



# THE CITY OF RANCHO CUCAMONGA

## THE REGULAR MEETINGS OF

## THE HISTORIC PRESERVATION COMMISSION

AND

## THE PLANNING COMMISSION

**AUGUST 10, 2016 - 7:00 PM**

**Rancho Cucamonga Civic Center  
COUNCIL CHAMBERS  
10500 Civic Center Drive  
Rancho Cucamonga, California**

### I. CALL TO ORDER

Pledge of Allegiance

Roll Call

Chairman Oaxaca \_\_\_ Vice Chairman Macias \_\_\_

Munoz \_\_\_ Wimberly \_\_\_ Fletcher \_\_\_

### II. PUBLIC COMMUNICATIONS

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# HISTORIC PRESERVATION COMMISSION AND PLANNING COMMISSION AGENDA

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## III. CONSENT CALENDAR/HISTORIC PRESERVATION COMMISSION AND PLANNING COMMISSION

- A. Consideration of regular meeting minutes dated July 13, 2016.
- B. Consideration of adjourned meeting/workshop minutes dated July 13, 2016.

## IV. PUBLIC HEARINGS/PLANNING COMMISSION

*The following items have been advertised and/or posted as public hearings as required by law. The Chairman will open the public hearing to receive testimony. All such opinions shall be limited to 5 minutes per individual for each project. Please sign in after speaking.*

- C. **CONDITIONAL USE PERMIT DRC2015-01190 – FIEDLER GROUP FOR RALPHS FUEL CENTER** - A proposal to modify previously approved Conditional Use Permit DRC2010-00348 to allow the construction of an extension of 1,200 square feet to the existing overhead canopy, and installation of two (2) new fuel dispensers, at a gas station within an existing shopping center in the Neighborhood Commercial (NC) District, Terra Vista Community Plan (TVCP) located at the northeast corner of Haven Avenue and Base Line Road; APN: 1076-481-25. Related files: Minor Design Review DRC2015-01191, Conditional Use Permit DRC2010-00348, and Development Review DRC2010-00348D. On March 9, 2011 a Mitigated Negative Declaration was adopted by the Planning Commission for Conditional Use Permit DRC2010-00348. California Environmental Quality Act Section 15162 (a) provides that no further environmental review or Negative Declaration is required for subsequent projects or minor revisions to projects within the scope of a previous Negative Declaration.
- D. **MINOR DESIGN REVIEW DRC2015-01191 – FIEDLER GROUP FOR RALPHS FUEL CENTER** - A proposal to construct an extension of 1,200 square feet to an existing overhead canopy, and install two (2) new fuel dispensers, to a gas station within an existing shopping center in the Neighborhood Commercial (NC) District, Terra Vista Community Plan (TVCP) located at the northeast corner of Haven Avenue and Base Line Road; APN: 1076-481-25. Related files: Conditional Use Permit DRC2015-01190, Conditional Use Permit DRC2010-00348, and Development Review DRC2010-00348D. On March 9, 2011 a Mitigated Negative Declaration was adopted by the Planning Commission for Development Review DRC2010-00348D. California Environmental Quality Act Section 15162 (a) provides that no further environmental review or Negative Declaration is required for subsequent projects or minor revisions to projects within the scope of a previous Negative Declaration.



# HISTORIC PRESERVATION COMMISSION AND PLANNING COMMISSION AGENDA

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- E. MUNICIPAL CODE AMENDMENT DRC2016-00616 – CITY OF RANCHO CUCAMONGA - A request to amend Titles 5, 9 and 17 of the Municipal Code to amend regulations regarding new and existing massage establishments. This item is exempt from the requirements of the California Environmental Quality Act (CEQA) and the City's CEQA guidelines under CEQA section 15601.b.3. This item will be forwarded to the City Council for final action.
- F. DEVELOPMENT CODE AMENDMENT DRC2016-00563 - CITY OF RANCHO CUCAMONGA - A supplement to Development Code Update DRC2010-00571 amending Title 17 (Development Code) of the Rancho Cucamonga Municipal Code to revise development standards for the Mixed Use (MU) District by removing maximum Floor Area Ratio (FAR) requirements. The City Council adopted a Negative Declaration of environmental impacts for this project on October 21, 2015. The California Environmental Quality Act provides that no further environmental review or Negative Declaration is required for subsequent projects or minor revisions to projects within the scope of a previous Negative Declaration. This item will be forwarded to the City Council for final action.

## V. COMMISSION BUSINESS/HISTORIC PRESERVATION AND PLANNING COMMISSION

- G. INTER-AGENCY UPDATES
- H. COMMISSION ANNOUNCEMENTS

## VI. ADJOURNMENT

*I, Lois J. Schrader, Planning Commission Secretary of the City of Rancho Cucamonga, or my designee, hereby certify that a true, accurate copy of the foregoing agenda was posted on August 4, 2016, at least 72 hours prior to the meeting per Government Code Section 54964.2 at 10500 Civic Center Drive, Rancho Cucamonga.*



If you need special assistance or accommodations to participate in this meeting, please contact the Planning Department at (909) 477-2750. Notification of 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility. Listening devices are available for the hearing impaired.



# HISTORIC PRESERVATION COMMISSION AND PLANNING COMMISSION AGENDA

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## INFORMATION FOR THE PUBLIC

### TO ADDRESS THE PLANNING COMMISSION

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### APPEALS

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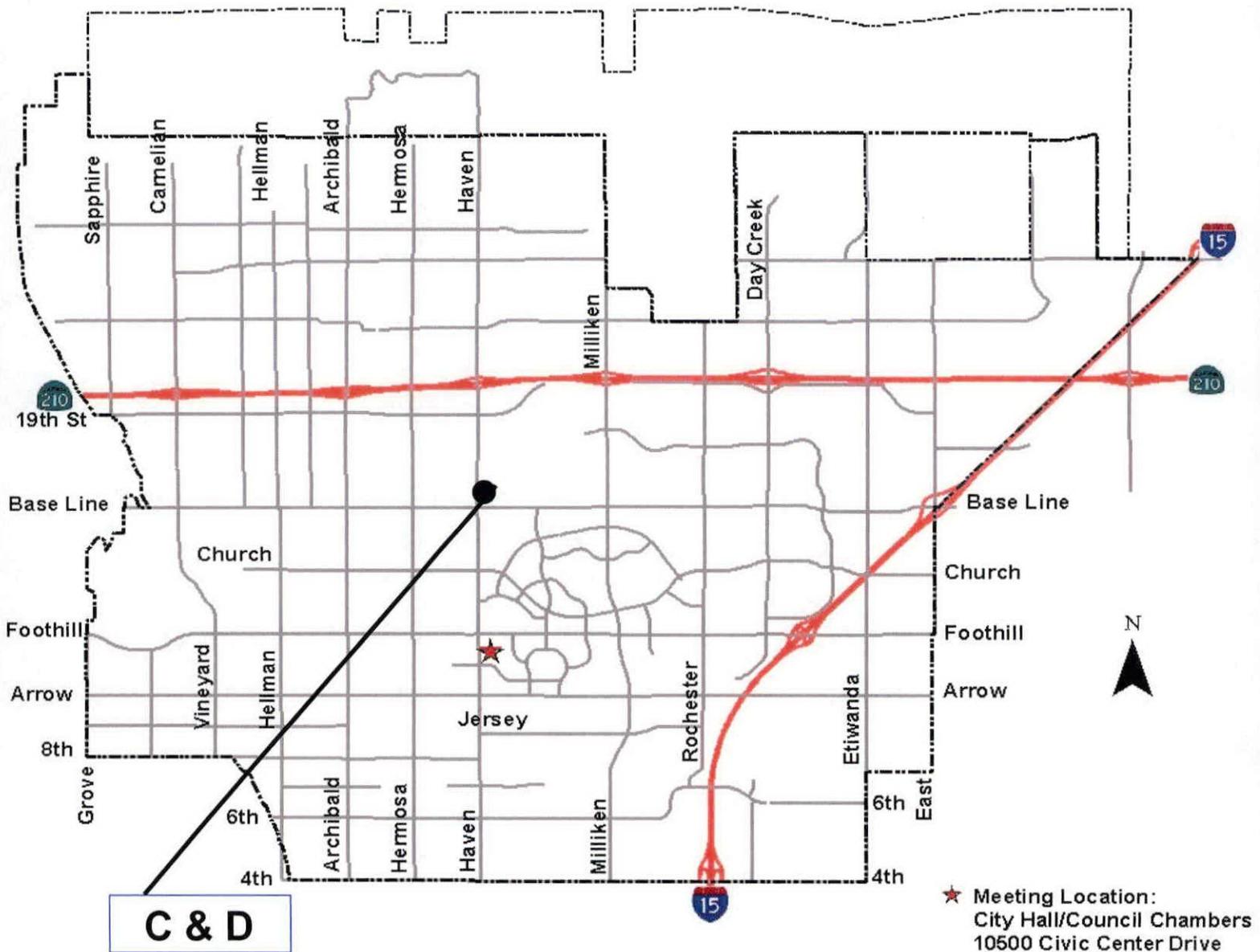
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# Vicinity Map

## Historic Preservation and Planning Commission Meeting

### AUGUST 10, 2016



Items C & D: CUP DRC2015-01190 & MDR DRC2015-01191—Ralphs Fuel Center

Item E: MUNICODE AMENDMENT DRC2016-00616 RE: Massage (citywide)

Item F: DEV CODE AMENDMENT DRC2016-00563 RE: FAR (citywide)



# THE CITY OF RANCHO CUCAMONGA

## THE MINUTES OF

### THE HISTORIC PRESERVATION COMMISSION

AND

### THE PLANNING COMMISSION

JULY 13, 2016 - 7:00 PM

Rancho Cucamonga Civic Center  
COUNCIL CHAMBERS  
10500 Civic Center Drive  
Rancho Cucamonga, California

## I. CALL TO ORDER

Pledge of Allegiance *7 p.m.*

Roll Call

Chairman Wimberly   X   Vice Chairman Oaxaca   X  

Munoz   X   Macias   X   Fletcher   X  

*Additional Staff Present: Candyce Burnett, Planning Director; Nicholas Ghirelli, Assistant City Attorney; Brian Sandona, Associate Engineer; and Rebecca Fuller, Administrative Secretary.*

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*None*



# HISTORIC PRESERVATION COMMISSION AND PLANNING COMMISSION **MINUTES**

JULY 13, 2016

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## III. CONSENT CALENDAR/HISTORIC PRESERVATION COMMISSION AND PLANNING COMMISSION

- A. Consideration of Regular Meeting Minutes dated June 22, 2013
- B. Consideration of Adjourned Meeting/Workshop Minutes dated June 22, 2013

*The Consent Calendar was adopted. Moved by Fletcher, seconded by Munoz, carried 5-0.*

## IV. SCHEDULED MATTERS/PLANNING COMMISSION

- C. SELECTION OF PLANNING COMMISSION OFFICERS

*Vice Chairman Oaxaca will serve as Chairman and Commissioner Macias will serve as Vice Chairman for Planning Commission. Moved by Wimberly, seconded by Munoz, carried 5-0.*

- D. SELECTION OF DESIGN REVIEW COMMITTEE MEMBERS

*Chairman Wimberly and Commissioner Macias will serve on Design Review Committee. Moved by Chairman Wimberly, seconded by Commissioner Munoz, carried 5-0.*

*Commissioner Munoz will serve as First Alternate on the Design Review Committee. Moved by Commissioner Fletcher, seconded by Vice Chairman Oaxaca, carried 5-0.*

- E. SELECTION OF TRAILS ADVISORY COMMITTEE MEMBERS (COMMISSION REPRESENTATIVES)

*Vice Chairman Oaxaca and Commissioner Fletcher will serve on the Trails Advisory Committee. Moved by Chairman Wimberly, seconded by Commissioner Munoz, carried 5-0.*

*Chairman Wimberly will serve as First Alternate on the Trails Advisory Committee. Moved by Chairman Wimberly, seconded by Commissioner Munoz, carried 5-0.*

## V. COMMISSION BUSINESS/HISTORIC PRESERVATION AND PLANNING COMMISSION



# HISTORIC PRESERVATION COMMISSION AND PLANNING COMMISSION MINUTES

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- F. INTER-AGENCY UPDATES *None*
- G. COMMISSION ANNOUNCEMENTS *None*

## VI. ADJOURNMENT

7:08 p.m.

*THE PLANNING COMMISSION WILL IMMEDIATELY ADJOURN TO THE RAINS ROOM TO DISCUSS PRE-APPLICATION REVIEW DRC2016-00428 – CHARLES JOSEPH ASSOCIATES.*

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## HISTORIC PRESERVATION COMMISSION AND PLANNING COMMISSION AGENDA

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# THE CITY OF RANCHO CUCAMONGA

## WORKSHOP MINUTES OF

### THE PLANNING COMMISSION

JULY 13, 2016 - 7:00 PM

Rancho Cucamonga Civic Center  
\*\*\*RAINS ROOM\*\*\*  
10500 Civic Center Drive  
Rancho Cucamonga, California

#### I. CALL TO ORDER

7:14 p.m.

Roll Call

Chairman Wimberly   X        Vice Chairman Oaxaca   X    
Munoz   X        Macias   X        Fletcher   X  

*Additional Staff Present: Candyce Burnett, Planning Director; Mike Smith, Senior Planner; Dat Tran, Assistant Planner; Brian Sandona, Associate Engineer; and Rebecca Fuller, Administrative Secretary.*

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None



## PLANNING COMMISSION WORKSHOP/MINUTES

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### III. ITEMS FOR DISCUSSION

- A. PRE-APPLICATION REVIEW DRC2016-00428 – CHARLES JOSEPH ASSOCIATE –  
A request for a Planning Commission Workshop to review a proposed mixed use development of 207 residential units, including 18 live/work units, 17,800 square feet of commercial space (5,300 retail and 12,500 live/work), and 11,800 square feet of office space, on 5.7 acres of land in the Industrial Park (IP) District and Haven Avenue Overlay District (HAOD), located at the southwest corner of Haven Avenue 26th Street – APN: 0209-131-01.

*Dominick Perez, Associate Planner, briefly outlined the purpose of the workshop and gave a brief PowerPoint presentation and staff report (copy on file). He introduced the applicant's team.*

*The Applicants representing the project were Chuck and Suzanne Buquet with Charles Joseph Associates; Serafin Maranan, Jennifer Easton, Paul Hofer with Architects Orange; and Joe Lutz and Dean Nucich with Urban Offerings.*

*Chuck Buquet said the project is innovative, unique and will bring a blend of uses for residents; a work place and a place to live in a centralized area for Haven Avenue and will create new opportunities.*

*Serafin Maranan gave a brief presentation.*

*Commissioner Fletcher asked for clarification on the layers of the work/live area and the businesses.*

*Mr. Maranan explained the project is a 5-story building that contains 207 residential units (consisting of 18 one-bedroom live/work units, 107 one-bedroom, units, and 82 two-bedroom units) that occupy portions of the first, second and third floors and the entire fourth and fifth floors. The commercial (5,300 square feet) and live/work (12,500 square feet) components are located on the ground floor, within the eastern half of the site, and generally along Haven Avenue and 26th Street. A portion of the third floor adjacent to Haven Avenue and 26th Street contains 11,800 square feet of office. 2,800 square feet of this office area is dedicated to a co-working office area for on-site residents. Parking will be located at ground level below the residential units - a majority of the parking will be located in the western quarter of the property.*

*Mr. Buquet commented that this layout and design is for all types of generations and life styles.*

*Dean Nucich commented they were excited to be part of this mixed use project in the City, and loves seeing activity in spaces which will be utilized the entire time and not*



## PLANNING COMMISSION WORKSHOP/MINUTES

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*just the typical 9 to 5. This area will be a central meeting place for the community.*

*Commissioner Fletcher asked for clarification for the live/work units. Will there be one tenant for both office space and living space or will it be single tenants for each unit.*

*Mr. Buquet explained that there will be many different combinations of live/work spaces. There will be separate tenants that may have an adjoining door to their business; and residents may have an office space to be able to use; the leases will be flexible on the tenants needs.*

*Commissioner Fletcher asked if there was going to be designated office suites for tenants.*

*Mr. Buquet commented that there was going to be a designated office use, strictly to be used by the residents living in the facility. If they are working out of their homes this will give them an area to utilize for their businesses rather than their homes.*

*Commissioner Fletcher asked if this is an open area and or a suite.*

*Mr. Buquet explained there will be an open area on the 3rd floor for this use; a shared tenant office usage.*

*Dean Nucich explained that the shared office area for tenants will have shared printers, shared café and tables to encourage co-working. A lot of research in what amenities tenants want and the age ranges for this research is from 25 to 40 who are entrepreneurs that do not want to sit in their houses or apartments and would like to be around others and possibly share ideas. This area will have polished concrete floors which would be more of a loft /coffee environment.*

*Chairman Wimberly commented that the location will be a hot spot location for someone that doesn't want to be connected to their house, not be bored, and to have interaction with others.*

*Mr. Nucich explained that the trend for these tenants/residents is they want to be a part of a community and have a sense of place to be able to interact and talk with others.*

*Chairman Wimberly asked if the residents can set up a meeting in this area without having to rent out the space, what the process would be for this type of location, and if they would have a time frame at which they can use this office area.*

*Mr. Nucich explained that it will depend on the uses and various models, where it is located. If the location becomes too popular, then a sign up time sheet may be used.*



## PLANNING COMMISSION WORKSHOP/MINUTES

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*Commissioner Fletcher asked what the average square footage is for the work areas.*

*Mr. Maranan replied 700 - 750 square feet for an office and bedroom.*

*Candyce Burnett, Planning Director asked Mr. Maranan to expand on the design, layout and plotting of the buildings and the uses. Example; a 2-story live/work unit, single unit, unit types.*

*Mr. Maranan comprehensively described the different units/layers horizontally then vertically.*

*Commissioner Munoz asked for more clarification of the office spaces along Haven Avenue, if it was traditional office space or an open work area.*

*Mr. Buquet explained that this was not going to be the traditional type of work space - that this was a unique working area.*

*Commissioner Fletcher asked if this was going to have a store front appearance.*

*Mr. Buquet explained that it will be a store front area which but they will not be providing a class A or class B office building -this is a unique hybrid mix live/work, co-work, and retail.*

*Commissioner Munoz asked if they are setting an area for the traditional office space around the Haven corridor or if that option will be eliminated altogether.*

*Mr. Buquet explained that it would be dependent on the models that the Commission approves which would create the energy and the different atmosphere. He doesn't want to have vacant spots that are empty but an atmosphere of activity.*

*Commissioner Fletcher asked if someone has a store front office/account/attorney which have many customers, what sound proofing measures are being considered. There can be noisy children which the tenants below/above may be trying to work. He also asked if a tenant from the first floor could have access to the second floor, what access would one have and need. He asked if there were garbage chutes or if one has to take their garage up and down the stairs.*

*Mr. Maranan said they are designing for separate occupants from noisy to quiet sound conditions. He also stated that there are stairs for each unit and if there are different tenants for the levels then there would be a lockout for that area. There are stairs and elevators depending the area. He commented that there will be trash chutes and recycling chutes.*



## PLANNING COMMISSION WORKSHOP/MINUTES

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*Commissioner Macias stated that the project was clever and agreed with the applicant that this is a unique project and he said he likes it. He said he is not concerned about the parking but would like to stress that anything that fronts Haven Avenue needs to be really an aesthetic brand of the concept.*

*Vice Chairman Oaxaca said he is not concerned with the parking issue; sometimes it is an issue but at this time his concern is decision making for the significant changes in the specific plan and zoning. He said he needs to understand the larger context and would like to gain more information and look at the long term. He indicated that more effort is needed to be made to better understand, and explain, the potential parking issues associated with mixed use projects.*

*Ms. Burnett, asked the Commission for discussion and feedback regarding Haven Avenue to start the ground work for setting the Development Code changes, overlay changes, and the changes in terms of vision of Haven Avenue; amending the land use on Haven, and envision how that looks, where it belongs, and if we use separations of existing buildings around existing transit and/or areas categorized for transit. She said an example to look at is the BRT and start thinking about the possibilities. Where we set the Code potentially activates where people and businesses belong. During the process for a later date will be discussing the Code changes/the general changes.*

*Mr. Buquet said the residential use is an eye popping area that will change the view/ it is the right type of mixed use to establish the bar.*

*Vice Chairman Oaxaca commented that they want to look at mixed use in the project and understand and look at other locations. He said he wants to become familiar with the short side and long side of development along Haven Avenue.*

*Commissioner Munoz said the architectural plans and amenities are looking good, the only concern is the change in the Development Code and the parking changes. Commissioner Munoz expressed concern regarding the parking because they had received feedback from the City Council about their approval of the mixed use project at the northwest corner of Foothill Boulevard and East Avenue.*

*Mr. Buquet said he understands the Planning Commissioners concerns. He believes the current parking concerns will not be the same for this location and they will be getting their direction from staff and will be adhering to all comments and new regulations. He also stated that the parking will be assigned parking for the residents that will be located there.*

*Ms. Burnett indicated staff will begin researching and developing parking requirements for mixed use projects and include the Planning Commission and City Council in evaluating the requirements in joint workshops so that everyone is clear on the technical issues. Staff has already started the changes for the Development Code*



## PLANNING COMMISSION WORKSHOP/MINUTES

JULY 13, 2016

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*standards so the changes are implemented before the project comes back to the Commission. She said Staff has internally started working with consultants to have the current and new standards in place.*

*Commissioner Fletcher expressed that he was glad to hear that there will be more workshops on the changes would appreciate joint workshops with the Council for vision changes and Development Code changes so that the Commissioners and City Council share ideas and so they can hear each other's comments. He commented this area was designed to attract major companies and the vision is good for the residents. He said he likes the project and believes that this location is a true mixed use facility and offers a lot of amenities which younger workers will appreciate, work in and live close by. This will attract the major companies, will bring in more revenue and more jobs. He said he likes the design/upscale 5-story building on Haven Avenue. While recognizing the intent and nature of the project, he wants Staff to work towards ensuring that the parking issues are resolved and any conflicts on neighboring properties minimized.*

*Ms. Burnett stated that the City Engineer is working with staff from the comments of the Mixed Use Training Workshop held in June. The City Engineer will look at the no change zones and would be involved in the implementation of strategy for the adjacent residents, create parking districts, permit parking districts, and have parking permits.*

*Chairman Wimberly commented that this project is out of the box, likes the project, and liked the presentation. He concurred with fellow Commissioners the need to know the standards and the Development Code updates so they know what to approve.*

*Commissioner Fletcher asked with respect to parking if the developer's operators have experience with and what level and what density, economics and experience do they need to consider building underground parking and parking garages. He said he needs to know what the vision of the City is so the Commission can make the proper decisions.*

*Chuck Buquet suggested we talk to Jeff Tumlin, one of the presenters that was at the previous workshop as he is extremely knowledgeable.*

*Ms. Burnett said staff is researching these issues and thresholds.*

*Mike Smith, Senior Planner stated that many developments that are now mixed use have a parking issue. He suggested attending other mixed use workshops so they understand what the commission wants and the standards. He said we will pay attention to how other projects are going so everyone understands for the future. Staff is aware of the concerns.*



## PLANNING COMMISSION WORKSHOP/MINUTES

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*Next Step(s): Initial submittal of applications for General Plan Amendment, Zoning Map Amendment, and Development Review. Final review and action will be by the City Council (due to the General Plan and Zoning Map amendments). Staff will begin researching and developing parking requirements for mixed use projects and include the Planning Commission and City Council in evaluating those requirements in joint workshops.*

### IV. ADJOURNMENT

8:44 p.m.

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# PLANNING COMMISSION WORKSHOP MINUTES

JUNE 16, 2016

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# STAFF REPORT

PLANNING DEPARTMENT



DATE: August 10, 2016

TO: Chairman and Members of the Planning Commission

FROM: Candyce Burnett, Planning Director

BY: Nikki Cavazos, Assistant Planner

**SUBJECT: CONDITIONAL USE PERMIT DRC2015-01190 – FIEDLER GROUP FOR RALPHS FUEL CENTER:** A proposal to modify previously approved Conditional Use Permit DRC2010-00348 to allow the construction of an extension of 1,200 square feet to the existing overhead canopy, and installation of two (2) new fuel dispensers, at a gas station within an existing shopping center in the Neighborhood Commercial (NC) District, Terra Vista Community Plan (TVCP) located at the northeast corner of Haven Avenue and Base Line Road; APN: 1076-481-25. Related files: Minor Design Review DRC2015-01191, Conditional Use Permit DRC2010-00348, and Development Review DRC2010-00348D. On March 9, 2011 a Mitigated Negative Declaration was adopted by the Planning Commission for Conditional Use Permit DRC2010-00348. California Environmental Quality Act Section 15162 (a) provides that no further environmental review or Negative Declaration is required for subsequent projects or minor revisions to projects within the scope of a previous Negative Declaration.

**MINOR DESIGN REVIEW DRC2015-01191 – FIEDLER GROUP FOR RALPHS FUEL CENTER:** A proposal to construct an extension of 1,200 square feet to an existing overhead canopy, and install two (2) new fuel dispensers, to a gas station within an existing shopping center in the Neighborhood Commercial (NC) District, Terra Vista Community Plan (TVCP) located at the northeast corner of Haven Avenue and Base Line Road; APN: 1076-481-25. Related files: Conditional Use Permit DRC2015-01190, Conditional Use Permit DRC2010-00348, and Development Review DRC2010-00348D. On March 9, 2011 a Mitigated Negative Declaration was adopted by the Planning Commission for Development Review DRC2010-00348D. California Environmental Quality Act Section 15162 (a) provides that no further environmental review or Negative Declaration is required for subsequent projects or minor revisions to projects within the scope of a previous Negative Declaration.

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**RECOMMENDATION:** Staff recommends the Planning Commission take the following actions:

- Adopt the Resolution approving Conditional Use Permit DRC2015-01190
- Adopt the Resolution approving Minor Design Review DRC2015-01191

PROJECT AND SITE DESCRIPTION:

A. Surrounding Land Use and Zoning:

- Site - Shopping Center – Neighborhood Commercial (NC) District, Terra Vista Community Plan
- North - Single-Family Residences and Day Care Facility – Low Medium (LM) Residential District, Terra Vista Community Plan
- South - Single-Family Residences – Medium (M) Low Medium (LM) Residential Districts, Terra Vista Community Plan
- East - Single-Family Residences – Low Medium (LM) Residential District, Terra Vista Community Plan
- West - Single-Family Residences – Low (L) Residential District

B. General Plan Designations:

- Site - Neighborhood Commercial
- North - Low Medium Residential
- South - Medium and Low Medium Residential
- East - Low Medium Residential
- West - Low Residential

- A. Site Characteristics: The project site is located within a shopping center of approximately 556,000 square feet (12.8 acres) that is approximately 840 feet (east to west) by approximately 850 feet (north to south). The shopping center is comprised of thirteen (13) buildings with a combined floor area of approximately 130,000 square feet. Seven (7) of the 13 buildings are contiguous to each other and form a single, crescent-shaped strip that is generally located at the northeast corner of the site. The other five (5) buildings are single-tenant pad buildings or multi-tenant buildings that are located along the street frontage along the south and west sides of the site. The specific location of the project site is at the northwest corner of the shopping center near the intersection of Haven Avenue and Valencia Avenue (Exhibit B). The area of work is presently developed with a service station canopy of 3,684 square feet, a kiosk of 179 square feet, and associated fuel dispensers. With the exception of the Montessori Academy daycare/private school facility (related file: Conditional Use Permit DRC2010-00789) at the northeast corner of Haven Avenue and Valencia Avenue, the shopping center is bound on all sides by residential development. The zoning of the center is Neighborhood Commercial (NC) District, Terra Vista Community Plan. The zoning of the properties to the north and east is Low-Medium (LM) Residential District, Terra Vista Community Plan. The zoning of the properties to the south is Medium (M) and Low Medium (LM) Residential District, Terra Vista Community Plan. The zoning of the properties to the west is Low (L) and Low Medium (LM) Residential District.

ANALYSIS:

- A. General: The applicant, on behalf of Ralphs, proposes to modify the existing service station by extending the existing canopy and adding two (2) new multi-product fuel dispensers (Exhibit D). The development/design and operation of the service station were approved by the Planning

Commission on March 9, 2011 (related file: Development Review DRC2010-00348D and Conditional Use Permit DRC2010-00348, respectively). The existing canopy has horizontal dimensions of about 24 feet (east to west) by 145 feet (north to south) and a vertical height of about 22 feet (24.5 feet when measured to the top of the extended parapet). The extension will add 1,200 square feet to the canopy and increase the length of the canopy southward by 50 feet. There are five (5) multi-product dispensers and ten (10) fueling positions under the existing canopy (Exhibit C). The new fuel dispensers will add four (4) new fueling positions.

A modification to the existing Conditional Use Permit is required as the proposal to construct an extension to the existing overhead canopy, and install the additional fuel dispensers, is an intensification of the service station operations.

The proposal also includes a Lot Line Adjustment (related file: Lot Line Adjustment DRC2015-00003). The Lot Line Adjustment increases the size of the subject parcel to allow for the extension of the fuel canopy.

The design and layout of the proposed project is consistent with the General Plan and the design guidelines of the Neighborhood Commercial (NC) District. The proposed canopy's architecture, massing, and height will match that of the existing canopy.

- B. Floor/Area Analysis: Per Chapter 2, Figure LU-2, the maximum floor area ratio (FAR) in the Neighborhood Commercial land use category is 35 percent. The net area of the project site is approximately 36,300 square feet. Following the completion of the gas station, the building coverage (including the canopy) will be 4,884 square feet. Therefore, the floor area ratio for this site will be about 13.5 percent.
- C. Parking: The parking calculation for the shopping center is 4.5 parking stalls per 1,000 square feet of gross floor area per Table 17.64050-1 of the Development Code.

Type of Use	Floor Area (SF)	Parking Ratio	# of Spaces Required	# of Spaces Provided
Shopping Center (existing)	129,500	4.5/1000	583	649
Shopping Center (after addition)	130,500	4.5/1000	587	642

The number of parking spaces provided within the shopping center before and after the construction of the extension of the fuel canopy exceeds the parking requirements per the Development Code for the shopping center.

- D. Design and Technical Review Committees: The design and technical details of the service station were reviewed by the Design and Technical Review Committees on September 14, 2010. As the proposed canopy extension will match the architecture of the existing canopy, and no modifications in the public right-of-way are proposed nor required, Staff concluded that a review of the proposed project by these Committees was not necessary.

- E. Neighborhood Meeting: A Neighborhood Meeting was conducted for the original project on September 13, 2010. Numerous issues were raised by those in attendance. These issues were addressed in the Planning Commission Staff Report on March 9, 2011 (Exhibit H). As the proposed project does not contemplate any substantial changes to the operations of the service station, Staff concluded that a Neighborhood Meeting was not necessary. Staff notes to the Commission that since the service station began operating, no comments regarding it have been received.
- F. Land Use Compatibility: The overall operations of the intensified use are expected to continue to be compatible with the development district of the site, the existing uses within the shopping center, and the surrounding neighborhood. Staff does not expect increased impacts to, for example, noise and air quality. The proposal does not include a change in the operating hours of the service station, changes to the items available for sale in the kiosk (such as the addition of alcohol sales), or an increase in the maximum volume of fuel that is dispensed monthly, i.e. "throughput". The design and layout of the proposed project is consistent with the General Plan and the design guidelines of the Neighborhood Commercial (NC) District. The proposed canopy's design will be consistent with the existing canopy. Also, it will be consistent with the character of its surrounding shopping center. It is not expected that the project will detrimentally affect the use and operations of neighboring existing and potential uses.

At the request of the Traffic Engineering Department, the applicant submitted a traffic study, prepared by Associated Transportation Engineers on March 11, 2016, to determine the traffic impacts of the proposed modification/intensification of the fueling station's operations. Weekday a.m. and p.m. peak hour trips, and daily trip generation, for the project was developed using rates from the Institute of Transportation Engineers (ITE) Trip Generation (9<sup>th</sup> Edition) and based on the land uses within the site. The traffic volume and the related levels of service for the intersection of Valencia Avenue and Haven Avenue were consistent with the volumes that were projected when the service station was evaluated and approved in 2011. However, during discussion between the City's Traffic Engineer and the applicant early in the review of the subject applications, the applicant was informed that the line of waiting vehicles "stacking" into Valencia Avenue and the poor traffic circulation around the service station during peak operating periods needed to be resolved.

To address this, included with this project is a reconfiguration of the site. The modifications include narrowing, and providing openings in, the landscaped planter along the east side of the service station. This will allow vehicles enter the fueling area directly, and more easily park parallel to the pump islands. An existing landscaped planter that currently restricts movement near the south side and southwest corner of the service station will also be modified. There also will be a reconfiguration of the lanes and the addition of about twenty (20) new directional signs. These changes will enhance circulation and will reduce the possibility of the vehicle queue extending onto Valencia Avenue. Staff notes to the Commission that the addition of four new fuel positions will reduce the queue by increasing the number of vehicles that can be fueled at one time. The Traffic Impact Analysis was accepted by staff and no mitigation measures are required.

G. Environmental Assessment: Pursuant to the California Environmental Quality Act ("CEQA") and the City's local CEQA Guidelines, the City staff prepared an Initial Study of the potential environmental effects of the project in connection with the City's approval of Development Review DRC2010-00348D and Conditional Use Permit DRC2010-00348 on March 9, 2011. Pursuant to CEQA Guidelines Section 15162, no subsequent or supplemental EIR or Negative Declaration is required in connection with subsequent discretionary approvals of the same project. No substantial changes are proposed to the project that indicates new or more severe impacts on the environment; no substantial changes have occurred in the circumstances under which the project was previously reviewed that indicates new or more severe environmental impacts; no new important information shows that the project will have new or more severe impacts than previously considered; and no additional mitigation measures are now feasible to reduce impacts or different mitigation measures can be imposed to substantially reduce impacts. There have been no substantial changes to the project or the circumstances surrounding the project which would create new or more severe impacts than those evaluated in the previous Negative Declaration. The proposed project will not substantially increase traffic. Also, the proposal does not include an increase in the maximum volume of fuel that is dispensed monthly. Staff further finds that the project will not have one or more significant effects not discussed in the previous Negative Declaration not have more severe effects than previously analyzed, and that additional or different mitigation measures are not required to reduce the impacts of the project to a level of less-than-significant.

CORRESPONDENCE: This item was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper, the property was posted, and notices were mailed to all property owners within a 660-foot radius of the project site. No correspondence has been received in response to these notices.

Respectfully submitted,



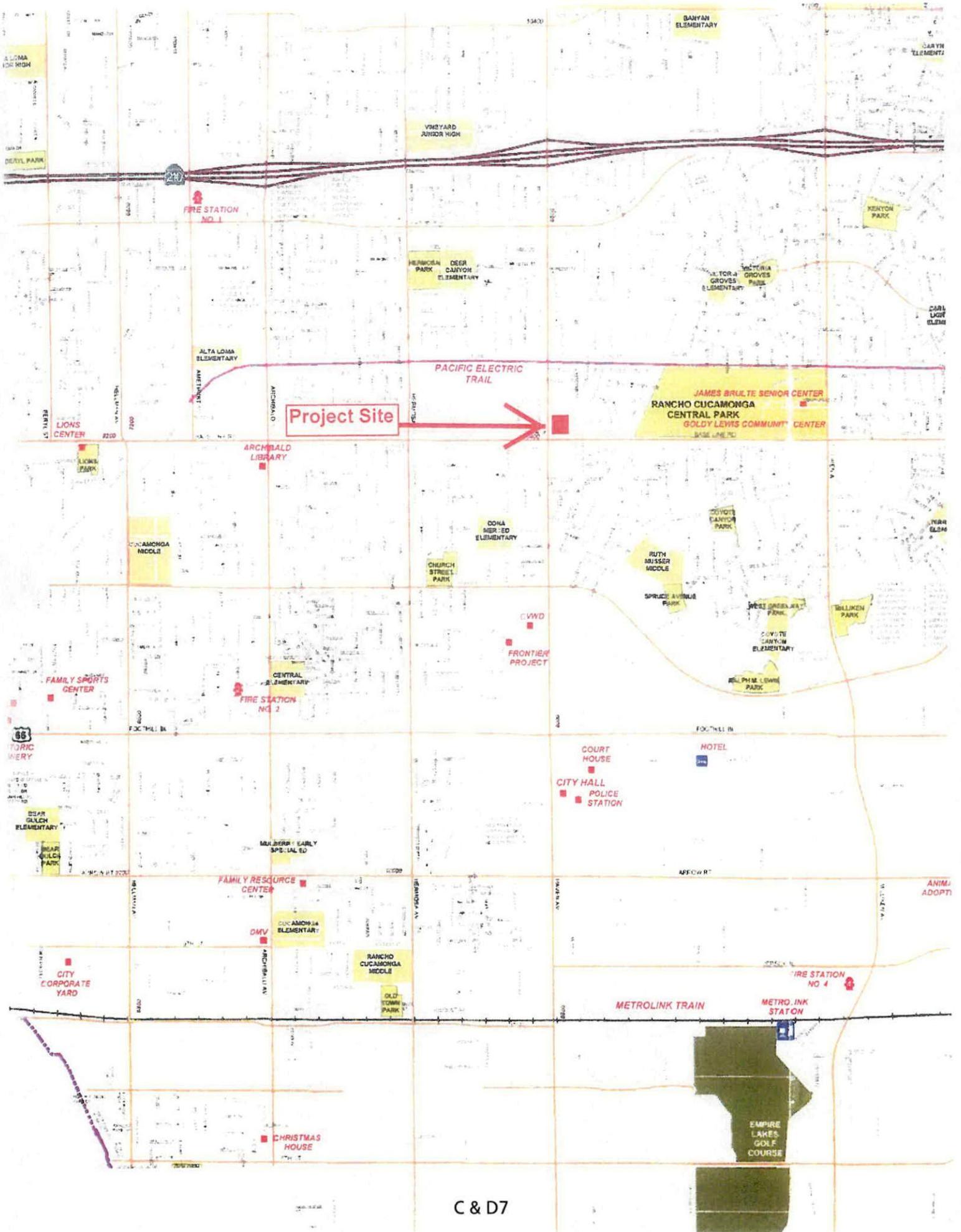
Candyce Burnett  
Planning Director

CB:NC/lis

Attachments: Exhibit A - Location Map  
Exhibit B - Aerial Photo  
Exhibit C - Existing Site Plan  
Exhibit D - Proposed Site Plan  
Exhibit E - Building Elevations  
Exhibit F - Lot Line Adjustment DRC2015-00003  
Exhibit G - Applicant's Project Description

PLANNING COMMISSION STAFF REPORT  
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Exhibit H - Staff Report (without Exhibits) and Resolution for Development Review  
DRC2010-00348D and Resolution for Conditional Use Permit  
DRC2010-00348  
Draft Resolution of Approval for Conditional Use Permit DRC2015-01190  
Draft Resolution of Approval for Minor Design Review DRC2015-01191



Project Site

PACIFIC ELECTRIC TRAIL

JAMES BRULTE SENIOR CENTER  
RANCHO CUCAMONGA  
CENTRAL PARK  
GOLDY LEVYS COMMUNITY CENTER

CVWD  
FRONTIER PROJECT

COURT HOUSE  
CITY HALL  
POLICE STATION

FAMILY RESOURCE CENTER

DMV

METROLINK TRAIN

METROLINK STATION

EMPIRE LAKES GOLF COURSE

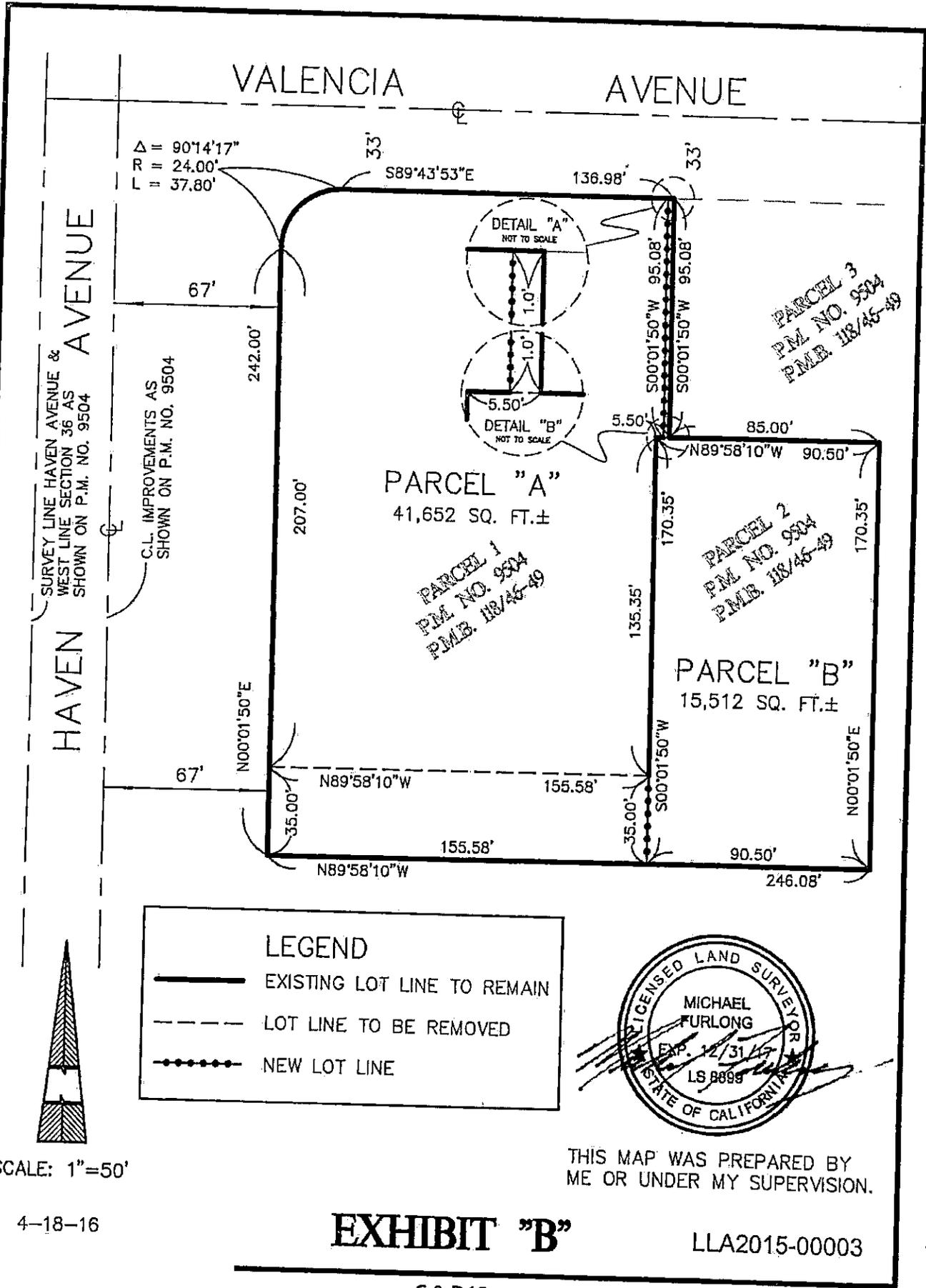
Minor Design Review DRC2015-01191  
Conditional Use Permit DRC2015-01190











$\Delta = 90^\circ 14' 17''$   
 $R = 24.00'$   
 $L = 37.80'$

HAVEN AVENUE  
 SURVEY LINE HAVEN AVENUE & WEST LINE SECTION 36 AS SHOWN ON P.M. NO. 9504

C.L. IMPROVEMENTS AS SHOWN ON P.M. NO. 9504

**PARCEL "A"**  
 41,652 SQ. FT. ±

PARCEL 1  
 P.M. NO. 9504  
 P.M.B. 118/45-49

**PARCEL "B"**  
 15,512 SQ. FT. ±

PARCEL 2  
 P.M. NO. 9504  
 P.M.B. 118/45-49

PARCEL 3  
 P.M. NO. 9504  
 P.M.B. 118/45-49

**LEGEND**

- EXISTING LOT LINE TO REMAIN
- LOT LINE TO BE REMOVED
- NEW LOT LINE



THIS MAP WAS PREPARED BY ME OR UNDER MY SUPERVISION.

SCALE: 1"=50'

4-18-16

**EXHIBIT "B"**

LLA2015-00003

C & D12

**EXHIBIT 1**

## Exhibit A

### Project Description

This property is an existing Ralphs fuel station that is part of the larger Terra Vista Village shopping center, which includes a Ralphs Grocery Market. A summary of existing tenants is attached. Typical business hours in the shopping center are 6am to 10pm. The existing Ralphs Grocery Market is open 6am to 1am. The existing Ralphs fuel station is open 24 hours per day, and operates unattended between the hours of 10pm and 6am.

The proposed project includes a 1,200 sq. ft. extension/addition to the existing fuel canopy to accommodate 2 new multi-product dispensers. Currently, the site has 5 multi-product dispensers with 10 fueling positions under the existing canopy. The addition of 2 dispensers will provide the station with a total of 14 fueling positions. The existing trash enclosure, 2 yard lights, and an air/water unit will be removed and relocated. Seven (7) existing parking spaces will be removed. Additionally, the site's stormwater drainage design, and landscape planters will be reconfigured as applicable to incorporate the extension. Lastly, a Lot Line Adjustment is necessary to allow space on-site for the extended fuel canopy.

No changes are proposed to the site's current use – Retail Commercial: Retail Fuel Sales (Gas/Fueling Station).

Property's existing South Coast Air Quality Management District (SCAQMD) Authority to Operate Permit (N27941) is adequate for the proposed 2 new fuel dispensers – no throughput changes or new SCAQMD permitting are required.

# STAFF REPORT

PLANNING DEPARTMENT



DATE: March 9, 2011  
TO: Chairman and Members of the Planning Commission  
FROM: James R. Troyer, AICP, Planning Director  
BY: Mike Smith, Associate Planner

SUBJECT: **CONDITIONAL USE PERMIT DRC2010-00348 - FIEDLER GROUP FOR RALPHS** - A proposal to demolish an existing building at 7201 Haven Avenue and to construct a gas station consisting of five (5) dispensers, a kiosk, and overhead canopy within an existing shopping center in the Neighborhood Commercial (NC) District, Terra Vista Community Plan (TVCP), located at the northeast corner of Haven Avenue and Base Line Road - APN: 1076-481-25. Related files: Development Review DRC2010-00348D, and Uniform Sign Program #64 Amendment DRC2010-00537, and Tree Removal Permit DRC2010-00578. Staff has prepared a Mitigated Negative Declaration of environmental impacts for consideration.

**DEVELOPMENT REVIEW DRC2010-00348D - FIEDLER GROUP FOR RALPHS** - A proposal to demolish an existing building at 7201 Haven Avenue and to construct a gas station consisting of five (5) dispensers, a kiosk, and overhead canopy within an existing shopping center in the Neighborhood Commercial (NC) District, Terra Vista Community Plan (TVCP), located at the northeast corner of Haven Avenue and Base Line Road - APN: 1076-481-25. Related files: Conditional Use Permit DRC2010-00348, Uniform Sign Program #64 Amendment DRC2010-00537, and Tree Removal Permit DRC2010-00578. Staff has prepared a Mitigated Negative Declaration of environmental impacts for consideration.

## PROJECT AND SITE DESCRIPTION:

- A. Surrounding Land Use and Zoning:
- Site - Shopping Center - Neighborhood Commercial (NC) District, Terra Vista Community Plan
  - North - Single-Family Residences and Day Care Facility - Low-Medium (LM) Residential District, Terra Vista Community Plan
  - South - Single-Family Residences - Medium (M), Low-Medium (LM) Residential Districts, Terra Vista Community Plan
  - East - Single-Family Residences - Low-Medium (LM) Residential District, Terra Vista Community Plan
  - West - Single-Family Residences - Low (L) Residential District
- B. General Plan Designations:
- Site - Neighborhood Commercial
  - North - Low-Medium Residential
  - South - Medium and Low-Medium Residential
  - East - Low-Medium Residential
  - West - Low Residential

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DEVELOPMENT REVIEW DRC2010-00348D – FIEDLER GROUP FOR RALPHS GAS  
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- C. Site Characteristics: The project site is located within a shopping center of approximately 556,000 square feet (12.8 acres) that is approximately 884 feet (east to west) by approximately 884 feet (north to south). The shopping center is comprised of thirteen (13) buildings with a combined floor area of approximately 135,000 square feet. Seven (7) of the 13 buildings are contiguous to each other and form a single, crescent-shaped strip that is generally located at the northeast corner of the site. The other five (5) buildings are single-tenant pad buildings or multi-tenant buildings that are located along the street frontage on the south and west sides of the site (Exhibit C). The specific location of the project site is at the northwest corner of the shopping center near the intersection of Haven Avenue and Valencia Avenue. The area of work is presently developed with a 7,232-square foot building that is principally occupied by Blockbuster (Exhibit D). With the exception of the Montessori Academy daycare/private school facility recently approved for operation (Related file: Conditional Use Permit DRC2010-00789) at the northeast corner of Haven Avenue and Valencia Avenue, the shopping center is bound on all sides by residential development. The zoning of the center is Neighborhood Commercial (NC) District, Terra Vista Community Plan. The zoning of the properties to the north and east is Low-Medium (LM) Residential District, Terra Vista Community Plan. The zoning of the properties to the south is Medium (M) and Low-Medium (LM) Residential District, Terra Vista Community Plan. The zoning of the properties to the west is Low (L) and Low-Medium (LM) Residential District.

ANALYSIS:

- A. General: The applicant, on behalf of Ralphs, proposes to demolish the previously described building and in its place construct a fuel station comprised of a kiosk of 179 square feet and an overhead canopy of approximately 3,480 square feet. The horizontal dimensions of the kiosk will be approximately 8 feet by 22 feet. The horizontal dimensions of the canopy will be approximately 24 feet (east to west) by 145 feet (north to south). Measured from the finished surface of the gas fueling station, the overall height of the canopy will be approximately 22 feet (24.5 feet when measured to the top of the extended parapet). The bottom, or ceiling, of the canopy will be approximately 16 feet above the finished surface. The overall height of the kiosk will be approximately 13 feet. The existing vehicle access to the site will remain unchanged (Exhibits E and G).
- B. Floor/Area Analysis: Per Chapter 2, Figure LU-2, the maximum floor area ratio (FAR) in the Neighborhood Commercial land use category is 35 percent. The net area of the project site is approximately 36,270 square feet. Following the completion of the gas station, the building coverage (including the canopy) will be 3,659 square feet. Therefore, the floor area ratio for this site will be 10 percent.
- C. Land Use and Operations: The proposed fuel station, operating as Ralphs Gas, will have five (5) fuel dispensers with one fueling position on either side of each for a total of ten (10) fueling positions. The proposal does not include a convenience store. The kiosk will serve as a pay point for gas purchases and minor pre-packaged items such as cigarettes, candy, gum, etc. The proposal includes arranging around the kiosk, self-serve merchandising units for a variety of beverages such as water, soda, hydration drinks; snacks such as chips and peanuts, and

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automotive fluids such as oil, coolant, and window washing solvents. These units will be mounted to the ground and locked between 10:00 p.m. and 6:00 a.m. Per Section 17.10.030(G)(3) of the Development Code, there are restrictions on the outdoor display of merchandise including the maximum linear dimension and location for such displays. These restrictions have been incorporated as conditions of approval. The floor area of the kiosk will be only large enough to accommodate the cashier, limited storage, operations-related equipment, and a restroom (for the employees only). Generally, there will be only one employee on-site. However, the station will employ up to four (4) persons working in shifts of up to eight (8) hours. Although the station will operate 24 hours a day, it will be unattended between 10:00 p.m. and 6:00 a.m. (Exhibit N). Alcohol sales are not proposed with the gas station – alcoholic beverages will be available for sale at the existing Ralphs supermarket.

- D. Parking Calculations: The parking calculation for the shopping center is 4.5 parking stalls per 1,000 square feet of gross floor area per Section 17.12.040(B)(1)(b)(1) of the Development Code.

Type of Use	Floor Area (SF)	Parking Ratio	# of Spaces Required	# of Spaces Provided
Shopping Center (existing)	135,000	4.5/1000	608	710
Shopping Center (after construction)	128,000	4.5/1000	576*	692*

\*Note: There are 710 parking stalls within the shopping center. The proposed project includes the demolition of the existing building which will reduce the overall floor area of the shopping center. Also, eighteen (18) parking stalls will be removed which will leave 692 parking stalls remaining.

- E. Design Review Committee: The project was reviewed by the Design Review Committee (Munoz and Granger) on September 14, 2010 (Exhibit L). The Committee reviewed the application and deemed it acceptable for forwarding to the Planning Commission for review and action. The Committee concluded that the architecture of the canopy and kiosk was consistent with the shopping center including the use of stucco finish, clay S-tile, and decorative cornice. The mid-section of the canopy includes a curvilinear parapet that generally matches similar parapets on the other buildings in the shopping center. The Committee approved the design as submitted with the exception of the vapor recovery system. The applicant was directed to use a horizontally-mounted "Healy Tank" Enhanced Vapor Recovery System instead of a vertically-mounted "Veeder Root" Enhanced Vapor Recovery System. The Healy tank is to be screened behind a decorative block wall enclosure and landscaping. Most of the other issues identified in the Design Review Committee comments report were already addressed by the applicant prior to the meeting to the satisfaction of the Committee. The applicant agreed to complete or comply with the remaining corrections/revisions. Incorporated into the Resolution of Approval are a set of special

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conditions stating that these remaining issues shall be addressed in the plans submitted for plan check.

- F. Grading and Technical Review Committees: The project was reviewed by the Grading and Technical Review Committees on September 14, 2010. Both Committees deemed it acceptable for forwarding to the Planning Commission for review and action. Staff has included in the Resolution of Approval each Committee's standard and special conditions.
- G. Neighborhood Meeting: On September 13, 2010, the applicant conducted a neighborhood meeting at the Goldy S. Lewis Community Center at Central Park at 11200 Base Line Road. There were about twenty (20) persons in attendance (Exhibit M). Questions were addressed by the applicant, representatives from Ralphs, and staff regarding the proposal and its operations. Those in attendance were generally opposed to the project. Following the meeting, Staff received additional comments via electronic, telephone, and mailed correspondence (Exhibit N). The concerns are summarized as follows (with staff's response in italics and the applicant response attached – Exhibit O):

1. Neighborhood compatibility including the need for a new gas station and an oversaturation of gas stations in the area.

*The Development Code and the Terra Vista Community Plan, consistent with the City's General Plan, regulate where various uses including gas stations can be located. Both documents identify various areas, i.e. development districts, within the City that are suitable for commercial uses and the uses that are allowed are established based on the uses' service to the community and the uses' suitability within the context of its location. The gas station will serve the surrounding community and is an expected land use within shopping centers. In regards to number or saturation of gas stations, neither document restricts the number of gas stations in any given area or the proximity of a gas station relative to another gas station.*

2. Noise emanating from the project site caused by loud stereos, running engines, and deliveries during late evening and early morning hours.

*A gas station is not a noise intensive land use as the only actual activity directly related to the use is the pumping of fuel from underground storage tanks. All equipment will be located underground or inside the kiosk. A convenience store is not proposed with the gas station. Noise impacts generated by loud stereos or running engines are intermittent and irregular in frequency and are not expected to be a continuous or regular occurrence. Also, activity on the property will be heaviest during the day; therefore evening disturbances will be minimal. Periodically, there will be fuel deliveries; the applicant has indicated that no deliveries will occur between 10:00 p.m. and 6:00 a.m. Incorporated in the Resolution of Approval is a condition restricting fuel deliveries to the hours between 6:00 a.m. and 10:00 p.m.*

3. Glare emanating from the canopy and parking lot lighting projecting onto the neighboring residences during late evening and early morning hours.

*The applicant submitted a photometric plan prepared by LSi Industries at the request of the Planning Department. The plan shows that the intensity of light, measured in foot candles, will be less than 1-foot-candle at the project perimeter. For reference, per the Development Code, the maximum amount of light allowed to illuminate adjacent properties is 5-foot-candles. The amount of light emanating beyond the project perimeter from beneath the canopy will be limited by the recessed design of the lamps. The parking lot lights will have a design consistent with the lamps in the parking lot of the shopping center. Per the Development Code, the maximum height of parking lot lighting is 15 feet measured from the finished surface to the lamp head. The finished surface of the site is lower than the finished surface of Haven Avenue and Valencia Avenue and there is existing landscaping along both streets. Lastly, there are buildings to the east, south, and north that will block any light that is emanating from the site onto neighboring residential properties.*

4. The impacts of a gas station operating 24 hours a day.

*The gas station is proposed to operate 24 hours a day with an employee on-site between 6:00 a.m. and 10:00 p.m. Staff is not aware of any negative impacts as the result of a gas station within the City operating 24 hours a day. Noise and lighting will have a minimal negative impact on surrounding residential properties because of the mitigating factors noted above.*

5. On/off-site circulation and timing of the fuel truck via Valencia Avenue and relationship of the delivery cycles with traffic along that street and the safety of drivers and pedestrians.

*The applicant submitted a Site Plan showing that fuel delivery trucks will arrive at and depart from the general area project site via Haven Avenue. These trucks will enter/exit the site either via the driveway at Valencia Avenue (located approximately 140 feet east of Haven Avenue) or the driveway at Haven Avenue. It will not be necessary to drive along Valencia Avenue to and from Base Line Road. Also, fuel deliveries will be limited to the hours between 6:00 a.m. and 10:00 p.m. Therefore, disturbance of the residences in the vicinity of and interaction with traffic on Valencia Avenue will be minimal. A new set of traffic signals (discussed below) will increase traffic and pedestrian safety at the intersection of Haven Avenue and Valencia Avenue. Incorporated in the Resolution of Approval is a condition prohibiting fuel delivery vehicles from using the segment of Valencia Avenue between the driveway at Valencia Avenue and the intersection of that street with Base Line Road.*

6. Criminal activity because of the presence of the gas station.

*The project site will be equipped with security cameras that will be monitored by Kroger (Ralphs' parent company) staff 24 hours a day. In the event of an emergency, Kroger*

*staff will contact the Police Department. Additional monitoring will be provided by Ralphs' supermarket employees. Staff discussed the potential for criminal activity with a representative from the Police Department. Based on the discussion, the type of criminal activities and nuisances usually encountered at gas stations are loitering, panhandling, and theft of merchandise. However, these activities are common when a gas station includes a convenience store. As the proposed project does not include a convenience store, the likelihood of such activities is low. The representative also stated that adequate lighting is a deterrent to criminal activity of this nature.*

7. Traffic at the intersection of Haven Avenue and Valencia Avenue that is not signalized and speeding on both Haven Avenue and Valencia Avenue.

*The applicant submitted a traffic analysis prepared by Associated Transportation Engineers at the request of the Traffic Engineering Department. The analysis included the existing traffic volume, the traffic volume added by the proposed gas station, and the traffic volume added by Montessori Academy, a daycare/private school located at 7135 Haven Avenue immediately to the north of the project site. The conclusion of the analysis was that because of the cumulative volume of traffic a set of traffic signals is warranted at the intersection of these two streets. Incorporated in the Resolution of Approval is a condition requiring the installation of a set of traffic signals at the intersection of Haven Avenue and Valencia Avenue.*

8. Air quality (this issue was referenced during telephone calls and later correspondence with staff).

*The applicant submitted an Air Quality Study prepared by E-Tech Environmental on October 2010. According to the study, the maximum amount of air emissions for each regulated air pollutant that was estimated for short-term (construction) and long-term (operational) emissions is well below the regulated thresholds. The construction and operation of the proposed project will be in compliance with the land use development regulations of the South Coast Air Quality Management District (SCAQMD).*

9. Hazardous materials (this issue was referenced during telephone calls and later correspondence with staff).

*The applicant submitted an air dispersion model and health risk assessment prepared by E-Tech Environmental on October 2010. The project will incorporate California Air Resources Board (CARB) certified equipment (dispensers, nozzles, and hoses) to ensure vapor recovery. The project also includes the installation of a Healy Phase II Enhanced Vapor Recovery System which is designed to capture fugitive vapors from the fuel dispensers. Furthermore, the project includes double-wall underground storage tanks with double-wall piping.*

- H. Land Use Compatibility: The project will be consistent with development district of the site, the existing uses within the shopping center, and the surrounding development districts. Staff

does not expect any negative impacts for the reasons outlined above. For all disturbances/nuisances, there are thresholds for noise and lighting that a commercial activity cannot exceed. The Development Code specifies performance standards applicable to all commercial uses and locations that must be complied with. In the event that noise and/or lighting levels exceed the maximum established by the Code, then the Code Enforcement Department can be contacted to correct the problem. If necessary, the matter may be brought to the attention of the Planning Director and/or Planning Commission for further review and action.

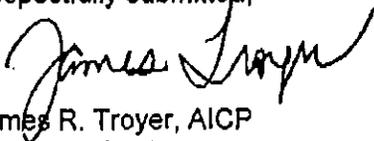
- I. Tree Removal Permit DRC2010-00578: The proposed project includes the removal of six (6) trees within the area of work (Exhibit P). These trees are located in the planter areas immediately surrounding the existing building. The existing trees and landscaping outside the area of work will remain. There are a significant number of mature trees within, and at the perimeter of, the shopping center. Consistent with the City's Tree Preservation Ordinance, incorporated in the Resolution of Approval is a condition requiring new trees (minimum 24-inch box size) to be planted on a one-to-one basis to replace the trees that have been removed.
  
- J. Environmental Assessment: Pursuant to the California Environmental Quality Act ("CEQA") and the City's local CEQA Guidelines, City staff prepared an Initial Study of the potential environmental effects of the project. Based on the findings contained in that Initial Study, City staff determined that, with the imposition of mitigation measures related to aesthetics (lighting), cultural resources, hydrology and water quality, traffic, and air quality, there would be no substantial evidence that the project would have a significant effect on the environment. Based on that determination, a Mitigated Negative Declaration was prepared. Thereafter, City staff provided public notice of the public comment period and of the intent to adopt the Mitigated Negative Declaration. A Mitigation Monitoring Program has also been prepared to ensure implementation of, and compliance with, the mitigation measures for the project. In response to the Mitigated Negative Declaration, on February 23, 2011 the South Coast Air Quality Management District (AQMD) submitted comments to the City requesting further discussion and supporting data, and cited the potential for additional and/or revised mitigations to address air quality impacts (Exhibit S). The applicant's air quality consultant provided the requested information on February 28, 2011 and Staff forwarded it to the AQMD. At the time of the preparation of this report, follow-up comments from the AQMD had not been received. However, if there are any additional mitigations necessary, Staff will present them to the Planning Commission and the applicant during the public hearing for incorporation as conditions of approval in the Resolution of Approval.

CORRESPONDENCE: This item was initially advertised as a public hearing in the Inland Valley Daily Bulletin newspaper for the February 23, 2011 meeting date. The property was posted, and notices were mailed to all property owners within a 660-foot radius of the project site. Because of an error in the legal advertising, the item was re-noticed and corrected mailing notices, postings and a legal advertisement were prepared and distributed for this meeting date. With the exception of correspondence received following the neighborhood meeting (Exhibit N) and the correspondence received from the AQMD noted above, no additional correspondence was received at the time of the preparation of this Staff Report.

PLANNING COMMISSION STAFF REPORT  
CONDITIONAL USE PERMIT DRC2010-00348 AND  
DEVELOPMENT REVIEW DRC2010-00348D – FIEDLER GROUP FOR RALPHS GAS  
March 9, 2011  
Page 8

**RECOMMENDATION:** Staff recommends that the Planning Commission approve Conditional Use Permit DRC2010-00348 and Development Review DRC2010-00348D through adoption of the attached Resolutions of Approval with conditions.

Respectfully submitted,



James R. Troyer, AICP  
Planning Director

JRT:MS/ge

- Attachments:
- Exhibit A - Location Map
  - Exhibit B - Aerial Map
  - Exhibit C - Site Utilization Map/Overall Site Plan
  - Exhibit D - Project Site Plan/Topography (Existing)
  - Exhibit E - Project Site Plan (Proposed)
  - Exhibit F - Grading Plan
  - Exhibit G - Elevations of the Fuel Station Kiosk and Canopy
  - Exhibit H - Building Sections
  - Exhibit I - Photometric Plan
  - Exhibit J - Correspondence from the Applicant – Operations
  - Exhibit K - List of Tenants
  - Exhibit L - Design Review Committee Action Comments (September 14, 2010)
  - Exhibit M - Neighborhood Meeting (September 13, 2010) Sign-In Sheet
  - Exhibit N - Correspondence from Property Owners
  - Exhibit O - Correspondence from the Applicant – Neighborhood Meeting Response
  - Exhibit P - Site Plan for Tree Removal Permit DRC2010-00578
  - Exhibit Q - Initial Study Parts 1 and 2
  - Exhibit R - Air Emission Estimates, Air Dispersion Module & Health Risk Assessment, Traffic Analysis - Distributed Under Separate Cover and Available Upon Request
  - Exhibit S - Correspondence from the AQMD dated February 23, 2011  
Draft Resolution of Approval for Conditional Use Permit DRC2010-00348  
Draft Resolution of Approval for Development Review DRC2010-00348D

RESOLUTION NO. 11-08

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RANCHO CUCAMONGA, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT DRC2010-00348, A PROPOSAL TO DEMOLISH AN EXISTING BUILDING AT 7201 HAVEN AVENUE TO CONSTRUCT A GAS STATION CONSISTING OF FIVE (5) DISPENSERS, A KIOSK, AND AN OVERHEAD CANOPY WITHIN AN EXISTING SHOPPING CENTER IN THE NEIGHBORHOOD COMMERCIAL (NC) DISTRICT, TERRA VISTA COMMUNITY PLAN (TVCP), LOCATED AT THE NORTHEAST CORNER OF HAVEN AVENUE AND BASE LINE ROAD; AND MAKING FINDINGS IN SUPPORT THEREOF -- APN: 1076-481-25.

A. Recitals.

1. Fiedler Group, on behalf of Ralphs Gas, filed an application for the issuance of Conditional Use Permit DRC2010-00348, as described in the title of this Resolution. Hereinafter in this Resolution, the subject Development Review request is referred to as "the application."

2. On the 9th day of March 2011, the Planning Commission of the City of Rancho Cucamonga conducted a duly noticed public hearing on said application and concluded said hearing on that date.

3. All legal prerequisites prior to the adoption of this Resolution have occurred.

B. Resolution.

NOW, THEREFORE, it is hereby found, determined, and resolved by the Planning Commission of the City of Rancho Cucamonga as follows:

1. This Commission hereby specifically finds that all of the facts set forth in the Recitals, Part A, of this Resolution are true and correct.

2. Based upon the substantial evidence presented to this Commission during the above-referenced meeting on March 9, 2011, including written and oral staff reports, together with public testimony, this Commission hereby specifically finds as follows:

a. The application applies to a shopping center located at the northeast corner of Base Line Road and Haven Avenue; and

b. The shopping center is approximately 556,159 square feet (12.77 acres) that is approximately 884 feet (east to west) by approximately 884 feet (north to south); and

c. The shopping center is comprised of thirteen (13) buildings with a combined floor area of approximately 135,000 square feet; and

d. Seven (7) of the 13 buildings are contiguous to each other and form a single crescent-shaped strip. This strip is comprised of three (3) anchor tenant buildings - one of these is occupied by Ralphs Market. The remainder of the strip is comprised of four small tenant buildings. The other five (5) buildings are single- or multi-tenant pad buildings; and

PLANNING COMMISSION RESOLUTION NO. 11-08  
CONDITIONAL USE PERMIT DRC2010-00348 – FIEDLER GROUP FOR RALPHS GAS  
March 9, 2011  
Page 2

e. The specific location of the project site is at the northwest corner of the shopping center near the intersection of Haven Avenue and Valencia Avenue (APN: 1076-481-25). The "area of work" is a parcel of approximately 36,270 square feet (0.83 acre) that is presently developed with a 7,232 square foot retail building principally occupied by Blockbuster; and

f. With the exception of the Montessori Academy daycare/private school facility at the northeast corner of Haven Avenue and Valencia Avenue, the shopping center is bound on all sides by residential development; and

g. The zoning of the center is Neighborhood Commercial (NC) District, Terra Vista Community Plan. The zoning of the properties to the north and east is Low-Medium (LM) Residential District, Terra Vista Community Plan. The zoning of the properties to the south is Medium (M) and Low-Medium (LM) Residential District, Terra Vista Community Plan. The zoning of the properties to the west is Low (L) and Low-Medium (LM) Residential District; and

h. The existing combined gross floor area of the buildings within the shopping center is approximately 135,000 square feet. Following the completion of the project, the combined gross floor area will be reduced to approximately 132,000 square feet; and

i. The proposal is to demolish the existing retail building and in its place construct a fuel station comprised of a kiosk of 179 square feet, an overhead canopy of approximately 3,480 square feet, and five (5) fuel dispensers with one fueling position on either side of each for a total of ten (10) fueling positions. The proposal does not include a convenience store; and

j. This application is in conjunction with Development Review DRC2010-00348D and Tree Removal Permit DRC2010-00578; and

k. There are 710 parking stalls within the shopping center. The parking requirement for the shopping center is 608 parking stalls based on a calculation of 4.5 stalls per 1,000 square feet of floor area. The proposed project includes the demolition of the existing building which will reduce the overall floor area of the shopping center. Also, eighteen (18) parking stalls will be removed, which will leave 692 parking stalls remaining. The parking requirement for the shopping center following the completion of the project will be 576 parking stalls.

3. Based upon the substantial evidence presented to this Commission during the above-referenced meeting and upon the specific findings of facts set forth in Paragraphs 1 and 2 above, this Commission hereby finds and concludes as follows:

a. The proposed development is in accord with the General Plan, the objectives of the Development Code and the Terra Vista Community Plan, and the purposes of the district in which the site is located. The proposed project is a fuel station comprised of a kiosk of 179 square feet, an overhead canopy of approximately 3,480 square feet, and five (5) fuel dispensers with one fueling position on either side of each for a total of ten (10) fueling positions. The underlying General Plan designation is Neighborhood Commercial.

b. The proposed development, together with the conditions applicable thereto, will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity. The project site is vacant; the proposed land use is consistent with the land uses within the shopping center where it is located, and the expectations of the community. The zoning of the properties to the north and east is Low-Medium (LM) Residential District, Terra Vista Community Plan. The zoning of the properties to the south is Medium (M) and Low-Medium

(LM) Residential District, Terra Vista Community Plan. The zoning of the properties to the west is Low (L) and Low-Medium (LM) Residential District.

c. The proposed development complies with each of the applicable provisions of the Development Code and the Terra Vista Community Plan. The proposed development otherwise meets all standards outlined in the Development Code and the Terra Vista Community Plan and the design and development standards and policies of the Planning Commission and the City.

4. Based upon the facts and information contained in the proposed Mitigated Negative Declaration, together with all written and oral reports included for the environmental assessment for the application, the Planning Commission finds that there is no substantial evidence that the project will have a significant effect upon the environment and adopts a Mitigated Negative Declaration and Monitoring Program attached hereto, and incorporated herein by this reference, based upon the findings as follows:

a. Pursuant to the California Environmental Quality Act ("CEQA") and the City's local CEQA Guidelines, the City staff prepared an Initial Study of the potential environmental effects of the project. Based on the findings contained in that Initial Study, City staff determined that, with the imposition of mitigation measures, there would be no substantial evidence that the project would have a significant effect on the environment. Based on that determination, a Mitigated Negative Declaration was prepared. Thereafter, the City staff provided public notice of the public comment period and of the intent to adopt the Mitigated Negative Declaration.

b. The Planning Commission has reviewed the Mitigated Negative Declaration and all comments received regarding the Mitigated Negative Declaration and, based on the whole record before it, finds: (i) that the Mitigated Negative Declaration was prepared in compliance with CEQA; and (ii) that, based on the imposition of mitigation measures, there is no substantial evidence that the project will have a significant effect on the environment. The Planning Commission further finds that the Mitigated Negative Declaration reflects the independent judgment and analysis of the Planning Commission. Based on these findings, the Planning Commission hereby adopts the Mitigated Negative Declaration.

c. The Planning Commission has also reviewed and considered the Mitigation Monitoring Program for the project that has been prepared pursuant to the requirements of Public Resources Code Section 21081.6 and finds that such Program is designed to ensure compliance with the mitigation measures during project implementation. The Planning Commission therefore adopts the Mitigation Monitoring Program for the project.

d. The custodian of records for the Initial Study, Mitigated Negative Declaration, Mitigation Monitoring Program and all other materials which constitute the record of proceedings upon which the Planning Commission's decision is based is the Planning Director of the City of Rancho Cucamonga. Those documents are available for public review in the Planning Department of the City of Rancho Cucamonga located at 10500 Civic Center Drive, Rancho Cucamonga, California 91730, telephone (909) 477-2750.

5. Based upon the findings and conclusions set forth in Paragraphs 1, 2, 3, and 4 above, this Commission hereby approves the application subject to each and every condition set forth below and in the Standard Conditions, attached hereto and incorporated herein by this reference.

Planning Department

- 1) Approval is for the construction of a fuel station comprised of a kiosk of 179 square feet, an overhead canopy of approximately 3,480 square feet, and five (5) fuel dispensers with one fueling position on either side of each for a total of ten (10) fueling positions center in the Neighborhood Commercial (NC) District, Terra Vista Community Plan (TVCP), located at the northeast corner of Haven Avenue and Base Line Road - APN: 1076-481-25.
- 2) Approval of this request includes the removal of six (6) trees per Tree Removal Permit DRC2010-00578. New trees (minimum 24-inch box size) shall be planted on a one-to-one basis to replace the trees that have been removed.
- 3) Approval of this request shall not waive compliance with any sections of the Development Code, Terra Vista Community Plan, State Fire Marshal's regulations, Uniform Building Code, or any other City Ordinances.
- 4) The fuel station shall operate in conformance with the performance standards as defined in the Development Code including, but not limited to, noise levels. If the operation of the fuel station causes adverse effects upon the shopping center, the tenants of the shopping center, and/or adjacent residences, then the Conditional Use Permit shall be brought before the Planning Commission for consideration and possible revocation of the Conditional Use Permit.
- 5) Any modification or intensification including a change in operating hours, change in fuel delivery schedules/routes, any improvements including expansion of the kiosk and/or addition of fuel dispensers, and/or other modifications/intensification beyond what is specifically approved by this Conditional Use Permit, shall require the review and approval by the Planning Commission prior to submittal of documents for plan check/occupancy, construction, commencement of the activity, and/or issuance of a business license.
- 6) The fuel station is approved to operate 24 hours per day.
- 7) Fuel delivery trucks are prohibited from using the segment of Valencia Avenue between the driveway at Valencia Avenue that is located approximately 140 feet east of Haven Avenue and Base Line Road.
- 8) Fuel deliveries shall be limited to the hours between 6:00 a.m. and 10:00 p.m.
- 9) Audio advertising and ambient music is prohibited at all times.
- 10) Outdoor storage of operating equipment, supplies, materials, and trash is prohibited.

- 11) The outdoor merchandise units shall be limited to an aggregate area with a linear dimension not to exceed 6 feet. These units shall be located immediately adjacent to the kiosk and shall not project from the wall plane of the kiosk more than 4 feet. These units shall be locked between 10:00 p.m. and 6:00 a.m.
- 12) All signs shall comply with the City's Sign Ordinance and Uniform Sign Program #64 (as amended per DRC2010-00537).
- 13) All Conditions of Approval for Development Review DRC2010-00348D shall apply.

Engineering Department

- 1) Development impact fees due at Building permit issuance (subject to change/periodic increases).
- 2) Bring the southeast corner of Haven Avenue and Valencia Avenue up to ADA compliance (ok for the existing monument sign to be 1 foot behind the sidewalk).
- 3) Install a traffic signal at the intersection of Haven Avenue and Valencia Avenue. The developer shall receive a credit from the City's backbone and emergency vehicle pre-emption portions against, and reimbursement of costs in excess of, the Transportation Development Fee in conformance with City policy. If the developer fails to submit for said reimbursement agreement within 6 months of the public improvements being accepted by the City, all rights of the developer to reimbursement shall terminate.

Environmental Mitigation

Air Quality

- 1) All construction equipment shall be maintained in good operating condition so as to reduce operational emissions. The contractor shall ensure that all construction equipment is being properly serviced and maintained as per manufacturers' specifications. Maintenance records shall be available at the construction site for City verification.
- 2) Prior to the issuance of any grading permits, the developer shall submit Construction Plans to the City denoting the proposed schedule and projected equipment use. Construction contractors shall provide evidence that low-emission mobile construction equipment will be utilized, or that their use was investigated and found to be infeasible for the project. Contractors shall also conform to any construction measures imposed by the South Coast Air Quality Management District (SCAQMD) as well as City Planning staff.

- 3) All paints and coatings shall meet or exceed performance standards noted in SCAQMD Rule 1113. Paints and coatings shall be applied either by hand or high-volume, low-pressure spray.
- 4) All asphalt shall meet or exceed performance standards noted in SCAQMD Rule 1108.
- 5) All construction equipment shall comply with SCAQMD Rules 402 and 403. Additionally, contractors shall include the following provisions:
  - Reestablish ground cover on the construction site through seeding and watering.
  - Pave or apply gravel to any on-site haul roads.
  - Phase grading to prevent the susceptibility of large areas to erosion over extended periods of time.
  - Schedule activities to minimize the amounts of exposed excavated soil during and after the end of work periods.
  - Dispose of surplus excavated material in accordance with local ordinances and use sound engineering practices.
  - Sweep streets according to a schedule established by the City if silt is carried over to adjacent public thoroughfares or occurs as a result of hauling. Timing may vary depending upon the time of year of construction.
  - Suspend grading operations during high winds (i.e., wind speeds exceeding 25 mph) in accordance with SCAQMD Rule 403 requirements.
  - Maintain a minimum 24-inch freeboard ratio on soils haul trucks or cover payloads using tarps or other suitable means.
- 6) The site shall be treated with water or other soil-stabilizing agent (approved by SCAQMD and Regional Water Quality Control Board [RWQCB]) daily to reduce Particulate Matter (PM<sub>10</sub>) emissions, in accordance with SCAQMD Rule 403.
- 7) Chemical soil-stabilizers (approved by SCAQMD and RWQCB) shall be applied to all inactive construction areas that remain inactive for 96 hours or more to reduce PM<sub>10</sub> emissions.
- 8) The construction contractor shall utilize electric or clean alternative fuel-powered equipment where feasible.
- 9) The construction contractor shall ensure that construction-grading plans include a statement that work crews will shut off equipment when not in use.
- 10) Projects shall be developed under the adopted 2010 General Plan Update implementing the following measures, derived from the SCAQMD's AQMP, where feasible, in order to reduce criteria air

pollutant emissions, primarily related to vehicular travel and energy. Potential measures for consideration in future projects include:

- Schedule truck deliveries and pickups during off-peak hours.
  - Improve thermal integrity of the buildings and reduce thermal load with automated time clocks or occupant sensors.
  - Landscape with native and/or drought-resistant species to reduce water consumption and to provide passive solar benefits.
  - Provide lighter color roofing and road materials and tree planning programs to comply with the AQMP Miscellaneous Sources MSC-01 measure.
- 11) All industrial and commercial facilities shall post signs requiring that trucks shall not be left idling for prolonged periods (i.e., in excess of 10 minutes).
  - 12) All residential and commercial structures shall be required to incorporate high-efficiency/low-polluting heating, air conditioning, appliances, and water heaters.
  - 13) All residential and commercial structures shall be required to incorporate thermal pane windows and weather-stripping.
  - 14) All new development in the City of Rancho Cucamonga shall comply with South Coast Air Quality Management District's Rule 445, Wood Burning Devices. Rule 445 was adopted in March 2008 to reduce emissions of PM<sub>2.5</sub> and precludes the installation of indoor or outdoor wood burning devices (i.e. fireplaces/hearths) in new development on or after March 9, 2009.
  - 15) Demolition of the existing building and existing associated improvements shall be conducted over a minimum period of eight (8) days and watered a minimum of three (3) times per day to reduce localized air quality impacts for PM<sub>10</sub> and PM<sub>2.5</sub> emissions to less than significant.

#### Biological Resources

- 1) New trees (minimum 24-inch box size) shall be planted on a one-to-one basis to replace the six (6) trees that are removed. The species of the replacement trees shall match the species of the trees that are removed.

#### Cultural Resources

- 1) If any prehistoric archaeological resources are encountered before or during grading, the developer will retain a qualified archaeologist to monitor construction activities, to take appropriate measures to protect

or preserve them for study. With the assistance of the archaeologist, the City of Rancho Cucamonga will:

- Enact interim measures to protect undesignated sites from demolition or significant modification without an opportunity for the City to establish its archaeological value.
  - Consider establishing provisions to require incorporation of archaeological sites within new developments, using their special qualities as a theme or focal point.
  - Pursue educating the public about the areas archaeological heritage.
  - Propose mitigation measures and recommend conditions of approval to eliminate adverse project effects on significant, important, and unique prehistoric resources, following appropriate CEQA guidelines.
  - Prepare a technical resources management report, documenting the inventory, evaluation, and proposed mitigation of resources within the project area. Submit one copy of the completed report with original illustrations to the San Bernardino County Archaeological Information Center for permanent archiving.
- 2) If any paleontological resource (i.e. plant or animal fossils) are encountered before or during grading, the developer will retain a qualified paleontologist to monitor construction activities, to take appropriate measures to protect or preserve them for study. The paleontologist shall submit a report of findings that will also provide specific recommendations regarding further mitigation measures (i.e., paleontological monitoring) that may be appropriate. Where mitigation monitoring is appropriate, the program must include, but not be limited to, the following measures:
- Assign a paleontological monitor, trained and equipped to allow the rapid removal of fossils with minimal construction delay, to the site full-time during the interval of earth-disturbing activities.
  - Should fossils be found within an area being cleared or graded, divert earth-disturbing activities elsewhere until the monitor has completed salvage. If construction personnel make the discovery, the grading contractor should immediately divert construction and notify the monitor of the find.
  - Prepare, identify, and curate all recovered fossils for documentation in the summary report and transfer to an appropriate depository (i.e., San Bernardino County Museum).
  - Submit summary report to City of Rancho Cucamonga. Transfer collected specimens with a copy of the report to San Bernardino County Museum.

#### Geology and Soils

- 1) The site shall be treated with water or other soil stabilizing agent (approved by SCAQMD and RWQCB) daily to reduce PM<sub>10</sub> emissions, in accordance with SCAQMD Rule 403.
- 2) Frontage public streets shall be swept according to a schedule established by the City to reduce PM<sub>10</sub> emissions associated with vehicle tracking of soil off-site. Timing may vary depending upon the time of year of construction.
- 3) Grading operations shall be suspended when wind speeds exceed 25 mph to minimize PM<sub>10</sub> emissions from the site during such episodes.
- 4) Chemical soil-stabilizers (approved by SCAQMD and RWQCB) shall be applied to all inactive construction areas that remain inactive for 96 hours or more to reduce PM<sub>10</sub> emissions.

#### Hydrology and Water Quality

- 1) Prior to issuance of grading permits, the permit applicant shall submit to Building Official for approval, Storm Water Pollution Prevention Plan (SWPPP) specifically identifying Best Management Practices (BMPs) that shall be used on-site to reduce pollutants during construction activities entering the storm drain system to the maximum extent practical.
- 2) An Erosion Control Plan shall be prepared, included in the Grading Plan, and implemented for the proposed project that identifies specific measures to control on-site and off-site erosion from the time ground disturbing activities are initiated through completion of grading. This Erosion Control Plan shall include the following measures at a minimum: a) Specify the timing of grading and construction to minimize soil exposure to rainy periods experienced in Southern California, and b) An inspection and maintenance program shall be included to ensure that any erosion which does occur either on-site or off-site as a result of this project will be corrected through a remediation or restoration program within a specified time frame.
- 3) During construction, temporary berms such as sandbags or gravel dikes must be used to prevent discharge of debris or sediment from the site when there is rainfall or other runoff.
- 4) During construction, to remove pollutants, street cleaning will be performed prior to storm events and after the use of water trucks to control dust in order to prevent discharge of debris or sediment from the site.
- 5) The developer shall implement the BMPs identified in the Water Quality Management Plan prepared by Fiedler Group on July 29, 2010,

to reduce pollutants after construction entering the storm drain system to the maximum extent practical.

- 6) Landscaping plans shall include provisions for controlling and minimizing the use of fertilizers/pesticides/herbicides. Landscaped areas shall be monitored and maintained for at least two years to ensure adequate coverage and stable growth. Plans for these areas, including monitoring provisions for a minimum of two years, shall be submitted to the City for review and approval prior to the issuance of grading permits.
- 7) Prior to issuance of building permits, the applicant shall submit to the City Building Official for approval of a Water Quality Management Plan (WQMP), including a project description and identifying Best Management Practices (BMPs) that will be used on-site to reduce pollutants into the storm drain system to the maximum extent practicable. The WQMP shall identify the structural and non-structural measures consistent with the Guidelines for New Development and Redevelopment adopted by the City of Rancho Cucamonga in June 2004.
- 8) Prior to issuance of grading or paving permits, the applicant shall obtain a Notice of Intent (NOI) to comply with obtaining coverage under the National Pollutant Discharge Elimination System (NPDES) General Construction Storm Water Permit from the State Water Resources Control Board. Evidence that this has been obtained (i.e., a copy of the Waste Discharger's Identification Number) shall be submitted to the City Building Official for coverage under the NPDES General Construction Permit.

#### Noise

- 1) Business operations shall maintain a noise level at 60dB or less during the hours of 10:00 p.m. until 7:00 a.m. No loading and unloading activities including opening, closing, or other handling of boxes, crates, containers, building materials, garbage cans, or other similar objects between the hours of 10:00 p.m. and 7:00 a.m. in a manner which would cause a noise disturbance to residential areas.
- 2) Construction or grading shall not take place between the hours of 8:00 p.m. and 6:30 a.m. on weekdays, including Saturday, or at any time on Sunday or a national holiday.
- 3) Construction or grading noise levels shall not exceed the standards specified in Development Code Section 17.02.120-D, as measured at the property line. Developer shall hire a consultant to perform weekly noise level monitoring as specified in Development Code Section 17.02.120. Monitoring at other times may be required by the Building Official. Said consultant shall report their findings to the Building Official within 24 hours; however, if noise levels exceed the above standards, then the consultant shall immediately notify the

Building Official. If noise levels exceed the above standards, then construction activities shall be reduced in intensity to a level of compliance with above noise standards or halted.

- 4) Haul truck deliveries shall not take place between the hours of 8:00 p.m. and 6:30 a.m. on weekdays, including Saturday, or at any time on Sunday or a national holiday. Additionally, if heavy trucks used for hauling would exceed 100 daily trips (counting both to and from the construction site), then the developer shall prepare a noise mitigation plan denoting any construction traffic haul routes. To the extent feasible, the plan shall denote haul routes that do not pass sensitive land uses or residential dwellings.

Traffic

- 1) The applicant shall install a set of traffic signals at the intersection of Haven Avenue and Valencia Avenue. The installation shall comply with the design/technical standards and requirements as established by the City's Traffic Engineering Department.
6. The Secretary to this Commission shall certify the adoption of this Resolution.

APPROVED AND ADOPTED THIS 9TH DAY OF MARCH 2011.

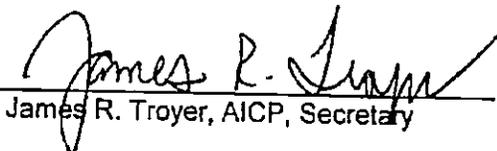
PLANNING COMMISSION OF THE CITY OF RANCHO CUCAMONGA

BY:



Luis Munoz, Jr., Chairman

ATTEST:



James R. Troyer, AICP, Secretary

I, James R. Troyer, AICP, Secretary of the Planning Commission of the City of Rancho Cucamonga, do hereby certify that the foregoing Resolution was duly and regularly introduced, passed, and adopted by the Planning Commission of the City of Rancho Cucamonga, at a regular meeting of the Planning Commission held on the 9th day of March 2011, by the following vote-to-wit:

AYES: COMMISSIONERS: FLETCHER, MUNOZ, WIMBERLY

NOES: COMMISSIONERS: HOWDYSHELL, OAXACA

ABSENT: COMMISSIONERS: NONE

ABSTAIN: COMMISSIONERS: NONE

RESOLUTION NO. 11-09

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RANCHO CUCAMONGA, CALIFORNIA, APPROVING DEVELOPMENT REVIEW DRC2010-00348D, A PROPOSAL TO DEMOLISH AN EXISTING BUILDING AT 7201 HAVEN AVENUE TO CONSTRUCT A GAS STATION CONSISTING OF FIVE (5) DISPENSERS, A KIOSK, AND AN OVERHEAD CANOPY WITHIN AN EXISTING SHOPPING CENTER IN THE NEIGHBORHOOD COMMERCIAL (NC) DISTRICT, TERRA VISTA COMMUNITY PLAN (TVCP), LOCATED AT THE NORTHEAST CORNER OF HAVEN AVENUE AND BASE LINE ROAD; AND MAKING FINDINGS IN SUPPORT THEREOF - APN: 1076-481-25.

A. Recitals.

1. Fiedler Group, on behalf of Ralphs Gas, filed an application for the issuance of Development Review DRC2010-00348D, as described in the title of this Resolution. Hereinafter in this Resolution, the subject Development Review request is referred to as "the application."

2. On the 9th day of March 2011, the Planning Commission of the City of Rancho Cucamonga conducted a duly noticed public hearing on said application and concluded said hearing on that date.

3. All legal prerequisites prior to the adoption of this Resolution have occurred.

B. Resolution.

NOW, THEREFORE, it is hereby found, determined, and resolved by the Planning Commission of the City of Rancho Cucamonga as follows:

1. This Commission hereby specifically finds that all of the facts set forth in the Recitals, Part A, of this Resolution are true and correct.

2. Based upon the substantial evidence presented to this Commission during the above-referenced meeting on March 9, 2011, including written and oral staff reports, together with public testimony, this Commission hereby specifically finds as follows:

a. The application applies to a shopping center located at the northeast corner of Base Line Road and Haven Avenue; and

b. The shopping center is approximately 556,159 square feet (12.77 acres) that is approximately 884 feet (east to west) by approximately 884 feet (north to south);

c. The shopping center is comprised of thirteen (13) buildings with a combined floor area of approximately 135,000 square feet; and

d. Seven (7) of the 13 buildings are contiguous to each other and form a single crescent-shaped strip. This strip is comprised of three (3) anchor tenant buildings - one of these is occupied by Ralphs Market. The remainder of the strip is comprised of four small tenant buildings. The other five (5) buildings are single- or multi-tenant pad buildings; and

e. The specific location of the project site is at the northwest corner of the shopping center near the intersection of Haven Avenue and Valencia Avenue (APN: 1076-481-25). The

"area of work" is a parcel of approximately 36,270 square feet (0.83 acre) that is presently developed with a 7,232-square foot retail building principally occupied by Blockbuster; and

f. With the exception of the Montessori Academy daycare/private school facility at the northeast corner of Haven Avenue and Valencia Avenue, the shopping center is bound on all sides by residential development; and

g. The zoning of the center is Neighborhood Commercial (NC) District, Terra Vista Community Plan. The zoning of the properties to the north and east is Low-Medium (LM) Residential District, Terra Vista Community Plan. The zoning of the properties to the south is Medium (M) and Low-Medium (LM) Residential District, Terra Vista Community Plan. The zoning of the properties to the west is Low (L) and Low-Medium (LM) Residential District; and

h. The existing combined gross floor area of the buildings within the shopping center is approximately 135,000 square feet. Following the completion of the project, the combined gross floor area will be reduced to approximately 132,000 square feet; and

i. The proposal is to demolish the existing retail building and in its place construct a fuel station comprised of a kiosk of 179 square feet, an overhead canopy of approximately 3,480 square feet, and five (5) fuel dispensers with one fueling position on either side of each for a total of ten (10) fueling positions. The proposal does not include a convenience store; and

j. This application is in conjunction with Conditional Use Permit DRC2010-00348 and Tree Removal Permit DRC2010-00578; and

k. There are 710 parking stalls within the shopping center. The parking requirement for the shopping center is 608 parking stalls based on a calculation of 4.5 stalls per 1,000 square feet of floor area. The proposed project includes the demolition of the existing building, which will reduce the overall floor area of the shopping center. Also, eighteen (18) parking stalls will be removed, which will leave 692 parking stalls remaining. The parking requirement for the shopping center following the completion of the project will be 576 parking stalls.

3. Based upon the substantial evidence presented to this Commission during the above-referenced meeting and upon the specific findings of facts set forth in Paragraphs 1 and 2 above, this Commission hereby finds and concludes as follows:

a. The proposed development is in accord with the General Plan, the objectives of the Development Code and the Terra Vista Community Plan, and the purposes of the district in which the site is located. The proposed project is a fuel station comprised of a kiosk of 179 square feet, an overhead canopy of approximately 3,480 square feet, and five (5) fuel dispensers with one fueling position on either side of each for a total of ten (10) fueling positions. The underlying General Plan designation is Neighborhood Commercial.

b. The proposed development, together with the conditions applicable thereto, will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity. The project site is vacant; the proposed land use is consistent with the land uses within the shopping center where it is located, and the expectations of the community. The zoning of the properties to the north and east is Low-Medium (LM) Residential District, Terra Vista Community Plan. The zoning of the properties to the south is Medium (M) and Low-Medium (LM) Residential District, Terra Vista Community Plan. The zoning of the properties to the west is Low (L) and Low-Medium (LM) Residential District.

c. The proposed development complies with each of the applicable provisions of the Development Code and the Terra Vista Community Plan. The proposed development otherwise meets all standards outlined in the Development Code and the Terra Vista Community Plan and the design and development standards and policies of the Planning Commission and the City.

4. Based upon the facts and information contained in the proposed Mitigated Negative Declaration, together with all written and oral reports included for the environmental assessment for the application, the Planning Commission finds that there is no substantial evidence that the project will have a significant effect upon the environment and adopts a Mitigated Negative Declaration and Monitoring Program attached hereto, and incorporated herein by this reference, based upon the findings as follows:

a. Pursuant to the California Environmental Quality Act ("CEQA") and the City's local CEQA Guidelines, the City staff prepared an Initial Study of the potential environmental effects of the project. Based on the findings contained in that Initial Study, City staff determined that, with the imposition of mitigation measures, there would be no substantial evidence that the project would have a significant effect on the environment. Based on that determination, a Mitigated Negative Declaration was prepared. Thereafter, the City staff provided public notice of the public comment period and of the intent to adopt the Mitigated Negative Declaration.

b. The Planning Commission has reviewed the Mitigated Negative Declaration and all comments received regarding the Mitigated Negative Declaration and, based on the whole record before it, finds: (i) that the Mitigated Negative Declaration was prepared in compliance with CEQA; and (ii) that, based on the imposition of mitigation measures, there is no substantial evidence that the project will have a significant effect on the environment. The Planning Commission further finds that the Mitigated Negative Declaration reflects the independent judgment and analysis of the Planning Commission. Based on these findings, the Planning Commission hereby adopts the Mitigated Negative Declaration.

c. The Planning Commission has also reviewed and considered the Mitigation Monitoring Program for the project that has been prepared pursuant to the requirements of Public Resources Code Section 21081.6 and finds that such Program is designed to ensure compliance with the mitigation measures during project implementation. The Planning Commission therefore adopts the Mitigation Monitoring Program for the project.

d. The custodian of records for the Initial Study, Mitigated Negative Declaration, Mitigation Monitoring Program and all other materials which constitute the record of proceedings upon which the Planning Commission's decision is based is the Planning Director of the City of Rancho Cucamonga. Those documents are available for public review in the Planning Department of the City of Rancho Cucamonga located at 10500 Civic Center Drive, Rancho Cucamonga, California 91730, telephone (909) 477-2750.

5. Based upon the findings and conclusions set forth in Paragraphs 1, 2, 3, and 4 above, this Commission hereby approves the application subject to each and every condition set forth below and in the Standard Conditions, attached hereto and incorporated herein by this reference.

Planning Department

- 1) Approval is for the construction of a fuel station comprised of a kiosk of 179 square feet, an overhead canopy of approximately 3,480 square

- feet, and five (5) fuel dispensers with one fueling position on either side of each for a total of ten (10) fueling positions center in the Neighborhood Commercial (NC) District, Terra Vista Community Plan (TVCP), located at the northeast corner of Haven Avenue and Base Line Road - APN: 1076-481-25.
- 2) Approval of this request includes the removal of six (6) trees per Tree Removal Permit DRC2010-00578. New trees (minimum 24-inch box size) shall be planted on a one-to-one basis to replace the trees that have been removed.
  - 3) Approval of this request shall not waive compliance with any sections of the Development Code, Terra Vista Community Plan, State Fire Marshal's regulations, Uniform Building Code, or any other City Ordinances.
  - 4) The canopy structure shall be finished with stucco to match the other buildings within the shopping center.
  - 5) All downspouts on all elevations of the kiosk shall be routed through the interior of the kiosk.
  - 6) The output surface (face) of all lamp heads on wall-mounted light fixtures and the light standards shall be parallel to the ground in order to eliminate glare and minimize lighting on adjacent properties. The maximum height of light standards, including the base, measured from the finished surface is 15 feet.
  - 7) New walls, including retaining walls, shall be constructed of decorative masonry block such as slumpstone or stackstone, or have a decorative finish such as stucco.
  - 8) The enhanced vapor recovery system shall be a horizontally-mounted "Healy Tank." The Healy tank is to be screened behind a decorative block wall enclosure and landscaping.
  - 9) The Landscape Plan shall comply with Ordinance No. 823 adopted by the City Council on December 2, 2010. All landscaping shall be installed prior to final acceptance of the building and/or project site as complete and release for occupancy.
  - 10) Enhance landscaping in the planter proposed at the east side of the project site by adding trees and shrubs.
  - 11) Any new ground-mounted equipment and utility boxes, including transformers, back-flow devices, etc., shall be screened by a minimum of two rows of shrubs spaced a minimum of 18 inches on center. This equipment shall be painted forest green.
  - 12) All Double Detector Checks (DDC) and Fire Department Connections (FDC) required and/or proposed shall be screened behind a 4-foot high

block wall. These walls shall have a decorative finish to match the architecture of the shopping center.

- 13) The door(s) on the kiosk shall be painted to match the color of the adjacent wall.
- 14) The applicant shall submit a final draft (incorporating any applicable technical corrections to the text, format, etc.) of the amendment to Uniform Sign Program No. 64 (Related file: DRC2010-00537) for the City's records prior to issuance of building permits. All signs shall require review and approval of a separate Sign Permit application by the Planning Director prior to installation.
- 15) All Conditions of Approval for Conditional Use Permit DRC2010-00348 shall apply.

#### Engineering Department

- 1) Development impact fees are due at Building permit issuance (subject to change/periodic increases).
- 2) Bring the southeast corner of Haven Avenue and Valencia Avenue up to ADA compliance (ok for the existing monument sign to be 1 foot behind the sidewalk).
- 3) Install a traffic signal at the intersection of Haven Avenue and Valencia Avenue. The developer shall receive a credit from the City's backbone and emergency vehicle pre-emption portions against, and reimbursement of costs in excess of, the Transportation Development Fee in conformance with City policy. If the developer fails to submit for said reimbursement agreement within 6 months of the public improvements being accepted by the City, all rights of the developer to reimbursement shall terminate.

#### Environmental Mitigation

##### Air Quality

- 1) All construction equipment shall be maintained in good operating condition so as to reduce operational emissions. The contractor shall ensure that all construction equipment is being properly serviced and maintained as per manufacturers' specifications. Maintenance records shall be available at the construction site for City verification.
- 2) Prior to the issuance of any grading permits, the developer shall submit Construction Plans to the City denoting the proposed schedule and projected equipment use. Construction contractors shall provide evidence that low-emission mobile construction equipment will be utilized, or that their use was investigated and found to be infeasible for the project. Contractors shall also conform to any construction

measures imposed by the South Coast Air Quality Management District (SCAQMD) as well as City Planning staff.

- 3) All paints and coatings shall meet or exceed performance standards noted in SCAQMD Rule 1113. Paints and coatings shall be applied either by hand or high-volume, low-pressure spray.
- 4) All asphalt shall meet or exceed performance standards noted in SCAQMD Rule 1108.
- 5) All construction equipment shall comply with SCAQMD Rules 402 and 403. Additionally, contractors shall include the following provisions:
  - Reestablish ground cover on the construction site through seeding and watering.
  - Pave or apply gravel to any on-site haul roads.
  - Phase grading to prevent the susceptibility of large areas to erosion over extended periods of time.
  - Schedule activities to minimize the amounts of exposed excavated soil during and after the end of work periods.
  - Dispose of surplus excavated material in accordance with local ordinances and use sound engineering practices.
  - Sweep streets according to a schedule established by the City if silt is carried over to adjacent public thoroughfares or occurs as a result of hauling. Timing may vary depending upon the time of year of construction.
  - Suspend grading operations during high winds (i.e., wind speeds exceeding 25 mph) in accordance with SCAQMD Rule 403 requirements.
  - Maintain a minimum 24-inch freeboard ratio on soils haul trucks or cover payloads using tarps or other suitable means.
- 6) The site shall be treated with water or other soil-stabilizing agent (approved by SCAQMD and Regional Water Quality Control Board [RWQCB]) daily to reduce Particulate Matter (PM<sub>10</sub>) emissions, in accordance with SCAQMD Rule 403.
- 7) Chemical soil-stabilizers (approved by SCAQMD and RWQCB) shall be applied to all inactive construction areas that remain inactive for 96 hours or more to reduce PM<sub>10</sub> emissions.
- 8) The construction contractor shall utilize electric or clean alternative fuel-powered equipment where feasible.
- 9) The construction contractor shall ensure that construction-grading plans include a statement that work crews will shut off equipment when not in use.

- 10) Projects shall be developed under the adopted 2010 General Plan Update implementing the following measures, derived from the SCAQMD's AQMP, where feasible, in order to reduce criteria air pollutant emissions, primarily related to vehicular travel and energy. Potential measures for consideration in future projects include:
  - Schedule truck deliveries and pickups during off-peak hours.
  - Improve thermal integrity of the buildings and reduce thermal load with automated time clocks or occupant sensors.
  - Landscape with native and/or drought-resistant species to reduce water consumption and to provide passive solar benefits.
  - Provide lighter color roofing and road materials and tree planning programs to comply with the AQMP Miscellaneous Sources MSC-01 measure.
- 11) All industrial and commercial facilities shall post signs requiring that trucks shall not be left idling for prolonged periods (i.e., in excess of 10 minutes).
- 12) All residential and commercial structures shall be required to incorporate high-efficiency/low-polluting heating, air conditioning, appliances, and water heaters.
- 13) All residential and commercial structures shall be required to incorporate thermal pane windows and weather-stripping.
- 14) All new development in the City of Rancho Cucamonga shall comply with South Coast Air Quality Management District's Rule 445, Wood Burning Devices. Rule 445 was adopted in March 2008 to reduce emissions of PM<sub>2.5</sub> and precludes the installation of indoor or outdoor wood burning devices (i.e. fireplaces/hearth) in new development on or after March 9, 2009.
- 15) Demolition of the existing building and existing associated improvements shall be conducted over a minimum period of eight (8) days and watered a minimum of three (3) times per day to reduce localized air quality impacts for PM<sub>10</sub> and PM<sub>2.5</sub> emissions to less than significant.

#### Biological Resources

- 1) New trees (minimum 24-inch box size) shall be planted on a one-to-one basis to replace the six (6) trees that are removed. The species of the replacement trees shall match the species of the trees that are removed.

### Cultural Resources

- 1) If any prehistoric archaeological resources are encountered before or during grading, the developer will retain a qualified archaeologist to monitor construction activities, to take appropriate measures to protect or preserve them for study. With the assistance of the archaeologist, the City of Rancho Cucamonga will:
  - Enact interim measures to protect undesignated sites from demolition or significant modification without an opportunity for the City to establish its archaeological value.
  - Consider establishing provisions to require incorporation of archaeological sites within new developments, using their special qualities as a theme or focal point.
  - Pursue educating the public about the areas archaeological heritage.
  - Propose mitigation measures and recommend conditions of approval to eliminate adverse project effects on significant, important, and unique prehistoric resources, following appropriate CEQA guidelines.
  - Prepare a technical resources management report, documenting the inventory, evaluation, and proposed mitigation of resources within the project area. Submit one copy of the completed report with original illustrations to the San Bernardino County Archaeological Information Center for permanent archiving.
- 2) If any paleontological resource (i.e. plant or animal fossils) are encountered before or during grading, the developer will retain a qualified paleontologist to monitor construction activities, to take appropriate measures to protect or preserve them for study. The paleontologist shall submit a report of findings that will also provide specific recommendations regarding further mitigation measures (i.e., paleontological monitoring) that may be appropriate. Where mitigation monitoring is appropriate, the program must include, but not be limited to, the following measures:
  - Assign a paleontological monitor, trained and equipped to allow the rapid removal of fossils with minimal construction delay, to the site full-time during the interval of earth-disturbing activities.
  - Should fossils be found within an area being cleared or graded, divert earth-disturbing activities elsewhere until the monitor has completed salvage. If construction personnel make the discovery, the grading contractor should immediately divert construction and notify the monitor of the find.
  - Prepare, identify, and curate all recovered fossils for documentation in the summary report and transfer to an appropriate depository (i.e., San Bernardino County Museum).

- Submit summary report to City of Rancho Cucamonga. Transfer collected specimens with a copy of the report to San Bernardino County Museum.

#### Geology and Soils

- 1) The site shall be treated with water or other soil stabilizing agent (approved by SCAQMD and RWQCB) daily to reduce PM<sub>10</sub> emissions, in accordance with SCAQMD Rule 403 or re-planted with drought resistant landscaping as soon as possible.
- 2) Frontage public streets shall be swept according to a schedule established by the City to reduce PM<sub>10</sub> emissions associated with vehicle tracking of soil off-site. Timing may vary depending upon the time of year of construction.
- 3) Grading operations shall be suspended when wind speeds exceed 25 mph to minimize PM<sub>10</sub> emissions from the site during such episodes.
- 4) Chemical soil-stabilizers (approved by SCAQMD and RWQCB) shall be applied to all inactive construction areas that remain inactive for 96 hours or more to reduce PM<sub>10</sub> emissions.

#### Hydrology and Water Quality

- 1) Prior to issuance of grading permits, the permit applicant shall submit to Building Official for approval, Storm Water Pollution Prevention Plan (SWPPP) specifically identifying Best Management Practices (BMPs) that shall be used on-site to reduce pollutants during construction activities entering the storm drain system to the maximum extent practical.
- 2) An Erosion Control Plan shall be prepared, included in the Grading Plan, and implemented for the proposed project that identifies specific measures to control on-site and off-site erosion from the time ground disturbing activities are initiated through completion of grading. This Erosion Control Plan shall include the following measures at a minimum: a) Specify the timing of grading and construction to minimize soil exposure to rainy periods experienced in Southern California, and b) An inspection and maintenance program shall be included to ensure that any erosion which does occur either on-site or off-site as a result of this project will be corrected through a remediation or restoration program within a specified time frame.
- 3) During construction, temporary berms such as sandbags or gravel dikes must be used to prevent discharge of debris or sediment from the site when there is rainfall or other runoff.
- 4) During construction, to remove pollutants, street cleaning will be performed prior to storm events and after the use of water trucks to

control dust in order to prevent discharge of debris or sediment from the site.

- 5) The developer shall implement the BMPs identified in the Water Quality Management Plan prepared by Fiedler Group on July 29, 2010, to reduce pollutants after construction entering the storm drain system to the maximum extent practical.
- 6) Landscaping plans shall include provisions for controlling and minimizing the use of fertilizers/pesticides/herbicides. Landscaped areas shall be monitored and maintained for at least two years to ensure adequate coverage and stable growth. Plans for these areas, including monitoring provisions for a minimum of two years, shall be submitted to the City for review and approval prior to the issuance of grading permits.
- 7) Prior to issuance of building permits, the applicant shall submit to the City Building Official for approval of a Water Quality Management Plan (WQMP), including a project description and identifying Best Management Practices (BMPs) that will be used on-site to reduce pollutants into the storm drain system to the maximum extent practicable. The WQMP shall identify the structural and non-structural measures consistent with the Guidelines for New Development and Redevelopment adopted by the City of Rancho Cucamonga in June 2004.
- 8) Prior to issuance of grading or paving permits, the applicant shall obtain a Notice of Intent (NOI) to comply with obtaining coverage under the National Pollutant Discharge Elimination System (NPDES) General Construction Storm Water Permit from the State Water Resources Control Board. Evidence that this has been obtained (i.e., a copy of the Waste Discharger's Identification Number) shall be submitted to the City Building Official for coverage under the NPDES General Construction Permit.

#### Noise

- 1) Business operations shall maintain a noise level at 60dB or less during the hours of 10:00 p.m. until 7:00 a.m. No loading and unloading activities including opening, closing, or other handling of boxes, crates, containers, building materials, garbage cans, or other similar objects between the hours of 10:00 p.m. and 7:00 a.m. in a manner which would cause a noise disturbance to residential areas.
- 2) Construction or grading shall not take place between the hours of 8:00 p.m. and 6:30 a.m. on weekdays, including Saturday, or at any time on Sunday or a national holiday.
- 3) Construction or grading noise levels shall not exceed the standards specified in Development Code Section 17.02.120-D, as measured at the property line. Developer shall hire a consultant to perform weekly

noise level monitoring as specified in Development Code Section 17.02.120. Monitoring at other times may be required by the Building Official. Said consultant shall report their findings to the Building Official within 24 hours; however, if noise levels exceed the above standards, then the consultant shall immediately notify the Building Official. If noise levels exceed the above standards, then construction activities shall be reduced in intensity to a level of compliance with above noise standards or halted.

- 4) Haul truck deliveries shall not take place between the hours of 8:00 p.m. and 6:30 a.m. on weekdays, including Saturday, or at any time on Sunday or a national holiday. Additionally, if heavy trucks used for hauling would exceed 100 daily trips (counting both to and from the construction site), then the developer shall prepare a noise mitigation plan denoting any construction traffic haul routes. To the extent feasible, the plan shall denote haul routes that do not pass sensitive land uses or residential dwellings.

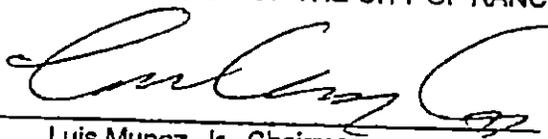
Traffic

- 1) The applicant shall install a set of traffic signals at the intersection of Haven Avenue and Valencia Avenue. The installation shall comply with the design/technical standards and requirements as established by the City's Traffic Engineering Department.
6. The Secretary to this Commission shall certify the adoption of this Resolution.

APPROVED AND ADOPTED THIS 9TH DAY OF MARCH 2011.

PLANNING COMMISSION OF THE CITY OF RANCHO CUCAMONGA

BY:

  
Luis Munoz, Jr., Chairman

ATTEST:

  
James R. Troyer, AICP, Secretary

I, James R. Troyer, AICP, Secretary of the Planning Commission of the City of Rancho Cucamonga, do hereby certify that the foregoing Resolution was duly and regularly introduced, passed, and adopted by the Planning Commission of the City of Rancho Cucamonga, at a regular meeting of the Planning Commission held on the 9th day of March 2011, by the following vote-to-wit:

AYES: COMMISSIONERS: FLETCHER, MUNOZ, WIMBERLY

NOES: COMMISSIONERS: HOWDYSHELL, OAXACA

ABSENT: COMMISSIONERS: NONE

RESOLUTION NO. 16-44

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RANCHO CUCAMONGA, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT DRC2015-001190, A PROPOSAL TO MODIFY PREVIOUSLY APPROVED CONDITIONAL USE PERMIT DRC2010-00348 TO ALLOW THE CONSTRUCTION OF AN EXTENSION OF 1,200 SQUARE FEET TO THE EXISTING OVERHEAD CANOPY, AND INSTALLATION OF TWO (2) NEW FUEL DISPENSERS, AT A GAS STATION WITHIN AN EXISTING SHOPPING CENTER IN THE NEIGHBORHOOD COMMERCIAL (NC) DISTRICT, TERRA VISTA COMMUNITY PLAN (TVCP) LOCATED AT THE NORTHEAST CORNER OF HAVEN AVENUE AND BASE LINE ROAD; APN: 1076-481-25.

A. Recitals.

1. Fiedler Group, on behalf of Ralphs Gas, filed an application for the issuance of Conditional Use Permit DRC2015-01190, as described in the title of this Resolution. Hereinafter in this Resolution, the subject Conditional Use Permit request is referred to as "the application."

2. On the 10th day of August 2016 the Planning Commission of the City of Rancho Cucamonga conducted a duly noticed public hearing on the application and concluded said hearing on that date.

3. All legal prerequisites prior to the adoption of this Resolution have occurred.

B. Resolution.

NOW, THEREFORE, it is hereby found, determined, and resolved by the Planning Commission of the City of Rancho Cucamonga as follows:

1. This Commission hereby specifically finds that all of the facts set forth in the Recitals, Part A, of this Resolution are true and correct.

2. Based upon the substantial evidence presented to this Commission during the above-referenced public hearing on August 10, 2016, including written and oral staff reports, together with public testimony, this Commission hereby specifically finds as follows:

a. The application applies to a property generally located on the northeast corner of Base Line Road and Haven Avenue; and

b. The shopping center is approximately 556,159 square feet (12.77 acres) that is approximately 840 feet (east to west) by approximately 850 feet (north and south);

c. The shopping center is comprised of thirteen (13) buildings with a combined floor area of approximately 130,000 square feet; and

d. Seven (7) of the 13 buildings are contiguous to each other and form a single crescent-shaped strip. This strip is comprised of three (3) anchor tenant buildings- one of these is occupied by Ralphs Market. The remainder of the strip is comprised of four small tenant buildings. The other five (5) buildings are single- or multi-tenant pad buildings; and

e. The specific location of the project site is at the northwest corner of the shopping center near the intersection of Haven Avenue and Valencia Avenue (APN: 1076-481-25). The "area of work" is a parcel of approximately 36,300 square feet (0.83 acres) that is presently developed with a service station canopy of 3,684 square feet, a kiosk of 179 square feet, and associated fuel dispensers; and

f. With the exception of the Montessori Academy daycare/private school facility at the northeast corner of Haven Avenue and Valencia Avenue, the shopping center is bound on all sides by residential development; and

g. The zoning of the property is Neighborhood Commercial (NC) District, Terra Vista Community Plan. The zoning of the properties to the north and east is Low Medium (LM) Residential District, Terra Vista Community Plan. The zoning of the properties to the south is Medium (M) and Low Medium (LM) Residential District, Terra Vista Community Plan. The zoning of the properties to the west is Low (L) and Low Medium (LM) Residential District; and

h. The proposal is to extend the existing service station canopy to add 1,200 square feet comprised of two (2) fuel dispensers which will add four (4) new fueling positions; and

i. There are 649 parking spaces within the shopping center. The parking requirement for the shopping center is 583 parking stalls based on a calculation of 4.5 stalls per 1,000 square feet of floor area. After the completion of the project, the parking requirement for the shopping center will be 587 parking stalls. The proposed project includes the removal of seven (7) parking stalls. With 642 parking stalls remaining, there will be 55 parking stalls in excess of the amount required by the Development Code; and

j. The proposal does not include a change in the operating hours of the service station (which is currently 24 hours a day), changes to the items available for sale in the kiosk (such as the addition of alcohol sales), or an increase in the maximum volume of fuel that is dispensed monthly, i.e. "throughput"; and

k. This application is in conjunction with Minor Design Review DRC2015-01191.

3. Based upon the substantial evidence presented to this Commission during the above-referenced public hearing and upon the specific findings of facts set forth in paragraphs 1 and 2 above, this Commission hereby finds and concludes as follows:

a. The proposed use is in accord with the General Plan, the objectives of the Development Code, and the purposes of the district in which the site is located. The proposal is the expansion of an existing service station which will increase the commercial options for the surrounding community; and

b. The proposed use, together with the conditions applicable thereto, will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity. The proposal does not include a change in the operating hours of the service station, changes to the items available for sale in the kiosk (such as the addition of alcohol sales), or an increase in the maximum volume of fuel that is dispensed monthly, i.e.

“throughput”. The proposed use will be compatible with the neighboring land uses; and

c. The proposed use complies with each of the applicable provisions of the Development Code. The proposed use will comply with the performance standards described in the Development Code including the standards that apply to noise and light/glare.

4. Pursuant to CEQA Guidelines Section 15162, no subsequent or supplemental EIR or Negative Declaration is required in connection with subsequent discretionary approvals of the same project. No substantial changes are proposed to the project that indicates new or more severe impacts on the environment; no substantial changes have occurred in the circumstances under which the project was previously reviewed that indicates new or more severe environmental impacts; no new important information shows that the project will have new or more severe impacts than previously considered; and no additional mitigation measures are now feasible to reduce impacts or different mitigation measures can be imposed to substantially reduce impacts. There have been no substantial changes to the project or the circumstances surrounding the project which would create new or more severe impacts than those evaluated in the previous Negative Declaration. The proposed project will not substantially increase traffic. Also, the proposal does not include an increase in the maximum volume of fuel that is dispensed monthly. Staff further finds that the project will not have one or more significant effects not discussed in the previous Negative Declaration not have more severe effects than previously analyzed, and that additional or different mitigation measures are not required to reduce the impacts of the project to a level of less-than-significant.

5. Based upon the findings and conclusions set forth in paragraphs 1, 2, 3, and 4 above, this Commission hereby approves the application subject to each and every condition set forth below and in the attached standard conditions incorporated herein by this reference.

Planning Department

- 1) Approval is for the modification of previously approved Conditional Use Permit DRC2010-00348 to allow the construction of an extension of 1,200 square feet to the existing overhead canopy, and installation of two (2) new fuel dispensers, at a gas station within an existing shopping center in the Neighborhood Commercial (NC) District, Terra Vista Community Plan (TVCP) located at the northeast corner of Haven Avenue and Base Line Road; APN: 1076-481-25.
  - 2) All applicable Conditions of Approval as contained in Resolution No.11-08 approving Conditional Use Permit DRC2010-00348 and Resolution No. 11-09 approving Development Review DRC2010-00348D shall apply.
  - 3) All Conditions of Approval for Minor Design Review DRC2015-001191 shall apply.
6. The Secretary to this Commission shall certify to the adoption of this Resolution.

PLANNING COMMISSION RESOLUTION NO. 16-44  
CONDITIONAL USE PERMIT DRC2015-01190 – FIEDLER GROUP FOR RALPHS FUEL  
CENTER  
August 10, 2016  
Page 4

APPROVED AND ADOPTED THIS 10TH DAY OF AUGUST 2016.

PLANNING COMMISSION OF THE CITY OF RANCHO CUCAMONGA

BY: \_\_\_\_\_  
Franciso Oaxaca, Chairman

ATTEST: \_\_\_\_\_  
Candyce Burnett, Secretary

I, Candyce Burnett, Secretary of the Planning Commission of the City of Rancho Cucamonga, do hereby certify that the foregoing Resolution was duly and regularly introduced, passed, and adopted by the Planning Commission of the City of Rancho Cucamonga, at a regular meeting of the Planning Commission held on the 10th day of August 2016, by the following vote-to-wit:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:



## Conditions of Approval

Community Development Department

Project #: DRC2015-01191 and DRC2015-01190  
Project Name: Minor Design Review and Conditional Use Permit  
Location: 7201 HAVEN AVE - 107648125-0000  
Project Type: Expansion of existing Service Station

### **ALL OF THE FOLLOWING CONDITIONS APPLY TO YOUR PROJECT:**

#### **Planning Department**

Please be advised of the following Special Conditions

1. Approval- Approval of Conditional Use Permit DRC2015-01190 and Minor Design Review DRC2015-01191 is for the extension of an existing service station canopy. The extension includes 1,200 square feet of canopy and two new fuel dispensers. The two new fuel dispensers will create four new fuel positions. The approval also includes the reconfiguration of the lanes and parking lot surrounding the canopy including removing seven parking spaces. This reconfiguration will improve circulation and traffic flow throughout the site.

#### **Standard Conditions of Approval**

2. All parking lot landscape islands shall have a minimum outside dimension of 6 feet.
3. All parking spaces shall be 9 feet wide by 17 feet long with a required 1-foot overhang (e.g., over a curb stop).
4. All parking spaces shall be double striped per City standards and all driveway aisles, entrances, and exits shall be striped per City standards.
5. Graffiti shall be removed within 72 hours.
6. The lighting fixture design shall compliment the architectural program. It shall include the plaza area lighting fixtures, building lighting fixtures (exterior), and parking lot lighting fixtures.
7. All operations and businesses shall be conducted to comply with the following standards which shall be incorporated into the lease agreements for all tenants:
  - a. Noise Level - All commercial activities shall not create any noise that would exceed an exterior noise level of 65 dB during the hours of 10 p.m. until 7 a.m. and 70 dB during the hours of 7 a.m. until 10 p.m.
  - b. Loading and Unloading - No person shall cause the loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, garbage cans, or other similar objects between the hours of 10 p.m. and 7 a.m. unless otherwise specified herein, in a manner which would cause a noise disturbance to a residential area.

Project #: DRC2015-01191 LLA2015-00003  
Project Name: Minor Design Review  
Location: 7201 HAVEN AVE - 107648125-0000  
Project Type: Minor Design Review Lot Line Adjustment

**ALL OF THE FOLLOWING CONDITIONS APPLY TO YOUR PROJECT:**

**Planning Department**

**Standard Conditions of Approval**

8. Provide for the following design features in each trash enclosure, to the satisfaction of the Planning Director:
  - a. Architecturally integrated into the design of (the shopping center/the project).
  - b. Separate pedestrian access that does not require the opening of the main doors and to include self-closing pedestrian doors.
  - c. Large enough to accommodate two trash bins.
  - d. Roll-up doors.
  - e. Trash bins with counter-weighted lids.
  - f. Architecturally treated overhead shade trellis.
  - g. Chain link screen on top to prevent trash from blowing out of the enclosure and designed to be hidden from view.
9. The entire site shall be kept free from trash and debris at all times and in no event shall trash and debris remain for more than 24 hours.
10. All roof appurtenances, including air conditioners and other roof mounted equipment and/or projections shall be screened from all sides and the sound shall be buffered from adjacent properties and streets as required by the Planning Department. Such screening shall be architecturally integrated with the building design and constructed to the satisfaction of the Planning Director. Any roof-mounted mechanical equipment and/or ductwork, that projects vertically more than 18 inches above the roof or roof parapet, shall be screened by an architecturally designed enclosure which exhibits a permanent nature with the building design and is detailed consistent with the building. Any roof-mounted mechanical equipment and/or ductwork, that projects vertically less than 18 inches above the roof or roof parapet shall be painted consistent with the color scheme of the building. Details shall be included in building plans.
11. The applicant shall agree to defend at his sole expense any action brought against the City, its agents, officers, or employees, because of the issuance of such approval, or in the alternative, to relinquish such approval. The applicant shall reimburse the City, its agents, officers, or employees, for any Court costs and attorney's fees which the City, its agents, officers, or employees may be required by a court to pay as a result of such action. The City may, at its sole discretion, participate at its own expense in the defense of any such action but such participation shall not relieve applicant of his obligations under this condition.
12. Copies of the signed Planning Commission Resolution of Approval or Approval Letter, Conditions of Approval, and all environmental mitigations shall be included on the plans (full size). The sheet(s) are for information only to all parties involved in the construction/grading activities and are not required to be wet sealed/stamped by a licensed Engineer/Architect.
13. Any approval shall expire if Building Permits are not issued or approved use has not commenced within 5 years from the date of approval or a time extension has been granted.
14. Approval of this request shall not waive compliance with all sections of the Development Code, all other applicable City Ordinances, and applicable Community, Specific Plans and/or Master Plans in effect at the time of Building Permit issuance.

Project #: DRC2015-01191 LLA2015-00003  
Project Name: Minor Design Review  
Location: 7201 HAVEN AVE - 107648125-0000  
Project Type: Minor Design Review Lot Line Adjustment

**ALL OF THE FOLLOWING CONDITIONS APPLY TO YOUR PROJECT:**

**Planning Department**

**Standard Conditions of Approval**

15. The site shall be developed and maintained in accordance with the approved plans which include Site Plans, architectural elevations, exterior materials and colors, landscaping, sign program, and grading on file in the Planning Department, the conditions contained herein and the Development Code regulations.
16. Prior to any use of the project site or business activity being commenced thereon, all Conditions of Approval shall be completed to the satisfaction of the Planning Director.
17. Trash receptacle(s) are required and shall meet City standards. The final design, locations, and the number of trash receptacles shall be subject to Planning Director review and approval prior to the issuance of Building Permits.

**Engineering Services Department**

**Please be advised of the following Special Conditions**

1. Lot Line Adjustment- The separate parcels contained within the project boundaries shall be legally adjusted and recorded prior to issuance of Building Permits.  
(related file LLA2015-00003 & ENG2016-00010)

Please provide preliminary title report for ALL properties involved; no less than 60 days old.

2. Transportation fees applicable. Prior to issuance of building permit, transportation fee must be paid.  
\$45,010.00 per new gas pump subject to fee adjustment
3. Per Traffic Engineering
  1. Restripe Valencia Avenue to include westbound 8' shoulder, 12' right turn lane, 12' left turn pocket, 12' two left turn lane between the project driveway on the south and the easterly driveway to the north, eastbound 14' through lane, and a 14' right turn lane into the project.
  2. Repair damaged loops per the City's latest Special Provisions.
  3. Restripe on-site striping to include southbound striping to project limits.

**Fire Prevention / New Construction Unit**

**Standard Conditions of Approval**

1. UG tanks and dispensing also require San Bernardino Fire County Approval

**Building and Safety Services Department**

**Please be advised of the following Special Conditions**

1. When the Minor design Review is approved submit complete construction drawings including structural calculations to Building and Safety for plan review in accordance with the current edition of the CA Building and Fire Codes. The new structure is required to be equipped with automatic fire sprinklers. A soils report is required for new structures. Disabled access improvements to the site and building must be made to the in accordance to the State of CA published thresholds at the time of plan check submittal.

Project #: DRC2015-01191 LLA2015-00003  
Project Name: Minor Design Review  
Location: 7201 HAVEN AVE - 107648125-0000  
Project Type: Minor Design Review Lot Line Adjustment

**ALL OF THE FOLLOWING CONDITIONS APPLY TO YOUR PROJECT:**

**Building and Safety Services Department**

**Grading Section**

**Standard Conditions of Approval**

1. Prior to approval of the final project-specific water quality management plan the applicant shall have a soils engineer prepare a project-specific infiltration study for the project for the purposes of storm water quality treatment. The infiltration study and recommendations shall follow the guidelines in the current adopted "San Bernardino County Technical Guidance Document for Water Quality Management Plans".
2. This project shall comply with the accessibility requirements of the current adopted California Building Code.
3. Prior to issuance of the precise grading and drainage plan shall follow the format provided in the City of Rancho Cucamonga handout "Information for Grading Plans and Permit".
4. Grading Inspections: a) Prior to the start of grading operations the owner and grading contractor shall request a pre-grading meeting. The meeting shall be attended by the project owner/representative, the grading contractor and the Building Inspector to discuss about grading requirements and preventive measures, etc. If a pre-grading meeting is not held within 24 hours from the start of grading operations, the grading permit may be subject to suspension by the Building Inspector; b) The grading contractor shall call into the City of Rancho Cucamonga Building and Safety Department at least 1 working day in advance to request the following grading inspections prior to continuing grading operations: i) The bottom of the over-excavation; ii) Completion of Rough Grading, prior to issuance of the building permit; iii) At the completion of Rough Grading, the grading contractor or owner shall submit to the Permit Technicians (Building and Safety Front Counter) an original and a copy of the Pad Certifications to be prepared by and properly wet signed and sealed by the Civil Engineer and Soils Engineer of Record; iv) The rough grading certificates and the compaction reports will be reviewed by the Associate Engineer or a designated person and approved prior to the issuance of a building permit.
5. Prior to the issuance of the Certificate of Occupancy the engineer of record shall certify the functionality of the storm water quality management plan (WQMP) storm water treatment devices and best management practices (BMP) devices.
6. Prior to approval of the Water Quality Management Plan (WQMP), the WQMP shall include a copy of the project Conditions of Approval.

Project #: DRC2015-01191 LLA2015-00003  
Project Name: Minor Design Review  
Location: 7201 HAVEN AVE - 107648125-0000  
Project Type: Minor Design Review Lot Line Adjustment

**ALL OF THE FOLLOWING CONDITIONS APPLY TO YOUR PROJECT:**

**Grading Section**

**Standard Conditions of Approval**

7. The final project-specific water quality management plan (WQMP) shall include executed maintenance agreements along with the maintenance guidelines for all proprietary structural storm water treatment devices (BMP's). In the event the applicant cannot get the proprietary device maintenance agreements executed prior to issuance of a grading permit, the applicant is required to submit a letter to be included within the WQMP document, and scanned and pasted onto the Site and Drainage Plan which states that prior to issuance of a certificate of occupancy with applicant shall enter into a contract for the maintenance of the proprietary storm water treatment device. If the proprietary storm water treatment device is part of a residential subdivision, prior to the sale of the residential lot, the developer shall include maintenance agreement(s) as part of the sale of the residential lot to the buyer. A copy of the maintenance agreements to be included in the sale of the property shall be included within the WQMP document.
8. Prior to the issuance of a Grading Permit the City of Rancho Cucamonga's "Memorandum of Agreement of Storm Water Quality Management Plan" shall be submitted for review and approval by the Building Official and recorded with the County Recorder's Office.
9. The applicant shall provide a copy of a completed EPA Form 7520-16 (Inventory of Injection Wells), with the Facility ID Number assigned, to the Building and Safety Services Department Official prior to issuance of the Grading Permit and/or approval of the project-specific Water Quality Management Plan. A copy of EPA Form 7520-16 shall be scanned and pasted onto the permitted grading plan set, and a copy of said form shall be included in the project-specific Water Quality Management Plan.
10. The land owner shall provide an inspection report by a qualified person/company on a biennial basis for the Class V Injection Wells/underground infiltration chambers to the City of Rancho Cucamonga Environmental Program Manager. The land owner shall maintain on a regular basis all best management practices (BMP's) as described in the Storm Water Quality Management Plan (WQMP) prepared for the subject project. All costs associated with the underground infiltration chamber are the responsibility of the land owner.
11. The land owner shall provide an inspection report on a biennial basis for the Class V Injection Wells/underground infiltration chambers to the City of Rancho Cucamonga Environmental Program Manager. The land owner shall maintain on a regular basis as described in the Storm Water Quality Management Plan prepared for the subject project. All costs associated with the underground infiltration chamber are the responsibility of the land owner.
12. Prior to issuance of a grading permit and approval of the project specific water quality management plan all private storm water catch basin inlets shall include insert filters to capture those pollutants of concern as addressed in the in the final project-specific water quality management plan (WQMP). At a minimum catch basin insert filters to capture trash and other floating debris. All catch basin insert filters shall be maintained on a regular basis as described in the "Inspection and Maintenance Responsibility for Post Construction BMP" section of the final project-specific water quality management plan.

Project #: DRC2015-01191 LLA2015-00003  
Project Name: Minor Design Review  
Location: 7201 HAVEN AVE - 107648125-0000  
Project Type: Minor Design Review Lot Line Adjustment

**ALL OF THE FOLLOWING CONDITIONS APPLY TO YOUR PROJECT:**

**Grading Section**

**Standard Conditions of Approval**

13. Prior to issuance of a grading permit the Final Project-Specific Water Quality Management Plan shall include a completed copy of "Worksheet H: Factor of Safety and Design Infiltration Worksheet" located in Appendix D "Section VII – Infiltration Rate Evaluation Protocol and Factor of Safety Recommendations, ..." of the San Bernardino County Technical Guidance Document for Water Quality Management Plans.
14. Prior to the start of landscaping operations, the landscape architect and the landscape contractor shall provide a sample of the weed fabric barrier to the Project Planner, City of Rancho Cucamonga Planning Department. The weed barrier shall be permeable.
15. Grading of the subject property shall be in accordance with current adopted California Building Code, City Grading Standards, and accepted grading practices. The Grading and Drainage Plan(s) shall be in substantial conformance with the approved conceptual Grading and Drainage Plan.
16. The final Grading and Drainage Plan, appropriate certifications and compaction reports shall be completed, submitted, and approved by the Building and Safety Official prior to the issuance of building permits.
17. The applicant shall comply with the City of Rancho Cucamonga Dust Control Measures and place a dust control sign on the project site prior to the issuance of a grading permit. All dust control sign(s) shall be located outside of the public right of way.
18. The Grading and Drainage Plan shall implement City Standards for on-site construction where possible, and shall provide details for all work not covered by City Standard Drawings.
19. Private sewer, water, and storm drain improvements will be designed per the, latest adopted California Plumbing Code. Private storm drain improvements shall be shown on the grading and drainage plan.
20. Prior to the issuance of a certificate of occupancy by the Building Official, or his designee, the civil engineer of record shall file a Water Quality Management Plan (WQMP) Post Construction Storm Water Treatment Devices As-Built Certificate with the Environmental Programs Coordinator, City of Rancho Cucamonga Engineering Services Department.
21. As the use of drywells are proposed for the structural storm water treatment device, to meet the infiltration requirements of the current Municipal Separate Storm Sewers Systems (MS4) Permit, adequate source control and pollution prevention control BMPs shall be implemented to protect groundwater quality. The need for pre-treatment BMPs such as sedimentation or filtration shall be evaluated prior to infiltration and discussed in the final project-specific Water Quality Management Plan document.
22. As this project is removing the existing structural storm water treatment devices and replacing those devices with new storm water structural storm water treatment devices, prior to the issuance of any building permit a new Project-Specific Water Quality Management Plan shall be prepared, reviewed and approved by the Building and Safety Services Director, or his designee, and recorded with the County Records Office.

Project #: DRC2015-01191 LLA2015-00003  
Project Name: Minor Design Review  
Location: 7201 HAVEN AVE - 107648125-0000  
Project Type: Minor Design Review Lot Line Adjustment

**ALL OF THE FOLLOWING CONDITIONS APPLY TO YOUR PROJECT:**

**Grading Section**

**Standard Conditions of Approval**

23. Prior to the issuance of any building permit the applicant shall provide to the Building and Safety Services Director a final project-specific storm water quality management plan which provide adequate pre-treatment of the storm water run-off meeting the following requirements of the current adopted Municipal Storm Sewer Separations (MS4) Permit:

**GROUND WATER PROTECTION:**

State Water Resources Control Board Order No. R8-2010-0036 (NPDES No. CAS 618036), the San Bernardino County Municipal Separate Storm Sewers Separation (MS4) Permit reads:

Section XI.D(Water Quality Management Plan Requirements).8(Groundwater Protection):

Treatment Control BMPs utilizing infiltration [exclusive of incidental infiltration and BMPs not designed to primarily function as infiltration devices (such as grassy swales, detention basins, vegetated buffer strips, constructed wetlands, etc.)] must comply with the following minimum requirements to protect groundwater:

- a. Use of structural infiltration treatment BMPs shall not cause or contribute to an exceedance of ground water quality objectives.
- b. Source control and pollution prevention control BMPs shall be implemented to protect groundwater quality. The need for pre-treatment BMPs such as sedimentation or filtration should be evaluated prior to infiltration.
- c. Adequate pretreatment of runoff prior to infiltration shall be required in gas stations and large commercial parking lots.
- d. Unless adequate pre-treatment of runoff is provided prior to infiltration structural infiltration treatment BMPs must not be used for areas of industrial or light industrial activity{77}, areas subject to high vehicular traffic (25,000 or more daily traffic); car washes; fleet storage areas; nurseries; or any other high threat to water quality land uses or activities.
- e. Class V injection wells or dry wells must not be placed in areas subject to vehicular{78} repair or maintenance activities{79}, such as an auto body repair shop, automotive repair shop, new and used car dealership, specialty repair shop (e.g., transmission and muffler repair shop) or any facility that does any vehicular repair work.
- f. Structural infiltration BMP treatment shall not be used at sites that are known to have soil and groundwater contamination.
- g. Structural infiltration treatment BMPs shall be located at least 100 feet horizontally from any water supply wells.
- h. The vertical distance from the bottom of any infiltration structural treatment BMP to the historic high groundwater mark shall be at least 10-feet. Where the groundwater basins do not support beneficial uses, this vertical distance criteria may be reduced, provided groundwater quality is maintained.
- i. Structural infiltration treatment BMPs shall not cause a nuisance or pollution as defined in Water Code Section 13050.

In Form 1-1 (Project Information) of the San Bernardino County model template "Water Quality Management Plan" the civil engineer of record shall describe why the proposed structural storm water treatment devices meet the above requirements for adequate pre-treatment prior to infiltration

Project #: DRC2015-01191 LLA2015-00003  
Project Name: Minor Design Review  
Location: 7201 HAVEN AVE - 107648125-0000  
Project Type: Minor Design Review Lot Line Adjustment

***ALL OF THE FOLLOWING CONDITIONS APPLY TO YOUR PROJECT:***

**Grading Section**

**Standard Conditions of Approval**

of the storm water.

24. Prior to approval of the project-specific storm water quality management plan, the applicant shall submit to the Building Official, or his designee, a precise grading plan showing the location and elevations of existing topographical features, and showing the location and proposed elevations of proposed structures and drainage of the site.

RESOLUTION NO. 16-45

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RANCHO CUCAMONGA, CALIFORNIA, APPROVING MINOR DESIGN REVIEW DRC2015-001191, A PROPOSAL TO CONSTRUCT AN EXTENSION OF 1,200 SQUARE FEET TO AN EXISTING OVERHEAD CANOPY, AND INSTALL TWO (2) NEW FUEL DISPENSERS, TO A GAS STATION WITHIN AN EXISTING SHOPPING CENTER IN THE NEIGHBORHOOD COMMERCIAL (NC) DISTRICT, TERRA VISTA COMMUNITY PLAN (TVCP) LOCATED AT THE NORTHEAST CORNER OF HAVEN AVENUE AND BASE LINE ROAD; APN: 1076-481-25.

A. Recitals.

1. Fiedler Group, on behalf of Ralphs Gas, filed an application for the issuance of Minor Design Review DRC2015-01191, as described in the title of this Resolution. Hereinafter in this Resolution, the subject Minor Design Review request is referred to as "the application."

2. On the 10th day of August 2016 the Planning Commission of the City of Rancho Cucamonga conducted a duly noticed public hearing on the application and concluded said hearing on that date.

3. All legal prerequisites prior to the adoption of this Resolution have occurred.

B. Resolution.

NOW, THEREFORE, it is hereby found, determined, and resolved by the Planning Commission of the City of Rancho Cucamonga as follows:

1. This Commission hereby specifically finds that all of the facts set forth in the Recitals, Part A, of this Resolution are true and correct.

2. Based upon the substantial evidence presented to this Commission during the above-referenced public hearing on August 10, 2016, including written and oral staff reports, together with public testimony, this Commission hereby specifically finds as follows:

a. The application applies to a property generally located on the northeast corner of Base Line Road and Haven Avenue; and

b. The shopping center is approximately 556,159 square feet (12.77 acres) that is approximately 840 feet (east to west) by approximately 850 feet (north and south);

c. The shopping center is comprised of thirteen (13) buildings with a combined floor area of approximately 130,000 square feet; and

d. Seven (7) of the 13 buildings are contiguous to each other and form a single crescent-shaped strip. This strip is comprised of three (3) anchor tenant buildings- one of these is occupied by Ralphs Market. The remainder of the strip is comprised of four small tenant buildings. The other five (5) buildings are single- or multi-tenant pad buildings; and

e. The specific location of the project site is at the northwest corner of the shopping center near the intersection of Haven Avenue and Valencia Avenue (APN: 1076-481-25). The "area of work" is a parcel of approximately 36,300 square feet (0.83 acres) that is presently developed with a service station canopy of 3,684 square feet, a kiosk of 179 square feet, and associated fuel dispensers; and

f. With the exception of the Montessori Academy daycare/private school facility at the northeast corner of Haven Avenue and Valencia Avenue, the shopping center is bound on all sides by residential development; and

g. The zoning of the property is Neighborhood Commercial (NC) District, Terra Vista Community Plan. The zoning of the properties to the north and east is Low Medium (LM) Residential District, Terra Vista Community Plan. The zoning of the properties to the south is Medium (M) and Low Medium (LM) Residential District, Terra Vista Community Plan. The zoning of the properties to the west is Low (L) and Low Medium (LM) Residential District; and

h. The proposal is to extend the existing service station canopy to add 1,200 square feet comprised of two (2) fuel dispensers which will add four (4) new fueling positions; and

i. There are 649 parking spaces within the shopping center. The parking requirement for the shopping center is 583 parking stalls based on a calculation of 4.5 stalls per 1,000 square feet of floor area. After the completion of the project, the parking requirement for the shopping center will be 587 parking stalls. The proposed project includes the removal of seven (7) parking stalls. With 642 parking stalls remaining, there will be 55 parking stalls in excess of the amount required by the Development Code; and

j. The proposal does not include a change in the operating hours of the service station (which is currently 24 hours a day), changes to the items available for sale in the kiosk (such as the addition of alcohol sales), or an increase in the maximum volume of fuel that is dispensed monthly, i.e. "throughput" and

k. This application is in conjunction with Conditional Use Permit DRC2015-01190.

3. Based upon the substantial evidence presented to this Commission during the above-referenced public hearing and upon the specific findings of facts set forth in paragraphs 1 and 2 above, this Commission hereby finds and concludes as follows:

a. The proposed use is in accord with the General Plan, the objectives of the Development Code, and the purposes of the district in which the site is located. The proposal is the expansion of an existing service station which will increase the commercial options for the surrounding community; and

b. The proposed use, together with the conditions applicable thereto, will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity. The proposal does not include a change in the operating hours of the service station, changes to the items available for sale in the kiosk (such as the addition of alcohol sales), or an increase in the maximum volume of fuel that is dispensed monthly, i.e. "throughput". The proposed use will be compatible with the neighboring land uses; and

c. The proposed use complies with each of the applicable provisions of the Development Code. The proposed development complies with all standards outlined in the Development Code, including building and parking setbacks, average landscape depth, floor area ratio, parking, landscape coverage, site planning, and architecture.

4. Pursuant to the California Environmental Quality Act ("CEQA") and the City's local CEQA Guidelines, the City staff prepared an Initial Study of the potential environmental effects of the project in connection with the City's approval of Development Review DRC2010-00348D and Conditional Use Permit DRC2010-00348 on March 9, 2011. Pursuant to CEQA Guidelines Section 15162, no subsequent or supplemental EIR or Negative Declaration is required in connection with subsequent discretionary approvals of the same project. No substantial changes are proposed to the project that indicates new or more severe impacts on the environment; no substantial changes have occurred in the circumstances under which the project was previously reviewed that indicates new or more severe environmental impacts; no new important information shows that the project will have new or more severe impacts than previously considered; and no additional mitigation measures are now feasible to reduce impacts or different mitigation measures can be imposed to substantially reduce impacts. There have been no substantial changes to the project or the circumstances surrounding the project which would create new or more severe impacts than those evaluated in the previous Negative Declaration. The proposed project will not substantially increase traffic. Also, the proposal does not include an increase in the maximum volume of fuel that is dispensed monthly. Staff further finds that the project will not have one or more significant effects not discussed in the previous Negative Declaration not have more severe effects than previously analyzed, and that additional or different mitigation measures are not required to reduce the impacts of the project to a level of less-than-significant.

Planning Department

- 1) Approval is for the construction of an extension of 1,200 square feet to an existing overhead canopy, and install two (2) new fuel dispensers, to a gas station within an existing shopping center in the Neighborhood Commercial (NC) District, Terra Vista Community Plan (TVCP) located at the northeast corner of Haven Avenue and Base Line Road; APN: 1076-481-25.
  - 2) All applicable Conditions of Approval as contained in Resolution No.11-08 approving Conditional Use Permit DRC2010-00348 and Resolution No. 11-09 approving Development Review DRC2010-00348D shall apply.
  - 3) The canopy structure shall be finished with stucco and painted to match the existing canopy.
  - 4) All Conditions of Approval for Conditional Use Permit DRC2015-001190 shall apply.
5. The Secretary to this Commission shall certify to the adoption of this Resolution.

APPROVED AND ADOPTED THIS 10TH DAY OF AUGUST 2016.

BY: \_\_\_\_\_  
Francisco Oaxaca, Chairman

ATTEST: \_\_\_\_\_  
Candyce Burnett, Secretary

I, Candyce Burnett, Secretary of the Planning Commission of the City of Rancho Cucamonga, do hereby certify that the foregoing Resolution was duly and regularly introduced, passed, and adopted by the Planning Commission of the City of Rancho Cucamonga, at a regular meeting of the Planning Commission held on the 10th day of August 2016, by the following vote-to-wit:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:



## Conditions of Approval

Community Development Department

Project #: DRC2015-01191 and DRC2015-01190

Project Name: Minor Design Review and Conditional Use Permit

Location: 7201 HAVEN AVE - 107648125-0000

Project Type: Expansion of existing Service Station

### ***ALL OF THE FOLLOWING CONDITIONS APPLY TO YOUR PROJECT:***

#### **Planning Department**

Please be advised of the following Special Conditions

1. Approval- Approval of Conditional Use Permit DRC2015-01190 and Minor Design Review DRC2015-01191 is for the extension of an existing service station canopy. The extension includes 1,200 square feet of canopy and two new fuel dispensers. The two new fuel dispensers will create four new fuel positions. The approval also includes the reconfiguration of the lanes and parking lot surrounding the canopy including removing seven parking spaces. This reconfiguration will improve circulation and traffic flow throughout the site.

#### **Standard Conditions of Approval**

2. All parking lot landscape islands shall have a minimum outside dimension of 6 feet.
3. All parking spaces shall be 9 feet wide by 17 feet long with a required 1-foot overhang (e.g., over a curb stop).
4. All parking spaces shall be double striped per City standards and all driveway aisles, entrances, and exits shall be striped per City standards.
5. Graffiti shall be removed within 72 hours.
6. The lighting fixture design shall compliment the architectural program. It shall include the plaza area lighting fixtures, building lighting fixtures (exterior), and parking lot lighting fixtures.
7. All operations and businesses shall be conducted to comply with the following standards which shall be incorporated into the lease agreements for all tenants:
  - a. Noise Level - All commercial activities shall not create any noise that would exceed an exterior noise level of 65 dB during the hours of 10 p.m. until 7 a.m. and 70 dB during the hours of 7 a.m. until 10 p.m.
  - b. Loading and Unloading - No person shall cause the loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, garbage cans, or other similar objects between the hours of 10 p.m. and 7 a.m. unless otherwise specified herein, in a manner which would cause a noise disturbance to a residential area.

Project #: DRC2015-01191 LLA2015-00003  
Project Name: Minor Design Review  
Location: 7201 HAVEN AVE - 107648125-0000  
Project Type: Minor Design Review Lot Line Adjustment

**ALL OF THE FOLLOWING CONDITIONS APPLY TO YOUR PROJECT:**

**Planning Department**

**Standard Conditions of Approval**

8. Provide for the following design features in each trash enclosure, to the satisfaction of the Planning Director:
  - a. Architecturally integrated into the design of (the shopping center/the project).
  - b. Separate pedestrian access that does not require the opening of the main doors and to include self-closing pedestrian doors.
  - c. Large enough to accommodate two trash bins.
  - d. Roll-up doors.
  - e. Trash bins with counter-weighted lids.
  - f. Architecturally treated overhead shade trellis.
  - g. Chain link screen on top to prevent trash from blowing out of the enclosure and designed to be hidden from view.
9. The entire site shall be kept free from trash and debris at all times and in no event shall trash and debris remain for more than 24 hours.
10. All roof appurtenances, including air conditioners and other roof mounted equipment and/or projections shall be screened from all sides and the sound shall be buffered from adjacent properties and streets as required by the Planning Department. Such screening shall be architecturally integrated with the building design and constructed to the satisfaction of the Planning Director. Any roof-mounted mechanical equipment and/or ductwork, that projects vertically more than 18 inches above the roof or roof parapet, shall be screened by an architecturally designed enclosure which exhibits a permanent nature with the building design and is detailed consistent with the building. Any roof-mounted mechanical equipment and/or ductwork, that projects vertically less than 18 inches above the roof or roof parapet shall be painted consistent with the color scheme of the building. Details shall be included in building plans.
11. The applicant shall agree to defend at his sole expense any action brought against the City, its agents, officers, or employees, because of the issuance of such approval, or in the alternative, to relinquish such approval. The applicant shall reimburse the City, its agents, officers, or employees, for any Court costs and attorney's fees which the City, its agents, officers, or employees may be required by a court to pay as a result of such action. The City may, at its sole discretion, participate at its own expense in the defense of any such action but such participation shall not relieve applicant of his obligations under this condition.
12. Copies of the signed Planning Commission Resolution of Approval or Approval Letter, Conditions of Approval, and all environmental mitigations shall be included on the plans (full size). The sheet(s) are for information only to all parties involved in the construction/grading activities and are not required to be wet sealed/stamped by a licensed Engineer/Architect.
13. Any approval shall expire if Building Permits are not issued or approved use has not commenced within 5 years from the date of approval or a time extension has been granted.
14. Approval of this request shall not waive compliance with all sections of the Development Code, all other applicable City Ordinances, and applicable Community, Specific Plans and/or Master Plans in effect at the time of Building Permit issuance.

Project #: DRC2015-01191 LLA2015-00003  
Project Name: Minor Design Review  
Location: 7201 HAVEN AVE - 107648125-0000  
Project Type: Minor Design Review Lot Line Adjustment

**ALL OF THE FOLLOWING CONDITIONS APPLY TO YOUR PROJECT:**

**Planning Department**

**Standard Conditions of Approval**

15. The site shall be developed and maintained in accordance with the approved plans which include Site Plans, architectural elevations, exterior materials and colors, landscaping, sign program, and grading on file in the Planning Department, the conditions contained herein and the Development Code regulations.
16. Prior to any use of the project site or business activity being commenced thereon, all Conditions of Approval shall be completed to the satisfaction of the Planning Director.
17. Trash receptacle(s) are required and shall meet City standards. The final design, locations, and the number of trash receptacles shall be subject to Planning Director review and approval prior to the issuance of Building Permits.

**Engineering Services Department**

**Please be advised of the following Special Conditions**

1. Lot Line Adjustment- The separate parcels contained within the project boundaries shall be legally adjusted and recorded prior to issuance of Building Permits.  
(related file LLA2015-00003 & ENG2016-00010)

Please provide preliminary title report for ALL properties involved; no less than 60 days old.

2. Transportation fees applicable. Prior to issuance of building permit, transportation fee must be paid, \$45,010.00 per new gas pump subject to fee adjustment
3. Per Traffic Engineering
  1. Restripe Valencia Avenue to include westbound 8' shoulder, 12' right turn lane, 12' left turn pocket, 12' two left turn lane between the project driveway on the south and the easterly driveway to the north, eastbound 14' through lane, and a 14' right turn lane into the project.
  2. Repair damaged loops per the City's latest Special Provisions.
  3. Restripe on-site striping to include southbound striping to project limits.

**Fire Prevention / New Construction Unit**

**Standard Conditions of Approval**

1. UG tanks and dispensing also require San Bernardino Fire County Approval

**Building and Safety Services Department**

**Please be advised of the following Special Conditions**

1. When the Minor design Review is approved submit complete construction drawings including structural calculations to Building and Safety for plan review in accordance with the current edition of the CA Building and Fire Codes. The new structure is required to be equipped with automatic fire sprinklers. A soils report is required for new structures. Disabled access improvements to the site and building must be made to the in accordance to the State of CA published thresholds at the time of plan check submittal.

Project #: DRC2015-01191 LLA2015-00003  
Project Name: Minor Design Review  
Location: 7201 HAVEN AVE - 107648125-0000  
Project Type: Minor Design Review Lot Line Adjustment

**ALL OF THE FOLLOWING CONDITIONS APPLY TO YOUR PROJECT:**

**Building and Safety Services Department**

**Grading Section**

**Standard Conditions of Approval**

1. Prior to approval of the final project-specific water quality management plan the applicant shall have a soils engineer prepare a project-specific infiltration study for the project for the purposes of storm water quality treatment. The infiltration study and recommendations shall follow the guidelines in the current adopted "San Bernardino County Technical Guidance Document for Water Quality Management Plans".
2. This project shall comply with the accessibility requirements of the current adopted California Building Code.
3. Prior to issuance of the precise grading and drainage plan shall follow the format provided in the City of Rancho Cucamonga handout "Information for Grading Plans and Permit".
4. Grading Inspections: a) Prior to the start of grading operations the owner and grading contractor shall request a pre-grading meeting. The meeting shall be attended by the project owner/representative, the grading contractor and the Building Inspector to discuss about grading requirements and preventive measures, etc. If a pre-grading meeting is not held within 24 hours from the start of grading operations, the grading permit may be subject to suspension by the Building Inspector; b) The grading contractor shall call into the City of Rancho Cucamonga Building and Safety Department at least 1 working day in advance to request the following grading inspections prior to continuing grading operations: i) The bottom of the over-excavation; ii) Completion of Rough Grading, prior to issuance of the building permit; iii) At the completion of Rough Grading, the grading contractor or owner shall submit to the Permit Technicians (Building and Safety Front Counter) an original and a copy of the Pad Certifications to be prepared by and properly wet signed and sealed by the Civil Engineer and Soils Engineer of Record; iv) The rough grading certificates and the compaction reports will be reviewed by the Associate Engineer or a designated person and approved prior to the issuance of a building permit.
5. Prior to the issuance of the Certificate of Occupancy the engineer of record shall certify the functionality of the storm water quality management plan (WQMP) storm water treatment devices and best management practices (BMP) devices.
6. Prior to approval of the Water Quality Management Plan (WQMP), the WQMP shall include a copy of the project Conditions of Approval.

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**Grading Section**

**Standard Conditions of Approval**

7. The final project-specific water quality management plan (WQMP) shall include executed maintenance agreements along with the maintenance guidelines for all proprietary structural storm water treatment devices (BMP's). In the event the applicant cannot get the proprietary device maintenance agreements executed prior to issuance of a grading permit, the applicant is required to submit a letter to be included within the WQMP document, and scanned and pasted onto the Site and Drainage Plan which states that prior to issuance of a certificate of occupancy with applicant shall enter into a contract for the maintenance of the proprietary storm water treatment device. If the proprietary storm water treatment device is part of a residential subdivision, prior to the sale of the residential lot, the developer shall include maintenance agreement(s) as part of the sale of the residential lot to the buyer. A copy of the maintenance agreements to be included in the sale of the property shall be included within the WQMP document.
8. Prior to the issuance of a Grading Permit the City of Rancho Cucamonga's "Memorandum of Agreement of Storm Water Quality Management Plan" shall be submitted for review and approval by the Building Official and recorded with the County Recorder's Office.
9. The applicant shall provide a copy of a completed EPA Form 7520-16 (Inventory of Injection Wells), with the Facility ID Number assigned, to the Building and Safety Services Department Official prior to issuance of the Grading Permit and/or approval of the project-specific Water Quality Management Plan. A copy of EPA Form 7520-16 shall be scanned and pasted onto the permitted grading plan set, and a copy of said form shall be included in the project-specific Water Quality Management Plan.
10. The land owner shall provide an inspection report by a qualified person/company on a biennial basis for the Class V Injection Wells/underground infiltration chambers to the City of Rancho Cucamonga Environmental Program Manager. The land owner shall maintain on a regular basis all best management practices (BMP's) as described in the Storm Water Quality Management Plan (WQMP) prepared for the subject project. All costs associated with the underground infiltration chamber are the responsibility of the land owner.
11. The land owner shall provide an inspection report on a biennial basis for the Class V Injection Wells/underground infiltration chambers to the City of Rancho Cucamonga Environmental Program Manager. The land owner shall maintain on a regular basis as described in the Storm Water Quality Management Plan prepared for the subject project. All costs associated with the underground infiltration chamber are the responsibility of the land owner.
12. Prior to issuance of a grading permit and approval of the project specific water quality management plan all private storm water catch basin inlets shall include insert filters to capture those pollutants of concern as addressed in the in the final project-specific water quality management plan (WQMP). At a minimum catch basin insert filters to capture trash and other floating debris. All catch basin insert filters shall be maintained on a regular basis as described in the "Inspection and Maintenance Responsibility for Post Construction BMP" section of the final project-specific water quality management plan.

Project #: DRC2015-01191 LLA2015-00003  
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**Grading Section**

**Standard Conditions of Approval**

13. Prior to issuance of a grading permit the Final Project-Specific Water Quality Management Plan shall include a completed copy of "Worksheet H: Factor of Safety and Design Infiltration Worksheet" located in Appendix D "Section VII – Infiltration Rate Evaluation Protocol and Factor of Safety Recommendations, ..." of the San Bernardino County Technical Guidance Document for Water Quality Management Plans.
14. Prior to the start of landscaping operations, the landscape architect and the landscape contractor shall provide a sample of the weed fabric barrier to the Project Planner, City of Rancho Cucamonga Planning Department. The weed barrier shall be permeable.
15. Grading of the subject property shall be in accordance with current adopted California Building Code, City Grading Standards, and accepted grading practices. The Grading and Drainage Plan(s) shall be in substantial conformance with the approved conceptual Grading and Drainage Plan.
16. The final Grading and Drainage Plan, appropriate certifications and compaction reports shall be completed, submitted, and approved by the Building and Safety Official prior to the issuance of building permits.
17. The applicant shall comply with the City of Rancho Cucamonga Dust Control Measures and place a dust control sign on the project site prior to the issuance of a grading permit. All dust control sign(s) shall be located outside of the public right of way.
18. The Grading and Drainage Plan shall implement City Standards for on-site construction where possible, and shall provide details for all work not covered by City Standard Drawings.
19. Private sewer, water, and storm drain improvements will be designed per the, latest adopted California Plumbing Code. Private storm drain improvements shall be shown on the grading and drainage plan.
20. Prior to the issuance of a certificate of occupancy by the Building Official, or his designee, the civil engineer of record shall file a Water Quality Management Plan (WQMP) Post Construction Storm Water Treatment Devices As-Built Certificate with the Environmental Programs Coordinator, City of Rancho Cucamonga Engineering Services Department.
21. As the use of drywells are proposed for the structural storm water treatment device, to meet the infiltration requirements of the current Municipal Separate Storm Sewers Systems (MS4) Permit, adequate source control and pollution prevention control BMPs shall be implemented to protect groundwater quality. The need for pre-treatment BMPs such as sedimentation or filtration shall be evaluated prior to infiltration and discussed in the final project-specific Water Quality Management Plan document.
22. As this project is removing the existing structural storm water treatment devices and replacing those devices with new storm water structural storm water treatment devices, prior to the issuance of any building permit a new Project-Specific Water Quality Management Plan shall be prepared, reviewed and approved by the Building and Safety Services Director, or his designee, and recorded with the County Recorders Office.

Project #: DRC2015-01191 LLA2015-00003  
Project Name: Minor Design Review  
Location: 7201 HAVEN AVE - 107648125-0000  
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**Grading Section**

**Standard Conditions of Approval**

23. Prior to the issuance of any building permit the applicant shall provide to the Building and Safety Services Director a final project-specific storm water quality management plan which provide adequate pre-treatment of the storm water run-off meeting the following requirements of the current adopted Municipal Storm Sewer Separations (MS4) Permit:

**GROUND WATER PROTECTION:**

State Water Resources Control Board Order No. R8-2010-0036 (NPDES No. CAS 618036), the San Bernardino County Municipal Separate Storm Sewers Separation (MS4) Permit reads: Section XI.D(Water Quality Management Plan Requirements).8(Groundwater Protection):

Treatment Control BMPs utilizing infiltration [exclusive of incidental infiltration and BMPs not designed to primarily function as infiltration devices (such as grassy swales, detention basins, vegetated buffer strips, constructed wetlands, etc.)) must comply with the following minimum requirements to protect groundwater:

- a. Use of structural infiltration treatment BMPs shall not cause or contribute to an exceedance of ground water quality objectives.
- b. Source control and pollution prevention control BMPs shall be implemented to protect groundwater quality. The need for pre-treatment BMPs such as sedimentation or filtration should be evaluated prior to infiltration.
- c. Adequate pretreatment of runoff prior to infiltration shall be required in gas stations and large commercial parking lots.
- d. Unless adequate pre-treatment of runoff is provided prior to infiltration structural infiltration treatment BMPs must not be used for areas of industrial or light industrial activity{77}, areas subject to high vehicular traffic (25,000 or more daily traffic); car washes; fleet storage areas; nurseries; or any other high threat to water quality land uses or activities.
- e. Class V injection wells or dry wells must not be placed in areas subject to vehicular{78} repair or maintenance activities{79}, such as an auto body repair shop, automotive repair shop, new and used car dealership, specialty repair shop (e.g., transmission and muffler repair shop) or any facility that does any vehicular repair work.
- f. Structural infiltration BMP treatment shall not be used at sites that are known to have soil and groundwater contamination.
- g. Structural infiltration treatment BMPs shall be located at least 100 feet horizontally from any water supply wells.
- h. The vertical distance from the bottom of any infiltration structural treatment BMP to the historic high groundwater mark shall be at least 10-feet. Where the groundwater basins do not support beneficial uses, this vertical distance criteria may be reduced, provided groundwater quality is maintained.
- i. Structural infiltration treatment BMPs shall not cause a nuisance or pollution as defined in Water Code Section 13050.

In Form 1-1 (Project Information) of the San Bernardino County model template "Water Quality Management Plan" the civil engineer of record shall describe why the proposed structural storm water treatment devices meet the above requirements for adequate pre-treatment prior to infiltration

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**Grading Section**

**Standard Conditions of Approval**

of the storm water.

24. Prior to approval of the project-specific storm water quality management plan, the applicant shall submit to the Building Official, or his designee, a precise grading plan showing the location and elevations of existing topographical features, and showing the location and proposed elevations of proposed structures and drainage of the site.

# STAFF REPORT

PLANNING DEPARTMENT



Date: August 10, 2016

To: Chairman and Members of the Planning Commission

From: Candyce Burnett, Planning Director

By: Jennifer Nakamura, Associate Planner  
Dominick Perez, Associate Planner

Subject: MUNICIPAL CODE AMENDMENT DRC2016-00616 – CITY OF RANCHO CUCAMONGA - A request to amend Titles 5, 9 and 17 of the Municipal Code to amend regulations regarding new and existing massage establishments. This item is exempt from the requirements of the California Environmental Quality Act (CEQA) and the City's CEQA guidelines under CEQA section 15601(b)(3). This item will be forwarded to the City Council for final action.

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**RECOMMENDATION:** Staff recommends the Planning Commission recommend to the City Council approval of the proposed changes to Title 17 (Development Code) to amend regulations for new and existing massage establishments.

**BACKGROUND:** In 2008 the Governor signed into law SB 731, which established uniform regulations for massage therapy and massage establishments. This law preempted most local land use, zoning, and operational regulations provided that massage establishments and practitioners were certified by the California Massage Therapy Council.

Prior to the implementation of SB 731, massage establishments were conditionally permitted in the General Commercial zoning district Citywide and within the Village Commercial District of the Victoria Arbors Master Plan. In 2012, as part of our comprehensive Development Code Update, massage establishments were permitted "by-right" in all commercial zones, as well as the Industrial Park and General Industrial Districts. This was done to bring the City's land use regulations on massage establishments into compliance with State law.

Massage establishments have proliferated in the City since the implementation of SB 731. Prior to the required land use changes, there were 7 massage establishments within the City. By the end of 2014 there were 42 establishments. This represents a 600% increase in less than 3 years. There is evidence in other jurisdictions that massage establishments are fronts for prostitution or human sex trafficking. Staff from the Rancho Cucamonga Police Department, Rancho Cucamonga Fire District, Planning, Building and Safety, Community Improvement and Business License have created a task force to perform inspections of all massage establishments in Rancho Cucamonga. As a result of this task force, 19 locations have been closed permanently and several have been closed pending proper permits.

On September 18, 2014, Governor Brown signed into law AB 1147 which amended the State's current massage therapy laws to expand local authority to adopt zoning regulations, business licensing, and reasonable health and safety requirements for massage establishments and

practitioners. On December 17, 2014, the City Council approved at a publicly noticed hearing Interim Ordinance No. 872 to conditionally permit new massage establishments in all zones in which the use is currently permitted by right. Pursuant to State law, Government Code Section 65858, Interim Ordinance No. 872 is effective for a period of 45 days from the date of adoption. On January 21, 2015, pursuant to Government Code Section 65858, the City Council approved Interim Ordinance No. 872 A, which extended Ordinance No. 872 for up to 22 months, 15 days, allowing the City additional time to study the contemplated land use change. Prior to the expiration of an interim ordinance, a permanent ordinance must be adopted by a noticed public hearing or the land use changes included in the interim ordinance will expire on December 6, 2016.

ANALYSIS OF PROPOSED CHANGES: The changes proposed are based on research of other cities massage regulations across the state as well as the experience derived from inspections performed by the city's massage task force and consultation with the City Attorney's office.

#### Changes to Title 5 (Business Taxes, Licenses and Regulations)

Massage Business Permit. While the Conditional Use Permit process was an appropriate interim measure to allow staff to review new massage businesses, the primary goal is to regulate massage business operations and ensure the qualifications of the operators of such businesses rather than the location of massage businesses as a land use matter. Instead of a conditional use permit, staff proposes the implementation of a new massage business permit that would be specific to each massage business and each operator. The permit would not run with the land.

A new chapter would be added to Title 5 (Exhibit A) that includes permit application requirements, administrative review procedures, operational and business standards and the ability to revoke or suspend a permit if the business owner does not comply with the regulations. Because these amendments to Title 5 would not be part of the Development Code, the Planning Commission is not required to review them before they are considered by the City Council. The proposed amendments to Title 5 are therefore included as an exhibit to this report but will not be a part of any recommendation made by the Planning Commission.

#### Changes to Title 17 (Development Code)

Types of Massage Establishments and Allowed Zones. Prior to SB731, massage establishments were only allowed in the General Commercial District. After SB731, massage was permitted in all commercial districts as well as the Industrial Park and General Industrial district. Staff proposes amending Table 17.30.030-1 to change the allowed land uses for massage establishments to only include commercial districts. Existing massage establishments that are located in industrial districts will be permitted to continue operating for either 1 year, or until their current lease has ended, whichever is later. Unique cases may be appealed to the Planning Director. There are 5 massage establishments located in the Industrial Park or General Industrial districts.

We have been approached by medical professionals in our community, such as doctors, chiropractors and acupuncturists who want to offer massage as a complimentary service to their practice. Staff is proposing amending Table 17.30.030-1 to add a new land use designation for this type of use called Massage Establishment, Ancillary. This will allow for businesses that want to offer massage as a service provided they do not use more than ten percent of the gross floor area to massage services. This use will be allowed in all commercial districts, but will also be permitted in Industrial Park and General Industrial districts, as medical uses are also common in these districts. Land use descriptions for Massage Establishment, Ancillary will be added and the existing description to Massage Establishment will be amended in Section 17.32.020 E.

The excerpt of Table 17.30.030-1 and Section 17.32.020 reflecting the proposed changes is shown below:

**TABLE 17.30.030-1 ALLOWED LAND USES AND PERMIT REQUIREMENTS BY BASE ZONING DISTRICT**

Land Use/Zoning District	VL	L	LM	M	MH	H	MU	OP	NC	GC	CC	SC	RRC	CO	IP	GI	M/Hi	HI	OS	HR	FC	UC
<b>Retail, Service and Office Uses</b>																						
Massage Establishment <sup>(12)</sup>	N	N	N	N	N	N	P	P	P	P	P	P	P	P	N	N	N	N	N	N	N	N
Massage Establishment, Ancillary <sup>(12)</sup>	N	N	N	N	N	N	P	P	P	P	P	P	P	P	P	P	N	N	N	N	N	N

<sup>(12)</sup> Massage establishment permit required. See additional regulations for massage establishments in Chapter 5.18.

**Section 17.32.020 Allowed Use Descriptions**

**E. Retail, Service, and Office Uses.**

- 35. Massage Establishment. Any establishment whose primary function is to provide massage services to customers and where all massage therapists and practitioners are certified by the California Massage Therapy Council.
- 36. Massage Establishment, Ancillary. Any establishment where customers can receive massage services where the gross floor area of the business dedicated to massage services is less than 10% of the gross floor area and where all massage therapists and practitioners are certified by the California Massage Therapy Council.

Special Use Regulations. All regulations for the operation of new and existing massage establishments will now be in Chapter 5.18. As a result, the special use regulations in Section 17.102.080, shown below, are redundant and staff recommends they be deleted.

**Section 17.102.080    Massage Establishments**

- A.    **Applicability.** The development standards of this Section shall apply to all massage establishments in the city.
  
- B.    **Hours of Operation.** The hours of operation of massage establishments shall be limited to between 7:00 a.m. and 10:00 p.m. daily.

Changes to Title 9 (Public Peace, Morals and Welfare)

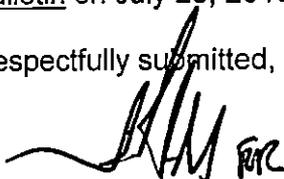
Cleanup of Outdated Regulations. Chapter 9.24 (Exhibit B) contains outdated regulations for massage services that staff is proposing be deleted as they will be superseded by Chapter 5.18.

APPROVING AUTHORITY: Chapter 17.22 of the Development Code authorizes the Planning Commission to conduct a public hearing and make a recommendation to the City Council for any modifications to the provisions of Title 17 (Development Code). The City Council will then conduct a public hearing to review the Planning Commission's recommendation. In addition to Title 17 (Development Code), this Municipal Code Amendment recommends modifications to Title 5 (Business Taxes, Licenses and Regulations) and Title 9 (Public Peace, Morals and Welfare) which are included in the discussion and exhibits for reference, but are not part of the Commission's recommendation.

ENVIRONMENTAL ASSESSMENT: The project is deemed to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) which is the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment, and CEQA does not apply where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment because the amendment will not expand the number or types of zoning districts in which massage establishments will be allowed to operate in the City. Therefore, there is no possibility that this Ordinance may have a significant effect on the environment.

CORRESPONDENCE: Notice of the public hearing was published in the Inland Valley Daily Bulletin on July 28, 2016 as a large, 1/8th page legal notice.

Respectfully submitted,



Candyce Burnett  
Planning Director

CB:JN/lis

Attachments:    Exhibit A - Chapter 5.18 proposed to be added to Title 5  
                          Exhibit B - Chapter 9.24 proposed to be deleted from Title 9  
                          Planning Commission Resolution Recommending Approval of DRC2016-00616

## **Chapter 5.18 Massage Business Permits**

### **5.18.010 Purpose**

This chapter is intended to provide for the orderly regulation of massage therapists and massage establishments in the interest of public health, safety, and welfare.

### **5.18.020 Definitions**

For the purpose of this chapter, the following words and phrases are defined and shall be construed as set out in this section, unless it is apparent from the context that a different meaning was intended:

- A. "Ancillary massage services" means any establishment where customers can receive massage services where the gross floor area of the business dedicated to massage services is less than 10% of the gross floor area and where all massage therapists and practitioners are certified by the California Massage Therapy Council.
- B. "Existing massage establishment" means any massage establishment that was legally established in or upon any premises within the city between January 1, 2015 and the effective date of this chapter.
- C. "Massage establishment" means any establishment whose primary function is to provide massage services to customers and where all massage therapists and practitioners are certified by the California Massage Therapy Council.
- D. "Massage services" means any method of treating the external parts of the human body for remedial, health, or hygienic purposes by means of pressure on or friction against; or stroking, kneading, rubbing, tapping, pounding; or stimulating the external parts of the human body with the hands or other parts of the human body, with or without the aid of any mechanical or electrical apparatus or appliances; or with or without supplementary aids, such as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments, or other similar preparations.

### **5.18.030 Permit Required**

- A. It is unlawful for any person, firm, partnership or corporation to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises within the City, the operation of a massage establishment or ancillary massage establishment as herein described, without first having obtained a

massage establishment permit, issued by the city pursuant to the provisions herein set forth. Said permit shall immediately be surrendered to the Planning Director upon suspension, revocation, or expiration of said permit.

- B. A separate massage establishment permit shall be obtained for each separate massage establishment and/or any change in ownership to a massage establishment.

#### **5.18.040 Exemptions**

The provisions of this chapter shall not apply to:

- A. Physicians, surgeons, chiropractors, osteopaths or physical therapists who are duly licensed to practice their respective professions in the state;
- B. Barbers and cosmetologists licensed by the state, as defined and to the extent provided in Business and Professions Code section 7316 or any successor provision thereto, who are engaging in practices within the scope of their licenses, except that this exemption will only apply to massaging of the neck, face, scalp, hands, or feet that is ancillary to the primary service being provided by the barber or cosmetologist;
- C. Hospitals, nursing homes, sanitariums or other health care facilities duly licensed by the state whose employees are acting within the scope of their employment;
- D. Accredited high schools, junior colleges and colleges or universities whose coaches and trainers are acting within the scope of their employment.

#### **5.18.050 Applicability to Existing Massage Establishments**

Existing massage establishments shall not be exempt from this Chapter and must apply for a massage establishment permit within nine (9) months after the effective date of this Chapter. The Planning Director shall grant all timely applications for massage establishment permits by existing massage establishments unless grounds for suspension or revocation exist under section 5.18.100.

#### **5.18.060 Fees**

- A. Each application for a massage establishment permit or an annual renewal required under this chapter shall be accompanied by a nonrefundable application and investigation fee payable to the City which shall be set by resolution of the City Council.

- B. Each hearing required under this chapter may be subject to a nonrefundable application and investigation fee payable to the City which shall be set by resolution of the City Council.
- C. No refund or rebate of an application and investigation fee required under this chapter shall be allowed regardless of whether:
  - 1. The massage establishment permit has been suspended or revoked;
  - 2. The holder of the massage establishment permit discontinues an activity for which a massage establishment permit is required pursuant to this chapter.
- D. The fees required under this section shall be in addition to any fee required under any other provisions of this Code or ordinance heretofore or hereafter adopted.

**5.18.070 Permit Application**

- A. Any person, firm, corporation, or partnership desiring to obtain a permit to operate a massage establishment shall make application under penalty of perjury of the laws of the State, to the director.
- B. The applicant, if a corporation or partnership, shall designate one of its officers or general partners to act as its responsible managing employee. Such person shall complete and sign all application forms required of an individual applicant under this chapter; however, only one application fee shall be charged. The corporation's or partnership's responsible managing employee must, at all times, meet all of the requirements established for permittees by this chapter or the corporation or partnership permit shall be suspended until a responsible managing employee who meets such requirements is designated. If no such person is found within 90 days, the corporation or partnership permit shall be deemed canceled without further notice and a new initial application for permit must be filed.
- C. Submission of the application for a massage establishment permit does not authorize the applicant to engage in, conduct, or carry on the operation of a massage establishment. No business shall be conducted until such permit has been granted.
- D. Each applicant for a massage establishment permit shall submit the following information to the Planning Department:
  - 1. The legal name, address, and telephone number of the massage establishment;

2. A description of services to be provided at the massage establishment;
3. A description of any other businesses operated on the premises;
4. A floor plan indicating how the operation of a massage establishment is proposed to be conducted within the premises;
5. The legal name of all owners and managers of the massage establishment;
6. The home address and telephone number of all owners of the massage establishment, any previous home addresses for a period of 5 years immediately prior to the date of the application, and the dates of residence at each;
7. A valid and current driver's license, photo identification issued by a State or Federal governmental agency, or photographic identification bearing a bona fide seal by a foreign government for each owner of the massage establishment;
8. The form of business under which the massage establishment will be operating;
9. A signed statement from each owner of the massage establishment indicating that:
  - a. All of the information contained in the application is true and correct;
  - b. Each owner shall be responsible for the conduct of the massage establishment's employees and any independent contractors providing massage services at the massage establishment;
  - c. Each owner acknowledges that failure to comply with any local, State, or Federal law may result in the revocation of the massage establishment permit;
10. The massage license and registration history of each owner of the massage establishment, including:
  - a. Whether the owner has operated any massage establishment or similar business or occupation within any other city, county, or state;

- b. Whether any license or registration certificate previously obtained by the owner was revoked, suspended, or denied and, if so, the reason(s) therefor and any employment obtained subsequent to any revocation, suspension, or denial;
- 11. The employment history of each owner of the massage establishment for a period of 5 years immediately prior to the date of the application, including:
  - a. The dates of employment for each position;
  - b. Whether the owner, or a former employer of the owner during the owner's period of employment, was subject to an abatement proceeding under California Penal Code sections 11225 through 11235 or any similar provisions of law in a jurisdiction outside the state;
- 12. For each owner of the massage establishment that is certified by the California Massage Therapy Council (CAMTC), a copy of the owner's current certification from CAMTC as a Certified Massage Practitioner, Certified Massage Therapist, or conditionally Certified Massage Practitioner, and a copy of the owner's CAMTC-issued identification card;
- 13. For each owner of the massage establishment that is not certified by CAMTC, current fingerprints taken by a certified California Live Scan Fingerprinting Center for the purpose of conducting a background check on behalf of the City to determine the criminal history of the owner, including whether the owner has been convicted of any felony, misdemeanor, infraction, or municipal code violation or has been held liable for any administrative or civil action for an act that is substantially related to the practice of massage;
- 14. The name of each person to be employed or retained by the massage establishment to perform massage services for compensation, a copy of that person's current certification from CAMTC as a Certified Massage Practitioner, Certified Massage Therapist, or conditionally Certified Massage Practitioner, and a copy of that person's CAMTC-issued identification card;
- 15. The name and address of the owner of the real property upon, in, or from which the massage establishment will be operated. In the event that the owner of the massage establishment is not the owner of the real property, the application shall include

a copy of any written lease between the massage establishment and the property owner authorizing use of the premises for a massage establishment or, if there is no written lease, a written, notarized acknowledgment from the property owner declaring that the property owner has been advised that a massage establishment will be operated by the applicant upon, in, or from the property owner's real property;

16. Proof of current and valid Workers' Compensation insurance from an insurer authorized to do business in the state, in an amount as required by law;
  17. Authorization for the City, its employees and agents to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the massage establishment permit;
  18. The name of the individual to receive notices on behalf of the massage establishment;
  19. Any other information necessary to discover the truth of the matters required to be set forth in the application.
- E. Any changes to the information provided in the application during the period that the City is reviewing the application shall be immediately reported to the City. Failure to report such changes shall result in denial of the application.

#### **5.18.080 Review Process**

- A. The Planning Director shall be the approving authority for massage establishment permits.
- B. If it is clear from the face of the application and supplementary materials that the applicant is not qualified for the massage establishment permit, or if the required fee has not been paid, the application may be denied without further investigation.
- C. Upon receipt of an application for a massage establishment permit, the Planning Director shall refer the application to other City departments, as appropriate, for review of the application and inspection of the premises to ensure compliance with applicable local, State and Federal laws and regulations, including, but not limited to, building, health, and fire safety regulations.
- D. The City may conduct additional investigations in a manner authorized by law when necessary to determine if the applicant

meets the qualifications for a massage establishment permit pursuant to this chapter.

- E. Upon acceptance of a complete application, the Planning Director shall issue or deny the application for a massage establishment permit within 60 calendar days of the submission of the completed application. When necessary, the Planning Director may extend the time to issue or deny the permit.
- F. If prosecution is pending against the applicant or any owner for either conduct violating this chapter's provisions or conduct violating Business & Professions Code section 4600 et seq., the Planning Director may postpone the decision on the application until the prosecution's final resolution. As used in this subsection, prosecution means charges filed by the district attorney, administrative proceedings brought by a local government or agency, or a civil or criminal action maintained by the City Attorney or prosecuting attorney.

#### **5.18.090 Permit Issuance and Renewal**

- A. The Planning Director shall issue a massage establishment permit if the applicant meets the requirements of this chapter and no grounds for denial exist under section 5.18.090. The Planning Director may impose conditions on the permit consistent with this chapter and applicable law. No permit granted herein shall confer any vested right to any person for more than the permit period.
- B. If the owner of the massage establishment is not the owner of the real property upon, in, or from which the massage establishment will be operated, the Planning Director may send a written notice to the property owner advising of the issuance of the permit and of the regulations applicable to the massage establishment. The police chief may also provide the property owner with copies of any other notices or communications with the massage establishment owner sent at any time before or after issuance of the permit.
- C. A massage establishment permit issued pursuant to the terms of this chapter shall be valid for a term of one year and shall expire on the same date as the business license of the massage establishment pursuant to Title 5 of this code. An application to renew the permit shall be submitted at least thirty days prior to the expiration of the current permit.

#### **5.18.100 Denial of Permit**

- A. The Planning Director may deny an application for a massage establishment permit on any of the following grounds:

1. The massage establishment would not comply with the requirements of this chapter or other applicable law, rule or regulation, including, but not limited to any local or state building, fire, zoning and health regulations;
2. The applicant or any owner of the massage establishment has engaged in fraud or misrepresentation or has knowingly made a misstatement of material fact in the application for a massage establishment permit;
3. The applicant or any owner of the massage establishment has been the subject of a permanent injunction against the conducting or maintaining of a nuisance pursuant to sections 11225 through 11235 of the California Penal Code, or any similar law in any state or other jurisdiction;
4. The applicant or any owner of the massage establishment has had any license, certificate or permit to practice massage or somatic therapy, or to own and/or operate a massage establishment suspended, revoked, withdrawn or denied;
5. The applicant or any owner of the massage establishment has been convicted in a court of competent jurisdiction of any offense that relates directly to the conduct or operation of a massage establishment, or of any offense the commission of which occurred on the premises of a massage establishment or while performing out-call massage services;
6. The applicant or any owner of the massage establishment has been convicted in a court of competent jurisdiction of having violated, or has engaged in conduct constituting a violation of any of the following offenses: Sections 266, 266a, 266e, 266f, 266g, 266h, 266i, 266j, 315, 316, 318, 647(b), or 653.22 of the California Penal Code, or conspiracy or attempt to commit any such offense, or any similar offense in any state or other jurisdiction, whether or not any criminal prosecution has been pursued or conviction obtained for such acts;
7. The applicant or any owner of the massage establishment has been successfully prosecuted under the Red Light Abatement Act (California Penal Code section 11225 et seq.) or any similar law in another jurisdiction;
8. The applicant or any owner of the massage establishment is currently required to register pursuant to the Sex Offender Registration Act (Chapter 5.5 commencing with section 290 of Title 9 of Part 1 of the California Penal Code), or any similar law in any state or other jurisdiction;

9. The applicant or any owner of the massage establishment has engaged in any other unprofessional conduct or violation of any applicable law, rule or regulation that is substantially related to the providing of massage services.

**5.18.110 Suspension or Revocation of Permit**

- A. All massage establishment owners and operators shall be deemed to know and understand the requirements and prohibitions of this chapter. Any massage establishment permit issued pursuant to this chapter may be suspended or revoked by the Planning Director, where they find that any of the following have occurred:
  1. The owner, operator, or any person employed or retained by the massage establishment has violated any provision of this chapter, or other applicable law, rule or regulation;
  2. The owner, operator, or any person employed or retained by the massage establishment has engaged in fraud or misrepresentation or has knowingly made a misstatement of material fact while working in or for the massage establishment;
  3. The owner, operator, or any person employed or retained by the massage establishment has been the subject of a permanent injunction against the conducting or maintaining of a nuisance pursuant to this code, or sections 11225 through 11235 of the California Penal Code, or any similar law in any state or other jurisdiction;
  4. The owner, operator, or any person employed or retained by the massage establishment has been convicted in a court of competent jurisdiction of any offense that relates directly to the conduct or operation of a massage establishment, or has at any time been convicted in a court of competent jurisdiction of any offense the commission of which occurred on the premises of a massage establishment or while performing out-call massage services;
  5. The owner, operator, or any person employed or retained by the massage establishment has been convicted in a court of competent jurisdiction of having violated, or has engaged in conduct constituting a violation of any of the following offenses: sections 266, 266a, 266e, 266f, 266g, 266h, 266i, 266j, 315, 316, 318, 647(b), or 653.22 of the California Penal Code, or conspiracy or attempt to commit any such offense, or any similar offense in any state or other jurisdiction, whether or not any criminal prosecution has been pursued or conviction obtained for such acts, and whether or not such acts occurred with or without the actual knowledge of the owner;

6. The owner, operator, or any person employed or retained by the massage establishment is currently required to register pursuant to the Sex Offender Registration Act (Chapter 5.5 commencing with section 290 of Title 9 of Part 1 of the California Penal Code), or any similar law in any state or other jurisdiction;
7. The owner of the massage establishment has continued to operate the massage establishment after the massage establishment permit has been suspended;
8. Massage services have been performed for compensation by a person who is not a CAMTC-certified massage professional, with or without the actual knowledge of the owner of the massage establishment;
9. The owner, operator or any person employed or retained by the massage establishment has engaged in conduct or committed acts that a reasonable person in the client's position would understand as an offer to perform on or engage in with a client acts that are sexual in nature or that involve the touching of the client's genitals, pubic area, anus, or areola;
10. The owner, operator or any person employed or retained by the massage establishment has engaged in any other unprofessional conduct or violation of any applicable law, rule or regulation that is substantially related to the providing of massage therapy.

**5.18.120 Appeals**

- A. Where there are grounds to deny, suspend or revoke a massage establishment permit, the Planning Director shall provide 15 calendar days prior written notice, mailed to the last known address of the owner of the massage establishment, specifying the grounds for such action. The decision of the Planning Director shall be based on a preponderance of the evidence.
- B. For the purposes of this chapter, including imposing the 1 year moratorium period pursuant to this section, the decision of the Planning Director on the denial, suspension or revocation of the massage establishment permit shall become final, and not subject to any right of appeal, upon any of the following circumstances:
  1. The owner has failed to file a timely notice of appeal;
  2. The owner has ceased business operations on or prior to the hearing date on the notice of appeal;
  3. The owner has failed to appear at the appeal hearing.

- C. The owner may appeal the decision of the Planning Director by filing a written notice of appeal with the City Clerk within fifteen (15) calendar days after deposit of the decision in the mail, specifying in detail the grounds for such appeal. The notice of appeal shall be accompanied by a nonrefundable fee established by the City's then current fee schedule. Failure to file a timely appeal will be considered a failure on the part of the owner to exhaust his or her administrative remedies for the purpose of seeking judicial review. In the event an appeal is timely filed, the suspension or revocation of a massage establishment permit shall not be effective until a final decision has been rendered by the City Manager.
- D. The City Manager or his or her designee shall hear and decide all appeals de novo. The City Clerk shall provide at least 10 calendar days prior written notice of the date, time, and place of the hearing.
- E. After the hearing on the appeal, the City Manager may refer the matter back to the Planning Director for a new investigation and decision, may affirm or modify the decision of the Planning Director, or may overturn the decision of the Planning Director. Upon the revocation of a massage establishment permit, the massage establishment shall immediately cease operation, and, if so ordered by the City Manager, no other massage establishment shall be permitted to operate at that location by any person for a period of not less than 1 year ("the moratorium period").
- F. The decision of the City Manager shall be rendered within 30 days from the close of the hearing, and shall be mailed to the last known address of the owner of the massage establishment. If the owner of the massage establishment is not also the legal owner of the real property on which the massage establishment is situated, notice of such denial, suspension or revocation and, if applicable, the one year moratorium period, shall be provided to the owner of record of the property as shown on the latest county assessment roll.
- G. The decision of the City Manager shall be final and shall be subject to judicial review according to the provisions and time limits set forth in section 1094.6 of the California Code of Civil Procedure.
- H. Notwithstanding any other provision of this chapter, where a notice of revocation or suspension has been issued by the Planning Director to the owner of a massage establishment, the Planning Director shall not issue a massage establishment permit for a new massage establishment at the same location unless and until such notice of revocation or suspension is dismissed by the Planning Director; or a final determination is made that the current massage establishment permit is not or should not be suspended or revoked; or any suspension or moratorium period imposed pursuant to this section has expired.

### **5.18.130 Operational and Maintenance Standards**

- A. No massage establishment shall be established within 1,000 feet of any other massage establishment. This requirement shall not apply to ancillary massage establishments or existing massage establishments.
- B. No massage establishment shall be kept open for business between the hours of Nine p.m. (9:00 p.m.) of one day and Nine a.m. (9:00 a.m.) of the following day. A massage begun any time before Nine p.m. (9:00 p.m.) must nevertheless terminate at Nine p.m. (9:00 p.m.). The hours of operation of the massage establishment shall be displayed in a conspicuous public place in the reception and waiting area and in any front window clearly visible from outside of the massage establishment.
- C. The owner and manager of a massage establishment shall be responsible for displaying the City Registration Certificate and the CAMTC Registration Certificate of each and every Certified Massage Practitioner employed in the business in an open and conspicuous place on the premises. Passport-size photographs of the massage establishment permit holder shall be affixed to the respective permit on display pursuant to this section.
- D. The massage establishment shall be supervised, during all hours of operation, by a manager specified in the massage establishment permit application. The manager shall wear a badge with the manager's name and it should clearly state the word "manager" on the badge. The name of the manager on duty shall be posted in a conspicuous place within the reception area daily.
- E. The owner and manager shall maintain a register of all employees or rent-space massage therapists. The employee register shall be maintained on the premises for a minimum period of 2 years following an employee's termination. The owner and manager shall make the employee register immediately available for inspection upon demand by a representative of the Police Department or the City at all reasonable times. The employee register shall include, but not be limited to the following information:
  - 1. The name, nicknames and/or aliases used by an employee or rent-space massage therapist;
  - 2. A high quality color photocopy of a lawfully issued CAMTC certificate for each employee and rent-space therapist that provides massage services;
  - 3. The home address and relevant phone numbers (including but not limited to home and cellular numbers) of each employee and rent-space therapist;

4. The age, date of birth, gender, height, weight, color of hair and eyes of each employee and rent-space therapist;
  5. The date of employment and termination, if applicable, or, in the case of a rent-space therapist, the start and end dates of the lease agreement, as well as a copy of the employment agreement for each employee;
  6. The duties of each employee.
- F. For each massage service provided, every massage establishment shall keep a complete and legible written record of the following information:
1. The date and hour that service was provided;
  2. The service received;
  3. The name or initials of the employee entering the information;
  4. The name of the employee administering the service.
- G. The records required under this section shall be open to inspection and copying by the Police Department, or other City officials charged with enforcement of this chapter. These records may not be used by any massage establishment owner or employee for any purpose other than as records of service provided and may not be provided to other parties by any person unless otherwise required by law. The records shall be retained on the premises of the massage establishment for a period of 2 years.
- F. All massage establishment owners and their employees shall wear clean outer garments. The garments shall not include any of the following:
1. Attire that is transparent or see-through, or substantially exposes the employee's undergarments;
  2. Swim attire, if not providing a water-based massage modality accepted by CAMTC;
  3. Attire that exposes the employee's genitals, pubic areas, buttocks, or breasts;
  4. Attire worn in a manner that constitutes a violation of California Penal Code section 314;
  5. Attire worn in a manner that is otherwise deemed by CAMTC to constitute unprofessional attire based on the custom and practice of the massage profession in the state.

- G. At all times during the massage services, the client's genitals shall be fully covered and contact shall not be made with the genitals.
- H. The premises' exterior doors and the doors separating the waiting or reception area from the remainder of the premises shall remain unlocked during business hours (including electronic locking devices) or when clients are present. External doors may only be locked during business hours if the massage establishment is a business entity owned by one individual with one or no employees or independent contractors who are not employees of the business and there is no staff available to assure security for clients and staff behind closed doors.
- I. Clients and visitors shall be permitted in the massage establishment only during the hours of operation.
- J. Clients shall be permitted in massage rooms only if at least one CAMTC certified massage professional is present on the premises of the massage establishment.
- K. No visitors shall be permitted in massage rooms except the parents or guardian of a minor child who is a client; a minor child when necessary for the client's supervision of the child; or the conservator, aide, or other caretaker of a client.
- L. No visitors shall be permitted in break rooms, dressing rooms, showers, or any other room or part of the massage establishment premises other than the reception and waiting area or the toilets.
- M. Except for a client who is inside a massage therapy room for the purpose of receiving a massage, no clients or visitors shall be permitted in or on the massage establishment premises at any time who are less than fully clothed in outer garments of nontransparent material, or who display or expose themselves in underclothing or similar intimate apparel.
- N. A list of services available and the cost of such services shall be posted in an open and conspicuous public place on the premises, or provided to clients before services are rendered. The services shall be described in English and may also be described in such other languages as may be convenient. No massage establishment shall permit, and no person employed or retained by the massage establishment shall offer to perform, any services or request or demand fees other than those posted.
- O. All payments for massage therapy services, including gratuities or tips, shall be made only in the designated reception and waiting area and not in the massage therapy room. Any gratuities or tips that are solicited from the client in violation of this provision shall be presumed to be for the purpose of committing a sexually related act and may be grounds for the suspension or revocation of the owner's massage establishment permit.

- P. No condoms, or written material or merchandise of a sexually explicit nature, shall be furnished, used, stored or kept on the premises of a massage establishment.
- Q. The use or possession of adult-oriented merchandise in or on any part of a massage establishment is expressly prohibited.
- R. No electrical, mechanical or artificial device shall be used by the massage establishment for audio and/or video recording or for monitoring the performance of a massage, or the conversation or other sounds in the massage therapy room or cubicle, without the knowledge or written consent of the client.
- S. The massage establishment shall fully maintain current and valid Workers' Compensation insurance as required by law at all times. Proof of insurance shall be maintained on the premises at all times.
- T. No alcoholic beverages shall be sold, served, furnished, kept, consumed, or possessed on the premises of any massage establishment.
- U. Controlled substances must not be consumed in a massage establishment unless the person has a prescription for the substance.
- V. No owner, operator, or any person employed or retained by the massage establishment shall permit, and no rent-space therapist shall offer or perform, any service other than those permitted under this chapter.
- W. A massage establishment shall not be used for residential or sleeping purposes unless the massage establishment is properly zoned and has all necessary use permits, and the massage establishment is owned by one individual with one or fewer employees or independent contractors.
- X. Massage establishment personnel or any massage therapist shall not inquire as to whether any client is a peace officer.

**5.18.140 Facilities Requirements**

- A. No massage services shall be given in any room or space enclosed or divided by walls and fitted with a door capable of being locked from the inside. This section shall not apply to the massage establishment's external doors and shall not operate to prohibit a massage establishment from locking its external doors if the massage establishment is owned by one individual with one or no employees or independent contractors.
- B. A list of services available and the cost of the services shall be posted in an open and conspicuous public place on the premises. The services shall be described in English and any other languages that the massage establishment chooses. Only services on the posted list shall be performed.

- C. Minimum lighting consisting of at least one artificial light of not less than forty watts shall be provided and shall be operating in each room or enclosure where massage services are being performed on clients, and in all areas where clients are present.
- D. Massage establishments shall at all times be equipped with an adequate supply of clean sanitary towels, coverings, and linens. Clean towels, coverings, and linens shall be stored in enclosed cabinets. Towels and linens shall not be used on more than one client, unless they have first been laundered and disinfected. Disposable towels and coverings shall not be used on more than one client. Soiled linens and paper towels shall be deposited in separate, approved receptacles.
- E. All walls, ceilings, floors, pools, showers, bathtubs, steam rooms, and all other physical facilities, shall be in good repair and maintained in a clean and sanitary condition.
- F. Adequate bathing, dressing, locker and toilet facilities shall be provided for clients. A minimum of one tub or shower; one dressing room containing a separate locker for each client to be served, which locker shall be capable of being locked; as well as a minimum of one toilet and washbasin, shall be provided in every massage establishment; provided, however, that if male and female clients are to be served simultaneously at the massage establishment, separate bathing, massage room(s), dressing room(s), and toilet facilities shall be provided for male and female clients. This requirement may be modified upon approval of the Planning Director if the services provided or site plan do not necessitate some or all of these facilities.
- G. A minimum of one wash basin for employees shall be provided at all times. The basin shall be located within or as close as practicable to the area devoted to performing massage services. Sanitary towels shall also be provided at each basin. Hot and cold running water shall be provided at all times.
- H. In the reception area, in letters that are a minimum of 1 inch in height, a notice in English (and any other language that the massage establishment chooses) that provides substantially as follows: THIS MASSAGE ESTABLISHMENT AND THE MASSAGE ROOMS DO NOT PROVIDE COMPLETE PRIVACY AND ARE SUBJECT TO INSPECTION BY CITY AND HEALTH OFFICIALS WITHOUT PRIOR NOTICE.
- I. No room or space enclosed or divided by walls and fitted with a door where massage services are performed shall be equipped with any electronic, mechanical, or artificial device used or capable of being used, for the recording or videotaping of visual images and/or sound.

- J. Wet and dry heat rooms, steam or vapor rooms or cabinets, toilet rooms, shower and bath rooms, tanning booths, whirlpool baths and pools shall be thoroughly cleaned and disinfected as needed or required.
- K. Table showers, water tables, sitz massage tables, vichy showers and similar devices are prohibited.
- L. Standard or portable massage tables shall be used with a durable, washable plastic or other waterproof material as a covering. The tables shall be sanitized after each use.
- M. A massage establishment shall operate only under the name specified in its massage establishment permit.
- N. No massage establishment located in a building or structure with exterior windows fronting a public street, highway, walkway, or parking area shall block visibility into the interior reception and waiting area through the use of curtains, closed blinds, tints, or any other material that obstructs, blurs, or unreasonably darkens the view into the premises.

#### **5.18.150 Additional Permittee Responsibilities**

- A. It shall be the responsibility of the massage establishment permittee who employs or allows any person acting or purporting to act as a massage therapist, or the employer of any person acting or purporting to act as a massage therapist, to ensure that such person complies with the requirements of this chapter and all laws.
- B. The massage establishment permittee shall be held responsible for the conduct of all persons on the premises who engage in providing the service of massage therapy. Any act or omission of any person giving massage therapy, or any service of massage therapy, shall be deemed the act or omission of the holder of the massage establishment permit for the purposes of determining whether the permit may be revoked, suspended, or denied. Proof of knowledge of any violation of this section shall not be required for purposes of suspension, revocation, or denial of a massage establishment permit.

#### **5.18.160 Cease of Business**

If at any time during the duration of a permit issued under this chapter a permittee ceases to do business as a massage establishment, the permittee shall:

- A. Return any permit issued under this Chapter to the Planning Director within 5 business days;
- B. Notify the Business License Department.

**5.18.170 Inspection**

- A. The City, including the Police Department shall, from time to time and during any hour in which a massage establishment is open for business, make an administrative inspection of each massage establishment for the purpose of determining compliance with this chapter.

**5.18.180 Violations**

- A. It is the duty of the Planning Director, Community Improvement Officer, Police Chief or designees to enforce the rules and regulations in accordance with this Chapter.
- B. Pursuant to the City's prosecutorial discretion, the City may enforce violations of the provisions of this chapter as criminal, civil and/or administrative actions.
- C. Any person who violates the provisions of this chapter may be subject to administrative fines in an amount not to exceed one thousand dollars (\$1,000), or such other amount as may be permitted under section 36901 of the California Government Code. In addition to the recovery of administrative fines, the City may recover its costs and expenses incurred in enforcing a violation of this chapter. An order to pay administrative fines and costs may be appealed pursuant to section 1.12.210.
- D. If a person falsely states or advertises or puts out any sign or card or other device, or falsely represents to the public through any print or electronic media, that he or she or any other individual is licensed, certified, or registered by a governmental agency as a massage therapist or massage practitioner, that person shall be subject to a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation, to be assessed and collected in a civil action brought by the City Attorney, District Attorney, or Attorney General.
- E. Notwithstanding any other provision of this chapter, a massage establishment permit may not be issued, renewed or amended unless and until due and unpaid citations are paid in full.

**5.18.190 Nuisance**

- A. Any use or condition caused or permitted to exist in violation of any of the provisions of this chapter shall be and is hereby declared a public nuisance.
- B. The violation of any provision of this chapter shall be and is hereby declared to be contrary to the public interest and shall, at the discretion of the City, create a cause for injunctive relief.

- C. Any person subject to this chapter who personally, or through an agent, employee, independent contractor or other representative, violates any provision of this chapter shall be guilty of a separate offense for each and every day during any portion of which any such violation is committed, continued or permitted by such person. All remedies provided herein shall be cumulative and not exclusive.”

*This chapter of the Municipal Code is proposed to be deleted and replaced with chapter 5.18*

## **CHAPTER 9.24. - MASSAGE SERVICES**

### **ARTICLE I. - IN GENERAL**

#### **Sec. 9.24.010. - Definitions.**

Unless the particular provision of the context otherwise requires, the definitions and provisions contained in this section shall govern the construction, meaning and application of words and phrases used in this chapter:

Applicant means the individual applicant and/or the designated officer or managing partner acting on behalf of a corporation or partnership.

Certified message establishment means any message establishment or business that is a sole proprietorship, provided the sole proprietor is the owner, the owner holds a valid and current message certificate, and the owner is the only person employed by the business to provide message services; and/or any message establishment or business that employs or uses only persons holding a valid and current message certificate for the provision of message services.

Certified message establishment permit means a permit issued to a certified message establishment operating from a fixed place of business, which permit shall serve to acknowledge that the permittee has provided satisfactory evidence to the director establishing that the business is a certified message establishment, and that the business premises otherwise complies with applicable health and safety requirements of this chapter as permitted by Business and Professions Code § 4612.

Certified message therapist means any person holding a valid and current message certificate. Certified message therapists are exempt from the requirements of this chapter, except where otherwise provided. The term "certified message therapist" does not include a massage technician, as defined herein.

Chief means that officer of the San Bernardino Sheriff's Department, or his or her designee, designated to by the city to fulfill the prescribed duties herein.

Director means the director of administrative services of the city, or his or her designee.

Employee means any and all persons, other than a massage technician or certified message therapist, who may render any service to the permittee, and who receives compensation from the permittee or his or her agent, and who have no physical contact with the customers or clients.

Hearing officer means the city manager of the city, or his or her designee.

Massage means any method of treating the external parts of the human body for remedial, health, or hygienic purposes by means of pressure on or friction against; or stroking, kneading, rubbing, tapping, pounding; or stimulating the external parts of the human body with the hands or other parts of the human body, with or without the aid of any mechanical or electrical apparatus or appliances; or with or without supplementary aids, such as rubbing alcohol, liniments, antiseptics, oils, powers, creams, lotions, ointments, or other similar preparations.

Massage certificate means a certificate issued to any massage therapist or practitioner pursuant to Business and Professions Code § 4601, or any successor provision thereto, by the California Massage Therapy Council, or any successor organization.

Massage establishment means any establishment having a fixed place of business where any person, firm, association, partnership, or corporation engages in, conducts, or carries on, or permits to be engaged in, conducted or carried on, any business of giving massages, baths, administration of fomentation, electric or magnetic treatments, alcohol rubs, or any other type of system for treatment or manipulation of the

human body with or without any character of bath, such as Turkish, Russian, Swedish, Japanese, vapor, shower, electric tub, sponge, mineral, fomentation, or any other type of bath.

Massage technician includes a massage technician, massage trainee, masseur, and masseuse and means any person who administers to another person, for any form of consideration, massages, as defined, or bathes, manipulates the body, or uses electric massage procedure, or similar procedure, but does not include certified massage therapists, as defined herein.

Out call massage service means any business where the primary function of such business is to engage in or carry on massage, not always at a fixed location, but also at locations designated by the customers or clients.

Permittee means any person, firm, partnership or corporation having a permit issued hereunder for a massage or certified massage establishment, and/or a massage technician, as the case may be.

Qualified massage association means any association which has established a minimum education requirement for membership of at least 500 hours of training from a recognized school of massage, offers and requires participation and completion by members of a minimum number of hours of specified continuing education as a condition of membership, is open to members of the general public meeting the requirements for membership, on a national basis, and has minimum educational requirements or equivalents, including at least 500 classroom hours or its equivalent in anatomy, physiology, hygiene, sanitation, massage therapy and practice, ethics of massage practice, first aid and CPR. Equivalency must be verified by written and practical testing by the association. Further, the association must have established rules of ethics and enforcement procedures for suspension or revocation of membership for violation of such rules. In addition, the association must require participation and completion by members of a minimum number of hours of specified continuing education for eligibility for certification and recertification. In this regard, the city reserves the right to require evidence of such training, recertification and professional experience as a condition of continued membership.

Recognized school of massage means any school or institution of learning which teaches the theory, ethics, practice, profession, or work of massage, which has been approved to award degrees pursuant to Education Code § 94900 or 94905. A school offering a correspondence course not requiring attendance shall not be deemed a recognized school for purposes of this chapter. The city shall have the right to confirm that the applicant has actually attended class in a recognized school.

(Code 1980, § 9.24.010; Ord. No. 820, § 2, 9-2-2009; Ord. No. 870 (Recodification), 2014)

#### **Sec. 9.24.015. - Exemption.**

Certified massage establishments are exempt from the requirements of this chapter, except where otherwise provided.

(Code 1980, § 9.24.010; Ord. No. 820, § 2, 9-2-2009)

#### **Sec. 9.24.020. - Permit required.**

- A. It is unlawful for any person, firm, partnership or corporation to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises within the city, the operation of a massage establishment as herein described, without first having obtained a massage establishment permit, or certified massage establishment permit, issued by the city pursuant to the provisions herein set forth. Said permit shall immediately be surrendered to the director upon suspension, revocation or expiration of said permit.
- B. A permit under this chapter shall be valid for 12 months from the date of issuance unless revoked or suspended. The permit required shall be in addition to any business license required by city ordinance or any other permit required for such use, including, but not limited to, any conditional use permit or other similar entitlement for use.

**Sec. 9.24.030. - Exceptions.**

The provisions of this chapter shall not apply to the following classes of individuals while engaged in the performance of the duties of their respective professions:

- A. Physicians, surgeons, chiropractors, osteopaths or physical therapists who are duly licensed to practice their respective professions in the state;
- B. Nurses registered under the laws of the state;
- C. Barbers and cosmetologists, licensed by the state, and persons licensed by the state to provide skin care (estheticians) or nail care (manicurists), as defined and to the extent provided in Business and Professions Code § 7316, or any successor provision thereto, as follows:
  1. Barbers may massage the face and scalp;
  2. Cosmetologists may massage the scalp, face, neck, arms, hands, feet below the calf, and the body extending from the clavicles upward;
  3. Estheticians may massage the face, neck, arms and the body extending from the clavicles upward;
  4. Manicurists may massage the hands, and feet below the calf.

State licensed barbers, cosmetologists, estheticians and manicurists are subject to the exemption provided by this subsection C only while providing other barbering, cosmetology, skin care or nail care services in a facility licensed by the city to provide such services. The provisions of this subsection C apply to apprentices of any of the foregoing who are licensed by the state, but only while performing barbering, cosmetology, skin care or nail care services under the direct supervision of a barber, cosmetologist, esthetician or manicurist who is subject to the exemption provided by this subsection;

- D. Hospitals, nursing homes, sanitariums or other health care facilities duly licensed by the state;
- E. Accredited high schools, junior colleges and colleges or universities whose coaches and trainers are acting within the scope of their employment;
- F. Trainers of amateur, semiprofessional or professional athletes or athletic teams.

**Sec. 9.24.040. - Massage establishment; application.**

- A. Any person, firm, corporation, or partnership desiring to obtain a permit to operate a massage establishment or certified massage establishment shall make application under penalty of perjury of the laws of the state, to the director. Prior to submitting such application, a nonrefundable fee in an amount established by the city council shall be paid to the city to defray, in part, the cost of the investigation and reports required by this chapter. A copy of the receipt showing payment of the required fee shall accompany the application. Applicants for a certified massage establishment permit are subject only to subsections A, C, D, E.1 through 4, 8, 9, 11, 12, 13, 16, 17, 18, 19, and 21, and G through I of this section.
- B. The applicant, if a corporation or partnership, shall designate one of its officers or general partners to act as its responsible managing employee. Such person shall complete and sign all application forms required of an individual applicant under this chapter; however, only one application fee shall be charged. The corporation's or partnership's responsible managing employee must, at all times, meet all of the requirements established for permittees by this chapter or the corporation or partnership permit shall be suspended until a responsible managing employee who meets such requirements is designated. If no such person is found within 90 days, the corporation or partnership permit shall be deemed canceled without further notice and a new initial application for permit must be filed.

- C. The application and fee required under this section shall be in addition to any license, permit or fee required under any other provisions of this Code or ordinance heretofore or hereafter adopted, together with a writing, signed and dated by the applicant, under penalty of perjury, stating that all information contained in the application is true and correct.
- D. The application for permit does not authorize conducting a massage establishment. No business shall be conducted until such permit has been granted.
- E. Each applicant for a massage establishment permit shall submit the following information:
  - 1. The full, true name under which the business will be conducted. If the name is a fictitious name, all individual owners, stockholders, partners, etc., shall be identified;
  - 2. The present or proposed address where the business is to be conducted;
  - 3. The applicant's full, true name, any other names used, date of birth, state driver's license number or state identification number, social security number, present residence address and telephone number. The sex, height, weight, color of hair, and color of eyes;
  - 4. Previous two residences of the applicant and the inclusive dates at each address;
  - 5. The applicant's business, occupation, and employment history for five years preceding the date of application, and the inclusive dates of same;
  - 6. The permit history of the applicant, including whether such person has ever had any permit or license issued by any agency, board, city, county, parish, territory, or state, the date of issuance of such a permit or license, whether the permit or license was revoked or suspended, or if a vocational or professional license or permit was issued, revoked, or suspended, and the reasons therefor;
  - 7. As to each applicant and owner of at least ten percent of the massage establishment and/or outcall massage business, all convictions for any crime that requires registration under any state, federal or other governmental law similar to and including Penal Code § 290, and whether or not any such person is required to register pursuant to Penal Code § 290 or any such similar law, and convictions for any crime that involves conduct which is a violation of any state, federal or other governmental law similar to and including Penal Code §§ 266h, 266i, 314, 315, 316, 318, 647, or any other crime involving the elements of the foregoing code sections, by way of plea bargain, or any other crime involving dishonesty, fraud, deceit or moral turpitude. For purposes of this chapter, the term "conviction" shall include a conviction pursuant to a plea of guilty or nolo contendere;
  - 8. A complete explanation of all services to be provided;
  - 9. The name, address, and date of birth of each massage technician, certified massage therapist, aide, trainee or employee who is or will be employed in such establishment;
  - 10. The name and address of any massage business or other like establishment owned or operated by any person whose name is required to be given pursuant to this section wherein the business or profession of massage is carried on;
  - 11. Acceptable written proof that the applicant is at least 18 years of age;
  - 12. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its Articles of Incorporation or Charter, together with the state and date of incorporation and the names and residence addresses of each of its current officers and directors, and of each stockholder holding five percent or more of the stock of that corporation;
  - 13. If the applicant is a partnership, the application shall set forth the name and residence addresses of each of the partners, including limited partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership as filed with the county clerk. If one or more of the partners is a corporation, the provisions of subsection E.12 of this section pertaining to corporate applicants shall apply;

14. The director may require the applicant to furnish fingerprints when needed for the purpose of establishing identification. Any required fingerprinting fee will be the responsibility of the applicant;
  15. Two current, full-face, portrait photographs of the applicant, two inches by two inches in size, shall be provided by the applicant;
  16. A description of any other business to be operated on the same premises, or on adjoining premises, owned or controlled by the applicant shall be set forth;
  17. The name and address of the owner and lessor of the real property upon or in which the business is to be conducted shall be identified. In the event the applicant is not the legal owner of the property, the application must be accompanied by a copy of the lease and a notarized acknowledgement from the owner of the property that a massage establishment will be located on his/her property;
  18. Authorization for the city, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application shall be required. The chief of police shall provide such assistance to the director as may be required to fully investigate the applicant and the truth of the matters set forth in the application;
  19. The applicant shall submit any change of address or fact which may occur during the procedure of applying for a massage establishment permit;
  20. The applicant, if an individual, or designated responsible managing employee, if a partnership or corporation, shall personally appear at the police department for fingerprinting and produce proof that the application fee has been paid and shall present the application containing the required information as described in this section;
  21. A certificate of compliance from both the city planning department, building and safety division and the San Bernardino County Health Department must be submitted prior to the application approval. Any required inspection fees shall be the responsibility of the applicant. If the certificates of compliance are not received by the director within 60 days of the date of filing, the application shall be deemed void. If any land use permit or other entitlement for use is required, such permit or use shall be applied for and received prior to the massage establishment permit becoming effective.
- F. The director shall have up to 120 calendar days to investigate the application for a massage establishment and the background of the applicant. Upon the completion of the investigation, the director shall grant the permit if he or she finds as follows:
1. The required fee has been paid;
  2. The application conforms in all respects to the provisions of this chapter;
  3. The applicant has not made a material misrepresentation in the application;
  4. The applicant, if an individual, or any of the stockholders of the corporation, or any officers or directors, if the applicant is a corporation, or any partner, if the applicant is a partnership, has not been convicted in a court of competent jurisdiction of an offense specified in subsection E.7 of this section;
  5. The applicant has not had a massage establishment, massage technician, or other similar permit or license denied, revoked, or suspended by the city, or any other state, territory, county, parish or local agency prior to the date of approval;
  6. The applicant is at least 18 years of age;
  7. The massage establishment as proposed by the applicant would comply with all applicable laws, including, but not limited to, health, zoning, fire and safety requirements and standards; and
  8. The applicant, including any owner of ten percent or more of the massage establishment or outcall massage service, or any massage technician employed by or working out of or in connection with the massage establishment or outcall massage service, is not required to register under the provisions of Penal Code § 290 or similar criminal statute.

- G. The director shall have up to 120 calendar days to investigate the application and the background of each applicant for a certified massage establishment permit. Upon the completion of the investigation, the director shall grant the permit if he or she finds as follows:
1. The required fee has been paid;
  2. The application conforms in all respects to the provisions of this chapter;
  3. The applicant has not made a material misrepresentation in the application; and
  4. All persons who will provide massage services are certified massage therapists, as evidenced by the submission of copies of each therapist's valid and current massage certificate, attested to by the applicant, under penalty of perjury, as being true and correct.
- H. If the director, following investigation of the applicant, determines that the applicant does not fulfill the requirements of this chapter, the director shall deny such application by dated, written notice to the applicant, forwarded to the applicant's address as set forth in the application, by certified U.S. mail, return receipt requested, with a proof of service receipt attached. Following the denial or revocation of a massage establishment permit, no application for a massage establishment permit may be filed by such applicant, at the same or substantially similar physical location, for at least one year following the date of such denial or revocation. The applicant shall have the right of appeal any denial, as set forth in section 9.24.440.
- I. Proof of compliance with all applicable provisions of the Rancho Cucamonga Municipal Code and the applicable ordinances shall be provided prior to the issuance of any permits.

(Code 1980, § 9.24.040; Ord. No. 820, § 2, 9-2-2009; Ord. No. 870 (Recodification), 2014)

**Sec. 9.24.050. - Operating requirements.**

Any person engaging in, conducting, or permitting the operation of a certified massage establishment may do so only if done in compliance with and/or subject to subsections A through G, I through N, Q, R and S of this section. No person shall engage in, conduct, or carry on, or permit to be engaged in, conducted, or carried on, any massage establishment, unless each and all of the following requirements are met:

- A. Each person employed or acting as a massage technician or certified massage therapist shall have a valid permit issued by the director, or massage certificate, which permit or certificate shall be displayed in a conspicuous area open to the public at all times. It is unlawful for any owner, manager, operator, responsible managing employee, or permittee in charge of or in control of a massage establishment to employ or permit a person to act as a massage technician who is not in possession of a valid, unrevoked massage technician permit issued pursuant to this chapter and which is worn clearly visible during working hours, or a valid massage certificate.
- B. The possession of a valid massage establishment permit does not authorize the possessor to perform work for which a massage technician permit or massage certificate is required.
- C. Massage and bath operations shall be carried on or conducted, and the premises shall be open, only between the hours of 7:00 a.m. and 10:00 p.m.
- D. A list of services available as approved pursuant to the application and the cost of such services shall be posted in an open public place within the premises, and shall be described in readily understandable language. In the event any list of services and costs posted or provided hereunder are in other than the English language, the permittee shall, at the permittee's cost and expense, provide to the director an English language translation thereof. Such English translation shall be attested to being a full, true and correct translation thereof under penalty of perjury of the laws of the State of California. No owner, manager, operator, responsible managing employee, or permittee shall permit, and no massage technician or certified massage therapist shall offer or perform, any service other than those posted.

- E. The massage establishment permit and a copy of the permit of each and every massage technician, or massage certificate of each certified massage therapist, employed in the establishment shall be displayed in an open and conspicuous place on the premises.
- F. Every massage establishment shall keep a written record of the date and hour of each treatment, the name and address of each patron, the name of the massage technician or certified massage therapist administering the treatment, and the type of treatment administered. Such written record shall be maintained on forms approved by the director. Such records shall be open to inspection only by officials charged with enforcement of this chapter, shall be available during all business hours of the establishment, and shall be used for no other purpose. Any unauthorized disclosure or use of such information by any officer or employee of the city or the County of San Bernardino, or the owner or employee of the massage establishment, shall constitute a misdemeanor and such persons shall be subject to the penalty of the provisions of this chapter in addition to any other penalties provided by law. Such records shall be maintained on the premises of the massage establishment for a period of two years.
- G. Massage establishments shall at all times be equipped with an adequate supply of clean, sanitary towels, coverings and linens. Clean towels, coverings and linens shall be stored in enclosed cabinets. Towels and linens shall not be used on more than one patron, unless such towel or linen has first been laundered and disinfected. Disposable towels and coverings shall not be used on more than one patron. Soiled linens and towels shall be deposited in separate, health department approved receptacles.
- H. If male and female patrons are to be treated simultaneously at the same massage establishment, separate massage rooms, separate dressing facilities, and separate toilet facilities shall be provided for male and female patrons.
- I. Wet and dry heat rooms, steam or vapor rooms or cabinets, toilet rooms, shower and bathrooms, tanning booths, whirlpool baths and pools shall be thoroughly cleaned and disinfected as needed, and at least once each day the premises are open, with a disinfectant approved by the San Bernardino County Health Department. Bathtubs shall be thoroughly cleaned with a disinfectant, approved by the health department, after each use. All walls, ceilings, floors and other physical facilities of the establishment must be in good repair and maintained in a clean and sanitary condition.
- J. Instruments utilized in performing massage shall not be used on more than one patron unless such instruments have been sterilized, using approved sterilizing methods.
- K. All employees, including massage and certified massage therapists, shall be clean, and shall wear clean, nontransparent outer garments. Such garments shall not expose their genitals, pubic area, buttocks or chest. Massage technicians shall maintain the massage technician permit visibly on their person during business hours.
- L. No person shall enter, be or remain in any part of a massage establishment while in the possession of, consuming, under the influence of, or using any alcoholic beverage or drugs except pursuant to a prescription for such drugs. The owner, operator, responsible managing employee, manager or permittee shall not permit any such person to enter or remain upon such premises.
- M. No massage establishment shall operate as a school of massage, or use the same facilities as that of a school of massage.
- N. No massage establishment granted a permit under this chapter shall place, publish or distribute, or cause to be placed, published or distributed, any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective customers or clients that any service is available other than those services described in subsection D of this section. Nor shall any massage establishment or outcall massage service employ language in the text of such advertising that would reasonably suggest to a prospective patron that any service is available other than those services as described in subsection D of this section.

- O. No service enumerated in subsection D of this section may be carried on within any cubicle, room, booth or any area within a massage establishment, which is fitted with a door capable of being locked.
- P. All exterior doors shall remain unlocked from the interior side during business hours.
- Q. A massage shall not be given and no patron shall be in the presence of a massage or certified massage therapist or other employee unless the patron's genitals are fully covered by a nontransparent covering. In addition, a female patron's breasts shall be fully covered by a nontransparent covering.
- R. No massage establishment shall be open for business without at least one massage or certified massage therapist on the premises at all times who is in possession of a current, valid permit or massage certificate.
- S. Each massage establishment granted a permit under this chapter shall have a manager on the premises at all times the massage establishment is open for business. The operator of each massage establishment shall file a statement with the director designating the persons who shall act as manager. The operator, or manager in the operator's absence, shall be responsible for ensuring compliance with this chapter.

(Code 1980, § 9.24.050; Ord. No. 820, § 2, 9-2-2009; Ord. No. 870 (Recodification), 2014)

**Sec. 9.24.060. - Facilities.**

Every certified massage establishment shall maintain facilities meeting the requirements of subsections A through F, H and I of this section. Every massage establishment shall maintain facilities meeting all of the following requirements:

- A. Signs shall be in conformance with the current ordinances of the city;
- B. Minimum lighting shall be provided in accordance with the California Building Code or successor provisions. In addition, at least one artificial light of not less than 60 watts shall be provided in each room or enclosure where massage services are performed on patrons;
- C. Minimum ventilation shall be provided in accordance with the Uniform Building Code or successor provisions;
- D. Adequate equipment for disinfecting and sterilizing instruments used in performing the acts of massage shall be readily available;
- E. Hot and cold running water shall be provided at all times;
- F. Closed cabinets shall be provided for storage of clean linens;
- G. Adequate dressing, locker and toilet facilities shall be provided to patrons. A minimum of two separate lockers which are capable of being locked must be provided for patrons. Separate toilets and dressing areas shall be provided for male and female patrons;
- H. A minimum of one separate wash basin for employees shall be provided at all times. The basin shall be located within or as close as practicable to the area devoted to performing of massage services. Sanitary towels shall also be provided at each basin;
- I. Pads used on massage tables shall be covered with a durable, washable plastic or other waterproof material acceptable to the San Bernardino County Health Department.

(Code 1980, § 9.24.060; Ord. No. 820, § 2, 9-2-2009; Ord. No. 870 (Recodification), 2014)

**Sec. 9.24.070. - Inspections.**

The director, chief, development services director, and the San Bernardino County Health Department, or their authorized representatives, shall have the right to enter any massage or certified massage establishment for the purpose of making reasonable unscheduled inspections to observe and enforce compliance with applicable regulations, laws, and provisions of this chapter.

(Code 1980, § 9.24.070; Ord. No. 820, § 2, 9-2-2009)

**Sec. 9.24.080. - Permit nonassignable.**

No massage or certified massage establishment permit may be sold, transferred or assigned by the permittee, or by operation of law, to any other person, and any such sale, transfer or assignment, or attempted sale, transfer or assignment, shall be deemed to constitute a voluntary surrender of such permit and such permit shall thereafter be deemed terminated and void; provided and excepting, however, that if the permittee is a partnership and one or more of the partners should die, one or more of the surviving partners may acquire, by purchase or otherwise, the interest of the deceased partner or partners without effecting a surrender or termination of such permit and in each case the permittee shall thereafter be deemed to be the surviving partners. One or more proposed partners, in a partnership granted a permit hereunder, may make application to the director, together with the fee established by the city council therefor, to amend the original application, providing all information as required for partners in the first instance and, upon approval thereof, the transfer of the interests of one or more partners to the proposed partners may occur. If the permit is issued to a corporation, stock may be sold, transferred, issued, or assigned to stockholders who have been named on the application. If any stock is sold, transferred, issued, or assigned to a person not listed on the application as a stockholder, the permit shall be deemed terminated and void; provided, however, the proposed transferee may submit to the director, together with a fee established by the city council, an application to amend the original application providing all information as required for stockholders in the first instance, and, upon approval thereof, the transfer may then occur.

(Code 1980, § 9.24.080; Ord. No. 820, § 2, 9-2-2009; Ord. No. 870 (Recodification), 2014)

**Sec. 9.24.090. - Change of location or name; general.**

- A. A change of location may be approved by the director provided the massage establishment or certified massage establishment complies with all ordinances and regulations of the city.
- B. No permittee shall operate under any name or conduct any establishment under any designation not specified in the permit.
- C. Any application for an expansion of a building or other place of business of a massage establishment shall require compliance with this chapter.

(Code 1980, § 9.24.090; Ord. No. 820, § 2, 9-2-2009; Ord. No. 870 (Recodification), 2014)

**Sec. 9.24.100. - Change of location; notification of change.**

- A. The holder of the permit to operate or conduct a massage or certified establishment shall notify the director, in writing, of the name and address of each person employed, including massage technicians and certified massage therapists, at such establishment within five days of said person being employed. The requirements of this section are in addition to the other provisions of this chapter, and nothing contained herein shall relieve the permittee of the responsibility of ascertaining, prior to employment, whether an employee has a current, valid massage technician permit or massage certificate.
- B. If, during the term of a permit, the applicant has any change in information provided on or concerning the original application or permit renewal application, notification shall be made to the director in writing, within ten business days of the change.

(Code 1980, § 9.24.100; Ord. No. 820, § 2, 9-2-2009)

**Sec. 9.24.110. - Change of location; renewal of permit.**

A massage or certified massage establishment licensed under this chapter shall submit an application for renewal 30 days prior to the expiration thereof. The renewal application shall be submitted together with the requisite fee as established by the city council. Approval of the renewal application shall be contingent upon satisfactory compliance with all pertinent provisions of this chapter.

(Code 1980, § 9.24.110; Ord. No. 820, § 2, 9-2-2009; Ord. No. 870 (Recodification), 2014)

**ARTICLE II. - MASSAGE TECHNICIANS AND CERTIFIED MASSAGE THERAPISTS**

**Sec. 9.24.200. - Massage technicians and certified massage therapists; permit or massage certificate required.**

- A. It is unlawful for any person to engage in the business of acting or to act as a massage technician unless such person holds a valid massage technician permit issued by the city, or a valid and current massage certificate issued by the state. Each massage technician permit holder shall be issued a photo identification badge which will also serve as a massage technician permit. The permit holder shall maintain the massage technician permit visibly on his or her person during business hours. Each permit holder shall immediately surrender to the director any massage technician permit issued by the city upon the suspension, revocation, or expiration of such permit.
- B. A permit under this section shall be valid for 12 months from the date of issuance unless revoked or suspended.

(Code 1980, § 9.24.200; Ord. No. 820, § 2, 9-2-2009; Ord. No. 870 (Recodification), 2014)

**Sec. 9.24.210. - Application.**

- A. Each applicant for a massage technician permit shall make application under penalty of perjury of the laws of the State of California to the director. Prior to submitting an application, a nonrefundable fee as established by the city council shall be paid to defray, in part, the costs of investigation and report required by this article. A copy of the receipt shall accompany the application.
- B. Permit fees required under this section shall be in addition to any license, permit or fee required under any other provision of this Code.
- C. The application for permit does not authorize the applicant to practice massage. No work is authorized until such permit has been granted.
- D. Each applicant for a massage technician permit shall submit the following information:
  - 1. Truthful and honest answers to each and every inquiry in section 9.24.040.E.3 through E.7, inclusive;
  - 2. Acceptable written proof that the applicant is at least 18 years of age.
- E. The applicant must furnish proof of passage of the independently prepared and administered national examination through the National Certification Board for Therapeutic Massage and Bodywork (NCTMB), together with current re-certifications in accordance with NCTMB requirements, a diploma or certificate of graduation from either a 500-hour resident course of instruction or 500 hours of cumulative education consisting of no less than a 300-hour resident course, and 200 additional hours of resident instruction from a recognized school of massage as defined in section 9.24.010, or from an existing school or institution of learning outside the State of California, together with a certified transcript of the applicant's school records showing date of enrollment, hours of instruction and

graduation from a course having at least the minimum requirements prescribed by Article 3 of Subchapter 3 of Chapter 21 of Division 1 of Title 5 of the California Code of Regulations, wherein the theory, method, profession and work of massage is taught, and a copy of the school's approval by the State Board of Education. Alternatively, the provisions of this subsection may be satisfied by the applicant receiving 300 hours of resident instruction and having membership, or the ability to obtain membership, in a qualified massage association, as defined in section 9.24.010.J.

- F. The massage establishment's full name, address and telephone number where the massage technician will be employed at a fixed place of business. In the event the applicant seeks to conduct out call massage services not listed in the original application, an additional application and fee must be submitted.
- G. Such other identification and relevant information as the director may require in order to discover the truth of the matters herein specified as required to be set forth in the application.
- H. Two current full face, portrait photographs of the applicant, two inches by two inches in size.
- I. The director may require the applicant to furnish fingerprints when needed for the purpose of establishing identification. Any required fingerprinting fees will be the responsibility of the applicant.
- J. A certificate from a medical doctor licensed to practice in the state stating that the applicant has, within 30 days immediately preceding the date of application, been examined and found to be free of any contagious or communicable disease.
- K. Authorization for the city, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application shall be required. The chief shall provide such assistance to the director as may be required to fully investigate the applicant and the truth of the matters set forth in the application.
- L. Authorization to the director that he or she shall have 120 days in which to investigate the application and background of the applicant. Upon termination of the investigation, the director shall approve or deny such application in writing.
- M. The director, upon completion of the investigation, shall grant the permit if he or she finds in accordance with section 9.24.040.E.22.a through f, inclusive, and:
  - 1. The applicant has furnished an acceptable diploma or certificate of graduation from a recognized school;
  - 2. The applicant has furnished written proof from a recognized school that the minimum number of hours of instruction have been completed; or
  - 3. The applicant is not required to register under the provisions of Penal Code § 290 or similar criminal statute.
- N. If the director, following investigation of the application, determines that the applicant does not fulfill the requirements as set forth in this section, the director shall deny such application by dated, written notice forwarded to the applicant's address set forth in the application by certified U.S. mail, return receipt requested, with a proof of service attached. A new application may not be filed for at least 60 days after such denial. Any applicant for a permit who is refused a permit by the director may appeal the denial as set forth in section 9.24.440.

(Code 1980, § 9.24.210; Ord. No. 820, § 2, 9-2-2009; Ord. No. 870 (Recodification), 2014)

#### **Sec. 9.24.220. - Renewal.**

A massage technician licensed under this chapter shall file an application to renew the permit 30 days prior to the date of expiration thereof. Approval shall be contingent upon satisfactory compliance with all pertinent sections of this article, including a current medical clearance in section 9.24.210.J. A renewal fee as established by the city council shall be charged to defray, in part, the cost of the renewal investigation required by this article.

(Code 1980, § 9.24.220; Ord. No. 820, § 2, 9-2-2009; Ord. No. 870 (Recodification), 2014)

**Sec. 9.24.230. - Notification by technician.**

If, during the term of a permit, the massage technician has any change in information submitted on the original or renewal application, the massage technician shall notify the director of such change within ten business days thereafter, in writing.

(Code 1980, § 9.24.230; Ord. No. 820, § 2, 9-2-2009)

**ARTICLE III. - OUT CALL MASSAGE SERVICES**

**Sec. 9.24.300. - Special endorsement required.**

It is unlawful for any massage establishment or massage technician to provide, or to offer to provide, massage at any location except at the place of business approved for a massage establishment hereunder; provided, however, that a massage establishment or massage technician may obtain a special endorsement to the permit issued thereto specifically authorizing out call massage services. This section shall not apply to certified massage establishments or therapists.

(Code 1980, § 9.24.300; Ord. No. 820, § 2, 9-2-2009; Ord. No. 870 (Recodification), 2014)

**Sec. 9.24.310. - Application.**

Any massage establishment or massage technician desiring to provide out call massage services shall submit to the director, together with the requisite nonrefundable fee therefor as established by the city council, an application to provide out call massage services within the city. In addition to the requirements set forth herein pertaining to massage establishment permit or massage technician permit application, as the case may be, the applicant, and any certified massage establishment or therapist wishing to provide outcall massage services, shall submit to the director detailed information setting forth the manner and means of transporting, to and from the premises where out call massage services are to be performed, the clean, sanitary towels, coverings and linens, sterilized instruments to be utilized, as well as any supplementary aids, equipment or devices to be utilized and the methods of disposal thereof.

(Code 1980, § 9.24.310; Ord. No. 820, § 2, 9-2-2009)

**Sec. 9.24.320. - Record.**

All massage technicians authorized to perform out call massage services hereunder, and all certified massage therapists, shall keep a written record, at the massage technician's or certified therapist's principal place of business, of out call massage services performed as required by section 9.24.050.F and shall include therein the location, by street address, including suite or apartment number, where such services have been performed.

(Code 1980, § 9.24.320; Ord. No. 820, § 2, 9-2-2009; Ord. No. 870 (Recodification), 2014)

**ARTICLE IV. - PROHIBITED CONDUCT, PROCEDURES AND PENALTIES**

**Sec. 9.24.400. - Prohibited conduct.**

- A. It is unlawful for any massage technician or certified massage therapist to touch or massage the genital area of any patron or the breasts of any female patron or for any massage establishment to allow or permit such massage.

- B. It is unlawful for a massage technician to perform any massage services at any location other than that location specified on the massage technician permit or pursuant to a valid out call endorsement.

(Code 1980, § 9.24.400; Ord. No. 820, § 2, 9-2-2009)

**Sec. 9.24.410. - Suspension pending revocation.**

When the grounds for revocation under this chapter are that the permittee is suspected of immoral, improper, or otherwise objectionable conduct, the permit may be suspended until the revocation hearing procedure has been completed.

(Code 1980, § 9.24.410; Ord. No. 820, § 2, 9-2-2009)

**Sec. 9.24.420. - Revocation of massage establishment permit.**

The director may, after notice and hearing, revoke the massage establishment permit of any person, firm, partnership or corporation holding the same upon receipt of satisfactory evidence that:

- A. The permittee has made a material misrepresentation on the permit application;
- B. With respect to any massage establishment, but not including a certified massage establishment, the permittee, any managing responsible employee thereof or any of the persons enumerated in section 9.24.040.E.12 or 13 has been convicted of or entered a plea of guilty or nolo contendere to any charge of a violation of any of the provisions of this chapter, or of the enumerated statutes set forth in section 9.24.040.E.7 or any lesser included offense;
- C. The permittee, any managing responsible employee, or any employee, representative, or agent of the permittee or any massage technician employed by the permittee, has engaged in conduct constituting a violation of this chapter or of any of the enumerated statutes set forth in section 9.24.040.E.7. The director shall provide the permittee with written notice of the revocation or proposed revocation by U.S. mail, with a proof of service attached, addressed to the street address of the massage establishment as shown on the application; or
- D. The massage establishment no longer satisfies the approval requirements set forth in section 9.24.040, including, but not limited to, failure of a certified massage establishment to use or employ only certified massage therapists to provide massage services.

(Code 1980, § 9.24.420; Ord. No. 820, § 2, 9-2-2009; Ord. No. 870 (Recodification), 2014)

**Sec. 9.24.430. - Massage technician permit.**

The director may revoke the massage technician permit of any person holding the same upon receiving satisfactory evidence that the permittee has made a material misrepresentation on the permit application or if the permittee has been convicted of or entered a plea of guilty or nolo contendere to any charge of a violation of any of the provisions of this chapter, or any of the enumerated statutes set forth in section 9.24.040.E.7 or to a lesser included offense. The director may, after notice and hearing, revoke the massage technician permit of any permittee if, on the basis of satisfactory evidence, it shows that the permittee has engaged in conduct constituting a violation of this chapter or any of the enumerated statutes set forth in section 9.24.040.E.7. The director shall provide the permittee with written notice of the revocation by mail, with a proof of service attached, addressed to the permittee at the address of record shown on the massage technician permit application.

(Code 1980, § 9.24.430; Ord. No. 820, § 2, 9-2-2009; Ord. No. 870 (Recodification), 2014)

**Sec. 9.24.440. - Permit denial/revocation appeal procedure.**

- A. The applicant or permittee, as the case may be, within ten business days after receipt of denial of an application for a permit under articles I, II or III of this chapter, or notice of revocation, may file an appeal with the city clerk to be taken to the hearing officer. In the event an appeal is filed within the ten-day time frame, a suspension of the permit shall be in effect until the final decision has been rendered by the hearing officer.
- B. If the applicant or permittee fails to file an appeal within the ten-day filing period provided, denial/revocation shall take effect immediately upon expiration of such filing period. No permit shall be revoked until after a hearing shall have been held before the hearing officer to determine good cause for such revocation, or the appeal filing period has lapsed. It is unlawful for any person to conduct a massage establishment or carry on the business of massage until the revoked permit has been reinstated by the hearing officer.
- C. Notice of such hearing shall be given in writing and mailed at least ten days prior to the date of the hearing, by certified U.S. mail, return receipt requested, with a proof of service attached, addressed to the address listed on the massage or certified massage establishment application, or massage technician application, as the case may be. The notice shall state the grounds of the complaint and shall state the time and place where such hearing will be held.
- D. After said hearing, the hearing officer shall render a written decision within ten business days from the date the matter is submitted for decision. The action of the hearing officer shall be final and conclusive.

(Code 1980, § 9.24.440; Ord. No. 820, § 2, 9-2-2009; Ord. No. 870 (Recodification), 2014)

**Sec. 9.24.450. - Burden of proof at hearing.**

Unless otherwise specifically provided by law, the burden is on the city in any hearing under this article to prove that the determination of the director which is being appealed is reasonable, and not an abuse of discretion.

(Code 1980, § 9.24.450; Ord. No. 820, § 2, 9-2-2009; Ord. No. 870 (Recodification), 2014)

**Sec. 9.24.460. - Penalties for violation of ordinance or chapter.**

It is unlawful for any person, firm, partnership or corporation to violate any provision or to fail to comply with any of the requirements of this chapter. Any person, firm, partnership or corporation violating any provisions of this chapter or failing to comply with any of the requirements thereof shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding \$1,000.00, or by imprisonment not exceeding six months, or by both such fine and imprisonment. Each and every person, firm, partnership or corporation shall be deemed guilty of a separate offense for each and every day or any portion thereof during which any violation of any of the provisions of this chapter is committed, continued or permitted by such person, firm, partnership or corporation, and shall be deemed punishable therefor as provided in this chapter.

(Code 1980, § 9.24.460; Ord. No. 820, § 2, 9-2-2009; Ord. No. 870 (Recodification), 2014)

**Sec. 9.24.470. - Civil remedies available.**

The violation of any of the provisions of this chapter shall constitute a nuisance and may be abated by the city through civil process by means of restraining order, preliminary or permanent injunction or in any other manner provided by law for the abatement of such nuisances.

(Code 1980, § 9.24.470; Ord. No. 820, § 2, 9-2-2009; Ord. No. 870 (Recodification), 2014)

**Sec. 9.24.480. - Severability.**

The city council declares that, should any article, provision, section, paragraph, sentence or word of this chapter be declared invalid by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, including, but not limited to, any provision contained in Business and Professions Code § 4600 et seq., the remaining provisions, sections, paragraphs, sentences and words of this chapter shall remain in full force and effect. The provisions of Business and Professions Code §§ 4600—4613 shall be deemed to govern over any conflicting provisions contained in this chapter.

(Code 1980, § 9.24.480; Ord. No. 820, § 2, 9-2-2009; Ord. No. 870 (Recodification), 2014)

RESOLUTION NO.16-46

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RANCHO CUCAMONGA, CALIFORNIA, RECOMMENDING APPROVAL OF MUNICIPAL CODE AMENDMENT DRC2016-00616, REGULATING THE OPERATION OF MASSAGE ESTABLISHMENTS, AND MAKING FINDINGS IN SUPPORT THEREOF.

A. Recitals.

1. On December 17, 2014, the City Council approved Interim Ordinance No. 872 at a publicly noticed meeting to conditionally permit new massage establishments in all zones in which the use was then currently permitted by right. Pursuant to State law, Government Code Section 65858, Interim Ordinance No. 872 was effective for a period of 45 days from the date of adoption.

2. On January 21, 2015, pursuant to Government Code Section 65858, the City Council approved Interim Ordinance No. 872 A, which extended Ordinance No. 872 for up to 22 months, 15 days, allowing the City additional time to study the possible changes to its massage regulations. The land use changes included in the interim ordinance will expire on December 6, 2016.

3. The City of Rancho Cucamonga has filed an application for Municipal Code Amendment No. DRC2016-00616, as described in the title of this Resolution which is based on research of massage regulations in other cities across the state as well as the experience derived from inspections performed by the City's massage task force. Hereinafter in this Resolution, the subject Municipal Code Amendment is referred to as "the amendment."

4. On August 10, 2016, the Planning Commission of the City of Rancho Cucamonga conducted a duly noticed public hearing on the amendment and concluded said hearing on that date.

5. All legal prerequisites prior to the adoption of this Resolution have occurred.

B. Resolution.

NOW, THEREFORE, it is hereby found, determined, and resolved by the Planning Commission of the City of Rancho Cucamonga as follows:

1. This Commission hereby specifically finds that all of the facts set forth in the Recitals, Part A, of this Resolution are true and correct.

2. Based upon the above-referenced public hearing, including all written and oral evidence presented, this Commission hereby finds the amendment is consistent with the general plan goals, policies, and implementation programs because it will provide for the orderly development and operation of massage establishments in a manner that is compatible with surrounding land uses.

3. The Planning Department Staff has determined that the project is amendment exempt from the requirements of the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines. The project qualifies under Section 15061(b)(3) of CEQA which is the general rule that CEQA applies only to projects which have the potential for causing a significant

effect on the environment, and CEQA does not apply where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment because the amendment will not expand the number or types of zoning districts in which massage establishments will be allowed to operate in the City. Therefore, there is no possibility that this Ordinance may have a significant effect on the environment. The Planning Commission has reviewed the Planning Department's determination of exemption, and based on its own independent judgment, concurs in the staff's determination of exemption.

4. Based upon the findings and conclusions set forth in paragraphs 1, 2, and 3 above, this Commission hereby recommends approval of Development Code Amendment No. DRC2016-00616 as outlined below.

Table 17.30.030-1 shall be amended as follows:

**TABLE 17.30.030-1 ALLOWED LAND USES AND PERMIT REQUIREMENTS BY BASE ZONING DISTRICT**

Land Use/Zoning District	VL	L	LM	M	MH	H	MU	OP	NG	GC	CC	SC	RRC	CO	IP	GI	MVHI	HI	OS	HR	FC	UC
<b>Retail, Service and Office Uses</b>																						
Massage Establishment <sup>(12)</sup>	N	N	N	N	N	N	P	P	P	P	P	P	P	P	N	N	N	N	N	N	N	N
Massage Establishment, Ancillary <sup>(12)</sup>	N	N	N	N	N	N	P	P	P	P	P	P	P	P	P	P	N	N	N	N	N	N

<sup>(12)</sup> Massage establishment permit required. See additional regulations for massage establishments in Chapter 5.18.

Section 17.32.020 shall be amended as follows

**Section 17.32.020 Allowed Use Descriptions**

**E. Retail, Service, and Office Uses.**

35. Massage Establishment. Any establishment whose primary function is to provide massage services to customers and where all massage therapists and practitioners are certified by the California Massage Therapy Council.

36. Massage Establishment, Ancillary. Any establishment where customers can receive massage services where the gross floor area of the business dedicated to massage services is less than 10% of the gross floor area and where all massage therapists and practitioners are certified by the California Massage Therapy Council.

Section 17.020.080 shall be deleted in its entirety.

6. The Secretary to this Commission shall certify to the adoption of this Resolution.

PLANNING COMMISSION RESOLUTION NO. 16-46  
DRC2016-00616 - CITY OF RANCHO CUCAMONGA  
MUNICIPAL CODE AMENDMENT – MESSAGE REGULATIONS  
AUGUST 10, 2016  
Page 3

APPROVED AND ADOPTED THIS 10TH DAY OF AUGUST, 2016.

PLANNING COMMISSION OF THE CITY OF RANCHO CUCAMONGA

BY: \_\_\_\_\_  
Francisco Oaxaca, Chairman

ATTEST: \_\_\_\_\_  
Candyce Burnett, Secretary

I, Candyce Burnett, Secretary of the Planning Commission of the City of Rancho Cucamonga, do hereby certify that the foregoing Resolution was duly and regularly introduced, passed, and adopted by the Planning Commission of the City of Rancho Cucamonga, at a regular meeting of the Planning Commission held on the 10th day of August 2016, by the following vote-to-wit:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

# STAFF REPORT

## PLANNING DEPARTMENT



Date: August 10, 2016

To: Chairman and Members of the Planning Commission

From: Candyce Burnett, Planning Director

By: Tom Grahn, Associate Planner

Subject: DEVELOPMENT CODE AMENDMENT DRC2016-00563 - CITY OF RANCHO CUCAMONGA - A supplement to Development Code Update DRC2010-00571 amending Title 17 (Development Code) of the Rancho Cucamonga Municipal Code to revise development standards for the Mixed Use (MU) District by removing maximum Floor Area Ratio (FAR) requirements. The City Council adopted a Negative Declaration of environmental impacts for this project on October 21, 2015. The California Environmental Quality Act provides that no further environmental review or Negative Declaration is required for subsequent projects or minor revisions to projects within the scope of a previous Negative Declaration.

**RECOMMENDATION:** Staff recommends the Planning Commission adopt the attached resolution recommending the City Council approve Development Code Amendment DRC2016-00563.

**BACKGROUND:** On October 21, 2015, the City Council approved Development Code Amendment DRC2015-00421 to establish development standards specifically applicable to the Mixed Use (MU) land use district. These development standards were incorporated into Development Code Table 17.36.020-2 (Exhibit A) and included: reduced building setbacks, maximum building height, maximum density, minimum landscape coverage, and a maximum Floor Area Ratio (FAR). The development standards relating to building setback, height, and density will allow for higher density developments consistent with the MU District; however, the FAR requirement imposes an undue restriction on lot coverage that is in opposition to the intent of the other newly established development standards.

**ANALYSIS:** Development Code Section 17.126.020 defines Floor Area Ratio (FAR) – and illustrates FAR in Figure 17.126.020-6 – as *“The ratio between gross floor area of the primary structure(s) on a site and gross site area. It includes all occupiable floors of a building, making it a three-dimensional unit of measure”* (Exhibit B). The FAR expresses the relationship between the amount of usable floor area permitted in a building (or buildings) and the area of the lot on which the building stands; the FAR calculation does not include garage or carport floor area. FAR is obtained by dividing the combined gross occupiable floor area of the building by the gross area of the site and is usually expressed as a decimal fraction (for example, 0.5 or 1.0). A FAR of 1.0 means that the developer is allowed to build the equivalent of a one-story building over the entire lot, or a 2-story over half the lot. A FAR of 2.0 means the developer is allowed to build the equivalent of a two-story building over the entire lot, or a 4-story over half the lot. Through this standard, the FAR functions as the principal means of preventing a project from becoming over built resulting in a large, out-of-proportion building that is incompatible with adjacent land uses, structures, and improvements.

The Development Code establishes a FAR requirement for various commercial and industrial land use districts; however, no FAR requirement is established for residential land use districts. Development Code requirements for the maximum ratio of building floor area to lot square footage for various land use districts, as well as the newly adopted Mixed Use (MU) District FAR, are shown in the following table.

Land Use District	Floor Area Ratio (FAR) or Maximum Ratio of Building to Lot Square Footage
<b>Table 17.36.020-2 – Mixed Use Zoning Districts</b>	
Mixed Use (MU)	1.0
<b>Table 17.36.030-1 Commercial and Office Zoning Districts</b>	
Office Professional (OP)	40% - 100%
Neighborhood Commercial (NC)	25% - 35%
General Commercial (GC)	25% - 35%
Specialty Commercial (SC)	n/a
Community Commercial (CC)	n/a
Regional Related Commercial (RRC)	n/a
Commercial Office (CO) <sup>1</sup>	
<b>Table 17.36.040-1 Industrial Zoning Districts</b>	
Industrial Park (IP) <sup>2,3</sup>	40% - 60%
General Industrial (GI)	50% - 60%
Medium Impact Heavy Industrial (MI/HI)	n/a
Heavy Industrial (HI)	40% - 50%
<sup>1.</sup> The Development Code does not define the Commercial Office (CO) District FAR. <sup>2.</sup> General Plan Table LU-17 identifies a maximum FAR of 1.0 within the Haven Avenue Overlay District. <sup>3.</sup> Hotels within the IP District have a FAR of 1.0.	

A problem encountered with imposing a FAR of 1.0 in the MU District is that due to the minimum residential unit sizes required by the Development Code, no property will be able to competitively develop at the higher land use density permitted in the MU District (i.e., 50 du/ac). As an example, consider the following table, which considers the development of a 2-acre lot at the maximum density of 50 units per acre. This site would contain 87,120 square feet and at a FAR of 1.0 would limit site development to 87,120 square feet of occupiable floor area.

<b>FAR Example</b>			
Site Acreage	2.0		
Site Square Feet	87,120		
Dwelling Units/Per Acre	50 du/ac		
Unit Type	Unit Mix	Minimum Dwelling Unit Size <sup>1</sup>	Total Square Feet Per Unit Type
Efficiency/Studio	25	550 sq. ft.	13,750
1 Bedroom	25	650 sq. ft.	16,250
2 Bedroom	25	800 sq. ft.	20,000
3 Bedroom	25	950 sq. ft.	23,750
	<b>100 Units</b>		<b>73,750</b>
FAR Calculation – 73,750/87,120 = 0.85			
<sup>1.</sup> Development Code Table 17.36.010-1.			

Although this scenario depicts a demonstrated FAR of 0.85, which is below the FAR 1.0 maximum ratio; it does not take into consideration other on-site amenities such as a leasing office, fitness center, recreation facility, or interior hallways. These additional amenities could easily increase the project FAR above 1.0. Additionally, because this example only contemplates the minimum allowable square footages per Code for the residential component and does not consider the potential for a second use as required by the Mixed Use Standards such as commercial development, it is likely to exceed a FAR of 1.0. The FAR of

1.0 limits the marketability of future mixed-use developments in the MU district by artificially controlling the unit size and unit mix, and the level of on-site amenities, thereby making residential developments in the MU District less commercially competitive with residential developments in nearby residential land use districts. Additionally, it causes less flexibility for creative design and land use mixes as it potentially limits maximum floor area and massing. The development of projects in the MU District will still be regulated by applicable development standards including building height, setback, landscaping, and density, and these standards will be evaluated on a case- by-case basis as development applications are submitted.

Environmental Assessment: Pursuant to the California Environmental Quality Act (“CEQA”) and the City’s local CEQA Guidelines, the City adopted a Negative Declaration on October 21, 2015, in connection with the City’s approval of Development Review DRC2015-00421. Pursuant to CEQA Guidelines Section 15162, no subsequent or supplemental EIR or Negative Declaration is required in connection with subsequent discretionary approvals of the same project. No substantial changes are proposed to the project that indicate new or more severe impacts on the environment; no substantial changes have occurred in the circumstances under which the project was previously reviewed that indicates new or more severe environmental impacts; no new important information shows the project will have new or more severe impacts than previously considered; and no additional mitigation measures are now feasible to reduce impacts or different mitigation measures can be imposed to substantially reduce impacts. On October 21, 2015, the City adopted a Negative Declaration regarding a Development Code update for development standards for Mixed Use Districts. The proposed Code amendment is limited to the adoption of a text amendment to the Development Code to eliminate the maximum Floor Area Ratio requirement for Mixed Use Districts and does not involve a site-specific project, and the adoption of the amendment does not preclude the review by the City of any project that results from this amendment. Accordingly, there have been no substantial changes to the project or the circumstances surrounding the project which would create new or more severe impacts than those evaluated in the previous Negative Declaration. Staff further finds that the project will not have one or more significant effects not discussed in the previous Negative Declaration, not have more severe effects than previously analyzed, and that additional or different mitigation measures are not required to reduce the impacts of the project to a level of less-than-significant.

Additionally, when an application for a site-specific project is submitted for review by the City, the City will conduct a project-and site-specific environmental assessment. At that time, based upon the specific calculated Floor Area Ratio of the project and any associated potential impacts, the applicant will be required to submit environmental studies that analyzes the impact(s) (if any) to, for example, air quality, biological resources, cultural resources, noise levels, and transportation/traffic caused by the site-specific project. On a case-by-case review of each project, the appropriate environmental document will be prepared to address project-specific impacts.

CORRESPONDENCE: This item was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper in a large, 1/8th page legal ad. No comments have been received to date.

Respectfully submitted,



Candyce Burnett  
Planning Director

CB:TG/lis

Attachments: Exhibit A - Table 17.36.020-2  
Exhibit B - Section 17.126 – Floor Area Ratio Definition  
Resolution of Approval for Development Code Amendment DRC2016-00563

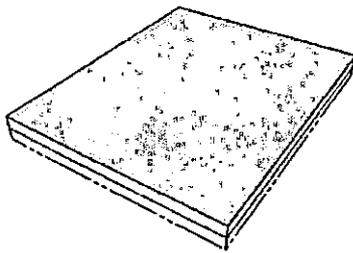
**TABLE 17.36.020-2 DEVELOPMENT STANDARDS FOR MIXED USE ZONING DISTRICTS**

<b>Development Standard</b>	<b>MU</b>
Site/Lot Area (minimum) <sup>(1)</sup>	n/a
Lot Width/Depth (minimum)	n/a
<b>Allowed Density (dwelling units per acre)</b>	
Minimum Density	n/a
Maximum Density	50 units/acre
Land Use Mix <sup>(2)</sup>	Project shall incorporate a minimum of two of the following types of land uses: Commercial, Office, Institutional, Residential, Live/Work
<b>Setbacks <sup>(3)(4)</sup></b>	
Street Yard (Major/Special Boulevard)	50% - 75% reduction of streetscape requirements <sup>(7)</sup>
Street Yard (Secondary/Collector)	50% - 75% reduction of streetscape requirements <sup>(7)</sup>
Street Yard (Local Streets)	75% - 100% reduction of streetscape requirements <sup>(7)</sup>
Rear Yard (adjacent to residential)	Match rear yard setback requirements of adjacent base district
Rear Yard (adjacent to commercial or industrial)	0 feet <sup>(5)</sup>
Interior Side (adjacent to residential)	Match side yard setback requirements of adjacent base district
Interior Side (adjacent to commercial or industrial)	5 feet
<b>Distance Between Buildings</b>	
Primary Buildings	Minimum per Building Code requirements
Accessory Buildings	
<b>Building Height (maximum in feet) <sup>(6)</sup></b>	
Primary Buildings	75 feet maximum
Accessory Buildings	Not to exceed primary building height
<b>Floor Area Ratio (maximum ratio of building to lot square footage)</b>	
Floor Area Ratio	1.0 max
<b>Open Space Requirement (minimum percentage of open space per parcel or project)</b>	
Landscape Area (overall net area)	10% minimum
Open Space Requirements	Minimum of 150 square feet/unit See Section 17.36.020 (D) for additional requirements
Recreation Area/Facility	Required per Section 17.36.010 (E)
<b>Parking Requirement</b>	
Parking Spaces	See Table 17.64.050-1 NOTE: A parking study is required for all Mixed Use projects per Section 17.64.060(D)

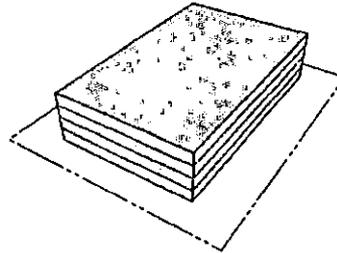
**Floor Area, Gross.** The sum of the gross horizontal areas of average floors of a building measured from the exterior face of exterior walls or from the centerline of a wall separating two buildings, but not including interior parking space, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than six feet (6').

**Floor Area Ratio.** The ratio between gross floor area of the primary structure(s) on a site and gross site area. It includes all occupiable floors of a building, making it a three-dimensional unit of measure. For example, a multi-story building with a total floor area of one hundred thousand (100,000) square feet on a fifty thousand (50,000) square foot lot will have a floor area ratio (FAR) of 2.0. The following are examples of how a building with a total floor area of 100,000 square feet can be configured on a 50,000 square foot lot to achieve a FAR of 2.0. See Figure 17.126.020-6 (Floor Area Ratio).

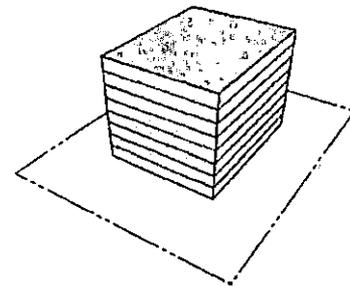
**17.126.020-6 FLOOR AREA RATIO**



- 100% Lot Coverage:
- 50,000 sf Floor Plate
  - 2 Stories



- 50% Lot Coverage:
- 25,000 sf Floor Plate
  - 4 Stories



- 25% Lot Coverage:
- 12,500 sf Floor Plate
  - 8 Stories

**Frontage.** The side of a lot abutting a street, the front lot line, except the side of a corner lot.

**Front Lot Line.** See Lot Line, Front.

**Front Wall.** See Wall, Front.

**Garbage.** Animal and vegetable waste resulting from the handling, storage, sale, preparation, cooking, and serving of foods.

**General Plan.** The General Plan of the City of Rancho Cucamonga, including all maps, reports, and related plan elements adopted by the City Council.

**Glare.** The effect produced by brightness sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

**Grade.**

- The lowest horizontal elevation of the finished surface of the ground, paving, or sidewalk at a point where height is to be measured.
- The degree of rise or descent of a sloping surface.

RESOLUTION NO.16-43

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RANCHO CUCAMONGA, CALIFORNIA, RECOMMENDING APPROVAL OF DEVELOPMENT CODE AMENDMENT DRC2016-00563, A SUPPLEMENT TO DEVELOPMENT CODE UPDATE DRC2010-00571 AMENDING TITLE 17 (DEVELOPMENT CODE) OF THE RANCHO CUCAMONGA MUNICIPAL CODE TO REVISE DEVELOPMENT STANDARDS FOR THE MIXED USE (MU) DISTRICT BY REMOVING MAXIMUM FLOOR AREA RATIO (FAR) REQUIREMENTS.

A. Recitals.

1. The City of Rancho Cucamonga filed an application for Development Code Amendment DRC2016-00563, as described in the title of this Resolution. Hereinafter in this Resolution, the subject Development Code Amendment is referred to as "the application."

2. On August 10, 2016, the Planning Commission of the City of Rancho Cucamonga conducted a noticed public hearing on the application and concluded said hearing on that date.

3. All legal prerequisites prior to the adoption of this Resolution have occurred.

B. Resolution.

NOW, THEREFORE, it is hereby found, determined, and resolved by the Planning Commission of the City of Rancho Cucamonga as follows:

1. This Commission hereby specifically finds that all of the facts set forth in the Recitals, Part A, of this Resolution are true and correct.

2. Based upon the substantial evidence presented to the Planning Commission during the above-referenced public hearing on August 10, 2016, including written and oral staff reports, together with public testimony, this Commission hereby specifically finds as follows:

a. The application applies to property located within the City; and

b. On October 21, 2015, the City Council adopted Development Code Amendment DRC2015-00421 to establish development standards for the Mixed Use (MU) District; and

c. Based on feedback received since the effective date of the adoption of Development Code Amendment DRC2015-00421, the City prepared an amendment to delete Floor Area Ratio (FAR) requirements from the Mixed Use (MU) District, which is included as Attachment 1 to this Resolution and is hereby incorporated by this reference as if set forth in full; and

d. Development Code Amendment DRC2016-00563 conforms to and does not conflict with the General Plan, including without limitation, the Land Use Element thereof, and will provide for development in a manner consistent with the General Plan; and

e. The proposed amendment will not have a significant impact on the environment since this amendment does not propose development. New development is required to be

reviewed by the Planning Department on a case-by-case basis. This will include a review of any potential impacts each individual project may have on the environment.

3. Based upon the substantial evidence presented to this Commission during the above-referenced public hearing and upon the specific findings of facts set forth in paragraphs 1 and 2 above, this Commission hereby finds and concludes as follows:

a. This amendment does not conflict with the Land Use Policies of the General Plan and will provide for development, within the district, in a manner consistent with the General Plan and with related development. This update complies with Policy LU-4.1 in the General Plan, in that the amendment promotes Mixed Use development; and

b. This amendment does promote the goals and objectives of the Development Code. The proposed Mixed Use standards, including, but not limited to, setbacks, building height, parking, landscaping and open space, will provide further direction for the development of Mixed Use sites. The deletion of the Floor Area Ratio (FAR) requirement removes an undue restriction on the development of Mixed Use sites; and

c. The proposed amendment will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity. This amendment does not propose development. New development is required to be reviewed by the Planning Department on a case-by-case basis and is required to not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity; and

d. The proposed amendment is in conformance with the General Plan, which encourages Mixed Use development within the City's designated Mixed Use areas. The amendment involves the modification of Mixed Use development standards, which will facilitate in the development of properties in the Mixed Use (MU) Districts.

4. Pursuant to the California Environmental Quality Act ("CEQA") and the City's local CEQA Guidelines, the City adopted a Negative Declaration on October 21, 2015, in connection with the City's approval of Development Review DRC2015-00421. Pursuant to CEQA Guidelines Section 15162, no subsequent or supplemental EIR or Negative Declaration is required in connection with subsequent discretionary approvals of the same project. No substantial changes are proposed to the project that indicate new or more severe impacts on the environment; no substantial changes have occurred in the circumstances under which the project was previously reviewed that indicates new or more severe environmental impacts; no new important information shows the project will have new or more severe impacts than previously considered; and no additional mitigation measures are now feasible to reduce impacts or different mitigation measures can be imposed to substantially reduce impacts. On October 21, 2015, the City adopted a Negative Declaration regarding a Development Code update for development standards for Mixed Use Districts. The proposed Code amendment is limited to the adoption of a text amendment to the Development Code to eliminate the maximum Floor Area Ratio requirement for Mixed Use Districts and does not involve a site-specific project, and the adoption of the amendment does not preclude the review by the City of any project that results from this amendment. Accordingly, there have been no substantial changes to the project or the circumstances surrounding the project which would create new or more severe impacts than those evaluated in the previous Negative Declaration. Staff further finds that the project will not have one or more significant effects not discussed in the previous Negative Declaration, not have

more severe effects than previously analyzed, and that additional or different mitigation measures are not required to reduce the impacts of the project to a level of less-than-significant.

Additionally, when an application for a site-specific project is submitted for review by the City, the City will conduct a project-and site-specific environmental assessment. At that time, based upon the specific calculated Floor Area Ratio of the project and any associated potential impacts, the applicant will be required to submit environmental studies that analyzes the impact(s) (if any) to, for example, air quality, biological resources, cultural resources, noise levels, and transportation/traffic caused by the site-specific project. On a case-by-case review of each project, the appropriate environmental document will be prepared to address project-specific impacts.

5. Based upon the findings and conclusions set forth in paragraphs 1, 2, 3, and 4 above, this Commission hereby recommends that the City Council approve Development Code Amendment DRC2016-00563 as indicated in Attachment 1.

6. The Secretary to this Commission shall certify to the adoption of this Resolution.

APPROVED AND ADOPTED THIS 10TH DAY OF AUGUST 2016.

PLANNING COMMISSION OF THE CITY OF RANCHO CUCAMONGA

BY: \_\_\_\_\_  
Francisco Oaxaca, Chairman

ATTEST: \_\_\_\_\_  
Candyce Burnett, Secretary

I, Candyce Burnett, Secretary of the Planning Commission for the City of Rancho Cucamonga, do hereby certify that the foregoing Resolution was duly and regularly introduced, passed, and adopted by the Planning Commission of the City of Rancho Cucamonga, at a regular meeting of the Planning Commission held on the 10th day of August 2016, by the following vote-to-wit:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

**Attachment 1**

**Text Amendments to the Development Code**

**Article III – Zoning Districts, Allowed Uses, and Development Standards**

Table 17.36.020-2 of the Development Code is hereby revised to read as follows:

**TABLE 17.36.020-2 DEVELOPMENT STANDARDS FOR MIXED USE ZONING DISTRICTS**

<b>Development Standard</b>	<b>MU</b>
Site/Lot Area (minimum) <sup>(1)</sup>	n/a
Lot Width/Depth (minimum)	n/a
<b>Allowed Density (dwelling units per acre)</b>	
Minimum Density	n/a
Maximum Density	50 units/acre
Land Use Mix <sup>(2)</sup>	Project shall incorporate a minimum of two of the following types of land uses: Commercial, Office, Institutional, Residential, Live/Work
<b>Setbacks <sup>(3)(4)</sup></b>	
Street Yard (Major/Special Boulevard)	50% - 75% reduction of streetscape requirements <sup>(7)</sup>
Street Yard (Secondary/Collector)	50% - 75% reduction of streetscape requirements <sup>(7)</sup>
Street Yard (Local Streets)	75% - 100% reduction of streetscape requirements <sup>(7)</sup>
Rear Yard (adjacent to residential)	Match rear yard setback requirements of adjacent base district
Rear Yard (adjacent to commercial or industrial)	0 feet <sup>(5)</sup>
Interior Side (adjacent to residential)	Match side yard setback requirements of adjacent base district
Interior Side (adjacent to commercial or industrial)	5 feet
<b>Distance Between Buildings</b>	
Primary Buildings	Minimum per Building Code requirements
Accessory Buildings	
<b>Building Height (maximum in feet) <sup>(6)</sup></b>	
Primary Buildings	75 feet maximum
Accessory Buildings	Not to exceed primary building height
<b>Floor Area Ratio (maximum ratio of building to lot square footage)</b>	
<b>Floor Area Ratio</b>	<b>1.0 max</b>
<b>Open Space Requirement (minimum percentage of open space per parcel or project)</b>	
Landscape Area (overall net area)	10% minimum
Open Space Requirements	Minimum of 150 square feet/unit See Section 17.36.020 (D) for additional requirements
Recreation Area/Facility	Required per Section 17.36.010 (E)
<b>Parking Requirement</b>	
Parking Spaces	See Table 17.64.050-1 NOTE: A parking study is required for all Mixed Use projects per Section 17.64.060(D)

*Table Notes:*

*(1) On existing lots of record, parcels less than three (3) acres or less than the required minimum frontage may only be developed*

- at the lowest end of the permitted density range.*
- (2) Lot sizes less than one-half (½) acre are not subject to land use mix requirement.*
  - (3) Setbacks are measured between the structure and curb face in front yards and corner side yards. Setbacks are measured between the structure and property line in rear yards and interior side yards.*
  - (4) Shall apply to buildings, parking and landscaping.*
  - (5) Must meet minimum Building Codes.*
  - (6) All buildings within one-hundred (100) feet of LM, L, or VL Districts shall not exceed twenty five feet (25'); however, there may be areas where the maximum building height may be required to be less than the cited maximum, and shall be determined on a case by case basis.*
  - (7) For mixed use development of any type see the streetscape setbacks in Table 17.36.010-3 that apply to Attached Single-Family Residential and Multi-Family Residential.*