

REPORT TO CITY COUNCIL

DATE: JUNE 24, 2009

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER *gr*

BY: MIKE KAMINO, DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT *JH for MK*

SUBJECT: CONDUCT A PUBLIC HEARING ON THE INTRODUCTION OF AN ORDINANCE AND ADOPTION OF VARIOUS RESOLUTIONS ON A REQUEST FOR THE CITY COUNCIL TO APPROVE A GENERAL PLAN AMENDMENT (CASE NO. 07-GPA-001) TO CHANGE THE LAND USE DESIGNATION OF APPROXIMATELY 1.82 ACRES OF THE PROPERTY FROM BUSINESS PARK-MANUFACTURING (BP-M) TO COMMERCIAL-RETAIL/ SERVICE (CG); A ZONE CHANGE (CASE NO. 07-ZC-001) TO CHANGE THE ZONING DESIGNATION OF APPROXIMATELY 1.82 ACRES OF THE PROPERTY FROM BUSINESS PARK-MANUFACTURING-FREEWAY CORRIDOR OVERLAY (BP-M-FC) TO COMMERCIAL RETAIL SERVICE-FREEWAY CORRIDOR OVERLAY (CRS-FC); A CONDITIONAL USE PERMIT (CASE NO. 07-CUP-010) TO CONSTRUCT A 22,617 SQUARE FOOT RETAIL CENTER; A SIGN PERMIT (CASE NO. 07-SP-036) FOR THE CENTER'S SIGN PROGRAM; A VARIANCE (CASE NOS. 08-VAR-006(A) AND 08-VAR-006(B)) FROM ZONING ORDINANCE SECTION 9606.2.E. TO CONSTRUCT A 17-FOOT HIGH RETAINING WALL INSTEAD OF A MAXIMUM 6-FOOT HIGH WALL, AND FROM SECTION 9655 TO ADD SECONDARY SIGNS WITH A SQUARE FOOTAGE IN EXCESS OF 10 SQUARE FEET; A VESTING TENTATIVE PARCEL MAP (NO. 69426) TO RECONFIGURE TWO PARCEL BOUNDARIES; AND THE ADOPTION OF A MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING PROGRAM (AGOURA BUSINESS CENTER WEST, APPLICANT)

The purpose of this item is for the City Council to conduct a public hearing on a request for a General Plan Amendment and Zone Change. The request for entitlements (Conditional Use Permit, Variance, Sign Permit, and Vesting Tentative Parcel Map) connected with the General Plan Amendment and Zone Change are also included as reference in the public hearing as the project cannot be built without the General Plan Amendment and Zone Change.

As background, on May 21, 2009, the Planning Commission reviewed a request from Agoura Business Center West to build a new, 22,617 square foot retail building on two vacant parcels located at the northwest corner of Derry Avenue and Canwood Street. On a 3-0 vote (Vice Chair

Zacuto and Commissioner Buckley Weber were absent), the Planning Commission recommended approval of the applications, including the General Plan Amendment and Zone Change, as well as a Conditional Use Permit, a Vesting Tentative Parcel Map for reconfiguration of two parcel boundaries, and a Variance for a 17-foot high retaining wall. Subsequently, on June 4, 2009, on a 4-0 vote (Vice Chair Zacuto abstained), the Planning Commission recommended approval of a Sign Permit and Sign Variance for the proposed retail center's sign program. A copy of the Planning Commission meeting minutes and staff reports is attached. The Council is primarily being asked to approve a General Plan Amendment and a Zone Change and adopt an Ordinance to adjust the boundaries of two parcels and the zoning boundaries accordingly so that the General Plan Land Use Map and the Zoning Map are consistent. The project could not be built unless these two legislative land use changes are approved.

Regarding the General Plan and Zone Change, the northerly parcel was pre-graded when the industrial park to the north, on Derry Avenue, was developed. The southerly parcel is a remnant lot that was reduced in size when Canwood Street was extended to the east. The two lots have separate land use designations; with the northerly parcel zoned Business Park-Manufacturing (BP-M) and the southerly parcel zoned Commercial Retail Service (CRS). The applicant is requesting the entire vacant, 2.01-acre site be within the CRS zone and CG (Commercial-Retail/Service) General Plan Land Use designation. The Freeway Corridor Overlay (FC) zone would continue to be applied to the site.

The Planning Commission found the CRS designation to be appropriate for the site since properties to the east and south are also in the CRS zone. In addition, this corner lot with exposure on Canwood Street was found to be more conducive for retail development than industrial development, but would serve as a transition between the two land uses. Should the change of land use for the project be approved, the loss of industrial-zoned space would be negligible and would minimally affect the City's total industrial land use base. Over time, this segment of Canwood Street, east of Kanan Road, has developed into an area of specialty retail stores. A viable commercial development would generate sale tax revenue, while sustaining employment opportunities. Given the size of the proposed retail center, staff anticipates the tenant mix to be local serving.

As the City Council is aware, development entitlements are typically not reviewed by the City Council. However, in this particular case, because the development is contingent upon approval of the General Plan Amendment and Zone Change, the development entitlement requests associated with the project (Conditional Use Permit, Variance, Sign Permit, and Vesting Tentative Parcel Map) are included in this public hearing as reference. The Planning Commission carefully reviewed these entitlement requests at public hearings held on May 21, 2009, and June 4, 2009, and recommended their approval to the City Council. A description and analysis of each of these development requests are included in the attached Planning Commission staff reports, as well as the Planning Commission's resolutions recommending approval. The following is a summary of each.

First, regarding the Conditional Use Permit, the proposed retail building will require the existing pre-graded site to be further graded to create a consistent, lower development pad elevation, as currently there is an on-site pad level difference of approximately 17 feet. The proposed grading

will require 7,500 cubic yards of export soil from the site. The proposed finished pad elevation will be approximately 10 feet above Canwood Street and equal to the pad height of the Agoura Design Center to the east. Access to the site is to be provided by one driveway on Canwood Street and one driveway on Derry Avenue.

The architectural style of the building is intended to blend with the mix of architectural styles of the neighborhood, including tilt-up construction to the north, Mediterranean-style architecture to the south, and Craftsman-style architecture to the east. This building design includes a combination of stucco, stone veneer, and trellises within a building footprint that is stepped-back from the road to follow the angled lot line fronting Canwood Street. The Planning Commission found the building design, its proposed earthtone colors and clay tile roof, as well as the building's location at the front of the property to screen the parking lot, to be compatible with the City's Architectural Design Standards and Guidelines. The Planning Commission also found the project to meet or exceed the development standards of the CRS zone. The height of the building varies from 18 to 27 feet, which is below the maximum height of 35 feet. The project exceeds all minimum yard setback areas and provides a surplus of 6 parking spaces.

A traffic report revealed the project to generate 28 AM peak hour vehicle trips and 56 PM peak-hour vehicle trips. The increase in vehicle trips is not significant enough to require additional off-site improvements to the City's transportation system, but the applicant will be required to relocate all utilities in the street along the property frontage, re-stripe Derry Avenue to accommodate a left-turn pocket at Canwood Street, and re-stripe Canwood Street to accommodate left-turn pockets. The applicant will also be required to pay the City's Transportation Impact Fee (TIF).

Second, regarding the Variance for the wall, the site will require removal of the upper pad. The north end of the proposed parking lot, however, will still be 17 feet below the industrial park parking lot to the north. As such, a 17-foot high retaining wall is proposed along the north property line, behind the building, to retain the upper pad. The Zoning Ordinance limits the maximum height of a retaining wall to six feet, thus the applicant is requesting a Variance.

The Planning Commission supports the Variance request, finding the wall to be screened from Canwood Street by the building, and constructed as a soil-nail wall that will be patterned to resemble a rock formation. The alternative to constructing the soil-nail wall is to construct a series of terraced, six-foot high walls that would reduce the developable area of the project site.

Third, regarding the Sign Permit and associated Variance, the Planning Commission considered the applicant's Sign Program request to provide two directory monument signs and 13 back-lit/halo-lit signs on the building. Although the building would front on Canwood Street, the entrances to the tenant spaces are proposed along the north building elevation, facing the parking lot. Tenant signs are proposed on both the north and south building elevations. For purposes of applying size criteria to the signs, the Planning Commission was asked to determine the primary building frontage. In this instance, Canwood Street was considered to be the primary building frontage and the Planning Commission allowed the applicant to display signs facing the street that vary in size from 18-23.5 feet in size.

The north building elevation was determined to be the building's secondary frontage. Although the tenant entrances are proposed on the north side of the building, the Sign Ordinance limits the size of secondary signs to 10 square feet. However, Planning Commission supported the applicant's Variance request to display 18 square-foot signs on the north building elevation since the larger size would be more proportional with the size of the building and serve as the entry signs for customers of the center.

Finally, the Parcel Map is required to adjust/merge the property lines of the two lots. The applicant is requesting a Vesting Tentative Parcel Map for the project, which is allowed by the Subdivision Map Act and grants the developer the vested right to build the project per the Tentative Map and protects against possible future growth restrictions or other regulatory reversals, only after a building permit is issued and the developer has made a "substantial investment" in the project.

A Draft Mitigated Negative Declaration (MND) was prepared for this project. The MND concluded that, although potentially significant impacts to biology, cultural resources, and geology, may occur, these impacts would be reduced to a level of less than significant with incorporation of the mitigation measures outlined in the MND. The Draft MND was circulated for public review from March 30, 2009, to April 30, 2009. Comments received during that public review period were responded to, and the Final MND (with the Responses to Comments and Mitigation Monitoring Program) was prepared and presented to the Planning Commission on May 21, 2009. At the hearing, the Planning Commission recommended adoption of the MND.

RECOMMENDATION

Staff is forwarding the Planning Commission's recommendation to the City Council, which is to request that the City Council adopt Resolution Nos. 1539-1543, approving General Plan Amendment Case No. 07-GPA-001; Zone Change Case No. 07-ZC-001; Conditional Use Permit Case No. 07-CUP-010; Sign Permit Case No. 07-SP-037; Variance Case Nos. 08-VAR-006(A) and 08-VAR-006(B); and Vesting Tentative Parcel Map No. 69426, subject to conditions. The City Council is also requested to introduce, read by title only, and waive further reading of Ordinance No. 09-365, amending the Zoning Map and General Plan Map to adjust the property boundaries and match the zoning and general plan designations accordingly.

Attachments: Ordinance No. 09-365
Council Resolution Nos. 09-1539-1543 for the GPA, ZC, CUP, VAR, VTPM, SP with Conditions of Approval
Planning Commission Resolution Nos. 972, 973, 974, 975, 976 and Conditions of Approval approved on May 21, 2009
Planning Commission Draft Resolution and Conditions of Approval approved on June 4, 2009
May 21, 2009, Planning Commission Meeting Minutes
May 21, 2009, Planning Commission Meeting Staff Report
June 4, 2009, Planning Commission Meeting Staff Report (Sign and Variance)
Reduced Copies of Project Plans
Vicinity/Zoning Map

ORDINANCE NO. 09-365

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, APPROVING A ZONE CHANGE (CASE NO. 07-ZC-001)

THE CITY COUNCIL OF THE CITY OF AGOURA HILLS DOES ORDAIN AS FOLLOWS:

WHEREAS, an application for a recommendation of approval of a zone change was duly filed by Agoura Business Center, LLC, to rezone the properties shown on Exhibit "A". The property A.P.N. 2048-012-022 is currently zoned CRS-FC (Commercial Retail Service-Freeway Corridor Overlay), and the parcel A.P.N. 2048-012-027 is zoned BP-M-FC (Business Park-Manufacturing-Freeway Corridor). The request is to adjust the zoning boundary of Parcels 2048-012-022 and 2048-012-027 to match their respective new geographic boundaries.

WHEREAS, the City Planning Commission held a public hearing on the Mitigated Negative Declaration on May 21, 2009 in the City Council Chambers, at which public comments were received, and the Planning Commission made the following recommendations to City Council: recommend approval of the Mitigated Negative Declaration and adopt the Mitigation Monitoring and Reporting Program (MMRP).

WHEREAS, a duly noticed public hearing was held on June 24, 2009 at 7:00 p.m. in the City Hall Council Chambers, 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place and purpose of the aforesaid hearing was duly given.

WHEREAS, evidence, both written and oral, was duly presented to and considered by the City Council of the City of Agoura Hills at the aforesaid public hearing.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Agoura Hills hereby finds, per Section 9672 of the City of Agoura Hills Zoning Ordinance that:

1. The proposed Zone Change is necessary to carry out the City's desires to develop the subject area as a retail services-oriented neighborhood given its proximity to the freeway.
2. The proposed Zone Change will be a transitional use between the industrial park and the freeway corridor.
3. The proposed Zone Change is necessary to implement the General Plan.

Based upon the aforementioned findings, the City Council hereby approves the request for an amendment to the Zoning Map.

PASSED, APPROVED, AND ADOPTED this 24th day of June 2009, by the following
vote to wit:

AYES: ()
NOES: ()
ABSENT: ()
ABSTAIN: ()

Denis Weber, Mayor

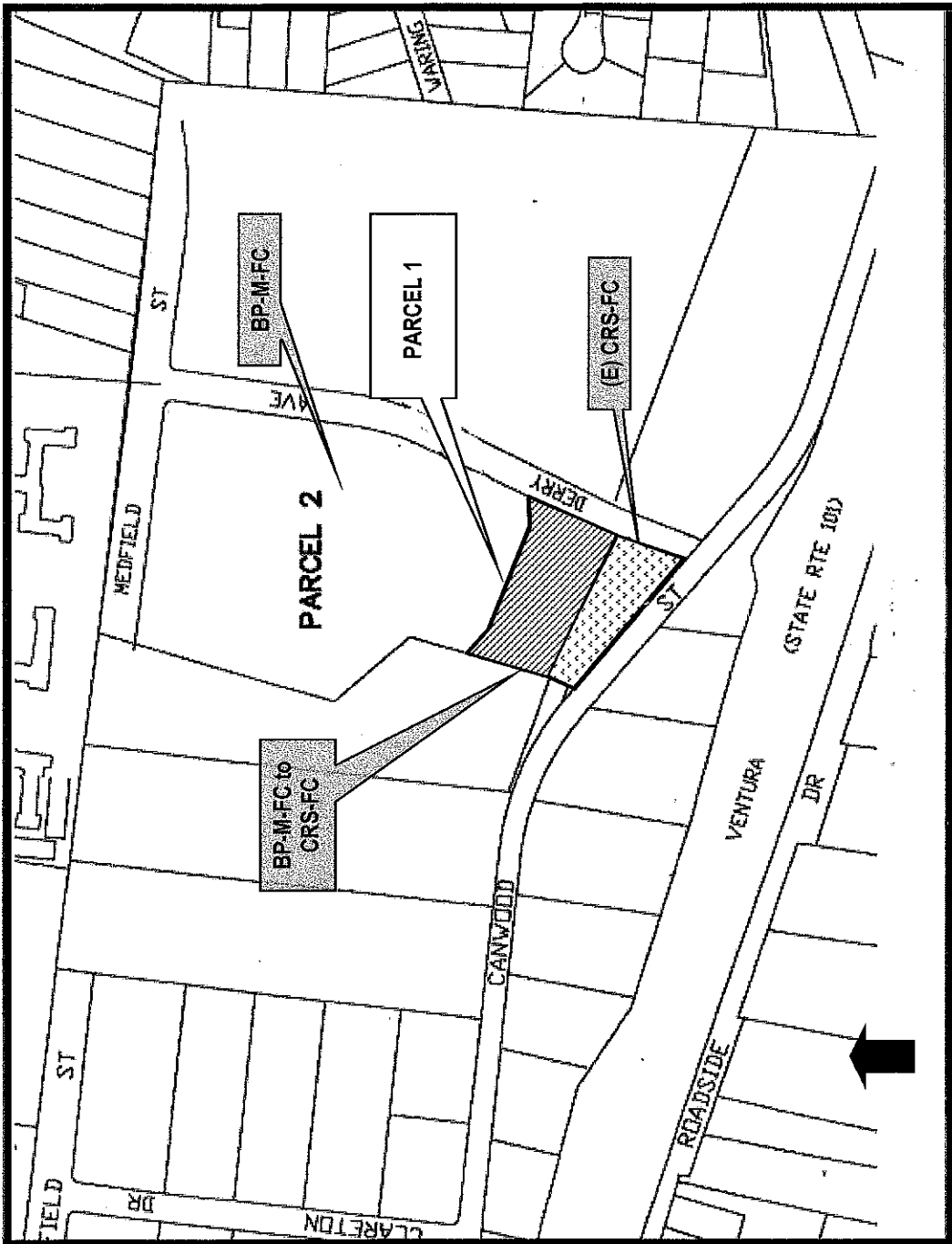
ATTEST:

Kimberly M. Rodrigues, City Clerk

APPROVED AS TO FORM:

Craig A. Steele, City Attorney

Exhibit A
ZONE CHANGE—CASE NO. 07-ZC-001



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RESOLUTION NO. 09-1538

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, APPROVING GENERAL PLAN AMENDMENT (CASE NO. 07-GPA-001)

Section I. An application was duly filed by Agoura Business Center, LLC, with respect to the real property located at 5301 Derry Avenue (Assessor's Parcel Nos. 2048-012-022 & 02) requesting the approval of a General Plan Amendment Case No. 07-GPA-001 to change the land use designation from BP-M (Business Park-Manufacturing) to CG (Commercial Retail/Service). A public hearing was duly held by the Planning Commission on May 21, 2009, at 6:30 p.m. in the City Hall Council Chambers, City Hall, 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place, and purpose of the aforesaid hearing was duly given. Evidence, both written and oral, was duly presented to, and considered by, the Planning Commission at the aforesaid public hearing on May 21, 2009. The Planning Commission recommended the City Council approve General Plan Amendment Case No. 07-GPA-001 on a 3-0 vote (Commissioners O'Meara and Buckley Weber absent), per Resolution No. 975.

Section II. A public hearing was duly held by the City Council on June 24, 2009, at 6:30 p.m. in the City Hall Council Chambers, City Hall, 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place, and purpose of the aforesaid hearing was duly given. Evidence, both written and oral, was duly presented to, and considered by, the City Council at the aforesaid public hearing on June 24, 2009.

Section III. Evidence, both written and oral, was duly presented to, and considered by, the City Council at the aforesaid public hearing.

Section IV. Pursuant to section 9821 of the Agoura Hills Zoning Ordinance, the City Council finds that:

A. The proposed amendment is needed to ensure consistency between the Zone Change and the General Plan. All policies of the General Plan have been reviewed by Planning and Community Development staff to ensure that the proposed amendments maintain the compatibility and internal consistency of the General Plan.

B. The proposed General Plan Amendment is consistent with the goals of the current General Plan, in that freeway visibility gives the site commercial potential and will contribute to the City's economic base through the generation of sales tax revenues and development fees. The proposed uses will contribute to diversifying the employment base and provide services to the community and visitors.

C. The proposed General Plan Amendment will allow for an increased compatibility of uses with adjacent parcels and will continue promoting the highest and best use of highly visible parcels located along the freeway corridor.

Section V. In accordance with the California Environmental Quality Act, the City has provided public notice of the intent to adopt a Mitigated Negative Declaration for this project. The Mitigated

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Negative Declaration was the appropriate document based on the fact that the project will not cause significant impacts to citywide traffic, aesthetics and sensitive receptors, including the closest residential neighborhoods. Based upon the initial study, public comments, and the record before the Planning Commission, the Planning Commission finds that the Mitigated Negative Declaration identifies potentially significant environmental effects for which feasible mitigation measures have been identified which will avoid, or substantially lessen, such effects. The Planning Commission has reviewed the information contained in the Mitigated Negative Declaration in considering the application and finds that the Mitigated Negative Declaration was prepared pursuant to the California Environmental Quality Act. The Planning Commission hereby recommends the City Council adopt the Mitigated Negative Declaration and the attached Mitigation Monitoring Program.

Section VI. Based on the aforementioned findings, the City Council hereby approves General Plan Amendment Case No. 07-GPA-001, with respect to the property described in Section I hereof as shown on Exhibit A.

PASSED, APPROVED, and ADOPTED this 24th day of June, 2009 by the following vote to wit:

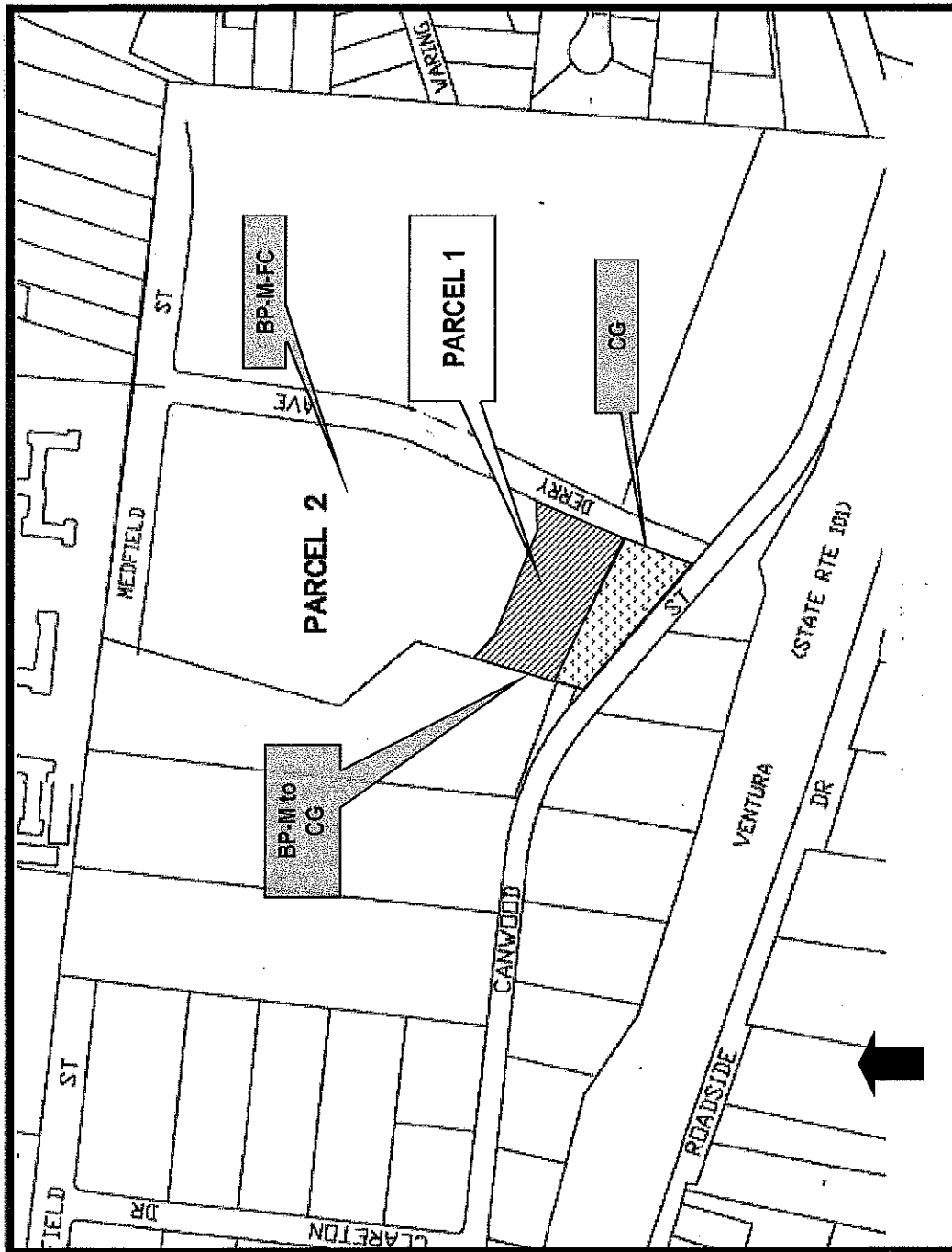
AYES: (0)
NOES: (0)
ABSTAIN: (0)
ABSENT: (0)

Denis Weber, Mayor

ATTEST:

Kimberly M. Rodrigues, City Clerk

Exhibit A
GENERAL PLAN AMENDEMENT
—CASE NO. 07-GPA-001



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RESOLUTION NO. 09-1539

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, APPROVING ZONE CHANGE (CASE NO. 07-ZC-001)

Section I. An application was duly filed by Agoura Business Center, LLC, with respect to the real property located at 5301 Derry Avenue (Assessor's Parcel Nos. 2048-012-022 & 02) requesting the approval of a Zone Change Case No. 07-ZC-001 to change the zone from BP-M-FC (Business Park-Manufacturing-Freeway Corridor Overlay) to CRS (Commercial Retail Service). A Public Hearing was duly held by the Planning Commission on May 21, 2009, at 6:30 p.m. in the City Hall Council Chambers, City Hall, 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place, and purpose of the aforesaid hearing was duly given. Evidence, both written and oral, was duly presented to and considered by the Planning Commission at the aforesaid Public Hearing on May 21, 2009. The Planning Commission recommended the City Council approve Zone Change Case No. 07-ZC-001 on a 3-0 vote (Commissioners O'Meara and Buckley Weber absent), per Resolution No. 976.

Section II. A public hearing was duly held by the City Council on June 24, 2009, at 6:30 p.m. in the City Hall Council Chambers, City Hall, 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place, and purpose of the aforesaid hearing was duly given. Evidence, both written and oral, was duly presented to, and considered by, the City Council at the aforesaid public hearing on June 24, 2009.

Section III. Evidence, both written and oral, was duly presented to, and considered by, the City Council at the aforesaid public hearing.

Section IV. Pursuant to Section 9672 of the Agoura Hills Zoning Ordinance, the City Council finds that:

A. The proposed Zone Change is necessary to carry out the City's desire to develop the project as a retail services-oriented neighborhood, given its proximity to the freeway.

B. The proposed Zone Change will be consistent with the proposed General Plan designation of the subject property, in that both the Zoning and the General Plan will provide for a Commercial Retail Service use.

C. The proposed Zone Change to CRS will potential broaden the City's economic base in that the Zone Change will provide for a wider range of commercial land uses.

D. The project provides employment, maintains a professional identity, and is incorporated into its surrounding and has exceeded the minimum development standards established by the Zoning Ordinance.

Section V. In accordance with the California Environmental Quality Act, the City has provided public notice of the intent to adopt a Mitigated Negative Declaration for this project. The Mitigated Negative Declaration was the appropriate document based on the fact that the project will not cause

significant impacts to citywide traffic, aesthetics and sensitive receptors including the closest residential neighborhoods. Based upon the initial study, public comments and the record before the Planning Commission, the Planning Commission finds that the Mitigated Negative Declaration identifies potentially significant environmental effects for which feasible mitigation measures have been identified which will avoid or substantially lessen such effects. The Planning Commission has reviewed the information contained in the Mitigated Negative Declaration in considering the application and finds that the Mitigated Negative Declaration was prepared pursuant to the California Environmental Quality Act. The Planning Commission hereby recommends the City Council adopt the Mitigated Negative Declaration and the attached Mitigation Monitoring Program.

Section VI. Based on the aforementioned findings, the City Council hereby approves Zone Change Case No. 07-ZC-001, with respect to the property described in Section I, hereof as shown on Exhibit A.

PASSED, APPROVED, and ADOPTED this 24th day of June, 2009 by the following vote to wit:

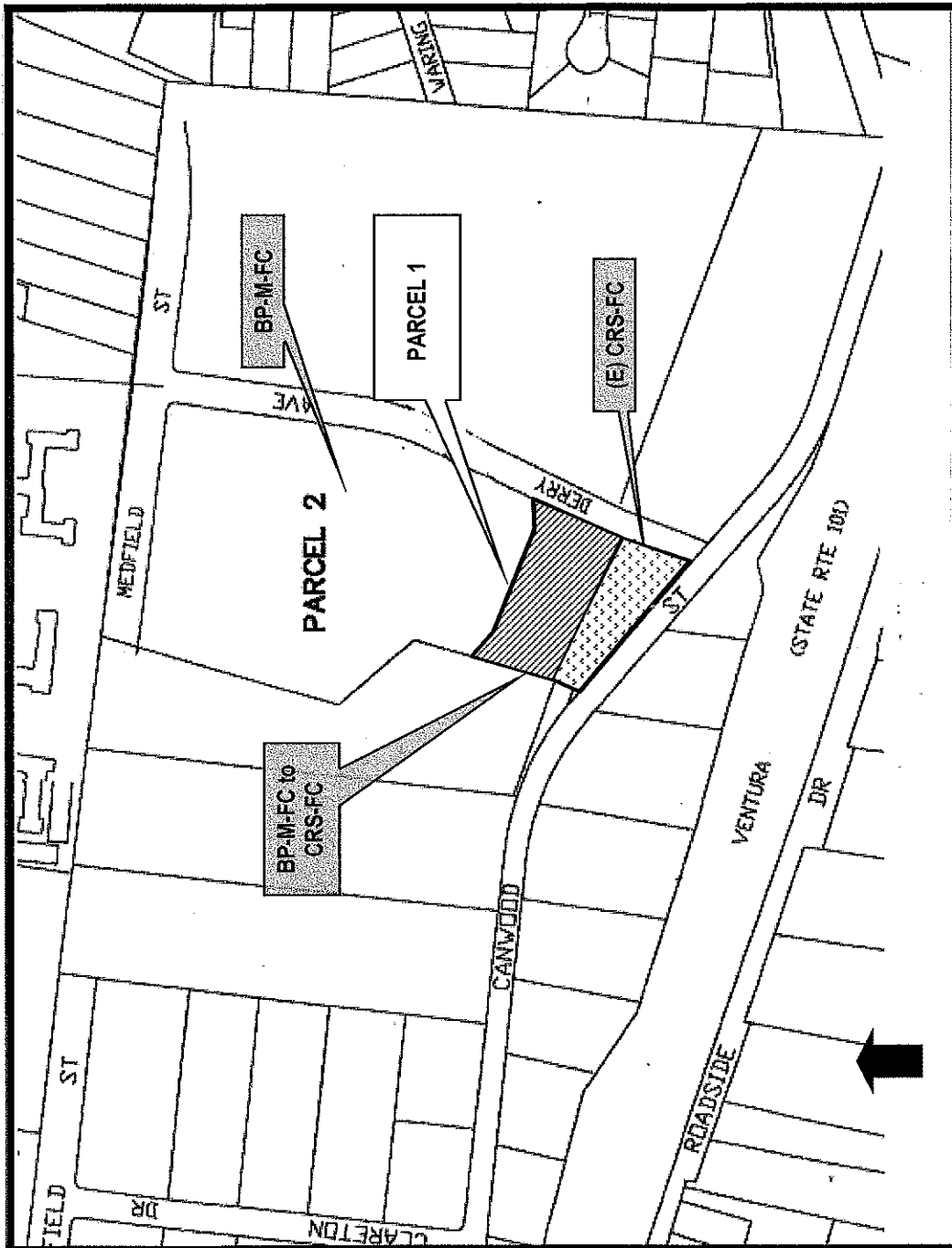
AYES: (0)
NOES: (0)
ABSTAIN: (0)
ABSENT: (0)

Denis Weber, Mayor

ATTEST:

Kimberly M. Rodrigues, City Clerk

Exhibit A
ZONE CHANGE—CASE NO. 07-ZC-001



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RESOLUTION NO. 09-1540

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT CASE NO. 07-CUP-010 AND ADOPTING THE PROJECT MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING PROGRAM

Section I. An application was duly filed by Agoura Business Center, LLC, with respect to the real property located at 5301 Derry Avenue (Assessor's Parcel Nos. 2048-012-022 & 02) requesting the approval of a Conditional Use Permit to build a 22,617 square-foot retail building; and a request to adopt a Mitigated Negative Declaration and a Mitigation Monitoring Program. A public hearing was duly held by the Planning Commission on May 21, 2009, at 6:30 p.m. in the City Hall Council Chambers, City Hall, 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place, and purpose of the aforesaid hearing was duly given. Evidence, both written and oral, was duly presented to and considered by the Planning Commission at the aforesaid public hearing on May 21, 2009. The Planning Commission recommended the City Council approve Conditional Use Permit Case No. 07-CUP-010 and adopt the Mitigated Negative Declaration and Mitigation Monitoring Program on a 3-0 vote (Commissioners O'Meara and Buckley Weber absent), per Resolution No. 972.

Section II. A public hearing was duly held by the City Council on June 24, 2009, at 6:30 p.m. in the City Hall Council Chambers, City Hall, 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place, and purpose of the aforesaid hearing was duly given. Evidence, both written and oral, was duly presented to and considered by the City Council at the aforesaid public hearing on June 24, 2009.

Section III. Evidence, both written and oral, was duly presented to, and considered by, the City Council at the aforesaid public hearing.

Section IV. Pursuant to Sections 9673.2.E. of the Agoura Hills Zoning Ordinance, the City Council finds that:

A. The proposed use, as conditioned, is consistent with the objectives and provisions of the Zoning Ordinance and the purposes of the land use district in which the use is located, and will comply with each of the applicable provisions of the Zoning Ordinance. The property designation allows for development of retail buildings, and the proposal meets the development standards for the CRS-FC zone relative to lot coverage, setbacks from property lines and building height.

B. The proposed use, as conditioned, and the manner in which it will be operated or maintained, will not be detrimental to the public health, safety, or general welfare. The buildings will be constructed to comply with the most recent Building Code requirements. Building occupants are restricted to operating indoor only and are subject to the Zoning Ordinance standards with respect to noise, light, and operation. The access in and out of the site is conditioned to maximize safety in the right-of-way. The placement and design of the building would preserve the

light, air, privacy to the adjacent parcels, and the equipment and refuse is located a considerable distance from the public.

C. The proposed use, as conditioned, will not conflict with the character and design of the buildings and surrounding area and is compatible with the surrounding properties. Because of its placement, the building is clearly separated from the industrial buildings in the rear which take access on Derry Road. The building was designed to be identifiable as a retail building as those along Canwood Street. The design of the proposed development would provide a desirable environment of its occupants, as well as for its neighbors. The retail building is aesthetically of good composition, materials, textures, and colors. The building design is compatible with the variety of architectural styles in the area. The project design complies with the desired image of freeway corridor development.

D. As conditioned, the design and location of the proposed development and its relationship to existing or proposed developments and traffic in the vicinity thereof is such that it will not impair the desirability of investment or occupation in the neighborhood and that it will not unreasonably interfere with the use and enjoyment of existing or proposed developments in the vicinity thereof and that will not create traffic hazards or congestion. Access to the site is via two driveways located a safe distance from the intersection which would increase safety for egress/ingress traffic.

E. The proposed use, as conditioned, and the condition in which it will be operated or maintained, will not be detrimental to the public health, safety, or general welfare. All uses permitted in the CRS-FC zones are indoor uses with a wide variety of business types.

F. The distance from other similar and like uses is sufficient to maintain the diversity of the community, because the proposed retail building is adjacent to industrial buildings. The site is now zoned for retail uses, as are the parcels across the streets.

G. The proposed use, as conditioned, is consistent with the goals, objectives and policies of the General Plan and the design of the proposed development is in keeping with the character of the surrounding neighborhood and is not detrimental to the harmonious, orderly, and attractive development contemplated by the Zoning Ordinance and General Plan. The proposed office building is a permitted use as prescribed in the General Plan Land Use Element. The project provides employment, maintains a professional identity, and is incorporated into its surroundings and has exceeded the minimum development standards established by the Zoning Ordinance.

Section V. In accordance with the California Environmental Quality Act, the City has provided public notice of the intent to adopt a Mitigated Negative Declaration for this project. The Mitigated Negative Declaration was the appropriate document based on the fact that the project will not cause significant impacts to citywide traffic, aesthetics and sensitive receptors including the closest residential neighborhoods. Based upon the initial study, public comments and the record before the Planning Commission, the Planning Commission finds that the Mitigated Negative Declaration identifies potentially significant environmental effects for which feasible mitigation measures have been identified which will avoid or substantially lessen such effects. The Planning Commission has reviewed the information contained in the Mitigated Negative Declaration in

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considering the application and finds that the Mitigated Negative Declaration was prepared pursuant to the California Environmental Quality Act. The Planning Commission hereby recommends the City Council adopt the Mitigated Negative Declaration and the attached Mitigation Monitoring Program.

Section VI. Based on the aforementioned findings, the City Council hereby approves, subject to the attached conditions, with respect to the property described in Section I hereof.

PASSED, APPROVED, and ADOPTED this 24th day of June, 2009 by the following vote to wit:

AYES: (0)
NOES: (0)
ABSTAIN: (0)
ABSENT: (0)

Denis Weber, Mayor

ATTEST:

Kimberly M. Rodrigues, City Clerk

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**CONDITIONS OF APPROVAL
CASE NO. 07-CUP-010**

PLANNING CONDITIONS

Entitlement Requirements

1. This decision, or any aspect of this decision, can be appealed to the City Council within fifteen (15) days from the date of Planning Commission action, subject to filing the appropriate forms and related fees.
2. This action shall not be effective for any purpose until the applicant has agreed in writing that the applicant is aware of, and accepts all Conditions of these Permits with the Department of Planning and Community Development.
3. Except as modified herein, the approval of this action is limited to, and requires complete conformation to, the approved labeled exhibits: Site Plan; Elevation Plans; Floor Plans, Roof Plan, Landscape Plan and Grading Plan.
4. All exterior materials used in this project shall be in conformance with the materials samples submitted as a part of this application.
5. It is hereby declared to be the intent that if any provision of this Permit is held or declared to be invalid, the Permit shall be void and the privileges granted hereunder shall lapse.
6. It is further declared and made a Condition of this action that if any Condition herein is violated, the Permit shall be suspended and the privileges granted hereunder shall lapse, provided that the applicant has been given written notice to cease such violation and has filed to do so for a period of thirty (30) days.
7. All requirements of the Zoning Ordinance and of the specific zoning designation of the subject property must be complied with unless set forth in the Permit or on the approved Site Plan.
8. No occupancy shall be granted for any building until all Conditions of Approval have been complied with as determined by the Director of Planning and Community Development.
9. Unless this permit is used within two (2) years from the date of City approval, Case No. 07-CUP-010 will expire. A written request for a one (1) year extension may be considered prior to the expiration date.
10. The applicant shall pay to the City the applicable General Plan Update Recovery Fee prior to the issuance of a Building Permit. The current fee is \$1.41/\$1,000 of building valuation. Actual fees will be determined at the time of building permit issuance.

11. The applicant shall comply with all applicable Public Health Statutes, Ordinances, and Regulations related to the disposal of sewage.
12. The Forester and Fire Warden shall be consulted to ascertain the required fire flows and fire hydrants to accommodate the proposed development.
13. The applicant shall comply with the school impact fee requirements of the Las Virgenes Unified School District that is currently established at \$0.47 per square-foot of new floor area.
14. Prior to the issuance of a Building Permit, the applicant shall pay the Fire District Development Fee, at the rate in effect at the time of Building Permit issuance. The current rate is \$ 0.9296 per square-foot of new floor area.
15. Prior to issuance of a Building Permit, the applicant shall submit a letter to the Director of Planning and Community Development agreeing to suspend construction in the vicinity of a cultural resource encountered during development of the site, and leave the resource in place until the City's Environmental Planner is notified and a qualified archaeologist can examine them and determine appropriate mitigation measures. All fees and expenses for the retaining of a qualified archaeologist shall be paid by the applicant and shall not be at City expense. The applicant shall agree to comply with mitigation measures recommended by the archaeologist and approved by the Director of Planning and Community Development.
16. The approved grading plan and construction plans, resolution, conditions of approval, the mitigated negative declaration and the mitigation monitoring and reporting program and a color and material board shall be on site at all time during the construction of the project.
17. All outstanding fees owed to the City, if any, shall be paid by the applicant within thirty (30) days from the date of this approval.

Construction Requirements

18. Prior to the starting construction, the site shall be temporarily fenced and screened on all sides for the duration of the construction project. The height of the fence shall be six (6) feet and fence material shall be overlaid on the exterior with a dark, opaque vinyl screen, or other equivalent fencing and screening material as approved by the Director of Planning and Community Development. Temporary construction fencing and gates shall be maintained in good order at all times.
19. All proposed retaining walls shall consist of materials subject to review and approval by the Director of Planning and Community Development.
20. Vehicle routes and access to the property for construction purposes shall be subject to review and approval by the City Engineer.

21. No construction work or repair work shall be performed between the hours of 7:00 p.m. to 7:00 a.m., or any Sunday or holiday.
22. The applicant and delegated contractors shall participate with City staff in a pre-construction meeting prior to issuance of a grading permit. Any change in the construction team shall be reported to the Building and Safety Department in a timely manner.
23. A detailed Lighting and Photometric Plan shall be submitted for review and approval by the Director of Planning and Community Development, prior to issuance of a Building Permit.
24. A copy of all communications between the City and the applicant pertaining to the approved plans shall be kept on-site at all times.
25. It is the responsibility of the applicant and/or his or her representatives to report to the City any changes related to any aspects of the construction prior to undertaking the changes.
26. Intermittent inspections shall be scheduled by the applicant as required by the Building and Safety Department and coordinated with the Engineering and Planning Departments.

SOLID WASTE MANAGEMENT REQUIREMENTS

27. To ensure that solid waste generated by the project is diverted from the landfill and reduced, reused, or recycled, the applicant shall submit a "Waste Reduction & Recycling Plan" to the City for review and approval. The plan shall provide for at least 50% of the waste generated on the project to be diverted from the landfill. Plans shall include the entire project area, even if tenants are pursuing or will pursue independent programs. The plan shall be submitted to and approved by the Department of Planning and Community Development prior to issuance of a building permit. The plan shall include the following information: material type to be recycled, reused, salvaged, or disposed; estimated quantities to be processed, management method used, and destination of material, including the hauler name and facility location. The City's Waste Reduction & Recycling Plan form or a similar format shall be used.
28. The project shall comply with the plan and provide for the collection, recycling, and/or reuse of materials (i.e. concrete, wood, metal, cardboard, green waste, etc.) and document results during demolition and/or construction of the proposed project. After completion of demolition and/or construction, the applicant shall complete a Waste Reduction & Recycling Summary Report and provide legible copies of weight tickets, receipts, invoices or letters of verification for materials sent to disposal or reuse/recycling facilities. For other discarded or salvaged materials, the applicant shall provide documentation, on the disposal facility's letterhead, identifying where the materials were taken, type of materials, and tons or cubic yards disposed, recycled or

reused and the project generating the discarded materials. The Waste Reduction & Recycling Summary Report shall be submitted and approved prior to issuance of a certificate of occupancy, or final inspection if issuance of a certificate of occupancy is not applicable.

29. The applicant shall arrange for materials collection during construction, demolition, and occupancy with a City permitted hauling company, or shall arrange for self-hauling to an authorized facility.

ENVIRONMENT REQUIREMENTS

30. The applicant shall comply with each mitigation measure listed in the Final Mitigated Negative Declaration and outlined in the Mitigation Monitoring Program for the project approved on May 21st, 2009. The Mitigation Monitoring Program is attached to these Conditions of Approval.
31. A list of all project conditions of approval and mitigation measures found in the Mitigated Negative Declaration shall be included, along with a signed copy of the Resolution, on the construction plans submitted prior to issuance of a Grading or Building Permit.
32. Air quality measures (Rule 403) shall be copied onto the cover sheets of the Grading Plans.

LANDSCAPING/IRRIGATION

Landscaping

33. The landscape plan plans shall substantially conform to the plan prepared by SqLA Landscape Architects, dated March 05, 2009.
34. One copy of each of the following approved plans shall be submitted with the initial landscape plan check:
 - Site Plan
 - Elevations
 - Grading Plan
 - Conditions Of Approval
35. Prior to the approval of building permits, the applicant shall submit three (3) sets of plans meeting the following requirements:
 - a. A California-licensed landscape architect shall prepare, stamp and sign the plans.
 - b. All plans shall be legible and clearly drawn.

- c. Plans shall not exceed thirty inches (30") by forty-two inches (42") in size. Plans shall be a minimum of twenty-two inches (22") by thirty-six inches (36") in size.
- d. A true north arrow and plan scale shall be noted. The scale shall be no smaller than one inch equals twenty feet (1"=20'), unless approved by the City Landscape Consultant. Plans should show the current date.
- e. A title block shall be provided, indicating the names, addresses and telephone numbers of the applicant and landscape architect.
- f. The project identification number shall be shown on each sheet.
- g. The plans shall accurately and clearly depict the following existing and proposed features:
 - Landscape trees, shrubs, ground cover and any other landscaping materials
 - Property lines
 - Streets, street names, right-of-ways, easements, driveways, walkways, bicycle paths, and any other paved areas
 - Buildings and structures
 - General contour lines
 - Grading areas, including tops and toes of slopes
 - Utilities, including street lighting and fire hydrants, if applicable
 - Natural features, including watercourses, rock outcroppings
- h. The Planting Plan shall indicate the botanical name, common name, and size of each plant.
- i. Plant symbols shall depict the size of the plants at maturity, and be drawn to scale. Spacing of trees and shrubs shall be adjusted to allow for optimum growth of each species.
- j. Plant container sizes and/or spacing shall be provided. Minimum sizes shall be acceptable to the City Landscape Consultant and the Director.
- k. The landscape plans shall prominently display the following notes:

- All plant material shall conform to the most recent edition of ANSI Z60.1 - American Standard for Nursery Stock.
 - All trees shall also conform to the California Department of Forestry and Fire Protection "Standards for Purchasing Container-Grown Landscape Trees".
 - Prior to scheduling an inspection of the landscape installation with the City, the applicant's landscape architect shall certify in writing that the installation is in conformance with the approved landscape plans.
- l. The Irrigation Plan shall be provided separate from but utilizing the same format as the Planting Plan.
 - m. The irrigation design shall provide adequate coverage and sufficient water for the continued healthy growth of all proposed plantings with a minimum of waste and over spray on adjoining areas.
 - n. The Irrigation Plan shall be concise and accurate and shall include the manufacturer, model, size, demand, radius, and location of the following, as appropriate:
 - Design and static pressures
 - Point of connection
 - Backflow protection
 - Valves, piping, controllers, heads, quick couplers
 - Gallon requirements for each valve
 - o. Three (3) copies of details and specifications shall be provided, addressing but not limited to, planting, soil preparation, tree staking, guying, installation details, and post installation maintenance.
36. The landscape plan shall include at least two (2) twenty-four inch (24") box size oak trees.
 37. All landscaping shall be irrigated and maintained in perpetuity in accordance with the approved Landscape Plan.
 38. The landscape plan may not include any non-native plants considered invasive in the Santa Monica Mountains by the California Native Plant Society or the California Invasive Plant Council (Cal-IPC).

39. All plant material must be considered compatible with Sunset Zone 18. A native and naturalistic planting scheme is recommended to preserve and enhance the native environmental context in which the development will occur.
40. Landscape plans shall be submitted for review and approval by the City Planning and Community Development Department prior to issuance of a Grading Permit.
41. The landscape plan must be approved by the Fuel Modification Unit at the County of Los Angeles Fire Department.
42. The landscape design shall be naturalistic in style, emphasizing native oak trees per the design standards for the Freeway Corridor Overlay District. The applicant and his landscape architect shall work with the City Landscape Consultant to ensure this requirement is met.
43. Poor landscape practices such as topping, hedging and "lollipopping" shall not be permitted and may require that plant materials be replaced with like size materials at the discretion of the City landscape consultant.

ENGINEERING CONDITIONS

44. PRIOR TO FINAL MAP RECORDATION

- 1.01 Dedicate or reserve the following public utility easement(s) and emergency access easement(s):

Ten feet wide (minimum) easement along the southerly property line for maintenance of storm drain system. Variable width easement for installation and maintenance of proposed sewer line rerouting at the northwest corner of Derry Avenue and Canwood Street, spot locations of easement areas for the installation and maintenance of water, BFV and PIV.

- 1.02 Restrict vehicular access as follows: only to locations shown on the Vesting Tentative Parcel Map.
- 1.03 Vacate the following street or easement: Old Canwood Street Alignment.
- 1.04 Prepare a fully executed Subdivision Agreement (on City approved format and forms) with accompanying security as required, or complete all public improvements.
- 1.05 Provide a Monumentation bond (i.e. cash deposit) in an amount calculated by the Engineering Department or as specified in writing by the applicant's Registered Engineer or Licensed Land Surveyor of Record and approved by the City Engineer, whichever is greater.

- 1.06 Provide a preliminary title report not older than 30 days.

45. PRIOR TO PERMITTING (GRADING, BUILDING, ENCROACHMENT, ETC)

A. General

- 2.01 Prior to Building Permit issuance, record Parcel Map No. 69426 pursuant to the Subdivision Map Act and in accordance with City Code. Provide a duplicate photo mylar of the recorded map to the City Engineer.
- 2.02 The project will require a subdivision map to be processed, and this development plan shall only proceed to the Planning Commission concurrently with the required subdivision map.
- 2.03 All required plans and studies shall be prepared by a Registered Professional Engineer in the State of California, and submitted to the City Engineer for review and approval.
- 2.04 For all work within public right-of-way, the applicant shall obtain an Encroachment Permit. Prior to issuance of this permit, all public improvement plans, which include but are not limited to, street, water, sewer, storm drain, lighting, signing and striping, etc shall be reviewed and approved by the City Engineer. Water plans shall be designed to meet LVMWD standards and contain a signature block for the City Engineer. All associated fees and securities shall be based upon completed Engineering Cost Estimate forms, approved by the Engineering Department. Forms are available for download from the City's website at www.ci.agoura-hills.ca.us.
- 2.05 Applicant shall pay all applicable Transportation Impact Fees (TIF) to the Building and Safety Department. TIF fee shall be based on the approved rate for a commercial use, and not a residential use.
- 2.06 All existing street and property monuments within or abutting this project site shall be preserved consistent with AB1414. If during construction of onsite or offsite improvements monuments are damaged or destroyed, the applicant shall retain a licensed land surveyor or civil engineer to reset those monuments per City's Standards and file the necessary information with the County Recorder's office.
- 2.07 Detailed on-site utility information shall be shown on the grading plan, which includes, but is not limited to, backflow prevention devices, exact location of laterals water meter size and location, invert elevations and grades for all gravity lines. The grading plan will not be approved by

the Engineering Department until this detailed utility information is included on the plans.

- 2.08 Grading Plan shall show location(s) of all Oak trees within the vicinity of the site. Applicant shall adhere to all requirements pertaining to Oak trees as outlined in the City's Oak Tree Consultant's Conditions of Approval.
- 2.09 The applicant shall submit electronic files (i.e., CAD file, on disc) of project-related off-site improvement plans as deemed necessary by the City Engineer. These electronic files shall accompany original mylars of improvement plans to be approved/signed by the City Engineer. Improvement plans will not be approved by the City Engineer if not accompanied by CAD files.
- 2.10 Submit a soils/geology report to the project engineer for review and approval in accordance with Government Code, Section 66434.5 as required by the City Engineer. The report shall be reviewed and approved by the City Geotechnical/Geological Consultant.
- 2.11 Other Agency Permit/Approval: Prior to issuance of permits from the Engineering Department, this project is subject to a permit from the following agencies, if required:
 - Las Virgenes Municipal Water District
- 2.12 Building Permits shall not be issued until graded building pad(s) have been certified for compaction and elevation to the City's satisfaction. Contact Engineering Department @ 818.597.7322 for approved City certification forms.

B. Public Improvements

- 2.20 Design full public improvements in accordance with City Code, Specifications, approved specific plan, and/or approved Conditions of Approval for the area. Such public improvements may include, but not be limited to, the following:

Improvement Item	Canwood Street and Derry Avenue
AC Pavement	Replace all damages during construction Improve Canwood Street for T.I. = 9.0. Minimum and/or key cut along gutter edges and install 2" overlay on Canwood Street from westerly property line to northeast curb return at Derry Avenue-Canwood intersection and on Derry Avenue from the intersection to the connection point reclaimed water.

Improvement Item	Canwood Street and Derry Avenue
PCC Drive Approach	New – on Canwood Street and Derry Avenue
Sidewalk	New – Meandering walk along Canwood Street and affected sidewalk along Derry Avenue
ADA Access Ramp	New – in compliance with ADA regulations
Street Lights	New - As directed by the City Engineer
Sewer Service (See Section 2C)	Main
All water appurtenances are per LVMWD standards (See Section 2D)	Yes, per intended commercial use
Storm Drain (See Section 2E)	Drain line, catch basins and appropriate local depression and connectors.
Traffic Signing and Striping (See Section 2G)	New – with appropriate transitions to existing
Underground Overhead Utilities	Yes – in compliance with City Municipal Code.
Removal and replacement of	All re-aligned public utilities through lot
Other required improvements	Reclaimed water main in Canwood Street and portion of Derry Avenue north of Canwood Street

- 2.21 The following existing streets being cut for new services will require an asphalt concrete overlay: Canwood Street and Derry Avenue.
- 2.22 This property is within the LVMWD service area. Applicant shall make arrangements with LVMWD for those services and provide the City with proof that all LVMWD fees have been paid.
- 2.23 Other conditions:
 - All retaining walls shall be built on private property and are prohibited from being constructed in the public right-of-way (R.O.W.).

C. Sewer

- 2.30 Relocated sewer line is available for connection by this project in Canwood Street.
- 2.31 Other Conditions: Sewer improvement plans shall be reviewed and approved by the City Engineer and Los Angeles County Public Works, Sanitation Maintenance District.

D. Water

- 2.40 All water facilities shall be designed to comply with all LVMWD requirements. Final plans must be reviewed and approved by LVMWD and City.
- 2.41 Other Conditions: Separation between potable water line and reclaimed water line, sewer line, or storm drain line is 10 feet clear (i.e. distance from outer extremities of water line and other utility conduit).

E. Drainage/Hydrology

- 2.50 A hydrology study and drainage analysis, prepared and signed by a Civil Engineer registered in the State of California, in accordance with the Los Angeles County Hydrology Manual, is required. Additional drainage facilities or portions of the site/grading plan may need to be altered as a result of the findings of this study.

F. Stormwater (NPDES)

- 2.60 Prior to the approval of the Grading Plan and issuance of Grading Permits, an Erosion and Sediment Control Plan (ESCP) shall be submitted to and approved by the Engineering Department. The Erosion and Sediment Control Plan shall specifically identify the Best Management Practices (BMPs) that will be implemented on this project, during construction, to reduce the discharge of sediment and other pollutants into the City's storm drain system. Said plan shall ensure, among other things, that the following minimum requirements are effectively implemented at all construction sites:
 - Sediments generated on the project site shall be retained using adequate Treatment Control or Structural BMPs;
 - Construction-related materials, wastes, spills, or residues shall be retained at the project site to avoid discharge to the streets, drainage facilities, receiving waters, or adjacent properties by wind or runoff;

- Non-storm water runoff from equipment and vehicle washing and any other activity shall be contained at the project site;
- Erosion from slopes and channels shall be controlled by implementing an effective combination of BMPs such as the limiting of grading scheduled during the wet season; inspecting graded areas during rain events; planting and maintenance of vegetation on slopes; and covering erosion susceptible slopes.

2.61 Prior to the approval of the Grading Plan and issuance of Grading Permits, a completed Urban Stormwater Mitigation Plan (USMP) shall be submitted to and approved by, the Engineering Department. The USMP shall be prepared per the Los Angeles County Standard Urban Stormwater Mitigation Plan (SUSMP) design guidelines. SUSMP shall identify, among other things, all Post-Construction, Site Design, Source Control and Treatment Control Best Management Practices (BMPs) that will be incorporated into the development project in order to minimize the adverse effects on receiving waters.

2.62 All projects that develop one (1) acre or more of total land area, or which are part of a larger phased development that will disturb at least one acre of land, are required to obtain coverage under the State Water Resources Control Board's General Permit For Storm Water Discharges Associated With Construction Activity. Proof of filing a Notice of Intent (NOI) with the State for coverage under this permit is required prior to approval of the grading plan and issuance of grading permits. The applicant shall submit a copy of the Waste Dischargers Identification Number (WDID) for coverage under the General Construction Permit to the Engineering Department.

2.63 SWPPP Plan – All projects that develop one (1) acre or more of total land area or which are part of a larger phased development that will disturb at least one acre of land, are required to prepare a Storm Water Pollution Prevention Plan (SWPPP), utilizing the model form in Appendix B of the 2003 CASQA Stormwater BMP Handbook for Construction at: www.cabmphandbooks.com and submit a copy of the plan to the City of Agoura Hills Engineering Department for review. A copy of the adopted SWPPP shall be maintained in the construction site office at all times during construction, and the Site Superintendent shall use the plan to train all construction site contractors and supervisory personnel in construction site Best Management Practices, prior to starting work on the site.

Said plan shall, among other things, ensure that the following minimum requirements are effectively implemented at all construction sites:

- a. Sediments generated on the project site shall be retained using adequate Treatment Control or Structural BMPs;
- Construction-related materials, wastes, spills, or residues shall be retained at the project site to avoid discharge to the streets, drainage facilities, receiving waters, or adjacent properties by wind or runoff;
 - Non-storm water runoff from equipment and vehicle washing and any other activity shall be contained at the project site;
 - Erosion from slopes and channels shall be controlled by implementing an effective combination of BMPs such as the limiting of grading scheduled during the wet season; inspecting graded areas during rain events; planting and maintenance of vegetation on slopes and covering erosion susceptible slopes.

2.64 Other Conditions: A Best Management Practice (B.M.P.) Covenant and Deed Restriction shall be prepared and recorded with the Los Angeles County Recorder's office by the applicant prior to issuance of a Certificate of Occupancy.

G. Traffic/Transportation

2.70 The applicant is required to submit a focused traffic impact study. The study shall address any or all of the following issues as required by the City Engineer: parking, on- and off-site circulation, and/or build-out and future years traffic Level of Service (LOS) and impacts at intersections selected by the City.

46. PRIOR TO CERTIFICATE OF OCCUPANCY

3.01 All remaining fees/deposits required by the Engineering Department must be paid in full.

3.02 All requirements including construction of improvements covered in Section 2 must be completed to the satisfaction of the City Engineer.

3.03 The Applicant's Engineer shall submit a set of MYLAR, Record (as-built) Drawings, for off-site improvements, to accurately reflect the constructed improvements. This set of Record Drawings reflecting all change orders during construction, must be submitted to the City via City's inspection prior to scheduling of final inspection for acceptance of the improvements. *Please note that no final inspection will be scheduled and subsequently no release of securities, posted for the project if any, will take place unless MYLAR, Record (As-built) Drawings, satisfactory to the City, are submitted.*

- 3.04 The applicant shall *record a covenant for continued stormwater maintenance, using City-approved forms*, with the Los Angeles County. An electronic copy of this document is available on the City's website: www.agoura-hills.ca.us.
- 3.05 All monuments shall be set in accordance with the final map, and all centerline ties shall be submitted to the Engineering Department. Any monuments damaged as a result of construction, shall be reset to the City's satisfaction.
- 3.06 Record Parcel Map No. 69426.

BUILDING AND SAFETY

- 47. Per Section 903.2 of Chapter 2 of the Agoura Hills Municipal Code (AHMC), this structure is required to be fire sprinklered.
- 48. This project must meet all requirements for the fuel modification plan Per Section 704A.6 of Chapter 2 of AHMC.
- 49. An accessible path of travel must be provided from public right-of-way to the main entrance of the building(s) on site.
- 50. Please provide number and the location of all accessible and van accessible parking stalls in the project on plan.
- 51. All exterior materials used for eaves, sidings, porch, patio, carport and other similar structures need to meet the Very High Fire Hazard Severity Zone (VHFHSZ) as outlined in Chapter 2 of Article VIII in the AHMC.
- 52. As part of the permitting process and prior to permit issuance, two (2) full sets of construction plans, including Structural and Energy calculations, need to be submitted to Building and Safety Department to be reviewed for compliance with the latest adopted codes. Please be advised that this is a preliminary review and does not constitute a final Building and Safety approval.
- 53. The City Building Code requires that a minimum setback of structure to toe of slope per Agoura Hills Building Code, Sec. 1806.5.3, shall be demonstrated. Minimum setback from a descending slope is H/2, ($\frac{1}{2}$ the vertical height of the slope, including portions not on property), or provide the equivalent protection determined by the soils engineer. This deviation will need to be verified by City Soils Engineer and approved by Building Official.
- 54. Dual pane windows shall be utilized, as required for Fire Zone 4 compliance.
- 55. Projects shall demonstrate the use of Class-A roofing material.

56. Preliminary and final site plan and construction plan shall show location of A/C condensing units or other HVAC equipment located on or around structure.
57. Building Permits shall not be issued until grading is approved and City, Fire District and all other Departments' requirements have been satisfied.

SPECIAL CONDITIONS

58. On-site decorative paving shall be provided at the driveway entrance serving the site and the walking pathway around the proposed buildings. The color, materials and length of the decorative paving shall be subject to review and approval by the Director of Planning and Community Development.
59. All transformers, other equipment, and refuse containers shall be screened from view. A plan showing this shall be reviewed and approved by the Director of Planning and Community Development.
60. All parking stalls shall be pinstriped. A minimum of 83 parking spaces shall be provided for the project.
61. Lighting requirements shall prohibit any light to shine on the right-of-way and adjacent parcels.
62. The applicant shall submit a Landscape Plan, to be reviewed and approved by the Director of the Planning and Community Development Department, specifically addressing the tree canopy coverage.
63. The applicant shall provide a more subdued color for the parapet elements of the building, for review and approval by the Director of Planning Community Development.

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MITIGATION MONITORING AND REPORTING PROGRAM

CEQA requires that a reporting or monitoring program be adopted for the conditions of project approval that are necessary to mitigate or avoid significant effects on the environment (Public Resources Code 21081.6). The mitigation monitoring and reporting program is designed to ensure compliance with adopted mitigation measures during project implementation. For each mitigation measure recommended in the Mitigated Negative Declaration, specifications are made herein that identify the action required and the monitoring that must occur. In addition, a responsible agency is identified for verifying compliance with individual conditions of approval contained in the Mitigation Monitoring and Reporting Program (MMRP).

To implement this MMRP, the City of Agoura Hills will designate a Project Mitigation Monitoring and Reporting Coordinator ("Coordinator"). The coordinator will be responsible for ensuring that the mitigation measures incorporated into the project are complied with during project implementation. The coordinator will also distribute copies of the MMRP to those responsible agencies identified in the MMRP, which have partial or full responsibility for implementing certain measures. Failure of a responsible agency to implement a mitigation measure will not in any way prevent the lead agency from implementing the proposed project.

The following table will be used as the coordinator's checklist to determine compliance with required mitigation measures.

Mitigation Measure/Condition of Approval	Action Required	When Monitoring to Occur	Monitoring Frequency	Responsible Agency or Party	Compliance Verification		
					Initial	Date	Comments
BIOLOGY							
<p>BIO-1 Migratory Bird Species Act Compliance. To avoid the accidental take of any migratory bird species or raptors, such as Cooper's hawk (<i>Accipiter cooper ii</i>), the removal or pruning of trees shall be conducted between September 15 and February 15, outside of the typical breeding season, as feasible. If avoidance of the nesting season is not feasible, a qualified biologist/ornithologist satisfactory to the City's Environmental Analyst shall conduct focused nesting surveys weekly for 30 days prior to grading or initial construction activity. The results of the nest survey shall be submitted to the City within one week of completion for review via a letter report prior to initiation of grading or other construction activity with the last survey conducted no more than three days prior to any clearance of vegetation or other construction activity. In the event that a nesting migratory bird species or raptor is observed in habitat to be removed or within 250 feet of the construction work areas, the applicant has the option of delaying all construction work in the suitable habitat area or within 250 feet of the nesting activity until after September 15 or continuing focused surveys in order to determine when nesting activity has ceased. If an active nest is found, clearing and construction within 50-250 feet of the nest, depending on the species involved (50 feet for common urban-adapted native birds and up to 250 feet for raptors), shall be postponed until the nest is vacated and juveniles have fledged, and there is no evidence of a second attempt at nesting. Limits of construction to avoid a nest site shall be established in the field with flagging and stakes or construction fencing. Construction personnel shall be instructed on the ecological sensitivity of the fenced area.</p>	<p>Removal/Pruning of trees shall occur outside of the typical breeding season.</p>	<p>Prior to issuance of a grading or building permit for plan check.</p>	<p>Once</p>	<p>PCD</p>			
	<p>If avoidance of breeding season is not feasible, a qualified biologist shall conduct nesting surveys for 30 days prior to grading or initial construction activity. Results of survey shall be sent to City.</p>	<p>Prior to grading or initial construction activity.</p>	<p>Weekly for 30 days.</p>	<p>EA approved biologist/ornithologist</p>			
	<p>If nesting birds or raptors are observed, construction shall be delayed, or limited to areas outside of bird and raptor zones, until the nest is vacated. Construction personnel shall be informed of sensitivity of area.</p>	<p>Prior to any construction activities.</p>	<p>Once</p>	<p>PCD</p>			

Key: PCD City of Agoura Hills Planning and Community Development Department
 EA City of Agoura Hills Environmental Analyst
 BD City of Agoura Hills Building Department



Liberty Canyon Office Expansion Project
 Mitigation Monitoring and Reporting Program

Mitigation Measure/Condition of Approval	Action Required	When Monitoring to Occur	Monitoring Frequency	Responsible Agency or Party	Compliance Verification		
					Initial	Date	Comments
<p>The project proponent shall record the results of the abovementioned protective measures to document compliance with applicable State and federal laws pertaining to the protection of native birds.</p> <p>Once the pre-construction bird surveys are conducted by a qualified biologist during the proper seasons, the report results, including survey dates, exact species observed and location of species onsite, shall be submitted to the City and other necessary regulatory agencies for review and approval. No construction shall begin prior to this approval.</p>	Review and approval of surveys.	Prior to any construction activities.	Once	PCD			
CULTURAL RESOURCES							
<p>CR-1 Monitoring. A qualified archaeologist shall monitor any grading, trenching, excavation, or other subsurface work that occurs in undisturbed soil. If artifacts are discovered, the developer shall notify the City of Agoura Hills' Environmental Analyst immediately, and construction activities shall cease until the archaeologist has documented and recovered the resources. Equipment stoppages prescribed by the archaeologist shall only involve those pieces of equipment that have actually encountered significant or potentially significant resources, and should not be construed to require stoppage of all equipment on the site unless the resources are thought by the archaeologist to be distributed throughout the entire site. The purpose of stopping the equipment is to protect cultural/scientific resources that would otherwise be impacted, and said equipment may undertake work in other areas of the site away from the discovered resources. If the find is determined by the archaeologist to be a unique archaeological resource, as defined by Section 2103.2 of the Public Resources Code, the site shall be treated in accordance with the provisions of Section 21083.2 of the Public Resources Code with mitigation as appropriate. If the find is determined not to</p>	Field monitoring by a qualified archaeologist.	During grading, trenching, excavation, or other subsurface work that occurs in undisturbed soil.	Daily during grading, trenching, excavation, or other subsurface work that occurs in undisturbed soil.	PCD, EA			

Key: PCD City of Agoura Hills Planning and Community Development Department
 EA City of Agoura Hills Environmental Analyst
 BD City of Agoura Hills Building Department

Liberty Canyon Office Expansion Project
Mitigation Monitoring and Reporting Program

Mitigation Measure/Condition of Approval	Action Required	When Monitoring to Occur	Monitoring Frequency	Responsible Agency or Party	Compliance Verification		
					Initial	Date	Comments
be a unique archaeological resource, no further action is necessary and construction may continue.							
<p>CR-2 Evaluation and Notification. Should archaeological resources be discovered and avoidance proves infeasible, the importance of the site shall be evaluated by a qualified archaeologist. In general, the following guidelines shall be followed:</p> <p>Preservation of sites in-place is the preferred manner of avoiding damage to historic and prehistoric archaeological resources.</p> <p>In the event of discovery of human remains, work shall stop until the coroner has determined that no investigation of the cause of death is required; or, if descendants have made a recommendation of the property owner regarding proper disposal of the remains, or until descendants have failed to make a recommendation within 24 hours of notification. If no recommendation is received, remains shall be interred with appropriate dignity on the property in a location not subject to future development.</p>	Site evaluation by a qualified archaeologist.	Upon discovery of an archaeological resource.	Upon discovery of an archaeological resource.	PCD			
GEOLOGY AND SOILS							
<p>GEO-1 Design and Construction. The proposed project shall incorporate design and construction recommendations of the City of Agoura as accepted by the City Engineer. This may include recommendations that address site preparation, soil expansiveness, foundation recommendations, slabs-on-grade specifications, site drainage, manufactured slope construction and maintenance, embedment locations of retaining wall anchors, and retaining wall design. Compliance shall be verified by the City of Agoura Hills Building Department prior to issuance of a grading permit, through submission of a letter from the Project Engineer that documents incorporation of all applicable design and construction recommendations. Additionally, design and construction measures contained in the 2007</p>	Submission of a letter report from the project engineer documenting inclusion of all applicable recommendations contained in the geotechnical report prepared for this project.	Prior to the issuance of a grading permit.	Once	BD, Project Engineer			

Key: PCD City of Agoura Hills Planning and Community Development Department
 EA City of Agoura Hills Environmental Analyst
 BD City of Agoura Hills Building Department

Mitigation Measure/Condition of Approval	Action Required	When Monitoring to Occur	Monitoring Frequency	Responsible Agency or Party	Compliance Verification		
					Initial	Date	Comments
Gorian and Associates geotechnical report shall be incorporated. These measures include removal and recompaction of the upper and lower pad fill soils, removal of existing utilities in the lower pad area, undercutting of the fill in the lower pad area, removal of weathered fill soils, overexcavation and capping of cut areas, compaction of backfill of retaining wall and utility trenches, to at least 90 percent of the maximum dry soil density, excavation 10 feet below existing grade, minimal settlement of the footings embedded in engineering fill, design of retaining wall to resist vertical and horizontal seismic forces, consistency of site drainage plan with regional drainage pattern, observance of cut slopes and retaining wall backcuts by the project engineering geologist, maintenance of manufactured slopes, soil expansion tests, positive draining, and spacing of trees.							

Key: PCD City of Agoura Hills Planning and Community Development Department
 EA City of Agoura Hills Environmental Analyst
 BD City of Agoura Hills Building Department



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RESOLUTION NO. 09-1541

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, APPROVING VARIANCE CASE NO. 08-VAR-006(A)

Section I. An application was duly filed by Agoura Business Center, LLC , with respect to the real property located at 5301 Derry Avenue (Assessor's Parcel Nos. 2048-012-022 & 02), requesting the approval of a Variance to build a 17-foot high retaining wall instead of the maximum 6 feet in height. A public hearing was duly held by the Planning Commission on May 21, 2009, at 6:30 p.m. in the City Hall Council Chambers, City Hall, 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place and purpose of the aforesaid hearing was duly given. Evidence, both written and oral, was duly presented to, and considered by, the Planning Commission at the aforesaid public hearing on May 21, 2009. The Planning Commission recommended the City Council approve Variance Case No. 08-VAR-006(A) on a 3-0 vote (Commissioners O'Meara and Buckley Weber absent), per Resolution No. 973.

Section II. A public hearing was duly held by the City Council on June 24, 2009 at 6:30 p.m. in the City Hall Council Chambers, City Hall, 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place and purpose of the aforesaid hearing was duly given. Evidence, both written and oral, was duly presented to, and considered by, the City Council at the aforesaid public hearing on June 24, 2009.

Section III. Evidence, both written and oral, was duly presented to, and considered by, the City Council at the aforesaid public hearing.

Section IV. Pursuant to Sections 9676.2.E. of the Agoura Hills Zoning Ordinance, the City Council finds that:

A. The proposed use, as conditioned, is consistent with the objectives and provisions of the Zoning Ordinance and the purposes of the land use district in which the use is located, and will comply with each of the applicable provisions of the Zoning Ordinance. The property designation allows for development of retail buildings, and the proposal meets the development standards for the CRS-FC zone relative to lot coverage, setbacks from property lines and building height.

B. The proposed use, as conditioned, and the manner in which it will be operated or maintained, will not be detrimental to the public health, safety, or general welfare. The buildings will be constructed to comply with the most recent Building Code requirements. Building occupants are restricted to operating indoor only and are subject to the Zoning Ordinance standards with respect to noise, light, and operation. The access in and out of the site is conditioned to maximize safety in the right-of-way. The placement and design of the building would preserve the light, air, privacy to the adjacent parcels, and the equipment and refuse is located a considerable distance from the public.

C. The proposed use, as conditioned, will not conflict with the character and design of the buildings and surrounding area and is compatible with the surrounding properties. Because of its placement, the building is clearly separated from the industrial buildings in the rear which take access on Derry Road. The building was designed to be identifiable as a retail building such as

those along Canwood Street. The design of the proposed development would provide a desirable environment for its occupants, as well as for its neighbors. The retail building is aesthetically of good composition, materials, textures, and colors. The building design is compatible with the variety of architectural styles in the area. The project design complies with the desired image of freeway corridor development.

D. As conditioned, the design and location of the proposed development and its relationship to existing or proposed developments and traffic in the vicinity thereof, is such that it will not impair the desirability of investment or occupation in the neighborhood and it will not unreasonably interfere with the use and enjoyment of existing or proposed developments in the vicinity thereof, and that will not create traffic hazards or congestion. Access to the site is via two driveways, located a safe distance from the intersection which would increase safety for egress/ingress traffic.

E. The proposed use, as conditioned, and the condition in which it will be operated or maintained, will not be detrimental to the public health, safety, or general welfare. All uses permitted in the CRS-FC zones are indoor uses with a wide variety of business types.

F. The distance from other similar and like uses is sufficient to maintain the diversity of the community, because the proposed retail building is adjacent to industrial buildings. The site is now zoned for retail uses as are the parcels across the streets.

G. The proposed use, as conditioned, is consistent with the goals, objectives and policies of the General Plan and the design of the proposed development is in keeping with the character of the surrounding neighborhood and is not detrimental to the harmonious, orderly, and attractive development contemplated by the Zoning Ordinance and General Plan. The proposed office building is a permitted use, as prescribed in the General Plan Land Use Element. The project provides employment, maintains a professional identity, and is incorporated into its surrounding and has exceeded the minimum development standards established by the Zoning Ordinance.

Section V. In accordance with the California Environmental Quality Act, the City has provided public notice of the intent to adopt a Mitigated Negative Declaration for this project. The Mitigated Negative Declaration was the appropriate document based on the fact that the project will not cause significant impacts to citywide traffic, aesthetics and sensitive receptors including the closest residential neighborhoods. Based upon the initial study, public comments and the record before the Planning Commission, the Planning Commission finds that the Mitigated Negative Declaration identifies potentially significant environmental effects for which feasible mitigation measures have been identified which will avoid or substantially lessen such effects. The Planning Commission has reviewed the information contained in the Mitigated Negative Declaration in considering the application and finds that the Mitigated Negative Declaration was prepared pursuant to the California Environmental Quality Act. The Planning Commission hereby recommends the City Council adopt the Mitigated Negative Declaration and the attached Mitigation Monitoring Program.

Section VI. Based on the aforementioned findings, the City Council hereby approves Variance Case No. 08-VAR-006(A), subject to the attached conditions, with respect to the property described in Section I, hereof.

Resolution No. 09-1541

PASSED, APPROVED, and ADOPTED this 24th day of June, 2009 by the following vote to
wit:

AYES: (0)
NOES: (0)
ABSTAIN: (0)
ABSENT: (0)

Denis Weber, Mayor

ATTEST:

Kimberly M. Rodrigues, City Clerk

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CONDITIONS OF APPROVAL (Case No. 08-VAR-006(A))

STANDARD CONDITIONS

1. This decision, or any aspect of this decision, can be appealed to the City Council within fifteen (15) days from the date of Planning Commission action, subject to filing the appropriate forms and related fees.
2. This action shall not be effective for any purpose until the applicant has agreed in writing that the applicant is aware of, and accepts all Conditions of this Permit with the Department of Planning and Community Development.
3. Except as modified herein, the approval of this action is limited to and requires complete conformation to the approved labeled exhibits (Site Plan; Elevation Plans; Floor Plans, Roof Plan, and Grading Plan) approved on May 21, 2009.
4. It is hereby declared to be the intent that if any provision of this Permit is held or declared to be invalid, the Permit shall be void and the privileges granted hereunder shall lapse.
5. It is further declared and made a Condition of this action that if any Condition herein is violated, the Permit shall be suspended and the privileges granted hereunder shall lapse; provided that the applicant has been given written notice to cease such violation and has failed to do so for a period of thirty (30) days.
6. Unless the approval is used within two (2) years from the date of City approval, Case No. 08-VAR-006(A) will expire. A written request for a one (1) year extension may be considered prior to the expiration date.
7. The Variance Case No. 08-VAR-006(A) is valid only in conjunction with 07-GPA-001, 07-ZC-001, 07-CUP-010, VTPM 69426, and 07-SP-036 and the approved Conditions of approval therein.

END