

**PLANNING COMMISSION MEETING**

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 ext. 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).

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. OATH OF ALLEGIANCE**

**3a.** Newly appointed Planning Commissioner, Tim Holmgren, takes the Oath of Allegiance before taking his seat on the Dais.

**4. ORAL COMMUNICATIONS**

**4a.** 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 January 19, 2011 Regular Planning Commission Meeting.

**Copy**

**6. PUBLIC HEARINGS**

**6a.** Tentative Parcel Map 11-01, (TPM 11-01) Subdivide One Legal Parcel Into Two Separate Legal Parcels. **Memo**

**Location:** 749 Fourth Street. **Zoning:** Residential Medium

**Applicant:** Tritay Property Investments, LLC,  
300 Esplanade Dr., Suite 1550  
Oxnard, CA 93036

**Purpose:** Review proposal and receive public testimony. **Reso**  
**Recommendation:** Adopt Planning Commission Resolution 11-860  
Approving TPM 11-01, subject to Conditions of Approval.

**7. BUSINESS ITEMS – None.**

**8. REPORTS and COMMUNICATIONS**

**8a.** Community Development Director **Oral**  
**8b.** Planning Commission **Oral**

**9. ADJOURNMENT**

**9a.** The Planning Commission adjourns to the next regular Planning Commission meeting scheduled for March 16, 2011, 6:30 p.m., in the City Council Chambers, 250 Central Ave., Fillmore, CA 93015.

**Next Regular City Council Meeting  
February 22, 2011**

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.

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

**JANUARY 19, 2011  
REGULAR MEETING  
6:30 PM**

**MINUTES**

**CALL TO ORDER**

6:32 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 and Planning Secretary Denise Beauduy.

**ORAL COMMUNICATIONS**

There were no comments.

**CONSENT CALENDAR - Approved**

The Consent Calendar consisted minutes of the November 17, 2010 regular scheduled Planning Commission meeting. It was moved and seconded to approve the minutes as submitted. Motion: McCall Second: Austin Ayes: Austin, Fennell, Johnson, McCall and Tucker. Noes: None. Abstain: None. Absent: None. Motion Carried 5:0.

**PUBLIC HEARINGS - None**

**BUSINESS ITEM**

*Screening 11-02, (SCR 11-02), conceptual Proposal for Future Reuse of the Former Texaco Refinery Property Consisting Approximately 60.25 Acres of Contiguous Property Adjacent to and East of the City Limits of Fillmore and East of the Pole Creek Channel and North of Sate Highway 126.*

6:33 p.m., Mr. McSweeney presented the Staff report stating the Applicant, Chevron Industrial Development, LLC has submitted an application for a conceptual proposal on the former Texaco Refinery site just east of Pole Creek and north of Highway 126. Mr. McSweeney said the property is not in the City Limits, but it is in the Sphere of Influence and could become part of the city someday. The Applicant is proposing industrial spaces and they are asking the Planning Commission to provide feedback or direction regarding their proposal. Mr. McSweeney said the site had been declared a superfund site by the EPA because of the oil refinery that once existed there. Mr. McSweeney said City staff is excited about the conceptual proposal and viewed it as an opportunity for a higher and better use for the property; they reviewed the proposal and made comments (which were included in the packet on page 15). Mr. McSweeney said the property is a Brownfield and the uses are limited, and since it is adjacent to Pole Creek, City staff would like see the Pole Creek channel improved to meet the FEMA requirements for a 100-year storm event. City staff would also like feedback from the Watershed Protection District, Dept.of Fish and Game and the Army Corps of Engineers. The property is also adjacent to the Pan Am Satellite property and

City staff would like to have their input as well. Mr. McSweeney said the General Plan designates this area for recreational opportunities such as an RV Park KOA campground. Mr. McSweeney referred to page 15 of the Staff report and gave City staff's comments about the property and possible land use activities for the site: the property is within the Sphere of Influence and CURB and should be annexed into the city limits; extend the bike path to the site; Chevron should provide a map of the plume; align the main entrance from Highway 126; remove the intersection of Santa Clara St, and Highway 126 and have access directly to the site. remove Kellogg Street; provide additional access and extend Sespe Avenue to the site; create a pedestrian crossing over Pole Creek; expand the use of the Scout House; explore a community garden at the scout house; provide trails for hiking and mountain biking on the Chevron property; truck parking is in demand throughout the city and maybe the site could accommodate truck parking; railroad storage could be relocated to this site. Lastly, City staff would like to add green technology to the site and explore solar power opportunities. Mr. McSweeney said an environmental review of the property is required by CEQA to study issues regarding noise, traffic, biological; debris flow, contamination, etc.; a NEPA document will be required as well.

Commissioner Johnson asked if the environmental review for NEPA and CEQA would be done concurrently. Mr. McSweeney responded he would advocate for both documents to be done concurrently.

Chair Tucker asked what type of industrial uses would occur on the property. Mr. McSweeney said representatives from Chevron were in the audience and they could answer the question.

Leslie Klinchuch, Project Manager, Environmental Division of Chevron. Ms. Klinchuch stated she is a Certified hydrogeologist and Professional Geologist in the State of California she has been involved with the remediation of the site since 2005. Ms. Klinchuch provided the history of the property stating a refinery was constructed in 1915 and operated until 1950. The refinery was acquired by Texaco in 1928 and operated it until 1951 when the refinery was dismantled. A crude oil pumping station operated on the site from 1952 until 2000. Ms. Klinchuch stated remediation of the waste pits on site began in 1986. In 1989 the EPA declared the site a Superfund site because of ground water contamination, and the EPA issued a prescriptive remedy which was conducted from 1993 to 2004. Ms. Klinchuch said the EPA has changed its criteria since then, and by today's standards, the site would not fall into the category of Superfund site, but it was declared a Superfund site and remains in that category. Ms. Klinchuch said operations ceased in 2000 and Chevron had merged with Texaco. Operations ceased in 2000, and the facilities were dismantled starting 2002 until 2004. In 2004 Chevron had discussions of land use and the potential for revitalization. From 2005 until 2010, Chevron completed extensive investigations and feasibility studies in cooperation with the EPA for land revitalization. Ms. Klinchuch said Chevron and EPA will hold a public meeting to inform the public of the final remediation process, and Chevron hopes to remove all of the subsurface pipe line complete the process by 2012. Ms. Klinchuch said NEPA and CEQA will be done concurrently because they have almost the same process.

Bill Almas, Sr. Project Manager, Business and Real Estate Division of Chevron. Mr. Almas stated there are environmental constraints and physical constraints on the property as well as economic considerations, but over the last three years, Chevron has taken a serious look at the type of uses that could occur on the property. Mr. Almas said the project site is 60.25 acres total, but 4.5 acres is already in the city limits and is already zoned for Commercial Highway and Public Facilities.

There are 56 acres that need to be annexed. Chevron is proposing a commercial element, along the highway, an industrial component and dedicated open space. Chevron is also proposing a pedestrian bridge with emergency access from Main Street to the site. Mr. Almas said Chevron studied market trends and believe the land uses are consistent with site constraints, project feasibility and meet the needs of the community. Chevron hopes to fulfill a niche for industrial space; the property is close to Santa Clarita, but the lots are small and would be less expensive. The industrial component of the property would not be in direct competition with the business park on the southwestern side of the city. Of the total 439,500 square feet of total built space, 92,500 square feet is zoned for commercial use and 347,000 square feet is zoned for manufacturing use. Phasing development, Mr. Almas said, would allow the buildout of space on an as needed basis. Mr. Almas referred to City staff's comments regarding solar energy and said the orientation of the site allows for passive and active solar to be integrated as a design feature. Mr. Almas said the objective is to remediate the site and convert non-productive land into feasible beneficial uses that contribute to the quality of life and economic viability of Fillmore. Mr. Almas said the benefits of the project are: improved access to Highway 126; an attractive gateway to the east end of the city; 13 acres of open space along the hillside; Chevron owns the property and will be a reliable and capable long-term partner.

Chair Tucker asked if there were current issues with environmental hazards on the property.

Ms. Kinchuch responded the current condition of the site is safe to the community, but the EPA has certain criteria that must be followed and the property needs further remediation to be completely clean for future commercial or industrial uses. The site will meet the clean-up criteria set by the EPA at the state and federal levels and will be safe for utility workers and construction workers for years to come, but the property will be deed restricted to prohibit residential use.

**Planning Commission Questions and Comments.**

Commissioner Austin asked if the property was a liability and who is responsible. Ms. Klinchuch responded that Chevron is the long term land owner and the liability is with them. Chevron may not develop the property, but they will do the public improvements and maintain ownership of the site. Ms. Klinchuch said the EPA will have to sign off for use of the site; they were here a year ago and helped to obtain a Brownfield grant. Mr. Almas said Chevron's intention is to maintain ownership of the property for many years to come.

Commissioner McCall said recreation is really important to the city. Commercial and industrial buildout would be fitting; circulation is key. Commissioner McCall said the community is very concerned with visual impacts; she would like to keep the open space and marry other recreational uses into that, other than ball fields, the city has enough ball fields.

Commissioner Johnson said ball fields would not be appropriate for this site. The site needs to generate income for Chevron and will need to generate income for City before we annex the property. As for circulation, Santa Clara Avenue used to cross the creek, and the reason it was abandoned was for safety reasons. Commissioner Johnson said he is not sure about abandoning the intersection; it would bring traffic in through Santa Clara. Commissioner Johnson indicated he liked the idea of access to the site from Sespe Avenue. Commissioner Johnson said there is a potential for Entrepreneur incubator businesses and truck parking is a need in town. Commissioner

Johnson recommended Chevron make an effort to market and educate the public about their plans for the site.

Commissioner Austin commented it is a good concept and it comes down to how projects look upon entry into the city. The City has to take steps forward for better entry. Commissioner Austin said he likes the possibilities of a dog park and community garden at the Scout House; they are beneficial uses to community.

Commissioner Fennell said he recognizes it is private property and he supports Chevron's right to develop it the way they see fit. Commissioner Fennell said the property cannot be seen from Highway 126 and it would be nice to leave some sort of greenbelt effect.

Chair Tucker stated this is a wonderful opportunity. Chair Tucker stated his concerns with visual impacts and said the mountain views should not be blocked. Chevron should consider building height and lighting. As for the industrial component, Chevron should consider the number of jobs that could be provided in the community. Chair Tucker said he liked the idea of the two access points into the property and it should be studied for auto access not just emergency access. Chair Tucker said he agreed with City staff's comments regarding the bike path extension and recreational uses and the comments about the gateway to the community. Chair Tucker said maybe a water feature could be incorporated in the gateway component.

Commissioner Johnson commented that Chevron should be mindful that noise could be an issue. In 2002 when the dismantling occurred there were complaints of noise from the explosives that were used during the day. Commissioner Johnson said low lying trees would be beneficial to the properties west of the site.

Mr. McSweeney stated Chevron helped the City obtain grants for Phase 1 and Phase 2 environmental studies, that were completed, for the Saticoy Lemon site. Mr. McSweeney said the studies would not have been done without Chevron's help.

**BUSINESS ITEM**

*Tentative Tract 5353, (TTR 5353), Determining Status of Modification #2 to Development Permit 01-16 (Mod #2 to DP 01-16) as Active or Inactive for Approved Project Consisting of 110 Residential Units, Located at the SW Corner of Central Ave., and River St., Applicant is KB Home 27240 Turnberry Ln., Suite 100, Valencia, CA. The Planning Commission will determine whether the project is active or inactive.*

7:26 p.m., Mr. McSweeney stated this is not a public hearing, but the purpose of reviewing this item tonight is to look at a site and determine whether or not the project is active. There has been some progress, but nothing has been done in the last two years. Mr. McSweeney stated there is a Participation Agreement between the Applicant and the Redevelopment Agency, and there are deadlines coming up, and the Applicant would like to extend the Agreement for another three years. Mr. McSweeney said that before the Redevelopment Agency can extend the Agreement, but first the Planning Commission must determine if the project is inactive or terminated. Mr. McSweeney stated KB Home purchased the site with an approved project in 2006. KB Home submitted plans for public improvements and structures; the plan check is complete; the public improvements are done. The levee was constructed and the storm drain was constructed; soil was imported to the site.

Mr. McSweeney said the Applicant has been maintaining the site. There is fencing around the site, the Applicant abates the weeds on site and the Applicant responds quickly to address complaints. Because of the downturn in the market, the Applicant has not constructed any units nor have they constructed the streets. Mr. McSweeney said the environmental permits are still active and will not expire until 2013; the tract map has been recorded and is active. The Commission is considering whether or not the Development Permit is active. If the Commission decides the Development Permit has expired then the Applicant will have to submit new plans for the residential units and landscaping and go through public hearings.

Tom Di Prima, Executive Vice President, KB Home. Mr. Di Prima stated he had been with KB Home since 1992, and he was involved in the acquisition of this project. Mr. Di Prima said KB Home loved the project and the community, but while they were constructing the public improvements they experienced a serious downturn in housing market. Mr. Di Prima said KB Home is active in communities; they are not an absentee landlord. Mr. Di Prima said over the years KB Home has discovered the best way to stay in good graces of the communities is to remain active in the communities and stay active in the projects. Mr. Di Prima said KB Home is hoping there will be a time in the economy when the project will become viable. They are seeing signs of improvement in the housing market, and we can see the project coming to life in the future. Mr. Di Prima said KB Home will have to update the residential plans to comply with the current codes.

Commissioner Austin thanked the Applicant for not walking away from the project.

#### **ACTION**

**Planning Commission Resolution 11-859 was Adopted finding Mod #2 to DP 01-16 Active.**

It was moved and seconded to adopt Planning Commission Resolution 11-859 determining Modification #2 to Development Permit 01-16 to be active.

#### **Planning Commission Discussion**

Chair Tucker asked how the 3-year term for the Participation Agreement came about and should this item be revisited in a shorter time frame. Mr. McSweeney said he was not sure about the term of the Agreement, but the Applicant will have to do a significant amount of work including submitting financial information.

Mr. Di Prima said the original Participation Agreement was for three years and they are asking for an extension of another three years, the term is not tied to any other permits.

#### **MOTION CARRIED 5:0**

Motion: Johnson; Second: Austin. Ayes: Austin, Fennell, Johnson, McCall and Tucker.

#### **REPORTS AND COMMUNICATIONS**

7:40 p.m., Mr. McSweeney gave a brief report on current projects.

KB Home - Mr. McSweeney referred to Mr. Di Prima's comment about submitting plans that comply with the current codes. Mr. McSweeney said KB will submit plans that comply with 2010 building codes which now include codes for green technology.

HVPSP - Mr. McSweeney some homes have been sold. Plans have been submitted for 15 homes. The project will go through a modification.

Shah Project, west end of the city - Mr. McSweeney said the project included a gateway to the city. The project is still under construction, and the business is doing well. The Applicant has talked about expanding his business but no applications have been submitted. Mr. McSweeney said City staff received a complaint about the business and will follow-up. Mr. McSweeney said he will review the Conditions of Approval for the project to ensure the Applicant is in compliance with time-lines.

**ADJOURNMENT – 7:42**

There being no further business to come before the Planning Commission, the meeting was adjourned to the next regular Planning Commission Meeting scheduled for February 16, 2011 6:30 p.m. in the City Council Chambers, 250 Central Avenue, Fillmore, CA 93015.

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Denise Beauduy  
Planning Secretary



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

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**TO:** Planning Commission **DATE:** February 16, 2011

**THROUGH:** Kevin McSweeney, Community Development Director *KM*

**FROM:** Manuel Minjares, Assistant Planner *MM*

**SUBJECT:** Tentative Parcel Map 11-01, 749 Fourth Street

**SUMMARY:**

A Tentative Parcel Map application was previously approved on the subject property on September 20<sup>th</sup>, 2006. The property owner however did not follow through with plan check submittal and the life of the tentative parcel map expired. The current property owner is seeking Planning Commission approval to subdivide one legal parcel into two legal parcels, identical to the previously approved Tentative Parcel Map. The Planning Commission is the review authority for subdivisions of three or fewer parcels.

**RECOMMENDATION:**

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

1. Adopt Planning Commission Resolution 11-860, approving Tentative Parcel Map 11-01 subject to the Conditions of Approval.

**BACKGROUND:**

The Tentative Parcel Map (TPM 06-01) application was submitted on January 20, 2011 by Tritay Property Investments, LLC. A Tentative Parcel Map subdividing one parcel with two existing, single-story, single family dwelling units into two parcels with one single family dwelling unit per parcel was previously approved by the Planning Commission on September 20, 2006. TPM 06-01 proposed to subdivide one 14,995 sq. ft. parcel into one 6,490 sq. ft. parcel and one 8,505 sq. ft. parcel.

The applicant did not submit the Tentative Parcel Map for plan check review which resulted in the expiration of the life of TPM 06-01. The property owner did obtain an administrative clearance (AC No. 06-4776) and building permits for the construction of room additions to each unit and for the construction of two, two-car garages.

**ANALYSIS:**

**Zoning Ordinance**

The subject property is located in the Residential Medium Zone and is surrounded by the following land uses:

North:	Residential Medium	Single Family Dwelling Units
South:	Residential Medium	Multi-Family Dwelling Units
East:	Residential Medium	Single Family Dwelling Units
West:	Residential Medium	Single Family Dwelling Units

Tentative Parcel Map 11-01 (TPM 11-01) varies slightly from the previously approved TPM 06-01 in that the size of the parcels have been adjusted slightly. Parcel 1 is now comprised of 6,511 sq. ft. of lot area whereas it was previously proposed at 6,490 sq. ft. and Parcel 2 is now comprised of 8,484 sq. ft. of lot area whereas it was previously proposed at 8,505 sq. ft. of lot area. Nevertheless, both Parcel 1 and parcel 2 exceed the 6,000 sq. ft. minimum lot area and 25 ft. lot width requirements in the Residential Medium Zone.

The proposed subdivision meets all residential development standards for the existing dwellings and two, two car garages except for the existing 3' west side yard setback from dwelling unit to property line in Parcel 1. The room addition to the dwelling unit located on Parcel 1 and approved under AC No. 06-4776 does meet the minimum side yard setback requirement of 5'.

Additionally, TPM 11-01 has been conditioned to comply with Fillmore Municipal Code Section 6.08.060, Requirements for Tentative Maps.

**General Plan:**

The proposed subdivision is in compliance with the General Plan in that the property has a land use designation of Residential Medium and will remain a residential use.

**California Environmental Quality Act (CEQA):**

The project has been reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA) and is considered exempt per Section 15315, "Minor Land Divisions".

**FISCAL IMPACT:**

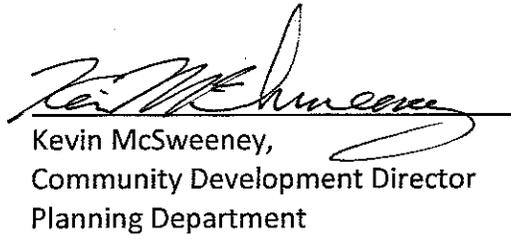
No fiscal impact.

Prepared By:



Manuel Minjares,  
Assistant Planner  
Planning Department

Reviewed By:



Kevin McSweeney,  
Community Development Director  
Planning Department

Attachment 1: Tentative Parcel Map No. 11-01

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**CITY OF FILLMORE  
PLANNING RESOLUTION 11-860**

**APPROVING  
TENTATIVE PARCEL MAP 11-01**

**749 FOURTH STREET  
TRITAY PROPERTY INVESTMENTS, LLC., APPLICANT**

**WHEREAS**, The Planning Commission has been petitioned to act on a request to approve subdividing an existing 14,995 sq. ft. lot into two parcels, as shown on Exhibit (TPM) Tentative Parcel Map 11-01; and

**WHEREAS**, The Community Development Director caused a notice of date, hour and place for a public hearing on February 16<sup>th</sup>, 2011 before the Planning Commission published in the Fillmore Gazette on February 3<sup>rd</sup>, 2011, provided to the applicant and mailed to 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 identified as Assessor Parcel Number 052-0-013-190.
2. The property is currently owned by Tritay Property Investments, LLC., 300 E. Esplanade Drive, Suite 1550, Oxnard, CA 93036.
3. The project has been reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA) and considered exempt per Class 15, section 15315 and "*Minor Land Divisions.*"
4. The proposed use is in conformance with the adopted elements of the General Plan in that the subject property has a General Plan Land Use Designation of Residential Medium and the subdivision of one 14,995 parcel into one 6,511 sq. ft. parcel and one 8,484 sq. ft. parcel.
5. The proposed use conforms to the applicable requirements contained in the Chapter 6.08, Section IV, Parcel Map Procedures of the Fillmore Municipal Code incorporated in Ordinance 467 § 1 (part), 1975.

**NOW, THEREFORE, BE IT RESOLVED**, based on the above-mentioned information and staff report, the Planning Commission approves Tentative Parcel Map 11-01, subject to Exhibit "COA" (Conditions of Approval).

**PASSED and ADOPTED** by the Planning Commission this 16<sup>th</sup> day of February, 2011 by the following votes:

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Douglas Tucker, Chair  
Planning Commission

ATTEST:

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Denise Beauduy, Secretary

EXHIBIT "COA"

CONDITIONS OF APPROVAL  
TENTATIVE PARCEL MAP NO. 11-01  
749 FOURTH STREET  
TRITAY PROPERTY INVESTMENTS, INC., APPLICANT

RECITALS

A. AUTHORITY FOR THIS DOCUMENT

The conditions and terms contained in this exhibit are applied to permit "TENTATIVE PARCEL MAP" 11-01 (TPM 11-01), (THIS PERMIT) and are applied under the City's authority regarding discretionary permits (Sections 6.08 & 6.04 of the Fillmore Municipal Code).

B. IDENTIFICATION OF THE SUBJECT PROPERTY

The subject property is located at **749 Fourth Street** and is identified as Assessor Parcel Number(s) 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 the subdivision of a 14,995 sq. ft. parcel into two parcels consisting of one 6,511 sq. ft. parcel and one 8,484 sq. ft. parcel to be implemented in 1 (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, Tritay Property Investments, LLC., 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 "TPM" (Tentative Parcel Map). 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 February 16<sup>th</sup>, 2011).

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 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 February 16<sup>th</sup>, 2013. 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.

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, the Fillmore Zoning Ordinance, the California Building Code (2010 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 unless otherwise approved by the City Engineer. The plans shall be subject to the review and approval of the City Engineer. The plans shall be submitted concurrently with building drawings if applicable and shall include, but not be limited to, grading, landscaping/irrigation, street, drainage, sewer, water and appurtenant improvements. The submittal shall also include plan check fees and all pertinent engineering design calculations.

E2. A registered California Civil Engineer shall be retained by the applicant as required by the City Engineer 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. 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 electronic 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.

E4. Prior to map recordation, the public improvements shall be completed prior to the City's acceptance of the improvements and the development.

E5. 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.

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 pay the cost of revising the Water and Sewer Master Plan and City utilities atlas to reflect the new improvements constructed by this project and pay for the cost of scanning as-builts electronically in tiff format.

#### *SEWER*

E8. The method of sewage and waste disposal shall be by means of a community disposal system. Applicant is responsible to ensure connection to the City sewer mains and properly cause abandonment of all previous sewer facilities onsite or offsite to the satisfaction of the City Engineer. Such facilities are not limited to septic tanks, leach fields and cesspools. 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*

E9. To ensure municipal water service to this development, the water rights for this property shall be dedicated to the City of Fillmore by Title Sheet Dedication at the time of filing the Parcel Map with the City.

E9. The Applicant shall install adequately sized water services and water meters per current City of Fillmore Public Works standards.

E10. The locations of water services shall be marked on the curb face in conformance with the City of Fillmore Public Works requirements.

## *DRAINAGE*

E11. Each parcel 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.

## *STREETS*

E12. Prior to map recordation, 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.

E13. The Applicant shall offer to dedicate in fee, and improve to City standards, all sidewalks, parkways, streets and alleys.

E14. The applicant shall set all monuments as required by the State Subdivision Map Act.

E15. Curb cuts, widths, and design shall conform to the currently adopted Fillmore City Standards.

E16. Any street, alley, sidewalk, or curb that is damaged by the Applicant or the applicants' agent(s)/employees, shall be repaired by the applicant.

E17. All streets, sidewalks, parkways, curbs, and gutters adjacent the development shall be improved per Exhibit "TPM", (Tentative Parcel Map) and, if required by the City Engineer, or as necessary to provide safe vertical and horizontal transitions which connect improvements constructed within this project to existing improvements, as directed by the City Engineer.

E18. 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.

## *GAS, ELECTRIC, UTILITIES*

E19. 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.

E20. On-site utility service shall be installed underground and no new overhead facilities shall be added.

## **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 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 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.

#### ***FUGITIVE DUST***

The applicant shall be required to comply with the provisions of Rule 55, Fugitive Dust, as adopted by the Ventura County Air Pollution Control Board on June 8<sup>th</sup>, 2008. Rule 55 applies to any disturbed surface area, or man-made condition capable of generating fugitive dust, including bulk material handling, earth-moving, construction, demolition, storage piles, unpaved roads, track-out, or off-field agricultural operations.

Copies of Rule 55 may be obtained at [www.vcapcd.org](http://www.vcapcd.org) under Rule Development (Current Rules and Regulations).

#### **PLANNING**

P1. Landscaping and automatic irrigation shall be installed in the parkways, and front setback areas per an approved landscaping and irrigation plan subject to the review and approval by the Community Development Director. Landscaping of the parkways and front landscape areas shall consist of turf and approved street trees. All landscaping shall be installed, and its installation inspected by the Building Inspector & a representative of the Planning Department prior to map recordation.

P2. 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 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.

P3. 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.

#### **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**

- S1. All construction within the City right of way shall be completed by a Class "A" contractor with an encroachment permit from the City of Fillmore. This condition shall be stated as a note on the plans.
- S2. There shall be no lot to lot drainage and each parcel shall drain entirely to 4<sup>th</sup> St. Applicant shall be required to submit plans showing existing and proposed drainage patterns for review and approval by the City Engineer.
- S3. Each parcel shall have separate sewer & water service located along the frontage of their respective parcel. The sewer & water service shall be with consistent with current City standards and may require an upgrade to existing service laterals and meters.
- S4. Prior to map recordation, the Applicant shall annex this project into the City's Street Light and Landscape Maintenance Assessment District and shall be assessed for one half the costs of one street light and full cost for street tree maintenance. The Applicant shall reimburse the city all costs associated with the annexation.
- S5. The applicant shall install 2 street trees at 40 ft. on center prior to map recordation. The designated street tree type is Chinese Tulip.

**IN AGREEMENT AND ACKNOWLEDGEMENT:**

\_\_\_\_\_  
Douglas Tucker, Chair  
Planning Commission

\_\_\_\_\_  
Date

\_\_\_\_\_  
John Gaiser,  
Tritay Property Investments  
Property Owner

\_\_\_\_\_  
Date

**END OF CONDITIONS**