

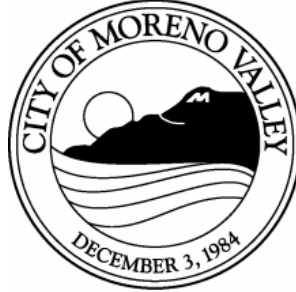
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**PLANNING COMMISSIONERS**

MELI VAN NATTA  
Chair

AMBER CROTHERS  
Vice-Chair

RAY L. BAKER  
Commissioner



JEFFREY GIBA  
Commissioner

CARLOS RAMIREZ  
Commissioner

BRIAN LOWELL  
Commissioner

JEFFREY SIMS  
Commissioner

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# **PLANNING COMMISSION AGENDA**

**July 11, 2013**

**PLANNING COMMISSION MEETING – 7:00 P.M.**

**CITY OF MORENO VALLEY  
City Hall Council Chambers  
14177 Frederick Street  
Moreno Valley, California 92553**

**CALL TO ORDER**

**ROLL CALL**

**PLEDGE OF ALLEGIANCE**

**APPROVAL OF AGENDA**

**PUBLIC ADVISED OF THE PROCEDURES TO BE FOLLOWED IN THE MEETING**

**(ON DISPLAY AT THE REAR OF THE ROOM)**

**COMMENTS BY ANY MEMBER OF THE PUBLIC ON ANY MATTER WHICH IS NOT LISTED ON THE AGENDA AND WHICH IS WITHIN THE SUBJECT MATTER JURISDICTION OF THE COMMISSION**

The City of Moreno Valley complies with the Americans with Disabilities Act of 1990. If you need special assistance to participate in this meeting, please contact Mel Alonzo, ADA Coordinator at (951) 413-3027 at least 48 hours prior to the meeting. The 48-hour notification will enable the City to make arrangements to ensure accessibility to this meeting.

## NON-PUBLIC HEARING ITEMS

1. Recognition of Former Planning Commissioner:  
George Salas, 4 Years of Dedicated Service

## APPROVAL OF MINUTES

1. May 23, 2013

## PUBLIC HEARING ITEMS

1. Case Description: PA13-0019 Amendment to Municipal Code 9.09.170 Service Stations  
Applicant: The Kroger Company  
Owner: City of Moreno Valley  
Representative: Planning Division  
Location: City-wide  
Proposal: The proposed amendment is an update to the Municipal Code service station development standards to reduce service station restroom requirements allowing only one restroom for service stations with a customer service kiosk or convenience store under 500 square feet and two restrooms required for a convenience store or customer service kiosk 500 square feet and over.  
Case Planner: Julia Descoteaux  
**Recommendation:** **APPROVE** Resolution No. 2013-19 and thereby **RECOMMEND** that the City Council:
  1. **RECOGNIZE** that PA13-0019 (Municipal Code Amendment) qualifies as an exemption in accordance with CEQA Guidelines, Section 15061 as defined by Section 15378.
  2. **APPROVE** PA13-0019 (Municipal Code Amendment), Section 9.09.170.C.14
2. Case Description: PA13-0009 Conditional Use Permit  
Applicant: The Kroger Company  
Owner: John C. Taylor  
Representative: Leslie Burnside  
Location: NEC Alessandro Boulevard & Indian Street  
Proposal: The construction of a four island fueling station

to include a 240 square foot kiosk in the Neighborhood Commercial zone.

Case Planner:

Julia Descoteaux

**Recommendation:**

**APPROVE** Resolution No. 2013-20 and thereby:

1. **RECOGNIZE** that PA13-0009 (Conditional Use Permit) qualifies as an exemption in accordance with the California Environmental Quality Act (CEQA) Guidelines, Section 15332 (In-Fill Development Projects); and
2. **APPROVE** PA13-0009 (Conditional Use Permit) subject to the attached conditions of approval included as Exhibit A.

3. Case Description:

P13-027 Amendment 4 to Development Agreement 102-89 (regarding Tentative Tract 24203)

Applicant:

Blue Ribbon Enterprises, LLC and Highland Hills Development Corp.

Owner:

Blue Ribbon Enterprises, LLC and Highland Hills Development Corp.

Representative:

Stuart Greene

Location:

Northeasterly of Pigeon Pass Road and Lawless Avenue.

Proposal:

Amend Development Agreement 102-89 (Amendment 4) to modify the terms of the agreement pertaining to the park site, and to extend the term of the agreement by five years.

Case Planner:

Chris Ormsby, AICP

**Recommendation:**

**APPROVE** Resolution No. 2013-22 and thereby **RECOMMEND** that the City Council:

1. **RECOGNIZE** that the Development Agreement Amendment will not have the potential for any direct or indirect impacts under CEQA and is therefore exempt under Section 15061 of the CEQA Guidelines; and,
2. **APPROVE** Amendment 4 to Development Agreement 102-89 (P13-027) based on the Findings contained in the attached

Resolution.

**OTHER BUSINESS**

**STAFF COMMENTS**

**PLANNING COMMISSIONER COMMENTS**

**ADJOURNMENT**

1 CITY OF MORENO VALLEY  
2 PLANNING COMMISSION  
3 REGULAR MEETING  
4 MAY 23<sup>RD</sup>, 2013

5  
6  
7 **CALL TO ORDER**

8  
9 Chair Van Natta convened the Regular Meeting of the City of Moreno Valley  
10 Planning Commission on the above date in the City Council Chambers located at  
11 14177 Frederick Street.  
12  
13

14  
15 **ROLL CALL**

16  
17 Commissioners Present:

18 Chair Van Natta  
19 Vice-Chair Crothers  
20 Commissioner Baker  
21 Commissioner Giba  
22 Commissioner Lowell  
23 Commissioner Ramirez  
24 Commissioner Sims  
25

26 Staff Present:

27 John Terell, Planning Official  
28 Jeff Bradshaw, Associate Planner  
29 Larry Gonzales, Senior Engineer, Public Works  
30 Suzanne Bryant, City Attorney  
31  
32  
33

34 **PLEDGE OF ALLEGIANCE**  
35  
36  
37

38 **APPROVAL OF AGENDA**  
39

40 **CHAIR VAN NATTA** – Okay, Commissioners I trust you’ve had a chance to look  
41 over the Agenda. Can I have a motion to approve it?  
42

43 **COMMISSIONER BAKER** – I move we accept the Agenda as it stands  
44

45 **VICE CHAIR CROTHERS** - I’ll second

1 **CHAIR VAN NATTA** – Okay moved and seconded; all in favor?

2  
3 Opposed – 0

4  
5 **Motion carries 7 – 0**

6  
7  
8  
9 **PUBLIC HEARING ITEMS**

10  
11 **CHAIR VAN NATTA** – The public is advised that the procedures to be followed  
12 in this meeting are on display in the rear of the room.

13  
14  
15  
16 **PUBLIC COMMENTS**

17  
18 **CHAIR VAN NATTA** – At this point we are going to open the meeting for  
19 comments by any member of the public on any matter which is not listed on the  
20 Agenda but which is within the subject matter jurisdiction of this Commission. I  
21 do have one Speaker Slip and it is Tom Jerele. When you come forward, please  
22 introduce yourself.

23  
24 **SPEAKER JERELE** – I'm Tom Jerele speaking on behalf of myself. Madame  
25 Chairman, Vice Chair and members of the Commission and Staff and the public  
26 both here in the chambers and watching at home on the internet, thank you for  
27 taking a few minutes to hear public comments. I spoke at a meeting; in fact there  
28 is something in the minutes recently about some changes in some our land use  
29 postures and the bottom line is, this City in my opinion is egregiously imbalanced  
30 on just the lower end of the spectrum here. There are good quality projects.  
31 We've got plenty of it but I really implore the Commission to take a hard look at  
32 coming up with more executive level housing in the near future. There are plenty  
33 of good opportunities. There is some incredible land around this City that could  
34 be brought in and provide a real what I call balance to the community here.

35  
36 It is more than just the direct values of the product that you might get. It is the  
37 business leaders and professionals that you'll get that will come in that will be  
38 able to contribute to our schools, to our charities and hopefully bring in jobs and  
39 increase our tax base. So it is an issue I think that needs to be dealt with. I will  
40 remind you that at the absolute peak of our building boom when we were getting  
41 450 and 500 and 600 thousand for homes, I spoke to one of the BIA executives  
42 and I mentioned that we were finally getting some high end housing in Moreno  
43 Valley and I got a quick and curt response saying that there is no high end  
44 housing in Moreno Valley. I represent the same builders that are building the  
45 same houses in Temecula and Murrieta, Riverside and Corona and the same  
46 box will get two to three, four, five hundred thousand dollars more for the same

1 product and went on further to say Moreno Valley is a low end community and is  
2 always going to be a low end community and that's all it is going to be and I think  
3 you know 200 thousand plus people and we need a balance in the community,  
4 so I just encourage the Commission to look at all end of the spectrum to balance  
5 this community out. Thank you very much.

6  
7 **CHAIR VAN NATTA** – Thank you

8  
9 **COMMISSIONER GIBA** – Mr. Jerele; Tom, do you think hillside residential  
10 direction is one to go for high end housing that you are looking for?

11  
12 **SPEAKER JERELE** – You know you look throughout Southern California and  
13 that is where your executive housing traditional housing. I cited hillside in  
14 Corona which would be illegal to build on the way they build here and it is not  
15 houses on stilts or anything. It is kind of standard form product there, but I  
16 counted 23 million dollars worth of real estate sitting there from the homes in  
17 Corona there and that was using low current valuation or recession value product  
18 at that time. Like I said that same product because of the slope could not even  
19 be addressed in Moreno Valley or at best we might get one house. In which  
20 case the million ticket is you don't have to go up and it doesn't have to be 10  
21 acres or anything. Actually the miracle number is one acre because that will  
22 afford you to bring the water into the area, which years ago I walked in on the  
23 Fire Marshall before Mr. Metz came on board and he had a big map; a  
24 topographic map of Moreno Valley and the surround and I thought somebody  
25 had put a project in and I asked what he was working on and he said he was  
26 trying to figure out a good fire break for these hills if they were ignited to stop it  
27 from coming in to our City, because we are just a sitting duck and with an  
28 adequate road system, trail system and proper open space and proper spaces  
29 and water system, you had the opportunity to create the adequate fire breaks as  
30 well as bringing the values up, so there is added values and as well as bringing  
31 up the whole prestige of the community.

32  
33 **CHAIR VAN NATTA** – Thank you

34  
35 **COMMISSIONER GIBA** – Well thank you.

36  
37 **CHAIR VAN NATTA** – I have another slip here from someone who would like to  
38 speak... Tracy Hodge. Please introduce yourself.

39  
40 **SPEAKER HODGE** – Good evening. I'm Tracy Hodge. I am a resident on the  
41 east end of town and I have come here tonight primarily to ask a question. I  
42 have been trying to get a little bit more understanding as to some of the project  
43 processes and the due diligence that is done at least on a planning level and so I  
44 have spent a little bit of time coming through just the current projects that are at  
45 least have minutes on the current website to review and a question that I'd like to  
46 clarify and maybe you guys could all help me out with is that there are questions

1 in regards to the World Logistics Center that District 3 is ramping up to absolutely  
2 oppose because I believe that there is better sales tax base revenue opportunity  
3 for all of that land out there, but one of the questions and concerns that I am  
4 bringing tonight is I believe according to these minutes from February 28<sup>th</sup>  
5 Planning Official Terell I believe had specifically indicated that the standard land  
6 development conditions is that you approve a project before you consider the  
7 mitigation issues and so my question is do you really approve projects before you  
8 consider what the true impact is to figure out if the issues are mitigateable? I  
9 think I may have just made up that word, but I would like to know from a  
10 procedures and standards practice on approving projects for our community.  
11 What do you guys do first? Do you actually approve a project and then figure out  
12 how to fix it afterwards or do you really pay attention to the true impact that it has  
13 on our community first and then determine whether or not the it is even a project  
14 that even fits in our community, because for me as a resident that has been here  
15 for a lot of years, I'm a stakeholder in this community as well as a lot of people in  
16 this room and I'm sure a lot of you are as well. We care about what happens in  
17 our community and warehouses are not what fits in the east end of our City. Also  
18 we do have our community awareness programs that we have been hosting on  
19 an ongoing basis just to educate our community as to the devastation that this  
20 project is going to bring should you guys approve this project and I do have a  
21 video that I'd like to be able to leave all of you from the American Lung  
22 Association that they have absolutely put together to help educate our  
23 community and the decision makers and policy makers in our community, but  
24 ultimately my question tonight is posed to you. Do you really approve a project  
25 before you figure out what the mitigating factors are because my request would  
26 be let's figure out what the true impact is first and if we can't mitigate it then let's  
27 not approve the project.

28  
29 **CHAIR VAN NATTA** – Okay I'm going to ask Mr. Terell if he can please explain  
30 the context of his quote that you had there and just very briefly explain how the  
31 process goes ahead.

32  
33 **PLANNING OFFICIAL TERELL** – Well I don't have the quote in front of me but I  
34 can say unequivocally mitigation is part of the environmental findings on a project  
35 and the environmental findings always have to be made before the project is  
36 acted upon, so mitigation is never done after the project is approved, it has to be  
37 identified before the project can be approved. That is the environmental process.  
38 Environmental gets reviewed first, then the project and mitigation; there is  
39 standard mitigation in the land development conditions of approval and those are  
40 considered mitigation in any environmental review. They just have to be  
41 standard conditions so they're identified in the conditions of approval, but they  
42 are also required by force of law, so they in fact are considered as the Staff  
43 reviews a project. They are not considered after a project is approved.

44  
45 **SPEAKER HODGE** – And I just wanted to clarify that, so thank you, I appreciate  
46 it.



1 **CHAIR VAN NATTA** – Okay, thank you. I don't have any other Speaker Slips  
2 and do not see anyone coming to the lectern so then we will close the comment  
3 section and go on to our Non-Public Hearing Items.

4  
5  
6  
7 **NON-PUBLIC HEARING ITEMS**

8  
9 **1. PA13-0020 Fiscal Year 2013-2014 Proposed Capital Improvement**  
10 **Plan Conformance with the General Plan**

11  
12 **CHAIR VAN NATTA** – Item No. 1 is PA13-0020, Fiscal Year 2013-2014  
13 Proposed Capital Improvement Plan Conformance with the General Plan and do  
14 you have a presentation for us?

15  
16 **PLANNING OFFICIAL TERELL** – Yes, Larry Gonzales from the City's Capital  
17 Improvement Program is going to give that presentation.

18  
19 **PUBLIC WORKS ENGINEER GONZALES** – Good evening Chair and members  
20 of the Commission. My name is Larry Gonzales. I'm a Senior Engineer in the  
21 Public Works Department. I'm here tonight to present to you the Fiscal Year  
22 2013-2014 Proposed Capital Improvement Plan or CIP. The CIP was reviewed  
23 without comment by the City Council during the Study Session this past Tuesday.  
24 It is part of the City budget adoption process. The CIP information that you have  
25 in your packet is a summary of projects listed by category. The 2013-2014  
26 proposed CIP was also posted on the City's internet site and emailed to you on  
27 May 6<sup>th</sup>, 2013. There are over 400 projects listed in the document. It is a  
28 planning document that serves to identify various types of improvements that the  
29 City would need over the next five years and beyond, that is to build-out. All  
30 projects listed are in conformance with the City's General Plan and are within the  
31 State Law Guidelines. The document is also consistent with California Mitigation  
32 Act AB1600. Staff annually brings this document before the Planning  
33 Commission solely to make a finding that the document is in conformance with  
34 the City's General Plan. If the Planning Commission makes a finding that the  
35 document is in conformance with the City's General Plan, the document is  
36 tentatively scheduled to go before City Council for adoption on June 11<sup>th</sup> of this  
37 year. Staff therefore recommends that the Planning Commission make a finding  
38 find that the CIP is in conformance with the City's General Plan and this  
39 concludes my report and I'm available for questions.

40  
41 **CHAIR VAN NATTA** – Any questions?

42  
43 **COMMISSIONER GIBA** – Down on your attachment for the Capital Improvement  
44 Plans, I just want a little bit of clarity. This goes out from fiscal year 13-14 all the  
45 way out to fiscal year 17-18 and beyond?

1 **PUBLIC WORKS ENGINEER GONZALES** – Correct

2  
3 **COMMISSIONER GIBA** – The large categories here as there are so many here  
4 like this little quickie here but this is a budget for all intents and purposes about  
5 what we plan to do in the future. Could you briefly explain how you came up with  
6 these types of numbers for these periods of years? I see some ups and downs  
7 and I know there is probably some justification for it. For example you have  
8 65,532 in 15-16 and then all of a sudden down 15,700 and all of them have some  
9 adjustments but I don't know why you made those decisions; why at some point  
10 this was important to spend that much money on and then two years down the  
11 line which is even here we've decided to spend this much or not this much, so  
12 can you give me the rationale or logic of how this was developed?

13  
14 **PUBLIC WORKS ENGINEER GONZALES** – Yes, typically let's take street  
15 improvements for example. That is our largest category and obviously in the  
16 carryover fiscal year 13-14 and the new request 13-14 and that is this upcoming  
17 fiscal year, so those are the projects that typically the Staff recommends to the  
18 Council that needs to move forward for various reasons and Council of course  
19 approves or modifies that. When you get into the years for example 14-15, 15-  
20 16, 16-17; sometimes a project; let's say a street improvement project is in the  
21 beginning stages, some of these projects could be spread over two, three or  
22 even four years depending on the size of the project, so what we do is we'd show  
23 perhaps the first phase; the environmental or planning phase as part of the 13-14  
24 budget, but then in order to properly show what the spending for the whole  
25 project will be we'll show the remaining funding in the future plan years. Perhaps  
26 in 13-14 there might be full design; 14-15 it could be the right-of-way phase and  
27 then perhaps 15-16 construction and so you have some projects that are  
28 currently budgeted that carry on throughout future years, then you also have to  
29 look at projects that are not currently funded and so Staff takes what we try to  
30 make a reasonable guesstimate as far as when those would be programmed,  
31 based on how important they are to be completed and so that's why as you see  
32 as you get further and further out to the second to last column which is fiscal year  
33 17-18 and beyond, you've got a huge 583 million dollar price tag there. Well that  
34 is all those projects that we don't see an immediate need for but we know that  
35 absolutely for build-out they are going to have to be done at some point and that  
36 carries across all the categories.

37  
38 **COMMISSIONER GIBA** – Yes because we don't always have your rationale and  
39 we trust you are doing the proper direction, but it is always nice to know exactly  
40 how you are thinking through the process and takes a lot of fear and anxiety out  
41 of some people's; mine particularly. Thank you

42  
43 **PUBLIC WORKS ENGINEER GONZALES** – You're welcome

44  
45 **CHAIR VAN NATTA** – Are there any other questions for Staff? Okay then we  
46 needs a motion for the recommendation. There are no Speaker Slips on this.

1 **COMMISSIONER BAKER** – I move that the finding for the Fiscal Year 2013-  
2 2014 Proposed Capital Improvement Plan is in conformance with the City of  
3 Moreno Valley's General Plan.

4  
5 **CHAIR VAN NATTA** – Is there a second?

6  
7 **VICE CHAIR CROTHERS** – I'll second

8  
9 **CHAIR VAN NATTA** – Okay moved and seconded; all in favor?

10  
11 Opposed – 0

12  
13 **Motion carries 7 – 0**

14  
15  
16  
17 **2. APPROVAL OF MINUTES**

- 18 • **February 28<sup>th</sup>, 2013**  
19 • **March 14<sup>th</sup>, 2013**  
20 • **April 25<sup>th</sup>, 2013**  
21

22 **CHAIR VAN NATTA** – Okay we're going to go on to the approval of the minutes  
23 and may I mention that the members that were not present for these can abstain  
24 from voting on them. You have received and I'm hoping you've had an  
25 opportunity to review the minutes and we'll start with the ones from February  
26 28<sup>th</sup>, 2013. We'll do them each individually.

27  
28 **VICE CHAIR CROTHERS** – I'll motion to approve

29  
30 **COMMISSIONER BAKER** – And I'll second

31  
32 **CHAIR VAN NATTA** – We have a motion and a second; all in favor?

33  
34 Opposed – 0

35  
36 Abstentions – Commissioner Lowell  
37 Commissioner Sims

38  
39 **Motion carries 5 – 0 – 2, with two Abstentions**

40  
41 **CHAIR VAN NATTA** – Okay, the minutes from March 14<sup>th</sup>, 2013

42  
43 **VICE CHAIR CROTHERS** – I'll motion to approve

44  
45 **COMMISSIONER GIBA** – I'll second  
46

1 **CHAIR VAN NATTA** – Okay all in favor?

2

3 Opposed – 0

4

5 Abstentions – Commissioner Lowell

6

Commissioner Sims

7

8 **Motion carries 5 – 0 – 2, with two Abstentions**

9

10 **CHAIR VAN NATTA** – Okay and from April 25<sup>th</sup>, 2013

11

12 **VICE CHAIR CROTHERS** – I'll motion to approve

13

14 **COMMISSIONER GIBA** – I'll second

15

16 **CHAIR VAN NATTA** – Okay a motion and a second; all in favor?

17

18 Opposed – 0

19

20 **Motion carries 7 – 0**

21

22 **CHAIR VAN NATTA** – Okay two abstentions...

23

24 **COMMISSIONER SIMS AND COMMISSIONER LOWELL** – No, we were here

25

26 **CHAIR VAN NATTA** - I'm sorry I didn't even...I see, let me back up; all in favor?

27

Okay, that time I heard them; okay... And those minutes are approved.

28

29

30

31 **PUBLIC HEARING ITEMS**

32

33 **Case Number:**

**PA13-0006**

**Plot Plan**

34

**PA13-0007**

**Zone Change**

35

**PA13-0008**

**General Plan Amendment**

36

**P13-029**

**Variance**

37

38 **Case Planner:**

**Jeff Bradshaw**

39

40 **CHAIR VAN NATTA** – Okay we move now in our Public Hearing Items. The first

41

case is PA13-0006 Plot Plan, PA13-0007 Zone Change, PA13-0008 General

42

Plan Amendment and P13-029 Variance and our Case Planner is Mr. Bradshaw.

43

Would you like to make the presentation please?

44

45 **ASSOCIATE PLANNER BRADSHAW** – Thank you. Good evening Chair and

46

members of the Planning Commission. The project before you includes the four

1 applications as described in the Agenda. The Boulder Ridge Family Apartments  
2 proposes to develop a 141 unit affordable apartment project at the southeast  
3 corner of Lassalle and Alessandro Boulevard. This development would occur on  
4 the 10 acres at that corner and as described, the density and the layout of the  
5 project will require approval of a General Plan Amendment, Zone Change and a  
6 Variance. The site is currently vacant. The topography varies from  
7 approximately level at the street frontages along Alessandro Boulevard and  
8 Lassalle Street and then from there it transitions into some slopes and hillside  
9 with substantial rock outcroppings on the top.

10  
11 The land use changes proposed would result from the existing land use pattern  
12 there now which is a combination of Neighborhood Commercial on the immediate  
13 corner and R15 which is a multiple family development designation. The  
14 proposal is to change from that combination of uses to an R30 zone and Open  
15 Space and the R30 is a multiple family zone as well. It allows for higher density  
16 and that zoning and General Plan designation would apply to the portions of the  
17 site that are level and those proposed for actual construction and it would  
18 include the corner and up to the toe of the manufactured slopes. The Open  
19 Space would apply to the slope areas and the hilltop and this would allow for  
20 some protection; some permanent protection of that hillside and allow us to be  
21 able to protect the slopes and the rock outcroppings.

22  
23 As part of the environmental preparation for this project, a focused traffic analysis  
24 was prepared in April of this year and the results of that demonstrated that  
25 project traffic resulting from the zone change would be less than the traffic  
26 projections under the current zoning and additionally the project would not  
27 exceed General Plan build-out traffic projections for the project site. Surrounding  
28 land uses include similar zoning. The land use to the south and east is the R30  
29 zone and the corners are zoned for commercial development, with single family  
30 zoning further to the north and the west and so in terms of compatibility the land  
31 use changes are consistent with the goals and policies of the General Plan and is  
32 consistent with an existing or established land use pattern for this neighborhood.

33  
34 The variance proposed is a request to reduce the covered parking requirement  
35 for three bedroom units in this project. Affordable housing as a category allows  
36 for reduced parking and it is an important distinction I think to point out that a  
37 variance does not suggest or ask for a reduction in required parking. The design  
38 of the project meets and satisfies the City standards for parking for this type of a  
39 project but the variance would allow for a little more freedom in the design of the  
40 project by allowing the covered parking requirement for those units to be reduced  
41 and if you look at the site plan on the interior, especially between buildings 3 and  
42 7, we are working with the Applicant to try and open up that area and offer more  
43 useable passive open space and it really freed up the area in the center of the  
44 site to be able to relieve the project of that covered parking requirement. It  
45 allowed the design to be able to be consistent with requirements for parking lot  
46 landscape and so Staff is recommending that change in this case.

1 The Plot Plan itself proposes a total of 8 three story buildings. The elevations  
2 were provided to you in the packet that you received. They are of contemporary  
3 California mission-style type architecture. They include tuck under parking with  
4 the parking all oriented towards the inside of the site with the building fronts and  
5 the architectural details facing outward where they are visible to the public. The  
6 design architectural details included in the project include recessed windows,  
7 articulated roof overhangs, arch details at the stair enclosures and private patios.  
8 The buildings themselves; the 8 buildings; there is variation amongst those  
9 buildings through the use of different color schemes and some additional details  
10 that vary amongst the buildings. Some of those would include decorative stone  
11 elements, metal awnings, decorative wrought iron elements, exposed rafter tails  
12 and trellis structures as well. The recreation buildings are consistent with that  
13 same established architecture with similar colors and materials being utilized  
14 there and the project as a whole meets and satisfies the standards of the R30  
15 zone as well as the City's design guidelines for multiple family uses.

16  
17 With regards to the environmental; a number of technical studies were provided  
18 to Staff for review for a variety of different topics including traffic, biological  
19 resources, cultural resources, water quality, hydrology and slope stability. Those  
20 were presented to Staff for review and approval and some of those studies did in  
21 some instances recommend mitigation measures. The Initial Study checklist  
22 which was also provided to you was completed and through that exercise we  
23 were able to examine potential impacts that might result from the project and  
24 where applicable, mitigation measures and conditions of approval have been  
25 implemented for the project to reduce any potential impacts to a less than  
26 significant level. As designed and conditioned, the project will not have a  
27 significant effect on the environment and Staff is recommending approval of a  
28 Mitigated Negative Declaration for the project.

29  
30 Standard notice was provided for the project. The site was posted with mailing  
31 notices going out to neighboring property owners and a newspaper notice was  
32 published and as of this evening, I hadn't received any phone calls or inquiries  
33 about the project. Staff would recommend that the Planning Commission  
34 approve Resolution No. 2013-17 and through that resolution recommend to the  
35 Council that they adopt a Mitigated Negative Declaration for the project and  
36 approval of the General Plan Amendment, Zone Change, Variance and Plot Plan  
37 and with that, that concludes my report and I'd be happy to answer any questions  
38 for you and the Applicant is here with their Project Engineer and Architect as  
39 well.

40  
41 **CHAIR VAN NATTA** – Okay, Commissioner Crothers

42  
43 **VICE CHAIR CROTHERS** – I have a question Jeff. You mentioned that you  
44 were talking to the developer about making space between Building 7 and  
45 Building 3 to create more parking? Is that correct?  
46

1 **ASSOCIATE PLANNER BRADSHAW** – To open up the site. Actually in the  
2 early stages of the review; kind of that center island area, covered parking  
3 radiated all the way around the outside of that area and so there really wasn't  
4 any true kind of openness if you will and by reducing the covered parking we  
5 were able to actually be able to increase the open space, maneuver Building 7 to  
6 an area to where it seemed more appropriate in terms of its relationship with the  
7 other buildings, so the variance didn't add parking, it freed up the available space  
8 to do more with what was there.

9  
10 **VICE CHAIR CROTHERS** – Okay, thank you.

11  
12 **CHAIR VAN NATTA** – So the drawings that we see are with that adjustment  
13 already made; the ones that we got?

14  
15 **ASSOCIATE PLANNER BRADSHAW** – That's correct. They anticipate... they  
16 would be representation of what the site would look like with the variance being  
17 approved.

18  
19 **CHAIR VAN NATTA** – Okay, any other questions for Staff?

20  
21 **COMMISSIONER SIMS** – I do if you wouldn't mind; a couple of them, so I'm  
22 pretty new at this on the Planning Commission, so pardon my questions. The  
23 designation of affordable apartment project; what does affordable mean? Is that  
24 a code? Is that something distinctive type of thing that qualifies them for the  
25 zoning or what is that all about?

26  
27 **PLANNING OFFICIAL TERELL** – Yes under State Law we are required to  
28 provide incentives for what is called affordable housing and that generally refers  
29 to housing affordable to households making less than 80 percent of the median  
30 income for the County and that number is roughly 60 thousand dollars, so it is  
31 people making less than 60 thousand dollars a year for a family of four and for  
32 this particular project, the only modification is a slight reduction in the number of  
33 parking spaces and also the recommended variance of reduction in the covered  
34 parking. So in this project every unit will still have one covered parking space,  
35 but that is the only difference in the design of the project and that is required by  
36 State Law that we provide certain incentives to folks that want to develop that  
37 kind of project.

38  
39 **COMMISSIONER SIMS** – Does the designation of affordable project like that  
40 with the incentives, which I don't understand; I don't know what those are, but  
41 that runs with the project. Is there a designated amount of time that the project  
42 has to stay classified and operate as an affordable project and then at some  
43 point can it be transferred over into non-affordable, if that makes sense?  
44

1 **PLANNING OFFICIAL TERELL** – Most of these projects are intended to be  
2 permanently affordable, but under the regulations it has to be affordable for a  
3 minimum of 55 years.

4  
5 **COMMISSIONER SIMS** – And I have one more if I can indulge. Under; I think is  
6 condition P... it's on page 115... P7 I think it is. It is about the open space I'm  
7 assuming. The developer and it is P7, but they should be responsible for  
8 maintaining any undeveloped portion of the site in a manner that provides for  
9 control of weeds, erosion and dust, so I was just wondering there is a fairly  
10 significant acreage that is going to be dedicated to the City I suppose for open  
11 space. You know it is kind of a big rock pile and I can't imagine there would be a  
12 lot going there, but is there kind of an annuity or some kind of endowment or  
13 some kind of financial arrangement that the developer is required to provide the  
14 City with ongoing mitigation to keep that property up for dust, weeds, rodents or  
15 whatever.

16  
17 **PLANNING OFFICIAL TERELL** – Yes actually in this case part of the proposal...  
18 the hillside is currently zoned for 15 units per acre. Part of this proposed project  
19 would be changing the designation from R15 to Open Space and that will be  
20 permanent Open Space that will actually; it will have what we call... it will have  
21 environmental constraints over it, so it will be recorded that it has to stay Open  
22 Space permanently but it will be retained as private property, so the owner of this  
23 project will continue to have to maintain and pay for the cost of any maintenance  
24 of that area.

25  
26 **COMMISSIONER SIMS** – And how is that done in perpetuity? Is that recorded  
27 with the deed of the property or is there some kind of covenant?

28  
29 **PLANNING OFFICIAL TERELL** – Yes it is recorded with... it is recorded on the  
30 property. They call it an environmental constraint sheet but it is actually a  
31 recorded document.

32  
33 **COMMISSIONER SIMS** Thank you

34  
35 **CHAIR VAN NATTA** – Yes go ahead Commissioner Lowell

36  
37 **COMMISSIONER LOWELL** – As far as the open space is concerned, what kind  
38 of maintenance would there be on the open space? Is there landscaping? Is it  
39 going to be left natural or trails or...?

40  
41 **ASSOCIATE PLANNER BRADSHAW** – This P7 really is a more generic  
42 condition, it applies, I think more appropriately to projects where maybe they are  
43 being phased and over time the intent is develop the entirety of the site and we  
44 would want to make sure that the undeveloped portion is maintained to a City  
45 standard. In this case I don't know that P7 is necessarily intended to address the



1 open space area at all. The intent would be that it just remains undisturbed  
2 passive natural open space.

3  
4 **COMMISSIONER LOWELL** – Okay, thank you

5  
6 **CHAIR VAN NATTA** – Any other questions before I start on mine?

7  
8 **COMMISSIONER GIBA** – I know you always like to go last. Really just a couple  
9 of them.

10  
11 **CHAIR VAN NATTA** – That’s okay if you cover them; I’ll just cross them off my  
12 list

13  
14 **COMMISSIONER GIBA** – Well that’s what I waiting for this time. John didn’t we  
15 just a little while ago have a discussion on the R30 on the Alessandro Corridor  
16 and I thought that was the same corner. Maybe I’m wrong, because I couldn’t  
17 dig my old notes on that. That was the same corner that we did a land swap on  
18 that R30 for Corridor. Was that it or was it a different piece of property?

19  
20 **PLANNING OFFICIAL TERELL** – It was actually the property immediately to the  
21 east

22  
23 **COMMISSIONER GIBA** – To the east of it; okay so it’s that little square spot.

24  
25 **PLANNING OFFICIAL TERELL** – Correct

26  
27 **COMMISSIONER GIBA** – So my question then is we were supposed to have  
28 some get together yesterday on the R30 Corridor. If you are going to approve  
29 this one for R30 and it was originally R30, but it was along that Alessandro  
30 Corridor, how is it going to affect that plan that we talked about previously?

31  
32 **PLANNING OFFICIAL TERELL** – It won’t affect it. In essence we had to meet a  
33 minimum number for the State for our next Housing Element round, so this is I  
34 guess in addition to that. Really what it does is it provides us the flexibility should  
35 we want or somebody wants to remove some of the other R30, so it gives us  
36 more flexibility to make changes elsewhere in town.

37  
38 **COMMISSIONER GIBA** – That was the direction I was going with that. Now if  
39 you approve this one and it is on the same corridor, later on we could say we  
40 could change something at another one. These are the things that happen and  
41 this is more academic questions from those who are in the audience. If you don’t  
42 follow all these things that are going on, you would think something was  
43 happening that really wasn’t happening because these are the kinds of things  
44 that happen early on in the projects that go on and then later down the road, if we  
45 come out and say we are going to change that, then you are going to say well  
46 you know I thought we had this R30 corridor here. Why are you changing that

1 now? Well this is why. We can do that, so for anybody that doesn't really  
2 understand how that works because I'm still learning too.

3  
4 **PLANNING OFFICIAL TERELL** – Yes, I think the idea is when we put zoning in  
5 place we make our best effort to make sure it is in the most appropriate locations.  
6 This site as well as the ones to the east, they are adjacent to a major  
7 employment center, which is the two Hospitals and it is also next to a major  
8 arterial, both Alessandro and Lasselle south of this and it is also near existing or  
9 planned commercial. There is an approved shopping center across from this  
10 site, so those are the criteria we look for but we don't own the land, so people  
11 come up with the appropriate locations and if they meet those same criteria, we  
12 have the flexibility to move or change that zoning and that frees up other land  
13 that may not be as desirable in the market place.

14  
15 **COMMISSIONER GIBA** – Right, thank you. Another one really quick...on page  
16 96, Land Use Changes; this goes back to the open land that comments the  
17 slopes and undisturbed hillsides and rock outcroppings would be assigned the  
18 open space zone which will prevent future development and that's what picked  
19 me up... prevent future development of the hilltop and protect the existing natural  
20 slopes and rock outcroppings. Can that be changed later? I mean you are  
21 saying you are protecting that from any more and I thought heard something that  
22 maybe that could be...

23  
24 **PLANNING OFFICIAL TERELL** – Well I guess the reality is nothing is truly  
25 permanent, but the zoning would have to be changed and it would have to be  
26 changed for good reason. I would be difficult to develop this site once this  
27 project is built if you approve it and the other thing is there will be the  
28 environmental constraint sheet which is a recorded document and to remove  
29 that, it would be a formal public action in order to do that, so all those changes  
30 would have to be noticed. They would have to be made available to the public.  
31 They would have to be made in the public, so it reduces the likelihood.

32  
33 **COMMISSIONER GIBA** – Right and am I doing too much?

34  
35 **CHAIR VAN NATTA** – No you just said one more question so... one more...

36  
37 **COMMISSIONER GIBA** – No, I have more... I've got a couple here... it's all  
38 right. They do this to me a lot. And this is again more academic since those  
39 questions were brought up and it was appropriate that the individuals stuck  
40 around because their answers are pretty well... I think that's Tracy right? Okay,  
41 so in this document that we are going through there is an entire section from  
42 page 157 to way up here, which are the environmental factors report that we do  
43 get and we have go through and they have to check them off and all their  
44 declarations, so as we go through them, oftentimes we'll find things that we want  
45 to speak to and ask about and in particular on page 162, you did have less than

1 significant mitigation incorporated and that is exactly what you were asking  
2 about.

3  
4 In these documents they have a situation here where this is undisturbed land and  
5 it has to be checked first for any historic history Native American etc., so the  
6 mitigation circumstances struck in here from what I understand are quite a few  
7 that they cannot disturb this. They have to have somebody on site while they are  
8 doing the grading and stuff to make sure that if there is anything that comes up,  
9 you stop the project right away; you call in the right people to go over those  
10 things and so I went through those and it looks like they are covered pretty darn  
11 good for the mitigation. As a matter of fact, if I was the builder, I would go huh,  
12 okay, and then on page 164, once again directly or indirectly destroy a unique  
13 paleontological resource site or unique geologic feature less than significant with  
14 mitigation incorporated; again the same thing I'm understanding the proposed  
15 Zone Change and General Plan and this is what caught my eye; that's what our  
16 General Plan and Zone Change is for in this specific document, because I was  
17 trying to figure out why the zone change in here and it says the proposed Zone  
18 Change and General Plan Amendment will place the slopes and rocky hilltops  
19 within the Open Space designation and that is what those two things area. Am I  
20 correct on that?

21  
22 **PLANNING OFFICIAL TERELL** – Yes

23  
24 **COMMISSIONER GIBA** – I had to find that; why we were actually doing that and  
25 I found that in that component there, so thank you very much and then I think that  
26 was it. You didn't have anything that was potentially significant. You mitigated  
27 mainly for that. The other mitigation was for the hillside slope for landslide and  
28 so had to put in all that berm and concrete and stuff. Am I correct on that?

29  
30 **PLANNING OFFICIAL TERELL** – Yes

31  
32 **COMMISSIONER GIBA** – Okay, you know it's a point of clarity because those  
33 questions were brought up and I wanted to make sure that they understood that  
34 this is exactly what takes place at this meeting right here, so if you have  
35 concerns, this is when you bring this up and are these documents accessible to  
36 anybody to go over if they wanted to?

37  
38 **ASSOCIATE PLANNER BRADSHAW** - They're all public record

39  
40 **COMMISSIONER GIBA** – All public record, so they would be able to actually  
41 access these same documents that we have in front of us and go through all  
42 these mitigation measures. Now this is like a mini EIR for all intents and  
43 purposes you might say; not really a real one, but for mitigation purposes.

44  
45 **PLANNING OFFICIAL TERELL** – It is actually... we actually do call it a focused  
46 environment impact report because it focuses on the areas that were identified

1 as potentially having issues. The two you mentioned would have been the  
2 primary ones. We also looked at the traffic as well.

3  
4 **COMMISSIONER GIBA** – That is my favorite topic as well. That’s all the  
5 questions that I had but mainly they were meant for academic purposes.

6  
7 **CHAIR VAN NATTA** – Okay, what I didn’t see in here is accessibility on these  
8 units because you’ve got three stories that I’m going to figure that probably only  
9 the first level is going to be accessible for handicap accessibility. What  
10 percentage or are all the first level apartments accessible?

11  
12 **PLANNING OFFICIAL TERELL** – I don’t know the actual percentage that is  
13 required pursuant to the building code and they will have to meet that minimum.  
14 Typically that relates to most if not all of the first floor units though.

15  
16 **CHAIR VAN NATTA** – Okay thank you. The other think I know that was brought  
17 up about the barrier to keep the hillside from cascading down into the units, but I  
18 think what we have there also is somewhat of an attractive nuisance to children  
19 living in there. Is there also some sort of a fence or a barrier or anything that  
20 prevents the occupants from climbing up there amongst the rocks?

21  
22 **ASSOCIATE PLANNER BRADSHAW** – There is both a condition and mitigation  
23 measure for some perimeter fencing that would control to the extent possible  
24 movement between the apartment site and the hillsides. So yes, that condition is  
25 in place.

26  
27 **CHAIR VAN NATTA** – Okay and the other thing I didn’t... I saw it in the drawings  
28 and didn’t find it in the pages, although I might have missed a page or two. I  
29 know some people read every word. I kind of skim them sometimes. It looks as  
30 though the parking areas are gated; that entry donut but the parking areas are  
31 gated to limit access to non-residents.

32  
33 **ASSOCIATE PLANNER BRADSHAW** – Yes, there are gates at the driveway off  
34 of Lasselle and then there are gates off of the circle off of Alessandro. As you  
35 enter each one of those individual driveways there are gates there as well.

36  
37 **CHAIR VAN NATTA** – Okay, alright. I think that was the last of my questions  
38 and if we have no other questions for Staff, then... Oh you have one; then okay

39  
40 **COMMISSIONER LOWELL** – I know the site was previously a borrow site for  
41 some of the Nason and some of properties along Nason. Where there any  
42 environmental concerns while they were grading and removing dirt from there.  
43 Where they any paleontological or Native American or any artifacts there?

44  
45 **PLANNING OFFICIAL TERELL** – None were found but yes, there was  
46 archeological study done in conjunction with the borrow site.

1 **COMMISSIONER LOWELL** – And nothing significant came up?

2  
3 **PLANNING OFFICIAL TERELL** – Correct

4  
5 **COMMISSIONER LOWELL** – Thank you

6  
7 **ASSOCIATE PLANNER BRADSHAW** – Since we are on that topic, the results  
8 of both studies actually indicated that there were no known or mapped resources  
9 within the boundary of the project site. The Applicant agreed and worked with  
10 Staff to actually take on some mitigation measures that were really beyond what  
11 either of the studies recommended. The experts went out and looked. They  
12 didn't find anything and they didn't recommend mitigation, but the Applicant  
13 agreed to work with the City to take on some extra mitigation measures in the  
14 instance that they might find something out there.

15  
16 **CHAIR VAN NATTA** – Okay seeing no more questions of Staff, I'm going to  
17 open this to the Public Comment and we'll start with the Applicant.

18  
19 **APPLICANT JERNIGAN** – Good evening Madam Chair and Vice Chair and  
20 members of the Commission. My name is Jim Jernigan. I represent Rancho  
21 Belago Developers and I'm very excited about this project. I wouldn't call it a  
22 lifelong dream, but I've been building affordable housing for nearly 20 years now  
23 and I've actually built in Moreno Valley since 1996 and I've got probably about  
24 450 units here in town that I was involved in building.

25  
26 We are just finishing up one over on Hemlock right now and I'm very proud of  
27 that and this is actually my first endeavor from scratch to stand in front of this  
28 Commission and ask for your approval and Commissioner Sims you mentioned  
29 affordable and that is a whole other world and we build them to look just like  
30 market rate and when you drive by I don't think it should look any different. It  
31 should have the same standards and actually we probably have higher standards  
32 than market rate because we have to attract capital into the City to help fund this  
33 and we do it through syndication and through investors, major banks B of A,  
34 Wells Fargo, Union and that caliber of investor and they require a very, very high  
35 quality project as you can see and then this is just one view of the project. There  
36 are 141 units.

37  
38 I think it is important to know that we are asking for a 30 unit density change from  
39 15 and if you take that 10 acre site and you take 15 units, that is 150 units right  
40 there and we are only building 141, so we're actually doing this zone change so  
41 that we can preserve the top of that mountain. I'm a 40 year plus resident of  
42 Moreno Valley. I'm not an out-of-towner coming in just trying to build something  
43 in our City. I want to be proud of that. I want this Commission to be proud. I  
44 want the Staff to be proud. I want our electants to be proud. I want the residents  
45 of the City to be proud of that and so far I'm very proud and I think working  
46 together with Staff and working together with residents and educating them on

1 what affordable housing really is, I think we'll bring this to fruition and make this  
2 just a corner stone. I think that's a beautiful site. When you drive up Alessandro,  
3 we used to call it Snake Mountain. It is Brown's Mountain I believe what it is  
4 called, but what a view that is going to be. That is just going to be a corner  
5 stone. It is going to be a gateway into that part of our town and I'm here with my  
6 staff; my team; my development team. I've got the Architect and Engineer here.  
7 They are willing to answer any questions whether it be about affordable housing  
8 on this project in particular.

9  
10 I want to thank Staff and truly we're standing here in front of you today because  
11 of their extraordinary efforts and I've heard for a long time that Moreno Valley is  
12 really business pro and this is really the pinnacle of that. I've been able to live  
13 that and I want to thank John and Jeff and the rest of the Staff that put in the time  
14 and effort to get me standing in front of you today, because for affordable  
15 housing, we have very limited opportunity for the financing and this project in  
16 order to avail ourselves of this year's funding route, we had to be on today's  
17 Agenda, so I would hope that you could take a look at this and consider it and I  
18 hope you come out with a favorable outcome and like I said, I'll sit down and let  
19 you guys come with any questions. Thank you.

20  
21 **CHAIR VAN NATTA** – Don't leave, we're going to ask you questions. You better  
22 stay up there.

23  
24 **VICE CHAIR CROTHERS** – We've got questions. You didn't cover it all. I've  
25 just got one question. The fence or gate or whatever it is going to be that is  
26 going to separate your project from that hill; it is not going to be a cinder block  
27 wall; something that is going to block that...

28  
29 **APPLICANT JERNIGAN** – I think Condition P21 I believe makes me do a six  
30 foot fence

31  
32 **VICE CHAIR CROTHERS** – And is it going to be a view through fence?

33  
34 **APPLICANT JERNIGAN**– Yes

35  
36 **VICE CHAIR CROTHERS** – Okay, I mean if we are going to preserve that area,  
37 and it is beautiful as it is, I mean I've lived here my whole life also and I know that  
38 area very well and I can only imagine you know putting up some big ugly  
39 concrete block wall to keep people out of there and I just think that would ruin the  
40 whole point of keeping it as open space, so I wanted to make sure that it was  
41 going to be open and something that you can see through and enjoy the view.  
42 Thank you.

43  
44 **APPLICANT JERNIGAN** – I agree

45

1 **CHAIR VAN NATTA** – I remember that area when the rocks all had graffiti on  
2 them and I'm glad to see that they don't anymore, but if I had not heard you  
3 mention that those units on Hemlock were affordable housing, there is no way  
4 you could have told that from the street and if that is the quality of building that  
5 you are putting in there, it definitely stands the test of serviceable, but attractive.  
6 Okay, any other questions of the Applicant?

7  
8 **COMMISSIONER GIBA** – May I?

9  
10 **CHAIR VAN NATTA** – How many?

11  
12 **COMMISSIONER GIBA** – Just one this time.

13  
14 **CHAIR VAN NATTA** – Okay, go ahead

15  
16 **COMMISSIONER GIBA** – But multiple kinda.... Again academic for me even...  
17 Your mitigation measure on the landslides and I'm going through them and I'm  
18 really not that versed in what they've done to the hill here with the MMLD1 and  
19 LD2 and LD3 and the LD4 mitigation measures. Could you explain them to me?

20  
21 **APPLICANT JERNIGAN** – No...

22  
23 **COMMISSIONER GIBA** – Do we have somebody here who can?

24  
25 **CHAIR VAN NATTA** – Short answers... you're getting yeses and you're getting  
26 no's...

27  
28 **COMMISSIONER GIBA** – I like it; it's easy...

29  
30 **SPEAKER SLAWSON** – I'm Dave Slawson, Winchester Associates and our  
31 Engineer is here also, so I may end up asking him to come up, but there was a  
32 rock slide stability report and analysis performed and the recommendation was if  
33 during construction they find there are some rocks that may be in danger of  
34 falling, that they be brought down. There are other ways if they are smaller,  
35 there are other ways for them to put wrought iron posts in and they would wire  
36 them down, but that would be something that would be done during the time of  
37 construction. A determination would be made based on the recommendation of  
38 the Geotechnical Engineer and the City Engineering Office.

39  
40 **COMMISSIONER GIBA** – Because you do have that Unit 7 and 8 on that  
41 backside and you are concerned about the landslide because that was a less  
42 than significant with mitigation and I so I went through the whole list and looked  
43 at them, but erosion control such as plants or jute netting shall will be installed on  
44 cut slopes.

45  
46 **SPEAKER** – Right, that is for the slope stability

1 **COMMISSIONER GIBA** – Okay, so you are actually going to be planting some  
2 erosion control plants there because somebody asked if you are going to be  
3 doing any kind of planting or anything.

4  
5 **SPEAKER** – Based on the slope stability analysis and the preliminary water  
6 quality management plan that we prepared that sort of addresses how the water  
7 is going to be treated and then again it all kind of wrapped together, but it is  
8 going to likely be just landscaping and may be some trees, but the difficult part is  
9 the reason you need some flexibility is you may find that if you hydro-seed and  
10 there are ways you can put in some topsoil and then net that down and then  
11 hydro-seed. If it doesn't take, you have to have the option of doing some other  
12 things and that is why there are some alternatives given, but in the end it has to  
13 meet the City's requirement; the City's comfort level; the City's Engineering  
14 Department that it will not be unstable.

15  
16 **COMMISSIONER GIBA** – And that was what I was going to say and Jeff is going  
17 to come out and inspect to make sure everything is okay.

18  
19 **PLANNING OFFICIAL TERELL** – That would be Clement that's going to do that

20  
21 **COMMISSIONER GIBA** – Whoever is going to do it...?

22  
23 **SPEAKER SLAWSON** – And it is something we are extra sensitive about  
24 because for a large portion of it, it is a one to one slope which is steeper than  
25 most fabricated or cut slopes.

26  
27 **COMMISSIONER GIBA** – Yes I don't know much, but I can see that one the  
28 plans and then you have that gulley you are going to put in there too as kind of a  
29 catch basin down at the bottom

30  
31 **SPEAKER SLAWSON** – Right, right

32  
33 **COMMISSIONER GIBA** – Because those kinds of boulders, they do sometimes  
34 come free, some I'm glad to see that you've done something like that.

35  
36 **SPEAKER SLAWSON** – Yes, we did a lot of homework on it; yes

37  
38 **COMMISSIONER GIBA** – Thank you very much. I know it was a longer question  
39 than Meli wanted

40  
41 **APPLICANT JERNIGAN** – We're also going to incorporate boulders. If you've  
42 driven by the site, there are stock piles of boulders there right now. We are going  
43 to incorporate those into the landscaping throughout the site, just to maintain the  
44 aesthetics of the hill.

45  
46 **CHAIR VAN NATTA** – Oh cool; that sounds great. Any other questions?



1 **COMMISSIONER RAMIREZ** – It’s a beautiful project. What is the time frame for  
2 completion do you anticipate?

3  
4 **APPLICANT JERNIGAN** – We are putting in for financing in July. It is usually an  
5 eight month process. If you get awarded the tax credits before you start  
6 construction... so far successful. In the July round we would start in March.

7  
8 **COMMISSIONER RAMIREZ** – Thank you

9  
10 **CHAIR VAN NATTA** – Okay at this time I’m going to excuse Commissioner  
11 Lowell. He has a plane to catch and I don’t want him to have to rush to get there,  
12 so thank you for coming in for the time you able to spend with us and we’re going  
13 to open this us up for the people for whom we have Speaker Slips and the first  
14 one is Tom Gerald.

15  
16 **SPEAKER GERALD** – Thank you Chair Van Natta and members of the  
17 Commission, members of Staff and the public. You know I can tell you from  
18 personal experience I manage a little and I don’t know if it manages me; a small  
19 neighborhood commercial center and Commissioner Crothers is well aware of it  
20 and I like to say we are low rent, high crime district at the other end of town there,  
21 but a long story short, there is going to be very little immediate demand for  
22 commercial real estate for quite a while foreseeable and even though I spoke  
23 earlier and I still contend I’d love to see more executive level higher end housing,  
24 there is that balance that we have to achieve. It is regulated and this is a good  
25 location. It is a logical place. The overall density is not particularly high.

26  
27 I am very familiar with this property from having lived in the area but I built homes  
28 to the north of it back in the 80’s and then I was a Project Coordinator for about  
29 200 homes to the west of it a little bit, so I know the area very well. In fact I was  
30 dealing with some of the archeological issues back when we were getting our  
31 approvals, so I know that area and I can say a focused EIR is no cake walk.  
32 That’s a tough little bit. It is kind of understated.

33  
34 It’s tough from a developers standpoint, you should see the checklist...you know  
35 so it’s a tough hurdle to get over and also I met Mr. Jernigan ten years ago when  
36 I was on the Project Area Committee for the Redevelopment Agency when we  
37 had redevelopment. He was an employee of another company and both he and I  
38 carried out some of the Public Hearings. I believe they brought two phases  
39 forward of this type of product and he and his company are always extremely  
40 accessible; very forthright; in fact I thought they gave us more information than  
41 we even requested. I mean there was no rock left unturned so to speak and he  
42 disclosed financials and so on and so forth.

43  
44 In fact I might encourage before the Applicant finishes tonight that he does give  
45 you a little more information so the public understands a little bit about these tax  
46 credit financing mechanism and who some of the buyers are for these bonds. I

1 believe there is an ongoing inspection program, so pride of ownership is very  
2 much in vogue.

3  
4 And in closing, I want to echo Mr. Jernigan's comments. I have no business with  
5 him. I only know him through community meetings like this and coming to  
6 Commissions and City Council meetings, but I did see his project along Hemlock  
7 and my background is as I said in building, development and construction. It is a  
8 class act; very well done and he should be proud of it. I'm sure this will be  
9 equally as good, but if not better. In fact, before the meeting I told him I had seen  
10 his project and he said wait till you see this one, so you can see his enthusiasm  
11 and being a home town fellow, you know he is a 'what you see is what you get'  
12 type person and so I endorse the project. Thank you.

13  
14 **CHAIR VAN NATTA** – Okay, thank you and I have another Speaker Slip here  
15 from Tracy Hodge.

16  
17 **SPEAKER HODGE** – I'll pass

18  
19 **CHAIR VAN NATTA** – Okay thank you and seeing nobody else coming forward,  
20 I'm going to close the Public Hearing section of this and we will go into  
21 Commissioner Discussion, so let's start down there with Commissioner Ramirez.  
22 What would you like to say about the project?

23  
24 **COMMISSIONER RAMIREZ** – Well I think it is beautiful project. It makes sense;  
25 definitely better than the gas station they were thinking about putting there. With  
26 the direction our community is going, I think that is ideal type of housing; beautiful  
27 architectural design and I love the landscaping and I suggest that we vote for it.  
28 Thank you.

29  
30 **COMMISSIONER GIBA** – I really enjoy it when you guys give us the nice packet  
31 to go through; so very comprehensive and then in conjunction with what we have  
32 we are able to really go through it. I love the way the view is on the outside.  
33 When you drive by it, it just looks like you know there is no parking. It was  
34 thought through really well. I really appreciated that. When I noticed that you  
35 guys removed that extra parking and that... I don't think you mentioned it but that  
36 is a tot lot you put there; not just an open spot; a tot lot, so for the kids and stuff,  
37 so I thought that was really good. You made really good use of that.

38  
39 First I questioned the covering but you are right in there where you belong. I  
40 thought it was nice. I like the way it is internally. It is almost like a little internal  
41 community there and the rock feature in the back. I have lived here for 32 years  
42 and I drive by that and I keep saying what on God's good earth can they do with  
43 that. You've done it and I think it's a good location, especially with the R30  
44 corridor, which I brought earlier. So I probably could have a hundred things to  
45 say, but Meli will stop me, so thank you for building this and I can't wait to see it  
46 get finished and be taken advantage of in our community.

1 **CHAIR VAN NATTA** – Okay, Commissioner Crothers

2  
3 **VICE CHAIR CROTHERS** – I just want to say thank you for bringing another  
4 fantastic project to our City. Being homegrown here, we have a lot of stakes  
5 here in the City. Sometimes it is a easy decision on what we are going to put  
6 where and you know a project like this comes up and we know that is what  
7 should be there and it fits with the landscape. If fits with our City. The  
8 architecture is beautiful. It doesn't look like barracks or military housing, which  
9 unfortunately the people who protect our country get the worse kind of housing  
10 ever, but you know I think this really fits our City and it fits that area and I think it  
11 will be a great addition.

12  
13 **COMMISSIONER BAKER** – I really like this project and I want to commend Jim  
14 and Dave for putting this together and their whole team. I think like Jim said it is  
15 really going to be a gateway for that Alessandro Corridor; the thing that we are  
16 trying to do in that direction. This will be kind of the focal point as you go toward  
17 the east there, so I really like it and we're going to go for it and I appreciate you  
18 bringing it to town. Okay, thank you.

19  
20 **COMMISSIONER SIMS** – Thank you for the explanations. Well done there and  
21 nice work for a tough piece of property, so great improvement than a pile of rocks  
22 and I look forward to... I drive by there all the time, so I was wondering what was  
23 going to happen and I glad to see that this is going in. It's a nice project.

24  
25 **CHAIR VAN NATTA** – I can't add much more to what the other Commissioners  
26 have already said except I do want to make kind of a general comment about  
27 housing. Housing is my business and has been for 35 years and a project like  
28 this has a definite place in the balance of housing in the community. It is always  
29 nice to think oh well if we built big, fancy, nice houses then we would get more  
30 executive type people, but when it comes right down to it, developers research;  
31 they see what housing is going to be in demand and they will build for that  
32 housing. If we get people who want to come out here and have one acre estates  
33 and there is enough of a demand for that, believe me a developer will come  
34 along and build it.

35  
36 We have land that is set aside for that and especially on the north sides going  
37 towards the hillsides and someday I hope we see big, beautiful estates up in that  
38 area of town, which is an excellent place for it, but in looking at this project I was  
39 very glad to see the scope of the size of the units, with the three bedroom ones  
40 being as much as 1300 square feet. Well that is larger than some of the houses  
41 in town, so it's not cramming them into small little apartments where they  
42 wouldn't have any quality of life and low income housing is not something that  
43 you look at necessarily as being for one group of people or just people who are  
44 on assistance or anything like that. In many ways it is transitional housing. It's  
45 the young couple who wants a nice place to live until they have built their income  
46 and can afford to purchase a house or to lease a house and if you don't provide

1 quality affordable housing, then the people who live in this town who have the  
2 lower income jobs end up being crammed into two or three families in a house  
3 which is bad for the neighborhood or they live in substandard housing that isn't  
4 up to code and so forth, so I think it is very important that this type of housing be  
5 made available and I was very glad to see the beauty of this project; the location  
6 and everything of it is great and I'm going to vote for it. Are there any other  
7 comments; then okay. I would like somebody to make a motion.

8  
9 **COMMISSIONER SIMS** – I could do that

10  
11 **CHAIR VAN NATTA** – Okay please do that Commissioner Sims

12  
13 **COMMISSIONER SIMS** – I do recommend that Planning Commission  
14 **APPROVE** Resolution No. 2013-17 and thereby **RECOMMEND** that the City  
15 Council:

- 16  
17 **1. ADOPT** a Mitigated Negative Declaration for PA13-0008 General Plan  
18 Amendment, PA13-0007 Change of Zone, P13-029 Variance and  
19 PA13-0006 Plot Plan, pursuant to the California Environmental Quality  
20 Act Guidelines (CEQA).  
21  
22 **2. APPROVE** PA13-0008 General Plan Amendment, PA13-0007 Change of  
23 Zone, P13-029 Variance and PA13-0006 Plot Plan, based on the findings  
24 contained in this resolution and as shown on the attachments included as  
25 Exhibits A and B, and subject to the attached conditions of approval,  
26 included as Exhibit C.

27  
28 **CHAIR VAN NATTA** – And can we have a roll call vote?

29  
30 **COMMISSIONER GIBA** – I'll second that

31  
32 **PLANNING OFFICIAL TERELL** – We need a second

33  
34 **CHAIR VAN NATTA** – Oh I'm sorry

35  
36 **COMMISSIONER BAKER** – I'll second

37  
38 **CHAIR VAN NATTA** – We have three seconds. Okay, a roll call vote...

39  
40 **COMMISSIONER RAMIREZ** – Aye

41  
42 **COMMISSIONER GIBA** - Aye

43  
44 **VICE CHAIR CROTHERS** – Aye

45  
46 **CHAIR VAN NATTA** – Aye

1 **COMMISSIONER BAKER** – Aye

2  
3 **COMMISSIONER SIMS** – Aye

4  
5 Opposed – 0

6  
7 **Motion carries 6 – 0 - 1, with one absent (Commissioner Lowell)**

8  
9 **CHAIR VAN NATTA** – All ayes and one absent and the motion passes. And I  
10 would like to thank all the members who showed up to our Planning Commission  
11 Meeting. It is so seldom that we see so many visitors here, so thank you very  
12 much for attending. We appreciate it.

13  
14 **CHAIR VAN NATTA** – Now under Other Business we have a Brown Act  
15 Presentation by the City Attorney’s Office. Oh, I’m sorry Staff wrap up before we  
16 get to that.

17  
18 **PLANNING OFFICIAL TERELL** – Yes, because of the General Plan  
19 Amendment and Zone Change this item shall go to the City Council automatically  
20 for final review and action.

21  
22  
23  
24 **OTHER BUSINESS**

25  
26 **• Brown Act Presentation by the City Attorney’s Office**

27  
28 **CITY ATTORNEY BRYANT** – I usually prepare a presentation whenever we  
29 have new Commissioners join the Planning Commission, so I have actually re-  
30 tooled the presentation this year. Hopefully it will provide a little bit of  
31 background for the new Commissioners and be a refresher for the seasoned  
32 veterans, so can you see that on the screen? I can’t. I’m going to attempt...

33  
34 **Brown Act Basics, Procedures and Conflicts**

35  
36 Basic procedure for discussing Agenda items starts with the Chair announcing  
37 the Agenda item and stating the subject matter before the Commission. The  
38 Chair will ask the appropriate Staff person to report on the item, including any  
39 recommendation from Staff. The Chair will then ask the Commissioners if they  
40 have any questions on the item. The Chair then moves on to open the Hearing  
41 for Public Comments on the item and when the Public Comment period has  
42 ended, the Chair should announce that the Public Hearing has concluded. Then  
43 the Commission gets to discuss the item. The Chair takes a motion on the item  
44 and should announce the name of the Commissioner making the motion for the  
45 record and then the Chair can take a second to the motion and should announce  
46 the name of the Commissioner who seconds. Calling for the vote on the motion,

1 you can either vote aye, no or abstain. The Chair should announce the result of  
2 the vote and then Staff usually gives an announcement of what will happen to the  
3 item next and/or how the item can be appealed. The most common motions that  
4 the Planning Commission will probably hear is the basic motion to take an item  
5 for consideration; for example I move that we approve application XYZ. If you  
6 want to amend the motion, someone could move to amend the motion. I move  
7 that we amend the motion to add requirement A. Sometimes we make changes  
8 to the proposed conditions of approval or there can be a substitute motion. It  
9 cancels the basic motion and puts forward a new motion. I don't really see that  
10 happening that too much here. When you need a simple majority it's for the  
11 basic motion, amending a motion to postpone consideration or to continue an  
12 item, to have an item studied further, to reconsider a matter after a vote is taken  
13 and to recess or adjourn the meeting. When we require two-thirds vote is to end  
14 debate or discussions when someone calls for the question. We really haven't  
15 seen that too much here before the Planning Commission. When you abstain it  
16 does not count towards the vote and a member disqualified from voting, must  
17 leave the Council Chambers during consideration of the item and is not  
18 considered part of the quorum for that item. We need to keep in mind that only  
19 one person should speak at a time. That is to maintain a clean record. The  
20 Chair should control the meeting by recognizing each speaker and that the  
21 discussion should focus on the Agenda items and not on anybody's personalities.

22  
23 Moving on to a brief discussion of the Brown Act... It is to ensure that decision  
24 making process of legislative boards and the Planning Commission is under the  
25 Brown Act, that these items are considered in public and they are open to public  
26 scrutiny. The Brown Act applies to local agencies, legislative bodies, meetings  
27 and persons elected or appointed to legislative bodies even prior to assuming  
28 office. The Brown Act does not apply to training conferences, town hall meetings  
29 or purely social or ceremonial occasions. Posting and notice requirements for  
30 regular meeting; it is a requirement to be posted 72 hours in advance. I think  
31 when we post for Planning Commission we usually do it five or six days in  
32 advance, so plenty of time for the public to review the Agenda. The notice must  
33 give the time, place and a brief general description of every item of business to  
34 be discussed or transacted. We usually do not have closed session in the  
35 Planning Commission. There is no action allowed for any action that is not listed  
36 on the Agenda except to respond to statements or questions from the Public.  
37 We saw that today when a public speaker had a question and that was  
38 responded to. If a public speaker has a question, it should be directed to the  
39 Commission and then the Commission can inquire for a Staff person to answer  
40 the question or to get back to the public speaker. There can also be a brief  
41 announcement or reports on the members own activities. We usually have a  
42 spot for that on the Agenda under Planning Commissioner Comments. We can  
43 also ask Staff to report back at a future meeting on any matter. Sometimes you  
44 can ask John to give you an update on something and that is appropriate and  
45 items can be added in emergency situations. It usually doesn't happen to the  
46 Planning Commission. Opportunity to speak on items of interest to the public;

1 that is done during the Public Comment section of the item and the public is also  
2 given a chance to speak on items not on the Agenda but within the subject  
3 matter jurisdiction of the Planning Commission. Any member who violates the  
4 Brown Act is guilty of a misdemeanor. If action is taken and the member  
5 intended to deprive the public of information to which the member knows of or  
6 has reason to know that the public is entitled to. Also I wanted to let you know  
7 about making comments on items that might come before the Commission that  
8 your comments and opinions do matter and so if you take a position on an item  
9 prior to the Hearing and you make comments about that, you might be  
10 disqualifying yourself from voting or participating on that Agenda item. So please  
11 wait until the Agenda item hearing is being conducted until you can make a fully  
12 informed decision.

13  
14 I wanted to touch on findings as well. I haven't really mentioned findings in my  
15 previous meetings and it looks like I should update this next time for a bigger  
16 font. Staff recommends the resolutions in its packet and usually findings and  
17 draft findings are included as part of the resolution as well, so that helps guide  
18 the decision making process and also forms the framework to get from the idea,  
19 through the analysis to the decision. It is a written document explaining to any  
20 reviewing body or reviewing court how the decision making body arrived at its  
21 conclusion and often you have to make findings on each particular item in order  
22 to reach a decision. You have to make findings pursuant to State Statute and  
23 also pursuant to some of our Ordinances. For example, the variance requires  
24 findings in order to grant a variance, so that was included in the draft resolution  
25 for tonight's item and that was adopted and will move on to the City Council for it  
26 to also make findings in order to grant a variance. The findings must be  
27 substantive and cannot recite the law. You have to apply the facts of the item of  
28 the situation to the law in order to get to the conclusion. The findings that are  
29 contained in a written resolution provide the City with the best opportunity to  
30 defend the action. When the City is sued over any Planning decision, the  
31 Planning Commission or the City Council makes, the first thing the Court will  
32 review is the written decision from the City Council or from the Planning  
33 Commission and the findings help tell the court how the body made that decision.  
34 The findings must be set forth clearly and cannot be vague or ambiguous. You  
35 cannot just use the same findings over and over and the Planning Commission  
36 and the City Council is free to use the findings prepared by Staff. Staff is  
37 certainly well versed in the situation and the findings; draft findings. You cannot  
38 just rely on the transcript of a meeting debate. It has to be in the form of a written  
39 resolution; a written document and you have to include specific facts as to why  
40 you are making those findings.

41  
42 Moving on to conflict of interest laws; the four topics I'll be hitting on quickly

- 43 • Disqualification from participation
- 44 • Contractual conflicts of interest
- 45 • Campaign contributions
- 46 • Incompatible offices

1 The Political Reform Act sets forth that no public official at any level of State or  
2 local government shall make, participate in making or in any way attempt to use  
3 his official position to influence a government decision in which he knows or has  
4 reason to know he has a financial interest. A public official has a financial  
5 interest in a decision if it is reasonably foreseeable that the decision will have a  
6 foreseeable and more material financial effect on the official or one or more of his  
7 economic interests.

8  
9 So what is a financial interest and what is an economic interest? They are  
10 different. A financial interest is when a public official has a financial interest if it  
11 reasonably foreseeable that the decision will have a material effect on the  
12 official's economic state. An economic interest is a label applied to a particular  
13 type of interest recognized by law as potential sources of a conflict of interest.  
14 So there are six basic types of economic interest. When you have an economic  
15 interest in a business entity in which the official has a direct or indirect invest  
16 worth two thousand dollars or more. You have an economic interest in a  
17 business entity in which the official is a director, officer, partner, trustee, and  
18 employee or holds any position of management. You have economic interest in  
19 real property in which the official has a direct or indirect interest of two thousand  
20 dollars or more. You have an economic interest if you have a source of income  
21 which aggregates to five hundred dollars or more within 12 months prior to the  
22 decision. You have an economic interest if you have received any gifts that  
23 aggregate to four hundred and forty dollars or more within 12 months prior to the  
24 decision. This four hundred and 40 dollar amount is valid until December 31<sup>st</sup>,  
25 2014. They review the dollar amounts every so often and it went up to four  
26 hundred and forty this year. Economic interest includes the personal expenses,  
27 income, assets and liabilities as well as the official's immediate family, so if you  
28 want to do the analysis for the conflict of interest, you should probably let me  
29 know ahead of time and so we can go through this analysis. Is a public official  
30 involved? Is the public official making, participating in making or using or  
31 attempting to use his official position to influence a governmental decision. Does  
32 the official have a statutorily defined economic interest; which we just went over?  
33 Is the economic interest directly or indirectly involved? Is the economic interest  
34 material? Is it reasonably foreseeable that the decision will have a material  
35 financial effect on an economic interest and will decisions financially effect on the  
36 economic interest differ from the effect on the public generally? Is the official  
37 legally required to participate? Rarely do we get to that point. Disqualification;  
38 you should disqualify yourself if the proposed action could have a material effect,  
39 directly or indirectly on an economic interest of the official, his spouse or  
40 dependant; that's the immediate family. You are disqualified if the decision could  
41 affect your business interest if it is worth two thousand dollars or more. If you are  
42 a director, officer, partner, trustee, employee or management position; it doesn't  
43 matter if you are paid or not. Real property; if you have interest in the property  
44 worth two thousand dollars or more, mortgages, option to buy and leasehold  
45 interests are considered to be interest and real property, so even if you are  
46 renting, you still have to think if you are disqualified. An official's real property is



1 located within 500 feet of the affected property, so keep in mind when you going  
2 through the Agenda if you have any property interest within 500 feet of the  
3 property before you. Income and gifts; you'll have to disqualify yourself if you  
4 have received gifts totaling four hundred and forty dollars or more in the past 12  
5 months and that includes community property interest of your spouse. You might  
6 have to be disqualified if you have indirect interest in business entities in real  
7 property. If you have investments worth two thousand dollars or more, don't  
8 forget to include your spouse and dependent children in that analysis. Business  
9 entities and real property; there are different rules for directly and indirectly  
10 involved economic interest, so it is important to start this analysis early. There  
11 can be many shades of gray and we have to go through the eight step analysis.  
12 The materiality standards are very complex. So if you disqualified you cannot  
13 participate or attempt to influence any potential decision maker. At the meeting  
14 you have to announce that you have a conflict and you must leave the room.  
15 You can go out in the foyer and come back when the item is over. You are not  
16 disqualified if the effect on you is the same as the effect of the public in general.  
17 If there is a penalty, it can include civil penalties by the FPPC or criminal  
18 sanctions including monetary fines or imprisonment. Now there is another  
19 analysis that we also have to go through which is the 1090 analysis to decide if  
20 there is a contractual conflict of interest and that deals with any public contract in  
21 which a public official has a financial interest. A public official should not have  
22 any financial interest in any contract with the City or its related entities, so these  
23 are in addition to the Political Reform Act which I just went over. You can't have  
24 any interest in any contract with the City. That includes yourself, your spouse  
25 and you can't use that opportunity to influence. That applies to the Planning  
26 Commission as well. Conflict of interest and compatible offices; we've had some  
27 discussion about that lately in the community and you can't have two different  
28 hats. You can't be serving two different advisory bodies if they don't have the  
29 same interest, so if there is a conflict or potential conflict in the duties, it really  
30 results in the resignation of the first office; you give up your first office as soon as  
31 you take the second office if conflicts. So that was my presentation updated for  
32 2013 and I really wish Mr. Lowell had been here but maybe he will catch it on the  
33 internet and if you have any conflict of interest please call me ahead of time.

34  
35 **CHAIR VAN NATTA** – Okay, thank you very much. I appreciate that and I didn't  
36 fall asleep.

37  
38  
39  
40 **PLANNING COMMISSIONER COMMENTS**

41  
42 **CHAIR VAN NATTA** – Okay at this point if any of the Commissioners have any  
43 comments they want to make this your opportunity to say anything you want to  
44 say as long as it is not critical of me.

1 **VICE CHAIR CROTHERS** – I just have one quick comment. I want to mirror kind  
2 of what you said earlier. I appreciate all of the public that are in the crowd right  
3 now. We hardly have people come to this meeting and this is like Commissioner  
4 Giba said this is the place where we want to hear you. We want to know what  
5 you think about a project or we want to know what you think about a variance so  
6 that we can take that into account when we are looking at the documents that we  
7 have. It is not enough that we have the documents; we really want to hear what  
8 the public has to say. We are all long term stakeholders in this City. I grew up  
9 here. I went to school here. I own a home here. I'm just as invested as you  
10 guys are and I'm so happy that you guys are here to express your opinions and  
11 say what you have to say about the different projects and you know the different  
12 Agenda items or non Agenda items. You know we really encourage that you  
13 come out every meeting if you know there is something on the ballot or on the  
14 Agenda that you guys see that you want to comment on and please come out  
15 and say what you have to say so that we know what the community is thinking  
16 and encourage others that you know of to come out and do the same. Thank  
17 you.

18  
19 **CHAIR VAN NATTA** – Okay anyone else?  
20

21 **COMMISSIONER GIBA** – The first thing, John are you going to wear two hats?  
22

23 **PLANNING OFFICIAL TERELL** – Unlike you, I don't automatically get out of the  
24 first one by taking the second one.  
25

26 **COMMISSIONER GIBA** – Okay and I did want to just mirror exactly what was  
27 said. We appreciate it. As a matter of fact, I've been encouraging a lot of the  
28 public to come out and here is another good reason why. I know for myself and  
29 I'm quite sure for the others but I won't speak for them, we usually don't have a  
30 decision made until I hear from everyday. Sometimes I come with some  
31 predisposed thoughts about what I've read and gone over but it is really nice  
32 here because we have such a variety of people in different walks of life, that they  
33 see things with a different set of eyes than I do and they'll bring up information  
34 that I never thought about and in many cases, I may actually change my mind.  
35 They may not know that or maybe they will. The same thing; when you folks  
36 come out and you visit with us; there is a lot more relaxed atmosphere because  
37 we don't have a lot of speakers, so we are able to take some more time with you.  
38 I don't think Meli has really demanded that the clock works, but...  
39

40 **CHAIR VAN NATTA** – I have asked for it  
41

42 **COMMISSIONER GIBA** – She has asked for it... so we really appreciate it,  
43 because many times people bring up stuff or information to us that I never  
44 thought about; I never thought through or in all honestly, just like this evening you  
45 have questions that you need answered and we can ask the Staff to answer  
46 those questions for you publicly and I like that part of it and John has always

1 been very good at being able to rehearse the information to us properly with a  
2 very good historical background because you have been around for a long time,  
3 so he has a good background and so thank you; really thank you guys for coming  
4 and keep on coming if you want to learn what is going on. I hope you understood  
5 that there is a lot of information that we have to glean through or read through or  
6 scan so thank you and congratulations John.

7  
8 **CHAIR VAN NATTA** – Is there anybody else? Then I'll just finish with saying  
9 congratulations on the expansion of your duties. I like to think of it as a  
10 promotion but when you just have to keep doing more things on top of what you  
11 were already doing, at least for now, we appreciate your efforts and if you are not  
12 always going to be the one that is sitting there helping us through this, we are  
13 going to miss you.

14  
15 **PLANNING OFFICIAL TERELL** – Okay well thank you. I'll let you know.

16  
17  
18  
19 **STAFF COMMENTS**

20  
21 **PLANNING OFFICIAL TERELL** – I did want to go over a few things in Staff  
22 Comments. We do have an item that has just come in that we would like to bring  
23 in June, so we might be working with you to change the June meeting date. It is  
24 an applicant that wants to fill a vacant restaurant space, but they also want to  
25 have some type of entertainment there; so just like you had a couple last year. It  
26 is required to come to the Planning Commission, so we're going to try to get that  
27 together and schedule that for a June meeting.

28  
29 **CHAIR VAN NATTA** – Are you saying like may be earlier in June?

30  
31 **PLANNING OFFICIAL TERELL** – Earlier, probably, yes

32  
33 **CHAIR VAN NATTA** – You can't do that. I'm sorry. I've already scheduled my  
34 June around my calendar.

35  
36 **PLANNING OFFICIAL TERELL** – Okay... I believe Amber will be here...

37  
38 **CHAIR VAN NATTA** – But that's okay, Amber will take over. I'll be gone from  
39 the 6<sup>th</sup> through the 17<sup>th</sup>.

40  
41 **PLANNING OFFICIAL TERELL** – Okay, we'll try not to conflict with that.

42  
43 **CHAIR VAN NATTA** – Yes, Disneyworld is waiting for me.

44  
45 **PLANNING OFFICIAL TERELL** – Okay, I'm definitely not going to get in the way  
46 of that. It is wonderful if you haven't been there.

1 **CHAIR VAN NATTA** – I've been there before but not with three of my grandkids  
2 in tow.

3  
4 **PLANNING OFFICIAL TERELL** – Yes it's wonderful to go with children.

5  
6 **CHAIR VAN NATTA** – Yes.

7  
8 **PLANNING OFFICIAL TERELL** – I don't have a new date for the joint meeting  
9 that you were supposed to have last night but it had to be delayed because  
10 everyone couldn't be there after all and then you had asked a couple of things at  
11 the last meeting. One was to see the action memo and that did go out to you. I  
12 believe you all got that, so we'll be providing that automatically after every  
13 meeting and the other thing you had asked about the status of the projects that  
14 you looked at last year, so Grace along with the Planners that were involved did  
15 the update of which you have a printed copy before you, so hopefully that is  
16 helpful and even a greater sense of accomplishment on your part and I will look  
17 at... if we only have the one item for June, I will try to get a discussion item on. I  
18 know you wanted to find out more about the Hillside Ordinance and if we can get  
19 a report on that we'll try to do that as well. So that's all.

20  
21 **CHAIR VAN NATTA** – It's not all. We asked about the timer button too.

22  
23 **PLANNING OFFICIAL TERELL** – I didn't use it tonight. I have been testing it  
24 and since there weren't a large number of people here... I had Grace go out and  
25 buy this very sophisticated piece of equipment which I am qualified to operate.

26  
27 **CHAIR VAN NATTA** – It's called a kitchen timer.

28  
29 **PLANNING OFFICIAL TERELL** – It's called a kitchen timer. I did actually use it  
30 with a timer, it provides people a little more than three minutes, but it would be  
31 within a margin of error. I think it was 3 minutes and something.

32  
33 **CHAIR VAN NATTA** – The only think it doesn't do is it doesn't display to them  
34 how much time they have left

35  
36 **PLANNING OFFICIAL TERELL** – And I did talk to Grace and obviously if we  
37 have a project that we believe is going to have a lot of speakers, she has  
38 expressed her willingness to be here and do that.

39  
40 **CHAIR VAN NATTA** – Okay, thank you, so we're done now. Sounds like  
41 Captain Hook's crocodile.

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**ADJOURNMENT**

**CHAIR VAN NATTA** – Okay is somebody going to motion to adjourn this thing?

**COMMISSIONER GIBA** – I motion to adjourn this thing

**CHAIR VAN NATTA** – Okay do we have a second?

**COMMISSIONER BAKER** – I’ll second

**CHAIR VAN NATTA** – Okay then all in favor?

Opposed – 0

**Motion carries 6 – 0 – 1, with one absent (Commissioner Lowell)**

**CHAIR VAN NATA** – Stand up and leave

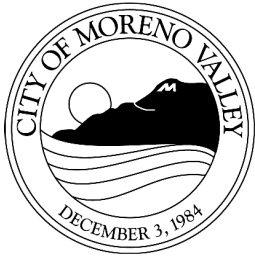
\_\_\_\_\_  
John C. Terell  
Planning Official  
Approved

\_\_\_\_\_  
Date

\_\_\_\_\_  
Meli Van Natta  
Chair

\_\_\_\_\_  
Date

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## PLANNING COMMISSION STAFF REPORT

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Case: PA13-0019 Amendment to Municipal Code  
9.09.170 Service Stations

Date: July 11, 2013

Applicant: The Kroger Company

Representative: Planning Division

Location: City-wide

Proposal: The proposed amendment is an update to the Municipal Code service station development standards to reduce service station restroom requirements allowing only one restroom for service stations with a customer service kiosk or convenience store under 500 square feet and two restrooms required for a convenience store or customer service kiosk 500 square feet and over.

Recommendation: Approval

**PROJECT DESCRIPTION**

This proposed amendment would modify the Municipal Code Section 9.09.170 requirements.

**ANALYSIS**

9.09.170 Service Station Requirements

The City’s Service Station development standards provide requirements to ensure that service stations do not adversely impact adjacent land uses, especially residential uses, and is developed in a manner which protects the integrity of the district, while providing for services needed by the community.

Currently the City of Moreno Valley has development standards that require a restroom for men and a restroom for women which are accessible from the interior of the business for the general public and physically disabled during all hours. This amendment proposes to eliminate the 2 restroom requirement for service station designs where a customer service kiosk 500 square feet and under is proposed. The current standards would apply to a service station design with a convenience store over 500 square feet.

Customer service kiosk operations and sites are relatively smaller than those proposed with a full service convenience store. Their operations normally include a small building under 500 square feet for the service attendant, a small display area to sell packaged snacks and car related items including motor oil and a restroom for the attendant and patrons.

Zoning code research was conducted for nine cities in the Inland area in order to identify similarities or differences. In all but one city, they had no specific design standard for service station/fueling facilities or did not have requirements for gender-specific restrooms.

<b>CURRENT STANDARDS</b>	<b>PROPOSED CHANGES</b>
<p>14. Each service station shall provide a men’s and women’s public restroom which are accessible, from the interior of the business only, to the general public and physically disabled during all hours the service station is open to the public. Entrances or signage shall be clearing visible from the gasoline service area or cashier station, and shall be maintained on a regular basis.</p>	<p>14. Each service station with a convenience store or customer service kiosk over 500 square feet shall provide a men’s and women’s public restroom accessible from the interior of the business during all hours the service station is open to the public. Entrances or signage shall be clearing visible from the gasoline service area or cashier station, and shall be maintained on a regular basis. Service stations with a convenience store or customer service kiosk 500 square feet and under shall provide a single unisex restroom that is accessible during all working hours the service station is open to the public.</p>



**ENVIRONMENTAL**

The project is exempt from the California Environmental Quality Act (CEQA) in accordance with Section 15061 as defined by Section 15378 of the CEQA Guidelines. The amendment does not have the potential to cause a significant effect on the environment.

**NOTIFICATION**

A 1/8 page public notice was published in the local newspaper June 29, 2013.

**STAFF RECOMMENDATION**

**APPROVE** Planning Commission Resolution No. 2013-19, **RECOMMENDING** that the City Council:

1. **RECOGNIZE** that PA13-0019 (Municipal Code Amendment) qualifies as an exemption in accordance with CEQA Guidelines, Section 15061 as defined by Section 15378.
2. **APPROVE** PA13-0019 (Municipal Code Amendment), Section 9.09.170.C.14

Prepared by:

Julia Descoteaux  
Associate Planner

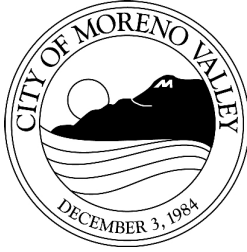
Approved by:

Chris Ormsby, AICP  
Interim Planning Official

ATTACHMENTS:

1. Public Hearing Notice
2. Planning Commission Resolution No. 2013-19
3. 9.09.170.C.14 Service Stations w/ strike out

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**NOTICE  
OF  
PLANNING COMMISSION  
PUBLIC HEARING**

**THE PLANNING COMMISSION WILL CONSIDER A  
CITYWIDE AMENDMENT (PA13-0019) TO THE  
MUNICIPAL CODE PROVISIONS 9.09.170.C.14  
REGARDING SERVICE STATION RESTROOM  
REQUIREMENTS**

The proposed amendment (PA13-0019) would modify the Moreno Valley Municipal Code provisions concerning restroom requirements for service stations to require one restroom for kiosk operations and convenience store operations with a square footage of 500 square feet and under and two restrooms if the kiosk or convenience store is over 500 square feet.

The Municipal Code Amendment (PA13-0019) proposes changes to the following sections:

- 9.09.170.C.14 Service Station

This project is exempt from the California Environmental Quality Act (CEQA) in accordance with Section 15061 of the CEQA Guidelines. The amendment does not have the potential to cause a significant effect on the environment.

The Planning Commission may consider any appropriate modifications or alternatives to the amendment or the environmental determination. Any person concerned about the proposal may submit written comments to the Planning Division prior to the hearing date listed below. Any person may appear and be heard in support or opposition to the project or the environmental determination at the time of the hearing. Any person interested in the proposed project may contact Julia Descoteaux, Associate Planner at (951) 413-3206 or at the Community Development Department at 14177 Frederick Street, Moreno Valley, California, during normal business hours (7:30 a.m. to 5:30 p.m., Monday – Thursday).

If you challenge any of these items in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice, or in written correspondence delivered to the Planning Commission on or before the following meeting date:

**Thursday, July 11, 2013  
7:00 P.M.  
City Council Chambers  
14177 Frederick Street  
Moreno Valley, CA 92552-0805**

ATTACHMENT 1

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**PLANNING COMMISSION RESOLUTION NO. 2013-19**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORENO VALLEY RECOMMENDING APPROVAL OF PA13-0019 TO THE CITY COUNCIL, AMENDING MORENO VALLEY MUNICIPAL CODE REGULATIONS REGARDING SERVICE STATION RESTROOM REQUIREMENTS.**

**WHEREAS**, the City of Moreno Valley has filed an application for the approval of PA13-0019, as described in the title of this Resolution.

**WHEREAS**, on July 11, 2013, the Planning Commission of the City of Moreno Valley held a meeting to consider the application.

**WHEREAS**, all legal prerequisites to the adoption of this Resolution have occurred.

**NOW, THEREFORE, BE IT RESOLVED**, it is hereby found, determined and resolved by the Planning Commission of the City of Moreno Valley as follows:

- A. This Planning Commission hereby specifically finds that all of the facts set forth above in this Resolution are true and correct.
- B. Based upon substantial evidence presented to this Planning Commission during the above-referenced meeting, including written and oral staff reports, and the record from the public hearing, this Planning Commission hereby specifically finds as follows:
  1. **Conformance with General Plan Policies** – The amendment is consistent with the General Plan, and its goals, objectives, policies and programs, and with any applicable specific plan.  
**FACT:** The proposed changes are consistent with, and do not conflict with the goals, objectives, policies, and programs established within the General Plan or any specific plan. The amendment provides an update to the existing ordinance to modify the Fueling Station restroom requirements.
  2. **Health, Safety and Welfare** – The proposed use will not be detrimental to the public health, safety or general welfare.  
**FACT:** The proposed changes do not have the potential of adversely affecting the public health, safety or welfare of the residents of City of Moreno Valley or surrounding jurisdictions. The amendment provides an update to the existing code modifying it to include kiosk and convenience store restroom requirements.

ATTACHMENT 2

3. **Conformance with Zoning Regulations** – The proposed amendment is consistent with the purposed and intent of Title 9.

**FACT:** The amendment to the Municipal Code provide for an internally consistent set of regulations that are compatible with the purpose and intent of Title 9. In addition, the amendment furthers the specific purpose and intent of Title 9 to “implement the goals, objectives, policies and programs of the Moreno Valley General Plan and manage future growth and change in accordance with that plan.”

**BE IT FURTHER RESOLVED** that the Planning Commission **HEREBY APPROVES** Resolution No. 2013-19, **RECOMMENDING** that the City Council **APPROVE** PA13-0019, thereby amending the Municipal Code as described in the title of this resolution.

**APPROVED** this 11<sup>th</sup> day of July, 2013.

---

Mary E. “Meli” Van Natta  
Chair, Planning Commission

ATTEST:

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John C. Terell, Planning Official  
Secretary to the Planning Commission

APPROVED AS TO FORM:

---

City Attorney

#### 9.09.170 Service stations.

A. Purpose and Intent. This section shall apply to service stations, mini-markets and any combination of uses which dispense fuel for retail sales. The purpose of these standards is to ensure that service stations do not result in an adverse impact on adjacent land uses, especially residential uses. While service stations are needed by residents, visitors and employees in the city, the traffic, glare and uses associated with service stations, particularly those open during late night hours or twenty-four (24) hours per day may be incompatible with nearby uses, particularly residential uses. Mini-markets in service stations may cause greater impacts because they are more likely to serve people passing through the city from other communities than nearby residents, and they tend to attract a higher incidence of crime. Therefore, in the interest of protecting the health, safety and general welfare of the city and its residents, special regulations are imposed on service stations, consistent with and to implement the goals, objectives and policies of the general plan.

B. Applicability. All service stations shall comply with the property development requirements for the districts in which they are located, and with the standards and provisions in this section. The provisions of this section shall apply:

1. To all new service stations; and
2. To all service stations existing on the effective date of this title and for which any city building or discretionary permit for expanding or enlarging the use is granted.

#### C. Minimum Development Standards.

1. Each parcel shall have a minimum street frontage of one hundred fifty (150) feet on each abutting street.
2. No building or structure shall be located within twenty (20) feet from any public right-of-way, or within five feet of any interior parcel line.
3. Service stations, convenience stores which provide fuel-pumping services and any other facilities which provide fuel-pumping services to the general public shall orient all fuel pump islands to be parallel to each other and shall be designed to minimize traffic conflicts. Nonparallel or "L" shaped fuel pump island configurations are not permitted.
4. If a reverse orientation for the building is selected, rear building elevations shall have architectural details consistent with the overall design theme.
5. In all cases, service bays shall be accessed from the interior of the site.
6. Gasoline pumps shall be at least twenty (20) feet from any property line.

7. Canopies shall be at least ten (10) feet from any property line and architecturally compatible with the main structure.

8. Service stations shall be integrated with adjacent commercial properties through the use of compatible materials, textures, colors, landscaping treatment and access.

9. Service stations shall be separated from adjacent residential property by a decorative masonry wall of not less than six feet in height. Materials, textures, colors and design of all walls shall be compatible with on-site development and adjacent properties. No wall required to be erected and maintained by the provisions of this section shall be constructed within five feet of a driveway entrance or vehicle access way opening onto a street or alley which would obstruct a cross view of pedestrians on the sidewalk, alley or elsewhere by motorists entering or exiting the parcel.

10. a. The right-of-way, plus ten (10) feet of the site, is landscaped, as well as a planting strip at least five feet wide along all interior parcel lines, except driveways, and adjacent to buildings. Parcels abutting residential districts are subject to Section 9.04.040(B)(1) of this title. Planters are surrounded by masonry or concrete curbs, and so arranged as to preclude motor vehicles from driving across the sidewalk at locations other than access driveways.

b. A minimum of one hundred fifty (150) square feet of landscaped area is provided at the intersection of two property lines at the street corner.

11. Not more than one driveway with a maximum width of forty (40) feet shall be permitted on any one street frontage and shall comply with City Standard Plan 118C. Fifty (50) feet queue storage shall be provided. Driveways shall be located per Table 9.16.250A of the Municipal Code. Any deviation from the above standard requires the approval of the city traffic engineer.

12. All lubrication bays and wash racks shall be located within a fully enclosed building. Access to the service bays and wash racks shall not be located within fifty (50) feet of a residentially zoned property, and shall be oriented away from public rights-of-way.

13. Each service station shall provide air and water to customers without charge and at a convenient location during hours when gasoline is dispensed.

**14.** Each service station with a convenience store or customer service kiosk over 500 square feet shall provide a men's and a women's public restroom ~~which are~~ accessible, from the interior of the business ~~only, to the general public and physically disabled~~ during all hours the service station is open to the public. Entrances or signage shall be clearly visible from the gasoline service area or cashier station, and shall be maintained on a regular basis. Service stations with a convenience or customer service kiosk 500 square feet and under shall provide a single unisex restroom that is accessible during all working hours the service station is open to the public.



15. Coin-operated vending machines may be permitted within a structure for the purpose of dispensing items commonly found in service stations, such as refreshments and maps.

16. Coin-operated vending machines are not permitted outdoors, unless approved by the community development director.

17. All repair and service activities and operations shall be conducted entirely within an enclosed service building, except as follows:

- a. The dispensing of petroleum products, water and air; and
- b. Replacement service activities such as wiper blades, fuses, radiator caps and lamps.

18. Trash areas shall be provided and screened on at least three sides from public view by a solid decorative wall not less than five feet in height.

- a. All trash shall be deposited in the trash area and the gates leading thereto shall be maintained in working order and shall remain closed, except when in use.
- b. Refuse bins shall be provided and placed in a location convenient for customers.
- c. Trash areas shall not be used for storage. The premises shall be kept in a neat and orderly condition at all times and all improvements shall be maintained in a condition of reasonable repair and appearance. No used or discarded automotive parts or equipment, or inoperable vehicles may be stored outside of the main building.

19. The service station shall at all times be operated in a manner not detrimental to surrounding properties or residents. Site activities shall not produce or be reasonably anticipated to produce any of the following:

- a. Damage or nuisance from noise, smoke, odor, dust or vibration;
- b. Hazard from explosion, contamination or fire; or
- c. Hazard occasioned by the unusual volume or character of traffic, or the congregating of a large number of people or vehicles.

20. Service stations/mini-markets selling alcoholic beverages shall conspicuously post the premises with signs prohibiting the consumption of alcoholic beverages on-site.

21. The above standards shall be considered minimum standards. The appropriate approval authority may alter standards when necessary to adequately protect adjacent uses in cases where extraordinary site conditions exist.

D. Accessory Uses. Accessory uses may include the following:

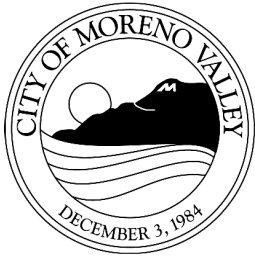
1. Vehicle washing and lubricating services;

2. The sale and servicing of tires, batteries, replacement items and other automotive accessories;
3. Minor automotive repair;
4. Towing service limited to two trucks; and
5. Other uses, as determined by the community development director to be similar to or not more detrimental than those listed above.

Major automotive and light truck repair is not considered an accessory use.

E. Abandoned or Converted Service Stations. Where service stations become vacant or cease operation beyond one hundred eighty (180) days, the conditional use permit shall be deemed null and void and the owner shall be required to remove: all underground storage tanks; all gasoline pumps and pump islands; and shall remove freestanding canopies.

F. Converted Service Stations. The conversion of buildings and structures which were originally designed as a gasoline service station and which are proposed to be used for another use shall be subject to a conditional use permit. The conversion of the facilities to another use may require upgrading and remodeling for such things as, but not limited to, removal of all gasoline appurtenances, removal of canopies, removal of pump islands, removal of overhead doors, additional landscaping, dedicating and installing necessary street improvements or modification of existing improvements to conform to applicable standards. (Ord. 808 § 2.4, 2010; Ord. 694 § 1.1 (part), 2005; Ord. 616 § 2.2.19, 2003; Ord. 488 § 1.11, 1996; Ord. 475 § 1.4 (part), 1995; Ord. 359, 1992)



## PLANNING COMMISSION STAFF REPORT

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Case: PA13-0009 Conditional Use Permit

Date: July 11, 2013

Applicant: The Kroger Company

Representative: Leslie Burnside, Barghausen Consulting Engineers

Location: NEC Alessandro and Indian

Proposal: The construction of a four island fueling station to include a 240 square foot kiosk in the Neighborhood Commercial zone.

Recommendation: Approval

### **SUMMARY**

The applicant, The Kroger Company is proposing to construct a four island fueling station with a 240 square foot customer service kiosk on a .77 acre site located on the northeast corner of Alessandro Boulevard and Indian Street in the Neighborhood Commercial zone.

## **PROJECT DESCRIPTION**

### **Project**

The project is a vehicle fueling station with four islands including 7 multiple product dispensers providing service to 14 vehicles at one time.

The fueling area is located on the corner portion of the parcel and includes an overhead canopy and an attendant kiosk.

The 240 square foot kiosk will provide minor concessions such as motor oil and snacks and payment for fuel. No outdoor vending machines will be allowed.

### **Site**

The site is a portion of parcel 482-190-019 located on the north east corner of Alessandro Boulevard and Indian Street. The entire parcel is 3.97 acres with an approved Parcel Map (35040). The project will be conditioned to record the map prior to grading. Once recorded, the portion of the parcel for this project will be approximately .77 acres.

### **Surrounding Area**

The property to the north and west is zoned Community Commercial with an existing mini storage facility to the north and a shopping center to the west. The parcel to the east is the existing Auto Zone store, zoned Neighborhood Commercial. Properties further east are zoned Residential 5 (R5) with developed properties zoned Community Commercial and Neighborhood Commercial to the south.

### **Access/Parking**

The site will share the access to the existing driveways with the adjacent parcel to the east (the Auto Zone), both from Alessandro Boulevard and Indian Street. Decorative paving will be installed at the Indian Street driveway compatible with existing paving at the Alessandro entrance. This project is conditioned to provide street and sidewalk improvements along the sites Indian street frontage which also include curb separated sidewalks and decorative paving in the driveway.

### **Design/Landscaping**

The fueling station will include a canopy and kiosk designed with glass-fiber reinforced cement panels, molded to simulate split face CMU and colored per the approved plans coordinating with the adjacent Auto Zone building. The project is conditioned to add coordinating treatments to the canopy support columns with signs approved per the City's sign requirements.

The landscaping will be designed and installed per the City Landscape Requirements.

### **REVIEW PROCESS**

The project was submitted on February 19, 2013. Several revisions were requested and submitted by the applicant. To date all relevant issues have been addressed to the satisfaction of all parties.

### **ENVIRONMENTAL**

The project would be exempt from the requirements of the California Environmental Quality Act (CEQA) Guidelines as provided for in Section 15332 (In-Fill Development Projects).

### **NOTIFICATION**

Public notice was sent to all property owners of record within 300' of the project. The public hearing notice for this project was also posted on the project site and published in the local newspaper.

### **REVIEW AGENCY COMMENTS**

Staff received the following responses to the Project Review Staff Committee transmittal; which was sent to all potentially affected reviewing agencies.

<b><u>Agency</u></b>	<b><u>Response Date</u></b>	<b><u>Comments</u></b>
Riverside County Flood Control	March 12, 2013	No impact to the District Master Drainage Plan. Drainage fees apply.

### **STAFF RECOMMENDATION**

That the Planning Commission **APPROVE** Resolution No. 2013-20 and thereby:

1. **RECOGNIZE** that PA13-0009 (Conditional Use Permit) qualifies as an exemption in accordance with the California Environmental Quality Act (CEQA) Guidelines, Section 15332 (In-Fill Development Projects); and,
2. **APPROVE** PA12-0009 (Conditional Use Permit) subject to the attached conditions of approval included as Exhibit A.

Prepared by:

Julia Descoteaux  
Associate Planner

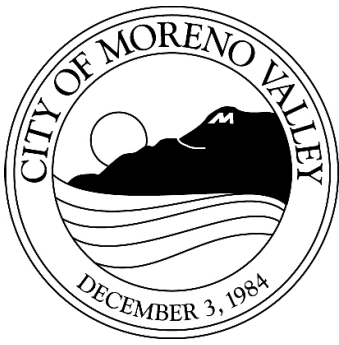
Approved by:

John C. Terell, AICP  
Planning Official

**Planning Commission Staff Report**  
**Page 5**

ATTACHMENTS:

1. Public Hearing Notice
2. Planning Commission Resolution No. 2013-20  
with Conditions of Approval as Attachment A
3. Reduced Plans
4. Zoning Map
5. Ortho Map



# Notice of PUBLIC HEARING

This may affect your property. Please read. Notice is hereby given that a Public Hearing will be held by the Planning Commission of the City of Moreno Valley on the following item(s):

**CASE:** PA13-0009 Conditional Use Permit  
**APPLICANT:** The Kroger Company  
**OWNER:** John C Taylor  
**REPRESENTATIVE:** Leslie Burnside  
Barghausen Consulting Engineers  
**LOCATION:** NEC Alessandro Blvd. and Indian Avenue  
**PROPOSAL:** A three island fueling station including a 240 square foot kiosk. The site is zoned Neighborhood Commercial.  
**ENVIRONMENTAL DETERMINATION:** Exempt  
**COUNCIL DISTRICT:** 1  
**STAFF RECOMMENDATION:** Approval

Any person interested in any listed proposal can contact the Community & Economic Development Department, Planning Division, at 14177 Frederick St., Moreno Valley, California, during normal business hours (7:30 a.m. to 5:30 p.m., Monday through Thursday), or may telephone (951) 413-3206 for further information. The associated documents will be available for public inspection at the above address.

In the case of Public Hearing items, any person may also appear and be heard in support of or opposition to the project or recommendation of adoption of the Environmental Determination at the time of the Hearing.

The Planning Commission, at the Hearing or during deliberations, could approve changes or alternatives to the proposal.

If you challenge any of these items in court, you may be limited to raising only those items you or someone else raised at the Public Hearing described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to, the Public Hearing.



**LOCATION N Ø**

## PLANNING COMMISSION HEARING

City Council Chamber, City Hall  
14177 Frederick Street  
Moreno Valley, Calif. 92553

**DATE AND TIME:** July 11, 2013 at 7 PM

**CONTACT PLANNER:** Julia Descoteaux

**PHONE:** (951) 413-3209

ATTACHMENT 1

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**PLANNING COMMISSION RESOLUTION NO. 2013-20**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORENO VALLEY APPROVING CONDITIONAL USE PERMIT PA13-0009 TO CONSTRUCT A FOUR ISLAND FUELING STATION WITH A 240 SQUARE FOOT KIOSK LOCATED AT THE NORTHEAST CORNER OF ALESSANDRO BOULEVARD AND INDIAN STREET ON A PORTION OF PARCEL NUMBER 482-190-019.

**WHEREAS**, The Kroger Company has filed an application for the approval of PA13-0009 a fueling station as described in the title of this Resolution.

**WHEREAS**, on July 11, 2013, the Planning Commission of the City of Moreno Valley held a meeting to consider the application.

**WHEREAS**, all legal prerequisites to the adoption of this Resolution have occurred.

**WHEREAS**, there is hereby imposed on the subject development project certain fees, dedications, reservations and other exactions pursuant to state law and City ordinances;

**WHEREAS**, pursuant to Government Code Section 66020(d)(1), **NOTICE IS HEREBY GIVEN** that this project is subject to certain fees, dedications, reservations and other exactions as provided herein.

**NOW, THEREFORE, BE IT RESOLVED**, it is hereby found, determined and resolved by the Planning Commission of the City of Moreno Valley as follows:

- A. This Planning Commission hereby specifically finds that all of the facts set forth above in this Resolution are true and correct.
- B. Based upon substantial evidence presented to this Planning Commission during the above-referenced meeting on July 11, 2013, including written and oral staff reports, and the record from the public hearing, this Planning Commission hereby specifically finds as follows:
  - 1. **Conformance with General Plan Policies** – The proposed use is consistent with the General Plan, and its goals, objectives, policies and programs.

**FACT:** The proposed conditional use is consistent with the General Plan and the Neighborhood Commercial (NC) zone. As designed

and conditioned, the proposed fueling station will be consistent and does not conflict with the goals, objectives, policies and programs of the General Plan.

2. **Conformance with Zoning Regulations** – The proposed use complies with all applicable zoning and other regulations.

**FACT:** With the approval of the conditional use permit, as designed and conditioned the proposed fueling station will comply with the Municipal Code section which allow fueling stations in the Neighborhood Commercial zone.

3. **Health, Safety and Welfare** – The proposed use will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity.

**FACT:** The proposed Conditional Use Permit PA13-0009 will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity. The project would be exempt from the requirements of the California Environmental Quality Act (CEQA) Guidelines as provided for in Section 15332 (In-Fill Development Projects).

4. **Location, Design and Operation** – The location, design and operation of the proposed project will be compatible with existing and planned land uses in the vicinity.

**FACT:** As designed and conditioned, the proposed project will be constructed and operated to be compatible with surrounding uses.

## **C. FEES, DEDICATIONS, RESERVATIONS, AND OTHER EXACTIONS**

### **1. FEES**

Impact, mitigation and other fees are due and payable under currently applicable ordinances and resolutions. These fees may include but are not limited to: Development Impact Fee, Transportation Uniform Mitigation Fee (TUMF), Multi-species Habitat Conservation Plan (MSHCP) Mitigation Fee, Stephens Kangaroo Habitat Conservation fee, Underground Utilities in lieu Fee, Area Drainage Plan fee, Bridge and Thoroughfare Mitigation fee (Future) and Traffic Signal Mitigation fee. The final amount of fees payable is dependent upon information provided by the applicant and will be determined at the time the fees become due and payable.

Unless otherwise provided for by this resolution, all impact fees shall be calculated and collected at the time and in the manner provided in Chapter 3.32 of the City of Moreno Valley Municipal Code or as so provided in the applicable ordinances and resolutions. The City expressly reserves the right to amend the fees and the fee calculations consistent with applicable law.

## **2. DEDICATIONS, RESERVATIONS, AND OTHER EXACTIONS**

The adopted Conditions of Approval for PA13-0009, incorporated herein by reference, may include dedications, reservations, and exactions pursuant to Government Code Section 66020 (d) (1).

## **3. CITY RIGHT TO MODIFY/ADJUST; PROTEST LIMITATIONS**

The City expressly reserves the right to establish, modify or adjust any fee, dedication, reservation or other exaction to the extent permitted and as authorized by law.

Pursuant to Government Code Section 66020(d)(1), NOTICE IS FURTHER GIVEN that the 90 day period to protest the imposition of any impact fee, dedication, reservation, or other exaction described in this resolution begins on the effective date of this resolution and any such protest must be in a manner that complies with Section 66020(a) and failure to timely follow this procedure will bar any subsequent legal action to attack, review, set aside, void or annul imposition.

The right to protest the fees, dedications, reservations, or other exactions does not apply to planning, zoning, grading, or other similar application processing fees or service fees in connection with this project and it does not apply to any fees, dedication, reservations, or other exactions of which a notice has been given similar to this, nor does it revive challenges to any fees for which the Statute of Limitations has previously expired.

**BE IT FURTHER RESOLVED** that the Planning Commission **HEREBY APPROVES** Resolution No. 2013-20 approving PA13-0009 (Conditional Use Permit) for the fueling station subject to the attached conditions of approval included as Exhibit A.

**APPROVED** this 11<sup>th</sup> day of July, 2013.

\_\_\_\_\_  
Chair, Planning Commission

ATTEST:

\_\_\_\_\_  
John C. Terell, Planning Official  
Secretary to the Planning Commission

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

Attached: Conditions of Approval

**CITY OF MORENO VALLEY  
CONDITIONS OF APPROVAL  
PA13-0009  
CONDITIONAL USE PERMIT  
APN: 482-190-019**

**APPROVAL DATE:  
EXPIRATION DATE:**

**July 11, 2013  
July 11, 2016**

- Planning (P), School District (S), Post Office (PO), Building (B), Police (PD)**
- Fire Prevention Bureau (F)**
- Land Development (LD)**
- Public Works, Special Districts (SD)**
- Public Works – Transportation Engineering (TE)**

**Note: All Special conditions are in bold lettering.** All other conditions are standard to all or most development projects.

**COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT**

**Planning Division**

**For questions regarding any Planning condition of approval, please contact the Planning Division at (951) 413-3206.**

**GENERAL CONDITIONS**

- P1. This approval shall expire three years after the approval date of this project unless used or extended as provided for by the City of Moreno Valley Municipal Code; otherwise it shall become null and void and of no effect whatsoever. Use means the beginning of substantial construction contemplated by this approval within the three-year period, which is thereafter pursued to completion, or the beginning of substantial utilization contemplated by this approval. (MC 9.02.230)
- P2. In the event the use hereby permitted ceases operation for a period of one (1) year or more, or as defined in the current Municipal Code, this permit may be revoked in accordance with provisions of the Municipal Code. (MC 9.02.260)
- P3. The site shall be developed in accordance with the approved plans on file in the

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**Timing Mechanisms for Conditions (see abbreviation at beginning of affected condition):**

R - Map Recordation	GP - Grading Permits	CO - Certificate of Occupancy or building final
WP - Water Improvement Plans	BP - Building Permits	P - Any permit

**Governing Document (see abbreviation at the end of the affected condition):**

GP - General Plan	MC - Municipal Code	CEQA - California Environmental Quality Act
Ord - Ordinance	DG - Design Guidelines	Ldscp - Landscape Development Guidelines and Specs
Res - Resolution	UFC - Uniform Fire Code	UBC - Uniform Building Code
	SBM - Subdivision Map Act	

**PLANNING DIVISION  
CONDITIONS OF APPROVAL  
(PA13-0009)  
PAGE 2**

Community & Economic Development Department - Planning Division, the Municipal Code regulations, General Plan, and the conditions contained herein. Prior to any use of the project site or business activity being commenced thereon, all Conditions of Approval shall be completed to the satisfaction of the Planning Official. (MC 9.14.020)

- P4. The developer, or the developer's successor-in-interest, shall be responsible for maintaining any undeveloped portion of the site in a manner that provides for the control of weeds, erosion and dust. (MC 9.02.030)
- P5. All landscaped areas shall be maintained in a healthy and thriving condition, free from weeds, trash and debris. (MC 9.02.030)
- P6. Any signs indicated on the submitted plans are not included with this approval. Any signs, **whether permanent (e.g. wall, monument) or temporary (e.g. banner, flag)**, proposed for this development shall be designed in conformance with the sign provisions of the Municipal Code or approved sign program, if applicable, and shall require separate application and approval by the Planning Division. **No signs are permitted in the public right of way.** (MC 9.12)
- P7. (GP) All site plans, grading plans, landscape and irrigation plans, fence/wall plans, lighting plans and street improvement plans shall be coordinated for consistency with this approval.

**Special Conditions**

- P8. **The site has been approved for a fueling station including 7 dispensers and a 240 square foot attendant kiosk designed with glass-fiber reinforced cement panels, molded to simulate split face CMU and colored per the approved plans. A change or modification shall require separate approval. For a Conditional Use Permit, violation may result in revocation of the Conditional Use Permit.**
- P9. **Prior to issuance of Building Permits the elevation plan for the canopy columns shall be revised to include decorative enhancements to the base of the columns consistent with the design of the kiosk, subject to the approval of the Planning Official.**
- P10. **The Police Chief may require the business owner to provide security within the fueling station to address issues that arise from the operation of the business.**
- P11. **The site lighting shall be maintained in good repair and shall comply with the Municipal Code lighting standards of a minimum of one (1) foot candle and a maximum of eight (8) foot candle.**

- P12. **Any speaker system shall not be detectable above daytime ambient noise levels beyond the property line boundaries, and shall not exceed fifty-five (55) dBA at any one time beyond the boundaries of the property line. (MC9.09.080 C.6 and 9.10.140)**
- P13. **The service station shall provide air and water to customers without charge located on site per the approved plans.**
- P14. **No coin operated vending machines shall be located outside of the kiosk.**
- P15. **Outdoor trash receptacles shall be provided at each island placed in a location convenient for customers.**

**Prior to Issuance of Grading Permits**

- P16. (GP) If potential historic, archaeological, or paleontological resources are uncovered during excavation or construction activities at the project site, work in the affected area will cease immediately and a qualified person (meeting the Secretary of the Interior's standards (36CFR61)) shall be consulted by the applicant to evaluate the find, and as appropriate recommend alternative measures to avoid, minimize or mitigate negative effects on the historic, prehistoric, or paleontological resource. Determinations and recommendations by the consultant shall be implemented as deemed appropriate by the Community & Economic Development Director, in consultation with the State Historic Preservation Officer (SHPO) and any and all affected Native American Tribes before any further work commences in the affected area.

If human remains are discovered, **no further disturbance shall occur until the County Coroner has made necessary findings as to origin. If the County Coroner determines that the remains are potentially Native American, the California Native American Heritage Commission shall be contacted within a reasonable timeframe to identify the “most likely descendant.” The “most likely descendant” shall then make recommendations, and engage in consultations concerning the treatment of the remains (California Public Resources Code 5097.98).** (GP Objective 23.3, CEQA).

- P17. (GP) Prior to issuance of grading permits, the developer shall pay the applicable Stephens' Kangaroo Rat (SKR) Habitat Conservation Plan mitigation fee. (Ord)

**PLANNING DIVISION  
CONDITIONS OF APPROVAL  
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PAGE 4**

- P18. (GP) Prior to approval of any grading permit, the developer shall submit for review and approval of a tree plan to the Planning Division. The plan shall identify all mature trees (4 inch trunk diameter or larger) on the subject property and City right-of-way. Using the grading plan as a base, the plan shall indicate trees to be relocated, retained, and removed. Replacement trees shall be shown on the plan, be a minimum size of 24 inch box, and meet a ratio of three replacement trees for each mature tree removed or as approved by the Planning Official. (GP Objective 4.4, 4.5, DG)
- P19. **(GP) Within thirty (30) days prior to any grading or other land disturbance, a pre-construction survey for Burrowing Owls shall be conducted pursuant to the established guidelines of Multiple Species Habitat Conservation Plan.**
- P20. **(GP) Decorative pedestrian pathways across circulation aisles/paths shall be provided throughout the development to connect dwellings with open spaces and/or recreational uses or commercial/industrial buildings with open space and/or parking and/or the public right-of-way. The pathways shall be shown on the precise grading plan. (GP Objective 46.8, DG)**
- P21. **(GP) Prior to the issuance of building permits, the site plan shall show decorative concrete pavers for the driveway ingress/egress located on Indian Street.**
- P22. **(GP) Prior to issuance of grading permits, the developer shall submit wall/fence plans to the Planning Division for review and approval as follows:**
- A. A 3 foot high decorative wall, solid hedge or berm shall be placed in any setback areas between a public right of way and a parking lot for screening.**
  - B. Any proposed retaining walls shall also be decorative in nature, while the combination of retaining and other walls on top shall not exceed the height requirement.**
  - C. Walls and fences for visual screening are required when there are adjacent residential uses or residentially zone property. The height, placement and design will be based on a site specific review of the project. All walls are subject to the approval of the Planning Official. (DC 9.08.070)**

**PRIOR TO BUILDING PERMITS**

- P23. (BP) Prior to issuance of building permits, the Planning Division shall review and approve the location and method of enclosure or screening of transformer cabinets,



**PLANNING DIVISION  
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PAGE 5**

commercial gas meters and back flow preventers as shown on the final working drawings. Location and screening shall comply with the following criteria: transformer cabinets and commercial gas meters shall not be located within required setbacks and shall be screened from public view either by architectural treatment or landscaping; multiple electrical meters shall be fully enclosed and incorporated into the overall architectural design of the building(s); back-flow preventers shall be screened by landscaping. (GP Objective 43.30, DG)

- P24. (BP) Prior to issuance of building permits, screening details shall be addressed on plans for roof top equipment and trash enclosures submitted for Planning Division review and approval. All equipment shall be completely screened so as not to be visible from public view, and the screening shall be an integral part of the building. For trash enclosures, landscaping shall be included on at least three sides. The trash enclosure, including any roofing, shall be compatible with the architecture for the building(s). (GP Objective 43.6, DG)**
- P25. (BP) Prior to issuance of building permits, two copies of a detailed, on-site, computer generated, point-by-point comparison lighting plan, including exterior building, parking lot, and landscaping lighting, shall be submitted to the Planning Division for review and approval. The lighting plan shall be generated on the plot plan and shall be integrated with the final landscape plan. The plan shall indicate the manufacturer's specifications for light fixtures used and shall include style, illumination, location, height and method of shielding. The lighting shall be designed in such a manner so that it does not exceed 0.5 foot candles illumination beyond at the property line. The lighting level for all parking lots or structures shall be a minimum coverage of one foot-candle of light with a maximum of eight foot-candles. After the third plan check review for lighting plans, an additional plan check fee will apply. (MC 9.08.100, DG)
- P26. (BP) Prior to issuance of building permits, the developer or developer's successor-in-interest shall pay all applicable impact fees, including but not limited to Transportation Uniform Mitigation fees (TUMF), Multi-species Habitat Conservation Plan (MSHCP) mitigation fees, and the City's adopted Development Impact Fees. (Ord)
- P27. (BP) Prior to issuance of building permits, for multi-family projects that will be phased, a phasing plan submitted to the Planning Division will be required if occupancy is proposed to be phased.
- P28. (BP) Prior to issuance of any building permits, final landscaping and irrigation plans shall be submitted for review and approved by the Planning**

**Division.** After the third plan check review for landscape plans, an additional plan check fee shall apply. The plans shall be prepared in accordance with the City's Landscape Standards and shall include:

- A. A three (3) foot high decorative wall, solid hedge or berm shall be placed in any setback areas between a public right of way and a parking lot for screening.
  - B. Finger and end planters with required step outs and curbing shall be provided every 12 parking stalls as well as at the terminus of each aisle.
  - C. Drought tolerant landscape shall be used. Sod shall not be planted.
  - D. Street trees shall be provided every 40 feet on center in the right of way.
  - E. On-site trees shall be planted at an equivalent of one (1) tree per thirty (30) linear feet of the perimeter of a parking lot and per thirty linear feet of a building dimension for the portions of the building visible from a parking lot or right of way. Trees may be massed for pleasing aesthetic effects.
  - F. Enhanced landscaping shall be provided at all driveway entries and street corner locations
  - G. The review of all utility boxes, transformers etc. shall be coordinated to provide adequate screening from public view.
  - H. Landscaping on three sides of any trash enclosure.
  - I. All site perimeter and parking lot landscape and irrigation shall be installed prior to the release of certificate of any occupancy permits for the site or pad in question (master plot plan).
- P29. (BP)** Prior to the issuance of building permits, the site plan shall include landscape for trash enclosures to include landscape on three sides, while elevation plans for trash enclosures shall be provided that include decorative enhancements such as an enclosed roof and other decorative features that are consistent with the architecture of the proposed buildings on the site, subject to the approval of the Planning Division.
- P30. (BP)** Prior to the issuance of building permits, the plot plan shall include decorative concrete pavers for the Indian Street driveway ingress/egress of the project

**PRIOR TO CERTIFICATE OF OCCUPANCY**

- P31. (CO)** Prior to issuance of Certificates of Occupancy or building final, the required landscaping and irrigation shall be installed. (DC 9.03.040)

**PLANNING DIVISION  
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- P32. (CO) Prior to the issuance of Certificates of Occupancy or building final, all required and proposed fences and walls shall be constructed according to the approved plans on file in the Planning Division. (MC 9.080.070).**
- P33. (BP/CO) Prior to issuance of Certificate of Occupancy or building final, installed landscaping and irrigation shall be inspected by the Planning Division. All on-site and common area landscaping shall be installed in accordance with the City's Landscape Standards and the approved project landscape plans and all site clean-up shall be completed. All site perimeter and parking lot landscape and irrigation shall be installed prior to the release of certificate of any occupancy permits for the site or pad in question.**

**Building and Safety Division**

- B1. The above project shall comply with the current California Codes (CBC, CEC, CMC and the CPC) as well as city ordinances. All new projects shall provide a soils report as well. Plans shall be submitted to the Building and Safety Division as a separate submittal. The 2010 edition of the California Codes became effective for all permits issued after January 1, 2011.**

**COMMERCIAL, INDUSTRIAL, MULTI-FAMILY PROJECTS INCLUDING CONDOMINIUMS, TOWNHOMES, DUPLEXES AND TRIPLEX BUILDINGS REQUIRE THE FOLLOWING.**

- B2. Prior to final inspection, all plans will be placed on a CD Rom for reference and verification. Plans will include "as built" plans, revisions and changes. The CD will also include Title 24 energy calculations, structural calculations and all other pertinent information. It will be the responsibility of the developer and or the building or property owner(s) to bear all costs required for this process. The CD will be presented to the Building and Safety Division for review prior to final inspection and building occupancy. The CD will become the property of the Moreno Valley Building and Safety Division at that time. In addition, a site plan showing the path of travel from public right of way and building to building access with elevations will be required.**
- B3. (BP) Prior to the issuance of a building permit, the applicant shall submit a properly completed "Waste Management Plan" (WMP), as required, to the Compliance Official (Building Official) as a portion of the building or demolition permit process.**

**SCHOOL DISTRICT**

- S1. (BP) Prior to issuance of building permits, the developer shall provide to the Community Development Director a written certification by the affected school district that either: (1) the project has complied with the fee or other exaction levied on the project by the governing board of the district, pursuant to Government Code Section 65996; or (2) the fee or other requirement does not apply to the project.

**UNITED STATES POSTAL SERVICE**

- PO1. (BP) Prior to the issuance of building permits, the developer shall contact the U.S. Postal Service to determine the appropriate type and location of mailboxes.

**POLICE DEPARTMENT**

**Note: All Special conditions are in bold lettering.** All other conditions are standard to all or most development projects

**Standard Conditions**

- PD1. Prior to the start of any construction, temporary security fencing shall be erected. The fencing shall be a minimum of six (6) feet high with locking, gated access and shall remain through the duration of construction. Security fencing is required if there is: construction, unsecured structures, unenclosed storage of materials and/or equipment, and/or the condition of the site constitutes a public hazard as determined by the Public Works Department. If security fencing is required, it shall remain in place until the project is completed or the above conditions no longer exist. (DC 9.08.080)
- PD2. (GP) Prior to the issuance of grading permits, a temporary project identification sign shall be erected on the site in a secure and visible manner. The sign shall be conspicuously posted at the site and remain in place until occupancy of the project. The sign shall include the following:
- a. The name (if applicable) and address of the development.
  - b. The developer's name, address, and a 24-hour emergency telephone number. (DC 9.08.080)
- PD3. (CO) Prior to the issuance of a Certificate of Occupancy, an Emergency Contact information Form for the project shall be completed at the permit counter of the

**PLANNING DIVISION  
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Community and Economic Development Department - Building Division for routing to the Police Department. (DC 9.08.080)

- PD4. Addresses needs to be in plain view visible from the street and visible at night. It needs to have a backlight, so the address will reflect at night or a lighted address will be sufficient.
- PD5. All exterior doors in the rear and the front of the buildings need an address or suite number on them.
- PD6. All rear exterior doors should have an overhead low sodium light or a light comparable to the same.
- PD7. The exterior of the building should have high-pressure sodium lights and or Metal halide lights installed and strategically placed throughout the exterior of the building. The parking lots should have adequate lighting to insure a safe environment for customers and or employees.
- PD8. Trees, which exceed 20', should have a 7' visibility from the ground to the bottom half of the tree. This is so that patrons or employees can view the whole parking lot while parking their vehicles in the parking lot.
- PD9. Cash registers shall be placed near the front entrance of the store.
- PD10. Window coverings shall comply with the city ordinance.
- PD11. No loitering signs shall be posted in plain view throughout the building.

**CITY OF MORENO VALLEY  
CONDITIONS OF APPROVAL  
Case No: PA13-0009  
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DATE: 05/30/13**

**FIRE PREVENTION BUREAU**

**1. The following Standard Conditions shall apply.**

With respect to the conditions of approval, the following fire protection measures shall be provided in accordance with Moreno Valley City Ordinances and/or recognized fire protection standards:

- F1. Final fire and life safety conditions will be addressed when the Fire Prevention Bureau reviews building plans. These conditions will be based on occupancy, use, California Building Code (CBC), California Fire Code (CFC), and related codes, which are in force at the time of building plan submittal.
- F2. The Fire Prevention Bureau is required to set a minimum fire flow for the remodel or construction of all commercial buildings per CFC Appendix B and Table B105.1. The applicant/developer shall provide documentation to show there exists a water system capable of delivering 1500 GPM for 2 hour(s) duration at 20-PSI residual operating pressure. The required fire flow may be adjusted during the approval process to reflect changes in design, construction type, or automatic fire protection measures as approved by the Fire Prevention Bureau. Specific requirements for the project will be determined at time of submittal. (CFC 507.3, Appendix B) .
- F3. Industrial, Commercial, Multi-family, Apartment, Condominium, Townhouse or Mobile Home Parks. A combination of on-site and off-site super fire hydrants (6" x 4" x 2 ½" x 2 ½" ) and super enhanced fire hydrants (6" x 4" x 4" x 2 ½" ) shall not be closer than 40 feet and more than 150 feet from any portion of the building as measured along approved emergency vehicular travel ways. The required fire flow shall be available from any adjacent fire hydrant(s) in the system. Where new water mains are extended along streets where hydrants are not needed for protection of structures or similar fire problems, super or enhanced fire hydrants as determined by the fire code official shall be provided at spacing not to exceed 500 feet of frontage for transportation hazards. (CFC 507.5.7 & MVMC 8.36.060 Section K)
- F4. During phased construction, dead end roadways and streets which have not been completed shall have a turn-around capable of accommodating fire apparatus. (CFC 503.2 and 503.2.5)
- F5. Prior to issuance of Building Permits, the applicant/developer shall provide the Fire Prevention Bureau with an approved site plan for Fire Lanes and signage. (MVMC 8.36.050 and CFC 501.3)

- F6. Prior to construction and issuance of building permits, all locations where structures are to be built shall have an approved Fire Department emergency vehicular access road (all weather surface) capable of sustaining an imposed load of 80,000 lbs. GVW, based on street standards approved by the Public Works Director and the Fire Prevention Bureau. (CFC 501.4 and MVMC 8.36.050 Section A)
- F7. Prior to construction and issuance of Building Permits, fire lanes and fire apparatus access roads shall have an unobstructed width of not less than twenty-four (24) feet as approved by the Fire Prevention Bureau and an unobstructed vertical clearance of not less than thirteen (13) feet six (6) inches. (CFC 503.2.1 and MVMC 8.36.060[E])
- F8. Prior to construction, all roads, driveways and private roads shall not exceed 12 percent grade. (CFC 503.2.7 and MVMC 8.36.060[G])
- F9. Prior to issuance of Building Permits, the applicant/developer shall participate in the Fire Impact Mitigation Program. (Fee Resolution as adopted by City Council)
- F10. Prior to issuance of Building Permits, the applicant/developer shall furnish one copy of the water system plans to the Fire Prevention Bureau for review. Plans shall:
- a) Be signed by a registered civil engineer or a certified fire protection engineer;
  - b) Contain a Fire Prevention Bureau approval signature block; and
  - c) Conform to hydrant type, location, spacing of new and existing hydrants and minimum fire flow required as determined by the Fire Prevention Bureau.

After the local water company signs the plans, the originals shall be presented to the Fire Prevention Bureau for signatures. The required water system, including fire hydrants, shall be installed, made serviceable, and be accepted by the Moreno Valley Fire Department prior to beginning construction. They shall be maintained accessible.

Existing fire hydrants on public streets are allowed to be considered available. Existing fire hydrants on adjacent properties shall not be considered available unless fire apparatus access roads extend between properties and easements are established to prevent obstruction of such roads. (CFC 507.5)

- F11. Prior to issuance of Certificate of Occupancy or Building Final, "Blue Reflective Markers" shall be installed to identify fire hydrant locations in accordance with City specifications. (CFC 509.1)
- F12. Prior to issuance of Certificate of Occupancy or Building Final, all commercial buildings shall display street numbers in a prominent location on the street side and rear access locations. The numerals shall be a minimum of twelve (12) inches in height for buildings and six (6) inches in height for suite identification on a contrasting background. Unobstructed lighting of the address(s) shall be by

means approved by the Fire Prevention Bureau and Police Department. In multiple suite centers (strip malls), businesses shall post the name of the business on the rear door(s). (CFC 505.1)

- F13. Prior to issuance of a Certificate of Occupancy or Building Final, a “Knox Box Rapid Entry System” shall be provided. The Knox-Box shall be installed in an accessible location approved by the Fire Chief. All exterior security emergency access gates shall be electronically operated and be provided with Knox key switches for access by emergency personnel. (CFC 506.1)
- F14. Prior to issuance of Certificate of Occupancy or Building Final, the applicant/developer shall be responsible for obtaining underground and/or above ground tank permits for the storage of combustible liquids, flammable liquids, or any other hazardous materials from both the County of Riverside Community Health Agency Department of Environmental Health and the Fire Prevention Bureau. (CFC 105)
- F15. Prior to issuance of Certificate of Occupancy, approval shall be required from the County of Riverside Community Health Agency (Department of Environmental Health) and Moreno Valley Fire Prevention Bureau to maintain, store, use, handle materials, or conduct processes which produce conditions hazardous to life or property, and to install equipment used in connection with such activities. (CFC 105)
- F16. Prior to issuance of Certificate of Occupancy or Building Final, the applicant/developer must submit a simple plot plan, a simple floor plan, and other plans as requested, each as an electronic file in .dwg format, to the Fire Prevention Bureau. Alternate file formats may be acceptable with approval by the Fire Chief.
- F17. The angle of approach and departure for any means of Fire Department access shall not exceed 1 ft drop in 20 ft (0.3 m drop in 6 m), and the design limitations of the fire apparatus of the Fire Department shall be subject to approval by the AHJ. (CFC 503 and MVMC 8.36.060)
- F18. Prior to construction, “private” driveways over 150 feet in length shall have a turn-around as determined by the Fire Prevention Bureau capable of accommodating fire apparatus. Driveway grades shall not exceed 12 percent. (CFC 503 and MVMC 8.36.060)
- F19. Complete plans and specifications for fire alarm systems, fire-extinguishing systems (including automatic sprinklers or standpipe systems), clean agent systems (or other special types of automatic fire-extinguishing systems), as well as other fire-protection systems and appurtenances thereto shall be submitted to the Moreno Valley Fire Prevention Bureau for review and approval prior to system installation. Submittals shall be in accordance with CFC Chapter 9 and associated accepted national standards.
- F20. A permit is required to maintain, store, use or handle materials, or to conduct processes which produce conditions hazardous to life or property, or to install equipment used in connection with such activities. Such permits shall not be



construed as authority to violate, cancel or set aside any of the provisions of this code. Such permit shall not take the place of any license required by law. Applications for permits shall be made to the Fire Prevention Bureau in such form and detail as prescribed by the Bureau. Applications for permits shall be accompanied by such plans as required by the Bureau. Permits shall be kept on the premises designated therein at all times and shall be posted in a conspicuous location on the premises or shall be kept on the premises in a location designated by the Fire Chief. Permits shall be subject to inspection at all times by an officer of the fire department or other persons authorized by the Fire Chief in accordance with CFC 105 and MVMC 8.36.100.

- F21. Approval of the safety precautions required for buildings being constructed, altered or demolished shall be required by the Fire Chief in addition to other approvals required for specific operations or processes associated with such construction, alteration or demolition. (CFC Chapter 14 & CBC Chapter 33)
- F22. Prior to issuance of Certificate of Occupancy, permits are required to store, dispense, use or handle hazardous material. Each application for a permit shall include a hazardous materials management plan (HMMP). The location of the HMMP shall be posted adjacent to (other) permits when an HMMP is provided. The HMMP shall include a facility site plan designating the following:
- a) Storage and use areas;
  - b) Maximum amount of each material stored or used in each area;
  - c) Range of container sizes;
  - d) Locations of emergency isolation and mitigation valves and devices;
  - e) Product conveying piping containing liquids or gases, other than utility-owned fuel gas lines and low-pressure fuel gas lines;
  - f) On and off positions of valves for valves which are of the self-indicating type;
  - g) Storage plan showing the intended storage arrangement, including the location and dimensions of aisles. The plans shall be legible and approximately to scale. Separate distribution systems are allowed to be shown on separate pages; and
  - h) Site plan showing all adjacent/neighborhood structures and use.

NOTE: Each application for a permit shall include a hazardous materials inventory statement (HMIS).

- F23. Before a Hazardous Materials permit is issued, the Fire Chief shall inspect and approve the receptacles, vehicles, buildings, devices, premises, storage spaces or areas to be used. In instances where laws or regulations are enforceable by departments other than the Fire Prevention Bureau, joint approval shall be obtained from all departments concerned. (CFC Chapter 27)
- F24. Construction or work for which the Fire Prevention Bureau's approval is required shall be subject to inspection by the Fire Chief and such construction or work shall remain accessible and exposed for inspection purposes until approved. (CFC Section 105)

- F25. The Fire Prevention Bureau shall maintain the authority to inspect, as often as necessary, buildings and premises, including such other hazards or appliances designated by the Fire Chief for the purpose of ascertaining and causing to be corrected any conditions which would reasonably tend to cause fire or contribute to its spread, or any violation of the purpose or provisions of this code and of any other law or standard affecting fire safety. (CFC Section 105)
- F26. Permit requirements issued, which designate specific occupancy requirements for a particular dwelling, occupancy, or use, shall remain in effect until such time as amended by the Fire Chief. (CFC Section 105)
- F27. In accordance with the California Fire Code Appendix Chapter 1, where no applicable standards or requirements are set forth in this code, or contained within other laws, codes, regulations, ordinances or bylaws adopted by the jurisdiction, compliance with applicable standards of the National Fire Protection Association or other nationally recognized fire safety standards as are approved shall be deemed as prima facie evidence of compliance with the intent of this code as approved by the Fire Chief. (CFC Section 102.8)
- F28. Any alterations, demolitions, or change in design, occupancy and use of buildings or site will require plan submittal to the Fire Prevention Bureau with review and approval prior to installation. (CFC Chapter 1)
- F29. Emergency and Fire Protection Plans shall be provided when required by the Fire Prevention Bureau. (CFC Section 105)
- F30. Prior to construction, all traffic calming designs/devices must be approved by the Fire Marshal and City Engineer.

**CITY OF MORENO VALLEY  
COMMUNITY & ECONOMIC DEVELOPMENT - LAND DEVELOPMENT DIVISION  
CONDITIONS OF APPROVAL  
PA13-0009 – Plot Plan Fuel Center  
APN 482-190-019**

**Note:** All Special Conditions are in **Bold** lettering and follow the standard conditions.

**COMMUNITY & ECONOMIC DEVELOPMENT – LAND DEVELOPMENT DIVISION**

The following are the Community & Economic Development Department – Land Development Division Conditions of Approval for this project and shall be completed at no cost to any government agency. All questions regarding the intent of the following conditions shall be referred to the Community & Economic Development Department – Land Development Division.

General Conditions

- LD1. (G) The developer shall comply with all applicable City ordinances and resolutions including the City's Municipal Code (MC) and if subdividing land, the Government Code (GC) of the State of California, specifically Sections 66410 through 66499.58, said sections also referred to as the Subdivision Map Act (SMA). (MC 9.14.010)
- LD2. (G) If the project involves the subdivision of land, financial security shall be provided for all improvements and dedications made on the associated final parcel map.
- LD3. (G) It is understood that the plot plan correctly shows all existing easements, traveled ways, and drainage courses, and that their omission may require the map or plans associated with this application to be resubmitted for further consideration. (MC 9.14.040)
- LD4. (G) If improvements associated with this project are not initiated within two years of the date of approval of the Public Improvement Agreement, the City Engineer may require that the improvement cost estimate associated with the project be modified to reflect current City construction costs in effect at the time of request for an extension of time for the Public Improvement Agreement or issuance of a permit.
- LD5. (G) The developer shall monitor, supervise and control all construction and construction supportive activities, so as to prevent these activities from causing a public nuisance, including but not limited to, insuring strict adherence to the following:
- (a) Removal of dirt, debris, or other construction material deposited on any public street no later than the end of each working day.
  - (b) Observance of working hours as stipulated on permits issued by the Community and Economic Development Department.

- (c) The construction site shall accommodate the parking of all motor vehicles used by persons working at or providing deliveries to the site.
- (d) All dust control measures per South Coast Air Quality Management District (SCAQMD) requirements shall be adhered to during the grading operations.

Violation of any condition or restriction or prohibition set forth in these conditions shall subject the owner, applicant, developer or contractor(s) to remedies as noted in the City Municipal Code 8.14.090. In addition, the City Engineer or Building Official may suspend all construction related activities for violation of any condition, restriction or prohibition set forth in these conditions until such time as it has been determined that all operations and activities are in conformance with these conditions.

- LD6. (G) A detailed drainage study shall be submitted to the City Engineer for review and approval at the time of any improvement or grading plan submittal. The study shall be prepared by a registered civil engineer and shall include existing and proposed hydrologic conditions. Hydraulic calculations are required for all drainage control devices and storm drain lines. (MC 9.14.110). Prior to approval of the related improvement or grading plans, the developer shall submit the approved drainage study, on compact disk, in (.pdf) digital format to the Land Development Division of the Community and Economic Development Department.
- LD7. (G) Prior to final map approval, commencing applicable street improvements, or obtaining the first building permit, the developer shall enter into a Development Impact Fee (DIF) Improvement Credit Agreement to secure credit and reimbursement for the construction of applicable arterial street, traffic signal, and/or interchange improvements. If the developer fails to complete this agreement prior to the timing as specified above, no credits or reimbursements will be given. The applicant shall pay Arterial Streets, Traffic Signals, and Interchange Improvements development impact fees adopted by the City Council by resolution. (Ord. 695 § 1.1 (part), 2005) (MC 3.38.030, .040, .050)
- LD8. (G) The final conditions of approval issued by the Planning Division subsequent to Planning Commission approval shall be photographically or electronically placed on mylar sheets and included in the Grading and Street Improvement plan sets on twenty-four (24) inch by thirty-six (36) inch mylar and submitted with the plans for plan check. These conditions of approval shall become part of these plan sets and the approved plans shall be available in the field during grading and construction.

Prior to Grading Plan Approval or Grading Permit

- LD9. (GPA) Prior to approval of the grading plans, plans shall be drawn on twenty-four (24) inch by thirty-six (36) inch mylar and signed by a registered civil engineer and other registered/licensed professional as required.

- LD10. (GPA) Prior to approval of grading plans, the developer shall ensure compliance with the City Grading ordinance, these Conditions of Approval and the following criteria:
- a. The project street and lot grading shall be designed in a manner that perpetuates the existing natural drainage patterns with respect to tributary drainage area and outlet points.
  - b. A grading permit shall be obtained from the Community and Economic Development Department Land Development Division prior to commencement of any grading outside of the City maintained road right-of-way.
  - c. All improvement plans are substantially complete and appropriate clearance and at-risk letters are provided to the City. (MC 9.14.030)
  - d. The developer shall submit a soils and geologic report to the Community and Economic Development Department – Land Development Division. The report shall address the soil’s stability and geological conditions of the site.
- LD11. (GPA) Prior to grading plan approval, the developer shall select and implement treatment control best management practices (BMPs) that are medium to highly effective for treating Pollutants of Concern (POC) for the project. Projects where National Pollution Discharge Elimination System (NPDES) mandates water quality treatment control best management practices (BMPs) shall be designed per the City of Moreno Valley guidelines or as approved by the City Engineer. **The project is proposing water quality swales and an infiltration trench.**
- LD12. (GPA) Prior to the approval of the grading plans, the developer shall pay applicable remaining grading plan check fees.
- LD13. (GP) Prior to issuance of a grading permit, if the fee has not already been paid prior to map approval or prior to issuance of a building permit if a grading permit is not required, the developer shall pay Area Drainage Plan (ADP) fees. The developer shall provide a receipt to the City showing that ADP fees have been paid to Riverside County Flood Control and Water Conservation District. (MC 9.14.100)
- LD14. (GP) Prior to issuance of a grading permit, security, in the form of a cash deposit (preferable), letter of credit, or performance bond shall be required to be submitted as a guarantee of the completion of the grading required as a condition of approval of the project.
- LD15. (GP) Prior to issuance of a grading permit, the developer shall pay the applicable grading inspection fees.

Prior to Improvement Plan Approval or Construction Permit

- LD16. (IPA) Prior to approval of the improvement plans, the improvement plans shall be drawn on twenty-four (24) inch by thirty-six (36) inch mylar and signed by a registered civil engineer and other registered/licensed professional as required.
- LD17. (IPA) Prior to approval of the improvement plans, the developer shall submit clearances from all applicable agencies, and pay all outstanding plan check fees. (MC 9.14.210)
- LD18. (IPA) All public improvement plans prepared and signed by a registered civil engineer in accordance with City standards, policies and requirements shall be approved by the City Engineer in order for the Public Improvement Agreement and accompanying security to be executed.
- LD19. (IPA) Prior to approval of the improvement plans, securities and a public improvement agreement shall be required to be submitted and executed as a guarantee of the completion of the improvements required as a condition of approval of the project.
- LD20. (IPA) The street improvement plans shall comply with all applicable City standards and the following design standards throughout this project:
- a. Corner cutbacks in conformance with City Standard 208 shall be shown on the final map or, if no map is to be recorded, offered for dedication by separate instrument.
  - b. Lot access to major thoroughfares shall be restricted except at intersections and approved entrances and shall be so noted on the final map. (MC 9.14.100)
  - c. The minimum centerline and flow line grades shall be one percent unless otherwise approved by the City Engineer. (MC 9.14.020)
- LD21. (IPA) Prior to approval of the improvement plans, the plans shall indicate any restrictions on trench repair pavement cuts to reflect the City's moratorium on disturbing newly-constructed pavement less than three years old and recently slurry sealed streets less than one year old. Pavement cuts for trench repairs may be allowed for emergency repairs or as specifically approved in writing by the City Engineer.
- LD22. (IPA) Prior to approval of the improvement plans, the developer shall pothole to determine the exact location of existing underground utilities. The improvement plans shall be designed based on the pothole field investigation results. The developer shall coordinate with all affected utility companies and bear all costs of utility relocations.
- LD23. (IPA) Prior to approval of the improvement plans, the developer is required to bring any existing access ramps adjacent to and fronting the project to current ADA (Americans with Disabilities Act) requirements. However, when work is required in an intersection that involves or impacts existing access ramps, those access ramps in that intersection shall be retrofitted to comply with current ADA requirements, unless approved otherwise by the City Engineer.

- LD24. (CP) All work performed within the City right-of-way requires a construction permit. As determined by the City Engineer, security may be required for work within the right-of-way. Security shall be in the form of a cash deposit or other approved means. The City Engineer may require the execution of a public improvement agreement as a condition of the issuance of the construction permit. All inspection fees shall be paid prior to issuance of construction permit. (MC 9.14.100)
- LD25. (CP) Prior to issuance of a construction permit, all public improvement plans prepared and signed by a registered civil engineer in accordance with City standards, policies and requirements shall be approved by the City Engineer.
- LD26. (CP) Prior to issuance of construction permits, the developer shall submit all improvement plans on compact disks, in (.dxf) digital format to the Land Development Division of the Community and Economic Development Department.
- LD27. (CP) Prior to issuance of construction permits, the developer shall pay all applicable inspection fees.

#### Prior to Building Permit

- LD28. (BP) Prior to issuance of building permits, all street dedications shall be irrevocably offered to the public and shall continue in force until the City accepts or abandons such offers, unless otherwise approved by the City Engineer. All dedications shall be free of all encumbrances as approved by the City Engineer.
- LD29. (BP) Prior to issuance of building permits, security shall be required to be submitted as a guarantee of the completion of the improvements required as a condition of approval of the final map associated with the project. A public improvement agreement will be required to be executed.
- LD30. (BP) Prior to issuance of a building permit, all pads shall meet pad elevations per approved plans as noted by the setting of "Blue-top" markers installed by a registered land surveyor or licensed engineer.

#### Prior to Certificate of Occupancy

- LD31. (CO) Prior to issuance of the last certificate of occupancy or building final, the developer shall pay all outstanding fees.
- LD32. (CO) Prior to issuance of a certificate of occupancy, this project is subject to requirements under the current permit for storm water activities required as part of the National Pollutant Discharge Elimination System (**NPDES**) as mandated by the Federal Clean Water Act. In compliance with Proposition 218, the developer shall agree to approve the City of Moreno Valley NPDES Regulatory Rate Schedule that is in place at the time of certificate of occupancy issuance. Following are the requirements:

- a. Select one of the following options to meet the financial responsibility to provide storm water utilities services for the required continuous operation, maintenance, monitoring system evaluations and enhancements, remediation and/or replacement, all in accordance with Resolution No. 2002-46.
  - i. Participate in the mail ballot proceeding in compliance with Proposition 218, for the Common Interest, Commercial, Industrial and Quasi-Public Use NPDES Regulatory Rate Schedule and pay all associated costs with the ballot process; or
  - ii. Establish an endowment to cover future City costs as specified in the Common Interest, Commercial, Industrial and Quasi-Public Use NPDES Regulatory Rate Schedule.
- b. Notify the Special Districts Division of the intent to request building permits 90 days prior to their issuance and the financial option selected. The financial option selected shall be in place prior to the issuance of certificate of occupancy. (California Government Code & Municipal Code)

LD33. (CO) The City of Moreno Valley has an adopted Development Impact Fee (DIF) nexus study. All projects unless otherwise exempted shall be subject to the payment of the DIF prior to issuance of occupancy. The fees are subject to the provisions of the enabling ordinance and the fee schedule in effect at the time of occupancy.

LD34. (CO) The City of Moreno Valley has an adopted area wide Transportation Uniform Mitigation Fee (TUMF). All projects unless otherwise exempted shall be subject to the payment of the TUMF prior to issuance of occupancy. The fees are subject to the provisions of the enabling ordinance and the fee schedule in effect at the time of occupancy.

LD35. (CO) Prior to issuance of a certificate of occupancy or building final, the developer shall construct all public improvements in conformance with applicable City standards, except as noted in the Special Conditions, including but not limited to the following applicable improvements:

- a. Street improvements including, but not limited to: pavement, base, curb and/or gutter, cross gutters, spandrel, sidewalks, drive approaches, pedestrian ramps, street lights, signing, striping, under sidewalk drains, landscaping and irrigation, pavement tapers/transitions and traffic control devices as appropriate.
- b. Sewer and water systems including, but not limited to: sanitary sewer, potable water and recycled water.

LD36. (CO) Prior to issuance of a certificate of occupancy or building final for any Commercial/Industrial facility, whichever occurs first, the owner may have to



secure coverage under the State's General Industrial Activities Storm Water Permit as issued by the State Water Resources Control Board.

Prior to Acceptance of Streets into the City Maintained Road System

LD37. (AOS) Aggregate slurry, as defined in Section 203-5 of Standard Specifications for Public Works Construction, may be required just prior to the end of the one-year warranty period of the public streets at the discretion of the City Engineer. If slurry is required, the developer/contractor must provide a slurry mix design submittal for City Engineer approval. The latex additive shall be Ultra Pave 70 (for anionic – per project geotechnical report) or Ultra Pave 65 K (for cationic – per project geotechnical report) or an approved equal. The latex shall be added at the emulsion plant after weighing the asphalt and before the addition of mixing water. The latex shall be added at a rate of two to two-and-one-half (2 to 2½) parts to one-hundred (100) parts of emulsion by volume. Any existing striping shall be removed prior to slurry application and replaced per City standards.

**SPECIAL CONDITIONS**

**LD38. The following project engineering design plans (24"x36" sheet size) shall be submitted for review and approval as well as additional plans deemed necessary by the City during the plan review process: Rough Grading Plan, Precise Grading Plan, Street Improvement Plan, Signing and Striping Plan, Traffic Control Plan, Final Drainage Study, and As-Built Plans of these plans.**

**LD39. Prior to precise grading plan approval, the grading plans shall show any proposed trash enclosure as dual bin; one bin for trash and one bin for recyclables. The trash enclosure shall be per City Standard Plan 627.**

**LD40. Prior to precise grading plan approval, the grading plans shall clearly show that the parking lot conforms to City standards. The parking lot shall be 5% maximum, 1% minimum, 2% maximum at or near any disabled parking stall and travel way. Ramps, curb openings and travel paths shall all conform to current ADA standards as outlined in Department of Justice's "ADA Standards for Accessible Design", Excerpt from 28 CFR Part 36. ([www.usdoj.gov](http://www.usdoj.gov)) and as approved by the City's Building and Safety Division.**

**LD41. (BP) Prior to issuance of a building permit, Parcel Map 35040 (PA05-0162) shall record. Street right-of-way dedications on Alessandro Boulevard (7 feet) and Indian Street (14 feet) along project frontage, including additional right-of-way required at the corner cutoff and at driveway approaches (4 feet), as well as a 2-foot pedestrian access easement along Indian Street for that 2-foot portion of curb-separated sidewalk that is located beyond the public street right-of-way shall be made on the final parcel map.**

**LD42. Prior to issuance of a building permit, either reciprocal access easement(s) shall be shown on the final parcel map associated with this project (PM**

35040), or a copy of a reciprocal access agreement among parcels shall be submitted to the City for review and approval for any shared-use driveways and reciprocal access.

**LD43.** Prior to issuance of a building permit, the developer shall obtain the necessary permission from easement holders for construction of a trash enclosure over existing easements or alternatively, the existing easements shall be abandoned and new ones dedicated that will not conflict with the location of the proposed trash enclosure.

**LD44.** Prior to occupancy, this project will be required to repair, replace or install any damaged, substandard or missing improvements on Alessandro Boulevard and Indian Avenue. Access ramps and travelled ways shall comply with current American with Disabilities Act (ADA) standards.

**LD45.** Prior to occupancy, the following improvements shall be completed:

- a. Alessandro Boulevard, City Standard 101A (134-foot RW / 110-foot CC) shall be constructed to include construction of remaining public improvements along the project's south frontage. A 7-foot right-of-way dedication on the north side of the street, along the project's south property line, shall be shown on the associated project map PM 35040. Improvements shall consist of, but not be limited to, driveway approach, parkway culvert, pedestrian ramps, and dry and wet utilities.
- b. Indian Street, Minor Arterial, City Standard 105A (88-foot RW / 64-foot CC) shall be constructed to half-width along the entire project's west frontage with pavement transition beyond. A 14-foot right-of-way dedication on the east side of the street, along the project's west property line, shall be shown on the associated project map PM 35040. Improvements shall consist of, but not be limited to, pavement, base, curb, gutter, sidewalk, driveway approach, parkway culvert, any necessary offsite improvement transition/joins to existing, streetlights, pedestrian ramps, undergrounding of any power poles with overhead utility lines less than 115,000 volts, and dry and wet utilities.
- c. Driveway approaches shall be constructed per City Standard No. 118C. The parcel map (PM 35040) shall show an additional 4-foot right-of-way dedication behind driveway approaches. No decorative pavers shall be placed within the public right-of-way.
- d. Pavement core samples of existing pavement may be taken and findings submitted to the City for review and consideration of pavement improvements. The City will determine the adequacy of the existing pavement structural section. If the existing pavement structural section is found to be adequate, the developer may still be required to perform a one-tenth inch grind and overlay or slurry seal depending on the severity of existing pavement cracking, as required by the City Engineer. If the existing pavement section is found to be inadequate, the Developer shall replace the pavement to meet or exceed the City's pavement structural section standard.

**CITY OF MORENO VALLEY  
CONDITIONS OF APPROVAL  
Case No: PA13-0009 (PP for a Fueling Station with a 240 sq ft Kiosk)  
APN: 482-190-019  
03.06.13**

**FINANCIAL & MANAGEMENT SERVICES DEPARTMENT**

**Special Districts Division**

**Note: All Special Conditions, Modified Conditions, or Clarification of Conditions are in bold lettering.** All other conditions are standard to all or most development projects.

**Acknowledgement of Conditions**

The following items are Special Districts' Conditions of Approval for project **PA13-0009**; this project shall be completed at no cost to any Government Agency. All questions regarding Special Districts' Conditions including but not limited to, intent, requests for change/modification, variance and/or request for extension of time shall be sought from the Special Districts Division of the Financial & Management Services Department 951.413.3480 or by emailing [specialdistricts@moval.org](mailto:specialdistricts@moval.org).

**General Conditions**

- SD-1 The parcel(s) associated with this project have been incorporated into the Moreno Valley Community Services Districts Zones A (Parks & Community Services) and C (Arterial Street Lighting). All assessable parcels therein shall be subject to annual Zone A and Zone C charges for operations and capital improvements.
  
- SD-2 Any damage to existing landscape areas maintained by the Moreno Valley Community Services District due to project construction shall be repaired/replaced by the developer, or developer's successors in interest, at no cost to the Moreno Valley Community Services District.
  
- SD-3 The ongoing maintenance of any landscaping required to be installed behind the curb on **Alessandro Blvd. and Indian St.** shall be the responsibility of the property owner.
  
- SD-4 Streetlight Authorization forms, for all streetlights that are conditioned to be installed as part of this project, must be submitted to the Special Districts Division for approval, prior to streetlight installation. The Streetlight Authorization form can be obtained from the utility company providing electric service to the project, either Moreno Valley Utility or Southern California Edison.

### **Prior to Building Permit Issuance**

- SD-5 (BP) This project has been identified to be included in the formation of a Community Facilities District (Mello-Roos) for **Public Safety** services, including but not limited to Police, Fire Protection, Paramedic Services, Park Rangers, and Animal Control services. The property owner(s) shall not protest the formation; however, they retain the right to object to the rate and method of maximum special tax. In compliance with Proposition 218, the developer shall agree to approve the mail ballot proceeding (special election) for either formation of the CFD or annexation into an existing district that may already be established. The Developer must notify Special Districts of intent to request building permits 90 days prior to their issuance. (California Government Code)
- SD-6 (BP) This project is conditioned to provide a funding source for the capital improvements and/or maintenance for the **Alessandro Blvd.** median landscape. In order for the Developer to meet the financial responsibility to maintain the defined service, one of the options as outlined below shall be selected. The Developer must notify Special Districts of intent to request building permits 90 days prior to their issuance and the financial option selected to fund the continued maintenance.
- a. Participate in a ballot proceeding for **improved median maintenance** and pay all associated costs with the ballot process and formation costs, if any. Financing may be structured through a Community Services District zone, Community Facilities District, Landscape and Lighting Maintenance District, or other financing structure as determined by the city; or
  - b. Establish an endowment to cover the future maintenance costs of the landscaped area.

**The financial option selected shall be in place prior to the issuance of certificate of occupancy.**

- SD-7 *Commercial* (BP) If Land Development, a Division of the Community and Economic Development Department, requires this project to supply a funding source necessary to provide, but not limited to, stormwater utilities services for the monitoring of on site facilities and performing annual inspections of the affected areas to ensure compliance with state mandated stormwater regulations, the developer must notify Special Districts 90 days prior to the City's issuance of a building permit and the financial option selected to fund the continued maintenance. (California Government Code)

- SD-8 (BP) Prior to the issuance of the first building permit for this project, the developer shall pay Advanced Energy fees for all applicable Zone B (Residential Street Lighting) and/or Zone C (Arterial Street Lighting and Intersection Lighting) streetlights required for this development. Payment shall be made to the City of Moreno Valley, as collected by the Land Development Division, based upon the Advanced Energy fee rate in place at the time of payment, as set forth in the current Listing of City Fees, Charges and Rates, as adopted by City Council.

The developer shall provide a receipt to the Special Districts Division showing that the Advanced Energy fees have been paid in full for the number of streetlights to be accepted into the CSD Zone B and/or Zone C programs. Any change in the project which may increase the number of streetlights to be installed will require payment of additional Advanced Energy fees at the then current fee.

- SD-9 (BP) Prior to release of building permit, the developer, or the developer's successors or assignees, shall record with the County Recorder's Office a **Covenant of Assessments** for each assessable parcel therein, whereby the developer covenants the existence of the Moreno Valley Community Services District, its established benefit zones, and that said parcel(s) is (are) liable for payment of annual benefit zone charges and the appropriate National Pollutant Discharge Elimination System (NPDES) maximum regulatory rate schedule when due. A copy of the recorded Covenant of Assessments shall be submitted to the Special Districts Division. For a copy of the Covenant of Assessments form, please contact Special Districts, phone 951.413.3480.



CITY OF MORENO VALLEY  
Public Works  
Transportation Engineering Division

## MEMORANDUM

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To: Julia Descoteaux, Associate Planner  
From: Michael Lloyd, Senior Engineer  
Date: May 29, 2013  
Subject: **Conditions of Approval for PA13-0009** – Plot Plan for fuel center located on the northeast corner of Alessandro Boulevard at Indian Street.

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Attached are the Transportation Engineering Conditions of approval for the subject project.

**CITY OF MORENO VALLEY**  
**CONDITIONS OF APPROVAL**  
**PA13-0009**

Plot Plan for fuel center located on the northeast corner of Alessandro Boulevard at Indian Street.

**Note: All Special conditions are in bold lettering.** All other conditions are standard to all or most development projects.

**Transportation Engineering Division – Conditions of Approval**

Based on the information contained in our standard review process we recommend the following conditions of approval be placed on this project:

**GENERAL CONDITIONS**

**TE1. Alessandro Boulevard is classified as a Divided Major Arterial (134’RW/110’CC) per City Standard Plan No. 101A. Any improvements to the roadway shall be per City standards.**

**TE2. Indian Street is classified as a Minor Arterial (88’RW/64’CC) per City Standard Plan No. 105A, modified for curb separated sidewalk. Traffic Signal Interconnect shall be installed along the Indian Street project frontage per City Standard Plan No. 421. Any improvements to the roadway shall be per City standards.**

TE3. Driveways shall conform to Section 9.11.080, and Table 9.11.080-14 of the City’s Development Code – Design Guidelines and City of Moreno Valley Standard No. 118C for commercial driveway approach. Driveway access shall be the following:

- The Alessandro Boulevard driveway will have right-in, right-out access due to the raised median along Alessandro Boulevard.
- The Indian Street driveway shall have full access.

TE4. Conditions of approval may be modified or added if the plot plan is modified.

**PRIOR TO IMPROVEMENT PLAN APPROVAL OR CONSTRUCTION PERMIT**

TE5. Prior to the final approval of the street improvement plans, a signing and striping plan shall be prepared per City of Moreno Valley Standard Plans - Section 4 for all streets with a cross section of 66’/44’ and wider.

TE6. Prior to issuance of a construction permit, construction traffic control plans prepared by a qualified, registered Civil or Traffic engineer may be required for plan approval or as required by the City Traffic Engineer.

TE7. Prior to final approval of the street improvement plans, the project plans shall demonstrate that sight distance at proposed streets and driveways conforms to City Standard Plan No. 125A, B, C.

**PRIOR TO CERTIFICATE OF OCCUPANCY OR BUILDING FINAL**

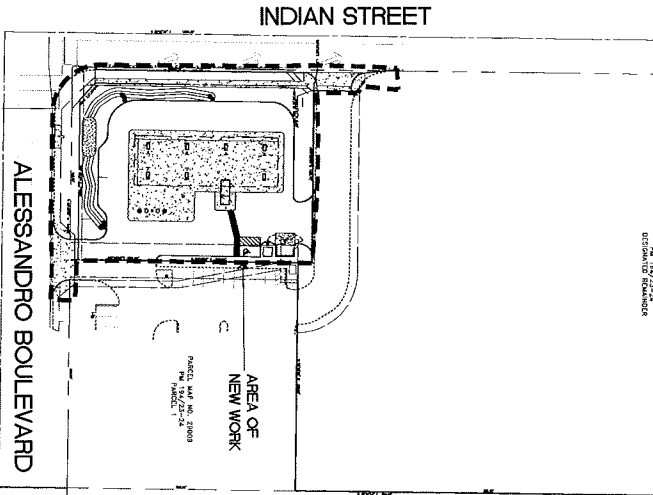
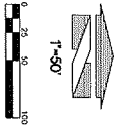
TE8. (CO) Prior to issuance of a Certificate of Occupancy, the signing and striping along Indian Street shall be installed along Indian Street per the approved plans and to the satisfaction of the City Traffic Engineer.

**PRIOR TO ACCEPTANCE OF STREETS INTO THE CITY-MAINTAINED ROAD SYSTEM**

TE9. Prior to acceptance of streets into the City-maintained road system, all approved signing and striping shall be installed per current City Standards and the approved plans.



# FOOD4LESS #398 - MORENO VALLEY, CALIFORNIA

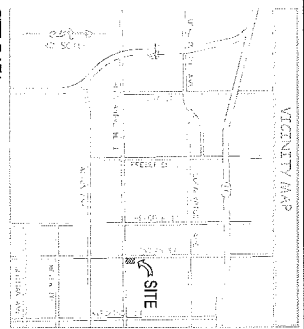


DATE: 11/14/13  
DRAWN BY: J. B. ...  
CHECKED BY: ...  
APPROVED BY: ...

**SHEET INDEX**

1 of 6	CONTRACT SHEET
2 of 6	PRELIMINARY FLOOR PLAN
3 of 6	PRELIMINARY FLOOR PLAN
4 of 6	TRUCK TURNING DIAGRAM
11 of 6	LANDSCAPE PLANNING PLAN
12 of 6	PRELIMINARY LANDSCAPE NOTES AND DETAILS

- UTILITIES/SERVICES**
- EASTERN MUNICIPAL WATER DISTRICT
  - 2270 HIGHLAND ROAD
  - 2270 HIGHLAND ROAD
  - 2270 HIGHLAND ROAD
  - (951) 413-3100
  - (951) 413-3100
  - (951) 413-3100
- WATER**
- EASTERN MUNICIPAL WATER DISTRICT
  - 2270 HIGHLAND ROAD
  - 2270 HIGHLAND ROAD
  - 2270 HIGHLAND ROAD
  - (951) 413-3100
  - (951) 413-3100
  - (951) 413-3100
- SEWER**
- 2270 HIGHLAND ROAD
  - 2270 HIGHLAND ROAD
  - 2270 HIGHLAND ROAD
  - (951) 413-3100
  - (951) 413-3100
  - (951) 413-3100
- SOILS**
- SOILS OF THE COUNTY
  - 5440 DAVIS ST. 91733
  - (951) 413-3100



**SITE DATA**

DESS AREA: 30,885 SF  
 HORIZONTAL AREA: 14,010 SF (46% OF SITE)  
 VERTICAL AREA: 14,010 SF (46% OF SITE)  
 TOTAL AREA: 30,885 SF (100% OF SITE)  
 PERMITTED TO BE COVERED BY THE CITY ANNEX.  
 PROJECT ADDRESS: ALESSANDRO BLVD & INDIAN ST, MORENO VALLEY, CA 92553

**FLOOD ZONE**

PERMITTED TO BE COVERED BY THE CITY ANNEX.  
 PROJECT ADDRESS: ALESSANDRO BLVD & INDIAN ST, MORENO VALLEY, CA 92553

**PROJECT ADDRESS**

ALESSANDRO BLVD & INDIAN ST  
 MORENO VALLEY, CA 92553

**ENGINEER/PLANNER**

DAVIDSON CONSULTING ENGINEERS, INC.  
 1100 WEST ARIZONA BLVD.  
 SUITE 200  
 MORENO VALLEY, CA 92553  
 CONTACT: JASON HERRILL, PE (951) 511-4422  
 (951) 511-4422

**APPLICANT**

THE BROSSE COMPANY  
 1100 WEST ARIZONA BLVD.  
 SUITE 200  
 MORENO VALLEY, CA 92553  
 CONTACT: JERRY BLOOM  
 (951) 511-4400

**ZONING**

COMMERCIAL (MC)  
 INTERMEDIATE COMMERCIAL (MC)  
 STREET-CO

**SETBACKS**

FRONT: 10 FT  
 REAR: 10 FT  
 SIDE: 5 FT

**SUBJECT INFORMATION**

THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, HAS REVIEWED THE RECORDS OF THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AND HAS DETERMINED THAT THE RECORDS OF THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, DO NOT CONTAIN ANY INFORMATION THAT WOULD PREVENT THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, FROM GRANTING A PERMIT FOR THE PROJECT DESCRIBED AS FOLLOWS:

PROJECT ADDRESS: ALESSANDRO BLVD & INDIAN ST, MORENO VALLEY, CA 92553

PROJECT NO: 12-140

DATE: 11/14/13

BY: J. B. ...

FOR: THE BROSSE COMPANY

PROJECT NO: 12-140

DATE: 11/14/13

BY: J. B. ...

FOR: THE BROSSE COMPANY

PROJECT NO: 12-140

DATE: 11/14/13

BY: J. B. ...

FOR: THE BROSSE COMPANY

PROJECT NO: 12-140

DATE: 11/14/13

BY: J. B. ...

FOR: THE BROSSE COMPANY

P12-140  
 PA13-0009

1 of 6

**REVISIONS**

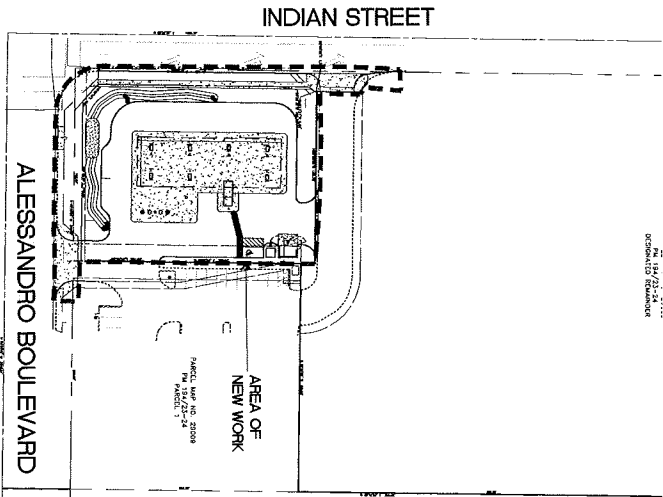
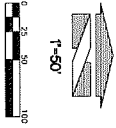
NO.	DATE	DESCRIPTION
1	5/13/13	REVISIONS PER CITY COMMENTS

**PROJECT INFORMATION**

Project No:	12-140
Client:	THE BROSSE COMPANY
Address:	ALESSANDRO BLVD & INDIAN ST, MORENO VALLEY, CA 92553
City:	MORENO VALLEY, CA
County:	RIVERSIDE
State:	CALIFORNIA
Country:	USA
Scale:	AS SHOWN
Date:	11/14/13
By:	J. B. ...
For:	THE BROSSE COMPANY



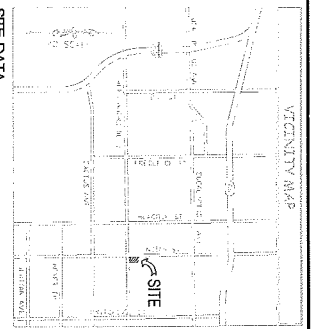
# FOOD4LESS #398 - MORENO VALLEY, CALIFORNIA



DATE: 10/13/14  
 PROJECT: FOOD4LESS #398  
 DRAWING: SITE PLAN

- UTILITIES/SERVICES**  
 EASTERN MUNICIPAL WATER DISTRICT  
 EASTERN MUNICIPAL WATER DISTRICT  
 FIREWORKS, CA 92520  
 (951)228-3777
- PHONE:**  
 (800)944-0447
- POWER:**  
 MORENO VALLEY ELECTRIC  
 44000 VALLEY AVENUE  
 MORENO VALLEY, CA 92553  
 (951)911-5700
- DATE:**  
 SAN DIMAS, CA 91773  
 (800)477-2200

- SHEET INDEX**
- |    |      |  |
|----|------|--|
| 1  | OF 6 | COVER SHEET                            |
| 2  | OF 6 | CONTRACT PLAN                          |
| 3  | OF 6 | PRELIMINARY GRADING PLAN               |
| 4  | OF 6 | TRUCK TURNING EXHIBIT                  |
| 11 | OF 6 | LANDSCAPE PLANNING PLAN                |
| 12 | OF 6 | PRELIMINARY DRAINAGE NOTES AND DETAILS |



**SITE DATA**

PROJECT AREA: 2.5815 AC  
 ZONING: M-10 (MEDIUM DENSITY RESIDENTIAL)  
 FLOOD ZONE: UNFLOODED  
 PROJECT ADDRESS: ALESSANDRO BLVD. & MAIN ST.  
 MORENO VALLEY, CA 92553

**APPLICANT**

THE KROGER COMPANY  
 1100 WEST AVENUE BLVD.  
 ANAHEIM, CA 92816  
 CONTACT: JEFFREY OLSON  
 (714)761-4622

**ZONING**

M-10 (MEDIUM DENSITY RESIDENTIAL)  
 MORENO VALLEY, CA 92553

**LEGAL DESCRIPTION**

REAL PROPERTY IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:  
 THAT PORTION OF LOT 5 OF BLOCK 100 OF MAP NO. 1 OF BEAR VALLEY AND DISTRICT OF SAN BERNARDINO COUNTY, CALIFORNIA.

**SETBACKS**

FRONT - 20'  
 REAR - 20'  
 SIDE - 10'

**PROJECT BENCHMARK**

NATIONAL GEODETIC SURVEY BENCH MARK (JULY 1944) ELEV. = 5714.17 FEET  
 100' NORTH, 100' WEST OF PROJECT CENTERLINE  
 PROJECT BENCHMARK IS LOCATED AT THE INTERSECTION OF INTERSTATE 215 AND OLIVE AVENUE, MORENO VALLEY, CA 92553. THE BENCHMARK IS A CONCRETE PIPER WITH A 1.5" DIA. HOLE AND A 1.5" DIA. ROD. THE BENCHMARK IS A CONCRETE PIPER WITH A 1.5" DIA. HOLE AND A 1.5" DIA. ROD. THE BENCHMARK IS A CONCRETE PIPER WITH A 1.5" DIA. HOLE AND A 1.5" DIA. ROD.

P12-140  
 PA13-0009

NO.	DATE	DESCRIPTION
1	5/13/14	REVISED FOR CITY COMMENTS

Project No.: 12-140  
 Drawing No.: 1-252  
 Date: 02-12-13  
 Scale: 1"=50'

Project Name: FOOD4LESS FUEL CENTER  
 Location: MORENO VALLEY, CA

Client: THE KROGER COMPANY  
 Address: 1100 WEST AVENUE BLVD., ANAHEIM, CA 92816  
 Contact: JEFFREY OLSON, (714)761-4622

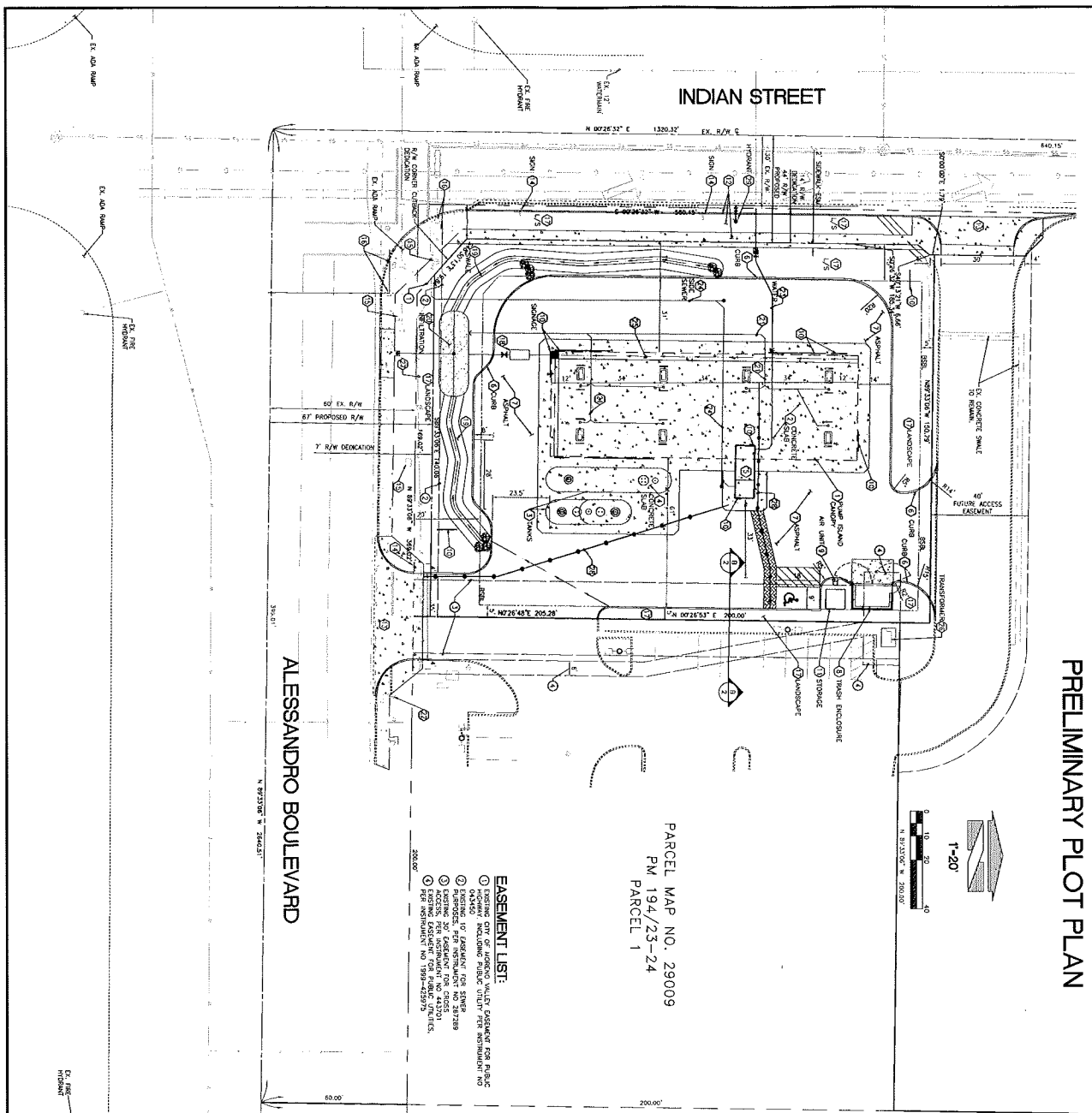
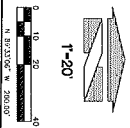
Designer: [Signature]  
 Checker: [Signature]  
 Date: 02-12-13

# PRELIMINARY PLOT PLAN

INDIAN STREET

ALESSANDRO BOULEVARD

PARCEL MAP NO. 29009  
PM 194/23-24  
PARCEL 1

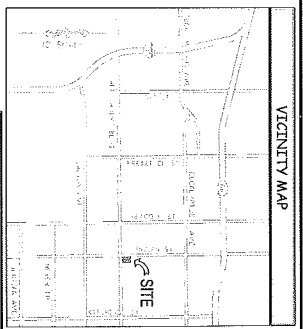


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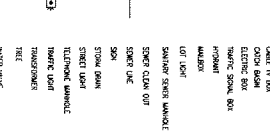
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- 2 EXISTING 6' WIDE UTILITY EASEMENT FOR PUBLIC UTILITIES
- 3 EXISTING 6' WIDE UTILITY EASEMENT FOR PUBLIC UTILITIES
- 4 EXISTING 6' WIDE UTILITY EASEMENT FOR PUBLIC UTILITIES
- 5 EXISTING 6' WIDE UTILITY EASEMENT FOR PUBLIC UTILITIES
- 6 EXISTING 6' WIDE UTILITY EASEMENT FOR PUBLIC UTILITIES
- 7 EXISTING 6' WIDE UTILITY EASEMENT FOR PUBLIC UTILITIES
- 8 EXISTING 6' WIDE UTILITY EASEMENT FOR PUBLIC UTILITIES
- 9 EXISTING 6' WIDE UTILITY EASEMENT FOR PUBLIC UTILITIES
- 10 EXISTING 6' WIDE UTILITY EASEMENT FOR PUBLIC UTILITIES
- 11 EXISTING 6' WIDE UTILITY EASEMENT FOR PUBLIC UTILITIES
- 12 EXISTING 6' WIDE UTILITY EASEMENT FOR PUBLIC UTILITIES
- 13 EXISTING 6' WIDE UTILITY EASEMENT FOR PUBLIC UTILITIES
- 14 EXISTING 6' WIDE UTILITY EASEMENT FOR PUBLIC UTILITIES
- 15 EXISTING 6' WIDE UTILITY EASEMENT FOR PUBLIC UTILITIES
- 16 EXISTING 6' WIDE UTILITY EASEMENT FOR PUBLIC UTILITIES
- 17 EXISTING 6' WIDE UTILITY EASEMENT FOR PUBLIC UTILITIES
- 18 EXISTING 6' WIDE UTILITY EASEMENT FOR PUBLIC UTILITIES
- 19 EXISTING 6' WIDE UTILITY EASEMENT FOR PUBLIC UTILITIES
- 20 EXISTING 6' WIDE UTILITY EASEMENT FOR PUBLIC UTILITIES
- 21 EXISTING 6' WIDE UTILITY EASEMENT FOR PUBLIC UTILITIES
- 22 EXISTING 6' WIDE UTILITY EASEMENT FOR PUBLIC UTILITIES
- 23 EXISTING 6' WIDE UTILITY EASEMENT FOR PUBLIC UTILITIES
- 24 EXISTING 6' WIDE UTILITY EASEMENT FOR PUBLIC UTILITIES
- 25 EXISTING 6' WIDE UTILITY EASEMENT FOR PUBLIC UTILITIES
- 26 EXISTING 6' WIDE UTILITY EASEMENT FOR PUBLIC UTILITIES
- 27 EXISTING 6' WIDE UTILITY EASEMENT FOR PUBLIC UTILITIES
- 28 EXISTING 6' WIDE UTILITY EASEMENT FOR PUBLIC UTILITIES
- 29 EXISTING 6' WIDE UTILITY EASEMENT FOR PUBLIC UTILITIES
- 30 EXISTING 6' WIDE UTILITY EASEMENT FOR PUBLIC UTILITIES

**SITE PLAN KENNELS:**

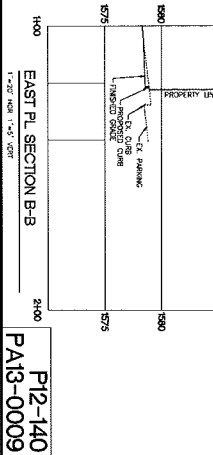
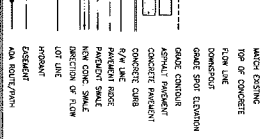
- 1 PLANT ISLAND CURB WITH 7 WIDE
- 2 REINFORCED CONCRETE DRIVE SLAB BOLLARD CURB
- 3 UNDERGROUND GASOLINE STORAGE TANKS
- 4 REINFORCED CONCRETE SLAB ABOVE UNDERGROUND GASOLINE STORAGE TANKS
- 5 24" WIDE WALKWAY WITH RESTROOM
- 6 NEW CONCRETE BARRIER CURB
- 7 NEW ASPHALT PAVEMENT
- 8 NEW TRASH ENCLOSURE PER CIV 519 627B OPTION 2
- 9 NEW ASPHALT PAVEMENT
- 10 NEW ASPHALT PAVEMENT
- 11 NEW ASPHALT PAVEMENT
- 12 NEW ASPHALT PAVEMENT
- 13 NEW ASPHALT PAVEMENT
- 14 NEW ASPHALT PAVEMENT
- 15 NEW ASPHALT PAVEMENT
- 16 NEW ASPHALT PAVEMENT
- 17 NEW ASPHALT PAVEMENT
- 18 NEW ASPHALT PAVEMENT
- 19 NEW ASPHALT PAVEMENT
- 20 NEW ASPHALT PAVEMENT
- 21 NEW ASPHALT PAVEMENT
- 22 NEW ASPHALT PAVEMENT
- 23 NEW ASPHALT PAVEMENT
- 24 NEW ASPHALT PAVEMENT
- 25 NEW ASPHALT PAVEMENT
- 26 NEW ASPHALT PAVEMENT
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- 28 NEW ASPHALT PAVEMENT
- 29 NEW ASPHALT PAVEMENT
- 30 NEW ASPHALT PAVEMENT



**LEGEND**



**PROPOSED**

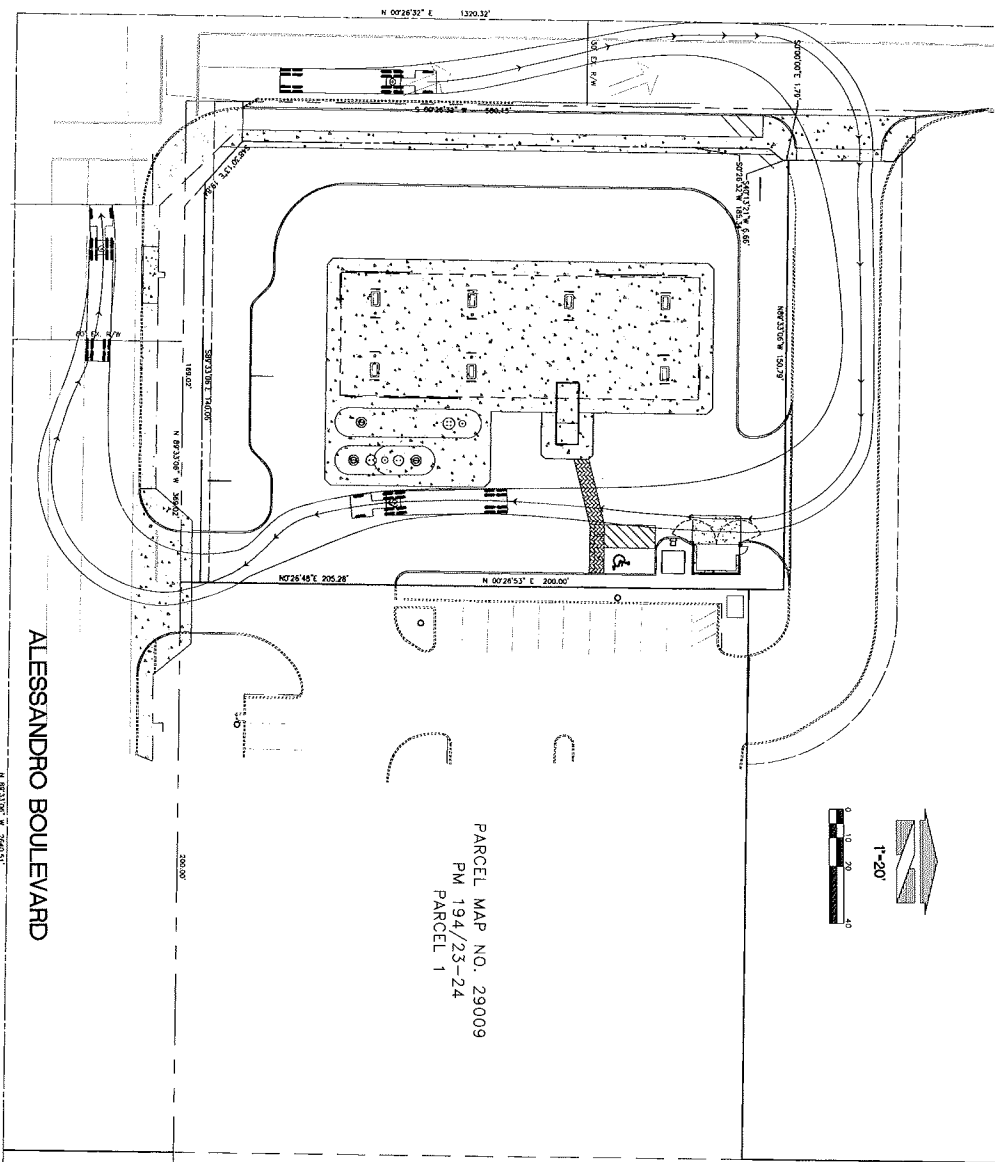


NO.	DATE	DESCRIPTION
1	5/13/13	REVISED PER CITY COMMENTS

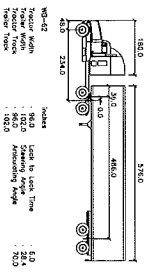
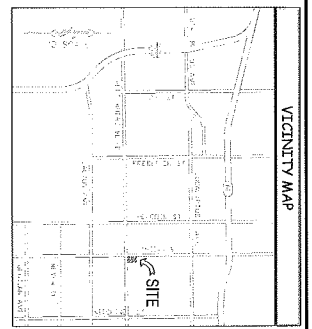
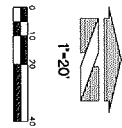
Project #	1601-0009
Client	State of Ohio
Design By	State of Ohio
Checked By	State of Ohio
Date	05/13/2013
Scale	1" = 30'
Sheet	PA13-0009



INDIAN STREET



TRUCK TURNING EXHIBIT



Vehicle  
 Truck wheelbase: 182.0  
 Wheel offset: 24.0  
 Total wheelbase: 206.0  
 Wheel offset: 24.0  
 Total wheelbase: 230.0

REVISIONS		DATE
1	REVISED PER CITY COMMENTS	5/9/13

Project #	16041	Sheet	FOUR
Client	THE KRUGER CO.	Scale	AS SHOWN
Drawn By	W. G. GIBBS	Checked By	W. G. GIBBS
Date	5/9/13	Project	FOODLESS FUEL CENTER

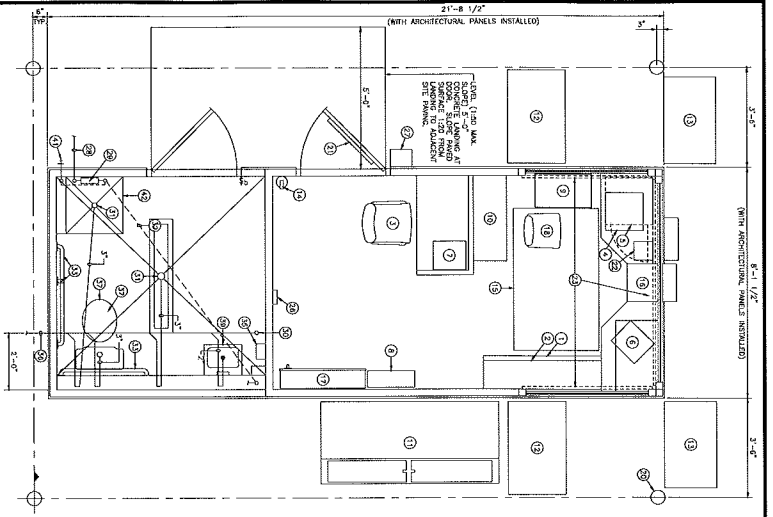




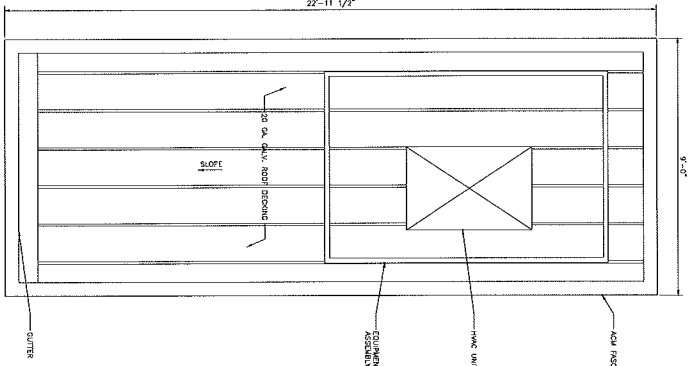




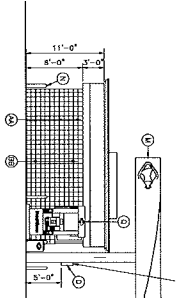




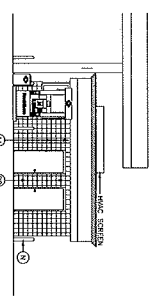
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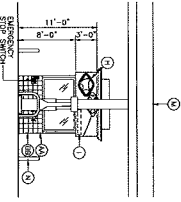
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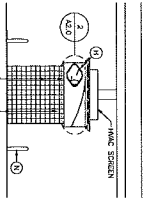
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4 SOUTH ELEVATION  
SCALE: 1/8"=1'-0"



5 WEST ELEVATION  
SCALE: 1/8"=1'-0"



6 EAST ELEVATION  
SCALE: 1/8"=1'-0"

REVISIONS

NO.	DATE	DESCRIPTION

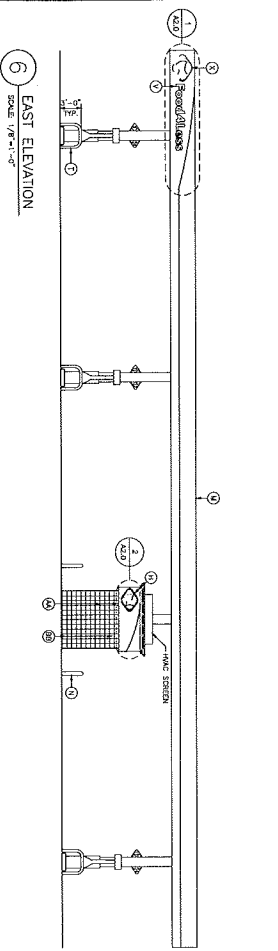
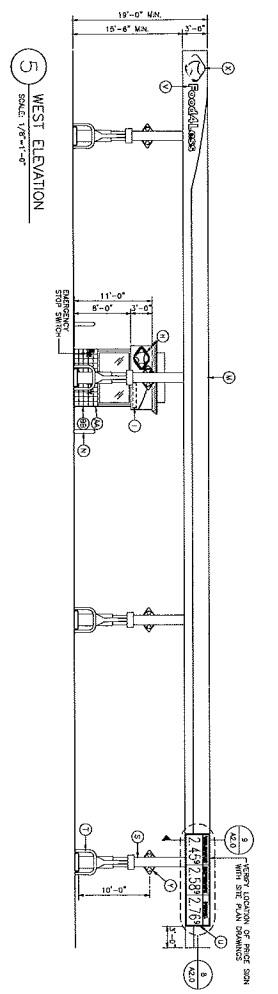
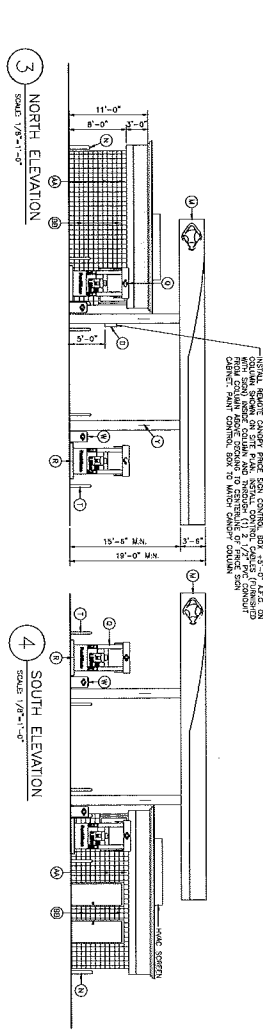
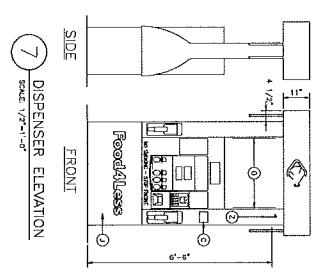
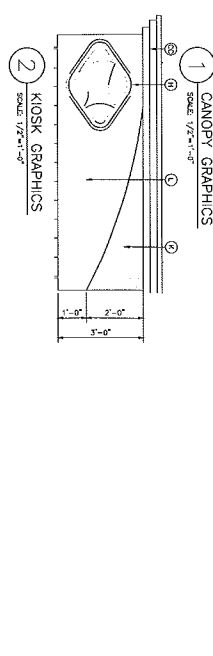
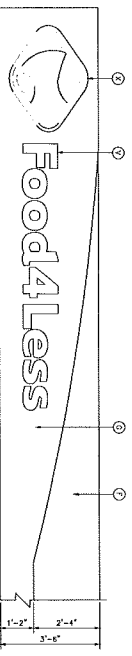
HAL S. RUBIN  
 97818  
 6/04/

The Kroger Co.  
 1100 West Angus Blvd.  
 Springfield, IL 62761  
 Phone: (618) 936-9600

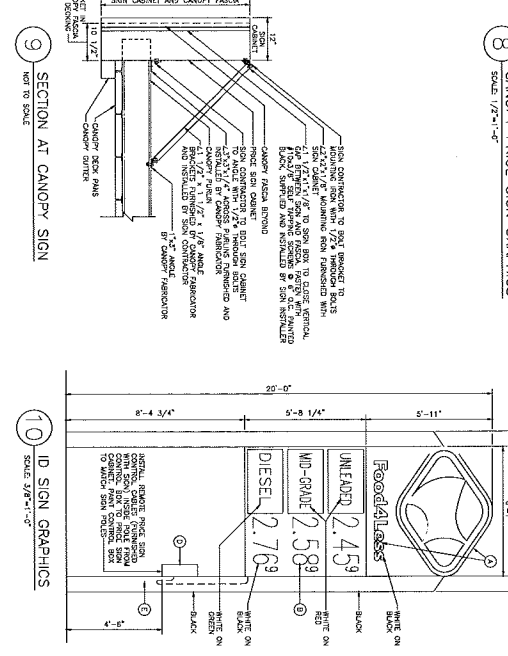
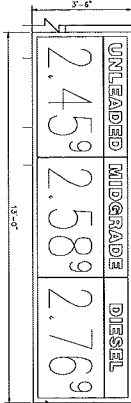
Food4Less

**BARGHAUSEN**  
 CONSTRUCTION  
 18115 72ND AVENUE SOUTH  
 KANSAS CITY, MO 64124  
 (816) 833-1822  
 (816) 833-1822 FAX  
 18115 72ND AVENUE SOUTH  
 KANSAS CITY, MO 64124  
 (816) 833-1822  
 (816) 833-1822 FAX  
 BARGHAUSEN CONSTRUCTION, INC.  
 18115 72ND AVENUE SOUTH  
 KANSAS CITY, MO 64124

PROJECT NO: 1 Restroom  
 DRAWING NO: A1.2  
 DATE: 10/11/11  
 DRAWN BY: [Signature]  
 CHECKED BY: [Signature]  
 PROJECT: 1 Restroom  
 CLIENT: KROGER  
 LOCATION: 18115 72ND AVENUE SOUTH, KANSAS CITY, MO



ITEM	DESCRIPTION	COLOR	MANUFACTURER	MODEL	FURNISHED BY	INSTALLED BY
A	INTERMEDIATE ILLUMINATED DISPENSER SIGN		CHARMING SIGNS	CHM21	OWNER	SON METALLERS
B	INTERMEDIATE ILLUMINATED SERVICE CONTROL, PRICE SIGN		SIGNIFIC PRODUCTS, INC.		OWNER	SON METALLERS
C	STAINLESS STEEL SIGN		WANT		OWNER	SON METALLERS
D	PRICE SIGN		SIGNIFIC PRODUCTS, INC.		OWNER	SON METALLERS
E	PRICE SIGN		CHARMING SIGNS		OWNER	SON METALLERS
F	PRICE SIGN		CHARMING SIGNS		OWNER	SON METALLERS
G	PRICE SIGN		CHARMING SIGNS		OWNER	SON METALLERS
H	PRICE SIGN		CHARMING SIGNS		OWNER	SON METALLERS
I	PRICE SIGN		CHARMING SIGNS		OWNER	SON METALLERS
J	PRICE SIGN		CHARMING SIGNS		OWNER	SON METALLERS
K	PRICE SIGN		CHARMING SIGNS		OWNER	SON METALLERS
L	PRICE SIGN		CHARMING SIGNS		OWNER	SON METALLERS
M	PRICE SIGN		CHARMING SIGNS		OWNER	SON METALLERS
N	PRICE SIGN		CHARMING SIGNS		OWNER	SON METALLERS
O	PRICE SIGN		CHARMING SIGNS		OWNER	SON METALLERS
P	PRICE SIGN		CHARMING SIGNS		OWNER	SON METALLERS
Q	PRICE SIGN		CHARMING SIGNS		OWNER	SON METALLERS
R	PRICE SIGN		CHARMING SIGNS		OWNER	SON METALLERS
S	PRICE SIGN		CHARMING SIGNS		OWNER	SON METALLERS
T	PRICE SIGN		CHARMING SIGNS		OWNER	SON METALLERS
U	PRICE SIGN		CHARMING SIGNS		OWNER	SON METALLERS
V	PRICE SIGN		CHARMING SIGNS		OWNER	SON METALLERS
W	PRICE SIGN		CHARMING SIGNS		OWNER	SON METALLERS
X	PRICE SIGN		CHARMING SIGNS		OWNER	SON METALLERS
Y	PRICE SIGN		CHARMING SIGNS		OWNER	SON METALLERS
Z	PRICE SIGN		CHARMING SIGNS		OWNER	SON METALLERS
AA	PRICE SIGN		CHARMING SIGNS		OWNER	SON METALLERS
AB	PRICE SIGN		CHARMING SIGNS		OWNER	SON METALLERS
AC	PRICE SIGN		CHARMING SIGNS		OWNER	SON METALLERS



CONTRACTOR SHALL SUBMIT WASTEWATER TREATMENT PLAN TO LOCAL HEALTH DEPARTMENT FOR APPROVAL PRIOR TO ORDERING MATERIALS.

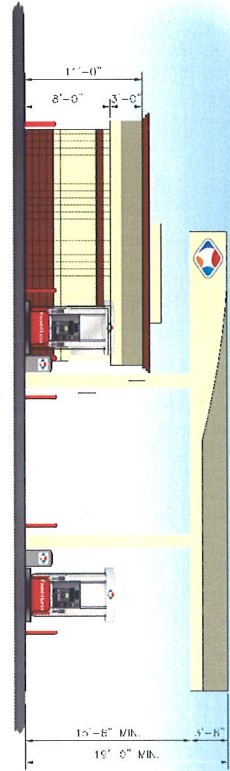
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2	11/15/10	REVISED PER COMMENTS
3	12/15/10	REVISED PER COMMENTS
4	01/15/11	REVISED PER COMMENTS

7-11RR (00)  
10/15/10

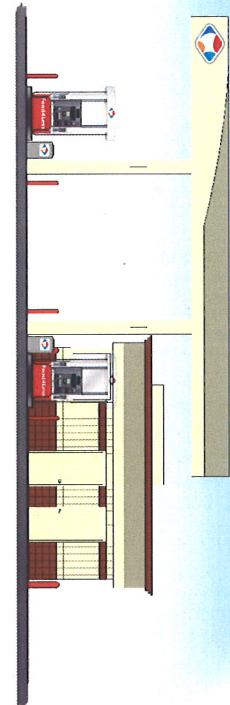
The Kroger Co.  
1100 Walnut Street  
Cincinnati, OH 45202  
513.762.1000

1815 ZIEGLER AVENUE  
CINCINNATI, OH 45202  
513.762.1000

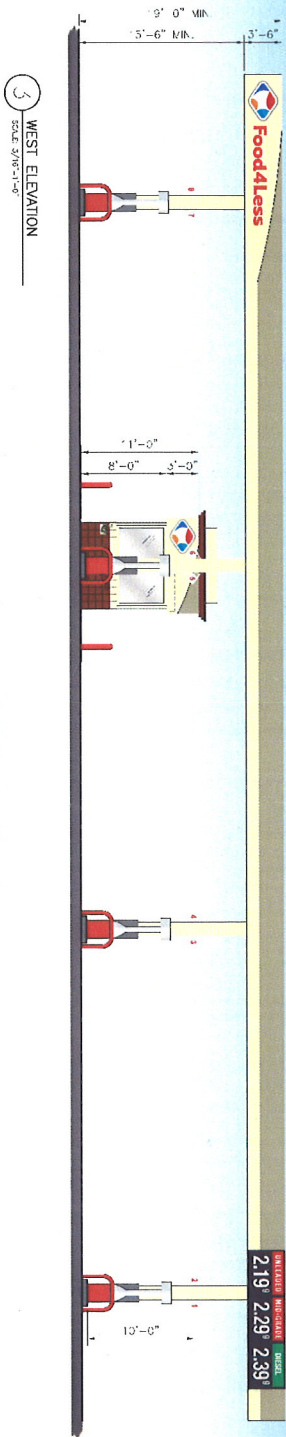
BARGHUSEN  
1815 ZIEGLER AVENUE  
CINCINNATI, OH 45202  
513.762.1000



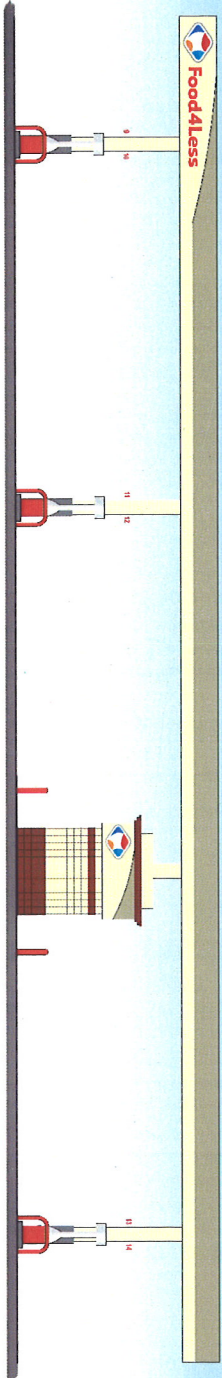
1 NORTH ELEVATION  
SCALE: 3/16"=1'-0"



2 SOUTH ELEVATION  
SCALE: 3/16"=1'-0"



3 WEST ELEVATION  
SCALE: 3/16"=1'-0"



4 EAST ELEVATION  
SCALE: 3/16"=1'-0"

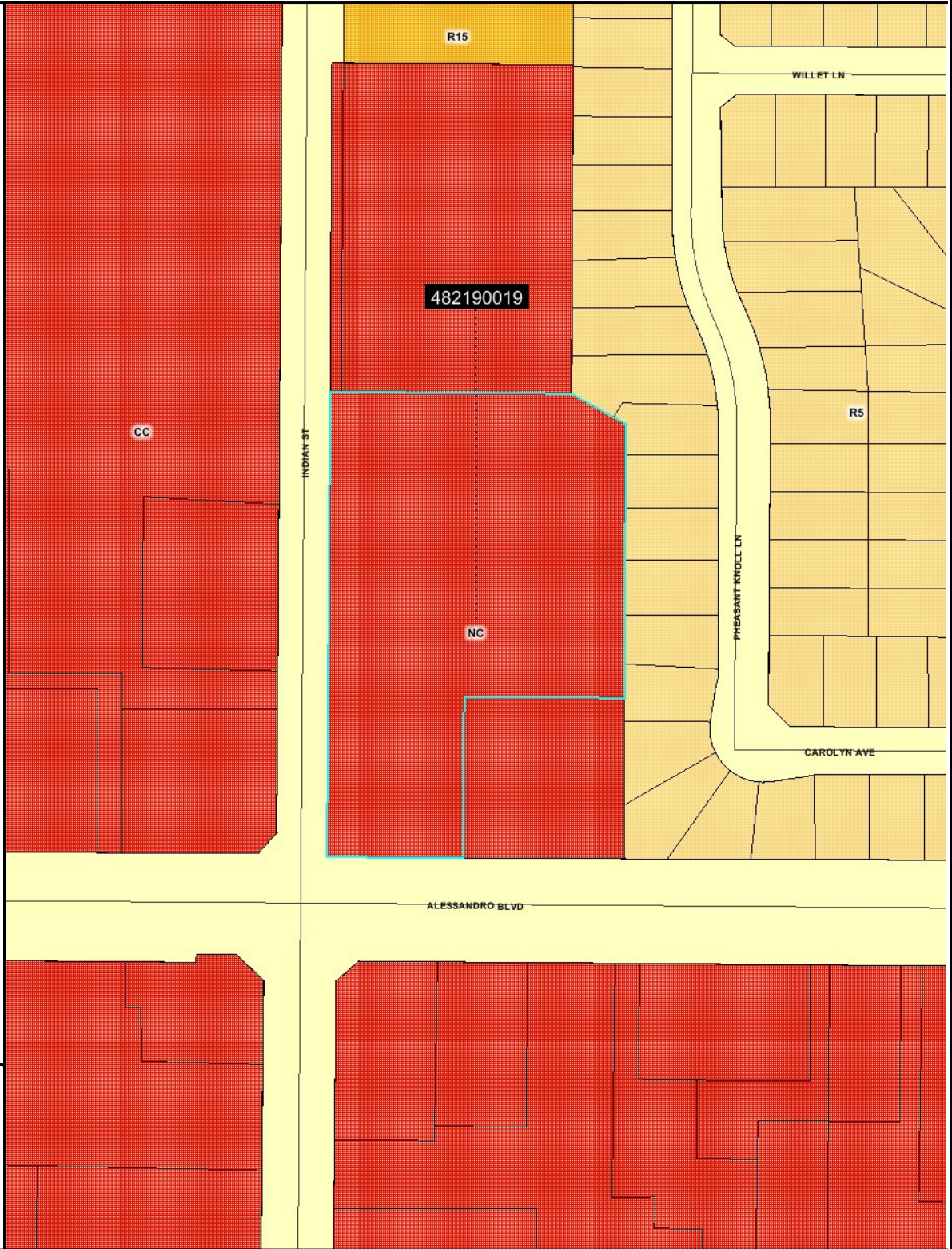
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			PROJECT NO. 1604-ADL006	DRAWING NO. 1-211 (03)	SCALE 3/16"=1'-0"

EXTERIOR ELEVATIONS AND SIGNAGE  
 A2.0

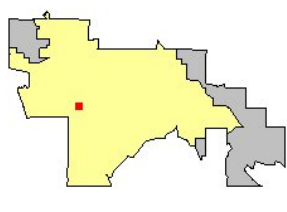
# PA13-0009jd

## Legend

- Selected Features
- Highways
- Parcels
- Roads
- Zoning
  - Commercial
  - Industrial/Business Park
  - Large Lot Residential
  - Multi-family
  - Office
  - Open Space/Park
  - Planned Development
  - Public Facilities
  - Residential 2 Dwellings/Acre
  - Residential Agriculture 2 Dwellings/Acre
  - Suburban Residential
- Waterbodies
- City Boundaries
  - Calimesa
  - Moreno Valley
  - Perris
  - Riverside

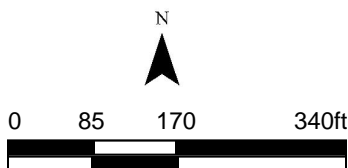


Powered By GeoSmart.net



City of Moreno Valley  
14177 Frederick St  
Moreno Valley, CA 92553

*DISCLAIMER: The information shown on this map was compiled from the Riverside County GIS and the City of Moreno Valley GIS. The land base and facility information on this map is for display purposes only and should not be relied upon without independent verification as to its accuracy. Riverside County and City of Moreno Valley will not be held responsible for any claims, losses, or damages resulting from the use of this map.*



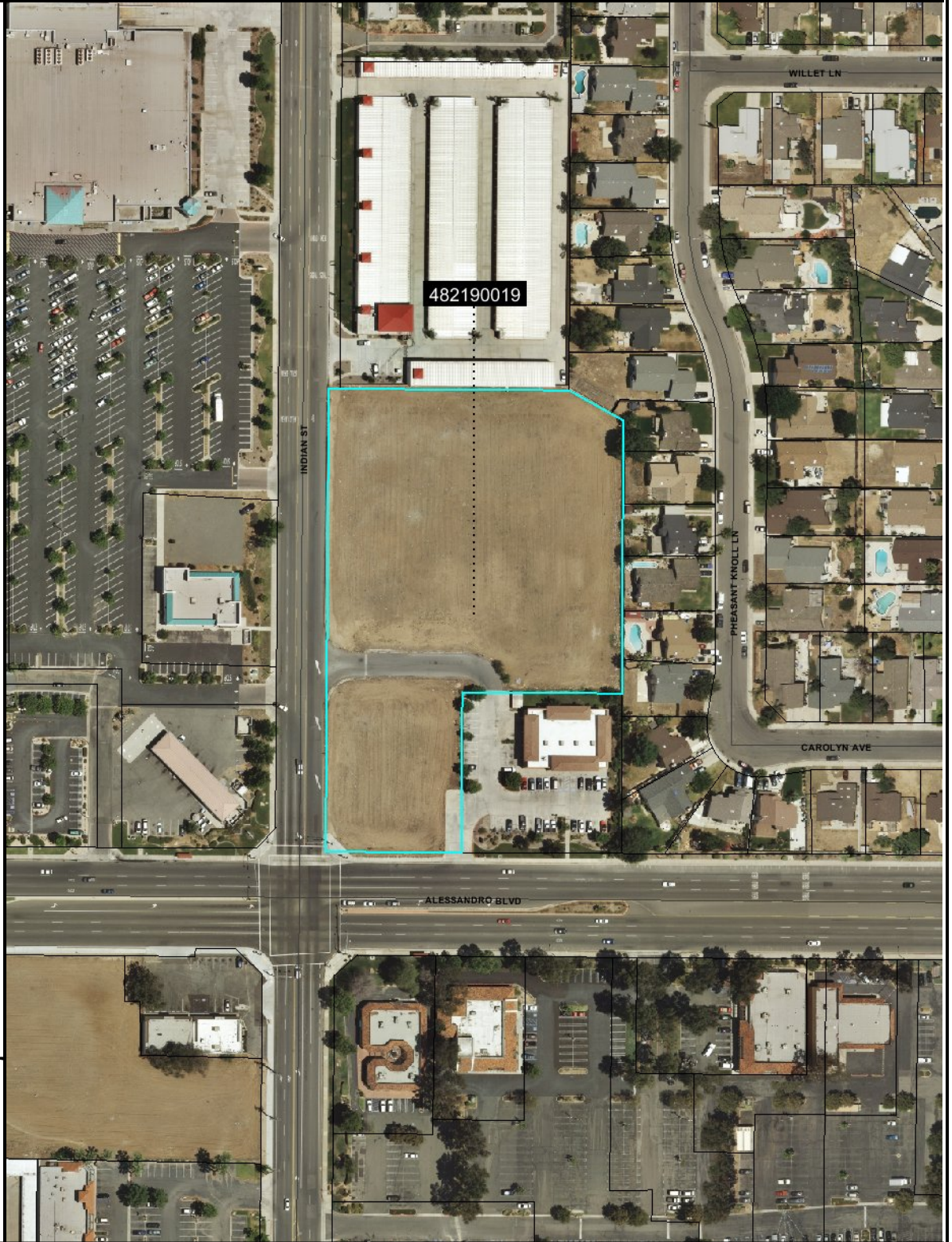
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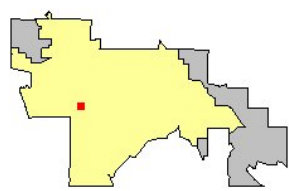
# PA13-0009jd

## Legend

-  Selected Features
-  Highways
-  Parcels
-  Roads
-  Waterbodies
-  City Boundaries
-  Callimesa
-  Moreno Valley
-  Perris
-  Riverside

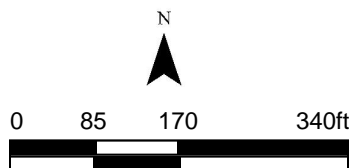


Powered By GeoSmart.net



City of Moreno Valley  
14177 Frederick St  
Moreno Valley, CA 92553

*DISCLAIMER: The information shown on this map was compiled from the Riverside County GIS and the City of Moreno Valley GIS. The land base and facility information on this map is for display purposes only and should not be relied upon without independent verification as to its accuracy. Riverside County and City of Moreno Valley will not be held responsible for any claims, losses, or damages resulting from the use of this map.*

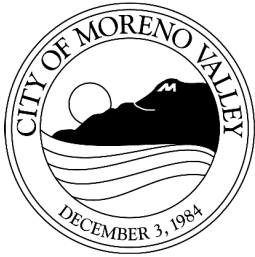


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**PLANNING COMMISSION  
STAFF REPORT**

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Case: P13-027 Development Agreement Amendment  
(Amendment 4 to DA102-89)

Date: July 11, 2013

Applicant: Blue Ribbon Enterprises, LLC and Highland Hills  
Development Corp.

Representative: Stuart Greene

Location: Northeasterly of Pigeon Pass Road and Lawless  
Road

Proposal: The fourth amendment to the Development  
Agreement would extend the term of the  
agreement and tentative tract map by five years,  
and make modifications to the terms of the  
agreement related to the park improvements for  
TR24203.

Redevelopment Area: No

Recommendation: Approval

**SUMMARY**

The property owner of Tentative Tract 24203 has requested an Amendment to the Development Agreement 102-89 to extend the term of the agreement. In discussing the terms of the agreement with Parks and Community Services Department, modifications were also recommended pertaining to the responsibilities for completing the park site. Based on an analysis of the proposal, staff has determined that the modifications would not diminish the value of the Agreement to the City.

## **PROJECT DESCRIPTION**

### **Background**

The Development Agreement 102-89 was initially approved by the City Council in 1990. The original purpose of the agreement was to allow two developers to contribute to a City park that would meet City requirements. The Development Agreement was approved along with Tentative Tract Maps 23553 and 24203.

In 1994, revised tentative tract maps were proposed. In conjunction with this proposal, Amendment 1 to the Development Agreement involved renegotiating the terms of the agreement with the City. Since there were no provisions for Planned Unit Developments (PUD) in the Municipal Code at that time, the Development Agreement included modified development standards that would allow clustering of density on the flatter portions of the site. With this Amendment, the maximum amount for park improvements (\$1,177,000) included in the original Agreement was eliminated along with City responsibility for costs over this amount.

The third amendment to the Development Agreement allowed the developers to proceed separately provided that they complete their identified portions of the park improvements within specified time frames.

Subsequent to the third amendment of the Agreement, Empire Homes' portion of the park site was completed and accepted by the City. The City Council accepted the improvements of Shadow Mountain Park as completed by Empire Homes on January 27, 2004. In addition, all homes within Tentative Tract 23553 have been constructed.

### **Discussion and Analysis of Amendment 4**

The proposed Amendment 4 makes only minor amendments to the existing agreement. The amendments will only affect development of Tentative Tract 24203, because the obligations under the Agreement for Tract 23553 have been completed.

The two proposed amendments to the Agreement are as follows:

- A. The term of the agreement is extended by five years.
- B. The lots within Tentative Tract 24203 will be required to pay Development Impact Fees for park improvements in lieu of the specific park improvements that were to be constructed by the developer as identified in Amendment 3.

The proposed approach to funding the remaining park improvements would allow for the same level of improvements that would be provided by the developer in constructing additional park amenities. Under the current Agreement, the park improvements for Tentative Tract 24203 would not be required to be completed until the 56<sup>th</sup> permit. There are a total of 99 lots in the residential tract. Based on the current Development Impact Fee schedule, each lot within Tentative Tract 24203 would pay approximately \$2,700 per lot in impact fees for park improvements.

**Planning Commission Staff Report**  
**Page 3**

Concurrent with recordation of Amendment 4 of the Development Agreement, the approximately 1.5 acre park site will be dedicated to the City. With the recordation of Phase 3, the developer will also provide clarification of the title for the approximately 1.5 acres of park land that have already been improved.

**ENVIRONMENTAL**

The proposal would not have a direct or indirect physical impact on the environment. Therefore, the proposal would be exempt under Section 15061(b)(3) of the California Environmental Quality Act Guidelines.

**NOTIFICATION**

Public notice was sent to all property owners of record within 300' of the project. The public hearing notice for this project was also posted on the project site and published in the local newspaper.

**REVIEW AGENCY COMMENTS**

Staff incorporated comments from City Attorney's office and Parks and Community Services Department into the amended agreement.

**STAFF RECOMMENDATION**

Staff recommends that the Planning Commission **APPROVE** Resolution No. 2013-22 and thereby **RECOMMEND** that the City Council:

1. **RECOGNIZE** that the Development Agreement Amendment will not have the potential for any direct or indirect impacts under CEQA and is therefore exempt under Section 15061 of the CEQA Guidelines; and,
2. **APPROVE** Amendment 4 to Development Agreement 102-89 (P13-027) based on the Findings contained in the attached Resolution.

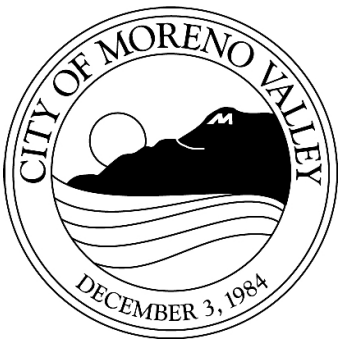
Prepared and Approved by:

Chris Ormsby, AICP  
Interim Planning Official

**ATTACHMENTS:**

1. Public Hearing Notice
2. Planning Commission Resolution No. 2013-22
3. Amendment 4 to DA102-89 (with strike-out/underline)
4. Development Agreement 102-89

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# Notice of PUBLIC HEARING

**This may affect your property. Please read.**

Notice is hereby given that a Public Hearing will be held by the Planning Commission of the City of Moreno Valley on the following item(s):

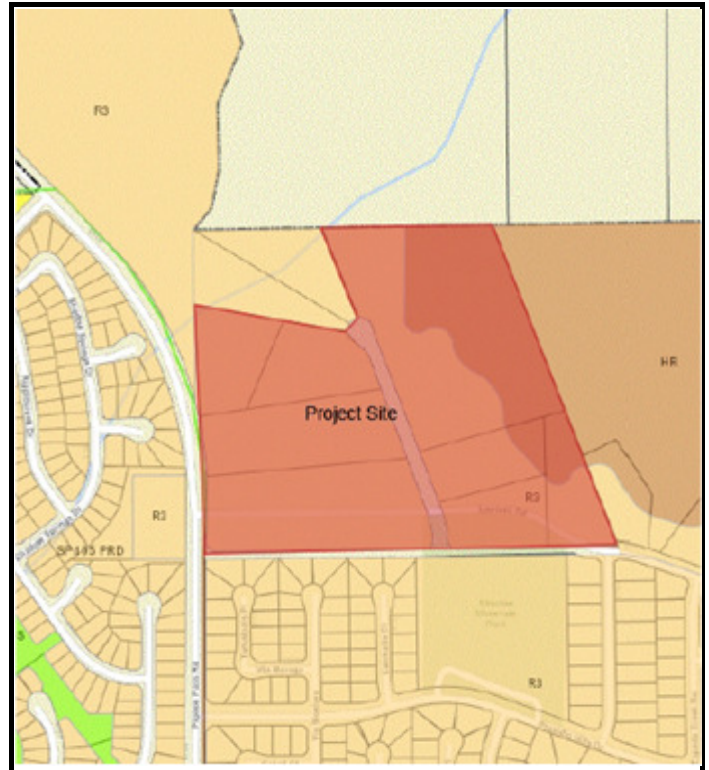
- CASE:** P13-027 Amendment 4 to Development Agreement 102-89 regarding Tentative Tract 24203
- APPLICANT:** Blue Ribbon Enterprises, LLC and Highland Hills Development Corp.
- OWNER:** (same)
- REPRESENTATIVE:** Stuart Greene
- LOCATION:** Northeasterly of Pigeon Pass Road and Lawless Ave.
- PROPOSAL:** Amend Development Agreement 102-89 (Amendment 4) to modify the terms of the agreement pertaining to the park site, and to extend the term of the agreement by five years.
- ENVIRONMENTAL DETERMINATION:** Exempt under Section 15061(b)(3) of the CEQA Guidelines
- COUNCIL DISTRICT:** 2
- STAFF RECOMMENDATION:** Approval

Any person interested in any listed proposal can contact the Community & Economic Development Department, Planning Division, at 14177 Frederick St., Moreno Valley, California, during normal business hours (7:30 a.m. to 5:30 p.m., Monday through Thursday), or may telephone (951) 413-3206 for further information. The associated documents will be available for public inspection at the above address.

In the case of Public Hearing items, any person may also appear and be heard in support of or opposition to the project or recommendation of adoption of the Environmental Determination at the time of the Hearing.

The Planning Commission, at the Hearing or during deliberations, could approve changes or alternatives to the proposal.

If you challenge any of these items in court, you may be limited to raising only those items you or someone else raised at the Public Hearing described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to, the Public Hearing.



**LOCATION** N ↑

## PLANNING COMMISSION HEARING

City Council Chamber, City Hall  
14177 Frederick Street  
Moreno Valley, Calif. 92553

**DATE AND TIME:** July 11, 2013 at 7 P.M.

**CONTACT PLANNER:** Chris Ormsby, AICP

**PHONE:** (951) 413-3229

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**PLANNING COMMISSION RESOLUTION NO. 2013-22**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORENO VALLEY RECOMMENDING APPROVAL OF P13-027, THE FOURTH AMENDMENT TO DEVELOPMENT AGREEMENT 102-89, EXTENDING THE TERM OF THE AGREEMENT BY TWO YEARS AND MODIFYING THE TERMS OF THE AGREEMENT REELATED TO THE PARK IMPROVEMENTS FOR TENTATIVE TRACT 24203

**WHEREAS**, Blue Ribbon Enterprises, LLC and Highland Hills Development Corp., have filed an application for the approval of P13-027, an Amendment of Development Agreement 102-89, as described in the title of this Resolution.

**WHEREAS**, on July 11, 2013, the Planning Commission of the City of Moreno Valley held a meeting to consider the application.

**WHEREAS**, all legal prerequisites to the adoption of this Resolution have occurred.

**WHEREAS**, there is hereby imposed on the subject development project certain fees, dedications, reservations and other exactions pursuant to state law and City ordinances;

**WHEREAS**, pursuant to Government Code Section 66020(d)(1), **NOTICE IS HEREBY GIVEN** that this project is subject to certain fees, dedications, reservations and other exactions as provided herein.

**NOW, THEREFORE, BE IT RESOLVED**, it is hereby found, determined and resolved by the Planning Commission of the City of Moreno Valley as follows:

- A. This Planning Commission hereby specifically finds that all of the facts set forth above in this Resolution are true and correct.
- B. Based upon substantial evidence presented to this Planning Commission during the above-referenced meeting on July 11, 2013, including written and oral staff reports, and the record from the public hearing, this Planning Commission hereby specifically finds as follows:
  - 1. That the Development Agreement Amendment is consistent with the goals, objectives, policies, general land uses and programs specified in the General Plan.

ATTACHMENT 2

**FACT:** The proposed Amendment is consistent with the General Plan ensuring that new development provides adequate recreational facilities through installation of park improvements. This project will be required to pay applicable development impact fees for park improvements.

2. The proposed Development Agreement Amendment is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located.

**FACT:** The Development Agreement Amendment is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located.

3. The proposed Development Agreement Amendment is in conformity with public convenience, general welfare and good land use practice.

**FACT:** The Development Agreement Amendment would require the payment of impact fees for Tentative Tract 24203 in the same manner as other development within the City of Moreno Valley. The payment of park improvement fees for Tentative Tract 24203 will provide additional amenities for the park. The Development Agreement required the dedication and construction of the 10 acre park (Shadow Mountain Park).

4. The proposed Development Agreement Amendment will not be detrimental to the public health, safety and general welfare.

**FACT:** The proposal has been determined to be exempt under Section 15061(b)(3) of the California Environmental Quality Act Guidelines in that the proposed Agreement changes do not have the potential to result in a direct or indirect physical impact on the environment.

5. The proposed Development Agreement Amendment will not adversely affect the orderly development or the preservation of property values of the subject property or any other property.

**FACT:** The Development Agreement Amendment would not affect any provisions of the agreement that would have any effect on the development of the subject property or the preservation of property values.



## **C. FEES, DEDICATIONS, RESERVATIONS, AND OTHER EXACTIONS**

1. Impact, mitigation and other fees are due and payable under currently applicable ordinances and resolutions. These fees may include but are not limited to: Development Impact Fee, Transportation Uniform Mitigation Fee (TUMF), Multi-species Habitat Conservation Plan (MSHCP) Mitigation Fee, Stephens Kangaroo Habitat Conservation fee, Underground Utilities in lieu Fee, Area Drainage Plan fee, Bridge and Thoroughfare Mitigation fee (Future) and Traffic Signal Mitigation fee. The final amount of fees payable is dependent upon information provided by the applicant and will be determined at the time the fees become due and payable.

Unless otherwise provided for by this resolution, all impact fees shall be calculated and collected at the time and in the manner provided in Chapter 3.32 of the City of Moreno Valley Municipal Code or as so provided in the applicable ordinances and resolutions. The City expressly reserves the right to amend the fees and the fee calculations consistent with applicable law.

2. The City expressly reserves the right to establish, modify or adjust any fee, dedication, reservation or other exaction to the extent permitted and as authorized by law.

Pursuant to Government Code Section 66020(d)(1), NOTICE IS FURTHER GIVEN that the 90 day period to protest the imposition of any impact fee, dedication, reservation, or other exaction described in this resolution begins on the effective date of this resolution and any such protest must be in a manner that complies with Section 66020(a) and failure to timely follow this procedure will bar any subsequent legal action to attack, review, set aside, void or annul imposition.

The right to protest the fees, dedications, reservations, or other exactions does not apply to planning, zoning, grading, or other similar application processing fees or service fees in connection with this project and it does not apply to any fees, dedication, reservations, or other exactions of which a notice has been given similar to this, nor does it revive challenges to any fees for which the Statute of Limitations has previously expired.

**BE IT FURTHER RESOLVED** that the Planning Commission **HEREBY APPROVES** Resolution No. 2013-22 recommending that the City Council approve Amendment 4 to Development Agreement 102-89 (P13-027) based on the Findings contained in the attached Resolution.

**APPROVED** this 11<sup>th</sup> day of July, 2013.

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Chair, Planning Commission

ATTEST:

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John C. Terell, Interim Community & Economic Development Director  
Secretary to the Planning Commission

APPROVED AS TO FORM:

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City Attorney

## Amendment 4 to Development Agreement 102-89

THIS AMENDMENT modifies the terms and provisions of that certain Development Agreement (the "Agreement") dated May 31, 1990 and recorded June 4, 1990 as Instrument No. 204508, Records of Riverside County, California entered into by the City of Moreno Valley (the "City"), Empire Homes, a California general partnership, and Lennar Homes of California, Inc., a California corporation ("Lennar Homes"). This Amendment also amends the terms and provisions of Amendment 3 to the Development Agreement (the "Third Amendment") dated March 20, 2000, and recorded April 27, 2000, as Instrument No. 019870, Records of Riverside County, California entered into by the City of Moreno Valley (the "City"), Empire Homes, a California general partnership, and Lennar Homes of California, Inc., a California Corporation. Lennar Homes has conveyed its interest in the Lennar Homes Property (as defined in the Agreement) to Blue Ribbon Enterprises, LLC, a California limited liability company, as to an undivided eighty-three percent (83%) and Highland Hills Development Corporation, a California corporation, as to an undivided seventeen percent (17%) interest, as tenants in common (collectively, "Blue Ribbon"). The City accepted the park improvements completed by Empire Homes (Tract 23553) on January 27, 2004, which fulfilled Empire Homes' park obligations under Development Agreement 102-89.

### RECITAL

Section 3.4 of the Agreement recognizes the possibility that due to changed circumstances, it may be necessary or appropriate to modify the term and provisions of this Agreement.

NOW, THEREFORE, for valuable consideration, the receipt and adequacy of which is hereby acknowledged, the City and Blue Ribbon agree as follows:

- A. Definitions. The "Effective Date" of this amendment to Agreement will refer to the date that this amendment is recorded with the County Recorder.
- B. Term. Section 2.3 of the Agreement is modified to reflect that the term shall be extended for five (5) years – thus through June 4, 2019.

Section D.4 of Amendment 3 shall be modified to read as follows:

- 4. With respect to the Empire Partnership Property, Empire Partnership and the City acknowledge that of the approximately 8.5 acre park site to be dedicated and improved by Empire Partnership, approximately 4.9 acres satisfies the park dedication requirements of Ordinance No. 340. The remainder of Empire

ATTACHMENT 3

1

Partnership's portion of the park site, totaling 3.6 acres is in excess of that requirement and will be credited to offset development impact fees as described in paragraph 6.

With respect to ~~Lennar Homes of California Inc. Blue Ribbon~~, ~~Lennar Homes Blue Ribbon~~ and the City agree that the 1.5 acre park site being dedicated and improved by Lennar Homes will fully satisfy the park dedication requirements of Ordinance 340 the City's Municipal Code.

~~Park site improvement plans including an estimate of cost, but not including the final detailed construction drawings shall be prepared by the developer and approved by the City's Parks and Recreation Director prior to the recordation of the final map for Tract 23553 and Tract 24203.~~

~~The developers respectively shall each execute an improvement agreement with the City as approved by the City Attorney accompanied with improvement security conforming with Sections 9.14.210 and 9.14.220 of the Development Code (Ordinance No. 359) prior to the recordation of the final map for Tract 23553 and Tract 24203. Each agreement shall reflect the respective responsibilities for park improvements as provided for in Paragraph 6.~~

Section D.5 of Amendment 3 shall be modified to read as follows:

Park Improvements. Empire Partnership and ~~Lennar Homes Blue Ribbon~~ will make an offer of dedication of their respective portions of the park site (8.5 acres for Empire Partnership and 1.5 acres for ~~Lennar Homes Blue Ribbon~~) to the City within thirty (30) days of the effective date of the amended agreement. Concurrent with recordation of Amendment 4 of the Development Agreement, the approximately 1.5 acre site will be dedicated to the City. Further, title to this 1.5 acre dedication will be cleared up. In lieu of completing park improvements for the approximately 1.5 acre site, the Park Improvement portion of the City's development impact fee will apply to each residential lot as provided for by the City's current fee ordinance and resolution. Prior to recordation of the final map, Empire Partnership and ~~Lennar Homes~~ shall provide sufficient security for their respective portions of the park improvements. The conceptual park and photographs of required minimum City standards are depicted in Exhibit A. The park improvements that Empire Partnership and ~~Lennar Homes~~ are is each responsible for are set forth in Exhibits B-E, incorporated herein by this reference. Because the cost of the work may change over time, Empire Partnership and ~~Lennar Homes~~ agrees to renew said security with good and sufficient sureties or change the amounts of said security within ten (10) days after being notified by City staff that the sureties or amounts are insufficient.

Empire Partnership completed park improvements as a separate obligation as described. and ~~Lennar Homes have segregated the park improvements into separate obligations of Empire Partnership and Lennar Homes.~~ They are ~~attached~~ in the following Exhibits:

A. The detailed breakdown of park improvements itemized in Exhibits C ~~and E~~ contain general cost estimates. The Developers are is not required to spend the amount of money estimated in the respective Exhibit. Nor are the Exhibits intended to limit the cost of any of the improvements. The City and the Developers agree that the Developers are required to construct facilities in accordance with Plans and Specification approved by the City.

B. Exhibit A - Entire Park

Exhibit B.- Diagram of Empire Partnership's portion of Park Improvements

Exhibit C - Detailed breakdown of Empire Partnership's Park Improvements

~~Exhibit D - Diagram of Lennar Home's portion of Park Improvements~~

~~Exhibit E - Detailed breakdown of Lennar Home's Park Improvements~~

C. Not more than 163 building permits shall be issued to Empire Partnership, or any successor in interest until the park improvements described in Exhibits B and C are completed, and accepted by the City's Parks and Recreation Director. ~~Similarly not more than 56 building permits shall be issued to Lennar Homes or any successor in interest until the park improvements described in Exhibits D and E are completed, and accepted by the City's Parks and Recreation Director.~~

Upon completion of the park site improvements by the developer as approved by the Parks and Recreation Director, the developer shall provide to the City all title documents including title insurance and grant deed(s) as required by the City Attorney. The property owner shall transfer unencumbered fee title of the park site to the City.

Section D.6 of Amendment 3 shall be modified to read as follows:

6. Park Improvements/Development Impact Fee Credit. It is expressly understood that it shall be the sole responsibility of the ~~property owners/developers~~ Empire Partnership and/or their future successors to provide for, without limitation, any architectural, engineering, landscape architectural, or other planning related cost associated with the design of the park as necessary to comply with City requirements. This shall be further understood to include all cost incurred in order to comply with Ordinance No. 340; all cost of constructing designated park improvements including any

construction management cost; and all other cost incurred in equipping the park as required by the City in accordance with the provisions of this Agreement (see Attachment "A"). ~~The City has agreed that no plan check or other City fees will be levied with respect to approval and construction of the park site.~~ As consideration for dedication of excess park land and construction of the park improvements, Empire Partnership will receive a credit for 3.6 acres of excess land, based upon a fair market value appraisal of the park land -- in an amount not to exceed Four Hundred Thousand Dollars (\$400,000), such amount to be applied against development impact fees.

Empire Partnership will obtain an MAI appraisal in order to determine the fair market value of the excess park land. Such appraisal will value the Property absent its park designation and based on the Development Standards specified in Section C.3 of this Agreement, in developed condition. For purposes of this appraisal, the developed condition would be a graded site with all improvements as shown on Tentative Tract Map 23553 (including streets, sewer, water storm drainage and utilities).

With respect to the fair market value appraisal of the Property, the appraisal shall be submitted by Empire Partnership, subject to acceptance and approval by the City no later than the issuance of the 140th building permit for Empire Partnership. If the City objects to the appraisal, the City may contract with another appraiser to determine the market value at the cost of Empire Partnership. Empire Partnership agrees to take no action to unreasonably increase the value of the Property. Empire Partnership shall pay in full all applicable development impact fees until the appraisal has been accepted and approved by the City. This fee credit shall be applied against the future development impact fees as they become payable on those lots for which building permits had not been issued and in order to fully amortize the credit, the City will cooperate with Empire Partnership in an equitable allocation of such fee credit with respect to the remaining lots receiving building permits within the Project, to attempt to utilize all of the credit available to Empire Partnership provided, however, the City will have no further obligation for payment of any kind hereunder.

Recording Requested By  
And When Recorded Return To:

City of Moreno Valley  
23119 Cottonwood, Building B  
Moreno Valley, California 92388  
Attention: *City Clerk*

RECEIVED FOR RECORD  
Min. Post *2* o'clock

JUN 4 1990  
Recorded in Official Records  
of Riverside County, California  
*William E. Stewart*  
RECORDER  
Fee \$ *5*

DEVELOPMENT AGREEMENT

BETWEEN THE

CITY OF MORENO VALLEY

AND

EMPIRE HOMES,  
a California general partnership

and

WEST VENTURE DEVELOPMENT CO.,  
a California general partnership

ATTACHMENT 4

204508

## DEVELOPMENT AGREEMENT

This Development Agreement (the "Agreement") is entered into effective as of the date it is recorded with the Riverside County Recorder (the "Effective Date") by and among the CITY OF MORENO VALLEY (the "CITY") and EMPIRE HOMES, a California general partnership, and WEST VENTURE DEVELOPMENT CO., a California general partnership (individually "EMPIRE" and "WVDC" and together "the OWNERS").

### RECITALS

WHEREAS, the CITY is authorized to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property, pursuant to Section 65864, et seq. of the Government Code; and,

WHEREAS, the CITY has adopted rules and regulations for consideration of development agreements, pursuant to Section 65865 of the Government Code; and,

WHEREAS, OWNERS have requested the CITY to enter into a development agreement and proceedings have been taken in accordance with the rules and regulations of the CITY; and,

WHEREAS, by electing to enter into this Agreement, the CITY shall bind future City Councils of the CITY by the obligations specified herein and limit the future exercise of certain governmental and proprietary powers of the CITY; and,

WHEREAS, the terms and conditions of this Agreement have undergone extensive review by the CITY and the City Council and have been found to be fair, just and reasonable; and,

WHEREAS, the best interests of the citizens of the CITY and the public health, safety and welfare will be served by entering into this Agreement; and,

WHEREAS, all of the procedures of the California Environmental Quality Act have been met with respect to the Projects and the Agreement; and,



WHEREAS, this Agreement and the Projects are consistent with the CITY'S General Plan and any Specific Plan or Plans applicable thereto; and,

WHEREAS, all actions taken and approvals given by the CITY have been duly taken or approved in accordance with all applicable legal requirements for notice, public hearings, findings, votes, and other procedural matters; and,

WHEREAS, development of the Properties in accordance with this Agreement will provide substantial benefits to the CITY and will further important policies and goals of the CITY; and,

WHEREAS, this Agreement will eliminate uncertainty in planning and provide for the orderly development of the Properties, ensure progressive installation of necessary improvements, provide for public services appropriate to the development of the Projects, and generally serve the purposes for which development agreements under Sections 65864, et seq. of the Government Code are intended; and,

WHEREAS, OWNERS have completed and filed an application and petition with the MORENO VALLEY UNIFIED SCHOOL DISTRICT ("the District") requesting the formation of a Community Facilities District which will include the Property, to provide a financing mechanism to pay for the construction of certain school facilities which will benefit the Properties and authorize said Communities Facilities District to issue and sell bonds; and

WHEREAS, OWNERS have incurred and will in the future incur substantial costs in order to assure development of the Properties in accordance with this Agreement; and

WHEREAS, OWNERS have incurred and will in the future incur substantial costs in excess of the generally applicable requirements in order to assure vesting of legal rights to develop the Properties in accordance with this Agreement.

#### COVENANTS

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. DEFINITIONS AND EXHIBITS.

1.1 Definitions. The following terms when used in this Agreement shall be defined as follows:

1.1.1 "Agreement" means this Development Agreement.

1.1.2 "CITY" means the City of Moreno Valley, a municipal corporation.

1.1.3 "Development" means the improvement of the Properties for the purposes of completing the structures, improvements and facilities comprising the Projects including, but not limited to: grading; the construction of infrastructure and public facilities related to the Projects, whether located within or outside the Properties; the construction of buildings and structures; and the installation of landscaping. "Development" does not include the maintenance, repair, reconstruction or redevelopment of any building, structure, improvement or facility after the construction and completion thereof.

1.1.4 "Development Approvals" means all permits and other entitlements for use subject to approval or issuance by the CITY in connection with development of the Properties including, but not limited to:

(a) Specific plans and specific plan amendments;

(b) Tentative and final subdivision and parcel maps;

(c) Conditional use permits, public use permits and plot plans;

(d) Zoning;

(e) Grading, improvement and building permits.

1.1.5 "Development Exaction" means any requirement of the CITY in connection with or pursuant to any Land Use Regulation or Development Approval for the dedication of land, the construc-

tion of improvements or public facilities, or the payment of fees in order to lessen, offset, mitigate or compensate for the impacts of development on the environment or other public interests.

1.1.6 "Development Plan" means the Existing Development Approvals and the Existing Land Use Regulations applicable to development of each Property.

1.1.7 "District" means the Moreno Valley Unified School District.

1.1.8 "Effective Date" means the date this Agreement is recorded with the County Recorder.

1.1.9 "Existing Development Approvals" means all Development Approvals approved or issued prior to the Effective Date. Existing Development Approvals includes the Approvals which are specific to each Property, as described in Exhibits "C" and "D" attached hereto, and all other Approvals which are a matter of public record on the Effective Date.

1.1.10 "Existing Land Use Regulations" means all Land Use Regulations in effect on the Effective Date and all other Regulations which are a matter of public record on the Effective Date.

1.1.11 "Land Use Regulations" means all ordinances, the General Plan and General Plan policies of the CITY governing the development and use of land, including, without limitation, the permitted use of land, the density or intensity of use, subdivision requirements, the maximum height and size of proposed buildings, the provisions for reservation or dedication of land for public purposes, and the design, improvement and construction standards and specifications applicable to the development of the Property. "Land Use Regulations" does not include any the CITY ordinance, resolution, code, rule, regulation or official policy, governing:

(a) The conduct of businesses, professions, and occupations;

(b) Taxes and assessments;

(c) The control and abatement of nuisances;

(d) The granting of encroachment permits and the conveyance of rights and interests which provide for the use of or the entry upon public property;

(e) The exercise of the power of eminent domain.

1.1.12 "OWNERS" means EMPIRE HOMES, a California general partnership, and WEST VENTURE DEVELOPMENT CO., a California general partnership, and their successors in interest to all or any part of the Properties.

1.1.13 "Mortgagee" means a mortgagee of a mortgage, a beneficiary under a deed of trust or any other security-device lender, and their successors and assigns.

1.1.14 "Projects" means the development of the Properties contemplated by the Development Plan as such Plan may be further defined, enhanced or modified pursuant to the provisions of this Agreement.

1.1.15 "Properties" means the real property described on Exhibits "A" and "B" attached hereto. "Property" means the individual real property described in such Exhibits, belonging to each of the individual OWNERS.

1.1.16 "Reservations of Authority" means the rights and authority excepted from the assurances and rights provided to OWNERS under this Agreement and reserved to the CITY under Section 3.5 of this Agreement.

1.1.17 "Subsequent Development Approvals" means all Development Approvals required subsequent to the Effective Date in connection with development of the Properties.

1.1.18 "Subsequent Land Use Regulations" means any Land Use Regulations adopted and effective after the Effective Date of this Agreement.

1.2 Exhibits. The following documents are attached to, and by this reference made a part of, this Agreement:

- Exhibit "A"      Legal description of EMPIRE Property
- Exhibit "B"      Legal description of WVDC Property
- Exhibit "C"      Development Agreement Terms and  
Conditions Specific to EMPIRE  
Property
- Exhibit "D"      Development Agreement Terms and  
Conditions Specific to WVDC Property
- Exhibit "E"      Park Facilities List
- Exhibit "F"      Park Facilities Site Plan

2. GENERAL PROVISIONS.

2.1 Binding Effect of Agreement. The Properties are hereby made subject to this Agreement. Development of the Properties is hereby authorized and shall be carried out only in accordance with the terms of this Agreement.

2.2 Ownership of Properties. OWNERS represent and covenant that they are the owners of the fee simple title to the Properties or a portion thereof or have equitable interests therein through option agreements or agreements to purchase.

2.3 Term. The term of this Agreement shall commence on the Effective Date and shall continue for a period of ten (10) years thereafter unless the term is modified or extended pursuant to the provisions of this Agreement.

2.4 Assignment.

2.4.1 Right to Assign. OWNERS shall have the right to sell, transfer or assign the Properties in whole or in part (provided that no such partial transfer shall violate the Subdivision Map Act, Government Code Section 66410, et seq., or the CITY' subdivision ordinance) to any person, partnership, joint venture, firm or corporation at any time during the term of this Agreement; provided, however, that any such sale, transfer or assignment shall include the assignment and assumption of the rights, duties and obligations arising under or from this Agreement and be made in strict compliance with the following conditions precedent:

(a) No sale, transfer or assignment of any right or interest under this Agreement shall be made unless made together with the sale, transfer or assignment of all or a part of the OWNERS' Property.

(b) Concurrent with any such sale, transfer or assignment, or within fifteen (15) business days thereafter, the transferring OWNER shall notify the CITY, in writing, of such sale, transfer or assignment and shall provide the CITY with an executed agreement, in a form reasonably acceptable to the CITY, by the purchaser, transferee or assignee and providing therein that the purchaser, transferee or assignee expressly and unconditionally assumes all the duties and obligations of the transferring OWNER under this Agreement.

Any sale, transfer or assignment not made in strict compliance with the foregoing conditions shall constitute a default by the transferring OWNER under this Agreement. Notwithstanding the failure of any purchaser, transferee or assignee to execute the agreement required by paragraph (b) of this Subsection 2.4.1, the burdens of this Agreement shall be /binding upon such purchaser, transferee or assignee, but the benefits of this Agreement shall not inure to such purchaser, transferee or assignee until and unless such agreement is executed.

2.4.2 Release of Transferring Owner. Notwithstanding any sale, transfer or assignment, a transferring OWNER shall continue to be obligated under this Agreement unless such transferring OWNER is given a release in writing by the CITY, which release shall be provided by the CITY upon the full satisfaction by such transferring OWNER of the following conditions:

(a) OWNER no longer has a legal or equitable interest in all or any part of the transferred Property.

(b) OWNER is not then in default under this Agreement.

(c) OWNER has provided the CITY with the notice and executed agreement required under Paragraph (b) of Subsection 2.4.1 above.

(d) The purchaser, transferee or assignee provides the CITY with security equivalent to any security previously provided by the transferring OWNER to secure performance of its obligations hereunder.

(e) If any obligations for dedication of property, construction of public improvements or payment of fees remain hereunder, the CITY may deny a release if it is not fully satisfied that the financial condition, reputation in the development industry and the successful development history of the transferee is sufficient to assure the CITY that the Project will be timely constructed as proposed and that all dedications, construction of public improvements and payment of fees will be timely and fully completed to the CITY's satisfaction.

2.4.3 Subsequent Assignment. Any subsequent sale, transfer or assignment after an initial sale, transfer or assignment shall be made only in accordance with and subject to the terms and conditions of this Section.

2.4.4 Termination of Agreement With Respect to Individual Lots Upon Sale to Public and Completion of Construction. The provisions of Subsection 2.4.1 shall not apply to the sale or lease (for a period longer than one year) of any lot which has been finally subdivided and is individually (and not in "bulk") sold or leased to a member of the public or other ultimate user and provided no unperformed obligations hereunder remain with respect thereto or as to the owner thereof. Notwithstanding any other provisions of this Agreement, this Agreement shall terminate with respect to any lot and such lot shall be released and no longer be subject to this Agreement without the execution or recordation of any further document upon satisfaction of all of the following conditions:

(a) The lot has been finally subdivided and individually (and not in "bulk") sold or leased (for a period longer than one year) to a member of the public or other ultimate user;

(b) A Certificate of Occupancy has been issued for a building on the lot; and,

(c) No unperformed obligations remain.

2.5 Amendment or Cancellation of Agreement. This Agreement may be amended or cancelled in whole or in part only by written consent of all parties in the manner provided for in Government Code Section 65868. This provision shall not limit any remedy of the CITY or OWNERS as provided by this Agreement. The provisions of Exhibits "C" and "D" which are specific to each OWNER and its Property may be individually amended by the CITY and each respective OWNER, without modifying or affecting the validity or enforceability of the remainder of this Agreement, provided, however, that those portions of the Project amended or affected by the amendment may, and unless otherwise agreed by the parties will, be subject to any adopted changes in the CITY's General Plan, specific plan, zoning, and other development standards and policies in effect at the time of amendment and occurring after approval and recordation of this Development Agreement, and which otherwise would be inapplicable by specific provisions of Section 3 of this Development Agreement.

2.6 Termination. This Agreement shall be deemed terminated and of no further effect upon the occurrence of any of the following events:

(a) Expiration of the stated term of this Agreement as set forth in Section 2.3.

(b) Entry of a final judgment setting aside, voiding or annulling the adoption of the ordinance approving this Agreement.

(c) The adoption of a referendum measure overriding or repealing the ordinance approving this Agreement.

(d) Completion of the Projects in accordance with the terms of this Agreement including issuance of all required occupancy permits and acceptance by the CITY or applicable public agency of all required dedications and payments.

Unless otherwise provided herein to the contrary, termination of this Agreement shall not constitute termination of any other land use entitlements approved for the Properties. Upon the termination of this Agreement, no party shall have any further right or obligation hereunder except with respect to any obligation to have been performed prior to or as a result of such termination or with respect



to any default in the performance of the provisions of this Agreement which has occurred prior to or as a result of such termination or with respect to any obligations which are specifically set forth as surviving this Agreement or relating to termination hereof.

## 2.7 Notices.

All notices between the CITY and OWNER or OWNERS under this Development Agreement shall be in writing and shall be given by personal delivery, mail or telegram. Notice by personal delivery shall be deemed effective upon the delivery of such notice to the party for which it is intended at the address set forth below. Notice by mail shall be deemed effective two (2) business days after depositing such notice postage prepaid, registered or certified, return receipt requested, properly sealed with the United States Postal Service, addressed as set forth below, regardless of whether or when the notice is actually received. Notice by telegram shall be deemed effective upon the transmission of the telegram, telegraph charges prepaid, to the party to whom it is intended at the address set forth below:

If to the CITY:

City Clerk  
City of Moreno Valley  
23119 Cottonwood, Building B  
Moreno Valley, California 92388

with copies to:

Planning Director  
City of Moreno Valley  
23119 Cottonwood, Building B  
Moreno Valley, California 92388

and

City Attorney  
City of Moreno Valley  
3750 University Ave., Suite 550  
Riverside, California 92501

If to EMPIRE:

Empire Homes  
100 Chaparral Court, Suite 260  
Anaheim Hills, California 92808

If to WVDC:

West Venture Development Co.  
6345 Balboa Blvd., Suite 225  
Encino, California 92316

Any party may, by notice given at any time, require subsequent notices to be given to another person or entity, whether a party or an officer or representative of a party, or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.

3. DEVELOPMENT OF THE PROPERTIES.

3.1 Rights to Develop. Subject to the terms of this Agreement including the Reservations of Authority, each OWNER shall have a vested right to develop its Property in accordance with, and to the extent of, the Development Plan for such Property. The Projects shall remain subject to all Subsequent Development Approvals required to complete the Projects as contemplated by the Development Plan. Except as otherwise provided in this Agreement, the permitted uses of the Properties, the density and intensity of use, the maximum height and size of proposed buildings, and provisions for reservation and dedication of land for public purposes shall be those set forth in the Development Plan as applicable to each Property.

3.2 Effect of Agreement on Land Use Regulations. Except as otherwise provided under the terms of this Agreement including the Reservations of Authority, the ordinances governing permitted uses of the Properties, the density and intensity of use of the Properties, the maximum height and size of proposed buildings, building set-backs, and the design, improvement and construction standards and specifications applicable to development of the Properties shall be the Existing Land Use Regulations. In connection with any Subsequent Development Approval, the CITY shall exercise its discretion in accordance with the Development Plan, and as provided by this Agreement including, but not limited to, the Reservations of Authority. The CITY shall accept for processing, review and will consider action upon all applications in proper form and containing all required information and fees for Subsequent Development Approvals, and such applications shall be processed in the normal manner for processing such matters.

3.3 Timing of Development. OWNERS cannot presently predict exactly when or the precise rate at which

the Properties will be developed, since such decisions depend upon numerous factors which are not all within the control of OWNERS, including but not limited to market orientation and demand, interest rates, absorption, completion, and other factors. Whether or not provision is made herein for express timing deadlines for construction or completion of the Projects or any portion thereof, the parties expressly acknowledge and recognize that OWNERS will retain the right and ability hereunder to develop the Properties in such order and at such rate and times as may be appropriate within the reasonable exercise of OWNERS' business judgment, subject to any timing or phasing requirements for the Projects or the Properties, and subject to the requirement that OWNERS proceed diligently hereunder and act in a reasonable manner and subject to all other express provisions of the Projects and of this Agreement.

Any future regulation, whether adopted by initiative or otherwise, limiting the rate or timing of development of the Properties or the extent thereof shall be deemed to conflict with the rights to development of the Properties hereunder and shall therefore not be applicable to the development of the Properties, except to the extent that the regulation does not remove or restrict any rights recognized and established hereunder.

3.4 Changes and Amendments. The parties acknowledge that refinement and further development of the Projects will require Subsequent Development Approvals and may demonstrate that changes are appropriate and mutually desirable in the Existing Development Approvals. In the event any OWNER finds that a change in its Existing Development Approvals is necessary or appropriate, such OWNER shall apply for a Subsequent Development Approval to effectuate such change and the CITY shall process and act on such application in accordance with the Existing Land Use Regulations, except as otherwise provided by this Agreement, including the Reservations of Authority. Unless otherwise required by law, as determined in the CITY'S reasonable discretion, a change to the Existing Development Approvals shall be deemed "minor" and not require an amendment to this Agreement provided such change does not:

(a) Alter the permitted uses of a Property as a whole; or,

(b) Increase the density or intensity of use of a Property as a whole; or,

(c) Increase the maximum height and size of permitted buildings; or,

(d) Delete a requirement for the reservation or dedication of land for public purposes within a Property as a whole; or,

(e) Constitute a Project requiring a subsequent or supplemental environmental impact report pursuant to Section 21166 of the Public Resources Code.

### 3.5 Reservations of Authority.

3.5.1 Limitations, Reservations and Exceptions. Notwithstanding any other provision of this Agreement, the following Subsequent Land Use Regulations shall apply to the development of the Properties.

(a) Development and processing fees and charges and public facilities and project impact fees of every kind and nature imposed by the CITY to cover the estimated costs to the CITY of processing applications for Development Approvals or for monitoring compliance with any Development Approvals granted or issued, and for providing public facilities and other project impacts and the like, subject to the provisions contained in Exhibits "C" and "D" attached hereto.

(b) Procedural regulations relating to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals and any other matter of procedure.

(c) Regulations governing construction standards and specifications including, without limitation, the CITY'S Building Code, Plumbing Code, Mechanical Code, Electrical Code, Fire Code and Grading and Subdivision Codes and ordinances.

(d) Regulations imposing Development Exactions; provided, however, that no such subsequently adopted Development Exaction shall be applicable to development of the Properties unless such Development Exaction is plied uniformly to development, either throughout the the CITY or within a defined area of benefit which includes the Proper-

ties. No such subsequently adopted Development Exaction shall apply if its application to the Properties would physically prevent development of the Properties for the uses and to the density or intensity of development set forth in the Development Plan.

(e) Regulations which may be in conflict with the Development Plan but which are reasonably necessary to protect the public health and safety. To the extent possible, any such regulations shall be applied and construed so as to provide OWNERS with the rights and assurances provided under this Agreement.

(f) Regulations which are not in conflict with the Development Plan. Any regulation, whether adopted by initiative or otherwise, limiting the rate or timing of development of the Properties shall be deemed to conflict with the Development Plan and shall therefore not be applicable to the development of the Properties.

(g) Regulations which are in conflict with the Development Plan provided an OWNER has given written consent to the application of such regulations to development of its respective Property.

3.5.2 Subsequent Development Approvals. This Agreement shall not prevent the CITY, in acting on Subsequent Development Approvals, from applying Subsequent Land Use Regulations which do not significantly conflict with the Development Plan, nor shall this Agreement prevent the CITY from denying or conditionally approving any Subsequent Development Approval or entitlement on the basis of the Existing Land Use Regulations or any Subsequent Land Use Regulation not in conflict with the Development Plan.

3.5.3 Modification or Suspension by State or Federal Law. In the event that State or Federal laws or regulations, enacted after the Effective Date of this Agreement, prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such State or Federal laws or regulations, provided, however, that this Agreement shall

remain in full force and effect to the extent it is not inconsistent with such laws or regulations and to the extent such laws or regulations do not render such remaining provisions impractical to enforce.

3.5.4 Intent. The parties acknowledge and agree that the CITY is restricted in its authority to limit its police power by contract and that the foregoing limitations, reservations and exceptions are intended to reserve to the CITY all of its police power which cannot be so limited. This Agreement shall be construed, contrary to its stated terms if necessary, to reserve to the CITY all such power and authority which cannot be restricted by contract.

3.6 Regulation by Other Public Agencies. It is acknowledged by the parties that other public agencies not within the control of the CITY possess authority to regulate aspects of the development of the Properties separately from or jointly with the CITY and this Agreement does not limit the authority of such other public agencies.

3.7 Tentative Tract Map Extension. Notwithstanding the provisions of Section 66452.6 of the Government Code, no tentative subdivision map or tentative parcel map, heretofore or hereafter approved in connection with development of the Properties shall be granted an extension of time except in accordance with the Existing Land Use Regulations.

#### 4. INDIVIDUAL PROPERTY TERMS AND PROVISIONS.

4.1 Intent. The parties acknowledge and agree that development of the Properties will result in substantial public needs. The parties further acknowledge that the OWNERS have individually agreed with the CITY regarding certain public benefits which will be added to or undertaken on each Project as partial consideration for the CITY's agreement to enter into this Agreement and as a part of the Development Plan for each Project. Such public benefits may include the dedication of land for public purposes, construction of certain public improvements, payment of fees and similar matters. Exhibits "C" and "D" describe the public benefits and other terms and provisions which are part of each Project.

5. FINANCING OF PUBLIC IMPROVEMENTS.

The OWNERS are processing and expect to forthwith enter into a mitigation agreement with the District regarding the proposed formation of a Community Facilities District -- tentatively designated as Community Facilities District 90-1.

The OWNERS shall reasonably cooperate with CITY and not protest or oppose the inclusion of the Properties or any portion thereof in any community facilities districts or special assessment and/or maintenance district for construction and/or ongoing maintenance and operation of municipal services, public improvements and infrastructure relating to the Properties.

6. ANNUAL REVIEW.

6.1 Review Procedure. CITY shall, at least every twelve (12) months during the term of this Agreement, review the extent of compliance by OWNERS with the terms of this Agreement. Such periodic review shall determine compliance with the terms of this Agreement pursuant to California Government Code Section 65865.1 and Resolution No. 85-127 or other successor laws and regulations. Notice of such annual review shall include the statement that any review may result in amendment to or termination of this Agreement.

Within thirty (30) days after written notice by the Director of Planning of the CITY ("Director"), OWNERS shall provide such information as may be reasonably requested in writing by the Director and deemed by him to be required in order to ascertain compliance with this Agreement. If the Director determines that one or both OWNERS are in default following completion of the normal scheduled periodic review, written notice of any recommended termination or modification of this Agreement shall be given to the affected OWNER or OWNERS, specifying in such notice the alleged nature of the default, and including suggested or potential actions and timing to cure said default where appropriate.

The Director shall provide to any allegedly defaulting OWNER a copy of all staff reports and, to the extent practical, related exhibits concerning contract performance at least ten (10) calendar days prior to any hearing on such periodic review. OWNER shall be permitted an opportunity to be heard orally and in writing regarding its performance under this Agreement before the City Council

of CITY or if the matter is referred to the Planning Commission or other body of CITY before such Commission or other body. In the event the City Council finds and determines that the OWNER has not complied in good faith with any term or condition of this Agreement, the City Council may terminate or modify this Agreement. The term "OWNER" shall also include any successors in interest to the undersigned OWNERS herein for purposes of this Agreement, except in the event any particular portion of this Agreement cannot reasonably be so construed.

6.2 Certificate of Compliance. If OWNERS are found to be in compliance with this Agreement after the annual review, the CITY shall, upon request by OWNERS at any time after an annual review, issue a Certificate of Compliance to OWNERS (the "Certificate") stating that, after the most recent annual review and based upon information known or made known to the City Council and/or Director of Planning of the CITY, (i) this Agreement remains in effect and (ii) OWNERS are not in default hereunder (or if any default exists, the nature thereof and any remaining time to cure -- if applicable). The Certificate shall be in recordable form and shall contain information necessary to communicate constructive record notice of the finding of compliance. OWNERS may record the Certificate in the official records of Riverside County, California. Whether or not the Certificate is relied upon by assignees or other transferees of OWNERS, the CITY shall not be bound by a Certificate if a default existed at the time of the annual review, but was concealed from or otherwise not known to the Director of Development Services or the City Council.

## 7. ENFORCEMENT.

### 7.1 Enforceable by Either Party.

Subject to all requirements mandated by applicable state or federal or other law, this Agreement shall be enforceable by any party hereto.

### 7.2 Cumulative Remedies.

In addition to any other rights or remedies, either party may institute legal action to cure, correct or remedy any default (to the extent otherwise permitted herein and in Government Code Section 65864 et seq. and Resolution No. 85-127, or successor laws and regulations), to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation, including suits for declaratory relief, specific performance, relief in the nature of mandamus and actions for damages. All of the



remedies described above shall be cumulative and not exclusive of one another, and the exercise of any one or more of the remedies shall not constitute a waiver or election with respect to any other available remedy. The provisions of this subsection 7.2 are not intended to modify other provisions of this Agreement and are not intended to provide additional remedies not otherwise permitted by law.

### 7.3 Attorneys' Fees.

In the event this Agreement or its enforceability or any portion hereof is challenged by any third person or entity, OWNERS shall fully defend (with attorneys approved by CITY), indemnify and hold harmless the CITY, its officers, employees, representatives and agents from and against any claims, liabilities, judgments and damages relating thereto or resulting therefrom.

In any arbitration, quasi-judicial or administrative proceedings or any action in any court of competent jurisdiction, brought by either party to enforce any covenant or any of such party's right or remedies under this Agreement, including any action for declaratory or equitable relief, the prevailing party shall be entitled to reasonable attorneys' fees and all reasonable costs, expenses and disbursements in connection with such action.

## 8. MISCELLANEOUS PROVISIONS.

### 8.1 Covenants, Conditions and Restrictions.

The terms of this Agreement shall be binding upon the parties, their successors and assigns. In addition, OWNERS shall cause to be placed in any covenants, conditions and restrictions applicable to the Project, and in any ground lease or conveyance thereof, or any portion thereof, provisions specifically recognizing that the terms of this Agreement, including but not limited to the development standards and conditions contained in the Projects, are binding on any successors in interest of OWNERS and that OWNERS, CITY, or other proper party in interest, acting separately or jointly, as appropriate, may enforce those standards and conditions and, if prevailing in any actions, may recover reasonable attorneys' fees and costs for such enforcement.

### 8.2 Projects as a Private Undertaking.

It is specifically understood and agreed by and between the parties hereto that the Projects are a private development, that neither party is acting as the

agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between CITY and OWNERS is that of a government entity regulating the development of private property and the OWNERS of such property.

### 8.3 Captions.

The captions of this Development Agreement are for convenience and reference only and shall in no way define, explain, modify, construe, limit, amplify or aid in the interpretation, construction or meaning of any of the provisions of this Agreement.

### 8.4 Regulation by Other Public Agencies.

It is acknowledged by the parties that other public agencies not within the control of CITY possess authority to regulate aspects of the development of the Projects separately from or jointly with CITY and this Agreement does not limit the authority of such other public agencies.

### 8.5 Mortgagee Protection.

A breach of this Agreement shall not defeat, render invalid, diminish, or impair the lien of any mortgage made in good faith and for value, unless otherwise required by law; provided, however, this paragraph shall not be construed to limit any of CITY's rights under this Agreement.

### 8.6 Notice of Default to Mortgagee; Right of Mortgagee to Cure.

If the City Clerk of the CITY and the Director of Planning timely receive notice from a mortgagee requesting a copy of any notice of a default given OWNERS, the CITY shall provide a copy of that notice to the mortgagee within ten (10) days of sending the notice of default to OWNER. The Mortgagee shall have the right, but not the obligation, to cure the default during the remaining cure period, if any, allowed OWNER under this Agreement.

8.7 Consent.

Where the consent or approval of a party is required in or necessary under this Agreement, unless the context otherwise indicates, such consent or approval shall not be unreasonably withheld.

8.8 Entire Agreement.

This Agreement and the documents attached hereto and referred to herein constitute the entire agreement between the parties with respect to the subject matter of this Agreement.

8.9 Further Actions and Instruments.

Each of the parties shall cooperate with and provide reasonable assistance to the other to the extent contemplated hereunder in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement.

8.10 Governing Law.

This Agreement, including, without limitation, its existence, validity, construction and operation, and the rights of each of the parties shall be determined in accordance with the laws of the State of California.

8.11 Recitals.

The recitals in this Agreement constitute part of this Agreement and each party shall be entitled to rely on the truth and accuracy of each recital as an inducement to enter into this Agreement.

8.12 Vesting -- Recording.

OWNERS shall provide CITY with a title report showing title to the Properties vested in OWNERS and proof that each corporation is in good standing prior to execution of this Agreement by the CITY. The City Clerk shall cause a copy of this Agreement to be recorded in the office of the Recorder of Riverside County no later than ten (10) days following execution of this Agreement by all parties.

8.13 Time.

Time is of the essence in this Agreement and of each and every term and condition hereof.

#### 8.14 No Third Party Beneficiaries.

This Agreement is made and entered into for the sole protection and benefit of the parties and their successors and assigns. Except as expressly provided in this Agreement, no other person shall have any right of action based upon any provision of this Agreement.

#### 8.15 Waiver.

The failure of any party at any time to seek redress for any violation of this Agreement or any applicable law or regulation or to insist upon the strict performance of any term or condition shall not prevent any subsequent act or omission of the same or similar nature which would have originally constituted a breach of or default under this Agreement from having all the force and effect of an original breach or default, and such subsequent act or omission may be proceeded against to the fullest extent provided by this Agreement. No provision of this Agreement shall be deemed to have been waived by a party unless the waiver is in writing and signed by such party.

#### 8.16 Partial Invalidity.

If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction or by an arbitration proceeding to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby. Notwithstanding the provisions contained herein, each party shall retain discretion to terminate this Agreement if the term, covenant, condition or provision challenged and found invalid results in a material frustration of the intent and purpose of this Agreement or would substantially impair the rights of the OWNER or OWNERS to carry out the Projects pursuant to their Tentative Tract approvals or would eliminate substantially the additional benefits provided to the CITY by the terms hereof.

#### 8.17 Binding Effect.

The covenants and agreements contained in this Agreement shall inure to the benefit of, and shall be binding upon each of the parties and their respective heirs, administrators, successors and assigns.

8.18 Premature Termination by Property Owner/  
Dedication/Security.

In the event an OWNER desires to terminate this Agreement prior to build-out of its respective Property, as otherwise recognized herein, this Agreement may be terminated as to such OWNER and its Property if concurred in by the City Council of CITY, provided, as a condition thereto, that in the event such OWNER has not previously irrevocably dedicated or otherwise conveyed to the CITY the park site portion, fully improved, of its respective Property, as a condition to such termination, such OWNER will pay to CITY the sum of Five Thousand Dollars (\$5,000.00) for each residential lot approved with respect to its Property as compensation for the CITY's agreement to relinquish the other rights accruing to CITY upon build-out, including use of the proposed park site. In the event an OWNER has previously irrevocably dedicated or otherwise conveyed to CITY the park site portion of its respective Property but such dedication or conveyance (together with improvements constructed upon such park site) are not equivalent in value to Five Thousand Dollars (\$5,000) for each residential lot approved with respect to its Property, the value of park site land and improvements dedicated or otherwise conveyed by such OWNER to CITY will be offset against the total amount equal to Five Thousand Dollars (\$5,000) times the total number of residential lots within the respective Property. The total amount, if any, derived in accordance with the preceding two sentences will constitute the "Liquidated Damages Amount" for purposes of the remainder of this Section. All references throughout this Section 8.18 to "residential lots," "approved lots," or similar references refer to lots created or approved within the respective Property of each OWNER, as established by a recorded final tract map or approved tentative tract map for each such Property.

FURTHER, IN THE EVENT THIS AGREEMENT IS TERMINATED PRIOR TO BUILD-OUT AS A RESULT OF A DEFAULT (OR OTHER CONDUCT OF AN OWNER PERMITTING TERMINATION HEREUNDER) BY AN OWNER, AND IN THE FURTHER EVENT THAT THE PARK SITE PORTION OF SUCH OWNER'S PROPERTY HAS NOT YET BEEN IRREVOCABLY DEDICATED OR OTHERWISE CONVEYED TO THE CITY OR HAS BEEN DEDICATED OR CONVEYED WITHOUT ALL PARK SITE IMPROVEMENTS THEREON, THE LIQUIDATED DAMAGES AMOUNT DESCRIBED ABOVE SHALL BECOME DUE AND PAYABLE TO THE CITY BY SUCH OWNER (OR ITS SUCCESSORS, IF APPLICABLE), WHICH PAYMENT CONSTITUTES A PORTION OF THE CONSIDERATION TO THE CITY FOR ITS AGREEMENT TO ENTER INTO THIS AGREEMENT REGARDING USE OF A PORTION OF THE PROPERTY FOR PARK PURPOSES, WHICH SUM WILL BE DUE AND PAYABLE TO THE CITY AS LIQUIDATED DAMAGES. THE PARTIES

SPECIFICALLY ACKNOWLEDGE THAT THE CITY'S ACTUAL LOSSES AND DAMAGES IN THE EVENT OF A PREMATURE TERMINATION OR DEFAULT BY AN OWNER WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO DETERMINE. THEREFORE, BY SIGNING THIS AGREEMENT, THE PARTIES ACKNOWLEDGE THAT THE SUM DESCRIBED ABOVE HAS BEEN AGREED TO, AFTER NEGOTIATION, AS THE REASONABLE ESTIMATE OF THE CITY'S LOSSES IN THE EVENT OF SUCH PREMATURE TERMINATION OR DEFAULT BY AN OWNER. IN THE EVENT OF SUCH DEFAULT, THE CITY SHALL BE ENTITLED TO ENFORCE ITS RIGHTS HEREUNDER, INCLUDING ALL ATTORNEYS' FEES AND COSTS.

THE CITY'S RIGHT TO THE LIQUIDATED DAMAGES AMOUNT IS HEREBY SECURED BY THE GRANTING TO THE CITY BY OWNERS OF A LIEN AGAINST EACH LOT CREATED BY ANY FINAL OR PARCEL MAP RECORDED AS A PART OF THE PROJECT, WHETHER RECORDED BEFORE OR AFTER EXECUTION OF THIS AGREEMENT; AND IF NO FINAL OR PARCEL MAP IS RECORDED OVER ANY PORTION OF THE PROPERTIES IN THE PROJECT WHERE A TENTATIVE MAP HAS BEEN APPROVED, THEN THE LIEN CREATED HEREBY ON THE PROPERTY OR PROPERTIES INCLUDED WITHIN SUCH TENTATIVE MAP WILL BE IN THE AMOUNT OF THE LIQUIDATED DAMAGES AMOUNT. THE LIEN DESCRIBED HEREIN WILL BE ENTIRELY SUBORDINATE TO AND WILL NOT DEFEAT, RENDER INVALID, DIMINISH OR IMPAIR THE LIEN OF ANY MORTGAGE MADE IN GOOD FAITH AND FOR VALUE.

OWNERS WILL PROVIDE THE CITY WITH SUCH REASONABLE FURTHER DOCUMENTATION (PROPERLY EXECUTED AND ACKNOWLEDGED) EVIDENCING SUCH LIEN, TOGETHER WITH AN OFFER OF DEDICATION OF ANY PROPERTY AS REQUIRED BY THIS AGREEMENT, IN FORM AND CONTENT AS REASONABLY REQUIRED BY THE CITY ATTORNEY AND PLANNING DIRECTOR OF THE CITY. THE PROVISIONS OF THIS SECTION ARE NOT INTENDED TO EXCUSE ANY PERFORMANCE BY OWNERS OF ANY AGREEMENTS OR CONDITIONS RELATING TO THE PROJECT.

CITY: DVC  
          Initials

OWNER:   
          Initials

OWNER: BP  
          Initials

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year set forth below.

CITY OF MORENO VALLEY

May 31, 1990

By: Alexis Ranning  
Mayor

ATTEST:

Lidia Chavez  
City Clerk

By: \_\_\_\_\_

(SEAL)

OWNERS:

Signature pages and acknowledgements for individual OWNERS are attached hereto.

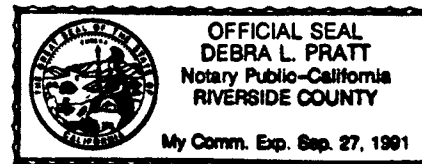
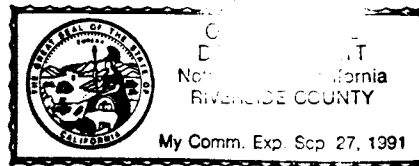
APPROVED AS TO FORM:  
DATE 5/31/90  
BY: M. Neal Garcia  
CITY ATTORNEY  
CITY OF MORENO VALLEY

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF RIVERSIDE )

On this 31st day of May, 1990,  
before the undersigned, a Notary Public in and for said  
State, personally appeared Denise V. Lanning  
personally known to me (or proved to me on the basis of  
satisfactory evidence) to be the person who executed the  
within instrument as the Mayor of the  
City of Moreno Valley, California, and acknowledged to me  
that the City of Moreno Valley, California executed it.

WITNESS my hand and official seal.

Debra L. Pratt  
Notary Public





OWNERS SIGNATURE PAGE

EMPIRE HOMES,  
a California general partnership

By: VAN CLEVE DEVELOPMENT,  
a California corporation,  
General Partner

By: *R G Van Cleve*  
Russell G. Van Cleve,  
President

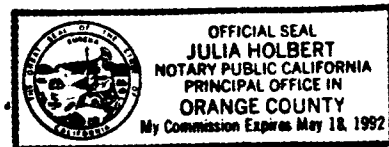
By: *R G Van Cleve*  
Russell G. Van Cleve,  
Secretary

STATE OF CALIFORNIA            )  
  ) ss.  
COUNTY OF Orange            )

On this 5 day of April, 1990, before the undersigned, a Notary Public in and for said State, personally appeared Russell G. Van Cleve, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument as President and Secretary of Van Cleve Development, a California corporation, and acknowledged to me that said corporation executed the within instrument pursuant to its bylaws or a resolution of its board of directors, said corporation being the general partner of EMPIRE HOMES, a California general partnership, the partnership that executed the within instrument, and acknowledged to me that such corporation executed the same as such partner and that such partnership executed the same.

WITNESS my hand and official seal.

*Julia Holbert*  
Notary Public



OWNERS SIGNATURE PAGE

WEST VENTURE DEVELOPMENT COMPANY,  
a California General Partnership

By: SEE ATTACHED

By: SEE ATTACHED

STATE OF CALIFORNIA            )  
  ) ss.  
COUNTY OF RIVERSIDE         )

On this \_\_\_\_\_ day of \_\_\_\_\_, 1990, before the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_ and \_\_\_\_\_ personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons who executed the within instrument as the \_\_\_\_\_ and \_\_\_\_\_ of West Venture Development Company, and acknowledged to me that said corporation executed it.

WITNESS my hand and official seal.

SEE ATTACHED

\_\_\_\_\_  
Notary Public

WEST VENTURE DEVELOPMENT CO.  
A California General Partnership

BY: L. B. DEVELOPMENT CORP., a California Corporation, General Partner

Bernard Peltzie  
Bernard Peltzie, Chief Financial Officer

BY: ROLEMI, INC., A California Corporation, General Partner

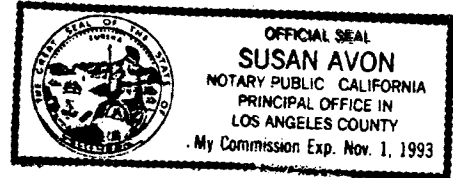
Bernard Peltzie  
Bernard Peltzie, Chief Financial Officer

STATE OF CALIFORNIA )  
COUNTY OF Los Angeles ) SS.

On this 5 day of April, 1996, before me, the undersigned, a Notary Public in and for said State, personally appeared Bernard Pelletier, personally known to me or proved to me on the basis of satisfactory evidence to be the President, and Chief Financial Officer, personally known to me to be or proved to me on the basis of satisfactory evidence to be the Secretary of the corporation that executed the within instrument on behalf of LB DEVELOPMENT CORP., the corporation that executed the within instrument on behalf of WEST VENTURE DEVELOPMENT COMPANY, the partnership that executed the within instrument and acknowledge to me that such corporation executed the same as such partner and that such partnership executed the same.

WITNESS my hand and official seal.

Signature Susan Avon



STATE OF CALIFORNIA )  
COUNTY OF Los Angeles ) SS.

On this 5 day of April, 1996, before me, the undersigned, a Notary Public in and for said State, personally appeared Bernard Pelletier, personally known to me or proved to me on the basis of satisfactory evidence to be the President, and Chief Financial Officer, personally known to me to be or proved to me on the basis of satisfactory evidence to be the Secretary of the corporation that executed the within instrument on behalf of ROLEMI, INC., the corporation that executed the within instrument on behalf of WEST VENTURE DEVELOPMENT COMPANY, the partnership that executed the within instrument and acknowledged to me that such corporation executed the same as such partner and that such partnership executed the same.

WITNESS my hand and official seal.

Signature Susan Avon

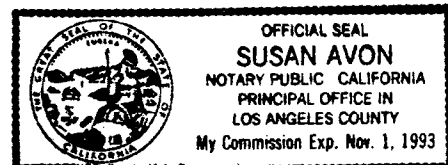


EXHIBIT "A"

LEGAL DESCRIPTION OF EMPIRE HOMES PROPERTY

That certain real property located in the City of Moreno Valley, Riverside County, California, described as follows:

PARCELS 3 AND 4 AND LOTS D AND E OF PARCEL MAP 17320 AS SHOWN BY MAP ON FILE IN BOOK 104, PAGES 17 AND 18 OF PARCEL MAPS, RECORDS OF RIVERSIDE COUNTY.

PARCEL 8 OF PARCEL MAP NO. 13066, AS SHOWN BY MAP ON FILE IN BOOK 66 OF PARCEL MAPS, PAGES 90 THROUGH 92, INCLUSIVE, RECORDS OF SAID COUNTY.

PARCEL 4 OF PARCEL MAP NO. 13066 AS SHOWN BY MAP ON FILE IN BOOK 66, PAGES 90 TO 92, INCLUSIVE OF MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

PARCELS 1, 2, 3, AND LOTS A OF PARCEL MAP 15602, AS SHOWN BY MAP ON FILE IN BOOK 88, PAGES 32 AND 33 OF PARCEL MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

PARCELS 1 AND 2 AND LOTS A, B AND C OF PARCEL MAP 17320, AS SHOWN BY MAP ON FILE IN BOOK 104, PAGES 17 AND 18 OF PARCEL MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

PARCEL NO. 6 OF PARCEL MAP NO. 13066, AS SHOWN BY PARCEL MAP ON FILE IN BOOK 66, PAGE 90 THROUGH 92, INCLUSIVE, OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 4 AND LOT B OF PARCEL MAP 15602 AS SHOWN BY MAP ON FILE IN BOOK 88, PAGES 32 AND 33 OF PARCEL MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA. CITY OF MORENO VALLEY.

EXHIBIT "B"

LEGAL DESCRIPTION OF

WEST VENTURE DEVELOPMENT CO. PROPERTY

That certain real property located in the City of Moreno Valley, Riverside County, California, described as follows:

BEING A RESUBDIVISION OF PARCELS 3 AND 4 OF PARCEL MAP 17208 AS SHOWN BY MAPS ON PAGES 83 AND 84 OF BOOK 102 OF PARCEL MAPS; AND BY PARCELS 1 THROUGH 4 INCLUSIVE OF PARCEL MAP 18151 AS SHOWN BY MAPS ON PAGES 27 AND 28 OF BOOK 108 OF PARCEL MAPS; AND PARCELS 2 AND 3 OF PARCEL MAP 19269 AS SHOWN BY MAP ON PAGE 57 OF BOOK 125 OF PARCEL MAPS; ALL MAPS IN THE OFFICE OF THE COUNTY RECORDER OF RIVERSIDE COUNTY, CALIFORNIA.

EXHIBIT "C"

DEVELOPMENT AGREEMENT TERMS AND CONDITIONS

SPECIFIC TO EMPIRE HOMES PROPERTY

With respect to the Development Plan and Development Approvals for the Property of Empire Homes ("Owner"), as well as the public benefits associated therewith, Owner and the City have agreed as follows:

1. Permitted Uses. The permitted uses for the property are as set forth in existing land use regulations of the City, including existing and proposed zoning, to the extent that such proposed zoning is adopted by the City.

2. Development Plan/Existing Development Approvals. The Development Plan for the Property includes Tentative Tract 23553 (with 212 residential lots), all conditions of approval thereto, any applicable mitigation monitoring program, and all other approvals heretofore issued with respect to the Property as well as the Land Use Regulations existing and applicable to the Property as of the Effective Date. Any additional Existing Development Approvals are set forth below:

building set-backs, in accordance with applicable zoning.

3. Development Applications Currently Being Processed. The following applications are currently being processed by Owner with the City with respect to development of the Property:

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4. Density/Intensity of Use. The density and intensity of the use of the Property is as set forth in the Development Approvals and Existing Land Use Regulations, including the proposed zoning for the Property, to the extent that such proposed zoning is ultimately adopted. The Existing Land Use Regulations will also dictate the maximum height and size of improvements on the Property, in accordance with the adoption of any proposed zoning.

5. Dedications/Exactions. Owner is dedicating 8.5 acres of the 10.0 acre park site. The park site shall be improved with park improvements and dedicated to the City

not later than fifteen (15) months following the Effective Date of this Agreement; provided, however, that in the event conditions beyond Owner's reasonable control (force majeure matters) which cannot now be reasonably anticipated by Owner have delayed construction of park improvements beyond such period, the park site will be dedicated to the City as soon as possible following such fifteen (15) month period, upon completion of park improvements.

6. Financing of Public Improvements. Owner and the Property will participate in a Mello-Roos Community Facilities District (90-1) to finance the cost of schools.

7. Park Fee Credit. Owner and the City acknowledge that the approximately 8.5 acre park site dedication by Owner will substantially exceed the park fee amount which would normally be required pursuant to the City's Ordinance No. 167. The dedication by Owner of the park site will fully satisfy the park fee amount otherwise allocable to the Property. The excess value of the park site to be dedicated by Owner (not including the cost of park site improvements), is offset by fee credits set forth in Section 8 below.

8. Park Improvements/Public Facility Fee Credit. Owner and the City have agreed upon construction by Owner of certain improvements to the park site as described and depicted in Exhibits "E" and "F". Owner will submit the park improvement plan to the City within three (3) months after the Effective Date hereof. As set forth in Section 5 above, it is intended that the park site be dedicated to the City within fifteen (15) months following the Effective Date of this Agreement (subject to force majeure considerations), with the park improvements completed. Owner is sharing the cost of park improvements with West Venture Development Company on a pro rata basis, based upon the number of units in the project of each Owner, as a percentage of the total number of units in both projects. So calculated, Empire Homes will pay 63% of such expenses and West Venture will pay 37%. The total cost of such improvements is not to exceed \$1,177,000 ("dollar cap"), it being understood that any and all costs in excess of such dollar cap shall be the responsibility of the City. In determining the dollar cap, the total cost of such improvements shall include only the cost of park improvement plans (not to exceed \$70,000) and hard construction costs, consisting of the physical construction of park improvements, commencing with the survey for construction staking. As consideration for dedication of excess park land and construction of the park improvements, Owner will receive a credit, based upon a fair market value appraisal of the park land -- in an amount not to exceed Five Hundred and Thirty Thousand Dollars



(\$530,000), such amount to be applied against public facilities/development impact fees. With respect to the fair market value appraisal of the Property, Owner agrees to take no action to unreasonably increase the value of the Project. The appraisal will be subject to review and approval by both parties, but if not approved by either or both of them, each party will appoint an appraiser, the two appraisers so appointed will together appoint a third appraiser and the written determination of any two of the three appraisers so appointed will conclusively establish the fair market value of the Project. This credit shall be applied against the future public facilities/development impact fees as they become payable on those lots for which building permits had not been issued, at the rate of 33%; provided, however, that in the event that this 33% rate does not fully amortize the credit, the City will cooperate with the Owner in an equitable allocation of such fee with respect to the final lots receiving building permits within the Project, to assure that all of the credit available to Owner may be utilized.

9. Expedited Processing. The City will utilize its best efforts to assure expedited ("fast track") processing of all submissions by Owner with respect to the Property and its improvement, including (without limitation) plan checking for house and other improvement plans, including park improvement plans. If additional costs are incurred by the City for such expedited processing, Owner will pay such reasonable additional costs upon demand, such demand being accompanied by an accounting describing the nature and amount of such additional fees.

EXHIBIT "D"

DEVELOPMENT AGREEMENT TERMS AND CONDITIONS

SPECIFIC TO WEST VENTURE DEVELOPMENT CO. PROPERTY

With respect to the Development Plan and Development Approvals for the Property of West Venture Development Co. ("Owner"), as well as the public benefits associated therewith, Owner and the City have agreed as follows:

1. Permitted Uses. The permitted uses for the property are as set forth in existing land use regulations of the City, including existing and proposed zoning, to the extent that such proposed zoning is adopted by the City.

2. Development Plan/Existing Development Approvals. The Development Plan for the Property includes Tentative Tract 24203 (with 86 residential lots), all conditions of approval thereto, any applicable mitigation monitoring program, and all other approvals heretofore issued with respect to the Property as well as the Land Use Regulations existing and applicable to the Property as of the Effective Date. Any additional Existing Development Approvals are set forth below:

building set-backs, in accordance with applicable zoning.

3. Development Applications Currently Being Processed. The following applications are currently being processed by Owner with the City with respect to development of the Property:

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4. Density/Intensity of Use. The density and intensity of the use of the Property is as set forth in the Development Approvals and Existing Land Use Regulations, including the proposed zoning for the Property, to the extent that such proposed zoning is ultimately adopted. The Existing Land Use Regulations will also dictate the maximum height and size of improvements on the Property, in accordance with the adoption of any proposed zoning.

5. Dedications/Exactions. Owner is dedicating 1.5 acres of a 10.0 acre park site. The park site shall be improved with park improvements and dedicated to the City

not later than fifteen (15) months following the Effective Date of this Agreement; provided, however, that in the event conditions beyond Owner's reasonable control (force majeure matters) which cannot now be reasonably anticipated by Owner have delayed construction of park improvements beyond such period, the park site will be dedicated to the City as soon as possible following such fifteen (15) month period, upon completion of park improvements.

6. Financing of Public Improvements. Owner and the Property will participate in a Mello-Roos Community Facilities District (90-1) to finance the cost of schools.

7. Park Fee Credit. The Owner and the City agree that the 1.5 acre park site being dedicated by Owner will fully satisfy the park fee amount otherwise allocable to the Property.

8. Park Improvements. Owner and the City have agreed upon construction by Owner of certain improvements to the park site as described and depicted in Exhibits "E" and "F". Owner will submit the park improvement plans to the City within three (3) months after the Effective Date hereof. As set forth in Section 5 above, it is intended that the park site be dedicated to the City within fifteen (15) months following the Effective Date of this Agreement (subject to force majeure considerations), with the park improvements completed. Owner is sharing the cost of park improvements with Empire Homes on a pro rata basis, based upon the number of units in the project of each Owner, as a percentage of the total number of units in both projects. So calculated, Empire Homes will pay 63% of such expenses and West Venture will pay 37%. The total cost of such improvements is not to exceed \$1,177,000 ("dollar cap"), it being understood that any and all costs in excess of such dollar cap shall be the responsibility of the City. In determining the dollar cap, the total cost of such improvements shall include only the cost of park improvement plans (not to exceed \$70,000) and hard construction costs, consisting of the physical construction of park improvements, commencing with the survey for construction staking.

9. Expedited Processing. The City will utilize its best efforts to assure expedited ("fast track") processing of all submissions by Owner with respect to the Property and its improvement, including (without limitation) plan checking for house and other improvement plans, including park improvement plans. If additional costs are incurred by the City for such expedited processing, Owner will pay such reasonable additional costs upon demand, such demand being accompanied by an accounting describing the nature and amount of such additional fees.

**Facilities List**  
**PRESIDIO PARK - City of Moreno Valley**  
**Empire Homes**

**Park Identification signage**  
**A.C. parking lot**  
**Concrete park walkways/pathways**  
**Trash bin enclosure**  
**Restroom**

**Utilities (water, electrical, sewer, telephone stub-out)**  
**Site grading and temporary construction fencing**  
**Security Lighting (fixtures @ N.T.E. 100' O/C along pathways where street light spillage is inadequate.**  
**Provide electrical receptacles at restroom and each shade shelter for emergency use\***

**1 Practice softball field @ 300' (with backstop and brickdust infield)**  
**1 Practice softball field @ 250' (with backstop)**  
**1 Multi-use hardcourt (basket ball, volley ball, tether ball, etc.)**  
**1 Childrens play area (climbing structures, swings, sand, curb)**  
**1 tot play area (climbing structures, swings, sand, curb)**

**1 Group use area (large shade shelter, 12 picnic tables, group BBQ, 4 trash receptacles)**  
**2 Small shade shelters (each with 3 picnic tables, BBQ and trash receptacle)**  
**12 Picnic tables (on concrete pads)**  
**4 Individual BBQ units**  
**8 Trash receptacles**  
**2 Drinking fountains**  
**1 Handicapped drinking fountain**  
**10 Park benches or seat walls**  
**1 Bike parking rack**

**Landscape planting (full park with turfgrass, trees, and shrubs)**  
**Automatic Irrigation system (full park areas, with pump and rain shut-off device)**  
**90 Day Landscape Maintenance period**

**\* Revision per Park and Recreation Committee direction 2/21/90.**