



City of Covina/Successor Agency to the
Covina Redevelopment Agency/
Covina Public Finance Authority/
Covina Housing Authority

Mayor John King – Mayor Pro Tem Stapleton

Council Members: Walter Allen – Peggy Delach – Jorge Marquez

REGULAR MEETING AGENDA

125 E. College Street, Covina, California

Council Chamber of City Hall

Tuesday, April 21, 2015

6:30 p.m.

- As a courtesy to Council/Agency/Authority Members, staff and attendees, everyone is asked to silence all pagers, cellular telephones and any other communication devices.
- Any member of the public may address the Council/Agency/Authority during both the public comment period and on any scheduled item on the agenda. Comments are limited to a maximum of five minutes per speaker unless, for good cause, the Mayor/Chairperson amends the time limit. Anyone wishing to speak is requested to submit a yellow Speaker Request Card to the City Clerk; cards are located near the agendas or at the City Clerk's desk.
- Please provide 10 copies of any information intended for use at the Council/Agency/Authority meeting to the City Clerk prior to the meeting.
- **MEETING ASSISTANCE INFORMATION:** In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at (626) 384-5430. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.
- **DOCUMENT AVAILABILITY:** Any writings or documents provided to a majority of the Council/Agency/Authority regarding any item on this agenda will be made available for public inspection at the City Clerk's Office at City Hall located at 125 E. College Street and the reference desk at the Covina Library located at 234 North Second Avenue during normal business hours. In addition, such writings and documents are available in the City Clerk's Office and posted on the City's website at www.covinaca.gov.
- Pursuant to Government Code Section 54954.2, no matter shall be acted upon by the City Council/Successor Agency to the Covina Redevelopment Agency/Public Finance Authority/Covina Housing Authority unless listed on agenda, which has been posted not less than 72 hours prior to meeting.
- If you challenge in court any discussion or action taken concerning an item on this agenda, you may be limited to raising only those issues you or someone else raised during the meeting or in written correspondence delivered to the City at or prior to the City's consideration of the item at the meeting.
- The Covina City Clerk's Office does hereby declare that the agenda for the **April 21, 2015** meeting was posted on **April 16, 2015** near the front entrance of the City Hall, 125 East College Street, Covina, near the front entrance of the Covina Public Library, 234 N. Second Avenue, Covina, on the public information table in the front lobby at the Joslyn Center, 815 N. Barranca Avenue, Covina, and on the City's website in accordance with Section 54954.2(a) of the California Government Code.

April 21, 2015

**CITY COUNCIL/SUCCESSOR AGENCY TO THE
COVINA REDEVELOPMENT AGENCY/
COVINA PUBLIC FINANCE AUTHORITY/COVINA HOUSING AUTHORITY
JOINT MEETING—CLOSED SESSION
6:30 p.m.**

CALL TO ORDER

ROLL CALL

Council/Agency/Authority Members Allen, Delach, Marquez, Mayor Pro Tem/Vice Chairperson Stapleton and Mayor/Chairperson King

PUBLIC COMMENTS

The Public is invited to make comment on Closed Session items only at this time. To address the Council/Agency/Authority please complete a yellow speaker request card located at the entrance and give it to the City Clerk. Your name will be called when it is your turn to speak. Individual speakers are limited to five minutes each.

The City Council/Successor Agency to the Covina Redevelopment Agency/Covina Public Finance Authority/Covina Housing Authority will adjourn to closed session for the following:

CLOSED SESSION

- A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION** pursuant to Government Code Section 54957
Title: City Attorney

- B. PUBLIC EMPLOYEE APPOINTMENT** pursuant to Government Code Section 54957
Title: City Attorney

- C. PUBLIC EMPLOYEE PERFORMANCE EVALUATION** pursuant to Government Code Section 54957
Title: City Manager

RECESS

CONSENT CALENDAR CONTINUED

- CC 2.** City Council to approve payment of demands in the amount of \$1,944,944.22.
- CC 3.** Successor Agency to the Covina Redevelopment Agency to approve payment of demands in the amount of \$70,192.09.
- CC 4.** City Council to adopt **Resolution No. 15-7341**, reviewing continued repairs to City Hall restrooms pursuant to Section 22050 of the California Public Contract Code.
- CC 5.** City Council/Successor Agency to the Covina Redevelopment Agency to receive and file the quarterly report of the Treasurer to the City of Covina and the Successor Agency to the Covina Redevelopment Agency for the Quarter ended March 31, 2015.
- CC 6.** City Council to receive and file the annual report of the Covina Public Financing Authority.
- CC 7.** City Council to approve an amendment agreement to a Professional Services Agreement with Dudek, Inc., to increase the contract amount for providing environmental and planning services and authorize the City Manager to execute said agreement.
- CC 8.** City Council to approve reassigning the existing Assistant to the City Manager to the Community Development Department and reclassify the incumbent employee to Senior Administrative Analyst and authorize the City Manager to recruit and hire a new full-time Assistant to the City Manager.

PUBLIC HEARING

- PH 1.** City Council to conduct a public hearing to consider the appeal of the Planning Commission's denial of the amendment to Conditional Use Permit (CUP) 13-004 for the property at 692 Arrow Grand Circle (within the Arrow-Grand Industrial Park).

Staff Recommendation:

- 1) City Council to open the public hearing, receive public testimony and close the public hearing; and
- 2) City Council to make findings as required by the California Environmental Quality Act (CEQA) Section 15303(c), involving negligible project-related impacts existing at the time of the lead agency's determination; and
- 3) Consider the appeal of the Planning Commission's denial of the amendment to the Conditional Use Permit (CUP) 13-004, with the following options:
 1. If the City Council agrees with the decision of the Planning Commission, then sustain the Planning Commission's decision.
 2. If the City Council can make the findings to support the amendment to the Conditional Use Permit, then reverse the Planning Commission's decision and approve the amendment to the Conditional Use Permit through approval of **Resolution No. 15-7343**.

NEW BUSINESS

NB 1. City Council to receive an appeal from the order and decision of the Acting City Manager related to two notices of violation for non-compliant newsracks.

Staff Recommendation:

- 1) City Council to approve the decision and order of the Acting City Manager.

ADJOURNMENT

The Covina City Council/Successor Agency to the Covina Redevelopment Agency/Covina Public Finance Authority/Covina Housing Authority will adjourn to its next regular meeting of the Council/Agency/Authority scheduled for **Tuesday, May 5, 2015**, at 6:30 p.m. for closed session and 7:30 p.m. for open session inside the Council Chamber, 125 East College Street, Covina, California, 91723.

CITY OF COVINA
AGENDA ITEM COMMENTARY

CC1

MEETING DATE: April 21, 2015

STAFF SOURCE: Debbie Pacheco, Finance Manager ^{wp}
Tanya Nguyen, Account Clerk

ITEM TITLE: Approval of request by GETS Theological Seminary for exemption from the City's business license tax. The organization is located at 412 E. Rowland Street, Covina.

STAFF RECOMMENDATION

Approve GETS Theological Seminary business license tax exemption.

FISCAL IMPACT

Forfeit business license tax of \$52 (account: 1010-0000-40500).

BACKGROUND

Nonprofit organizations are exempt from paying the City's business license tax if the organization submits an application for the exemption and they provide proof of their nonprofit status (Covina Municipal Code Sections 5.04.100 through 5.04.140). Upon presentation of the required information, the City Council shall direct the City's Finance Director to issue the business license to the nonprofit organization without charging the normal tax (CMC 5.04.130).

GETS Theological Seminary is a religious corporation, and is organized under the Nonprofit Religious Corporation Law exclusively for religious purposes. The purpose of this corporation is to operate a theological seminary.

GETS Theological Seminary is seeking exemption from the City's business license tax in order to conduct the charitable business of the organization. The organization has met all of the requirements for exemption of the business license tax contained in Sections 5.04.100 through 5.04.140.

EXHIBITS

- A. Internal Revenue Tax Exempt Ruling- on file in the Finance Department.
- B. Bylaws – on file in the Finance Department.
- C. Articles Of Incorporation - on file in the Finance Department.
- D. Fee Exempt Business License Application – on file in the Finance Department.

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: April 21, 2015

ITEM NO.: CC2

STAFF SOURCE: Debbie Pacheco, Finance Manager *DP*

ITEM TITLE: Payment of Demands

STAFF RECOMMENDATION

Approve Payment of Demands in the amount of **\$1,944,944.22**.

BACKGROUND

Attached is a list of warrants and demands, which are being presented for approval and are summarized as follows:

<u>DATE OF DEMANDS</u>	<u>DEMAND NUMBERS</u>	<u>AMOUNT</u>
ACCOUNTS PAYABLE WARRANTS		
March 20-April 2, 2015	Wires/EFTs 4948-4954	\$689,593.04
	Checks 73370-73605	\$648,414.01
PAYROLL		
MARCH 25, 2015 PAYROLL DD, CHECKS & TAXES		\$590,981.92
VOIDS		
March 20-April 2, 2015	72564	(\$1,353.86)
WORKERS COMPENSATION		
March 26, 2015	Week ending 3/18/15	\$6,453.38
March 26, 2015	Week ending 3/25/15	\$7,584.82
April 2, 2015	Week ending 4/1/16	\$3,270.91
	GRAND TOTAL:	\$1,944,944.22

EXHIBITS

A. Accounts Payable Register

CITY OF COVINA
Check Register
MAR 20-APR 2, 2015

Check #	Check Date	Vendor	Name	Amount
4948	03/17/15	2955	US BANK	\$357,856.25
4949	03/17/15	279	BANK OF NEW YORK	\$314,909.40
4950	03/25/15	4160	ICMA	\$165.00
4951	03/25/15	1405	ICMA RETIREMENT	\$7,330.36
4952	03/25/15	1403	ICMA-RC	\$270.53
4953	03/25/15	4003	MidAmerica	\$1,916.96
4954	03/25/15	2033	NATIONWIDE RETI	\$7,144.54
			subtotal EFT/wires	\$689,593.04
73370	03/24/15	4209	ADLERHORST INTE	\$10,618.00
73371	03/24/15	84	AIRGAS-WEST	\$192.61
73372	03/24/15	219	AT&T	\$139.77
73373	03/24/15	219	AT&T	\$15.45
73374	03/24/15	219	AT&T	\$16.81
73375	03/24/15	219	AT&T	\$33.22
73376	03/24/15	219	AT&T	\$33.22
73377	03/24/15	219	AT&T	\$1,923.66
73378	03/24/15	221	AT&T MOBILITY	\$1,204.82
73379	03/24/15	268	BAILEY, JAMES E	\$3,655.00
73380	03/24/15	269	BAKER AND TAYLO	\$429.39
73381	03/24/15	376	BOND LOGISTIX	\$3,496.78
73382	03/24/15	4123	CARDENAS, RUDY	\$175.00
73383	03/24/15	600	CERTIFIED UNDER	\$151.07
73384	03/24/15	615	CHARLES E THOMA	\$809.09
73385	03/24/15	649	CINTAS CORP #69	\$134.15
73386	03/24/15	692	CODE PUBLISHING	\$125.00
73387	03/24/15	700	COLLEY FORD	\$125.02
73388	03/24/15	703	COMBINED GRAPHI	\$50.14
73389	03/24/15	710	COMMUNICATIONS	\$5,581.34
73390	03/24/15	720	COMPUTER SERVIC	\$5,209.74
73391	03/24/15	745	CORONA, MARIO	\$73.10
73392	03/24/15	4226	COURTYARD SAN D	\$415.50
73393	03/24/15	766	COVINA DISPOSAL	\$7,548.86
73394	03/24/15	777	COVINA RENTS	\$42,200.00
73395	03/24/15	783	COVINA WATER	\$1,301.44
73396	03/24/15	796	CPRS DISTRICT 1	\$140.00
73397	03/24/15	807	CRITERION PICTU	\$1,440.00
73398	03/24/15	857	DAVID TURCH AND	\$2,500.00
73399	03/24/15	3891	DOUBLETREE BY H	\$423.00
73400	03/24/15	962	EAST DISTRICT S	\$276.00
73401	03/24/15	962	EAST DISTRICT S	\$8,820.00
73402	03/24/15	970	EDISON CO	\$44,056.33
73403	03/24/15	1055	FEDEX	\$9.99
73404	03/24/15	4227	FRIENDS OF SANT	\$25.00

CITY OF COVINA
Check Register
MAR 20-APR 2, 2015

73405	03/24/15	3800	GARVEY EQUIPMEN	\$274.53
73406	03/24/15	1194	GLOBAL ENVIRONM	\$620.00
73407	03/24/15	1204	GOLDEN STATE WA	\$57.20
73408	03/24/15	1241	GRAND PRINTING	\$498.34
73409	03/24/15	3934	HF & H CONSULTA	\$3,504.00
73410	03/24/15	1361	HOLLIDAY ROCK C	\$328.09
73411	03/24/15	3963	HYATT REGENCY M	\$194.50
73412	03/24/15	3988	HYDRO CONNECTIO	\$16.62
73413	03/24/15	1428	INGRAM DIST GRO	\$109.39
73414	03/24/15	1463	J.G. TUCKER AND	\$38.70
73415	03/24/15	1547	KELLY PAPER CO	\$1,043.86
73416	03/24/15	1561	KEYSTONE UNIFOR	\$1,739.48
73417	03/24/15	3721	KRIZIA N VIRBIA	\$130.00
73418	03/24/15	3987	KYOCERA DOCUMEN	\$2,080.34
73419	03/24/15	1601	L3 COMMUNICATIO	\$92.77
73420	03/24/15	1609	LA CNTY COUNTY	\$7,227.63
73421	03/24/15	1610	LA CNTY DEPT OF	\$104.00
73422	03/24/15	1612	LA CNTY DEPT OF	\$1,500.00
73423	03/24/15	1707	LIEBERT CASSIDY	\$2,084.00
73424	03/24/15	1860	MCNEILL SOUND &	\$283.50
73425	03/24/15	1895	MERRIMAC ENERGY	\$17,614.36
73426	03/24/15	1933	MISSION LINEN S	\$61.00
73427	03/24/15	3563	NEWEGG INC	\$35.94
73428	03/24/15	3563	NEWEGG INC	\$369.67
73429	03/24/15	2091	O REILLY AUTO P	\$298.55
73430	03/24/15	2104	OFFICE DEPOT	\$130.78
73431	03/24/15	2104	OFFICE DEPOT	\$52.29
73432	03/24/15	4201	OFFICE TEAM	\$841.54
73433	03/24/15	99999	DAVID FRANCO	\$51.51
73434	03/24/15	99999	C BROWN	\$138.29
73435	03/24/15	99999	CARRIE HARVEY	\$39.54
73436	03/24/15	99999	CHRISTINE LIAO	\$61.48
73437	03/24/15	99999	DAVID FRANCO	\$7.58
73438	03/24/15	99999	E ROWLAND STREET PROPER	\$13.46
73439	03/24/15	99999	EVELYN BUSTOS	\$71.77
73440	03/24/15	99999	FARWEST CORROSION CONT	\$74.41
73441	03/24/15	99999	HERMANN WECHSLER	\$160.97
73442	03/24/15	99999	J&E ARCADIA INVESTMENTS	\$26.41
73443	03/24/15	99999	JAMES SMITH	\$72.40
73444	03/24/15	99999	JEANNIE TSANG	\$123.23
73445	03/24/15	99999	JEFF HOPKINS	\$51.18
73446	03/24/15	99999	JOHN CONNORS	\$113.53
73447	03/24/15	99999	JOSE ALVAREZ	\$300.00
73448	03/24/15	99999	KAREN LEE	\$6.09

CITY OF COVINA
Check Register
MAR 20-APR 2, 2015

73449	03/24/15	99999	LEON CHANG	\$41.73
73450	03/24/15	99999	LESLYN NIELSEN	\$40.70
73451	03/24/15	99999	LINLIN SUN	\$382.56
73452	03/24/15	99999	LUCKY REMODEL AND DESIG	\$24.03
73453	03/24/15	99999	LUIS GARCIA	\$83.89
73454	03/24/15	99999	MARISOL SMALLEY	\$43.79
73455	03/24/15	99999	MAVET PEARSON	\$22.88
73456	03/24/15	99999	MICHAEL MILLS	\$65.06
73457	03/24/15	99999	MR. GERARDO ZARATE	\$1,883.00
73458	03/24/15	99999	NHD LLC	\$47.13
73459	03/24/15	99999	OCEAN RIDGE EQUITY LLC	\$3.47
73460	03/24/15	99999	PATRICIA HYNES	\$100.00
73461	03/24/15	99999	PAUL DELONG	\$173.43
73462	03/24/15	99999	PHYONG LY	\$55.63
73463	03/24/15	99999	RAYMOND TANG	\$64.05
73464	03/24/15	99999	ROBERT G & LUANA GILMOR	\$123.00
73465	03/24/15	99999	ROS PROPERTY MANAGEMEI	\$55.16
73466	03/24/15	99999	SANG HEE LEE	\$58.04
73467	03/24/15	99999	TODD WITHERBY	\$61.12
73468	03/24/15	99999	VUONG PROPERTY LLC	\$78.04
73469	03/24/15	99999	WEI ZHU	\$40.02
73470	03/24/15	2157	P.F. PETTIBONE	\$4,830.95
73471	03/24/15	4178	PAN E VINO	\$7,025.15
73472	03/24/15	3614	PAPER RECYCLING	\$60.00
73473	03/24/15	2238	PEST OPTIONS IN	\$265.00
73474	03/24/15	2244	PETERSON, PAULI	\$187.04
73475	03/24/15	2247	PETTINGER, ERIC	\$73.10
73476	03/24/15	2275	POIRIER, ROBERT	\$14.50
73477	03/24/15	2285	POVERO, DAVID	\$76.50
73478	03/24/15	4185	QUALITY FENCE C	\$1,088.91
73479	03/24/15	2619	SGV EXAMINER	\$603.24
73480	03/24/15	2714	SOUTHERN CA GAS	\$575.00
73481	03/24/15	4217	TABORDA SOLUTIO	\$3,794.77
73482	03/24/15	3974	TELREPCO, INC	\$330.00
73483	03/24/15	2839	THERMAL COMBUST	\$110.97
73484	03/24/15	2888	TRAINING FOR SA	\$296.00
73485	03/24/15	2966	V & V MANUFACTU	\$2,625.54
73486	03/24/15	2999	VERIZON CALIFOR	\$914.65
73487	03/24/15	3004	VICTORY EXTERMI	\$50.00
73488	03/24/15	3006	VIDEO STORE SHO	\$62.72
73489	03/24/15	3078	WEST PAYMENT CE	\$277.83
73490	03/24/15	3102	WILLDAN FINANCI	\$900.00
73491	03/24/15	3135	XO COMMUNICATIO	\$4,435.36
73492	03/25/15	68	AFLAC	\$4,256.54

CITY OF COVINA
Check Register
MAR 20-APR 2, 2015

73493	03/25/15	69	AFSCME	\$1,040.00
73494	03/25/15	487	CalPERS	\$62,763.63
73495	03/25/15	3846	CLEA	\$490.00
73496	03/25/15	3846	CLEA	\$110.25
73497	03/25/15	775	COVINA POLICE A	\$2,900.00
73498	03/25/15	789	COVINA-FSA, CIT	\$439.23
73499	03/25/15	878	DELTA DENTAL OF	\$8,968.47
73500	03/25/15	1106	FRANCHISE TAX B	\$250.00
73501	03/25/15	1247	GREAT WEST LIFE	\$4,441.41
73502	03/25/15	3795	LEGAL SHIELD	\$324.29
73503	03/25/15	2234	PERS	\$161,438.27
73504	03/25/15	2235	PERS LONG TERM	\$238.88
73505	03/25/15	4230	SOCIAL SECURITY	\$166.69
73506	03/25/15	3893	STATE DISBURSEM	\$296.40
73507	03/25/15	3954	SUN LIFE FINANC	\$5,371.35
73508	03/25/15	2946	UNITED WAY OF G	\$17.50
73509	03/25/15	3014	VISION SERVICE	\$879.13
73510	03/25/15	3764	WAGeworks	\$38.00
73511	03/25/15	3045	WASHINGTON NATI	\$147.01
73512	03/25/15	4223	ZUMWALT, KRISTI	\$750.00
73513	03/31/15	26	ABSOLUTE SECURI	\$6,354.72
73514	03/31/15	68	AFLAC	\$215.34
73515	03/31/15	113	ALL CITY MANAGE	\$5,639.40
73516	03/31/15	128	ALLIANT INSURAN	\$175.00
73517	03/31/15	4234	ANIMAL & BIRD V	\$200.28
73518	03/31/15	220	AT&T LONG DISTA	\$26.60
73519	03/31/15	269	BAKER AND TAYLO	\$1,195.98
73520	03/31/15	275	BALSZ, MADELINE	\$207.90
73521	03/31/15	318	BELL BUILDING M	\$5,599.00
73522	03/31/15	471	CALBO	\$215.00
73523	03/31/15	501	CALPORTLAND CO	\$50.80
73524	03/31/15	536	CARQUEST AUTO P	\$65.52
73525	03/31/15	572	CATHOLIC CHARIT	\$8,055.00
73526	03/31/15	600	CERTIFIED UNDER	\$43.24
73527	03/31/15	649	CINTAS CORP #69	\$553.30
73528	03/31/15	653	CITRUS AUTO UPH	\$129.05
73529	03/31/15	682	CLINICAL LAB OF	\$427.50
73530	03/31/15	4229	CMI, INC.	\$72.44
73531	03/31/15	703	COMBINED GRAPHI	\$25.07
73532	03/31/15	710	COMMUNICATIONS	\$9,000.00
73533	03/31/15	734	CONTROL AUTOMAT	\$1,080.00
73534	03/31/15	779	COVINA SUNRISE	\$135.00
73535	03/31/15	783	COVINA WATER	\$529.65
73536	03/31/15	849	DAPEER ROSENBLI	\$3,594.88

CITY OF COVINA
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73537	03/31/15	878	DELTA DENTAL OF	\$244.04
73538	03/31/15	970	EDISON CO	\$2,092.89
73539	03/31/15	1055	FEDEX	\$115.20
73540	03/31/15	1156	GAS COMPANY, TH	\$1,538.77
73541	03/31/15	1198	GLOBALSTAR LLC	\$53.13
73542	03/31/15	1211	GONZALES, CARLO	\$112.00
73543	03/31/15	1235	GRAINGER	\$360.25
73544	03/31/15	1361	HOLLIDAY ROCK C	\$1,514.02
73545	03/31/15	3988	HYDRO CONNECTIO	\$220.54
73546	03/31/15	1429	INLAND EMPIRE S	\$1,228.00
73547	03/31/15	3623	INNER-TITE CORP	\$292.74
73548	03/31/15	1463	J.G. TUCKER AND	\$17.88
73549	03/31/15	3659	JMDIAZ	\$78,515.26
73550	03/31/15	3731	JUNIOR LIBRARY	\$65.52
73551	03/31/15	1531	JW LOCK CO INC	\$60.28
73552	03/31/15	1612	LA CNTY DEPT OF	\$1,175.79
73553	03/31/15	1615	LA CNTY MTA	\$340.00
73554	03/31/15	3735	MAILFINANCE INC	\$818.17
73555	03/31/15	4211	MICRODESK, INC	\$363.00
73556	03/31/15	2004	MUNICIPAL MGMT	\$30.00
73557	03/31/15	3810	MYERS & SONS HI	\$258.02
73558	03/31/15	2027	NAPA AUTO PARTS	\$31.60
73559	03/31/15	3563	NEWEGG INC	\$109.25
73560	03/31/15	2091	O REILLY AUTO P	\$431.00
73561	03/31/15	2101	OCLC/FOREST PRE	\$1,260.05
73562	03/31/15	2104	OFFICE DEPOT	\$242.35
73563	03/31/15	2104	OFFICE DEPOT	\$199.52
73564	03/31/15	4201	OFFICE TEAM	\$575.18
73565	03/31/15	99999	Amal Yacoub	\$35.00
73566	03/31/15	99999	Andy Huynh	\$21.60
73567	03/31/15	99999	Aurora Mendoza	\$50.00
73568	03/31/15	99999	Brenda Konoske	\$70.00
73569	03/31/15	99999	CLAIRE LING	\$58.38
73570	03/31/15	99999	Elva Contreras	\$50.00
73571	03/31/15	99999	Greg Stube	\$140.00
73572	03/31/15	99999	Inter-Comm Health Svc	\$297.60
73573	03/31/15	99999	JORDAN W. CHANG	\$1,353.86
73574	03/31/15	99999	Kathleen Hurlburt	\$80.00
73575	03/31/15	99999	Mary Jo Cooper	\$125.00
73576	03/31/15	99999	Service Champions	\$208.00
73577	03/31/15	99999	Veronica Silva	\$20.00
73578	03/31/15	4024	PERFORMANCE TRU	\$1,419.46
73579	03/31/15	2277	POLLARDWATER DO	\$232.36
73580	03/31/15	2298	PRECISION SURVE	\$225.00

CITY OF COVINA
Check Register
MAR 20-APR 2, 2015

73581	03/31/15	2329	PUENTE READY MI	\$550.45
73582	03/31/15	2345	QUILL	\$89.33
73583	03/31/15	2466	RODRIGUEZ, DAVI	\$165.00
73584	03/31/15	4004	ROYAL COACHES A	\$4,596.45
73585	03/31/15	2583	SCHWAAB INC	\$44.42
73586	03/31/15	2711	SOUTHEAST CONST	\$555.63
73587	03/31/15	2715	SOUTHERN CA TRA	\$43.70
73588	03/31/15	2719	SPARKLETTS	\$39.84
73589	03/31/15	4105	SPILLMAN TECHNO	\$5,714.00
73590	03/31/15	3954	SUN LIFE FINANC	\$8.48
73591	03/31/15	3729	SUNBELT RENTALS	\$361.88
73592	03/31/15	2795	SWRCB	\$105.00
73593	03/31/15	2797	SYN-TECH SYSTEM	\$1,265.25
73594	03/31/15	2852	THREE VALLEY MU	\$9,390.76
73595	03/31/15	2913	TT TECHNOLOGIES	\$532.80
73596	03/31/15	2942	UNITED SITE SER	\$135.30
73597	03/31/15	2958	US POSTMASTER	\$1,409.27
73598	03/31/15	4065	VERIZON BUSINES	\$607.29
73599	03/31/15	2999	VERIZON CALIFOR	\$234.76
73600	03/31/15	3004	VICTORY EXTERMI	\$25.00
73601	03/31/15	3014	VISION SERVICE	\$42.52
73602	03/31/15	3043	WARREN DISTRIBU	\$228.21
73603	03/31/15	3070	WEST COAST ARBO	\$1,997.45
73604	03/31/15	3077	WEST LITE SUPPL	\$178.67
73605	03/31/15	3082	WESTERN WATER W	\$6,488.73
			subtotal EFT/wires	\$689,593.04
			subtotal checks	\$648,414.01
			TOTAL checks/EFTs	\$1,338,007.05

STATE OF CALIFORNIA)
) ss:
COUNTY OF LOS ANGELES)

I, Debbie Pacheco being first duly sworn, declare that I am the Finance Manager of the City of Covina and have read the attached Register(s) of Audited Demands for the City of Covina dated Accounts Payable for March 20-April 2, 2015; Payroll for 3/25/15; Voids for March 20-April 2, 2015; and Workers Compensation for 3/26/15 and 4/2/15; know the contents thereof, and do CERTIFY as to the accuracy of the attached Demands and the availability of funds for their payment pursuant to the government Code Section 37202.

Debbie Pacheco
Finance Manager

Subscribed and sworn to before me
this 21st day of April, 2015



A handwritten signature in cursive script, likely belonging to a notary public, written over a horizontal line. The signature is highly stylized and difficult to decipher, but appears to contain the name 'William J. Salas' followed by 'Notary'.

**SUCCESSOR AGENCY TO THE
COVINA REDEVELOPMENT AGENCY
AGENDA ITEM COMMENTARY**

MEETING DATE: April 21, 2015

ITEM NO.:

CC 3

STAFF SOURCE: Debbie Pacheco, Finance Manager *DP*

ITEM TITLE: Payment of Demands

STAFF RECOMMENDATION

Approve Payment of Demands in the amount of \$70,192.09.

BACKGROUND

Attached is a list of warrants and demands, which are being presented for approval and are summarized as follows:

<u>DATE OF DEMANDS</u>	<u>DEMAND NUMBERS</u>	<u>AMOUNT</u>
ACCOUNTS PAYABLE WARRANTS March 20-Apr 2, 2015	Checks 1160-1164	\$61,560.83
<u>PAYROLL</u> March 26, 2015	INSURANCE PAYROLL PAID 3/26/15	\$2,826.73
March 26, 2015	PAYROLL PAYROLL PAID 3/26/15	\$5,804.53

VOIDS

GRAND TOTAL: \$70,192.09

EXHIBITS

A. ACCOUNTS PAYABLE REGISTER

SUCCESSOR AGENCY TO THE
COVINA REDEVELOPMENT AGENCY
Check Register
Mar 20-Feb 2, 2015

Check #	Check Date	Vendor	Name	Amount
1160	03/24/15	376	BOND LOGISTIX	\$1,544.32
1161	03/24/15	2452	RJS FINANCIAL	\$49,840.00
1162	03/24/15	2955	US BANK	\$9,959.05
1163	03/24/15	3135	XO COMMUNICATIO	\$164.24
1164	03/31/15	970	EDISON CO	\$53.22
			subtotal EFT/wires	\$0.00
			subtotal checks	\$61,560.83
			TOTAL CHECKS/EFT's	\$61,560.83

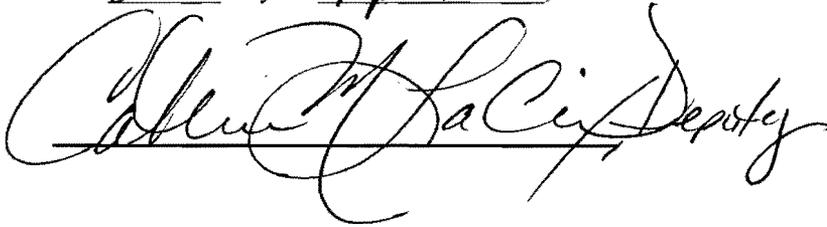
STATE OF CALIFORNIA)
) ss:
COUNTY OF LOS ANGELES)

I, Debbie Pacheco being first duly sworn, declare that I am the Finance Manager of the City of Covina and have read the attached Register(s) of Audited Demands for the Covina Successor Agency to the Covina Redevelopment Agency dated Accounts Payable for March 20-April 2 2015; and Payroll for 3/26/15; know the contents thereof, and do CERTIFY as to the accuracy of the attached Demands and the availability of funds for their payment pursuant to the government Code, Section 37202.

Debbie Pacheco,
Finance Manager

Subscribed and sworn to before me

this 21st day of April, 2015



CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: April 21, 2015

ITEM NO.:

CC 4

STAFF SOURCE: Alex Gonzalez, Interim Director of Public Works 

ITEM TITLE: Continue Repairs to City Hall Restrooms under Section 22050 of the California Public Contract Code

STAFF RECOMMENDATION

Adopt **Resolution No. 15-7341** reviewing the restroom repairs at City Hall, and continuing the emergency action to repair the City Hall restrooms pursuant to Section 22050 of the California Public Contract Code.

FISCAL IMPACT

The fiscal impact of the project is estimated to be \$95,000. This project will be funded from undesignated funds in Fund 4701 – Impact Fees General Government. Final funding amounts for this project and all change orders will return to the City Council for approval and allocation on May 19, 2015.

BACKGROUND

The City's contract engineering firm began work in late October of 2014 on assessing and designing a repair for the damaged floor in the City Hall restroom. During design and inspection, it was determined that the restroom floor had suffered significant damage due to wood rot, termites and moisture intrusion.

On February 17, 2015, the City Council adopted Resolution 15-7315, authorizing the letting of a contract to complete emergency repairs to the first floor restrooms at City Hall pursuant to Section 22050, subdivision (a) of the California Public Contract Code ("Section 22050").

Section 22050 requires a governing body that takes action pursuant to subdivision (a) of that Section to review the emergency action at its next regularly scheduled meeting and, by a four-fifths vote, determine that there is a need to continue the action. Following the initial action by the City Council on February 17, the City Council reviewed the action and determined that it was necessary to continue the action on March 3, 2015 (Resolution 15-7326), March 17, 2015 (Resolution 15-7333); and April 7, 2015 (Resolution 15-7339).

The repairs to the City Hall restrooms are in process and are scheduled for completion by the week of April 27th, 2015.

RELEVANCE TO STRATEGIC PLAN

This item is directly relevant to the City's Strategic Plan's Goal of providing efficient, visible and responsive public safety by guaranteeing the safety of public facilities.

EXHIBITS

A. Resolution 15-7341

REVIEW TEAM ONLY	
City Attorney: _____	Finance Director: _____
City Manager: _____	Other: _____

RESOLUTION NO. 15-7341

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
COVINA, CALIFORNIA, CONFIRMING THE CONTINUED
EXISTENCE OF AN EMERGENCY CONDITION FOR CITY HALL
RESTROOM REPAIRS, PURSUANT TO SECTION 22050 OF THE
CALIFORNIA PUBLIC CONTRACT CODE

WHEREAS, the City of Covina is a municipal corporation duly organized and existing pursuant to the Constitution and laws of the State of California (“City”); and

WHEREAS, the City endeavors to provide safe and reliable public facilities for public use; and

WHEREAS, from time-to-time City facilities will experience unexpected failure, stress, or damage in the course of any day or night; and

WHEREAS, the resolution of any unexpected failure, stress or damage may occur at times when the normal purchase order bidding process is not possible in order to bring a swift resolution to interruption of regular services, requiring that the City contract with the vendor who is most readily and reasonably available to address the urgent situation; and

WHEREAS, on February 17, 2015 the Covina City Council adopted Resolution No. 15-7315 declaring an emergency, authorizing the waiver of bidding requirements, and approving the repair of City Hall restrooms pursuant to California Public Code Section 22050; and

WHEREAS, under Section 22050 of the California Public Contract Code “a public agency, pursuant to a four-fifths vote of its governing body may repair or replace a public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts”; and

WHEREAS, California Public Contract Code Section 22050, subdivision (c) provides that “If the governing body orders any action specified in subdivision (a), the governing body shall review the emergency action at its next regularly scheduled meeting and . . . at every regularly scheduled meeting thereafter until the action is terminated, to determine, by a four-fifths vote, that there is a need to continue the action”; and

WHEREAS, Resolution 15-7341 constitutes action specified in subdivision (a) of California Public Contract Code Section 22050; and

WHEREAS, repairs to the City Hall restrooms are ongoing.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the City Council of the City of Covina, as follows:

SECTION 1. The City Council hereby reviews the emergency action to repair the restrooms at City Hall pursuant to California Public Contract Code Section 22050.

SECTION 2. The City Council hereby determines that the emergency action to repair the City Hall restrooms needs to continue in order to respond to the emergency pursuant to California Public Contract Code Section 22050.

SECTION 3. Such action shall be reviewed by the City Council at subsequent regular meetings to determine whether there is a need to further continue the action.

SECTION 4. The City Clerk shall certify to the adoption of this resolution.

PASSED, APPROVED AND ADOPTED this 21st day of April, 2015.

, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM;

City Attorney

**CITY OF COVINA\
SUCCESSOR AGENCY TO THE COVINA REDEVELOPMENT
AGENCY
AGENDA ITEM COMMENTARY**

MEETING DATE: April 21, 2015 **ITEM NO.:** CC 5

STAFF SOURCE: Geoffrey Cobbett, Treasurer
Alan Sands, Senior Accountant

ITEM TITLE: Quarterly Report of the Treasurer to the City Council and the Successor Agency to the Covina Redevelopment Agency for the Quarter Ended March 31, 2015

STAFF RECOMMENDATION

Receive and file the Quarterly Report of the Treasurer for the Quarter Ended March 31, 2015.

FISCAL IMPACT

None.

BACKGROUND

In accordance with Government Code Section 53646, the Treasurer is required to submit annually a statement of Investment Policy (Policy) to the City Council for adoption. The annual policy was adopted at the meeting of June 17, 2014.

Section 4.0 of the Policy requires a report by the Treasurer to the City Council and City Manager, as well as the Successor Agency to the Covina Redevelopment Agency (Agency), containing detailed information on all securities, investments, and funds of the City and Agency. The report shall be submitted on a quarterly basis within 30 days following the end of the quarter.

Exhibit A shows the total cash and investments position of the City and the Agency. The City holds total cash and investments in the amount of \$40,438,849. The next six months pooled expenditures are approximately \$26,660,757. Based on these amounts, it has been determined that there is sufficient investment liquidity to meet the pooled expenditures of all City funds for the next six months.

EXHIBITS ON FILE WITH CITY CLERK

- A - CITY Quarterly Report of the Treasurer to the City Council for the Quarter Ended March 31, 2015
- A - AGENCY Quarterly Report of the Treasurer to the Successor Agency to the Covina Redevelopment Agency for the Quarter Ended March 31, 2015
- A-1-CITY Cash and Investment Summary
- A-1-AGENCY Cash and Investment Summary
- A-2 Total Investment Portfolio as of March 31, 2015
- A-3 Investment Transaction Summary
- A-4 Investment Holdings by Sector
- A-5 Cash and Investments - Three Year Comparison

EXHIBIT A
QUARTERLY REPORT OF THE TREASURER TO THE CITY COUNCIL
FOR THE QUARTER ENDED MARCH 31, 2015

CASH BALANCE	12/31/2014	\$32,868,000.50
RECEIPTS	1/1/15-3/31/15	27,682,225.40
DISBURSEMENTS	1/1/15-3/31/15	<u>(20,111,376.70)</u>
CASH BALANCE	3/31/2015	<u><u>\$40,438,849.20</u></u>

ANALYSIS OF CASH AND INVESTMENT BALANCE - BOOK VALUE

LOCAL AGENCY INVESTMENT FUND		21,910,972.87
BOND LOGISTIX INVESTMENT PORTFOLIO	EXHIBIT A-2	12,852,529.59
WELLS FARGO MONEY MARKET AND U.S. TREASURY BILLS	EXHIBIT A-2	<u>113,667.22</u>
TOTAL INACTIVE PUBLIC DEPOSITS		\$34,877,169.68
CHECKING AND PETTY CASH BALANCES		<u>5,561,679.52</u>
CASH AND INVESTMENT BALANCE	3/31/2015	\$40,438,849.20
CASH HELD BY BOND TRUSTEES		<u>12,361,643.31</u>
TOTAL CASH AND INVESTMENT BALANCE	3/31/2015	<u><u>\$52,800,492.51</u></u>

The purpose of this report is to provide readers with the overall cash position of the City. There is sufficient investment liquidity to meet the pooled expenditures of all City's funds for the next 6 months.

Respectfully submitted,



Geoffrey Cobbett
Treasurer

EXHIBIT A
QUARTERLY REPORT OF THE TREASURER TO THE SUCCESSOR AGENCY TO THE COVINA
REDEVELOPMENT AGENCY
FOR THE QUARTER ENDED MARCH 31, 2015

CASH BALANCE	12/31/2014	\$6,068,737.14
RECEIPTS	1/1/15-3/31/15	2,157,630.08
DISBURSEMENTS	1/1/15-3/31/15	<u>(268,456.91)</u>
CASH BALANCE	3/31/2015	<u><u>\$7,957,910.31</u></u>

ANALYSIS OF CASH AND INVESTMENT BALANCE

LOCAL AGENCY INVESTMENT FUND		1,902,725.96
BOND LOGISTIX INVESTMENT PORTFOLIO	EXHIBIT A-2	5,676,180.55
WELLS FARGO MONEY MARKET AND U.S. TREASURY BILLS	EXHIBIT A-2	<u>50,199.90</u>
TOTAL INACTIVE PUBLIC DEPOSITS		\$7,629,106.41
CHECKING AND PETTY CASH BALANCES		<u>328,803.90</u>
CASH AND INVESTMENT BALANCE	3/31/2015	\$7,957,910.31
CASH HELD BY BOND TRUSTEES		<u>3,805,341.17</u>
TOTAL CASH & INVESTMENT BALANCE	3/31/2015	<u><u>\$11,763,251.48</u></u>

The purpose of this report is to provide readers with the overall cash position of the Successor Agency to the Covina Redevelopment Agency (Agency). There is sufficient investment liquidity to meet the pooled expenditures of all Agency's funds for the next 6 months.

Respectfully submitted,



Geoffrey Cobbett
Treasurer

**EXHIBIT A-1
CITY OF COVINA
CASH AND INVESTMENT SUMMARY
FOR THE QUARTER ENDED MARCH 31, 2015**

TYPE OF INVESTMENT	ISSUER	BOOK VALUE \$	ACQUISITION DATE	MATURITY DATE	MARKET VALUE \$
City of Covina:					
Drawer & Petty Cash	N/A	8,435.49	N/A	N/A	8,435.49
General - Checking Account	Bank of the West	2,033,596.00	N/A	Demand	2,033,596.00
Public Agency Saving - Parking Fines	Bank of the West	1,931.15	N/A	Demand	1,931.15
Utility Billing Account	Wells Fargo	277,084.83	N/A	Demand	277,084.83
Workers' Compensation - Checking Account	Bank of the West	15,000.00	N/A	Demand	15,000.00
Payroll - Checking Account	Bank of the West	35,000.00	N/A	Demand	35,000.00
Community Resources - Checking Account	Bank of the West	490.15	N/A	Demand	490.15
Federal Treasury Narcotics - Checking	Bank of the West	14,651.42	N/A	Demand	14,651.42
Federal Justice Dept Admin - Checking	Bank of the West	156,245.94	N/A	Demand	156,245.94
Money Market	Bank of the West	3,005,968.54	N/A	Demand	3,005,968.54
AFLAC Flexible Spending Account	Bank of the West	13,276.00	N/A	Demand	13,276.00
Bond Logistix Investment Portfolio	Various	12,852,529.59	Various	Various	12,797,921.55
Wells Fargo Money Market and U.S. Treasury Bills	Various	113,667.22	N/A	Demand	113,667.22
Local Agency Investment Fund	State of California	21,910,972.87	N/A	Demand	21,910,972.87
Subtotal (A)		\$40,438,849.20			\$40,384,241.16
Cash Held Under 3rd Party Administrator:					
2010 Covina Water Revenue Bond Fiscal Agent: U.S. Bank	U.S. Bank	4,447,640.53	N/A	Demand	\$4,447,640.53
2009 Covina Wastewater Bonds		7,914,002.78	N/A	Demand	\$7,914,002.78
Subtotal (B)		\$12,361,643.31			\$12,361,643.31
TOTAL (A+B)		\$52,800,492.51			\$52,745,884.47

The purpose of this schedule is to show the total cash and investments held by the City of Covina by account.

EXHIBIT A-1
SUCCESSOR AGENCY TO THE COVINA REDEVELOPMENT AGENCY
CASH AND INVESTMENT SUMMARY
FOR THE QUARTER ENDED MARCH 31, 2015

TYPE OF INVESTMENT	ISSUER	COST VALUE \$	ACQUISITION DATE	DATE	MARKET VALUE \$
Successor Agency to the Covina Redevelopment Agency:					
Checking Account	Bank of the West	328,803.90	N/A	Demand	328,803.90
Bond Logistix Portfolio	Various	5,676,180.55	Various	Various	5,652,063.50
Wells Fargo Money Market and Treasury Bills	Various	50,199.90	N/A	Demand	50,199.90
Local Agency Investment Fund	State of California	1,902,725.96		Demand	1,902,725.96
Subtotal (A)		\$7,957,910.31			\$7,933,793.26
Cash Held Under 3rd Party Administrator:					
(3) 2004 B Tax Allocation Revenue Bond Fiscal Agent: BNY Western Trust Company	BNY Mellon	1,617,140.65	N/A	Demand	1,617,140.65
(4) 2013 Revenue Bonds, Series A Fiscal Agent: BNY Western Trust Company	BNY Mellon	800,507.18	N/A	Demand	800,507.18
(5) 2014 Revenue Bonds, Series E Fiscal Agent: BNY Western Trust Company	BNY Mellon	1,387,693.34	N/A	Demand	1,387,693.34
Subtotal (B)		\$3,805,341.17			\$3,805,341.17
TOTAL (A+B)		\$11,763,251.48			\$11,739,134.43

The purpose of this schedule is to show the total cash and investments held by the Successor Agency to the Covina Redevelopment Agency by account.

EXHIBIT A-2
CITY OF COVINA & SUCCESSOR AGENCY TO THE COVINA REDEVELOPMENT AGENCY
Bond Logistix
Investment Portfolio as of
March 2015

Purchase Date	Qty	Total Original Cost Value	Original Cost Value-CITY	Original Cost Value-AGENCY*	Total Market Value	Market Value-CITY	Market Value-AGENCY*	Coupon	CUSIP	Maturity	Issuer	Held by
01/08/14	7,500	792,890.63	549,992.43	242,898.20	778,417.50	539,953.07	238,464.43	2.7500	912828MA5	11/30/2016	US Treasury	Bond Logistix
05/05/14	8,500	901,796.88	625,535.78	276,261.10	889,780.00	617,200.21	272,579.79	3.0000	912828MS6	2/28/2017	US Treasury	Bond Logistix
12/12/14	7,750	802,760.74	556,838.88	245,921.86	804,969.25	558,370.82	246,598.43	2.2500	912828PKO	11/30/2017	US Treasury	Bond Logistix
01/08/15	5,000	525,351.56	364,412.66	160,938.90	526,405.00	365,143.38	161,261.62	2.7500	912828PN4	12/31/2017	US Treasury	Bond Logistix
03/04/15	4,250	445,353.52	308,921.63	136,431.89	447,444.25	310,371.87	137,072.38	2.7500	912828PN4	12/31/2017	US Treasury	Bond Logistix
04/08/13	7,000	740,195.31	513,440.06	226,755.25	713,566.00	494,968.51	218,597.49	2.2500	912828QA1	3/31/2016	US Treasury	Bond Logistix
06/06/13	7,000	730,761.72	506,896.41	223,865.31	712,579.00	494,283.88	218,295.12	2.0000	912828QF0	4/30/2016	US Treasury	Bond Logistix
07/05/13	7,500	780,937.50	541,701.08	239,236.42	762,600.00	528,981.19	233,618.81	2.1250	912828QJ2	2/29/2016	US Treasury	Bond Logistix
06/06/13	7,000	726,113.28	503,672.00	222,441.28	711,375.00	493,448.72	217,926.28	1.7500	912828QP8	5/31/2016	US Treasury	Bond Logistix
08/06/13	8,000	821,500.00	569,837.46	251,662.54	811,128.00	562,642.87	248,485.13	1.5000	912828QR4	6/30/2016	US Treasury	Bond Logistix
10/03/13	7,500	769,218.75	533,572.31	235,646.44	760,957.50	527,841.86	233,115.64	1.5000	912828QX1	7/31/2016	US Treasury	Bond Logistix
09/06/13	7,600	762,612.50	528,989.86	233,622.64	766,292.80	531,542.71	234,750.09	1.0000	912828RF9	8/31/2016	US Treasury	Bond Logistix
11/06/13	7,000	708,613.28	491,533.04	217,080.24	706,013.00	489,729.34	216,283.66	1.0000	912828RJ1	9/30/2016	US Treasury	Bond Logistix
12/05/13	9,000	911,601.56	632,336.84	279,264.72	907,875.00	629,751.89	278,123.11	1.0000	912828RM4	10/31/2016	US Treasury	Bond Logistix
02/05/14	6,000	604,335.94	419,200.55	185,135.39	604,080.00	419,023.02	185,056.98	0.8750	912828RX0	12/31/2016	US Treasury	Bond Logistix
03/11/14	7,750	777,754.88	539,493.44	238,261.44	780,084.00	541,109.05	238,974.95	0.8750	912828SC5	1/31/2017	US Treasury	Bond Logistix
04/03/14	9,000	901,195.31	625,118.49	276,076.82	907,524.00	629,508.42	278,015.58	1.0000	912828SM3	3/31/2017	US Treasury	Bond Logistix
06/06/14	10,000	1,001,796.88	694,901.26	306,895.62	1,005,700.00	697,608.68	308,091.32	0.8750	912828SS0	4/30/2017	US Treasury	Bond Logistix
08/07/14	9,250	920,664.06	638,623.09	282,040.97	926,877.75	642,933.24	283,944.51	0.7500	912828TB6	6/30/2017	US Treasury	Bond Logistix
08/31/14	8,000	790,875.00	548,594.28	242,280.72	798,560.00	553,925.01	244,634.99	0.6250	912828TM2	8/31/2017	US Treasury	Bond Logistix
10/06/14	4,500	444,480.47	308,316.03	136,164.44	448,839.00	311,339.35	137,499.65	0.6250	912828TS9	9/30/2017	US Treasury	Bond Logistix
03/04/15	9,750	969,820.31	672,720.56	297,099.75	975,838.50	676,895.10	298,943.40	0.8750	912828UJ7	1/31/2018	US Treasury	Bond Logistix
08/07/14	9,250	922,868.15	640,151.96	282,716.19	924,204.50	641,078.93	283,125.57	0.2500	912828VC1	5/15/2016	US Treasury	Bond Logistix
12/12/14	7,750	775,211.91	537,729.50	237,482.41	778,875.00	540,270.42	238,604.58	0.8750	912828WT3	7/15/2017	US Treasury	Bond Logistix
Subtotal Securities		\$ 18,528,710.14	\$ 12,852,529.59	\$ 5,676,180.55	\$ 18,449,985.05	\$ 12,797,921.55	\$ 5,652,063.50					
Wells Fargo Mmkt Total Value of Portfolio		\$ 163,867.12	113,667.22	50,199.90	\$ 163,867.12	113,667.22	50,199.90					
		\$ 18,692,577.26	\$ 12,966,196.81	\$ 5,726,380.45	\$ 18,613,852.17	\$ 12,911,588.77	\$ 5,702,263.40					

The purpose is to demonstrate compliance with the city's adopted Investment Policy. This is a required report per Government Code section 53646(b). The investment portfolio as presented is in compliance with the City's and Agency's adopted Investment Policy.

* Agency is the Successor Agency to the Covina Redevelopment Agency

EXHIBIT A-3
CITY OF COVINA & SUCCESSOR AGENCY TO THE COVINA REDEVELOPMENT AGENCY
Investment Transaction Summary
for the Quarter Ended March 31, 2015

Purchased Investments

Qty	Purch Date	Maturity	Share Price at Purch Date	Original Cost Value	Market Value at Purchase Date	Discount / (Premium) on Purchase	Issuer	CUSIP	Held by
5,000	01/08/15	12/31/2017	105.695000	525,351.56	528,475.00	3,123.44	US Treasury	912828PN4	Bond Logistix
4,250	03/04/15	12/31/2017	104.790000	445,353.52	447,444.25	2,090.73	US Treasury	912828PN4	Bond Logistix
9,750	03/04/15	1/31/2018	99.470000	969,820.31	975,838.50	6,018.19	US Treasury	912828UJ7	Bond Logistix
Total				1,940,525.39	1,951,757.75	11,232.36			

Sold/Matured Investments

Qty	Purch Date	Maturity	Sale / Maturity Date	Share Price at Sale / Maturity Date	Original Cost Value	Sale / Maturity Price	Gain / (Loss) on Sale / Redemption	Interest Earnings Since Purchase	Issuer	CUSIP	Held by
5,000	3/7/2013	12/31/2015	1/8/2015	101.812500	525,019.53	509,062.50	(15,957.03)	19,547.66	US Treasury	912828PM6	Bond Logistix
5,700	3/7/2013	12/31/2015	3/4/2015	101.570000	598,522.27	578,817.19	(19,705.08)	24,158.08	US Treasury	912828PM6	Bond Logistix
8,000	3/11/2014	1/31/2016	3/4/2015	101.586000	825,031.25	812,656.25	(12,375.00)	15,734.80	US Treasury	912828PS3	Bond Logistix
Total					1,948,573.05	1,900,535.94	(48,037.11)	59,440.54			

Net Revenue Analysis - for Period Ending March 31, 2015

Period	Portfolio Manager	Interest Revenue	Gain / (Loss) on Sales	Management Fees	Net revenue / (Loss)	Fees as a % of Revenue
Previous Quarter	Bond Logistix	65,396.39	\$ (48,037.11)	(\$4,931.51)	12,427.77	28%
Previous 12 mos.	Bond Logistix	272,314.09	\$ (185,896.11)	(\$23,000.01)	\$63,417.97	27%

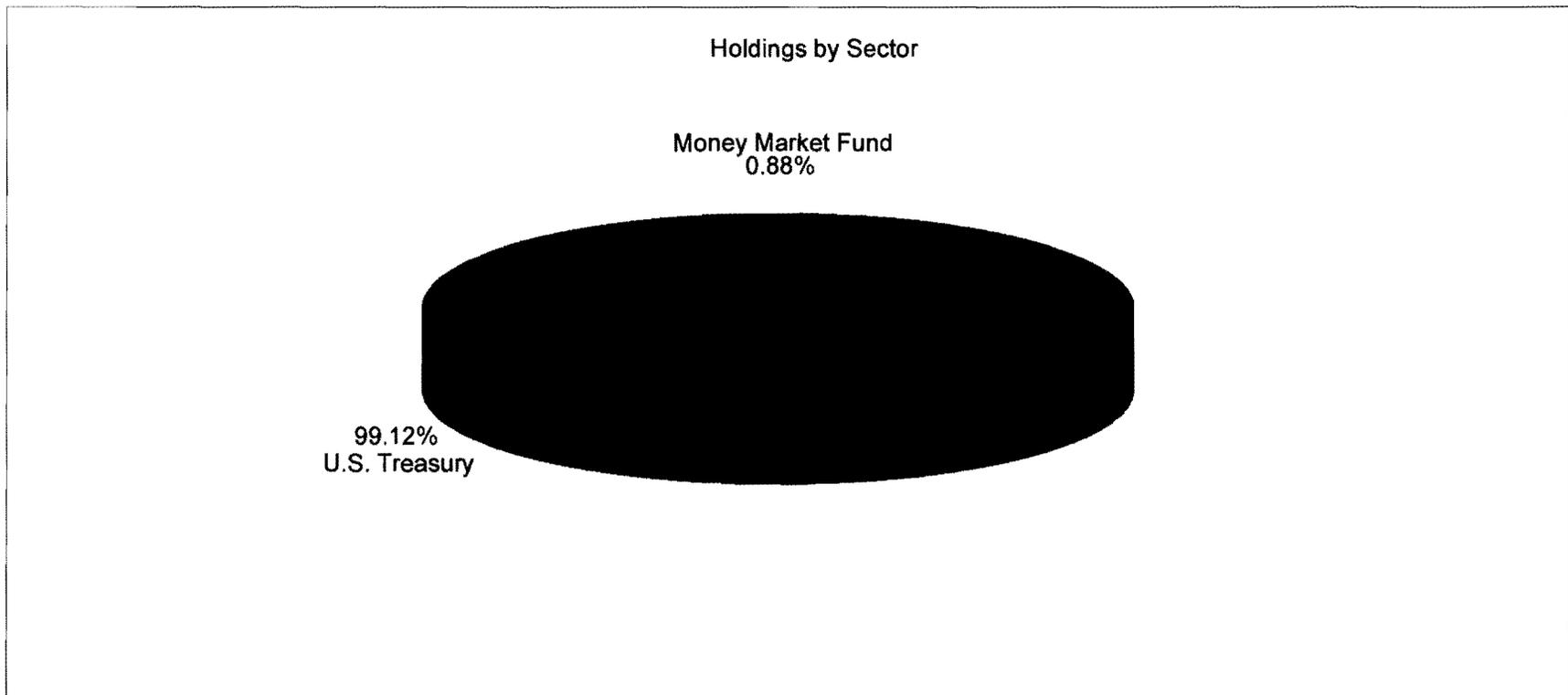
PREVIOUS 12 MONTH FEE ANALYSIS

Apr 2014-Mar 2015

Investments Held (Bond Logistix)	\$ 18,692,577.26
Total Fees	\$23,000.01
Fees as % of Portfolio	0.12%

EXHIBIT A-4
CITY OF COVINA AND SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY
Investment Holdings by Sector

	Bond Logistix* Investment Book Value	Total Percentage
Money Market Fund	163,867	0.88%
U.S. Treasury	18,528,710	99.12%
Total	<u>18,692,577</u>	<u>100.00%</u>

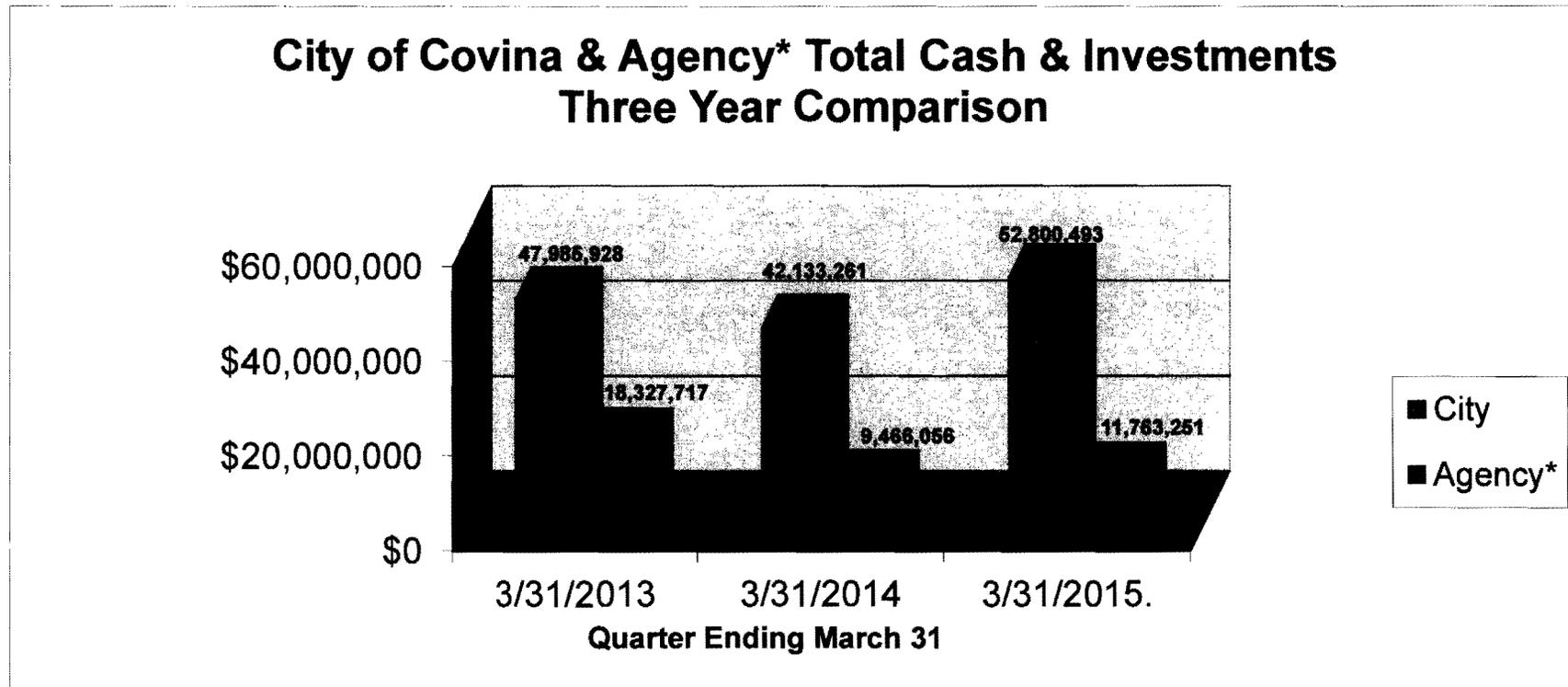


* Bond Logistix average S&P rating: AA+. Average coupon rate: 1.42% (based on weighted average of Original Cost Value)

This chart shows the breakdown of the City's investments into the various investment sectors.

EXHIBIT A-5
CITY OF COVINA AND SUCCESSOR AGENCY TO THE COVINA REDEVELOPMENT AGENCY
Cash and Investments Three Year Comparison

Quarter Ending	City	Agency*
3/31/2013	47,985,928	18,327,717
3/31/2014	42,133,261	9,466,056
3/31/2015.	52,800,493	11,763,251



The purpose of this schedule is to show, for comparison purposes, the total cash and investment values for the last 3 years.

*Successor Agency to Covina Redevelopment Agency

COVINA PUBLIC FINANCING AUTHORITY
AGENDA ITEM COMMENTARY

MEETING DATE: April 21, 2015

ITEM NO.:

CC 6

STAFF SOURCE: Debbie Pacheco, Finance Manager *DP*

ITEM TITLE: Receive and File the Annual Report of the Covina Public Financing Authority.

STAFF RECOMMENDATION

Staff recommends the City Council receive and file the annual report for the Covina Public Financing Authority.

FISCAL IMPACT

No fiscal impact.

BACKGROUND

On March 5, 1991, the City Council approved a Joint Exercise of Powers Agreement with the Covina Redevelopment Agency for the formation of a Public Financing Authority (CPFA). As part of this formation, Resolution 91-1 was approved requiring a report to the Authority on an annual basis.

The detail of the CPFA activity as of March 31st is as follows:

CPFA ISSUED DEBT	Original Issue Amount	Principal Outstanding at 3/31/15
1997 REVENUE BONDS	8,345,000	-
2009 WASTEWATER REVENUE BONDS	15,750,000	13,575,000
2010 WATER REVENUE BONDS	15,000,000	13,805,000
TOTAL	39,095,000	27,380,000

EXHIBITS:

None

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: April 21, 2015

ITEM NO.: CC 7

STAFF SOURCE: Kim Raney, Police Chief/Acting Community Development Director
Nancy Fong, AICP, Community Development Consultant *NF*

ITEM TITLE: City Council to approve an amendment to Professional Services Agreement with Dudek, Inc., and increase the contract amount from \$25,000 to \$60,000 for environmental and planning services

STAFF RECOMMENDATION

Approve Amendment No. 1 to the Professional Services Agreement with Dudek, Inc. to increase the contract amount from \$25,000 to \$60,000 for environmental and planning services, and authorize the Mayor to execute the agreement

FISCAL IMPACT

There is no impact to the General Fund. The cost of the on-call, as needed planning and environmental services are paid in full by the applicant. A reimbursement agreement with the City to secure the funds for full payment will be signed by the applicant.

BACKGROUND

On February 21, 2015, the City Council approved a list of 8 firms for providing on-call, as needed, planning services and environmental services for 4 years and authorized the City Manager to execute the agreements in an amount not to exceed \$25,000 on behalf of the City.

Recently, staff received a proposed residential project of 108 lots from Sheldon Development, LLC for the vacant Banna school site, located at 800 North Banna Avenue. The project requires multiple planning applications from General Plan Amendment (remove the school designation and change from low density residential to medium density residential), Zone Change, Planned Community Development Overlay, Tentative Tract Map 73455, Site Plan Review and a Mitigated Negative Declaration. Staff determined that the proposed project would need to use on-call consultants to assist in the processing of the project. Furthermore, the applicant has requested expediting the review process and requested that the City select a firm that would provide both the environmental and planning services and skip the 2 weeks delay in seeking proposals from the pre-approved list of firms. As a result, staff asked Dudek, Inc., who is on the pre-approved list of firms, to submit a proposed scope of work and cost for review. The breakdown of the cost is as follows:

Tasks	Costs
Planning Services	\$20,230
Environmental Services	\$18,860
Direct cost- reproduction/copy	\$ 805
Total	\$39,895

The applicant was informed of the total cost and has accepted the amount. In response to the applicant's request in expediting the review process, staff has issued a Task Order for environmental services at \$18,860 since the City Manager has the authority to execute the agreement under \$25,000. However, any contract amount exceeding \$25,000 will require City Council review and approval of the amendment to the Professional Services Agreement. Upon City Council approval to increase the contact amount from \$25,000 to \$60,000, then staff will issue a second Task Order for the planning services. The reason for the increase to \$60,000 is to ensure there is a buffer to the contract amount for any additional follow-up environmental and planning work required.

RELEVANCE TO THE STRATEGIC PLAN

The use of on-call, as needed consultants for planning and environmental services is an action program that implements the recommendations of the Kelly Report to improve the development review process and reduce time to process projects and applications and enhance customer service.

EXHIBITS

- A. Proposed Amendment No. 1 to Professional Services Agreement with Dudek, Inc.
- B. Dudek, Inc. Proposed Scope of Work and Cost
- C. Letter of request from Sheldon Development , LLC

REVIEW TEAM ONLY	
City Attorney: _____	Finance Director: _____
City Manager: _____	Other: _____

**AMENDMENT NO. 1
AGREEMENT FOR CONSULTANT SERVICES
BETWEEN
DUDEK AND
THE CITY OF COVINA, CALIFORNIA**

This amendment to the Agreement for Consultant Services (“Agreement”) is entered into as of this ____ day of _____, 2015, between Dudek (“Consultant”) and the City of Covina, a municipal corporation (“City”). City and Consultant are sometimes hereinafter individually referred to as “Party” and hereinafter collectively referred to as the “Parties.”

RECITALS

A. City has sought, the performance of the services defined and described particularly in Section 2 of this Agreement.

B. Consultant was selected by the City to perform those services defined and described particularly in Section 2 of this Agreement.

C. Pursuant to the City of Covina’s Municipal Code, the City has authority to enter into this Consultant Services Agreement and the City Manager has authority to execute this Agreement.

D. The Parties desire to formalize the selection of Consultant for performance of those services defined and described particularly in Section 2 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

OPERATIVE PROVISIONS

In consideration of the mutual promises and covenants made by the Parties and contained here and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

SECTION 1. TERM OF AGREEMENT.

The term of this Agreement shall be the period commencing from the effective date of this Agreement, as first shown above and shall terminate on February 17, 2019.

SECTION 2. SCOPE OF SERVICES.

Consultant agrees to perform the services set forth in Exhibit "A" "Scope of Services" and made a part of this Agreement.

SECTION 3. ADDITIONAL SERVICES.

Consultant shall be compensated for any services rendered in connection with its performance of this Agreement, which are in addition to or outside of those set forth in this Agreement or listed in Exhibit "A" "Scope of Services," upon authorization in advance and in writing by the City Manager of City. Consultant shall be compensated for any such additional services in the amounts and in the manner agreed to by the City Manager. Any amount exceeding a total of \$25,000 shall go to the City Council for approval, first.

SECTION 4. COMPENSATION AND METHOD OF PAYMENT.

Subject to any limitations set forth in this Agreement, City agrees to pay Consultant the amounts specified in Exhibit "A" "Compensation" and made a part of this Agreement. The total compensation, including reimbursement for actual expenses, **shall not exceed Sixty Thousand dollars (\$ 60,000)**, unless additional compensation is approved in writing by the City Council.

(a) Consultant shall furnish to City an **original** invoice for all work performed and expenses incurred. The invoice shall detail charges by the following categories: 1. Daily labor per hourly basis and, if applicable, 2. travel, materials, equipment, supplies, and sub-consultant contracts. Sub-consultant charges shall be detailed by the following categories: labor, travel, materials, equipment and supplies. City shall independently review each invoice submitted by the Consultant to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. In the event that no charges or expenses are disputed, the invoice shall be approved and paid according to the terms set forth in subsection (c). In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Consultant for correction and resubmission.

(b) Except as to any charges for work performed or expenses incurred by Consultant which are disputed by City, City will use its best efforts to cause Consultant to be paid within thirty (30) days of receipt of Consultant's invoice or be subject to a late charge of 3% of the amount owed.

(c) Payment to Consultant for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Consultant.

SECTION 5. INSPECTION AND FINAL ACCEPTANCE.

City may inspect and accept or reject any of Consultant's work under this Agreement, either during performance or when completed. City shall reject or finally accept Consultant's work within sixty (60) days after submitted to City. City shall reject work by a timely written explanation, otherwise Consultant's work shall be deemed to have been accepted. City's

acceptance shall be conclusive as to such work except with respect to latent defects, fraud and such gross mistakes as amount to fraud. Acceptance of any of Consultant's work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to, sections 16 and 17, pertaining to indemnification and insurance, respectively.

SECTION 6. OWNERSHIP OF DOCUMENTS.

All original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents prepared, developed or discovered by Consultant in the course of providing any services pursuant to this Agreement shall become the sole property of City and may be used, reused or otherwise disposed of by City without the permission of the Consultant. Upon completion, expiration or termination of this Agreement, Consultant shall turn over to City all such original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents.

If and to the extent that City utilizes for any purpose not related to this Agreement any maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents prepared, developed or discovered by Consultant in the course of providing any services pursuant to this Agreement, Consultant's guarantees and warrants related to Standard of Performance and found in Section 9 of this Agreement shall not extend to such use of the maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents.

SECTION 7. CONSULTANT'S BOOKS AND RECORDS.

(a) Consultant shall maintain any and all documents and records demonstrating or relating to Consultant's performance of services pursuant to this Agreement. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, or other documents or records evidencing or relating to work, services, expenditures and disbursements charged to City pursuant to this Agreement. Any and all such documents or records shall be maintained in accordance with generally accepted accounting principles and shall be sufficiently complete and detailed so as to permit an accurate evaluation of the services provided by Consultant pursuant to this Agreement. Any and all such documents or records shall be maintained for three years from the date of execution of this Agreement and to the extent required by laws relating to audits of public agencies and their expenditures.

(b) Any and all records or documents required to be maintained pursuant to this section shall be made available for inspection, audit and copying, at any time during regular business hours, upon request by City or its designated representative. Copies of such documents or records shall be provided directly to the City for inspection, audit and copying when it is practical to do so; otherwise, unless an alternative is mutually agreed upon, such documents and records shall be made available at Consultant's address indicated for receipt of notices in this Agreement.

(c) Where City has reason to believe that any of the documents or records required to be maintained pursuant to this section may be lost or discarded due to dissolution or termination

of Consultant's business, City may, by written request, require that custody of such documents or records be given to the City and that such documents and records be maintained by the requesting party. Access to such documents and records shall be granted to City, as well as to its successors-in-interest and authorized representatives.

SECTION 8. STATUS OF CONSULTANT.

(a) Consultant is and shall at all times remain an independent contractor and not an officer, employee or agent of City. Consultant shall have no authority to bind City in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City.

(b) The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that Consultant or any of Consultant's officers, employees, or agents are in any manner officials, officers, employees or agents of City.

(c) Neither Consultant, nor any of Consultant's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Consultant expressly waives any claim Consultant may have to any such rights.

SECTION 9. STANDARD OF PERFORMANCE.

Consultant represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the services required under this Agreement in a thorough, competent and professional manner. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. In meeting its obligations under this Agreement, Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to those required of Consultant under this Agreement.

If and to the extent that City utilizes for any purpose not related to this Agreement any maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents prepared, developed or discovered by Consultant in the course of providing any services pursuant to this Agreement, Consultant's guarantees and warranties related to Standard of Performance shall not extend to such use of the maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents.

SECTION 10. COMPLIANCE WITH APPLICABLE LAWS; PERMITS AND LICENSES.

Consultant shall keep itself informed of and comply with all applicable federal, state and local laws, statutes, codes, ordinances, regulations and rules in effect during the term of this Agreement. Consultant shall obtain any and all licenses, permits and authorizations necessary to perform the services set forth in this Agreement. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall be liable, at law or in equity, as a result of any failure of Consultant to comply with this section.

SECTION 11. PREVAILING WAGE LAWS

It is the understanding of City and Consultant that California prevailing wage laws do not apply to this Agreement because the Agreement does not involve any of the following services subject to prevailing wage rates pursuant to the California Labor Code or regulations promulgated thereunder: Construction, alteration, demolition, installation, or repair work performed on public buildings, facilities, streets or sewers done under contract and paid for in whole or in part out of public funds. In this context, "construction" includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work.

SECTION 12. NONDISCRIMINATION.

Consultant shall not discriminate, in any way, against any person on the basis of race, color, religious creed, national origin, ancestry, sex, age, physical handicap, medical condition or marital status in connection with or related to the performance of this Agreement.

SECTION 13. UNAUTHORIZED ALIENS.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should the any liability or sanctions be imposed against City for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

SECTION 14. CONFLICTS OF INTEREST.

(a) Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the City Manager. Consultant agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

(b) City understands and acknowledges that Consultant is, as of the date of execution of this Agreement, independently involved in the performance of non-related services for other governmental agencies and private parties. Consultant is unaware of any stated position of City relative to such projects. Any future position of City on such projects shall not be considered a conflict of interest for purposes of this section.

(c) City understands and acknowledges that Consultant will, perform non-related services for other governmental agencies and private parties following the completion of the scope of work under this Agreement. Any such future service shall not be considered a conflict of interest for purposes of this section.

SECTION 15. CONFIDENTIAL INFORMATION; RELEASE OF INFORMATION.

(a) All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the City Manager, except as may be required by law.

(b) Consultant, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the City Manager or unless requested by the City Attorney of City, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

(c) If Consultant, or any officer, employee, agent or subcontractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorney's fees, caused by or incurred as a result of Consultant's conduct.

(d) Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

SECTION 16. INDEMNIFICATION.

(a) Indemnification for Professional Liability. Where the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless City and any and all of its

officials, employees and agents (“Indemnified Parties”) from and against any and all losses, liabilities, damages, costs and expenses, including attorney’s fees and costs to the extent same are caused in whole or in part by any negligent or wrongful act, error or omission of Consultant, its officers, agents, employees or sub-consultants (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of professional services under this Agreement.

(b) Indemnification for Other than Professional Liability. Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless City, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorneys fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or entity for which Consultant is legally liable, including but not limited to officers, agents, employees or sub-contractors of Consultant.

(c) General Indemnification Provisions. Consultant agrees to obtain executed indemnity Agreements with provisions identical to those set forth here in this section from each and every sub-contractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. In the event Consultant fails to obtain such indemnity obligations from others as required here, Consultant agrees to be fully responsible according to the terms of this section. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth here is binding on the successors, assigns or heirs of Consultant and shall survive the termination of this Agreement or this section.

(d) The provisions of this section do not apply to claims occurring as a result of City’s sole negligence or willful acts or omissions.

SECTION 17. INSURANCE.

Consultant agrees to obtain and maintain in full force and effect during the term of this Agreement the insurance policies set forth in Exhibit “B” “Insurance” and made a part of this Agreement. All insurance policies shall be subject to approval by City as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the City Manager. Consultant agrees to provide City with copies of required policies upon request.

SECTION 18. ASSIGNMENT.

The expertise and experience of Consultant are material considerations for this Agreement. City has an interest in the qualifications of and capability of the persons and entities who will fulfill the duties and obligations imposed upon Consultant under this Agreement. In recognition of that interest, Consultant shall not assign or transfer this Agreement or any portion

of this Agreement or the performance of any of Consultant's duties or obligations under this Agreement without the prior written consent of the City Council. Any attempted assignment shall be ineffective, null and void, and shall constitute a material breach of this Agreement entitling City to any and all remedies at law or in equity, including summary termination of this Agreement. City acknowledges, however, that Consultant, in the performance of its duties pursuant to this Agreement, may utilize subcontractors.

SECTION 19. CONTINUITY OF PERSONNEL.

Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff and subcontractors, if any, assigned to perform the services required under this Agreement. Consultant shall notify City of any changes in Consultant's staff and subcontractors, if any, assigned to perform the services required under this Agreement, prior to and during any such performance.

SECTION 20. TERMINATION OF AGREEMENT.

(a) City may terminate this Agreement, with or without cause, at any time by giving thirty (30) days written notice of termination to Consultant. In the event such notice is given, Consultant shall cease immediately all work in progress.

(b) Consultant may terminate this Agreement for cause at any time upon thirty (30) days written notice of termination to City.

(c) If either Consultant or City fail to perform any material obligation under this Agreement, then, in addition to any other remedies, either Consultant, or City may terminate this Agreement immediately upon written notice.

(d) Upon termination of this Agreement by either Consultant or City, all property belonging exclusively to City which is in Consultant's possession shall be returned to City. Consultant shall furnish to City a final invoice for work performed and expenses incurred by Consultant, prepared as set forth in Section 4 of this Agreement. This final invoice shall be reviewed and paid in the same manner as set forth in Section 4 of this Agreement.

SECTION 21. DEFAULT.

In the event that Consultant is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Consultant for any work performed after the date of default. Instead, the City may give notice to Consultant of the default and the reasons for the default. The notice shall include the timeframe in which Consultant may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Consultant is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the

outstanding invoices during the period of default. If Consultant does not cure the default, the City may take necessary steps to terminate this Agreement under Section 20. Any failure on the part of the City to give notice of the Consultant's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

SECTION 22. EXCUSABLE DELAYS.

Consultant shall not be liable for damages, including liquidated damages, if any, caused by delay in performance or failure to perform due to causes beyond the control of Consultant. Such causes include, but are not limited to, acts of God, acts of the public enemy, acts of federal, state or local governments, acts of City, court orders, fires, floods, epidemics, strikes, embargoes, and unusually severe weather. The term and price of this Agreement shall be equitably adjusted for any delays due to such causes.

SECTION 23. COOPERATION BY CITY.

All public information, data, reports, records, and maps as are existing and available to City as public records, and which are necessary for carrying out the work as outlined in the Exhibit "A" "Scope of Services," shall be furnished to Consultant in every reasonable way to facilitate, without undue delay, the work to be performed under this Agreement.

SECTION 24. NOTICES.

All notices required or permitted to be given under this Agreement shall be in writing and shall be personally delivered, or sent by telecopier or certified mail, postage prepaid and return receipt requested, addressed as follows:

To Consultant:	Dudek 38 North Marengo Avenue Pasadena, CA 91101 626-204-9822
To City:	City of Covina Attn: Community Development Director; or his/her designee 125 E. College Street Covina CA 91723

Notice shall be deemed effective on the date personally delivered or transmitted by facsimile or, if mailed, three (3) days after deposit of the same in the custody of the United States Postal Service.

SECTION 25. AUTHORITY TO EXECUTE.

The person or persons executing this Agreement on behalf of Consultant represents and warrants that he/she/they has/have the authority to so execute this Agreement and to bind Consultant to the performance of its obligations hereunder.

SECTION 26. BINDING EFFECT.

This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

SECTION 27. MODIFICATION OF AGREEMENT.

No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Consultant and by the City Manager. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

SECTION 28. WAIVER.

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Consultant shall not constitute a waiver of any of the provisions of this Agreement.

SECTION 29. LAW TO GOVERN; VENUE.

This Agreement shall be interpreted, construed and governed according to the laws of the State of California. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of Los Angeles, California. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Los Angeles.

SECTION 30. ATTORNEYS FEES, COSTS AND EXPENSES.

In the event litigation or other proceeding is required to enforce or interpret any provision of this Agreement, the prevailing party in such litigation or other proceeding shall be entitled to an award of reasonable attorney's fees, costs and expenses, in addition to any other relief to which it may be entitled.

SECTION 31. ENTIRE AGREEMENT.

This Agreement, including the attached Exhibits "A" through "C", is the entire, complete, final and exclusive expression of the parties with respect to the matters addressed therein and supersedes all other Agreements or understandings, whether oral or written, or entered into

between Consultant and City prior to the execution of this Agreement. No statements, representations or other Agreements, whether oral or written, made by any party, which are not embodied herein shall be valid and binding. No amendment to this Agreement shall be valid and binding unless in writing duly executed by the parties or their authorized representatives.

SECTION 32. SEVERABILITY.

If any term, condition or covenant of this Agreement is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall not be affected thereby and the Agreement shall be read and construed without the invalid, void or unenforceable provision(s).

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY OF COVINA, a California municipal corporation

By: _____ Date: _____
Mayor, John King

ATTEST:

City Clerk

APPROVED AS TO FORM

By: _____ Date: _____
City Attorney

CONSULTANT

By: _____ Date: _____
Dudek

EXHIBIT "A"
SCOPE OF SERVICES

Environmental Review Services shall include, but not limited to, one or more of the following environmental review tasks:

- Initial Site Assessment
- CEQA Initial Study to determine whether project requires EIR, MND, ND or CE
- Cultural and Historical Evaluations
- Noise Studies
- Air Quality
- Transportation Studies
- Water Quality/Storm and Wastewater Control Management
- Greenhouse Gas Emission Studies
- Environmental Mitigation Studies/Reports
- Coordinate and distribute environmental documents and notices
- Mitigation Monitoring
- Presentations at public meetings
- Coordinate the CEQA Review with Project Review

In addition to the above environmental review tasks, the consultant may be assigned to conduct a peer review of EIR, MND, or ND submitted by the project applicant for a review of completeness, adequacy and compliance with CEQA.

Planning Services shall have include, but not limited to, residential, commercial, industrial, mixed use and transit oriented development. Some application may require a General Plan Amendment, Zone Change, establishment of a Planned Community Development Overlay, etc.

- Initial Site Assessment
- Review project for completeness and compliance with the General Plan, Zoning Ordinances, Town Center Specific Plan (if applicable), Design Guidelines, and all applicable codes and ordinances
- Prepare letters for Director's review
- Attend Development Review Committee meeting(s) for the project
- Coordinate comments from members of the Development Review Committee
- Meet with Applicant
- Coordinate the Project Review with CEQA Review
- Prepare public hearing notices, staff reports, resolutions and conditions of approval
- Attend Planning Commission and/or City Council meetings
- File management for the projects
- Plan Check review of projects including, but not limited to, construction plans, grading plan, landscape and irrigation plans, lighting plans, etc., for compliance with conditions of approval

DUDEK

WENDELL HALLING
MADISON, CALIFORNIA 91761
714.264.1111

April 3, 2015

Ms. Nancy Fong
Interim Community Development Director
City of Covina, Planning Division
125 E. College Street
Covina, CA 91723

Subject: Proposal to Provide Planning and Environmental Review Services for the One Charter Oak Residential Development Project in the City of Covina, CA

Ms. Fong:

The subject of this proposal is the property located at 800 N. Banna Avenue in the City of Covina. We understand that the applicant is proposing to demolish the existing structures located on the project site part of Banna Elementary School, and construct 108 detached single-family homes at a density of approximately 12.6 units per acre. The proposed project would require a General Plan Amendment from School to Medium Density Residential and a Zone Change from R-1-7500 Residential Zone (Single-Family) to RD (Multiple-Family) with a Planned Community Development (PCD) Overlay. Additionally, there is a Tentative Tract Map 73455 and Site Plan Review.

This proposal includes a scope of work and budget for review and processing of the development application, as well as a third party environmental review of the Draft Mitigated Negative Declaration (MND) pursuant to the California Environmental Quality Act (CEQA). As per the City's schedule, all work would be completed in time for a first City Council meeting on June 17, 2015. Our experience with similar environmental projects throughout the local area, as well as the depth of our senior leadership with environmental and planning issues in the greater southern California area, will allow us to complete the requested work in a timely, comprehensive, and cost-effective manner.

Thank you for the invitation to submit this proposal for the Charter Oak Residential Development Project. If you have any questions or would like more information about our proposal, please feel free to contact me at 626.204.9822 or by email at rthomas@dudek.com. We look forward to working with the City to ensure a quick and seamless development application and environmental review process for the proposed project.

Best regards,



Ruta K. Thomas, REPA
Principal

Exhibit B

Project Team

Shannon Kimball, AICP will serve as the Project Manager for review and processing of the development application for the Charter Oak Residential Project. Ms. Kimball will also assist with review of the land use and planning section of the Draft MND. She specializes in managing long-range policy and planning documents as well as complex land use entitlement projects. As a planner for over 13 years, she has successfully managed the preparation of multiple general plans, specific plans, transit plans, zoning ordinances, housing elements, downtown plans, visioning plans, corridor studies, and economic feasibility studies. Ms. Kimball has received several awards from the American Planning Association (APA) for her planning projects. She combines her experience in planning, urban design, development, and community outreach to achieve desired projects that work to realize the community's goals and objectives. From planning through conceptual design to certificates of occupancy, she is involved throughout the process, facilitating positive growth and change in the communities she represents. Ms. Kimball received a B.A. in Humanities and Spanish from Brigham Young University and a M.P.L in Urban Planning and Design from the University of Southern California.

Ruta K. Thomas, REPA who has nineteen years of CEQA/NEPA experience, will serve as the Project Manager for third party review of the Charter Oak Residential Project Draft MND. Ms. Thomas is a Principal in Dudek's Los Angeles area office, as well as a Senior Project Manager responsible for managing the preparation and coordination of highly complex, controversial, and visible environmental documentation for residential and commercial projects throughout the state of California. As a result of her extensive CEQA experience and knowledge, the Association of Environmental Professionals (AEP) has asked Ms. Thomas to instruct CEQA courses for new practitioners regularly since 2007. As a Registered Environmental Property Assessor (REPA), she has been determined by the state of California to have the academic training, occupational experience, and professional reputation necessary to objectively conduct one or more aspects of environmental assessment and site cleanup activities. Ms. Thomas received a B.A. in Biology/Economics from Lehigh University and an M.A. in Environmental Studies from Brown University.

Other technical experts that will assist with third party review of key areas of the Draft MND are as follows:

CEQA Technical Experts			
Name	Role	Years of Experience	Experience Overview
Josh Saunders, AICP	Aesthetics	10	Visual, light/glare, and shade/shadow impact analyses
Jennifer Reed	Air Quality/GHG Emissions	8	Extensive air quality and GHG modeling experience
Brock Ortega	Biological Resources	23	Statewide biological assessments and surveys
Samantha Murray, RPA	Cultural Resources	8	Statewide archaeological, paleontological, osteology, and historic resources assessment experience
Dylan Duvergé	Geology/Soils, Hydrology/Water Quality & Utilities/Service Systems	8	Specialist in hydrology, water quality, and geology analysis
Nicole Peacock, PE, PG	Hazards/Hazardous Materials	14	Local and regional hazardous materials specialist
Mike Greene, INCE	Noise	23	Statewide acoustical assessment experience
Shawn Shamlou, AICP	Transportation/Traffic	20	Transportation-focused planner with vast experience analyzing development and redevelopment projects

Scope of Work

The approach of the Dudek project team is based on serving as a key element of the project team to anticipate controversial issues, provide unbiased recommendations, devise solutions to potential impacts and/or other issues that may arise, and provide expert planning, policy, and environmental compliance consultation. Processing of the development application and third party review of the Draft MND will occur concurrently. This proposal assumes minimal printing of reports and memos. Most deliverables will be submitted in electronic format (Microsoft WORD and/or Adobe Acrobat (PDF)).

TASK 1 Entitlement Processing and Streamlining

Subtask 1A Establish a Relationship and Define the Scope

The first step in the entitlement process will involve meeting with City staff and the applicant to understand needs and expectations, turnaround review schedule, and communication and work flow process protocol. Setting expectations initially will promote a partnership to create a customized solution that achieves project goals for both the applicant and the City.

Subtask 1B Complete the Application

During this next phase we will work closely with the City and applicant to ensure all required forms and submittals have been completed in a manner to deem the application complete according to City requirements. We will walk the applicant through the submittal procedures to expedite the process and ensure all required fees and deposits have been collected, as deemed necessary. We will work with City staff to set up a project tracking spreadsheet to track both the budget (running costs) and key milestones/deadlines to keep the project on schedule as agreed to by the City and applicant.

Subtask 1C Internal Staff Review

During this phase we will work with City staff to route plans to all internal and any required external agencies for review and comment. We will limit rounds of review by consulting with the applicant prior to submittal to ensure that the proposed development project is consistent with the City's General Plan (as per a General Plan Amendment), Zoning Code (as per a Zone Change) and overall City objectives for the neighborhood. We will ensure that the proposed development establishes a high standard of design to set precedence for future developments in the area and citywide.

Subtask 1D Finalize Plans and Public Review

We will work with the City and applicant to address all City and agency comments and finalize plans, including the Draft MND for public review. We will prepare required notices, radius maps, and labels and distribute the plans for review for the required time period, in preparation for public hearings. During this time we will work on preparing the staff report and resolution for the Planning Commission, and work closely with City staff to coordinate the agenda and any preparation items required for the hearings. Upon the close of the public review period, we will address any comments and finalize conditions of approval.

Subtask 1E Attend Public Hearings

For this phase we will prepare the presentation for public hearing before the Planning Commission. Following the hearing, we will address any comments from the Planning Commission and public, and prepare for the City Council hearing. We will prepare the City Council Staff Report, Resolution and Ordinance (if applicable), and revise the presentation for the City Council hearing. For each hearing, we will be available to present the staff report and answer any questions from the Commission, Council and public.

Subtask 1F Plan Check and Implementation

Following the approval and adoption of the proposed project by the City Council, we will prepare the Acceptance of Conditions for the applicant's signature, and, as needed, continue to work with the applicant through the plan check process. Our goal is to work with the applicant through to certificates of occupancy to ensure a smooth and seamless process from start to finish.

TASK 2 Third Party Environmental Review of Draft MND

Subtask 2A Prepare Third Party Environmental Review of Draft MND

Dudek staff scientists and/or specialists will review the environmental analyses and supporting technical data/studies prepared by the applicant's team to independently verify its accuracy and legal defensibility. It is assumed that Dudek would review one version of the technical studies, data, and environmental analyses, and will provide comments to the City. Dudek will also confirm the requested revisions/edits as part of a second round of review. If a second round of review is not required, the budget and schedule will be revised accordingly. If necessary, and approved by the City, we would be available to discuss our questions and/or comments with the City's technical representatives. As part of our third-party environmental review, Dudek will conduct the following tasks:

- The Dudek team will conduct one site visit to allow all key technical staff to obtain an overview of the proposed project, and to view the resources potentially affected. It is assumed that the following Dudek specialists would attend the site visit—project manager, biologist, cultural resource specialist, and environmental analyst—to obtain more specific information for their area of expertise.
- Each Dudek team member assigned to the third-party environmental review by the project manager will review the project description to obtain a thorough understanding of the proposed project, its history, and any previously identified impacts. All Dudek team members will be apprised of any unique project issues or community concerns to keep in mind during their third-party review.
- Each Dudek team member will be requested to re-familiarize themselves with the City's environmental and planning processes, as well as previous environmental analyses prepared for other related projects in the area.
- Upon receipt from the City, the Dudek project manager will distribute the technical studies and individual sections of the environmental document to project team members (depending on their specific area of expertise) and coordinate review of the document(s) as follows. This proposal assumes a worst-case scenario of two rounds of review of all documents and supporting technical data; the second round of review will confirm that the recommended edits, revisions, and/or clarifications provided after the first round of review were completed.

- Review the environmental document and associated technical analyses for completeness in accordance with CEQA and its Guidelines, the City's environmental and planning guidelines, and other applicable agency regulations. Based upon our understanding of the site and the proposed uses, this proposal assumes the following CEQA issue areas will be reviewed in detail as part of the revised environmental analysis:
 - Aesthetics (Light and Glare, Shade/Shadow)
 - Air Quality
 - Biological Resources
 - Cultural Resources (Archaeology and Architectural History)
 - Geology and Soils
 - Greenhouse Gas Emissions
 - Hazardous Materials/Risk of Upset
 - Hydrology and Water Quality
 - Land Use and Planning
 - Noise
 - Population, Housing, and Employment
 - Public Utilities (Water, Wastewater, Natural Gas, Electricity, Solid Waste)
 - Public Services (Fire, Police, Schools, Recreation and Parks, Libraries)
 - Traffic/Transportation/Parking
- Determine whether sufficient technical information is available in the supporting technical analyses for CEQA review (to be analyzed by each specialist).
- Summarize editorial revisions and comments to the technical studies and environmental document in red-lined track changes format directly in the Word files provided by the City. Additionally, Dudek will prepare a memo summarizing recommended revisions and clarifications, as well as any requests for additional analyses or supporting documentation.
- As part of a second round of review, Dudek will review and respond to the applicant's consultants' response to our first round of third-party environmental review and confirm our comments were adequately addressed. Our response will be included as part of a red-lined track changes Word file. Additionally, Dudek will prepare a memo summarizing further recommended revisions and clarifications (if any), as well as any further requests for additional analyses or supporting documentation.
- As needed, Dudek will assist the City with troubleshooting any issues that come up throughout the third-party environmental review process and offer solution options as required.

Subtask 2A Assumptions:

- The City will provide the Draft MND and technical studies to Dudek in Microsoft Word format to facilitate the peer review process.
- One round of third-party review will be conducted, followed by one additional round of verification review to validate that the appropriate changes were made.

Subtask 2B Attend Meetings and Hearings

As per input from the City, Dudek staff will attend two (2) meetings with the Development Review Committee, three (3) meetings with City staff and/or the applicant team, one (1) neighborhood meeting, one (1) Planning Commission public hearing during which approval of the project and certification of the environmental document would be considered for recommendation to the City Council, and two (2) City Council hearings (June 16, 2015 and July 7, 2015). It is assumed that the City of Covina would coordinate and facilitate the meetings and that oversized presentation materials describing or illustrating the project will be provided by the applicant, as needed. Dudek would be available to answer questions raised concerning the CEQA process and/or technical questions regarding the analysis contained in the environmental document. We would also address any substantive comments submitted during the public comment period.

TASK 3 Project Management and General Coordination

Subtask 3A Project Management and General Coordination

The purpose of this task is to manage the Dudek project team, manage the environmental document preparation effort, and maintain constant, close communication between the City, applicant and consultant team. This task is also intended to ensure that the project will be completed on time and within budget, and that all work products are of the highest quality. Dudek will coordinate the team's work for the communication of issues, transmittal of comments, financial management, and other project management matters.

Budget

Dudek has prepared a cost estimate that is competitive, yet accurately reflective of the level of effort required to complete the scope of services requested by the City based on our understanding of the project with the information made available to date. Dudek does not believe it is in the client's interest to submit an unrealistically low cost proposal, which is made possible by either reducing the scope of work or by assuming that budget augments will be made available at a later date. That said, we are flexible and willing to discuss ways to reduce our preliminary cost proposal, if necessary.

Factors that would increase the scope of work and estimated costs outlined in this proposal include, but are not necessarily limited to, any of the following:

- Attendance at additional meetings
- Additional printing of copies of reports and/or memos outside that outlined in the cost sheet
- Review of additional documents above those discussed in this proposal, or a more detailed level of development application processing assistance or third party review than described in this proposal

Our cost proposal is valid for 90 days from the date of this proposal and is based on all team members' standard hourly rates.

One Charter Oak

April 2, 2015

City of Covina
c/o Nancy Fong
125 E College Street
Covina, CA 91723-2199

Re: Expedite Hiring Planning and CEQA Consultants

Dear Mrs. Fong,

Pursuant to our conversation, we respectfully request the planning and environmental services for our residential project located at 800 N Banna Avenue be kept with one firm. In addition, we request that the two week time frame to process the task order is skipped so we may stay on our processing schedule. We appreciate all your hard work on this project and we look forward to the upcoming public hearings at the May 26, 2015 planning commission and June 16, 2015 city council meeting.

Thank you for your consideration of our request. Please feel free to contact me should you have any questions.

Sincerely,



Steve Sheldon
Sheldon Development, Managing Member for One Charter Oak

Exhibit C

Property Location: 800 N. Banna • Covina • CA • 91724
Admin Office: 901 Dove Street • Suite 230 • Newport Beach • CA • 92660

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: April 21, 2015

ITEM NO.: CC 8

STAFF SOURCE: Andrea M. Miller, City Manager

ITEM TITLE: Proposed City Manager's Office Staffing Changes

STAFF RECOMMEDATION

Approve the following: 1) Reassign the existing Assistant to the City Manager to the Community Development Department and reclassify the incumbent employee to Senior Administrative Analyst; and 2) Authorize the City Manager to recruit and hire a new full-time Assistant to the City Manager.

FISCAL IMPACT

The recommended change will be funded by savings in the FY 2014-15 operating budget. In FY 2015-16, the total cost for the additional position is \$127,840.

BACKGROUND

Staffing in the City Manager's Office currently includes one full-time City Manager, one full-time Executive Assistant to the City Manager and City Council; one part-time Administrative Technician; and one Assistant to the City Manager (allocated 50% to the City Manager and 50% to Community Development). The Assistant to the City Manager position provides administrative support to both the City Manager's office and the Community Development Department and the salary and benefit costs related to the position are shared equally between the two departments. Given the increased workload in the Community Development Department, the incumbent Assistant to the City Manager is increasingly engaged in planning and community development related activities resulting in a significant decrease in the amount of time available to support the City Manager in economic development, public information, and legislative analysis and handle other general administrative duties.

It is proposed that the existing Assistant to the City Manager be reallocated 100% to the Community Development Department and the position reclassified to Senior Management Analyst. Pursuant to the City's Personnel Rules, the incumbent will be "Y" rated at the current salary range until such time as the salary for Senior Management Analyst exceeds the current salary. It is also proposed that the City recruit for and hire a new full-time Assistant to the City Manager. This position would be responsible for managing economic development programs that promote and maintain a diverse local economy with businesses that provide jobs and services for the residents and tax revenue to support public services as well as coordinating public information efforts to assure timely, relevant, and accurate public information.

RELEVANCE TO THE STRATEGIC PLAN

This proposal would assist in enhancing customer service in the Community Development Department while ensuring the City has the tools and resources to effectively manage economic development and public information programs.

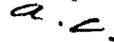
REVIEW TEAM ONLY	
City Attorney: _____	Finance Director: _____
City Manager: _____	Other: _____

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: April 21, 2015

ITEM NO.: PH1

STAFF SOURCE: Kim Raney, Police Chief/Acting Community Development Director
Alan Carter, City Planner



ITEM TITLE: City Council to conduct a public hearing to consider the appeal of the Planning Commission denial of the amendment to Conditional Use Permit (CUP) 13-004 for the property at 692 Arrow Grand Circle (within the Arrow-Grand Industrial Park)

STAFF RECOMMENDATION

- 1.) Open the public hearing, receive public testimony, and close the public hearing;
- 2.) Make findings as required by the California Environmental Quality Act (CEQA) Section 15303(c), involving negligible project-related impacts existing at the time of the lead agency's determination; and
- 3.) Consider the appeal of the Planning Commission's denial of the amendment to Conditional Use Permit (CUP) 13-004, with the following options:
 1. If the City Council agrees with the decision of the Planning Commission, then sustain the Planning Commission's decision.
 2. If the City Council can make the findings to support the amendment to the Conditional Use Permit, then reverse the Planning Commission's decision and approve the amendment to the Conditional Use Permit through approval of Resolution No. 7343.

FISCAL IMPACT

There is no direct impact to the General Fund. However, permitting the business to expand in the manner requested under the current zoning application would result in the physical improvement to the property, create an attraction for the City, and generate some additional sales taxes.

BACKGROUND

In June 2013, the Planning Commission approved Conditional Use Permit (CUP) 13-004, which permitted Alost Brewery to offer on-site beer tasting with a proposed micro-brewery in an industrial building within the Arrow-Grand Industrial Park. The approval was contingent upon the City Council amending the "Planned Community Development Overlay" zone that permits micro-breweries to have on-site tasting. Subsequently, the City Council adopted Ordinance No. 13-2023, which amended the Arrow-Grand- "PCD" overlay zone to allow on-site beer tasting with a CUP, subject to a 1000-foot distance separation from the same type of use. To ensure business harmony with surrounding uses and businesses, the Planning Commission imposed

trucks, outdoor seating, and most forms of entertainment, including televisions, and that required beer tasting to end by 9:00 pm on any day. The business opened in late 2013.

PROPOSED CHANGES REQUESTED BY ALOSTA BREWERY

Two months ago, Alosta Brewery submitted an application to amend its CUP as follows:

1. **Allowance of one food truck** as permitted under the December 2014 City Council-approved approved Urgency Ordinance No. 14-2034, which allowed, under an administrative process and subject to certain requirements, on-site food trucks associated with businesses offering beer and wine tasting and certain other services. (See attachment to Exhibit A for background);
2. **Allowance of outdoor seating** - the applicant proposes to construct an outdoor patio in most of the currently landscaped, front yard area on the property, as depicted on the associated project plans;
3. **Extension of business hours** to 10:00 pm on Sundays through Thursdays and to 12:00 am on Fridays and Saturdays; and
4. **Allowance of television(s)** - the business owner/applicant requests the use of televisions that would enable him to have televised entertainment, particularly sporting events and other special programming (See end of Exhibit A) .

The detailed analysis of the requested changes listed above is within the March 24, 2015, Planning Commission staff report and as shown in Exhibit A. In brief, staff did not identify any adverse impacts or issues associated with the overall request and believed that the required findings could be made. Further, the Police Department did not oppose the application, as long as all of the associated conditions of approval would be met. Staff therefore recommended approval of the amended CUP request to the Commission, subject to conditions of approval (same ones as included in Exhibit C).

SUMMARY OF PLANNING COMMISSION DISCUSSION AND DELIBERATION

At the March 24, 2015, meeting the Planning Commission held a public hearing to consider Alosta Brewery's CUP amendment request. The Planning Commission received public input including copies of emails and letters in support of Alosta Brewery. After the close of the public hearing, the Planning Commission deliberated on the merits of the CUP amendment request. The majority of the Planning Commission made the following statements:

1. **Modified use would be too bar-like** - The requested changes to the CUP would collectively result in a bar-like establishment or a type of business that would be incompatible with the surrounding industrial park and that would create unforeseen issues.
2. **Changes to CUP should not be requested** - The Planning Commission recalled that during the review of the initial CUP application and after a lengthy, contentious public hearing, the applicant indicated to the Planning Commission that they could operate without a food truck or entertainment. The majority of the Planning Commission felt that the business operators should abide by all of their current requirements and not make any changes to the CUP so as to best harmonize with the surroundings.
3. **Public safety concerns** - Although the Police Department did not object to the proposed changes, the Planning Commission felt that the expanded patio for serving

alcohol area and addition of entertainment via Televisions could have a negative impact on Police's resources

4. **The letters of support are misleading** - A member of the Planning Commission stated that the letters of support from surrounding businesses were insufficient as there were three neighboring industrial businesses who told members of the Planning Commission that they either have some issues with Alosta or that they did not know the full extent of the overall current request. To date and at the writing of the report, staff has not received written communications in opposition to the proposed CUP amendment request.

After the deliberation, the Planning Commission, on a 4-1 vote, denied the CUP amendment request. On April 2, 2015, the applicant's representative submitted a formal appeal of the Planning Commission's denial and, subsequent to that, a written communication on his views regarding the Commission meeting (see Exhibit E).

OPTIONS FOR CITY COUNCIL

In considering the appeal of the amended CUP-related application, the City Council has two options:

1. The Council may agree with the decision of the Planning Commission and deny the appeal; or
2. The Council may disagree with the decision of the Planning Commission, or believe that it can make the findings to support the amendment to the Conditional Use Permit, and uphold the appeal and approve the amendment to the Conditional Use Permit by adopting Resolution No 15-7343 (Exhibit C).

PUBLIC HEARING AND ENVIRONMENTAL DETERMINATION

Public hearing notices were sent to both the owners and occupants of all properties within 300 feet of the Alosta site for this appeal public hearing. Pursuant to the provisions of the California Environmental Quality Act (CEQA) Guidelines, Section 15303, Class 3(c), a building or similar improvement not exceeding 2,500 square feet in floor area is exempt. The project consists of the construction of an approximately 1,300-square foot patio area associated with an existing micro-brewery and beer tasting use on about 0.41 acre of land, a type of infill development. Staff further finds that there is no substantial evidence that the project will have a significant effect on the environment.

RELEVANCE TO THE STRATEGIC PLAN

The Strategic Plan calls for the adoption of measures that would strengthen the economic base of the City. It is believed that the amended Conditional Use Permit application proposal could, at least to a limited extent, meet this goal.

EXHIBITS

- A. June 13, 2013, conditions of approval of application CUP 13-004.
- B. March 24, 2015, Planning Commission Staff Report for current CUP 13-004 proposed changes.
- C. Proposed conditions of approval of requested amendment to CUP 13-004 (presented as attachment to City Council Resolution No. 15-7343).

- D. Draft Minutes from March 24, 2015, Planning Commission meeting regarding proposed amendment to CUP 13-004.
- E. Applicant statement on March 24, 2015, Planning Commission meeting.

REVIEW TEAM ONLY	
City Attorney: _____	Finance Director: _____
City Manager: _____	Other: _____

**CITY OF COVINA
CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT (CUP) NO. 13-004
AS APPROVED BY THE PLANNING COMMISSION
ON JUNE 11, 2013**

This Conditional Use Permit (CUP) authorizes a micro-brewery with on-site beer-tasting on property located at 692 Arrow Grand Circle within the Arrow-Grand Business Park.

1.0 TIME LIMITS:

- 1.1 The approval of the Conditional Use Permit (CUP) shall be subject to revocation one year from the date of the affirmation of the application by the Planning Commission if the approved use(s) has not commenced.

2.0 GENERAL REQUIREMENTS:

- 2.1 The Conditional Use Permit (CUP) is subject to City Council adoption of PCD 79-001 Modification #1, which is being processed simultaneously. Should the PCD modification be denied or not become effective, the CUP shall be null and void.
- 2.2 The Conditional Use Permit (CUP) application shall permit the establishment of a micro-brewery with on-site beer-tasting. The property shall be operated/used and remodeled/improved in accordance with all application-related information; all representations of record made by the applicant; the approved project plans and design details (including any necessary or required revisions thereto), as approved by the Planning Commission; the Conditions of Approval contained herein; and the Covina Municipal Code and the Covina Design Guidelines. Prior to the completion of the approved improvements, all Conditions of Approval shall be complied with to the satisfaction of the City Planner or his/her designee.
- 2.3 Failure to comply with any of the Conditions of Approval noted herein shall be deemed just cause for the revocation of the approval of the CUP by the Planning Commission.

- 2.4** Final or construction plans incorporating all Conditions of Approval and any plan-related changes required in the approval process shall be submitted for review to and approval by the City Planner or his/her designee prior to building permit issuance in conjunction with the Plan Check process of the Building Division. All final or construction plans and documents shall conform to the plans approved by the Planning Commission. The Conditions listed herein shall further be printed upon the face of and included as part of these plans.
- 2.5** Any previously existing zoning entitlements for the property shall remain in effect, except for the provisions thereof that have been expressly superseded by the Conditions of Approval and the associated approved project plans of this CUP application.
- 2.6** Under certain provisions of the California Environmental Quality Act (CEQA), the project proposal has been determined to be categorically exempt from environmental review. If a Notice of Exemption is filed with the City, then the period during which legal challenges can be filed based upon violations of CEQA is reduced from 180 days to 35 days. To file the Notice of Exemption, please contact the Planning Division.
- 2.7** Any construction-related grading and all drainage on and leaving the site shall conform to the applicable requirements of the Covina Public Works Department, Engineering Division.
- 2.8** Any new exterior ground-, wall-, or roof-mounted mechanical and/or utility equipment (and any communication-related facilities that are not exempt from local regulation) shall be screened from all views by building features, the elements of which must match the style and color of the building, and/or landscaping. The method of screening shall be identified on the construction plans and is subject to staff approval.
- 2.9** Any required site features for the disabled, including, but not limited to, property access identification, parking stall and unloading area dimensions, path of travel, and building access, must comply with all applicable State Codes and must be reviewed by the Building Division (contact the Building Division for specific requirements).
- 2.10** In accordance with Chapter 11.36 of the Covina Municipal Code, no street trees adjacent to the property shall be cut or trimmed in any manner by any persons associated with management, operational, or maintenance activities on the site without first obtaining a permit from the Covina Public Works Department.

- 2.11** Any new exterior lighting associated with the building shall conform to the building architecture and shall be located and oriented in a manner that would not generate any glare onto any adjacent business or property or onto any surrounding public street or alley, while meeting the applicable foot-candle standards of the City to maintain safety and security.
- 2.12** The applicant or his associates shall perform any project- or use-related construction work that could be heard by any residents of the nearby residential properties only between the hours of 7:00 a.m. and 8:00 p.m., Monday through Saturday (excluding legal holidays), unless a special permit is obtained from the City.
- 2.13** The approval of this request shall not waive compliance with all other applicable sections of the Covina Municipal Code, the Covina Design Guidelines, and all other associated plans and non-City laws and regulations that are in effect at the time of Building Permit issuance or the approval of this application.
- 2.14** The City shall have the reasonable right of entry to inspect the improvements on the property to verify compliance with the Conditions of Approval.
- 2.15** The permittee shall defend, indemnify and hold harmless the City, its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void or annul this grant, which action is brought within the applicable time period of Government Code Section 65009. The City must promptly notify the permittee of any claim, action, or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the permittee of any claim, action or proceeding, or if the City fails to cooperate fully in the defense, the permittee shall not thereafter be responsible to defend, indemnify, or hold harmless the City.
- 2.16** The permittee shall reimburse the City for any court and attorney's fees which the City may be required to pay as a result of any claim or action brought against the City because of this grant. Although the permittee is the real party in interest in an action, the City may, at its sole discretion, participate at its own expense in the defense of the action, but such participation shall not relieve the permittee of any obligation under this Condition.
- 2.17** If any provision of this grant is held or declared to be invalid, then the application approval shall be void and the privileges granted hereunder shall lapse.
- 2.18** The costs and expenses of any code enforcement activities, including, but not limited to, attorneys' fees, caused by the applicant/property owner's violation of any Condition imposed by this approval or any provision of the Covina Municipal Code shall be paid by the applicant/property owner.

- 2.19 Any new and changing ordinances adopted prior to the final approval of the project may warrant new review.
- 2.20 All proposed permanent exterior signage for the property is subject to a separate, follow-up review and approval process, and all applicable codes and requirements shall be met. Also, sign permits must be obtained from the City prior to the installation of any new permanent or temporary signs. And all illuminated signage shall be prohibited from generating any glare or imposing any other negative impacts onto any adjacent properties or onto the adjoining sidewalks and streets.
- 2.21 The installation of a new or the modification of any existing security system(s) in the appurtenant building, as addressed under Chapter 8.20 of the Covina Municipal Code, shall be coordinated with the Covina Police Department. Please determine at the earliest possible time whether a security system will be installed or altered, as failure to inform Police of security system installation plans may impact the commencement of the business and/or delay building permit issuance relating to the Plan Check process.
- 2.22 The following item is required in order to comply with the Los Angeles County Fire Department code requirements as they pertain to this proposal: More detailed project plans shall be submitted to the Los Angeles County Fire Department in order for the Department to determine a) the occupancy limit(s) for the overall establishment; and a) whether fire sprinklers will be required. Please contact the Fire Department staff for further details.
- 2.23 The following items are required in order to comply with the Police Department code requirements as they pertain to this proposal: refer to applicable attachment.
- 2.24 The following items are required in order to comply with the Building Division code requirements as they pertain to this proposal: refer to applicable attachment.
- 2.25 The following items are required in order to comply with the Environmental Services Division code requirements as they pertain to this proposal: refer to applicable attachment.
- 2.26 ***(MODIFIED BY PLANNING COMMISSION AT 6-11-13 MEETING)***
Pursuant to the Water Division's code requirements as they pertain to this proposal, an R.P. backflow *device* shall be installed at meter. Please contact the Water Division if you have any questions or need clarification.

3.0 PRIOR TO THE GRANTING OF FINAL APPROVAL OF THE BUILDING IMPROVEMENTS OR THE CONDITIONAL USES OR THE COMMENCEMENT OF OPERATIONS OF THE APPROVED CONDITIONAL USES ON THE SITE:

- 3.1 Parking lot shall be repaired with a minimum Type 1 Sand Slurry and re-stripped to current standards.
- 3.2 All site, building, and any landscape improvements shall be constructed or installed in a good workmanlike manner, consistent with the standard best practices of the subject trades and in a manner acceptable to the City.
- 3.3 The Conditional Use Permit (CUP) approval shall not be effective until such time as the applicant/owner of the property obtains an Inspection and Verification Permit (IVP) and the City Planner or his/her designee certifies on said Permit that the premises and uses comply with all of the Conditions of Approval.
- 3.4 This grant shall not be effective for any purposes until the applicant/owner of the property has filed with the Planning Division an affidavit stating that he is aware of, and agrees to accept, all of the Conditions of Approval.
- 3.5 All exterior lighting fixtures on the property shall be maintained and kept fully operational at all times.
- 3.6 The applicant shall obtain all necessary approvals and permits from the State Department of Alcoholic Beverage Control regarding the sale of beer and appropriate Type 23 license.
- 3.7 The applicant shall obtain any necessary licenses and permits from the Finance Department (e.g., a general Business License) and the Police Department concerning the business.
- 3.8 The applicant shall obtain all necessary approvals from the Los Angeles County Fire Department for the establishment.

4.0 THE APPROVED CONDITIONAL USES AND THE OVERALL PROPERTY SHALL BE OPERATED IN ACCORDANCE WITH THE FOLLOWING:

- 4.1 THE APPLICANT SHALL COMPLY WITH ALL OPERATIONAL REQUIREMENTS OF THE POLICE DEPARTMENT (SEE APPLICABLE ATTACHMENT).
- 4.2 All business activities or uses on the property shall conform to the permitted uses of the underlying "PCD/M-1" zoning district.

- 4.3 All activities occurring on the property shall be conducted in a manner that does not disturb adjacent businesses and residences, relative to excessive noise and vibrations, and that conforms to the provisions of Sections 9.40 (Noise) and 9.42 (Environmental Disturbances) of the Covina Municipal Code.
- 4.4 ***(MODIFIED FOR 6-11-13 MEETING)*** The serving of beer ~~shall be~~ for on-site consumption ~~only and~~ is limited to the inside of the building within the seating area open to the public as noted on the approved plans. The applicant shall continually comply with all requirements of the State Department of Alcoholic Beverage Control in providing this service.
- 4.5 ***(MODIFIED FOR 6-11-13 MEETING)*** *The on-site* serving of alcohol shall be limited to 16 ounce containers *and shall not be served by the pitcher, bucket, yard, or similar high-capacity container.* No “happy hour” *or similar type promotions* shall occur or be advertised *where alcoholic beverages are offered at significantly reduced prices that are meant to encourage greater consumption of alcohol.* All beer to be sold for off-site consumption shall be unopened and provided in a ~~bag, basket~~ *sealed container* or ~~other~~ similar carrying case.
- 4.6 ***(MODIFIED FOR 6-11-13 MEETING)*** The following activities shall be strictly prohibited: *a) Gatherings and drinking outside of the building; b) exterior speakers; c) live any entertainment (including any televisions, although recorded music would be acceptable); d) pool tables or any other games; e) loitering on this property, or on any neighboring property, or in any adjacent public right of way; and f) any conduct that results in disturbance to the neighborhood.*
- 4.7 ***(ADDED FOR 6-11-13 MEETING)*** *The applicant shall post a prominent, permanent sign in the beer tasting area stating that “no person under the age of 21 will be served alcoholic beverages” and that “a valid identification is required to purchase alcoholic beverages.”*
- 4.8 ***(ADDED FOR 6-11-13 MEETING)*** *Anyone under the age of 21 entering the premises must be accompanied by a parent or legal guardian.*
- 4.9 ***(ADDED FOR 6-11-13 MEETING)*** *Each employee or other person serving beer to customers on the premises shall have completed training under the Responsible Beverage Service Training Provider Program, the Licensee Education on Alcohol and Drugs Program, or an equivalent program, which is offered by the State Department of Alcoholic Beverage Control (ABC).*
- 4.10 ***(ADDED FOR 6-11-13 MEETING)*** *No food trucks will be permitted to serve employees or customers associated with any component of the overall business. In addition, no food trucks will be permitted to park on the appurtenant site or directly in front of the site.*

- 4.11 Beer-tasting shall be limited to the hours of operation from 4pm-9pm on weekdays and 1pm-9pm on weekends.
- 4.12 The maximum number of employees and customers that may be in the establishment at any one time shall conform to the occupancy limit(s) of the Los Angeles County Fire Department.
- 4.13 No valet parking of any type is permitted in conjunction with the operations of any section of the establishment unless the applicant obtains from the City all required Valet Parking Permits (under the provisions of the Covina Valet Parking Rules and Regulations). If the required Valet Parking Permits are obtained, the applicant shall further abide by all applicable requirements of the City concerning valet parking.
- 4.14 The area immediately in front of the loading dock shall be used both for loading and unloading purposes and as a single standard parking space, which counts towards the required twenty (20) parking spaces for the site. This parking space shall be used only by employees or other persons associated with the business or operations of the property. All persons eligible to park in this space shall reconcile and properly manage the dual function of this area with respect to activities occurring on the property. In addition, the loading and unloading activities shall be conducted in a manner that would not interfere with the operations or any other on-site businesses or surrounding properties or their enjoyment thereof.
- 4.15 If, in the opinion of the Chief of Police or his designee, there is or may be a need to change or modify the Conditions of this Conditional Use Permit, the Chief of Police or his designee may initiate a public hearing before the Planning Commission. After due notice, which affords the applicant an opportunity to be heard, the Planning Commission may, but is not obligated to, change or modify the Conditions stated herein.
- 4.16 Any subsequent change(s) in the uses or improvements on the property or operational activities (including, but not limited to, the size or layout of the interior of the building; the building architecture and/or features; and/or the type and/or intensity of the permitted uses) beyond what is permitted under this CUP application shall not proceed without further City review and approval to ensure compliance with the applicable codes and requirements and, if necessary, the mitigation of any identified impacts (such as design, noise, traffic, and parking). A new zoning application(s) and possibly an impact-related study(ies) may be required for such future change(s) or improvements.
- 4.17 All outdoor storage is prohibited.

- 4.18** The site, building, signage, and any landscape improvements shall be maintained in a sound and attractive condition, free of weeds, trash or debris, visible deterioration, graffiti, or other conditions that violate the Covina Municipal Code. The City may require that the applicant/property owner pay the actual and reasonable cost for code compliance services needed to address any problem conditions.

- END OF CONDITIONS -

**POLICE DEPARTMENT REQUIREMENTS FOR APPLICATION CUP 13-004-
ALOSTA BREWERY AT 692 ARROW GRAND CIRCLE (FOR PLANNING
COMMISSION MEETING ON MAY 28, 2013)**

For Current Proposal

1. No alcoholic beverages or their containers, such as bottles and glasses will be present other than stored behind the bar or in the trash receptacles.
2. Only on-duty employees will be allowed inside the business during non-operating hours.
3. All customers shall enter the establishment through the main identified entrance/exit at the tasting room.
4. The owners or operators will be responsible for ensuring they are in compliance with the restrictions, provisions and guidelines of their license from the State of California Alcoholic Beverage Control Board.
5. The owners, operators, management staff and employees shall allow inspection of the premises by members of the Covina Police Department at any time when there are employees present inside the location.
6. The owners, operators or managers of the location shall not conduct any type of valet parking unless they have received prior approval pursuant to City of Covina Municipal Code 10.64.040.
7. The owners, operators or managers will, subject to approval of the Police Department, ensure that the location has, upon opening for business, a video security system that includes digital cameras and a quality recording system that covers all major interior and exterior areas of concern to the police department.
8. The owners, operators or managers shall cooperate with all police investigations regarding crimes that occur at the location or are as a result of conduct while at the location. This cooperation includes, but is not limited to, allowing access to view video images and providing recordings of video images of any activity deemed important by any officer of the department investigating a crime that is alleged to have occurred on the premises or as a result of conduct occurring at the premises.
9. The owners, operators or managers shall, subject to approval of the Police Department, develop a plan to monitor the area surrounding the location for trash and other discarded items that impact public health and the cleanliness of the parking lots, sidewalk and the property of adjacent business owners.
10. The owners, operators or managers shall, subject to approval of the Police Department, develop a plan to monitor the adjacent parking areas for activity that is detrimental to public safety or public health.
11. The owners, operators or managers shall, subject to approval of the Police Department, develop a plan to ensure the front, northern side, and back of the location are adequately and safely illuminated during hours of darkness.
12. The owners, operators or managers shall ensure that all occupancy levels mandated by the Los Angeles County Fire Department and the Covina Building Division are strictly enforced and adhered to. At any time, the Police Department Watch Commander can cease all operations of the business to determine if the occupancy level is over the allowed number of occupants. The Watch Commander, in addition to a representative

the Los Angeles County Fire Department, will also have the authority to close the business if he feels the occupancy levels are jeopardizing public safety.

13. The owners, operators, managers and all employees shall adhere to and obey all State laws and City ordinances relating to the service, consumption and possession of alcoholic beverages. Any violations of the State laws or City ordinances will be presented to the District Attorney's office for prosecution and will be grounds for revocation or modification of this permit.
14. The Covina Police Department reserves the right to modify the hours of operation, cease any type of entertainment or close the business altogether at any time should, in the opinion of the on-duty Watch Commander or his designee, the operation of the business impact normal police operations to the extent that public safety has been jeopardized.
- 15. Although this CUP is not considered a bar, it is close enough where the police department wants to ensure the applicant is aware of conditions imposed on other similar business should they wish to seek a "use" modification in the future.**

For Future (Should Use Be Modified)

16. The owner or operator shall contract with a security company for security personnel or hire security personnel as employees.
17. If the owner or operator chooses to hire a security company, the security company must be licensed to operate in both the State of California and the City of Covina. Additionally, all employees who are assigned to work at the premises must be licensed by the State of California as security guards and be in good standing throughout their time of employment.
18. In the event the owner(s), operator or manager provide their own security personnel, all personnel must be employed **only** as security personnel and not have other responsibilities while acting in that capacity. Additionally, all employees acting as security personnel must be licensed and in good standing with the State of California through their time of employment.
19. The establishment will have no less than two personnel assigned for security purposes, with valid guard cards issued by the State of California, on-duty at all times when no live entertainment is present.
20. The Police Department may, after meeting with the owners or managers of the establishment, increase the number of required security personnel for planned events or incidents where the police department determines that the number of on-duty security personnel is deficient.
21. At no time will any security personnel, whether employed by a private company or licensed by the City or employed by the restaurant, be armed with any type of firearm.

CITY OF COVINA
INTEROFFICE MEMORANDUM

DATE: APRIL 8, 2013

TO: Detective Bureau, Covina Police Department
Lisa Brancheau, Assistant to the City Manager
James Barnes, Inspector, Fire Department
Flent McClain, Deputy Building Official
Public Works Department:
Engineering Division
Environmental Division
Water Division

FROM: Planning Division

SUBJECT: PCD 79-001 MODIFICATION #1 AND CUP 13-004

APPLICANT: ALOSTA BREWING CO. (BYRON FISHER)

REQUEST: MODIFICATION TO INDUSTRIAL-FOCUSED "PCD" OVERLAY ZONE TO PERMIT BREWERY WITH ON-SITE TASTING

ADDRESS: 692 ARROW GRAND CIRCLE

It is requested that all comments and requirements for the above project be submitted to the Planning Division no later than the date listed below. If responses can be made sooner, it would be greatly appreciated.

DUE NO LATER THAN: APRIL 25, 2013

COMMENTS: See attached for comments

Name _____ Date _____



CITY OF COVINA

INTER-OFFICE MEMORANDUM

To: Planning Division

From: Vijay Mepani, General Building Inspector I

After you have successfully completed the Planning Division's plan review process your plans should be ready for submitting to the Building Section for review of State and local Building Code requirements. These are general comments intended to prepare the applicant for a successful and expeditious plan review through the Building Section. Please be prepared to address the following checked items:

- Please submit 2 sets of complete plans including any proposed utilities and earthwork; two sets shall be "stamped approved" by the Covina Planning Division and include the Building Section's comments for consultant review. This project must comply with the 2010 California Building Standards and 2008 energy code.
- Two sets each of any structural and energy calculations shall be submitted with the above mentioned plans. All calculations must bear an original signature from the documented author.
- This project must comply with Federal and State Accessibility requirements to and throughout the building. Include compliance methods and structural details on the plans.
- Demolition and renovations activities require an asbestos containing materials (ACM) survey. (SCAQMD RULE 1403) The ACM report shall be prepared by an accredited testing laboratory in accordance with SCAQMD rules and regulations. Proof of notification to the South Coast Air Quality Management District (SCAQMD), Office of Operations, shall be submitted to the Building Division with your permit application for all renovations and demolition activities. Contact the SCAQMD at the address or number below for more information. Once any demolition activity has been approved by the SCAQMD, a formal demolition plan and permit must be obtained from the Building Division.
SCAQMD Headquarters; 21865 Copley Drive, Diamond Bar, CA, (909) 396-2381
- The Los Angeles County Fire Department needs to review your construction plans, to expedite this process you will need to contact one or more of their Regional plan check office(s): Appointments to discuss Fire Department requirements may be made between 7:30 a.m. and 10:30 a.m. The main office is located at 5823 Rickenbacker Road, Commerce, CA 90040-3027. Phone number is (323) 890-4125.

Regional plan check offices for the Los Angeles County Fire Department:

Glendora Office, Building Plan Review Only
231 W. Mountain View Avenue
Glendora, CA 91740
(626) 963-0067

Commerce Office, Sprinkler & Alarm Plan Review
5823 Rickenbacker Road
Commerce, CA 90040-3027
(323) 890-4125

Commerce Office, Land Development / Access
5823 Rickenbacker Road
Commerce, CA 90040-3027
(323) 890-4243

✓ Los Angeles County Environmental Health (LACEH) plan approval for "food establishments" is required before permit issuance. Contact the Los Angeles County Environmental Health at 626-430-5560 for more information on submittal and the plan check process. The Health Department must approve the location of a grease interceptor.

✓ Please provide an additional digital copy (pdf preferred) of the building floor plan, elevations, and site plan to be submitted to the LA County Assessor. This copy should be in sufficient detail to allow the assessor to determine the square footage of the building and, in the case of residential buildings, the intended use of each room.

-For additional information, please contact the LA County Assessor's, Public Service Desk at 888-807-2111.

|| The City of Covina has formally adopted a public noticing program for residential construction projects to provide the public with an opportunity to verify the validity of construction within their neighborhoods. This program requires the property owner and/or contractor to place a sign 14" high x 22" wide using a minimum black 24 point font (Arial) on a white background. The noticing sign must be suitable for outdoor use and placed within the front yard where it is clearly visible from the public right-of-way. The following items must be included on the residential noticing sign:

- A) Address of construction project
- B) Type of construction project
- C) Name of contractor/owner
- D) Telephone number of contact person
- E) Contractor's license number
- F) Permit number with date of issuance
- G) City of Covina Building Division telephone number
- H) Construction activity prohibited Monday through Saturday from 8pm-7am and all day on Sundays or Holidays unless otherwise permitted.

✓ A valid City wastewater permit and properly sized interceptor will be required at permit application unless otherwise approved.

|| School District application and approval including any related fees must be provided before permit issuance.

✓ Construction activity within 500' of a residential zone is prohibited between the hours of 8:00pm and 7:00am and on Sundays and Holidays unless otherwise permitted by the City.

✓ The Building Section plan check process may address additional concerns.

Received Public Works

APR 09 2013

File # M-4

CITY OF COVINA

INTEROFFICE MEMORANDUM

DATE: APRIL 8, 2013

TO: Detective Bureau, Covina Police Department
 Lisa Brancheau, Assistant to the City Manager
 James Barnes, Inspector, Fire Department
 Flent McClain, Deputy Building Official
 Public Works Department:
 Engineering Division
 Environmental Division
 Water Division

FROM: Planning Division

SUBJECT: PCD 79-001 MODIFICATION #1 AND CUP 13-004

APPLICANT: ALOSTA BREWING CO. (BYRON FISHER)

REQUEST: MODIFICATION TO INDUSTRIAL-FOCUSED "PCD" OVERLAY ZONE TO PERMIT BREWERY WITH ON-SITE TASTING

ADDRESS: 692 ARROW GRAND CIRCLE

It is requested that all comments and requirements for the above project be submitted to the Planning Division no later than the date listed below. If responses can be made sooner, it would be greatly appreciated.

DUE NO LATER THAN: APRIL 25, 2013

COMMENTS:

V. Castro
Name

4/9/13
Date

EX-058-22
301-701
\$40-
\$40-

None. Please see attached. See 85 - open items from 12-11-11 submitted

**ENVIRONMENTAL SERVICES SECTION
PLAN REVIEW COMMENTS**

Project Address: 692 Arrow Grand Circle Project #: PCD79001 CUP13004

Date Due: Rec'd 4/9/13 Date Returned: 4/9/13 Reviewed By: Vivian Castro

Description: mod to industrial-focused PCD overlay zone to permit brewery onsite tasting

After initial review of your project, it has been determined that that your project requires submission of the following items and estimated fees.

Required Documents

Three (3) reports of each of the items noted below, including plans, must be submitted to Environmental Services. All signatures and stamps must have wet-ink application.

- Storm Water Pollution Prevention Plan (SWPPP - The project area is 1 acre or greater. A SWPPP must be provided for this project as required by the State Water Resources Control Board.
- Standard Urban Stormwater Mitigation Measure (SUSMP) - The project meets the Los Angeles Regional Water Quality Control Board's criteria for a Priority Planning Project. A SUSMP must be provided for this project.
- Site-Specific SUSMP - The project falls into a category specified by the Los Angeles Regional Water Quality Control Board as requiring a Site-Specific Mitigation Review.

Required Forms

All signatures and stamps must have wet-ink application.

- Form OC1 (must also attach copy onto field plans)
- Form PC
- Form LSWPPP (Local Stormwater Pollution Prevention Plan) IF PROJECT AREA IS 1 ACRE OR GREATER
- Construction and Demolition Debris Recycling will be required for this project. Please see forms and instructions.
- Form P1
- Form P2
- Maintenance Covenant. See template and instructions.

Estimated Plan Review Costs – Total Estimated Environmental Review Fees \$ 40.00

- Initial Plan Review by Environmental Services - \$40, now due.
- Review of subsequent submissions to Environmental Services - \$40 (per subsequent submission).
- SWPPP - \$600, plus fees for additional review or consultation with City stormwater consultant, if requested. IF 1 ACRE OR MORE
- SUSMP - New development or redevelopment projects that meet redevelopment thresholds in the following project categories. Base cost, plus fees for additional review or consultation with City stormwater consultant, if requested.
 - o Single-family hillside home - \$300
 - o Ten or more unit homes - \$1,200. May be more if SUSMP requires multiple reviews by Stormwater Consultant.
 - o Industrial/Commercial development with 100,000 or more square feet of impervious surface area- \$1,200
 - o Automotive service facility- \$1,200
 - o Retail gasoline outlet - \$1,200
 - o Restaurant - \$1,200
 - o Parking lot (5,000 square feet or more surface area or 25 or more parking spaces) - \$1,200
 - o Other development - \$600
- Construction site stormwater compliance inspection and reinspection fees of \$75 - \$125 per inspection may apply. (Estimated 10 inspections).
- Site Specific Mitigation Review - \$600 for projects with any of the following characteristics:
 - o Vehicle or equipment fueling areas
 - o Vehicle or equipment maintenance areas, including washing and repair
 - o Commercial or industrial waste handling or storage
 - o Outdoor handling or storage of hazardous materials
 - o Outdoor manufacturing areas
 - o Outdoor food handling or processing
 - o Outdoor animal care, confinement, or slaughter
 - o Outdoor horticultural activities

Additional Comments

Industrial Waste Permit may be required. Please check with Building Section.

Other _____

You are hereby advised that only Athens Services/Covina Disposal (888-336-6100), the City's exclusive franchise trash hauler, is allowed to provide bins and pick up and dispose of trash and recyclables, including all construction and demolition projects. The ONLY exception is that the project contractor, using his own equipment and staff, can take recyclables to a recycling facility.

ENVIRONMENTAL SERVICES FEES

LOCATION: 692 Arrow Grand Circle

Project# PCD79001 CUP13004

NPDES	Actual cost	Account Number	Agency Code	
Hazardous Material/Illicit Discharge Response - Cleanup and Disposal Fee	Actual cost	6200555043160	ESSITE	
Hazardous Material/Illicit Discharge Response - Material Fee	Actual cost	6200555043160	ESSITE	
Hazardous Material/Illicit Discharge Response (per hour) 7:00am-6:00pm Monday - Thursday	\$ 75.00	6200555043160	ESSITE	
Hazardous Material/Illicit Discharge Response (per hour) 6:00pm-7:00am; Friday; Saturday; Sunday & Holidays	\$ 125.00	6200555043160	ESSITE	
NPDES Construction Site Inspection	\$ 75.00	6200555043262	ESMITA	
NPDES Construction Site Inspection - Violation follow-up (per incident)	\$ 125.00	6200555043262	ESMITA	
NPDES Site Specific Mitigation Review	\$ 600.00	6200555043262	ESMITA	
NPDES SUSMP and Site Specific Mitigation Review - 10 or more units, >1acre commercial/industrial including automotive shops or restaurants, >2 acres of parking lot	\$ 1,200.00	6200555043262	ESMITA	
NPDES SUSMP Review - Hillside Residential	\$ 300.00	6200555043262	ESMITA	
NPDES SUSMP Review - Other Development	\$ 600.00	6200555043262	ESMITA	
Environmental Impact Report - Initial Study (per application)	\$ 610.00	6200555043290	ESEIR	
Environmental Impact Report - Review and Admin of EIR	\$ 610.00	6200555043290	ESEIR	
NPDES WDID and SWPPP verification (document review)	\$ 25.00	6200555043290	ESEIR	
Environmental Plan Review - Initial Study (3 reviews)	\$ 40.00	6200555043400	ESPLAN	X
Environmental Plan Review - Additional Study (per review)	\$ 40.00	6200555043400	ESPLAN	
NPDES Permit Inspection - Commercial/Industrial (business License - annual)	\$ 85.00	6200555046385	ESNPDE	
NPDES Permit Inspection - Restaurants (business License annual)	\$ 50.00	6200555046385	ESNPDE	
NPDES - Environmental Compliance Fee (charged to all businesses with business license application)	\$ 15.00	6200555046387	ESENVF	
INDUSTRIAL WASTE				
Industrial Waste - Permit Application/Issuance Fee	\$ 15.00	6200557041190	ESIWAP	
Industrial Waste - Permit, Annual Inspection Fee	See IW Fee Sheet	6200557041990	ESIWP	
MISCELLANEOUS				
Promotion Supplies	Enter Amt.	6200555046390	ESPRMO	
REFUSE				
Refuse - large event and venue waste reduction & recycling plan review	\$ 50.00	6200558046390	ESLARG	
Illegal Recycling Container Impound Fee	\$ 500.00	6200558046395	ESIMP	

ES Staff Vivian Castro

Date 4/9/13

Revised 11-30-11

Take this invoice to the Covina Finance Department to make your payment. You will be provided a receipt that must be shown at the Building and Engineering counters as proof of payment prior to any permit being issued.



CITY OF COVINA

PLANNING COMMISSION AGENDA REPORT ITEM NUMBER PH 2 MARCH 24, 2015

TO: Chairman and Members of the Planning Commission

FROM: Alan Carter, City Planner

SUBJECT: Application Conditional Use Permit (CUP) 13-004 (Amendment #1), a request to modify the conditions of approval by allowing a) outdoor seating plus beer tasting within the front yard area, b) extension of operating hours, c) television-related entertainment, and d) one food truck for food service in conjunction with a micro-brewery, located at 692 Arrow Grand Circle (Arrow Grand Business Park).

SITE AND PROJECT DESCRIPTION

A. Project Information:

Request: To allow a modification in an existing micro-brewery by allowing a) outdoor seating plus beer tasting within the front yard area, b) extension of operating hours, c) television-related entertainment, and d) one food truck for food service

Applicant: Alostia Brewing Co.

Property Owner: Alberto J. Vazquez

Location: 692 Arrow Grand Circle

Assessor Parcel

Map Number: 8405-003-029

B. Site and Surrounding Land Uses-Table 1:

	General Plan	Zoning	Existing Uses
Site	General Industrial	M-1 (PCD)/Light Manufacturing with Planned Community Development overlay zone	Two-tenant industrial-type building
North	General Industrial	M-1 (PCD)/Light Manufacturing with Planned Community Development overlay zone	Industrial-type building
South	General Industrial	M-1 (PCD)/Light	Industrial-type

		Manufacturing with Planned Community Development overlay zone	building
East	General Industrial	M-1 (PCD)/Light Manufacturing with Planned Community Development overlay zone	Industrial-type building
West	Medium Density Residential	RD-4000 (PCD)	Condominium Complex

- C. **Site Characteristics:** The subject site is developed with a two-tenant industrial building consisting of the Alostia micro-brewery and a rearward industrial use. The site is within the Arrow-Grand Industrial Park. The site fronts onto Arrow Grand Circle, a local, fully improved street with curbs and gutters but no sidewalks, and Arrow Grand Circle links to the northerly Arrow Highway, a fully improved, major east-west running road, at two locations. The site and its surrounding areas are depicted on the project plans.
- D. **Development Standards and Project Data:** Table 2 below illustrates the proposed project’s compliance with the development standards under Ordinance Nos. 79-1403 and 13-2023, which established the “PCD (M-1)” zoning for the property.

	Development Standards	Code Requirement	Proposal
1.	Lot Size	N/A	0.41 acre
2.	Total Building Size	N/A	7,924 square feet
	Alostia Brewery Area (frontward tenant space)	N/A	4,016 square feet
	Proposed Brewery Frontward Patio Area—With Related Garden	N/A	1,300 square feet (approximately)
3.	Industrial Area (rearward tenant	N/A	3,908 square feet

	space)		
4.	Setbacks (new Brewery frontward patio)		
	Front Yard	None	None
	Side Yard	None	Varies
	Rear Yard	None	N/A
	Landscaping	Assortment of trees, shrubs, and turf in front yard area	3 (non-protected under Zoning) trees, several shrubs, and turf to be removed)
5.	Off-Street Parking (total building and under project proposal)	20 spaces	20 spaces

ANALYSIS

A. Background: In 2013 Alostá Brewery indicated that they would like to locate in Covina within the Arrow Grand Industrial Park, which is zoned M-1 Light Industrial with a Planned Community Development Overlay Zone (PCD79-01). Because the proposed use is not addressed in the Overlay Zone, it triggered the need for an amendment. Alostá Brewery submitted the required applications which were reviewed by the Planning Commission in June 2013. The Planning Commission recommended approval of the PCD modification (by a 4-1 vote) and granted a Conditional Use Permit (CUP) 13-004 (see Exhibit 3 and by the same 4-1 vote) allowing Alostá Brewery to offer on-site beer tasting with a micro-brewery at 692 Arrow Grand Circle. To ensure business harmony with the surrounding uses and businesses, the Commission imposed special operational conditions of approval that prohibited Alostá Brewery from, having food trucks, outdoor seating, and most forms of entertainment, including televisions; and established a 1000-foot distance separation from the same type of use. The business opened in late 2013.

As a result of a request by Alostá Brewery and a local business offering on-site wine tasting (Azo Vino at 144 W. Badillo Street), in December 2014, the City Council approved (by a 5-0 vote) Urgency Ordinance No. 14-2034, which allowed, under the Administrative Conditional Use Permit process and subject to certain standard conditions, on-site food trucks associated with certain commercial businesses, including ones offering on the premises beer or wine tasting (see Exhibit 4). Last month, the Alostá Brewery business owner submitted an application to amend his CUP as follows:

- **Allowance of one food truck** (as permitted under the Urgency Ordinance noted above and under the completion of a separate Administrative Conditional Use Permit process);
- **Allowance of outdoor seating** (the applicant proposes to construct an outdoor patio in most of the current landscaped, front yard area);
- **Extension of business hours** (to 10:00 pm on Sundays through Thursdays and to 12:00 am on Fridays and Saturdays); and
- **Allowance of television(s)** (to, the business owner/applicant notes in his business plan, enable him to have televised entertainment, particularly sporting events and other special programming).

Section B below analyzes each of the requested changes. The applicant/business owner does not propose any additions to or interior-focused changes to the building or any alterations to the parking facility at this time.

In addition, the changes that are proposed under this application would not alter the business owner's current "Type 23" alcohol sales license with the State Department of Alcoholic Beverage Control (ABC). The Planning Commission will recall that this license category is intended for micro-breweries and similar establishments that are dedicated solely to the production of specialty beers (i.e., with the only beer that may be offered for sale (both for on-site and off-site consumption) being limited to beer manufactured on the premises and with any food sales on the premises being prohibited).

B. Proposed Amendments to the CUP:

1. **Allowance of one food truck.** As noted above, the applicant/business owner requests this modification to conform to a recently-approved Urgency Ordinance on the subject to commence food truck-related service for patrons. The Planning staff has no concerns with this element of the proposal as long as the business owner obtains the required Administrative Conditional Use Permit, which would address, among other things, the parking of the food truck on the property, conformance with the City's Noise Ordinance, and compliance with applicable County Health Department regulations. In accordance with the above-noted ABC-related restriction, the applicant would be prohibited from selling to customers directly from the premises any food-related items.
2. **Allowance of Outdoor Seating.** The business owner proposes to construct a roughly 1,300-square foot combination outside patio and related garden to further accommodate on-site customer tasting. This overall area, as depicted in the project plans, would be installed within the current front yard landscaped area, entirely within the limits of the eastern wall of the building, and is proposed to be enclosed at the perimeter by a 40-inch high hedge plus to be accessed from both the building and an abutting exterior walkway. With the exception of a few minor modifications, the

Planning staff does not have any issues with the outside seating component. The outside seating area would not violate the applicable Arrow-Grand Industrial Park setbacks, and, in accordance with staff policy pertaining to patio seating, would not warrant additional on-site parking. Furthermore, any additional traffic that would be generated on the surroundings from the patio is believed to be negligible. However, the staff recommends the following conditions to ensure the patio area meet the applicable standards :

- a) That there must be a 10-foot by 10-foot “line of site” area in what is now the southeastern corner of the patio (next to the abutting combination loading area and employee parking space);
- b) That there must be a 42-inch high wrought iron fence with attached solid sheet metal around the perimeter, painted an appropriate color and covered on the exterior with fast-growing ivy or shrubbery; and
- c) That the walkway-linked access point be limited to patrons leaving the business only (so that all persons coming to the business would need to enter the premises from the front door, adjacent to the interior tasting area).

3. **Extension of Business Hours.** The applicant would like to change his business hours in the manner noted below:

<u>Current (Allowed) Business Hours</u>	<u>Proposed Business Hours</u>
Weekdays: 4:00 pm – 9:00 pm	Sundays-Thursdays: 3:00 pm -10:00 pm
Weekends: 1:00 pm – 9:00 pm	Fridays: 3:00 pm-12:00 am
	Saturdays: 12:00 pm-12:00 am

The Planning staff was initially concerned with potential noise-related impacts of this change on the westerly residences. However, based on past practice, we believe that it would be reasonable to allow the change in business hours as long the provisions of the City’s Noise Ordinance are met and as long as conditions of approval would be included:

- a) That would require the applicant to have a private security service at certain times, as to be determined by the Police Department;
- b) That would prohibit any speakers on the outside of the building;
- c) That would require the business owner to install a sign in the patio area requesting that customers be sensitive to surrounding residents and businesses;
- d) That any (unspecified in the application request) “interior-focused special events” (such as private parties or private receptions) would be limited to two per month;
- e) That any “fundraising, promotional, or similar events” and any events occupying the parking area would require a standard Administrative Conditional Use Permit; and

f) That the staff would review overall business operations six months from the date the expanded business would commence operations,.

4. **Allowance of Television(s).** The Planning staff has no issues with Alosta Brewery having one or more televisions on the inside of the premises for entertainment as long as, as indicated above, no speakers are placed on the outside of the building, notably at the patio area. In addition, under the conditions of approval, the television(s) will need to be located and oriented for interior viewing only. Based on the nature of the overall use (i.e., an establishment that is not a restaurant), any form of live entertainment will continue to be prohibited.

C. Findings for Conditional Use Permit:

1. That the site for the use is adequate in size and shape to accommodate the proposed use.

Findings of Fact: The site is about 0.41 acres (17,880 square feet) in size. The proposed development-related component of the project proposal consists of the installation of a frontward roughly 1,300-square-foot patio area. The patio, with minor alterations, would meet all applicable zoning and design provisions. In addition, the occasional parking of a food truck in the parking area would be regulated for adequacy under a subsequent Administrative Conditional Use Permit. Furthermore, when these additions to the property are considered with the current building, parking, and other improvements on the site and the proposed changes in business operations, the staff believes that Alosta Brewery would still function adequately on the site.

2. That the streets adjacent to the use are adequate to handle the traffic generated.

Findings of Fact: The Planning staff believes that although the overall changes to the business under the amended CUP application could increase at certain times the number of patrons on the premises, this increase would have a negligible impact on surrounding traffic conditions. In other words, the existing surrounding streets are all fully improved roads that could handle the additional, relatively minor traffic.

3. That the use will have no adverse effect on abutting properties.

Findings of Fact: The property is surrounded on the northern, eastern, and southern sides by other industrial uses within the Arrow-Grand Industrial Park. West of the project site is a condominium complex and the closest residential buildings is located just over 50 feet from the joint condominium/Arrow-Grand property line. The staff believes that the existing location and orientation of the physical improvements on

and surrounding the subject site would prevent the potential for nuisance issues. The patio area would be located totally within the eastern side of the building, thus, minimizing the potential of noise spilling into the westerly residential area. In addition, the “1000-foot” distance separation under the PCD pertaining to any other beer tasting-associated uses in Arrow-Grand would ensure that a similar type of activity (with or without outside seating) could not locate close to Alosta Brewery. Furthermore, it is believed that the conditions of approval of this CUP, the subsequent conditions of approval of the food truck-related Administrative Conditional Use Permit, and the minor required changes to the frontward patio would provide the City with adequate safeguards for preventing any problems with the modified use.

4. That the proposed use does not affect the public health, safety and general welfare of the community.

Findings of Fact: During the course of application review, no concerns regarding the public health, safety, and general welfare were identified. In addition and as noted above, the staff believes that the proposed conditions of approval of the CUP and those of required administrative applications will provide the City with sufficient leverage for avoiding any business-related nuisance issues. Also, the Planning staff has not received any complaints concerning Alosta Brewery from any neighbors since the business opened (but has received a letter of support from one adjacent business (see Exhibit 5). Moreover, with the proposed conditions of approval, notably those of the Police Department, Police does not oppose this application. And according to Police, during the past year, there were no serious calls for service from the Alosta Brewery (only two false alarm calls).

PUBLIC HEARING NOTICE AND NOTIFICATION

The applicant was given a copy of the staff report with associated attachments. Also, all property owners and occupants within a radius of at least 300 feet from the project site were mailed notices of the Planning commission public hearing on March 12, 2015, a minimum of ten (10) days before the hearing as required by law. In addition, the public hearing notice was published in the San Gabriel Examiner newspaper on March 19, 2015.

ENVIRONMENTAL DETERMINATION

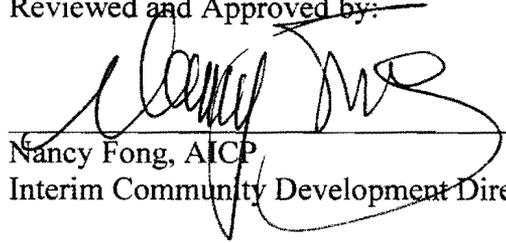
Pursuant to the provisions of the California Environmental Quality Act (CEQA) Guidelines, Section 15303, Class 3(c), a building or similar improvement not exceeding 2,500 square feet in floor area is exempt. The project consists of the construction of an approximately 1,300-square-foot patio area associated with an existing micro-brewery on about 0.41 acre of land, a type of

infill development. Staff further finds that there is no substantial evidence that the project will have a significant effect on the environment.

RECOMMENDATION

Staff recommends the approval of Conditional Use Permit CUP 13-004 (Amendment #1) through the adoption of Resolution No 15-006 PC.

Reviewed and Approved by:



Nancy Fong, AICP
Interim Community Development Director

EXHIBITS

1. Applicant Business Plan
2. Current Arrow-Grand Industrial Park PCD-related regulations (PCDs 13-2023 & 79-001)
3. Current Alostia Brewery Conditions of Approval (under application CUP 13-004)
4. Current Food Truck-Related Ordinance (No. 14-2034) and Food Truck Requirements
5. Letter of Support of CUP application from adjacent business
6. 300-foot Radius Map and Notifications
7. Area Map
8. Project Plans (reductions), full size under separate cover
9. Resolution 2015-006 PC with Conditions of Approval



February 2, 2015

City of Covina
Department of Planning and Redevelopment
125 E. College St.
Covina, CA 91723

To whom it may concern:

Two years ago we presented our proposal for Covina's first craft brewery. In that time we have enjoyed great success, and overwhelming support from the local community. We have also in that time managed to win the trust and support of neighbors who were initially opposed to our operations. In spring of 2015, we will be releasing our first line of packaged beers in 16 oz. cans. These cans will be available in various stores throughout the region, and will have "Covina, CA" proudly and prominently displayed on the label. We are anticipating that these cans will increase our exposure in the market, driving more people to Covina to sample our other beers, only available at the brewery.

During the first 1 ½ years of our operations, we have come to realize that in order to remain relevant, and successful in the very competitive LA Craft Beer market, there are a few things that such breweries have in common, and for Alostia to remain competitive, there are a few things we are seeking to amend in our current conditional use permit.

We are seeking to amend our current conditional use permit to allow for the following uses, which are currently not allowed under our current permit.

1. Allowance of food trucks - Originally when we were told food trucks would not be permitted, it didn't seem too big of a deal for us. However, after several months we realized just how much this put us at a competitive disadvantage in the Los Angeles craft brewery scene. Through research and meeting with other breweries, it's apparent that breweries that host food trucks have shown an increase in not only sales, but popularity in the craft beer market. Many food trucks have paired their food offerings with the beer(s) offered at whatever

brewery they are serving at. Many “foodies”, and “beer geeks” plan their outings based on what food truck will be at what brewery.

2. Outdoor Seating – As the warmer months loom on the horizon, and due to overwhelming requests, we would like to add outdoor seating for our patrons. A visit to other local breweries during warmer months shows the popularity of outdoor seating. This outdoor seating will be located in the front area of the property in a proposed garden area (see drawing). This garden area will accomplish a few things. 1. It will give our patrons an area to sit outdoors and enjoy the weather. 2. It will cut down on the water usage, as we will remove part of the grass area, and replace it with drought resistant materials. 3. It will give us an area to grow some of the ingredients we use in our beers such as, hops, blue sage, and others. The best part of the garden is that it will improve the overall landscape of the frontage of the property. We have spoken to the department of alcoholic beverage control, and were advised that as long as the bushes enclosing the garden are 40” in height, it would be approved by them.

3. Extended Operating Hours - As we continue to grow and make our mark in Los Angeles’ craft beer market, we are gaining a greater following from regions far and wide. One of the problems we’re trying to address is having our tasting room hours extended to allow time for those who travel from the West Los Angeles, and San Diego regions to enjoy our beers. Often we find customers arriving between 8:30 – 9:00pm after a long drive, only to be told they have just a few minutes to sample our beers and learn about Alost. As you can imagine, this is quite disappointing for them, and we’ve learned that many of them have left upset, or worse yet, have fled to one of our local competitors in Claremont and La Verne, who are open until 10:00pm, sometimes midnight. We’re seeking the ability to remain open during the following hours:

Sunday – Thursday: 3-10pm
Friday: 3pm – 10pm
Saturday: 12pm – 12am

That being said, it is not our intention to remain open on Friday and Saturday until midnight on a regular basis. Our intended ours on those nights would be until 10pm, however, we realize there will be certain special events that we do, where we would like to have the ability to remain open until 12 am, without having to go through an administrative permit process.

4. Televised Sporting Events – One major disadvantage we have in relation to our local competitors is the inability to show televised sporting events. While regular season games are not generally televised at their locations, other local breweries have been allowed to show post-season/playoff games, as well as other various special sporting events. We are not seeking to become a “sports bar” by any means, but we would like the ability to be able to show special games. We can recall on several occasions during recent college football playoffs, we had less than 8 people in our tasting room, while through investigation, we found another local brewery had a capacity crowd enjoying the game along with family and friends, at “their” local brewery.

As we mentioned in our original permit application, we are operating very different than a “bar.” People do not travel far and wide to visit a bar, like they do a brewery tasting room. We believe that in the time we have been in operation, we have proven the success of our business model, and hope that Covina will support us in our future success.

We have big things planned in the near future. Expansion of our capacity is our primary goal, which will allow us the ability to reach markets further out beyond our current market, hiring of full time staff to handle distribution and marketing, along with adding additional staff to our existing tasting room.

Sincerely,

Byron Fisher
President
909-455-8707
Byron@alostabrewing.com



684 Arrow Grand Circle · Covina CA 91722 · Tele: 626-332-0761 · Fax: 626-332-0765 · Email: Info@ PacificTPU.com

February 2, 2015

To Whom It May Concern:

Re: Alosta Brewing Co.'s expansion of seating area and extension of service hours

We, as Pacific TPU, Inc., support Alosta Brewing Co.'s initiative to expand their seating area which will allow their patrons the option of an outdoor environment. The population they serve have caused no interruptions or any inconvenience to us and our business and therefore have no reservations.

Also, Pacific TPU, Inc. fully supports Alosta Brewing Co.'s intended extension of their service hours. The current hours which are used to serve and accommodate for their patrons as well as any extension of said hours have absolutely no bearing on the operation of our business and therefore have no objection.

For and on the behalf of

PACIFIC TPU INC.

Nelson Jimenez

Marketing Director

Authorized Signature

The McIntyre Companies

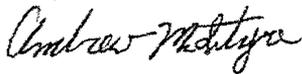
To whom this may concern;

I am Andrew McIntyre, the owner and manager of the property that fronts the Arrow Grand Business Park, 706-754 Arrow Hwy. I am completely in favor of allowing Alostia Brewing Co. to have an outdoor garden and seating area, the inclusion of food trucks, and allowing them to extend their hours to however long they deem appropriate for the success of their business. Furthermore I have no problems with allowing Alostia Brewing Co. to hold special/ championship style sporting events.

Alostia Brewing Co. has been an outstanding neighbor and welcome addition to the Park. I hope the City will do everything in its power to help them to succeed and be proud of starting their business in Covina.

If you have any further questions please feel free to contact me (626)332-2978.

Sincerely,



Andrew McIntyre
President
The McIntyre Company
370 E. Rowland St.
Covina, CA 91723
www.themcintyrecompany.com

Developers of Investment Properties
370 East Rowland Avenue, Covina, California 91723
(626) 332-2978 • FAX (626) 966-1274
www.TheMcIntyreCompanies.com

Alan Carter

From: byron@alostabrewing.com
Sent: Thursday, March 19, 2015 8:57 PM
To: Alan Carter; Nancy Fong; Lisa Brancheau
Subject: Fwd: Brewery

Sent from my iPhone

Begin forwarded message:

From: Jamie Caldwell <jamie@alostabrewing.com>
Date: March 19, 2015 at 8:54:38 PM PDT
To: byron@alostabrewing.com
Subject: Fwd: Brewery

Jamie Caldwell
Co-Founder
Director of Tasting Room Operations
Alosta Brewing Company
(626) 260-1664

----- Forwarded message -----
From: "Richard Young" <ryoung@pst1.com>
Date: Mar 19, 2015 11:15 AM
Subject: Brewery
To: "Jamie Caldwell" <jamie@alostabrewing.com>
Cc:

Hi Jamie,

We want to thank Alosta Brewery for being a good neighbor. We have noticed you have kept your commitment to holding your business to a high standard. We have not seen or heard of any problems, and we notice how clean you keep things.

I support your intention to add an out door patio and I do not see any potential problems with it.

Richard Young
Public Safety Technologies Inc. DBA: Communications Center



719 ARROW GRAND CIRCLE COVINA, CA 91722 [626-966-9999](tel:626-966-9999) www.PST1.com

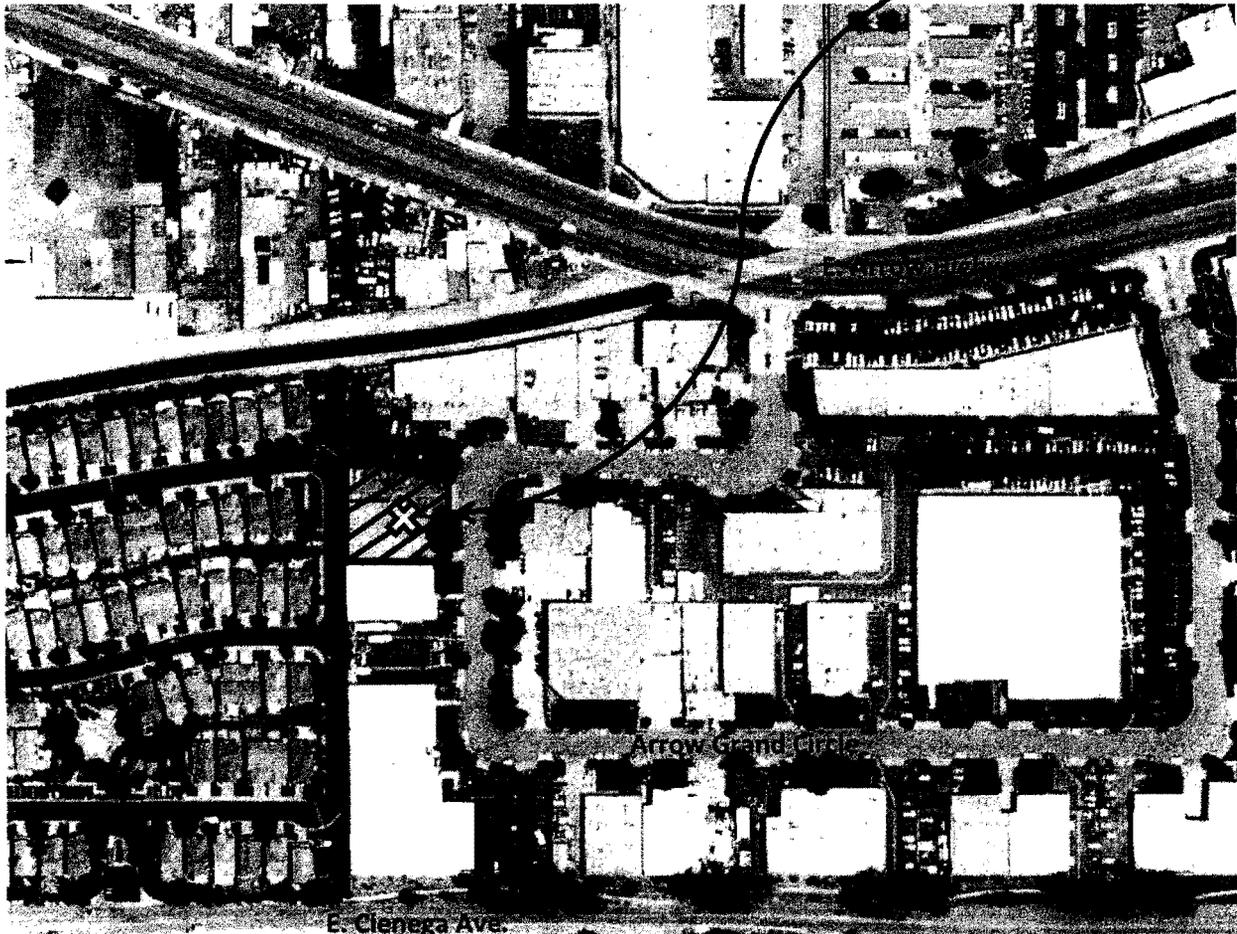
CITY OF COVINA

NOTICE OF PUBLIC HEARING

CUP 13-004 AMENDMENT #1

692 ARROW GRAND CIRCLE

Subject Site



ALOSTA BREWING

FIRE DEPARTMENT NOTES:

- BUILDING ADDRESS NUMBERS SHALL BE PROVIDED AND MAINTAINED SO AS TO BE PLAINLY VISIBLE AND LEGIBLE FROM THE STREET FRONTING THE PROPERTY. THE NUMBERS SHALL BE A MINIMUM 3" HIGH, 1" WIDE WITH A 3/8" STROKE. FOR BUILDINGS SET BACK MORE THAN 150 FEET FROM THE STREET, THE NUMBERS SHALL BE A MINIMUM 5" HIGH, 2" WIDE WITH A 1/2" STROKE.
- EXIT DOORS SHALL BE CAPABLE OF OPENING WITHOUT THE USE OF A KEY OR ANY SPECIAL KNOWLEDGE OR EFFORT.
- THE MEANS OF EGRESS TRAVEL SHALL BE ILLUMINATED AT ANY TIME THE BUILDING IS OCCUPIED WITH A LIGHT INTENSITY OF NOT LESS THAN 1 FOOT-CANDLE AT THE FLOOR LEVEL.
- PORTABLE FIRE EXTINGUISHER REQUIREMENTS SHALL BE DETERMINED BY FIRE DEPARTMENT FIELD INSPECTOR IN ACCORDANCE WITH FIRE CODE.

3. DUMPSTERS AND CONTAINERS WITH AN INDIVIDUAL CAPACITY OF 1.5 CUBIC YARDS (40.5 CU. FT.) OR MORE SHALL NOT BE STORED IN BUILDINGS OR PLACED WITHIN 5 FEET OF COMBUSTIBLE WALLS, OPENINGS OR COMBUSTIBLE ROOF EAVES, UNLESS AREAS CONTAINING DUMPSTERS OR CONTAINERS ARE PROTECTED BY AN APPROVED AUTOMATIC FIRE SPRINKLER SYSTEM.

6. FIRE DEPARTMENT VEHICULAR ACCESS ROADS MUST BE INSTALLED AND MAINTAINED IN A SERVICEABLE MANNER PRIOR TO AND DURING TIME OF CONSTRUCTION.

7. EACH DOOR IN A MEANS OF EGRESS FROM GROUP A, OR ASSEMBLY AREA NOT CLASSIFIED AS AN ASSEMBLY OCCUPANCY, HAVING AN OCCUPANT LOAD OF 50 OR MORE SHALL NOT BE PROVIDED WITH A LATCH OR LOCK UNLESS IT IS PANIC HARDWARE OR FIRE EXIT HARDWARE. BUILDING CODE 1006.1.9

5. EACH REQUIRED COMMERCIAL KITCHEN EXHAUST HOOD AND DUCT SYSTEM SHALL HAVE A TYPE I HOOD PROTECTED WITH AN APPROVED AUTOMATIC FIRE-EXTINGUISHING SYSTEM INSTALLED IN ACCORDANCE WITH BUILDING CODE 904.2.1 AND FIRE CODE 609

5. INTERIOR WALL AND CEILING FINISHES SHALL BE CLASSIFIED IN ACCORDANCE WITH BUILDING CODE 608 AND TABLE 608.5

10. CURTAINS, DRAPES AND OTHER DECORATIVE MATERIALS SUSPENDED FROM THE WALLS OR CEILING SHALL MEET THE PLANE SKEWED PROPAGATION PERFORMANCE CRITERIA OF NFPA 701 IN ACCORDANCE WITH SECTION 606.2 OR BE NONCOMBUSTIBLE. BUILDING CODE 606.1

CODES:

THE 2010 CALIFORNIA BUILDING, ELECTRICAL, MECHANICAL, PLUMBING CODES
2008 CALIFORNIA ENERGY CODE
2010 LA COUNTY FIRE CODE

DESCRIPTION:

3500 SF TENANT IMPROVEMENT
IN EXISTING STRUCTURE
CONSTRUCTION TYPE V B
OCCUPANCY A-3/B
NO FIRE SPRINKLERS

INDEX

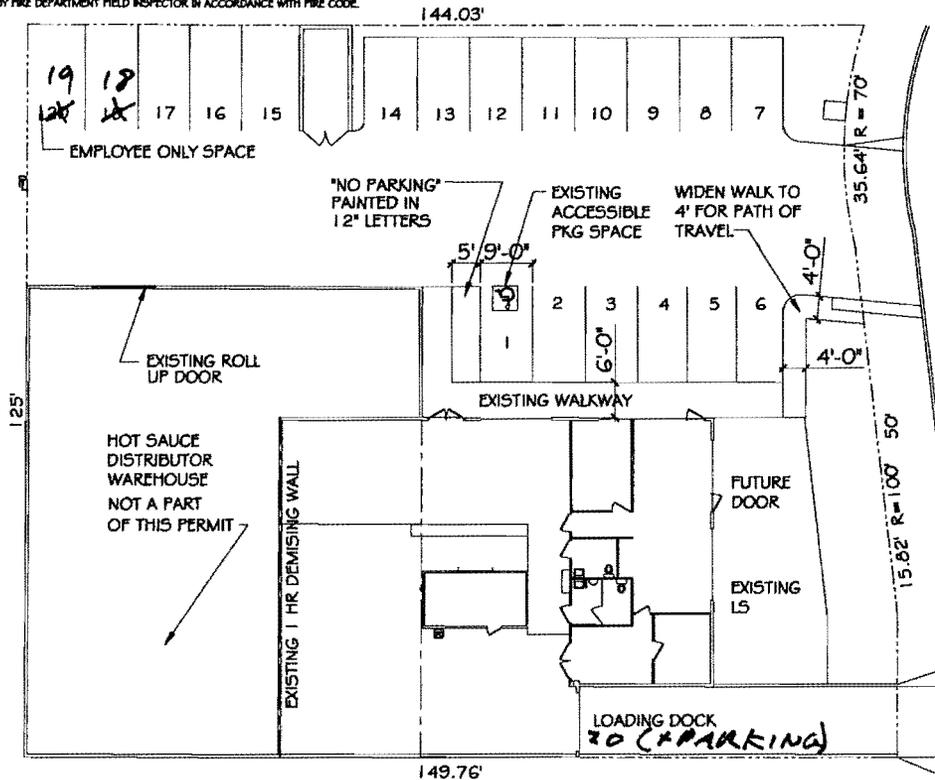
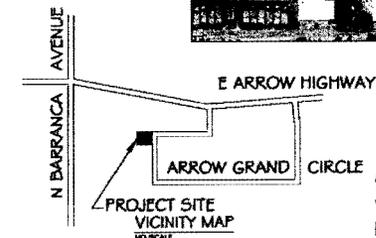
- A-1.0 COVER SHEET
- A-2.0 NOTES
- A-2.1 NOTES
- A-3.0 FLOOR PLAN
- E-1.0 ELECTRICAL PLAN
- P-1.0 WASTE PLAN



EAST ELEVATION



NORTH ELEVATION



SITE PLAN
SCALE: 1" = 10'-0"

IF THIS DRAWING IS TO BE USED BY ANY OTHER PARTY, THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.

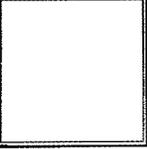
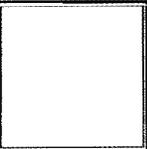
COPYRIGHT © 2012

COVER SHEET
SITE PLAN
1" = 20'-0"

MM
MM
MM
1-24-13

MDM ARCHITECTS
WE CREATE AND IMPROVE THE SPACES WHERE WE LIVE, WORK, AND PLAY
759 WEST LANCASTER BLVD., LANCASTER, CA 93534 (661) 940-3669

ALOSTA BREWING
692 ARROW GRAND CIRCLE
CORVINA, CA 91725
909-435-8707



131439
A-1.0

I hereby acknowledge and warrant that this is a true and correct copy of the original as submitted to the County of Santa Clara and the City of San Jose. I warrant that the information contained herein is true and correct to the best of my knowledge and belief. I warrant that the information contained herein is true and correct to the best of my knowledge and belief. I warrant that the information contained herein is true and correct to the best of my knowledge and belief.

COPYRIGHT © 2015

- FIRE NOTES:**
1. EVERY ROOM OR SPACE THAT IS AN ASSEMBLY OCCUPANCY SHALL HAVE THE OCCUPANT LOAD OF THE ROOM OR SPACE POSTED IN A CONSPICUOUS PLACE, NEAR THE MAIN EXIT OR EXIT ACCESS DOORWAY FROM THE ROOM OR SPACE. POSTED SIGNS SHALL BE OF AN APPROVED LEGIBLE PERMANENT DESIGN AND SHALL BE MAINTAINED BY THE OWNER OR AUTHORIZED AGENT, BUILDING CODE 1004.3
 2. OCCUPANCY ANALYSIS IS ON THIS SHEET
 3. BUILDING OCCUPANCY SHALL BE POSTED PER OCCUPANCY CALCULATION ON SHEET A-3.0. SIGN SHALL BE PLACED OVER THE MAIN ENTRY AND READ "100% MAXIMUM OCCUPANCY"
 4. PORTABLE FIRE EXTINGUISHERS SHALL BE INSTALLED AS INDICATED ON THE PLAN. FIRE INSPECTOR SHALL APPROVE PLACEMENT PRIOR TO OCCUPANCY.

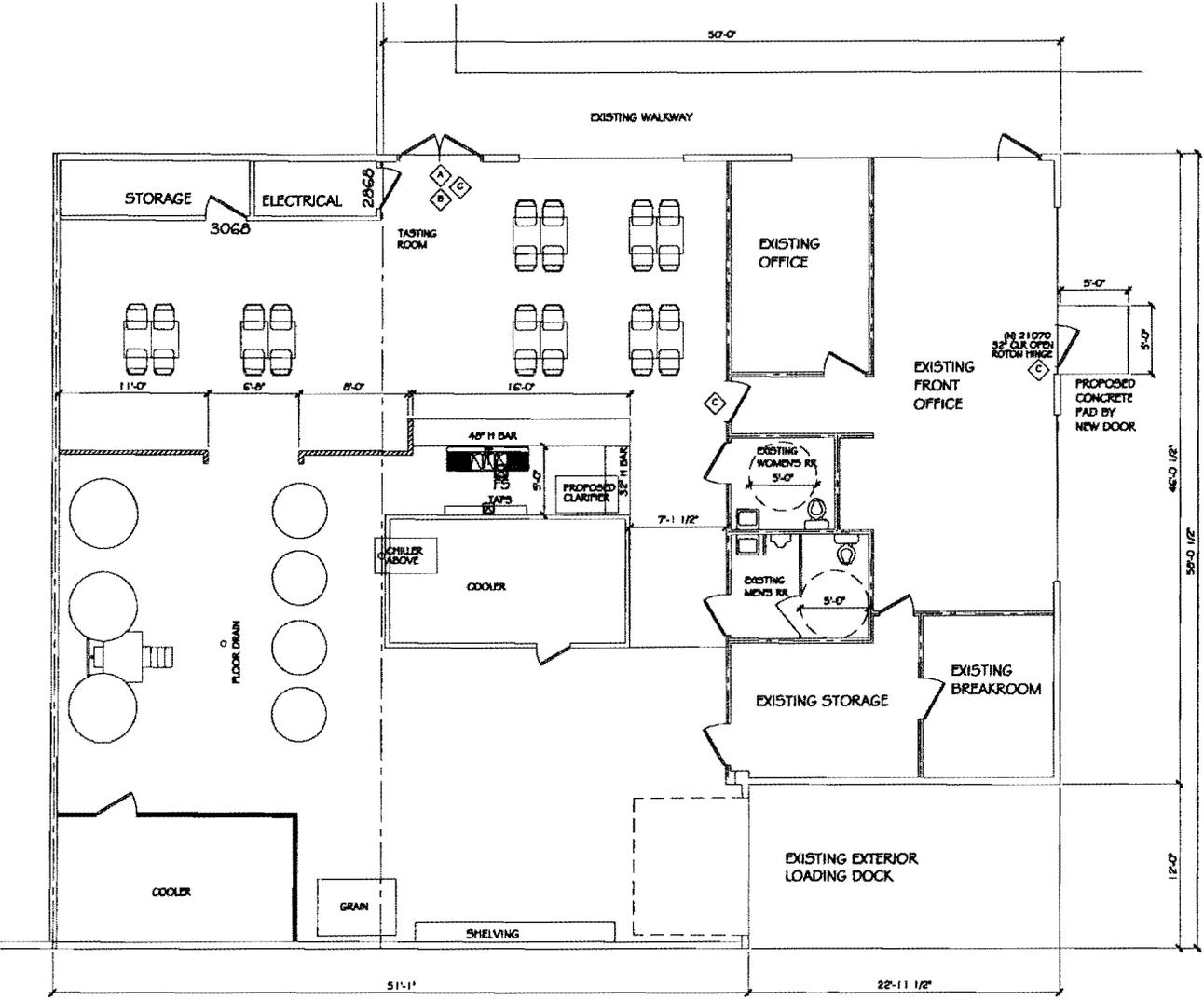
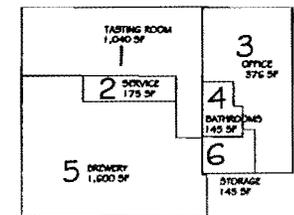
- ◆ SIGNAGE: "MAXIMUM OCCUPANTS: 99"
- ◆ SIGNAGE: "THIS DOOR TO REMAIN UNLOCKED WHEN THE BUILDING IS OCCUPIED"
- ◆ SIGNAGE: "EXIT"
- ◆ SIGNAGE: "EXIT" DIRECTIONAL

INTERIOR OCCUPANCY

1. TASTING ROOM: 1040/15	69
2. BAR (SERVICE): 175/100	2
3. OFFICE: 376/100	4
4. BATHROOMS: 145/0	0
5. BREWERY: 1600/100	16
6. STORAGE: 145/300	1
TOTAL	92

TWO EXITS REQUIRED SHOWN NOTED ON PLANS

OCCUPANCY ZONES



FLOOR PLAN
SCALE: 1/4" = 1'-0"

- EXISTING WALLS
- NEW WALLS
- NEW HALF WALLS

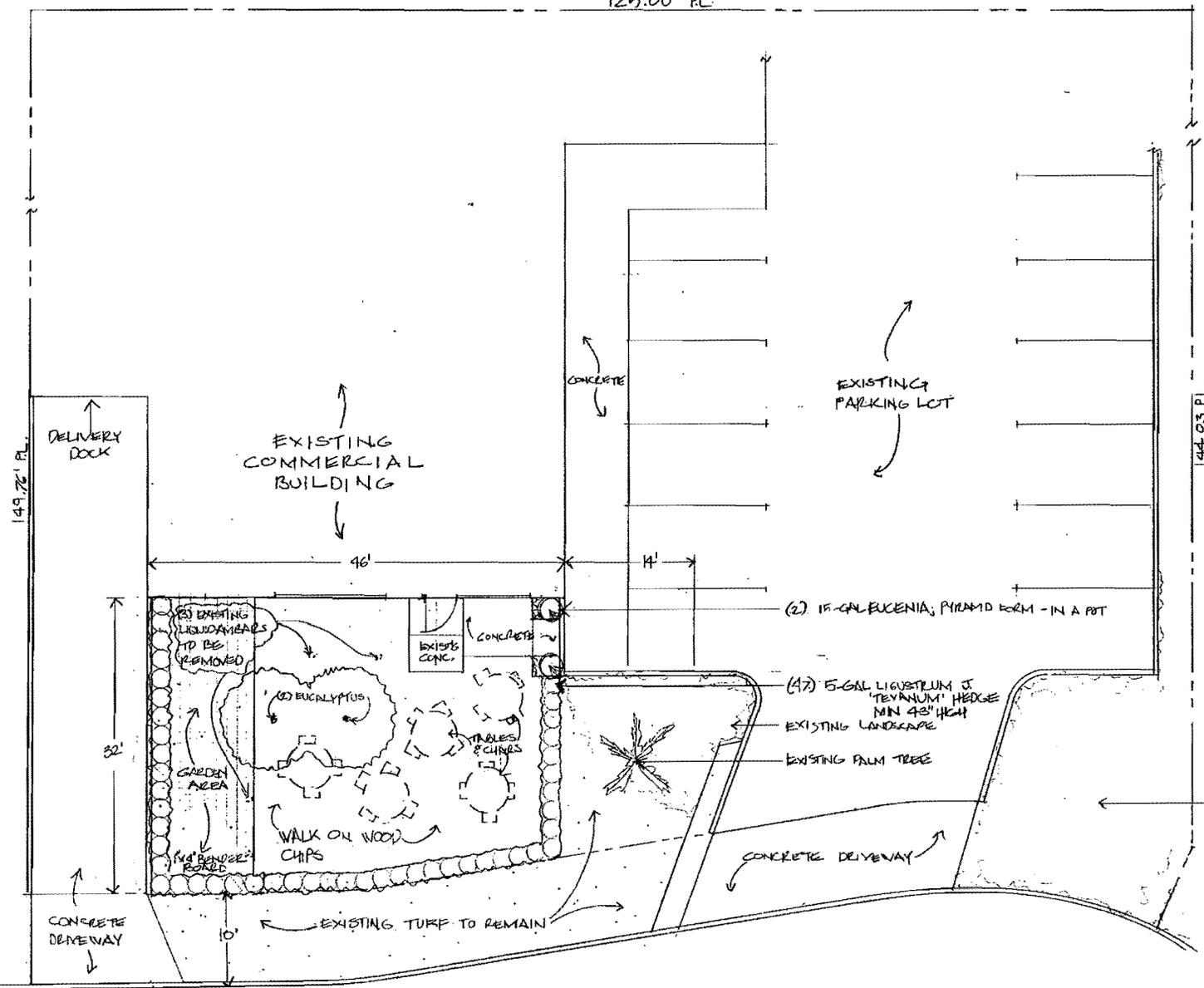
FLOOR PLAN
SCALE: 1/4" = 1'-0"

MDM ARCHITECTS
WE CREATE THE SPACES WHERE YOU LIVE, WORK, AND PLAY
759 WEST LANCASTER BLVD., LANCASTER, CA 93534 (661) 940-9660

ALICIA BROWNING
692 ARROW GRAND CIRCLE
Covina, CA 91723
909.455.0707

131439
A-3.0

125.00' PL



NORTH → SCALE 1/8" = 1'-0"
 1-19-15 MG
 2-2-15 VC



ALOSTA BREWING CO.
 Outdoor Seating and Hedge Plan

692 Arrow Grand Circle
 Covino, CA 91722

MANUEL GARCIA
 LANDSCAPE ARCHITECT
 228 E. CAMDEN ST. GLENDORA, CA. 91740
 ST. LIC. #3929 (626)335-2733

RESOLUTION NO. 15-7343

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COVINA, CALIFORNIA APPROVING AMENDMENT NO. 1 TO CONDITIONAL USE PERMIT (CUP) 13-004 FOR MODIFYING CONDITIONS OF APPROVAL FOR A MICRO-BREWERY WITH BEER TASTING AT 692 ARROW GRAND CIRCLE, WITHIN ARROW-GRAND BUSINESS PARK - APN: 8405-003-029

WHEREAS, ALOSTA BREWING CO. (Applicant), on behalf of the property owner, Alberto Vazquez, has filed an amendment to Conditional Use Permit 13-004 (Application) to modify the conditions of approval by allowing a) outdoor seating plus beer tasting within the front yard area, b) extension of operating hours, c) television-related entertainment, and d) one food truck for food service in conjunction with a micro-brewery with beer tasting for the property located at 692 Arrow Grand Circle (Property), within the Arrow-Grand Business Park; and

WHEREAS, the Property is designated for General Plan Land Use as General Industrial and zoned M-1(PCD)/Light Manufacturing with a Planned Community Development overlay zone, where a brewery is a permitted use while on-site beer tasting (as defined under the standards of the State Department of Alcoholic Beverage Control (ABC) as a business having only a Type 23 License (Small Beer Manufacturer)), is conditionally permitted; and

WHEREAS, on March 24, 2015, the Planning Commission conducted a duly noticed public hearing, at which time oral and written evidence along with a written recommendation from the Planning Division was presented to the Planning Commission, and the Planning Commission voted (4 – 1) to deny the proposed amended Application; and

WHEREAS, on April 2, 2015, the Applicant filed an appeal of the Planning Commission decision with the City; and

WHEREAS, on April 21, 2015, the City Council conducted a duly noticed public hearing on the appeal of the Application, at which time oral and written evidence along with written alternate courses of action from the Planning staff were presented to the City Council, and the City Council concluded said hearing on that date.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the City Council of the City of Covona, as follows:

SECTION 1. The foregoing recitals are true and correct and are incorporated herein and made an operative part of this Resolution.

SECTION 2. Based upon the entire record made available at the April 21, 2015 public hearing, the staff report, the oral presentation, and related documents submitted to the City Council prior to and at the public hearing, the City Council hereby finds and determines as follows:

A. Standard Conditional Use Permit Findings (CMC 17.62.120):

1. That the site for the use is adequate in size and shape to accommodate the proposed use.

Findings of Fact: The site is about 0.41 acres (17,880 square feet) in size. The proposed development-related component of the project proposal consists of the installation of a frontward roughly 1,300-square-foot patio area. The patio, with minor alterations, would meet all applicable zoning and design provisions. In addition, the occasional parking of a food truck in the parking area would be regulated for adequacy under a subsequent Administrative Conditional Use Permit. Furthermore, when these additions to the property are considered with the current building, parking, and other improvements on the site and the proposed changes in business operations, the staff believes that Alostá Brewery would still function adequately on the site.

2. That the streets adjacent to the use are adequate to handle the traffic generated.

Findings of Fact: The Planning staff believes that although the overall changes to the business under the amended CUP application could increase at certain times the number of patrons on the premises, this increase would have a negligible impact on surrounding traffic conditions. In other words, the existing surrounding streets are all fully improved roads that could handle the additional, relatively minor traffic.

3. That the use will have no adverse effect on abutting properties.

Findings of Fact: The property is surrounded on the northern, eastern, and southern sides by other industrial uses within the Arrow-Grand Industrial Park. West of the project site is a condominium complex and the closest residential buildings is located just over 50 feet from the joint condominium/Arrow-Grand property line. The staff believes that the existing location and orientation of the physical improvements on and surrounding the subject site would prevent the potential for nuisance issues. The patio area would be located totally within the eastern side of the building, thus, minimizing the potential of noise spilling into the westerly residential area. In addition, the "1000-foot" distance separation under the PCD pertaining to any other beer tasting-associated uses in Arrow-Grand would ensure that a similar type of activity (with or without outside seating) could not locate close to Alostá Brewery. Furthermore, it is believed that the conditions of approval of this CUP, the subsequent conditions of approval of the food truck-related Administrative Conditional Use Permit, and the minor required changes to the frontward patio would provide the City with adequate safeguards for preventing any problems with the modified use.

4. That the proposed use does not affect the public health, safety and general welfare of the community.

Findings of Fact: During the course of application review, no concerns regarding the public health, safety, and general welfare were identified. In addition and as noted above, the staff believes that the proposed conditions of approval of the CUP and those of required administrative applications will provide the City with sufficient leverage for avoiding any business-related issues. Also, the Planning staff has not received any complaints concerning Alost Brewery from any neighbors since the business opened (but has received a letter of support from one adjacent business (see Exhibit 5). Moreover, with the proposed conditions of approval, notably those of the Police Department, Police does not oppose this application. And according to Police, during the past year, there were no serious calls for service from Alost Brewery (only two false alarm calls).

SECTION 3. The City Council has determined that this application, which consists of the construction of a 1,300-square foot patio and certain operational changes in the use, is categorically exempt pursuant to CEQA Guidelines Section 15303, Class 3(c). The City Council further finds that there is no substantial evidence that the project will have a significant effect on the environment.

SECTION 4. Based upon the findings and conclusion set forth in Sections 1, 2 and 3 above, the City Council hereby approves the application:

- A. Conditional Use Permit CUP 13-004 (Amendment #1) is hereby approved, subject to the conditions of approval set forth in the written record before the City Council incorporated here and attached hereto as Exhibit "A."
- B. The City clerk of the City of Coivna or her designee is directed to serve, by first-class mail, a written notice of this decision to the Applicant within five (5) days.

SECTION 5. This Resolution shall become effective immediately upon its adoption.

PASSED, APPROVED AND ADOPTED this day of April 21, 2015.

JOHN KING, MAYOR

ATTEST:

Mary Lou Walczak, City Clerk

APPROVED AS TO FORM:

Elizabeth Hull, Interim City Attorney

I, MARY LOU WALCZAK, City Clerk of the City of Covina, hereby CERTIFY that **Resolution No. 15-7343** was adopted by the Covina City Council at a regular meeting of the City Council held **April 21, 2015** and was approved and passed by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mary Lou Walczak
City Clerk

**CITY OF COVINA
CITY COUNCIL RESOLUTION NO. 15-7343
CONDITIONAL USE PERMIT 13-004 (AMENDMENT #1)
EXHIBIT A - CONDITIONS OF APPROVAL
APRIL 21, 2015**

1.0 TIME LIMITS:

1.1 The approval of the Conditional Use Permit (CUP) shall expire one year from the date of approval by the Planning Commission if the approved use has not commenced.

2.0 GENERAL REQUIREMENTS – ALL CONDITIONS OF APPROVAL SHALL BE COMPLETED PRIOR TO COMMENCEMENT OF THE USE ON THE SITE:

2.1 The amended Conditional Use Permit (CUP) application shall permit the continuation and modification of a micro-brewery with on-site beer-tasting for the property at 692 Arrow Grand Circle within the Arrow-Grand Business Park. The property shall be operated/used and remodeled/improved in accordance with all application-related information; all representations of record made by the applicant; the approved project plans and design details including any necessary or required revisions thereto, as approved by the Planning Commission; the Conditions of Approval contained herein; and the Covina Municipal Code and the Covina Design Guidelines. Prior to the completion of the approved improvements, all Conditions of Approval shall be complied with to the satisfaction of the City Planner or his/her designee.

2.2 This approval shall not be effective until the applicant have filed with the Planning Division an affidavit stating that they are aware of and agree to accept all of the conditions of the approval.

2.3 Minor modifications to this approval that are determined by the City Planner or his/her designee to be in substantial conformance with the approved project plans and that do not intensify or change the use or require any deviations from adopted requirements or standards may be approved by the City Planner upon submittal of an administrative application and required fee.

2.4 All Conditions of Approval noted herein shall supersede those of the initially approved application Conditional Use Permit (CUP) 13-004 by the Planning Commission on June 11, 2013.

2.5 Failure to comply with any of the Conditions of Approval shall be deemed just cause for the revocation of the approval of the CUP by the Planning Commission.

- 2.6** Final or construction plans incorporating all Conditions of Approval and any plan-related changes required in the approval process shall be submitted for review to and approval by the City Planner or his/her designee prior to building permit issuance in conjunction with the Plan Check process of the Building Division. All final or construction plans and documents shall conform to the plans approved by the Planning Commission. The Conditions listed herein shall further be printed upon the face of and included as part of these plans.
- 2.7** Under Section 15303-C of the California Environmental Quality Act (CEQA), the project proposal has been determined to be categorically exempt from environmental review. If a Notice of Exemption is filed with the City, then the period during which legal challenges can be filed based upon violations of CEQA is reduced from 180 days to 35 days. To file the Notice of Exemption, please contact the Planning Division.
- 2.8** Any construction-related grading and all drainage on and leaving the site shall conform to the applicable requirements of the Covina Public Works Department, Engineering Division.
- 2.9** Any new exterior ground-, wall-, or roof-mounted mechanical and/or utility equipment (and any communication-related facilities that are not exempt from local regulation) shall be screened from all views by building features, the elements of which must match the style and color of the building, and/or landscaping. The method of screening shall be identified on the construction plans and is subject to staff approval.
- 2.10** Any required site features for the disabled, including, but not limited to, property access identification, parking stall and unloading area dimensions, path of travel, and building access, must comply with all applicable State Codes and must be reviewed by the Building Division (contact the Building Division for specific requirements).
- 2.11** In accordance with Chapter 11.36 of the Covina Municipal Code, no street trees adjacent to the property shall be cut or trimmed in any manner by any persons associated with management, operational, or maintenance activities on the site without first obtaining a permit from the Covina Public Works Department. In addition, the applicant shall obtain an encroachment permit for any permit-triggering work done within the right-of-way.
- 2.12** Any new exterior lighting associated with the building or the patio area that has been approved under this amended CUP application shall conform to the building architecture and shall be located and oriented in a manner that would not generate any glare onto any adjacent business or property or onto any surrounding public street or alley, while meeting the applicable foot-candle standards of the City to maintain safety and security.

- 2.13** The applicant or his associates shall perform any project- or use-related construction work that could be heard by any residents of the nearby residential properties only between the hours of 7:00 a.m. and 8:00 p.m., Monday through Saturday (excluding legal holidays), unless a special permit is obtained from the City.
- 2.14** The approval of this request shall not waive compliance with all other applicable sections of the Covina Municipal Code, the Covina Design Guidelines, and all other associated plans and non-City laws and regulations that are in effect at the time of Building Permit issuance or the approval of this application.
- 2.15** The City shall have the reasonable right of entry to inspect the improvements on the property to verify compliance with the Conditions of Approval.
- 2.16** The permittee shall defend, indemnify and hold harmless the City, its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void or annul this grant, which action is brought within the applicable time period of Government Code Section 65009. The City must promptly notify the permittee of any claim, action, or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the permittee of any claim, action or proceeding, or if the City fails to cooperate fully in the defense, the permittee shall not thereafter be responsible to defend, indemnify, or hold harmless the City.
- 2.17** The permittee shall reimburse the City for any court and attorney's fees which the City may be required to pay as a result of any claim or action brought against the City because of this grant. Although the permittee is the real party in interest in an action, the City may, at its sole discretion, participate at its own expense in the defense of the action, but such participation shall not relieve the permittee of any obligation under this Condition.
- 2.18** If any provision of this grant is held or declared to be invalid, then the application approval shall be void and the privileges granted hereunder shall lapse.
- 2.19** The costs and expenses of any code enforcement activities, including, but not limited to, attorneys' fees, caused by the applicant/property owner's violation of any Condition imposed by this approval or any provision of the Covina Municipal Code shall be paid by the applicant/property owner.
- 2.20** Any proposed permanent exterior signage for the property is subject to a separate, follow-up review and approval process, and all applicable codes and requirements shall be met. Also, sign permits must be obtained from the City prior to the installation of any new permanent or temporary signs. And all illuminated signage shall be prohibited from generating any glare or imposing any other negative impacts onto any adjacent properties or onto the adjoining sidewalks and streets.

- 2.21** The installation of a new or the modification of any existing security system(s) in the appurtenant building, as addressed under Chapter 8.20 of the Covina Municipal Code, shall be coordinated with the Covina Police Department. Please determine at the earliest possible time whether a security system will be installed or altered, as failure to inform Police of security system installation plans may impact the commencement of the business and/or delay building permit issuance relating to the Plan Check process.
- 2.22** The following item is required in order to comply with the Los Angeles County Fire Department code requirements as they pertain to this proposal: Please submit the construction plans to the Fire Department staff for further details.
- 3.0.** Comply with the following Police Department conditions of approval:

 - 3.1** No alcoholic beverages or their containers, such as bottles and glasses will be present other than stored behind the bar or in the trash receptacles.
 - 3.2** Only on-duty employees will be allowed inside the business during non-operating hours.
 - 3.3** All customers shall enter the establishment through the main identified entrance/exit at the tasting room.
 - 3.4** The owners or operators will be responsible for ensuring they are in compliance with the restrictions, provisions and guidelines of their license from the State of California Alcoholic Beverage Control Board.
 - 3.5** The owners, operators, management staff and employees shall allow inspection of the premises by members of the Covina Police Department at any time when there are employees present inside the location.
 - 3.6** The owners, operators or managers of the location shall not conduct any type of valet parking unless they have received prior approval pursuant to City of Covina Municipal Code 10.64.040.
 - 3.7** The owners, operators or managers will, subject to approval of the Police Department, ensure that the location has, upon opening for business, a video security system that includes digital cameras and a quality recording system that covers all major interior and exterior areas of concern to the police department.
 - 3.8** The owners, operators or managers shall cooperate with all police investigations regarding crimes that occur at the location or are as a result of conduct while at the location. This cooperation includes, but is not limited to, allowing access to view video images and providing recordings of video images of any activity

deemed important by any officer of the department investigating a crime that is alleged to have occurred on the premises or as a result of conduct occurring at the premises.

- 3.9 The owners, operators or managers shall, subject to approval of the Police Department, develop a plan to monitor the area surrounding the location for trash and other discarded items that impact public health and the cleanliness of the parking lots, sidewalk and the property of adjacent business owners.
- 3.10 The owners, operators or managers shall, subject to approval of the Police Department, develop a plan to monitor the adjacent parking areas for activity that is detrimental to public safety or public health.
- 3.11 The owners, operators or managers shall, subject to approval of the Police Department, develop a plan to ensure the front, northern side, and back of the location are adequately and safely illuminated during hours of darkness.
- 3.12 The owners, operators or managers shall ensure that all occupancy levels mandated by the Los Angeles County Fire Department and the Covina Building Division are strictly enforced and adhered to. At any time, the Police Department Watch Commander can cease all operations of the business to determine if the occupancy level is over the allowed number of occupants. The Watch Commander, in addition to a representative the Los Angeles County Fire Department, will also have the authority to close the business if he feels the occupancy levels are jeopardizing public safety.
- 3.13 The owners, operators, managers and all employees shall adhere to and obey all State laws and City ordinances relating to the service, consumption and possession of alcoholic beverages. Any violations of the State laws or City ordinances will be presented to the District Attorney's office for prosecution and will be grounds for revocation or modification of this permit.
- 3.14 The Covina Police Department reserves the right to modify the hours of operation, cease any type of entertainment or close the business altogether at any time should, in the opinion of the on-duty Watch Commander or his designee, the operation of the business impact normal police operations to the extent that public safety has been jeopardized.
- 3.15 **THE POLICE DEPARTMENT STATES AND SHALL REQUIRE THE FOLLOWING CONCERNING SECURITY FOR THE ESTABLISHMENT: Although this CUP application is not considered a bar, it is close enough to where the Police Department believes that a security component must be included in the business's new operations. Accordingly, the business owner shall meet with representatives from the Police Department on security-related issues and shall, based on direction from Police, develop a Security Plan for Police approval prior to commencing new business operations. This**

Plan, the scope and contents of which will be determined by Police, may include some or all of the requirements listed below or alternate requirements.

- 3.16 The owner or operator shall contract with a security company for security personnel or hire security personnel as employees.
 - 3.17 If the owner or operator chooses to hire a security company, the security company must be licensed to operate in both the State of California and the City of Covina. Additionally, all employees who are assigned to work at the premises must be licensed by the State of California as security guards and be in good standing throughout their time of employment.
 - 3.18 In the event the owner(s), operator or manager provide their own security personnel, all personnel must be employed **only** as security personnel and not have other responsibilities while acting in that capacity. Additionally, all employees acting as security personnel must be licensed and in good standing with the State of California through their time of employment.
 - 3.19 The Police Department may, after meeting with the owners or managers of the establishment, increase the number of required security personnel for planned events or incidents where the police department determines that the number of on-duty security personnel is deficient.
 - 3.20 At no time will any security personnel, whether employed by a private company or licensed by the City or employed by the restaurant, be armed with any type of firearm.
- 4.0. Comply with the following Community Development Department-Building and Safety Division conditions of approval:
- 4.1 Please submit 6 sets of complete plans including any proposed tenant improvements, utilities, and earthwork. Two sets shall be “stamped approved” by the Covina Planning Division and include the Building Section’s comments for consultant review. This project must comply with the 2013 California Building Standards and 2013 energy code.
 - 4.2 Two sets each of any structural and energy calculations shall be submitted with the above mentioned plans. All calculations must bear an original signature from the documented author.
 - 4.3 This project must comply with Federal and State Accessibility requirements to and throughout the building. Include compliance methods and structural details on the plans.

4.4 Demolition and renovations activities require an asbestos containing materials (ACM) survey. (SCAQMD RULE 1403) The ACM report shall be prepared by an accredited testing laboratory in accordance with SCAQMD rules and regulations. Proof of notification to the South Coast Air Quality Management District (SCAQMD), Office of Operations, shall be submitted to the Building Division with your permit application for all renovations and demolition activities. Contact the SCAQMD at the address or number below for more information. Once any demolition activity has been approved by the SCAQMD, a formal demolition plan and permit must be obtained from the Building Division.

SCAQMD Headquarters; 21865 Copley Drive, Diamond Bar, CA, (909) 396-2381

4.5 The Los Angeles County Fire Department needs to review your construction plans, to expedite this process you will need to contact one or more of their Regional plan check office(s): Appointments to discuss Fire Department requirements may be made between 7:30 a.m. and 10:30 a.m. The main office is located at 5823 Rickenbacker Road, Commerce, CA 90040-3027. Phone number is (323) 890-4125.

Regional plan check offices for the Los Angeles County Fire Department:

Glendora Office, Building Plan Review Only
231 W. Mountain View Avenue
Glendora, CA 91740
(626) 963-0067

Commerce Office, Sprinkler & Alarm Plan Review
5823 Rickenbacker Road
Commerce, CA 90040-3027
(323) 890-4125

Commerce Office, Land Development / Access
5823 Rickenbacker Road
Commerce, CA 90040-3027
(323) 890-4243

4.6 Los Angeles County Environmental Health (LACEH) plan approval for “food establishments” is required before permit issuance. Contact the Los Angeles County Environmental Health at 626-430-5560 for more information on submittal and the plan check process. The Health Department must approve the location of a grease interceptor.

4.7 Please provide an additional digital copy (pdf preferred) of the building floor plan, elevations, and site plan to be submitted to the LA County Assessor. This copy should be in sufficient detail to allow the assessor to determine the square

footage of the building and, in the case of residential buildings, the intended use of each room.

-For additional information, please contact the LA County Assessor's, Public Service Desk at 888-807-2111.

- 4.8 A valid City wastewater permit and properly sized interceptor will be required at permit application unless otherwise approved.
 - 4.9 Construction activity within 500' of a residential zone is prohibited between the hours of 8:00pm and 7:00am and on Sundays and Holidays unless otherwise permitted by the City.
 - 4.10 The Building Section plan check process may address additional concerns.
- 5.0. Comply with the following Public Works-Environmental Services Division code requirements and conditions of approval:
- 5.1 Initial plan review: \$40 fee required.
 - 5.2 Event area(s) must be completely cleaned up and free of debris at the end of each event.
 - 5.3 No trash/debris or wash water is to go into the public right-of-way (sidewalk, street, gutter, or storm drain).
 - 5.4 Food trucks must obtain a City business license to operate within City limits. No dumping of materials while in operation and all items must be contained to prevent items becoming airborne. All items must be picked up at the end of business each day.
- For any questions here, please contact Joslyn Blakely, Environmental Services Analyst, at 626-384-5480.
- 6.0. Pursuant to the Public Works-Water Division's code requirements, an R.P. backflow device shall be installed at the meter if it has not done at the initial business opening. Please contact the Public Works-Water Division regarding this condition of approval
 - 7.0. **PRIOR TO THE GRANTING OF FINAL APPROVAL OF THE BUILDING IMPROVEMENTS OR THE CONDITIONAL USE OR THE COMMENCEMENT OF OPERATIONS OF THE APPROVED CONDITIONAL USE ON THE SITE:**

- 7.1 All site, building, and any landscape improvements shall be constructed or installed in a good workmanlike manner, consistent with the standard best practices of the subject trades and in a manner acceptable to the City.
 - 7.2 An inspection of the site shall be conducted by the City Planner or his/her designee for compliance with all the Conditions of Approva prior to release of occupancy for the ourdoor patio seating.
 - 7.3 All exterior lighting fixtures on the property shall be maintained and kept fully operational at all times.
 - 7.4 The applicant shall obtain any necessary approvals and permits from the State Department of Alcoholic Beverage Control regarding the sale of beer and the appropriate Type 23 license.
 - 7.5 The applicant shall obtain any necessary licenses, permits, and/or approvals from the Finance Department (e.g., possibly a modified Business License) and the Police Department concerning the business.
- 8.0 THE APPROVED CONDITIONAL USE AND THE OVERALL PROPERTY SHALL BE OPERATED IN ACCORDANCE WITH THE FOLLOWING:**
- 8.1 The applicant shall comply with all operational requirements of the Police Department.
 - 8.2 The area immediately in front of the loading dock shall be used both for loading and unloading purposes and as a single standard parking space, which counts towards the required twenty (20) parking spaces for the site. This parking space shall be used only by employees or other persons associated with the business or operations of the property. All persons eligible to park in this space shall reconcile and properly manage the dual function of this area with respect to activities occurring on the property. In addition, the loading and unloading activities shall be conducted in a manner that would not interfere with the operations or any other on-site businesses or surrounding properties or their enjoyment thereof.
 - 8.3 All business activities or uses on the property shall conform to the permitted uses of the underlying "M-1(PCD)" zoning district.
 - 8.4 All activities occurring on the property (i.e., within the building, in the permitted patio, and in all other outside areas) shall be conducted in a manner that does not disturb adjacent businesses and residences, relative to excessive noise and vibrations, and that conforms to the provisions of Sections 9.40 (Noise) and 9.42 (Environmental Disturbances) of the Covina Municipal Code.

- 8.5** The serving of beer for on-site consumption is limited to the inside of the building within the seating area open to the public and in the patio area on the eastern side of the building only, as noted on the approved project plans. The patio area shall be limited to 5 tables or 25 chairs, whichever is most restrictive, and shall be established and operated in a manner that conforms to requirements of the Los Angeles County Public Health Department. In addition, the business operator shall post a sign in a conspicuous location in the patio area encouraging patrons to be mindful of the surroundings with respect to their sound levels.
- 8.6** All access to the establishment shall be from the business doors at the main public entry or customer seating area only (not from the access to the patio or from any other building-leading door). However, patrons may leave the establishment from the patio. Business management shall continuously ensure the fulfillment of this restriction.
- 8.7** The patio area shall have a hedgerow consisting of Ligustrum planted at two or three feet on center. The hedgerow shall be placed away from the 10 by 10 feet triangular visibility area at the loading dock driveway. “No alcoholic beverages beyond this point” signs shall be posted within the patio area.
- 8.8** The applicant shall continually comply with all requirements of the State Department of Alcoholic Beverage Control (ABC) concerning all beer manufacturing, distribution, advertising, on-site tasting and related activities.
- 8.9** The on-site serving of alcohol shall be limited to 16 ounce containers and shall not be served by the pitcher, bucket, yard, or similar high-capacity container. No “happy hour” or similar type promotions shall occur or be advertised where alcoholic beverages are offered at significantly reduced prices that are meant to encourage greater consumption of alcohol. All beer to be sold for off-site consumption shall be unopened and provided in a sealed container or similar carrying case.
- 8.10** The following activities shall be strictly prohibited: a) Gatherings and drinking outside of the building (except for within the business-related patio on the eastern side of the building); b) exterior speakers; c) allowing patrons in the patio or any outside area to play music from portable stereos or similar equipment; d) any live entertainment (or, entertainment other than from televisions and recorded music); e) pool tables or any other games; f) loitering on this property, on any neighboring property, or in any adjacent public right of way; and g) any conduct that results in a disturbance to the neighborhood.
- 8.11** The applicant shall post a prominent, permanent sign in the beer tasting area on the inside of the building and in the business-related patio on the eastern side of the building stating that “no person under the age of 21 will be served alcoholic beverages” and that “a valid identification is required to purchase alcoholic beverages.”

- 8.12** Anyone under the age of 21 entering the premises (i.e., or, in any portion of the interior of the building and in the business-related patio on the eastern side of the building) must be accompanied by a parent or legal guardian.
- 8.13** Each employee or other person serving beer to customers on the premises shall have completed training under the Responsible Beverage Service Training Provider Program, the Licensee Education on Alcohol and Drugs Program, or an equivalent program, which is offered by the State Department of Alcoholic Beverage Control (ABC).
- 8.14** In accordance with restrictions under the business's current "Type 23" alcohol sales license issued by the State Department of Alcoholic Beverage Control (ABC), no food items of any kind may be offered for sale at any time on the premises (excluding food offered from food trucks following approval of an Administrative Conditional Use Permit, as further addressed under Condition 4.16 below).
- 8.15** Any food trucks or similarly-permitted mobile food facilities serving the business must be parked on the appurtenant site in the parking area (NO BUSINESS-SERVING MOBILE FOOD FACILITY MAY PARK IN THE STREET), must total not more than one (1) such facility at any one time, and must be preceded by an approved mobile food facility-related Administrative Conditional Use Permit (ACUP), conforming to all requirements under Ordinance 14-2034 (approved by the City Council on December 16, 2014).
- 8.16** Under the provisions of Section 17.64.190 of the Covina Municipal Code, for any temporary fundraising, promotional, or similar events or any temporary activities occupying the parking area, the applicant shall first obtain a general Administrative Conditional Use Permit (ACUP), and all requirements of the Permit(s) shall be met. No single ACUP may be granted for both this type of occurrence and for any mobile food facility addressed under Condition 4.16 above.
- 8.17** The operational and other Conditions of Approval that are listed herein shall apply to all periods that the entire business is permitted to be open to the general public and is used by private groups that are invited by the applicant or an associate in conjunction with special events, including, but not limited to, receptions and parties, and other special events where a general Administrative Conditional Use Permit is required. Not more than twenty-four (24) applicant-coordinated special events (not open to the public and not involving a general Administrative Conditional Use Permit) shall be permitted in any one calendar year, and such special events shall not occur on more than thirty (30) total days in any one calendar year.
- 8.18** Beer-tasting in permitted interior portions of the building and in the permitted patio shall be limited to the following business hours: a) Mondays through Thursdays, 3:00 pm to 10:00 p.m.; b) Fridays, 3:00 p.m. to 12:00 a.m.; c) Saturdays, 12:00 p.m. to 12:00 a.m.; and Sundays, 1:00 p.m. to 7:00 p.m. (Activities pertaining to beer

manufacturing and related functions or the general repair, servicing, or maintenance of legal or permitted improvements on the property or general business-related administrative functions may occur at any time, providing that the activities or functions conform to the provisions of the Chapter 9.40 (Noise Ordinance) and other applicable Chapters of the Covina Municipal Code.)

- 8.19** All interior and patio areas that are components of the overall business shall function in an integral manner, as illustrated on the approved project plans, and none of the areas or components of the establishment (or portions of the areas) shall at any time operate on an independent basis or as separate use/businesses.
- 8.20** The maximum number of employees and customers that may be in the establishment at any one time (both within the interior of the building and in the business-associated patio on the eastern side of the building) shall conform to the occupancy limit(s) of the Los Angeles County Fire Department and the Building Division.
- 8.21** No valet parking of any type is permitted in conjunction with the operations of any section of the establishment unless the applicant obtains from the City all required Valet Parking Permits (under the provisions of the Covina Valet Parking Rules and Regulations). If the required Valet Parking Permits are obtained, the applicant shall further abide by all applicable requirements of the City concerning valet parking.
- 8.22** The Covina Police Department reserves the right to modify the hours of operation at any time, cease any type of permitted (non-live) entertainment at any time, close the business temporarily for any reason at any time, or close the business altogether at any time should, in the opinion of the on-duty Watch Commander or his designee, any business-associated activities or operations impact normal police operations to the extent that public safety has been jeopardized.
- 8.23** If, in the opinion of the Chief of Police or his designee, there is or may be a need to change or modify the Conditions of this Conditional Use Permit, the Chief of Police or his designee may initiate a public hearing before the Planning Commission. After due notice, which affords the applicant an opportunity to be heard, the Planning Commission may, but is not obligated to, change or modify the Conditions stated herein.
- 8.24** Any subsequent change(s) in the uses or improvements on the property or operational activities (including, but not limited to, the size or layout of the interior of the building or the patio; the building architecture and/or features; the type and/or intensity of the permitted uses; and/or the type of State Liquor License) beyond what is permitted under this CUP application shall not proceed without further City review and approval to ensure compliance with the applicable codes and requirements and, if necessary, the mitigation of any identified impacts (such as design, noise, traffic, and parking). A new zoning application(s) and possibly an

impact-related study(ies) may be required for such future change(s) or improvements.

- 8.25** Six months after the patio is installed and opened for business, the Planning staff shall perform a review of the operations of the overall on-site tasting component of the modified business and report its findings to the Planning Commission
- 8.26** All outdoor storage is prohibited.
- 8.27** The site, building, patio, signage, and landscape improvements on the property shall be maintained in a sound and attractive condition, free of weeds, trash or debris, visible deterioration, graffiti, or other conditions that violate the Covina Municipal Code. The City may require that the applicant/property owner pay the actual and reasonable cost for code compliance services needed to address any problem conditions.

END OF CONDITIONS

**DRAFT MINUTES OF THE MARCH 24, 2015 REGULAR MEETING OF THE
COVINA PLANNING COMMISSION**

PUBLIC HEARINGS

2. **Application Conditional Use Permit (CUP) 13-004 (Amendment #1), a request to modify the conditions of approval by allowing a) outdoor seating plus beer tasting within the front yard area, b) extension of operating hours, c) television-related entertainment, and d) one food truck for food service in conjunction with a micro-brewery, located at 692 Arrow Grand Circle (Arrow Grand Business Park).**

City Planner Alan Carter presented the report.

Chairman Patterson asked if there were questions of staff.

Commissioner Manning said he has comments first then questions. He stated that when this first came up several years ago, this was a brewery asking for the ability to give tastes to customers because it might enhance their commercial business. He understood that this was going to be a form of retail in which the brewery would be serving beer. It was approved, but with some rather stringent conditions, such as no food trucks because this was a brewery, not a bar, and they attested to that. They said this was not a place of entertainment; this was a place of wholesale commercial brewery in which they were allowing some tasting to help their commercial business. Therefore, there was no need for entertainment of any type, and we actually explicitly prohibited that. He stated that in essence what the applicant asked for was to become Alostia Brewing Bar. He further stated that because the Council said that we could allow food trucks, it doesn't mean that the Commission should allow food trucks and should take the request on an individual case-by-case basis. Since the Commission expressly said no food trucks back then, he did not believe that the Commission should allow it. He questioned why the Commission should approve this.

Mr. Carter responded that we still maintain fairly strict conditions for the brewery.

Commissioner Manning disagreed and believed they were not as strict as what the Commission voted on two years ago.

Mr. Carter stated that the food truck would be subjected to a separate administrative conditional use permit requirement and there are some general standards that would have to be met, which would provide the City with sufficient safeguards in terms of preventing any nuisances or any problems.

Commissioner Manning asked if they guaranteed that there will be no nuisance.

Mr. Carter replied that if they can't abide by the conditions of approval, there could be repercussions; for example, in some cases, the Police Department has the right to shut down the operations.

Commissioner Manning asked if that would put a greater burden on our Police Department and that this place is becoming a bar.

Mr. Carter replied that staff did not see it as a bar and that their liquor license is a tasting facility.

Interim Community Development Director Nancy Fong responded to the Commission that the brewery is a new type of business.

Commissioner McMeekin interjected that the Commission had heard extensive discussion a year and a half ago about what this business is. The Commission had a hearing with a lot of people who were protesting it, and so we crafted some specific regulations to address their concerns. He questioned why staff recommended that we overrule ourselves after we spent considerable time weighing this, listening to evidence, and making decisions and adding restrictions.

Ms. Fong replied that Commissioner McMeekin raised good questions. Perhaps the applicant could come in front of the podium when it is time for him to speak and explain why he made the requests.

Commissioner McMeekin stated that the Commission took evidence, listened, weighed it, and fine-tuned the restrictions, and asked why would we revisit it now, except for the fact that they think they can make more money.

Mr. Carter replied that the applicant has the right submit an application. Staff's recommendation was based on our best, independent professional judgment and that the new conditions of approval would be to address the business operations.

Commissioner McMeekin reiterated that staff should have set a policy in discouraging people from coming in and making applications to us that ask us to overrule ourselves 18 months after we made this very comprehensive decision.

Ms. Fong replied that staff is making a recommendation only, and the Commission has the option to approve or deny the application, or to have additional requirements imposed on this CUP. The applicant has the opportunity to present their case to the Planning Commission.

Commissioner McMeekin stated that it bothered him a lot that the Commission was being asked to revisit such a negotiated, highly crafted CUP that we granted just 18 months ago.

Ms. Fong replied that the Commission in the past has reviewed modifications to Conditional Use Permits because the applicant requested that, so this case was no different than previous ones.

Commissioner Manning said that this case is different in that they are asking us to reinsert things that we purposely and expressly took out. He stated that he is ready to listen to the applicant and Lt. Curley of Police Department.

Chairman Patterson asked if other Commissioners had questions as he has a few.

Commissioner Connors stated that echoed the same concerns that Commissioner McMeekin and Commissioner Manning. He said essentially they are asking us to reverse all of those conditions that we spent considerable time crafting.

Commissioner Hodapp asked Mr. Carter if he would review the staff decision-making process on the 42 inch hedge and how that would be a significant deterrent from the public right of way.

Ms. Fong replied that the recommendation for a hedgerow would be enough. Whether a 42-inch wrought iron fence or 42-inch hedgerow, it would be enough to provide a defined space as required by Alcoholic Beverage Control. If someone wants to jump it doesn't matter if it is a hedgerow or wrought iron fence.

Commissioner Hodapp stated the hedges would soften the boundary point but it would not have a more physical deterrent between the controlled area and non-controlled area. He asked for a clarification on Police Department condition of approval 3.1, which stated that bottles and glasses shall be stored behind the bar or in trash receptacles.

Chairman Patterson asked the City Attorney if the Commission should wait until the opening of the public hearing to get the clarification or to ask now.

Assistant City Attorney replied that the Commission can ask it now.

Lt. Curley answered that it was for storage and maintenance and more of a control mechanism of where these things are for safety reasons.

Commissioner Hodapp asked if the empty bottles should go behind the bar into an empty case, then eventually get recycled, and if we just don't want them laying around and thrown out in the alley.

Lt. Curley answered affirmative.

Commissioner Manning asked if Lt. Curley remembered the presentation on the concentration of bars, liquor stores, restaurants, etc. that sell liquor and about how police resources were stretched thin.

Lt. Curley replied that the presentation was in December of 2014 and it was specific to the Downtown area but did include other ABC-permitted businesses in the City. He said that police do evaluate things based on the history of the business, the history of the owner, the calls for service, the burden it has placed or has not placed on the Police Department. We did that in this case. We looked at our calls for service and they were very minimal. We don't oppose this project based upon what we've seen.

Chairman Patterson mentioned that originally there was a large contingent of owners around Arrow Grand Center that were opposed to this. He asked staff if we have received any calls, emails, or anything that were in opposition to this.

Mr. Carter replied that as of the meeting there were no calls or e-mails or visits to the counter in opposition to the application.

Chairman Patterson reminded the Commission that as a body, our job was to take into account the changing conditions. He stated we have to keep in mind that we may have some changing conditions in the area where some people that were deadily opposed to it may not be so opposed to the whole idea now.

Commissioner McMeekin disclosed to the public that he went to the business park and talked to various businesses and would share that at the appropriate time.

Chairman Patterson opened the public hearing. There were two speaker cards.

Jamie Caldwell: 692 Arrow Grand Circle, and one of the owners of the Alostia Brewing Company. First of all, I want to say we're pretty ecstatic about being the first brewery in the City of Covina and this last year and a half we've seen a lot of things happen that we didn't know were going to happen a year and a half ago. Since opening we've enjoyed great support, not only from the community of Covina itself, but from the surrounding communities due to the rise in popularity of microbreweries. We are already ahead of schedule of what we had planned a year and a half ago, to the point where tomorrow we start canning. That will get our beers out to other retail outlets. In turn, we will hopefully bringing more people to the City of Covina, to the Alostia Brewery to try the different beers, to the different restaurants that carry our product. In the last 15-16 months that we've been open we have been very busy but we've had zero complaints. Statements were made earlier regarding the fact that once a decision is made, that that decision needs to hold firm. However, in my opinion, I think that we are looking for flexibility to accommodate our growth, which we did not anticipate a year and a half ago. We are starting to see people coming to our brewery from the west side of Los Angeles. These are people who don't get out of work until 5:00 and they won't make it to our brewery until 7:30 or 7:45. These are people who have kind of embodied the microbrewery kind of environment and they go and seek different breweries to try and see what it is they really like, so we're catering not only to our community but we're bringing people in to try the different things. So, we ask for that flexibility. We're looking at growth, development, and trying to succeed as a business. We're here to make money, but we are also here for the betterment of the community, and again, some of the projects we've been involved in have helped out the community. We've been very

cognizant of the restrictions that have been placed on us and we have gone by the rules and what we're asking now is some flexibility to allow us to grow as a company and a corporation so that we may succeed.

Commissioner Manning stated that he had no objections to the brewery but did have some concerns with the beer tasting because it could become a bar, which prompted the specific restrictions in the CUP. He further stated that he was more upset with the fact that the Commission has to bend the rules even more to allow extended hours, eating, entertainment and food. He suggested that there are other options where the brewery would have an offsite tasting place but realized that's an additional expense. He believed that his point was to keep it from being a bar and social place.

Mr. Caldwell emphasized that the reason for outdoor seating is because of California weather, where you can sit outside 9 or 10 months of the year.

Commissioner Manning stated that he has no problem with an outdoor patio but the hedge may be an issue.

Mr. Caldwell emphasized that ABC requires a 43 inch barrier, and pointed to Downtown on Citrus where a couple of restaurants have only a chain for barrier.

Commissioner Manning again stated that his concerns were with the attraction of the food truck, which brings in entertainment and the extended hours.

Mr. Caldwell stated that the times have changed and that the best way for advertising is through social media. For instance, food trucks advertised through social media and these are not the kind of food trucks of 15 or 20 years ago.

Commissioner McMeekin stated that the business has made a good impression in the City. He further stated that the issue was whether the business got the right to grow and expand on that site. The problem was that the Arrow Grand Business Park is in general in the business of industry and my informal poll this afternoon would suggest that there are a lot of concerns among your neighbors about the additional traffic, and the idea that you're going to expand your business is troublesome to them. He mentioned that one lady who was here very prominently last time told me she can't be at the Planning Commission meeting and defend her business. We crafted our decision based upon the specific area that you are in, so rather than asked the Commission to change what we did, we suggested you explored other places in the City and maybe branch out and have a second facility.

Mr. Caldwell answered that they have made the improvements and it made sense to stay in this location. He said he talked to neighbors too and they have said they have absolutely no problem with this business.

Commissioner McMeekin replied that he talked to the owner of the business and he said, "they're not crazy about the idea of you expanding" and said he can't be at the meeting. The other person I talked to was directly across the street from you and the lady said she can't be at the meeting. He also talked to the business that is one two north stated they did

not talk to him about the expansion, and it would be problem because he has trucks coming in to make the deliveries, but he too cannot be at the meeting. Commissioner McMeekin continued to state that it is an industrial area, and just not compatible with what you're requesting and has a real hesitation in approving the changes.

Chairman Patterson asked the applicant if they plan on opening an offsite location for the retail portion of the business.

Mr. Caldwell replied that it would be in the future.

Sonnie Swenston is a resident of Covina at 775 W. Griswold Road. She said she didn't have any association with the brewery except for the fact that she goes there as a customer. She enjoyed the place and would take her friends and family there. She liked to see that they succeed. She said they're not asking to stay open until 2:00 in the morning, 7 days a week, they aren't asking for permission to open at 6:00 in the morning like bars do, they just want to expand to make their business a better place here in Covina. She said she can go to Upland, Pomona, Pasadena, Claremont, or other microbreweries and find exactly what the one in Covina wants to do. She said the City should be in the business of helping business in Covina, not discouraging them, and asked the Commission to approve this.

Commissioner McMeekin asked if Ms. Swenston described this brewery as entertainment.

Ms. Swenston replied yes but not the same way as she goes to the theater or a club or a concert to be entertained, but to socialize and as part of the experience.

Chairman Patterson closed the public hearing seeing no more public comments.

Commissioner Manning said he stated all of his thoughts.

Commissioner McMeekin said he thought the Commission was dealing with an industry, a business that makes beer, and as a sideline people can taste their beer. If it's entertainment, then it is a restaurant and a bar, and under those circumstances then he would have more trouble with it.

Chairman Patterson stated that the reasons that we crafted the restrictions that we did were to mollify the discontent with everybody else in the Arrow Grand Business Center. He asked the Assistant City Attorney if it would be possible to continue this to next month where staff could prepare a notice about Alost's proposal to have outside seating, extend their hours, have TVs, one food truck, and ask if the surrounding businesses would be ok with it. He said the applicant should deliver this notice to as many businesses as are within the 300 foot radius.

Assistant City Attorney replied that the Commission can continue the discussion, you could reopen the public hearing, but it would be up to you to direct staff to re-notice it or allow the applicant to do it on his own.

Commissioner Manning stated he would not support that.

Commissioner Hodapp said he could be in favor to continue it to get more of a complete understanding. If the Commission has something in writing that the neighboring businesses accepted it, refused it or conditioned it, it might help us better understand this business. He said every successful business wishes to take an idea and make it grow. But, again, he said that a business can outgrow an area and may have to move on to a larger facility. He believed that there are some gaps and that some extra time might help the staff, the applicant, and maybe the Commission to come to a conclusion that would be equitable to everybody.

Chairman Patterson asked if the applicant would be willing to distribute the informational notice and reopen the public hearing.

Mr. Caldwell said a hearing notice was sent and did not see the need for another notice.

Chairman Patterson emphasized that the purpose to send another notice was to make sure the businesses would be well aware of the proposed changes.

Mr. Caldwell replied that the businesses had received the hearing notice and had the opportunity to come and speak and they didn't.

Chairman Patterson closed the public hearing again.

Commissioner Manning made a motion, seconded by Commissioner McMeekin to deny the amendment to Conditional Use Permit 13-004.

Chairman Patterson:

Commissioner Connors: Aye

Commissioner McMeekin: Aye

Commissioner Hodapp: Aye

Commissioner Manning: Aye

And, the Chair: No.

Motion carried with 4-1 vote to deny the adoption of the resolution.

Chairman Patterson mentioned that actions taken by the Planning Commission become final after 10 calendar days unless a written appeal with the appropriate fee is lodged with the City Clerk's office before the close of business on the 10th day.



To Covina City Management;

Good morning to all of you. I will preface this letter by stating I was neither surprised, nor angry with the outcome of the City Planning Commissions hearing held March 23, 2015 regarding our CUP amendment proposal. That said, I, my partners, and several community members were shocked by the condescension, lack of professionalism and respect exhibited by City Planning Commissioners toward, not only Alostia Brewing Co., but a few of our neighboring business members in the Arrow Grand Circle business park.

As our portion of the hearing got underway, it became clear the commissioners had already made their decision as to how they would vote on the matter. It seemed the biggest issue they had regarding our CUP amendment proposal was the fact that we had the audacity to request any amendments. Commissioner McKeekan made it clear that we shouldn't even be allowed to ask for amendments stating the counsel had already granted their list of rules to operate under and how dare we seek to amend those rules. He sneered with disdain stating the only reason we were requesting such amendments was to make more money. Though his accusation was inaccurate, isn't that a valid premise behind running a business? Next, Mr. McKeekan made comment to the effect that if one loses a case in court, one cannot go back and ask the judge to reconsider. Surely, as an attorney, Mr. McKeekan has heard of the appeal process and Appellate Courts.

As Commissioner McKeekan continued his officious rant, he stated that he personally visited and spoke with the rest of the business owners in the Arrow Grand Circle Business Park. When pressed however, it appears he ONLY visited three of the neighboring businesses; the same three business owners who were initially against us prior to opening for business. Why did Commissioner McKeekan deliberately solicit only those three? He stated those businesses were closest to us in proximity, yet I am perplexed as to why he didn't mention visiting our next door neighbor Bert Grymes, at Royal Premium. I spoke with Bert a few days prior to the hearing and he stated he had no issues with us, our business or requests. Additionally, an official letter from a neighboring business was curtly dismissed by Mr. McKeekan because the person who wrote the letter was "only their marketing director." He went on to claim the actual owner of the building (who was against us in the beginning) continued to have issues with Alostia Brewing Co. The problem with this statement is the fact that the owner isn't the one at the establishment all the time. We also received an additional letter of support from McIntyre Co. Again, Mr. McKeekan proceeded to discredit their backing, stating they are not close enough to Alostia Brewing Co. to have an opinion that matters.

Later, Commissioner Manning appeared bothered by the fact that NONE of the neighboring businesses or residents attended the hearing in order to voice opposition to our proposal. He was so bothered he suggested continuing the hearing for another month. What was commissioner Manning's motive to further proffer opportunity to voice opposition beyond a legal 30-day notice? When asked, he responded to the effect that not everyone reads everything they get from the city. Why is it the burden of Alostia Brewing Co. to ensure that everyone reads everything received from the city? Legal and reasonable measures were properly performed so that others might voice opposition or, as in this instance, duly participate in the process via letters of support.

692 Arrow Grand Circle Covina, CA 91722 - (626) 470-7897 - info@alostabrewing.com

EXHIBIT E - 2 Pages

We are very disappointed by the planning commission's actions. With the exception of Commissioner Patterson, the remaining commissioners' discussion and questions intimated opposition to our proposals existed from *someone, somewhere...anywhere*; and it was imperative this nonexistent opposition was discovered. Otherwise, their behavior during the hearing last night, ostensibly to uncover opposition to our proposals, might be characterized largely as castigation for seeking revision to our CUP. Commissioner McKeekan churlishly quipped "reasonable people may disagree", but I would argue that "reasonable" people, while disagreeing, behave reasonably. Unfortunately, the planning commission arrogantly engaged in paternalist condescension modeling a general lack of respect toward business constituents requesting upgrades to their CUP and their supporters in attendance at the hearing.

We are proud of the success of our business to date, and would like to see our business continue to grow in ways that benefits both Alosta Brewing and our city. As one supporter noted, "I don't live in Covina, but I spend money in Covina, and this proposal would get me to spend more." Is the city of Covina dis-interested in having Alosta Brewing Co. as a local business? It is our desire and responsibility to continue to grow to meet the demands of not only our customers, but the craft brewing market in So. California; we do not wish to be forced to move to a neighboring city already open to the opportunity of hosting our establishment.

Cheers,
Alosta Brewing Co.

CITY OF COVINA
AGENDA ITEM COMMENTARY

MEETING DATE: April 21, 2015

ITEM NO.: NBI

STAFF SOURCE: Best Best & Krieger, City Attorney

ITEM TITLE: Receive Appeal From the Order and Decision of the Acting City Manager Related to Two Notices of Violation For Non-Compliant Newsracks

STAFF RECOMMENDATION

Approve the decision and order of the Acting City Manager.

FISCAL IMPACT

None.

BACKGROUND

Chapter 11.32 of the Covina Municipal Code regulates the location of newsracks on public property within City. This “Newsrack Ordinance” prohibits newsracks from locating in a parkway or sidewalk adjacent to a public park or adjacent to property zoned residential. If a newsrack is located in violation of the Municipal Code, staff may issue a Notice of the Violation, providing the owner of the newsrack with 10 calendar days to remove it, after which time the City may impound it. The owner may appeal the Notice of Violation to the City Manager and then to the City Council.

On January 20, 2015, code enforcement staff issued a Notice of Violation to Hector O. and Judith L. Storman for a newsrack located at Heritage Plaza, 444 N. Citrus Avenue. On January 29, 2015, code enforcement staff issued a Notice of Violation to Mr. and Mrs. Storman for a newsrack located at 1601 E. Ruddock Street. Mr. and Mrs. Storman appealed the two Notices of Violation to the City Manager. Kim Raney, the Acting City Manager at the time, heard the appeal and issued a decision on February 26, 2015, which is attached as Exhibit A. The documents constituting the record on appeal to the Acting City Manager are attached as Exhibit B. Exhibit C contains an letter sent by Mr. Storman in response to the Acting City Manager’s decision. Mr. and Mrs. Storman then filed an appeal to the City Council, which is attached as Exhibit D and includes an e-mail sent by Mr. Storman supplementing the appeal.

In his decision, the Acting City Manager found that the newsracks owned by Mr. and Mrs. Storman are in violation of the Covina Municipal Code. The Acting City Manager found that the first newsrack is located in the parkway or sidewalk adjacent to Heritage Plaza, a public park, and the second newsrack is located in the parkway adjacent to 1601 E. Ruddock Street, a

residentially-zoned property. The Acting City Manager’s decision orders Mr. and Mrs. Storman to remove both newsracks within 10 calendar days. Because Mr. and Mrs. Storman filed an appeal to the City Council, staff has not enforced the decision, pending City Council’s decision on the appeal. The newsracks have not been impounded and remain in place.

The newsrack ordinance provides the City Council with three options upon receipt of an appeal: (1) approve the decision and order of the Acting City Manager, (2) refer the matter back to the police chief with or without instructions, or (3) set the matter for public hearing before the City Council.

Staff recommends that the City Council take action approving the decision of the Acting City Manager. Such an action would render the decision final, and Mr. and Mrs. Storman would have 10 days to remove the newsracks. Failure to remove the newsracks within this time will result in the City impounding them.

If the City Council instead chooses to refer the matter to the Police Chief, the Acting City Manager’s decision would be void, but the newsracks may still be subject to future code enforcement actions. If the City Council chooses to set a public hearing, the public hearing will proceed de novo – meaning as if the first hearing never took place – and Mr. and Mrs. Storman will have the opportunity to appear before the City Council and present evidence in their defense.

RELEVANCE TO THE STRATEGIC PLAN

N/A.

EXHIBITS

- A. Decision and Order of the Acting City Manager
- B. Record on Appeal to the Acting City Manager
- C. Letter from Mr. Storman
- D. Appeal to the City Council

REVIEW TEAM ONLY	
City Attorney: _____	Finance Director: _____
City Manager: _____	Other: _____



CITY OF COVINA

125 East College Street • Covina, California 91723-2199
www.covinaca.gov

February 26, 2015

[BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED]

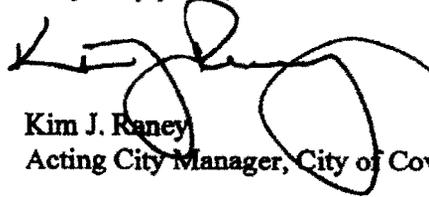
Hector and Judith Storman
1601 E. Ruddock Street
Covina, CA 91724

**In Re: Decision of City Manager – Notice of Violation and Impound of Two
Newsracks Adjacent to Storman Residence and Heritage Plaza**

Dear Mr. and Mrs. Storman:

Attached, please find my written decision regarding the above-entitled administrative appeal. Should you have any questions, please call me at (626) 384-5410.

Very truly yours,



Kim J. Raney
Acting City Manager, City of Covina

cc: Elizabeth W. Hull, Interim City Attorney
William J. Priest, Assistant City Attorney
William Hayes, Building Official
Alex Gonzalez, Interim Public Works Director

Exhibit A – 7 Pages

*The City of Covina provides responsive municipal services and manages
public resources to enhance the quality of life for our community.*

FINDINGS AND DECISION

On Thursday, February 19, 2015, at 9:00 a.m., I conducted an administrative hearing pursuant to Covina Municipal Code ("CMC") §§ 11.32.150 and 11.54.010, to determine whether two newsracks owned by Hector and Judith Storman (hereafter collectively referred to as "Storman") are in violation of the CMC and must therefore be removed. The hearing was an appeal of two notices of violation issued by the City for the newsracks in question.

In attendance were the following individuals:

Kim Raney, Acting City Manager

For the City:

William Hayes, Building Official

Chris Ulmer, Code Enforcement Officer

For Storman:

Hector Storman

Judith Storman

Notice/Procedural Matters:

Initially, I find that all required notices were properly sent to the parties. CMC §11.32.130 requires the Director of Public Works, or designee, to attach a tag upon the particular newsrack(s) in violation. Thereafter, written notice of violation must be sent within two (2) working days to the owner/permittee/person in immediate charge of the newsrack in question. The record indicates that the newsrack located adjacent to Heritage Plaza was tagged on January 20, 2015 and the newsrack located adjacent to the Storman residence was tagged on January 29, 2015. Written notices of violation were timely mailed to Storman after the newsracks were tagged.

The CMC provides that the owner/permittee/person in immediate charge has 10 calendar days to either correct the violation(s) or seek an appeal to the City Manager. Storman timely filed appeals of both notices of violation on January 27, 2015 and February 4, 2015, respectively. For administrative efficiency, I consolidated both appeals into one hearing, since they involve the same owner. Per CMC §11.54.010(C), the City scheduled an appeal hearing for February 19, 2015 and sent timely notice of the appeal hearing to Storman by personal service. City staff and Storman appeared at the hearing on time (9:00 a.m.) and presented their cases.

I therefore find that all other prerequisites of the CMC were complied with prior to conducting the hearing.

Background:

This matter concerns two newspaper racks that Storman has placed in front of his residence at 1601 E. Ruddock Street and adjacent to Heritage Plaza facing Citrus Avenue. The

newsracks appear to distribute the "N3 Namrots Neighborhood News" a local neighborhood news sheet that includes various articles and listings of local garage, yard and moving sales.

The record indicates that the City issued permits to Storman for the two newspaper racks on May 14, 2013 and May 20, 2013, respectively. At the time, the City's Code did not explicitly prohibit newspaper racks at these locations so the City felt compelled to issue the permits.

In response, the City Council adopted Urgency Ordinance No. 13-2021 on June 18, 2013, which amended the City's Code in two ways relevant to this case. First, it prohibits newsracks from locating in a parkway or sidewalk adjacent to property zoned residential (with certain exceptions for public buildings not applicable to this case). Secondly, it prohibits newsracks from locating in a parkway or sidewalk adjacent to a public park, in any zone. (See, CMC 11.32.090(C) and (D)) The Ordinance also includes an "amortization" clause which requires all newsracks to come into compliance within 6 months after the Ordinance's adoption – that date was December 18, 2013. (CMC §11.32.190)

Analysis:

At the hearing, City staff and Storman were allowed to call and cross-examine witnesses, present evidence, and raise legal arguments. The administrative record consists of approximately 30 pages, including a 3-page brief submitted by Storman raising various arguments and defenses. I admitted these documents into evidence and heard testimony and argument from both sides. Copies of the administrative record are available to all parties to these proceedings.

Overall, the record supports my finding that the newsracks are operating illegally under CMC §11.32.090(C) and (D). The first newsrack is located in the parkway that is adjacent to Storman's residence. The second newsrack is located in the parkway/sidewalk that is adjacent to a public park – Covina Heritage Plaza. The Ordinance is directly on point and prohibits the newsracks from operating where they are currently located.

I also find that the 6-month amortization period was a reasonable time to come into compliance. Typically, once an ordinance becomes effective, persons must comply immediately. However, the Ordinance provided legal non-conforming use rights of limited duration to newsracks that otherwise would be in violation. In other words, they could continue to operate under "grandfathered" status until December 18, 2013. That time has now passed and Storman must comply with the new Code. There is no right to continue a legal non-confirming use indefinitely and a city may set a reasonable time limit to terminate that use and comply with new standards. Therefore, as of December 18, 2013, all legal non-conforming use rights ceased for these two newsracks and they are not "grandfathered" in any way.

For each of these reasons, the newsracks must now be removed.

At this point, I will address Stormans' arguments as presented in his brief. To the greatest extent possible, I will attempt to match Storman's numbering.

"Chronology", "Summary" and "General Defense": All of these arguments contend that the newsracks continue to enjoy legal non-conforming use rights because they were issued permits in May, 2013. However, as indicated above, such rights do not continue. The

Ordinance provided a window of 6 months during which these newsracks were legal non-conforming. After the 6 months expired, the newsracks became *illegal*, and any permits previously issued were deemed expired. Therefore, Storman has no active permits that grant continued rights to place his newsracks at these locations.

Storman mentions that the newsracks are kept clean and continue to comply with health and safety codes. That may be true, but it is irrelevant to the analysis. The violations alleged by the City have nothing to do with health and cleanliness. They concern location, which has not been corrected by Storman.

Lastly, Storman's contention that a third party illegally removed the newsracks in October, 2014 and put them back is irrelevant. The newsracks became illegal nearly a year prior to this. The newsracks have no legal non-conforming rights and this alleged "theft" changes nothing. Also, for the reasons above, Storman's contention that CMC 11.32 is silent on the issue of non-conforming use is patently false. The Ordinance speaks very clearly on the subject – 6 months to comply. The authority he cites under CMC §§17.74.080(D) and 17.04.429 for this proposition is irrelevant to this case.

Specific Defense. Ruddock: Storman contends that this newsrack is in a 5-foot parkway separated from his residence by a 5-foot sidewalk. Therefore, the newsrack is not "adjacent" to his residence, but instead "adjacent" to the sidewalk, which is not residentially zoned property. Storman misreads the Ordinance. CMC §11.32.090(C) prohibits newsracks from locating in "a parkway or sidewalk adjacent to property zoned residential". While the City's newsrack ordinance does not define "adjacent", the City's Zoning Code does. "Adjacent" means "near, close, contiguous or abutting; for example, an industrial zone across a street or highway from a residential zone shall be considered as 'adjacent.'" (CMC §17.04.021)

Storman's argument suggests that if a sidewalk is located in front of a residence (which is the case with most residential neighborhoods in Covina), the Ordinance allows a newsrack to be placed in the parkway in front of residential property. This tortured interpretation of "adjacent" strains credulity and runs contrary to other provisions of the City's Code, as indicated in the highlighted text above. If two properties separated by a highway can be "adjacent" to each other, a parkway separated by a sidewalk can still be "adjacent" to a residence. The language of the Ordinance is clear – no newsracks are allowed either in the sidewalk or parkway in front of, or on the side of, a residentially zoned property because both locations are "adjacent" to that property.

Specific Defense. Citrus: Storman makes the same contention that this newsrack is in the parkway and, therefore, not "adjacent" to Heritage Plaza. For the same reasons as above, this argument is without merit. Further, Storman contends that Heritage Plaza is not a "public park" of the City and, therefore, the prohibition does not apply. This is also without merit. Heritage Plaza is an identified public park of the City of Covina and Storman offers no contrary evidence of this fact. That it is called a "plaza" instead of a "park" is a distinction without a difference. Lastly, the fact that Federal or State money may have been used to fund Heritage Plaza has no effect on the City's land use authority in the area, and Storman has produced no evidence that the newsrack Ordinance violates the terms of any Federal or State law or grant.

Specific Defense. Citrus: Storman contends that the City allows other items to be placed in parkways and sidewalks, such as bike racks, mail boxes, outdoor dining areas, light poles, etc. Storman is raising many different kinds of activities that may be regulated differently under the Code. The City is allowed to constitutionally draw these distinctions and has done so in the case of newsracks. I also note that the prohibition on placing newsracks adjacent to public parks applies to all newsracks, regardless of content. The authority cited by Storman is either irrelevant or not current law (see below).

Relevant Constitutional Considerations. . .: Storman then raises several additional constitutional issues about the Ordinance abridging free speech rights.

A. Storman claims that a newsrack ban in residential areas is unconstitutional. However, the case he cites in support (the *City of Wheaton* decision) was later overruled, having applied the wrong legal standard. To the contrary, the Ninth Circuit Federal Court of Appeal (the court with binding authority in California) held that a local government may regulate in these areas as long as it is content neutral, narrowly tailored, promotes a substantial government interest and leaves alternative modes of communication. *Honolulu Weekly v. Harris*, 298 F.3d 1037 (9th Cir. 2002).

The Ordinance itself includes two pages of recitals and findings demonstrating that it is content-neutral (except for adult materials where some content-based regulation is allowed), it is narrowly tailored and promotes the substantial government interest of aesthetics/reducing visual clutter in sensitive areas, prevention of blight, etc. Lastly, the Ordinance outlines that other areas in the City are available for an individual to communicate his message. This is the relevant First Amendment standard and the Ordinance is fully in compliance with it.

B. Storman next claims that the Ordinance is invalid because it gives city officials discretion to determine which newsracks are in compliance and which are not. However, the Ordinance does quite the opposite – it provides clear and objective standards that are susceptible to little (if any) interpretation or discretion. Further, the case Storman cites (the *Lakewood* decision) doesn't prohibit cities from exercising any discretion. Rather, it is "unfettered discretion" that the Constitution prohibits. If the Ordinance had open-ended and ambiguous standards, a court may question that since it could permit city officials to prohibit certain speech due to its content. Here, there is no such unfettered discretion and City staff has acted in accordance with the objective procedures.

1. As noted above, the ordinance is not an unconstitutional violation of free speech, press, association, prior restraint or any of the other theories raised by Storman. As noted above, the term "adjacent" is not ambiguous and is susceptible to a common-sense meaning. Therefore, Storman's hypertechnical arguments about what "adjacent" means have no merit and do not render the Ordinance unconstitutional.

2. The City acknowledges that the Ordinance was adopted as an urgency measure in reaction to Storman's placement of the newsracks. Nevertheless, particular facts and circumstances often drive legislation. Ultimately, the Ordinance applies City-wide to a great many people. Therefore, while Storman's actions may have been the inspiration for the Ordinance, he is not being singled out for adverse treatment.

3, 4, 5, 6, 8. These are all general constitutional arguments which have been addressed in previous sections. The Ordinance is a content-neutral regulation that passes First Amendment standards. [Note: There is no Argument No. 7 in Storman's brief]

9. The Ordinance has a narrow exception that allows newsracks to be placed in front of residentially-zoned properties with certain public buildings (e.g.: libraries, community centers) This is not an unconstitutional preference for government buildings over private property. Rather, the Ordinance draws a rational distinction because news is more likely to be disseminated and discussed at these public venues rather than in front of private residences. It also helps to provide more locations where a speaker can get out his or her message in the City, satisfying First Amendment requirements. Plus, the aesthetic concerns about newsracks in front of government buildings are somewhat less than for those in front of residences. On the other hand, the City believes that the need to disseminate news in front of personal residences or schools is lower, while the negative secondary effects of allowing newsracks in these areas is much greater. As noted above, cities are allowed to draw these distinctions and there is a reasonable basis to make it here.

10. Storman raises a distinction between commercial and non-commercial news that is irrelevant in this case. The Ordinance prohibits the placement of newsracks of any kind in certain areas. As noted above, the regulation is content-neutral, and would therefore apply to both commercial and non-commercial publications.

11. See A. above.

12. The State law cited by Storman which defines a "vending facility" is irrelevant to this case and does not trump the City's Code. California Welfare and Institutions Code §19626 pertains to the Federal and State government giving priority to blind persons operating vending machines on their property. It has no application to where newsracks may be located under local Code.

13. Storman cites California Streets & Highways Code §8530 to claim that the Ordinance was invalid because notice of it was not published in accordance with State law. However, §8530 is a provision from the Improvement Bond Act of 1915 which has no relevance to this case.

14. The Ordinance specifically pertains to newspaper racks. It does not ban mailboxes or other receptacles for citizens to receive their mail, magazines, etc. They are two completely different issues and, as noted above, cities may draw these reasonable distinctions. On a practical level, it is commonplace to see mailboxes in front of residences. That is not the case with newspaper racks. The justification for different treatment is evident.

15. Storman contends that a homeowner owns to the center of the road, but the City has a non-exclusive right to use the highway, and that Covina relies on homeowners to maintain parkways near their property line. First, the City holds the public right-of-way in front of Storman's residence in both the sidewalk and the parkway. Even if one assumes that the City

only holds an easement, as Storman suggests, that easement is for public transportation and access purposes. By erecting barriers to that access without the consent of the City and in violation of Code, Storman is necessarily infringing upon the City's easement rights and must cease.

More importantly, ownership of the parkway and sidewalk is irrelevant to the case. The Ordinance makes no such distinction based upon ownership. Storman contends that because he owns the front of his property to the center of the street, the City cannot regulate the placement of newspaper racks in front of his residence. That is patently false. The City may regulate many activities on both public and private property. For example, the City may limit the height of a house even though it may be entirely on private property. One cannot grow marijuana in one's back yard even though that is private property. In other words, ownership does not equate to immunity from City regulation, which is what Storman appears to suggest. As noted above, the Ordinance is constitutional and may be validly applied to the facts of this case, regardless of who owns the parkway or sidewalk.

16 and 17. These are additional free speech/censorship arguments. See A and B above.

Decision:

For the reasons set forth above, I find that both newsracks owned and operated by Storman are in violation of CMC §11.32.090(C) and (D). Further, the newsracks no longer enjoy legal non-conforming use rights to remain in place – those rights expired on December 18, 2013. **Storman is therefore ordered to remove both newsracks within 10 calendar days following the date of receipt of this Decision.** If Storman fails to do so within the above time period, the Director of Public Works, or designee, is authorized to remove and impound the newsracks in accordance with CMC 11.32.130 and 11.32.140.

Under the Covina Municipal Code, Storman has a right to appeal this decision to the City Council by filing a written appeal pursuant to CMC 11.32.160 not later than **ten (10) calendar days following receipt of this Decision.** If Storman appeals, the City will send notice of the hearing date. If no appeal is filed, this Decision will become final.

KIM J. RANEY

ACTING CITY MANAGER
CITY OF COVINA



CITY OF COVINA
CODE ENFORCEMENT
COURTESY NOTICE OF VIOLATION

Date: 01/29/15 Time: 3:30 am / (pm)

Responsible Party: Hector O. and Judith L. Storman

Signature: Posted on Newsrack

This courtesy notice is being issued to inform the responsible party named above of a violation of the City Municipal Code existing at the following property:
Residential Sidewalk at 1601 E. Ruddock St.
 Covina, CA 91724

Mailing address if different from violation address:

Address N/A

City _____ State _____ Zip _____

Description of Violation(s)

Newsrack installed in a sidewalk adjacent to property zoned residential. Installation is in violation of the City of Covina Municipal Code. Remove newsrack or City of Covina Public Works Department will remove newsrack. 110

Code Section(s): 11.32.090(C); 11.32.130(A); 11.32.150; 11.32.160(A)(B)(C); 11.32.170(A); 11.32.180; 11.32.190; 1.26.040; 1.28.010; 1.7.82.070(A); 8.40.010(A)(B); 8.40.050; 8.40.060(A)(B); 1.16.010; 1.16.05; 1.26.010; 1.26.020; 8.40.010. 110

Failure to correct the above violation within 3 (10) 20 / 30 days (circle one) shall result in issuance of an Administrative Citation, which carries a minimum fine of \$50.00. Please contact the Code Enforcement Officer referenced below for re-inspection of the property upon correction of the violation. The violation must be corrected by: 02/09/15.

Officer (print name): Chris Ulmer

Telephone: (626) 394-5172

Officer's Signature: Chris Ulmer

COMPLIED ON: 1/1/15

Officer's Signature: _____

13 - News
& Sales Map





CODE ENFORCEMENT
COURTESY NOTICE OF VIOLATION

Date: 01/20/15 Time: 4:00 am pm

Responsible Party: Hector O. and Judith L. Somera

Signature: Posted on Newsrack

This courtesy notice is being issued to inform the responsible party named above of a violation of the City Municipal Code existing at the following property:
West Sidewalk at Heritage Plaza Park
Covina, CA 91723 4444 N. Citrus Ave.

Mailing address if different from violation address:

Address N/A

City _____ State _____ Zip _____

Description of Violation(s)

Newsrack installed in sidewalk along Citrus Avenue between south side of San Bernardino Road and north side of Badillo Street.
Newsrack located in sidewalk adjacent to public park. Remove newsrack or Covina Public Works Department will remove newsrack.

Code Section(s): 11.32.090(A)(F); 11.32.130(A); 11.32.160(A)(B); 8.40.010(A)(B); 8.40.030(A)(10); 1.26.010(A)(1)(2)(3)(C); 17.82.070(A); 1.26.040; 1.28.010; 1.26.020(A)(B)(C)(D)(E)(F). N/A

Failure to correct the above violation within 3 / 10 / 20 / 30 days (circle one) shall result in issuance of an Administrative Citation, which carries a minimum fine of \$50.00. Please contact the Code Enforcement Officer referenced below for re-inspection of the property upon correction of the violation. The violation must be corrected by: 02/02/15.

Officer (print name): Chris Ulmer

Telephone: (626) 384-5177

Officer's Signature: Chris Ulmer

COMPLIED ON:

Officer's Signature: _____

EXTRA

QUARTER ONLY

N3 - News
& Sales Map



CITY OF COVINA

125 East College Street • Covina, California 91723-2199

NOTICE OF ADMINISTRATIVE APPEAL HEARING

February 9, 2015

Hector Storman
1601 E. Ruddock Street
Covina, California 91723

Re: Newsrack located in front of 1601 E. Ruddock Street and 444 N. Citrus Avenue

PLEASE TAKE NOTICE, that the City has processed your January 27th, 2015 and your February 4th, 2015 requests for an administrative appeal of the City Public Works Director's decision regarding encroachment/newsrack permits to serve the above address. An administrative appeal hearing has been scheduled for February 19, 2015 at 9:00 am, at Covina City Hall, 125 East College Street, in the City Manager's Conference Room on the second floor.

At that time, you will have the opportunity to speak and to present documents and other relevant evidence in support of your position. You also have the right to cross-examine any adverse witnesses who testify at the hearing. To ensure an accurate record of the proceedings, the hearing will be recorded.

If you cannot attend the hearing for a good reason, you must contact the City Manager's Office not later than May 31, 2015 to explain the reason and, if necessary, to reschedule the hearing. The City Manager may (but is not required to) reschedule the hearing for good cause. If the hearing is not rescheduled, you will have to appear at the appointed date and time if you wish to be heard at the hearing.

Pursuant to Covina Municipal Code, Section 11.54.010(G), if you fail to appear at the scheduled hearing, (1) you will waive your rights to an appeal of the Director's decision and (2) you will forfeit any and all fines, costs and appeal fees paid. Failure to appear shall also constitute a failure to exhaust your administrative appeal remedies.

If you have any questions, please call _____, at (626) 384-54____.

[NAME]



CITY OF COVINA

125 East College Street • Covina, California 91723-2199

NOTICE OF ADMINISTRATIVE APPEAL HEARING

February 9, 2015

Hector Storman
1601 E. Ruddock Street
Covina, California 91723

Re: News rack located in front of 1601 E. Ruddock Street and 444 N. Citrus Avenue

PLEASE TAKE NOTICE, that the City has processed your January 27th, 2015 and your February 4th, 2015 requests for an administrative appeal of the City Public Works Director's decision regarding encroachment/news rack permits to serve the above addresses. An administrative appeal hearing has been scheduled for February 19, 2015 at 9:00 am, at Covina City Hall, 125 East College Street, in the City Manager's Conference Room on the second floor.

At that time, you will have the opportunity to speak and to present documents and other relevant evidence in support of your position. You also have the right to cross-examine any adverse witnesses who testify at the hearing. To ensure an accurate record of the proceedings, the hearing will be recorded.

If you cannot attend the hearing for a good reason, you must contact the City Manager's Office not later than February 16, 2015 to explain the reason and, if necessary, to reschedule the hearing. The City Manager may (but is not required to) reschedule the hearing for good cause. If the hearing is not rescheduled, you will have to appear at the appointed date and time if you wish to be heard at the hearing.

Pursuant to Covina Municipal Code, Section 11.54.010(G), if you fail to appear at the scheduled hearing, (1) you will waive your rights to an appeal of the Director's decision and (2) you will forfeit any and all fines, costs and appeal fees paid. Failure to appear shall also constitute a failure to exhaust your administrative appeal remedies.

If you have any questions, please contact Nancy Fong, at (626) 384-5450.

Nancy Fong, AICP
Interim Community Development Director
City of Covina

William Hayes

From: Chris Ulmer
Sent: Tuesday, January 20, 2015 5:03 PM
To: William Hayes
Subject: Newsrack at West Sidewalk at Heritage Plaza Park, 444 N. Citrus Ave., Covina Ca 91723

I also mailed the Courtesy Notice of Violation First Class Mail to the property owner's residence, 1601 E. Ruddock St., Covina Ca 91724.

Chris Ulmer
Code Enforcement Officer
125 E. College Street
Covina, California 91723
Office: (626) 384-5472
Fax: (626) 384-5479
culmer@covinaca.gov



William Hayes

From: Chris Ulmer
Sent: Thursday, January 29, 2015 6:06 PM
To: William Hayes
Subject: 1601 E. Ruddock St., Covina CA 91724
Attachments: Newsrack NOVs 01-29-15 for 1601 E. Ruddock.pdf; Photo taken 01-29-15 047.JPG; Photo taken 01-29-15 048.JPG; Photo taken 01-29-15 049.JPG

Attached are the NOVs carbons and the photos of the newsrack with posted NOV.

Chris Ulmer
Code Enforcement Officer
125 E. College Street
Covina, California 91723
Office: (626) 384-5472
Fax: (626) 384-5479
culmer@covinaca.gov



William Hayes

From: Victoria Heritage
Sent: Monday, October 13, 2014 9:22 AM
To: William Hayes
Subject: FYI...FW: CEASE AND DESIST
Attachments: image001.jpg

Just an FYI, I noticed you weren't on this and in case you get asked later on.

From: Alex Gonzalez
Sent: Monday, October 13, 2014 9:07 AM
To: Victoria Heritage; Earl Karch; Paul Hertz
Subject: Fwd: CEASE AND DESIST

Does anyone know anything about these racks being pulled?

Sent from my iPhone

Begin forwarded message:

From: Monica Vargas <MVargas@covinaca.gov>
Date: October 13, 2014 at 8:59:07 AM PDT
To: Alex Gonzalez <AGonzalez@covinaca.gov>
Cc: Daryl Parrish <dparrish@covinaca.gov>
Subject: FW: CEASE AND DESIST

Alex,

This email came in for Daryl, is this something you can help with?

Monica

From: admin [<mailto:namrots@gmail.com>]
Sent: Monday, October 13, 2014 8:50 AM
To: City of Covina Administration
Subject: Fwd: CEASE AND DESIST

Dear Mr Parrish;

Two of my news racks were illegally taken, on from the corner of Citrus and San Bernardino Rd, and one from the corner of Darfield and Ruddock streets.

I was contacted by Mr Belles about his involvement. He represents the free Recycler advertising paper. I sent Mr. Belles this forwarded email.

Please advise any information you may have concerning this matter. Please be aware the Supreme Court has ruled that any item legally obtained may be sold or given away. In any case I do not sell the Recycler. I have not copied the Recycler nor do I intend to do so. I have asked the Police to prosecute the thieves.

I do not wish to unnecessarily escalate this matter. Your Assistance is appreciated.

Sincerely

Hector Storman
Long time resident of Covina.
Father of 11 children and 32 grandchildren.
Engineer and Expert of media communications.
Retired and busy with lots of time on my hands.

----- Forwarded message -----
From: **admin** <namrots@gmail.com>
Date: Mon, Oct 13, 2014 at 8:30 AM
Subject: Re: CEASE AND DESIST
To: Michael Belles <MichaelB@targetmediapartners.com>

Mr.Belles;

I have not violated any copyright law. I have not violated any trade mark laws. I have not ever nor will I ever sell Recyclers.

You have violated penal law by causing two of my N3 newsracks to be taken without my express permission. This amounts to grand theft.

I have filed a police theft report last Friday, when witnesses reported the theft.

You have until Wednesday of this week to cause both of my Newsracks to be reinstalled at their original location. Thereafter I will, name you personally on the police report and I will contact Recycler directly regarding your actions.

On Fri, Oct 10, 2014 at 8:49 AM, Michael Belles <MichaelB@targetmediapartners.com> wrote:

October 10, 2014

Mr. Hector Storman:

You are hereby put on notice that your obtaining, affixing and reselling Recycler Classifieds for your personal gain is illegal. (SEE ATTACHED)

Your actions violate both copyright and trademark infringements.

I demand that you cease and desist this activity immediately. If action is not taken by you to cease and desist, I will have no choice but to take appropriate legal action against you.

Respectfully,

Mike Belles

Publisher and General Manager

Recycler Classifieds

Cc: Daryl Parrish, City Manager, City of Covina



Delivering solutions to ALL your Advertising needs:

- Inventory Search Optimization***
- Web Presence Optimization***
- Digital Display Network Ads on Google, AOL and Yahoo!***
- Niche print publications - with a reach extending from Santa Barbara to the Inland Empire***

[Click here for answers to your Advertising needs](#)

CONFIDENTIALITY NOTICE: This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information or otherwise protected by law. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.



CITY OF COVINA

125 East College Street • Covina, California 91723-2199

NOTICE OF ADMINISTRATIVE APPEAL HEARING

February 9, 2015

Hector Storman
1601 E. Ruddock Street
Covina, California 91723

Re: News rack located in front of 1601 E. Ruddock Street and 444 N. Citrus Avenue

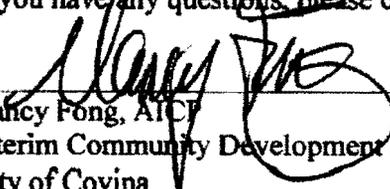
PLEASE TAKE NOTICE, that the City has processed your January 27th, 2015 and your February 4th, 2015 requests for an administrative appeal of the City Public Works Director's decision regarding encroachment/news rack permits to serve the above addresses. An administrative appeal hearing has been scheduled for February 19, 2015 at 9:00 am, at Covina City Hall, 125 East College Street, in the City Manager's Conference Room on the second floor.

At that time, you will have the opportunity to speak and to present documents and other relevant evidence in support of your position. You also have the right to cross-examine any adverse witnesses who testify at the hearing. To ensure an accurate record of the proceedings, the hearing will be recorded.

If you cannot attend the hearing for a good reason, you must contact the City Manager's Office not later than February 16, 2015 to explain the reason and, if necessary, to reschedule the hearing. The City Manager may (but is not required to) reschedule the hearing for good cause. If the hearing is not rescheduled, you will have to appear at the appointed date and time if you wish to be heard at the hearing.

Pursuant to Covina Municipal Code, Section 11.54.010(G), if you fail to appear at the scheduled hearing, (1) you will waive your rights to an appeal of the Director's decision and (2) you will forfeit any and all fines, costs and appeal fees paid. Failure to appear shall also constitute a failure to exhaust your administrative appeal remedies.

If you have any questions, please contact Nancy Fong, at (626) 384-5450.



Nancy Fong, AICP
Interim Community Development Director
City of Covina

To: Covina City Manager
From: Hector Storman
Date: Feb 19, 2019

RE: Hearing Brief regarding Appeal of two Notices of Violation: against the N3 newspaper.

1. Newsrack installed along Citrus Ave, between Badillo and San Bernardino st, and adjacent to Park. 01/20/2014
2. Newsrack installed adjacent to property zoned Residential. 1601 Ruddock St. Covina Ca. 01/29/2015

PRAY: Hector Storman Prays the notices of Violations be vacated. That newsracks remain as is.

N3 (*Namrots neighborhood News*) is a weekly news paper published every Friday, Its focus is neighborhood news. N3 offers news of events, local occurrences, opinions, laughter and a map of local yard like sales. It is a coin operated device and it also provides free news.

CHRONOLOGY:

1. May 13, 2013 Newsrack Permit No. 13E-003 was issued
2. Jun 16,18, 2013 Prohibiting Ordinance Enacted (13-2021, 13-2024) . *CMC 11.32.90 Prohibited Placement*
3. Oct 11, 2014 Newsracks stolen
4. Oct 11, 2015 Reported to police.. Police Reports 14-5393, 14-5515
5. Oct 14, 2014 Newsracks reinstalled by thief.
6. Jan 20, 2015 Notice of Violation -newsrack installed on sidewalk on Citrus, next to park.
7. Jan 29, 2015 Notice of Violation - newsrack installed on sidewalk adjacent to property zoned Residential
8. Jan 27, 2015 Appeal to Director PW; Director of Comm. Dev; City Mgr Re Citrus newsrack
9. Feb 4, 2015 Appeal to Director PW; Director of Comm. Dev; City Mgr Re Ruddock newsrack

SUMMARY: Bill Hayes (Covina Building Official/Public Works Manager) directed Chris Ulmer to issue the Notices of Violation. Hayes stated in the reason the Notices of Violation were issued was because the newsracks are no longer legal non-conforming uses because they were removed and therefore are now subject to the new code that prohibits their placement. Storman told Hayes, in the presence of Judith Storman and Nancy Fong, that the newsracks were stolen and then replaced by thieves, with out my permission or knowledge. Nancy Fong requested proof of Police report, which Storman thereafter provided. The newsracks theft occurred Saturday and were returned on Tuesday and this did not interfere with the normal publishing which occurs on Fridays. Hayes said it does not matter how or by whom the newsracks are removed, they must now be conforming. The newsracks were never abandoned or removed by Storman

PURPOSE OF HEARING: Decide if Public Works Department will impound these newsracks.
CMC 11.32.130 B. The Director of Public Work may impound if the newsracks are creating a dangerous or hazardous condition.

General Defense, the new Statute *CMC 11.32.90 Prohibited* was enacted after the newsracks were legally permitted. These newsracks are kept clean and continue to codes which assure safety, health and welfare. The newsracks were never abandoned or removed by Hector Storman nor his agents. Therefore the newsracks are a legal non-conforming use. *CMC 11.32* is silent on the issue of non-conforming use. Therefore, the non-conforming use does not extinguish and there are no limitations.

The closest relevant *CMC 17.74.080 D. Nonconforming signs.*

Whenever a business use within any commercial zone is discontinued or sold, the sign owner, his agent or the property owner shall remove all temporary nonconforming signs from the premises and shall remove all permanent nonconforming signs from the premises. (Ord. 1428 §§ 1, 2, 3, 1979; Ord. 1392 § 29, 1978; Ord. 1169 § 3, 1972; 1964 Code Appx. A § 11.50.)

Newsracks are permitted within the "parks", commercial and residential properties.

CMC.17.04.429 Nonconforming use.

"Nonconforming use" means a use of a building or land existing on the effective date of the ordinance codified in this title which does not conform to the uses permitted in the zone in which it is located. (1964 Code Appx. A § 0.30.) therefore, newsracks are a conforming use therea

Specific Defense. Ruddock : The newsrack is not on the sidewalk at all. There is a 5 foot parkway and a 5 foot sidewalk between the roadway and the residence at 1601 Ruddock st. The newsrack is on the parkway separated from the residence by a five foot sidewalk. The newsrack is 7 feet from the Property line and is not adjacent to the residence. The newsrack is adjacent to the sidewalk not the residential property. The parkway was landscaped by Storman when the residence was built. Ordinance is overbroad because it can ban newsracks located adjacent to sidewalk on private property.

Specific Defense : Citrus. The newsrack is not on the sidewalk. The Heritage Plaza is not a Park, it is labeled Heritage Plaza. The newsrack is not adjacent to the "park" the newsrack is in the parkway 7 feet from the "park" There is a 5 foot parkway and a 5 foot sidewalk between the roadway and the "park" The plaza is funded by the U.S. Department of the Interior and the California Department of Parks and Recreation. The city does not have exclusive jurisdiction over what is placed next to the plaza.

Specific Defense: Citrus. The city permits purely commercial encroachments along Citrus Ave. for the placement of signs on or above the sidewalks and parkways. It permit bicycle Racks, It permits mail boxes, electrical boxes, light poles, It permits the placement of metal patios with menus and newsracks, It permits the total use of the area for Car shows, musical events, farmers markets, and other events which place advertisement and signs, and information and newsletters and news. City prohibited from banning newsrack which include its sign, while it allows commercial signs and news signs. City of Lakewood v. Plain Dealer Publishing Co., 108 S. Ct. 2138 City must not have discretion. This same street is also residential, with many residences along the street. Therefore it is unconstitutional to ban newsracks . See Chicago v Wheaton. and Lakewood v Plain Dealer.

City permits commercial encroachments 24 hours a day for establishments open 24 hours per day and permits signs and newsracks where the only requirement is maintaining a 5 foot right of way for foot traffic.

.Outdoor Dining on Citrus CMC 17.57.040 .

B. Outdoor display may not encroach more than two feet into the public right-of-way.

C. Outdoor dining may extend into the public right-of-way; however, a clear pedestrian pathway shall be maintained the full width of the property. The pathway shall maintain a minimum unobstructed passageway of five feet as measured from the dining area to any obstruction including but not limited to light standards, benches, street trees and newsracks. (Ord. 97-1819 § 1, 1997.) Ordinance permits newsracks

CMC Chapter 17.75 prohibits incidental signs except it permits signs on structures, newspaper racks... as authorized by this code as required by the Streets and Highways Code or other statutory authority. signs on any sidewalk...

What is a newsrack?

A newsrack is both a sign and a container.

A. The newsrack as a sign:

Displays and/or advertises the contents of the newsrack to viewers, the viewers can be passer-bys and/or intentional visitors;

Gives viewers a memory of the newsrack contents and location for their future use.

B. The Newsrack is a container whose:

contents are commercial and/or news information;

contents are used, and/or viewed and/or inserted and/or removed by users, readers, buyers, publishers, writers, viewers, distributors, or agents;

contents are sold and/or free.

Relevant Constitutional Considerations. Two recent Court decisions are highlighted

A. Ban in Residential areas is unconstitutional. CHICAGO NEWSPAPER PUBLISHERS v. CITY OF WHEATON No. 87 C 0765. 697 F.Supp. 1464 (1988) Ban of newsracks in Residential Area is unconstitutional.

B. Ordinance must not give discretion to city officials. City of Lakewood v. Plain Dealer Publishing Co., 108 S. Ct. 2138 City must not have discretion.

The ordinance is unconstitutional on several grounds: Violation of free speech, press, association, prior restraint, censorship, quiet enjoyment, equal protection, circulation, distribution, use of public property ; not content neutral, etc.

1. The term adjacent is ambiguous, which may mean near or next to, and leaves open the discretion of the City.
Constitutional decisions demand there be no discretion by city officials.
2. The ordinance was passed specifically against Storman, documented in the Ordinances. 13-1204, 13-2031
3. The ordinance specifically prohibits news specifically for neighbors from neighbors. "N3 - Namrots Neighborhood News.
4. Ordinance specifically prohibits people from taking newspapers from newsracks. "no person shall use"
5. Ordinance specifically prohibits students from seeing or using news.
6. Ordinance violates separation clause by keeping news from Churches, and prevents churches from placing newsracks.
8. Ordinance specifically keeps news from all places where the public normally gathers. - censorship
9. Ordinance specifically gives preference to public buildings and not private buildings, and not schools.
10. Ordinance specifically permits Citrus Highway commercial operations the right to post information and news, without limitation. Ordinance specifically permits Citrus commercial operations news business to post news and place newsracks while prohibiting non commercial operations the same right. Constitutional decision have recognized News as a higher consideration than purely commercial operations.

11. Ban of newsrack in residential areas are unconstitutional *CHICAGO NEWSPAPER PUBLISHERS v. CITY OF WHEATON No. 87 C 0765. 697 F.Supp. 1464 (1988) Ban of newsracks in Residential Area is unconstitutional.*

12. *Ban of newsracks in Commercial Zone conflicts with Cal Law*

12. State Law trumps city law. A "vending facility" is a location which may sell, at wholesale or retail, foods, beverages, confections, newspapers, periodicals, tobacco products, and other articles or services dispensed automatically or manually .A "vending facility" may consist of automatic vending machines...any appropriate equipment ...ass being necessary for the sale of the articles... *CA Welfare and Institutions Code - 19626. Signs on newsrack are on-site.*

13. City Ordinance in violation of many State Laws that require information be published in the City

Example *Streets and Highways Code - 8530 Notice by Publication*

Whenever in this division a notice, resolution, order or other matter is required to be published and the manner of such publication is not specified, it shall be published in a daily, semiweekly, or weekly newspaper published and circulated in the city conducting the proceedings and which is selected by the legislative body for that purpose, or by the clerk or other officer issuing the notice or responsible for the publication where the legislative body has not selected any newspaper for that purpose.

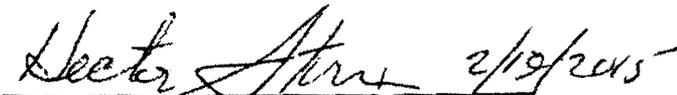
14. Ordinance bans mail boxes, which are containers for newspapers from Residential Zones. Conflicts with Federal Statutes, and constitution.

15. Homeowner owns to the Center of the Road, but City has a non exclusive right to use the Highway. Covina relies on homeowners to maintain parkways near their property line. *Cal Civil code 831. An owner of land bounded by a road or street is presumed to own to the center of the way, but the contrary may be shown. (Enacted 1872. Covina Track No. 19035 grants non-exclusive easement for highway. Therefore Storman may install newsrack in parkway in front of his property.*

16. Every person may freely speak, write and publish his or her sentiments on all subjects, being responsible for the abuse of this right. A law may not restrain or abridge liberty of speech or press. *CA Constitution: ARTICLE I DECLARATION OF RIGHTS [SECTION 1 - SEC. 31]*

17. *City essentially bans newsracks where the majority of people are (residences) and from where people congregate. (parks and downtown) is censorship. etc.*

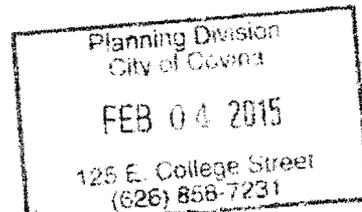
I, declare under the penalty of perjury under the laws of the State of California the foregoing is true
Los Angeles County.


Hector Storman/ Date

TO: Covina: City Manager; Director of Community Development; and Director of Public Works
FROM: Hector Storman, 1601 Ruddock St, Covina, CA 91724; goopopper@gmail.com; 626-339-6307.
RE: Notice of Violation 1/29/2015 regarding newsrack.

SUMMARY: Storman obtained a newsrack permit, the ordinance changed which made Storman's use a legal non-conforming use. Thereafter, newsracks were stolen and then replaced by a thief. The Storman was issued a Notice of Violation based on the theft, and revised City ordinances.

TO: Nancy Fong



- A. **1980 Ordinance Passed** 11.32 Newsracks
(Ordinance 1478 §1, 1980)
- B. **May 14, 2013. Permit obtained**
Hector Storman for 2 Newsracks located near:
1601 Ruddock St Covina, CA
Corner of Citrus and San Bernardino Streets, Covina
- C. **Jun 18, 2013 Ordinance Amended** 11.32. Newsracks
(Ord. 13-2024 § 2, 2013; Ord. 13-2021 § 2, 2013; Ord. 1478 § 1, 1980.)
(Violating US, California, Constitutions. and violating of Supreme Court decisions)
- D. **Jun 18, 2013, Newsracks became legal non-conforming use, because of Ordinance change.**
- E. **Oct 10, 2014 Newsracks Stolen**
Corner of Citrus and San Bernardino Aves in Covina.
Police Reports - Case Number 14-5393 grand theft - Officer Daniel Cervantes
Case Number 14-5515 grand theft - Officer Daniel Cervantes
Storman located the thief and gave him 3 days to reinstall the racks if not Storman would inform thief's Employer and disclose the thief's name to the Police.
- F. **Oct 14, 2014. Thief reinstalled the stolen newsracks.**
- F. **Jan 29, 2015 Notice of Violation** CMC 11.32.090 (C). Issued to Storman, by Chris Ulmer.
For newsrack located near 1601 Ruddock St, Covina. - Placement of Newsrack on sidewalk in Residential Zone
- G. What is a newsrack? A newsrack is both a sign and a container.
A. The newsrack as a sign:
Displays and/or advertises the contents of the newsrack to viewers, the viewers can be passer-bys and/or intentional visitors;
Gives viewers a memory of the newsrack contents and location for their future use.
B. The Newsrack as a container whose:
contents are commercial and/or news informations;
contents are viewed and/or inserted and/or removed by readers, buyers, publishers, writers, viewers;
contents are sold and/or free.
- H. There is no violation:
Public streets and parkways are not part of any city zone;
Property is owned to the center of the street; Easement deeded to City is not exclusive owner retains right to use easement; Law is over reaching since it prohibits newsracks on private property, etc;
Violates Freedom of the press, freedom of speech; prohibition is for only places of public gatherings;
Selective Prohibition: City has prohibited uses which it permits others.
Selective Prosecution; Not placed on sidewalk; City has no jurisdiction over federally, State, or county funded roads, parks, etc
- I. I request that or practical purposes the appeal of violation of 01/20/2015 (Citrus and San Bernardino Rds) be combined with this appeal.
- J. I Demand that these violations be vacated.

I declare under the penalty of perjury, under the laws of California the forgoing is true. Los Angeles County, California

Hector Storman Feb 4, 2015
Hector Storman/Date

Chapter 11.54
APPEAL OF DIRECTOR'S DECISIONS UNDER THIS TITLE

Sections:

11.54.010 Appeal of director's decisions under this title.

11.54.010 Appeal of director's decisions under this title.

- A. Except as otherwise provided in the applicable chapter, any person who is aggrieved by the notices, orders, decisions, or determinations made by the director relative to the application of any standards under this title may appeal to the city manager.
- B. Such appeal shall be in writing and must be filed with the director not less than 10 calendar days following the date of service of the director's order, decision or determination on the person aggrieved. The appeal must indicate a return address, set forth the basis for the appeal, include the applicable appeal fee as set by city council resolution, and must be filed with the director's office. If the appeal deadline falls on a day City Hall is closed, then the deadline shall be extended until the next regular business day.
- C. As soon as practicable after receiving the written notice of appeal, the city shall fix a date, time and place for hearing before the city manager. Written notice of the time and place for the hearing may be served by personal service, facsimile or by first class mail, at the return address indicated on the written appeal. Service of the appeal notice must be made at least 10 calendar days prior to the date of the hearing to the person aggrieved. The notice shall be deemed served and effective upon the date the notice is provided in person or by facsimile machine, or two calendar days after sending by first class mail. The failure of the person aggrieved to receive such notice of the hearing shall not affect the validity of any proceedings under this chapter.
- D. The city manager shall conduct an orderly, fair hearing and accept evidence on which persons would commonly rely in the conduct of their ordinary business affairs as follows. The city manager shall administer oaths and accept testimony by declaration under penalty of perjury relating to the issues presented on appeal. The person aggrieved, or his or her agent or attorney, or any other interested person may present testimony or evidence concerning the issues presented on appeal. For purposes of an appeal hearing, a valid notice, order, decision, or determination of the director shall be prima facie evidence of that fact.
- E. The city manager shall make findings based on the record of the hearing and make a written decision based on the findings. The city shall preserve all exhibits submitted by the parties and shall serve the decision by first class mail on the appellant within 10 calendar days after the hearing.
- F. The city manager may reduce, waive or modify any penalties, conclusions or conditions stated in the director's notice, order, decision or determination if mitigating circumstances are shown and the city manager states specific grounds for reduction, waiver or modification in the written decision. The decision of the city manager shall be final, subject only to further review in a court of competent jurisdiction pursuant to state law. There are no appeals to the city council.

G. Failure of an aggrieved person to file an appeal and appear for a hearing in accordance with the provisions of this section shall constitute a waiver of that person's rights to administrative determination of the merits of the director's order, decision or determination, and shall also constitute a forfeiture of any fines, costs and appeal fees. If no timely appeal is filed to the city manager, the director's notice, order, decision or determination shall be deemed a final administrative order. Failure to appeal a decision to the city manager shall also constitute a failure to exhaust the aggrieved person's administrative remedies. (Ord. 10-1987 § 20, 2010.)

[View Web Version](#)



**CITY OF COVINA
CODE ENFORCEMENT
COURTESY NOTICE OF VIOLATION**

Date: 01/29/15 Time: 3:30 am pm

Responsible Party: Hector O. and Judith L. Storman

Signature: Posted on Newsrack

This courtesy notice is being issued to inform the responsible party named above of a violation of the City Municipal Code existing at the following property:

Residential Sidewalk at 1601 E. Ruddock St.
Covina, CA 91724

Mailing address if different from violation address:

Address N/A

City _____ State _____ Zip _____

Description of Violation(s)

Newsrack installed in a sidewalk adjacent to property zoned residential. Installation is in violation of the City of Covina Municipal Code. Remove newsrack or City of Covina Public Works Department will remove newsrack. 1/6

Code Section(s): 11.32.090(C); 11.32.130(A); 11.32.150; 11.32.160(A)(B)(C); 11.32.170(A); 11.32.180; 11.32.190; 1.26.040; 1.28.010; 1.7.82.070(A); 8.40.040(A)(B); 8.40.050; 8.40.060(A)(B); 1.16.010; 1.16.015; 1.26.010; 1.26.020; 8.40.010

Failure to correct the above violation within 3 10 / 20 / 30 days (circle one) shall result in issuance of an Administrative Citation, which carries a minimum fine of \$50.00. Please contact the Code Enforcement Officer referenced below for re-inspection of the property upon correction of the violation. The violation must be corrected by: 02/09/15

Officer (print name): Chris Ulmer

Telephone: (626) 384-5472

Officer's Signature: Chris Ulmer

COMPLIED ON: / /

Officer's Signature: _____



**CITY OF COVINA
CODE ENFORCEMENT
COURTESY NOTICE OF VIOLATION**

Date: 01/29/15 Time: 3:30 am pm

Responsible Party: Hector O. and Judith L. Storman

Signature: First Class Mail

This courtesy notice is being issued to inform the responsible party named above of a violation of the City Municipal Code existing at the following property:

Residential Sidewalk at 1601 E. Ruddock St.
Covina, CA 91724

Mailing address if different from violation address:

Address 1601 E. Ruddock St.

City Covina State CA Zip 91724

Description of Violation(s)

Newsrack installed in a sidewalk adjacent to property zoned residential. Installation is in violation of the City of Covina Municipal Code. Remove newsrack or City of Covina Public Works Department will remove newsrack. 1/6

Code Section(s): 11.32.090(C); 11.32.130(A); 11.32.150; 11.32.160(A)(B)(C); 11.32.170(A); 11.32.180; 11.32.190; 1.26.040; 1.28.010; 1.7.82.070(A); 8.40.040(A)(B); 8.40.050; 8.40.060(A)(B); 1.16.010; 1.16.015; 1.26.010; 1.26.020

Failure to correct the above violation within 3 10 / 20 / 30 days (circle one) shall result in issuance of an Administrative Citation, which carries a minimum fine of \$50.00. Please contact the Code Enforcement Officer referenced below for re-inspection of the property upon correction of the violation. The violation must be corrected by: 02/09/15

Officer (print name): Chris Ulmer

Telephone: (626) 384-5472

Officer's Signature: Chris Ulmer

COMPLIED ON: / /

Officer's Signature: _____

Amendment 7, permit 13E-003



CITY OF COVINA
DEPARTMENT OF PUBLIC WORKS
Development Services Division
125 East College Street
Covina, CA 91723
Telephone: (626) 384-5490 Fax: (626) 384-5479

To be completed by Covina DPW only:

Permit No.: 13E-003 Date Approved: 5/20/2013

Approved By: Miana Habib

Issuance Fee (non-refundable): \$ _____

Permit Fee \$ _____

Total: \$ _____

Paid: _____ Check #: _____

APPLICATION FOR ENCROACHMENT PERMIT

PERMIT TYPE: Overhead Structures Newsrack Outdoor Sidewalk Dining Encroachment

DATE: 5/20/2013 10:15 AM

OWNER/APPLICANT: Hector Storman PHONE: (626) 339-6307

ADDRESS: 1600 Ruddock St SIGNATURE: Covina CITY: 91724 ZIP CODE

FAX: () CELL: (626) 339 6307 EMAIL ADDRESS: Genjofop@ymail.com

I hereby make application for permit to encroach into the public right-of-way at the described location(s). It is agreed by the applicant that the City of Covina and any of its officers or employees thereof shall be saved harmless by the applicant from any liability or responsibility for any accident, loss or damage to persons, property, highway or public right away, happening or occurring as the proximate results of any of the work undertaken under the terms of this application and that all of said liability is hereby assumed by the applicant including all attorney fees, costs and expenses paid in defense or prosecution of an indemnity claim or appeal of such claims.

I am/We are aware of, and will comply with, Section 3800 of the Labor Code, regarding Liability insurance for Workman's Compensation or undertake self-insurance before commencing any of the work. **IT IS FURTHER AGREED THAT THE OWNER/APPLICANT IS THE FINANCIALLY RESPONSIBLE PARTY FOR INITIAL DEPOSITS, ADDITIONAL COLLECTIONS, CHARGES AND REFUNDS.**

SITE ADDRESS: By corner of San Bernardino Blvd & C. Teos ave CITY: 91722-91724 ZIP CODE

BREWSTER MAP LOCATION: (See attached Diagram A see Reg'd Signature)

ITEMS TO BE PLACED ON PUBLIC RIGHT OF WAY: News rack

PERMIT VALID THROUGH: today + 1 year

TYPE OF SURFACE: Concrete LENGTH: See At the Dept to assign H.C.A. WIDTH: _____

**PAYER: Concrete Payors Signature: _____

**** THE OWNER/APPLICANT IS THE FINANCIALLY RESPONSIBLE PARTY FOR ADDITIONAL COLLECTIONS, CHARGES AND REFUNDS**

PERMIT APPROVAL AND ACCEPTANCE OF WORK
CALL OFFICE (626) 384- 5488 OR Cell Phone (626) 710-7561
24 hours PRIOR to all required inspections.

In compliance with the above application and subject to all the terms, conditions and restrictions written or printed as provisions on any part of this form and attached hereto, permission is granted to encroach or perform work within public rights-of-way. City of Covina reserves the right to amend permit as conditions apply.

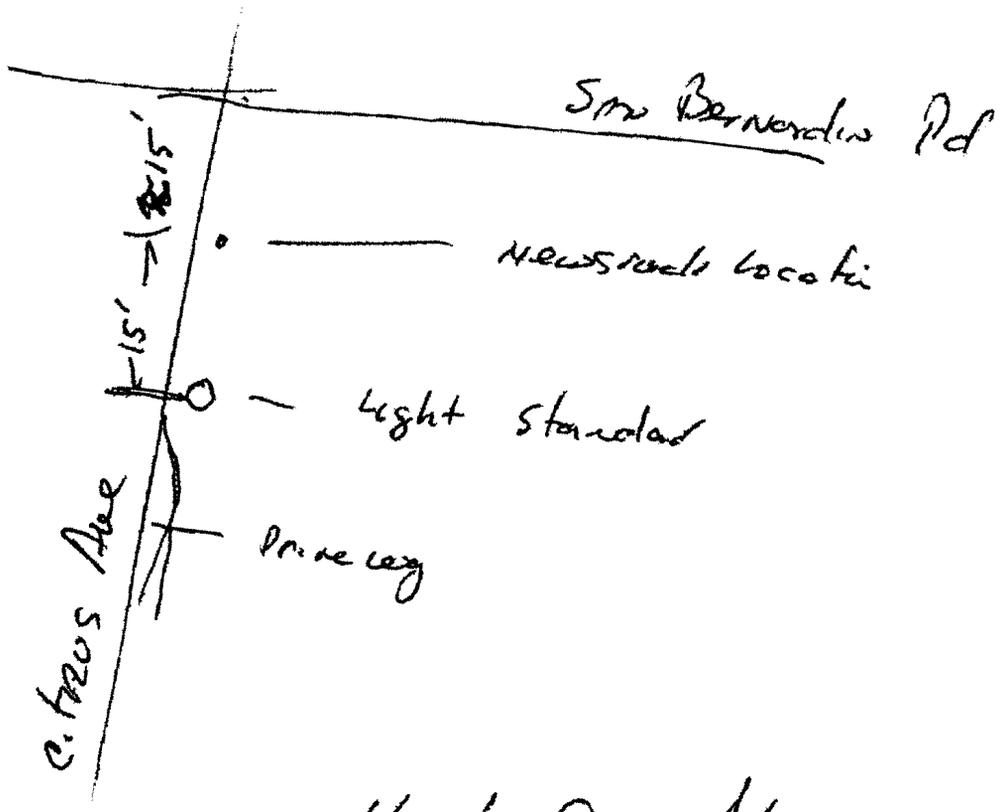
Work was hereby inspected and accepted by the City.

Inspector's Signature: _____ Date: _____

REQUIREMENTS FOR OBTAINING A HIGHWAY PERMIT

1. Complete and sign the permit application. Payment collection will be required prior to permit issuance. Only complete permit application packages will be accepted for review and processing.
2. Submit 2 sets of plans showing the location of the items being placed, show dimensions, sidewalks; relative to the right of way boundary or the centerline of the road.
3. Provide proof of General Liability and Workers Compensation insurance. All insurance documents, including the required endorsement form, must name City of Covina as "Additionally Insured" per current insurance requirements.
4. Submit a copy of contractor's license.

ATTACHMENT A:



Hector D. Storrer
Required Signature



CITY OF COVINA

125 East College Street • Covina, California 91723-2199

NOTICE OF ADMINISTRATIVE APPEAL HEARING

February 9, 2015

Hector Storman
1601 E. Ruddock Street
Covina, California 91723

Re: News rack located in front of 1601 E. Ruddock Street and 444 N. Citrus Avenue

PLEASE TAKE NOTICE, that the City has processed your January 27th, 2015 and your February 4th, 2015 requests for an administrative appeal of the City Public Works Director's decision regarding encroachment/news rack permits to serve the above addresses. An administrative appeal hearing has been scheduled for February 19, 2015 at 9:00 am, at Covina City Hall, 125 East College Street, in the City Manager's Conference Room on the second floor.

At that time, you will have the opportunity to speak and to present documents and other relevant evidence in support of your position. You also have the right to cross-examine any adverse witnesses who testify at the hearing. To ensure an accurate record of the proceedings, the hearing will be recorded.

If you cannot attend the hearing for a good reason, you must contact the City Manager's Office not later than February 16, 2015 to explain the reason and, if necessary, to reschedule the hearing. The City Manager may (but is not required to) reschedule the hearing for good cause. If the hearing is not rescheduled, you will have to appear at the appointed date and time if you wish to be heard at the hearing.

Pursuant to Covina Municipal Code, Section 11.54.010(G), if you fail to appear at the scheduled hearing, (1) you will waive your rights to an appeal of the Director's decision and (2) you will forfeit any and all fines, costs and appeal fees paid. Failure to appear shall also constitute a failure to exhaust your administrative appeal remedies.

If you have any questions, please contact Nancy Fong, at (626) 384-5450.

Nancy Fong, AICP
Interim Community Development Director
City of Covina

**Chapter 11.32
NEWSRACKS¹**

Sections:

- 11.32.010 Purpose.
- 11.32.020 Definitions.
- 11.32.030 Permit required.
- 11.32.040 No fee required.
- 11.32.050 Issuance of permit – Only one permit required.
- 11.32.060 Permit – Application – Contents.
- 11.32.070 Renewable annually.
- 11.32.080 Newsrack identification.
- 11.32.090 Prohibited placement.
- 11.32.100 Standards.
- 11.32.110 Display of certain matter prohibited.
- 11.32.120 Definition of explicit sexual acts.
- 11.32.130 Impounding of newsracks.
- 11.32.140 Return of impounded newsracks.
- 11.32.150 Appeal.
- 11.32.160 Appeal after hearing.
- 11.32.170 Penalty.
- 11.32.180 Other remedies.
- 11.32.190 Time for compliance.

11.32.010 Purpose.

It is the purpose of this chapter to authorize the placement and maintenance of newsracks upon public sidewalks or parkways under the limitations set forth in this chapter. (Ord. 1478 § 1, 1980.)

11.32.020 Definitions.

As used in this chapter:

- A. "Director" means the director of public works of the city of Covina or designee thereof.
- B. "Newsrack" means any self-service or coin-operated box, container, storage unit or other dispenser installed, used or maintained for the display and sale of newspapers or news periodicals.
- C. "Parkway" means that area between the sidewalk and the curb of any street, and, where there is no sidewalk or curb, that area between the edge of the roadway and the property line adjacent thereto.
- D. "Roadway" means that portion of a street improved, designed or ordinarily used for vehicular travel. (Ord. 10-1987 § 7, 2010; Ord. 1478 § 1, 1980.)

11.32.030 Permit required.

No person, whether as a principal or agent, clerk or employee, either for himself or any other person, or as an officer of any corporation, or otherwise, shall place or maintain a newsrack on or projecting onto a sidewalk or parkway unless and until a newsrack permit has been obtained from the director. (Ord. 10-1987 § 8, 2010; Ord. 1478 § 1, 1980.)

11.32.040 No fee required.

No fee shall be required for the issuance of a newsrack permit. (Ord. 1478 § 1, 1980.)

11.32.050 Issuance of permit – Only one permit required.

Upon proper application on forms provided by the director, the director shall issue the applicant a newsrack permit. Notwithstanding any other provisions of this chapter, the director may not refuse to issue a newsrack permit properly applied for. One permit shall permit the placement and maintenance of any number of newsracks on the sidewalks in accordance with the provisions of this chapter. (Ord. 10-1987 § 9, 2010; Ord. 1478 § 1, 1980.)

11.32.060 Permit – Application – Contents.

Any person desiring a permit pursuant to this chapter shall make application therefor to the director. The application shall be upon a form furnished by the director and shall set forth:

- A. The name, address, telephone number (and facsimile or electronic mail address, if available) of the applicant;
- B. If the applicant is a corporation, the names and addresses of the principal corporate officers and the state of incorporation;
- C. The name, address, telephone number (and facsimile or electronic mail address, if available) of the person to be in immediate charge of the individual newsrack(s) who the city may notify or contact at any time;
- D. The location where the newsrack(s) shall be placed;
- E. A color photograph and model number of the type of newsrack(s);
- F. The name of the publication to be contained in each newsrack;
- G. A site map showing the width of the sidewalk and the location of each proposed newsrack installation and any and all structures, encroachments or objects of any kind or character within 25 feet of the proposed installation including, but not limited to, traffic signals, street light poles, fire hydrants, bus benches, utility poles, telephones, building entrances, driveways and parking meters;
- H. A statement that the applicant will directly control and supervise each newsrack proposed to be authorized under the permit sought and will be responsible for the operation and maintenance thereof;
- I. Such other data as the director may reasonably require in the interests of public health, safety or welfare;

J. A statement certifying on penalty of perjury the correctness of the information given on the application and agreeing on behalf of the proposed applicant that there shall be full compliance of the applicant with all state and city laws in the conduct of the activities for which a permit may be granted;

K. Copies of any permits required by this code or other ordinances of the city or the state laws. (Ord. 10-1987 § 10, 2010; Ord. 1478 § 1, 1980.)

11.32.070 Renewable annually.

A newsrack permit shall be renewable annually. (Ord. 1478 § 1, 1980.)

11.32.080 Newsrack identification.

Every newsrack permittee shall permanently affix to each newsrack placed on or maintained on or projecting over any portion of a sidewalk or parkway the permittee's name, address, telephone number, and the permittee's permit number. (Ord. 10-1987 § 11, 2010; Ord. 1478 § 1, 1980.)

11.32.090 Prohibited placement.*

A. No person shall install, use or maintain any newsrack or other structure which projects onto, into or over any part of the roadway of any public street or which rests, wholly or in part, upon, along or over any portion of the roadway of any public street.

B. No person shall install, use or maintain any newsrack which in whole or in part rests upon, in or over any public sidewalk or parkway when such installation, use or maintenance endangers the safety of persons or property; or when such site or location is used for public utility purposes, public transportation purposes or other governmental use; or when such newsrack unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic, including any legally parked or stopped vehicle, the ingress into or egress from any residence or place of business, or the use of poles, posts, traffic signs or signals, hydrants, mailboxes or other objects permitted at or near the location.

C. No person shall install, use or maintain any newsrack which is located in a parkway or sidewalk adjacent to property zoned residential, as such zone is defined in this code; provided, however, that this subsection shall not prohibit such placement where the newsrack is in a parkway or sidewalk directly in front of a public building within a residential zone which is open to and used regularly by the public, so long as such public building is not an elementary, junior high or high school.

D. No person shall install, use or maintain any newsrack or other structure which is located in a parkway or sidewalk adjacent to a public park, in any zone.

E. No person shall install, use or maintain any newsrack or other structure which is located in a parkway or sidewalk in any zone within 300 feet of any public or private school, church, library, community center, or public building if the newsrack will contain matter described in CMC 11.32.110.

F. No person shall install, use or maintain any newsrack or other structure which is located in a parkway or sidewalk along Citrus Avenue, between the south side of San Bernardino Road and the north side of Badillo Street. (Ord. 13-2024 § 2, 2013; Ord. 13-2021 § 2, 2013; Ord. 1478 § 1, 1980.)

- Section 4 of Ord. 13-2024 provides, "This Ordinance shall take effect thirty (30) days following its adoption and, upon its effective date, shall supersede Urgency Ordinance 13-2021 (adopted and effective June 18, 2013) except with respect to its factoring into the amortization period set forth in Section 3."

11.32.100 Standards.

Any newsrack which in whole or in part rests upon, in or over any public sidewalk or parkway shall comply with the following standards:

- A. No newsrack shall exceed 48 inches in height, 30 inches in width, or 24 inches in depth.
- B. Newsracks shall only be placed near a curb or adjacent to a wall of a building. Newsracks placed near the curb shall be placed no closer than 18 inches to the face of the curb and no farther than 24 inches from the face of the curb, measured from the curb face to the nearest point on the newsrack. Newsracks placed adjacent to the wall of a building shall be placed parallel to such wall and not more than six inches from the wall. No newsrack shall be placed or maintained on the sidewalk or parkway opposite a newsstand or another newsrack.
- C. No newsrack shall be chained, bolted or otherwise attached to any property not owned by the owner of the newsrack or to any permanently fixed object without the consent of the owner or such property. Newsracks shall be bolted to the sidewalk, unless otherwise authorized by the director. Upon removal of a newsrack, the permittee shall fully restore the sidewalk or parkway to its original condition. No newsrack shall be chained or attached to loose objects including, but not limited to, bricks, rocks, cinder blocks, pipes or other such objects.
- D. Newsracks may be chained or otherwise attached to another; however, no more than three newsracks may be joined together in this manner, and a space of not less than 42 inches shall separate each group of three newsracks so attached, unless the newsracks are placed adjacent to the wall of a building.
- E. Notwithstanding the provisions of CMC 11.32.090(B), no newsrack shall be placed, installed, used or maintained:
 - 1. Within five feet of any marked crosswalk;
 - 2. Within 15 feet of any curb return of any unmarked crosswalk;
 - 3. Within five feet of any fire hydrant, fire call box, police call box or other emergency facility;
 - 4. Within five feet of any driveway or alley approach;
 - 5. Within five feet in front of, and within 25 feet to the rear of, any sign or pavement markings designating a bus stop, measured parallel to the flow of traffic;
 - 6. Within six feet of any bus bench;
 - 7. Within three feet of any outdoor sidewalk dining area or area improved with lawn, flowers, shrubs or trees, or within three feet of any display window or any building abutting the sidewalk or parkway in such a manner as to impede or interfere with the reasonable use of such window for display purposes;

8. Within 42 inches of any sidewalk obstruction which shall include, but not be limited to, traffic signals, street light poles, trees, sign posts, telephones, and utility poles;

9. Within 100 feet of any other newsrack or group of newsracks on the same side of the street containing the same edition of the same publication, unless the permittee can demonstrate to the director that the demand for such publication within such 100 feet requires an additional newsrack or racks. The total number of newsracks within such 100 feet shall not exceed the maximum number of newsracks allowed by subsection (H) of this section;

10. At any location where the clear space for pedestrians is reduced to less than six feet;

11. Which causes or constitutes a traffic hazard;

12. Which unreasonably obstructs or interferes with access to, or the use and enjoyment of, abutting property;

13. Which will endanger persons or property;

14. Which will unreasonably interfere with or obstruct the flow of pedestrian or vehicular traffic on the highway;

15. Where a curb is painted blue, yellow or white;

16. Which obstructs the motoring public's view of pedestrian or traffic and parking signage.

F. No newsrack shall be used for advertising signs or publicity purposes other than dealing with the display, sale or purchase of the newspaper or news periodical sold therein.

G. Each newsrack shall be maintained in a clean and neat condition and in good repair at all times. Each newsrack shall be serviced and maintained so that:

1. It is free of dirt, grease and graffiti;

2. It is free of chipped, faded, peeling and cracked paint in the visible areas thereof;

3. The clear plastic or glass parts thereof, if any, through which the publications therein are viewed, are unbroken and free of cracks, dents, blemishes and discoloration;

4. It is free of rust and corrosion in the visible areas thereof;

5. The paper or cardboard parts or inserts thereof are free of tears, peeling or fading;

6. The structural parts thereof are not broken or misshapen.

H. No more than six newsracks shall be permitted within a space of 100 feet on the same side of any highway where vehicles are allowed to park, load, unload or stand for any period of time. (Ord. 10-1987 § 12, 2010; Ord. 1478 § 1, 1980.)

11.32.110 Display of certain matter prohibited.

Publications offered for sale from newsracks placed or maintained on or projecting over a sidewalk or parkway shall not be displayed or exhibited in a manner which exposes to public view from a sidewalk or parkway any of the following:

A. Any statements or words describing explicit sexual acts, sexual organs, or excrement, where such statements or words have as their purpose or effect sexual arousal, gratification or affront;

B. Any picture or illustration of genitals, pubic hair, perineum, anuses, or anal regions of any person where such picture or illustration has as its purpose or effect sexual arousal, gratification or affront;

C. Any picture or illustration depicting explicit sexual acts where such picture or illustration has as its purpose or effect sexual arousal, gratification or affront. (Ord. 1478 § 1, 1980.)

11.32.120 Definition of explicit sexual acts.

"Explicit sexual acts" as used in this chapter means depictions of sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, sadism, masochism, or excretory functions in conjunction with sexual activity, masturbation, or lewd exhibition of the genitals, whether any of the above conduct is depicted or described as being performed alone or between members of the same or opposite sex or between humans and animals, or other act of sexual arousal involving any physical contact with a person's genitals, pubic region, pubic hair, perineum, anus or anal region. (Ord. 1478 § 1, 1980.)

11.32.130 Impounding of newsracks.

A newsrack may be impounded for being in violation of CMC 11.32.030, 11.32.080, 11.32.090, 11.32.100 or 11.32.110 under the following conditions:

A. The director must attach a tag upon the particular newsrack found in violation. Thereafter, a written notice of the violation shall be sent within two working days to the permittee designated in CMC 11.32.060(A) and the person in immediate charge of the newsrack as designated in CMC 11.32.060(C). The permittee or person in immediate charge of the newsrack must correct the violation within 10 calendar days from the date on the tag or request an appeal pursuant to CMC 11.32.150 within that same time for the purpose of demonstrating that the particular newsrack is not in violation. The director may impound the newsrack if the violation is not corrected or an appeal is not requested in writing within 10 calendar days from the date of the tag.

B. Notwithstanding the impound provisions of this section, the director may immediately correct any violation of CMC 11.32.090 and, if such violation is creating a dangerous or hazardous condition, may immediately impound any such newsrack. If the newsrack is impounded pursuant to this section, a written notice of such action shall be sent to the permittee and person in immediate charge of the newsrack within two working days after the impoundment. The permittee or person in immediate charge of the newsrack may request an appeal within 10 calendar days from the date of service of the written notice pursuant to CMC 11.32.150 for the purpose of demonstrating that the particular newsrack was not in violation and should not have been impounded. Notices made pursuant to any section of this chapter shall be deemed served and effective upon the date the notice is provided in person or by facsimile machine, or two calendar days after sending by first class mail. (Ord. 10-1987 § 13, 2010; Ord. 1478 § 1, 1980.)

11.32.140 Return of impounded newsracks.

A. Unless the newsrack and its contents are being held as evidence in a criminal prosecution, the permittee, or if there is no known permittee a claimant, who provides sufficient proof of ownership of such newsrack may have such newsrack together with its contents and all moneys, if any, returned within a reasonable time, not to exceed 30 calendar days from the date of removal and impoundment, or if an appeal is timely requested pursuant to CMC 11.32.150, within 30 calendar days from the date the appeal becomes final, upon paying an impound fee as established from time to time by resolution of the city council plus the reasonable cost of impounding, removing, and storing the newsrack, if any, in excess of the fee established by the city council.

B. Should there be a dismissal of an action charging a violation of this chapter, or an acquittal of such charges, the court or city official ordering such dismissal or entering such acquittal shall provide for the release of any newsrack and its contents and all moneys, if any, impounded or the return of any impound fee and costs paid for the release of a newsrack impounded pursuant to such charges.

C. If the newsrack is not being held as evidence in any criminal proceeding, and no criminal proceeding concerning the violation for which the newsrack was impounded is still pending, and if no appeal pursuant to CMC 11.32.150 has been requested, or, if requested, has resulted in a final decision that the newsrack was rightfully impounded, and if the impound fees and costs specified in this chapter have not been paid within the time specified, the director may sell or otherwise dispose of the newsrack and its contents, if any, and retain the proceeds from any such sale or other disposition and any moneys contained in said newsrack at the time of its removal and impoundment. (Ord. 10-1987 § 14, 2010; Ord. 09-1975 § 1, 2009; Ord. 1478 § 1, 1980.)

11.32.150 Appeal.

Any applicant, permittee, or, if there is no permittee, any claimant who provides sufficient proof of ownership of a newsrack may, within the time frames set forth in CMC 11.32.130, request an appeal regarding any denial of a permit, notice of violation, or impoundment as provided in Chapter 11.54 CMC. (Ord. 10-1987 § 15, 2010; Ord. 1478 § 1, 1980.)

11.32.160 Appeal after hearing.

A. Appeal. Any permittee or claimant may, within 10 days after receipt of notice of decision held pursuant to CMC 11.32.130(A) or 11.32.150, appeal such decision to the city council.

B. Contents of Appeal. The appeal shall be in writing, shall state the legal and factual basis upon which the appeal is to be based and shall be filed with the police chief. The police chief shall forward the appeal, together with a copy of the decision and order, to the clerk of the city council.

C. Action by City Council. Upon receipt of the appeal and order and decision, the city council may take any one of the following actions:

1. Approve the decision and order;
2. Refer the matter back to the police chief with or without instructions;

3. Set the matter for public hearing before itself. Such public hearing shall be held de novo as if no hearing previously had been held. (Ord. 1478 § 1, 1980.)

11.32.170 Penalty.

A. Any person who violates any provision of this chapter shall be guilty of a misdemeanor and may be punished in accordance with CMC 1.16.010(A).

B. Notwithstanding any other provision of this chapter, any person who violates CMC 11.32.110 shall be guilty of a misdemeanor and may be punished by imprisonment in the county jail not to exceed six months, or by fine not exceeding \$500.00, or by both such fine and imprisonment. (Amended during 2009 republication; Ord. 1478 § 1, 1980.)

11.32.180 Other remedies.

The provisions of this chapter shall not limit any other remedies authorized by law. (Ord. 1478 § 1, 1980.)

11.32.190 Time for compliance.*

Any newsrack which does not comply with this chapter shall be removed or otherwise brought into conformance with this chapter not later than (A) December 18, 2013, or (B) if Urgency Ordinance No. 13-2021 is determined by a court of competent jurisdiction to be invalid, six months from the effective date of the ordinance codified in this section ("compliance date"). If any newsrack remains in violation of this chapter after the compliance date, the city may take all appropriate legal actions authorized by this chapter to enforce compliance, including impoundment of the newsrack. Any permit issued prior to the effective date of the ordinance codified in this section for placement of a newsrack which is in violation of this chapter shall automatically expire upon the compliance date. (Ord. 13-2024 § 3, 2013; Ord. 13-2021 § 3, 2013.)

* Section 4 of Ord. 13-2024 provides, "This Ordinance shall take effect thirty (30) days following its adoption and, upon its effective date, shall supersede Urgency Ordinance 13-2021 (adopted and effective June 18, 2013) except with respect to its factoring into the amortization period set forth in Section 3."

¹Prior history: 1984 Code §§ 23.90 – 23.97; Ord. 1209.

[View Web Version](#)

TO: Covina: City Manager; Director of Community Development; and Director of Public Works
FROM: Hector Storman, 1601 Ruddock St, Covina, CA 91724; goopopper@gmail.com; 626-339-6307.
RE: Notice of Violation 1/20/2015 regarding newsrack.

SUMMARY: Storman obtained a newsrack permit, the ordinance changed which made Storman's use a legal non-conforming use. Thereafter, a newsrack was stolen and then replaced by a thief. The Storman was issued a Notice of Violation based on the theft.

TO:
ALEX GONZALES

A. 1980 Ordinance Passed 11.32 Newsracks
(Ordinance 1478 §1, 1980)

B. May 14, 2013. Permit obtained
Hector Storman for 2 Newsracks located near:
1601 Ruddock St Covina, CA
Corner of Citrus and San Bernardino Streets, Covina

C. Jun 18, 2013 Ordinance Amended 11.32. Newsracks
(Ord. 13-2024 § 2, 2013; Ord. 13-2021 § 2, 2013; Ord. 1478 § 1, 1980.)
(Violating US, California, Constitutions. and violating of Supreme Court decisions.)

D. Jun 18, 2013, Newsracks became legal non-conforming use, because of Ordinance change.

E. Oct 10, 2014 Newsracks Stolen
Corner of Citrus and San Bernardino Aves in Covina.
Police Reports - Case Number 14-5393 grand theft - Officer Daniel Cervantes
Case Number 14-5515 grand theft - Officer Daniel Cervantes

Storman located the thief and gave him 3 days to reinstall the racks if not Storman would inform thief's Employer and disclose the thief's name to the Police.

F. Oct 14, 2014. Thief reinstalled the stolen newsracks.

F. Jan 20, 2015 Notice of Violation CMC 11.32.090 (D)(F). Issued to Storman, by Chris Ulmer.
For newsrack located near corner of Citrus and San Bernardino Roads. SE corner.

G. Jan 27, 2015 Storman and wife, met with Bill Hayes, and Nancy Fong. apparently Covina undergoing another administrative restructuring. Hayes wears two hats Building Official of Community Development and Public Works manager. Nancy Fong Interim Community Development Director.

During the Conversations Hayes stated that he had written the Notice of Violation for Chris Ulmer. I stated to Hayes that this is starting to feel like harassment.

Hayes also stated that the Notice was issued as a result of a complaint the nature of which he did not disclose. Hayes also stated that reason the Notice was issued was because the newsrack was removed and replaced in October, 2014 and that it did not matter if it was stolen and replaced by the thief.

Hayes said this was his and the city's legal opinion.

This conversation raises questions about how Hayes and Ulmer knew of the illegal removal of the Newsracks that happened 5 months prior.

Nancy Fong wanted to knowledge of the Police reports. I said I would furnish that to her. See Item E above. I ask that the notice of Violation should be vacated and the matter be settled. Hector Storman

I declare under the penalty of perjury, under the laws of California the forgoing is true. Los Angeles County, California

Hector Storman / 1/27/2015
Hector Storman/Date

TO: Nancy Long

To: Covina City Manager
From: Hector Storman email namrots@gmail.com phone 626-339-6307
Date: March 4, 2015

RE: Remaining Missing items from Appeal Hearing with City Manager of Feb 27, 2015.

I received your Decision on or about Feb 27, 2015.

However, there were some action items missing from your decision.

1. You said you were going to look at my newsrack locations to determine if the newsracks were located on the parkway or the sidewalk, and the relative position of each.
I do not see your findings written in your Decision. *see CMC 10.04 220 - Parkway 47
CMC 10.04 330 - Sidewalk 61*
2. Chris Ulmer said he would locate the first citation that was issued approximately in May of 2013 against the newsrack at the Rudlock Location.
I do not see that mentioned in Your Decision
3. The citation at the Citrus location was for violations of both CMC 11-32900.
I do not see your decision on item 1.

Please void the 10 day period for me to appeal to the city Council, complete the above items, then after any necessary re-hearing, please issue a modified decision.

These matters are important and I cannot tell if you decided if CMC 11-32900E was not violated.

Thank you very much for your and the other city officials efforts in this matter.

I declare under the penalty of perjury under the laws of the State of California the foregoing is true Los Angeles County

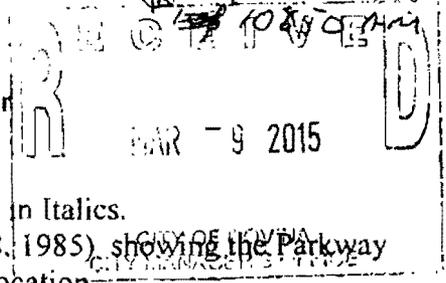
Hector Storman
Hector Storman Date

To: Covina City Council
Covina Chief of Police
From: Hector Storman
Date: March 7, 2015

legally Served to Chief of Police
RECEIVED BY
COVINA CITY CLERK
March 8, 2015 at
Covina Police station
15 MAR -9 PM 2:27
To: E. Cruz and Sgt Tardif

Judith Storman
3/8/2015

RE: Per CMC 11.32.160 Appeal after hearing.
Appeal to City Council Regarding Newsrack Notices of Violations; and
Appeal of Decision of City Manager dated Feb 26, 2015 on the same matter



Attachments:

- 1. **Appeal Hearing Brief** submitted to the City Manager with clarification in Italics.
- 2. **Ruddock Parkway and Sidewalks.** Sections of Building Plans(June 28, 1985) showing the Parkway (5 ft wide) and the Sidewalk(5 ft wide) at the 1601 E. Ruddock, Covina location. newsrack which is shown not adjacent to property line. 3 pages..

PRAY: Hector Storman, owner of newsracks, Prays the notices of Violations be vacated and the Storman's newsracks not be interfered with and remain in place.

LEGAL AND FACTUAL REASONS FOR APPEAL TO THE CITY COUNCIL.

My newsracks are compliant with the previous Codes and the Current codes. Furthermore, the Codes are unconstitutional on their face as well as in their application.

- 1. The reasons and factual basis contained in the attached Hearing Brief filed with the appeal to the City Manager; and additionally following legal and factual reasons.
- 2. Due Process, etc, Violations.

The City manager erroneously ruled the 6 month Amortization period to remove the newsracks is December 18, 2013, six months after the ordinances were passed. I was not notified when the ordinances were passed that my newsracks were non-compliant. Therefore, if the ordinances are valid, then the amortization period of 6 months, began on Jan 20, 2015, and Jan 29, 2015 when I was first issued the notices of violations. Therefore, the amortization periods end on July 20 and 29 2015. Therefore newsracks are not in violations and the notices of violations should be voided and/or reissued, with the proper "remove by" date.

Furthermore, legally, CMC 11.32.190 expired Dec 18, 2013. Therefore any notices of violating CMC 11.32 issued after that date cannot use CMC 11.32.190 to expire any "permits".

- 3. **CMC chapter 11.32 Newsracks**, makes several references to " newsrack permit". The city has no "newsrack permit". Therefore the city does not issue any "newsrack permits". Therefore, legally a "newsrack permit is not required by the City. Therefore it cannot expire. Therefore, CMC 11.32 Newsracks is inoperable until the city designs and issues a proper Newsrack Permit form.

The city does require an encroachment permit for any encroachments on city streets. However, all encroachments should have the same requirements taking only into consideration its physical "encroaching " considerations. Newsracks should not be otherwise limited, but should be given special consideration because they have a nexus to Protected Speech, guaranteed by US and California Constitutions. Especially since the City Plans include permitting encroachments on city sidewalks and city parkways to commercial users for displays, signs, street furniture the definition of which includes newsracks, and etc.

- 4. However, the city does however require an encroachment permit, for all types of encroachments and but then has different special limitations and prohibitions for newsracks such as different encroachments for the use of sidewalks and parkways for commercial enterprises, displays and signs. The city Town Center plans permit street furniture , which by definition includes newsracks. Therefore, CMC 11.32 is violation of the

Town Center plan. Newsracks are also displays, and signs. The city has singled "Protected Speech" newsracks for limitation and prohibition but allows less protected uses on all city streets.

5. The City Manager failed to accept the definition of streets and parkways and that the newsracks were in compliance when they were cited.
 - a.. **Further References:** Further sign, display, sidewalk width, parkway, specifications/definitions and allowable encroachments are listed in "Other References" after the Summary below.
 - b. **CMC 11.32.C. "Parkway"** means that area between the sidewalk and the curb of any street, and, where there is no sidewalk or curb, that area between the edge of the roadway and the property line adjacent thereto.
 - c. **CMC 10.04.220. "Parkway"** means that portion of a highway other than a roadway or a sidewalk.
 - d. **CMC 10.04.330 "Sidewalk"** means that portion of a highway between the curb lines or outer edge of traversable roadway and the adjacent property lines, other than a parkway, and delineated for pedestrian travel.
 - e. **CMC 10.04.370 "Traffic"** means pedestrians, ridden or herded animals, vehicles, buses or other conveyances either singularly or together while using any highway for purposes of travel.
 - f. **CMC 17.52.240 Landscaping requirements.**
 - K. "Sidewalk signs" and "pennant/flags" are permitted in the TC-C zone as outlined in CMC 17.74.063.
 - g. **CMC 17.74.063 Requirements – Sidewalk sign.**

SUMMARY

- a. A clear reading of the above references and definitions indicate that non-roadway areas can be parkways, or sidewalks or both. Sidewalks are clearly delineated by obviousness or markings or borders or plans. When a non-roadway area contains encroachments then that non-roadway area is not a sidewalk but is a parkway. This is true only if there remains a minimum 5 foot sidewalk area. If the "encroachments" do not leave a minimum 5 foot sidewalk area then there is a violation of obstruction a sidewalk - never issued.
- b. The Code in question CMC 11.32 C and D.:
 - i. prohibit newsracks located in a **parkway adjacent** to property zoned residential or parks; **or**
 - ii. prohibit newsracks located in a **sidewalk adjacent** to property zoned residential or parks.
 - iii. **CMC 17.04.021 Adjacent.** "Adjacent" means near, close, contiguous or abutting; for example, an industrial zone across a street or highway from a residential zone shall be considered as "adjacent."
 - iv **CMC 17.04.006 Abut.** "Abut" means contiguous to; for example, two adjoining lots with a common property line are considered to be abutting.
 - v. **CMC 17.04.165 Contiguous.** "Contiguous" means the same as "abut," Black's Law Dictionary also lists "adjoining as a synonym and Adjoin as meaning without any intervening body. Authors note: "nothing between the two."

"Adjacent" means the two "things" are adjacent when they have a common area, except when speaking of zones separated by a public highway.

In any case the Supreme Court in Lakewood ruled ordinances are unconstitutional if gives official discretion when dealing with "protected speech". In this case the term close is not defined, nor is near therefore discretion is given to officials. Officials must err on the side which in favor of the appellant, the newsrack owner.

The Code also makes an exception for newsracks in front of Public buildings. Parks are and contain public buildings such as the bathroom in the Citrus Avenue Heritage Plaza. Therefore the Citrus Avenue newsrack is compliant.

c. My two newsracks are clearly not adjacent to the property lines. They are clearly in the parkway which is not adjacent to residential property or parks.

See **attached** 1601 E. Ruddock plans, and the Citrus newsracks which show the newsracks in the parkway and not adjacent to the property lines. There are also unobstructed minimum 5 foot sidewalks for pedestrians. Furthermore, the original approved permits were satisfied that the distance from the curb did not exceed the required maximum 24 inches, and as such are within the parkway and are not adjacent to the property lines park property lines.

d. The City manager during his Hearing said he was going to look at the locations himself, but he did not issue any specific finding as such.

e. The City Manager in his decision failed to address and rule on the violation based on CMC 11.32.90 F.

f. Supreme Court decisions have ruled there can be no discretion permitted to officials. The issuance of the Notices of Violations are clear violations of discretion, caprice, etc, vagueness, arbitrariness, prior restraint, unreasonable time, place and manner restrictions and violations of due process and other protections in the US and State Constitution.

OTHER REFERENCES

a. CMC 17.57.030 Outdoor dining and display districts.

Outdoor dining and display shall be permitted to encroach into the public right-of-way pursuant to this chapter in the following areas:

A. The town center-commercial (TC-C) and town center-professional (TC-P) zone districts where the encroachment is on Citrus Avenue, Badillo Street, College Street, School Street, Italia Street, Orange Street, Cottage Street and San Bernardino Road.

b. CMC 17.57.070 General standards for outdoor display.

A. Locational Standards.

1. All outdoor displays must be placed so as not to obstruct business entrances, pedestrian pathways and driveways.
2. Outdoor displays shall not encroach more than two feet into the public right-of-way and must be placed so that the clear sidewalk space for the passage of pedestrians is at least six feet on nonarterial streets and eight feet on arterial streets.
3. Outdoor displays shall be placed so as not to interfere with the reasonable use of storefront windows for display purposes by adjacent businesses.
4. Outdoor displays shall not unreasonably obstruct visibility of other businesses.
5. Outdoor displays shall not create a vehicle or pedestrian hazard.

B. General Standards.

1. All outdoor displays shall be limited to artwork and pottery, flowers and plants, general merchandise related to the adjoining business or other items which are determined by the chief planning official to be consistent with the intent of this code and the downtown redevelopment plan.
2. All outdoor displays shall be portable and removed from public view at the close of each business day.
3. Outdoor displays shall be maintained in a clean, neat and attractive condition, and in good repair at all times.

- 4. Outdoor displays shall not include signs or contain advertising materials. However, restaurant menu signs will be allowed if they do not exceed six square feet (limit one per business).
- 5. Outdoor displays shall be limited to the hours of operation of the originating business.
- 6. Outdoor displays shall be limited to a maximum area of one-half square foot of display area for every foot of store frontage on the street.
- 7. The design and configuration of outside displays shall be attractive, compatible with the architecture of the building, and incorporate themes, colors and materials that are consistent with the downtown redevelopment plan. (Ord. 97-1819 § 1, 1997.)

c. TOWN CENTER SPECIFIC PLAN V-42 CITY OF COVINA

a. Page V-20

Sidewalks

Sidewalks along all City streets should be developed and/or maintained within the Specific Plan Area (not including the pedestrian ways addressed above, which would have wider sidewalks and a higher density of pedestrian amenities) to provide the following minimum standards:

Minimum sidewalk width: Five feet for pedestrian access.

Additional sidewalk width: Two to five feet for landscaping, utility poles, street furniture, trash receptacles, and other streetscape improvements.

Sidewalk texture: Sidewalks passing through vehicular access route or parking

b. Page III-24

Sidewalk Design and Paving Materials

Sidewalks exist along: Citrus Avenue, Badillo Street, College Street, Cottage Street, and San Bernardino Road.

They are paved with red bricks within the public right-of-way. The brick-paved sidewalks do not extend more than one-half block east or west of Citrus Avenue.

All the crosswalks on Citrus Avenue between Badillo Street and the railroad tracks are paved with the same red brick.

The red bricks contrast with the street asphalt allowing motorists to visually identify the crosswalks.

Pedestrian alleys are also paved with the red brick.

Elsewhere in the Specific Plan Area, **sidewalks** are concrete and about **five feet in width**.

Street Furniture

The common theme among **outdoor street furniture** in Covina's downtown is the use of a greenish blue color on the metal portion of the furniture pieces. The benches, streetlights, trash receptacles, bollards, and street clock all use the same color scheme.

I, declare under the penalty of perjury under the laws of the State of California the foregoing is true, Los Angeles County.

 13/7/2011
 Hector Storman/ Date

To: Covina City Manager
From: Hector Storman
Date: Feb 19, 2019

RE: Hearing Brief regarding Appeal of two Notices of Violation: against the N3 newspaper.

1. Newsrack installed along Citrus Ave. between Badillo and San Bernardino st, and adjacent to Park. 01/20/2014
2. Newsrack installed adjacent to property zoned Residential. 1601 Ruddock St, Covina Ca. 01/29/2015

PRAY: Hector Storman Prays the notices of Violations be vacated. That newsracks remain as is.

N3 (*Namrots neighborhood News*) is a weekly news paper published every Friday. Its focus is neighborhood news. N3 offers news of events. local occurrences. opinions. laughter and a map of local yard like sales. It is a coin operated device and it also provides free news.

CHRONOLOGY:

1. May 13, 2013 Newsrack Permit No. 13E-003 was issued
2. Jun 16,18, 2013 Prohibiting Ordinance Enacted (13-2021, 13-2024) . *CMC 11.32.90 Prohibited Placement*
3. Oct 11, 2014 Newsracks stolen
4. Oct 11, 2015 Reported to police.. Police Reports 14-5393, 14-5515
5. Oct 14, 2014 Newsracks reinstalled by thief.
6. Jan 20, 2015 Notice of Violation -newsrack installed on sidewalk on Citrus, next to park.
7. Jan 29, 2015 Notice of Violation - newsrack installed on sidewalk adjacent to property zoned Residential
8. Jan 27, 2015 Appeal to Director PW; Director of Comm. Dev; City Mgr Re Citrus newsrack
9. Feb 4, 2015 Appeal to Director PW; Director of Comm. Dev; City Mgr Re Ruddock newsrack

SUMMARY: Bill Hayes (Covina Building Official/Public Works Manager) directed Chris Ulmer to issue the Notices of Violation. Hayes stated in the reason the Notices of Violation were issued was because the newsracks are no longer legal non-conforming uses because they were removed and therefore are now subject to the new code that prohibits their placement. Storman told Hayes. in the presence of Judith Storman and Nancy Fong, that the newsracks were stolen and then replaced by thieves, with out my permission or knowledge. Nancy Fong requested proof of Police report, which Storman thereafter provided. The newsracks theft occurred Saturday and were returned on Tuesday and this did not interfere with the normal publishing which occurs on Fridays. Hayes said it does not matter how or by whom the newsracks are removed, they must now be conforming. The newsracks were never abandoned or removed by Storman

PURPOSE OF HEARING: Decide if Public Works Department will impound these newsracks.
CMC 11.32.130 B. The Director of Public Work may impound if the newsracks are creating a dangerous or hazardous condition.

General Defense, the new Statute *CMC 11.32.90 Prohibited* was enacted after the newsracks were legally permitted. These newsracks are kept clean and continue to codes which assure safety, health and welfare. The newsracks were never abandoned or removed by Hector Storman nor his agents. Therefore the newsracks are a legal non-conforming use. CMC 11.32 is silent on the issue of non-conforming use. Therefore, the non-conforming use does not extinguish and there are no limitations.

The closest relevant CMC 17.74.080 D. Nonconforming signs.

Whenever a business use within any commercial zone is discontinued or sold, the sign owner, his agent or the property owner shall remove all temporary nonconforming signs from the premises and shall remove all permanent nonconforming signs from the premises. (Ord. 1428 §§ 1, 2, 3, 1979; Ord. 1392 § 29, 1978; Ord. 1169 § 3, 1972; 1964 Code Appx. A § 11.50.)

Newsracks are permitted within the "parks", commercial and residential properties.
CMC.17.04.429 Nonconforming use.

"Nonconforming use" means a use of a building or land existing on the effective date of the ordinance codified in this title which does not conform to the uses permitted in the zone in which it is located. (1964 Code Appx. A § 0.30.) therefore, newsracks are a conforming use there

pecific Defense. Ruddock : The newsrack is not on the sidewalk at all. There is a 5 foot parkway and a 5 foot sidewalk between the roadway and the residence at 1601 Ruddock st. The newsrack is on the parkway separated from the residence by a five foot sidewalk. The newsrack is 7 feet from the Property line and is not adjacent to the residence. The newsrack is adjacent to the sidewalk not the residential property. The parkway was landscaped by Storman when the residence was built. Ordinance is overbroad because it can ban newsracks located adjacent to sidewalk on private property.

pecific Defense : Citrus. The newsrack is not on the sidewalk. The Heritage Plaza is not a Park, it is labeled Heritage Plaza. The newsrack is not adjacent to the "park" the newsrack is in the parkway 7 feet from the "park" There is a 5 foot parkway and a 5 foot sidewalk between the roadway and the "park" The plaza is funded by the U.S. Department of the Interior and the California Department of Parks and Recreation. The city does not have exclusive jurisdiction over what is placed next to the plaza.

pecific Defense: Citrus. The city permits purely commercial encroachments along Citrus Ave. for the placement of signs on or above the sidewalks and parkways. It permit bicycle Racks, It permits mail boxes, electrical boxes, light poles, It permits the placement of metal patios with menus and newsracks, It permits the total use of the area for Car shows, musical events, farmers markets, and other events which place advertisement and signs, and information and newsletters and news. City prohibited from banning newsrack which include its sign, while it allows commercial signs and news signs. City of Lakewood v. Plain Dealer Publishing Co., 108 S. Ct. 2138 City must not have discretion. This same street is also residential, with many residences along the street. Therefore it is unconstitutional to ban newsracks. See Chicago v Wheaton. and Lakewood v Plain Dealer.

City permits commercial encroachments 24 hours a day for establishments open 24 hours per day and permits signs and newsracks where the only requirement is maintaining a 5 foot right of way for foot traffic.

Outdoor Dining on Citrus CMC 17.57.040

Outdoor display may not encroach more than two feet into the public right-of-way

Outdoor dining may extend into the public right-of-way; however, a clear pedestrian pathway shall be maintained the full width of the property. The pathway shall maintain a minimum unobstructed passageway of five feet as measured from the dining area to any obstruction including but not limited to light standards, benches, street trees and newsracks (Ord. 97-1819 § 1, 1997.) Ordinance permits newsracks

MC Chapter 17.75 prohibits incidental signs except it permits signs on structures newspaper racks... as authorized by this code as required by the Streets and Highways Code or other statutory authority..... signs on any sidewalk...

What is a newsrack?

A newsrack is both a sign and a container.

A. The newsrack as a sign:

Displays and/or advertises the contents of the newsrack to viewers, the viewers can be passer-bys and/or intentional visitors;

Gives viewers a memory of the newsrack contents and location for their future use.

B. The Newsrack is a container whose:

contents are commercial and/or news information;

contents are used, and/or viewed and/or inserted and/or removed by users, readers, buyers, publishers, writers, viewers, distributors, or agents;

contents are sold and/or free.

Relevant Constitutional Considerations. Two recent Court decisions are highlighted

Ban in Residential areas is unconstitutional. CHICAGO NEWSPAPER PUBLISHERS v CITY OF WHEATON No 87 C 0765. 697 F.Supp 64 (1988) Ban of newsracks in Residential Area is unconstitutional.

Ordinance must not give discretion to city officials. City of Lakewood v. Plain Dealer Publishing Co., 108 S. Ct. 2138 City must not have discretion.

The ordinance is unconstitutional on several grounds: Violation of free speech, press, association, prior restraint, censorship, quiet enjoyment, equal protection, circulation, distribution, use of public property ; not content neutral, etc.

1. The term adjacent is ambiguous, which may mean near or next to, and leaves open the discretion of the City.

Constitutional decisions demand there be no discretion by city officials.

2. The ordinance was passed specifically against Storman, documented in the Ordinances.13-1204, 13-2031

3. The ordinance specifically prohibits news specifically for neighbors from neighbors. "N3 - Namrots Neighborhood News.

4. Ordinance specifically prohibits people from taking newspapers from newsracks. "no person shall use"

5. Ordinance specifically prohibits students from seeing or using news.

6. Ordinance violates separation clause by keeping news from Churches, and prevents churches from placing newsracks.

8. Ordinance specifically keeps news from all places where the public normally gathers. - censorship

9. Ordinance specifically gives preference to public buildings and not private buildings, and not schools.

10. Ordinance specifically permits Citrus Highway commercial operations the right to post information and news, without limitation. Ordinance specifically permits Citrus commercial operations news business to post news and place newsracks while prohibiting non commercial operations the same right. Constitutional decision have recognized News as a higher consideration than purely commercial operations.

11. Ban of newsrack in residential areas are unconstitutional *CHICAGO NEWSPAPER PUBLISHERS v. CITY OF WHEATON No. 87 C 0765. 697 F.Supp. 1464 (1988) Ban of newsracks in Residential Area is unconstitutional.*

12. *Ban of newsracks in Commercial Zone conflicts with Cal Law*

12. State Law trumps city law. A "vending facility" is a location which may sell, at wholesale or retail, foods, beverages, confections, newspapers, periodicals, tobacco products, and other articles or services dispensed automatically or manually ..A "vending facility" may consist of automatic vending machines....any appropriate equipment ...ass being necessary for the sale of the articles... *CA Welfare and Institutions Code - 19626. Signs on newsrack are on-site.*

13. City Ordinance in violation of many State Laws that require information be published in the City

Example *Streets and Highways Code - 8530 Notice by Publication:*

Whenever in this division a notice, resolution, order or other matter is required to be published and the manner of such publication is not specified, it shall be published in a daily, semiweekly, or weekly newspaper published and circulated in the city conducting the proceedings and which is selected by the legislative body for that purpose, or by the clerk or other officer issuing the notice or responsible for the publication where the legislative body has not selected any newspaper for that purpose.

14. Ordinance bans mail boxes, which are containers for newspapers from Residential Zones. Conflicts with Federal Statutes, and constitution.

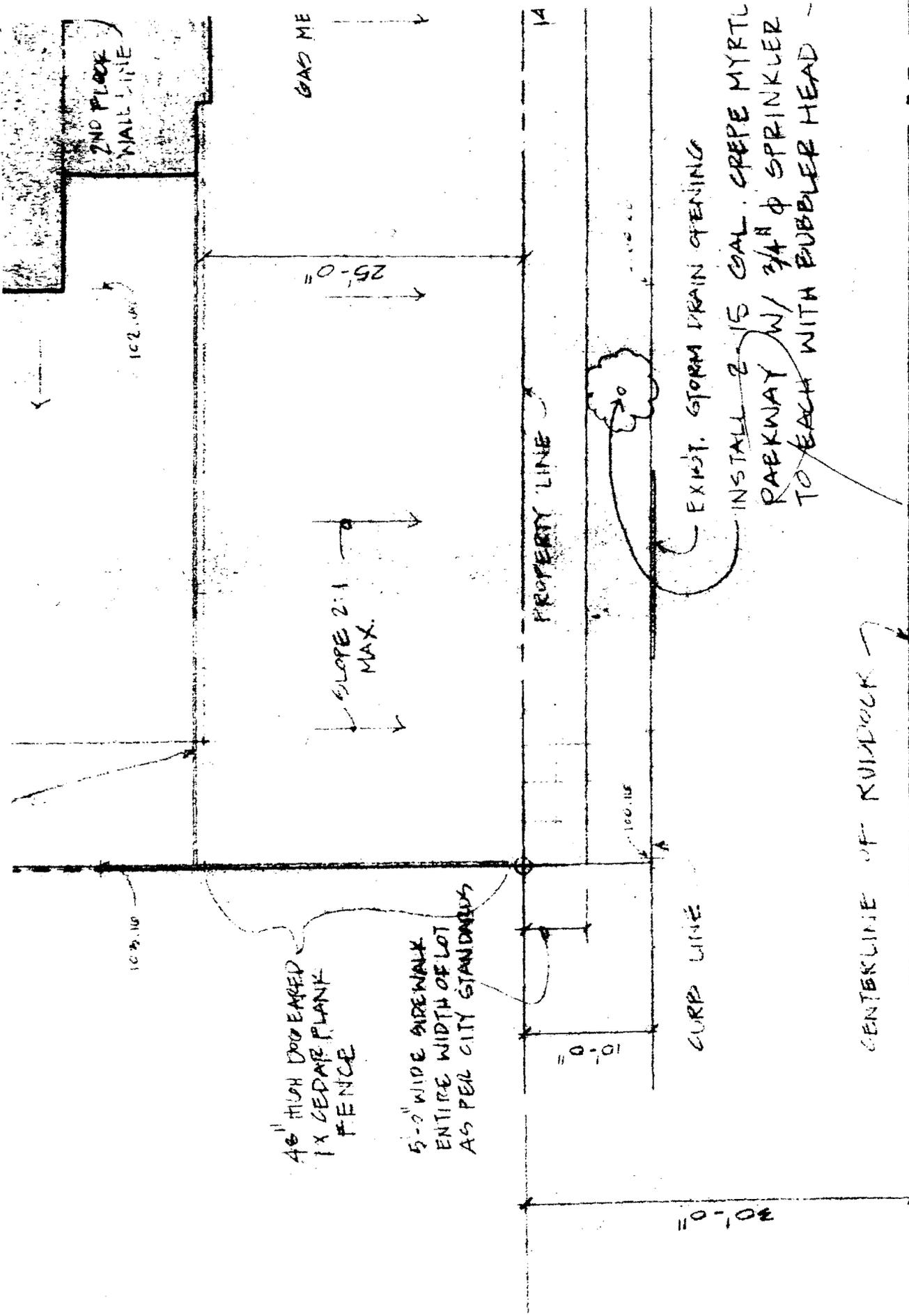
15. Homeowner owns to the Center of the Road, but City has a non exclusive right to use the Highway. Covina relies on homeowners to maintain parkways near their property line. *Cal Civil code 831. An owner of land bounded by a road or street is presumed to own to the center of the way, but the contrary may be shown.(Enacted 1872.Covina Track No. 19035 grants non-exclusive easement for highway. Therefore Storman may install newsrack in parkway in front of his property.*

16. Every person may freely speak, write and publish his or her sentiments on all subjects, being responsible for the abuse of this right. A law may not restrain or abridge liberty of speech or press.*CA Constitution: ARTICLE I DECLARATION OF RIGHTS [SECTION 1 - SEC. 31]*

17. *City essentially bans newsracks where the majority of people are(residences) and from where people congregate.(parks and downtown) is censorship.etc.*

I, declare under the penalty of perjury under the laws of the State of California the foregoing is true
Los Angeles County.

 2/19/2015
Hector Storman/ Date



46" HIGH DOOR EARED
1 X CEDAR PLANK
FENCE

5'-0" WIDE SIDEWALK
ENTIRE WIDTH OF LOT
AS PER CITY STANDARDS

EXIST. STORM DRAIN OPENING
INSTALL 2 1/2 GAL. CREPE MYRTLE
RAEKWAY W/ 3/4" φ SPRINKLER
TO EACH WITH BUBBLER HEAD

✓ P/L

142.00
108.24
33.76

10824 440
3573.496
143 97.496

Pg 30A3

MUST INSTALL ALARM SYSTEM

CITY OF COVINA
Building Department

APPROVED

Check the City of Covina

JUN 28 1985

This use of stamp and registration shall not be kept on the job at all times and it is intended as notice any changes for alterations to come with the written permission from the Building Department of the City of Covina. **SEAL NOT TO BE USED** of any other specifications or conditions shall be in accordance with the City Ordinance or State Law.

ATTACHMENT 2