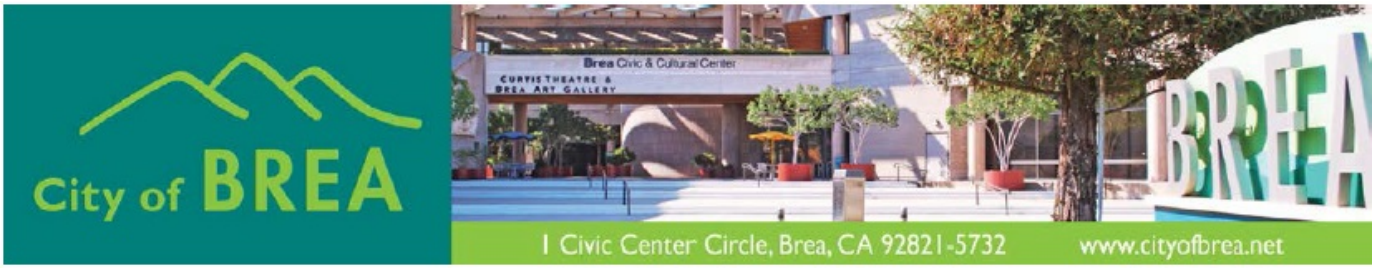


PLANNING COMMISSION AGENDA

Tuesday, February 25, 2020

Study Session 6:00 p.m.
Planning Commission Hearings 7:00 p.m.

***Melanie Schlotterbeck**, Chair* — ***James McGrade**, Vice Chair*

***Sara Barnes-Ramos**, Commission Member* — ***Dan Phu,** Commission Member* — ***Gary Brattain**, Commission Member*

This agenda contains a brief general description of each item the Commission will consider. All Planning Commission decisions may be appealed to the City Council within ten (10) calendar days of the meetings. Please contact the City Clerk at (714) 990-7756 for further information about filing an appeal or obtaining an appeal application.

The Planning Department has on file copies of written documentation relating to each item of business on this Agenda available for public inspection. Contact the Planning Department's Office at (714) 990-7674 or view the Agenda and related materials on the City's website at www.cityofbrea.net. Materials related to an item on this agenda submitted to the Commission after distribution of the agenda packet are available for public inspection in the Planning Department's Office at 1 Civic Center Circle, Brea, CA during normal business hours. Such documents may also be available on the City's website subject to staff's ability to post documents before the meeting.

Procedures for Addressing the Commission

The Commission encourages free expression of all points of view. For record keeping purposes, if you wish to make a statement regarding any item on the agenda, please complete the form located on the podium and deposit it with the secretary.**To allow all persons the opportunity to speak, please keep your remarks limited to three (3) minutes**. If others have already expressed your position, you may simply indicate that you agree with a previous speaker. If appropriate, a spokesperson may present the views of your entire group. Commission rules prohibit clapping, booing or shouts of approval or disagreement from the audience. ***PLEASE SILENCE ALL PAGERS, CELL PHONES AND OTHER ELECTRONIC EQUIPMENT WHILE COMMISSION IS IN SESSION***.

Special Accommodations

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Planning Department's Office at (714) 990-7674. Notification 48 hours prior to the meeting will enable City staff to make reasonable arrangements to ensure accessibility. (28 CFR 35.102.35.104 ADA Title II)

ALL PLANNING COMMISSION DECISIONS MAY BE APPEALED TO THE CITY COUNCIL WITHIN TEN (10) CALENDAR DAYS OF THE MEETING. PLEASE CONTACT THE CITY CLERK AT (714) 990-7756 FOR FURTHER INFORMATION ABOUT FILING AN APPEAL OR OBTAINING AN APPEAL APPLICATION.

STUDY SESSION

6:00 p.m. - Executive Conference Room, Level 3

CALL TO ORDER / ROLL CALL

1. **MATTERS FROM THE AUDIENCE**
2. **REORGANIZATION**
3. **AGENDA ITEMS / CLARIFY REGULAR MEETING TOPICS**
4. **INFORMATIONAL / PROJECT UPDATES**

PLANNING COMMISSION
PUBLIC HEARINGS

7:00 p.m. - Council Chambers, Plaza Level

5. **CALL TO ORDER / ROLL CALL - COMMISSION**
6. **INVOCATION - Pastor Daniel Mendoza from Celebration OC**
7. **PLEDGE OF ALLEGIANCE**
8. **MATTERS FROM THE AUDIENCE**

APPROVAL OF MINUTES

9. APPROVAL OF PLANNING COMMISSION MEETING MINUTES OF JANUARY 28, 2020.

PUBLIC HEARINGS

10. CONDITIONAL USE PERMIT NO. CUP 20-03 – A REQUEST TO ALLOW THE ON-SITE SALE OF BEER AND OTHER MALT BEVERAGES AT PLAY LIVE NATION BREA LOCATED AT 1065 BREA MALL, SUITE 1121A IN THE MAJOR SHOPPING CENTER ZONE (PRECISE DEVELOPMENT), C-C(PD).
11. CONDITIONAL USE PERMIT NO. CUP 20-02 – A REQUEST BY NO LIMITS LEARNING CENTER TO OPERATE A LEARNING CENTER FOR ADULTS WITH MINOR DEVELOPMENTAL DISABILITIES WITHIN THE M-1 (PD) LIGHT INDUSTRIAL (PRECISE DEVELOPMENT) ZONE.
12. CONSIDERATION OF CONDITIONAL USE PERMIT NO. CUP 20-01 CONDITIONAL USE PERMIT NO. CUP 20-01 – A REQUEST TO MODIFY OFF STREET PARKING REQUIREMENTS FOR THE USE AND RELIEVE TRUCK LOADING REQUIREMENTS FOR A PROPOSED SELF-STORAGE FACILITY IN THE M-1 LIGHT INDUSTRIAL ZONE.
13. CONDITIONAL USE PERMITS NO. CUP 20-04 AND CUP 20-05 – A REQUEST TO CONSIDER SIGNS IN COMPLIANCE WITH THE DOWNTOWN ARCHITECTURAL CONTROL CRITERIA AND A REQUEST TO ALLOW ON-SITE SERVICE OF FULL ALCOHOL FOR RUBY'S DINER LOCATED AT 215 SOUTH BREA BOULEVARD IN THE MU-I, MIXED USE I ZONE
14. CONTINUED FROM JANUARY 28, 2020 PLANNING COMMISSION MEETING: APPEAL OF COMMUNITY DEVELOPMENT DIRECTOR'S DECISION OF CERTIFICATE OF COMPATIBILITY NO. CC 19-02 FOR PROPERTY LOCATED AT 407 S. MAPLE AVE.

15. CONTINUED FROM JANUARY 28, 2020 PLANNING COMMISSION MEETING: ZONE CHANGE NO. ZC 19-01, PLANNED COMMUNITY MASTER PLAN NO. PCMP 19-01, DEVELOPMENT AGREEMENT NO. DA 19-01, AND FINAL ENVIRONMENTAL IMPACT REPORT NO. FEIR 19-01 FOR THE MERCURY RESIDENTIAL DEVELOPMENT PROPOSAL AT THE SOUTHEAST CORNER OF MERCURY LANE AND BERRY STREET.

ADMINISTRATIVE ITEMS

16. COMMITTEE REPORTS

17. INFORMATIONAL / PROJECT UPDATES

18. ADJOURNMENT

City of Brea

PLANNING COMMISSION COMMUNICATION

TO: Honorable Chair and Planning Commission

DATE: 02/25/2020

SUBJECT: APPROVAL OF PLANNING COMMISSION MEETING MINUTES OF JANUARY 28, 2020.

RESPECTFULLY SUBMITTED

Jennifer A. Lilley, AICP, City Planner

Attachments

1. Planning Commission Minutes January 28, 2020

D R A F T

PLANNING COMMISSION MEETING MINUTES
STUDY SESSION
JANUARY 28, 2020

STUDY SESSION
6:00 p.m. - Executive Conference Room, Level 3

CALL TO ORDER / ROLL CALL

Chair Schlotterbeck called the meeting to order at 6:01 pm. All members are present with the exception of Vice Chair McGrade who made the Commission aware he would be absent.

1. MATTERS FROM THE AUDIENCE

None.

2. REORGANIZATION

Reorganization of Commission was postponed until February when all Commissioners would be present.

3. AGENDA ITEMS / CLARIFY REGULAR MEETING TOPICS

City Planner provided a correction to Item 12, Attachment 1 updating the **date** of the Public Hearing Notice publication and the **number** of property owners with a 500' radius that received notices.

Senior Planner Tinio provided a correction had been made to the Mercury staff report which referenced 3 intersections that had significant unavoidable impacts with one of them being the southbound ramp at the 57 freeway and Imperial Highway. This was in error and should have been State College Blvd and Imperial Highway.

4. INFORMATIONAL / PROJECT UPDATES

The applicant for Simon gave an overview of the Brea Mall Expansion Plan.

Staff presented a preview of items expected to be coming to the Planning Commission in the coming months

Chair Schlotterbeck adjourned the Study Session at 6:50 pm.

PLANNING COMMISSION
PUBLIC HEARINGS
7:00 p.m. - Council Chambers, Plaza Level

5. CALL TO ORDER / ROLL CALL - COMMISSION

Chair Schlotterbeck called the meeting to order at 7:05 pm.

Present: Chair Schlotterbeck; Commissioner Barnes-Ramos; Commissioner Brattain; Commissioner Phu

Absent: Vice Chair McGrade

6. INVOCATION - Pastor Dan Cook of Brea Baptist Church

Pastor Cook gave the invocation.

7. PLEDGE OF ALLEGIANCE

Commissioner Phu led the Pledge of Allegiance.

8. MATTERS FROM THE AUDIENCE

None.

APPROVAL OF MINUTES

9. APPROVAL OF PLANNING COMMISSION MEETING MINUTES OF NOVEMBER 26, 2019 AND DECEMBER 10, 2019.

Chair Schlotterbeck made a motion to approve the minutes. Commissioner Brattain seconded the motion.

Motion carried 4-0-1.

PUBLIC HEARINGS

10. APPEAL OF COMMUNITY DEVELOPMENT DIRECTOR'S DECISION OF CERTIFICATE OF COMPATIBILITY NO. CC 19-02 FOR PROPERTY LOCATED AT 407 S. MAPLE AVE.

A request was received from the applicant to continue the item to the next regularly scheduled Planning Commission Meeting on February 25, 2020. The Commission

approved the request to continue, asked staff to provide a brief presentation, and opened the Public Hearing to allow anyone present to speak on the item. Testimony was recieved from 3 residents who oppose the project.

11. ZONE CHANGE NO. ZC 19-01, PLANNED COMMUNITY MASTER PLAN NO. PCMP 19-01, DEVELOPMENT AGREEMENT NO. DA 19-01, FINAL ENVIRONMENTAL IMPACT REPORT NO. FEIR 19-01 FOR THE MERCURY RESIDENTIAL DEVELOPMENT PROPOSAL AT THE SOUTHEAST CORNER OF MERCURY LANE AND BERRY STREET.

A presentation was given by staff. The Commission asked some clarifying questions of staff and the City Attorney. The matter was opened for public testimony. The applicant spoke on the behalf of the project and provided information on how the workforce housing program works. Additional project representatives gave presentations related to the architecture and design of the building, sewer, water, utilities, parking, parking management and related programs and community outreach. 8 speakers spoke in favor of the project highlighting a need for affordable housing, workforce housing adjacent to businesses, housing to support businesses in the downtown and on Mercury and Berry, and a desire to provide housing to low wage earners in Brea. 7 speakers spoke in opposition to the project highlighting concerns for their businesses, traffic, noise, impacts the industrial businesses will have on the future residents, conflicts with residential traffic and truck traffic, parking, impacts the noise and odors or other attributes the businesses will have on the residents, plans for more housing in this industrial neighborhood.

Chair Schlotterbeck closed the public hearing and discussed the entitlements of the development of the Environmental Impact Report. The Commission raised topics for additional information or responses from applicant or staff at subsequent meeting including:

Mercury Lane

- Need to understand current vehicle/truck conflicts on Mercury Lane.
- Need to understand parking and overnight parking? Is this project excluded from the parking ordinance and parking structures for overnight parking.
- How parking in the West Structure is handled, monitored, limited?
- Need to understand much guest parking Mercury Lane can accommodate? Based on number of available spaces, appears that it only allows for 1 guest for every 3 residents.
- More information on how to ensure the industrial businesses need for parking on Mercury is not hindered by project.
- Need information on timed parking on Mercury Lane – how to ensure industrial and residential could both utilize.
- Information on signal at Berry and Mercury related to safety.

Project Parking

- How is parking on Mercury being implemented?
- More information on parking toolbox. What are the parking strategies? Which strategies will actually be used – PCMP seems like a suggestion.
- Will car share or bike share be offered?

- How will guest parking be handled (on and off site)?
- How will paying for parking be implemented?
- Does the ADA and Electric vehicle requirement further reduce the amount of onsite parking and increase the need for offsite parking?
- Need to understand the parking management plan. What is proposed?
- Any possibility for shared parking with other businesses?

Noise

- Are there additional mitigation/condition to help the noise?
- How to ensure recommendations are met – Condtions of Approval?
- How will noise apply to the industrial zone with this project in place?
- Need to address noise conflicts for future tenants and existing businesses.
- More information on window closed condition. What happens when tenants open windows?

Project Details

- Sustainability - Need to understand what's being implemented. Are the strategies mitigations or needed conditions?
- More information on the bike program (rental bikes, bike share, fixit station, guest accessibility)
- More information on elevators, freight access, large item loading and unloading and potential conflicts with location and Berry loading zone. If there is a conflict in the loading zone, how is this monitored & enforced? What if it's blocked?
- More information on mail and package drop off, security and access. How do deliveries – parcel/packages work? Mail room?
- Need to understand how move in occurs. Is the elevator a freight elevator, sufficient?
- Are pets allowed? Any amenities related to pets?
- More information on trash – frequency, large items, access, location Need to understand trash pick-up and any conflicts.
- Any tenant incentives for electric vehicles or other alternatives?
- Ensure HVAC is designed for intake to be away from the street.
- Clarification on collaboration with SPX for security purposes

General Comments/Conditions of Approval

- What are the current restrictions on the industrial properties if any?
- Clarification on collaboration with SPX for security purposes
- How does contribution of money work for Imperial Highway? Held till improvements are complete or?
- More clarification on the timing of the workforce covenants
- Ensure rental agreements include disclosures related to adjacent land uses and potential nuisances.
- Ensure permanence of Conditions of Approval in perpetuity.
- Have project report back to the City yearly on workforce tenant make up, parking, complaints, # of tickets for tenants, # of collisions/accidents/injuries

- More information on 2016/2020 SCAG policies related to this project.
- What Active Transportation options can be considered and implemented on Berry and Mercury?
- Ensure industrial businesses do not have to change operations, hours or business conduct.
- Provide option if bike parking not needed or technology changes.
- Consider adding “non-motorized” or “other active transportation measures deemed acceptable by the City” to Development Agreement language.

The Commission stated they would recommend the community benefits with clarification on the covenants and additional information on the sidewalk/bike improvements for Berry and Mercury and its recommendation to be included as a community benefit. The Commission unanimously directed staff to bring back resolutions and conditions of approval with the required findings to support the project conditions and revisions to be discussed and determined at a subsequent meeting.

Chair Schlotterbeck summarized that the Commission has provided feedback to staff and directed them to move forward with drafting resolutions.

Motion made by Commissioner Brattain to continue the item to the next regularly scheduled Planning Commission meeting on February 25, 2020. Commissioner Barnes-Ramos seconded the motion.

Motion carried 4-0-1

12. MODIFICATION TO DEVELOPMENT AGREEMENT NO. DA 88-2 – A REQUEST TO MODIFY THE MAXIMUM LIMITATION (33%) OF THE ALLOWABLE SQUARE FOOTAGE OF ADMINISTRATIVE AND PROFESSIONAL OFFICE USES FOR THE EMBASSY RETAIL COURT.

A presentation was given by staff followed by staff and the applicant provided a brief summary of the reason for the request.
Commissioner Phu made motion to approve the item. Commisoner Barnes-Ramos seconded the motion.

The Commission approved the amendment 4-0-1 absence

ADMINISTRATIVE ITEMS

None.

13. COMMITTEE REPORTS

None.

14. INFORMATIONAL / PROJECT UPDATES

None.

15. ADJOURNMENT

Chair Schlotterbeck adjourned meeting at 11:22 pm.

Respectfully submitted,

Jennifer A. Lilley, AICP, City Planner

The foregoing minutes are hereby approved this 25 day of February 25, 2020.

Melanie Schlotterbeck, Chair

City of Brea

PLANNING COMMISSION COMMUNICATION

TO: Honorable Chair and Planning Commission

DATE: 02/25/2020

SUBJECT: CONDITIONAL USE PERMIT NO. CUP 20-03 – A REQUEST TO ALLOW THE ON-SITE SALE OF BEER AND OTHER MALT BEVERAGES AT PLAY LIVE NATION BREA LOCATED AT 1065 BREA MALL, SUITE 1121A IN THE MAJOR SHOPPING CENTER ZONE (PRECISE DEVELOPMENT), C-C(PD).

REQUEST

Nextgen Gaming, LLC is requesting to serve beer and other malt beverages at an existing gaming lounge within the Brea Mall.

RECOMMENDATION

Staff recommends the Planning Commission approve Conditional Use Permit No. CUP 20-03, subject to the Conditions in the draft Resolution.

BACKGROUND/DISCUSSION

BACKGROUND

Playlive Nation Brea is an existing gaming lounge located on the first floor of the Brea Mall adjacent to JC Penny (see Figure 1- Vicinity Map). The business is requesting to add beer and other malt beverages to its menu options. The Zoning Code allows the sale and service of alcohol with the approval of a Conditional Use Permit. This review is to ensure the use is consistent and compatible with adjacent uses.

DISCUSSION

The gaming lounge is approximately 3,224 square feet. The business includes 25 Xbox One video game consoles, 5 Personal Computer (PC) gaming stations, and 6 tables for table-top card and board games. The business operates by renting these consoles and gaming stations to guests for a specified period of time. The lounge also can accommodate birthday parties, team events, tournaments, charitable fundraisers and social mixers. The business is open Monday through Friday from 1:00 pm to 9:00 pm, Saturday from 10:00 am to 9:00 pm and Sunday from 11:00 am to 7:00 pm.

Playlive Nation Brea presently offers snacks including chips, candy and cookies and drinks including soda, energy drinks and water. Guests can order pizza as well. The addition of beer and malt beverage sales is similar to other entertainment uses such as the movie theaters, arcades and craft businesses.

Playlive Nation Brea has detailed training and procedures for its employees with regard to the sale of alcohol and will take all required measures to ensure that all adult beverages are only consumed by those over the age of 21. Staff has not had any issues with similar

entertainment uses and the request to add the sale/service of beer in conjunction with the existing commercial use is not expected to have negative impacts on surrounding businesses. The proposed conditions of approval contained in the draft Resolution require the business operations to remain in compliance with all requirements of the Alcohol Beverage Control Department.

ENVIRONMENTAL ASSESSMENT

The proposed project is exempt from the requirement of the California Environmental Quality Act (CEQA) pursuant to Section 15301 of Title 14, Chapter 3, Article 19 of the California Code of Regulations.

RESPECTFULLY SUBMITTED

Jennifer A. Lilley, AICP, City Planner
Prepared by: Sheri Vander Dussen, AICP, Contract Planner

Attachments

1. Technical Background
2. Vicinity Map
3. Public Hearing Notice
4. Draft Resolution
5. Project Description & Site Plan

TECHNICAL BACKGROUND

Case No:	Conditional Use Permit No. CUP 20-03
Property Location:	1065 Brea Mall, Suite 1121A
Applicant:	Playlive Nation Brea, 1065 Brea Mall, Suite 1121A, Brea, CA 92821
Property Owners:	Nextgen Gaming, LLC, 225 W. Washington St., Indianapolis, IN 46204
General Plan Designation:	Regional Commercial
Zoning Designation:	Major Shopping Center (Precise Development), C-C (PD)
Adjacent Zoning	
North:	Mixed Use I
South:	C-G (PD), General Commercial (Precise Development)
West:	General Commercial (C-G), Commercial, Administrative, and Professional Office (C-P), Public Facilities (PF)
East:	R-2 Multiple Family Residential Zone (R-2), General Commercial (C-G)
Site and Neighborhood Characteristics:	The business is located within the Brea Mall by JC Penny. The Brea Mall is a regional shopping mall surrounded by commercial, office, public facilities, and multiple-family residential uses.
Public Hearing Notices and Outreach:	Legal Notice was published in the *Brea Star Progress* on February 13, 2020 and notices were sent to approximately 40 property owners within a 500-foot radius of the subject property.

SUBJECT PROPERTY AND VICINITY MAP

DATE: February 25, 2020

CASE NO: Conditional Use Permit No. CUP 20-03

n

CITY OF BREA notice of public hearing

TO: **Property Owners within a 500-Foot Radius**

FROM: **City of Brea, Community Development Department**

SUBJECT: **CONDITIONAL USE PERMIT NO. CUP 20-02**

NOTICE IS HEREBY GIVEN, pursuant to State Law, that a public hearing will be held by the Planning Commission to determine whether or not the subject request shall be approved under the provisions of State Law and the Brea City Code as follows:

DATE AND TIME OF HEARING: **Tuesday, February 25, 2020, 7:00 p.m.**
All interested persons may appear and be heard at that time.

PLACE OF HEARING: Brea Civic & Cultural Center, Council Chambers
1 Civic Center Circle, Brea, CA 92821

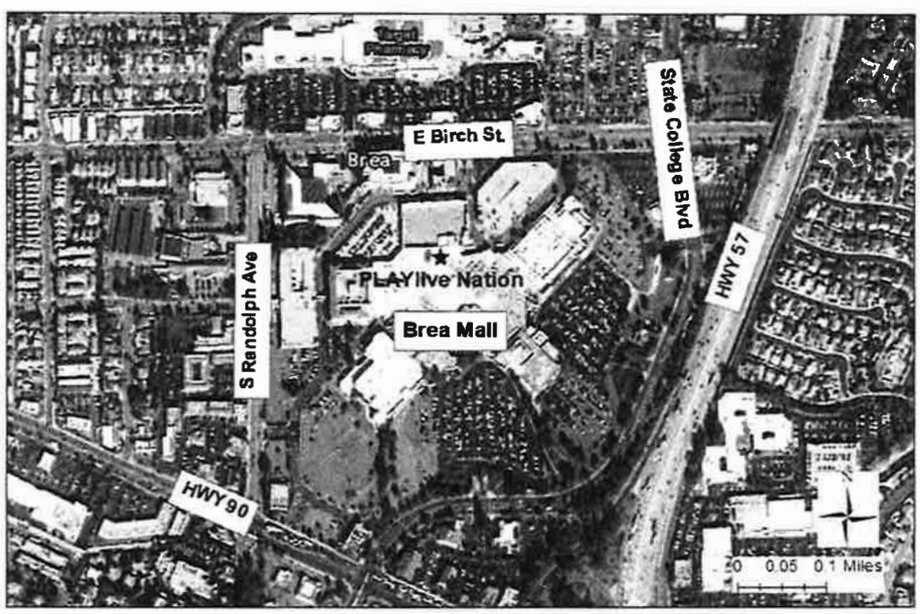
REQUEST: A request to serve beer and other malt beverages at an existing gaming lounge in the C-C (PD), Major Shopping Center (Precise Development) Zone.

PROPERTY INVOLVED: 1065 Brea Mall, Suite 1121A

APPLICANT: Ajay and Shweta Shah, Nextgen Gaming, LLC
225 W. Washington St., Indianapolis, IN 46204

ENVIRONMENTAL INFORMATION: The City of Brea has determined that the proposed project is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 of said act.

AREA MAP:



IF YOU CHALLENGE THIS CONDITIONAL USE PERMIT NO. CUP 20-02 AND/OR RELATED ENVIRONMENTAL DETERMINATIONS IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE, DELIVERED TO THE COMMISSION AT, OR PRIOR TO, THE PUBLIC HEARING.

FOR FURTHER INFORMATION ON THIS SUBJECT, PLEASE CONTACT THE PLANNING DIVISION AT (714) 990-7674.

COMMUNITY DEVELOPMENT DEPARTMENT

Jennifer A. Lilley, AICP
City Planner

RESOLUTION NO. PC 20-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BREA APPROVING CONDITIONAL USE PERMIT NO. CUP 20-03 – A REQUEST TO ALLOW THE ON-SITE SALE OF BEER AND OTHER MALT BEVERAGES AT PLAYLIVE NATION BREA LOCATED AT 1065 BREA MALL, SUITE 1121A IN THE MAJOR SHOPPING CENTER (PRECISE DEVELOPMENT), C-C (PD), ZONE, SUBJECT TO CONDITIONS AS SET FORTH HEREIN.

A. RECITALS:

(i) On February 25, 2020, the Planning Commission of the City of Brea held a duly noticed public hearing, as required by law, on, Conditional Use Permit No. CUP 20-03, a request to allow the on-site sale of beer and other malt beverages at Playlive Nation Brea gaming lounge.

(ii) The project proponent is Nextgen Gaming, 2265 Clementina Drive, Hacienda Heights, CA 91745

(iii) The property owner is Retail Property Trust dba Simon, 225 W. Washington Street, Indianapolis, IN 46204.

(iv) The subject property is located at 1065 Brea Mall, Suite 1121A, Brea, CA 92821 and further legally described as a portion of Map Book 319, page 10, block 101, parcel 64, as shown in the latest records of the County of Orange Tax Assessor.

(v) The property is zoned Major Shopping Center (Precise Development), C-C (PD), and designated Regional Commercial in the General Plan.

(vi) All legal prerequisites to the adoption of this Resolution have occurred.

B. RESOLUTION:

NOW, THEREFORE, BE IT FOUND, DETERMINED AND RESOLVED by the Planning Commission of the City of Brea, as follows:

1. In all respects as set forth in Recitals, Part A, of this Resolution.

2. The Planning Commission hereby finds that the project identified above in this Resolution is exempt from the requirements of the California Environmental Quality Act of 1970, as amended, and the Guidelines promulgated thereunder pursuant to Section 15301 of Title 14, Chapter 3, Article 19 of the California Code of Regulations.

3. The Commission further finds in consideration of Conditional Use Permit No. CUP 20-03 as follows:

a**.** Finding: That the use applied for at the location set forth in the application is properly one for which a Conditional Use Permit is authorized by this title.

Fact: The subject site is zoned Major Shopping Center (Precise Development) zone, C-C (PD). On-site sale of alcohol is permitted in this zone subject to Planning Commission review and approval of a Conditional Use Permit.

b. Finding: That the use, with any conditions to be imposed, is necessary or desirable for the development of the community, in harmony with the various elements or objectives of the General Plan and not detrimental to existing uses or uses permitted in the zone in which the proposed use is to be located.

Fact: Playlive Nation Brea is located within an existing shopping mall which was designed to accommodate a variety of uses including but not limited to restaurants, retail and service-oriented business. This shopping mall provides convenient and necessary services and products to local and regional patrons. Playlive Nation Brea operations are consistent with the goals and policies of the Regional Commercial General Plan designation. The General Plan

encourages a balance and mixture of uses, not only complementing the existing community but accommodating future needs and desires of the community. The addition of beer service in conjunction with a gaming lounge is consistent with a trend to combine entertainment opportunities with food and beverage services and is consistent with the goals and objectives found in the General Plan. Given all information known to date and the conditions of approval, this request is not anticipated to result in significant impacts to City services nor to be detrimental to existing uses in the zone.

c. Finding: The site is adequate in size and shape to accommodate the proposed development and all of the yards, setbacks, walls or fences, landscaping and other features required to bring about conformity with other elements in the neighborhood.

Fact: Playlive Nation Brea is located within a commercial tenant space constructed and approved in accordance with City Codes. No site improvements are necessary to accommodate the sale of beer in conjunction with the primary use.

d. Finding: The proposed site relates to streets and highways which are properly designed and improved to carry the type and quantity of traffic generated or to be generated by the proposed development.

Fact: Vehicular access will be provided from Imperial Highway (SR90), Birch Street and/or Randolph Avenue. The existing roadways were designed to carry the traffic generated by the Brea Mall, which includes the gaming lounge use. Adding beer to the operations is not anticipated to have any significant impact of additional traffic generated. All impacts related to uses

allowed in the zone were considered as part of the previous entitlements and this use is in conformance with those considered for the existing shopping center.

e. Finding: That with the conditions stated in the permit, the uses will not adversely affect the public, health, safety, or general welfare.

Fact: The gaming lounge and its operations are required to meet Building and Fire codes and standards. The operations associated with beer service are required to meet all Alcohol Beverage Control codes and standards. Based on all information known today, the approval of a Conditional Use Permit to allow beer at Playlive Nation Brea will not adversely affect the public health, safety, or general welfare.

4. Conditional Use Permit No. CUP 20-03 is hereby approved, subject to conditions as set forth herein:

a. Business operations shall occur in substantial conformance with the site plan, floor plan and project description submitted to the Planning Commission and dated February, 25, 2020, on-file in the Planning Division, the conditions contained herein, and all applicable Federal, State and City regulations.

b. Prior to any alcohol sales, Playlive Nation Brea shall provide proof to the City of a valid On-Sale Beer License from the California Department of Alcoholic Beverage Control.

c. Any violation of the regulations as it pertains to the sale of beer may result in the revocation of the Conditional Use Permit, pursuant to Section 20.412.020 of the Brea Zoning Code.

d. To the fullest extent permitted by law, the applicant shall indemnify, defend and hold the City, its elected officials, officers, contractors serving as City officers, agents, and employees (“Indemnitees”) free and harmless from: (i) any and all claims, liabilities and losses whatsoever occurring or resulting to any and all persons, firms, entities, or corporations furnishing or supplying work, services, materials, or supplies in connection with, or related to, the performance of work or the exercise of rights authorized by approval of this Conditional Use Permit No. 20-03; and (ii) any and all claims, lawsuits, liabilities, and/or actions arising out of, or related to the approval of this Conditional Use Permit and/or the granting or exercise of the rights

authorized by said approval; and (iii) from any and all claims, liabilities and losses occurring or resulting to any person, firm, entity, corporation for property damage, personal injury, or death, arising out of or related to the approval of, or exercise of rights granted by, this Conditional Use Permit. Applicant's obligation to indemnify, defend, and hold the Indemnitees free and harmless as required hereinabove shall include, but is not limited to, paying all fees and costs incurred by legal counsel of the Indemnitees' choice in representing the Indemnitees in connection with any such claims, losses, lawsuits, or actions, and any award of damages, judgments, verdicts, court costs or attorneys' fees in any such lawsuit or action.

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

ADOPTED AND APPROVED this 25th day of February, 2020.

_____
Chairman, Planning Commission

I, Jennifer A. Lilley, Secretary to the Planning Commission of the City of Brea, do hereby certify that the foregoing Resolution was introduced at a regular meeting of the Planning Commission of the City of Brea held on the 25th day of February, 2020, and was finally passed at a regular meeting of the Planning Commission of the City of Brea, held on the 25th day of February, 2020, by the following votes:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSENT: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:

ATTEST: _____
Secretary, Planning Commission

December 16, 2019

Planning Commision
City Hall

Re: Project Description Playlive Nation Brea – CUP Application for Type 40 Alcohol License

Dear Sirs and Madams:

We are Ajay Shah and Shweta Shah, owners of Nextgen Gaming, LLC, operators of Playlive Nation Brea located in the Brea Mall. We are requesting a Conditional Use Permit for our retail store location at 1121A Brea Mall, Brea, California to allow the sales of beer and other malt beverages (Type 40 ABC license). Playlive Nation Brea is a premium social gaming lounge focused on uniting like-minded players of all ages and creating strong community-based relationships. Our mission is to stimulate wholesome interactions through an emotionally enriching environment while exploring the gaming industry.

Playlive Nation Brea – Retail Location

As noted above, our retail store is located within the Brea Mall. We are located on the first floor next to J.C. Penny. Playlive Nation Brea currently offers gamers the ability to play on twenty-five Xbox One video game consoles, five PC gaming stations, and six tables for table-top card and board games. In addition, our store regularly hosts events, such as birthday parties, little leagues, tournaments, charitable fundraisers, and social mixers. Finally, we have an extensive selection of gaming related merchandise and concessions available for purchase. Our food concessions currently include snacks and drinks such as chips, candy, cookies, soda, energy drinks, and water. We also have an agreement with the Brea Dominos Pizza that allows our guests to order and have delivered any large one-topping pizza.

Our store operating hours are Monday to Friday 1:00 p.m. to 9:00 p.m., Saturdays 10:00 a.m. to 9:00 p.m., and Sundays 11:00 a.m. to 7:00 p.m. On occasion, with permission from Brea Mall management, we will host an after-hours event or tournament that will last until midnight. Our staff include one full-time manager, and range from two to three part-time employees.

Type 40 License

The Department of Alcoholic Beverage Control requires the Governing body of the City of Brea to approve a Conditional Use Permit for a Type 40 On-Sale Beer license. The Type 40 license authorizes the sale of beer for consumption on or off the premises where sold. Full meals are not required, however, sandwiches or snacks must be available. Finally, minors are allowed on the premises.

Playlive Nation Brea currently allows for the sale of snacks and pizza to its retail customers. With this license, we intend to sell beer and malt beverages during our normal hours of operation. Playlive Nation Brea has detailed training and procedures for our employees with regard to the sale of alcohol. It is company policy that all customers are required to verify that they are of legal drinking age with a valid form of identification prior to any purchase of alcohol beverage.

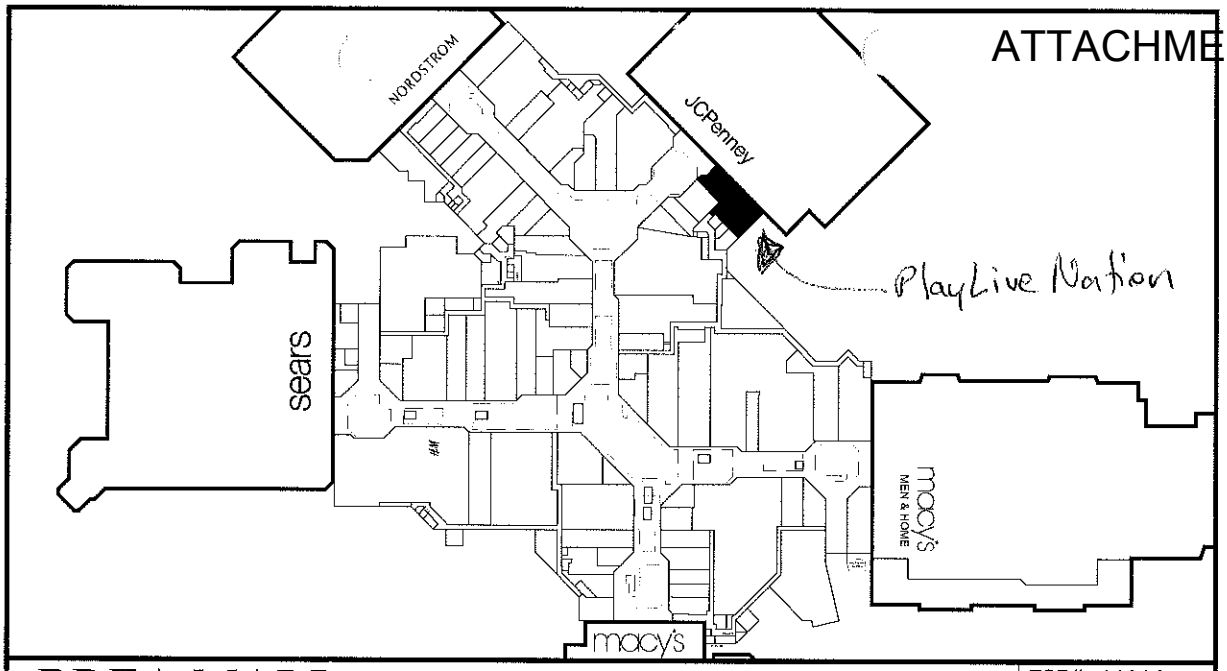
We have operated Playlive Nation Brea since April 2017. During that time we have seen our customer base consistently grow and have received positive feedback from the community. During this time, we have been approached by numerous parents and customers about the possibility of purchasing alcohol beverages to complement their gaming experience, similar to what occurs at Dave & Busters or Chuck-E-Cheeses. As our business grows, we have been looking for innovative ways to make the customer experience more gratifying for our guests. We believe that offering beer and malt beverages for the adults will make for a more enjoyable experience and allow us to maintain our fun environment.

We respectfully request your approval of our Conditional Use Permit, and hope to see you in our store!

Sincerely,

Ajay Shah
Shweta Shah
Owners NextGen Gaming, LLC

ATTACHMENT 5

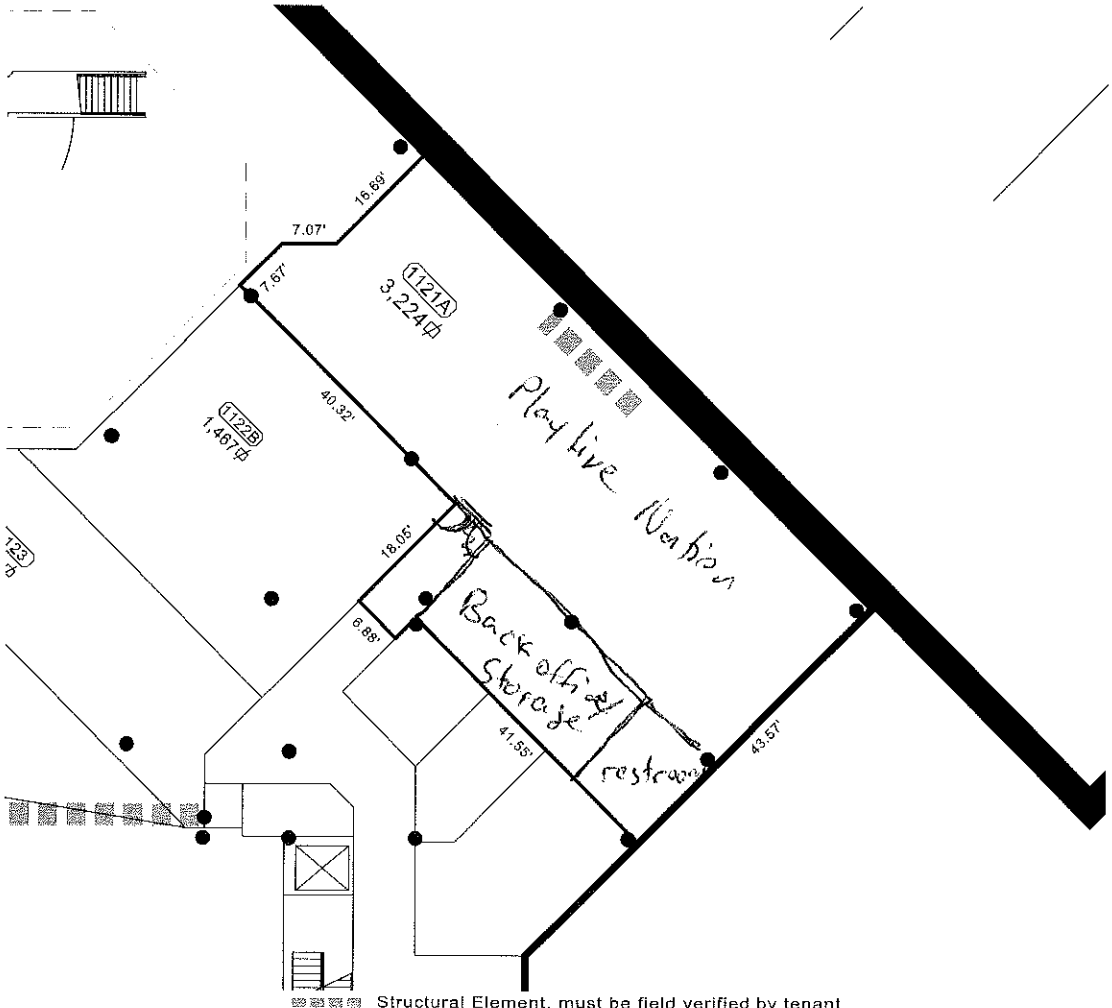


BREA MALL

TSD# 1121A
Level: 01

SIMON℠

Simon Property Group
225 W. Washington St.
Indianapolis, In 46204



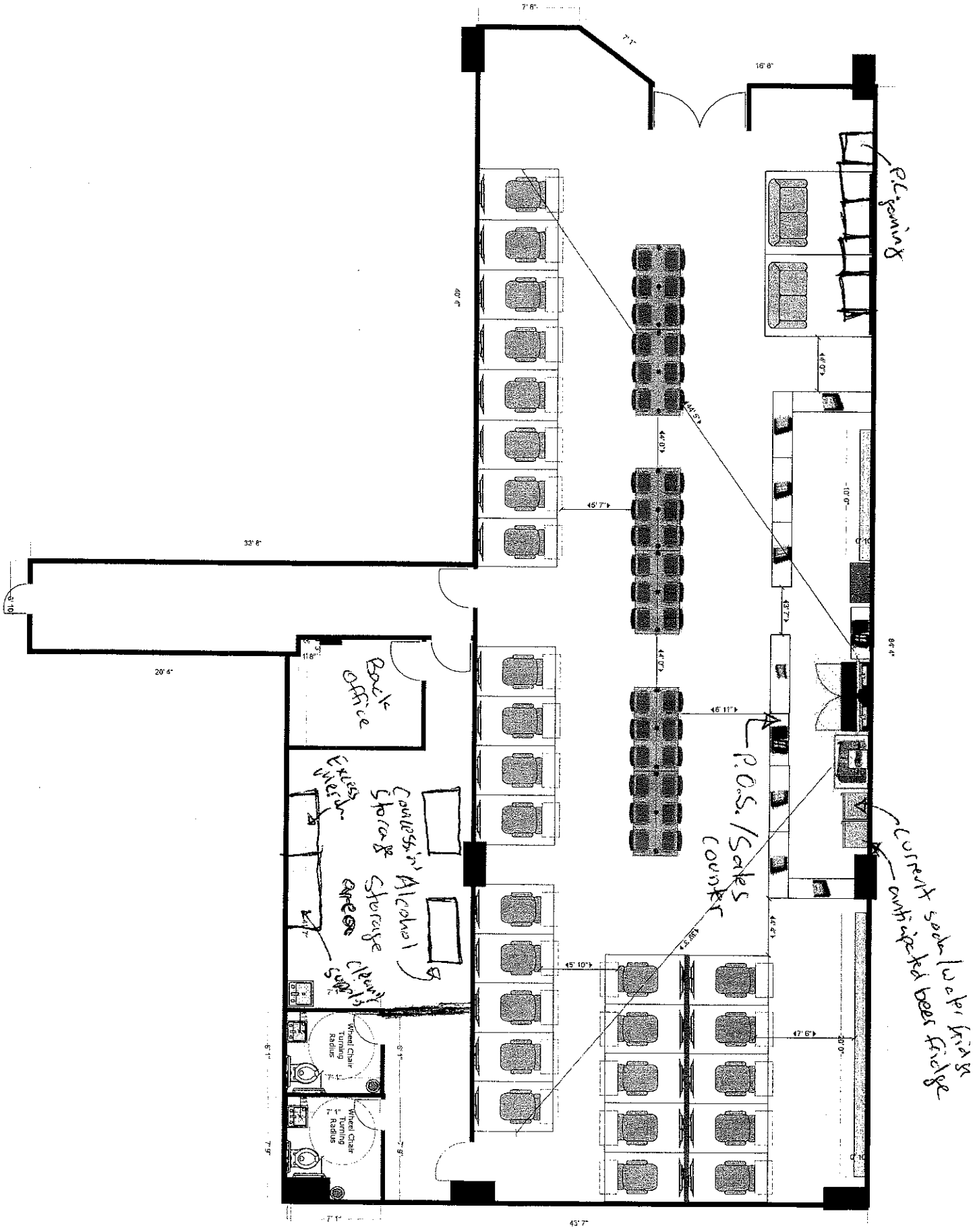
Structural Element, must be field verified by tenant

This information in this document is confidential and a proprietary trade secret of the Landlord and may not be copied, distributed, published or disclosed without prior written permission. Landlord retains the right to design, change, alter or modify (without prior written notice) the size and configuration of any or all of the Center or any of the buildings, premises, hallways, malls, corridors, kiosks, tenant spaces or common areas contained therein, including, but not limited to, the identity, size, configuration, location or arrangement of any of the foregoing. This document does not constitute any contract or obligation by the Landlord. Landlord makes no representations or warranties regarding the Center, any premises contained therein, or the accuracy of the information contained in this document. It is the responsibility of Tenant or Tenant's contractor to field verify existing site conditions and dimensions.

DBA Name:
Unit No. 1121A
Leasing Agent:

Date: 08/04/16 19:40
Scale: 1" = 20'
Corp. No. 4821

ATTACHMENT 5



City of Brea

PLANNING COMMISSION COMMUNICATION

TO: Honorable Chair and Planning Commission

DATE: 02/25/2020

SUBJECT: CONDITIONAL USE PERMIT NO. CUP 20-02 – A REQUEST BY NO LIMITS LEARNING CENTER TO OPERATE A LEARNING CENTER FOR ADULTS WITH MINOR DEVELOPMENTAL DISABILITIES WITHIN THE M-1 (PD) LIGHT INDUSTRIAL (PRECISE DEVELOPMENT) ZONE

REQUEST

A request to approve a Conditional Use Permit to operate a learning center for adults with minor developmental disabilities within the M-1 (PD) Light Industrial (Precise Development) zone.

RECOMMENDATION

Staff recommends the Planning Commission approve Conditional Use Permit No. CUP 20-02, subject to conditions in the draft Resolution.

BACKGROUND/DISCUSSION

BACKGROUND

Courtni English, President and Chief Executive Officer of No Limits Learning Center, requests a Conditional Use Permit (CUP) to operate an educational program for adults with developmental disabilities. The proposed site is located at 925 W. Lambert Road and is developed with a two-story multi-tenant industrial building with parking shared among all tenants (see Figure 1). Schools and/or educational uses are permitted in the M-1, Light Industrial zone subject to Planning Commission review and approval of a CUP. Planning Commission review of this use is necessary to determine compatibility between the proposed facility and the existing industrial businesses in the vicinity.

No Limits Learning Center is currently located in Brea at 331 Thor Place. The business was approved under Conditional Use Permit No. CUP 14-04. Its present location is also within the industrial zone in a 10,000 square foot building. It serves 70 students and employs 20 staff members. The applicant is seeking larger space as there is currently a wait list of students. The City has not received any complaints about the business since it commenced operations.

Figure 1: Vicinity Map

DISCUSSION

No Limits Learning Center provides educational opportunities to adults with minor developmental disabilities. The Center caters to clients seeking enhanced independence,

self-improvement and potential employment. The program's goal is to prepare participants to become effective communicators, lifelong learners, and responsible citizens.
No Limits Learning Center operates Monday through Friday from 7:00 a.m. to 3:00 p.m. A description of the program is provided in Attachment 5 (project description). Students arrive between 7:00 and 8:45 a.m. and rotate through academic and extracurricular classes. Students depart the facility between 2:00 and 3:00 p.m.

The tenant space is 22,606 square feet. The applicant proposes to serve up to 150 students and employ 40 staff members. The proposed interior space will require minor tenant improvements to accommodate the new use. All student areas will be located on the first floor, which will include lobby and reception areas, classrooms, and an exercise area. The second floor will include offices and conference rooms for staff (See Attachment 6). No exterior modifications are proposed to the building.

Vehicle access is provided by two existing driveways on Lambert Road and Delta Avenue. The students attending the program do not drive and most are transported to the facility by OCTA ACCESS buses or transported by staff with private transportation offered by the program. These smaller buses have approximately 20 seats and can easily maneuver on the site. The applicant has submitted a diagram demonstrating how buses will enter the site on Delta Avenue; circulate through the parking lot to the front of the building; drop off students at the front entrance; and exit the site on Lambert Road (Attachment 6). Ninety of the parking stalls surrounding the building have been assigned by the property owner to the proposed use. The eleven parking stalls located at the front of the site can accommodate buses for loading and unloading and the remainder of the spaces can be utilized for employees and/or visitors.

Based upon the proposed maximum number of employees and participants primarily arrive at the facility bus and private transportation, adequate parking has been provided and no parking impacts are anticipated.

ENVIRONMENTAL ASSESSMENT

The proposed project is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 of Division 6 of Title 14 of the California Code of Regulations due to no possibility of environmental affect.

RESPECTFULLY SUBMITTED

Jennifer A. Lilley, AICP, City Planner
Prepared by: SheriVander Dusen, AICP, Contract Planner

Attachments

1. Technical Background
2. Vicinity Map
3. Public Hearing Notice
4. Plan Submittal Package
5. Project Description

TECHNICAL BACKGROUND

Case No:	Conditional Use Permit No. CUP 20-02
Property Location:	925 W. Lambert Road, Unit C
Applicant:	Courtni English No Limits Learning Center 331 Thor Place Brea, CA 92821
Property Owner:	Teachers Insurance and Annuity Association of America 4675 MacArthur Court, Suite 1100 Newport Beach, CA 92660
General Plan Designation:	Light Industrial
Zoning Designation:	M-1 (PD) Light Industrial (Precise Development)
Adjacent Zoning	
North:	M-1 (PD) Light Industrial (Precise Development)
South:	M-2 (PD) General Industrial (Precise Development)
West:	M-1 (PD) Light Industrial (Precise Development)
East:	M-1 (PD) Light Industrial (Precise Development)
Site and Neighborhood Characteristics:	The subject site is north of W. Lambert Road and west of Delta Avenue, surrounded by light industrial and church uses.
Public Hearing Notices and Outreach:	Legal Notice was published in the *Brea Star Progress* on February 12, 2020 and notices were sent to approximately 14 property owners within a 500-foot radius of the subject property.

SUBJECT PROPERTY AND VICINITY MAP

DATE: February 25, 2020

CASE NO: Conditional Use Permit No. CUP 20-02

ATTACHMENT 3

CITY OF BREA

notice of public hearing

TO: **Property Owners within a 500-Foot Radius**

FROM: **City of Brea, Community Development Department**

SUBJECT: **CONDITIONAL USE PERMIT NO. CUP 20-03**

NOTICE IS HEREBY GIVEN, pursuant to State Law, that a public hearing will be held by the Planning Commission to determine whether or not the subject request shall be approved under the provisions of State Law and the Brea City Code as follows:

DATE AND TIME OF HEARING: **Tuesday, February 25, 2020, 7:00 p.m.**
All interested persons may appear and be heard at that time.

PLACE OF HEARING: Brea Civic & Cultural Center, Council Chambers
1 Civic Center Circle, Brea, CA 92821

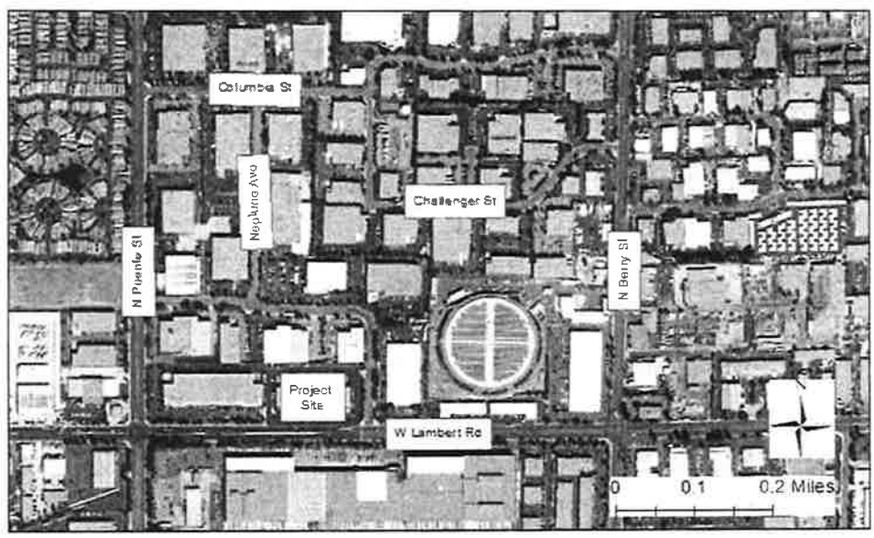
REQUEST: A request to operate a learning center for adults with minor developmental disabilities in the M-1 (PD), Light Industrial (Precise Development) Zone.

PROPERTY INVOLVED: 925 W. Lambert Road, Unit C

APPLICANT: Courtni English
No Limits Learning Center
331 Thor Place, Brea, CA 92821

ENVIRONMENTAL INFORMATION: The City of Brea has determined that the proposed project is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 of said act.

AREA MAP:



IF YOU CHALLENGE THIS CONDITIONAL USE PERMIT NO. CUP 20-03 AND/OR RELATED ENVIRONMENTAL DETERMINATIONS IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE, DELIVERED TO THE COMMISSION AT, OR PRIOR TO, THE PUBLIC HEARING.

FOR FURTHER INFORMATION ON THIS SUBJECT, PLEASE CONTACT THE PLANNING DIVISION AT (714) 990-7674.

COMMUNITY DEVELOPMENT DEPARTMENT

Jennifer A. Lilley, AICP
City Planner

ATTACHMENT 4

NO LIMITS LEARNING CENTER

925 W. Lambert Road, Unit C
Brea, CA, 92821

DESIGN TEAM JOB NUMBER: 2019-N-01
ISSUE DATE: 11/20/19

Drawing Index

G-001	Cover Sheet
AS-001	Site Plan
A-100	Existing Unit C Floor Plan - First Level
A-101	Existing Unit C Floor Plan - Second Level
A-102	Existing Unit C Demolition Plan - First Level
A-104	Proposed Unit C Floor Plan - First Level

NOTES

Issued:		Date:
A	Issued for CUP Submittal	11/20/19
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Seal

Seal

PROJECT ARCHITECT/ENGINEER DATE

PROJECT LEAD DATE

PROJECT DESIGNER DATE

Drawing Alteration

These are conceptual drawings reflecting design intent. Exact specifications and detailed drawings for construction, installation and cost estimations by respective licensed architects, engineers and other professional service providers should be attained prior to fabrication. No Limits Learning Center accepts no responsibility for misuse of, misinterpretation of, quality level, or failure of materials and construction methods utilized during fabrication and / or installation for any elements in these drawings. No Limits Learning Center is not responsible for any compliance of code related issues as this is the sole responsibility of the client and should be verified by a qualified licenced contractor with proper permits from government jurisdictions.

DO NOT SCALE PLANS

Copying, Printing, Software and other processes required to produce these prints can stretch or shrink the actual paper or layout. Therefore, scaling of this drawing may be inaccurate. Contact Chrestensen Design with any need for additional dimensions or clarifications.

No Limits Learning Center

No Limits Learning Center
925 W. Lambert Road, Unit C
Brea, CA 92821
Orange County
Project Name & Location:

Cover Sheet

Drawing Name:

Date: 11-20-19

Project No. 2019-N-01

Drawn By: ALS

Scale: As Noted

G-001

Drawing No.

NO LIMITS LEARNING CENTER CONTACT:

Courtni English
cenglish@nolimitslc.com
714-674-0368

DESIGNER OF RECORD:

Austin Short
2006 N. Williams Street
Santa Ana, CA 92705
ashort73@gmail.com

CIVIL ENGINEER OF RECORD:

Civil Firm Name
Civil Engineer of Record
Civil Firm Address
Civil Firm City,
Civil Firm State, Civil Firm Zip
Civil Firm Phone
Civil Firm Fax Fax
Contact: Project Manager Name
Civil Contact Phone
Civil Contact Email

STRUCTURAL ENGINEER OF RECORD:

Struct Firm Name
Struct Engineer of Record
Struct Firm Address
Struct Firm City,
Struct Firm State, Struct Firm Zip
Struct Firm Phone
Struct Firm Fax Fax
Contact: Project Manager Name
Struct Contact Phone
Struct Contact Email

MECHANICAL ENGINEER OF RECORD:

Mech Firm Name
Mech Engineer of Record
Mech Firm Address
Mech Firm City,
Mech Firm State, Mech Firm Zip
Mech Firm Phone
Mech Firm Fax Fax
Contact: Project Manager Name
Mech Contact Phone
Mech Contact Email

ELECTRICAL ENGINEER OF RECORD:

Elec Firm Name
Elec Engineer of Record
Elec Firm Address
Elec Firm City,
Elec Firm State, Elec Firm Zip
Elec Firm Phone
Elec Firm Fax Fax
Contact: Project Manager Name
Elec Contact Phone
Elec Contact Email

LOCATION MAP:

PROJECT LATITUDE: 33° 55'30.80"
PROJECT LONGITUDE: 117° 54'44.80"

PLAN NORTH

PLOTTED: 11/20/2019 9:47 AM

NO LIMITS LEARNING CENTER - NOT FOR CONSTRUCTION

1 Site Plan
SCALE: 1" = 40'-0"

PLAN NORTH

0' 20' 40' 80'

PROJECT INFORMATION:

THE BUILDING IS TO BE CONSTRUCTED IN ACCORDANCE WITH THE FOLLOWING:

2016 - PART 1: CALIFORNIA BUILDING STANDARDS ADMINISTRATIVE CODE
2016 - PART 2: CALIFORNIA BUILDING CODE
2016 - PART 3: CALIFORNIA ELECTRICAL CODE
2016 - PART 4: CALIFORNIA MECHANICAL CODE
2016 - PART 5: CALIFORNIA PLUMBING CODE
2016 - PART 6: CALIFORNIA ENERGY CODE
2016 - PART 9: CALIFORNIA FIRE CODE
2016 - PART 11: CALIFORNIA GREEN BUILDING STANDARDS CODE
2016 - PART 12: CALIFORNIA REFERENCE STANDARDS CODE

OCCUPANCY AREA SUMMARY		
LEVEL:	OCCUPANCY USE:	SQUARE FOOTAGE
FIRST LEVEL	BUSINESS (B)	6,241
	THERAPY EXERCISE AREA (E)	9,000
SUBTOTAL (FIRST LEVEL)		15,241
SECOND LEVEL	BUSINESS (B)	5,759
SUBTOTAL (SECOND LEVEL)		5,759
TOTAL OCCUPANCY S.F. (FIRST AND SECOND LEVEL)		21,000

OCCUPANCY LOAD FACTOR (TABLE A OF CPC)			
OCCUPANCY USE	SQUARE FEET/ OCCUPANT	TOTAL OCCUPANCY SQUARE FOOTAGE	OCCUPANTS
BUSINESS (B)	200	12,000	60
THERAPY EXERCISE AREA (E)	50	9,000	180
TOTAL OCCUPANT LOAD			240

MIN NO. OF REQUIRED PLUMBING FIXTURES: TABLE 422.1 - TABLE A TOTAL OCCUPANCY LOAD OF 60								
OCCUPANCY/ GROUP	WATER CLOSETS (FIXTURE PER PERSON)		URINALS (FPP)	LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAINS	OTHER
	MALE	FEMALE	MALE	MALE	FEMALE			
BUSINESS (CODE REQUIRED)	1: 1-50 2: 51-100 3: 101-200 4: 201-400	1: 1-15 2: 16-30 3: 31-50 4: 51-100	1: 1-100 2: 101-200	1: 1-75 2: 76-150	1: 1-50 2: 51-100 3: 101-150	--	1: 1-150	1 SERVICE SINK
BUSINESS (ACTUAL REQUIRED)	1	2	-	1	1	-	1	1 SERVICE SINK
BUSINESS (PROVIDED)	1	2	1	1	1	--	2	1 SERVICE SINK

MIN NO. OF REQUIRED PLUMBING FIXTURES: TABLE 422.1 - TABLE A TOTAL OCCUPANCY LOAD OF 180								
OCCUPANCY/ GROUP	WATER CLOSETS (FIXTURE PER PERSON)		URINALS (FPP)	LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAINS	OTHER
	MALE	FEMALE	MALE	MALE	FEMALE			
EDUCATIONAL (CODE REQUIRED)	1: 1-50	1: 1-30	1: 1-100	1: 1-40	1: 1-40	--	1: 1-150	1 SERVICE SINK
EDUCATIONAL (ACTUAL REQUIRED)	2	3	-	3	3	-	1	1 SERVICE SINK
EDUCATIONAL (PROVIDED)	2	3	1	3	3	--	2	1 SERVICE SINK

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PROJECT ARCHITECT/ENGINEER DATE

PROJECT LEAD DATE

PROJECT DESIGNER DATE

Drawing Alteration

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No Limits Learning Center

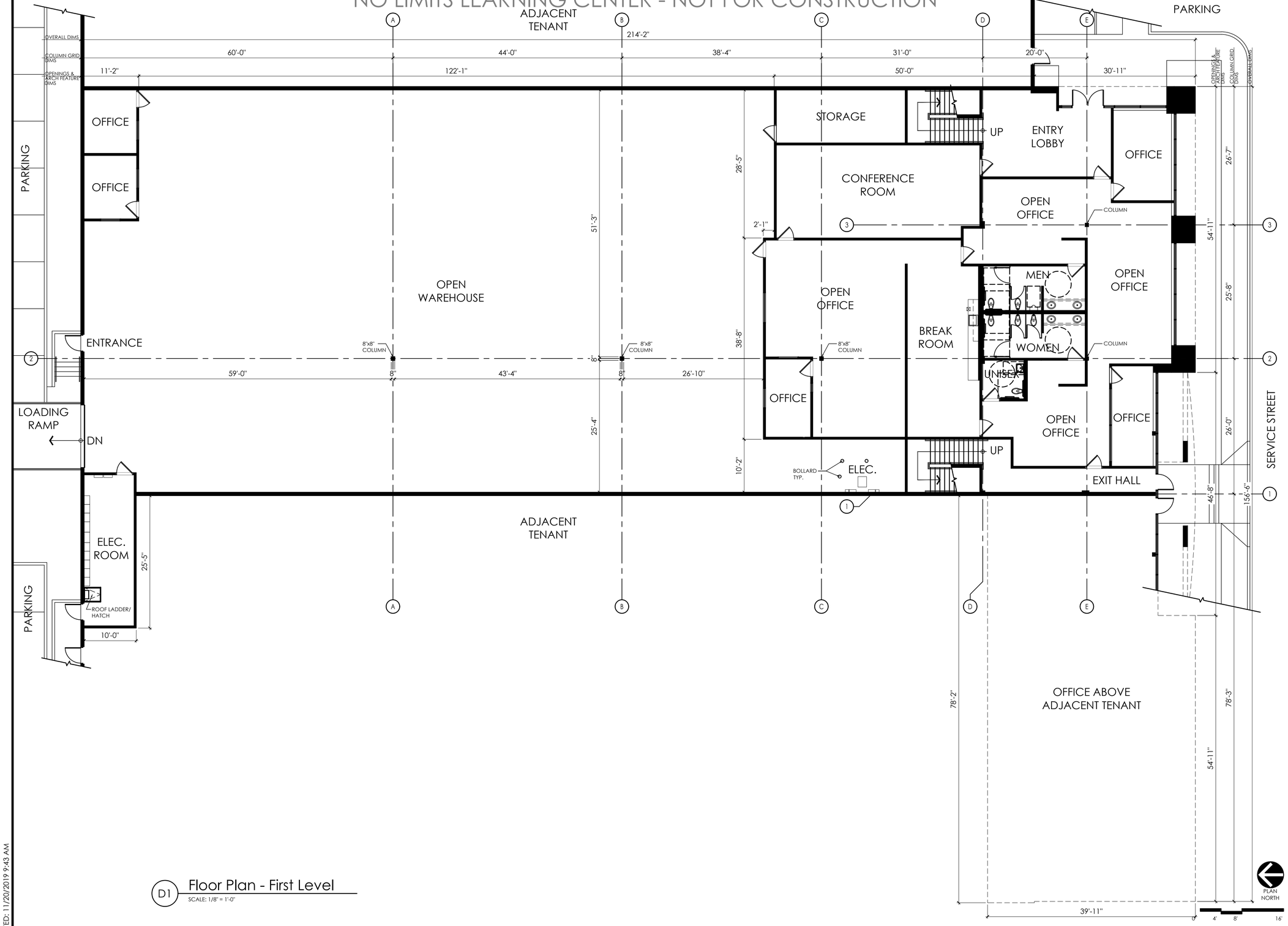
No Limits
Learning Center
925 W. Lambert Road, Unit C
Brea, CA 92821
Orange County
Project Name & Location:

Site Plan
Drawing Name:

Date: 11-20-19
Project No. 2019-N-01
Drawn By: ALS
AS-001
Scale: As Noted
Drawing No.

PLOTTED: 11/20/2019 9:43 AM

NO LIMITS LEARNING CENTER - NOT FOR CONSTRUCTION



D1 Floor Plan - First Level
SCALE: 1/8" = 1'-0"

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PROJECT ARCHITECT/ENGINEER DATE

PROJECT LEAD DATE

PROJECT DESIGNER DATE

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No Limits Learning Center

No Limits Learning Center
925 W. Lambert Road, Unit C
Brea, CA 92821
Orange County
Project Name & Location:

Existing Unit C Floor Plan
Drawing Name:

Date: 11-20-19

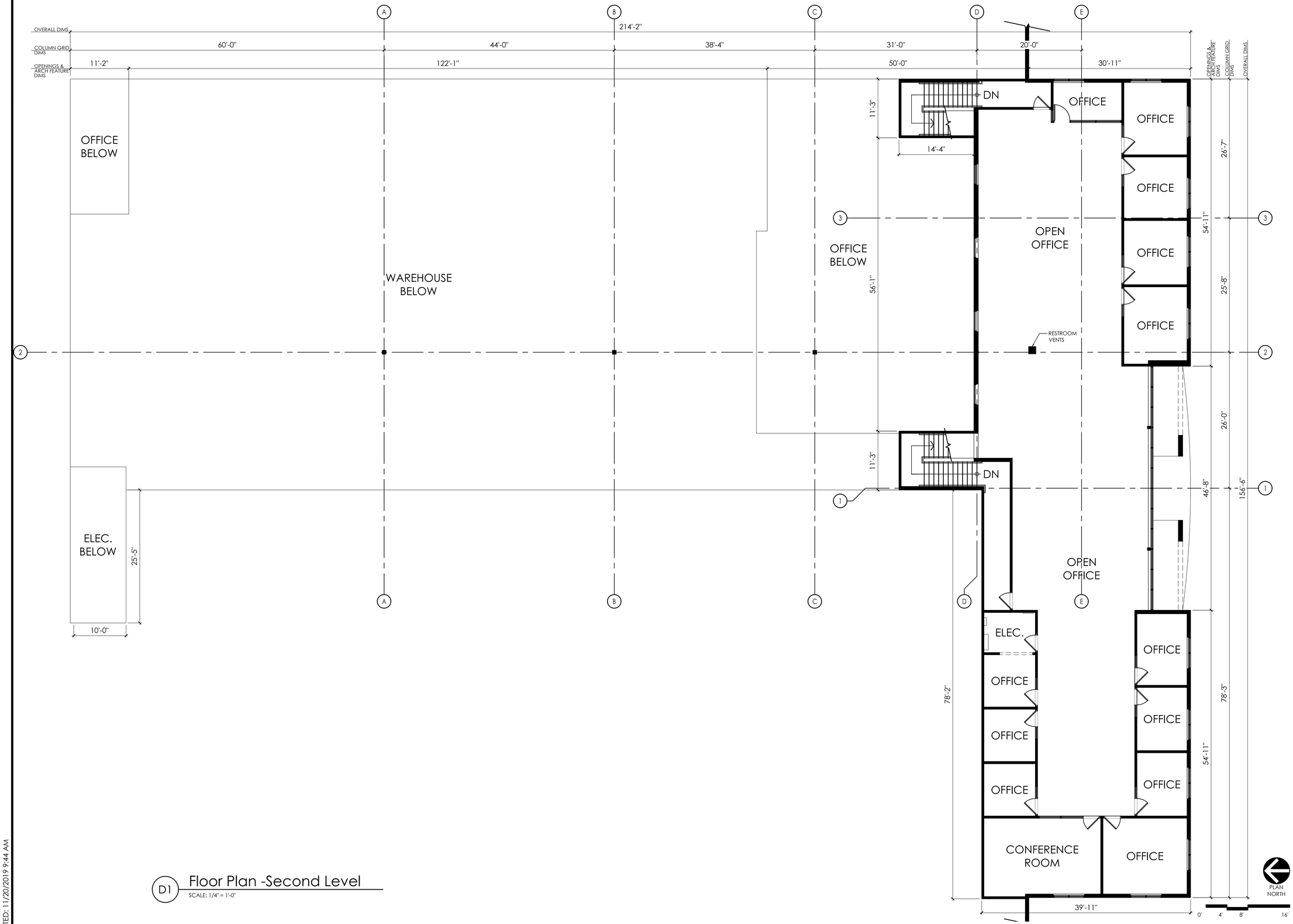
Project No. 2019-N-01

Drawn By: ALS

Scale: As Noted

A-100
Drawing No.

NO LIMITS LEARNING CENTER - NOT FOR CONSTRUCTION



D1 Floor Plan -Second Level
SCALE: 1/4" = 1'-0"

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PROJECT ARCHITECT/ENGINEER DATE

PROJECT LEAD DATE

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No Limits Learning Center

No Limits Learning Center
925 W. Lambert Road, Unit C
Brea, CA 92821
Orange County
Project Name & Location:

Existing Unit C
Floor Plan
Drawing Name:

Date: 11-20-19

Project No.
2019-N-01

Drawn By: ALS

Scale: As Noted

A-101
Drawing No.

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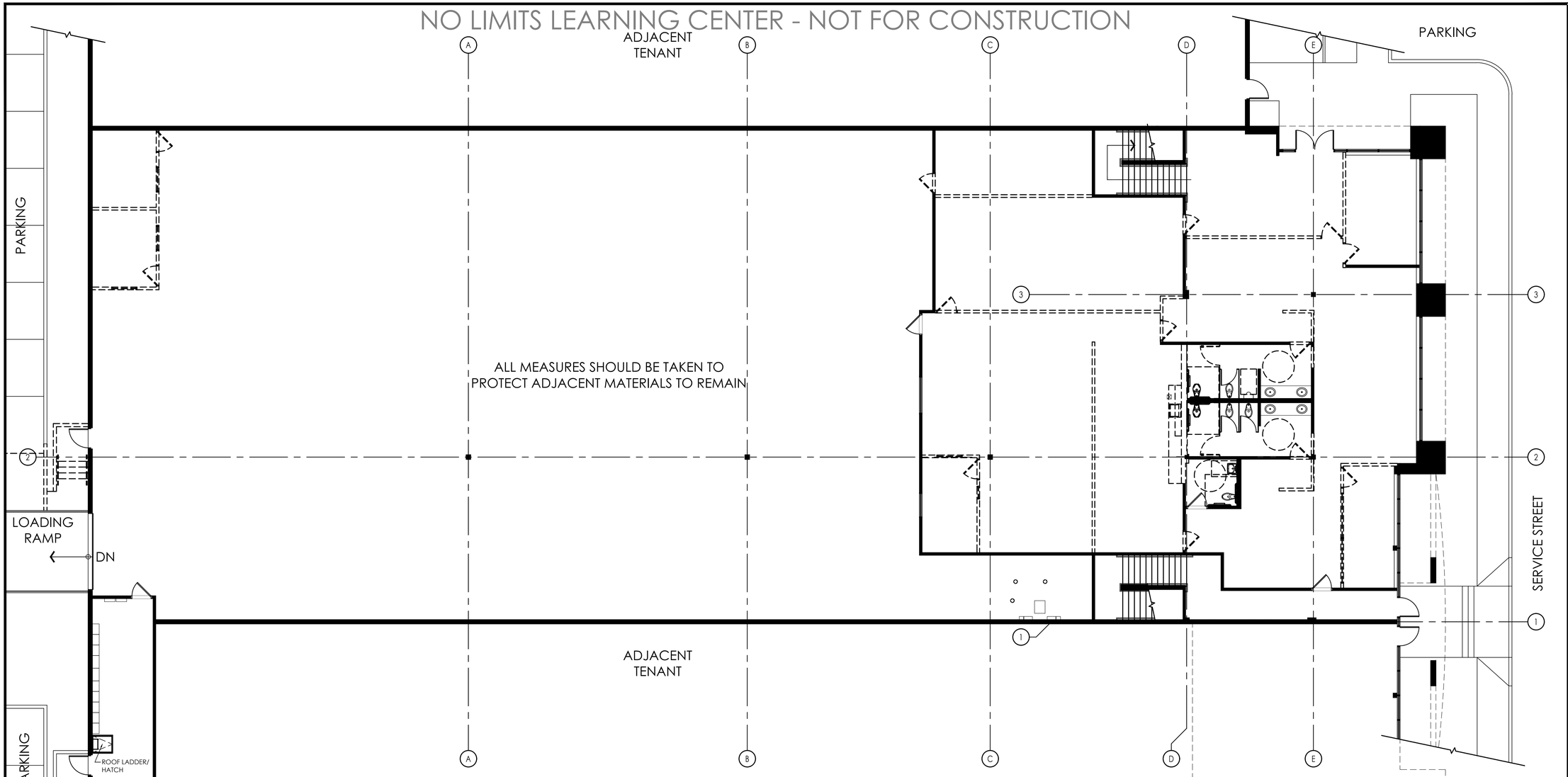
NO LIMITS LEARNING CENTER - NOT FOR CONSTRUCTION



LEGEND:

- EXISTING WALL TO REMAIN
- EXISTING TO REMAIN
- EXISTING WALL TO BE REMOVED
- TO BE REMOVED

NOTE:
1. ALL DIMENSION OF EXISTING ITEMS ARE FOR REFERENCE ONLY AND SHOULD BE V.I.F.

GENERAL - DEMOLITION NOTES:		
G	1	THESE DEMOLITION DRAWINGS ARE FOR GENERAL INFORMATION OF EXISTING CONDITIONS, INCLUDING ARCHITECTURAL, MECHANICAL, ELECTRICAL AND PLUMBING, AND IS NOT INTENDED TO BE TOTALLY INCLUSIVE OF ALL DEMOLITION REQUIREMENTS. THE CONTRACTOR SHALL INSPECT THE SITE AND MAKE REASONABLE EFFORT TO BID ALL ITEMS NEEDING REMOVAL, INCLUDING THOSE ABOVE EXISTING CEILINGS, BEHIND DOORS, IN CHASEWAYS, ETC. THAT ARE NOT SPECIFICALLY SHOWN ON THE DEMOLITION DRAWINGS.
G	2	FIELD VERIFY ALL EXISTING CONDITIONS. COORDINATE WITH THE OWNER'S REP. AT BID WALK-THROUGH ALL DEMOLITION SHOWN ON THIS DRAWING. SOME ITEMS SHOWN TO BE REMOVED MAY NEED TO BE SALVAGED AND REUSED. CONTRACTORS FAILURE TO COORDINATE WITH THE OWNER'S REP. AT BID WALK-THROUGH SHALL NOT BE THE BASIS OF ANY CHANGE ORDERS DURING CONSTRUCTION.
G	3	COORDINATE ALL REMOVALS WITH STRUCTURAL DRAWINGS - CONTRACTOR SHALL BE RESPONSIBLE FOR SHOREING ALL EXISTING CONSTRUCTION AS REQUIRED. STAMPED ENGINEERED SHORING DRAWINGS SHOULD BE PRODUCED AND SUBMITTED FOR REVIEW. CONTRACTORS FAILURE TO DO SO SHALL BE AT THERE OWN RISK. SEE STRUCTURAL DWGS. FOR ADDITIONAL STRUCTURAL DEMOLITION AND NOTES.
G	4	REMOVALS SHALL INCLUDE THE SPECIFIC ITEMS INDICATED AND ALL OTHER ASSOCIATED ITEMS AS REQUIRED TO BE REMOVED FOR INSTALLATION OF NEW CONSTRUCTION. ITEMS TO BE DEMOLISHED ARE SHOWN BY DASHED LINES, AREAS AND/OR KEYNOTES.
G	5	DEMOLITION CONTRACTOR SHALL COORDINATE REMOVALS OF ALL ITEMS THAT WILL AFFECT THE INSTALLATION OF NEW CONSTRUCTION AS DIRECTED BY THE OWNER'S CONSTRUCTION REPRESENTATIVE.
G	6	PROVIDE TEMPORARY WEATHER PROTECTION DURING ALL EXTERIOR REMOVALS, OR TO PROTECT WORK THAT IS EXPOSED TO THE WEATHER UNTIL PROTECTED ELEMENT IS IN ITS COMPLETED STATE.
G	7	PROTECT EXISTING CONSTRUCTION SCHEDULED TO REMAIN.
G	8	CONTRACTOR SHALL BE RESPONSIBLE FOR LAYING OUT THE WORK, AND SHALL INFORM THE OWNER'S REPRESENTATIVE OR THE ARCHITECT OF ANY DISCREPANCIES AFFECTING PROPER COMPLETION OF CONTRACT WORK. THIS PLAN IS NOT A RECORD DRAWING AND SHALL BE CONSIDERED A GENERAL SCOPE OF THE DEMOLITION REQUIRED. THE CONTRACTOR WILL BE RESPONSIBLE FOR THE REMOVAL OF ALL ITEMS NECESSARY FOR THE NEW WORK (ALL TRADES) TO BE PERFORMED PROPERLY. THE CONTRACTOR SHALL BE RESPONSIBLE FOR RELOCATING ALL ELECTRICAL, MECHANICAL AND PLUMBING SERVICES THAT ARE TO REMAIN ACTIVE. THIS INCLUDES SCHEDULING ALL SHUT-DOWNS, DISCONNECTS AND RECONNECTS OF THOSE SERVICES.
G	9	COORDINATE REMOVAL AND RELOCATION OF EXISTING FIRE SUPPRESSION EQUIPMENT (IF REQUIRED) WITH APPROVED FIRE PROTECTION DRAWINGS WHICH WERE SUBMITTED FOR THE SPRINKLER PERMIT.
G	10	PRIOR TO CREATION OF ANY AND ALL ROOF PENETRATIONS, THE CONTRACTOR SHALL CONFIRM WITH THE OWNER'S CONSTRUCTION REPRESENTATIVE AS TO WHO WILL BE RESPONSIBLE FOR THE WORK REQUIRED PER THESE CONTRACT DOCUMENTS, TYPICALLY THIS WILL BE THE LANDLORD'S ROOFING CONTRACTOR UNDER CONTRACT WITH THE THE OWNER'S G.C., OR THE 'S G.C. ROOFING CONTRACTOR AFTER APPROVAL OF SAME BY LANDLORD. CONTACT THE OWNER'S REP AND LANDLORD FOR MORE INFORMATION.
G	11	CONTRACTOR SHALL PATCH AND REPAIR ALL HOLES AND/OR DEPRESSIONS IN EXISTING CONCRETE FLOOR THROUGHOUT DEMISED PREMISES, PROVIDING A SMOOTH LEVEL SURFACE IN PREPARATION OF NEW FLOOR FINISH REQUIREMENTS, UNLESS NOTED OTHERWISE.
G	12	ALL EXISTING STRUCTURAL COLUMNS ARE TO REMAIN, UNLESS NOTED OTHERWISE.
G	13	DEMOLITION CONTRACTOR SHALL REMOVE ANY & ALL ITEMS OF CONSTRUCTION THAT WILL AFFECT THE INSTALLATION OF NEW CONSTRUCTION AS DIRECTED BY THE OWNER'S CONSTRUCTION REPRESENTATIVE.

D1 Demolition Plan - First Level
SCALE: 1/8" = 1'-0"

PLAN NORTH

0' 4' 8' 16'

Issued:		Date:
A	Issued for CUP Submittal	11/20/19
B		
C		
D		
E		

Revisions:		Date:
1		
2		
3		
4		
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6		
7		
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9		

Seal Seal

PROJECT ARCHITECT/ENGINEER DATE

PROJECT LEAD DATE

PROJECT DESIGNER DATE

Drawing Alteration

These are conceptual drawings reflecting design intent. Exact specifications and detailed drawings for construction, installation and cost estimations by respective licensed architects, engineers and other professional service providers should be attained prior to fabrication. No Limits Learning Center accepts no responsibility for misuse of, misinterpretation of, quality level, or failure of materials and construction methods utilized during fabrication and / or installation for any elements in these drawings. No Limits Learning Center is not responsible for any compliance of code related issues as this is the sole responsibility of the client and should be verified by a qualified licenced contractor with proper permits from government jurisdictions.

DO NOT SCALE PLANS

Copying, Printing, Software and other processes required to produce these prints can stretch or shrink the actual paper or layout. Therefore, scaling of this drawing may be inaccurate. Contact Chrestensen Design with any need for additional dimensions or clarifications.

No Limits Learning Center

No Limits Learning Center
925 W. Lambert Road, Unit C
Brea, CA 92821
Orange County
Project Name & Location:

Existing Unit C Demolition Plan
Drawing Name:

Date: 11-20-19

Project No. 2019-N-01

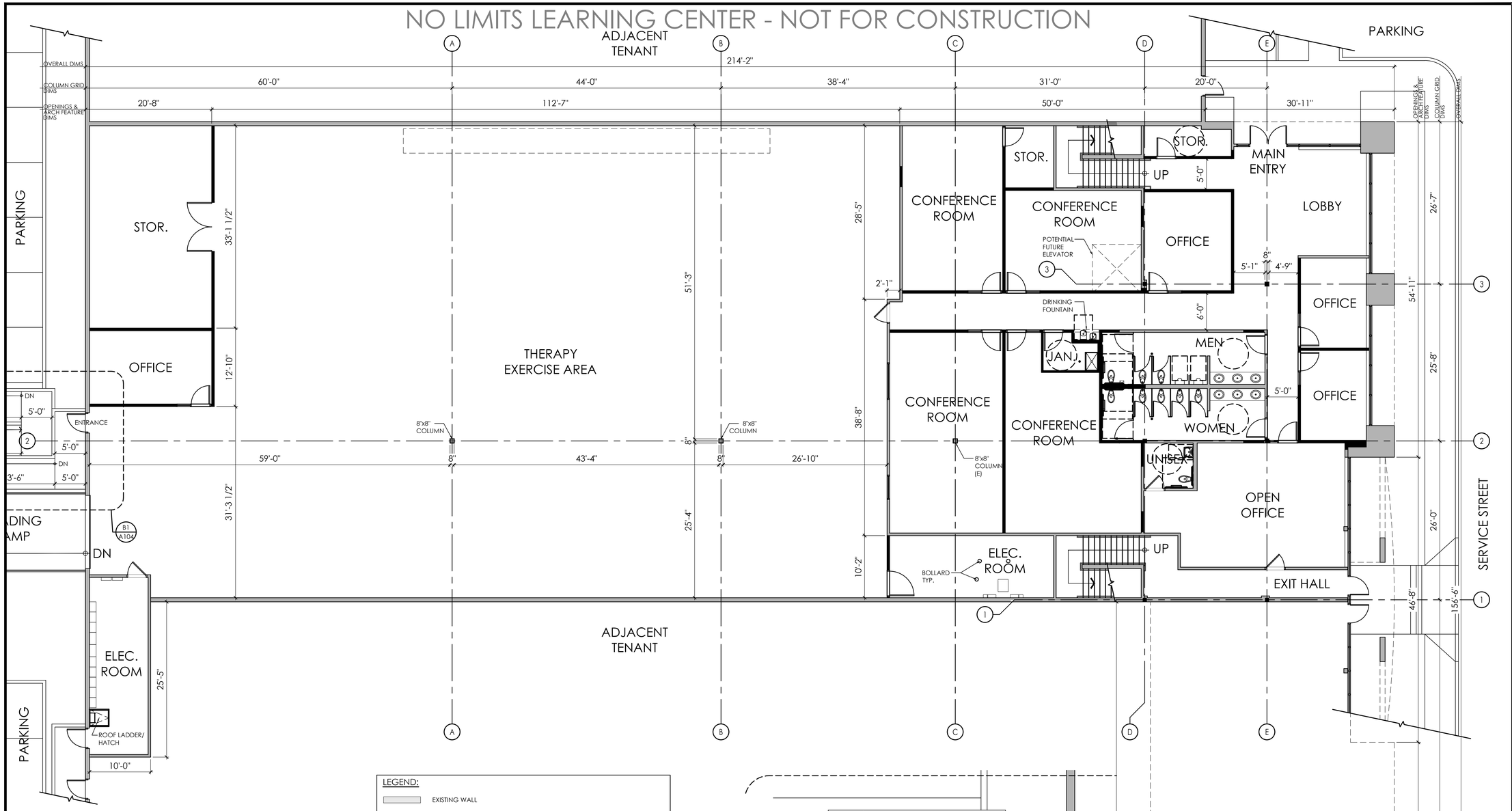
Drawn By: ALS

Scale: As Noted

A-102
Drawing No.

PLOTTED: 11/20/2019 9:44 AM

NO LIMITS LEARNING CENTER - NOT FOR CONSTRUCTION

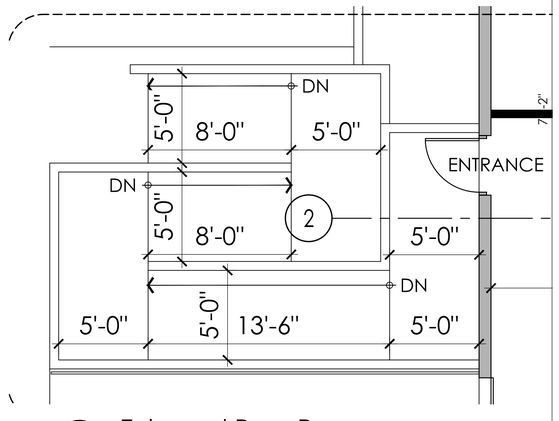


LEGEND:

- EXISTING WALL
- PROPOSED WALL

NOTE:
1. ALL DIMENSION OF PROPOSED ITEMS ARE FOR REFERENCE ONLY AND SHOULD BE V.I.F.

NOTE: SEE DRAWING A-103 FOR SECOND LEVEL DEMOLITION.



D1 Floor Plan - First Level
SCALE: 1/8" = 1'-0"

B1 Enlarged Rear Ramp
SCALE: 1/4" = 1'-0"

Issued:		Date:
A	Issued for CUP Submittal	11/20/19
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Seal

Seal

PROJECT ARCHITECT/ENGINEER DATE

PROJECT LEAD DATE

PROJECT DESIGNER DATE

Drawing Alteration

These are conceptual drawings reflecting design intent. Exact specifications and detailed drawings for construction, installation and cost estimations by respective licensed architects, engineers and other professional service providers should be attained prior to fabrication. No Limits Learning Center accepts no responsibility for misuse of, misinterpretation of, quality level, or failure of materials and construction methods utilized during fabrication and / or installation for any elements in these drawings. No Limits Learning Center is not responsible for any compliance of code related issues as this is the sole responsibility of the client and should be verified by a qualified licenced contractor with proper permits from government jurisdictions.

DO NOT SCALE PLANS

Copying, Printing, Software and other processes required to produce these prints can stretch or shrink the actual paper or layout. Therefore, scaling of this drawing may be inaccurate. Contact Chrestensen Design with any need for additional dimensions or clarifications.

No Limits Learning Center

925 W. Lambert Road, Unit C
Brea, CA 92821
Orange County
Project Name & Location:

Proposed Unit C Floor Plan
Drawing Name:

Date: 11-20-19

Project No. 2019-N-01

Drawn By: ALS

Scale: As Noted

A-104
Drawing No.

PLOTTED: 11/20/2019 9:45 AM

ATTACHMENT 5

PROJECT DESCRIPTION

NAME OF BUSINESS: NO LIMITS LEARNING CENTER

PROJECT LOCATION: 925 W. LAMBERT ROAD, UNIT C, BREA, CA 92821

APPLICANT'S NAME: COURTNI ENGLISH

APPLICANT'S PHONE #: (714) 914-0772

INTRODUCTION

No Limits Learning Center is dedicated to providing educational opportunities to people with mild developmental disabilities through delivering a broad range of specialized programs and services. No Limits Learning Center provides outstanding opportunities for daily living skills for people with mild developmental disabilities who are seeking self-improvement, enhanced independence, and potential future access to employment. No Limits prepares their consumers to be effective communicators, lifelong learners and responsible citizens.

No Limits was established in 2012 and opened its doors at 331 Thor Place in Brea on February 9th 2015. What started with one student and three staff members has grown to over 70 students and 20 staff members. It became clear that this is a much needed service in North Orange County and continues to be as No Limits currently has 45 students on their waitlist.

NEW LOCATION/SF/PROPOSED OCCUPANCY

No Limits has been searching for a building that would allow them to expand and meet the needs of their program. 925 W. Lambert Rd, Unit C has a floor plan and office buildout that would give ample space to serve more students all while maintaining the quality of No Limits' program plan. Their current location at 331 Thor Place is approximately 10,000SF and 925 W. Lambert, Unit C is approximately 23,000SF. This would allow them to double their student population to approximately 120 students and 30 staff members.

DAILY PROGRAM PLAN

No Limits offers classes that students participate in throughout the day. Students will rotate throughout the facility for academic as well as extracurricular classes. Below is an example of a daily schedule.

Day/Time	8:45am-9:15am	9:15am-9:45am	9:45am-9:55am	9:55am-10:05am	10:05am-10:35am	10:35am-11:05am	11:05am-11:35am	11:35am-12:05pm	12:05pm-12:35pm	12:35pm-1:05pm	1:05pm-1:15pm	1:15pm-1:25pm	1:25pm-1:55pm	1:55pm-2:00pm
MONDAY														
Alexa	Health & Fitness	Morning Routine		Break	Nutrition	Vocab. Review	Journal	Lunch		Life Skills		Break	Structured Activity	DISMISSAL
Laurie	Morning Routine		Break	Health & Fitness		Structured Activity	Lunch		LA/Sign Language	Developmental Fitness/Dance	Break	Money Math		DISMISSAL
Chris	Morning Routine	Health & Fitness		Break	Art		Structured Activity	Lunch		Reading		Break	Life Skills	DISMISSAL
Anissa	Morning Routine	Life Skills	Break	Reading		Health & Fitness	Lunch		Structured Activity	Sensory	Break	Developmental Fitness/Dance		DISMISSAL
TUESDAY														
Alexa	Health & Fitness	Morning Routine		Break	Life Skills	Reading	Developmental Fitness/Dance	Lunch		Money Math		Break	Geography/ Geology	DISMISSAL
Laurie	Morning Routine		Break	Health & Fitness		Art	Lunch		Nutrition	Life Skills	Break	Structured Activity		DISMISSAL
Chris	Morning Routine	Health & Fitness		Break	Money Math	Life Skills	LA/Sign Language	Lunch		Developmental Fitness/Dance		Break	Structured Activity	DISMISSAL
Anissa	Morning Routine	Art	Break	Money Math		Health & Fitness	Lunch		Life Skills	Fine Motor	Break	Nutrition		DISMISSAL
WEDNESDAY														
Alexa	Health & Fitness	Morning Routine		Break	Art	Grammar	Life Skills	Lunch		Structured Activity		Break	Academic Review	DISMISSAL
Laurie	Morning Routine		Break	Health & Fitness		Rhythm/ Music	Lunch		Structured Activity	Reading	Break	Life Skills		DISMISSAL
Chris	Morning Routine	Health & Fitness		Break	Life Skills	Analog Clock	Structured Activity	Lunch		Reading		Break	Rhythm/ Music	DISMISSAL
Anissa	Morning Routine	Rhythm/ Music	Break	Reading		Health & Fitness	Lunch		Sensory	Life Skills	Break	Structured Activity		DISMISSAL
THURSDAY														
Alexa	Health & Fitness	Morning Routine		Break	Money Math	Rhythm/ Music	Developmental Fitness/Dance	Lunch		Sign Language		Break	Reading	DISMISSAL
Laurie	Morning Routine		Break	Health & Fitness		Money Math	Lunch		Reading	Developmental Fitness/Dance	Break	Life Skills		DISMISSAL
Chris	Morning Routine	Health & Fitness		Break	Sensory	Money Math	Geography	Lunch		Life Skills		Break	Motor Skills	DISMISSAL
Anissa	Morning Routine	Money Math	Break	Language Arts		Health & Fitness	Lunch		Life Skills	Sensory	Break	Developmental Fitness/Dance		DISMISSAL
FRIDAY														
Alexa	Morning Routine	LA/ Sign Language		Break	Electives		Cleaning	Lunch		Class Choice		Break	Class Choice	DISMISSAL
Laurie	Morning Routine	Reading/ Money Math	Break	Cleaning	Electives		Lunch		Structured Activity	Class Choice	Break	Class Choice		DISMISSAL
Chris	Developmental Fitness/Dance	Reading/ Money Math	Cleaning	Break	Electives		Structured Activity	Lunch		Class Choice		Break	Class Choice	DISMISSAL
Anissa	Morning Routine	Reading/ Money Math	Break	Cleaning	Electives		Lunch		Structured Activity	Class Choice	Break	Class Choice		DISMISSAL

HOURS OF OPERATION

Student drop off 7:00am-8:45am
Student pick up 2:00pm-3:00pm

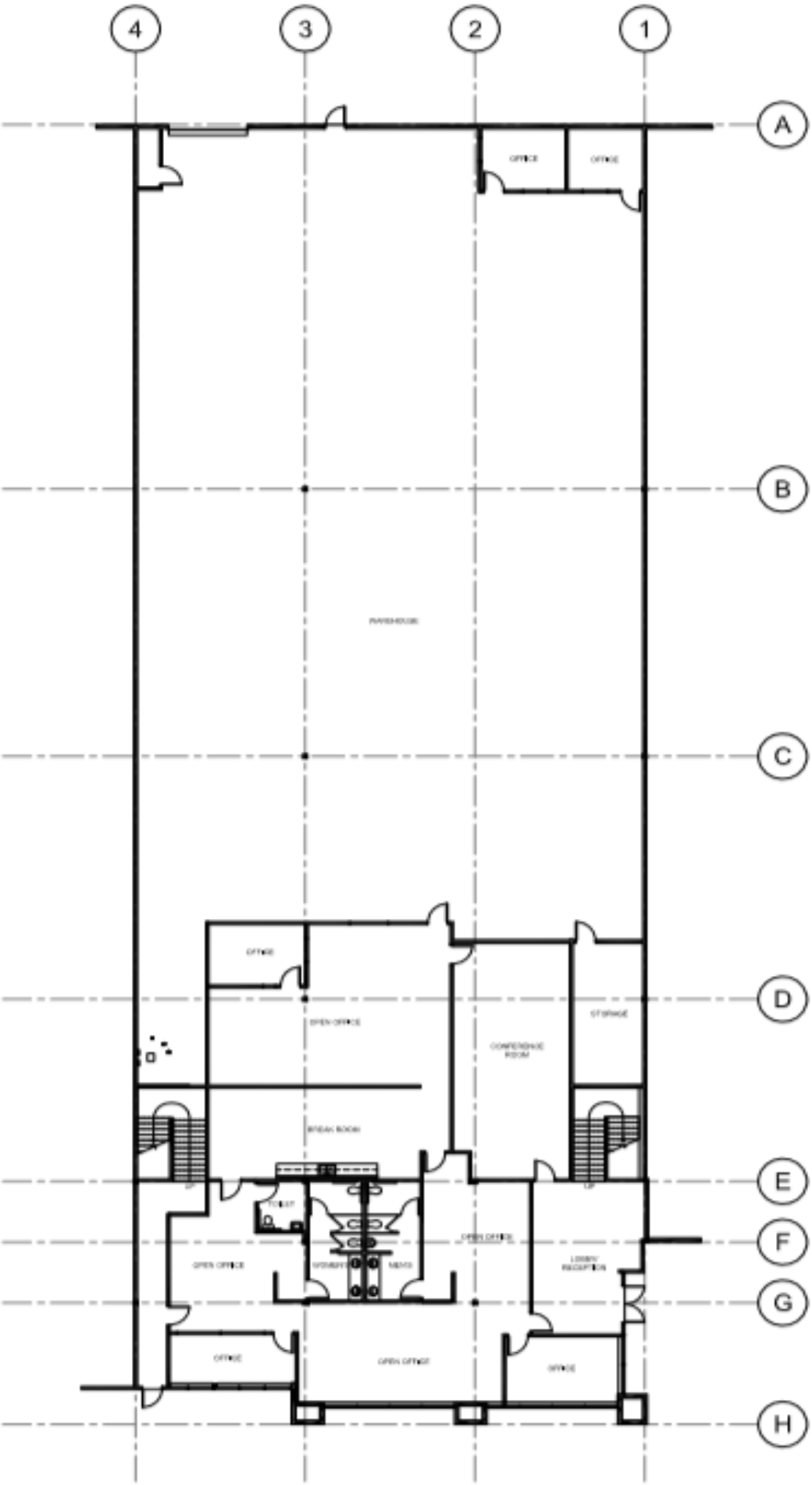
SURROUNDING BUILDINGS/BUSINESSES

CURRENT PARKING AND DRIVE AISLES

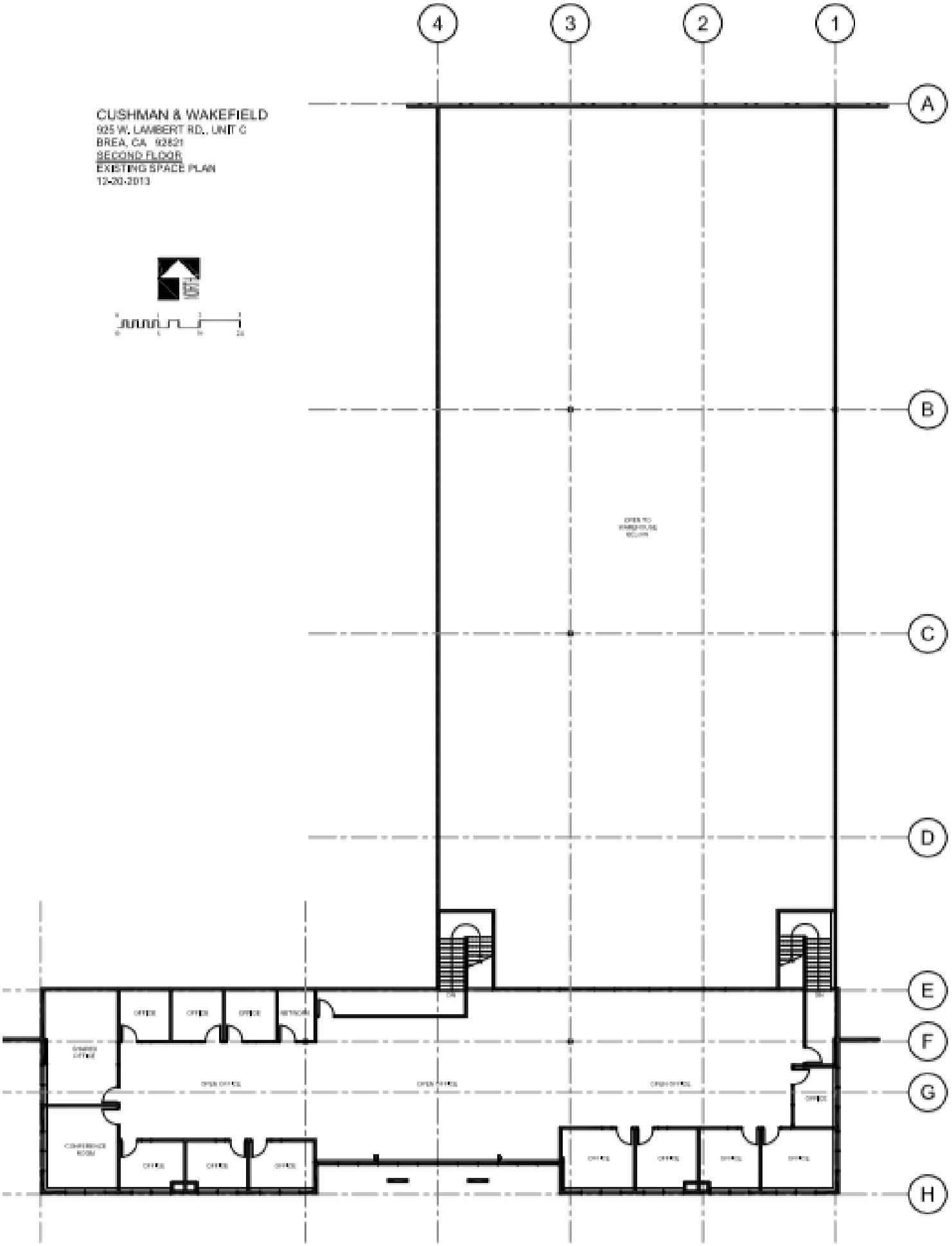
NOTE: We are entitled to 90 unassigned parking spots at 925 W. Lambert Rd.

EXISTING SPACE PLAN – FIRST FLOOR

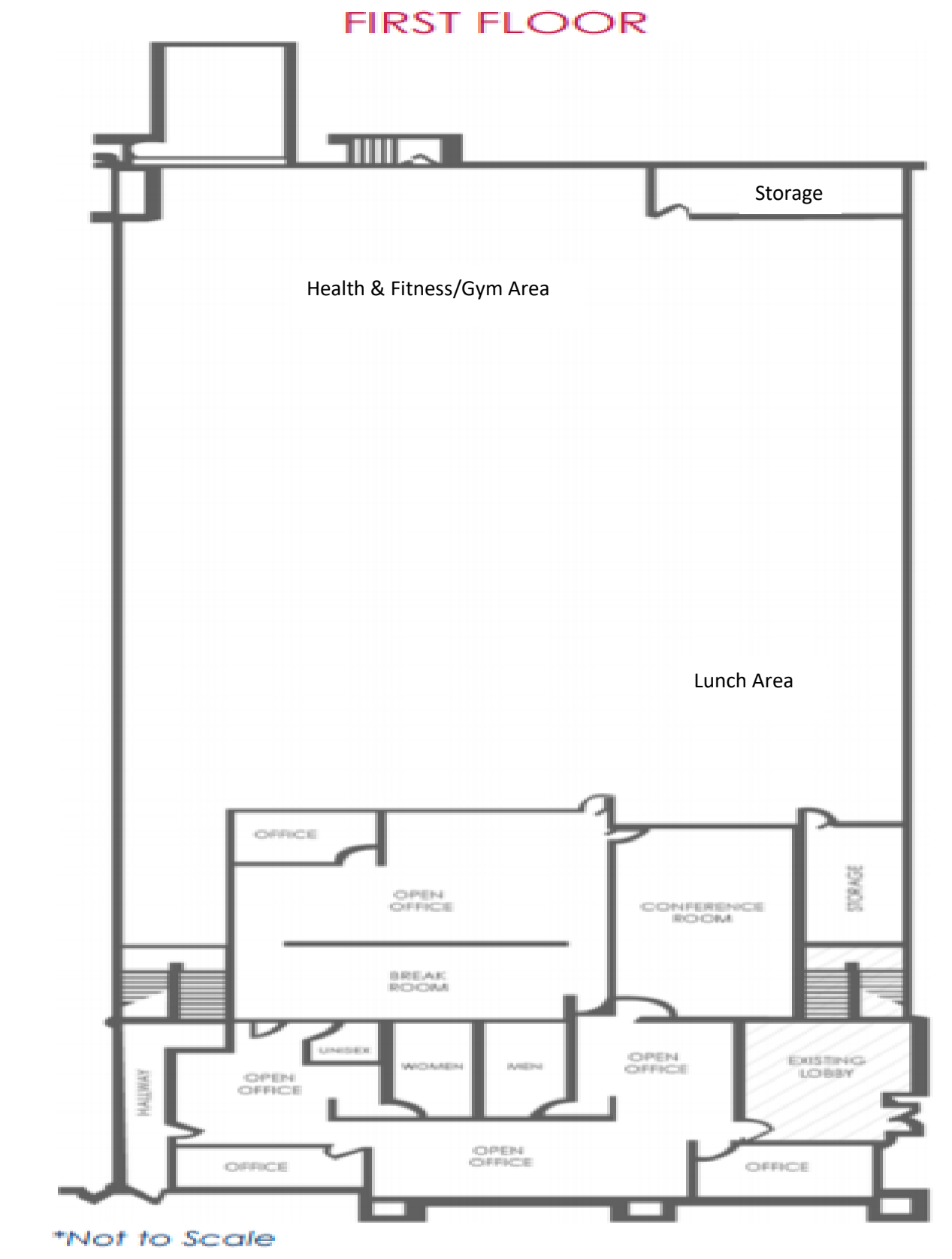
CUSHMAN & WAKEFIELD
925 W. LAMBERT RD., UNIT C
BREA, CA 92821
FIRST FLOOR
EXISTING SPACE PLAN
12-20-2013



EXISTING SPACE PLAN – SECOND FLOOR

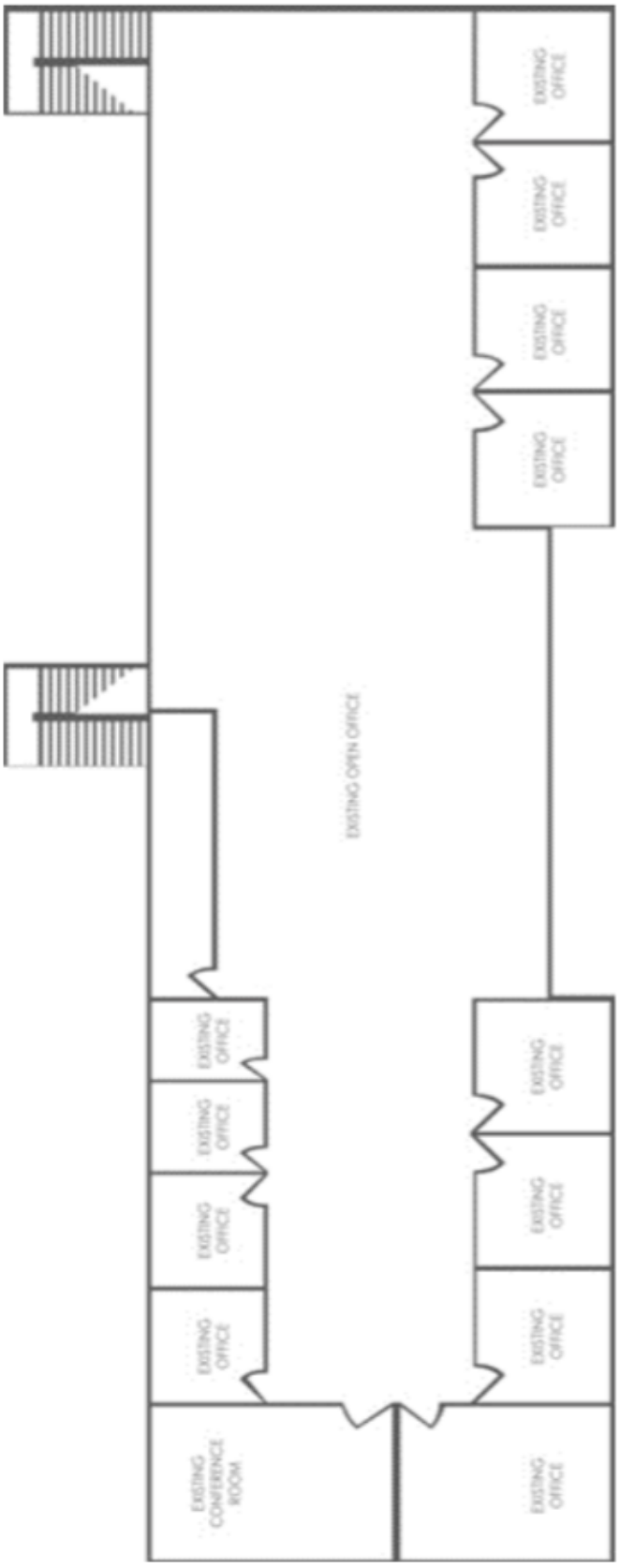


FLOOR PLAN AND PROPOSED USE



NOTE: The open office areas and conference room will be utilized as classrooms.

SECOND FLOOR



NOTE: The second floor will only be used by administration and staff as office use.
Students will only occupy the first floor.

PARKING/STUDENT DROP OFF & PICK UP

No Limits' students do not drive and the majority of them are transported by ACCESS busses, which are affiliated with OCTA. These small vehicles transport no more than 20 individuals at a time (NOT the typical large yellow school busses- See below). These small busses transport approximately 15 students at a time. Drop off and pick up times are staggered between 7:00am-8:30am and 2:00pm-3:00pm. There are typically no more than 1 to 2 small busses at No Limits' current location at any given. This would increase to approximately 2 to 3 buses at 925 W. Lambert with the increased student population. All other students are transported by staff with the private transportation option offered through the program.

In looking at the building/parking at 925 W. Lambert, there would be various options that would cause little to no impact on the surrounding businesses. For example, all staff and ACCESS busses would use the entrance off of Delta for their drop off and pick up route. Staff will park in the back of the building, leaving 2 handicap stalls and 11 regular parking stalls where buses will park temporarily to drop off and pick up students. Students will use the front entrance. Once the buses have dropped off or picked up students, they will then proceed to exit onto Lambert. Traffic has not been an issue with their current location and they will consider all means possible to continue their respect for their neighboring businesses in this new location.

OCTA ACCESS Bus

Student Pick Up and Drop Off Route

RESOLUTION NO. PC 2020-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BREA APPROVING CONDITIONAL USE PERMIT NO. CUP 20-02, SUBJECT TO CONDITIONS AS SET FORTH HEREIN

A. RECITALS:

(i) On February 25, 2020, the Planning Commission of the City of Brea held a duly noticed public hearing, as required by law, on Conditional Use Permit No. CUP 20-02, a request to allow the operation of a learning center for adults with minor developmental disabilities, in the M-1 (PD) (Light Industrial, Precise Development) zone.

(ii) The project proponent is Courtni English of No Limits Learning Center at 331 Thor Place, Brea, CA 92821.

(iii) The property owner is Teachers Insurance and Annuity Association of America, 4675 MacArthur Court, Suite 1100, Newport Beach, CA 92660.

(iv) The subject property is located at 925 W. Lambert Road in the City of Brea and is legally described as Map Book 296, block, 21, page 213, parcel 11, as shown in the latest records of the County of Orange Assessor's Office.

(v) The property is zoned Light Industrial (Precise Development) M-1 (PD).

(vi) All legal prerequisites to the adoption of this Resolution have occurred.

B. RESOLUTION:

NOW, THEREFORE, BE IT FOUND, DETERMINED AND RESOLVED by the Planning Commission of the City of Brea, as follows:

1. In all respects as set forth in Recitals, Part A, of this Resolution.

2. The Planning Commission hereby finds that the project identified above in this Resolution is exempt from the requirements of the California Environmental Quality

Act of 1970, as amended, and the Guidelines promulgated thereunder pursuant to Section 15301 of Title 14, Chapter 3, Article 19 of the California Code of Regulations.

3. The Commission further finds in consideration of Conditional Use Permit No. CUP 20-02 as follows:

a. Finding: That the use applied for at the location set forth in the application is properly one for which a Conditional Use Permit is authorized by this title.

Fact: The proposed site is zoned Light Industrial (Precise Development) M-1 (PD). The proposed educational facility for adults with minor development disabilities is permitted, subject to Planning Commission review and approval of a Conditional Use Permit. The applicant currently operates a smaller facility in the M-1 zone and has demonstrated the program's ability to operate in a compatible manner with adjacent industrial businesses.

b. Finding: That the use, with any conditions to be imposed, is necessary or desirable for the development of the community, in harmony with the various elements or objectives of the General Plan and not detrimental to existing uses or uses permitted in the zone in which the proposed use is to be located.

Fact: The project is consistent with General Plan Goal CS-1, which seeks to provide, facilitate and/or support human service program and actions that are responsive to the needs of all genders, cultural and socioeconomic groups to meet the needs of all residents. The proposed educational facility will expand human service programs in the community by providing residents with minor developmental disabilities special assistance to live more independently and obtain employment.

c. Finding: The site is adequate in size and shape to accommodate the proposed development and all of the yards, setbacks, walls or fences, landscaping and other features required to bring about conformity with other elements in the neighborhood.

Fact: No Limits Learning Center will occupy a portion of an existing building. All activities will occur indoors. No exterior modifications to the building or site are proposed. Most of the students will be transported to and from the facility by OCTA ACCESS buses. There is adequate space on-site for the buses to enter and exit the property and park safely during loading and unloading.

d. Finding: The proposed site relates to streets and highways which are properly designed and improved to carry the type and quantity of traffic generated or to be generated by the proposed development.

Fact: Vehicular access will be provided from Lambert Road and Delta Avenue. The existing roadways were designed to carry the traffic generated by the use. The project is not anticipated to generate more traffic than a permitted industrial use as most of the students arrive by public transportation.

e. Finding: That with the conditions stated in the permit, the uses will not adversely affect the public, health, safety, or general welfare.

Fact: The project will provide necessary building and life-safety systems to meet all State and local standards, thereby ensuring the safety of those using the building and occupying buildings nearby.

4. Conditional Use Permit No. CUP 20-02 is hereby approved, subject to conditions as set forth herein:

a. Business operations shall occur in substantial conformance with the site plan, floor plan and project description submitted to the Planning

Commission and dated February 25, 2020, on-file in the Planning Division, the conditions contained herein, and all applicable Federal, State and City regulations.

b. The operation shall be limited to 150 students and 40 staff members. Any increase in capacity must be approved by the City Planner and the Building Official prior to expansion.

c. Plans for the tenant improvements shall be submitted to the City for review and approval prior to commencement of construction. The plans shall comply with local Building, Fire and Engineering regulations and Orange County Health Care Agency regulations.

d. The applicant shall remedy any violations in a timely manner upon notification by the City. The City retains and reserves the right and jurisdiction to review, modify, and revoke this Conditional Use Permit based on any circumstances that negatively impact the surrounding businesses.

e. Prior to occupancy, plans shall be submitted to, and approved by, the Brea Fire Department for installation of a fire alarm system that complies with the current adopted edition of the California Fire Code.

f. The occupancy change to an Adult Day Care Facility (I-4) shall comply with the current adopted edition of the California Fire Code requirements for fire alarm and exit access and the required existing components. This information shall be included in the construction plans submitted for review and approval by the Building Division and the Fire Department.

g. A change of use/occupancy permit shall be obtained from the Building and Safety Division prior to occupancy.

h. To the fullest extent permitted by law, the applicant shall indemnify, defend and hold the City, its elected officials, officers, contractors serving as City officers, agents, and employees (“Indemnitees”) free and harmless from: (i) any and all claims, liabilities and losses whatsoever occurring or resulting to any and all persons, firms, entities, or corporations furnishing or supplying work, services, materials, or supplies in connection with, or related to, the performance of work or the exercise of rights authorized by approval of this Conditional Use Permit No. 20-02; and (ii) any and all claims, lawsuits, liabilities, and/or actions arising out of, or related to the approval of this Conditional Use Permit and/or the granting or exercise of the rights authorized by said approval; and (iii) from any and all claims, liabilities and losses occurring or resulting to any person, firm, entity, corporation for property damage, personal injury, or death, arising out of or related to the approval of, or exercise of rights granted by, this Conditional Use Permit. Applicant's obligation to indemnify, defend, and hold the Indemnitees free and harmless as required hereinabove shall include, but is not limited to, paying all fees and costs incurred by legal counsel of the

Indemnitees' choice in representing the Indemnitees in connection with any such claims, losses, lawsuits, or actions, and any award of damages, judgments, verdicts, court costs or attorneys' fees in any such lawsuit or action.

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

ADOPTED AND APPROVED this 25th day of February, 2020.

Chairman, Planning Commission

I, Jennifer A. Lilley, Secretary to the Planning Commission of the City of Brea, do hereby certify that the foregoing Resolution was introduced at a regular meeting of the Planning Commission of the City of Brea held on the 25th day of February, 2020, and was finally passed at a regular meeting of the Planning Commission of the City of Brea, held on the 25th day of February, 2020, by the following votes:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSENT: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:

ATTEST:

Secretary, Planning Commission

City of Brea

PLANNING COMMISSION COMMUNICATION

TO: Honorable Chair and Planning Commission

DATE: 02/25/2020

SUBJECT: CONSIDERATION OF CONDITIONAL USE PERMIT NO. CUP 20-01 CONDITIONAL USE PERMIT NO. CUP 20-01 – A REQUEST TO MODIFY OFF STREET PARKING REQUIREMENTS FOR THE USE AND RELIEVE TRUCK LOADING REQUIREMENTS FOR A PROPOSED SELF-STORAGE FACILITY IN THE M-1 LIGHT INDUSTRIAL ZONE

REQUEST

LG Acquisitions is requesting approval of a Conditional Use Permit to modify off-street parking requirements for the use and to relieve truck loading requirements for a proposed self-storage facility in the M-1 Light Industrial Zone.

RECOMMENDATION

Staff recommends the Planning Commission approve Conditional Use Permit No. CUP 20-01, subject to the conditions contained in the draft Resolution.

BACKGROUND/DISCUSSION

BACKGROUND

The subject property is located at 2700 E Imperial Highway, south of Imperial Highway and east of Kraemer Boulevard, in the M-1 Light Industrial Zone (Figure 1 – Aerial Map). The site is surrounded by industrial uses including an existing public storage facility to the east, research and development facilities to the north administrative offices to the west and warehouse and manufacturing uses to the south. The site is approximately 2 acres in size and is currently developed with an industrial business center made up of 2 buildings totaling 26,120 square feet. Access to the site is provided from Imperial Highway.

The applicant is proposing to demolish the existing buildings and construct a new 126,546 square foot self-storage building. The facility will include approximately 1,260 square feet of office, 1,089 walk-up storage units and 6 drive-up storage units. The building is proposed to be three stories tall and 40 feet in height. The building will feature stucco and concrete masonry finishes in varying shades of white and gray. The Imperial Highway elevation will be improved to create a dynamic street facing façade with floor to ceiling windows exposing bright green display doors, lattice to allow for vine growth, and bronze canopies (see Figure 2 – Proposed Elevation).

Figure 1- Aerial Map

The project as proposed meets all development standards for an industrial warehouse in the M-1

Zone, including setbacks, lot coverage, and building height. Industrial buildings and self-storage uses are permitted under the M-1 Light Industrial Zone. The current request is to consider a modification in off street parking requirements for the use and relieve the truck loading requirements.

Figure 2 – Proposed Elevation

DISCUSSION

The Brea Zoning Code allows for modification to off-street parking requirements through a Conditional Use Permit. The applicant is requesting to modify the required parking rate for the use and relieve truck loading requirements.

The project is proposing 46 parking spaces in total (Attachment 5 – Project Plans). Staff compared the proposed parking supply with other existing self-storage facilities within the City of Brea (see Table 1 – Existing Self Storage Parking). These facilities are not known to have any parking challenges. The parking proposed for the project exceeds the unit to parking ratio found elsewhere.

TABLE 1 – EXISTING SELF STORAGE PARKING

Name	Size	Units	Parking Spaces
ExtraSpace (proposed project) 2700 E Imperial Highway	**126,546 sf**	**1095**	**46**
My Self Storage Space 1295 W Lambert Rd	126,987 sf	853	15
Public Storage 440 E Lambert Rd	82,699 sf	610	16
Arovista Store Here 270 Arovista Ave	70,008 sf	494	7

The parking section of the Code currently specifies a ratio for industrial warehousing but does not have an established ratio for self-storage uses. When the Code is silent, parking studies have been used to establish an appropriate parking ratio. A detailed parking analysis was provided by the applicant and peer reviewed by the City's parking consultant (Attachment 6 – Parking Study and Peer Review). The submitted information surveyed 16 jurisdictions in Orange County that identify a

parking ratio for self-storage in their respective codes. The study found the project to be consistent with surveyed parking requirements of other Orange County cities and exceeds the parking requirement found in the Institute of Transportation Engineer's parking generation manual.

With the proposed supply and analysis conducted, parking impacts are not anticipated for this project. Should parking issues arise, Staff has included Condition C requiring the applicant to immediately remedy any parking impacts that arise through restricting operating hours, modifying operations, or restriping.

For all industrial developments, the Code requires at least one loading dock area which can accommodate the turning radius of a 55-foot long semitrailer. Due to the nature of the proposed operations and the type of storage use, loading docks are not needed and this type of vehicle is not anticipated to serve the site. Self-storage facilities typically experience traffic from passenger vehicles or 20-foot long moving trucks. Due to the operations of the use, the applicant is requesting relief from the truck loading requirements of the Code. As illustrated on the site plan (Attachment 5 – Plan Submittal Package) there is sufficient maneuvering area to accommodate fire access. The exterior loading provided on site is consistent with other self-storage facilities.

Staff sent notices to 52 property owners within a 500 foot radius 10 days prior to the public hearing. Staff has received one letter from Sigma Enterprises in support of the project (Attachment 7 – Submitted Public Comment).

ENVIRONMENTAL ASSESSMENT

In accordance with the California Environmental Quality Act, the proposed project is categorically exempt from the requirement of the California Environmental Quality Act (CEQA) pursuant to Section 15332 (Class 32 – Infill Development Projects) of said Act.

RESPECTFULLY SUBMITTED

Jennifer A. Lilley, AICP, City Planner

Attachments

1. Technical Background
2. Vicinity Map
3. Public Hearing Notice
4. Draft Resolution
5. Plan Submittal Package
6. Parking Analysis and Peer Review
7. Public Comment

ATTACHMENT 1

TECHNICAL BACKGROUND

Case No:	Conditional Use Permit 20-01
Property Location:	2700 E Imperial Highway
Applicant:	LG Acquisitions, LLC 3500 Maple Ave, Suite 1600 Dallas, Texas 75219
General Plan Designation:	Light Industrial
Zoning Designation:	M-1, Light Industrial
Adjacent Zoning	
North:	M-1, Light Industrial
South:	M-1, Light Industrial
West:	C-M (PD), Commercial Industrial (Precise Development) M-1, Light Industrial
East:	M-1, Light Industrial
Site and Neighborhood Characteristics:	The subject property is south of Imperial Highway and east of Kraemer Boulevard. There is an existing public storage facility to the east of the subject property, administrative offices to the north, a bank to the west, and warehouses and manufacturing uses to the south.
Public Hearing Notices and Outreach:	Notices were sent to 52 property owners within a 500-foot radius of the subject property.

ATTACHMENT 2

SUBJECT PROPERTY AND VICINITY MAP

DATE: February 25, 2020

CASE NO:
Conditional Use Permit No. CUP 20-01

CITY OF BREA notice of public hearing

TO: **Property Owners within a 500-Foot Radius**

FROM: **City of Brea, Community Development Department**

SUBJECT: **Appeal of Community Development Director Decision for Conditional Use Permit No. CUP 20-01**

NOTICE IS HEREBY GIVEN, pursuant to State Law, that a public hearing will be held at a Planning Commission meeting to determine whether or not the subject request shall be approved under the provisions of State Law and the Brea City Code as follows:

DATE AND TIME OF HEARING: **Tuesday, February 25, 2020, 7:00 p.m.**
All interested persons may appear and be heard at that time.

PLACE OF HEARING: Brea Civic & Cultural Center, Council Chambers
1 Civic Center Circle, Brea, CA 92821

REQUEST: A request to modify parking space requirements and relieve truck loading requirements for a proposed self-storage facility in the M-1 Light Industrial Zone.

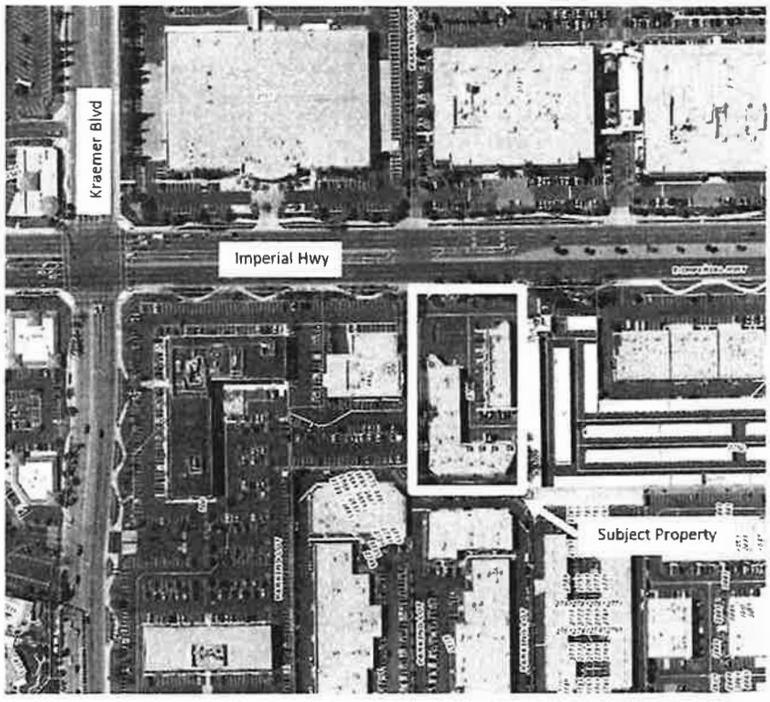
PROPERTY INVOLVED: 2700 E Imperial Highway
Brea, CA 92821

APPLICANT: LG Acquisitions
3500 Maple Ave., Suite 1600
Dallas, TX 75219

PROPERTY OWNER: The Burdorf Family Trust c/o Christopher Burdorf
153 S. Crescent Dr., Apt 8
Beverly Hills, CA 90212

ENVIRONMENTAL INFORMATION: The City of Brea has determined that the proposed project is exempt from requirements of the California Environmental Quality Act, Pursuant to Section 15332 of said Act.

AREA MAP:



IF YOU CHALLENGE CONDITIONAL USE PERMIT NO. CUP 20-01 AND/OR THE RELATED ENVIRONMENTAL DETERMINATIONS IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE, DELIVERED TO THE COMMISSION AT, OR PRIOR TO, THE PUBLIC HEARING.

FOR FURTHER INFORMATION ON THIS SUBJECT, PLEASE CONTACT THE PLANNING DIVISION AT (714) 990-7674.

COMMUNITY DEVELOPMENT DEPARTMENT

Jennifer A. Lilley, AICP
City Planner

legalnot.TTM

RESOLUTION NO. PC 20-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BREA APPROVING CONDITIONAL USE PERMIT NO. CUP 20-03 – A REQUEST TO ALLOW THE ON-SITE SALE OF BEER AND OTHER MALT BEVERAGES AT PLAYLIVE NATION BREA LOCATED AT 1065 BREA MALL, SUITE 1121A IN THE MAJOR SHOPPING CENTER (PRECISE DEVELOPMENT), C-C (PD), ZONE, SUBJECT TO CONDITIONS AS SET FORTH HEREIN.

A. RECITALS:

(i) On February 25, 2020, the Planning Commission of the City of Brea held a duly noticed public hearing, as required by law, on, Conditional Use Permit No. CUP 20-03, a request to allow the on-site sale of beer and other malt beverages at Playlive Nation Brea gaming lounge.

(ii) The project proponent is Nextgen Gaming, 2265 Clementina Drive, Hacienda Heights, CA 91745

(iii) The property owner is Retail Property Trust dba Simon, 225 W. Washington Street, Indianapolis, IN 46204.

(iv) The subject property is located at 1065 Brea Mall, Suite 1121A, Brea, CA 92821 and further legally described as a portion of Map Book 319, page 10, block 101, parcel 64, as shown in the latest records of the County of Orange Tax Assessor.

(v) The property is zoned Major Shopping Center (Precise Development), C-C (PD), and designated Regional Commercial in the General Plan.

(vi) All legal prerequisites to the adoption of this Resolution have occurred.

B. RESOLUTION:

NOW, THEREFORE, BE IT FOUND, DETERMINED AND RESOLVED by the Planning Commission of the City of Brea, as follows:

1. In all respects as set forth in Recitals, Part A, of this Resolution.

2. The Planning Commission hereby finds that the project identified above in this Resolution is exempt from the requirements of the California Environmental Quality Act of 1970, as amended, and the Guidelines promulgated thereunder pursuant to Section 15301 of Title 14, Chapter 3, Article 19 of the California Code of Regulations.

3. The Commission further finds in consideration of Conditional Use Permit No. CUP 20-03 as follows:

a**.** Finding: That the use applied for at the location set forth in the application is properly one for which a Conditional Use Permit is authorized by this title.

Fact: The subject site is zoned Major Shopping Center (Precise Development) zone, C-C (PD). On-site sale of alcohol is permitted in this zone subject to Planning Commission review and approval of a Conditional Use Permit.

b. Finding: That the use, with any conditions to be imposed, is necessary or desirable for the development of the community, in harmony with the various elements or objectives of the General Plan and not detrimental to existing uses or uses permitted in the zone in which the proposed use is to be located.

Fact: Playlive Nation Brea is located within an existing shopping mall which was designed to accommodate a variety of uses including but not limited to restaurants, retail and service-oriented business. This shopping mall provides convenient and necessary services and products to local and regional patrons. Playlive Nation Brea operations are consistent with the goals and policies of the Regional Commercial General Plan designation. The General Plan

encourages a balance and mixture of uses, not only complementing the existing community but accommodating future needs and desires of the community. The addition of beer service in conjunction with a gaming lounge is consistent with a trend to combine entertainment opportunities with food and beverage services and is consistent with the goals and objectives found in the General Plan. Given all information known to date and the conditions of approval, this request is not anticipated to result in significant impacts to City services nor to be detrimental to existing uses in the zone.

c. Finding: The site is adequate in size and shape to accommodate the proposed development and all of the yards, setbacks, walls or fences, landscaping and other features required to bring about conformity with other elements in the neighborhood.

Fact: Playlive Nation Brea is located within a commercial tenant space constructed and approved in accordance with City Codes. No site improvements are necessary to accommodate the sale of beer in conjunction with the primary use.

d. Finding: The proposed site relates to streets and highways which are properly designed and improved to carry the type and quantity of traffic generated or to be generated by the proposed development.

Fact: Vehicular access will be provided from Imperial Highway (SR90), Birch Street and/or Randolph Avenue. The existing roadways were designed to carry the traffic generated by the Brea Mall, which includes the gaming lounge use. Adding beer to the operations is not anticipated to have any significant impact of additional traffic generated. All impacts related to uses

allowed in the zone were considered as part of the previous entitlements and this use is in conformance with those considered for the existing shopping center.

e. Finding: That with the conditions stated in the permit, the uses will not adversely affect the public, health, safety, or general welfare.

Fact: The gaming lounge and its operations are required to meet Building and Fire codes and standards. The operations associated with beer service are required to meet all Alcohol Beverage Control codes and standards. Based on all information known today, the approval of a Conditional Use Permit to allow beer at Playlive Nation Brea will not adversely affect the public health, safety, or general welfare.

4. Conditional Use Permit No. CUP 20-03 is hereby approved, subject to conditions as set forth herein:

a. Business operations shall occur in substantial conformance with the site plan, floor plan and project description submitted to the Planning Commission and dated February, 25, 2020, on-file in the Planning Division, the conditions contained herein, and all applicable Federal, State and City regulations.

b. Prior to any alcohol sales, Playlive Nation Brea shall provide proof to the City of a valid On-Sale Beer License from the California Department of Alcoholic Beverage Control.

c. Any violation of the regulations as it pertains to the sale of beer may result in the revocation of the Conditional Use Permit, pursuant to Section 20.412.020 of the Brea Zoning Code.

d. To the fullest extent permitted by law, the applicant shall indemnify, defend and hold the City, its elected officials, officers, contractors serving as City officers, agents, and employees (“Indemnitees”) free and harmless from: (i) any and all claims, liabilities and losses whatsoever occurring or resulting to any and all persons, firms, entities, or corporations furnishing or supplying work, services, materials, or supplies in connection with, or related to, the performance of work or the exercise of rights authorized by approval of this Conditional Use Permit No. 20-03; and (ii) any and all claims, lawsuits, liabilities, and/or actions arising out of, or related to the approval of this Conditional Use Permit and/or the granting or exercise of the rights

authorized by said approval; and (iii) from any and all claims, liabilities and losses occurring or resulting to any person, firm, entity, corporation for property damage, personal injury, or death, arising out of or related to the approval of, or exercise of rights granted by, this Conditional Use Permit. Applicant's obligation to indemnify, defend, and hold the Indemnitees free and harmless as required hereinabove shall include, but is not limited to, paying all fees and costs incurred by legal counsel of the Indemnitees' choice in representing the Indemnitees in connection with any such claims, losses, lawsuits, or actions, and any award of damages, judgments, verdicts, court costs or attorneys' fees in any such lawsuit or action.

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

ADOPTED AND APPROVED this 25th day of February, 2020.

_____
Chairman, Planning Commission

I, Jennifer A. Lilley, Secretary to the Planning Commission of the City of Brea, do hereby certify that the foregoing Resolution was introduced at a regular meeting of the Planning Commission of the City of Brea held on the 25th day of February, 2020, and was finally passed at a regular meeting of the Planning Commission of the City of Brea, held on the 25th day of February, 2020, by the following votes:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSENT: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:

ATTEST: _____
Secretary, Planning Commission

ATTACHMENT 5

A DEVELOPMENT FOR

LEON CAPITAL GROUP

ARCHITECT

KSP STUDIO
23 ORCHARD RD
LAKE FOREST, CA 92630
CONTACT: SHABNAM VAKILI
TEL: (949) 380-3970

DEVELOPER

LEON CAPITAL GROUP
3500 MAPLE AVENUE, SUITE 1600
DALLAS, TX 75219
TEL: (214) 865-8082

SHEET INDEX

ARCHITECTURAL

1. COVER SHEET
1.1 ALTA SURVEY
2. CONCEPTUAL SITE PLAN
2.1 FIRE MASTER PLAN
3. CONCEPTUAL FIRST FLOOR PLAN
4. CONCEPTUAL SECOND FLOOR PLAN
5. CONCEPTUAL THIRD FLOOR PLAN
5.1 CONCEPTUAL ROOF PLAN
6. CONCEPT ELEVATIONS
7. CONCEPTUAL LANDSCAPE PLAN

CIVIL

SHEET 1 OF 1 - PRELIMINARY GRADING & DRAINAGE PLAN

VICINITY MAP

NOT TO SCALE

LEON Capital Group
3500 MAPLE AVENUE, SUITE 1600
DALLAS, TX - (214) 865-8082

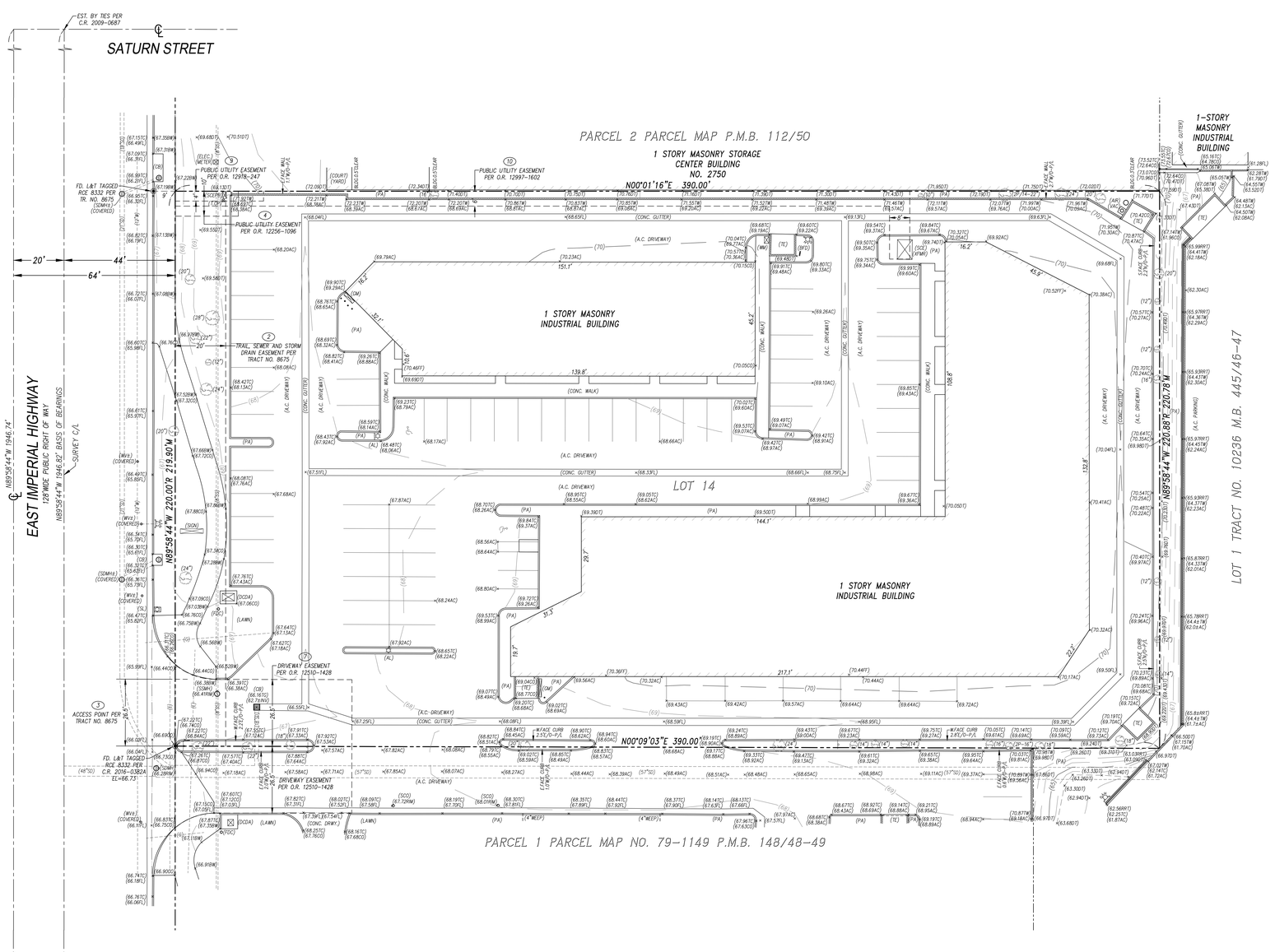
2700 E. IMPERIAL HIGHWAY | BREA, CA

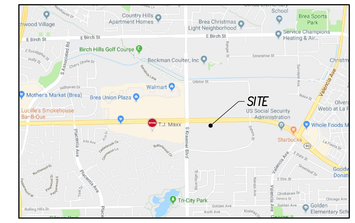
COVER SHEET
10.25.19

KSP PROJECT NO. 20494

SHEET 1

KSP STUDIO architecture + engineering
23 ORCHARD ROAD, SUITE 200
LAKE FOREST,CA92630
T 949.380.3970 F 949.380.3771





VICINITY MAP
NOT TO SCALE

REF: STEWART TITLE GUARANTEE COMPANY COMMITMENT FILE NO. 19000220197, DATED JUNE 21, 2019 AT 8:00 A.M.

LEGAL DESCRIPTION: FILE NO. 19000220197

LOT 14 OF TRACT NO. 8675, IN THE CITY OF BREA, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 403, PAGES 37 THRU 41, OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING THOSE PORTION OF THE SUBSURFACE WHICH LIE BELOW A PLANE PARALLEL TO AND 100 FEET MEASURED VERTICALLY DOWNWARD BELOW THE SURFACE OF SAID LAND, WITHOUT THE RIGHT OF SURFACE ENTRY THERETO, AS SET FORTH IN THE DEED FROM MORELAND DEVELOPMENT COMPANY, A CORPORATION, RECORDED DECEMBER 29, 1977 IN BOOK 12510, PAGE 1428, OF OFFICIAL RECORDS.

EXCEPTING THAT PORTION OF SAID LAND LYING BELOW A DEPTH OF 500 FEET MEASURED VERTICALLY FROM THE SURFACE THEREOF, WITH NO RIGHT OF SURFACE ENTRY THEREIN, AS RESERVED IN A DEED RECORDED JUNE 19, 1976 IN BOOK 11817, PAGE 737, OF OFFICIAL RECORDS.

APN: 336-631-16

EASEMENT NOTES: FILE NO. 19000220197

1. THE USE AND CONTROL OF CIENEGAS AND NATURAL STREAMS OF WATER, IF ANY, NATURALLY UPON, FLOWING ACROSS, INTO OR BY SAID TRACT, AND THE RIGHT OF WAY FOR AND TO CONSTRUCT IRRIGATION OR DRAINAGE DITCHES THROUGH SAID TRACT TO IRRIGATE OR DRAIN THE ADJACENT LAND, AS RESERVED IN THE DEED RECORDED DECEMBER 24, 1891 IN BOOK 56, PAGE 334, OF DEEDS.
   NOTE: BY INSTRUMENT RECORDED JUNE 5, 1918 IN BOOK 324 AND PAGE 193, OF DEEDS, STEARNS RANCHOS COMPANY QUITCLAIMED TO THE COUNTY OF ORANGE, ALL SAID RESERVATIONS AND RIGHTS NOT PREVIOUSLY RELEASED OR CONVEYED.
   AFFECTS: CANNOT BE PLOTTED FROM THE RECORD.
2. AN EASEMENT OR OTHER PROVISIONS FOR THE PURPOSE OF RECREATIONAL TRAIL AND OTHER RECREATIONAL PURPOSES, SANITARY SEWER PURPOSES AND STORM DRAIN AND RIGHTS INCIDENTAL THERETO AS SHOWN ON THE RECORDED TRACT NO. 8675, WHICH AFFECTS NORTHERLY 20 FEET.
   AFFECTS: SHOWN HEREON.
3. THE FACT THAT THE OWNERS OF SAID LAND HAVE NO RIGHTS OF VEHICULAR ACCESS TO THE STREET OR HIGHWAY HEREINAFTER MENTIONED, EXCEPT AT SPECIFIED POINTS, SAID RIGHTS HAVING BEEN RELINQUISHED BY THE DEDICATION PROVISIONS SHOWN ON THE MAP OF THE TRACT REFERRED TO BELOW
   STREET OR HIGHWAY: IMPERIAL HIGHWAY
   MAP: 8675
   FILED: IN BOOK 403, PAGE 37
   ACCESS POINTS: WESTERLY 26.5 FEET.
   AFFECTS: SHOWN HEREON.
4. AN EASEMENT FOR UNDERGROUND LINES AND RIGHTS INCIDENTAL THERETO IN FAVOR OF PACIFIC TELEPHONE AND TELEGRAPH COMPANY AS SET FORTH IN A DOCUMENT RECORDED IN BOOK 12256, PAGE 1096, OF OFFICIAL RECORDS, AFFECTS AS DESCRIBED IN SAID DOCUMENT.
   AFFECTS: SHOWN HEREON.
5. COVENANTS, CONDITIONS, AND RESTRICTIONS AS SET FORTH IN AN INSTRUMENT RECORDED: IN BOOK 12392, PAGE 127, OF OFFICIAL RECORDS
   AFFECTS: CANNOT BE PLOTTED FROM THE RECORD.
   SAID DOCUMENT WAS RE-RECORDED IN BOOK 12419, PAGE 1700, OF OFFICIAL RECORDS.
6. COVENANTS, CONDITIONS, AND RESTRICTIONS AS SET FORTH IN AN INSTRUMENT RECORDED: DECEMBER 29, 1977 AS INSTRUMENT NO. 37829 IN BOOK 12510, PAGE 1428, OF OFFICIAL RECORDS
   AFFECTS: SHOWN HEREON
7. AN EASEMENT FOR DRIVEWAY AND RIGHTS INCIDENTAL THERETO AS RESERVED IN A DOCUMENT RECEIVED BY MORELAND DEVELOPMENT COMPANY, RECORDED DECEMBER 29, 1977 AS INSTRUMENT NO. 37829 IN BOOK 12510, PAGE 1428, OF OFFICIAL RECORDS, WHICH AFFECTS AS DESCRIBED THEREIN.
   AFFECTS: SHOWN HEREON
8. THE MATTERS CONTAINED IN AN INSTRUMENT ENTITLED "MEMORANDUM OF AGREEMENT" DATED AUGUST 21, 1978, UPON THE TERMS THEREIN PROVIDED RECORDED AUGUST 28, 1981 AS INSTRUMENT NO. 40732, IN BOOK 12817, PAGE 999, OF OFFICIAL RECORDS.
   AFFECTS: CANNOT BE PLOTTED FROM THE RECORD.
9. AN EASEMENT FOR PUBLIC UTILITIES AND RIGHTS INCIDENTAL THERETO IN FAVOR OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION AS SET FORTH IN A DOCUMENT RECORDED NOVEMBER 9, 1978 AS INSTRUMENT NO. 14137, IN BOOK 12918, PAGE 247, OF OFFICIAL RECORDS, AFFECTS THE EASTERLY 4 FEET OF THE NORTHERLY 35 FEET.
   AFFECTS: SHOWN HEREON.
10. AN EASEMENT FOR CONSTRUCT, USE, MAINTAIN, OPERATE, ALTER, ADD TO, REPAIR, REPLACE, RECONSTRUCT, INSPECT AND REMOVE AT ANY TIME AND FROM TIME TO TIME UNDERGROUND ELECTRICAL SUPPLY SYSTEMS AND COMMUNICATION SYSTEMS (HEREINAFTER REFERRED TO AS "SYSTEMS"), CONSISTING OF WIRES, UNDERGROUND CONDUITS, CABLES, VAULTS, MANHOLES, HANDHOLES AND INCLUDING ABOVE-GROUND ENCLOSURES, MARKERS AND CONCRETE PADS AND OTHER APPURTENANT FIXTURES AND EQUIPMENT NECESSARY OR USEFUL FOR DISTRIBUTING ELECTRICAL ENERGY AND FOR TRANSMITTING INTELLIGENCE BY ELECTRICAL MEANS AND RIGHTS INCIDENTAL THERETO IN FAVOR OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION AS SET FORTH IN A DOCUMENT RECORDED JANUARY 11, 1979 AS INSTRUMENT NO. 14284, IN BOOK 12997, PAGE 1602, OF OFFICIAL RECORDS, AFFECTS SAID LAND.
    AFFECTS: SHOWN HEREON.
11. THE MATTERS CONTAINED IN AN INSTRUMENT ENTITLED "CERTIFICATE OF CORRECTION" UPON THE TERMS THEREIN PROVIDED RECORDED MARCH 20, 1980 IN BOOK 13541, PAGE 1793, OF OFFICIAL RECORDS.
    AFFECTS: CHANGE OF SURVEYOR OF RECORD.
12. THE MATTERS CONTAINED IN AN INSTRUMENT ENTITLED "WAIVER OF LANDLORD OR MORTGAGEE" UPON THE TERMS THEREIN PROVIDED RECORDED MARCH 26, 1981 IN BOOK 13996, PAGE 14, OF OFFICIAL RECORDS.
    AFFECTS: NOT A SURVEY MATTER.
13. THE MATTERS CONTAINED IN AN INSTRUMENT ENTITLED "STATEMENT FOR A REDEVELOPMENT PROJECT" UPON THE TERMS THEREIN PROVIDED RECORDED IN BOOK 14096, PAGE 1811, OF OFFICIAL RECORDS.
    AFFECTS: NOT A SURVEY MATTER.
14. THE MATTERS CONTAINED IN AN INSTRUMENT ENTITLED "STATEMENT FOR A REDEVELOPMENT PROJECT" UPON THE TERMS THEREIN PROVIDED RECORDED IN BOOK 14096, PAGE 1864, OF OFFICIAL RECORDS.
    AFFECTS: NOT A SURVEY MATTER.
15. TO 29. TITLE NOTES; NOT SURVEY MATTERS.

SITE AREA:

85,933 SQ. FT. OR 1.973 AC.

PUBLIC UTILITIES:

CITY OF BREA PUBLIC WORKS 1 CIVIC CENTER CENTER BREA, CA 92821	(WATER, SEWER STORM DRAIN)	714-990-7600
SOUTHERN CALIFORNIA EDISON 6 PONITE DRIVE BREA, CA 92821		800-655-4555
SOUTHERN CALIFORNIA GAS 1919 S. STATE COLLEGE BLVD ANAHEIM, CA 92806		877-238-0092

SUBSTRUCTURES PLOTTED BASED ON SURFACE EVIDENCE AND CITY OF BREA PLANS 1761-6, 12 AND 13. THEY ARE SHOWN SCHEMATIC IN NATURE FOR PRELIMINARY REVIEW PURPOSES ONLY, ADDITIONAL PLAN AND FIELD INVESTIGATION IS NEEDED PRIOR TO DESIGN.

FEMA FLOOD ZONE:

ZONE X -AREAS OUTSIDE THE 1% ANNUAL CHANCE FLOODPLAIN, AREAS OF 1% ANNUAL CHANCE SHEET FLOW FLOODING WHERE AVERAGE DEPTHS ARE LESS THAN 1 FOOT, AREAS OF 1% ANNUAL CHANCE OF STREAM FLOODING WHERE CONTRIBUTING DRAINAGE AREA IS LESS THAN 1 SQUARE MILE, OR AREAS PROTECTED FROM THE 1% ANNUAL CHANCE FLOOD BY LEVEES. NO BASE FLOOD ELEVATIONS OR DEPTHS ARE SHOWN WITHIN THIS ZONE. INSURANCE PURCHASE IS NOT REQUIRED IN THIS ZONE

FIRM MAP NO. 06059C0061J DATED DECEMBER 03, 2009

THE ABOVE STATEMENT IS FOR INFORMATION ONLY AND THIS SURVEYOR ASSUMES NO LIABILITY FOR THE CORRECTNESS OF THE CITED MAP. IN ADDITION, THE ABOVE STATEMENT DOES NOT REPRESENT THIS SURVEYORS OPINION OF THE PROBABILITY OF FLOODING.

ZONING:

ZONE M-1 - LIGHT INDUSTRIAL ZONE

SETBACKS - FRONT 10'
SIDE 0'
REAR 0'
MAX. HT. - 60'
MIN. PARKING - DESIGN REVIEW

SOURCE: CITY OF BREA ZONING CODE CHAPTER 20.252.

THE ABOVE STATEMENT IS FOR INFORMATION ONLY AND THIS SURVEYOR ASSUMES NO LIABILITY FOR THE CORRECTNESS OF THE CITED INFORMATION. IN ADDITION, THE ABOVE STATEMENT DOES NOT REPRESENT THIS SURVEYORS OPINION OF THE PROBABILITY OF ZONE COMPLIANCY.

PARKING SUMMARY:

70 REGULAR PARKING SPACES
2 HANDICAPPED PARKING SPACES
72 TOTAL PARKING SPACES

PROJECT BENCH MARK:

ORANGE COUNTY BENCH MARK 2C-119-06

ELEVATION = 379.788 NAVD 1988 (2006 ADJ.)

4" OCS ALUMINUM BENCHMARK DISK STAMPED "2C-119-06", LOCATED IN THE NORTHWESTERLY PORTION OF THE INTERSECTION OF IMPERIAL HWY. AND SATURN, 95.0 FT. NORTH OF THE CENTERLINE OF IMPERIAL HWY. AND 26.0 FT. WEST OF THE CENTERLINE OF SATURN ST. SET IN THE NORTHEAST CORNER OF A 7.0 FT. X 4.0 FT. CATCH BASIN, LEVEL WITH THE CURB.

ADD 300 TO ELEVATIONS SHOWN HEREON FOR DATUM.

PROJECT TBM SHOWN HEREON.

BASIS OF BEARINGS:

THE BEARING OF N89°58'44"W OF THE CENTERLINE OF IMPERIAL HIGHWAY PER TRACT NO. 8675 RECORDED IN BOOK 403 PAGES 37-41 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY WAS TAKEN AS THE BASIS OF BEARINGS FOR THIS SURVEY.

SURVEYOR'S NOTES:

1. DATE OF SURVEY: 07-16-2019
2. HORIZONTAL DATUM: TRACT NO. 8675
3. PREPARED BY GROUND SURVEY METHODS.
4. ADDITIONAL GROUND SURVEY MAY BE REQUIRED IN DESIGN CRITICAL AREAS.
5. SITE AREA: 85,933 SQ. FT. OR 1.973 AC. GROSS
6. SUBSTRUCTURES SHOWN HEREON ARE BASED ON COUNTY RECORDS AND SURFACE EVIDENCE. THEIR LOCATIONS MUST BE FIELD VERIFIED PRIOR TO DESIGN, TESTING OR CONSTRUCTION. ADDITIONAL INVESTIGATION IS NEEDED TO CONFIRM THE EXISTENCE AND LOCATION OF UTILITIES OF RECORD.
7. THIS SURVEY IS BASED UPON STEWART TITLE GUARANTY COMPANY COMMITMENT FILE NO. 19000220197 DATED JUNE 21, 2019 AT 8:00 A.M.
8. GEOGRAPHICALLY LOCATABLE ITEMS FROM SAID TITLE REPORT -SUCH AS EASEMENTS- WHICH AFFECT THE TITLE TO THE SUBJECT PROPERTY ARE NUMERICALLY KEYED TO SAID TITLE REPORT AND ARE SHOWN HEREON.
9. THIS SURVEY WAS PREPARED AT THE REQUEST OF THE PARTIES LISTED IN THE SURVEYORS STATEMENT AND IS TO BE UTILIZED FOR THE ISSUANCE OF A POLICY OF TITLE INSURANCE. NO RESPONSIBILITY IS ASSUMED BY THIS OFFICE FOR THE SUBSEQUENT UNAUTHORIZED USE OF THE INFORMATION PROVIDED BY THIS SURVEY.

SURVEYOR'S STATEMENT:

TO: BLUE PEAK ENGINEERING, INC.; AND STEWART TITLE GUARANTY COMPANY;

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH 2016 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA-NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 2,3,4,5,6A,7A,8,9,11&14 OF TABLE -A- THEREOF. THE FIELDWORK WAS COMPLETED ON JULY 16, 2019.

DAVID R. GRAY, P.L.S. NO. 5239

PROFESSIONAL LAND SURVEYOR DAVID R. GRAY No. 5239 Exp. 6/30/21 STATE OF CALIFORNIA

GRAPHIC SCALE
20 0 10 20 40
(IN FEET)
1 inch = 20 ft.

LEGEND:

AC	AREA LIGHT		FIRE HYDRANT
AL	ASPHALT		STREET SIGN
BFD	BACKFLOW PREVENTOR		CONCRETE BLOCK WALL
BW	BACK OF WALK		RAILROAD TIE WALL
CB	CATCH BASIN	-(E)-	ELECTRIC LINE
CO	CONCRETE	-(G)-	GAS LINE
DCDA	FIRE SERVICE ASSEMBLY	-(SD)-	STORM DRAIN LINE
DT	DIRT	-(SS)-	SEWER LINE
FDC	FIRE DEPT. CONNECTION	-(T)-	TELEPHONE LINE
FF	FINISHED FLOOR	-(W)-	WATER LINE
FL	FLOWLINE		STRUCTURE
GM	GAS METER	(X')	TREE WITH SIZE
MH	MANHOLE	◉	FD. MON AS DESCRIBED
PA	PLANTER AREA	E/O	EAST OF
PB	PULL BOX	W/O	WEST OF
RRT	RAILROAD TIE	N/O	NORTH OF
SCE	SO. CAL. EDISON	S/O	SOUTH OF
SCO	SEWER CLEAN OUT	P/L	PROPERTY LINE
SS	SANITARY SEWER		
SD	STORM DRAIN		
SL	STREET LIGHT		
T.CP	TELEPHONE CONTROL PEDESTAL		
TC	TOP OF CURB		
TE	TRASH ENCLOSURE		
TG	TOP OF GRATE		
TW	TOP OF WALL±		
WM	WATER METER		
WV	WATER VALVE		
XFMR	TRANSFORMER		

GENERAL NOTES:

1. THIS SURVEY IS THE PROPERTY OF DAVID R. GRAY, INC. AND MAY NOT BE COPIED, CHANGED OR REPRODUCED IN ANY MANNER WHATSOEVER, NOR IS IT TO BE ASSIGNED TO A THIRD PARTY, WITHOUT FIRST OBTAINING THE EXPRESS WRITTEN CONSENT OF DAVID R. GRAY, INC.
2. IF UNDERGROUND PUBLIC UTILITIES, OTHER STRUCTURES OR ZONE SETBACKS AND STREET WIDENING DATA ARE SHOWN HEREON, IT IS FOR INFORMATION ONLY, HAVING BEEN OBTAINED FROM THE BEST AVAILABLE SOURCES, BUT FROM OTHERS NOT CONNECTED WITH THIS COMPANY, THEREFORE NO GUARANTEE IS MADE AS TO THE ACCURACY OR COMPLETENESS OF SAID INFORMATION.

ATTENTION: IF, this map is provided in an electronic format (on computer disk) as a courtesy to client. The delivery of the electronic file does not constitute the delivery of our professional work product. The signed paper print delivered with this electronic file constitutes our professional work product, and in the event the electronic file is altered, the print must be referred to, for the original and correct survey information. We shall not be responsible for any modifications made to the electronic file, or for any products derived from the electronic file which are not reviewed, signed and sealed by us.

Draft Plot
07-30-2019

davidg@drginc.com
www.drginc.com

PREPARED BY:
DRG, INC.
621 VIA ALONDRA, SUITE 609
CAMARILLO, CA 93012
805-987-1655 FAX 805-987-1655
JOB NO. 1942 JULY 2019

PREPARED FOR:
BLUE PEAK ENGINEERING, INC.
18545 YORBA LINDA BLVD, NO. 235
YORBA LINDA, CA 92886
ATTN: ROBERT DEPRAT

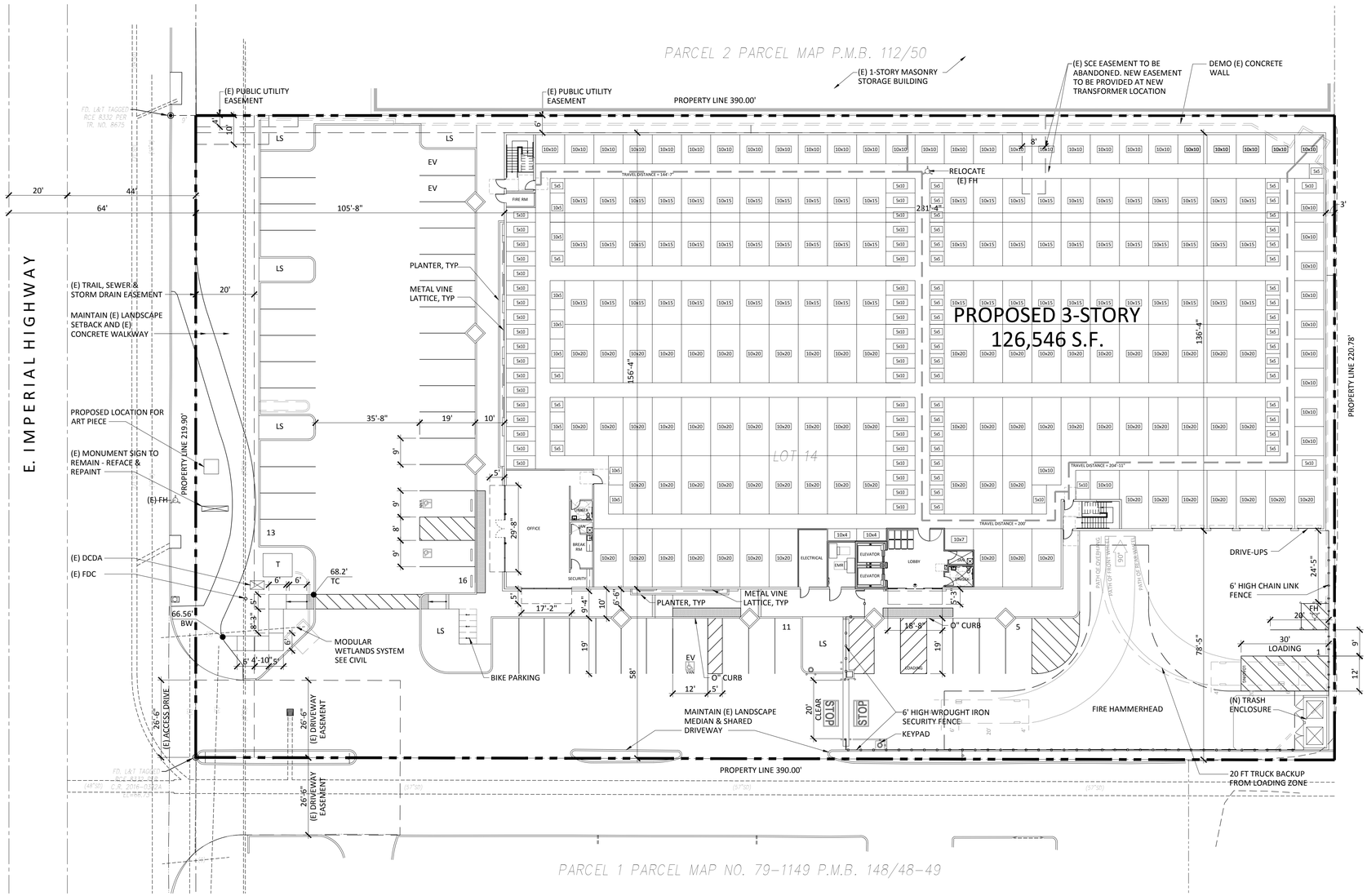
A.L.T.A./N.S.P.S. LAND TITLE SURVEY

2700 EAST IMPERIAL HIGHWAY, BREA

LOT 14, TRACT NO. 8675, M.M. 403/37-41
IN THE CITY OF BREA, COUNTY OF ORANGE, STATE OF CALIFORNIA

NO.	DATE	DESCRIPTION OF REVISION

ALTA
Sheet
1 of 1
JOB NO. 1942



PROJECT DESCRIPTION

DEVELOPMENT OF 3-STORY SELF-STORAGE WITH SITE IMPROVEMENTS

PROJECT INFORMATION

PROJECT ADDRESS:	2700 E. IMPAERIAL HIGHWAY, BREA, CA	
SITE APN:	336-631-16	
GROSS SITE	85,933 S.F.	OR 1.97 ACRES
ZONING:	M-1	LIGHT INDUSTRIAL
COVERAGE MAXIMUM:	50%	
COVERAGE PROPOSED:	49%	(42,182 S.F./ 85,933 S.F.)

BLDG SETBACKS REQUIRED:

FRONT YARDS:	50'
SIDE YARDS:	0'
REAR YARD:	0'

BLDG SETBACKS PROVIDED:

FRONT:	105'-8"
SIDE YARD:	58' AT WEST
SIDE YARD:	6' AT EAST
REAR:	3'

HEIGHT:

HEIGHT MAXIMUM:	60'
HEIGHT PROPOSED:	40'

BUILDING AREA

PROPOSED BUILDING:

FIRST FLOOR OFFICE:	1,260 S.F.
1ST FLOOR STORAGE:	40,922 S.F.
2ND FLOOR STORAGE:	42,182 S.F.
3RD FLOOR STORAGE:	42,182 S.F.
TOTAL:	126,546 S.F.

PARKING ANALYSIS

PARKING REQUIRED:

	OFFICE: 1/250 S.F.	(1,260 S.F./250)	5 SP
*	STORAGE: 1/10,000 S.F.	(125,286/10,000)	13 SP
	TOTAL:		18 SP

* PARKING RATIO BASED ON PARKING STUDY PROVIDED BY LSA

PARKING PROVIDED:

ADA STANDARD:	2 SP
STANDARD (9'X19'):	41 SP
COMPACT:	0 SP
FEV PARKING:	1 SP
EV PARKING:	2 SP
TOTAL PARKING PROVIDED:	46 SP

BICYCLE PARKING REQUIRED AND PROVIDED:

REQUIRED:	5 SP
PROVIDED:	6 SP

LANDSCAPE REQUIREMENTS

LANDSCAPE REQUIRED:
1 TREE EVERY 5 PARKING SPACES

BUILDING CODE ANALYSIS

APPLICABLE BUILDING CODES

BUILDING CODE:	2016 CALIFORNIA BUILDING CODE
MECHANICAL CODE:	2016 CALIFORNIA MECHANICAL CODE
PLUMBING CODE:	2016 CALIFORNIA PLUMBING CODE
ELECTRICAL CODE:	2016 CALIFORNIA ELECTRICAL CODE
ENERGY CODE:	2016 CALIFORNIA ENERGY CODE
FIRE CODE:	2014 CALIFORNIA FIRE CODE
GREEN BUILDING CODE:	2016 GREEN BUILDING STANDARDS CODE

BUILDING AREA QUALIFICATION EQUATIONS

$A_A = [A_T + (NS \times I_F)] \times S_A$ (EQUATION 5-3)

- A_A = ALLOWABLE AREA (S.F.)
- A_T = ALLOWABLE AREA FACTOR (TABLE 506.2)
- NS = ALLOWABLE AREA FACTOR FOR NON-SPRINKLERED BLDG. (TABLE 506.2)
- I_F = AREA FACTOR INCREASE DUE TO FRONTAGE INCREASE (%)
- S_A = 3 UNLESS PART OF GROUP A, E, H, I, L or R

$I_F = [F/P - 0.25] W/30$ (EQUATION 5-5)

- I_F = AREA FACTOR INCREASE DUE TO FRONTAGE
- F = BUILDING PERIMETER THAT FRONTS ON PUBLIC WAY OR OPEN SPACE HAVING A MINIMUM DIST. 20'-0"

PROPOSED BUILDING

BUILDING CLASSIFICATION:

OCCUPANCY GROUP:	S-1 - STORAGE
ACCESSORY:	M - MERCANTILE
CONSTRUCTION TYPE	II-B
FIRE SPRINKLERS:	YES
ROOFING CLASSIFICATION:	CLASS A

ALLOWABLE HEIGHT

ALLOWABLE HEIGHT =	75' FULLY SPRINKLERED (TABLE 504.3)
PROPOSED BUILDING HEIGHT =	30'
ALLOWABLE # OF STORIES ABOVE GRADE PLANE =	3 STORIES ALLOWED (TABLE 504.4)
PROPOSED # OF STORIES =	3 STORIES

BUILDING QUALIFICATION:

- F = 281'-4"+156'-4" = 437'-8"
- P = 281'-4"+156'-4"+281'-4"+156'-4" = 875'-4"
- W = 30'
- I_F = (438' / 875.3' - .25) 30' / 30' = .25
- S_A = 3

A_A = [52,500 S.F. + (17,500 S.F. x .25)] x 3
A_A = 170,622S.F. >126,546S.F.

NORTH

0 5' 10' 20' 40'
scale: 1" = 20'-0"

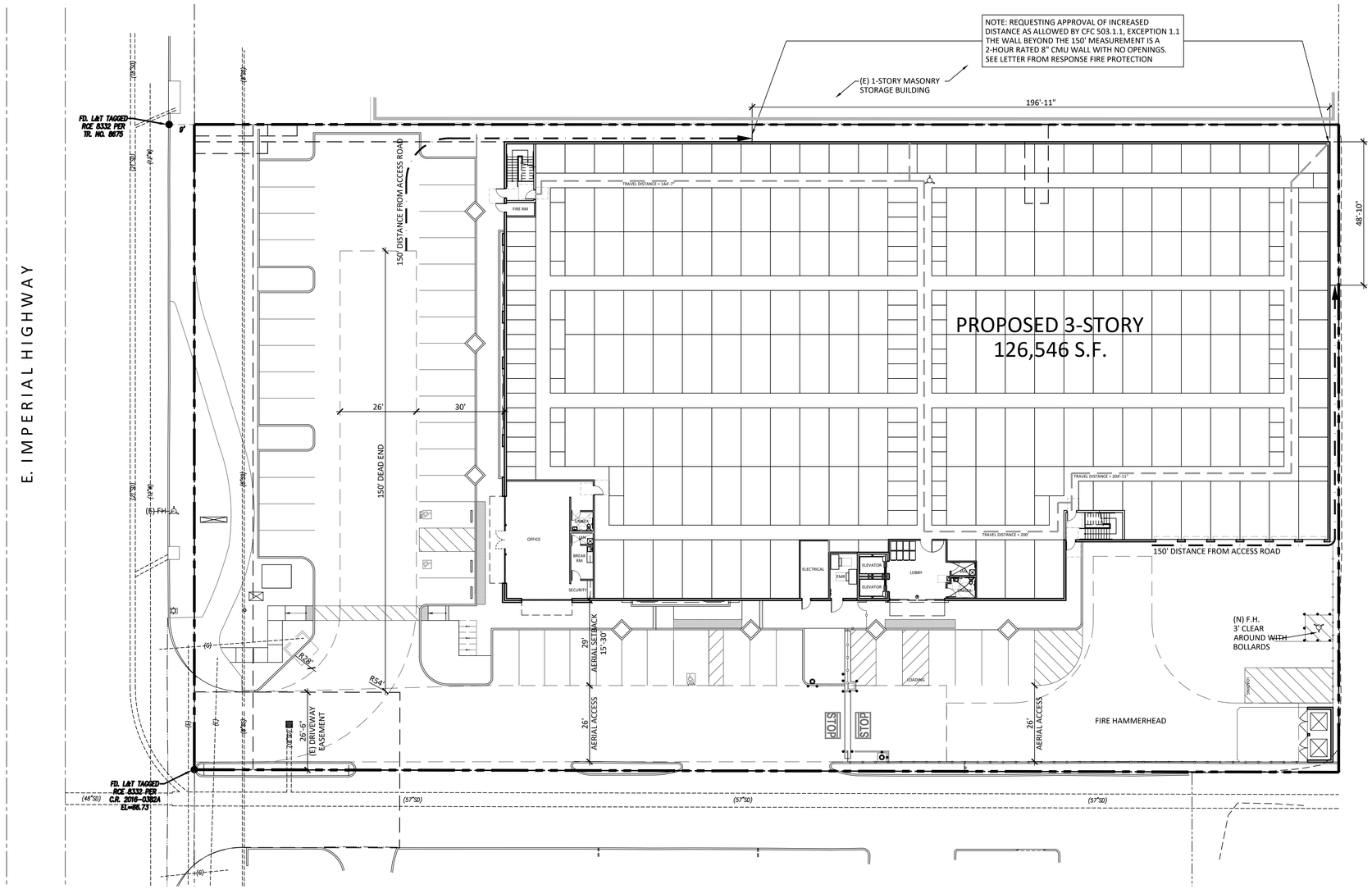
SHEET 2

LEON Capital Group
3500 MAPLE AVENUE, SUITE 1600
DALLAS, TX - (214) 865-8082

2700 E. IMPERIAL HIGHWAY | BREA, CA

CONCEPTUAL SITE PLAN
12.20.19

KSP STUDIO
architecture + engineering
23 ORCHARD ROAD, SUITE 200
LAKE FOREST, CA 92630
T 949.380.3970 F 949.380.3771



BREA FIRE DEPARTMENT NOTES

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2. Buildings under construction or demolition shall conform to CFC Chapter 14. No smoking or cooking is allowed in structures where combustible materials are exposed or within 25' of combustible materials storage areas. Cutting, welding, or other hot work shall be in conformance with CFC Chapter 35.

3. Note omitted. Does not apply.

4. Address numbers shall be provided for all new and existing buildings, be a *minimum* of four inches high for individual dwelling units and six inches high for all other installations and structures, contrast with their background, and be plainly visible from the roadway the building is addressed on. Address numbers shall have a minimum of 1/2" stroke. Temporary address numbers shall be provided on construction fencing or the building until permanent numbers can be provided. CBC 501.2, CFC 505.1

5. Locations and classifications of extinguishers shall be in accordance with CFC 906 and CCR Title 19. At least one extinguisher shall be provided during construction on each floor at each stairway, in each storage and construction shed, in locations where flammable or combustible liquids are stored or used, or where similar hazards are present per CFC 3315.1. Before final occupancy, at least one 2A:10B:C extinguisher shall be provided so that no point is more than 75' travel distance from the extinguisher. Extinguishers shall be located along the path of egress travel and in a readily visible and accessible location, with the bottom of the extinguisher at least 4" above the floor. Additional extinguishers may be required by Brea FD inspectors depending on project or site conditions and final placement is subject to their approval.

6. Wall, floor and ceiling finishes and materials shall not exceed the flame spread classifications in CBC Table 803.9. Decorative materials shall be properly treated by a product or process approved by the State Fire Marshal with appropriate documentation provided to the Brea FD. Such items shall be approved and inspected prior to installation.

7. Knox boxes/key cabinets shall be provided for all high-rise buildings, pool enclosures, gates in the path of firefighter travel to structures, secured parking levels, doors giving access to alarm panels and/or annunciators, and any other structures or areas where immediate access is required or is unduly difficult. A Brea FD inspector can assist with locking gate keys in Knox boxes, contact your local fire station to arrange an appointment to secure master building keys in the Knox box.

8. Approval of these plans shall not permit the violation of any code or law. Requirements or features not identified on the plan may apply and Brea FD inspectors may require additional information or items from those shown on the plan depending on actual or anticipated field conditions. Such changes may necessitate submittal of revised or as-built plans to the Brea FD.

GENERAL REQUIREMENTS

9. The project shall comply with 2016 California Building Code, 2016 California Fire Code, and other currently adopted codes, standards, regulations and requirements as enforced by the Brea FD.

10. Dumpsters and trash containers exceeding 1.5 cubic yards shall not be stored in buildings or placed within 5 feet of combustible walls, openings or combustible roof eave lines unless protected by an approved sprinkler system or located in a Type I or IIA structure separated by 10 feet from other structures. Containers larger than 1 cubic yard shall be of non- or limited-combustible materials or similarly protected or separated. CFC 304.3

11. Exits, exit signs, fire alarm panels, hose cabinets, fire extinguisher locations, and standpipe connections shall not be concealed by curtains, mirrors, or other objects.

12. The egress path shall remain free and clear of all obstructions at all times. No storage is permitted in aisles.

13. Exit doors shall be openable from the inside without the use of a key or any special knowledge or effort. Doors shall not be provided with thumb-turn locks or deadbolts that do not unlatch in tandem with the normal operating lever. The opening force for interior doors without closers shall not exceed 5 pounds. The unlatching and opening force for other doors, including fire doors, shall not exceed 15 pounds. CBC 1008

14. The exit path shall be clearly identified with exit signs conforming to CBC 1011. Illuminated exit signs must have 90-minute emergency power back-up.

15. Tactile signs shall be provided in commercial buildings, public buildings/accommodations, and publicly funded housing subject to CBC Chapters 11A and B and conform to 1143A or 11B-703.1, - 703.2, -703.3, and 703.5, be mounted with the bottom of the lowest line of Braille characters at least 4 feet above the floor but the bottom of the highest line of raised text characters no more than 5 feet above the floor and, whenever possible, on the strike side of the door. Lettering shall be between 5/8" and 2" high. CBC 1011.4

16. Stairs serving 4+ stories shall have stairwell signs conforming to CBC 1022.9

17. The exit path shall be illuminated at all times in accordance with CBC 1006. Emergency lighting shall be provided with 90-minute back-up.

18. Rated assemblies shall conform to approved methods and materials of construction. Penetrations through rated walls, ceilings, or floors shall be protected in an approved manner complying with CBC/CFC Chapter 7.

19. Fire/ Smoke rated doors shall be self-closing and latching; such doors shall not be equipped with door stops or otherwise propped open. Fire/ smoke rated doors shall be equipped with rated hardware. CFC 703

RESPONSE FIRE PROTECTION
www.responsefire.com

ALTERNATE DESIGN PROPOSAL
FOR
EXTRA SPACE STORAGE
2700 E. IMPERIAL HIGHWAY, BREA CA

This report is presented to provide to request a modification to 2016 CFC Section 503.1.1 in accordance with the exception 1.2 listed in that section for the above-mentioned self-storage facility proposed in your jurisdiction, and to provide background and justification for the proposed alternative. Section 503.1 requires fire department access roadways within 150' of all portions of the exterior walls of buildings. Exception 1.2 to that section states that the 150' distance requirement can be increased where "*Fire apparatus access roads cannot be installed because of topography, waterways, non-negotiable grades or other similar conditions, and an approved alternative method of protection is provided*". Exception 1.1. also allows for an increase to the 150' dimension for fully sprinklered buildings but we are proposing additional protection measures as well.

As dimensioned on the attached site plan, a portion of the east and south walls are more than 150' from designated access roadways. These walls are located in very close proximity to the property lines. It should be noted that the walls are 8" thick, fully grouted CMU (the thickness complies with 4-hour rating, but the joints only have a 2-hour rating, so the wall assemblies are classified as 2-hour) and there are no openings in the exterior wall portion that is outside the 150' distance. This provides substantial protection to adjacent properties from any exposure to potential fire within this building, and it is not a point of building entry even if a roadway were present.

The IFC Commentary addresses the application of Section 503.1.1 in these situations as follows: "*…this section does not specifically deal with exterior walls that may be located on the lot line in such buildings where the distance to a portion of that wall exceeds 150 feet (45 720 mm) from a fire apparatus access road. As such, the fire code official must determine the code's application in accordance with Section 102.9 and in consideration of the exception to this section. In determining the application, however, it should be considered that, in order for the fire department access contemplated by this section to be effective, an exterior wall would need to have openings in it through which access to the interior of the building could be achieved by hose streams or personnel. In the case of an exterior wall constructed on a property line with a zero-foot fire separation distance, Table 602 of the IBC requires that such walls have a fire-resistance rating of between 1and 3 hours (depending on the occupancy group assigned to the building) and IBC Section and Table 705.8 require that such walls be without any openings. As such, access to the first (or any) floor level of that exterior wall would appear to provide little or no tactical usefulness to the fire department, especially if code-complying access is provided to other sides of the building.*"

Therefore, we are proposing to provide the following alternate fire protection to mitigate this code compliance deficiency. Let me give you a brief description of the proposed facility for background information. The three-story building is divided into many small storage units which are rented individually to the general public, typically for storage of household goods. The maximum storage height in the units is 8'-4", limited by a mesh barrier above. Many of the spaces are 10' x 10' but they do have some 5' x 10' spaces and some larger ones as well, up to 10' x 30'. The required protection for this occupancy per NFPA 13 is Ordinary Hazard, Group 2.

3056 Renault Street ■ San Diego, CA 92122 ■ Ph:(858) 677-9278 ■ Fax:(858) 459-3415
Fire Protection Consulting and Design

In order to provide an increased level of fire protection within the building to mitigate lesser access, we propose the following two measures. First, we would utilize Quick Response heads in lieu of standard response without using the benefits of these offered in NFPA 13 such as area reduction. The QR sprinklers offer the inherent protection benefits to respond and control a potential fire more quickly than standard response sprinklers which can greatly reduce the likelihood of a significant fire developing.

Also, it our intention to provide an increase to the fire sprinkler density for the facility, however we have not yet obtained flow test data to confirm what density the municipal water supply can support. That flow test is in process of being scheduled and conducted, after which we can discuss and agree upon a specific density for this building. Generally, we would intend to increase the design density by 20-30%, if the water supply will allow. The systems would still be classified as Ordinary Hazard for application of NFPA 13, including maximum spacing of 130 sq.ft. per sprinkler, although actual spacing almost never goes to that maximum. As there is 18" or greater clearance between sprinkler deflectors and unit walls, the fire sprinklers are designed for general coverage, not spaced to unit walls, with spacing commonly in the range of 105 – 120 sq.ft. per sprinkler.

We believe that the proposed increase to the fire sprinkler system design density utilizing QR sprinklers provides a significant increase in fire protection to the building and meets the intent of the exception to CFC Section 503.1.1. Clearly, the code recognizes circumstances where it is not possible to provide access roadways to all portions of the building and looks for additional fire protection to mitigate this situation. We feel the proposed upgrades will provide superior fire protection and appropriately mitigate the deficient access roadway coverage along the surrounding the southeast corner of the building.

Respectfully submitted,

Laura J. DeBell
Principal

LEON Capital Group
3500 MAPLE AVENUE, SUITE 1600
DALLAS, TX - (214) 865-8082

2700 E. IMPERIAL HIGHWAY | BREA, CA

FIRE MASTER PLAN
10.25.19

NORTH

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scale: 1" = 20'-0"

SHEET 2.1

KSP STUDIO
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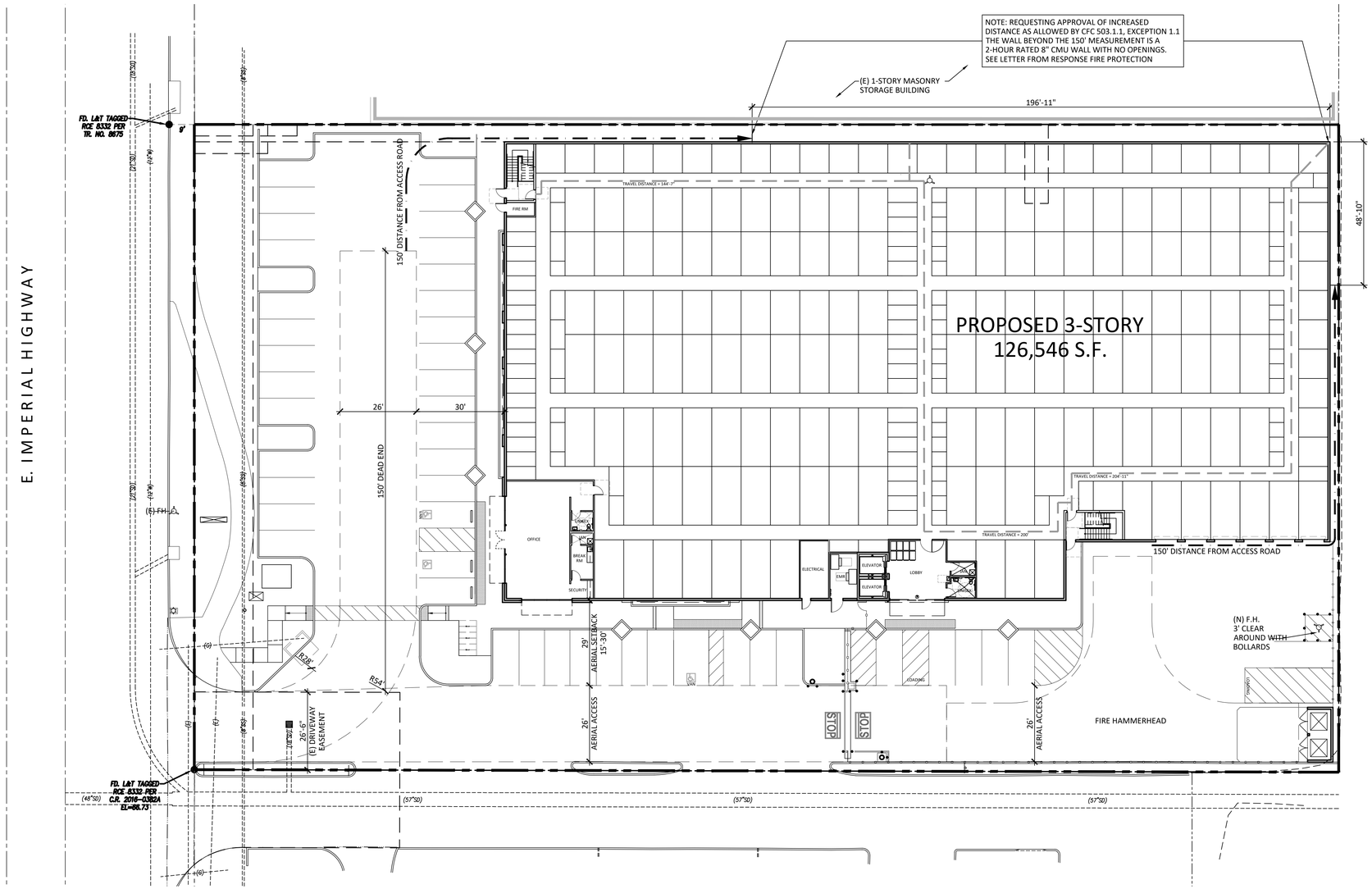

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Principal

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DALLAS, TX - (214) 865-8082

2700 E. IMPERIAL HIGHWAY | BREA, CA

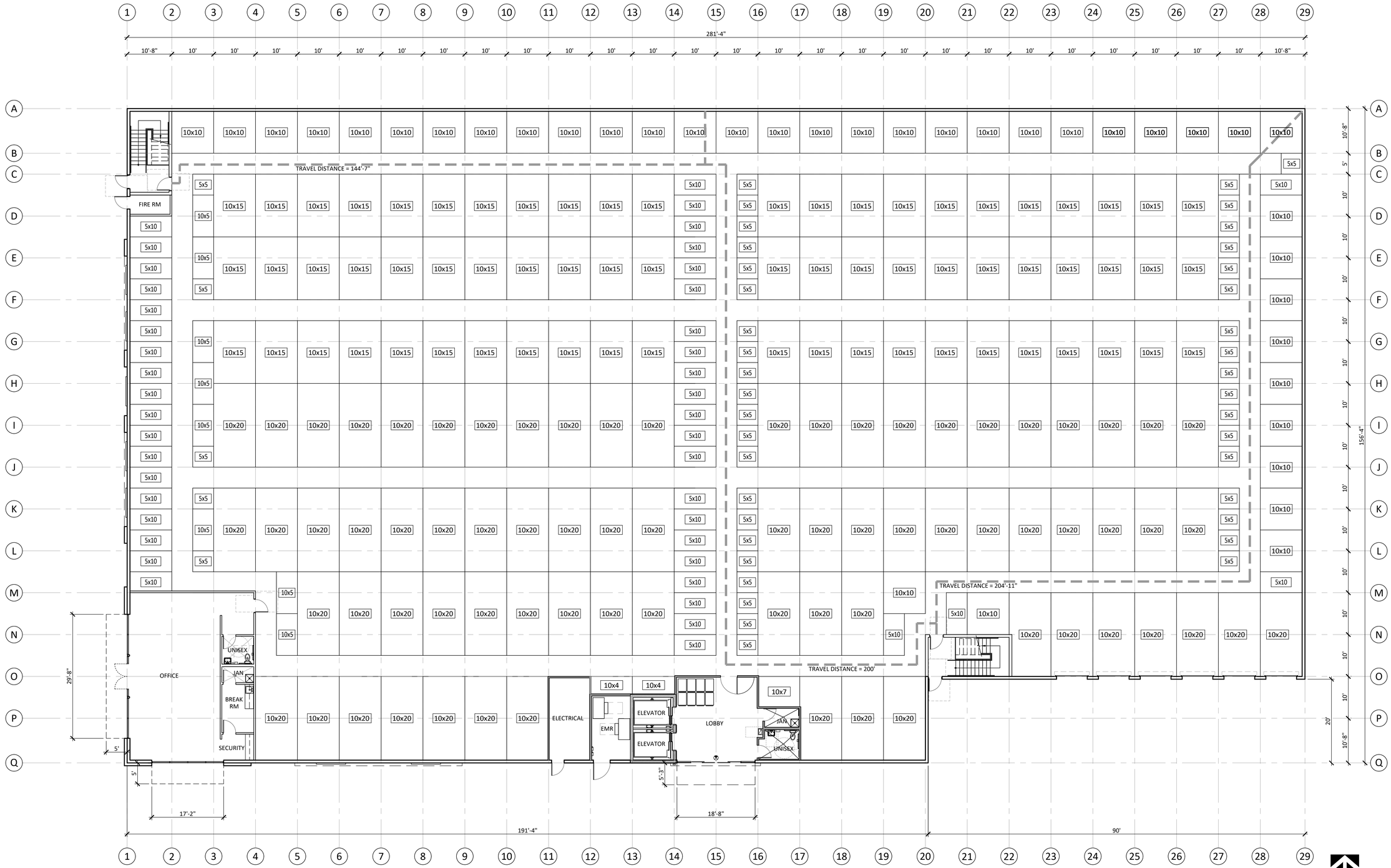
FIRE MASTER PLAN
10.25.19

NORTH

0 5' 10' 20' 40'
scale: 1" = 20'-0"

SHEET 2.1

KSP STUDIO
architecture + engineering
23 ORCHARD ROAD, SUITE 200
LAKE FOREST,CA92630
T 949.380.3970 F 949.380.3771



NORTH

SHEET 3

LEON Capital Group
3500 MAPLE AVENUE, SUITE 1600
DALLAS, TX - (214) 865-8082

2700 E. IMPERIAL HIGHWAY | BREA, CA

CONCEPTUAL FIRST FLOOR PLAN

10.25.19

scale: 3/32" = 1'-0"

KSP STUDIO
architecture + engineering
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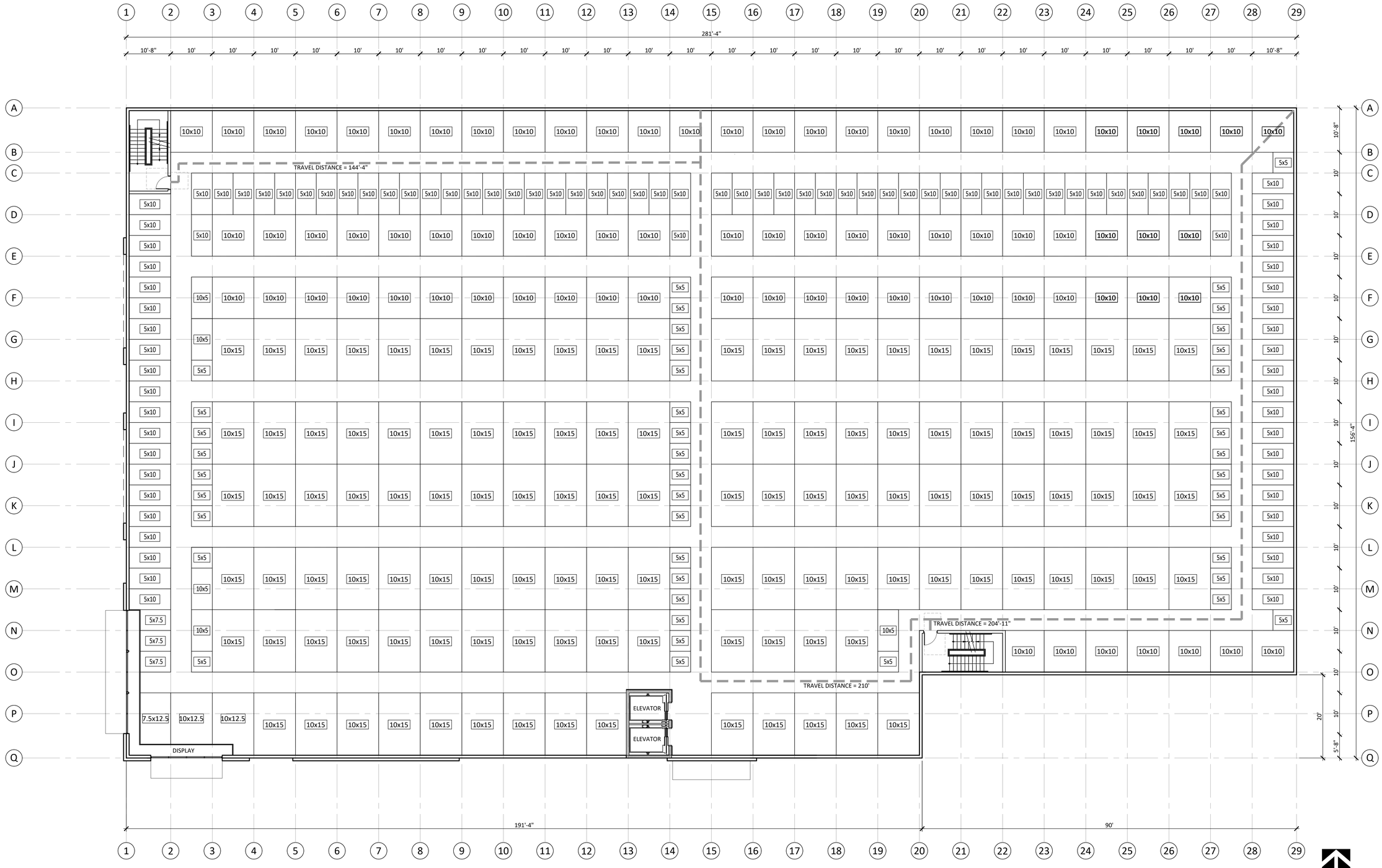
T 949.380.3970 F 949.380.3771



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DALLAS, TX - (214) 865-8082

2700 E. IMPERIAL HIGHWAY | BREA, CA

CONCEPTUAL SECOND FLOOR PLAN

10.25.19

0 3' 6' 12' 24'
scale: 3/32" = 1'-0"

SHEET 4

KSP STUDIO
architecture + engineering
23 ORCHARD ROAD, SUITE 200
LAKE FOREST,CA92630
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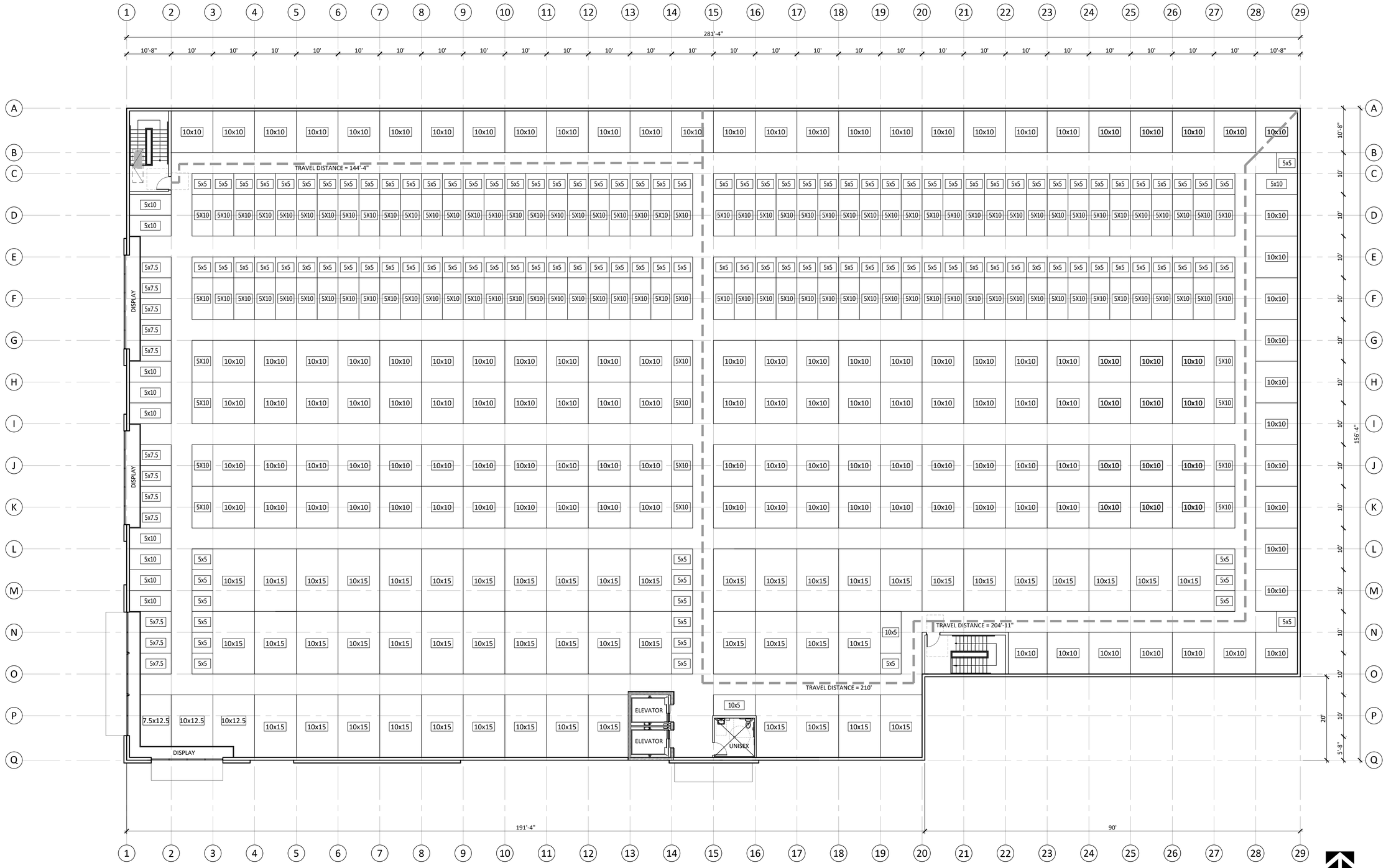

LEON Capital Group
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DALLAS, TX - (214) 865-8082

2700 E. IMPERIAL HIGHWAY | BREA, CA

CONCEPTUAL THIRD FLOOR PLAN

10.25.19

0 3' 6' 12' 24'
scale: 3/32" = 1'-0"

SHEET 5

KSP STUDIO
architecture + engineering
23 ORCHARD ROAD, SUITE 200
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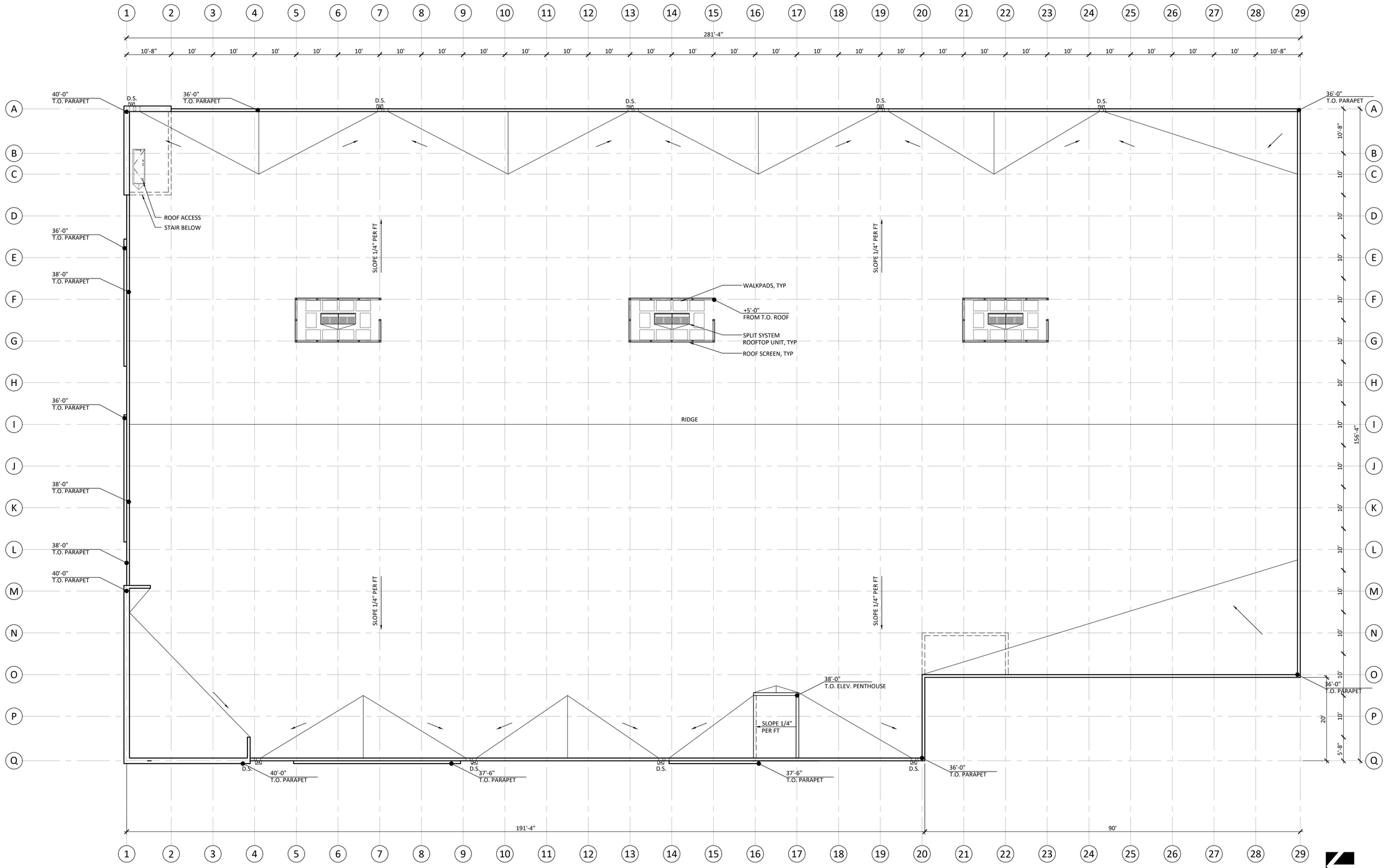

NORTH

SHEET 5.1

LEON Capital Group
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DALLAS, TX - (214) 865-8082

2700 E. IMPERIAL HIGHWAY | BREA, CA

CONCEPTUAL ROOF PLAN

10.25.19

0 3' 6' 12' 24'
scale: 3/32" = 1'-0"

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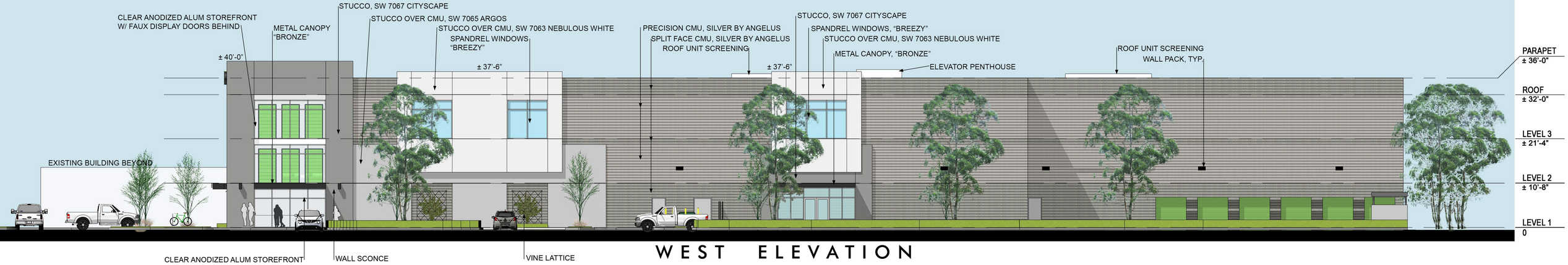
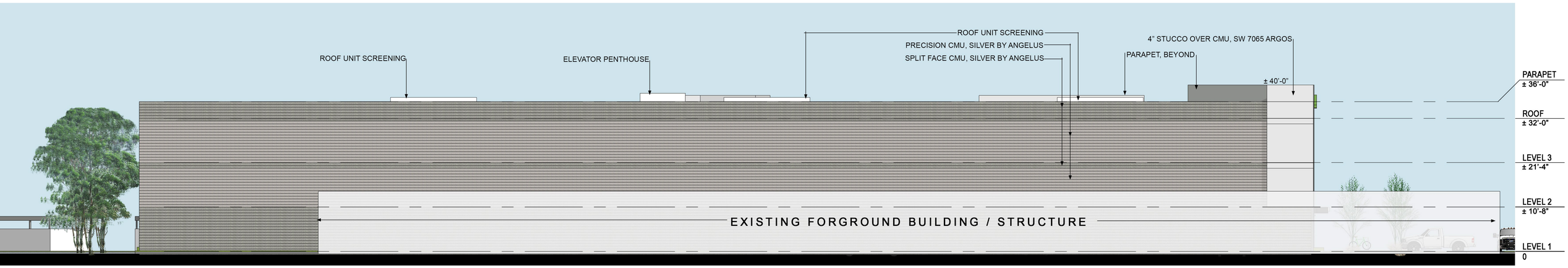
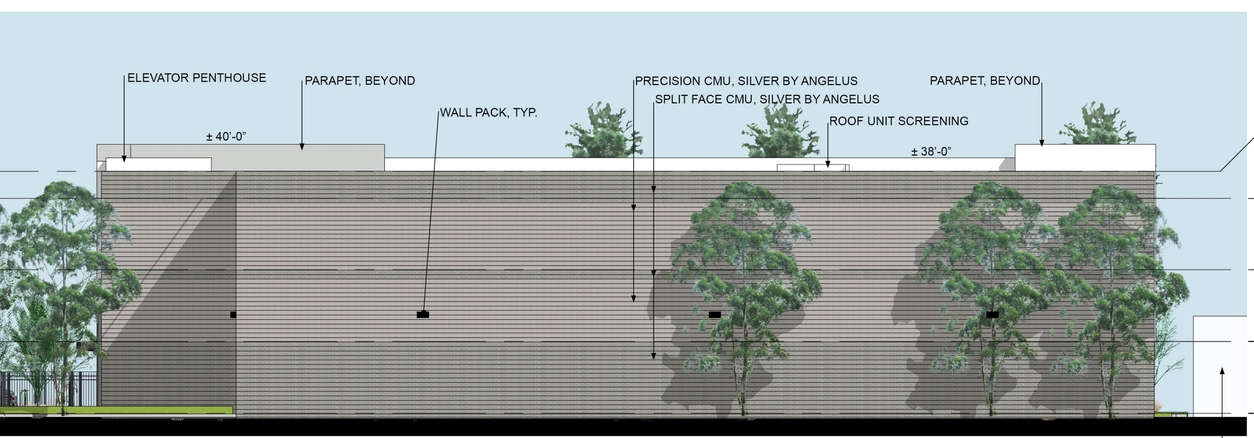
LAKE FOREST,CA92630
T 949.380.3970 F 949.380.3771



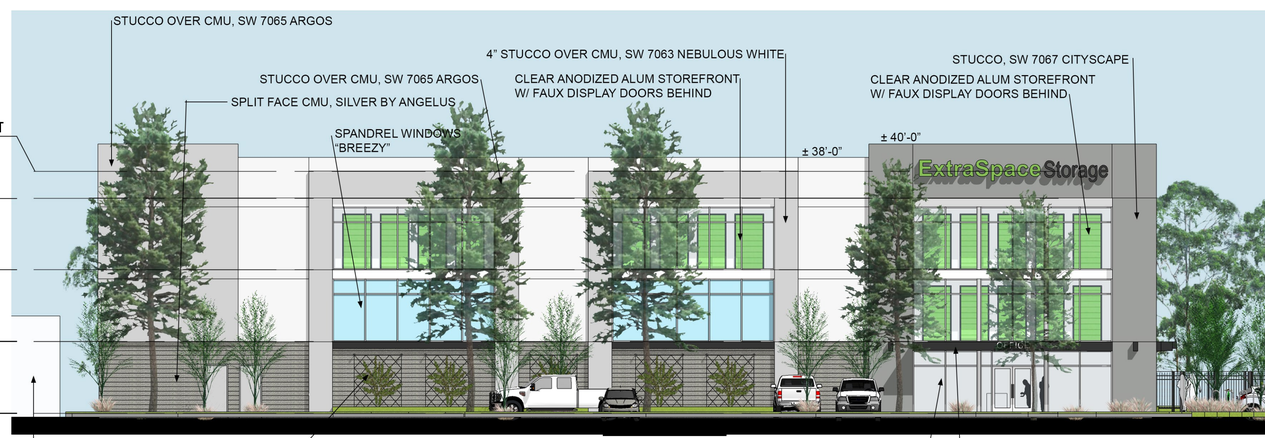
WEST ELEVATION



EAST ELEVATION



SOUTH ELEVATION



NORTH ELEVATION

LEON Capital Group
3500 MAPLE AVENUE, SUITE 1600
DALLAS, TX – (214) 865–8082

2700 E. IMPERIAL HWY, BREA | CA

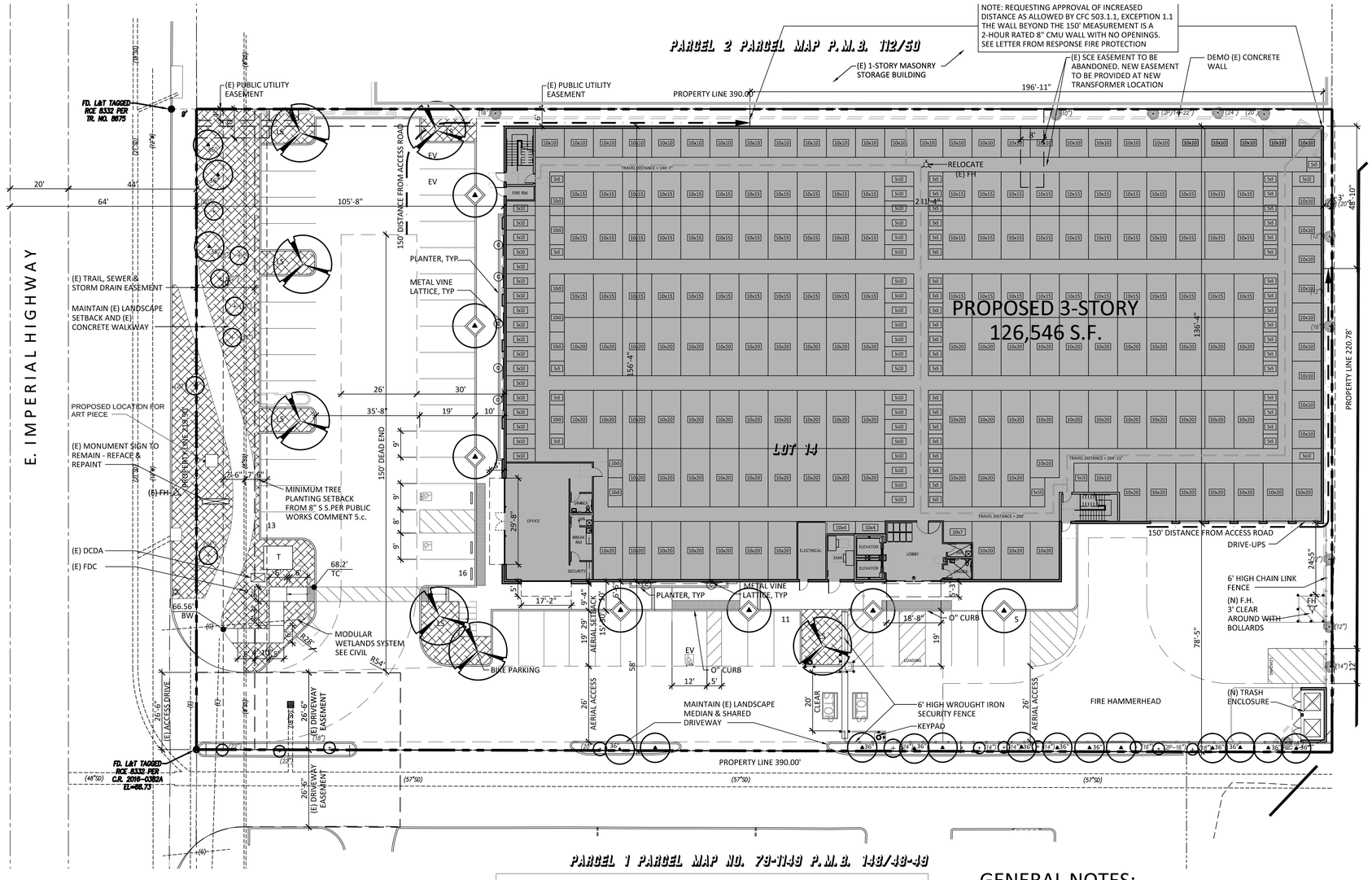
CONCEPT ELEVATIONS

10.25.19

0 3' 6' 12' 24'
scale: 3/32" = 1'-0"

SHEET 6

KSP STUDIO
architecture + engineering
23 ORCHARD ROAD, SUITE 200
LAKE FOREST, CA 92630
T 949.380.3970 F 949.380.3771



EXISTING TREE LEGEND

SYMBOL	DESCRIPTION	QUANTITY
(X*)	EXISTING TREE TO BE REMOVED (TO BE REPLACED WITH 36" BOX TRISTANIA CONFERTA SEE TREE LEGEND)	12
(X*)	EXISTING TREE TO REMAIN PROTECT IN PLACE	18

* INDICATES TREE DIAMETER IN INCHES Per ALTA Survey

GENERAL NOTES:

1. All Trees within 5' of hardscape to have a 12" deep linear root barrier. See Planting Detail sheet..
2. Unless otherwise noted, all planter areas to receive a 3" layer of shredded organic mulch.
3. All backflows and above ground equipment to be placed at least 5' from hardscape on flat area. All equipment to be screened with plants.
4. Tall shrubs are to be provided at screen walls for protection from graffiti.
5. Soil compaction to be no greater than 85% on landscape areas.
6. All finish grades to be 1½" below finish surface paving.
7. Agronomical soil testing report to be provided by contractor.
8. The landscape design shall comply with guidelines outlined in Ch 20.252 of BMC
9. All planted areas shall be irrigated in accordance with the provisions of Ch. 14.00.050 LANDSCAPE WATER USE STANDARDS -BMC

PLANTING LEGENDS

TREES

SYMBOL	BOTANICAL/COMMON NAME	SIZE	QTY	WUCOLS	REMARKS
	Rhus lancea African Sumac	24" Box	7	L	Standard
	Tristana conferta Brisbane Box	36" Box 24" Box	12 11	L L	Standard Standard

SHRUBS - APPROX. 1,770 S.F. @ 48" O.C. - APPROX. +/- 140 PLANTS

SYMBOL	BOTANICAL/COMMON NAME	SIZE	QTY	WUCOLS	REMARKS
	Callistemon 'Little John' Dwarf Bottle Brush	5 Gal	48" O.C.	L	
	Festuca mairei Atlas Grass	1 Gal	24" O.C.	L	
	Hesperaloe parviflora Red Yucca	5 Gal	-	L	
	Raphiolepis i. 'Clara' White Hawthorne	5 Gal	-	M	
	Salvia greggii Autumn Sage	5 Gal	-	L	
	Westringia fruiticosa 'Blue Gem' Blue Gem Coast Rosemary	5 Gal		L	

GROUNDCOVER - APPROX. 2,270 S.F. @ 30" o.c.= +/- 448 PLANTS

SYMBOL	BOTANICAL/COMMON NAME	SIZE	SPACING	WUCOLS	REMARKS
	Baccharis p. 'Twin Peaks' Dwarf Coyote Bush	1 Gal	6' O.C.	L	
	Lantana spp Lantana	1 Gal	36" O.C.	L	
	Rosa 'Flower Carpet' -Red Red Flower Carpet Rose	1 Gal	30" O.C.	L	
	Rosmarinus o. 'Huntington Carpet' Prostrate Rosemary	1 Gal	48" O.C.	L	
	Carissa tuttlei Tuttles Natal Plum	1 Gal	18" O.C.	M	
	Muhlenbergia capillaris 'Regal Mist' Regal Mist Muhly	1 Gal	24" O.C.	M	

VINES

SYMBOL	BOTANICAL/COMMON NAME	SIZE	SPACING/QTY	WUCOLS	REMARKS
ⓒ	Clytostoma callistegioides Lavender Trumpet Vine	5 Gal	6	M	

THIS PRELIMINARY PLANT PALETTE IS INTENDED TO REPRESENT A TYPICAL SAMPLE OF THE PROPOSED PLANTS BUT DOES NOT INDICATE THE EXACT SPECIES WHICH WILL BE DEVELOPED ON THE DETAILED PLANS.

LANDSCAPE AREA TABLE - INCLUDED AREA

DESCRIPTION	AREA	PERCENTAGE
MANUFACTURED	3,875 S.F.	100%
WITHIN THE RIGHT OF WAY (IMPERIAL HWY)	823 S.F.	
OVERALL TOTAL	4,698 S.F.	100%

TREE CALCULATION TABLE

	SIZE	UNIT	REQUIRED	PROVIDED
PARKING LOT TREES (1 TREE PER 5 SPACES)	24" BOX	49 SPACES	10	13
ON-SITE TREES (1 TREE PER 30 L.F. OF PL VISIBLE TO R.O.W.)	24" BOX	715 L.F.	23	18 (Existing) 3 (New)
			34	34

NORTH

SHEET 7

LEON Capital Group
3500 MAPLE AVENUE, SUITE 1600
DALLAS, TX – (214) 865-8082

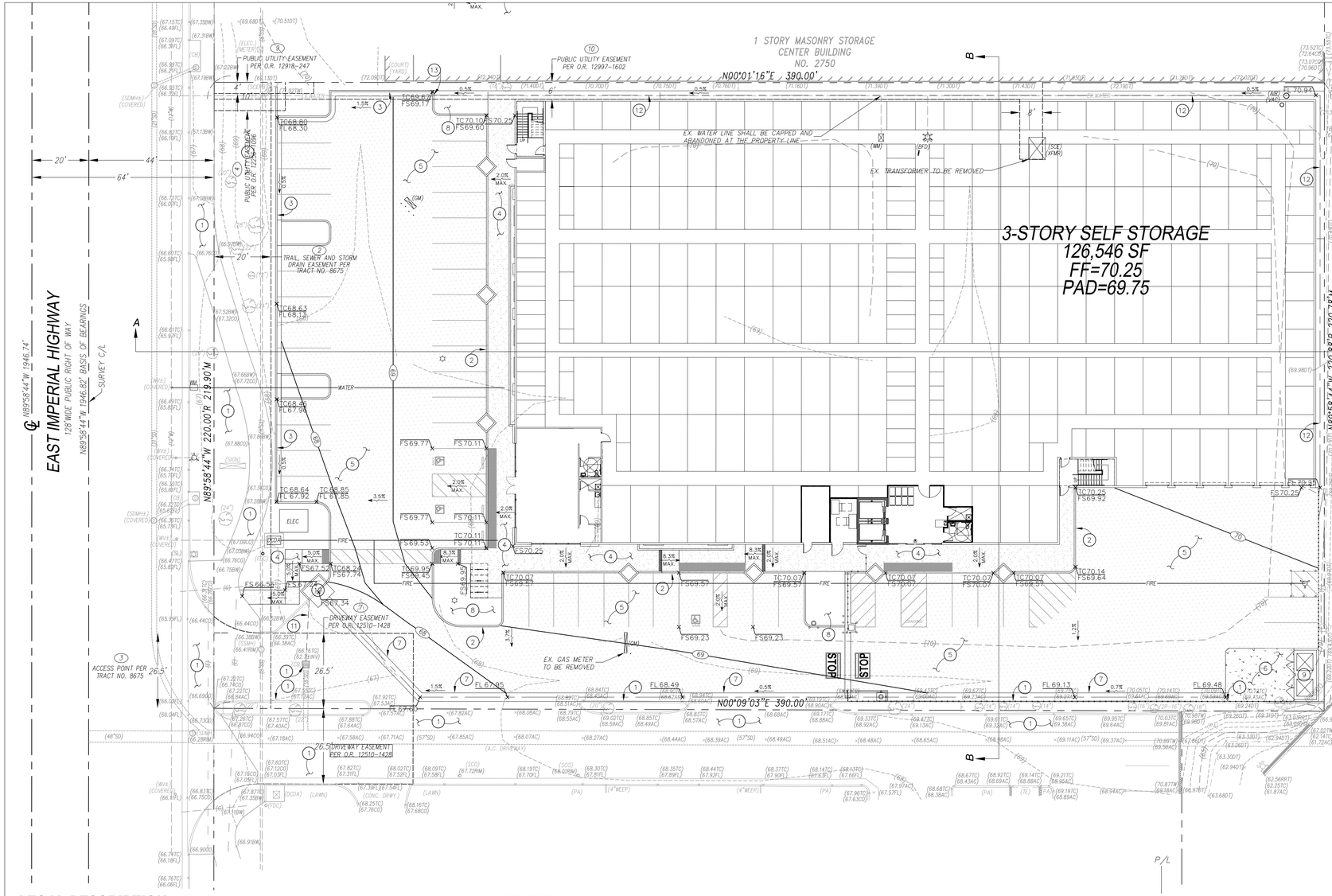
2700 E. IMPERIAL HIGHWAY | BREA, CA

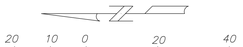
CONCEPTUAL LANDSCAPE PLAN

12.13.19

0 5' 10' 20' 40'
scale: 1" = 20'-0"

KSP STUDIO
architecture + engineering
23 ORCHARD ROAD, SUITE 200
LAKE FOREST, CA 92630
T 949.380.3970 F 949.380.3771





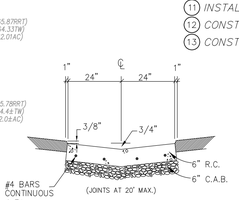
LEGEND

PL	PROPERTY LINE	WV	WATER VALVE
FF	FINISHED FLOOR	WM	WATER METER
TC	TOP OF CURB	BW	BACK OF WALK
FS	FINISHED SURFACE	FG	FINISHED GROUND
FL	FLOW LINE	INV	INVERT ELEVATION
TG	TOP OF GRATE	35	PROPOSED CONTOUR
GB	GRADE BREAK	(58)	EXISTING CONTOUR
℄	CENTERLINE	56.10	PROPOSED ELEVATION
R	RIDGE LINE	(56.10)	EXISTING ELEVATION
R/W	RIGHT OF WAY		LIGHT
WM	WATER METER	O.H.E.	OVERHEAD ELECTRICAL

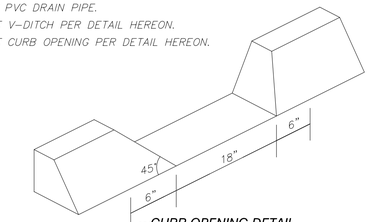
AC PAVING | CONCRETE SIDEWALK | CONCRETE PAVING

GRADING CONSTRUCTION NOTES

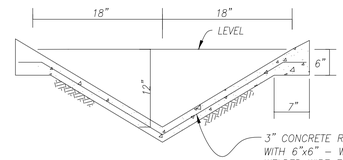
1. PROTECT IN PLACE EXISTING IMPROVEMENT.
2. CONSTRUCT PCC CURB PER SPPWC STD. 120-2, TYPE A1-6.
3. CONSTRUCT PCC CURB & GUTTER PER SPPWC STD. PLAN 120-2, TYPE A2-6.
4. CONSTRUCT 4" PCC SIDEWALK PER CITY STANDARDS.
5. CONSTRUCT AC PAVING PER SOILS REPORT.
6. CONSTRUCT PCC PAVING PER SOILS REPORT.
7. INSTALL V-GUTTER PER DETAIL HEREON.
8. INSTALL LANDSCAPING PER LANDSCAPE PLANS.
9. INSTALL TRASH ENCLOSURE PER ARCHITECTURAL PLANS.
10. INSTALL BIOCLEAN MODULAR WETLANDS SYSTEM.
11. INSTALL 8" PVC DRAIN PIPE.
12. CONSTRUCT V-DITCH PER DETAIL HEREON.
13. CONSTRUCT CURB OPENING PER DETAIL HEREON.



7 LONGITUDINAL GUTTER
N.T.S.

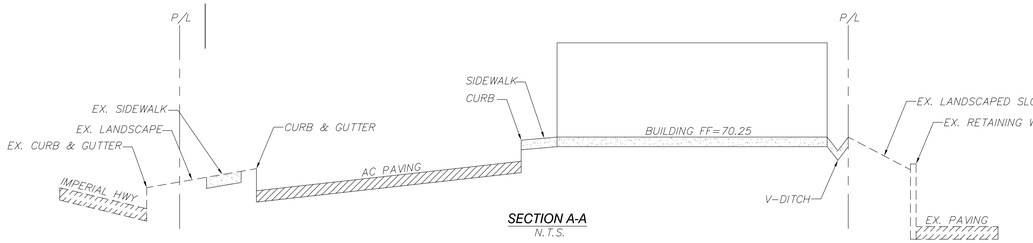


13 CURB OPENING DETAIL

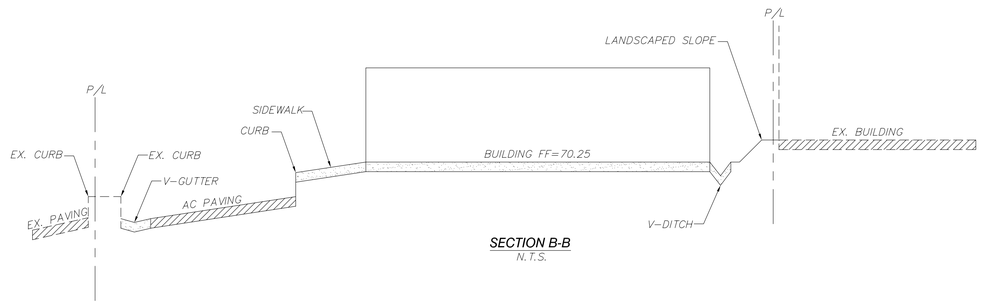


3" CONCRETE REINFORCED WITH 6"x6" - W1.4xW1.4 WELDED WIRE FABRIC. TREAT EXPOSED CONCRETE SURFACES WITH CURING COMPOUND.

12 V-DITCH
N.T.S.



SECTION A-A
N.T.S.



SECTION B-B
N.T.S.

LEGAL DESCRIPTION:

LOT 14 OF TRACT NO. 8675, IN THE CITY OF BREA, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 403, PAGES 37 THRU 41, OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING THOSE PORTION OF THE SUBSURFACE WHICH LIE BELOW A PLANE PARALLEL TO AND 100 FEET MEASURED VERTICALLY DOWNWARD BELOW THE SURFACE OF SAID LAND, WITHOUT THE RIGHT OF SURFACE ENTRY THERETO, AS SET FORTH IN THE DEED FROM MORELAND DEVELOPMENT COMPANY, A CORPORATION, RECORDED DECEMBER 29, 1977 IN BOOK 12510, PAGE 1428, OF OFFICIAL RECORDS.

EXCEPTING THAT PORTION OF SAID LAND LYING BELOW A DEPTH OF 500 FEET MEASURED VERTICALLY FROM THE SURFACE THEREOF, WITH NO RIGHT OF SURFACE ENTRY THEREON, AS RESERVED IN A DEED RECORDED JUNE 19, 1976 IN BOOK 11817, PAGE 737, OF OFFICIAL RECORDS.

APN: 336-631-16

FEMA FLOOD ZONE:

ZONE X - AREAS OUTSIDE THE 1% ANNUAL CHANCE FLOODPLAIN, AREAS OF 1% ANNUAL CHANCE SHEET FLOW FLOODING WHERE AVERAGE DEPTHS ARE LESS THAN 1 FOOT, AREAS OF 1% ANNUAL CHANCE OF STREAM FLOODING WHERE CONTRIBUTING DRAINAGE AREA IS LESS THAN 1 SQUARE MILE, OR AREAS PROTECTED FROM THE 1% ANNUAL CHANCE FLOOD BY LEVEES. NO BASE FLOOD ELEVATIONS OR DEPTHS ARE SHOWN WITHIN THIS ZONE. INSURANCE PURCHASE IS NOT REQUIRED IN THIS ZONE

FIRM MAP NO. 06059C0061J DATED DECEMBER 03, 2009

THE ABOVE STATEMENT IS FOR INFORMATION ONLY AND THIS SURVEYOR ASSUMES NO LIABILITY FOR THE CORRECTNESS OF THE CITED MAP. IN ADDITION, THE ABOVE STATEMENT DOES NOT REPRESENT THIS SURVEYORS OPINION OF THE PROBABILITY OF FLOODING.

PROJECT BENCH MARK:

ORANGE COUNTY BENCH MARK 2C-119-06

ELEVATION = 379.788 NAVD 1988 (2006 ADJ.)

4" OCS ALUMINUM BENCHMARK DISK STAMPED "2C-119-06". LOCATED IN THE NORTHWESTERLY PORTION OF THE INTERSECTION OF IMPERIAL HWY. AND SATURN. 95.0 FT. NORTH OF THE CENTERLINE OF IMPERIAL HWY. AND 26.0 FT. WEST OF THE CENTERLINE OF SATURN ST. SET IN THE NORTHEAST CORNER OF A 7.0 FT. X 4.0 FT. CATCH BASIN, LEVEL WITH THE CURB.

ADD 300 TO ELEVATIONS SHOWN HEREON FOR DATUM.

EARTHWORK

STATEMENT OF QUANTITIES:
CUT: 250 CUBIC YARDS
FILL: 250 CUBIC YARDS
NET: 0 CUBIC YARDS (NET)

NOTE: THE QUANTITIES AS SHOWN HEREON ARE FOR PERMIT AND/OR BONDING PURPOSES ONLY. THE GRADING CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFICATION OF QUANTITIES PRIOR TO THE START OF GRADING AND ACCOUNT FOR DISTURBING ANY EXCESS MATERIAL OR SUPPLYING ANY DEFICIENCIES TO BRING SITE TO DESIGN GRADE. THE ABOVE CUT AND FILL FIGURES REPRESENT PURE VOLUME FIGURES ONLY. THERE IS NO CONSIDERATION TAKEN FOR SHRINKAGE, SUBSIDENCE, OR ANY OTHER LOSS FACTOR. THE CONTRACTOR'S BID WILL BE THE SOLE BASIS FOR ALL PAYMENTS FOR WORK DONE. PRIOR TO START OF CONSTRUCTION, CONTRACTOR/OWNER SHALL LOCATE TOE AND TOP OF SLOPES BY FIELD MEASUREMENTS AND VERIFY PAD ELEVATIONS.

ZONING:

ZONE M-1 - LIGHT INDUSTRIAL ZONE

SETBACKS - FRONT 10'
SIDE 0'
REAR 0'
MAX. HT. - 60'
MIN. PARKING - DESIGN REVIEW

SOURCE: CITY OF BREA ZONING CODE CHAPTER 20.252.

THE ABOVE STATEMENT IS FOR INFORMATION ONLY AND THIS SURVEYOR ASSUMES NO LIABILITY FOR THE CORRECTNESS OF THE CITED INFORMATION. IN ADDITION, THE ABOVE STATEMENT DOES NOT REPRESENT THIS SURVEYORS OPINION OF THE PROBABILITY OF ZONE COMPLIANCY.

PUBLIC UTILITIES:

CITY OF BREA
PUBLIC WORKS
1 CIVIC CENTER CENTER
BREA, CA 92821
(WATER, SEWER, STORM DRAIN) 714-990-7600

SOUTHERN CALIFORNIA EDISON 800-655-4555
6 PONTE DRIVE
BREA, CA 92821

SOUTHERN CALIFORNIA GAS 877-238-0092
1919 S. STATE COLLEGE BLVD
ANAHEIM, CA 92806

BASIS OF BEARINGS:

THE BEARING OF N89°58'44"W OF THE CENTERLINE OF IMPERIAL HIGHWAY PER TRACT NO. 8675 RECORDED IN BOOK 403 PAGES 37-41 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY WAS TAKEN AS THE BASIS OF BEARINGS FOR THIS SURVEY.

EASEMENT NOTES:

(2) AN EASEMENT OR OTHER PROVISIONS FOR THE PURPOSE OF RECREATIONAL TRAIL AND OTHER RECREATIONAL PURPOSES, SANITARY SEWER PURPOSES AND STORM DRAIN AND RIGHTS INCIDENTAL THERETO AS SHOWN ON THE RECORDED TRACT NO. 8675, WHICH AFFECTS NORTHERLY 20 FEET.
AFFECTS: SHOWN HEREON.

(3) THE FACT THAT THE OWNERS OF SAID LAND HAVE NO RIGHTS OF VEHICULAR ACCESS TO THE STREET OR HIGHWAY HEREINAFTER MENTIONED, EXCEPT AT SPECIFIED POINTS, SAID RIGHTS HAVING BEEN RELINQUISHED BY THE DEDICATION PROVISIONS SHOWN ON THE MAP OF THE TRACT REFERRED TO BELOW:
STREET OR HIGHWAY: IMPERIAL HIGHWAY
MAP: 8675
FILED: IN BOOK 403, PAGE 37
ACCESS POINTS: WESTERLY 26.5 FEET
AFFECTS: SHOWN HEREON.

(4) AN EASEMENT FOR UNDERGROUND LINES AND RIGHTS INCIDENTAL THERETO IN FAVOR OF PACIFIC TELEPHONE AND TELEGRAPH COMPANY AS SET FORTH IN A DOCUMENT RECORDED IN BOOK 12256, PAGE 1096, OF OFFICIAL RECORDS, AFFECTS AS DESCRIBED IN SAID DOCUMENT.
AFFECTS: SHOWN HEREON.

(7) AN EASEMENT FOR DRIVEWAY AND RIGHTS INCIDENTAL THERETO AS RESERVED IN A DOCUMENT RESERVED BY MORELAND DEVELOPMENT COMPANY, RECORDED DECEMBER 29, 1977 AS INSTRUMENT NO. 37829 IN BOOK 12510, PAGE 1428, OF OFFICIAL RECORDS, WHICH AFFECTS AS DESCRIBED THEREIN.
AFFECTS: SHOWN HEREON

(9) AN EASEMENT FOR PUBLIC UTILITIES AND RIGHTS INCIDENTAL THERETO IN FAVOR OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION AS SET FORTH IN A DOCUMENT RECORDED NOVEMBER 9, 1978 AS INSTRUMENT NO. 14137, IN BOOK 12918, PAGE 247, OF OFFICIAL RECORDS, AFFECTS THE EASTERLY 4 FEET OF THE NORTHERLY 35 FEET.
AFFECTS: SHOWN HEREON.

(10) AN EASEMENT FOR CONSTRUCT, USE, MAINTAIN, OPERATE, ALTER, ADD TO, REPAIR, REPLACE, RECONSTRUCT, INSPECT AND REMOVE AT ANY TIME AND FROM TIME TO TIME UNDERGROUND ELECTRICAL SUPPLY SYSTEMS AND COMMUNICATION SYSTEMS (HEREINAFTER REFERRED TO AS "SYSTEMS"), CONSISTING OF WIRES, UNDERGROUND CONDUITS, CABLES, VAULTS, MANHOLES, HANDHOLES AND INCLUDING ABOVE-GROUND ENCLOSURES, MARKERS AND CONCRETE PADS AND OTHER APPURTENANT FIXTURES AND EQUIPMENT NECESSARY OR USEFUL FOR DISTRIBUTING ELECTRICAL ENERGY AND FOR TRANSMITTING INTELLIGENCE BY ELECTRICAL MEANS AND RIGHTS INCIDENTAL THERETO IN FAVOR OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION AS SET FORTH IN A DOCUMENT RECORDED JANUARY 11, 1979 AS INSTRUMENT NO. 14284, IN BOOK 12997, PAGE 1602, OF OFFICIAL RECORDS, AFFECTS SAID LAND.
AFFECTS: SHOWN HEREON.

BLUE PEAK ENGINEERING, INC.
16543 YORBA LINDA BL. #235
YORBA LINDA, CA 92886
714.749.3077

DRAWING ISSUE RECORD
DATE DESCRIPTION

REVISION RECORD
NO. DATE DESCRIPTION

PROJECT NAME

LEON CAPITAL GROUP
2700 EAST IMPERIAL HIGHWAY
BREA, CA

PROFESSIONAL SEAL

SHEET TITLE

PRELIMINARY GRADING & DRAINAGE PLAN

SHEET NUMBER

1 OF 1

DATE: 10/21/2019

LSA

CARLSBAD
FRESNO
IRVINE
LOS ANGELES
PALM SPRINGS
POINT RICHMOND
RIVERSIDE
ROSEVILLE
SAN LUIS OBISPO

October 22, 2019

Amelia Anan
KSP Studio
23 Orchard, Suite 200
Lake Forest, CA 92630

Subject: Parking Analysis for 2700 East Imperial Highway in Brea, California

Dear Ms. Anan:

LSA is pleased to submit this parking analysis for the proposed self-storage/mini-warehouse project (project) at 2700 East Imperial Highway in Brea, California. The project would demolish the existing building and construct a 126,546 gross-square-foot (sf) self-storage facility (including 1,095 storage units and 1,260 sf office use). Access to the project site is provided through a full access driveway on Imperial Highway.

PROJECT DESCRIPTION

The project site is bounded by Imperial Highway to the north and commercial uses to the west, the east, and the south. Currently, the project site is occupied and access is provided through a driveway on Imperial Highway.

As stated previously, the project would demolish the existing building and construct 126,546 sf of self-storage facility. According to the most recent site plan (Attachment A), the project would maintain the access on Imperial Highway and would provide a surface lot with a parking supply of 49 spaces.

PARKING ANALYSIS

The City of Brea (City) Zoning Code (Section 20.08.040) does not identify a parking rate for self-storage/mini-warehouse use. Although the City's Zoning Code has a general warehousing category, the required parking for general warehouse use is considered high compared to the actual parking demand generated by a self-storage facility. As such, LSA used parking references/sources, parking rate requirements for neighboring cities, and parking surveys of similar facilities to justify the parking supply provided on site.

The Institute of Transportation Engineers (ITE) Parking Generation (5th Edition, 2019) is accepted throughout the nation as the industry standard. According to ITE, mini-warehouse (self-storage) facilities have a weekday average peak period parking demand of 0.10 space per 1,000 sf of gross floor area, or one space per 10,000 sf. Application of the ITE rate to the proposed 126,546 sf self-storage facility would require 13 parking spaces.

Additionally, LSA has researched parking requirements of surrounding cities in Orange County that include a self-storage/mini-warehouse facility rate within their Municipal Codes. Table A (Attachment B) summarizes the neighboring cities' off-street parking code ordinances and the total

number of spaces that would be required for the project, based on each city's individual code requirement.

The 49 vehicle parking spaces provided by the project would exceed the average parking requirement of the 16 cities by approximately 23 percent. As such, application of general warehouse parking requirements does not seem reasonable given the anticipated demand of this self-storage facility. The resultant parking required for self-storage use based on the average of the other city parking codes is 1 space per approximately 3,500 sf. This does not include the spaces attributed to office use, which is 1 space per 250 sf (or 4 spaces per 1,000 sf).

Additionally, in 2015, the City approved a self-storage project (My Self Storage Space, 1295 West Lambert Road, Brea, California) with a parking rate of 1 space per 10,000 sf. Application of this rate to the proposed 126,546 sf self-storage facility would require 13 parking spaces.

In 1987, Crain & Associates conducted a thorough analysis of parking demand at five different self-storage facilities in Los Angeles County. The study (Attachment C) is based on data collected through multiday parking lot and driveway surveys. According to the study, the average parking rate for self-storage facilities in Los Angeles is 0.2 space per 1,000 sf, or 1 space per 5,000 sf. Application of this rate to the proposed 126,546 sf self-storage facility would require 26 parking spaces.

CONCLUSIONS

According to the industry standard, other cities' parking requirements, the 2015 approved self-storage project in Brea, and the Crain & Associates report, the proposed 49-space parking supply for the proposed self-storage facility is within the range of demand expected for the use. Based on this analysis, the proposed parking supply would be sufficient to accommodate the peak parking demand of the 126,546 sf self-storage facility.

If you have any questions, please do not hesitate to contact me at (949) 553-0666 or ken.wilhelm@lsa.net.

Sincerely,

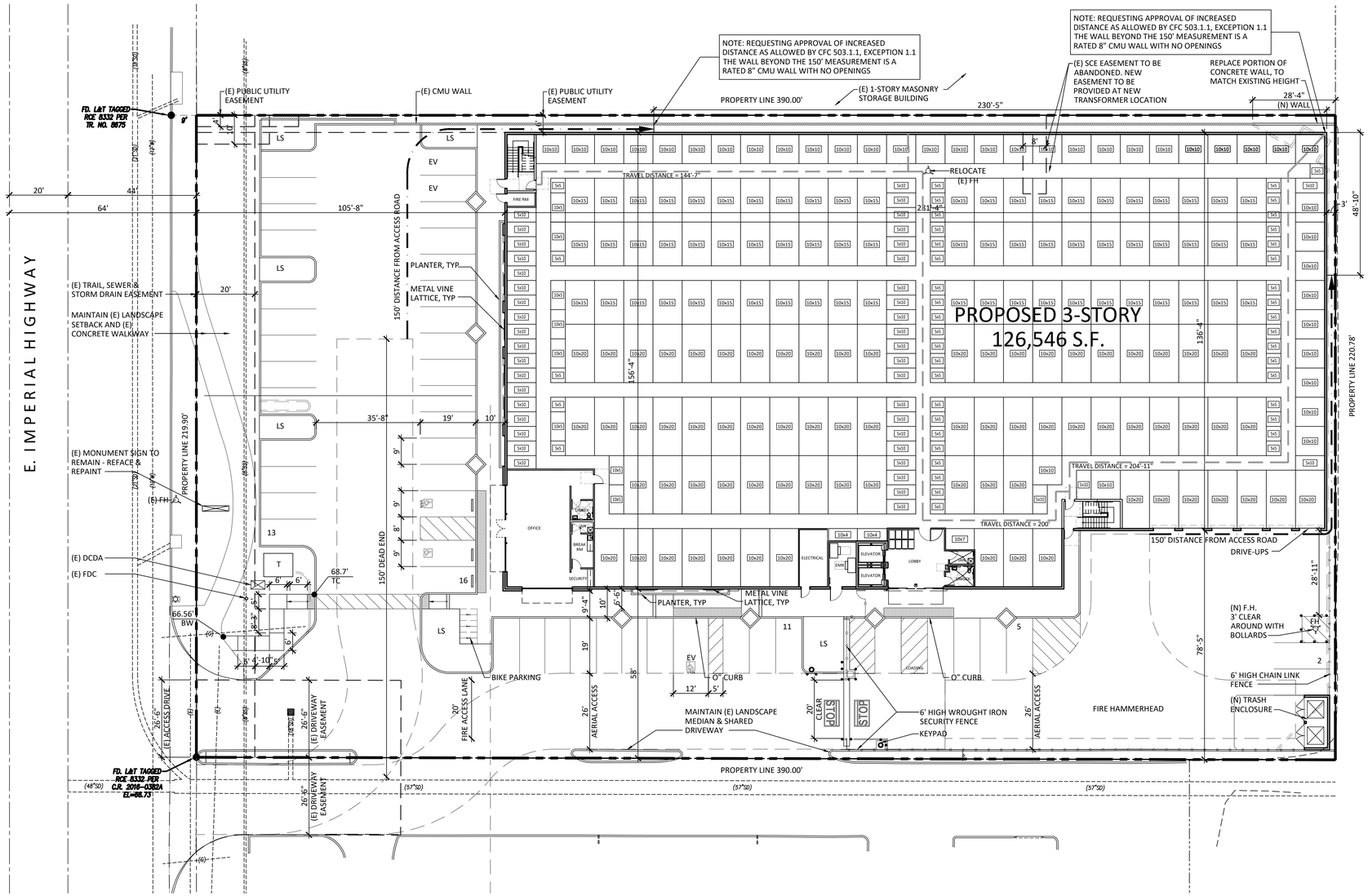
LSA Associates, Inc.

Ken Wilhelm
Principal

Attachments:
- A: Site Plan
- B: Table A: Mini-Warehouse (Self-Storage) Parking Rates
- C: Trip Generation and Parking Study for Public Storage Facilities in Los Angeles Area (Crain and Associates, 1987)

ATTACHMENT A

SITE PLAN



PROJECT DESCRIPTION

DEVELOPMENT OF 3-STORY SELF-STORAGE WITH SITE IMPROVEMENTS

PROJECT INFORMATION

PROJECT ADDRESS:	2700 E. IMPAERIAL HIGHWAY, BREA, CA	
SITE APN:	336-631-16	
GROSS SITE	85,933 S.F.	OR 1.97 ACRES
ZONING:	M-1	LIGHT INDUSTRIAL
COVERAGE MAXIMUM:	50%	
COVERAGE PROPOSED:	49%	(42,182 S.F./ 85,933 S.F.)
BLDG SETBACKS REQUIRED:		
FRONT YARDS:	10' MIN	
SIDE YARDS:	0'	
REAR YARD:	0'	
BLDG SETBACKS PROVIDED:		
FRONT:	105'-8"	
SIDE YARD:	58' AT WEST	
SIDE YARD:	6' AT EAST	
REAR:	3'	
HEIGHT:		
HEIGHT MAXIMUM:	60'	
HEIGHT PROPOSED:	40'	

BUILDING AREA

PROPOSED BUILDING:

FIRST FLOOR OFFICE:	1,260 S.F.
1ST FLOOR STORAGE:	40,922 S.F.
2ND FLOOR STORAGE:	42,182 S.F.
3RD FLOOR STORAGE:	42,182 S.F.
TOTAL:	126,546 S.F.

PARKING ANALYSIS

PARKING REQUIRED:

OFFICE: 1/250 S.F.	(1,260 S.F./250)	5 SP
STORAGE: 1/1,000 S.F.	(125,286/1000)	125 SP
TOTAL:		130 SP

PARKING PROVIDED:

ADA STANDARD:	2 SP
STANDARD (9'X19'):	44 SP
COMPACT:	0 SP
FEV PARKING:	1 SP
EV PARKING:	2 SP
TOTAL PARKING PROVIDED:	49 SP

BICYCLE PARKING REQUIRED AND PROVIDED:

REQUIRED:	5 SP
PROVIDED:	6 SP

LANDSCAPE REQUIREMENTS

LANDSCAPE REQUIRED:
1 TREE EVERY 5 PARKING SPACES

BUILDING CODE ANALYSIS

APPLICABLE BUILDING CODES

BUILDING CODE:	2016 CALIFORNIA BUILDING CODE
MECHANICAL CODE:	2016 CALIFORNIA MECHANICAL CODE
PLUMBING CODE:	2016 CALIFORNIA PLUMBING CODE
ELECTRICAL CODE:	2016 CALIFORNIA ELECTRICAL CODE
ENERGY CODE:	2016 CALIFORNIA ENERGY CODE
FIRE CODE:	2014 CALIFORNIA FIRE CODE
GREEN BUILDING CODE:	2016 GREEN BUILDING STANDARDS CODE

BUILDING AREA QUALIFICATION EQUATIONS

$A_A = [A_T + (NS \times I_A)] \times S_A$ (EQUATION 5-3)

A_A = ALLOWABLE AREA (S.F.)
A_T = ALLOWABLE AREA FACTOR (TABLE 506.2)
NS = ALLOWABLE AREA FACTOR FOR NON-SPRINKLERED BLDG. (TABLE 506.2)
I_F = AREA FACTOR INCREASE DUE TO FRONTAGE INCREASE (%)
S_A = 3 UNLESS PART OF GROUP A, E, H, I, L or R

$I_F = [F/P - 0.25] W/30$ (EQUATION 5-5)

I_F = AREA FACTOR INCREASE DUE TO FRONTAGE
F = BUILDING PERIMETER THAT FRONTS ON PUBLIC WAY OR OPEN SPACE HAVING A MINIMUM DIST. 20'-0"

PROPOSED BUILDING

BUILDING CLASSIFICATION:

OCCUPANCY GROUP:	S-1 - STORAGE
ACCESSORY:	M - MERCANTILE
CONSTRUCTION TYPE	II-B
FIRE SPRINKLERS:	YES
ROOFING CLASSIFICATION:	CLASS A

ALLOWABLE HEIGHT

ALLOWABLE HEIGHT =	75' FULLY SPRINKLERED (TABLE 504.3)
PROPOSED BUILDING HEIGHT =	30'
ALLOWABLE # OF STORIES	
ABOVE GRADE PLANE =	3 STORIES ALLOWED (TABLE 504.4)
PROPOSED # OF STORIES =	3 STORIES

BUILDING QUALIFICATION:

F = 281'-4"+156'-4" = 437'-8"
P = 281'-4"+156'-4"+281'-4"+156'-4" = 875'-4"
W = 30'
I_F = (438' / 875.3' - .25) 30' / 30' = .25
S_A = 3

A_A = [52,500 S.F. + (17,500 S.F. x .25)] x 3
A_A = 170,625S.F. >126,546S.F.

NORTH

SHEET 2

0 5' 10' 20' 40'
scale: 1" = 20'-0"

CONCEPTUAL SITE PLAN

10.13.19

2700 E. IMPERIAL HIGHWAY | BREA, CA

LEON Capital Group
3500 MAPLE AVENUE, SUITE 1600
DALLAS, TX - (214) 865-8082

KSP STUDIO architecture + engineering
23 ORCHARD ROAD, SUITE 200
LAKE FOREST, CA 92630
T 949.380.3970 F 949.380.3771

ATTACHMENT B

TABLE A: MINI-WAREHOUSE (SELF-STORAGE) PARKING RATES

LSA

Table A: Mini-Warehouse (Self-Storage) Parking Rates

Parking Requirements by City			Brea Self-Storage[2]		
City	Land-Use Type	Code[1]	Required Warehouse Spaces	Required Office Spaces	Total
Buena Park	Mini-storage space rental for public self-storage	1 space per 150 storage units (with a minimum 4 spaces required) plus 4 spaces per 1,000 sf gross floor area for related office use (with a minimum 4 spaces required) plus 2 covered parking spaces for any on-site manager's living quarters	8	6	**14**
Huntington Beach	Mini-storage facilities	1 space per 5,000 sf single story plus 1 space per 2,000 sf of each additional story, plus 2 spaces for caretakers unit	53	0	**53**
Orange	Mini-storage Warehouse	4 spaces per 1,000 sf office GFA or 3 spaces, whichever is greater	0	6	**6**
Fullerton	Self-service storage facility	A minimum of 6 spaces accessible at all times	6	0	**6**
Tustin	Storage, personal self-storage facilities	1 space for each 2,000 sf of gross floor area, plus 2 spaces for a resident manager	63	2	**65**
Santa Ana	Mini-warehouse	For first 900 units: 1 space for each 150 units, plus 1 space for each 300 units above 900 units, plus 2 spaces for on-site management	7	2	**9**
Newport Beach	Personal Storage (mini-storage)	2 spaces for resident manager, plus additional for office as required by minor use permit	0	6	**6**
Cypress	Storage (mini, personal, and self-storage) facilities	1 space for each 250 sf of office gross floor area, but no less than 12 spaces	0	12	**12**
Fountain Valley	Storage, personal storage facilities	1 space for each 1,000 sf of gross floor area, but not less than 6 spaces, plus 2 spaces for manager office/residence.	126	2	**128**
Stanton	Personal Storage Facilities	2 covered spaces for manager/caretaker; 1 space for each 20 rentable cubicles for customer parking	55	2	**57**
Laguna Niguel	Mini-storage facilities	Single-story: 1 space per 5,000 sf Multistory: 1 space per 2,000 sf, plus 2 spaces for any caretaker's unit	63	2	**65**
Aliso Viejo	Storage facilities, personal, indoor, such as mini-warehouses	1 space per every 4,000 sf of gross leasable area	32	0	**32**
San Juan Capistrano	Mini-storage facilities which provide rent or leasable storage areas of maximum 600 sf per storage unit	1 off-street parking space per each 4,000 sf of gross leasable area	32	0	**32**
Laguna Hills	Mini-storage warehouse	1 space per 2,000 sf GFA	63	0	**63**
Dana Point	Mini-storage warehouse	1 space per 2,000 sf GFA	63	0	**63**
La Habra	Mini-warehouse/self-storage	0.1 per ksf GFA	13	0	**13**
		Average	37	3	**40**

Notes:

[1] Based on City Municipal Codes

[2] 125,286 sf self-storage (40,922 sf on first floor, 42,182 sf on second floor, 42,182 sf on third floor), 1,260 sf office

GFA = gross floor area

sf = square feet

ksf = 1,000 square feet

ATTACHMENT C

TRIP GENERATION AND PARKING STUDY FOR PUBLIC STORAGE FACILITIES IN LOS ANGELES AREA (CRAIN & ASSOCIATES, 1987)

TRIP GENERATION AND PARKING STUDY FOR PUBLIC STORAGE FACILITIES IN LOS ANGELES AREA

Prepared for:

PUBLIC STORAGE, INC.

Prepared by:

Crain & Associates
2007 Sawtelle Boulevard, Suite 4
Los Angeles, California 90025
(213) 473-6508

September 1987

INTRODUCTION

Public Storage, Inc. (PSI), a developer of self-storage, mini-warehouse facilities throughout the country, retained Crain & Associates to conduct a study of its facilities in the Los Angeles area to determine their trip-generating characteristics. In addition, PSI requested that a parking analysis be performed for these facilities in conjunction with the trip generation study. Results of both analyses would be compared to current standards and requirements to determine whether those standards and requirements may be appropriate for these type of facilities.

The following report describes the subject facilities, methodology, analysis, findings and conclusions of the study. An Appendix also is included, which summarizes the data collected.

DESCRIPTION OF FACILITIES

PSI is the largest developer and manager of self-storage facilities in the United States. Generally, a PSI facility consists of one to seven buildings, single-story and/or multi-story, containing an aggregate of between 300 and 1,000 storage spaces or units. The facilities are leased for storage purposes only. Other uses such as retail, repair and fabrication, are prohibited in the lease agreement. Storage space is leased by both individuals and businesses.

A facility site is approximately two to five acres, located in or near large population centers and close to concentrations of apartment complexes, single-family residences and commercial developments. The sites usually can be seen and/or accessed from a freeway or major thoroughfare.

Each facility has a security manager's quarters in one of the buildings near the site entrance. The manager's quarters includes a small office for transacting business with present and prospective tenants. The area containing the storage units is a secured area. Access into and out of this area is enabled by electrically operated gates opened by a push-button, coded-control mechanism, with each tenant having his or its own special access code number.

Parking is provided on-site near the manager's quarters and the storage buildings. However, parking for the storage buildings may not actually be striped since the layout of the buildings and the tenant's need to have close-by parking may preclude an effective striped parking arrangement. Instead, large unmarked areas are available near and between the buildings, which allow convenient parking access to most storage units.

There are approximately 70 PSI sites in the Los Angeles area at the present time, ranging between 20,000 and 140,000 square feet of available building area. The majority are in the 40,000 to 80,000 square-foot category, with the average size between 62,000 and 63,000 square feet. Overall, about 85 percent of these facilities in this area are occupied.

METHODOLOGY AND ANALYSIS

Initially, it was decided to try to utilize the computerized access tapes generated by the PSI facilities. As described earlier, each PSI facility is equipped with a push-button, coded-control security device. This device is linked to a monitor-computer, which registers the identity of any tenant at any given time. Through this means, the identity and total count of tenant vehicles can be obtained for any period. This information is continually provided on a printed tape each day.

By matching the entering and leaving code numbers, along with the corresponding times, peak-hour as well as 24-hour trip generation rates could be computed relatively easily. Similarly, the elapsed time between inbound and outbound code numbers would yield the length of stay of each vehicle, which would infer parking duration and, consequently, parking accumulation, the total number of vehicles parking in a given area at a given time. The peak parking accumulation would be the measure of most critical parking need, from which parking rates could be calculated.

Thus, it appeared that both trip generation and parking information could be readily derived from the register tapes. Further, since each PSI facility could furnish these tapes, a large sample size covering an extended period of time could be examined, allowing for more confidence and less statistical error in the final results.

Since data analysis of the nearly 70 facilities in the area was not feasible, PSI was requested to furnish printed tapes for ten of its more active facilities in the area, covering the same two-week period, including weekends. Unfortunately, upon close examination of the tapes, it was found that the information recorded was

unreliable and inaccurate and could not be rectified by selecting other sites and/or time periods.

The major flaw was that many vehicles were registered as entering a facility but never leaving or vice-versa. Thus, at the end of the day the inbound and outbound flows were not balanced, with many vehicles unmatched. Based on conversations with the managers of these faciliites, there should be an equal number of entering and departing vehicles each day, except in unusual circumstances.

It was obvious from random field checks that the reason for the large discrepancies on the coded tapes was due to tailgating; that is, one vehicle immediately following another vehicle into or out of the facility after the lead driver had opened the security gate. Since the gates have some delay before they close, it is possible for other vehicles to go through without code-accessing. This could occur 10 to 25 percent of the time, especially during periods of peak usage when more vehicles access the system. In addition, it was noted that the coded security system applied only to those entering and leaving the secured storage area. Visitors and others parking near the manager's quarters had unrestricted access and were not monitored by the computer. Therefore, even if the printouts were reliable, they would not fully account for the total peak-hour or daily trip generation of the facility.

It was concluded that the only way to obtain complete and accurate information for all vehicles accessing a facility would be by continuous human observation. Since such field surveys can be very expensive and time-consuming, it was decided to conduct surveys at five of the previously selected ten sites in the Los Angeles area. The five selected sites were as follows:

Name of Facility	Address	Size of Facility: Available Units	Size of Facility: Available Square Feet
Glendale/San Fernando	4820 San Fernando Road, Glendale	929	88,710
La Cienega	3401 South La Cienega Boulevard, Los Angeles	1,224	98,230
Long Beach/Cherry	4140 Cherry Avenue, Long Beach	706	70,500
Los Angeles/Beverly	3636 Beverly Boulevard, Los Angeles	1,171	81,426
Wilmington	501 East Pacific Coast Highway, Wilmington	1,119	133,859

Each site was surveyed on two weekdays, Tuesday and Thursday, and a Saturday during the month of July, 1987. Field personnel recorded every vehicle using all facility driveways, inbound and outbound, from 7:00 AM to 7:30 PM each day. (These observations were 30 minutes longer than the 7:00 AM to 7:00 PM period that these facilities were open.) Determinations were made as to whether those accessing the sites were tenants, visitors or other type of trip-makers (such as lost drivers, "U"-turners, illegal parkers, etc.). Lastly, times were recorded for each entering and departing vehicle.

As mentioned previously, these five facilities were considered by PSI to be among its more highly used facilities. At the time of the field surveys, these facilities had an average occupancy of 95 percent. It could be anticipated, therefore, that the surveys probably would result in trip generation and parking rates higher than might be expected were a much broader spectrum of facilities examined.

It also should be noted that during the month of July, PSI was advertising a bargain rate to attract new tenants. Large banners were placed outside these facilities, advertising a $1 rental fee for the first month of tenancy. The increase in traffic due to the campaign could be expected to further skew the trip generation and parking demand at these sites toward higher than normal results. For these reasons, it could be said that the study includes somewhat "worst case" type conditions.

Since field observations were not made during the 7:30 PM to 7:00 AM period when the facilities were closed, it cannot be said that the collected data absolutely account for all traffic that might have accessed the facilities in a 24-hour period. It is possible that during the late evening or early morning hours, the manager, his family and/or visitors, may have generated a few trips. However, these potential after-hours trips would be a very small amount. They would have only a negligible effect on the overall trip generation and none on the critical peak-hour generations since all trips were recorded during the regular time period. For practical purposes, it would be reasonable to assume that the total trip generation observed during the 7:00 AM to 7:30 PM period represents the 24-hour trip generation.

Upon completion of the field surveys, the collected data were reviewed and analyzed manually for each day and site. In most cases, complete and balanced inbound and outbound vehicle movements were found. Where discrepancies occurred, the differences were extremely slight, amounting to only one vehicle more or less than the opposing movement. (In those instances, one additional vehicle was added later to the daily tally to achieve an exact balance.)

For peak-hour trip generation, the data were analyzed for the highest number of vehicle trips recorded for a 60-minute period during the peak-hour periods of 7:00 to 10:00 AM and 3:00 to 6:00 PM. In addition, an analysis was made of the peak trip

generation, the highest 60-minute vehicle measurement at each facility, regardless of the time of day. These numbers, as well as the total daily trip generation of the facility, were then related to the available storage area of the facility. As an additional step, the trip generations also were related to the occupancy of each facility. These calculations yielded trip generation rates according to available and occupied units, and available and occupied square feet. These rates were further analyzed in order to determine average trip generation values for both a weekday and a Saturday. As a final procedure, these rates were compared to the trip generation rates given for a "Mini-Warehouse" use in the nationally recognized *Institute of Transportation Engineers Trip Generation Manual (Third Edition, 1982).*

All of the relevant information regarding the aggregated field data, trip generation analysis and comparison of trip generation rates has been assembled in Tables 1 through 5 in the Appendix.

Using the same information gathered for the trip generation study, a manual analysis was performed to determine the parking needs of these facilities. The analysis focused only on the expected parking usage associated with the storage facilities themselves, that is, the secured areas where the vast majority of the parking demand occurs as tenants access their units. No analysis was made of the parking situation in the nonsecured areas of the facilities. Since the survey was oriented toward evaluating the amount of parking needed within the secured area, no records were made of the actual parking maneuvers around the storage buildings.

By performing a parking accumulation analysis, a profile of the total number of vehicles assumed to have been parked inside at the end of each hourly period was obtained for each day and site. A peak parking accumulation analysis also was

made to determine the maximum number of vehicles parked at any one time, no matter how brief the period. The hourly and peak parking accumulation results are depicted graphically in Figures 1 through 5 of the Appendix.

It is evident from those figures that except at one site, the highest peak parking accumulation occurred on Saturday. Therefore, to determine a parking rate that should be adequate for even most periods of high parking demand, the Saturday peak parking accumulation quantities at each facility were used. These quantities were divided by the appropriate storage sizes, available and occupied, of each facility, resulting in individual parking generation rates. These rates were then combined to arrive at average parking rates, as shown in Table 6, Appendix.

For comparison purposes, several local governmental agencies in the Los Angeles area were contacted regarding parking requirements for self-storage or mini-warehouse uses. Only a few jurisdictions presently have parking requirements specifically for such uses. Most agencies continue to rely on industrial or manufacturing use parking requirements or variations thereof. Table 7, Appendix, lists current parking requirements of some of these agencies.

Using the current code parking requirements of the appropriate jurisdictions for the five study facilities, a comparison was made with the parking quantities calculated according to the average parking rate determined above. An additional comparison was made with the highest peak parking accumulation found for each facility. These comparisons are shown in Table 8 of the Appendix.

FINDINGS AND CONCLUSIONS

Findings

Although the sample size for the trip generation and parking study was rather small, each of the five study facilities was surveyed extensively. From the information collected in the study, the following findings about Public Storage (PSI) facilities in the Los Angeles area are indicated:

Trip Generation

- PSI facilities are a relatively low trip-generating use.
- The PM peak-hour trip generation is greater than the AM peak-hour generation.
- The peak trip generation usually occurs between noon and closing time, and frequently does not coincide with the PM peak-hour generation. The peak trip generation is approximately 15 percent of the 24-hour generation.
- The Saturday 24-hour trip generation is approximately 35 to 40 percent higher than the weekday generation, although the Saturday AM peak-hour generation is only slightly higher than the weekday AM peak-hour generation.
- Approximately 75 percent of the trip generation is due to tenant use trips; the remainder is attributable to visitor and other type of trips.

- The trip rates determined in this study for weekday AM and PM peak hours and peak generation are very similar to the Institute of Transportation Engineers (ITE) rates for a mini-warehouse use. The rates also are quite similar for Saturday peak generation. However, the study's 24-hour rates are about 25 percent less for a weekday and about 15 percent more for Saturday.

- The basis of trip generation, either "per (storage) unit" or "per 1,000 gross square feet," generally yield similar results, with the per unit basis being slightly more accurate.

Parking Demand

- Peak parking accumulation in the storage facility area (i.e., tenant parking) does not necessarily coincide with the peak trip generation of the facility.

- Peak parking accumulation in the storage facility area usually occurs on Saturday and usually after 12 PM.

- The average duration of parking in the storage facility area is approximately 30 to 35 minutes per vehicle.

- Unless variances are granted, the code parking requirements of most local jurisdictions for self-storage/mini-warehouse facilities generally are excessive by at least 100 percent.

Conclusions

Based on the findings indicated above, it can be concluded that PSI facilities and similar self-storage facilities are relatively low trip generators during both the peak

and 24-hour periods. The results of this study tend to validate the ITE weekday and Saturday trip generations rates for the most critical AM and PM peak-hour and peak generation periods. For weekday and Saturday 24-hour trip generation, there is less similarity between the study rates and the ITE rates. Nevertheless, intuitively as well as based on study observations, it does appear that the ITE Saturday 24-hour trip generation rate should be higher, at least equal to its weekday rate.

It also can be concluded that most typical code parking requirements for industrial and manufacturing uses and which are commonly used by many jurisdictions, are inappropriate for self-storage type facilities. Such parking requirements are much greater than necessary for even the normal peak parking demands of these facilities.

APPENDIX

TABLE 1

SUMMARY OF TRIP GENERATION
PUBLIC STORAGE FACILITIES

Public Storage Facility	Units Available/Occupied	Square Feet Available/Occupied	Day of Week	AM Peak Hour (Occurring in 7-10 AM Period)			PM Peak Hour (Occurring in 3-6 PM Period)			Peak Hour Generation of Facility				24-Hour		
				I/B	O/B	Total	I/B	O/B	Total	I/B	O/B	Total (Time Period)		I/B	O/B	Total
Glendale/ San Fernando	929/894 (96.2%)	88,710/85,130 (96.0%)	Tuesday	7	7	14	11	13	24	11	28	39	(2:00-3:00 PM)	108	108	216
			Thursday	8	8	16	10	14	24	13	14	27	(4:45-5:45 PM)	117	117	234
			Saturday	9	4	13	11	12	23	17	19	36	(11:30-12:30 PM)	107	107	214
La Cienega	1,224/1,099 (89.8%)	98,230/88,515 (90.1%)	Tuesday	11	11	22	9	15	24	13	14	27	(12:45-1:45 PM)	111	111	222
			Thursday	12	8	20	9	9	18	20	16	36	(12:30-1:30 PM)	124	124	248
			Saturday	15	10	25	26	26	52	29	36	65	(12:30-1:30 PM)	214	214	428
Long Beach/ Cherry	706/703 (99.6%)	70,500/70,000 (99.3%)	Tuesday	5	3	8	9	9	18	9	9	18	(4:00-5:00 PM)	63	63	126
			Thursday	15	13	28	10	15	25	16	14	30	(2:30-3:30 PM)	100	100	200
			Saturday	8	5	13	11	11	22	14	15	29	(12:00-1:00 PM)	102	102	204
Los Angeles/ Beverly	1,171/1,163 (99.3%)	81,426/80,904 (99.4%)	Tuesday	3	4	7	13	11	24	13	11	24	(3:00-4:00 PM)	71	71	142
			Thursday	2	3	5	11	9	20	11	9	20	(4:00-5:00 PM)	65	65	130
			Saturday	7	4	11	10	12	22	11	14	25	(11:15-12:15 PM)	85	85	170
Wilmington	1,119/1,036 (92.6%)	133,859/120,488 (90.0%)	Tuesday	12	9	21	12	10	22	16	20	36	(1:30-2:30 PM)	113	113	226
			Thursday	8	5	13	9	13	22	16	19	35	(1:45-2:45 PM)	111	111	222
			Saturday	15	13	28	14	22	36	30	22	52	(11:15-12:15 PM)	178	178	356

TABLE 2

SUMMARY OF CALCULATED TRIP GENERATION RATES
PUBLIC STORAGE FACILITIES

Trip Generation Rate: Per Available Unit
(Per Occupied Unit)

Public Storage Facility	Day Of Week	AM Peak Hour I/B	AM Peak Hour O/B	AM Peak Hour Total	PM Peak Hour I/B	PM Peak Hour O/B	PM Peak Hour Total	Peak Hour Generation of Facility I/B	Peak Hour Generation of Facility O/B	Peak Hour Generation of Facility Total	24-Hour Total
Glendale/ San Fernando	Tuesday	0.01 (0.01)	0.01 (0.01)	0.02 (0.02)	0.01 (0.01)	0.02 (0.02)	0.03 (0.03)	0.01 (0.01)	0.03 (0.03)	0.04 (0.04)	0.23 (0.24)
	Thursday	0.01 (0.01)	0.01 (0.01)	0.02 (0.02)	0.01 (0.01)	0.02 (0.02)	0.03 (0.03)	0.01 (0.01)	0.02 (0.02)	0.03 (0.03)	0.25 (0.26)
	Saturday	0.01 (0.01)	0.00 (0.00)	0.01 (0.01)	0.01 (0.01)	0.01 (0.02)	0.02 (0.03)	0.02 (0.02)	0.02 (0.02)	0.04 (0.04)	0.23 (0.24)
La Cienega	Tuesday	0.01 (0.01)	0.01 (0.01)	0.02 (0.02)	0.01 (0.01)	0.01 (0.01)	0.02 (0.02)	0.01 (0.01)	0.01 (0.01)	0.02 (0.02)	0.18 (0.20)
	Thursday	0.01 (0.01)	0.01 (0.01)	0.02 (0.02)	0.00 (0.01)	0.01 (0.01)	0.01 (0.02)	0.02 (0.02)	0.01 (0.01)	0.03 (0.03)	0.20 (0.23)
	Saturday	0.01 (0.01)	0.01 (0.01)	0.02 (0.02)	0.02 (0.02)	0.02 (0.03)	0.04 (0.05)	0.02 (0.03)	0.03 (0.03)	0.05 (0.06)	0.35 (0.39)
Long Beach/ Cherry	Tuesday	0.01 (0.01)	0.00 (0.00)	0.01 (0.01)	0.01 (0.01)	0.02 (0.02)	0.03 (0.03)	0.01 (0.01)	0.02 (0.02)	0.03 (0.03)	0.18 (0.18)
	Thursday	0.02 (0.02)	0.02 (0.02)	0.04 (0.04)	0.02 (0.02)	0.02 (0.02)	0.04 (0.04)	0.02 (0.02)	0.02 (0.02)	0.04 (0.04)	0.28 (0.28)
	Saturday	0.01 (0.01)	0.01 (0.01)	0.02 (0.02)	0.01 (0.01)	0.02 (0.02)	0.03 (0.03)	0.02 (0.02)	0.02 (0.02)	0.04 (0.04)	0.29 (0.29)

TABLE 2 (Continued)

SUMMARY OF CALCULATED TRIP GENERATION RATES
PUBLIC STORAGE FACILITIES

Public Storage Facility	Day Of Week	Trip Generation Rate: Per Available Unit (Per Occupied Unit)									
		AM Peak Hour			PM Peak Hour			Peak Hour Generation of Facility			24-Hour
		I/B	O/B	Total	I/B	O/B	Total	I/B	O/B	Total	Total
Los Angeles/ Beverly	Tuesday	0.00 (0.00)	0.01 (0.01)	0.01 (0.01)	0.01 (0.01)	0.01 (0.01)	0.02 (0.02)	0.01 (0.01)	0.01 (0.01)	0.02 (0.02)	0.12 (0.12)
	Thursday	0.00 (0.00)	0.00 (0.00)	0.00 (0.00)	0.01 (0.01)	0.01 (0.01)	0.02 (0.02)	0.01 (0.01)	0.01 (0.01)	0.02 (0.02)	0.11 (0.11)
	Saturday	0.01 (0.01)	0.00 (0.00)	0.01 (0.01)	0.01 (0.01)	0.01 (0.01)	0.02 (0.02)	0.01 (0.01)	0.01 (0.01)	0.02 (0.02)	0.15 (0.15)
Wilmington	Tuesday	0.01 (0.01)	0.01 (0.01)	0.02 (0.02)	0.01 (0.01)	0.01 (0.01)	0.02 (0.02)	0.01 (0.01)	0.02 (0.02)	0.03 (0.03)	0.20 (0.22)
	Thursday	0.01 (0.01)	0.00 (0.00)	0.01 (0.01)	0.01 (0.01)	0.01 (0.01)	0.02 (0.02)	0.01 (0.01)	0.02 (0.02)	0.03 (0.03)	0.20 (0.21)
	Saturday	0.02 (0.02)	0.01 (0.01)	0.03 (0.03)	0.01 (0.01)	0.02 (0.02)	0.03 (0.03)	0.03 (0.03)	0.02 (0.02)	0.05 (0.05)	0.32 (0.34)

TABLE 3

SUMMARY OF CALCULATED TRIP GENERATION RATES
PUBLIC STORAGE FACILITIES

Public Storage Facility	Day Of Week	Trip Generation Rate: Per Available 1,000 Square Feet (Per Occupied 1,000 Square Feet)									
		AM Peak Hour			PM Peak Hour			Peak Hour Generation of Facility			24-Hour
		I/B	O/B	Total	I/B	O/B	Total	I/B	O/B	Total	Total
Glendale/ San Fernando	Tuesday	0.08 (0.08)	0.08 (0.08)	0.16 (0.16)	0.12 (0.12)	0.15 (0.15)	0.27 (0.28)	0.12 (0.13)	0.32 (0.33)	0.44 (0.46)	2.43 (2.54)
	Thursday	0.09 (0.10)	0.09 (0.09)	0.18 (0.19)	0.11 (0.12)	0.16 (0.16)	0.27 (0.28)	0.14 (0.15)	0.16 (0.17)	0.30 (0.32)	2.64 (2.75)
	Saturday	0.10 (0.10)	0.05 (0.05)	0.15 (0.15)	0.12 (0.13)	0.14 (0.14)	0.26 (0.27)	0.19 (0.20)	0.22 (0.22)	0.41 (0.42)	2.41 (2.51)
La Cienega	Tuesday	0.11 (0.13)	0.11 (0.12)	0.22 (0.25)	0.09 (0.10)	0.15 (0.17)	0.24 (0.27)	0.13 (0.14)	0.14 (0.16)	0.27 (0.30)	2.26 (2.51)
	Thursday	0.12 (0.14)	0.08 (0.09)	0.20 (0.23)	0.09 (0.10)	0.09 (0.10)	0.18 (0.20)	0.21 (0.23)	0.16 (0.18)	0.37 (0.41)	2.52 (2.80)
	Saturday	0.15 (0.17)	0.10 (0.11	0.25 (0.28)	0.26 (0.29)	0.27 (0.30)	0.53 (0.59)	0.29 (0.33)	0.37 (0.40)	0.66 (0.73)	4.36 (4.84)
Long Beach/ Cherry	Tuesday	0.07 (0.07)	0.04 (0.04	0.11 (0.11)	0.13 (0.13)	0.13 (0.13)	0.26 (0.26)	0.13 (0.13)	0.13 (0.13)	0.26 (0.26)	1.79 (1.80)
	Thursday	0.21 (0.21)	0.19 (0.19	0.40 (0.40)	0.14 (0.14)	0.21 (0.22)	0.35 (0.36)	0.23 (0.23)	0.20 (0.20)	0.43 (0.43)	2.84 (2.86)
	Saturday	0.11 (0.12)	0.07 (0.07	0.18 (0.19)	0.15 (0.15)	0.16 (0.16)	0.31 (0.31)	0.19 (0.19)	0.21 (0.21)	0.41 (0.41)	2.89 (2.91)

TABLE 3 (Continued)

SUMMARY OF CALCULATED TRIP GENERATION RATES
PUBLIC STORAGE FACILITIES

Public Storage Facility	Day Of Week	Trip Generation Rate: Per Available 1,000 Square Feet (Per Occupied 1,000 Square Feet)									
		AM Peak Hour			PM Peak Hour			Peak Hour Generation of Facility			24-Hour
		I/B	O/B	Total	I/B	O/B	Total	I/B	O/B	Total	Total
Los Angeles/ Beverly	Tuesday	0.04 (0.04)	0.05 (0.05)	0.09 (0.09)	0.16 (0.16)	0.13 (0.14)	0.29 (0.30)	0.16 (0.16)	0.13 (0.13)	0.29 (0.29)	1.74 (1.75)
	Thursday	0.02 (0.02)	0.04 (0.04)	0.06 (0.06)	0.14 (0.14	0.11 (0.11)	0.25 (0.25)	0.14 (0.14)	0.11 (0.11)	0.25 (0.25)	1.60 (1.61)
	Saturday	0.09 (0.09)	0.05 (0.05)	0.14 (0.14)	0.12 (0.12)	0.15 (0.15)	0.27 (0.27)	0.14 (0.14)	0.17 (0.17)	0.31 (0.31)	2.09 (2.10)
Wilmington	Tuesday	0.09 (0.10)	0.07 (0.07)	0.16 (0.17)	0.09 (0.10)	0.07 (0.08)	0.16 (0.18)	0.12 (0.13)	0.15 (0.17)	0.27 (0.30)	1.69 (1.88)
	Thursday	0.06 (0.07)	0.04 (0.04)	0.10 (0.11)	0.07 (0.07)	0.09 (0.11)	0.16 (0.18)	0.12 (0.13)	0.14 (0.16)	0.26 (0.29)	1.66 (1.84)
	Saturday	0.11 (0.12)	0.10 (0.11)	0.21 (0.23)	0.11 (0.12)	0.16 (0.18)	0.27 (0.30)	0.22 (0.25)	0.17 (0.18)	0.39 (0.43)	2.66 (2.96)

TABLE 4

AVERAGE TRIP GENERATION RATES
PUBLIC STORAGE FACILITIES

		Per Available Unit	Per Occupied Unit	Per Available 1,000 Square Feet	Per Occupied 1,000 Square Feet
Weekday					
AM Peak Hour (7-10 AM)					
	Inbound	0.01	0.01	0.09	0.10
	Outbound	0.01	0.01	0.08	0.08
	Total	0.02	0.02	0.17	0.18
PM Peak Hour (3-6- PM)					
	Inbound	0.01	0.01	0.11	0.12
	Outbound	0.01	0.01	0.13	0.14
	Total	0.02	0.02	0.24	0.26
Peak Hour Generation					
	Inbound	0.01	0.01	0.15	0.16
	Outbound	0.02	0.02	0.16	0.17
	Total	0.03	0.03	0.31	0.33
24-Hour	Total	0.20	0.20	2.12	2.23
Saturday					
AM Peak Hour (7-10 AM)					
	Inbound	0.01	0.01	0.11	0.12
	Outbound	0.01	0.01	0.08	0.08
	Total	0.02	0.02	0.19	0.20
PM Peak Hour (3-6- PM)					
	Inbound	0.01	0.01	0.15	0.16
	Outbound	0.02	0.02	0.18	0.19
	Total	0.03	0.03	0.33	0.35
Peak Hour Generation					
	Inbound	0.02	0.02	0.21	0.22
	Outbound	0.02	0.02	0.23	0.24
	Total	0.04	0.04	0.44	0.46
24-Hour	Total	0.27	0.28	2.88	3.06

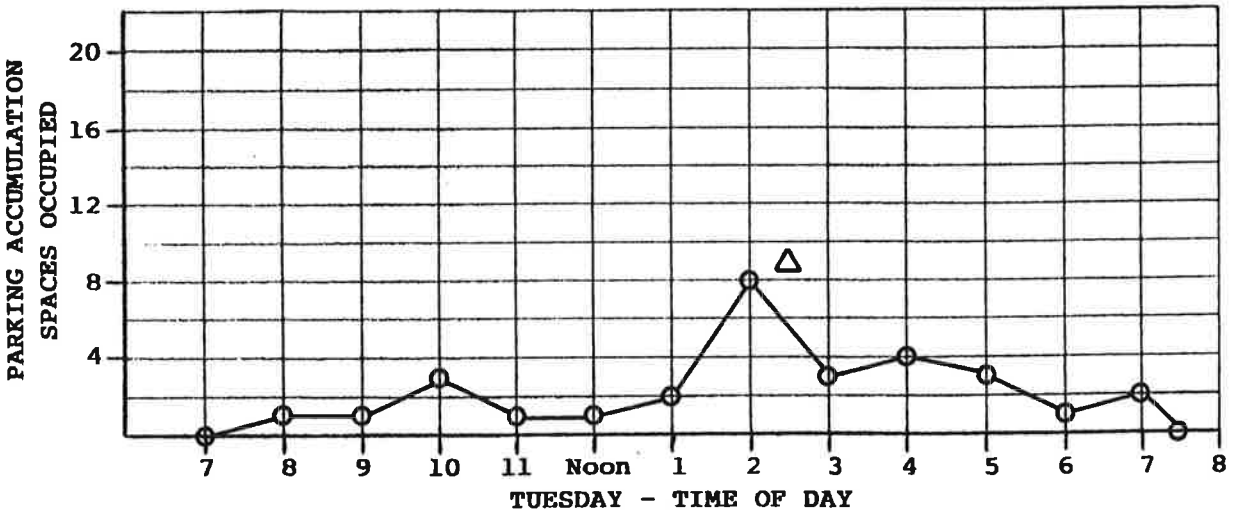
TABLE 5

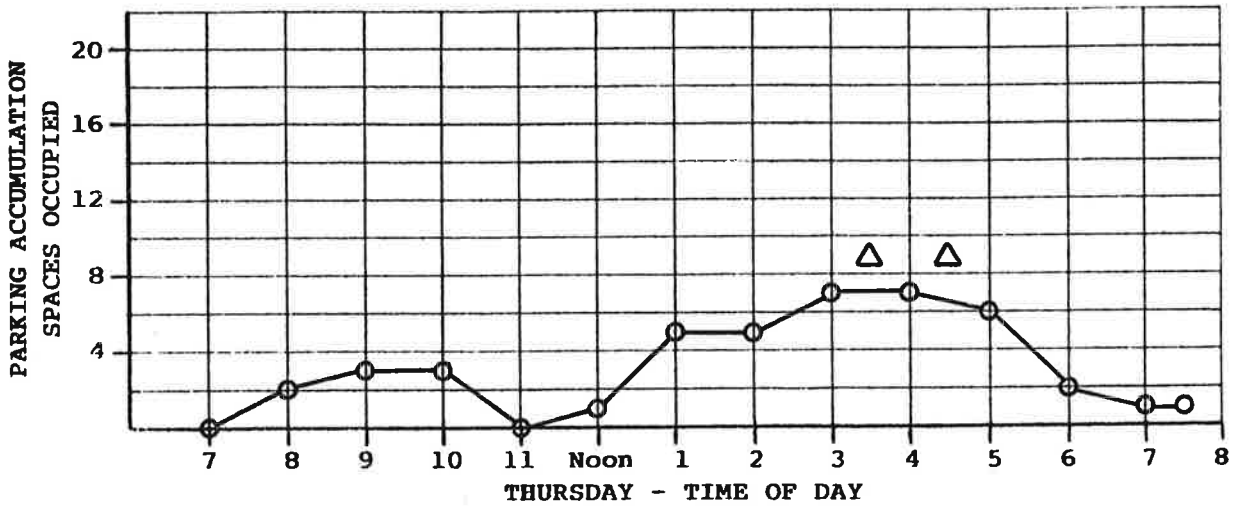
COMPARISON OF TRIP GENERATION RATES

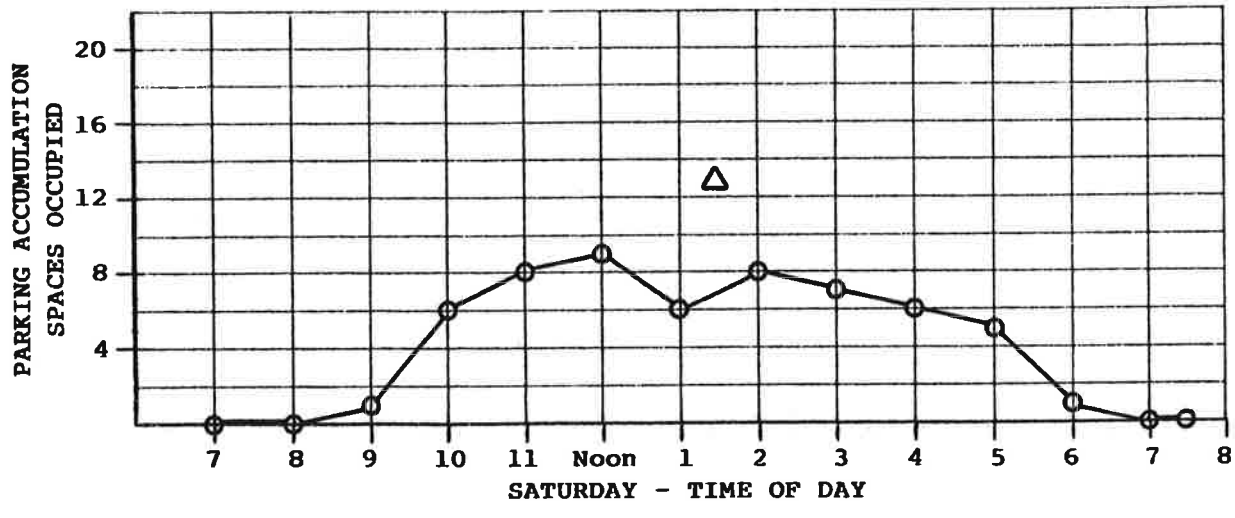
	Average Trip Generation Rate				
	ITE Manual, "Mini-Warehouse," Land Use Code 151		Public Storage Facilities		
	Per Unit	Per 1,000 Gross Square Feet	Per Unit	Per Available 1,000 Square Feet	Per 1,000 Gross Square Feet*
Weekday					
AM Peak Hour (Total)	0.02	0.17	0.02	0.17	0.18
PM Peak Hour (Total)	0.03	0.29	0.02	0.24	0.25
Peak Hour Generation (Total)	0.03	0.32	0.03	0.31	0.33
24- Hour (Total)	0.28	2.80	0.20	2.10	2.20
Saturday					
Peak Hour Generation (Total)	0.04	0.40	0.04	0.44	0.46
24- Hour (Total)	0.25	2.50	0.27	2.90	3.10

* The "Per 1,000 Gross Square Feet" rates for Public Storage facilities are adjusted rates, assuming that the available square footages are approximately 95 percent of the gross square footages.

Note: The Institute of Transportation Engineers (ITE) Trip Generation Manual does not provide information regarding inbound and outbound peak-hour rates for the mini-warehouse use.



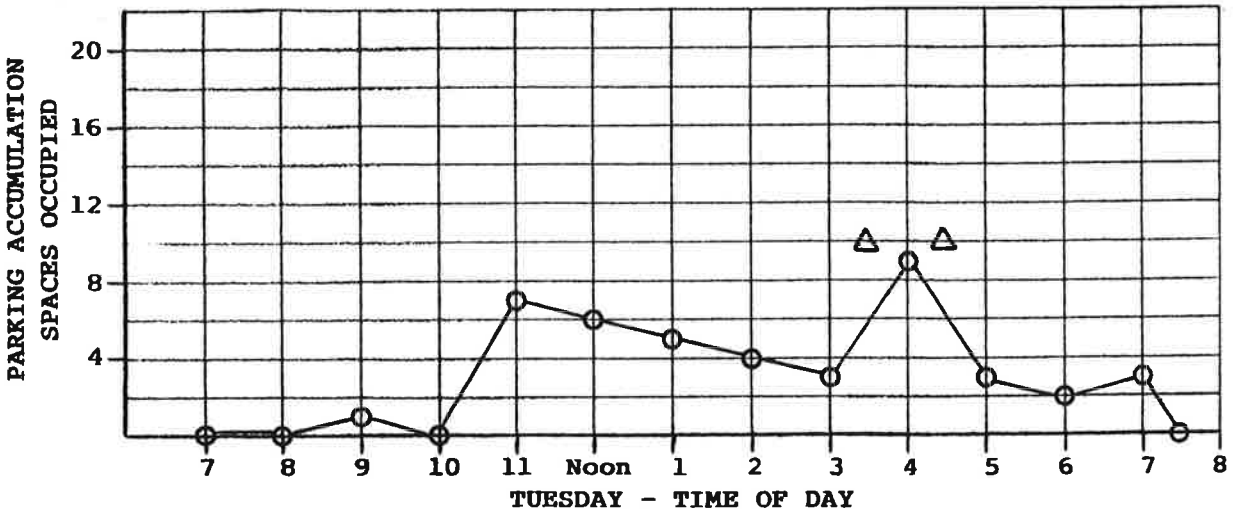


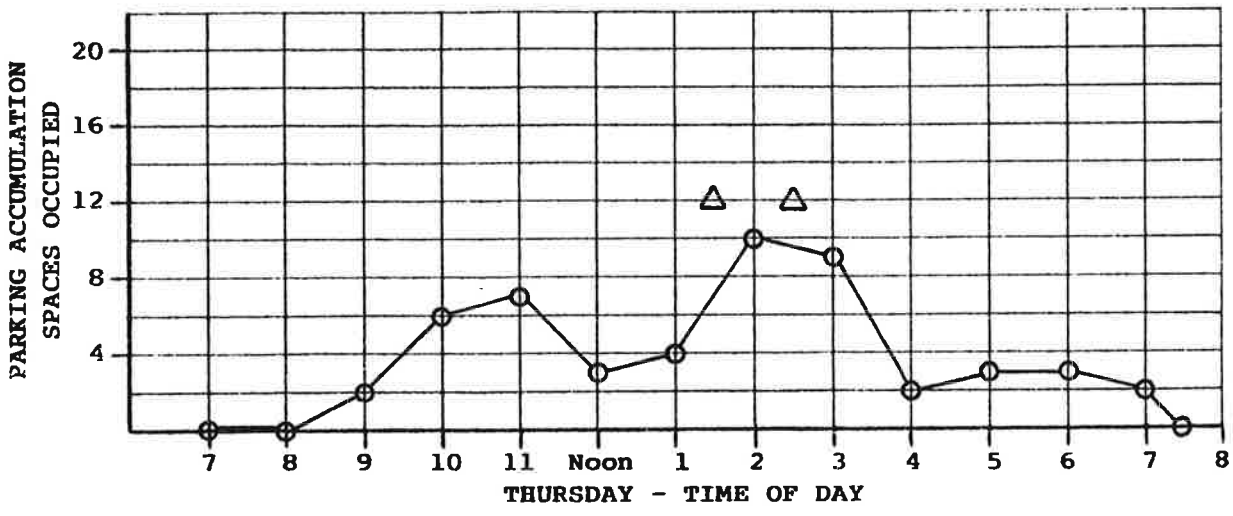


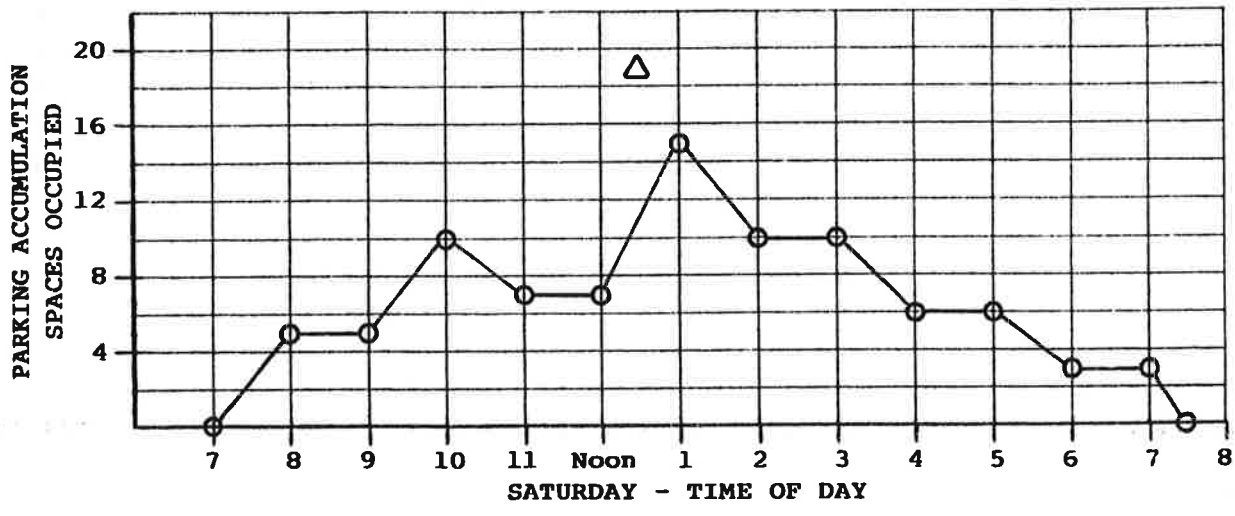
△ DENOTES PEAK ACCUMULATION

FIGURE 1
HOURLY PARKING ACCUMULATION
GLENDALE/SAN FERNADO FACILITY

CRAIN & ASSOCIATES
2007 Sawtelle Boulevard
Los Angeles, California 90025
(213) 473-6508
Transportation Planning · Traffic Engineering



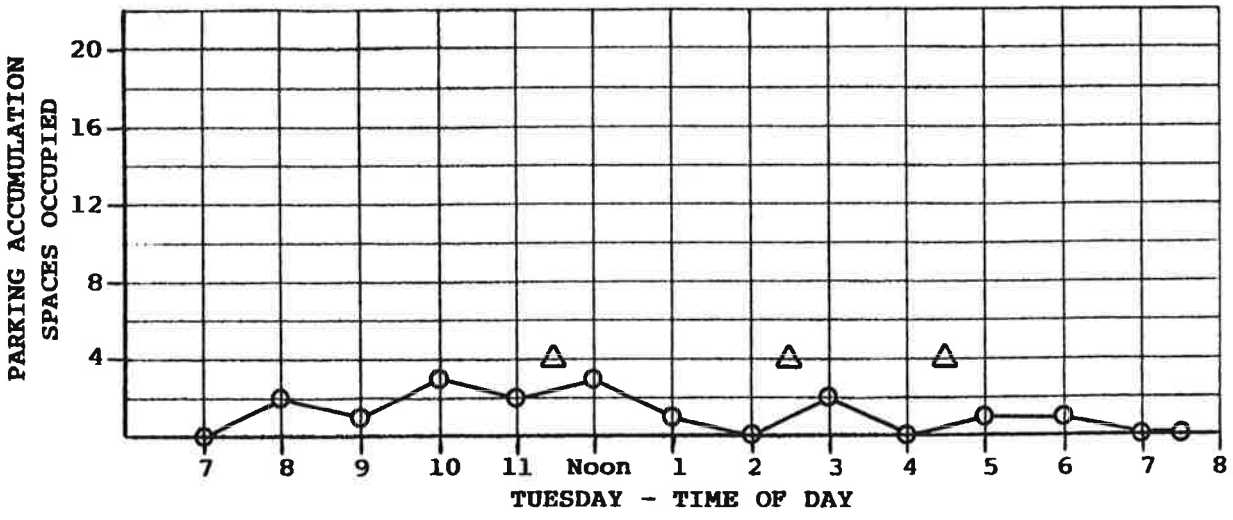


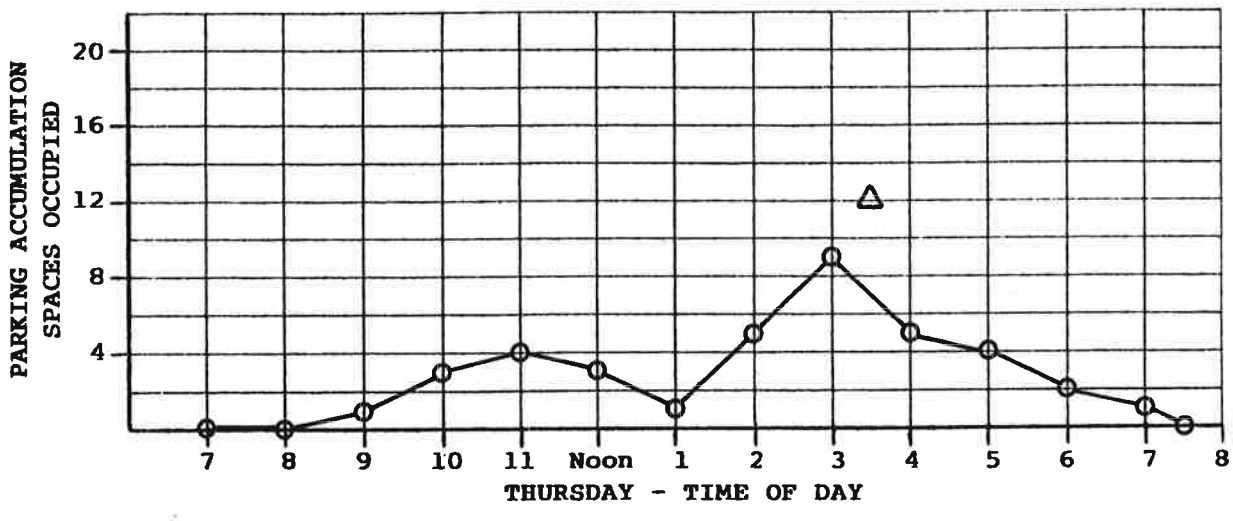


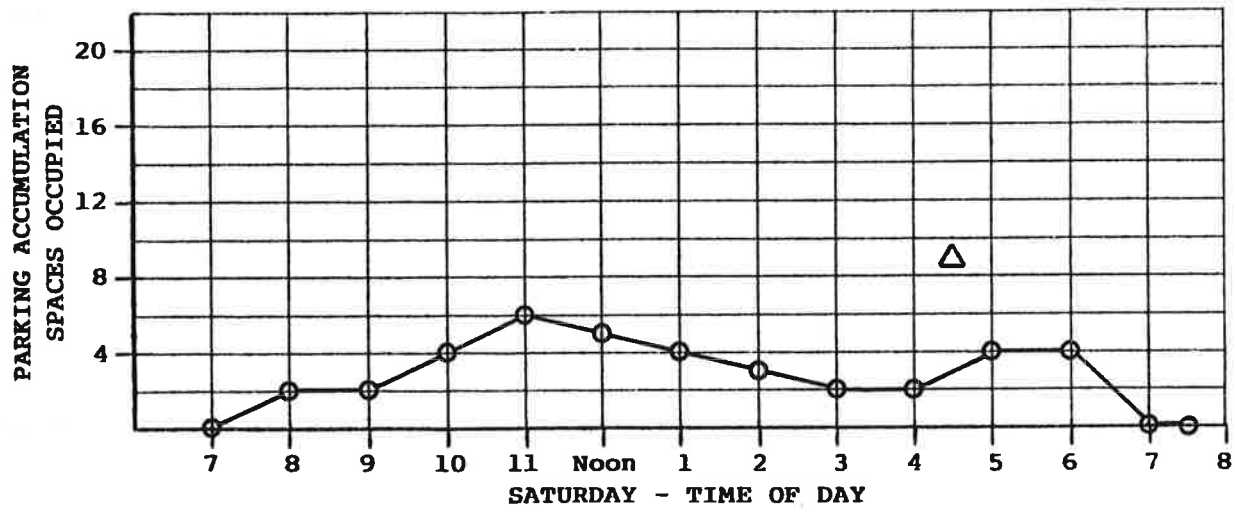
△ DENOTES PEAK ACCUMULATION

FIGURE 2
HOURLY PARKING ACCUMULATION
LA CIENEGA FACILITY

CRAIN & ASSOCIATES
2007 Sawtelle Boulevard
Los Angeles, California 90025
(213) 473-6508
Transportation Planning · Traffic Engineering



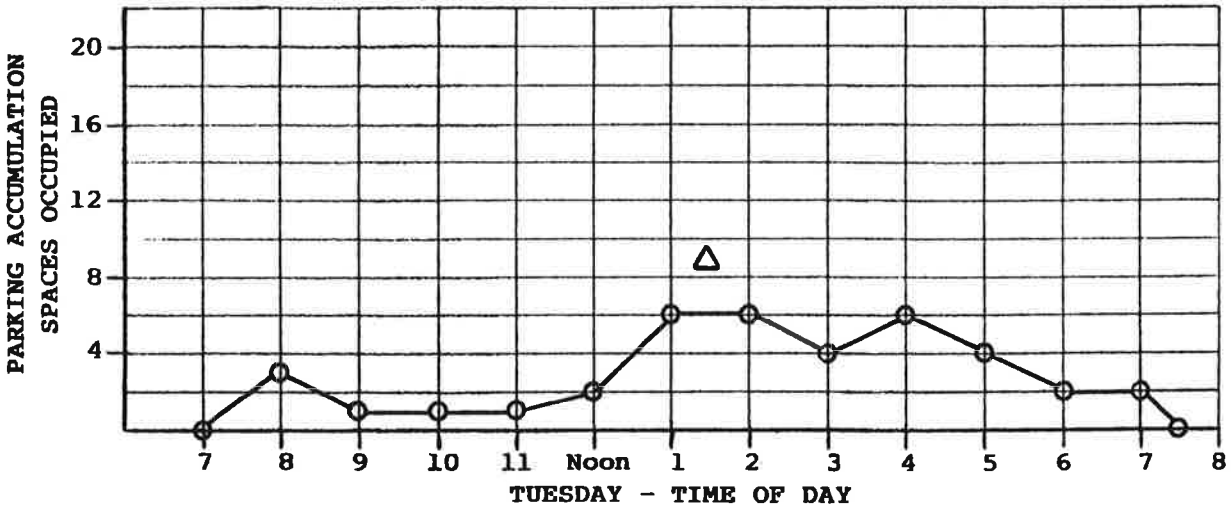


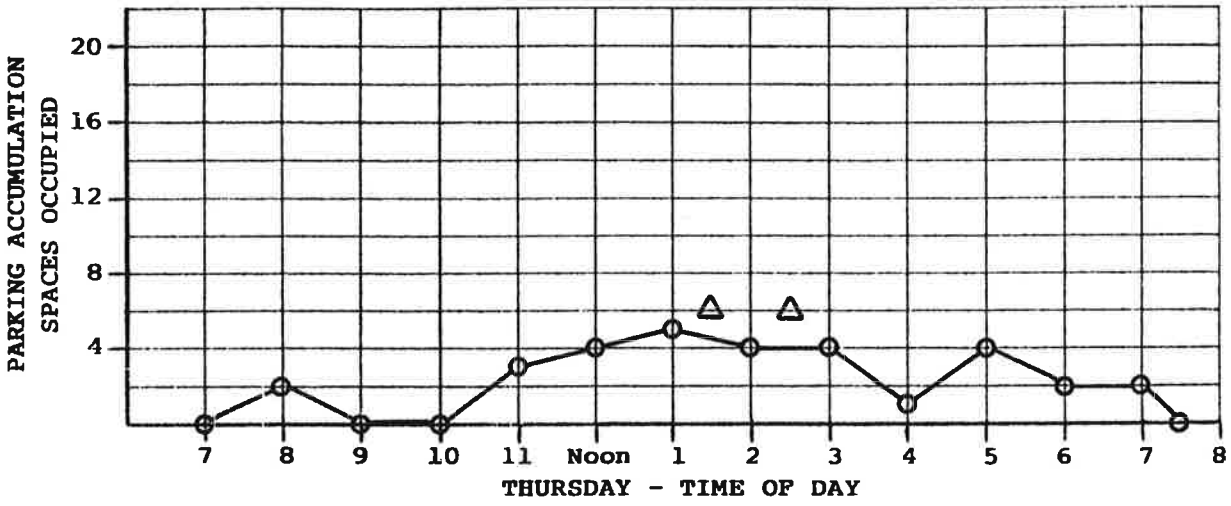


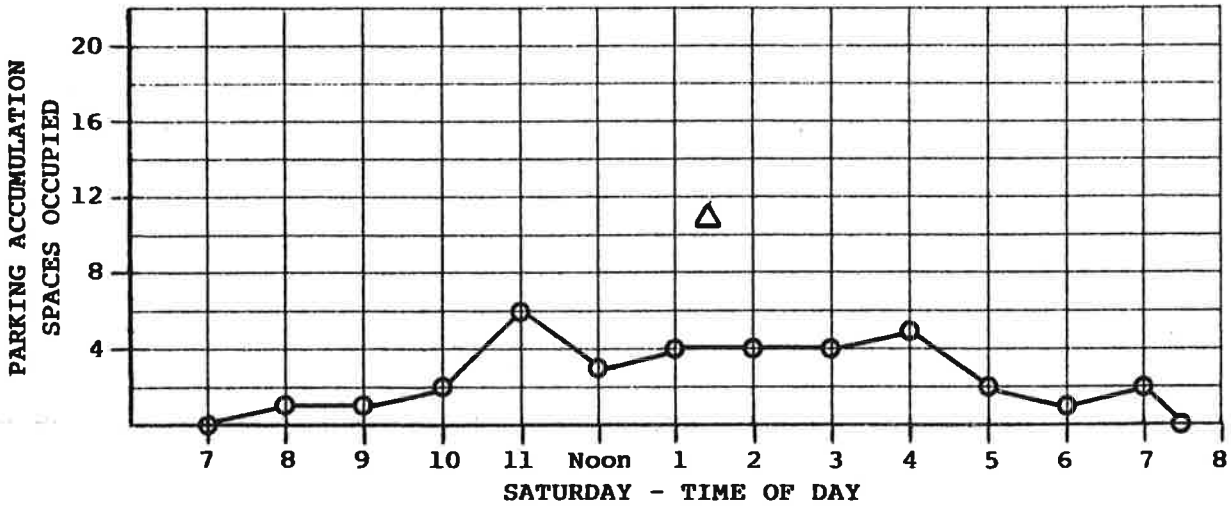
△ DENOTES PEAK ACCUMULATION

FIGURE 3
HOURLY PARKING ACCUMULATION
LONG BEACH FACILITY

CRAIN & ASSOCIATES
2007 Sawtelle Boulevard
Los Angeles, California 90025
(213) 473-6508
Transportation Planning · Traffic Engineering







△ DENOTES PEAK ACCUMULATION

FIGURE 4

HOURLY PARKING ACCUMULATION

LOS ANGELES/BEVERLY FACILITY

CRAIN & ASSOCIATES
2007 Sawtelle Boulevard
Los Angeles, California 90025
(213) 473-6508
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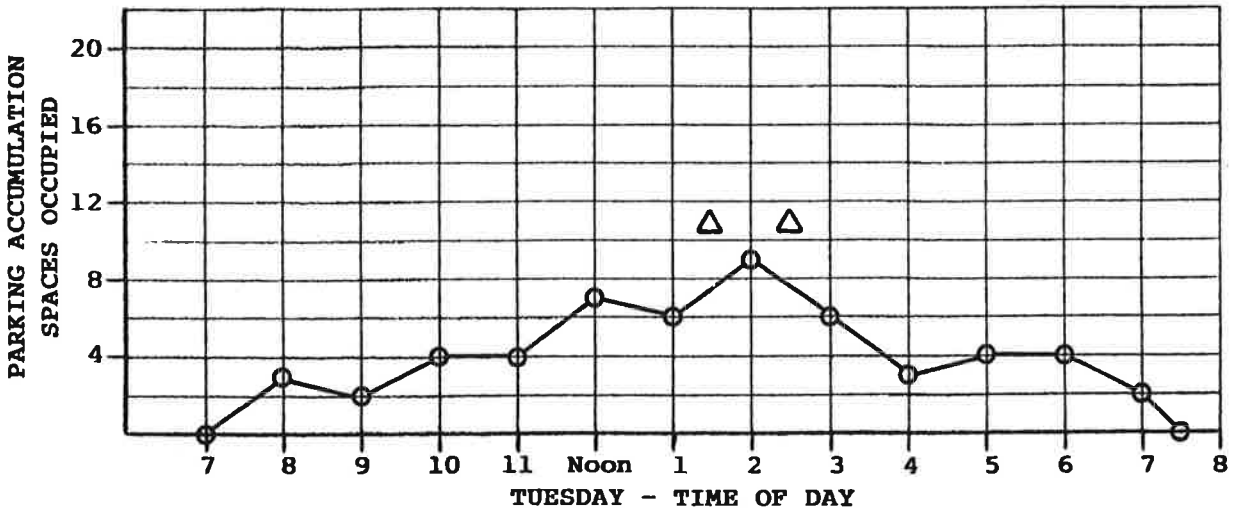
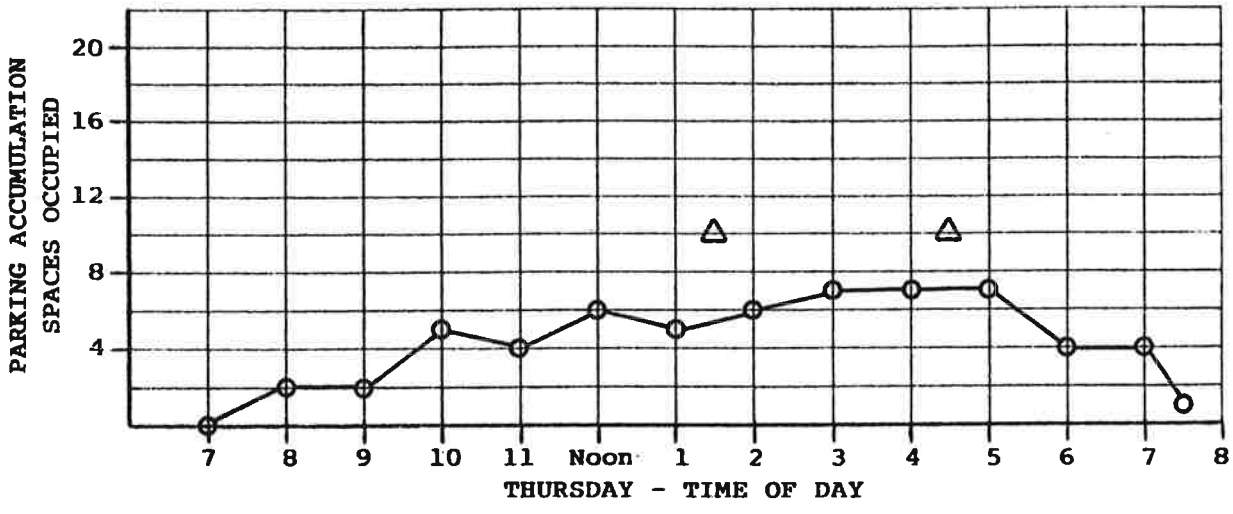
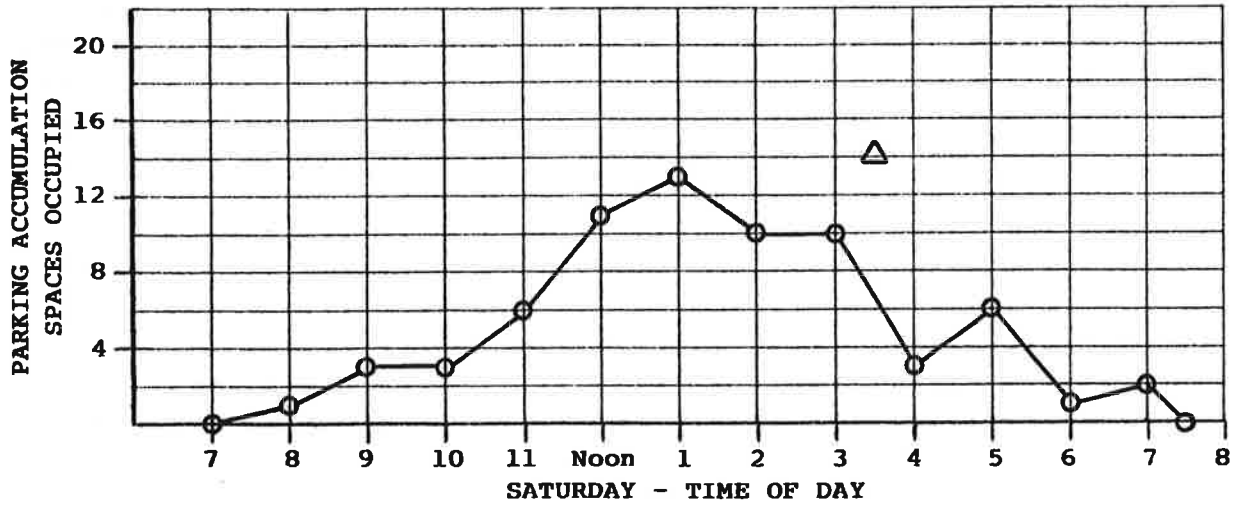






△ DENOTES PEAK ACCUMULATION

FIGURE 5

HOURLY PARKING ACCUMULATION

WILMINGTON FACILITY

CRAIN & ASSOCIATES
2007 Sawtelle Boulevard
Los Angeles, California 90025
(213) 473-6508
Transportation Planning · Traffic Engineering

TABLE 6

SUMMARY OF CALCULATED PARKING RATES
PUBLIC STORAGE FACILITIES

Public Storage Facility	Units Available/Occupied	Square Feet Available/Occupied	Saturday Peak Parking Accumulation (Spaces)	Parking Rate Per Unit Available	Parking Rate Per Unit Occupied	Parking Rate Per 1,000 Square Feet Available	Parking Rate Per 1,000 Square Feet Occupied
Glendale/San Fernando	929/894 (96.2%)	88,710/85,130 (96.0%)	13	0.01	0.01	0.15	0.15
La Cienega	1,224/1,099 (89.8%)	98,230/88,515 (90.1%)	19	0.02	0.02	0.21	0.21
Long Beach/ Cherry	706/703 (99.6%)	70,500/70,000 (99.3%)	9	0.01	0.01	0.13	0.13
Los Angeles/ Beverly	1,171/1,163 (99.3%)	81,426/80,904 (99.4%)	11	0.01	0.01	0.14	0.14
Wilmington	1,119/1,036 (92.6%)	133,859/120,488 (90.0%)	20	0.02	0.02	0.15	0.17

Average Parking Rate:

Per Available Unit = 0.01

Per Occupied Unit = 0.01

Per Available 1,000 Square Feet = 0.20 (rounded)

Per Occupied 1,000 Square Feet = 0.20 (rounded)

TABLE 7

CURRENT PARKING REQUIREMENTS OF LOCAL AGENCIES IN LOS ANGELES AREA FOR SELF-STORAGE/MINI-WAREHOUSE USES

Jurisdiction	Parking Requirement
City of El Monte	0-3,000 GSF: 1 space/250 GSF 3,001-5,000 GSF: 1 space/500 GSF 5,001-10,000 GSF: 1 space/750 GSF 10,001-50,000 GSF: 1 space/1,000 GSF 50,001 + GSF: 1 space/1,250 GSF (Typically, El Monte has been granting variances of at least 50% from these requirements for mini-warehouse uses. The City is in the process of developing specific parking requirements for such uses.)
City of Glendale	1 space/1,000 GSF
City of Long Beach	3 spaces + 1 space/100 units (For manager's quarters, 2 spaces for residence + 4 spaces/1,000 GSF for office.)
City of Los Angeles	1 space/500 GSF for first 10,000 GSF; then 1 space for each 5,000 GSF thereafter
County of Los Angeles	1 space/1,000 GSF (Typically, the County has been granting "parking permit" variances from these requirements for mini-warehouse uses. The County is in the process of developing specific parking requirements for such uses.
City of Pasadena	4 spaces/10,000 GSF (For manager's quarters, 2 spaces for residence + 3 spaces/1,000 GSF for office.)
City of Santa Monica	Unclear. The City is studying proposal requiring 1 space/4,000 GSF, and for manager's quarters, 2 spaces for residence + 4 spaces/1,000 GSF for office.)
City of Torrance	1 space/1,500 GSF (For manager's quarters, 1 space for residence + 4 spaces/1,000 GSF for office.)
City of Whittier	1 space/1,500 GSF (For manager's quarters, 2 spaces for residence + 1 space/225 GSF for office.) (Typically, Whittier has been granting variances from these requirements for mini-warehouse uses.)

TABLE 8

COMPARISON OF PARKING RATES

Public Storage Facility	Peak Parking Accumulation (Spaces)	Current		Recommended	
		Code Parking Space Requirement	Parking Surplus(+)/ Deficiency(-)	Parking Space Requirement (0.20/1,000 GSF)	Parking Surplus(+)/ Deficiency (-)
Glendale/San Fernando (88,710 SF; 929 units)	13	94	+ 81	19	+ 6
La Cienega (98,230 SF; 1,224 units)	19	39	+ 20	21	+ 2
Long Beach/Cherry (70,500 SF; 706 units)	12	11	-1	15	+ 3
Los Angeles/Beverly (81,426; 1,171 units)	11	36	+ 25	18	+ 7
Wilmington (133,859 SF; 1,119 units)	20	47	+ 27	29	+ 9

Notes:

1. Parking requirements vary from jurisdiction to jurisdiction but normally are stated "per 1,000 gross square feet." The square footages above are available square footages, which are assumed to be approximately 95 percent of the gross square footages.
2. Parking requirements for the managers' quarters are not included in the above calculations.
3. The number of spaces has been rounded up to the next whole number.

MEMORANDUM

TO: Paige Montojo, City of Brea Planning Division

FROM: Eugene Tang, AICP

DATE: December 18, 2019

RE: Review of the Parking Analysis for the
2700 East Imperial Highway Self-Storage Facility
Brea, California **Ref:** J1625f

Gibson Transportation Consulting, Inc. reviewed *Parking Analysis for 2700 East Imperial Highway in Brea, California* (LSA, October 22, 2019) (Parking Analysis) to determine whether the proposed parking supply will adequately service the proposed use. This memorandum summarizes the results of our review.

BACKGROUND

Per the Parking Analysis, Leon Capital Group (the Applicant) is seeking to redevelop 2700 East Imperial Highway, located east of the intersection of Kraemer Boulevard & East Imperial Highway in the City of Brea (City). Existing commercial/office uses are located immediately east and west of the site.

Two existing buildings will be demolished and replaced with a 127,806 square foot (sf) three-story building (Project). The Project will consist of approximately 126,546 sf of self-storage area (equivalent to approximately 1,095 self-storage units) and an approximately 1,260 sf management office. A total of 45 marked surface parking spaces are proposed on-site. Access to the site will continue to be provided by a joint-access driveway from East Imperial Highway (shared with the property to the west). Figure 1 illustrates the proposed site plan.

PROPOSED OPERATION

Based on the Parking Analysis, the distribution of self-storage units is as follows: Ground Floor – 279 units, Second Floor – 359 units, and Third Floor – 457 units.

The site plan provided indicates that six of the Ground Floor self-storage units would have drive-up access, where the customers may directly load/unload the unit from their vehicles. The remaining units appear to be accessed through the building lobby.

Customer access is currently proposed 5:00 AM to 10:00 PM and the management office is anticipated to be staffed by up to three employees and open from approximately 9:30 AM to 6:30 PM.

As illustrated on the site plan and described by the Applicant in its October 31, 2019 letter to the City, the site is designed to provide sufficient maneuvering area for fire access and 55-foot long tractor-trailer type trucks, though this type of truck is not anticipated to regularly service the site. Regular vehicular traffic at the Project is anticipated to be primarily passenger vehicles or smaller trucks.

MUNICIPAL CODE ANALYSIS

Section § 20.08.040 D of the City Municipal Code identifies the off-street parking requirements by land use for new development. Uses "including warehouse/storage buildings or structures exclusively used for storage" are required to provide parking at a rate of one space per 1,000 sf. The mini-warehouse/self-storage land use is not specifically identified as a separate land use and assumed to be included by the general warehouse/storage use.

Based on this assumption, the Project would be required to provide 128 parking spaces (= 127,806 sf divided by 1,000 sf). Applying the Municipal Code parking requirements as a general warehouse/storage use, the Project's proposed parking supply of 45 spaces would not meet the off-street requirement.

PARKING ANALYSIS REVIEW

The Parking Analysis cited the following sources and research to support a reduced parking requirement for mini-warehouse/self-storage uses in the City:

1. The Parking Analysis cites that application of the general warehouse requirement in Municipal Code Section § 20.08.040 D does not necessarily reflect the parking needs of the proposed mini-warehouse/self-storage facility.

2. The Parking Analysis cites *Parking Generation, 5th Edition* (Institute of Transportation Engineers [ITE], 2019) as a reference for the parking rate of a mini-warehouse/self-storage facility. ITE Land Use Code 151 is described as the datapoint for the mini-warehouse/self-storage use. *Parking Generation, 5th Edition* identifies two parking rates applicable to this type of land use: weekday peak demand of 1.36 spaces per 100 storage units (equivalent to 0.136 space per storage unit) OR weekday peak demand of 0.10 spaces per 1,000 sf of area. Applying either parking rate, the Project would need 13 to 15 spaces.

3. The Parking Analysis summarizes the off-street parking requirements of 16 other jurisdictions in Orange County that specifically identify a parking requirement for the mini-warehouse/self-storage land use, as opposed to a general warehouse category. For comparison purposes, those parking requirements were then applied to the Project to identify a comparable parking demand and the parking demand using each jurisdiction's requirements were averaged to identify a potential application in Brea. The Project's average parking demand was calculated as 40 spaces, equivalent to a rate of 0.31 spaces per 1,000 sf or 0.036 spaces per storage unit.

4. The Parking Analysis references the My Self Storage Space facility located at 1295 West Lambert Road, which was approved in 2015 at a parking rate of 1 space per 10,000 sf. Applying the same rate to the Project would result in a parking requirement of 13 spaces, equivalent to 0.01 space per storage unit.

5. The Parking Analysis references *Trip Generation and Parking Study for Public Storage Facilities in Los Angeles Area* (Crain & Associates, September 1987), which developed a parking demand rate based on empirical surveys. The average parking rate was calculated to 0.2 space per 1,000 sf; applied to the Project, this would result in a parking requirement for 26 spaces or 0.02 space per storage unit.

REVIEW COMMENTS

The assumptions and methodologies of the Parking Analysis are technically sound and consistent with standard industry practice. Below are our additional comments and recommendations:

1. The Project's Municipal Code parking requirement of 128 parking spaces for the total Project area of 127,806 sf using the general warehouse/storage land use category should be included in the Parking Analysis.

2. The calculations using *Parking Generation, 5th Edition* are noted as part of this review.

3. A description of the facility's proposed operation (business hours, anticipated number of employees, other relevant operational statistics) should be included in the Parking Analysis.

4. As a neighboring jurisdiction, the City of Yorba Linda should be included with the researched Municipal Code requirements, especially considering that it recognizes self-storage/mini-warehouse in its Municipal Code. In addition to providing a minimum parking requirement for the self-storage/mini-warehouse use, the operational characteristics (i.e., vehicular access to the storage unit, on-site caretaker, etc.) is acknowledged in Section § 18.22 of the Yorba Linda Municipal Code. Those parking requirements for self-storage/mini-warehouse are identified as:

    - Vehicular access provided to each unit – 10 spaces for the first 100,000 sf of gross floor area (including office) and 1 space for each 25,000 sf of gross floor area or fraction thereof over 100,000 sf; OR
    - Vehicular access <u>not</u> provided to each unit – 0.26 space for each 1,000 sf of gross floor area (including office); AND
    - With caretakers living quarters – 2 additional spaces within an enclosed garage

    Applying these rates to the Project results in a parking demand of 12 spaces with vehicular access to the storage units and 33 spaces without vehicular access to the storage units. As described, the Project does not provide vehicular access to the majority of storage units; therefore, a calculated parking demand of 33 spaces would be applicable to the Project and should be included as part of the referenced materials.

5. Table A of the Parking Analysis details the researched parking requirements of other Orange County jurisdictions and applies those parking rates to the Project. The resulting estimated parking demands range from a low of six spaces to a high of 128 spaces. As detailed above, the mini-warehouse/self-storage use has distinct operational characteristics that may not be explicitly acknowledged in the researched rates.

   Based on a review of the calculated parking requirements and the Project's unique characteristics, it is recommended that those jurisdictions with requirements resulting in a parking demand of fewer than 15 spaces or greater than 65 spaces be removed, as they may underestimate or overestimate the Project's parking demand. This includes Buena Park, Fountain Valley, Fullerton, La Habra, Newport Beach, Orange, Cypress, and Santa Ana.

   With the revisions above, as shown in Table 1, the calculated average parking demand for the Project is 52 spaces, equivalent to a rate of 0.41 spaces per 1,000 sf or 0.047 spaces per storage unit.

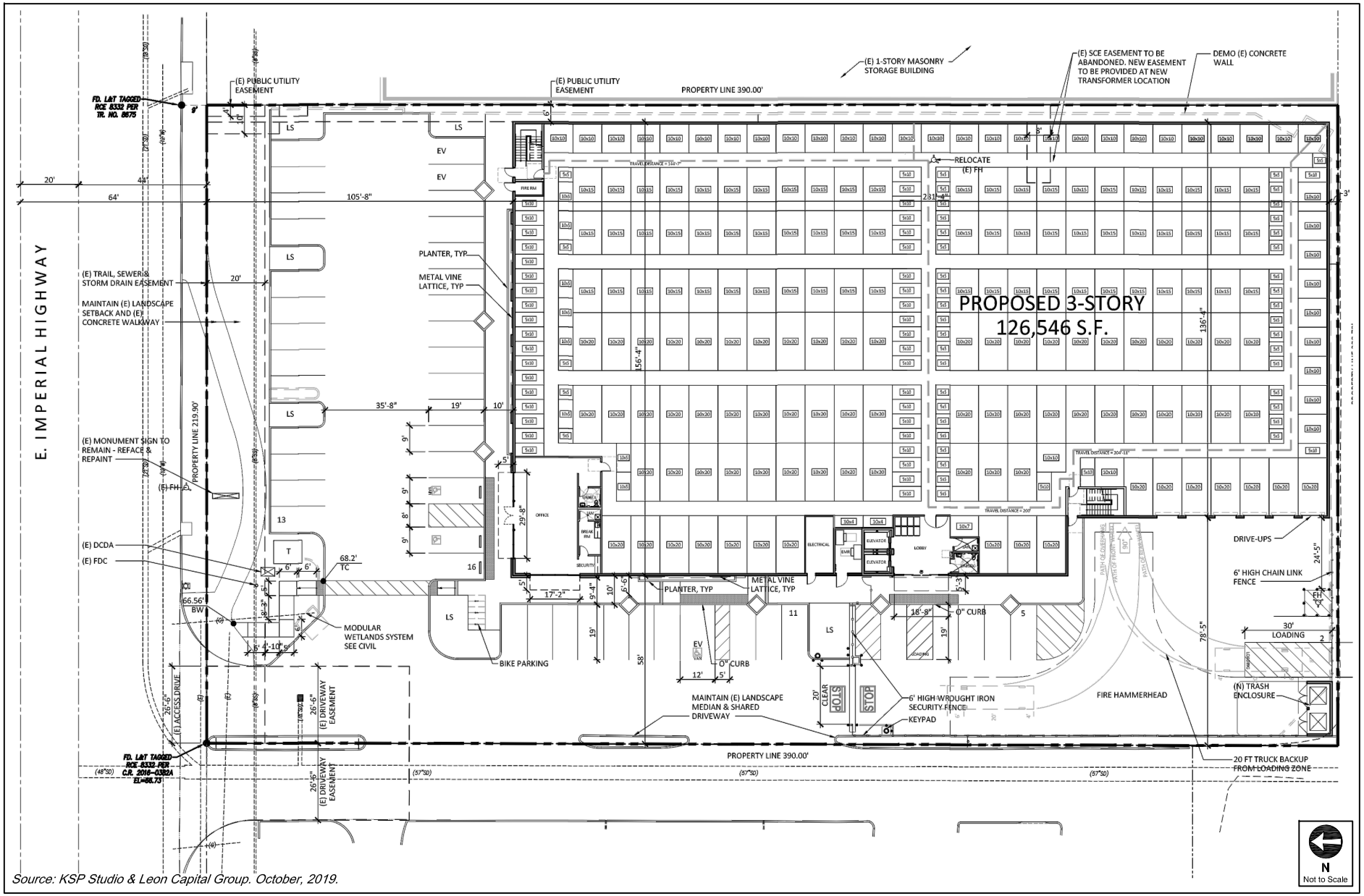
6. The reference to the My Self Storage Space project is noted for this review. While the parking rate referenced may not be applicable to the Project (the facility appears to allow vehicular access to the storage units), this reference does establish precedent for the City to consider a different parking rate for the proposed land use.

7. The Site Plan should be attached to the Parking Analysis. Review of the Site Plan indicates a total of 45 marked parking spaces on the site. A total of six storage units with vehicular access at the rear of the site are also depicted along with a large open area adjacent to those units (in the southern portion of the site). The Site Plan indicates a fire access hammerhead (truck maneuvering area) in a portion of the open area; the remainder of that area (outside of the hammerhead) may be able to accommodate several parked vehicles while still maintaining the necessary fire access and fire hydrant clearances. The Parking Analysis should develop a parking management plan including the potential use of this space when the parking demand may temporarily exceed the supply.

CONCLUSION

The assumptions and methodologies of the Parking Analysis are technically sound and consistent with standard industry practice. With the changes recommended above, the Parking Analysis will present a more thorough representation of Project parking.

With the changes above, the Project's estimated parking demand ranges from 33 spaces to 52 spaces. The proposed parking supply of 45 spaces is well within this range of potential parking demand, with a potential seven-space deficit in the parking supply at the upper range. Elements of the Project operation and design (maintaining the six drive-up storage units and the open area potentially available for parking) could reduce this potential deficit. The Project's proposed parking supply appears to be able to accommodate the average parking demand of a mini-warehouse/self-storage use. Development of a parking management plan is recommended to address those times when the parking demand may temporarily exceed the supply.



Source: KSP Studio & Leon Capital Group. October, 2019.

PROJECT SITE PLAN

FIGURE 1

TABLE 1
SUMMARY OF PARKING DEMAND RESEARCH

	Jurisdiction [a]	Researched Self-storage Demand [b]			Notes
		Warehouse	Office	Total	
1	Buena Park	8	6	14	Remove from average calculation [c]
2	Huntington Beach	53	0	53	
3	Orange	0	6	6	Remove from average calculation [c]
4	Fullerton	6	0	6	Remove from average calculation [c]
5	Tustin	63	2	65	
6	Santa Ana	7	2	9	Remove from average calculation [c]
7	Newport Beach	0	6	6	Remove from average calculation [c]
8	Cypress	0	12	12	Remove from average calculation [c]
9	Fountain Valley	126	2	128	Remove from average calculation [c]
10	Stanton	55	2	57	
11	Laguna Niguel	63	2	65	
12	Aliso Viejo	32	0	32	
13	San Juan Capistrano	32	0	32	
14	Laguna Hills	63	0	63	
15	Dana Point	63	0	63	
16	La Habra	13	0	13	Remove from average calculation [c]
17	Yorba Linda	33	0	33	Added as part of this review [d]
	Average Demand [e]	51	1	52	[f]

Notes:

[a] #1-16 and average rate, as originally identified in Table A of *Parking Analysis for 2700 East Imperial Highway in Brea, California* (LSA, October 2019).

[b] Parking demand calculated from rates of the respective jurisdictions, as applied to the Project. Not all jurisdictions provide a separate rate for the warehouse or office component.

[c] Per discussion, removed from calculation of the average rate if less than 15 spaces or more than 65 spaces.

[d] Calculation based on Chapter 18.22 of the Yorba Linda Municipal Code for self-storage/mini-warehouse without vehicular access to storage unit.

[e] Calculated from the average demand, based on the revisions above and applied to the Project.

[f] Rate is equivalent to 0.41 space/1,000 sf or 0.047 space/storage unit.

ATTACHMENT 7

SIGMA ENTERPRISES, INC.
111 S. Kraemer Blvd. • Ste. #C • Brea, CA 92821-4676
(714) 671-2125

January 21, 2020

Ms. Paige Montojo
City of Brea – Planning Division
1 Civic Center Circle
Brea, CA 92821

Via email: paigem@ci.brea.ca.us

RE: Proposed Self-Storage Facility at 2700 E Imperial, Brea

Dear Ms. Montojo,

This letter is to inform you of my support for the self-storage facility that Leon Capital Group is proposing to construct at 2700 E Imperial Highway in Brea. My family owns several properties in Brea and the surrounding cities, and the Leon Capital team reached out to present their project to us. We are in support, as we believe the facility will meet community demand for additional storage and is being proposed in an appropriate location, with an attractive design that is compatible with adjacent uses.

I believe Leon Capital's request for a parking reduction is reasonable, and I encourage the Planning Commission to approve this project. Please keep me apprised on its progress.

Sincerely,

Phillip Silver
Vice President

City of Brea

PLANNING COMMISSION COMMUNICATION

TO: Honorable Chair and Planning Commission

DATE: 02/25/2020

SUBJECT: CONDITIONAL USE PERMITS NO. CUP 20-04 AND CUP 20-05 – A REQUEST TO CONSIDER SIGNS IN COMPLIANCE WITH THE DOWNTOWN ARCHITECTURAL CONTROL CRITERIA AND A REQUEST TO ALLOW ON-SITE SERVICE OF FULL ALCOHOL FOR RUBY'S DINER LOCATED AT 215 SOUTH BREA BOULEVARD IN THE MU-I, MIXED USE I ZONE.

REQUEST

The applicant, EFE Ruby's Diner, LLC is requesting to consider signs, as proposed, in compliance with the Downtown Architectural Control Criteria and to allow for the on-site service of full alcohol for the new Ruby's Diner restaurant.

RECOMMENDATION

Staff recommends the Planning Commission approve Conditional Use Permits No. CUP 20-04 and 20-05, subject to the Conditions in the draft Resolution.

BACKGROUND/DISCUSSION

BACKGROUND

The subject property is located in Downtown Brea, on the southwest corner of Birch Street and Brea Boulevard, see Figure 1 – Vicinity Map. Downtown Brea was developed in 1998 as a retail destination with enhanced architecture and public spaces. The Downtown Architectural Control Criteria (ACC) was adopted as part of this plan to ensure high quality development, compatible storefronts, finishes and signage. Specifically, the ACC provides guidelines for signs to ensure sign designs are appropriate for maintaining a visually attractive atmosphere and allowing for enhanced buildings, store and downtown identification. The guidelines were intended to be flexible in order to encourage creativity while still setting some parameters.

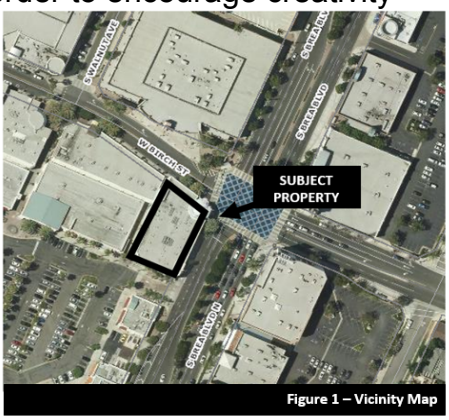


Figure 1 – Vicinity Map

Since the adoption of these guidelines, Downtown Brea has seen a change from a retail focused downtown to an entertainment and dining destination. The transition to entertainment uses have seen the need to utilize vibrant and dynamic storefronts and sign options to activate the streetscape as seen in Farrell's Ice Cream Parlour, The Brea Improv Theater, Buffalo Wild Wings and Regal Cinemas. Several of these proposals have been reviewed under Conditional Use Permits to allow for consideration of a sign package to support the intention of the new use while maintaining compatibility with

the intention of the Downtown environment.

DISCUSSION

Ruby's Diner is proposing to open a new location at the corner of Brea Boulevard and Birch Street, in the former Farrell's Ice Cream Parlour space. There are 14 existing Ruby's Diner locations throughout Orange County with varying hours of operation between 7am and 10pm. This location is proposed to occupy 6,584 square feet space with both interior and exterior improvements to accommodate the new restaurant with indoor and outdoor seating. The business will include a full service kitchen serving breakfast, lunch and dinner as well as a variety of desserts and shakes.

Proposal for Sign Design

Among the exterior improvements, the project is proposing sign locations on Brea Boulevard, Birch Street, on the rear of the building facing the Gateway Center and on the entry to the restaurant at the intersection, Attachment 5 – Project Plans. The Brea Boulevard elevation is proposed to have a 63 square foot channel letter "Ruby's" sign mounted on the parapet sign wall and a 29 foot tall blade sign, Figure 2 – Brea Boulevard Elevation. The letters on the blade sign will be internally illuminated with a neon overlay. The blade sign will include an 18 foot tall Ruby's Icon, outlined in neon and animated to replicate movement.

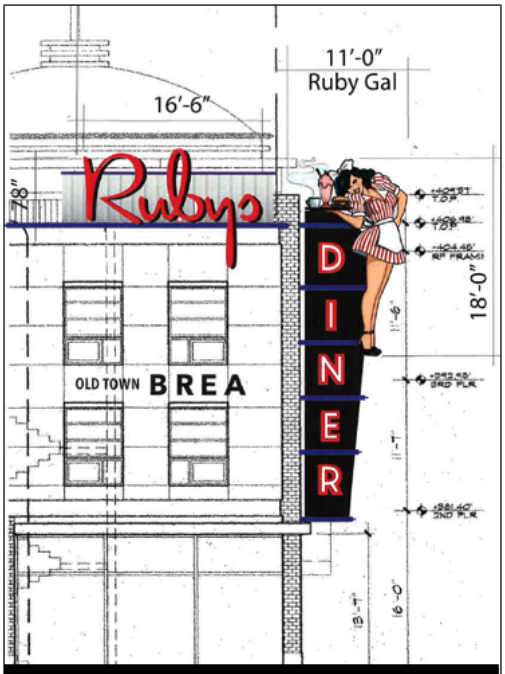


Figure 2 – Brea Blvd Elevation

The Birch Street Elevation is proposed to have an 18 foot 9 inch tall blade sign. The sign will also include a 12 foot tall animated Ruby's icon to be outlined in neon. The entryway signage is proposed to have an 88 square foot channel letter "Ruby's" sign above the canopy, with an illuminated stainless backdrop to achieve a sparkle effect. Below the script will be 30 inch tall illuminated channel letters on the canopy. The entryway sign will include a 12 foot tall acrylic spinning milkshake, Figure 3 – Entryway Signage.

In staff's review of the proposed sign package several elements are outside of the explicit allowances of the ACC. However, the ACC includes a provision to allow the Planning Commission the discretion to review applications to ensure the intent of the design guidelines are met. In order to provide support and technical review as the Commission considers this request, Staff has worked with the original design team responsible for creating the ACC. These sign and design experts have reviewed the proposed sign application and provide the following recommendations for the Commissions consideration (see Attachment X).

The consulting design team has analyzed the signs in relationship to other signs in the downtown, other centers in the region and best practices. The team has determined that the *signs, as proposed are in keeping with the vision, design and quality of the vibrant entertainment district Downtown Brea has embraced. While some of the sign features are outside of the explicit language found in the ACC (e.g.. moving signs are prohibited), the signs as proposed will maintain consistency and comparability for the district and can be supported by the intent of the ACC. Staff is including conditions of approval to address concerns related to shielding light sources and brightness. Additionally, placement of the*

signs are conditioned to ensure any architectural features of the buildings are not obscured and the signs fit the scale of the building.

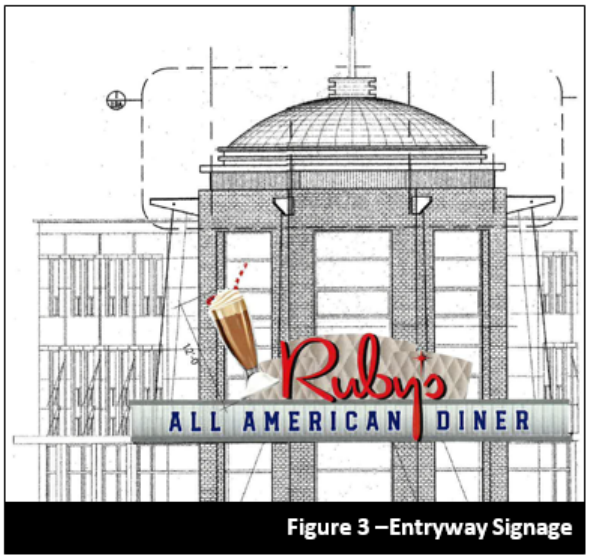


Figure 3 –Entryway Signage

The design team also recommends, given the ACC was prepared more than 20 years ago, a revision with clarification, hierarchy of signs refreshed materials and creative design should be considered. The purpose of the amendment will be to ensure future investment in the Downtown has more direction related to the current trends in the entertainment ad shopping district while still allowing flexibility as the City moves forward.

Proposal for Alcohol Sales

The City of Brea allows businesses in the Mixed Use I zone to sell/serve alcohol with the approval of a Conditional Use Permit. In 2011, this location was approved to serve beer and wine for on-site consumption under Conditional Use Permit No. CUP 11-02. Ruby's Diner is requesting to amend this approval to allow the sale and on-site consumption of beer, wine and spirits. This review is to ensure the use is consistent and compatible with adjacent uses. Should the CUP be approved, the applicant must also obtain a Type 47 On-sale Beer license from the State Office of Alcoholic Beverage Control (ABC).

The sale and service of a beer, wine and spirits is consistent with the Downtown's effort to provide entertainment opportunities with food and beverage service and is similar to several establishments in the Downtown including Macallans Public House, Yardhouse, Gyu-Kaku and Buffalo Wild Wings. The proposed hours of operation are consistent with those of other businesses in the Downtown. The request to amend the existing approval to sell alcohol is not anticipated to impact surrounding businesses or residents. The proposed conditions of approval contained in the draft Resolution require the business operations to remain in compliance with all requirements of the Alcohol Beverage Control Department.

ENVIRONMENTAL ASSESSMENT

The proposed project is exempt from the requirement of the California Environmental Quality Act (CEQA) pursuant to Section 15301 and 15311(a) of Title 14, Chapter 3, Article 19 of the California Code of Regulations.

RESPECTFULLY SUBMITTED

Jennifer A. Lilley, AICP, City Planner

Attachments

1. Technical Background
2. Vicinity Map
3. Public Hearing Notice
4. Draft Resolution

5. Proposed Sign Plans
6. Design Consultant Recommendations
7. Project Description Related to Alcohol Use
8. Plans

ATTACHMENT 1

TECHNICAL BACKGROUND

Case No:	Conditional Use Permits No. CUP 20-04 and 20-05
Property Location:	215 S. Brea Blvd.
Applicant:	EFE Ruby's Diner, LLC. 4100 Macarthur Blvd., #100 Newport Beach, CA 92660
General Plan Designation:	Mixed Use I
Zoning Designation:	MU-I, Mixed Use I
Adjacent Zoning	
North:	MU-I, Mixed Use I
South:	C-G (PD), General Commercial (Precise Development)
West:	MU-I, Mixed Use I C-G (PD), General Commercial (Precise Development)
East:	MU-I, Mixed Use I
Site and Neighborhood Characteristics:	The subject property is on the southwest corner of Birch Street and Brea Boulevard in Downtown Brea. The Downtown is a center for entertainment and dining uses, and has established community character through enhanced architecture, high quality sign design, and public amenities.
Public Hearing Notices and Outreach:	Notices were sent to 29 property owners within a 500-foot radius of the subject property.

ATTACHMENT 2

SUBJECT PROPERTY AND VICINITY MAP

DATE: February 25, 2020

CASE NO:
Conditional Use Permits No. CUP 20-04 and CUP 20-05

CITY OF BREA notice of public hearing

TO: **Property Owners within a 500-Foot Radius**

FROM: **City of Brea, Community Development Department**

SUBJECT: **Appeal of Community Development Director Decision for Conditional Use Permits No. CUP 20-04 and CUP 20-05**

NOTICE IS HEREBY GIVEN, pursuant to State Law, that a public hearing will be held at a Planning Commission meeting to determine whether or not the subject request shall be approved under the provisions of State Law and the Brea City Code as follows:

DATE AND TIME OF HEARING: **Tuesday, February 25, 2020, 7:00 p.m.**
All interested persons may appear and be heard at that time.

PLACE OF HEARING: Brea Civic & Cultural Center, Council Chambers
1 Civic Center Circle, Brea, CA 92821

REQUEST: A request to consider signage for Ruby's Diner and compliance with the Downtown Architectural Control Criteria and for the on-site service of full alcohol for Ruby's Diner in the MU-I, Mixed Use I Zone.

PROPERTY INVOLVED: 215 S. Brea Blvd.
Brea, CA 92821

APPLICANT: EFE Ruby's Diner, LLC
4100 Macarthur Blvd., #100
Newport Beach, CA 92660

PROPERTY OWNER: 215 S. Brea Blvd., LLC
330 W. Birch Street, #201
Brea, CA 92821

ENVIRONMENTAL INFORMATION: The City of Brea has determined that the proposed project is exempt from requirements of the California Environmental Quality Act, Pursuant to Section 15311(a) and 15301 of said Act.

AREA MAP:

IF YOU CHALLENGE CONDITIONAL USE PERMITS NO. CUP 20-04 AND CUP 20-05 AND/OR THE RELATED ENVIRONMENTAL DETERMINATIONS IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE, DELIVERED TO THE COMMISSION AT, OR PRIOR TO, THE PUBLIC HEARING.

FOR FURTHER INFORMATION ON THIS SUBJECT, PLEASE CONTACT THE PLANNING DIVISION AT (714) 990-7674.

COMMUNITY DEVELOPMENT DEPARTMENT

Jennifer A. Lilley, AICP
City Planner

legalnot.TTM

RESOLUTION NO. PC 2020-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BREA APPROVING CONDITIONAL USE PERMIT NO. CUP 20-04 AND CUP NO. 20-05- A REQUEST TO CONSIDER SIGNS IN COMPLIANCE WITH THE DOWNTOWN ARCHITECTURAL CONTROL CRITERIA AND A REQUEST TO ALLOW ON-SITE SERVIE OF FULL ALCOHOL FOR RUBY'S DINER LOCATED AT 216 SOUTH BREA BOULEVARD IN THE MIXED-USE I, (MU-1) ZONE, SUBJECT TO CONDITIONS AS SET FORTH HEREIN.

A. RECITALS:

(i) On February 25, 2020, the Planning Commission of the City of Brea held a duly noticed public hearing, as required by law, on Conditional Use Permit application No. CUP 20-04 and CUP 20-05, a request to consider signs, as proposed, in compliance with the Downtown Architectural Control Criteria and to allow for the on-site service of full alcohol for the new Ruby's Diner restaurant.

(ii) The project proponent is EFE Ruby's Diner, LLC at 4100 Macarthur Boulevard #100 Newport Beach, CA 92660.

(iii) The subject property is located at 215 South Brea Boulevard, in the City of Brea, and legally described as described as a portion of Map Book 296, Page 37, Block 376, Parcel 17, as shown in the latest rolls of the County of Orange Tax Assessor.

(iv) The property is zoned MU-1, Mixed Use I and has a General Plan land use Designation of Mixed Use I.

(v) All legal prerequisites to the adoption of this Resolution have occurred.

B. RESOLUTION.

NOW, THEREFORE, BE IT FOUND, DETERMINED, AND RESOLVED, by the Planning Commission of the City of Brea, as follows:

1. In all respects as set forth in Recitals, Part A, of this Resolution.

2. It is hereby found that the Conditional Use Permit applications for the location set forth is authorized by Sections 20.258.010 of the Brea Zoning Ordinance, as amended.

3. The Planning Commission further finds as follows:

a. Finding: The use with any conditions to be imposed is necessary or desirable for the development of the community, in harmony with the various elements or objectives of the General Plan, and not detrimental to existing uses or to uses specifically permitted in the zone in which proposed use is to be located.

Fact: Brea Downtown was designed to be the central hub of entertainment and dining for the City. The restaurant use is similar to those found in the downtown and will occupy a vacant suite on a significant corner providing entrance to the downtown. The service/entertainment use is an integral piece of the downtown offering variety of services and entertainment to adults and families. Alcohol service provides convenience and options in the downtown and compliments the offerings currently found today. The operations are consistent with the Mixed-Use I, (MU-I) designation. Additionally, the General Plan states new development requests shall provide balance and mixture of uses not only complimenting the existing community but accommodating future needs and desires of the community. The continuation of the service and hospitality uses with alcohol service and lively, street-activating signs is consistent with other uses within the Downtown and is consistent with the goals and objectives found in the

General Plan. Given all information known to date and the conditions of approval, this request is not anticipated to result in significant impacts to City services nor be detrimental to existing uses in the zone.

b. Finding: The site is adequate in size and shape to accommodate the proposed development and all of the yards, setbacks, walls or fences, landscaping, and other features required to bring about conformity with other elements in the neighborhood.

Fact: The site is developed in accordance with the City's Zoning requirements and can accommodate the proposed use, alcohol service and sign package. All proposed interior and exterior modifications meet the development standards within the Mixed Use I Zone. The site previously was a restaurant/entertainment hospitality use and this proposed use with the addition of the sign package and alcohol service is anticipated to conform with the neighborhood and the intent and purpose of the downtown.

c. Finding: The proposed site relates to streets and highways which are properly designed and improved to carry the type and quantity of traffic generated or to be generated by the proposed development.

Fact: Vehicular access will be provided from Birch Street and Brea Boulevard. Existing roadways are designed to carry the traffic generated by this use and no additional impacts are intended by the addition of alcohol sales or the sign package as proposed.

d. Finding: That with the conditions stated in the permit, the proposed use will not adversely affect the public health, safety, or general welfare.

Fact: The restaurant and its operations are required to meet Building and Fire Codes and standards. The operations associated with this use and alcohol service are required to meet all ABC Codes and standards. The tenant will be subject to maintain the leased space and operations in compliance with the agreement with the property owner and the City Code. Based on all information known today the proposed uses as requested will not adversely affect the public, health safety or general welfare.

4. The Planning Commission hereby finds and determines that the project identified above in this Resolution is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) of 1970, as amended, and the Guidelines promulgated thereunder, pursuant to Section 15301 and 15311(a) of Title 14, Chapter 3 of Article 19 of said Act.

5. Conditional Use Permit No. CUP 20-04 and 20-05 is hereby approved, subject to the conditions as set forth herein:

a) The project shall occur in substantial conformance with the plans submitted to the Planning Commission and dated February 25, 2020 on-file in the Planning Division, the conditions contained herein and all applicable Federal, State and City regulations.

b) Prior to any alcohol sales, all uses/tenants shall provide proof to the City of appropriate alcohol licenses for service of alcohol with a full service restaurant from the California Department of Alcoholic Beverage Control.

c) Any violation of the regulations of the Department of Alcoholic Beverage Control, as they pertain to the subject location and the sale of alcohol may result in the revocation of the Conditional Use Permit, pursuant to Section 20.412.020 of the Brea Zoning Code.

d) Prior to installation of any signs within the public right of way, the Property Owner shall enter into an Encroachment License Agreement with the City for the proposed improvements to be maintained by the property woner that are

encroaching into the public right-of-ways. The Property Owner shall be responsible for all upkeep, replacement, repair and on-going maintenance of any off-site improvement within the public right of way.

e) Final sign design and architectural features (e.g. awnings, support structure, etc) shall be submitted for the review and approval of the City Planner prior to building permit submittal. Plans shall include specific colors and materials.

f) Signs shall be oriented to visibility by pedestrians on the sidewalk than people driving by in cars. The placement of signs shall not obscure a building's architectural features, windows and door openings. Signs shall be placed to fit with the overall building architecture composition and not compete with the features. Final placement shall be subject to the review and approval of the City Planner and be in substantial conformance with the plans submitted and reviewed by the Planning Commission on February 25, 2020.

g) External lighting sources shall be shielded so that the source is not visible to pedestrians. Signs shall not be visually obtrusive or dominate the street frontage. Digital signage shall remain dark for a period of time between 2:00 am and 6:00 am and the illumination brightness shall be determined by light sensor devices and not exceed 20 lumens per square foot.

h) To the fullest extent permitted by law, the applicant shall indemnify, defend, and hold the City, its elected officials, officers, contractors serving as City officers, agents, and employees ("Indemnitees") free and harmless from: (I) any and all claims, liabilities and losses whatsoever occurring or resulting to any and all persons, firms, entities, or corporations furnishing or supplying work, services, materials , or supplies in connection with, or related to, the performance work or the exercise of rights authorized by the approval of Conditional Use Permit No. CUP 20-04 and CUP 20-05 and (ii) any and all claims, lawsuits, liabilities, and/or actions arising out of, or related to the approval of the Precise Development action and Conditional Use Permit amendment and/or the granting or exercise of the rights authorized by said approvals; and (iii) from any and all claims, liabilities, and losses occurring or resulting to any person, firm, entity, corporation for property damage, personal injury, or death, arising out of or related to the approval of, or exercise of rights granted by the Conditional Use Permit approval. The Applicant's obligation to indemnify, defend, and hold the Indemnitees free and harmless as required hereinabove shall include, but is not limited to, paying all fees and costs incurred by legal counsel of the Indemnitees' choice in representing the Indemnitees in connection with any such claims, losses, lawsuits, or actions, and any award of damages, judgments, verdicts, court costs or attorneys' fees in any such lawsuit or action.

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

ADOPTED AND APPROVED this 25th day of February, 2020.

_____
Chairman, Planning Commission

I, Jennifer Lilley, Secretary to the Planning Commission of the City of Brea, do hereby certify that the foregoing Resolution was introduced at a regular meeting of the Planning Commission of the City of Brea held on the 25th day of February, 2020, and was finally passed at a regular meeting of the Planning Commission of the City of Brea, held on the 25th day of February, 2020, by the following votes:

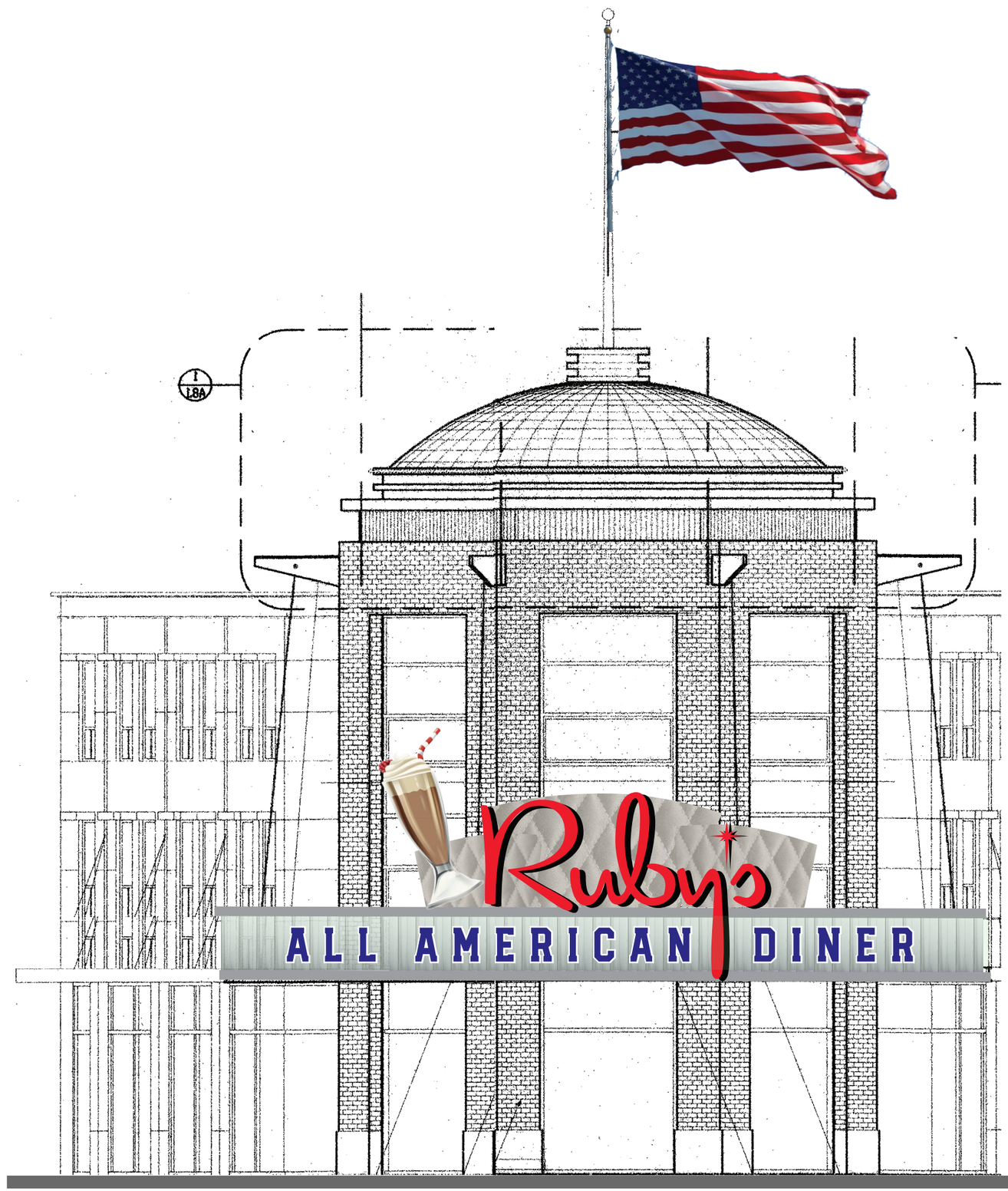
AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

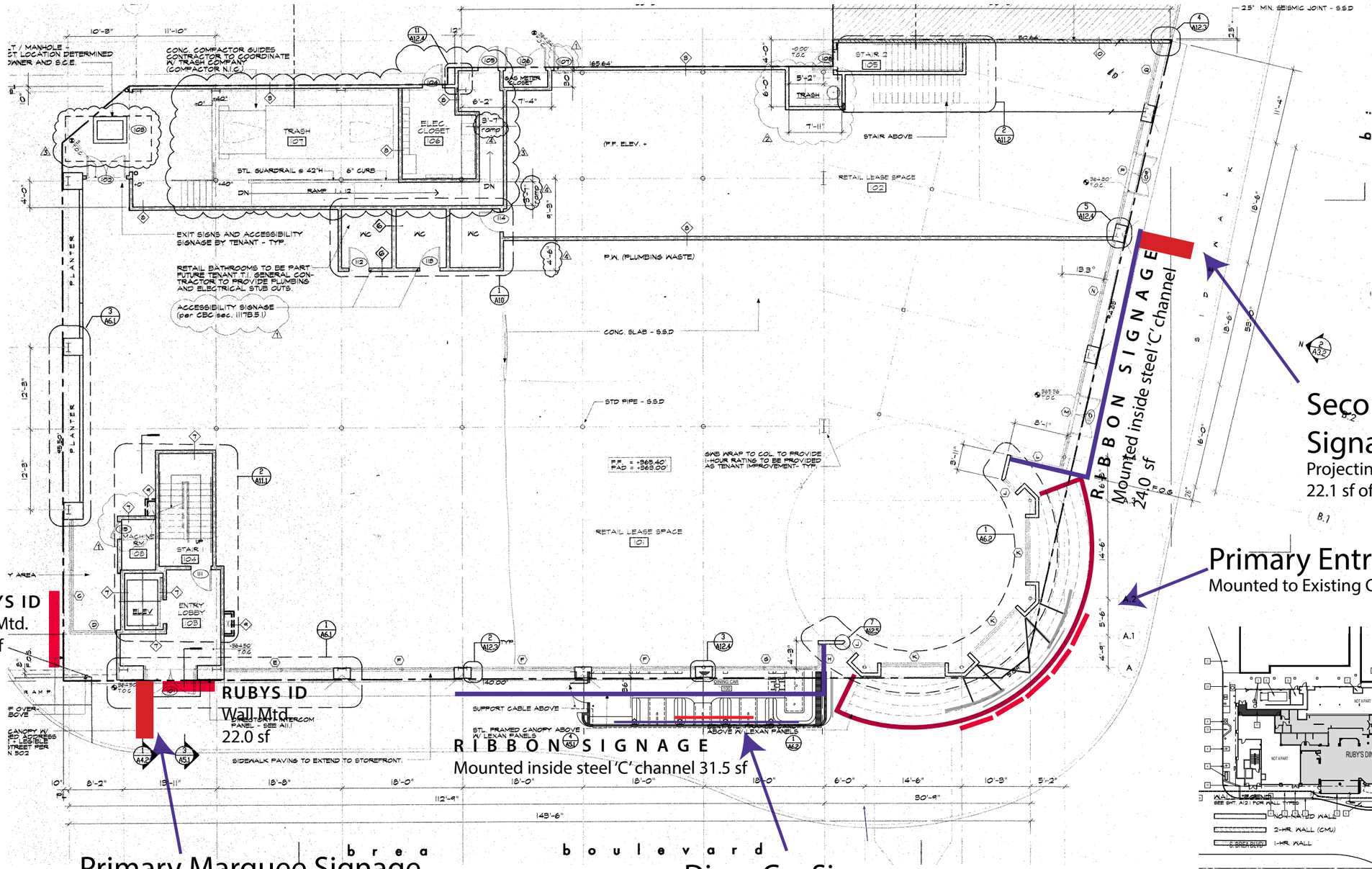
ATTEST: _____
Secretary, Planning Commission

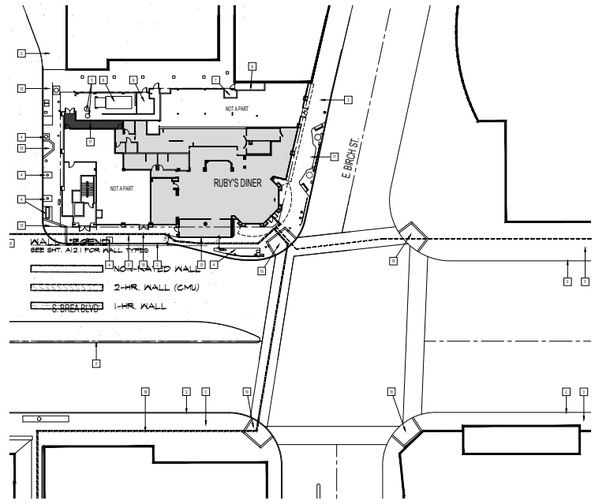


03 DECEMBER 2019

RUBY'S DINER SIGNAGE IDENTITY CONCEPT PACKAGE

ATTACHMENT 5





Location Key Plan

TOTAL SIGN AREA ALLOWED:

392.0 square feet of Sign

ALLOWABLE SIGN AREA CALCULATION IS EXPOSED EXTERIOR FACADES FROM TENANT AND UNUSED FACADE AREAS OF BUILDING PERIMETER

TOTAL SIGN AREAS ILLUSTRATED:

340.6 square feet of Sign

Iconic Elements not included is sign areas.

All drawings and written material appearing herein constitute original and unpublished work of Studio Progetti and may not be used or disclosed without prior written consent of Studio Progetti.
2019 © Studio Progetti, Inc.

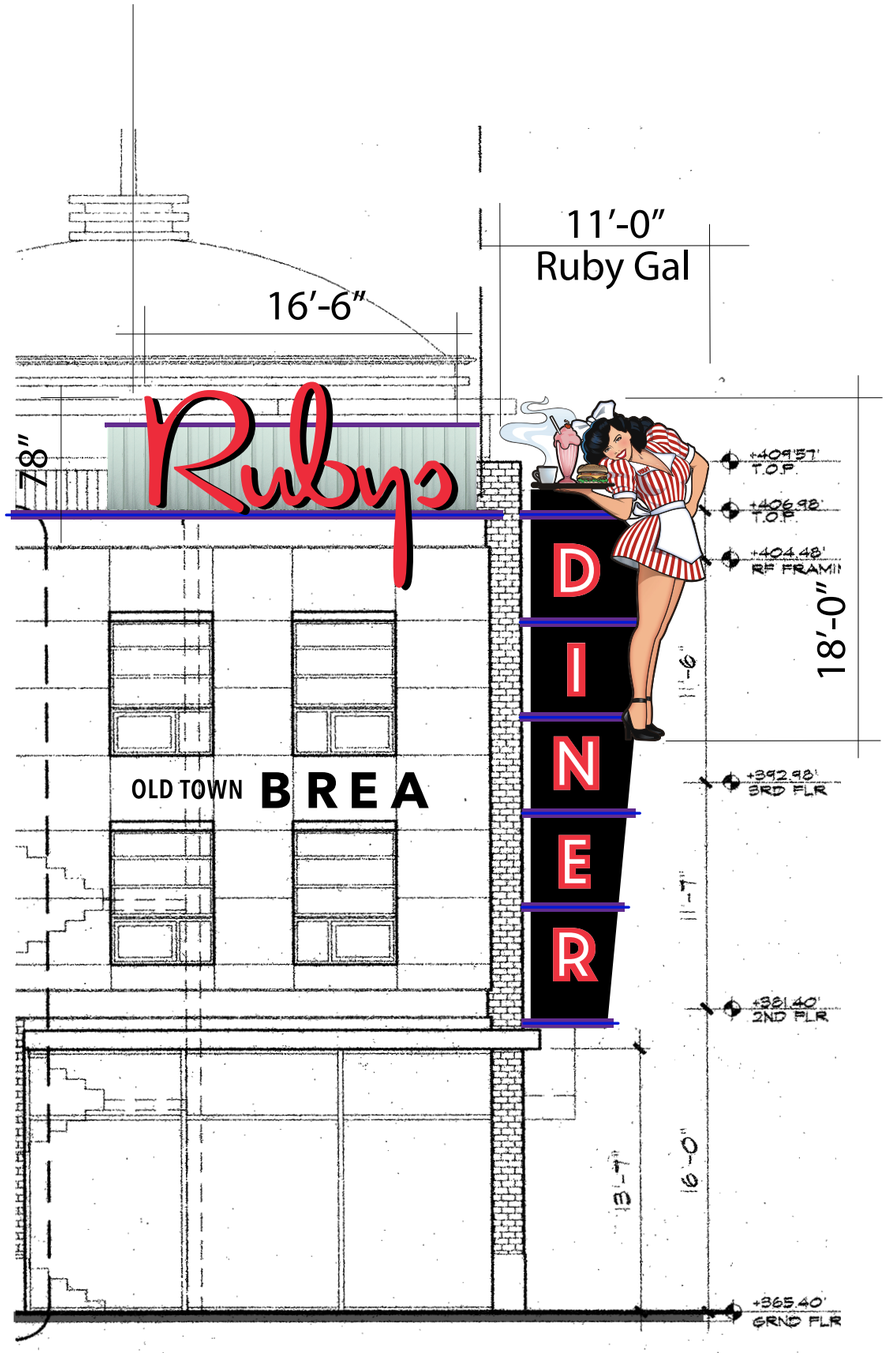
Conceptual Storefront and Lease Plan shown is subject to change and is used as an illustration for discussion purposes. Landlord reserves the right to execute all or part of this concept. Grid spacing is subject to change.

RUBYS BREA SIGN LOCATION PLAN

Date: 03 December 19
Scale:1/16" = 1-0"

SCALE AS SHOWN ON 11" X 17" SHEETS
DRAWING FOR DESIGN INTENT ONLY. NOT INTENDED FOR CONSTRUCTION.

A PROJECT OF CRAIG REALTY GROUP
4100 MacArthur Blvd Ste 200 Newport Beach, CA 92660 T 949.224.4100 fax 949.224.4101
STUDIOPROGETTI architecture & design projects



South Elevation
1/8″ = 1′-0″

PRIMARY MARQUEE SIGN CONCEPT
Sign is scaled and developed based on the existing view angle conditions to be seen from Imperial Highway.
Dual-Faced Marquee is integrated into the existing facade by mounting over existing vertical plaster fin.

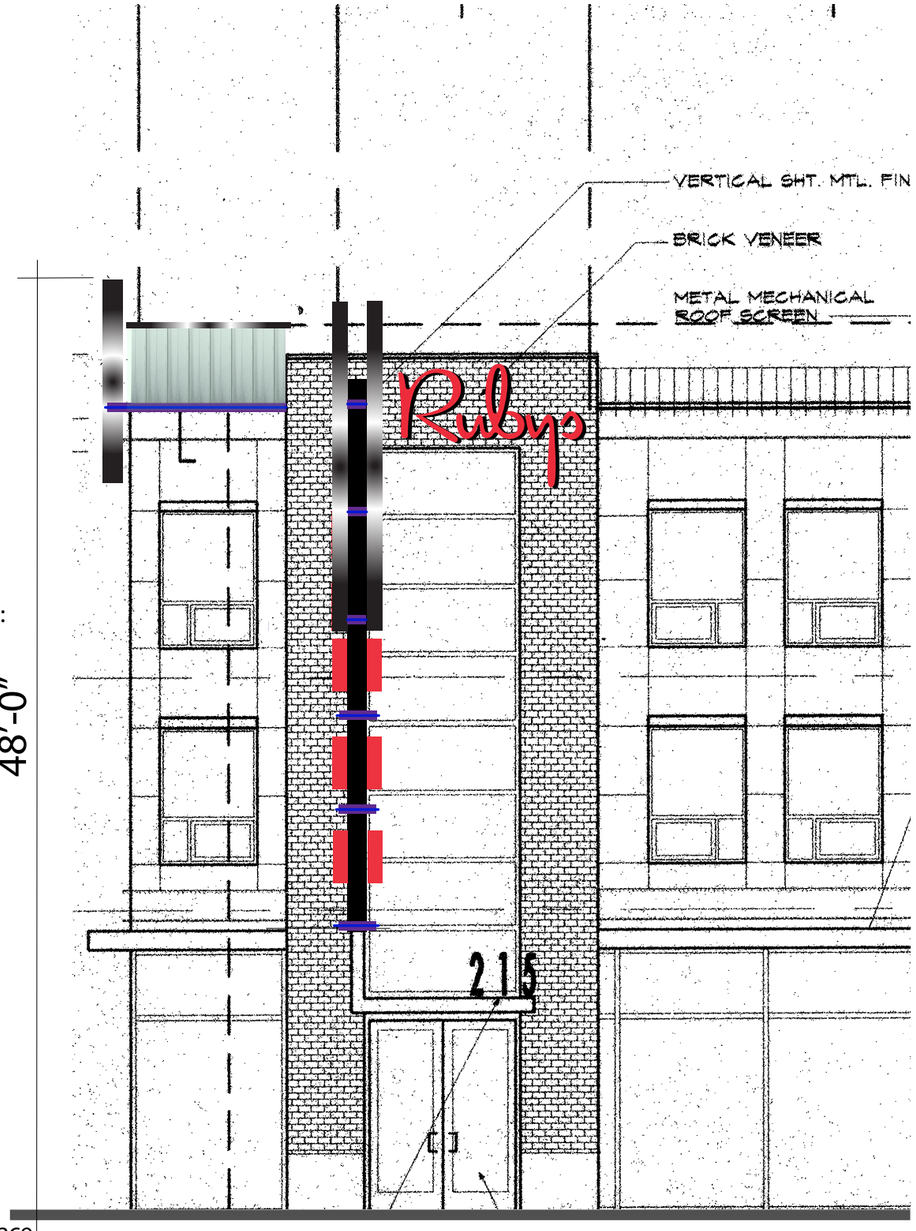
RUBY GAL ICON:
18′-0″ tall internally illuminated RED neon outlined Ruby Gal Icon with animated neon outline leg "pop". ICON AREA: 86.0 sf

36″ TALL COMBINATION CHANNEL LETTERS:
Internally lit letters with neon over-lay and concealed halo lighting.
Return Neon letters alternating message copy. SIGN AREA: 27.0 sf

RUBYS Script Roof Letters, One Sided:
6′-6″ Internally lit channel letters mounted over parapet sign wall and new architectual "Lantern" that carries over the canopy sign detail from the main entrance.
SIGN AREA: 63.0 sf

OLD TOWN BREA Identity: 24″ tall reverse channel letters pin-mounted 2″ from facade wall.

MARQUEE TOTAL SIGN AREA:	27.0 sf per face
RUBYS SOUTH FACING ID	63.0 sf
RUBYS EAST FACING ID:	22.0 sf
	112.0 sf



3′-4″ tall RUBYS ID Facing East
TOTAL SIGN AREA: 22.0 sf

East Elevation
1/8″ = 1′-0″

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2019 © Studio Progetti, Inc.

Conceptual Storefront and Lease Plan shown is subject to change and is used as an illustration for discussion purposes. Landlord reserves the right to execute all or part of this concept. Grid spacing is subject to change.

Primary Marquee Sign

Date: 03 December 19
Scale: 1/8″ = 1′-0″

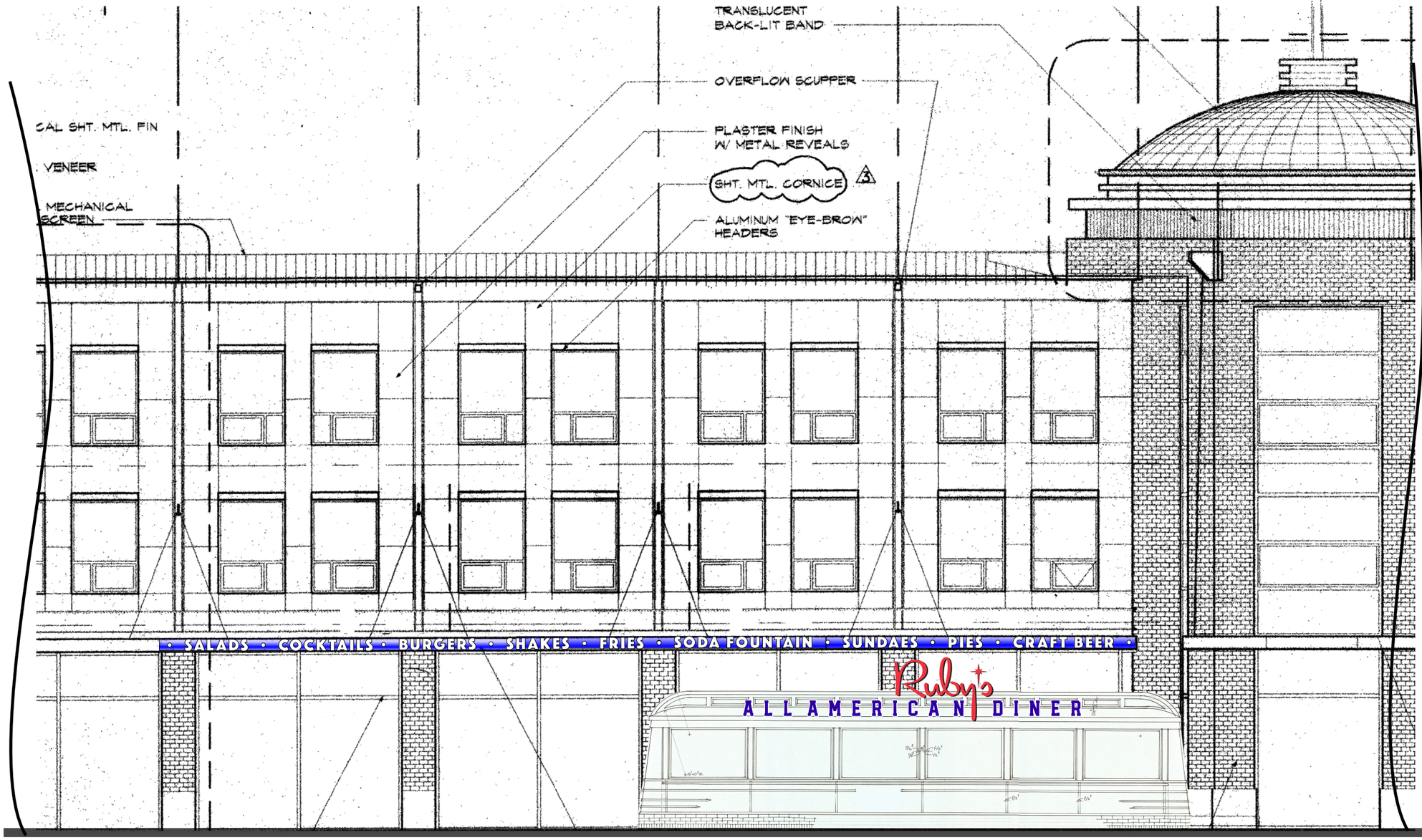
SCALE AS SHOWN ON 11" X 17" SHEETS
DRAWING FOR DESIGN INTENT ONLY. NOT INTENDED FOR CONSTRUCTION.

Rubys DINER

A PROJECT OF CRAIG REALTY GROUP

STUDIOPROGETTI
architecture & design projects

ATTACHMENT 5



Authentic DINER CAR
imbedded into the storefront.

RUBYS Lettering mtd to sign rail:
30" tall Face-Lit Channel Letters
pin-mounted over 1" thick
fabricated liner.
Sign Area: 15.0 sf

ALL AMERICAN DINER:
14" tall Open Channel Cobalt
Blue neon letters mounted
over a flat cut out liner and
mounted to roof ledge.
Sign Area: 6.0 sf

RIBBON SIGN LETTERS: mounted
inside the open steel channel.
TOTAL SQUARE FOOTAGE: 31.5 sf

A PROJECT OF
CRAIG REALTY GROUP
4100 MacArthur Blvd Ste 200 Newport Beach, CA 92660 T 949.224.4100 fax 949.224.4101

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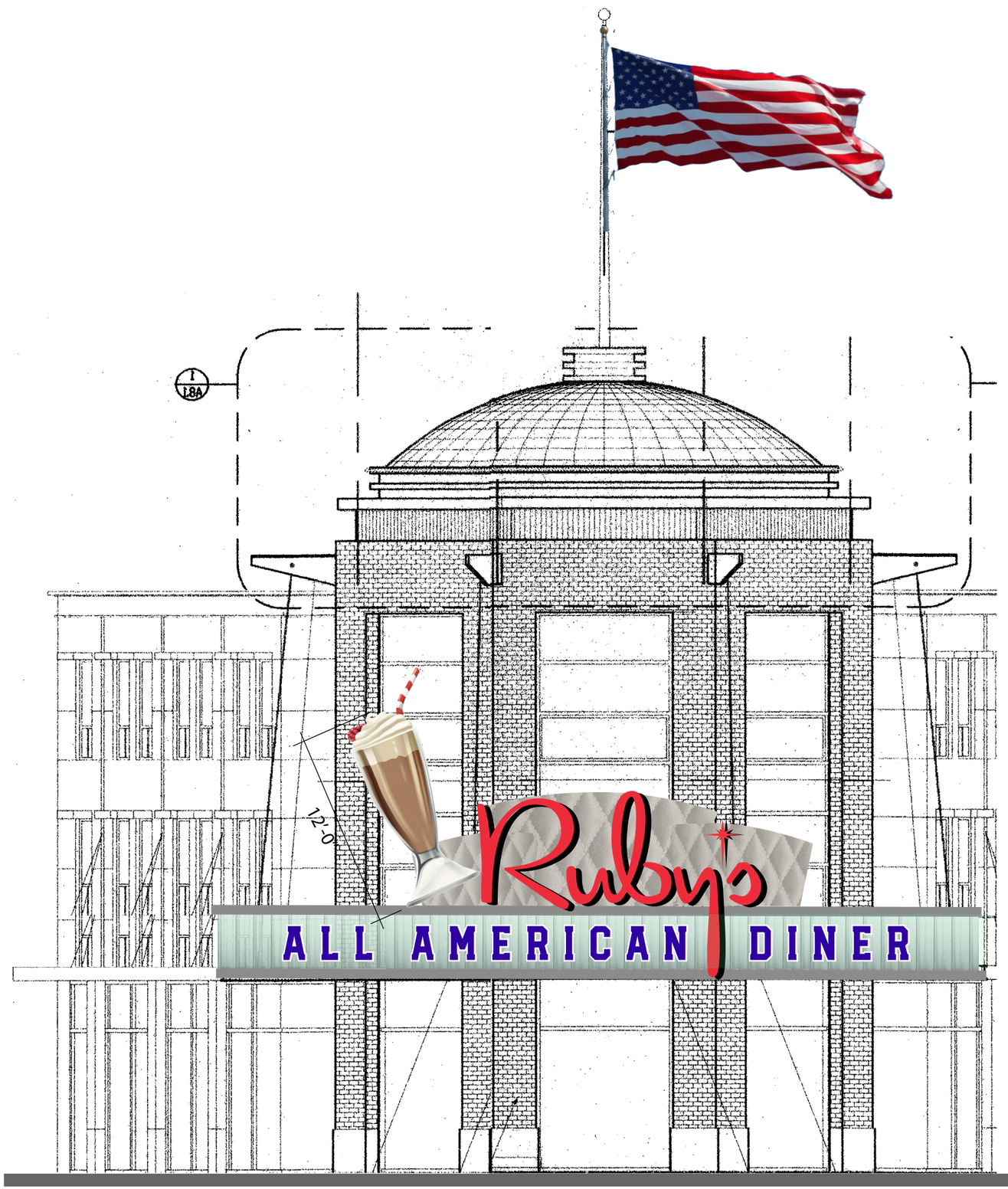
Conceptual Storefront and Lease Plan shown is subject to change and is used as an illustration for discussion purposes. Landlord reserves the right to execute all or part of this concept. Grid spacing is subject to change.

East Elevation

Date: 03 December 19
Scale:1/8" = 1-0"

SCALE AS SHOWN ON 11" X 17" SHEETS
DRAWING FOR DESIGN INTENT ONLY. NOT INTENDED FOR CONSTRUCTION.

ATTACHMENT 5



Corner Entry Tower
1/8" = 1'-0"

RUBYS:
7'-0" tall face lit channel letters over quilted stainless crown-shaped backdrop screen. The Quilted panels shall incorporate random glinting twinkle lighting for a sparkling effect.
Sign Area: 88.0 sf

5'-0" LIT CANOPY FASCIA:
Raised Canopy Fascia back illuminated 'COKE BOTTLE' style ribbed acrylic face. Upper and Lower 6" rails frame support conceal light source.

30" TALL CHANNEL LETTERS:
Face Lit letter & white liner mounted to "bottle glass"fascia.
Sign Area: 42.0 sf.

12'-0" TALL "SPINNING MILKSHAKE":
Vacuformed clear acrylic form back-painted and internally illuminated.

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Primary Entry Canopy Sign

Date: 03 December 2019
Scale:1/8" = 1-0"

SCALE AS SHOWN ON 11" X 17" SHEETS
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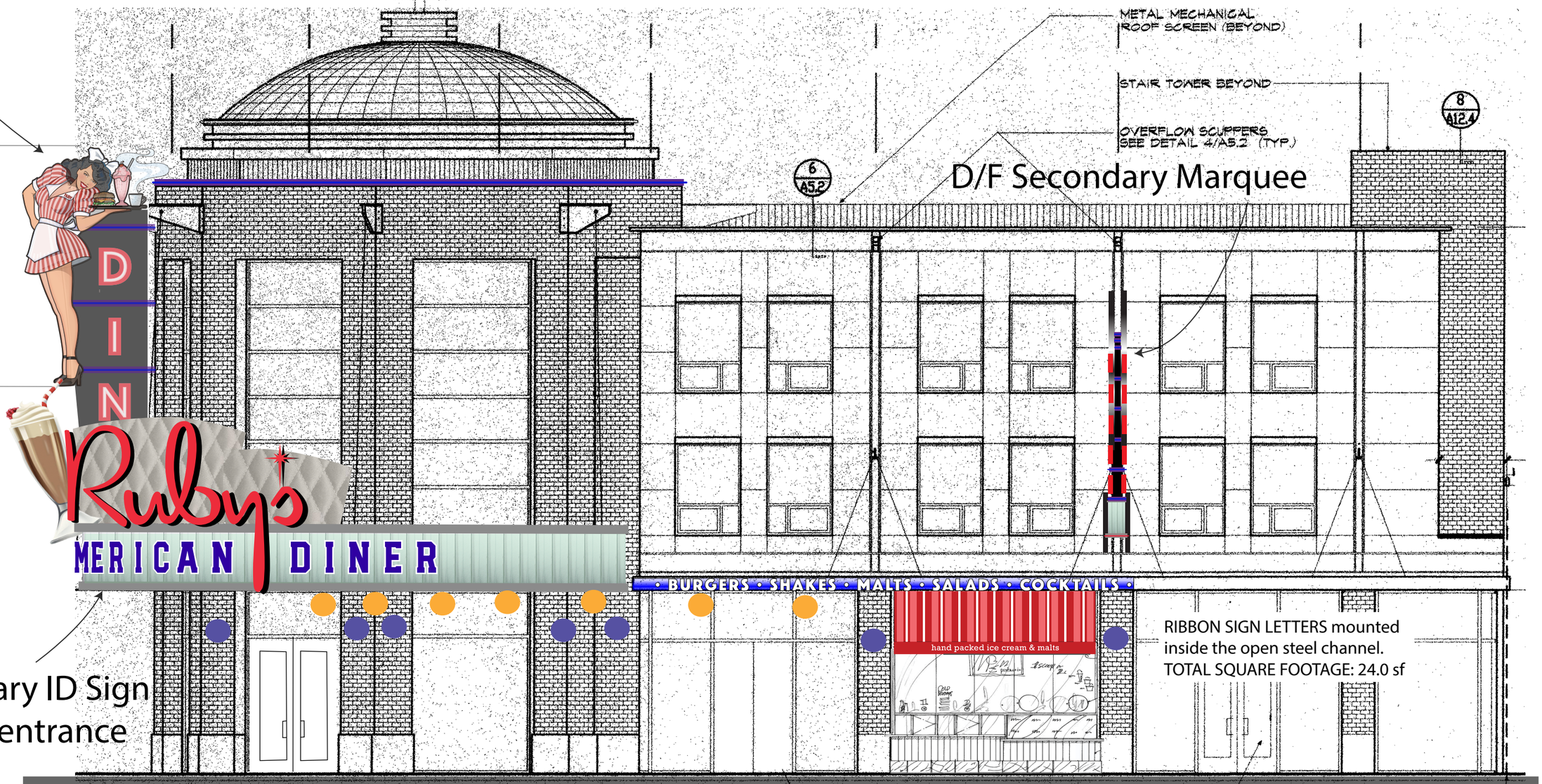
ATTACHMENT 5

Primary Marquee
shown in the distance



Primary ID Sign
over entrance

North Elevation

Date: 03 December 19
Scale:1/8" = 1'-0"

SCALE AS SHOWN ON 11" X 17" SHEETS
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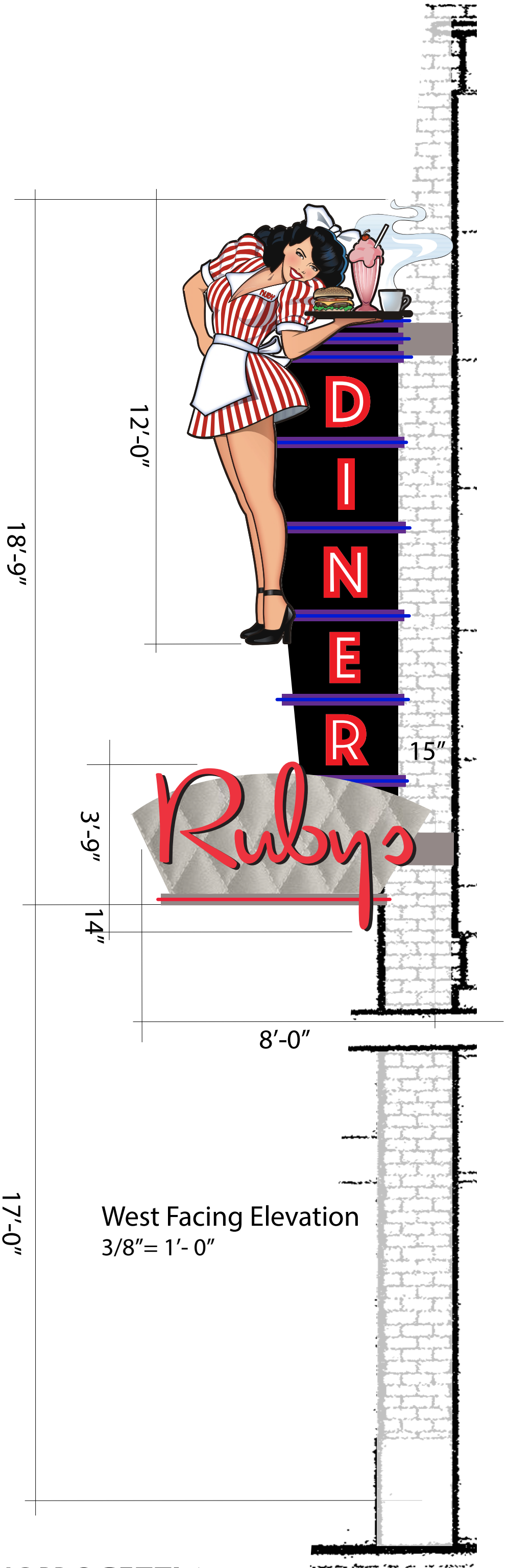

West Facing Elevation
3/8″= 1′- 0″

SECONDARY MARQUEE SIGN CONCEPT
Double-sided Marquee is projecting from Building Facade.

RUBY GAL:
10′-0″ tall internally illuminated and neon outlined Ruby Gal Icon with animated neon outline leg “pop”.
ICON SURFACE AREA: 57.0 sf

VERTICAL CABINET & STACKED LETTERS:
Seamless aluminum cabinet with concealed access door.
18“TALL CHANNEL LETTERS:
Internally face-lit letters with neon over-lay.
PriceAlt: 1.5″ Push Thru clear polished Acrylic letters with satin white acrylic face layer.
SIGN AREA: 7.1 sf

Exposed Neon Ribs: Aluminum extrusion with Cobalt Blue Neon.

RUBYS:
2′-6″ tall face lit channel letters over quilted stainless crown-shaped backdrop screen. The Quilted panels shall incorporate random glinting twinkle lighting for a sparkling e
Sign Area: 15.0 sf.

Sign Fabricator to assume all responsibility for Engineering and Coordination with existing building.

TOTAL SIGN AREA:
22.1 sf per face;

Secondary Marquee Dual Faced

Date: 03 December 2019
Scale: 3/8″ = 1-0″

SCALE AS SHOWN ON 11" X 17" SHEETS

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4100 MacArthur Blvd Ste 200 Newport Beach, CA 92660 tel 949.224.4100 fax 949.224.4101

Ruby's DINER

Downtown Brea

Proposed Ruby's Projecting Signs

215 Brea Blvd.

February 14, 2020

Progress Draft

Gensler

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Architectural Control Criteria

Brea City Signage Guidelines Review

Current Signage installations in Downtown Brea

Nearby City Downtown Signage Installations

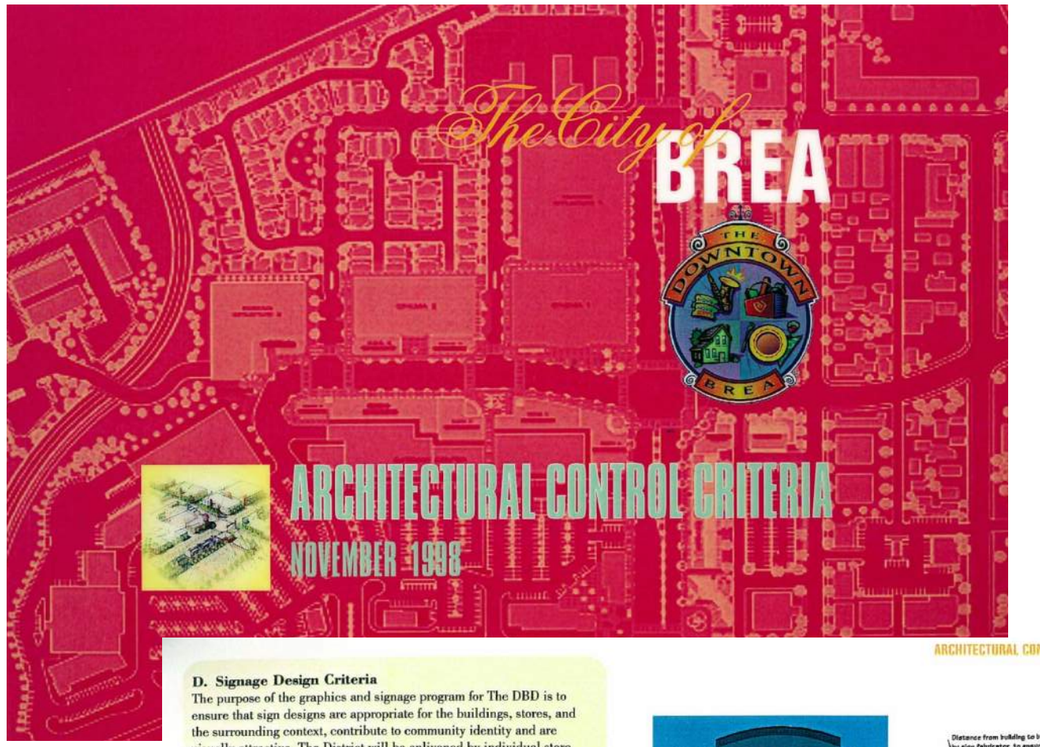
Proposed Rubys' Signage Design and Placement

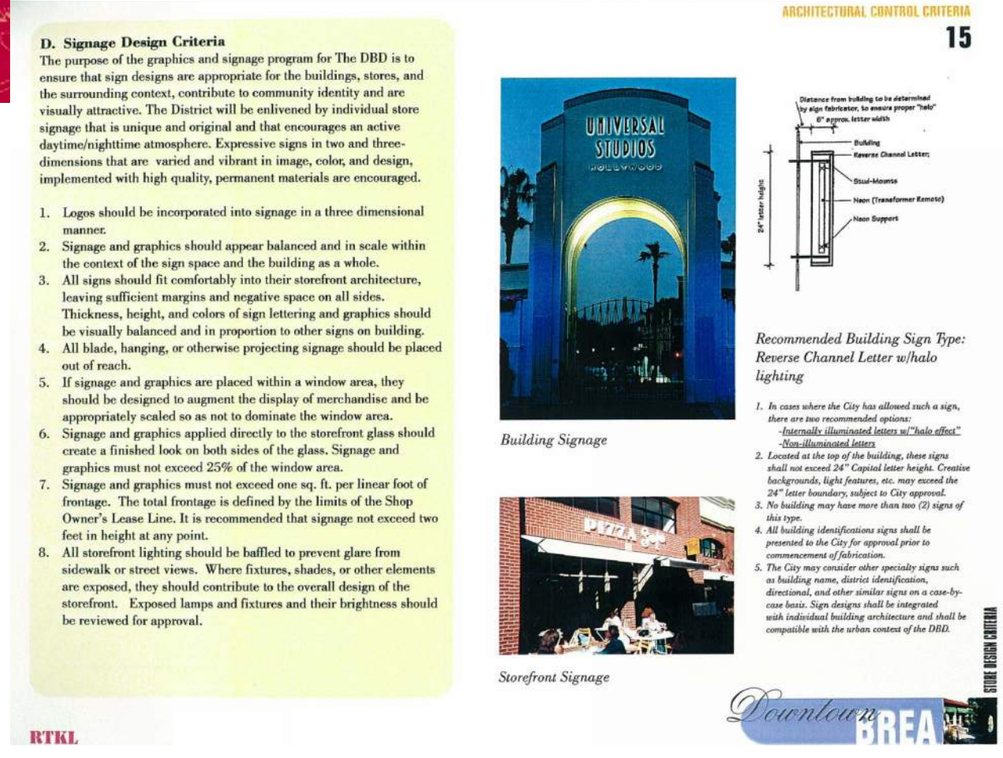
Appendix: Full Brea City signage guidelines

The Architectural Control Criteria

The ACC document provides reference for signage standards for the City of Downtown Brea that were developed 22 years ago. Since that time, new types of signage have become more popular and present in cities across Southern California that were not fully addressed or documented in the Criteria.

With that in mind, this document seeks to help define an appropriate balance for the newly proposed Rubys' sign design and how it integrates and becomes part of a cohesive story in the downtown corridor.





ARCHITECTURAL CONTROL CRITERIA 15

D. Signage Design Criteria

The purpose of the graphics and signage program for The DBD is to ensure that sign designs are appropriate for the buildings, stores, and the surrounding context, contribute to community identity and are visually attractive. The District will be enlivened by individual store signage that is unique and original and that encourages an active daytime/nighttime atmosphere. Expressive signs in two and three-dimensions that are varied and vibrant in image, color, and design, implemented with high quality, permanent materials are encouraged.

1. Logos should be incorporated into signage in a three dimensional manner.
2. Signage and graphics should appear balanced and in scale within the context of the sign space and the building as a whole.
3. All signs should fit comfortably into their storefront architecture, leaving sufficient margins and negative space on all sides. Thickness, height, and colors of sign lettering and graphics should be visually balanced and in proportion to other signs on building.
4. All blade, hanging, or otherwise projecting signage should be placed out of reach.
5. If signage and graphics are placed within a window area, they should be designed to augment the display of merchandise and be appropriately scaled so as not to dominate the window area.
6. Signage and graphics applied directly to the storefront glass should create a finished look on both sides of the glass. Signage and graphics must not exceed 25% of the window area.
7. Signage and graphics must not exceed one sq. ft. per linear foot of frontage. The total frontage is defined by the limits of the Shop Owner's Lease Line. It is recommended that signage not exceed two feet in height at any point.
8. All storefront lighting should be baffled to prevent glare from sidewalk or street views. Where fixtures, shades, or other elements are exposed, they should contribute to the overall design of the storefront. Exposed lamps and fixtures and their brightness should be reviewed for approval.

Building Signage

Storefront Signage

Recommended Building Sign Type: Reverse Channel Letter w/halo lighting

1. *In cases where the City has allowed such a sign, there are two recommended options:*
   -Internally illuminated letters w/"halo effect"
   -Non-illuminated letters
2. *Located at the top of the building, these signs shall not exceed 24" Capital letter height. Creative backgrounds, light features, etc. may exceed the 24" letter boundary, subject to City approval.*
3. *No building may have more than two (2) signs of this type.*
4. *All building identifications signs shall be presented to the City for approval prior to commencement of fabrication.*
5. *The City may consider other specialty signs such as building name, district identification, directional, and other similar signs on a case-by-case basis. Sign designs shall be integrated with individual building architecture and shall be compatible with the urban context of the DBD.*

RTKL

STORE DESIGN CRITERIA

Downtown BREA

Downtown Brea - the unique street experience

The Brea Blvd. and Birch St. locations are a high vibrancy environment that urge visitors and passers-by to experience the Retail/Entertainment neighborhood. The guidelines identified by the ACC are meant to ensure that all signage designs are appropriate for the buildings, stores, and surrounding context and contribute to the identity of the community.

Brea has set a precedant of colorful, lively, and illuminated sign program to emphasize the entertainment-oriented nature of the streets, while detailed architecture exudes an impression of elegance and paramount quality. The varied and large scale elements encourage design creativity to provide visual excitement.

210
core
LOFT
LOFT

Birch St
BREA

FRESCA'S
mexican grill

FARRELL
TOWER

Comparable Signage | Signage installations in Anaheim

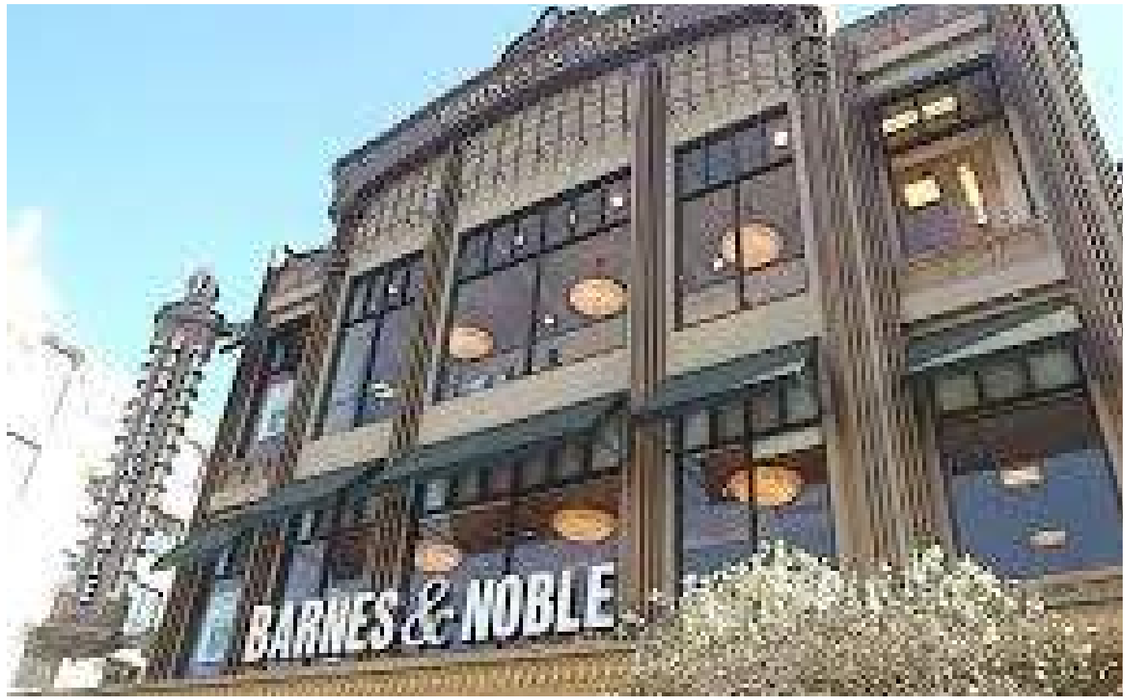
Many cities in Southern California are approving broader and more varied sign systems to accommodate new tenant preferences

Comparable Signage | Signage installations in Long Beach

Many cities in Southern California are approving broader and more varied sign systems to accommodate new tenant preferences

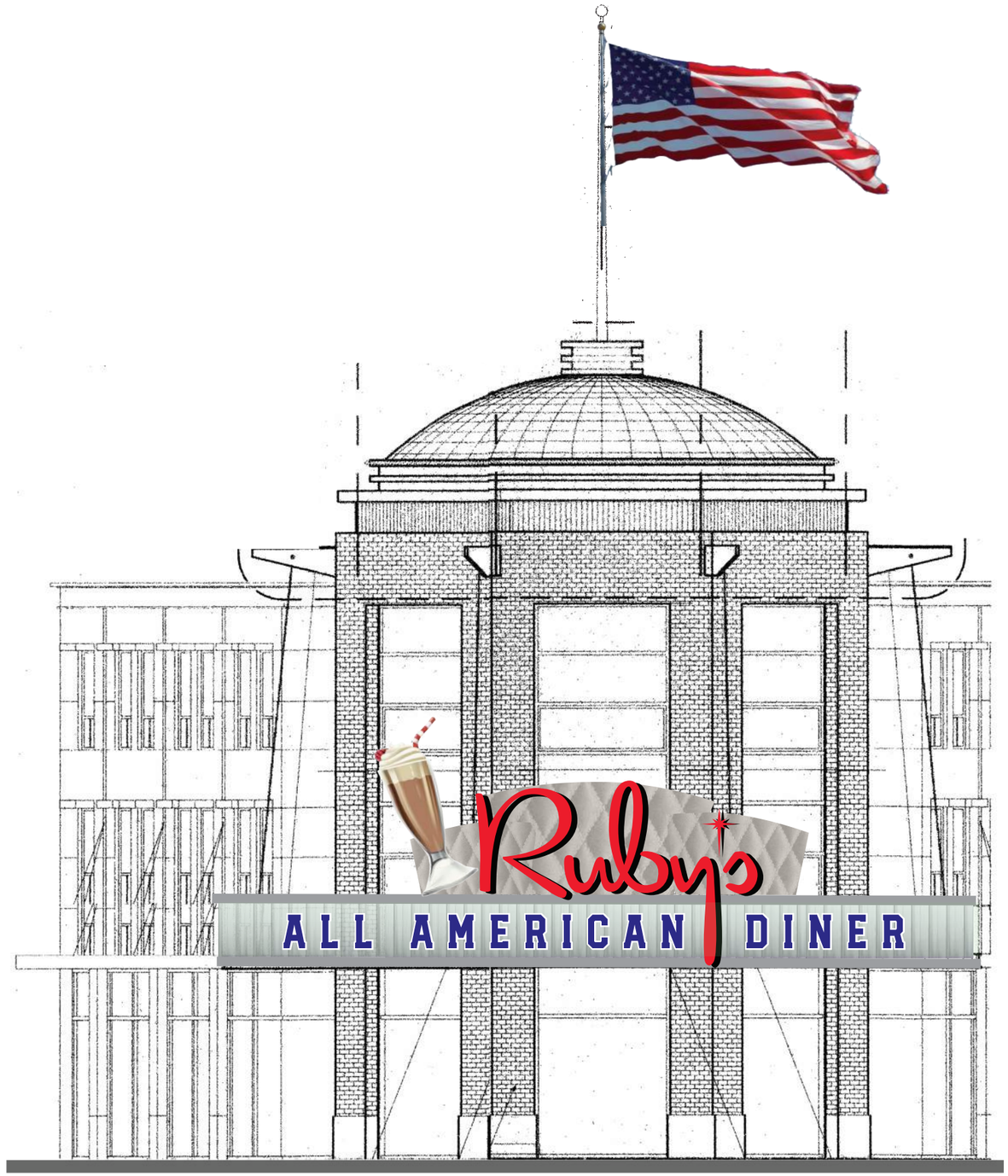
Comparable Signage | Signage installations at The Grove/The Americana

Many cities in Southern California are approving broader and more varied sign systems to accommodate new tenant preferences



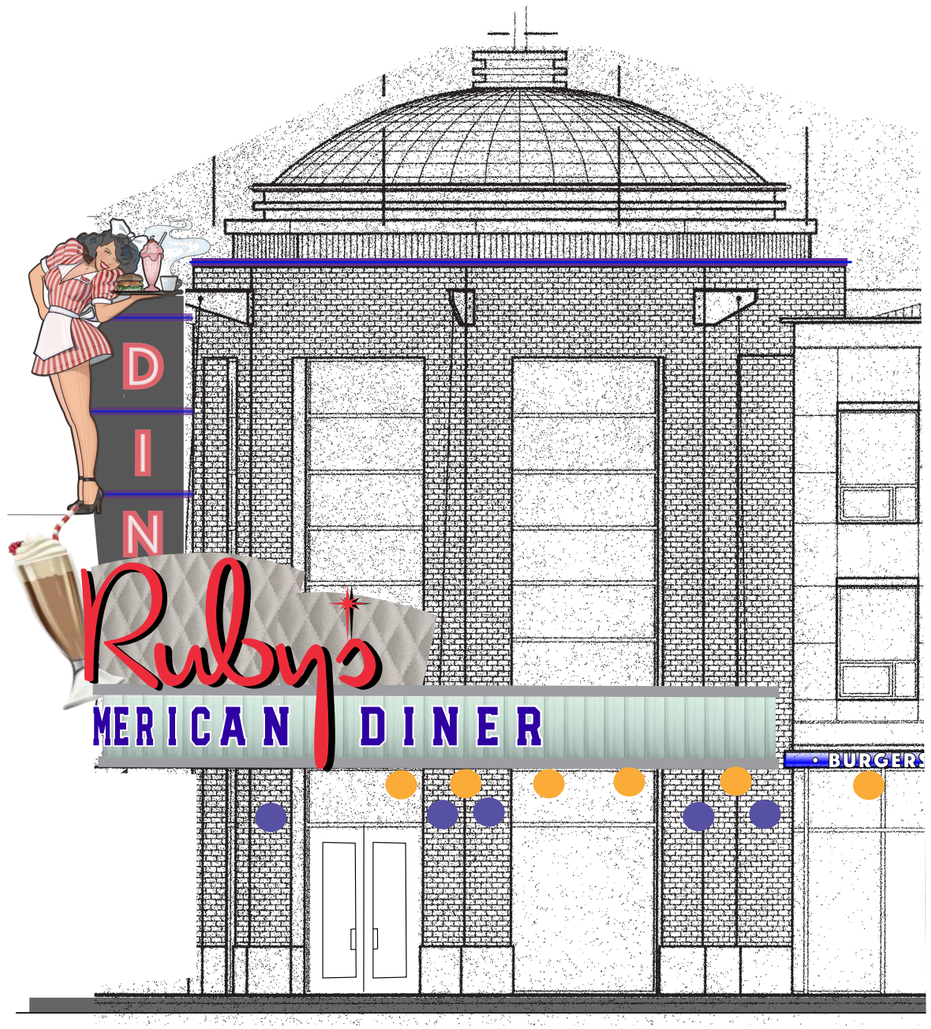
Comparable Signage | Signage installations in Irvine/Tustin

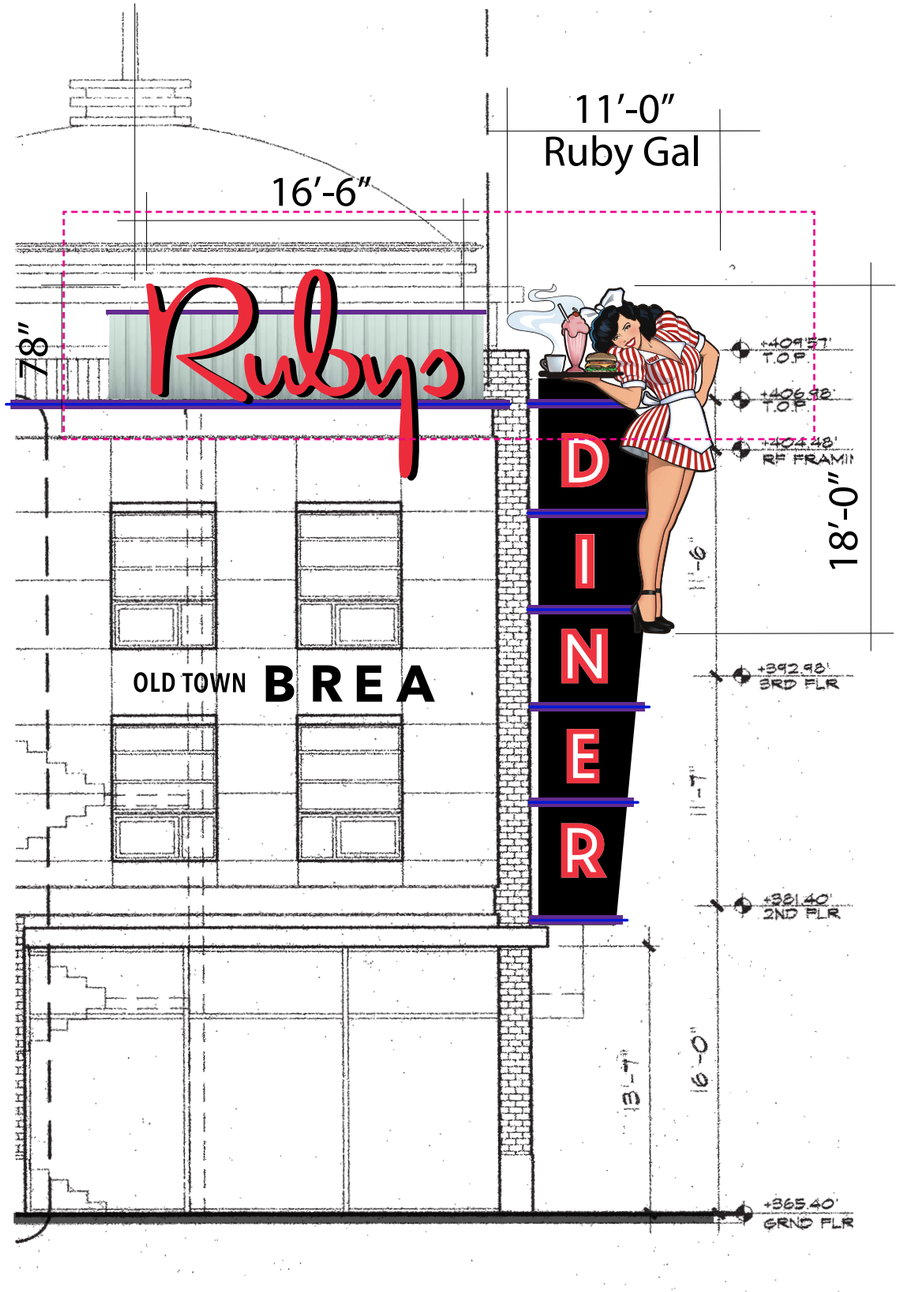
Many cities in Southern California are approving broader and more varied sign systems to accommodate new tenant preferences



Proposed: Projecting sign from corner of building. Signage provides adequate clearance underneath to street, utilities and support structure are from the previous signs, and complies with the spirit of the downtown area. Similar to the signage across the street at the Improv and Tower bldg.

Comment:
No issues taken

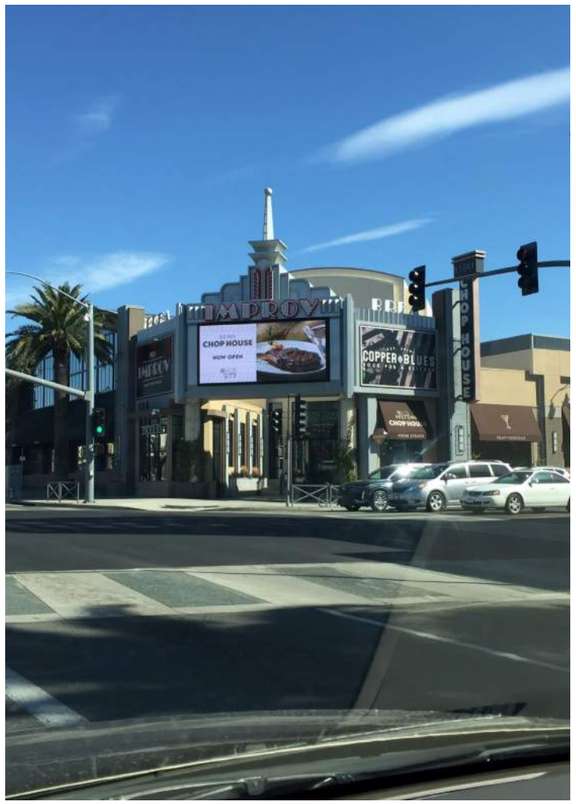




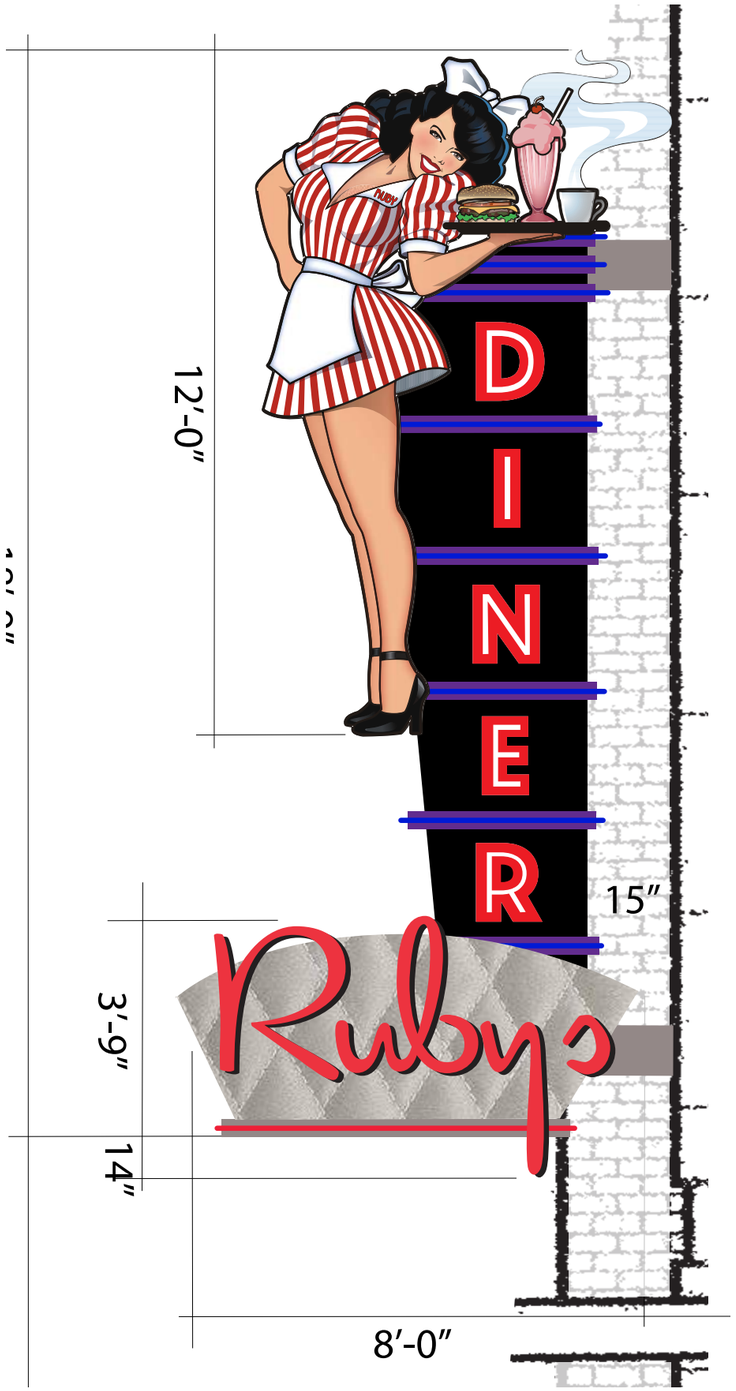
South Elevation
1/8″ = 1′-0″

Proposed: The signage exceeds height of top of adjacent building parapet. Identified in the Signage code 20.28.190

Comment:
While the sign elements do extend above the top of the eave line of the adjacent building stucture, there is precedent from other buildings in the area that also extend over the top of building.
No issues taken.



Gensler



Proposed: Projecting sign from corner of building. Sign does not extend about the top of the building. Signage provides adequate clearance underneath to street, utilities and support structure are from the previous signs, and complies with the spirit of the downtown area. Similar to the signage at area parking structure.

Comment:
No issues taken

APPENDIX

The subsequent pages are for reference only, in reference to the broader Architectural Control Criteria and city signage code standards.

1.0

Intent and Purpose

The intent of the Downtown Brea Signage Design Guidelines is to provide guidance for desirable and appropriate business signage in Downtown Brea. These signage design guidelines are intended to be a tool for property owners, business owners, and City staff in planning, designing and reviewing proposed downtown signage.

Signs and graphics will play a large role in creating and reinforcing the desired neighborhood feel of the public spaces, shopping, entertainment and civic uses, all within walking distance of each other. The signage design of the Downtown Brea area should be respectful of the surrounding area, yet continue to maintain the distinctive character that reflects the mixed-use, urban environment.

Exterior signage is the most important feature that communicates the distinct style and nature of the shop/restaurant to visitors to Downtown Brea, and is best expressed through the use of vibrant colors, interesting shapes and/or unique materials.

The purpose of these guidelines is to establish a coordinated exterior signage program achieving a unified and cohesive overall appearance. Controlled way-finding and identity signage is a major factor in creating and preserving the design character of the overall project.

The design guidelines address general sign elements, including design, placement, and lighting, as well as the most appropriate sign types. These design guidelines generally communicate what is desired and encouraged for downtown signage rather than what is not allowed. Unlike the City's signage zoning regulations, the design guidelines are intended to focus on preferred signage techniques and examples in order to achieve high quality signage in Downtown Brea.

Design guidelines do not represent requirements; however, signage applicants should carefully consider each of the design guidelines relevant to their request and demonstrate their effort to achieve the design guideline.

1.1

Objectives

The intent of the sign design guidelines is to accomplish the following:
• Establish reasonable and improved standards for business identification
• Assist property owners and business owners in understanding city expectations
• Encourage creative and innovative approaches to signage within an established framework
• Promote economic vitality in the downtown
• Enhance overall property values and the visual environment in the city by discouraging signs which contribute to the visual clutter of the streetscape
• Ensure that commercial signs are designed for the purpose of identifying a business in an attractive and functional manner.
• To ensure signs on the façade of buildings reinforce the existing character and are integrated into the architectural scheme of the building.
• To promote a quality visual environment by allowing signs that are compatible It is It

1.2

Using the guidelines

is intended that these signage design guidelines will help business owners, property owners, and sign manufacturers plan and design signage that is desirable and appropriate for Downtown Brea.

There are two sets of design guidelines:
1. General design guidelines referenced here-in addressing each of the signage elements that relate to all types of downtown signs, including orientation & placement, scale & shape, materials, colors, content, lighting, and installation.
2. Specific design guidelines for each of the appropriate downtown sign types, including projecting signs, wall signs (including flat signs and flat individually mounted letters), awning/ canopy signs, window signs, sandwich board signs, architectural signs, freestanding signs, multi-tenant wall directory signs, and wayfinding signs can be found in both the City of Brea Architectural Control Criteria and Chapter 20.28 of the City of Brea Sign Code.

2.0

General Design Guidelines
Sign Elements

All sign types in Downtown Brea have the potential for strengthening or detracting from its unique character. This section addresses the general elements and design guidelines that apply to all sign types in downtown, including:

- Orientation & Placement
- Scale & Shape
- Materials
- Colors
- Content
- Lighting

2.1

Orientation and Placement

In general, downtown signs can complement and reinforce the historic and desired pedestrian-oriented character of the streets and buildings, while also meeting the visibility needs of people driving by in cars.

Design Guidelines:
1. In general, downtown building signs should be more oriented to visibility by pedestrians on the sidewalk than people driving by in cars.
As pedestrian-oriented signs, they should be installed at a comfortable height and designed to be easily legible from the close range at which pedestrians will see and read the sign.
2. Two-sided projecting signs are strongly encouraged to maximize visibility of signs to both pedestrians on the sidewalk and people driving by in cars.
3. Placement of signs should not obscure a building's architectural features and window and door openings.
4. Signs should be placed to fit in with the building's overall architectural composition and not compete with its architectural features.

2.2

Scale and Shape

In Downtown Brea, signs reflecting the tenants of the buildings signs should not be overpowering but a complimentary component to the building's look and feel.

Design Guidelines:
1. The scale of a sign should reflect the scale of the building's façade in terms of width and height, as well as the rhythm and sizes of window and door openings.
2. Where a space exists on a building façade for awall sign, the sign should be scaled to proportionately fit this space.
3. Sign shapes should be relatively simple and understandable to complement the architecture of downtown buildings.
4. Signs with symbols/icons are encouraged as they are easy to recognize and contribute to the unique identity of businesses and downtown in general.

2.3

Materials

Signs on walls, projecting from building faces and in windows typically are painted, etched, or gilded. A wide range of sign materials are available today with some able to simulate traditional materials, while others may not be compatible with the character of downtown's buildings.

Design Guidelines:
1. Materials such as metal, acrylic, vinyl, and plastic, should be used to withstand longterm exposure to weather.
2. Sign materials should be compatible with the materials and character of the building façade.
3. Sign materials should be durable and easy to maintain.
4. Highly reflective materials are often difficult to read and should be avoided.

2.4

Color

The selection of colors is a critical aspect of creating a sign that catches people's eyes, is clearly legible, complements the colors of the building façade, and is compatible with the character of Downtown Brea buildings.

It is important for colors to be selected thoughtfully and carefully in order to balance the needs for interesting and effective signs with preservation of the character of Downtown Brea.

Design Guidelines:
1. The color tones between a sign's letter-ing/symbols and background should have sufficient contrast to make the sign clearly legible.
2. Sign colors should complement those of the building's façade. For multi-tenant buildings, sign colors of individual tenant signs should be compatible with each other.
3. The number of colors used on a sign should generally be limited to no more than three; competition between too many col-ors often results in decreased legibility.
4. Mounting brackets for projecting and hanging signs should be darker colors and authentic to the material used to construct them.

2.5

Content

The primary function of a sign is to clearly identify the name of the business and its general type of products/services in a way that is easy-to read and interesting for potential customers.

Design Guidelines:
1. Simple, bold lettering should be used to create signs that are easy to read for pedestrians on sidewalks as well as people driving in cars.
2. Overly-ornate and trendy typefaces that are hard-to-read should be avoided.
3. Three-dimensional letters/symbols, with at least one-half inch depth or reveal, are preferable.
4. Content should be minimal and avoid excessive lettering, such as ldescriptions of products/services, slogans, etc.
5. Use of symbols, logos, and other graphics as part of the sign content is encouraged to reduce the need for excessive lettering, make signs quicker to read, and contribute to the unique identity of downtown businesses.

2.6

Lighting

Lighting is an important aspect for enabling visibility of signs beyond daylight hours and where streetlights may not provide adquate lighting for building signs. Historically, lighting of signs would have been oriented to pedestrian viewing of signs from the sidewalk and limited only by lighting technology available today. Today, many signs are oriented to nighttime visibility by people driving in cars and use a wide array of contemporary lighting technologies. In downtown, it is important to balance the need for lighting of signs for easy visibility with the desire to light signs discreetly in order to fit the character of downtown buildings and create a pleasant pedestrian environment.

Design Guidelines:
1. External lighting sources should be shielded so that the light source is not visible by pedestrians.
2. Signs, including wall, projecting, awning and window, can be internally illuminated, use LED's, neon or lighting elements
3. Face lit and halo illumination are appropriate sign approaches.
4. Exposed neon or LED lighting may be used selectively but should not be visually obtrusive or dominate the street frontage.

2.7

Digital Technology

Digital Technology is a dynamic method for signage, information, and art. These digital displays utilize still images, scrolling images or moving images, including video and animation, utilizing electronic means, including (LED), plasma screen, liquid crystal display (LCD), fiber optic, or other electronic media or technology.

Design Guidelines:
1. Digital signage shall remain dark for a period of time between 2:00 AM to 6:00 AM
2. Illumination brightness shall be determined by light sensor devices.
3. Brightness shall not exceed 20 lumens per square foot.

3.0

Downtown Brea Sign Types

This section provides additional ACC guidance for the sign types that are most appropriate for the unique character of downtown area,
including:
• Projecting signs
• Wall signs, including flat signs and flat individually mounted letters

Where there is a question of design application, refer to the ACC and City Code Chapter 20.28 for specifics. If questions still arise, contact the city's planners for review and approval.

The quantities and locations of all signs are to be reviewed by the city for approval.

The content style and expected brightness/ illumination of all digital signs are to be described on the submittal documents so that approvals can be given during the review.

Confirm the project frontage and applicable square footage of signage allowances prior to approval.

3.1

Projecting Signs

Projecting signs are two-sided signs projecting from a building or canopy and perpendicular to the building's front façade.

Design Guidelines:
1. Projecting signs should usually be mounted near the storefront entrance
2. Projecting signs should generally be oriented to visibility by pedestrians and vehicles and be sensitive to the overall building face and not overpower the building.
3. The style, colors, dimensionality, and materials of a projecting sign should be complementary with the character of the building and other signage.
4. The mounting bracket/hardware for a projecting sign should be designed as a decorative element of the sign that is complementary of the sign and the building's architectural style.
5. Projecting signs must have a minimum clearance height of eight (8) feet above the ground.
6. Internally illuminated/backlit signs (cabinet or canister signs) are not appropriate sign types.
7. Projecting signs may have a digital

3.2

Wall Signs

Wall signs are individually mounted letters or fabricated elements that are attached flat against the wall of a building with the exposed face of the sign being parallel to the face of the wall.

Design Guidelines:
1. If a wall sign area exists, a wall sign should fit within this space and not extend above, below, or beyond the edges of the building area.
2. A wall sign should be placed and sized so that it does not obscure building architectural features and fits the scale of the building.
3. The shape of a wall sign should reflect the architectural features of the building's façade.
4. Where feasible, a wall sign should be placed to align with other signs on that building and other buildings on the same block face.
5. Reverse illuminated/back lit/halo effect and internally illuminated/front lit channel letters are appropriate sign construction.
8. Internally illuminated cabinet/canister signs and are not appropriate sign types.

BLAKE & AYAZ
A LAW CORPORATION
2107 NORTH BROADWAY, SUITE 106
SANTA ANA, CALIFORNIA 92706
EMAIL: abclaw@rablake.com
Website: www.blakeandayaz.com

TELEPHONE: (714) 667-7171 FACSIMILE: (714) 667-0477

January 14, 2020

File No.

Via Hand Delivered

City of Brea, Planning Division
Attn: Paige Montojo, Assistant City Planner
1 Civic Center Circle
Brea, CA 92821

RE: CUP AMENDMENT APPLICATION
RUBY'S DINER
215 S. BREA BOULAVRD, BREA, CA., 92821

Dear Ms. Montojo,

It is with great pleasure and excitement that we have been engaged by EFE Ruby's Diner, LLC (Applicant) to process a conditional use permit amendment application to allow for the operation of Ruby's Diner restaurant at the above-mentioned address. The location was formally operated as a Farrell's Restaurant and Ice Cream Parlour and was entitled and/or otherwise permitted under Condition Use Permit Number 11-02. Attached hereto is Resolution 11-05 for reference.

The location is currently entitled to allow the on-site sale and consumption of beer and wine only under a California Department of Alcoholic Beverage Control Type 41 On-Sale Beer and Wine Eating Place License.

The Applicant herein requests approval from the City to allow for the continued operation of a bona-fide eating establishment to include the on-site sale and consumption of a full line (beer, wine and distilled spirits) of alcoholic beverages under a California Department of Alcoholic Beverage Control Type 47 On-Sale General Eating Place License.

BACKROUND

The idea for Ruby's Diner was born in 1980 after a run on the beach. Doug Cavanaugh had just returned to his native Southern California after successfully restoring and running a restaurant on Nantucket Island off Cape Cod. One evening he was brainstorming about business opportunities with his father and remembered that he had seen a dilapidated building at the end of Balboa Pier while jogging along the beach. Although the building was in pretty bad shape, Cavanaugh noticed its architecture really lent itself well to that of a 1940's diner. With his father's encouragement, Cavanaugh started to make the restaurant a reality.

To enlist help for the project, Cavanaugh reached out to his friend, Ralph Kosmides. After they obtained a long-term lease on the building that had once been a bait shop, Cavanaugh and Kosmides decided to move forward with a 1940's American diner theme to bring back the fun and nostalgia of the era.

To make the diner feel authentic, Cavanaugh and Kosmides scavenged antique and memorable stores in Southern California for 1940's artifacts. After remodeling most of the building themselves, Cavanaugh and Kosmides opened the doors about a year later on December 7th, 1982. Much to her surprise, the tiny-45 seat restaurant was named after Cavanaugh's mother, Ruby.

With three employees and a simple menu of hamburgers, hot dogs and malts, the restaurant brought in a whopping $63 on its first day.

Although Cavanaugh and Kosmides were nervous on opening day, they were encouraged when they saw people walk around the pier, investigate the diner and smile. "It was as if they were remembering a simpler, happier time," says Kosmides. With this success in hand, Cavanaugh and Kosmides realized that they had tapped into something that appealed to a wide range of people of all ages.

Now, 35 years after Cavanaugh saw the run-down building at the end of the pier, Ruby's Diners can be found in all different parts of the country, such as Houston, New Jersey, Nevada and Pennsylvania, and is continuing to expand – with 35 locations currently open.

In addition, Ruby's Diner has been exceedingly active in charitable and philanthropic efforts. Each year Ruby's Diner, through the Ruby Dooby Foundation, supports the Children's Hospital Orange County (CHOC) Neonatal Intensive Care Unit along with providing support for the Congenital Central Hypoventilation Syndrome (CCHS). The foundation is dedicated to the health and well-being of children

PROPOSED BREA LOCATION

The proposed Brea location will follow the long standing and proven business model which the company has implemented throughout the United States. As previously indicated, this location was formerly operated as a Farrell's Restaurant and Ice Cream Parlour. The premise is conveniently located in Brea Downtown, a regionally recognized area for restaurant and entertainment activity.

The premises will be a single-story restaurant with an "Dining Car" (i.e. enclosed patio) and will be designed to accommodate families, large and small groups, corporate events and the like. The use is wholly consistent with the surrounding uses in the area inasmuch as the location is situated in a high traffic center that houses several other eating establishments and commercial uses.

APPLICATION REQUEST

The applicant requests approval of a Conditional Use Permit to allow the sale and dispensing of a full line of alcoholic beverages for on-site consumption; in conjunction with a proposed 6,584 square-foot restaurant and Dining Car; as more fully depicted on the provided plans.

PROPOSED HOURS OF OPERATION

The applicant proposed hours of operation are **Monday through Sunday 6:00 am to 2:00 am**. The applicant shall prepare, sell, and offer food during all hours of operation. In other words, food will be available for customers at any time the business is open.

OPERATION

The applicant shall operate the premises as a bona-fide public eating establishment. The applicant applied for and was selected in the yearly lottery to obtain a Type 47 liquor license from the State of California's Department of Alcoholic Beverage Control. A Type-47 On-Sale General for Bona Fide Public Eating Place license is regulated to require that the business operate primarily as a bona-fide restaurant limiting the amount of alcoholic beverages which can be sold to less than 50% of gross sales. The State will also place time tested conditions on the license as well as maintain regulatory and statutory powers over the applicant (licensee) in their operation as a licensed business. The City can either mirror those conditions placed on the liquor license or create its own reasonably sound conditions to regulate the activity of the business. The City and the State regularly work together in creating conditions which can be imposed to minimize any potential negative impacts or concerns.

There will be no live entertainment on the premises. This is of course to include any adult entertainment as defined by the Brea Municipal Code. The applicant does intend to play recorded

music and the use of televisions throughout the premises. There will be no dancing or other night club type activity to include DJ's, the use of nightclub promoters or the like.
The use of will not be detrimental to the public health, safety or welfare, nor be materially injurious to property or improvements in the vicinity. The applicant intends to operate the business in the utmost reasonable, safe and efficient manner and to set an example to other franchisees or potential franchisees looking to purchase the franchise rights to operate a Ruby's Diner in a different location.

In fact, the Applicant owns and operates Three (3) other Ruby's Diners in Southern California, all of which have a liquor license and have operated without any material Police, City or ABC issues. Those other locations are as follows:

1. Ruby's Diner- 2305 E. Coast Highway Newport Beach, California (ABC Lic. No. 571402)
2. Ruby's Diner- 30622 Coast Highway Laguna Beach, California (ABC Lic. No 571428)
3. Ruby's Diner- 101 W Avenida Vista Hermosa, Suite 600 San Clemente, California (ABC Lic. No. 573140)

Attached hereto are the California Department of Alcoholic Beverage Control's License Query reports for each of the above locations dated January 14, 2020 which show that no disciplinary or other enforcement actions have been taken against this Applicant since its ownership and operation.

Additionally, the Applicant intends to spend a considerable amount of money-making material improvement to the premises to include the exterior. These improvements will enhance not only the premises but the surrounding businesses as it will likely attract new customers to the area.

In addition, the business will employ 75-100 people, many of them from the immediate neighborhood bring in jobs and additional tax-based revenue for the City. As indicated on the plans provided herewith, the Applicant is providing combination of approximately 45 tables and booths.

DINING CAR (ENCLOSED PATIO)

The applicant proposes sales and consumption of alcoholic beverages on the Dining Car as depicted on the plans submitted herewith. The Dining Car shall be enclosed, and access thereto shall be limited to entry and exit through the restaurant itself. The enclosure shall keep any unauthorized drinks, food or persons from entering or leaving the Dining Car. The Dining Car will be equipped with a panic alarmed exit which shall at all times remain operational and in accordance with fire regulations.

APPLICANT'S VOULTARLIY SUBMITTED CONDITIONS

In the spirit of cooperation, the applicant would like to offer the following voluntary conditions:

- Applicant shall comply with all Federal, State and Local laws, ordinances and codes.
- Applicant shall operate as a Bona Fide Eating Place as defined in California's Business and Profession Code 23038;
- Applicant shall not be permitted to offer live entertainment. Live entertainment shall not include recorded music played through a sound system or playing of televised or recorded programming.
- The premises shall not have a dance floor, nor shall the applicant remove furniture to create a dance floor space at any time.
- The use of night club promoter shall be prohibited.

TRAINING

Applicant shall ensure that all employees, to include but not be limited to servers, bar tenders, bus-persons and management shall receive onsite training related to all aspects of the operation of the business. The Applicant has developed a robust Responsible Alcohol Service (RAS) training program and philosophy. The RAS is extensive in its scope full compliance by each and every member of the Ruby's Diner family must strictly comply with therewith. Applicant's management shall also encourage all employees to attend and State and/or City programs related to the operation of the business, particularly the sale and consumption of alcoholic beverages, such as the State Sponsored LEAD program.

COMMUNITY-CONNECTED

Community is the cornerstone of Ruby's Diner business model. The applicant is dedicated to being a good neighbor, practice good citizenship and respect the surrounding community. The company's policy demands that the restaurant play an integral part of the community in which the restaurant is located. Thus, the location will not only be geared towards families and visitors but will also be aimed towards community groups, charitable organizations, local sport teams, social organizations, the local School Districts(s), local volunteer groups and various other organizations serving Brea. Ruby's Diner prides itself of becoming an integral part of the neighborhood in which it locates and intends carry on that tradition in Brea.

Attached hereto is information regarding the Ruby dooby Foundation and other charitable efforts made by the Applicant.

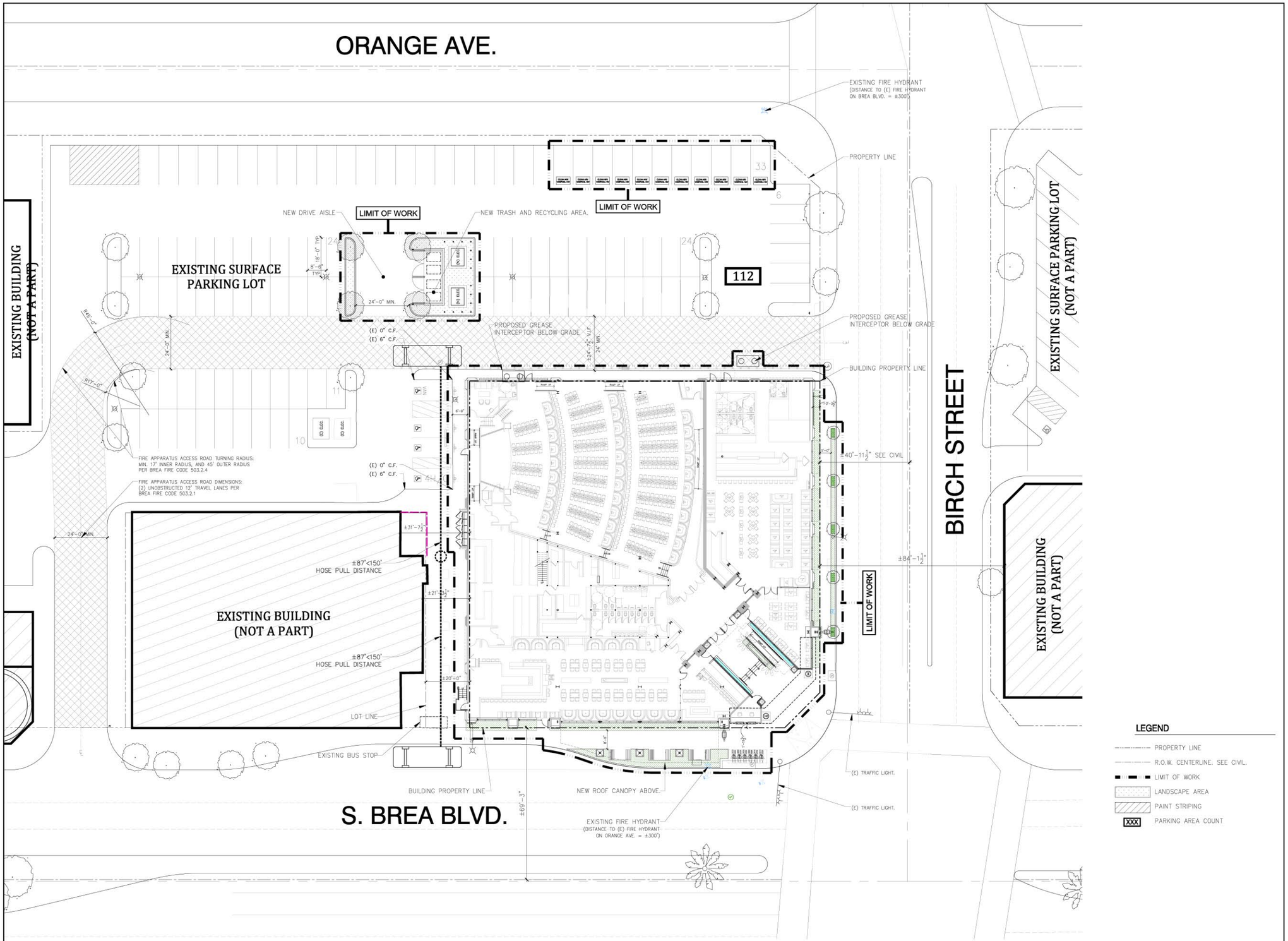
CONCLUSION

In conclusion we look forward to a great working relationship with your office, the City as a whole, the surrounding businesses and the community of Brea residents and employees.

Very truly yours,

MIKE AYAZ

MA/sm



SEE SHEET G006 FOR BUILDING LIFE SAFETY EXITING PLAN

HTH Architects

HTH Architects LLP
3767 Overland Avenue Suite 111
Los Angeles, California 90034
T.310.842.7040 ID 2816 F.310.842.7170

Seal:

Consultant:

A project for:
MANLEY FANTICOLA
330 W. BIRCH ST., SUITE 201,
BREA, CALIFORNIA 92821

Project Name:
180 S. BREA BLVD.
SHELL BUILDING REMODEL

180 S. BREA BLVD.,
BREA, CALIFORNIA 92821

Revisions:

10.12.16	PLANNING REVIEW

Sheet Title:
FIRE MASTER PLAN EXHIBIT

Project No.:	15.491.04
Drawn By:	CM
Checked By:	JH
Date:	10.12.16
Scale:	1/16" = 1'-0"
File Name:	EXH-02.dwg

Sheet Number:
EXH-02

NOT FOR CONSTRUCTION UNLESS SIGNED, STAMPED AND APPROVED BY GOVERNING AGENCIES

City of Brea

PLANNING COMMISSION COMMUNICATION

TO: Honorable Chair and Planning Commission

DATE: 02/25/2020

SUBJECT: CONTINUED FROM JANUARY 28, 2020 PLANNING COMMISSION MEETING: APPEAL OF COMMUNITY DEVELOPMENT DIRECTOR'S DECISION OF CERTIFICATE OF COMPATIBILITY NO. CC 19-02 FOR PROPERTY LOCATED AT 407 S. MAPLE AVE.

REQUEST

Staff recommends the Planning Commission adopt the resolution, denying the appeal and upholding the Community Development Director's approval of Certificate of Compatibility No. CC 19-02.

RECOMMENDATION

Staff recommends the Planning Commission adopt the resolution, denying the appeal and upholding the Community Development Director's approval of Certificate of Compatibility No. CC 19-02.

BACKGROUND/DISCUSSION

SUMMARY

On November 18, 2019 The Community Development Director approved Certificate of Compatibility No. CC 19-02. The application considered the compatibility of land planning, architecture, aesthetics and economic cohesiveness for the construction of a single family residence with a detached structure inclusive of an accessory dwelling unit (ADU) greater than 1,200 square feet. On November 27, 2019, Staff received an application appealing the Community Development Director's decision to the Planning Commission.

Figure1 – Aerial Map

CERTIFICATE OF COMPATIBILITY HEARING 11/18/19

On November 18, 2019 the Community Development Director held a duly noticed public hearing on this application. Staff's assessment of this application was that the project met all the requirements of the R-1 Single Family Residential Zone and that the proposed project was consistent with the findings required for a Certificate of Compatibility. Three members of the public spoke at the hearing, all in opposition of the project. The following items were raised in

the hearing:

- The size of the home, mansionization, and the compatibility of the size to the surrounding neighborhood. – *Staff responded explaining the lot is one of the largest lots in the neighborhood and the proposed project meets all of the development standards. There is no dominant architectural theme of the neighborhood and homes range in architectural styles, sizes, heights, and material finishes.*
- CEQA findings and a lack of analysis on potential environmental and traffic impacts – *Staff cited California Environmental Quality Act section 15303.a (Class 3, New Construction) which qualifies as a categorical exemption for this project.*
- The potential future uses and occupancy of the project – *The Code requires the Property Owner live in either the primary or accessory dwelling unit. The property owner has expressed the intention of living in the primary unit while their mother and mother in law live in the accessory dwelling unit. Additionally, the property is subject to the permitted, conditionally permitted, and prohibited uses under the R-1 Single Family Residential Zone.*
- The Public Noticing process – *Staff sent notices to 61 property owners within a 500' radius of the project site 10 days before the scheduled public hearing, in accordance with the Section 20.408.050 of the Brea City Code.*
- The project's compliance with required setbacks and development standards – *Staff has reviewed the project for compliance with the required development standards in the R-1 Single Family Zone including but not limited to setbacks, lot coverage, and parking.*
- Clarifying if the property is historically designated. – *Staff clarified that the property is not a registered historical resource.*

The Community Development Director and Staff addressed these concerns and provided any needed clarification (see Attachment 6, Meeting Minutes). The Community Development Director approved the project based on the required findings and conditions contained in the Draft Resolution. On November 27, Staff received an application from Setsuko Mori and Hiroshi Ogino, appealing the Community Development Director's decision to the Planning Commission (Attachment 8 – Appeal Application). Subsequently, Staff received a second appeal application from Russel Nowell on December 2, 2019 and a third appeal application after the appeal period ended by Rana and Jason Kim on December 10, 2019 (Attachment 9 – Submitted Correspondence).

BACKGROUND

The subject property is located at 407 Maple Avenue in the R-1 Single Family Residential zone (see Figure 1). The property is approximately 0.5 acres and is currently developed with a single story home (2,168 square feet) and detached structure (1,313 square feet) including an accessory dwelling unit and garage. The applicant, Brett Murdock, is proposing to demolish the existing buildings and rebuild a new, two story single family residence and a detached structure. The Code requires a Certificate of Compatibility for any new single family dwelling and any ADU greater than 1,200 square feet.

DISCUSSION

The applicant is proposing a new 9,464 square foot primary dwelling unit and a 3,891 square foot accessory structure including a garage, home office, and recreation room on the first floor and a 1,938 square foot ADU on the second floor. The project meets or exceeds all development standards for the R-1 Single Family Residential Zone as demonstrated in Table 1.

Table 1 – Development Standards

Development Standards	Required	Proposed
Front Yard Setback	25 feet	25 feet
Side Yard Setback	5 feet	17 feet, 21 feet
Rear Yard Setback (Primary Dwelling)	25 feet, main building may project to within ten (10) feet of the rear property line area.	74 feet
Rear Yard Setback (ADU)	10 feet	10 feet
Rear Yard Lot Coverage	25% maximum	24%
Lot Coverage	35% maximum	33.09%
Height	30 feet maximum	26 feet, 8 inches
Off-street parking	2 covered spaces (primary unit), 1 additional space, covered or uncovered (ADU)	4 covered parking spaces total

CERTIFICATE OF COMPATIBILITY

The Certificate of Compatibility considers the compatibility of residential structures to the existing community character, architecture, aesthetics and cohesiveness within residentially zoned properties in the City. Lots in this neighborhood range from 9,900 square feet to 23,920 square feet. The project site is one of the larger lots in the neighborhood at 20,548 square feet.

Figure 3 – Existing Neighborhood

The existing neighborhood features a mix of homes in various sizes including single story and two story structures. The surrounding neighborhood has no dominant architectural style and features homes in various sizes, heights, material finishes and styles including Mediterranean, Ranch, Spanish, and various Craftsman styles (see Figures 2-4). The proposed project features smooth finish stucco and charcoal grey metal roofing and incorporates castor stone accents. The architecture is a blend of California modern and Ranch style (See Figure 5). The ADU is

consistent with the color and material finishes of the primary dwelling, incorporating the same metal roofing, smooth stucco, and castor stone.

Figure 4 – Existing Neighborhood

The front yard is proposed to be improved with a new driveway approach and decorative paving along the walkway and driveway. The existing trees along the perimeter of the property are proposed to remain. (See Attachment 5 – Plan Submittal Package). The existing masonry block wall along the front yard will remain and be incorporated into the project design (See Figure 6 – Existing Conditions). The Maple Avenue elevation incorporates layered building setbacks and single-story elements, allowing for improved integration with the neighborhood. The project meets all applicable development standards and the design of the home is appropriate and consistent with the aesthetic of the neighborhood and is cohesive with the surrounding homes.

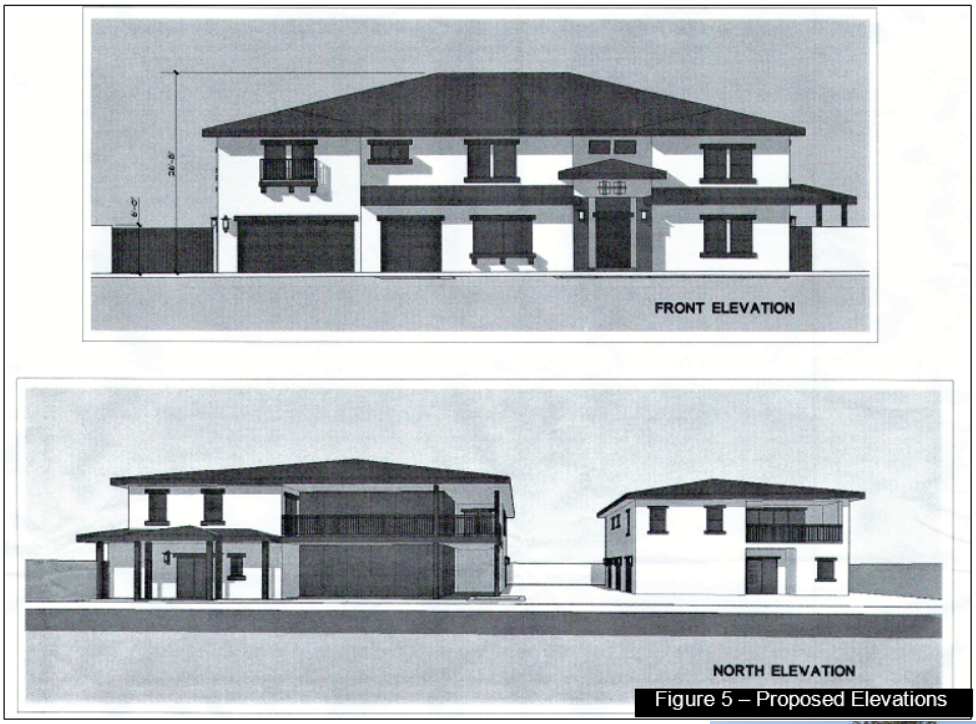
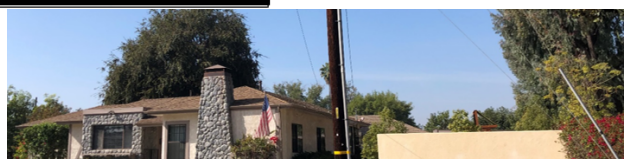


Figure 5 – Proposed Elevations



PUBLIC OUTREACH

Staff sent notices to 61 property owners within a

500-foot radius of the subject property. Staff encouraged the applicant to conduct public outreach in the neighborhood to discuss the proposed project and address any concerns. Staff understands the applicant engaged with several neighbors regarding the proposed project. Prior to the hearing on November 18, 2019, two letters sharing concerns about the project were received by Staff. (Attachment 7).

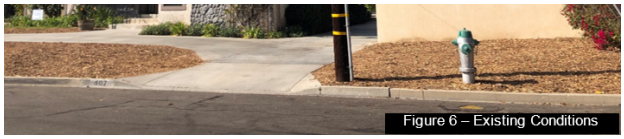


Figure 6 – Existing Conditions

ENVIRONMENTAL ASSESSMENT

In accordance with the California Environmental Quality Act, the proposed project is categorically exempt from the requirement of the California Environmental Quality Act (CEQA) pursuant to Section 15303.a (Class 3, New Construction) of said Act.

RESPECTFULLY SUBMITTED

Jennifer A. Lilley, AICP, City Planner
Prepared by: Paige Montojo, Assistant Planner

Attachments

1. Technical Background
2. Vicinity Map
3. Public Hearing Notice
4. Draft Resolution
5. Plan Submittal Package
6. Certificate of Compatibility Hearing Minutes
7. Submitted Public Comment Prior to Certificate of Compatibility Hearing
8. Appeal Applications
9. Submitted Correspondence

ATTACHMENT 1

TECHNICAL BACKGROUND

Case No:	Certificate of Compatibility No. CC 19-02
Property Location:	407 Maple Avenue
Applicant:	Brett Murdock, Owner 407 Maple Ave Brea, CA 92821
General Plan Designation:	Low Density Residential
Zoning Designation:	R-1 , Single-Family Residential
Adjacent Zoning	
North:	R-3 , Multi-Family Residential
South:	R-1 , Single-Family Residential
West:	R-1 , Single-Family Residential
East:	R-1 , Single-Family Residential
Site and Neighborhood Characteristics:	The subject property is on the north end of Maple Avenue. The neighborhood is made up of single and multi-story single family homes with various architectural styles with no dominant theme.
Public Hearing Notices and Outreach:	61 notices were sent to all property owners within a 500-foot radius of the subject property.

ATTACHMENT 2

SUBJECT PROPERTY AND VICINITY MAP

DATE: February 25, 2020

CASE NO:
Appeal of Certificate of Compatibility No. CC 19-02

CITY OF BREA

notice of public hearing

TO: **Property Owners within a 500-Foot Radius**

FROM: **City of Brea, Community Development Department**

SUBJECT: **Appeal of Community Development Director Decision fo Certificate of Compatibility No. CC 19-02**

NOTICE IS HEREBY GIVEN, pursuant to State Law, that a public hearing will be held at a Planning Commission meeting to determine whether or not the subject request shall be approved under the provisions of State Law and the Brea City Code as follows:

DATE AND TIME OF HEARING: **Tuesday, January 28, 2020, 7:00 p.m.**
All interested persons may appear and be heard at that time.

PLACE OF HEARING: Brea Civic & Cultural Center, Council Chambers
1 Civic Center Circle, Brea, CA 92821

REQUEST: A request to appeal the Community Development Director approval of Certificate of Compatibility No. CC 19-02 for the construction of a new 9,464 square foot single family residence and a 3,891 square foot accessory structure inclusive of a two car garage, recreation room and 1,938 square foot accessory dwelling unit.

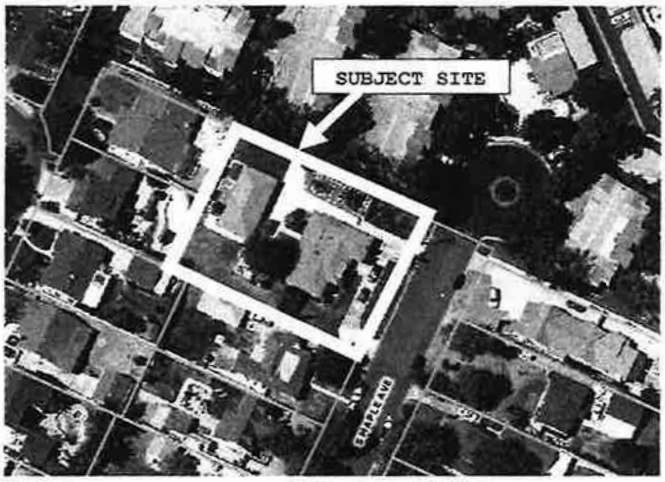
PROPERTY INVOLVED: 407 Maple Ave
Brea, CA 92821

APPLICANT: Brett Murdock
407 Maple Ave
Brea, CA 92821

PROPERTY OWNER: Brett Murdock
407 Maple Ave
Brea, CA 92821

ENVIRONMENTAL INFORMATION: The City of Brea has determined that the proposed project is exempt from requirements of the California Environmental Quality Act, Pursuant to Section 15303(a) of said Act.

AREA MAP:



IF YOU CHALLENGE THE APPEAL OF CERTIFICATE OF COMPATIBILITY NO. CC 19-02 AND/OR THE RELATED ENVIRONMENTAL DETERMINATIONS IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE, DELIVERED TO THE COMMISSION AT, OR PRIOR TO, THE PUBLIC HEARING.

FOR FURTHER INFORMATION ON THIS SUBJECT, PLEASE CONTACT THE PLANNING DIVISION AT (714) 990-7674.

COMMUNITY DEVELOPMENT DEPARTMENT

Jennifer A. Lilley, AICP
City Planner

legalnot.TTM

ATTACHMENT 4

RESOLUTION NO. PC 20-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BREA DENYING AN APPEAL REQUEST AND UPHOLDING THE COMMUNITY DEVELOPMENT DIRECTOR DECISION TO APPROVE CERTIFICATE OF COMPATIBILITY NO. CC 19-02 FOR THE COMPATIBILITY OF A NEW 9,464 SQUARE FOOT SINGLE FAMILY RESIDENCE AND A 3,891 SQUARE FOOT ACCESSORY STRUCTURE INCLUSIVE OF A 1,938 SQUARE FOOT ACCESSORY DWELLING UNIT

A. RECITALS.

(i) On November 18, 2019, the Community Development Director of the City of Brea approved Certificate of Compatibility No. CC 19-02, a request from Brett Murdock to construct a new single family home and accessory dwelling unit greater than 1,200 square feet.

(ii) An appeal of the Community Development Director decision in the above-referenced action was filed in a timely manner as dictated by law.

(iii) The Planning Commission of the City of Brea has reviewed the appeal application as a public hearing item and concluded said matter on that date.

(iv) The appellant for the action referenced in (i) above is Setsuko Mori and Hiroshi Ogino , 406 South Pine Avenue, Brea, California, 92821.

(v) The subject property is located at 407 Maple Avenue, in the City of Brea, and legally described as a portion of Map Book 248, Page 19, Block 191, Parcel 23, as shown in the latest rolls of the County of Orange Tax Assessor.

(vi) The project proponent and property owner, is Brett Murdock, 407 Maple Ave, Brea, CA 92821.

(vii) The property is zoned R-1 , Single-Family Residential zone and designated as Low Density Residential in the General Plan land use element in accordance with Chapter 20.208 and 20.408 of the Brea City Zoning Code.

(viii) All legal prerequisites to the adoption of this Resolution have occurred.

B. RESOLUTION.

NOW, THEREFORE, BE IT FOUND, DETERMINED AND RESOLVED by the Planning Commission of the City of Brea, as follows:

1. In all respects as set forth in Recitals, Part A, of this Resolution.

2. It is hereby found that the Certificate of Compatibility application for the location set forth are authorized by Sections 20.208 and 20.408.050 of the Brea Zoning Ordinance, as amended.

3. The Planning Commission further finds in denying this appeal request as follows:

a. Finding: That the proposed structure, mobile or manufactured home is properly designed and complies with the requirements of the zone in which it is proposed.

Fact: The project meets all development standards for the R-1 Single Family Residential Zone. New single family residence and accessory dwelling units greater than 1,200 square feet are permitted in this zone subject to review and approval of a Certificate of Compatibility.

b. Finding: That the proposed structure, mobile or manufactured home, with any conditions to be imposed, is in harmony with the various elements or objectives of the General Plan and is not economically or aesthetically detrimental to

existing or previously approved uses, structures or mobile homes within the surrounding area.

Fact: The project fulfills General Plan policy 3.5 which encourages and facilitates the provisions of second units in existing and new development as a form of multi-generational housing. The project fulfills General Plan Goal 3.0 which provides adequate housing sites to accommodate Brea's share of Regional Housing growth needs. The proposed project, with Conditions as stated herein, is in harmony with the various goals, policies and objectives of the General Plan and is not economically or aesthetically detrimental to existing uses and structures with the surrounding area.

c. Finding: That the proposed structure, mobile or manufactured home is aesthetically compatible with the other uses, structures, and mobile homes in the surrounding area.

Fact: The proposed structures feature a mix of Ranch and California modern styles and complement each other in color and material finish. The surrounding neighborhood has no dominant architectural style and features homes in various sizes, heights, material finishes and styles including Mediterranean, Ranch, Spanish, and various Craftsman styles. The design, scale, massing and site layout is consistent with the adjacent single and multifamily structures. The architectural style is complementary to the surrounding homes and is consistent with the various design styles found in the neighborhood.

4. It is hereby found that the project identified above in this Resolution is categorically exempt from the requirements of the California Environmental Quality Act of 1970, as

amended, and Guidelines promulgates there under pursuant to Section 15303 Class 3(a) of Division 6 of Title 14 of the California Code of Regulations.

5. Certificate of Compatibility No. CC 19-02 is hereby approved, subject to conditions as set forth herein:

a. The development at the site shall occur in substantial conformance with the plans as contained in Exhibit "A" of this application and dated November 18, 2019 which includes a site plan, floor plans, elevations, colors & materials, and the conditions contained herein, any law, statute, ordinance, and all applicable City regulations, subject to changes of conditions. Any changes to the approved plans are subject to the review and approval of the Community Development Director.

b. All designs shall comply with the Codes adopted at the time of permit submittal. Currently the 2016 California Building and Fire Codes have been adopted by Brea. The 2019 California Codes will apply starting January 2020.

c. Architectural Plans submitted for building plan check shall show the proposed buildings to contain sprinklers throughout.

d. The fire flow required for this property shall be a minimum of 1250 GPM at 20 psi for two hours, or as approved by the fire code official at the time of plan submittal.

e. At time of permit submittal, applicant shall provide complete sets of plans that include architectural details, structural calculations, Title 24 Energy Design, CA Green Code compliance.

f. The project shall be equipped with fire sprinklers in accordance with the 2016 CDC, Section 903.2.8. Fire sprinkler systems design shall conform to CFC 903.3.1.3 (NFPA 13D).

g. The fire flow required per 2016 CFC Appendix B, Table B105.1(1) is 1000 gpm at 20psi for 1 hour. A fire flow test demonstrating required fire flow shall be performed and witnesses by the Brea Fire Department prior to the issuance of any building permits.

h. Architectural plans submitted for building plan check shall demonstrate the exterior walls of all structures is no greater than 150 feet of hose lays.

i. Prior to the issuance of occupancy, the Property Owner shall install the following public improvements. Prior to installation for any public improvements, the Property owner shall obtain an encroachment permit through the Engineering Division. All construction in the public right of way shall be performed by a "C-8" or "A" licensed contractor

(i) The property owner shall replace the existing northerly driveway in its entirety with curb and gutter.

(ii) The proposed southerly driveway shall be constructed per latest City of Brea Standard.

(iii) The relocation of the water service meter shall be per the latest City of Brea Standard. The existing water meter and lateral shall be abandoned and approved in the field by the City Inspector.

(iv) The sewer lateral connection shall be installed per the latest City of Brea Standard.

6. The secretary of this Commission shall certify to the adoption of this Resolution; and, forthwith transmit a copy of said Resolution to the city Council

ADOPTED AND APPROVED this 28th day of January 2020.

_____
Chairman, Planning Commission

I, Jennifer Lilley, Secretary to the Planning Commission of the City of Brea, do hereby certify that the foregoing Resolution was introduced at a regular meeting of the Planning Commission of the City of Brea held on the 28th day of January, 2020, and was finally passed at a regular meeting of the Planning Commission of the City of Brea, held on the 28th day of January, 2020, by the following votes:

AYES: COMMISSIONERS:

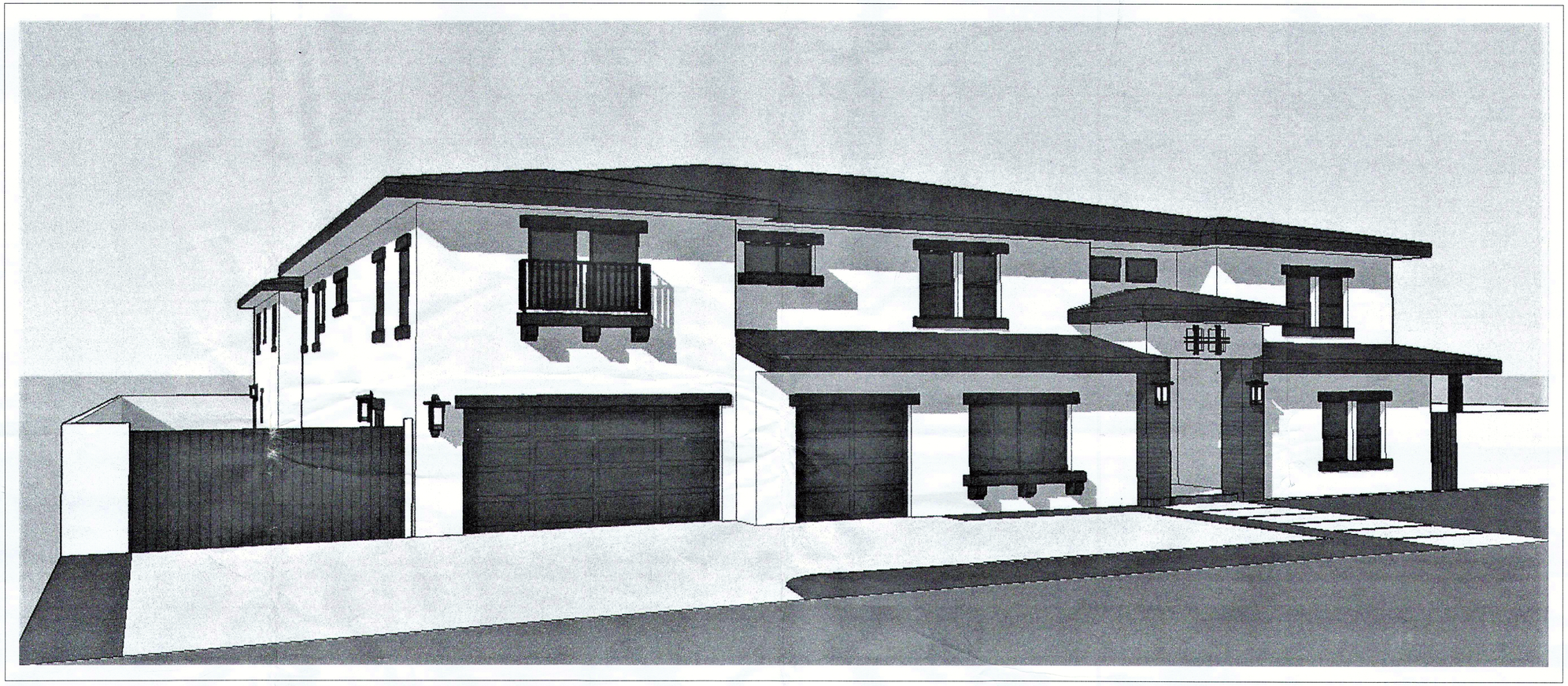
NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ATTEST: _____
Secretary, Planning Commission

ATTACHMENT 5



MURDOCK RESIDENCE

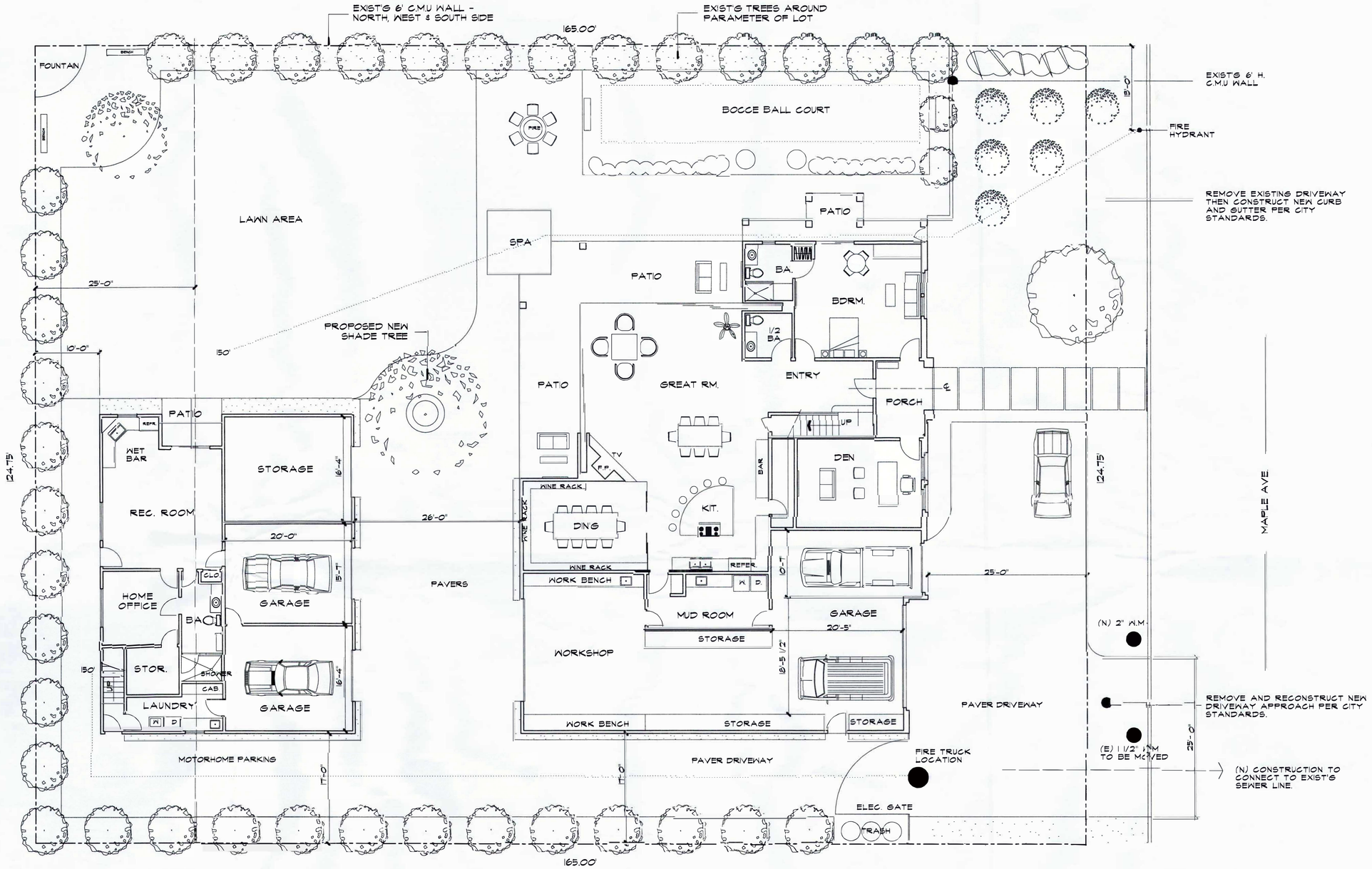
407 S. MAPLE AVE. BREA, CALIFORNIA 92821

SCHNEITZER
ARCHITECTS
1400 W. LAMBERT RD
SUITE E
BREA, CA 92821

TEL:714.505.3998
dschneitzer@prodigy.net

MURDOCK RESIDENCE

407 S. MAPLE AVE. BREA, CALIFORNIA 92821



SCHWEITZER ARCHITECTS
1400 W. LAMBERT RD
SUITE E
BREA, CA 92821

TEL:714.305.3998
dschweitzer@prodigy.net

DATA:

LOT SIZE: 20,584 SF

LOT COVERAGE: 4,875 SF (PRIMARY RESIDENCE), 1,938 SF (ADU) = 6,813 TOTAL (33.09% LOT COVERAGE)

HABITABLE SQUARE FOOTAGES: PRIMARY RESIDENCE: 2,655 SF FIRST FLOOR, 3,728 SF SECOND FLOOR = 6,383 SF TOTAL
ACCESSORY DWELLING UNIT (ADU): 1,714 SF (26.8% OF MAIN RESIDENCE)
OFFICE / REC. ROOM: 930 SF
TOTAL HABITABLE SF FOR ENTIRE PROJECT: 9,027 SF

TOTAL SQUARE FOOTAGES: PRIMARY RESIDENCE: 4,875 SF FIRST FLOOR, 4,589 SF SECOND FLOOR = 9,464 SF TOTAL
SECOND FLOOR ACCESSORY DWELLING UNIT (ADU): 1,938 SF
FIRST FLOOR OFFICE / REC. ROOM / GARAGES: 1,953 SF
TOTAL SF FOR ENTIRE PROJECT: 13,355 SF

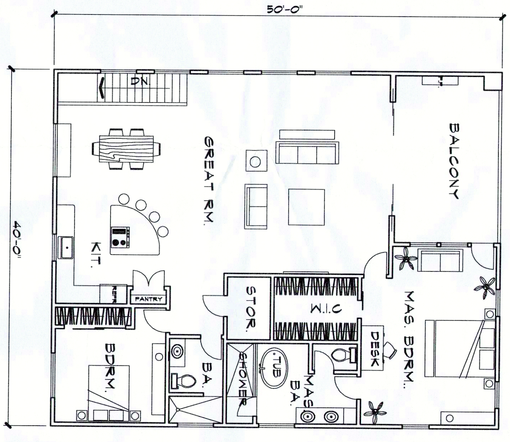
REAR YARD COVERAGE ALLOWANCE: 25' X 124.76' = 31 19 SF X 25% = 780 SF ALLOWED. 750 SF PROPOSED.

GROUND FLOOR FLOOR PLANS W/ SITE PLAN

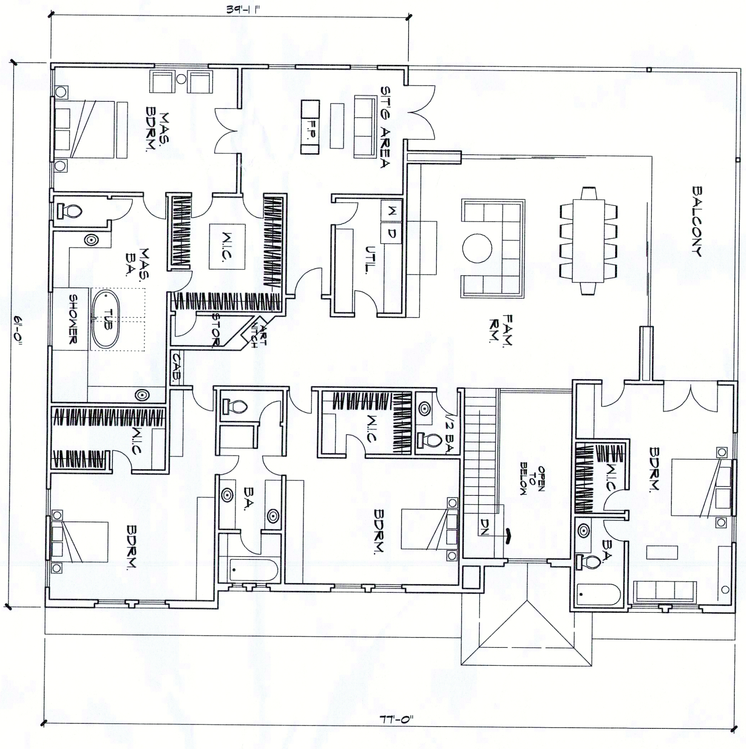
SCALE: 1/8" = 1'-0"

LANDSCAPING NOTE:
LANDSCAPING DEPICTED IS EITHER EXISTING OR PLANNED. A LANDSCAPE ARCHITECT WILL BE HIRED FOR THE FINAL DESIGN.

SCHMETZER
ARCHITECTS
400 N. LAMBERT RD
SUITE E
BREA, CA 92821
TEL: 714.505.5946
dschmetzer@prodigy.net



ACCESSORY DWELLING UNIT (A.D.U.)



MAIN RESIDENCE

SECOND FLOOR PLANS

SCALE: 1/8" = 1'-0"

MURDOCK RESIDENCE

407 S. MAPLE AVE. BREA, CALIFORNIA 92821

MURDOCK RESIDENCE

407 S. MAPLE AVE. BREA, CALIFORNIA 92821

FRONT ELEVATION

NORTH ELEVATION

AERIAL VIEW

SCHWEITZER ARCHITECTS
1400 W. LAMBERT RD
SUITE E
BREA, CA 92821

TEL-714.505.3998
dschweitzer@prodigy.net

CERTIFICATE OF COMPATIBILITY HEARING

CC 19-02 407 Maple
November 18, 2019

4:00 p.m. - Executive Conference Room, Level 3

---

1. CALL TO ORDER

Director Crabtree called the meeting to order at 4:00 pm and explained the process of the Hearing.

Assistant Planner Montojo gave a presentation for the project.

2. PUBLIC HEARING

Director Crabtree opened the comment portion of the Public Hearing:

- **Russell Nowell** - Opposes the project and shared concerns regarding fire safety, the size of the home and compatibility with the neighborhood, traffic and potential use of the site, the CEQA determination and the timing of the Public Hearing notice.
- **Setsuko Mori** – Submitted a letter to Director Crabtree last week and read the letter into the record (see attached). She wants no action taken until a legal matter between she and the applicant is resolved. She also has concerns with the electrical lines. She sked why the City is supporting the project.
- **Don Schultz** – Read aloud the email he sent to the City Planner earlier today (see attached). Has concerns with the Public Hearing noticing being received late and requested the hearing be continued and held in the evening. Additional concerns: CEQA, setbacks, historic district, land use permit and who will occupy the building.
- **Don Schweitizer,** the applicant representative – thanked staff for their presentation and had no further comment to add.

Director Crabtree provided the applicant representative, Mr. Schweitzer, an opportunity to rebut or respond to any of the comments provided and he noted nothing more to add. Director Crabtree closed the Public Hearing.

Staff responded to issues raised as follows:

Assistant Planner Montojo said the project meets all development standards and the City did a 500' radius mailing vs. the state legal requirement of 300'.

Senior Planner Tinio stated the project meets the requirements under the CEQA guidelines for section 15303. She confirmed the property is not in any Historic district. Planner Tinio further explained staff's role in reviewing the project against the code and then making a recommendation to the Hearing Officer based on findings.

In response to Ms. Mori's letter of November 14, 2019 Director Crabtree noted he had spoken with the City Attorney's office who said the litigation between the two parties would not provide basis to postpone this Hearing. The City would not have a role to adjudicate the

private litigation and must base its hearing decision on the legal findings required. Director Crabtree explained the City reviews the private application to make sure it meets all development standards and zoning codes.

Director Crabtree approved the project based on the required findings and conditions contained in Staff's draft resolution.

Meeting adjourned at 4:38 pm.

David Crabtree
Community Development Director

ATTEST:

Paige Montojo
Assistant Planner

ATTACHMENT 7

David Crabtree
Community Development Director
1 Civic Center Circle
Brea, CA 928211

cc: Jennifer Lilley, City Planner, Melanie Schlotterbeck, Planning Commission Chair

Mr. Crabtree,

With this correspondence I am providing you with copies of an unresolved judgement against Mr. Brett Murdock. I believe it is premature and inappropriate to conduct the public hearing on Mr. Murdock's application scheduled for November 18. Until the open legal matters are fully resolved by Mr. Murdock's
compliance with the court's decision, no other action should be taken by the City of Brea.

Regards,

Sue Mori and Hiroshi Ogino 11/14/19

Attachment: Judgment Against Murdock

ELECTRONICALLY RECEIVED
Superior Court of California,
County of Orange
05/14/2019 at 04:00:41 PM
Clerk of the Superior Court
By Stacy Secours,Deputy Clerk

Russell P. Nowell, Esq. (SBN 132280)
Law Office of Russell P. Nowell
1440 N. Harbor Blvd., Suite 900
Fullerton, CA 92835

714-671-3030

russ.nowell@gmail.com

Attorneys for Plaintiffs Setsuko Mori and Hiroshi Ogino

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER
JUN 13 2019
DAVID H YAMASAKI, Clerk of the Court
BY: _____, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

Setsuko Mori and Hiroshi Ogino,

Plaintiffs,

vs.

Brett Murdock, Veronica Murdock, California Bank and Trust, a California Corporation, and all persons unknown claiming any legal or equitable right, title, estate, lien, or interest in the property described in the complaint adverse to plaintiffs' title, or any cloud on plaintiffs' title thereto, ~~and DOES 1-20,~~

Defendants.

Case 30-2017-00921063-CU-OR-CJC

Assigned to the Hon. Geoffrey Glass Dept. C32

[Proposed]

Judgment

Complaint filed: May 18, 2017

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

This Court, having taken the above-entitled matter under submission on January 30, 2019 and having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, hereby quiets the title to the disputed land and enters judgment on each cause of action as follows:

A. Complaint for Quiet Title.

On the cause of action for quiet title, judgment is entered for plaintiffs Setsuko Mori and Hiroshi Ogino and against defendants Brett Murdock, Veronica Murdock, and California Bank and Trust as follows:

1. An equitable easement is granted permitting Setsuko Mori and Hiroshi Ogino as record owners of 406 Pine Avenue, Brea, California, the exclusive use and possession of that portion of the real property in line with the block wall on the Northern side of their property to the West, extending the line of the South face of that wall to the East for about 15' to the point along the line of the Easterly property line near the Northeasterly Corner of their lot. This equitable easement shall be granted against any rights of possession or use by the record owners of the lot at 407 Maple Avenue, to the Northeast. The legal description of 406 Pine Avenue is attached as Appendix A. The legal description of 407 Maple Avenue is attached as Appendix B. The legal description of the area of the equitable easement is attached as Appendix C.

2. Setsuko Mori and Hiroshi Ogino must pay $2000 to Brett Murdock and Veronica Murdock as the reasonable value of the equitable easement granted by the Court. The real property at 406 Pine Avenue shall enjoy an equitable easement which runs with the land, and does not expire upon transfer or sale of the real property at 406 Pine Avenue, Brea, California.

3. Brett Murdock is ordered to remove the section of block wall that is in and upon the property granted as an equitable easement within 45 days of the entry of judgment at his own cost and expense. Any rebuilt wall shall not intrude in or upon the property subject to the equitable easement granted herein.

4. This judgment on the quiet title cause of action only effects California Bank & Trust as to issues of title and possession of the real property at 407 Maple Avenue against which they have a secured lien. They have no obligations under the judgment.

5. The Court finds that neither party prevailed on this cause of action for purposes of costs or attorney's fees.

B. Complaint for Trespass.

On the cause of action for trespass by Setsuko Mori and Hiroshi Ogino against Brett Murdock and Veronica Murdock, the Court enters judgment for Setsuko Mori and Hiroshi Ogino and against Brett Murdock as follows:

1. Brett Murdock trespassed against the quiet possession of property of Setsuko Mori and Hiroshi Ogino.

2. The Court awards $500 in damages to be paid by Brett Murdock to Setsuko Mori and Hiroshi Ogino jointly.

3. The Court finds that neither party prevailed on this cause of action for purposes of costs or attorney's fees. The Court does not award punitive damages on this cause of action.

C. Cross-Complaint for Trespass.

On the cause of action for trespass alleged by Brett Murdock and Veronica Murdock against Setsuko Mori and Hiroshi Ogino, the Court enters judgment for Setsuko Mori and Hiroshi Ogino and against Brett Murdock and Veronica Murdock as follows:

1. The cross-defendants Setsuko Mori and Hiroshi Ogino did not trespass against the cross-complainants Brett Murdock and Veronica Murdock.

2. Because judgment is for cross-defendants on this cause of action, no damages are awarded.

3. The Court finds that neither party prevailed on this cause of action for purposes of costs or attorney's fees.

IT IS SO ORDERED.

Dated: June 13, 2019

Judge of the Superior Court

GEOFFREY T. GLASS

Appendix A

The legal description of 406 Pine Avenue, Brea, California, is as follows:

The Westerly 165 feet of that portion of Lot 5 of Tract No. 79, as shown on a Map recorded in Book 10, page 28, of Miscellaneous Maps, records of Orange County, California, described as follows:

Beginning at the most Northerly corner of Lot 1 of Tract No. 651, as shown on a Map recorded in Book 24, at page 31 of Miscellaneous Maps, records of Orange County,California, and running thence South 65° 50' East along the Northeasterly line of Tract No. 651, 345 feet to the center line of Maple Avenue as shown on said Map; thence North 24° 09' 30" East along the Northeasterly extension of the center line of said Maple Avenue, 124.25 feet; thence North 65° 50' West parallel with the Northeasterly line of said Tract No.

651, 345 feet to the Northwesterly line of Lot 5 of said Tract No. 79; thence South 24° 09' 30" West along the Northeasterly line of said Lot 5, 124.25 feet to the point of beginning.

EXCEPTING therefrom the Southwesterly 62.25 feet thereof.

EXCEPTING also, therefrom the Westerly 30 feet of said lot included in Pine Street.

Appendix B

The legal description of the July 15, 2015 Grant Deed to 407 Maple Avenue, Brea, California, is as follows:

That portion of Lot 5 of Tract No. 79, as shown on a Map thereof recorded in Book 10, Page 128 of Miscellaneous Maps, records of said Orange County, described as follows:

Beginning at a point in the Northwesterly line of said Lot 5, distant thereon North 24° 12' 14" East 124.25 feet from the most Northerly corner of Lot 1 of Tract No. 651 as shown on a map thereof recorded in Book 24, Page 31 of Miscellaneous Maps, records of said Orange County, running thence South 65° 47' 46" East parallel with the East line of Maple Street as shown on said map of Tract No. 651, 150 feet to the True Point of Beginning of this description, Thence North 24° 12' 14" East parallel with the East line of Maple Street as shown on said Map of Tract No. 651, 124.75 feet; Thence South 65° 47' 46" East parallel with the East line of Maple Street as shown on said Map of Tract No. 651, 195.10 feet to a point on the Northeasterly extension of the Center Line of South Maple Avenue, as shown on said Map of Tract No. 651; Thence South 24° 12' 14" West parallel with the East line of Maple Street, 124.25 feet; Thence North 65° 47' 46" West 195.10 feet to the True Point of Beginning.

Appendix C

The legal description of the property to which an equitable easement is granted in favor of the owners of 406 Pine Avenue, Brea, California, is as follows:

A strip of property in line with the south face of the East-West block wall constructed along the Western part near the Northerly property line of 406 Pine Avenue, commencing at a point about 14.5" from the monument at about the 120' marker on the Northeasterly Property line of 406 Pine Avenue in a northerly direction perpendicular to the Northeasterly property line, and continuing Easterly from that point parallel to the Northeasterly property line of 406 Pine Avenue for a distance of 15 feet, thence Southerly about 14.5" in a direction parallel with the Easterly property line of 406 Pine Avenue.

PROOF OF ELECTRONIC SERVICE

I declare that I am a resident of or employed in the County of Orange, State of California.

I am over the age of 18 years.

The name and address of my business is Law Office of Russell P. Nowell, 1440 N. Harbor Blvd., Suite 900, Fullerton, CA 92835.

On May 6, 2019, I served the Proposed Judgment in Case No. 30-2017-00921063-CU-OR-CJC on the parties listed below by electronic service (e-mail) - I served a copy of the above-listed document(s) by transmitting via electronic mail (e-mail) to the electronic service address(es) listed below on the date indicated. (May be used only if the party being served has electronically filed a document with the Court.)

Brett Murdock, Attorney for Defendants, 324 South Brea Blvd., Brea, CA 92821 brett@brettmurdock.com, Notification Sent - 5/6/2019 4:37 PM PT, and brettmurdock1@gmail.com, Notification Sent - 5/6/2019 4:37 PM PT, through the One Legal eServe process.

Additional service was made of this additional copy refiled as of May 14, 2019, at or about 4 pm, through One Legal eServe to:

Brett Murdock, Attorney for Defendants, 324 South Brea Blvd., Brea, CA 92821 brett@brettmurdock.com and to brettmurdock1@gmail.com.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on May 14, 2019, at Brea, California.

/s/_____

Russell P. Nowell

Crabtree, David

From: ken schultz <kenner8or@earthlink.net>
Sent: Sunday, November 17, 2019 6:56 PM
Cc: Gallardo, Bill; Marick, Christine; Crabtree, David; Parker, Glenn; Simonoff, Marty; Vargas, Steven
Subject: Consideration of Certificate of Compatibility No. CC 19-02

Good Morning Jennifer,

This email meant to be addressed to Jennifer Lilley, for some reason I can not find an email address for her. I don't know why, I would think she should be listed.
Would one of you that were CC'd please forward this on to Jennifer.

This "notice of public hearing" letter was received in the mail at 4pm, Tuesday the 11th by me and a few other of my neighbors. Monday was a Holiday in remembrance of Veterans day. It involves the property at 407 Maple, owned by Brett Murdock. He has "requested to construct a new 9464 square foot single family residence and a 3891 square foot accessory structure inclusive of a two car garage, recreation room and 1938 square foot accessory dwelling unit". Why was there such short notice given to me and my neighbors? The meeting is scheduled for November 18, 2019 at 4pm. There are at least three of my neighbors that won't be able to attend due to prior engagements. This, in my opinion, does not represent good Community Outreach. My neighbors and I are requesting that this meeting be postponed until after Thanksgiving and please schedule it for 7pm. That way they will be able to attend without missing any work.

- Are we going to have a hearing before the buildings at 407 Maple are demolished? Not like the houses at Cedar and Elm.
- Is the 3891 square foot accessory structure inclusive of a two car garage going to be used for commercial intent.....like a law office?
- This may be legal that we received this notice 4 business days before the meeting but it is not appropriate.
- I feel like I am being pushed/ram rodded into project acceptance.

Respectfully,

Ken Schultz
412 Maple Ave.

ATTACHMENT 8

City of Brea

APPEAL APPLICATION

RECEIVED
NOV 27 2019
OFFICE OF THE CITY CLERK

Note: An appeal must be filed within ten days of the action being appealed.
Filing Fee: $ 50 - Brea Residents
$375 - Any others - Deposit against hourly charge of Adopted Hourly Rates

APPELLANT: **Name:** Setsuko Mori and Hiroshi OGINO
Address: 406 S. Pine Ave., Brea, Ca 92821
Telephone: (714)529-5553

ACTION BEING APPEALED: (Case No.; Property Location; Deciding Body) CC 19-02
407 S. Maple Ave., Brea Ca 92821
Approved by planning director, Mr. David Crabtree, on November 18, 2019

DATE OF ACTION BEING APPEALED: 11/18 2019

SPECIFIC BASIS FOR THIS APPEAL: Existence of unresolved open judgment against the applicant, Mr. Brett Murdock
Unless unresolved open judgment against the applicant encumbering the property is fully resolved, CC should be tabled to have the civil action run it's course.
The judgment is attached.

DATED: 11/27 '19 **SIGNATURE:** S. Mori

Please return this application to the Office of the City Clerk.

++++++

ELECTRONICALLY RECEIVED
Superior Court of California,
County of Orange
05/14/2019 at 04:00:41 PM
Clerk of the Superior Court
By Stacy Secoura,Deputy Clerk

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER
JUN 13 2019
DAVID H YAMASAKI, Clerk of the Court
BY: _____, DEPUTY

Russell P. Nowell, Esq. (SBN 132280)
Law Office of Russell P. Nowell
1440 N. Harbor Blvd., Suite 900
Fullerton, CA 92835

714-671-3030

russ.nowell@gmail.com

Attorneys for Plaintiffs Setsuko Mori and Hiroshi Ogino

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

Setsuko Mori and Hiroshi Ogino,

Plaintiffs,

vs.

Brett Murdock, Veronica Murdock, California Bank and Trust, a California Corporation, and all persons unknown claiming any legal or equitable right, title, estate, lien, or interest in the property described in the complaint adverse to plaintiffs' title, or any cloud on plaintiffs' title thereto~~, and DOES 1-20,~~

Defendants.

Case 30-2017-00921063-CU-OR-CJC

Assigned to the Hon. Geoffrey Glass Dept. C32

[Proposed]

Judgment

Complaint filed: May 18, 2017

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

This Court, having taken the above-entitled matter under submission on January 30, 2019 and having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, hereby quiets the title to the disputed land and enters judgment on each cause of action as follows:

A. Complaint for Quiet Title.

On the cause of action for quiet title, judgment is entered for plaintiffs Setsuko Mori and Hiroshi Ogino and against defendants Brett Murdock, Veronica Murdock, and California Bank and Trust as follows:

1. An equitable easement is granted permitting Setsuko Mori and Hiroshi Ogino as record owners of 406 Pine Avenue, Brea, California, the exclusive use and possession of that portion of the real property in line with the block wall on the Northern side of their property to the West, extending the line of the South face of that wall to the East for about 15' to the point along the line of the Easterly property line near the Northeasterly Corner of their lot. This equitable easement shall be granted against any rights of possession or use by the record owners of the lot at 407 Maple Avenue, to the Northeast. The legal description of 406 Pine Avenue is attached as Appendix A. The legal description of 407 Maple Avenue is attached as Appendix B. The legal description of the area of the equitable easement is attached as Appendix C.

2. Setsuko Mori and Hiroshi Ogino must pay $2000 to Brett Murdock and Veronica Murdock as the reasonable value of the equitable easement granted by the Court. The real property at 406 Pine Avenue shall enjoy an equitable easement which runs with the land, and does not expire upon transfer or sale of the real property at 406 Pine Avenue, Brea, California.

3. Brett Murdock is ordered to remove the section of block wall that is in and upon the property granted as an equitable easement within 45 days of the entry of judgment at his own cost and expense. Any rebuilt wall shall not intrude in or upon the property subject to the equitable easement granted herein.

4. This judgment on the quiet title cause of action only effects California Bank & Trust as to issues of title and possession of the real property at 407 Maple Avenue against which they have a secured lien. They have no obligations under the judgment.

5. The Court finds that neither party prevailed on this cause of action for purposes of costs or attorney's fees.

B. Complaint for Trespass.

On the cause of action for trespass by Setsuko Mori and Hiroshi Ogino against Brett Murdock and Veronica Murdock, the Court enters judgment for Setsuko Mori and Hiroshi Ogino and against Brett Murdock as follows:

1. Brett Murdock trespassed against the quiet possession of property of Setsuko Mori and Hiroshi Ogino.

2. The Court awards $500 in damages to be paid by Brett Murdock to Setsuko Mori and Hiroshi Ogino jointly.

3. The Court finds that neither party prevailed on this cause of action for purposes of costs or attorney's fees. The Court does not award punitive damages on this cause of action.

C. Cross-Complaint for Trespass.

On the cause of action for trespass alleged by Brett Murdock and Veronica Murdock against Setsuko Mori and Hiroshi Ogino, the Court enters judgment for Setsuko Mori and Hiroshi Ogino and against Brett Murdock and Veronica Murdock as follows:

1. The cross-defendants Setsuko Mori and Hiroshi Ogino did not trespass against the cross-complainants Brett Murdock and Veronica Murdock.

2. Because judgment is for cross-defendants on this cause of action, no damages are awarded.

3. The Court finds that neither party prevailed on this cause of action for purposes of costs or attorney's fees.

IT IS SO ORDERED.

Dated: June 13, 2019

Judge of the Superior Court

GEOFFREY T. GLASS

Appendix A

The legal description of 406 Pine Avenue, Brea, California, is as follows:

The Westerly 165 feet of that portion of Lot 5 of Tract No. 79, as shown on a Map recorded in Book 10, page 28, of Miscellaneous Maps, records of Orange County, California, described as follows:

Beginning at the most Northerly corner of Lot 1 of Tract No. 651, as shown on a Map recorded in Book 24, at page 31 of Miscellaneous Maps, records of Orange County,California, and running thence South 65° 50' East along the Northeasterly line of Tract No. 651, 345 feet to the center line of Maple Avenue as shown on said Map; thence North 24° 09' 30" East along the Northeasterly extension of the center line of said Maple Avenue, 124.25 feet; thence North 65° 50' West parallel with the Northeasterly line of said Tract No.

651, 345 feet to the Northwesterly line of Lot 5 of said Tract No. 79; thence South 24° 09' 30" West along the Northeasterly line of said Lot 5, 124.25 feet to the point of beginning.

EXCEPTING therefrom the Southwesterly 62.25 feet thereof.

EXCEPTING also, therefrom the Westerly 30 feet of said lot included in Pine Street.

Appendix B

The legal description of the July 15, 2015 Grant Deed to 407 Maple Avenue, Brea, California, is as follows:

That portion of Lot 5 of Tract No. 79, as shown on a Map thereof recorded in Book 10, Page 128 of Miscellaneous Maps, records of said Orange County, described as follows:

Beginning at a point in the Northwesterly line of said Lot 5, distant thereon North 24° 12' 14" East 124.25 feet from the most Northerly corner of Lot 1 of Tract No. 651 as shown on a map thereof recorded in Book 24, Page 31 of Miscellaneous Maps, records of said Orange County, running thence South 65° 47' 46" East parallel with the East line of Maple Street as shown on said map of Tract No. 651, 150 feet to the True Point of Beginning of this description, Thence North 24° 12' 14" East parallel with the East line of Maple Street as shown on said Map of Tract No. 651, 124.75 feet; Thence South 65° 47' 46" East parallel with the East line of Maple Street as shown on said Map of Tract No. 651, 195.10 feet to a point on the Northeasterly extension of the Center Line of South Maple Avenue, as shown on said Map of Tract No. 651; Thence South 24° 12' 14" West parallel with the East line of Maple Street, 124.25 feet; Thence North 65° 47' 46" West 195.10 feet to the True Point of Beginning.

Appendix C

The legal description of the property to which an equitable easement is granted in favor of the owners of 406 Pine Avenue, Brea, California, is as follows:

A strip of property in line with the south face of the East-West block wall constructed along the Western part near the Northerly property line of 406 Pine Avenue, commencing at a point about 14.5" from the monument at about the 120' marker on the Northeasterly Property line of 406 Pine Avenue in a northerly direction perpendicular to the Northeasterly property line, and continuing Easterly from that point parallel to the Northeasterly property line of 406 Pine Avenue for a distance of 15 feet, thence Southerly about 14.5" in a direction parallel with the Easterly property line of 406 Pine Avenue.

PROOF OF ELECTRONIC SERVICE

I declare that I am a resident of or employed in the County of Orange, State of California.

I am over the age of 18 years.

The name and address of my business is Law Office of Russell P. Nowell, 1440 N. Harbor Blvd., Suite 900, Fullerton, CA 92835.

On May 6, 2019, I served the Proposed Judgment in Case No. 30-2017-00921063-CU-OR-CJC on the parties listed below by electronic service (e-mail) - I served a copy of the above-listed document(s) by transmitting via electronic mail (e-mail) to the electronic service address(es) listed below on the date indicated. (May be used only if the party being served has electronically filed a document with the Court.)

Brett Murdock, Attorney for Defendants, 324 South Brea Blvd., Brea, CA 92821 brett@brettmurdock.com, Notification Sent - 5/6/2019 4:37 PM PT, and brettmurdock1@gmail.com, Notification Sent - 5/6/2019 4:37 PM PT, through the One Legal eServe process.

Additional service was made of this additional copy refiled as of May 14, 2019, at or about 4 pm, through One Legal eServe to:

Brett Murdock, Attorney for Defendants, 324 South Brea Blvd., Brea, CA 92821 brett@brettmurdock.com and to brettmurdock1@gmail.com.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on May 14, 2019, at Brea, California.

/s/_____

Russell P. Nowell

Appeal Application Attachment

RECEIVED
DEC 02 2019
OFFICE OF THE
CITY CLERK

December 2, 2019

Applicant:
Setsuko Mori and Hiroshi Ogino
406 S. Pine Ave.
Brea, CA 92821
714-529-5553

Action being appealed:
Certificate of Compatibility No. CC 19-02
407 S. Maple Ave., Brea CA 92821
Approved by the planning director, Mr. David Crubtree, on November 18, 2019

Basis of Appeal

The open judgment against Mr. Murdock for a property boundary violation should be resolved before the city entertains providing any special entitlements. The unresolved civil matter involves a real property related dispute with a default on the judgment and no attempt by Mr. Murdock to comply with the final judgment in a timely manner. Reversing Mr. Crabtree's decision and tabling any further consideration of Mr. Murdock's application seems well within the Commission's purview.

ATTACHMENT 9

RECEIVED
DEC 02 2019
OFFICE OF THE CITY CLERK

City of Brea

APPEAL APPLICATION

Note: An appeal must be filed within ten days of the action being appealed.

Filing Fee: $ 50 - Brea Residents

$375 - Any others - Deposit against hourly charge of Adopted Hourly Rates

APPELLANT: **Name:** Russell P. Nowell

Address: 405 Pine Ave, Brea, CA 92821

Telephone: (714) 671-3030

ACTION BEING APPEALED: (Case No.; Property Location; Deciding Body)

Case: Certificate of Compatibility No. CC 19-02

Location: 407 Maple Ave, Brea, CA 92821

Deciding Body: Community Development Director

DATE OF ACTION BEING APPEALED: Nov. 18, 2019

SPECIFIC BASIS FOR THIS APPEAL: (1) As an application for both a variance and an ADU in a low-density residential non-urban zone, this project is not exempt from CEQA under 14 CCR 15303. (2) The structures are too large in volume, with uninterrupted roof line, to be compatible or in harmony, and is economically and aesthetically detrimental. (3) Lack of due notice, (4) See Attached (A)

DATED: 12/2/2019 **SIGNATURE:** Russell P. Nowell

Please return this application to the Office of the City Clerk.

++

++

CITY USE ONLY

: _____ FEES PAID

_____ DATE REC'D. HEARING DATE _____

APPEAL of CC 19-02 to approve 13,355 SF Compound at 407 Maple

12/2/2019

We appeal the Certificate of Compatibility for the following reasons:

FIRE SAFETY ENCROACHMENT VIOLATIONS

1. The North wall was built to encroach upon the adjacent properties. There is insufficient clearance for a fully equipped firefighter to access the adjacent properties to fight fires. Fire department input should be required BEFORE the CC is approved.

On the north side, the drawing provided with the application does not show the wall as built. The wall is not straight, but encroaches both properties to the North. There is insufficient room for a fully equipped fireman to pull a hose from the fire hydrant at 405 Pine Avenue because the wall is built too close to long existing structures, or to pull a hose on the northeastern side of the wall from Maple Street. This is a hazard to our safety personnel and residents.

13,355 SF IS NOT COMPATIBLE: IT IS INCONSISTENT WITH NEIGHBORHOOD

2. THE BUILDING OF SIMPLE BOX McMANSIONs is economically detrimental to the price per square foot in an R-1 zoning—this will drive down the value of other homes.

The BUILDING of a maximum square foot simple two story box design with a simple hip roof is aesthetically inconsistent with the neighborhood, which does not have any R1 structures this large with a simple hip roof.

The requested **13,355 square foot** compound of buildings is inconsistent with the neighborhood.

400 Block of Maple	**Living Area***
427 Maple	0
430 Maple	0
417 Maple	1152
406 Maple	1200
434 Maple	1232
435 Maple	1269
414 Maple	1313
411 Maple	1464
415 Maple	1738
410 Maple	1825
446 Maple	1934
423 Maple	2001
422 Maple	2046
440 Maple	2093

407 Maple	2195
412 Maple	2203
404 Maple	2447
Average Living Area	**1536**
Median Living Area	**1738**

Data from Datatree by First American Title Company as of November 14, 2019.
The use in the neighborhood is consistently small single family residences. On the 400 block of Maple, the average living area is 1536 sf and a median of 1738 sf. Most lots have residences, which range in size from 1152 sf to a high of 2447 sf. **On the 400 block of Maple, the trees outweigh the houses.**

The proposed **13,355 square foot** of buildings is **11.6 times the size** of the smallest house on the block and 5.4 times the size of the largest house on the block. The proposal of **13,355 square feet** of buildings on a single lot is not consistent with the neighborhood. It also is not consistent with an R-1 Single Family Residence and Accessory Dwelling Unit.

This **13,355 square foot** of buildings proposed by Mr. Murdock looks more like a hotel or recovery or treatment facility. With an average hotel occupancy of 1 keyed room per about 420 square feet of living space, we would expect the equivalent of over 20 guest rooms to be occupied by 1 to 2 people each to make use of the livable square footage. (deRoos, J. A. (2011).Planning and programming a hotel[Electronic version]. Retrieved Nov. 14, 2019, from Cornell University, School of Hospitality Administration site:https://scholarship.sha.cornell.edu/cgi/viewcontent.cgi?article=1293&context=articles).

NEED FOR EIR
3. The design of the structure appears to be for the purpose of operating a B&B, Air B&B, small hotel or recovery or treatment facility, which requires an EIR. CEQA Section 15303(a) (14 CCR 15303(a)(2)) does not apply, since this not "One single-family residence, or a second dwelling unit in a residential zone," but for both at the same time. Because this proposed project is so out of character with the existing neighborhood, its approval is at least in part discretionary. *Day v. City of Glendale*, 51 Cal.App.3rd 817, 14 CCR 15268(d); Cal. Pub. Res. Code Section 21080(b)(1).

PLAN DRAWING INCORRECT
4. The north block wall as built does not match the plan. The incorrect drawing fails to provide adequate notice. The plan should be rejected until the drawing is corrected.

NOTICE OBJECTION
5. We object that Notice was insufficient.

December 2, 2019

Russell P. Nowell
405 Pine Avenue
Brea, CA 92821

RECEIVED
DEC 10 2019
OFFICE OF THE CITY CLERK

City of Brea

APPEAL APPLICATION

Note: An appeal must be filed within ten days of the action being appealed.

Filing Fee: $ 50 - Brea Residents

$375 - Any others - Deposit against hourly charge of Adopted Hourly Rates

APPELLANT: **Name:** Rana & Jason Kim

Address: 402 Pine Ave Brea CA 92821

Telephone: (714) 853-5085

ACTION BEING APPEALED: (Case No.; Property Location; Deciding Body)

407 Maple

CC 19-02

DATE OF ACTION BEING APPEALED: 11/14/19

SPECIFIC BASIS FOR THIS APPEAL:

please see attached

DATED: 11/25/19 **SIGNATURE:** Rana Kim

Please return this application to the Office of the City Clerk.

++++++

Objections to CC 19-02 to approve 13,355 SF Compound at 407 Maple

11/14/2019, to Brea Community Development Dept./Commission:
We object to the proposed Certificate of Compatibility for the following reasons:

FIRE SAFETY ENCROACHMENT VIOLATIONS

1. The North wall was built to encroach upon the adjacent properties. There is insufficient clearance for a fully equipped firefighter to access the adjacent properties to fight fires. Fire department input should be required BEFORE the CC is approved.

On the north side, the drawing provided with the application does not show the wall as built. The wall is not straight, but encroaches both properties to the North. There is insufficient room for a fully equipped fireman to pull a hose from the fire hydrant at 405 Pine Avenue because the wall is built too close to long existing structures, or to pull a hose on the northeastern side of the wall from Maple Street. This is a hazard to our safety personnel and residents.

13,355 SF IS NOT COMPATIBLE: IT IS INCONSISTENT WITH NEIGHBORHOOD

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This appears to be a planned conversion for a B&B hotel space or a home based residential addiction recovery, Alzheimer's, or other care facility, which, at this level of occupancy would be inconsistent with the neighborhood. There are over 10 rooms that could be used as bedrooms. The ADU is larger than most of the existing residences. The parking is inadequate for 10 bedrooms.

NEED FOR EIR

3. The design of the structure appears to be for the purpose of operating a B&B, Air B&B, small hotel or recovery or treatment facility, which requires an EIR. CEQA Section 15303(a) (14 CCR 15303(a)(2)) does not apply, since this not "One single-family residence, or a second dwelling unit in a residential zone," but for both at the same time. Because this proposed project is so out of character with the existing neighborhood, its approval is at least in part discretionary. *Day v. City of Glendale,* 51 Cal.App.3rd 817, 14 CCR 15268(d); Cal. Pub. Res. Code Section 21080(b)(1).

PLAN DRAWING INCORRECT

4. The north block wall as built does not match the plan. The incorrect drawing fails to provide adequate notice. The plan should be rejected until the drawing is corrected.

NOTICE OBJECTION

5. We object that Notice was insufficient, and request a list of all persons to whom notice was sent, and when notice was sent.

November 14, 2019

Russell P. Nowell
405 Pine Avenue
Brea, CA 92821

City of Brea

PLANNING COMMISSION COMMUNICATION

TO: Honorable Chair and Planning Commission

DATE: 02/25/2020

SUBJECT: CONTINUED FROM JANUARY 28, 2020 PLANNING COMMISSION MEETING: ZONE CHANGE NO. ZC 19-01, PLANNED COMMUNITY MASTER PLAN NO. PCMP 19-01, DEVELOPMENT AGREEMENT NO. DA 19-01, AND FINAL ENVIRONMENTAL IMPACT REPORT NO. FEIR 19-01 FOR THE MERCURY RESIDENTIAL DEVELOPMENT PROPOSAL AT THE SOUTHEAST CORNER OF MERCURY LANE AND BERRY STREET.

REQUEST

APPLICANT REQUEST

The applicant is requesting the following:

- Change the land use and zoning from Industrial to Planned Community;
- A high density workforce housing project allowing approximately 114 studio, one bedroom and two bedroom rental units located on a 1.01 acre parcel;
- A Planned Community Master Plan setting the development standards, property management, and implementation for the Mercury Development project;
- A Development Agreement encompassing the community benefits for the Mercury Residential development project; and
- A Final EIR inclusive of all environmental analysis, mitigation measures and findings to address environmental impacts for the residential project.

BACKGROUND/DISCUSSION

On January 21, 2020, the Planning Commission reviewed an application to develop the property on the southeast corner of Mercury Lane and Berry Street for a high density workforce housing project for 114 apartment units, full request outlined above. The Commission continued the public hearing and directed staff to prepare a draft resolution, conditions of approval and address several issues/concerns staff has provided the following information to address the questions and requests for information from the Commission.

PARKING

The project provides 114 spaces on site. This includes 5 ADA spaces and 5 electric vehicle charging spaces in compliance with State and Federal standards. This is a parking ratio of 1 space per unit. Typical multifamily projects in Brea provide a range of parking ratios from 1.25 spaces per unit to 2 spaces per unit. A parking study evaluating the parking as proposed in the Planned Community Master Plan (PCMP) recommends the project provide a 1.56 to 1.87 ratio. The additional spaces identified are intended to accommodate flexibility for residential units with more than one vehicle as well as to provide visitor/guest parking on site. The project as proposed does not provide on-site guest parking and instead identifies strategies to address the recommendation for additional parking needs by utilizing on street

parking, restricting additional vehicles for tenants and providing parking in the west parking structure in the downtown.

The Commission will need to determine whether the locations and measures proposed in the PCMP are sufficient. Staff has provided clarification and information below to address the items raised and to assist with this consideration.

On Street Parking: Berry Street does not allow on-street parking. Mercury Lane currently allows public parking along both sides of the street (see Figure 1). The street, exclusive of driveways and marked "no parking" areas, has the potential to accommodate approximately 45 cars. This amount may decrease depending on the need for red curb and Fire Department Access, this is typically determined during Building Plancheck submittal of the Final Fire Master Plan. It should also be noted that the Code requires that parking be located within 100-feet of the project site.
The City's Municipal Code (Section 10.40.040) limits commercial vehicle parking on public streets to one hour. In the past, the Police Department has received complaints and has issued citations for commercial trucks staging/idling on Berry Street. Subsequent to that, it has been observed that commercial trucks park/idle on Mercury Lane. Complaints are not common on Mercury Lane as the area is all industrial and there does not appear to be existing conflicts. The project as proposed will rely on on-street parking and has the potential for on-street parking conflicts and enforcement issues. The Commission requested information related to some suggestions to address potential future conflicts. The following provides this information.

1. **Time Limited On-street Parking**: The Commission inquired whether timed parking could be utilized to balance the proposed use and the existing neighborhood. Currently, commercial vehicle parking is limited to one hour and standard vehicles currently do not have time limits but cannot park overnight on Mercury Lane. It has been staff's experience that timed parking can be challenging and does not recommend this strategy as it would be difficult to enforce and requires a high level of staff resources. Question(s) for the Commission's consideration: Is the Commission recommending to exempt Mercury lane from the on-street parking restrictions? It should be noted that this allowance could set an expectation to allow other developers to apply for similar exemptions.

2. **Overnight Parking:** Overnight parking is not currently permitted on the street. Properties zoned for and occupied as residential use are eligible for overnight parking permits (see Attachment 3 – Overnight Parking Permit Policy and Procedures). This area is zoned C-M, Commercial Industrial and does not currently allow for overnight parking. The zone change is not to a residentially zoned property, it would be Planned Community, for a residential use. The Code allows one overnight parking permit per unit for multi-family projects. Requests for additional permits are evaluated (e.g. more vehicles than number of spaces provided on-site) to establish need unless conditions of approval are provided to either allow or prohibit additional permits. If overnight parking for this project were permitted, the Planning Commission would be recommending the project to be exempt for the current code or modifications to the provisions.

   Mercury Lane does not have sidewalks and is not improved to comply with American with Disabilities Act (ADA). The applicant proposes to construct sidewalks along the project frontage. The project proposes to utilize the West Downtown Parking Garage for guest parking. In order for the project to utilize this garage for guest parking, sidewalk and ADA improvements would have to be made in order to be compliant with ADA requirements. Potential improvements could include, but are not limited to, a survey of the project to the garage to determine ADA compliance, construction of sidewalks, and improvement of curb ramps and other access improvements. If these improvements are not feasible for the project or the applicant to complete, other options would need to be considered to accommodate guest parking.
   The Downtown Parking Garages allow parking for up to 12 hours with the exception of the reserved spots for the Birch Street Lofts, which were originally included as part of the Downtown, and for government cars related to the Army Recruiting Office on Brea Boulevard. The Police Department enforces the 12 hour limit and vehicles are cited that are not parked in the marked reserved parking stalls. The Council has been discussing overnight parking restrictions in the Downtown garages.

Questions for the Commission's consideration:

1. Is the Planning Commission recommending exemption for overnight parking on the street on Mercury Lane and the West Downtown Parking Garage?

- As proposed, is the project's parking plan and strategies sufficient to support the project?

Clarification on Noise: The project proposes to locate a residential use in an existing industrial area where ambient noise levels are greater than a typical residential neighborhood. The project does not meet the minimum standards for open window conditions under the State and City Noise Regulations. Projects can be reviewed under a "closed window" condition meaning the window must remain closed for noise to be reduced to an appropriate level. To further address noise, the project proposes a number of construction measures outlined in the Noise Study including; a fresh air ventilation system, upgraded windows, sliding glass doors, entry doors, walls, floor and ceiling insulation. Review of projects under a "closed window" condition is typical for projects located adjacent to high noise generating sites such as major streets, freeways, and trains. The Commission expressed interest in the reduction of noise conflicts between the existing industrial use and the proposed project. Based on how the PCMP is currently written and what is proposed for the project, there remains potential for noise conflicts. Additional language can be included in the noise section of the PCMP to set a different expectation for higher ambient

noise levels. Staff recommends the project is designated as “workforce housing in an industrial area” and allow for an alternate maximum threshold or decibel level (e.g. measure the project against commercial/industrial noise standards).
Question for the Commission’s consideration: Is the Commission recommending amend the language in the PCMP to set a higher noise level expectation for the project?

Clarification of Project Details: The applicant has provided a response to several of the comments and questions related to project details and is provided in Attachment 4.
Question for the Commission’s consideration: Is this information sufficient to support the Planning Commission’s recommendation of approval or is additional information and/or Conditions of Approval needed for the project?

Contribution of funds for Imperial Highway: The Commission inquired as to how the applicant contribution for Imperial Highway improvements would be handled. The money collected will become “City money” earmarked for City initiated improvements on Imperial Highway. The City currently has a number of Imperial Highway improvement projects outlined in its Capital Improvement Program. One such on-going project is to widen Imperial Highway at Berry to provide for a new right-turn lane and another is to widen the CA57 Southbound on-ramp. Both projects would provide capacity enhancing improvements to Imperial Highway in the vicinity of the impacted intersections identified in the traffic study for the project. It is envisioned that the funds provided by the applicant can be used for either of on-going projects or be used by the City for a future capacity enhancing project on Imperial Highway.
.
Letter Received from Pacific Plastics: A letter was submitted to the Planning Commission at the January 21st meeting from Veneable, LLP on behalf of Pacific Plastics. The letter raised several points regarding the environmental process. The City’s environmental consultant has prepared a response to that letter for the Commission’s review, see Attachment 5. Two additional memos were received from Pacific Plastics, please see Attachments 6 & 7.

CONCLUSION
In response to the Planning Commission’s direction, Staff has provided the draft resolution including the findings and supporting facts to recommend approval of the project, the draft Development Agreement (Attachment 2), Conditions of Approval to address some of the items raised at the last meeting (e.g. location of HVAC intake, parking monitoring, disclosures, etc.), see Attachment 1. The Commission will need to provide any further direction if additional Conditions of Approval are needed for the project.

RESPECTFULLY SUBMITTED

Jennifer A. Lilley, AICP, City Planner
Prepared by: Maribeth Tinio, Senior Planner

Attachments

1. Draft Resolution
2. Draft Development Agreement
3. Overnight Parking Policy & Procedures Manual

4. Applicant Response to Commission Questions from 1-28-2020 Meeting
5. Response to Veneable, LLP Letter
6. Memo Received from Pacific Plastics Regarding Noise - 02.17.2020
7. Memo Received from Pacific Plastics Regarding Parking – 02.18.2020

RESOLUTION NO. PC 20-

A RESOLUTION OF THE BREA PLANNING COMMISSION REGARDING THE PROPOSED MERCURY RESIDENTIAL DEVELOPMENT LOCATED AT THE SOUTHEAST CORNER OF MERCURY LANE AND BERRY STREET, RECOMMENDING THAT THE CITY COUNCIL TAKE THE FOLLOWING ACTIONS ON THE PROJECT: CERTIFY FINAL ENVIRONMENTAL IMPACT REPORT NO. 19-01, ADOPT CEQA FINDINGS, A STATEMENT OF OVERRIDING CONSIDERATIONS, AND A MITIGATION MONITORING AND REPORTING PROGRAM FOR THE PROJECT, AND APPROVE ZONE CHANGE NO. ZC 19-01, PLANNED COMMUNITY MASTER PLAN NO. PCMP 19-01, AND DEVELOPMENT AGREEMENT NO. 19-01

A. RECITALS.

(i) On January 15, 2019, the City Council initiated Zone Change No. ZC 19-01 ("Zone Change 19-01") in response to a request by Dwight Manley ("Applicant") to rezone the property described in Exhibit A to this resolution ("Subject Property") from Commercial Industrial (C-M) to Planned Community (PC), and the Applicant subsequently submitted applications for approval of Planned Community Master Plan No. PCMP 19-01 ("PCMP 19-01"), and Development Agreement No. 19-01 ("DA 19-01") to develop a 5-story building with 114 workforce residential units pursuant to the proposed Residential Planned Community Master Plan. The proposed zone change, Planned Community Master Plan, and development agreement are collectively referred to herein as "the Project." Copies of PCMP 19-01 and DA 19-01 are each on file with the City.

(ii) Pursuant to the requirements of the California Environmental Quality Act ("CEQA"), the City prepared Final Environmental Impact Report NO. 19-01 (the "FEIR") and a related Mitigation Monitoring and Reporting Program ("MMRP"), CEQA Findings of Fact ("CEQA Findings") and Statement of Overriding Considerations ("SOC"). Copies of the FEIR, the MMRP, CEQA Findings, and SOC are each on file with the City.

(iii) On January 28, 2020, the Planning Commission held a duly noticed public hearing to consider the Project and the FEIR, at which all persons present had an opportunity to speak on the matter. After considering all of the evidence presented, including but not limited to all written evidence and testimony presented during that hearing, the Planning Commission continued the hearing until February 25, 2020.

(iv) On February 25, 2020, the Planning Commission held a duly noticed continued public hearing to further consider the Project and the FEIR, at which all persons present had an opportunity to speak on the matter. After considering all of the evidence presented, including but not limited to all written evidence and testimony presented during that hearing, the Planning Commission voted to adopt this Resolution.

(v) All legal prerequisites to adoption of this Resolution have been met.

B. RESOLUTION.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF BREA HEREBY FINDS, DETERMINES, AND RESOLVES AS FOLLOWS:

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

2. Based on its finding in the preceding paragraphs of this Resolution, the evidence presented at the above-referenced public hearings, including but not limited to all written evidence and testimony presented during those hearings, and its own independent judgment, the Planning Commission hereby adopts the CEQA Findings and SOC as its own.

3. Based on its findings in the preceding paragraphs of this Resolution, including but not limited to the CEQA Findings and SOC, and the evidence presented at the above-referenced public hearings, including but not limited to all written evidence and testimony presented during those hearings, the Planning Commission hereby further finds as follows:

a. Finding: The Zone Change is in conformity with the General Plan, as amended.

Facts: The Project proposes a planned community master plan for 114 workforce residential units at a low and moderate rental affordability located directly adjacent to Downtown Brea and major commercial and industrial employers within a ¼ to ½ mile biking and walking distance. General Plan Policy HE 3.2 promotes providing opportunities for mixed use and infill housing development opportunities in Down Brea as part of the City's ongoing revitalization strategy for the area. General Plan Policy CD 1.9 encourages new development that is organized around compact, walkable, mixed-use neighborhoods and districts to conserve open space resources, minimize infrastructure costs, and reduce reliance on the automobile. Policy CD-9.2 encourages accommodation of emerging housing trends, and encourage pedestrian linkage to surrounding neighborhoods and activity centers. Policy CD-9.5 promotes providing quality, affordable housing that would accommodate young families, college students, and educators. Finally, the General Plan recognizes the use of Planned Communities as a flexible planning tool for achieving a cohesive land use plan for a property or related properties.

b. Finding: The Subject Property is suitable for the development in the Planned Community Zone under PCMP 19-01, in terms of access, size of parcel, relationship to similar or related uses and other considerations.

Facts: The Subject Property is 1.01 acres in size, which can accommodate the proposed 5-story high density residential apartment building 68-feet in height that would be directly adjacent to Downtown Brea and major commercial and industrial employers within a ¼ to ½ mile biking and walking distance. Access for vehicles can would be provided from Mercury Lane and pedestrian and bicycle access would be ensured by frontage improvements along Berry Street and Mercury Lane. The alternative development guidelines and standards found in PCMP 19-01 regarding building height, setbacks, floor area ratio and other development standards suitable for the development.

c. Finding: That the proposed change of zone is not detrimental to the use of land in any adjacent zone.

Fact: The project would introduce residential uses into a area currently developed for commercial industrial uses, but will be located on the edge of those uses. Existing commercial industrial uses would be buffered by Berry Street, Mercury Lane, and a parking lot predominantly used for trailer parking. Potential noise problems have been addressed by project features and the required disclosures to future residents. Properties values in adjacent zones will also benefit from the investment in improvements that will accompany and may follow the development of the new residential use.

d. Finding: The Planned Community Master Plan is consistent with the General Plan, inclusive of any amendments proposed and approved as part of the application for the Planned Community Master Plan.

Facts: PCMP 19-01 proposes 114 workforce residential units at a low and moderate rental affordability located directly adjacent to Downtown Brea and major commercial and industrial employers within a ¼ to ½ mile biking and walking distance. General Plan Policy HE 3.2 promotes providing opportunities for mixed use and infill housing development opportunities in Down Brea as part of the City's ongoing revitalization strategy for the area. The General Plan Housing Element, Program 9, identified the Mercury Lane Corridor as an area to be further studied as a potential opportunity site for mixed-use or high density residential. Policies HE-2.2 and HE-2.6 supports and encourages the provision of affordable housing and workforce housing and Policies HE-6.5 and HE-6.6 encourages a closer link between housing and jobs. General Plan Policy CD 1.9 encourages new development that is organized around compact, walkable, mixed-use neighborhoods and districts to conserve open space resources, minimize infrastructure costs, and reduce reliance on the automobile. Policy CD-9.2 encourages accommodation of emerging housing trends, and encourage pedestrian linkage to surrounding neighborhoods and activity centers. Policy CD-9.5 promotes providing quality, affordable housing that would accommodate young families, college students, and educators. Finally, the General Plan recognizes the use of Planned Communities as a flexible planning tool for achieving a cohesive land use plan for a property or related properties.

e. Finding: The Planned Community Master Plan is consistent with the Brea Envisions Community Strategic Plan.

Facts: PCMP 19-01 promotes higher density living, affordable housing, and site specific standards to ensure quality design and rental affordability. The project is located directly adjacent to The Tracks at Brea Trail, Downtown Brea and major employers within a ¼ to ½ mile walking and biking distance. This is consistent with several initiatives in the Brea Envisions Community Strategic Plan, such as: enhancing and promoting pedestrian friendly development throughout our community and within the public spaces and promote the Tracks at Brea as an alternative pathway through the community and calls for planning for additional, safe public pathways for pedestrians and cycling in zoning and development decisions; maintaining a consistent and acceptable balance of both residential and commercial/industrial development and promoting and implementing progressive solutions to balance commercial/industrial and residential development, including the possible creation of development zones in the City that would encourage and allow for different uses within each zone; promoting higher density living and mixed affordable housing where appropriate for the existing neighborhood; and promoting a walkable community and safe sidewalks and bike lanes.

f. Finding: Planned Community Master Plan would provide for an innovative development in an area of the city that presents unique planning challenges due to considerations such as geography, topography, and changing patterns of development not otherwise addressed by the Zoning Code.

Facts: PCMP 19-01 provides innovative site specific standards to allow innovative workforce housing at an affordable level in an area uniquely located between, and with pedestrian and vehicle access to, major commercial and industrial employers, which would not be possible under the otherwise applicable provisions of the zoning Code.

g. Finding: The properties included in the Planned Community Master Plan are suitable for the uses specified therein, in terms of access, size, their relationship to adjacent properties and similar or related uses, and other relevant considerations.

Fact: The Project includes a single 1.01-acre parcel that can accommodate the proposed 5-story high density residential apartment building 68-feet in height through the building height, setbacks, floor area ratio and other development guidelines and standards found in PCMP 19-01. It will be directly adjacent to Downtown Brea and major commercial and industrial employers within a ¼ to ½ mile biking and walking distance. Access for vehicles can would be provided from Mercury Lane and pedestrian and bicycle access would be ensured by frontage improvements along Berry Street and Mercury Lane. Existing commercial industrial uses would be buffered by Berry Street, Mercury Lane, and a parking lot predominantly used for trailer parking.

h. Finding: The Planned Community Master Plan is in the best interest of the City as a whole.

Fact: PCMP 19-01 provides an emerging residential product not currently provided for by the Zoning Code and provides site specific

standards to ensure quality and affordability. The project provides 114 workforce housing residential units at a low and moderate rental affordability. The project also provides priority to Brea employers and employees as opportunity to live, work and play within the City. It further helps fulfill State and Regional housing goals for the City as outlined by the Southern California Association of Governments (SCAG) Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS). It also fulfills goals and Policies of the City's General Plan, Housing Element and the Brea Envisions Community Strategic Plan.

4. Based on its findings in the preceding paragraphs of this Resolution, the Planning Commission hereby recommends that the City Council certify the FEIR and adopt the MMRP, the CEQA Findings, and the SOC.

5. Based on its findings in the preceding paragraphs of this Resolution, the Planning Commission hereby recommends that the City Council approve the Project (Zone Change No. ZC 19-01, Planned Community Master Plan No. PCMP 19-01, Development Agreement No. DA 19-01) subject to the requirements of the MMRP and the following conditions set forth in Exhibit B to this Resolution, which is hereby incorporated as though set forth in full.

ADOPTED AND APPROVED this 25th day of February, 2020.

_____

Chairperson

I, Jennifer A. Lilley, Secretary to the Planning Commission of the City of Brea, do hereby certify that the foregoing Resolution was adopted at a regular meeting of the Planning Commission of the City of Brea, held on February 25, 2020, by the following votes:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSENT: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:

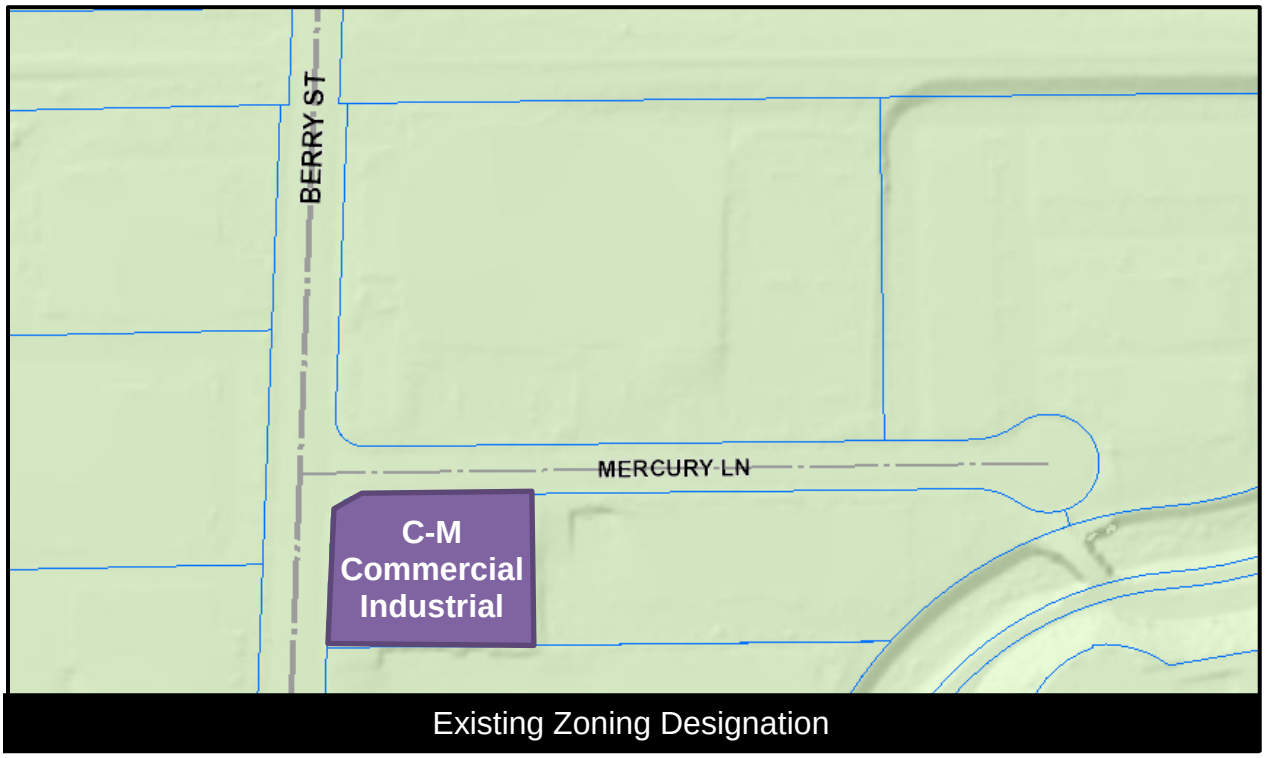
ATTEST:

_____
Jennifer A. Lilley
Secretary

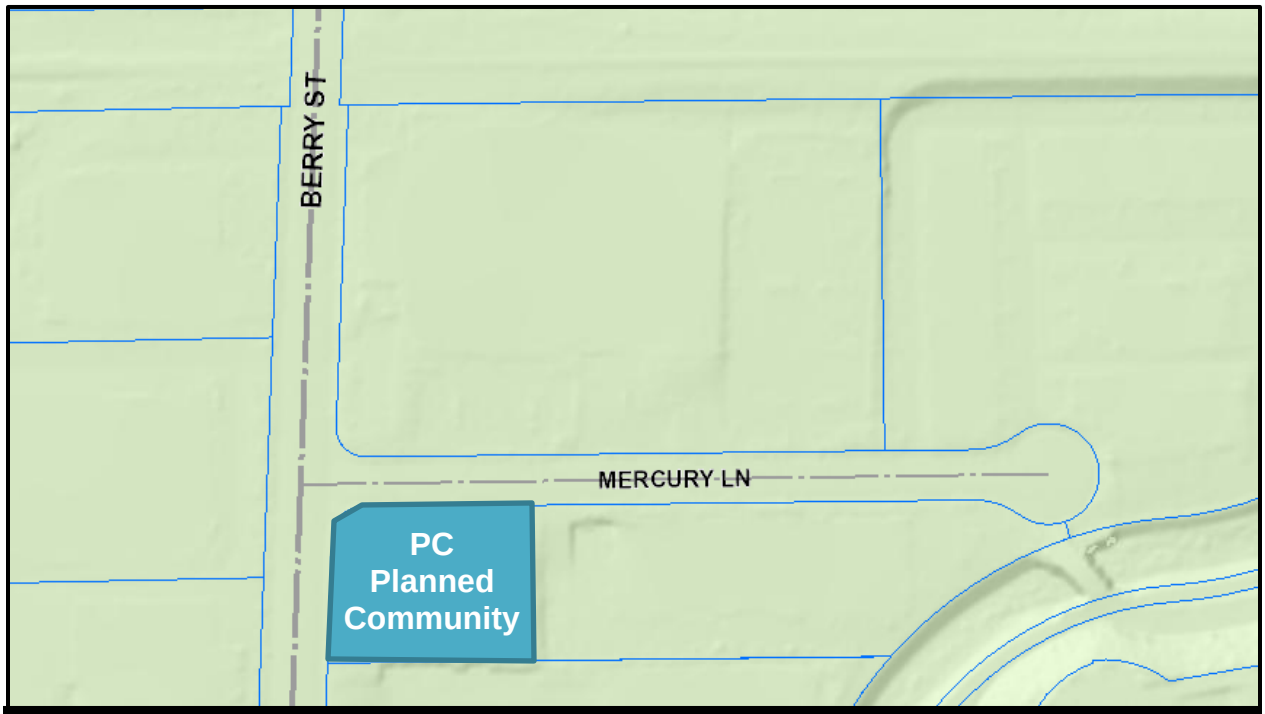
RESOLUTION NO. PC-
Exhibit A, Page 1
Applicant: Dwight Manley
FEIR 19-01, ZC 19-01, PCMP 19-01, DA 19-01 (Mercury Residential)

EXHIBIT A FOR ZONE CHANGE NO. ZC 19-01

Proposed Zoning Designation for Property Legally Described as Assessor Parcel Number 296-141-05.



Existing Zoning Designation



Proposed Zoning Designation

EXHIBIT B

The Planning Comission is recommending approval of Planed Community Master Plan No. PCMP 19-01 subject ot the following conditions to the Project:

a. Project Plans: Development must occur in substantial conformance with the plans and specifications submitted to the Planning Commission dated February 25, 2020, which includes Planned Community Master Plan No. PCMP 19-01, site plan, conceptual architectural elevations and associated details, conceptual landscape plans on file in the Planning Division, the conditions contained herein, and all applicable City regulations.

b. Conformance: The Community Development Director's review and approval of all proposed structures for substantial conformance with Planned Community Master Plan No. PCMP 19-01, plans and standards set forth herein as to building location, building square footage, site circulation, signage, and architecture is required prior to the issuance of any building permit. Operation and development of the project shall remain in substantial conformance with Planned Community Master Plan No. PCMP 19-01 in perpetuity. Significant changes to the project may require the amendment to Planned Community Master Plan No. PCMP 19-01.

c. Mitigation Monitoring and Reporting Program: All Mitigation Measures contained in the Mitigation Monitoring and Reporting Program from Final Environmental Impact Report No. FEIR 19-01 are incorporated herein by reference.

d. Digital set of plans and exhibits: The applicant must provide a digital copy (suitable for archival storage) of the plans and specification noted in Condition 1 to the Brea Planning Division prior to the issuance of any Building Permits for the development.

e. Setbacks: Final building location and setbacks must be consistent with the layout shown within Planned Community Master Plan No. PCMP 19-01 as illustrated in the approved plans and specifications of Planning Commission meeting of February 25, 2020. Where the plans and specification do not address setback requirements the standards of the Mixed Use I or R-3, Multi-Family Residential, or most closely applicable zoning district as determined by the City Planner, shall apply.

f. Parking: Vehicle parking must be provided consistent with the parking details contained in "The Planned Community Master Plan." A

minimum of one (1) parking stall per unit must be provided for each studio and one bedroom unit and (2) parking stalls must be provided for each two bedroom unit.

g. Parking Management Plan: The Applicant must prepare and submit a Parking Management Plan (PMP), prepared by a registered civil/traffic engineer. The review and approval of the PMP by the Community Development Director and City Engineer is required prior to issuance of any building permits. The PMP shall be reviewed by the City's parking consultant, time and fees to be paid for by the Applicant, as determined necessary by the City. A key goal of the PMP shall be to limit any potential for off-site parking impacts to the adjacent industrial areas. The PMP must also address the use of all on-site and off-site parking and incorporate management strategies recommended by the peer review conducted by Gibson Transportation. The PMP must also identify a process and central contact to address and resolve any on-site parking discrepancies or issues in a timely fashion. Said strategies shall include but are not limited to:

   i. An outreach plan to tenants indicating optimal parking areas and prohibition of parking on adjacent private property (unless off-site parking agreements are secured) that includes, but is not limited to, a map of the proximity of the Project to Downtown Brea and options and encouragement of alternative transportation.

   ii. Private Enforcement of On-Site & Off-Site Parking

   iii. Provisions in the case that any monitoring reveals that the Project's total parking demand consistently exceeds the total provided parking supply (e.g. secure additional parking). Said remedies shall occur in a timely manner subject to the review and approval of the Community Development Director.

   iv. The Applicant must submit a monitoring report of the on- and off-site parking demands within one year of reaching 50% and above occupancy and remain accessible to the City or the purposes of collecting data on the proposed type of residential product or when a complaint threshold is met. The threshold shall be determined by the Director of Community Development. Said monitoring would identify the actual on-site and off-site residential parking demand and the efficacy of the trip/parking reducing measures implemented by the Project.

v. The use of structured parking spaces shall be limited to the parking of resident/owners motor vehicles (i.e. cars, trucks, SUV's, motorcycles). Any storage that precludes the parking of vehicles is prohibited. The storage of recreational vehicles in a garage or structured residential vehicle space is prohibited.

vi. Alternative Transportation & Parking strategies: The property shall provide additional parking strategies to assist in reducing the demand for parking. Said strategies may include, but are not limited to, parking cash out, car share, carpool/vanpool programs, rideshare or ride-matching, bike share, etc. (Potential condition to be determined based on Planning Commission discussion)

vii. Use of West Downtown Parking Garage (Potential condition to be determined based on Planning Commission discussion)

viii. On-Street Parking (Potential condition to be determined based on Planning Commission discussion)

h. Bike Storage: The Applicant must maintain a minimum of 114 bicycle stalls on-site consistent with the "The Planned Community Master Plan" in perpetuity. Should the need for bicycle storage desire to be changed or discontinued, the applicant shall provide a plan and justification indicating purpose of the changing need (e.g. emerging transportation trends, improved use to accommodate parking demand, etc.) and planned use for the space. Said justification and plan are subject to the review and approval of the Community Development Director and the City Engineer. Said plan shall serve to continue to promote alternative transportation and/or help support the parking demand for the project.

i. Public Improvements along Mercury Lane: (Potential condition to be determined based on Planning Commission discussion)

j. Noise: (Potential condition to be determined based on Planning Commission discussion)

k. Landscaping: The Applicant must provide a detailed final landscaping and irrigation plan consistent with "The Planned Community Master Plan." Said landscaping and irrigation plan must be reviewed and approved by the City Planner and Public Works Director prior to the issuance of any building permits. Approved landscaping and irrigation shall be installed prior to occupancy. All landscaping and irrigation shall comply with the provisions of the City's Water Conserving

Landscape Ordinance. The final landscaping and irrigation plans shall be in accordance with the final site and grading plans and shall include, but not be limited to the following:

i. Screening quality landscape treatments for the northern and eastern property lines adjacent to the Vesuvius neighborhood in order to provide a visual buffer. In order to ensure proper screening is incorporated, a Tree Replacement Plan shall be prepared and submitted to the City Planner and Maintenance Services Superintendent for review and approval. Said plan shall include:

1. The number of trees provided shall not be less than the amount depicted on the conceptual landscape plans contained within "The Planned Community Master Plan." A minimum of 75% of the trees shall be a minimum 36-inch boxed size or larger and the balance of the trees shall be a minimum 24-inch boxed size.

2. Details shall include the quantity, species type and placement of final trees.

3. All landscaped areas shall be kept free from weeds and debris, maintained in a healthy growing condition and shall receive regular pruning, fertilizing, mowing and trimming. Unhealthy, dead or damaged plant materials shall be removed and replaced within thirty (30) days following written notice from the Development Services Director.

l. Common Open Space and Outdoor Living Areas: Common open space and outdoor living space shall be consistent with the details and specifications in Planned Community Master Plan No. PCMP 19-01. Where any ambiguity in size/area specifications exists the provisions of the Brea Zoning Ordinance most closely matching the issue shall be observed.

m. HVAC and Venting: All HVAC and ground mounted equipment must be depicted in the construction drawings during building plancheck submittal and must be fully screened by landscaping and/or architecturally compatible screening subject to the review and approval of the Planning Division. The location of the HVAC venting and intake must be located in such a way to ensure optimal location for air quality benefits and shall be subject to the review and approval of the Building Official.

n. Mailboxes: Final mailbox designs and locations shall be reviewed and approved by the Planning Division and United States Postal Service.

o. Trash and Storage: All trash storage, including bins and containers, must be shielded from public view within a building, garage, or a gated enclosure having walls at least six (6) feet in height. The design of enclosures shall be visually consistent with the architecture used for the building and shall require a separate review and approval of the Planning Division and Public Works prior to installation.

p. Signs: The Applicant shall provide detailed sign plans consistent with the Sign Criteria outlined in the "The Planned Community Master Plan" subject to the review and approval of the City Planner prior to the approval of any individual sign installation permit. Said plans shall include pertinent details regarding maximum sign area, letter sizes, locations, number, and associated details. Signage shall be designed to minimize aesthetic and light and glare impacts within and surrounding the project.

q. Utilities, Grading & Site Improvements:

i. Prior to issuance of a grading permit, the Applicant shall submit easement document (i.e. legal and plat) of the required dedication for City Engineer's review and approval. The legal and plat shall be prepared by a licensed Land Surveyor. The required dedications are as follow:

1. Berry Street: additional 2-ft right-of-way for 5-ft landscaped parkway and 5-ft sidewalk.

2. Mercury Lane: additional 5-ft right-of-way for 5-ft parkway and 5-ft sidewalk.

3. Corner Cutoff at Berry Street and Mercury Lane per City Code Chapter 20.08.060.

ii. Prior to issuance of a grading permit, the Applicant shall submit public improvement plans prepared by a Registered Civil Engineer in accordance with City of Brea Standard Plans and specifications for City Engineer's review and approval. The public improvements, include but are not limited to the following:

1. Remove and reconstruct the curb and gutter on Mercury Lane fronting the project.

2. Remove and reconstruct the ADA ramp at the corner of Berry Street and Mercury Lane per latest City standards.

3. Construction of 5-ft sidewalk on Berry Street and Mercury Lane.

4. Re-stripe and install street signage (as applicable) on Mercury Lane and Berry Street.

5. No depressed curb (i.e. curb cuts) shall be permitted on Berry Street. This includes any curb cuts to access the proposed service/maintenance enclosures.

6. The Loading/Unloading/Rideshare pick-up and drop-off Zone on Mercury Lane shall be placed minimum 60-ft from the Berry Street intersection.

7. Location of the building doors where the building has less than 5-ft set-back from the property line shall be included in the Civil Plans. The proposed door-swing and landing area for any door openings shall not encroach into the corner cut-off area.

8. Location of parkway trees shall be included on the Civil Plans per City Code Chapter 12.20.

i. Prior to issuance of a grading permit, the Applicant shall submit Solid Waste/Trash Collection Circulation Plan for City Engineer's review and approval. The proposed trash bins shall be moved to the street level through the proposed driveway approach on Mercury Lane. A separate depressed curb/curb cut shall not be permitted for this purpose. The trash bin staging area shall be provided within the private property to minimize the trash collection activities within the street.

ii. Prior to issuance of a grading permit, any decorative paving proposed in the public right-of-way shall be reviewed and approved by City Engineer. The Applicant shall enter into an Encroachment License Agreement for construction and maintenance of decorative features and proposed landscape and parkway trees by the Applicant.

iii. Prior to issuance of a grading permit, the Applicant shall submit a CCTV video inspection of the existing 8-inch sewer lateral located at the southwest corner of the property to City for review of the existing condition prior to approval to

connect. If the existing 8-inch sewer lateral is suitable to connect to, the Applicant shall be responsible to construct a sewer lateral for the proposed development.

iv. All proposed shelters, including benches, for rideshare waiting purpose shall be located within the private property.

v. Prior to issuance of a grading permit, the Applicant shall submit final Water Quality Management Plan for review and approval.

vi. The Applicant shall submit final Hydrology and Hydraulic Study for review and approval. The Hydrology and Hydraulic study shall include but not limited to the following:

1. Any increased runoff from the proposed development shall be detain on-site and the proposed discharge shall be equal or less than the existing conditions in terms of quantity and velocity.

2. The final study must demonstrate that the adjacent properties, streets and existing storm drain system are not negatively impacted by the proposed project.

3. Any proposed storm drain connection shall be constructed as a lateral to the storm drain main. A storm drain connection to the back of existing catch basin shall note permitted.

4. Project site is designated as Zone X and has tendency to result in shallow flooding with average depths of less than one foot, the final study shall discuss how the proposed development is protected from the shallow flooding.

vii. The Applicant shall be responsible to prepare document and pay for any publication fee (if applicable) for City to vacate the existing City owned sewer easement located at the south west corner of the property.

viii. The Applicant shall be responsible to obtain the permission to perform any work on the adjacent private properties.

ix. The Applicant shall be responsible for securing the required encroachment permits or licenses for installation of any structures, piping and landscaping in easements of record on

this Project. Said approval from easement holders will be required by the City Engineer prior to the issuance of any permits.

x. The Applicant shall completed the construction of all required public improvements, including any field punch list items prior to issuance of building occupancy.

r. Fire Master Plan: The Applicant shall prepare and submit a separate Fire Master Plan for the review and approval by the Fire Marshal and Fire Prevention Staff. This plan shall convey all fire and life safety details related include final plans for roadway and fire access, necessary water requirements and supply, conditions for the project, signage and street markings, and other related items as necessary by Fire Services. Upon evaluation of the Fire Master Plan, additional access to the southeast corner of the building shall be reviewed for sufficient ingress/egress.

s. Wall & Fencing Plan: The design and location for all walls and fences shall be subject to the review and approval of the City Planner. All perimeter walls shall be of a decorative masonry construction with appropriate capstones and columns. A final Wall & Fencing Plan shall be submitted for review and approval prior to the issuance of building permits.

t. Art in Public Places Program (APP): The Applicant shall be responsible for meeting Brea's Art in Public Places requirement per the current Art in Public Places Policy Manual and Ordinance. The minimum required public art allocation shall be 1% of the total building construction valuation as determined by the International Conference of Building Officials (ICBO) at the time building permits are issued. The Applicant shall adhere to the following:

i. Submit Part 1 of the APP application prior to issuance of building permits

ii. Submit Part 2 of the APP application and obtain APP Committee approval within six (6) months of building permit issuance

iii. Submit Part 3 of the APP application and complete sculpture installation prior to Certificate of Occupancy Issuance

p. Fees: The Applicant shall pay any and all fees due prior to the issuance of any building permits unless otherwise outlined in Development Agreement No. DA 19-01.

q. Housing Opportunity: The Applicant shall advertise and provide notice of the housing opportunity presented by the project to City residents and persons working in the City as outlined in Planned Community Master Plan No. PCMP 19-01.

r. Relationship to the Zoning Ordinance: Development Agreement No. DA 19-01 and Planned Community Masterplan No. PCMP 19-01 augments the development regulations and standards of the Brea Zoning Ordinance. Whenever a question arises regarding implementation of the project that is not addressed in the Development Agreement and/or the Planned Community Master Plan, the regulations of the Zoning Ordinance that are most applicable to the issue, condition or situation shall apply. In the event that the provisions of the Development Agreement and/or Planned Community Masterplan are in conflict with the Zoning Ordinance, the conditions of the Development Agreement and/or Planned Community Masterplan shall prevail. Words, phrases, and terms not specifically defined herein shall have the same definition as provided in the Brea Zoning Ordinance unless it appears from the context that a different meaning was intended.

s. Interpretation: The Community Development Director shall have the responsibility to interpret the provisions of the Development Agreement, Planned Community Masterplan No. PCMP 19-01, and these conditions of approval, subject to appeal to the Planning Commission.

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

RECORDING REQUESTED BY, AND WHEN RECORDED MAIL TO:

CITY OF BREA
1 CIVIC CENTER CIRCLE
BREA, CALIFORNIA 92821
ATTN: CITY CLERK

SPACE ABOVE THIS LINE FOR RECORDER'S USE

EXEMPT FROM RECORDING FEE PER GOVERNMENT CODE SECTION 6103

DEVELOPMENT AGREEMENT NO. 19-01 REGARDING THE MERCURY LANE RESIDENTIAL PLANNED COMMUNITY, BREA, CALIFORNIA

This Development Agreement ("Agreement" or "Development Agreement") is made and entered into as of the "Effective Date" set forth herein, by and between Mercury CXIV, LLC, a California limited liability company ("Developer") and the City of Brea, a California municipal corporation ("City").

RECITALS

1. California Government Code Section 65864, et seq. (the "Development Agreement Statute") authorizes cities to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property.

2. Developer owns that real property located entirely within City, the common and legal descriptions of which is set forth in Exhibit "A" attached hereto and incorporated herein by this reference and hereinafter is referred to as the "Site." Developer intends to construct a work-force housing multi-family residential development, inclusive of a maximum of 114 multi-family rental units ("Rental Units"), on the Site.

3. City and Developer mutually desire to enter into this Development Agreement pursuant to the Development Agreement Statute in order to implement the Project.

4. On _____, 2020, following second reading, the Council adopted Ordinance No. ____, approving Zone Change 19-01 and PC Master Plan 19-01. Ordinance No. _____ and all attachments and exhibits thereto are hereby incorporated by this reference. For purposes of this Agreement, the proposed development as approved and defined by Ordinance _____ is referred to herein as the "Project," and Ordinance _____ is referred to as the "Project Approvals."

5. On _____, 2020, City adopted Ordinance No. _____ (the "Ordinance"), approving this Development Agreement among the City and Developer, which is effective as of _____, _____. All of the requirements of the California Environmental Quality Act have been met with

respect to the Project, Project Approvals, and this Agreement, and this Agreement is consistent with the City's General Plan.

6. As set forth in the Project Approvals and this Agreement, the Project would provide the following community benefits: (i) revitalization and use of the Site consistent with state, regional, and local long term goals to provide additional housing opportunities and affordable housing; (ii) contribution of video surveillance hardware and software to serve traffic circulation and public safety goals for the project area; (iii) contributions to future improvements to Imperial Highway, sidewalk and bike lane improvements on Mercury Lane, and the use and maintenance costs of the City's West Downtown Parking Garage; (iv) alternative transportation options in the City through creation of a car-share and bike-share program to serve the Site and providing a local shuttle or similar system; and (v) creation of local and regional construction jobs and a permanent jobs base within new development.

AGREEMENT

NOW, THEREFORE, the parties hereto agree as follows:

Section 1. Definitions. In this Agreement, unless the context otherwise requires, the following terms shall have the following meaning:

"City" means the City of Brea.

"Developer" means Mercury CXIV, LLC, a California limited liability company.

"Effective Date" shall mean the date that the Ordinance becomes effective.

"Municipal Code" means the Brea Municipal Code, as amended from time to time.

"Ordinance" means Ordinance No. _____, which approved this Agreement.

"Project" means the proposed development of the Site as defined in the Recitals to this Agreement by reference to Ordinance _____.

"Project Approvals" means Ordinance _____, which is also referenced in the Recitals to this Agreement.

"Site" means the real property that is the subject of the Project Approvals and as legally described in Exhibit "A" to this Agreement.

"Term" shall have the meaning ascribed to it in Section 6 below.

"Transfer" means any sale, lease, encumbrance or other transfer of all or any portion of the Project or any interest therein.

"Transferee" means any person who acquires an interest in the Site pursuant to a Transfer and agrees, or is deemed, to assume Developer's obligations hereunder with respect to such interest.

Section 2. Recitals. The recitals are part of this Agreement and shall be enforceable as any other provision of this Agreement.

Section 3. Interest of Developer. Developer warrants and represents that, as of the Effective Date, it has or will have legal title to or an equitable interest in the Site; that it has full legal right to enter into this Agreement; and that the persons executing this Agreement on behalf of each Developer have been duly authorized to do so.

Section 4. Binding Effect of Agreement. Developer hereby subject the Project and the Site to the covenants, reservations, and restrictions as set forth in this Agreement. The City and Developer hereby declare their specific intent that the covenants, reservations and restrictions as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon each of Developer's successors and assigns in title or interest to the Site. Each and every contract, deed, or other instrument hereinafter executed, covering, or conveying the Site or any portion thereof shall conclusively be held to have been executed, delivered, and accepted subject to the covenants, reservations, and restrictions expressed in this Agreement, regardless of whether such covenants, reservations, and restrictions are set forth in such contract, deed, or other instrument.

The City and Developer hereby further declare their understanding and intent that the benefit of such covenants, reservations, and restrictions touch and concern the land by enhancing and increasing the enjoyment and use of the Site by Developer and the future occupants of the Site, the intended beneficiaries of such covenants, reservations, and restrictions, and by furthering the public purposes for which this Agreement is adopted.

Section 5. Relationship of Parties. It is understood that the contractual relationship between City and Developer is such that City and each Developer are each an independent party and neither is the agent or partner of the other for any purpose whatsoever and neither shall be considered to be the agent or partner of the other for any purpose whatsoever.

Section 6. Term of Agreement. The initial term of this Agreement (the "Term") shall commence on the Effective Date and shall expire ten (10) years thereafter.

Section 7. Timing of Development. Because the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo*, 37 Cal.3d 465 (1984), that failure of the parties to provide for the timing of development resulting in a later adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the City's and Developer' intent here to cure that deficiency by acknowledging and providing that Developer shall have the right (without obligation), subject to the provisions of this Development Agreement, to complete the Project in such order and at such rate and at such times as Developer deems appropriate within the exercise of their subjective business judgment.

Section 8. Transfers and Assignments.

A. Transfers. Developer may enter into one or more Transfers without the prior consent of City. Developer shall provide City with notice of all Transfers promptly following the consummation thereof. Developer shall remain liable to perform all of the terms and conditions of this Agreement with respect to any portion of, or interest in, the Project that shall be the subject

of a Permitted Transfer unless Developer and the applicable Transferee shall execute and deliver to City an Assignment and Assumption Agreement, in which case Developer shall be released from its obligations with respect to such portion of, or interest in, the Project that was the subject of such Transfer.

B. General Conditions Applicable to Transfers. Notwithstanding whether a Transferee has executed an Assignment and Assumption Agreement, upon a Transfer the Transferee shall be deemed to have assumed all Developer's obligations and been assigned all of Developer's rights under this Agreement, and will be deemed the Developer hereunder. This Agreement may only be transferred to a person who acquires fee title to the entire site. Notwithstanding anything herein to the contrary, in no event shall any Mortgagee have any obligation under this Agreement unless and until such Mortgagee purchases at a foreclosure sale, or accepts a deed in lieu of foreclosure, the portion of the Project that was subject to a Mortgage.

Section 9. General Rights, Standards, and Restrictions. The following specific rights, standards, and restrictions shall apply to the development and use of the Site pursuant to this Development Agreement:

A. Developer shall have the right to develop the Project on the Site in accordance with the terms and conditions of the Project Approvals and this Agreement, and City shall have the right to control development of the Site in accordance with the provisions of the Project Approvals and this Agreement.

B. The type, density, intensity, configuration of uses allowed, size, and location of buildings and other improvements and provisions for the reservation or dedication of land for public purposes, location of public improvements, including, but not limited to landscaping, irrigation, sidewalk, and drive approaches, together with other terms and conditions of development applicable to the Project, shall be as set forth in the Project Approvals and this Agreement.

Section 10. Obligations of City. In consideration of the benefits to the City arising from the development of the Site and the entering into of this Agreement, the City agrees as follows:

A. Upon acceptance by the City, the following items shall be maintained by the City and Developer, subject to City review and approval of a maintenance agreement with the Developer, respectively:

Public Improvements to be maintained by City

1. Concrete curb and gutter.
2. Concrete sidewalk constructed per City standards (non-decorative).
3. Street lights, pull boxes and conduits.
4. Fire hydrants.
5. Water services up to the meter.

Public Improvements immediately adjacent to the Site to be maintained by Developer

1. Landscaping and Irrigation.
2. Parkway Trees.
3. Water service lateral? What does “Fire Water Service” mean?
4. Sewer lateral.
5. Decorative sidewalk.
6. Driveway approach (from curb to Developer property line).

B. With respect to any bonds or similar security (including letters of credit or cash) posted by Developer in connection with the development of the Site in favor of the City, within sixty (60) days after completion or satisfaction of all requirements related to such bonds or other security and the respective Developer's request (or such earlier time as required by law), the City shall cause the release of such bonds.

Section 11. Affordable Housing and Rent Restrictions:

A. Affordable Housing. Developer shall enter into an Affordable Housing Agreement with the City prior to the issuance of any grading or construction permits, which agreement must result in recorded covenants upon the property to assure affordable rents as set forth in this Section for a minimum of fifty-five (55) years following first occupancy and which shall provide terms and procedures and details, including a process for annual compliance reporting to the City. Eleven (11) units shall be reserved at or below the LOW INCOME threshold and for occupancy by qualifying tenants, as defined by applicable State Law. These units constitute a minimum of 10% of the total number of units within the project and shall fulfill the City’s 10% Inclusionary Affordable Housing requirement for the project.

B. Work Force Housing. At least eighty (80) of the units shall be rented at a projected rent between $1,200 to $1,695 per month within the following rental categories: a minimum of six (6) units shall have rents of not more than $1,295, six (6) units shall have rents of not more than $1,395, six (6) units shall have rents of not more than $1,495, six (6) units shall have rents of not more than $1,595, and fifty-six (56) units shall have rents of not more than $1,695, and shall remain between the LOW TO MODERATE INCOME threshold, as defined by applicable State Law, exclusive of utilities, commencing on the Effective Date with an ability to increase rents a maximum amount of three percent (3%) annually for a period of 40 years. Developer shall record a restrictive covenant in a form reasonably approved by the Director and the City Attorney.

C. The Affordable Housing Agreement and the Restrictive Covenant shall also include a program to give priority preference to prospective tenants that work in Brea and shall provide a priority for a minimum of eighty percent (80%) of the units for such tenants (however, Developer is allowed to lease such units to other tenants to the extent such units are available after leasing to all qualified local worker priority tenants).

It is acknowledged that Developer may modify the terms of affordability for the Work Force Housing units described in Section 11.B in the event the State or any other governmental agency enacts any new legislation that causes any increase in property tax (including any special tax or assessment) to be implemented upon the property (*e.g.* modification of Prop 13) but only to the extent reasonably necessary to re-capture any increase in property-related tax. Developer shall notify City of any such adjustment.

Section 12. Developer's Contributions.

A. Contribution of video camera hardware and software. Developer shall provide Ten Thousand Dollars ($10,000) for the procurement and installation of video surveillance cameras for the Imperial Highway and Berry Street intersection, Berry Street and Mercury Lane, and for Mercury Lane and the West Downtown parking garage. Said cameras shall be integrated into the existing fiber optic system from the West garage connecting to the Civic and Cultural Center, and integrated with the City's existing video surveillance systems, with related details and specifications subject to the review and approval of the City prior to the issuance of any occupancy permits.

B. Contribution to Future Sidewalk and Bike Lane Improvements. Developer shall pay City a financial contribution in the amount of Sixteen Thousand Dollars ($16,000) toward the cost to construct sidewalks and bike lane improvements on Mercury Lane and the parking garage entrance drive area. Developer shall make such payment in full to the City to the satisfaction of the City Manager prior to issuance of any occupancy permits for the project. Said funding shall be used at the sole discretion of the City of Brea and is not subject to timing restrictions for use or refunding to the Developer.

C. Contribution to Future improvements to Imperial Highway. Developer shall pay City a lump sum financial contribution in the amount of Eighty Thousand Dollars ($80,000) toward the cost of future improvements to Imperial Highway. Developer shall make such payment in full to the City to the satisfaction of the City Manager prior to issuance of any occupancy permits for the project. Said funding shall be used at the sole discretion of the City of Brea and is not subject to timing restrictions for use or refunding to the Developer.

D. Contribution to Use and Maintenance of West Downtown Parking Garage. Developer may elect to use the West Downtown parking garage (the "Parking Garage") for guest parking of Project residents, provided that the number and location of parking spaces reserved for such use shall be subject to City's reasonable terms and conditions and its advance review and approval on an annual basis; provided that in no event shall the Parking Garage be used by Developer or Project residents for resident parking or vehicle storage. In exchange for such limited use of the Parking Garage, Developer's Tenants shall pay City $25.00 per space, per month, which amount shall increase annually according to the CPI for the Orange County area.; however, in the event City charges any other person a lower monthly rate, Developer's Tenants shall pay the lower rate. City shall use said annual payments solely the maintenance, repair, and upkeep of the Parking Garage.

E. Car-Share and Bike-Share Program. Developer shall develop and implement car-share and bike-share programs to serve the Project. Developer shall submit a detailed program

implementing these programs for the review and approval of the City Planner prior to the occupancy of any residential units. Said program shall provide for the availability of on-site shared automobiles and bicycles for residents and may include appropriate fees for such services.

Section 13. Effect of City Regulations on Development of Project. Except as expressly provided in this Agreement, all substantive and procedural requirements and provisions contained in City's ordinances, specific plans, rules, and regulations, including, but not limited to, the Brea Municipal Code, in effect as of the Effective Date of this Development Agreement, shall apply to the construction and development of the Project and Site.

A. The provisions of this Section shall not preclude the application to the development of the Project and the Site of those changes in City ordinances, regulations, plans, or specifications that are: (i) specifically mandated and required by changes in state or federal laws or regulations as provided in California Government Code Section 65869.5 or any successor provision or provisions; (ii) required to ensure public safety and are made applicable throughout the City; or (iii) are required to ensure access under the Americans with Disabilities Act. In the event such changes prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended or performance thereof delayed, to the extent necessary to comply with such changes in the law.

B. All fees currently charged by the City in connection with the construction of the Project, including land use approvals, development fees, building permits, etc., shall be no higher than those fees in effect at the Effective Date for a period of five (5) years from the Effective Date, subject to the following exceptions:

i. The City's existing development impact fees may increase over time and shall be paid in the amounts in effect at the time application is made for such approvals or permits that require payment.

ii. All City requirements associated with the City's affordable housing requirements are being fully satisfied through the provision of the affordable units provided by the Project pursuant to the Project Approvals and this Agreement. No other fees or exactions shall be charged for Affordable Housing.

iii. All development impact fees shall be due at certificate of occupancy.

C. City may apply to the Project any and all new health and safety regulations (e.g., fire, building, and seismic, plumbing, and electric codes) that become applicable to the City pursuant to State and Federal law as a whole after the Effective Date.

Section 14. Annual Review. During the term of this Development Agreement, City shall annually review the extent of good faith compliance by Developer with the terms of this Agreement. Developer shall file an annual report with the City indicating information regarding compliance with the terms of this Agreement no later than January 7 for the previous calendar year, commencing January 7, 2021.

Section 15. Indemnification and Legal Challenge. To the maximum extent permitted by law, Developer must defend, indemnify, and hold City and its elected officials, officers, contractors serving as City officials, agents, and employees ("Indemnitees") harmless from liability for damage and/or claims for damage for personal injuries, including death, and claims for property damage, and with respect to all other actions and liabilities for damages caused or alleged to have been caused by reason of Developer's activities in connection with the development and/or construction of the Project, and which may arise from the direct or indirect operations of Developer or those of Developer's contractors, agents, tenants, employees, or any other persons acting on Developer's behalf, which relate to the development and/or construction of the Project. This indemnity provision applies to all damages and claims for damage, as described above, regardless of whether or not the City prepared, supplied, or approved the plans, specifications, or other documents for the Project. Developer shall also defend, indemnify, and hold the Indemnitees harmless from and against any and all claims, liabilities, losses, damages, costs, and expenses arising from or related to Developer's failure, or any of its contractor's failure, to pay prevailing wages pursuant to Labor Code Section 1720 *et seq*. in connection with construction of the Project and associated public and private improvements.

In the event of any legal action challenging the validity, applicability, or interpretation of any provision of this Agreement, any of the entitlement documents pertaining to the Project including, without limitation, the City's General Plan, Zoning Ordinance, or any other supporting document relating to the Project, Developer must indemnify, defend, and hold harmless the Indemnitees, and each of them, with respect to all liability, costs, and expenses incurred by, and/or awarded against, the City or any of the Indemnitees in relation to such action. The City shall have the right to select counsel of its choice. The parties hereby agree to cooperate in defending such action. In the event of any litigation challenging the effectiveness of this Agreement, or any portion hereof, this Agreement shall remain in full force and effect while such litigation, including any appellate review, is pending, unless otherwise ordered by the court. Absent issuance of an injunction, Developer may elect to continue development under this Agreement pending completion of the litigation but it shall do so at its sole risk, and the City shall not be liable for any loss suffered as a result thereof. This Section shall survive the expiration or earlier termination of this Agreement.

Section 16. Amendments. This Agreement may be amended or canceled, in whole or in part, only by mutual written consent of the parties and then in the manner provided for in California Government Code § 65868, *et seq*., or successor provisions thereto.

Section 17. Enforcement. In the event of a default under the provisions of this Agreement by Developer, City shall give written notice to Developer (or its successor) by registered or certified mail addressed at the address stated in this Agreement, and if such violation is not corrected to the reasonable satisfaction of City within thirty (30) days after such notice is served on Developer, or if not corrected within such reasonable time as may be required to cure the breach or default if said breach or default cannot be cured within said thirty (30) days (provided that acts to cure the breach or default must be commenced within said thirty (30) days and must thereafter be diligently pursued by Developer), then City may, without further notice, declare a default under this Agreement and, upon any such declaration of default, City may bring any action necessary to specifically enforce the obligations of Developer growing out of the operation of this Development Agreement, apply to any court, state or federal, for injunctive relief against any violation by Developer of any provision of this Agreement, or apply for such other relief as may be appropriate.

Section 18. Event of Default. Developer is in default under this Agreement upon the happening of one or more of the following events or conditions:

A. If a material warranty, representation, or statement made or furnished by Developer to City set forth herein or in any document incorporated by reference herein is false or proved to have been false in any material respect when it was made;

B. If a finding and determination is made by City following an annual review pursuant to this Agreement, upon the basis of substantial evidence, that Developer has not complied in good faith with any material terms and conditions of this Agreement, after notice and opportunity to cure as provided by this Agreement; or

C. A breach by Developer of any of the provisions or terms of this Agreement, after notice and opportunity to cure as provided in this Agreement.

Section 19. No Waiver of Remedies. City does not waive any claim of defect in performance by Developer if on periodic review City does not enforce this Agreement. Nonperformance by Developer shall not be excused because performance by Developer of the obligations herein contained would be unprofitable, difficult, or expensive, or because of a failure of any third party or entity, other than City. Subject to the provisions of Section 22, all other remedies at law or in equity which are not otherwise provided for in this Agreement are available to each party to pursue in the event that there is a breach of this Development Agreement by the other party (subject to applicable notice and cure periods). No waiver by City or Developer of any breach or default under this Development Agreement by the other party shall be deemed to be a waiver of any other subsequent breach thereof or default hereunder.

Section 20. City Not Liable For Damages. It is acknowledged by the parties that the City would not have entered into this Agreement if it could be held liable in damages under or with respect to this Agreement or the application thereof. Consequently, and except for the payment of attorneys' fees in accordance with this Agreement, the City shall not be liable in damages to Developer, or to any assignee, transferee, or any other person, and Developer covenants on behalf of itself and its successors in interest not to sue for or claim any damages:

A. For any breach of this Agreement;

B. For the taking, impairment or restriction of any right or interest conveyed or provided hereunder or pursuant hereto;

C. Arising out of or connected with any dispute, controversy, or issue regarding the application or interpretation or effect of the provisions of this Agreement; or

D. For any injury to or interference with the rights of the property owner, allegedly or actually arising out of, or incurred in connection with, the parties entering this Agreement, or their exercise of any rights under this Agreement.

Section 21. Rights of Lenders Under this Agreement. Should Developer place or cause to be placed any encumbrance or lien on the Project, or any part thereof, the beneficiary ("Lender")

of said encumbrance or lien shall have the right at any time during the term of this Agreement and the existence of said encumbrance or lien to:

A. Do any act or thing required of Developer under this Agreement, or cure any default of Developer under this Agreement within the time limits set forth in this Agreement, and any such act or thing done or performed by Lender or cure shall be as effective as if done by Developer;

B. Realize on the security afforded by the encumbrance or lien by exercising foreclosure proceedings or power of sale or other remedy afforded in law or in equity or by the security document evidencing the encumbrance or lien (hereinafter referred to as "a trust deed");

C. Transfer, convey or assign the title of Developer to the Site to any purchaser at any foreclosure sale, whether the foreclosure sale be conducted pursuant to court order or pursuant to a power of sale contained in a trust deed; and

D. Acquire and succeed to the interest of Developer by virtue of any foreclosure sale, whether the foreclosure sale is conducted pursuant to a court order or pursuant to a power of sale contained in a trust deed.

Should any Lender require or request an amendment of this Agreement in respect of the rights and remedies granted to a Lender, City hereby agrees to consider such an amendment in good faith and in accordance with state and local law so long as the proposed amendment does not materially and adversely affect the rights, powers, and remedies of the City in respect of a default by Developer hereunder.

Section 22. Notice to Lender. City shall give written notice of any default or breach under this Agreement by Developer to Lender (if known by City) simultaneously with such notice of default City gives to Developer and afford Lender the opportunity after receipt of service of the notice to:

A. Cure the breach or default within thirty (30) days after service of said notice, where the default can be cured by the payment of money;

B. Cure the breach or default within thirty (30) days after service of said notice where the breach or default can be cured by something other than the payment of money and can be cured within that time; or

C. Cure the breach or default in such reasonable time as may be required where something other than payment of money is required to cure the breach or default and cannot be performed within thirty (30) days after said notice, provided that acts to cure the breach or default are commenced within a thirty (30) day period after service of said notice of default on Lender by City and are thereafter diligently continued by Lender.

Section 23. Action by Lender. Notwithstanding any other provision of this Agreement, a Lender may forestall any action by City for a breach or default under the terms of this Agreement by Developer by commencing proceedings to foreclose its encumbrance or lien on the Site. The proceedings so commenced may be for foreclosure of the encumbrance by order of court or for foreclosure of the encumbrance under a power of sale contained in the instrument creating the

encumbrance or lien. The proceedings shall not, however, forestall any such action by the City for the default or breach by Developer unless:

A. They are commenced within thirty (30) days after service on Developer (and on Lender if Lender's address is provided by notice to the City pursuant this Agreement) of the notice described hereinabove;

B. They are, after having been commenced, diligently pursued in the manner required by law to completion; and

C. Lender keeps and performs all of the terms, covenants, and conditions of this Agreement requiring the payment or expenditure of money by Developer until the foreclosure proceedings are complete or are discharged by redemption, satisfaction, or payment.

Section 24. Notice. Any notice required to be given by the terms of this Agreement shall be provided by certified mail, return receipt requested, at the address of the respective parties as specified below or at any other such address as may be later specified by the parties hereto.

To Developer.:	Mercury CXIV, LLC 330 W. Birch, Suite E Brea, California 92821 Attention: Dwight Manley
To City:	City of Brea 1 Civic Center Circle Brea, California 92821 Attention: City Manager
With a copy to:	Richards, Watson & Gershon 1 Civic Center Circle P.O. Box 1059 Brea, California 92822-1059 Attention: Brea City Attorney

Section 25. Attorneys' Fees. In any proceedings arising from the enforcement of this Development Agreement or because of an alleged breach or default hereunder, the prevailing party shall be entitled to recover its costs and reasonable attorneys' fees and experts' fees incurred during the proceeding (including appeals) as may be fixed within the discretion of the court.

Section 26. Binding Effect. This Agreement shall bind, and the benefits and burdens hereof shall inure to, the respective parties hereto and their legal representatives, executors, administrators, successors and assigns, wherever the context requires or admits.

Section 27. Applicable Law and Venue. This Agreement shall be construed in accordance with and governed by the laws of the State of California. Venue for any action or litigation brought for breach or to enforce any provision of this Agreement shall be the County of Orange, California.

Section 28. Partial Invalidity. If any provisions of this Agreement shall be deemed to be invalid, illegal, or unenforceable, the validity, legality, or enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

Section 29. Recordation. The City Clerk shall record this Agreement in the Official Records of the County Recorder of the County of Orange within ten (10) business days following the Effective Date. Upon the expiration of the terms of this Agreement and the request of Developer, the City will execute and deliver, in recordable form, an instrument confirming that this Agreement is terminated and of no further force or effect.

Section 30. Force Majeure. In the event that any party hereto shall be delayed or hindered or prevented from performance of any act required hereunder by reason of acts of God, strikes, lockouts, labor troubles, inability to procure materials, riots, insurrection, terrorism, war or other reason of similar nature not the fault of the party delayed in performing the work or doing the acts required under the terms of this Agreement, then the performance of such act shall be excused for the period of the delay caused by the foregoing. Financial inability shall not be deemed an excuse for delay under this Section.

Section 31. Integrated Agreement. This Development Agreement consists of this Agreement together with all Exhibits attached hereto, and all of the same are hereby incorporated by reference. The provisions of this Agreement shall govern over any inconsistent or conflicting provisions set forth in the Exhibits. No representation or promise, verbal or written, not expressly set forth herein shall be binding or have any force or effect.

Section 32. Headings. Headings used in this Agreement are for reference purposes only and shall not be deemed a part of this Agreement.

Section 33. Time of Essence. Time is of the essence in every provision hereof in which time is a factor.

Section 34. Operating Memoranda. The provisions of this Agreement require a close degree of cooperation between the City and Developer. Refinements to the Project during implementation and development may require clarifications of this Agreement to ensure proper implementation of this Agreement and/or the Project Approvals. If, when, and as it becomes necessary or appropriate to take implementing actions or make such clarifications, the Parties may effectuate such actions, or clarifications through an operating memorandum ("Operating Memorandum") approved by the parties in writing which references this Section. Such Operating Memorandum shall not require public notices and hearings or an amendment to this Agreement unless otherwise required by this Agreement or applicable law. The City Manager shall be authorized, after consultation with and approval of Developer, to determine whether a requested clarification or implementing action: (i) may be effectuated pursuant to this Section and is consistent with the intent and purpose of this Agreement and the Project Approvals; or (ii) is of the type that would constitute an amendment to this Agreement. The authority to enter into such Operating Memorandum is hereby delegated to the City Manager and the City Manager is hereby authorized to execute any Operating Memorandum hereunder without further City Council action.

Section 35. Authority of City Manager. Any consent, approved or other instrument described in this Agreement may be granted, given or executed by the City Manager or designee on behalf of the City and the City Manager or designee shall be authorized to take any other action on behalf of the City without the need for further authorization from the City Council; provided, however that, notwithstanding the foregoing, the City Manager or designee may, in his or her sole discretion, refer to the City Council any item for which the City Manager or designee has authority to act hereunder.

Section 36. Conflicts of Interest; Prohibited Interests.

A. No director, employee or agent of City shall give or receive any commission, fee, rebate, gift or entertainment of significant cost or value, or enter into any business arrangement with any director, employee or agent of a Developer, its affiliates, other than as a representative of a Developer or its affiliates, without prior written notification thereof to such Developer. Any representatives authorized by Developer may audit any and all records of City for the purpose of determining whether there has been compliance with this provision.

B. Developer warrants and maintains that it has no knowledge that any officer or employee of City has any interest, whether contractual, noncontractual, financial, proprietary, or otherwise, in this transaction or in the business of Developer, and that if any such interest comes to the knowledge of Developer at any time during the term of this Agreement, Developer shall immediately make a complete, written disclosure of such interest to City, even if such interest would not be deemed a prohibited "conflict of interest" under applicable laws.

Section 37. Cooperation. Each of the parties shall cooperate with and provided reasonable assistance to the other to the extent contemplated hereunder in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, this Agreement has been executed by the parties and shall be effective on the Effective Date set forth hereinabove.

CITY OF BREA,
a Municipal Corporation

Dated: _____

_____
Marty Simonoff
Mayor

ATTEST:

_____
Lillian Harris-Neal
City Clerk

Approved as to form:

_____
Terence R. Boga
City Attorney

MERCURY CXIV, LLC
a California limited liability company

Dated: _____

By: _____

Name: _____

Title: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Orange)

On _____, before me, _____,
(insert name and title of the officer)
Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_____ (Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Orange)

On _____, before me, _____,
(insert name and title of the officer)
Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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County of Orange)

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Notary Public, personally appeared _____,
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WITNESS my hand and official seal.

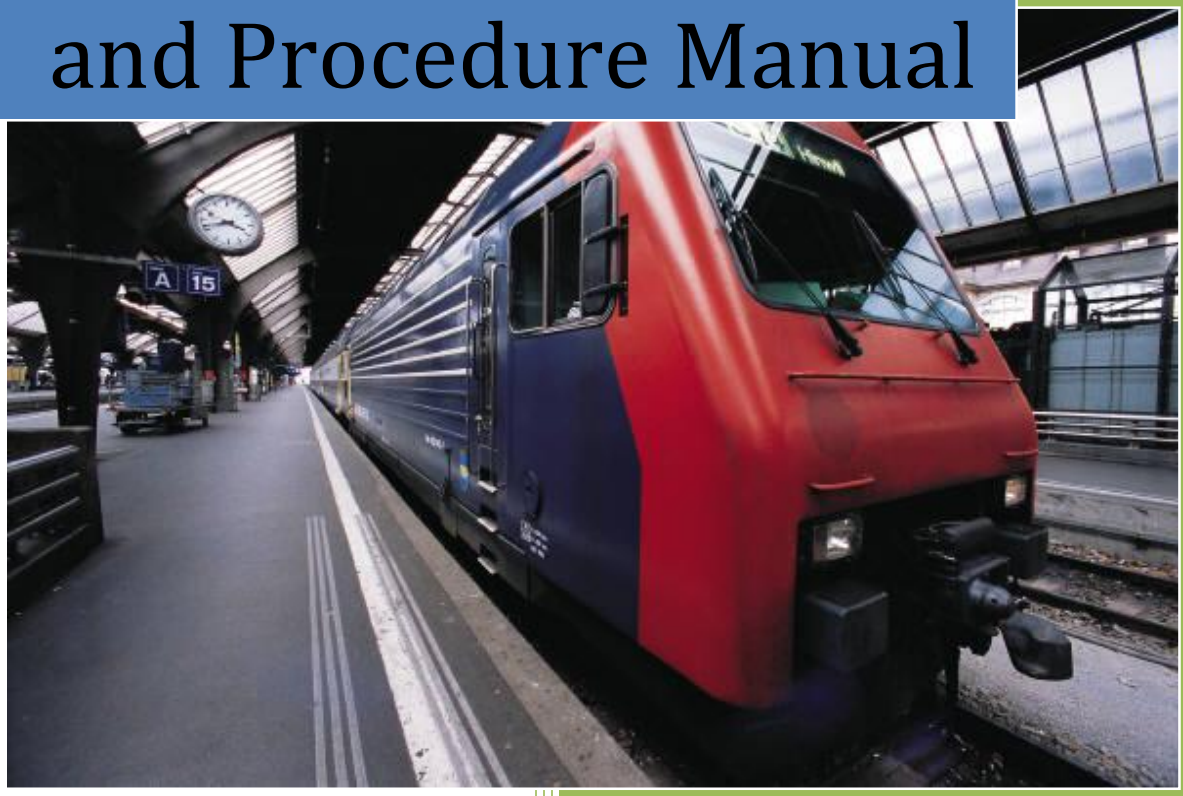
Signature_____ (Seal)

EXHIBIT A

LEGAL DESCRIPTION
OF THE SITE

ATTACHMENT 3

Overnight Parking Permit Policy and Procedure Manual



City of Brea

HISTORY

In 1951, the Brea City Council took what many people would consider a bold step in an attempt to control the growing use of the automobile. By adopting Ordinance 223, the Council established a thirty-minute parking restriction for all vehicles between the hours of 2:00 a.m. and 4:00 a.m. (amended to 6:00 a.m. in 1977). Little information is available on the issues that developed causing the Council to adopt such a position relating to vehicle parking, but their impacts are being felt today.

By requiring vehicles to be off the street at night, vehicle owners are less likely to park them on the street during the day, partially from habit and partially due to the realization they will have to go out later in the evening and move them onto the property anyway. The result is fewer vehicles now block trash pick-ups, street sweeping, curbside address numbers, fire hydrants, mailboxes, street repair activities, visibility up and down the street, and other similar activities which take place near the street curb. This, in turn, allows faster trash pick-ups, cleaner streets, faster response by police, fire and paramedic units, less wear and tear on the streets, and fewer accidents and injuries from children darting out between cars or from vehicles trying to enter traffic from an obstructed driveway. Other less obvious and more localized benefits have also been realized in some neighborhoods. Those "someday to be restored" junk vehicles cannot proliferate to the point of occupying all of the available on-site parking. A vehicle-free street tends to enhance the aesthetic quality of a neighborhood street.

While a variety of benefits can be identified to support a prohibition of street parking, a number of other city regulations also create situations which do not allow the property to provide sufficient space to park all the vehicles under the control of the property owner. To address this problem, the City has developed a parking permit program which will provide some relief for those people caught between two sets of regulations, while not totally abandoning the benefits described above.

This policy manual represents the criteria established to ease the problems for those properties having more vehicles than on-site parking capacity, without creating a burden on an entire neighborhood. The criteria established by this manual shall be used to evaluate each permit application, and shall govern the continued validity of each permit once it has been issued.

DEFINITIONS

The following definitions have been developed to help clarify the intentions of the Parking Permit Manual. These definitions shall apply only to this manual, and may not be consistent with similar definitions in other City regulations.

APPLICANT

The person whose name appears as Applicant on the online Record. The applicant must be a resident of Brea, residing at the address shown on the application, be in legal possession of the vehicle(s) for which a permit is being requested, and be of legal age to operate the vehicle.

APPROVED VEHICLE

Any non-commercial vehicle currently registered at the resident's Brea address, under the control of the property owner/tenant, in compliance with the most current California Vehicle Code requirements for operating on public streets, and have as its primary function the transportation of people from place to place. **Special Purpose Vehicles shall not be considered Approved Vehicles regardless of their level of compliance with this definition.**

MULTIPLE FAMILY RESIDENCE

One or more structures containing a total of at least two dwelling units on a parcel of land and which was designed for and intended for use by two or more families. Mobile Home Parks are regulated the same as multiple family residences for purposes of the parking permit program.

NEIGHBORHOOD

All property within 100 feet of the property for which a permit has been issued.

NON-ACCESSIBLE PARKING SPACE

Those parking spaces which were designed and intended for the parking of vehicles, but are not actually available for parking due to actions by the property owner/tenant. Typically these actions would include, among other things, the conversion of garage or carport space to other uses, use of the required garage space for storage of goods or materials, or the construction of permanent walls or fences across parking areas.

ON-SITE PARKING

Any hard surface area of sufficient size to meet the criteria of a "parking space" and was originally designed and intended to be used for the parking of vehicles. This area must have direct hard surface access to a public way.

PARKING AREA

Those hard surface areas including garages, carports, driveways, and parking pads designed and intended to be used as a place for parking vehicles.

PARKING SPACE

That portion of the parking area where a vehicle may be left standing for any period of time. The space shall be defined as an area three (3) feet wider than the widest vehicle dimension and

three (3) feet longer than the vehicle's longest dimension. The dimension of an interior parking space for a standard vehicle shall be nine feet by nineteen feet.

PERFORMANCE BOND

A bond or cash deposit to ensure compliance with conditions and restrictions that have been attached to a permit. Failure to comply could result in the City placing a claim on the bond/deposit to recover costs for obtaining compliance.

PERMIT OFFICER

A member of the City staff designated to coordinate the day to day activities of the program.

RECREATION VEHICLE

Any vehicle which is designed for and intended to be used primarily for recreational purposes, including, but not limited to, such vehicles as motor homes, camping trailers, boats, all-terrain vehicles, aircraft or any type of vehicle designed for competitive racing.

REGISTERED VEHICLE

Any vehicle which is legally licensed by a governmental agency (such as a state), provided such license authorizes said vehicle to travel on public roadways.

SINGLE FAMILY RESIDENCE

A single structure containing one dwelling unit occupying a parcel of land, and which was designed for and intended to be used by one family.

SPECIAL PURPOSE VEHICLES

Vehicles which have been designed for specific uses other than those for Approved Vehicles, including such vehicles as recreational vehicles, motor cycles, construction equipment, commercial vehicles, military vehicles, off road vehicles or vehicles rated over 3/4 ton.

STORED VEHICLE

Any vehicle which remains standing in one parking space for seven (7) or more consecutive days without any evidence of being moved and providing some benefit to the owner.

PERMITS

TYPES OF PERMITS

The Overnight Parking Permit Program has established the "Annual Permit," the "Temporary Permit" (Monthly Permit) and the "Overnight Permit" to provide a flexible permit process which serves the unique needs of various parking situations. Anyone considering applying for a permit should review the permit descriptions below, and determine the most appropriate permit to address their specific situation. Applying for the wrong permit could result in a permit being declared null and void after it is issued. Regardless of the type of permit issued, the permit may only be displayed on a vehicle parked within the public right-of-way because there are no on-site parking spaces available. If there are any questions regarding which type of permit is appropriate for a specific situation, contact the Building & Safety Division at (714) 671-4406 or email breaparkingpermits@cityofbrea.net.

ANNUAL PERMIT

The Annual Permit is used to identify a vehicle that cannot park on private property due to a parking area which is not sufficiently large enough to meet the property owner/tenant's long term needs. This permit will be issued to the property based on the information provided on the application. The permit may be affixed to any "approved vehicle" at that address which is in compliance with all of the conditions and restrictions set forth in this manual. To apply for a permit online, go to brea.thepermitstore.com; the initial application process is to qualify for a permit. List all vehicles registered to the Brea address (including roommates, if applicable).

TEMPORARY/MONTHLY PERMIT

The Monthly Permit is a temporary permit – used to identify a vehicle that cannot park on private property due to a medium term condition, which does not allow the available parking area to meet the property owner/tenant's needs. Typically the Monthly Permit would allow for use of the parking area as storage for construction materials, replacement of parking area hard surface, buying/selling of vehicles (transition from old to new vehicle), or temporary storage of personal belongings. To apply for a permit, go to the website listed above to submit an application and send an email to breaparkingpermits@cityofbrea.net to provide reason for the need of a Monthly Permit.

OVERNIGHT/SELF-ISSUED PERMIT

The Self-Issued Permit is used to identify a vehicle that cannot park on private property due to a short term condition which prevents the parking area from meeting the owner/tenant's needs. Typically, a Self-Issued Permit would be used to provide parking for out of town guests, for the loading/unloading of recreation vehicles, for the temporary storage of construction materials or minor repairs to the parking area. The permit is self-issued by the property owner and does not require prior approval by the City of Brea. This permit shall be considered issued when an 8.5" x 11", clearly written note is placed on the driver's side dashboard in a location visible from the outside. **The permit shall include the name and address of the property owner as well as a statement which explains why it is necessary to leave the vehicle on the street.** The permit shall be signed and dated (current date only) by the property owner. Each permit shall be valid for not more than one 24-hour period, not more than seven (7) consecutive days, nor fourteen (14) permits total shall be issued to any one vehicle during a sixty (60) day period. A pre-printed Self-Issued permit can be printed from the City of Brea's website at cityofbrea.net. Under the "How Do I?" section on the right side of the homepage, choose "Apply for Parking Permit" and then click on "Temporary Permit."

PERMIT PROCESS

Any person of legal age to operate a motor vehicle, who is a resident of the City of Brea, may apply for an overnight parking permit. The applicant should evaluate the different types of permits and apply online at brea.thepermitstore.com.

All online submittals will be evaluated for completeness and accuracy of the information related to the type of permit requested. Those submittals not found to be complete will be rejected, and the applicant informed of the reason for the rejection. The applicant may go back online to revise the request for permits.

When the online submittal is determined to be complete, the applicant may purchase the permit(s) requested and they will be mailed to the address to which it has been assigned. The permit may be affixed to any approved vehicles at that address in accordance with the established standards for displaying the permit. Proper placement and attachment of the permit shall be the responsibility of the applicant. Failure to properly display the permit may result in a citation being issued, as specified in Ordinance #951, Section 3(a).

During the application processing, the applicant may self-issue Overnight Permit(s) in accordance with the procedures on page 5 of this manual. Use of the Overnight/Self-Issued Permit will allow the vehicle to park on the street without the threat of receiving a parking citation before the requested Annual Permit(s) is actually issued.

Should a permit be lost, stolen, damaged, or defaced during the period of time for which it was issued, the original applicant may apply for a new permit. The applicant shall verify that the information online is still accurate or provide information regarding any changes in status. Upon paying the replacement fee, the online request will be processed and a new permit issued. Any person found to be in possession of and using a permit that has been declared lost, stolen, damaged or defaced may be prosecuted for a misdemeanor violation as specified in Ordinance #951, Section 3(b).

PARKING PERMIT QUALIFICATION CRITERIA

The following criteria has been established as the requirements for qualification of any individual and property desiring to obtain a parking permit to park on any public street between the hours of 2:00 a.m. and 6:00 a.m. on any day.

General

1. The applicant must be of legal age to operate a motor vehicle.
2. The applicant must have a valid California driver's license.
3. The applicant must reside at the address for which the permit is being applied.
4. The property must be in compliance with all City Code requirements for on-site parking before applying for a parking permit. These requirements include:
    a. All parking areas must be free of any materials or obstructions that would block access to one or more parking spaces.
    b. Vehicles shall not be parked in a manner that obstructs access to other vacant parking spaces.
    c. In garages of single family dwellings, with a capacity for parking two or more vehicles, an area equivalent to that allowed for one standard vehicle (9'x19') may be utilized for non-parking purposes.
5. All on-site parking spaces must be utilized prior to parking permit issuance. Exception: in garages for single family dwellings with area for parking of two or more vehicles, an area equivalent to that allowed for one may be utilized for non-parking purposes.
6. Only properties zoned for and occupied as residential use shall be eligible for a permit.
7. When a property has been identified as part of a Special District, the applicant shall comply with any special requirements developed for that District.
8. No permit shall be issued to any property that is more than 100 feet from a public street on which parking is allowed.

PARKING PERMIT RESTRICTIONS

The following restrictions have been established for the use and display of parking permits on any vehicle that is parked on any public street for more than 30 minutes between the hours of 2:00 a.m. and 6:00 a.m. on any day.

1. The permit shall be displayed in accordance with the Permit Display Standards on page 9 of this manual.
2. The permit shall only be displayed on one of the vehicles identified as approved during the application review process.
3. Vehicles are encouraged to be parked within 100 feet of the property to which the permit is assigned, with the permit displayed on the vehicle.
4. The permit shall not be transferred to, or used in conjunction with, any property except the property to which it is issued.
5. The permit shall not authorize the applicant, or any other individual, to violate any other parking regulations adopted by any other governing body, including any homeowner association, local, state or federal agency.
6. The permit shall be valid for the time period indicated on the permit unless a written notice is given by the City of Brea changing the time period.
7. The permit shall not be valid until all required fees established by the City Council have been paid.
8. The maximum number of permits that will be issued to an address shall be as follows:
    a. Single family residence – 2 permits
    b. Each multi-family residence unit – 1 permit
    c. For Temporary/Monthly Permits there is no limit to the number of permits that may be issued, however, each request will be considered separately and each request must comply with all of the permit requirements stated above.
    d. Requests for additional permits will be evaluated to establish need prior to issuance of additional permits.
9. Any permit issued to a property within a Special District shall be restricted as specified in the regulations for that District.
10. Hardship exemptions may be granted when the City determines a safety hazard will be created by the refusal to issue a permit based on strict compliance with these regulations.

PERMIT DISPLAY STANDARDS

Because the parking permit is transferrable among vehicles listed at an address, the following standards have been developed to define how and where the permit must be displayed. Failure to comply with these standards could result in the issuance of a parking citation, even though a property has been issued a permit, and the permit may be within the vehicle. The requirements for display include:

1. The parking permit must be displayed in the vehicle while it is parked on any public street within the neighborhood to which the permit is assigned. The permit need only be displayed between the hours of 2:00 a.m. and 6:00 a.m.
2. The permit shall be considered displayed when it complies with all of the following criteria:
    a. The permit is adhered to the driver's side (lower left-hand corner) of the front windshield.
    b. Nothing is placed in or on the vehicle which will obscure the visibility of the permit from the street side of the vehicle.
    c. Nothing shall be done to the permit to deface or obscure the permit.
    d. The permit is attached to the vehicle in such a manner that it is clearly visible from the street side of the vehicle.
    e. The applicant assumes all responsibility should the method of attachment fail and the permit becomes dislodged.
3. Display of a permit that has expired, or been declared null and void, may result in the vehicle's owner being prosecuted for a misdemeanor violation under Ordinance #951, Section 3(b).
4. The permit shall be displayed only on approved vehicles and not recreational or special purpose vehicles.

SPECIAL DISTRICTS

The City may establish special parking districts where a finding is made that enforcement of the standard parking permit regulations will place an excessive burden on a neighborhood. The purpose of the Special District is to modify those regulations that are creating a problem only to the extent necessary to relieve the excessive burden. This modification may result in an increase, decrease, elimination or addition of one or more specific regulations.

When an area is identified as a potential Special District by any citizen, group of citizens, association, organization or City staff person, the Director of Community Development may initiate a study to evaluate both the existing conditions and the potential worst case conditions. The findings of the study will be evaluated against the standard permit regulations to identify what types of regulation modifications will be necessary. Modifications will only be made to address specific identified issues and, only to the extent necessary, to establish a balance between the needs of an individual and the needs of the neighborhood.

When a Special District is proposed by the Director, all residents within the district boundaries will be notified of the proposed regulation modifications and will be given an opportunity to express their view. At the conclusion of this review period, the Director will make any necessary adjustments to the regulations and provide a copy of the final regulations to each residence within the area. Included in the final regulations will be a date for implementation of the new regulation and instructions regarding actions to be taken by residents, if any, to acquire new permits.

REVOCATION AND APPEAL PROCEDURE

REVOCATION PROCESS

Permits that have been issued are subject to revocation for failure to comply with the conditions and restrictions of this manual. At such time as the Permit Officer becomes aware of a possible non-compliant condition, an inspection will be conducted to evaluate the situation. Upon determination of a non-compliance condition, a "Notice of Non-Compliance" will be sent to the permit applicant at the address listed on the online record. The notice will include the nature of the non-compliant condition(s) and will establish a date by which the condition must be corrected. After that date, a re-inspection will be conducted to determine the current status of the condition(s). If the condition(s) is found to still exist, a "Notice of Revocation" will be issued to the applicant. This notice shall set a time and date when the permit will become null and void.

Revocation shall be considered an action against the property to which the permit was issued. For a period of six (6) months from the date of revocation, no online permit application received from that property will be evaluated, nor will a permit be issued. After six months, a new online application may be submitted. The online application will be evaluated based on program regulations in effect at the time of the new submittal.

APPEAL PROCESS

The applicant for a parking permit may appeal the decision of the Permit Officer to the Public Works Director and Building & Safety Manager (PWD & BSM). Any such appeal shall be filed with the City Clerk, in writing, within ten (10) business days from the date a written decision is issued by the Permit Officer. The appeal, in writing, shall be accompanied by the fee required for the filing of any such appeal, which fee shall be set by the City Council by resolution. Upon the receipt of an appeal in writing, the City Clerk shall set a hearing before the PWD & BSM.

HEARING BEFORE PWD & BSM

At the time and place set for the appeal hearing before the PWD & BSM, the PWD & BSM shall review the decision of the Permit Officer and shall afford the appellant a reasonable opportunity to be heard in connection therewith. Upon consideration of the evidence presented to the PWD & BSM at the hearing on the appeal, the PWD & BSM may sustain the action of the Permit Officer, modify the action or reverse the action as a result of information presented at the hearing. The PWD & BSM may continue the hearing on the appeal from time to time if such continuance is deemed warranted in the PWD & BSM's sole discretion.

Upon conclusion of the appeal hearing, the PWD & BSM shall, within ten (10) days, issue a resolution of findings and determinations with respect to the appeal. The decision of the PWD & BSM shall be the final step in the appeal process.

The PWD & BSM may appoint a hearing officer in lieu of themselves at the appeal hearing.

NOTICE OF PWD & BSM DETERMINATION

A copy of the determination of the PWD & BSM shall be mailed to the property owner, or other person in control or in charge of the permit, within five (5) working days of making the determination.

Morse Planning Group
145 N C Street
Tustin, CA 92780

February 18, 2020

Ms. Maribeth Tinio, Senior Planner
CITY OF BREA
Community Development Department
Planning Division
1 Civic Center Circle
Brea, CA 92821

SUBJECT: THE MERCURY PROJECT – ADDITIONAL INFORMATION FOR THE PLANNING COMMISSION

Dear Ms. Tinio:

The Mercury Project Team has compiled the information herein to address comments from the Planning Commission and the public at the January 28, 2020 Planning Commission Meeting. Information is provided for the following topical areas: The Mercury Building, Planned Community Master Plan, Noise, Vehicle Parking, Bike and Car Share, and Bike Parking/Bike Repairs. Please provide this information to the Planning Commission for the upcoming February 25, 2020 Meeting.

THE MERCURY BUILDING

LOADING/UNLOADING ZONE

There is a No Stopping Zone on Berry Street from Imperial Highway north to Mercury Lane; thus, the loading/unloading zone for the building must be located on Mercury Lane. The location of the loading/unloading zone was determined in consultation with City Staff.

MAILROOM

The location of the Mail Room was determined in consultation with City Staff, and mail and package delivery would utilize the Loading/Unloading Zone on Mercury Lane. The configuration of the Mail Room, which could include a central package delivery area, will be refined during the plan check and building permit stage in the development process pursuant to the Brea City Code, California Building Code, and International Building Code, as is typical.

TRASH ROOM

Planned Community Master Plan Exhibit V-31 illustrates the Trash Service Plan. The location of the Trash Room and loading/unloading area was determined in consultation with City Staff. The frequency of trash pick-up is not specified in the Planned Community Master Plan, but the location and potential waste generation has been reviewed by a trash consultant and the trash service provider.

The Applicant will continue to work with the trash service provider during the plan check and building permit stage in the development process pursuant to the Brea City Code, California Building Code, and International Building Code, as is typical.

ELEVATORS/RESIDENT MOVE-IN LOADING & UNLOADING

The Mercury includes three elevators: two located in the Lobby and one located in the southeast corner of the building, which is larger than the two Lobby elevators. The elevators are appropriately sized for the unit type and sizes (84 studio units: 452 to 458 square feet; 26 one-bedroom units: 596 to 675 square feet: and 4 two-bedroom units: 1,111 square feet) and can accommodate furniture or other larger items; thus a separate freight elevator is not warranted. Refrigerators will be provided in all units; thus, reducing the need to move-in large appliances.

In addition, all on-site elevators will comply with California Building Code Chapter 30, Elevators and Conveying Systems and will be designed in compliance with Section *"3002.4 Elevator car to accommodate ambulance stretcher: Where elevators are provided in buildings four or more stories above, or four or more stories below, grade plane, not fewer than one elevator shall be provided for fire department emergency access to all floors. The elevator car shall be of such a size and arrangement to accommodate an ambulance stretcher 24 inches by 84 inches (610 mm by 2134 mm) with not less than 5-inch (127 mm) radius corners, in the horizontal, open position and shall be identified by the international symbol for emergency medical services (star of life). The symbol shall be not less than 3 inches (76 mm) in height and shall be placed inside on both sides of the hoist-way door frame."*

PARKING GARAGE VENTILATION

Building Level 1 (Street) and Level 2 include the parking garage. The parking garage will be both enclosed and open air, and will require exhaust ventilation. The specifics regarding ventilation will be determined during the plan check and building permit stage in the development process pursuant to the Brea City Code, California Building Code, and International Building Code, as is typical.

MECHANICAL ROOM

A mechanical (utilities) room is located on the first level in the southwest corner of building. In addition, a transformer and electrical room are located on the first level in the northeast corner of the building within the parking garage. The specifics regarding utilities and heating/cooling systems will be determined during the plan check and building permit stage in the development process pursuant to the Brea City Code, California Building Code, and International Building Code, as is typical.

PET-FRIENDLY BUILDING

Pet-friendly amenities are not currently reflected on the Landscape Plans, but can be considered during the plan check and building permit stage in the development process pursuant to the Brea City Code, California Building Code, and International Building Code, as is typical.

PARKING GARAGE ROLL-UP GATE

The current location of The Mercury parking garage entry with a roll-up gate has been reviewed by multiple City departments that determined it will properly function as designed for ingress and egress into the parking garage. However, in response to comments at the Planning Commission meeting on January 28, 2020, the Applicant is open to exploring the potential of relocating the parking garage's roll-up gate from its current location to a location further back from Mercury Lane within the garage to provide additional stacking distance and visibility for residents entering and existing the building, and maintaining traffic flow on Mercury Lane. The roll-up gate relocation can be reviewed during the plan check and building permit stage in the development process pursuant to the Brea City Code, California Building Code, and International Building Code, as is typical, and a determination can be made at that time whether or not a gate relocation is necessary.

PLANNED COMMUNITY MASTER PLAN

UNIT PRICING RESTRICTIONS/COVENANTS

As discussed in Planned Community Master Plan Section V.G, Unit Affordability, 11 units (10 percent) will specifically be for the low-income category as part of the City's Affordable Housing Program per Brea City Code Chapter 20.40. The Applicant will enter into a Housing Development Agreement with City that for these 11 units, which will include affordability convents of a minimum of 55-years. The Development Agreement will also include a covenant for at least 80 of these workforce housing units with specific rents and maximum annual rent increases for 25 years.

PARKING STRATEGIES TOOLBOX

Planned Community Master Plan Section V.D.3 discusses vehicle and bicycle parking, and parking strategies toolbox. The intent of the parking strategies toolbox is to identity a range of options and provide flexibility for the Applicant to implement measures most suited to the development and tenants. The specific strategies to be implemented will be determined as part of the Parking Management Plan. The Applicant expects The Mercury Project to be conditioned to prepare a Parking Management Plan, similar to other projects in the City, including but not limited to Central Park Village, Brea Place (Hines), La Floresta, South Brea Lofts, Downtown Collection, and Downtown Brea.

SUSTAINABILITY GUIDELINES

Planned Community Master Plan Section VII.B discusses Green Buildings and Green Site Treatment guidelines, and identifies applicable current City or State standards. The specifics regarding green building and green site treatments will be further refined during the plan check and building permit stage in the development process pursuant to the Brea City Code, California Building Code, and International Building Code, as is typical.

NOISE

COMPLAINTS FROM RESIDENTS ABOUT ADJACENT INDUSTRIAL BUSINESSES

Planned Community Master Plan Section V.S. discusses disclosures. The tenant lease agreement will include a disclosure regarding adjacent businesses and noise.

SOUND ATTENUATION

A project-specific Preliminary Interior Noise Study was prepared. This technical study is on file with the City. The recommendations from the Preliminary Interior Noise Study are included in Planned Community Master Plan Section V.J, Sound Attenuation and indicate that by implementing the recommendations, the residential units will comply with the City's minimum interior noise standard of 45 dBA CNEL. The Preliminary Interior Noise Study was provided in its entirety as Attachment 8 to the January 28, 2019 Planning Commission Meeting Agenda Item 11 Staff Report.

In addition, as identified in Planned Community Master Plan Section V.J, the project shall install upgraded windows and sliding doors with higher Standard Transmission Class (STC) ratings than what is currently required in the Building Code. The expected minimum STC rating for all exterior windows and sliding glass doors is STC 31.

With respect to the courtyard and rooftop deck, Planned Community Master Plan Section V.J provides that these areas can be shielded from undesirable noise exposure by enclosing the spaces with solid faced screening walls facing the adjacent roadways.

VEHICLE PARKING

RESIDENT AND GUEST PARKING

The Mercury Project provides adequate on-site parking for residents and adequate off-site parking is available for guests on Mercury Lane and in Brea Downtown parking garages. This is substantiated in the Mercury & Berry Residential Project Parking Analysis prepared by RK Engineering Group, Inc., dated September 24, 2019. RK Engineering Group does not concur with the Gibson Transportation Consulting, Inc. (GTC) comments or recommendations in their Memorandum dated November 5, 2019. RK Engineering Group submitted a letter to the City on January 21, 2020 (refer to Attachment 3) providing detailed responses to GTC comments that highlight differences in professional opinions and stating erroneous interpretations of information or data sources cited in the RK Engineering Group Parking Analysis.

It is important to note that a parking comparison between other residential projects in the City and Downtown area with The Mercury Project is useful only if the specific details of each are understood, such as rental versus for-sale units, quantity of unit type/number of bedrooms, bedroom size, and unit size. As an example, comparing a rental development with two- or three-bedrooms units with The Mercury Project, which is primarily studio and one-bedroom units and four two-bedroom units, will not result in useful information, as the type of tenants would not be similar nor would the per unit parking space requirements.

However, a parking comparison between The Mercury Project with the Downtown Brea and Birch Street Lofts is useful. Both are rental developments with similar unit types and sizes. The Brea Downtown Lofts are 800 square feet (open loft and two room configurations) and the Birch Street Lofts are 780 square feet (open one bedroom configurations). The Brea Downtown and Birch Street Lofts are larger than the studio (452 to 458 square feet) and one-bedroom (596 to 675 square feet) units proposed for The Mercury. What is important to note is that The Mercury Project proposes a residential product type that has been previously been approved and built in the City and in Downtown Brea.

The Planned Community Master Plan provides alternative parking standards specific to The Mercury Project (an affordable workforce rental housing development) that is consistent with the resident parking space requirement for the Brea Downtown and Birch Street Lofts of one parking space for studio and one-bedroom units. The Planned Community Master Plan also provides alternative parking standards for two-bedroom units at two parking spaces per unit. The RK Engineering Group Parking Analysis confirms these alternative parking standards are appropriate for The Mercury Project development, based upon the review of the ITE Parking Generation Manual in Section 3.0, Central Park Village in Section 4.0, Other Studies & Published Sources in Section 5.0, and Other Projects in Downtown Brea in Section 6.0.

There is one notable difference between The Mercury Project and the Brea Downtown and Birch Street Lofts. The Brea Downtown and Birch Street Lofts provide no on-site parking; all resident and guest parking is available in the Brea Downtown parking garages. However, The Mercury Project will provide on-site resident parking, while guest parking will be available off-site on Mercury Lane or in Brea Downtown parking garages.

Attachment 3 also provides information detailing the various ways guest or shared parking quantities and on-and off-site locations have been implemented for rental and for-sale residential projects in the Downtown area.

ADA PARKING REQUIREMENT

The Brea City Code parking requirements do not differentiate between ADA and non-ADA stalls. The ADA parking requirement is part of the total parking spaces to be provided. Five of the 118 parking spaces for The Mercury Project will be marked as ADA spaces.

ELECTRIC VEHICLE CHARGING STATIONS

Existing electrical vehicle charging stations are available nearby in the Downtown Parking Garage at 101 South Brea Boulevard.

The provision of on-site electric vehicle charging stations has not been determined at this time. The Applicant is open to this concept, and will explore it as part of the Parking Management Plan. The Applicant expects The Mercury Project to be conditioned to prepare a Parking Management Plan, similar to other projects in the City, including but not limited to Central Park Village, Brea Place (Hines), La Floresta, South Brea Lofts, Downtown Collection, and Downtown Brea.

In addition, the Applicant will comply with applicable Brea City Code requirements regarding electrical vehicle supply equipment (EVSE) in effect at the building plan review/permit stage.

California Vehicle Code Section 22511.2, restated below, defines how electric vehicle charging spaces are counted.

> *22511.2. (a) A parking space served by electric vehicle supply equipment or a parking space designated as a future electric vehicle charging space shall count as at least one standard automobile parking space for the purpose of complying with any applicable minimum parking space requirements established by a local jurisdiction.*
> *(b) An accessible parking space with an access aisle served by electric vehicle supply equipment or an accessible parking space with an aisle designated as a future electric vehicle charging space shall count as at least two standard automobile parking spaces for the purpose*

of complying with any applicable minimum parking space requirements established by a local jurisdiction.

Electric vehicle charging station spaces would be part of the total parking spaces to be provided, similar to the ADA spaces.

CURRENT PARKING RESTRICTIONS ON MERCURY LANE

Brea City Code Chapter 10.24, Parking Limits specifies: 1) establishment of time limits; 2) no parking zones; 3) permit required for extended overnight on-street parking; 4) parking for longer than 12 hours prohibited in city and city redevelopment agency-owned or operated off-street parking facility; 5) parking or standing of commercial vehicles in city-owned or operated off-street parking facilities; and 6) parking of vehicles in city and city redevelopment agency-owned or operated off-street parking facilities.

There is a no stopping zone on the north side of Mercury Lane close to the Berry Street intersection.

While not signed anywhere on Mercury Lane to indicate the prohibitions per Section 10.24.030 that no person shall stop, stand or park any vehicle on any street for a period of time longer than 30 consecutive minutes between the hours of 2:00 to 6:00 AM on any day, on-street parking on Mercury Lane is subject to this Section.

There are no other signed parking limits on Mercury Lane.

Section 10.24.030 outlines the procedures to obtain a permit for extended overnight on-street parking. Any resident of the city may apply for an annual, temporary, or 24-hour overnight parking permit. This also includes the self-issued short term overnight permit.

No changes to the current parking restrictions on Mercury Lane are proposed for The Mercury Project.

With respect to City-owned off-street parking facilities, the maximum time limit for vehicle parking is 12 hours.

LOADING/UNLOADING ZONES ON MERCURY LANE

There are no signed or timed loading/unloading zones on Mercury Lane for any of the businesses. In the Applicant's meeting with SPX in November 2019, the Applicant suggested that SPX create a truck loading/unloading zone east of their west driveway to facilitate improved truck loading/unloading operations for their business, but also potentially for other Mercury Lane businesses. Individual businesses would need to consult with the City Traffic Engineer to determine whether or not a loading/unloading zone is feasible for their business.

MERCURY LANE PARKING CAPACITY

Mercury Lane is a public street with on-street public parking for all. A majority of businesses on Mercury Lane were constructed in the early 1980s with different parking standards. Employees at the Imperial West Business Center and SPX use both off-street business parking and available on-street parking spaces. Currently, both vehicles and semi-trucks park on Mercury Lane.

Per the Parking Analysis, 58 vehicle spaces are currently available on Mercury Lane. The Mercury Project would eliminate 5 vehicle spaces along the project frontage on Mercury Lane, which reduces the capacity on Mercury Lane to 53 vehicle spaces. The loss of 5 vehicle spaces along the project frontage accounts for the minimum corner setback from Berry Street/Mercury Lane intersection, the Loading/Unloading Zone, and the garage entrance.

For informational purposes, semi-trucks range in length from 70 to 80 feet. One semi-truck parking space would be equivalent to four passenger vehicle spaces.

RK Engineering Group prepared Table A-1, Mercury Lane Existing Observed Hourly Parking Demand by Vehicle Classification, and Table A-2, Mercury Lane Existing Passenger Car Equivalent (PCE) Observed Hourly Parking Demand, which are attached to this letter as Attachments 1 and 2, respectively. Table A-1 summarizes the quantity of both passenger vehicles and semi-trucks on Mercury during a 24-hour period on four separate days. Table A-2 converts the semi-trucks quantity into a Passenger Car Equivalent (PCE) to indicate the total number of parking spaces utilized on Mercury Lane. The highest parking demand was recorded on Friday August 23, 2019 from 8:00 to 9:00 AM with a total of 33 PCE spaces. The second highest demand was recorded on Tuesday August 27, 2019 from 2:00 to 3:00 PM with a total of 32 PCE. This information shows that with The Mercury Project, a minimum of 20 vehicle parking spaces would be available on Mercury Lane.

It is anticipated that guests of The Mercury residents would be parking on Mercury Lane or in Downtown Garages primarily in the evening hours when residents are home, which would be opposite the higher parking volumes for businesses along Mercury Lane during the weekday daytime business hours of 7:00 AM to 4:00 PM. Per the Parking Analysis, there is sufficient parking available on Mercury Lane during the weekday evening hours and on weekends.

BIKE AND CAR SHARE

Bike share and car share programs are better suited for the City to determine their appropriateness for and applicability within the City as a whole. Neither are successful solely at the individual project level. With that said, the Applicant is open to bike and car share, and their feasibility can be explored as part of the Parking Management Plan. The Applicant expects The Mercury Project to be conditioned to prepare a Parking Management Plan, similar to other projects in the City, including but not limited to Central Park Village, Brea Place (Hines), La Floresta, South Brea Lofts, Downtown Collection, and Downtown Brea.

BIKE PARKING/BIKE REPAIRS

There is no Brea City Code standard or specific bike parking requirement for residential uses. The Planned Community Master Plan includes the following standards in Section VII.A.5, Parking:

1. *The multi-family residential development shall provide one bicycle space for every one (1) unit.*
2. *A maximum of 114 bicycle parking spaces shall be provided in a bicycle room within the Master Plan area.*

Standard 2 above does not distinguish between residents and guests. The Applicant is proposing the following revision:

2. *A maximum of 114 bicycle parking spaces shall be provided in a bicycle room within the Master Plan area with 25 percent available for short-term guest parking and 75 percent for long-resident term parking.*

The Applicant can consider providing a bike repair station in Bicycle Room or Parking Garage during the plan check and building permit stage in the development process pursuant to the Brea City Code, California Building Code, and International Building Code, as is typical.

Sincerely,

Collette L. Morse, AICP
Principal

Attachments

1. RK Engineering Group, Table A-1, Mercury Lane Existing Observed Hourly Parking Demand by Vehicle Classification, February 2020
2. RK Engineering Group, Table A-2, Mercury Lane Existing Passenger Car Equivalent (PCE) Observed Hourly Parking Demand, February 2020
3. RK Engineering Group, Inc., Response to City of Brea November 5, 2019 Comments on Revised Mercury & Berry Residential Project Parking Analysis (RK Engineering Group, Inc., September 24, 2019)

ATTACHMENT 1

Table A-1
Mercury Lane Existing Observed Hourly Parking Demand by Vehicle Classification

Time	Existing Parking Capacity (Spaces)	Friday August 23, 2019			Saturday August 24, 2019			Sunday August 25, 2019			Tuesday August 27, 2019		
		Passenger Vehicles	Trucks	Total	Passenger Vehicles	Trucks	Total	Passenger Vehicles	Trucks	Total	Passenger Vehicles	Trucks	Total
12:00 AM	58	0	**1**	1	0	0	0	0	0	0	0	0	0
1:00 AM	58	0	**1**	1	0	0	0	0	0	0	0	0	0
2:00 AM	58	0	**1**	1	0	0	0	0	0	0	0	0	0
3:00 AM	58	0	**1**	1	0	0	0	0	0	0	0	**1**	1
4:00 AM	58	0	**1**	1	0	0	0	0	0	0	0	**1**	1
5:00 AM	58	8	**1**	9	5	0	5	0	0	0	9	**1**	10
6:00 AM	58	12	0	12	7	0	7	0	0	0	11	**1**	12
7:00 AM	58	17	**2**	19	6	0	6	0	0	0	14	0	14
8:00 AM	58	19	**3**	22	5	**1**	6	0	0	0	15	0	15
9:00 AM	58	22	**1**	23	7	**1**	8	0	0	0	17	**1**	18
10:00 AM	58	23	**1**	24	7	**1**	8	0	0	0	14	**2**	16
11:00 AM	58	22	0	22	7	**1**	8	0	0	0	18	**1**	19
12:00 PM	58	21	**1**	22	1	**1**	2	0	0	0	15	**1**	16
1:00 PM	58	22	0	22	1	**1**	2	0	**1**	1	16	**2**	18
2:00 PM	58	18	0	18	2	**1**	3	0	**1**	1	16	**4**	20

Time	Existing Parking Capacity (Spaces)	Friday August 23, 2019			Saturday August 24, 2019			Sunday August 25, 2019			Tuesday August 27, 2019		
		Passenger Vehicles	Trucks	Total	Passenger Vehicles	Trucks	Total	Passenger Vehicles	Trucks	Total	Passenger Vehicles	Trucks	Total
3:00 PM	58	12	0	12	2	**1**	3	0	0	0	13	**4**	17
4:00 PM	58	5	0	5	1	**1**	2	0	0	0	11	**2**	13
5:00 PM	58	3	0	3	0	**1**	1	1	0	1	8	**3**	11
6:00 PM	58	0	0	0	2	**1**	3	1	0	1	1	**1**	2
7:00 PM	58	1	0	1	0	**1**	1	1	0	1	1	**1**	2
8:00 PM	58	1	0	1	0	**1**	1	1	0	1	1	**1**	2
9:00 PM	58	2	0	2	0	0	0	0	0	0	1	**2**	3
10:00 PM	58	0	0	0	0	0	0	0	0	0	1	**1**	2
11:00 PM	58	1	0	1	0	0	0	0	0	0	0	**1**	1

Notes:

Source: Observed hourly parking demand survey counts.

Trucks shown in bold.

ATTACHMENT 2

Table A-2
Mercury Lane Existing Passenger Car Equivalent (PCE) Observed Hourly Parking Demand

Time	Existing Parking Capacity (Spaces)	Friday August 23, 2019			Saturday August 24, 2019			Sunday August 25, 2019			Tuesday August 27, 2019		
		Passenger Vehicles	Trucks (PCE)	Total (PCE)	Passenger Vehicles	Trucks (PCE)	Total (PCE)	Passenger Vehicles	Trucks (PCE)	Total (PCE)	Passenger Vehicles	Trucks (PCE)	Total (PCE)
12:00 AM	58	0	4	4	0	0	0	0	0	0	0	0	0
1:00 AM	58	0	4	4	0	0	0	0	0	0	0	0	0
2:00 AM	58	0	4	4	0	0	0	0	0	0	0	0	0
3:00 AM	58	0	4	4	0	0	0	0	0	0	0	4	4
4:00 AM	58	0	4	4	0	0	0	0	0	0	0	4	4
5:00 AM	58	8	4	12	5	0	5	0	0	0	9	4	13
6:00 AM	58	12	0	12	7	0	7	0	0	0	11	4	15
7:00 AM	58	17	8	25	6	0	6	0	0	0	14	0	14
8:00 AM	58	**19**	**12**	**31**	5	4	9	0	0	0	15	0	15
9:00 AM	58	22	4	26	7	4	**11**	0	0	0	17	4	21
10:00 AM	58	23	4	27	7	4	**11**	0	0	0	14	8	22
11:00 AM	58	22	0	22	7	4	**11**	0	0	0	18	4	22
12:00 PM	58	21	4	25	1	4	5	0	0	0	15	4	19
1:00 PM	58	22	0	22	1	4	5	0	4	**4**	16	8	24
2:00 PM	58	18	0	18	2	4	6	0	4	**4**	16	16	**32**

Time	Existing Parking Capacity (Spaces)	Friday August 23, 2019			Saturday August 24, 2019			Sunday August 25, 2019			Tuesday August 27, 2019		
		Passenger Vehicles	Trucks (PCE)	Total (PCE)	Passenger Vehicles	Trucks (PCE)	Total (PCE)	Passenger Vehicles	Trucks (PCE)	Total (PCE)	Passenger Vehicles	Trucks (PCE)	Total (PCE)
3:00 PM	58	12	0	12	2	4	6	0	0	0	13	16	29
4:00 PM	58	5	0	5	1	4	5	0	0	0	11	8	19
5:00 PM	58	3	0	3	0	4	4	1	0	1	8	12	20
6:00 PM	58	0	0	0	2	4	6	1	0	1	1	4	5
7:00 PM	58	1	0	1	0	4	4	1	0	1	1	4	5
8:00 PM	58	1	0	1	0	4	4	1	0	1	1	4	5
9:00 PM	58	2	0	2	0	0	0	0	0	0	1	8	9
10:00 PM	58	0	0	0	0	0	0	0	0	0	1	4	5
11:00 PM	58	1	0	1	0	0	0	0	0	0	0	4	4

Notes:

Source: Observed hourly parking demand survey counts.

Maximum parking demand observed shown in **bold**

Each truck has been accounted as four (4) passenger vehicles.

ATTACHMENT 3

January 20, 2020

Ms. Maribeth Tinio
CITY OF BREA
1 Civic Center Circle
Brea, CA 92821

Subject: Response to City of Brea November 5, 2019 Comments on *Mercury & Berry Residential Project Parking Analysis (RK Engineering Group, Inc., September 24, 2019)*

Dear Ms. Tinio:

RK ENGINEERING GROUP, INC. (RK) has reviewed the City of Brea's November 5, 2019 comments on the Mercury & Berry Residential Project Parking Analysis *(RK Engineering Group, Inc., September 24, 2019)* and provides the following responses.

Comment 1 (Page 2):

The Project's proposed parking rate appears insufficient based on the Project's location and attributes.

The approved residential projects in Downtown Brea provide between 1.2 and 2.5 spaces per unit, at an average rate of 1.87 spaces per unit. GTC has also collected empirical parking data at multiple transit-adjacent residential projects in Southern California; the dataset indicates that parking is provided at a rate between 0.9 and 2.47 spaces per unit, an average rate of 1.56 spaces per unit. In both datasets, the residential projects are located directly in an urban setting with adjacent commercial uses and public off-street parking structures (Downtown Brea) or high density residential in an urban setting directly adjacent to high-capacity transit service (empirical data). These locational attributes are key factors in the provided parking rate at each of the respective residential projects. In Downtown Brea, the public parking garages are readily accessible for use as off-site/overflow parking due to the proximity to the residential projects.

Similarly, the readily accessible high-capacity transit adjacent to residential projects provides an alternative to vehicle usage (and potentially the need to own/park a vehicle).

The Project does not fully share the locational attributes as if it were located within Downtown Brea. Access to the Birch Street Garage is approximately 1,200 feet away from the Project with a path of travel that includes an approximately 500 foot sidewalk gap along Mercury Lane and crossing of the Brea Trail to the first level of the garage. Downtown Brea is accessed on the third level of the garage. The frequency and type of transit available in Downtown Brea is not the same quality as the surveyed transit-adjacent residential projects. The Project's effective proposed parking rate, 1.0 space per unit, is less than the average rate of parking provided at the referenced projects and does not appear to be sufficient in the absence of the key attributes identified above.

Response 1:

The comments above provide an overview of the numbered comments to follow.

As an overview, the parking provided for The Mercury project is similar to and consistent with other approved projects in the City of Brea, including Downtown Brea, and most specifically with the Brea Downtown and Birch Street Lofts, as all are rental developments. Some of the projects cited in Section 6.0 of the Parking Analysis are meeting their parking demand though the utilization of City-operated parking lots/structures and on-street parking.

Additionally, The Mercury is an affordable workforce rental housing development. Affordable housing projects are expected to have a lower parking rate when compared to typical residential developments. When comparing the parking generation rates for affordable housing versus typical housing projects, all sources show that affordable housing has substantially less parking required.

Comment 2 (Pages 2 and 3):

1. The discussion of Project parking, relative to the provision of parking based on other parking rate sources, is potentially misleading as currently written.

    - The Revised Parking Analysis discusses the parking "required" per the proposed Master Plan, Municipal Code, Institute of Transportation Engineers' Parking Generation Manual, and other studies and published sources. The corresponding tables identify "required" parking and assess whether

"adequate" vehicle parking is provided per the effective parking rates used in the referenced studies. The tables are potentially misleading in suggesting that the "required" parking is "adequate" for the Project per the effective parking rates of the referenced sources.

- With the exception of the Municipal Code[1], the effective parking rates of the referenced sources are recommendations, not requirements, for the Project. The only "required" vehicle parking for the Project is identified by the Municipal Code, from which the proposed parking is seeking relief.

- The following edits are recommended for clarification:

  i. Remove "Required" from the titles of Sections 3.0 through 5.0

  ii. Remove "Required" from the titles of Tables A and D through G

  iii. Remove "Adequate Vehicle Parking Provided?" comparison from Tables A and D through G

  iv. Remove "Parking Provided" column from Table G

  v. Change "Percent Reduction in Code Parking" to "Percent Reduction from Code Parking" in Table C

  vi. Add the percent reduction from Code parking to the parking deficiency discussion on page 2-2.

  vii. Apply the above changes to the corresponding discussions in Section 9.0.

[1] Municipal Code may also be referred to as Brea City Code.

Response 2:

The ITE Parking Generation Manual is a source for determining the required number for parking spaces for various uses based on empirical data. It is a published source widely utilized for determination of parking needs.

Similar to other guidelines, it provides recommendations for the amount of parking required to serve different type of land uses.

The rates from ITE are recommendations. But, they are based on study of similar projects and collection of empirical data. ITE recommendations are used to determine the "required" parking based on these observed parking patterns.

For the proposed project, it can be argued the ITE is a more valid source when compared to the Municipal Code for the following reasons:

- The parking rates provided by ITE are based on more recent studies when compared to the Municipal Code and potentially reflect more accurate parking dynamics and patterns.

- The Municipal Code parking rates do not include the affordable housing category. All available sources suggest that affordable housing projects generally require less parking when compared to typical housing projects. Hence, utilizing the City's general parking rate for housing, might not present an accurate estimation for the proposed project. On the other hand, ITE has specific parking rates for affordable housing.

  In addition, per Brea City Code Chapter 20.272, Planned Community Master Plans require the discussion of development and design standards, which can include both existing standards and alternative standards. With respect to parking, The Mercury Planned Community Master Plan provides alternative parking standards specific to this affordable workforce rental housing development.

No changes to the parking study are required.

Comment 3 (Page 3):

2. The Revised Parking Analysis is inconsistent in its evaluation of external references and other projects in Downtown Brea.

    - Section 6.0 discusses the parking "provided" for six approved residential projects in Downtown Brea; however, Section 6.0 does not include the same effective parking rate data comparison for the projects in Downtown Brea as utilized in Section 5.0.

    - For each of the referenced Downtown Brea projects, the calculated residential parking rates (excluding the South Brea Lofts live/work component) range from 1.2 spaces per unit to 2.5 spaces per unit, inclusive of guest parking. The average parking rate of the referenced projects is 1.87 spaces per unit.

    - The following edits are recommended for clarification:

        i. Add discussion of the effective residential parking rates to each referenced project

        ii. Add a column noting the effective residential parking rate of each referenced project in Table H.

Response 3:

Section 6.0 of the Parking Analysis includes two rental and four for-sale projects in Downtown Brea. The two rental projects are loft-style units, while the four for-sale projects include small lot single-family detached homes, townhomes, duplexes, or live/work units. These six projects were provided to show that a variety of shared or guest parking options were utilized, including off-site resident and guest parking, both on-street and in Downtown Parking Garages or lots. The Mercury project intends to utilize off-site/on-street parking or Downtown Parking Garages for guest parking similar to these developments.

Separately, the information was not intended to create an average number of spaces per unit given the variety of rental and for-sale unit types and sizes. The unit type and size of the Brea Downtown and Birch Streets lofts is comparable to but slightly larger than the studio and one-bedroom units proposed for The Mercury project. The unit type and size of the other developments are not comparable to The Mercury project. Thus, the average parking space number is just that, but it is not useful for comparative purposes.

We are unclear by the term effective parking rate. From our perspective, it implies that each development was studied after completion to determine its "effective parking rate," which may or may not be different than the City Code parking requirements or the specific parking requirements approved for each project. The information that was provided in Section 6.0 was collected from project approvals and/or plan sets. We are not aware if any projects conducted such studies. No other information is available.

Tables showing the parking summary for six Downtown Brea projects are attached to this response letter.

Comment 4 (Pages 3 and 4):

3. As referenced above, the Project does not share the same location attributes or quality transit as the referenced studies. Additional evidence must be provided if the argument for proximity to Downtown Brea and quality transit is to remain.

    - The Revised Parking Analysis should identify and include a map of the proximity of the "various transit lines" serving the Project in Section 6.0. This should include existing transit service along with future/planned transit service. While limited transit information is provided in the response to the original comments, it does not appear to be included in the Revised Parking Analysis.

    - The Revised Parking Analysis should include a map of the proximity of the Project to Downtown Brea and its public parking lots and garages, along with the parking lots and garages intended for use by Project guests. The Revised Parking Analysis must prove that the Project is similarly within proximity to Downtown Brea as are the other Downtown Brea Projects that utilize public parking lots and garages.

- The Revised Parking Analysis discusses active transportation amenities included in the Project, including the installation of sidewalks on the Project frontages along Mercury Lane and North Berry Street. The sidewalk on North Berry Street will close an existing sidewalk gap from Imperial Highway. While new sidewalk will be installed on Mercury Lane, the existing sidewalk gap to the east toward Downtown Brea will remain. The Project is not responsible for improvements beyond its frontage, but the Revised Parking Analysis should acknowledge both the gap closure and the remaining gap in the sidewalk network adjacent to the Project site.

Response 4:

The City of Brea is generally not considered transit rich. The closest bus stop to The Mercury site is at Brea Boulevard and Imperial Highway. This is also the closest stop for other uses north, south, and east of The Mercury site.

As noted in Response 1, the parking provided for The Mercury project is similar to and consistent with other approved projects in the City of Brea, including Downtown Brea. Some of the projects cited in Section 6.0 of the Parking Analysis are meeting their parking demand though the utilization of City-operated parking lots/structures and on-street parking.

The Mercury Planned Community Master Plan Section V.L, Circulation Plan, addresses vehicular, pedestrian, and bicycle access, as well as public trails, bus routes, and taxi/rideshare pick-up/drop-off. Exhibit II-3, Project Site and Surrounding Uses, Exhibit V-21, Pedestrian and Bicycle Circulation Plan, and Exhibit V-22, Pedestrian and Bicycle Connections to Downtown Brea from the Planned Community Master Plan are attached.

The Mercury project will be installing sidewalks along its project frontages on Mercury Lane and Berry Street, where none currently exist. However, the project is not responsible for the sidewalk gap on Mercury Lane. As discussed on page V-44 of the Planned Community Master Plan, "sidewalks do not presently exist on Mercury Lane, thus, pedestrians will need to utilize sidewalks installed with the project to access Berry Street and Imperial Highway. Pedestrians can access Downtown Brea from The Tracks entrance on Imperial Highway or Imperial Way."

As noted in the comment, The Mercury project is not responsible for sidewalks beyond its frontage; however the public sidewalks installed with the project will improve the pedestrian experience and complete the sidewalks on the east side of Berry Street between Mercury Lane and Imperial Highway. The Planned Community Master Plan has adequately discussed pedestrian circulation in Section V.L, Circulation. Thus, it is not necessary for the Parking Analysis to add a discussion of existing gaps in the sidewalk network.

Comment 5 (Page 4):

4. The Revised Parking Analysis must address the uncertainties that remain regarding guest parking through preparation of a Parking Management Plan (PMP) to ensure that the Project's parking does not adversely affect the neighborhood/adjacent property owners.

    - The on-street "spaces" along Mercury Lane are not currently striped, making the inventory of on-street spaces an estimate. The Revised Parking Analysis should identify the assumptions used to estimate the 58 on-street spaces.

    - The use of on-street (off-site) parking is not typically used to meet the off-street (onsite) parking requirements of a proposed project, as there is no way to guarantee availability of unreserved on-street spaces for use by residents or guests. The Revised Parking Analysis should reference the other approved Downtown Brea projects in Section 6.0 for potential approaches to address the need to supplement the Project's on-site parking supply with off-site parking for guest use.

    - The parking strategy tools proposed in the Revised Parking Analysis are measures commonly found in parking management toolboxes. However, some of the strategies may not be applicable in a residential setting and/or this specific site; those strategies should be considered for removal from the Project's toolbox:

        i. Tandem parking stalls

        ii. Varying parking stall sizes

iii. Unbundled parking/Parking Cash-out

iv. Car-share parking

v. On-site Carpool/Vanpool

vi. Rideshare/Ride-Matching

vii. Preferential parking for electric, low-emitting, or fuel-efficient vehicles

viii. Preferential parking for carpool, vanpool, carshare

- While parking strategies have been identified, address how the strategies will be formulated into the Project's PMP. The PMP will need to address the application of parking management strategies to the Project in order to prevent adverse impacts to the neighborhood/adjacent property owners.

- The PMP should indicate that the Applicant will submit evidence that parking is provided to meet the ratio identified by the City, prior to the issuance of any Certificate of Occupancy for the Project. Additionally, provisions must be identified in the case that any monitoring reveals that the Project's total parking demand consistently exceeds the total provided parking supply (e.g. secure additional parking to meet demand).

Response 5:

Typically, a Parking Management Plan and any specific details that may/should be included are required as part of a project's Condition of Approval (COA). The same should be true for The Mercury Planned Community Master Plan.

With respect to the number of parking spaces along Mercury Lane, they were estimated by measuring the length of the curbs (after deducting the curb cuts and driveways) and assuming 20 feet of curb space is adequate for one passenger vehicle. Mercury Lane currently has approximately 1,165 feet of curb. Based on this criteria, which is typical for

determination of on-street parking capacity, Mercury Lane has a parking capacity of approximately 58 passenger cars.

Based on the Parking Analysis, the parking capacity along Mercury Lane is not required to meet the parking demand of the proposed project. However, the goal of the added on-street parking capacity analysis into the Parking Analysis was to show that Mercury Lane has substantial on-street parking available, if needed. And as noted in previous responses, a number of other projects approved in Downtown Brea are utilizing City-operated parking lots/structures and on-street parking to meet their parking demand.

We question whether the monitoring of parking demand is consistent with other approved projects and/or Parking Management Plans in the City and whether other projects or Parking Management Plans have been required to do so? We welcome any information the City can provide regard projects that have been required to conduct parking demand monitoring and examples of those Parking Management Plans and the monitoring studies.

Comment 6 (Page 4 and 5):

5. The collection of recent parking demand data for a similar residential use is still recommended to provide a snapshot of current parking trends. The Downtown Brea projects referenced in the comparison appear to be candidates for data collection. While there are potential challenges to collecting such data, the identification of such challenges in the Revised Parking Analysis should be removed as they do not add value to the overall study.

Response 6:

Previously, RK had a telephone discussion with the City staff and Gibson Transportation Consulting to discuss collection of parking demand data at other representative sites.

During that conversation, all parties agreed that collection of parking counts at other similar sites would be infeasible and would likely not provide accurate information due to the following reasons:

- The data collection would need to identify and locate projects that are similar in nature to the proposed project. This includes geographical location, affordability, parking management, etc.

- Typically, residential developments have garages. A valid parking count cannot be done without having all the garage doors opened during the survey times so that the survey staff can count all the cars that are parked inside the garages. Without that, it would be infeasible to get an accurate and useful count. This would require cooperation from the property owner, manager, and all residents.

- Collecting such counts on private property would require permission from the owner or property manager. Obtaining such a permit for counts that have no benefit to the property owner, is in almost all cases infeasible.

The text regarding the infeasibility of this should remain in the report so that the reader understands why such counts were not collected and provided as a source.

Comment 7 (Page 5):

6. Based on the available data described above, the Project is recommended to provide minimum parking in the range of 1.56 spaces to 1.87 spaces per unit with the rate to be selected by the City. Based on the current submitted design of the Project, on-site parking may be limited to an effective rate of 1.0 space per unit; accommodation of the remaining parking could be considered off-site as a reserved area in the Birch Street Garage or by other arrangements with adjacent property owners.

Response 7:

As noted in Response 2, The Mercury Planned Community Master Plan provides alternative parking standards specific to this affordable workforce rental housing development. The Parking Analysis confirms these alternative parking standards are appropriate for the development, based upon the review of the ITE Parking Generation Manual, Central Park Village project, Other Studies and Published Sources, and Other Projects in Downtown

Brea. If additional off-site parking is deemed necessary by the City, it can be considered in the Development Agreement for the project.

Comment 8 (Page 5):

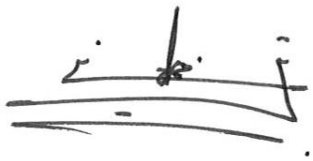
7. In light of the currently unique nature of the proposed residential product, the Project is also recommended to submit to the City a monitoring report of the on- and off-site parking demands within one year of reaching 100% occupancy and remain accessible to the City for the purposes of collecting data on the proposed type of residential product or when a complaint threshold is met. The monitoring would identify the actual on-site and off-site residential parking demand and the efficacy of the trip/parking reducing measures implemented by the Project.

Response 8:

As noted in Response 1, The Mercury project is similar to the Downtown Brea and Birch Street Lofts. Both are rental developments with similar unit types and sizes. This is a residential product type that has been previously been approved in the City and in Downtown Brea.

Refer to Response 5.If you have any questions regarding this information, please call me at (949) 474-0809.

Respectfully submitted,
RK ENGINEERING GROUP, INC.



Alex Tabrizi, PE, TE
Associate Principal

cc: Eugene Tang, AICP, Gibson Transportation Consulting, Inc.

PARKING: DOWNTOWN BREA RESIDENTIAL PROJECTS

BREA DOWNTOWN LOFTS AND BIRCH STREET LOFTS (RENTAL)

	Total Units	Low-Income Units (Affordable Units)	Moderate Income Units (Affordable Units)	On-Site Parking for Residents & Guests	Off-Site Parking for Residents	Off-Site Parking for Guests
Brea Downtown Lofts	32	8	8	No	Yes – 32 1 space per unit	Yes – 7 Shared Spaces[1]
Birch Street Lofts	30		17	No	Yes – 30 1 space per unit	Yes – 7 Shared Spaces[1]
Total	62	8	25		62	14

Notes:
1. Shared parking spaces were provided at 0.22 spaces per unit (Source: Gibson Transportation Consulting Inc., Brea Downtown Parking Study Update, Table 2A, November 5, 2009).

ASH STREET COTTAGES (OWNERSHIP)

	Total Units	On-Site Parking for Residents	Required Parking for Guests	On-Site Parking Spaces Provided for Guests	Off-Site/On-Street Parking Provided for Guests
Ash Street Cottages	96	Yes – 2 covered spaces per unit	Yes – 0.5 spaces per unit	28	20
Total	96	192	48	28	48

CITY WALK (OWNERSHIP)

	Total Units	On-Site Parking for Residents	Required Parking for Guests	On-Site Parking Spaces Provided for Guests	Off-Site/On-Street Parking Provided for Guests
City Walk		Yes – 2 covered spaces per unit	Per Downtown Brea Parking Study, Kaku Associates, January 1999		
Tract N. 15848 (North Brea Boulevard)	20	40	Shared spaces	0	0
Tract N. 15847 (North Orange Avenue)	20	40	Shared spaces	0	0
Total	40	80		0	0

SOUTH BREA LOFTS (OWNERSHIP)

Land Use	Project Quantity	Parking Generation	Parking Stalls Required	Parking Stalls Provided
South Brea Lofts				
Condo/Townhome	47 dwelling units	1.68 stalls per unit	78.96 stalls	Exclusive & Shared
Live/Work Units ("Work Portion")	10,519 square feet less 17 units/stalls	3.44 stalls per 1,000 square feet less 1 stall per unit affected	19.19 stalls	Exclusive & Shared
Commercial (Retail/Service)	4,820 square feet	3.35 stalls per 1,000 square feet	16.16 stalls	Shared
Commercial (Food Service)	2,285 square feet	11 stalls per 1,000 square feet	25.14 stalls	Shared
Total	37 live/work units 10 residential affordable units 7,500 square feet commercial space		139 stalls	139 stalls

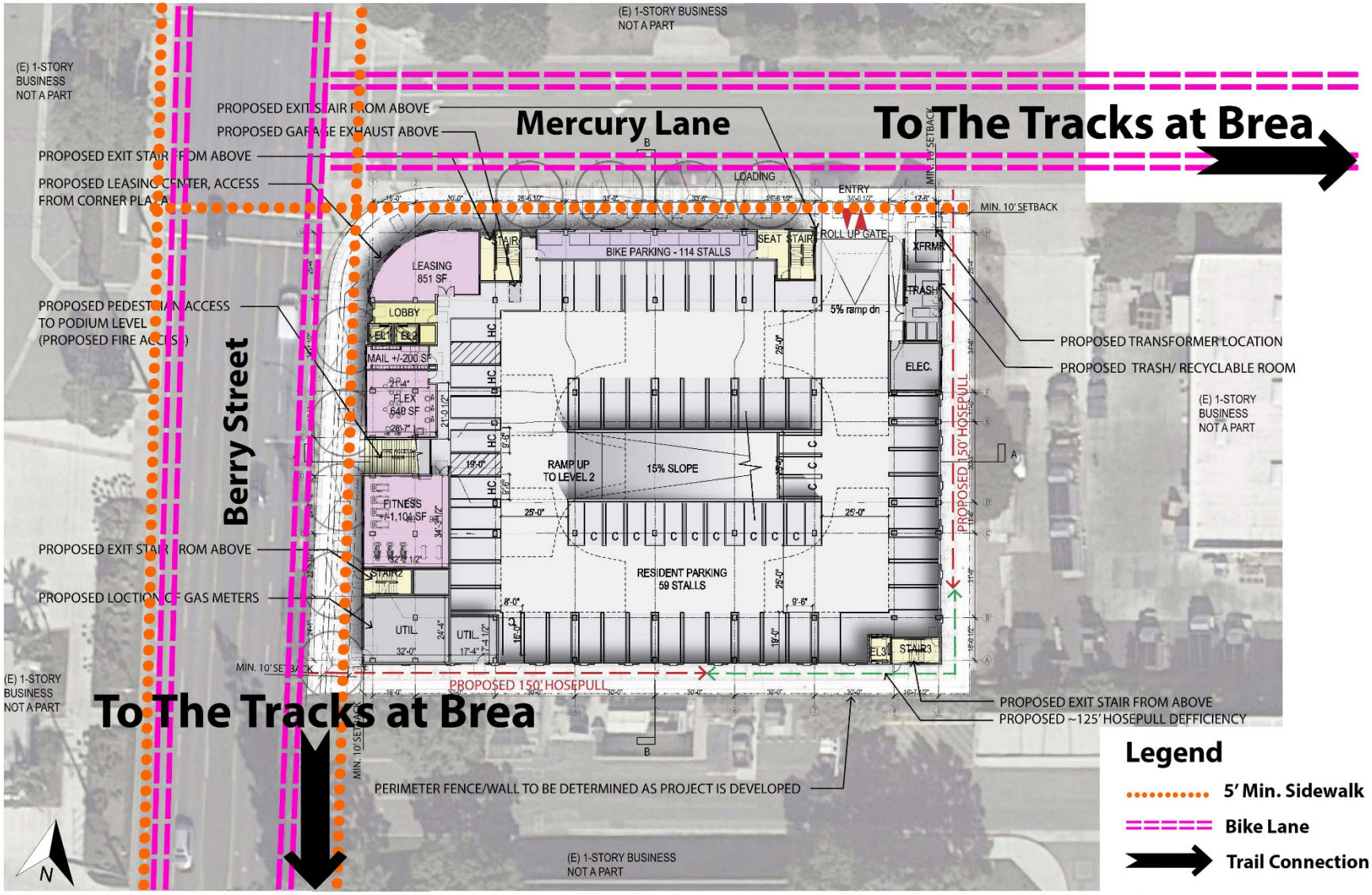
DOWNTOWN COLLECTION (OWNERSHIP)

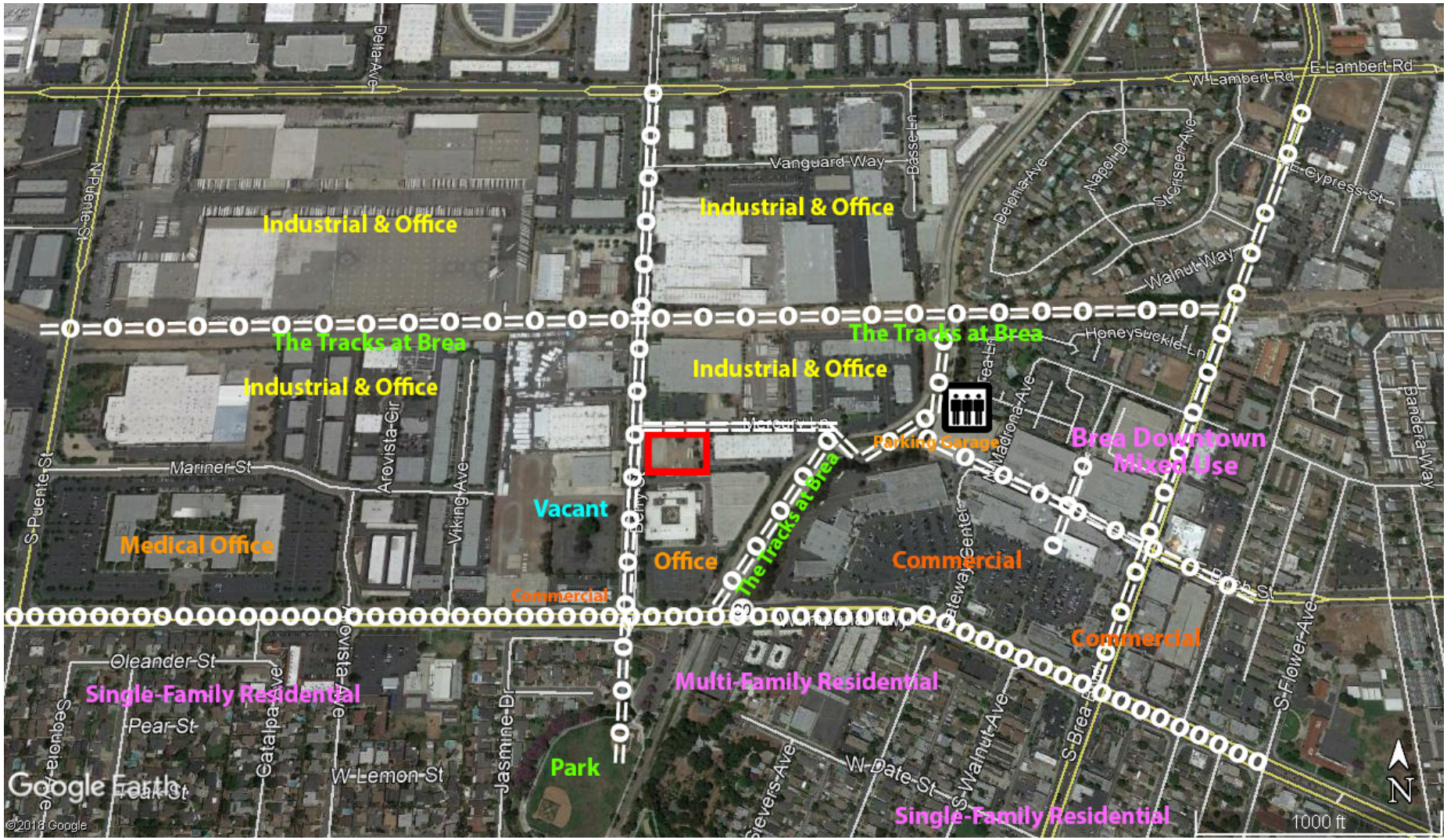
	Total Units	On-Site/Off-Street Parking for Residents	On-Site/Off-Street Parking Spaces Provided for Guests	Off-Site/On-Street Parking Provided for Guests
Brea City Code Requirement	Two (2) covered parking dwellings spaces for each unit, plus one-half (½) uncovered parking spaces for each dwelling unit.			
Downtown Collection	30	60 (2 per garage)	15 Shared Spaces	0
Total	30	60 (2 per garage)	15 Shared Spaces	0

Exhibit II-3 Project Site and Surrounding Uses

Project Site

Source: Google Earth, 2018


(E) 1-STORY BUSINESS NOT A PART
(E) 1-STORY BUSINESS NOT A PART
PROPOSED EXIT STAIR FROM ABOVE
PROPOSED GARAGE EXHAUST ABOVE
PROPOSED EXIT STAIR FROM ABOVE
PROPOSED LEASING CENTER, ACCESS FROM CORNER PLAZA
PROPOSED PEDESTRIAN ACCESS TO PODIUM LEVEL (PROPOSED FIRE ACCESS)
PROPOSED EXIT STAIR FROM ABOVE
PROPOSED LOCTION OF GAS METERS
Mercury Lane
To The Tracks at Brea
Berry Street
To The Tracks at Brea
LOADING
ENTRY
MIN. 10' SETBACK
ROLL UP GATE
BIKE PARKING - 114 STALLS
SEAT
STAIR
LEASING 851 SF
LOBBY
MAIL +/-200 SF
FLEX 648 SF
FITNESS +/-1,104 SF
STAIR2
UTIL.
UTIL.
RAMP UP TO LEVEL 2
15% SLOPE
RESIDENT PARKING 59 STALLS
5% ramp dn
XFRMR
TRASH
ELEC.
STAIR3
PROPOSED TRANSFORMER LOCATION
PROPOSED TRASH/ RECYCLABLE ROOM
PROPOSED 150' HOSEPULL
PROPOSED 150' HOSEPULL
PROPOSED EXIT STAIR FROM ABOVE
PROPOSED ~125' HOSEPULL DEFFICIENCY
PERIMETER FENCE/WALL TO BE DETERMINED AS PROJECT IS DEVELOPED
(E) 1-STORY BUSINESS NOT A PART
(E) 1-STORY BUSINESS NOT A PART
(E) 1-STORY BUSINESS NOT A PART
N
Legend
5' Min. Sidewalk
Bike Lane
Trail Connection



Project Site =o=o Pedestrian & Bicycle Connections oooo Pedestrian Connections ====Bicycle Connections

PLACEWORKS

TECHNICAL MEMORANDUM

DATE	February 11, 2020
TO	City of Brea, Planning Division
ADDRESS	1 Civic Center Circle Brea, CA 92821
CONTACT	Maribeth Tinio, Senior Planner
FROM	Nicole Vermilion, Principal
SUBJECT	Response to Comments on the January 26, 2020 Venable LLP and Pacific Plastics Comment Letters for the Mercury Lane Residential Project [SCH# 2018121032]
PROJECT NUMBER	BREA-03.1

Per CEQA Guidelines Section 15105, the City of Brea released the Draft Environmental Impact Report (EIR) for the Brea Mercury Lane Residential project for a 45-day public review period from July 24, 2019 to September 9, 2019. A Final EIR was prepared and responses to comments were circulated with public agencies and the public that commented on the Draft EIR on November 4, 2019. On January 26, 2020, Venable LLP, on behalf of Pacific Plastics, provided a late comment letter on the Draft EIR (see Attachment A). PlaceWorks has prepared additional responses to the environmental concerns raised in the January 26, 2020 letter:

Response to Comments from Geoffrey C. Etnire, at Venable LLP and Raphael Bahremand, CEO, Pacific Plastics, Inc., dated January 26, 2020.

1. Introduction. Responses to Comments 2 through 28 are provided below:

2. The City of Brea has followed all CEQA procedures with regards to public notification of the proposed project under Section 15087(a) of the CEQA guidelines. Pursuant to this section, a lead agency is required to notice of availability (NOA) of the Draft EIR by at least one of the following procedures:

    - Publication in a newspaper of general circulation in the area affected by the proposed project;
    - Posting of notice by the public agency on- and off-site in the area where the project is to be located; or
    - Direct mailing to owners and occupants of property contiguous to the parcel based on the latest assessment roll.

    In accordance with the Section 15087(a) of the CEQA Guidelines, the City of Brea published the NOA in the Brea Star Progress, which is a newspaper of general circulation, on July 25, 2019. The City of Brea also provided notices to agencies, individuals, and organizations that requested to be included on the project's mailing list on July 24, 2019. Additionally, because the project requires a zone change the City of Brea distributed the hearing notice to property owners within a 500-foot radius of the project site on January 15, 2020.

    In addition to notices provided for the CEQA process, the City of Brea requires the project applicant to conduct public outreach as part of the Planned Community Master Plan (PC Master Plan). The applicant has outlined their Public Outreach Plan in Appendix A of the PC Master Plan. It is City's understanding, the applicant contacted Pacific Plastics, via email and phone, on October 4, 2019 and had a follow-up call on October 7,2019. However, this letter is the City's first request from Pacific Plastics to be included on the EIR mailing list.

3. The City of Brea does not have an application for the other two residential projects on Berry Street referenced by the Commenter. If and when these projects move forward, these projects will be required to evaluate the environmental conditions at the time their environmental documentation. Until such time, the EIR should not engage in speculation on what may or may not ultimately be proposed by the applicant.

4. The City disagrees with the Commenter that the Draft EIR and Final EIR fail to adequately describe the existing baseline environmental conditions in the project description, the project, cumulative effects of the project, and land use compatibility of the project. The EIR clearly describes that the project site is surrounded by light industrial, general industrial, and commercial office uses, and the surrounding land uses are accurately depicted on the aerial photograph. The EIR also references Pacific Plastics as one of the existing businesses. Chapter 3, *Project Description*, provides a clear and concise overview of the proposed project. Section 4.4, *Assumptions Regarding Cumulative Impacts*, outlines the assumptions regarding cumulative impacts of the project and Chapter 5, *Environmental Analysis*, includes a discussion of the cumulative impacts associated with

development and growth in the City and region for each environmental resource area. Section 5.5, *Land Use and Planning*, provides a comprehensive evaluation of potential physical environmental impacts associated with placement of a residential project on the eastern edge of the City's industrial area. However, pursuant to the *California Building Industry Association v. Bay Area Air Quality Management District* (2015) 62 Cal.4th 369 (Case No. S213478), impacts of the environment on the proposed project are not CEQA impacts.

5. See response to Comments 17 through 28 identified in the Addendum. Responses to the Nixon Peabody letter submitted on behalf of SPX Cooling Technologies is included in the Final EIR.

6. Comments noted.

7. See response to Comment 3. Comments on conflicts between manufacturing and residential uses are noted.

8. See response to Comment 4 and response to Comments 17 through 28 identified in the Addendum. Comments on placing a new industrial use in a residential area are not environmental impacts of the proposed project. Section 5.5, *Land Use and Planning*, address the potential environmental consequences from introducing residential uses on the eastern edge of the City's industrial area.

9. See response to Comment 2. The City of Brea has followed all CEQA procedures with regards to public notification of the proposed project under Section 15087(a) of the CEQA guidelines.

   As part of the public outreach required for the PC Master Plan, it is City's understanding, the applicant contacted Pacific Plastics, via email and phone, on October 4, 2019 and had a follow-up call on October 7,2019. The complete public outreach plan and outreach conducted to date is included in Appendix A of the PC Master Plan. It is City's understanding, the applicant met with several of the adjacent property/business owners as well as other major employers within the City. The applicant's team also held a community open house and provided a scaled project model for viewing with the Brea Chamber of Commerce's office and other locations.

   Because the project requires a zone change the City of Brea distributed the notice for the hearing to property owners within a 500-foot radius of the project site on January 15, 2020.

   As identified in the Final EIR, page 1-15, Section 1.7, *Area of Controversy*, in Chapter 1, *Executive Summary,* was updated at the request of a Commenter to identify opposition to the project.

10. The Commenter is incorrect that a General Plan Amendment is required. Because the project does not meet the City's existing guidelines and standards for the Light Commercial zone, it therefore requires either: (i) a combination of a zoning code and/or zoning map amendment; or (ii) a zone change to Planned Community (PC) and approval of a PC Master Plan. The former would also require a General Plan Amendment while the latter would not because the General Plan already recognizes the use of PC Master Plans as a flexible planning tool. What is more, the use of the PC Zone predates the City's

current General Plan, and the General Plan expressly recognizes the use of the PC Zone both in the main text and in the notes to the Land Use Policy Map.

The City's Planned Community (PC) zoning describes the alternative development guidelines and standards for General Plan Consistency. The City adopted amendments to the PC Zoning Ordinance on November 6, 2018. As identified in the PC Zoning Ordinance, the intent and purpose of the PC zone encourages innovative development that allows a diversification of uses, use relationships, building heights, densities, and open spaces while ensuring consistency with the City's General Plan. If approved, the redesignation to PC Zone would preclude the need for a General Plan Amendment for the residential development. Furthermore, Section 5.5, *Land Use and Planning*, addresses consistency with the General Plan and zoning. The PC Master Plan also addresses consistency with the underlying General Plan designation.

It should be noted that a CEQA impact would only occur if inconsistency with a plan would result in environmental impacts. Based on the comprehensive analysis in the EIR, no physical environmental impacts would occur from the zone change to "PC". A project's economic and social effects are not effects of a project on an environment and therefore are not related to the physical environmental impacts evaluated in the DEIR. Pursuant to Section 15126.2 of the CEQA Guidelines, in assessing the environment impact of the proposed project on the environment, the Lead Agency should limit its examination to changes in the baseline physical environmental conditions and not economic or social impacts of project (see also Section 15131 of the CEQA Guidelines). Section 5.5, *Land Use and Planning*, provide a comprehensive analysis that the proposed project would not result in physical impacts to the environment associated with the transition from the site from industrial zone to the PC zone.

11. See response to Comment 10. The PC Master Plan includes the required findings. It should be noted that a CEQA impact would only occur if inconsistency with a plan would result in environmental impacts. Based on the comprehensive analysis in the EIR, no physical environmental impacts would occur from the zone change to "PC".

12. See response to Comments 2 and 9.

13. See response to Comment 10. The PC Master Plan includes the required findings. It should be noted that a CEQA impact would only occur if inconsistency with a plan would result in environmental impacts. Based on the comprehensive analysis in the EIR, no physical environmental impacts would occur from the zone change to "PC".

14. The City of Brea has not certified the EIR for the proposed project. Consequently, a Supplement Draft EIR under Section 15088.5 is not applicable, nor would it be warranted. Pursuant to CEQA Guidelines Section 15088.5, a DEIR is required to be recirculated only when "significant new information" is added to the EIR after circulation of the DEIR. The Draft EIR comprehensively assesses the significant environmental effects of the project, provides a reasonable range of alternatives to the proposed project, and feasible mitigation measures to reduce and avoid significant environmental impacts. No "significant new information" has been added to the DEIR; and therefore, the Draft EIR is not inadequate and does not need to be recirculated. The City respectfully disagrees with the Commenter that the DEIR is inadequate.

A traffic study was conducted for the proposed project and was included as Appendix K to the Draft EIR. As part of the traffic study, traffic counts were conducted in order to obtain the existing baseline environmental conditions on the roadway (trucks and passenger vehicle). As a result, the EIR did not undercount the truck traffic on Berry Street and Mercury Lane because it is based on traffic counts.

CEQA does not require an evaluation of parking impacts because the inconvenience resulting from a parking shortage is a social impact, not an environmental impact. The EIR included an evaluation of parking based on a consistency analysis with the City's Zoning requirements in Section 5.5, *Land Use and Planning*. As stated on pages 5.5-11 through 5.5-12, the City of Brea will review the parking study and may impose additional conditions to ensure that the proposed parking demand of the project is satisfied. Review by the City would ensure that the project would provide adequate parking and would not result in a physical impact on the environment.

See response to Comment 4. Section 4.4, *Assumptions Regarding Cumulative Impacts*, outlines the assumptions regarding cumulative impacts of the project and Chapter 5, *Environmental Analysis*, includes a discussion of the cumulative impacts associated with development and growth in the City and region for each environmental resource area.

The DEIR evaluates compatibility of the project for the potential of the project to result in physical impacts to the environment. Pursuant to the *California Building Industry Association v. Bay Area Air Quality Management District* (2015) 62 Cal.4th 369 (Case No. S213478), impacts of the environment on the proposed project are not CEQA impacts. See response to Comment 4. Impact 5.5-1 includes an evaluation of Industrial Adjacency. Based on the comprehensive analysis in the EIR, no physical environmental impacts would occur from placing the residential project within a parcel previously zoned C-M.

Impact 5.5-1 includes an evaluation of Industrial Adjacency. Based on the comprehensive analysis in the EIR, no physical environmental impacts would occur from placing the residential project within a parcel previously zoned C-M.

Impact 5.5-1 includes an evaluation of urban decay. CEQA does not require an EIR to address economic impacts associated with a proposed project, which by themselves do not cause or contribute to physical impacts on the environment. Additionally, Chapter 10, *Growth Inducing Impacts of the Project*, evaluated the potential for the project to induce additional residential growth.

The response to comments from the South Coast Air Quality Management District and the City of La Habra can be found in the Final EIR.

15. See response to Comments 1 through 14 above.

16. See response to Comments 17 through 28 below.

17. See response to Commenter 18 and 19 below. The City disagrees with the Commenter that the Draft includes misstatements regarding the conditions in the surrounding industrial neighborhoods. The EIR clearly describes that the project site is surrounded by light industrial, general industrial, and commercial office uses, and the surrounding land uses are accurately depicted on the aerial photograph. The EIR also references Pacific Plastics as one of the existing businesses. Figure 4-1 and 4-2 correctly shows that the

General Plan land use and zoning, respectively, for Pacific Plastics is General Industrial (M-2).

18. See response to Comment 17. Pacific Plastics is approximately 100 feet from the northeast corner of the project boundary. The Draft EIR does not specifically reference the operating hours of Pacific Plastics. However, Section 5.6, Noise, identifies the noise from the nearby industrial and commercial uses including industrial machinery, forklifts, truck loading and unloading, industrial and office rooftop mechanical equipment, property maintenance, and parking lot noise) contribute to the existing baseline noise environment. In addition, page 5.6-6 specifically identifies that truck loading/unloading and machine noise at the adjacent and nearby industrial uses could occur in the early morning hours when sensitive receptors are more sensitive to changes in the ambient noise environment. As a condition of approval, the proposed project would be required to provide disclosures to address the continued operation of adjacent uses and that residents living in the proposed project may be subject to noise. An acoustic study, per building code, would also be required to achieve the City and State interior noise levels based on the existing business' operation. At the request of the Commenter, the request for the acoustic study to address single-event noise (Lmax) will be forwarded to the decision-makers.

The Commenter references that Pacific Plastics has 30 trucks trips per day. It should be noted that this is substantially lower than the 100 truck trips identified in the California Air Resources Board's 2005 guidance document, and is a different type of use than a distribution center where receptors could be exposed to truck idling for longer periods of time that a light industrial use. As an alternative comparison, the 2005 guidance document also includes a metrics for evaluating land use compatibility based on the volume of trucks on a roadway segment. Berry Street north of Imperial Highway, is anticipated to have 12,015 vehicle per day at buildout, which is substantially lower than 100,000 vehicle per day cited by CARB to result in a level that would result in substantial health risk so sensitive receptors within 500 feet of the roadway segment. Moreover, the DEIR evaluates compatibility of the project for the potential of the project to result in physical impacts to the environment. Pursuant to the *California Building Industry Association v. Bay Area Air Quality Management District* (2015) 62 Cal.4th 369 (Case No. S213478), impacts of the environment on the proposed project are not CEQA impacts. Impact 5.5-1 includes an evaluation of Industrial Adjacency. Based on the comprehensive analysis in the EIR, no physical environmental impacts would occur from placing the residential project within a parcel previously zoned C-M.

Comment on the number of freight deliveries to Pacific Plastics is noted. One or two trains per week is considered infrequent as trains do not occur on a daily basis and the rail spur is over 500 feet to the north of the project site.

19. The South Coast Air Quality Management District map cited by the commenter includes both small (e.g., gas stations) and large emitters from sources that require a permit. Section 5.4, *Hazards and Hazardous Materials*, includes a detailed evaluation from sources that generate a substantial amount of hazardous materials. Despite the fact that the project site is within the industrial area in the City of Brea, the adjacent land uses do not generate substantial toxic air contaminant emissions that would generate a health risk to sensitive receptors onsite. Moreover , pursuant to the *California Building Industry*

Association v. Bay Area Air Quality Management District (2015) 62 Cal.4th 369 (Case No. S213478), impacts of the environment on the proposed project are not CEQA impacts.

While the project is on the eastern edge of the industrial area of the City, it would provide connection to the City's downtown.

20. The City disagrees with the Commenter that the Draft EIR's project description is inaccurate. Chapter 3, *Project Description*, provides a clear and concise overview of the proposed project. Page 3-23 describes that the proposed project would require a zone change to Planned Community (PC) zoning and this is listed as one of the actions in Table 3-2. As described in response to Comment 10, a General Plan Amendment is not required. Because the project does not meet the City's existing guidelines and standards for the Light Commercial zone, it therefore requires either: (i) a combination of a zoning code and/or zoning map amendment; or (ii) a zone change to Planned Community (PC) and approval of a PC Master Plan. The former would also require a General Plan Amendment while the latter would not because the General Plan already recognizes the use of PC Master Plans as a flexible planning tool. What is more, the use of the PC Zone predates the City's current General Plan, and the General Plan expressly recognizes the use of the PC Zone both in the main text and in the notes to the Land Use Policy Map. Thus, the EIR considers the whole of the project.

21. See response to Comment 4. The City disagrees with the Commenter that the Draft EIR fails to describe the cumulative impacts of the project. Section 4.4, *Assumptions Regarding Cumulative Impacts*, outlines the assumptions regarding cumulative impacts of the project and Chapter 5, *Environmental Analysis*, includes a discussion of the cumulative impacts associated with development and growth in the City and region for each environmental resource area. The City has not received a development application for the two projects referenced by the Commenter. If and when these projects move forward, these projects will be required to evaluate the environmental conditions at the time their environmental documentation. Until such time, the EIR should not engage in speculation on what may or may not ultimately be proposed by the applicant.

22. Pursuant to the *California Building Industry Association v. Bay Area Air Quality Management District* (2015) 62 Cal.4th 369 (Case No. S213478), impacts of the environment on the proposed project are not CEQA impacts. The project generates noise and traffic impacts; and therefore, these are considered physical impacts of the proposed project. The City disagrees that the Draft EIR misstates the holding in this case. There are no unusual circumstances that would trigger an exception to the exemption. Simply attracting residents or users to a site containing an environmental hazard or risk is not an impact that must be analyzed, but project-induced changes that worsen an existing hazard or risk are. The EIR evaluated the potential for the project to exacerbate environmental hazards in Section 5.2, *Air Quality*, 5.4, *Hazards and Hazardous Materials*, and Section 5.5., *Land Use and Planning*.

23. See response to Comment 18. The operating hours of Pacific Plastics is noted. The EIR does not misstate the existing noise conditions as the statement on page 5.6-6 that identifies that truck loading/unloading and machine noise at the adjacent and nearby industrial uses could occur in the early morning hours when sensitive receptors are more sensitive to changes in the ambient noise environment is factually correct. Additionally, the road does provide a buffer since noise dissipates with doubling distance. The fact that Pacific Plastics is across the road from the project site means that ambient noise on the

roadway plus the distance provided by the road reduces the potential for noise exposure. As a condition of approval, the proposed project would be required to provide disclosures to address the continued operation of adjacent uses and that residents living in the proposed project may be subject to noise. An acoustic study, per building code, would also be required to achieve the City and State interior noise levels based on the existing business' operation. At the request of the Commenter, the request for the acoustic study to address single-event noise (Lmax) will be forwarded to the decision-makers. However, it should be noted that pursuant to the *California Building Industry Association v. Bay Area Air Quality Management District* (2015) 62 Cal.4th 369 (Case No. S213478), impacts of the environment on the proposed project are not CEQA impacts.

24. See response to Comment 22. Pursuant to the *California Building Industry Association v. Bay Area Air Quality Management District* (2015) 62 Cal.4th 369 (Case No. S213478), impacts of the environment on the proposed project are not CEQA impacts. There are no unusual circumstances that would trigger an exception to the exemption. Simply attracting residents or users to a site containing an environmental hazard or risk is not an impact that must be analyzed, but project-induced changes that worsen an existing hazard or risk are. The EIR evaluated the potential for the project to exacerbate environmental hazards in Section 5.2, *Air Quality*, 5.4, *Hazards and Hazardous Materials*, and Section 5.5., *Land Use and Planning*.

25. See response to Comment 14. CEQA does not require an evaluation of parking impacts because the inconvenience resulting from a parking shortage is a social impact, not an environmental impact. The EIR included an evaluation of parking based on a consistency analysis with the City's Zoning requirements in Section 5.5, *Land Use and Planning*. As stated on pages 5.5-11 through 5.5-12, the City of Brea will review the parking study and may impose additional conditions to ensure that the proposed parking demand of the project is satisfied. Review by the City would ensure that the project would provide adequate parking and would not result in a physical impact on the environment. See response to Comment 18 regarding noise and air quality impacts on the project from truck parking on Mercury Lane. As noted in Section 5.1, *Air Quality*, the project is substantially below the thresholds of significance and the project would not result in indirect air quality impacts in this regard.

26. See response to Comments 18 and 19. Pacific Plastics indicates that they currently have 30 truck trips, which is substantially less than the 100 truck trips per day cited in the EIR. The DEIR evaluates compatibility of the project for the potential of the project to result in physical impacts to the environment. Moreover, pursuant to the *California Building Industry Association v. Bay Area Air Quality Management District* (2015) 62 Cal.4th 369 (Case No. S213478), impacts of the environment on the proposed project are not CEQA impacts. Impact 5.5-1 includes an evaluation of Industrial Adjacency. Based on the comprehensive analysis in the EIR, no physical environmental impacts would occur from placing the residential project within a parcel previously zoned C-M. Section 5.4, *Hazards and Hazardous Materials*, includes a detailed evaluation from sources that generate a substantial amount of hazardous materials. Despite the fact that the project site is within the industrial area in the City of Brea, the adjacent land uses do not generate substantial toxic air contaminant emissions that would generate a health risk to sensitive receptors onsite. As a result of the California Air Resources Board's Truck and Bus rules, which require use of 2010 or newer trucks by 2023, and turnover of the truck fleets in California since the 15 year old 2005 California Air Resources Board guidance document, based on

health risk assessment conducted by PlaceWorks for new warehousing projects (without cold storage), a warehouse would need to generate substantially higher than 100 truck trips to trigger the threshold of 10 in a million when proximate to sensitive receptors within 100 feet of the project.[1]

27. See response to Comments 18, 19, and 26. Impact 5.5-1 addresses the potential to divide an established community. The project is proximate to Brea Downtown and the Mercury bridge provides a direct connection.

28. The CEQA baseline is the existing environmental conditions onsite. The existing site is vacant and is not industrial uses. The proposed project is one-acre. The City has not received a development application for the two projects referenced by the Commenter. If and when these projects move forward, these projects will be required to evaluate the environmental conditions at the time their environmental documentation. Until such time, the EIR should not engage in speculation on what may or may not ultimately be proposed by the applicant.

See response to Comments 18 and 23. As a condition of approval, the proposed project would be required to provide disclosures to address the continued operation of adjacent uses and that residents living in the proposed project may be subject to noise. An acoustic study, per building code, would also be required to achieve the City and State interior noise levels based on the existing business' operation.

29. See response to Comment 2. The City of Brea has followed all CEQA procedures with regards to public notification of the proposed project under Section 15087(a) of the CEQA guidelines. Pursuant to this section, a lead agency is required to notice of availability (NOA) of the Draft EIR by at least one of the following procedures:

- Publication in a newspaper of general circulation in the area affected by the proposed project;
- Posting of notice by the public agency on- and off-site in the area where the project is to be located; or
- Direct mailing to owners and occupants of property contiguous to the parcel based on the latest assessment roll.

In accordance with the Section 15087(a) of the CEQA Guidelines, the City of Brea published the NOA in the Brea Star Progress, which is a newspaper of general circulation, on July 25, 2019. The City of Brea also provided notices to agencies, individuals, and organizations that requested to be included on the project's mailing list on July 24, 2019. Additionally, because the project requires a zone change the City of Brea distributed the hearing notice to property owners within a 500-foot radius of the project site on January 15, 2020.

[1] The result of recent health risk assessment conducted by PlaceWorks found that in general if residents are within 100 feet of the site a project would need to generate 750 trucks per day (1,500 truck trips per day) to exceed 10 in a million risk. Result of recent studies include: 57 trucks per day (114 trips) have a residential risk 2.5 in a million; 384 trucks per day (768 trips) have a residential risk 5.2 in a million; and 400 trucks per day (800 trips) have a residential risk 6.2 in million.

In addition to notices provided for the CEQA process, the City of Brea requires the project applicant to conduct public outreach as part of the Planned Community Master Plan (PC Master Plan). The applicant has outlined their Public Outreach Plan in Appendix A of the PC Master Plan. It is City's understanding, the applicant contacted Pacific Plastics, via email and phone, on October 4, 2019 and had a follow-up call on October 7,2019. However, this letter is the City's first request from Pacific Plastics to be included on the EIR mailing list.

30. Pacific Plastics opposition to the project is noted. Impact 5.9-3 in Section 5.9, Transportation, evaluated the potential for the project to be exposed to safety hazards from pedestrian and bicycle conflicts on the roadway network.

The comments concerns over the need for on-street parking during construction and operation for trucks is noted and will be forwarded to decision-makers for their consideration. However, CEQA does not require an evaluation of parking impacts because the inconvenience resulting from a parking shortage is a social impact, not an environmental impact.

The project is a high density residential project proximate to Downtown Brea within an industrial area. The comments regarding the urban, noisy environment that future residents could be exposed to are noted. As identified above in Comments 18, 23, and 28, as a condition of approval, the proposed project would be required to provide disclosures to address the continued operation of adjacent uses and that residents living in the proposed project may be subject to noise. An acoustic study, per building code, would also be required to achieve the City and State interior noise levels based on the existing business' operation.

Impacts to schools are included in Section 5.8, *Public Services*. Water demand impacts are included in Section 8.9, *Utilities and Service Systems*. Energy impacts are included in Section 8.4, *Energy*.

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City of Brea Planning Commission
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Vice Chair James McGrade
Commissioner Gary Brattain
Commissioner Dan Phu
Commissioner Sara Barnes-Ramos

Brea City Hall
1 Civic Center Circle
Brea, CA 92821

Re: Mercury Lane Proposal
Planning Commission meeting on January 28, 2020

Dear Chair and Members of the Commission:

I am writing on behalf of Pacific Plastics, Inc., a large manufacturing company located directly across Berry Street from the site of the proposed Mercury Lane project. 1

The City's review of the Mercury Lane proposal and its environmental impacts is deeply flawed and extraordinarily incomplete:

- Public notice has been inadequate and has been kept to a bare minimum for over one year. Pacific Plastics received no notice of the EIR proceedings and no notice of at least four study sessions. The applicant has had a full year to do outreach to neighboring properties and there has been no meaningful engagement with Pacific Plastics and neighboring property owners. 2

- Based on recently-revealed information, the applicant is planning two residential project on Berry Street, with a total of 1,063 apartment units on 7.5 acres surrounding Pacific Plastics on two sides. These projects would infringe on the vested rights of Pacific Plastics and cause severe economic damage to its business. The effort to place 1,063 residential units right next to a manufacturing plant is a direct and massive assault on Pacific Plastics, on the entire industrial zone, and on Brea's industrial base. 3

- The DEIR and draft FEIR understate the environmental impacts of the proposed development and are inadequate because if the documents fail to adequately (a) describe baseline conditions in the commercial-industrial zone around the proposed 4

project, (b) describe the full project, (c) address cumulative effects, (d) evaluate the impacts of the existing environment on future residents, or (e) evaluate impacts on land use compatibility.

4 CONT'D

Note: The inadequacies of the DEIR and draft FEIR are fully-described in the attached addendum to this letter.

It is not too late for the City to correct these deficiencies. Given the lack of full notice and involvement of the community, given the clear inadequacies of the EIR (particularly in light of the new information that is available), and given the unacknowledged scope of the assault on the industrial base, the City must:

- Postpone consideration of the PC Zone, the Master Plan and the draft FEIR
- Require the applicant to apply for a General Plan Amendment
- Review the vested rights of owners within the impacted industrial zone
- Conduct supplemental studies of the current parking conditions and the impacts of increased demand for street parking spaces (and the resulting increases in truck idling leading to exacerbated impacts on air quality and noise).
- Evaluate the environmental, economic and social impacts of the conversion of the industrial base
- Initiate further CEQA review to address the significant inadequacies and omissions of the current work, including overlooked information about baseline environmental conditions and the new information about "The Village"
- Provide full public notice of all proceedings
- Enforce the requirement that the applicant reach out to the industrial base

5

Please note that Pacific Plastics agrees with and incorporates by reference all comments previously submitted by Nixon Peabody on behalf of SPX Cooling Technologies, including the Nixon Peabody letters dated January 22 and September 9, 2019. This letter focuses on the significant information that was left out of the DEIR and draft FEIR, which omissions underscore the inadequacies already raised in Nixon Peabody's comments.

PACIFIC PLASTICS

Pacific Plastics, Inc. is a PVC pipe heavy manufacturing company established in 1979 that has been in Brea for 23 years. Pacific Plastic's manufacturing plant is at located 111-221 South Berry Street. The plant consists of 95,000 square feet of structures on 8 acres of

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land. Total capacity currently is approximately 340,000 pounds of PVC Pipe per day. PVC pipe must conform to ASTM standards, but the quality of Pacific Plastics pipe exceeds these standards and has earned a strong reputation and a very high position in the market.

Pacific Plastics is in the process of adding equipment will increase its capacity by at least 40% and a compounding expansion project will start in March of this year. Pacific Plastics employs approximately 110 full-time workers and will add 10 more jobs due to the planned expansion.

Pacific Plastics operates 24 hours each day, 7 days each week, and 52 weeks each year. Any reduction in these work hours would hobble the business and eliminate 120 jobs.

The recent and planned expansions of the manufacturing plant will cause truck traffic to increase from 30 truck visits per day to 65 per day. The plant is large enough to handle most of these truck visits on Pacific Plastics' properties, but often tractor-trailers need to queue for access by parking in parking spaces on the street with their engines turned off. Street parking availability is limited, but because this area is zoned industrial, the available parking has been sufficient for truck staging. As discussed below, if the street parking becomes less available, these trucks may not be able to park, may have to idle their engines, and may even have to circle the neighborhood, exacerbating air quality and traffic conditions. 6 CONT'D

Pacific Plastics is in an industrial zone and Pacific Plastics is entirely reliant on this industrial zoning for its manufacturing operations. Pacific Plastics also is reliant on streets that are intended and designed for industrial traffic.

DIRECT ASSAULT ON THE BREA INDUSTRIAL BASE

The Projects

The applicant's Mercury Lane proposal includes 114 apartment units located on one acre across the street from Pacific Plastics.

The applicant's second proposed project, known as "The Village," includes 949 apartments (including families, seniors, and child care) on 6.5 acres at the northwest corner if Berry Street and the Imperial Highway. See the Orange County Business Journal issue on December 16, 2019. The Village site is right next to Pacific Plastics and, if the project is approved, the City would be placing "sensitive receptors" (families, seniors, and a child care facility) mere feet aware from a 24-hour a day manufacturing plant. 7

Recent California History

Throughout California and for many decades, there has been a steady erosion of land devoted to the industrial and manufacturing uses. Cities and counties have responded by adopting General Plan policies and zoning ordinances designed to preserve jobs and the existing industrial base. Brea's General Plan cites the shortage of industrial buildings as one of four "Economic Development Challenges" and establishes a policy to increase industrial space by at least 10%. See General Plan at 2-23.

Despite these public efforts, developers desperate for cheap land continue to try to push the residential housing envelope closer to existing industrial, mining, rail and other non-residential uses. These efforts often result in major battles over the development approvals. The residential developers always argue that there would be no future conflict because the future residents would have full advance knowledge of the existing uses (including written disclosures from the developer) and because the developer would agree to certain mitigations, such as sound-proofing.

However, in the projects that do get approved and built, virtually always there are conflicts. Despite the disclosures and promised mitigations, the new residents, eventually and inevitably, complain dramatically about their problems with noise, traffic, parking, emissions, lights and other factors. The new residents make demands on the existing users, such as reducing industrial operating hours from 24 to 16 hours per day, limiting the number of truck trips, lowering the decibel level of the operations, and even eliminating backup alarms on trucks. The pre-existing (and vested) industrial users usually do not accept any changes that impact the health and profitability of the businesses. 7 CONT'D

At some point, the new residents begin petition drives and encourage news coverage. These residents pester City Staff and elected officials, demanding support from the City. Frequently, the residents allege that the industrial use is a nuisance and sometimes resort to lengthy and costly litigation.

Manufacturing and industrial users tend to stand their ground, citing the protections in the General Plan and other City policies that protect the industrial base and jobs. Manufacturing and industrial users do have vested rights and legal protections, including State law, which expressly provides that industrial users cannot be deemed a nuisance if they are located in industrial zones and are operating in manner that is consistent with custom and practice in their industry. See Code of Civil Procedure Section

731a. Developers try to ignore or work around these protections, but are successful only occasionally.

If the City approves the Mercury Lane proposal, particularly with such inadequate supporting documents, the City would be setting up years of conflict, in court and out. 7 CONT'D

In-Depth Review is Required

The DEIR and draft FEIR on the Mercury Lane proposal fail to adequately address the inherent, glaring, and disruptive problems that would be caused by introducing residents into the established industrial zone.

How would the City react if a developer proposed a 1-acre manufacturing plant in a residential neighborhood? The City probably would dismiss the concept out-of-hand. By contrast, the Mercury Lane Proposal for a 1-acre residential building in a sea of industrial uses appears to be enjoying "favored project" status.

It is instructive to consider how the City of Brea would react if a developer did file an application for a manufacturing plant in the middle of a residential zone. We know that the City of Brea would process that application in a responsible manner: 8

- The City would immediately review its obligations to protect the vested rights of the residential property owners and tenants in place. By contrast, with the Mercury Lane Proposal, no such examination of the vested rights of the industrial users is included in the environmental and other City documents.

- The City would follow the General Plan policies. By contrast, with the Mercury Lane Proposal, the City has brushed off and ignored the clearly-stated General Plan policies and goals of preserving jobs and the existing industrial base.

- The City would examine the economic and social impacts of such a development. By contrast, with the Mercury Lane Proposal, the environmental and other documents reject any review of economic and social impacts (despite the fact that PC Zoning requires a factual finding of public benefit – See BMC Section 20.272 (G)).

- The City would carefully examine and document the existing residential conditions as to parking, traffic, noise, air quality and other factors, being particularly careful to establish factual baselines that do not understate the existing conditions. By contrast, with the Mercury Lane Proposal, the City has seriously understated the existing

conditions as to parking, truck traffic, train traffic, noise and air quality. In fact, the City has simply ignored the existing conditions as to parking.

- The City, recognizing the significance of a proposed major change in land use planning, would have required (a) an application for a General Plan Amendment as to policies and land use designations and (b) a CEQA review appropriate for the scale of such change. By contrast, with the Mercury Lane Proposal, the City has told the applicant that he may proceed with a Planned Community Zone and disregard the proposed project's inconsistencies with the General Plan.

- The City would have gone to great lengths to require very thorough public notice of the project proposal and all of the environmental work. The City certainly would have required that all notices be sent to all owners within 500 feet of the proposed project. By contrast, with the Mercury Lane Proposal, Pacific Plastics, Inc. and other industrial users did not receive any notices with regard to the project and/or to the environmental work. The City held at least four "Study Sessions" to allow the applicant to tout his project, but it appears that no notice was sent to the owners and business in the industrial zone. Notice by publication and by placing a public copy in the library was far too limited and should not be how the City does business. 8 CONT'D

- The City, in considering a PC Zone for the manufacturing plant, would have required and enforced a thorough public outreach plan. By contrast, the Mercury Lane applicant has paid only lip service to the obligation and the City has not enforced the requirement.

- The City would have carefully analyzed the potential for possible impacts of additional manufacturing plants invading the residential area and would have taken steps to prohibit or restrict any such copycat proposals. By contrast, with the Mercury Lane Proposal, the City has failed even to acknowledge that the same developer has proposed a mammoth residential project (949 units, including families, seniors and child care) across the street from Mercury Lane project and right on the property line of Pacific Plastics.

The City of Brea should be as tough on an application to insert housing in an industrial zone as it would be on an application to insert manufacturing into a residential zone. A proposal to insert housing next to a manufacturing plant should be subject to very serious analysis and consideration – and there is no such serious evaluation in the DEIR and draft FEIR.

The City, legitimately, could consider reducing its industrial base. Any such proposed reduction would involve the major work of changing the General Plan policies and goals, as well as changing the land use designations for its commercial and industrial areas. In order to do that, however, the City would have to process a General Plan Amendment and would have to conduct the substantial policy and CEQA reviews that would be required for such a significant change in land use policy. 8 CONT'D

As discussed in the Addendum to this comment letter, the DEIR and draft FEIR did not review the full environmental impacts of the Mercury Lane project. Further, the City did not review and consider the inconsistencies with the General Plan and the impacts of the direct assault on the community's industrial base.

FAILURE TO PROVIDE ADEQUATE NOTICE

The stated policy of the City to be as transparent as possible in all of its functions, particularly with regard to development applications. That policy has been violated here. The Mercury Lane Proposal has been before the City for over one year, but notice to the public has been severely limited and public participation discouraged.

Pacific Plastics is located directly across the street from the project described in the Mercury Lane Proposal and immediately adjacent to the site proposed for The Village. Pacific Plastics did not receive notice regarding the:

- Notice of Preparation
- Notice of Availability
- Study Session on August 27, 2019
- Study Session on September 24, 2019
- Study Session on October 22, 2019
- Study Session on December 10, 2019

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In fact, the first and only notice received by Pacific Plastics regarding the Mercury Lane Proposal was the mailed notice of the Planning Commission meeting to be held on January 28, 2020, well after the draft FEIR was completed. Note that the application had been before the City for a full year before Pacific Plastics received a single mailed notice.

The Brea Zoning Code requires an outreach plan for any application for Planned Community zoning. "Project overview" meetings were supposed to occur in the 2nd quarter of 2019 to provide adjacent property owners "an opportunity to learn about the project as well as provide their feedback." Master Plan, p. A-1. Pacific Plastics was not contacted by the applicant until more than a month after the comment period on the DEIR had already ended

and, even then, the contact was an emailed brochure on the proposed project. There have been no meetings between the applicant and Pacific Plastics.

The applicant had a full year to tout and sell the Mercury Lane Proposal to City Staff, the Planning Commission, and the City Council – and opposing voices were shutout by minimal public notice and the lack of mailed notices to neighbors within 500 feet of the site. One result of that honeymoon period for the applicant is that there are public officials who have already spoken positively about this project without first hearing from the public and about the opposition to the project.

Ironically, the noticeable lack of public involvement and opposition caused by lack of full public notice was misinterpreted by City Staff in the DEIR. Based on the low turnout, Staff concluded that "there are no specific areas of known controversy concerning the proposed project" and that the City "has no knowledge of expressed opposition to the project." DEIR at Section 1.7. In fact, there is and will continue to be substantial opposition to both the Mercury Lane Proposal and The Villages" proposal. 9 CONT'D

We are informed by other industrial users that they have not received adequate notice and the required outreach. The failure to provide notice has denied Pacific Plastics and other companies a meaningful opportunity to participate in scoping and comment on the DEIR and the project.

Given the inadequacies of the public notice and the lack of involvement of the community, the applicant must now accept a delay in the application process to allow (a) the concerns of the industrial users to be heard and properly reviewed and (b) the City to correct the flaws in the CEQA review.

THE PROPOSED PC ZONE IS UNLAWFUL AND REQUIRES A GENERAL PLAN AMENDMENT

1. PC Zones may not be inconsistent with the General Plan.

The DEIR and Findings of Fact state, misleadingly, that "the General Plan already recognizes the use of PC Master Plans as a flexible planning tool." However, there is no statement in the General Plan that a project with PC Zoning may be inconsistent with the General Plan. 10

BMC Section 20.272 (G)(6) sets out 6 findings that the City must make before adopting a Planned Community Plan. Finding #1 is that:

> "The Planned Community Master Plan is consistent with the General Plan, inclusive of any amendments proposed and approved as part of the application for the Planned Community Master Plan."

If the proposed PC Zone is inconsistent with the General Plan, the City provides a process for the applicant to correct that inconsistency -- that process is simply a direct application for a General Plan Amendment, which can be process together for an application for a change in zoning. 10 CONT'D

2. The Project does not meet the City's requirements for the use of a PC Zone.

There are six findings that the City must make prior to granting PC Zoning. The Mercury Lane proposal fails on all 6 of the 6 requirements. See BMC Section 20.272 (G)

Finding #1 is discussed in the preceding section. The proposed residential project is wholly inconsistent with the General Plan policies with regard to the preservation of the industrial base and jobs and wholly inconsistent with the General Plan's land use designation for this area.

Fining #2 is that the project is consistent with the Brea Envisions Community Strategic Plan. Initiative 4 of that plan states that the City will "maintain a consistent and acceptable balance of both residential and commercial/industrial development. The procedural problem with making that finding is that the Staff Report and environmental documents do not provide a sufficient factual basis for the Planning Commission and City Council to make that finding (because these document address only the benefits of more housing and not the negatives associated with this project). The substantive problem with making the finding is that , contrary to the General Plan policies and goals, the Mercury Lane proposal would interfere with that balance by eliminating industrial acreage and interfering with the remaining industrial activity. 11

Finding #3 is that the Master Plan would provide for innovative development in an area the presents unique planning challenges due to considerations such as geography, topography and changing patterns of development." The Mercury Lane proposal presents no no unique planning challenges and no aspects of the proposal justify the use of PC Zoning. The sole unusual aspect of this proposal is that it asks that the General Plan policies and land use designations be defied and that residential users be inserted into an industrial zone. That audacious request could be made and considered – but the City's established process for considering that request is an application for a General Plan Amendment. PC Zoning cannot provide a way to sidestep the need for a General Plan Amendment.

Finding #4 is that the City must conclude that the proposed development within the PZ zone is suitable "in terms of access, size, **their relationship to adjacent properties** and similar or related uses" (Emphasis added). The BMC states directly that the PC Zone is intended to be an innovative tool "***while respecting existing uses***" (Emphasis added). BMC Section 20.272.010 B. As discussed in this letter, the proposal is clearly inconsistent with the existing uses on the adjacent properties. 11 CONT'D

Finding #5 is that the Master Plan is "in the best interest of the City as a whole." The analysis in the EIR and Staff Report is remarkably imbalanced – there a great deal of talk about the positive aspects (a greater housing stock) and zero discussion about any negatives (conversion of the industrial base and hardships to existing industries with vested rights. Given that lack of evaluation, there is no basis on which the City can rationally conclude that the project is in the best interest of the City as a whole.

3. The City and the applicant failed to conduct the public outreach required for PC Zoning

As discussed above, the applicant conducted very limited public outreach. Pacific Plastics received one brochure on the project, and that was by email in October 2019, more than a month after the public comment period on the DEIR had closed.

This project has been before the City for over one year. Pacific Plastics did not receive mailed public notice of the Notice of Preparation, the Notice of Availability and at least four study sessions. The only mailed notice Pacific Plastics did receive was the notice of the Planning Commission meeting to be held on January 28, 2020. 12

The combination of the lack of public notice and lack of applicant outreach had the effect of minimizing public awareness and public involvement in a very important land use decision.

4. The proposed finding that the project provides sufficient public benefit to justify spot zoning is flawed because the City has refused to evaluate economic and social impacts.

As discussed above, Finding #5 requires that "the Planned Community Master Plan is in the best interest of the City as a whole, which would ensure there would be some public benefit and would not result in spot planning." DEIR 5.5-10. 13

The environmental and other documents provide no basis for a determination of the net public benefit, as the City has steadfastly refused to evaluate economic and social

impacts, positive and negative. The City's policy and CEQA reviews do describe, in very positive terms, the benefits of additional housing in the community. However, the City does not discuss, in any document, the overriding issue public policy issue of the erosion of the industrial base. That is, the City, in determining whether the project, on balance, provides a public benefit, enumerated the positives of more housing and left out the discussion of the negatives, including the effects of job loss and the erosion of the industrial base. It is very clear that the City did not understand and give any weight to the harmful effects that this project would have on the existing and vested industrial users. 13 CONT'D

Having not considered the impacts of the proposed project on both the health of future residents and economic and environmental impacts on industrial neighbors, the City has no basis for a conclusion as to the net benefits to the community. The City asserts that CEQA does not require evaluation of these negative effects, but the City's required public benefit finding does require that evaluation.

A SUPPLEMENTAL DEIR IS REQUIRED

A supplemental DEIR is required here given the failure to provide full public notice as well as significant new information about the proposal's environmental effects.

CEQA Guidelines Section 15088.5 state that a supplemental DEIR is required if it there is information that the project will result in a significant new environmental impact not previously disclosed in the DEIR. The following is a partial list of information that would reveal significant new information and impacts:

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- An accurate measure of truck and freight trips in the immediate neighborhood of the project, including associated noise and air quality impacts, not just the understated guesstimate of traffic generated only by abutting uses. By intentionally counting only truck traffic that was generated by properties immediately abutting the Mercury Lane site (and ignoring all of the other truck traffic), the City understated the truck traffic on Berry Street and Mercury Lane.

- A review of the existing baseline parking conditions in the neighborhood, including the secondary air quality and traffic impacts resulting from an increased demand on a finite number street parking spaces.

  Note that there has been no such review to date. The applicant obtained a parking study from RK Engineering Group and the City obtained a peer review of that study by Gibson Transportation Consulting. NEITHER of these documents describe the current street parking baseline and the effect of the

proposed project on future demand for street parking. In fact, based on a "word search" of the body of the reports, neither report discusses either "truck" or "manufacturing." The word "industrial" appears only once in the RK Engineering study and only as part of a description of the neighborhood.

- The full direct, indirect, and cumulative effects of the proposed project and PC Zoning, including The Village project that the DEIR fails to disclose.

14 CONT'D

- The impacts on the future residents of the exacerbation of existing environmental impacts, particularly air quality and noise.

- The environmental impacts of a substantial reduction in Brea's industrial base.

Note that the comment letters from both the City of La Hambra and SCAQMD also acknowledge the need for a supplemental DEIR.

CONCLUSION

Given the lack of notice, the inadequacies of the CEQA documents, and the gravity of the challenge to the General Plan and the industrial base, it is clear that the City must take certain additional steps:

- Suspend consideration of the PC Zone, the Master Plan and the draft FEIR
- Require the applicant to apply for a General Plan Amendment
- Review the vested rights of owners within the impacted industrial zone
- Conduct supplemental studies of the current parking conditions and the impacts of increased demand for street parking spaces (and the resulting increases in truck idling leading to exacerbated impacts on air quality and noise)..

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- Evaluate the environmental, economic and social impacts of the erosion of the industrial base
- Initiate further CEQA review to address the significant inadequacies and omissions of the current work, including overlooked information about baseline environmental conditions and the new information about "The Village"
- Provide full public notice of all proceedings
- Enforce the requirement that the applicant reach out to the industrial base

Please see the Addendum for an analysis of the inadequacies of the DEIR and draft of the proposed FEIR. 16

Representatives of Pacific Plastics and I will be present at the Planning Commission meeting on January 28, 2020 and we will be available to answer your questions.

Thank you for your time and consideration.

Sincerely,

Geoffrey C. Etnire

Addendum: Inadequacies of the DEIR and draft FEIR

cc by email:

Bill Gallardo	City Manager
Gabriel Linares	Community Development Deputy Director
Jennifer A. Lilley	City Planner
Dwight Manley	Applicant

MERCURY LANE PROPOSAL

Addendum to Comment Letter on behalf of Pacific Plastics

January 24, 2020

I. The EIR inaccurately describe Mercury Land Proposal's environmental setting, skewing the baseline conditions against which the Project's impacts are assessed. 2

A. The EIR mischaracterizes Pacific Plastics' operations. 2

B. The DEIR mischaracterizes conditions in the larger industrial zone. 3

II. The DEIR's project description is inadequate. 3

III. The EIR fails to address cumulative impacts of future development 4

IV. The EIR fails to evaluate impacts on future residents. 6

A. The DEIR fails to adequately evaluate the effects of the project's exacerbation of existing significant noise levels on future residents. 7

B. DEIR fails to adequately evaluate the effects on future residents of the project's exacerbation of air quality conditions. 7

C. A Health Risk Assessment is required in order to understand the effects of exacerbated air quality impacts on future residents. 9

V. The DEIR fails to adequately evaluate impacts on land use compatibility. 9

A. The DEIR irrationally concludes the proposed project would not physically divide a community. 9

B. The DEIR irrationally concludes the proposed project would not conflict with an existing land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. 10

I. The EIR inaccurately describes Mercury Land Proposal's environmental setting, skewing the baseline conditions against which the Project's impacts are assessed.

An EIR must accurately describe the environmental setting for the project, which is made up of "the physical environmental conditions in the vicinity of the project" viewed from a "local and regional perspective." 14 CCR § 15125(a), (c). These existing conditions "will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant." *Id.* at § 15125(a). An EIR's description of the environmental setting must be accurate and sufficiently comprehensive to allow a project's significant impacts "to be considered in the full environmental context." *Id.* at § 15125(c). 17

Here, the DEIR's description of baseline conditions falls short of this requirement by making numerous misstatements regarding conditions in the surrounding industrial neighborhood that undermine the consideration of effects.

A. The EIR mischaracterizes Pacific Plastics' operations.

First, the DEIR inaccurately describes Pacific Plastics' operations. Pacific Plastics operates 24 hours a day, 7 days a week, 52 weeks a year. There is steady heavy truck and employee traffic and consistent, loud noise from compressors, grinders, backup alarms, and other manufacturing equipment and operations expected in an industrial zone. The DEIR does not mention these existing noise impacts.

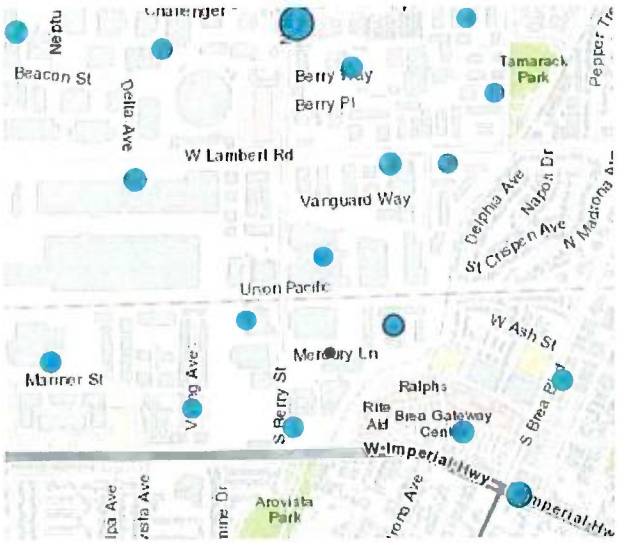
While the DEIR mentions noise from truck traffic, it significantly understates truck traffic on Berry Street and Mercury Lane around the proposed project. The DEIR appears to state that land uses "*directly abutting the project site*" do not generate more than 100 trucks per day, a threshold indicating "the potential to elevate health risks" and requiring a Health Risk Assessment. DEIR at 5.5-8 & n.1. To the extent that this statement is meant to indicate that neighboring properties generate fewer than 100 trucks per day, this is a glaring understatement. Pacific Plastics, just by itself, currently averages over 30 truck trips per day and, with expanded capacity that is soon to come online, expects over 65 truck trips per day soon. In addition, the City deliberately did not count the truck trips on Berry Street and Mercury Lane that are not associated with the immediately abutting industrial users --- causing a clear and significant understatement of the truck traffic. 18

The DEIR similarly misstates that rail "freight delivery to [Pacific Plastics] is infrequent," at just one train per week. DEIR at 5.5-6. Contrary to these statements, Pacific Plastics receives rail deliveries at least twice per week, with each rail delivery consisting of 10 fully-loaded freight cars.

The DEIR's misstatement of truck and freight trips around the project renders the DEIR's description of traffic, noise, and air quality conditions surrounding the project inaccurate, and thus skews assessment of the project's traffic, noise, and air quality effects. As further explained below, not only does the DEIR start from an inaccurate baseline in considering traffic, noise, and air quality conditions, but the DEIR also fails to consider the effects of the proposed project's contribution to these conditions on future residents and existing users of the industrial zone.

B. The DEIR mischaracterizes conditions in the larger industrial zone.

Second, the DEIR also mischaracterizes the larger context of the industrial area in which Pacific Plastics is located and the Mercury Lane Project is proposed. For example, the DEIR does not mention that South Coast Air Quality Management District (SCAQMD) maps show that there are numerous permitted stationary sources within a mile of the proposed project.



https://www.arcgis.com/apps/webappviewer/index.html?id=b6c6c754c96648fea71b0cbcb0fca48d (last visited Jan. 24, 2020).

More broadly, the DEIR incorrectly suggests that the proposed project would not be disconnected from other residential communities or "divide the industrial community" because it is on the "eastern edge of the industrial area." DEIR at 5.5-7, 5.5-9. As the above map shows, the Mercury Lane Project would be surrounded by industrial sources, and further cut off from residential communities by Imperial Highway, a high-traffic highway located less than 600 feet away from the proposed project.

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II. The DEIR's project description is inadequate.

It is well established that "an accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR." *Washoe Meadows Cmty. v. Dep't of Parks & Recreation* (2017) 17 Cal. App. 5th 277, 287 (citation omitted); *see also Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.* (1988) 47 Cal. App. 3d 376. "Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal (i.e., the 'no project' alternative), and weigh other alternatives in the balance." *Cnty. of Inyo v. City of Los Angeles* (1977) 71 Cal. App. 3d 185, 192–93.

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Here, the DEIR's project description is inadequate because it frames the proposed project narrowly as the Mercury Lane proposal, obscuring the broader action and associated effects of the PC Zone change.

While the City has not been clear on the scope of the PC Zone change, it appears to acknowledge that the PC Zone may provide for additional residential development in the surrounding area. For example, the DEIR states that "[p]roposals may arise to implement the PC zone in the vicinity of the project." DEIR at 10-2. And the FEIR appears to confirm that the PC Zone could provide for "additional development in the industrial area." FEIR at 2-63.

These statements show that the proposed PC Zone will pave the way for additional residential development in the "vicinity of the project." As such, the DEIR must frame the proposed action as the Mercury Lane proposal **plus** the PC Zone change and the future development it allows. Similarly, in *City of Redlands v. County of San Bernardino* (2002) 96 Cal. App. 4th 398, 409, the court held that an EIR examining a change to a policy under a General Plan "failed to consider such reasonably anticipated future development" that the change allowed. The Court found that this inadequacy stemmed from a failure to accurately describe the proposed project: "evaluation of a 'first phase-general plan amendment' must necessarily include a consideration of the larger project, i.e., the future development permitted by the amendment. Only then can the ultimate effect of the amendment upon the physical environment be addressed." *Id.* 20 CONT'D

As in *City of Redlands*, the DEIR's myopic focus on the Mercury Lane Proposal, which will itself have very significant impacts, rather than all future developments enabled by the PC Zone renders the DEIR inadequate. While the FEIR attempts to dismiss any obligation to evaluate such development because "it is speculative to determine which industrial parcels would decide to utilize the opportunities presented under the PC Zoning and what densities future residential would propose," FEIR at 2-63, reasonable forecasting is required under CEQA. *See Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.* (1988) 47 Cal. App. 3d 376, 399.

Moreover, this statement in the FEIR is plainly incorrect. As described in this comment letter, a non-speculative, massive residential project known as "The Village" has already been proposed by the same developer directly across the street from the Mercury Lane Proposal (directly across the street). By misconstruing the proposal as a single, isolated residential project rather than the larger approval of a PC Zone, the DEIR violates CEQA. All impacts of the PC Zone change, including the proposed project, The Village and any other foreseeable development projects enabled by the PC Zone change must be evaluated now.

III. The EIR fails to address cumulative impacts of future development

Even if the PC Zone change is considered limited to the Mercury Lane Proposal and not also other "proposals [that] may arise to implement the PC zone in the vicinity of the project," (DEIR at 10-2), the EIR still must address the cumulative effects of other foreseeable proposals now. 21

An EIR must examine a "proposed project['s] . . .potential to degrade the quality of the environment, curtail the range of the environment, or to achieve short-term, to the disadvantage of long-term, environmental goals," including circumstances where a project's "possible effects .

. . are individually limited but *cumulatively* considerable." CEQA Guidelines § 15130(b)(1), (2) (emphasis added). Section 21083, subdivision (b)(2) defines "cumulatively considerable" as the "incremental effects of an individual project . . . when viewed in connection with the effects of past projects, the effects of other current projects, *and the effects of probable future projects*." (Emphasis added). Section 15130 (b)(1) of the CEQA Guidelines further explains that the information utilized in an analysis of cumulative impacts should come from a number of sources, including "[a] list of past, present **and probable future projects** producing related or cumulative impacts." (Emphasis added).

The DEIR includes Table 4-1, which details several related cumulative projects within two miles of the Mercury Lane Proposal but makes no mention of The Village. In fact, the Village is not mentioned anywhere in the DEIR even though the same project proponent has proposed this larger scale development across the street from the propose site of the Mercury Lane Project. The Village cannot be dismissed as too "speculative" to require review as specifics of The Village Proposal are available for consideration now:

- In 2017, the applicant on the Mercury Lane Proposal acquired 6.5 acres across the street from the proposed Mercury Lane project (and right on the property line of Pacific Plastics).

- In December 2019 the applicant publicly announced plans to entitle and build *949 apartments for families and seniors, plus a childcare facility.*

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CONT'D

See, e.g., P. Brennan, "Mr. Brea Tries Solving Low-Cost Hosing Riddle," ORANGE COUNTY BUSINESS JOURNAL (Dec. 16, 2020), *available at* https://www.ocbj.com/news/2019/dec/16/mr-brea-tries-solving-low-cost-housing-riddle/.

This new information plainly contradicts any statements in the DEIR or other documents that further residential intrusion into the industrial zone, and associated environmental and health impacts, is "not a reasonably foreseeable impact of this project." Even assuming that the City could segment its review of the Mercury Land Proposal and The Village Proposal into separate EIRs, the City must evaluate the impacts of the Mercury Lane Proposal in light of the cumulative effects expected to be caused by both the Mercury Lane and The Village projects. While the effects of the Mercury Lane Proposal alone are significant, the cumulative effects of both projects on traffic, parking, air quality, noise, and land use compatibility would be far greater.

Indeed, the DEIR itself acknowledges that "a proposed project is of statewide, regional, or area-wide significance if the project is a residential development of more than 500 dwelling units." DEIR at 5.120. Together, the two proposed projects total *1,063 units*, well over this threshold.

Clearly, the cumulative effects of the developer's two proposals together have significant environmental effects that have not been considered or presented to the public and decisionmakers. Accordingly, the DEIR must be revised and recirculated.

IV. The EIR fails to evaluate impacts on future residents.

The City incorrectly states in the DEIR and Findings of Fact that CEQA does not require that the City consider of the impacts of nearby industrial operations on future residents. For example, the DEIR states that "[p]er *California Building Industry Association v. Bay Area Air Quality Management District*, 62 Cal. 4th 369 (No. S 213478) (*CBIA v. BAAQMD*), noise compatibility for onsite sensitive receptors is no longer the purview of the CEQA." DEIR at 5.5-8. To the contrary, *CBIA v. BAAQMD* makes clear that CEQA requires an evaluation of the impacts on future residents where a "project risks exacerbating existing conditions." 62 Cal. 4th at 378; *see also* Guidelines section 15126.2(a); *East Sacramento P'ship for a Livable City v. City of Sacramento*, 5 Cal. App. 5th 281, 296–97, 209 Cal. Rptr. 3d 774 (2016), *as modified on denial of reh'g* (Dec. 6, 2016); *AquAlliance v. U.S. Bureau of Reclamation*, 287 F. Supp. 3d 969, 1027–28 (E.D. Cal. 2018).

Indeed, responding to comments, the draft FEIR contradicts the DEIR statement that impacts on future residents need not be considered. The draft FEIR states that "[s]imply attracting residents or users to a site containing an environmental hazard or risk is not an impact that must be analyzed, *but project-induced changes that worsen an existing hazard or risk are*." DEIR 5.5-8 (emphasis added).

However, the DEIR summarily concludes that "[p]lacement of the project would not exacerbate environmental hazards," therefore dismissing the need to evaluate the effects of exacerbated environmental conditions on future residents. DEIR 5.5-8. Such conclusions that are not supported by factual information will not suffice. CEQA Guidelines § 15088(c). Moreover, the unexplained and unsupported conclusion is contradicted by other portions of the DEIR itself, which show that the proposed project will exacerbate noise, traffic, air quality, and several other environmental conditions. For example, the record states: 22

- "The Existing Zoning Alternative would lessen environmental impacts in the areas of air quality, energy, GHG emissions, land use and planning, noise, public services, recreation, transportation, tribal cultural resources, and utilities and service systems." Findings of Fact at 52. In other words, the proposed project exacerbates impacts to these resources.

- "The proposed residential structure could introduce new stationary noise sources to the community, including mechanical equipment and property maintenance." DEIR 5.6-10. In other words, the proposed project exacerbates noise impacts.

- "Implementation of the proposed project would result in a significant cumulative impact at 3 intersections during the traffic peak hours (#10 – Berry Street at Imperial Highway, #11 – Brea Boulevard at Imperial Highway, and #11 State College Boulevard at Imperial Highway)." DEIR 6-1; *see also* FEIR at 2-34 ("[T]he proposed project would significantly contribute to delay at three intersections along Imperial Highway (State Route 90).)"). In other words, the proposed project significantly exacerbates traffic impacts, as well as associated noise and air quality impacts.

A. The DEIR fails to adequately evaluate the effects of the project's exacerbation of existing significant noise levels on future residents.

The DEIR acknowledges that "[d]irectly east, west, and north of the project site are warehouses/distribution centers, which add to the existing noise environment primarily through truck loading and unloading. Truck loading/unloading and machine noise at the adjacent and nearby industrial uses could occur in the early morning hours when sensitive receptors are more sensitive to changes in the ambient noise environment." DEIR at 5.6-6. As explained above, the DEIR errs by understating existing conditions. For example, the DEIR understates truck loading/unloading, freight, and machine noise at Pacific Plastics, which occurs 24 hours per day, 7 days per week, 52 weeks per year. Noise from backup alarms, trains, and manufacturing operations frequently occur during the night and early morning hours.

The DEIR irrationally says that noise impacts will be minimized because roads used by industrial neighbors buffer the project site. DEIR at 5.5-10 ("Further, uses west of the project site are buffered by Berry Street, thereby reducing potential noise and hazard impacts. Moreover, uses to the north of the project site and buffered by Mercury Lane and a parking lot are predominantly used for trailer parking and do not consist of intensive industrial uses."). These statements are unreasonable, as roads do not provide a buffer. In addition, substantial noise is generated by industrial truck traffic on the road itself. 23

The DEIR also unreasonably treats noise effects as insubstantial because these impacts *may* be mitigated. The DEIR does not specify mitigation or confirm that mitigation is possible but instead. Rather, the DEIR impermissibly states that unspecified mitigations will be used to achieve interior noise levels of 45 dBA CNEL after an acoustic study is performed. The "preliminary interior noise study" included with the Staff Report does not resolve this issue. The document shows that noise levels measured at two locations substantially exceed 24 hours CNEL internal residential noise level limits. Even with high STC window ratings (31), Table 6 shows that interior noise levels with windows closed remains *above* the 45 dBA limit. Moreover, Table 5 reveals that maximum noise levels are very high at both locations, 106.2 dBA during the day and 93.9 dBA during the night. Yet, the DEIR completely fails to evaluate Single Event Noise Exposure Levels (SENEL). These single event noise level exposures can be particularly significant for residents at night and should be considered in the DEIR. *See Berkeley Keep Jets Over the Bay Comm. v. Bd. of Port Comm'rs* (2001) 91 Cal. App. 4th 1344, *as modified on denial of reh'g* (Sept. 26, 2001)

B. DEIR fails to adequately evaluate the effects on future residents of the project's exacerbation of air quality conditions.

The DEIR acknowledges that baseline air quality conditions present substantial health risk, including DEIR at 5.1-13–14. The DEIR explains that a Multiple Air Toxics Exposure Study (MATES) shows an estimated excess cancer risk of 1128.6 per million people due to lifetime exposure to ambient levels of air toxics in the area. *See* DEIR at 5.1-13. The largest contributor to health risk is diesel exhaust from mobile sources, followed by toxic air contaminants from stationary sources. DEIR at 5.1-13. Additionally, "[t]he most current five years of data 24

monitored at [nearby] monitoring stations show recurring violations of both the state and federal O3 standards" in the area. DEIR at 5.1-14.

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The Mercury Lane Project would exacerbate these existing air quality conditions through vehicular and construction-related emissions by the project as well as through increased emissions from other vehicles due to the project's impacts on traffic and parking conditions.

With respect to parking-related impacts, the DEIR unreasonably states that "[n]o physical environmental impacts would occur from the reduction in parking proposed by the project." FEIR 2-64. Existing conditions in the area show that this unsupported statement is incorrect. Pacific Plastics and other industrial users currently do a good job of reducing truck idling on their own properties and on the legal street parking spaces (trucks sometimes use street parking to queue for access to the manufacturing plant), as illustrated by the photo below showing two tractor trailers parking in front of the proposed location for the Mercury Lane Project. However, a foreseeable impact of the proposed project is a reduction in the availability of street parking for the existing industrial users, such as at the location pictured below. A reduction in available street parking would result in many trucks having to idle and/or drive around the area while waiting access to the plant, contributing to both air quality (diesel emissions) and noise impacts.

25

Accordingly, the DEIR errs by failing to discuss parking impacts and the associated secondary impacts on traffic, noise, safety, and air quality. *See Covina Residents for Responsible Development v. City of Covina*, 21 Cal. App. 5th 712, 726 (2018) (recognizing that "secondary parking impacts caused by ensuing traffic congestion ('air quality, noise, safety, or any other impact associated with transportation') must be addressed").

This failure to address parking impacts cannot be excused by the statement in the FEIR that unspecified future mitigation will be implemented to address the parking impacts. FEIR at 2-33 ("As stated on pages 5.5-11 through 5.5-12, the City of Brea will review the parking study and may impose additional conditions to ensure that the proposed parking demand of the project is satisfied. Review by the City would ensure that the project would provide adequate parking and would not result in a physical impact on the environment."). The EIR must evaluate the

secondary parking impacts and possible mitigations, not postpone that evaluation until it is too late to inform the public and decisionmakers. 25 CONT'D

C. A Health Risk Assessment is required in order to understand the effects of exacerbated air quality impacts on future residents.

Indeed, the DEIR itself acknowledges that the presence of "truck trips that idle onsite" can "warrant a health risk assessment." Findings of Fact at 26; DEIR at 5.5-6.

Indeed, as the South Coast Air Quality Management District (SCAQMD) has made clear, a Health Risk Assessment is required in order to understand the effects of exacerbated air quality impacts on future residents. The comment letter from the South Coast AQMD staff recommended that the City perform a health risk assessment (HRA) analysis and include strategies to maximize protection against exposures to toxic air contaminants such as diesel particulate matter in the in the EIR. Yet the draft FEIR still does not include any discussion of the potential long-term health risks to residents who will live at the proposed project in close proximity to the existing railroad track, manufacturing facilities, distribution centers, and a high-traffic highway. 26

The City's apparently reasoning for dismissing the need for an HRA is factually flawed. The DEIR estimated truck traffic generated by the adjacent properties at 100 trips per day. In a footnote, **the DEIR appears to assert that an HRA is not required because there are fewer than 100 truck trips per day around the proposed project.** ***See*** **DEIR at 5.5-8 at n.1 ("The California Air Resources Board 2005 Air Quality Land Use Handbook defines land uses with more than 100 trucks trips per day as having the potential to elevate health risk.").** As described above, the City kept the stated truck trips to less than 100 by (a) not counting any truck trip not associated with an immediately-abutting property and (b) underestimating the truck trips associated with the abutting properties. In addition, more emissions are generated by nearby stationary sources, freight deliveries, and the high-traffic Imperial Highway.

V. The DEIR fails to adequately evaluate impacts on land use compatibility.

A. The DEIR irrationally concludes the proposed project would not physically divide a community.

Consistent with Appendix G of the CEQA Guidelines, the DEIR acknowledges that a project would normally have a significant effect on the environment if the project would "Physically divide an established community." DEIR at 5.5-6.

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The DEIR illogically concluded that "[t]he proposed zone change to Planned Community (PC) would not divide the industrial community." DEIR at 5.5-7. Yet elsewhere the DEIR appears to acknowledge that "reclassify[ing] an approximately one-acre site with less restrictive zoning than surrounding properties," would result in "a small island [being] created in the midst of more/less restricting zoning." DEIR 5.5-9. Indeed, as the map included above map shows, the Mercury Lane Project would be surrounded by industrial sources, and cutoff from residential communities by Imperial Highway.

B. The DEIR irrationally concludes the proposed project would not conflict with an existing land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.

The DEIR also acknowledges a project also would normally have a significant effect on the environment if it caused "a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect." DEIR at 5.5-6.

However, the EIR fails to analyze the General Plan policies and goals. The General Plan observes that industrial uses supply approximately 12% of Brea's jobs, cites shortage of industrial buildings as one of Brea's four "Economic Development Challenges," and states that:

> "Land use policy plans for at least a 10% increase in industrial space square footage over the time horizon of the General Plan." See Brea's General Plan at 2-123.

Contrary to the General Plan policies and goals, The Mercury Lane and The Village proposals would eliminate over 7.5 acres of industrial land immediately and resulting land use conflicts could result in a domino effect. The EIR in inadequate for its lack on analysis in this regard.

The General Plan's land use designations (at 2-15) for the three sites in question are:

Mercury Lane	Light Industrial
The Village	Light Industrial / General Industrial
Pacific Plastics	General Industrial

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The Light Industrial land use designation does not specify residential as an allowed use. The text of the General Industrial land use designation reads as follows:

> "The General Industrial designation identifies land used for larger-scale, heavier industrial activities **where possible hazards, noise and other disturbances will not impact residential neighborhoods, schools, and similar uses**." (emphasis added)

The General Plan policy against mixing residential uses with industrial is quite clear.

The City asserts that while a land use conflict clearly exists, the City will eliminate the conflict by using a PC Zone. Even assuming that this position, which ignores baseline conditions, were reasonable, the "island" of residential zone would plainly be inconsistent with land use requirements designed to mitigate environmental effects. For example, the DEIR itself states that "[a]lthough the C-M zones requires industrial zones to be setback 100 feet from residential zone, the City does not apply this to Mixed Use or Planned Community zones." DEIR at 5.5-8.

Also as discussed in this comment letter, the project would impose a new noise standard on the existing industrial users, without proper notice, review, and evaluation. New noise standards would have secondary environmental impacts, as the lower noise standards would impact truck

traffic patterns and manufacturing efficiency (for example, reducing the noise profile of a manufacturing process could impact the amount of time necessary to produce the same quantity of finished product, exacerbating the impacts on air quality).

SCAQMD's "Guidance Document for Addressing Air Quality Issues in General Plans" reinforces the connection between land use conflicts and environmental impacts. *Available at* http://www.aqmd.gov/docs/default-source/planning/air-quality-guidance/complete-guidance-document.pdf. As the document explains, "[l]ocal government land use authority in planning, zoning, and permitting can be a very effective tool to minimize air pollutant emissions and associated health risks." *Id.* at 2-1. The agency provides the following example:

> For example, in local jurisdictions where there are neighborhoods near a relatively large number of industrial facilities or near heavy cross-town traffic, there is concern that there may be accumulated effects of numerous emission sources operating near residences, schools, or other sensitive sites. Cumulative impacts may be mitigated through siting and zoning policies that consider, where feasible, appropriate setbacks and buffer zones to disperse the air pollutants before they reach sensitive receptors.

Id. at 2-13. The DEIR's failure to acknowledge the proposed project's numerous conflicts with existing land use plans, policies, and regulations that are designed to mitigate environmental effects renders the document inadequate.

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CONT'D

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January 23, 2020

City of Brea Planning Commission
Chair Melanie Schlotterbeck
Vice Chair James McGrade
Commissioner Gary Brattain
Commissioner Dan Phu
Commissioner Sara Barnes-Ramos
Brea City Hall
1 Civic Center Circle
Brea, CA 92821

Re: Mercury Lane Proposal
Planning Commission meeting on January 28, 2020

Dear Chair and Members of the Commission:

I would like to comment on the proposal to build 114 apartment units in the middle of an industrial area, right across the street from the Pacific Plastics manufacturing plant.

We now understand that this project has been before the City government for over one year. I want to inform you that prior to receiving the notice for the January 28, 2020 Planning Commission, Pacific Plastics (a) had never received any notice of any meeting on this project, (b) did not receive any notice with regard to the four Study Sessions, and (c) did not receive any notices with regard to the CEQA review. Pacific Plastics did receive a flyer from the applicant by email in October, but only after the close of the comment period for the Draft EIR. The failure of the City and the applicant to assure full public notice and participation of the community has put Pacific Plastics at a severe disadvantage in responding to this development proposal. 29

Because of this failure in transparency, we believe that this proposal should be postponed for further review and consultation with neighbors.

About Pacific Plastics

Our manufacturing facilities are located at 111-221 South Berry Street. They consist of two buildings totaling 95,000 square feet of buildings and 8 acres of land. Total capacity at this time with all the equipment running 24 hours is approximately 340,000 pounds of PVC Pipe per day. Out of that capacity, approximately 80,000 pounds per day was added due to our recent expansion onto the next door property at 221 South Berry Street to our facilities. At this new location, so far, we have installed two high efficiency new Extruders that have added at least 40% to our capacity. We expect our Compounding Expansion project to start in late 1st Quarter of 2020. We employ approximately 110 full-time workers and that we will be adding 10 more jobs due to the 2020 recent expansion.

Pacific Plastics, Inc. was established on December 1979 and we moved to our current location in Brea 23 years ago. We manufacture PVC Pipes of all sizes and types from ½ inch to 18 inches. The pipes are used in agriculture, irrigation, plumbing, landscaping and electrical conduit. Pacific Plastics has been producing excellent quality PVC pipe over the past 4 decades. We take pride in producing millions of feet of pipe every month and not having a single failure at any job since our inception. While PVC pipe should conform to ASTM standards, Pacific Plastics quality of pipe exceeds the customary standards. In regard to reputation on quality, Pacific Plastics has earned a very high position in the market.

29 CONT'D

Opposition to Mercury Lane Apartments

For the following reasons Residential project like Mercury Lane cannot mix with our manufacturing Plant across the street. It would be like water and oil not mixing together.

The nature of our business is to run non-stop, 24 hours each day and seven days each week. There is no way the operation of the equipment can be reduced to less than 24/7. Not only that, we need expansion to survive. Any reduction in our production or not being able to expand will kill our business. Our gross profit margin (the difference between the price of raw material and selling price of our product) has not changed that much since 40 years ago. The only reason we have been able to catch up with our increased overhead expenses (such as cost of labor, rents, insurance, interest and loan payments) and stay in business was the increase in volume and sales. During the forty years that we have been in business, had we not been expanding and increasing our production volume and sales, we would not have been able to survive.

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For the above reasons if we get into a situation of not being able to expand or even worse having to cut down our production, our business will go out of existence. Many jobs would be lost.

We currently receive more than 30 truck visits per day and soon that number will reach 65 per day. Comingling this truck traffic with the traffic of the tenants, which will include cars, bicycles, scooters, motor bikes, and pedestrians (including seniors and children, as well as wheelchairs, walkers, canes, baby-strollers, handicapped, blind or deaf), can create a very dangerous situation. Imagine during rush hours, cars, bicycles, motor bikes driving in and out of the building mixing with the big tractor-trailers. Add this to pedestrians, some of whom are texting while crossing the street, some of them walking their dogs, some of them walking their babies with strollers. Those approving this project should bear the responsibility of any accidents arising out of this chaos.

Our plant is large enough that we handle most of these truck visits on our properties, but often we need to stage tractor-trailers in parking spaces on the street with their engines turned off. Street parking availability is limited, but we have managed because (and only because) this area is still an industrial zone. The proposed apartment building presents two problems. First, the lengthy construction process will block existing public street parking and the construction equipment and traffic will interfere with

public parking and traffic, including access to Pacific Plastics' manufacturing plant. This will substantially interfere with our business and will cause significant financial losses.
Second, the developer admits that his project will result in many residents parking their cars on the street, which would greatly limit the availability of the street parking for trucks waiting to get onto our property. That could result in these trucks have to idle their engines and even drive around on public streets. Our business is in an industrial zone and we depend on this zoning and on streets that are intended and designed for industrial traffic.

Keep in mind that the residents of those units would not have a quiet neighborhood. There would be noise 24 hours a day / 7 days a week / 365 days a year given the nature of our business. There also would be 24/7 traffic of many tractor trailers and diesel smoke throughout the day, plus their noise and back-up alarms. Would the residents ever be able to open their windows and enjoy quiet, nice and fresh air?

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CONT'D

A few years ago, one of our big rigs, driving with a very slow speed in a rainy day out of a shopping strip, while trying to turn right, a motorcyclist comes from his left rear wheels, his motor cycle slips under the rear wheel of the trailer and receives serious injuries. While the driver was completely innocent and the motorcyclist was under the influence of some drugs and did have a history of serious accidents, our insurance company had to pay millions of dollars of compensation and the young motorist maimed forever.

What about schools. Are there any schools nearby? What about water supply? Is there no longer a water shortage? How about electricity for all these units? Each summer when it gets too hot, we are experiencing power outages. How are they going to handle this additional power usage?

The Brea Master Plan that was designed originally had in mind these problems and as the result they kept Industrial, residential and commercial uses separate and far from each other. This arrangement has been put in place in other cities as well and should not be compromised by an investor whose only interest is the money he can make out of this venture.

Yours truly,

R. Bahremand

Raphael Bahremand
CEO
Pacific Plastics, Inc.

MEMORANDUM

To	Dwight Manley
From	Pacific Plastics
Re	Noise issues Proposed apartment developments
Cc	Brea Planning Commission
Date	February 17, 2020

Given the complexity of the issues presented by your development application, it would be helpful if we work together to identify any issue that could be resolved in advance of the February 25th Planning Commission hearing. Having even one less issue to deal with at the hearing would be appreciated by everyone.

We suggest that we look first at the noise issue. Would you agree to work with us on this issue?

At the January 28th Planning Commission meeting, several Planning Commissioners had comments and questions about the noise issue:

> **Chair Schlotterbeck** stated that Commissioners need to better understand if there would be a change in noise standards applied to Pacific Plastics.
>
> **Commissioner Barnes-Ramos** stated that the existing companies should not have to change their operations just because this development comes in and that "these companies deserve some protection."
>
> **Commissioner Phu** stated that tenants will want to open windows, questioned the resulting noise levels and asked how that could be handled.
>
> **Several Commissioners** asked whether the various mitigation "measures" being described as helpful were merely advisory or were actual, enforceable requirements.

These questions and comments from the Commissioners lead directly to our proposed 3-part resolution of the noise issue:

First, the developer will follow the recommendations set forth in the noise studies and the Master Plan.

The Staff Report indicates that the outdoor noise levels at the project site fall within the "Normally Unacceptable" range for multi-family development (at Page 9).

The RK Engineering Noise Study sets out seven "measures" to assure that the project meets City and State requirements for residential interior noise exposure. These seven measures are repeated in the Master Plan at Section V(J) (Page V-37) and include, for example, the following:

1. The project shall incorporate building construction techniques that achieve the minimum interior noise standard of 45 dBA CNEL for all residential units.

2. A "windows closed" condition is expect to be required . . to meet the interior noise standard . . . and all units shall be equipped with adequate fresh air ventilation . .

4. Prior to issuance of building permits, the project proponent shall demonstrate to the City building department that the proposed building shell and window assemblies will achieve exterior to interior nose exposure of 45 dBA CNEL or less.

Would you agree to follow the recommendations set forth in the noise studies and the Master Plan?

Second, the developer will be responsible for meeting the residential interior noise standards.

Note that the language of all the mitigation measures, including and not limited to the seven measures in the Master Plan, are based on the premise that the <u>developer</u> is responsible for achieving the required interior noise levels (that burden would not be on the surrounding industrial users).

However, there is no direct statement that the requirement to achieve the required level of residential interior noise levels will be enforced only against the developer, not the neighboring industry. There also is no direct statement that the nearby industrial users remain subject to the General Industrial noise standards and not the residential noise standards.

Would you agree to including these direct statements in the Master Plan, the Conditions of Approval, and the Development Agreement?

Third, the noise mitigation measures will be enforceable and continuing requirements.

Any approval of this proposed project must provide that recommended noise mitigations are stated as actual requirements that are enforceable starting at the building permit stage and continuing over time (the mitigations must be maintained properly over time).

The Staff Report (at Page 9) makes clear that the developer's obligation to achieve the residential interior noise standard of 45 dBA CNEL or less is a continuing requirement:

> "The study makes a number of recommendations related to construction and design that should be incorporated and memorialized into any conditions for the project. Additional strategies to ensure that noise levels remain appropriate for the development could include additional testing once the project is completed to ensure it meets the recommendations in the report." (emphasis added)

Any approval of this proposed project should make clear that:

- The developer must comply with a detailed list of mitigation measures, including and not limited to periodic testing and the seven measures described in Master Plan.
- The obligation to achieve the required residential interior noise level of 45 dBA CNEL is:
  - a condition of receipt of a Certificate of Occupancy
  - an ongoing obligation, not just an initial construction obligation
- The actual resulting residential noise level over time would be monitored through annual independent studies by the City, with reimbursement by the developer.
- There will be thorough disclosures and signed waivers from future buyers and tenants.

Would you agree to document these requirements?

These requirements could be documented as follows:

Master Plan The language in Section VII A.13 (at Page VII-11) of the Master Plan should be amended to expressly incorporate all recommended measures, including periodic testing and the seven measures described in Section V(J) of the Master Plan.

Deed Restrictions/Disclosures Staff has suggested in its Response to Comments that deed restrictions and disclosures could be used to fully-inform prospective buyers and tenants of the certain rights and burdens.

Conditions of Approval Conditions of Approval should include these requirements.

Development Agreement The Development Agreement should include these requirements.

Zoning Code Amendment The Zoning Code should be amended to clarify that the noise standards governing the existing industrial users are the standards for General Commercial Zones and are not modified by zoning changes on neighboring properties.

If you agree with the proposal set out in this memo, we can make a joint recommendation to the Planning Commission and Staff on the noise issue.

Thank you very much for your time and consideration.

Etnire, Geoffrey C.

From: Etnire, Geoffrey C.
Sent: Monday, February 17, 2020 10:29 AM
To: hvanligten@rutan.com
Subject: Brea Mercury Lane Apartments and The Village
Attachments: Brea Memo to Manley re noise issue 02172020.pdf

Hans,

Pacific Plastics would like to work together to identify any issue that could be resolved in advance of the February 25th Planning Commission hearing.

Attached is Pacific Plastics' memo on the noise issues Dwight Manley. Please forward this memo to your client.

As always, I remain available to talk.

Geoff

Geoffrey C. Etnire, Esq. | Venable LLP
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600 Massachusetts Avenue NW, Washington DC 20001
getnire@venable.com | www.venable.com

MEMORANDUM

To Chair Schlotterbeck
Vice Chair McGrade
Commissioner Brattain
Commissioner Phu
Commissioner Barnes-Ramos

From Pacific Plastics

Re Parking issues
Mercury Lane Apartments

Date February 18, 2020

At the January 28th Planning Commission meeting, several Planning Commissioners had comments and questions about the parking issues:

> **Chair Schlotterbeck** stated that parking needs to be studied and regulated "so trucks can have a place to park."
>
> **Commissioner Barnes-Ramos** stated that she likes the list of parking strategies listed in Section D3 of the draft Master Plan (at Page V-23), but said that it is not clear that the recommended measures are actual requirements.
>
> **Several Commissioners** commented that Brea does not allow overnight parking.

This memo responds to these comments. The parking studies and other City documents provide some of the necessary information, but there are glaring omissions in the factual record.

Manley can speculate and "dream," but the Planning Commission must base its decisions on facts and rational analysis. Here are specific examples of Manley asking the Planning Commissioners to join him in wishful thinking:

Wishful Thinking #1

Manley would like the Commission to disregard the parking standards in the Zoning Code, but those standards are the result of both deep analysis and long public experience. The Code requires on-site parking of 203 parking spaces.

The parking study by RK Engineering Group does not provide the factual basis that would allow the Planning Commission to slash the parking requirement by 85 parking spaces (42%). The peer review by Gibson Transportation Consulting (dated November 5, 2019) states that:

- "(a)dditional evidence must be provided if the argument for proximity to Downtown Brea and quality transit is to remain" (emphasis added). In other words, no factual basis has been provided for a radical reduction in off-street parking.

- The recommended onsite parking requirement is 178 – 213 spaces (1.56 – 1.87 parking spaces per unit.

Wishful Thinking #2

Not only is Manley requesting a radical reduction in the required parking from 203 to 118 spaces, he is also requesting that he be given **the unilateral right to reduce that 118 minimum** That right is buried in the Master Plan and has escaped attention. (See Page VII-5).

The draft Master Plan requires that Manley provide bike racks to accommodate 114 bikes – and the Master Plan then states that for every 5 additional bikes for which Manley provides a rack, Manley can eliminate one onsite parking space. For example, that sleight-of-hand would allow Manley, without further City review, to build only 107 onsite parking spaces if he provides a rack for 55 more bikes.

Wishful Thinking #3

Manley hopes that the Commission will accept the Master Plan's guesstimate that there is available street parking for 53 residential vehicles, but the RK Revised Parking Analysis provides no factual analysis to support that speculation. In fact, the parking capacity is closer to 30 spaces. The actual measurement of Mercury Lane (with subtractions for driveways and other existing needs) indicates that the linear feet available for street parking is quite limited. See the diagram attached to this memo, which indicates the following:

Total linear feet available for street parking (subtracting driveways, setbacks, no parking zones zones, and the "loading zone")	660.5 feet
Less linear feet for two tractor-trailer trucks (the allowance for two trucks is the absolute minimum reasonable allowance; assumes 55 feet for each space)	- 110.0 feet
Net linear feet available for residential vehicles	550.5 feet
Passenger car parking capacity (assumes 18 linear feet per space) (only 30 parking spaces are available for industrial employees and visitors, plus residential visitors)	30.68 vehicles

Note that the Master Plan indicates that the required loading zone on Mercury Lane must be a minimum of 40 feet and a maximum of 60 feet. However, the plans included in the Master Plan show a loading zone of only 30 feet -- any Planning Commission approval should require the correction of those plans to a minimum of 40 feet.

Wishful Thinking #4

Despite Chair Schlotterbeck's comment about the need to provide truck street parking, Manley wishes to ignore the industrial setting and the need for tractor-trailer parking. Both the RK Revised Parking Analysis and the Gibson peer review go along with Manley's wishful thinking:

- Neither report takes into account the need for truck parking.
- Neither report indicates that the cul-de-sac is not available for parking.

The cul-de-sac at the end of Mercury Lane is unusually large – and was designed that way for a very specific reason. Mercury Lane is in an industrial area and tractor-trailers have to be able to turn around on what is otherwise a dead-end street.

The cul-de-sac was designed and constructed with that specific radius to allow trucks to turn around – and to avoid **the problem of *tractor-trailers having either to back up the full length of Mercury Lane or to try to execute a 3-point turn.*** Blocking the available turning radius with parked residential cars would lead to a nightmare traffic problem.

The industrial users moved to this industrial zone precisely because the infrastructure and streets were designed and built for the needs of industrial users.

Wishful Thinking #5

Manley hopes that the City will approve his project without any advance review of the policy and management issues that would be involved in allowing residential parking on Mercury Lane, as that analysis would delay the process and probably result in restrictions that Manley would not like. For example:

- The City should consider imposing a 2-4 hour time limit on street parking.
- If an adequate number of onsite parking spaces is provided for residents, then there would be no need for residents to park on the street, so residents should be subject to the same time limit on street parking).
- The City should retain its ban on overnight parking (overnighters can park in the City garage).
- The City should engineer the parking spaces (striping and signage), including specific parking spaces for trucks.
- The City should establish a program for overflow parking in the City garage.

- As a Condition of Approval of this project, the developer should reimburse the City for all costs involved in these parking measures, including striping and signage.

Wishful Thinking #6

Manley proposes to create a shortage of parking spaces then and to address that shortage by referring guests and residents to the City parking garage. That is purely wishful thinking.

As stated in the Gibson peer review, the parking garage is "approximately 1,200 feet away from the Project with a path of travel that includes an approximately 500-foot sidewalk gap along Mercury Lane and crossing of the Brea Trail to the first level of the garage." This distance will be a deterrent and the path does not appear to be ADA compliant.

Wishful Thinking #7

Despite the comments by the Commissioners, Manley hopes that the recommended "parking strategies" remain as vague and unenforceable as they are currently-described. See the RK study (at Page 8-1) and the 16 measures set out in the "Parking Strategy Toolbox" at Page V-23 of the Master Plan.

Any reduction of the required 203 onsite parking spaces should be backed up with very clear "parking requirements." Before the Planning Commission makes a determination on this project, the Commission should require Staff to report back with enforceable Conditions of Approval.

Wishful Thinking #8

There are two very important strategies set out in the traffic studies that have not been established as Conditions of Approval:

- Parking Management Plan: This is listed in the Master Plan as a strategy that "may be considered by the City" - this should be converted into an actual Condition of Approval.

- Monitoring of parking in the future: Both parking studies mention that need for future monitoring and, depending on the results, future adjustments in the parking requirements. This also should be a Condition of Approval.

The Gibson peer review states:

> "The PMP should indicated that the Applicant will submit evidence that parking is provided to meet the ratio identified by the City **prior to the issuance of any Certificate of Occupancy for the Project.** Additionally, provisions must be identified in the case that any monitoring reveals that the Project's total parking demand consistently exceeds the

total provide parking supply (**e.g. secure additional parking to meet demand**)"
(Emphasis added)

This recommendation for future monitoring and adjustments would allow the City to correct for any errors in judgment made in this approval process.

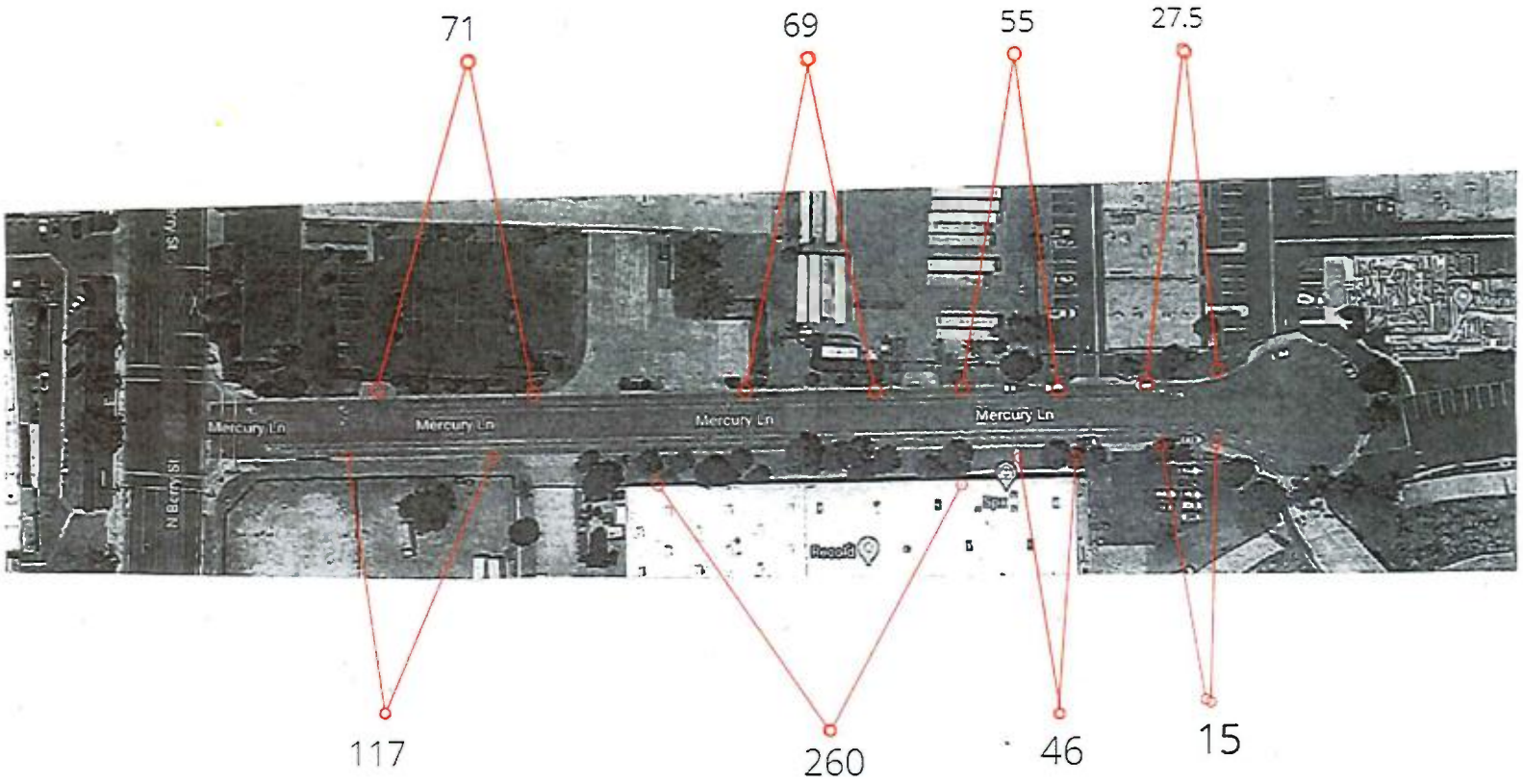
Thank you very much for your time and consideration.

Note: Please see the diagram on the following page. For the sake of transparency, we also have provided our work sheets on the street measurements. That will allow both Staff and Manley to double-check our measurements and our assumptions – and make any necessary corrections. For example, we assumed 20-foot no parking setbacks from fire hydrants and driveways (and that may not be accurate). We look forward to any such corrections from Staff and Manley.

CALCULATIONS

Linear feet available for parking

Mercury Lane North Side	222.5 feet
Mercury Lane South Side	438.0 feet
Subtotal	660.5 feet
Less allowance for truck parking	110.0 feet
Net	550.5 feet
Number of regular parking spaces (at 18 feet each)	30.68 spaces


71
69
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27.5
Mercury Ln
Mercury Ln
Mercury Ln
Mercury Ln
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MERCURY

BERRY

Mercury Lane North Side:

1)	No Stop Sign	74.5
2)	Drive Way	29.5
3)	Set Back	20
4)	Parking O.K.	71
5)	Set Back	20
6)	Drive Way	160
7)	Set Back	20
8)	Parking O.K.	69
9)	Set Back	20
10)	Drive Way	52.5
11)	Set Back	20
12)	Parking O.K.	55
13)	Set Back	20
14)	Drive Way	43
15)	Set Back	20
16)	Parking O.K.	27.5

=======

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Parking O.K. 222.50

Mercury Lane South Side:

17) Set Back	20
18) Loading Zone	40
19) Parking O.K.	117
20) Set Back	20
21) Drive Way	59.5
22) Set Back	20
23) Parking O.K.	260
24) Set Back	20
25) Set Back	20

Fire Hydrant is between (24) and (25)

26) Parking O.K.	46
27) Set Back	20
28) Drive Way	43
29) Set Back	20
30) Parking O.K.	15
	=======
	720.5

Parking O.K. 438