

**City of Garden Grove**

**INTER-DEPARTMENT MEMORANDUM**

To: Matthew Fertal  
Dept: City Manager  
Subject: REQUEST FOR TWO-YEAR TIME EXTENSION FOR ENTITLEMENTS (SP-372-05, V-129-05) INCLUDED IN A DEVELOPMENT AGREEMENT FOR PROPERTY LOCATED AT 8642 STANFORD AVENUE

From: Susan Emery  
Dept: Community Development  
Date: January 26, 2010

OBJECTIVE

To transmit a request from the applicant for a two-year time extension for a project that was approved in 2005 through a Development Agreement that included land use entitlements. The approved land use entitlements were Site Plan No. SP-372-05, Variance No. V-129-05, and Tentative Tract Map no. TT-16894. The entitlements approved a project to construct 12 semi-detached three-story homes to be subdivided into condominiums. The Tentative Tract Map, (TT-16894), has been extended for an automatic two-year time extension by State Assembly Bill No. AB333. By amending the Development Agreement to extend the expiration date for two years, the Site Plan and Variance will be consistent with the Tentative Tract Map and all will have a single expiration date of November 11, 2011. The site is at 8642 Stanford Avenue in the R-3 (Multiple Family Residential) zone, and is currently developed with six units.

BACKGROUND

The applicant received approval from the Planning Commission on July 7, 2005 to demolish six (6) existing residential units and to construct twelve (12) new residential condominiums. On October 11, 2005, the City Council adopted the Development Agreement. Thirty (30) days after the October 11, 2005 meeting, the Development Agreement and all Land Use Entitlements became effective with a four-year expiration date of November 11, 2009.

In a letter dated September 24, 2009, the applicant requested a time extension for the project. The request was taken before the Planning Commission on December 3, 2009. The Planning Commission approved the request and recommended that the City Council approve a Time Extension to amend Section 1 of the Development Agreement.

DISCUSSION

The applicant has requested a time extension based on the current market conditions and the scarcity of funds from lending institutions. He anticipates that the market will improve within the next two years and is therefore requesting to keep the entitlements active for future development.

The Tentative Tract Map (TT-16894) received an automatic time extension through the passage of Assembly Bill No. AB333. The Governor of California signed Assembly Bill No. AB333 to allow all tentative maps valid as of July 15, 2009 an automatic two-year time extension.

The approval by City Council of a two-year time extension amending Section 1 of the Development Agreement allows the Site Plan and Variance to be approved for the same timeframe as the Tentative Tract Map. A two-year time extension, until November 11, 2011, is appropriate based on current economic conditions and for consistency with the automatic extension provided to the Tentative Tract Map. The proposed condominiums remain a viable project that is consistent with the current zoning and the General Plan Land Use designation of the property.

FINANCIAL IMPACTS

None.

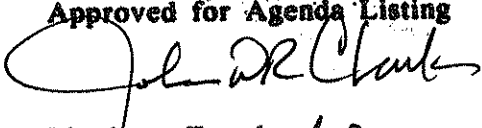
RECOMMENDATION

It is recommended that the City Council:

- Introduce the attached ordinance approving a revision to Section 1 of the Development Agreement that extends the approval of the project and its entitlements until November 11, 2011.

  
SUSAN EMERY  
Community Development Director

  
By: Erin Webb  
Senior Planner

Approved for Agenda Listing  
  
Matthew Feral  
City Manager *for*

TIME EXTENSION AMENDING DEVELOPMENT AGREEMENT  
FOR SP-372-05 & V-129-05  
January 26, 2010  
Page 3

- Attachment 1: Planning Commission Staff Report Dated December 3, 2009
- Attachment 2: Planning Commission Resolution No. 5702
- Attachment 3: Letter dated September 24, 2009 from Applicant Requesting Extension (Exhibit A)
- Attachment 4: Site Plan for Proposed Construction (SP-372-05) (Exhibit B)
- Attachment 5: Revised Development Agreement
- Attachment 6: Draft City Council Ordinance

# COMMUNITY DEVELOPMENT DEPARTMENT PLANNING STAFF REPORT

<b>AGENDA ITEM NO.:</b> C.1.	<b>SITE LOCATION:</b> 8642 Stanford Avenue, southeast corner of Stanford Avenue and Adelle Street
<b>HEARING DATE:</b> December 3, 2009	<b>GENERAL PLAN:</b> Medium Density Residential
<b>CASE NOS.:</b> Site Plan No. SP-372-05, Time Extension, Variance No. V-129-05, Tentative Tract Map No. TT-16894, & Development Agreement	<b>ZONE:</b> R-3 (Multiple Family Residential)
<b>APPLICANT:</b> Mahmoud Bdaiwi	<b>APN:</b> 133-463-11
<b>PROPERTY OWNER:</b> Toura #3 L.P.	<b>CEQA DETERMINATION:</b> Exempt

## **REQUEST:**

The applicant is requesting a two-year time extension for a project that was approved in 2005 through a Development Agreement that included land use entitlements. The approved land use entitlements were Site Plan No. SP-372-05, Variance No. V-129-05, and Tentative Tract No. TT-16894. The entitlements approved a project to construct 12 semi-detached three-story homes and subdivide them into condominiums. The Tentative Tract Map (TT-16894) has been extended for an automatic two-year time extension by State Assembly Bill No. AB333. By amending the Development Agreement to extend the expiration date for two years, the Site Plan and Variance will be consistent with the Tentative Tract Map and all will have a single expiration date of November 11, 2011. The site is at 8642 Stanford Avenue in the R-3 (Multiple Family Residential) zone, and is currently developed with six units.

## **BACKGROUND:**

The applicant proposed to demolish six (6) existing residential units and construct twelve (12) new residential condominiums. The twelve (12) units are proposed as six buildings with two units in each. Four of these "paired houses" front on the streets that bound the corner property, Stanford Avenue and Adelle Street. And the remaining two of the "paired houses" front on the drive aisle.

On July 7, 2005, the proposal was approved by the Planning Commission. The Planning Commission adopted the Negative Declaration, approved Site Plan No. SP-372-05, Variance No. V-129-05, and Tentative Tract Map No. TT-16894, and recommended that the City Council approve the Development Agreement. On September 27, 2005, the City Council had the first of two meetings and a public hearing was held. On October 11, 2005, the City Council adopted the Development

Agreement. Thirty (30) days after the October 11, 2005 meeting, the Development Agreement and all Land Use Entitlements became effective and had a four-year expiration until November 11, 2009.

**DISCUSSION:**

The applicant has submitted the attached letter (Exhibit "A") dated September 24, 2009 requesting a time extension for the project. The basis for the request is that market conditions and scarcity of funds from lending institutions has made construction impossible at this time. The applicant believes strongly in the suitability of the project (Exhibit "B", Plans) and the demand for the product. Anticipating that the market will improve within the next two years, the applicant is requesting to keep the entitlements active for future development.

Given the market conditions throughout California, the Governor of California signed Assembly Bill No. AB333, that automatically grants a two-year time extension for all tentative maps valid as of July 15, 2009. The Tentative Tract Map (No. TT-16894) was valid as of that date and therefore, is automatically approved for an additional two years, expiring on November 11, 2011.

The approval of a two-year time extension amending to Section 1 of the Development Agreement (Exhibit "C"), will allow the Site Plan and Variance to be approved for the same time as the Tentative Tract Map. The Planning Commission will forward to the City Council a recommendation to approve a Time Extension to amend Section 1 of the Development Agreement.


In reviewing the applicant's request, staff feels that the granting of the two-year extension would be appropriate because of current economic conditions and for consistency with the automatic extension provided to the Tentative Tract Map. Also, the project remains a viable residential project that is consistent with the current zoning and General Plan Land Use designation of the property.

**RECOMMENDATION:**

Staff recommends that the Planning Commission take the following actions:

1. Recommend that the City Council approve a Time Extension to Amend Section 1 of the Development Agreement. Notwithstanding Section 1, the Development Agreement and land use entitlements shall expire on November 11, 2011.

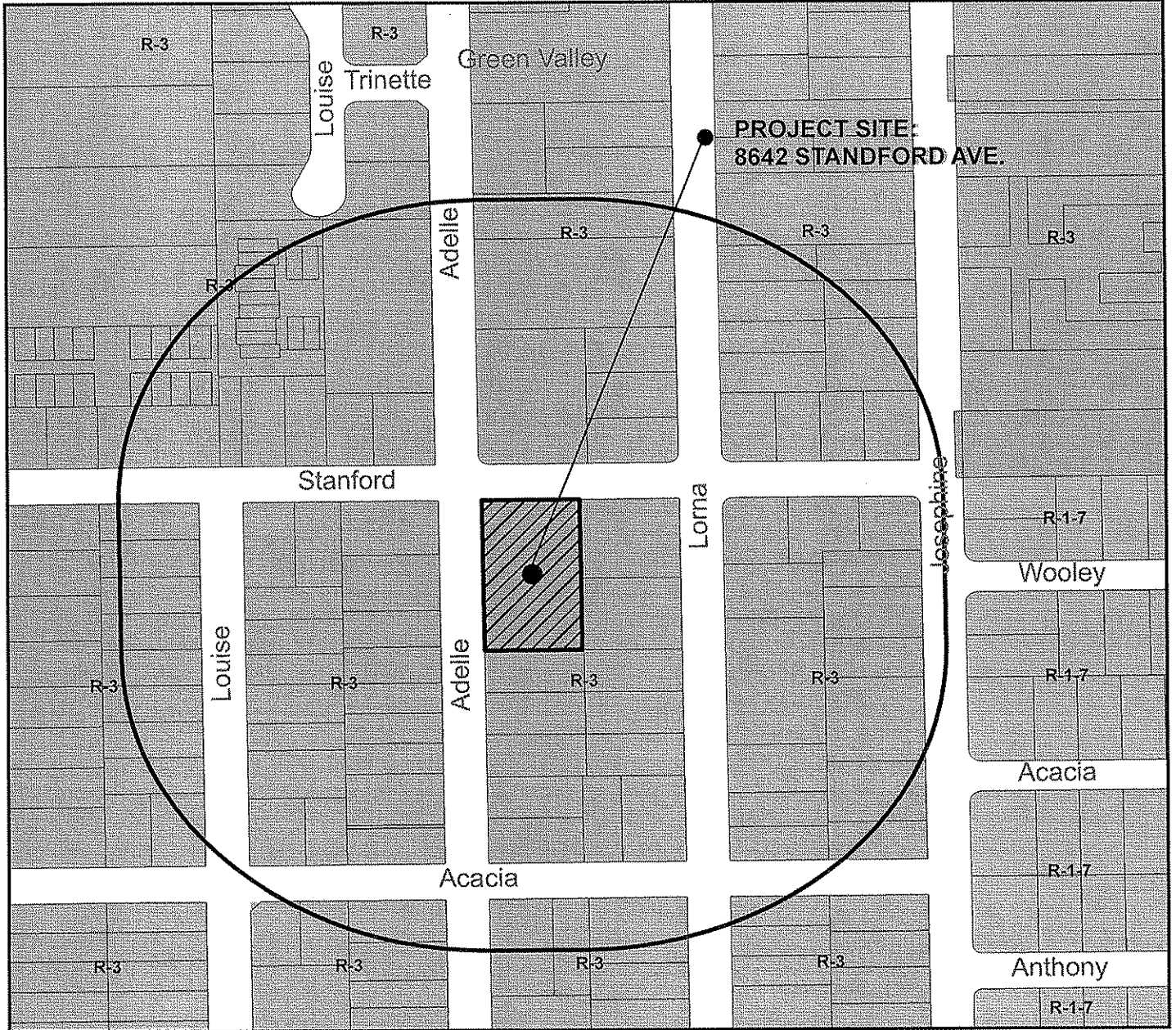
  
Karl Hill  
Planning Services Manager

  
By: Erin Webb  
Senior Planner




# SITE PLAN NO. SP-372-05

RELATED CASES NO. (V-129-05,  
Development Agreement, TT-16894)



## LEGEND

 PROJECT SITE: 8642 STANFORD AVE.

 500 FEET RADIUS



0 125 250 500 750 Feet

## NOTES

1. GENERAL PLAN: MEDIUM DENSITY RESIDENTIAL
2. ZONE: R-3 (Multiple Family Residential)

CITY OF GARDEN GROVE  
COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING DIVISION  
GIS SYSTEM  
NOVEMBER 2009

## RESOLUTION NO. 5702

A RESOLUTION BY THE PLANNING COMMISSION OF THE CITY OF GARDEN GROVE RECOMMENDING THAT THE CITY COUNCIL APPROVE A TWO-YEAR TIME EXTENSION BY AMENDING SECTION 1 OF THE DEVELOPMENT AGREEMENT AND THEREBY EXTENDING THE TIMEFRAME FOR THE INCLUDED LAND USE ENTITLEMENTS (Site Plan No. SP-372-05 and Variance No. V-129-05).

BE IT RESOLVED that the Planning Commission of the City of Garden Grove, in regular session assembled on December 3, 2009, does hereby recommend approval of a two-year time extension for the approved Site Plan No. SP-372-05 and Variance No. V-129-05 entitlements included in a Development Agreement, for land located on the southeast corner of Stanford Avenue and Adelle Street, at 8642 Stanford Avenue, Parcel No. 133-463-11.

BE IT FURTHER RESOLVED in the matter of the time extension to amend the Development Agreement and the included land use entitlements (Site Plan No. SP-372-05 and Variance No. V-129-05), the Planning Commission of the City of Garden Grove does hereby report as follows:

1. The subject case was initiated by Mahmoud Bdaiwi of Toura #3 L.P., the applicant.
2. The applicant requests a time extension to amend the Development Agreement and the included entitlements under Site Plan No. SP-372-05 and Variance No. V-129-05, for the construction of twelve (12) new residential condominiums on an approximately 33,375 square foot lot. The Land Use Entitlements also included a Tentative Tract Map No. TT-16894 that was automatically extended for two (2) years by State Assembly Bill No. AB333.
3. The project was previously reviewed for California Environmental Quality Act (CEQA) compliance. A Negative Declaration was prepared and approved by the Garden Grove Planning Commission for the project that concluded the proposed project will not have significant adverse effect on the environment; and was prepared and circulated in accordance with applicable law, including CEQA, Public Resources Code of Regulations section 21000 et. seq., and the CEQA guidelines, 14 California Code of Regulations Sec. 15000 et. seq. and includes mitigation measures.
4. The site is developed with six (6) existing residential units, has a General Plan Land Use designation of Medium Density Residential, and an R-3 (Multiple-Family Residential) zoning designation.
5. Existing land use, zoning, and General Plan designation of property in the vicinity of the subject property have been reviewed.
6. Report submitted by City staff was reviewed.

7. Pursuant to a legal notice, a public hearing was held on December 3, 2009, and all interested persons were given an opportunity to be heard.
8. The Planning Commission gave due and careful consideration to the matter during its meeting of December 3, 2009; and

BE IT FURTHER RESOLVED, FOUND AND DETERMINED that the facts and reasons supporting the conclusion of the Planning Commission, as required under Municipal Code Section 9.20.030.9, are as follows:

FACTS:

The site consists of one parcel of approximately 33,375 square feet. The parcel is developed with six (6) existing residential units at the corner and a large undeveloped area to the south.

The applicant/owner proposes to demolish the six (6) existing residential units and construct twelve (12) new residential condominiums. The twelve (12) units are proposed as six buildings with two units in each. Four of these "paired houses" front on the streets that bound the corner property, Stanford Avenue and Adelle Street. And the remaining two "paired houses" front on the drive aisle.

The project was approved by the Planning Commission on July 7, 2005 and a recommendation was forwarded to the City Council to approve the Development Agreement. The City Council held the first of two meetings on September 27, 2005 and a public hearing was held. On October 11, 2005, the City Council adopted the Development Agreement. Thirty days after this adoption, on November 11, 2005, the Development Agreement and all the included Land Use Entitlements became effective. The Development Agreement established an expiration date of the land use entitlements for four years, until November 11, 2009.

The Governor of California signed Assembly Bill No. AB333, that automatically grants a two-year time extension for all tentative maps valid as of July 15, 2009. The Tentative Tract Map (No. TT-16894) associated with the project was extended by AB333 until November 11, 2011.

FINDINGS AND REASONS:

Time extension:

1. A request for a time extension, including the reasons therefore, has been submitted prior to the permit expiration date, or the hearing body finds that due to special circumstances demonstrated by the property owner or the applicant, a late-filed request should be considered.



The applicant has submitted a request to amend the Development Agreement to extend the timeframe for the land use entitlements. The basis for this request is that market conditions and scarcity of funds from lending institutions has made construction of the project impossible at this time. However, the applicant believes strongly in the suitability of the project and the demand for the product and is, therefore, requesting to keep the entitlements active in anticipation that the market will improve within the next two years. Approval of a two-year time extension amending Section 1 of the Development Agreement will allow the Site Plan and Variance to have an expiration date that is consistent with the Tentative Tract map and affords the applicant a reasonable timeframe to overcome the current economic conditions.

2. There has been no change in the General Plan designation or Zoning of the site that would render the development or use nonconforming.

The subject site's General Plan Land Use designation and Zoning designation have not been changed since the project's approval, and therefore, the development will not be rendered nonconforming.

3. There are no land use actions or study currently underway that would have the potential to render the development or use nonconforming.

There are no known studies or actions that would affect the site or proposed development that would possibly render the development nonconforming.

#### INCORPORATION OF FACTS AND FINDINGS SET FORTH IN STAFF REPORT

In addition to the foregoing, the Planning Commission incorporates herein by this reference, the facts and findings set forth in the staff report.

BE IT FURTHER RESOLVED that the Planning Commission does conclude:

1. The Time Extension to amend Section 1 of the Development Agreement and therefore all included entitlements (Site Plan No. SP-372-05 and Variance No. V-129-05) until November 11, 2011, does possess characteristics that would indicate justification of the request in accordance with Municipal Code Sections 9.20.030.9 (Time Extension).
2. In order to fulfill the purpose and intent of the Municipal Code, and, thereby, promote the health, safety, and general welfare, the originally approved conditions of approval for Site Plan No. SP-372-05, Variance No. V-129-05, and Tentative Tract Map No. TT-16894 shall remain in effect.

**TOURA LP**

3972 Barranca Parkway Suite J-425, Irvine, CA 92606

September 24, 2009

The City of Garden Grove  
11222 Acacia Parkway  
Garden Grove, CA 92841

Ref. : Extension request.

Project Address : 8642 Stanford Street  
Garden Grove, CA 92841

Tentative Tract Map : TT-16894

Site Plan Approval : SP-372-05

Variance Approval : V-129-005

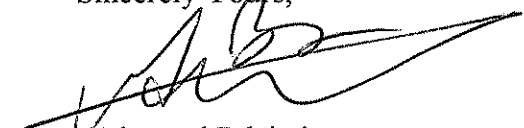
Development  
Agreement Dated : 11/11/2005

Application for Extension

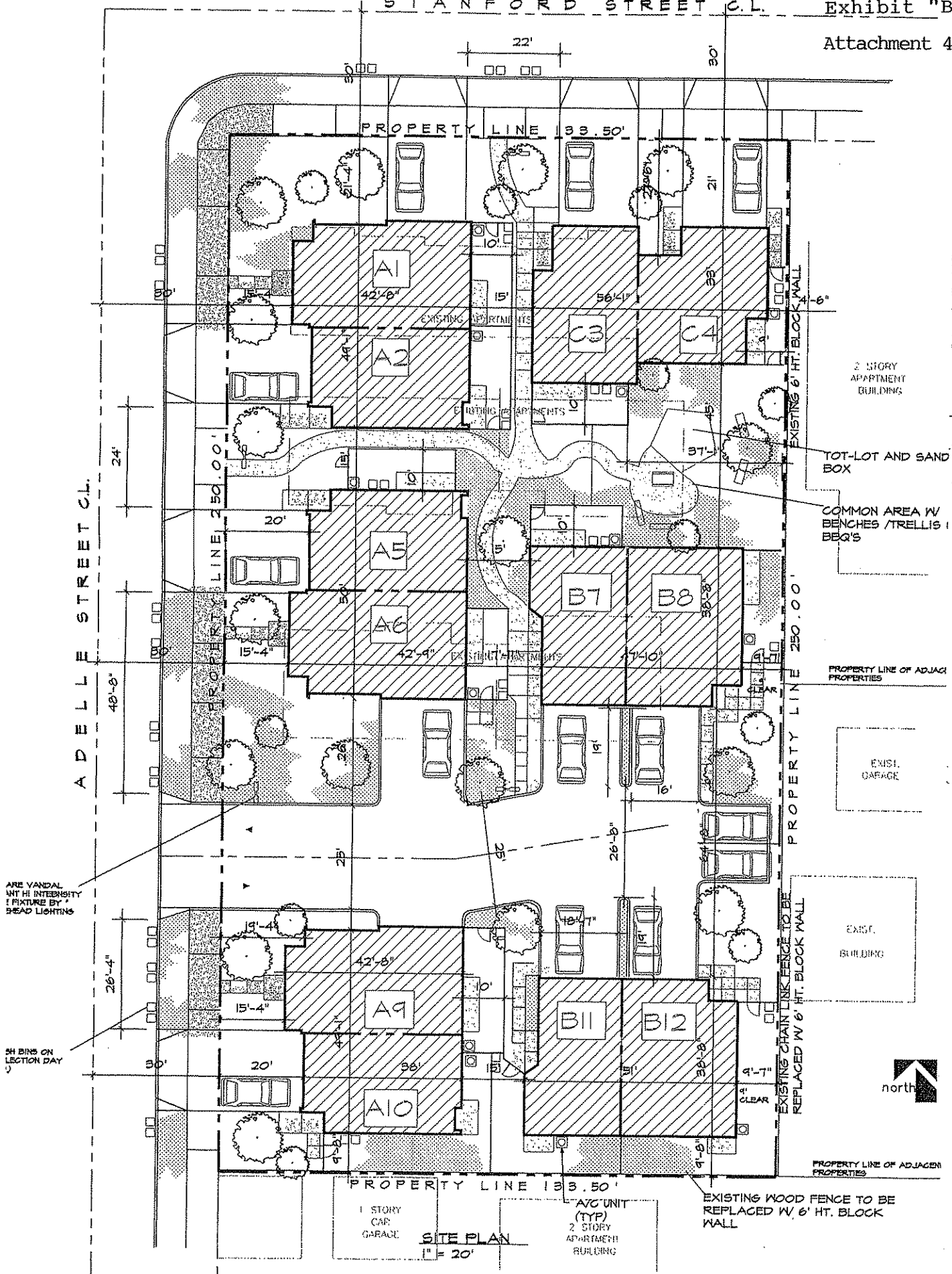
Dear Mrs. Erin Webb;

As the owner and developer of the property described above, we hereby kindly request an amendment of the development agreement described above to allow for an extension to the agreement and all associated approvals such as site plan and variances to allow the development of the project at a later time. Due to the conditions of the market and scarcity of funds from lending institutions, the project would be impossible to develop at this time. We believe strongly in the suitability of the project and the demand for the product and do anticipate the market improving in the next year or two. We therefore, kindly ask for our request for extension to be scheduled into the next planning commission meeting.

Sincerely Yours;



Mahmoud Bdaiwi  
TOURA LP



ARE VANDAL  
W/ HI INTENSITY  
FIXTURE BY  
HEAD LIGHTING

5H BINS ON  
LOCATION DAY

2 STORY  
APARTMENT  
BUILDING

TOT-LOT AND SAND  
BOX

COMMON AREA W/  
BENCHES /TRELLIS /  
BBQ'S

PROPERTY LINE OF ADJAC  
PROPERTIES

EXIST.  
GARAGE

EXIST.  
BUILDING

PROPERTY LINE OF ADJACEN  
PROPERTIES

1 STORY  
CAR  
GARAGE

A7C UNIT  
(TYP)  
2 STORY  
APARTMENT  
BUILDING

EXISTING WOOD FENCE TO BE  
REPLACED W/ 6' HT. BLOCK  
WALL

**SITE PLAN**  
1" = 20'

RECORDING REQUESTED BY )  
AND WHEN RECORDED MAIL TO: )

City Clerk's Office )  
City of Garden Grove )  
11222 Acacia Parkway )  
Garden Grove, CA 92840 )  
)  
)

---

(Space above for Recorder.)

This document is exempt for payment  
of a recording fee pursuant to  
Government Code Section 6103.

Dated: \_\_\_\_\_

**REVISED DEVELOPMENT AGREEMENT**

**TOURA # 3 L.P.  
SITE PLAN NO. SP-372-05,  
TENTATIVE TRACT MAP NO. TT-16894  
VARIANCE NO. V-129-05**

**THIS AGREEMENT** is made this \_\_\_\_ day of \_\_\_\_\_, 2010 by the CITY OF GARDEN GROVE, a municipal corporation ("CITY"), and TOURA #3 L.P. ("DEVELOPER/PROPERTY OWNER")

**RECITALS**

The following recitals are a substantive part of this Agreement:

1. CITY and DEVELOPER/PROPERTY OWNER desire to enter into this DEVELOPMENT AGREEMENT for the construction of a twelve (12), semi-detached condominiums and related improvements (the "Project") on the southeast corner of Stanford Avenue and Adelle Street at 8642 Stanford Avenue, Parcel No. 133-463-11.
2. DEVELOPER/PROPERTY OWNER is qualified by virtue of experience, training, education and expertise to accomplish the requirements listed herein to the satisfaction of the City.

3. The PROJECT is a development requiring certain discretionary approvals by the CITY before it may be constructed.
4. The CITY's Planning Commission approved Site Plan No. SP-372-05, Tentative Tract Map No. TT-16894, and Variance No. V-129-05 for the project on July 7, 2005, conditioned upon the DEVELOPER/PROPERTY OWNER entering into a Development Agreement.
5. The City Council adopted the Development Agreement on October 11, 2005. Thirty days after the October 11, 2005 meeting, the Development Agreement and all Land Use Entitlements became effective and had a four-year expiration until November 11, 2011.
6. The applicant requested a time extension for the project in a letter dated September 24, 2009.
7. At the December 3, 2009 meeting, the Planning Commission approved the request for a time extension and made the recommendation to the City Council to approve a Time Extension to Amend Section 1 of the Development Agreement, extending the approval of the project until November 11, 2011.
8. Government Code Section 65864 et seq. provides the authority for CITY to enter into binding development agreements with a developer having a legal and equitable interest in real property.

### **AGREEMENT**

#### **THE PARTIES MUTUALLY AGREE AS FOLLOWS:**

1. DURATION. This Agreement and land use entitlements described in Section 2 shall expire six (6) years from its effective date on November 11, 2011, unless any duty specified remains executory, in which case this Agreement may be renewed for successive one year terms at discretion of CITY, pursuant to law, until all duties are performed. This renewal shall not unreasonably be withheld.
2. Permitted Uses. The following use is permitted at the PROJECT: Twelve (12) residential condominium units. The project has been granted the following Land Use Entitlements: Site Plan No. SP-372-05, Tentative Tract No. TT-16894, and Variance No. V-129-05.
3. Density/Intensity. The density or intensity of this project is as follows: Twelve residential condominium units located on a 33,375 square foot site.
4. Maximum Height and Building Size. The maximum height and building size are as follows: The project consists of six buildings with two units each; the maximum height of the building shall be three-stories at approximately 33 feet in height; and a range of unit sizes from 2,626 square feet to 1,858 square feet as indicated on the floor plan, site plan, and elevations.

5. Reservation or Dedication. The reservation of easements or dedication of property to the City to allow the construction of the proposed facility as shown on the approved Site Plan.
6. Improvements. The improvements described in Resolution No. 5502 shall be constructed prior to the occupancy or the issuance of any certificate of occupancy, for any portion of the new building.
7. Scope of Project. The Project shall consist of twelve (12), semi-detached residential condominium units.
8. Resolution/Material Terms. All conditions of approval as per Resolution No. 5502 attached hereto and incorporated herein as Exhibit "A", are material terms of this Agreement. Breach of any condition of approval shall be deemed to be a breach of this Development Agreement.
9. Reimbursement. DEVELOPER/PROPERTY OWNER shall pay CITY as follows:
  - 9.1 Amount. \$750.00 per unit.
  - 9.2 Not to Exceed. Payment under this Agreement shall not exceed \$9,000.
10. Records of Expenses. DEVELOPER/PROPERTY OWNER shall keep records in which complete and correct entries will be made of construction costs. These records will be available to CITY.
11. City Agreement. CITY agrees that \$750.00 per unit, not to exceed \$9,000, will reimburse CITY for the cost of certain CITY services required by the proposed development that are not otherwise being reimbursed to CITY.
12. Payment Due Date. The reimbursement amount shall be due and payable prior to the issuance of a building permit for the PROJECT.
13. Termination Provisions. This Agreement may be terminated upon the happening of any of the following events:
  - A. Failure of Developer to perform any of the provisions of this Agreement, or
  - B. Mutual agreement of the parties.
14. Periodic Review. CITY shall review DEVELOPER/PROPERTY OWNER'S performance every twelve (12) months at the anniversary of the adoption of this Agreement. DEVELOPER/PROPERTY OWNER shall demonstrate good faith compliance with the terms of this Agreement. If as a result of the review CITY finds and determines, based upon substantial evidence, that DEVELOPER/PROPERTY OWNER has not complied in good faith with terms or conditions of this Agreement, CITY may terminate the Agreement. The Director of the Community Development shall conduct this review.
15. City Discretion. CITY retains its right and discretion, under all applicable Codes, to approve or disapprove any item related to this PROJECT, which it has not specifically

agreed to via this Agreement. DEVELOPER/PROPERTY OWNER acknowledges that it shall comply with all CITY requirements for applications and permits of any nature and that this Agreement does not relieve DEVELOPER/PROPERTY OWNER of the necessity of filing appropriate applications and permits.

16. Improvement Schedule. The following improvements shall be constructed by the stated dates: All repairs and improvements to the public right-of-way required in Planning Commission Resolution No. 5502 shall be completed prior to the issuance of any certificates of occupancy or release of any public utilities.
17. Developer Breach. Failure of DEVELOPER/PROPERTY OWNER to construct improvements as specified, or to pay amounts specified in a timely fashion, shall result in the withholding of building permits or any other permit or certificate of occupancy until the breach is remedied to satisfaction of CITY.
18. Non-Liability of Officials and Employees of the City. No official or employee of CITY shall be personally liable to DEVELOPER/PROPERTY OWNER in the event of any default or breach by CITY, or for any amount, which will become due to DEVELOPER/PROPERTY OWNER, or any obligation under the terms of this Agreement.
19. Notices. All notices shall be personally delivered or mailed to the below listed addresses, or to such other address as may be designated by written notice. These addresses shall be used for delivery of service of process.
  - A. Address of DEVELOPER/PROPERTY OWNER is as follows:  
TOURA #3 L.P.  
3972 Barranca Parkway, Unit #J-425  
Irvine, CA 92606
  - B. Address of CITY is as follows:  
City of Garden Grove  
11222 Acacia Parkway  
Garden Grove, CA 92840
20. DEVELOPER'S Proposal. The Project shall include DEVELOPER/PROPERTY OWNER's proposal, as modified by Planning Commission and City Council, including all conditions of approval contained in Planning Commission Resolution No. 5502, which shall be incorporated herein by this reference. In the event of any inconsistency between terms of the proposal and this Agreement, this Agreement shall govern.
21. Licenses, Permits, Fees, and Assessments. At its sole expense, DEVELOPER/PROPERTY OWNER shall obtain all licenses, permits, and approvals as may be required by this Agreement, or by the nature of the PROJECT.
22. Time of Essence. Time is of the essence in the performance of this Agreement.

23. Successor's Interest. The provisions of this Agreement shall be binding upon and inure to successors in interest of the parties and shall be specifically binding upon any future lessees or other owners of an interest in PROPERTY.
24. Authority to Execute. The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement and that by executing this Agreement, the parties are formally bound.
25. Indemnification. DEVELOPER/PROPERTY OWNER agrees to protect, defend, and hold harmless CITY and their elective or appointive boards, officers, agents, and employees from any and all claims, liabilities, expenses or damages of any nature, including attorney's fees, for injury or death of any person, or damage to property, or interference with use of property, arising out of, or in any way connected with performance of the Agreement by DEVELOPER/PROPERTY OWNER, DEVELOPER/PROPERTY OWNER'S agents, officers or employees, subcontractors hired by DEVELOPER.
26. Modification. This Agreement constitutes the entire agreement between the parties and supersedes any previous agreements, oral or written. This Agreement may be modified only by subsequent mutual written agreement executed by CITY and DEVELOPER/PROPERTY OWNER.

**IN WITNESS WHEREOF**, these parties have executed this Agreement on the day and year shown below.

Date: \_\_\_\_\_

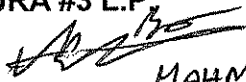
**"CITY"**  
**CITY OF GARDEN GROVE**

By: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
CITY CLERK  
DATE: \_\_\_\_\_

**"DEVELOPER/PROPERTY OWNER"**  
**TOURA #3 L.P.**

By:  \_\_\_\_\_  
MAHMOUD B DAIWI

Its: PRESIDENT of GP.  
Date: 01-20-2010  
(Signature must be notarized.)



**APPROVED AS TO FORM:**

  
Garden Grove City Attorney

Date: 1/21/10

If DEVELOPER/PROPERTY OWNER is corporation, a Corporate Resolution and/or Corporate Seal is required. If a partnership, Statement of Partnership must be submitted to CITY.

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

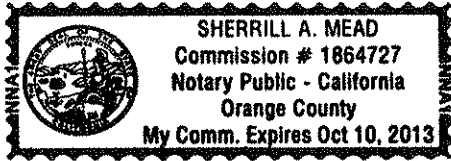
State of California

County of Orange

On January 20 2010 before me, Sherrill A. Mead  
Date Here Insert Name and Title of the Officer

personally appeared Mahmoud Bdaiwi  
Name(s) of Signer(s)

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.

Signature Sherrill A Mead  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: Revised Devpt. Agreement TOURA # B.L.P.

Document Date: 01/20/2010 Number of Pages: 6

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: Mahmoud Bdaiwi

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

**RIGHT THUMBPRINT OF SIGNER**  
Top of thumb here

Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

**RIGHT THUMBPRINT OF SIGNER**  
Top of thumb here

Signer Is Representing: \_\_\_\_\_

## **ATTACHMENT "A"**

**Site Plan No. SP-372-05,  
Tentative Tract Map No. TT-16894,  
Variance No. V-129-05**

8642 Stanford Avenue

### **General Conditions**

1. The applicant shall record a "Notice Of Agreement With Conditions of Approval and Discretionary Permit," as prepared by the City Attorney's Office, on the property. Proof of such recordation is required prior to the issuance of building permits. All conditions of approval are required to be adhered to for the life of the project, regardless of property ownership. Any significant changes of the conditions of approval require approval of the Planning Commission. To accommodate "minor changes" to the plans, the Director of Community Development may approve changes to the conditions of approval.
2. Approval of this Site Plan shall not be construed to mean any waiver of applicable and appropriate zoning regulations or any Federal, State, County and City laws and regulations. Unless otherwise expressly specified, all other requirements of the Garden Grove Municipal Code shall apply. The applicant shall obtain, and abide by, any necessary permits or licenses required to conduct the use in compliance with applicable laws.
3. The approved site plan, floor plan, and building design with colors are an integral part of the decision approving this Site Plan. There shall be no change in the site plan, floor plan, building design and/or colors as revised without the approval of the Community Development Department. Any change in the site plan, and/or floor plan, which has the effect of expanding or intensifying the use, shall require approval from the Planning Commission.
4. Hours and days of construction and grading shall be as follows, as set forth in the City of Garden Grove Municipal Code Section 8.47.010, referred to as the County Noise Ordinance as adopted:
  - a. Monday through Saturday between the hours of 7:00 a.m. and 8:00 p.m.
  - b. Sunday and Federal Holidays between the hours of 7:00 a.m. and 8:00 p.m., subject to the noise restrictions as stipulated in City of Garden Grove Municipal Code Section 8.47.010.
5. During construction the developer shall comply with the following measures to contain fugitive dust as required by the General Plan EIR:
  - a. Adherence to SCAQMD Rule 403, Fugitive Dust, as revised, which includes dust minimization measures such as daily watering of soils,

application of non-toxic soils stabilizers, replacement of ground cover in disturbed areas as soon as possible, suspension of excavating and grading operations when wind speeds (or instantaneous gusts) exceed 25 miles per hour, and maintenance of a minimum two feet of freeboard on all trucks hauling dirt, sand, soil, or other loose material.

- b. Sweeping of streets near construction area.
  - c. Rinsing of wheels on construction vehicles prior to leaving construction area.
  - d. All access roads shall be paved from the main access point.
  - e. Use of electricity from power poles rather than temporary diesel or gasoline-powered generators.
  - f. Use of methanol, natural gas, propane or butane-powered on-site mobile equipment rather than diesel or gasoline powered equipment.
6. During construction, if paleontological or archaeological resources are found all attempts will be made to preserve in place or leave in an undisturbed state in compliance with CEQA.
  7. Graffiti shall be removed from the premises and all parking areas under the control of the property owner within 120 hours of notification.
  8. All mechanical equipment shall be screened from the view of adjacent properties and public right-of-way.
  9. All new on-site utilities shall be located below ground. Any above ground utility equipment (e.g. electrical, gas, telephone) shall not be located in the street setbacks and shall be screened to the satisfaction of the Community Development Department, Planning Division.
  10. No exterior piping, plumbing, roof top access ladders, or mechanical ductwork shall be permitted on any exterior facade and/or be visible from any public right-of-way or adjoining property.
  11. All loading and unloading of vehicles shall occur on-site.

### **Water Services Conditions**

12. New water service installations shall be at owner's/developer's expense. Installation shall be by City forces upon payment of applicable fees, unless otherwise noted.
13. Water meters shall be located within the City right-of-way or within a dedicated waterline easement.
14. A Reduced Pressure Principle Device (RPPD) backflow prevention device shall be installed on the landscape system. Installation shall be per City Standards and shall be tested by a certified backflow device tester immediately after installation. A cross-connection inspector shall be notified for inspection after

the installation is completed. Owner shall have the RPPD device tested once a year thereafter by a certified backflow device tester and the test results shall be submitted to Public Works, Water Services Division.

15. A coordinated Utility Plan, approved by Water Services Division, is required as part of the water plan.
16. The required public/private water systems and private sewer system shall be constructed to City Standards by a contractor with class A or C-34 license, per City water standards. The systems shall be inspected by a Public Works inspector and dedicated to the City. Bonding shall be required.
17. Any new or existing water valve located within a new concrete driveway or sidewalk construction shall be reconstructed per City Standard B-753.
18. Water meters and boxes shall be installed by City forces upon payment of applicable fees and after new water system (including water services) passes all bacteriological and pressure tests.
19. The location and number of fire hydrants shall be as required by the Water Services Division and the Fire Department.

### **Engineering Services Conditions**

20. A geotechnical study prepared by a registered geotechnical engineer is required. The report shall analyze the liquefaction potential of the site and make recommendations. The report shall analyze sub-surface issues related to the past uses of the site, including sub-surface tanks, basement and septic facilities and contamination. Any soil or groundwater contamination shall be remediated prior to the issuance of a building permit in a manner meeting the approval of the City Engineer in concert with the Orange County Health Department. The report shall also make recommendations for pavement design of the interior drive aisle and parking spaces.
21. A separate street permit is required for work performed within the public right-of-way.
22. Grading and street improvement plans prepared by a registered Civil Engineer are required. The plan shall be based on a current survey of the site, including adjacent properties, and designed to preclude cross lot drainage.
23. The applicant shall be subject to Traffic Mitigation Fees.
24. Prior to the issuance of any grading or building permits or prior to recordation upon subdivision of land if determined applicable by the City Building Official, the applicant shall submit to the City for review and approval a Water Quality Management Plan that:

- Addresses Site Design BMPs such as minimizing impervious areas, maximizing permeability, minimizing directly connected impervious areas, creating reduced or "zero discharge" areas, and conserving natural areas
  - Incorporates the applicable Routine Source Control BMPs as defined in the DAMP
  - Incorporates Treatment Control BMPs as defined in the DAMP
  - Generally describes the long-term operation and maintenance requirements for the Treatment Control BMPs
  - Identifies the entity that will be responsible for long-term operation and maintenance of the Treatment Control BMPs
  - Describes the mechanism for funding the long-term operation and maintenance of the Treatment Control BMPs
25. Prior to grading or building permit closeout and/or the issuance of a certificate of use or a certificate of occupancy, the applicant shall:
- Demonstrate that all structural best management practices (BMPs) described in the Project WQMP have been constructed and installed in conformance with approved plans and specifications
  - Demonstrate that applicant is prepared to implement all non-structural BMPs described in the Project WQMP
  - Demonstrate that an adequate number of copies of the approved Project WQMP are available onsite
  - Submit for review and approval by the City an Operations and Maintenance (O&M) Plan for all structural BMPs
26. The applicant shall provide a hydrological analysis with scaled map and calculations and hydraulic calculations to size drainage facilities per Orange County PF&RD standards.
27. TIES TO HORIZONTAL CONTROL:
- Prior to recordation of a final tract map, the surveyor/engineer preparing the map shall tie the boundary of the map into the Horizontal Control System established by the County Surveyor in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Sub article 18. The surveyor/engineer shall submit record information to the City on Auto Cad DWG format.
28. DIGITAL MAP SUBMISSION:
- Prior to recordation of a final tract map, the surveyor/engineer preparing the map shall submit to the County Surveyor a digital graphics file of said map in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Sub article 18. The surveyor/engineer shall submit record information to the City on Auto Cad DWG format.

29. Prior to recordation of a final map, the applicant shall remove the two (2) power poles fronting the project site on Adelle Street and underground the utilities in a manner meeting the approval of the City Engineer.
30. The applicant shall construct street frontage improvements as identified below. All landscaping installed within the public right-of-way shall be maintained by the applicant in a manner meeting the approval of the City Engineer.

Stanford Avenue

- Construct 6" curb and gutter along the property frontage at 20' from centerline in accordance with City Standard Plan B-113. Provide a 25' curb return at the intersection of Adelle Street.
- Pave the street from centerline to the new curb per City Standard Plan B-104 and the direction of the City Engineer.
- Construct a five foot sidewalk adjacent to the street curb in accordance with City Standard Plan B-106. The remaining five feet of road right-of-way shall be landscaped per the direction of the City Planning Department.
- Construct the new driveway approaches in accordance with City Standard Plan B-122.
- Construct a new wheelchair ramp at the intersection of Adelle Street in accordance with City Standard Plan B-108.

Adelle Street

- Construct 6" curb and gutter along the property frontage at 18' from centerline in accordance with City Standard Plan B-113.
- Pave the street from centerline to the new curb per City Standard Plan B-104 and the direction of the City Engineer.
- Construct a five-foot sidewalk adjacent to the street curb in accordance with City Standard Plan B-106. The remaining seven feet of road right-of-way shall be landscaped per the direction of the City Planning Department.
- Construct the new driveway approaches in accordance with City Standard Plan B-122.
- Re-stencil the stop bar and "STOP" legend at the intersection of Stanford Avenue.

31. The applicant shall revise the tract map to incorporate the following:

- Dedicate right-of-way at the intersection of Stanford Avenue and Adelle Street to provide a corner cut-off in accordance with City Standard Plan B-107.
  - Identify the half-street width of Stanford Avenue as being 20 feet within the 30 feet of right-of-way.
  - Identify the half-street width of Adelle Street as being 18 feet within the 30 feet of right-of-way.
32. Prior to the issuance of a grading permit, the applicant shall design the driveway approaches to the site on Stanford Avenue and Adelle Street with a minimum separation of 22 feet in accordance with City Standard Plan B-122. A deviation to provide a separation less than 22 feet is permitted for the driveways serving Unit C3 and C4.

#### **Environmental Services/Streets Conditions**

33. The applicant shall comply with the anti-graffiti ordinance throughout the project as a "Best Management Practice" to mitigate vandalism. Graffiti shall be removed from the entire site including storage units, signage, traffic controls, etc. The applicant shall remove all USA utility markings upon completion of the project and employ setbacks and plantings as a pro-active future deterrence.

#### **Building Services Division Conditions**

34. The building plans, including grading and site development plans and all construction activity, shall comply with the current editions of the California Building regulations as found in the California Code of Regulations (CCR), Title 24, parts 2 through 12 as adopted by the City of Garden Grove.
35. The developer is encouraged to consider designing and constructing all units to standards outlined in the Community Energy Efficiency Program (CEEP) co-sponsored by the California Energy Commission, Southern California Edison and the Building Industry Institute. Prior to development of construction drawings, contact James Martin, Building Services Manager at (714) 741-5343 for further information.
36. This project will be subject to the new California State Disabled Access regulations that are effective on July 1, 2005. Clarify which units will be made accessible and revise the floor plans for ground level accordingly prior to submittal of plans for plan check.
37. If it is proposed to record property lines between the units, the structures shall be designed and constructed with 1-hour firewalls on each side of the property lines.



**Fire Department Conditions**

38. The developer shall determine the location of the nearest fire hydrant and add it to the site plan submitted for building permit.

**Community Development Department Conditions**

39. The applicant shall submit detailed plans showing the proposed location of utilities and mechanical equipment to the Community Development Department for review and approval prior to submitting plans for a Building permit. The project is subject to the following:
- a. All on and off-site utilities within the perimeter of the site shall be installed or relocated underground.
  - b. Above-ground utility equipment (e.g., electrical, gas, telephone, cable TV) shall not be located within the street setback, with the common areas, or any parking areas, and shall be screened to the satisfaction of the Community Development Director.
  - c. No roof-mounted mechanical equipment shall be permitted unless a method of screening complementary to the architecture of the building is approved by the Community Development Department prior to the issuance of a building permit. Said screening shall block visibility of any roof-mounted mechanical equipment from view of public streets and surrounding properties.
  - d. All ground or wall-mounted mechanical equipment shall be screened from view.
40. The proposed new concrete block walls that will replace the existing three (3) foot walls along the north and south side property lines and the east rear property line shall be six feet in height.
41. The applicant shall submit a detailed landscape and irrigation plan of all landscape areas, including the parkway area behind the new sidewalks. The plan shall be submitted to and be approved by the Community Development Department, Planning Services Division prior to the issuance of any permit for construction. Said plan shall include substantial plantings that create a natural setting and include type (both common and botanical names), size, location, and quantity of all plant material. The landscaping shall be planted prior to the finalization of the permit for construction. The landscape plan shall also include the following:
- a. The landscaping plan shall comply with all the landscaping requirements as specified in Title 9 of the City of Garden Grove Municipal Code.
  - b. Trees planted within ten (10) feet of any public right-of-way shall be planted in a root barrier shield.

- c. The front landscape area shall reflect the existing character of the site with abundant tropical plantings and shade trees.
  - d. A complete, permanent, and automatic remote control irrigation system shall be provided for all landscape areas shown on the plan. Subsurface irrigation systems are encouraged. The irrigation plan for any trees planted in the setback areas adjacent to the sidewalks and in the parking lot shall have a deep-water irrigation system that shall be specified on the landscape plan. A detail of the deep-water irrigation system shall be provided for review. If sprinklers are used in other areas, they shall be low flow/precipitation sprinkler heads for water conservation.
  - e. All above ground utilities (e.g., water backflow devices, electrical transformers, irrigation equipment, etc.) shall be shown on the landscaping plan and shall be screened from view by appropriate plantings.
  - f. The developer is responsible for the installation of all landscaping, irrigation, and other site improvements on the property. Said responsibility shall extend to all landscaped areas, the playground, the landscape setbacks, the three (3) feet of public right-of-way landscaping, sidewalk, curb and pavement of the site.
  - g. The property owner shall be responsible for the permanent maintenance of the landscaping, irrigation, and other improvements in the common areas and within the public right-of-way (three feet of parkway behind the proposed sidewalk). All planting areas are to be kept free of weeds and debris.
  - h. The landscape plan shall include three (3) feet of parkway area behind the sidewalks constructed by the property owner on Dale Street. The parkway plantings shall include street trees with a twenty-four inch box tree of a two and one-quarter inch caliper trunk diameter, ten feet in height, and a five foot head required for every thirty feet of street frontage.
  - i. The landscape plan shall maximize the plantings along the perimeter wall where planters are possible. There shall be vine plantings along the length of the perimeter walls. The vines shall be mainly perennial and evergreen with some flowering, deciduous types interspersed. The Fire Department has approved a regularly spaced pattern of
42. The applicant shall continue to work with the Planning Department to refine the elevations as plans are drawn for the construction of the proposed building. Revised elevations shall be submitted to the Planning Department for review and approval prior to the issuance of any permit. The proposed design is using a mix of building materials to create variety in the elevations. The use of different materials shall be thoughtful and add visual interest by accentuating the massing of the buildings or the separation of units. Provide more architectural detailing for the pedestrian entries so they are more dominant. Continue to refine the pattern of windows and remove the recess and trim below the kitchen windows.

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43. The applicant shall work with Planning staff to revise the final selection of colors and materials used on the development to highlight the building massing and the architectural detailing, and to increase the overall visual interest. The revised colors and materials shall be clearly noted on the elevations and submitted to the Planning Department for approval prior to issuance of any permit associated with the construction.
44. The developer shall enter into a binding Development Agreement with the City of Garden Grove. This includes the payment of a Development Impact Mitigation Payment in accordance with the City Council Ordinance.
45. The Site Plan and Tentative Tract Map shall expire one year after the effective date of Resolution No. 5502 unless the Development Agreement has been recorded. Development Impact Mitigation Fees shall be paid prior to issuance of any building permits.
46. The developer/property owner shall prepare Covenants, Conditions, and Restrictions (CC&R's) for review and approval by the City Attorney's office and the Community Development Department prior to the issuance of building permits. The approved CC&R's shall be recorded at the same time that the subdivision map is recorded. Two copies of the recorded CC&R's shall be provided to the Planning Division. The CC&R's shall include the following:
  - a. All units shall maintain within the garages, a minimum space of 20 feet by 20 feet to park two cars at all times. Garages shall not be converted to any other use.
  - b. There shall be no business activities, day care or garage sales conducted within or from the garages.
  - c. Garages shall not be rented or leased separately from the attached dwelling unit and shall be made available to occupants of the unit at all times.
  - d. Each residence shall be utilized as one dwelling unit. No portion of any residence shall be utilized or rented as a separate dwelling unit.
  - e. Storage of boats, recreational vehicles, or commercial vehicles on the property is prohibited.
  - f. The CC&R's shall include stipulations that maintenance of the drive aisles, storm drain, sewer system, and open space areas is the responsibility of the Homeowner's Association, including the common recreation area, tot-lot, and the common landscape areas.
  - g. The above stipulations shall not be modified without the approval of the City of Garden Grove. The CC&R's shall contain a provision that indicates the CC&R's may not be terminated or substantially amended without the consent of the City and the Developer's successor-in-interest.
  - h. The CC&R's shall include language regarding the responsibilities of the Homeowners Association under the National Pollutant Discharge Elimination System (NPDES) regulations.

47. The facades of the units shall be designed with sound attenuation features including the installation of dual pane windows. These features shall be approved by the Community Development Department prior to the issuance of building permits.
48. Each unit shall have phone-jacks and cable-TV outlets in all rooms, except the laundry area, hallways, and bathrooms.
49. If any unit is not provided with an air conditioning condensing unit, a place shall be designated for the location of such on the property, that allows for a ground-mounted unit, minimizes noise intrusion to adjacent units, and allows for ease of installation per the distance separation requirements in Condition No. 51. No wall-mounted or roof type air conditioning systems are permitted.
50. Mechanical equipment, including air conditioning units, Jacuzzi spa equipment, sump pump, etc., shall not be located closer than three (3') feet to a side and/or rear property line. The equipment shall only be located in an enclosed rear or side yard, only provided the above distance stipulation is met.
51. All units shall be equipped with trash compactors and shall provide a minimum of three cubic feet of space for the collection and storage of refuse and recyclable material for each unit. All exterior collection areas shall be located within a screened yard.
52. Each unit shall have a separate area for storage having a minimum of three hundred cubic feet of private and secure space. This storage space may be located within the garage, provided it does not interfere with garage use for automobile parking.
53. Enhanced concrete treatment shall be provided on all vehicular access ways of the site. Concrete treatment and color shall be approved by the Community Development Department prior to the issuance of building permits.
54. The project architect will revise the site plan and submit the revision for approval to the Community Development Department prior to the issuance of any permits. The site plan will be revised to provide a 10-foot separation between the drive aisle and Unit A9 and to provide 22 feet between the driveways for Unit A1 and Unit C3.
55. The developer shall construct a children's playground (tot lot), which consists of play equipment and/or sand box and benches. The area of the tot-lot shall be noted on the site plan and detail plan submitted for review prior to issuance of a building permit.
56. The developer shall take into account the windows and the recreation areas/amenities of adjacent residential dwelling units. Visual intrusion mitigation measures shall be used such as the use of high windows, window alignments, and obscure glass window glazing. Additionally, trees shall be placed to screen views from the proposed units into the second-story windows of abutting residences.