

RESOLUTION NO. 4151

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, AMENDING RESOLUTION NOS. 07-04 AND 08-08 TO AMEND ENGINEERING CONDITIONS OF APPROVAL RELATED TO DEVELOPMENT PLAN REVIEW 05-0493 AND TENTATIVE PARCEL MAP 35676.

WHEREAS, the City of Perris, acting through the Planning Commission on March 20, 2007 and March 19, 2008, and acting through the City Council on March 27, 2007 and April 8, 2008, approved the construction of 1,907,079 square feet of distribution warehousing in two buildings (the "Project") on approximately 90-acres located at the northwest corner of Morgan Street and Perris Boulevard as laid out and delineated the Site Plan attached hereto as Exhibit "A" for Development Plan Review No. 05-0493 and through the approval of Tentative Tract Map No. 35676 (TPM 08-01-0010) attached hereto as Exhibit "B" and pursuant to City Planning Commission Resolution Nos. 08-08 and 07-04 and City Council Resolution No. 4100 for TPM 35676, and Resolution No. 3944 for Development Plan Review No. 05-0493 (individually or collectively referred to herein as, the "Initial Approval"); and

WHEREAS, in addition to certain Planning Conditions of Approval, the Initial Approval was subject to certain Conditions of Approval, dated as revised March 20, 2007 from the City Engineer ("Conditions of Approval") for the improvement of certain public streets, roads and facilities adjacent to and in the vicinity of the Project Site, which conditions are attached hereto as Exhibit "C" and by this reference incorporated herein. These improvements include in Condition No. 4, the improvement of a portion of Indian Avenue from north of Ramona Expressway to Harley Knox Boulevard, and in Condition No. 9, the construction of Harley Knox Boulevard, formerly known as Oleander Avenue, from Indian Avenue to the I-215 ("Harley Knox Improvements") to provide for two lanes in each direction and various turn lanes; and

WHEREAS, the applicant has requested to amend the Conditions of Approval to eliminate the Harley Knox Improvements in Condition No. 9, and provide for certain additional improvements on Indian Avenue, in addition to those listed in No. 4 of the Conditions of Approval (the "Indian Improvements"), as shown in the amended conditions attached hereto as Exhibit "D" and by this reference incorporated herein ("Amended Conditions"); and

WHEREAS, the Indian Improvements will require certain negotiated acquisitions from third party property owners by the [Ridge Property Trust], as developer and applicant (the "Developer") and in such connection, the City has committed to consider exercising the power of eminent domain in the event that Developer is unsuccessful in negotiating acquisition of the right-of-way needed for the Indian Improvements ("Needed ROW"), from third party property owners; and

WHEREAS, the City has determined that traffic from this project and other projects in the vicinity of the Project Site will impact the transportation infrastructure within the City and has therefore conditioned, and intends to condition, other residential and non-residential development projects adjacent to the Harley Knox Improvements that will be served by or

benefit from such improvements, to complete all or a portion of the Harley Knox Improvements, in addition to other circulation improvements, as conditions of their development approvals; and

WHEREAS, the City intends to cooperate with property owners and developers in the northern part of the City due to the extensive network of roads which need to be built there to ensure that to the extent practicable, such property owners and developers receive reimbursement for their eligible construction, rights-of-way acquisition, design and engineering, environmental, and related costs for the major improvements, including but not limited to the Indian Improvements and the Harley Knox Improvements, through the provisions of developer agreements, reimbursement agreements or similar agreements between the developers and the City and/or the establishment of a community facilities district, road and bridge district or other assessment district that will fund the costs of such construction; and

WHEREAS, due to the necessity to obtain the Needed ROW, the extensiveness and expense of the Harley Knox Improvements, and the Developer's request to commence leasing of its Project, the Amended Conditions would eliminate the Harley Knox Improvements and require certain temporary Indian Improvements prior to the issuance of a certificate of occupancy, with the remaining permanent Indian Improvements to be completed within a specified time period following the issuance of the certificate of occupancy, which improvements shall be secured by a letter of credit in the amount of said improvements, which form of Letter of Credit Agreement (Exhibit E) to be entered into by the Developer and/or related party and the City describing the terms thereof shall be approved by the City Council; and

WHEREAS, a Final Environmental Impact Report ("FEIR") for the Project (State Clearinghouse #2006041060) was prepared, approved and certified for the Project, all pursuant to the California Environmental Quality Act ("CEQA") and the State CEQA Guidelines, and the Mitigation and Monitoring Program has been approved by the City Council on March 27, 2007; and

WHEREAS, in connection with the Initial Approval, public hearings were held on March 20, 2007 and March 19, 2008, which hearings included testimony on the FEIR and the adoption of Resolutions 07-04 and 08-08 following said hearings; and

WHEREAS, a public hearing was held on September 3, 2008, at which time the Planning Commission of the City of Perris approved Resolution 08-27 recommended to the City Council approval the amended Engineering Conditions of Approval for Development Plan Review No. 05-0493 and Tentative Tract Map No. 35676; and

WHEREAS, this revised approval has been duly noticed; and

WHEREAS, a public hearing was held on September 30, 2008, at which time all interested persons were given full opportunity to be heard and to present evidence, and

NOW THEREFORE, the City Council of the City of Perris does resolve as follows:

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

Section 2. The City Council has reviewed and considered the environmental information discussed in the staff report and accompanying attachments prior to taking action on the application for the proposed revision and the Final EIR presented at the Initial Approval, and finds that the revisions to the Conditions of Approval could not have a significant impact on the environment as potential impacts were addressed in the Final EIR, and the requested revisions do not affect the conclusions or financings set forth in the Final EIR, the Initial Approvals or the Mitigation Monitoring Program.

Section 3. The Engineering Conditions of Approval, attached as part of Exhibit "A" to Planning Commission Resolution No. 08-08 and as part of Exhibit "B" to Planning Commission Resolution No. 07-04, are hereby replaced with the Amended Conditions attached hereto as Exhibit "D" and the Letter of Credit Agreement as Exhibit "E"; and

Section 4. 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 5. The Mayor shall sign this Resolution and the City Clerk shall certify to the adoption of this Resolution.

ADOPTED, SIGNED and APPROVED this 30th day of September, 2008.

Mayor, Daryl R. Busch

ATTEST:

Judy L. Haughney, City Clerk

Attachments: Exhibit A Site Plan
 Exhibit B Tentative Parcel Map 35676
 Exhibit C Original Engineering Conditions of Approval
 Exhibit D Amended Engineering Conditions of Approval
 Exhibit E Letter of Credit Agreement

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

I, Judy L. Haughney, CITY CLERK OF THE CITY OF PERRIS, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Resolution Number 4151 was duly and regularly adopted by the City Council of the City of Perris at a regular meeting held the 30th day of September, 2008, by the following called vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Judy L. Haughney, City Clerk