

1 **CITY OF MORENO VALLEY PLANNING COMMISSION**
2 **REGULAR MEETING**
3 **CITY HALL COUNCIL CHAMBER – 14177 FREDERICK STREET**
4

5 **Thursday, September 8th, 2016 at 7:00 PM**

6
7
8 **CALL TO ORDER**
9

10 **CHAIR LOWELL** – Good evening ladies and gentlemen. I would like to call to
11 order the Regular Meeting of the Planning Commission. Today is Thursday,
12 September 8th, 2016. The time is 7:02 PM. Could we have rollcall please?
13

14
15 **ROLL CALL**
16

17 Commissioners Present:

- 18 Commissioner Nickel
- 19 Commissioner Korzec
- 20 Commissioner Gonzalez
- 21 Commissioner Baker
- 22 Commissioner Sims
- 23 Vice Chair Barnes
- 24 Chair Lowell
- 25
- 26 Commissioner Ramirez - Excused Absent
- 27

28 Staff Present:

- 29 Rick Sandzimier, Planning Official
- 30 Summer Looy, Permit Technician
- 31 Chris Ormsby, Senior Planner
- 32 Jeff Bradshaw, Case Planner
- 33 Jennifer Mizrahi, Deputy City Attorney
- 34 Erica Tadeo, Administrative Assistant
- 35

36 Speakers:

- 37 Rafael Brugueras
- 38

39 Representatives:

- 40 Stacy Williamson
- 41 Dusty Barbee
- 42 Mike McPhee
- 43
- 44

1 **PLEDGE OF ALLEGIANCE**

2
3 **CHAIR LOWELL** – At this time, I would like to invite everybody to stand up and
4 follow me in the Pledge of Allegiance. Place your hand over your heart, ready,
5 begin. Thank you and please be seated.
6

7
8 **APPROVAL OF THE AGENDA**

9
10 Approval of Agenda
11

12
13 **CHAIR LOWELL** – I would like to ask someone to motion to approve tonight's
14 Agenda.
15

16 **VICE CHAIR BARNES** – I so move.
17

18 **CHAIR LOWELL** – Motioned by Commissioner Barnes. Do we have a second?
19

20 **COMMISSIONER BAKER** – Second.
21

22 **COMMISSIONER NICKEL** – Second.
23

24 **CHAIR LOWELL** – We have dual seconds seconded by Commissioner Baker.
25 All in favor say aye.
26

27 **COMMISSIONER NICKEL** – Aye.
28

29 **COMMISSIONER KORZEC** – Aye.
30

31 **COMMISSIONER GONZALEZ** – Aye.
32

33 **COMMISSIONER BAKER** – Aye.
34

35 **COMMISSIONER SIMS** – Aye.
36

37 **VICE CHAIR BARNES** – Aye.
38

39 **CHAIR LOWELL** – Aye.
40

41 **CHAIR LOWELL** – All opposed, say nay.
42

43
44 Opposed – 0
45
46

1 **Motion carries 7 – 0**

2
3
4 **CHAIR LOWELL** – The motion passes 7-0. Tonight’s Agenda is approved.
5 That moves us onto the Consent Calendar. I don’t believe we have any Consent
6 Calender Items tonight.

7
8
9 **CONSENT CALENDAR**

10
11 *All matters listed under Consent Calendar are considered to be routine and all*
12 *will be enacted by one rollcall vote. There will be no discussion of these items*
13 *unless Members of the Planning Commission request specific items be removed*
14 *from the Consent Calendar for separate action.*

15
16 **PLANNING OFFICIAL RICK SANDZIMIER** – There are no items.

17
18 **CHAIR LOWELL** – Perfect. That moves us onto approval of Minutes, which
19 again we don’t have any Minutes tonight to approve.

20
21
22 **APPROVAL OF MINUTES**

23
24 **None**

25
26
27 **PUBLIC COMMENTS PROCEDURE**

28
29 *Any person wishing to address the Commission on any matter, either under*
30 *Public Comments section of the Agenda or scheduled items or public hearings,*
31 *must fill out a “Request to Speak” form available at the door. The completed*
32 *form must be submitted to the Secretary prior to the Agenda item being called by*
33 *the Chairperson. In speaking to the Commission, member of the public may be*
34 *limited to three minutes per person, except for the applicant for entitlement. The*
35 *Commission may establish an overall time limit for comments on a particular*
36 *Agenda item. Members of the public must direct their questions to the*
37 *Chairperson of the Commission and not to other members of the Commission,*
38 *the applicant, the Staff, or the audience. Additionally, there is an ADA note.*
39 *Upon request, this Agenda will be made available in appropriate alternative*
40 *formats to persons with disabilities in compliance with the Americans with*
41 *Disabilities Act of 1990. Any person with a disability who requires a modification*
42 *or accommodation in order to participate in a meeting should direct their request*
43 *to Guy Pagan, our ADA Coordinator, at (951) 413-3120 at least 48 hours prior to*
44 *the meeting. The 48-hour notification will enable the City to make reasonable*
45 *arrangements to ensure accessibility to this meeting.*

1 **NON-PUBLIC HEARING ITEMS**

2
3 **None**

4
5 **CHAIR LOWELL** – I don't believe we have any Non-Public Hearing Items
6 tonight. That moves us onto Public Hearing Items. Do we have any Speaker
7 Slips on anything that's not on the Agenda items?

8
9 **ADMINISTRATIVE ASSISTANT ERICA TADEO** – Yes we do, one.

10
11 **CHAIR LOWELL** – Okay who?

12
13 **ADMINISTRATIVE ASSISTANT ERICA TADEO** – Rafael Brugueras.

14
15 **CHAIR LOWELL** – Okay, Mr. Rafael Brugueras if you would like to come up.

16
17 **SPEAKER RAFAEL BRUGUERAS** – Good evening Chair, Commissioners,
18 Staff, residents, and guests: I wasn't going to say anything on the Non-Agenda,
19 but when I looked up and I saw Ms. Nichols on the far end, I needed to say
20 something and Gonzalez because that was the issue that we had on Tuesday; a
21 big issue. And, at the same time, I'm also glad to see the five Commissioners
22 that always come. This is one of the nicest meetings that I enjoy coming to
23 because I know that I will always see seven people here. Seven Moreno Valley
24 Residents that are faithful to the community and that's what makes it enjoyable to
25 come here to see what they are going to do, what you're going to do, for the City
26 of Moreno Valley. And I know the Staff has a few things that they are going to
27 propose to you, and I recommend.....I looked at some of them, but I just want to
28 say I'm really deeply grateful for you seven. I don't.....however it turns out, I'm
29 real happy here, and I thank you very much for serving our city. Thank you.

30
31 **CHAIR LOWELL** – Thank you very much, Rafael. Any other Comment Slips,
32 Speaker Slips? Perfect, that moves us onto the Public Hearing Items. The first
33 item tonight is Case No. PA16-003, the Tentative Parcel Map that was continued
34 from the last meeting.

35
36
37 **PUBLIC HEARING ITEMS**

- 38
39 1. Case: PA16-0013 Tentative Parcel Map
40
41 Applicant: LGS Engineering, Inc.
42
43 Owner: Catherine Kormos
44
45 Representative: Loren Sandberg
46

1 Location: Northeast corner of Jeranella Court and
2 Alessandro Boulevard
3
4 Case Planner: Gabriel Diaz
5
6 Council District: 3
7
8 Proposal: PA16-0013 Tentative Parcel Map 37104
9

10
11 **STAFF RECOMMENDATION**
12

13 Staff recommends that the Planning Commission take the following action:

- 14
15 1. **APPROVE** a continuance of the Public Hearing to the Planning
16 Commission meeting of October 27th, 2016.
17

18
19 **PLANNING OFFICIAL RICK SANDZIMIER** – Yes, this is an item that was
20 before you on August 25th. If you recall, this is a small Parcel Map, but there was
21 some discussion, some questions, regarding the septic system and the leach
22 fields. And we thought that, if we could resolve that issue in a short order, we
23 would be back here tonight with that continued item. Unfortunately, we were not
24 able to resolve those issues within two weeks. The Applicant is working with our
25 Staff, and our Staff has been working with our City Attorney’s office and
26 everybody else to get the answers. We believe we will be prepared for this on
27 October 27th, so we’re asking this evening that you continue it to that date certain
28 October 27th. What that does is it eliminates the need for us to Public Notice
29 again if you just continue it to the date certain. Thank you.
30

31 **CHAIR LOWELL** – Perfect and, with that said, I would like to motion to approve
32 a continuance of the Public Hearing to the Planning Commission Meeting of
33 October 27th, 2016.
34

35 **COMMISSIONER GONZALEZ** – I’ll second that.
36

37 **PLANNING OFFICIAL RICK SANDZIMIER** – Hold on one second.
38

39 **COMMISSIONER GONZALEZ** – Oh.
40

41 **DEPUTY CITY ATTORNEY JENNIFER MIZRAHI** – Mr. Chair and Members of
42 the Commission, just for the record, can you please open up the Public Hearing
43 just incase there is anybody here to speak on that item and then go ahead and
44 continue just so that we have it on record. Thank you.
45

1 **CHAIR LOWELL** – Sure. With that, I will abstain on the vote, and I would like to
2 open up Public Comments. Do we have any Comment Slips tonight on this
3 agenda item? Okay, going once, going twice, sold. Public Comments are now
4 closed. Now, I would like to make the motion to approve the continuance of the
5 Public Hearing to the Planning Commission Meeting of October 27th, 2016.

6
7 **COMMISSIONER GONZALEZ** – I'll second.

8
9 **CHAIR LOWELL** – We have a motion and a second. Erica, can you get
10 the....can you put the vote up on here, or should we just do a rollcall vote?
11 There we go. We have a motion and a second. Please cast your votes. You
12 have to abstain because you weren't here.

13
14 **VICE CHAIR BARNES** – Okay.

15
16 **CHAIR LOWELL** – Awesome. Perfect. The results are 6 yes, 0 no, 1 abstain.
17 The motion passes. The item is continued to October 27th.

18
19
20 Opposed – 0

21
22
23 **Motion carries 6 – 0 – 1 with one abstention**

24
25
26
27 2. Case: PA16-0010 Conditional Use Permit
28
29 Applicant: Options For Youth - San Bernardino, Inc.
30
31 Owner: 23080 Alessandro Boulevard Partners, LLC
32
33 Representative: Dusty Barbee
34
35 Location: Northeast corner of Frederick Street and
36 Alessandro Boulevard at 23080 Alessandro
37 Boulevard, Suites 214-218
38
39 Case Planner: Summer Looy
40
41 Council District: 5
42
43 Proposal: CUP Options For Youth
44
45

46 **STAFF RECOMMENDATION**

1
2 Staff recommends that the Planning Commission **APPROVE** Resolution No.
3 2016-17, and thereby:

- 4
5 1. **CERTIFY** that this item is exempt from the provisions of the California
6 Environmental Quality Act (CEQA) as a Class I Categorical Exemption
7 CEQA Guidelines Section 15301 for Existing Facilities; and
8
9 2. **APPROVE** Conditional Use Permit PA16-0010 based on the findings
10 contained in the Resolution and with the Conditions of Approval include as
11 Exhibit A.
12

13
14 **CHAIR LOWELL** – Moving us onto Item No. 2, which is case PA16-0010,
15 Conditional Use Permit. The Applicant is Options For Youth - San Bernardino,
16 Inc. The representative is Dusty Barbee. The Case Planner is Ms. Summer
17 Looy. Do we have a Staff Report?
18

19 **PLANNING OFFICIAL RICK SANDZIMIER** – Yes, I just want to take a quick
20 moment. Summer is our Permit Technician with the City. She has been with the
21 City a long time. She is a very valuable Staff member, but she is not normally
22 here, so I would just like to introduce Summer who is going to be making this
23 presentation this evening. With that, I will turn it over to Summer.
24

25 **PERMIT TECHNICIAN SUMMER LOOY** – Thank you, Rick. Thank you
26 Chairman and Commissioners. Today we have a Conditional Use Permit applied
27 for by Options For Youth. Options For Youth is an independent study public
28 charter school proposed to be located at 23080 Alessandro Boulevard, Suites
29 214-218 within an existing commercial center. The center is located at the
30 northeast corner of Alessandro and Frederick. The school will occupy
31 approximately 6200 square feet of the existing multi-tenant building. The school
32 will serve students from surrounding areas not just the City of Moreno Valley.
33 San Bernardino as well as Riverside County are allowed to enroll in their
34 program. Students are required to attend sessions twice a week for one-and-a-
35 half hours a day at those sessions. They will receive their assignments, take
36 tests, and occasionally attend some group sessions. The students also are
37 responsible as an independent study program to do four to six hours of
38 independent study on their own at home to stay in track with the program. The
39 students are also required to enter into contracts complying with and committing
40 to the program, maintaining their attendance, production of their schoolwork, test
41 performance, as well as all the site rules and regulations. The intent of the
42 school is to either bring these students to a graduation, to a diploma, or to catch
43 them up on their studies to be able to return to their traditional home school. The
44 school will enroll approximately 50 students and, as I mentioned, the students
45 are only there twice a week for one-and-a-half hours a day so the site will not
46 typically have all 50 students there at any one time. The school will be.....it's

1 standard. It's more office hours Monday through Friday 8:00-5:00, and then they
2 will also be open four Saturday's a year to assist the students in SAT tests and
3 other college preparation tests that they need to prepare for. And, if you have
4 any questions on the operations of the school or whatnot, there are
5 representatives from the school here tonight. The surrounding area to the north,
6 east, and west of the commercial center is existing multi-family residential
7 developments. To the south is undeveloped community commercial property. At
8 this time, there are no proposed changes and no need for changes or circulation
9 to the existing commercial center parking lot. The parking analysis prepared
10 does not indicate any impacts to available parking to this tenant or existing or
11 future tenants of the center. The majority of the students, according to my
12 applicant's, are dropped off and picked up for their sessions. They don't drive
13 their own vehicles there, therefore, also not creating any impacts for available
14 parking to the center and/or taking public transportation to the site. The project,
15 as Rick had mentioned, was previously approved through a Director's Hearing.
16 And, through review of the Municipal Code, it was determined that because of its
17 relation to the residential development a decision needed to be made by the
18 Planning Commission so that is why we are here tonight. As stated, the school is
19 within an existing commercial shopping center. Therefore, Staff has determined
20 the project to be exempt from CEQA under Guidelines Section 15301C (Existing
21 Facilities). The Public Hearing Notice was mailed to the property owners within a
22 300 foot radius of the property on August 26th, as well as also posted at the
23 westerly driveway entrance of the commercial center on the 26th of August. I
24 have received no calls, no written comments on behalf of this project. At this
25 time, Staff recommends approval of the Conditional Use Permit PA16-0010
26 based on the findings in the resolution unless you have questions of myself or
27 the Applicant.

28
29 **PLANNING OFFICIAL RICK SANDZIMIER** – Mr. Chairman. I do want to add a
30 little bit on the Public Comments. While we didn't receive any comments from
31 any of the residents within 300 feet of the site, we did actually receive a letter
32 from the Airport Land Use Commission, which is a body of the County of
33 Riverside. We received that letter. It is dated September 7th, which was
34 yesterday, and it was very short notice. They are raising a question about
35 wanting to see these sorts of applications brought to them because our General
36 Plan has not yet been found to be consistent or in compliance with the recently
37 adopted Airport Land Use Compatibility Plan in March. The letter is specific to
38 requiring their review whenever there is a General Plan Amendment, a zone
39 change, a change in building regulations. In this case, we have a Conditional
40 Use Permit, which is kind of a grey area I will call it. And we tried to work with
41 their Staff. Chris Ormsby may be able to provide some additional insight and our
42 City Attorney here this evening has also reached out to the Airport Land Use
43 Staff to try and work through this because one of the issues is, if we hold this up
44 and go to the Airport Land Use Staff, they won't be able to hear it for two months.
45 And we don't believe that is a reasonable request for something that we believe
46 is in compliance with all of the interests that are identified in the Airport Land Use

1 Compatibility Plan itself anyways. So we are here tonight still recommending that
2 the project move forward through the Planning Commission. We wanted to make
3 sure that the record reflected that we are aware of the Airport Land Use
4 Commission Staff's letter. I would like to ask Chris Ormsby to just go into a little
5 bit of detail of the discussion we had with their Staff because we believe that their
6 Staff does understand our position but, one of the other complications is, this
7 week a couple of the Management Staff that would be necessary to help them
8 make the decision to overturn the Staff decision was not available. So I just want
9 Chris to highlight a little bit of that.

10
11 **SENIOR PLANNER CHRIS ORMSBY** – I did speak with Paul Rull of the ALUC
12 office. His position was that they generally would review this type of project.
13 However, it would be an administrative review. He thought that they would just
14 have standard conditions of approval. That was his expectation. It's in Zone D
15 of the Airport Land Use Compatibility Use Plan, which is a zone that doesn't have
16 any restrictions really in terms of density in terms of the number of people you
17 could have in a given building. The only use that's discouraged is spectator-
18 oriented sports stadiums, and those are only discouraged. So here we have a
19 tenant's space, which would basically be very similar in terms of the intensity of
20 use to a retail building so there shouldn't be any issues there. The only item in
21 this particular zone that could be a concern would be hazards to flight. This
22 concerns outdoor uses such as you have some use outside that would attract
23 birds. You have something that, you know, is somewhat reflective material being
24 placed outside. In this case, everything is done indoors. There are no issues
25 there. So, in that regard clearly under that particular zone, there shouldn't be any
26 concerns on the part of the Airport Land Use Commission.

27
28 **PLANNING OFFICIAL RICK SANDZIMIER** – With that, we'll conclude our Staff
29 presentation, and we're prepared to answer any questions the Commission may
30 have.

31
32 **CHAIR LOWELL** – So, in light of what was just said, what is the anticipated plan
33 of action as far as the Airport Land Use Commission is concerned? Are they
34 going to weigh in on the project and vote on it or?

35
36 **PLANNING OFFICIAL RICK SANDZIMIER** – We believe that our discussions
37 with their Staff today, our disclosure on the record this evening to make you
38 aware that we have had that discussion in receipt of their letter, is sufficient for
39 you to take your action and move forward. I will as a courtesy, a professional
40 courtesy to Ed Cooper who is the manager and John Guerin who is their
41 Principal Planner, I will extend a call to them next week and let them know what
42 your deliberations were this evening. And if they have any concerns with the
43 project, this is a project as I'll tell you in the wrap-up, is appealable within 15 days.
44 If they feel strongly about it, there is that option to them, so we think that they still
45 reserve some rights. And so we don't expect them to do that, but that's what I
46 will be doing next week.

1
2 **CHAIR LOWELL** – Okay. Do we have any questions for Staff before we move
3 onto the Applicant?
4

5 **COMMISSIONER SIMS** – Yeah just one. Typically, I mean I appreciate Chris
6 your explanation on the type of Class C, whatever the levels are for ALUC. But
7 so typically, if there was going to be a concern and there was going to be an
8 administrative review and there was going to be conditions out, it would've been
9 because there would've been conditions consistent with don't put shiny stuff out
10 that's going to be reflective. Don't do whatever. Don't have 38,000 people inside
11 this 6000 square foot place. It could get wiped out. But we would have an
12 expectation that the conditions would be correspondent to whatever their
13 concerns were. And, through your conversation, those would've been....should
14 be expected to be, would've been negligible, correct?
15

16 **SENIOR PLANNER CHRIS ORMSBY** – That's correct, right. Their Staff's
17 understanding would be that it would only be reviewed at their Staff level. It
18 wouldn't be something that would require Commission review.
19

20 **CHAIR LOWELL** – Generally when we look at schools or when we look at liquor
21 stores and smoke shops, we look at them in proximity to sensitive areas, which is
22 one thing we're going to be talking about tonight. And this same shopping center
23 on this exact parcel, there is a liquor store, a food mart that I believe sells liquor.
24 And then caddy-corner on the adjacent parcel, which is next to the carwash,
25 there is a smoke shop. How does this new use of a school correlate with the
26 smoke shop and the liquor license and the Caliente restaurant that also sells
27 liquor?
28

29 **PLANNING OFFICIAL RICK SANDZIMIER** – We do not have any restrictions in
30 our Code that preclude a school from being located next to those sorts of uses.
31 So that's really the short answer.
32

33 **CHAIR LOWELL** – When Caliente came in front of us, they had to go to the
34 Alcohol Board and get a permit to sell alcohol. Would this school jeopardize their
35 permit?
36

37 **PLANNING OFFICIAL RICK SANDZIMIER** – I don't believe so. Hold on. I'm
38 hearing concurrence here that we don't, neither one of us believe that that would
39 be an issue.
40

41 **CHAIR LOWELL** – Alright. I have no problem with the project. I just want to
42 make sure that the existing businesses don't have a negative effect when
43 somebody new comes in that's a sensitive use. Okay, any other questions for
44 Staff before we move onto the Applicant? Vice Chair Barnes.
45

1 **VICE CHAIR BARNES** – I have a question on the Conditions of Approval. It's
2 kind of just a technical matter but my understanding of CUP's is that the
3 conditions are what they operate under and, if they violate those conditions,
4 theoretically their Conditional Use Permit can be revoked. Is that correct?

5
6 **PLANNING OFFICIAL RICK SANDZIMIER** – Yes.

7
8 **VICE CHAIR BARNES** – So if you read Condition P3 where it says they have a
9 maximum of 50 students with six teachers and three support staff. If they enroll a
10 51st student, are they in violation?

11
12 **PLANNING OFFICIAL RICK SANDZIMIER** – Yes, they would be.

13
14 **VICE CHAIR BARNES** – Or if they hire a 7th teacher or a 4th support staff?

15
16
17 **PLANNING OFFICIAL RICK SANDZIMIER** – Technically yes. Somebody could
18 raise an objection to that, yes.

19
20 **VICE CHAIR BARNES** – And then that's the level of detail that we manage the
21 operation of somebody's business?

22
23 **PLANNING OFFICIAL RICK SANDZIMIER** – I believe that is reflecting what the
24 application was that they as the Applicant described as their use. We can ask
25 them when they come up if they want to clarify if there are any plans for them to
26 expand the use. Within your discretion, if you feel that that condition is a little too
27 tight and doesn't meet their future interest, we can work with them. As far as
28 triggering any environmental issues, that's the only thing I'd be sensitive to. We
29 don't want to say that they can have 38,000 people there because then all of a
30 sudden we'd have to maybe go to the Airport Land Use Commission. But, on a
31 serious note, we also want to make sure that it won't trigger any traffic impacts by
32 having too large of a staff, and we don't want it to be too many people within the
33 6000 square foot space or I can't remember the exact.....

34
35 **VICE CHAIR BARNES** – Well, over and above this, there's occupancy
36 requirements that would kick in I would assume over and above or separate from
37 these conditions, right?

38
39 **PLANNING OFFICIAL RICK SANDZIMIER** – Our Building Code Regulations
40 would.....

41
42 **VICE CHAIR BARNES** – Yeah

43
44
45 **PLANNING OFFICIAL RICK SANDZIMIER** – Dictate that.

1 **VICE CHAIR BARNES** – Yeah. Okay, it just seems extremely detailed for
2 something as simple as this. And then, on P6, students will not be allowed to
3 loiter before or after school. Loitering is already illegal, right? And how do we
4 enforce that?

5
6 **PLANNING OFFICIAL RICK SANDZIMIER** – Loitering would be a response
7 type of a complaint. Somebody would have to identify that loitering is taking
8 place. We'd either send out somebody from our Code Staff possibly, if it's
9 happening during normal working hours. Or, if it's something of a criminal nature
10 or something that would be causing some concerns, obviously we could send out
11 the police department if we got that sort of a complaint.

12
13 **VICE CHAIR BARNES** – Okay. Alright I was just curious about the source of
14 those conditions. Thank you.

15
16 **CHAIR LOWELL** – Any other questions for Staff before we move on? Okay, I'd
17 like to invite the Applicant up.

18
19 **APPLICANT DUSTY BARBEE** – Good evening, my name is Dusty Barbee. I'm
20 the Assistant Project Manager.

21
22 **CHAIR LOWELL** – Do you have anything to say or were you.....

23
24 **APPLICANT DUSTY BARBEE** – Ah nothing. We just wanted to say thank you
25 for taking the time tonight. We're here to answer any questions you might have
26 about the project.

27
28 **CHAIR LOWELL** – That is my favorite type of response from an Applicant. We
29 like the project, we accept the conditions, we're good to go. Do we have any
30 questions for the Applicant before we move on? Commissioner Gonzalez.

31
32 **COMMISSIONER GONZALEZ** – I was just curious. What made you decide this
33 location here in the City of Moreno Valley?

34
35 **APPLICANT DUSTY BARBEE** – From our, we have a marketing and
36 demographic.....

37
38 **CHAIR LOWELL** – Could you speak into the microphone?

39
40 **APPLICANT DUSTY BARBEE** – Department that finds locations based on kids
41 that are at risk. We are a nonprofit so the kids don't have to pay any money to
42 go to the charter schools, so a lot of time it has to do with the needs of the
43 children in the specific area. So we have parameters by which we look for
44 locations.

45
46 **CHAIR LOWELL** – Commissioner Barnes.

1
2 **VICE CHAIR BARNES** – Go ahead.

3
4 **CHAIR LOWELL** – One of the questions I had was it says that you can use or
5 hire a maximum of six teachers and they plan to have classes of seven to eight
6 students per teacher, which if you multiply those together, you get 48 total. But it
7 says you're planning on enlisting or enrolling 50 students max.

8
9 **APPLICANT DUSTY BARBEE** – Well no I do think we have a little bit of
10 difference, maybe we misread it, but it wasn't for us enrollment. We thought that
11 it was maximum occupancy, that 50 was the maximum that we would ever have
12 based on the square footage in an E occupancy that the 50 would be the most
13 that would ever be in the school at one time. So, in an hour-and-a-half period,
14 there would never be more than those 50 students.

15
16 **CHAIR LOWELL** – Okay, that makes sense. So does that add or help or hurt
17 with the conditional use where it says the maximum enrollment of 50 students,
18 but they are saying that there just wouldn't be more than 50 students at any one
19 time. Do you have the anticipation of enrolling 70, 80 students but only 50 could
20 be in the building at one time when technically it would be 48 because you have
21 six teachers with eight students max?

22
23 **PLANNING OFFICIAL RICK SANDZIMIER** – You're saying maximum
24 enrollment, and we're not reading that in the conditions so.....

25
26 **CHAIR LOWELL** – Well no, under the first paragraph on page 8, it says....it's
27 not a condition. It says, the school proposes to enroll a maximum of 50 students
28 with six teachers and three support staff. That was in the project summary.

29
30 **PLANNING OFFICIAL RICK SANDZIMIER** – Okay, in terms of the
31 enforcement, the Staff Report isn't the enforceable item. It would be the
32 Resolution or the Conditions of Approval so.

33
34 **CHAIR LOWELL** – But then Item P3, it says the school provides an independent
35 study program for a maximum of 50 students.

36
37 **DEPUTY CITY ATTORNEY JENNIFER MIZRAHI** – Mr. Chair and Members of
38 the Commission, what we can do if you'd like, we could clarify it. But how I read
39 P3 is that is kind of how the Applicant thought about it, which is the school will
40 provide an independent study program for a maximum of 50 students. They can
41 have up to 50 students. That's how I read it, but should the Commission like to
42 clarify that condition a little bit that would be fine as well.

43
44 **CHAIR LOWELL** – Well that's what I'm hearing from the Applicant is that they
45 are saying that they are going to have 50 students at a time maximum, but they
46 have envisioned having more than 50 students per quarter or enrolled in their

1 facility. So, the way I read the report on the conditions tonight, it says the can
2 only have 50 kids. That's it. But they envision having more.

3
4 **PLANNING OFFICIAL RICK SANDZIMIER** – We understand. We'll take a shot
5 at giving you revised language.

6
7 **CHAIR LOWELL** – Okay. And one other, just for clarity, was I kind of caught
8 wind of it what you were saying is that this is an assistance program for
9 underperforming children not an advanced placement for high-achieving children.

10
11 **APPLICANT DUSTY BARBEE** – There are some students who come to us to
12 go faster than traditional school or if their parents are opting for a school where
13 they can kind of keep them at home. We have a lot of very religious parents.
14 We have a lot of at-risk students. I would say the majority of the students are
15 students who need that extra assistance, but we also do service students who
16 want to go faster than traditional school.

17
18 **CHAIR LOWELL** – So it's open to all aspects of the spectrum?

19
20 **APPLICANT DUSTY BARBEE** – Yes.

21
22 **CHAIR LOWELL** – Perfect. And is there an age limit? Can you go, is it
23 kindergarten and up? Is it specifically high school?

24
25 **APPLICANT DUSTY BARBEE** – They are seventh through twelfth grade.

26
27 **CHAIR LOWELL** – Perfect. We have Commissioner Sims ready to go to.

28
29 **COMMISSIONER SIMS** – Thank you. I just, out of curiosity, do you operate as
30 options, what is it called, Options For Youth. Do you operate other facilities or
31 schools in the area or nationwide?

32
33 **APPLICANT DUSTY BARBEE** – All of them are located in Southern California,
34 and I would say the count is approximately 30.

35
36 **COMMISSIONER SIMS** – And how long are they, how long has this been going
37 on?

38
39 **APPLICANT DUSTY BARBEE** – Oh my goodness, I can't give you the exact
40 year, but I would say it's more than 25 years. And they are located, the
41 headquarters is in Pasadena.

42
43 **COMMISSIONER SIMS** – And the sustainability of the school is, how long is the
44 tenure of a school stay in a location typically?

45

1 **APPLICANT DUSTY BARBEE** – It depends. I mean, if there is big growth, then
2 they sometimes have to relocate due to size. But I would say the leases that I've
3 seen so far are approximately five years, but I think they've been in some
4 locations considerably longer than that. I think 15.

5
6 **COMMISSIONER SIMS** – That's great. And then the other question I had is you
7 said the students don't necessarily have to pay. So where's the funding
8 generated from for this program?

9
10 **APPLICANT STACY WILLIAMSON** – We're a Public Charter School. We're
11 chartered through San Bernardino City Unified.

12
13 **COMMISSIONER SIMS** – Okay, thank you.

14
15 **APPLICANT STACY WILLIAMSON** – We don't have to pay, and we're
16 nonprofit.

17
18 **COMMISSIONER SIMS** – Thank you.

19
20 **CHAIR LOWELL** – So you're chartered through San Bernardino City Unified,
21 but you'd be servicing children in Moreno Valley and Val Verde Unified? So San
22 Bernardino City Unified pays or do you get?

23
24 **APPLICANT STACY WILLIAMSON** – Well how charter schools work, to my
25 understanding, is that a district will sponsor a chart school and have oversight
26 over that charter school. The funding will come through the State and a portion
27 of it will go to the chartering district that oversight over the charter school and the
28 other portion will go to running the charter school.

29
30 **CHAIR LOWELL** – And at the completion of the senior year, where does the
31 diploma come from? From the underlying school district, from San Bernardino
32 City School District?

33
34 **APPLICANT STACY WILLIAMSON** – They earn their diploma from us. We're
35 fully WASC accredited, so their credits and their diploma from us is valid in any
36 other place in the country.

37
38 **CHAIR LOWELL** – Okay, awesome. Thank you. Commissioner Gonzalez.

39
40 **COMMISSIONER GONZALEZ** – One final question. What's the closest similar
41 school in the region?

42
43 **APPLICANT STACY WILLIAMSON** – Similar school as in Options For Youth?

44
45 **COMMISSIONER GONZALEZ** – Yes.

1 **APPLICANT STACY WILLIAMSON** – Or charter school?

2

3 **COMMISSIONER GONZALEZ** – Options For Youth.

4

5 **APPLICANT STACY WILLIAMSON** – Probably the closest one to us is the one
6 that's in San Bernardino. We have two in San Bernardino City. Possibly
7 Fontana might be close as well just in another direction.

8

9 **COMMISSIONER GONZALEZ** – Thank you.

10

11 **CHAIR LOWELL** – Commissioner Barnes.

12

13 **VICE CHAIR BARNES** – Yeah I just wanted to suggest that, if you guys have
14 any concerns about the numeric restrictions in P3, that now is your time to bring
15 it up because you'll be living with it for the duration of the period so.

16

17 **APPLICANT DUSTY BARBEE** – With the occupancy level, we're comfortable
18 with that. This is the same stipulation that we've gotten in several other cities. I
19 would just say it's the enrollment, which is....

20

21 **VICE CHAIR BARNES** – Yeah.

22

23 **APPLICANT DUSTY BARBEE** – Which is, you know, just the definition between
24 the enrollment and the occupancy would be clarified, that would be great.

25

26 **VICE CHAIR BARNES** – Okay. Thank you.

27

28 **CHAIR LOWELL** – Mr. Ormsby.

29

30 **SENIOR PLANNER CHRIS ORMSBY** – We have some language for that if
31 you'd like us to go over that now. Okay, Summer will....

32

33 **PERMIT TECHNICIAN SUMMER LOOY** – So, with regards to Condition P3, we
34 will change the wording to add a maximum occupancy of 50 students so
35 occupancy being the number of students in the space at any one time, and this
36 will be pursuant to the California Building Code based on the E-type occupancy
37 and the maximum occupant loads. And then we'll add to that condition that this
38 limitation has no bearing on the maximum enrollment of the students at the
39 school. So, if they choose to enroll 80 students, again the maximum they will be
40 able to have at the site at any one time would be 50 students.

41

42 **CHAIR LOWELL** – And we're certain that the maximum occupancy of that
43 building for the Fire Code is 50? That's a fair number?

44

1 **PLANNING OFFICIAL RICK SANDZIMIER** – That’s out understanding at this
2 point, but by putting the language in the way we reference it, then that will be
3 confirmed.....

4
5 **CHAIR LOWELL** – It’s a failsafe.

6
7 **PLANNING OFFICIAL RICK SANDZIMIER** – Exactly.

8
9 **CHAIR LOWELL** – Perfect.

10
11 **PLANNING OFFICIAL RICK SANDZIMIER** – We can read the specific
12 language if you want just so it’s on the record. If I can take a crack at that just so
13 it’s recorded real quick. The school will provide an Independent Study Program
14 for a maximum occupancy of students with six teachers and three support staff
15 members pursuant to the California Building Code. That would be the first
16 sentence. The second would say each teacher will serve seven to eight students
17 for one-and-a-half hour sessions twice a week. That’s the end of the second
18 sentence. Then the additional sentence would read this limitation has no bearing
19 on the maximum enrollment of the school. So we take out the reference to 50
20 and then it’ll be tied to the Building Code. So, if it says 51 or 52, we’re not
21 _____ things. And, if they have 49 students at a time in any session, that’s fine
22 also. So that gives them the flexibility you’re looking for.

23
24 **CHAIR LOWELL** – Just to kind of pad this a little bit more, the one-and-a-half
25 hour sessions twice a week, if they wanted to come in and they were there for an
26 hour and 45 minutes or two hours, is that going to be an issue with the CUP?

27
28 **PLANNING OFFICIAL RICK SANDZIMIER** – It would be. But, on that one, we
29 would like to go with what they have requested because that does affect the
30 turnover in the parking, the potential for in loitering and the other stuff. I mean,
31 it’s something we can manage by defining this closely. If they wanted to come in
32 at a later date and decide that their program needs some refinements, there’s a
33 process for them to do so.

34
35 **CHAIR LOWELL** – I’m perfectly okay with the self-regulating restrictions. I just
36 wanted to make sure that they weren’t shooting themselves in the foot.

37
38 **APPLICANT DUSTY BARBEE** – That’s how the business operates, so we’re
39 good with that.

40
41 **CHAIR LOWELL** – I like it, so I appreciate it. Any other questions for Staff
42 before we move onto Public Comments? Nope? Thank you very much. We
43 have two speakers waiting to speak, so I’m going to open the Public Comments
44 portion. We have Stacy Williamson and we have Dusty Barbee. Well you can
45 come up and speak again if you’d like. Do we have any other Speaker Slips
46 tonight for this item?

1
2 **ADMINISTRATIVE ASSISTANT ERICA TADEO** – No we do not.

3
4 **CHAIR LOWELL** – There we go. Okay, last call for Speaker Slips. Going once,
5 going twice, Public Comments are now closed. Moving onto Commissioner
6 Discussion. Does anybody have any questions or comments, discussion or
7 deliberation before we move to a motion?

8
9 **COMMISSIONER SIMS** – I'll make a motion.

10
11 **CHAIR LOWELL** – Moving right along. Go for it. I got to activate it first. You
12 ready? Last call for comments. Nope? I'll entertain a motion.

13
14 **COMMISSIONER SIMS** – I'll recommend that the Planning Commission
15 approve Resolution No. 2016-17 and certify that this is an item exempt from
16 CEQA as a Class I Categorical Exemption and approve the Conditional Use
17 Permit 16-0010 based on the findings contained in the Resolution with
18 Conditions of Approval as Exhibit A and as modified by the Planning Official as
19 he previously read into the record.

20
21 **CHAIR LOWELL** – Is that an okay motion?

22
23 **PLANNING OFFICIAL RICK SANDZIMIER** – Yes.

24
25 **CHAIR LOWELL** – Perfect. We have a motion. We have a second by
26 Commissioner Baker. He beat you to it. Cast your votes. Waiting on City
27 Attorney and Planning Official. I've never seen that before. Do you guys get to
28 vote too? Perfect, all votes are cast. The motion is approved 7-0. Do we have a
29 Staff wrap-up on this item?

30
31
32 Opposed – 0

33
34
35 **Motion carries 7 – 0**

36
37
38 **PERMIT TECHNICIAN SUMMER LOOY** – Thank you Chair and Commissioners
39 and thank you Dusty and Stacy for attending the meeting. This will conclude the
40 Staff Report. I appreciate the comments and the clarification on P3. That will
41 allow them some more flexibility, so in the event their program here in the City of
42 Moreno Valley is successful and they can bring more students into a better
43 educational program, that's an excellent idea. Thank you again.

1 **CHAIR LOWELL** – Thank you, Summer. I’ve worked with you in the past at the
2 counter on a couple different projects. This is my first time on the Planning
3 Commission with you, and you did a great job. Thank you, Summer.
4
5 **PERMIT TECHNICIAN SUMMER LOOY** – Thank you.
6
7 **CHAIR LOWELL** – Turn your microphone on.
8
9 **COMMISSIONER SIMS** – Can I just ask a question?
10
11 **CHAIR LOWELL** – Yeah go ahead.
12
13 **COMMISSIONER SIMS** – This is just a technical question. When the mover
14 makes a move to move an item, is it presumptuous of the computer to say that I
15 approve of it?
16
17 **CHAIR LOWELL** – Yes because you motioned it, but you can change your vote
18 after you make a motion.
19
20 **COMMISSIONER SIMS** – That’s unfair.
21
22 **CHAIR LOWELL** – You can change your mind all day long until I hit end vote.
23
24 **COMMISSIONER SIMS** – How do you do that?
25
26 **CHAIR LOWELL** – Just click the button you want. You can motion to approve
27 something and vote no against it and even abstain.
28
29 **COMMISSIONER SIMS** – Sometimes somebody needs to move it so we can
30 vote.
31
32 **CHAIR LOWELL** – I’ll just let you tap randomly, and then I’ll just hit end at a
33 random time.
34
35 **COMMISSIONER NICKEL** – Right.
36
37 **COMMISSIONER SIMS** – Okay, thank you.
38
39 **CHAIR LOWELL** – Ai-yai-yai. That’s right.
40
41 **PLANNING OFFICIAL RICK SANDZIMIER** – Mr. Chairman, just a quick wrap-
42 up.
43
44 **CHAIR LOWELL** – Yes, Sir.
45
46 **PLANNING OFFICIAL RICK SANDZIMIER** – I know you asked....

1
2 **CHAIR LOWELL** – Oh, yeah, okay go ahead.

3
4 **PLANNING OFFICIAL RICK SANDZIMIER** – Just a quick wrap-up. This item is
5 an appealable action. The Planning Commission decision can be appealed to
6 the City Council. Any interested party that feels that the application should be
7 appealed can file their appeal within 30 days of this action. They may file it
8 through the Community Development Director and, if we do receive that appeal,
9 we would take it to the City Council within 30 days.

10
11 **CHAIR LOWELL** – Thank you, Sir. That moves us onto Item No. 3, PA15-0046
12 a Plot Plan and P16-083, a Variance. The owner is Granite Capital, LLC and the
13 Case Planner is Mr. Jeff Bradshaw.

14
15
16 3. Case: PA15-0046 Plot Plan
17 P16-083 Variance
18
19 Applicant: Rocas Grandes, LLC c/o La Jolla Development
20 Group, Inc.
21
22 Owner: Granite Capital, LLC and 26th Corporation,
23 tenants in common
24
25 Representative: Pasco, Laret, Suiter & Associates
26
27 Location: Southwest corner of Alessandro Boulevard and
28 Darwin Drive
29
30 Case Planner: Jeff Bradshaw
31
32 Council District: 3
33
34 Proposal: The project proposes to develop 426 multi-
35 family residential units (Rocas Grandes
36 Apartments) on 18 acres of a 27.41 acre site in
37 the R30 and Open Space Zones. A Variance
38 application is also proposed to make findings
39 for a reduced landscape setback along the
40 sites Brodiaea Avenue frontage due to site
41 constraints.
42
43

44 **STAFF RECOMMENDATION**

45
46 Staff recommends that the Planning Commission:

- 1
- 2 1. **ADOPT** a Mitigated Negative Declaration for Plot Plan PA15-0046 and
- 3 Variance P16-083 pursuant to the California Environmental Quality Act
- 4 (CEQA) Guidelines; and
- 5
- 6 2. **APPROVE** the Mitigation Monitoring and Reporting Program prepared for
- 7 Plot Plan PA15-0046 pursuant to the California Environmental Quality Act
- 8 (CEQA) Guidelines included as Exhibit A; and
- 9
- 10 3. **APPROVE** Resolution No. 2016-22 and thereby **APPROVE** Variance
- 11 application P16-083
- 12
- 13 4. **APPROVE** Resolution No. 2016-21 and thereby **APPROVE** Plot Plan
- 14 PA15-0046 subject to the attached Conditions of Approval included as
- 15 Exhibit B to Resolution No. 2016-21.
- 16

17

18 **PLANNING OFFICIAL RICK SANDZIMIER** – You’ve seen Jeff a lot of times, so

19 I’ll just let him go ahead and.....

20

21 **ASSOCIATE PLANNER JEFF BRADSHAW** – Thanks Rick. Good evening

22 Chair Lowell and Members of the Planning Commission. This application

23 includes, or I’m sorry, this project includes two applications as described in the

24 title of the report, a Plot Plan for a 426 unit apartment project, as well as a

25 Variance. And I want to provide some background about the project site and

26 then provide some information about each of those applications. The proposal

27 by the Applicant is to develop a 27 acre site located near the southeast corner of

28 Lasselle and Alessandro. The project site is zoned both R30, which is a multi-

29 family residential zone and open space. The project, when developed, would

30 actually be located on the south side of Alessandro. Darwin Avenue would be

31 constructed along the projects eastern boundary, and Brodiaea Avenue would be

32 constructed along the projects south boundary. The project includes kind of

33 some transitioning topography. It is leveled to rolling within the portions of the

34 site that are zoned R30 and deeply sloping with boulders and rock outcroppings

35 in the portion that runs kind of diagonally through the site that is zoned Open

36 Space. There is no sensitive habitat or riparian areas within the project site, but

37 there are mapped or known cultural resources on the project site. Staff worked

38 with the consultants on some technical studies to adjust that, and I will provide

39 some more information on that when we get to the environmental section of the

40 report. Development, as proposed, would occur within the R30 portion of the

41 site. We worked with the developer to respect the open space and to avoid any

42 types of impacts within the open space portion of the property with the exception

43 of the construction of Brodiaea Avenue. If you look at the alignment of Brodiaea,

44 it would require that near the intersection of Lasselle and Brodiaea that there

45 would be some construction that would occur within the hillside area. They

46 would also disturb some cultural resources that are located there. The project

1 site is bisected by two gas lines. One crosses the site east to west at about the
2 midpoint and the other is a natural gas line owned by Southern California Gas
3 Company within the Brodiaea Avenue alignment. There are some challenges
4 with construction of Brodiaea Avenue, which will require some coordination in the
5 future with Southern California Gas when they get to that stage to satisfy their
6 requirements for relocation. Other than the construction of Brodiaea Avenue,
7 there are no other structures or development that would occur within the open
8 space portion of the site. The proposal for this multi-family project is consistent
9 compatible with this area. There is both established single-family residential to
10 the west and southwest and, to the northeast, there is also vacant land zoned for
11 both single-family development and multi-family development in the vicinity. And
12 in review of the project, it is clear that this use is compatible with the area and
13 also consistent with the goals and objectives for the General Plan for this area of
14 the city. Under the Plot Plan, the proposal would be to develop a 426 unit
15 apartment project on 18 acres of the total 27. The project would include a mix of
16 one, two, and three bedroom units and three different building types; 13 buildings
17 that are two stories and then two four-story buildings, which is a little different for
18 the City of Moreno Valley. Here is the Site Plan for this project. The two-story
19 buildings are arranged so that they are in the portions of the site that are most
20 visible from Alessandro and Darwin. The four-story buildings are located the
21 furthest south. A Variance application has been submitted. To address a
22 challenge that we ran into with this project in regards to the required landscape
23 setback along the Brodiaea frontage, the request would be to reduce that
24 setback area to seven feet frontage. The standard frontage setback would
25 typically be 20. This setback does allow for a 7-foot planter area when in
26 combination with the right-of-way that's there would allow for a 12-foot parkway
27 and that area would be available to be planted with kind of our standard
28 landscape, as well as some additional landscaping treatment that we have
29 conditioned the project to provide. Staff had a chance to evaluate the request
30 and found that because of the unique features of the property and the constraints
31 associated with the site, protection of the sensitive open space land, the regular
32 size and shape of the portion of the site available for development and _____.
33 Sorry. Is that better? Sorry. Given the reasoning that we've stated in the Staff
34 Report, Planning felt very comfortable supporting this request for the Variance
35 and in making the findings that are needed to support that. There is a Resolution
36 attached to the Staff Report that goes into detail with the various findings that
37 need to be made to support the Variance. From the beginning, the developer
38 was very motivated to see an apartment project take place on this site. They
39 seem very committed to a quality development. As we worked with them through
40 review, there was very little that Staff had to ask from them in terms of
41 architecture or the quality of the design of the project. That was something they
42 brought to us from the beginning. We did work with them through a series of
43 reviews to adjust the Site Plan so that we could come up with a circulation
44 concept, a parking concept, the siting of the buildings; all things that would
45 ensure that they were able to satisfy our Code and provide a site layout that
46 allows for fire access and other requirements of our Code. And so we feel very

1 comfortable with what we're presenting to you this evening that it satisfies all the
2 requirements of our Municipal Code. In terms of the environmental, the initial
3 study was prepared for this project in compliance with the California
4 Environmental Quality Act Guidelines that examine the potential for this project to
5 result in impacts on the environment. The initial study, as prepared, does
6 support findings for a Mitigated Negative Declaration. It was through mitigation
7 that it has been suggested for this project. We determined that the project will
8 not have a significant effect on the environment. Studies prepared for this project
9 included a Traffic Study, Air Quality Study, Greenhouse Gas Analysis, a Cultural
10 Resources Assessment, a preliminary Hydrology Study, a Geotechnical General
11 Bio Analysis, and a preliminary Water Quality Management Plan. Out of the
12 review of those technical studies, there were three categories within the initial
13 study where mitigation was required, and those categories were cultural
14 resources, paleontological resources, and traffic. And, with the adoption of those
15 Mitigation Measures and a Mitigation Monitoring Program, the project would not
16 result in any direct impacts to the environment. Standard notice was provided for
17 this project in the newspaper. A 20-day notice was published for tonight's
18 hearing. Mailing notices were provided to all neighboring property owners, and
19 the site was posted as well. As of this evening, I have received two phone calls
20 about the project. I believe both those residents are here tonight, and I assume
21 they are not going to speak. In conversing with them, they didn't state any
22 opposition to the project. They had some questions about the conditions of the
23 project but didn't state any opposition to that. We did receive a letter this evening
24 from the Pechanga Cultural Resources Department, the Native American Tribal
25 Group, and I believe a copy of that has been provided to you. I had a chance to
26 review the letter, and we provided a response to Pechanga this evening. Their
27 two concerns were one the presentation of the Mitigated Negative Declaration
28 and the obligation the City has to protect information regarding the specific
29 location of cultural resources. And that is something that the City is committed to
30 doing so, as the final copy of the Mitigated Negative Declaration is filed, we will
31 make sure that information is kept separate in a confidential file and not available
32 to the public. Their other concern was, if Brodiaea Avenue is not constructed,
33 what assurances would they have that the cultural resources that would be
34 disturbed through that construction if the road is not built, would those resources
35 be protected? And the answer to that is, if this project proceeds and the road is
36 not built and there is a change proposed, that would be reviewed on its own
37 merits through a separate application and any impacts that might occur would be
38 analyzed at a future date and under a separate application. In talking to them
39 this afternoon, they seemed satisfied with that response. Additionally, we
40 reviewed the Conditions of Approval after the Staff Report was circulated, and I
41 believe there is a memo provided to you this evening. We found a number of
42 instances where there is a reference to a map or map recordation, which doesn't
43 apply in this project because there is no subdivision application, and so what
44 we're proposing is a cleanup to the half dozen conditions that are referenced in
45 that memo. With that, Staff would recommend approval of the project as
46 recommended in the Staff Report with the Conditions of Approval amended as

1 suggested. With that, that concludes my report, and I would be happy to answer
2 any questions that you might have.

3
4 **CHAIR LOWELL** – Thank you very much, Jeff. Do we have any questions for
5 Staff before we move on? I have a couple. Specifically, as far as the cultural
6 resources, where are they located? You said they are down by Brodiaea and
7 Lasselle?

8
9 **ASSOCIATE PLANNER JEFF BRADSHAW** – There are three locations within
10 the project site. We're not supposed to disclose the particular locations.

11
12 **CHAIR LOWELL** – Correct.

13
14 **ASSOCIATE PLANNER JEFF BRADSHAW** – But, in general, in this instance
15 when and if Brodiaea is constructed as required for the project, the construction
16 of that road would impact map resources that are in the near vicinity of Brodiaea
17 Avenue. The other resources that are mapped on the site are all located well
18 outside of the envelope of where development would occur.

19
20 **CHAIR LOWELL** – Does the City have any means of keeping these artifacts for
21 a City Historical or Cultural Center or Museum in the future?

22
23 **ASSOCIATE PLANNER JEFF BRADSHAW** – I'm not aware that the City does.
24 What would need to happen, and this is in the Mitigation Measures, is a level of
25 coordination with Pechanga and the other tribal groups that have expressed
26 interest in the fate, if you will, of those cultural resources. What the mitigation
27 identifies is, before site disturbance, before site construction begins but when
28 they get to that point, there would be a meeting between the developer and the
29 affected tribal groups. And they would come up with a plan of what would
30 happen, and the preference is avoidance. And that can't happen in this case, so
31 the next step is, what is the next best option?

32
33 **CHAIR LOWELL** – Location.

34
35 **ASSOCIATE PLANNER JEFF BRADSHAW** – They might discuss relocation.
36 They might discuss documentation of what's there. They might suggest some
37 testing of what's there for additional documentation. All that would be the belt I
38 guess of this plan that they would come up with.

39
40 **CHAIR LOWELL** – Alright. I read the Mitigation Measures, and I do like them. I
41 was just curious if the City moving forward, if and when we ever get a museum or
42 historical or cultural center, it would be nice to keep some of our local artifacts
43 local.

44
45 **PLANNING OFFICIAL RICK SANDZIMIER** – If I may. I think your comment this
46 evening and, if other Commissioners feel the same way if we make that known

1 just through deliberations, the developer is here. And, if they are in coordination
2 with the Pechanga Tribe, we can also extend to the Pechanga Tribe or other
3 interested tribes that we've had some expressed interest of, if we have to
4 relocate any of the resources and they can be preserved, that maybe some
5 consideration could be given to put them here in Moreno Valley. But, right now,
6 we don't have any program that I'm aware of to actually take them and then take
7 responsibility for them as well. So I don't want to overcommit and say sure we'll
8 do that.

9
10 **CHAIR LOWELL** – Correct. I'd just like to have the option to maybe work with
11 Pechanga in the future that, 20 years down the line if we ever get a museum, we
12 could put their artifacts on display.

13
14 **PLANNING OFFICIAL RICK SANDZIMIER** – Correct. I think that's a good
15 comment, and we can share that with the tribes as we work with them on this
16 project and other projects in the future.

17
18 **CHAIR LOWELL** – Now, one other comment I have is, a couple years back we
19 approved another apartment complex on the northwest corner of this same
20 parcel. Is that project associated with this project? Are they two separate
21 apartment complexes, two independent projects?

22
23 **ASSOCIATE PLANNER JEFF BRADSHAW** – They are separate and distinct
24 from each other. The entitlements are separate. The applicants are different.

25
26 **CHAIR LOWELL** – So they are just completely two totally different projects?

27
28 **ASSOCIATE PLANNER JEFF BRADSHAW** – Two different projects.

29
30 **CHAIR LOWELL** – Thank you. Any other questions for Staff?

31
32 **COMMISSIONER NICKELS** – I have one.

33
34 **CHAIR LOWELL** – Commissioner Nickels.

35
36 **COMMISSIONER NICKELS** – There used to be a multiuse recreational trail out
37 there, has that been abandoned or does anybody know?

38
39 **ASSOCIATE PLANNER JEFF BRADSHAW** – I'm not aware of any segments
40 of a multiuse trail in this vicinity. I know there are segments along the Cactus
41 Avenue frontage to the south, but I'm not aware of any on the Master Plan of
42 Trails that would have been located along any of the frontages for this project
43 site.

44
45 **CHAIR LOWELL** – Commissioner Gonzalez.

46

1 **COMMISSIONER GONZALEZ** – Did Pechanga also have concerns or
2 comments on the project on the northwest, on the other side of the ridge there, or
3 is it kind of isolate to the Brodiaea?
4

5 **ASSOCIATE PLANNER JEFF BRADSHAW** – The other apartment project that
6 Commissioner Lowell was referring to, Chair Lowell, they did. We coordinated
7 with them through a similar consultation process. The mitigation for that project
8 was a little bit different. It was similar in that they were interested in ensuring that
9 there would be tribal monitors that would participate during the grading process
10 to ensure that any unmapped or unknown resources could be protected if
11 something was discovered through the grading process. In that instance, there
12 were no map resources that would've been disturbed by the construction of that
13 other project, so there was no mitigation for that. But we did consult with them,
14 and they did ask for monitors to participate.
15

16 **COMMISSIONER GONZALEZ** – Thank you.
17

18 **CHAIR LOWELL** – Any other questions or comments? Thank you. I'd like to
19 invite the Applicant up.
20

21 **APPLICANT MICHAEL MCPHEE** – I'm Michael McPhee. I'm one of the
22 principals of the Applicant Rocas Grandes in San Diego at 3555 5th Avenue. I'd
23 be happy to answer any questions you might have.
24

25 **CHAIR LOWELL** – Do we have any questions for the Applicant? No? Thank
26 you very much. That was quick and easy.
27

28 **APPLICANT MICHAEL MCPHEE** – I want to, you know, extend my appreciation
29 publicly for working with your Staff. Most of the other work I have done has been
30 in San Diego County and San Diego City mostly, and it's really a breath of fresh
31 air to be able to come up here and be treated like something other than an
32 invader. So it was a great experience. Thank you.
33

34 **CHAIR LOWELL** – Thank you very much. Do we have any Public Speaker
35 Slips tonight, which we do. We have two Speaker Slips tonight. We have Rafael
36 Brugueras and Mike McPhee. Rafael, you're up.
37

38 **SPEAKER RAFAEL BRUGUERAS** – Good evening again Chair,
39 Commissioners, Staff, residents, and guests. This project is in my neighborhood.
40 I go down Alessandro just to come here, so I've seen this dirt for a lot of years.
41 And, Tuesday morning, I parked the car exactly where the project is going to be
42 on Alessandro and Darwin. I got out, stepped on the dirt, and looked at it. And I
43 took pictures, and I took pictures of the Public Hearing Board. And I looked at it
44 because, again, the packet doesn't give me any justice. You actually got to go
45 and see what's being proposed so people can understand what's being built
46 there. You know, that's important for them to know that they are not going to

1 have 426 cars out parked in the street. They are building 774 parking spaces on
2 the facility. Okay, and in all areas, garage, carport, and all that stuff. And I got a
3 chance to call Jeff because I saw two things that we always talk about when
4 we're now building from this point on. One was the mailboxes to make sure they
5 are in the right place, they are lit, and people can see them so we don't have that
6 trouble come back. And the other one was charging stations. I saw 774 parking
7 spaces, but I didn't see any charging stations that we can put while we're building
8 it there. That was one of my concerns. The other one was, in the middle of the
9 entrance of the where people are going to go in, people are dumping their
10 mattresses. Here's a picture of it. This is why I support this project so we can
11 stop that from people dumping stuff on the dirt so we can have something there
12 where management can take care of. The other thing is I'm grateful for the fence
13 that's there because, if that fence wasn't there, all the dirt and all the trash would
14 be in the houses because it blows that way. And the other thing is the rain
15 because it's like little mini mountains, all the rain, all the dirt, so I'm looking
16 forward to seeing a sidewalk built there. I mean, there's a lot of good things. I'm
17 hoping on the side of Darwin that he will have a wall. If there is a sidewalk, there
18 will be a wall, so dirt don't go over to the other side. It will look neat because I
19 looked at it, so I support this project because it's going to enhance the entire
20 corner and probably make people glad they have new neighbors.

21
22 **CHAIR LOWELL** – Thank you, Rafael. Mr. McPhee, did you want to speak
23 again?
24

25 **APPLICANT MICHAEL MCPHEE** – No.
26

27 **CHAIR LOWELL** – Perfect. Thank you. Any other Speaker Slips? Going once,
28 going twice. Public Comments are now closed. Moving onto.....Mr. McPhee,
29 did you want to reply to anything Mr. Brugueras said?
30

31 **APPLICANT MICHAEL MCPHEE** – With respect to the charging stations, as a
32 matter of fact, you have to have charging stations today. We are doing a project
33 in San Diego with only 41 units and we've got five charging stations.
34 Unfortunately, at the level of detail for this part of the entitlement work, you can't
35 really show all of this. So we'll probably wind up with probably on the order of
36 maybe one per 20 spaces with the prewiring so that we can add stations as
37 demand requires it.
38

39 **CHAIR LOWELL** – And that's, I think that's in conformance with the CalGreen
40 Code?
41

42 **ASSOCIATE PLANNER JEFF BRADSHAW** – Yes, that's correct.
43

44 **CHAIR LOWELL** – Stay up there. I have a question for you, Mike. Well the
45 charging stations is one of them. I couldn't tell on the Site Plan, is this a gated
46 apartment complex or is it not gated?

1
2 **APPLICANT MICHAEL MCPHEE** – It probably will be.
3
4 **CHAIR LOWELL** – Okay.
5
6 **APPLICANT MICHAEL MCPHEE** – Yeah. I think inline with most contemporary
7 projects you typically want to have a gate.
8
9 **CHAIR LOWELL** – And the primary entrance will be off of Darwin?
10
11 **APPLICANT MICHAEL MCPHEE** – Off of Darwin.
12
13 **CHAIR LOWELL** – And the other entrance is along Brodiaea and Alessandro?
14 Those would be exit only exits or emergency?
15
16 **APPLICANT MICHAEL MCPHEE** – No. There won't be any access off of
17 Alessandro.
18
19 **CHAIR LOWELL** – So the only other entrances would be off Brodiaea?
20
21 **APPLICANT MICHAEL MCPHEE** – Right.
22
23 **CHAIR LOWELL** – And those would be entrances or exit only?
24
25 **APPLICANT MICHAEL MCPHEE** – Both.
26
27 **CHAIR LOWELL** – Well I was just trying to figure out how, if you had that gated
28 on there, how you would have staging areas for more than one car?
29
30 **ASSOCIATE PLANNER JEFF BRADSHAW** – What we're presenting to you
31 this evening is not a design that would anticipate gates unfortunately because
32 what you're pointing out is accurate. There is no queueing distance off of
33 Brodiaea.
34
35 **CHAIR LOWELL** – Correct.
36
37 **ASSOCIATE PLANNER JEFF BRADSHAW** – Or the secondary driveway off of
38 Darwin. The primary entrance might allow for that.
39
40 **CHAIR LOWELL** – The primary entrance looks gorgeous. That would be a
41 great place to have a gate, but so I guess what I'm hearing is that the design
42 tonight is not gated. But you're saying that it might be gated?
43
44 **APPLICANT MICHAEL MCPHEE** – We'll probably gate it.
45
46 **CHAIR LOWELL** – So, if that's the case, is that a game changer for tonight?

1
2 **ASSOCIATE PLANNER JEFF BRADSHAW** – I don't believe so.

3
4 **PLANNING OFFICIAL RICK SANDZIMIER** – No. Simple answer, no.

5
6 **APPLICANT MICHAEL MCPHEE** – The reason we haven't made a final
7 decision is we've run into opposition in other communities to projects being
8 gated. So we prefer to gate the project as long as it is, you know, acceptable to
9 the community.

10
11 **CHAIR LOWELL** – And, if the project is gated, the Site Plan would have to be
12 modified slightly to allow queueing distances wouldn't it?

13
14 **PLANNING OFFICIAL RICK SANDZIMIER** – There would be a slight
15 modification to the entrance off of Brodiaea. We believe that could be
16 accommodated during the plan review process, the grading, plan check. Those
17 would not be what we consider substantial changes.

18
19 **CHAIR LOWELL** – It would be an administrative review.

20
21 **PLANNING OFFICIAL RICK SANDZIMIER** – At the discretion of the Staff, we
22 could elevate it to the Planning Commission if we felt that it became substantial,
23 but those sorts of things are slight nuances that we've accommodated on lots of
24 projects.

25
26 **CHAIR LOWELL** – Right. I didn't notice it in the planning, but I have another
27 question. In the Conditions of Approval, on the adjacent property for the previous
28 or the neighboring apartment complex that's not apart, one of the conditions was
29 that along the southeast portion of the property they had to construct some sort
30 of defensive structure to prevent boulders from rolling into the apartments. And I
31 noticed building 10 is fairly close to the hillside. Is there any consideration for
32 protecting the buildings from boulders should an earthquake hit?

33
34 **ASSOCIATE PLANNER JEFF BRADSHAW** – The results from the
35 geotechnical in the slope stability analysis didn't suggest that any type of
36 mitigation or protection was required. What you're stating about the other project
37 is accurate, and those conditions were a direct result of the studies that were
38 done for the project on the corner. We didn't have anything like that identified to
39 us through the analysis that was done for this site.

40
41 **CHAIR LOWELL** – But it seems like we're building the same style product on
42 both sides of the same mountain that the same situation should be apparent
43 or.....

44
45 **VICE CHAIR BARNES** – This is the other side.

1 **CHAIR LOWELL** – Correct. But, if you look, the hillside their building right up
2 here next to the hillside and there's.....if you're looking at building 10, it's right
3 up against the hillside. There is a little bit of a buffer but, if there's a boulder or
4 anything that breaks loose in an earthquake, those things I'm sure would have a
5 tendency to gain a lot of momentum and do a lot of damage to a building. The
6 other buildings seem to be fairly well setback, and it wouldn't be an issue. But,
7 building 10 that corner, it's right up against the site.

8
9 **APPLICANT MICHAEL MCPHEE** – I think the slope is really not that great at
10 that location.

11
12 **CHAIR LOWELL** – Maybe it's just deceiving on the plans. That was just a
13 comment that I had. Any other questions for the Applicant or in general? Alright.
14 Thanks Mike.

15
16 **APPLICANT MICHAEL MCPHEE** – Thank you.

17
18 **CHAIR LOWELL** – I'll open up the discussion. Does anybody have questions or
19 comments or discussion? I don't see anybody raising their hand. Does anybody
20 want to make a motion tonight? Commissioner Gonzalez.

21
22 **COMMISSIONER GONZALEZ** – I make the motion to approve Staff
23 recommendation to adopt a Mitigated Negative Declaration for Plot Plan PA15-
24 0046 and Variance P16-083 pursuant to CEQA Guidelines, approve the
25 Mitigation Monitoring Reporting Program prepared for Plot Plan PA15-0046
26 pursuant to CEQA included as Exhibit A, approve Resolution No. 2016-22 and
27 thereby approve Variance application P16-083, and approve Resolution No.
28 2016-21 and thereby approve Plot Plan PA15-0046 subject to the attached
29 Conditions of Approval included as Exhibit B to Resolution 2016-21.

30
31 **ASSOCIATE PLANNER JEFF BRADSHAW** – The conditions as amended.

32
33 **CHAIR LOWELL** – As amended.

34
35 **COMMISSIONER GONZALEZ** – As amended.

36
37 **CHAIR LOWELL** – We have a motion by Commissioner Gonzalez. We have a
38 second by Commissioner Korzec. Please cast your votes and, even though
39 motioned, you can change your vote. All votes have been cast. Three, two, one.
40 The motion passes 7-0. Do we have a Staff wrap-up on this item?

41
42
43 Opposed – 0

44
45
46 **Motion carries 7 – 0**

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PLANNING OFFICIAL RICK SANDZIMIER – This item is an appealable action of the Planning Commission. It can be appealed to the City Council. Any interested party interested in appealing the project would file a letter directed to the Director of Community Development, which would then go to the City Council. And, if such a letter is actually filed, we would place it on the City Council Agenda within 30 days for a hearing.

CHAIR LOWELL – Thank you very much. That moves us onto the final item tonight, which is Item No. 4. Let me get to my paperwork. Item No. 4 is Case PA16-0025, the Smoke Shop Ordinance. The Applicant is the City of Moreno Valley, which really isn't the Applicant, and the Case Planner is Mr. Mark Gross, which I do not see. And since this is a continued item, I don't know how we work on that.

PLANNING OFFICIAL RICK SANDZIMIER – I will cover for Mark.

CHAIR LOWELL – Awesome Mr. Sandzimier.

4. Case:	PA16-0025 (Smoke Shop Ordinance)
Applicant:	City of Moreno Valley
Owner:	N/A
Representative:	N/A
Location:	City-wide
Case Planner:	Mark Gross
Council District:	All Districts
Proposal:	Continued item - Ordinance regulating Smoke Shop uses city-wide

STAFF RECOMMENDATION

Staff recommends that the Planning Commission **APPROVE** Resolution No. 2016-18 and thereby:

- 1 1. **CERTIFY** that the proposed Ordinance (amendment to Municipal Code
2 PA16-0025) qualifies as an exemption in accordance with Section 15061
3 of the California Environmental Quality Act (CEQA) Guidelines, and
4
- 5 2. **RECOMMEND APPROVAL** of PA16-0025 to the City Council for the
6 amendment of the City of Moreno Valley Municipal Code to modify Titles 5
7 and 9 including modification in the Permitted Uses Table attached as
8 Exhibit A related to the city-wide regulation of Smoke Shop uses.
9

10
11
12 **PLANNING OFFICIAL RICK SANDZIMIER** – Good evening Mr. Chairman and
13 Members of the Planning Commission. This is a continued item from the August
14 25th meeting. With me this evening also is Claudia Manrique in the back row.
15 She also has been supporting Mark Gross on the project, so she will be available
16 to help me answer any questions that you might have. This item is an item that
17 has come before the Planning Commission at the direction of a subcommittee of
18 the City Council. It was the Public Safety Subcommittee who is interested in
19 exploring opportunities to regulate our smoke shops. I won't go into the
20 background since we did already have a lot of that discussion, but I'm here to
21 answer any questions you might have. What I would want to address is that the
22 Planning Commission had a number of observations and a number of comments
23 that were brought up at the last meeting. What we've tried to do, in the written
24 Staff Report, is to address each of those specifically. Some of the items that
25 were addressed had to do with just overall the overall consensus of the
26 Commission was that the Ordinance as proposed may be too restrictive. It had
27 possible implications on existing smoke shops that they may not be able to
28 reestablish themselves if there was a change of ownership. There were
29 concerns about first in rules so, if a school was to come in, would it affect the
30 smoke shop? Those sorts of things are the things that we tried to address.
31 Going through them one by one and starting on page 3 of your Staff Report,
32 page 202 of the overall packet, there was some consideration of addressing the
33 definition of smoke shops where we had previously identified that a smoke shop
34 would be dictated in some part based on the percentage of floor space that's
35 directed towards the smoke shop component. We have eliminated the 30%
36 requirement from the definition. The actual definition has been rewritten on page
37 4 on your report. I'd be happy to read it into the record if that was necessary, but
38 it is there for you to review, so I'll assume that it is already pretty clear. Allowing
39 businesses to sell and reestablish at the same site through an ownership
40 change, which I mentioned you felt might be too restrictive, Staff has eliminated
41 that proposed language. Therefore, Section 9.02180, which is regulating
42 nonconforming uses, will apply the same equally to smoke shops as it does to
43 any other legal nonconforming use. The Smoke Shop Regulations that were
44 considered to be possibly overly restrictive because we were going to require a
45 Conditional Use Permit for all of those items within the Community Commercial
46 Zone only. We opened it up, and we are actually allowing it to be in some of the

1 other areas in the city not just the Community Commercial Zone. It would be
2 allowed in the Neighborhood Commercial Zones as well. And the other thing that
3 we did with regard to requiring a CUP is we looked at it, and we based the
4 location similar to what we do on other uses in the city that have alcohol-related
5 uses and so we reduce the buffer dimension to 300 feet. We also looked at the
6 ABC Regulations and with regard to things like public schools on nonprofit youth
7 facilities, childcare centers where the ABC Licensing requirement addresses
8 those and requires a 600 foot dimension, we applied the 600 foot dimension so
9 that we're consistent in that regard. With regard to establishing the first in time
10 rights, we added paragraph H, which is identified on page 5 of your Staff Report,
11 basically saying that should any of the land uses mentioned above in Subsection
12 B within the Resolution, these draw the potentially sensitive uses. If any of those
13 sorts of uses were to come in after the fact, after the smoke shop had already
14 been established, they wouldn't jeopardize the establishment. So the smoke
15 shop, as long as they are in compliance with all current regulations and not
16 basically in violation and they are in good standing, they should not be
17 jeopardized by those other uses. There was a question with regard to the
18 existing smoke shops. We identified that there are 28 of them operating in the
19 city, and there was a question regarding the status of their license. We did a
20 check on all of the smoke shops, and we found out that all 28 do have legitimate
21 business licenses. With regard to the distance requirements, this is one that took
22 a little bit more time. In the previous report, we had identified that there was
23 buffers of 500 feet, 750 feet, and 1000 feet based on different uses, and I won't
24 go into all those details. But I'm here to answer any questions if you do want me
25 to. We reduced those distance criteria's down to 200, 400, and 600 for a variety
26 of reasons that are identified in the Staff Report. We believe that those
27 restrictions are still consistent with what the Public Safety Committee was looking
28 for to provide some regulations that would help us control this use, but we also
29 think that it's sensitive to what the Commission brought up in your observations.
30 We'll take any comments or questions you might have on that, but we believe
31 what we're recommending tonight does also help with the previous requirement.
32 With the 500, 750, and 1000 foot requirements, all 28 of the existing smoke
33 shops were going to become legal nonconforming uses. By adjusting it to the
34 200, 400, and 600 foot requirements, particularly by reducing the proximity in
35 residential to 200, we actually end up with 14 of the existing smoke shops would
36 remain as legal land uses. So not all 28 would be legal nonconforming, half
37 would be, half would not. With regard to the environmental determination that
38 was discussed at the last hearing, we have found that this proposed project is
39 exempt under 15061 of the CEQA Guidelines. Tonight we're asking that the
40 Planning Commission certify that that environmental determination is correct.
41 Public notification for the meeting, there was no additional public notice put out
42 for this meeting because it was continued to this date certain. But we did notify
43 the public through a one-eighth page ad in the Press Enterprise, and that
44 satisfies a project of this magnitude, which has city-wide impacts. With that, Staff
45 is recommending that you approve Resolution 2016-18 and thereby certify that
46 the Ordinance qualifies for the exemption under Section 15061 of the California

1 Environmental Quality Act and that secondly you recommend approval of PA16-
2 0025, which is the project number we've assigned to this project to the City
3 Council for the amendment to the City Council's Municipal Code. Title 5 I didn't
4 talk about, but we are looking at amending Title 5 and Title 9 in that
5 recommended action. I'd be happy to go through those changes to Title 5, but
6 that didn't seem to be the crux of any of the Commission's concerns so we're
7 here to answer questions if you have any on that still. And, with that, I will
8 conclude my Staff Report.

9
10 **CHAIR LOWELL** – Is there a quick refreshment on Title 9 and Title 5 just to
11 make sure we're all up to speed?

12
13 **PLANNING OFFICIAL RICK SANDZIMIER** – Sure. Title 9 is our Development
14 Code, Land Use Regulations/Planning Regulations. Title 5 is.....

15
16 **DEPUTY CITY ATTORNEY JENNIFER MIZRAHI** – Title 5 is more of the
17 business regulations and, as you may recall from the last meeting with respect to
18 business licenses and tobacco retailer licenses, if somebody were to sell drug
19 paraphernalia, we could actually have that as a grounds for revocation of the
20 business license and tobacco license.

21
22 **CHAIR LOWELL** – Thank you very much. Since there's no applicant and we
23 heard the City's comments, I would like to move to open the Public Comments
24 portion and then I'll open up the floor to Commissioner Debate. Does anybody
25 have any pressing issues before we move onto....

26
27 **PLANNING OFFICIAL RICK SANDZIMIER** – I'm sorry, Mr. Chairman, I do
28 have....my apology on this one. The Airport Land Use Commission discussion
29 that we had earlier on the other item, we actually received a similar letter from
30 the Airport Land Use Commission on this one. What the Airport Land Use
31 Commission has done is they've been reviewing the various agendas throughout
32 all the cities in the area, and so we only got that by letter also two days ago, but
33 this particular project is an amendment to our Development Code. And this one,
34 we do believe, does need to go back to the Airport Land Use Commission Staff
35 for their review and possibly, if they want to recommend to go to the Airport Land
36 Use Commission for a recommendation, then we would want to follow through
37 that process. But that can happen after the Planning Commission takes their
38 action tonight. What we would be doing is be taking forward the Staff
39 recommendation, the Planning Commission's recommendation, and then if there
40 is an Airport Land Use Staff or an Airport Land Use Staff and Commission
41 recommendation, we would take all of that to the City Council since the City
42 Council is the final approval body in this, so I apologize for not including that in
43 my report.

44
45 **CHAIR LOWELL** – Thank you. Does anybody have any opposition to opening
46 up the Public Comments first? Perfect, I'd like to open the Public Comments. It

1 looks like we have one Public Comment person. So we have Mr. Rafael
2 Brugueras ready to go. I think we should just put a seat up there for you, Rafael.
3 Save you the trip.

4
5 **SPEAKER RAFAEL BRUGUERAS** – Once again, good evening Chair,
6 Planning Commissioner's, Staff, and residents. Think about what we just
7 approved for 50 students and, before that was approved, there was a liquor store
8 on the corner and a smoke shop on the other end. Is there a buffer there for like
9 100 feet between the schools? I mean, what he means by buffer space? Yes,
10 okay, alright so that just hit me while I was listening to this. The other thing is
11 since now we know that we're going to have students there and that's good
12 because we want everybody to have a fair chance to be well educated, and I
13 don't have a problem with that. But I need Staff to commit themselves by
14 informing these two structures of what they are being part of in that community in
15 that shopping center. In other words, are we going to have signs because
16 remember all young people have change. They can always get a couple of
17 bucks from their parents to buy a soda, a cake, and they are going to walk into
18 these liquor stores or I don't know about the smoke shop and see things. You
19 know, and I no we can't take no liquor store and make them put all the liquor in
20 the back. You know what I'm saying or some of the stuff that people buy to use
21 illegally to enhance their high, you know, because they are in there. I mean, they
22 are there. So I'm just concerned about that part. I know the new entrepreneurs
23 we have a better idea where we can put them away from schools and things like
24 that and that's a good thing. I just came up with the one that we just did maybe
25 half an hour ago, so I'm just hoping that the Staff makes them aware what's
26 coming into that plaza so they can be aware what goes into their shop because
27 these are young people that are still fresh. And they are absorbing what we
28 teach them as adults. Anyway, we welcome all entrepreneurs into our City. We
29 just want to make sure that we protect our students, our young people, and those
30 that are like myself can't walk into some stores and be triggered because I was
31 taught. You know, I just can't be in all areas because I have to concern myself
32 about my past. You know what I'm saying? And just like movies, it's not like I
33 like going to Las Vegas. You know what I'm saying? I mean just some places I
34 can't go. That's why I like to go and see a dinner and a show and go home. So,
35 anyway, think about that and let the Staff know that they got to make those two
36 places aware of the kids that are coming.

37
38 **CHAIR LOWELL** – Thank you, Rafael. Any other comments, Public Speaker
39 Slips? Going once, going twice. Public Comments are now closed. Moving onto
40 our Commissioner Discussion.

41
42 **COMMISSIONER NICKEL** – Ah Chairman Lowell, I just want to go on the
43 record, I won't be participating in the discussion or voting since I.....

44
45 **CHAIR LOWELL** – I was actually going to ask that once we got in with the Staff
46 Comment. We have a unique situation here where we have alternates sitting

1 and one of the alternates is now sitting for a Commissioner who has left that was
2 sitting on it originally. So could we go through and just verify who was here and
3 who wasn't here just to make sure that we have enough quorum because we
4 have two alternates that can't count for quorum. We have one that has resigned,
5 and then we have another that I think who was missing for illness. So I just want
6 to make sure that we have the proper body that's able to vote.

7
8 **PLANNING OFFICIAL RICK SANDZIMIER** – From my understanding of our
9 Rules and Procedures with respect to the alternates, the alternates were present
10 in the room that night.

11
12 **CHAIR LOWELL** – They weren't sitting.

13
14 **PLANNING OFFICIAL RICK SANDZIMIER** – But even if they weren't sitting,
15 when we developed the Rules and Procedures, the ways that we discussed the
16 alternates would be able to come up to speed on a project and have to sit in and
17 maybe continue the discussion was that, if they are present at the meeting, they
18 participated. If they want to listen to the tapes or they want to read the Minutes
19 afterwards, there are ways for them to educate....

20
21 **CHAIR LOWELL** – If I'm not mistaken, I believe that was a big point of
22 contention and the final decision was that whoever was sitting on the item to
23 begin with is the body that will be voting on the item throughout. And, if that
24 person if a Commissioner missed, that's how they would get caught back up to
25 speed was reading the Minutes and watching the video, but there would be no
26 new people sitting on the item.

27
28 **PLANNING OFFICIAL RICK SANDZIMIER** – I recall it just slightly different, and
29 I may be wrong. I can go back and look at this, but I thought that the situation
30 was we didn't want Commissioners to be going in and out. So, if the
31 Commission started with somebody on the Commission and the meeting was
32 continued and the other Commissioner was not going to be present and we were
33 talking about the World Logistics Center at that time, the item was that....the one
34 person that was going to be out of town couldn't miss the second meeting and
35 then come back and resume on the third meeting. So, if somebody replaced the
36 first Commissioner at the second meeting, they would be the one that continues
37 for the rest of the debate and discussion so long as they brought themselves up
38 to speed.....

39
40 **CHAIR LOWELL** – I don't think that's the way the rules are.

41
42 **PLANNING OFFICIAL RICK SANDZIMIER** – On the first.....

43
44 **CHAIR LOWELL** – I think that was what the original idea was, but we didn't like
45 it for lack of continuity. So Ms. Korzec was the one that missed the second
46 meeting. She watched the video and got back up to speed for the third meeting.

1 So the body that was sitting, from my recollection, was the body that is sitting
2 throughout with no substitutions on the item just for continuity.

3
4 **PLANNING OFFICIAL RICK SANDZIMIER** – Okay, so I have to, just let me
5 look at the Rules and Procedures to make sure I understand it correctly. In the
6 case of.....

7
8 **CHAIR LOWELL** – Well, while you’re doing that, why don’t we figure out who
9 was here just to clarify that?

10
11 **COMMISSIONER SIMS** – I wasn’t.

12
13 **CHAIR LOWELL** – So, Commissioner Sims, you weren’t here.

14
15 **COMMISSIONER SIMS** – I was not here.

16
17 **CHAIR LOWELL** – Commissioner Baker.

18
19 **COMMISSIONER BAKER** – I was here.

20
21 **CHAIR LOWELL** – Were you sitting or were you not sitting?

22
23 **COMMISSIONER BAKER** – I was sitting.

24
25 **CHAIR LOWELL** – Okay, I was here.

26
27 **VICE CHAIR BARNES** – I was here.

28
29 **COMMISSIONER KORZEC** – I was here.

30
31 **CHAIR LOWELL** – And Commissioner Nickel.

32
33 **COMMISSIONER NICKEL** – I was up there.

34
35 **CHAIR LOWELL** – So we have one, two, three, four. So we have four sitting
36 Commissioners and one alternate, so we have a quorum. So we have five
37 people that can vote.

38
39 **DEPUTY CITY ATTORNEY JENNIFER MIZRAHI** – Mr. Chair and Members of
40 the Commission, did either Commissioner Sims or Commissioner Nickel actually
41 have a chance to actually look or listen to the Minutes from last time?

42
43 **COMMISSIONER NICKEL** – I sat through the entire.

44
45 **DEPUTY CITY ATTORNEY JENNIFER MIZRAHI** – You were actually in the
46 audience, correct?

1
2 **COMMISSIONER NICKEL** – Yes.

3
4 **DEPUTY CITY ATTORNEY JENNIFER MIZRAHI** – And did you have a
5 chance?

6
7 **COMMISSIONER SIMS** – No.

8
9 **DEPUTY CITY ATTORNEY JENNIFER MIZRAHI** – You have not. Okay, so
10 you're, okay.

11
12 **CHAIR LOWELL** – Want to take a quick two minute recess?

13
14 **PLANNING OFFICIAL RICK SANDZIMIER** – If you want to take a recess while
15 I read through the rules, but we do have a quorum to have the meeting.

16
17 **CHAIR LOWELL** – We do have a quorum. Does anybody care? Okay we'll just
18 keep going then. It's official. We're going to keep going.

19
20 **COMMISSIONER NICKEL** – We went through this on Tuesday night.

21
22 **CHAIR LOWELL** – So I guess we can look up for that answer later, Rick. One
23 of the questions that I did have that I brought up during the Conditional Use
24 Permit for the charter school was another comment that was echoed by Mr.
25 Rafael Brugueras is that we have a charter school that has come into a shopping
26 center after a liquor store, a liquor selling restaurant, and a smoke shop. And
27 now, because of the new amendments, those existing facilities that sell cigarettes
28 and tobacco products are going to be legal conforming and not legal
29 nonconforming based on the proximity to sensitive areas. But should there be
30 some minimum setback from this charter school to the other installations of
31 alcohol and tobacco? I know the family market, it's one shop down, which is 80
32 feet away. We have the Cantina Restaurant, which is a couple hundred feet
33 away and a smoke shop, which is 300 feet away. And per this form right here or
34 per our amendments it says, for example, the proposed buffer this is for a smoke
35 shop to another smoke shop has been changed from 750 to 600 feet. The
36 smoke shop to a college university and vocational training facility are reduced
37 from 700 for 400 feet. So that new reduction is now that existing smoke shop is
38 closer than the minimum requirement, which the original comment was it would
39 make it legal nonconforming, but should the vocational school or charter school
40 have some sort of mandatory setback from the existing facilities?

41
42 **PLANNING OFFICIAL RICK SANDZIMIER** – What you're asking for would be
43 for us to go in and do a Code Amendment specific to charter schools, for
44 example, and say.....

1 **CHAIR LOWELL** – I’m just curious if there some existing setback or minimum
2 buffer?
3
4 **PLANNING OFFICIAL RICK SANDZIMIER** – There is not.
5
6 **CHAIR LOWELL** – There is not.
7
8 **COMMISSIONER SIMS** – I think that’s what the deal is. First in time, first in
9 place or you know what I mean.
10
11 **CHAIR LOWELL** – Yeah.
12
13 **COMMISSIONER SIMS** – It wouldn’t be right just, if a guy has a legitimate
14 business, then to say well.....
15
16 **CHAIR LOWELL** – And that’s what the first in time rule that we did.....
17
18 **COMMISSIONER SIMS** – We like the new business better than your business
19 so you’re out. That doesn’t quite work.
20
21 **CHAIR LOWELL** – I really like what Staff has done with the amendments and
22 the updates, and I think they are spot on.
23
24 **COMMISSIONER GONZALEZ** – Yeah they are.
25
26 **CHAIR LOWELL** – I was just looking for some clarity as far as this new school
27 coming in if they had some requirements, but I guess they don’t. There’s no
28 setback requirements or buffer zones. Do we have any other questions or
29 comments? Commissioner Barnes. Sorry, Vice Chair Barnes.
30
31 **VICE CHAIR BARNES** – Commissioner is fine. I guess I just want to make the
32 observation that I applaud the effort of the action to fill the loophole or plug the
33 loophole in the Municipal Code as it relates to the drug paraphernalia offense. I
34 know that’s one of the prime goals of this. Unfortunately, I feel that the rest of it
35 is mostly regulation for regulation sake. And since no problems have been
36 identified per our last meeting as far as the 28 existing shops, I think I’m probably
37 tilting the windmills here, but I’m going to vote against it because of the other
38 components of it, which seem excessive and over the top as it relates to 28
39 businesses that as far as everybody is saying has operated totally legitimately
40 and not caused any problems. So, although I applaud Staff’s efforts, they are
41 stuck between a rock and a hard place getting direction from above and
42 comments from us, and they’ve done an admirable job at walking the line
43 between them. My position is that it’s overly regulatory, and I’m opposed to it for
44 that reason,
45
46 **CHAIR LOWELL** – Commissioner Gonzalez.

1
2 **COMMISSIONER GONZALEZ** – Again, I want to commend Staff for doing all
3 this research and especially reaching out to the 28 existing smoke shops. I was
4 just wondering if you had any comments from them?

5
6 **PLANNING OFFICIAL RICK SANDZIMIER** – We have not.

7
8 **COMMISSIONER GONZALEZ** – Also, you know.....

9
10 **PLANNING OFFICIAL RICK SANDZIMIER** – I do want to correct that. At the
11 last meeting, we actually did comment that we had a call from two I believe.

12
13 **COMMISSIONER GONZALEZ** – But no new comments?

14
15 **PLANNING OFFICIAL RICK SANDZIMIER** – But no new comments since that
16 time.

17
18 **COMMISSIONER GONZALEZ** – And I also I like that the effort was made to
19 coincide with alcohol and tobacco establishments, so I think it's a good medium
20 where we're not targeting a certain sector or a certain group of businesses but
21 yet trying to conform with alcohol and tobacco based establishments and their
22 respected buffers and sensitive schools in their sector. So I am in favor of this
23 modification.

24
25 **CHAIR LOWELL** – Can you refresh my memory as to what brought this specific
26 action item to light? What was the initial desire to bring this to us?

27
28 **DEPUTY CITY ATTORNEY JENNIFER MIZRAHI** – Mr. Chair and Members of
29 the Commission, it was pretty much....this is pretty much seen as kind of a
30 prophylactic measure. It was kind of brought forward through the Public Safety
31 Commission. I think there was some kind of sense of this could be a sensitive
32 land use and so therefore we would like to see some of the land use aspects,
33 some of the development standards, etc. kind of be more conducive to this
34 possible sensitive land use. But, again, it was really prophylactic in nature.

35
36 **CHAIR LOWELL** – Okay. Do we have any other questions or comments before
37 I move to a motion? I don't see anybody's hands going up.

38
39 **COMMISSIONER BAKER** – The only thing I would like to say is that I was glad
40 to see that all the business license applications are up to date, right? That's what
41 it says, and I think that's good.

42
43 **PLANNING OFFICIAL RICK SANDZIMIER** – Yes they are.

44
45 **COMMISSIONER BAKER** – Thank you.
46

1 **PLANNING OFFICIAL RICK SANDZIMIER** – I did find the section in the Code
2 before you do take a motion.

3
4 **CHAIR LOWELL** – Go ahead.

5
6 **PLANNING OFFICIAL RICK SANDZIMIER** – Commissioner Nickel was
7 absolutely right. We did write in there specifically that, in the event of an
8 absence on any subsequent meeting, no new Commissioner shall be seated in
9 the vacant seat so.

10
11 **CHAIR LOWELL** – That’s how I remembered it too. It was a major sticking
12 point. I think we had three or four meetings, hours on end, trying to clarify that
13 and obviously I don’t think we all agreed on it.

14
15 **COMMISSIONER NICKEL** – Don’t remind us.

16
17 **CHAIR LOWELL** – I do want to commend the City for the use of the comport. I
18 actually had to bust out my dictionary and figure out what that was, so I do
19 appreciate it. That was a learning experience for me. I would like to make a
20 motion if nobody else wants to. I would like to make a motion or I’d like to motion
21 to approve Resolution No. 2016-18 and certify that the proposed Ordinance
22 Amendment to the Municipal Code PA16-0025 qualifies as an exemption in
23 accordance with Section 15061 of the California Environmental Quality Act
24 (CEQA) Guidelines; and (2) recommend approval of PA16-0025 to the City
25 Council for the Amendment of the City of Moreno Valley Municipal Code to
26 modify Titles 5 and 9 including modification in the Permitted Uses Table attached
27 as Exhibit A related to the city-wide regulation of Smoke Shop Uses. We have a
28 motion. We have a second by Commissioner Gonzalez. Please cast your votes
29 and, if you’re going to abstain, please click abstain. Perfect. The motion passes
30 4-1 with two abstains. Do we have a Staff wrap-up on this item?

31
32
33 Opposed – 1

34
35
36 **Motion carries 4 – 1 – 2 with two abstentions**

37
38
39
40 **PLANNING OFFICIAL RICK SANDZIMIER** – Yes, since the ultimate decision-
41 making body on this is the City Council, there is....somebody could appeal the
42 decision of the Planning Commission, but ultimately it’s going to get to the City
43 Council. I do want to say that we will follow up with the Airport Land Use
44 Commission before we go to the City Council, so we will probably be taking this
45 to the City Council towards the end of November, maybe early December, at this
46 point. Thank you.

1
2
3 **OTHER COMMISSION BUSINESS**
4
5

6 **CHAIR LOWELL** – Thank you very much. That moves us onto Other
7 Commission Business. Do we have a Staff Summary of what happened on last
8 Tuesday and three Tuesday's ago at City Council regarding Alternate Planning
9 Commissioners our appointment versus non-appointment?
10

11 **PLANNING OFFICIAL RICK SANDZIMIER** – Real briefly. The City Council has
12 been deliberating on the replacement of Commissioner Van Natta's now vacant
13 seat. A couple meetings ago, it was August 16th I think was the date. We took a
14 list of potential recommended actions to the City Council. The City Council from
15 that deliberation elected for us to come back with an item to appoint one of the
16 alternate commissioners to the vacant seat. We took that item back to them
17 Tuesday night and the City Council, during their deliberations, elected to begin
18 with another alternate, which was to just stick with the rotation of the alternate
19 commissioners to fill the vacant seat until the regular Commissioner seat is filled
20 in a normal course, which would happen after the first of the year anyways
21 because that seat was going to be termed out on March 31st.
22

23 **CHAIR LOWELL** – Correct.
24

25 **PLANNING OFFICIAL RICK SANDZIMIER** – So each of the Commissioners
26 will continue to be expected to show up at each of the meetings, and we will
27 continue to rotate you in on the same basis that we have been like we did
28 tonight.
29

30
31 **PLANNING COMMISSIONER COMMENTS**
32

33 **CHAIR LOWELL** – Thanks. I appreciate it. I was just trying to get some
34 clarification because they voted one way one night, and they voted against it
35 another night, and it was just a mess so I appreciate the clarification. Any
36 Planning Commissioner Comments before we adjourn? No?
37

38 **COMMISSIONER NICKEL** – No.
39

40
41 **ADJOURNMENT**
42

43 **CHAIR LOWELL** – Perfect. I would like to adjourn our meeting to the next
44 meeting of the Planning Commission, which is a regular meeting, September
45 22nd, 2016, at 7:00 PM right here in the City Council Chambers. Thank you very
46 much, and have a great night.

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NEXT MEETING

Next Meeting: Planning Commission Regular Meeting, September 22nd, 2016 at 7:00 PM, City of Moreno Valley, City Hall Council Chamber, 14177 Frederick Street, Moreno Valley, CA 92553.

Richard J. Sandzimier
Planning Official
Approved

Date

Brian R. Lowell
Chair

Date