



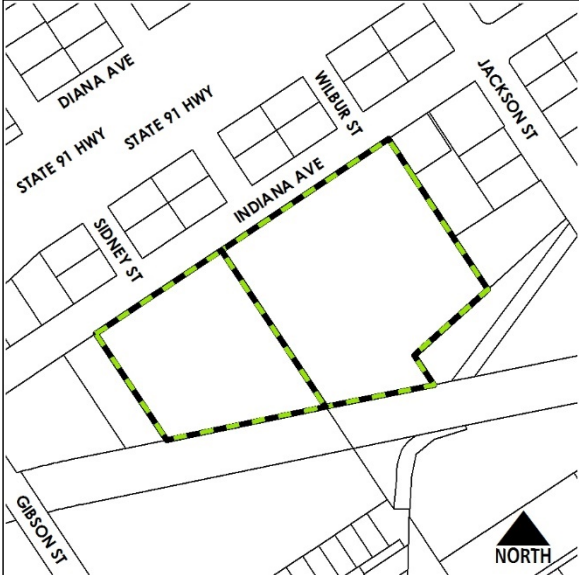
Community & Economic Development Department

Planning Division

3900 Main Street, Riverside, CA 92522 | Phone: (951) 826-5371 | [RiversideCA.gov](http://RiversideCA.gov)

**PLANNING COMMISSION HEARING DATE: JANUARY 9, 2020**  
**AGENDA ITEM NO.: 4**

**PROPOSED PROJECT**

<i>Case Numbers</i>	<b>P19-0388</b> (General Plan Amendment) and <b>P19-0389</b> (Zoning Code Amendment)		
<i>Request</i>	To consider the following entitlements: 1) a General Plan Amendment to change the land use designation from MDR – Medium Density Residential to HDR – High Density Residential; and 2) a Zoning Code Amendment to change the zone from R-1-7000 – Single Family Residential Zone to R-3-1500 – Multi-Family Residential Zone.		
<i>Applicant</i>	Steve Berzansky of BP Riverside Partners, LLC		
<i>Project Location</i>	9174 and 9258 Indiana Avenue, on the south side of Indiana Avenue between Gibson Street and Jackson Street		
<i>APN</i>	233-180-007 and 233-170-001		
<i>Project area</i>	6.86 acres		
<i>Ward</i>	5		
<i>Neighborhood</i>	Arlington South		
<i>General Plan Designation</i>	MDR – Medium Density Residential		
<i>Zoning Designation</i>	R-1-7000 – Single Family Residential Zone		
<i>Staff Planner</i>	Candice Assadzadeh, Senior Planner 951-826-5667 <a href="mailto:cassadzadeh@riversideca.gov">cassadzadeh@riversideca.gov</a>		

**RECOMMENDATIONS**

Staff recommends that the 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 adopt a Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Program (MMRP) pursuant to Section 21081.6 of the California Environmental Quality Act (CEQA) Guidelines; and

2. **RECOMMEND that the City Council APPROVE** Planning Cases P19-0388 (General Plan Amendment) and P19-0389 (Zoning Code Amendment) based on the findings outlined in the staff report and summarized in the attached findings and subject to the recommended conditions.

## SITE BACKGROUND

The 6.86-acre proposed project site consists of two contiguous parcels, previously developed with the Hawthorne Elementary School (Exhibit 3). Surrounding land uses include single family residential development to the north (across Indiana Avenue) and east, the Burlington Northern Santa Fe (BNSF) railroad tracks and the Upper Riverside Canal to the south, and vacant parcels to the west.

As a matter of information, on November 14, 2017 the City Council approved Planning Cases P16-0112 (General Plan Amendment), P16-0113 (Zoning Code Amendment), P16-0114 (Tract Map), P16-0111 (Planned Residential Development and Design Review), and P16-0883 (Variance) to establish a residential development consisting of 54 single-family residential lots for the proposed project site.

## PROPOSAL

The applicant is requesting approval of the following entitlements to facilitate future development of a multi-family residential development: 1) a General Plan Amendment to change the land use designation from MDR – Medium Density Residential to HDR – High Density Residential; and 2) a Zoning Code Amendment to change the zone from R-1-7000 – Single Family Residential Zone to R-3-1500 – Multi-Family Residential Zone. As no development is proposed as part of this request, future development of a multi-family residential development will be subject to Administrative Design Review approval.

## PROJECT ANALYSIS

### *Authorization and Compliance Summary*

	Consistent	Inconsistent
<b><i>General Plan 2025</i></b> The applicant requests approval of a General Plan Amendment to change the land use designation from MDR – Medium Density Residential to HDR – High Density Residential (Exhibit 4). The High-Density Residential land use designation provides for the development of row houses, condominiums and apartments.  The proposed project is consistent with General Plan 2025 Land Use and Urban Design Element Objectives, Goals and Policies for the Arlington South Neighborhood and furthers General Plan 2025 consistency with the following goals, policies and objectives: <ul style="list-style-type: none"><li>• Objective LU-40: <i>Reinforce Arlington South's historic development patterns, conserving the predominant single-family residential character; and</i></li><li>• Objective LU-40.4: <i>Maintain and extend Arlington South's residential grid street system where possible and preserve the existing residential character as a traditional single-family neighborhood.</i></li></ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	Consistent	Inconsistent
<p><b><i>Zoning Code Land Use Consistency (Title 19)</i></b></p> <p>The applicant requests approval of a Zoning Code Amendment to change the zone from R-1-7000 – Single Family Residential Zone to R-3-1500 – Multi-Family Residential Zone (Exhibit 5), which is consistent with the proposed General Plan land use designation. Future development of a multi-family residential development will be required to comply with all applicable development standards of the proposed R-3-1500 Zone and will be subject to Administrative Design Review approval prior to issuance of any building permits.</p> <p>The R-3-1500 Zone can only be applied to lots a minimum 30,000 square feet. The two parcels that comprise the proposed project site range in size from 111,740 to 186,996 square feet in area. Both exceed the minimum lot area requirement of the R-3-1500 Zone. The proposed project complies with the applicable Zoning Code standards.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## FINDINGS SUMMARY

### *General Plan Amendment and Zoning Code Amendment*

The proposed General Plan Amendment and Zoning Code Amendment will facilitate the future development of a multi-family development. The proposed General Plan and Zoning designations are consistent and compatible with the neighborhood, which consists of a mix of single-family residential to the north (across Indiana Avenue) and multi-family residential to the east and west.

## ENVIRONMENTAL REVIEW

A Mitigated Negative Declaration (Exhibit 7) has been prepared for the proposed 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, subject to implementation of the Mitigation Monitoring and Reporting Program (MMRP).

## PUBLIC NOTICE AND COMMENTS

Public hearing notices were mailed to property owners within 300 feet of the site. As of the writing of this report, no responses have been received by Planning Staff.

## 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 Division Public Information Section, 3rd Floor, City Hall.

## EXHIBITS LIST

1. Staff Recommended Findings
2. Staff Recommended Conditions of Approval
3. Location Map
4. Existing/Proposed General Plan Maps
5. Existing/Proposed Zoning Maps
6. Existing Site Photos
7. CEQA Document (Initial Study/Mitigated Negative Declaration)

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Prepared by: Candice Assadzadeh, Senior Planner

Reviewed by: Patricia Brenes, Principal Planner

Approved by: Mary Kopaskie-Brown, City Planner



*EXHIBIT 1 – STAFF RECOMMENDED FINDINGS*

**PLANNING CASES:**     P19-0388 (General Plan Amendment)  
                                 P19-0389 (Zoning Code Amendment)

*Zoning Code Map Amendment (Rezoning) Findings Pursuant to 19.810.040*

1.     The proposed Zoning Code Map Amendment (Rezoning) is consistent with the goals, policies, and objectives of the General Plan;
2.     The proposed Zoning Code Map Amendment (Rezoning) will not adversely affect surrounding properties; and
3.     The proposed Zoning Code Map Amendment (Rezoning) will promote public health, safety, and general welfare and serves the goals and purposes of the Zoning Code.



EXHIBIT 2 – STAFF RECOMMENDED CONDITIONS OF APPROVAL

**RECOMMENDED CONDITIONS & GENERAL INFORMATION NOTES**

**PLANNING CASES:**      P19-0388 (General Plan Amendment)  
                                     P19-0389 (Zoning Code Amendment)

All mitigation measures are noted by an asterisk (\*).

**Planning Division**

1. Prior to approval of entitlements for the future development of the site, a site-specific Noise and Vibration Analysis shall be prepared and accepted by the Planning Division.
2. *Advisory:* Plans for future development of the site shall be subject to Administrative Design Review approval as well as any additional entitlement required by the specific development proposal.

*Prior to Issuance of Grading Permits:*

3. **\*MM BIO-1:** If the project activities are planned during the bird nesting season (February 15 to August 31) nesting bird survey(s) consisting of up to three site visits within the week prior to tree removal activities shall be conducted to ensure birds protected under the MBTA are not disturbed by on-site activities. Any such survey(s) shall be conducted by a qualified biologist. If no active nests are found, no additional measures are required. If active nests are found, the nest locations shall be mapped by the biologist. The nesting bird species shall be documented and, to the degree feasible, the nesting stage (e.g., incubation of eggs, feeding of young, near fledging) determined. Based on the species present and surrounding habitat, a no-disturbance buffer shall be established around each active nest. The buffer shall be identified by a qualified biologist and confirmed by the City. No construction or ground disturbance activities shall be conducted within the buffer until the biologist has determined the nest is no longer active and has informed the City and construction supervisor that activities may resume.
4. **\*MM GEO-1:** A paleontologist shall be hired by the applicant to develop a Paleontological Resource Impact Mitigation Program (PRIMP) for the proposed project. The PRIMP shall include the methods that will be used to protect paleontological resources that may exist within the proposed project area, as well as procedures for monitoring, fossil preparation, and identification, curation into a repository, and preparation of a report at the conclusion of grading. The following shall also be implemented:
  - a. Excavation and grading activities in deposits with high paleontological sensitivity (older alluvial fan deposits) shall be monitored by a paleontological monitor following a PRIMP. No monitoring is required for excavations in rocks with no paleontological sensitivity (artificial fill).
  - b. If paleontological resources are encountered during the course of ground disturbance, the paleontological monitor shall have the authority to temporarily redirect construction away from the area of the find in order to assess its significance.

- c. Collected resources shall be prepared to the point of identification, identified to the lowest taxonomic level possible, cataloged, and curated into the permanent collections of a scientific institution.
  - d. At the conclusion of the monitoring program, a report of findings shall be prepared to document the results of monitoring program.
  - e. In the event that paleontological resources are encountered when a paleontological monitor is not present, work in the immediate area of the find shall be redirected and a paleontologist should be contacted to assess the find for significance. If determined to be significant, the fossil shall be collected from the field.
5. **\*MM TCR-1:** At least 30 days prior to filing of a grading permit, the proposed project applicant shall contact and notify the consulting tribe(s) of anticipated grading and excavation activities. In conjunction with the City and the consulting tribe(s), the applicant shall develop a Tribal Cultural Resources Monitoring Agreement. A copy of the monitoring agreement shall be provided to the City prior to the issuance of a grading permit for the proposed project. The agreement shall address the details, timing, and responsibility of all archaeological and cultural activities that will occur on the proposed project site. Details in the Plan shall include:
- a. Project grading and development scheduling.
  - b. The development of a rotating or simultaneous schedule in coordination with the applicant the designated Native American Tribal Monitor(s) during grading, excavation, and ground-disturbing activities on the site, including scheduling, safety requirements, duties, scope of work, reimbursement, and Native American Tribal Monitor(s) authority to stop and redirect grading activities in coordination with a qualified archaeologist.
  - c. The protocols and stipulations that the City, tribe(s) and qualified archaeologist will follow in the event of inadvertent discovery of tribal cultural resources (see Mitigation Measure TCR-2).
6. **\*MM TCR-3:** Prior to the issuance of a grading permit, the applicant shall submit to the City for review and approval, site plans showing evidence that planned on-site excavation activities conform to the applicable provisions of the Tribal Cultural Resources Monitoring Agreement.

*Prior to the Issuance of Grading Permits and During Grading/Construction Activities:*

7. Standard Condition AQ-1: Compliance with SCAQMD Rules 402 and 403. During construction, the construction contractor shall comply with the South Coast Air Quality Management District (SCAQMD) Rules 402 and 403 for controlling fugitive dust emissions and construction equipment emissions. In compliance with Rule 403, fugitive dust shall be controlled with best-available control measures so that the presence of such dust does not remain visible in the atmosphere beyond the property line of the emission source. In addition, dust suppression techniques shall be implemented to prevent fugitive dust from creating a nuisance off site. The following applicable dust suppression techniques from Rule 403 shall be implemented during project construction:
- a. Nontoxic chemical soil stabilizers shall be applied according to manufacturers' specifications to all inactive construction areas (previously graded areas inactive for 10 days or more).
  - b. Active sites shall be watered at least twice daily. (Locations where grading is to occur shall be thoroughly watered prior to earthmoving.)

- c. All trucks hauling dirt, sand, soil, or other loose materials shall be covered, or at least 2 feet (0.6 meter) of freeboard (vertical space between the top of the load and the top of the trailer) shall be maintained in accordance with the requirements of California Vehicle Code (CVC) Section 23114.
- d. Construction access roads shall be paved at least 100 feet (30 meters) onto the site from the main road.
- e. Traffic speeds on all unpaved roads shall be reduced to 15 miles per hour or less.

Additionally, the following construction emissions control measures from the SCAQMD CEQA Handbook are required to further minimize fugitive dust emissions:

- a. Disturbed areas shall be revegetated as quickly as possible.
- b. All excavating and grading operations shall be suspended when wind speeds (as instantaneous gusts) exceed 25 mph.
- c. All streets shall be swept once per day if visible soil materials are carried to adjacent streets (recommend water sweepers with reclaimed water).
- d. Wheel washer devices shall be installed at locations where vehicles enter and exit unpaved roads onto paved roads, or vehicles and any equipment leaving the site shall be washed each trip.
- e. All on-site roads shall be paved as soon as feasible, watered periodically, or chemically stabilized.
- f. The area disturbed by clearing, grading, earthmoving, or excavation operations shall be minimized at all times.
- g. The construction contractor shall select the construction equipment used on site based on low-emission factors and high-energy efficiency. The construction contractor shall ensure that construction-grading plans include a statement that all construction equipment will be tuned and maintained in accordance with the manufacturers' specifications.
- h. The construction contractor shall utilize electric or diesel-powered equipment in lieu of gasoline-powered engines where feasible.
- i. The construction contractor shall ensure that construction-grading plans include a statement that work crews will shut off equipment when not in use. During smog season (May through October), the overall length of the construction period will be extended, thereby decreasing the size of the area prepared each day, to minimize vehicles and equipment operating at the same time.
- j. The construction contractor shall time the construction activities so as to not interfere with peak-hour traffic and minimize obstruction of through traffic lanes adjacent to the site; if necessary, a flag person shall be retained to maintain safety adjacent to existing roadways.
- k. The construction contractor shall support and encourage ridesharing and transit incentives for the construction crew.

- 8. Standard Condition CR-1: Discovery of Archaeological Resources. Prior to commencement of grading activities, the City of Riverside Director of Building & Safety, or designee, shall verify that all project grading and construction plans include notes specifying that if inadvertent archaeological resources are discovered during excavation, grading, or construction activities, work shall cease in the area of the find until a qualified archaeologist has evaluated the find in accordance with federal, State, and local



guidelines, including those set forth in California Public Resources Code (PRC) Section 21083.2. Construction personnel shall not collect or move any archaeological materials and associated materials. Construction activity may continue unimpeded on other portions of the project site. The found deposits would be treated in accordance with federal, State, and local guidelines, including those set forth in PRC Section 21083.2.

9. Standard Condition NOI-1: Construction Noise. Prior to issuance of building permits, Planning staff, or designee, shall verify that all construction plans include notes stipulating the following:
  - a. Construction activities shall be restricted within the City of Riverside to the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday, 8:00 a.m. to 5:00 p.m. on Saturdays, and are prohibited on Sundays and federal holidays.
  - b. During all project site excavation and grading on site, the project contractors shall equip all construction equipment, fixed or mobile, with properly operating and maintained mufflers consistent with manufacturers' standards.
  - c. The project contractor shall place all stationary construction equipment so that emitted noise is directed away from sensitive receptors nearest the project site.
  - d. The construction contractor shall locate equipment staging in areas that will create the greatest distance between construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction.

*During Grading Activities:*

10. **\*MM TCR-2:** In the event of an inadvertent discovery of any tribal cultural resource(s), the applicant shall relinquish ownership of all such resources, including (but not limited to) sacred items, burial goods, and related archaeological artifacts and burial remains. The applicant shall relinquish the artifacts through one or more of the following methods:
  - a. A fully executed agreement with the consulting Native American tribe(s) for discovery of tribal cultural resources. This shall include measures and provisions to protect the future reburial area from any future impacts. Reburial shall not occur until all cataloguing and recordation on appropriate Department of Parks and Recreation (DPR) 523-series forms have been completed. Non-tribal cultural resources will be addressed in coordination with the City and qualified archaeologist in accordance with professional standards.
  - b. A curation agreement with an appropriate qualified repository within Riverside County that meets federal standards per 36 CFR Part 79. The collections and associated records shall be transferred, including title, to an appropriate curation facility within Riverside County be accompanied by payment of the fees necessary for permanent curation.
11. Standard Condition CR-2: Discovery of Human Remains. Consistent with the requirement of California Code of Regulations (CCR) Section 15064.5(e), if human remains are encountered, work within 25 feet of the discovery shall be redirected and the Riverside County Coroner notified immediately State Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code (PRC) Section 5097.98. If the remains are determined to be Native American, the County Coroner shall notify the Native American Heritage Commission (NAHC), which shall determine and notify a Most Likely Descendant (MLD). With the permission of the property owner, the MLD may inspect the site of the discovery. The MLD shall complete the inspection within 48 hours of notification by the NAHC. The MLD may recommend scientific removal and nondestructive analysis of

human remains and items associated with Native American burials. Consistent with CCR Section 15064.5(d), if the remains are determined to be Native American and an MLD is notified, the City shall consult with the MLD as identified by the NAHC to develop an agreement for treatment and disposition of the remains. As determine necessary by the City and MLD, Mitigation Measures TCR-1 through TCR-3 shall apply.

*During Grading/Construction Activities:*

12. Standard Condition AQ-2: Compliance with Title 13, California Code of Regulations, Section 2449(d)(d). Operators of applicable off-road vehicles (self-propelled diesel-fueled vehicles 25 horsepower and up that were not designed to be driven on-road) must limit idling to no more than five (5) minutes:
  - a. All construction vehicles shall be prohibited from idling in excess of five (5) minutes, both on and off site.
13. Standard Condition AQ-3: Compliance with applicable California Department of Resources Recycling and Recovery (CalRecycle) Sustainable (Green) Building Program Measures.
  - a. At least 50 percent of construction materials (including, but not limited to, soil, mulch, vegetation, concrete, lumber, metal, and cardboard) shall be recycle/reused.
  - b. "Green building materials" (e.g., those materials that are rapidly renewable or resource-efficient and recycled and manufactured in an environmentally friendly way) shall be used for at least 10 percent of the project, as specified on the California Department of Resources Recycling and Recovery website.

*Prior to Issuance of Building Permits:*

14. **\*MM AQ-1:** Prior to the issuance of building permits, the applicant shall provide to the City for review and approval, evidence that in-house filtration systems with efficiencies equal to or exceeding a Minimum Efficiency Reporting Value (MERV) 16 as defined by the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) Standard 52.2 are installed in on-site residential structures.
15. **\*MM AQ-2:** Prior to the issuance of building permits, the applicant shall provide to the City for review and approval, a copy of a *Toxic Air Contaminant Disclosure* that will be presented to prospective tenants of residences within the projects site. The *Toxic Air Contaminant Disclosure* shall convey information to prospective tenants about potential TAC exposure at the project site. As approved by the City, the *Toxic Air Contaminant Disclosure* shall contain the language dictated by State law in conjunction with rental/lease agreements.
16. Standard Condition AQ-4: Compliance with Title 24, Energy Conservation and Green Building Standards. Project design shall comply with Title 24 of the California Code of Regulations established by the California Energy Commission (CEC) regarding energy conservation and green building standards. The project applicant shall incorporate the following into the final project building plans:
  - a. Low-emission water heaters shall be used. Solar water heaters are encouraged.
  - b. Exterior windows shall utilize window treatments for efficient energy conservation.
17. Standard Condition GEO-1: Compliance with Applicable California Building Code and Project-specific Geotechnical Recommendations. Prior to the approval of grading and/or building permits, the applicant shall provide evidence to the City for review and approval that on-site structures, features and facilities have been designed and will be constructed

in conformance with applicable provisions of the California Building Code and the recommendations cited in the project-specific geotechnical investigation.

18. Standard Condition GHG-1: Greenhouse Gas Reduction Strategies. To ensure the proposed project complies with and would not conflict with or impede the implementation of reduction goals identified in the Riverside RRG-CAP, Assembly Bill (AB) 32, the Governor's Executive Order (EO) S-3-05, and other strategies to help reduce greenhouse gases (GHGs) to the level proposed by the Governor, the project will implement a variety of measures that will reduce its GHG emissions. To the extent feasible, and to the satisfaction of the City of Riverside (City), the following measures shall be incorporated into the design and construction of the project:
  - a. Construction and Building Materials.
    - i. Use locally produced and/or manufactured building materials for at least 10 percent of the construction materials used for the project.
    - ii. Recycle/reuse at least 50 percent of the demolished and/or grubbed construction materials (including, but not limited to, soil, vegetation, concrete, lumber, metal, and cardboard) if feasible.
    - iii. Use "green building materials," such as those materials that are resource-efficient and are recycled and manufactured in an environmentally friendly way, for at least 10 percent of the project.
  - b. Energy Efficiency Measures.
    - i. Design all project buildings to meet or exceed the California Building Code's (CBC) Title 24 energy standard, including, but not limited to, any combination of the following:
      - a. Increase insulation such that heat transfer and thermal bridging is minimized;
      - b. Limit air leakage through the structure or within the heating and cooling distribution system to minimize energy consumption; and
      - c. Incorporate ENERGY STAR® or better rated windows, space heating and cooling equipment, light fixtures, appliances, or other applicable electrical equipment.
    - ii. Install efficient lighting and lighting control systems. Use daylight as an integral part of the lighting systems in buildings.
    - iii. Install "cool" roofs and cool pavements.
    - iv. Install energy-efficient heating and cooling systems, appliances and equipment, and control systems.
    - v. Install solar lights or light-emitting diodes (LEDs) for outdoor lighting or outdoor lighting that meets the City Code.
  - c. Water Conservation and Efficiency Measures.
    - i. Devise a comprehensive water conservation strategy appropriate for the project and its location. The strategy may include the following, plus other innovative measures that may be appropriate:
      - a. Create water-efficient landscapes within the development.
      - b. Install water-efficient irrigation systems and devices, such as soil moisture-based irrigation controls.

- c. Use reclaimed water, if available, for landscape irrigation within the project. Install the infrastructure to deliver and use reclaimed water, if available.
  - d. Design buildings to be water-efficient. Install water-efficient fixtures and appliances, including low-flow faucets and waterless urinals.
  - e. Restrict watering methods (e.g., prohibit systems that apply water to non-vegetated surfaces) and control runoff.
- d. Solid Waste Measures.
  - i. To facilitate and encourage recycling to reduce landfill-associated emissions, among others, the project will provide trash enclosures that include additional enclosed area(s) for collection of recyclable materials. The recycling collection area(s) will be located within, near, or adjacent to each trash and rubbish disposal area. The recycling collection area will be a minimum of 50 percent of the area provided for the trash/rubbish enclosure(s) or as approved by the Waste Management Department of the City of Riverside.
  - vi. Provide employee education on waste reduction and available recycling services.
- e. Transportation Measures.
  - i. To facilitate and encourage non-motorized transportation, bicycle racks shall be provided in convenient locations to facilitate bicycle access to the project area. The bicycle racks shall be shown on project landscaping and improvement plans submitted for Planning Department approval and shall be installed in accordance with those plans.
  - vii. Provide pedestrian walkway and connectivity requirements.

*Standard Conditions:*

- 19. There shall be a two-year time limit in which to commence 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.
- 20. 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.
- 21. The Project must be completed per the Conditional Use Permit and Design Review approved by the Planning Commission, including all conditions listed in this report. Any substantial changes to the Project must be approved by the Planning Commission or minor modifications by Design Review Staff. Upon completion of the Project, a Design Review Staff inspection must be requested, and UTILITIES will not be released until it is confirmed that the approved plans and all conditions have been implemented.
- 22. 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.

23. The applicant is advised that the business or use for which this conditional use permit is granted cannot be legally conducted on the subject property until all conditions of approval have been met to the satisfaction of the Planning Division.
24. 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.
25. This use permit may be modified or revoked by the City Planning Commission or the City Council should they determine that the proposed use 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.
26. The applicant shall comply with all federal, state and local laws and 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.
27. This permit is issued based upon the business operations plan 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.
28. The applicant herein of the business 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.
29. Failure to abide by all conditions of this permit shall be cause for revocation.
30. The plans shall be submitted for plan check review to assure that all required conditions have been met prior to exercising of this permit.
31. 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.
32. The applicant shall continually comply with all applicable rules and regulations in effect at the time permit is approved and exercised and which may become effective and applicable thereafter.

#### **Public Works Department**

##### *Prior to Issuance of a Certificate of Occupancy:*

33. **\*MM TRA-1:** Prior to the issuance of certificate of occupancy, the Developer shall complete the following improvements, to the satisfaction of the Public Works Department:
  - a. Donald Avenue-Project Driveway/Indiana Avenue: Add a two-way left-turn (TWLTL) on Indiana Avenue.