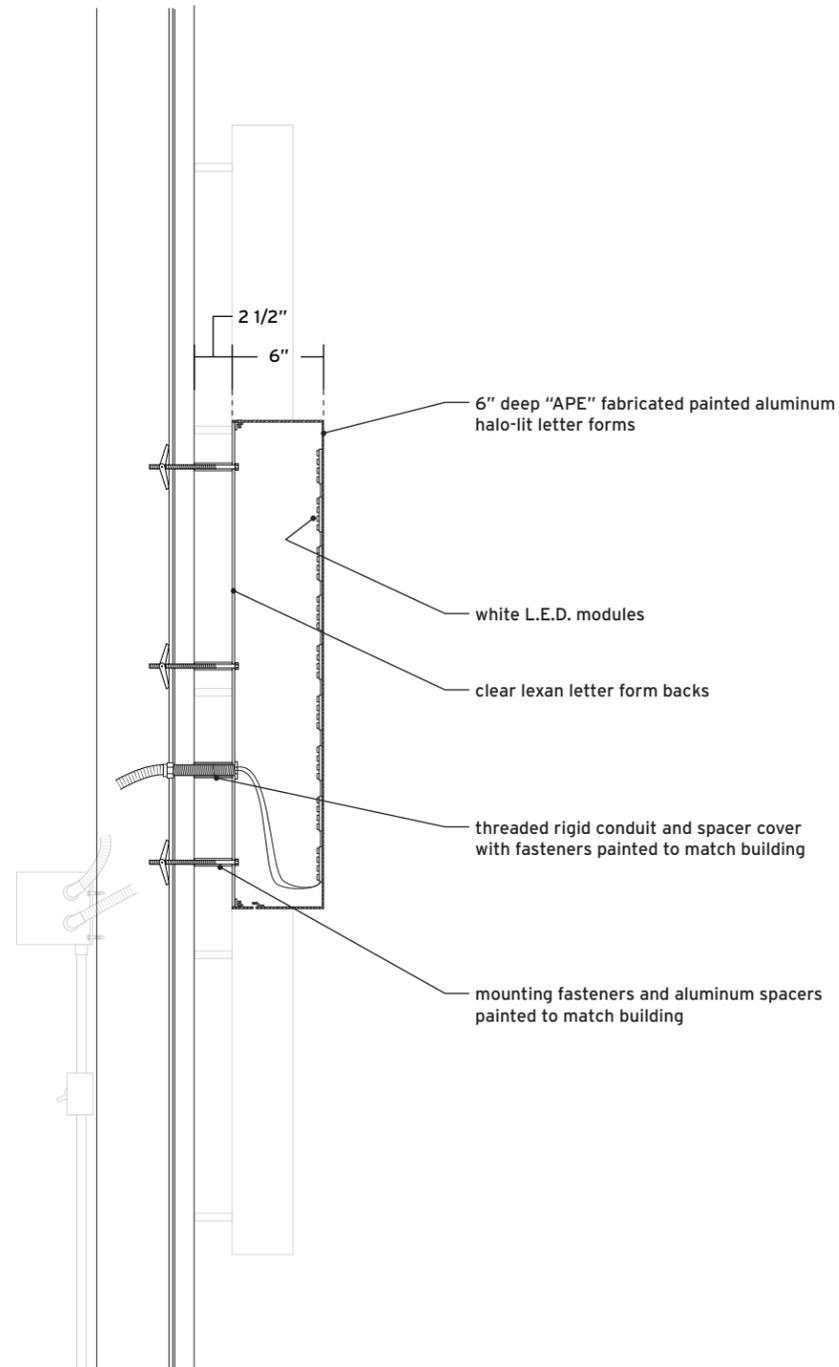
2 Details

Scale: 1/4" = 1'-0"

1 Partial West Elevation

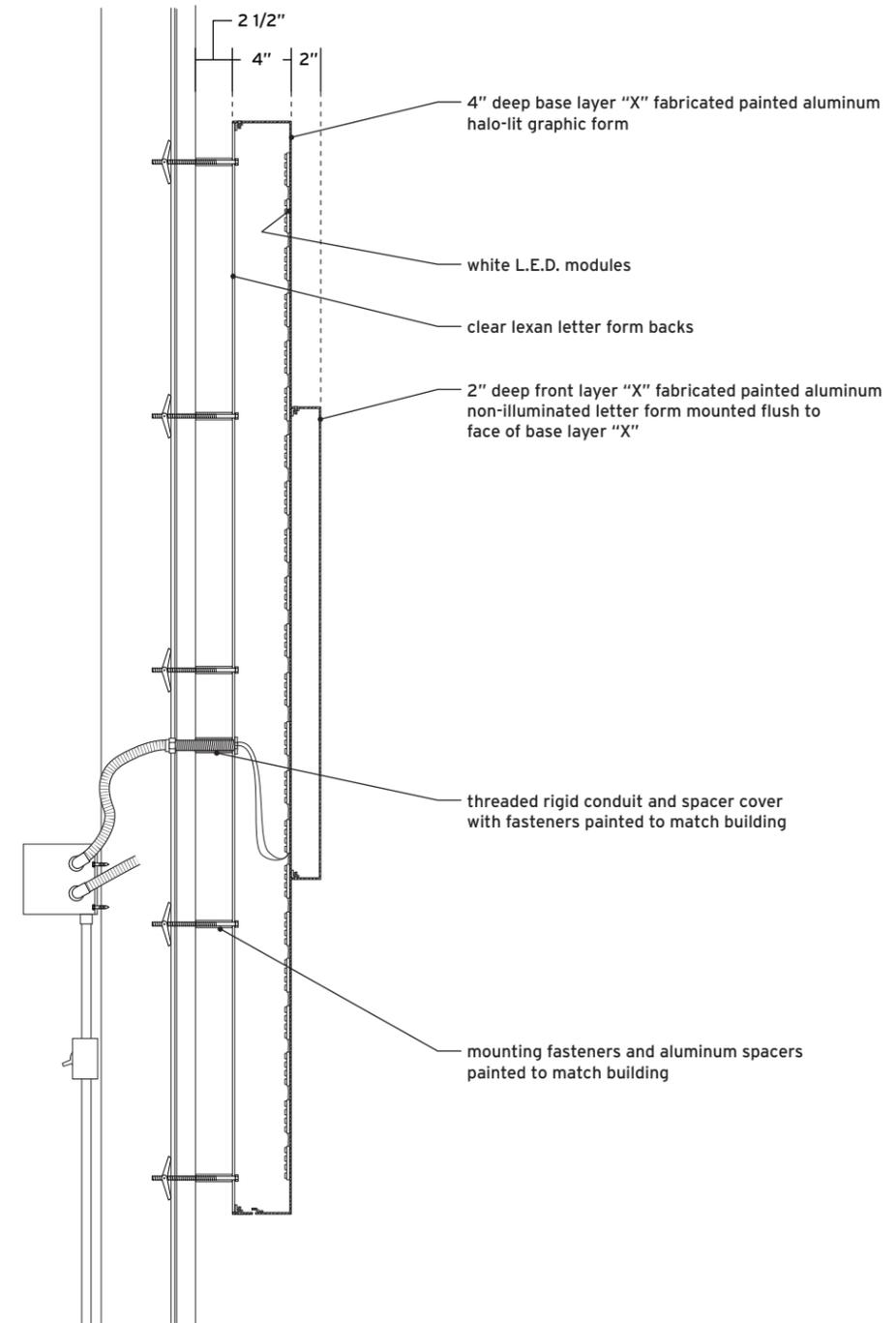
Scale: 3/32" = 1'-0"





1 Typical section @ "APE" letter forms

Scale: 1" = 1'-0"



2 Section @ layered "X" graphic/letter form

Scale: 1" = 1'-0"



Contact

Project

Sheet Title

Sheet Number

Tiffany Brown

From: Ken Girdley [kengirdley@yahoo.com]
Sent: Friday, June 15, 2012 2:38 PM
To: Tiffany Brown
Subject: A Strong NO against Variance Number VA12-0001

Dear Ms. Brown,

I just received notice of Variance Application #VA12-0001 requesting to increase a sign by nearly 100% over the current ordinance requirement. If I understand the variance ordinance correctly, a property owner must show a hardship. They must prove that the ordinance, in this case the sign ordinance, causes an undue burden. I can not see where a burden exists therefore I encourage the Planning Commission to vote NO on Application #VA12-0001.

Respectfully,

Ken Girdley
145 Evergreen Way,
Milpitas, CA 95035