

**RESOLUTION NO. 2011-7131**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, APPROVING ADMINISTRATIVE COASTAL PERMIT (ACP 110024), DESIGN REVIEW CASE (DRC 110025), SITE PLAN REVIEW (SPR 110026), TENTATIVE MAP (TM 110027), AND MITIGATED NEGATIVE DECLARATION (EIA 110028 AND SCH #201111018) TO CONSTRUCT A NEW COMMERCIAL CENTER (BREAKWATER) ON THE SOUTH SIDE OF PALM AVENUE/SR75 BETWEEN 9<sup>TH</sup> & 7<sup>TH</sup> STREETS IN THE C-1 (GENERAL COMMERCIAL) ZONE. MF 1062.**

**DEVELOPER: SUDBERRY-PALM, LLC**

**WHEREAS**, on December 14, 2011, the City Council of the City of Imperial Beach held a duly advertised and noticed public hearing to consider the merits of approving or denying an application for an Administrative Coastal Permit (ACP 110024), Design Review Case (DRC 110025), Site Plan Review (SPR 110026), Tentative Map (TM 110027), and Mitigated Negative Declaration (EIA 110028) for the redevelopment of a new commercial/retail center (Breakwater) that would replace the former 68,585 square foot Miracle Shopping Center located on a 4.75-acre project site on the south side of State Route 75/Palm Avenue between 9th & 7th Streets (APNs 626-250-03-00, 626-250-04-00, 626-250-05-00, and 626-250-06-00). The redevelopment would include the construction of seven new commercial buildings with approximately 46,200 square feet of commercial space composed of a market, retail shops, and a financial institution. The project would include approximately 238 surface parking spaces, on-site improvements, landscaping, signage, lighting, and utilities. In addition to the on-site development with its associated internal roads and utilities, the project would include vacation of portions of Delaware Street and 8th Street traversing the project site, as well as a portion of the alley south of the project site at 9th Street. The project also involves off-site improvements to Palm Avenue between 7th and Delaware Streets immediately south of SR-75, to include a reconfigured design of the Palm Avenue/SR-75 intersection to improve traffic flow, closure of Delaware Street at Palm Avenue, modification of existing traffic signals along SR-75 and Palm Avenue. The property is designated C-1 (General Commercial) on the Zoning Map on a site legally described as follows:

**Parcel A: APN 626-250-03**

That portion of the northwest quarter of the northwest quarter of section 29, township 18 south, range 2 west, San Bernardino meridian, in the City of Imperial Beach, County of San Diego, State of California, according to official plat thereof lying northerly of the northerly line of south Coronado Manor, according to Map thereof No. 2450 filed in the Office of the County Recorder of San Diego County January 20, 1948 and lying west of the center line of Delaware Street, formerly 13<sup>th</sup> Street as shown on Map of R. Merideath Jones addition to south San Diego being Map No. 1145, filed in the Office of the County Recorder of San Diego County July 29, 1908.

Excepting that portion thereof which lies westerly of the location and northerly prolongation of the center line of the alley in Block 3 of said Merideath Jones addition, as shown on said Map No. 1145.

Said land is also shown as a portion of Block 3 of Map No. 1145, filed in the Office of the County Recorder of San Diego County, July 29, 1908 and vacated March 22, 1923, by decree in Superior Court Action No. 28686.

Parcel B: APNs 626-250-04 thru 06

That portion of the northwest quarter of the northwest quarter of section 29, Township 18 south, range 2 west, San Bernardino meridian, in the City of Imperial Beach, County of San Diego, State of California, according to United States Government survey approved February 25, 1870, lying northerly of the northerly line of South Coronado Manor as shown on Map thereof No. 2450, filed in the Office of the County Recorder of San Diego County, January 20, 1948, and lying east of the center line of Delaware Street, formerly 13<sup>th</sup> Street, and west of the center line of 8<sup>th</sup> Street, formerly 12<sup>th</sup> Street, and that portion lying west of the west line of 9<sup>th</sup> Street formerly 11<sup>th</sup> Street and east of the east line of 8<sup>th</sup> Street, formerly 12<sup>th</sup> Street, as said streets are shown on Map of R. Merideath Jones' addition to South San Diego, being Map No. 1145, filed in the Office of the County Recorder of San Diego County, July 29, 1908.

Excepting therefrom that portion lying within the north 50.00 feet of the east 550.50 feet of said northwest quarter of the northwest quarter of section 29 as described in the deed to the State of California, recorded August 24, 1943 in Book 1526, Page 405 of Official Records.

Also excepting therefrom that portion described in deed to the State of California recorded June 20, 1965 as file No. 79513 in Book 5685, Page 513 of Official records, as follows:

That portion of the northwest quarter of the northwest quarter of section 29, township 18 south, range 2 west, San Bernardino base and meridian, in the City of Imperial Beach, County of San Diego, State of California, according to United States Government survey approved February 25, 1870, described as follows: Beginning at the intersection of the west line of 9<sup>th</sup> Street (shown as 11<sup>th</sup> Street on Map 1145 of R. Merideath Jones' addition to South San Diego) with the southerly line of the north 50.00 feet of said northwest quarter of the northwest quarter of said section 29; thence along said southerly line westerly 20.00 feet; thence in a straight line southeasterly to a point on the said westerly line southerly 20.00 feet from said point beginning; thence northerly 20.00 feet to the point of beginning.

Said land is also shown as Lots 1 to 10 inclusive and 31 to 39 inclusive and a portion of lot 40 in Block 2, Lots 2 to 10 inclusive and Lots 31 to 39 inclusive and a portion of Lots 1 and 40, in Block 1 of Merideath Jones' addition to South San Diego, being Map No. 1145, filed in the office of the County Recorder of San Diego County, July 29, 1908 and vacated March 22, 1923 by decree in Superior Court Action 38686.

**WHEREAS**, on November 17, 2011, the Design Review Board recommended approval of the project with the following recommendations: 1<sup>st</sup> recommendation: Soften the elevation of the northeast corner of Building A, address public space usage and architectural statement and examine pedestrian usage. 2<sup>nd</sup> recommendation: Pedestrian walkway between Buildings D & G should be moved south so that the pathway is continuous. 3<sup>rd</sup> recommendation: Look at alternative pedestrian entry way at southeast entrance, formerly alley access. 4<sup>th</sup> recommendation: Soften west vehicular entrance; and

**WHEREAS**, the project design of a new commercial center that would provide seven commercial buildings that would locate on the south side of State Route 75/Palm Avenue between 9<sup>th</sup> & 7<sup>th</sup> Streets (APNs 626-250-03-00, 626-250-04-00, 626-250-05-00, and 626-250-06-00), in the C-1 (General Commercial) Zone, is compatible with other developments in the

vicinity, would be consistent with Policy D-8 (Project Design) of the Design Element of the General Plan; and,

**WHEREAS**, the City Council finds that the project is in substantial compliance with Policy L-4d of the Land Use Element of the General Plan, which promotes a mix of pedestrian and automobile oriented uses for Highway 75 Commercial Areas (C-1); and,

**WHEREAS**, this project complies with the requirements of the California Environmental Quality (CEQA) as a Mitigated Negative Declaration (MND) had been prepared for this project and was routed for public review from November 7, 2011 to December 7, 2011 and submitted to the State Clearinghouse (SCH #2011111018) for agency review; and

**WHEREAS**, a Mitigation Monitoring and Reporting Program has been prepared that establishes mitigation measures that will avoid or reduce all potentially significant environmental impacts identified in the MND to below a level of significance; and

**WHEREAS**, the City Council further offers the following findings in support of its decision to conditionally approve the project:

**ADMINISTRATIVE COASTAL PERMIT:**

- 1. The proposed development conforms to the certified local coastal plan including coastal land use policies.**

The General Plan/Local Coastal Plan designates the site as General Commercial (C-1 Zone), providing for the development of businesses to meet the local demand for commercial goods and services. The project site is located in a non-appealable coastal zone and complies with the land use designation of the General Plan/Local Coastal Plan.

- 2. The proposed development meets the minimum criteria set forth in the City of Imperial Beach Zoning Ordinance, the City's Minimum Landscape Planting and Irrigation Standards, and the City's Design Guidelines, as applicable.**

The project complies with the setback requirements, landscaping requirements and building height limitation specified in the Zoning Ordinance.

- 3. This project complies with the California Environmental Quality Act.**

This project complies with the requirements of the California Environmental Quality (CEQA) as a Mitigated Negative Declaration (MND) had been prepared for this project and was routed for public review from November 7, 2011 to December 7, 2011 and submitted to the State Clearinghouse (SCH #2011111018) for agency review. The City conducted an Environmental Initial Study (IS) that determined the proposed project could have a potentially significant environmental effect in the following areas: Aesthetics, Biological Resources, Cultural Resources, Geology and Soils, Hazards and Hazardous Materials, Hydrology /Water Quality, Noise, and Transportation/Traffic. The MND identifies mitigation measures that will avoid or reduce all potentially significant environmental effects to below a level of significance.

- 4. Public Notice requirements, pursuant to Zoning Ordinance Section 19.87.100, of the Coastal Development Project have been satisfied.**

The project description and the date of the City Council public hearing were sent to property owners within 300 feet and occupants within 100 feet of the subject site on

November 30, 2011, and a public hearing notice was published in the San Diego union Tribune newspaper on November 30, 2011.

**DESIGN REVIEW/SITE PLAN REVIEW:**

5. **The proposed use does not have any detrimental effect upon the general health, safety and convenience of persons residing or working in the neighborhood, or is not detrimental or injurious to the value of the property and improvements in the neighborhood.**

The project will provide a commercial center that would provide services to residents of the City of Imperial Beach. The project would not have a detrimental effect on the general health, welfare, safety and convenience of persons residing or working in the neighborhood because it is consistent with the development standards and zoning designation of the site. The development would not be injurious to the value of the property and improvements in the neighborhood because the commercial center represents an improvement of the existing conditions of the property. This could improve property values and stimulate growth in the area.

6. **The proposed use does not adversely affect the General Plan or the Local Coastal Plan.**

The General Plan/Local Coastal Plan designates the site as General Commercial (C-1 Zone), providing for the development of businesses to meet the local demand for commercial goods and services. The project site is located in a non-appealable coastal zone and complies with the land use designation of the General Plan/Local Coastal Plan.

7. **The proposed use is compatible with other existing and proposed uses in the neighborhood.**

The site is bordered by commercially zoned properties to the north, east, and west. Residences are located to the south and the commercial center would provide commercial goods and services for the community.

8. **The location, site layout and design of the proposed use orients the proposed structures to streets, driveways, sunlight, wind and other adjacent structures and uses in a harmonious manner.**

The proposed buildings would locate in a manner that would provide harmonious access throughout the site and be compatible with the surrounding structures and uses in the neighborhood.

9. **The combination and relationship of one proposed use to another on the site is properly integrated.**

The commercial center proposes commercial uses that are properly integrated. The design style and the choice of building materials properly integrate the buildings.

10. **Access to and parking for the proposed use does not create any undue traffic problem.**

Vehicular ingress and egress for the project site will occur via Palm Avenue, highway 75, 9<sup>th</sup> Street, and the alley. The ingress and egress for the project should not create undue traffic problems.

11. **All other applicable provisions of the Zoning Code are complied with.**

The project is consistent with the General Plan and the Zoning development standards for the site.

- 12. Any other considerations as the Community Development Department deem necessary to preserve the health, safety and convenience of the City in general.**

Standard and applicable conditions of approval have been included with the Resolution to further ensure that the health, safety, welfare, and convenience of the City in general is preserved.

- 13. Public Notice requirements, pursuant to Zoning Ordinance Section 19.87.100, have been satisfied.**

The project description and the date of the City Council public hearing were sent to property owners within 300 feet and occupants within 100 feet of the subject site on November 30, 2011, and a public hearing notice was published in the San Diego union Tribune newspaper on November 30, 2011.

**ADMINISTRATIVE SIGN PERMIT:**

- 14. The proposed project is consistent with the Design Element of the General Plan.**

The Developer proposes a Comprehensive Signage Plan for the commercial center with design and construction requirements that are consistent with the Design Element and General Plan.

- 15. The proposed project is consistent with Chapter 19.52 of the City of Imperial Beach Municipal Code, entitled "Signs".**

The purpose of the sign regulations is to encourage the effective use of signs as a means of communication in the City and to maintain and enhance the aesthetic environment and the City's ability to attract sources of economic development and growth. The project will receive a 25 percent increase in the maximum total sign area because the project provides a Comprehensive Signage Plan. Any signs would comply with the Comprehensive Sign Plan and would be consistent with Chapter 19.52 of the City of Imperial Beach Municipal Code.

- 16. The proposed project will not have a detrimental effect upon the general health, welfare, safety or convenience of persons residing or working in the neighborhood, and will not be detrimental or injurious to the value of property and improvements in the neighborhood.**

The proposed signs will not adversely impact adjacent businesses because the signage does not exceed the allowance limits provided by Chapter 19.52 of the City of Imperial Beach Municipal Code.

**TENTATIVE MAP FINDINGS:**

- 17. The proposed tentative tract map is consistent with the General Plan/Local Coastal Plan.**

The proposed subdivision for six lots is consistent with the General Plan and zoning designation (C-1 General Commercial Zone) because the new lots will meet or exceed the minimum lot size and frontage requirements.

- 18. The design or improvement of the proposed subdivision is consistent with the General Plan/Local Coastal Plan.**

The General Plan/Local Coastal Plan designates the site as General Commercial (C-1 Zone), providing for the development of businesses to meet the local demand for commercial goods and services. The project site is located in a non-appealable coastal zone and complies with the land use designation of the General Plan/Local Coastal Plan.

**19. The site is physically suitable for the type of development.**

Grading and drainage for the development of the commercial center has been reviewed so that no adverse impacts would occur.

**20. The design of the subdivision will not cause substantial environmental damage or substantial and avoidable injury to fish or wildlife, or their habitat.**

The project involves new construction in a developed urban area that will not affect fish or wildlife habitat.

**21. The design of the subdivision will not cause serious public health problems.**

The development will be served by municipal water and sewer service and would not result in public health problems.

**22. The design of the subdivision will not conflict with any easement of record.**

A design of the subdivision will not conflict with any easement of record.

**23. All requirements of the California Environmental Quality Act (CEQA) have been fulfilled.**

This project complies with the requirements of the California Environmental Quality (CEQA) as a Mitigated Negative Declaration (MND) had been prepared for this project and was routed for public review from November 7, 2011 to December 7, 2011 and submitted to the State Clearinghouse (SCH #2011111018) for agency review. The City conducted an Environmental Initial Study (IS) that determined the proposed project could have a potentially significant environmental effect in the following areas: Aesthetics, Biological Resources, Cultural Resources, Geology and Soils, Hazards and Hazardous Materials, Hydrology /Water Quality, Noise, and Transportation/Traffic. The MND identifies mitigation measures that will avoid or reduce all potentially significant environmental effects to below a level of significance.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Imperial Beach that the above-listed findings and recitals are true and correct and are incorporated by reference; and

**BE IT FURTHER RESOLVED** by the City Council of the City of Imperial Beach that Administrative Coastal Permit (ACP 110024), Design Review Case (DRC 110025), Site Plan Review (SPR 110026), Tentative Map (TM 110027), and Mitigated Negative Declaration (EIA 110028 and SCH #2011111018) and Mitigation Monitoring and Reporting Program for the construction of a new commercial center that would provide seven commercial buildings that would locate on the south side of State Route 75/Palm Avenue between 9<sup>th</sup> & 7<sup>th</sup> Streets (APNs 626-250-03-00, 626-250-04-00, 626-250-05-00, and 626-250-06-00) in the C-1 (General Commercial) Zone to construct a new commercial center that would provide seven commercial buildings that would locate on the south side of State Route 75/Palm Avenue between 9<sup>th</sup> & 7<sup>th</sup> Streets (APNs 626-250-03-00, 626-250-04-00, 626-250-05-00, and 626-250-06-00) in the C-1 (General Commercial) Zone, are hereby approved subject to the following:

**CONDITIONS OF APPROVAL:**

**A. PLANNING:**

1. **Approval** of the Administrative Coastal Permit (ACP 110024), Design Review Case (DRC 110025), Site Plan Review (SPR 110026), Tentative Map (TM 110027), and Mitigated Negative Declaration (EIA 110028) is valid for three years from the date of final action by the City Council to **expire December 14, 2014**, unless vested with substantial construction pursuant to an approved building permit. Approvals of the Administrative Coastal Permit (ACP 110024), Design Review Case (DRC 110025), Site Plan Review (SPR 110026), and Mitigated Negative Declaration (EIA 110028) shall run coterminous with the tentative map.
2. The site shall be developed in substantial compliance with the plans dated December 5, 2011, on file at the Community Development Department, or as otherwise amended and approved, and the conditions contained herein.
3. The design of the corner element of the building at the southwest corner of 9<sup>th</sup> Street and Palm Avenue shall be modified to provide a more distinctive and attractive focal point of the project. Such design modification may include vertical and horizontal articulation, the use of glass or other materials, a varied façade and/or roofline including the use of a cupola or tower element, a curved façade or a public entrance.
4. All building façades either fronting or facing a public street shall be designed to be pedestrian-friendly and shall incorporate clear glass, awnings, display cases, and other architectural treatment that provides visual interest. Blank walls shall be avoided and, where necessary, shall be enhanced with architectural detail and/or landscaping to either screen or add visual interest to the façade.
5. The appearance of any blank walls shall be avoided on all building façades and, where present, shall be enhanced with architectural details and/or landscaping to either screen or add visual interest to such façades.
6. The Developer shall pursue the design and installation of a median refuge in the western crosswalk within Palm Avenue/State Route 75 at 9<sup>th</sup> Street.
7. The pedestrian crosswalk at the main vehicular access to and from Palm Avenue/State Route 75 shall be relocated to the south to provide a straight and continuous path of travel along the northern frontage of the subject property and proposed buildings. Additional traffic calming measures such as stop signs, other signage and road markers shall also be incorporated to provide for the safety of pedestrians utilizing the crosswalk.
8. The Developer shall consider the addition of sidewalks adjacent to the vehicular drive aisle from Palm Avenue/State Route 75 which would connect the sidewalk along the northern property line to the proposed crosswalk internal to the site.
9. The Developer shall consider and/or incorporate a pedestrian access/sidewalk to allow for safe pedestrian access at the southeast corner of the site.
10. Prior to issuance of any building permits for the project, the Developer shall prepare a landscape/streetscape plan for the proposed stormwater demonstration area located within the City's public right-of-way for submittal to and approval by the City.

11. Prior to issuance of any building permits for the project, the Developer shall prepare a streetscape/landscape plan for the alley along the southern portion of the site for submittal to and approval by the City. This plan shall include proposed hardscape, landscaping, and street lighting and shall be designed to be suitable for both pedestrian and vehicular use.
12. All drainage shall be in compliance with approved Drainage Report and Water Quality Technical Reports dated December 5, 2011, on file at the Community Development Department, or as otherwise amended and approved.
13. Separate design and zoning review by the Community Development Department for all signage will be necessary. Signage shall be in substantial compliance with the Comprehensive Signage Plan dated December 5, 2011, subject to the following design and construction requirements:
  - No exposed conduits or raceways will be allowed.
  - Signs shall be made of durable rust-inhibiting materials that are appropriate and complimentary to the building.
  - Joining of materials shall be finished in a way as to be unnoticeable.
  - Finished surfaces of metal shall be free from oil canning and warping. All sign finishes shall be free from dust, orange peel, drips, and runs and shall have a uniform surface conforming to the highest standards of the industry.
  - Manufacturer's labels shall not be visible from the street from normal viewing angles.
  - Exposed raceways are not permitted unless they are incorporated into the overall sign design.
  - Exposed junction boxes, lamps, tubing or neon crossovers of any type are not permitted.

Because the tenants for the commercial center are unknown, sign criteria will be provided to encourage creativity and individuality of each tenant while maintaining compatibility with the center. The following types of signage would be allowed:

- Acrylic face channel letters.
- Through face and halo channel letters.
- Reverse pan channel letters.
- Open pan channel letters (in an artistic letter style/font).
- Push thru letters and logos in aluminum cabinets.
- Flat cut out dimensional shapes and accents.
- Exposed skeleton neon accents.
- Logo modules to be clouded.

Elevations facing residential areas shall not be illuminated, and will only allow the following sign construction:

- Acrylic face channel letters.
- Reverse pan channel letters.
- Push thru letters and logos in aluminum cabinets.
- Flat cut out dimensional letter shapes and accents.

In addition to signs prohibited in Municipal Code Section 19.52, the following signs would be prohibited:

- Signs constituting a traffic hazard.
  - Signs in proximity to utility lines.
  - Signs painted directly on a building surface.
  - Wall signs projecting above the top of a parapet, the roof line at the wall, or roof line.
  - Flashing, moving, or audible signs.
  - Vehicle signs.
  - Light bulb strings.
  - Banners, pennants, and balloons for advertising purposes.
  - Billboard signs.
  - Permanent "sale" signs.
  - Standard plex-faced cabinet signs.
14. All owners, future owners, and/or tenants shall sign a Reciprocal Easement Agreement that will provide for access through and among all subdivided lots and shall provide for pedestrian and vehicular access to all common and parking areas. This legal agreement shall be recorded with the County Recorder and is subject to prior approval by the City.
15. The Developer shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees and costs incurred by the City and any claim for private attorney general fees and costs claimed by or awarded to any party, against the City or its agents, officers, or employees, relating to the approval of the MF 1062 9<sup>th</sup> & Palm project including, but not limited to, any action to attack, set aside, void, challenge, or annul the development approvals (including the Administrative Coastal Permit, Design Review Case, Site Plan Review, and Tentative Map) and/or certification of the Final Mitigated Negative Declaration (SCH #2011111018) and any related environmental document or decision (collectively "Development Approvals"). The City will promptly notify Developer of any claim, action or proceeding concerning the Development Approvals. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Developer shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs incurred by the City. In the event of a disagreement between the City and Developer regarding litigation issues, the City shall have the authority to control the litigation and make litigation-related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Developer shall not be required to pay or perform a settlement unless such settlement is approved by Developer.
16. The City of Imperial Beach currently holds title to the project site, and it seeks to quiet title in its favor for the east one-half of 8th Street, the west one-half of 9th Street, and an easement appurtenant to the 8th Street property along the northeast 40 feet portion of the property against Davies Motors, Inc. in San Diego Superior Court Case No. 37-2011-00079079-CU-OR-SC. No final map may be recorded until such quiet title action is complete.
17. Developer shall provide an updated Title Report dated within 60 days of the Final Map submittal.

18. Prior to issuance of the first building permit for any development on the site, the Developer shall obtain approval from the City and record the Reciprocal Easement Agreement required under condition number 14 above that allows for shared vehicular and pedestrian access of the entire site.
  19. All building permits required for the project shall be obtained from the Imperial Beach Building Department.
  20. Per Section 19.48.150 of the IBMC, parking areas that abut properties zoned for residential uses shall be separated from such property by a solid fence, wall or building six feet in height; provided, that in the required front yard the fence or wall shall not exceed four feet in height.
  21. All landscaping and bio-filtration areas shall be maintained by the Developer, including the landscaped areas on City-owned property north of the project site and south of Palm Avenue/Highway. All landscaped areas shall be maintained in a healthy condition, free from weeds, trash, and debris.
  22. Drought tolerant landscaping shall be required and shall be subject to staff approval.
  23. A permanent irrigation system shall be installed to serve all landscaped areas.
  24. The courtyard area extending into the public right-of-way between buildings C and D shall be maintained by the Developer.
  25. Public improvements required for the project and/or adjacent to the entire project site shall be designed and installed by the Developer. All improvements proposed within the public right-of-way including paving, street trees, irrigation shall be subject to submittal of public improvement drawings and a Temporary Encroachment Permit (TEP) application to the City of Imperial Beach for review and approval by the Community Development Department and Public Works Department.
  26. An encroachment permit from the City and/or CALTRANS shall be required for all improvements within Caltrans right-of-way.
  27. The Developer or Developer's representative shall read, understand, and accept the conditions listed herein and shall, within 30 days, return a signed statement to the Community Development Department accepting said conditions.
  28. The Developer shall pay off any deficits in his project account (110024) prior to building permit issuance and prior to final inspection.
- B. BUILDING:**
29. A registered design professional licensed in the State of California will be required at time of construction drawings, to prepare plans for proposed improvements per the Business and Professions Code.
  30. BUILDING CODES – Improvements (new framing, electrical, mechanical, plumbing) Obtain all required building permits (Building, Plumbing, Mechanical, Grading etc.) for this project. All construction and design shall comply with the most recent adopted City and State Building Codes. January 1, 2011 the new California Building Code became effective, along with City amendments:
    - a. 2010 California Building Code
    - b. 2010 California Green Building Code
    - c. 2010 California Electrical Code
    - d. 2010 California Mechanical Code

- e. 2010 California Plumbing Code
  - f. California Energy Code
  - g. 2010 California Fire Code
31. No Building Structure, plumbing, drainage system, building sewer, or electric service shall be located in any lot other than the lot which is the site of the building, structure or premises served by such facilities. No piping, fixtures or equipment shall be so located as to interfere with the normal safe use thereof or with normal operation. Show all utility and service runs serving buildings or facilities. If alterations are to be made, separate permits and plans will be required to re-locate any utility services. Show all existing and new easements if required to comply with State Building Codes.
- **Cross easement agreement will be needed for drainage, sewer, water, parking etc.**

**DURING DESIGN (at construction plan submittal):**

32. The Title Sheet of the plans shall include:
- a. Occupancy group
  - b. Occupant Load
  - c. Description of use
  - d. Type of construction
  - e. Height of the building
  - f. Floor area of building(s)
33. SOILS REPORT- shall be submitted at time of Grading permit and/or Building permit application for building plan submittal.
34. FOUNDATIONS - Structural foundation design plans shall be reviewed by the soils Engineer of record for conformance to recommendations contained within the project soils report approved by the Building Official. A written statement approving the design will be provided to the Building Official at the time of construction permit application.
35. SPECIAL INSPECTIONS – As indicated by CBC Sec. 1704, the owner or the engineer or architect of record acting as the owner's agent shall employ one or more special inspectors who shall provide special inspections as required by CBC section 1704. Please contact Building Division at time of plan submittal to obtain application for special inspections.
36. Title 24 ACCESSIBILITY/COMMERCIAL - Comply with all applicable provisions of the California State Building Code (Title 24) Part 2 Chapter 11B Division for Disabled Access requirements. Plans shall show compliance in sufficient information and detail to determine compliance.
37. FOOD SERVICE FACILITIES AND PUBLIC POOLS AND SPAS - All projects including food service or public pools or spas shall be checked and approved by the County Health Department prior to submittal for a building permit.
38. PRE-CONSTRUCTION CONFERENCE – prior to issuance of a building permit or commencement of any site work a pre-construction conference shall be held at a time and location agreed upon by the City and Developer for the purpose of review and approval of construction procedures. The City will be represented by departments having conditions of approval on the project. Attendance shall be mandatory for the building owner and/or developer, designer of record and construction contractors:

39. PRE-CONSTRUCTION CONFERENCE – prior to issuance of a building permit or commencement of any site work a pre-construction conference shall be held at a time and location agreed upon by the City and Developer for the purpose of review and approval of construction procedures. The City will be represented by departments having conditions of approval on the project. Attendance shall be mandatory for the building owner and/or developer, designer of record and construction contractors:

Please contact the Building Official at (619) 628-1357 to schedule an appointment minimum two weeks ahead of proposed meeting date. Pre-construction meeting is required a maximum of two weeks after permit issuance or two weeks before issuance.

**DURING CONSTRUCTION:**

40. A licensed surveyor/engineer shall verify pad elevations and building corners and setbacks.
41. HOURS OF CONSTRUCTION - No work for which a building permit is required shall be performed within the hours of 7:00 P.M. - 7:00 A.M. Monday - Friday, nor prior to 8:00 A.M. or after 5:00 P.M. on Saturday. Construction work on Sundays shall be approved by the City.

**Pre-Final Inspection**

42. Call for a pre-final inspection seven working days prior to final inspection so project can be routed to all City Departments for review and approval.
43. Prior to issuance of the Certificate of Occupancy, the project designers including civil, structural, and geotechnical engineers shall provide statements of compliance attesting that they have reviewed the completed project and that it was constructed in conformance with their recommendations and plans.
44. Prior to final inspection of the project by the City, the Developer shall provide the City with a copy of the marked plans for review. After the City review has approved the marked plans, the Developer shall submit a final "wet stamp" copy to the City. The plans shall be identified by an "as built" or "record drawing" stamp.
45. Provide all Special Inspection and testing reports prior to final inspection.
46. Provide Title 24 Certificate of Acceptance Forms and Worksheets prior to final inspection.
47. Energy Compliance Forms shall be provided at site prior to final inspection.
48. Provide any required manufacture warranty and operation manuals on site prior to final inspection.
49. Provide a complete copy of the City inspection record log prior to final inspection.

**POST CONSTRUCTION:**

50. Building structures and facilities serving the project/buildings (this will include parking areas, drainage BMPs and landscaping) shall be maintained as originally designed and approved by the City. Alterations to structures and facilities serving this project shall be submitted for approval by the City prior making alterations. A Note indicating this requirement shall be included on design drawings.

**C. PUBLIC WORKS:**

51. Ensure that the hot water tank P.T. discharge pipe is piped to discharge to the sanitary sewer system or the landscape area. A design that has the water discharge directly into the storm drain conveyance system (onto an impervious surface that flows to the street) is in violation of the Municipal Storm Water Permit - Order R9-2007-0001.
52. The project shall comply with the approved Drainage Report and Water Quality Technical Report dated December 5, 2011, on file at the Community Development Department, or as otherwise amended and approved. The project may not violate Municipal Storm Water Permit - Order R9-2007-0001.
53. Landscape irrigation system shall be provided to tree planters and all landscaping in the public right-of-way per I.B.M.C. 19.50.040.F.
54. Require the building foundation elevation be at least 1 foot above gutter line to minimize flooding during storm conditions. An alternate methods and design request may be applied for demonstrating adequate drainage flow away from the building and adequately conveying water from the site.
55. 9<sup>th</sup> Street between Palm Avenue and Donax Avenue shall be resurfaced per the plans provided by the City Engineer/City of Imperial Beach. City will contribute to the resurfacing costs. Infrastructure improvements (sewer / storm drain) required as part of the development on 9<sup>th</sup> Street will be borne by the Developer.
56. Street lights shown to be removed from S.R. 75 and Palm Avenue shall be considered for relocation and reuse. If these are not to be reused, they shall be delivered to the City for reuse.
57. Alleyway shall be designed and reconstructed to the standards of the City Engineer and subject to approval by the City.
58. The pedestrian access ramps located along Palm Ave shall be constructed in compliance with San Diego Regional Standard Drawing G-27A. All driveway approaches shall be constructed per San Diego Regional Standard Drawing G-14A.
59. For alley, sidewalk or curb & gutter replacement ensure compliance with San Diego Regional Standard Drawing G-11 in that, the "Area to be removed [shall be] 5' or from joint to joint in panel, whichever is less." The distance between joints or score marks shall be a minimum of 5-feet. Where the distance from "Area to be removed", to existing joint, edge or score mark is less than the minimum shown, "Area to be removed" shall be extended to that joint, edge or score mark.
60. If it is necessary to cut into the alley pavement as part of this project, all concrete cuts in the alley shall be replaced with #4 rebar dowels positioned every 1 foot on center. Concrete specification shall be 560-C-3250. Concrete cuts shall also comply with item 9 above and cuts parallel to the alley drainage shall be at least 1-foot from the alley drain line.
61. For any work to be performed in the street or alley, a traffic control plan shall be submitted to the City for approval by Public Works Director a minimum of 5 working days in advance of street work. Traffic control plan is to be per Regional Standard Drawings or CALTRANS Traffic Control Manual.

62. For any project that proposes work within the public right-of-way (i.e., driveway removal/construction, sidewalk removal/construction, street or alley demolition/reconstruction, landscaping and irrigation, fences, walls within the public right-of-way, etc.), a Temporary Encroachment Permit (TEP) shall be applied for and approved either prior to or concurrent with issuance of the building permit required for the project. Application for a Temporary Encroachment Permit shall be made on forms available at the Community Development Department Counter.
63. All street work construction requires a Class A contractor to perform the work. All pavement transitions shall be free of tripping hazards.
64. Construct trash or refuse enclosures and recycling enclosures to comply with IBMC 19.74.090. Trash and recycling enclosures are to be enclosed by a six-foot high masonry wall and locking gate. The minimum size refuse enclosure shall be 6'-0" x 9'-0" and the minimum recycling enclosure shall be 4'-0" x 8'-0". **The trash bins shall be accessible to the refuse hauler without restriction.**
65. Any disposal/transportation of solid waste / construction waste in roll off containers shall be contracted through the City's waste management provider unless the hauling capability exists integral to the prime contractor performing the work.
66. The existing parcel impervious surfaces shall not increase beyond the current impervious services as a post-conversion condition in order to maximize the water runoff infiltration area on the parcel in compliance with Municipal Storm Water Permit – Order 2001-01.
67. All landscape areas, including grass and mulch areas, shall be improved to consist of at least 12-inches of loamy soil in order to maximize the water absorption during wet weather conditions and minimize irrigation runoff.
68. Survey monuments shall be installed on the southeast, southwest and northeast property lines in or adjacent to the sidewalk. Record same with County Office of Records.
69. In accordance with I.B.M.C. 12.32.120, Developer shall place and maintain warning lights and barriers at each end of the work, and at no more than 50 feet apart along the side thereof from sunset of each day until sunrise of the following day, until the work is entirely completed. Barriers shall be placed and maintained not less than three feet high.
70. All BMP's planned for the project shall comply with the approved Drainage Report and Water Quality Technical Report dated December 5, 2011, on file at the Community Development Department, or as otherwise amended and approved. Maximum use of Low Impact Development (LID) elements and filter inserts are necessary to reduce pollutant discharge to the maximum extent practicable.
71. Require Developer to provide verification of post construction Best Management Practice (BMP) maintenance provisions through a legal agreement, covenant, CEQA mitigation requirement, and / or Coastal Development Permit. Agreement is provided through the Community Development Department.

72. Developer or property owner shall institute "Best Management Practices" to prevent contamination of storm drains, ground water and receiving waters during both construction and post construction. The BMP practices shall include but are not limited to:
- Contain all construction water used in conjunction with the construction. Contained construction water is to be properly disposed in accordance with Federal, State, and City statutes, regulations and ordinances.
  - All recyclable construction waste shall be properly recycled and not disposed in the landfill.
  - Water used on site shall be prevented from entering the storm drain conveyance system (i.e. streets, gutters, alley, storm drain ditches, storm drain pipes).
  - All wastewater resulting from cleaning construction tools and equipment shall be contained on site and properly disposed in accordance with Federal, State, and City statutes, regulations, and ordinances.
  - Erosion control - All sediment on the construction site shall be contained on the construction site and not permitted to enter the storm drain conveyance system. Developer is to cover disturbed and exposed soil areas of the project with plastic-like material (or equivalent product) to prevent sediment removal into the storm drain system.
73. Developer shall agree to underground all utilities in accordance with I.B.M.C. 13.08.060.
74. Developer shall underground the overhead utilities in the adjacent south alley and install applicable alley lighting as approved by the City.

**D. PUBLIC SAFETY**

75. Submit applicable sheet(s) or provide in a separate submittal(s): Complete construction documents for each structure on the proposed site including but not limited to the following information:
- Construction type.
  - Hour ratings.
  - Occupancy classification/ Building use(s).
  - Building height and area.
76. Separate fire and life safety submittals shall include:
- Fire sprinkler system drawings and hydraulic calculations.
  - Fire alarm system drawings and load calculations.
77. All submitted construction documents shall be designed in compliance with currently adopted codes and approved standards including but not limited to:
- 2010 California Fire Code
  - 2010 California Building Code
  - 2010 California Mechanical Code
  - NFPA 13 2010 Edition
  - NFPA 72 2010 Edition
78. The designated fire sprinkler contractor and the builder shall attend a mandatory pre-construction meeting with the Imperial Beach Fire Department, Fire Code Official to establish inspection procedures and timelines.

- 79. The designated fire alarm contractor and the builder shall attend a mandatory pre-construction meeting with the Imperial Beach Fire Department, Fire Code Official to establish inspection procedures and timelines.
- 80. It is recommended that the water supply piping serving the project be continued to the western most property line to better serve the fire protection needs of the additional phase.

**Appeal Process under the California Code of Civil Procedure (CCP):** The time within which judicial review of a City Council decision must be sought is governed by Section 1094.6 of the CCP. A right to appeal a City Council decision is governed by CCP Section 1094.5 and Chapter 1.18 of the Imperial Beach Municipal Code.

**PROTEST PROVISION:** The 90-day period in which any party may file a protest, pursuant to Government Code Section 66020, of the fees, dedications or exactions imposed on this development project begins on the date of the final decision.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Imperial Beach at its meeting held on the 14<sup>th</sup> day of December 2011, by the following vote:

<b>AYES:</b>	<b>COUNCILMEMBERS:</b>	<b>KING, BRAGG, SPRIGGS, BILBRAY, JANNEY</b>
<b>NOES:</b>	<b>COUNCILMEMBERS:</b>	<b>NONE</b>
<b>ABSENT:</b>	<b>COUNCILMEMBERS:</b>	<b>NONE</b>

Signature on File  


**JAMES C. JANNEY, MAYOR**

**ATTEST:**

Signature on File  


**JACQUELINE M. HALD, MMC**  
**CITY CLERK**  
