



PLANNING COMMISSION HEARING DATE: MARCH 22, 2018

AGENDA ITEM NO.: 4

PROPOSED PROJECT

Case Numbers	P17-0467 (General Plan Amendment), P17-0466 (Specific Plan Amendment), P17-0468 (Rezone), P17-0469 (Site Plan Review), P17-0470 (Traffic Pattern Modification Measures), P17-0471 (Street Vacation), P17-0472 (Variance)	
Request	The following entitlements are requested to construct a three story, 98,608 square-foot mixed-use development, consisting of 108 residential units and 1,200 square feet of commercial space: 1) a General Plan Amendment to amend the General Plan Land Use Designation from C – Commercial to MU-U – Mixed-Use-Urban; 2) a Specific Plan Amendment to amend the Magnolia Avenue Specific Plan to include the MU-U – Mixed-Use-Urban land use designation in the Magnolia Center District; 3) a Zoning Code Amendment to rezone the project site from CG-SP – Commercial General-Specific Plan (Magnolia Avenue) Overlay Zones to MU-U-SP – Mixed Use-Urban and Specific Plan (Magnolia Avenue) Overlay Zones; 4) a Site Plan Review of project plans; 5) Traffic Pattern Modification Measures for the reconfiguration of Merrill Avenue; 6) a Street Vacation to vacate three feet of Merrill Avenue; and 7) a Variance to allow perimeter walls higher than permitted by Code.	
Applicant	Richard Hamm, Pelican Merrill Avenue, LLC	
Project Location	3575- 3661 Merrill Avenue, situated on the north side of Merrill Avenue, between Riverside and De Anza Avenues, and segment of Merrill Avenue between Riverside and De Anza Avenues.	
APNs	225-140-001, 225-140-002, 225-140-003, 225-140-004, 225-140-005, 225-140-006	
Project area	3.14 acres	
Ward	3	
Neighborhood	Magnolia Center	
Specific Plan	Magnolia Avenue Specific Plan	

General Plan Designation	C - Commercial	
Zoning Designation	CG-SP – Commercial General and Specific Plan (Magnolia Avenue) Overlay Zones	
Staff Planner	Brian Norton, Senior Planner; 951-826-2308; bnorton@riversideca.gov	

RECOMMENDATIONS

Staff recommends that the City Planning Commission:

1. **RECOMMEND that the City Council DETERMINE** that the proposed project will not have a significant effect on the environment based on the findings set forth in the case record and recommend City Council adoption of a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (MMRP) pursuant to CEQA Section 21081.6; and
2. **RECOMMEND APPROVAL** of Planning Cases: P17-0467 (General Plan Amendment), P17-0466 (Specific Plan Amendment), P17-0468 (Rezone), P17-0469 (Site Plan Review), P17-0470 (Traffic Pattern Modification Measures), P17-0471 (Street Vacation) and P17-0472 (Variance) based on the findings outlined in the staff report and summarized in the attached findings and subject to the recommended conditions.

SITE BACKGROUND

The 3.17-acre project site consists of six contiguous parcels, partially developed with a surface parking lot on the eastern portion of the site. The site was primarily used for agricultural purposes until the mid-1960's when it was developed with various commercial uses, including; automotive shops, towing shops, offices, a drive-thru dairy, car wash, audio shop and a gas station. Structures related to the above uses were demolished starting in 2006, with the last structures removed in 2009.

Surrounding land uses include the Riverside Plaza, a regional shopping center to the south across Merrill Avenue, a nightclub and commercial uses to the west, automotive tire repair and restaurant uses to the east and single family residential and office uses across the Union Pacific rail line.

PROPOSAL

The applicant is requesting approval of amendments to the General Plan and Specific Plan, Rezoning, Site Plan Review, Traffic Pattern Modification Measures, Street Vacation, and Variance to facilitate development of the subject site with a mixed-use development consisting of 108 residential units, 1,200 square feet of commercial space, and 190 parking stalls.

The residential component of the project has been designed to reflect an east coast brownstone style of architecture and includes 16 studio units, 60 one-bedroom units and 32 two-bedroom units, ranging in size from 510 square feet to 1,290 square feet. Private patios are provided in 84 of the proposed 108 units and range in size from 40 to 120 square feet. The site provides 16,814 square feet of common usable open space including paseos, a pool and recreation area, clubhouse and fitness center. The commercial component includes a commercial lease space fronting Merrill Avenue totaling 1,200 square feet, no tenants have been identified by the applicant.

A total of 190 parking spaces have been provided on-site, with 183 spaces dedicated to the residential use and seven spaces for the commercial lease space. A total of 176 parking spaces are located within fully enclosed garages, 32 of which are in tandem garages, assigned to two-bedroom units. Vehicular access to the site is provided via two, two-way driveways, located at the east and west end of the site. Pedestrian access to each residential building would include three stairs that extend from the sidewalk on Merrill Avenue and lead up to entry stoops and main entries of the second floor units along Merrill Avenue. Perimeter walls, ranging in height from 3 to 14-feet are proposed, primarily along the north, east and west property lines to reduce noise generated by the adjacent rail lines to an acceptable level. The site is proposed to be secured with gates on the east and west ends.

Off-site improves are proposed as part of the overall scope of the project, including: the restriping of Merrill Avenue between De Anza and Riverside Avenues to modify the roadway segment from a three lane roadway to a two lane roadway; a raised landscaped median; and the striping of 18 on-street parallel parking spaces with raised planters along the project frontage. A pedestrian cross walk connecting the project with the Riverside Plaza is proposed at the Riverside Plaza's west driveway, along Merrill Avenue. Bike sharrows are proposed from the existing Magnolia Avenue bike lane to the project frontage, providing a link to the project and the Riverside Plaza for cyclists.

PROJECT ANALYSIS

	Consistent	Inconsistent
<p>General Plan 2025</p> <p>The area immediately surrounding the Riverside Plaza is a prominent regional commercial hub and is often referred to as a second downtown. General Plan policies and objectives seek to build upon the 'village within a city' form surrounding the Riverside Plaza. By introducing commercial and mixed use development to an urban neighborhood, residences are located within walking distance to numerous commercial and entertainment opportunities as well as public transit. As such, the proposal to amend the General Plan land use designation from Commercial – Commercial to MU-U – Mixed Use-Urban will be consistent with the following Policies and further the intent of the General Plan 2025:</p> <p><i>Policy LU-67.4:</i> Emphasize and encourage mixed-use development to re-energize the Magnolia Avenue corridor.</p> <p><i>Policy LU-67.5:</i> Develop pedestrian-oriented mixed-use projects with supportive retail uses on underutilized sites along the Magnolia Corridor near Riverside Plaza.</p> <p><i>Policy LU-68.1:</i> Ensure that Magnolia Center's residential areas are adequately protected from the operational impacts of new commercial and mixed use development in the neighborhood.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Magnolia Avenue Specific Plan – Magnolia Center District</p> <p>The project is located within the Magnolia Center District of the Magnolia Avenue Specific Plan consisting of a mixture of retail, office, institutional and residential uses. The central portion of the District includes the Riverside Plaza, defined as a regional commercial center and a destination for residence and visitors to the region. The introduction of mixed use development to the Magnolia Center District will have the greatest impact bringing additional residences and employees to support retail expansion and re-energize the District. As such, the project, as proposed, including</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

<p>the Specific Plan Amendment, amending the Magnolia Center District of the Magnolia Avenue Specific Plan, by adding the MU-U – Mixed Use-Urban Land Use Designation furthers the vision of the District and is consistent with applicable Policies.</p> <p><i>Policy 1.3:</i> Emphasize and encourage mixed-use development to re-energize the Magnolia Center District. (General Plan Policy LU-67.4)</p> <p><i>Policy 1.4:</i> Develop pedestrian-oriented mixed-use projects with supportive retail uses on underutilized sites along the Magnolia Avenue corridor near Riverside Plaza. (General Plan Policy LU-67.5)</p> <p><i>Policy 1.5:</i> Improve circulation and streetscape appearance in Magnolia Center.</p> <p><i>Policy 1.6:</i> Provide sufficient convenient parking for shoppers, employees and visitors, while also improving the pedestrian environment.</p> <p><i>Policy 1.8:</i> Encourage infill development in a manner that is compatible with the prevailing Mid-Century architectural character of the area.</p>		
<p>Zoning Code Land Use Consistency (Title 19)</p> <p>The proposal to rezone the project site (to facilitate development of a mixed use project) from CG-SP – Commercial General-Specific Plan (Magnolia Avenue) Overlay Zones to MU-U-SP – Mixed-Use-Urban-Specific plan (Magnolia Avenue) overlay Zones is consistent with the proposed MU-U – Mixed-Use-Urban Land Use Designation of the Specific Plan and General Plan 2025. The project, as proposed, serves to strengthen the interaction with existing commercial development, reducing sprawl and creating a pedestrian-oriented environment; while ensuring that surrounding single family neighborhoods are adequately protected, providing a diversity of housing within the area.</p> <p>With the exception of a variance for over height perimeter walls on the west, north and east sides of the site to reduce noise impacts from the adjacent rail line, the project is consistent with the development standards for mixed-use developments.</p>		
<p>Compliance with Magnolia Avenue Specific Plan Design Guidelines</p> <p>The proposed project meets the objectives and guidelines of the Magnolia Avenue Specific Plan Design Guidelines (Chapter 4). The three story mixed use project has been designed to reflect traditional east coast brownstone architecture. Building designs incorporate front entry stoops; outdoor gathering areas, entry forecourts, awnings, understated cornice, wrought iron railings and window surrounds. A mixture of building materials, primarily along the ground floor level include stone, masonry and plaster veneers, providing individual design, a character defining feature of brownstone architecture. Furthermore, public art will be introduced into the project consisting of art panels located along the back wall of the project, adjacent to the alley and rail line.</p> <p>With the exception of parking for the leasing and commercial component, all residential parking has been designed to be located toward the rear of the project, in fully enclosed garages.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

<p>The scale and mass of the project is consistent with surrounding development patterns. Specifically, this project will be consistent with the existing 3 and 4 story commercial buildings within the Riverside Plaza.</p> <p>As such, the project has been carefully designed to create a sense of place, consistent with the intent of the Magnolia Avenue Specific Plan Design Guidelines.</p>		
<p>Compliance with the Riverside Municipal Airport Land Use Compatibility Plan</p> <p>The site is located within Zone E of the Riverside Municipal Airport Land Use Compatibility Plan. On December 14, 2017 the Riverside County Airport Land Use Commission (ALUC) determined the proposed project is consistent with the Land Use Compatibility Plan.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

COMPLIANCE WITH APPLICABLE DEVELOPMENT STANDARDS

Properties within the Specific Plan with an adopted Mixed Use Zone shall be developed under the development standards found in Chapter 19.120 of the Zoning Code.

MU-U - Mixed Use-Urban Zone Development Standards – Chapter 19.120					
Standard			Proposed	Consistent	Inconsistent
Density	40 du/ac		34.08 du/ac	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Height	60 feet		44 feet	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FAR	4.0		0.71	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Lot Size	20,000 square feet		138,041 square feet	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Setbacks	Front (Merrill Avenue)	0 feet	0 feet	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Interior Sides (West)	0 feet	38 feet	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Interior Side (East)	0 feet	35 feet	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Rear (Alley)	15 feet	47 feet 6 inches	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Open Space	<i>Private</i>				
	Minimum number of units with private open space	50% (54 units)	70% (76units)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Minimum area	50 square feet	50-120 square feet	<input checked="" type="checkbox"/>	<input type="checkbox"/>

MU-U - Mixed Use-Urban Zone Development Standards – Chapter 19.120

Standard		Proposed		Consistent	Inconsistent
	Common				
	Total Area (50 square feet per unit)	5,400 square feet	16,814 square feet	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Parking	Residential			<input checked="" type="checkbox"/>	<input type="checkbox"/>
	1 space per studio	16 units – 16 spaces	28 spaces		
	1.5 space per unit ≤ 1 bedroom	60 units – 90 spaces	93 spaces		
	2 spaces per unit ≥ 2 bedrooms	32 units – 64 spaces	64 spaces		
	Commercial				
	Commercial 1 space/250 square feet	1,200 sq. ft. – 5 spaces	5 spaces		
	Project Total	175 required	190 proposed		

Fences, Walls and Landscape Material – Chapter 19.550

Standard		Proposed		Consistent	Inconsistent
Walls	6-feet in height	Up to 14 feet in height	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

SITE PLAN REVIEW

Site Design

The site has been designed to create an urban-scale mixed-use project consistent with the vision of the Magnolia Avenue Specific Plan and the Mixed-Use-Urban development standards within the Zoning Code. Buildings have been placed within close proximity to the front property line creating a strong street presence and pedestrian interface with Merrill Avenue. Site design takes inspiration from the nearby pedestrian character of the Riverside Plaza, focusing heavily on both on and off site pedestrian connectivity, creating a sense of place with the introduction of multiple gathering places along the projects frontage and within amenity areas placed through the site. Additionally, on-site residential parking has been placed towards the rear of the project site, allowing the residential buildings to be situated the furthest extent possible from the existing rail line and alley, which abuts the project to the north. Lastly, adequate circulation and access are provided throughout the site, including pedestrian pathways connecting to the amenity areas and residential units to the public sidewalk along Merrill Avenue. For the reasons above, staff can support the proposed site design.

Perimeter Walls, Fences and Gates

The conceptual fence and wall plan shows masonry walls, gradually increasing in height along the sites perimeter edges, reaching up to 14 feet primarily along the north property line. Walls up to six feet in height are permitted by the Code; thus, the applicant has requested a variance for over height walls. Staff supports the requested variance as wall heights have been designed in accordance with the

recommendations of the Noise Study, attenuating noise from the adjacent rail lines. Pedestrian access to the site will be controlled through wrought iron gates, placed between residential buildings with direct access to the projects common open space amenities. Vehicular access to the residential parking will be controlled by electronically controlled wrought iron swing gates located at either end of the project in proximity to driveway entrances from Merrill Avenue.

Additionally, wall plans do not specify the finish of masonry walls; therefore, staff has conditioned walls to be constructed or finished in a decorative material, topped with a decorative cap and anchored by columns where the walls terminate at the Merrill Avenue frontage.

Conceptual Landscape

The conceptual landscape plan shows multiple species of trees throughout the site. Evergreen and flowering canopy trees are proposed along the frontages of the residential units to reduce solar heat gain during the summer months. Shrubs and groundcovers complement and accent the architecture and provide sufficient screening to above ground equipment. Landscape plans will be required to be submitted for staff review and compliance with the provisions of the Water Efficient Landscape Ordinance (WELo) of the Zoning Code.

With the inclusion of off-site improvements, the applicant has proposed off-site irrigation and landscaping, to include canopy and accent trees along the public sidewalk and within the raised planters to soften the streetscape and provide a pleasant pedestrian environment. The applicant will work with the Public Works Department to further identify specific plant species for the planter areas, consistent with the Public Works Department's standards.

TRAFFIC PATTERN MODIFICATION MEASURES

This project proposes to restripe Merrill Avenue from the Riverside Plaza west driveway to the Riverside Plaza east driveway to reduce the number of travel lanes from a three-lane roadway to a two-lane roadway with a raised landscaped median and on-street parallel parking spaces, along the project site frontage.

The westbound lane drop would be shifted to the east from the western driveway into Riverside Plaza (Plaza west driveway) to Riverside Avenue. This shift would result in a single eastbound through lane along the frontage of the property and the properties east of the site. Painted medians and lane restriping would be provided east of the site to Riverside Avenue and west of the site to De Anza Avenue. In addition, planter areas and 18 on-street parking spaces would be provided along the site frontage on Merrill Avenue.

With respect to non-vehicular circulation, the segment of Merrill Avenue between Magnolia Avenue and Riverside Avenue will be designated as a shared bicycle path facility by striping the two travel lanes as Class 3 bikeways with painted sharrow legends. Enhanced pedestrian crosswalks with textured or painted pavement will be provided at the Merrill Avenue intersection with the Riverside Plaza west driveway (just west of the Regal Cinemas 16 building). Proposed improvements introduce elements of a complete streets concept, providing safe, comfortable and convenient access to community destinations and public places – whether walking, driving or cycling.

STREET VACATION

The project proposes to vacate 2,424 square feet of right-of-way, three feet in width and 808 feet in length, along the project frontage on Merrill Avenue to facilitate construction of the project. The vacation will decrease the overall right-of-way width of Merrill Avenue from 67 to 64 feet. The existing sidewalk would

remain in place, and as noted raised planters and a raised median would be installed along the project frontage, providing an enhanced streetscape for motorists and pedestrians.

Pursuant to the provisions of the Public Streets, Highways, and Services Easements Vacation Law (commencing with §8300 of the Streets and Highways Code of the State of California) as well as Chapter 19.890 (Street, Alley and Walkway Vacations) of the Zoning Code, the proposed right-of-way vacation cannot be considered a Summary Vacation as Merrill Avenue has not been expended or impassable for vehicular travel for at least five years and since public money has been expended on its maintenance during such period. As such, the request to vacate three feet of right-of-way from the northern portion of the street is considered a Standard Vacation. The following facts are provided to support the proposed vacation of the subject portion of Merrill Avenue:

- The proposed area to be vacated will no longer be needed for street purposes or for access to adjacent parcels.
- The vacation of three feet of public right-of-way will occur only in front of the projects frontage. Surrounding properties to the east and west of the proposed vacation will not be affected and will retain public access from Merrill Avenue.
- The proposed vacation will not impact vehicular or pedestrian access to other parcels as all other streets and alleyways remain in their current configuration, and the proposed vacation will not impact east-west vehicular or pedestrian circulation on Merrill Avenue.

Based on the findings above, it can be concluded that the three foot segment along the project frontage is not needed for vehicular or pedestrian traffic or for present or prospective public use. The vacated right-of-way will be zoned MU-U-SP – Mixed Use-Urban and Specific Plan (Magnolia Avenue) Overlay Zones and designated MU-U – Mixed Use-Urban based on the City's General Plan.

ENVIRONMENTAL REVIEW

A Mitigated Negative Declaration (MND) has been prepared for this project in accordance with the California Environmental Quality Act (CEQA). The CEQA documentation states the proposed project will not have a significant effect on the environment provided the recommended mitigation measures are adopted and applied.

NEIGHBORHOOD COMPATIBILITY

The proposed project involves infill development and is compatible with surrounding commercial, office and residential land uses. The overall design of the project demonstrates consistency with the goals and policies of the Magnolia Avenue Specific Plan, providing development that supports existing retail, office and entertainment uses. The integration of commercial and residential uses, with modifications to Merrill Avenue and an improved pedestrian friendly streetscape, is compatible with surrounding development, specifically that of the adjacent Riverside Plaza.

PUBLIC NOTICE AND COMMENTS

Public hearing notices were mailed to property owners within 300 feet of the site. Additionally, in accordance with the provisions of the Zoning Code, a one-eight page advertisement was published on the Press Enterprise. As of the writing of this report, Planning Division staff have received one letter in support of the project. The letter received from AEW Capital Management, owners of the Riverside Plaza and the parcel located immediately to the west of the subject site, indicate support for the project as a whole and believe the modifications to Merrill Avenue will create a more pedestrian friendly environment, while calming traffic to a more compatible speed, consistent with surrounding development.

APPEAL INFORMATION

Actions by the City Planning Commission, including any environmental finding, may be appealed to the City Council within ten calendar days after the decision. Appeal filing and processing information may be obtained from the Planning Department Public Information Section, 3rd Floor, City Hall.

EXHIBITS LIST

1. Findings
2. Staff Recommended Conditions of Approval
3. Location Map
4. Existing/Proposed General Plan Maps
5. Existing/Proposed Magnolia Avenue Specific Plan – Magnolia Center District (Figure 3.9, Page 3-38)
6. Existing/Proposed Zoning Maps
7. Project Plans (Architectural Site Plan, Grading Plans, Conceptual Utility Plan, Building Elevations, Material Sample Board, Project Renderings, Floor Plans, Fence and Wall Plans, Roof Plan, Open Space Study, Conceptual Landscape Plan, Merrill Avenue Street Section,)
8. Site and Context Photos
9. Applicant Variance Justifications
10. Airport Land Use Commission (ALUC) Development Review – File No. ZAP1091RI17
11. CEQA Document (Initial Study/Mitigated Negative Declaration)
12. Comment Letter

Technical studies related to the CEQA document are available at the Community and Economic Development Department – Planning Division front counter.

Prepared by: Brian Norton, Senior Planner

Reviewed by: Patricia Brenes, Principal Planner

Approved by: Rafael Guzman, Community & Economic Development Director



EXHIBIT 1 – FINDINGS

- PLANNING CASES:**
- P17-0467** (General Plan Amendment)
 - P17-0466** (Specific Plan Amendment)
 - P17-0468** (Rezone)
 - P17-0469** (Site Plan Review)
 - P17-0670** (Traffic Pattern Modification)
 - P17-0671** (Street Vacation)
 - P17-0672** (Variance)

Rezone:

- a. That the proposed Rezone is generally consistent with the goals, policies, and objectives of the General Plan;
- b. That the proposed Rezone will not adversely affect surrounding properties; and
- c. That the proposed Rezone promotes public health, safety, and general welfare and serves the goals and purposes of the Zoning Code.

Traffic Pattern Modification Measures:

- a. Proposed roadway improvements to Merrill Avenue will provide for the health and safety of the citizenry and will not substantially impair the rendering of emergency and public services;
- b. Merrill Avenue is considered a 66-foot collector street within the Circulation Element of the General Plan. However, roadway improvements will not unreasonably interfere with general traffic circulation via the public rights-of-way, consistent with the findings of the Traffic Impact Analysis prepared for the project;
- c. There is sufficient evidence to indicate that one or more of these conditions exist:
 - 1. Street design or conditions permit excessive vehicular speeds;
 - 2. There is a separate street from the general neighborhood circulation pattern to preserve the unique character of adjacent properties, to encourage pedestrian, equestrian or non-motorized vehicular travel and/or to discourage crime, noise, air pollution, and other hazards to public safety and welfare.
- d. Proposed street improvements will not unreasonably restrict access to adjacent properties nor impair the constitutionally guaranteed rights of any individual or group.
- e. As designed the proposed street improvements will not create an unacceptable internal circulation system characterized by any excessively long dead-end or Cul-de-

sac Street, poor aesthetics, poor drainage, difficult maintenance requirements or poor street design geometry.

Variance:

- A. To allow perimeter masonry walls higher than permitted by Code.
1. *The strict application of the provisions of the Zoning Code would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the Zoning Code.*

The proposal **complies** with this finding. Strict application of the Zoning Code would allow solid walls up to 6-feet in high along the sides and rear yards. The project proposes up to 14-foot high masonry walls. Although the proposed walls would exceed the maximum allowable height, they are a result of the projects location to the existing rail lines. With the inclusion of the masonry walls up to 14 feet in height, the majority of the proposed project meets the required interior noise level of 45 dBA CNEL, or less, with the exception of the northern exterior windows/wall assembly, which will be required to be constructed with a Sound Transmission Class STC rating of at least 30 dB, consistent with the Mitigation Measures of the Noise Study. Thus restricting wall heights would pose practical difficulties for the project to achieve interior and exterior noise attenuation for a safe living environment for future residences.

2. *There are special circumstances or conditions applicable to the property involved or to the intended use or development of the property that do not apply generally to other property in the vicinity and under the identical zoning classification.*

The proposal **complies** with this finding. The project site is situated approximately 41 to 59 feet from the Union Pacific (UPRR) rail line. Given the proximity to the UPRR and the potential noise impacts to future residences, the site has been designed with the residential buildings setback 89 to 107 feet from the railway, with garage buildings and a sound attenuation wall buffering the units. A Noise Study was conducted as part of the MND which confirmed that walls up to 14 feet in height would be required as part of the design of the site to reduce noise impacts to less than significant. As such, the projects design includes walls that gradually increase in height from Merrill Avenue, along the west and east property lines, reaching a maximum height of 14 feet along the northern property line.

Thus based upon the design of the wall heights, and the incorporated mitigation measure for STC rating to attenuate noise levels the project will be in compliance with the City's Noise/Land Use Compatibility Criteria, Title 24, and Title 7 of the Municipal Code and General Plan 2025 Objective N-1, Policies N-1.1 through N-1.3. Therefore, there are exceptional circumstances applicable to this property or to the intended use or development of this property which do not apply generally to other property in the same zone or neighborhood.

3. *The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or neighborhood in which the property is located.*

The proposal **complies** with this finding. The proposed fence and wall heights will result in a compatible land use in an area subject to train noise impacts, thereby creating a livable and enhanced quality of life as residents and visitors are able to enjoy recreational

activities in both common and private open space areas. By incorporating the noise attenuating design features (walls) and the STC rating, the project will comply with the City's Noise/Land Use Compatibility Criteria, Title 24, and Title 7 of the Municipal Code. No detrimental effect is to be expected with the approval of this request.

4. *The granting of the variance will not be contrary to the objectives of any part of the General Plan.*

The proposal **complies** with this finding. Staff has reviewed the Project and the General Plan, and determined that the variance will not be contrary to the objectives of any part of the General Plan. The project is consistent with a number of Goals and Policies of the Magnolia Center District of the Magnolia Avenue Specific Plan, as well as the General Plan 2025, including, but not limited to:

- *Policy 1.3:* Emphasize and encourage mixed-use development to re-energize the Magnolia Center District. (General Plan Policy LU-67.4)
- *Policy 1.4:* Develop pedestrian-oriented mixed-use projects with supportive retail uses on underutilized sites along the Magnolia Avenue corridor near Riverside Plaza. (General Plan Policy LU-67.5)
- *Policy 1.5:* Improve circulation and streetscape appearance in Magnolia Center.
- *Policy 1.6:* Provide sufficient convenient parking for shoppers, employees and visitors, while also improving the pedestrian environment.
- *Policy 1.8:* Encourage infill development in a manner that is compatible with the prevailing Mid-Century architectural character of the area.

Based on the above findings, the Zoning Code, the Magnolia Avenue Specific Plan, and the information prepared for this Project, staff finds that the granting of the variance will not be contrary to the objectives of any part of the General Plan.



EXHIBIT 2 – STAFF RECOMMENDED CONDITIONS OF APPROVAL

Case Number: **P17-0467** (General Plan Amendment)
P17-0466 (Specific Plan Amendment)
P17-0468 (Rezone)
P17-0469 (Site Plan Review)
P17-0470 (Traffic Pattern Modification)
P17-0471 (Street Vacation)
P17-0472 (Variance)

Meeting Date: March 22, 2018

CONDITIONS

Case Specific

• **Planning**

1. Plans shall conform to the exhibits attached to this report. Proposed modifications to the approved design shall be submitted to the Planning Division and shall include revised exhibits and a narrative description of the proposed modifications. The applicant is advised that an additional application and fee may be required.
2. The applicant shall comply with conditions of approval of the Riverside County Airport Land Use Commission Development Review Number ZAP1091RI17.

Prior to Grading Permit Issuance

3. *MM BIO-1: To avoid impacts on nesting birds, street trees shall be removed between September 1 and February 15 of the following year. If street tree removal will occur inside the peak nesting season (between February 16 and August 31), a pre-construction survey shall be conducted by a qualified Biologist to identify if there are any active nesting locations on the site and the construction areas. If the Biologist does not find any active nests within this area, then vegetation clearing and construction work will be allowed. If the Biologist finds an active nest within the area and determines that the nest may be impacted by demolition/construction activities, the Biologist will delineate an appropriate buffer zone around the nest depending on the species and the type of construction activity. Demolition/construction activities would be prohibited in the buffer zone until a qualified Biologist determines that the nest has been abandoned.
4. *MM CUL-1: Prior to the issuance of a grading permit, the Property Owner/Developer shall provide a letter from a County certified Archaeologist and Paleontologist stating that the Property Owner/Developer has retained these individuals, and that the Archaeologist and Paleontologist shall be on call during all grading and other significant ground-disturbing activities in native sediments.

5. *MM CUL-2: Cultural Sensitivity Training: The project Archaeologist and Native American Tribes consulting on the project shall attend the pre-grading meeting with the developer/permit holder's contractors to provide Cultural Sensitivity Training for all construction personnel. This shall include the procedures to be followed during ground disturbance in sensitive areas and protocols that apply in the event that unanticipated resources are discovered. Only construction personnel who have received this training can conduct construction and disturbance activities in sensitive areas. A sign in sheet for attendees of this training shall be included and submitted to the Archeologist.
6. A 40-scale precise grading plan shall be submitted to the Planning Division and include the following:
 - a. Compliance with City adopted interim erosion control measures;
 - b. Compliance with any applicable recommendations of qualified soils engineer to minimize potential soil stability problems;
 - c. Include a note requiring the developer to contact Underground Service Alert at least 48 hours prior to any type of work within pipeline easement;
 - d. Note all drainage features will be color treated to match surrounding terrain; and
 - e. Final BMPs shall be finalized, subject to Public Work Department approval.

During Grading:

7. *MM CUL-3: Treatment and Disposition of Cultural Resources: In the event that Native American cultural resources are inadvertently discovered during the course of grading for this Project. The following procedures will be carried out for treatment and disposition of the discoveries:
 - a. Temporary Curation and Storage: During the course of construction, all discovered resources shall be temporarily curated in a secure location onsite or at the offices of the project archaeologist. The removal of any artifacts from the project site will need to be thoroughly inventoried with tribal monitor oversight of the process; and
 - b. Treatment and Final Disposition: The landowner(s) shall relinquish ownership of all cultural resources, including sacred items, burial goods, and all archaeological artifacts and non-human remains as part of the required mitigation for impacts to cultural resources. The applicant shall relinquish the artifacts through one or more of the following methods and provide the City of Riverside Community and Economic Development Department with evidence of same:
 - i. Accommodate the process for onsite reburial of the discovered items with the consulting Native American tribes or bands. This shall include measures and provisions to protect the future reburial area from any future impacts. Reburial shall not occur until all cataloguing and basic recordation have been completed;

- ii. A curation agreement with an appropriate qualified repository within Riverside County that meets federal standards per 36 CFR Part 79 and therefore would be professionally curated and made available to other archaeologists/researchers for further study. The collections and associated records shall be transferred, including title, to an appropriate curation facility within Riverside County, to be accompanied by payment of the fees necessary for permanent curation;
 - iii. If more than one Native American tribe or band is involved with the project and cannot come to an agreement as to the disposition of cultural materials, they shall be curated at the Western Science Center or Riverside Metropolitan Museum by default; and
 - iv. At the completion of grading, excavation and ground disturbing activities on the site a Phase IV Monitoring Report shall be submitted to the City documenting monitoring activities conducted by the project Archaeologist and Native Tribal Monitors within 60 days of completion of grading. This report shall document the impacts to the known resources on the property; describe how each mitigation measure was fulfilled; document the type of cultural resources recovered and the disposition of such resources; provide evidence of the required cultural sensitivity training for the construction staff held during the required pre-grade meeting; and, in a confidential appendix, include the daily/weekly monitoring notes from the archaeologist. All reports produced will be submitted to the City of Riverside, Eastern Information Center and interested tribes.
8. *MM CUL-4: In the event that any paleontological resources (e.g., plant or animal fossils) are encountered before or during grading, the Property Owner/Developer shall retain a qualified Paleontologist to evaluate unanticipated discoveries and to take appropriate measures to protect or preserve them for study. The Paleontologist shall submit a report of findings that will also provide specific recommendations regarding further mitigation measures (i.e., paleontological monitoring) that may be appropriate. Where mitigation monitoring is appropriate, the program must include, but not be limited to, the following measures:
- Assign a Paleontological Monitor, trained and equipped to allow the rapid removal of fossils with minimal construction delay, to the site full time during earth-disturbing activities.
 - Divert earth-disturbing activities away from the immediate area of the discovery until the Paleontological Monitor has completed salvage. If construction personnel make the discovery, the Grading Contractor shall immediately divert construction and notify the Paleontological Monitor of the find.
 - Prepare, identify, and curate all recovered fossils for documentation in the summary report and transfer to an appropriate depository (e.g., Natural History Museum of Los Angeles County).

- Prepare and submit a technical report describing the identification, salvage, evaluation, and treatment of all fossils discovered during grading to the City of Riverside. Transfer collected specimens with a copy of the report to the depository.
9. To reduce construction related particulate matter air quality impacts of projects the following measures shall be required:
 - a. The generation of dust and fugitive dust shall be controlled as required by SCAQMD Rule 403;
 - b. Grading activities shall cease during period of high winds (greater than 25mph);
 - c. Trucks hauling soil, dirt or other emissive materials shall have their loads covered with a tarp or other protective cover as determined by the City Engineer;
 - d. Contractor shall prepare and maintain a traffic control plan, prepared, stamped and signed by either a licensed Traffic Engineer or a Civil Engineer. The preparation of the plan shall be in accordance with Chapter 5 of the latest edition of the Caltrans Traffic Manual and the State Standard Specifications. The plan shall be submitted to Public Works Department for review and approval. The Traffic Plan shall include, but is not limited to, rerouting construction related traffic off congested streets, consolidating truck deliveries, and providing temporary dedicated turn lanes for movement of construction traffic to and from site. Work shall not commence without an approval traffic control plan from the Public Works Department;
 - e. Sweep streets at the end of the day if visible soil material is carried onto adjacent paved public roads;
 - f. Wash off trucks and other equipment leaving the site;
 - g. Replace ground cover in disturbed areas immediately after construction;
 - h. Keep disturbed/loose soil moist at all times;
 - i. Enforce a 15 mile per hour speed limit on unpaved portions of the construction site.
 10. The applicant shall be responsible for erosion and dust control during both the grading and construction phases of the project.
 11. To reduce diesel emissions associated with construction, construction contractors shall provide temporary electricity to eliminate the need for diesel powered generators, or provide evidence that electrical hook ups at construction sites are not cost effective or feasible.
 12. In the event of an accidental discovery of any human remains in a location other than a dedicated cemetery, the steps and procedures specified in Health and Safety Code 7050.5, *State CEQA Guidelines* 15064.5(e), and Public Resources Code 5097.98 must

be implemented. Specifically, in accordance with Public Resources Code (PRC) Section 5097.98, the Riverside County Coroner must be notified within 24 hours of the discovery of potentially human remains. The Coroner will then determine within two working days of being notified if the remains are subject to his or her authority. If the Coroner recognizes the remains to be Native American, he or she shall contact the Native American Heritage Commission (NAHC) by phone within 24 hours, in accordance with PRC Section 5097.98. The NAHC will then designate a Most Likely Descendant (MLD) with respect to the human remains within 48 hours of notification. The MLD then has the opportunity to recommend to the property owner or the person responsible for the excavation work means for treating or disposing, with appropriate dignity, the human remains and associated grave goods within 24 hours of notification. Whenever the NAHC is unable to identify a MLD, or the MLD fails to make a recommendation, or the landowner or his or her authorized representative rejects the recommendation of the MLD and the mediation provided for in subdivision (k) of PRC Section 5097.94 fails to provide measures acceptable to the landowner, the landowner or his or her authorized representative shall re-inter the human remains and items associated with Native American burials with appropriate dignity on the property in a location not subject to further subsurface disturbance.

13. Sweep all streets once per day if visible soil materials are carried to adjacent streets (recommend water sweepers with reclaimed water).

Prior to Issuance of Building Permit:

14. *MM NSE-1: Prior to issuance of building permits, if Federal Administration Quiet Zones have not been established at the UPRR crossings at Brockton Avenue and Panorama Road, the Property Owner/Developer shall demonstrate to the City that exposed residential exterior window/wall assemblies facing the railroad tracks provide a Sound Transmission Class (STC) rating of a least 30 dB. The building plans submitted to the City for review and approval shall identify the STC rating of the materials used to construct the northern exterior windows/wall assemblies to demonstrate that the proposed building construction would provide an interior noise level of 45 dBA CNEL, or less, in compliance with interior noise standards in Title 24 of the California Code of Regulations.
15. Submit three sets of plans depicting the preferred location for above ground utility transformer of capacity to accommodate the planned or speculative uses within the building(s) or subject site. These plans shall be reviewed and approved by the Planning Division and Public Utilities Department - Electric Division prior to the issuance of a building permit. The proposed location of the transformer shall be level, within 100 feet of the customer's service point, accessible to service trucks and in a location where the transformer can be adequately screened from public view, either by buildings or landscape screening. The applicant is advised to consult with the City of Riverside Public Utilities, Electrical Engineering Division, at (951)826-5489 prior to preparing these plans.
16. Plans submitted for Plan check review should specify the location, design and color of all domestic water meters, backflow preventers, and all on- and off-site utility cabinets subject to Planning Division and Public Utilities' review and approval.
17. **Photometric/lighting Plan:** An exterior lighting plan shall be submitted with building permit plans review and approval. Photometric plans shall include the following;

- a. A photometric study and manufacturer's cut sheets of all exterior lighting on the new buildings and within the common open space areas shall be submitted with the exterior lighting plan. All on-site lighting shall provide a minimum intensity of one foot-candle and a maximum intensity of ten foot-candles at ground level throughout the areas serving the public and used for parking, with a ratio of average light to minimum light of four to one (4:1). The light sources shall be shielded to minimize offsite glare, shall not direct light skyward and shall be directed away from adjacent properties and public right-of-ways. If lights are proposed to be mounted on buildings, down-lights shall be utilized. Light poles shall not exceed 14 feet in height, including the height of any concrete or other base material.
 - b. For safety, sufficient lighting shall be located at the vehicle entry driveway and shall include a form of decorative lighting.
18. **Wall Plan:** Revise the wall and fence plan such that the plan provided for building permit plan check incorporates the following changes:
- a. All project walls shall be constructed or finished in a decorative material.
 - b. All walls shall be finished with a decorative cap.
 - c. Wall segments terminating at the property line with Merrill Avenue shall include decorative columns finished with a decorative cap.
19. **Building Elevations Conditions:** Revise the submitted plot plan such that the plan provided for building permit plan check incorporates the following changes:
- a. Building elevations shall clearly specify all materials, colors and finishes.
20. **Trash Enclosure:** Revise the trash enclosure plan such that the plan provided for building permit plan check incorporates the following changes:
- a. Trash enclosures shall include a solid cover or decorative trellis.
21. **Landscape and Irrigation Plans** shall be submitted for Design Review approval. Design modifications may be required as deemed necessary. Separate applications and filing fees are required. Landscaping and irrigation plans must be submitted prior to building permit issuance. Landscaping and irrigation shall be installed per the approved plan and a completed "Certificate of Substantial Completion" (Appendix C of the water Efficient Landscaping and Irrigation Ordinance Summary and Design Manual) signed by the Designer/auditor responsible for the project shall be submitted to the Planning Division. Call the Case Planner to schedule a final inspection at least one week prior to needing the release of utilities.
- b. Landscaping shall be designed to provide 100 percent coverage of planters.
 - c. All above ground equipment, visible to the public right-of-way shall be fully screened by landscaping.

Prior to Release of Utilities and/or Occupancy:

22. Install the landscape and irrigation per the approved plans and submit the completed "Certificate of Substantial Completion" (Appendix C of the water Efficient Landscaping and Irrigation Ordinance Summary and Design Manual) signed by the Designer/auditor responsible for the project and submitted to the Planning Division for Planning Division site inspection.

- **Public Works**

Conditions to be fulfilled prior to occupancy unless otherwise noted:

23. Storm Drain construction will be contingent on engineer's drainage study.
24. *MM TRA-1: Prior to issuance of the certificate of occupancy of the project, signal timing adjustment and coordination shall be made to the traffic signal at the Riverside Avenue/Central Avenue intersection. These would include installation of an interconnect or fiber optic communication cable on Riverside Avenue between Merrill Avenue/Sunnyside Avenue and Central Avenue to coordinate the two signal systems. Once the two intersections are coordinated, signal timing can be synchronized and changes be implemented at the intersections whereby coordination on southbound traffic along Riverside Avenue will improve overall operations at the Riverside Avenue/Central Avenue intersection.
25. Installation of raised curb median and bulb-outs subject to Public Works review and approval.
26. Installation of sewers and sewer laterals to serve this project to Public Works specifications. Extension of sewer main in Merrill Avenue required to, and along project frontage (approximately 700'±).
27. Protect existing street trees in place. Any proposed relocation and/or new trees must be approved by Urban Forester.
28. Closure of unused driveway(s) to Public Works specifications.
29. Off-site improvement plans to be approved by Public Works prior to issuance of construction permit.
30. A surety prepared by Public Works to be posted to guarantee the required off-site improvements prior to issuance of a building permit.
31. Size, number and location of driveways to Public Works specifications.
32. All security gates or facilities proposed now or in the future will be located on-site and adequate stacking space and vehicle turn-around area will have to be provided to Public Works and Fire Department specifications.
33. Prior to Building Permit Issuance, the Developer shall complete a lot line adjustment to consolidate or reconfigure the project site parcels to the satisfaction of the Planning Division and Public Works Department.

34. Trash Enclosures per City Standards. Tandem enclosures must contain similar bins, recycling bins shall be paired together and solid waste bins shall be paired together.
35. Prior to final inspection for the development project, the applicant shall pay the Transportation Uniform Mitigation Fee (TUMF) in accordance with the fee schedule in effect at the time of payment. If the project improvements include qualifying right-of-way dedications and/or street improvements to a TUMF regional arterial roadway as identified on the Regional System of Highways and Arterials, the developer may have the option to enter into a Credit/ Reimbursement Agreement with the City and Western Riverside Council of Governments (WRCOG) to recover costs for such work based on unit costs as determined by WRCOG.
36. The terms of the agreement shall be in accordance with the RMC Chapter 16.68 and the TUMF Administrative Plan requirements. Credit/reimbursement agreements must be fully executed prior to receiving any credit/reimbursement. An appraisal is required for credit/reimbursement of right of way dedications and credit/reimbursement of qualifying improvements requires the public bidding and payment of prevailing wages in accordance with State Law. For further assistance, please contact the Public Works Department.
37. Prior to issuance of a building or grading permit, the applicant shall submit to the City for review and approval, a project-specific WQMP that:
38. Addresses Site Design BMP's such as minimizing impervious areas, maximizing permeability, minimizing directly connected impervious areas, creating reduced or "zero discharge" areas and conserving natural areas;
39. Incorporates the applicable Source Control BMP's as described in the Santa Ana River Region WQMP and provides a detailed description of their implementation;
40. Incorporates Treatment Control BMP's as described in the Santa Ana River Region WQMP and provides information regarding design considerations;
41. Describes the long-term operation and maintenance requirements for BMP's requiring long-term maintenance; and
42. Describes the mechanism for funding the long-term operation and maintenance of the BMP's requiring long-term maintenance.
43. Prior to issuance of any building or grading permits, the property owner shall record a "Covenant and Agreement" with the County-Clerk Recorder or other instrument acceptable to the City Attorney to inform future property owners of the requirement to implement the approved project-specific WQMP. Other alternative instruments for requiring implementation of the approved project-specific WQMP include: requiring the implementation of the project-specific WQMP in the Home Owners Association or Property Owners Association Conditions, Covenants and Restrictions (C,C&R's); formation of Landscape, Lighting and Maintenance Districts, Assessment Districts or Community Service Areas responsible for implementing the project-specific WQMP; or equivalent may also be considered. Alternative instruments must be approved by the City prior to the issuance of any building or grading permits.

44. If the project will cause land disturbance of one acre or more, it must comply with the statewide General Permit for Storm Water Discharges Associated with Construction Activity. The project applicant shall cause the approved final project-specific WQMP to be incorporated by reference or attached to the project's Storm Water Pollution Prevention Plan as the Post-Construction Management Plan.
45. Prior to building or grading permit closeout or the issuance of a certificate of occupancy or certificate of use, the applicant shall:
46. Demonstrate that all structural BMP's described in the project-specific WQMP have been constructed and installed in conformance with approved plans and specifications;
47. Demonstrate that applicant is prepared to implement all non-structural BMP's described in the approved project-specific WQMP; and
48. Demonstrate that an adequate number of copies of the approved project-specific WQMP are available.
49. Advisory – 1: Figure 3.14 of the Traffic Impact Analysis depicts the on-street parking layout, proposed roadway striping, and proposed sections of median and curb extensions. The final street section and striping configuration will be subject to further review and approval by the Traffic Engineering Division upon the formal submittal of street improvement plans by the applicant.
50. The project shall provide adequate sight distance at all project driveways.
51. The project is anticipated to result in a significant impact at the intersection of Central Avenue and Riverside Avenue. In order to mitigate this impact, the project shall install fiber optic communications between the traffic signals at Riverside Avenue at Merrill Avenue, and Riverside Avenue at Central Avenue, including necessary switches, splicing, and fiber optic distribution units per the City's specification. This will allow improved signal operations along Riverside Avenue, and allow the City to deploy CCTV cameras to monitor and adjust traffic progression in the area.

- **Fire Prevention**

52. An automatic fire sprinkler system is required by City Ordinance 16.32.080. Under separate cover, submit plans for the automatic fire sprinkler system(s) and obtain approval from the Fire Department prior to installation. Systems exceeding 20 sprinkler heads shall be provided with supervisory service and shall be monitored by a UL Central Station (UJFX) and shall be UL, FM or ETL certificated for the life of the system. Post Indicator valves, Detector Check control valves and water flow switches are required to be supervised by an UL listed central station.

Have a UL, FM or ETL listed and licensed C10 fire alarm contractor submit plans and obtain approvals prior to installation. Alarm contractor shall provide a copy of a maintenance contract complying with N.F.P.A. 72.

53. Requirements for construction shall follow the currently adopted California Building Code and California Fire Code with City of Riverside amendments.

54. Group R, Division 2 occupancies shall be provided with a manual and automatic fire alarm system in apartment houses three or more stories in height or containing 16 or more dwelling units. (See California Fire Code for exceptions). Submit plans and obtain approvals from the Fire Department prior to installation. New fire alarm systems shall be UL, FM or ETL certificated for the life of the system. Central Station shall be UL UUFX.
55. Provide for Fire Department vehicle access to within one hundred and fifty (150) feet of all portions of all exterior walls of all structures. This measurement shall be based on the path of travel as determined by the Fire Department.

Access roadways shall be a minimum of twenty (20) feet in unobstructed width with a minimum vertical clearance of thirteen feet, six inches (13'6"). Grade differential shall not exceed twenty (20) percent.

Access roadways shall be all weather surfaces, paved, provided with engineered turf block, or alternate design. Such roadways shall be maintained at all times. Information Bulletin attached.

56. Provide for fire department access to the gate. "Knox" key devices are available for use in the city. Contact the Fire Department for applications and details.
57. An "Infrared Automatic Gate System" is required for all electric gates. Contact the Fire Prevention Division for information.
58. Construction plans shall be submitted and permitted prior to construction.
59. Fire Department access shall be maintained during all phases of construction.
60. All required hydrants shall be in service and fire flow available prior to building permit release by the Fire Department. Violation of this requirement may result in citations that require a court appearance to be issued.
61. Provide for fire department access to the facility. "Knox" key devices are available. Contact the Fire Department for applications and details.

- **Public Utilities Water**

62. Due to waterline maintenance and operation impacts, RPU is unable to support the proposed 3 feet right-of-way vacation without relocation of the existing water line out of the sidewalk area.

- **Public Utilities Electric**

63. All utilities shall be satisfactorily relocated, protected and/or replaced to the specifications of the affected departments and agencies, and easements for such facilities retained as necessary.
64. The provision of utility easements, water, street lights and electrical underground and/or overhead facilities and fees in accordance with the rules and regulations of the appropriate surveyor.

65. Provisions for electrical Utility equipment to provide power to the site is the responsibility of the developer. Please make sure that all clearances are maintained and location of the equipment is approved by the Utility.
66. Developer is responsible for all trenching, installation of conduit and sub-structures required to provide power to the site.
67. Plot existing electrical distribution facilities on the original site plan.
68. Please show proposed location of transformers and electrical rooms.
69. A switch will need to be installed to provide power.
70. Blanket Public Utility Easement required on all parcels.

- **Parks, Recreation and Community Services – Park Planning**

71. Developer shall make payment of all applicable Park Development Impact Fees (local, aquatic, regional/reserve and trail fees) per RMC Chapters 16.60, 16.44 and 16.76.

Standard Conditions

Planning

72. There shall be a two-year time limit in which to commence construction of the project beginning the day following approval by the Planning Commission unless a public hearing is held by City Council; in that event the time limit begins the day following City Council approval.
73. Within 30 days of approval of this case by the City, the developer shall execute an agreement approved by the City Attorney's Office to defend, indemnify, including reimbursement, and hold harmless the City of Riverside, its agents, officers and employees from any claim, action, or proceeding against the City of Riverside, its agents, officers, or employees to attack, set aside, void, or annul, an approval by the City's advisory agency, appeal board, or legislative body concerning this approval, which action is brought within the time period provided for in Section 66499.37 of the Government Code. The City will promptly notify the developer of any such claim; action or proceeding and the City will cooperate in the defense of the proceeding.
74. This project shall fully and continually comply with all applicable conditions of approval, State, Federal and local laws in effect at the time the permit is approved and exercised and which may become effective and applicable thereafter, and in accordance with the terms contained within the staff report and all testimony regarding this case. Failure to do so will be grounds for Code Enforcement action, revocation or further legal action.
75. This use permit may be modified or revoked by the City Planning Commission or the City Council should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or

materially injurious to public safety, property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.

76. The applicant shall cooperate with the Riverside Police Department (RPD) in the enforcement of all laws relating to this permit. Material violation, as determined by the City Planning Commission, of any laws in connection with this use or failure to cooperate with RPD will be cause for revocation of this permit.
77. This permit is issued based upon the plans and information submitted by the applicant, which has been used as the basis for evaluation of the proposed use in this staff report and for the conditions of approval herein. Permittee shall notify Community Development Department, Planning Division, of any change in operations and such change may require a revision to this permit. Failure to notify the city of any change in operations is material grounds for revocation of this conditional use permit.
78. The applicant herein of the project subject to this conditional use permit acknowledges all of the conditions imposed and accepts this permit subject to those conditions and with the full awareness of the provisions of Title 19 of the Riverside Municipal Code. The applicant shall inform all its employees and future operators of the business subject to this permit of the restrictions and conditions of this permit as they apply to the business operations.
79. Failure to abide by all conditions of this permit shall be cause for revocation.
80. The subject property shall be developed and operated substantially as described in the text of this report and as shown on the plot plan on file with this case except for any specific modifications that may be required by these conditions of approval.
81. Enumeration of the conditions herein shall not exclude or excuse compliance with all applicable rules and regulations in effect at the time this permit is exercised.