

PLANNING COMMISSION MEETING

No New Business will be Considered by the Planning Commission after the Hour of 11:00 p.m. unless a Majority of the Planning Commission Determines to Continue beyond that Hour.

Memorandums: Memorandums relating to agenda items are on file in the Planning Department. If you have questions regarding the agenda, you may call the Planning Dept. (805) 524-1500 ext. 113 or visit the Planning Dept. in City Hall for information. Materials related to an item on this agenda submitted to the Planning Commission after distribution of the agenda packet are available for public inspection in the Planning Dept. in City Hall during normal business hours.

AGENDA

- | ITEM | REFERENCE |
|--|-----------|
| 1. CALL TO ORDER | |
| 2. PLEDGE OF ALLEGIANCE | |
| 3. INTRODUCTION OF NEW CITY MANAGER | |
| 3a. Yvonne Quiring, City Manager will be introduced to the Planning Commission. | |
| 4. ORAL COMMUNICATIONS | |
| This is the opportunity for citizen presentations or comments not related to agenda items, but within responsibility of the Planning Commission (please do not exceed 5 minutes per topic). | |
| 5. CONSENT CALENDAR | |
| 5a. Minutes of the August 19, 2009 Planning Commission Meeting. | Copy |
| 6. CLOSED SESSION | |
| 6a. <i>CONFERENCE WITH LEGAL COUNSEL – Existing Litigation (subdivision (a) of Section 54956.9): El Dorado Estates v. City of Fillmore; Ventura County Superior Court; Case No. 56-2009-00358555-CU-WM-VTA</i> | |
| 7. PUBLIC HEARINGS | |
| 7a. <i>Development Permit 08-04 (DP 08-04), Request to Demolish an existing 1,631 sq.ft. fast-food restaurant and replace it with a 2,855 sq.ft. fast-food restaurant.</i> | Memo |
| Location: 800 Ventura St. Zoning: Commercial Highway (CH) | |
| Applicant: UP Real Estate Holding Corp., P.O. Box 4842, Thousand Oaks, CA 91359. | |

Purpose: Open the public hearing, review the project, and receive public testimony.

Recommendation: Adopt Planning Commission Resolution 09-840 approving Reso DP08-04 subject to Conditions of Approval.

- 7b. *Modification #1 to Development Permit 05-07, Tentative Tract Map 5591 (Mod #1 to DP 05-07, TTR 5591), Request to Modify Conditions of Approval to remove the requirement to underground utilities and allow payment of in-lieu fees (Condition S4).* Memo

Location: SE Corner of Mountain View and Main Sts.

Zoning: CBD, Railroad Property

Applicant: Cabrillo Economic Development Corp, 702 County Square Dr., Ventura, CA 93003

Purpose: Consider the Applicant's request and receive public testimony.

Recommendation: Adopt Planning Commission Resolution 09-843, Recommending the City Council modify Condition S4 to allow the Applicant to pay fees instead of undergrounding utilities. Reso

- 7c. *Conditional Use Permit 08-06, Development Permit 09-05 (CUP 08-06, DP 09-05), Request to allow an existing office trailer to remain onsite for an additional eight years and to allow existing cargo containers to remain permanently on site.* Memo

Location: 1020 B Street. **Zoning:** North Fillmore Specific Plan

Applicant: Ameron International Corp., 245 S. Los Robles Ave., Pasadena, CA 91101-2820

Purpose: Consider the Applicant's request and receive public testimony.

Recommendation:

- Adopt Planning Commission Resolution 09-841, approving CUP 08-06 subject to Conditions of Approval
- Adopt Planning Commission Resolution 09-842, approving DP 09-05 subject to Conditions of Approval. Reso

8. BUSINESS ITEM

- 8a. *Revision to Santa Paula/Fillmore Greenbelt Agreement.* Memo

Purpose: Request to allow Santa Paula to encroach into the Greenbelt by 500 acres for the Limonera project in exchange for converting the Greenbelt into an ordinance and placing an additional 190 acres into the Greenbelt.

Recommendation: Adopt Planning Commission Resolution 09-844, recommending the City Council approve a Greenbelt Ordinance. Reso

- 8b. *Revised Draft Housing Element Document.* Memo

(A power point presentation will be made during the meeting).

Location: City wide **Applicant:** City of Fillmore

Purpose: Review the revised draft Housing Element document and the responses to comments.

Recommendation: Provide direction to staff to prepare an environmental document for the proposed Housing Element.

- 8c. Request to Appeal Incompleteness Letter for Proposed Condo Conversion.** **Memo**
Application: Development Permit 09-02, Tentative Tract Map 5844 **10/16/09**
(DP 09-02, TTR 5844).
Location: 250 E. Telegraph Rd. **Zoning:** Residential Medium
Applicant: El Dorado Estates, A California Limited Partnership, C/O
The Star Companies, 1400 East 4th Street, Santa Ana, CA 92701.
Purpose: Consider the appeal and receive public testimony.
Recommendation: Adopt Planning Commission Resolution 09-845, finding **Reso**
the application for a Condo Conversion to be incomplete.

9. REPORTS and COMMUNICATIONS

- 9a.** Community Development Director
9b. Planning Commission

10. ADJOURNMENT

- 10a.** The Planning Commission adjourns to the next regular Planning Commission meeting scheduled for November 18, 2009, 6:30 p.m., in the City Council Chambers, 250 Central Ave., Fillmore, CA 93015.

Next Regular City Council Meeting
October 27, 2009

PLEASE NOTE: If you challenge the actions of the Planning Commission in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in the public notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing (Calif. Gov't Code § 65009).

Any legal action by an applicant seeking to obtain judicial review of the Planning Commission's decision on a hearing listed on this agenda may be subject to the 90-day filing period of, and governed by, Code of Civil Procedure Section 1094.6

In compliance with Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Planning Secretary at (805) 524-1500-113, 48 hours prior to the meeting in order for the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35.102-35.104 ADA Title II)

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PLANNING COMMISSION
CITY OF FILLMORE
250 CENTRAL AVENUE
FILLMORE, CA 93015

AUGUST 19, 2009
REGULAR MEETING
6:30 PM

MINUTES

CALL TO ORDER

6:30 p.m., Chair Douglas Tucker called the Planning Commission meeting to order and led the assembly in the Pledge of Allegiance. Planning Commissioners present were: Chair Douglas Tucker, Vice Chair Tom Fennell, Mark Austin, Vance Johnson and Diane McCall. Staff present were: Community Development Director Kevin McSweeney, City Attorney Theodore Schneider, Assistant Planner Manuel Minjares and Planning Secretary Denise Beauduy.

ORAL COMMUNICATIONS

There were no public comments.

CONSENT CALENDAR - Approved

The Consent Calendar consisted of minutes of the Planning Commission Meeting, June 17, 2009. It was moved and seconded to approve the Consent Calendar. Motion: McCall; Second; Tucker. Ayes: Austin, Fennell, Johnson, McCall and Tucker. Noes: None. Abstain: None. Absent: None. Motion Carried 5:0.

PUBLIC HEARING (Continued from June 17, 2009)

Development Permit 06-05, Conditional Use Permit 06-02 (DP 06-05, CUP 06-02) Proposed Modification to approved 20,000 sq. ft. commercial project, 400 Ventura St., Beeson Properties, LLC, 11175 Lopez Ct., Moorpark, CA 93021, Applicant.

6:32 p.m., Case Planner Manuel Minjares informed the Planning Commission that the application was withdrawn and the Applicant will carry on with the project design that was approved by the Planning Commission: the low-level bollard lighting at the rear parking lot area and the green screen trellis. Mr. Minjares said the Conditions of Approval require that light spill over the property line shall not exceed 1-foot candle. Mr. Minjares stated the Applicant is required to provide a photometric plan

to modify the project

PUBLIC HEARING

Modification #2 to Development Permit 95-01, Conditional User Permit 95-02, Co-location on Existing Wireless Telecommunications Facility, Royal Street Communications, LLC, 2913 El Camino Real #561, Tustin, CA 92782, Applicant.

6:34 p.m., Chair Tucker opened the public hearing and Case Planner Manuel Minjares presented the staff report. Mr. Minjares stated the Applicant is requesting to add six antennas and a microwave antenna to an existing wireless telecommunications facility, for the purpose of expanding service to Metro PCS customers, and four new equipment cabinets will be added to the existing lease space. Mr. Minjares stated planning staff reviewed the proposed project and determined the proposal complies with General Plan and Zoning Ordinance, and there is no

expansion of use. Mr. Minjares said the conditions were revised since the packet was sent out. Mr. Minjares said the Conditions of Approval were drafted for the original project and since this is the second modification to the project, staff has struck conditions that do not apply to Modification #2.

Commissioner Johnson stated there could be an issue with the weight of the additional antennas on the existing structure. Commissioner Johnson asked about engineering calculations and if the project will go through the plan check process.

Mr. Jerry Ambrose, Representing the Applicant, Royal Street Communications, stated structural plans will be provided when construction plans are submitted for building permits.

There were no other questions or comments.

6:39 p.m., Chair Tucker closed the public hearing.

ACTION

Planning Commission Resolution 09-838 was Adopted, It was moved and seconded to adopt Planning Commission Resolution 09-838, Approving Modification #2 to DP 95-01, CUP 95-02. subject to Conditions of Approval. Motion: Johnson; Second: Fennell. Ayes: Austin, Fennell, Johnson, McCall and Tucker. Noes: None. Abstain: None. Absent: None. Motion Carried 5:0.

BUSINESS ITEM

City of Fillmore Zoning Map Update to Reflect the Boundary and Zoning Amendments That Were Previously Approved by the City Council.

6:39 p.m., Mr. McSweeney presented the staff report and said the original zoning map was adopted in 1994. Mr. McSweeney said the City Council had adopted several Zoning Ordinance Amendments that include changes to the Sphere of Influence and City Limit boundaries and some properties have been rezoned, and although the amendments have been recorded, they have not been noted on the Zoning Map. Mr. McSweeney said City staff revised the map to reflect all of the amendments so the Zoning Map information is current and complies with the Zoning Ordinance.

Mr. McSweeney responded to questions from the Commission regarding the Water Recycling Plant and the North Fillmore Specific Plan. Mr. McSweeney stated the revised map includes the property location for the Water Recycling Plant. As for the North Fillmore Specific Plan, Mr. McSweeney said there is still a specific plan, and the specific plan has its own zoning ordinance.

ACTION

Planning Commission Resolution 09-839 was Adopted. It was moved and seconded to adopt Planning Commission Resolution 09-839 recommending the City Council certify the revised Zoning Map. Motion: Johnson; Second: Tucker. Ayes: Austin, Fennell, Johnson, McCall and Tucker. Noes: None. Abstain: None. Absent: None. Motion Carried 5:0.

REPORTS AND COMMUNICATIONS

Housing Element - Mr. McSweeney said the draft Housing Element will be on the agenda for the joint City Council/Planning Commission meeting scheduled for September 16, 2009. The draft Housing Element will be sent to the Planning Commission and City Council by the end of next week, so there will be plenty of time to review it. Mr. McSweeney said the draft Housing Element will be on the City website.

Measure F - Mr. McSweeney stated City staff presented a staff report about the Ballot Measure F initiative that is proposed by the owner of the El Dorado Estates Mobile Home Park for rent control. The property owner is proposing a condo map for El Dorado and is attempting to eliminate the City's condo conversion requirements. Mr. McSweeney said the initiative will be on the November ballot and the voters will make the decision.

Heritage Valley Parks Specific Plan - Mr. McSweeney stated Griffin no longer owns the development; the new developer is Hearthstone.

ADJOURNMENT – 6:48 PM

There being no further business to come before the Planning Commission, the meeting was adjourned to the joint City Council/Planning Commission Meeting scheduled for September 16, 2009, 6:30 p.m. in the City Council Chambers, 250 Central Avenue, Fillmore, CA 93015.

Denise Beauduy
Planning Secretary

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CITY OF FILLMORE

CENTRAL PARK PLAZA
250 Central Avenue
Fillmore, California 93015-1907
(805) 524-3701 • FAX (805) 524-5707

Item 7a.

October 21, 2009

TO: Planning Commissioners

FROM: Kevin McSweeney,
Community Development Director 

SUBJECT: Public Hearing, Development Permit 08-04, demolition and rebuilding existing restaurant at 800 Ventura St.

RECOMMENDATION:

The Planning Department recommends the Planning Commission take the following action:

- Adopt Planning Commission Resolution 09-840, approving Development Permit 08-04 subject to Conditions of Approval.

BACKGROUND

The applicant, UP Real Estate Holding Corporation, requests to demolish the existing 1,631 sq.ft. Taco Bell and replace it with a 2,855 sq.ft. Taco Bell/Pizza Hut. The existing Taco Bell building was approved by the Planning Commission on January 23, 1984 with an entitlement called Site Plan Review 84-2. The pole sign was approved by the Planning Commission on September 24, 1984. The review and approval was based upon the 1972 Zoning Ordinance.

Since the construction of the existing Taco Bell, the City of Fillmore adopted a new Zoning Ordinance in 1994 and adopted the Ventura Street Design Guideline in 1988.

The City now conducts Site Plan Review through the Development Permit entitlement and no longer conducts Site Plan Reviews as an entitlement.

ANALYSIS:

Project Description:

The proposed project consists of demolishing the existing 1,631 sq.ft. Taco Bell and replacing it with a 2,885 sq.ft. Taco Bell/Pizza Hut. The proposed building will be placed on the same foot print as the existing building and the outdoor patio will be removed. The proposed project will include adding parking spaces and will improve circulation with a new entrance/exit onto Hwy 126 for the drive-thru.

Entitlements:

According to the Zoning Ordinance (Section 6.04.6610.1, Development Permits) a Development Permit is required "for a new structure or use listed as subject to a

“Development Permit” (D) in the applicable zoning district.” The project consists of a new structure and is a permitted use in Commercial Highway designation and therefore a Development Permit is required.

Review Authority:

The Zoning Ordinance (Section 6.04.5001) allows the Community Development Director to approve the proposed project because it is less than 10,000 sq.ft. But, the Community Development Director can refer an entitlement to the Planning Commission for final determination. For this particular project, the Community Development Director referred it to the Planning Commission due to inconsistency issues with the Ventura Street Design Guideline.

General Plan Consistency Analysis:

The subject site is designated in the General Plan as Commercial Highway. According to the General Plan, Commercial Highway designation typical use consists of services, tourist oriented business, hotels, motels, gas stations restaurants, truck stops, supermarkets and retail outlets. The proposed new Taco Bell/Pizza Hut as a restaurant business is consistent with the General Plan.

Zoning Ordinance Consistency Analysis:

The subject site is designated in the Zoning Ordinance as Commercial Highway. The Zoning Ordinance (Section 6.04.0610.D.4.) indicates the proposed project is permitted with a Conditional Use Permit. The Community Development Director determined that the proposed use is the same as previous use and therefore only a Development Permit would be necessary rather than a Conditional Use Permit. The proposed use as a restaurant is a permitted use in the Zoning Ordinance.

Parking Requirement:

1. The Zoning Ordinance (section 6.04.3415) requires restaurants to have 1 parking space per 45 sq.ft. of seating area and 1 space for per 250 sq.ft. of gross floor area of the remaining area. The project seating area is 900 sq.ft. which requires 20 parking spaces and the remaining gross floor area is 1,855 sq.ft. which requires 7.42 parking spaces. Therefore, the project is required to provide 27 parking spaces. The proposed project is providing 31 parking spaces and exceeds the parking requirement.
2. The Zoning Ordinance (section 6.04.3425), requires that if the project is providing more than 30 parking spaces the project is to provide please one parking space for a designated area for motorcycle parking. The project is providing 31 parking spaces and a motorcycles parking space is provided.
3. The proposed project is required to provide one bicycle rack on site per the Zoning Ordinance (Section 6.04.3430). The project is providing a bicycle rack
4. The Zoning Ordinance (section 6.04.3435.B) requires that access driveways are to have an on-site vehicle stacking distance of 20 feet to the first parking space or

circulation. The project is providing a 50' driveway throat from the Hwy 126 before the first parking space and therefore complies with stacking requirement.

5. The Zoning Ordinance (section 6.04.345.2 Table III-1) require parking stalls have a dimension of 9' x 20' and the Zoning Ordinance (Section 6.04.3435.5.H) allows cars overhang into the landscape planter. The overhang into the landscape planter can be considered as part of the 20' in length parking stall. The project complies with the Zoning Ordinance parking dimension.
6. The Zoning Ordinance (section 6.04.3435.5.A.) requires 3% of the parking lot area to be landscaped. The proposed project has not calculated the landscaping percentage at this time.
7. The Zoning Ordinance (section 6.04.3435.5.D. and F.) requires a 4' landscape planter along the side property lines. The project provides a 5' landscape area and a 4'-6" landscape area for the side properties.
8. The Zoning Ordinance (Section 6.04.3435.5.G) requires 6" concrete curb at the landscape parking areas. This is a construction detail that will be reviewed at plan check.
9. The Zoning Ordinance (Section 6.04.3435.10.B.) requires entrance and exist direction arrows at the Ventura St. driveway. The project provides direction arrows.
10. The Zoning Ordinance (Section 6.04.3435.12) permits 6" concrete curbs to serve as the wheel stops. The project provides curbs as wheel stops.

Drive Thru-Establishments:

1. The Zoning Ordinance (Section 6.04.0615.3.I.1) indicates pedestrian access should not conflict with driveways. The new location of the exit driveway removes the pedestrian access conflicts.
2. The Zoning Ordinance (Section 6.04.0615.3.I.2) requires drive-thru aisles to be a minimum of 12' in width. The project complies with this requirement.
3. The Zoning Ordinance (Section 6.04.0615.3.I. 2) requires the turning radius of the drive-thru aisle to be 10'. The project complies with this requirement by providing a 20' radius.
4. The Zoning Ordinance (Section 6.04.0615.3.I.3) requires a stacking of 6 vehicles behind the menu board. The project complies with this requirement.
5. The Zoning Ordinance (Section 6.04.0615.3.I.6) requires the drive-thru aisle to be (PCC) concrete. The project complies with this requirement.

6. A sign program that will include the size of the menu board will need to be submitted and has not been submitted. The menu board shall not exceed 24 square feet and have a maximum height of 6 feet and must be 50 feet from residential uses to the south of the property per Zoning Ordinance 6.04.0615.3.I.10.

Pole Sign:

The existing pole sign was approved with the existing project in 1984. Since that time, The City adopted a Zoning Ordinance (1994) that permits pole signs for properties that are over 300' in width. The project site is only 140' in width and therefore the pole sign is no longer permitted under the Zoning Ordinance (1994). The pole sign is considered "nonconforming."

According to the Zoning Ordinance (section 6.04.380 Nonconforming signs), "a legal nonconforming sign may be allowed continued use through its amortization period, except that the sign shall not be:

- a. Structurally altered;
- b. Expanded, moved or relocated;
- c. Re-established after a business has been abandoned over 6 months;
- d. Re-established after damage if the damage exceeds 50% of its value.

The existing sign complies with the legal-nonconforming status and is allowed to continue to stand and not be removed. The sign face will be changed but it will not increase in size or be structurally altered.

Ventura Street Design Guideline:

Landscaping:

1. The Ventura Street Design Guideline (VSDG) requires that 12% of the site is to be landscaped and 32% of the site is landscaped.
2. The VDSG requires a 10' landscape area along Ventura St and the project is providing a minimum of 22' in width landscape area.
3. The VSDG requires a landscape planter finger to be 9' in width and the project complies with this requirement.
4. The VSDG requires landscape planter finger to be place at every 10' parking space and the project is complies with this requirement.

Architecture:

1. The City Council adopted the Ventura Street Design Guidelines (VSDG) in 1989 that identifies two architectural styles that are to be pursued and site design requirements. The acceptable architecture style is either a Railroad or Craftsmen. The proposed project does not comply with either architectural style. The SRC

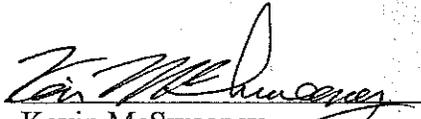
recommends compliance with the architectural requirement. The Planning Commission is authority that determines compliance with the VSDG.

California Environmental Quality Act (CEQA) Analysis:

The proposed project is exempt from CEQA per Section 15303.C class 3 "New construction and Section 15332, In fill development projects", class 32.

Development Impact Fees (DIF):

The proposed project will have to pay DIF but the project receives a credit for the existing structure of 1,631 sq.ft. and credit for the 28,000 sq.ft. lot. The proposed structure is 2,855 sq.ft. and therefore the difference is 1,224 sq.ft. of building that the applicant will be paying DIF. The DIF will be paid at Building Permit issuance and the applicant will pay the most current DIF at the time of the Building Permit. It is expected that the DIF will increase before the applicant pulls a building permit. The estimated DIF for the project is \$24,255.46.



Kevin McSweeney
Community Development Director

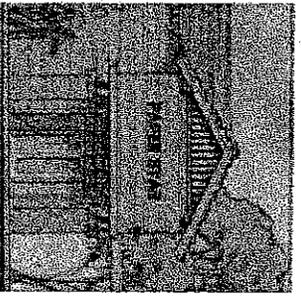
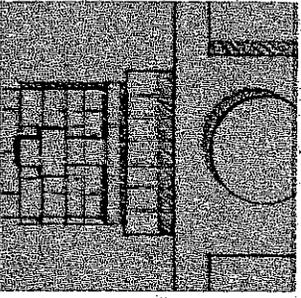
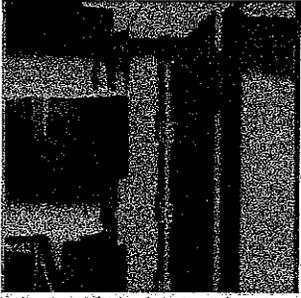
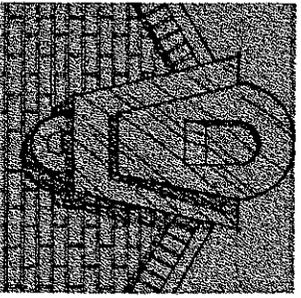
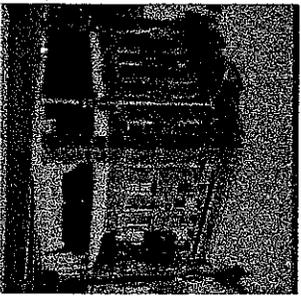
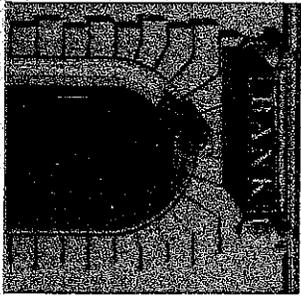
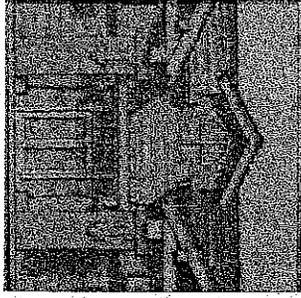
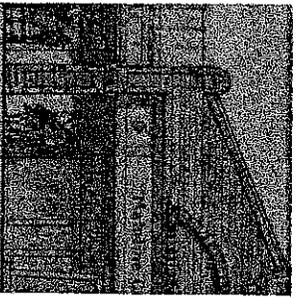
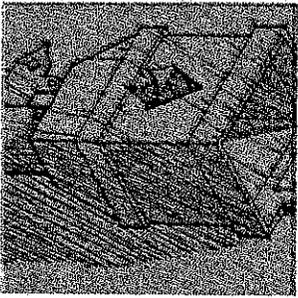
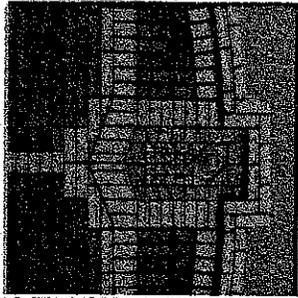
Attachment

1. Excerpts of Ventura Street Design Guideline
2. PC Resolution 09-840
3. Conditions of Approval
4. Estimated DIF

CITY OF

F I L L M O R E

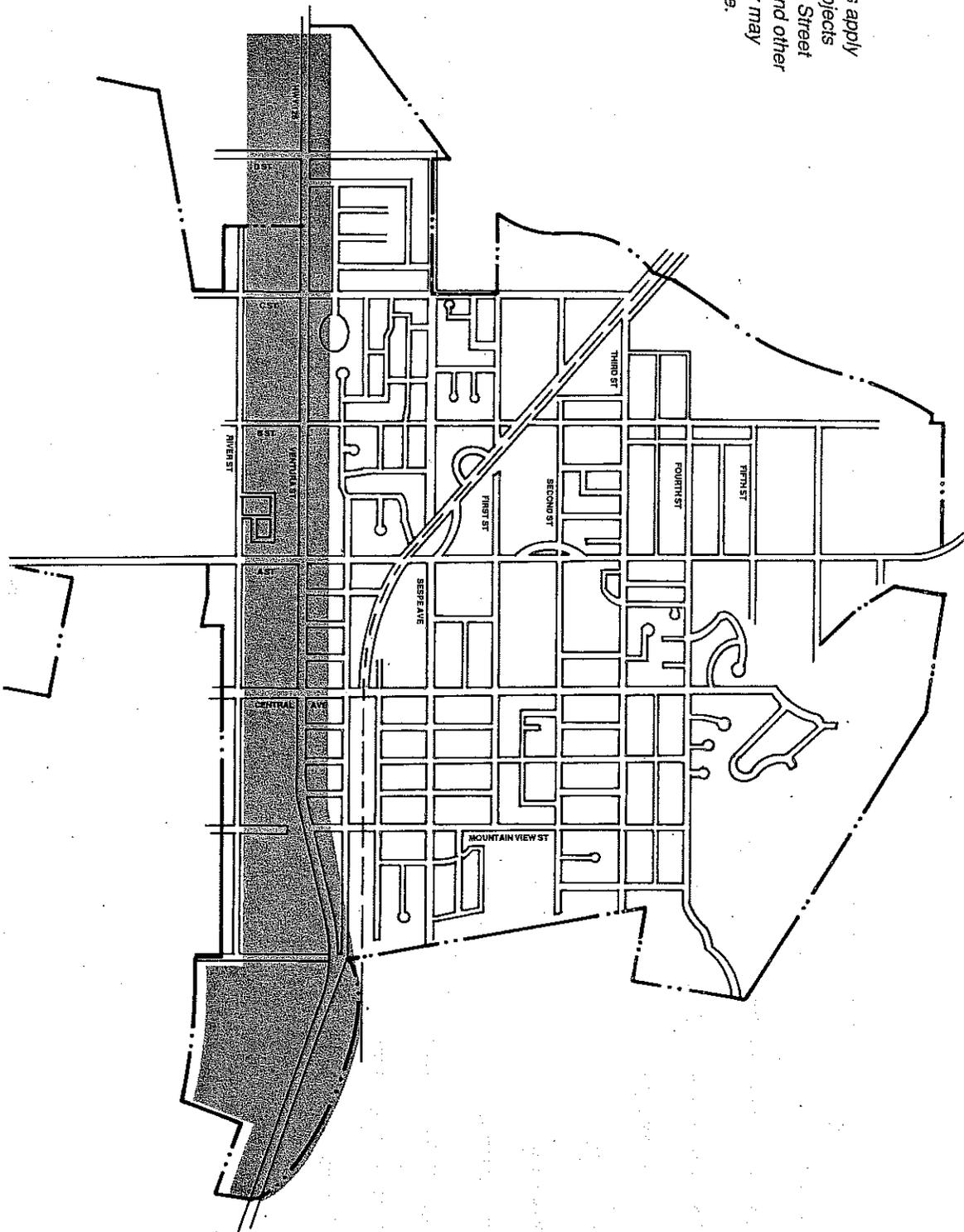
VENTURA STREET DESIGN GUIDELINES





GUIDELINES AREA MAP

These guidelines apply specifically to projects abutting Ventura Street (shaded area), and other areas as the City may deem appropriate.

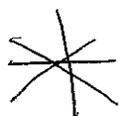




I N T R O D U C T I O N

On November 8, 1988 the City Council of the City of Fillmore adopted two architectural themes to be incorporated into Design Guidelines for new development and existing development undergoing extensive remodeling or additions along Highway 126 (Ventura Street). The themes were selected from several alternatives studied by the Planning Commission, City Staff, and the consulting firm of Mainstreet Architects and Planners. These two themes were judged to be most representative of Fillmore's architectural roots and of the kind of image that the City would like to create for itself in the future. The themes, referred to as "Railroad" and "Craftsman", are based upon an eclectic assortment of architectural references from Fillmore's past, some of which have been destroyed, but many of which exist today throughout the City. These guidelines are intended to define the elements which will contribute to the creation of these themes and incorporate them into new site and building design standards for projects occurring along Highway 126, as well as any other areas that the City may choose to apply them.

It is intended that developers and architects will use these guidelines as a tool to assist them in creating projects of excellence and in harmony with Fillmore's unique historic character and scale.





SUBMITTAL REQUIREMENTS

All new construction in a C-3 (General Commercial) zone requires the approval of a Planned Development Permit from the Planning Commission. Some projects will also require a Conditional Use Permit. Staff review for compliance with the standards set forth in the zoning code and conformance with these guidelines occurs prior to scheduling for a hearing before the Commission.

The City of Fillmore has specific standards to guide the submittal of applications for planning permit entitlements. These requirements describe such matters as the content, size, and form of site plans, landscape plans, and architectural elevations. To obtain a complete application package with the necessary forms and applications, please contact the Fillmore Planning Department at (805) 524-3701.

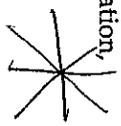
All project applications for a Planned Development Permit must include the following exhibit materials:

1. Project Site Plan:

Indicating all setbacks, easements, proposed planter areas, paved areas, building footprints, driveways, site lighting, etc.

2. Building Floor Plan(s):

Indicating general building configuration, doors, windows, covered walks, etc.



3. Building Elevations:

Showing all exterior design features, materials, sign areas and approximate locations, overall dimensions, etc.

4. Landscape Plan

Showing location of all landscape materials (identified by common name), indicating all land berthing and mounding, hardscape features, etc.

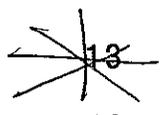
5. Color and Materials Board

With photographs and/or actual material samples and color chips of all proposed exterior materials.

6. Illustrated Sign Program
Clearly identifying all sign locations (both on the building and on the site), maximum sizes, proposed materials, and method of illumination.

IMPLEMENTATION AND PROCEDURES

Projects occurring within the Design Guidelines Area shall be reviewed by the Planning Department and the Planning Commission for consistency with these guidelines as well as all requirements of current zoning and other city ordinances. Applicants are encouraged to submit preliminary design studies of proposed projects for conceptual review prior to submitting a formal application for a Planned Development and/or Conditional Use Permit.





A R C H I T E C T U R A L T H E M E S

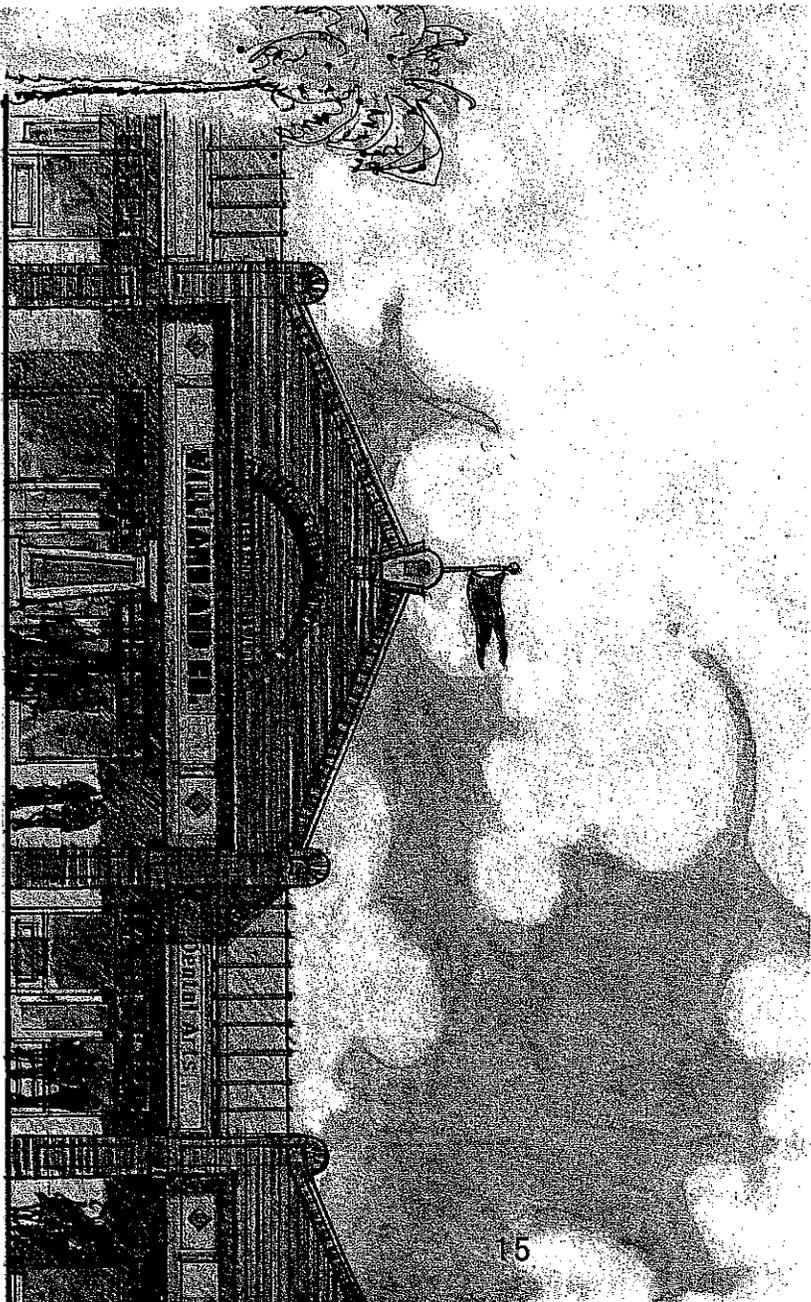
These architectural themes are intended to establish a "stylistic realm" within which various projects are to be designed. The purpose is to assure a relatedness between individual projects along the highway and a sense of "belonging and place" as they relate to the rest of the City of Fillmore. Both themes offer a wide range of design opportunities for the variety of specific user needs while assuring a lasting compatibility from project to project. It is recommended that the project designer spend some time studying the contextual references in the City of Fillmore by which these Guidelines were inspired.

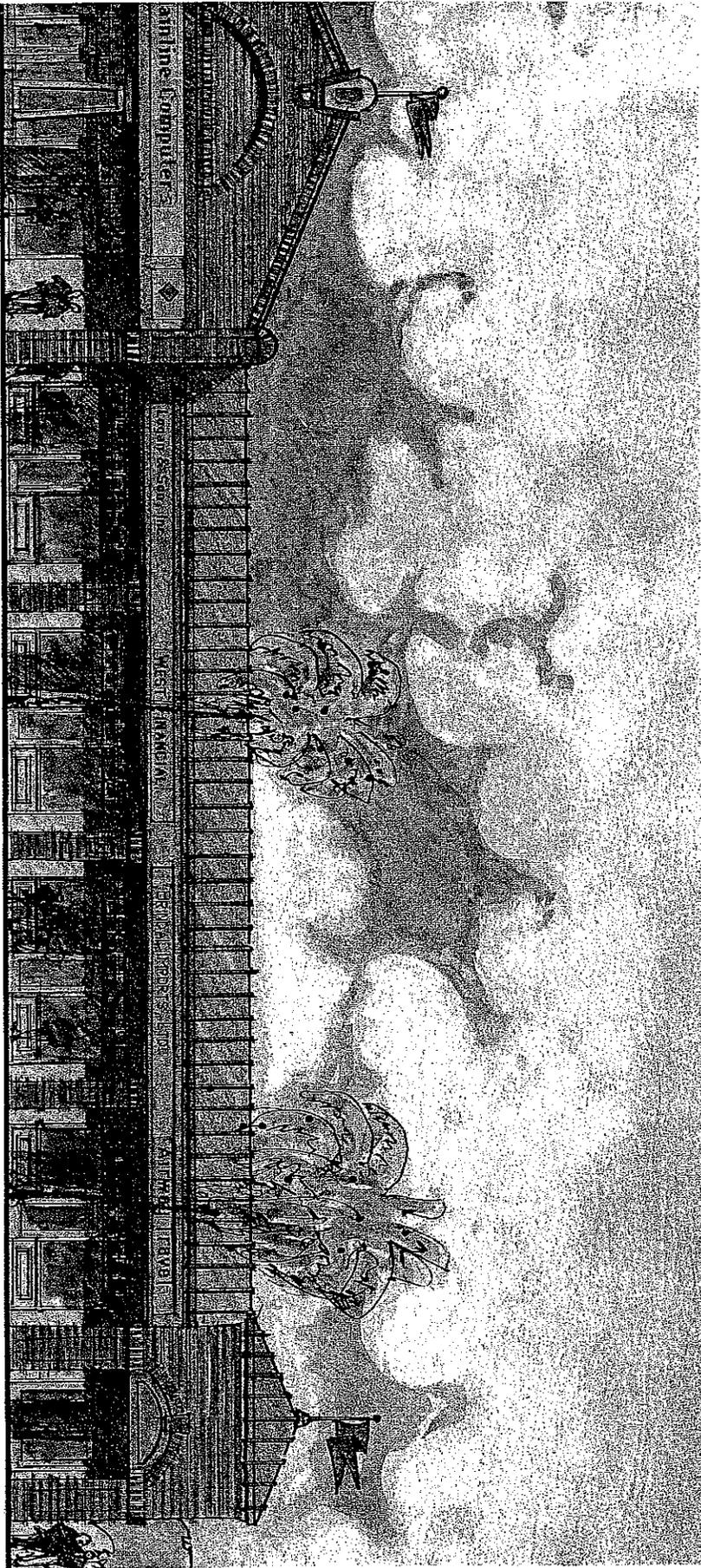
Following is a discussion of each theme along with sketch examples of the design elements and features associated with each. The examples and sketches provided are not intended to be copied or duplicated in project proposals, but are provided to help clarify the criteria and intention of these guidelines.



T H E R A I L R O A D T H E M E

The railroad played an important role in Fillmore's history, being one of the primary catalysts for its existence, and as such is used here as a source for creative historical reference. However, this theme does not seek to emulate the style and materials of the railroad buildings particular to Fillmore's history, which were typically simple wood clapboard buildings (the City's original Southern Pacific Railroad depot, built in 1888, can be seen in Downtown Fillmore on the north side of Main Street). Rather, this theme is based upon references found in many of the older commercial buildings (primarily brick) in Fillmore's downtown area, typically built between 1900 and 1930, mixed with traditional streetscape elements (such as iron benches, light standards, and bollards) to create the impressions and character of "old-time" railway stations and other early 20th century commercial vernacular. The architectural impression should be one of permanence and enduring quality.



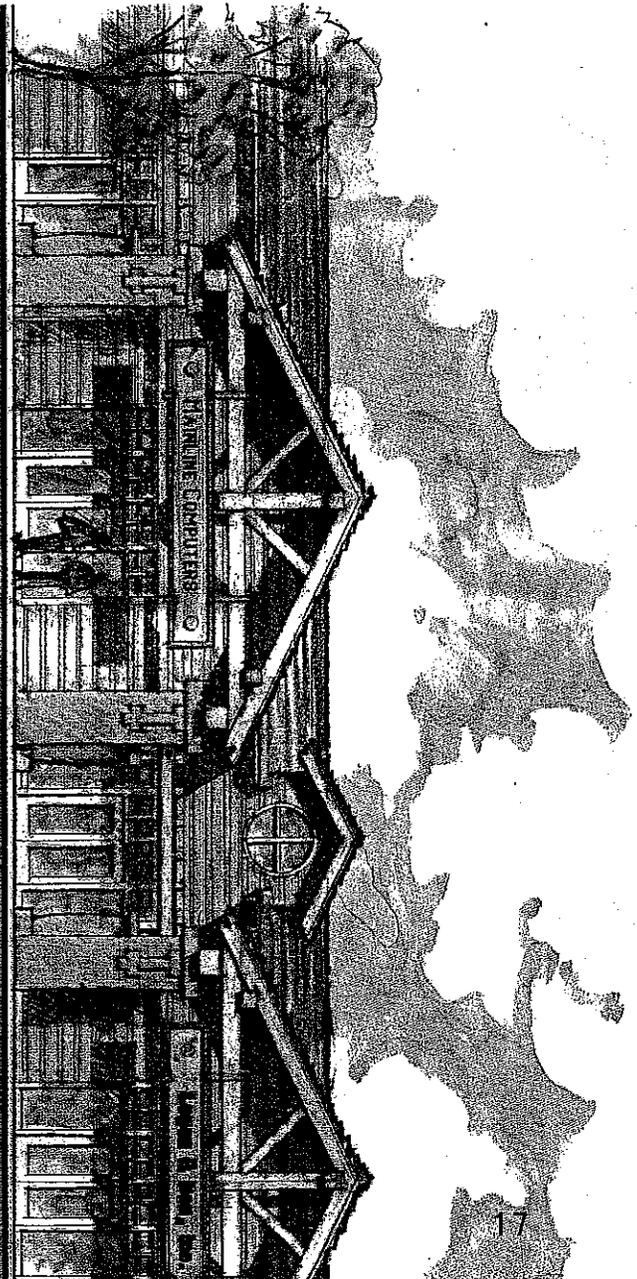


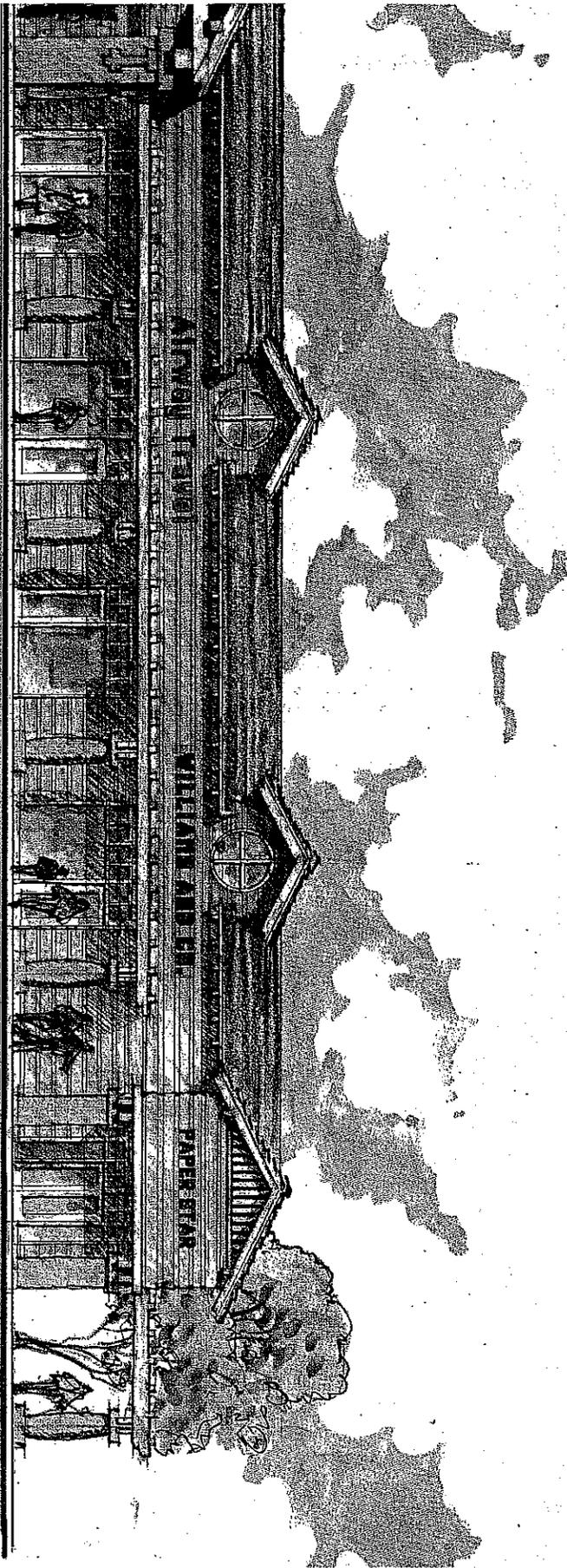


T H E C R A F T S M A N T H E M E

While the Railroad Theme emphasizes Fillmore's early 20th Century commercial architecture, the Craftsman Theme represents the domestic architecture that predominated in Fillmore during roughly the same time period. Many fine examples of these modest homes, often called Craftsman or California Bungalows, can be found on Fillmore, Saratoga, and Clay streets, northeast of the old downtown. The Craftsman aesthetic emphasized low, ground-hugging designs, naturalistic color schemes and building materials. Typically, these buildings showed off, rather than hid structural elements, such as rafter ends, trusses, and attic vents. Design elements were often somewhat massive and exaggerated in scale to celebrate their obvious functions.

Interpreting this style for commercial architecture will require attention to details, features, and massing not often considered in retail or office building design. Typically, the scale of projects will far exceed the scale of the traditional craftsman house. These guidelines do not seek to require reconstructions of authentic residential scale, but rather to create new and exciting projects true to the spirit of the style.





**CITY OF FILLMORE
PLANNING COMMISSION RESOLUTION NO. 09-840**

**FOR APPROVAL OF
DEVELOPMENT PERMIT 08-04**

UP REALESTATE HOLDING CORPORATION, APPLICANT

WHEREAS, The Planning Commission has been petitioned to grant Development Permit 08-04, for the demolition of the existing 16,31 sq.ft. Taco Bell building to accommodate the construction of a new 2,855 sq.ft. Taco Bell/Pizza Hut; and

WHEREAS, The Community Development Director caused a notice of date, hour and place for a public hearing before the Planning Commission on October 21, 2009 to be published in the Fillmore Gazette and mailed to the Applicant and all property owners within 300 feet of the exterior boundaries of the subject property in accordance with Section 6.04.80 of the Fillmore Zoning Ordinance; and

WHEREAS, Based upon the evidence presented, the Planning Commission makes the following findings of fact:

1. The subject property is addressed as 800 Ventura Street, APN 052-0-180-260.
2. The project site is currently owned by UP Real Estate Holding Corp., P.O. Box 4842, Thousand Oaks, CA 91359.
3. The project has been reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA) and has been determined to be exempt from further review per Section 15332, class 32 of CEQA Guidelines "In-Fill Development Projects" and Section 15303.C Class 3 "New construction".
4. The project site is in the Commercial Highway (C-H) zone.
5. The proposed use is in conformance with the adopted elements of the General Plan (1988, 2003 and 2005).
6. The proposed use conforms to the Ventura Street Design Guidelines **(TBD BY PC)**.
7. The proposed use conforms to the applicable zoning regulations contained in the Development Permit § 6.04.66 of the Zoning Code incorporated in Ordinance 94-701 adopted November 22, 1994.

8. The Development Permit is authorized pursuant to the provisions contained in Zoning Ordinance § 6.04.66 as identified below:
- a. The proposed development is permitted within the C-H zoning district and complies with all of the applicable provisions of the Zoning Ordinance, including prescribed development/site standards/guidelines and any applicable design guidelines, as Zoning Ordinance Code Section 6.04.0615, in that the proposed project meets all setback, landscaping, and land use standards, and also complies with the Ventura Street Design Guidelines (**TBD BY PC**);
 - b. The proposed use is consistent with the intent of the General Plan, in that the proposed use supports the goals and policies of the General Plan specifically Goals 1, 25 and Policies LU-3, LU-5, LU-6, LU-11, LU-22, LU-42 of the Land Use Element;
 - c. The proposed development would be harmonious and compatible with existing and future developments within the zoning district and general area, as well with the land uses adjacent to the subject property, in that the project is designed and conditioned to ensure compatibility with the adjacent commercial and residential land uses;
 - d. The approval of the Development Permit for the proposed use is in compliance with the requirements of the California Environmental Quality Act (CEQA), in that it is an in-fill development project meeting the criteria contained in Section 15303 and 15332 of CEQA Guidelines and therefore exempt from further review;
 - e. The subject site is physically suitable for the type and density/intensity of the use being proposed, in that the building scale is compatible with the adjacent residential and commercial developments, the project complies with the building design and landscaping requirements of the Ventura Street Design Guidelines to which all development along Ventura Street must abide by;
 - f. There are adequate provisions for public access, water, sanitation and services to ensure that the proposed use would not be detrimental to public health and safety, in that services are existing in and adjacent to the site; and
 - g. The design, location, size, and operating characteristics of the proposed development would not be detrimental to the public interest, health, safety, convenience, or welfare of the City in that the project complies with all applicable development standards including the Ventura Street Design Guidelines,

NOW, THEREFORE BE IT RESOLVED, that the Planning Commission does hereby approve of Development Permit 08-04 subject to conditions of approval and, based on the above-mentioned information, public review, and documentation.

PASSED AND ADOPTED by the Planning Commission of the City of Fillmore this 21st day of October 2009 by the following votes:

Ayes:

Noes:

Abstain:

Absent:

Douglas Tucker, Chair
Planning Commission

ATTEST:

Denise Beauduy
Planning Secretary

EXHIBIT "COA"

**CONDITIONS OF APPROVAL
DEVELOPMENT PERMIT 08-04**

UP REAL ESTATE HOLDING, APPLICANT

RECITALS

A. AUTHORITY FOR THIS DOCUMENT

The conditions and terms contained in this exhibit are applied to permit "Development Permit 08-04", (THIS PERMIT) and are applied under the City's authority regarding discretionary permits (Section 6.04.66 of the Fillmore Municipal Code).

B. IDENTIFICATION OF THE SUBJECT PROPERTY

The subject property is located at the south side of Hwy 126 between "A" and "B" St. and is identified as Assessor Parcel Number 052-0-180-260 (800 Ventura St.). The property is subject to the conditions and terms contained in this exhibit.

C. DESCRIPTION OF PROJECT AUTHORIZED BY THIS PERMIT

The PROJECT consists of one phase. All conditions of this permit are applicable upon implementation of Phase I, unless so specified in this document. The project consists of demolition of the existing 1,631 sq.ft. restaurant and replacing it with a 2,855 sq.ft. restaurant and 31 parking spaces and a new driveway exit.

D. RESPONSIBILITY OF APPLICANT

The following conditions are the responsibility of the Applicant, or any of their successors or assigns.

E. BASIS UPON GRAPHIC ILLUSTRATIONS ("THE PLANS")

THIS PERMIT is based on the following graphic illustrations referred to as Exhibits "A" (Vicinity Map), "E" (Exterior Building Elevations), "F" (Floor Plan[s]), "G" (Grading Plan), "S" (Site Plan), "L" (Landscape Plans). These exhibits represent the minimum information that is to be expected on subsequent construction documents that are used to implement the project. All interpretations and construction documents shall be based on the above Exhibits (dated September 16, 2009).

F. BASIS UPON WRITTEN DOCUMENTS

THIS PERMIT is based on the following written documents referred to as Exhibits "COA" (Conditions of Approval), "MND" (Environmental Document) and, "SR" (Staff Reports). All activity on the subject property is to be in compliance with all requirements and direction, as set forth in the above Exhibits.

The conditions and terms in this document shall prevail over all omissions, conflicting notations,

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specifications, dimensions, typical sections and the like, which may or may not be shown on the PLANS.

G. LIFE OF THIS DOCUMENT

The conditions and terms contained in this document apply to the subject property indefinitely or, until such time that this document is modified according to the process identified in paragraph "I" of this document. THIS PERMIT IS NOT TRANSFERRABLE TO ANOTHER PROPERTY.

H. TIME TO EXERCISE PERMIT

THIS PERMIT shall be substantially initiated or it shall expire on (two years from the date of project approval September 16, 2009). Substantial initiation of THIS PERMIT shall be determined at the sole discretion of the CITY. Any extension of THIS PERMIT shall be processed per Section 6.04.6645 of the Fillmore Municipal Code.

I. PROCEDURE FOR MODIFICATION OF THIS DOCUMENT

Any proposed modification of this document shall be processed per Section 6.04.6650 of the Fillmore Municipal Code.

J. INDEMNIFICATION AND HOLD-HARMLESS STATEMENT

The APPLICANT shall indemnify, exonerate and hold harmless, the CITY and all officers and employees thereof, against all claims, demands, and causes of action arising out of improvements constructed within the project.

The APPLICANT agrees as a condition of approval of this permit, to defend, at the sole expense of the APPLICANT, any action brought against the CITY based upon approval of this permit. The APPLICANT shall reimburse the CITY for any costs and attorney's fees that the CITY may be required to pay as a result of any such action. The CITY may, as its sole discretion, participate in the defense of such action, but such participation shall not relieve the APPLICANT of the above obligations.

Any activity or structure pursued by the APPLICANT, authorized by this permit shall further constitute acceptance of all conditions and obligations imposed by the CITY on this permit. The APPLICANT, by said acceptance, waives any challenges as to the validity of these conditions.

K. COMPLIANCE WITH THIS DOCUMENT PRIOR TO AUTHORIZED ACTIVITY/USE

The APPLICANT shall comply with and satisfy all applicable conditions of this permit prior to being authorized to begin construction activity or prior to being allowed to occupy any structures.

Authorization to begin construction is to be granted by the Building Official upon presenting the Administrative Clearance Form to the Building Official with all required signatures.

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Authorization for occupancy is to be granted by the Building Official upon having a final occupancy inspection conducted by the Project Planner, the Building Inspector, and the Fire Chief, and then having the Building Official issue a Certificate of Occupancy. Any required public improvements are to be completed to the satisfaction of the City Engineer prior to the Building Official issuing a Certificate of Occupancy.

Authorization shall not be granted if the proper and requested information is not presented in a neat and timely manner.

L. COMPLIANCE WITH ALL APPLICABLE CODES AND REGULATIONS

All activity and construction pursuant to this permit shall comply with all applicable codes and regulations including, but not limited to, the Fillmore General Plan (1988 and 2003), the Fillmore Zoning Ordinance (1994), the Ventura Street Design Guidelines, the Uniform Building Code (2007 version), the Uniform Fire Code, the Subdivision Map Act, and the "Standard Specifications for Public Works Construction".

M. PAYMENT OF FEES/DEPOSITS

All required Fees shall be paid by the APPLICANT prior to the issuance of a building permit.

CONDITIONS

The following conditions are organized by CITY Department.

ENGINEERING AND PUBLIC WORKS DEPARTMENT

GENERAL

- E1. Separate public improvement plans shall be prepared by a registered California Civil Engineer and shall be subject to the review and approval of the City Engineer. This shall include both onsite and offsite public improvements. The plans shall be 24"x 36" sheets and shall include, but not be limited to, grading, landscaping, irrigation, street, drainage, sewer, water and appurtenant improvements as needed for a complete set of all public improvements required for construction of this project. The submittal shall also include construction cost-estimates, plan check fees, a soil report and all pertinent engineering design calculations.
- E2. A registered California Civil Engineer shall be retained by the applicant to: 1) assure that the construction work conforms to the approved public improvement plans and specifications and, 2) to provide certified as-built plans after project completion. Submittal of the certified as-built plans will be required prior to, and as a condition of, the final acceptance of the development by the City.
- E3. Public improvements shall be completed prior to the City's acceptance of the improvements and the development. Temporary occupancy permits may be permitted in the sole discretion of the City.

- E4. The City of Fillmore reserves the right to upgrade or add to City Standard Land Development Specifications related to public improvements. If the required parcel improvements are not completed within the specified period, the Applicant shall be responsible for conformance with any and all upgraded and/or revised City Standards and Specifications.
- E5. The Applicant shall provide all necessary easements in fee for public streets, highways, sidewalks, breezeways, parkways, landscaping, alleys, sewers, water facilities, utilities, drainage facilities and other facilities as required by the City.
- E6. The Applicant shall be responsible for all actions of his contractors and subcontractors until such time as the improvements have been accepted by the City of Fillmore.
- E7. The Applicant shall not commence any construction until a pre-construction conference has been held between the Applicant, the Applicant's engineer, contractor and subcontractors, and the City Engineer or City staff appointed by him.
- E8. Prior to obtaining building permits the Applicant shall pay the most current Development Impact Fees as required by the current Fillmore City Council Resolutions regarding Development Impact Fees. The Development Impact Fees will be based upon the net increment (1,224 sq.ft.) of the proposed building (2,855 sq.ft.) and existing building (1,631 sq.ft.) and 28,000 sq.ft. lot.

GRADING

- E9. Prior to submission of building plans, the Applicant shall file with the Building Official a soils report prepared by a Geotechnical Engineer, who is registered in the State of California. The recommendations contained within the report shall be made part of these conditions.
- E10. The soils report shall include at a minimum geotechnical investigation of liquefaction, expansive soils, and seismic safety. The grading plan shall incorporate the recommendations of the approved soils report.
- E11. All grading shall be done per the approved grading plan, Exhibit "G", and conform to Appendix Chapter 33 of the Uniform Building Code and/or as recommended by the Soils Report submitted for the project, with the prior approval by the City.
- E12. The Grading plans prior to approval shall contain signed certification from the Soils Engineer that the plans conform to the recommendations of the soils report. The Grading plans shall also be certified and signed by the Soils Engineer that the grading was constructed as recommended by the soils report and any amendments.
- E13. All abandoned irrigation lines, and other obstructions on the project site, shall be removed and properly disposed of from the site. Proper backfill and compaction of voids shall be

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subsequently accomplished to provide protection against settlement.

- E14. It is the contractor's responsibility to use watering, dust fences or other methods as directed by the City Engineer to control dust throughout the construction operation.
- E15. All grading/construction debris shall be removed from the project site and disposed into a dump site prior to any exaction or fill operations and/or as directed by the City Engineer. The Applicant, his agents or employees shall be responsible for the removal and cleanup of any spill of materials or debris on public streets during the entire grading operation.

SEWER

- E16. The method of sewage and waste disposal shall be by means of a community disposal system. All sewer system improvements shall meet or exceed the City's standards, and the necessary separations between water mains and sanitary sewers shall be maintained as required by the State Department of Health and as directed by the City Engineer.

WATER

- E17. All on-site wells shall be filled, capped, and abandoned in conformance with Public Works Department requirements and specifications.
- E18. The Applicant shall install adequately sized water services and install new water meters per current City of Fillmore Public Works standards and current plumbing codes. Irrigation shall have separate meter and backflow prevention.
- E19. A backflow prevention device shall be installed as required by the Superintendent of Public Works.
- E20. The locations of water services shall be marked on the curb face in conformance with the City of Fillmore Public Works requirements.

DRAINAGE

- E21. On-site and off-site drainage facilities, compatible with the adopted City of Fillmore Drainage Master Plan, shall be provided and constructed as directed by the City Engineer.
- E22. The Applicant shall install the required drainage facilities concurrently with rough grading operations or provide an interim drainage and erosion control plan, and construct interim improvements with prior approval from the City Engineer, for mitigating any potential flooding and erosion adversely affecting adjacent properties and public rights of way. Erosion control measures shall be in place and maintained for the period of (November 15 and April 15).
- E23. On-site and off-site drainage plans, all pertinent engineering analysis and design calculations shall be prepared in accordance with the City's current engineering design criteria and shall be submitted by the Applicant to the City Engineer for review and

approval.

- E24. The Applicant shall submit to the City for review and approval, drainage plans, hydrologic and hydraulic calculations prepared by registered Civil Engineer.
- E25. The building pad elevations shall be a minimum of one foot above the local 100-year frequency storm.
- E26. The property shall be designed to drain into a street, alley or approved drain in such a manner that there will not be any undrained depressions of land within the development.
- E27. The Applicant shall procure easements from all affected downstream landowners for any diversion and or increases in historical storm drainage flows. Easements shall contain language as approved by the City and shall be reviewed by the City Attorney. The applicant shall be responsible for City Attorney fees.
- E28. The Applicant shall submit as required a NOI with the Los Angeles Regional Water Quality Control Board for the construction of the project and shall provide a copy of the NOI to the City of Fillmore prior to construction.
- E29. The Applicant's Civil Engineer shall prepare the required Storm Water Pollution Control Plan (SWPCP) or Storm Water Pollution Prevention Plan (SWPCP). Design and construction shall meet the requirements of the Stormwater Quality Management Program (SQUIMP) as necessary.
- E30. The Applicant shall meet all requirements of the storm water permit that is in affect at the time grading permit is signed by the City Engineer.

STREET

- E31. Prior to occupancy the Applicant shall annex this project into the City's Street Light and Landscape Maintenance Assessment District and shall reimburse the City all costs associated with the annexation. If occupancy is granted prior to annexation a restriction on the property shall be recorded to guarantee of owner's agreement to annexation and to reimburse annexation costs.

GAS, ELECTRIC, UTILITIES

- E32. All utility plans shall be coordinated with the respective utility companies. Preliminary utility designs shall be submitted for review and approval by the City Engineer prior to final utility design. Cable, electric and telephone utilities shall be placed in conduit and not be direct burial wire. All utility boxes shall be precisely located on the utility plans. The applicant shall provide a 2" blank conduit for future fiber optics to the property as required by the City Engineer.
- E33. Prior to acceptance, the Applicant shall pay all energy costs associated with street lighting

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for a period of one year after the initial energizing of the street lights.

- E34. Street lights shall be installed in accordance with a street lighting plan prepared by the Applicant's Civil Engineer and made part of the public improvement plans. The street light location and type of lighting shall be reviewed and approved by the City Engineer.
- E35. On-site utility service shall be installed underground in accordance with Fillmore City policy and the Ventura Street Design Guidelines.

FIRE DEPARTMENT

- F1. If any hazardous waste is encountered during the construction of this project, all work shall be immediately stopped and Ventura County Environmental Health Department, the Fire Department, the Sheriff's Department and the City Inspector shall be notified immediately. Work shall not proceed until the clearance has been issued by all these agencies.
- F2. On site and/or boundary water mains, fire hydrants and services shall be installed according to City of Fillmore Public Works Department specification.
- F3. The Applicant shall obtain two certified fire flow test at the Applicant's expense to determine and check for compliance with fire flow requirements. The first test shall be conducted prior to approval of improvement plans and the second test after construction of the subject improvements but prior to issuance of a certificate of occupancy. The tests must be certified by a Fire Protection Engineer. A minimum fire flow of 1,500 gallons per minute shall be provided at the subject site.
- F4. Fire hydrants shall be installed and be in service prior to any combustible construction and shall conform to the minimum standards of the Ventura County Water Works Manual and the City of Fillmore Public Works Department Standards.

Hydrant shall be replaced to a Clow model 2060, or equivalent, with two, 2 ½ inch outlets and one, 4-inch outlet and set to grade. Required flow shall be achieved at no less than 20 psi (pounds per square inch) residual pressure. Fire Hydrants shall be spaced 500 feet on center, and so located that no structure will be farther than 250 feet from one hydrant. Hydrants shall be located no less than three (3) feet nor more than five (5) feet from any curb.
- F5. All roof covering materials shall consist of State Fire Marshall-approved, noncombustible, fire retardant materials.
- F6. Address numbers, a minimum of six (6) inches in height, shall be installed prior to occupancy and shall be illuminated and readily visible at night. The Fire Chief shall approve the method of illumination.
- F7. All required street signs shall be installed prior to the City's acceptance of the development

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and public improvements.

- F8. The Applicant shall provide on-site fire protection, as determined by the Fire Chief. Adequate fire protection shall be installed and be in service, prior to obtaining any building permits. The Applicant shall maintain passable vehicular access to all buildings and fire hydrants as required by the Fire Chief.
- F9. Smoke detectors, approved by the State Fire Marshall, shall be installed in all areas leading to sleeping rooms.
- F10. Automatic fire sprinklers shall be provided as required by the Fillmore Fire Chief.
- F11. All brush and grass determined to be a fire hazard by the Fire Chief, shall be cleaned be cleared to a minimum distance of 100 feet from all proposed structures, prior to beginning framing of any combustible construction.
- F12. In accordance with the California Administrative Code, Title 24, Section B1419, an approved spark arrester shall be installed on the chimney of any structure.
- F13. Fire hydrant valves shall be maintained free of all obstructions in a manner deemed satisfactory by the Fire Chief.
- F14. All driveways and canopies shall have a minimum vertical clearance of 13 feet, 6 inches.
- F15. No burning of combustible refuse material shall be permitted the subject property.
- F16. A permit shall be obtained from the Fillmore Fire Chief and the Ventura County Air Pollution Control District (APCD) for the handling, storage and use of all flammable, combustible and hazardous materials.

BUILDING & SAFETY DEPARTMENT

- B1. With the first submittal of construction documents, a reproduction of this document (Exhibit "COA") shall be incorporated as a full-sized page into all sets of the construction documents.
- B2. Before starting any work, the Applicant shall designate in writing an authorized representative who shall have complete authority to represent and act for the applicant. Such written authorized shall be submitted to the Community Development Department. Said authorized representative shall be present at the site of work at all times while work is actually in process on the development. During periods when work is suspended, arrangements acceptable to the City shall be made for any emergency work that may be required.

URGENT WORK – Whenever orders by the City to the applicant's representative,

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Superintendent, or Foreman, to do work required for the convenience and safety of the general public because of inclement weather or any other dangerous condition, and said orders are not immediately acted upon by such person, the City may do, or have such work done, by others at the applicant's expense.

NUISANCE WORK – When the project causes a nuisance to the public and the City notifies the Applicant in writing of the nuisance, the Applicant shall resolve the problem causing the nuisance within 36 hours. If the Applicant fails to correct the nuisance in a timely manner the City may do or have such work done by others at the Applicant's expense.

PLANNING DEPARTMENT

- P1. Continuous maintenance of all landscaped areas dedicated to the City shall be in the Landscaping Maintenance District. The Applicant shall complete annexation prior to Certificate of Occupancy.
- P2. Landscaping and automatic irrigation shall be installed in all landscaped areas, per an approved landscaping and irrigation plan which shall be prepared by a registered landscape architect, licensed to work in California. The irrigation controllers shall be programmed to be sensitive to evapotranspiration rates and shall incorporate a thermometer and rain sensor. Building permits will not be issued, and no landscaping is to be installed until the City's landscape architect approves the subject landscaping plans. All landscaping shall be installed, and its installation inspected by the Building Inspector and City Landscape Architect, prior to the issuance of a certificate of occupancy.
- P3. A minimum size of 24 inch box with a minimum 2 inch trunk diameter shall be required for each street tree, and each street tree shall be 8 to 12 feet tall with a minimum 4 foot wide head at the time of planting. All shrubs and vines shall be 5-gallon size (minimum) except as specified by the Community Development Director. All plant materials shall remain tagged with the species type until inspection of landscaping occurs. A 10-foot long root barrier shall be installed by all curb and gutter and sidewalk within 10 feet of a tree.
- P4. The Applicant shall post a bond for landscaping improvements. The amount shall be established by an estimate to be prepared by the Applicant's landscape architect and reviewed by the City.
- P5. Outdoor storage shall only be permitted as indicated on Exhibit "S". Storage shall be screened from adjacent properties and streets by a fence, wall or other method deemed acceptable by the Community Development Director.
- P6. No lighting shall be of the type or in location such that it will constitute a hazard to vehicular traffic, on either private or public streets. To prevent damage from automobiles, light standards shall be mounted on reinforced concrete pedestals or be otherwise protected.
- P7. The Applicant shall hire a licensed engineer to prepare a photometric plan for the project.

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The plan shall be submitted with construction drawings for the project. The plan shall show the location, type, and intensity of light sources. Light spill onto adjacent private property from the project shall not exceed 0.10 foot candle. The photometric plan shall indicate point-by-point lighting values for the project site based on a ten (10) foot grid and 25 feet beyond all project boundary lines. The photometric plan shall provide a minimum lighting value of (0.50) foot candle. The average to minimum ratio between light sources shall be 4:1.

RESOURCE MANAGEMENT DEPARTMENT

- R1. As part of initial project description and design all solid waste components and management plans for those materials that will enter the waste stream, as defined in chapter 8.04 of the City Municipal Code, shall be identified. The subsequent management plan which is developed shall be included as part of the specific notes both in the project description and as part of the plans for the project under the heading Resource Recovery, Recycling and Trash Management (plan). These plans and notes placement shall conform to the requirements of City Council Resolution 99-2369.
- R2. Design of Waste Stream Material Storage and Handling shall conform to Section 8.04.050c of the City Municipal Code and The City of Fillmore Zoning Ordinance section 6.04.18 pages III 21, 22, 23, and 24.
- R3. Prior to Plan Check Clearance conditions R1 and R2 shall be completed or, a specific Resource Recovery, Recycling and Trash Management Plan shall be approved.
- R4. Prior to completion or occupancy clearance, any and all documentation required by the Resource Recovery, Recycling and Trash plan shall be filed and approved.
- R5. Prior to occupancy clearance, a subsequent Resource Recovery, Recycling and Trash plan shall be submitted and approved for project operations. This plan shall conform to the requirements set forth in City Council Resolution 99-2369
- R6. All Resource Recovery, Recycling and Trash plans will include any requirements of other departments.
- R7. If the use for the project includes both commercial and residential aspects, Waste Stream Material Storage must allow for separate containers for each use.
- R8. And special waste streams that are identified and managed in a method different or unique must be quantified for the purposes of the Resource Recovery, Recycling and Trash Plan. This quantification should include quantity or weight, and disposition.

SPECIAL CONDITIONS

ENGINEERING AND PUBLIC WORKS DEPARTMENT

EASMENTS, GRANT DEEDS & MERGER

- S1. Applicant shall dedicate easements and grant deeds for right of way on and offsite as required by the City per these conditions. Easements and Grant Deed dedications shall be recorded at the request of the City in the County Recorders office and recordation fees and one certified copy of Easement and Grant Deeds shall be provided to the City prior to occupancy. Recordation and copy fees shall be the responsibility of the Applicant.. Easements and Grant Deed dedications shall be provided on typical City Easement Deed and Grant Deed forms as provided by the Engineering Department. Easement and Grant Deed language shall be acceptable to the City of Fillmore and prepared by Registered California Land Surveyor. Easements shall be subject to review the City Attorney and Applicant shall be responsible for City Attorney fees.
- S2. The Applicant shall work with the City and Caltrans to dedicate 14 feet as measured from the current property line along the frontage of the property. The dedication shall be in fee and irrevocable to the City.
- S3. Applicant shall irrevocably offer a reciprocal access easement one foot in width along the western boundary of the property in favor of the City. The Applicant shall construct a driveway connecting to the property to the west.

DRAINAGE

- S4. Applicant shall dedicate and record an easement in favor of the City of Fillmore prior to occupancy for maintenance and access of the detention basins and/or biofilters used for storm water treatment. This irrigation system shall either be a separate irrigation meter or have the ability to be separated in the public easement or right of way.
- S5. Drainage shall be collected into the biofilters and or detention basins to the maximum extent possible. Detention basins and biofilters shall be planted with turf. Treatment areas shall be eligible areas for funding with the lighting and landscape assessment district. Irrigation and landscape maintenance of the treatment facilities shall be maintained by the owner until or unless the City Council deems it is necessary for the City to assume maintenance responsibility to assure proper maintenance and treatment of storm water.
- S6. Post development drainage pattern and volume for the 100 years storm shall not exceed predevelopment drainage pattern and volume unless permission from downstream property owners in the form of a recorded easement or other form of permission acceptable to the City is obtained prior to occupancy. Applicant shall install detention and/or retention basins as needed to meet this condition.

Superintendent. Generally water meters are to be located in the City right of way or Caltrans right of way and installation of meter in private property is not acceptable.

- S8. Irrigation design shall utilize smart controller and City shall be provided with the watering schedule and design values on the plan. Irrigation system shall be designed for head to head coverage with little to no overflow outside of landscape area.

STREETS

- S9. The Applicant shall submit public improvement plan to Caltrans. Comments from Caltrans shall be submitted to the City. Prior to City approval or concurrently, Caltrans shall approve improvements within their jurisdiction.
- S10. Applicant shall remove existing sidewalk along Ventura Street and install 6' parkway as measured from curb face. A new 5 foot sidewalk shall be constructed adjacent to the new parkway as shown on Site Plan / Plot Plan SD1.0. Planting within the parkway shall be turf with Queen Palms. Queen Palms shall be a minimum of 8' in height and brown trunk to be installed at 30 feet on center with linear root barriers along the sidewalk and curb to extend 10' beyond the center of the tree. If Caltrans will not approve of the trees, the applicant shall install the required trees behind back of sidewalk on Applicants property. The landscaping along the highway shall be maintained by the property owner.
- S11. Applicant shall properly install signage to restrict parking on Hwy 126 adjacent to the property frontage. Existing signage shall be relocated as needed and as required by Caltrans. Applicant shall remove existing white edge type striping on highway and replace as required by the City Engineer.
- S12. Applicant shall install 22,500 lumen, 208 volts and 150 watt streetlights mounted on a thirty-foot marbolite pole adjacent to Ventura Street. The typical spacing shall not be more than 150 feet between poles.
- S13. Applicant shall secure all necessary permits with Caltrans for all improvements within State Right of Way.
- S14. Driveways shall generally conform to the Site Plan / Plot Plan for access to Ventura Street and shall maintain a minimum of 50 foot throat width at main access. This access shall also be maintained should the highway widening occur.

DRAINAGE

S15. Property line wall surface that facing this property shall be treated with anti-graffiti surface coating as approved by the Public Works Department.

Doug Tucker, Chairman

Date

Hooshang Tafazoli,
UP Real Estate Holding Corp.

Date

END OF CONDITIONS



**CITY OF FILLMORE
DEVELOPMENT IMPACT FEE WORKSHEET**

Effective October 25, 2008

This Inflationary Adjustment for only Sewer Fees by Resolution No. 08-3084

PROJECT DESCRIPTION:

1,224 sq.ft. net increment
for Taco Bell

No.	DESCRIPTION	FEE	UNIT	# UNITS or SQ. FT.	TOTAL FEE
1	Public Facilities: (Resolution 02-2599)				
	402-303-192 (City) (46%) =	\$219.59			
	402-303-193 (Fire) (23%) =	\$109.79			
	402-303-194 (Police) (10%) =	\$47.74			
	402-303-195 (Library) (21%) =	\$100.25			
	a) residential development project:	\$2,520.000	D.U.		
	b) residential development project within Fire Substation Zone:	\$675.000	D.U.		
	c) non-residential development project: (except projects undertaken by City, State, or Federal agencies, school district, or other public entities)	\$0.390	BLD. S.F.	1,224.00	\$477.36
2	Transportation Improvement Fee: (Resolution 06-2965, 02-2599 & 97-2208)				
	403-303-195 (Transportation Improvement)				
	a) residential development project; (single family)	\$1,966.000	D.U.		
	b) residential development project; (multi-family)	\$1,435.000	D.U.		
	c) commercial development project;	\$5.250	BLD. S.F.	1,224.00	\$6,426.00
	d) industrial development project;	\$1.670	BLD. S.F.		
3	Park and Recreation, Land Dedication and In-Lieu Fee: (Resolution 05-2805)				
	a) in-lieu fee (land dedication) of .011 acres / D.U. 404-303-196 (Park Acquisition)	\$4,889.000	D.U.		
	b) in-lieu fee, (improvement) 404-303-196 (Park Acquisition)	\$2,256.000	D.U.		
4	Water Improvements Fee: (Resolution 08-3159)				
	<u>Meter Size</u>				
	a) water service connection fee: 5/8"	\$4,249.000	EA		
	405-303-197 (Water Improvement) 3/4"	\$5,949.000	EA		
	1"	\$9,348.000	EA		
	1-1/2"	\$20,397.000	EA		
	2"	\$28,895.000	EA		
	3"	\$93,484.000	EA		
	For Water Meter Sizes Not Shown See Resolution				
	b) water fire service fee, (commercial & industrial) 405-303-197 (Fire Service)	\$0.441	BLD. S.F.	1,224.00	\$539.78

1,224 sq.ft. net increment
for Taco Bell

No.	DESCRIPTION	FEE	UNIT	# UNITS or SQ. FT.	TOTAL FEE
5	Sewer Improvements Fee: (Resolution 06-2987) 406-303-198 (Sewer Improvement)				
	a) residential development project:	\$11,637.00	D.U.		
	b) commercial development project:	\$12.18	BLD. S.F.	1,224.00	\$14,908.32
	c) industrial development project:	\$5.41	BLD. S.F.		
6	Storm Drain Improvements Fee: (Resolution 02-2599 & 97-2184) 407-303-199 (Storm Drain Improvement)				
	<u>Zone One</u> (see attached zone map)				
	a) residential development project:				
	rural	\$0.054	LOT S.F.		
	single family	\$0.499	LOT S.F.		
	multi-family	\$0.730	LOT S.F.		
	b) commercial development project:	\$0.903	LOT S.F.		
	c) industrial development project:	\$0.988	LOT S.F.		
	<u>Zone Two</u> (see attached zone map)				
	n/a				
7	Ventura County Reciprocal Traffic Agreement (County Ordinance 4246 & City Agreement) 601-0000-2105-000 (Ventura County Reciprocal Traffic Agreement)				
	a) residential single family:	\$127.00	D.U.		
	b) residential senior housing	\$37.00	D.U.		
	c) residential other housing	\$87.00	D.U.		
	d) general commercial / retail	\$167.00	TSF		
	e) general industrial	\$33.00	TSF		
	f) general office	\$134.00	TSF		
	g) gas station	\$313.00	VFS		
	h) automatic car wash	\$838.00	SITE		
	i) self serve car wash	\$417.00	STALL		
	j) hotel	\$94.00	ROOM		
	k) quality restaurant	\$648.00	TSF		
	l) high turn over / sit down restaurant	\$1,359.00	TSF		
	j) fast food restaurant	\$1,904.00	TSF	1.00	\$1,904.00
	k) hospital general	\$157.00	TSF		
	m) convalescent care	\$21.00	BED		
	n) day care	\$17.00	PERSON		
	o) traffic study - case by case	\$10.46	ADT		

TOTAL DEVELOPMENT IMPACT FEES (Items 1 - 7) = \$24,255.46

Prepared by: Kevin McSweeney, CDD
Name, Title

09/11/09
Date

Signed by: _____
Signature

Date

Notes: This is an estimate only and is subject to change. There is credit for the existing 1,631 sq.ft. building and for the 28,000 sq.ft. lot and existing water meter.



CITY OF FILLMORE

CENTRAL PARK PLAZA

250 Central Avenue

Fillmore, California 93015-1907

(805) 524-3701 • FAX (805) 524-5707

Item 7b.

October 21, 2009

TO: Planning Commission

FROM: Kevin McSweeney,
Community Development Director

SUBJECT: Public Hearing: Modification #1 to TTR 5591 and DP 05-07, proposed revision to condition of Approval S4 to allow collection of in lieu fee for underground utilities.

RECOMMENDATION

The Planning Department recommends the Planning Commission take the following action:

- Adopt Planning Commission Resolution 09-843, recommending the City Council approve Modification #1 to TTR 5591 and DP 05-07 revising Condition of Approval S4 to allow collection of in lieu fee for undergrounding.

BACKGROUND

The City Council approved TTR 5591 and DP 05-07 on April 10, 2007 subject to Conditions of Approval. Conditions of Approval S4 states,

S4. The Applicant shall underground overhead utilities along Mountain View Street from Edison Pole No. 247394E north to Edison Pole No. 121281H, along Main Street from Pole No. 558833H to west to Pole No. 799356 and on Market Street from Pole No. 715426H to Pole No. 715427H.

The City Manager entered into an In-Lieu Fee Agreement on March 12, 2009 as a means to comply with the condition and the applicant submitted \$150,000 per the agreement. However, the condition is clear that the applicant shall underground but the condition does not indicate anything about in-lieu fees. In reviewing the Conditions of Approval, it appears the City Council's expectation was have the existing utilities be undergrounded.

ANALYSIS

It has been standard practice by the City to require development to underground existing utilities even if the utilities are across the street from the project.

The Fillmore Municipal Code 5.12.030, *Underground and Overhead Utility Facilities*, requires utilities to be underground if the City Council designated an underground district.

The Zoning Ordinance (Section 6.04.1805.24) *Undergrounding Utilities*, states that utilities shall comply with the F.M.C section 5.12. But, this Zoning Ordinance section also states, "The City Manager may waive any portion of this Subsection (undergrounding) if topographical, soil, or similar physical or economical conditions make undergrounding unreasonable/impractical."

The proposed project undergrounding expense became unreasonable and the City Manager entered into the In- lieu Agreement which is inconsistent with the Conditions of Approval.

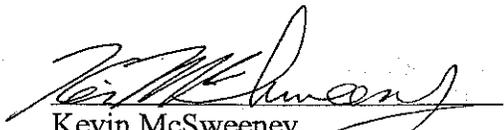
Therefore, for the sake of consistency with City documents, City Staff requests modification to the Conditions of Approval S4.

S4. The Applicant shall underground overhead utilities along Mountain View Street from Edison Pole No. 247394E north to Edison Pole No. 121281H, along Main Street from Pole No. 558833H to west to Pole No. 799356 and on Market Street from Pole No. 715426H to Pole No. 715427H **or the applicant can pay it's fair share of undergrounding. The fair share of undergrounding is estimated to be \$150,000.00.**

FISCAL IMPACT

The entire burden of cost to underground existing utilities was borne by the applicant with the original Condition of Approval. The City Engineer estimated the total cost of undergrounding to be approximately \$300,000 which would have prevented the applicant from developing the project.

The applicant has already paid \$150,000 to the City for it's share of the cost of undergrounding which was placed into a City trust account. Therefore, the Redevelopment Agency share will be a minimum of \$150,000. At this time, the Redevelopment Agency has not budgeted to underground.


Kevin McSweeney,
Community Development Director

Attachments

1. PC Resolution 09-843
2. Modified Condition of Approval
3. City Manager approved In-Lieu Fee Agreement

**CITY OF FILLMORE
PLANNING COMMISSION
RESOLUTION 09-843**

**RECOMMENDING CITY COUNCIL
APPROVE
MODIFICATION #1
TO
DEVELOPMENT PERMIT 05-07
TENTATIVE TRACT MAP 5591**

**CABRILLO ECONOMIC
DEVELOPMENT CORPORATION,
APPLICANT**

WHEREAS, The Planning Commission has received an application for Modification #1 to Development Permit 05-07 and Tentative Tract Map 5591 to revise Condition of Approval #S4 to allow payment of in-lieu fees for undergrounding existing utilities in Mountain View St. and Main St.; and

WHEREAS, The Community Development Director caused a notice of date, hour and place for a public hearing before the Planning Commission on October 21, 2009 before the Planning Commission, and mailed to the applicant and all property owners within the project boundaries and within 300 feet of the boundaries of the subject properties within the project boundaries, in accordance with Section 6.04.8025 of the Fillmore Zoning Ordinance and the California Environmental Quality Act (CEQA); and

WHEREAS, Based upon the evidence presented, the Planning Commission makes the following findings of fact:

1. The Applicant is Cabrillo Economic Development Corporation, 702 County Square Dr. Ventura, CA 93003.
2. The project site is located on 2.02 acres which is identified as Assessor Parcel Number 053-0-083-225.
3. The property identified above is currently owned by the City of Fillmore Redevelopment Agency, 250 Central Aye., Fillmore, CA 93015.
4. The project has been reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA).
5. The proposed use is in conformance with the adopted elements of the General Plan (1988) and General Plan Update (2003) in that the subject property is zoned Central Business District (CBD) and is designated as Central Business District in the General Plan.

6. The proposed use conforms to the applicable zoning regulations contained in Section 6.04.65 of the Zoning Ordinance incorporated in Ordinance 94-701 adopted November 22nd, 1994.
7. The project has been reviewed and approved a Mitigated Negative Declaration by the City Council on was prepared and a 20 day public review period for the initial Study concluded on April 10, 2007.
8. Condition of Approval #S4 has been revised to state the following;

S4. The Applicant shall underground overhead utilities along Mountain View Street from Edison Pole No. 247394E north to Edison Pole No. 121281H, along Main Street from Pole No. 558833H to west to Pole No. 799356 and on Market Street from Pole No. 715426H to Pole No. 715427H or the applicant can pay it's fair share of undergrounding. The fair share of undergrounding is estimated to be \$150,000.00.

NOW THEREFORE, be it resolved, based upon the above findings, the Planning Commission hereby recommends the City Council approve Modification #1 to Development Permit 05-07 and Tentative Tract Map 5591 subject to Exhibit 'COA'-Conditions of Approval.

PASSED AND ADOPTED by the Planning Commission this 21st day of October 2009 by the following votes:

Ayes:
Noes:
Abstain:
Absent:

Mark Austin, Chair

ATTEST:

Denise Beauduy, Secretary

EXHIBIT "COA"

CONDITIONS OF APPROVAL

MODIFICATION #1

TO

TENTATIVE TRACT MAP 5591

DEVELOPMENT PERMIT 05-07

DOWNTOWN SPECIFIC PLAN AMENDMENT 05-01

CABRILLO ECONOMIC DEVELOPMENT

CORPORATION, APPLICANT

RECITALS

A. AUTHORITY FOR THIS DOCUMENT

The conditions and terms contained in this exhibit are applied to permit Tentative Tract Map 5591, Development Permit 05-07, Specific Plan Amendment 05-01 (THIS PERMIT) and are applied under the City's authority regarding discretionary permits (Section 6.04.660) of the Fillmore Municipal Code).

B. IDENTIFICATION OF THE SUBJECT PROPERTY

The subject property is located at southeast corner of Mountain View and Main St. and is identified as Assessor Parcel Number(s) 053-0-083-225. The subject property is subject to the conditions and terms contained in this exhibit.

C. DESCRIPTION OF PROJECT AUTHORIZED BY THIS PERMIT

The PROJECT consists of a 21 unit apartment complex, 8 condominiums and a private community building to be implemented in one phase. All conditions of this permit are applicable upon implementation of Phase I, unless so specified in this document.

D. RESPONSIBILITY OF APPLICANT

The following conditions are the responsibility of the Applicant (Cabrillo Economic Development Corporation), or any of their successors or assigns.

E. BASIS UPON GRAPHIC ILLUSTRATIONS ("THE PLANS")

THIS PERMIT is based on the following graphic illustrations referred to as Exhibits "A" (Vicinity Map), "E" (Exterior building elevations), "F" (floor plans), "G" (Grading Plan), "S" (Site Plan). These exhibits represent the minimum information that is to be expected on subsequent construction documents that are used to implement the project. All interpretations and construction documents shall be based on the above Exhibits (dated April 10, 2007).

City Council Resolution 07-3002, 07-3003, 07-3004, 07-3005

TTR 5591, DP 05-07, SPA 05-01

April 10, 2007

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F. BASIS UPON WRITTEN DOCUMENTS

THIS PERMIT is based on the following written documents referred to as Exhibits "COA" (Conditions of Approval), MND (Mitigated Negative Declaration), "MMRP" (Mitigation Monitoring and Reporting Plan) and, "SR" (Staff Reports). All activity on the subject property is to be in compliance with all requirements and direction, as set forth in the above Exhibits.

The conditions and terms in this document shall prevail over all omissions, conflicting notations, specifications, dimensions, typical sections and the like, which may or may not be shown on the PLANS.

G. LIFE OF THIS DOCUMENT

The conditions and terms contained in this document apply to the subject property indefinitely or, until such time that this document is modified according to the process identified in paragraph "I" of this document. THIS PERMIT IS NOT TRANSFERRABLE TO ANOTHER PROPERTY.

H. TIME TO EXERCISE PERMIT

THIS PERMIT shall be substantially initiated or it shall expire on April 10, 2009 (two years from the date of project approval). Substantial initiation of THIS PERMIT shall be determined at the sole discretion of the CITY. Any extension of THIS PERMIT shall be processed per Section 6.04.6645 of the Fillmore Municipal Code.

I. PROCEDURE FOR MODIFICATION OF THIS DOCUMENT

Any proposed modification of this document shall be processed per Section 6.04.6650 of the Fillmore Municipal Code.

J. INDEMNIFICATION AND HOLD-HARMLESS STATEMENT

The APPLICANT shall indemnify, exonerate and hold harmless, the CITY and all officers and employees thereof, against all claims, demands, and causes of action arising out of improvements constructed within the project.

The APPLICANT agrees as a condition of approval of this permit, to defend, at the sole expense of the APPLICANT, any action brought against the CITY based upon approval of this permit. The APPLICANT shall reimburse the CITY for any costs and attorney's fees that the CITY may be required to pay as a result of any such action. The CITY may, as its sole discretion, participate in the defense of such action, but such participation shall not relieve the APPLICANT of the above obligations.

Any activity or structure pursued by the APPLICANT, authorized by this permit shall further constitute acceptance of all conditions and obligations imposed by the CITY on this permit. The APPLICANT, by said acceptance, waives any challenges as to the validity of these conditions.

K. COMPLIANCE WITH THIS DOCUMENT PRIOR TO AUTHORIZED ACTIVITY/USE

The APPLICANT shall comply with and satisfy all applicable conditions of this permit prior to being authorized to begin construction activity or prior to being allowed to occupy any structures.

Authorization to begin construction is to be granted by the Community Development Director upon presenting the Administrative Clearance Form to the Community Development Director with all required signatures.

Authorization for occupancy is to be granted by the Community Development Director upon having a final occupancy inspection conducted by the Project Planner, the Building Inspector, and the Fire Chief, and then having the Building Official issue a Certificate of Occupancy. Any required public improvements are to be completed to the satisfaction of the City Engineer prior to the Building Official issuing a Certificate of Occupancy.

Authorization shall not be granted if the proper and requested information is not presented in a neat and timely manner.

L. COMPLIANCE WITH ALL APPLICABLE CODES AND REGULATIONS

All activity and construction pursuant to this permit shall comply with all applicable codes and regulations including, but not limited to, the Fillmore General Plan and General Plan Update (2003), the Fillmore Zoning Ordinance (1994), the Downtown Specific Plan (2001), the Uniform Building Code (2001 version), the Uniform Fire Code, the Subdivision Map Act, and the "Standard Specifications for Public Works Construction".

M. PAYMENT OF FEES/DEPOSITS

All required Fees shall be paid by the APPLICANT prior to the issuance of a building permit.

CONDITIONS

The following conditions are organized by CITY Department.

ENGINEERING AND PUBLIC WORKS

GENERAL

- E1. Separate public improvement plans shall be prepared by a registered California Civil Engineer and shall be subject to the review by the City Engineer and approved prior to grading or building permit. The plans shall be submitted separately and concurrently with building drawings and shall include, but not be limited to, grading, public landscaping/irrigation, street, drainage, sewer, water and appurtenant improvements. The submittal shall also include construction cost-estimates, plan check fees, a soil report and all pertinent engineering design calculations.

- E2. Prior to approval of public improvements plans, the Applicant shall enter into a contract with the City to perform the installation and construction of all public improvements as contained in the conditions of approval of this permit, and shall post a bond, cash deposit or instrument of credit, guaranteeing the installation and construction of all required public improvements within the time period specified herein or shall complete improvements prior to recordation of subdivision map.
- E3. A registered California Civil Engineer shall be retained by the applicant to: 1) assure that the construction work conforms to the approved public improvement plans and specifications and, 2) to provide certified as-built plans of the public improvement plans after project completion. Submittal of the certified as-built plans will be required prior to, and as a condition of any temporary occupancy.
- E4. Construction plans drafting shall conform to the City of Fillmore drafting quality to the satisfaction of the City Engineer. Certified as-builts shall be submitted to the City for review and approval by the City. Applicant's engineers shall be responsible for collection of all data due to changed conditions and shall submit notes and data to the City to verify the as-builts. As-builts shall be submitted on mylar and electronically in AutoCAD format. No details shall be image files in the electronic as-built files. All details shall be drafted in AutoCAD to the satisfaction of the City Engineer.
- E5. If the City contributes funds for public improvement, the Applicant shall obtain at least three (3) competitive bids and the bid process shall comply with law for public works contracts. The bidding process and documents shall be approved by the City Engineer prior to award of contract by Applicant.
- E6. The City of Fillmore reserves the right to upgrade or add to City Standard Land Development Specifications related to public improvements. If the required parcel improvements are not completed prior to expiration of this permit, the Applicant shall be responsible for conformance with any and all upgraded and/or revised City Standards and Specifications.
- E7. The Applicant shall provide all necessary property grants in fee or easements for public streets, highways, sidewalks, breezeways, parkways, landscaping, alleys, sewers, water facilities, utilities, drainage facilities, storm drain treatment facilities and other facilities as required by the City Engineer. These property grants and easements shall be shown on the subdivision map.
- E8. The Applicant shall be responsible for all actions of his contractors and subcontractors until such time as the improvements have been accepted by the City of Fillmore
- E9. The Applicant shall not commence any construction until a pre-construction conference has been held between the Applicant, the Applicant's engineer, contractor and subcontractors, and the City Engineer, his representatives and City staff appointed by the

City Council Resolution 07-3002, 07-3003, 07-3004, 07-3005

TTR 5591, DP 05-07, SPA 05-01

April 10, 2007

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City Engineer.

- E10. The Applicant shall revise the Water Atlas and Sewer Atlas to reflect the as-built improvements constructed by this project and pay for the cost of scanning as-builts electronically in tiff format.
- E11. Prior to obtaining building permits the Applicant shall pay the most current Development Impact Fees as required by the current Fillmore City Council Resolution regarding Development Impact Fees.

GRADING

- E12. Prior to submission of building plans, the Applicant shall file with the Building Official a soils report prepared by a Geotechnical Engineer, who is registered in the State of California. The recommendations contained within the report shall be made part of these conditions. The Geotechnical Engineer shall certify on the plans that the approved plans and the as-built plan conform to the soils report, the recommendations of the soils report and any addendums.
- E13. The soils report shall include at a minimum geotechnical investigation of soil type, liquefaction, expansive soils, seismic safety and R-value testing for Main Street. The soils report shall provide soil design parameters as needed for the design and building of the proposed project.
- E14. All grading shall be done per the approved grading plan, and conform to Appendix Chapter 33 of the Uniform Building Code and/or as recommended by the Soils Report submitted for the project. The applicant shall retain the Geotechnical Engineer for grading inspections and soils testing.
- E15. All abandoned irrigation lines, and other obstructions on the project site, shall be removed and properly disposed of from the site. Proper backfill and compaction of voids shall be subsequently accomplished to provide protection against settlement.
- E16. It is the contractor's responsibility to use watering, dust fences or other methods as directed by the City Engineer to control dust throughout the construction operation.
- E17. All grading/construction debris shall be removed from the project site and disposed into a dump site prior to any exaction or fill operations and/or as directed by the City Engineer. The Applicant, his agents or employees shall be responsible for the removal and cleanup of any spill of materials or debris on public streets during the entire grading operation.

SEWER

- E18. The method of sewage and waste disposal shall be by means of a community disposal system. All sewer system improvements shall meet or exceed the City's standards, and the State Department of Health standards for separations between water mains and

City Council Resolution 07-3002, 07-3003, 07-3004, 07-3005
TTR 5591, DP 05-07, SPA 05-01
April 10, 2007
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sanitary sewers.

WATER

- E19. To ensure municipal water service to this development, the water rights for this property shall be offered for dedication to the City of Fillmore on the title sheet of the subdivision map.
- E20. The Applicant shall install adequately sized water services and water meters per current City of Fillmore Public Works standards. The building plans shall provide as needed the fixture unit calculations for water fixtures and provide size of water service per the Uniform Building Codes.
- E21. A backflow prevention device shall be installed as required by the Director of Public Works and the applicant shall notify the Ventura County Cross-Connected Control Inspector of any new installations and pass their initial inspections prior to acceptance of the public improvements.
- E22. The locations of water services shall be marked on the curb face in conformance with the City of Fillmore Public Works requirements.

DRAINAGE

- E23. On-site and off-site drainage facilities, compatible with the adopted City of Fillmore Drainage Master Plan, shall be provided and constructed as directed by the City Engineer.
- E24. The Applicant shall install the required drainage facilities concurrently with rough grading operations or provide an interim drainage and erosion control plan, and construct interim improvements by approval from the City Engineer. The drainage facilities shall mitigate potential flooding and adverse erosion that may affect adjacent properties and public rights of way. Erosion control measures shall be in place and maintained for the period of (November 15 and April 15).
- E25. On-site and off-site drainage plans, all pertinent engineering analysis and design calculations shall be prepared in accordance with the City's current engineering design criteria and shall be submitted by the Applicant to the City Engineer for review and approval.
- E26. The Applicant shall submit to the City for review and approval, drainage plans, hydrologic and hydraulic calculations prepared by registered civil engineer. All catch basins shall be designed to intercept a 50-year flow. The applicant shall provide acceptable path for the 100 year flow. Path shall be permanent asphalt or concrete surface or placed within a storm drain pipe.
- E27. Each building shall be protected from a 100-year frequency storm by raising finished floor elevations a minimum of 1 foot above the local 100 year flood.

- E28. Parcel shall be designed to drain into a street, alley or approved drain in such a manner that there will not be any depressions causing potential pond of water.
- E29. The Applicant shall submit as required a NOI with the Los Angeles Regional Water Quality Control Board for the construction of the project and shall provide a copy of the NOI to the City of Fillmore prior to construction.
- E30. The Applicant's Civil Engineer shall prepare the required Storm Water Pollution Control Plan (SWPCP) or Storm Water Pollution Prevention Plan (SWPCP). Design of this project shall meet the requirements of the Stormwater Quality Management Program (SQUIMP) as necessary.

STREETS

- E31. Prior to occupancy the Applicant shall annex this project into the City's Street Light and Landscape Maintenance Assessment District and shall reimburse the City all costs associated with the annexation.
- E32. The Applicant shall irrevocably offer to dedicate in fee, and improve to City standards, all sidewalks, parkways, streets, and street parking.
- E33. The applicant shall set all monuments as required by the State Subdivision Map Act.
- E34. Curb cuts, widths, and design shall conform to the currently adopted Fillmore City Standards.
- E35. Any street, alley, sidewalk, or curb that is damaged by the Applicant or the applicants' agent(s)/employees, shall be repaired by the applicant.
- E36. Sidewalks shall be widened around obstructions in accordance with Ventura County Standard plate D-10. The Applicant shall offer to dedicate right-of-way as necessary to accommodate the sidewalk widening around obstructions.
- E37. The Applicant shall install street name signs, traffic regulatory and warning signs, and any necessary street striping and markings as required by the City Engineer during construction. All signs shall conform to the Public Works Department requirements and shall be purchased by the Applicant. Striping and signing plans shall be prepared for the applicant by a Registered Engineer and shall be made a part of the improvement plans.
- E38. Soil reports, "R" value, and compaction tests will be required on all proposed streets or portions of streets requiring repair, overlay or reconstruction. Determination of actual structural sections to be constructed shall be based on State Highway design procedure, with the specified traffic index in the current Ventura County Road Standards designed for a 40-year life. A 1.5 -inch thick rubberized asphalt-wearing surface shall be added on

top of the structural section and shall not be considered as part of the structural section calculation. The top twelve (12) inch portion of soil (more if necessary) of the subgrade material shall be reworked and recompact to 90% density at the optimum moisture content shown in the R-value test. The Applicant shall pay all testing and inspection costs associated with the asphalt paving.

GAS, ELECTRIC, UTILITIES

- E39. All utility plans shall be coordinated with the respective utility companies. Preliminary utility designs shall be submitted for review and approval by the City Engineer prior to final utility design. Cable, electric and telephone utilities shall be placed in conduit and not be direct burial wire. All utility boxes shall be precisely located on the utility plans. Prior to construction an encroachment permit shall be acquired by the contractor performing the work for Edison, the Gas Company, telephone and Time Warner Cable facilities.
- E40. Prior to occupancy and energizing of the street lights, the Applicant shall pay all energy costs associated with street lighting for a period of one year
- E41. Street lights shall be installed in accordance with a street lighting plan prepared by the Applicant and approved by the City Engineer. The Street Lighting plan may be made part of the public improvement plans. Street lights poles shall be per City Standard residential street light standard and shall be spaced no more than the minimum standard spacing.
- E42. The as-built plans shall indicate the relative location of all public and private utilities including natural gas, electric, telephone and CATV lines.
- E43. On-site utility service shall be installed underground in accordance with Fillmore City policy.

SUBDIVISION MAP

- E44. Subdivision Map as defined in the State Subdivision Map Act and prepared by a licensed land surveyor shall show all parcels, right-of-way and easement(s) and shall be filed with the City of Fillmore Engineer's Office. The Subdivision Map shall conform to the requirements of the State Subdivision Map Act and the City's Subdivision Ordinance. Subdivision Map shall be subject to review by the City of Fillmore and technical check shall be completed by or under the direction of the County Surveyor or other City Engineer designated qualified reviewer. All pertinent background data shall be submitted as required. Once reviewed and approved by City Engineer and the City Council, the submittal of a mylar copy shall be requested. An AutoCAD format electronic copy of the approved map shall be submitted to the City Engineer and a tiff file from the County of the recorded map shall be provided to the City from the County Surveyors office.

- E45. All lot corners of lots within the subdivision shall be monuments with no less than 1-20" long by ½" diameter galvanized steel pipe imbedded no less than 18" into the earth. Lot corners shall not be located in the public sidewalk, curb, or parkway. Street monuments shall conform to Ventura County monument well standards and be located at intersections as recommended by the County Surveyor. All monuments proposed and existing shall be shown on the map with a distinct symbol for each type of monument.
- E46. The Subdivision Map shall show the following:
 (a) Total area of land being subdivided (in acres).
 (b) Total number of lots, parcels and condominium lots being created.
- E47. The Subdivision Map shall also contain and provide all information shown on the City of Fillmore Map checklist for Subdivision Maps.
- E48. Condominium buildings shall be tied to the parcels in two locations and shown on the Subdivision Map and the location shall be checked for technical correctness by the County surveyor or other designated Land Surveyor.
- E49. Public Utility Easements shall be provided as requested by the Public Utility Agencies and the City. The easements shall be offered for dedication on the map. The language of the Public Utility Easement shall be acceptable to the City Engineer.
- E50. The Applicant shall provide all necessary dedications in fee for streets, highways, sidewalks, breezeways, parkways, landscaping, alleys, sewers, water facilities, utilities, drainage facilities and other facilities as required by the City. These dedications are to be offered for dedication on the title sheet of the Subdivision Map.
- E51. All Public Utility Easements and offsite easements for sewer, water and storm drainage shall be no less than 15 feet in width and centered over the utility. Utility easement shall be contained on one property if possible and additional width will be required for easements that straddle property lines.

FIRE

- F1. If any hazardous waste is encountered during the construction of this project, all work shall be immediately stopped and Ventura County Environmental Health Department, the Fire Department, the Sheriff's Department and the City Inspector shall be notified immediately. Work shall not proceed until the clearance has been issued by all these agencies.
- F2. On site and/or boundary water mains, fire hydrants and services shall be installed according to City of Fillmore Public Works Department specification.
- F3. The Applicant shall obtain two certified fire flow test at the Applicant's expense to determine and check for compliance with fire flow requirements. The first test shall be

conducted prior to approval of improvement plans and the second test after construction of the subject improvements but prior to issuance of a certificate of occupancy. The tests must be certified by a Fire Protection Engineer. A minimum fire flow of 1,500 gallons per minute shall be provided at the subject site.

- F4. Fire hydrants shall be installed and be in service prior to any combustible construction and shall conform to the minimum standards of the Ventura County Water Works Manual and the City of Fillmore Public Works Department Standards.

Each hydrant shall be a Clow model 960, or equivalent, with two, 2 ½ inch outlets and one, 4-inch outlet for Commercial construction or A Clow model 950, or equivalent, with one 2 ½ inch outlet and one 4 inch outlet for residential construction. Required flow shall be achieved at no less than 20 psi (pounds per square inch) residual pressure. Fire Hydrants shall be spaced 500 feet on center, and so located that no structure will be farther than 250 feet from one hydrant. Hydrants shall be located no less than three (3) feet nor more than five (5) feet from any curb.

- F5. All roof covering materials shall consist of State Fire Marshall-approved, noncombustible, fire retardant materials.
- F6. Address numbers, a minimum of six (6) inches in height, shall be installed prior to occupancy and shall be illuminated and readily visible at night. The Fire Chief shall approve the method of illumination.
- F7. All required street signs shall be installed prior to the City's acceptance of the development and public improvements.
- F8. The Applicant shall provide on-site fire protection, as determined by the Fire Chief. Adequate fire protection shall be installed and be in service, prior to obtaining any building permits. The Applicant shall maintain passable vehicular access to all buildings and fire hydrants as required by the Fire Chief.
- F9. Smoke detectors, approved by the State Fire Marshall, shall be installed in all areas leading to sleeping rooms.
- F10. Automatic fire sprinklers shall be provided as required by the Fillmore Fire Chief.
- F11. All brush and grass determined to be a fire hazard by the Fire Chief, shall be cleaned be cleared to a minimum distance of 100 feet from all proposed structures, prior to beginning framing of any combustible construction.
- F12. In accordance with the California Administrative Code, Title 24, Section B1419, an approved spark arrester shall be installed on the every chimney of any structure.
- F13. Fire hydrant valves shall be maintained free of all obstructions in a manner deemed

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satisfactory by the Fire Chief.

- F14. All driveways and canopies shall have a minimum vertical clearance of 13 feet, 6 inches.
- F15. No burning of combustible refuse material shall be permitted the subject property.
- F16. A permit shall be obtained from the Fillmore Fire Chief and the Ventura Country Air Pollution Control District (APCD) for the handling, storage and use of all flammable, combustible and hazardous materials.

BUILDING & SAFETY

- B1. With the first submittal of construction documents, a reproduction of this document (Exhibit "COA") shall be incorporated as a full-sized page into all sets of the construction documents.
- B2. Before starting any work, the Applicant shall designate in writing an authorized representative who shall have complete authority to represent and act for the applicant. Such written authorized shall be submitted to the Community Development Department. Said authorized representative shall be present at the site of work at all times while work is actually in process on the development. During periods when work is suspended, arrangements acceptable to the City shall be made for any emergency work that may be required.

URGENT WORK – Whenever orders by the City to the applicant's representative, Superintendent, or Foreman, to do work required for the convenience and safety of the general public because of inclement weather or any other dangerous condition, and said orders are not immediately acted upon by such person, the City may do, or have such work done, by others at the applicant's expense.

NUISANCE WORK – When the project causes a nuisance to the public and the City notifies the Applicant in writing of the nuisance, the Applicant shall resolve the problem causing the nuisance within 36 hours. If the Applicant fails to correct the nuisance in a timely manner the City may do or have such work done by others at the Applicant's expense.

TECHNOLOGY

- T1. For basic services each home shall be provided with dual RG6 Quad or Tri shielded coax cable and dual CAT5e from demarcation block panel.
- T2. For satellite services each home shall be provided with a minimum of two dual RG6 with ground wire from structured wiring panel terminating in a weather tight J-Box. J-Box location should be located towards rear of home on the south side of the structure.
- T3. For wireless services each home shall be provided with a minimum of dual RG6 and dual

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CAT5e with ground wire from structured wiring panel terminating in a weather tight J-Box. J-Box location shall be located facing designated area for wireless antennas that serve the area.

- T4. For inside the home dual RG6 Quad or Tri shielded coax cable and Dual CAT5e shall be installed to at least one location per room.
- T5. All wiring shall be terminated, tested and labeled from structured wiring panel to the end of the line.
- T6. Structured wiring panel with modules shall be installed to support basic services. All panels shall have at least one duplex installed, on a dedicated circuit.
- T7. A surround sound system must be provided for the entertainment center by means of one (1) pair of 16 gauge speaker wire. It shall be installed in a location approved by the Building Official.

PLANNING

- P1. Continuous maintenance of all landscaped areas dedicated to the City shall be in the Landscaping Maintenance District. The Applicant shall initiate annexation proceedings prior to Certificate of Occupancy.
- P2. Landscaping and automatic irrigation shall be installed in all landscaped areas, per an approved landscaping and irrigation plan which shall be prepared by a registered landscape architect, licensed to work in California. Building permits will not be issued, and no landscaping is to be installed until the City's landscape architect approves the subject landscaping plans. All landscaping shall be installed, and its installation inspected by the Building Inspector and City Landscape Architect, prior to the issuance of a certificate of occupancy.
- P3. A minimum size of 24 inch box with a minimum 2 inch trunk diameter shall be required for each street tree, and each street tree shall be 8 to 12 feet tall with a minimum 4 foot wide head at the time of planting. All shrubs and vines shall be 5-gallon size (minimum) except as specified by the Community Development Director. All plant materials shall remain tagged with the species type until inspection of landscaping occurs. A 10-foot long root barrier shall be installed by all curb and gutter and sidewalk within 10 feet of a tree.
- P4. The Applicant shall post a bond for landscaping improvements. The amount shall be established by an estimate to be prepared by the Applicant's landscape architect and reviewed by the City.
- P5. Outdoor storage shall only be permitted as indicated on Exhibit "S". Storage shall be screened from adjacent properties and streets by a fence, wall or other method deemed

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acceptable by the Community Development Director.

- P6. No lighting shall be of the type or in location such that it will constitute a hazard to vehicular traffic, on either private or public streets. To prevent damage from automobiles, light standards shall be mounted on reinforced concrete pedestals or be otherwise protected.
- P7. The Applicant shall hire a licensed engineer to prepare a photometric plan for the project. The plan shall be submitted with construction drawings for the project. The plan shall show the location, type, and intensity of light sources. Light spill onto adjacent private property from the project shall not exceed 0.10 foot candle. The photometric plan shall indicate point-by-point lighting values for the project site based on a ten (10) foot grid and 25 feet beyond all project boundary lines. The photometric plan shall provide a minimum lighting value of (0.50) foot candle. The average to minimum ratio between light sources shall be 4:1.
- P8. All garages shall be equipped with roll-up doors.

RESOURCE MANAGEMENT

- R1. The requirements outlined in the Construction and Demolition Debris Resource Recovery and Recycling Plan shall be printed on the grading and construction plans.
- R2. As part of initial project description and design all solid waste components and management plans for those materials that will enter the waste stream, as defined in chapter 8.04 of the City Municipal Code, shall be identified. The subsequent management plan which is developed shall be included as part of the specific notes both in the project description and as part of the plans for the project under the heading Resource Recovery, Recycling and Trash Management (plan). This plans and notes placement shall conform to the requirements of City Council Resolution 99-2369.
- R3. Design of Waste Stream Material Storage and Handling shall conform to Section 8.04.050c of the City Municipal Code and The City of Fillmore Zoning Ordinance section 6.04.18 pages III 21, 22, 23, and 24.
- R4. Prior to Plan Check Clearance conditions R1 and R2 shall be completed or, a specific Resource Recovery, Recycling and Trash Management Plan shall be approved.
- R5. The applicant shall follow the Resource Recovery and Recycling Plan and document the results during construction and/or demolition.
- R6. Prior to completion or occupancy clearance, any and all documentation required by the Resource Recovery, Recycling and Trash plan shall be filed and approved.

- R7. Prior to occupancy clearance, a subsequent Resource Recovery, Recycling and Trash plan shall be submitted and approved for project operations. This plan shall conform to the requirements set forth in City Council Resolution 99-2369
- R8. All Resource Recovery, Recycling and Trash plans will include any requirements of other departments.
- R9. If the use for the project includes both commercial and residential aspects, Waste Stream Material Storage must allow for separate containers for each use.
- R10. And special waste streams that are identified and managed in a method different or unique must be quantified for the purposes of the Resource Recovery, Recycling and Trash Plan. This quantification should include quantity or weight, and disposition.

SPECIAL CONDITIONS

ENGINEERING AND PUBLIC WORKS

SOILS

S1. Prior to Building Permit issuance, a subsurface assessment to evaluate soil for contamination of petroleum hydrocarbons and other hazards consistent with the previous use of an auto wrecking yard shall be conducted. This study shall be completed as part of the soils report and shall also provide recommendations as necessary to meet or exceed state law allowable for the proposed use. No building permits shall be issued until a Soils Engineer certifies and County Environmental Health provides approval that proper remediation has occurred if contaminations are present.

DEDICATIONS

S2. Applicant shall offer to dedicate in fee Parcel A to the City of Fillmore.

BIKE PATH

S3. A 10 foot bike path and promenade shall be constructed as shown on the Tentative Map. The bike path shall be made of concrete and generally match the design of the existing promenade that is existing to the west. The bike path construction shall be in conformance to the regulations of the Public Utility Commission. The fencing for the promenade shall not be closer than 8'6" clear from the centerline of the railroad track. The fence shall be placed on a 12" concrete ribbon. The north edge of the promenade shall also have a 1 foot concrete ribbon. Tree wells and grate, light standards and trash receptacles and benches shall be placed adjacent to the ribbon and there shall be a minimum of 60" clear for path adjacent to the lighting and tree wells. Score lines shall match existing promenade and shall be installed by saw cut. Lighting, tree spacing, trash receptacles and benches shall be placed at intervals to match existing promenade to the west and as directed by the Community Development Director.

UNDERGROUNDING

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S4. The Applicant shall underground overhead utilities along Mountain View Street from Edison Pole No. 247394E north to Edison Pole No. 121281H, along Main Street from Pole No. 558833H to west to Pole No. 799356 and on Market Street from Pole No. 715426H to Pole No. 715427H or the applicant can pay it's fair share of undergrounding. The fair share of undergrounding is estimated to be \$150,000.00. (Amended by Planning Commission on October 21, 2009 per Resolution 09-843)

STREETS

S5. Mountain View Street shall be 60 feet of right of way, 30 feet on each side of the centerline. Mountain View Street shall be improved with a 10 foot wide sidewalk with trees in tree grates. Tree grates shall match existing promenade tree grates and spacing of trees shall be installed as required by the Planning Director.

S6. Main Street shall be a minimum of 34 feet from curb face to curb face. The south side of Main Street along project frontage shall be improved with a 6" curb and 18" gutter. The sidewalk shall be 5 feet wide and separated from the street by a 6 foot parkway as measured from the face of curb to the edge of sidewalk. The parkway shall be planted with sod and irrigated by automatic subsurface drip irrigation system. The right of way for Main Street will vary from 53 feet to 57 feet and all widening for the required road section shall occur by widened along the project frontage. Full width of Main Street asphalt shall be overlaid along the project frontage. Main Street parkway shall be planted with street trees of type and spacing as required by the Planning Director.

S7. The public improvement plans shall provide street lights along Main Street and Mountain View Street along the frontage as required by the City street light standards. The street light plans shall include a dual luminaire at south east corner of the intersection of Mountain View Street and Main Street.

DRAINAGE

S8. This project shall collect and convey storm drain to a biofilter located north of the bike path. The biofilter shall provide storm drain treatment at a minimum as required by the Ventura County Municipal Storm Water NPDES permit. The biofilter shall be turf swale and contain a separate irrigation system and meter. This facility shall also be designed to treat nuisance water. The treated water shall be collected and discharged directly to the Mountain View Storm Drain. An easement for maintenance of the biofilter area shall be dedicated on the subdivision map to the City.

S9. A storm drain from the Mountain View Storm Drain shall be installed in Main Street and shall terminate at the north east curb return of Market Street and Main Street. The actual layout and final design and elevation shall be approved by the City Engineer. The pipe shall be designed at a minimum for the 10 year storm event and catch basins shall be sized to collect a 15 years storm event.

S10. The project shall provide a 100 year permanent drainage path through the site as required

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by the City Engineer. Any storm water of public origin that flows onsite shall be provided with a drainage easement, shown on the subdivision map and dedicated on the title sheet.

ASSESSMENT

S11. The street and promenade lighting, promenade, street trees, promenade trees, promenade furniture, biofilter landscape and biofilter irrigation system for this project shall be included in lighting and landscape assessment district. The City shall include all estimated costs and inflation rates and cost of living increases for maintenance, replacement, upgrades, water cost, electrical cost and other incidental cost as part of the maximum assessment for these facilities to assure proper maintenance in perpetuity.

WATER

S12. Onsite water line shall be privately owned and maintained and provided with double detector check backflow devices.

SEWER

S13. Onsite sewer line shall be privately owned and maintained.

S14. The Applicant shall participate in the established City of Fillmore Interim Sewer Subscription Program (ISSP). This participation shall be consistent with the November 14, 2006 City Council Update. Any ISSP fees for participation are in addition to the usual Sewer Development Impact Fee (DIF). The applicant shall pay the cash subscription fee for all Equivalent Residential Units (ERUs) and also pay the City's Historic Invested Cost Recovery component of this fee of approximately \$1,915 per ERU due in cash within thirty (30) days of final project approval by the Planning Commission or City Council, whichever applies to each specific project. Delay in posting the guarantee(s) beyond that date will not obligate the City to provide sewer service and void the approval of this application. The final installment of this fee will be estimated within this 60 day period and reviewed at time of approval of building and tenant improvements and shall be adjusted for the actual installations.

PARK AND RECREATION

S15. An in lieu fee in the amount of \$75,955 shall be submitted to offset the requirement of the 5,660 square foot pocket park as previously required by the Downtown Specific Plan. This fee is in addition to the usual Park and Recreation Fee of the Development Impacts that are also required to be paid.

STORM DRAIN MAINTENANCE ASSESSMENT

S16. Prior to occupancy, the project shall participate in the Heritage Valley Storm Drain Maintenance Assessment District and shall reimburse the City all costs associated with the annexation. This project shall pay its fair share of the associated assessment for the storm water treatment benefit provided for this property by the Heritage Valley Parks Treatment Wetlands and for the relief of flooding provided for this property by the Pole Creek Debris Basin as required by City Council.

AFFORDABLE HOUSING

AH1. Prior to issuance of building permits, the Applicant shall enter into agreements with the City of Fillmore Redevelopment Agency to designate and restrict all 29 units to "Very Low Income" households and 2 units to "Households of Low Income." The term "Households of Very Low Income" means households, whose income does not exceed 50% of Area Median Income, adjusted for household size. The term "Households of Low-Income" means households whose income does not exceed 80% of Area Median Income, adjusted for household size. Said 29 units shall be restricted to "Very Low Income" households for a period of no less than 55 years. In addition, 2 additional units shall be restricted to "Low Income" households for a period of no less than 30 years.

The term "Area Median Income" means the median family income, as adjusted for household size, for the Ventura County Standard Metropolitan Statistical Area, as annually estimated by the United States Department of Housing and Urban Development, pursuant to Section 8 of the United States Housing Act of 1937, and as permitted by the regulations of the California Department of Housing and Community Development.

NOISE STUDY

N-1: The Applicant shall submit traffic count for the noise study prior to Building Permit issuance per the Final Downtown Specific Plan Master EIR and Master Traffic Study or the proposed "Project" is subject to a Noise Study pursuant to Mitigation Noise (1) page 2-14. The following are the mitigations pursuant to the Noise Study, Rincon Consultants, Inc., October 4, 2002.

N-1a: Air conditioning or a mechanical ventilation system shall be installed so that windows and doors may remain closed.

N-2a: The walls, doors, and windows of units that face Mountain View, Main St. and railroad tracks shall be constructed to include sufficient noise attenuation to reduce interior levels to a CNEL of 45 dBA. This would require at a minimum the use of double-paned windows for windows facing Mountain View, Main St. and the railroad.

N-3a: Windows shall have a minimum Standard Transmission Class (STC) of 35 and be properly installed, weather-stripped, and insulated.

N-4a: Doors with a minimum STC of 35 shall be used for doorways facing either Main St. or the railroad and shall be installed in conformance with California Title 24 requirements.

N-5a: The exterior wall facing material shall be stucco and/or should be designed for a minimum STC of 45.

N-6a: All roof or attic vents shall be baffled.

MITIGATION MEASURES APPLIED TO THE PROJECT

The following mitigation measures are specifically incorporated into the project to adequately address the identified potential adverse effects on the environment, as listed below. The Applicant is fully responsible for the diligent implementation of said mitigation measures with monitoring of said implementation to be done by the City of Fillmore, or as appointed by the City, at the expense of the Applicant. Said measures are equally binding on any successors in interest or assigns on the project.

MM1. The proposed "Project" is subject to the Downtown Specific Plan Final Master Environmental Impact Report/Master Environmental Assessment (2001) Mitigation Measures and Mitigation Monitoring Plan Exhibit "MMP". Attached document, is a summary of the environmental impacts, mitigation measures, alternatives, and cumulative effects.

Air Quality:

AQ-1 Dust Control Procedures. During clearing, grading, earth moving, or excavation operation, excessive fugitive dust emissions shall be controlled by regular watering, paving construction roads, or other dust preventive measures using the following procedures:

1. All material excavated or graded shall be sufficiently watered to prevent excessive amounts of dust. Watering shall occur at least twice daily with complete coverage, preferably in the late morning and after work is done for the day.
2. All clearing, grading, earth moving, or excavation activities shall cease during periods of high winds (i.e., greater than 20 mph averaged over one hour) so as to prevent excessive amounts of dust.
3. All material transported on- or off-site shall be either sufficiently watered or securely covered to prevent generation of excessive amounts of dust during transport.
4. Facemasks shall be used by all employees involved in grading or excavation operations during dry periods to reduce inhalation of dust, which may contain the fungus that causes San Joaquin Valley Fever.
5. The area disturbed by clearing, grading, earth moving, or excavation operations shall be minimized so as to prevent excessive amounts of dust.

AQ-2 Fugitive Dust Control. After clearing, grading, earthmoving, or excavation operations, and during construction activities, fugitive dust emissions shall be controlled using the following procedures:

1. All inactive portions of the construction site shall be seeded and watered until grass cover is grown.

2. All active portions of the construction site shall be sufficiently watered to prevent excessive amounts of dust.

At all times, fugitive dust emissions shall be controlled using the following procedures:

1. Onsite vehicle speed shall be limited to 15 mph.
2. All areas with vehicle traffic shall be watered periodically.
3. Environmentally-safe dust suppressants shall be used when needed.
4. Streets adjacent to the project site shall be swept as needed to remove silt, which may have accumulated from construction activities so as to prevent excessive amounts of dust.

AQ-3 Ozone Precursor Controls. At all times, ozone precursor emissions shall be controlled using the following procedures:

1. Equipment engines shall be maintained in good condition and in proper tune as per manufacturer's instructions.
2. Construction activities shall utilize new technologies to control ozone precursor emissions, as they become available and feasible.

Cultural Resources:

CR-1 Procedures for Discovery of Intact Cultural Resources. If unanticipated cultural resource remains are encountered during construction or land modification activities, the developer shall follow the applicable procedures established by the Advisory Council on Historic Preservation concerning protection and preservation of Historic and Cultural Properties (36 CFR 8700). In this event, the developer/construction contractor shall cease work until the nature, extent, and possible significance of any cultural remains can be assessed and, if necessary, remediated. Such assessment and remediation shall be implemented by the developer and shall be subject to review and approval by the Deputy Director/City Planner prior to commencement with onsite construction/grading activities. If remediation is needed, possible techniques include removal, documentation, or avoidance of the resource, depending upon the nature of the find.

CR-2 Procedures for Discovery of Human Remains. In the event that human remains are discovered during construction or land modification activities, the developer shall follow the procedures in Section 7050.5 of the California Health and Safety Code. These procedures require notification of the County coroner and the Native American Heritage Commission if the coroner determines the remains to be those of Native American ancestry. Onsite

construction/grading shall not commence until evidence has been presented to the City manager that the developer has adhered to these procedures.

Hazards:

H1. Prior to building permit issuance, the applicant shall submit a subsurface assessment to evaluate if contaminated soil remains present on site.

H2. If the subsurface assessment finds contamination on the site, the project shall submit a Work Plan approved by Ventura County Environmental Health Department for remediation.

HYD-1 Stormwater Pollution Prevention Plan. Prior to issuance of a grading permit, each developer shall prepare a Stormwater Pollution Prevention Plan for the site for review and approval by the City of Fillmore. The SWPPP shall fully comply with RWQCB (Regional Water Quality Control Board) requirements and shall contain specific BMPs to be implemented during project construction to reduce erosion and sedimentation to the maximum extent practicable. At a minimum, the following BMPs shall be included within the Plan:

Pollutant Escape: Deterrence

- Cover all storage areas, including soil piles, fuel and chemical depots. Protect from rain and wind with plastic sheets and temporary roofs.

Pollutant Containment Areas

- Locate all construction-related equipment and related processes that contain or generate pollutants (i.e. fuel, lubricant and solvents, cement dust and slurry) in isolated areas with proper protection from escape.
- Locate construction-related equipment and processes that contain or generate pollutants in secure areas, away from storm drains and gutters.
- Place construction-related equipment and processes that contain or generate pollutants in bermed, plastic-lined depressions to contain all materials within that site in the event of accidental release or spill.
- Park, fuel and clean all vehicles and equipment in one designated, contained area.

Pollutant Detainment Methods

- Protect downstream drainages from escaping pollutants by capturing materials carried in runoff and preventing transport from the site. Examples of detainment methods that retard movement of water and separate sediment and other contaminants are silt fences, hay bales, sand bags, berms, silt and debris basins.

Erosion Control

- Schedule project grading into phases that allow for erosion control of smaller areas rather than a single, large exposed site. Vegetation should only be removed when necessary and immediately before grading.

- Conduct major excavation during dry months. These activities may be significantly limited during wet weather.
- Utilize slope stabilizer, including natural fiber erosion control blankets of varying densities according to specific slope/site conditions.
- Expedite the restoration of natural vegetative erosion control and reduce risk of slope failure by immediately re-vegetating and irrigating until first one inch of rain.
- Reduce fugitive dust by wetting graded areas with adequate, yet conservative amount of water. Cease grading operations in high winds.

Recycling/Disposal

- Develop a protocol for maintaining a clean site. This includes proper recycling of construction-related materials and equipment fluids (i.e., concrete dust, cutting slurry, motor oil and lubricants).
- Provide disposal facilities. Develop a protocol for cleanup and disposal of small construction wastes (i.e., dry concrete).

Hazardous Materials Identification and Response

- Develop a protocol for identifying risk operations and materials. Include protocol for identifying spilled-materials source, distribution; fate and transport of spilled materials.
- Provide a protocol for proper clean-up of equipment and construction materials, and disposal of spilled substances and associated cleanup materials.
- Provide an emergency response plan that includes contingencies for assembling response team and immediately notifying appropriate agencies.

HYD-2 Stormwater Management Plan. Prior to issuance of a grading permit, the applicant shall demonstrate that a Stormwater Management Plan satisfying the requirements of the SQUIMP (Stormwater Quality Urban Impact Mitigation Plan) has been developed and approved by the Public Works Director. At a minimum, the plan shall include provisions for addressing the following areas of concern, as outlined in the SQUIMP.

Minimization of Storm Water Pollutants of Concern

Source-control and treatment BMPs are needed to assure that pollutants are removed to the maximum extent practicable. At a minimum each Stormwater Management Plan shall include:

- A program for the routine cleaning and maintenance of streets, parking lots, catch basins and storm drains, especially prior to the rainy season, to help reduce the level of gross pollutants being discharged from the plan area.

- Other BMPs incorporated in project design so as to minimize, to the maximum extent practicable, the introduction of pollutants of concern to receiving waters. Such BMPs may include, but are not limited to:
 - *Use of permeable materials where feasible for sidewalks and patios*
 - *Directing rooftop runoff to pervious surfaces, such as landscaped areas*
 - *Use of biofilters, including vegetated swales and strips*
 - *Storm water treatment wetlands*

Informational Materials, including Storm Drain System Stenciling and Signage

The following informational materials shall be provided:

- Educational flyers for each new building unit regarding toxic chemicals and alternatives for fertilizers, pesticides, cleaning solutions and automotive and paint products (the flyers should also explain the proper disposal of household hazardous waste)
- Stenciling of all storm drains inlets and post signs along channels to discourage dumping
- Maintenance of the legibility of stencils and signs

Proper Design of Trash Storage Areas in Commercial Zoned Area

All trash container areas shall meet the following Structural or Treatment Control BMP requirements:

- Trash container areas shall have drainage from adjoining roofs and pavement diverted around the area(s).
- Trash container areas shall be screened or walled to prevent off-site transport of trash.

Ongoing BMP Maintenance

All permanent BMPs shall be on City property or easements and maintained by a maintenance assessment district.

Proper Design and Treatment of Runoff from Parking Lots

Parking lots may accumulate oil, grease, and water insoluble hydrocarbons from vehicle drippings and engine system leaks. To minimize the potential impacts of parking lots, the following shall be

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required:

- Oil and petroleum hydrocarbons produced at parking lots shall be removed from runoff prior to entering Sespe Creek. If a regional treatment facility is developed, then the runoff needs to enter the drain.
- The developer shall ensure adequate operation and maintenance of treatment systems, particularly sludge and oil removal, and system fouling/plugging prevention control

Per the SQUIMP, structural or treatment control BMPs must meet the following design standards:

- Volume based post-construction structural or treatment control BMPs shall be designed to mitigate (infiltrate or treat) storm water runoff from either:
 - *The volume of annual runoff to achieve 80% volume capture (Ventura County Land Development Guidelines);*
 - *The 85th percentile 24-hour runoff event;*
 - *The volume of runoff produced from a 0.75-inch storm event;*
or
 - *The volume of runoff produced by a rainfall criterion that achieves the same reduction in pollutant loads as b.*
- Flow-based post-construction structural or treatment control BMPs shall be sized to handle the flow generated from either:
 - a. 10% of the 50-year design flow rate;
 - b. A flow that will result in treatment of the same portion of runoff as treated using volumetric standards above;
 - c. A rain event equal to at least 0.2 inches per hour intensity;
or
 - d. A rain event equal to at least two times the 85th percentile hourly rainfall intensity for Ventura County.

HYD-3Final Drainage Plans. Prior to issuance of a grading permit, the developer shall prepare a final drainage hydraulic analyses as determined by the Public Works Director. The plans shall be subject to review and approval by the Public Works Director.

Noise:

N1. Prior to building permit issuance, the construction plans shall indicate the following:

- Air conditioning or a mechanical ventilation system shall be installed so that windows and doors may remain closed.

City Council Resolution 07-3002, 07-3003, 07-3004, 07-3005
TTR 5591, DP 05-07, SPA 05-01
April 10, 2007
Page 23 of 24

- The walls, doors, and windows of units that face both Central Avenue and the public alley shall be constructed to include sufficient noise attenuation to reduce interior levels to a CNEL of 45 dBA. This would require at a minimum the use of double-paned windows for windows facing both Central Avenue and the public alley.
- Windows shall have a minimum Standard Transmission Class (STC) of 35 and be properly installed, weather-stripped, and insulated.
- Doors with a minimum STC of 35 shall be used for doorways facing either the railroad tracks or Main St. and shall be installed in conformance with California Title 24 requirements.
- The exterior wall facing material shall be stucco and/or should be designed for a minimum STC of 45.
- Roof or attic vents facing either the railroad or Main St. shall be baffled.

Recreation:

R1. The Applicant shall submit \$75,955 in lieu of constructing a pocket park at the northeast corner of Mountain View Ave. and Main St.

Transportation:

T1. Prior to building Permit issuance, the applicant shall pay \$2,349 into the County Traffic Impact Mitigation Fee.

Utilities:

U1. If the project is constructed prior to completion of the new water recycling plant, the developer shall participate in the City's sewer subscription program prior to occupancy and the project shall be served by package treatment plants if necessary. After completion of the water recycling plant, the developer shall pay the development impact fee and be served by the water recycling plant.

In Agreement and Understanding

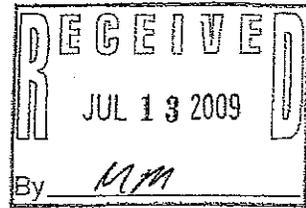
Patti Walker,
Mayor

Date

Jesse Ornelas
Cabrillo Economic Development Corporation

Date

END OF CONDITIONS



IN-LIEU FEE AGREEMENT

This Agreement is entered into on March 12, 2009 by and between the CITY OF FILLMORE, CALIFORNIA, a municipal corporation, hereinafter ("City"), the FILLMORE REDEVELOPMENT AGENCY, and CABRILLO ECONOMIC DEVELOPMENT CORPORATION (hereinafter "Developer").

A. SUBJECT PROPERTY

The subject property is located at southeast corner of Mountain View Street and Main Street and is identified as Assessor Parcel Number(s) 053-0-083-225, TRACT 5591, and more particularly described in Exhibit A, attached to this Agreement.

B. UNDERGROUNDING CONDITION

PURSUANT to the Approved **CONDITIONS OF APPROVAL; TENTATIVE TRACT MAP 5591; DEVELOPMENT PERMIT 05-07; DOWNTOWN SPECIFIC PLAN AMENDMENT 05-01; Section SPECIAL CONDITIONS: UNDERGROUNDING S4.**

S4: The Applicant shall underground overhead utilities along Mountain View Street from Edison Pole No. 247394E north to Edison Pole No. 121281H, along Main Street from Pole No. 558833H to west to Pole No. 799356 and on Market Street from Pole No. 715426H to Pole No. 715427H.

C. CITY AGREEMENT

PURSUANT to the City of Fillmore Redevelopment Agency **REQUEST FOR DEVELOPER PROPOSALS, SECTION 7, Streetscape and Required Public Improvements; existing overhead power lines.**

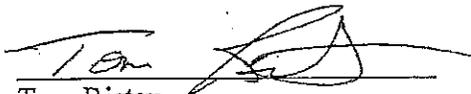
Existing overhead power lines: Undergrounding all utilities. Redevelopment Agency to pay for 50% of under grounding.

D. AGREEMENT

PURSUANT to the above referenced **CONDITIONS OF APPROVAL** and **REQUEST FOR DEVELOPER PROPOSAL**, the Developer agrees to pay for 50% of the costs associated for the under grounding of the existing overhead utilities, as described in Special Condition S4, in an amount not to exceed \$150,000. The Developer and the City agree that a **PAYMENT** of an In-Lieu Fee for the under grounding of the overhead utilities shall satisfy the above mentioned condition.

E. AMOUNT

The In-Lieu fee amount to be paid by the Developer to the City shall not exceed ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000).



Tom Ristau,
City Manager/Executive Director
City of Fillmore/Fillmore Redevelopment Agency



Jesse R. Ornelas,
Real Estate Development Deputy Director
Cabrillo Economic Development Corporation

LEGAL DESCRIPTION

EXHIBIT "A"

Parcel 1:

That portion of the Rancho Sespe, in the City of Fillmore, County of Ventura, State of California, as per Map recorded in Book 1, Page 102 of Patents, in the office of the County Recorder of said County, lying within the land described forth in the deed to the Southern Pacific Railroad Company, recorded June 6, 1889 in Book 28, Page 201 of Deeds, in the office of the County Recorder of said County.

EXCEPT that portion lying Westerly of the Easterly boundary of Mountain View Street, 60 feet wide, as shown on the map of City of Fillmore, recorded in Book 3, Page 10 of Maps.

ALSO EXCEPT from said land all minerals and mineral rights, interests and royalties, including without limiting, the generality thereof, oil, gas and other hydrocarbon substances, as well as metallic or other solid minerals, in and under the property below 500 feet; without, however, the right for any purpose whatsoever to enter upon, into or through the surface of the property, as reserved by Southern Pacific Transportation Company, a Delaware corporation, in deed recorded October 26, 1990 as Document No. 90-160907 of Official Records.

Parcel 2:

That portion of the Rancho Sespe, in the City of Fillmore, County of Ventura, State of California, as per Map recorded in Book 1, Page 102 of Patents, in the office of the County Recorder of said County, lying within the Northerly 35.00 feet of that certain strip of land 100 feet wide described second in the deed to the Southern Pacific Railroad Company, recorded June 6, 1889 in Book 28, Page 201 of Deeds, in the office of the County Recorder of said County.

EXCEPT that portion thereof lying Easterly of the Southerly prolongation of the Easterly line of the land described forth in said deed to the Southern Pacific Railroad Company.

ALSO EXCEPT that portion lying Westerly of the Easterly boundary of Mountain View Street, 60 feet wide, as shown on the map of the City of Fillmore, recorded in Book 3, Page 10 of Maps.

ALSO EXCEPT from said land all minerals and mineral rights, interests and royalties, including without limiting, the generality thereof, oil, gas and other hydrocarbon substances, as well as metallic or other solid minerals, in and under the property below 500 feet; without, however, the right for any purpose whatsoever to enter upon, into or through the surface of the property, as reserved by Southern Pacific Transportation Company, a Delaware corporation, in deed recorded October 26, 1990 as Document No. 90-160907 of Official Records.

APN: 053-0-083-220

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CITY OF FILLMORE

CENTRAL PARK PLAZA

250 Central Avenue

Fillmore, California 93015-1907

(805) 524-3701 • FAX (805) 524-5707

October 21, 2009

TO: Planning Commission

FROM: Kevin McSweeney, Community Development Director
Veronica Ortiz-De Anda, Contract Planner

SUBJECT: Public Hearing: Office Trailer and Cargo Containers
Conditional Use Permit 08-06
Development Permit 09-05

RECOMMENDATION

The Planning Department staff recommends the Planning Commission take the following action:

1. Adopt resolution 09-841, approving Conditional Use Permit 08-06, subject to Conditions of Approval.
2. Adopt resolution 09-842, approving Development Permit 09-05, subject to Conditions of Approval.

BACKGROUND

The Applicant, Ameron International received approval of a Minor Conditional Use Permit (MCUP) #05-10 for temporary placement of six cargo containers and a 1,440 square-foot office trailer on February 27, 2006.

The Community Development Director approved the use of the trailers as an office per the Zoning Ordinance section 6.04.6810.5 which states,

“A temporary office (manufactured/mobile units) may be approved, for a maximum time period of 2 years from the date of approval, as an accessory use or as the first phase of a development project.”

The approval expired two years later on February 27, 2008. Prior to the expiration of the entitlement, Ameron sought approvals to extend the entitlement deadline. At that time, the North Fillmore Specific Plan was in effect (prior to the voter approved Measure I) and City Staff attempted to comply with the requirement of the North Fillmore Specific Plan for expansion of a “Nonconforming Use” Section 7.5 which requires Planning Commission approval of expansion to non-conforming uses.

However, Measure I was approved during the review of extending the deadline and the City Staff is now relying upon the Zoning Ordinance section for nonconforming uses.

The applicant is requesting to allow the office trailers on site to remain for 8 years and that allow the existing cargo containers to remain permanently. The request to allow office trailers in for 8 years is beyond the authority of the Community Development Director and therefore, the request is being made to the Planning Commission.

ANALYSIS

Project Description & Location

The project site is located at 1020 B Street in Fillmore. The Applicant is requesting for six existing cargo containers to remain permanently and to allow the existing 1,440 square-foot office trailer to remain on site eight (8) additional years.

Entitlements Needed & Review Authority

The Applicant is requesting approval of a Development Permit (DP 09-05), which is needed for permanently placement of cargo containers as per City Resolution 95-2009; and a Conditional Use Permit (CUP 08-06) to allow both the containers and the office trailer to remain on site for a longer period of time.

Per Table IV-1 of section 6.04.5001 of the Zoning Ordinance, the Planning Director is the final review authority for commercial projects involving less than 10,000 square-feet, however, given that the Applicant is also requesting a Conditional Use Permit, which can only be granted by the Planning Commission, the entire project application is subject to review and consideration by the Planning Commission.

Existing & Surrounding Conditions

The cargo containers and office trailer is located behind a 10 foot block wall that is along "B" St. and can not be seen from the street or adjacent residential neighbors.

The existing use of the site is a manufacturing site for Ameron concrete street poles and to the north, east and south of the property is vacant land and some assorted outdoor storage of construction equipment. Hometown subdivision is to the west of the property but is separated by a 10' block wall and "B" St.

Zoning Ordinance and NFSP

The City adopted the North Fillmore Specific Plan (NFSP) in August of 2006, which changed the zoning of all sites in the plan area to "NFSP". The Ameron site was previously zoned Manufacturing Planned Development (M-PD), which was consistent with the industrial land use on the site. With the adoption of the NFSP, the existing land use became a "legal non-conforming use" and all expansions of non-conforming uses were subject to Section 7.5 of the NFSP.

This application was filed under the provisions of Section 7.5 of the NFSP. However, with the passing of Measure I in November 2008, the specific plan document is no longer valid (please note that the General Plan and Zoning designation is NFSP). Therefore, the standards applicable for this application revert back to section 6.04.3070 "Expansion of Non-Conforming Uses" of the Zoning Ordinance, which calls for issuance of a Minor Conditional Use Permit (MCUP) for

temporary placement of a modular unit. Given that the Applicant already received the benefit of a MCUP, Ameron is no longer eligible for a MCUP and their request to keep the office trailer longer must be considered by the Planning Commission.

As for the cargo containers, Resolution 95-2009, which is a policy established by the City Council in 1995 specifically for cargo containers, applies. Per this resolution, the cargo containers must comply with the following:

1. Containers must be screened from public from view and from adjacent residential properties.

Compliance:

The property has a landscaped mound with tall trees around the perimeter of the site and a 10' block wall which completely screens the operations of the facility including the cargo containers and the office trailer. The Applicant is not proposing improvements for additional screening.

2. Containers must not be stacked more than two (2) units high.

Compliance:

The six containers are not stacked.

3. A single electrical light source is permitted inside the container.

Compliance:

Presently, none of the containers have a light source and the Applicant is not proposing any electrical improvements.

4. Containers may be used to store hazardous materials provided all applicable requirements from all pertinent agencies including fire, building, planning, and environmental health, are adhered to.

Compliance:

Presently, the containers are used for storage of old documents. None are being used for storage of hazardous materials and the Applicant is not proposing to use them for such. If and when the Applicant chooses to store hazardous materials in them, the Applicant would be required to obtain all necessary inspections and permits from the City and other agencies. A condition of approval has been imposed to ensure compliance.

5. Emergency contact information must be posted on the exterior door in accordance with Fire Department requirements.

Compliance:

The Applicant contacted the former Fire Chief in this regard and will comply with this requirement.

6. Appropriate Development Impact Fees (DIFs) must be paid before building permits are issued.

Compliance:

The Applicant has been notified that the cargo containers, not the office trailer, are subject to DIFs and an estimate was sent to the Applicant. Additionally, a condition of approval has been imposed to ensure compliance. If necessary, the applicant will also be required to obtain a building permit.

7. The containers may be used for storage of equipment and other office materials.

Compliance:

As mentioned above, the containers are being used for storage of documents.

8. Approval of a Development Permit is required for permanent placement of cargo containers in commercial and manufacturing zones.

Compliance:

As explained above, the property is currently zoned NFSP, but the former zoning was manufacturing, which was consistent with the current land use. Permanent placement of the cargo containers, whose sum is 1,920 square-feet, would be a negligible expansion of the existing use and the containers would be ancillary to the primary industrial land use of the property. To this end, the application also includes approval of a Development Permit.

General Plan

The proposed project is required to be consistent with the 1988-2010 General Plan and General Plan Update (2003). Approval of this application would support Policy LU-38, to promote Citywide economic growth by helping retain existing city businesses. Approval of CUP 08-06 and DP 09-05, would help Ameron International to continue their operations in the City while the company plans for their long-term office and storage space needs.

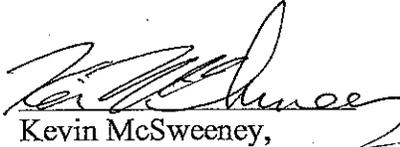
California Environmental Quality Act (CEQA):

The proposed project is exempt from CEQA review per section 15301, class 1 "Existing Facilities" of CEQA Guidelines, because the pole manufacturing operation is an existing facility and the office trailer would be onsite temporarily. Permanent placement of the cargo containers for storage, of which the sum square-footage is 1,920, is a negligible expansion of the existing use and would be ancillary to the primary land use of the property.

Community Development Director's Note:

The applicant is requesting to allow the office trailers for an additional 8 years. The trailers have been approved for 2 years and it has taken a year to process the application while the trailer continues to be used as an office. That means the use of trailers as an office will be for a total of 11 years. This may be an excessive amount of time when considering that trailers are not allowed for that length of time. However, the Ameron facility is a nonconforming use and it may not make economic sense to construct office buildings that can possibly be removed in the future.

Concur:


Kevin McSweeney,
Community Development Director

Attachments:

1. Resolution 09-841, Conditional Use Permit 08-06
2. Resolution 09-842, Development Permit 09-05
3. Project Conditions of Approval
4. Project Plan - Site Plan "S"

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**CITY OF FILLMORE
PLANNING COMMISSION RESOLUTION NO. 09-841**

**APPROVING
CONDITIONAL USE PERMIT 08-06**

**TO ALLOW
AMERON INTERNATIONAL TO PERMANENTLY KEEP
SIX EXISTING CARGO CONTAINERS AND ALLOW AN EXISTING
OFFICE TRAILER TO STAY FOR EIGHT ADDITIONAL YEARS ON
INDUSTRIAL PROPERTY LOCATED AT 1020 "B" STREET**

AMERON INTERNATIONAL, APPLICANT

WHEREAS, The Planning Commission has been petitioned to grant Conditional Use Permit 08-06 to allow an existing 1,440 square-foot office trailer that was previously approved to remain on site three more years and allow for six existing cargo containers to remain permanently; and

WHEREAS, The Community Development Director caused a notice of date, hour and place for a public hearing before the Planning Commission on October 21, 2009 to be published in the Fillmore Gazette and mailed to the Applicant and all property owners within 300 feet of the exterior boundaries of the subject property in accordance with Section 6.04.80 of the Fillmore Zoning Ordinance; and

WHEREAS, Based upon the evidence presented, the Planning Commission makes the following findings of fact:

1. The subject property is addressed as 1020 "B" Street, APNs 043-0-080-155 and 043-0-080-245.
2. The project site is currently owned by CONTRAD, a California Corporation and Weld Rite Corporation, a California Corporation.
3. The applicant on behalf of the property owner is Louis Farrar of Ameron International, 5851 Thille Street, Ventura, CA 93003
4. The project has been reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA) and has been determined to be exempt from further review per Section 15301, class 1 of CEQA Guidelines "Existing Facilities", because the project involves negligible expansion of existing industrial land use and the office trailer will remain on site for three additional years only.
5. The North Fillmore Specific Plan (NFSP) was adopted by the City on August 22, 2006 and

the former zoning of the project site was "M/I" for manufacturing/industrial which was consistent with the existing land use.

6. The project site has North Fillmore Specific Plan (NFSP) zoning and General Plan designation.
7. The existing use of the project site was established prior to adoption of the NFSP.
8. The Applicant, does not qualify for a Minor Conditional Use Permit (MCUP) for temporary placement of the office trailer, because, a MCUP #05-10 was already issued for this same purpose, which expired on February 27, 2008.
9. The proposed use is in conformance with the General Plan (1988, 2003, and 2005), because approval of the Conditional Use Permit would support City Policy LU-38 to promote Citywide economic growth by supporting the retention of existing City businesses.
10. The proposed use conforms to the applicable zoning regulations contained in the Conditional Use Permit § 6.04.70 of the Zoning Code incorporated in Ordinance 94-701 adopted November 22, 1994.
11. The Conditional Use Permit is authorized pursuant to the provisions contained in Zoning Ordinance § 6.04.70 as identified below:
 - a. The proposed uses of storage and temporary business office would be ancillary to the existing manufacturing operations of the site, which were established prior to adoption of the NFSP on August 22, 2006 and would not impair the integrity and character of the NFSP zoning district and comply with all of the applicable provisions of the Zoning Ordinance and City policies, in that the office trailer would be onsite temporarily and removed at the third anniversary of this permit and the cargo containers meet of all the requirements of City Council Resolution 95-2009, which was approved on May 2, 1995 for cargo containers specifically;
 - b. The proposed use is consistent with the intent of the General Plan, in that the proposed use supports policy LU-38 of the General Plan by supporting existing City businesses;
 - c. The approval of the Conditional Use Permit for the proposed uses is in compliance with the requirements of the California Environmental Quality Act (CEQA), in that the site is an "existing facility" meeting the criteria of Section 15301 of CEQA Guidelines and therefore exempt from further review;
 - d. The proposed uses would not cause any potential significant negative effects on the environment or natural resources that could not be mitigated or monitored, because the site is already developed with a manufacturing land use and the proposed uses do not involve new construction, but are a negligible expansion and would be ancillary to the existing use;

- e. The subject site is physically suitable for the type and intensity of the uses being proposed, in that new construction is not proposed and permanent placement of the cargo containers and temporary placement of the office trailer would not cause the property to be overbuilt;
- f. There are adequate provisions for public access, water, sanitation and services to ensure that the proposed use would not be detrimental to public health and safety, in that services are existing in and adjacent to the site;
- g. The design, location, size, and operating characteristics of the proposed cargo containers would not be detrimental to the public interest, health, safety, convenience, or welfare of the City in that the project complies with applicable City codes including City Council Resolution 95-2009 for cargo containers and the office trailer, which is a mobile unit, would be permitted on a temporary basis only. The project is conditioned to comply with all building code requirements, and the project is not expected to adversely impact noise, traffic, air quality nor any other environmental factor.

NOW THEREFORE, BE IT RESOLVED, that the Planning Commission does hereby approve Conditional Use Permit 08-06 subject to conditions of approval and, based on the above-mentioned information, public review, and documentation.

PASSED AND ADOPTED by the Planning Commission of the City of Fillmore this 21st day of October 2009 by the following votes:

Douglas Tucker, Chair
Planning Commission

ATTEST:

Denise Beauduy
Planning Secretary

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CITY OF FILLMORE
PLANNING COMMISSION RESOLUTION NO. 09-842

APPROVING
DEVELOPMENT PERMIT 09-05

TO PERMIT PLACEMENT OF SIX CARGO CONTAINERS
ON SITE PERMANENTLY OF SIZE 8-FEET BY 40-FEET EACH

AMERON INTERNATIONAL, APPLICANT

WHEREAS, The Planning Commission has been petitioned to grant Development Permit 09-05 to allow six existing cargo containers to remain on site permanently; and

WHEREAS, The Community Development Director caused a notice of date, hour and place for a public hearing before the Planning Commission on October 21, 2009 to be published in the Fillmore Gazette and mailed to the Applicant and all property owners within 300 feet of the exterior boundaries of the subject property in accordance with Section 6.04.80 of the Fillmore Zoning Ordinance; and

WHEREAS, Based upon the evidence presented, the Planning Commission makes the following findings of fact:

1. The subject property is addressed as 1020 "B" Street, APNs 043-0-080-155 and 043-0-080-245.
2. The project site is currently owned by CONTRAD, a California Corporation and Weld Rite Corporation, a California Corporation.
3. The applicant on behalf of the property owner is Louis Farrar of Ameron International, 5851 Thille Street, Ventura, CA 93003
4. The project has been reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA) and has been determined to be exempt from further review per Section 15301, class 1 of CEQA Guidelines "Existing Facilities", because the project involves negligible expansion of existing industrial land use and the office trailer will remain on site for three additional years only.
5. The North Fillmore Specific Plan (NFSP) was adopted by the City on August 22, 2006 and the former zoning of the project site was "M/I" for manufacturing/industrial which was consistent with the existing land use.
6. The project site has North Fillmore Specific Plan (NFSP) zoning and General Plan designation.

7. The existing use of the project site was established prior to adoption of the NFSP.
8. The proposed use is in conformance with the General Plan (1988, 2003, and 2005), because approval of the Development Permit would support City Policy LU-38 to promote Citywide economic growth by supporting the retention of existing City businesses.
9. The proposed use conforms to the applicable zoning regulations contained in the Conditional Use Permit § 6.04.70 of the Zoning Code incorporated in Ordinance 94-701 adopted November 22, 1994.
10. The Development Permit is authorized pursuant to the provisions contained in Zoning Ordinance § 6.04.70 as identified below:
 - a. The proposed cargo containers would be ancillary to the existing manufacturing operations of the site, which were established prior to adoption of the NFSP on August 22, 2006 and would not impair the integrity and character of the NFSP zoning district and complies with all of the applicable provisions of the FMC and City policies including the requirements of City Council Resolution 95-2009, which was approved on May 2, 1995 for cargo containers specifically;
 - b. The proposed use is consistent with the intent of the General Plan, in that the proposed use supports policy LU-38 of the General Plan by supporting existing City businesses;
 - c. The approval of the Development Permit for the proposed cargo containers is in compliance with the requirements of the California Environmental Quality Act (CEQA), in that the site is an "existing facility" meeting the criteria of Section 15301 of CEQA Guidelines and therefore exempt from further review, because the containers is a negligible expansion of the existing use;
 - d. The proposed containers would not cause any potential significant negative effects on the environment or natural resources that could not be mitigated or monitored, because the site is already developed with a manufacturing land use and the proposed uses do not involve new construction, but are a negligible expansion and would be ancillary to the existing use;
 - e. The subject site is physically suitable for the type and intensity of the uses being proposed, in that new construction is not proposed and permanent placement of the cargo containers would not cause the property to be overbuilt;
 - f. There are adequate provisions for public access, water, sanitation and services to ensure that the proposed use would not be detrimental to public health and safety, in that services are existing in and adjacent to the site;
 - g. The design, location, size, and operating characteristics of the proposed cargo containers would not be detrimental to the public interest, health, safety,

convenience, or welfare of the City in that the project complies with applicable City codes including City Council Resolution 95-2009 for cargo containers. The project is conditioned to comply with all building code requirements, and the project is not expected to adversely impact noise, traffic, air quality or any other environmental factor.

NOW, THEREFORE BE IT RESOLVED, that the Planning Commission does hereby approve Development Permit 09-05 subject to conditions of approval and, based on the above-mentioned information, public review, and documentation.

PASSED AND ADOPTED by the Planning Commission of the City of Fillmore this 21st day of October 2009 by the following votes:

Douglas Tucker, Chair
Planning Commission

ATTEST:

Denise Beauduy
Planning Secretary

EXHIBIT "COA"

CONDITIONS OF APPROVAL
DEVELOPMENT PERMIT NO. 09-05
CONDITIONAL USE PERMIT NO. 08-06

AMERON INTERNATIONAL, APPLICANT

RECITALS

A. AUTHORITY FOR THIS DOCUMENT

The conditions and terms contained in this exhibit are applied to permit "DEVELOPMENT PERMIT 09-05", "CONDITIONAL USE PERMIT 08-06" (THIS PERMIT) and are applied under the City's authority regarding discretionary permits (Table IV-1 Section 6.04.50 of the Zoning Ordinance).

B. IDENTIFICATION OF THE SUBJECT PROPERTY

The subject property is located at 1020 'B' Street and is identified as Assessor Parcel Number(s) 043-0-080-155 and 043-0-080-245. The subject property is subject to the conditions and terms contained in this exhibit.

C. DESCRIPTION OF PROJECT AUTHORIZED BY THIS PERMIT

The PROJECT consists of allowing an existing industrial property permanently keep six cargo containers for storage of documents and allowing a 1,1440 square-foot office trailer to remain for three additional years. All conditions of this permit are applicable upon implementation, unless so specified in this document.

D. RESPONSIBILITY OF APPLICANT

The following conditions are the responsibility of the Applicant, Ameron International, or any of their successors or assigns.

E. BASIS UPON GRAPHIC ILLUSTRATIONS ("THE PLANS")

THIS PERMIT is based on the following graphic illustrations referred to as EXHIBITS "S" (SITE PLAN). This exhibits represent the minimum information that is to be expected on subsequent documents that are used to implement the project. All interpretations and construction documents shall be based on the above Exhibit (dated 9/29/2009).

F. BASIS UPON WRITTEN DOCUMENTS

THIS PERMIT is based on the following written documents referred to as EXHIBITS "COA" (CONDITIONS OF APPROVAL) and "SR" (STAFF REPORTS). All activity on the subject property is to be in compliance with all requirements and direction, as set forth in the above Exhibit.

The conditions and terms in this document shall prevail over all omissions, conflicting notations,

Planning Commission October 21, 2009

DP 09-05, CUP 08-06

Conditions of Approval

Page 1 of 4

specifications, dimensions, typical sections and the like, which may or may not be shown on the PLANS.

G. LIFE OF THIS DOCUMENT

The conditions and terms contained in this document apply to the subject property indefinitely or, until such time that this document is modified according to the process identified in paragraph "I" of this document. THIS PERMIT IS NOT TRANSFERRABLE TO ANOTHER PROPERTY.

H. TIME TO EXERCISE PERMIT

THIS PERMIT shall be substantially initiated or it shall expire one year from the date of project approval, October 21, 2009. Substantial initiation of THIS PERMIT shall be determined at the sole discretion of the CITY. Any extension of THIS PERMIT shall be processed per Sections 6.04.6650, 6.04.7040 of the Fillmore Municipal Code.

I. PROCEDURE FOR MODIFICATION OF THIS DOCUMENT

Any proposed modification of this document shall be processed per Sections 6.04.6645, 6.04.7035 of the Fillmore Municipal Code.

J. INDEMNIFICATION AND HOLD-HARMLESS STATEMENT

The APPLICANT shall indemnify, exonerate and hold harmless, the CITY and all officers and employees thereof, against all claims, demands, and causes of action arising out of improvements constructed within the project.

The APPLICANT agrees as a condition of approval of this permit, to defend, at the sole expense of the APPLICANT, any action brought against the CITY based upon approval of this permit. The APPLICANT shall reimburse the CITY for any costs and attorney's fees that the CITY may be required to pay as a result of any such action. The CITY may, as its sole discretion, participate in the defense of such action, but such participation shall not relieve the APPLICANT of the above obligations.

Any activity or structure pursued by the APPLICANT, authorized by this permit shall further constitute acceptance of all conditions and obligations imposed by the CITY on this permit. The APPLICANT, by said acceptance, waives any challenges as to the validity of these conditions.

K. COMPLIANCE WITH THIS DOCUMENT PRIOR TO AUTHORIZED ACTIVITY/USE

The APPLICANT shall comply with and satisfy all applicable conditions of this permit prior to being authorized to begin construction activity or prior to being allowed to occupy any structures.

Authorization to implement this permit is to be granted by the Building Official upon presenting the Administrative Clearance Form to the Building Official with all required signatures. Authorization shall not be granted if the proper and requested information is not presented in a neat and timely manner.

L. COMPLIANCE WITH ALL APPLICABLE CODES AND REGULATIONS

All activity and any construction pursuant to this permit shall comply with all applicable codes and regulations including, but not limited to, the Fillmore General Plan, the Fillmore Zoning Ordinance, the Ventura Street Design Guidelines, the California Building Code (2007 version), the Uniform Fire Code, the Subdivision Map Act, and the "Standard Specifications for Public Works Construction".

M. PAYMENT OF FEES/DEPOSITS

All required Fees, including Development Impact Fees, shall be paid by the APPLICANT prior to the issuance of a building permit.

CONDITIONS

The following conditions are organized by CITY Department.

ENGINEERING AND PUBLIC WORKS

GENERAL

E1. Prior to obtaining building permits the Applicant shall pay the most current Development Impact Fees (DIFs) as required by the current Fillmore City Council Resolution regarding Development Impact Fees. DIFs shall not apply to the office trailer unless improvements are made to install water and sewer services to it. The six cargo containers will be subject to the following type of DIFs: Public Facilities and Ventura County Reciprocal Traffic Agreement Fee.

SEWER

E2. If sewer services are installed to the office trailer the method of sewage and waste disposal shall be by means of a community disposal system. All sewer system improvements shall meet or exceed the City's standards, and the necessary separations between water mains and sanitary sewers shall be maintained as required by the State Department of Health and as directed by the City Engineer.

WATER

E3. If water services are installed to the office trailer the Applicant shall install adequately sized water services and water meters per current City of Fillmore Public Works standards.

E4. If water services are installed to the office trailer the locations of water services shall be marked on the curb face in conformance with the City of Fillmore Public Works requirements.

FIRE

F1. At a minimum the office trailer shall have one (1) working fire extinguisher at all times.

- F2. No burning of combustible refuse material shall be permitted the subject property.
- F3. Each cargo container shall have an exterior sign on the opening side of the container labeling the contents of each container and showing the contact information in case of an emergency.
- F4. A permit shall be obtained from the Fillmore Fire Chief and the Ventura Country Air Pollution Control District (APCD) for the handling, storage and use of all flammable, combustible and hazardous materials.

PLANNING

- P1. The Applicant shall obtain an inspection from the Planning Department prior to obtaining an Administrative Clearance for the cargo containers and the office trailer.
- P2. The area around the cargo containers and temporary office trailer must be kept clean and clear of trash, litter, and debris at all times.
- P3. The applicant shall remove the temporary office trailer by October 21, _____

In Agreement:

Louis Farrar-Ameron International

Date

Doug Tucker
Planning Commission Chair

Date

END OF CONDITIONS

J:\PLANNING\Conditions of Approval\CUP\CUP 08-06, DP 09-05, Ameron.doc

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CITY OF FILLMORE

CENTRAL PARK PLAZA

250 Central Avenue

Fillmore, California 93015-1907

(805) 524-3701 • FAX (805) 524-5707

October 21, 2009

TO: Planning Commission

FROM: Kevin McSweeney,
Community Development Director

SUBJECT: Request Revision to the Santa Paula/Fillmore/Ventura County Greenbelt Agreement

RECOMMENDATION

The Planning Department recommends the Planning Commission take the following action:

- Adopt Planning Commission Resolution 09-844, recommending the City Council adopt the Santa Paula/Fillmore/Ventura Greenbelt Ordinance.

BACKGROUND

The City of Santa Paula desires to extend into the existing Santa Paula/Fillmore Greenbelt by approximately 500 acres in order to accommodate the proposed Limoneria residential development. This expansion area is called East Area 1.

The City of Fillmore City Council commented on the proposed project, Limoneria-East Area 1, stating that because the Green belt is proposed to be amended, the Greenbelt should become and ordinance (law) instead the existing resolution and Santa Paula should identify other property to include in the Greenbelt to make-up for the loss of 500 acres.

Per City Council direction, staff has prepared revisions to the existing Santa Paula/Fillmore/County of Ventura Greenbelt to remove East Area 1 from the greenbelt and include partial replacement greenbelt acreage for the removal of East Area 1 land.

BACKGROUND AND PROJECT DESCRIPTION

Greenbelts are adopted by either resolution or ordinance between public agencies with land use control. They represent a form of mutual regulatory control between two or more jurisdictions and generally involve the protection of farmland and open space (land designated as in the General Plan "Agriculture" or "Open Space"), as well as the future extensions of urban services/facilities and annexations. Greenbelts are intended to operate as "buffers" between urban uses.

Historical Context

In 1980 the City of Santa Paula, City of Fillmore and County of Ventura adopted a greenbelt agreement by Resolution covering 34,200 acres. In 1999, the greenbelt agreement was amended

by resolution to remove the East Area 2 expansion area and replacement greenbelt acreage was provided north of the Santa Paula.

In February 2008, the Santa Paula City Council approved the East Area 1 Specific Plan and in June 2008, the Santa Paula voters approved moving the CURB line for the East Area 1 project, which permits the City to apply to LAFCO for annexation of the land into the city. Since the development of East Area 1 is incompatible with the purpose and intent of the Santa Paula/Fillmore/Ventura County Greenbelt, an amendment to this greenbelt is required to remove East Area 1 from the greenbelt.

Additionally, according to the Santa Paula Land Use Element of the General Plan (Urban Expansion policy 4.n.n. and corresponding action to implement the Urban Expansion goal 31), the City of Santa Paula should adopt new formal greenbelt agreements for the Santa Clara River Valley to the east of town and amend the greenbelt agreement with Fillmore such that each acre removed from the existing greenbelt would be added to the greenbelt in other locations within the City's Area of Interest.

Over the past year, representatives from both cities and the County have met to discuss options regarding revising the Santa Paula/Fillmore greenbelt boundaries to remove East Area 1 expansion area and discuss potential replacement acreage and greenbelt boundary clean ups. At the last meeting held July 7, 2009, the parties agreed that the greenbelt agreement would be amended by Ordinance and that due to geographic and land constraints the acre for acre replacement was not necessary. However a good faith effort by Santa Paula would be undertaken to expand the greenbelt along the South Mountain Expansion Area to compensate for the removal of East Area 1.

ANALYSIS

The proposed Greenbelt Ordinance is intended to preserve agriculture. It prevents the City of Fillmore and Santa Paula from expanding into the Greenbelt area and prevents Ventura County from approving development inconsistent with agricultural and Open Space uses.

For the City of Fillmore, the boundary of the Greenbelt is the Sespe Creek levee which also the City's CURB, Sphere of Influence and City limit line. The north bank of the Santa Clara River represents the City of Fillmore's southerly boundary of the Greenbelt. These boundaries are consistent with the Fillmore General Plan Land Use Element (2005).

To amend the ordinance will require a super-majority of Santa Paula, Fillmore City Councils and Ventura County board of Supervisors.

ENVIRONMENTAL

Before making a recommendation on the proposed Greenbelt Ordinance, the California Environmental Quality Act (CEQA) requires that the environmental impacts of the action be assessed. The Project is exempt from review under CEQA Guideline 15061(b)(3) (Review of Exemption) as CEQA only applies to projects that have the potential to cause a significant effect on the environment. As indicated above, the proposed Ordinance and General Plan amendments consists only of minor revisions and clarifications and will not have the effect of deleting or

substantially changing any regulatory standards or findings. These minor revisions would not have an effect on the environment and, therefore, are not subject to the CEQA Regulations.

Kevin McSweeney,
Community Development Director

Attachments:

1. PC Resolution 09-844
2. Proposed Ordinance

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA-PAULA REGARDING THE FILLMORE-SANTA PAULA GREENBELT

The City Council of the City of Fillmore ordains as follows:

Section 1. PURPOSE AND INTENT -- The purpose of this Greenbelt Ordinance is to promote the agricultural and open space land conservation goals and policies contained in the City of Fillmore, the City of Santa Paula, and the County of Ventura General Plans, with a Greenbelt program designed to preserve unincorporated County lands that are located between the City of Fillmore and the City of Santa Paula for agricultural and open space purposes.

For reasons set forth in Section 16 of this Ordinance (Unique Considerations), the preservation of agricultural land within this Greenbelt is of critical importance. Therefore, land uses which may conflict with agricultural production, and in particular those uses listed in Section 16, Subsection B, shall receive enhanced review, analysis and treatment, up to and including denial, in order to ensure compatibility.

The enhanced review, analysis and treatment of the uses listed in Section 15, Subsection B will apply to all lands located within the Greenbelt's boundary.

It is the intent of this Ordinance that the boundaries of the Fillmore-Santa Paula Greenbelt should be in compliance with the City of Santa Paula's and City of Fillmore's General Plan, City Urban Restriction Boundary (CURB) and Sphere of Influence. The western greenbelt boundaries have been made coterminous with the City's adopted CURB line.

Section 2. GOVERNMENT CODE REFERENCE -- The Greenbelt consists of irrigated agricultural and open space lands as defined by Sections 56064 and 65560 of the Government Code.

Section 3. NON-ANNEXATION AND NON-URBAN DEVELOPMENT POLICY -- The City Council of the City of Santa Paula, the City of Fillmore, and the Board of Supervisors of the County of Ventura establish this Greenbelt so as to maintain its agricultural and open space uses and agree to a policy of non-urban development, non-annexation and the retention of agricultural and open space uses on the Greenbelt's lands.

Section 4. FINDINGS -- The City of Fillmore, the City of Santa Paula, and the County of Ventura's adoption of: 1) General Plan policies and zoning regulations, 2) the Guidelines for Orderly Development, and 3) Greenbelt policies have demonstrated a long-term commitment to agricultural and open space land conservation. The City Council of the City of Santa Paula reaffirms the following findings:

1. The lands in the Greenbelt area are worthy of permanent retention in agricultural and open space uses in the overall best interest of the City of Santa Paula, the County of Ventura and the State;
2. The Greenbelt area is difficult for either the City of Fillmore, the City of Santa Paula, or the County of Ventura to serve with sewers, water, fire and municipal services;

3. California is losing farmland at a rapid rate and some of Ventura County's most developable land is also its most productive agricultural land;
4. Acre-for-acre, Ventura County's agricultural lands are among the most productive in California, nearing three times the production level of the Statewide average;
5. Encroaching urban development poses a threat to the continued viability of Ventura County's farmland, especially for parcels located adjacent to urban areas;
6. Some urban uses, when located contiguous to farmland, are incompatible with commercial agricultural operations which can lead to additional farmland conversion;
7. The City of Fillmore, the City of Santa Paula, and/or the County of Ventura have participated in numerous farmland protection programs and initiatives in recent years including initiating the voter-approved Measure A in 1998 and the Agricultural Policy Working Group (APWG) in 1997/98; adopting the 'Right-to-Farm-Ordinance in 1997; re-establishing the Agriculture Policy Advisory Committee (APAC) in 1996; and establishing the Agricultural Land Trust Advisory Committee (ALTAC) in 1991/92, the Agricultural Lands Protection Program (ALPP) in 1982/83 and the Land Conservation Act (LCA) Program in 1969;
8. The protection and conservation of agricultural land, especially in areas that are presently farmed or feature *Prime* or *Statewide Importance* soils as defined by the Important Farmlands Inventory (IFI), represents a primary objective;
9. The loss of agricultural land to urban development is consistently a significant unmitigable impact under the California Environmental Quality Act (CEQA);
10. Agriculture represents an important component of the City of Fillmore and Ventura County's economies – the loss of farmland to urban development is irreversible and will have a negative impact on the City's and the County's economies;
11. The continuation of agricultural operations protects Ventura County's landscape and environmental resources;
12. Protecting open space, maintaining the integrity of separate distinct cities and preventing inappropriate urban development from locating between city boundaries represent important 'quality of life' goals; and
13. The retention of open space lands protects scenic resources and natural habitats and provides opportunities for passive and active recreational activities, parks and trail systems.

Section 5. DEFINITIONS – As used in this Greenbelt Ordinance, the following terms shall have the meanings set forth in this section:

AGRICULTURAL LANDS PROTECTION PROGRAM (ALPP) – In May 1983, the Ventura County Board of Supervisors adopted the *ALPP* for the unincorporated areas of the County. The *ALPP* established a new *Agriculture* land use designation (minimum parcel size 40 acres) and redefined the *Open Space* and *Rural* land use designations.

AGRICULTURAL LAND TRUST ADVISORY COMMITTEE (ALTAC) – *ALTAC* was established by the Ventura County Board of Supervisors in November 1990 and included 11 members who represented the Board, farmers and the public. *ALTAC* established a countywide

non-profit land trust and recommended a process for the permanent conservation of irrigated farmland and the implementation of an agricultural advocacy program.

AGRICULTURAL POLICY ADVISORY COMMITTEE (APAC) – APAC advises the Board of Supervisors, the County Planning Commission, County Planning staff and the cities on all matters having direct, indirect and cumulative impacts on the viability of agriculture in the County. APAC consists of five commercial growers, each appointed by a member of the Board.

AREAS OF INTEREST -- Plans adopted by the Ventura Local Agency Formation Commission (LAFCo) which divide the County into major geographic areas reflective of community and planning identity. Within each *Area of Interest*, there is to be no more than one city (but there will not necessarily be a city in each *Area*).

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) – Adopted in 1970, CEQA requires a project proponent to identify the significant impacts of public and private actions on the environment and to provide this information to decision-makers and the public.

CITY URBAN RESTRICTION BOUNDARY (CURB) – Urban growth boundaries (see definition) that were approved by the voters or adopted by the City Council of the Cities of Camarillo, Fillmore, Moorpark, Oxnard, Santa Paula, Simi Valley and Thousand Oaks. Each jurisdiction's CURB is in effect for different periods of time. The CURBs cannot be expanded unless approved by the city's voters.

DEVELOPMENT CODE - The Santa Paula Development Code is the principal tool in which the Santa Paula General Plan and other policies are implemented. The Development Code establishes building standards (height limits, lot coverage, setbacks, etc.) and allowable land uses (either by right [ministerial uses] or allowed only if certain conditions are met [discretionary uses]).

DISCRETIONARY DEVELOPMENT -- Any development proposal, project or permit which requires the exercise of judgment, deliberation or decision on the part of the decision-making authority in the process of approving or disapproving a particular activity.

GENERAL PLAN -- A long term plan for the physical development of a city or county and of any land outside its boundaries, which in the planning agency's judgment bears relation to its planning needs. The California Government Code requires that each planning agency prepare, and its legislative body adopt, seven mandatory elements of the *General Plan* (including Open Space and Conservation Elements). An Agriculture Element is optional.

GREENBELT -- An area consisting of irrigated agricultural land or other Important Farmlands Inventory (IFI)-designated open space lands as defined in Sections 56064 and 65560 of the Government Code.

GUIDELINES FOR ORDERLY DEVELOPMENT (GUIDELINES) – The *Guidelines* provide that urban development should be located within incorporated cities whenever and wherever practical. All city councils within Ventura County, the Ventura County Board of Supervisors and the Local Agency Formation Commission (LAFCo) have adopted the *Guidelines*.

IMPORTANT FARMLANDS INVENTORY (IFI) – The *IFI* are maps for California which are compiled from United States Department of Agriculture (USDA) and Natural Resources Conservation Service (NRCS) soil surveys and current land use information using eight mapping categories. Ventura County uses five of the eight IFI classifications including

Prime Farmland, Farmland of Statewide Importance, Unique Farmland, Farmland of Local Importance and Grazing Land.

LOCAL AGENCY FORMATION COMMISSION (LAFCo) – County LAFCo's are State-mandated agencies that are responsible for orderly growth, logical boundaries, efficient services and the preservation of agriculture and open space. LAFCo's are required to guide urban development away from prime farmland and open space unless such actions would not promote planned, orderly and efficient development.

MEASURE A – An advisory measure, initiated by the Ventura County Board of Supervisors in 1998, that recommended the County and the ten cities adopt by ordinance the six existing and five proposed Greenbelts, prohibit changes to the external growth boundaries unless approved by the voters and form an Agriculture/Open Space Conservation District. Sixty-eight percent of Ventura County's voters approved the measure.

MINISTERIAL DEVELOPMENT -- Any development proposal, project or permit where the decision-making authority merely determines whether there has been conformity with applicable statutes, ordinances or regulations.

OPEN SPACE LANDS -- Land or water area that either remains in its natural state or is used for agriculture or is otherwise essentially undeveloped.

RIGHT-TO-FARM ORDINANCE – Ventura County's Ordinance is intended to protect properly conducted commercial agricultural practices from nuisance lawsuits, require disclosure to persons purchasing real estate in agricultural areas that owners/occupants may experience inconveniences and discomforts associated with agricultural operations and provide for optional mediation of disputes involving agricultural operations.

SPHERES OF INFLUENCE -- Plans adopted by a Local Agency Formation Commission (LAFCo) which designates the probable ultimate boundary of a city or special district.

URBAN GROWTH BOUNDARY (UGB) – An officially adopted and mapped line that divides land to be developed from open space lands to be protected for agriculture, recreation and/or habitat use. A UGB is a regulatory tool, usually designated for specific periods of time. In order to provide greater certainty for both development and conservation goals, it is rarely subject to revision and could be made more fixed over time.

ZONING ORDINANCE – The Fillmore Zoning Ordinance is the principal tool in which the Fillmore General Plan and other policies are implemented. The Ordinance establishes building standards (height limits, lot coverage, setbacks, etc.) and allowable land uses (either by right [ministerial uses] or allowed only if certain conditions are met [discretionary uses]).

Section 6. GREENBELT DESCRIPTION -- The Fillmore-Santa Paula Greenbelt is comprised of about 31,743 acres of unincorporated County territory, located between the City of Fillmore and the City of Santa Paula and within the Fillmore and Santa Paula Areas of Interest, and is bounded by the following features and identified in Attachment 1 of this Ordinance:

1. On the westerly boundary be coterminous with the Santa Paula CURB (dated May 2008);
2. On the north by the Los Padres National Forest;
3. On the east by the Fillmore City Limits, Sphere of Influence and CURB boundary; and

4. On the south by the ridge line of South Mountain and Oak Ridge.

Section 7. PERMITTED USES -- The Ventura County General Plan and Zoning Ordinance shall control land uses permitted within the Greenbelt.

1. The Greenbelt's General Plan designations include:
 - *Agriculture and Open Space*
2. The Greenbelt's Zoning Ordinance designations include:
 - *Agriculture-Exclusive (A-E) and Open Space (O-S)*
3. Only land uses that are consistent with the above referenced general plan and zoning ordinance designations, subject to ministerial or discretionary permit conditions, use standards, performance standards and permit findings, will be permitted within the Greenbelt.
4. The primary goal of this Greenbelt is the conservation of agricultural and open space lands within the Greenbelt's boundaries. Land uses that may not be compatible with this goal will receive enhanced review, analysis and treatment and are referenced in Section 15, Subsection B of this Ordinance.
5. The enhanced review, analysis and treatment of the uses listed in Section 15, Subsection B of this Ordinance will apply to all lands located within the Greenbelt's boundary.

Section 8. SPHERES OF INFLUENCE (URBAN GROWTH BOUNDARIES) -- The boundaries of the Greenbelt shall be consistent and coterminous with the City of Santa Paula and City of Fillmore City Urban Restriction Boundaries (CURB). This boundary consistent with LAFCo's policies and procedures, will establish limits on the extension of urban services and infrastructure.

Because the Sphere of Influence represents the probable ultimate boundary of the City of Fillmore, the City's Sphere of Influence shall not extend into the Greenbelt. The City of Fillmore and the County of Ventura will adjust the Greenbelt boundary to reflect any changes the Ventura LAFCo may make to the Fillmore Sphere of Influence, so as to assure consistency. This Ordinance does not establish any regulatory authority over spheres of influence or annexations.

Section 9. AREAS OF INTEREST -- The boundaries of this Greenbelt shall include only those unincorporated County lands that are located within the Santa Paula and Fillmore *Areas of Interest*. Future modifications of the Greenbelt's boundaries will not be permitted to cross over adjoining *Area of Interest* boundaries.

Section 10. TIME FRAME AND REVIEW PROCEDURES -- The description, features, terms and conditions of the Greenbelt shall be in effect for an indefinite time period.

Beginning (date of adoption) (and at ten-year intervals thereafter), the Santa Paula City Council shall review the features, terms, conditions and the status of all Greenbelt lands. The review will coincide with the ten-year update of the City of Santa Paula General Plan and a LAFCO-initiated countywide sphere of influence (urban growth boundary) study.

Section 11. AMENDMENT PROCEDURES -- Proposals for amending the boundaries or features of the Greenbelt could be initiated by the City of Fillmore, the City of Santa Paula, and/or or the County of Ventura. Proposed amendments shall be reviewed by a Technical Review Committee (TRC) comprised of representatives from the City of Fillmore, the City of Santa Paula, and the County of Ventura.

After reviewing the proposal, the TRC shall forward a recommendation to the City Councils of the Cities of Fillmore and Santa Paula and the Board of Supervisors concerning the merits and deficiencies of the proposed Greenbelt amendment.

Once effective, any changes to the Greenbelt Ordinance (except changes to match LAFCo-approved sphere of influence revisions and new additions to the Greenbelt) shall require a super-majority vote of the City Council of the City of Santa Paula, City of Fillmore and County of Ventura. A super-majority vote is defined as a 4/5th vote of the Santa Paula City Council.

Section 12. LAFCO ACTION -- The City Council of the City of Santa Paula requests that the Ventura Local Agency Formation Commission (LAFCO) endorse and certify this Greenbelt Ordinance and continue to act in a manner consistent with the preservation of the aforementioned lands for agricultural and open space purposes.

Section 13. PRECEDENCE -- This Greenbelt Ordinance shall supercede all previously adopted Greenbelt resolutions or portions of resolutions in conflict herewith.

Section 14. SEVERABILITY -- If any section, subsection, sentence, clause or phrase of this Ordinance is held by a court of competent jurisdiction to be invalid, such decision shall not affect the remaining portions of this Ordinance. The City Council of the City of Santa Paula hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases be declared invalid.

Section 15. UNIQUE CONSIDERATIONS

Subsection A. Additional Goals

The City of Fillmore, the City of Santa Paula, and the County of Ventura recognize that land use decisions should balance many goals, including the provision of housing and urban services as well as the preservation and development of natural resources. To reach a balance among these goals, jurisdictions must consider the specific circumstances of each case.

The primary purpose of this Ordinance is to establish that within the boundaries of the Fillmore-Santa Paula Greenbelt, the goals of protection of agricultural land, the maintenance of a healthy agricultural economy and the preservation of open space land shall be of critical importance. In light of these goals, proposed land uses that are potentially incompatible with agriculture shall receive enhanced review, analysis and treatment, up to and including denial, so as to ensure compatibility.

The above recognition is based on the Findings set forth in Section 4 of this Ordinance. In addition, it is in conformance with the purpose and goals of the City of Fillmore General Plan, the City of Santa Paula General Plan, the Ventura County General Plan, the Heritage Valley Implementation Plan and the Fillmore Citrus Protective District.

The following goals and policies of the Cities of Fillmore¹ and Santa Paula, and the Ventura County General Plans shall be given enhanced consideration when making land use decisions in the Greenbelt:

1. City of Fillmore General Plan

- a. Preserve viable agriculture and prime agricultural lands as a Greenbelt and buffer outside the City's Sphere of Influence.
- b. Development shall be compatible with and have minimal adverse impacts upon the environment, agriculture and natural resources.

2. Ventura County General Plan

- a. Preserve and protect agricultural lands as a non-renewable resource to assure their continued availability for the production of food, fiber, and ornamentals.
- b. Establish policies and regulations which restrict agricultural land to farming and related uses rather than other development purposes.
- c. Restrict the introduction of conflicting uses into farming areas.

3. City of Santa Paula

- a. Preserve viable agriculture and prime agricultural lands as a greenbelt and buffer around the City.

4. Heritage Valley Implementation Plan

In addition to these General Plan goals, the Greenbelt will assist in preserving the agricultural assets of the area in conformance with the goals of the Heritage Valley Implementation Plan. This economic development plan relies upon the pastoral beauty and historical resources of the Santa Clara Valley as the basis for a coordinated effort to market the area as a major tourist attraction. The area's past and present status as a major citrus and avocado growing area is a major component of this Plan. In order to promote the Plan's goals, and protect the resources on which it is based, the goals of preservation of agricultural land and the agricultural economy shall be given enhanced consideration.

Subsection B. Land Uses of Concern

When making land use decisions, the Ventura County Planning Director, the Ventura County Planning Commission and the Board of Supervisors shall give careful consideration to whether the proposed action would consume, for non-agricultural purposes, agricultural land designated Prime, Statewide Importance, Unique or Local Importance, or would compromise the viability of adjoining land for agricultural purposes. Specifically, the following uses, which have been determined to be of concern, shall receive enhanced review, analysis and treatment, up to and including denial, in order to ensure their compatibility:

- 1. Airfields, Landing Pads & Strips, Private
- 2. Communications Facilities
- 3. Farm Labor Group Quarters
- 4. Government Buildings

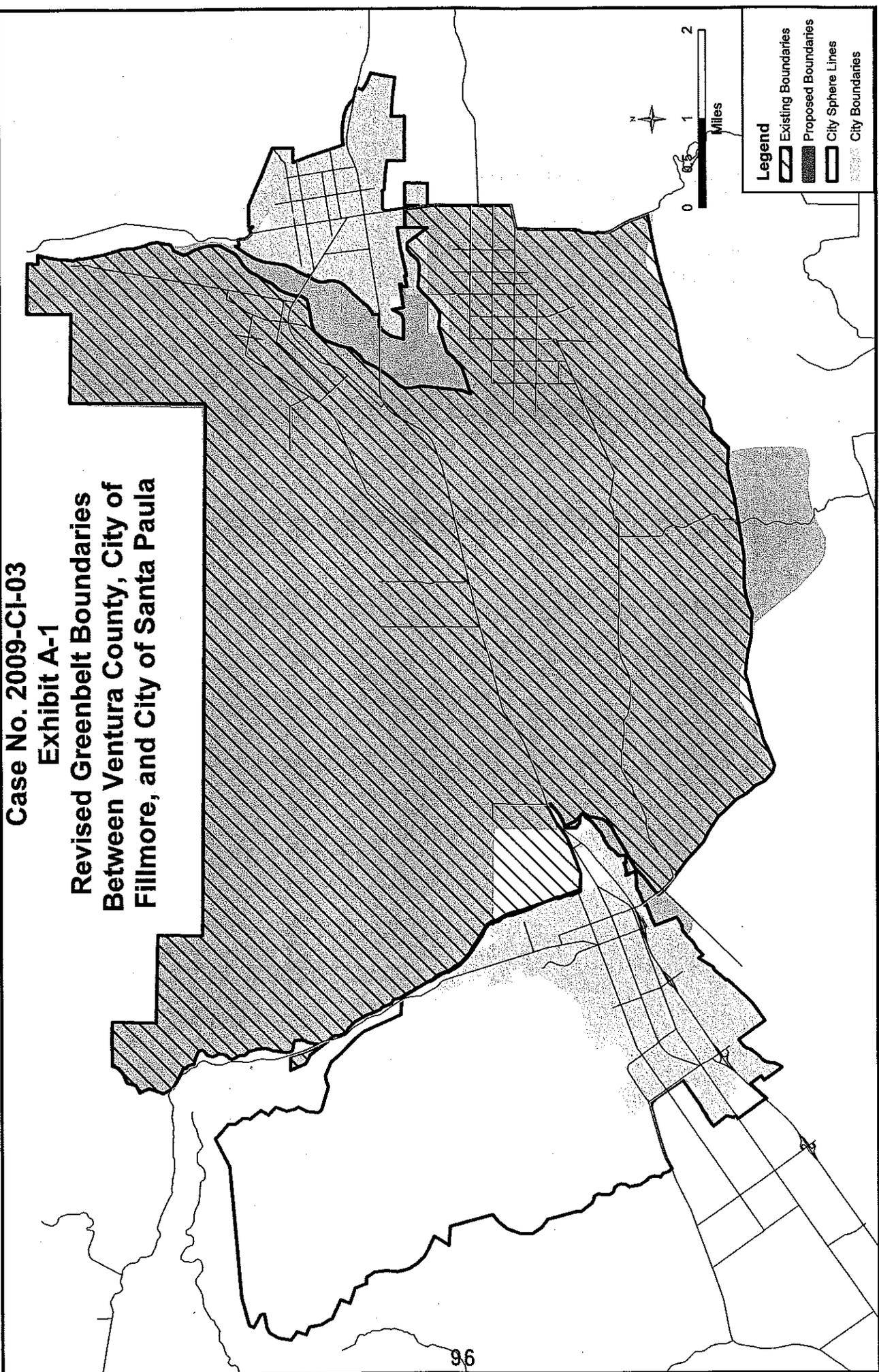
¹ The stated goals are from the "Goals, Policies and Implementation Measures" of the City of Fillmore proposed General Plan Update. This Ordinance should be amended as necessary to reflect any changes in these goals and policies after their adoption.

5. Correctional Institutions
6. Law enforcement Facilities
7. Mineral Resource Development
8. Waste Treatment and Disposal Facilities
9. Recreational Opportunities

PASSED AND ADOPTED by the City Council of the City of Santa Paula, County of Ventura, State of California, this ____ day of _____, 2009, by the following vote:

**Case No. 2009-CI-03
Exhibit A-1**

**Revised Greenbelt Boundaries
Between Ventura County, City of
Fillmore, and City of Santa Paula**





CITY OF FILLMORE
CENTRAL PARK PLAZA
250 Central Avenue
Fillmore, California 93015-1907
(805) 524-3701 • FAX (805) 524-5707

October 21, 2009

TO: Planning Commission

FROM: Kevin McSweeney, Community Development Director 
Veronica Ortiz-De Anda, Contract Planner 

SUBJECT: Revisions to the Draft Housing Element & Responses to Comments

RECOMMENDATION

Staff recommends that the Planning Commission take the following action:

- Review and comment on the revised draft Housing Element and the Responses to Comments as contained in Appendix B of the Element.
- Give City staff direction to proceed with the public hearings for adoption of the revised Housing Element

BACKGROUND

State law requires cities to update their Housing Element every five years. The current Housing Element was adopted in May of 2003 for the last planning period (1998-2005) and an update is now overdue. On October 23, 2007 the City Council selected HDR Engineering as the consultant to assist staff with preparation of the Housing Element Update. The first draft of the Housing Element was released for public review on October 29, 2008 and the review period closed on December 29, 2008. The City has held two public workshops (November 18, 2008 and January 28, 2009) where additional public comment was obtained. The Housing Element has been revised to reflect the comments received from the general public including comments from the California Department of Housing & Community Development (HCD). City staff has prepared responses to the comments received and has incorporated the comments and responses as Appendix B.

ANALYSIS

The Southern California Association of Governments (SCAG) originally assigned the City a total of 1,019 housing units for the planning period of January 1, 2006 through June 30, 2014. However, Ventura Council of Governments (VCOG) agreed through a delegation agreement that Fillmore's share of the county's 28,481 residential units would be 985 units (refer to table 3.S on page 3-15 of the revised Housing Element).

Housing Element Update
Planning Commission Meeting
October 21, 2009
Page 1 of 4

The assigned housing number, also known as the City's Regional Housing Need Assessment (RHNA) was presented to the City Council on January 9, 2007. The RHNA for this planning period is slightly higher than the RHNA for the last planning period, 1998-2005. The table below gives a comparison of the RHNA between the current and last planning period by income category.

Income Category	1998-2005 RHNA (last planning period)	2006-2014 RHNA (current planning period)
Extremely Low	None	101
Very Low	150	102
Low	98	170
Moderate	134	202
Above Moderate	427	410
Total	809	985

As of the August 2008, 164 units of the 985 RHNA have been built and approximately 139 units are under-construction. This leaves 682 units to fulfill in this planning period (refer to table 3.T. on page 3-15).

Aside from having to accommodate for these remaining units, Govt. Code 65584.09, requires the City to also plan for the unaccommodated need from the last planning period in this period. The City is required to comply with this provision, because the City failed to implement program 1.1.3 of the 2003 Housing Element to make adequate sites available within the 1998-2005 planning period by increasing the density of the residential medium-high (R M-H) zone from 15u/ac to 20u/ac. In lieu of increasing the density in the R M-H zone, the City approved the North Fillmore Specific Plan (NFSP), which allowed construction of up to 700 units with a density up to 20u/ac, however, the Specific Plan was approved in August 2006 after the 1998-2005 planning period. Consequently, since the City was unable to implement program 1.1.3 in time the City must now plan for the unaccommodated need of the last planning period.

The need from the last planning period that must be accommodated in this period is 79 units (refer to table 3.A on page 3-2). Therefore, in addition to the 682 units that remain to be fulfilled for this planning period, the City must also plan to fulfill 79 units for a total of 761 units. This means that in this Housing Element update the City will plan to accommodate for a grand total of 1,094 units (985 current RHNA + 79 from last period).

On November 4, 2008, the voters of the City of Fillmore passed Measure I amending the Land Use Element of the General Plan and reducing the maximum build out potential of the NFSP from 700 units to 350 units. Measure I impairs the City's ability to fulfill its RHNA, because aside from reducing the potential housing units, it also requires a voter election for any future modification of the NFSP, which places a significant

building constraint on the developer. Therefore, the Housing Element must address the effects of Measure I and incorporate new policies and/or programs to offset its effects.

The revised draft Housing Element contains new programs to offset the effects of Measure I and also addresses the comments received thus far. The following programs are brand new to the Housing Element and are contained in Section 5 of the revised draft beginning on page 5-1:

- Program 1.1.2 – Rezoning of Industrial Properties Program
- Program 1.2.7 – Overcrowded Households Program
- Program 1.2.8 – Purchase of Foreclosure & Distressed Homes Program
- Program 1.2.9 – Demolition Assistance Program
- Program 2.1.3 – Redevelopment Agency's First Time Homebuyer Program
- Program 2.3.5 – Farmworker Housing Ordinance Update
- Program 2.3.6 – Residential Development Standards, Zoning & General Plan Update
- Program 2.3.7 – Condominium Conversion Policy
- Program 3.2.3 – Emergency Shelters, Transitional, & Supportive Housing Ordinance

Programs 1.1.2 and 2.3.6 are specifically designed to help offset the effects of Measure I. Except for program 2.3.7, all of the brand new programs were incorporated to address comments received including comments from HCD. Program 2.3.7 was included to bring the City's Condo Conversion Ordinance into compliance with state law.

The Community Development Director presented to the City Council and the Planning Commission the comments received on the first draft of the Housing Element on January 13, 2009 and January 21, 2009 respectively. City staff and HDR, the City's consultant, has prepared responses to all comments including those made at the two public workshops. A copy of the comments and their respective responses can be found in Appendix B. Aside from the two public workshops, the City received comments from the following organizations and persons. They are listed in the order they are presented in Appendix B:

- California Department of Housing & Community Development
- California Rural Legal Assistance
- House Farm Workers
- Mr. David Roegner
- Mr. Vance Johnson
- Ms. Gayle Washburn
- Ventura County Homeless & Housing Coalition

As for Appendix A, this appendix gives a list of city parcels that can accommodate new housing and corresponds with Section 4.2.2 and table 4.A of the Element (refer to pages 4-3 through 4-5). Figures HE-2 and HE-3 show the vacant/underdeveloped parcels in the City and an approximate unit number these parcels may accommodate. Please note that implementation of Program 1.1.2 was assumed in the calculation of the potential residential capacity of 1,942 units given in Table 4.A.

City staff asks the Planning Commission to review and comment on the revised draft of the Housing Element including Appendix A and B; and direct staff to proceed with the public hearing process. The environmental review document that will accompany the revised Housing Element will go through the public review and hearing process simultaneously. Once the City adopts the new Housing Element, a copy of the document will be sent to HCD for a follow up review along with a letter responding to each of the agency's comments.

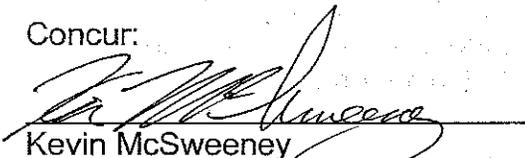
GENERAL PLAN CONSISTENCY

As proposed this Housing Element is inconsistent with the goals and policies of the 2005 Land Use Element. Consequently, the City will be required to modify the Land Use Element and all other affected sections of the General Plan in compliance with the provisions of Measure I.

FISCAL IMPACT

The Housing Element Update was budgeted in the 2007/2008 fiscal year in the amount of \$70,000 in account 901-4531-21-253 and a contract with HDR Engineering was secured. Since then two contract amendments have been approved totaling \$18,400. At this time a total of \$64,187.44 has been spent. For the 2009/2010 fiscal year \$30,000 has been budgeted. The draft Housing Element is within budget and scope of work.

Concur:



Kevin McSweeney
Community Development Director

Attachments – revised draft Housing Element dated 08/26/2009 with appendices
(distributed on September 10, 2009)

J:\PLANNING\Staff Reports\Miscellaneous\PC, 10-21-2009, Rev.Housing Element.doc

Housing Element Update
Planning Commission Meeting
October 21, 2009
Page 4 of 4

**City of Fillmore
City Council Meeting
October 13, 2009**

Revised Draft Housing Element

Housing Element Update

- Where We Are in the Process
- The City's RHNA
- Addressing the Unaccommodated Need
- North Fillmore Specific Plan & Measure I
- Comments and Responses
- What Happens Next?

Where we are in the Update Process

- Kick Off Meeting between City Staff & Consultant ✓
- Public Workshops ✓
- Prepare & Circulate 1st Draft for Public Review ✓
- Receive Public Input & Incorporate Input in Revised Draft ✓
- Prepare environmental document per CEQA
- Begin Public Hearing Process w/P. C. & C.C.
- Circulate Revised Housing Element & Env. Document (MND) for public input
- Complete Hearings to Adopt the Housing Element & Certify MND
- Re-Send Housing Element to HCD for certification

Regional Housing Need Assessment (RHNA)

Income Category	Last Planning Period (1998-2005)	Current Planning Period (2006-2014)
Extremely Low	None	101
Very Low	150	102
Low	98	170
Moderate	134	202
Above Moderate	427	410
Total	809	985

Regional Housing Need Assessment (RHNA)

■ Fillmore	985 units
■ Camarillo	3,340 units
■ Moorpark	1,617 units
■ Ojai	433 units
■ Oxnard	7,093 units
■ Port Hueneme	180 units
■ Ventura	4,011 units
■ Santa Paula	2,241 units
■ Thousand Oaks	1,847 units
■ Simi Valley	3,383 units
■ Unincorporated	1,404 units

Applicability of Govt Code 65584.09

- The City must address the unaccommodated need from the last planning period:

“Where a local government failed to identify or make adequate sites available in the prior planning period, the jurisdiction must zone or rezone adequate sites to address the unaccommodated housing need within the first year of the new planning period. In addition to demonstrating adequate sites for the new planning period, the updated housing element must identify the unaccommodated housing need by income level”

(HCD Memo to Planning Directors dated June 20, 1007)

Applicability of Govt. Code 65584.09

- The City needed to implement Program 1.1.3 of the 2003 Housing Element to increase the density of the RM-H zone from 15u/ac to 20u/ac. City staff is ~~was~~ attempting to implement this program with the current Housing Element with a comprehensive Zoning Ordinance Update (Program 2.3.6.).

- City approved NFSP, which allowed density up to 20u/ac for a maximum 700 units in August 2006, but approval occurred after the 1998-2005 planning period.

Applicability of Govt. Code 65584.09

- How many units does the City need to accommodate from the last planning period?
 - 79 units
- How many units will this Housing Element update plan for?
 - Grand total of 1,094 units (985 + 79)

North Fillmore Specific Plan & Measure I

- Approved by the City on August 22, 2006
- Allowed construction of up to 700 dwelling units with a density of up to 20u/ac.
- Measure I was approved by the voters on November 4, 2008 amending the Land Use Element and the Specific Plan by reducing the density to 5u/ac for a maximum of 350 units.
- The effects of Measure I need to be addressed in the Housing Element.

New Programs in the Housing Element

- Program 1.1.2 – Rezoning of “I” Properties
- Program 1.2.7 – Overcrowded Households
- Program 1.2.8 – Purchase of Foreclosure Properties
- Program 1.2.9 – Demolition Assistance
- Program 2.1.3 – RDA First Time Homebuyer
- Program 2.3.5 – Farmworker Housing Ordinance
- Program 2.3.6 – Zoning Ordinance & General Plan Update
- Program 2.3.7 – Condo Conversion Ordinance Update
- Program 3.2.3 – Emergency Shelter, Transitional, & Supportive Housing Ordinance

Comments & Responses (Appendix B)

- California Dept. of Housing & Community Development (Correspondence 1)
- Calif. Rural Legal Assistance (Correspondence 2)
- House Farm Workers (Correspondence 3)
- Mr. David Roegner (Correspondence 4)
- City Workshop 1 (Correspondence 5)
- Mr. Vance Johnson (Correspondence 6)
- Ms. Gayle Washburn (Correspondence 7)
- Ventura County Homeless & Housing Coalition (Correspondence 8)
- City Workshop 2 (Correspondence 9)

California Housing & Community

Development Dept. – Correspondence 1

- Comment 1.1 (related to 1.28, 8.8) – Quantify and address the housing needs of the extremely low income.
- Comment 1.2 (2.7, 8.11, 8.9, 3.7) – Provide more information on the progress made to fulfill the current RHNA.
- Comment 1.3 (2.5, 2.6, 2.7, 3.5, 9.9) – Address the Unaccommodated Need from the Last Planning Period.

California Housing & Community

Development Dept. – Correspondence 1

- Comment 1.4 - Analyze the realistic unit capacity of parcels.
- Comment 1.5 (related to 2.8, 2.9, 2.10, 3.2) – Analyze the City's dependence of small parcels to fulfill RHNA.
- Comment 1.6 (2.2, 2.3, 2.8, 3.2, 8.2, 8.10) – Identify and analyze zones with density to encourage affordable housing.

California Housing & Community

Development Dept. – Correspondence 1

- Comment 1.7 (related to 2.6, 2.9, 2.10, 2.11, 3.2, 3.4, 3.6, 3.7) – Provide existing land use information on underdeveloped sites listed in Appendix A.
- Comment 1.8 (5.9, 5.14, 7.12, 9.5, 9.12) – Assess environmental constraints on new development.

California Housing & Community

Development Dept. – Correspondence 1

- Comments 1.9, 1.10, 1.11, 1.12, & 1.13 (related to 2.11, 2.14, 2.15, 8.4, 8.7) – Provide information on zones allowing a variety of housing types including emergency shelters, transitional/supportive housing, and housing for ag employees.

California Housing & Community

Development Dept. – Correspondence 1

- Comment 1.14 (related to 5.28) – Analyze the effects of development standards (land use controls) on development of new housing.
- Comment 1.15 (2.2, 2.4, 3.5) – Address NFSP and the effects of Measure I.
- Comment 1.16 – Analyze the effects of processing and permit procedures on new development.

California Housing & Community

Development Dept. – Correspondence 1

- Comment 1.17 (related to 2.16) – Analyze potential constraints on housing for the disabled.
- Comment 1.18 – Analyze how subdivision requirements impact the cost and supply of housing.
- Comment 1.19 – Identify any local amendments to the building code and assess how they impact new housing.

California Housing & Community

Development Dept. – Correspondence 1

- Comment 1.20 (related to 2.12, 2.16, 3.1, 7.7, 8.9) – Provide a detailed number of farmworkers in the City and County.
- Comments 1.21, 1.22, 1.23, 1.24 (1.14, 5.28)
 - Describe actions the City will take to implement policies and achieve housing goals.

California Housing & Community Development Dept. – Correspondence 1

- Comments 1.25, 1.26 (related to 1.9, 1.10, 1.11, 2.9, 2.10, 2.11, 2.14, 2.15, 8.4, 8.7)- Identify sites with zoning that encourage different types of housing for all income levels including emergency shelters, transitional housing, and supportive housing.

California Housing & Community

Development Dept. – Correspondence 1

- Comment 1.27 (related to 2.1, 2.3, 2.5, 3.5, 8.2) – Include a program to increase the density in the RM-H zone and identify sites with possible rezoning for higher density housing.
- Comment 1.28 (1.1, 8.8) – Address the housing needs of the extremely low income category.

California Housing & Community

Development Dept. – Correspondence 1

- Comment 1.29 (related to 1.24, 1.20, 1.1, 2.12, 2.16, 3.1, 8.9, 7.7) – Address housing for special needs groups.
- Comment 1.30 (1.14, 1.16, 1.17, 1.19, 3.3, 5.28, 2.16, 8.9, 8.6, 7.6, 4.1) – Include programs to remove govt. constraints on new housing and promote fair housing for all.

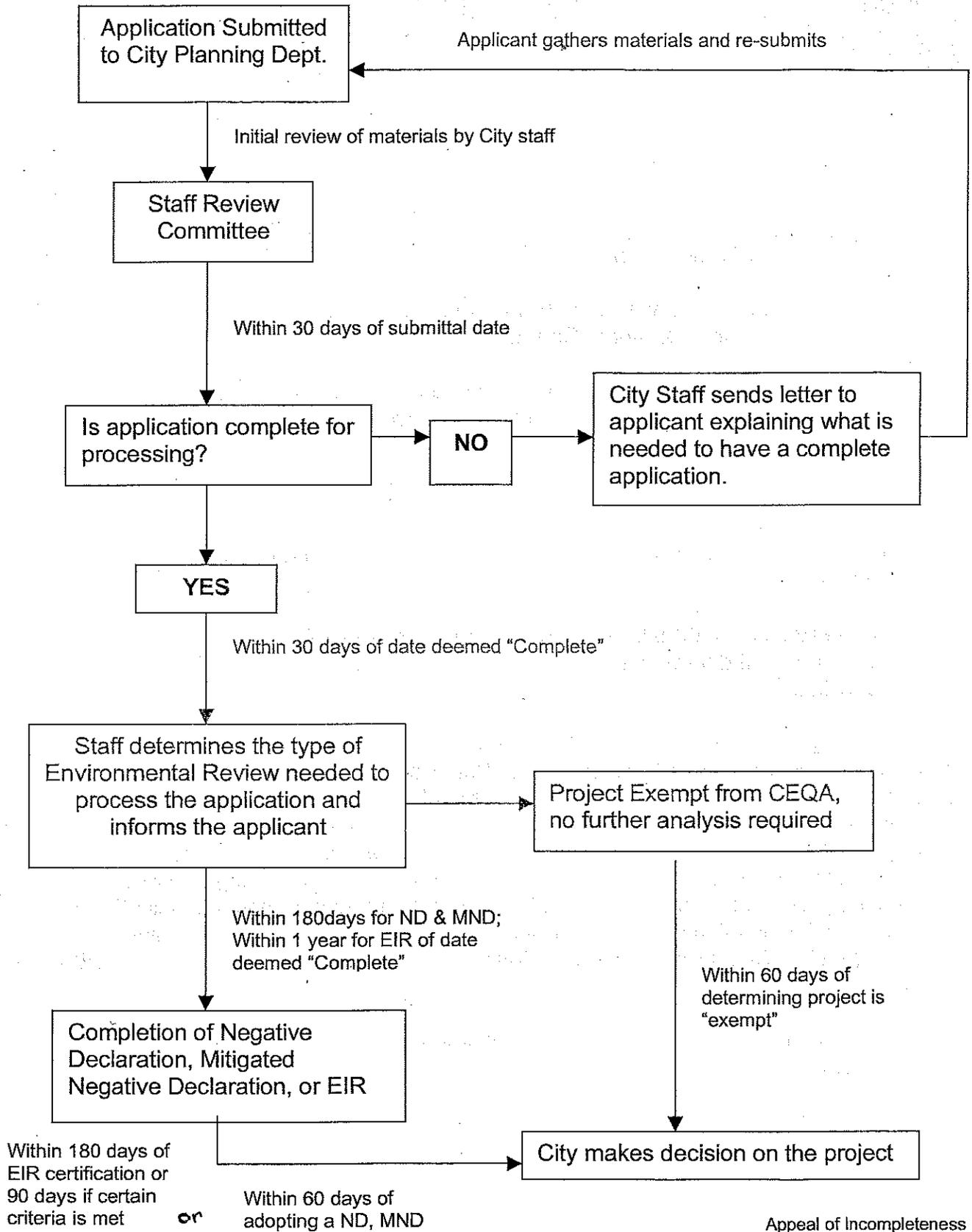
California Housing & Community

Development Dept. – Correspondence 1

- Comment 1.31- Describe how the City has complied with the public participation requirements of the update process and addressed public comment.
- Comment 1.32 (related to 2.4) – Describe actions the City will take to achieve consistency among the elements of the General Plan.

What Happens Next?

- Take Revised Housing Element to P.C. on October 21st for feedback.
- Incorporate feedback received from P.C. and C.C.
- Complete the draft Environmental Document
- Begin Public Hearing Process & Circulate Revised Housing Element and Environmental Document for public review
- Complete Public Hearings & Approve Housing Element and Certify Environmental Document
- Send HCD Approved Housing Element for second review and state certification



The application VTTM 5844 has been deemed incomplete by City staff three times. The table below shows the application activity thus far:

Action made by Applicant	Action made by the City
Submitted application on March 5, 2009	Deemed Incomplete on April 1, 2009
Re-submitted application on June 10, 2009	Deemed Incomplete on July 10, 2009
Re-submitted on July 23, 2009	Deemed Incomplete on August 19, 2009
Filed for appeal of Incompleteness to Planning Commission on September 2, 2009	*Meeting for Appeal scheduled October 21, 2009; Decision to be determined

ANALYSIS

Project Description & Location

Application VTTM 5844 proposes to convert the existing mobile home park from a rental park to a resident-owned park where residents would be able to purchase the lot(s) their coach sits on. Expansion of the park, change of use, or new construction is not proposed. The mobile home park is located at 250 East Telegraph Road, and has a zoning designation of Residential Medium.

The Permit Streamlining Act (Government Code Section 65920-65964)

The State requires Cities to follow the provisions of the PSA and the SMA to process tentative maps and other development applications. Section 65943 (c) of the PSA requires Cities to give the Applicant an opportunity to appeal Staff's determination of application incompleteness after a re-submittal is made. This appeal can be made to the advisory body (Planning Commission) or the governing body (City Council), or both, and the City must make a determination on the appeal within 60-calendar days of receiving the Applicant's written request to appeal regardless if the appeal is heard by both the advisory body and the governing body.

On September 2, 2009, the Applicant requested an appeal of Staff's determination that its application was incomplete. Staff is proceeding with the appeal in accordance with the City's appeal procedures for planning and zoning matters, found at FMC section 6.04.80.

Incompleteness Items

City staff deemed the application "incomplete" because the City needs outstanding information from the Applicant in order to process the application. Attachment 2 is a copy of the last incompleteness letter sent by the City to the Applicant. Section 1 of this letter explains the items needed for a complete application. Attachment 3 is a copy of the Applicant's response protesting those items outlined by the City at Section 1 (beginning on page 2 and ending on page 5), and requesting for an appeal of the "incompleteness" determination.

The following is a summary of the items listed in Section 1 that generally explains the City's requests, and the Applicant's response:

1. To avoid potential economic displacement of all non-purchasing park residents, Section 66427.5 of the SMA requires the Applicant to offer each existing park tenant an option to either purchase his/her lot, or continue renting "at the time of filing the application." The City requested the Applicant provide verification that it so advised the residents in compliance with Section 66427.5. Additionally, staff asked the Applicant to comply with Section 6.04.0416 of the FMC, which requires the Applicant to provide an estimated price for which each lot would be sold.

The Applicant responded that it will not provide verification, and instead informed the City that it advised the residents of their option to buy as part of a survey that was completed previously. The Applicant also refused to comply with the FMC. Its refusal to provide an estimated purchase and rental price at this time is based on its supposition that the SMA does not impose such a requirement, and further states that only the state Department of Real Estate can require the disclosure of the price, and this requirement is only imposed after the application is approved by the City.

2. Section 66452.9 (now Section 66452.18) of the SMA requires the Applicant to notify park residents at least 60 days before filing the proposed application of their intent to file. Neither SMA section contains language exempting mobile home park conversion applications from this noticing requirement. The City asked the Applicant to provide verification of its compliance with Section 66452.9.

The Applicant contends that its application does not need to comply with the 60-day notice of intent-to-file, because the notice requirement pertains to conversion of apartment complexes and not mobile home parks.

3. Per section 6.04.3415 of the FMC, a mobile home park with this many lots requires 151-guest-parking spaces. As is, the park is short 43 spaces. The City asked the Applicant to accommodate these needed spaces in the park. This requirement is based upon section 18300 (g) (1) of the Health & Safety Code,

which gives the City authority to ask the Applicant to comply with parking, even in the context of a mobile home park conversion.

The Applicant contends that the park has operated successfully with existing parking and that the demand for additional parking is unreasonable. Moreover, the Applicant contends that section 18300 (g) (1) is not intended to give the City authority to impose current parking standards as a condition of conversion, because such a requirement violates section 66427.5 of the SMA.

4. Per section 6.04.0416 (E) (7) of the FMC, the Applicant is required to provide a property report evaluating the current condition of all permanent buildings, structures, and facilities of the park. The FMC requires the report be prepared by a licensed engineer, architect, or certified building inspector. The Applicant's property report was prepared by an uncertified inspector. Rather than asking for a new report prepared by a certified inspector, the City asked the Applicant to have its report peer-reviewed by a certified building inspector to comply with the FMC.

The Applicant contends that the City does not have authority to require an inspection of any kind under section 66427.5 of the SMA, and that case law preempts the City from imposing this demand.

5. The FMC accords with mandatory FEMA obligations, and outlines the requirements for tentative maps of City areas in flood zones. Section 6.08.060(h) of the FMC, for example, requires the map to show all areas subject to flood or storm-water overflow and the direction of flow and each watercourse. Furthermore, per section 6.085.060(b)(7) of the FMC, the City requires that flood areas be based on FEMA information and therefore, the map must show FEMA flood hazard zone and areas subject to 100-year flooding, if any, and appropriate calculations must be provided. Approximately 25 percent of Applicant's mobile home park is in the flood zone. Despite this fact, however, the Applicant's proposed map does not show flood or overflow areas in accordance with FEMA. Accordingly, the City asked that the Applicant comply with these requirements given the significant health and safety concerns attendant to the FEMA-related issues.

The Applicant contends that the City's municipal code requirements are preempted by state law, and also represents that the park complied with health and safety standards in effect at the time it was constructed and expanded. Further, the Applicant responds that these requirements only apply to tentative map projects proposing improvements, and that no improvements are planned for VTTM 5844.

Entitlements Needed & Review Authority

Once City staff deems an application complete, Staff will continue to process the application for approval of a Vesting Tentative Map (VTTM) in compliance with the provisions of Subdivision Map Act, Permit Streamlining Act, the Mobile Home Parks Act, Fillmore Municipal Code, and all other applicable City and state codes. Thereafter, the application will be presented to the Planning Commission for their recommendation to the City Council, who will then make a decision on the project.

California Environmental Quality Act (CEQA):

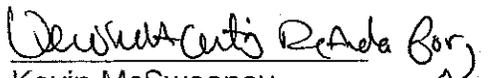
City staff will continue processing the application after it is deemed complete, which includes the environmental review aspect pursuant to CEQA.

RECOMMENDATION

Staff recommends that the Planning Commission coincide with staff's determination and deny the appeal made by the Applicant to overturn the determination of "incompleteness".

The Planning Commission's decision at this juncture is only whether the Applicant's application is complete, thereby allowing staff to process the application. The completeness determination *is not* a decision on any substantive requirements or conditions that may or may not be imposed upon the project, nor is this is a decision on the conversion itself.

Concur:


Kevin McSweeney,
Community Development Director

Attachments:

1. Resolution 09-842
2. Copy of last City Incompleteness Letter dated August 19, 2009 (without attachments)
3. Copy of Applicant (HK&C) Correspondence dated August 31, 2009 (without attachments)



CITY OF FILLMORE

CENTRAL PARK PLAZA

250 Central Avenue

Fillmore, California 93015-1907

(805) 524-3701 • FAX (805) 524-5707

August 19, 2009

El Dorado Estates
 C/O The Star Companies
 Mike Cirillo
 1400 East 4th Street
 Santa Ana, Ca 92701

Subject: Proposed Vesting Tentative Tract Map 5844; Proposal to convert an existing rental mobile home park located at 250 East Telegraph Road into a condominium, subdivided park of individual ownership (RM zone)

Dear Mr. Cirillo:

City staff received an application re-submittal on July 23, 2009 for the project referenced in the subject line. As with all other applications, the City is reviewing and processing this application in accordance with the Permit Streamlining Act and other applicable state codes including but not limited to the Subdivision Map Act and hereby deem the application incomplete. Below, in Section I, please find the items/information necessary for City staff to deem the application complete.

Section I - The following items must be adequately addressed and/or provided in order to have a complete application for processing:

1. Please provide verification that existing park tenants have been offered the option to purchase his/her lot, or continue as a tenant at the park as per Govt. Code section 66427.5(a). To clarify the City is not requiring that you make an offer for sale to the park residents at this time, because the park has yet to be subdivided. The City is merely asking that you provide evidence that the tenants received a *notice* informing them that they will have the *option* to buy the lot they occupy if and when the park is subdivided in compliance with the language of section 66427.5 (a). As stated in the "Impact of Conversion Report" that was originally received with your application "the residents cannot make a rational decision to buy, continue, to rent, or move his or her mobile home until the tenant is given an option purchase price and a proposed rental price" and the City is in full agreement with this statement. Therefore, to fully comply with Govt. Code section 66427.5 (a) the park residents need to know an estimated purchase price and estimated rental price. As stated in this section the option must be made to the park residents "*at the time of filing a tentative or parcel map for a subdivision*" and not upon conversion of the park as stated in the "Impact of Conversion Report".

Section II – Please be advised that the following materials must be provided to staff before a public hearing takes place on the application:

1. Per Section 6.04.0416 (E) (6) of the FMC, provide an estimate of projected annual operating expenses for the project after conversion and proposed level of maintenance fees or assessments to be borne by the individual unit owners. This information will be presented to the Planning Commission and City Council at the public hearing. Contrary to the statement made in the letter from HK&C dated July 23, 2009 this item was listed in the City's first incompleteness letter dated April 1, 2009 as item number six under Planning Department comments.
2. The applicant must comply with the requirements of Section 6.085.060 "Filing and Processing of Vesting Tentative Maps" of the FMC, including but not limited to:
 - a. Subsection (b) (2), show existing building(s) by square footage, by floor, lot and total project;
 - b. Subsection (b) (3), show all parking spaces numbered with total number of spaces given; show wheel stops or curb substitute, parking space striping, handicap parking; ingress and egress;
 - c. Subsection (b) (4), on a separate sheet, show all existing trees (if any), existing and proposed landscape areas, detail all plants by type, size, spacing, and number; square footage of common usable and private open space and patio areas external lighting;
 - d. Subsection (b) (7), complete preliminary improvement plans for any improvements such as sound walls, structures for storm water treatment and flood protection improvements. Section 6.085.060 (b) (4) for landscaping requirements also applies if any landscape is to be added for storm water treatment. These plans will need to be reviewed and approved prior to a hearing before the Planning Commission.

Contrary to the statement made by HK&C in its July 23, 2009 letter, the City's request for compliance with the FMC requirements for a vesting tentative map is not a new item, but a clarification of item number 15 contained in the original letter of incompleteness dated April 1, 2009 pertaining to vesting tentative maps.

Section III - Please be advised that the following conditions of approval will be imposed on the project. The City understands that Government Code section 66428.1 (d) relates to applications being processed under circumstances where the park tenants are petitioning to purchase the mobile home park. As proposed this application is not subject to the provisions of Govt. Code section 66428.1.

1. Installation of a sound wall along Hwy 126 along the mobile home park frontage in accordance with recommendations from a noise study prepared per City standards to meet the City's Noise Ordinance (see FMC sections 6.04.0416(E)(9) and 6.04.1805(14)). In addition to mitigating an existing health and safety concern with respect to noise and pollution, the City's condition of a perimeter wall is expressly authorized by Health & Safety Code section 18300(g)(1). The letter from HK&C dated July 23, 2009 provides no legal basis for the denial of compliance with this requirement.

If you have questions concerning the comments listed above, please contact me at 805-524-1500 x116. Thank you and we look forward to hearing from you.

Sincerely,



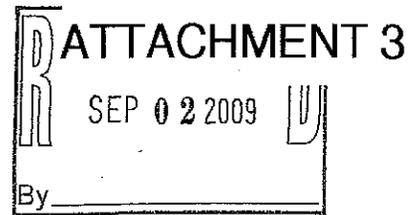
Kevin McSweeney
Community Development Director

CC: Bert Rapp, Public Works Director
Rigo Landeros, Fire Department Chief
Theodore J. Schneider, City Attorney
Burt Mazelow, R.T. Quinn & Associates INC
Mark D. Alpert, HK&C
Project File

Attachments:

1. Copy of PD 02-71

HK&C
HART, KING & COLDREN



Mark D. Alpert
malpert@hkclaw.com

August 31, 2009

Our File Number: 25383.373/4812-9018-7780v.1

VIA EMAIL AND MAIL

Kevin McSweeney
Director, Community Development
City of Fillmore
250 Central Avenue
Fillmore, CA 93015

Re: El Dorado Estates Mobilehome Park Subdivision

Dear Mr. McSweeney:

I received your letter of August 19, 2009, which, among other things, suggested the availability of an administrative appeal of the determination that the application is not complete. As we discussed by phone today, I reviewed your local zoning code and found no provision in it for hearing such an appeal. I called you, in part, to confirm that such an appeal did not exist in your zoning code. You confirmed that no such appeal process existed and that your department has not previously ever undertaken a formal review of the determination of completeness. In essence, you indicated this appeal was offered as a result of discussions with the City Attorney.

I do not believe such an appeal would serve any purpose. It is clear that the City has taken its position based on a political decision to oppose conversion. However, for the purposes of exhausting its administrative remedies, this letter is submitted to initiate an appeal to the Planning Commission. The appeal is on the grounds that your letter of August 19, 2009 improperly deems the application complete.

The fundamental error that underlies the determination that the application is incomplete is your assumption that the City's own subdivision statute regulates the processing of this application. As we have repeatedly explained and the City has repeatedly ignored, Government Code §66427.5. (Displacement of non-purchasing residents) limits the scope of hearings to consider the approval of maps. Subsection (e) specifies:

The subdivider shall be subject to a hearing by a legislative body or advisory agency, which authorized by local ordinance to approve, conditionally approve, or disapproved the map. The scope of the hearing shall be limited to this issue of compliance with this section." (emphasis added)

The language of Government Code section 66427.5 (e) limiting the scope of the subdivision application hearing to compliance with Section 66427.5 has already been determined to expressly preempt any additional municipal regulation. *El Dorado Palm Springs, Ltd. v. City of Palm Springs* (2002) 96 Cal.App.4th 1153, 1165.

On August 21, 2009, the First District Court of Appeal in *Sequoia Park Associates v. County of Sonoma* ("Sequoia") unambiguously affirmed the limited scope of local government authority in



HART, KING & CHILDREN

Kevin McSweeney
City of Fillmore
August 31, 2009
Page 2

conversions to compliance with Government Code § 66277.5. The Court rejected more narrow interpretations of that section. The Court notes the multiple amicus briefs and undertakes and exhaustive analysis of the ordinance, legislative history and the role of state regulation. The carefully reasoned decision held that the County's mobile home conversion ordinance was preempted by state law. A copy of the decision is enclosed.

The Court of Appeal observed:

The foregoing analysis convinces us that the *El Dorado* construction of section 66427.5 has stood the test of time and received the tacit approval of the Legislature. We therefore conclude that what is currently subdivision (e) of section 66427.5 continues to have the effect of an express preemption of the power of local authorities to inject other factors when considering an application to convert an existing mobilehome park from a rental to a resident-owner basis.

The City should reconsider its assertion of "incompleteness" based on this decisional law. As you know, it is a holding consistent with the holding of numerous trial courts throughout the state. The City's August 19, 2009 letter deeming the El Dorado application incomplete violates state law as it is based on the City's preempted municipal code requirements.

Section 1

1. "Evidence of Notification of Option to Sell"

In a modified demand, the City now asks for evidence that the residents have been advised of the fact that they will be given an option to purchase—not the prior demand of evidence that an option to purchase has been made. Your letter "clarifies" that this notification cannot be meaningful unless the residents are notified of the "estimated purchase price." The City's justification has changed as well. Previously, the City cited only its Municipal Code. Now the City cites Government Code 66427.5. The residents have already been advised of the fact that they will have an option to purchase as part of the survey process. In addition, the Relocation Impact Report, which will be served on all residents, discloses the fact that they will have an option to purchase. As to disclosing an estimated purchase price, there is nothing in Government Code § 66427.5 suggesting such a requirement. It merely states that each resident have the option of purchasing. As noted, the RIR already specifies this option will be provided and the applicant has no objection to including this requirement as a condition of the approval. As the *Sequoia* decision makes clear, the City's requirements are preempted by state law because it is not within the scope of the requirements Government code § 66427.5. In addition, the City's efforts to require information regarding an estimated sales price extends into an area of exclusive state regulation by the DRE. More basically, the City is demanding information that will be of little or no value, as the park owner cannot provide a reasonable estimate of expected purchase price at this time.



HART, KING & GOLDREN

Kevin McSweeney
City of Fillmore
August 31, 2009
Page 3

2. Notice Requirements

The City continues to insist on notice requirements that are not specified in Government Code Section 66427.5, which has its own notice procedures for residents. As previously explained, the City is attempting to impose notice requirements that apply to apartment complexes. I am not aware of another local government which has sought to impose these requirements as part of a mobile home conversion. Since the City's review of the conversion is limited to matters specified in Government Code § 66427.5, which specifies no such requirements, this notice requirement does not apply.

To meet the requirements of Government Code Section 66452.18, the park owner would be required to give a notice in exactly the following form:

" To the occupant(s) of

(address)

The owner(s) of this building, at (address), plans to file a tentative map with the (city, county, or city and county) to convert this building to a (condominium, community apartment, or stock cooperative project). You shall be given notice of each hearing for which notice is required pursuant to Sections 66451.3 and 66452.5 of the Government Code, and you have the right to appear and the right to be heard at any such hearing.

(signature of owner or owner's agent)

(date) "

Obviously, providing such a notice would be giving inaccurate information and only cause confusion. No building is being converted. Yet, Government § 66452.18 specifies the notice "shall" be given in this form. Government Code § 66427.5 and the MRL already have notice requirements and these notice requirements provide for timely accurate notice to the residents. Yet, the City insists on requiring inaccurate notice which is in addition to the notice already required under Government § 66427.5. As the *Sequoia* decision confirms, the City's role is limited to reviewing compliance with Government Code § 66427.5. Thus, even if the City is correct on the service requirement under § 66452.18, the City has no authority to review compliance with that section.



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3. Parking Requirements

The City cannot require any modification to existing parking as a condition of approving conversion. As noted above, Government Code § 66427.5 specifies the very limited scope of local government review. While it is true that Health & Safety Code § 18300 carves out authority for local jurisdictions to regulate in areas normally regulated by HCD, this authority does not give local jurisdiction to impose current parking standards as a condition of conversion. Government Code § 66427.5 limits and bars consideration of compliance with the standards that would apply to a new subdivision project whether the source of that new standard is state law or the local government's municipal code.

In any event, the park has operated successfully and without problems with the existing parking and there simply is no space to add 43 parking spaces. Such a demand is unreasonable.

Finally, this demand is irrelevant to "completing" the application, but rather relates to a proposed condition by the City of conversion, a condition that would violate Government Code § 66427.5. The Applicant will not comply with the new demand to provide 43 new parking spaces.

4. Inspection Report

As previously noted, the City does not have authority to require an inspection of any kind under Government Code § 66427.5. The municipal code requirements are preempted by that section pursuant to Sequoia, supra. The City does not have authority to make this demand. In any event, the park owner submitted an inspection report by a well qualified inspector that provides the City any information it could need to conduct a review consistent with Government Code § 66427.5. I noted that your letter did not identify any respect in which the report submitted was not adequate. The Applicant will not undertake the expense and delay of preparing a second, unnecessary inspection.

5. Flood zone

Once again, the City cites its preempted municipal code requirements for information regarding flood zones. The supplemental map provided incorporates and shows the latest FEMA 100 year flood zones. The park was constructed and expanded in accordance with relevant health and safety standards that applied at the time of construction, including any flooding mitigation requirements.

There is nothing in Municipal Code § 6.08.085.060(b)(7) establishing standards for flood zone maps or requiring flood zone calculations. This section applies to standards for proposed improvements.



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I noted no reference to the City's own standards for flood control which are set forth in Chapter 6.16 of the Municipal Code. Section 6.16.110 establishes a development permit which is required " . . . before construction or development begins within any area of special flood hazards established in Section 6.16.060. Section 6.16.040(7) defines "development" as

any manmade change to improved or unimproved real estate. filling, grading, paving, excavation or drilling operations located within the area of special flood hazard..

The conversion of El Dorado will not involve any construction or development as defined within the municipal code. In other words, the City has no authority to impose any flood mitigation measures under its own code requirements. Thus, your letter not only seeks to apply pre-empted municipal code requirements, it creates requirements out of thin air are not required by the City's municipal code.

In addition, it is likely that the City already has all of the information it is requesting as a result of the approval of the subdivision immediately to the East of the Park. Thus, the City is demanding information it almost certainly already has, including the requested calculations. Thus, the essence of this demand has nothing to do with whether the application is "complete" but rather relates to whether the City has authority to condition the application on making flood control improvements. We will separately submit a public records request for this information to confirm it is already available to the City.

Finally, it is my understanding that the FEMA map is in the process of being updated and that process will be completed at the beginning of 2010. Thus, it is likely that any information provided would be likely outdated very soon. While the applicant does not believe the City has a right to impose conditions relating to flood zones, if the City wishes to insist on addressing flood concerns, the logical manner to address them is through conditioning issuance of the final map on the park owner addressing serious flood risks, if any, that are identified in the 2010 FEMA flood map.

Section II

It does not appear that the City demands the materials sought in this section as part of deeming the application complete. Thus, it is likely not relevant to the appeal.

To the extent it is relevant, the City cannot demand either item. The first is a "budget" of estimated annual expenses. The second item is, once again, a demand for a map showing existing improvements. Both of these demands are based on municipal code requirements which are preempted not only by Government Code § 66427.5, but also by the DRE regulation of sales.

Section III

HK&C

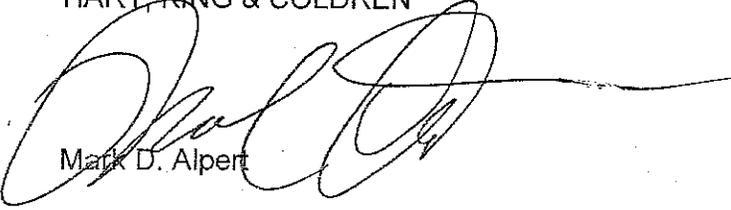
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These items clearly refer to proposed conditions of the conversion and thus certainly need not be addressed in an appeal relating to the "completeness" of the application.

Sincerely,

HART, KING & COLDREN

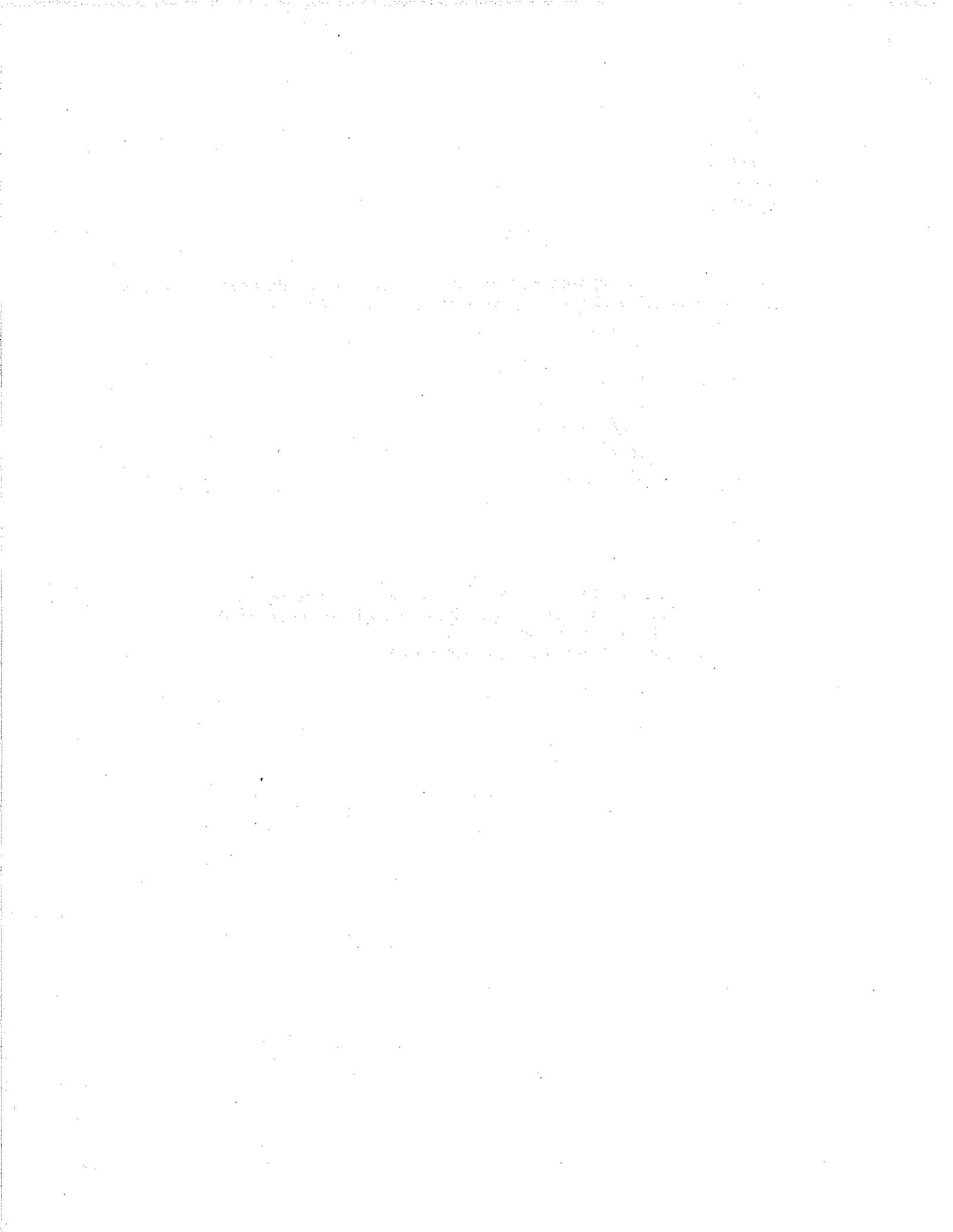


Mark D. Alpert

MDA/sm

Enclosure

cc: Bert Rapp, Public Works Director (via electronic mail w/out enclosures)
Theodore J. Schneider, City Attorney (via electronic mail w/out enclosures)
Mike Cirillo (via electronic mail w/out enclosures)
Robert Coldren (via electronic mail w/out enclosures)



**CITY OF FILLMORE
PLANNING COMMISSION
RESOLUTION NO. 09-845**

AS PROPOSED BY CITY PLANNING STAFF:

**DENIAL OF AN APPEAL
TO PLANNING DEPARTMENT STAFF DECISION ON
DEEMING APPLICATION FOR
VESTING TENTATIVE MAP (VTTM) 5844 INCOMPLETE**

**APPLICANT:
MIKE CIRILLO OF STAR COMPANIES FOR
NANCY WATKINS, EL DORADO ESTATES,
250 E. TELEGRAPH ROAD**

WHEREAS, The Applicant petitioned the Planning Commission to overturn the City Planning Department's determination of deeming application VTTM 5844 (the "Application") "incomplete" for processing. Said application proposes to subdivide an existing mobile home park known as El Dorado Mobile Home Park to convert it from a rental park into a resident ownership park;

WHEREAS, The City reviews and processes proposed development and subdivision applications in accordance with the Fillmore Municipal Code ("FMC"), the Permit Streamlining Act ("PSA"), the Subdivision Map Act ("SMA"), and other applicable state and federal laws;

WHEREAS, Government Code Section 65943 (c) of the PSA requires the City to provide the Applicant a process to appeal a determination of application incompleteness, and where an applicant has requested such an appeal, to render a final written determination on the appeal not later than 60 calendar days after receipt of the applicant's written appeal;

WHEREAS, Government Code Section 65943, which is part of the PSA, does not require the City to hold a noticed public hearing on this matter; and

WHEREAS, Based upon the evidence presented, which includes the Application, all related documentation and the City's responses thereto, submitted by the Applicant on March 5, 2009, resubmitted on June 10, and July 23, and the Applicant's Appeal on September 3, 2009, and the matters discussed at the hearing held on October 21, 2009, the Planning Commission makes the following findings of fact:

1. The address for the subject property is 250 East Telegraph Road, APN 041-0-330-035, and currently operates as a 302-space mobile-home park, which the Applicant seeks to convert to a 302—subdivided-space mobile-home park with one common lot (the "Property").
2. The Applicant and current owner of the Property is El Dorado Estates, a California Limited partnership.
3. The Applicant's representative is Mike Cirillo of The Star Companies, 1400 East 4th Street, Santa Ana, CA 92701.
4. The Property is in the Residential Medium (R-M) zone.
5. The Property has 150 parking spaces.
6. The Applicant has not provided either an approximate proposed price, or proposed price for which each unit/lot would be sold, asserting that the Department of Real Estate regulates the lot-sale process to the exclusion of any requirement by the City. Instead, the Applicant promised it will give all tenants renting space the option to purchase following recordation of the vesting tentative map.
7. The Applicant has not provided the City with proof that it gave tenants a 60-day notice of intent to file for tentative map conversion prior to the filing of its Application.
8. The Applicant has not provided a property report prepared by a licensed state civil engineer, architect, or other qualified person approved by the City's building official, and instead submitted a report prepared by "Jim Farmer – Legal Support & Expert Witness Service." The Applicant refused to have its Report peer-reviewed by a licensed architect, engineer or certified building inspector.
9. The Applicant has not provided a vesting tentative map that identifies all areas subject to flood or storm water overflow and the location, width and direction of flow and each watercourse, along with calculations for the 100-year local flood path overland flow across the property.
10. The easterly portion of the Property is in a flood zone AE.
11. Sections 6.04.80 *et seq.* of the FMC contain a procedure pertaining to appeals of decisions rendered by the Planning Director, such as a determination that an application is incomplete.
12. In accordance with FMC sections 6.04.80 *et. seq.* and Government Code section 65943(c), the Planning Commission held an appeal hearing regarding the Planning Director's determination that the Application was incomplete.

13. In order for the City to conduct a thorough review and process the Application in compliance with the FMC, the SMA, and the PSA, the information outlined in Section 1 of the City's Incompleteness letter dated August 19, 2009 as contained in the staff report is needed.
14. On the above facts, and in considering the applicable local, state and federal laws and regulations, including Government Code section 65943 of the PSA, the Planning Commission finds the application incomplete for processing.
15. Accordingly, the Planning Commission concurs with the Planning Director's determination pursuant to the provisions contained in the FMC, the PSA, the SMA and other applicable state and federal laws, as follows:
 - a. Per Section 66427.5 of the SMA, the Applicant is required to avoid economic displacement of all non-purchasing park residents in part by offering each existing park tenant at the time of filling the application an option to either purchase his/her lot or to continue renting and verification of compliance must be provided to the City before staff can deem the application as "complete".
 - b. Per Section 6.04.0416 of the FMC, the Applicant is required to provide an estimated price for which each lot would be sold before staff can deem the application as "complete".
 - c. Per Section 66452.9 (now 66452.18) of the SMA, the Applicant is required to notify existing park residents at least 60 days before filing of their intent to file and verification of compliance must be provided to the City before staff can deem the application as "complete".
 - d. Per Section 6.04.3415 of the FMC, a mobile home park of 302 lots is required to provide 151 guest parking spaces of which only 108 are shown in the map. The additional 43 spaces must be shown before the application can be deemed as "complete".
 - e. Per Section 6.04.0416 (E) (7) of the FMC, the Applicant is required to provide a property report prepared or peer reviewed by a licensed engineer, architect, or certified building inspector before the application can be deemed as "complete".
 - f. Per Section 6.08.060, subsection h of the FMC, the map must show all areas subject to flood or storm water overflow and the direction of flow and each watercourse before the application can be deemed as "complete".
 - g. Per Section 6.085.060 (b) (7) of the FMC, the City standard requires that flood areas shown on the map be based on FEMA flood hazard zones and local 100-year overland storm flows and therefore, the map must show the FEMA flood hazard zone on the map and the area subject to 100-year flooding, if any, and provide calculations for the 100-year local flood path overland flow across the property before the application can be deemed as "complete".

NOW, THEREFORE BE IT RESOLVED, that the Planning Commission does hereby approve Resolution 09-845, based on the above-mentioned information, public review, and documentation presented.

PASSED AND ADOPTED by the Planning Commission of the City of Fillmore this 21st day of October 2009 by the following votes:

Ayes:

Nays:

Abstain:

Absent:

Douglas Tucker, Chair
Planning Commission

ATTEST:

Denise Beauduy
Planning Secretary