

**RESOLUTION NUMBER 4012**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, APPROVING THE NOTICES OF NON-RENEWAL FOR THE PROPERTY, APPROVING DEVELOPMENT PLAN REVIEW 05-0341, TENTATIVE PARCEL MAP 34131 (05-0342), AND CONDITIONAL USE PERMIT 05-0343 FOR A 520,000-SQUARE-FOOT COMMERCIAL PROJECT ON APPROXIMATELY 49.3 ACRES OF LAND ON THE WEST SIDE OF PERRIS BOULEVARD BETWEEN NUEVO ROAD AND LEMON STREET, AND MAKING FINDINGS IN SUPPORT THEREOF**

**WHEREAS**, the City of Perris has received an application for the tentative cancellation of a portion of an agricultural preserve, or partial cancellation of a Land Conservation Contract (pursuant to the Williamson Act) from the property owner for approximately 10.97 gross acres of land located west of Perris Boulevard, north of Nuevo Road, south of Citrus Avenue and east of Barrett Avenue, and within the Perris Valley Agricultural Preserve No. 2, Map No. 57, recorded as instrument No. 19068 on February 27, 1970, as more particularly depicted on Exhibit “A” attached hereto and made a part hereof (Assessor's Parcel Numbers 305-150-038 through 305-150-050, and 305-150-052 through 305-150-053, the “Subject Property”); and

**WHEREAS**, the City of Perris has received an application for the tentative cancellation of a portion of an agricultural preserve, or partial cancellation of a Land Conservation Contract (Pursuant to the Williamson Act) from the property owner for approximately 38.36 gross acres of land located west of Perris Boulevard, north of Nuevo Road, south of Citrus Avenue and east of Barrett Avenue and within the Perris Valley Agricultural Preserve No. 2, Map No. 57, recorded as instrument No. 19068 on February 27, 1970, as more particularly depicted on Exhibit “B” attached hereto and made a part hereof (Assessor’s Parcel Numbers 305-200-009, 305-200-019 through 305-200-025, and 305-210-020 through 305-210-028, the “Subject Property”); and

**WHEREAS**, the Subject Property lies within the Perris Valley Agricultural Preserve Number 2, Map Number 57, and is subject to a Land Conservation Contract recorded on February 27, 1970, as Instrument No. 19068 (the Land Conservation Contract); and

**WHEREAS**, Government Code Section 51282 permits a landowner to petition the City Council of the City of Perris to cancel a portion of a, or entire, Land Conservation Contract; and

**WHEREAS**, Notices of Non-Renewal for the Land Conservation Contract have been served on the City in accordance with Government Code Section 51245; and

**WHEREAS**, City of Perris Municipal Code Section 19.74.040 specifies procedures for the tentative cancellation of a Land Conservation Contract; and

**WHEREAS**, the applications to diminish an agricultural preserve relative to the Subject Property was accompanied by a proposal for an alternative land use for the Subject Property consisting of a 520,000-square-foot commercial project and site improvements including parking, landscaping and screening for Perris Marketplace; and

**WHEREAS**, the City of Perris has also received applications for an alternative land use of the Subject Site to include a Tentative Parcel Map to subdivide the property into fifteen parcels and four lettered lots; a Conditional use Permit for operation of a gasoline fueling station, a tire/lube facility, and drive-through facilities; and a Development Plan Review application for the proposed 520,000-square-foot commercial project (Perris Marketplace); and

**WHEREAS**, a Draft Environmental Impact Report (“Draft EIR”) for the Project was prepared and circulated on November 14, 2006, for a 45-day public review period pursuant to the California Environmental Quality Act (“CEQA”), Public Resources Code Section 21000, *et seq.*, and State and Agency Guidelines adopted pursuant thereto; and

**WHEREAS**, a Recirculated Draft Environmental Impact Report (“RDEIR”) for the project was prepared and circulated on March 16, 2007, for a 45-day public review pursuant to CEQA Guidelines Section 15088.5 to address South Coast Air Quality Management District’s concerns regarding Localized Significance Thresholds; and

**WHEREAS**, notice was duly provided to the public, government agencies and all other interested parties that they may submit written comments on the Draft EIR to the City; and

**WHEREAS**, a Final Environmental Impact Report (“FEIR”) for the Project (State Clearinghouse #2005081152) has been prepared pursuant to CEQA and the State CEQA Guidelines, and incorporates the Draft EIR and the RDEIR with changes and revisions thereto, written Responses to Comments made during the CEQA review period, and the Mitigation and Monitoring Program; and

**WHEREAS**, the City Council has independently reviewed the Final EIR for Perris Marketplace and accompanying attachments; and

**WHEREAS**, the City Council certified the Final EIR on July 10, 2007; and

**WHEREAS**, an Initial Study, Draft Environmental Impact Report and RDEIR have been prepared, advertised, and circulated pursuant to the California Environmental Quality Act with regard to the proposed use of the Subject Property; and

**WHEREAS**, a duly noticed public hearing has occurred concerning the application for a Notice of Non-Renewal of a Land Conservation Contract with respect to the Subject

Property; and the proposed Tentative Parcel Map, Conditional Use Permit, and Development Plan Review; and

**WHEREAS**, the project site is located within March Air Reserve Base (MARB) Airport Influence Area II and III, and the proposed Zone Change, Tentative Parcel Map, Conditional Use Permit and Development Plan Review are subject to the Riverside County Airport Land Use Commission's (ALUC) recommendation based on the project's consistency with the 1984 Riverside County Airport Land Use Plan; and

**WHEREAS**, at the hearing on October 19, 2006, ALUC found the proposed Tentative Parcel Map 34131 (05-0342), Conditional Use Permit 05-0343, and Development Plan Review 05-0341 consistent with the Riverside County Airport Land Use Plan, and therefore no further action is required from the City; and

**WHEREAS**, on June 6, 2006, the Planning Commission conducted a duly noticed public hearing on the proposed Development Plan Review, Tentative Parcel Map, Conditional Use Permit and Notices of Non-Renewal, considered testimony and materials in the staff report and accompanying documents, and recommended approval to the City Council of the proposed Project and Conditions of Approval, subject to the following amendments:

Planning Conditions of Approval

- Condition 4.G was modified to include language regulating low-pressure nozzles on diesel fuel pumps.
- Condition 5.C was modified to include the dates in which the Engineering Conditions of Approval were modified.
- Condition 6.A was modified to refer to "Title 24" rather than Title 14.
- Condition 9.B was modified to include reference to security lighting.

Engineering Conditions of Approval

- Condition 1.h was modified to include language regarding drainage credit for the cost of Master Planned Drainage Facilities (Line K) above and beyond their drainage fees pursuant to fee reimbursement criteria as approved by City Council.
- Condition 2.b was modified to include "also required" rather than minor requirements.
- Condition 2.d was modified to include "Sunset Avenue", "with 66' dedicated right-of-way", and "east side only."

- Condition 10 was modified to refer to “provided” rather than period.

**WHEREAS**, on July 10, 2007, the City Council conducted a duly noticed public hearing on the proposed Development Plan Review, Tentative Parcel Map, Conditional Use Permit and Notices of Non-Renewal, considered testimony and materials in the staff reports, accompanying documents and exhibits; and

**THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, DOES FURTHER RESOLVE AS FOLLOWS:**

**Section 1.** The City Council has reviewed and considered the environmental documentation and information included in the staff report prior to recommending the City Council’s action on the application for the Non-Renewal of a Land Conservation Contract, the proposed Tentative Parcel Map, Conditional Use Permit and Development Plan Review for the alternative use of the Subject Property, and finds and determines that the proposed use of the Site, based on the Findings of Fact, the Statement of Overriding Considerations, and the requirements of the Mitigation Monitoring Program fully address the potential environmental impacts, and that the Declarations reflect the independent judgment of the City Council.

**Section 2.** The City Council hereby finds that the provisions of the City of Perris Municipal Code Section 19.74.030 (Notice of Non-Renewal) have been satisfied.

**Section 3.** The City Council further finds, based upon the information contained within the staff report and accompanying attachments, with respect to “Perris Marketplace”, the following:

Development Plan Review 05-0341

1. The location, size, design, density and intensity of the proposed development and improvements are consistent with the City’s General Plan, the purposes and provisions of Title 19 of the City’s Municipal Code, the purposes of the zone in which the site is located, and the development policies and standards of the City. As noted above, while a portion of the Project is currently zoned for agricultural purposes, the General Plan designated the Project Site for commercial development, and the site is being rezoned Community Commercial to conform with the General Plan. The Development Plan before the Planning Commission conforms to the Community Commercial Zone.
2. 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 development proposed. The Development Plan illustrates that the project will have the appropriate setbacks as required by the City Municipal Code. All the utilities are available for the Project to connect to and are currently available for the Project.

3. The proposed development and 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. As noted above, property to the south of the Project Site is the Perris Plaza, a commercial retail center. The property to the north is undeveloped, but is designated for additional commercial development by the City General Plan. The property to the west of the Project Site is designated for business park by the City General Plan. The property east of the Project Site has single-family homes, but the homes face away from the Project Site (and from Perris Boulevard).
4. The architecture proposed is compatible with community standards and protects the character of adjacent development. The Project Site has been designed to match the Perris Plaza, which is the commercial center to the south.
5. The landscaping plan ensures visual relief and provides an attractive environment for the public's enjoyment. The Project will provide the public with additional necessary retail development. The Project has been designed to conform to the City architectural standards.
6. The safeguards necessary to protect the public health, safety and general welfare have been required for the proposed Project. The Project Site is appropriately designated for large retail development. While the Project will attract additional customers, the Project is designed with safety considerations, including installing additional lights and sidewalks and providing for an alternate truck route for delivery trucks so they do not interfere with local residents. The improvements will conform to all requirements of the City Police and Fire Departments.

In addition, in accordance with Perris Municipal Code Section 19.65.040, the City Council makes the following findings regarding the sale of off-site alcohol on the Project Site.

7. The location or the use shall not result in adverse impacts on park facilities, school facilities, existing religious land uses and/or existing residential land uses. The closest school to the project site is the Perris High School, which is 1,450 feet to the southwest, property line to property line. Copper Creek Park, the closest park to the Project Site, is approximately 1,100 feet from the Project Site, property line to property line. The actual distance of the alcohol sales sites will be greater, as they will be located within the Project Site. As the park and school are not close to the Perris Marketplace, the sale of alcohol at Perris Marketplace should not have a detrimental effect on the local area.

The alcohol sales at the Project Site are not a primary function of facility but an accessory to the primary use, which is a drug store and a grocery sales area at the Project Site. The alcohol sales area represents only a small portion of the total retail space on the project site.

8. The traffic increases associated with the use will not result in potential hazards to existing pedestrian and/or vehicular traffic. The traffic associated with the alcohol sales represents a portion of the overall traffic for the proposed Project. The EIR analyzed the effects of the traffic overall on the local area and recommended several improvements to the streets, such as the signalization of Citrus Avenue and Perris Boulevard. The EIR indicates that local street traffic related impacts from the proposed project will be mitigated (Perris Marketplace Draft EIR, pp. 4.10-16 to 4.10-17). All intersection improvements will be constructed in accordance with City standards and be subject to review by the City Fire and Police Departments. Conformance with these standards will ensure that the proposed Project will not result in hazards to the existing pedestrian or vehicular traffic.
9. The establishment shall not constitute an enforcement problem to the City Police Department. The proposed Project will conform to all requirements of the City Code and Police policy regarding alcohol sales and access to the shopping center, as the sale of alcohol is not the primary focus of the retail center or any single store.
10. The development conforms to all applicable provisions of this Code. The proposed Project has been designed to conform to all zoning requirements.

Tentative Parcel Map 31431 (05-0342)

1. The proposed Map is consistent with applicable general and specific plans. The proposed Project is consistent with the Perris General Plan. The General Plan designates the Project Site for Community Commercial, which permits retail development. The proposed Project is a commercial retail project. It should be noted that the proposed Project will bring the zoning for the Project Site into conformity with the General Plan.
2. The design or improvement of the proposed subdivision is consistent with applicable general and specific plans. The proposed Project is designed to conform to all General Plan requirements. The Project Site is designated for Community Commercial in the General Plan, which indicates that the Project Site should be zoned Community Commercial. One entitlement requested by the Project is a Zone Change which brings the project site into conformity with

the General Plan. The Project Site has been designed to conform to the Community Commercial Zone.

3. The Project Site is physically suitable for the type of development. The proposed Project Site is relatively flat and currently undeveloped. The Project Site is adjacent to a major arterial and is adjacent to existing commercial retail. The Site is physically suitable for commercial development.
4. The Project Site is physically suitable for the proposed density of development. The proposed Project conforms to all City requirements regarding density and use.
5. The design of the subdivision and type of improvement will not cause serious public health problems. The Tentative Parcel Map will not have a negative affect on public health, safety, or general welfare. The Project Site is appropriately designated for large retail development. While the Project will attract additional customers, the Project is designed with safety considerations, including installing additional lights and sidewalks and providing for an alternate truck route for delivery trucks so they do not interfere with local residents (Perris Marketplace Draft EIR, p. 4.10-9). The improvements will conform to all requirements of the City Police and Fire Departments (Perris Marketplace Draft EIR, pp. 4.11-7 to 4.11-8 and 4.11-10 to 4.11-12).
6. The design of the subdivision and 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. The proposed Project Site does not currently have any easement across it. The subdivision will provide several easements for access to public works and drainage.
7. All requirements of CEQA have been met. The City has complied with the California Environmental Quality Act in preparing the Final EIR for the project. The City published a Notice of Preparation for the Draft EIR, released the Draft EIR for public review for 45 days, recirculated the Draft EIR when new information raised a new issue, responded to all comments to the Draft EIR and the Recirculated Draft EIR in the Final EIR, and provided for a mitigation monitoring program. The City Council has certified that the EIR is adequate.
8. The parcels being created by the Tentative Parcel Map will be managed as a single unit. All the parcels within the Tentative Parcel Map are subject to a Williamson Act contract. The contract must be cancelled before any commercial development can occur on the Tentative Parcel Map. The City has accepted Notices of Non-Renewal for the property within the Tentative Parcel

Map, and the City is processing a Williamson Act contract cancellation request from the developers. All properties that are affected by the Tentative Parcel Map will be owned by common ownerships and managed as a part of a larger unit which could sustain agricultural uses. Development on the Tentative Parcel Map will not occur until the Williamson Act contract is canceled as it applies to the property within the Tentative Parcel Map.

Conditional Use Permit 05-0343

1. The proposed location of the conditional uses is in accord with the objectives of Title 19 of the City's Municipal Code and the purposes of the zone in which the site is located. As noted above, the Project Site is being rezoned to conform to the City General Plan. The Community Commercial Zone permits drive-through facilities, gasoline fueling stations, and a tire/lube facility.
2. The proposed plan is consistent with the City's General Plan and conforms to all zoning standards, applicable subdivision requirements and other ordinances and resolutions of the City. The Project Site has been designed to conform to all requirements of the Zoning Code. The conditional uses are permitted within the Community Commercial Zone with the approval of the City Council. It is consistent with the zoning and the General Plan as it conforms to all the requirements of both documents.
3. The proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to public health, safety, and welfare, or materially injurious to properties or improvements in the vicinity. The Project Site is on Perris Boulevard, which is a major thoroughfare for the City of Perris. It is near Interstate 215 and designated by the General Plan as a major commercial center for the City of Perris. The Project Site is a logical extension of commercial development from the Perris Plaza to the south. The site will be designed to conform to all safety requirements of the City Police and Fire Department.
4. The architecture proposed is compatible with community standards and protects the character of adjacent development. The proposed Project is designed to conform to the adjacent Perris Plaza and all City requirements.
5. The landscaping plan ensures visual relief and provides an attractive environment for the public's enjoyment. The proposed Project has submitted a landscaping plan that conforms to the City landscaping requirements. In addition, it provides a greenbelt on the southern side of the Project Site between the Project Site and the Perris Plaza.



**Section 4.** The City Council hereby approves the Notices of Non-Renewal of a Land Conservation Contract (Agricultural Diminishment 05-011 and Agricultural Diminishment 05-0025), Development Plan Review 05-0341, Tentative Parcel Map 34131 (05-0342) and Conditional Use Permit 05-0343 for “Perris Marketplace”, based on the information and findings presented in the staff report and supporting exhibits.

**Section 5.** 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 6.** The Mayor shall sign this Resolution and the City Clerk shall certify to the adoption of this Resolution.

**ADOPTED, SIGNED** and **APPROVED** this 10<sup>th</sup> day of July, 2007.

Attachments: **Exhibit “A”** Notice of Non-Renewal (Agricultural Diminishment 05-0711)  
**Exhibit “B”** Notice of Non-Renewal (Agricultural Diminishment 05-0725)

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Mayor, Daryl R. Busch

ATTEST:

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City Clerk, Judy L. Haughney

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 4012 was duly and regularly adopted by the City Council of the City of Perris at a regular meeting thereof held the 10<sup>th</sup> day of July, 2007, and that it was so adopted by the following called vote:

AYES:            Yarbrough, Landers, Motte, Rogers, Busch  
NOES:  
ABSTAIN:  
ABSENT:

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City Clerk, Judy L. Haughney

**EXHIBIT "A"**  
**(RESOLUTION NUMBER 4012)**

**NOTICE OF NON-RENEWAL**  
**(AGRICULTURAL DIMINISHMENT 05-0711)**

**EXHIBIT "B"**  
**(RESOLUTION NUMBER 4012)**

**NOTICE OF NON-RENEWAL**  
**(AGRICULTURAL DIMINISHMENT 05-0725)**