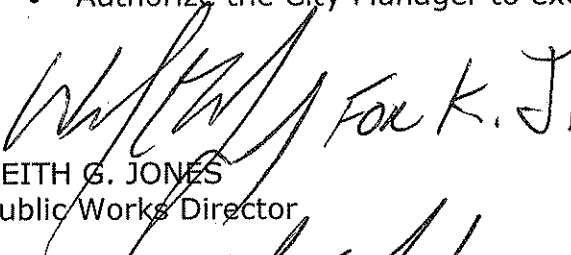


RECOMMENDATION

It is recommended that City Council:

- Approve Final Tract Map No. TR 17022 and the Subdivision Improvement Agreement and also accept the Subdivision Improvement Bonds.
- Authorize the City Manager to execute the Agreement.


KEITH G. JONES
Public Works Director


By: William E. Murray Jr.
City Engineer

Attachment 1: Planning Commission Resolutions No. 5541 and 5542
Attachment 2: Tract Map No. TR 17022
Attachment 3: Subdivision Improvement Agreement

Recommended for Approval


Matthew Fertal
City Manager

RESOLUTION NO. 5541

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GARDEN GROVE ADOPTING A NEGATIVE DECLARATION AND RECOMMENDING APPROVAL OF PLANNED UNIT DEVELOPMENT NO. PUD-111-06, AND A DEVELOPMENT AGREEMENT.

BE IT RESOLVED that the Planning Commission of the City of Garden Grove, in regular session assembled on May 4, 2006, does hereby adopt a Negative Declaration, find a de minimis impact on fish and wildlife resources, and recommend approval of Planned Unit Development No. PUD-111-06, and a Development Agreement, for land located on the west side of Nelson Street, north of Stanford Avenue, at 12661 Nelson Street, Parcels Nos. 089-101-11, 12, 14, 15, and 27.

BE IT FURTHER RESOLVED that the Planning Commission has considered the proposed Negative Declaration together with comments received during the public review process. The record of proceedings on which the Planning Commission's decision is based is located at the City of Garden Grove, 11222 Acacia Parkway, Garden Grove, California. The custodian of record of proceedings is the Director of Community Development. The Planning Commission finds on the basis of the whole record before it, including the initial study and comments received, that there is no substantial evidence that the project will have a significant effect on the environment. The Planning Commission adopts the Negative Declaration.

BE IT FURTHER RESOLVED in the matter of Planned Unit Development No. PUD-111-06, and a Development Agreement, the Planning Commission of the City of Garden Grove does hereby report as follows:

1. The subject case was initiated by LV Development, Inc.
2. The applicant requests approval of a Zone Change from the Community Center Specific Plan-Peripheral Residential PR-11 zone to Planned Unit Development Residential zone to allow the development of a small-lot, single-family residential subdivision on a 1.3 acre site; a Site Plan in order to construct twelve, detached, two-story and three-story single-family residential units; a Variance approval to deviate from the minimum lot size for a residential planned unit development; and a Tentative Tract Map for the residential subdivision. A Development Agreement is also proposed.
3. The Community Development Department has prepared a Negative Declaration for the project that concludes that the proposed project can not, or will not, have significant adverse effect on the environment; was prepared and circulated in accordance with applicable law, including the California Environmental Quality Act (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 property has a General Plan Land Use designation of Medium Density Residential and is currently zoned CCSP-PR 11 (Community Center Specific Plan-Peripheral Residential PR 11). The 1.3 acre site is improved as a church parking lot.
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 May 4, 2006, 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 May 4, 2006; 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 Sections 9.12.020 and 9.24.030, are as follows:

FACTS:

The site is 1.3 acres, and is improved as a church parking lot.

The site has a General Plan Land Use designation of Medium Density Residential and is zoned CCSP-PR 11 (Community Center Specific Plan-Peripheral Residential PR 11).

The minimum site requirement for Planned Unit Development Residential zoning is three (3) acres. The proposed site area is 1.3 acres. A Variance is proposed as part of this application in order to deviate from the minimum lot size for a residential Planned Unit Development.

Planned Unit Development would facilitate the development of the site with twelve, (12) single-family detached residential units (9 units will be two-story in height and 3 units will be three-story in height).

The application for the Planned Unit Development and the Development Agreement is being processed in conjunction with Site Plan No. SP-393-06, Variance No. V-138-06, and Tentative Tract Map No. TT-17022.

The developer is authorized to enter into a Development Agreement in compliance with Government Code Section 65864.

FINDINGS AND REASONS:

Planned Unit Development:

1. The location of the buildings, architectural design, and proposed use are compatible with the character of existing industrial/office development in the vicinity, and the project will be well-integrated into its setting.

The project is designed to be integrated with the existing developments in the area. The properties to the north and east are improved with single-family residences, and the properties to the south and west are improved with light industrial uses. Across Nelson Street to the east, is Saint Columban Catholic Church. The design of the project will ensure a reasonable degree of compatibility with adjacent uses.

2. The plan will produce a stable and desirable environment and will not cause undue traffic congestion on surrounding streets.

The design of the project complies with the spirit and intent of the Garden Grove Municipal Code for Residential development. The City's Traffic Engineering Section has reviewed the plan and all appropriate conditions of approval and mitigation measures have been incorporated to minimize any adverse impacts on surrounding streets.

3. Provision is made for both public and private open spaces.

The project has been designed in accordance with City Code provisions for providing an adequate amount of public and private open spaces as required by Planned Unit Development standards. The site provides both passive and active open space/recreation areas for the prospective residents.

4. Provision is made for the protection and maintenance of private areas reserved for common use.

Through the conditions of approval for the project all necessary agreements for the protection and maintenance of private areas reserved for common use will be in place prior to the start of construction and will be required to be adhered to for the life of the project.

5. The quality of the project achieved through the proposed Planned Unit Development zoning is greater than could be achieved under the current PUD.

The project incorporates an innovative design and meets City Code standards for parking, vehicle access and circulation, open space, and landscaping. The

design of the project, as well as adherence to these Code requirements, will ensure that the overall quality of the project will be comparable to projects that could be achieved under the current zoning.

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 Planned Unit Development and Development Agreement possess characteristics that would indicate justification of the request in accordance with Municipal Code Section 9.24.030 (Planned Unit Development) and with Government Code Section 65864 et. seq, provisions for Development Agreements.
2. The implementation provisions for Planned Unit Development No. PUD-111-06 are found under Planning Commission Resolution No. 5542 for Site Plan No. SP-393-06, Variance No. V-138-06, and Tentative Tract Map No. TT-17022.

ADOPTED this 4th day of May, 2006.

/s/ STEVE JONES
CHAIR

I HEREBY CERTIFY that the foregoing resolution was duly adopted at the regular meeting of the Planning Commission of the City of Garden Grove, State of California, held on May 4, 2006, by the following votes:

AYES:	COMMISSIONERS:	CALLAHAN, CHI, JONES, LECONG, MARGOLIN, PAK, PIERCE
NOES:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	NONE

/s/ JUDITH MOORE
SECRETARY

PLEASE NOTE: Any request for court review of this decision must be filed within 90 days of the date this decision was final (See Code of Civil Procedure Section 1094.6).

A decision becomes final if it is not timely appealed to the City Council. Appeal deadline is May 25, 2006.

PUD-111-06-PCr

RESOLUTION NO. 5542

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GARDEN GROVE ADOPTING A NEGATIVE DECLARATION AND APPROVING SITE PLAN NO. SP-393-06, VARIANCE NO. V-138-06, AND TENTATIVE TRACT MAP NO. TT-17022.

BE IT RESOLVED that the Planning Commission of the City of Garden Grove, in regular session assembled on May 4, 2006, does hereby adopt a Negative Declaration, find a de minimis impact on fish and wildlife resources, and approves Site Plan No. SP-393-06, Variance No. V-138-06, and Tentative Tract Map No. TT-17022, for land located on the west side of Nelson Street, north of Stanford Avenue at 12661 Nelson Street, Parcels Nos. 089-101-11, 12, 14, 15, and 27.

BE IT FURTHER RESOLVED that the Planning Commission has considered the proposed Negative Declaration together with comments received during the public review process. The record of proceedings on which the Planning Commission's decision is based is located at the City of Garden Grove, 11222 Acacia Parkway, Garden Grove, California. The custodian of record of proceedings is the Director of Community Development. The Planning Commission finds on the basis of the whole record before it, including the initial study and comments received, that there is no substantial evidence that the project will have a significant effect on the environment. The Planning Commission adopts the Negative Declaration.

BE IT FURTHER RESOLVED in the matter of Site Plan No. SP-393-06, Variance No. V-138-06, and Tentative Tract Map No. TT-17022, the Planning Commission of the City of Garden Grove does hereby report as follows:

1. The subject case was initiated by LV Development, Inc.
2. The applicant requests approval of a Zone Change from the Community Center Specific Plan-Peripheral Residential PR-11 zone to Planned Unit Development Residential zone to allow the development of a small-lot, single-family residential subdivision on a 1.3 acre site; a Site Plan in order to construct twelve, detached, two-story and three-story single-family residential units; a Variance approval to deviate from the minimum lot size for a residential planned unit development; and a Tentative Tract Map for the residential subdivision. A Development Agreement is also proposed.
3. The Community Development Department has prepared a Negative Declaration for the project that concludes that the proposed project can not, or will not, have significant adverse effect on the environment; was prepared and circulated in accordance with applicable law, including the California Environmental Quality Act (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 property has a General Plan Land Use designation of Medium Density Residential and is currently zoned CCSP-PR 11 (Community Center Specific Plan-Peripheral Residential PR 11). The 1.3 acre site is improved as a church parking lot.
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 May 4, 2006, 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 May 4, 2006; 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 Sections 9.12.020 and 9.24.030, are as follows:

FACTS:

The site is 1.3 acres, and is improved as a church parking lot.

The site has a General Plan Land Use designation of Medium Density Residential and is zoned CCSP-PR 11 (Community Center Specific Plan-Peripheral Residential PR 11).

The minimum site requirement for Planned Unit Development Residential zoning is three (3) acres. The proposed site area is 1.3 acres. A Variance is proposed as part of this application in order to deviate from the minimum lot size for a residential Planned Unit Development.

Planned Unit Development would facilitate the development of the site with twelve (12), single-family detached residential units (9 units will be two-story in height and 3 units will be three-story in height).

The application for Site Plan No. SP-393-06, Variance No. V-138-06, and Tentative Tract Map No. TT-17022 is being processed in conjunction with Planned Unit Development No. PUD-111-06 and a Development Agreement.

FINDINGS AND REASONS:

Site Plan:

1. The Site Plan complies with the spirit and intent of the provisions, conditions and requirements of Title 9 and the General Plan.

The project complies with the Medium Density Residential General Plan designation and the proposed PUD zoning for the property. The building facades, site design, parking, and landscaping, are consistent with the spirit and intent of the requirements of Municipal Code.

2. The project will not adversely affect essential on-site facilities such as off-street parking, loading and unloading areas, traffic circulation, and points of vehicular and pedestrian access.

The drive aisles and maneuvering areas are adequate for vehicle access. Sufficient parking is provided, and adequate pedestrian access is provided within the project.

3. The project will not adversely affect essential public facilities such as streets and alleys, utilities and drainage channels.

The existing streets, utilities and drainage facilities within the area are adequate to accommodate the project. The on-site circulation and parking are sufficient for the existing and proposed development.

4. The project will not adversely impact the Public Works Department's ability to perform its required function.

The project has been reviewed by the Public Works Department, which has required various on- and off-site improvements, including sidewalks, driveways, and grading improvements. Issues raised by the project have been addressed in the project design and the conditions of approval.

5. The project is compatible with the physical, functional and visual quality of the neighboring uses and desirable neighborhood characteristics.

The project has been designed for building appearance, building placement, landscaping, and other amenities to attain an attractive environment.

Tentative Parcel Map:

1. The Tentative Tract Map for the proposed twelve, detached, single-family residential dwelling units is consistent with the Garden Grove General Plan, which encourages land subdivision in order to facilitate new development. The site is adequate in size and shape to accommodate the proposed future development of the site.
2. The design and improvements of the proposed twelve-lot subdivision is consistent with the zoning, Title 9 of the Garden Grove Municipal Code, and the General Plan provisions for location, proximity to similar uses, lot width and overall depth with the exception of minimum lot size for a Residential Planned Unit Development, which is being processed in conjunction with a Variance in order to deviate from the minimum lot size for a Residential PUD.
3. The site is physically suitable for the existing, as well as the proposed, development and complies with the spirit and intent of a Residential Planned Unit Development and Title 9 of the City's Municipal Code.
4. The project will not have a significant adverse effect on the environment; therefore, the City of Garden Grove hereby adopts a Negative Declaration of Environmental Impact pursuant to the California Environmental Quality Act.
5. The design of the twelve, single-family detached, residential dwelling unit subdivision, and the proposed improvements are not likely to cause public health problems. The conditions of approval for on- and off-site improvements will safeguard the public health.
6. The design of the twelve, single-family residential dwelling unit subdivision, and the proposed improvements, will not conflict with easements of record or easements established by court judgment acquired by the public-at-large for access through or use of property within the subdivision; if such easements exist, then alternate easements for access or for use will be provided and these will be substantially equivalent to the ones previously acquired by the public.
7. The design and improvements of the twelve, single-family residential dwelling unit subdivision are suitable for the existing site improvements and the subdivision can be developed in compliance with the applicable zoning regulations.
8. The design and improvement of the proposed subdivision are suitable for the residential project proposed and the subdivision can be developed in compliance with the applicable zoning regulations.

9. The design of the subdivision, to the extent feasible, does have allowance for future passive or natural heating and cooling opportunities.
10. The design, density, and configuration of the subdivision strikes a balance between the effect of the subdivision on the housing needs of the region and of public service needs, and that the character of the subdivision is compatible with the design of existing structures and lot sizes in the in the general area.

Variance:

Exceptional circumstance: Yes

The City's General Plan anticipates the development of a small-lot subdivision zoning designation. Since the City has not adopted a new zoning classification and development standards for small-lot subdivision, the PUD (Planned Unit Development) zoning is a mechanism to provide zoning criteria for this project. The limited size of the site prevents the applicant from meeting all of the required development standards found in a typical subdivision. In addition, the acquisition of additional land to meet the three-acre lot size is not feasible. The surrounding properties are currently improved with various uses such as single-family residential and light industrial developments.

Substantial property rights: Yes

The Variance is necessary for the property to be developed with the same property rights that exist for other residential developments located in the City. The limited size and configuration of the property precludes the applicant from subdividing the property and meeting all current development standards of the traditional subdivisions found in the R-1 zone. Moreover, the applicant's request is justifiable due to the limited size and irregular shape of the property, and the limited opportunity to acquire additional property.

Materially detrimental: No

The project will be required to comply with all applicable building and safety codes and regulations to ensure that there is not an adverse impact on public health, safety, or welfare. Furthermore, the proposal has been reviewed by all City Departments in order to ensure compliance with all applicable code provisions, with the exception of this Variance request.

Adversely affect the City's General Plan: No

The project complies with all applicable development standards, except for lot size, for which a Variance has been requested. The property has a General Plan

designation of Medium Density Residential. This designation accommodates detached, single-family, small-lot subdivisions. The proposed project is considered a small-lot subdivision due to the fact that the typical lot size for this development range in size from approximately 2,100 square feet to approximately 3,000 square feet. The net density of 12.5 dwelling units, per net developable acre, is below the density range of the General Plan Medium Density Residential, and the Community Center Specific Plan range, which allows up to 23 dwelling units per acre. Therefore, the approval of the project will be consistent with the goals of the City's General Plan.

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 Site Plan, Variance, and Tentative Tract Map do possess characteristics that would indicate justification of the request in accordance with Municipal Code Sections 9.24.030 (Site Plan and Variance) and 9.32.010 (Subdivisions).
2. In order to fulfill the purpose and intent of the Municipal Code, and, thereby, promote the health, safety, and general welfare, the following conditions of approval, attached as "Exhibit A," shall apply to Site Plan No. SP-393-06, Variance No. V-138-06, and Tentative Tract Map No. TT-17022.

ADOPTED this 4th day of May, 2006.

/s/ STEVE JONES
CHAIR

I HEREBY CERTIFY that the foregoing resolution was duly adopted at the regular meeting of the Planning Commission of the City of Garden Grove, State of California, held on May 4, 2006, by the following votes:

AYES:	COMMISSIONERS:	CALLAHAN, CHI, JONES, LECONG, MARGOLIN, PAK, PIERCE
NOES:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	NONE

/s/ JUDITH MOORE
SECRETARY

PLEASE NOTE: Any request for court review of this decision must be filed within 90 days of the date this decision was final (See Code of Civil Procedure Section 1094.6).

A decision becomes final if it is not timely appealed to the City Council. Appeal deadline is May 25, 2006.

SHEET 3 OF 4
 ALL OF TENTATIVE TRACT NO. 17022
 ACREAGE: 1.315 ACRES (GROSS)
 1.240 ACRES (NET)
 DATE OF SURVEY: NOVEMBER, 2005

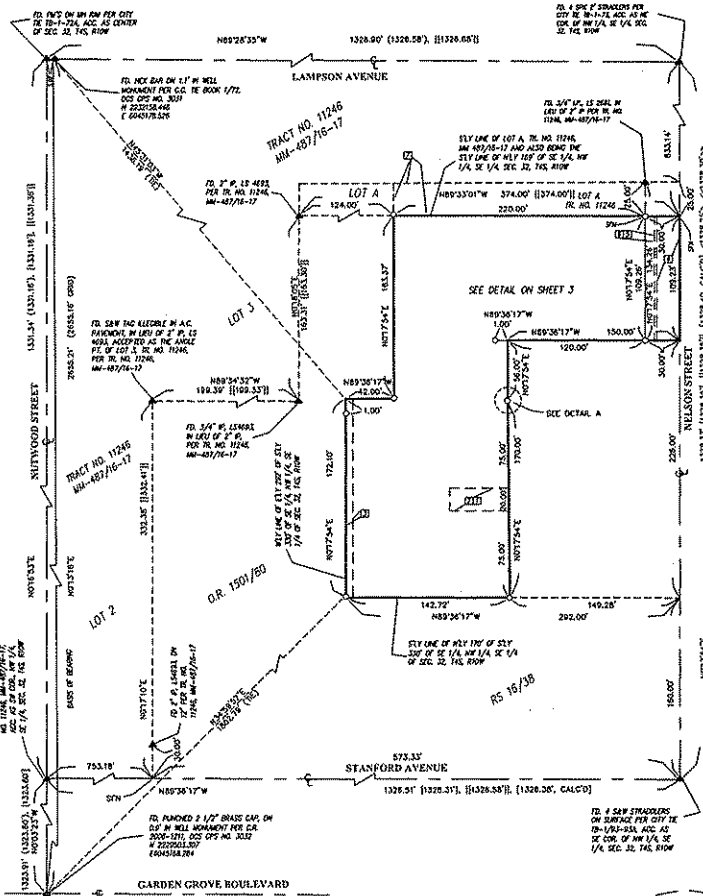
TRACT NO. 17022

SCALE: 1" = 50'

IN THE CITY OF GARDEN GROVE
 COUNTY OF ORANGE, STATE OF CALIFORNIA
 CAL LAND ENGINEERING, WILLIAM C. SHEN, RCE 27450

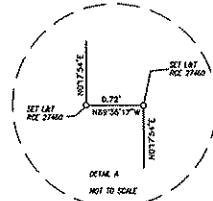
BASIS OF BEARING:
 THE BEARINGS SHOWN HEREON ARE BASED ON THE BEARING BETWEEN O.G.S. HORIZONTAL CONTROL STATION CFS NO. 3031 AND STATION CFS NO. 3032 BEING N01°16'16"E PER RECORDS ON FILE IN THE OFFICE OF THE ORANGE COUNTY SURVEYOR.

DATUM STATEMENT:
 COORDINATES SHOWN ARE BASED ON THE CALIFORNIA COORDINATE SYSTEM (CCS83) ZONE 14, 1983 NAD (1991.35) EPOCH CCS OPS ADJUSTMENT. ALL DISTANCES SHOWN ARE GROUND UNLESS OTHERWISE NOTED. TO OBTAIN GRID DISTANCE, MULTIPLY GROUND DISTANCE BY 0.99998558.



- EASEMENT NOTES:**
- [1] 20' WIDE EASEMENT TO SOUTHERN COUNTIES GAS COMPANY FOR GAS SUPPLIES PER 2291/477 O.R.
 - [2] 20' WIDE EASEMENT TO GARDEN GROVE SANITARY DISTRICT FOR INGRESS AND EGRESS PER 2492/592 O.R.
 - [3] 4' WIDE EASEMENT TO SOUTHERN CALIFORNIA Edison FOR POLE LINE AND CONDUIT PURPOSES PER 6312/583 O.R.
 - [4] 20' WIDE EASEMENT FOR STREET PURPOSES PER 688/208 O.R. TO THE COUNTY OF ORANGE
 - [5] 2' WIDE EASEMENT TO THE CITY OF GARDEN GROVE FOR PUBLIC UTILITY AND HIGHWAY PURPOSES PER 1170/72 O.R.
 - [6] 2' WIDE EASEMENT TO THE CITY OF GARDEN GROVE FOR STREET PURPOSES PER 11570/419 O.R.
 - [7] 25' WIDE AND 250' LONG ROAD EASEMENT BENEFIT TO TRACT NO. 17022

- GENERAL NOTES:**
- () RECORD DATA PER TB-116-B
 - [] RECORD DATA PER TB-138-1
 - [] RECORD DATA PER RS-21/6
 - < > RECORD DATA PER RS-49/4
 - [] RECORD DATA PER TR. NO. 11246, MM-487/16-17
 - [] RECORD DATA PER TR. NO. 15547, MM-763/16-17
 - << >> RECORD DATA PER PH. NO. 88-106, PUB-240/1-2
 - INDICATES FOUND MONUMENT AS NOTED
 - INDICATES SET L&T, RCE 27450
 - SFN INDICATES SEARCH AND FOUND NOTHING

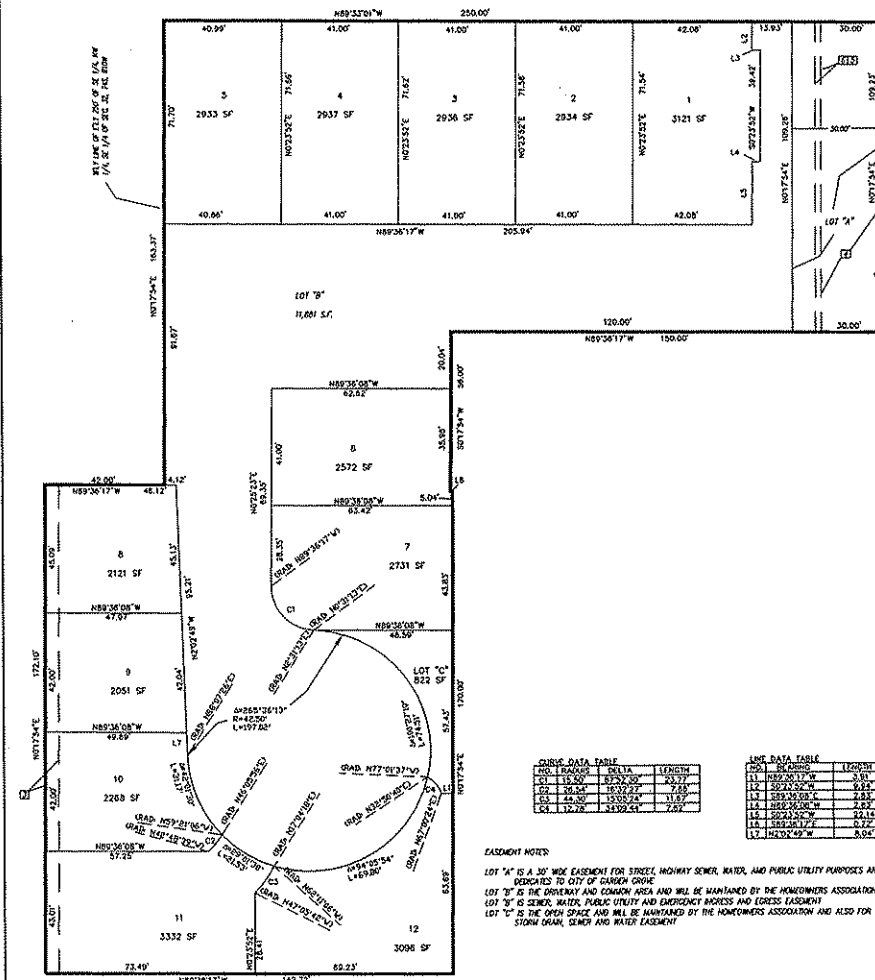


SHEET 4 OF 4
 ALL OF TENTATIVE TRACT NO. 17022
 ACREAGE: 1.315 ACRES (GROSS)
 1.240 ACRES (NET)
 DATE OF SURVEY: NOVEMBER, 2005

TRACT NO. 17022

SCALE: 1" = 20'

IN THE CITY OF GARDEN GROVE
 COUNTY OF ORANGE, STATE OF CALIFORNIA
 CAL LAND ENGINEERING, WILLIAM C. SHEN, RCE 27480



CURB DATA TABLE

LINE NUMBER	WIDTH	LENGTH
10	15.00'	83.37'
11	20.00'	7.24'
12	44.00'	11.69'
13	12.78'	2499.64'

LINE DATA TABLE

LINE NUMBER	LENGTH
10	83.37'
11	7.24'
12	11.69'
13	2499.64'

EASEMENT NOTES:
 LOT "A" IS A 30' WIDE EASEMENT FOR STREET, HIGHWAY SEWER, WATER, AND PUBLIC UTILITY PURPOSES AND REVERTS TO LOT 7 OF GARDEN GROVE.
 LOT "B" IS THE DRIVEWAY AND COMMON AREA AND WILL BE MAINTAINED BY THE HOMEOWNERS ASSOCIATION.
 LOT "C" IS SEWER, WATER, PUBLIC UTILITY AND EMERGENCY ACCESS AND EGRESS EASEMENT.
 LOT "D" IS THE OPEN SPACE AND WILL BE MAINTAINED BY THE HOMEOWNERS ASSOCIATION AND ALSO FOR STORM DRAIN, SEWER AND WATER EASEMENT.

ENGINEER'S NOTES:
 1. ALL CORNERS TO BE SET IN ALL LOT CORNERS.
 2. SEE SHEET 3 FOR: BASIS OF BEARING
 3. DATUM STATEMENT
 4. GENERAL NOTES

SUBDIVISION IMPROVEMENT AGREEMENT

SUBDIVIDER: TRACT MAP NO. 17022

THIS AGREEMENT is made this ____ day of _____ 2010, by the CITY OF GARDEN GROVE, a municipal corporation ("CITY"), and David Nguyen, an individual ("SUBDIVIDER"). CITY and SUBDIVIDER are sometime referred to herein individually as the "Party" or collectively as the "Parties."

RECITALS:

The following recitals are a substantive part of this Agreement:

1. SUBDIVIDER has obtained initial City approval of a subdivision map for Tentative Tract Map No. 17022 ("Project"), subject to certain conditions of approval for the development of the Project ("Conditions of Approval").
2. As a condition precedent to the approval of the Final Map by CITY, SUBDIVIDER is required to construct, install and/or offer for dedication to CITY certain streets, highways, easements, infrastructure improvements and/or parcels of land intended for public use.
3. SUBDIVIDER, by the Final Map, has offered for dedication to CITY certain streets, easements, property, and infrastructure improvements.
4. CITY desires to accept the dedications of such streets, easements, property, and other improvements as shown on the Final Map, and certain other improvements described in this Agreement.
5. SUBDIVIDER has delivered to CITY and CITY has approved plans and specifications and related documents for certain "Improvements" (as hereinafter defined), which are required to be constructed and installed in order to accommodate the development of the Project.
6. SUBDIVIDER has requested approval of the Final Map prior to completion of all of the improvements required by CITY.
7. To assure CITY that SUBDIVIDER will complete construction and installation of all required improvements, the Parties have entered into this Agreement.
8. SUBDIVIDER's agreement to construct and install the improvements pursuant to this Agreement and its offer of dedication of the streets, easements, and other improvements, as shown on the Final Map, are a material consideration to CITY in approving the Final Map and permitting development of the Project to proceed.
9. This Agreement is entered into in accordance with the Subdivision Map Act (Government Code sections 66410 et seq.) and the ordinances, rules, regulations, and determinations of the CITY.

AGREEMENT

NOW THEREFORE, based on the foregoing Recitals, which are incorporated herein by reference, and in consideration of the CITY's approving the Final Tract Map and permitting development of the Project to proceed, CITY's acceptance of the streets, easement, and other improvements offered for dedication by SUBDIVIDER, and the mutual promises contained herein, the Parties mutually agree as follows:

1. **Improvements.** SUBDIVIDER, at his or her sole expense, agrees to construct and install, as applicable, the street, sidewalks, drainage, domestic water, sanitary sewer, and other improvements (herein sometimes collectively referred to as the "Improvements") required to be constructed or agreed to be constructed as a condition precedent to the approval of the Final Tract Map and acceptance of such streets and easements, as expressly shown on (1) the Improvement Lists attached hereto at Exhibit "A" and Exhibit "B" and incorporated herein, and/or (2) the approved Project Improvement Plans on file with CITY and/or subsequently approved or revised by CITY and SUBDIVIDER (the "Improvement Plans"). The estimated construction cost for the Improvements is \$187,000.

2. **Security.** To secure the faithful performance of each improvement required under this Agreement and to ensure full payment to all persons furnishing or supplying labor or materials for each improvement required, SUBDIVIDER shall provide CITY, prior to the execution of this Agreement by CITY, with the following bonds:

Improvement	Type of Bond	Amount
100% of total estimate for Off-Site Improvements and On-Site Grading & Drainage Improvements as shown on Grading Plan No. G-1163, as described on the attached exhibit "A"	Faithful Performance	\$187,000.00
50% of total estimate for Off-Site Improvements and On-Site Grading & Drainage Improvements as shown on Grading Plan No. G-1163, as described on the attached exhibit "B"	Labor & Material	\$93,500.00

The bonds shall be executed on CITY forms by a surety authorized to do business in the State of California and shall be subject to approval by the City Attorney.

3. **Time for Completion.** SUBDIVIDER shall complete construction and installation of the improvements within 365 days, or such later time as approved by the CITY in writing.
4. **CITY Inspection and Acceptance.** The City Engineer or his or her duly authorized representative, upon request of SUBDIVIDER, shall inspect the improvements herein agreed to be constructed or installed by SUBDIVIDER, and, if determined to be in accordance with the applicable CITY standards, as set forth in the Garden Grove Municipal Code, Conditions of Approval and Improvement Plans, shall recommend the acceptance of such improvements by the CITY.
5. **Changes or Alterations.** SUBDIVIDER shall perform any changes or alterations in the construction and installation of the improvements required by CITY, to the extent such changes or alterations are needed to cause the improvements to comply with the applicable CITY standards, as set forth in the Garden Grove Municipal Code, Conditions of Approval and Improvement Plans.
6. **Guarantee.** SUBDIVIDER shall guarantee such improvements for a period of one (1) year following the completion by SUBDIVIDER and acceptance by CITY against any defective work or labor done, or defective materials furnished, in the performance of work pursuant to this Agreement.
7. **Insurance Requirements.**
 - 7.1 **COMMENCEMENT OF WORK.** SUBDIVIDER/CONTRACTOR shall not commence work under this Agreement until all certificates and endorsements have been received and approved by the CITY/AGENCY. All insurance required by this Agreement shall contain a Statement of Obligation on the part of the carrier to notify the CITY/AGENCY of any material change, cancellation, or termination at least thirty (30) days in advance.
 - 7.2 **Workers' Compensation Insurance.** For the duration of this Agreement, CONTRACTOR/SUBDIVIDER and all subcontractors shall maintain Workers Compensation Insurance in the amount and type required by law, if applicable.
 - 7.3 **Insurance Amounts.** SUBDIVIDER/CONTRACTOR shall maintain the following insurance for the duration of this Agreement:
 - A. Commercial general liability in the amount of \$1,000,000 per occurrence; **(claims made and modified occurrence policies are not acceptable)**; Insurance companies must be acceptable to CITY/AGENCY and have a Best's Guide Rating of A-, Class VII or better, as approved by the CITY/AGENCY.
 - B. Automobile liability in the amount of \$1,000,000 per occurrence; Insurance companies must be **acceptable to CITY/AGENCY** and have a Best's guide Rating of A-, Class VII or better as approved by the CITY/AGENCY.

An Additional Insured Endorsement of the policy under section 7.3 (A) shall designate CITY/AGENCY, its officers, officials, employees, agents, and volunteers as

additional insured's for liability arising out of work or operations performed by or on behalf of the SUBDIVIDER/CONTRACTOR. SUBDIVIDER/CONTRACTOR shall provide to CITY/AGENCY proof of insurance and endorsement forms that conform to CITY's/AGENCY's requirements, as approved by the CITY/AGENCY.

An Additional Insured Endorsement of the policy under section 7.3 (B) shall designate CITY/AGENCY, its officers, officials, employees, agents, and volunteers as additional insured's for automobiles owned, leased, hired, or borrowed by the SUBDIVIDER/CONTRACTOR. SUBDIVIDER/CONTRACTOR shall provide to CITY/AGENCY proof of insurance and endorsement forms that conform to CITY's/AGENCY's requirements, as approved by the CITY/AGENCY.

For any claims related to this Agreement, SUBDIVIDER/CONTRACTOR's insurance coverage shall be primary insurance as respects to CITY/AGENCY, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the CITY/AGENCY, its officers, officials, employees, agents, or volunteers shall be excess of the SUBDIVIDER's/CONTRACTOR's insurance and shall not contribute with it.

If SUBDIVIDER/CONTRACTOR is not constructing or installing the required improvements itself, SUBDIVIDER/CONTRACTOR's insurance obligation pursuant to this subsection 7.3 may be satisfied from each of SUBDIVIDER's contractors and each of their subcontractors, as appropriate, at the time of application for any permit from the CITY related to the construction and/or installation of the improvements under this Agreement.

8. Default.

- 8.1 **Remedies Not Exclusive.** In any case where this Agreement provides a specific remedy to CITY for a default by SUBDIVIDER hereunder, such remedy shall be in addition to, and not exclusive of, CITY's right to pursue any other administrative, legal, or equitable remedy to which it may be entitled.
- 8.2 **CITY Right to Perform Work.** In the event SUBDIVIDER fails to perform any obligations under this Agreement, SUBDIVIDER hereby authorizes CITY to perform such obligations twenty (20) days after mailing written Notice of Default to SUBDIVIDER at the address given below, and agrees to pay the entire cost of such performance by CITY, unless SUBDIVIDER cures such default in such twenty (20) day period, or such additional time as CITY deems reasonable in its sole discretion.
- 8.3 **Costs and Attorney's Fees.** In the event SUBDIVIDER fails to perform any obligations under this Agreement, SUBDIVIDER agrees to pay all costs and expenses reasonably incurred by CITY in securing performance of such obligations, including costs of suit and reasonable attorney's fees. In the event of any dispute arising out of SUBDIVIDER's performance of its obligations under this Agreement or under any of the Security Instruments referenced herein, the prevailing party in such action, in addition to any other relief which may be granted, shall be entitled to recover its reasonable attorney's fees and costs. Such attorney's fees and cost shall include fees and costs on any appeal, and in addition a party entitled to attorney's fees and costs shall be entitled to all other reasonable costs incurred in investigating such action, taking depositions and discovery, retaining expert

witnesses, and all other necessary and related costs with respect to the litigation. All such fees and costs shall be deemed to have accrued on commencement of the action and shall be enforceable whether or not the action is prosecuted to judgment.

9. **Non-Liability of Officials and Employees of CITY.** No member, official or employee of CITY shall be personally liable to SUBDIVIDER, or any successor in interest, in the event of any default or breach by CITY, or for any amount which may become due from CITY or its successor, or any obligation under the terms of this Agreement.

10. **Labor.**

- 10.1 **Labor Standards.** SUBDIVIDER shall be responsible for causing all contractors and subcontractors constructing or installing any of the Improvements to comply with all applicable federal and state labor standards, including, to the extent applicable, the prevailing wage requirements promulgated by the Director of Industrial Relations of the State of California Department of Labor. CITY makes no warranty or representation concerning whether any of the Improvements required to be constructed and/or installed pursuant to this Agreement constitute public works subject to the prevailing wage requirements.
- 10.2 **Non-Discrimination.** SUBDIVIDER covenants and agrees that there shall be no discrimination against or segregation of any person, group, or employee due to race, color, creed, religion, sex, marital status, age, handicap, national origin or ancestry, in any action or activity undertaken pursuant to this Agreement.
- 10.3 **Licensed Contractors.** SUBDIVIDER shall cause all of the Improvements to be constructed and/or installed by contractors and subcontractors with valid California Contractors' licenses for the type of work being performed.
- 11 **Change of SUBDIVIDER.** If SUBDIVIDER ceases to have legal interest in the Project, then a notice to that effect shall be filed with CITY. The notice shall include the name and address of the new subdivider. SUBDIVIDER shall require as a condition of the transfer of the legal interest in the Project, that the new subdivider shall (1) submit new bonds in accordance with this Agreement (at which time the original bonds shall be released); (2) submit to CITY a certified copy of the recorded deed referencing the transfer of the legal interest; and (iii) require that, upon transfer, the successor subdivider undertake all of the obligations under this Agreement in lieu and in place of SUBDIVIDER. Thereafter, SUBDIVIDER shall have no further obligations to CITY under this Agreement except for any liability, obligations, acts or omissions incurred prior to such transfer.
- 12 **General Provisions.** It is mutually agreed as follows:
- 12.1 **Assignment or Delegation.** Neither CITY nor SUBDIVIDER shall assign this Agreement without the consent of the other. SUBDIVIDER shall not delegate its obligations under this Agreement to another.
- 12.2 **Independent Contractor.** It is understood and agreed that, in connection with the performance of SUBDIVIDER's obligations under this Agreement, SUBDIVIDER, its employees, agents, contractors, and any subcontractors acting on behalf of SUBDIVIDER shall act and be independent contractors and shall not be agents or

employees of the CITY, and as independent contractors, shall obtain no rights to reitement benefits, or other benefits which accrue to CITY employees, and SUBDIVIDER, on behalf of itself, its employees, agents, contractors, and any subcontractors acting on behalf of SUBDIVIDER, hereby expressly waives any claim it may have to any such rights.

- 12.3 **Compliance with Law.** SUBDIVIDER shall comply with, and require all those acting on SUBDIVIDER's behalf to comply with, all applicable laws, ordinances, codes, and regulations of the federal, state, and local government.
- 12.4 **Conflict of Interest and Reporting.** SUBDIVIDER shall at all times avoid conflict of interest or appearance of conflict of interest in performance of this Agreement.
- 12.5 **Notices.** All notices shall be personally delivered or mailed, postage prepaid, to the below-listed address, or to such other address as may be designated by written notice. These addresses shall be used for delivery of service of process.
- A. If to SUBDIVIDER:
David Nguyen
9912 Miloann Ave
Temple City CA 91780
- B: If to CITY:
City of Garden Grove
11222 Acacia Parkway
Garden Grove, California 92842
- 12.6 **Licenses, Permits, Fees, and Assessments.** At its sole cost and expense, SUBDIVIDER shall obtain such license, permits, and approvals as may be required by law for the performance of SUBDIVIDER's obligations under this Agreement. SUBDIVIDER shall have the sole obligation to pay for any fees, assessments, and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the performance of the obligations required under this Agreement.
- 12.7 **Time of Essence.** Time is of the essence in the performance of this Agreement.
- 12.8 **Heirs, Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties, including all successors and assigns to SUBDIVIDER's right, title, and interest in the property covered by the Project and any portion thereof.
- 12.9 **Corporate Authority.** The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by so executing this Agreement the parties hereto are formally bound to the provisions of this Agreement.
- 12.10 **Modification.** This Agreement constitutes the entire agreement between the parties. This Agreement may be modified only by subsequent mutual written agreement executed by CITY and SUBDIVIDER.

- 12.11 **Waiver**. All waivers of the provisions of this Agreement must be in writing by the appropriate authorities of the CITY and SUBDIVIDER. SUBDIVIDER agrees that waiver by CITY of any one or more of the conditions of performance under this Agreement shall not be construed as waiver of any other condition of performance under this Agreement.
- 12.12 **California Law**. This Agreement shall be construed in accordance with the laws of the State of California. Any action commenced pursuant to this Agreement shall be initiated in the central or main branch of the Orange County Superior Court.
- 12.13 **Interpretation**. This Agreement shall be interpreted as though prepared by both parties.
- 12.14 **Preservation of Agreement**. Should any paragraph, clause, provision or word of this Agreement be found invalid or unenforceable, such decision shall affect only the paragraph, clause, provision or word construed and interpreted, and all remaining provisions shall remain valid and enforceable.
- 13 **Mutual Agreement**. The parties hereto do mutually covenant and agree to the full and faithful performance of their respective obligations under this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

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

"CITY"

CITY OF GARDEN GROVE

Date: 2-15-11

BY: _____
City Manager

ATTEST:

"SUBDIVIDER"

DAVID NGUYEN, INDIVIDUAL

City Clerk
Date: _____

By: David Nguyen

Its: Owner

Date: _____

BY: _____

Name

Title

Date: _____

BY: _____

Name

Title

APPROVED AS TO FORM: [Signature]
[Signature]
Garden Grove City Attorney

Date: 8-26-10

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

INSTRUCTIONS: If SUBDIVIDER is a corporation or limited liability company, the Agreement must be executed in the corporate/LLC name and signed by the President or a Vice-President and the Secretary or Assistant Secretary. If SUBDIVIDER is a limited liability company with designated centralized management (i.e., those that specifically designate in their articles of organization that they will be managed by a manager or managers), the Agreement must be executed in the LLC's name and signed by at least two managers (or by one manager in the case of an LLC whose articles of organization state that it is managed by only one manager). If SUBDIVIDER is a partnership, it must be signed by all general partners. If SUBDIVIDER is an individual doing business under a fictitious name, it must be signed by all persons having an interest in the business, and the fictitious name must be included.