



PLANNING COMMISSION

AGENDA REPORT

MEETING DATE: FEBRUARY 22, 2016

ITEM NUMBER: **PH1**

SUBJECT: TWO-YEAR TIME EXTENSION FOR PLANNING APPLICATION PA-13-29 AND TENTATIVE TRACT MAP NO. 17668, A 28-UNIT RESIDENTIAL AND LIVE/WORK DEVELOPMENT AT 2089, 2095 AND 2099 HARBOR BOULEVARD AND 511 HAMILTON STREET

DATE: FEBRUARY 4, 2016

FROM: PLANNING DIVISION / DEVELOPMENT SERVICES DEPARTMENT

PRESENTATION BY: MINOO ASHABI, PRINCIPAL PLANNER

FOR FURTHER INFORMATION CONTACT: MINOO ASHABI, AIA (714) 754-5610
minoo.ashabi@costamesaca.gov

DESCRIPTION

The proposed project is a request for two-year time extension for Planning Application PA-13-29 and Tentative Tract Map No. 17668, a 28-unit residential and live/work development at the southwest corner of Harbor Boulevard and Hamilton Street. The project site consists of several parcels totaling 1.53 acres (Assessor's Parcel Numbers 422-091-01, 422-091-08, 422-091-09, 422-091-07, 422-091-02, and 422-091-06) located at 2089, 2095 and 2099 Harbor Boulevard and 511 Hamilton Street.

AUTHORIZED AGENT

The authorized agent / property owner is Red Mountain Asset Fund II, LLC.

RECOMMENDATION

Adopt resolution to approve a two-year time extension for Planning Application PA-13-29 and Tentative Tract Map No. 17668 to be valid until May 27, 2018 by adoption of Planning Commission resolution, subject to conditions.

BACKGROUND

The project was approved by the Planning Commission on May 27, 2014 and included the following:

- 1) An Initial Study/Mitigated Negative Declaration
- 2) Planning Application PA-13-29 – Urban Master Plan for development of a 28-unit residential project including seven live/work units on 1.53-acres zoned Planned Community Commercial including the following deviations:
 - A Minor Modification to reduce the perimeter open space along Harbor Boulevard from 20 feet to 17 feet.
 - A Variance to reduce the perimeter open space along Hamilton Street from 20 feet to 10 feet.
 - Deviation from Residential Design Guidelines with respect to second and third floor ratios to first floor (100% allowed, 104% -110% percent proposed).
- 3) Tentative Tract Map 17668 – Subdivision of a 1.53-acre property for condominium purposes to allow private sale and ownership of the 28 residential and live/work units

The City Council held an appeal hearing on June 17, 2014 and upheld Planning Commission's decision with a 3-2 vote. The Planning Commission and City Council staff reports may be found at the following links:

<http://www.costamesaca.gov/modules/showdocument.aspx?documentid=14492>

<http://www.costamesaca.gov/modules/showdocument.aspx?documentid=14800>

Time Extension Request

Based on the request letter submitted by the applicant, the project has been delayed due to the challenges of cleaning up the groundwater and historical petroleum based soil contamination on the site, financing, and finding a suitable joint venture partner to build the project (Attachment 2).

Public Comments

This item was originally scheduled for January 11, 2016 Planning Commission meeting. The applicant requested that the Planning Commission continue the item to February 22, 2016 meeting. The Planning Commission opened the public hearing and took public testimony from Mr. Tim Lewis in opposition of the request. Following the meeting, the following correspondence were received in opposition of the request. Details of the issues noted in the letters are discussed below.

- Email dated January 8, 2016 – submitted by Mr. Tim Lewis
- Letter dated January 25, 2016 – submitted by Mr. Tim Lewis
- Email dated February 3, 2016– submitted by Mr. Tim Lewis

Staff's Response to Public Comments:

1) Failure to complete the remediation of the site and removal of remediation equipment.

The public comments indicate that the applicant has not fulfilled his obligations with regard to clean up of the site and the remediation has been stalled. The following is a summary of the letters received by staff in response to the site remediation process (Attachment 6):

- Letter issued by Orange County Health Care Agency (OCHCA) dated May 8, 2015. This letter indicated that the soil vapor investigations were conducted at the site between February 2012 and March 2014, during which 17 probes were installed on the site at the depth of 5 and 15 feet to assess the potential soil vapor risk to future residents. On October 8, 2014, and February 2, 2015 additional testing was conducted by Stantec under oversight of OCHCA. The letter indicated that assuming the accuracy of the testing, the shallow soil vapor samples demonstrate a less than one in one million of Incremental Lifetime Cancer Risk (ILCR) and the current soil vapor do not pose a threat to human health, safety or the environment under the residential scenario. The letter further noted that the OCHCA letter does not relieve the applicant of the requirements of Santa Ana Regional Water Quality Board
- Letter issued by Santa Ana Regional Water Quality Control Board dated May 22, 2015. This was a no further action letter related to investigation and remediation of soil for petroleum releases at the site; however, assessment of the ground water will continue until a no further action letter is issued for the ground water portion of the site.
- Email received on December 22, 2015 - staff was copied on an email from Ms. Rose Scott of the California Regional Water Quality Control Board to the property owner related to remediation activities on the site. The email indicated that the site was out of compliance with groundwater monitoring and remediation requirements; the remediation equipment was removed and several wells were damaged, and there was water ponding on the site allowing infiltration in the source area. The email also mentioned that the Orange County Health Care Agency's approval of the soil remediation was contingent upon continuing remediation of the ground water.

Based on the comments received from these regulatory agencies, the site is not in compliance with the mitigation measures and conditions of approval. The grading permit could not be issued at this point.

- Email received on December 21, 2015 – staff was copied on an email from the property owner to California Regional Water Quality Control Board Santa Ana Region confirming that the remediation on the site has been stalled. The property owner indicated that the processes in place for the remediation and monitoring was not progressing and the property owner has chosen to take a step back to re-access the process and retain other vendors to put together a plan of action for the property. The email indicates that hundreds of thousands of dollars were spent to try to mitigate this issue and the

desired results were not achieved under the current plan. It was also indicated that the Regional Water Control Board will be informed of the vendors and the plan of action for the project for review.

2) False statements on the Original Application Leading to Final Approvals.

The public comments indicate that the applicant was not authorized to sign the Planning Application since one of the proposed parcels was owned by the City. Staff has verified the ownership records and the vacation process for the dedication of the sliver along Charle Street (APN: 422-091-06); the vacation of the right-of-way was legally processed and the ownership was correctly shown on the Planning Application.

3) Failure to Move Forward with the Project Within One Year.

The public comments indicated that the project received a two-year approval instead of the typical one year.

Planning applications that include a subdivision map are subject to a two-year approval and subsequent time extensions could be requested from the Planning Commission. It is not uncommon for projects to receive a one-time extension since subdivisions take longer to process and in this case the site remediation was not completed. Based on submitted materials the site mediation was on-going until mid-year 2015.

Justification for Approval of Time Extension Request

Staff supports the request for time extension based on the following:

- The approved Planning Application PA-13-29 and Tentative Tract Map No. 17668 are in substantial compliance with the Zoning Code and the subdivision code. There have been no amendments to the General Plan and the Zoning Code that would affect the project.
- The time extension would provide the applicant with additional time in their site remediation and grading timeline.
- A demolition permit for on-site structures was issued on November 6, 2015 and the permit was finalized on November 20, 2015.
- To ensure that the remediation is progressing in a timely manner, staff recommends that the following conditions be required:
 - a. The applicant shall continue the soil and water remediation process in accordance with the requirements of the State and County agencies and submit documents indicating that progress has been made on the remediation efforts.
 - b. Screening material on the chain link fencing at the perimeter of the property shall be replaced within 90 days of the approval of the time extension.

GENERAL PLAN CONFORMANCE

The approved development was in conformance with the goals and policies of the General Plan.

ENVIRONMENTAL DETERMINATION

Pursuant to CEQA and the State CEQA Guidelines, an Initial Study/Mitigated Negative Declaration was prepared that was available for a 30-day public review from April 9, 2014 to May 9, 2014. The analysis found that although the project may have a significant effect on the environment, mitigation measures have been identified and applied to the project that reduce environmental impacts of the project to less than significant. Mitigation measures were adopted as Exhibit C of Planning Commission Resolution.

ALTERNATIVES

1. Approve the time extension. The entitlement would be extended to May 27, 2018.
2. Deny the time extension. The entitlement would expire on May 27, 2016 unless construction commences on the property.

CONCLUSION

Staff believes that approval of a time extension is appropriate and consistent with previous time extensions granted by the Planning Commission. The time extension would provide the applicant with ample time to obtain construction financing, building permits and other related requirements. Staff is not anticipating any change to the zoning code or general plan that would have a direct effect on this project.



MINOO ASHABI, AIA
Principal Planner



CLAIRE FLYNN, AICP
Assistant Director of Development
Services

- Attachments:
1. Planning Commission Resolution
 2. Applicant's Request Letter
 3. Location Map and 500-foot radius map
 4. Approved Concept Plans
 5. Public Comments
 6. Documents related to Remediation Process

Distribution: Director of Economic & Development Services/Deputy CEO
Assistant Development Services Director
Senior Deputy City Attorney
Public Services Director
City Engineer
Transportation Services Manager
Fire Protection Analyst
File (2)

Alton Klein
Red Mountain Asset Fund II, LLC
1234 17th Street
Santa Ana, CA 92701

Tim Lewis
Red-E-Rentals
2075 Harbor Blvd.
Costa Mesa, CA 92627

RESOLUTION NO. PC-16-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA APPROVING A TWO-YEAR TIME EXTENSION FOR PLANNING APPLICATION PA-13-29 AND TENTATIVE TRACT MAP NO. 17668, FOR A 28-UNIT RESIDENTIAL AND LIVE/WORK CONDOMINIUM DEVELOPMENT AT 2089, 2095 AND 2099 HARBOR BOULEVARD AND 511 HAMILTON STREET

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by Red Mountain Asset Fund II, LLC, the property owner, for a two-year time extension of Planning Application PA-13-29 and Tentative Tract Map 17668 with respect to the real property located at 2089, 2095 and 2099 Harbor Boulevard and 511 Hamilton Street;

WHEREAS, the project approved on May 27, 2014 involved a Tentative Parcel Map No. 17668 for residential subdivision of the parcel for condominium purposes and a Master Plan (PA-13-29) for development of a 28-unit residential and live/work development with the following deviations:

- A Minor Modification to reduce the perimeter open space along Harbor Boulevard from 20 feet to 17 feet.
- A Variance to reduce the perimeter open space along Hamilton Street from 20 feet to 10 feet.
- Deviation from Residential Design Guidelines with respect to second and third floor ratios to first floor (100% allowed, 104% -110% percent proposed).

WHEREAS, the Planning Commission approved PA-13-29 and Tentative Tract Map No. 17668 on May 27, 2014 by adoption of Resolution No. 14-28;

WHEREAS, the project was appealed; the City Council held a public hearing on June 17, 2014 and upheld Planning Commission's decision.

WHEREAS, the applicant requests approval of a two-year time extension to be applied from May 27, 2016 to May 27, 2018 for Planning Application PA-13-29 and Tentative Tract Map No. 17668;

WHEREAS, a duly noticed public hearing was held by the Planning Commission on February 22, 2016 to allow for public comments on the proposed time extension and with all persons having been given the opportunity to be heard both for and against the proposed project;

WHEREAS, the original findings and conditions of approval in the entirety for and PA-13-29 and Tentative Tract Map 17668 (Resolution No. 14-28, Exhibit 1) are still applicable to the project and attached hereto;

BE IT RESOLVED that the Planning Commission hereby **APPROVES** a two-year time extension for the time period from May 27, 2016 to May 27, 2018 for Planning Application PA-13-29 and Tentative Tract map no. 17668, with respect to the property described above.

BE IT FURTHER RESOLVED that if any section, division, sentence, clause, phrase or portion of this resolution, or the documents in the record in support of this resolution, are for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions.

BE IT FURTHER RESOLVED that the Planning Commission does hereby find and determine that the adoption of this Resolution is expressly predicated upon the record, findings, and activity described herein, and in the Council staff report for Planning Application PA-13-29 dated May 27, 2014. This time extension request is also based on the evidence in the record and findings as set forth in Exhibit "A" and subject to the applicant's compliance with each and all mitigation measures and conditions of approval as referenced in Exhibit "B" of this resolution.

PASSED AND ADOPTED this 22nd day of February 2016.

Robert L. Dickson, Jr., Chair
Costa Mesa Planning Commission

EXHIBIT "A"

FINDINGS

- A. The findings of the previously approved Planning Application PA-13-29 and Tentative Tract Map No. 17668 are still applicable and valid to the proposed residential project. These findings in their entirety are incorporated herein by reference.
- B. The two-year time extension for Planning Application PA-13-29, meets the broader goals of the 2000 General Plan, and Zoning Code, in that the time extension is consistent with the original intent of the project. Furthermore, there have been no amendments to the planning and policy documents of the City of Costa Mesa that would materially affect the amended Master Plan.
- C. Given that Harbor Boulevard is a major gateway in the city and that landscape/beautification projects have been implemented in recent years along Harbor Boulevard, it is critically important to have this property redeveloped in a timely manner. The time extension is granted if the applicant can demonstrate progress in remediation efforts, completion of demolition of all buildings and installation of property screening at the perimeter of the site.

EXHIBIT "B"

CONDITIONS OF APPROVAL

2. Applicant shall comply with the mitigation measures and conditions of approval of the previously-approved Planning Application PA-13-29 and Tentative Tract Map No. 17668 attached hereto as Exhibit 1. In their entirety, these are still applicable and valid to the proposed residential project and are incorporated herein by reference.
3. The time extension is contingent upon the applicant's compliance with the following conditions:
 - a. The applicant shall continue the soil and water remediation process in accordance with the requirements of the State and County agencies and submit documents indicating that progress has been made on the remediation efforts.
 - b. Screening material on the chain link fencing at the perimeter of the property shall be replaced within 90 days of the approval of the time extension.

RESOLUTION NO. PC-14-28

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA ADOPTING AN INITIAL STUDY / MITIGATED NEGATIVE DECLARATION; AND APPROVING, MASTER PLAN PA-13-29, AND TENTATIVE TRACT MAP 17668 FOR DEVELOPMENT OF 28 UNITS INCLUDING SEVEN LIVE/WORK UNITS AT 511 HAMILTON STREET; AND 2089, 2095 AND 2099 HARBOR BOULEVARD

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by South Coast Communities LLC on behalf of the property owner, Red Mountain Asset Fund I, LLC requesting approval of the following:

- 1) Adoption of an **Initial Study/Mitigated Negative Declaration (IS/MND)**.
- 2) **Planning Application PA-13-29** – Master Plan for development of a 28-unit residential project including seven live/work units to replace several vacant buildings on the site generally located at the southwest corner of Harbor Boulevard and Hamilton Street. The project includes the following requests:
 - A Minor Modification to reduce the perimeter open space along Harbor Boulevard from 20 feet to 17 feet.
 - A Variance to reduce the perimeter open space along Hamilton Street from 20 feet to 10 feet.
 - Deviation from Residential Design Guidelines with respect to second and third floor ratios to first floor (100% allowed, 104% - 110% percent proposed).
- 3) **Tentative Tract Map 17668** – Subdivision of a 1.53-acre property for condominium purposes to allow private sale and ownership of the live/work units.

WHEREAS, a duly noticed public hearing were held by the Planning Commission on May 27, 2014, with all persons provided an opportunity to speak for and against the proposed project;

WHEREAS, the environmental review for the project was processed in accordance with the requirements of the California Environmental Quality Act (CEQA), the State CEQA Guidelines and the City of Costa Mesa Environmental Guidelines, and the IS/MND was available for public review from April 9, 2014 to May 9, 2014;

WHEREAS, the Costa Mesa Planning Commission finds that the proposed live/work and residential project will not have a significant impact on the environment with the incorporation of the mitigation measures identified in the IS/MND;

WHEREAS, the Costa Mesa Planning Commission has considered responses to comments received during the public review period on the IS/MND;

WHEREAS, the subject property is physically suitable to accommodate Tentative Tract Map 17668 in terms of type, design and intensity of development, and will not result in substantial environmental damage nor public health problems, based on compliance with the City's Zoning Code and General Plan.

THEREFORE, BE IT RESOLVED that based on the evidence in the record, the findings contained in Exhibit "A", and subject to conditions of approval/mitigation measures indicated in the Mitigation Monitoring Program contained in Exhibits "B" and "C", the Planning Commission does hereby approved **Initial Study / Mitigated Negative Declaration for Master Plan PA-13-29** with respect to the property described above.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A," and subject to the conditions of approval contained within Exhibit "B," the Planning Commission hereby **APPROVES** Planning Application PA-13-29 and Tentative Tract Map 17668.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the staff report for Planning Application PA-13-29 and Tentative Tract Map 17668 and upon applicant's compliance with each and all of the conditions in Exhibit "B", and compliance of all applicable federal, state, and local laws. Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

PASSED AND ADOPTED this 27th day of May, 2014.



Jim Fitzpatrick, Chair
Costa Mesa Planning Commission

EXHIBIT "A"

FINDINGS

- A. The information presented in the administrative record substantially meets the required conditions of Costa Mesa Municipal Code Section 13-29(g)(5) in that:

Required Finding: The Master Plan meets the broader goals of the General Plan, any applicable specific plan, and the Zoning Code by exhibiting excellence in design, site planning, integration of uses and structures, and protection of the integrity of neighboring development.

Response: The City Council determined on February 4, 2014 that a residential project would be consistent with the General Plan and could proceed with entitlement processing as a master plan pursuant to the Zoning Code. The project combines several parcels currently vacant and developed with dilapidated buildings and replaces them with a high-quality, detached ownership units to improve the balance between rental and ownership opportunities. The project is a condominium development with a central driveway with primary ingress and egress provided at Charle Street and a secondary access from Hamilton Street. The proposed project is an example of private market investment that enhances the site and its surroundings. The project provides new housing opportunities at a density of 19 units per acre, which can be supported by the existing infrastructure.

- B. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(14) in that:

Required Finding: The project complies with the City of Costa Mesa Zoning Code and meets the purpose and intent of the Residential Design Guidelines, which are intended to promote design excellence in new residential construction, with consideration being given to compatibility with the established residential community. This design review includes site planning, preservation of overall open space, landscaping, appearance, mass and scale of structures, location of windows, varied roof forms and roof plane breaks, and any other applicable design features.

Response: The 28-unit condominium development includes a minor modification and a variance from the Zoning Code with regards to perimeter open space along Harbor Boulevard and Hamilton Street. With approval of these deviations, the design of the units meets the intent of the City's Residential Development Standards and Design Guidelines and promotes design excellence with consideration given to site planning and building orientation, overall open space, landscaping and architectural design. The project incorporates varied, high-quality building materials on the building elevations which include both horizontal and vertical modulation. Off-set forms provide a visual transition between the three levels and create both horizontal and vertical relief to the wall planes. Sufficient landscaping and open space is provided for each individual lot per the Zoning Code requirements.

Required Finding: The visual prominence associated with the construction of three-story homes in a predominately one-story neighborhood has been reduced through appropriate transitions between the first and second floors and the provision of second floor offsets to avoid long unarticulated two-story walls.

Response: The neighborhood is developed with single-story and two-story buildings. The elevations of the proposed residences include a variety of materials to highlight the vertical offsets and horizontal floor to floor transitions.

Required Finding: The proposed development plan and subdivision meets the broader goals of the General Plan, and the Zoning Code by exhibiting excellence in design, site planning, integration of uses and structures and protection of the integrity of neighboring development.

Response: The proposed project provides ownership opportunities for a neighborhood in transition in proximity to Harbor Boulevard commercial corridor.

- C. The proposed tentative tract map complies with Costa Mesa Municipal Code Section 13-29(g)(13) because:

Required Finding: The creation of the subdivision and related improvements is consistent with the General Plan and the Zoning Code.

Response: The creation of the subdivision is consistent with General Plan Land Use Element in that the project complies with Objectives 1A.4, 2A.7, and 2A.8 by developing owner-occupied housing to improve the balance between rental and ownership housing opportunities, the project encourages increased private market investment in declining or deteriorating neighborhoods.

Required Finding: The proposed use of the subdivision is compatible with the General Plan.

Response: The project density is 19 units per acre, consistent with the Objectives of the General Plan and the site's inclusion in the Planned Development Commercial Zoning that allows a maximum density of 20 units per acre.

Required Finding: The subject property is physically suitable to accommodate the subdivision in terms of type, design, and density of development, and will not result in substantial environmental damage nor public health problems, based on compliance with the Zoning Code and General Plan, and consideration of appropriate environmental information.

Response: An Initial Study/ Mitigated Negative Declaration was prepared for the project that identified specific mitigations measures related to biological resources, hazardous materials, land use and noise. With compliance with standard conditions of approval and incorporation of the

mitigation measures, potential impacts of the project will be less than significant.

Required Finding: The design of the subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities in the subdivision, as required by State Government Code Section 66473.1.

Response: The proposed project is designed with more than half of the buildings oriented in an east-west direction to take advantage of passive solar heating as well as passive ventilation from ocean breezes. The inclusion of a combination of medium and large size trees will also help provide shade to the residences.

Required Finding: The subdivision and development of the property will not unreasonably interfere with the free and complete exercise of the public entity and/or public utility rights-of-way and/or easements within the tract.

Response: As conditioned, the proposed project does not interfere with the public right of way.

Required Finding: The discharge of sewage from this subdivision into the public sewer system will not violate the requirements of the California Regional Water Quality Control Board pursuant to Division 7 (commencing with Section 13000 of the Water Code).

Response: The applicant will be required to comply with all regulations set forth by the Costa Mesa Sanitation District as well as the Mesa Water District.

- D. The information presented in the administrative record substantially meets the required conditions of Costa Mesa Municipal Code Section 13-29(g)(1) in that:

Required Finding: Because of special circumstances applicable to the property, the strict application of development standards deprives such property of privileges enjoyed by others in the vicinity under identical zoning classifications:

Response: The project site is an irregular shaped property with three frontages on public streets. Applying the perimeter setback requirements on all street frontages and specifically on Hamilton Street will restrict full development of the site. The Hamilton Street frontage is a secondary frontage typically treated as side yard on corner properties where primary access is provided from the front.

Required Finding: The deviation granted shall be subject to such conditions as will assure that the deviation authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated.

Response: The project is conditioned to provide additional trees and a decorative vehicular gate that will complement the Hamilton Street frontage.

Required Finding: The granting of the deviation will not allow a use, density, or intensity which is not in accordance with the general plan designation and any applicable specific plan for the property.

Response: The General Plan Land Use designation allows residential development of up to 20 du/acre on this site. The proposed is proposed at 19 du/acre.

- E. The proposed project meets the recommendation of the Residential Design Guidelines with four-sided architecture and incorporation of a variety of colors and materials. The proposed second and third floor ratio to first floor of 104% - 110% is not including the ground floor porches and roof extensions that will reduce the top heavy effects of the upper levels.
- F. In accordance with the requirements of the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the City of Costa Mesa Environmental Guidelines, an IS/MND was prepared that was available for public review from April 9, 2014 to May 9, 2014. With compliance with standard conditions of approval and incorporation of mitigation measures related to biological resources, hazardous materials, land use and noise, any potential environmental impacts will be less than significant.
- G. The project is exempt from Chapter IX, Article 11, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT "B"

CONDITIONS OF APPROVAL

- Plng.
1. The expiration of Planning Application PA-13-29 shall coincide with the expiration of the approval of the Tentative Tract Map 17668 which is valid for two years. An extension request is needed to extend the expiration for each additional year after the initial two-year period.
 2. The conditions of approval for PA-13-29 shall be blueprinted on the face of the site plan as part of the plan check submittal package.
 3. The Tentative Tract Map shall be processed as a subdivision for condominium purposes.
 4. A decorative six-foot high perimeter Masonry wall shall be constructed around the perimeter of the site, with the exception of southerly property line abutting Red-E-Rentals and the adjacent to the the medical office building at 2077 Harbor Blvd, which shall include an 8-foot high masonry block wall, prior to issuance of certificates of occupancy unless otherwise approved by the Development Services Director. Where walls on adjacent properties already exist, the applicant shall work with the adjacent property owner(s) to prevent side-by-side walls with gaps in between them and/or provide adequate privacy screening by trees and landscaping.
 5. The interior fences or walls between the homes shall be a minimum of six feet in height block walls or decorative fencing subject to approval of Development Services.
 - 6.
 7. The open, unassigned parking spaces shall be clearly marked as guest parking spaces. Signage will be posted to indicate that these spaces are available to all visitors.
 8. Prior to issuance of building permits, a final landscape plan indicating the landscape palette and the design/material of paved areas shall be submitted for review and approval by the Planning Division.
 9. The applicant shall plant a minimum of two, 48-inch box accent trees on opposite sides of the vehicular gate on Hamilton Street. The size and number of trees within the public rights-of-way on Harbor Boulevard and Charle Street shall be subject to review and approval of Public Services Department and final inspection by Development Services.
 10. Landscaping and irrigation shall be installed in accordance with the approved plans prior to final inspection or occupancy clearance including landscape screening (upright trees and shrubs) along Re-E-Rentals and the medical office building at 2077 Harbor Boulevard, to the satisfaction of the Development Services Director.
 11. No modification(s) of the approved building elevations including, but not limited to, change of architectural type, changes that increase the building height, removal of building articulation, or a change of the finish material(s), shall be made during construction without prior Planning Division written approval. Failure to obtain prior Planning Division

approval of the modification could result in the requirement of the applicant to (re)process the modification through a discretionary review process or a variance, or in the requirement to modify the construction to reflect the approved plans.

12. The exterior roof drain scuppers and drain downspouts shall be painted to match the building exterior(s). This condition shall be completed under the direction of the Planning Division. No exterior roof access ladders are permitted.
13. Prior to issuance of grading permits, developer shall submit for review and approval a Construction Management Plan. This plan features methods to minimize disruption to the neighboring residential uses to the fullest extent that is reasonable and practicable. The plan shall include construction parking and vehicle access and specifying staging areas and delivery and hauling truck routes. The plan should mitigate disruption to residents during construction. The truck route plan shall preclude truck routes through residential areas and major truck traffic during peak hours. The total truck trips to the site shall not exceed 200 trucks per day (i.e., 100 truck trips to the site plus 100 truck trips from the site) unless approved by the Development Services Director or Transportation Services Manager.
14. The subject property's ultimate finished grade level may not be filled/raised in excess of 30 inches above the finished grade of any abutting property. If additional fill dirt is needed to provide acceptable on-site storm water flow to a public street, an alternative means of accommodating that drainage shall be approved by the City's Building Official prior to issuance of any grading or building permits. Such alternatives may include subsurface tie-in to public storm water facilities, subsurface drainage collection systems and/or sumps with mechanical pump discharge in-lieu of gravity flow. If mechanical pump method is determined appropriate, said mechanical pump(s) shall continuously be maintained in working order. In any case, development of subject property shall preserve or improve the existing pattern of drainage on abutting properties.
15. The applicant shall contact the Planning Division to arrange a Planning inspection of the site prior to the release of occupancy/utilities. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
16. To avoid an alley-like appearance, the private street shall not be developed with a center concrete swale. The private street shall be complemented by stamped concrete or pervious pavers as approved by Development Services Director.
17. Prior to issuance of building permits, the applicant shall provide the Conditions, Covenants, and Restrictions (CC&Rs) to the Development Services Director and City Attorney's office for review. The CC&Rs must be in a form and substance acceptable to, and shall be approved by the Development Services Director and City Attorney's office.
 - A. The CC&Rs shall contain provisions requiring that the HOA

homeowner's association (HOA) effectively manage parking and contract with a towing service to enforce the parking regulations, and to prevent to the maximum extent possible guest and resident parking on adjacent properties.

B. The CC&Rs shall also contain provisions related to night-time lighting and active use of the common areas (if applicable). These provisions shall prohibit amplified noise, loud parties/gatherings, night-time lighting other than for security purposes, or any other activities that may be disruptive to the quiet enjoyment of neighboring properties after sunset.

C. The CC&Rs shall also contain provisions related to use, preservation and maintenance of the common drive aisle and open space areas in perpetuity by the homeowner's association.

D. The CC&Rs shall contain restrictions requiring residents to park vehicles in garage spaces provide for each unit, be that a one, two or three car garage. Storage of other items may occur only to the extent that vehicles may still be parked within the require garage spaces.

E. The CC&Rs shall include reference to Permitted uses in the live/work units shall be restricted to the Land Use Matrix of approved uses attached as Exhibit D and note that the seven live/work units to be marketed and maintained as live/work units.

F. The CC&Rs shall include a statement that the current configuration of the access from Charle Street is not adequate for installation of a vehicular gate in the future.

G. Any subsequent revisions to the CC&Rs related to these provisions must be reviewed and approved by the City Attorney's office and the Development Services Director before they become effective.

18. The CC&Rs shall be recorded prior to issuance of certificates of occupancy.
19. Prior to issuance of building permits, the applicant shall provide proof of recordation of Tract Map 17668.
20. Transformers, backflow preventers, and any other approved above-ground utility improvement shall be located outside of the required street setback area and shall be screened from view, under direction of Planning staff. Any deviation from this requirement shall be subject to review and approval of the Development Services Director.
21. Prior to release of any utilities, the applicant shall provide proof of establishment of a Homeowners Association.
22. The applicant shall defend, indemnify, and hold harmless the City, its elected and appointed officials, agents, officers and employees from any claim, action, or proceeding (collectively referred to as "proceeding") brought against the City, its elected and appointed officials, agents, officers or employees arising out of, or which are in any way related to, the applicant's project, or any approvals granted by City related to the applicant's project. The indemnification shall include, but not be limited to,

damages, fees and/or costs awarded against the City, if any, and cost of suit, attorney's fees, and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the applicant, the City and/or the parties initiating or bringing such proceeding. This indemnity provision shall include the applicant's obligation to indemnify the City for all the City's costs, fees, and damages that the City incurs in enforcing the indemnification provisions set forth in this section. City shall have the right to choose its own legal counsel to represent the City's interests, and applicant shall indemnify City for all such costs incurred by City.

23. Permitted uses in the live/work units shall be restricted to the Land Use Matrix of approved uses attached as Exhibit D. Developer shall market and offer the 7 units with ground floor work space as live/work units to potential buyers.
24. Prior to issuance of building permits, the building plans shall demonstrate that all units are equipped with a mechanical ventilation system that will properly filter the indoor air. The ventilation system can be a component of the air conditioning system with the distinction being that clean, ventilated air flow does not necessarily need coolant.
25. Prior to issuance of the building permit, the first floor plan, of Units Cx and DX shall be revised to remove the reference to the wall separating the work space from hallway and entrance to increase the size of the workspace.
26. A "Notice to Buyers" shall disclose that the project is located within an area designated as General Commercial in the City of Costa Mesa General Plan and is subject to existing and potential annoyances or inconveniences associated with commercial land uses. The Notice shall disclose the existing surrounding commercial land uses, including but not limited to, operational characteristics such as hours of operation, delivery schedules, outdoor activities, and noise and odor generation. In addition, the Notice shall state that the existing land use characteristics are subject to change in the event that new businesses move or existing businesses change ownership. The Buyer's Notice shall be reviewed/approved by the City Attorney's office and Development Services Director prior to recordation. The Buyer's Notice shall serve as written notice of the then existing noise environment and any odor generating uses within the development and within a 500-foot radius of the development, as measured from the legal property lines of the development lot. The Buyer's Notice shall be remitted to any prospective purchaser or tenant at least 15 days prior to close of escrow, or within three days of the execution of a real estate sales contract or rental/lease agreement, whichever is longer. The final document shall be provided to adjacent property owners for reference. The Buyer's Notice shall also indicate that business operations in the live/work units shall be consistent with the land use matrix included in Exhibit D and subject to zoning authorization and obtaining a business license.

27. Prior to the issuance of Building Permits, the Applicant shall submit a Lighting Plan and photometric Study for the approval of the City's Development Services Department. The Lighting Plan shall demonstrate compliance with the following:

- The mounting height of lights on light standards shall not exceed 18 feet in any location on the project site unless approved by the Development Services Director.
- The intensity and location of lights on buildings shall be subject to the Development Services Director's approval.
- All site lighting fixtures shall be provided with a flat glass lens. Photometric calculations shall indicate the effect of the flat glass lens fixture efficiency.
- Lighting design and layout shall limit spill light to no more than 0.5 foot candle at the property line of the surrounding neighbors, consistent with the level of lighting that is deemed necessary for safety and security purposes on site.
- Glare shields may be required for select light standards.

28. Prior to issuance of building permits, developer shall contact the U.S. Postal Service with regard to location and design of mail delivery facilities. Such facilities shall be shown on the site plan, landscape plan, and/or floor plan.

Utilities 29. Prior to the issuance of a connection permit, the applicant shall pay the applicable water connection fees.

Trans. 30. Construct driveways approaches at locations specified on submitted site plan.

31. Close any unused drive approaches with full height curb and gutter, per City standards.

32. The applicant shall extend the length of the eastbound left-turn storage lane on Hamilton Street by an additional 50 feet for a total storage length of 200 feet, to the satisfaction of Transportation Division Manager.

CODE REQUIREMENTS (PA-13-29, TTM 17668)

The following list of federal, state and local laws applicable to the project has been compiled by staff for the applicant's reference. Any reference to "City" pertains to the City of Costa Mesa.

- Plng.
1. All contractors and subcontractors must have valid business licenses to do business in the City of Costa Mesa. Final inspections, final occupancy and utility releases will not be granted until all such licenses have been obtained.
 2. Address assignment shall be requested from the Planning Division prior to submittal of working drawings for plan check. The approved address of individual units, suites, buildings, etc., shall be blueprinted on the site plan and on all floor plans in the working drawings.
 3. Prior to issuance of building permits, applicant shall contact the US Postal Service with regard to location and design of mail delivery facilities. Such facilities shall be shown on the site plan, landscape plan, and/or floor plan.
 4. Two (2) sets of detailed landscape and irrigation plans, which meet the requirements set forth in Costa Mesa Municipal Code Sections 13-101 through 13-108 and the City's Water Efficient Landscape Guidelines, shall be required as part of the project plan check review and approval process. Plans shall be forwarded to the Planning Division for final approval prior to issuance of building permits.
 5. Two (2) sets of landscape and irrigation plans, approved by the Planning Division, shall be attached to two of the final building plan sets.
 6. All on-site utility services shall be installed underground.
 7. Installation of all utility meters shall be performed in a manner so as to obscure the installation from view from any place on or off the property. The installation shall be in a manner acceptable to the public utility and shall be in the form of a vault, wall cabinet, or wall box under the direction of the Planning Division.
 8. Any mechanical equipment such as air-conditioning equipment and duct work shall be screened from view in a manner approved by the Planning Division.
 9. If present and/or projected exterior noise exceeds 60 CNEL, California Noise Insulation Standards, Title 25, California Code of Regulations require a maximum interior noise level of 45 CNEL for residential structures. If required interior noise levels are achieved by requiring that windows be inoperable or closed, the design for the structure must also specify the means that will be employed to provide ventilation, and cooling if necessary, to provide a habitable interior environment.
 10. Street trees in the landscape parkway shall be selected from Appendix D of the Streetscape and Median Development Standards and appropriately sized and spaced (e.g. 15-gallon size planted at 30' on centers), or as determined by the Development Services Director once the determination of parkway size is made. The final landscape concept plan shall indicate the design and material of these areas, and the landscape/hardscape plan shall be approved by the Planning Division prior to issuance of building permits.
 11. In the event that archaeological resources are encountered during grading and construction, all construction activities shall be temporarily halted or redirected to permit the sampling, identification, and evaluation of archaeological materials as determined by the City, who shall establish, in cooperation with the project applicant and a certified archaeologist, the appropriate procedures

for exploration and/or salvage of the artifacts.

12. In the event that paleontological resources are encountered during grading and construction operations, all construction activities shall be temporarily halted or redirected to permit a qualified paleontologist to assess the find for significance and, if necessary, develop a paleontological resources impact mitigation plan (PRIMP) for the review and approval by the City prior to resuming excavation activities.
13. If human remains are encountered, 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 Section 5097.98. The County Coroner must be notified of the find immediately. If the remains are determined to be prehistoric, the Coroner will notify the Native American Heritage Commission (NAHC), which will determine and notify a Most Likely Descendant (MLD). With the permission of the landowner or his/her authorized representative, the MLD may inspect the site of the discovery. The MLD shall complete the inspection within 24 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.
14. All construction contractors shall comply with South Coast Air Quality Management District (SCAQMD) regulations, including Rule 403, Fugitive Dust. All grading (regardless of acreage) shall apply best available control measures for fugitive dust in accordance with Rule 403. To ensure that the project is in full compliance with applicable SCAQMD dust regulations and that there is no nuisance impact off the site, the contractor would implement each of the following:
 - Moisten soil not more than 15 minutes prior to moving soil or conduct whatever watering is necessary to prevent visible dust emissions from exceeding 100 feet in any direction.
 - Apply chemical stabilizers to disturbed surface areas (completed grading areas) within five days of completing grading or apply dust suppressants or vegetation sufficient to maintain a stabilized surface.
 - Water excavated soil piles hourly or covered with temporary coverings.
 - Water exposed surfaces at least twice a day under calm conditions. Water as often as needed on windy days when winds are less than 25 miles per day or during very dry weather in order to maintain a surface crust and prevent the release of visible emissions from the construction site.
 - Wash mud-covered tires and under-carriages of trucks leaving construction sites.
 - Provide for street sweeping, as needed, on adjacent roadways to remove dirt dropped by construction vehicles or mud, which would otherwise be carried off by trucks departing project sites.
 - Securely cover loads with a tight fitting tarp on any truck leaving the construction sites to dispose of debris.
 - Cease grading during period when winds exceed 25 miles per hour.
 - Water exposed surfaces three times per day.
 - Water exposed surfaces three times per day.

Bldg.

15. Comply with the requirements of the 2013 California Building Code, 2013 California Residential Code, 2013 California Electrical Code, 2013 California Mechanical Code, 2013 California Plumbing Code, 2013 California Green Building Standards Code and 2013 California Energy Code (or the applicable adopted, California Building Code, California Residential Code, California Electrical Code, California Mechanical Code, California Plumbing Code, California Green Building Standards, and California Energy Code at the time of plan submittal or permit issuance) and California Code of Regulations also known as the California Building Standards Code, as amended by the City of Costa Mesa. Areas of alteration and additions shall comply with 2013 California Green Building Standards Code section 5.303.2 and 5.303.2
16. The applicant shall submit grading plans, an erosion control plan and a hydrology study. A precise grading plan shall not be required if any of the following are met:
 - 1- An excavation which does not exceed 50 CY on any one site and which is less than two feet in vertical depth, or which does not create a cut slope greater than 1 ½:1 (excluding foundation area).
 - 2- A fill less than one foot in depth placed on natural grade with a slope flatter than 5:1, which does not exceed 50 CY on any one lot and does not obstruct a drainage course.
 - 3- A fill less than three feet in depth, not intended to support structures, which does not exceed 50 CY on any one lot and does not obstruct a drainage course.
17. The applicant shall submit a soils report for this project. Soil's Report recommendations shall be blueprinted on both the architectural and grading plans. For an existing slopes or when new slopes are proposed the Soils report shall address how existing slope or the new slope will be maintained to avoid any future failure.
18. Prior to the issuance of Grading Permits, the project applicant shall provide the City of Costa Mesa Department of Building Safety the geotechnical investigation of the project site detailing recommendations for remedial grading in order to reduce the potential of onsite soils to cause unstable conditions. Design, grading, and construction shall be performed in accordance with the requirements of the California Building Code applicable at the time of grading, appropriate local grading regulations, and the recommendations of the geotechnical consultant as summarized in a final written report, subject to review by the City of Costa Mesa Department of Building Safety.
19. The project shall comply with the NPDES requirements, as follows:
 - Construction General Permit Notice of Intent (NOI) Design: Prior to the issuance of preliminary or precise grading permits, the project applicant shall provide the City Engineer with evidence that an NOI has been filed with the Storm Water Resources Control Board (SWRCB). Such evidence shall consist of a copy of the NOI stamped by the SWRCB or Regional Water Quality Control Board (RWQCB), or a letter from either agency stating that the NOI has been filed.
 - Construction Phase Storm Water Pollution Prevention Plan (SWPPP): Prior to the issuance of grading permits, the applicant shall prepare a SWPPP that complies with the Construction General Permit and will

include at a minimum a detailed discussion of the BMPs planned for the project related to control of sediment and erosion, nonsediment pollutants, and potential pollutants in non-storm water discharges, and post-construction BMPs for the project.

- Explain the maintenance program for the project's BMPs
- List the parties responsible for the SWPPP implementation and the BMP maintenance during and after grading. The project Applicant shall implement the SWPPP and modify the SWPPP as directed by the Construction General Permit.

20. On graded sites the top of exterior foundation shall extend above the elevation of the street gutter at point of discharge or the inlet of an approved discharge devise a minimum of 12 inches plus two percent. 2013 California Building Code CRC 403.1.7.3.
21. The lot shall be graded to drain surface water away from foundation walls. The grade shall fall a minimum of six inches within the first ten feet. CRC R401.3
22. Projections, including eaves, shall be one-hour fire resistive construction, heavy timber or of noncombustible material if they project into the five foot setback area from the property line. They may project a maximum of 12 inches beyond the three foot setback. CRC Tables R302.1(1) and R302.1(2).
23. During demolition, grading, and excavation, workers shall comply with the requirements of Title 8 of the California Code of Regulations, Section 1529, which provides for exposure limits, exposure monitoring, respiratory protection, and good working practices by workers exposed to asbestos. Asbestos-contaminated debris and other wastes shall be managed and disposed of in accordance with the applicable provision of the California Health and Safety Code.
24. During demolition, grading, and excavation, workers shall comply with the requirements of Title 8 of the California Code of Regulations, Section 1532.1, which provides for exposure limits, exposure monitoring, respiratory protection, and good working practice by workers exposed to lead. Lead-contaminated debris and other wastes shall be managed and disposed of in accordance with the applicable provision of the California Health and Safety Code.

- Trans. 25. Full mitigation of off-site traffic impacts at the time of issuance of Certificate of Occupancy by submitting to the Transportation Division the required Traffic Impact Fee pursuant to the prevailing schedule of charges adopted by the City Council.

Note: The Traffic Impact Fee will be recalculated at the time of issuance of Certificate of Occupancy based upon any changes in the prevailing schedule of charges adopted by the City Council and in effect at that time.

- Fire 26. A Fire Master Plan that includes (1) final details of the access gate at Hamilton, (2) location of fire hydrants, and (3) fire access management (fire lane), shall be approved by the Costa Mesa Fire Department prior to the issuance of a Building Permit.
27. Provide (2) Class A Fire Hydrants to be located per the direction of the Costa Mesa Fire Department. Fire Hydrants shall be capable of providing a minimum of 1500 gpm at 20 psi.

28. Vehicular access shall be provided and maintained serviceable throughout construction to all required fire hydrants. The road shall be all weather and capable of supporting fire apparatus.
29. All homes shall be provided with residential fire sprinkler systems in accordance with the California Fire Code, 2013.
30. The project shall provide individual numeric signage for proposed residences with minimum 6 inches height.

Sani.

- 31.
32. The applicant shall submit a trash pick-up route subject to review and approval of the Costa Mesa Sanitation District (CMSD). The route shall facilitate cart pick-up on the right hand side of the truck. The bins shall be placed side-by-side approximately 1 foot apart and at least 3 feet from any obstruction. If we CMSD cannot safely service this property, dumpster service shall be required.
33. The applicant shall submit plans for review and approval by the Mesa Water District.

Police

34. As final building plans are submitted to the City of Costa Mesa for review and approval, the Costa Mesa Police Department shall review all plans for the purpose of ensuring that design requirements are incorporated into the building design to increase safety and avoid unsafe conditions. These measures focus on security measures are recommended by the Police Department, including but not limited to, the following:
 - Lighting shall be provided in open areas and parking lots.
 - Required building address numbers shall be readily apparent from the street.
 - Emergency vehicle parking areas shall be designated within proximity to buildings.
 - Prior to the issuance of a grading permit, the City of Costa Mesa Police Department shall review and approve the developer's project design features to ensure adequate security measures are incorporated into the project design and that sufficient personnel/resources are available to meet the demands of the proposed project. Any requirements with regard to additional resources shall be completed by the Developer and shall be implemented to the satisfaction of the Police Chief to ensure that emergency response impacts are minimized to below a level of significance.

Eng.

35. Comply with the requirements contained in the letter prepared by the City Engineer dated May 14, 2014 (attached as Exhibit E).
36. Prior to approval of Plans, the project shall fulfill the City of Costa Mesa Drainage Ordinance No. 06-19 requirements.
37. Submit required cash deposit or surety bond to guarantee construction of off-site street improvements at time of permit per Section 15-32, C.C.M.M.C. and as approved by City Engineer. Cash deposit or surety bond amount to be determined by City Engineer.
38. Construction Access Permit and deposit of \$1500 will be required by City of

Costa Mesa, Engineering Division prior to start of any on-site work, necessary during construction for street sweeping and to guarantee replacement costs in case of damage to existing public improvements.

39. Maintain the public Right-of-Way in a "wet-down" condition to prevent excessive dust and remove any spillage from the public Right-of-Way by sweeping or sprinkling.
40. Haul routes must be approved by the City of Costa Mesa, Transportation & Engineering Division.
41. Submit subdivision application and comply with conditions of approval and code requirements.
42. Obtain a permit from the City of Costa Mesa, Engineering Division, at the time of development and then construct P.C.C. driveway approach per City of Costa Mesa Standards as shown on the Offsite Plan. Location and dimensions are subject to the approval of the Transportation Services Manager. ADA compliance required for all new driveway approaches.
43. Obtain a permit from the City of Costa Mesa, Engineering Division, at the time of development and then remove any existing driveways and/or curb depressions that will not be used and replace with full height curb and sidewalk at applicant's expense.
44. Private on-site drainage facilities and parkway culverts or drains will not be maintained by the City of Costa Mesa; they shall be maintained by the owner or developer of the property. Private lateral connections to City storm drains will require a hold harmless agreement prior to issuance of permit.
45. Prior to issuance of building permits, a letter shall be obtained from the Costa Mesa Sa District and the Orange County Sanitation District verifying that there is sufficient capacity receiving trunk lines to serve the project.
46. The applicant shall comply with guidelines provided by Southern California Edison Company with respect to easement restrictions, construction guidelines, and potential amendments to right-of-way in the areas of any existing Southern California Edison Company easements.
47. Prior to the issuance of building permits, the project applicant shall pay the applicable connection fees charged to new development by the Mesa Consolidated Water District.
48. Prior to issuance of occupancy permits, the Developer shall pay a park impact fee or dedicate parkland to meet the demands of the proposed development.
49. Applicant/Developer is hereby advised that no removal of trees from the public right-of-way will be permitted without specific approval from the Parks and Recreation Commission and compliance with mitigation measures as determined by the Commission to relocate the trees and/or to compensate the City for the loss of trees from the public right-of-way. Conditions of the Commission must be incorporated onto the plans prior to plan approval. The

Parks

approval process may take up to three months, therefore, the applicant/developer is advised to identify all tree affected by the proposed project and make timely application to the Parks and Recreation Commission to avoid possible delays.

50.

SPECIAL DISTRICT REQUIREMENTS (PA-13-29, TTM 17668)

The requirements of the following special districts are hereby forwarded to the applicant:

- | | | |
|--------|----|--|
| Sani. | 1. | Applicant will be required to construct sewers to serve this project, at his own expense, meeting the approval of the Costa Mesa Sanitary District. |
| | 2. | County Sanitation District fees, fixture fees, inspection fees, and sewer permit are required prior to installation of sewer. To receive credit for buildings to be demolished, call (714) 754-5307. |
| | 3. | Applicant shall submit a plan showing sewer improvements that meets the District Engineer's approval to the Building Division as part of the plans submitted for plan check. |
| | 4. | The applicant is required to contact the Costa Mesa Sanitary District at (714) 754-5307 to arrange final sign-off prior to certificate of occupancy being released. |
| | 5. | Unless an off-site trash hauler is being used, applicant shall contact the Costa Mesa Sanitary District at (714) 754-5043 to pay trash collection program fees and arrange for service for all new residences. Residences using bin or dumpster services are exempt from this requirement. |
| | 6. | Applicant shall contact Costa Mesa Sanitary District at (949) 654-8400 for any additional district requirements. |
| AQMD | 7. | Applicant shall contact the Air Quality Management District (AQMD) at (800) 288-7664 for potential additional conditions of development or for additional permits required by AQMD. |
| School | 8. | Pay applicable Newport Mesa Unified School District fees to the Building Division prior is issuance of building permits. |
| State | 9. | Comply with the requirements of the California Department of Food and Agriculture (CDFA) to determine if red imported fire ants (RIFA) exist on the property prior to any soil movement or excavation. Call CDFA at (714) 708-1910 for information. |

Exhibit C Mitigation Monitoring Program

Mitigation Measures	Action Required	Monitoring Phase	Responsible Agency / Party	Compliance Verification		
				Initial	Date	Comments
Biological Resources						
MM BIO-1: Migratory Bird Treaty Act. In the event that the City Commons project construction or grading activities should occur within the active breeding season for birds (i.e., February 15–August 15), a nesting bird survey shall be conducted by a qualified biologist prior to commencement of construction activities. If active nesting of birds is observed within 100 feet of the designated construction area prior to construction, the construction crew shall establish an appropriate buffer around the active nest. The designated project biologist shall determine the buffer distance based on the specific nesting bird species and circumstances involved. Once the project biologist verifies that the birds have fledged from the nest, the buffer may be removed. Prior to commencement of grading activities and issuance of any building permits, the City of Costa Mesa (City) Economic and Development Services Director, or designee, shall verify that all project grading and construction plans include specific documentation regarding the requirements of the Migratory Bird Treaty Act (MBTA), that preconstruction surveys have been completed and the results reviewed by staff, and that the appropriate buffers (if needed) are noted on the plans and established in the field with orange snow fencing.	The applicant shall perform a nesting bird survey and protect nesting birds	Prior to Grading or Building Permit	City of Costa Mesa Planning Department			
HAZARDS AND HAZARDOUS MATERIALS						
MM HAZ-1: Prior to demolition activities, removal and/or abatement of buildings with lead-based paints and hazardous materials associated with the existing building materials shall be conducted by a qualified environmental professional in consultation with the Costa Mesa Fire Department. A hazardous materials abatement specification shall be developed by the qualified environmental professional, in order to clearly define the scope and objective of the abatement activities.	Lead Paint Removal	Prior to Demolition	Building and Safety			
MM HAZ-2: Prior to investigations, demolition, or renovation, all activities shall be coordinated with Dig Alert (811).	Coordinate w/ Dig Alert	Prior to Demolition	Building and Safety			
MM HAZ-3: Visual inspections for areas of impact to soil shall be conducted during site grading. If unknown or suspect materials are discovered during construction by the contractor that are believed to involve	Applicant to look for signs of hazardous waste. And report to City	During Construction	City Engineer and Costa Mesa Fire Dept.			

<p>hazardous wastes or materials, the contractor shall:</p> <ul style="list-style-type: none"> ▪ Immediately stop work in the vicinity of the suspected contaminant, removing workers and the public from the area; ▪ Notify the City Engineer and Costa Mesa Fire Department; ▪ Secure the area(s) in question; and ▪ Implement required corrective actions, including remediation if applicable. 						
<p>MM HAZ-4: Prior to Building Permit issuance, additional soil and soil vapor sampling shall be performed in the area of the former Randy's Automotive repair facility in the eastern portion of the project site. If investigation results show elevated soil and soil vapor concentrations and the subsequent HHRA shows calculated residential risk levels significantly greater than 1×10^{-6}, then vapor barriers and subsequent monitoring beneath select residential units may be required.</p>	<p>Conduct soil and soil vapor sampling</p>	<p>Prior to Building Permit</p>	<p>City of Costa Mesa Planning Department & Building and Safety</p>			
<p>MM HAZ-5: On the basis of MM HAZ-4, if it is determined that soil vapor barriers are required, measures to assure the proper installation, monitoring and continued proper functioning of such barriers shall be identified and submitted to the City prior to issuance of grading permits.</p>	<p>Implement vapor monitoring and install vapor barriers</p>	<p>Prior to Grading or Building Permit</p>	<p>City of Costa Mesa Planning Department & Building and Safety</p>			
LAND USE						
<p>MM LU-1: Prior to the issuance of a certificate of occupancy, Conditions, Covenants and Restrictions (CC&Rs) must be prepared and submitted the Building Official for review and approval, which requires the reservation of the right for the City to create a pedestrian and vehicular connection between Lots 21 and 22 on the project site and the southerly property.</p>	<p>Record CC&R's</p>	<p>Prior to Certificate of Occupancy</p>	<p>City of Costa Mesa Planning Department</p>			
NOISE						
<p>MM NOI-1: Prior to issuance of building permits, a qualified Acoustical Scientist shall be retained to prepare a Final Acoustical Impact Report, utilizing precise grading plans, and detailed floor and elevation plans, for units with direct exposure to Harbor Boulevard. Said report must be able to demonstrate compliance or effective mitigation (such as noise control barriers) that will reduce noise impacts to within compliance (45 dBA CNEL residential interior, 65 dBA CNEL exterior; 50 dBA CNEL commercial interior). In the event required noise levels are exceeded, upgraded design specifications and/or materials shall be incorporated in order to meet the standards.</p>	<p>Prepare final Acoustical Report</p>	<p>Prior to Building Permit</p>	<p>City of Costa Mesa Planning Department & Building and Safety</p>			

"EXHIBIT D"
Permitted Uses

<u>LAND USE MATRIX</u> P= Permitted Uses	
LIVE/WORK UNITS	
• Artists, craftspersons, sculpture studios (woodworking, furniture restoration, painting, ceramics, etc.)	P
• Commercial art, graphic design, website designers	P
• Computer and data processing	P
• Legal, Engineering; Architectural; and Surveying services	P
• Offices: Professional, central admin., general, bookkeeping and data processing	P
• Photography Studio	P
• One-on-one Studio Use: Sole Practitioner for Dance; Martial arts; Music, Yoga, etc.	P
<p>NOTES: All businesses subject to zoning approval to ensure adequacy in parking and compatibility with a residential environment.</p> <p>All other uses not specified in this table are either prohibited or may require a Conditional Use Permit, as deemed by the Development Services Director.</p>	

RED MOUNTAIN ASSET FUND II, LLC

November 19, 2015

Minoo Ashabi, Principle Planner
City of Costa Mesa - Development Services, Economic Development
77 Fair Drive
Costa Mesa, CA 92626

RE: Letter of Explanation for 24 Month extension request for approved Planning Application PA-13-29

Ms. Ashabi;

Red Mountain Asset Fund II, LLC is requesting a 24 month extension from our current Planning Application (PA-13-29) approval date which will expire on June 17, 2016. The project consists of an urban master plan for development of a 28 unit residential project including seven live/work units on 1.53 acres zoned Planned Community Commercial.

As the Planning Department and the Planning Commission were aware, there have been some mitigating circumstances that Red Mountain has had to contend with on the site in regards to the cleanup of the groundwater and historical petroleum based soil contamination. The groundwater issue has been mitigated to the satisfaction of the Santa Ana Water Quality Control Board (SAWQCB) and has met the min. standards as determined by SAWQCB – as indicated in a letter dated May 23, 2014 found in the approved Planning application). In addition, Red Mountain has recently received a “Notice of No Further Action” letter from SAWQCB dated May 22, 2015 (see enclosed letter) regarding the remediation of the contaminated soil on the site.

In light of the recent receipt of the Notice of No further Action on the soil from SAWQCB, Red Mountain has already demolished the three existing buildings on site down to their slabs/foundations.

In addition to the environmental issues that have slowed the development progress on this site, there is also the sale of a portion of land on St. Cloud Street (APN: 422-091-06) to Red Mountain from the City of Costa Mesa and as of today, Nov. 19 2015, this sale has not yet closed. This portion of land is crucial to the urban master plan and the development of the 28 residential units as a secondary ingress/egress onto the site.

Lastly, the former buyer of the property has brought an action against Red Mountain and has wrongfully recorded a lis pendens against the property. Red Mountain, of course, believes this action has no merit and is vigorously defending itself in the matter. However, these issues do impact our ability to sell the property to another developer and to begin the construction of the entitled residential units. Given the timeframe to resolve the lawsuit, appeals, etc. the development of the property or the selling of the

property to yet another developer who can then start building the entitled residential units is going to take more than 12 months

If you should have any further questions please do not hesitate to contact me at 714-460-1563.

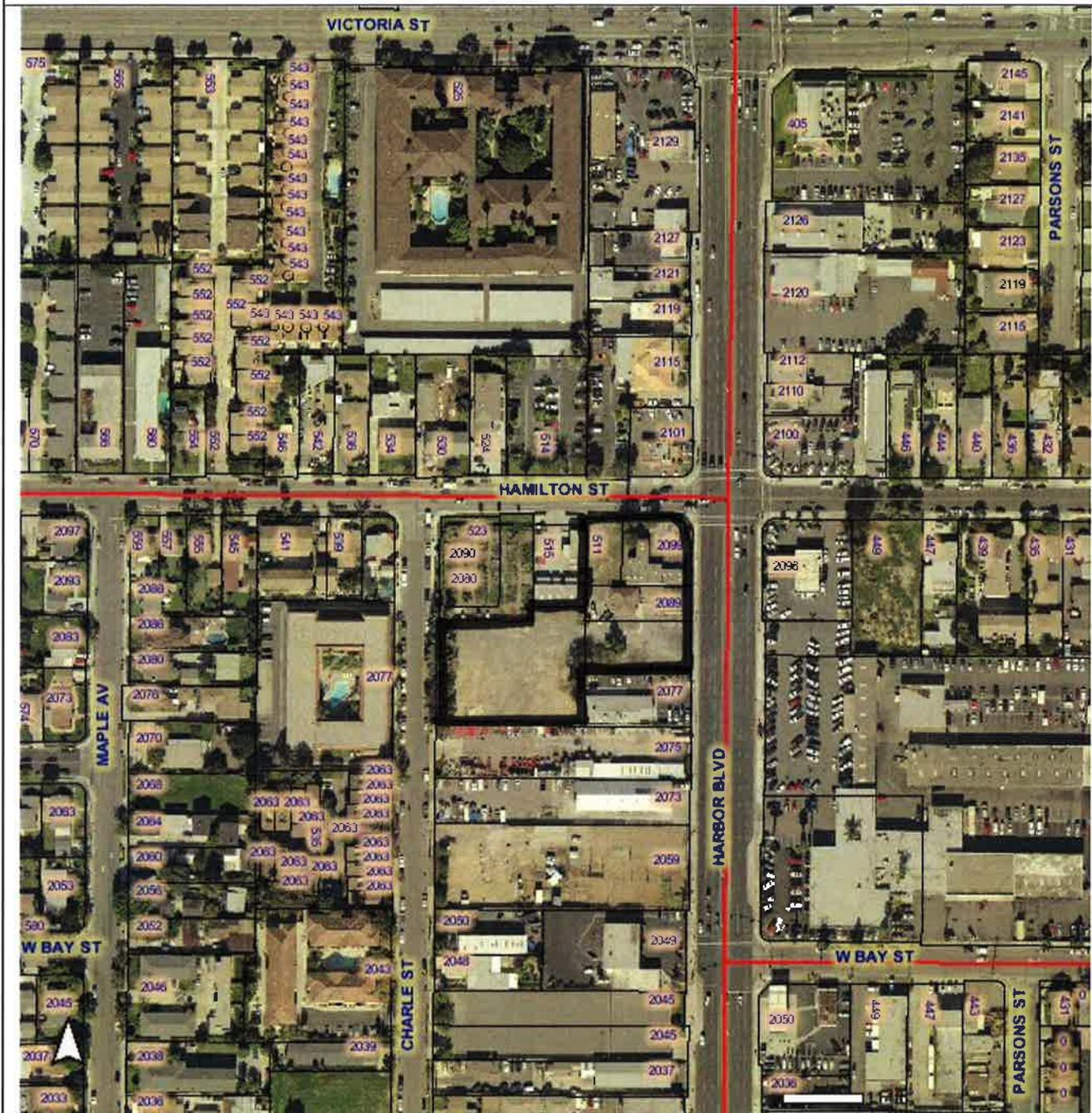
Best Regards,

A handwritten signature in blue ink, appearing to read 'Alton M. Klein', with a stylized flourish extending to the right.

Alton M. Klein
Red Mountain Retail Group

Cc: File

City of Costa Mesa



Address Small
Address Points

 Freeway
 Roads
 Collector (cont)

 Freeway
 Major
 Newport Blvd (cont)

 Primary
 SECONDARY
 Hydrology Channels

 Street Names
 Street Centerlines

As part of the project, extend the length of the eastbound left-turn storage lane on Hamilton Street by an additional 50 feet, for a total storage length of 200 feet.

SITE SUMMARY:

NET SITE AREA: 1.53 ACRES
 NET DENSITY: 18.3 HOMES/ACRE

PLAN A 4 UNITS
 PLAN Ax 1 UNITS
 PLAN B 7 UNITS
 PLAN C 6 UNITS
 PLAN D 10 UNITS
 TOTAL 28 UNITS

NOTES:

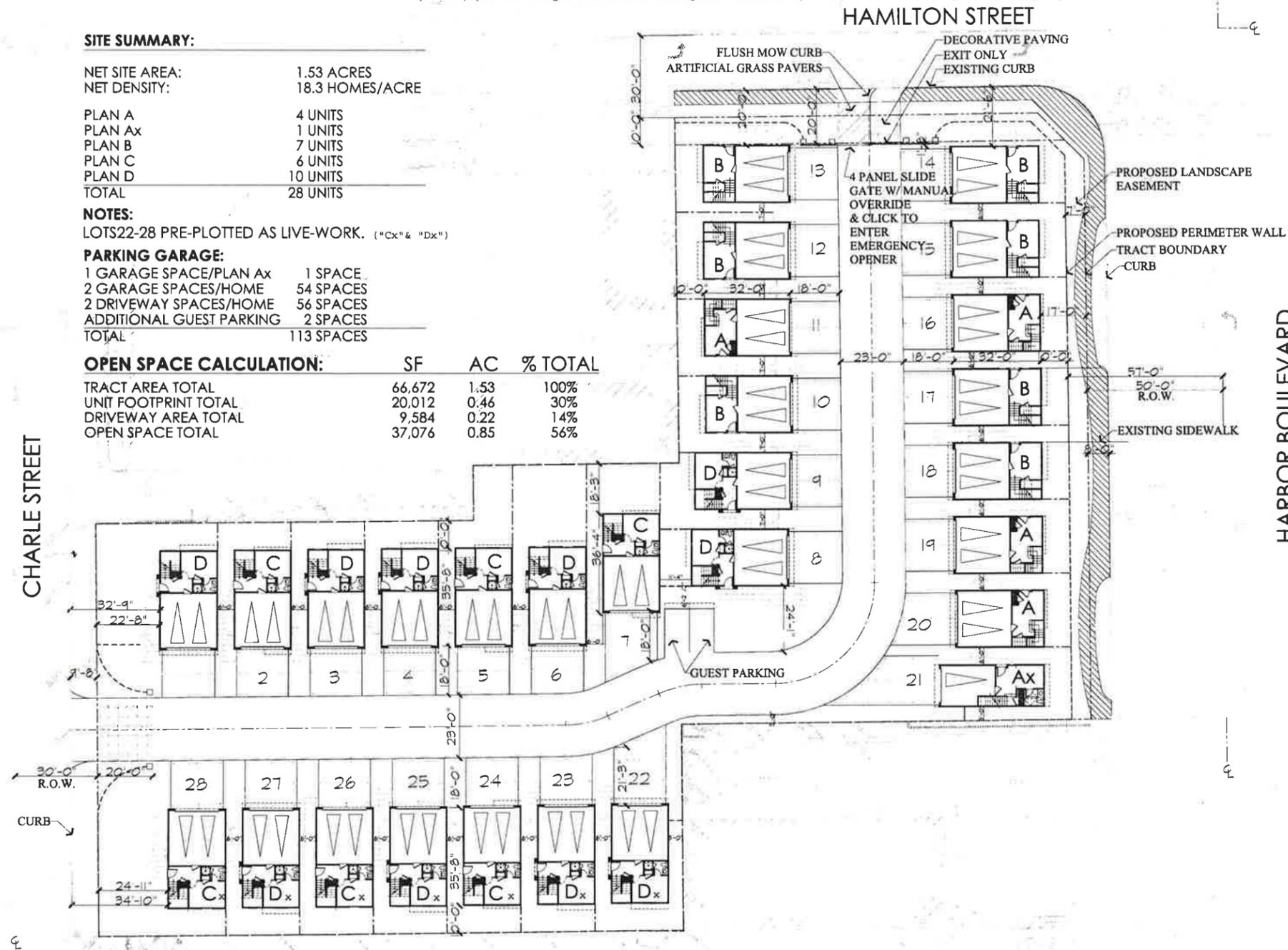
LOTS 22-28 PRE-PLOTTED AS LIVE-WORK. ("Cx" & "Dx")

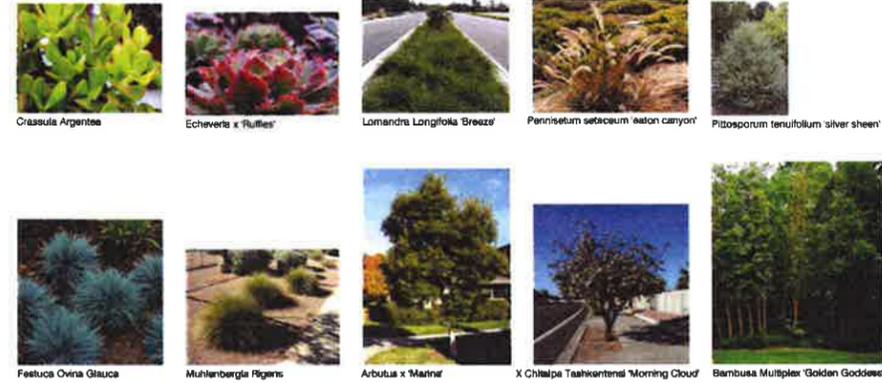
PARKING GARAGE:

1 GARAGE SPACE/PLAN Ax 1 SPACE
 2 GARAGE SPACES/HOME 54 SPACES
 2 DRIVEWAY SPACES/HOME 56 SPACES
 ADDITIONAL GUEST PARKING 2 SPACES
 TOTAL 113 SPACES

OPEN SPACE CALCULATION:

	SF	AC	% TOTAL
TRACT AREA TOTAL	66,672	1.53	100%
UNIT FOOTPRINT TOTAL	20,012	0.46	30%
DRIVEWAY AREA TOTAL	9,584	0.22	14%
OPEN SPACE TOTAL	37,076	0.85	56%





PROPOSED PLANT LEGEND

BOTANICAL NAME	COMMON NAME	SIZE
ARBUTUS x 'MARINA'	ARBUTUS STANDARD	24"BOX
E CHITALPA FABRICATA 'MORNING CLOUD'	MORNING CLOUD CHITALPA	24"BOX
BAMBUSA MULTIPLEX 'GOLDEN GODDESS'	GOLDEN GODDESS BAMBUSA	15 GAL
CRASSULA ARGENTEA	JADE PLANT	5 GAL
ECHINOPSIS x 'RUFFLES'	AFTERNOON ECHINOPSIS	1 GAL
LOMANDRA LONGIFOLIA 'BREEZE'	MAT RUSH	1 GAL
MULLEBERGIA ROSEI	DEER GRASS	5 GAL
Pennisetum setaceum 'Eaton Canyon'	EATON CANYON FOUNTAIN GRASS	5 GAL
PITOSPORIUM TENUIFOLIUM 'SILVER SHEEN'	TAINWING	15 GAL
FESTUCA OVINA GLAUCA	BLUE SHEEP RESQUE	4" POT

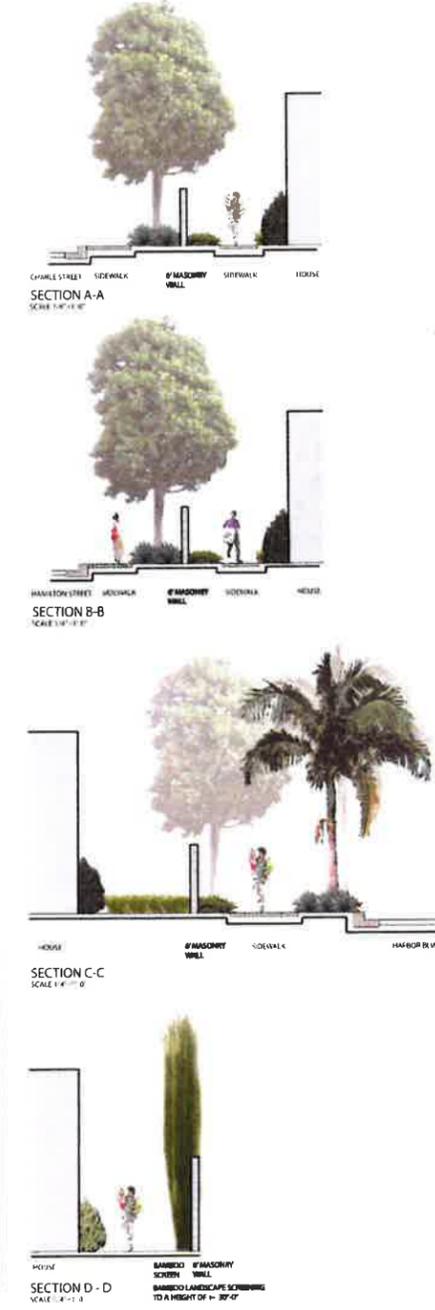
SITE SUMMARY:

NET SITE AREA:	1.33 ACRES
NET DENSITY:	18.3 HOMES/ACRE
PLAN A:	4 UNITS
PLAN Ax:	1 UNIT
PLAN B:	7 UNITS
PLAN C:	6 UNITS
PLAN D:	10 UNITS
TOTAL:	28 UNITS

NOTES:
 LOTS 22-28 PRE-PLOTTED AS LIVE-WORK.
 PARKING GARAGE:
 1 GARAGE SPACE/PLAN Ax 1 SPACE
 2 GARAGE SPACES/PHONE 54 SPACES
 2 DRIVEWAY SPACES/PHONE 54 SPACES
 ADDITIONAL GUEST PARKING 2 SPACES
 TOTAL 113 SPACES

OPEN SPACE CALCULATION:	SF	AC	% TOTAL
TRACT AREA TOTAL	86,672	1.53	100%
UNIT FOOTPRINT TOTAL	20,012	0.46	30%
DRIVEWAY AREA TOTAL	9,584	0.22	14%
OPEN SPACE TOTAL	57,076	0.85	56%

IMPERMEABLE AREA CALCULATION:	SF	AC	% TOTAL
UNIT FOOTPRINT TOTAL	20,012	0.46	30%
DRIVEWAY AREA TOTAL	9,584	0.22	14%
DRIVE ASLE + GUEST PARKING	10,621	0.24	16%
ENTRY FLATWORK	563	0.01	1%
SIDEWALK ALONG HARBOR	374	0.01	1%
IMPERMEABLE AREA TOTAL	41,154	0.94	62%

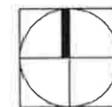


CITY COMMONS, COSTA MESA

CONCEPTUAL LANDSCAPE PLAN



BORTHWICK GUY BETTENHAUSEN INC
 Landscape Architecture | Planning | Urban Design
 2444 Dupont Drive Irvine, CA 92612
 949.476.8010 T 949.476.0707 F



NTS 03/05/2014

As part of the project, extend the length of the eastbound left-turn storage lane on Hamilton Street by an additional 50 feet, for a total storage length of 200 feet.

HAMILTON STREET

SITE SUMMARY:

NET SITE AREA:	1.53 ACRES
NET DENSITY:	18.3 HOMES/ACRE
PLAN A	4 UNITS
PLAN Ax	1 UNITS
PLAN B	7 UNITS
PLAN C	6 UNITS
PLAN D	10 UNITS
TOTAL	28 UNITS

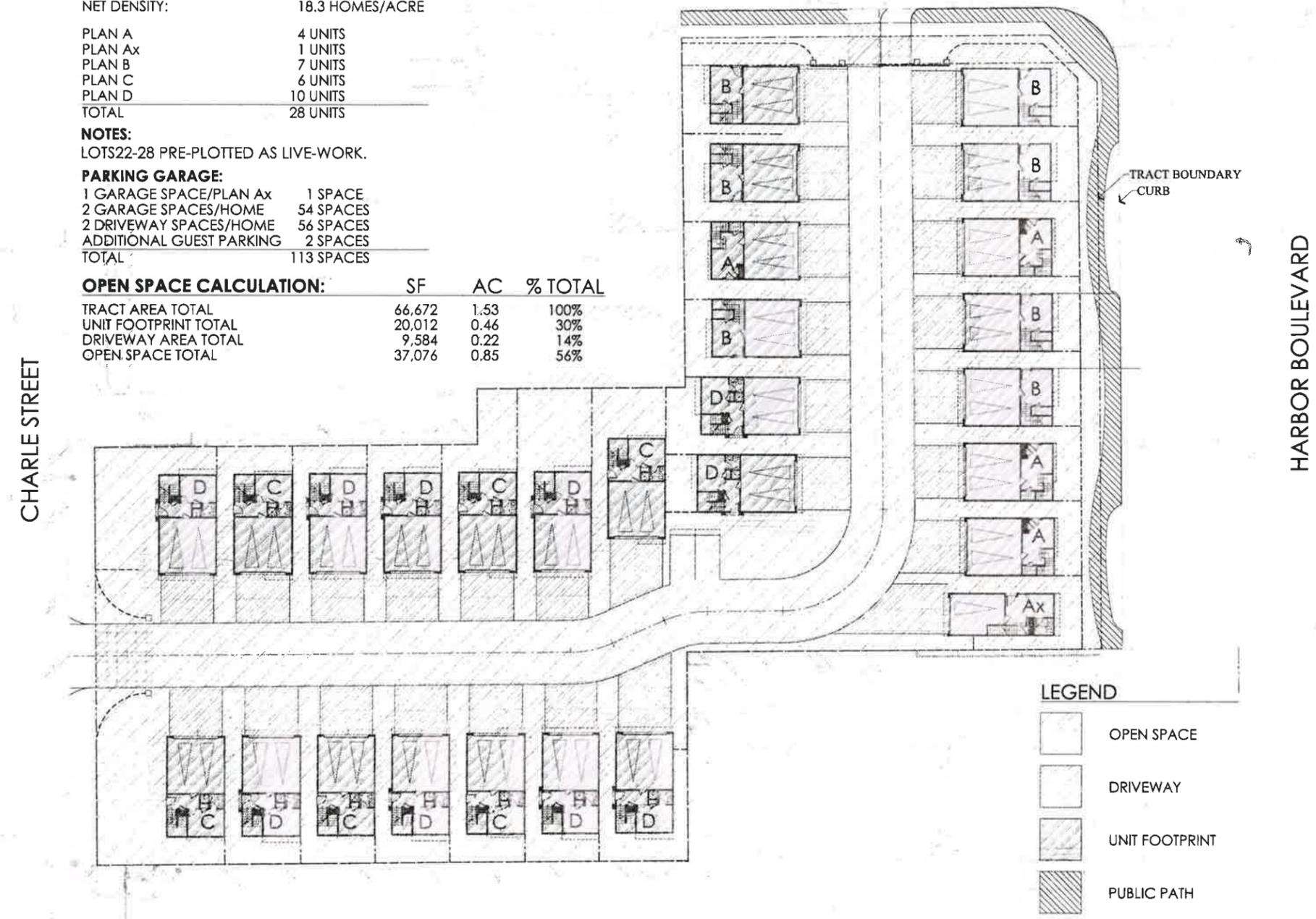
NOTES:
LOTS 22-28 PRE-PLOTTED AS LIVE-WORK.

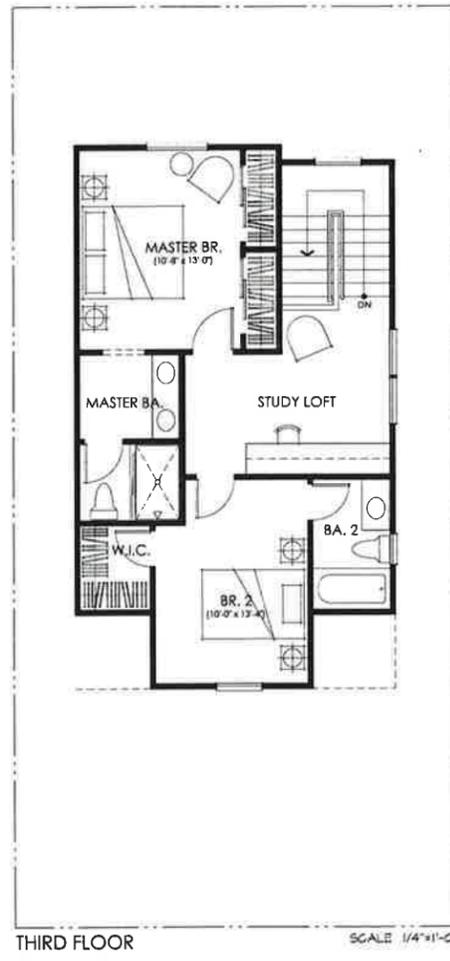
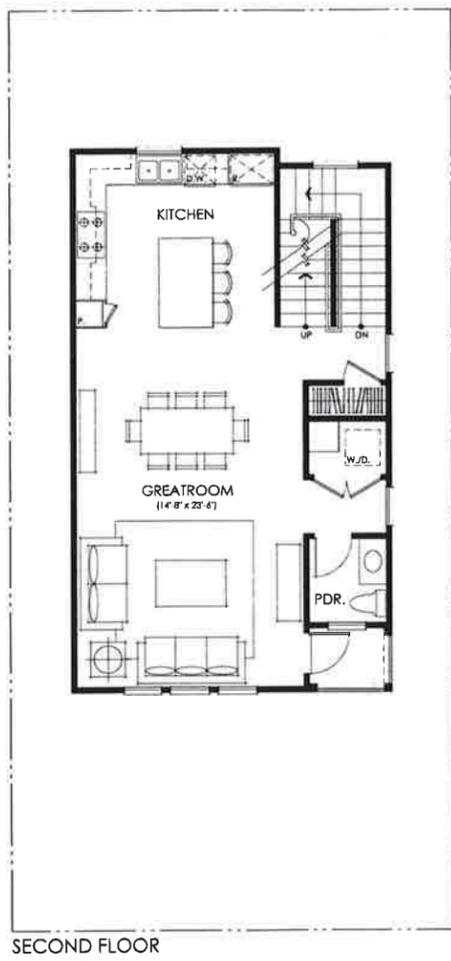
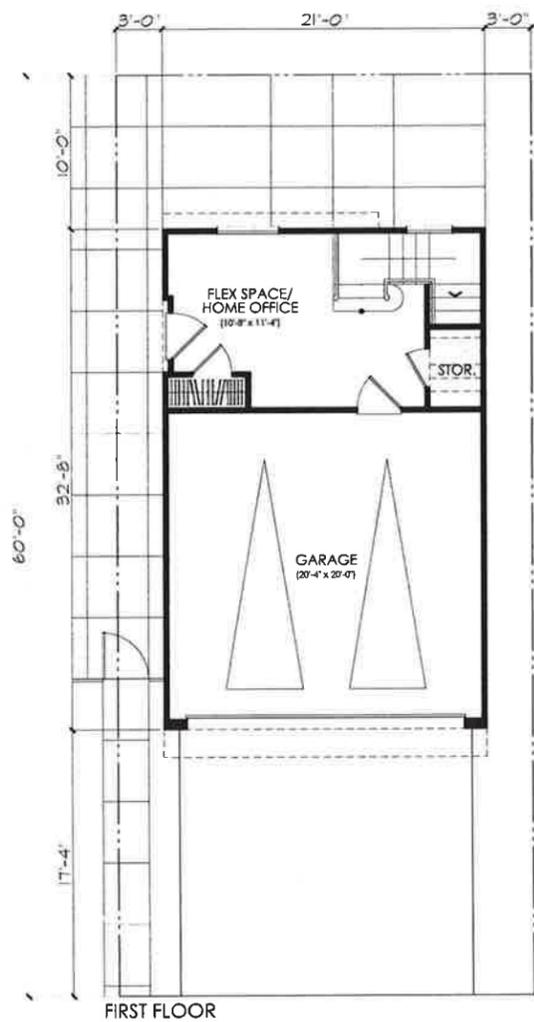
PARKING GARAGE:

1 GARAGE SPACE/PLAN Ax	1 SPACE
2 GARAGE SPACES/HOME	54 SPACES
2 DRIVEWAY SPACES/HOME	56 SPACES
ADDITIONAL GUEST PARKING	2 SPACES
TOTAL	113 SPACES

OPEN SPACE CALCULATION:

	SF	AC	% TOTAL
TRACT AREA TOTAL	66,672	1.53	100%
UNIT FOOTPRINT TOTAL	20,012	0.46	30%
DRIVEWAY AREA TOTAL	9,584	0.22	14%
OPEN SPACE TOTAL	37,076	0.85	56%





1ST FLOOR	250 S.F.
2ND FLOOR	715 S.F.
3RD FLOOR	616 S.F.
TOTAL S.F.	1581 S.F.
GARAGE	434 S.F.

CITY COMMONS, COSTA MESA

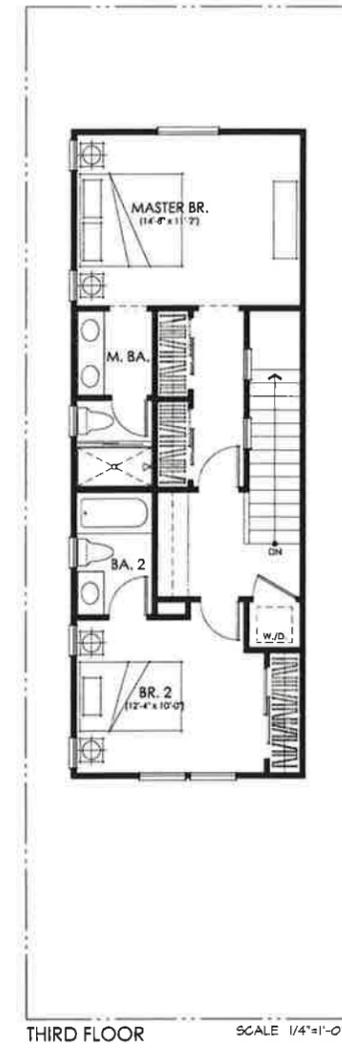
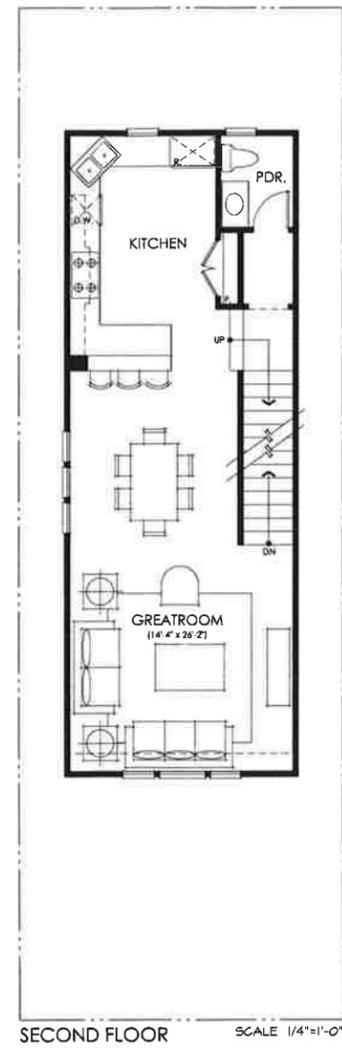
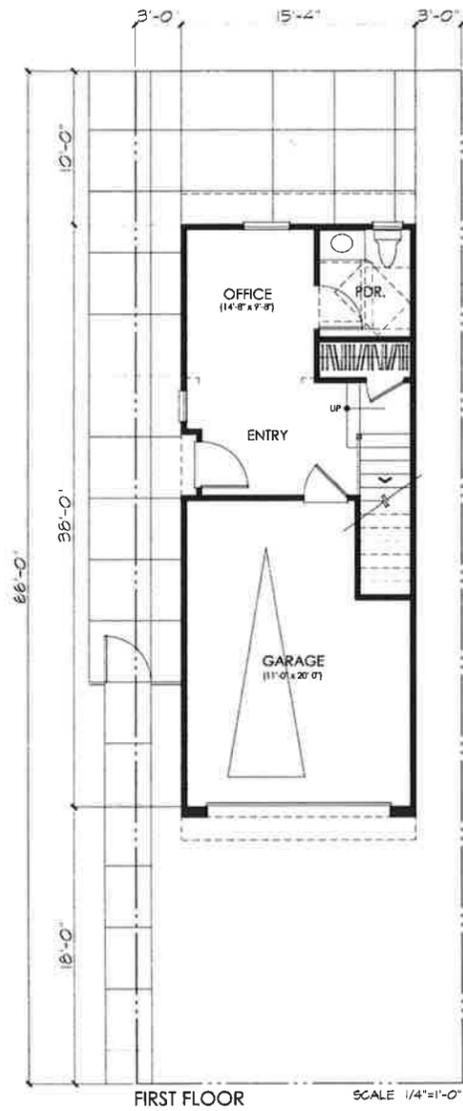
PLAN A

12/12/2013



41





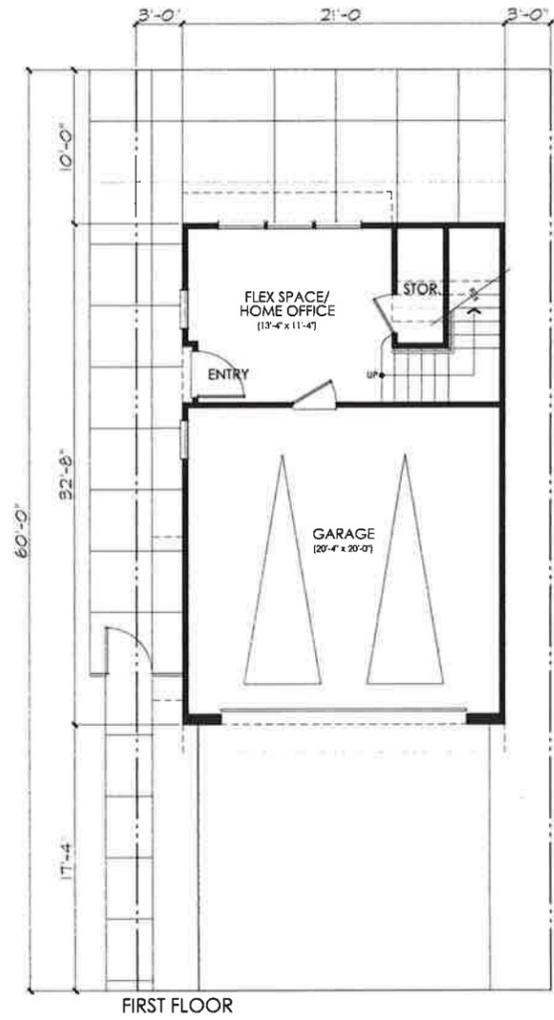
PLAN Ax	
1ST FLOOR	298 S.F.
2ND FLOOR	647 S.F.
3RD FLOOR	593 S.F.
TOTAL S.F.	1538 S.F.
GARAGE	291 S.F.

CITY COMMONS, COSTA MESA

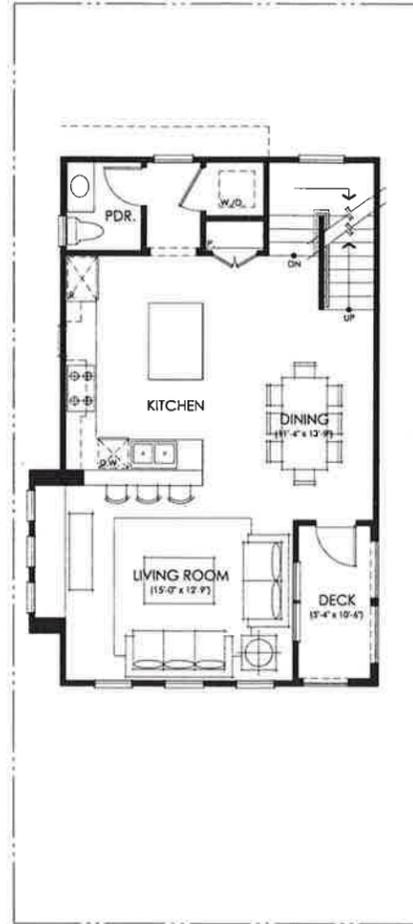
PLAN Ax

12/12/2013

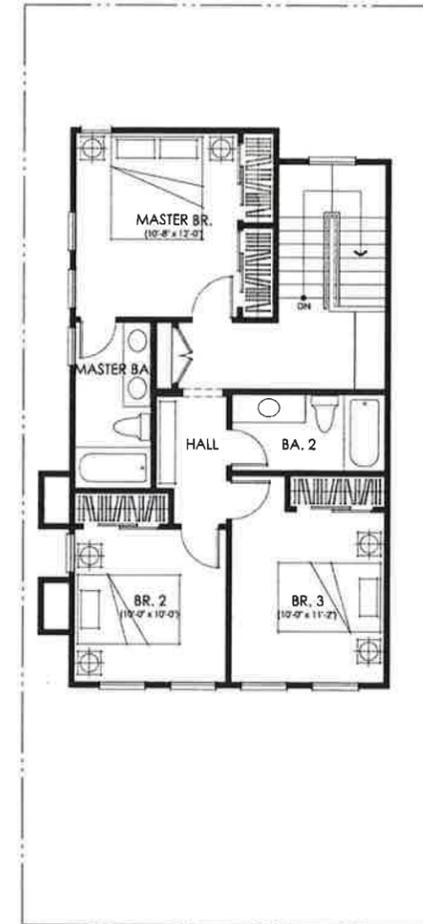




FIRST FLOOR



SECOND FLOOR



THIRD FLOOR

SCALE 1/4"=1'-0"

PLAN B

1ST FLOOR	252 S.F.
2ND FLOOR	690 S.F.
3RD FLOOR	679 S.F.
TOTAL S.F.	1621 S.F.
GARAGE	434 S.F.

PLAN B

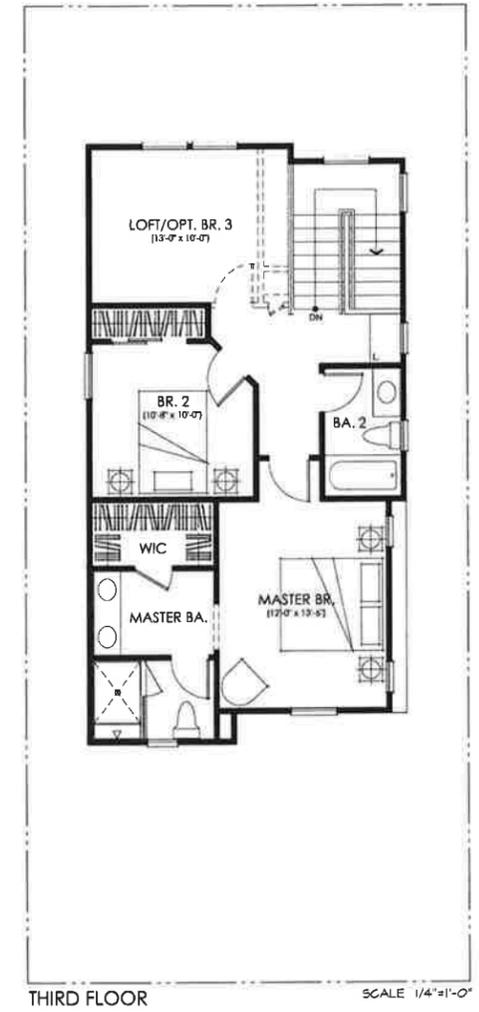
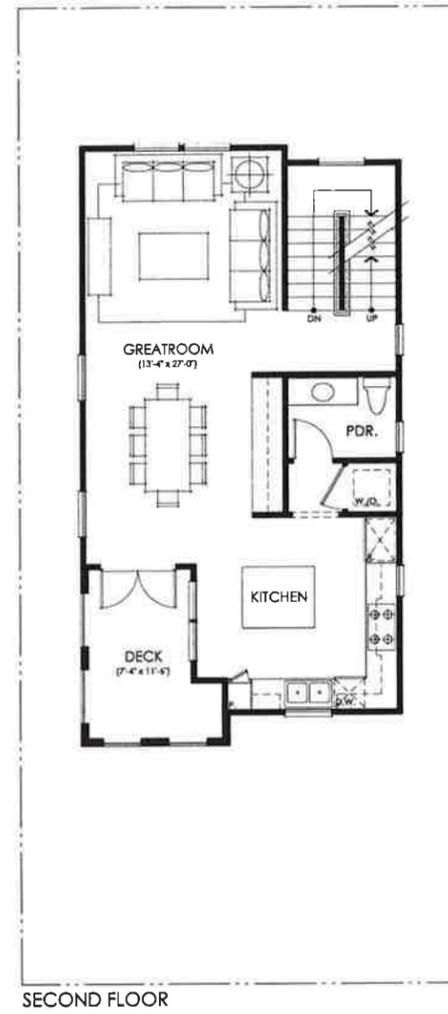
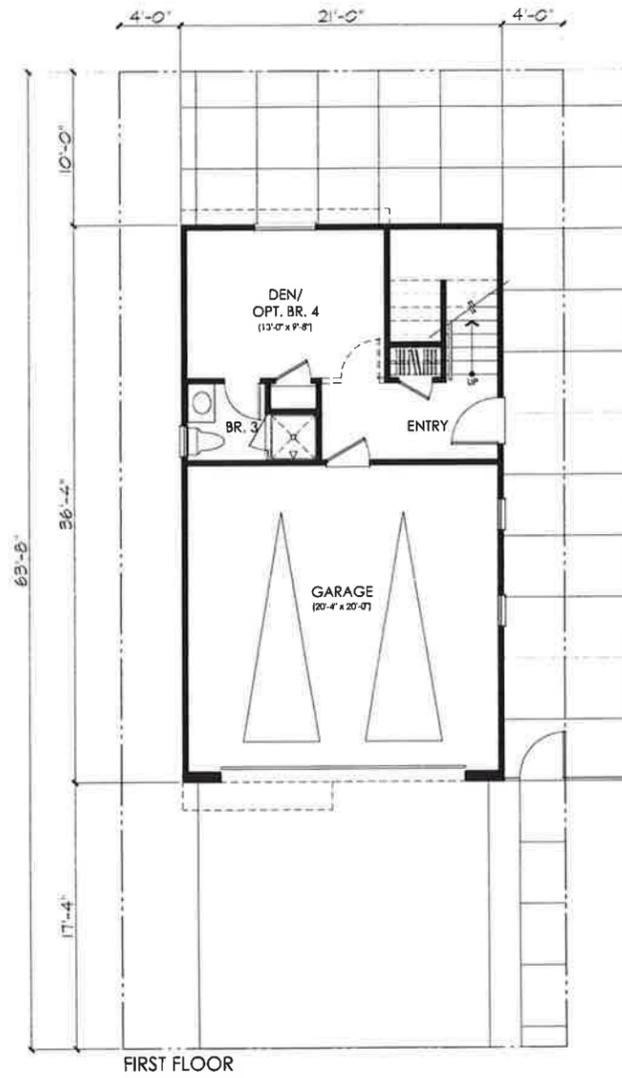
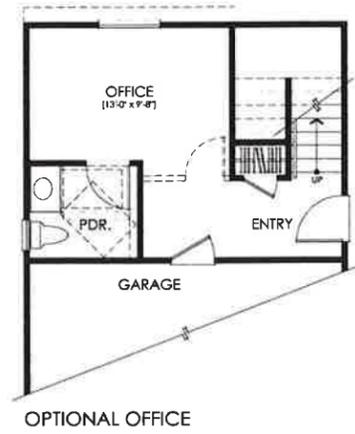
12/12/2013

CITY COMMONS, COSTA MESA



43





1ST FLOOR	329 S.F.
2ND FLOOR	699 S.F.
3RD FLOOR	705 S.F.
TOTAL S.F.	1733 S.F.
GARAGE	434 S.F.
DECK	94 S.F.

CITY COMMONS, COSTA MESA

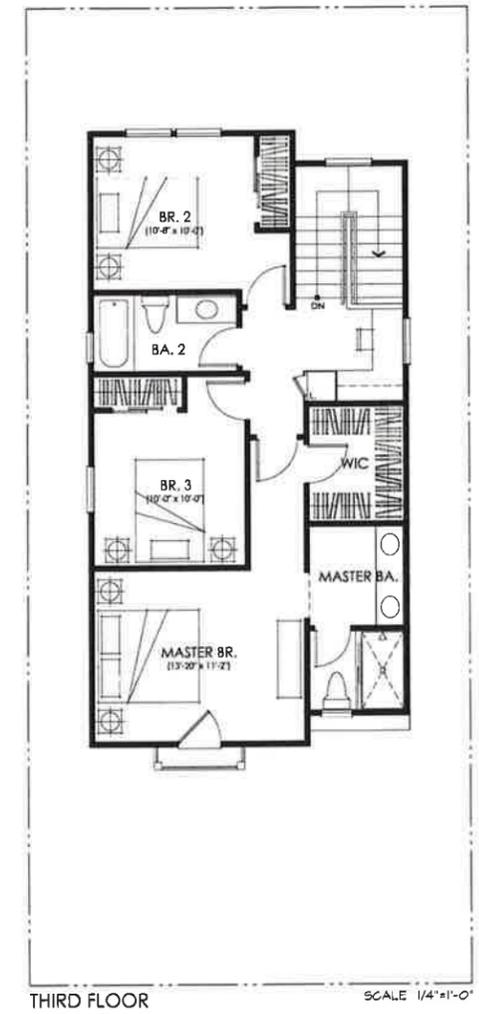
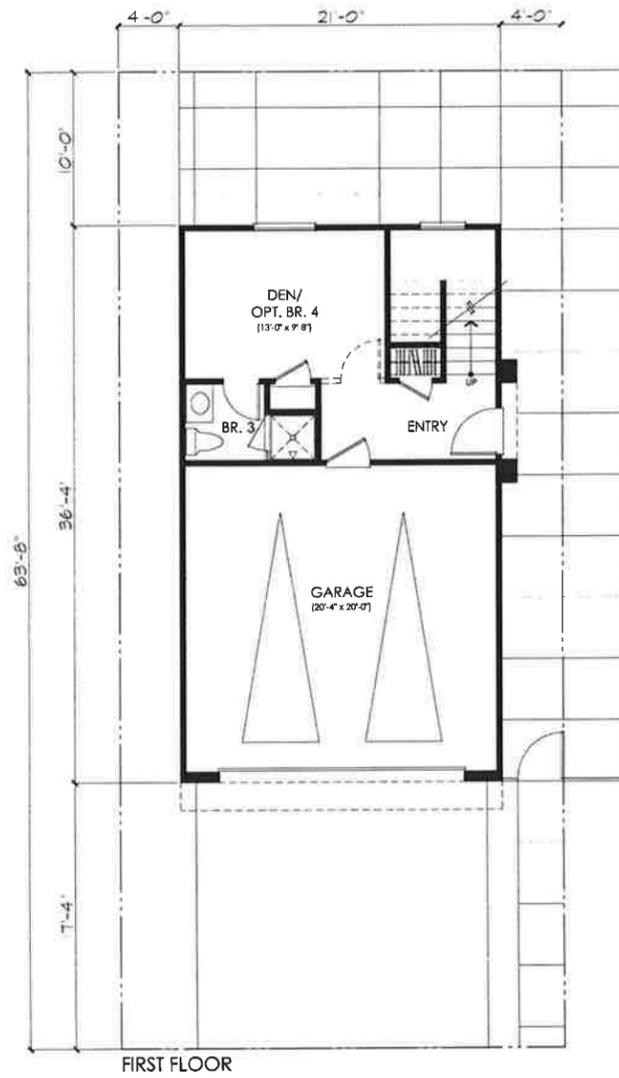
PLAN C

12/12/2013



44





1ST FLOOR	329 S.F.
2ND FLOOR	732 S.F.
3RD FLOOR	747 S.F.
TOTAL S.F.	1808 S.F.

GARAGE	434 S.F.
DECK	99 S.F.

CITY COMMONS, COSTA MESA

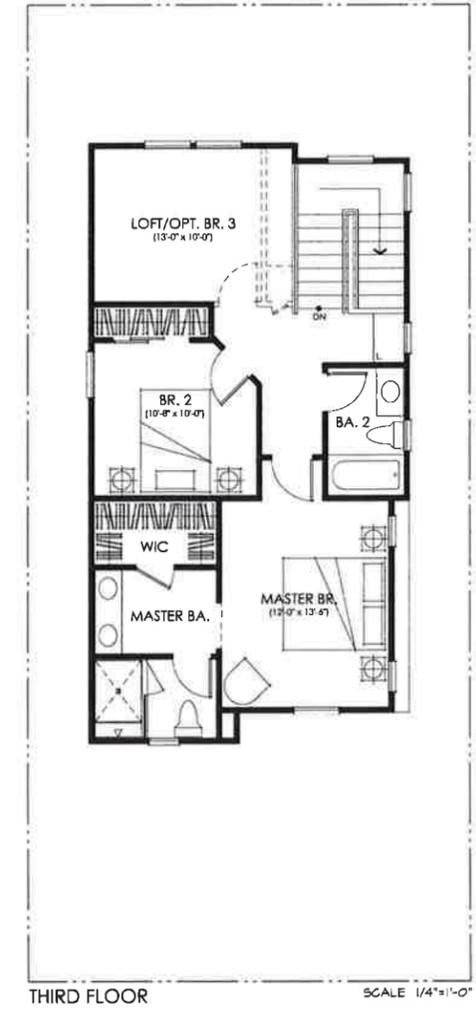
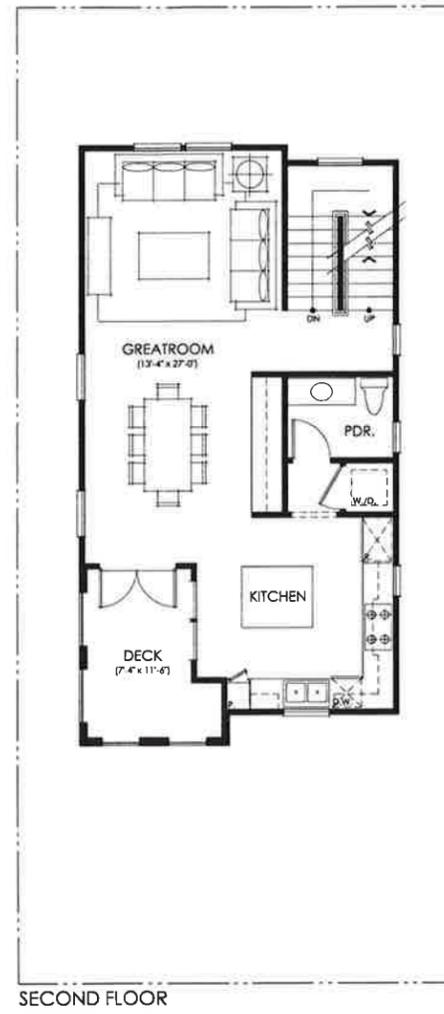
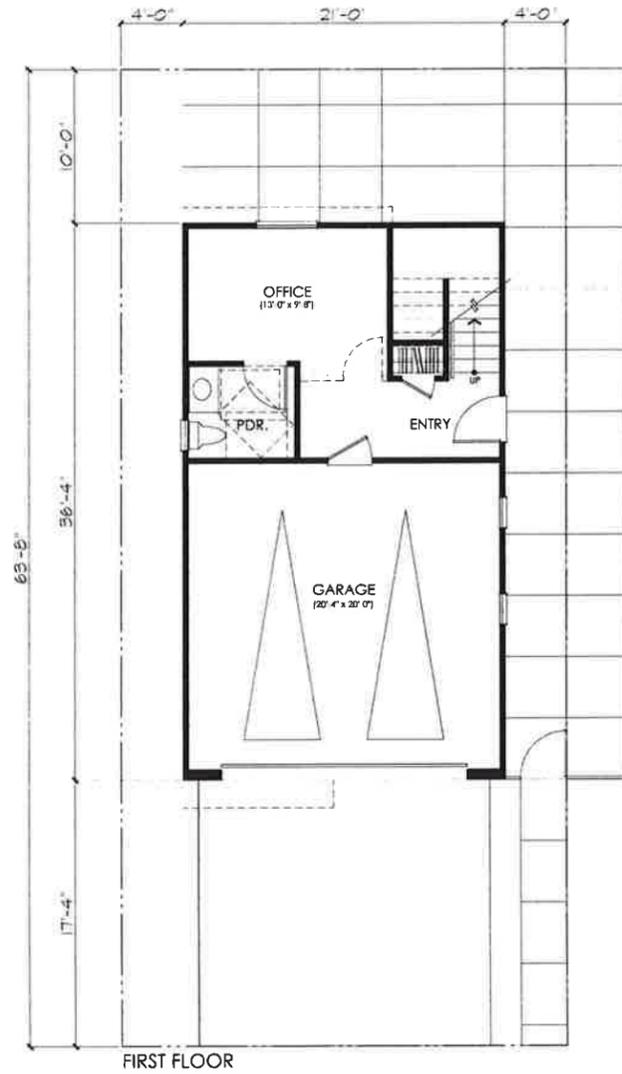
PLAN D

12/12/2013



45





1ST FLOOR	329 S.F.
2ND FLOOR	699 S.F.
3RD FLOOR	705 S.F.
TOTAL S.F.	1733 S.F.
GARAGE	434 S.F.
DECK	94 S.F.

PLAN Cx

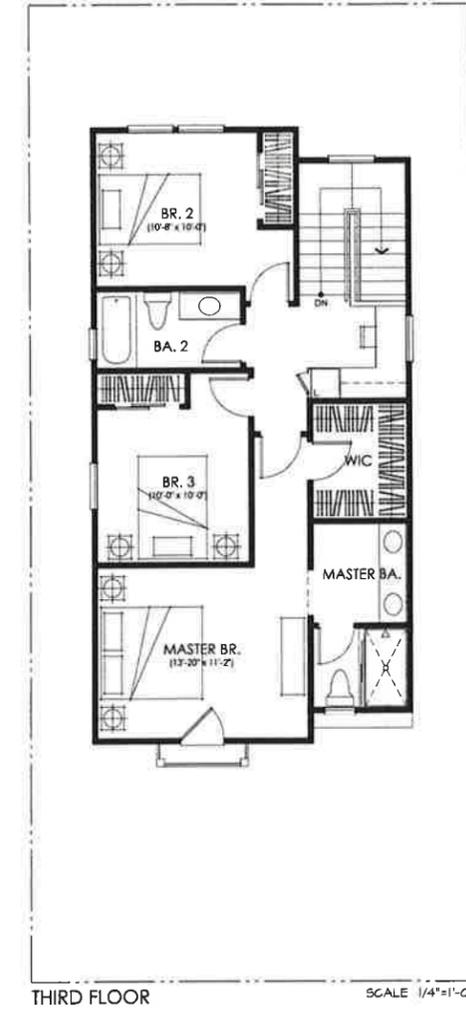
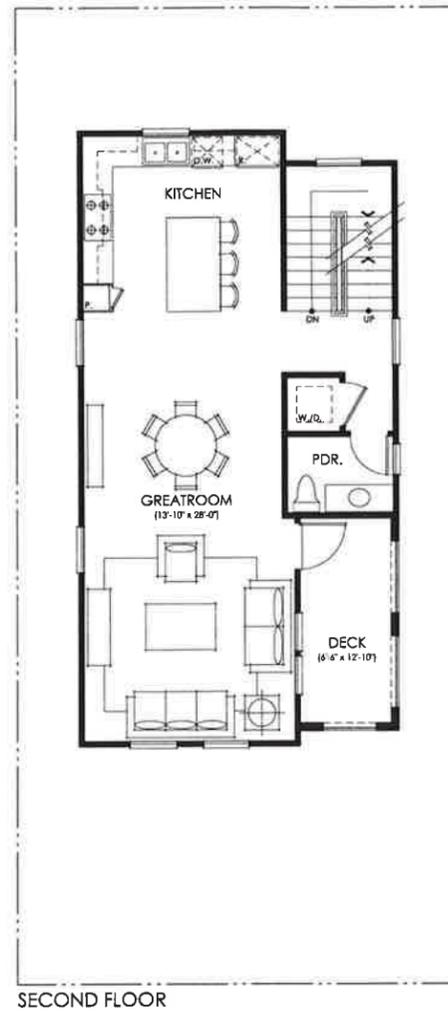
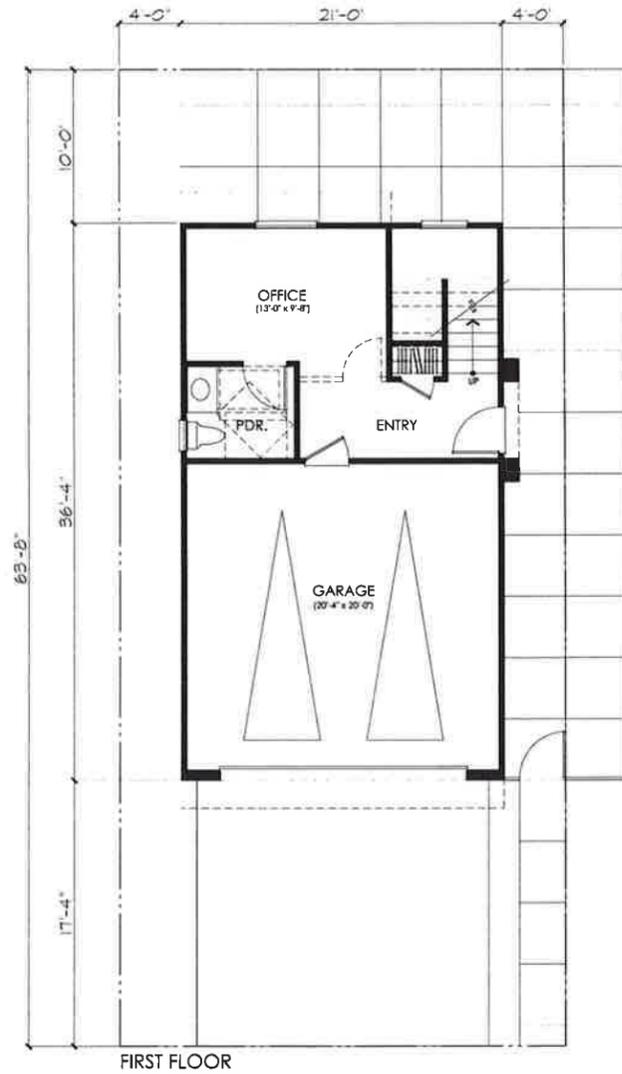
01/03/2014

CITY COMMONS, COSTA MESA



46





1ST FLOOR	329 S.F.
2ND FLOOR	732 S.F.
3RD FLOOR	747 S.F.
TOTAL S.F.	1808 S.F.

GARAGE	434 S.F.
DECK	99 S.F.

PLAN D_x

01/03/2014

CITY COMMONS, COSTA MESA



47





PLAN D

PLAN B

PLAN A



PLAN D

PLAN C

PLAN D-x



PLAN A

PLAN B

PLAN B-x

PLAN A

HARBOR BOULEVARD



PLAN B-x

PLAN B

HAMILTON STREET

CITY COMMONS, COSTA MESA

CONCEPTUAL STREET SCENE

10/03/2013



PLAN C

PLAN D

CHARLE STREET

CITY COMMONS, COSTA MESA

CONCEPTUAL STREET SCENE

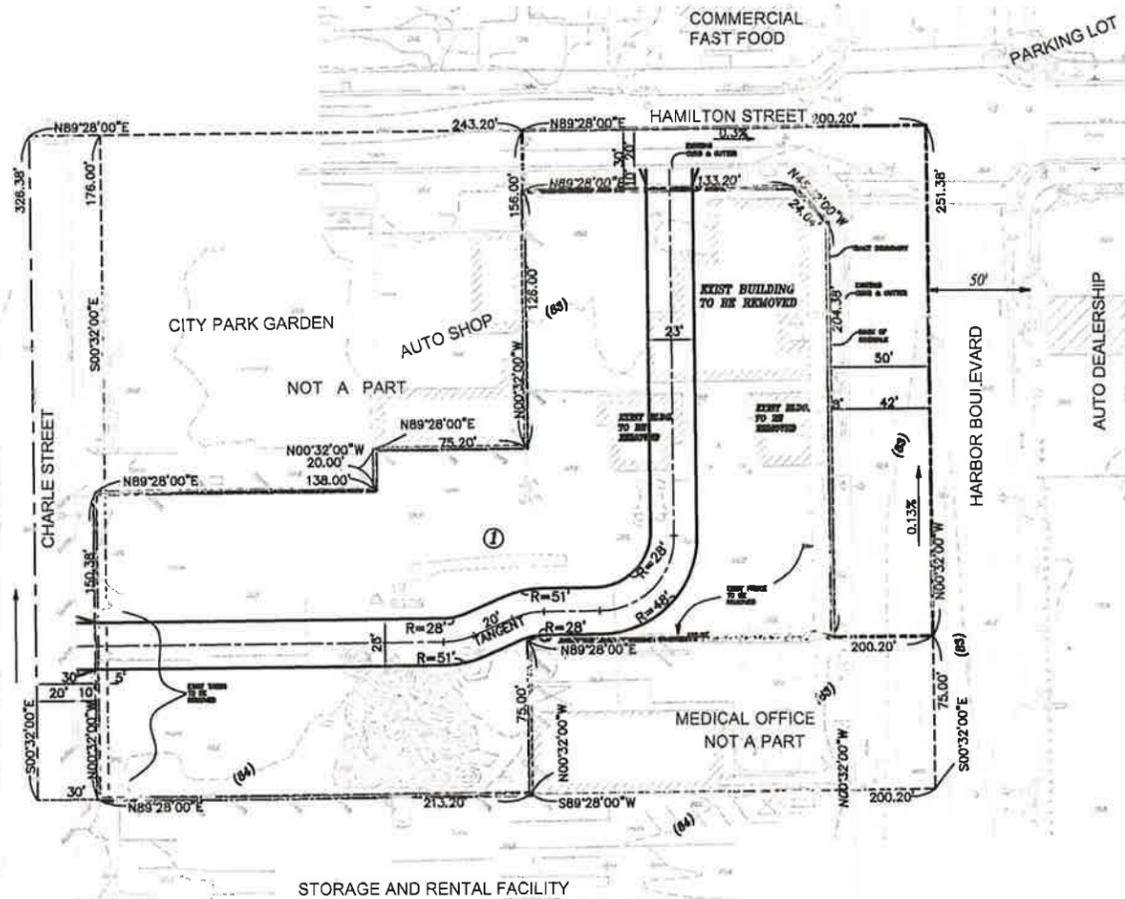
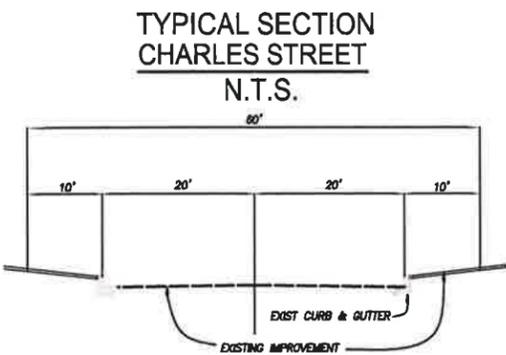
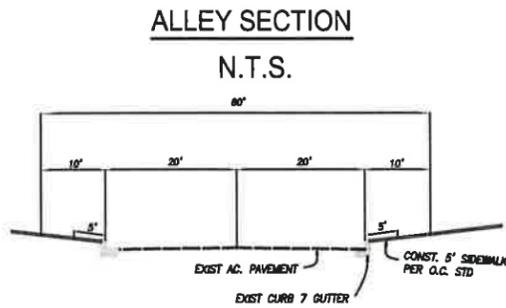
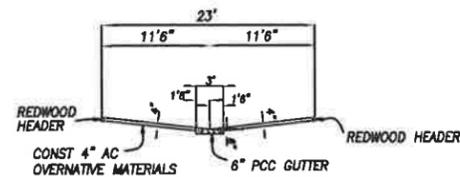
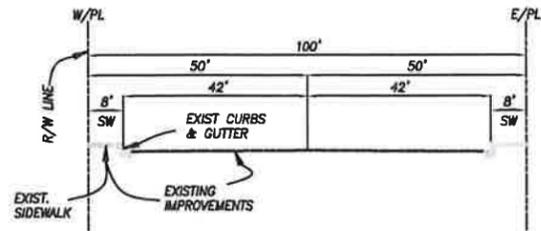
10/03/2013

TENTATIVE TRACT NO. 17668

FOR CONDOMINIUM PURPOSES
CITY OF COSTA MESA, COUNTY OF ORANGE, STATE OF CALIFORNIA

LEGAL DESCRIPTION

BEING A SUBDIVISION OF A PORTION OF LOT 20 OF FAIRVIEW FARMS, AS SHOWN ON A MAP RECORDED IN BOOK 8, PAGE 71 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA



LEGEND

TRACT BOUNDARY	---
PAD BOUNDARY	---
PROPOSED STREET GRAB	---
STREET CENTER LINE	---
STREET LIGHT	⊙
CATCH BASIN (PROP)	□
CATCH BASIN (EXIST)	□
UNIT NUMBER	22
FIRE HYDRANT	⊕
PAD ELEVATIONS	B-84.0'

OWNER

KED MOUNTAIN RETAIL GROUP
1234 E 17TH STREET
SANTA ANA, CA 92701
PHONE: (714) 245 740
CITY OF COSTA MESA
77 FAIR DRIVE
COSTA MESA, CA 92626-1200
PHONE: (714) 254 5245

SUBDIVIDER

SOUTH COAST COMMUNITIES, LLC
100 PACIFICA SUITE 300
IRVINE, CA
PHONE: (949) 727 8240

ENGINEER

PROACTIVE ENGINEERING INC.
1875 CALIFORNIA AVENUE
CORONA, CA 92681-8477
PHONE: (951) 280 3300

ACRAGE

+/- 1.5 ACRES

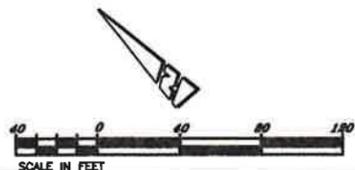
PROPOSED LAND USE

SINGLE FAMILY TOWN HOMES
EXISTING LAND USE
VACANT LOT, VACANT BUILDINGS

UTILITIES

CABLE TV
SUN VALLEY PHONE # (909) 940-3000
SUN
SOUTHERN CALIFORNIA GAS PHONE # (909) 497-5000
SOUTHERN CALIFORNIA GAS
SOUTHERN CALIFORNIA Edison PHONE # (909) 406-6550
SUN
MESA CONSULTING WATER REEFLECT PROVIDE # (949) 851-1500

APN 422-09-1,2,6,7,8&9



PREPARED FOR: 	PREPARED BY: PROACTIVE ENGINEERING CONSULTANTS 1875 CALIFORNIA AVE. CORONA, CA 92681 951-280-3300	TENTATIVE TRACT NO. 17668 CITY OF COSTA MESA	PROJECT NO. 06.197.000 SHEET 1 OF 1 DATE: 9/19/13
-------------------	--	---	---

53

LEGAL DESCRIPTION

BEING A SUBDIVISION OF A PORTION OF LOT 20 OF FAIRVIEW FARMS IN THE CITY OF COSTA MESA COUNTY OF ORANGE STATE OF CALIFORNIA AS SHOWN ON MAP RECORDED IN BOOK 88, PAGE 71 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY STATE OF CALIFORNIA

LEGEND

- TRACT BOUNDARY
- PAD BOUNDARY
- PROPOSED STREET GRADE
- STREET CENTER LINE
- STREET LIGHT
- CATCH BASIN (PROP)
- CATCH BASIN (EXIST)
- UNIT NUMBER **22**
- FIRE HYDRANT
- PAD ELEVATIONS **R=84.0'**

TENTATIVE MAP NO. 17668

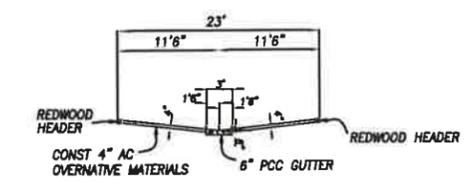
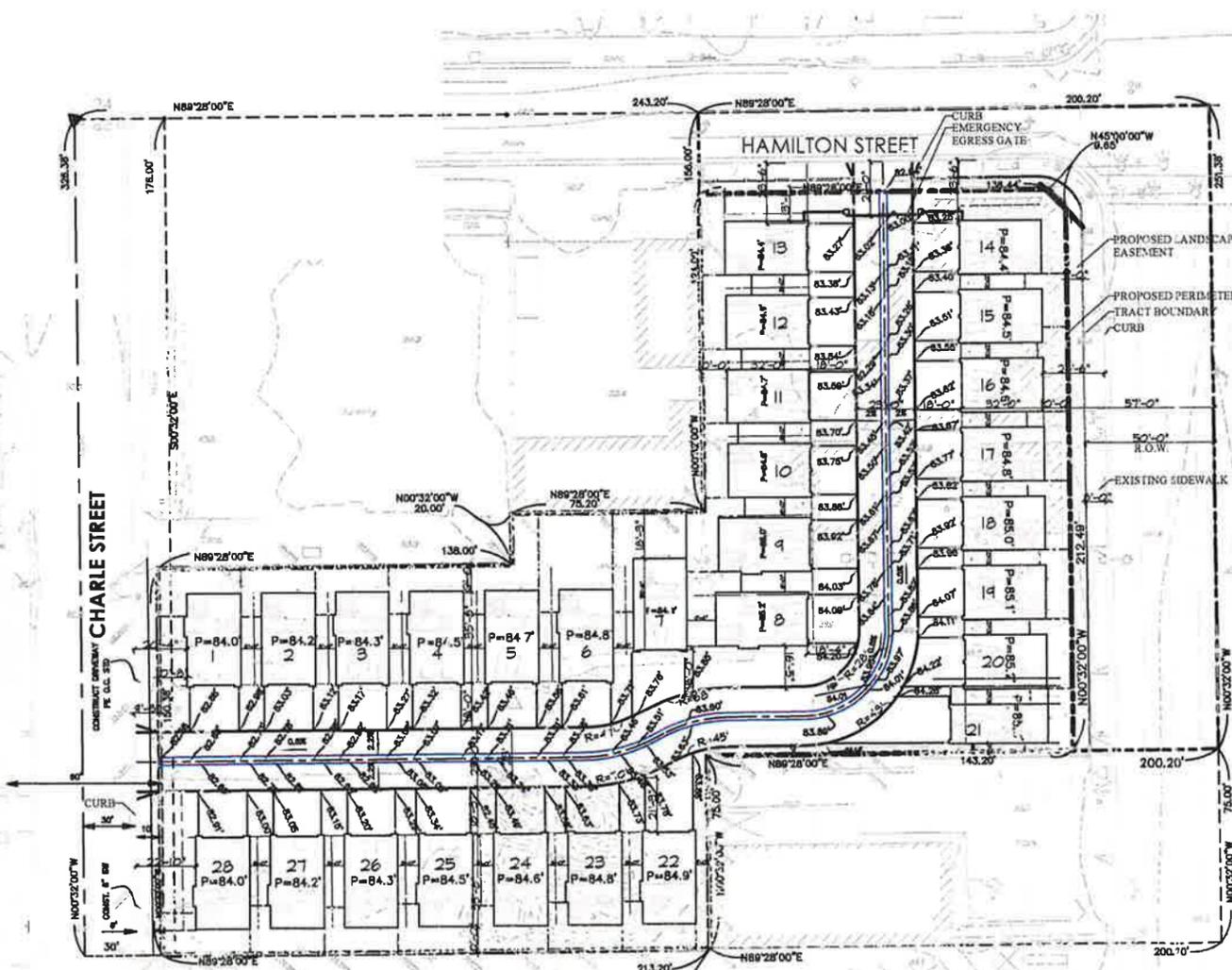
FOR CONDOMINIUM PURPOSES

CITY OF COSTA MESA, COUNTY OF ORANGE, STATE OF CALIFORNIA

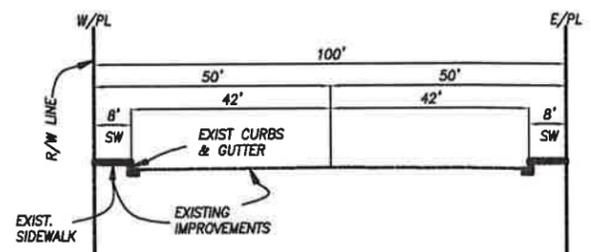
SITE & CONCEPTUAL GRADING PLAN



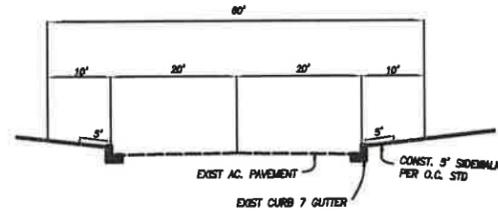
VICINITY MAP



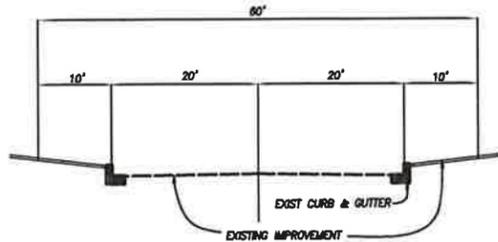
ALLEY SECTION
N.T.S.



TYPICAL SECTION HARBOR BLVD
N.T.S.



TYPICAL SECTION CHARLES STREET
N.T.S.



TYPICAL SECTION HAMILTON STREET
N.T.S.

UTILITIES

- CABLE TV
- TIME WARNER PHONE # (888) 862-2253
- GIS
- SOUTHERN CALIFORNIA GAS PHONE # (800) 437-2200
- ELECTRICITY
- SOUTHERN CALIFORNIA EDISON PHONE # (800) 855-4555
- WATER
- MESA CONSOLIDATED WATER DISTRICT PHONE# (949) 831-1200

OWNER

RED MOUNTAIN RETAIL GROUP
1234 E 17TH STREET
SANTA ANA, CA 92701
PHONE (714) 245 740
CITY OF COSTA MESA
77 FINE DRIVE
COSTA MESA, CA 92626-1200
PHONE (714) 754 5245

SUBDIVIDER

SOUTH COAST COMMUNITIES, LLC
100 PACIFICA SUITE 300
IRVINE, CA
PHONE (949) 727 8240

ENGINEER

PROACTIVE ENGINEERING INC.
1875 CALIFORNIA AVENUE
CORONA, CA 92881-8477
PHONE (951) 280 3300

ACRAGE

+/- 1.5 ACRES

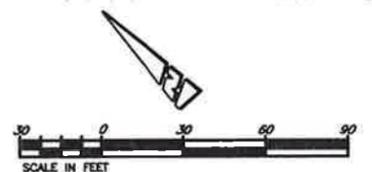
PROPOSED LAND USE

SINGLE FAMILY TOWN HOMES
EXISTING LAND USE
VACANT LOT, VACANT BUILDINGS

PREPARED FOR: 	PREPARED BY: PROACTIVE ENGINEERING CONSULTANTS 1875 CALIFORNIA AVENUE, CORONA, CA 92881 951-280-3300	CHARLE STREET SITE PLAN	PROJECT NO. 06.197.000 SHEET 1 OF 1 DATE 8/28/13
-------------------	---	----------------------------	--

54

Project: Oct 04, 2013 - 10:00am by Proactive
 Drawing Name: 2:\06.197.000\Charle St\Drawings\Tract Map\CHARLE STREET T.M. 30_SCALE.dwg



Planning Commission

1. I believe this Commission should deny the request for an extension of the approval of PA 13-29 and TTMap 17668, at this time, with perhaps, a recommendation to re submit the request after the following issues are addressed, if possible.
2. The issues are:
3. False statements made in the original application before the City Council, this commission and City Planners, leading to the final approvals.
4. Failure to move forward after 2 years on the PA, when an extra year was already granted. PA's are a 1year term.
5. Failure to move forward with the TTMap
6. Failure to support the approved site plan submitted for the remediation of hazardous materials on site. Including the loss of their contractor, removal of remediation equipment, power poles and fencing.
7. Failure to maintain the remaining, in ground, remediation equipment with regard to its designed safety and operational features as described in State Law.
8. Failure to submit requested information to the SARWB as required by State Law.
9. Failure to apply solutions for two storm water issues that currently exist. As per SARWB memo.

JAN 25 '16 PM 1:06



City of Costa Mesa, Development Services Department
 77 Fair Drive, P.O. 1200, Costa Mesa, CA 92628-1200
 Phone: (714) 754-5245 Fax: (714) 754-4856 www.ci.costa-mesa.ca.us

Office to Assign

PLANNING APPLICATION (PART ONE – TYPE OR PRINT) Application # _____

2089 Harbor Boulevard etc.

PROPERTY ADDRESS: APN's 422-091-01, 422-091-08, 422-091-09, 422-091-07, 422-091-02 and 422-091-06

Property Owner Red Mountain Asset Fund II, LLC Phone (714) 245-7400 Fax _____

Address 1234 E. 17th Street Email enelson@rmrginc.com

City Santa Ana State CA Zip Code 92701

Property Owner's Signature ^{see note 1 below}  Date 10/3/13

AUTHORIZED AGENT: South Coast Communities Phone (949) 727-9240 Fax _____

Address 100 Pacifica, Ste. 360 Email david.hutchins@so-coast.com

City Irvine State CA Zip Code 92618

Authorized Agent's Signature  Date 10-3-13

PROJECT DESCRIPTION: [Briefly describe project below and attach detailed project description & justification for approval:]

28 detached condominium homes at the southwest corner of Harbor Boulevard and Hamilton street also fronting on Charle Street.

PROJECT RELATED TOPICS: I have noted below the items that are applicable to the project:

- In the Redevelopment Area
- Subject to future street widening
- In a Specific Plan Area
- Includes a drive-through facility (Special notice requirements, per GC Section 65091 (d))

HAZARDOUS WASTE AND SUBSTANCES SITES: Pursuant to Section 65962.5 of the Government Code, I have reviewed the Hazardous Waste and Substances Site List (see reverse side) and determined that the project:

IS NOT included in the LIST IS included in the LIST

¹RIGHT OF ENTRY: The abovesigned ("Property Owner") is the owner of certain real property identified above in Costa Mesa, California ("Property"), acknowledges that the application process requires the property to be posted with a public hearing notice, where applicable. Property Owner hereby permits the City of Costa Mesa ("City"), by and through its employees or agents, to enter upon the property for the sole purpose of posting, modifying, and removing a public hearing notice relating to Property Owner's Planning Application. The right of entry shall be granted by Property Owner to City at no cost to City and shall remain in effect until the removal of the public hearing notice. Owner further agrees to release, waive, discharge and hold harmless City, its employees and agents, from and against any and all loss, damage, injury, liability, claim, cost or expense resulting from or arising out of the activities of City, its employee and agents, upon the Property, pursuant to this signed application.

WHEN COMPLETED, PLEASE RETURN ALL COPIES TO PLANNING DIVISION (PART TWO BELOW – "OFFICE USE ONLY")

Date Application Received _____ By _____ Receipt # _____

Date Application Determined Complete _____ By _____

<input type="checkbox"/> Admin Adjustment	\$	<input type="checkbox"/> Gen Plan Screening	\$	<input type="checkbox"/> RCID Conversion	\$
<input type="checkbox"/> Appeal	\$	<input type="checkbox"/> Lot Line Adjustment	\$	<input type="checkbox"/> Rezone	\$
<input type="checkbox"/> CUP	\$	<input type="checkbox"/> Master Plan	\$	<input type="checkbox"/> Specific Plan Amd	\$
<input type="checkbox"/> Design Review	\$	<input type="checkbox"/> Minor CUP	\$	<input type="checkbox"/> Tent Tract/Parcel	\$
<input type="checkbox"/> Dev Agreement	\$	<input type="checkbox"/> Minor Design Review	\$	<input type="checkbox"/> Time Extension	\$
<input type="checkbox"/> Development Review	\$	<input type="checkbox"/> Negative Declaration	\$	<input type="checkbox"/> Variance	\$
<input type="checkbox"/> Gen Plan Amendment	\$	<input type="checkbox"/> Planned Signing Prg	\$	<input type="checkbox"/> Other	\$

TOTAL \$ _____

APN: _____ Zone: _____ General Plan: _____

56

RESOLUTION NO. 15-16

May 5, 2015
Dence-9

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, APPROVING THE SALE OF CO-OWNED REAL PROPERTY ADJACENT TO CHARLE STREET, APN 422-091-06

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, the City owns a fifty percent (50%) interest in a sliver of real property measuring five feet by one-hundred-thirty feet (5' x 130') identified as Assessor's Parcel Number 422-091-06 ("Property"). See attached Exhibit "A"

WHEREAS, the City acquired a partial interest in the Property with the intent of a possible future street dedication, but never acquired the complete portion.

WHEREAS, upon review of the current and future needs of the City, the City Staff believes that the Property is not needed for pedestrian, bicycle, transportation, or public purposes.

WHEREAS, the City staff has found and determined that the Property is of no practical use and as such, the disposal of the Property to the adjacent property owner and co-owner of the Property, Red Mountain Retail Group, will serve the public interest and benefit the neighborhood with new improvements. The property is no longer necessary for future Charle Street right-of-way improvements.

WHEREAS, an appraisal of the Property acquired by City staff shows that the City is acquiring fair market value for the sale.

WHEREAS, on March 23, 2015, pursuant to the requirements Government Code 65402, the Planning Commission considered the sale of the Property and determined that the sale of the Property is in conformity with the General Plan.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY FIND, DETERMINE AND RESOLVE AS FOLLOWS:

Section 1. The Recitals and definitions set forth above are incorporated herein as findings, determinations and definitions of this Council.

**PURCHASE AGREEMENT
AND ESCROW INSTRUCTIONS**
(Approx. .76 acres, COSTA MESA, CA)

This Purchase Agreement and Escrow Instructions (the "Agreement") is made as of August 7th, 2012, between RED MOUNTAIN ASSET FUND II, LLC ("Seller"), and SOUTH COAST COMMUNITIES, LLC, a Nevada limited liability company ("Buyer").

Recitals

CLOSING DATE: The closing date shall occur on the date designated by Buyer in written notice to Seller and Escrow Holder (the "Closing Date"), but the closing date shall be no later than five (5) business days following the date all of the following have occurred: (a) the recording of a Final Tract Map for Condominium Purposes and such other maps or condominium plans as are required to convey title to the Property to Buyer in compliance with the California Subdivision Map Act and all applicable local subdivision ordinances, in a manner which permits the Buyer to further divide the Property by condominium plan or otherwise to legally permit the sale of 14 residential lots or units to individual home buyers, and (b) the City of Costa Mesa and has approved all entitlements required to develop the Property with 14 residential units, subject only to conditions of approval reasonably acceptable to Buyer (the "Entitlements"), and the expiration of all applicable administrative appeal periods and statutes of limitations without an appeal or litigation being filed contesting the Entitlements (the items described in clauses (a) and (b) are referred to in this Agreement collectively as the "Entitlement/Subdivision Condition"). In any event, closing must occur no later than January 31, 2014.

DUE DILIGENCE PERIOD: Ends thirty (30) days after the date Seller delivers all of the Due Diligence Information to Buyer ("Due Diligence Period"). Buyer acknowledges that all Seller Due Diligence Information has been delivered as of the Effective Date.

EFFECTIVE DATE: Opening of Escrow as described in Section 3 (a).

TITLE COMPANY: First American Title Company
5 First American Way
Santa Ana, CA 92707
Attn: Mr. Mark Ellis
Phone: (714) 250-4721
E-mail: meilis@firstam.com

ESCROW HOLDER: Lawyers Title
4100 Newport Place Dr., # 120
Newport Beach, CA 92660
Attn: Ms. Joy Eaton
Phone: 949-724-3145
Fax: 949-271-5762
E-mail: joyeaton@ltic.com

PROPERTY IDENTIFICATION: Fee title to approximately .76 acres of land located in the County of Orange, California, Assessor Parcel Numbers: 422-091-06 & 07 (hereinafter collectively the "Property"). A legal description of the Property will be attached as Exhibit "A" and mutually agreed upon before the Close of Escrow. Notwithstanding the foregoing, Buyer acknowledges that the Property is a condominium interest only and subject to the recordation of a Final Tract Map for Condominium Purposes. The Parties acknowledge that Assessor Parcel Number: 422-091-06 is currently 50% owned by Seller and 50% owned by the City of Costa Mesa and that Seller will use its commercially reasonable efforts to acquire the portion owned by the City of Costa Mesa before the close of Escrow. In addition to the conveyance of the Property to Buyer, Seller shall convey to Buyer at the close of Escrow, a permanent non-exclusive easement for parking of 14 passenger vehicles on the real property adjoining the Property owned by Seller, in the location shown on Exhibit "B" and pursuant to an easement agreement approved by Seller and Buyer before the end of the Due Diligence Period (the "Parking Basement").

NOW, THEREFORE, in consideration of the promises and covenants contained herein, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller and Buyer agree as follows:

1. **Purchase and Sale.** Subject to all of the terms and conditions of this Agreement and for the consideration set forth, at the Closing Date, Seller shall convey to Buyer and Buyer shall purchase from Seller, the Property, together with all easements and appurtenances thereto including all appurtenant plans, specifications, surveys, permits and other government approvals.

2. **Purchase Price and Method of Payment.**

(a) **Purchase Price.** One Million Nine Hundred Thousand and 00/100 Dollars (\$1,900,000.00) (the "Purchase Price") for the Property.

(b) **Method of Payment.** The Purchase Price is payable as follows:

(1) Buyer shall deposit the sum of One Hundred Thousand and Dollars (\$100,000.00) (hereinafter, the "Deposit") with Escrow-Holder upon the opening of Escrow. The Deposit shall be completely refundable until the end of the Due Diligence Period. Upon the expiration of the Due Diligence Period the Deposit will remain in escrow, but shall become non refundable and subject to Section 8 (b), except in the event of a breach by Seller as described elsewhere in this document. Upon Buyer's authorization, the Deposit shall be released, whereupon the Deposit shall be applicable to the Purchase Price.

(2) As independent consideration for the purchase of the Property, within one (1) business day after receipt of the Deposit, Escrow Holder shall pay to Seller \$100.00 of the Deposit (the "Independent Consideration"), the sufficiency of which is hereby acknowledged. The Independent Consideration shall be released to Seller immediately.

City Sells for 950²¹

Red Mountain Sells for 60²¹
59

ASHABI, MINOO

Subject: FW: hamilton and harbor PA13-12

From: ZOOTERINCM@aol.com [<mailto:ZOOTERINCM@aol.com>]

Sent: Friday, January 08, 2016 8:55 PM

To: ARMSTRONG, GARY <GARY.ARMSTRONG@costamesaca.gov>

Cc: Daily Pilot - LA Times <dailypilot@latimes.com>; nsantana@voiceofoc.org; sandranian@yahoo.com; colinkmccarthy@yahoo.com; twesler@gmail.com; FLYNN, CLAIRE <CLAIRE.FLYNN@costamesaca.gov>; BAKKILA, VICTOR <VBAKKILA@costamesaca.gov>; SHARPNACK, ROBERT <RSHARPNACK@costamesaca.gov>; DUARTE, TOM <TOM.DUARTE@costamesaca.gov>; CITY CLERK <CITYCLERK@ci.costa-mesa.ca.us>; MONAHAN, GARY <GARY.MONAHAN@costamesaca.gov>; RIGHEIMER, JIM <JIM.RIGHEIMER@costamesaca.gov>; FOLEY, KATRINA <KATRINA.FOLEY@costamesaca.gov>; GENIS, SANDRA <SANDRA.GENIS@costamesaca.gov>; MENSINGER, STEPHEN <STEPHEN.MENSINGER@costamesaca.gov>; rose.scott@waterboards.ca.gov; ASHABI, MINOO <MINOO.ASHABI@costamesaca.gov>

Subject: hamilton and harbor PA13-12

Mr Gary Armstrong

In researching the Red Mountain project that has come up for an extension at the 02/22/2016 Planning Commission meeting, I have discovered an issue with the original application. I requested and have a copy of the original application signed on 10/03/2013 by the stated property owner. It is attached to this mail.

The simple fact is, Red Mountain Asset Fund II, LLC (RMAF) was not at that time and may still not be, the legal owner of APN 422-091-06. This is one of several parcels that are a portion of their planning action PA 13-12 and their TT map TT 17668. You may be aware that RMAF asked for and was granted permission to purchase this parcel about May of 2015 from the City of Costa Mesa. I find no record that the transaction has been completed to date. While this may have occurred by now, it does not dismiss the fact that RMAF and South Coast Communities (SSC) as their authorized agent may have agreed to submit an application to The City of Costa Mesa, making the claim of ownership to a parcel, that in fact was 1/2 owned by the City of Costa Mesa. It is possible that neither RMAF or the city of Costa Mesa had the right to claim ownership or enter into any agreement binding the other party's interest in this property.

I am in possession of a private document, made public by a Superior Court action, filed on 08/19/2015 that, in part, states, "The parties acknowledge that APN 422-091-06 is currently 50% owned by Seller and 50% owned by the City of Costa Mesa and that Seller will use its commercially reasonable efforts to acquire the portion owned by the City of Costa Mesa before the close of Escrow". This agreement, dated August 7, 2012 between RMAF and SCC might demonstrate that the parties knew they did not have ownership before the Planning Action was submitted.

1. RMAF and SSC appear to have signed and submitted a Planning Application showing RMAF as the Owner and SSC as the authorized Agent, on 10/03/2013, when both parties, by previous written agreement, might have known this was not a true statement.
2. RMAF and SSC appeared before the Costa Mesa Planning Commission when, by previous written agreement, might have known the ownership statements made in their Planning Application were not true.
3. RMAF and SSC appeared before the Costa Mesa City Council in an action to turn over the Planning Commission's approval when, by previous written agreement, might have known that the ownership statements made in their Planning Application were not true.
4. This Planning approval was made subject to the information provided to the city staff.

At this time I request that PA 13-12 and TT 17668 not be approved for any extension of approval and that the City of Costa Mesa make all agreements and actions, including resolution PC 15-15, made in favor of or effected by these approvals void.

Tim Lewis
949 646 7401

ASHABI, MINOO

Subject: FW: Pa 13-29

From: ZOOTERINCM@aol.com [mailto:ZOOTERINCM@aol.com]

Sent: Wednesday, February 03, 2016 1:57 PM

To: HATCH, THOMAS <THOMAS.HATCH@costamesaca.gov>

Subject: Pa 13-29

Mr. Hatch. I left some information last week that I thought, some of, needed to be looked at by your staff. There is now another issue with resolution 15-16. As you know the Planning commission and the Council depend on staff to do the research and acquire the information to support the issues. When staff provides recommendations that are not accurate, misleading or false it begs the question, why? As their CEO I'm sure you are aware of the possibilities. I would like to hear that you are working on it. These issues, The fraud committed by Red Mountain and South Coast Communities. The false statements made in resolution 15-16 by staff. The Appraisal that made City property being sold to a third party for \$60 a square foot only worth \$9 a square foot to the City.

Tim Lewis
949 646 7401

62

EDMUND G. BROWN JR.
GOVERNORMATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Santa Ana Regional Water Quality Control Board

May 22, 2015

Ms. Michelle F. Bell
Vice President, Acquisitions/Dispositions
Red Mountain Retail Group
1234 East 17th Street
Santa Ana, CA 92701

**SUBJECT: NO FURTHER ACTION FOR SOIL
RANDY'S AUTOMOTIVE PROPERTY
2089 HARBOR BOULEVARD, COSTA MESA
CASE NO. 083003929T**

Dear Ms. Bell:

This letter confirms the completion of the site investigation and remedial action for soil related to the unauthorized release of petroleum hydrocarbons at the above-described location. Enclosed is the Case Summary for the referenced site for your records. The summary contains important information regarding site management conditions and the ongoing groundwater remediation case.

Based upon the available information, including the current and proposed land use, and with the provision that the information provided to this agency is accurate and representative of site conditions, no further action related to the investigation and remediation of soil for the petroleum releases at this site is required. Assessment and remediation of groundwater will continue at the site until a final no further action letter has been issued for the groundwater portion of the project.

Please contact Kenneth Williams of our office at (951) 782-4496 if you have any questions regarding this matter.

Sincerely,

Kurt V. Berchtold
Executive Officer

Enclosure: Case Summary

Addressee: Michelle Bell, VP Acquisitions, RMG, MFBell@rmrginc.com

cc: Kelly Brown, Principal Geologist, Stantec, Kelly.Brown@stantec.com
Eric Nelson, Prospective Purchaser, Trumrak, enelson@trumarkco.com
Michele A. Staples, Attorney, Jackson DeMarco Tidus Peckenpaugh, mstaples@jdtplaw.com

H:\projects\Randy's Automotive\Randys_NFAltr.docx

CASE SUMMARY

I. AGENCY INFORMATION

Date: May 22, 2015

Agency Name: California Regional Water Quality Control Board, Santa Ana Region	Address: 3737 Main Street, Suite 500
City/state/zip: Riverside, CA 92501-3348	Phone: (951) 320-6375 or (951) 782-4130
Staff: Rose Scott	Title: Engineering Geologist

II. CASE INFORMATION

Site Name:	H.S. Chow Property (aka Randy's Automotive Property)	
Location:	2089 Harbor Boulevard, Costa Mesa, Orange County, CA	
Case Nos.	RB# 083003929T, GID# T0605988113	
Responsible Party	Address	Email
Red Mountain Retail Group, Michelle Bell	1234 East 17th Street Santa Ana, CA 92701	MFBell@rmrginc.com

III. RELEASE AND SITE CHARACTERIZATION INFORMATION

Cause(s) & Type(s) of Release(s): Illegal disposal practices from generator and auto repair shops	
Soil Closure Report Date(s): October 22, 2014 and March 3, 2015	
Health Risk Assessment Report Date(s): October 29, 2013 and June 17, 2014	
Site characterization complete: YES [] NO [x]	Soil closure request dated: March 3, 2015
Monitoring Wells installed: YES [x] NO []	Proper screened interval: YES [x] NO [x] NA []
Groundwater Depth Range: Approximately 18 to 24 ft.	Flow Direction: north-northwest
Groundwater Management Zone: Orange County	Groundwater Basin: Lower Santa Ana River
Drinking Water Wells Affected? YES [] NO [x]	Nearest Production Well: greater than 1mile
Most sensitive groundwater use: Municipal	Surface Water Affected? YES [] NO [x]
Nearest Surface Water: Coyote Creek, 355 feet south	Report(s) on file? YES [x] NO []
Reports filed: CA Regional Water Quality Control Board, 3737 Main Street, # 500, Riverside, CA 92501	
Reports after 2005: http://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T0605988113	

TREATMENT AND DISPOSAL OF AFFECTED MATERIAL

MATERIAL	AMOUNT	ACTION TREATMENT OR DISPOSAL W/ DESTINATION	DATE
Liquid Petroleum	2,346 gallons	Liquid petroleum hydrocarbons removed using automatic separate fluids extraction	2007-2015
Soil vapor	7,700 pounds	Hydrocarbons removed using soil vapor extraction (SVE)	2007
Groundwater	15,532 gallons	Hydrocarbon-impacted groundwater extracted during SVE and LNAPL recovery	2007-2015

64

IV. SITE RISK EVALUATION

Does completed corrective action protect beneficial uses per the regional board basin plan?

YES [] NO [x]

Additional corrective action is required to remove the LNAPL from the groundwater at the site.

Does the corrective action protect public health for current land use? YES [x] NO []

SITE MANAGEMENT REQUIREMENTS

Should corrective action be reviewed if land-use changes? YES [] NO [x]

Historic corrective action efforts are expected to have removed the majority of hydrocarbon impacts in shallow soil, but residual soil impacts could still potentially be encountered during site grading or redevelopment activities. Therefore, soil vapor monitoring according to SCAQMD Rule 1166 should be employed during any soil excavation or grading operations at the site.

Well Abandonment Notes:

Monitoring or vapor wells decommissioned: YES [] NO [x] N/A []

Number to be decommissioned: Currently none, because the existing wells are required for continuing groundwater cleanup efforts.

Enforcement History:

List of enforcement actions taken: Two Notices of Violation Issued

List enforcement action rescinded: None

V. ADDITIONAL COMMENTS, DATA, ETC.

The site consists of a group of properties located at the southwest corner of the intersection of Hamilton Street and Harbor Boulevard in Costa Mesa. Phase II investigations were conducted in 2000, in response to a Phase I Environmental Audit identifying areas of environmental concern on and around the site. Among the concerns identified were poor housekeeping practices associated with a generator repair shop and an automotive repair business operating on the properties. The property owner was identified as H.S. Chow. The current property owner is reported to be Red Mountain Retail Group.

In 2000, a series of environmental investigations were conducted at the site as part of a property transaction. Based on the results of these investigations, the Orange County Health Care Agency (County) found that the release of petroleum hydrocarbons to groundwater was not from an underground storage tank system and was ineligible for placement in their local oversight program. Therefore, the County transferred this case to our office for oversight.

Following the installation of three wells on the Randy's Automotive property, on September 5, 2000, light non-aqueous phase liquid (LNAPL), also referred to as floating product, was detected within one of the wells (MW2), at a thickness of 1.77 feet. This well is located in an area identified as the site of possible illegal disposal of liquid waste south of the former generator shop that was located on the residential property north of Randy's Automotive. Dissolved phase petroleum hydrocarbons were detected in groundwater samples collected from the other two wells (MW1 and MW3). MW1 contained 1,630 micrograms per liter (µg/L) of methyl tertiary butyl ether (MtBE). Well MW1 is located at the eastern property boundary along Harbor Boulevard and well MW3 is located in the southern portion of the property north of a roofing contractor yard.

Grab groundwater samples were collected from a number of direct push borings (DP1-DP17 and 1-7) on the site. The highest concentrations of total petroleum hydrocarbons as gasoline (TPHg) were detected in the groundwater samples collected from boring DP11 at 358,000 µg/L, boring DP17 at 190,000 µg/L, and boring DP10 at 113,000 µg/L. The highest benzene concentration was detected in the groundwater sample from boring DP17 at 12,500 µg/L. The highest MtBE concentration was detected in the groundwater sample collected from boring DP8 at 1,750 µg/L.

Six additional groundwater monitoring wells were installed between 2000 and 2003. In 2003, four of the nine wells on site contained LNAPL, predominantly in the diesel fuel range (C13 to C23), with the measured thickness ranging from 0.77 to 1.64 feet and a maximum TPH as diesel fuel (TPHd) concentration of 778,000 µg/L. Methyl tertiary butyl ether (MTBE) was detected in eight of the nine wells at concentrations ranging from

65

13 to 4,690 µg/L. MW1 contained 4,690 µg/l of MTBE. Benzene was detected in four of the eight wells at concentrations ranging from 323 to 15,900 µg/L. The highest concentration was detected in well MW2, the well containing the greatest thickness of floating product. Tertiary butyl alcohol (TBA) was detected at a concentration of 7,460 µg/L in well MW2.

In 2006, soil samples collected from twelve direct push soil borings (B-1 through B-12) contained TPHg and TPHd at maximum concentrations of 1,250 milligrams per kilogram (mg/kg) and 924 mg/kg. Benzene, MTBE, and TBA were reported at maximum concentrations of 1.06 mg/kg, 0.024 mg/kg, and 0.284 mg/kg, respectively. Hydropunch groundwater samples contained TPHg and TPHd at maximum concentrations of 1,070,000 µg/L and 542,000 µg/L, respectively. Maximum concentrations of benzene, MTBE and TBA were 4,330 µg/L, 707 µg/L, and 236 µg/L, respectively.

On October 2, 2007, wells MW-10 and MW-11 were installed. TPHg, benzene, ethylbenzene and total xylenes were detected in soil samples at maximum concentrations of 3,660 mg/kg, 5.78 mg/kg, 64.6 mg/kg, and 216.02 mg/kg, respectively, in sample MW10-S-20. TPHd was reported at a maximum concentration of 6.71 µg/kg in sample MW11-S-20. Toluene was detected in sample MW11-S-20, at a concentration of 1.3 mg/kg. MTBE was reported at a concentration of 0.060 µg/kg in sample MW10-S-30. VOCs, including n-butylbenzene, sec butylbenzene, isopropylbenzene, naphthalene, p-isopropyltoluene, n propylbenzene, 1,2,4 trimethylbenzene (TMB), and 1,3,5 TMB were reported in samples MW10-S-20 and MW11-S-20. Groundwater samples collected from wells MW-10 and MW-11 on October 6, 2007 contained TPHg, benzene and ethylbenzene at maximum concentrations of 72,000 µg/L, 1,800 µg/L and 2,270 µg/L, and TPHd and total xylenes at maximum concentrations of 1,290,000 µg/L and 1,281 µg/L, respectively.

Quarterly groundwater monitoring and manual LNAPL removal were conducted for 2007 and the first three quarters of 2008. In the fourth quarter 2007 vapor testing and LNAPL bail down testing were conducted. In March 2012, a Human Health Risk Assessment was prepared. In January 2013, operation of a soil vapor extraction system and a liquid phase petroleum hydrocarbon extraction system began. In August 2013, the SVE system was shut down due to decreased influent concentrations (240 ppmv of TPHg, 1.6 ppmv of benzene, 0.47 ppmv of ethylbenzene, and 0.95 ppmv of xylenes).

Between February 2012 and March 2014, 17 dual nested soil vapor probes were installed at depths of five and 15 feet below ground surface to assess potential soil vapor risk to future residents. Maximum benzene concentrations were detected from location EB-3 at 720 micrograms per cubic meter (µg/m³) and 360,000 µg/m³. Other maximum concentrations detected total volatile petroleum hydrocarbons (TPHv; 1,900,000 g/m³), chloroform (210 µg/m³), toluene (180 µg/m³), ethylbenzene (36,000 µg/m³), m, p-xylene (2,200 µg/m³), o-xylene (32 µg/m³), and tetrachloroethene (PCE; 20 µg/m³).

On March 17, 2014, one soil boring (B13) and five dual nested soil-vapor probes (EB7 through EB10, and WB7) were installed at the site. The soil samples collected from B13, EB7 through EB-10, and WB7, TPHg, benzene, ethylbenzene, total xylenes, MTBE and TBA were not reported above the laboratory reporting limits in any of the samples collected. TPHd was reported in both soil samples collected from boring B13 and in two soil samples from boring WB7 (at 2.5 and 5 feet bgs) at concentrations ranging from 7.4 mg/kg to 11 mg/kg. Toluene was reported in two soil samples from boring SB7 at 2.5 and 5 feet, at concentrations ranging from 0.0010 and 0.0017 mg/kg, respectively.

In the soil vapor samples collected on March 20, 2014 from vapor probes EB7 through EB10 and WB7, TPHv was reported in 10 soil vapor samples with concentrations ranging from 680 µg/m³ to 2,100,000 µg/m³. Benzene was reported in seven soil vapor samples with concentrations ranging from 4.2 µg/m³ to 70 µg/m³. Toluene was reported in eight soil vapor samples at concentrations ranging from 10 µg/m³ to 180 µg/m³. Ethylbenzene was reported in three soil vapor samples ranging from 6.2 µg/m³ to 28 µg/m³. M,p-xylenes and O-xylenes were reported in five soil-vapor samples ranging from 13 µg/m³ to 89 µg/m³ and from 5.2 µg/m³ to 32 µg/m³, respectively.

Other VOCs were detected, including: 1,1-DCA and 1,2-dichloropropane at concentrations of 12 µg/m³ and 23 µg/m³, respectively; 1,2-Dichloroethane (EDC) at concentrations ranging from 5.1 µg/m³ to 31 µg/m³; 1,3,5-Trimethylbenzene, acetone and 4-ethyltoluene at concentrations of 8.6 µg/m³, 36 µg/m³, and 5.0 µg/m³, respectively; 1,2,4-Trimethylbenzene from 5.4 µg/m³ to 18 µg/m³; 4-Methyl-2-pentanone (MIBK) from 93 µg/m³ to 4,500 µg/m³; Carbon disulfide at concentrations of 10 µg/m³ and 16 µg/m³; Chloroform from 6.4 µg/m³ to 210 µg/m³, and Tetrachloroethene at a concentration of 20 µg/m³. Fixed gases, oxygen, carbon dioxide and nitrogen, were detected in all soil vapor samples. Methane was detected in eight samples with concentrations ranging between 14 parts per million per volume (ppmv) and 18,000 ppmv. Oxygen was detected in 11 samples

66

at concentrations ranging between 2.7 percent and 15 percent. Oxygen levels in the 5 foot sample depths ranged from 8.4 to 15 percent.

Based on the additional soil data, the Health Risk Assessment was updated in April and May 2014. In May 2014, four temporary wells were installed in the community garden to collect groundwater samples and define the extent of LNAPL and one monitoring well was installed north of the Hamilton community garden. The groundwater samples collected from temporary well TW-2, contained TPHg, TPHd, benzene, ethylbenzene and total xylenes at concentrations of 6,200 µg/L, 16 µg/L, 100 µg/L, 200 µg/L, and 270 µg/L, respectively. The groundwater sample collected from well MW-12 contained TPHg and benzene at concentrations of 29 µg/L and 1.2 µg/L. LNAPL was not detected beneath the community garden.

Petroleum hydrocarbons were not detected in soil in the northeast portion of the community garden at well MW-12. TPHd was reported in shallow soil samples collected at 1.5 feet below surface near the southeast corner of the community garden. TPH as gasoline, BTEX, MTBE, and TBA were not reported at or above any reporting levels, with the exception of the capillary fringe soil sample from TW-2. The reported benzene, ethylbenzene, and xylene concentrations in TW-2 indicated near delineation of petroleum in capillary fringe soil in this direction.

On October 8, 2014, dual nested soil vapor probes EB-7-SV-5', EB-8-SV-5', EB-8-SV-15', EB-9-SV-5', EB-9-SV-15', and EB10-SV-5' were resampled under the oversight of Orange County Health Care Agency to confirm the results of the previous soil vapor assessment. These probes are generally in the area of existing LNAPL. Maximum benzene concentrations were reported in EB-8 (adjacent to former EB-3) at 20 µg/m³ at 5 feet and 620 µg/m³ at 15 feet. TPHv, toluene, m,p-xylene, o-xylene, PCE, and TCE were also detected at maximum concentrations of 8,400,000 µg/m³, 110 µg/m³, 10 µg/m³, 4.7 µg/m³, 51 µg/m³, and 17 µg/m³. OCHCA evaluated the potential vapor risk based on soil vapor results from the maximum soil vapor concentration detected for benzene under a residential scenario and determined that the incremental lifetime cancer risk (ILCR) for benzene was 3.9x10⁻⁶ at 5 feet and 6.2x10⁻⁶ at 15 feet. Based on these results, the OCHCA recommended additional soil vapor sampling at 10 feet in the areas of concern to determine the vertical soil vapor profile.

In February 2015, two soil vapor probes (EB8-10 and EB9-10) were installed and a soil vapor sample was collected from each 10 foot soil vapor probe. TPHv was reported in both 10 foot soil vapor samples at concentrations of 1,300,000 µg/m³ in EB9-10 and 3,300,000 µg/m³ in EB8-10. EB8-10-dup had a TPHv concentration of 3,200,000 µg/m³. Fixed gases including oxygen, carbon dioxide, methane, and nitrogen were reported in the soil vapor samples. Oxygen was detected at concentrations between 4.2 percent and 4.8 percent. Carbon dioxide was detected at 14 percent. Methane was detected at concentrations between 15,000 and 21,000 ppmv. Nitrogen was detected between 80 and 83 percent. OCHCA evaluated the vapor risk based on the maximum detection limit of <200 µg/m³ for benzene under a residential scenario and determined that the ILCR for benzene at 10 feet below ground surface was 2.6x10⁻⁶.

During the first quarter 2015, groundwater was found from 22.80 to 23.67 below surface flowing to the north-northwest. LNAPL was detected in six wells at thicknesses within the wells ranging from 0.09 to 1.44 feet. Maximum concentrations of TPHg (860 µg/L), TPHd (33 µg/L), MtBE (34 µg/L) and TBA (49 µg/L) were detected. The dissolved concentrations along the edges of the plume are fairly low; however, product was detected the last two quarters in wells on the periphery of the site that have been used in the past to determine the lateral extent of the plume. Therefore, the plume does not appear to be stable and additional groundwater monitoring has been required to fully define the extent of the plume. Furthermore, an evaluation of the potential benefit of total fluids extraction or some other form of hydraulic control on site is required to determine if stability may be achieved. Therefore, a workplan to assess and monitor groundwater south of the existing site wells affected by petroleum hydrocarbons and an evaluation of possible alternative remedial methods to enhance plume stability were requested by Regional Board staff and are due by June 17, 2015.

Based on the following factors, no further action related to soil is required at the site:

- The vertical and lateral extent of the soil plume above the capillary fringe has been adequately defined.
- In 2013, SVE removed 7,700 pounds of hydrocarbon vapors from soil.
- A health risk assessment and soil vapor evaluation was conducted and concluded that residual soil concentrations presented an acceptable risk for residential use.

- Groundwater remediation will continue to remove LNAPL from the groundwater.



**PUBLIC HEALTH SERVICES
ENVIRONMENTAL HEALTH**

MARK A. REFOWITZ
DIRECTOR

RICHARD SANCHEZ, MPH
ASSISTANT DIRECTOR

DAVID M. SOULELES, MPH
DEPUTY AGENCY DIRECTOR

DENISE FENNESSY, REHS
DIRECTOR
ENVIRONMENTAL HEALTH

1241 E. DYER ROAD, SUITE 120
SANTA ANA, CA 92705

TELEPHONE: (714) 433-6473
FAX: (714) 754-1732
E-MAIL: ehealth@ochca.com

May 8, 2015

Philip Hurst
Red Mountain Asset Fund II, LLC
1234 East 17th Street
Santa Ana, CA 92701

Subject: Response to Soil Vapor Sampling Activities

Re: Former Randy's Automotive
2089 Harbor Blvd.
Costa Mesa, CA 92701
OCHCA Case #14IC011

Dear Mr. Hurst:

Soil vapor investigation activities were conducted at the subject site by Stantec Consulting Services Inc. (Stantec) between February 2012 and March 2014. During this time, 17 dual nested soil vapor probes were installed at depths of five feet (ft.) and 15 ft. below ground surface (bgs) throughout the site to assess potential soil vapor risk to future residents. Please note, the subject vapor investigation activities were limited to the site addressed above and does not include assessment of surrounding properties. Soil vapor sample analysis included total volatile petroleum hydrocarbons (TPH_{V_{C5-C11}}) and full scan volatile organic compounds (VOCs) by EPA Method TO-15. Maximum benzene concentrations were detected from location EB-3 at 720 ug/m³ (EB-3-SV-5') and 360,000 ug/m³ (EB-3-SV-15'). Other maximum concentrations detected at various soil vapor probe locations and depths were TPH_{V_{C5-C11}} (1,900,000 ug/m³), chloroform (210 ug/m³), toluene (180 ug/m³), ethylbenzene (36,000 ug/m³), m, p-xylene (2,200 ug/m³), o-xylene (32 ug/m³), and tetrachloroethene (PCE; 20 ug/m³).

On October 8, 2014 existing dual nested soil vapor probes EB-7-SV-5', EB-8-SV-5', EB-8-SV' 15, EB-9-SV-5', EB-9-SV-15', and EB10-SV-5', located in the area of existing liquid phase hydrocarbons (LPH) on groundwater, were resampled by Stantec under the oversight of Orange County Health Care Agency to confirm the results of the previous soil vapor assessment. Soil vapor samples were analyzed for TPH_{V_{C5-C11}}, and VOC's by EPA Method TO-15. Maximum benzene concentrations were reported in EB-8 (adjacent to former EB-3) at 20 ug/m³ at five ft. bgs and 620 ug/m³ at 15 ft. bgs. TPH_{V_{C5-C11}}, toluene, m,p-xylene, o-xylene, PCE, and TCE were also

69

Philip Hurst
May 8, 2015
Page 2 of 2

detected at maximum concentrations of 8,400,000 ug/m³, 110 ug/m³, 10 ug/m³, 4.7 ug/m³, 51 ug/m³, and 17 ug/m³. At the request of the Santa Ana Regional Water Quality Control Board (SARWQCB), OCHCA evaluated the potential vapor risk based on soil vapor results from the maximum soil vapor concentration detected for benzene under a residential scenario and determined that the incremental lifetime cancer risk (ILCR) for benzene was 3.9x10⁻⁸ at five ft. bgs and 6.2x10⁻⁶ at 15 ft. bgs. Based on these results the OCHCA recommended additional soil vapor data at 10 ft. bgs in the areas of concern to determine the vertical soil vapor profile.

On February 2, 2015, two additional soil vapor probes (EB8-10' and EB9-10') were installed adjacent to EB-8 and EB-9 to further assess the vertical soil vapor profile. Soil vapor samples were analyzed for TPH_{VOC5-C11} and VOC's by EPA Method TO-15. TPH_{VOC5-C11} was detected at a maximum concentration of 3,300,000 ug/m³. All other constituents of concern were not detected above the detection limit. OCHCA evaluated the vapor risk based on the maximum detection limit of <200 ug/m³ for benzene under a residential scenario and determined that the ILCR for benzene at 10 feet bgs was 2.6x10⁻⁶.

Review of historical site soil vapor data shows vertical attenuation in vapor concentrations between the source (free product) and potential receptors. In addition shallow soil vapor samples demonstrate an ILCR of less than one in one million.

With the provision that the results of the soil vapor sampling events conducted under OCHCA staff supervision were accurate and representative of existing conditions, it is the position of this office that current soil vapor conditions do not pose a threat to human health, safety or the environment under the proposed residential development scenario.

It should be pointed out that this letter does not relieve you of current site assessment and free product removal activities overseen by the SRWQCB, nor does it relieve you of any responsibilities mandated under the California Health and Safety Code if additional or previously unidentified contamination is discovered.

Please contact Tamara Escobedo at (714) 433-6251, if you have any questions regarding this matter.

Sincerely,



Geniece Higgins
Supervising Hazardous Waste Specialist
Hazardous Material Mitigation Section
Environmental Health

cc: Rose Scott, Santa Ana Regional Water Quality Control Board (electronic copy)
Kelly Brown, Stantec Consulting Services Inc. (electronic copy)

ASHABI, MINOO

From: Scott, Rose@Waterboards <Rose.Scott@waterboards.ca.gov>
Sent: Tuesday, December 22, 2015 9:12 AM
To: Alton Klein
Cc: Bernhardt, Carl@Waterboards; Phil Clark; Mark Field; Michelle Bell; Carl Roude; ASHABI, MINOO
Subject: RE: Case #083003929T - 2089 Harbor Blvd (Harbor and Hamilton) Costa Mesa CA

Dear Mr. Klein:

We are not able to provide such a letter at this time given the status of this case. Regional Board staff are concerned with the improperly maintained wells, discontinuation of liquid petroleum hydrocarbon removal, and the failure to conduct quarterly monitoring. Furthermore, the seeping of petroleum onto the surface in the vicinity of the lifts was not previously disclosed to us at the time we issued the no further action for soil; therefore, that position is being reevaluated.

I have restated our initial response to your first email below:

This case remains an open groundwater cleanup case. The site is currently **out of compliance** with groundwater monitoring and remediation requirements. The most recent groundwater monitoring report was due on October 30th. The previous report was due on July 30th. At our last meeting with Eric Nelson, we made clear that a more aggressive approach to groundwater remediation was required because the product plume was expanding. The soil closure is contingent upon the continued remediation of the free product.

Since that meeting, I have been to the site and observed that the groundwater remediation equipment had been removed and no attempt at remediation was occurring. Furthermore, several wells have been damaged and water was ponding on the site allowing infiltration in the source area and possibly causing the spreading of the product plume that was reported in the last two sampling events. I also witnessed liquid phase hydrocarbons seeping from the ground onto the surface in the vicinity of the former lifts and beside the building associated with those lifts. This soil will require remediation and indicates the possible location of an undisclosed source contributing to the petroleum product on groundwater. Regional Board staff must be present at the site for the removal of these structures during site demolition and redevelopment. The soil no further action letter does not include information about this area but states that environmental monitoring is required for soil management. This correspondence informs you that we must be notified for such events, especially in the area of the structures associated with that service area.

Even though the Orange County Health Care Agency has evaluated the soil for health risks, groundwater remediation must continue at the site. Mitigation of the free product is required. The County evaluation is contingent on the assumption that groundwater remediation will continue at the site. All of the documents point out that the health risk evaluation is just pertaining to soil. No contribution from groundwater was included in the risk evaluation. A vapor barrier does not remove the overall threat caused by the groundwater plume to the environment. However, we have allowed redevelopment of other sites with ongoing remediation to remove the hydrocarbons.

The Regional Board can provide a position of support for the redevelopment project to the City of Costa Mesa only if the site cleanup is moving forward in good faith. The lack of action to date at the site does not encourage trust that the cleanup will continue. Therefore, a notice of violation may be issued to the responsible parties and the City copied on the notice. We have received several complaints from neighboring properties regarding the threat to their properties from your site.

This should give you a complete picture of the status of this case. If you have further questions, please email me at rose.scott@waterboards.ca.gov.

Rose Scott

Engineering Geologist
California Regional Water Quality Control Board
Santa Ana Region
3737 Main Street, #500
Riverside, California 92501

From: Alton Klein [AKlein@rmrginc.com]
Sent: Monday, December 21, 2015 5:06 PM
To: Scott, Rose@Waterboards
Cc: Bernhardt, Carl@Waterboards; Phil Clark; Mark Field; Michelle Bell; Carl Roude; ASHABI, MINOO; Alton Klein
Subject: Case #083003929T - 2089 Harbor Blvd (Harbor and Hamilton) Costa Mesa CA

Ms. Scott,

I have been in several meetings on this property today and a lot of information that I was not aware of has come to light.

It has come to my attention that the processes we had in place for the remediation and monitoring was not progressing in the manner in which we would have like to have seen, in fact it was making it worse. In light of these findings we have taken a step back to re-access the process and retain other vendors to put together a plan of action for the property. It was not our intention to stop the remediation and monitoring - only to come up with a better solution. We have already spent hundreds of thousands of dollars to try to mitigate this issue. However we are not achieving the desired results under the current plan. I will keep you informed of the vendors that we retain and the plan of action that they prescribe for the project for your review.

That being said we would respectfully request that you submit a letter to our City of Costa Mesa planner, Minoo Ashabi, which indicates that Red Mountain Group and Santa Ana Water Quality Control Board will continue to work together on the monitoring and remediation of the ground water on the property and you would support the development of the residential units on the property with the understanding that the monitoring and the remediation of the ground water must continue throughout the development of the project until acceptable levels of contamination have been achieved.

Thank You,

Alton M. Klein



RED MOUNTAIN GROUP

1234 East Seventeenth Street
Santa Ana, California 92701
(714) 460-1563 Direct
(714) 292-2491 Cell
aklein@rmrginc.com

www.redmountainretailgroup.com

This message is for the designated recipient only and may contain privileged, proprietary, or otherwise private information. If you have received it in error, please notify the sender immediately and delete the original. Any other use of the email by you is prohibited.

Comments from Tim Lewis

Chair Dixson, Planning Commissioners, staff

With every, in depth look at the documents, I find more evidence of deceptive communication and mistakes that could be otherwise.

The attached letter, page 34, on November 19, 2015 to Staff Minoo makes reference to site mitigation and "no further action letters". These statements were taken out of context to make it look as if the site work was done. These letters are clearly conditional, however, that information was with held.

Another letter, page 72, on December 21, 2015 seems to indicate surprise that things weren't going right? In May 2015 they were told that things were not going right and a request was made to come up with a better plan. That request was ignored.

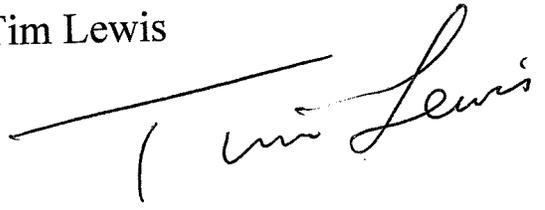
Look Here
↓

This request for a 2-year extension is in fact an extension of the original approval of the Planning Commission, PC 14-28. Please refer to page 19 Exhibit "B". Conditions of approval.

" 1. The expiration of Planning Application PA-13-29 shall coincide with the expiration of the approval of the tentative tract map 17668 which is valid for two years. An extension request is needed to extend the expiration for each additional year after the initial two-year period."

An extension for a two-year period would be a change of the original approval and might require a public notice of your intentions to do so.

Therefore, I support a one-year extension of this PA and TT map .
Tim Lewis



Received
City of Costa Mesa
Development Services Department

FEB 22 2016

On May 27, 2014 (Resolution PC-14-28, Planning Application PA-13-29 was passed by the Fitzpatrick Planning Commission)

Public records reveal the resolution was then and is now invalid due to misrepresented ownership, occurring from May 27, 2014 through November 24, 2015.

Also, so numerous are the errors and omissions which exist in public documents regarding this project, three minutes is NOT nearly enough time to name them all. These errors and omissions place the City of Costa Mesa at risk.

Ex. The Draft Initial Study/Mitigated Negative Declaration dated April 7, 2014 contains errors and omissions @ 2.2 Environmental Setting
Planning Application R-07-01 dated 1/19/2007 contains errors and omissions.
The Official Public Notice announcing the Public Hearing of Tuesday May 27, 2014 contains errors and omissions. and many more.

We have located some public documents which should, but DO NOT APPEAR on Costa Mesa's City Website. They are included in the packages we've created for you.

Among our **partial (not comprehensive)** packet of public records, **you'll find a Nov. 20, 2015 Grant Deed that provides proof that Resolution No. PC-14-28 was not then and is not now valid**, because Red Mountain Asset Fund II **did not own the property outright** on May 27, 2014 (the date the Fitzpatrick Planning Commission passed PC-14-28) **RMA did not own property outright until the Grant Deed recorded November 24, 2015.**

NOTE something VERY PECULIAR in today's Agenda Report, **February 22, 2016 Item Number PH-1: (Ref. Attachment 2, pages 34 and 35) Red Mountain Asset Fund II, LLC requested this extension on 11-19-2015, when Costa Mesa was still a co-owner of the property.**

The Grant Deed was executed by Mayor Mensinger on 11/20/2015, the VERY NEXT DAY.

On November 24, 2015, the Parcel in question was officially sold by CM to RMA for less than \$6000. **That is NOT fair market value.**

Question: Who commissioned the appraisal that resulted in this deal?

Answer: Red Mountain.

Question: Why would the seller (City of Costa Mesa) allow this to happen?

No homeowner, no business, no **authentic** government representative would allow a buyer to control a real estate appraisal, but we have such documentation in this file, dated **October 15, 2014**. And the appraisal is for pennies on the dollare compared to **The 2015-16 Orange County Treasurer - Tax Collector's SECURED PROPERTY TAX BILL, due November 1, 2015**, which values the parcel at \$34,874. **The tax bill came first.**

Received

City of Costa Mesa

Development Services Department

One wonders why these documents are not on the City's website?

FEB 22 2016

On May 27, 2014 (Resolution PC-14-28, Planning Application PA-13-29 was passed by the Fitzpatrick Planning Commission)

From your package, Attachment 2 (the letter) contains MISREPRESENTATIONS of the Quality Control Board's position on the contamination at 2089 Harbor Blvd. Costa Mesa.

Compare Attachment 2, pages 34 and 35 (Red Mountain's letter dated 11/19/2015) to pages 71 and 72 (California Regional Water Quality Control Board's email dated 12/22/15) and you will clearly recognize MAJOR discrepancies contained in the Red Mountain letter.

We have pictures revealing disturbing views of the pollution still rampant at the 2089 Harbor Blvd. site, rendering it inappropriate for residential building.

There is an Agenda Report dated March 11, 2015.,

Red Mountain Retail Group (RMRG) currently co-owns real property known as County AP No. 422-091-06 with the City of Costa Mesa. The agenda report claiming to "SERVE THE PUBLIC INTEREST AND IS (be) A PUBLIC BENEFIT"

There is an Agenda Report dated April 23, 2015 recommending,

RECOMMENDATION

1. **Adopt a resolution** to procede with the sale of city co-owned property **along Charle Street, County Assessor's Parcel No. 422-091-06.**

Representatives of The City of CM, BY SELLING THIS PROPERTY TO RED MOUNTAIN FOR PENNIES ON THE DOLLAR, FAILED to "SERVE THE PUBLIC INTEREST AND IS (be) A PUBLIC BENEFIT"?

Costa Mesa's Public Interest was NOT served.

Contamination, errors, omissions, ownership, appraisals, et al, put the city of Costa Mesa at risk.

These liabilities, errors, and risk lead directly to denial of an extension.

It's time to start over.

**PURCHASE AGREEMENT
AND ESCROW INSTRUCTIONS**
(Approx. .76 acres, COSTA MESA, CA)

This Purchase Agreement and Escrow Instructions (the "Agreement") is made as of August 7th, 2012, between RED MOUNTAIN ASSET FUND II, LLC ("Seller"), and SOUTH COAST COMMUNITIES, LLC, a Nevada limited liability company ("Buyer").

Recitals

CLOSING DATE: The closing date shall occur on the date designated by Buyer in written notice to Seller and Escrow Holder (the "Closing Date"), but the closing date shall be no later than five (5) business days following the date all of the following have occurred: (a) the recording of a Final Tract Map for Condominium Purposes and such other maps or condominium plans as are required to convey title to the Property to Buyer in compliance with the California Subdivision Map Act and all applicable local subdivision ordinances, in a manner which permits the Buyer to further divide the Property by condominium plan or otherwise to legally permit the sale of 14 residential lots or units to individual home buyers, and (b) the City of Costa Mesa has approved all entitlements required to develop the Property with 14 residential units, subject only to conditions of approval reasonably acceptable to Buyer (the "Entitlements"), and the expiration of all applicable administrative appeal periods and statutes of limitations without an appeal or litigation being filed contesting the Entitlements (the items described in clauses (a) and (b) are referred to in this Agreement collectively as the "Entitlement/Subdivision Condition"). In any event, closing must occur no later than January 31, 2014.

DUE DILIGENCE PERIOD: Ends thirty (30) days after the date Seller delivers all of the Due Diligence Information to Buyer ("Due Diligence Period"). Buyer acknowledges that all Seller Due Diligence Information has been delivered as of the Effective Date.

EFFECTIVE DATE: Opening of Escrow as described in Section 3 (a).

TITLE COMPANY: First American Title Company
5 First American Way
Santa Ana, CA 92707
Attn: Mr. Mark Ellis
Phone: (714) 250-4721
E-mail: mellis@firstam.com

ESCROW HOLDER: Lawyers Title
4100 Newport Place Dr., # 120
Newport Beach, CA 92660
Attn: Ms. Joy Eaton
Phone: 949-724-3145
Fax: 949-271-5762
E-mail: joyeaton@ltic.com

PROPERTY IDENTIFICATION: Fee title to approximately .76 acres of land located in the County of Orange, California, Assessor Parcel Numbers: 422-091-06 & 07 (hereinafter collectively the "Property"). A legal description of the Property will be attached as Exhibit "A" and mutually agreed upon before the Close of Escrow. Notwithstanding the foregoing, Buyer acknowledges that the Property is a condominium interest only and subject to the recordation of a Final Tract Map for Condominium Purposes. The Parties acknowledge that Assessor Parcel Number: 422-091-06 is currently 50% owned by Seller and 50% owned by the City of Costa Mesa and that Seller will use its commercially reasonable efforts to acquire the portion owned by the City of Costa Mesa before the close of Escrow. In addition to the conveyance of the Property to Buyer, Seller shall convey to Buyer at the close of Escrow, a permanent non-exclusive easement for parking of 14 passenger vehicles on the real property adjoining the Property owned by Seller, in the location shown on Exhibit "B" and pursuant to an easement agreement approved by Seller and Buyer before the end of the Due Diligence Period (the "Parking Easement").

NOW, THEREFORE, in consideration of the promises and covenants contained herein, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller and Buyer agree as follows:

1. **Purchase and Sale.** Subject to all of the terms and conditions of this Agreement and for the consideration set forth, at the Closing Date, Seller shall convey to Buyer and Buyer shall purchase from Seller, the Property, together with all easements and appurtenances thereto including all appurtenant plans, specifications, surveys, permits and other government approvals.

2. **Purchase Price and Method of Payment**

(a) **Purchase Price.** One Million Nine Hundred Thousand and 00/100 Dollars (\$1,900,000.00) (the "Purchase Price") for the Property.

(b) **Method of Payment.** The Purchase Price is payable as follows:

(1) Buyer shall deposit the sum of One Hundred Thousand and Dollars (\$100,000.00) (hereinafter, the "Deposit") with Escrow-Holder upon the opening of Escrow. The Deposit shall be completely refundable until the end of the Due Diligence Period. Upon the expiration of the Due Diligence Period the Deposit will remain in escrow, but shall become non refundable and subject to Section 8 (b), except in the event of a breach by Seller as described elsewhere in this document. Upon Buyer's authorization, the Deposit shall be released, whereupon the Deposit shall be applicable to the Purchase Price.

(2) As independent consideration for the purchase of the Property, within one (1) business day after receipt of the Deposit, Escrow Holder shall pay to Seller \$100.00 of the Deposit (the "Independent Consideration"), the sufficiency of which is hereby acknowledged. The Independent Consideration shall be released to Seller immediately,

(h) **Time of Essence.** Time is of the essence for each condition, term, and provision in this Agreement.

(i) **Force Majeure.** Buyer's failure to perform any term or condition of this Agreement as a result of conditions beyond its control such as, but not limited to, war, strikes, fires, floods, acts of God, governmental restrictions, power failures, or damage or destruction of any network facilities or servers, shall not be deemed a breach of this Agreement.

(j) **Governing Law.** This Agreement shall be governed and construed in accordance with California law.

(k) **Waiver of Jury Trial.** EACH PARTY HEREBY WAIVES TRIAL BY JURY IN ANY ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM BROUGHT BY THE OTHER PARTY IN CONNECTION WITH ANY MATTER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR THE RELATIONSHIP OF BUYER AND SELLER HEREUNDER.

SELLER:

RED MOUNTAIN ASSETT FUND II, LLC
a California limited liability company

BY: Red Mountain Retail Group, Inc., Its Manager

By:



Michael H. Muel
Its: Chief Executive Officer

BUYER:

SOUTH COAST COMMUNITIES, LLC
a Nevada limited liability company

By:



BRENT A. LITTLE
Its: Principal

ACCEPTANCE BY ESCROW HOLDER:

Lawyers Title Escrow hereby acknowledges that it has received a fully executed counterpart of the foregoing Purchase Agreement and Escrow Instructions ("Agreement") and agrees to act as Escrow Holder under the Agreement and to be bound by and perform the terms thereof as such terms apply to Escrow Holder.

EXHIBIT "C"

ENVIRONMENTAL DISCLOSURE

The Property is a Leaking Underground Storage Tank ("LUST") site per the California Regional Water Quality Board. Based on information obtained from Geo Tracker the site history includes but is not limited to:

- Four of the nine wells on site contain floating product, predominantly in the diesel fuel range (C13-C23), with the measured thickness ranging from 0.77 to 1.63 feet.
- Methyl tertiary butyl ether (MTBE) was detected in eight of the nine wells at concentrations ranging from 13 to 4,690 micrograms per liter (mg/L). MW1 contained 4,690 mg/l of MTBE. Well MW1 is located at the eastern property boundary along Harbor Boulevard.
- Benzene was detected in four of the eight wells at concentrations ranging from 323 to 15,900 mg/l. The highest concentration was detected in well MW2, the well containing the greatest thickness of floating product.
- Tertiary butyl alcohol (TBA) was detected at a concentration of 7,460 mg/l in well MW2. This well is located in an area identified as the possible site of illegal disposal of liquid waste south of the former generator shop that was located on the residential property north of Randy's Automotive.

In April of 2006, the California Regional Water Quality Board approved a Remedial Action Plan ("RAP") and Site Assessment Report. In addition, a detailed Human Health Risk Assessment Report was submitted to the Board for review showing the levels of contamination within acceptable ranges for both residential and commercial occupancies.

The design of the Remedial Equipment pursuant to the RAP is underway and will be constructed in conjunction with the development of the Property.

5204-31447A(324)MORM71:197705.1
7/27/12

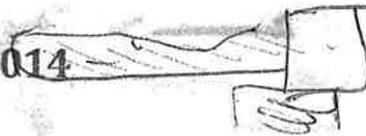
"The Project"

Draft Initial Study/Mitigated Negative Declaration

**City Commons
A 28-Unit Residential and Live/work Development
Costa Mesa, California**

**Prepared By:
City of Costa Mesa
Development Services Department
77 Fair Drive
Costa Mesa, CA 92626**

April 7, 2014



City of Costa Mesa Municipal Code

The City of Costa Mesa Municipal Code (CMMC) consists of regulatory, penal, and administrative ordinances of the City of Costa Mesa. It is the method the City uses to implement control of land uses, in accordance with General Plan goals and policies. The City of Costa Mesa Zoning Code is found in CMMC Title 13, Planning, Zoning, and Development. The purpose of CMMC Title 13 is to promote the public health, safety, and general welfare, and preserve and enhance the aesthetic quality of the City by providing regulations to ensure that an appropriate mix of land uses occur in an orderly manner. The CMMC and CMMC Title 13 are referenced throughout this Initial Study for descriptions and requirements of the City's regulatory framework.

The documents are available for review at the City of Costa Mesa Development Services Department located at 77 Fair Drive, Costa Mesa, California 92626.

Section 2: Project Description

2.1 – Project Location

The City Commons project is located in the southern portion of the City of Costa Mesa, in the County of Orange. The project site is at the southwest corner of Harbor Boulevard and Hamilton Street and contains seven parcels. Please see Exhibit 1. The site is west of California State Route 55, also known as the Costa Mesa Freeway (SR 55), and approximately 3 miles northeast of the Pacific Ocean.

Regional Access to the site is provided via Interstate 405 (I-405) to SR-55. Pacific Coast Highway (CA-1) is located approximately 2 miles southwest of the site, and also provides regional access. Local access to the site is provided via Hamilton Street and Harbor Boulevard, with direct access coming from Hamilton and Charle Street.

2.2 – Environmental Setting

The project site consists of seven parcels totaling 1.53 acres (Assessor's Parcel Numbers 422-091-01, 422-091-08, 422-091-09 (2 parcels), 422-091-07, 422-091-02, and 422-091-06) and xx addresses. The site is relatively flat with onsite elevation of approximately 89 feet above mean sea level. The regional topographic gradient is to the northeast.

The project site is developed with three vacant buildings (medical building, and an automotive office and shop). The former medical office building (2095 Harbor Boulevard) is 5,909 square feet, constructed of wood frame with a stucco exterior coat and a flat built-up roof system with composite shingles. The former Randy's Automotive business (2089 Harbor Boulevard) is a small 1,183 square-foot office building constructed of wood frame with a stucco exterior coat and a pitched asphalt shingle roof and a two bay 900 square-foot shop constructed of wood frame with a stucco exterior finish and a flat built up roof system. The 2089 Harbor Boulevard property consists of a square foot office building and a 900 square foot shop. The 2099 Harbor Boulevard property is vacant but was previously occupied by Charlie Smiley Specialty Contractor (a roofing contractor) and had a small trailer with an ancillary structure (used as an office) and a fenced storage yard. The 511 Hamilton Street site is currently a vacant lot but was once developed with a house and a shop from approximately 1956 until 2003 when the buildings were demolished.

Where is PG?

OFFICIAL PUBLIC NOTICE

Notice of Availability and Notice of Intent to adopt an Initial Study/Mitigated Negative Declaration; and Notice of Public Hearing for a 28-unit residential project including 7 live/work units at 511 Hamilton Street, and 2089, 2095 and 2099 Harbor Boulevard

The Costa Mesa Planning Commission will hold a public hearing for consideration of a master plan for development of a 28 unit residential and live/work townhomes project by South Coast Communities LLC (APNs: 42209109, 42209108, 42209107, 42209101, 42209102) on 5 parcels (1.53-acre in area) located at the southwest corner of Hamilton Street and Harbor Boulevard. The site takes access from Charle Street on the west and Hamilton Street on the north.

PROPOSED PROJECT:

- Adoption of an *Initial Study/Mitigated Negative Declaration (IS/MND)*;
- **Planning Application PA-13-29** – Master Plan for a 28-unit detached three-story townhouse development including seven live/work units with ground floor workspace. The project site is located in Planned Development Commercial Zoning district where ancillary residential use of up to 20du/acre is permitted by approval of a master plan. The three story units take access from a main drive that connects the site to Charle Street and Hamilton Street. Entrance to the site is provided from Charle Street and the Hamilton Street access is an exit only and emergency access. The proposal includes detached three-story townhome units with seven of these units (abutting southerly property line) providing a workspace on the ground floor. A total of 55 garage parking spaces and 58 open parking spaces are proposed (four spaces per unit, except one two bedroom unit which requires 3 spaces). The project requests approval of the following deviations:
 - A Minor Modification to reduce the perimeter open space along Harbor Boulevard from 20 feet to 17 feet.
 - A Variance to reduce the perimeter open space along Hamilton Street from 20 feet to 10 feet.
- **Tentative Tract Map 17668** – Subdivision of a 1.53-acre property for condominium purposes to allow private sale and ownership of the 28 residential and live/work units.

NOTICE IS HEREBY GIVEN THAT: The City of Costa Mesa proposes to adopt a Mitigated Negative Declaration for the Project. The Mitigated Negative Declaration is based on the finding that, through compliance with the Standard Conditions and Mitigation Measures, the Project's potential significant adverse impacts would be reduced to a less than significant level. The reasons to support such a finding are documented by an Initial Study/Mitigated Negative Declaration prepared by the City of Costa Mesa.

PUBLIC REVIEW PERIOD: The Initial Study/Mitigated Negative Declaration is available for a 30-day review period from **April 9, 2014 through May 9, 2014**. The Initial Study/Mitigated Negative Declaration is available on the City's website, Development Services Department webpage, at www.costamesaca.gov. Reference copies of the Initial Study/Mitigated Negative Declaration are also available for review at the following locations:

- City of Costa Mesa Planning Division, 77 Fair Drive, Costa Mesa;
- Mesa Verde Library, 2969 Mesa Verde Drive East, Costa Mesa; and
- Costa Mesa Library, 1855 Park Avenue, Costa Mesa.

For questions regarding the proposed Mitigated Negative Declaration contact: Minoo Ashabi, Principal Planner, City of Costa Mesa, 77 Fair Drive, Costa Mesa, California 92626, Tel, 714.754.5610 and Email minoo.ashabi@costamesaca.gov

In accordance with the State CEQA Guidelines, any comments concerning the findings of the Initial Study/Mitigated Negative Declaration must be submitted in writing and received by the City of Costa Mesa no later than 5:00 p.m. on May 9, 2014, in order to be considered prior to the City's final determination on the Project. Should you decide to challenge this Project, you may be limited to the issues raised during this public review period. Please mail or fax your written comments to: Minoo Ashabi, Principal Planner, City of Costa Mesa, 77 Fair Drive, Costa Mesa, California 92626, Tel. 714.754.5610, Fax 714.754.4856, Email minoo.ashabi@costamesaca.gov.

PLANNING COMMISSION PUBLIC HEARING: The public hearing will be held as follows:

DATE: Tuesday, May 27, 2014

TIME: 6:00 p.m. or as soon as possible thereafter

PLACE: City Council Chambers at City Hall, 77 Fair Drive, Costa Mesa, California

The agenda report may be viewed on the City's web page: www.costamesaca.gov under the Development Services Department/Planning Division heading. Public comments in either oral or written form may be presented during the public hearings. For further information, telephone 714.754.5245, or visit the Planning Division, Second Floor of City Hall, 77 Fair Drive, Costa Mesa, California. The Planning Division is open 8:00 a.m. to 5:00 p.m. Monday through Friday.

OFFICIAL PUBLIC NOTICE



City of Costa Mesa, Department Services Department,
 77 Fair Drive, Costa Mesa, CA 92628-1200
 Phone: (714) 754-5245 Fax: (714) 754-4856, www.ci.costa-mesa.ca.us

Office to Assign
R-07-01

PLANNING APPLICATION (PART ONE - TYPE OR PRINT) Application #

PROPERTY ADDRESS: 2089 + 2099 HARBOR BLVD + 511 HAMILTON ST.

Property Owner RED MOUNTAIN RETAIL GROUP Phone 714-245-7400 Fax 714-245-7401

Address 1234 E. 17TH STREET

City SANTA ANA State CA Zip Code 92701

Property Owner's Signature [Signature] Date _____

AUTHORIZED AGENT: ANNA LAURI Phone 714-400-1550 Fax 714-245-7401

Address 1234 E. 17TH STREET

City SANTA ANA State CA Zip Code 92701

Authorized Agent's Signature Anna R. Lauri Date 01-17-07

PROJECT DESCRIPTION: [Attach detailed project description & justification for approval letter and briefly describe below:]

ADDITION OF A FUTURE PAD FOR FAST FOOD USER,
ADDITION OF (14) UNITS EACH ABOUT 1500 SF, REMODEL
OF EXISTING 8535 SF MEDICAL BUILDING.

PROJECT RELATED TOPICS: I have noted below the items that are applicable to the project:

- In a flood zone
- In a Specific Plan Area
- Subject to future street widening
- Includes a drive-through facility (Special notice requirements, per GC Section 65091 (d))
- In the Redevelopment Area

HAZARDOUS WASTE AND SUBSTANCES SITES: I have reviewed the LIST below and determined that the project:

- Is not included in the LIST
- Is included in the LIST

204,295,411,481,490,671	East 17 th St.	3333, 3470	Fairview Rd.	1740, 1900, 2021, 2025	Newport Blvd.
790, 801	West 19 th St.	2990	Grace Ln.	2436, 2590, 2651, 3003	Newport Blvd.
1645	Adams Ave.	2050, 2073, 2160, 2248	Harbor Blvd.	366	Paularino Ave.
751,800, 1151,1195,1201	Baker St.	2249, 2252, 2502, 2666	Harbor Blvd.	1901, 1965, 2310	Placentia Ave.
1476, 2931, 2990, 2995	Bristol St.	2799, 2801, 2850, 3001	Harbor Blvd.	3128	Red Hill Ave.
3045, 3048, 3067, 3333	Bristol St.	3131, 3195, 3201, 3599	Harbor Blvd.	1375, 14850	Sunflower Ave.
2972	Century Pl.	200	Kalmus Dr.	1640, 1695	Superior Ave.
3000	Club House Dr.	1267	Logan Ave.	1701	Tustin Ave.
2252, 2490, 3000, 3315	Fairview Rd.				

Source: State of California Department of Toxic Substances Control, L tanks, April 1998

RIGHT OF ENTRY: The abovesigned ("Property Owner") is the owner of certain real property identified above in Costa Mesa, California ("Property"), acknowledges that the application process requires the property to be posted with a public hearing notice, where applicable. Property Owner hereby permits the City of Costa Mesa ("City"), by and through its employees or agents, to enter upon the property for the sole purpose of posting, modifying, and removing a public hearing notice relating to Property Owner's Planning Application. The right of entry shall be granted by Property Owner to City at no cost to City and shall remain in effect until the removal of the public hearing notice. Owner further agrees to release, waive, discharge and hold harmless City, its employees and agents, from and against any and all loss, damage, injury, liability, claim, cost or expense resulting from or arising out of the activities of City, its employee and agents, upon the Property, pursuant to this signed application and agreement.

WHEN COMPLETED, PLEASE RETURN ALL COPIES TO PLANNING DIVISION (PART TWO BELOW - "OFFICE USE ONLY")

Date Application Received 1/19/07 By HT Receipt # 907-00006

Date Application Accepted as Complete _____ By _____

<input type="checkbox"/> Admin Adjustment	\$	<input type="checkbox"/> Gen Plan Screening	\$	<input type="checkbox"/> RCID Conversion	\$
<input type="checkbox"/> Appeal	\$	<input type="checkbox"/> Lot Line Adjustment	\$	<input checked="" type="checkbox"/> Rezone	\$1720
<input type="checkbox"/> CUP	\$	<input type="checkbox"/> Master Plan	\$	<input type="checkbox"/> Specific Plan Amd	\$
<input type="checkbox"/> Design Review	\$	<input type="checkbox"/> Minor CUP	\$	<input type="checkbox"/> Tent Tract/Parcel	\$
<input type="checkbox"/> Dev Agreement	\$	<input type="checkbox"/> Minor Design Review	\$	<input type="checkbox"/> Time Extension	\$
<input type="checkbox"/> Development Review	\$	<input type="checkbox"/> Negative Declaration	\$	<input type="checkbox"/> Variance	\$
<input type="checkbox"/> Gen Plan Amendment	\$	<input type="checkbox"/> Planned Signing Prg	\$	<input type="checkbox"/> Other	\$

422-091-01, 02, 04, 05
 APN: _____ Zone: C2 General Plan: GC TOTAL \$ 1720.00
 07, 08, 09

PENDING APPLICATION (PART ONE - TYPE OR PRINT) Application # _____
 2089 Harbor Boulevard etc.

PROPERTY ADDRESS: APN's 422-091-01, 422-091-06, 422-091-09, 422-091-07, 422-091-02 and 422-091-06

Property Owner Red Mountain Asset Fund II, LLC Phone (714) 245-7400 Fax _____
 Address 1234 E. 17th Street Email enelson@rmrginc.com
 City Santa Ana State CA Zip Code 92701
 Property Owner's Signature _____ Date 10/2/13

AUTHORIZED AGENT: South Coast Communities Phone (949) 727-9240 Fax _____
 Address 100 Pacifica, Ste. 360 Email david.hutchins@so-coast.com
 City Irvine State CA Zip Code 92618
 Authorized Agent's Signature _____ Date 10-3-13

PROJECT DESCRIPTION: (Briefly describe project below and attach to this project description & justification for approval)
28 detached condominium homes at the southwest corner of Harbor Boulevard and Hamilton street also fronting on Charlie Street.

PROJECT RELATED TOPICS: I have noted below the items that are applicable to the project.

- In the Redevelopment Area Subject to future street widening
 In a Specific Plan Area Includes a drive-through facility (over a ramp measurement per 30 South 62091)

HAZARDOUS WASTE AND SUBSTANCES SITES: Paragraph 10 Section 00902.3 of the General Ordinance. I have reviewed the Hazardous Waste and Substances Site List (see reverse side) and determined that the project IS NOT included in the LIST IS included in the LIST

RIGHT OF ENTRY: The abovesigned (Property Owner) is the owner of certain real property identified above in Costa Mesa, California (Property). I acknowledge that the application process requires the property to be posted with a public hearing notice, where applicable. Property Owner hereby permits the City of Costa Mesa (City), by and through its employees or agents, to enter upon the property for the sole purpose of posting, modifying, and removing a public hearing notice relating to Property Owner's Planning Application. The right of entry shall be granted by Property Owner to City at no cost to City and shall remain in effect until the removal of the public hearing notice. Owner further agrees to release, waive, discharge and hold harmless City, its employees and agents, from and against any and all loss, damage, injury, liability, claim, cost or expense resulting from or arising out of the activities of City, its employees and agents upon the Property, pursuant to this signed application.

WHEN COMPLETED, PLEASE RETURN ALL COPIES TO PLANNING DIVISION (PART TWO BELOW - "OFFICE USE ONLY")

Date Application Received	By	Receipt #
Date Application Determined Complete	By	
<input type="checkbox"/> Initial Review	<input type="checkbox"/> Staff Review	<input type="checkbox"/> Planning Division
<input type="checkbox"/> Site Plan	<input type="checkbox"/> Project and Adjustment	<input type="checkbox"/> Planning
<input type="checkbox"/> Final	<input type="checkbox"/> Master Plan	<input type="checkbox"/> Specific Plan Area
<input type="checkbox"/> Design Review	<input type="checkbox"/> Final CIP	<input type="checkbox"/> Text Amendment
<input type="checkbox"/> City Agreement	<input type="checkbox"/> Minor Design Review	<input type="checkbox"/> Title Extension
<input type="checkbox"/> Design Final Review	<input type="checkbox"/> Negative Declaration	<input type="checkbox"/> Finance
<input type="checkbox"/> City Council Amendment	<input type="checkbox"/> Public Works Staffing Plan	<input type="checkbox"/> Other
		TOTAL \$

1 MICHAEL D. MCCAFFREY (SBN 62042)
2 LAW OFFICES OF MICHAEL D. MCCAFFREY
3 3 Park Plaza, Suite 750
4 Irvine, California 92614
5 Telephone: (949) 223-4161
6 Facsimile: (949) 625-7600
7
8 Attorneys for Plaintiff
9 SOUTH COAST MERCED LAND, LLC.

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

AUG 10 2015

ALAN CARLSON, Clerk of the Court

J. Frausto
BY J. FRAUSTO

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF ORANGE

11 SOUTH COAST MERCED LAND, LLC,
12 a Delaware limited liability company (as
13 successor-in-interest to SOUTH COAST
14 COMMUNITIES, LLC, a Nevada limited
15 liability company),

14 Plaintiff,

15 v.

16 RED MOUNTAIN ASSET FUND II,
17 LLC, a California limited liability
18 company, and DOES 1-25,

18 Defendants.

CASE NO. 30-2014-00754655-CU-OR-CJC
ASSIGNED FOR ALL PURPOSES TO:
RONALD L. BAUER
DEPARTMENT CX103

**SECOND AMENDED COMPLAINT FOR
(1) SPECIFIC PERFORMANCE, (2)
DAMAGES FOR BREACH OF
CONTRACT, (3) DECLARATORY
RELIEF, (4) BREACH OF IMPLIED
COVENANT OF GOOD FAITH AND
FAIR DEALING, and (5)
RESTITUTION/UNJUST ENRICHMENT**

Action Filed: November 5, 2014
Department: CX103
Trial Date: November 16, 2015

22 Plaintiff, SOUTH COAST MERCED LAND, LLC, alleges:

24 **FIRST CAUSE OF ACTION**

25 (Against Defendant Red Mountain Asset Fund II, LLC and Does 1-25, inclusive, for

26 **Specific Performance of Contract**

27 1. Plaintiff SOUTH COAST MERCED LAND, LLC ("SCML") is a Delaware
28 limited liability company authorized to conduct business within the state of California.

1 efforts to fully and timely perform its obligations and conditions precedent as required by the
2 Agreement.

3 23. RMA breached the implied covenant of good faith and fair dealing by failing to
4 take necessary and reasonable actions to ensure timely and complete performance of its
5 obligations and conditions precedent under the Agreement, as amended, prior to the Outside
6 Closing Date under the Seventh Amendment. More particularly:

7 (i) RMA failed to act diligently and to take reasonable steps to complete the Seller's
8 Property Condition Obligations as required by paragraphs 2 and 6 of the Fifth Amendment,
9 including without limitation, the failure to timely complete remediation of the soil and/or ground
10 water on or under the Property so that all necessary clearances and approvals for construction
11 and sale of residential units on the Property could be obtained by the Outside Closing Date;

12 (ii) RMA failed to act diligently and to take reasonable steps to obtain Closure
13 Approvals and to ensure that SCML would be able to commence development and construction
14 of residential units on the Property, as required by paragraph 2 of the Fifth Amendment,
15 including, without limitation, the failure to remove or remediate all hazardous substances and
16 contaminants on the Property and the failure to obtain all necessary environmental clearances for
17 construction and sale of residential units on the Property by the Outside Closing Date.

18 (iii) RMA failed to act diligently and to take reasonable steps to timely acquire 100%
19 fee title to Parcel No. 422-091-06 as required by Paragraph 3 and Exhibit B of the Fifth
20 Amendment, including the failure to timely provide the City of Costa Mesa with the required
21 appraisal and other documents necessary to complete purchase of the parcel prior to the Outside
22 Closing Date.

23 (iv) RMA failed to act diligently and to take reasonable steps to ensure removal of all
24 of its equipment, including environmental remediation equipment, from the Property prior to the
25 Outside Closing Date.

26 (v) RMA failed to act diligently and to take reasonable steps to ensure that RMA's
27 post-closing monitoring obligations under Paragraph 6 of the Fifth Amendment would not
28 interfere with SCML's planned developed of the Property, including without limitation, RMA's

Recorded in Official Records, Orange County
Hugh Nguyen, Clerk-Recorder

RECORDING REQUESTED BY
Commonwealth Land Title Ins. Company
WHEN RECORDED MAIL THIS DOCUMENT
AND TAX STATEMENTS TO:
Red Mountain Asset Fund II, LLC
1234 E. 17th Street
Santa Ana, CA 92701

 35.00

* \$ R 0 0 0 7 9 8 7 1 1 8 \$ *

2015000604143 4:21 pm 11/24/15

143 404 G02 4 15

3.30 3.30 20.00 0.00 9.00 0.00 0.00 0.00

APN: 422-091-06
Escrow No: 09292059-918-JEB
Title No: 8026753

Space above this line for Recorder's use

GRANT DEED

THE UNDERSIGNED GRANTOR(S) DECLARE(S)

DOCUMENTARY TRANSFER TAX IS \$6.60, CITY TAX \$ 0.00

- computed on full value of property conveyed, OR
- computed on full value less value of liens or encumbrances remaining at time of sale
- unincorporated area City of Costa Mesa, AND

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

City of Costa Mesa, a Municipal corporation

hereby GRANT(S) to

Red Mountain Asset Fund II, LLC, a California limited liability company

the following described real property in the Costa Mesa, County of Orange, State of California:

See Exhibit A attached hereto and made a part hereof.

Dated: November 20, 2015

City of Costa Mesa,
a Municipal corporation

By: 

Mayor of the City of Costa Mesa

ATTEST:

By: Brenda Green

City Clerk of the City of Costa Mesa

Exhibit A

All that certain real property situated in the County of Orange, State of California, described as follows:

That portion of Lot 20 of Fairview Farms as shown on a map recorded in Book 8, Page 71 of Miscellaneous Maps, Records of Orange County, California, described as follows:

Beginning at a point on the center line of Hamilton Street, distant West 408.40 feet from the center line intersection of Hamilton Street and Harbor Boulevard (formerly Fairview Avenue) as shown on said map; Thence Southerly, parallel with the center line of Harbor Boulevard, a distance of 176.00 feet to the true point of beginning; Thence continuing Southerly a distance of 150.38 feet, more or less, to the South line of the North 5 acres of the East 10 acres of said Lot 20, said acreage being computed to the center lines of adjoining streets; Thence Westerly, parallel with the center line of Hamilton Street, to the East line of Charle Street, as set forth in that certain Final Order of Condemnation recorded February 7, 1956 in Book 3386, Page 75 of Official Records of said Orange County; Thence Northerly along said East line of said Charle Street to the intersection with the Southwesterly corner of that certain parcel of land conveyed by deed to the City of Costa Mesa and recorded May 9, 1977 in Book 12185, Page 1330 of Official Records; Thence Easterly along the Southerly line of said land conveyed to Costa Mesa, to the true point of beginning.

Assessor's Parcel Number: **422-091-06**

ALL- PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }

County of Orange }

On November 20, 2015 before me, Jessica Mejia, Notary Public,
(Here insert name and title of the officer)

personally appeared Stephen Mensinger,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is~~ are subscribed to the within instrument and acknowledged to me that ~~he~~ she/they executed the same in ~~his~~ her/their authorized capacity(ies), and that by ~~his~~ her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Jessica Mejia
Notary Public Signature

(Notary Public Seal)



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT
Grant Deed - Red Mountain Asset
(Title or description of attached document)
Fund II, LLC APN. 422-091-016
(Title or description of attached document continued)
Number of Pages 2 Document Date 11/20/15

CAPACITY CLAIMED BY THE SIGNER

- Individual (s)
 Corporate Officer

(Title)

- Partner(s)
 Attorney-in-Fact
 Trustee(s)
 Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he~~/she/they, is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

ALL- PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }

County of Orange }

On November 20, 2015 before me, Jessica Mejia Notary Public
(Here insert name and title of the officer)

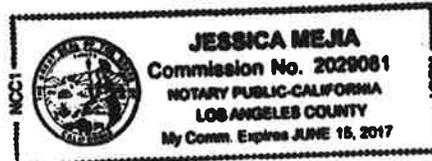
personally appeared Brenda Green,
 who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~(s)~~ (s) are subscribed to the within instrument and acknowledged to me that he ~~(s)~~ (s) they executed the same in his ~~(s)~~ (s) their authorized capacity(ies), and that by his ~~(s)~~ (s) their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Jessica Mejia
 Notary Public Signature

(Notary Public Seal)



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT
Grant Deed - Red Mountain Asset
(Title or description of attached document)
Fund II, LLC APN: 422-091-06
(Title or description of attached document continued)
 Number of Pages 2 Document Date 11/20/15

CAPACITY CLAIMED BY THE SIGNER

- Individual (s)
 Corporate Officer

(Title)
 Partner(s)
 Attorney-in-Fact
 Trustee(s)
 Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they~~, is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

BOZNANSKI & COMPANY
Property Valuation & Consultation
283 North Rampart Street Suite A
Orange, California 92868-1850

CARL W. BOZNANSKI
LINDA L. BOZNANSKI
DYANA R. MURRAY
BLAKE E. BOZNANSKI
Valuation Consultants
RICHARD B. NICHOLSON
DENISE M. RIEBE

TELEPHONE: (714) 634-3813
FAX: (714) 634-4026
carl@boznanskiappraisal.com
www.boznanskiappraisal.com

October 15, 2014

Ms. Michelle F. Bell
Chief Financial Officer
Red Mountain Group
1234 East Seventeenth Street
Santa Ana, California 92701

Re: Appraisal Report –
Vacant Commercial Property
East side Charle Street
South of Hamilton Street
Costa Mesa, California

File No. 2946

Dear Ms. Bell,

In response to your request and our discussions and based on our proposal of September 29, 2014, Carl W. Boznanski of Boznanski & Company, a real property appraisal firm is pleased to submit for your consideration the following valuation analysis of a vacant commercial parcel located in Costa Mesa, California. Our date of value is current as of October 15, 2014.

The subject property is identified as Orange County Assessor Parcel No. 422-091-06. It is 8 feet wide and 150 feet long for a total land area of 1,200 sf. It spans along the west side of Charle Street, some 151 feet south of Hamilton Street, in the City of Costa Mesa, Orange County, California. It is zoned C-2 (General Business) by the City of Costa Mesa. It has been told to us that the property is owned each as to a 50% undivided interest by the City of Costa Mesa and by the Red Mountain Asset Fund II.

Based on the investigation and analysis outlined in the accompanying report, and subject to the certification and contingent and limiting conditions attached to this report, we conclude that the subject property located on the east side of Charle Street, south of Hamilton Street, as of October 15, 2014 has a unit value at or about \$9.50 ± psf of land and an overall value of:

\$11,400

ELEVEN THOUSAND FOUR HUNDRED DOLLARS

Thus, \$5,700 of the value is allocated to the City of Costa Mesa and \$5,700 to Red Mountain Asset Fund II.

In arriving at our valuation conclusion for this property, we looked to the Market Data Approach to Land. Neither the Cost-Summation Approach nor the Income Approach are considered applicable in this vacant land analysis.



2015-16 Secured Property Tax Bill
 Printed on Recycled Paper with Soy Ink
 Printed on Recycled Paper with Soy Ink

INTERNET COPY

2015-16 SECURED PROPERTY TAX BILL

Bill Number: 422-091-06 (2015) and ending parcel ID: 01438

ASSEESSEE NAME AND ADDRESS ARE NOT AVAILABLE ONLINE PER CA GOV CODE §6254.21

Pay online at ocgov.com/octaxbill and receive same day credit! Mailed payments must have a USPS postmark on or before the last payment date. If you wait until the last day to mail your payment, get your envelope hand-stamped with a postmark to ensure it is timely.

Got Mello Roos (CRP)? Visit our website at ocgov.com/mello Roos for details.

Sign up to receive a reminder email at ocgov.com/taxreminder.

Situs NA NOT SPECIFIED

ASSEESSEE NAME AND ADDRESS ARE NOT AVAILABLE ONLINE PER CA GOV CODE §6254.21

DESCRIPTION	FULL VALUE	COMPUTED TAX
LAND	34,874	
TOTAL VALUES:	34,874	371.26
TOTAL NET TAXABLE VALUE:	34,874	371.26

422-091-06

15-006

\$185.63

\$185.63

\$371.26

IMPORTANT INFORMATION

ASSEESSEE NAME AND ADDRESS ARE NOT AVAILABLE ONLINE PER CA GOV CODE §6254.21

BASIC LEVY RATE	1.00000	34,874	348.74
COAST COMM COLLEGE DIST	.03982	34,874	120.79
NEWPORT MEDIA FIRST LTD	.02129	14,874	7.41
METRO WATER D-MWDCC	.00380	34,874	1.22
SPECIAL ASSESSMENT CHARGES			
MOBG.FIRE AMT ASSEMT		PHONE NO. (800)273-8167	3.01
VECTON CONTNTRL CHG		(800)273-8167	0.10
TOTAL CHARGED	1.05587		379.26

FOR DETAILS OF TAX TYPES, VISIT OUR WEBSITE AT OCGOV.COM/OCTAXBILL

THERE WILL BE A \$26 FEE FOR EACH PAYMENT RETURNED UNPAID BY YOUR BANK FOR ANY REASON

RETAIN TOP PORTION FOR YOUR RECORDS - YOUR CANCELLED CHECK IS YOUR RECEIPT

PRINT AND MAIL WITH ONE INSTALLMENT IN ENVELOPE PER CHECK.
 WRITE YOUR PARCEL ID ON THE ENVELOPE

422-091-06

APRIL 11, 2016

CURRENT OWNER

ASSEESSEE NAME AND ADDRESS ARE NOT AVAILABLE ONLINE PER CA GOV CODE §6254.21

Make checks payable to: County of Orange

COUNTY OF ORANGE
 ATTN: TREASURER-TAX COLLECTION
 P.O. Box 1438
 Santa Ana, CA 92702-1438

INFORMET COPY

AMOUNT DUE AFTER 4/11/16 (INCLUDES 10% PENALTY + \$23 COST)

\$227.19

01422091060000620150204111600001856306301600002271900000000000000009

ORANGE COUNTY 2015-16 PROPERTY TAX

Pay taxes online by eCheck or by credit card

eCheck

ocgov.com/octaxbill

Scan the code to view and pay your specific parcel online



DUE FEB 1, 2016



\$185.63

PRINT AND MAIL WITH ONE INSTALLMENT IN ENVELOPE PER CHECK.
 WRITE YOUR PARCEL ID ON THE ENVELOPE

422-091-06

DECEMBER 10, 2015

\$371.26

CURRENT OWNER

ASSEESSEE NAME AND ADDRESS ARE NOT AVAILABLE ONLINE PER CA GOV CODE §6254.21

Make checks payable to: County of Orange

COUNTY OF ORANGE
 ATTN: TREASURER-TAX COLLECTOR
 P.O. Box 1438
 Santa Ana, CA 92702-1438

INTERNET COPY

AMOUNT DUE AFTER 12/10/15 (INCLUDES 10% PENALTY)

\$204.19

0142209106000062015011210150000185630630160000204190000000000000007

ORANGE COUNTY 2015-16 PROPERTY TAX

Pay taxes online by eCheck or by credit card

eCheck

ocgov.com/octaxbill

Scan the code to view and pay your specific parcel online



DUE NOV 1, 2015



\$185.63

RED MOUNTAIN ASSET FUND II, LLC

November 19, 2015

Minoo Ashabi, Principle Planner
City of Costa Mesa - Development Services, Economic Development
77 Fair Drive
Costa Mesa, CA 92626

RE: Letter of Explanation for 24 Month extension request for approved Planning Application PA-13-29

Ms. Ashabi;

Red Mountain Asset Fund II, LLC is requesting a 24 month extension from our current Planning Application (PA-13-29) approval date which will expire on June 17, 2016. The project consists of an urban master plan for development of a 28 unit residential project including seven live/work units on 1.53 acres zoned Planned Community Commercial.

As the Planning Department and the Planning Commission were aware, there have been some mitigating circumstances that Red Mountain has had to contend with on the site in regards to the cleanup of the groundwater and historical petroleum based soil contamination. The groundwater issue has been mitigated to the satisfaction of the Santa Ana Water Quality Control Board (SAWQCB) and has met the min. standards as determined by SAWQCB – as indicated in a letter dated May 23, 2014 found in the approved Planning application). In addition, Red Mountain has recently received a “Notice of No Further Action” letter from SAWQCB dated May 22, 2015 (see enclosed letter) regarding the remediation of the contaminated soil on the site.

In light of the recent receipt of the Notice of No further Action on the soil from SAWQCB, Red Mountain has already demolished the three existing buildings on site down to their slabs/foundations.

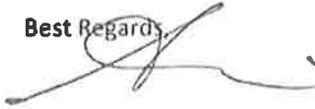
In addition to the environmental issues that have slowed the development progress on this site, there is also the sale of a portion of land on St. Cloud Street (APN: 422-091-06) to Red Mountain from the City of Costa Mesa and as of today, Nov. 19 2015, this sale has not yet closed. This portion of land is crucial to the urban master plan and the development of the 28 residential units as a secondary ingress/egress onto the site.

Lastly, the former buyer of the property has brought an action against Red Mountain and has wrongfully recorded a lis pendens against the property. Red Mountain, of course, believes this action has no merit and is vigorously defending itself in the matter. However, these issues do impact our ability to sell the property to another developer and to begin the construction of the entitled residential units. Given the timeframe to resolve the lawsuit, appeals, etc. the development of the property or the selling of the

property to yet another developer who can then start building the entitled residential units is going to take more than 12 months

If you should have any further questions please do not hesitate to contact me at 714-460-1563.

Best Regards,

A handwritten signature in black ink, appearing to read 'Alton M. Klein', written over the 'Best Regards,' text.

Alton M. Klein
Red Mountain Retail Group

Cc: File

ASHABI, MINOO

From: Scott, Rose@Waterboards <Rose.Scott@waterboards.ca.gov>
Sent: Tuesday, December 22, 2015 9:12 AM
To: Alton Klein
Cc: Bernhardt, Carl@Waterboards; Phil Clark; Mark Field; Michelle Bell; Carl Roude; ASHABI, MINOO
Subject: RE: Case #083003929T - 2089 Harbor Blvd (Harbor and Hamilton) Costa Mesa CA

Dear Mr. Klein:

We are not able to provide such a letter at this time given the status of this case. Regional Board staff are concerned with the improperly maintained wells, discontinuation of liquid petroleum hydrocarbon removal, and the failure to conduct quarterly monitoring. Furthermore, the seeping of petroleum onto the surface in the vicinity of the lifts was not previously disclosed to us at the time we issued the no further action for soil; therefore, that position is being reevaluated.

I have restated our initial response to your first email below:

This case remains an open groundwater cleanup case. The site is currently **out of compliance** with groundwater monitoring and remediation requirements. The most recent groundwater monitoring report was due on October 30th. The previous report was due on July 30th. At our last meeting with Eric Nelson, we made clear that a more aggressive approach to groundwater remediation was required because the product plume was expanding. The soil closure is contingent upon the continued remediation of the free product.

Since that meeting, I have been to the site and observed that the groundwater remediation equipment had been removed and no attempt at remediation was occurring. Furthermore, several wells have been damaged and water was ponding on the site allowing infiltration in the source area and possibly causing the spreading of the product plume that was reported in the last two sampling events. I also witnessed liquid phase hydrocarbons seeping from the ground onto the surface in the vicinity of the former lifts and beside the building associated with those lifts. This soil will require remediation and indicates the possible location of an undisclosed source contributing to the petroleum product on groundwater. Regional Board staff must be present at the site for the removal of these structures during site demolition and redevelopment. The soil no further action letter does not include information about this area but states that environmental monitoring is required for soil management. This correspondence informs you that we must be notified for such events, especially in the area of the structures associated with that service area.

Even though the Orange County Health Care Agency has evaluated the soil for health risks, groundwater remediation must continue at the site. Mitigation of the free product is required. The County evaluation is contingent on the assumption that groundwater remediation will continue at the site. All of the documents point out that the health risk evaluation is just pertaining to soil. No contribution from groundwater was included in the risk evaluation. A vapor barrier does not remove the overall threat caused by the groundwater plume to the environment. However, we have allowed redevelopment of other sites with ongoing remediation to remove the hydrocarbons.

The Regional Board can provide a position of support for the redevelopment project to the City of Costa Mesa only if the site cleanup is moving forward in good faith. The lack of action to date at the site does not encourage trust that the cleanup will continue. Therefore, a notice of violation may be issued to the responsible parties and the City copied on the notice. We have received several complaints from neighboring properties regarding the threat to their properties from your site.

This should give you a complete picture of the status of this case. If you have further questions, please email me at rose.scott@waterboards.ca.gov.

Rose Scott

Engineering Geologist
California Regional Water Quality Control Board
Santa Ana Region
3737 Main Street, #500
Riverside, California 92501

From: Alton Klein [AKlein@rmrginc.com]
Sent: Monday, December 21, 2015 5:06 PM
To: Scott, Rose@Waterboards
Cc: Bernhardt, Carl@Waterboards; Phil Clark; Mark Field; Michelle Bell; Carl Roude; ASHABI, MINOO; Alton Klein
Subject: Case #083003929T - 2089 Harbor Blvd (Harbor and Hamilton) Costa Mesa CA

Ms. Scott,

I have been in several meetings on this property today and a lot of information that I was not aware of has come to light.

It has come to my attention that the processes we had in place for the remediation and monitoring was not progressing in the manner in which we would have like to have seen, in fact it was making it worse. In light of these findings we have taken a step back to re-access the process and retain other vendors to put together a plan of action for the property. It was not our intention to stop the remediation and monitoring - only to come up with a better solution. We have already spent hundreds of thousands of dollars to try to mitigate this issue. However we are not achieving the desired results under the current plan. I will keep you informed of the vendors that we retain and the plan of action that they prescribe for the project for your review.

That being said we would respectfully request that you submit a letter to our City of Costa Mesa planner, Mino Ashabi, which indicates that Red Mountain Group and Santa Ana Water Quality Control Board will continue to work together on the monitoring and remediation of the ground water on the property and you would support the development of the residential units on the property with the understanding that the monitoring and the remediation of the ground water must continue throughout the development of the project until acceptable levels of contamination have been achieved.

Thank You,

Alton M. Klein



RED MOUNTAIN GROUP

1234 East Seventeenth Street
Santa Ana, California 92701
(714) 460-1563 Direct
(714) 292-2491 Cell
aklein@rmrginc.com

www.redmountainretailgroup.com

This message is for the designated recipient only and may contain privileged, proprietary, or otherwise private information. If you have received it in error, please notify the sender immediately and delete the original. Any other use of the email by you is prohibited.

Subj: RE: 2089 harbor
Date: 12/23/2015 3:04:24 P.M. Pacific Standard Time

I have sent an email to the City Planner identifying the compliance issues related to the groundwater clean up case and also asking for a current groundwater report. The report was due October 30th.

In response to a request for a letter of support for the residential development I sent the following language in an email: now part of the public record for this case, to Red Mountain Group.

We are not able to provide such a letter at this time given the status of this case. Regional Board staff are concerned with the improperly maintained wells, discontinuation of liquid petroleum hydrocarbon removal, and the failure to conduct quarterly monitoring. Furthermore, the seeping of petroleum onto the surface in the vicinity of the lifts was not previously disclosed to us at the time we issued the no further action for soil; therefore, that position is being reevaluated.

I have restated our initial response to your first email below:

This case remains an open groundwater cleanup case. The site is currently **out of compliance** with groundwater monitoring and remediation requirements. The most recent groundwater monitoring report was due on October 30th. The previous report was due on July 30th. At our last meeting with Eric Nelson, we made clear that a more aggressive approach to groundwater remediation was required because the product plume was expanding. The soil closure is contingent upon the continued remediation of the free product.

Since that meeting, I have been to the site and observed that the groundwater remediation equipment had been removed and no attempt at remediation was occurring. Furthermore, several wells have been damaged and water was ponding on the site allowing infiltration in the source area and possibly causing the spreading of the product plume that was reported in the last two sampling events. I also witnessed liquid phase hydrocarbons seeping from the ground onto the surface in the vicinity of the former lifts and beside the building associated with those lifts. This soil will require remediation and indicates the possible location of an undisclosed source contributing to the petroleum product on groundwater. Regional Board staff must be present at the site for the removal of these structures during site demolition and redevelopment. The soil no further action letter does not include information about this area but states that environmental monitoring is required for soil management. This correspondence informs you that we must be notified for such events, especially in the area of the structures associated with that service area.

Even though the Orange County Health Care Agency has evaluated the soil for health risks, groundwater remediation must continue at the site. Mitigation of the free product is required. The County evaluation is contingent on the assumption that groundwater remediation will continue at the site. All of the documents point out that the health risk evaluation is just pertaining to soil. No contribution from groundwater was included in the risk evaluation. A vapor barrier does not remove the overall threat caused by the groundwater plume to the environment. However, we have allowed redevelopment of other sites with ongoing remediation to remove the hydrocarbons.

The Regional Board can provide a position of support for the redevelopment project to the City of Costa Mesa only if the site cleanup is moving forward in good faith. The lack of action to date at the site does not encourage trust that the cleanup will continue. Therefore, a notice of violation may be issued to the responsible parties and the City copied on the notice. We have received several complaints from neighboring properties regarding the threat to their properties from your site.

STATE WATER RESOURCES CONTROL BOARD
GEOTRACKER

CASE SUMMARY

<u>REPORT DATE</u> 2/22/2000		<u>HAZARDOUS MATERIAL INCIDENT REPORT FILED WITH OES?</u>	
<u>I. REPORTED BY -</u> UNKNOWN		<u>CREATED BY</u> UNKNOWN	
<u>III. SITE LOCATION</u>			
<u>FACILITY NAME</u> RANDY'S AUTOMOTIVE PROPERTY		<u>FACILITY ID</u>	
<u>FACILITY ADDRESS</u> 2089 HARBOR BLVD. COSTA MESA, CA 92627 ORANGE COUNTY		<u>ORIENTATION OF SITE TO STREET</u>	
		<u>CROSS STREET</u> HAMILTON ST.	
<u>V. SUBSTANCES RELEASED / CONTAMINANT(S) OF CONCERN</u>			
DIESEL GASOLINE			
<u>VI. DISCOVERY/ABATEMENT</u>			
<u>DATE DISCHARGE BEGAN</u>			
<u>DATE DISCOVERED</u> 2/22/2000	<u>HOW DISCOVERED</u> Property Sale/Transaction	<u>DESCRIPTION</u>	
<u>DATE STOPPED</u> 2/22/2000	<u>STOP METHOD</u> Change Operating Procedures	<u>DESCRIPTION</u>	
<u>VII. SOURCE/CAUSE</u>			
<u>SOURCE OF DISCHARGE</u> Other		<u>CAUSE OF DISCHARGE</u> Other	
<u>DISCHARGE DESCRIPTION</u>			
<u>VIII. CASE TYPE</u>			
<u>CASE TYPE</u> Aquifer used for drinking water supply			
<u>IX. REMEDIAL ACTION</u>			
<u>REMEDIAL ACTION</u>	<u>BEGIN DATE</u>	<u>END DATE</u>	<u>DESCRIPTION</u>
Free Product Removal	12/1/2001	3/31/2014	Product appears to be a blend of fuels.
Soil Vapor Extraction (SVE)	1/31/2013	6/12/2013	
<u>X. GENERAL COMMENTS</u>			
<ul style="list-style-type: none"> • Four of the nine wells on site contain floating product, predominantly in the diesel fuel range (C13-C23), with the measured thickness ranging from 0.77 to 1.63 feet. • Methyl tertiary butyl ether (MTBE) was detected in eight of the nine wells at concentrations ranging from 13 to 4,690 micrograms per liter (ug/L). MW1 contained 4,690 ug/l of MTBE. Well MW1 is located at the eastern property boundary along Harbor Boulevard. • Benzene was detected in four of the eight wells at concentrations ranging from 323 to 15,900 ug/l. The highest concentration was detected in well MW2, the well containing the greatest thickness of floating product. 			

• Tertiary butyl alcohol (TBA) was detected at a concentration of 7,460 ug/l in well MW2. This well is located in an area identified as the possible site of illegal disposal of liquid waste south of the former generator shop that was located on the residential property north of Randy's Automotive.

XI. CERTIFICATION

**I HEREBY CERTIFY THAT THE INFORMATION REPORTED HEREIN
IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.**

XII. REGULATORY USE ONLY

LOCAL AGENCY CASE NUMBER
00IC008

REGIONAL BOARD CASE NUMBER
083003929T

LOCAL AGENCY

UNKNOWN

REGIONAL BOARD

<u>CONTACT NAME</u>	<u>INITIALS</u>	<u>ORGANIZATION NAME</u>	<u>EMAIL ADDRESS</u>
ROSE SCOTT	RS	SANTA ANA RWQCB (REGION 8)	rscott@waterboards.ca.gov

ADDRESS
3737 MAIN STREET, SUITE 500
RIVERSIDE, CA 92501

CONTACT DESCRIPTION

<u>PHONE TYPE</u>	<u>PHONE NUMBER</u>	<u>EXTENSION</u>
MAIN PHONE	(951)-320-6375	
MAIN FAX	(951)-781-6288	

CSM REPORT FOR PUBLIC NOTICING

PROJECT INFORMATION (DATA PULLED FROM GEOTRACKER) - [MAP THIS SITE](#)

<u>SITE NAME / ADDRESS</u>	<u>STATUS</u>	<u>STATUS DATE</u>	<u>RELEASE REPORT DATE</u>	<u>AGE OF CASE</u>	<u>CLEANUP OVERSIGHT AGENCIES</u>
RANDY'S AUTOMOTIVE PROPERTY (Global ID: T0605988113) 2089 HARBOR BLVD. COSTA MESA, CA 92627	Open - Remediation	4/5/2006	2/22/2000	16	SANTA ANA RWQCB (REGION 8) (LEAD) - CASE #: 083003929T CASEWORKER: ROSE SCOTT - SUPERVISOR: Ken Williams ORANGE COUNTY - CASE #: 001C008

SITE HISTORY

- Four of the nine wells on site contain floating product, predominantly in the diesel fuel range (C13-C23), with the measured thickness ranging from 0.77 to 1.63 feet.
- Methyl tertiary butyl ether (MTBE) was detected in eight of the nine wells at concentrations ranging from 13 to 4,690 micrograms per liter (ug/L). MW1 contained 4,690 ug/l of MTBE. Well MW1 is located at the eastern property boundary along Harbor Boulevard.
- Benzene was detected in four of the eight wells at concentrations ranging from 323 to 15,900 ug/l. The highest concentration was detected in well MW2, the well containing the greatest thickness of floating product.
- Tertiary butyl alcohol (TBA) was detected at a concentration of 7,460 ug/l in well MW2. This well is located in an area identified as the possible site of illegal disposal of liquid waste south of the former generator shop that was located on the residential property north of Randy's Automotive.

CLEANUP ACTION INFO

<u>ACTION TYPE</u>	<u>BEGIN DATE</u>	<u>END DATE</u>	<u>PHASE</u>	<u>CONTAMINANT MASS REMOVED</u>	<u>DESCRIPTION</u>
SOIL VAPOR EXTRACTION (SVE)	1/31/2013	6/12/2013	Soil Vapor	7,077 Pounds	
FREE PRODUCT REMOVAL	12/1/2001	3/31/2014	Liquid Waste	2,285 Gallons	Product appears to be a blend of fuels.

RISK INFORMATION [VIEW LTCP CHECKLIST](#) [VIEW PATH TO CLOSURE PLAN](#) [VIEW CASE REVIEWS](#)

<u>CONTAMINANTS OF CONCERN</u>	<u>CURRENT LAND USE</u>	<u>BENEFICIAL USE</u>	<u>DISCHARGE SOURCE</u>	<u>DATE REPORTED</u>	<u>STOP METHOD</u>	<u>NEARBY / IMPACTED WELLS</u>
Gasoline, Diesel	Vacant		Other	2/22/2000	Change Operating Procedures	0

<u>FREE PRODUCT</u>	<u>OTHER CONSTITUENTS</u>	<u>NAME OF WATER SYSTEM</u>	<u>LAST REGULATORY ACTIVITY</u>	<u>LAST ESI UPLOAD</u>	<u>LAST EDF UPLOAD</u>	<u>EXPECTED CLOSURE DATE</u>	<u>MOST RECENT CLOSURE REQUEST</u>
YES	NO	Costa Mesa	11/19/2015	10/1/2015	7/15/2015		

CDPH WELLS WITHIN 1500 FEET OF THIS SITE

NONE

CALCULATED FIELDS (BASED ON LATITUDE / LONGITUDE)

APNGW BASIN NAME **WATERSHED NAME**
Coastal Plain Of Orange County (8-1) Santa Ana River - Lower Santa Ana River - East Coastal Plain (801.11)

COUNTY **PUBLIC WATER SYSTEM(S)**
Orange • MESA WATER DISTRICT - 1965 Placentia Avenue, COSTA MESA, CA 92627
• METROPOLITAN WATER DIST. OF SO. CAL. - P.O. BOX 54153, LOS ANGELES, CA 90054

MOST RECENT CONCENTRATIONS OF PETROLEUM CONSTITUENTS IN GROUNDWATER

[VIEW ESI SUBMITTALS](#)

<u>FIELD PT NAME</u>	<u>DATE</u>	<u>TPHg</u>	<u>BENZENE</u>	<u>TOLUENE</u>	<u>ETHYL-BENZENE</u>	<u>XYLENES</u>	<u>MTBE</u>	<u>TBA</u>
MW-1	5/11/2015	OTHER	ND	ND	ND	ND	ND	ND
MW-10	10/6/2007	OTHER	1800 UG/L	ND	2270 UG/L	OTHER	ND	ND
MW-11	10/6/2007	OTHER	96 UG/L	58 UG/L	1410 UG/L	OTHER	ND	ND
MW-12	5/11/2015	OTHER	ND	ND	ND	ND	ND	ND
MW-3	5/11/2015	OTHER	ND	ND	0.54 UG/L	2.1 UG/L	46 UG/L	ND
MW-5	5/11/2015	OTHER	ND	ND	ND	ND	3.3 UG/L	ND
MW-6	4/23/2014	OTHER	9 UG/L	ND	330 UG/L	370 UG/L	ND	ND
MW-7	5/11/2015	OTHER	ND	ND	ND	ND	ND	ND
MW-8	5/11/2015	OTHER	ND	ND	ND	ND	1.8 UG/L	ND
MW-9	8/14/2014	OTHER	ND	ND	ND	ND	230 UG/L	ND

TRIP BLANK
TW-2

4/22/2008
5/14/2014

ND
100 UG/L

ND
ND

ND
200 UG/L

OTHER
270 UG/L

ND
ND

ND
ND

MOST RECENT CONCENTRATIONS OF PETROLEUM CONSTITUENTS IN SOIL

[VIEW ESI SUBMITTALS](#)

<u>FIELD PT NAME</u>	<u>DATE</u>	<u>TPHg</u>	<u>BENZENE</u>	<u>TOLUENE</u>	<u>ETHYL-BENZENE</u>	<u>XYLENES</u>	<u>MTBE</u>	<u>TBA</u>
B13	3/17/2014		<u>ND</u>	<u>ND</u>	<u>ND</u>	<u>ND</u>	<u>ND</u>	<u>ND</u>
EB10	3/17/2014		<u>ND</u>	<u>ND</u>	<u>ND</u>	<u>ND</u>	<u>ND</u>	<u>ND</u>
EB7	3/17/2014		<u>ND</u>	<u>ND</u>	<u>ND</u>	<u>ND</u>	<u>ND</u>	<u>ND</u>
EB8	3/17/2014		<u>ND</u>	<u>ND</u>	<u>ND</u>	<u>ND</u>	<u>ND</u>	<u>ND</u>
EB8-10	2/3/2015		<u>ND</u>	<u>ND</u>	<u>ND</u>	<u>ND</u>	<u>ND</u>	<u>ND</u>
EB9	3/17/2014		<u>ND</u>	<u>ND</u>	<u>ND</u>	<u>ND</u>	<u>ND</u>	<u>ND</u>
EB9-10	2/3/2015		<u>ND</u>	<u>ND</u>	<u>ND</u>	<u>ND</u>	<u>ND</u>	<u>ND</u>
TW-1	5/14/2014		<u>ND</u>	<u>ND</u>	<u>ND</u>	<u>ND</u>	<u>ND</u>	<u>ND</u>
TW-2	5/14/2014		<u>0.0011 MG/KG</u>	<u>ND</u>	<u>0.0064 MG/KG</u>	<u>0.012 MG/KG</u>	<u>ND</u>	<u>ND</u>
TW-3	5/14/2014		<u>ND</u>	<u>ND</u>	<u>ND</u>	<u>ND</u>	<u>ND</u>	<u>ND</u>
TW-4	5/14/2014		<u>ND</u>	<u>ND</u>	<u>ND</u>	<u>ND</u>	<u>ND</u>	<u>ND</u>
WB7	3/17/2014		<u>ND</u>	<u>0.0017 MG/KG</u>	<u>ND</u>	<u>ND</u>	<u>ND</u>	<u>ND</u>

MOST RECENT GEO_WELL DATA

[VIEW ESI SUBMITTALS](#)

<u>FIELD PT NAME</u>	<u>DATE</u>	<u>DEPTH TO WATER (FT)</u>	<u>SHEEN</u>	<u>DEPTH TO FREE PRODUCT (FT)</u>
MW-1	5/11/2015	20.28	N	
MW-10	5/11/2015	23.5	N	22.4
MW-11	5/11/2015	22.03	N	21.98
MW-12	5/11/2015	20.33	N	
MW-2	5/11/2015	23.1	N	22.32
MW-3	5/11/2015	20.67	N	
MW-4	5/11/2015	22.5	N	22.15
MW-5	5/11/2015	21.28	N	
MW-6	5/11/2015	23.61	N	22.36
MW-7	5/11/2015	20.57	N	
MW-8	5/11/2015	20.55	N	
MW-9	5/11/2015	23.1	N	22.7

STATE WATER RESOURCES CONTROL BOARD

GEOTRACKER

RANDY'S AUTOMOTIVE PROPERTY (T000500813) - (MAP)

SIGN UP FOR EMAIL ALERTS

2089 HARBOR BLVD.
 COSTA MESA, CA 92627
 ORANGE COUNTY
 CLEANUP PROGRAM SITE
[PRINTABLE CASE SUMMARY](#) / [CSM REPORT](#)

CLEANUP OVERSIGHT AGENCIES
 SANTA ANA RWQCB (REGION 8) (LEAD) - CASE #: 083003929T
 CASEWORKER: [ROSE SCOTT](#)
 ORANGE COUNTY - CASE #: 001C008

LTCP CHECKLIST AS OF 4/19/2013

[BACK TO CASE SUMMARY](#)

General Criteria - The site satisfies the policy general criteria

NO

a. Is the unauthorized release located within the service area of a public water system?

Name of Water System : Costa Mesa

YES

b. The unauthorized release consists only of petroleum [\(info\)](#).

YES

c. The unauthorized ("primary") release from the UST system has been stopped.

YES

d. Free product has been removed to the maximum extent practicable [\(info\)](#).

Free Product Remaining: Measurable Free Product
 Removal Methods Tried : Bailing

NO

e. A conceptual site model that assesses the nature, extent, and mobility of the release has been developed [\(info\)](#).

YES

f. Secondary source has been removed to the extent practicable [\(info\)](#).

Impediment to Removing Secondary Source:
 - Other -
 Remediation is just beginning

NO

g. Soil or groundwater has been tested for MTBE and results reported in accordance with Health and Safety Code Section 25296.15.

YES

h. Does a nuisance exist, as defined by [Water Code section 13050](#).

Describe Nuisance Condition :
 Shallow free product potentially impacting a community garden.

YES

1. Media-Specific Criteria: Groundwater - The contaminant plume that exceeds water quality objectives is stable or decreasing in areal extent, and meets all of the additional characteristics of one of the five classes of sites listed below.

NO

EXEMPTION - Soil Only Case (Release has not Affected Groundwater - [Info](#))

NO

Does the site meet any of the Groundwater specific criteria scenarios?

NO

ADDITIONAL QUESTIONS - The following conditions exist that do not meet the policy criteria:

Plume Length (That Exceeds Water Quality Objectives) :

- ≥ 250 Feet and < 1,000 Feet

Plume is Stable or Decreasing in **AREAL** Extent :

- No

Free Product in Groundwater :

- Yes

Free Product Has Been Removed to the Maximum Extent Practicable :

- No

For sites with free product, the Plume Has Been Stable or Decreasing for 5-Years (info) :

- No

For sites with free product, owner Willing to Accept a Land Use Restriction (if required) :

- No

Free Product Extends Offsite :

- Unknown

2. Media Specific Criteria: Petroleum Vapor Intrusion to Indoor Air - *The site is considered low-threat for the vapor-intrusion-to-air pathway if site-specific conditions satisfy items 2a, 2b, or 2c*

NO

EXEMPTION - Active Commercial Petroleum Fueling Facility

NO

Does the site meet any of the Petroleum Vapor Intrusion to Indoor Air specific criteria scenarios?

NO

ADDITIONAL QUESTIONS - The following conditions exist that do not meet the policy criteria:

Soil Gas Samples :

- No Soil Gas Samples

Exposure Type :

- Residential

Free Product :

- In Groundwater

TPH in the Bioattenuation Zone :

- ≥ 100 mg/kg

O2 Data in Bioattenuation Zone :

- No O₂ Data

3. Media Specific Criteria: Direct Contact and Outdoor Air Exposure - *The site is considered low-threat for direct contact and outdoor air exposure if it meets 1, 2, or 3 below.*

YES

EXEMPTION - The upper 10 feet of soil is free of petroleum contamination

NO

Does the site meet any of the Direct Contact and Outdoor Air Exposure criteria scenarios?

YES

3.2 - A site specific risk assessment demonstrates the maximum concentrations of petroleum constituents in soil will have no significant risk of adversely affecting human health (i.e., "passes")

YES

Additional Information

Should this case be closed in spite of NOT meeting policy criteria?

NO



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: MARCH 23, 2015

ITEM NUMBER: CC-3

SUBJECT: GENERAL PLAN CONFORMITY RESOLUTION FOR DISPOSAL OF REAL PROPERTY ALONG CHARLE STREET, COUNTY ASSESSOR'S PARCEL NO. 422-091-06

DATE: MARCH 11, 2015

FROM: PLANNING DIVISION/DEVELOPMENT SERVICES DEPARTMENT

PRESENTATION BY: RYAN LOOMIS, ASSOCIATE PLANNER

FOR FURTHER INFORMATION CONTACT: RYAN LOOMIS (714) 754-5608
ryan.loomis@costamesaca.gov

DESCRIPTION

Red Mountain Retail Group (RMRG) currently co-owns real property, known as County Assessor's Parcel No. (AP No.) 422-091-06, with the City of Costa Mesa. RMRG is requesting to purchase the City's co-owned portion of the property, which has been determined to be of no practical use for the City. The 675 square-foot property is approximately 5 feet wide and 150 feet long, and is located adjacent to Charle Street. Pursuant to Government Code Section 65402 (Restrictions on Acquisition and Disposal of Real Property), the Costa Mesa Planning Commission must find that no real property shall be disposed of without a finding being made that such disposal be in conformance with the City's 2000 General Plan. Furthermore, being that Charle Street has been constructed with an existing 60-foot full-width right-of-way, there are no Master Plan of Highways' requirements to fulfill. The Planning Commission must also find that the real property disposal will serve the public interest and is a public benefit.

RECOMMENDATION

Adopt attached resolution finding that the real property disposal is in conformance with the City of Costa Mesa 2000 General Plan, will serve the public interest, and is a public benefit.



CITY COUNCIL AGENDA REPORT

MEETING DATE: MAY 5, 2015

ITEM NUMBER: CC-9

**SUBJECT: DISPOSAL OF CITY CO-OWNED PROPERTY ADJACENT TO CHARLE STREET,
COUNTY ASSESSOR'S PARCEL NUMBER 422-091-06**

DATE: APRIL 23, 2015

FROM: PUBLIC SERVICES DEPARTMENT/ENGINEERING DIVISION

PRESENTATION BY: ERNESTO MUNOZ, PUBLIC SERVICES DIRECTOR

**FOR FURTHER INFORMATION CONTACT: FARIBA FAZELI, CITY ENGINEER
(714) 754-5335**

RECOMMENDATION

1. Adopt a resolution to proceed with the sale of City co-owned property along Charle Street, County Assessor's Parcel No.422-091-06.

BACKGROUND

The City co-owns (50-50) a strip of land, 5 feet wide and 150 feet long along Charle Street (Attachment 1) with Red Mountain Retail Group (RMRG). RMRG has expressed a desire to acquire the City's interest in this small sliver parcel.

In 1982, the City acquired this parcel of land in fee with the possible intent of a future street dedication. However, per the Master Plan of Highways, Charle Street is designated as a residential street with an ultimate width of 60 feet. Currently, Charle Street is 60' wide, hence there is no need for this additional sliver parcel.

On March 23, 2015, a report was presented to the Planning Commission outlining the proposed disposal/sale as required by Government Code Section 65402. Subsequently, the Planning Commission adopted Resolution No. PC-15-15 (Attachment 2) finding that the proposed disposal/sale is consistent with the City's General Plan.

ANALYSIS

In October of 2014, the entire subject property was appraised with an overall land value of \$11,400 (at \$9.50 per square foot). Thus, \$5,700 of the value is allocated to the City and \$5,700 allocated to RMRG. A purchase offer to the City of \$5,700 by RMRG will be formally presented to the City pending approval of the City Council. RMRG has agreed to pay for all closing costs including escrow, title report and documentation fees.

This co-owned property has been reviewed by the Engineering and Transportation Services Divisions and determined to be of no practical City use. This sliver of land is no longer necessary for the Charle Street right-of-way improvements, and there are no public improvements currently constructed within the subject property. It has been concluded that it is in the best public interest to remove the City's ownership liability by the sale of this unusable sliver of property.

by whom? 12/21

Therefore, it is recommended that the City Council approve and adopt a resolution (Attachment 3) to proceed with the sale of the 50% portion of City co-owned property to RMRG for the appraised value of \$5,700.

ALTERNATIVES CONSIDERED

The City could retain this co-owned property and continue to be responsible for the maintenance and liability of being property co-owners.

FISCAL REVIEW

Once the percentage of ownership is sold it becomes fully taxable square footage, resulting in additional property taxes to the adjacent property owner to which the land will revert to. This will result in additional revenue to the City.

LEGAL REVIEW

Legal questions surrounding the City's ability to sell the co-owned property were addressed by the City Attorney's office in 2007. The City Attorney's office has re-reviewed the original analysis performed on the possible sale of the property, and has determined that the opinion is still valid today.

In cases where government property has been declared surplus, the normal protocol for sale of surplus government property is to provide for an open (auction) or closed (sealed envelope) bidding process. This property has not been declared surplus, and thus may be sold directly if decided by the City Council.

CONCLUSION

Staff reviewed a request for the sale of City co-owned property adjacent to Charle Street, and recommends that the City Council approve and adopt a resolution to go forth with the sale of 50% of City co-owned property, County Assessor's Parcel No. 422-091-06.

ERNESTO MUNOZ
Public Services Director

FARIBA FAZELI
City Engineer

ATTACHMENTS: 1 – Site Plan
 2 – Planning Commission Resolution No. PC-15-15
 3 – Resolution for the sale of City co-owned (50%) property

DISTRIBUTION: Chief Executive Officer
 Assistant CEO
 Economic & Dev. Director/Deputy CEO
 City Attorney
 City Clerk

JANUARY 2016



JANUARY 2016



PRECISION

CONTRACTING

Excavation • Remediation • Abatement

649-642-6664

precisioncontracting.net



LIC. #101357





