

RESOLUTION NUMBER 4270

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA CERTIFYING THE ENVIRONMENTAL IMPACT REPORT (EIR/STATE CLEARINGHOUSE #2008041132), ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS OF ENVIRONMENTAL IMPACT AND MAKING FINDINGS IN SUPPORT THEREOF, AND APPROVING THE DEVELOPMENT PLAN REVIEW (DPR 08-04-0015), TENTATIVE PARCEL MAP (TPM 35700/#08-04-0014) CONDITIONAL USE PERMIT (CUP 08-04-0016), AND VARIANCE (VAR 08-09-0005) TO CONSTRUCT A 643,000 SQUARE FOOT COMMERCIAL SHOPPING CENTER LOCATED AT THE SOUTHEASTERLY CORNER OF SAN JACINTO AVENUE AND I-215 FREEWAY, SUBJECT TO CONDITIONS OF APPROVAL AND THE FINDINGS NOTED HEREIN.

WHEREAS, on April 21, 2008 an application package was filed for a 643,000 square foot commercial shopping center located at the southeasterly corner of San Jacinto Avenue and I-215 Freeway (*Project*) in the City of Perris (*City*).

WHEREAS, the application package included a formal Development Plan Review application (*DPR 08-04-0015*) for consideration of architectural design and site layout along with a Minor Adjustment to reduce the parking requirements by 4-percent and to increase the height of one freeway sign from 50-feet to 62.5 feet; and

WHEREAS, the application package included a Tentative Parcel Map application (*TPM 35700/#08-04-0014*) to establish 18 individual lots to facilitate the development; and

WHEREAS, the application package included a Conditional Use Permit application (*CUP 08-04-0016*) to allow a gas station, drive through restaurants, and liquor sales at the Target Corporation (Target) store and sit-down restaurants; and

WHEREAS, the application package was supplemented on September 24, 2008 with a Variance application (*Var 08-09-0005*) to allow signage area in excess of City Code limits for the two freeway signs, and to allow more than two signs per building on stand-alone buildings and end buildings; and

WHEREAS, unless otherwise defined, all capitalized terms herein are given the meanings assigned to them in the Final Environmental Impact Report dated July 2009.

WHEREAS, during the course of review of the application package for the Project it was deemed an Environmental Impact Report (*EIR*) was required pursuant to the California Environmental Quality Act (*CEQA*) to assess environmental impacts associated with the Project; and

WHEREAS, on June 4, 2008, the Planning Commission held a scoping meeting and workshop for the EIR to discuss and receive testimony from the public on the potential environmental impacts, plotting, and building architecture of said Project; and

WHEREAS, between April 22, 2009 and June 5, 2009, the Draft EIR (*State Clearinghouse #2008041132*) was available for public review and comment during a state-mandated 45-day public review period; and

WHEREAS, on August 4, 2009, the Final EIR was distributed to those agencies and persons that commented in writing on the Draft EIR; and

WHEREAS, on September 16, 2009, the Planning Commission conducted a duly noticed public hearing after continuing the project from its August 19, 2009 meeting. At the September 16, 2009 meeting the Planning Commission recommended approval of the project after considering public testimony and materials in the staff report and accompanying documents for the Statement of Overriding Consideration of Environmental Impact, the Environmental Impact Report (*State Clearinghouse #2008041132*), Development Plan Review 08-04-0015, Conditional Use Permit 08-04-0016, Tentative Parcel Map 35700/#08-04-0014, and Variance 08-09-0005; and

WHEREAS, on October 13, 2009, the City Council conducted a duly noticed public hearing on the project, consider public testimony and materials in the staff report and accompanying documents for the Statement of Overriding Consideration of Environmental Impact, the Environmental Impact Report (*State Clearinghouse #2008041132*), Development Plan Review 08-04-0015, Conditional Use Permit 08-04-0016, Tentative Parcel Map 35700/#08-04-0014, and Variance 08-09-0005; and

WHEREAS, the EIR was prepared in accordance with CEQA Sections 21000 through 21177 of the California Public Resources Code, and Sections 15000 through 15387 of the California Code of Regulations Title 14 (*CEQA Guidelines*); and

WHEREAS, the EIR identified air quality, climate change, transportation and water supply impacts that would result in environmental impacts for which mitigation measures are not available to reduce impacts below levels of significance, therefore a Statement of Overriding Considerations must be adopted prior to approval by the City Council; and

WHEREAS, the EIR identified all other potential environmental impacts as either not an impact, a less than significant impact, or a less than significant impact with mitigation and a Mitigation Monitoring Program has been prepared for those potential impacts requiring mitigation; and

WHEREAS, the economic, social, or other benefits of the Project outweigh the remaining significant and unavoidable impacts as fully demonstrated in the findings below; and

WHEREAS, Section 66411 of the California Government Code (*Subdivision Map Act*) vests in the legislative bodies of local agencies the regulation and control of the design and improvement of subdivisions; and

WHEREAS, Title 18 of the City of Perris Municipal Code (*Subdivisions*) implements the state Subdivision Map Act and authorizes the City Council to take action on the Tentative Parcel Map; and

WHEREAS, Section 19.54.30(3) of the City of Perris Municipal Code (*Zoning Code, Authority and Review Procedures*) provides that where multiple applications related to a project are concurrently processed and the project contains an application which requires review and determination by the City Council, as is the case with the Tentative Parcel Map, all applications and associated environmental review shall be reviewed by the Planning Commission and referred to the City Council for a determination; and

WHEREAS, based on the citations above the City Council must approve, conditionally approve, or disapprove a request for the Tentative Parcel Map, Development Plan, Conditional Use Permit, Variance and make final determinations under CEQA; and

WHEREAS, on October 13, 2009, the City Council conducted a duly noticed public hearing on the Project, and after considering public testimony and materials in the staff report and accompanying documents for the EIR (*State Clearinghouse #2008041132*), including the Statement of Overriding Considerations of Environmental Impact and the Mitigation Monitoring and Reporting Plan, the Development Plan Review 08-04-0015, the Tentative Parcel Map 35700/#08-04-0014, the Conditional Use Permit 08-04-0016, and the Variance 08-09-0005, and finds, in its independent judgment, that the Final EIR is adequate and sufficient in all respects and the findings set forth below are appropriate and adequate to support the certification of the EIR, adoption of the Statement of Overriding Considerations and the Mitigation Monitoring and Reporting Plan, and approval of the Development Plan Review, Tentative Parcel Map, Conditional Use Permit and Variance, subject to the Findings set forth below and Conditions of Approval attached hereto as Attachment 1; and

WHEREAS, all documents and other materials that constitute the record of proceedings on which the City's findings are based are located at 135 North "D" Street, Perris, CA 92570. The custodian for these documents is Development Services Department. This information is provided in compliance with CEQA Section 21081.9(a) (2) and the CEQA Guidelines Section 15091(e).

NOW, THEREFORE, BE IT RESOLVED, after due deliberation, study and public hearing that the Planning Commission of the City of Perris hereby recommends that the City of Perris City Council find as follows:

Section 1. The above recitals are all true and correct.

Section 2. The determinations herein reflect the independent judgment of the City.

Section 3. CEQA Findings. The following findings of fact support the certification of the EIR:

(a) The City has complied with CEQA and the EIR is an accurate and objective statement that fully complies with CEQA and CEQA Guidelines.

(b) No evidence of new significant impacts, as defined by CEQA Guidelines Section 15088.5, has been received by the City after circulation of the Draft EIR which would require recirculation.

(c) As authorized by CEQA Section 21081 and CEQA Guidelines Sections 15091, 15092 and 15093, the City finds that changes or alternatives have been required in, or incorporated into the Project that avoid or substantially lessen the significant environmental impacts identified in the Final EIR and set forth below:

(i) Potential Air Quality Impact: As discussed on Final EIR page 4.2-35, the Project will create short-term air quality impacts from fugitive dust, other particulate matter, and emissions from earthmoving and grading activities. These activities could create a potentially significant impact. To mitigate these impacts, the Project will implement the following Mitigation Measures:

MM Air 1: The applicant shall minimize pollutant emissions by maintaining equipment engines in good condition and in proper tune according to manufacturer's specifications and during smog season (May through October) by not allowing construction equipment to be left idling for more than 5 minutes (per California law).

MM Air 2: As required by Rule 403, the applicant shall use periodic watering for short-term stabilization of disturbed surface areas and haul roads to minimize visible fugitive dust emissions. Watering, with complete coverage, shall occur at least three times a day, preferably in the mid-morning, afternoon and after work is done for the day. Implementation of this measure is estimated to reduce PM-10 and PM-2.5 fugitive dust emissions by approximately 61%.

MM Air 3: The applicant shall take actions sufficient to prevent Project-related track out onto paved surfaces and shall clean up Project-related track out or spills on publicly maintained paved surfaces at the end of each day.

MM Air 4: The applicant shall stabilize graded site surfaces upon completion of grading when subsequent development is delayed or expected to be delayed more than thirty days, except when such a delay is due to precipitation that dampens the disturbed surface sufficiently to eliminate visible fugitive dust emissions.

MM Air 5: All clearing, grading, earth-moving, or excavation activities shall cease when winds exceed 15 mph averaged over a one-hour duration.

MM Air 6: Contractor shall ensure use of low-sulfur diesel fuel in construction equipment as required by CARB (diesel fuel with sulfur content of 15 ppm by weight or less).

MM Air 7: Contractor shall ensure that all off-road heavy-duty construction equipment utilized during construction activity will be CARB Tier 2 Certified or better (to the maximum extent feasible). Implementation of this measure is estimated to reduce

emissions of VOCs, NO_x, PM-10, and PM-2.5 by approximately 78.31%, 54.57%, 54.82%, and 50.43%, respectively.

MM Air 8: Contractor shall utilize existing power sources (e.g., power poles) or clean-fuel generators rather than temporary power generators where feasible. The effectiveness of this measure to reduce emissions is not quantified by the SCAQMD.

MM Air 9: During construction of the proposed Project, only low-VOC paints and coatings as defined in SCAQMD Rule 1113 shall be used.

Finding: The City finds that the foregoing mitigation measures have been incorporated into the Project to avoid or substantially lessen the significant environmental effect identified in the Final EIR to a less than significant level.

Facts in Support of Finding: Final EIR Table 4.2-C estimates the Project's construction emissions and estimates that emissions of NO_x, PM-10 and PM-2.5 will exceed the South Coast Air Quality Management District's (SCAQMD) significance thresholds. Accordingly, all SCAQMD's requirements for construction emissions were required (MM Air 1- MM Air 9). Final EIR Table 4.2-T demonstrates that mitigation of PM-2.5 during construction will be mitigated below the SCAQMD's significance threshold. Therefore, the Project's construction emissions will not exceed the SCAQMD significance threshold for PM-2.5 and the Project's impact is therefore less than significant for that pollutant. See Section 3(d) (i) for significant, unavoidable construction emissions impacts related to NO_x and PM-10.

(ii) Potential Biological Resources Impact: The Project is located with the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP), and without mitigation, impacts to biological resources could be significant. Further, as discussed on Final EIR page 4.3-17, while no sensitive plant or animal species were observed on the site during the 2007 biological assessment, the subsequent 2008 site visit found occupied ground squirrel burrows located on the Project site. As such, borrowing owls were determined to have a high probability of occurring on the Project site due to the appearance of suitable habitat and, without mitigation, impacts could be significant. As discussed on Final EIR page 4.3-17, there is a potential for migratory birds to utilize the site for foraging and nesting. Without mitigation, the proposed Project could have a potentially significant impact on these migratory birds. To mitigate these impacts, the Project will implement the following Mitigation Measures:

MM Bio 1: Prior to site grading, the proposed project applicant shall provide evidence to the City that a pre-construction clearance survey has been completed. The pre-construction clearance survey will be required within 30 days before the start of grading activities to determine if burrowing owls are present within the proposed project limits. The pre-construction clearance survey shall be conducted by a qualified biologist. If future surveys determine the burrowing owl to be present, protective measures shall be required to ensure compliance with the Migratory Bird Treaty Act (MBTA) and other applicable California Fish and Game Code requirements. Protective measures may include avoidance of an active burrow(s) during nesting season and passive relocation. The survey shall be conducted no earlier than 30 days prior to the proposed project grading activities.

MM Bio 2: Any western burrowing owls identified on-site shall be relocated by a qualified biologist prior to the commencement of grading activities. The relocation of any specimen shall be conducted per applicable California Fish and Game Code and/or U.S. Fish and Wildlife Service (FWS) procedures, and shall be accomplished through passive relocation methods. Relocation of on-site burrowing owls shall not be permitted during the nesting season (annually from February 1 through August 31) for this species.

MM Bio 3: If burrowing owls are found on site during the pre-construction survey, the project proponent shall mitigate for the direct loss of burrowing owl nesting and foraging habitat by acquiring and permanently protecting known burrowing owl nesting and foraging habitat at the following ratio:

- (a) Replacement of occupied habitat with occupied habitat at 1.5 times 6.5 acres per pair or single bird;
- (b) Replacement of occupied habitat with habitat contiguous with occupied habitat at 2 times 6.5 acres per pair or single bird; and/or
- (c) Replacement of occupied habitat with suitable unoccupied habitat at 3 times 6.5 acres per pair or single bird.

The project proponent shall establish a non-wasting endowment account for the long-term management of the preservation site for burrowing owls. The site shall be managed for the benefit of the burrowing owls. The preservation site, site management, and endowment shall be approved by the Department of Fish and Game (CDFG).

MM Bio 4: The proposed project shall be consistent with Appendix C of the MSHCP, *Standard Best Management Practices*. Best Management Practices 4, 5, 6, and 7 do not apply to the proposed project as there are no riparian/riverine areas or streams located within the proposed project site.

1. A condition shall be placed on grading permits requiring a qualified biologist to conduct a training session for the project personnel prior to grading. The training shall include a description of the species of concern and its habitats; the general provisions of the Endangered Species Act (Act) and the MSHCP; the need to adhere to the provisions of the Act and the MSHCP; the penalties associated with violating the provisions of the Act; the general measures that are being implemented to conserve the species of concern, as they relate to the proposed project; and the access routes to and from the proposed project site boundaries within which the proposed project activities must be accomplished.
2. Water pollution and erosion control plans shall be developed and implemented in accordance with Regional Water Quality Control Board (RWQCB) requirements.
3. The footprint of disturbance shall be minimized to the maximum extent feasible. Access to sites shall be via pre-existing access routes to the greatest extent possible.
4. The upstream and downstream limits of the proposed project disturbance, plus lateral limits of disturbance on either side of the stream, shall be clearly defined and marked in the field and reviewed by the biologist prior to initiation of work.
5. Projects should be designed to avoid the placement of equipment and personnel within the stream channel or on sand and gravel bars, banks, and adjacent upland habitats used by target species of concern.

6. Projects that cannot be conducted without placing equipment or personnel in sensitive habitats should be timed to avoid the breeding season of riparian identified in MSHCP Global Species Objective No. 7.
7. When stream flows must be diverted, the diversions shall be conducted using sandbags or other methods requiring minimal in-stream impacts. Silt fencing or other sediment trapping materials shall be installed at the downstream end of construction activity to minimize the transport of sediments offsite. Settling ponds where sediment is collected shall be cleaned out in a manner that prevents the sediment from reentering the stream. Care shall be exercised when removing silt fences, as feasible, to prevent debris or sediment from returning to the stream.
8. Equipment storage, fueling, and staging areas shall be located on upland sites with minimal risks of direct drainage into riparian areas or other sensitive habitats. These designated areas shall be located in such a manner as to prevent any runoff from entering sensitive habitat. Necessary precautions shall be taken to prevent the release of cement or other toxic substances into surface waters. Project-related spills of hazardous materials shall be reported to appropriate entities including but not limited to applicable jurisdictional City, FWS, CDFG, and RWQCB and shall be cleaned up immediately and contaminated soils removed to authorized disposal areas.
9. Erodible fill material shall not be deposited into water courses. Brush, loose soils, or other similar debris material shall not be stockpiled within the stream channel or on its banks.
10. The qualified project biologist shall monitor construction activities for the duration of the proposed project to ensure that practicable measures are being employed to avoid incidental disturbance of habitat and species of concern outside the proposed project footprint.
11. The removal of native vegetation shall be avoided and minimized to the maximum extent practicable. Temporary impacts shall be returned to pre-existing contours and re-vegetated with appropriate native species.
12. Exotic species that prey upon or displace target species of concern should be permanently removed from the site to the extent feasible.
13. To avoid attracting predators of the species of concern, the proposed project site shall be kept as clean of debris as possible. All food related trash items shall be enclosed in sealed containers and regularly removed from the site(s).
14. Construction employees shall strictly limit their activities, vehicles, equipment, and construction materials to the proposed project footprint and designated staging areas and routes of travel. The construction area(s) shall be the minimal area necessary to complete the proposed project and shall be specified in the construction plans. Construction limits will be fenced with orange snow screen. Exclusion fencing should be maintained until the completion of all construction activities. Employees shall be instructed that their activities are restricted to the construction areas.
15. The Permittee [City] shall have the right to access and inspect any sites of approved projects including any restoration/enhancement area for compliance with the proposed project approval conditions including these BMPs.

MM Bio 5: In order to avoid violation of the Migratory Bird Treaty Act (MBTA) and California Fish and Game Code, site-preparation activities (removal of trees and

vegetation) shall be avoided, to the greatest extent possible, during the nesting season (generally February 1 to August 31) of potentially occurring native and migratory bird species.

If site-preparation activities are proposed during the nesting/breeding season (February 1 to August 31), a pre-activity field survey shall be conducted 30 days prior to construction activities and completed no more than 5 days prior to construction by a qualified biologist to determine if active nests of species protected by the MBTA or the California Fish and Game Code are present in the construction zone. If active nests are not located within the proposed project area and appropriate buffer, construction may be conducted during the nesting/breeding season. However, if active nests are located during the pre-activity field survey, no grading or heavy equipment activity shall take place within at least 500 feet of an active listed species or raptor nest, 300 feet of other sensitive or protected (under MBTA or California Fish and Game Code) bird nests (non-listed), or within 100 feet of sensitive or protected songbird nests until the nest is no longer active.

Finding: The City finds that the foregoing mitigation measures have been incorporated into the Project to avoid or substantially lessen the significant environmental effects identified in the Final EIR to a less than significant level.

Facts in Support of Finding: The Project was reviewed for consistency with applicable MSHCP sections in Final EIR pages 4.3-8 through 4.3-15. MM Bio 1, MM Bio 2, MM Bio 3 ensure consistency with MSHCP requirements for project-specific biological resource impact analysis and further Project-specific surveys. MM Bio 4 ensures consistency with MSHCP Appendix C, which includes Best Management Practices for projects within the MSHCP. Further, MM Bio 1, MM Bio 2 and MM Bio 3 ensure that burrowing owls would not be harmed or improperly displaced by the construction of the Project by requiring pre-construction surveys and by requiring mitigation in the event that burrowing owls are present. These mitigation measures were prepared consistent with the Department of Fish and Game's survey protocol and mitigation guidelines. Finally, as set forth in MM Bio 5, impacts to nesting bird species can be minimized or eliminated by limiting Project activities to the times when birds are less likely to be nesting. If it is not possible to avoid clearance between these months, a qualified biologist must check for nests before clearance to ensure potential impacts will not occur. In doing so, migratory birds would not be harmed or improperly displaced by the construction of the Project ensuring that impacts will be less than significant. Accordingly, all impacts to biological resources have been mitigated to a less than significant level.

(iii) Potential Historic and Archeological Resources Impact: As discussed in Final EIR pages 4.4-6 through 4.4-9, an abandoned concrete foundation was noted during an on-site field survey. This foundation may represent the remains of an historic period building. Without mitigation, ground-disturbing activities may uncover previously undetected prehistoric or historical resources and could result in a potentially significant impact. To mitigate these impacts, the Project will implement the following Mitigation Measure:

MM Cultural 1: Full-time monitoring shall be conducted within close proximity to the foundation (CRM TECH 1749-1H), and periodic spot monitoring shall be conducted within the remainder of the project site. Should any unknown cultural and/or archaeological resources be accidentally discovered during earth-moving operation, all

work in that area should be halted or diverted until a qualified archaeologist can evaluate the nature and significance of the finding. If the find is determined to be an historical or unique archaeological resource, as defined in Section 15064.5 of the CEQA Guidelines, avoidance or other appropriate measures shall be implemented. However, work may continue on other parts of the building site while historical or unique archaeological mitigation takes place. CEQA Guidelines 15064.5(f).

Finding: The City finds that the foregoing mitigation measures have been incorporated into the Project to avoid or substantially lessen the significant environmental effect identified in the Final EIR to a less than significant level.

Facts in Support of Finding: While these minor and isolated features have little potential to be considered historically significant, MM Cultural 1 has been adopted to ensure that if any resources are uncovered during the construction period, construction activities will be suspended until a qualified archaeologist can evaluate the significance of the resources. Any resources discovered would be properly curated resulting in no loss of archaeological resources during earth-moving activities associated with construction. Impacts to potential historic resources would be reduced to a less-than significant level.

(iv) Potential Paleontological Resources Impact: As discussed in Final EIR pages 4.4-9 and 4.4-10, results of records searches, literature research and field surveys indicate that the Project site has a potential for vertebrate fossils to occur in the sediments. Without mitigation, ground-disturbing activities could have a potentially significant impact. To mitigate these impacts, the Project will implement the following Mitigation Measure:

MM Cultural 2: Full-time monitoring of earth-moving activities for paleontological resources shall be conducted for any earth-moving operations exceeding 8 feet below ground surface, and a program that will mitigate any fossil materials that are unearthed. A monitoring program shall be developed in accordance with the provisions of CEQA as well as the proposed guidelines of the Society of Vertebrate Paleontology, and should include, but not be limited to the following:

1. The excavation of areas identified as likely to contain paleontological resources should be monitored by a qualified paleontological monitor. Monitoring should be restricted to undisturbed subsurface areas of older alluvium, which might be present below the surface. The monitor should also remove samples of sediments which are likely to contain the remains of small fossil invertebrates and vertebrates. The monitor must have the power to temporarily halt or divert grading equipment to allow for removal of abundant or large specimens.
2. Collected samples of sediments should be washed to recover small invertebrate and vertebrate fossils. Recovered specimens should be prepared so that they can be identified and permanently preserved.
3. Specimens should be identified and curated and placed into a repository with permanent retrievable storage.
4. A report of findings, including an itemized inventory of recovered specimens, should be prepared upon completion of the steps outlined above. The report should include a discussion of the significance of all recovered specimens. The report and

inventory, when submitted to the appropriate Lead Agency, would signify completion of the program to mitigate impacts to paleontologic resources.

Finding: The City finds that the foregoing mitigation measures have been incorporated into the Project to avoid or substantially lessen the significant environmental effect identified in the Final EIR to a less than significant level.

Facts in Support of Finding: MM Cultural 2 was adopted to require monitoring if ground disturbances exceed eight feet in depth. As discussed on Final EIR page 4.4-10, the paleontological resources report states that the shallow soils disturbed by past farming activities have a low potential to contain significant paleontological resources but that undisturbed older sediments may be present that have a higher potential to contain paleontological resources. Accordingly, MM Cultural 2's requirement for monitoring earth-moving activities that exceed 8 feet below ground surface appropriately mitigates the potential impact. MM Cultural 2 ensures that if any resources are uncovered during the construction period, those resources would be properly curated. Impacts associated with earth-moving activities will be rendered less than significant.

(v) Potential Impact to Human Remains: As discussed on Final EIR pages 4.4-10 and 4.4-11, the Project site has historically been used for agricultural purposes and is not expected to contain human remains. Nevertheless, ground-disturbing activities could lead to a potentially significant impact. To mitigate these impacts, the Project will implement the following Mitigation Measure:

MM Cultural 3: If human remains are uncovered at any time, all activities in the area of the find shall be halted by the developer or its contractor and the County Coroner shall be notified immediately pursuant to CA Health & Safety Code Section 7050.5 and CA Public Resources Code Section 5097.98. If the Coroner determines that the remains are of Native American origin, the Coroner shall proceed as directed in Section 15064.5(e) of the CEQA Guidelines, which include:

1. The coroner shall contact the Native American Heritage Commission (NAHC) within 24 hrs.
2. The NAHC shall identify the person or persons it believes to be most likely descended from the deceased Native American.
3. The most likely descendent will consult with the landowner, City officials, and the project archaeological consultant for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resource Code Section 5097.98. If there is any impasse, City officials will have the authority to make the final decision in accordance with City policy.

Finding: The City finds that the foregoing mitigation measures have been incorporated into the Project to avoid or substantially lessen the significant environmental effect identified in the Final EIR to a less than significant level.

Facts in Support of Finding: While the cultural resources reports did not indicate the presence of any known human remains within the project area, nor has the cultural resources report indicated there would be a reason for human remains to be on-site, mitigation ensures that impacts to

human remains will be less than significant. Compliance with CA Health & Safety Code Section 7050.5 and CA Public Resources Section 5097.98 ensures that if human remains are found, the preservation of these remains will occur, that the most likely descendent will be notified and will properly dispose of the human remains, and that impacts to human remains will be less than significant.

(vi) Potential Hazardous Materials Impacts: The Project includes an on-site fueling station that would require the storage, dispensing and use of gasoline. As discussed on Final EIR page 4.5-11, since fueling stations include the handling of gasoline and have the potential to cause hazardous impacts during daily operations, impacts could be potentially significant. To mitigate these impacts, the Project will implement the following Mitigation Measures:

MM Haz 1: Prior to the issuance of building permits, the project proponent shall provide to the City of Perris Fire Department a Hazardous Materials Declaration.

MM Haz 2: Prior to the issuance of building permits, the applicant shall prepare and submit a proposed project-specific Hazardous Materials Business Plan (HMBP) to the City for approval. The HMBP shall include, but shall not be limited to, the fueling station, related hazardous materials, hazardous wastes, and spillage. The HMBP shall include a Hazardous Materials Inventory (HMI) of hazardous materials stored or handled at the gasoline station as well as Release Response Plan (RRP) for hazardous materials emergencies. A copy of the HMBP shall be maintained and be made available for review at the proposed project site.

MM Haz 3: Prior to the issuance of building permits, the project proponent shall prepare and submit a Spill and Emergency Response Plan (SERP) to the City for approval. The SERP shall consider fire response, absorbents for surface leaks, methods, and schedule for removal of fuel from leaking primary containers, and reporting of a release to the underlying soils or drainage channels. A copy of the SERP shall be maintained and be made available for review at the proposed project site.

Finding: The City finds that the foregoing mitigation measures have been incorporated into the Project to avoid or substantially lessen the significant environmental effect identified in the Final EIR to a less than significant level.

Facts in Support of Finding: The foregoing mitigation measures ensure that the underground storage tank system and the gasoline storage and delivery system would incorporate safety measures to reduce the risk of potential hazardous impacts from leaks and spills. The requirement for the applicant to prepare a Hazardous Materials Business Plan in MM Haz 2 and a Spill and Emergency Response Plan in MM Haz 3 ensures that the applicant prepares a response plan so that impacts are less than significant in the event of gasoline leak or spill.

(vii) Potential Airport Impacts: As discussed on Final EIR page 4.5-14, approximately two-thirds of the Project site is within 5,400 feet of the end of the Perris Valley Airport runway. Without mitigation, impacts to people working in the Project area could be potentially significant. To mitigate these impacts, the Project will implement the following Mitigation Measure:

MM Haz 4: At least 45 days prior to the submittal of an application for a building permit, the applicant shall provide the City with a table that identifies for each building, sign, or other vertical structure, the distance from the end of the Perris Valley Airport runway to the closest point of each vertical structure and the elevation (above sea level) of the tallest portion of each structure. No later than 30 business days after receiving such table, the City shall complete their review of the table and inform the applicant if any structure will penetrate the imaginary surface that extends outward and upward at a slope of 1 foot vertical for every 100 feet horizontal distance from the end of the Perris Valley Airport runway. If any structure will penetrate the aforementioned imaginary surface, the project applicant shall complete and transmit a “Notice of Proposed Construction or Alteration” form (FAA Form 7460-1) to the FAA no later than 30 days prior to submitting an application to the City for a building permit as required by Sections 77.13 and 77.17 of Part 77 of the Federal Aviation Regulations.

Finding: The City finds that the foregoing mitigation measures have been incorporated into the Project to avoid or substantially lessen the significant environmental effect identified in the Final EIR to a less than significant level.

Facts in Support of Finding: As discussed on Final EIR page 4.5-14, since the maximum height of the proposed buildings and the sign would penetrate the imaginary surface that extends outward and upward from the end of the Perris Valley Airport runway, these Project elements may be subject to review by the Federal Aviation Administration (FAA). MM Haz 4 ensures that the applicant will provide the City with the information necessary to evaluate the distance from the Project to the end of the Perris Valley Airport runway and the height of each building to determine if FAA review and notice is required. If FAA review and notice is required, a completed “Notice of Proposed Construction or Alteration” shall be prepared and provided to the FAA. With the implementation of mitigation measure MM Haz 4, potential impacts relative to airport-related safety hazards for people residing or working in the Project area are anticipated to be less than significant.

(viii) Potential Hydrology and Water Quality Impacts: The grading and construction on the Project site would require temporary disturbance of surface soils and delivery, handling and storage of construction materials which may increase the potential for eroded soils and other pollutants to enter the storm drain system. Development of the site would also result in the conversion of permeable surfaces to impermeable surfaces, which would alter the current drainage pattern and during the operational phase of the Project, the stormwater runoff may impact water quality. Therefore, hydrology water impacts could be potentially significant. To mitigate these impacts, the Project will implement the following Mitigation Measures:

MM Hydro 1: In order to mitigate impacts related to water quality resulting from construction of the proposed project, the project proponent or their developer shall obtain coverage under the appropriate NPDES General Construction Permit for Storm Water Discharges Associated with Construction Activities, Order No. 99-08-DWQ, NPDES No. CAS000002 prior to obtaining the grading permit.

MM Hydro 2: Prior to issuance of grading permits and in order to mitigate impacts related to pollutant loading to receiving waters and/or increased erosion/siltation resulting from the long-term operation of the proposed project, the project proponent shall develop and implement a Final Water Quality Management Plan (WQMP). The City of Perris Engineering Department will accept and approve the Final WQMP and ensure that it gets implemented. The Final WQMP will contain measures that will effectively treat all pollutants of concern and hydrologic conditions of concern, which are consistent with the approved WQMP, developed in compliance with their MS4 permit.

MM Hydro 3: To mitigate impacts related to water quality from implementation of the proposed project, the project proponent will comply with the SWPPP. Prior to issuance of the certificate of occupancy, building occupants shall determine whether or not coverage under the SWPPP is warranted for their operations, and submit their project-specific SWPPP to the City of Perris Engineering Department.

MM Hydro 4: To mitigate impacts related to exceedance of capacity of the storm drain facilities, the proposed project will be conditioned by the City of Perris Engineering Department to construct a “fair share” of on-site storm drain infrastructure or to demonstrate that existing on-site facilities can effectively accommodate storm flows for the 100-year event.

Finding: The City finds that the foregoing mitigation measures have been incorporated into the Project to avoid or substantially lessen the significant environmental effect identified in the Final EIR to a less than significant level.

Facts in Support of Finding: In order to reduce the discharge of pollutants into receiving waters during construction of the proposed development, MM Hydro 1 requires the Project proponent to prepare a site-specific Storm Water Pollution Prevention Plan (SWPPP) in accordance with the NPDES General Construction Permit for Storm Water Discharges. The General Permit requires a development and implementation of a site-specific SWPPP to identify an effective combination of erosion control and sediment control best management practices (BMPs) to minimize or eliminate the discharge of pollutants into receiving waters. These measures will ensure that construction related water quality impacts will be less than significant. Further, in order to reduce operational impacts, the Project would incorporate drainage features pursuant to MM Hydro 4, including a detention basin that will ensure that storm water will be discharged at a rate no higher than predevelopment conditions. Because MM Hydro 1, MM Hydro 2 and MM Hydro 3 require adherence to the requirements of the NPDES permit, the SWPPP and the WQMP during and after construction, potential water quality affects resulting from storm water and urban runoff would be reduced to a less than significance level.

(ix) Potential Flood Impacts: As discussed on Final EIR page 4.6-16, the project site is located within Zone AE, a 100-year flood hazard area mapped by the Federal Emergency Management Agency (FEMA). Additionally, Final EIR page 4.6-29 states that the Project site is within the Lake Perris Dam inundation area. Without mitigation, flood related impacts could be potentially significant. To mitigate these impacts, the Project will implement the following Mitigation Measures:

MM Hydro 5: To mitigate any impacts related to the risks of flooding related to being in a dam inundation zone, the occupants of the site will be required to 1) prepare and submit emergency evacuation plans, 2) purchase flood insurance, and 3) provide proof of insurance to the City of Perris Engineering Department prior to issuance of certificate of occupancy.

MM Hydro 6: The developer shall obtain a Conditional Letter of Map Revision in accordance with Section 60.3 (d) (4) of the National Flood Insurance Program (NFIP) regulations prior to issuance of a grading permit for the project, and a Letter of Map Revision (LOMR) immediately after completion of the project or, in the alternative, the City shall require that the site be filled and graded to meet a sufficient elevation so as to not require flood insurance.

Finding: The City finds that the foregoing mitigation measures have been incorporated into the Project to avoid or substantially lessen the significant environmental effects identified in the Final EIR to a less than significant level.

Facts in Support of Finding: The foregoing mitigation measures ensure that appropriate safeguards are taken to mitigate potential flood related impacts. MM Hydro 5 requires the site occupants to prepare and submit emergency evacuation plans, purchase flood insurance, and provide proof of insurance to the City to ensure that flooding impacts from a potential Lake Perris Dam failure are mitigated to a less than significant level. MM Hydro 6 requires the applicant to fill and grade the site so that flood insurance for impacts related to the site's location within the 100-year floodplain is not needed or, alternatively, to obtain a FEMA map revision. These measures ensure that impacts related to flooding will be less than significant.

(x) Potential Temporary Noise Impacts: As discussed on Final EIR pages 4.8-15 through 4.8-16, the Project could result in potentially significant impacts related to substantial temporary or periodic increases in noise from construction activities, including excavation, grading and building erection. To mitigate these impacts, the Project will implement the following Mitigation Measures:

MM Noise 1: During all project site excavation and grading on site, the construction contractors shall equip all construction equipment, fixed or mobile, with properly operating and maintained mufflers consistent with manufacturer's standards. The construction contractor shall place all stationary construction equipment so that emitted noise is directed away from the noise sensitive receptors nearest the proposed project site.

MM Noise 2: The construction contractor shall locate equipment staging in areas that will create the greatest distance between construction-related noise sources and noise-sensitive receptors nearest the proposed project site.

MM Noise 3: The construction contractor shall limit all construction-related activities that would result in high noise levels to the weekday hours between 7 a.m. to 6 p.m. or to hours to be determined by City staff.

MM Noise 4: The construction contractor shall limit haul truck deliveries to the same hours specified for construction equipment. To the extent feasible, haul routes shall not pass sensitive land uses or residential dwellings.

Finding: The City finds that the foregoing mitigation measures have been incorporated into the Project to avoid or substantially lessen the significant environmental effects identified in the Final EIR to a less than significant level.

Facts in Support of Finding: The foregoing mitigation measures ensure that construction-related noise will be mitigated. MM Noise 1 and MM Noise 2 assure that construction staging areas are not located close to existing sensitive receptors and that construction contractors equip all construction equipment with properly operating and maintained mufflers. MM Noise 3 and MM Noise 4 limits the days and hours of construction activity and haul truck deliveries in order to avoid disturbances during the hours when persons are most sensitive to noise. Continued compliance with these restrictions will reduce construction noise impacts to a level considered less than significant.

(xi) Potential Permanent Noise Impacts: As discussed in Final EIR pages 4.8-16 through 4.9-21, interior noise levels could exceed the City's Noise Ordinance and result in a potentially significant impact. To mitigate these impacts, the Project will implement the following Mitigation Measures:

MM Noise 5: All trucks, tractors, and forklifts shall be operated with properly operating and well maintained mufflers.

MM Noise 6: Maintain quality pavement conditions on-site that are free of bumps to minimize truck noise.

MM Noise 7: Limit the number of idling trucks on the northern portions of the site facing the adjacent homes.

Finding: The City finds that the foregoing mitigation measures have been incorporated into the Project to avoid or substantially lessen the significant environmental effect identified in the Final EIR to a less than significant level.

Facts in Support of Finding: MM Noise 5, MM Noise 6 and MM Noise 7 all relate to minimizing noise impacts along the San Jacinto Avenue and have been adopted to further mitigate the Project's contribution of noise. Impacts are therefore less than significant.

(xii) Potential Traffic Impacts: The Project could cause a potentially significant increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system. To mitigate these impacts, the Project will implement the following Mitigation Measures:

MM Trans 1: Construct San Jacinto Avenue from Redlands Avenue to the private road at its ultimate half-section width as an arterial (128-foot right-of-way and 94-foot curb-to-curb width) in conjunction with project development. A raised median shall be constructed to restrict left turn movements at the limited access driveways. Construct the north half of San Jacinto Avenue to provide a minimum of two travel lanes within the existing right-of-way.

MM Trans 2: Construct Redlands Avenue at its ultimate full-section width as an arterial from where the planned construction activities of RCTC or its representatives ends, to San Jacinto Avenue in conjunction with project development.

MM Trans 3: Construct the private road from the northern project boundary to the southern project boundary (40-foot easement and 32-foot curb-to-curb width) in conjunction with project development.

MM Trans 4: Construct the signalized intersection of Redlands Avenue and San Jacinto Avenue to include the following geometrics:

Northbound: Two left turn lanes. Three through lanes. One free right turn lane.

Southbound: Two left turn lanes. One through lane. One shared through and right turn lane.

Eastbound: One left turn lane. One through lane. One defacto right turn lane.

Westbound: Two left turn lanes. One through lane. One right turn lane.

MM Trans 5: Construct the intersection of San Jacinto Avenue and Driveway 1 to include the following geometrics:

Northbound: One right turn lane (extends to internal drive aisle and provides a minimum of 50 feet for storage). Stop controlled.

Southbound: Not applicable.

Eastbound: Three through lanes. One shared through and right turn lane.

Westbound: Two through lanes.

MM Trans 6: Construct the intersection of San Jacinto Avenue and Driveway 2 to include the following geometrics:

Northbound: One right turn lane (extends to internal drive aisle and provides a minimum of 50 feet for storage). Stop controlled.

Southbound: Not applicable.

Eastbound: Two through lanes. One shared through and right turn lane.

Westbound: Two through lanes.

MM Trans 7: Construct the intersection of San Jacinto Avenue and Project Driveway 3 to include the following geometrics:

Northbound: One right turn lane (extends to internal drive aisle and provides a minimum of 100 feet for storage). Stop controlled.

Southbound: Not applicable.

Eastbound: Two through lanes. One shared through and right turn lane.

Westbound: Two through lanes.

MM Trans 8: Construct the primary project driveway, the signalized intersection of San Jacinto Avenue and Wilson Avenue, as a full-access signalized driveway. Construct the primary project driveway to line up with Wilson Avenue and to include the following geometrics:

Northbound: Two left turn lanes (with 500 feet of storage). One shared through and right turn lane.

Southbound: One left turn lane. One shared through and right turn lane.

Eastbound: Two left turn lanes. Three through lanes. One right turn lane.

Westbound: Two left turn lanes (with 375 feet of storage). Two through lanes. One right turn lane.

MM Trans 9: Construct the signalized intersection of private road and San Jacinto Avenue to include the following geometrics:

Northbound: One shared left turn and right turn lane.

Southbound: Not applicable.

Eastbound: Two through lanes. One right turn lane (provide a minimum of 250 feet for storage).

Westbound: One left turn lane (provide a minimum of 200 feet for storage). Two through lanes.

MM Trans 10: Construct the intersection of private road and Project Driveway 4 to include the following geometrics:

Northbound: One shared left turn and through lane.

Southbound: One shared through and right turn lane.

Eastbound: One shared left turn and right turn lane. Stop controlled.

Westbound: Not applicable.

MM Trans 11: Construct the intersection of private road and Project Driveway 5 to include the following geometrics:

Northbound: One shared left turn lane and through lane.

Southbound: One shared through and right turn lane.

Eastbound: One shared left turn and right turn lane. Stop controlled.

Westbound: Not applicable.

MM Trans 12: Construct the intersection of private road and Driveway 6 to include the following geometrics:

Northbound: One shared left turn and through lane.

Southbound: One shared through and right turn lane.

Eastbound: One shared left turn and right turn lane. Stop controlled.

Westbound: Not applicable.

MM Trans 13: Construct the intersection of private road and Project Driveway 7 to include the following geometrics:

Northbound: Not applicable.

Southbound: One right turn lane.

Eastbound: One left turn lane. Stop controlled.

Westbound: Not applicable.

MM Trans 14: Developer shall fully fund the following improvements in 2011 prior to opening of the project and will receive reimbursement or credit from the City for funds paid in excess of project's fair share contribution. At the intersection of Redlands Avenue at Nuevo Road:

Northbound: Second left turn lane.

Southbound: Not applicable.

Eastbound: Third through lane and right turn lane with overlap phasing.

Westbound: Third through lane and right turn lane with overlap phasing.

MM Trans 15: Sight distance at the proposed project entrance roadway shall be reviewed with respect to standard City of Perris sight distance standards at the time of preparation of landscape, street improvement and final grading plans.

MM Trans 16: Signing/striping shall be implemented in conjunction with detailed construction plans for the proposed project site.

MM Trans 17: Install a traffic signal at the intersection of West Frontage Road and Nuevo Road (at the City Traffic Engineer's discretion) and include the following geometrics:

Northbound: Not applicable.

Southbound: Not applicable.

Eastbound: Third through lane.

Westbound: Third through lane.

MM Trans 18: At the intersection of I-215 Southbound Ramps and Nuevo Road, include the following geometrics:

Northbound: Not applicable.

Southbound: Dual left turn lanes.

Eastbound: Third through lane. One free- right turn lane.

Westbound: Third through lane.

MM Trans 19: At the intersection of I-215 Northbound Ramps and Nuevo Road, include the following geometrics:

Northbound: One free-right turn lane.

Southbound: Not applicable.

Eastbound: Third through lane.

Westbound: Third through lane.

MM Trans 20: At the intersection of East Frontage Road and Nuevo Road, include the following geometrics:

Northbound: Restrict access to right-in/right-out only through the construction of a raised median on Nuevo Road.

Southbound: Not applicable.

Eastbound: Third through lane.

Westbound: Third through lane.

MM Trans 21: At the intersection of Old Nuevo Road and Nuevo Road, include the

following geometrics:

Northbound: Not applicable.

Southbound: Not applicable.

Eastbound: Third through lane.

Westbound: Third through lane.

MM Trans 22: At the intersection of Perris Boulevard and Nuevo Road, include the following geometrics:

Northbound: Second left turn lane. Dedicated right turn lane.

Southbound: Third left turn lane. Third through lane.

Eastbound: Third left turn lane. Fourth through lane.

Westbound: Fourth through lane. Second dedicated right turn lane with overlap phasing.

MM Trans 23: At the intersection of Perris Boulevard and 4th Street/SR-74, include the following geometrics:

Northbound: Second left turn lane. Second and third through lanes. One dedicated right turn lane with overlap phasing.

Southbound: Second left turn lane. Second and third through lanes. One dedicated right turn lane with overlap phasing.

Eastbound: Second left turn lane. Third through lane. One dedicated right turn lane.

Westbound: Second left turn lane. Third through lane.

MM Trans 24: At the intersection of Redlands Avenue and Nuevo Road, include the following geometrics:

Northbound: Not applicable.

Southbound: One left turn lane. Second through lane. Dedicated right turn lane with overlap phasing.

Eastbound: Second left turn lane.

Westbound: Third through lane.

MM Trans 25: At the intersection of Redlands Avenue and San Jacinto Avenue, include the following geometrics:

Northbound: Not applicable.

Southbound: Third through lane.

Eastbound: Second left turn lane. Second through lane. Dedicated right turn lane with overlap phasing.

Westbound: Second through lane.

MM Trans 26: At the intersection of Redlands Avenue and I-215 Northbound Ramps, include the following geometrics:

Northbound: Not applicable.

Southbound: Not applicable.

Eastbound: Not applicable.

Westbound: One free-right turn lane.

MM Trans 27: At the intersection of I-215 Southbound Ramps and Redlands Avenue,

include the following geometrics:

- Northbound: Not applicable.
- Southbound: One free-right turn lane.
- Eastbound: Not applicable.
- Westbound: Not applicable.

MM Trans 28: At the intersection of Redlands Avenue and 4th Street, include the following geometrics:

- Northbound: Not applicable.
- Southbound: One free-right turn lane.
- Eastbound: Not applicable.
- Westbound: Implement overlap phasing on the right turn lane.

MM Trans 29: At the intersection of Driveway 1 and San Jacinto Avenue, include the following geometrics:

- Northbound: Not applicable.
- Southbound: Not applicable.
- Eastbound: Third through lane.
- Westbound: Third through lane.

MM Trans 30: At the intersection of Wilson Avenue and Nuevo Road, include the following geometrics:

- Northbound: One left turn lane. Second through lane.
- Southbound: Dual left turn lanes. Second through lane.
- Eastbound: Second through lane.
- Westbound: Not applicable.

MM Trans 31: At the intersection of Wilson Avenue and San Jacinto Avenue, include the following geometrics:

- Northbound: Not applicable.
- Southbound: Second through lane.
- Eastbound: Second left turn lane. Third through lane.
- Westbound: Second left turn lane. Third through lane.

MM Trans 32: At the intersection of Driveway 2 and San Jacinto Avenue, include the following geometrics:

- Northbound: Not applicable.
- Southbound: Not applicable.
- Eastbound: Third through lane.
- Westbound: Third through lane.

MM Trans 33: At the intersection of private road and San Jacinto Avenue, include the following geometrics:

- Northbound: Not applicable.
- Southbound: Not applicable.
- Eastbound: Third through lane.
- Westbound: Third through lane.

MM Trans 34: At the intersection of Evans Road and San Jacinto Avenue, include the

following geometrics:

Northbound: Second left turn lane. Three through lanes.

Southbound: One left turn lane. Three through lanes. One dedicated right turn lane.

Eastbound: Two left turn lanes. Second through lane.

Westbound: Second through lane. One dedicated right turn lane.

MM Trans 35: At the intersection of Dunlap Drive and San Jacinto Avenue, include the following geometrics:

Northbound: One left turn lane. One shared through and right turn lane.

Southbound: One left turn lane. One shared through and right turn lane.

Eastbound: Second left turn lane. Second through lane.

Westbound: Second through lane.

MM Trans 36: At the intersection of Dawson Road and San Jacinto Avenue, include the following geometrics:

Northbound: One left turn lane. One through lane. One right turn lane with overlap phasing.

Southbound: Not applicable.

Eastbound: Second through lane.

Westbound: Dual left turn lanes. Second through lane.

MM Trans 37: At the intersection of Pico Boulevard and San Jacinto Avenue, include the following geometrics:

Northbound: One left turn lane.

Southbound: Left turn lane.

Eastbound: Second left turn lane, second through lane, right turn lane.

Westbound: Left turn lane, second through lane.

MM Trans 38: The proposed project shall participate in the cost of off-site improvements through payment of fair share mitigation fees. These fees include TUMF (Transportation Uniform Mitigation Fee) and DIF (Development Impact Fee). The fees shall be collected and utilized as needed by the City of Perris to construct the improvements necessary to maintain the required level of service and build roads to the general plan build-out level. The collection of these fees will implement MM Trans 17 through 37.

Finding: The City finds that the foregoing mitigation measures have been incorporated into the Project to avoid or substantially lessen the significant environmental effect identified in the Final EIR to a less than significant level.

Facts in Support of Finding: As discussed in Section 4.9 (Transportation and Traffic), most of the traffic improvement mitigation measures, including the list of improvements on Final EIR page 4.9-16 through 4.9-18, will be completed in time to mitigate the impacts from the Project. Mitigation Measures MM Trans 1 through MM Trans 14 will mitigate the Project's on-site circulation impacts and opening year 2011 impacts. Final EIR Table 4.9-J shows the projected level of service at the study area intersections with MM Trans 1 through MM Trans 14 incorporated and demonstrates that impacts are mitigated to a level of less than significant, with the exception of impacts at the intersection of East Frontage Road and Nuevo Road, discussed in section 3(d)(iii), below. Mitigation Measures MM Trans 15 and MM Trans 16 have been

included to address potential hazards due to Project design features. These measures ensure proper sight distance and appropriate signing and striping. Mitigation Measures MM Trans 17 through MM Trans 37 will be addressed through the payment of the Project's fair share TUMF (Transportation Uniform Mitigation Fees) and DIF (Development Impact Fees) fees as required in MM Trans 38. Final EIR Table 4.9-J shows the projected level of service at the study area intersections with MM Trans 17 through MM Trans 38 incorporated and demonstrates that impacts are mitigated to an acceptable level of services and therefore to a less-than-significant level.

(d) The EIR has identified and discussed the following significant environmental impacts, which may occur as a result of the Project and which require mitigation, but cannot be mitigated to less than significant levels, thereby requiring adoption of a Statement of Overriding Considerations:

(i) Air Quality Impact: The Project will violate an air quality standard and contribute substantially to an existing or projected air quality violation. As stated in Final EIR Section 4.2 (Air Quality), the Project will generate construction emissions that exceed the SCAQMD significance thresholds for NO_x and PM-10 and long-term emissions will exceed the SCAQMD significance thresholds for VOCs, NO_x, CO, PM-10 and PM-2.5.

To mitigate these impacts, the Project will implement the following measures:

MM Air 1-9: Please see section 3(c) (i) above.

MM Air 10: Provide on-site improvements such as sidewalks or pedestrian walkways to promote pedestrian activity and reduce the amount of vehicle trips related to multi-stop visits.

MM Air 11: Construction of buildings that exceed minimum statewide energy requirements by at least 20% beyond Title 24; this may include, but is not limited to:

- Use of low emission water heaters
- Use of central water heating systems
- Use of energy efficient appliances
- Use of increased insulation
- Use of automated controls for air conditioners
- Use of energy-efficient parking lot lights
- Use of lighting controls and energy-efficient lighting
- Use of fans to assist natural ventilation
- Use of centralized water and space conditions systems
- Use of high efficiency individual heating and cooling units
- Use of automatic setback thermostats.

MM Air 12: Project tenants shall utilize low-VOC interior and exterior coatings during project repainting consistent with SCAQMD Rule 1113. SCAQMD Rule 1113 governs the sale of architectural coatings and limits the volatile organic content (VOC) content in paints and paint solvents. This rule will dictate the VOC content of paints available for use during the construction of the buildings.

MM Air 13: Installation of skylights and energy efficient lighting that exceeds California Title 24 standards where feasible, including electronic dimming ballasts and computer-controlled daylight sensors in the retail center.

MM Air 14: Installation of exterior signage that utilizes light-emitting diode (LED) lighting that is approximately 70 percent more efficient than fluorescent signage in the retail center where feasible.

MM Air 15: Shade-producing trees, particularly those that shade paved surfaces, such as streets, parking lots, and buildings, shall be planted at the proposed project site to the extent feasible. These strategies will minimize the heat island effect and thereby reduce the amount of air conditioning required.

MM Air 16: Note that measures previously listed in MM Air 16 have been combined with MM Air 11 in order to provide a performance standard for energy efficiency measures.

MM Air 17: To reduce energy demand associated with potable water conveyance and usage, the proposed project should reduce on-site demand through the following methods:

- Use of recycled water;
- Incorporating drought-tolerant plants into the landscaping palette;
- Use of water-efficient irrigation techniques; and
- Low-flow, sensor activated faucets as well as high-efficiency toilets/urinals shall be installed in restrooms.

MM Air 18: Provide a bus turn-out at San Jacinto Avenue, as mutually agreed upon by and between applicant and Riverside County Transit Authority.

MM Air 19: Install a roof membrane for highly reflective and high emissivity and SRI > 29.

MM Air 20: Develop a construction waste management plan consistent with Credit 2.1 of the U.S. Green Building Council, *LEED Rating Systems for New Construction v2.2*, that results in end-of-project rates for salvage/recycling of 50% by weight or volume of total waste generated by the proposed project.

MM Air 21: Achieve a 10% recycled reuse rate.

MM Air 22: Install carpets in compliance with the Carpet and Rug Institute's Green Label Indoor Quality Test Program with the current VOC limits.

MM Air 23: Prepare an Indoor Air Quality Management Plan for the construction and pre-occupancy phases of the building.

MM Air 24: Design heating, ventilation, and air conditioning (HVAC) systems and the building envelope to meet the requirements of ASHRAE Standard 55-2004

MM Air 25: Implement a thermal comfort survey within a period of six to eighteen months after occupancy.

Finding: Despite the Mitigation Measures set forth above, the Project's impact will remain significant. Further mitigation is infeasible. The following considerations make it infeasible to mitigate these impacts to a less-than-significant level:

The South Coast Air Basin is in non-attainment for ozone, PM-10 and PM-2.5. Therefore, the Project does not contribute a unique impact that does not currently exist within the South Coast Air Basin already. With respect to construction emissions, the Project is implementing all required SCAQMD mitigation requirements per MM Air 1-9; nevertheless, for the temporary construction period, the NO_x and PM-10 thresholds of significance will be exceeded, resulting in a temporary significant and unavoidable impact during construction activities. With respect to operational emissions, mitigation measures MM Air 10-25 reduce the Project's operational emissions via Project design elements that are within the project proponent's and City's control. However, long-term emissions will exceed the SCAQMD regional significance thresholds for VOCs, NO_x, CO, PM-10 and PM-2.5. As shown in Final EIR Table 4.2-U and Table 4.2-V, operational emissions mostly stem from vehicle and truck emissions, and further requirements to reduce emissions from individual cars and trucks are beyond the Project proponent's and City's control. Therefore, it is not feasible to mitigate the Project's impacts to a level of less than significance.

(ii) Climate Change Impact: As discussed in Section 4.2 (Air Quality), the Project will contribute to cumulative greenhouse gas emissions in California due to construction and operational emissions. Specifically, the Project's greenhouse gas emissions are quantified in Table 4.2-I and Table 4.2-J in the Final EIR. The Project has incorporated numerous greenhouse gas emissions reductions measures for construction and operational activities including MM Air 1-15. As demonstrated in Table 4.2-M and discussed on Final EIR page 4.2-60, emissions reductions measures are estimated to reduce emissions 31.0% below the "Business-as-Usual" (BAU) scenario, consistent with Assembly Bill 32 (AB 32) goal of reducing emissions to 1990 levels by 2020 as set forth in the California Air Resources Board (CARB) Scoping Plan. With implementation of emissions reduction measures, CO₂ Eq. greenhouse gas emissions would be reduced to approximately 0.0453 Tg, representing 0.00922% of California's 2004 total CO₂ emissions. By reducing the Project's emissions approximately 31.0% below BAU, the Project mitigates its cumulative greenhouse gas emissions impacts consistent with AB 32 and in compliance with CEQA Guidelines section 15064(h).

Notwithstanding the absence of any agreed upon state or regional criteria for determining the level of significance of a Project's cumulative contribution to climate change impacts, and because the proposed Project's estimated operational greenhouse gas emissions exceed the daily regional thresholds of significance recommended by SCAQMD, even though the Project reduces its greenhouse gas emissions by 31.0% below BAU, the City concludes that the Project's cumulative contribution to greenhouse gas emissions are cumulatively considerable because there is a need for third party agency regulatory action to achieve the greenhouse gas reduction goals of AB 32.

To mitigate these impacts, the Project will implement the following measures:

MM Air 1-25: Please see section 3(d) (i) above.

Finding: Despite the Mitigation Measures set forth above, the Project's impact will remain significant. Further mitigation is infeasible. The following considerations make it infeasible to mitigate this impact to a less-than-significant level:

Even though the Project will fully meet the 28.3% greenhouse gas reduction standard specified in law with implementation of MM Air 1-25 by reducing emissions by 31.0%, it will also be necessary for many third party agencies – including but not limited to the CARB, Environmental Protection Agency, regional transportation planning authorities, local agencies, and local air districts – to adopt and fully implement AB 32's goal and achieve the reductions called for in the CARB Scoping Plan because both rely on greenhouse gas reductions from numerous other economic sectors in order to achieve greenhouse gas emissions reduction goal of 1990 levels by 2020. The City of Perris lacks the authority to compel these third party agencies to adopt or implement reduction measures and so the ability to fully achieve AB 32's goals are outside the City's jurisdiction and control and the Project's cumulative contribution to climate change impacts is considered significant and unavoidable.

(iii) Traffic Impact: As discussed in Final EIR Section 4.9 (Transportation and Traffic), most of the traffic improvement mitigation measures, including the list of improvements on Final EIR page 4.9-16 through 4.9-18, will be completed in time to mitigate the impacts from the Project. Mitigation at the intersection of East Frontage Road and Nuevo Road, however, will be delayed until Nuevo Road is widened which is anticipated to occur by 2030 under the General Plan Buildout scenario; therefore, the impact at this intersection will remain significant and unavoidable. The intersection of East Frontage Road and Nuevo Road is anticipated to fail with and without the Project as shown in Tables 4.9-D and 4.9-H. The Traffic Impact Analysis concluded this is due to cumulative impacts (high traffic volumes projected along Nuevo Road through this interchange area and high conflicting left turn volumes off of East Frontage Road) and was therefore not identified as a Project -specific impact. Mitigation for this impact requires that the intersection be restricted to right-in/right out movements only via the construction of a raised median on Nuevo Road at the intersection of East Frontage Road and Nuevo Road.

To mitigate these impacts, the Project will implement the following measures:

MM Trans 1-36: See section 3(c) (xii) above.

Finding: Despite the Mitigation Measures set forth above, the Project's impact will remain significant. Further mitigation is infeasible. The following considerations make it infeasible to mitigate this impact to a less-than-significant level:

The intersection of East Frontage Road and Nuevo Road will operate at a failing condition with or without the Project. Mitigation identified to remedy this intersection requires either additional signalization or a median to allow for restricted turning lanes. A number of factors make mitigation infeasible in the short-term including: (a) the intersection of East Frontage Road and Nuevo Road does not meet the intersection spacing requirements to be signalized, (b) there will not be enough space available for the median's construction until Nuevo Road is widened; and (c) the need for Nuevo Road widening will not be triggered until the 2030 General Plan Buildout scenario is realized. Thus, impacts at the intersection of East Frontage Road and Nuevo Road will be mitigated to at or above the requirements detailed in MM Trans 20, as part of the General Plan Buildout scenario.

(iv) Water Supply Impact: As discussed in Section 4.10 (Utility and Service Systems), Eastern Municipal Water District (EMWD) has four sources of water supply: (1) imported water purchased from the Metropolitan Water District (MWD), (2) local portable groundwater, (3) local desalted groundwater sources, and (4) recycled water from the EMWD's five regional water reclamation facilities. As discussed in more detail in the EIR, there are several potential constraints on the availability of imported water supply that effect water supply throughout the entire state including litigation regarding Colorado River water rights, climate change impacts and issues with the reliability of State Water Project water supply. In an effort to reduce dependency on imported water supplied by MWD, EMWD has developed several programs designed to take advantage of local resources and has implemented programs to require water conservation.

Further, mitigation measures have been adopted to reduce the Project's need for potable water. Consistent with the Water Supply Assessment (WSA), recycled water will be used to the greatest extent possible once infrastructure is extended to the project site through EMWD recycled water expansion projects. To this end, MM Utility 1 will require the installation of an on-site recycled water system. Additionally, the Project will be required to comply with EMWD Ordinance No. 72.24, which requires additional water conservation in landscape areas. MM Utility 2 will ensure water reductions through use of drought tolerant landscaping, indoor and outdoor water conservation, drip irrigation and development of education materials regarding water conservation to be used by tenants.

Although the City, EMWD and MWD anticipate that sufficient imported water will be available to meet future water demand, including the demand of the Project, impacts associated with water supply may be significant and unavoidable due to potential constraints on the availability of imported waters supply resulting from ongoing litigation related to both the Colorado River and the State Water Project.

To mitigate these impacts, the Project will implement the following measures:

MM Utility 1: The proposed project is required to construct an on-site recycled water system, physically separated from the potable water system, for use in all landscape areas at such time recycled water infrastructure is extended to the project site and it is determined that recycled water will be used for the project. The proposed on-site recycled water pipelines will be designed in accordance with the EMWD *Procedural Guide for Procuring Landscape Irrigation Water, Recycled Water Guidelines* and EMWD *Ordinance No. 68.2*. These plans shall be submitted and approved by EMWD prior to installation.

MM Utility 2: The proposed project shall be required to use new water-saving technologies and water conserving plant materials for landscaping. Water efficient devices and practices will be used to reduce the demand required by this project. This project will be required to meet the requirements of EMWD's water use efficiency ordinance(s) at the time of construction. Landscape plans and water budget shall be submitted to both EMWD and the City of Perris for approval prior to installation. Water conserving measures may include, but are not limited to, the following:

- Drought tolerant landscaping, including use of drought tolerant plants and appropriate spacing of plants;
- Outdoor project design features such as subsurface irrigation systems, rain sensors, drip irrigation, or high-efficiency sprinkler heads;
- Indoor project design features such as low-flow toilets and low-flow faucets;
- Educational materials to be utilized by the project tenants.

Finding: Despite the Mitigation Measures set forth above, the Project's impact will remain significant. Further mitigation is infeasible. The following considerations make it infeasible to mitigate this impact to a less-than-significant level:

All feasible water conservation measures have been adopted in MM Utility 1 and MM Utility 2. However, the possibility that imported water reliability may change in the future cannot be fully discounted because climate change and the stability of the Bay-Delta ecosystem are subject to unpredictable variability (weather and health of Bay-Delta species) and because of the uncertainty associated with the Colorado River and Bay-Delta litigation. The potential environmental impacts of using imported water supplies if there are water supply shortages cannot be fully analyzed at this time. Management of these statewide environmental impacts is beyond the jurisdiction and control of the City.

(e) Pursuant to CEQA Guidelines Section 15091(a)(3), Section 6.0 of the Final EIR evaluated other reasonable alternatives to the Project which could feasibly achieve the basic objectives of the Project, including:

- a. Alternative 1/No Project Alternative: analyzes the continued use of the site for passive agriculture and vacant use and also considers the potential impacts that could occur if the site were developed pursuant to the existing commercial designation in the General Plan and Community Commercial zoning designation.
- b. Alternative 2/Reduced Square Footage Alternative: reduces the square footage of the proposed land distribution buildings uses by 20 percent;
- c. Alternative 3/Alternate Location: analyzes another site within Planning Area 5 (Central Core) that has roughly the same acreage as the proposed Project (68 +/- acres). The only properties within Planning Area 5 that contain approximately 68 acres of contiguous, commercially zoned property are along the south side of Nuevo Road, from Murrieta Road to Evans Road. It is assumed to be the size of the shopping center, and thus the size, scope and design would remain approximately the same.

Of the alternatives evaluated above, the No Project alternative is the environmentally superior alternative as compared to the proposed Project. However, CEQA Guidelines Section 15126.6(e) (2) requires the identification of another environmentally superior alternative if the No Project alternative is the environmentally superior alternative. In this case, while Alternative 2 reduces impacts beyond that of the Project to a minor degree, it does not eliminate those impacts that are significant and unavoidable, including air quality, climate change, traffic and water supply; nevertheless, due to its minor reductions in impacts, Alternative 2 is the environmentally superior alternative over the proposed Project.

Specifically, with respect to Alternative 2, while emissions of some criteria pollutants might be reduced with a reduced square footage alternative, air quality impacts would remain significant and unavoidable due to the poor air quality in the South Coast Air Basin and the fact that a majority of criteria pollutants come from car and truck emissions that are beyond the control of the City and Project proponent. Climate change impacts would remain significant since compliance with AB 32 requires many third party agencies to achieve greenhouse gas reductions in order to achieve greenhouse gas emissions reduction goal of 1990 levels by 2020. While Alternative 2 may require less water, impacts from uncertainty in imported water supply would remain the same. Finally, because Alternative 2 would still contribute trips to East Frontage Road and Nuevo Road, because that intersection would continue to fail with or without the Project and with or without Alternative 2, and because it is infeasible to widen that roadway in the short term, Alternative 2 would still result in the same significant traffic impact as the proposed Project.

Although Alternative 2 would slightly reduce the already less than significant impacts of the proposed Project, Alternative 2 would not be as economically competitive or economically viable from a project feasibility perspective. In particular, many costs of development would not be reduced by adopting a reduced square footage project, including loan carrying costs on the land. Additionally, the business models of the anticipated large retail tenants do not allow a further reduction in square footage. Finally, reduction of the mid-sized retail pads would eliminate a mix of tenants. In addition to a loss of revenue to the applicant, this reduction in square footage would also result in less sales revenue and thus less tax revenue and fewer new jobs in the City. In conclusion, because Alternative 2 is not a feasible alternative to the proposed Project and because it does not eliminate or significantly lessen impacts that could not already be made less than significant with mitigation, it is not preferable to the proposed Project.

With respect to Alternative 3, the Alternate Site Location is likely to result in the same significant and unavoidable impacts. Air quality impacts are likely to be similar due to the poor air quality in the South Coast Air Basin and that Alternative 3 would be the same size as the proposed Project. Climate change impacts are likely to remain significant since compliance with AB 32 requires many third party agencies to achieve greenhouse gas reductions in order to achieve greenhouse gas emissions reduction goal of 1990 levels by 2020. Water supply impact would also remain significant because of the uncertainty in the reliability of imported water. Alternative 3 might avoid significant traffic impact that results from the Project; however, Alternative 3 could result in other significant traffic impacts that cannot be mitigated in the short-term. Similarly, while Alternative 3 might reduce other already less than significant impacts, it may result in worse biological or cultural impacts, depending on the particular resources of the alternate site. Finally, an alternative site that meets the project objective to promote businesses along Interstate 215 frontage by providing visibility and ease of access has not been shown to be available.

Section 4. Statement of Overriding Considerations. Pursuant to Public Resources Code Section 21081 and CEQA Guidelines Section 15091 et seq., the City must adopt and make a statement of overriding considerations regarding the unavoidable impacts of the Project and the anticipated economic, social and other benefits of the Project. After extensive review of the entire administrative record, including the Draft and Final EIR, the staff reports and the oral and written testimony, and the evidence provided, the City concludes that the

potential environmental impacts of the Project have been avoided or substantially lessened to the extent feasible and the remaining unavoidable impacts are acceptable in light of the benefits of the Project based on the findings below:

(a) The City has made a reasonable and good faith effort to eliminate or substantially mitigate the potential impacts resulting from the Project, as described in Section 3, above.

(c) All Mitigation Measures recommended in the EIR have been incorporated into the Project and will be implemented through the Mitigation Monitoring and Reporting Program, discussed in Section 5 below.

(d) Except for the Project, all other alternatives set forth in the EIR are infeasible because they will prohibit the realization of Project objectives and/or specific economic, social and other benefits that the City finds outweigh any environmental benefits of the alternatives, as described in Section 3(e), above.

(e) The following social, economic and environmental benefits of the Project outweigh the potential unavoidable adverse impacts and render those potential adverse environmental impacts acceptable based upon the following overriding considerations:

(i) The Project is a high quality land use transition from a fallow field to a commercial shopping center consistent with the property's Community Commercial zoning and land use designations.

(ii) The Project promotes businesses along Interstate 215 frontage by providing visibility and ease of access.

(iii) The Project provides for transportation improvements, including the improvement of segments of San Jacinto Avenue, Redlands Avenue, and private road previously referred to as Murrieta Road, which will provide an extraordinary benefit to the local transportation system.

(iv) The Project provides backbone public infrastructure (i.e., roads and utilities) to service the site and surrounding properties, which will ensure that the Project will not adversely impact existing infrastructure.

(v) The site will provide a high quality commercial development that will enhance the surrounding community and provide opportunities to meet the demands of local and regional area businesses and the community.

(vi) The Project promotes the development of a variety of stable employment and business uses that provide a diversity of employment opportunities for those that live and work in the community.

(vii) The Project will help the City create an improved balance between employment and housing by providing job opportunities to existing residents that currently commute outside of the local area to work.

(viii) The Project will create positive net fiscal revenue to fund City services through increased sales tax revenues.

(f) The foregoing benefits provided to the public through approval and implementation of the Project outweighs the identified significant adverse environmental impacts of the Project, which cannot be mitigated.

(g) Each of the Project benefits separately and individually outweighs the unavoidable adverse environmental effects identified in the EIR and therefore finds those impacts to be acceptable.

Section 5. Mitigation Monitoring and Reporting Plan. Pursuant to CEQA Section 21081.6, the Mitigation Monitoring and Reporting Program, attached hereto as Attachment 2, is designed to monitor the implementation of the mitigation measures identified for the Project. The Mitigation Monitoring and Reporting Plan in Attachment 2 controls in the event of any discrepancy with the Final EIR.

Section 6. Tentative Parcel Map Findings. Pursuant to CA Government Code Section 66474, the Project does not demonstrate any of the mandatory grounds for denial of a tentative map. Specifically, the following findings of fact support the approval of Tentative Parcel Map 35700 (TPM 08-04-0014):

(a) Tentative Parcel Map 35700 is consistent with the General Plan land use designation of Community Commercial and all other applicable General Plan policies, as demonstrated in Final EIR Table 4.7-B, which analyzed the Project's consistency with the applicable General Plan policies.

(b) Tentative Parcel Map 35700 is consistent with the Zoning designation of Community Commercial found in Chapter 19.38 and all other applicable Zoning Code standards, as discussed on Final EIR page 4.7-33, which provided that the Project's proposed uses and features are consistent with the applicable development standards, except for those instances where variances have been requested, as discussed in Section 9 below.

(c) Tentative Parcel Map 35700 is in compliance with the Subdivision Map Act and CEQA, as discussed in Sections 3 and 4, above.

(d) The site is physically suitable for the tentative parcel map and the type and density of commercial development proposed. The environmental review considered the existing site setting in the evaluating the proposed Project's impacts. The generally flat sloping topography of the Project site and proximity to City infrastructure make the site physically suitable for the proposed development.

(e) The design of Tentative Parcel Map 35700 and the type of improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, other than as addressed by the adopted Statement of Overriding Considerations of Environmental Impact. In particular, Section 3(a) above explained that the Final EIR discussed effects found not to be significant on pages 2.0-5

and 2.0-6, and analyzed several impacts that did not require mitigation throughout Section 4.0. Section 3(c) above discussed the Project's potentially significant impacts that have been mitigated to level of less than significance. Section 3(d) above discussed the significant and unavoidable impacts. Section 4 above included the Statement of Overriding Considerations, which determined that the Project's benefits outweighed the identified significant and unavoidable environmental impacts of the Project.

(f) The design of Tentative Parcel Map 35700 and the type of improvements are unlikely to cause serious public health problems, as discussed throughout the Final EIR.

(g) The design of Tentative Parcel Map 35700 and the type of improvements will not conflict with easements of record or easements established by court judgment, acquired by the public at large, for access through or use of property within the proposed subdivision.

(h) The discharge of waste from implementation of Tentative Parcel Map 35700 will not result in violation of existing requirements prescribed by a California Regional Water Quality Control Board pursuant to Division 7 (commencing with Section 13000) of the California Water Code, as discussed in Final EIR Section 4.6 (Hydrology and Water Quality).

(i) The Project will not result in any jobs/housing imbalance because the Project will generate jobs in a jobs poor area.

Section 7. Development Plan Review Findings. The following findings of fact support the approval of Development Plan 08-04-0015 for architectural design and site layout along with a Minor Adjustment for parking:

(a) Development Plan 08-04-0015 is consistent with the General Plan land use designation (Commercial Community) and other applicable General Plan policies, including the location, size, design, and intensity of the development and related improvements. Final EIR Table 4.7-B analyzed the Project's consistency with the applicable General Plan policies.

(b) Development Plan 08-04-0015, including the location, size, design, density and intensity of the development and related improvements, is consistent with the Zoning designation of Commercial Community found in Chapter 19.38 and all other applicable Zoning Code standards. Final EIR page 4.7-33 provided that the Project's proposed uses and features are consistent with the applicable development standards, except where variances have been requested, as discussed in Section 9 below.

(c) All requirements of the California Environmental Quality Act have been met.

(d) The site is physically suitable for the location, size, design, density, and intensity of the plotting and architectural design for the type of commercial development. The environmental review considered the existing site setting in evaluating the proposed Project's impacts. The adjacency of the site to Interstate 215 frontage ensures ease of access. The

generally flat sloping topography of the site facilitates the Project design. The proposed Project floor area ratio is consistent with the applicable standards, indicating the site accommodates the Project's size, density and intensity.

(e) Development Plan Review 08-04-0015, including the location, size, design, density and intensity of the development and related improvements, is consistent with the Sustainable Community Element of the General Plan, in that the Project supports the City's commitment to protect the environment, improve quality of life, and promote sustainable development by incorporating certain measures into the design, construction, and maintenance of the buildings and overall Project development. Specifically, as discussed in further detail in Final EIR Table 4.2-K, LEED Compatibility Analysis, the Project supports the following Sustainable Community Element goals (followed by the Project's implementing measures):

(i) Goal I – “Create a vision for energy and resource conservation and the use of green building design of the City, which provides for protection of the environment, improving quality of life, and promoting sustainability.”

- Construction Activity Pollution Prevention – The Project reduces pollution from construction activities by controlling soil erosion, waterway sedimentation, and airborne dust generation, in that the applicant will implement an Erosion and Sediment Control Plan as part of the required Stormwater Pollution Prevention Permit. This task complies with California Water Resources Control Board Order No. 99-08-DWQ, National Pollutant Discharge Elimination System General Permit No. CAS000002, and also complies with the Sustainable Sites Prerequisite 1 for LEED certification.

- Stormwater Design (*quantity control*) – The Project implements a Stormwater Management Plan that prevents the post-development peak discharge rate and quantity from exceeding the pre-development peak discharge rate and quantity for the one- and two-year, 24-hour design storms, in that the Preliminary Water Quality Management Plan (*PWQMP*) for the Project site has been accepted by the City's independent third party consultant (*URS Corporation*) as complying with, and exceeding, these standards. This task complies with Chapter 14.22 of the City of Perris Municipal Code (*Stormwater/Urban Runoff Management and Discharge Control*), the Santa Ana River Basin Water Quality Control Plan, and National Pollutant Discharge Elimination System General Permit No. CAS618033, and also complies with Sustainable Sites Credit 6.1 for LEED certification – 1 point.

- Storage and Collection of Recyclables – The Project facilitates the reduction of waste generated by building occupants that is hauled to and disposed of in landfills, in that the applicant will provide an easily accessible area that serves the entire site and is dedicated to the collection and storage of non-hazardous materials for recycling, including (*at a minimum*) paper, corrugated cardboard, glass, plastics and metals. This task complies with the Riverside County Recycling Guide for Residents and Businesses 2005/2006 (*California Assembly Bill 939 implementation*) and also complies with Materials and Resources Prerequisite 1 for LEED certification.

- Environmental Tobacco Smoke Control – The Project minimizes exposure of building occupants, indoor surfaces, and ventilation air

distribution systems to environmental tobacco smoke, in that the owner will prohibit smoking in the building and will locate any exterior designated smoking areas at least 25 feet from entries, outdoor air intakes and operable windows. This task furthers the intent of Section 6404.5 of the California Labor Code (Smoking in the Work Place) and also complies with Indoor Environmental Quality Prerequisite 2 for LEED certification.

(ii) Goal II – “Encourage land uses and new development that support alternatives to the single occupant vehicle.”

- Alternative Transportation (*bicycle storage and changing rooms*) – The Project reduces pollution and land development impacts from automobile use by providing secure bicycle racks or storage (*within 200 yards of the building entrance*) for 5 percent or more of the building users (*measured at peak periods*). This task also complies with Sustainable Sites Credit 4.2 for LEED certification – 1 point.

(iii) Goal III – “Encourage improved energy performance standards above and beyond the California Title 24 requirements.”

- Heat Island Effect (*non-roof and roof*) - The Project reduces heat islands (*thermal gradient differences between developed and undeveloped areas*) to minimize impact on microclimate and human and wildlife habitat, in that the site development includes use of permeable parking materials to deter water runoff and promote natural filtering of precipitation and irrigation waters. This task also complies with Sustainable Sites Credit 7.1 and Credit 7.2 for LEED certification – 1 point.

- Minimum Energy Performance – The Project establishes the minimum level of energy efficiency for the buildings and systems, in that the Project is required to comply with the Title 24 of the California Building Code, which is more stringent than the American Society of Heating, Refrigerating and Air-Conditioning Engineers (*ASHRAE*)/Illuminating Engineering Society of North America (*IESNA*) standard 90.1-2004. This task also complies with Title 24 of the California Building Code and may also comply with Energy and Atmosphere Prerequisite 2 for LEED certification.

(f) The subject site is physically suitable, including but not limited to parcel size, shape, access, and availability of utilities and services, for the type of commercial development proposed with Development Plan 08-04-0015. The environmental review considered the existing site setting in the evaluating the proposed Project's impacts. The proposed Project floor area ratio is consistent with the applicable standards, indicating the site accommodates the Project's size and shape. The adjacency of the site to the Interstate 215 frontage ensures ease of access. The proximity of the site to nearby City infrastructure facilitates infrastructure connections as discussed in Final EIR Section 4.10 (Utility and Services Systems).

(g) Development Plan 08-04-0015 and the conditions under which it would be operated or maintained is compatible with abutting properties and will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity. The Final EIR considered the Project's compatibility with and impacts to abutting land uses. For example, Section 4.1 (Aesthetics) evaluated impacts to nearby

views and vistas, Section 4.2 (Air Quality) evaluated air quality impacts to nearby sensitive receptors, Section 4.6 (Hydrology and Water Quality) evaluated water quality impacts, Section 4.8 (Noise) evaluated noise impacts to nearby sensitive receptors and Section 4.9 (Transportation and Traffic) evaluated traffic impacts at intersections in proximity to the Project site. All impacts were mitigated, except as discussed in Section 3(d) above.

(h) The architecture of Development Plan 08-04-0015 is compatible with community standards and protects the character of other City commercial developments as discussed in Final EIR Section 4.1 (Aesthetics), which included the Project's exterior elevations and explained that the Project design has incorporated varied building materials and articulated building heights and facades.

(i) The Minor Adjustment for parking (*requesting 3.9-percent of up to 25-percent permissible*) and does not adversely effect the adjoining property owners or users because it is directly across residential land use where residents can walk to the shopping center; there is a bus stop proposed along the San Jacinto frontage; and there is a designated bike trail along San Jacinto Avenue, which will be supported by bike racks at the shopping center to encourage alternative mode of transportation.

(j) The Minor Adjustment for parking is necessary for the effective operation of the shopping center as it provides greater flexibility in providing meandering pedestrian pathway that links the westerly half of the shopping center to the easterly half, which also serves as a means to drain water run-off.

(k) The Minor Adjustment for parking is adequately justified because the site is directly across residential land use where residents can walk to the shopping center; there is a bus stop proposed along the San Jacinto frontage; and there is a designated bike trail along San Jacinto Avenue, which will be supported by bike racks at the shopping center to encourage alternative mode of transportation.

(l) The Minor Adjustment for the one freeway sign height from 50-feet to 62.5-feet does not adversely affect the adjoining property owners or users because it fronts the I-215 Freeway and is not located near any sensitive residential uses.

(m) The Minor Adjustment for the one freeway sign height from 50-feet to 62.5-feet is necessary for effective operation of the shopping center as its visibility is impaired by the freeway interchange, making it invisible from south bound freeway traffic.

(n) The Minor Adjustment for the one freeway sign height from 50-feet to 62.5-feet is adequately justified because the sign would be invisible from south bound freeway traffic.

(o) The landscaping plan of Development Plan Review ensures visual relief and provides an attractive environment for the public's enjoyment, as discussed on Final EIR page 4.1-11, which explains that landscaping will include landscaped berms, multilevel landscaping and articulated landscape screens.

(p) The safeguards necessary to protect the public health, safety and general welfare have been required for Development Plan 08-04-0015.

Section 8. Conditional Use Permit Findings. The following findings of fact support the approval of Conditional Use Permit 08-04-0016 to allow a gas station, drive-through restaurants, and liquor sales at the Target store and sit-down restaurants:

(a) The proposed locations of the gas station, drive-through restaurants, Target store and sit-down restaurants are in accordance with the objectives of the Code in providing sufficient circulation and queuing area for the location in which these elements are located.

(b) The proposed gas station, drive-through restaurants, Target store and sit-down restaurants are consistent with the City's General Plan, zoning standards, applicable subdivision requirements, and other ordinances and resolutions of the City.

(c) The proposed location of the gas station, drive-through restaurants, Target store and sit-down restaurants and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity. Specifically, the gas station's potential hazardous materials impacts were analyzed on Final EIR pages 4.5-10 and 2.5-11 and potential water quality impacts were analyzed on Final EIR pages 4.6-25 and 4.6-26. MM Haz 1 - MM Haz 3 were adopted to mitigate these impacts to a level of less than significance.

(d) The architecture proposed for the gas station, drive-through restaurants, Target store and sit-down restaurants is compatible with community standards and protects the character of adjacent development.

(e) The conceptual landscaping plan for the gas station, drive-through restaurants, Target store and sit-down restaurants ensures visual relief and provides an attractive environment for the public's enjoyment. A landscape plan has been prepared to ensure attractive and uniform landscaping throughout the Project site.

(f) Pursuant to Perris Municipal Code Sections 19.38.030 and 19.65.030(A), the liquor sales at the Target store and sit-down restaurants have been reviewed as part of the Development Plan review, as discussed in Section 7 above. Further, pursuant to Perris Municipal Code Section 19.65.040, the following additional findings are made:

1. The location and sale of liquor at the Target store and sit-down restaurants will not result in adverse impacts on park facilities, school facilities, existing religious land uses and/or existing residential land uses. The sale of alcohol at these locations will be contained within the premises and would not lead to external impacts.
2. The traffic impacts associated with the uses will not result in potential hazards to existing pedestrian and/or vehicular traffic. The traffic analysis in the Final EIR Section 4.9 considered on-site circulation impacts and concluded that impacts would be less than significant.

3. The establishment shall not constitute an enforcement problem to the City Police Department. The sale of alcohol at these locations will be contained within the premises and would not lead to external impacts.
4. The development conforms to all applicable provisions of the Code.

Section 9. Variance Findings. The following findings of fact support the approval of Variance 08-09-0005:

(a) There are unique physical circumstances applicable to the Project site that justify a variance to allow signage area in excess of the City Code limits for the two freeway signs and to allow more than two signs per building on stand alone buildings and end buildings. These justifications include the fact that the site is irregular in shape and abuts a freeway with a freeway interchange at 4th Street necessitating additional signage for the purposes of freeway visibility. The Project applicant will prepare a master signage plan under Section 19.75.190 of the Municipal Code since the site will be occupied by multiple tenants, thereby ensuring quality and uniform signs throughout the Project site.

(b) The strict application of zoning standards deprives the property of the right to use the land in manner enjoyed by other conforming property in the vicinity under identical zoning standards, as the signs are necessary for the effective operation of the shopping center as it would be virtually invisible from south bound freeway traffic due to the freeway overpass at 4th Street and the site elevations in relation to the freeway and roadways. Since the site will be occupied by multiple tenants, a master signage plan will be prepared under Section 19.75.190 of the Municipal Code to ensure quality and uniform signs throughout the Project.

(c) The granting of the variance and any appropriate conditions of approval shall not constitute a grant of special privileges which other conforming property properties in the vicinity do not enjoy under identical zoning standards. As discussed above, the variance is necessary because of unique site constraints related to the site elevation in relation to the freeway and roadways.

(d) The granting of the variance will not adversely affect the objectives, policies, and programs contained in the City's General Plan.

Section 10. Should any provision, section, paragraph, sentence, or word of this Resolution be rendered or declared invalid by any court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences and words of this Resolution shall remain in full force and effect.

Section 11. The City Council certify the Final EIR (State Clearinghouse #2008041132), adopt the Statement of Overriding Considerations, adopt the Mitigation Monitoring and Reporting Program, and approve (a) the Development Plan 08-04-0015, (b) Tentative Parcel Map 35700 (TPM 08-04-0014), (c) Conditional Use Permit 08-04-0016, and (d) Variance 08-09-0005, all subject to the following amendments to the Planning and Engineering Conditions of Approval as noted in Bold below and provided in Attachment 1.

Planning Conditions of Approval

Page 4 of Condition 22.c shall be amended as follows:

Landscape Material along San Jacinto Avenue. The landscaped material and street pattern should be a continuation of the existing residential project to the north **while incorporating components from the Evans Road Design Guidelines**. A landscaped berm shall screen vehicular (non-truck) areas from the street.

Page 7 of Condition 38 shall be amended as follows:

RTA Bus Stop. The applicant shall coordinate with the RTA **to first consider having a bus stop within the shopping center site. If such alternative is not viable then the** ~~to move the existing~~ bus stop **should be moved to City staff's** ~~the City's~~ prefer location at Pad D.

Engineering Conditions of Approval

Page 3 of Condition 13 shall be amended as follows:

Construction of Master Planned Underground Drainage Facilities (Line "O") along San Jacinto Avenue from Redlands Avenue and connection to Perris Valley Channel will be required. Prior to start of design of these facilities, the applicant's engineer shall meet with Flood Control to understand to design criteria established by Flood Control for such facilities. All such improvement plans and drainage reports shall be reviewed and approved by RCFC and City of Perris. To eliminate nuisance runoff from cross gutters, installation of catch basins and connection to Line "O" at the intersection of all new driveways and all existing and proposed intersections along San Jacinto Avenue shall be required and installed. In the event construction of Line "~~Q~~" "**O**" per Master Plan is not feasible due to condition of the outlet points (Perris Valley Channel), the applicant shall be responsible to collect the nuisance runoff from north side via catch basins at all existing and proposed driveways and connect to proposed onsite facility.

Section 12. The City Council declares that should any provision, section, paragraph, sentence, or word of this Resolution be rendered or declared invalid by any court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences and words of this Resolution shall remain in full force and effect.

Section 13. The Mayor shall sign this Resolution and the City Clerk shall certify to the adoption of this Resolution.

ADOPTED, SIGNED and **APPROVED** this 13th day of October 2009.

Mayor, Daryl R. Busch

ATTEST:

Judy L. Haughney, C.M.C., City Clerk

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) §
CITY OF PERRIS)

I, Judy L. Haughney, duly elected CITY CLERK OF THE CITY OF PERRIS, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Resolution Number 4270 was duly adopted by the City Council of the City of Perris at a regular meeting thereof held on the 13th day of October 2009, by the following vote:

AYES: COUNCILMEMBERS: LANDERS, YARBROUGH, ROGERS, BUSCH, EVANS
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

Judy L. Haughney, C.M.C., City Clerk

Attachment 1: Conditions of Approval
Attachment 2: Mitigation Monitoring and Reporting Program