

#### DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

**ACTION DATE:** 

December 1, 2011

TO:

Planning Commission

APPLICANTS:

Dolores Tyneway Robi

K9 Gym and Rehabilitation Center 28714 Canwood Street, Suite 115

Agoura Hills, CA 91301

CASE NO.:

11-VAR-003

LOCATION:

28710 and 28714 Canwood Street

REQUEST:

Request for approval of parking variance from Zoning Ordinance Section 9654.6.B to allow a holistic veterinarian center to locate in a light-industrial center with 52 total onsite parking spaces, instead of the required 68 parking for

all existing and proposed uses.

**ENVIRONMENTAL** 

**DETERMINATION:** 

Exempt from CEQA per Section 15301 of the CEQA

Guidelines.

**RECOMMENDATION:** 

Staff recommends the Planning Commission adopt a motion

to approve Variance Case No. 11-VAR-003, subject to conditions, based on the findings of the attached draft

Resolution.

ZONING DESIGNATION:

BP-M-FC (Business Park-Manufacturing – Freeway Corridor

Overlay)

### I. PROJECT BACKGROUND AND DESCRIPTION

The applicant, Dolores Tyneway Robi, desires to locate a holistic veterinarian center (K9 Gym and Rehabilitation Center) at 28714 Canwood Street, located on the south side of Canwood Street, between Clareton Drive and Derry Avenue. The property was developed

in the 1970s, prior to City incorporation, with two light-industrial buildings totaling 25,400 square feet. The property is located in the (BP-M) Business Park-Manufacturing zone, and is also within the FC (Freeway Corridor) Overlay District.

The center's parking lot accommodates 52 parking spaces that are shared between the two buildings. Thus, the light-industrial center was approved under Los Angeles County's jurisdiction with a required on-site parking ratio of one (1) space for each 500 square feet of building area. Over the years, the center has had a mix of light-industrial, automotive, office, and light retail business tenants. Currently, the property is 70% occupied (18,000 square feet). The current mix of tenants, however, occupies 45 of the 52 parking spaces. Three tenant spaces totaling 7,400 square feet remain vacant. At a 1:500 parking ratio approved for the light-industrial use of these vacant spaces, an additional 14 parking spaces would need to be provided, although only 7 additional parking spaces are—currently available.

The applicant desires to locate her veterinarian center in a 3,000 square foot tenant space (11.8% of the center). The use, which is allowed in the BP-M zone, requires a parking supply of one (1) space for each-200 square feet of gross floor area. This equates to a total parking requirement of 15 spaces for the use. However, this exceeds the original supply for this particular tenant space (6 spaces approved by the County for 3,000 sq. ft. of tenant space). The demand for this business also exceeds the seven parking spaces currently available on site for future tenants. Therefore, the applicant is seeking approval of a parking variance.

The requested variance is for a total of 68 parking spaces for the entire center, which would allow for a sufficient parking supply for the proposed veterinarian center, the existing tenants, and occupancy of two other-vacant tenant spaces (to be parked at a 1:500 parking ratio). This is shown in the following table:

Tenant	<b>Tenant Space Size</b>	Required Parking Spaces
Marrage Dungs	6,000 ag ft	8
Mazzar Rugs	6,000 sq. ft.	
Akey Brakey Auto	3,000 sq. ft.	15
Agoura Boxing	3,000 sq. ft.	9
Auto Show and Sell	2,000 sq. ft.	2
Discount Hockey	3,000 sq. ft.	10
Property Mgr. Storage	1,000 sq. ft.	1
Vacant	2,400 sq. ft.	4
Vacant	2,000 sq. ft.	4
K9 Gym & Rehab. Center	<u>3,000 sq. ft.</u>	<u>15</u>
Total	25,400 sq. ft.	68

Staff would note that the applicant has tenant improvement plans, for the veterinarian center, in plan check with the Building and Safety Department. The applicant entered into plan check at their own risk, with the understanding from staff that a parking variance may be required for the use. At the time, the applicant and staff were informed by the property owners that possible additional vacancies within the center would free additional parking spaces for their use. However, at this time, the property owners have chosen not to vacate any of their existing tenants. Thus, a parking variance is required for any future use of the current vacant tenant spaces (including the veterinarian center). The applicant was also informed that tenant improvement building permits will not be issued for the veterinarian center unless a parking variance is approved.

# II. STAFF ANALYSIS

Based on existing circumstances of the property and the zoning district, and fact that the veterinarian use is allowed in the BP-M zone, staff supports the applicant's parking variance application.

Although the property was developed with a 1:500 parking supply ratio, and there is a current shortage of available parking spaces for vacant tenant spaces on the property, a veterinarian use is only allowed in two zoning districts: the BP-M zone, and CRS (Commercial Retail Service) zone with a Conditional Use Permit. Most existing properties in the BP-M zone were developed with a parking ratio of approximately 1:500. Most developed properties in the CRS zone provide a parking ratio of 1:250 for retail uses and, frequently, more parking spaces for restaurant use. A veterinarian center, such as the one proposed, however, requires a parking ratio of 1:200, even though it is an allowable use in the BP-M zone. Thus, there is a property hardship for this business.

With only 7 parking spaces available for 7,400 square feet of vacant tenant space on the property, it is likely that any future tenant of these spaces would need to apply for a parking variance, given the existing parking demand. The veterinarian center happens to be the first request. Over the years, staff has not noticed a high parking use within the center, although, by code, the property is at near parking capacity. According the applicant's attached Burden of Proof Statement, the parking lot is currently 50% full during the mornings and 10% full after 5:00 p.m. The veterinarian center is proposing to be open Tuesday through Saturday, from 10:00 a.m. to 7:00 p.m. Some of the existing tenants, including Auto Show and Sell and the Property Manager's storage space have no customers. Also, Discount Hockey requires 10 parking spaces by code for this mail-order/retail use, although, according to the business owner, 90% of his business is conducted over the internet and has few walk-in customers. In addition, as shown on the floor plan, a large portion of the proposed veterinarian center consists of a therapeutic exercise area and a hydrotherapy tank/pool for dogs, thereby limiting the employee and customer areas within the tenant space.

As mentioned above, the proposed variance will allow the two other vacant tenant spaces to remain available for uses that require a 1:500 parking ratio, or less. There will be future turnover of tenants at the site but if the variance is approved, the 68 parking space allowance would apply to all future uses of the property. However, the buildings themselves are designed to be more conducive for light-industrial type businesses, within roll-up doors provided for each tenant and limited window space. Although high parking demand uses, such as offices and certain retail uses, are allowed in the zone, staff does not foresee a high demand for such uses at this location given the design of the buildings. It is also likely that when Canwood Street is improved in the near future, between Clareton Drive and Derry Avenue, parking will be prohibited on both sides of the street. Thus, customers of the center will have no option but to park on-site. Thus, if there is a parking shortage for future customers, the businesses themselves would be impacted more than the surrounding properties.

In order to approve a variance application, the Planning Commission must find in favor of five required findings. Below is a list of these required findings, and staff's analysis for each.

# 1. Finding

The strict application of the Zoning Ordinance deprives the property of privileges enjoyed by other property in the vicinity and under identical zoning classification because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings.

#### Staff Analysis

Although the property was developed with a 1:500 parking supply ratio, and there is a current shortage of available parking spaces for vacant tenant spaces on the property, a veterinarian use is allowed in the BP-M zone. A veterinarian center, such as the one proposed, however, requires a parking ratio of 1:200, even though it is an allowable use in the BP-M zone. Thus, there is a property hardship for this business.

#### 2. Finding

The granting of the Variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is situated.

# Staff Analysis

A veterinarian use is allowed in the BP-M zone. Most existing properties in the BP-M zone were developed with a parking ratio of approximately 1:500. A veterinarian center, such as the one proposed, however, requires a parking ratio of 1:200. Therefore, there would likely be a shortage of available parking for any veterinarian use wishing to locate in the BP-M zone, including this property.

# 3. Finding

The strict interpretation and enforcement of the provisions of the Zoning Ordinance would result in practical difficulty or unnecessary hardship inconsistent with the objectives of the Zoning Ordinance.

### Staff Analysis

The Zoning Ordinance states that the purpose of the BP-M zone is "to provide areas for larger scale businesses involved in light manufacturing, research and development, assembly, distribution or services requiring larger facilities in integrated developments compatible with adjacent commercial and residential development." The proposed veterinarian center—is allowed use in the zone, although there is a parking deficiency. The proposed floor plan for the veterinarian center—requires a large facility for the services they are providing, and is conducive for the space available on the property, and would be appropriately located within the existing building. The existing parking requirement for such a use would result in practical difficulty in locating such a use in any BP-M or CRS zone in the city, given the number of available parking spaces within such properties.

# 4. Finding

The granting of the Variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements of the aesthetic value in the vicinity.

# Staff Analysis

All on-site uses are to be conducted indoors and the required parking for existing and proposed uses on the property will not impact adjacent uses or the surrounding neighborhood in that customers will be required to park on-site due to the lack of available off-site parking. In addition, the proposed use will be required to obtain required City building permits.

# 5. Finding

The granting of the Variance will be consistent with the character of the surrounding area.

# Staff Analysis

The proposed veterinarian center is a permitted use in the BP-M zone. All existing and proposed uses are to be conducted indoors and will not impact neighboring properties as there is a lack of available off-site parking.

The proposed project consists of minor alterations within an existing building, and no changes to the exterior portions of the property, and no expansions of an existing use. As such, staff finds the project to be exempt from the California Environmental Quality Act (CEQA), per Section 15301 of the CEQA Guidelines, and no negative declaration or environmental impact report is required.

### III. RECOMMENDATION

Based on the foregoing review and analysis, staff recommends the Planning Commission approve Variance Case No. 11-VAR-003, subject to conditions.

### IV. ATTACHMENTS

- Draft Resolution and Conditions of Approval
- Applicant's Burden of Proof Statement
- Reduced Photocopies of Project Plans
- Vicinity Map

Case Planner: Doug Hooper, Assistant Director of Community Development

# Exhibit A

Draft Resolution and Conditions of Approval

# DRAFT RESOLUTION NO.

# A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS APPROVING VARIANCE CASE NO. 11-VAR-003

THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS HEREBY FINDS, RESOLVES AND ORDERS AS FOLLOWS:

Section I. An application was duly filed by Dolores Tyneway Robi respect to the real property located at 28710 and 28714 Canwood Street (Assessor's Parcel No. 2040-012-024), requesting approval of a Variance from Zoning Ordinance Section 9654.6.B to allow a holistic veterinarian center to locate in a light-industrial center with 52 total onsite parking spaces, instead of the required 68 parking for all existing and proposed uses. A public hearing was duly held on December 1, 2011, at 6:30 p.m. in the City Council Chambers, City Hall, 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place and purpose of the aforesaid hearing was duly given.

<u>Section II.</u> Evidence, both written and oral, was duly presented to and considered by the Planning Commission at the aforesaid public hearing.

Section III. The Planning Commission finds, pursuant to the Agoura Hills Zoning Ordinance, that:

- A. The strict application of the Zoning Ordinance deprives the property of privileges enjoyed by other property in the vicinity and under identical zoning classification because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings. Although the property was developed with a 1:500 parking supply ratio, and there is a current shortage of available parking spaces for vacant tenant spaces on the property, a veterinarian use is allowed in the BP-M zone. A veterinarian center, such as the one\_proposed, however, requires a parking ratio of 1:200, even though it is an allowable use in the BP-M zone. Thus, there is a property hardship for this business.
- B. The granting of the Variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is situated. A veterinarian use is allowed in the BP-M zone. Most existing properties in the BP-M zone were developed with a parking ratio of approximately 1:500. A veterinarian center, such as the one proposed, however, requires a parking ratio of 1:200. Therefore, there would likely be a shortage of available parking for any veterinarian use wishing to locate in the BP-M zone, including this property.
- C. The strict interpretation and enforcement of the provisions of the Zoning Ordinance would result in practical difficulty or unnecessary hardship inconsistent with the objectives of the Zoning Ordinance. The Zoning Ordinance states that the purpose of the BP-M zone is "to provide areas for larger scale businesses involved in light

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manufacturing, research and development, assembly, distribution or services requiring larger facilities in integrated developments compatible with adjacent commercial and residential development." The proposed veterinarian center is allowed use in the zone, although there is a parking deficiency. The proposed floor plan for the veterinarian center requires a large facility for the services they are providing, and is conducive for the space available on the property, and would be appropriately located within the existing building. The existing parking requirement for such a use would result in practical difficulty in locating such a use in any BP-M or CRS zone in the city, given the number of available parking spaces within such properties.

- D. The granting of the Variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements of the aesthetic value in the vicinity. All on-site uses are to be conducted indoors and the required parking for existing and proposed uses on the property will not impact adjacent uses or the surrounding neighborhood in that customers will be required to park on-site due to the lack of available off-site parking. In addition, the proposed use will be required to obtain required City building permits.
- E. The granting of the Variance will be consistent with the character of the surrounding area. The proposed veterinarian center is a permitted use in the BP-M zone. All existing and proposed uses are to be conducted indoors and will not impact neighboring properties as there is a lack of available off-site parking.

Section IV. The Planning Commission finds the proposed project to consist of minor alterations within an existing building, and no changes to the exterior portions of the property, and no expansions of an existing use. As such, staff finds the project to be exempt from the California Environmental Quality Act (CEQA), per Section 15301 of the CEQA Guidelines, and no negative declaration or environmental impact report is required.

<u>Section V.</u> Based on the aforementioned findings, the Planning Commission hereby approves Variance No. 11-VAR-003, with respect to the property described in Section 1 hereof.

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PASSED, APPROVED vote to wit:	and ADOPTED this 1 <sup>st</sup>	day of December, 2011, by the following
AYES: (0) NOES: (0) ABSTAIN: (0) ABSENT: (0)		
		Steve Rishoff, Chairperson
ATTEST:  Mike Kamino, Secretary		

# CONDITIONS OF APPROVAL (CASE NO. 11-VAR-003)

# STANDARD CONDITIONS

- 1. This decision, or any aspect of this decision, can be appealed to the City Council within fifteen (15) days from the date of Planning Commission action, subject to filing the appropriate forms and related fees.
- 2. Except as modified herein, the approval of this action is limited to and requires complete conformation to the approved labeled exhibits: Site Plan, and Floor Plan.
- 3. The approval of this permit shall not be effective for any purpose until the applicant and property owner have agreed in writing that they are aware of, and accept all Conditions of this Permit with the Department of Planning and Community Development.
- 4. It is hereby declared to be the intent that if any provision of this Permit is held or declared invalid, the Permit-shall be void and the privileges granted hereunder shall lapse.
- 5. It is further declared and made a Condition of this action that if any Condition herein is violated, the Permit shall be suspended and the privileges granted hereunder shall lapse; provided that the applicant has been given written notice to cease such violation and has failed to do so for a period of thirty (30) days.
- 6. Unless this permit is used within two (2) years from the date of City approval, Case No. 11-VAR-003 shall expire. A written request for a one (1) year extension may be considered prior to the expiration date.

**END** 

# Exhibit B

Applicant's Burden of Proof Statement

Variance Application for proposed K9 Gym and Rehabilitation (Parking)

- 1a. The property was built in 1970 with two parking spots per thousand sq. feet, at that time the county of Los Angeles permitted and approved the buildings at 28710 & 28714 Canwood Street to be constructed. After that date the City of Agoura Hills has received jurisdiction of the property. Using today's building codes they are stating that we don't have enough parking for our tenants and that is depriving the property and tenants of privileges enjoyed by other properties in the vicinity.
- 1b. The K9 Gym and Rehabilitation Center is an allowable use for this location and has applied for all applicable licenses (has health department approval, city business permit, Veterinary licenses, etc.). Although classified as medical, there is technically approximately 240 square feet dedicated to examination rooms. There is a 120 square foot hallway area and a 126 square foot waiting area. The rest is devoted to treatment of patients and a restroom. The portable canine hydrotherapy tank encompasses approximately 858 square feet and will include one employee therapist and one patient at a time. Treatment times are approximately 30 minutes. When done with therapy in the pool the patient will do therapeutic exercises in the canine therapeutic exercise area, which encompasses approximately 885 square feet. Many of our clients drop their pets off for therapy and pick them up after their 1 hour therapy session. We give new patients 60 to 90 minutes for their initial evaluation and treatment. This is contrary to traditional veterinary practices, which allow an average of 10-15 minutes for an examination. This dramatically decreases the volume of patients and people passing through. Many of our patients are not ambulatory and require intensive attention and time commitment. This is not consistent with a traditional veterinary center setting, and limits the amount of people that can be present at any one time.

My existing business at 4937 Las Virgenes Road is 1,000 square feet functions in an already heavily used center. We perform hydrotherapy in a 500 square feet treatment area. There is little room for therapeutic exercises and the small hydrotherapy tank that we have at this time are the reason we have need for an expansion. This is a secondary support facility and our office at Las Virgenes Road will continue to operate. We function in a center with a Taco Bell, a full service veterinary clinic (Calabasas Animal Clinic), Malibu Liquor, a hair salon, urgent care (which contains an MD, an acupuncturist and a chiropractor), tanning salon and a dental office. There are a total of 62 spaces. There is no parking available on the street and there is never a problem for parking, even at peak times (when Taco Bell is serving lunch).

Office hours will complement our existing hours at our Calabasas location. The office will be closed Sunday and Monday. It will be open Tuesday through Saturday

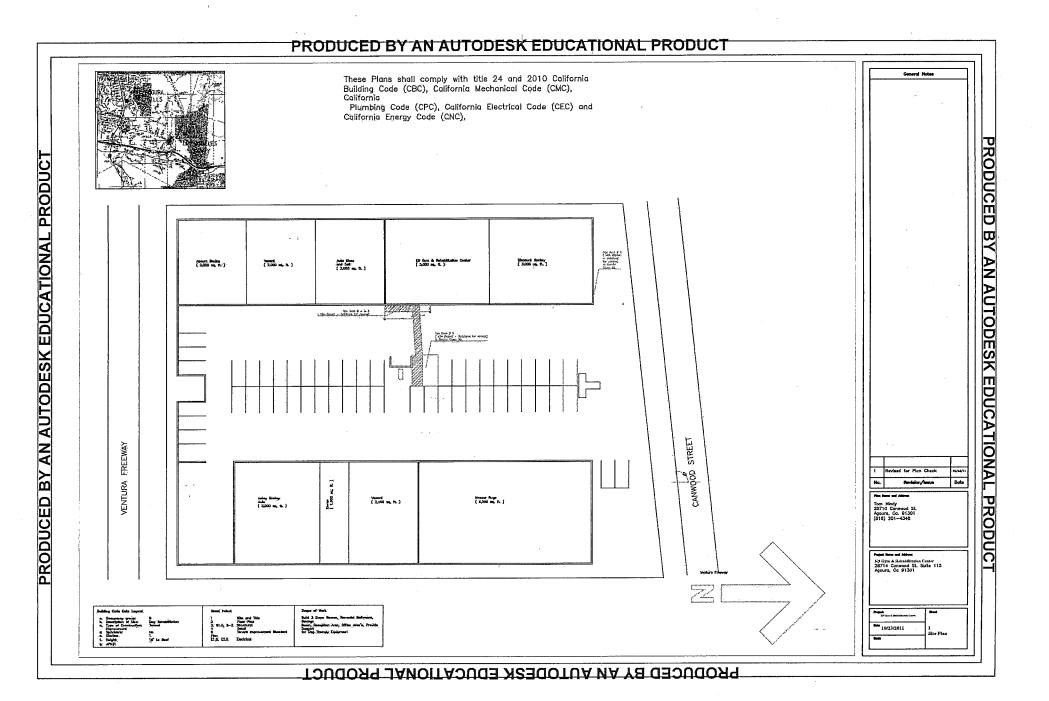
from 10 to 7 PM. There will be one veterinarian and two technicians. At any one time, the highest volume of traffic is four patients per hour at our Calabasas location.

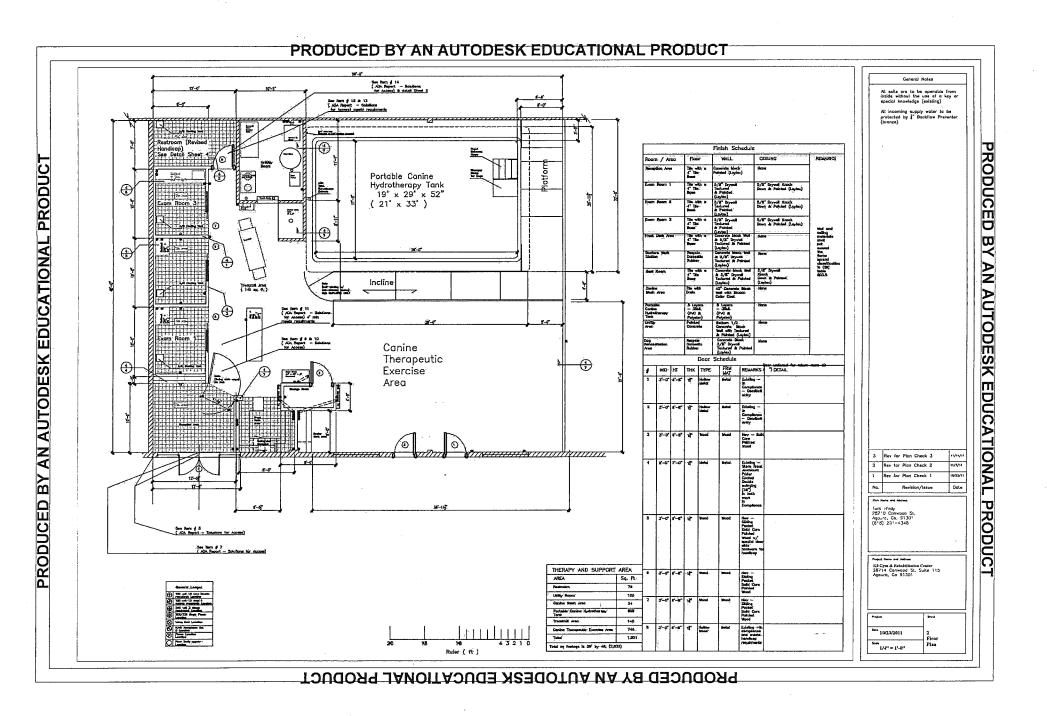
The boxing business has its highest volume from 7 AM to 10 AM and from 7 PM to 9 PM. My hours will not conflict with the function of this business. The Ackey Brakey site is open from 8 AM to 5 PM and most of their volume is in the morning when people are dropping their vehicles off. Mazer Rugs is open 10 AM to 7 PM and his volume is very low. Auto Show and Tell has no business hours. The owner is present on weekends working on vehicles and represents one car. The new Discount Hockey Store is 10 AM to 7 PM and his business is primarily internet focused. Therefore, there should be little impact on area businesses or traffic.

- 2. Strict interpretations and enforcement of the provisions of the Zoning ordinance will result in practical difficulty with the current and future tenants. The current owner of the property has owned for twenty years . They have never had a parking problem for the tenants. In actuality the parking lots is half full 80 % of the day time and 90% empty during the night times. Never has there been a time when anyone could not park on the property. The strict interpretation of the of the provision of the zoning ordinance is hampering the owner of the property in serving the needs of the tenants.
- 3. The granting of this Variance will in no way be detrimental to the Public heath, safety, or welfare, or materially injurious to properties or improvements of aesthetic value in the vicinity.
- 4. The granting of this variance will not impact the character of the surrounding area in a negative way, but in a positive Granting of this Variance will not give any special privileges and is consistent with the limitations upon other properties in the vicinity and zone in which the property is situated. It has no impact on adjacent properties whatsoever.
- 5. The new business is unique to Agoura Hills. Few Veterinary have been willing to go the next step and provide extensive rehabilitation for dogs. The rehab center at the property will be a positive business and reflect positively on the City of Agoura Hills in that the city is looking to the future and supporting new businesses with open doors.

# Exhibit C

Reduced Photocopies of Project Plans





**Exhibit** D

Vicinity Map

