TO: City Council

FROM: Department of Environmental Services

SUBJECT: A PUBLIC HEARING TO CONSIDER AN APPEAL OF THE PLANNING COMMISSION’S DECISION TO DENY CUP-S-812: JM SQUARED DEVELOPMENT, LLC, IS REQUESTING A CONDITIONAL USE PERMIT (CUP-S-812) TO CONSTRUCT AND OPERATE A RESIDENTIAL CARE FACILITY WITH 68 ASSISTED LIVING UNITS AND 40 MEMORY CARE UNITS LOCATED ON A 1.6-ACRE PORTION OF A 19.2-ACRE SITE ON COCHRAN STREET, 150 FEET EAST OF WELCOME COURT; ADOPT THE PROJECT’S MITIGATED NEGATIVE DECLARATION, AND ADOPTION OF A RESOLUTION

STAFF RECOMMENDATION

It is recommended that the City Council consider the Applicant’s appeal of the Planning Commission’s decision to deny Conditional Use Permit (CUP-S-812) and decision to not adopt the Mitigated Negative Declaration, evaluate public testimony, and select one of the following alternatives:

1. Adopt a resolution (page 12) denying the appeal, and upholding the Planning Commission’s denial of CUP-S-812, and not adopting the Mitigated Negative Declaration;

   or

2. Adopt, or modify and adopt, a resolution (page 17) upholding the appeal of the Planning Commission’s decision, thereby approving CUP-S-812, and adopting the Mitigated Negative Declaration.

BACKGROUND AND OVERVIEW

The Applicant, JM Squared Development, LLC, proposes to construct and operate a 108-unit residential care facility with 68 assisted living units and 40 memory care units on a vacant 1.6-acre portion of a 19.2-acre site on Cochran Street, 150 feet east of Welcome Court. The remaining 17.6-acres is proposed to remain undeveloped. The Applicant is only requesting a Conditional Use Permit, since no legislative actions are required for the project. The applicant states the development is intended for seniors over age 55. The General Plan land use designation and Zoning designation for the site is Residential Medium and a Residential Care Facility is permitted subject to a Conditional Use Permit in the Zoning district. The application for this Project was “deemed complete” on May 28, 2019.
Planning Commission Action

The Project was heard by the Planning Commission on September 4, 2019, and the Commission denied the Project by a 4:1 vote, finding that the large scale of the building does not blend in with the natural environment, the housing type is not consistent with the purpose and intent of the General Plan, and the scale is not compatible with the existing single-family and multi-family residential uses (Refer to Exhibit 1 for Denial Resolution and findings and Exhibit 2 for Planning Commission Minutes).

On September 18, 2019, the Applicant filed an Appeal of the Planning Commission’s decision. Refer to Appeal application and letter from Applicant dated September 18, 2019 (Attachment A). Under the provisions of the Simi Valley Municipal Code (SVMC) relating to appeals (SVMC Sec. 9-76.010 et seq.), the City Council has the ability to review the entire Project, as well as the specific grounds for appeal cited by the Applicant. In rendering its decision, the Council is reviewing de novo, and can take any action that could have been taken by the Planning Commission itself (that is, deny, approve or approve the Project with conditions).

The Conditional Use Permit request is described as follows:

The Project consists of 68 assisted living units and 40 memory care units. As part of the Project, a new sidewalk and street trees will be installed along the east side of Cochran Street from the Project site up to the 118 freeway bridge.

The 108-units will be located in a two-story building, with a setback of over 90 feet from Cochran Street, 30 feet from the nearest side property line, and 22 feet 6 inches from the rear property line. The entire building is approximately 265 feet long. The Applicant has proposed a one-story element 64 feet long, 12 feet tall adjacent to the nearest home on Welcome Court. The building height will be reduced along approximately 24% of the building in order to break up the bulk of the building appearance and provide privacy to the abutting residence. In addition, the building has two outdoor courtyards, one is 19 feet long and the other is 27 feet long, which reduces the mass of the building as well as providing outdoor patio areas for the residents.

In addition, the proposed two-story building massing is visually reduced by creating segments, using stone veneer on the towers and building elevations, wood-like siding, and neutral colored stucco. The Applicant has proposed colors to blend in with the existing hillside.

The residential care facility includes a lobby with a reception and concierge desk, dining room (separate dining room for memory care on second floor), club room/bar lounge area, hair salon, fitness room, lounges, and three outdoor courtyards for the residents.

The Project requires 54 parking spaces and the Applicant is proposing 12 parking spaces at grade level and 42 basement (on a level lower than grade) parking spaces (54 total parking spaces provided).
The General Plan Medium Density land use designation’s purpose is generally intended to encourage a predominantly single-family residential environment with a wide range of lot sizes, but an overall density similar to the bulk of single-family developments on the valley floor. The General Plan Housing Element for Special Needs Groups encourages the construction of specialized housing for senior citizens in the community, including planned senior communities. Although the units in this Project do not have kitchens or kitchenettes, and are therefore not counted in the City’s Regional Housing Needs Assessment (RHNA) numbers, the general purpose of the facility is consistent with the Housing Element. The Zoning District Matrix for Residential Medium (RM) allows a residential care facility with a Conditional Use Permit.

In terms of traffic, the City Traffic Engineer has reviewed the Traffic Study prepared by Associated Transportation Engineers, dated January 31, 2019, and determined that the Level of Service (LOS) for intersection at Yosemite Avenue and Cochran Street will be maintained at a “LOS A” level with or without the project. The Project would generate 335 average daily trips with 24 a.m. and 34 p.m. peak hour trips. The residential care facility would contribute to the future improvements by payment of traffic mitigation fees to offset its cumulative traffic contributions.

In addition, at the September 4, 2019, Planning Commission meeting the Applicant submitted a Supplemental Traffic Analysis to address concerns of potential neighborhood impacts raised at the August 20, 2019, Neighborhood Council Development Review meeting (Refer to Exhibit 3). A multi-way STOP-sign warrant analysis was conducted on August 27, 2019 for the Cochran Street/Welcome Court intersection. The analysis concluded that due to the traffic volume it would not satisfy the eight-hour or four-hour minimum volume warrants; no collisions have been reported from January 2009 to December 2018; a speed hump is located mid-block between Welcome Court and Yosemite Avenue; on street parking serves as a calming function; and a posted 25 mph speed limit on Cochran Street so no new stop sign is warranted.

Refer to site exhibits included in Exhibit 3.

**FINDINGS AND ALTERNATIVES**

**Planning Commission Findings:**

The original Findings for Approval recommended by staff that were presented to the Planning Commission are on pages 17-34 of the September 4, 2019 Planning Commission staff report (found within City Council Exhibit 3). These recommended findings included statements on how the Project would be in compliance with the General Plan, Development Code, Hillside Performance Standards, Design Guidelines, and health, safety, and general welfare of the community.

In the Planning Commission’s 4:1 vote of denial, Findings for Denial included: that the large scale of the building does not blend in with the natural environment; the housing type is not consistent with the purpose and intent of the General Plan; and the scale is not compatible with the existing single-family and multi-family residential uses.
Refer to Exhibit 1 for the Planning Commissions Resolution with complete findings for denial. Staff has reviewed the record and included additional draft findings based on the record as follows: (1) the proposed development would not blend in with the natural environment due to the large scale of the proposed building.

The stone veneer on the towers and building elevations, wood-like siding, and neutral colored stucco are not sufficient to blend the large structure into the natural environment; (2) the proposed two story building is double the height of the existing one story residences. The entire building is approximately 265 feet long compared to the nearest residences approximately 47 to 117 feet long; (3) the building scale is not softened by having a one-story portion of the building since the one-story portion is only a small portion of the building (64 feet long, approximately 24% of the building) and the building being set closest to the hillside to lower the building visibility does not lessen the appearance of the building due to the massing of the building (height approximately 30 feet tall) when viewed from the off-site existing single-family residences. The proposed residential care facility use is not compatible with the existing adjoining single-family and multi-family residential uses; and (4) condition*B-21 the reference to senior housing has been removed and replaced with residential care facility.

**Applicant Stated Grounds for Appeal**

The Applicant’s grounds for appeal (Attachment A, page 38) states that the Planning Commission’s denial of the Project is unjustified, objecting to the Planning Commission’s conclusions on compatibility with the General Plan and violating the Housing Accountability Act (HAA). A summary of the Applicant's appeal letter is as follows:

1. **Compatibility with General Plan:** The proposed senior citizen housing development project provides a residential care facility for assisted living, with memory care, consistent with Simi Valley’s General Plan Land Use Policies and specific Housing Element HE-4.3 as stated to: “Encourage the construction of specialized housing for senior citizens in the community, including planned senior communities.”

2. **Violating the Housing Accountability Act (HAA):** The Applicant states that the Housing Accountability Act (Gov’t Code 65589.5) applies to this Project. The Applicant further states that the Planning Commission exercised prejudicial abuse of discretion with its denial vote, including but not limited to violating the HAA. The City did not provide written documentation, as required by the HAA, identifying the provision or provisions, and an explanation of the reason or reasons it considers the housing development project to be inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision within 30 days of the Project determined to be complete (which was May 28, 2019). Thus, states the Applicant, the requirement to apply the HAA is now mandated as a matter of law, and therefore the Planning Commission abused its discretion in voting to disapprove on the relevant Project record under the HAA.
3. In addition, the Applicant states that Civil Code Section 51.3 is essential to establish and preserve specially designed accessible housing for senior citizens. There are senior citizens who need special living environments and services, and find that there is an inadequate supply of this type of housing in the state.

Staff Analysis of Appeal

1. HAA Not Applicable

As a preliminary matter, in order to provide the City Council with the appropriate framework to consider the Appeal, it is necessary to determine whether the Project is subject to the HAA. If the Project were subject to the HAA, the City’s discretion would be limited because of the strict requirements of that law.

In consultation with the City Attorney’s Office, this Project is not subject to the HAA. The HAA applies to “housing development projects” as well as “transitional” or “supportive” housing. This project is not “supportive housing,” as the Government Code (“GC”) defines supportive projects as those focused on the homeless population (see GC Sec. 65582(i)). The Project is likewise not “transitional” housing, which has a maximum length of stay of six months. (GC Sec. 65582(j)).

“Housing development projects” are defined as including “residential units” under the HAA. The term “residential units” is not defined in the law. However, it is reasonable to use the State Housing and Community Development Department’s (“HCD’s”) guidance regarding a City’s the Annual Progress Report (“APR”) to determine whether a project includes residential units. For purposes of counting units towards the RHNA, HCD only gives credit for “housing units” as defined by the California Department of Finance for inclusion in the annual E-5 City/County Population and Housing Estimates report, which is the same as the US Census definition for a housing unit. The full Census definition is provided below for reference, but importantly housing units must consist of separate living quarters; developments where residents live or eat with other people are group quarters that are not “housing units.”

Because the living quarters in this Project do not include kitchens or kitchenettes, it is therefore not subject to the HAA. Further, the City is not reporting these quarters to HCD for RHNA credit in the APR, and the City’s Municipal Code does not define this Project as including residential or dwelling units. In addition, the City does not charge a housing fee for the rooms in this Project, does not subject projects such as this to the housing allocation system, and does not consider the units to be housing for any purpose under the SVMC.

US Census Definition of Housing Unit (underlining added):

“A housing unit is a house, an apartment, a group of rooms, or a single room occupied or intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants do not live and eat with other persons in the structure and which have direct access from the outside of the building or through a common hall.
For vacant units, the criteria of separateness and direct access are applied to the intended occupants whenever possible. If the information cannot be obtained, the criteria are applied to the previous occupants. Tents and boats are excluded if vacant, used for business, or used for extra sleeping space or vacations. Vacant seasonal/migratory mobile homes are included in the count of vacant seasonal/migratory housing units.

Living quarters of the following types are excluded from the housing unit inventory: Dormitories, bunkhouses, and barracks; quarters in predominantly transient hotels, motels, and the like, except those occupied by persons who consider the hotel their usual place of residence; quarters in institutions, general hospitals, and military installations except those occupied by staff members or resident employees who have separate living arrangements."

2. General Plan Consistency

Although the Applicant has alleged that the Project is consistent with the General Plan, the City Council would be able to utilize the substantial evidence test to either find consistency or inconsistency with the General Plan, at the Council’s discretion. The resolutions approving or denying the Project in this staff report contain factual findings to support whichever position the Council wishes to take. Therefore, the Applicant’s grounds for appeal regarding consistency with the General Plan may either be accepted or rejected by the Council.

The findings for a CUP will be reviewed by a court for “substantial evidence.” This provides some deference to the findings of the City Council. The substantial evidence test is as follows: (1) does substantial evidence support the administrative findings; and 2) Do the findings support the decision? Per case law, “substantial evidence” exists when the administrative record provides any reasonable factual basis for the findings. Substantial evidence may be found in staff reports, opinions, and agency members’ comments, or any other factual basis in the record.

If Council wishes to find consistency with the General Plan, the following facts provide a basis for such consistency, which have been incorporated through the draft resolution of approval. As indicated in the September 4, 2019, Planning Commission staff report, the proposed Project is supported by staff and can be approved with support of the stated Findings: (a) The proposed building’s color palette of brown, bronze and cultured pearl along with the brown and gray stonework blend in with the natural environment of the hillside. (b) The one-story element 12 feet tall adjacent to the nearest home reduces the overall height of the building and the two courtyards break up the appearance of the building. (c) The applicant minimized hillside disturbance by proposing the residential care facility at the base of the hill rather on the hill visually reducing the impact to neighbors. (d) The scale of the Project is compatible with the multi-family residences directly across the street in regards to height and grouping of buildings. (e) The General Plan Housing Element and the Zoning District allow for a residential care facility for seniors.
3. Civil Code Sec. 51.3 Not Applicable

Although Applicant is correct that California Civil Code Sec. 51.3 describes requirements applicable to senior housing in California, no provision of that law would require the City Council to approve this particular project.

This is because Civil Code Sec. 51.3 does not provide a remedy regarding housing that is not yet built, but instead focuses on the rights of residents of existing senior housing projects, and how the covenants for such projects should be formulated. There is no applicability to this Project.

Standard of Review

Pursuant to SVMC Section 9-76.060(D), this appeal is *de novo*. Therefore, the City Council may consider any issues associated with the prior decision being appealed, in addition to the specific grounds for the current appeal. The City Council shall also consider any environmental determination applicable to the entitlement being appealed. By way of Resolution, the City Council may uphold, uphold in part, or reverse the decision that is the subject of the appeal, and may adopt additional conditions of approval deemed reasonable and necessary. When reviewing an appeal, the City Council shall adopt findings, based upon substantial evidence, in support of the intended action on the appeal. The nature of the findings shall be in compliance with the findings adopted by the original review authority.

Options for Council

If the City Council desires to deny the appeal of the Project, the Findings for Denial are contained in the attached resolution (page 12). If the City Council desires to uphold the appeal and approve the Project, the Findings for Approval are contained on pages 4-8 of the Planning Commission staff report dated September 4, 2019 (within City Council Exhibit 3).

The following alternatives are available to the City Council in its consideration of the appeal of the Planning Commission’s decision to deny CUP-S-812, after its evaluation of public testimony:

1. Adopt a resolution (page 12) denying the Appeal, making findings in support of this decision, and upholding the Planning Commission’s denial of CUP-S-812, and not adopting the Mitigated Negative Declaration;

2. Adopt, or modify and adopt, a resolution (page 17) upholding the Appeal of the Planning Commission’s decision, thereby approving CUP-S-812, making findings in support of this decision, and adopting the Mitigated Negative Declaration;

3. Refer the matter back to staff or the Planning Commission;
4. Provide staff with other direction.

Staff recommends that the City Council consider the Applicant’s appeal of the Planning Commission’s decision to deny CUP-S-812, and not adopt the Mitigated Negative Declaration, evaluate public testimony, and select either Alternative No. 1 or 2.

**SUGGESTED CITY COUNCIL MOTION**

To deny:

I move to adopt a resolution (page 12) denying the Appeal, making findings in support of this decision, and upholding the Planning Commission’s denial of CUP-S-812, and not adopting the Mitigated Negative Declaration.

OR

To approve:

I move to adopt, or modify and adopt a resolution (page 17) upholding the Appeal of the Planning Commission’s decision, thereby approving CUP-S-812, making findings in support of this decision, and adopting the Mitigated Negative Declaration.

**SUMMARY**

The Applicant, JM Squared Development, LLC, proposes to construct and operate a residential care facility with 68 assisted living units and 40 memory care units on a vacant 1.6-acre portion of a 19.2-acre site on Cochran Street, 150 feet east of Welcome Court. At the September 4, 2019, meeting, the Planning Commission denied the Project by a 4:1 vote, finding that the large scale of the building does not blend in with the natural environment, the housing type is not consistent with the purpose and intent of the General Plan, and the scale is not compatible with the existing single-family and multi-family residential uses. On September 18, 2019, the Applicant filed an Appeal of the Planning Commission’s decision, citing the project is compatible with the General Plan and denying the project violates the Housing Accountability Act (HAA).
Staff recommends that the City Council either: Adopt a resolution (page 12) denying the appeal, making findings in support of this decision, and upholding the Planning Commission’s denial of CUP-S-812, and not adopting the Mitigated Negative Declaration; or adopt, or modify and adopt, a resolution (page 17) upholding the appeal of the Planning Commission’s decision, thereby approving CUP-S-812, making findings in support of this decision, and adopting the Mitigated Negative Declaration.

Ronald K. Fuchiwaki
Interim Environmental Services Director

Prepared by: Donna Rosser, Senior Planner

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PUBLIC HEARING PROCEDURE

HEARING DATE: SEPTEMBER 4, 2019

1. MAYOR: This is the time and place set for a public hearing to consider an appeal filed by JM Squared Development, LLC on the decision of the Planning Commission to deny CUP-S-812 and Mitigated Negative Declaration to construct and operate a residential care facility with 68 assisted living units and 40 memory care units.

May we have an oral report on this matter by staff?

2. STAFF: (Report)

3. ANY COUNCIL MEMBER: (Questions of staff and staff responses)

4. MAYOR: Does the Appellant wish to be heard on this matter?

5. APPELLANT(S): (Comments)

6. MAYOR: Is there anyone in the City Council Chamber wishing to be heard on this matter?

7. AUDIENCE: (Comments)

8. MAYOR: Does staff desire to respond to any comments or issues raised?

9. STAFF: (Response to comments and additional City Council questions)

10. MAYOR: Does the Appellant desire any rebuttal?

11. APPELLANT(S): (Rebuttal)

12. MAYOR: The hearing is closed. Are there any comments or questions from members of the City Council? (Note: If the City Council has any further questions of staff or the applicant at this time, the Public Hearing may need to be re-opened.)

13. ANY COUNCIL MEMBER: (Comments)

14. MAYOR: May I have a reading of the two proposed resolutions, noting that the City Council will only be adopting one resolution.
(Clerk reads both proposed resolutions)

The Chair will now entertain a motion.

(If the Appeal from the decision of the Planning Commission is to be denied, thereby denying CUP-S-812 and the Mitigated Negative Declaration):

(1) I move adoption of Resolution No. 2019-46 denying the Appeal, thereby upholding the decision of the Planning Commission to deny CUP-S-812 and the Mitigated Negative Declaration. (Requires a second and a vote; requires a reading of resolution)

or

(If the Appeal from the Planning Commission decision is to be upheld, in whole or as modified, thereby approving CUP-S-812 and the Mitigated Negative Declaration):

(1) I move adoption of Resolution No. 2019-47 upholding the Appeal from the Planning Commission in its entirety, thereby approving CUP-S-812 and the Mitigated Negative Declaration, based upon the findings in the September 4, 2019 Planning Commission staff report and those presented at the public hearing. (Requires a second and a vote; requires a reading of resolution)

* Any action to refer the matter back to the Planning Commission or staff, or continue the matter, requires a second and a vote.

Second

(Call for vote)

Proceed to the next item.
RESOLUTION NO. 2019-46


WHEREAS, the Applicant, JM Squared Development, LLC, has requested approval of a Conditional Use Permit (CUP-S-812) for a vacant 1.6-acre portion of a 19.2-acre site on Cochran Street, 150 feet east of Welcome Court, known as Ventura County Assessor’s Parcel Nos. 650-0-260-03, -280-02, -280-03 and by the legal description attached hereto as Exhibit A, for the purpose to construct and operate a residential care facility with 68 assisted living units and 40 memory care units; and adopt the project’s Mitigated Negative Declaration; and

WHEREAS, on September 4, 2019, the Planning Commission of the City of Simi Valley considered evidence and testimony on CUP-S-812, and the Mitigated Negative Declaration, and denied the project by a 4:1 vote; and

WHEREAS, on September 18, 2019, the Applicant filed an Appeal of the Planning Commission’s decision on the grounds that project is compatible with the General Plan, the Planning Commission violated the Housing Accountability Act and California Civil Code Sec. 51.3 was not followed; and

WHEREAS, on November 4, 2019, the City Council considered the Applicant’s appeal, and evidence and testimony on the proposed project.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SIMI VALLEY DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The findings for denial for CUP-S-812 is hereby adopted as follows:

1. The proposed use is not consistent with the purpose, intent, goals, policies, programs, and land use designations of the General Plan (SVMC Section 9-52.070.G.2) in that the following General Plan Policies cannot be met:
a. General Plan Land Use Policy LU-4.8 states: Design buildings to be architecturally integrated into the terrain and blend with the natural environment.

The proposed development would not blend in with the natural environment due to the large scale of the proposed building. The stone veneer on the towers and building elevations, wood-like siding, and neutral colored stucco are not sufficient to blend the large structure into the natural environment. Therefore, this policy cannot be met.

b. The purpose of the Residential Medium Density Land Use designation is to encourage a predominantly single-family residential environment with a wide range of lot sizes, but an overall density similar to the bulk of single-family developments on the valley floor. The proposed development is not consistent with the purpose and intent of the General Plan in regards to housing type and bulk of the proposed building being out of scale. The building is a residential facility and the adjacent neighborhood contains one-story single-family residences and two-story townhomes. The proposed two story building is double the height of the existing one story residences. The entire building is approximately 265 feet long compared to the nearest residences approximately 47 to 117 feet long. Therefore, the Project is not consistent with the Residential Medium Density Land Use.

2. The design, location, operating characteristics, and size of the proposed use is not compatible with the existing and future land uses in the vicinity, in terms of aesthetics, character, scale, and view protection (SVMC Section 9-52.070.G.4): The building scale is not softened by having a one-story portion of the building since the one-story portion is only a small portion of the building (64 feet long, approximately 24% of the building) and the building being set closest to the hillside to lower the building visibility does not lessen the appearance of the building due to the massing of the building (height approximately 30 feet tall) when viewed from the off-site existing single-family residences. The proposed residential care facility use is not compatible with the existing adjoining single-family and multi-family residential uses. Therefore, this finding cannot be met.

SECTION 2. Based on the evidence and testimony presented, and the findings contained in Section 1, the City Council hereby denies the Appeal, upholding the Planning Commission’s decision to deny CUP-S-812 and not adopt the Mitigated Negative Declaration.
SECTION 3. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the Office of the City Clerk.

PASSED and ADOPTED this 4th day of November 2019.

Attest:

Lucy Blanco, City Clerk

Keith L. Mashburn, Mayor of the City of Simi Valley, California

Approved as to Form:

Lonnie J. Eldridge, City Attorney

Approved as to Content:

Brian Paul Gabler, Interim City Manager

Ronald K. Fuchiwaki
Interim Environmental Services Director
LEGAL DESCRIPTION

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

PARCEL 1:

That portion of Tract C in Section 4, Township 2 North, Range 17 West, in the Rancho Simi, in the City of Simi Valley, County of Ventura, State of California, as shown by Map on file in Book 5, Page 24 of Maps, in the Office of the County Recorder of said County, described as follows:

Beginning at the southeasterly terminus of that certain course described as South 39° 20’ 30” East, 330.28 feet in the exception of Parcel 1 of the land acquired by the State of California, by Deed 40740; 40740-A to 40740F, inclusive, recorded in Book 3049m Page 355 of Official Records; Thence along said certain course North 39° 20’ 30” West, 95.00 feet; Thence South 66° 25’ 46” East, 125.62 feet; Thence North 60° 56’ 07” East, 211.08 feet; Thence South 0° 19’ 33” West, 127.15 feet to the southerly line of said Section 4; Thence westerly along said southerly line to the Point of Beginning.

Except all oil, gas, minerals and other hydrocarbon substances by whatsoever name know that me be within or under the herein conveyed Parcel of land, and the rights thereto, together with certain other conditions, as excepted and as reserved in Deed to the State of California, recorded in Book 3049, Page 355 of Official Records.

Assessor’s Parcel No: 650-0-280-03 (Not a part of the project area)

Parcel 2:

That portion of Tract C in Section 4, Township 2 North, Range 17 West, in the Rancho Simi, in the City of Simi Valley, County of Ventura, State of California, as shown by Map on file in Book 5, Page 24 of Maps, in the Office of the County Recorder of said County, lying southerly of the southwesterly line of the land described in Parcel 1 to the State of California, recorded in Book 3049, Page 355 of Official Records.

Except that portion of said land lying northwesterly of the southeasterly line of the 60 foot strip of land as described in Parcel 2 in said Book 3049, Page 355 of Official Records.

Assessor’s Parcel No, 650-0-280-02
Parcel 3:

A portion of Tracts A and B in Section 9, Township 2 North, Range 17 West, in the Rancho Simi, in the City of Simi Valley, County of Ventura, State of California, as shown by Map on file Book 5, Page 24 of Maps, in the Office of the County Recorder of said County, described as follows:

Beginning at the northwest corner of Section 9, being also the center line of Cochran Street, 60 feet wide, thence along said center line, North 89° 58' East 330.38 feet to the northwest corner of land conveyed to McDonnell – Douglas Corporation, by deed recorded in Book 696, Page 306 of Official Records, thence from said point of beginning and along the westerly line thereof.

1st – South 0° 00' 03" West, 455.00 feet to the northwest corner of Tract No. 2076, as per Map recorded in Book 57, Page 32 of Maps, thence along the northerly line of said Tract No. 2076,

2nd – North 89° 56' 54" East, 1230.00 feet to the westerly line of Tract No. 2075, as per Map recorded in Book 57, Page 94 of Maps, thence along the westerly line thereof,

3rd – North 0° 00' 56" West, 455.00 feet to said center line of Cochran Street, thence along said center line,

4th – South 89° 53' 54" West, 1230.00 feet to the Point of Beginning.


Assessor’s Parcel No. 650-0-260-0
RESOLUTION NO. 2019-47

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SIMI VALLEY APPROVING CONDITIONAL USE PERMIT (CUP-S-812) AND THE PROJECT’S MITIGATED NEGATIVE DECLARATION, TO CONSTRUCT AND OPERATE A RESIDENTIAL CARE FACILITY WITH 68 ASSISTED LIVING UNITS AND 40 MEMORY CARE UNITS LOCATED ON COCHRAN STREET, 150 FEET EAST OF WELCOME COURT

WHEREAS, the Applicant, JM Squared Development, LLC, has requested approval of a Conditional Use Permit (CUP-S-812) for that vacant 1.6-acre portion of a 19.2-acre site on Cochran Street, 150 feet east of Welcome Court, known as Ventura County Assessor’s Parcel Nos. 650-0-260-03, -280-02, -280-03 and by the legal description attached hereto as Exhibit A, for the purpose to construct and operate a residential care facility with 68 assisted living units and 40 memory care units; and adopt the project’s Mitigated Negative Declaration; and

WHEREAS, on September 4, 2019, the Planning Commission of the City of Simi Valley considered evidence and testimony on CUP-S-812, and the Mitigated Negative Declaration, and denied the project by a 4:1 vote; and

WHEREAS, on November 4, 2019, the City Council considered evidence and public testimony on the project.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SIMI VALLEY DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The findings for adoption of CUP-S-812 and the Mitigated Negative Declaration contained in Exhibit 3 of the City Council staff report dated September 4, 2019, and incorporated herein by reference, are approved.

SECTION 2. The Project Mitigated Negative Declaration contained in Exhibit 3 of the City Council staff report dated September 4, 2019, and Project Conditions, attached hereto within Exhibits B, are hereby adopted.

SECTION 3. Conditional Use Permit No. CUP-S-812 is hereby approved, subject to compliance with all the conditions attached hereto as Exhibit B.
SECTION 4. The time within which judicial review must be sought for administrative decisions is governed by California Code of Civil Procedure Section 1094.6.

SECTION 5. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the Office of the City Clerk.

PASSED and ADOPTED this 4th day of September 2019.

Attest:

Lucy Blanco, City Clerk

Keith L. Mashburn, Mayor of the City of Simi Valley, California

Approved as to Form:

Lonnie J. Eldridge, City Attorney

Approved as to Content:

Brian Paul Gabler, Interim City Manager

Ronald K. Fuchiwaki
Interim Environmental Services Director
LEGAL DESCRIPTION

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

PARCEL 1:

That portion of Tract C in Section 4, Township 2 North, Range 17 West, in the Rancho Simi, in the City of Simi Valley, County of Ventura, State of California, as shown by Map on file in Book 5, Page 24 of Maps, in the Office of the County Recorder of said County, described as follows:

Beginning at the southeasterly terminus of that certain course described as South 39° 20’ 30” East, 330.28 feet in the exception of Parcel 1 of the land acquired by the State of California, by Deed 40740; 40740-A to 40740F, inclusive, recorded in Book 3049m Page 355 of Official Records; Thence along said certain course North 39° 20’ 30” West, 95.00 feet; Thence South 66° 25’ 46” East, 125.62 feet; Thence North 60° 56’ 07” East, 211.08 feet; Thence South 0° 19’ 33” West, 127.15 feet to the southerly line of said Section 4; Thence westerly along said southerly line to the Point of Beginning.

Except all oil, gas, minerals and other hydrocarbon substances by whatsoever name know that me be within or under the herein conveyed Parcel of land, and the rights thereto, together with certain other conditions, as excepted and as reserved in Deed to the State of California, recorded in Book 3049, Page 355 of Official Records.

Assessor’s Parcel No: 650-0-280-03 (Not a part of the project area)

Parcel 2:

That portion of Tract C in Section 4, Township 2 North, Range 17 West, in the Rancho Simi, in the City of Simi Valley, County of Ventura, State of California, as shown by Map on file in Book 5, Page 24 of Maps, in the Office of the County Recorder of said County, lying southerly of the southwesterly line of the land described in Parcel 1 to the State of California, recorded in Book 3049, Page 355 of Official Records.

Except that portion of said land lying northwesterly of the southeasterly line of the 60 foot strip of land as described in Parcel 2 in said Book 3049, Page 355 of Official Records.

Assessor’s Parcel No, 650-0-280-02
Parcel 3:

A portion of Tracts A and B in Section 9, Township 2 North, Range 17 West, in the Rancho Simi, in the City of Simi Valley, County of Ventura, State of California, as shown by Map on file Book 5, Page 24 of Maps, in the Office of the County Recorder of said County, described as follows:

Beginning at the northwest corner of Section 9, being also the center line of Cochran Street, 60 feet wide, thence along said center line, North 89˚ 58’ East 330.38 feet to the northwest corner of land conveyed to McDonnell – Douglas Corporation, by deed recorded in Book 696, Page 306 of Official Records, thence from said point of beginning and along the westerly line thereof.

1st – South 0˚ 00’ 03” West, 455.00 feet to the northwest corner of Tract No. 2076, as per Map recorded in Book 57, Page 32 of Maps, thence along the northerly line of said Tract No. 2076,

2nd – North 89˚ 56’ 54” East, 1230.00 feet to the westerly line of Tract No. 2075, as per Map recorded in Book 57, Page 94 of Maps, thence along the westerly line thereof,

3rd – North 0˚ 00’ 56” West, 455.00 feet to said center line of Cochran Street, thence along said center line,

4th – South 89˚ 53’ 54” West, 1230.00 feet to the Point of Beginning.


Assessor’s Parcel No. 650-0-260-03
PROJECT PERMIT CONDITIONS

The conditions marked with an asterisk (*) are Special Conditions applicable specifically to this permit. These conditions of approval will supersede any conflicting notations, specifications, dimensions, and typical sections that may be shown on a development plan or exhibit. Unless otherwise stated, all conditions of approval must be complied with prior to the issuance of a Zoning Clearance. Applicant will assume all costs incurred in complying with the conditions contained herein. All facilities and uses other than those specifically approved by the approving authority are prohibited. In consideration of the benefits conferred by this Permit, Applicant, on behalf of him/herself, intending to be bound hereby for the life of this permit, consents to City Personnel entering the Project property during daylight hours without a warrant and with written notice to verify compliance with the terms and conditions of this Permit. "Applicant" or "Developer" or "Owner" as used in these conditions means all applicants, developers, permittees, and all owners of the subject property and all successors and assigns thereto. These conditions are deemed to touch and concern the real property, which is the subject hereof, and will run with the land. Compliance with these conditions must be maintained for the life of the permit. The Simi Valley Municipal Code (SVMC) contains penalty provisions for the violation of development conditions, which could result in any available administrative, civil, or criminal remedies that could include one or more of the following: 1) revocation of the development permit; 2) penalties of up to $1,000 in fines and/or six months in jail for each day of violation; and 3) the prohibition of further violations through court injunction. Applicant must comply with all of the conditions.

A. ENVIRONMENTAL SERVICES CONDITIONS:

Planning Division:

A-1 This permit is granted for all of the buildings, roadways, parking areas, landscaping, lighting, colors and materials, and other features which must be as shown on the formal application and exhibits specifically labeled as Exhibits Site Plan, Topography Map, Enlarged Site Plan, Enlarged Entrance Driveway, Floor Plan -1, Floor Plan -2, Material Board, Details, Elevations, Colored Elevations, Courtyard Elevations, Rendering, Sections, Trellis, Preliminary Grading, Preliminary Grading/Utility Plan, Preliminary Grading/Sections, Landscaping -1, Landscaping -2, and Landscaping -3, dated May 22, 2019.

A-2 If this permit has not been use inaugurated prior to thirty-six (36) months following this approval, the permit will automatically expire.

A-3 Applicant must defend, indemnify, and hold harmless the City, its agents, officials, and employees from any claim, action, or proceeding against the City or its agents, officials, or employees in any action to attack, set aside, void, or annul the approval of this permit.
The City will promptly notify Applicant of any claim, action, or proceeding; and the City will cooperate fully in the defense. The City shall also have the right to consult and participate with Applicant in the development of litigation strategy. Further, Applicant must select an attorney, acceptable to the City, who will defend such proceeding. Such approval of an attorney will not be unreasonably withheld.

A-4 During the lifetime of the permit, Applicant must comply with all applicable laws and regulations of every local, state, and federal entity; and all such requirements and enactments will be incorporated by reference as conditions of this permit. The duty of inquiry as to such requirements and any amendments thereto will be upon Applicant and his or her transferees or successor in interest.

A-5 Applicant agrees that if any of the conditions or limitations of this permit are held to be invalid by a court of competent jurisdiction, that holding will render this permit to be null and void.

A-6 Applicant must provide to the Deputy Environmental Services Director/City Planner a copy of all conditions of approval recorded with the Ventura County Recorder's Office.

A-7 Applicant must not attach signs, flags, pennants, streamers, or banners of any type to the light poles or landscaping.

A-8 Applicant must submit to the Deputy Environmental Services Director/City Planner for review and approval a trash and recycling enclosure plan. The Deputy Environmental Services Director/City Planner will review the enclosure plan for compliance with the following criteria:

a. The enclosure must incorporate the same architectural treatment and use the same approved exterior colors and the materials of the main building;

b. The enclosure must incorporate an opaque gate and include a roof or trellis, which will be designed to preclude trash from being blown out of the bins;

 c. The height of the enclosure walls and gate must be the same or greater than the height of the bins within the enclosure; and

 d. Except when the bins are being accessed, the bins must be stored at all times within the enclosure with the gate closed.

A-9 Applicant must submit a utility plan to the Deputy Director/City Planner for review and approval. The plan must include:

a. Size and location of all above-ground utility cabinets and underground utility vaults for electric, telephone, cable
communications, backflow prevention devices, and fire sprinkler pressure detector check valves (utility equipment);

b. Screening design and location for all above-ground utility equipment by method of masonry walls, landscaping, or a combination of both;

c. A minimum of three feet of clearance between all above-ground utility equipment and the screening;

d. Access panels oriented away from all public rights-of-way;

e. Fire sprinkler pressure detector check valves located a minimum of 20 feet from all property lines adjacent to public rights-of-way;

f. Depiction of the Traffic Sight Safety Area (TSSA); and

g. Location of all above-ground utility equipment outside of the TSSA.

A-10 In the event of the encounter of subsurface materials suspected to be of an archaeological or paleontological nature, all grading or excavation must cease in the immediate area, and the find left untouched. Applicant must select and provide a qualified professional archaeologist certified by the Register of Professional Archaeologists or paleontologist with a degree(s) in paleontology or geology to evaluate and make recommendations as to disposition, mitigation and/or salvage. The recommendation must be implemented before work may proceed. Applicant will be liable for all costs associated with the professional investigation and implementation.

A-11 Prior to the time of occupancy inspection, Applicant must provide to the Deputy Environmental Services Director/City Planner and the Building Official written certification from the project architect or engineer that the project has been constructed in accordance with the approved plans.

A-12 Applicant must continually maintain, repair and replace all structures, landscaping, irrigation equipment, sidewalks, parking lot surfacing, and all other improvements within the project described in the approved plans.

A-13 Applicant must submit photometric and luminaire plans which comply with Simi Valley Municipal Code Section 9-30.040. All exterior light fixtures depicted on this plan must have fully recessed lenses and cut-off features that limit illumination at the property line to 0.5 footcandles. A note will be placed on the plan that states: "All downcast light fixtures will be installed and permanently maintained in a horizontal position."

*A-14 Applicant must underground existing electrical poles on site.
B. **PUBLIC WORKS CONDITIONS:**

General

B-1 These Conditions of Approval supersede all conflicting notations, specifications, dimensions and typical sections which may be shown on development plans or exhibits. The Conditions stated herein must not be considered a comprehensive listing of all State and Municipal Code requirements and City ordinances and policies. All of the following Conditions, including the payment of all the miscellaneous fees, must be completed prior to the issuance of a Zoning Clearance, unless other timing has been approved by the City Engineer. The conditions marked with an asterisk (*) are Special Conditions applicable specifically to this project. In the event of a conflict between a Standard Condition and a Special Condition, the Special Condition will take precedence.

B-2 Prior to issuance of a Grading Permit, Applicant must submit improvement plans on 24" x 36" sheets having the City's standard signature blocks. All lettering on the plans must be a minimum of .08 inch in size and the plans must be drawn to ensure reproduction and record keeping. All plans must be drawn in ink and must be signed by a California State Registered Civil Engineer at the time of first submittal. All improvement plans must comply with Chapter 7 of the Ventura County Land Development Manual adopted by City Council Resolution No. 69-8. Applicant must submit improvement plans for the entire project as one package and must include all project improvements shown on the approved project exhibits and those to be designed per these Conditions. (Piecemeal submittal of plans is not acceptable.) This package must include all supporting studies. Plans and studies must be signed by a California State Registered Civil Engineer at the time of first submittal.

B-3 Applicant must obtain an encroachment permit for construction of public infrastructure. Prior to the permit’s issuance, all improvement plans and submittals must be accepted by the City Engineer, all applicable fees must be paid, all securities must be posted and insurance documentation provided. The above submittals must comply with SVMC Section 7-1.

B-4 Prior to requesting a final inspection for release of securities, Applicant must submit record drawings, certifications, final soils report, and a digital file of record drawings (in an ARC Info or DXF format compatible with the City GIS database) to the Department of Public Works.

B-5 Prior to occupancy, Applicant must complete all improvements per the accepted plans and approved conditions, and obtain acceptance for the improvements from the City.
*B-6  Applicant must design improvements such that all existing and proposed utilities are underground per SVMC Section 9-30 and 9-64.

*B-7  Prior to the issuance of a grading permit, Applicant must provide that all structures must be protected from 100-year frequency storm flows and that finished floors must be a minimum of one-foot above the 100-year high water level of the detention facility in compliance with the City of Simi Valley Drainage Study Guidelines.

Grading

B-8  Prior to issuance of a grading permit, Applicant must submit a site paving, drainage and grading plan, subject to review and approval by the City Engineer. The plans must be in conformance with Chapter 7 of the Ventura County Land Development Manual adopted by City Council Resolution No. 69-8. The site paving, drainage and grading plan must be accompanied by a soils report, prepared to comply with the Guidelines for Geotechnical and Geological Reports in the City of Simi Valley.

B-9  Prior to the issuance of a grading permit, Applicant must post improvement securities for all grading, must pay all applicable fees, and must provide insurance documentation. The above submittals must comply with SVMC Section 7-1.

B-10 Applicant must obtain a grading permit, must complete the grading according to the approved plans, and must provide certifications by the soils engineer and civil engineer.

Drainage

B-11 Prior to the issuance of a grading permit, Applicant must provide a final drainage study prepared by a California State Registered Civil Engineer. This study must include hydrologic and hydraulic calculations and comply with the City of Simi Valley Drainage Study Guidelines, Goal VIII-3 of the General Plan, the Ventura County Hydrology Manual, and the Hydraulic Design Manual of the Los Angeles County and Ventura County Watershed Protection Districts.

B-12 Applicant must incorporate storm water detention into the improvement plans. Detention design must conform to the City of Simi Valley Drainage Study Guidelines. Site runoff cannot exceed the 10-year undeveloped storm runoff from the site area. The hydrograph flood routing method or unit volume method using 1,000/2,500 cubic feet per acre (bypass/flow through respectively) may be used for detention design when the project does not exceed 10 acres of developable area. For projects of 10 acres or more of developable area, the unit volume method must be used. Detention facilities must be privately maintained by the property owner(s).
Prior to the issuance of a grading permit, Applicant must prepare a Storm Water Pollution Prevention Plan (SWPPP) and must incorporate permanent storm water quality treatment devices into the site improvements for review, prior to approval by the City Engineer. The SWPPP must be prepared and implemented to comply with:


b. State of California, California Regional Water Quality Control Board, Los Angeles Region Order No. R4-2010-0108: Waste Discharge Requirements for Storm Water (Wet Weather) and Non-Storm Water (Dry Weather) Discharges from the Municipal Separate Sewer Systems within the Ventura County Watershed Protection District, County of Ventura, and the Incorporated Cities Therein, dated July 8, 2010; and

c. A Notice of Intent (NOI) must be submitted to the Los Angeles Regional State Water Resources Control Board to comply with General Permit No. 2009-0009-DWQ.

Applicant must identify pollutant sources and must include design and recommended construction, implementation and maintenance measures in order to eliminate or reduce the discharges of pollutants from the project site to the public storm drain system during and after the construction period. For any work in progress, updated SWPPP and erosion control plans must be submitted during the period from November 1 to April 1 of each year.

Traffic and Roadways

Pursuant to City Standard SV 20-130, applicant must include the line of sight drawn from the project driveway, 10 feet back of the extended curb line and five-foot offset of the center of the driveway on the plans.

*Applicant must install an LED street light, per City Standard SV 20-10, at the west project driveway curb return.
*B-16 Applicant must pay the Traffic Impact Fee specified in the City of Simi Valley Schedule of Service Charges in effect at the time of payment, as stated in the current Traffic Impact Fee Resolution. The total fee is based on daily vehicle trip ends, with the current fee of $83.00 per trip. The total fee is based on this project generating 335 daily vehicle trip ends based on the revised trip generation letter dated January 31, 2019. Using the current fee of $83.00 per trip, the fee would be $25,813.

*B-17 Applicant must pay the Ventura County Reciprocal Traffic Impact Fee as stated in City Council Resolution No. 2002-22. The total fee is based on daily vehicle trip ends, with the current fee of $5.28 per daily trip end. The total fee is based on this project generating 335 daily vehicle trip ends based on the revised trip generation letter dated January 31, 2019. Using the current fee of $5.28 per trip, the fee would be $1,768.80.

Sanitation


B-19 Applicant must apply for, and obtain, a Sewer Will-Serve Letter from the Sanitation Services Division.

B-20 Prior to issuance of a Sewer Will-Serve Letter, Applicant must submit sewer improvement plans to the Sanitation Services Division for review and approval.

*B-21 Prior to issuance of a Sewer Will-Serve Letter, Applicant must pay all applicable sewer connection fees. The estimated total fee of $288,640 is based on the current rate of $2,624/unit for residential care facility. The actual fees will be determined at the time of payment.

B-22 Applicant must receive approval from the Building and Safety Division for the construction of private on-site sewer facilities. On-site private sewer lines must be designed with a minimum two percent slope per the latest California Plumbing Code.

Water

B-23 Applicant must design and construct all water facilities in compliance with the Water Design and Construction Standards, adopted by the District Board of Directors on June 21, 1999, and subsequent revisions.

B-24 Prior to approval of water improvement plans, Applicant must have the fire hydrant location(s) approved by the Ventura County Fire Protection District (VCFPD).
B-25 Applicant must apply for, and obtain, a Water Will-Serve Letter from Waterworks District No. 8 (WWD8).

B-26 Prior to issuance of a Water Will-Serve Letter, Applicant must submit water improvement plans to WWD8 for review and approval.

B-27 Prior to issuance of a Water Will-Serve Letter, Applicant must submit a Water Supply Fixture Unit (WSFU) count in accordance with the 2013 California Plumbing Code, Appendix A.

B-28 Prior to issuance of a Water Will Serve Letter, Applicant must submit form VCFPD-126A with authorized signatures from VCFPD and WWD8.

B-29 Prior to issuance of a Water Will-Serve Letter, Applicant must pay the Capital Improvement Charge for water service. An estimate of this charge, based on a non-residential, two-inch meter is $26,000. The actual charge will be determined based on actual meter size required and the rates in effect at the time of payment.

B-30 Prior to the installation of landscaping or the issuance of a Certificate of Occupancy, whichever comes first, Applicant must purchase and install the domestic and irrigation water meters.

Maintenance Services

B-31 Applicant must submit, to the Department of Public Works, Final Landscape and Irrigation Plans for review and approval. The plans must be accompanied by an estimate of the costs for these improvements. Plan check fees for all landscape and irrigation improvements proposed to be constructed within the right-of-way must also be remitted at this time.

B-32 Applicant must ensure that the landscape and irrigation design plans include provision for installing root barriers (18 inches deep by 10-feet long, minimum), adjacent to back side of sidewalk, when planting on-site tree(s) within 10 feet from the public rights-of-way and public sidewalk.

B-33 Applicant must include a note on the Final Landscape Plans stating that the street trees/plant material/irrigation system, within the street right-of-way, are to be maintained by the Applicant/property owner in perpetuity and pursuant to SVMC 7-3.19.

B-34 Prior to the issuance of a Grading Permit, Applicant must have received Public Works approval for the projects Landscape and Irrigation design plans and must pay the public works inspection fee.

B-35 Prior to the issuance of Certificate of Occupancy, Applicant must have completed installation of on-site and Right-of-Way landscape improvements as shown on the City Approved Landscape Plans.
C. **LANDSCAPING CONDITIONS:**

   **C-1** Applicant must submit final landscape and irrigation plans, and supporting materials, to the Deputy Environmental Services Director/City Planner for review and approval. The final plans/materials must:

   a. Comply with the City of Simi Valley Landscape Design Guidelines;

   b. Comply with the conceptual landscape plan as approved by the Planning Commission;

   c. Comply with the recommendations of the City’s Consulting Landscape Architect, to ensure plans conform to the Planning Commission approval, the City’s Landscape Design Guidelines, and the 2015 State Model Water Efficient Landscape Ordinance as implemented by the City of Simi Valley;

   d. Comply with the approved site plan and Public Works grading and improvement plans;

   e. Include an agronomic soils report as specified in the 2015 State Model Water Efficient Landscape Ordinance as implemented by the City of Simi Valley. The soils report must be based on soil conditions after the establishment of final grades, and final landscape plans must incorporate the report recommendations;

   f. Include a Water Efficient Landscape Worksheet with each submittal of landscape and irrigation plans;

   g. Show all protected trees pursuant to Section 9-38.050 of the SVMC;

   h. Provide root barriers for all trees planted in parking lot, perimeter, and foundation planting areas, per Simi Valley Standard Plans 51-20 and 51-60;

   i. Include planting and irrigation with native compatible, fire-resistant plants in areas adjacent to existing native vegetation. All plants materials must be low-water use and must not include any live turf areas. The plant palette must not include invasive plants as listed in the California Invasive Plant Council (Cal-IPC) Invasive Plant Inventory;

   j. Clearly identify required temporary landscape-related improvements and irrigation (e.g., for erosion control), separately from permanent systems; and

   k. Provide an estimate of the total landscape construction cost.
C-2 All landscaping must be low water use, with drought-tolerant plant materials irrigated by a low-precipitation or drip-irrigation system. Materials must be from the Water Use Classification of Landscape Species (WUCOLS) Low Water-Using Plant List, and the irrigation system will utilize in-ground moisture sensors, which are connected to the automatic controller governing the rate and frequency of irrigation.

C-3 Prior to the issuance of a Zoning Clearance or a Grading Permit, whichever comes first, Applicant must obtain a Tree Removal Permit in accordance with SVMC Section 9-38.070 et. seq. for any protected trees designated for removal on the plan. Unless otherwise approved by the Deputy Environmental Services Director/City Planner, Applicant will not remove any of the mature trees prior to the commencement of any grading.

C-4 From the date of this approval until final inspection or Certificate of Occupancy for the last building to be built pursuant to this permit, Applicant must protect and preserve existing protected trees identified in Exhibit 4, dated October 3, 2017 (tree report), pursuant to SVMC Chapter 9-38 and City’s Landscape Design Guidelines, unless a Tree Removal Permit authorizing their removal has been issued by the Department of Environmental Services.

C-5 For the lifetime of the permit, Applicant must mitigate the loss of all protected trees, relocated trees, and trees identified on the Final Landscape Plan, pursuant to SVMC Chapter 9-38 and the City’s Landscape Design Guidelines.

C-6 Prior to the issuance of a Certificate of Occupancy or a Final Inspection request, whichever comes first, Applicant must:

a. Install all landscaping so as to be consistent with the approved landscape plans referred to in Condition C-1;

b. Require that the landscape architect be present during the final landscape inspection by the City and certify that the installation of landscape materials and irrigation systems are in compliance with the approved landscape plan; and

c. Provide required Landscape Documentation Package following completion of the landscape installation.

C-7 For the lifetime of this permit, Applicant must adhere to the City’s Landscape Maintenance Requirements as follows:

a. Trees will be thinned as defined by the Tree Care Industry Association, ANSI A300 Standards to eliminate crowding or x-
crossing branches, to remove dead or broken limbs, and to remove structurally weak branch attachments;

b. Tree canopies will not be topped (to remove or cut the top of the tree) or pollarded (to cut back to the trunk to promote the growth of a dense head of foliage) as defined by the Tree Care Industry Association, ANSI A300 Standards;

c. All pruning will comply with the International Society of Arboriculture, Best Management Practices-Tree Pruning; current edition;

d. No more than 20 percent of tree canopy will be removed during a growing season;

e. Branches will be removed as needed to allow for a 14-foot vehicular path clearance and an eight-foot pedestrian path clearance;

f. All pruning will be supervised by a certified or consulting arborist; and

g. Replace all dead or missing plants so as to comply with the approved landscape plan. The minimum replacement size will be at least a 24” boxed tree or five-gallon shrub/vine, or a one-gallon groundcover.

D. VENTURA COUNTY FIRE PROTECTION DISTRICT:

*D-1 Private roads must comply with Public Road Standards: Access road width of 24 feet must be required with no on-street parking permitted and Aerial Ladder Fire Apparatus Access, multi-family, commercial or industrial buildings or portions of buildings or facilities with perimeter eave lines exceeding 30 feet in height above the lowest level of fire department access must require an approved aerial ladder fire apparatus access roads and driveways. Aerial fire apparatus access roads and driveways must have a minimum clear width of 30 feet. Overhead utility and power lines must not be located within the aerial ladder fire apparatus access roads and driveways. At least one of the required access routes meeting this condition must be located a minimum of 15 feet and a maximum of 30 feet parallel to one side of the buildings, as approved by the Ventura County Fire Protection District (VCFPD). Buildings exceeding 50,000 square feet must have the required access route along a minimum of two sides. Parking must be prohibited along the required width of the access roads and driveways. Landscaping and other improvements between the required access and the buildings must not interfere with aerial ladder fire apparatus operations, as approved by the VCFPD.
D-2 Bollards and/or gates must not be installed along fire access roads and driveways.

D-3 Prior to combustible construction, a paved all-weather access roads and driveway suitable for use by a 20 ton Fire District vehicle must be installed at locations approved by the VCFPD.

D-4 Prior to combustible construction, all utilities located within the access road and the first lift of the access road pavement must be installed. A minimum 20-foot clear width must remain free of obstruction during any construction activities within the development once combustible construction starts.

D-5 The access road must be of sufficient width to allow for a 40-foot centerline turning radius at all turns in the road.

D-6 All access roads and driveways must have a minimum vertical clearance of 13 feet 6 inches (13' 6"). Clear of building to sky.

D-7 Approved turnaround areas for fire apparatus must be provided when dead-end Fire Department access roads and driveways exceed 150 feet. Turnaround areas must not exceed a five percent cross slope in any direction and must be located within 150 feet of the end of the access road and driveway. Turnaround areas must not be used for parking and must be kept free of obstructions at all times. Turnaround areas must be posted as Fire Lanes in accordance with Fire District Fire Lane Standards.

*D-8 The property owner(s) are hereby advised that parking on access roads and driveways and fire department turnarounds is prohibited. Applicant may paint the fire access roads and driveways red to indicate no parking permitted.

D-9 The access road and driveway must be extended to within 150 feet of all portions of the exterior walls of the first story of any building and must be in accordance with VCFPD access standards. Where the access roadway cannot be provided, approved fire protection system or systems must be installed as required and acceptable to the VCFPD.

D-10 That the access road and driveway must be certified by a registered civil engineer as having an all-weather surface in conformance with Public Works and/or VCFPD standards. This certification must be submitted to the VCFPD for review and approval prior to occupancy.

*D-11 Applicant must submit two (2) site plans to the VCFPD for approval of the location of fire lanes. Prior to occupancy, all fire lanes must be posted "NO PARKING-FIRE LANE-TOW AWAY" in accordance with California Vehicle Code, the International Fire Code and current VCFPD Fire Lane Standards.
Standards. All signs and or Fire Lane markings must be within recorded access easements.

D-12 Approved walkways must be provided from all building openings to the public way or fire department access road and driveway.

D-13 Building address numbers, a minimum of ten inches (10") high, must be installed prior to occupancy, must be of contrasting color to the background, and must be readily visible at night. Brass or gold plated numbers must not be used. Where structures are set back more than 150 feet from the street, larger numbers will be required so that they are distinguishable from the street. In the event a structure(s) is not visible from the street, the address number(s) must be posted adjacent to the driveway entrance on an elevated post. Individual unit numbers must be a minimum of four inches in height and must be posted at the front and rear entrance to each unit. Additional address directional signs may be required at common building entrances and stairways.

D-14 An address directory must be provided at all entrances to the project at locations approved by the VCFPD. Design must be in accordance with VCFPD Addressing Standards. Directory plans must be submitted to the Fire Prevention Division for review and approval prior to installation.

D-15 All accessory room doors must be labeled on the doors indicating use of the room (i.e., Electrical Room, Riser Room, Fire Alarm Panel Inside, Storage Room, Janitor, Roof Access, etc.).

D-16 All exit doors must swing in the direction of travel (outwards) when leaving the building.

D-17 All exit doors must be provided with panic hardware when serving A, E, I occupancies with an occupant load of 50 or more persons.

D-18 Access controlled doors, delayed egress devices and security grills must comply with California Building Code (CBC) Chapter 10 and must be approved by both the Building and Fire Departments, prior to installation. A final acceptance inspection by both Building and VCFPD is required prior to activating the egress controls.

D-19 All required egress aisles must be maintained clear of obstructions at any time.

D-20 All emergency lights and exit signs must be maintained in an operable condition at all times.
D-21 Prior to construction, Applicant must submit plans to the VCFPD for placement of fire hydrants. On plans, show existing hydrants within 500 feet of the development. Indicate the type of hydrant, number and size of outlets.

D-22 Fire hydrant(s) must be provided in accordance with current adopted edition of the International Fire Code, Appendix C and adopted amendments. On-site fire hydrants may be required as determined by the VCFPD.

D-23 Fire hydrants must be installed and in service prior to combustible construction and must conform to the minimum standard of the Simi Valley Water Works Manual and the following:

a. Each hydrant must be a six-inch wet barrel design and must have one (1) four-inch and two (2) 2½-inch outlet(s);

b. The required fire flow must be achieved at no less than 20-psi residual pressure;

c. Fire hydrants must be spaced 300 feet on center and so located that no structure will be farther than 150 feet from any one hydrant;

d. Fire hydrants must be set back in from the curb face 24 inches on center;

e. No obstructions, including walls, trees, light and sign posts, meter, must be placed within three (3) feet of any hydrant;

f. A concrete pad must be installed extending 18 inches out from the fire hydrant; and

g. Ground clearance to the lowest operating nut must be between 18 to 24 inches.

D-24 Prior to occupancy of any structure, blue reflective hydrant location markers must be placed on the access roads in accordance with VCFPD standards. If the final asphalt cap is not in place at time of occupancy, hydrant location markers must still be installed and must be replaced when the final asphalt cap in completed.

D-25 The minimum fire flow required must be determined as specified by the current adopted edition of the International Fire Code Appendix B with adopted Amendments and the applicable Water Manual for the jurisdiction (with ever is more restrictive). Applicant must verify that the water purveyor can provide the required volume and duration at the project prior to obtaining a building permit.
D-26 Prior to map recordation, the applicant must provide to the VCFPD, verification from the water purveyor that the purveyor can provide the required fire flow of 1,850 gallons per minute at 20 psi for a minimum two-hour duration.

D-27 Plans for water systems supplying fire hydrants and/or fire sprinkler systems and not located within a water purveyor's easement, must be submitted to the VCFPD for review and approval prior to issuance of grading and/or building permits or signing of Mylar plans, whichever is first. Plans must reflect only dedicated private fire service lines and associated appurtenances. Plan must be design and submitted with the appropriate fees in accordance with VCFPD Standard 14.7.2.

D-28 All structures must be provided with an automatic fire sprinkler system in accordance with current VCFPD Ordinance at time of building permit application.

D-29 Plans for all fire protection systems (sprinklers, dry chemical, hood systems, etc.) must be submitted, with payment for plan check, to VCFPD for review and approval prior to installation. Note: Fire sprinkler systems with 20 or more heads must be supervised by a fire alarm system in accordance with VCFPD requirements.

D-30 A fire alarm system must be installed in all buildings in accordance with California Building and Fire Code requirements.

D-31 The building fire sprinkler system must be serviced and maintained in a proper working order at all times. Required maintenance inspections and service personnel must be in accordance with CCR Title 19, and VCFPD Ordinance. Service and maintenance records must be maintained on-site and available for review by the Fire Department upon request.

D-32 A current Five-Year Fire Sprinkler System certification must be maintained at all times in accordance with CCR Title-19 and VCFPD requirements. The required Five-Year Report must be submitted to the VCFPD, prior to expiration of the previous Five-Year certification.

D-33 The building fire alarm system must be serviced and maintained in a proper working order at all times. Required maintenance inspections and service personnel must be in accordance with NFPA 72. Service records must be maintained on-site and available for review by the Fire Department upon request.

D-34 Building plans of all A, E, I, H, R-1, R-2 or R-4 occupancies must be submitted, with payment for plan check, to the VCFPD for review and approval, prior to obtaining a building permit.
D-35 Fire extinguishers must be installed in accordance with the International Fire Code. The placement of extinguishers must be subject to review by the VCFPD.

D-36 Commercial trash dumpsters and containers with an individual capacity of 1.5 cubic yards or greater must not be stored or placed within five feet of openings, combustible walls, or combustible roof eave lines unless protected by approved automatic fire sprinklers.

D-37 Applicant must obtain VCFD Form #126 "Requirements for Construction" prior to obtaining a building permit for any new structures or additions to existing structures.

D-38 Applicant and property owner must obtain all applicable International Fire Code (IFC) permits prior to occupancy or use of any system or item requiring an IFC permit.

I. MITIGATION MONITORING CONDITIONS

*I-1 During initial ground disturbance for the project, a qualified archeologist, defined as an archaeologist who meets the Secretary of the Interior's Professional Qualification Standards for archaeology (NPS 1983; hereafter qualified archaeologist), should monitor construction activities within the project site. If, during initial ground disturbance, the monitor determines that the construction activities have little or no potential to impact cultural resources, the qualified archaeologist may recommend that monitoring be reduced or eliminated. If cultural resources are identified during initial monitoring, work in the immediate vicinity should halt until the resource has been evaluated for significance. Should the resource be determined a historical resource under CEQA, additional studies, inducing data recovery efforts may be needed to reduce project impacts. Should the resource(s) prove to be Native American in origin, consultation with local tribes and the City of Simi Valley, acting as lead agency, may be necessary to mitigate any significant impacts.

*I-2 If cultural resources are encountered during project development, work in the immediate area must halt and a qualified archaeologist must be contacted immediately to evaluate the find. If the discovery proves to be significant under CEQA, additional work such as data recovery excavation and Native American consultation may be warranted to mitigate any significant impacts.

*I-3 If human remains or funerary objects are encountered during Project grading activities, work in the immediate vicinity (within a 100-foot buffer of the find) must cease and the County Coroner must be contacted immediately regarding the human remains.
California Health and Safety Code Section 7050.5 states that no further disturbance must occur until the County Coroner has made the necessary findings as to origin. Further, pursuant to California Public Resources Code Section 5097.98(b) remains must be left in place and free from disturbance until a final decision as to the treatment and disposition has been made. If the County Coroner determines the remains to be Native American, the Native American Heritage Commission as well as a representative from the Fernandeño Tataviam Band of Mission Indians must be contacted within 24 hours of the find. The NAHC must then immediately identify the "most likely descendants (MLD)" for purposes of receiving notification of discovery. The MLD(s) must then make recommendations within 48 hours and engage in consultation concerning the treatment of the remains as provided in Public Resources Code Section 5097.98.

*I-4 In the event an unanticipated fossil discovery is made during the course of project construction, then, in accordance with the Society of Vertebrate Paleontology (SVP) (2010) guidelines, it is the responsibility of any worker who observes fossils within the project area to stop work in the immediate vicinity of the find and notify a qualified professional paleontologist who must be retained to evaluate the discovery, determine its significance and if additional mitigation or treatment is warranted. Work in the area of the discovery will resume once the find is properly documented and authorization is given to resume construction work. Any significant paleontological resources will be prepared, identified, analyzed, and permanently curated in an approved regional museum repository.

*I-5 Applicant must enter into a cultural resource agreement with the Fernandeño Tataviam Band of Mission Indians (FTBMI) for the protection of cultural resources, in which the FTBMI must be identified to provide Tribal Cultural Resource Monitoring and consult on the treatment and disposition of inadvertently discovered Tribal Cultural Resources.

*I-6 Applicant must retain a Tribal Cultural Resource monitor procured by the Fernandeño Tataviam Band of Mission Indians to observe all ground disturbing activities until work reaches five feet below the surface of native soil, unless there is evidence to suggest cultural resources extend below the specified depth.

- One monitor will be required on site for all ground disturbing activities within the Project site.

- The Tribal monitor will have the authority to request ground disturbing activities cease within the area of discovery (within a 60-foot buffer of the find) to assess and document potential finds in real time.
• The Tribal Cultural Resource monitor must photo-document ground disturbing activities and maintain a daily monitoring log that contains descriptions of the daily construction activities and documentation of Tribal Cultural Resources identified. The monitoring log and photo documentation, accompanied by a photo key, must be submitted to the applicant upon completion of the aforementioned ground disturbing activities.

END OF ALL CONDITIONS
TO: City Council, City Hall
City of Simi Valley, 2929 Tapo Canyon Road
Simi Valley, California 93063

Name of Appellant JM SQUARED DEVELOPMENT, LLC
Address of Appellant 17942 Ventura Blvd., Encino, CA 91316
Telephone No. of Appellant 818-652-7282 Case No. CUP-S-812

In accordance with the provisions of law, I hereby appeal the decision of the Planning Commission on September 4, 2019. The decision was as follows: CUP-S-812 - Conditional Use Permit

Disapproved/Denied on Application to Construct and Operate a Senior Assisted Living Facility with Memory Care Located on Cochran St., 150' E. of Welcome Court.

The specific grounds of appeal are as follows (Give applicable Code Sections and relevant facts to support each ground of appeal):

Pursuant to state Government Code provisions applicable to this project, Title 7, §§ 65000-66499.58, Division 1, §§ 65000-66210, and Chapter 3 §§ 65100-65763, the Planning Commission, designated "Review Authority" for "Decision" on Conditional Use Permits (Simi Valley Mun. Code § 9-50-030; Table 5-1 - Review Authority), exercised prejudicial abuse of discretion with its denial vote, including but not limited to violating § 65589.5 mandates, after hearing on Application deemed complete May 29, 2019, upon the relevant project record pending before the commission; please further see Appeal Attachment: 3 pages

☐ ☐ We request that the City Council take the following action:

To by RESOLUTION: On the earliest possible date, REVERSE the Planning Commission decision to disapprove/deny CUP-S-812, to APPROVE the Conditional Use Permit for this senior citizen housing development project to provide a residential care facility for assisted living, with memory care, consistent with Simi Valley's General Land Use Policies and specified Housing Element Policy HE-4.3 as stated to: "Encourage the construction of specialized housing for senior citizens in the community, including planned senior communities."

Is the appellant the applicant? Yes

JM Squared Development, LLC 9/18/19 By: JOSHUA MANEVICH, Managing Partner 9/18/19

All sections of this form must be completed by the appellant and filed with the City Clerk's Office of the City of Simi Valley not later than 5:00 p.m. on the below indicated number of calendar days* after the date of decision by the Planning Commission (SVMC Sec. 9-76.060). The Clerk shall forward a copy of this appeal to each member of the City Council, the City Manager, the City Attorney, and the Director of Environmental Services.

*15 days for Time Extensions to Tentative Maps (Gov't Code § 66463.5)
*14 days for Time Extensions to Tentative Maps, Sign Permit, Planned Development Permit, Special Use Permit, Variance, Sign Variance, Modification Permit, Revocation of Permit, Cluster Development Permit, and Civic Center Permit.
*10 days for Land Divisions and Tentative Tracts (Must be heard within 30 days from date appeal is filed.)
*5 days for General Plans, Specific Plans, amendments thereof, zone changes, and pre-zoning in anticipation of annexation.

This appeal will be heard on the date scheduled below or as soon thereafter as the matter may be heard, as determined by the City Council. Testimony will be taken, and failure of the appellant or his representative to present evidence may be cause of denial. No new information or facts may be raised at an appeal which were not raised at the prior hearing.

Date and time of scheduled City Council public hearing: Fee: ___________

Rev. 11/14
The City of Simi Valley on May 29, 2019, through Donna Rosser, its Senior Planner, Department of Environmental Services issued to JM Squared Development, LLC’s project architects, Lauterback and Associates, Architects, Inc., a letter of “COMPLETENESS OF APPLICATION FOR CONDITIONAL USE PERMIT CUP-S-812, A REQUEST TO CONSTRUCT AND OPERATE A SENIOR ASSISTED LIVING FACILITY WITH MEMORY CARE LOCATED ON COCHRAN STREET, 150 FEET EAST OF WELCOME COURT (APNS: 650-0-260-030; 650-0-280-025). This letter further set forth that the project will be processed with a CEQA Negative Declaration.

The City of Simi Valley agency did not, as it shall under Gov. Code, Housing Elements § 65589.5 (j)(2)(A)(i) if it considers a proposed housing development project to be inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision as specified in this subdivision, provide JM Squared Development, LLC with written documentation identifying the provision or provisions, and an explanation of the reason or reasons it considers the housing development to be inconsistent, not in compliance, or not in conformity within 30 days of the May 29th date that the application for the housing development project of 150 or fewer housing units is determined to be complete.

§ 65589.5 (j)(2)(B): “If the local agency fails to provide the required documentation pursuant to subparagraph (A), the housing development project shall be deemed consistent, compliant, and in conformity with the applicable plan, program, policy, ordinance, standard, requirement, or other similar provision.

§ 65589.5 (f)(4): For purposes of this section, a housing development project or emergency shelter shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a reasonable person to conclude that the housing development project or emergency shelter is consistent, compliant, or in conformity.

Under applicable HAA enforcement provision, Gov. Code § 65589.5 (m), pursuant to Gov. Code sections 65589.5 (j)(2)(B), and section 65589.5 (f)(4) above, JM Squared LLC has a legitimate property entitlement to enforce for approval of its CUP-S-812 Conditional Use Permit for this senior residential housing development project. This result is now mandated as a matter of law, therefore, the Planning Commission abused its discretion in voting to disapprove on relevant project record under the Housing Accountability Act ("HAA"). This project was presented by Stratis Perros, Deputy Environmental Services Director/City Planner, with explanations from Senior Planner Donna Rosser as well, at the September 4, 2019 hearing: CUP-S-812 Staff Report, Attachment A, Exhibits 1-5, and Supplemental Staff Report.

The Planning Commission Staff Recommendation at page 1 of the Staff Report was to “Approve” the Conditional Use Permit and, at p. 12 by resolution NO. SVPC 14-2019 also approving the “PROJECT MITIGATED NEGATIVE DECLARATION,” Exhibit 5 - Mitigated Negative Declaration.

The Planning Commission’s Disapproval of JM Squared Development, LLC’s legitimate property entitlement: Approval of the subject Conditional Use Permit that is mandated under the HAA, if not reversed for Approval by the City Council, further raises violation of JM Squared Development, LLC’s right to procedural due process of law under Section 1983 of the Civil Rights Act of 1871, 42 U.S.C. § 1983. See Board
of Regents v. Roth (1972) 408 U.S. 564, 569-578 as to "legitimate claim of entitlement" for purposes of procedural due process violation:

The Fourteenth Amendment's procedural protection of property is a safeguard of the security of interests that a person has already acquired in specific benefits. These interests -- property interests -- may take many forms. . . . To have a property interest in a benefit, a person clearly must have more than an abstract need or desire for it. He must have more than a unilateral expectation of it. He must, instead, have a legitimate claim of entitlement to it . . . Property interests, of course, are not created by the Constitution. Rather they are created and their dimensions are defined by existing rules or understandings that stem from an independent source such as state law rules or understandings that secure certain benefits and that support claims of entitlement to those benefits." (Id. at p. 576-577) (emphasis added.)

For application of the HAA to a housing development project, Government Code § 65589.5 (h)(2)(A) states that a "Housing development project means a use consisting of . . . : (A) Residential units only" . . . (emphasis added.)

Further instructive to define "housing units" for purposes of HAA application1 to JM Squared Development LLC's housing development project is Government Code § 65915 (b)(1)(C) reference to Civil Code § 51.3 to define a "senior citizen housing development;" Government Code § 65915 (b)(1), which provides Density Bonuses and Other Incentives to developers of housing therein listed, including "(C) A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code (developers of senior housing projects are entitled to a 20% Housing Density Bonus without a low income unit percentage required, unlike other housing developments under this section that do require a percentage of low income units):

65915 (b) (1) A city, county, or city and county shall grant one density bonus, the amount of which shall be as specified in subdivision (f), and, if requested by the applicant and consistent with the applicable requirements of this section, incentives or concessions, as described in subdivision (d), waivers or reductions of development standards, as described in subdivision (e), and parking ratios, as described in subdivision (p), when an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this section, that will contain at least any one of the following:

* * *

(C) A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.

* * *

1, Further listing of senior citizen housing development projects is found within Gov. Code § 65995.1 in the context of Fees for a Development project, describing senior citizen housing development projects: "as described in" Section 51.3 of the Civil Code, "a residential care facility for the elderly" as described in Section 1569.2 of the Health and Safety Code, or "a multilevel facility for the elderly" as defined in paragraph (9) of subdivision (d) of Section 15432 of the Government Code. These are housing development projects that provide specialized housing for senior citizens.
(f)(3) (A) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.

Civil Code under Personal Rights, section 51.3 (referenced in above Gov. Code section under (C)):

(a) The Legislature finds and declares that this section is essential to establish and preserve specially designed accessible housing for senior citizens. There are senior citizens who need special living environments and services, and find that there is an inadequate supply of this type of housing in the state.

(b) For the purposes of this section, the following definitions apply:

* * *

(4) "Senior citizen housing development" means a residential development developed, substantially rehabilitated, or substantially renovated for, senior citizens that has at least 35 dwelling units....

(5) "Dwelling unit" or "housing" means any residential accommodation other than a mobilehome.

Disapprove is defined under the HAA, Government Code Section 65589.5 (a)(5)(A), as follows:

(a)(5)(A) "Disapprove the housing development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved, including any required land use approvals or entitlements necessary for the issuance of a building permit.

(B) Fails to comply with the time periods specified in subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

HAA: Government Code 65589.5 (m) sets forth in relevant part (emphasis added):

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure.... A petition to enforce the provisions of this section shall be filed and served no later than 90 days from... the effective date of a decision of the local agency imposing conditions on, disapproving, or any other final action on a housing development project....

JM SQUARED DEVELOPMENT LLC’s Appeal of the Planning Commission’s disapproval/denial on September 4, 2019 is based on applicable state and local law set forth both on the Appeal form and within this Appeal Attachment, the CUP-S-812 relevant project record, relevant record on hearing including reports, attachments, exhibits, and findings. This September 18, 2019, Appeal of the Planning Commission’s September 4, 2019 decision is brought in order to rectify Planning Commission abuse of discretion with its denial vote decision, thereby this Appeal hereby seeks reversal to Approval of CUP-S-812 by Resolution pursuant to state law, and Municipal Code provisions 9-76-050 – “Council’s Appeal,” and 9-76-060 (A), and (D) – “Action on appeals” subdiv. (2)(b) in relevant part: “By resolution, reverse the... decision that is the subject of the appeal.”
RESOLUTION NO. SVPC 14-2019

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SIMI VALLEY DENYING CONDITIONAL USE PERMIT CUP-S-812 AND THE PROJECT’S MITIGATED NEGATIVE DECLEARATION, TO CONSTRUCT AND OPERATE A RESIDENTIAL CARE FACILITY WITH 68 ASSISTED LIVING UNITS AND 40 MEMORY CARE UNITS LOCATED ON COCHRAN STREET, 150 FEET EAST OF WELCOME COURT

WHEREAS, the applicant, JM Squared Development, LLC has requested approval for a Conditional Use Permit CUP-S-812 for an approximately 1.6-acre portion of a 19.2-acre site located on the south side of Cochran Street, 150 feet east of Welcome Court, known as Ventura County Assessor’s Parcel No. 650-0-260-030; -025, and by the legal description attached hereto as Exhibit A, to construct and operate a residential care facility with 68 assisted living units and 40 memory care units; and

WHEREAS, an Initial Study and Mitigated Negative Declaration were prepared for the project, and advertised from August 14, 2019 to September 3, 2019; and

WHEREAS, the Planning Commission held a duly noticed public hearing to consider this request on September 4, 2019 and the Planning Commission considered all evidence and testimony read at the public hearing.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF SIMI VALLEY DOES RESOLVE AS FOLLOWS:

SECTION 1. The findings for the Mitigated Negative Declaration contained in the Planning Commission staff report dated September 4, 2019, and incorporated herein by reference, are not adopted.

SECTION 2. The project Mitigated Negative Declaration contained in the Planning Commission staff report dated September 4, 2019 prepared for CUP-S-812 is denied.

SECTION 3. The findings, for denial, for CUP-S-812, are hereby adopted as follows:

1. The proposed use is not consistent with the purpose, intent, goals, policies, programs, and land use designations of the General Plan (SVMC Section 9-52.070.G.2) in that the following General Plan Policies cannot be met:

a. General Plan Land Use Policy LU-4.8 states: Design buildings to be architecturally integrated into the terrain and blend with the natural environment. The proposed development would not blend in with the
natural environment due to the large scale of the proposed building. Therefore, this policy cannot be met.

b. The purpose of the Residential Medium Density Land Use designation is to encourage a predominantly single-family residential environment with a wide range of lot sizes, but an overall density similar to the bulk of single-family developments on the valley floor. The proposed development is not consistent with the purpose and intent of the General Plan in regards to housing type and bulk of the proposed building being out of scale. Therefore, the project is not consistent with the Residential Medium Density Land Use.

2. The design, location, operating characteristics, and size of the proposed use is not compatible with the existing and future land uses in the vicinity, in terms of aesthetics, character, scale, and view protection (SVMC Section 9-52.070.G.4): The building scale is not softened by having a one-story portion of the building since the one-story portion is only a small portion of the building and the building being set closest to the hillside to lower the building visibility does not lessen the appearance of the building. The proposed residential care facility is not compatible with the existing adjoining single-family and multi-family residential uses. Therefore, this finding cannot be met.

SECTION 4. Conditional Use Permit No. CUP-S-812 is hereby denied.

SECTION 5. The time within which judicial review must be sought for administrative decisions is governed by California Code of Civil Procedure Section 1094.6.
PASSED and ADOPTED this 23rd day of October, 2019

Attest:

Jennifer Dodson
Recording Secretary

Tim Hodge, Chairperson
Planning Commission

Approved as to Form:

David Caceres
Assistant City Attorney

Approved as to Content:

Stratis Perros, Deputy Environmental Services Director/City Planner

I HEREBY CERTIFY that the foregoing Resolution was duly adopted by the Planning Commission of the City of Simi Valley, California, at a regular meeting held on September 4, 2019, by the following vote:

AYES: Commissioners, Casselberry, Jr., Tolson, Vice Chairperson Mann, and Chairperson Hodge

NAYS: Chairperson Rice

ABSTAIN: None

ABSENT: None

ATTEST:

Jennifer Dodson
Recording Secretary
1. CALL TO ORDER

The regular meeting of the Planning Commission of the City of Simi Valley was called to order at 6:42 p.m.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Present: Commissioners Casselberry, Jr., Rice, and Tolson; Vice Chairperson Mann; and Chairperson Hodge

Absent: None

4. APPROVAL OF AGENDA

The order of the Public Hearing portion of the agenda was amended as follows:

- Agenda Item 11.A.2 was heard first;
- Agenda Item 11.A.3 was heard second;
- Agenda Item 11.A.1 was heard third; and
- Agenda item 11.A.4 was heard fourth.

5. APPROVAL OF MINUTES – August 7, 2019 and August 21, 2019

The Minutes of August 7, 2019 were amended to reflect the word “commissioner” on page five, paragraph four, line three be changed to “Commissioner.” It was the consensus of the Commission to approve the minutes, as amended.

It was the consensus of the Commission to approve the minutes of August 21, 2019 as submitted.

6. DECLARATION OF CONFLICT – None
7. PUBLIC STATEMENTS

- Tony Bourdeaux, Simi Valley

Mr. Bourdeaux commented on the loss of Skate Lab and inquired about any plans for a public skate park in Simi. He commented on the heavy traffic on Tapo Street and asked whether there were any plans for street lights or anything different on that road to provide more safety. Lastly, Mr. Bourdeaux commented that he lives off of Eileen Street and complained that there is an ambulance station across from his house which practices their alarms before they get out on the road. This practice causes disturbance in the neighborhood. Chairperson Hodge advised Mr. Bourdeaux to contact Deputy Environmental Services Director Stratis Perros who could respond to his inquiries.

- Don Douglass, Simi Valley

Mr. Douglass requested that the Commission review service call records if there were any upcoming projects involving the Tapo Overlay District, particularly in The Marketplace community area. Mr. Douglass indicated he reached out to the police department and was advised that from August 2017 to August 2019 there have been 149 calls for service. He was concerned with the safety and security of that area.

- Fawn Brodey, Simi Valley

Ms. Brodey indicated that she is concerned with the security in her neighborhood, The Marketplace, and feels that a development which adds more residences will compound the security issue.

- Aaron Chayu, Simi Valley

Mr. Chayu stated that he was not notified of the Tapo District Lofts project being proposed in his community, The Marketplace, which would affect him financially and personally. He stated that there is not enough parking on his street, and is concerned with the potential increase in traffic.

- Sal Kayani, Simi Valley

Mr. Kayani stated that he was not properly notified of a Neighborhood Council meeting involving his neighborhood and felt that the community should have been notified of the meeting. Chairperson Hodge advised Mr. Kayani to contact the Neighborhood Council Coordinator, Emily Habib, who could answer questions and advise him of how to receive current Neighborhood Council meeting information.
8. **CORRESPONDENCE**

Deputy Environmental Services Director Stratis Perros referred a series of items placed on the dais involving supplemental memos for agenda items 11.A.1 - correspondence from the Ventura County Watershed Protection District and a Supplemental Traffic Analysis prepared by Associated Transportation Engineers; 11.A.3 - correspondence from Metrolink; and 11.A.4 - emails and correspondence from Roseman Law APC and emails from members of the community.

9. **CONSENT CALENDAR** – None

10. **CONTINUED BUSINESS** – None

11. **NEW BUSINESS**

   A. **PUBLIC HEARINGS**

   1. **CUP-S-812; JM Squared Development, LLC:** To construct and operate a senior assisted living facility with memory care located on Cochran Street, 150 feet east of Welcome Court and notification of the release for public review of and intent to adopt a Mitigated Negative Declaration for the subject application

   **Location:** On Cochran Street, 150 feet east of Welcome Court
   **Staff Contact:** Donna Rosser
   (805) 583-6872

   There were no ex parte communications to report.

   Deputy Environmental Services Director Stratis Perros gave a brief narrative of the project.

   Senior Planner Donna Rosser gave a presentation of the staff report.

   Commissioner Rice asked if the City was worried about the sewer capacity. He also asked if there were concerns addressed by the Fire Department.

   Ms. Rosser responded that a sewer study was done with no concerns, and no concerns were expressed by the Fire Department.

   Chairperson Hodge opened the public testimony portion of the hearing.

   The Applicant, Mark Pettit, gave a brief presentation of the project.

   Tim Giraldin, a senior living facilities operator, gave a brief description of the facility, and outlined the need for and benefits of the facility.
The Planning Commission meeting was recessed at 8:47 p.m. and reconvened at 8:58 p.m., with all Commission members present.

Speakers in support of the project:

- Larry Friedman, Simi Valley

The following members of the public submitted cards in opposition to the project, but did not wish to speak:

- Ashley Marsh, Simi Valley
- Sandra Browne, Simi Valley
- Warren Browne, Simi Valley
- Frank Martinez, Simi Valley
- Sarah Montez, Simi Valley
- James Daugherty, Simi Valley
- Annette Cleary, Simi Valley
- Thomas Cleary, Simi Valley
- James Finch, Simi Valley
- Luis Hermosillo, Simi Valley
- Arlene Hermosillo, Simi Valley
- Leslie Shaw, Simi Valley
- Mathew Marsh, Simi Valley
- Michelle Spolidoro, Simi Valley
- Dane Chadwick, Simi Valley
- Frank Martinez, Simi Valley
- Heidi Kwok
- Karen Hoffman, Simi Valley
- Diane Malolepszy, Simi Valley
- Gary Comeaux, Simi Valley
- Paula Andrews, Simi Valley
- Laurie Comeaux, Simi Valley
- Robert Andrews, Simi Valley
- Robert Byrnes, Simi Valley
- Sergio Arellano, Simi Valley
- Tamika Bridgewater, Simi Valley
- Mabel Ansaldo, Simi Valley
- Norberto Ansaldo, Simi Valley

Speakers in opposition to the project:

- Gloria Finch, Simi Valley
- David Gering, Simi Valley
- Diane Runfola, Simi Valley
- Kathy Layton, Simi Valley
- Scott Layton, Simi Valley - provided handout
- Antonio Pacleb, Simi Valley
Speakers in opposition to the project (continued):

- Rosie Martinez, Simi Valley - provided handout
- Steven Parle, Simi Valley - provided handout
- Sylvia DeLao, Simi Valley - when called to speak was not present
- Mark Shear, Simi Valley - when called to speak was not present
- Fred Haedt, Simi Valley
- Michael Shaw, Simi Valley
- Dave Logan, Simi Valley
- Lisa Murphy, Simi Valley – provided handout
- Twyla Williams, Simi Valley
- Alex Hernandez, Simi Valley – when called to speak was not present
- Burton Weinstein, Simi Valley
- Dave Berry, Simi Valley
- Tony Rogers, Simi Valley
- Donna Chisholm, Simi Valley
- Bruno Malolepszy, Simi Valley
- Karen King
- Martin Santos, Simi Valley - when called to speak was not present
- Jovita Santos, Simi Valley - when called to speak was not present
- Richard Moore, Simi Valley
- Annette Cleary, Simi Valley - did not fill out speaker card
- Beth Berry, Simi Valley

Commissioner Hodge asked if there were any other people who wished to speak.

- Trujari (spelling ?), Simi Valley - did not fill out speaker card

The speakers in opposition were concerned with increased traffic/safety, noise from construction and emergency vehicles, diminished views, large delivery vehicles, diesel fumes, commercial elevator, relocating wildlife, unstable sewage lines, fire risk, relocation of soil, decrease in their property values, and the general incompatibility of a commercial business being put into a residential neighborhood.

Deputy Environmental Services Director Stratis Perros addressed some of the concerns regarding vehicles getting around the perimeter of the building, stressing that a second exit was not required. Mr. Perros stated that the County Fire District did review and accept the project. He indicated that that the City Traffic Engineer was present and available for questions. He gave a brief explanation of Residential Medium zoning, and what types of development can take place under that zoning type. He stressed that the project meets all zoning and Development Code requirements, including parking, lighting, set-back and height standards. He commented on the noise and dust mitigation measures that are put in place when projects are under construction. Lastly, he addressed the sewage concerns, and indicated that City representatives from Public Works
were present and available for questions. He deferred to Ms. Rosser for further comments.

Senior Planner Donna Rosser reiterated that the project is in compliance with the Development Code parking requirements. Ms. Rosser responded to a concern that delivery trucks would be entering the emergency access roadway and stressed that this roadway was specifically designed for emergency vehicles only. She commented that the view protection requirement does not apply on the valley floor. With respect to fire concerns, she indicated that fire sprinklers would be required in the building, along with hillside clearing. Concerning construction noise, she indicated that construction could only take place from 7:00 a.m. to 7:00 p.m., which is a citywide ordinance, and part of the Noise Ordinance. With respect to Oak trees, Ms. Rosser indicated that there was a possibility of two Oak trees being removed, but the applicant would be installing several additional Oak trees at the location.

The applicant, Mark Pettit, responded to the concern regarding soil displacement. Mr. Pettit indicated that the dirt removed from the basement area of the project would be used to level off the site. The remainder of the dirt would be relocated to the hill near the property where illegal grading had occurred before the property was purchased. As to the issue of parking, Mr. Pettit indicated that if more parking was to be required, they would be amenable to a condition requiring them to install puzzle lifts to increase parking. He added that a typical shift for staff would be 12 to 15 people and felt that there was more than adequate parking. Concerning the elevator, Mr. Pettit indicated that it is a commercial elevator because it is required to accommodate gurneys. Mr. Pettit addressed the issue of the loading zone, indicating that the trucks fit, with ample back-up space, all within the building, which cuts down on noise. Lastly, Mr. Pettit indicated that they are proposing building the sidewalk from Welcome Court all the way up to the end of the property. Mr. Pettit stated that their traffic engineer was present and available for questions.

Chairperson Hodge closed the public testimony portion of the hearing.

Chairperson Hodge commented that the maximum units allowed at the proposed density is 96 units, and asked why 108 were being proposed. Ms. Rosser responded that the increase was due to the project being built as an assisted living, and not single-family residences.

Chairperson Hodge asked how many feet the property was set-back from the nearest neighbor. Ms. Rosser responded the set-back was 37 feet, indicating that this portion of the project was one-story.
Chairperson Hodge asked Ms. Rosser to explain how the project meets with the definition of Residential Medium density which “encourages a predominantly single-family residential environment with a wide range of lot sizes, but an overall density similar to the bulk of single-family developments on the valley floor.”

Ms. Rosser responded that the Residential Medium density matrix allows for a Conditional Use Permit to allow other uses within that zone. Ms. Rosser added that the applicant did design the project to look like a large residential home. Ms. Rosser indicated that the Conditional Use Permit is consistent with General Plan policies paraphrasing from page five of her staff report which states: “Design buildings to be architecturally integrated into the terrain and blend with the natural environment; Buffer different land uses within a neighborhood from one another by walls, fences, and landscaped greenbelts; and Encourage the construction of specialized housing for senior citizens in the community, including planned senior communities.”

Ms. Rosser indicated the project is designed as a two-story level, it is being built for senior citizens, the design and colors blend in with the existing neighborhood and hillside, with a block wall in between the uses, and the landscaping meeting the General Plan Land Use Policies.

Commission comments:

Commissioner Casselberry expressed the market need for this type of project within the community, but felt that the project was not consistent with the intent and purpose of the General Plan. He felt the site would be better suited to single-family detached housing. He did not feel the location is compatible with the existing and future land uses in the vicinity in terms of character and scale. He expressed concern regarding the traffic and market affordability for seniors.

Commissioner Tolson did not feel the project was compatible with section 4 of the staff report, and stated that he did not support the project.

Vice Chairperson Mann felt that it was the right project in the wrong location. He stated that the project was inconsistent with section 4 of the staff report regarding design, location, character and scale.

Chairperson Rice acknowledged the need for this type of project. He acknowledged the neighbors’ concerns. He believed it was a beautiful project, and commented that staff did a great job. He disagreed with the other Commissioners and felt that the project is consistent with section 4 of the staff report. He liked that more Oak trees were being planted than being removed, the sidewalk was being improved, and the deep front set-back. Commissioner Rice was in favor of the project.

Chairperson Hodge indicated that he could not support the project. He expressed concern regarding traffic, the intensity of the use, and future use of the estimated 17 acres that would not be developed as a part of this project.
Chairperson Hodge indicated that he did not feel the project was consistent with Residential Medium zoning, and that the use is inconsistent with future land uses in the vicinity in terms of aesthetics, character and scale.

COMMISSIONER CASSELBERRY, JR. MOVED THAT THE PLANNING COMMISSION OF THE CITY OF SIMI VALLEY ADOPT A RESOLUTION DENYING CONDITIONAL USE PERMIT CUP-S-812 TO CONSTRUCT AND OPERATE A RESIDENTIAL CARE FACILITY WITH 68 ASSISTED LIVING UNITS AND 40 MEMORY CARE UNITS AND THE PROJECT’S MITIGATED NEGATIVE DECLARATION

Vice Chairperson Mann seconded the motion.

AYES: Commissioners Casselberry, Jr., and Tolson; Vice Chairperson Mann, and Chairperson Hodge

NAYS: Commissioner Rice

ABSTAIN: None

ABSENT: None

The appeal period for this Conditional Use Permit is 14 calendar days.

The Planning Commission meeting was recessed at 10.38 p.m. and reconvened at 10:47 p.m., with all Commission members present.

2. PD-S-965 MOD-1 (TE#2); TT5886 (TE#2) STG Community Three, LLC: To consider time extensions for development of a 40-unit townhouse complex located at 1748 Heywood Street; no subsequent Negative Declaration is required for the project and the previously adopted Mitigated Negative Declaration is being used

Location: 1748 Heywood Street
Staff Contact: Sean Gibson
(805) 583-6383

There were no ex parte communications to report.

Deputy Environmental Director Stratis Perros gave a brief narrative of the project.

Associate Planner Caesar Hernandez gave a presentation of the staff report.
Chairperson Hodge opened the public testimony portion of the hearing.
The Applicant, Brandon Roth, did not give a presentation of the project stating that he was available for questions by the Commission.

Commissioner Rice asked if bike racks were included in the project. Mr. Roth responded that there would be space in the garages for bike racks but did not believe there were any external bike racks for visitors.

Chairperson Hodge noted that it has been 14 years since the inception of the project and asked Mr. Roth to explain the delay in the project moving forward.

Mr. Roth responded that because the project is adjacent to the Arroyo, 25-foot deep pylons are required for structural stability. Also problematic is a 12 to 15-foot water table, which involves de-watering and grading while installing the pylons, which requires a very specific set of skills. He added that he found a developer who is interested in this project, and built the project, Waterstone, two doors to the west. He stated that in moving forward they are more comfortable finding a developer who has the specific skill set necessary to complete the project.

Commissioner Hodge asked staff to comment on Mr. Roth’s explanation of the delays in the project.

Senior Planner Sean Gibson stated that Mr. Roth’s explanation was accurate. Due to the pylons and water table issues, the project has become more expensive. With the market uptick and the values going up, more time was needed for the market prices to catch up with the amount of work required.

Chairperson Hodge closed the public testimony portion of the hearing.

Chairperson Hodge asked staff if a one-year time extension would be sufficient based on the status of the project now.

Deputy Environmental Services Director Stratis Perros responded that a three-year time extension is reasonable and advised the Commissioners that it was anticipated that the project would get started within the next near through Plan Check. Mr. Perros reiterated that due to the challenges of the site, staff was recommending a three-year time extension.

Vice Chairperson Mann asked whether the time extension meant construction had to start within three years or finish within three years.

Senior Planner Sean Gibson responded that the three-year time extension would encompass use-inauguration and recording of the map. Mr. Gibson added for the record that the project is currently in Plan Check and staff is actively reviewing the landscape and grading plans.
Commission comments:
Commissioner Casselberry, Jr. agreed with Chairperson Hodge indicating that 14 years is a long time to wait in a housing shortage. He suggested the time extension be amended to one or two years to work with a developer for the purpose of submitting an application. Commissioner Rice stated that he felt a three-year time extension was warranted for the project.

Commissioner Tolson stated that he was okay with a three-year time extension.

Vice Chairperson Mann stated that he was in favor of a two-year time extension.

Chairperson Hodge concurred with Commissioners Casselberry, Jr. and Vice Chairperson Mann with respect to amending the Resolution with the time extension being two years.

COMMISSIONER CASSELBERRY, JR. MOVED THAT THE PLANNING COMMISSION OF THE CITY OF SIMI VALLEY ADOPT A RESOLUTION APPROVING TENTATIVE TRACT MAP TIME EXTENSION TT5886 (TE#2) AND PLANNED DEVELOPMENT PERMIT MODIFICATION TIME EXTENSION PD-S-965 MOD-1 (TE#2), AS AMENDED

Commissioner Tolson seconded the motion.

AYES: Commissioners Casselberry, Jr., Rice, and Tolson; Vice Chairperson Mann, and Chairperson Hodge

NAYS: None

ABSTAIN: None

ABSENT: None

The appeal period for the Tentative Tract Map and Planned Development Permit Time Extension is 14 calendar days.
3. **PD-S-1061; GPA-100; Z-S-739; Forefront Development, Inc.:** To consider General Plan Amendment (GPA-100) request to change the General Plan Land Use Designation from Industrial to Moderate Residential; A Zone change (Z-S-739) to change the Zoning designation from Light Industrial (LI) to Residential Moderate Density (RMod); to subdivide and construct 10 single-family residences on a 1.97-acre parcel located at the southwest corner of Callahan Avenue and Alviso Street, and notification of the release for public review of and intent to adopt a Mitigated Negative Declaration for the subject applications.

**Location:** Southwest corner of Callahan Avenue and Alviso Street

**Staff Contact:** Jennifer Santos

(805) 583-6897

The following ex parte communications were disclosed:

Commissioner Tolson disclosed that he had a telephone conversation with Donna Abrahini of Forefront Development, and asked some questions about the project.

Vice Chairperson Hodge disclosed that he attended the Neighborhood Council meeting wherein this project was presented; however, no ex parte communications occurred.

Deputy Environmental Director Stratis Perros gave a brief narrative of the project.

Senior Planner Jennifer Santos gave a presentation of the staff report.

Commissioner Rice asked Ms. Santos why the people at the Neighborhood Council #2 meeting opposed the project.

Mr. Santos responded that the opposition involved concerns that no affordable units were being proposed and traffic concerns.

Chairperson Hodge, who attended the meeting, stated that another concern involved the lack of solar panels.

Ms. Santos responded that there is a condition in the project that all of the homes must be pre-wired for solar panels.

Vice Chairperson Mann inquired as to when the mandatory solar panel requirement would go into effect. He also asked for an example of what would be considered “light industrial.”
Ms. Santos responded the mandatory solar panel requirement will go into effect in January, 2020. Deputy Environmental Services Director Stratis Perros responded the examples of “light industrial” could be of light manufacturing, assembly, light processing, or office work.

Chairperson Hodge expressed concern regarding the height of the street lights.

Ms. Santos responded that the street lights proposed cannot exceed a height of 14 feet and will have a shield which will prevent off-site glare onto the adjacent properties, which will be reflected in the required submission of a photometric plan.

Chairperson Hodge expressed concern of the area surrounding the train track. Ms. Santos responded that the applicant was proposing an eight-foot wall along the southern portion of the property.

Chairperson Hodge asked if flipping the project so that the houses looked south was considered, noting that the houses wouldn’t be right next to the train tracks and that backyards would be in alignment with other back yards. He noted that should the design be flipped, one house from the project would have to be eliminated.

Ms. Santos indicated that other design options were considered, and this was the best design option presented. Deputy Environmental Services Director Stratis Perros indicated that the design had to balance for Fire Department, Public Works and public utilities. Mr. Perros added that the utilities run from west to east, but the drainage runs from east to west, noting that the site had many challenges to balance. He advised the Commission that the design used the least amount of property for paving. Mr. Perros indicated that the original project had a greater amount of units, but felt that this site design preserved the privacy of the neighbors to the north, and with the sound mitigation measures provided a quieter environment for the residents.

Chairperson Hodge opened the public testimony portion of the hearing.

The Applicant, Sha Jarrahi, gave a brief presentation about the project.

Commissioner Tolson asked whether there were discussions regarding having an HOA vs. not having an HOA.

Mr. Jarrahi indicated that there would be an HOA. Ms. Santos added that an HOA is required to be established for the maintenance of the detention basin, the private roadway, and the common landscaping on-site.

Chairperson Hodge asked Mr. Jarrahi what his estimate of the price of the homes would be.
Mr. Jarrahi responded with an estimate of $625,000 - $650,000, plus a $200 a month HOA fee.

The following members of the public submitted cards in opposition to the project, but did not wish to speak:

- Shea Taylor, Simi Valley

Speakers in opposition to the project:

- Elizabeth Jones, Simi Valley
- Barbara Kellogg, Simi Valley
- Charles Ferry
- Dave Berry
- Peter Reddy

The concerns of the speakers in opposition to the project involved construction dust and noise, parking, increased traffic/traffic accidents, transients hanging out in the bocce ball/park area, and neighborhood design incompatibility. A speaker also commented that he was in favor of expanding the RV storage yard as opposed to developing the property.

In response to speaker comments, Deputy Environmental Service Director Stratis Perros pointed out that Public Works Senior Engineer, Steve Benjamin was available for any questions regarding flooding or water drainage. Mr. Perros also indicated that the Public Works Traffic Engineer, Justin Link, was also present and available for questions. Mr. Perros advised that the flooding aspect of this project was assessed to make sure that the project does not negatively impact any of the adjacent properties. Lastly Mr. Perros informed the Commission that the existing RV storage yard did not wish to purchase the property. The project originally started differently, as being a two-story building with 19 to 23 units, and this applicant came along proposing 10 single-family, single-story homes which staff felt was more compatible and sensitive to the neighborhood.

Chairperson Hodge closed the public testimony portion of the hearing.

Chairperson Hodge asked if the property could be built with the homes being on the north side of the property facing south as opposed to the south side of the property facing north.

Deputy Environmental District Stratis Perros responded that it would be very difficult to engineer the project differently because it would cause problems with the County Fire District required turning radius, and with the drainage. The integrity of the design, as is, protects the neighbors to the north by putting the homes away from the residences.
Chairperson Hodge requested clarification regarding the Zone change. He asked if a developer came in proposing a 23-unit project, would that project require a Zone change, Planning Commission and City Council approval.

Senior Planner Jennifer Santos indicated that a Zone change, Planning Commission and City Council approval would be required for a 23-unit project.

Chairperson Hodge expressed his concern that if a Zone change were approved, the property could be sold and a developer could come in proposing a project with 19 units.

Deputy Environmental Director Stratis Perros indicated that if a new developer came in proposing a different project, that project would go back to the Commission for approval.

Chairperson Hodge felt that the property should be zoned as Medium Density, to be consistent with the surrounding neighborhood. He felt it would not kill the project, but merely require the applicant to remove one unit.

Commission comments:

Chairperson Hodge commented that he agreed with the project being Residential. He did not like the project. He did not like the project design, the configuration of the roadway, the placement of the homes, or the increase in the zoning. He felt that the project was inconsistent with the neighborhood and indicated that he could not support it.

Commissioner Tolson agreed that the area designation should be changed to Residential. He did like the fact that the homes were one-story as opposed to two-story, and indicated he was in favor of the project.

Vice Chairperson Mann agreed with the project being zoned as Medium Density. He did not like the design of the project. He commented that parking would most likely become a problem within the neighborhood. He concurred with Chairperson Hodge in reconfiguring the project if it could be done. He felt there were too many aspects of the project that needed to change before it could move forward.

Commissioner Casselberry, Jr. agreed that the zoning should be Residential, with Medium or Moderate Density, as long as the number of units could be conditioned. He commented that he did not like the project design. He felt parking wasn’t an issue in the neighborhood and felt the project wouldn’t impact it. He stated that he did want to see the site developed and noted there is a rodent issue on the site.
Commissioner Rice commented that he was okay with 10 units on the site, and did not see the value in flipping the site. He felt the project design was dated and did not fit with the neighborhood.

Chairperson Hodge addressed the applicant and asked him, after hearing the comments from the Commission, would he prefer to have the matter continued, or would he like the Commission to vote.

The applicant, Sha Jarrahi, responded that he requested that the matter be continued to a date uncertain.

It was the consensus of the Planning Commission to continue PD-S-1061; GPA-100; Z-S-739 to a date uncertain.

4. CUP-S-826; Colton Lee Communities, LLC: To consider Conditional Use Permit No. CUP-S-826 to construct two three-story commercial buildings totaling 54,540 square feet for 62 small residential units (Single Room Occupancies – SRO), and a determination that the project is exempt from the California Environmental Quality Act
   Location: 2225 and 2239 Tapo Street
   Staff Contact: Donna Rosser
   (805) 583-6872

There following ex parte communications were disclosed:

Commissioner Rice disclosed that he met with the applicant, Dean Kunicki, regarding an unrelated matter, but was shown an artist rendering of the Tapo District Lofts.

Vice Chairperson Mann disclosed that on August 26, 2019 he met with applicant, Gary Gorian, to discuss the project.

Commissioner Casselberry, Jr. disclosed that he met with applicant, Gary Gorian, on August 28, 2019 to discuss the project.

Deputy Environmental Services Director Stratis Perros gave a brief narrative of the project.

Senior Planner Donna Rosser gave a presentation of the staff report.

Commissioner Casselberry, Jr. asked if there was a limit to the number of persons who could occupy a single apartment. Ms. Rosser responded that there was no such limit.

Commissioner Casselberry, Jr. inquired whether the bus stop was covered. Ms. Rosser responded that a condition was added to the project which requires the applicant to add a bus shelter that will match the architecture of the building.
Commissioner Casselberry, Jr. asked whether the project flex spaces would be available to the public. Ms. Rosser responded that those spaces were intended for the tenants but would defer to the applicant on that point.

Commissioner Casselberry, Jr. asked Assistant City Attorney David Caceres whether it was possible to condition the project for occupancy limits. Mr. Caceres responded “no.”

Chairperson Hodge interjected that occupancy would be governed by state law which is one person per 50 square-feet. Commissioner Rice asked whether parking would be allowed by the senior apartments. Ms. Rosser responded that there is already parking in front of the senior apartments. Additional parking would be provided behind Building B.

Commissioner Rice asked Ms. Rosser the height of the townhomes located to the west of the project. Ms. Rosser responded that there is an approximate two-foot differential between the height of the townhomes and the height of the proposed project.

Commissioner Casselberry, Jr. asked whether the CCR's of the residents of the townhome contained language indicating the “guest parking spaces” in their development were restricted to guests and commercial tenants. Ms. Rosser responded in the affirmative, and deferred clarification of the CCR's to the applicant.

Vice Chairperson Mann asked for clarification of the as to the 269 spaces referred to in the staff report. He asked specifically if the 269 spaces included the senior apartments, the townhomes, the Marketplace and the proposed project. Ms. Rosser responded that the 269 spaces would include the senior apartment, the town homes, the Marketplace, and Tapo District Lofts.

Chairperson Hodge asked for clarification regarding parking. He noted that there were 288 spaces which encompass 144 townhome garages, i.e., two cars per garage. There are 36 senior apartments, one parking space per unit. Chairperson Hodge asked when the 89 guest and shared parking spaces were built. Ms. Rosser indicated that those spaces were part of the townhome project. Chairperson Hodge asked if the above indicated shared parking was expected to meet the all of the needs of that project, guests, seniors, etc. Ms. Rosser indicated that at the time the parking was based on .5 guest parking spaces per unit, plus 19 for future commercial.

Chairperson Hodge asked when the determination of 19 commercial parking spaces was made. Ms. Rosser responded that this determination was made in 2005 when the project was approved. The parking number was based on a commercial use in regard to retail or restaurant use.

Chairperson Hodge opened the public testimony portion of the hearing.
The Applicant, Dean Kunicki, gave a brief presentation about the project.

Commissioner Casselberry, Jr. asked the applicant whether the flex spaces built into the project would be available to the public or were only for the residents. Mr. Kunicki indicated that spaces would be available to the public.

The following members of the public submitted cards in support of the project, but did not wish to speak:

- William Freed, Simi Valley
- Carlos Romero, Simi Valley
- Monica Santizo, Simi Valley
- Reverend Sarah Kitch, Simi Valley
- Shelly Freed, Simi Valley
- Toni Freedland, Simi Valley
- Lisa Morrison, Simi Valley
- Linda Noble, Simi Valley
- Chuck Noble, Simi Valley
- Virgil Brown, Simi Valley
- Warren Williams, Simi Valley
- Elizabeth Ohrt, Simi Valley
- Simone Trimm, Simi Valley
- Lovie Brown, Simi Valley
- Tammy Wirtz
- Matt Benwitt
- Kyle Bokma
- Maurice J. Campean, Simi Valley

The following members of the public submitted cards in opposition to the project, but did not wish to speak:

- Pamela Perry, Simi Valley
- Jennifer Healy
- Myoung Gnu Kang
- Sergio Arrellano
- Jay Padhge, Simi Valley
- Samuel John, Simi Valley
- Madhu Singh
- Linda Jensen, Simi Valley
- Christine Mastoff, Simi Valley
- Jason Mandel, Simi Valley
- Fatima Infante, Simi Valley
Speakers in support of the project:

- Barbara Williamson, Simi Valley
- Jason Fajardo, Simi Valley
- Pat Merchant, Simi Valley
- Marie Garside, Simi Valley
- Philip Loos, Simi Valley
- Nicole Mohr
- Ryan Valencia, Simi Valley
- George Holmes, Simi Valley
- Pam Campeau, Simi Valley
- Candice Jones
- Ryan Bates
- Bill Bustamonte
- Sean Bates, Simi Valley
- Tamika Bridgewater - when called to speak was not available
- Laura Jackson - when called to speak was not available
- Tony Bates

The speakers in support of the project liked the affordability component and the design of the project. They felt the project fit perfectly with the workforce population and housing-challenged seniors. They felt the project would boost local business.

Speakers in opposition to the project:

- Peter Reddy, Simi Valley
- Arlene Gumm, Simi Valley
- Don Douglass, Simi Valley
- Santos Mandujano, Simi Valley
- Tony Bourdeaux, Simi Valley
- Gina Bourdeaux, Simi Valley
- Jae Chang
- Fawn Brodey, Simi Valley
- Steven Roseman, Woodland Hills
- Joyce Abad, Simi Valley
- Dexter Calacar, Simi Valley
- Rupal Patel, Simi Valley
- Roland Scensnovic, Simi Valley
- Greg Manak, Simi Valley
- Dennis Womeldorf, Simi Valley
- Hopinath Sudhakaran, Simi Valley
- Walaa Gassim, Simi Valley
- Christopher Trimm, Simi Valley
- Pawan Gupta, Simi Valley
- Susan Organ, Simi Valley
The concerns of the speakers in opposition to the project were parking, increased traffic, loss of view, devaluation of their homes, multiple people occupying single SRO units, the additional density of people being added to the neighborhood, the project being built for residential as opposed to commercial use, and safety of the neighborhood. A few speakers felt they were not properly advised of scheduled Neighborhood Council meetings.

The following submitted cards indicating they did not wish to speak, but did not indicate whether they were for or against the project:

- Susan R. Brest, Simi Valley
- Rita Platten, Simi Valley

Upon completion of the public testimony Chairperson Hodge proposed that the meeting be continued to the next scheduled Planning Commission meeting date, September 25, 2019. He requested that staff provide information regarding the City Council comments, i.e., whether they were conditions or guidelines, and what the terms of those conditions were.

Also requested was information regarding how many additional parking spaces would be available if there was appropriate enforcement. He noted that there are legal issues/mandates associated with the approval of this project involving the Housing Accountability Act that need to be clarified.

The applicant, Dean Kunicki, did not want the matter continued, and responded to comments made regarding parking, Neighborhood Council meetings, and property devaluation.

Gary Gorian, on behalf of the applicant also responded to issues regarding parking. He drew attention to the CCR’s which requires residents to park their vehicles in their garage. He stressed the need for the type of housing this project offers. He also wanted the Commission to vote.

Chairperson Hodge closed the public testimony portion of the hearing.

Commission comments:

Chairperson Hodge reiterated his proposal that the meeting be continued so that specific questions could be answered by staff regarding parking and State mandates regarding housing laws.

Assistant City Attorney David Caceres wanted to clarify the record regarding correspondence received from Roseman Law dated September 4, 2019. The
correspondence stated that a public records request was made on August 23, 2019. Assistant City Attorney David Caceres wanted the record to reflect that the request was made electronically at 5:53 p.m., after City Hall was closed making the effective date of the request August 26, 2019. Additionally, Mr. Caceres wanted the record reflect that as a professional courtesy, the City provided conservatively 2,000 – 3,000 documents for review by Roseman Law.

Commissioner Casselberry, Jr. asked staff how long the area had been zoned Mixed Use, or specifically, did it have that zoning categorization before the Marketplace was built. Ms. Rosser responded that it was designated as Mixed Use before the Marketplace was built.

Commissioner Casselberry, Jr. asked if SRO’s in the City’s Zoning Code are designated as Commercial due to State law. Ms. Rosser responded that the Commercial designation is dictated by State law.

Having those questions answered, Commissioner Casselberry, Jr. indicated that he was comfortable voting on the project. Commissioner Rice concurred.

Vice Chairperson Mann wanted information on the Housing Affordability Act and parking before voting on the project.

Commissioner Tolson was in agreement with continuing the matter.

It was the consensus of the Commission to continue the matter to the next regularly scheduled Planning Commission meeting on September 25, 2019.

B. OTHER – None

12. ORAL COMMUNICATIONS AND REPORTS

A. STAFF – None

B. PLANNING COMMISSION – None

C. MOBILE HOME RENT MEDIATION BOARD – None

D. TREE ADVISORY BOARD – None

13. ADJOURNMENT

The regular meeting of the Planning Commission of the City of Simi Valley was adjourned at 1:41 a.m., September 5, 2019. The next scheduled Planning Commission meeting is on September 25, 2019.

Minutes prepared by:
Jennifer Dodson