

AGENDA

**REGULAR MEETING OF THE PLANNING COMMISSION
CITY OF BELL GARDENS
CITY COUNCIL CHAMBERS, 7100 GARFIELD AVENUE
BELL GARDENS, CALIFORNIA**

**WEDNESDAY, June 20, 2018
6:00 P.M.**

Pursuant to the Americans with Disabilities Act, persons with a disability who require a disability-related modification or accommodation in order to participate in a meeting, including auxiliary aids or services, may request such modification or accommodation from the City Clerk at (562) 806-7706. Notification 48 business hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to the meeting.

COMPLETE AGENDA PACKETS ARE AVAILABLE FOR PUBLIC INSPECTION AT THE FOLLOWING LOCATIONS: City Hall, Ross Hall Auditorium, Police Department, and Public Works Department

PLANNING COMMISSION

Tony Rivera
Chairperson

Bartolome Carrillo
Vice- Chairperson

Jose Hernandez
Commissioner

Andrew Leon
Commissioner

CITY STAFF

Abel Avalos
Director of Community
Development

John W. Lam
Assistant City Attorney

Carmen Morales
City Planner

Erika Gutierrez
Planning Secretary

Hailes Soto
Associate Planner

I. OPENING CEREMONIES

- 1) Call to Order
- 2) Invocation
- 3) Pledge of Allegiance

II. ROLL CALL

III. APPROVAL OF MINUTES

December 20, 2017

IV. PUBLIC COMMENT

Citizens wishing to address the Commission on any matter not on the Agenda may do so at this time. Please STATE YOUR NAME AND ADDRESS CLEARLY for the record.

Please note that while the Commission values your comments, pursuant to January 1, 1987 amendments of the Brown Act, the Commission cannot respond nor take any action until such time as the matter may appear as an item on a forthcoming agenda.

V. PUBLIC HEARING

A. Planning Commission

- 1. Twelve Month Extension and Modification of Conditional Use Permit No. 2017-017 for Chevron Gas Station 5703 Gage Avenue (File No. 2017-017)**

Recommendation It is staff's recommendation that the Planning Commission adopt Planning Commission Resolution #PC 2018-01 (Exhibit A) to:

1. Approve a 12 month extension for Conditional Use Permit No. 2017-017; and
2. Approve an amendment to Conditional Use Permit No. 2017-017 to modify the conditions of approval and the project site plan.

- 2. Zoning Code Amendment No. 2018-047 – Ordinance No. 890 Marijuana Related Uses and Activities (File No. 2018-047)**

Recommendation: It is recommended that the Planning Commission adopt Resolution #PC 2018-02 recommending the following action to the City Council:

1. Approval of Zoning Code Amendment No. 2018-047 adopting Ordinance No. 890 amending the Bell Gardens Municipal Code Section 9.21.010 prohibiting all outdoor and all commercial marijuana related uses and activities in all land use zones and overlay districts.

Substandard Properties – None

VI. DISCUSSION ITEMS

VII. STAFF COMMENTS

VIII. COMMISSIONER COMMENTS

ADJOURNMENT

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**MINUTES OF THE REGULAR MEETING OF THE
PLANNING COMMISSION OF THE CITY OF BELL GARDENS
7100 GARFIELD AVENUE, BELL GARDENS, CA 90201**

Wednesday, December 20, 2017

CALL TO ORDER

The meeting was called to order in City Hall Council Chambers by Chairperson Rivera at 6:02 p.m.

INVOCATION & PLEDGE OF ALLEGIANCE

Associate Planner, Hailes Soto gave the invocation.

City Planner, Carmen Morales led the Pledge of Allegiance.

ROLL CALL

Present: Chairperson Rivera, Vice-Chairperson Carrillo and Commissioner Hernandez

Absent: Commissioner Leon

Staff Present: Abel Avalos, Director of Community Development, John W. Lam, Assistant City Attorney, Carmen H. Morales, City Planner, Hailes Soto, Associate Planner, Elizabeth Jimenez, Senior Secretary and Samantha Lubrani, Translator

APPROVAL OF MINUTES

Chairperson Rivera asked for a motion on the minutes of November 15, 2017. A motion was made by Commissioner Carrillo and seconded by Commissioner Hernandez to approve the minutes of November 15, 2017. Motion carried by a vote of 3-0.

PUBLIC COMMENT

With no one wishing to speak, Chairperson Rivera closed public comment.

PUBLIC HEARING

A. Planning Commission

1. **Zoning Code Amendment No. 2017-060 – Ordinance No. 884
Commercial Building Setbacks
(File No. 2017-060)**

Ms. Morales stated that staff was requesting the Commission continue the public hearing on this item until further notice.

With no questions from the Commission, Chairperson Rivera asked for a motion on this item.

A motion was made by Vice-Chairperson Carrillo and seconded by Commissioner Hernandez to continue the public hearing on Zoning Code Amendment No. 2017-060. Motion carried by a 3-0.

**2. Winchell's Donut House
Site Plan Review No. 2017-076 and Variance No. 2017-076
8001 Eastern Avenue (File No. 2017-076)**

Mr. Soto gave the presentation on Zoning Code Amendment No. 2017-076 and Variance No. 2017-076. Mr. Soto indicated that there were adjustments to the Resolution for clarification. Condition No. 9 includes language of a Conditional Use Permit, which was a typographical error and will be replaced with Site Plan Review and Variance.

Mr. Soto indicated that staff would be modifying Condition No. 47 to be separated into two different conditions, therefore creating a new Condition No. 48 to read "The Applicant shall prepare and provide a traffic and path study" and the remainder of the language shall remain the same.

Mr. Soto indicated that the Applicant and representative for Winchell's Donut House were available for questions.

Chairperson Rivera asked the Commission if there were any comments for staff on the Public Hearing Item. The Commissioner had no questions, however Chairperson Rivera asked if during construction, would the sidewalk be re-done to match the new sidewalk?

Chairperson Rivera opened the public hearing.

Lincoln Watase, President of Yum Yum Donuts gave a brief presentation and addressed the issue of making the sidewalks uniform and agreed to making them uniform. Chairperson Rivera indicated that he was concerned about the security of the trash enclosure. Mr. John Deenihan, Architect indicated that there are ways to ensure the security of the trash enclosure such as gating and all access methods to be locked. Mr. Avalos indicated to the Commission that staff would work with the design team to come up with a solution to benefit all parties.

With no one wishing to speak and no further comments, Chairperson Rivera closed the public hearing item and asked for a motion on this item.

Ms. Morales interjected to make an addition and an amendment to the Conditions of Approval which would renumber all of the conditions as a result. Ms. Morales added a new Condition No. 15 which would read "The Applicant shall ensure that the restrooms are made available to customers at all times" and amending Condition No. 54 to reflect the discussion regarding the sidewalk. The new Condition will read "The Applicant shall replace the old sidewalk by including a full height curb gutter, sidewalk and pavement along Jaboneria Road between the two newer sections."

A motion was made by Vice-Chairperson Carrillo and seconded by Commissioner Hernandez to approve Site Plan Review No. 2017-076 and Variance No. 2017-076 with amendments. Motion carried by a 3-0.

**3. Zoning Code Amendment No. 2017-086 – Ordinance No. 887
Residential Planning Development District
(File No. 2017-086)**

Ms. Morales gave the presentation on Zoning Code Amendment No. 2017-086 – Ordinance No. 887.

Chairperson Rivera asked the Commission if there were any comments for staff on the Public Hearing Item.

With no questions from the Commission, Chairperson Rivera opened the public hearing.

With no one wishing to speak and no further comments, Chairperson Rivera closed the public hearing item and asked for a motion on this item.

A motion was made by Vice-Chairperson Carrillo and seconded by Commissioner Hernandez to approve Zoning Code Amendment No. 2017-086 – Ordinance No. 887. Motion carried by a 3-0.

B. Substandard Properties – None

DISCUSSION ITEMS

None

STAFF INFORMATION ITEMS

Mr. Avalos advised the Commission of the passing of long time property owner of the former Industrial Forklift, Alda Sichtung.

COMMISSION INFORMATION ITEMS

None

ADJOURNMENT

Chairperson Rivera adjourned the meeting at 6:39 p.m.

RECORDED BY:

ELIZABETH JIMENEZ, SENIOR SECRETARY



**CITY OF BELL GARDENS
COMMUNITY DEVELOPMENT DEPARTMENT**

AGENDA REPORT

TO: Planning Commission

FROM: Abel Avalos, Director of Community Development
Carmen H. Morales, City Planner *AM* *CM*

BY: Hailes H. Soto, Associate Planner *H.S.*

SUBJECT: Twelve Month Extension and Modification of Conditional Use Permit No. 2017-017 for Chevron Gas Station; 5703 Gage Avenue (File No. 2017-017)

DATE: June 20, 2018

RECOMMENDATION:

It is staff's recommendation that the Planning Commission adopt Planning Commission Resolution #PC 2018-01 (Exhibit A) to:

1. Approve a 12 month extension for Conditional Use Permit No. 2017-017; and
2. Approve an amendment to Conditional Use Permit No. 2017-017 to modify the conditions of approval and the project site plan.

BACKGROUND:

On April 19, 2017, the Planning Commission approved Conditional Use Permit No. 2017-017 (Exhibit B and Exhibit C) to:

- (1) legalize the operation of an existing legal nonconforming Chevron gas station located at 5703 Gage Avenue (Project Site);
- (2) permit the redevelopment of the Project Site to include:
 - a. demolition of the existing cashier kiosk located at the Chevron gas station;
 - b. construction of a new 12-pump gas station (18 fueling-positions) to include Compressed Natural Gas and Ethanol fuel blend (E85); and
 - c. construction of a new 2,917 square foot building to contain a 1,693 square foot Chevron ExtraMile convenience market and an adjoining 1,224 square foot Chronic Taco fast food restaurant.

Pursuant to Planning Commission Resolution #PC 2017-01, Conditional Use Permit No. 2017-017 shall terminate within one year of the effective date of approval (April 19, 2017), unless construction is commenced or a written time extension is granted by the Planning Commission. Any request for an extension must be submitted to the Community Development Department prior to the expiration of the 12 month period (April 19, 2018). On April 18, 2018, the Community Development Department received a written request from the business owner for a twelve month extension of Conditional

Use permit No. 2017, approval of a modification to the project site plan (Exhibit D) and modification to related conditions of approval of Conditional Use Permit No. 2017-017.

Pursuant to Bell Gardens Municipal Code Section 9.50.110 (Modification of a variance or conditional use permit), "a modification of an approved variance or conditional use permit shall be reviewed in the same manner as a new variance or conditional use permit application if conditions are proposed to be amended or the application is deemed by the Community Development Director as an intensification of the originally approved use."

DISCUSSION:

Proposed Site Plan Modifications

Following Planning Commission approval of Conditional Use Permit No. 2017-017 the applicant determined that the construction of the proposed Compressed Natural Gas (CNG) fueling area was no longer feasible. The applicant was planning to sublease a portion of the project site to a CNG operator, however the CNG operator was unable to secure funding for the project. As such, the large CNG enclosure previously approved along the north property line adjacent to the alley is proposed to be eliminated. This modification will allow for a revised configuration of the majority of the parking spaces to be located perpendicularly to the north property line adjacent to the alley instead of in front of the proposed convenience store as was previously approved (Exhibit E, Exhibit F, Exhibit G, Exhibit H and Exhibit I).

Additionally, the applicant is proposing to maintain and refurbish the existing canopy instead of replacing it with a new canopy per the previously approved site plan. Since the existing canopy will not be replaced, the existing driveway approaches serving the project site from Eastern Avenue and Gage Avenue will no longer need to be redesigned to accommodate the traffic flow. The existing canopy and associated fuel pumps have a larger footprint which more easily facilitate on-site traffic circulation by allowing vehicles to maneuver between the fueling positions. The proposed widening of the driveway entrance to the public alleyway at Eastern Avenue to accommodate trucks exiting the project site will remain as part of the project. The City's Engineer Office reviewed the revised site plan and indicated they had no additional comments.

Finally, since the redesign of the existing project driveway approaches at Eastern Avenue and Gage Avenue will no longer be necessary, the previously approved reduction in the length and depth of most of the landscaping planters located along Eastern Avenue and Gage Avenue is also no longer necessary. The only landscape planter that will be reduced in depth is the existing planter that is between both driveway approaches on Gage Avenue. By keeping the majority of landscape planters intact more landscaping will be provided for the project.

The proposed revised site plan maintains the location of the existing and proposed fuel pumps along with the building footprint and architectural design for the proposed new construction of the convenience market and fast food restaurant as previously approved with Conditional Use Permit No. 2017-017.

Modification to Conditions of Approval

As a result of the proposed modifications to the project site plan approved with Conditional Use Permit No. 2017-017, the following conditions of approval of Planning Commission Resolution #PC 2017-01 (Conditional Use Permit No. 2017-017) are proposed to be amended as indicated in redlined strikethrough below:

- A. Condition No. 65. The Applicant shall submit plans for review and approval of the ~~CNG equipment and~~ trash enclosure. The ~~CNG equipment and~~ trash enclosure shall be provided with a stucco finish to match the color and texture of the building. Solid metal gates on the ~~CNG and~~ trash enclosure structures shall be provided with self-closing and self-latching devices. The top of the trash enclosure structure shall be protected with a metal trellis and painted the same color as the building. The minimum dimension of the trash enclosure shall be 6' x 8'. Minimum of 4 inches of concrete with a six (6) inch concrete curb shall surround the walls of the structure to prevent the dumpster from damaging walls.
- B. Condition No. 79. The Applicant shall be responsible for the cost of modifying the alleyway driveway approach ~~at Eastern Avenue off Gage Avenue and Eastern Avenue~~, including full height curb, gutter, sidewalk and pavements, as shown on the architectural plans in accordance with City standards to the satisfaction of the Public Works Department.
- C. Condition No. 96. The Applicant shall ensure that the ~~CNG and~~ E85 dispensers are clearly marked with appropriate signage that will be reviewed and approved as part of the overall signage scheme for the Subject Site.

The remaining conditions of approval of Conditional Use Permit No. 2017-017 would remain in full force and effect.

FINDINGS:

Approval or disapproval of any Conditional Use Permit or modification to an approved Conditional Use Permit shall be based upon the factors and principles as set forth in Section 9.50.050 of the Bell Gardens Municipal Code.

- 1. The use shall not be in substantial conflict with the general plan for the area and shall comply with the standards of this title unless appropriate findings for a Conditional Use Permit can be made.**

Finding: The General Plan Land Use Designation on the Subject Site is Mixed Use (Commercial/Residential), which encourages the establishment of commercial uses in the City. Pursuant to BGMC Title 9, Zoning and Planning Regulations, Section 9.12.030 Permitted land uses, gas stations, convenience markets and fast food restaurants are conditionally permitted uses. Approval of a time extension for Conditional Use Permit No. 2017-017 and modification of Conditional Use Permit No. 2017-017 would legalize an existing Chevron gas station and permit the development of a new ExtraMile convenience market and a Chronic Taco fast food restaurant which are commercial uses consistent with the General Plan. The

project as conditioned would comply with BGMC Title 9, Zoning and Planning Regulations.

- 2. The use shall not jeopardize, adversely affect, endanger, or otherwise constitute a nuisance to the public health, safety, or general welfare.**

Finding: The granting of a time extension for Conditional Use Permit No. 2017-017 and approval of a modification to Conditional Use Permit No. 2017-017 would not jeopardize, adversely affect or endanger or otherwise constitute a menace to the public health, safety and welfare. The proposed legalization of the existing gas station and the proposed new construction of a convenience market and fast food restaurant require the uses to comply with all applicable zoning, building and safety, and public health codes. The project will be well lit with security lights which will illuminate fuel pump islands, the convenience market, fast food restaurant, and the area designated for on-site parking. In addition the conditions of approval of Conditional Use Permit No. 2017-017, would minimize impacts associated with the proposed use.

- 3. The site for a proposed conditional use is adequate in size, shape, and topography to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as required by the commission as a condition to integrate said use with the uses in the neighborhood.**

Finding: The project site is adequate in size, shape and topography to support the existing and proposed commercial uses on the project site. The proposed project conforms to all applicable development standards such as lot coverage and setback requirements of BGMC Chapter 9.12 (Commercial Zones) and parking requirements established in BGMC Chapter 9.38 (Parking and Loading) as described in Table No. 2. Summary of Section 9.20.080 of the Planning Commission Agenda Report from April 19, 2017.

- 4. The site for the use is served by highways or streets adequate in width and improved as necessary to carry the kind and quantity of traffic such use would generate.**

Finding: The Project Site is served by Eastern Avenue and Gage Avenue. Eastern Avenue is a General Plan designated major highway, a four-lane divided roadway which forms the western boundary of the Project Site. Gage Avenue is a General Plan designated secondary highway, a four lane divided roadway, which forms the southern boundary of the Project Site. According to the General Plan, a major highway is designed to move large volumes of traffic through the community to freeways, other highways, or secondary highways. Secondary highways are designed to move traffic from collector streets to major highways keeping traffic off of local streets and residential streets. Eastern Avenue and Gage Avenue are improved to their full right of way. Additional traffic to the area resulting from the proposed project can be accommodated within the existing width of Eastern Avenue and Gage Avenue and no improvements to these roadways are necessary as part of the project.

5. The site is served by the required utilities, including electricity, and water supply of qualities and pressures required by the fire codes to provide adequate fire protection.

Finding: The Project Site is adequately served with water supply of quantity and pressure to meet the regulations of current water and fire codes, which provides adequate water supply and fire protection to serve the existing and proposed development. Development of the proposed project would not result in a substantial increase in demand for water supply.

ENVIRONMENTAL REVIEW:

In accordance with the California Environmental Quality Act (CEQA) Guidelines, the Project is categorically exempt pursuant to Section 15332, Class 32: in-fill development of less than five acres surrounded by urban uses. The Project is consistent with the applicable general plan designations and applicable general plan policies; the Project occurs within the City limits on a project site of no more than five acres substantially surrounded by urban uses; the Project site has no value as habitat for endangered, rare or threatened species because it is located and surrounded by developed urban uses and contains no natural habitat; the Project does not result in any significant effects related to traffic, noise, air quality, or water quality; and the site can be adequately served by all required utilities or public services.

CONCLUSION:

It is staff's recommendation the Planning Commission adopt Planning Commission Resolution #PC 2018-01 approving a 12 month time extension for Conditional Use Permit No. 2017-017 and approving modifications to the site plan and related conditions of approval adopted as part Conditional Use Permit No. 2017-017. The remaining conditions of approval of Conditional Use Permit No. 2017-017 would remain in full force and effect.

FISCAL IMPACT:

None

ATTACHMENTS:

- Exhibit A – Planning Commission Resolution #PC 2018-01
- Exhibit B – Planning Commission Staff Report from April 19, 2017
- Exhibit C – Planning Commission Approved Resolution #PC 2017-01
- Exhibit D – Request for Extension
- Exhibit E – Vicinity Map
- Exhibit F – Revised Site Plan
- Exhibit G – Topographic Survey
- Exhibit H – Floor Plan
- Exhibit I – Elevations
- Exhibit J – Public Hearing Notice

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EXHIBIT A

**Resolution
#PC 2018-01**

RESOLUTION #PC 2018-01

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF BELL GARDENS APPROVING A 12 MONTH
EXTENSION AND MODIFICATION OF CONDITIONAL USE PERMIT NO. 2017-017
(File No. 2017-017)**

WHEREAS, on April 19, 2017 the Planning Commission adopted Resolution #PC 2017-01 approving Conditional Use Permit No. 2017-017 to: (1) legalize the operation of an existing legal nonconforming Chevron gas station; (2) demolish the existing cashier kiosk located at the Chevron gas station; and (3) permit construction of a new 12-pump gas station (18 fueling-positions) to include Compressed Natural Gas and Ethanol fuel blend (E85) and a new 2,917 square foot building to contain a 1,693 square foot Chevron ExtraMile convenience market and an adjoining 1,224 square foot Chronic Taco fast food restaurant.

WHEREAS, the Project is located at 5703 Gage Avenue, Bell Gardens, CA ("Subject Site");

WHEREAS, the Subject Site is presently zoned C-M (Commercial/Manufacturing) with a General Plan Land Use Designation of "Mixed Use" (Commercial/Residential);

WHEREAS, Condition No. 3 of Planning Commission Resolution #PC 2017-01 states that Conditional Use Permit No. 2017-017 shall terminate within one year of the effective date of the Conditional Use Permit unless construction is commenced or a time extension is granted by the Planning Commission based upon a written request submitted to the Community Development Department prior to the expiration of the one year period (April 19, 2018);

WHEREAS, on April 18, 2018, Matthew Webb, Operations Manager ("Applicant") representing the Webb's Auto & Truck Services, Inc. ("Owner"), submitted a written request for a 12 month extension for Conditional Use Permit No. 2017-017 with amendments to the Site Plan Review and conditions of approval of Conditional Use Permit No. 2017-017;

WHEREAS, Pursuant to BGMC Section 9.50.110 (Modification of a variance or conditional use permit), "a modification of an approved variance or conditional use permit shall be reviewed in the same manner as a new variance or conditional use permit application if conditions are proposed to be amended or the application is deemed by the Community Development Director as an intensification of the originally approved use."

WHEREAS, the Planning Commission conducted a duly noticed public hearing on June 20, 2018, and reviewed all facts and evidence, both written and testimonial, pertaining to the extension and amendment to Conditional Use Permit No. 2017-017.

NOW, THEREFORE, THE PLANNING COMMISSION DOES HEREBY RESOLVE AND DETERMINE AS FOLLOWS:

SECTION 1. The above recitals are true and correct and are incorporated herein.

SECTION 2. The commission finds that the proposed Project with modifications is in general accord with the following principles and standards:

- a. The use shall not be in substantial conflict with the general plan for the area and shall comply with the standards of this title unless appropriate findings for a Conditional Use Permit can be made.**

The General Plan Land Use Designation on the Subject Site is Mixed Use (Commercial/Residential), which encourages the establishment of commercial uses in the City. Pursuant to BGMC Title 9, Zoning and Planning Regulations, Section 9.12.030 Permitted land uses, gas stations, convenience markets and fast food restaurants are conditionally permitted uses. Approval of a time extension for Conditional Use Permit No. 2017-017 and modification of Conditional Use Permit No. 2017-017 would legalize an existing Chevron gas station and permit the development of a new ExtraMile convenience market and a Chronic Taco fast food restaurant which are commercial uses consistent with the General Plan. The project as conditioned would comply with BGMC Title 9, Zoning and Planning Regulations.

- b. The use shall not jeopardize, adversely affect, endanger, or otherwise constitute a nuisance to the public health, safety, or general welfare.**

The granting of a time extension for Conditional Use Permit No. 2017-017 and approval of a modification to Conditional Use Permit No. 2017-017 would not jeopardize, adversely affect or endanger or otherwise constitute a menace to the public health, safety and welfare. The proposed legalization of the existing gas station and the proposed new construction of a convenience market and fast food restaurant require the uses to comply with all applicable zoning, building and safety, and public health codes. The project will be well lit with security lights which will illuminate fuel pump islands, the convenience market, fast food restaurant, and the area designated for on-site parking. In addition the conditions of approval of Conditional Use Permit No. 2017-017, would minimize impacts associated with the proposed use.

- c. The site for a proposed conditional use is adequate in size, shape, and topography to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as required by the commission as a condition to integrate said use with the uses in the neighborhood.**

The project site is adequate in size, shape and topography to support the existing and proposed commercial uses on the project site. The proposed project conforms to all applicable development standards such as lot coverage and setback requirements of BGMC Chapter 9.12 (Commercial Zones) and parking requirements established in BGMC Chapter 9.38 (Parking and Loading) as described in Table No. 2. Summary of Section 9.20.080 of the Planning Commission Agenda Report from April 19, 2017.

- d. The site for the use is served by highways or streets adequate in width and improved as necessary to carry the kind and quantity of traffic such use would generate.**

The Project Site is served by Eastern Avenue and Gage Avenue. Eastern Avenue is a General Plan designated major highway, a four-lane divided roadway which forms the western boundary of the Project Site. Gage Avenue is a General Plan designated secondary highway, a four lane divided roadway, which forms the southern boundary of the Project Site. According to the General Plan, a major highway is designed to move large volumes of traffic through the community to freeways, other highways, or secondary highways. Secondary highways are designed to move traffic from collector streets to major highways keeping traffic off of local streets and residential streets. Eastern Avenue and Gage Avenue are improved to their full right of way. Additional traffic to the area resulting from the proposed project can be accommodated within the existing width of Eastern Avenue and Gage Avenue and no improvements to these roadways are necessary as part of the project.

- e. The site is served by the required utilities, including electricity, and water supply of qualities and pressures required by the fire codes to provide adequate fire protection.**

The Project Site is adequately served with water supply of quantity and pressure to meet the regulations of current water and fire codes, which provides adequate water supply and fire protection to serve the existing and proposed development. Development of the proposed project would not result in a substantial increase in demand for water supply.

SECTION 4. In accordance with the California Environmental Quality Act (CEQA) Guidelines, the Project is categorically exempt pursuant to Section 15332, Class 32: in-fill development of less than five acres surrounded by urban uses. The Project is consistent with the applicable general plan designations and applicable general plan policies; the Project occurs within the City limits on a project site of no more than five acres substantially surrounded by urban uses; the Project site has no value as habitat for endangered, rare or threatened special because it is located and surrounded by developed urban uses and contains no natural habitat; the Project does not result in any significant effects related to traffic, noise, air quality, or water quality; and the site can be adequately served by all required utilities or public services.

SECTION 5. The Planning Commission hereby grants a 12 month time extension for Conditional Use Permit No. 2017-017 until June 20, 2019 and approves modifications to Conditional Use Permit No. 2017-017 to include: a) modification of the Site Plan Review to legalize an existing gas station and permit the development of a new 12-pump gas station (18 fueling-positions), to include Ethanol fuel blend (E85), and a new 2,917 square foot building to contain a 1,693 square foot Chevron ExtraMile convenience market and an adjoining 1,224 square foot Chronic Taco fast food restaurant at 5703 Gage Avenue, Bell Gardens; and b) modification to conditions of approval as described in final format below:

Condition No. 65. The Applicant shall submit plans for review and approval of the trash enclosure. The trash enclosure shall be provided with a stucco finish to match the color and texture of the building. Solid metal gates on the trash enclosure structures shall be provided with self-closing and self-latching devices. The top of the trash enclosure structure shall be protected with a metal trellis and painted the same color as the building. The minimum dimension of the trash enclosure shall be 6' x 8'. Minimum of 4 inches of concrete with a six (6) inch concrete curb shall surround the walls of the structure to prevent the dumpster from damaging walls.

Condition No. 79. The Applicant shall be responsible for the cost of modifying the alleyway driveway approach at Eastern Avenue, including full height curb, gutter, sidewalk and pavements, as shown on the architectural plans in accordance with City standards to the satisfaction of the Public Works Department.

Condition No. 96. The Applicant shall ensure that the E85 dispensers are clearly marked with appropriate signage that will be reviewed and approved as part of the overall signage scheme for the Subject Site.

All remaining conditions of approval of Conditional Use Permit No. 2017-017 shall remain in full force and effect.

PASSED, APPROVED AND ADOPTED this 20th day of June 2018.

TONY RIVERA, CHAIRPERSON

ATTEST:

ERIKA GUTIERREZ, PLANNING SECRETARY

APPROVED AS TO FORM:

JOHN W. LAM, ASSISTANT CITY ATTORNEY

EXHIBIT B

Planning Commission Staff Report from April 19, 2017

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**CITY OF BELL GARDENS
COMMUNITY DEVELOPMENT DEPARTMENT**

AGENDA REPORT

TO: Planning Commissioners

FROM: Abel Avalos, Director of Community Development
Carmen H. Morales, City Planner

BY: Hailes H. Soto, Associate Planner

SUBJECT: Chevron Gas Station
Conditional Use Permit No. 2017-017
5703 Gage Avenue
(File No. 2017-017)

DATE: April 19, 2017

RECOMMENDATION:

It is staff's recommendation that the Planning Commission adopt Planning Commission Resolution #PC 2017-01 (Exhibit A) approving:

1. Conditional Use Permit No. 2017-017 to: (1) legalize the operation of an existing legal nonconforming Chevron gas station; and (2) demolish the existing cashier kiosk located at the Chevron gas station and redevelop the site with a 12-pump (18 fueling-positions that includes Compressed Natural Gas and Ethanol fuel blend (E85)) gas station and a new 2,917 square foot building that will contain the 1,693 square foot Chevron ExtraMile convenience market and an adjoining 1,224 square foot Chronic Taco fast food restaurant.

SITE DESCRIPTION:

The Subject Site is located at 5703 Gage Avenue and 5717 Gage Avenue, on the northeast corner of Eastern Avenue and Gage Avenue in the C-M (Commercial/Manufacturing) zone with the General Plan Land Use designation "Mixed Use" (Commercial/Residential) (Exhibit B). The property at 5703 Gage Avenue (APN 6330-014-043) is approximately 20,860 square feet and the property at 5717 Gage Avenue (APN 6330-014-020) is 7,000 square feet. The combined parcels total 27,860 square feet. Table No. 1 below summarizes the land uses for the Subject Site's surrounding properties.

Table No. 1. Surrounding Land Uses

North	
Zone	C-M (Commercial/ Manufacturing) & R-3: High Density Residential
General Plan	Mixed Use (Commercial/ Residential)
Use	Public alley, motel and multi-family residential

East	
Zone	C-M (Commercial/ Manufacturing)
General Plan	Mixed Use (Commercial/ Residential)
Use	Residential

South	
Zone	C-M (Commercial/ Manufacturing)
General Plan	Mixed Use (Commercial/ Residential)
Use	Gage Avenue and automobile repair

West	
Zone	C-M (Commercial/ Manufacturing)
General Plan	Mixed Use (Commercial/ Residential)
Use	Eastern Avenue and automobile service station

The property at 5703 Gage Avenue is presently developed with a Chevron gas station, a 68'-1" x 60'-4" canopy that covers the ancillary 120 square foot cashier kiosk and nine pumps (15 fueling positions) (Exhibit C). There are four separate diesel fueling islands that are not sheltered by the canopy that are primarily used by tractor trucks. The operation of the existing gas station is a permitted use in the C-M zone under the authority of a Conditional Use Permit when approved by the Planning Commission in accordance with BGMC Chapter 9.50, Variances and Conditional Use Permits.

The adjoining parcel at 5717 Gage Avenue (APN 6330-014-020), which is also under the control of the business owner and is part of the Project, has a Pronto Lube quick lubrication vehicle shop that consists of an office, a storage building and a service pit. The two parcels are bordered on the north by a public alley, on the east by residential units, on the south by Gage Avenue, and on the west by Eastern Avenue. The Chevron gas station has been in operation at the Subject Site since 1951.

There are three driveways and a public alley that provide access to the Subject Site. One driveway located off of Eastern Avenue is approximately 40 feet in width and the other two driveways located off of Gage Avenue are approximately 32 feet in width. Additional access is provided from the 20-foot wide public alley located along the northerly property line of the Subject Site. There are some existing signs located on the property. There is a sign attached to the canopy as well as one existing freestanding pole sign located at the southwest corner of the Subject Site that shows the Chevron gas station prices, and another freestanding sign located at the southeast corner of the Subject Site that advertised for Pronto Lube. Landscape planter areas are currently located along Gage Avenue, Eastern Avenue, and partly along the public alley.

BACKGROUND:

On October 14, 2015, the Planning Commission reviewed and approved Conditional Use Permit No. 2015-028 to: (1) legalize the operation of an existing legal nonconforming Chevron gas station located at 5703 Gage Avenue; and (2) demolish the

existing kiosk building located at the Chevron gas station and redevelop the site with a new 1,419 square foot ExtraMile convenience store. The Planning Commission also reviewed and approved Variance No. 2015-028 to allow the proposed 1,419 square foot ExtraMile convenience store to be constructed with a zero setback on the north property line of Subject Site. After the aforementioned project was approved, the Applicant decided to redesign and expand the scope of the project by including the adjoining parcel at 5717 Gage Avenue, expanding and relocating the convenience market, adding a fast food restaurant and Compressed Natural Gas (CNG) and Ethanol fuel blend (E85) fuel product. Pursuant to Bell Gardens Municipal Code Section 9.50.160, Conditional Use Permit No. 2015-028 and Variance No. 2015-028 became null and void on October 14, 2016 since the project was not implemented within the allotted period of one year from the original approval of the project of October 14, 2015. It should be noted that this current proposal does not require approval of a Variance since it now complies with the BGMC as discussed below.

PROJECT DESCRIPTION:

The Applicant is requesting the approval of Conditional Use Permit No. 2017-017 to: (1) legalize the operation of an existing legal nonconforming Chevron gas station located at 5703 Gage Avenue (Exhibit D); and (2) demolish the existing cashier kiosk located at the Chevron gas station and redevelop the site with a 12-pump (18 fueling-positions that includes two Compressed Natural Gas fueling positions and two Ethanol fuel blend (E85) fueling positions) gas station and a new 2,917 square foot building that will contain the 1,693 square foot Chevron ExtraMile convenience market and an adjoining 1,224 square foot Chronic Taco fast food restaurant (Exhibit E); The Applicant is also proposing to merge the two adjoining parcels of land into a single parcel of land to accommodate the proposed reconfiguration of the gas station. The Pronto Lube building will be demolished to accommodate the project which also includes a modified vehicular circulation, landscaping, upgrading curb-cuts, and additional parking. The improvements will coincide with an upgrade to the underground fuel tanks. The existing canopy will remain with minor modifications to be made to it as part of the sign program for the station. Chevron gas station and the ExtraMile convenience market will operate 24-hours a day, seven days a week. Chronic Taco will operate Monday – Sunday 9:00 a.m. – 11:00 p.m. It should be noted that this project does not include a request for an ABC retail license at the Subject Site.

ANALYSIS:

In reviewing Applicant's request for Conditional Use Permit No. 2017-017, staff has conducted a thorough analysis of this matter which is set forth below:

Conditional Use Permit

In accordance with Bell Gardens Municipal Code ("BGMC") Section 9.12.030, Table 9.12A: Commercial Land Use Matrix, convenience stores and automobile service stations are permitted on a property zoned C-M under the authority of a Conditional Use Permit when approved by the Planning Commission in accordance with BGMC Chapter 9.50, Variances and Conditional Use Permits.

A Conditional Use Permit allows a city to consider special uses, which may be essential or desirable to a particular community, but which are not allowed, as a matter of right, within a zoning classification, through a public hearing process. Moreover, a

Conditional Use Permit allows flexibility within a particular zone and enables cities to control certain uses which could have detrimental effects on the community. It is the responsibility of the Planning Commission to impose conditions and/or limitations on the operation of the proposed use for the specific project to mitigating any potential negative impacts.

- **Gas Station:** The existing gas station went into operation prior to the City requiring a Conditional Use Permit and does not have a Conditional Use Permit to operate the business at this time. Therefore, the present use is considered legal nonconforming. In order to make the proposed improvements and expand the Chevron gas station operation, the Applicant is required to obtain approval of Conditional Use Permit No. 2017-017 under the current Municipal Code. This will rectify the nonconformity that currently exists at the Subject Site.

- Site Layout

The new 2,917 square foot building will contain the 1,693 square foot Chevron ExtraMile convenience market and an adjoining 1,224 square foot Chronic Taco fast food restaurant. To optimize the location of the convenience market, the Applicant has proposed to construct the new building away from the canopy. The existing cashier kiosk will be demolished to make way for an additional fuel island. The project will also require the removal of the propane tank, the vapor recovering tank and the public pay phone.

An existing pole sign lies within the landscape planter on the corner of Eastern and Gage Avenues. All new signage proposed on the Subject Site will be approved under a separate permit. Landscaping is provided throughout the Subject Site but the existing landscape planters along Eastern Avenue and Gage Avenue will be reduced in width to accommodate the on-site traffic flow.

- Development Standards Compliance

The Project will be consistent with the C-M zone in which it is located. The proposed Project complies with all of the development standards of the C-M zone including setbacks, lot coverage and parking requirements.

BGMC Section 9.20.080, Automobile Service Stations, requires that such businesses comply with specific regulations. Table No. 2 below summarizes the regulations for BGMC Section 9.20.080 with a column indicating compliance with each item.

Table No. 2. Summary of Section 9.20.080

	Summary of Regulations	Compliance
A.	Physical Site Controls	
	1. Lot Width – Minimum 120 feet	Yes
	2. Lot Area – Minimum 14,000 square feet	Yes

	3. Setbacks	
	a. Building - Minimum 10 feet setback from any property line and 25 feet from a street	Yes
	b. Gasoline pumps – Minimum 15 feet from any property line	Yes
	c. Rental equipment – Minimum 10 feet from a street	None shown
	d. Additional setbacks	To be determined
B.	Site Development Standards	
	1. Perimeter Walls	Yes
	2. Screening	
	a. Outside entrances to restrooms shall be screened	Not applicable
	b. Trash areas	Yes
C.	Landscaping	
	1. Raised planters	Yes
	2. Minimum 100 square feet of planting area	Yes
	3. Raised planters along the building facades fronting on streets	Yes
	4. Planting areas shall be separated from adjacent asphaltic paving	Yes
	5. Planting, other than trees, shall be of a variety that will not achieve a height greater than 30 inches	Yes
	6. Landscaped areas shall have permanent irrigation systems	Yes
	7. Planters along not less than half the length of the walls along interior property lines.	Yes
D.	Drainage Control	Yes
E.	Permitted and Prohibited Activities	
	1. Sale, Lease or Rental Items	
	a. No sale, lease or rental of soda pop, cigarettes, trailers, trucks, peat moss, toys, or anything not clearly incidental to the services of automobiles (except for a convenience store, as part of the service station use, and approved under the CUP for the service station)	Yes
	b. No new or used automobiles shall be displayed for sale	Yes
	2. No commercial vehicles over 10,000 lbs. shall be stored on the service station premises outside the building between the hours of 10:00 pm and 6:00 am.	Yes
	3. No vehicles shall be parked on the premises other than those of persons attending to business on the site	Yes
	4. Repairs and Servicing	Not Applicable

F.	Access, Parking and Circulation Requirements	
	1. Access Ways (Driveways)	
	a. Maximum of 2 driveways per street frontage	Yes
	b. Driveways shall have a 5-foot long curb adjoining residential property lines	Yes
	c. Driveway shall not exceed a width of 30 feet	Existing driveways to remain but will be modified
	d. Driveway shall not encroach into the curve of a street corner	Yes
	e. Maximum of 50% of curb along any street frontage	Yes
	2. Parking	Yes
G.	Miscellaneous Provisions	
	1. Signs	Approval under a separate permit
	2. Lighting	Yes
H.	Required Plans	Yes

- Building Design, Colors, and Materials

The proposed two-story Chevron ExtraMile convenience market and Chronic Taco building will be designed in a contemporary style with an unconventional but symmetrical building footprint that will help express the branding of the Chevron gas station, ExtraMile convenience market, and Chronic Taco (Exhibit F). The building façade features a gray colored stucco siding with aluminum reveals and a flat parapet roof. The southern area of the new building will feature an aluminum anodized mullion storefront glass system and aluminum composite panels. The aluminum reveals on the stucco portions of the building add a design element to the exterior stucco walls, and serve as a functional element in the case that any of the stucco requires maintenance or repair. The building parapet will hide mechanical equipment that will be placed on the second story of the building. The roof drainage system will be integrated into the walls of the building so that there are no visible downspouts. The front entryway is framed by steel awning that protrudes off the western elevation giving it a prominent designation as the main entranceway.

- Compressed Natural Gas and E85

The Applicant is introducing Compressed Natural Gas, frequently referred to as CNG, which will be a new fuel product at the gas station. The project will add:

- 1) Two CNG dispensers that uses a pistol grip nozzle, dispensing about 4 gasoline gallon equivalents (GGE) per minute. One CNG dispenser will be located in the uncovered area and another will be located under the canopy. Each of the CNG dispensers will share fueling positions with the gasoline dispensers but will not have diesel dispensers. The remaining fueling positions will have both gasoline and diesel. It should be noted that

the CNG dispensers will only fuel vehicles that are designed to run on CNG;

- 2) Three new CNG aboveground storage vessels that are stored at ambient temperature and high pressure and will hold about 10,000 square cubic feet (SCF) of CNG each. CNG utilizes an onsite compressor to compress the natural gas that will be brought to the Subject Site by using existing domestic underground gas lines. Thus, no additional trucks will come on the property to deliver the natural gas; and
- 3) A new equipment enclosure with the associated CNG equipment adjacent to the new trash enclosure structure. The equipment enclosure will not be covered with a roof. The enclosure will be constructed of CMU block material and will be 6-feet high. The CNG equipment enclosure and trash enclosure will be located on the north property line parallel to the public alley.

The Applicant is also introducing ethanol fuel blend, frequently referred to as E85, which will be another liquid fuel product at the gas station. E85 refers to ethanol fuel blend of 85% denatured ethanol fuel and 15% gasoline by volume. The project will add:

- 1) Two E85 dispensers. One E85 dispenser will be located in the uncovered area and another will be located under the canopy. Each of the E85 dispensers will share fueling positions with the gasoline dispensers.

- Traffic, Parking and Circulation

Currently, there are no marked or designated parking spaces within the gas station area. There are five existing parking spaces next to the automobile repair shop at 5717 Gage Avenue. The Project proposes a total of 10 parking spaces on the Subject Site to accommodate the most intense use on the property, which will be the Chronic Taco restaurant. Nine parking spaces, one of which will be ADA van accessible, will be located immediately to the west of the proposed convenience market and restaurant building. One additional parking space will be located next to the CNG enclosure by the alley.

Currently, ingress and egress to the Subject Site is gained via a 40-foot wide driveway off Eastern Avenue and two 32-foot wide driveways off Gage Avenue for a total of three driveway aprons. Egress from the Subject Site is restricted to right-turns only since Eastern Avenue is a north-south four-lane divided roadway which forms the western boundary of the Subject Site, while Gage Avenue is an east-west four-lane divided roadway which forms the southern boundary of the Subject Site as shown in Figure 5, 6(a) and 6(b) of the Traffic Impact Analysis Report (Exhibit G). As such, when customers leave the Subject Site using the driveways, they can only go northbound on Eastern Avenue and westbound on Gage Avenue. Customers cannot legally turn into the gas station if they are southbound on Eastern Avenue or eastbound on Gage Avenue since the streets are divided with double-lines unless they make legal U-turn's at the intersection. Customers are also able to gain access from the public alley along the north of the Subject Site. The Project proposal also includes an 11'-2" width reduction of the existing driveway on Eastern Avenue. As such, the driveway will be reduced from 40-feet wide to 28'-10" wide on Eastern Avenue. The Applicant is also requesting for the easternmost driveway on Gage Avenue to be widened an

additional 13'-4". This modified driveway will have a new width of 45'-0" to accommodate the tractor trucks that will be fueling at the diesel fuel pumps. The westernmost driveway on Gage Avenue will also be widened from 32'-0" to 45'-0".

The existing diesel fueling pumps will be replaced with new fueling pumps. The uncovered fuel pumps will be located at least 15'-0" away from the east property line as required by the BGMC. This setback along with a new 6'-0" block wall with climbing vines will be added as part of the Project to help with the sound attenuation. The Applicant has stated that typical cargo trucks will be one gas fueling tanker filling every day or every other day during night hours with no change of delivery since it is an existing site. There will be one trash truck for pick up weekly with no change of pick up time as this is an existing site. In addition, there will be one delivery truck during normal business hours for merchandise for the convenience market when needed. The reconfiguration of the parking stalls in relationship to traffic flow to and from the Subject Site will not obstruct off-site pedestrian and vehicular traffic nor obstruct traffic on nearby public streets and sidewalks.

A Traffic Impact Analysis Report was prepared for the Project by Crain & Associates, Inc., a transportation planning and traffic engineering firm (Exhibit G). The report contains the Project trip generation for the Chevron ExtraMile convenience market and Chronic Taco fast food restaurant. In consultation with the Applicant, a Project completion year of 2017 was assumed. Upon completion, it is estimated that the Project would generate approximately 767 new trips per day at area intersections, adding 36 AM peak-hour trips and eliminating 3 PM peak-hour trips. The traffic study also analyzed existing (2017) and future (2017) AM and PM peak-hour traffic conditions at five critical intersections in the vicinity of the Subject Site including: 1) Eastern Avenue & Watcher Street; 2) Eastern Avenue & Gage Avenue; 3) Eastern Avenue & Loveland Street; 4) Specht Avenue & Gage Avenue; and 5) Ajax Avenue & Gage Avenue. The cumulative traffic conditions with the development of potential related projects in the surrounding area were also analyzed. The Traffic Impact Analysis Report concluded that the improvements proposed as part of the Project will result in a nominal change in the trip generation from the site and it is not anticipated to have significant traffic impacts at any of the five study intersections under the existing and future conditions. Project traffic impacts were also analyzed for Congestion Management Program (CMP) locations. No significant regional traffic impacts were determined for the CMP monitoring intersections or freeway locations. Therefore, the Project will not result in significant traffic impacts. The City Engineer's Office reviewed the Traffic Impact Analysis Report and after some discussion determined that the report and methodology are complete and adequate for the Project. The City Engineer's Office concurred with the study findings that no adverse traffic impact is anticipated relative to the development of the Project.

Additionally, the improvements proposed on the Subject Site, along with staff's recommendations, will facilitate on-site and off-site vehicular and pedestrian traffic circulation and will minimize any potential traffic impacts on Eastern Avenue and Gage Avenue.

FINDINGS:

Approval or disapproval of any Conditional Use Permit shall be based upon the following factors and principles as set forth in Section 9.50.050 of the Bell Gardens Municipal Code:

- 1. The use shall not be in substantial conflict with the general plan for the area and shall comply with the standards of this title unless appropriate findings for a Conditional Use Permit can be made.**

Finding: The General Plan Land Use Designation on the Subject Site is Mixed Use (Commercial/Residential), which encourages the establishment of commercial uses in the City. Among those commercial businesses, gas stations, convenience markets and fast food restaurants are permitted uses. These types of businesses, however, are only permitted if a Conditional Use Permit is obtained and complies with the General Plan. The General Plan puts a priority on protecting the safety, health and welfare of the residents of the community. Chevron ExtraMile is a convenience market, which is smaller in size and has a smaller selection of items than a traditional grocery store. Chronic Taco is a fast casual Mexican grill restaurant, which is smaller in size and has a smaller selection of items than a traditional restaurant. To minimize any potential impacts to neighboring properties and ensure that the operation of the convenience market and restaurant conforms to the City's General Plan, Conditions of Approval to address the operation of the gas station, convenience market, and fast food restaurant will be included in Planning Commission Resolution #PC 2017-01. The proposed request, with conditions, is desirable for the development of the community and the tax base, is desirable for the elimination of blight, is in harmony with the various elements or objectives of the General Plan, and it is not detrimental to existing uses or to uses permitted in the zone.

- 2. The use shall not jeopardize, adversely affect, endanger, or otherwise constitute a nuisance to the public health, safety, or general welfare.**

Finding: Granting Conditional Use Permit No. 2017-017 to legalize the gas station will not jeopardize, adversely affect or endanger or otherwise constitute a menace to the public health, safety and welfare because the site will be well lit with security lights which will illuminate fuel pump islands, the convenience market, fast food restaurant, and the area designated for on-site parking. In addition the associated conditions contained in Conditional Use Permit No. 2017-017 will act to mitigate impacts associated with the proposed use.

Staff has also considered the Applicant's request to operate the gas station and convenience market 24 hours a day. After careful consideration of the safety of the community, staff is recommending that that gas station and convenience market shall be allowed to be open 24 hours a day, Monday through Sunday. The restaurant will operate Monday – Sunday from 9:00 a.m. – 11:00 p.m.

- 3. The site for a proposed conditional use is adequate in size, shape, and topography to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title,**

or as required by the commission as a condition to integrate said use with the uses in the neighborhood.

Finding: The Subject Site is adequate in size, shape and topography to support the existing retail uses currently occupying the Subject Site. The Subject Site conforms to all applicable development standards such as lot coverage and setback requirements of Chapter 9.12 (Commercial Zones) and parking requirements established in Chapter 9.38 (Parking and Loading) of the Bell Gardens Municipal Code as detailed in Table No. 2. Summary of Section 9.20.080 of the Planning Commission Agenda Report from April 19, 2017.

- 4. The site for the use is served by highways or streets adequate in width and improved as necessary to carry the kind and quantity of traffic such use would generate.**

Finding: The Subject Site is adequately served by Eastern Avenue and Gage Avenue. Eastern Avenue is a north-south four-lane divided roadway which forms the western boundary of the Subject Site. Gage Avenue is an east-west four-lane divided roadway, which forms the southern boundary of the Subject Site. Eastern Avenue is designated as major highway and Gage Avenue is designated as a secondary highway in the 1995 General Plan Circulation and Transportation Element. According to the General Plan, a major highway is designed to move large volumes of traffic through the community to freeways, other highways, or secondary highways. As indicated in the staff report, Chevron has operated at this location since the early 1950's. If Conditional Use Permit No. 2017-017 is granted, the Applicant proposes to continue the operation of the gas station as it currently exists and add the convenience market and restaurant use. Therefore, additional traffic to the area will be minimal pursuant to the Traffic Impact Analysis report and is being requested to enhance the shopping experience of its customers.

- 5. The site is served by the required utilities, including electricity, and water supply of qualities and pressures required by the fire codes to provide adequate fire protection.**

Finding: The Subject Site is adequately served with water supply of quantity and pressure to meet the regulations of current water and fire codes, which provides adequate water supply and fire protection to serve the existing development. The proposed request is for the legalization of the gas station with new CNG and E85 fuel and addition of an ExtraMile convenience market and Chronic Taco fast food restaurant and thus will not substantially increase development on the Subject Site or create a greater demand for water supply.

ENVIRONMENTAL REVIEW:

In accordance with the California Environmental Quality Act (CEQA) Guidelines, Conditional Use Permit No. 2017-017 is categorically exempt pursuant to Section 15332, Class 32: in-fill development of less than five (5) acres surrounded by urban uses. Specifically, the proposed project is (a) consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations because the property is zoned C-M with the General Plan Land Use designation "Mixed Use"; (2) the proposed project occurs within the city

limits and the project site is only 27,860 square feet; (3) the project site is located in a fully urbanized area and has no value as habitat or endangered, rare, or threatened species; (4) the approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and (5) the site can be adequately served by all required utilities and public services.

CONCLUSION:

The proposed project has been routed to all concerned City and County departments for review. The City Engineer's Office requested certain conditions be included as part of the Conditions of Approval in Planning Commission Resolution #PC 2017-01.

Based on staff's analysis, staff recommends that the Planning Commission approve Conditional Use Permit No. 2017-017 which grants approval for the Project. The Applicant's proposal will improve the overall appearance of the area by redeveloping, reconfiguring, and expanding the site with an 18 fueling-position gas station that will include a convenience market and an adjoining fast food restaurant, a modified vehicular circulation, landscaping, upgrading curb-cuts, sign upgrades, concrete resurfacing, new block walls and additional parking. The improvements will coincide with an upgrade to the underground fuel tanks. The Project will be providing an aesthetically pleasing project. If the entitlement application is approved, the Applicant proposes to complete the overall improvements to the Subject Site.

FISCAL IMPACT:

None.

ATTACHMENTS:

- Exhibit A – Planning Commission Resolution #PC 2017-01
- Exhibit B – Vicinity Map
- Exhibit C – Existing Site Plan
- Exhibit D – Proposed Site Plan
- Exhibit E – Floor Plan
- Exhibit F – Building Elevations
- Exhibit G – Traffic Impact Analysis Report
- Exhibit H – Public Hearing Notice

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EXHIBIT C

**Planning
Commission
Approved
Resolution #PC
2017-01**

RESOLUTION #PC 2017-01

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF BELL GARDENS APPROVING CONDITIONAL USE
PERMIT NO. 2017-017 TO LEGALIZE AND EXPAND THE
OPERATION OF A GAS STATION
(FILE NO. 2017-017)**

WHEREAS, the applicant, Michael Burke of Bar International Design & Development, Inc. ("Applicant"), on behalf of the business owners of the Chevron gas station, Richard Webb ("Owner"), is requesting approval of Conditional Use Permit No. 2017-017 to: (1) legalize the operation of an existing legal nonconforming Chevron gas station; and (2) demolish the existing cashier kiosk located at the Chevron gas station and redevelop the site with a 12-pump (18 fueling-positions that includes Compressed Natural Gas and Ethanol fuel blend (E85)) gas station and a new 2,917 square foot building that will contain the 1,693 square foot Chevron ExtraMile convenience market and an adjoining 1,224 square foot Chronic Taco fast food restaurant.

WHEREAS, the Project is located at 5703 Gage Avenue, Bell Gardens, CA ("Subject Site");

WHEREAS, the Subject Site is presently zoned C-M (Commercial/Manufacturing) with the General Plan Land Use Designation is "Mixed Use" (Commercial/Residential);

WHEREAS, the Owner of the Chevron gas station, whom has operated the business at the Subject Site since 1951, originally approached the City in 2015 and inquired about redeveloping the property and constructing a convenience market on the Subject Site;

WHEREAS, the Owner was advised that the existing gas station did not hold a Conditional Use Permit to operate the business and therefore, the present use is considered legal nonconforming;

WHEREAS, the operation of a gas station is a permitted use in the C-M zone under the authority of a Conditional Use Permit granted by the Planning Commission in accordance with the provisions contained in Chapter 9.50, Variances and Conditional Use Permits, of the Bell Gardens Municipal Code;

WHEREAS, the Owner did not obtain a Conditional Use Permit in 1951 to operate the gas station at the Subject Site because at the time the City was not incorporated. As such, the gas station was subject to the provisions of the County of Los Angeles Zoning Code which did not require a Conditional Use Permit to operate such a business;

WHEREAS, in order for the Owner to obtain approval for the construction of the proposed improvements on the Subject Site, a Conditional Use Permit must be first approved by the Planning Commission in accordance with the provisions contained in the Bell Gardens Municipal Code to legalize the operation of the Chevron gas station and rectify the legal nonconformity that currently exists at the Subject Site;

WHEREAS, on October 14, 2015, the Planning Commission reviewed and approved Conditional Use Permit No. 2015-028 to: (1) legalize the operation of an existing legal nonconforming Chevron gas station located at 5703 Gage Avenue; and (2) demolish the existing kiosk building located at the Chevron gas station and redevelop the site with a new 1,419 square foot ExtraMile convenience store;

WHEREAS, the Planning Commission also reviewed and approved Variance No. 2015-028 to allow the proposed 1,419 square foot ExtraMile convenience store to be constructed with a zero setback on the north property line of Subject Site;

WHEREAS, after the aforementioned project was approved, the Applicant decided to redesign and expand the scope of the project by including the adjoining parcel at 5717 Gage Avenue, expanding and relocating the convenience market, adding a fast food restaurant and Compressed Natural Gas (CNG) and Ethanol fuel blend (E85) fuel product;

WHEREAS, pursuant to Bell Gardens Municipal Code Section 9.50.160, Conditional Use Permit No. 2015-028 and Variance No. 2015-028 became null and void on October 14, 2016 since the project was not implemented within the allotted period of one year from the original approval of the project of October 14, 2015;

WHEREAS, the Owner is now requesting to redevelop the property with 12 pumps (18 fueling positions that includes Compressed Natural Gas and Ethanol fuel blend (E85)), and constructing a new Chevron ExtraMile convenience market and Chronic Taco fast food restaurant;

WHEREAS, as part of the project, the Owner also proposes the overall improvement of the Subject Site;

WHEREAS, the inquiry was prompted by the Owner's decision to complete the aforementioned improvements to the site while the gas station closes to upgrade the underground fuel tanks;

WHEREAS, this current proposal does not require approval of a Variance since it now complies with the BGMC; and

WHEREAS, the Planning Commission held a regular meeting on April 19, 2017, and reviewed all facts and evidence, both written and testimonial, pertaining to Conditional Use Permit No. 2017-017.

NOW, THEREFORE, THE PLANNING COMMISSION DOES HEREBY RESOLVE AND DETERMINE AS FOLLOWS:

Section 1. The above recitals are true and correct and are incorporated herein.

Section 2. Pursuant to Title 9, Section 9.50.050 (Basis for Approval or Denial of a Conditional Use Permit) of the Bell Gardens Municipal Code, the Planning Commission finds that the Conditional Use Permit No. 2017-017 to: (1) legalize the operation of an existing legal nonconforming Chevron gas station located at 5703 Gage Avenue; and (2) demolish the existing cashier kiosk located at the Chevron gas station and redevelop the site with a 12-pump (18 fueling-positions that includes Compressed Natural Gas) gas station and a new 2,917 square foot building that will contain the 1,693 square foot Chevron ExtraMile convenience market and an adjoining 1,224 square foot Chronic Taco fast food restaurant. In making such determination, the commission shall find that the proposed use is in general accord with the following principles and standards:

- a. The General Plan Land Use Designation on the Subject Site is Mixed Use (Commercial/Residential), which encourages the establishment of commercial uses in the City. Among those commercial businesses, gas stations, convenience markets and fast food restaurants are permitted uses. These types of businesses, however, are only permitted if a Conditional Use Permit is obtained and complies with the General Plan. The General Plan puts a priority on protecting the safety, health and welfare of the residents of the community. Chevron ExtraMile is a convenience market, which is smaller in size and has a smaller selection of items than a traditional grocery store. Chronic Taco is a fast casual Mexican grill restaurant, which is smaller in size and has a smaller selection of items than a traditional restaurant. To minimize any potential impacts to neighboring properties and ensure that the operation of the convenience market and restaurant conforms to the City's General Plan, Conditions of Approval to address the operation of the gas station, convenience market, and fast food restaurant will be included in Planning Commission Resolution #PC 2017-01. The proposed request, with conditions, is desirable for the development of the community and the tax base, is desirable for the elimination of blight, is in harmony with the various elements or objectives of the General Plan, and it is not detrimental to existing uses or to uses permitted in the zone.
- b. Granting Conditional Use Permit No. 2017-017 to legalize the gas station will not jeopardize, adversely affect or endanger or otherwise constitute a menace to the public health, safety and welfare because the site will be well lit with security lights which will illuminate fuel pump islands, the convenience market, fast food restaurant, and the area designated for on-site parking. In addition the associated conditions contained in Conditional Use Permit No. 2017-017 will act to mitigate impacts associated with the proposed use.
- c. The Subject Site is adequate in size, shape and topography to support the existing retail uses currently occupying the Subject Site. The Subject Site conforms to all applicable development standards such as lot coverage and setback requirements of Chapter 9.12 (Commercial Zones) and parking requirements established in Chapter 9.38 (Parking and Loading) of the Bell Gardens Municipal Code as detailed in Table No. 2. Summary of Section 9.20.080 of the Planning Commission Agenda Report from April 19, 2017.
- d. The Subject Site is adequately served by Eastern Avenue and Gage Avenue. Eastern Avenue is a north-south four-lane divided roadway which forms the western boundary of the Subject Site. Gage Avenue is an east-west four-lane divided roadway, which forms the southern boundary of the Subject Site. Eastern Avenue is designated as major highway and Gage Avenue is designated as a secondary highway in the 1995 General Plan Circulation and Transportation Element. According to the General Plan, a major highway is designed to move large volumes of traffic through the community to freeways, other highways, or secondary highways. As indicated in the staff report, Chevron has operated at this location since the early 1950's. If Conditional Use Permit No. 2017-017 is granted, the Applicant proposes to continue the operation of the gas station as it currently

exists and add the convenience market and restaurant use. Therefore, additional traffic to the area will be minimal pursuant to the Traffic Impact Analysis report and is being requested to enhance the shopping experience of its customers.

- e. The Subject Site is adequately served with water supply of quantity and pressure to meet the regulations of current water and fire codes, which provides adequate water supply and fire protection to serve the existing development. The proposed request is for the legalization of the gas station with new CNG and E85 fuel and addition of an ExtraMile convenience market and Chronic Taco fast food restaurant and thus will not substantially increase development on the Subject Site or create a greater demand for water supply.

Section 3. In accordance with the California Environmental Quality Act (CEQA) Guidelines, Conditional Use Permit No. 2017-017 is categorically exempt pursuant to Section 15332, Class 32: in-fill development of less than five (5) acres surrounded by urban uses. Specifically, the proposed project is (a) consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations because the property is zoned C-M with the General Plan Land Use designation "Mixed Use"; (2) the proposed project occurs within the city limits and the project site is only 27,860 square feet; (3) the project site is located in a fully urbanized area and has no value as habitat or endangered, rare, or threatened species; (4) the approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and (5) the site can be adequately served by all required utilities and public services.

Section 4. The Planning Commission hereby adopts Planning Commission Resolution #PC 2017-01 approving Conditional Use Permit No. 2017-017 to: (1) legalize the operation of an existing legal nonconforming Chevron gas station located at 5703 Gage Avenue; (2) demolish the existing cashier kiosk located at the Chevron gas station and redevelop the site with a 12-pump (18 fueling-positions that includes Compressed Natural Gas) gas station and a new 2,917 square foot building that will contain the 1,693 square foot Chevron ExtraMile convenience market and an adjoining 1,224 square foot Chronic Taco fast food restaurant subject to the following Conditions of Approval:

1. The property shall be improved and maintained in accordance with:
 - a. All applications on file in the Community Development Department and Exhibits A through H included in the staff report dated April 19, 2017.
 - b. All applicable laws, including but not limited to, the Bell Gardens Municipal Code and the Bell Gardens Zoning Code.
 - c. All the Conditions of Approval as set forth in this Planning Commission Resolution for Conditional Use Permit No. 2017-017.
2. All conditions stated herein shall be binding upon the applicants, their successors and assigns; shall run with the land, shall limit and control the issuance and validity of certificates of occupancy; and shall restrict and limit the construction, use and maintenance of all land and structures within the development as depicted within the site plan layout.

3. Conditional Use Permit No. 2017-017 and all rights hereunder shall terminate within one (1) year of the effective date of this Resolution unless operations are commenced or a written time extension is granted by the Planning Commission. The effective date of this resolution shall be the date on which this Resolution was approved by the Planning Commission. A written request to extend the time to comply with the Conditions of Approval stated in these entitlements must be submitted to the Bell Gardens Community Development Department prior to the expiration of the one (1) year period as provided in Section 9.50.160 of the Bell Gardens Municipal Code.
4. The abandonment or non-implementation of the conditions stated in these entitlements for a period of one (1) year from the effective date of this Resolution shall terminate the Permits, and any privileges granted thereunder shall become null and void.
5. In the event of transfer of ownership of the property involved in this application, the new owner shall be fully informed of this use and development of the property and that the new owner is required to abide by the conditions set forth by these entitlements together with all conditions which are stated herein.
6. Violation of any of the Conditions of Approval of Conditional Use Permit No. 2017-017 shall be cause for revocation and termination of all rights hereunder.
7. The Director of Community Development or his/her designee is authorized to make minor modifications to the approved plans or any of the conditions if such modifications shall achieve substantially the same result, as would strict compliance with said plans and conditions.
8. Graffiti on buildings, walls, associated equipment and other private properties shall be removed within 48 hours of its discovery. If painting is required, the paint shall be identical to the existing color.
9. The property shall be developed and maintained in a neat, quiet, and orderly condition and operated in a manner so as not to be detrimental to adjacent properties, surrounding land uses and occupants.
10. Any existing public telephones currently existing on the Subject Site shall be removed. No outside public telephones shall be installed on the Subject Site.

Business Operations

11. Prior to final inspection by the City, the Applicant shall submit to the Community Development Department a Business License Zoning Compliance Request applications for each of the businesses that will operate at the Subject Site.
12. Chevron ExtraMile, which consists of the gas station and the convenience market shall be allowed to operate 24 hours a day, seven days a week.
13. The hours of operation for the Chronic Taco fast food restaurant shall be as follows: Monday – Sunday: 6:00 a.m. to 11:00 p.m.

14. The sale of any alcoholic beverages for consumption off and/or on the premises is prohibited.
15. There shall be no Pay-Per-View events, live music, live entertainment or dancing permitted on the Subject Site at any time. Pre-recorded or streaming music shall comply with the Chapter 16.24 of the Bell Gardens Municipal Code entitled "Noise Regulation" and amendments thereto. There shall be no music in the exterior of the building.
16. The serving and consumption of food shall not be permitted in the exterior area of the building at any time. The serving and consumption of food shall be limited to the interior restaurant dining area only.
17. The Applicant shall be responsible for posting and maintaining signs prohibiting loitering on or around the premise to the satisfaction of the Bell Gardens Police Department.

Lot Merger

18. Prior to submitting for Building and Safety plan check, the Applicant shall submit a Lot Merger application.
19. Prior to the final inspection by the City, the applicant shall record or cause to be recorded a Merger of Parcels for [APN 6330-014-043] and [APN 6330-014-020] with the Los Angeles County Recorder Office. Furthermore, the applicant shall submit a copy of the recorded document to the Community Development Department.

Construction Measures

20. Hours and days of construction and grading shall be as follows: Monday through Saturday, not before 8:00 A.M. and not after 7:00 P.M. of the same day. No construction or grading shall take place on Sundays and City observed holidays.
21. All building foundation excavation and compaction shall be restricted to the hours of 8:00 A.M. to 5:00 P.M. Monday through Friday.
22. During all Project site excavation and grading on-site, construction contractors shall equip all construction equipment, fixed or mobile, with properly operating and maintained mufflers, consistent with manufacturers' standards. The construction contractor shall place all stationary construction equipment so that emitted noise is directed away from the noise sensitive receptors nearest the Project site.
23. The Applicant shall mandate that the construction contractor prohibit the use of personal or commercial music or sound amplification on the Project site during construction.

24. Project construction shall adhere to the permitted construction hours set forth in Section 9.02.030 of the City of Bell Garden's Municipal Code to minimize potential impacts to adjacent sensitive receptors.
25. The construction contractor shall limit haul truck deliveries to the same hours specified for construction equipment. To the extent feasible, haul routes shall not pass sensitive land uses or residential dwellings and should avoid using alleyways adjacent to said uses.
26. The construction contractor shall locate equipment staging in areas that will create the greatest distance between construction-related noise sources and noise sensitive receptors nearest the Project site during all Project construction.

Building / Site Improvements

27. The proposed site improvements on the Subject Site shall be subject to review and approval by the Community Development Department. All proposed improvements shall be completed in accordance with the provisions of the California Building Code as amended by Title 26 of the Los Angeles County Building Code. All required permits from the Building & Safety Division shall be secured prior to commencing the construction of the Project.
28. The Applicant shall comply with all Americans with Disabilities Act (ADA) requirements as part of the Building & Safety plan check process.
29. Prior to the issuance of a building permit, the Applicant shall be responsible for submitting revised plans to the Community Development Department for approval and Building & Safety Plan Check. The Applicant shall be responsible for obtaining permits for all work proposed on the Subject Site.
30. The construction of all structures located on the Subject Site shall conform to the City's Building Code requirements and all required permits from the Building & Safety Division shall be secured prior to commencing construction of the Project.
31. Vehicles associated with the construction of the proposed project shall not be permitted to park off of the Project site.
32. The temporary storage of building materials related to the construction shall be contained within the Project site at all times and shall be properly secured and screened during all stages of construction.
33. Prior to commencing construction, the Applicant shall install a six (6) foot high screened chain link fence and gates around the construction site. Said fence shall be maintained on the Subject Site during all phases of the project and all access gates shall be closed and locked after construction hours.
34. Prior to commencing the construction of the project, the Applicant shall submit a site plan indicating on-site vehicular, emergency vehicle and pedestrian traffic circulation during all stages of construction to the Community Development Department for review and approval.

35. The Applicant shall submit a grading and drainage plan to the Community Development Department for review and approval prior to the commencement of construction.
36. The contractors and subcontractors engaged in the construction activities of the Project shall obtain a business license with the City of Bell Gardens.
37. The Applicant shall obtain all necessary permits and licenses from all applicable State, City and County agencies for the proposed improvements on the property.
38. Any required ADA truncated domes shall be composed of stamped concrete and shall be of a dark gray contrasting color. The Applicant shall submit plans for the final concrete color selection to the Community Development Department for approval.
39. Prior to the issuance of a building final inspection by the City, the Applicant shall complete all required site improvements indicated on the approved plans.
40. Applicant shall replace ground cover in disturbed areas and stabilize soils once earth-moving activities are completed and apply soil stabilizers to inactive areas.
41. Applicant shall ensure that the haul road be watered twice daily to minimize dust. Pre-apply water to the depth of proposed cuts and re-apply water as necessary to maintain soil in a damp condition to ensure that visible emissions do not exceed one hundred (100) feet in any direction.
42. The following construction practices shall be implemented by all Project contractors to reduce construction noise levels:
 - a. Ensure that construction equipment is properly muffled according to industry standards. All power construction equipment shall utilize noise shielding and muffling devices.
 - b. Locate the construction staging area and noise-generating equipment away from adjacent residents as much as feasible.
 - c. Schedule high noise-production activities between the hours of 8:00 AM and 6:00 PM Monday through Saturday to minimize disruption to adjacent residents, except for building foundation excavation and compaction, which shall be restricted to the hours of 8:00 A.M. to 5:00 P.M. Monday through Friday.
43. The Applicant shall comply with all requirements of the County Sanitation District of Los Angeles County and shall obtain all required permits and approvals prior to commencing construction of the Project.
44. The entire canopy to remain on the Subject Site shall be repaired and repainted in accordance with the sample board submitted by the Applicant to the Community Development Department.

45. The Applicant shall install security cameras throughout the Subject Site. The security cameras for the Chevron gas station shall operate 24-hours a day, seven days a week.
46. All onsite cable television service connections to the Project shall be installed underground. All cable and connectors shall be screened completely from view and within the building served. Visible cabinets and boxes shall be treated to match the materials and colors of the buildings. The Applicant is responsible for contacting the cable company and arranging cable installation at the appropriate stage of construction. Type and location of cable installation is subject to approval of the Community Development Department and the construction coordinator of the cable television company servicing the area.
47. All onsite electrical service connections to the Project shall be installed underground. All surface or ground mounted mechanical equipment including terminal boxes, pull boxes and electric meter cabinets shall be screened from public view and treated to match the materials and colors of the adjacent building. The Applicant is responsible for contacting Southern California Edison and arranging electrical service at the appropriate stage of construction. Installation is subject to approval by the Community Development Department and the customer service planner at Southern California Edison Company.
48. All onsite gas service connections to the Project shall be installed underground. All surface or ground mounted gas meters and mechanical equipment shall be screened from public view and treated to match the materials and colors of the adjacent building. The installation is subject to approval by the Community Development Department and Southern California Gas Company.

Parking Lot / Site Maintenance

49. The Applicant shall remove and reconstruct the existing concrete areas located on the Subject Site with new concrete. All designated parking spaces shall be striped in accordance with City Standards and the Site Plan layout approved by the Planning Commission.
50. All required parking spaces, maneuvering areas and any driveways used for access thereto shall be paved with concrete surfacing to a minimum thickness of 3-1/2 inches and shall include expansion or contraction joints as necessary.
51. Concrete wheel stops shall be installed at the front of each designated parking space in accordance with adopted City standards.
52. The Applicant shall ensure that on-site traffic signing and striping shall be implemented in conjunction with detailed construction plans for the Project. A separate set of signage plans need to be reviewed and approved by the Community Development Department and the Public Works Department.
53. Directional signs shall be installed at the driveway entrances off Eastern Avenue and Gage Avenue that show egress shall be restricted to a right-turn only. Additionally, the proposed directional signage shall also be placed by the public

alley and shall restrict large trucks from heading eastbound on the alley into the residential area.

54. The Owner shall ensure that delivery vehicles and gasoline delivery trucks shall not block drive aisles at any time.
55. Parking lot and walkway areas located on the subject site shall be pressure washed quarterly and maintained clear of trash, debris and outside storage at all times.
56. Prior to the issuance of a Building Permit for construction of the project, the Applicant shall submit, for review and approval to the Community Development Department, a lighting plan for all exterior areas of the site. New light standards, light fixtures, and building security lights shall be shielded to prevent any light and glare impacts on nearby properties. Furthermore, the applicant shall submit manufacturer's brochure for all light fixtures. The final selection of all light fixtures shall be subject to review and approval by the Community Development Department.
57. The installation of flags and pennants at the Subject Site shall be prohibited at all times.
58. There shall be no outdoor events/sidewalk sales permitted at any time, unless approved by the Community Development Department through a Special Event Permit and in accordance with Section 9.42.030 of the Bell Gardens Municipal Code.
59. The location of water dispensing machines, ice freezers and propane rental tanks located outside the proposed building shall not obstruct any pedestrian walkways at anytime. The applicant shall identify on the site plan to be submitted for Building and Safety Plan Check the location of the equipment for review and approval by the Community Development Department.
60. The repair or maintenance of any vehicles in the parking lot, including but not limited to oil change, shall be strictly prohibited. Signs shall be posted throughout the parking area stating that the aforementioned is prohibited.
61. The adding of fluids of any kind (oil, brake, transmission, etc.) in the parking lot area is strictly prohibited. No device shall be loaned by Chevron and/or ExtraMile and/or Chronic Taco fast food restaurant or any employee to assist in this effort.
62. Trash receptacles shall be placed conveniently throughout the Subject Site. The final location and design of the trash receptacles shall be subject to review and approval of the Community Development Department. The Applicant shall ensure that all trash receptacles are emptied at the end of each business day.
63. The Project site shall be cleared of all construction debris prior to the issuance of a building final by the Community Development Department.

64. The property, including all buildings, parking lot areas, landscaped areas and all on-site and perimeter walls and fences, shall be maintained in a clean and well-kept condition at all times.
65. The Applicant shall submit plans for review and approval of the CNG equipment and trash enclosure. The CNG equipment and trash enclosure shall be provided with a stucco finish to match the color and texture of the building. Solid metal gates on the CNG and trash enclosure structures shall be provided with self-closing and self-latching devices. The top of the trash enclosure structure shall be protected with a metal trellis and painted the same color as the building. The minimum dimension of the trash enclosure shall be 6' x 8'. Minimum of 4 inches of concrete with a six (6) inch concrete curb shall surround the walls of the structure to prevent dumpster from damaging walls.

Fence/Walls

66. The Applicant shall have the option to either: 1) modify the existing building wall to 8'-0" high with stucco finish on both sides so long as it complies with the California Uniform Building Code and the Bell Gardens Municipal Code; or 2) construct a new 8'-0" high double sided split face block wall. If Option 1 is used, the existing block walls to the north and the south of the building shall be replaced with a new 8'-0" high solid grouted masonry wall with stucco finish on both sides, except for the front yard setback which shall be 42 inches maximum high. The Applicant shall insure that the stucco finish on the existing modified building wall and the new masonry wall shall be blended without any visible joints, cracks, or seams. If Option 2 is used, all of the existing walls shall be replaced with a new 8'-0" high double sided split face solid grouted masonry wall and provided with a concrete cap at the top of the wall, except for the front yard setback which shall be 42 inches maximum high. With either option, the 8'-0" high wall shall be a solid grouted masonry wall. Prior to the issuance of any building permits for the construction of the proposed project, the Applicant shall prepare and submit to the Community Development Department three (3) sets of plans for the construction of all block walls for review and approval by the Community Development Department. The Applicant shall work closely with staff in order to determine the exact design, height and location of the new block walls to be constructed on the Subject Site. The color of the concrete block and cap shall match and shall complement the color proposed on the new building. The block wall shall be constructed in accordance to the Bell Gardens Municipal Code. The height of all new walls shall be measured from the highest finished grade level on either side of the property line.
67. The Applicant shall work closely with the Community Development Department staff to address any finished grade differences between the Subject Site and the public right-of-way in order to determine the final height of all fences.

Landscaping

68. Prior to the issuance of any building permits for the construction of the proposed Project, the Applicant shall submit four (4) sets of landscaping and irrigation plans prepared by a licensed landscape architect. A permanent automatic landscaping

irrigation system shall be installed for all landscaped areas. Details of the proposed irrigation system shall be included as part of the plans. The plans shall be subject to review and approval by the Community Development Department.

69. The applicant shall be responsible for the payment of all landscaping and irrigation plan check fees. Payment of said fees shall be made to the City at the time of plan submittal to the Community Development Department.
70. The Applicant shall work closely with staff in the Community Development Department to determine the type, size number and location of all required planting material.
71. All planters and landscaped areas, unless otherwise specified on the plans, shall be protected with a six (6) inch high concrete curb.
72. All designated planter areas shall be fully landscaped prior to the issuance of a building final.
73. Landscaping shrubs shall be installed around any proposed electrical transformers, plumbing and mechanical equipment, to the extent possible, proposed at the Subject Site to provide adequate screening of the equipment from public view. The color applied to any electrical transformer, plumbing and mechanical equipment shall blend in to the landscaping.

Public Works Department

74. Prior to the issuance of a grading permit, the Applicant shall prepare a Standard Urban Storm water Mitigation Plan (SUSMP) specifically identifying the Best Management Practices (BMP's) and Low impact Development (LID) that will be used on site to control predictable pollutant runoff. The plan shall identify the types of structural and non-structural measures to be used and also comply with the City of Bell Gardens Ordinance No. 853. Particular attention should be addressed to the appendix section "Best Management Practices and LID for Redevelopment." The SUSMP shall clearly show the locations of LID, structural BMP's, and assignment of long term maintenance responsibilities (which shall also be included in the Maintenance Agreement). The plan shall be prepared to the general form and content shown in the Los Angeles County SUSMP template and shall be submitted to the City Engineer for review and approval.
75. Prior to the issuance of a certificate of occupancy, the developer shall demonstrate that all structural Best Management Practices (SUSMP) and Low Impact Development (LID) described in the project's SUSMP and LID have been constructed and installed. In addition, the developer is prepared to implement all non-structural BMP's described in the project's SUSMP. Two (2) copies of the SUSMP shall be available on-site. Prior to the issuance of a certificate of occupancy, all equipment shall be in place and in good working order as indicated in the SUSMP.

76. The objectives of the Standard Redevelopment/Development Project LID requirements are to detain and filter runoff using natural features. Storm water retention for storm water reuse represents a potential added benefit of LID facilities, but is not specifically required as part of Standard Redevelopment/Development Project LID requirements. The applicability of Standard LID and BMP requirements varies depending on project characteristics such as Redevelopment/Development type, site location, or other land use issues. Certain landscaping features may be incorporated into LID requirement for detached commercial/Industrial project. Additional information regarding LID design approaches can be found in the LA Countywide Model SUSMP and the City's LID Design Manual (see Suggested Resources in the City, Public Works Website).
77. Applicant shall improve the existing damaged concrete sidewalk and install defectable warning surface material at existing ramp at northeast corner of Gage Avenue and Eastern Avenue subject to the approval of the Public Works Department.
78. The Applicant shall submit a public improvement plan indicating all required improvements to the public right-of-way. All improvements shall be subject to review and approval by the City's Public Works Department.
79. The Applicant shall be responsible for the cost of modifying the driveway approach off Gage Avenue and Eastern Avenue, including full height curb, gutter, sidewalk and pavements, as shown on the architectural plans in accordance with City standards to the satisfaction of the Public Works Department.
80. The Applicant shall be responsible for the cost of replacing any sidewalks, curbs and pavements that may be damaged during the construction of the Project in accordance with City standards to the satisfaction of the Public Works Department.
81. The Applicant shall be responsible for the cost of replacement and/or installation of any new street trees. Replacement and/or installation of street trees shall be completed in accordance with City standards and to the satisfaction of the Public Works Department.
82. The Applicant shall obtain all required permits from the Public Works Department including, but not limited to, permits for the construction and/or removal of improvements prior to commencing of any work on the public right-of-way.
83. All required on-site and off-site improvements shall be completed by the Applicant prior to the issuance of a building final and a Certificate of Occupancy by the City.
84. Prior to the removal of the existing fuel tanks and lube rack area, a report shall be submitted for review and approval to the Public Works Department on the underground tanks to be changed out, installed new, and/or upgraded. All existing underground tanks to remain on the Subject Site shall be tested accordingly for its continued use. Tanks that do not meet requirements for continued usage should be replaced. The locations of any new tanks to be designed and a Soils Report therefore submitted.

85. A Soils Report shall be submitted for the construction of the new two-story convenience market and restaurant building.

LA County Fire Department

86. The Applicant shall submit, for review and approval, two sets of architectural plans to the Fire Prevention Engineering offices located at 5823 Rickenbacker Road, Commerce, CA 90040. Architectural Plans shall include but not limited to a site plan, floor plan, elevations, door and window schedules and appropriate section details.
87. Prior to the issuance of a building permit, the Applicant shall conduct a fire flow test to determine if the existing water line serving the project has adequate capacity for both potable water and fire flow and submit the results to the City of Bell Gardens.
88. The Applicant shall obtain all required Fire Department approvals and permits prior to commencing the construction of the proposed project on the Subject Site.
89. The Applicant shall ensure that fire protection facilities, including access, are adequately provided prior to the start of construction, as well as during all phases of construction.
90. The Applicant shall comply with all required conditions of approval established by the Fire Department. Additionally, the Applicant shall obtain all required Fire Department approvals and permits prior to commencing the construction of the proposed improvements on the Subject Site.

Architecture

91. Texture, materials, and colors to be used on the proposed Project (including fences and walls) shall be subject to the review and approval by the Director of Community Development or his/her designee.
92. The Applicant shall work closely with the Community Development Department staff to determine the final architectural design of the proposed buildings. The final selection of all colors and materials shall be subject to review and approval by the Community Development Department. Furthermore, the Applicant shall work closely with the Community Development Department staff to determine the final exterior treatment on the proposed building elevations in order to guarantee that the exterior treatment selected will match the proposed changes to the Chevron gas station.
93. All new roof mounted mechanical equipment, including but not limited to air compressor units and kitchen hoods, shall be placed a minimum of six inches below the lowest parapet wall of the convenience market and restaurant building.

Signs

94. Prior to the issuance of any building permits for the construction of the proposed project, the Applicant shall submit three (3) separate signs plans to the Community Development Department for review and approval. The installation of signs on the

Property shall be in accordance with the provisions in Chapter 9.40 "Signs" of the Bell Gardens Municipal Code.

95. Temporary signs, such as banners, pennants and flags shall be prohibited, except for any traffic/safety signs specific to construction activity.
96. The Applicant shall ensure that the CNG and E85 dispensers are clearly marked with appropriate signage that will be reviewed and approved as part of the overall signage scheme for the Subject Site.

Miscellaneous

97. The Applicant shall defend, indemnify, and hold harmless the City, its elected and appointed officials, agents, officers, and employees from any claim, action, or proceeding (collectively referred to as "Proceedings") brought against the City, its elected and appointed officials, agents, officers, or employees arising out of, or which are related to the applicant's project or application. The indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and cost of suit, attorney's fees, and other costs, liabilities, and expenses incurred in connection with the Proceedings whether incurred by the applicant, the City and/or the parties initiating or bringing such Proceedings. This indemnity provision shall include the Applicant's obligation to indemnify the City for all the City's costs, fees, and damages that the City incurs in enforcing the indemnification provisions set forth herein. The City shall have the right to choose its own legal counsel to represent the City's interest in the Proceedings.
98. The Applicant shall sign, notarize, and return to the Community Development Department an affidavit accepting all Conditions of Approval on Conditional Use Permit No. 2017-017 within 15 days from the date of approval of the Planning Commission Resolution #PC 2017-01. The Applicant acknowledges and understands that all conditions set forth in this Resolution are conditions precedent to the Commission's grant of approval and failure to comply with any condition contained herein shall render this Conditional Use Permit non-binding as against the City and shall confer the Applicant no legal rights under the law.

PASSED, APPROVED AND ADOPTED this 19th day of April 2017.



TONY RIVERA, VICE-CHAIRMAN

APPROVED AS TO FORM:

ALVAREZ-GLASMAN & COLVIN



JOHN W. LAM, ASSISTANT CITY ATTORNEY

ATTEST:



ERIKA GUTIERREZ, PLANNING SECRETARY

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EXHIBIT D

Request for Extension



Hailes H. Soto
Associate Planner-City of Bell Gardens
Community Development Department
7100 Garfield Ave
Bell Gardens, CA 90201.

Matthew Webb
Operations Manager
Webb's Auto & Truck Services Inc.
5703 E Gage Ave
Bell Gardens, CA 90201.

RE: Conditional Use Permit (CUP) 12 month extension request/minor modification

Dear Mr. Soto,

Thank you for all your help in regard to working with us on this extension request. This letter shall serve as our formal request from the city to grant us a 12 month extension and minor modifications on CUP #2017-017. We seek to start construction in the year 2018 and have met several unforeseen events that require us to ask permission for this request. Shortly after the aforementioned CUP was adopted by the city our lead architect, Michael Burke, skipped out on the project and did not complete the scope of work he was hired to do. We then hired Karnak Developments Inc and their observation of the current site plan unveiled some discrepancies in the design of the site map. Namely the positioning of the existing gasoline canopy. Unbeknownst to us, the canopy was moved approximately 10ft from its current spot and that change was not feasible for us to do. In addition, in the originally proposed site map we wanted to incorporate a sublease -VNG corporation-to add compressed natural gas to the site. Unfortunately they were unable to obtain enough funding to proceed with the project. With these developments we sought to use the unused space of the natural gas equipment enclosure that was originally proposed and put our parking in that location vs in front of the store. This enables us to leave the proposed building in the same location and not have to move the canopy as that was the original intent we envisioned in the first place. We feel that these changes are actually an overall improvement to our original proposal. The curbs will not be altered, and lastly vehicles can maneuver around the gas island far better with the current layout. Once again thank you for understanding our situation up to this point and we look forward to improving this property for the better in the near future.

Warm Regards,



Matthew Webb

EXHIBIT E

Vicinity Map

VICINITY MAP

Twelve Month Extension and Modification of Conditional Use Permit No. 2017-017 Chevron Gas Station 5703 Gage Avenue (File No. 2017-017)

Subject Site

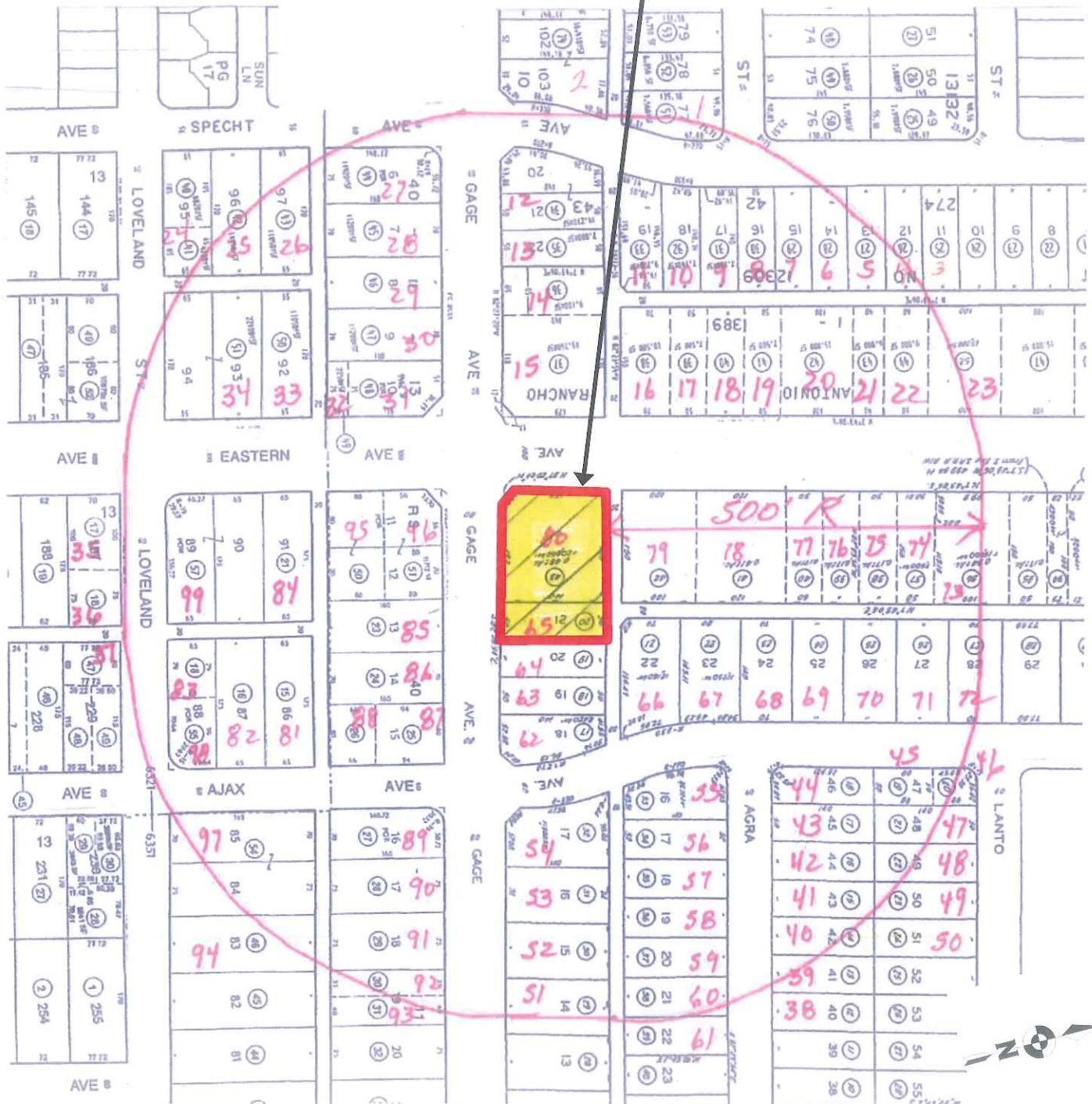
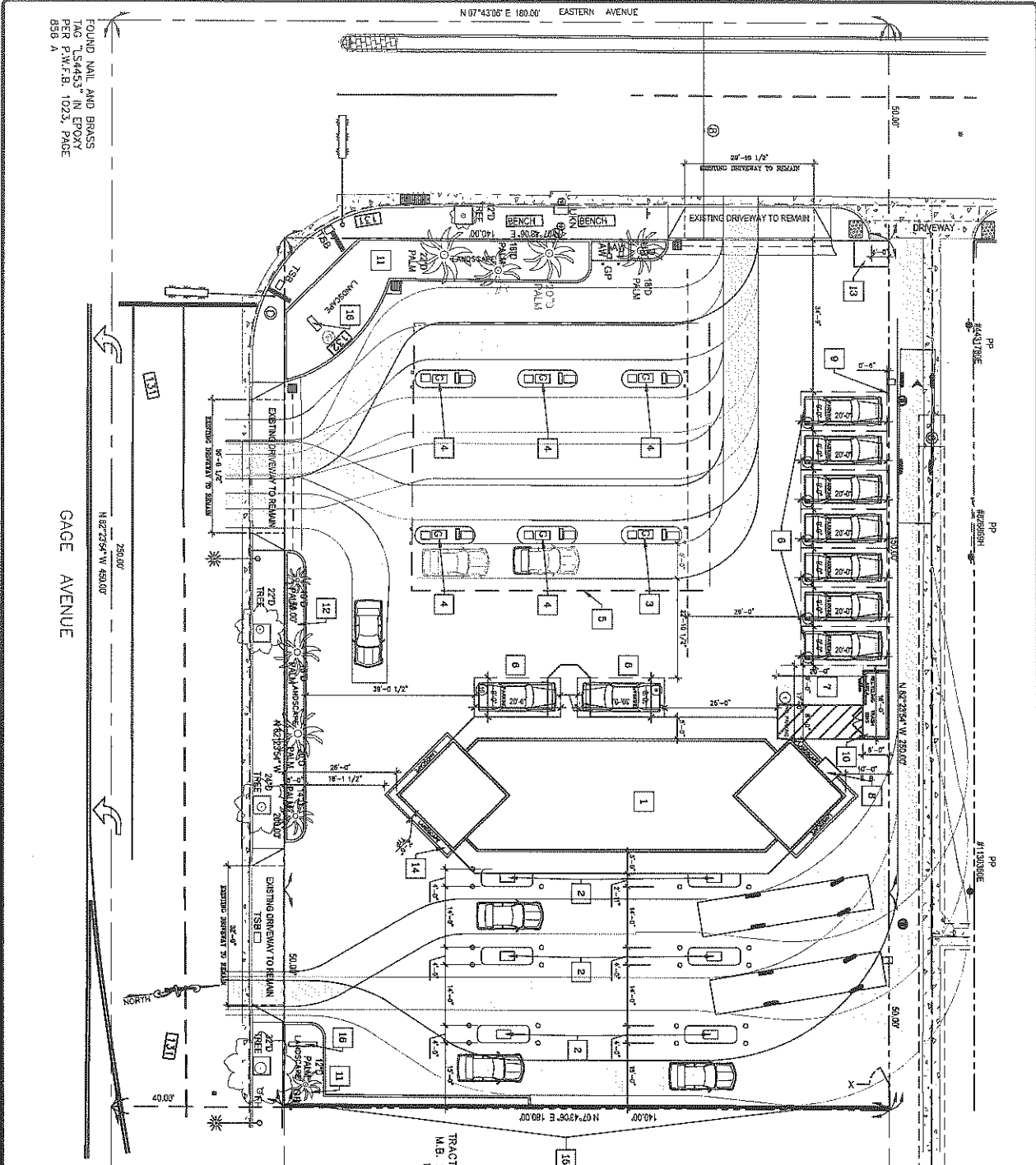


EXHIBIT F

Revised Site Plan



FOUND NAIL AND BRASS
TAG "S4453" IN EPOXY
PER P.W.F.B. 1023, PAGE
856 A

- 17 SITE PLAN NOTES**
1. SEE EXISTING AND REMAINING
 2. NEW RAMP SIGNAGE AREA
 3. NEW RAMP SIGNAGE SIGN
 4. EXISTING SIGNAGE AS IS TO REMAIN
 5. EXISTING DRIVEWAY TO REMAIN
 6. SIGNAGE ALONG DRIVE
 7. ADD WALKING SIGNAGE WITH CONC. INTER. STONE
 8. SIGNAGE CONC. PANEL, 3'x3'
 9. NEW 8" x 4" x 2" H. BALUSTRADES WITH CHAIN B'D C
 10. TRUCK EXHAUSTER AND SIGNAGE
 11. EXISTING PLANTING TO REMAIN
 12. EXISTING PLANTING TO BE REMOVED
 13. NEW PLANTING / LANDSCAPE
 14. EXISTING CAR BUSHINGS SHALL TO BE CUT DOWN TO BE 4000" TO 4" 1988 BLACK W/ 2" 1988 REDUCED FROM HOME
 15. THE BLACK WALL TO STAY DOWN TO 42" SIGN W/ 4" CONC. MET. SIGNAGE TRUCKY, CLEANER VANS TO REMOVE SIGNAGE ATTENTION
 16. SIGNAGE APPROVAL AND PERMITS REQUIRED.
- * SEE SCALE BY OWNER

DESIGNER	DATE
ENGINEER	M.E.
DATE	07/09/2018
SCALE	AS SHOWN
JOB NO.	18030001
DRAWING NO.	S-01

REVISION	DATE

TITLE
PROPOSED SITE PLAN

OWNER:
VIZAB ENERGY HOLDINGS LLC
6597 EASTERN AVE.
BELL GARDENS, CA 90201

PROJECT:
CHEVRON EXTRA MILE CHRONIC TACO
5703 E. GAGE AVE.
BELL GARDENS, CA 90201

DATE: 04/18/2018
DRAWN BY: [Signature]
CHECKED BY: [Signature]
SCALE: AS SHOWN
JOB NO.: 18030001
DRAWING NO.: S-01

NOTES:
1. THIS SITE PLAN IS TO BE USED TO OBTAIN PERMITS AND APPROVALS FROM THE CITY OF BELL GARDENS AND THE CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS (DIR).
2. THE OWNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS.
3. THE CITY OF BELL GARDENS SHALL BE RESPONSIBLE FOR THE REVIEW AND APPROVAL OF THIS SITE PLAN.
4. THE DIR SHALL BE RESPONSIBLE FOR THE REVIEW AND APPROVAL OF THIS SITE PLAN.
5. THE OWNER SHALL BE RESPONSIBLE FOR THE COST OF ALL PERMITS AND APPROVALS.
6. THE OWNER SHALL BE RESPONSIBLE FOR THE COST OF ALL CONSULTING FEES.
7. THE OWNER SHALL BE RESPONSIBLE FOR THE COST OF ALL LANDSCAPING AND SIGNAGE.
8. THE OWNER SHALL BE RESPONSIBLE FOR THE COST OF ALL TRUCK EXHAUSTERS AND SIGNAGE.
9. THE OWNER SHALL BE RESPONSIBLE FOR THE COST OF ALL CAR BUSHINGS AND SIGNAGE.
10. THE OWNER SHALL BE RESPONSIBLE FOR THE COST OF ALL PLANTING AND LANDSCAPING.
11. THE OWNER SHALL BE RESPONSIBLE FOR THE COST OF ALL SIGNAGE APPROVALS AND PERMITS.
12. THE OWNER SHALL BE RESPONSIBLE FOR THE COST OF ALL SIGNAGE TRUCKY, CLEANER VANS TO REMOVE SIGNAGE ATTENTION.
13. THE OWNER SHALL BE RESPONSIBLE FOR THE COST OF ALL SIGNAGE APPROVALS AND PERMITS.
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EXHIBIT G

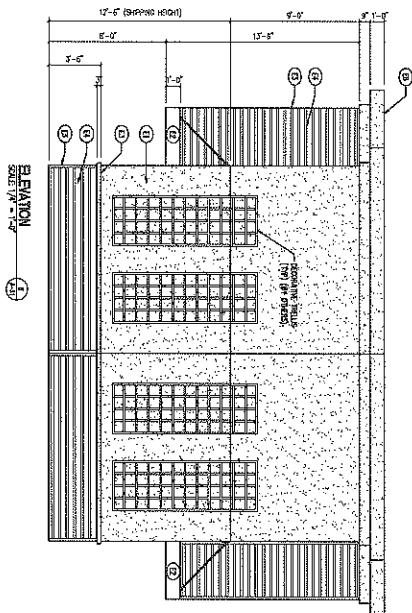
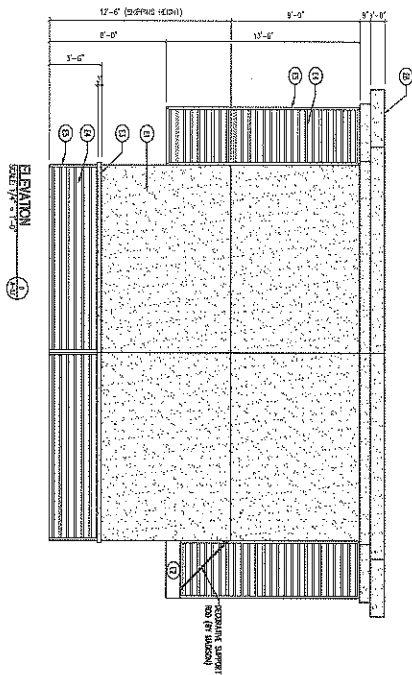
Topographic Survey

EXHIBIT H

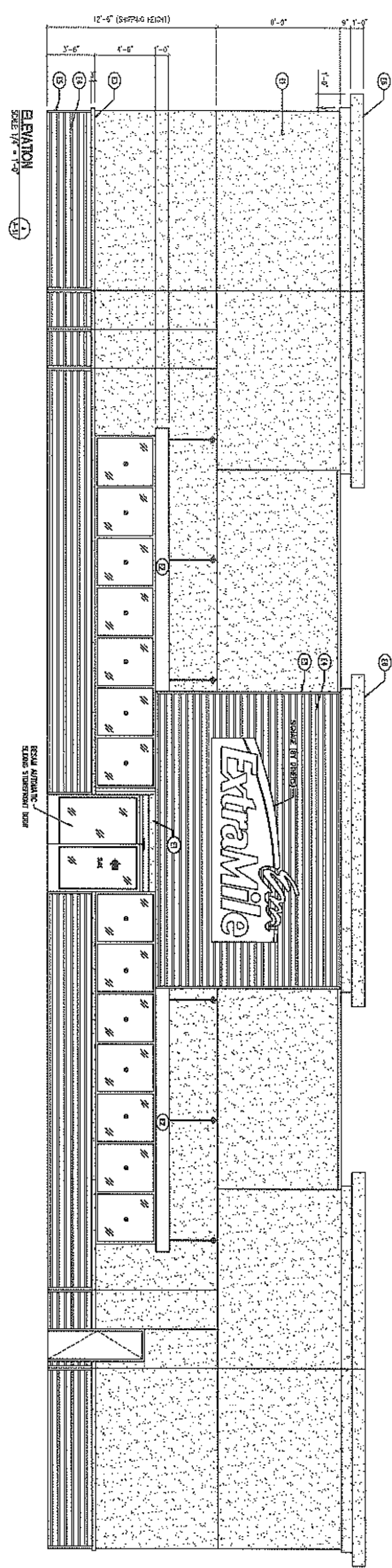
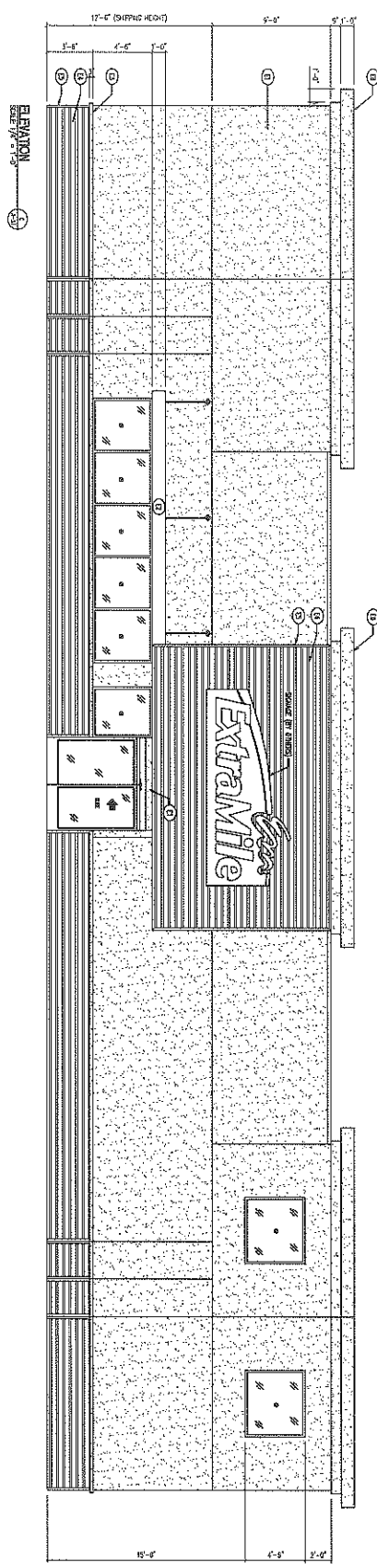
Floor Plan

EXHIBIT I

Elevations



- SAFETY GLAZING**
- * SHOWN UNLESS OTHERWISE NOTED
- 11 - SHOWN UNLESS OTHERWISE NOTED
 - 12 - SHOWN UNLESS OTHERWISE NOTED
 - 13 - SHOWN UNLESS OTHERWISE NOTED
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- EXTRAMILE CHRONIC TACO SIGNAGE**
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 - 13 - SHOWN UNLESS OTHERWISE NOTED
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<p>MADISON INDUSTRIES MADISONIND.COM</p> <p><small>CORPORATE OFFICE: 1000 Madison Lane, Suite 300, Brea, CA 92603, 714.990.4000</small> CALIFORNIA: 4750 E. 14th Street, Suite 100, Brea, CA 92603, 714.990.4000 OREGON: 6024 NE Oregon Street, Suite 100, Portland, OR 97213, 503.251.0000</p>	<p>PROJECT: CHEVRON EXTRA MILE/CHRONIC TACO</p> <p>EXTERIOR ELEVATIONS</p> <p>LOCATION: 8703 E. GAGE AVENUE, BELL, CA 90201</p>	<table border="1"> <thead> <tr> <th>REV.</th> <th>DATE</th> <th>DESCRIPTION</th> <th>BY</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	REV.	DATE	DESCRIPTION	BY												
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<p>PROJECT: EXTERIOR ELEVATIONS</p> <p>DATE: 11-29-2007</p> <p>SCALE: 1/8" = 1'-0"</p> <p>PROJECT NO: A-41</p> <p>DRAWN BY: WCA/SMB-1</p>	<p>PROJECT: EXTERIOR ELEVATIONS</p> <p>DATE: 11-29-2007</p> <p>SCALE: 1/8" = 1'-0"</p> <p>PROJECT NO: A-41</p> <p>DRAWN BY: WCA/SMB-1</p>	<p>PROJECT: EXTERIOR ELEVATIONS</p> <p>DATE: 11-29-2007</p> <p>SCALE: 1/8" = 1'-0"</p> <p>PROJECT NO: A-41</p> <p>DRAWN BY: WCA/SMB-1</p>																

EXHIBIT J

Public Hearing Notice

POSTED
6/7/18
EG.

**CITY OF BELL GARDENS
NOTICE OF PUBLIC HEARING
TWELVE MONTH EXTENSION AND MODIFICATION OF
CONDITIONAL USE PERMIT NO. 2017-017
(File No. 2017-017)**

Notice is hereby given that the Planning Commission of the City of Bell Gardens will hold a public hearing to consider a 12 month time extension for Conditional Use Permit No. 2017-017 and approve modifications to Conditional Use Permit No. 2017-017 to include: a) modification of the Site Plan Review to legalize an existing gas station and permit the development of a new 12-pump gas station (18 fueling-positions), to include Ethanol fuel blend (E85), and a new 2,917 square foot building to contain a 1,693 square foot Chevron ExtraMile convenience market and an adjoining 1,224 square foot Chronic Taco fast food restaurant at 5703 Gage Avenue, Bell Gardens; and b) modification to conditions of approval.

The subject site is located on the northeast corner of Gage Avenue and Eastern Avenue (APN No. 6330-014-043 and 6330-014-020). The site is presently developed with an ancillary 120 square foot cashier kiosk, a canopy with nine pumps (15 fueling positions) and a Pronto Lube quick lubrication vehicle shop. The Pronto Lube will be removed to accommodate the project which also includes a modified vehicular circulation, landscaping, and additional parking. The improvements will coincide with an upgrade to the underground fuel tanks. The subject property is presently zoned C-M (Commercial/ Manufacturing) with a General Plan Land Use designation of "Mixed Use" (Commercial/ Residential).

In accordance with the California Environmental Quality Act (CEQA) Guidelines, Conditional Use Permit No. 2017-017 is categorically exempt pursuant to Section 15332, Class 32: in-fill development of less than five (5) acres surrounded by urban uses surrounded by urban uses.

The public hearing will be held before the Planning Commission of the City of Bell Gardens, in Council Chambers at City Hall, 7100 Garfield Avenue, Bell Gardens, CA 90201, on Wednesday, June 20, 2018 at 6:00 P.M., at which time proponents and opponents of the proposed 12 month time extension for Conditional Use Permit No. 2017-017 and modifications to Conditional Use Permit No. 2017-017 will be heard. Questions may be directed to the Community Development Department at (562) 806-7700, extension 7722.

Per Government Code Section 65009, if you challenge this 12 month extension for the Conditional Use Permit with modifications in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Commission prior to the public hearing.

THE PLANNING COMMISSION

Tony Rivera, Chairperson

Posted: **June 7, 2018**
Bell Gardens City Hall
Bell Gardens John Anson Ford Park
Bell Gardens Veterans Park – Ross Hall Auditorium
Bell Gardens Department of Public Works



**CITY OF BELL GARDENS
COMMUNITY DEVELOPMENT DEPARTMENT**

AGENDA REPORT

TO: Planning Commissioners

FROM: Abel Avalos, Director of Community Development 

SUBJECT: Zoning Code Amendment No. 2018-047 - Ordinance No. 890
(File No. 2018-047) – Marijuana Related Uses and Activities

DATE: June 20, 2018

RECOMMENDATION:

It is recommended that the Planning Commission adopt Resolution #PC 2018-02 recommending the following action to the City Council:

1. Approval of Zoning Code Amendment No. 2018-047 adopting Ordinance No. 890 amending the Bell Gardens Municipal Code Section 9.21.010 prohibiting all outdoor cultivation and all commercial marijuana related uses and activities in all land use zones and overlay districts.

BACKGROUND:

On November 8, 2016, the voters of the State of California passed Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA”) decriminalizing possession and use of marijuana under California law and regulating the cultivation, processing, manufacture, distribution, testing and sale of nonmedical marijuana, including marijuana products, for use by adults 21 years of age or older.

AUMA expressly preserves local control over the regulation of marijuana-related businesses and marijuana-related land uses, including the authority to completely prohibit any marijuana business licensed under Division 10 within its jurisdiction. AUMA also allows individuals to cultivate, plant, harvest, process or possess not more than six (6) plants for their personal use. Cities are allowed to regulate these personal use plants, but they cannot impose a complete prohibition.

In 2017, City staff presented two (2) study sessions to the City Council regarding AUMA. In addition to briefing the City Council on what other jurisdictions were doing in response to AUMA, staff reviewed the City’s existing marijuana ordinance and compared it to a possible future ordinance under AUMA. Although marijuana-related land uses and activities are already technically prohibited under the City’s current zoning regulations, the proposed ordinance would expressly state that all such uses are prohibited in all zones, districts, and specific plan areas throughout the City.

PROJECT DESCRIPTION:

Zoning Code Amendment No. 2018-047 proposes an amendment to the Zoning Code regulations to amend Chapter 9.21, "Prohibited Uses," Section 9.21.010, "Medical marijuana dispensaries," in its entirety to prohibit all outdoor cultivation and commercial marijuana related uses and activities in all land use zones and overlay districts.

ANALYSIS:

Pursuant to AUMA, staff has determined that the proposed ordinance is necessary to definitively prohibit all outdoor cultivation and commercial marijuana related uses and activities in all land use zones and overlay districts. Although the current ordinance prohibits marijuana related uses and activities, the language is not explicit and is often confusing. The proposed ordinance is being recommended in order to clarify that all marijuana related uses and activities are prohibited within the City.

Specifically, the proposed ordinance prohibits all of the following activities:

- Prohibits the establishment or operation of a marijuana cultivation facility, marijuana storage facility, marijuana testing facility, a marijuana product manufacturing facility, or marijuana dispensary.
- Prohibits the operation or establishment of a marijuana or medical marijuana cooperative, dispensary, delivery service, or provider.
- Prohibits possession, manufacture, distribution, processing, storing, or laboratory testing.
- Prohibits labeling, transportation, delivery, or sale of marijuana and marijuana products.
- Prohibits cultivation of marijuana, delivery of marijuana or marijuana products, distribution of marijuana or marijuana products
- Prohibits dispensing of marijuana or marijuana products, manufacture of marijuana or marijuana products, sale of marijuana or marijuana products.

Under AUMA, the City may not prohibit personal indoor cultivation. The proposed ordinance allows limited indoor cultivation of no more than six (6) marijuana plants for personal use, pursuant to AUMA requirements, subject to applicable building and fire codes. With respect to personal outdoor cultivation, the proposed ordinance expressly prohibits personal outdoor cultivation.

ENVIRONMENTAL REVIEW:

Zoning Code Amendment No. 2018-047 recommending City Council adoption of Ordinance No. 890 is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b) (3) which is the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and CEQA does not apply where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment. To the extent it is

determined that CEQA applies, the proposed ordinance is exempt under CEQA pursuant to Section 15060(c)(2), because the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, and pursuant to Section 15060 (c)(3) because the activity is not a project as defined in Section 15378 of the CEQA Guidelines. The City's permissive zoning provisions already prohibit all uses that are being expressly prohibited by this ordinance. Therefore, this ordinance has no impact on the physical environment as it will not result in any changes.

CONCLUSION:

Staff recommends that the Planning Commission adopt Resolution #PC 2018-02 recommending to the City Council approval of Zoning Code Amendment No. 2018-047 and adoption of Ordinance No. 890 to amend the Bell Gardens Municipal Code Section 9.21.010 prohibiting all outdoor cultivation and all commercial marijuana related uses and activities in all land use zones and overlay districts. Adoption of Ordinance No. 890 would ensure that the City maintains its authority to regulate all marijuana activities in the City.

FISCAL IMPACT:

None

ATTACHMENTS:

Exhibit A - Planning Commission Resolution #PC 2018-02

Exhibit B - Proposed Ordinance No. 890

Exhibit C - Public Hearing Notice

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EXHIBIT A

**Resolution
#PC 2018-02**

RESOLUTION # PC 2018-02

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BELL GARDENS RECOMMENDING APPROVAL OF ZONING CODE AMENDMENT NO. 2018-047 ADOPTING ORDINANCE NO. 890 TO THE CITY COUNCIL AMENDING SECTION 9.21.010 OF BELL GARDENS MUNICIPAL CODE PROHIBITING COMMERCIAL MARIJUANA RELATED USES AND ACTIVITIES IN ALL LAND USE ZONES AND OVERLAY DISTRICTS AND OUTDOOR CULTIVATION

WHEREAS, the State enacted Senate Bill 420 in October 2003, codified at Health and Safety Section 11362.7 *et seq.*, ("Medical Marijuana Program Act," or "MMPA") to clarify the scope of the Compassionate Use Act of 1996 ("CUA") and to allow cities and other governing bodies to adopt and enforce rules and regulations consistent with SB 420;

WHEREAS, the MMPA created a state-approved voluntary medical marijuana identification card program and provided for certain additional immunities from state marijuana laws. Assembly Bill 2650 (2010) and Assembly Bill 1300 (2011) amended the Medical Marijuana Program to expressly recognize the authority of counties and cities to "[a]dopt local ordinances that regulate the location, operation, or establishment of a medical marijuana cooperative or collective" and to civilly and criminally enforce such ordinances;

WHEREAS, the CUA and MMPA did not "legalize" marijuana, but provided limited defenses to certain categories of individuals with respect to certain conduct and certain state criminal offenses;

WHEREAS, in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal.4th 729, the California Supreme Court held that "[n]othing in the CUA or the MMP expressly or impliedly limits the inherent authority of a local jurisdiction, by its own ordinances, to regulate the use of its land" Additionally, in *Maral v. City of Live Oak* (2013) 221 Cal.App.4th 975, the Court of Appeal held that "there is no right - and certainly no constitutional right - to cultivate medical marijuana. . . ." and affirmed local government's authority to prohibit the cultivation of marijuana under its land use authority;

WHEREAS, on October 9, 2015 Governor Brown signed three bills into law (AB 266, AB 243, and SB 643) which collectively are known as the Medical Marijuana Regulation and Safety Act ("MMRSA") establishing a State licensing scheme for commercial medical marijuana uses while protecting local control by requiring that all such businesses must have a local license or permit to operate in addition to a State license, which allows cities to completely prohibit commercial medical marijuana activities;

WHEREAS, on November 8, 2016, the voters of the State of California passed Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA") decriminalizing possession and use of marijuana under California law and regulating the cultivation, processing, manufacture, distribution, testing and sale of nonmedical marijuana, including marijuana products, for use by adults 21 years of age or older;

WHEREAS, AUMA expressly preserves local control over the regulation of marijuana-related businesses and marijuana-related land uses, including the authority to completely prohibit any marijuana business licensed under Division 10 within its jurisdiction pursuant to Business & Professions Code § 26200 *et seq.*;

WHEREAS, although marijuana-related land uses and activities are already technically prohibited pursuant to the City's permissive zoning regulations, the proposed ordinance would expressly state that all such uses are prohibited in all zones, districts, and specific plan areas throughout the City; and

WHEREAS, pursuant to California Government Code Section 65854, the Planning Commission duly noticed and agendized a public hearing and conducted the public hearing on this matter.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF BELL GARDENS HEREBY RESOLVES AND DETERMINES AS FOLLOWS:

SECTION 1. The Planning Commission finds that the adoption of Resolution #PC 2018-02 recommending the adoption of Zoning Code Amendment No. 2018-047 adopting Ordinance No. 890 amending the Bell Gardens Municipal Code Title 9, Chapter 9.21.010 is not subject to the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b) (3) which is the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and CEQA does not apply where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment. To the extent that it is determined that CEQA applies, the proposed ordinance is exempt pursuant to Section 15060(c)(2), because the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, and pursuant to Section 15060 (c)(3) because the activity is not a project as defined in Section 15378 of the CEQA Guidelines.

SECTION 2. In recommending approval the amendment of Bell Gardens Municipal Code 9.21.010 and adoption of Ordinance No. 890 the Planning Commission finds as follows:

- i. The above recitals are true and correct and incorporate them herein by this reference.

- ii. Ordinance No. 890 serves the public health, safety, and welfare of the residents and businesses within the City to regulate medical and commercial cannabis activity in the City.
- iii. Ordinance No. 890 is consistent with the City's General Plan.
- iv. Ordinance No. 890 amending the Bell Gardens Municipal Code, will not present any risk to the public health and safety.

SECTION 3. The Planning Commission hereby adopts this Resolution recommending approval of Zoning Code Amendment No. 2018-047 adopting Ordinance No. 890 amending the Bell Gardens Municipal Code Section 9.21.010.

SECTION 4. The Planning Commission of the City of Bell Gardens hereby transmits and recommends to the City Council Zoning Code Amendment No. 2018-047 adopting Ordinance No. 890 amending the Bell Gardens Municipal Code Chapter 9.21.010 "Prohibited Uses."

PASSED, APPROVED AND ADOPTED this _____th day of _____ 2018.

TONY RIVERA, *CHAIRPERSON*

ATTEST:

ERIKA GUTIERREZ, PLANNING SECRETARY

APPROVED AS TO FORM:

ALVAREZ-GLASMAN & COLVIN

JOHN LAM, ASSISTANT CITY ATTORNEY

EXHIBIT B

Proposed Ordinance No. 890

ORDINANCE NO. 890

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELL GARDENS, CALIFORNIA AMENDING SECTION 9.21.010 OF BELL GARDENS MUNICIPAL CODE TO PROHIBIT SPECIFIC OUTDOOR AND COMMERCIAL MARIJUANA RELATED USES AND ACTIVITIES IN ALL LAND USE ZONES AND OVERLAY DISTRICTS

WHEREAS, on November 5, 1996, the voters of the State of California approved Proposition 215, codified as Health and Safety Code Section 11362.5 *et seq.*, and entitled the Compassionate Use Act of 1996 ("CUA"). The CUA exempted qualified patients and their primary caregivers from criminal liability under state law for the possession and cultivation of marijuana for personal medical use;

WHEREAS, the intent of the CUA was to enable persons in the State of California who are in need of marijuana for medicinal purposes to use it under limited, specified circumstances;

WHEREAS, the State enacted Senate Bill 420 in October 2003, codified at Health and Safety Section 11362.7 *et seq.*, ("Medical Marijuana Program Act," or "MMPA") to clarify the scope of the Compassionate Use Act of 1996 and to allow cities and other governing bodies to adopt and enforce rules and regulations consistent with SB 420;

WHEREAS, the MMPA created a state-approved voluntary medical marijuana identification card program and provided for certain additional immunities from state marijuana laws. Assembly Bill 2650 (2010) and Assembly Bill 1300 (2011) amended the Medical Marijuana Program to expressly recognize the authority of counties and cities to "[a]dopt local ordinances that regulate the location, operation, or establishment of a medical marijuana cooperative or collective" and to civilly and criminally enforce such ordinances;

WHEREAS, the CUA and MMPA did not "legalize" marijuana, but provided limited defenses to certain categories of individuals with respect to certain conduct and certain state criminal offenses;

WHEREAS, in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal.4th 729, the California Supreme Court held that "[n]othing in the CUA or the MMP expressly or impliedly limits the inherent authority of a local jurisdiction, by its own ordinances, to regulate the use of its land" Additionally, in *Maral v. City of Live Oak* (2013) 221 Cal.App.4th 975, the Court of Appeal held that "there is no right - and certainly no constitutional right - to cultivate medical marijuana. . . ." and affirmed local government's authority to prohibit the cultivation of marijuana under its land use authority;

WHEREAS, the Federal Controlled Substances Act, 21 U.S.C. § 801 *et seq.*, classifies marijuana as a Schedule 1 Drug, which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United State, and that has not been accepted as safe for use under medical supervision;

WHEREAS, the Federal Controlled Substances Act makes it unlawful under federal law for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense, marijuana and contains no exemption for medical purposes;

WHEREAS, on October 9, 2015 Governor Brown signed three bills into law (AB 266, AB 243, and SB 643) which collectively are known as the Medical Marijuana Regulation and Safety Act ("MMRSA") establishing a State licensing scheme for commercial medical marijuana uses while protecting local control by requiring that all such businesses must have a local license or permit to operate in addition to a State license, which allows cities to completely prohibit commercial medical marijuana activities;

WHEREAS, on November 8, 2016, the voters of the State of California passed Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA") decriminalizing possession and use of marijuana under California law and regulating the cultivation, processing, manufacture, distribution, testing and sale of nonmedical marijuana, including marijuana products, for use by adults 21 years of age or older;

WHEREAS, AUMA expressly preserves local control over the regulation of marijuana-related businesses and marijuana-related land uses, including the authority to completely prohibit any marijuana business licensed under Division 10 within its jurisdiction pursuant to Business & Professions Code § 26200 *et seq.*;

WHEREAS, although marijuana-related land uses and activities are already technically prohibited pursuant to the City's permissive zoning regulations, the proposed ordinance would expressly state that all such uses are prohibited in all zones, districts, and specific plan areas throughout the City;

WHEREAS, on _____ the Bell Gardens Planning Commission conducted a duly noticed public hearing in connection with this Ordinance and adopted Planning Commission Resolution No. _____ recommending approval to the Bell Gardens City Council;

WHEREAS, on _____, the Bell Gardens City Council held a duly noticed public hearing and introduced this Ordinance amending Chapter 9.21 of the Bell Gardens Municipal Code; and

WHEREAS, on _____, the Bell Gardens City Council adopted this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Bell Gardens as follows:

SECTION 1. The City Council hereby finds as follows:

A. The City Council hereby finds the above recitals accurate and true and makes them a part of the findings.

B. Marijuana-related land uses and activities can adversely affect the health, safety, and well-being of City residents. Marijuana cultivation and distribution can attract crime, lead to fires, expose minors to marijuana, negatively impact neighborhoods, damage buildings, require dangerous electrical alterations and use, and create the nuisance of strong and noxious odors. (White Paper on Marijuana Dispensaries, California Police Chiefs Association's Task Force on Marijuana Dispensaries, April 22, 2009, p. 12.).

C. In Colorado, where recreational marijuana is legal and commercialized, marijuana-related traffic deaths increased 92% from 2010 to 2014 while all traffic deaths increased only 8 percent during the same time period. (The Legalization of Marijuana in Colorado: The Impact, Rocky Mountain High Intensity Drug Trafficking Area, Vol. 3, September 2015, pp. 14-15.).

D. Use of marijuana by Colorado teens ages 12-17 is at least 56% higher than the national average. (Id. at pp. 35-36.). A study released in May 2016 by AAA Foundation for Traffic Research found that fatal crashes involving drivers who recently used marijuana doubled in the state of Washington after it legalized marijuana. (Prevalence of Marijuana Involvement in Fatal Crashes: Washington, 2010-2014, May 2016, AAA Foundation for Traffic Safety.).

E. Based on these facts and other evidence, there is a concern that the proliferation of marijuana-related uses and activities in the City would result in increased crime and other negative secondary effects like those experienced in other communities throughout California and around the country.

F. To safeguard against these deleterious secondary effects, the City Council finds it is necessary for the City to prohibit marijuana-related uses and activities in all zones and specific plan areas to the maximum extent permissible under State law.

G. This Ordinance is adopted in accordance with the authority conferred pursuant to the California Constitution and State law, including but not limited to Article XI, Section 7 of the California Constitution, the Compassionate Use Act, the Medical

Marijuana Program Act, the Medical Marijuana Regulation and Safety Act, and the Control, Regulate and Tax Adult Use of Marijuana Act.

SECTION 2. Section 9.21.010 of the Bell Gardens Municipal Code is hereby repealed in its entirety and replaced with the following:

9.21.010 Marijuana Related Uses and Activities

A. Definitions.

For purposes of this Section, the following definitions shall apply:

"Commercial marijuana activity" means the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, delivery, or sale of marijuana and marijuana products. "Commercial marijuana activity" shall not include deliveries by a licensee acting in compliance with Division 10 of the Business & Professions Code and local law under Business & Professions Code Section 26200; or transportation or distribution of marijuana or marijuana products on public roads by a licensee transporting marijuana or marijuana products in compliance with Division 10 of the Business & Professions Code.

"Cultivation" means any activity involving the planting, growing, cultivating, harvesting, drying, curing, grading, trimming or processing of marijuana.

"Delivery" means the commercial transfer of marijuana or marijuana products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed under this division that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of marijuana or marijuana products.

"Dispensary" means a facility or location, whether fixed or mobile, where marijuana, marijuana products, or devices for the use of marijuana are offered, made available to, or provided, either individually or in any combination, with or without remuneration, for medical, recreational, or other purposes.

"Distribution" means the procurement, sale, and transport of marijuana and marijuana products between entities for commercial use purposes.

"Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a marijuana product.

"Marijuana" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof;

the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, resin, or preparation of the plant, its seeds or resin, including marijuana infused in foodstuff or any other ingestible or consumable product containing marijuana. "Marijuana" also means the separated resin, whether crude or purified, obtained from cannabis. "Marijuana" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this division, "marijuana" does not mean "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code. The term "marijuana" includes "medical marijuana" for the purposes set forth in the Medical Marijuana Program Act (Health & Safety Code Sections 11362.7 to 11362.83) and the Medical Marijuana Regulation and Safety Act (AB 266, AB 243, and SB 643.)

"Marijuana accessories" means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana or marijuana products into the human body.

"Marijuana-related activity" means any commercial marijuana activity, cultivation of marijuana, delivery of marijuana or marijuana products, distribution of marijuana or marijuana products, dispensing of marijuana or marijuana products, manufacture of marijuana or marijuana products, sale of marijuana or marijuana products, and the operation or establishment of a marijuana or medical marijuana cooperative, dispensary, delivery service, or provider. "Marijuana-related activity" does not include indoor cultivation as permitted under Section 9.21.010(C)(2); deliveries by a licensee acting in compliance with Division 10 of the Business & Professions Code and local law under Business & Professions Code Section 26200; or transportation or distribution of marijuana or marijuana products on public roads by a licensee transporting marijuana or marijuana products in compliance with Division 10 of the Business & Professions Code.

"Marijuana cultivation facility" means a facility where marijuana is cultivated, prepared, and packaged for sale to marijuana dispensaries, to marijuana product manufacturing facilities, or to other marijuana cultivation facilities, but not to consumers.

"Marijuana establishment" means a marijuana cultivation facility, marijuana storage facility, marijuana testing facility, a marijuana product manufacturing facility, or marijuana dispensary.

"Marijuana product manufacturing facility" means a facility where marijuana and marijuana products are manufactured, prepared and packaged for sale to other marijuana product manufacturing facilities or to marijuana dispensaries, but not to consumers.

"Marijuana products" means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients.

"Marijuana storage facility" means a facility used for the storage of marijuana, marijuana products or marijuana accessories.

"Marijuana testing facility" means a facility where marijuana is analyzed and certified for safety and potency.

"Private residence" means a house, an apartment unit, a mobile home, or other similar habitable dwelling.

B. Prohibited Uses and Activities. The establishment or operation of any commercial marijuana activity, marijuana-related activity, or marijuana establishment, including any business licensed by the state or other government entity pursuant to Division 10 of the Business & Professions Code, as it may be amended from time to time, is prohibited in all land use zones, overlay districts, and specific plan areas of the City. No use permit, variance, building permit, or any other entitlement or permit, whether administrative or discretionary, shall be approved or issued for the establishment or operation of any such business or activity.

C. Marijuana Cultivation for Personal Use.

1. Outdoor Cultivation Prohibited. Outdoor cultivation of marijuana by any person owning, leasing, occupying, or having charge or possession of any land use zone, overlay district, and specific plan areas of the City in the City is prohibited. It shall be unlawful for any person or entity to own, manage, conduct, or operate, or as a landlord or land owner (or as such landlord or land owner's agent, property manager or similar person having control over real property on behalf of its owner) to allow or permit to exist, or be established, conducted, operated, owned or managed on or within real property owned or controlled by such person, the outdoor

cultivation of marijuana or to participate as a landlord, lessor, land owner, employee, contractor, agent or volunteer, or in any other manner or capacity, in the outdoor cultivation of marijuana. Each day a violation of this provision of this chapter is committed, or permitted to continue, shall constitute a separate offense.

2. Indoor Cultivation. Not more than six (6) plants may be cultivated, planted, harvested, dried, processed, or possessed at one time by a person 21 years of age or older when conducted within a fully enclosed and secured, private residence, or legally permitted accessory structure that is not visible by normal unaided vision from a public place and conducted in a manner consistent with California Health & Safety Code Section 11362.2 and any other applicable regulations, as amended from time to time. Any areas used for indoor cultivation shall comply with the building code under Chapter 6.04, the mechanical code under Chapter 6.08, and fire code under Chapter 16.44.

D. Interpretation. The intent of this Section is to prohibit all marijuana-related uses and activities, including the personal outdoor cultivation of marijuana, whether medical or recreational in nature, to the maximum extent allowed under state law. Nothing in this Section should be interpreted as allowing behavior otherwise prohibited by state law and nothing in this Section should be interpreted as prohibiting conduct that the city is expressly preempted from prohibiting under state law.

E. Penalties. Any person violating any provision of this Section shall be guilty of a separate offense for each and every day, or part thereof, during which a violation of this Section or of any law or regulation referenced herein, is allowed, committed, continued, maintained or permitted by such person, and shall be punishable in accordance with penalties set forth in Chapter 1.12 of the Code.

F. Public Nuisance. In addition to the penalties provided Chapter 1.12, any condition or activity caused or permitted to exist in violation of any provision, restriction, or requirement of this Section or any notice, or order pursuant to this Section, shall be deemed a public nuisance and may be summarily abated by the City by any and all means (civil, administrative, and/or equitable) as provided by law or in equity.

SECTION 3. CEQA. The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b) (3) which is the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and CEQA does not apply where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment. To the extent it is determined that CEQA applies, the proposed

ordinance is exempt under CEQA pursuant to Section 15060(c)(2), because the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, and pursuant to Section 15060 (c)(3) because the activity is not a project as defined in Section 15378 of the CEQA Guidelines. This Ordinance amends the Bell Gardens Municipal Code by clarifying existing code and expressly prohibit activities that the BGMC already prohibits such as medical and commercial cannabis activity in the City. Furthermore, this Ordinance does not authorize any development or other activity that would alter the physical environment but rather prohibits such activities that may have environmental impacts. As such, it can be see with near certainty that there is no possibility that the ordinance will have a significant effect on the environment.

SECTION 4. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective. To this end, the provisions of this Ordinance are declared to be severable.

SECTION 5. The City Clerk shall certify to the passage and adoption of this Ordinance, causing it to be posted as required by law, and it shall be effective thirty (30) days after its adoption.

INTRODUCED at a regular meeting of the City Council of the City of Bell Gardens on the ____ day of _____, 2018, and **PASSED, APPROVED AND ADOPTED** by the City Council at a regular meeting thereof held on the ____ day of _____, 2018, voting as follows:

Maria Pulido, Mayor

ATTEST:

APPROVED AS TO FORM:

Kristina Santana, MPA, MMC
City Clerk

Arnold M. Alvarez-Glasman
City Attorney

AYES:
NOES:
ABSENT:
ABSTAIN:

EXHIBIT C

Public Hearing Notice

**CITY OF BELL GARDENS
NOTICE OF PUBLIC HEARING
ZONING CODE AMENDMENT NO. 2018-047 – ORDINANCE NO. 890
(FILE NO. 2018-047)**

POSTED
6/7/18
EG

Notice is hereby given that the Planning Commission of the City of Bell Gardens will conduct a public hearing to consider recommending approval of Zoning Code Amendment No. 2018-047 adopting Ordinance No. 890 amending the Bell Gardens Municipal Code Section 9.21.010 prohibiting all outdoor and all commercial marijuana related uses and activities in all land use zones and overlay districts.

Ordinance No. 890 is not subject to the California Environmental Quality Act pursuant to Section 15061 (b) (3) which is the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and CEQA does not apply where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment. The City's permissive zoning provisions already prohibit all uses that are being expressly prohibited by this ordinance. Therefore, this ordinance has no impact on the physical environment as it will not result in any changes.

The public hearing will be held at a Planning Commission meeting of the City of Bell Gardens, in Council Chambers at City Hall, 7100 Garfield Avenue, Bell Gardens, CA 90201, on Wednesday, June 20, 2018 at 6:00 P.M., at which time proponents and opponents of proposed Zoning Code Amendment No. 2018-047 and Ordinance No. 890 may be heard. Questions may be directed to the Community Development Department at (562) 806-7700, extension 7722.

Per Government Code Section 65009, if you challenge Zoning Code Amendment No. 2018-047 and Ordinance No. 890 in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the Planning Commission at or prior to the public hearing.

THE PLANNING COMMISSION
Tony Rivera, Chairperson

Posted: June 7, 2018
Bell Gardens City Hall
Bell Gardens John Anson Ford Park
Bell Gardens Veterans Park - Ross Hall Auditorium
Bell Gardens Department of Public Works