



# TOWN OF APPLE VALLEY

## TOWN COUNCIL STAFF REPORT

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**To:** Honorable Mayor and Town Council **Date:** February 11, 2014

**From:** Lori Lamson **Item No:** 6  
Community Development Director

**Subject:** Appeal No. 2014-01 of the Planning Commission's approval of a request to amend Condition of Approval No. 35 of Tract Map No. 14582, requiring a two hundred (200)-foot building setback from San Bernardino County Flood Control District right-of-way by allowing a seventy-five (75)-foot setback.

**Applicant:** Mr. Arthur Joe Pena

**Location:** The lots are located south of Yucca Loma Road, westerly side of Kasanka Trail, adjacent to the Mojave River. APNs: 3088-571-16 & 17, 3088-581-15 thru 18, 3088-591-08 thru 11.

**T.M. Approval:** \_\_\_\_\_ **Budgeted Item:**  Yes  No  N/A

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**RECOMMENDED ACTION:**  
Move to open the public hearing and take testimony.

**Close the public hearing. Then:**

1. Find that pursuant Section 15061(b)(3) of the California environmental Quality Act (CEQA), that the amendment is not anticipated to have any direct or indirect impact upon the environment, as it has been determined that the proposed request is Exempt from further environmental review.
2. Find the Facts presented in the staff report support the required Findings for approval and adopt the Findings for Tract Map No. 14582 Amendment No. 3.
3. Approve Tract Map No. 14582 Amendment No. 3, subject to the Conditions of Approval as approved by the Planning Commission on December 18, 2013.

**SUMMARY:**

The applicant is appealing the Planning Commission's approval of the amendment that allows a seventy-five (75)-foot rear yard setback (Condition No. 35) and Conditions of Approval Nos. 23 & 24 and P80 thru P83.

**ANALYSIS:**

On December 18, 2013, the Planning Commission conducted a public hearing on Tract Map No. 14582 Amendment No. 3. Following consideration of the information within the staff report, the public hearing and discussion, the Planning Commission voted to approve the amendment, with Commissioner Kallen voting no.

The Appeal application (attached) indicates the applicant is appealing the Planning Commission's decision to approve the amendment and is requesting that Conditions of Approval Nos. P80-P83 be deleted. It is unclear as to what action is being requested for Conditions No. 23 & 24 since the application does not specify. The applicant also requests that Covenant, Conditions and Restrictions (CC & Rs) be reviewed and approved by the Town Council.

It is standard practice on appeal applications that the staff report presented to the Council be consistent with the Planning Commission determination. In keeping with this practice, staff has provided a recommendation to approve the amendment consistent with the Planning Commission's determination, and deny the appeal.

The appellant, Mr. Pena is requesting the Council to overturn the Planning Commission's approval of the amendment that reduces the required rear setback from 200 feet to a seventy-five (75)-foot setback. The appeal application does not indicate the basis or reasoning for appeal. Nevertheless, to justify the reduction in the setback staff required the applicant to submit the necessary technical documents to support the change. The Town Engineer found the analysis and technical studies provided to be adequate to support the request to amend Condition No. 35. However, in supporting the amendment request, staff recommended additional conditions be placed on the tract map. These conditions of approval were added to ensure the protection of the slope and that documentation is in place that informs the homeowner/ property owner of building restrictions.

**FISCAL IMPACT:**

Not Applicable

**Attachments:**

1. Draft Resolution No. 2014-
2. Appeal application
3. Minute excerpts from the December 18, 2013 Planning Commission meeting
4. Approved Conditions of Approval
5. Planning Commission staff report

**TOWN COUNCIL RESOLUTION No. 2014-**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, APPROVING TRACT MAP 14583 AMENDMENT No. 3 A REQUEST TO AMEND CONDITION OF APPROVAL NO. 35 OF TRACT MAP NO. 14582, REQUIRING A TWO HUNDRED (200)-FOOT BUILDING SETBACK FROM SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT RIGHT-OF-WAY BY ALLOWING A SEVENTY-FIVE (75)-FOOT SETBACK.**

**WHEREAS**, Mr. Arthur Pena, submitted Appeal No. 2014-01, requesting that the Town Council overturn the Planning Commission approval of Tract Map No. 14582 Amendment No. 3; and

**WHEREAS**, the Town of Apple Valley Planning Commission considered the project at their December 18, 2013 meeting and is forwarding a recommendation of approval based on a 4-1 vote; and

**WHEREAS**, on January 31, 2014, Appeal No. 2014-01, Tract Map No. 14582 Amendment No. 3 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

**WHEREAS**, The Town Council conducted a duly noticed public hearing on February 11, 2014 and heard all testimony of any person wishing to speak on the issue and considered the written recommendation of the Planning Commission on the matter; and

**WHEREAS**, the amendment is not anticipated to have any direct or indirect impact upon the environment, and therefore determined to be exempt from further environmental review under California Environmental Quality Act (CEQA)

**NOW, THEREFORE, BE IT RESOLVED**, that in consideration of the evidence received at the public hearing, and for the reasons discussed by the Town Council at said hearing, the Town Council of the Town of Apple Valley, California orders, determines and resolves as follows:

**Section 1.** The Town Council hereby denies Appeal No. 2014-01 based upon the determination that sufficient technical analysis and documentation has been provided to support the amendment subject to the conditions of approval as approved by the Planning Commission.

**Section 2** The Town Council hereby denies Appeal No. 2014-01, that would have overturned the Planning Commission approval of Tract Map No. 14582 Amendment No. 3.

**Section 3.** Effective Date. This Resolution shall become effective immediately upon adoption by the Town Council of the Town of Apple Valley.

Adopted by the Town Council and signed by the Mayor and attested to by the Town Clerk this 11<sup>th</sup> day of February, 2014.

ATTEST:

\_\_\_\_\_  
Honorable Art Bishop, Mayor

\_\_\_\_\_  
Ms. La Vonda M. Pearson, Town Clerk

Approved as to form:

Approved as to content:

\_\_\_\_\_  
Mr. John Brown, Town Attorney

\_\_\_\_\_  
Mr. Frank Robinson, Town Manager



A Better Way of Life

# Town of Apple Valley Appeal Application



This request must be filed with the Planning Division within ten (10) calendar days following the date of action. An Appeal request received after this time will not be accepted. Appeals requiring Town Council consideration will be forwarded to the Town Clerk by the Director.

**FOR TOWN USE ONLY**

APL 2014-001

Date Submitted: 1/6/2014 Case No. \_\_\_\_\_ Received By: RF/MS  
Planning Fee: 238 Other Fees: NA Case Planner: Mrs. Carol Miller San Planning

Type or print legibly in ink only

PROPERTY ADDRESS Kasanka Trail adjacent to Mojave River  
ApNs: 13088-571-16 & 17 3088-581-15 thru 18 3088-591-08 thru 11.

	<u>Initial Deposit</u>	<u>Actual Cost not to exceed</u>
<input type="checkbox"/> Appeal Fee – To Planning Commission	\$238.00	\$238.00
<input checked="" type="checkbox"/> Appeal Fee – To Town Council	\$238.00	\$238.00

The Appeal Fee does not apply to permits the Planning Commission acted to revoke or amend.

**APPELLANT INFORMATION**

Name Arthur Joe Pena Telephone (760) 247-0879  
Fax \_\_\_\_\_ Email \_\_\_\_\_  
Address 13585 Kurena Rd  
City Apple Valley State Ca Zip 92308

**PROJECT INFORMATION**

Project Number Being Appealed Agenda Item No 2 - TM 14382 Amend. # 3  
Project Description RZF - single Family Residential  
Assessor's Parcel No. (s) \_\_\_\_\_ Tract 14582 Lot \_\_\_\_\_

**APPEAL STATEMENT**

- I am/We do hereby appeal the findings/conditions/interpretations of the Town of Apple Valley:  
(Check one)  
 Planning Commission      \_\_\_\_\_ Planning Director  
 Public Works Director      \_\_\_\_\_ Building Official  
 Town Engineer      \_\_\_\_\_ Fire Chief

2. I/We appeal to the Town of Apple Valley:  
(check one)  
 Planning Commission       Town Council

3. I/We am/are appealing the project action taken to:  
(Check those which apply)  
 Deny the project       Adopt a Negative Declaration  
 Approve the project  
 \*Approve the project condition of (specify):

Other: \_\_\_\_\_

4. Detail what is being appealed and what action or change you seek. Specifically address the findings, mitigation measures and/or policies with which you disagree. Also state exactly what action/changes you would seek.

Agenda Item No 2 - Tract Map No 14582  
Amendment No 3 No 23-24 and Subtract  
~~Amendment~~ a. a. c. No. 80, 81, 82 and 83  
(C.C. and R.S) would be required to be reviewed  
Town Council

I/We understand that as appellant I/We have the burden of proof in this matter:

Antonio Joe Pena  
Signature \_\_\_\_\_

Signature \_\_\_\_\_

Date 1/6/14

**Draft  
MINUTES**

**TOWN OF APPLE VALLEY  
PLANNING COMMISSION  
Regular Meeting  
Wednesday, December 18, 2013**

**CALL TO ORDER**

At 6:04 p.m., the Regular Meeting of the Planning Commission of the Town of Apple Valley for December 18, 2013, was called to order by Chairman Lamoreaux.

**ROLL CALL**

**Planning Commission**

Roll call was taken with the following members present: Commissioner Doug Qualls, Commissioner Mark Shoup, Commissioner B.R. "Bob" Tinsley, Vice-Chairman Bruce Kallen and Chairman Jason Lamoreaux.

**STAFF PRESENT**

Lori Lamson, Community Development Director; Carol Miller, Senior Planner; Brad Miller, Town Engineer; Haviva Shane, Town Attorney; and Debra Thomas, Planning Commission Secretary.

**PLEDGE OF ALLEGIANCE**

Commissioner Tinsley led the Pledge of Allegiance.

**1. APPROVAL OF MINUTES**

- A. Minutes for the Regular Meeting of September 18, 2013 (*Continued from the October 2, 2013 meeting*).
- B. Minutes for the Regular Meeting of November 20, 2013

Motion by Commissioner Qualls, seconded by Commissioner Tinsley, to approve the Minutes for the Regular Meeting of September 18, 2013.

Motion carried by the following vote: Ayes: Commissioner Qualls, Commissioner Shoup, and Commissioner Tinsley. Noes: None. Absent: None. Abstain: Vice-Chairman Kallen and Chairman Lamoreaux.

Motion by Commissioner Tinsley, seconded by Commissioner Qualls, to approve the Minutes for the Regular Meeting of November 20, 2013.

Motion carried by the following vote: Ayes: Commissioner Qualls, Commissioner Shoup, Commissioner Tinsley, Vice-Chairman Kallen and Chairman Lamoreaux. Noes: None. Absent: None. Abstain: None.

## **PUBLIC HEARING ITEMS**

- 2. Tract No. 14582, Amendment No. 3.** A request to amend Condition of Approval No. 35 of Tract Map No. 14582, requiring a 200-foot building setback from San Bernardino County Flood Control District right-of-way by allowing a seventy-five (75)-foot building setback.

**Applicant:** Gar Brewton representing Yeager Bros. LLC

**Location:** The lots are located south of Yucca Loma Road, on the westerly side of Kasanka Trail, adjacent to the Mojave River; APNs; 3088-571-16 & 17, 3088-581-15 thru 18, and 3088-591-08 thru 11.

Chairman Lamoreaux opened the public hearing at 6:07 p.m.

Ms. Carol Miller, Senior Planner, presented the staff report as filed by the Planning Division.

Mr. Brad Miller, Town Engineer, for the Town of Apple Valley had reviewed the geotechnical study and found it to be acceptable.

Ms. Miller presented to the Planning Commission changes that needed to be made to Conditions of Approval Nos. 23 and P82.

Ms. Haviva Shane, Town Attorney, wants to amend Condition No. 9 to make sure it referenced the approval and any Amendments.

Commissioner Shoup had concerns with the substantial changes to the Conditions of Approval that were being discussed. He had spent a lot of time reviewing the Conditions, would like to see those changes in writing, and would like the item continued allowing more time for review. Commissioner Shoup submitted a motion to continue the item to the next Planning Commission meeting scheduled in January, 2014.

Commissioner Tinsley seconded the motion.

Ms. Miller asked the Planning Commission to listen to the Applicant's presentation. The Applicant had brought expert consultants to answer all questions asked by the Planning Commission.

Vice-Chairman Kallen requested that the motion be tabled. It was the consensus of the Planning Commission to table the motion.

Gar Brewton representing Yeager Bros. LLC is a principle with GFB Friedrich and Associates, engineers for the tract. He explained that the driving force to modify the flood control Condition was to save the habitat. The environmental setting was critical to the project and through the Applicant's research; the existing habitat actually provided the flood protection to the property that was considered reasonable.

Mr. Marty Teal, one of Applicant's experts, had been an advisor to the San Bernardino County Flood Control District ("SBC Flood Control District"). He was a recognized authority on river drainage and erosion. Mr. Brewton stated that many of the changes being made were due to the Covenants, Conditions and Restrictions ("CC&Rs"). The Applicant wanted to be sure that the CC&Rs disclosed everything to potential property owners regarding the conservation habitat and risks living next to a river.



Mr. Marty Teal, previous consultant. Brewton by SBC Flood Control District in the past and hired by Applicant was asked to provide a professional opinion on the stability of the riverbank under hydraulic loading. Based on hydraulics of the river dating back to 1938 to the present and looking at the behavior not only of the river against the bank, but also the reach in general, in his opinion, there was a low probability of the river bank intruding more than seventy-five (75) feet. With that said, he believed that would not create a catastrophic event nor endanger the public.

Discussion ensued regarding Mr. Teal's credentials, expertise, and the possibility of the SBC Flood Control District waiving the 200-foot setback. In addition, concern was expressed with respect to where liability lies if changes made to the Conditions of Approval were approved.

Additional discussion ensued regarding studies prepared on the Applicant's behalf, the river's behavior, slope erosion and the percentage of risk.

Mr. Brad Miller, Town Engineer, commented on the hydrology and hydraulic analysis performed by a consultant retained by the SBC Flood Control District, which Mr. Teal's firm was part of that team. The purpose for the study was to prepare a LOMR, Letter of Map Revision for the segments of the river from the Narrows to Tussing Ranch Road. The primary purpose was to address the certification of levies along both banks of the river. There were several areas along that reach of the river after the 2008 firm panels were released by FEMA that showed larger areas of potential flooding hazard than previous maps had shown. In response, the SBC Flood Control District retained the consultants to perform a hydraulic analysis along that stretch of the river to see what could be done about certifying the levies or how to determine certification was not necessary.

During the same period, Mr. Miller was approached in 2008 by several property owners on Kasanka Trail regarding their homes on the east side of Kasanka Trail. FEMA included those homes in the flood hazard zone and those property owners were confused and concerned. Mr. Miller sent several letters to Washington asking FEMA for an explanation why properties thirty (30) feet above the river and several hundred feet away from a vertical bank were included in a flood hazard zone. FEMA initiated their own analysis and concluded in October of 2013 that the properties had been removed from the flood hazard zone.

Mr. Miller went on to explain that the Town of Apple Valley ("Town") established a reasonable and tolerable level of risk in the Town's design criteria in the Development Code. FEMA determined that the 100-year flood would not over top the levies. Mr. Miller explained describes where the subject property was in conjunction to the slope and the 100-year flood.

Ms. Haviva Shane suggested the following language be included in the Amendment to Condition No. 9:

"The obligations herein apply to the approval of any Amendments to the original approval including, but not limited to, the approval and implementation of Amendment No. 3 to TTM No. 14582."

Commissioner Shoup would like the proposed language for changes to Conditions No. 23 and P82 read into the record:

Condition No. 23 reads as follows:

"The area adjacent to the rear of the lots is within the San Bernardino County Flood Control right-of-way. Any work/disturbance within this area requires the approval of

San Bernardino County Flood Control, U.S. Army Corps of Engineers and State Fish and Wildlife.”

Condition No. P82 reads as follows:

“Prior to the issuance of a building permit, Covenant, Conditions and Restrictions (CC&Rs) shall be reviewed and approved by the Town that set forth to the property owners their responsibility to properly maintain their lot up to the existing top of slope bank, but not on the slope face without obtaining the required approval and permits from the several regulatory agencies. The property owner shall be responsible to prevent erosion from occurring on his lot and will be responsible to properly inspect and maintain all drainage devices that will receive all of the lot drainage and dispose of said drainage into the Mojave River. The property owner will also be required to prevent the overflow of surface drainage over the top of the existing slope. In the event a major storm occurs and slope erosion results that extends into the property owners lot beyond the existing top of slope the owner will be responsible for the repair of flood damage to his property only after obtaining the approval and permits from the several regulatory agencies having jurisdiction over the Mojave River. The property owner shall be responsible for the maintenance of the wrought iron fencing at tope of slope.

Lengthy discussion ensued regarding liability the Town could incur if a 75-foot setback was approved, why the 200-foot setback requirement from the SBC Flood Control District was such a sticking point, who maintained authority for anything outside the property line into the river and its banks and additions the Planning Commission would like included in the CC&Rs.

### **PUBLIC COMMENTS**

Jeff Bragg, Apple Valley, thanked the Planning Commission for their hard work, lengthy discussion and questions posed regarding this proposed project. He believed that the SBC Flood Control District was not going to budge on their 200-foot setback requirement unless evidence supporting a change was provided to them. In addition, Mr. Bragg disagreed with the lot depth measurement of 180 feet. He stated his own measurement showed 167 feet due to the erosion that had been occurring over the last three (3) years.

Arthur Pena, Apple Valley, stated he had nothing against the developer building at that location however, he had seen sink holes at the end of the street and patios dropped approximately two (2) inches. He had taken pictures and provided them to the Planning Commission to view so they could see for themselves exactly what had happened to the bank. He believed the bank would undermine itself once any water was placed on the property. He described how water takes everything and only leaves behind smooth sand.

Mr. Brewton disagreed with Mr. Bragg’s measurements and stated to the Planning Commission that the actual lot size depth was 180 feet. Mr. Brewton had not seen the photographs that Mr. Pena presented to the Planning Commission however stated CHJ Consultants had their geotechnical engineer out at the property many times to monitor the silt stability and walked the slope as part of their investigative process.

Chairman Lamoreaux recessed the Planning Commission Meeting at 7:55 p.m.

Chairman Lamoreaux reconvened the Planning Commission Meeting at 8:00 p.m.

Commissioner Shoup would like to continue the item to allow the Planning Commission time to review all Conditions of Approval in writing.

Commissioner Tinsley seconded the motion.

Ms. Haviva Shane would like a disclosure statement notifying owners that the Town of Apple Valley bears no liability regarding damage to the property located adjacent to the river and flooding. The suggested language would be:

Condition No. P84 reads as follows:

“The property owner is on notice and acknowledges that the property is located within 75 feet of the Mojave River and may be subject to damage or destruction due to flooding or erosion. The property owner is on notice that the technical studies on which the set back requirements were based are on file at the offices of the Town of Apple Valley and available for review. The Town of Apple Valley is not liable for and the property owner waives any claims against the Town of Apple Valley and agrees to hold harmless Town of Apple Valley for any damage or destruction to the property resulting from flooding or erosion.”

Commissioner Qualls was more than satisfied with the project presented, as amended and would be in favor of moving the project along.

Commissioner Tinsley stated the modifications presented had cleared up any confusion he had and was in favor of moving the project along.

Commissioner Shoup stated after hearing the Conditions read by staff and by counsel, he withdrew his motion to continue and suggested the Planning Commission move to approve the project.

Commissioner Tinsley seconded the motion.

Vice-Chairman Kallen stated he did not want to go against the recommendations of the SBC Flood Control District and would vote against the project.

Chairman Lamoreaux stated he was comfortable with the project after the changes to the Conditions of Approval were clarified by Staff and the Town Attorney.

Chairman Lamoreaux asked the Applicant if he agreed to the Conditions of Approval as originally written and as amended.

The Applicant stated he has read them and agreed to all of them.

Chairman Lamoreaux closed the public hearing at 8:26 p.m.

**MOTION:**

Motion by Commissioner Shoup, seconded by Commissioner Tinsley, that the Planning Commission move to:

1. Determine that the Amendment is not anticipated to have any direct or indirect impact upon the environment, as it has been determined that the proposed request is Exempt from further environmental review.
2. Find the Facts presented in the staff report support the approval to revise Condition of Approval Nos. 9, 23, 24, and 35, and the addition of Condition of Approval Nos. P80, P81, P82, P83 and P84.
3. Approve Amendment No. 3 for Tract Map No. 14582 subject to revised Condition of Approval Nos. 9, 23, 24, and 35, and the addition of Condition of Approval Nos. P80, P81, P82, P83 and P84 as attached.

### **ROLL CALL VOTE**

Ayes:       Commissioner Qualls  
              Commissioner Shoup  
              Commissioner Tinsley  
              Chairman Lamoreaux

Noes:       Vice-Chairman Kallen

Abstain:   None

Absent:     None.

The motion carried by a 4-1-0-0 vote.

Commissioner Lamoreaux informed the speakers at tonight's meeting, they had the option to appeal the Planning Commission's decision to the Town Council.

# **TOWN OF APPLE VALLEY**

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## **FINAL CONDITIONS OF APPROVAL**

Case No. Tract No. 14582 Amendment No. 3

9. Add to existing language:

The obligations herein apply to the approval of any amendments to the original approval including, but not limited to, the approval and implementation of Amendment No. 3 to Tract Map No. 14582.

23. The area adjacent to the rear of the lots is within the San Bernardino County Flood Control right-of-way. Any disturbance within this area requires the approval of the San Bernardino County Flood Control, U.S. Army Corp of Engineers, State Fish and Wildlife.
24. A split rail fence shall be placed along the westerly and northerly property lines of the project site. This fence shall be constructed in a manner which bars off-road vehicles from the conservation easement. Additionally, a six (6) foot chain link or wrought iron fence shall be constructed along the easterly boundary of the conservation easement in such a manner to prohibit access from the project to and through the conservation easement. Exact location and height of fencing and materials shall be reviewed and approved by the Town Planning Department prior to construction of all barrier fencing. The north and south ends of required conservation easement shall be provided with "softscape" areas to preclude off-road vehicle traffic. These proposed materials shall be reviewed and approved by the Town Planning Department prior to construction of any barrier.
35. A seventy-five (75) foot building setback shall be provided from the rear property line for any habitable or accessory structure.
- P80. Prior to the issuance of a permit, documentation shall be provided to the Planning Division that the conservation easement was recorded on all lots adjacent to the Mohave River and a notation appears on Title of each lot, informing the landowner the Composite Plan is on file with the Town of Apple Valley Planning Division.
- P81. No water shall be allowed to flow over the top of the slope as a result of landscape irrigation or nuisance water run-off.
- P82. Prior to the issuance of a permit, Covenant, Conditions and Restrictions (CC & Rs) shall reviewed and approved by the Town that set forth to the property owners their responsibility to properly maintain their lot up the existing top of slope bank, but not on the slope face without obtaining the required approval and permits from the several regulatory agencies. The property owner shall be responsible to prevent erosion from occurring on their lot and will be responsible to properly inspect and maintain all drainage devices that will receive all of the lot drainage and dispose of said drainage into the Mojave River. The property owner will also be required to prevent the overflow of surface drainage over the top of the existing slope. In the event a major storm event occurs and slope erosion results that extends into the property owners lot beyond the existing top of slope, the owner will be responsible for the repair of flood damage to their property only after obtaining the approval and permits from the

applicable regulatory agencies having jurisdiction over the Mojave River. The property owner shall be responsible for the maintenance of the wrought iron fencing at top of slope.

- P83. The unprotected slope due to off-road activity located on Lot No. 1, shall be provided with slope protection/ erosion control.
- P84. The property owner is on notice and acknowledges that the property is located adjacent to the Mojave River and may be subject to damage or destruction due to flooding or erosion. The property owner is on notice that the technical studies on which the setback requirements were based, are on file at the offices of the Town and available for review. The Town is not liable for, and the property owner waives any claims against the Town and agrees to hold harmless the Town for any damage or destruction to the property resulting from flooding or erosion.

**TOWN OF APPLE VALLEY  
CONDITIONS OF APPROVAL**

**APPROVED** 6/23/12

**Case No. Development Permit No. 212**

**Note:** Asterisk (\*) indicates non-standard conditions.

**Planning Department**

1. This tentative subdivision shall comply with the provisions of the State Subdivision Map Act and the Town Development Code. This tentative approval shall expire (3) years from the date of approval by the Planning Commission/Town Council and/or Planning Department. A Time Extension may be approved in accordance with the State Map Act and Town Ordinance, if an extension application is filed and the appropriate fees are paid 30 days prior to the expiration date.
2. Subdivision phasing, including proposed common open space phasing, shall be as shown on the approved Tentative Tract Map.
- 3.\* Prior to the recordation of the Final Map or issuance of any Building Division permit, the following agencies shall provide written verification to the Engineering Department/Building and Safety Department that all pertinent Conditions of Approval and applicable regulations have been met:
  - Apple Valley Fire Protection District
  - Apple Valley Recreation and Park District
  - Apple Valley Unified School District
  - Apple Valley Water District
  - Engineering Division
  - Planning Division
  - County Flood Control and Transportation
  - State Fish and Game
  - U.S. Army Corps of Engineers
4. Sidewalks shall be provided along all secondary and major streets per Town standards or as necessary for safe and adequate pedestrian circulation.
5. Lot design and size shall conform to the Town Interim Design Guidelines and the Development Code.

cdp212

026

APPROVED

- 6.\* The following setback lines shall be delineated on the composite development plan or recorded on the Final Map.
  - A front yard building setback line of at least 40 feet with an average of 45 feet. No more than two (2) adjacent lots shall have the same setback except on cul-de-sac and/or curvilinear streets. Minimum variation shall be three (3) feet.
  - A side yard building setback line of at least 25 feet adjacent to side streets on corner lots.
- 7. A copy of the final grading plan shall be submitted to the Planning Department for review and approval. All on-site cut and fill slopes shall:
  - Be limited to a maximum slope ratio of 2 to 1 and a maximum vertical height of thirty (30) feet except in the off-site side area of the Mojave River as modified by the improvements involved with the installation of the proposed revetment and service road to the satisfaction of the County of San Bernardino Flood Control District and U.S. Army Corps of Engineers. Setbacks from top and bottom of slopes shall be a minimum of one-half the slope height.
  - Be contour-graded to blend with existing natural contours.
  - Be a part of the downhill lot when within or between individual lots.
- 8. All slopes over three (3) feet in height shall be landscaped and irrigated according to Town Interim Development Guidelines.
- 9. In compliance with Town Ordinance #2684, the applicant shall agree to defend at his sole expense (with Attorneys approval by the Town), and indemnify the Town against any action brought against the Town, its agents, officers or employees resulting from or relating to this approval. The applicant shall reimburse the Town, its agents, officers or employees for any judgement, court costs and attorney's fees which the Town, its agents, officers or employees may be required to pay as a result of such action. The Town may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the applicant of his obligations under this condition.
- 10. Prior to recordation of the Final Map the developer or his assignee must conform to the park district Quimby Ordinance, unless waived at time of issuance of a building permit.
- 11.\* Three sets of detailed landscaping and irrigation plans for the required revegetation plan shall be prepared by a qualified professional, shall be submitted to the Director of Planning as necessary for review and approval prior to the issuance of building permits.
- 12.\* All site amenities, including architectural details, site amenities, landscaping and irrigation, and open space areas as shown on plans approved by the Town Planning Department, shall be installed prior to issuance of the Certificate of Occupancy. Landscaping shall utilize drought tolerant/desert-appropriate landscaping wherever feasible.



- APPROVED
13. A Composite Development Plan (CDP) shall be filed with the Engineering, Planning and Building and Safety Departments prior to Final or Parcel Map processing by the Town. The CDP shall be reviewed and approved by these departments prior to recordation of the Final Map. The CDP shall provide additional survey and map information including, but not limited to, building criteria (e.g. setbacks), flood control criteria, Seismic and geological criteria, environmental criteria and easements of record. The CDP shall be labeled with the title "Composite Development Plan", and contain a section entitled "Composite Development Plan Notes". The applicant shall have listed under the CDP Notes section the conditions or mitigating measures required for the development of the subject property.
  14. The Developer shall comply with the Town's Native Plant Protection Ordinance, Section 811.0125.
  - 15.\* All proposed subdivision entry signs shall be approved by separate permit.
  - 16.\* Reverse frontage lot perimeter decorative block walls and landscaping/irrigation plans must be approved prior to issuance of building permits for lots adjacent to Yucca Loma Road. The proposed residences adjacent to Yucca Loma Road shall be constructed and designed in conformance with Uniform Building Code standards with regards to noise attenuation. The Assessment District shall be established to maintain these required improvements.
  17. All utility service boxes and connections shall be painted to match the building exterior on which they are located.
  18. All existing overhead utility services and wiring shall be relocated underground.
  19. All utility systems including gas, electric, telephone, water, sewer and cable TV shall be provided for underground, with easements provided as required, and designed and constructed in accordance with Town Codes and the utility provided. Telephone and cable TV, shall be pre-wired in the residence.
  - 20.\* The Covenants, Conditions and Restrictions (CC&Rs) if proposed by the applicant, shall be reviewed and approved by the Planning Department prior to final approval of the tract map. The CC&Rs shall include methods of maintaining the open space, or landscape assessment areas or recreational trails/paths and shall also contain applicable design standards adopted under the Mojave River Corridor Study, and shall prohibit equestrian uses on Lots 13-46.
  21. In accordance with Section 711.4 (c) of the Fish and Game Code, which was enacted by Assembly Bill No. 3158 in 1990, no project shall be operative, vested, or final until the filing fees required by this legislation have been paid. Section 711.4 of this legislation requires payment of One Thousand Two Hundred Fifty Dollars (\$1250) for each Negative Declaration and Eight Hundred Fifty Dollars (\$850) for each Environmental Impact Report to be collected by the County Clerk at the time of the filing of a Notice of Determination. The legislation also allows the County Clerk to collect a documentary handling fee of Twenty-Five Dollars (\$25.00). These fees shall be paid in a timely fashion in accordance with procedures established by the Town, County and State. No permits may be issued until such fees are paid.
  22. Prior to issuance of any grading or building permit, the applicant(s) shall sign and complete an "Acknowledgement of Conditions", and shall return the executed original to the Planning Department for inclusion in the case records.

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23. A conservation easement shall be established for protection of endangered/threatened biologic species. This easement shall be provided as shown on tentative map as approved by Tierra Madre Consultants. Further, native vegetation shall be retained within this easement area. Any portions of this easement area that have been previously graded or areas disturbed during the construction of the project and the off-set improvements of the flood plane shall be re-vegetated with a combination of four-winged salt bush, allscale, creosote bush, silver cholla, Joshua trees and peach thorn and by plant materials required by County Flood Control, State Fish and Game, U.S. Army Corps of Engineers.
- 24.\* A split rail fence shall be placed along the westerly and northerly property lines of the project site. This fence shall be constructed in a manner which bars off-road vehicles from the required conservation easement. Additionally, a six (6) foot chain link fence shall be constructed along the easterly boundary of the referenced easement in such a manner to prohibit access from the project to and through the conservation easement. Exact locations and height of fencing and materials shall be reviewed and approved by the Town Planning Department prior to construction of all barrier fencing. The north and south ends of the required conservation zone shall be provided "softscape" areas to preclude off-road vehicle traffic. These areas shall be planted with dense rows of indigenous trees and berming. Fremont Cottonwood or a similar species is the recommended species. As an additional deterrent to vehicle traffic, large boulders shall be placed within bermed areas, and also in areas bordering rows of planted trees.
25. No roof-mounted equipment shall be placed on any building unless screened as specifically approved by the Planning Department (except for solar collection panels).
- 26.\* The applicant shall submit a computer-generated final map for recordation purposes. This map shall be reviewed and approved by the Town Planning and Engineering Departments prior to recordation.
- 27.\* All recommendations of the Biological Assessment and Addendum Biological Assessment performed by Tierra Madre Consultants for Tract 14582 dated October 1989, and March 1990 as modified by the off-site construction of the revetment and service road, shall be adhered to by the developer.
- 28.\* The applicants shall designate a curator and for the location of a responsible archaeological repository for the artifacts, which must be reviewed and approved by the Planning Division prior to release of the artifacts. The applicants will have to have this contracted prior to approval of the final map.
- 29.\* Decorative block perimeter wall shall be installed along boundaries of lots contiguous to the school site. Noise attenuation in building construction design of those residences is required in compliance with the Uniform Building Codes.
- 30.\* Bicycle paths, walkways and recreational equestrian trails shall be provided along Yucca Loma as deemed necessary by the Town Engineer and Director of Planning Services.
- 31.\* The developer shall strictly adhere to the conditions, permits and requirements for necessary clearances of the County Flood Control District, U.S. Fish and Wildlife, U.S. Army Corps of Engineers, State Fish and Game and the Town of Apple Valley for all on-site and off-site work related to the Mojave River Flood Plane and riparian habitat.

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- 32.\* A maintenance district shall be established or development annexed to a district for maintenance. The developer, applicant shall pay for all costs relating to establishment of the district.
- 33.\* The proposed single family residential development filed under DP 212 shall comply with all applicable design criteria established by the Mojave River Corridor Study.
- 34.\* The developer shall build one-story homes on all 18,000 square foot lots.

**San Bernardino County Flood Control District**

- 35.\* A 200 foot building setback shall be provided from San Bernardino County Flood Control District right-of-way for any habitable structures to reduce the possibility of damage due to overflow and/or erosion. An acceptable alternative is construction of pile and wire revetment with rock facing along the river side of lots, with preservation of larger trees and re-vegetation of native plants and trees to be in compliance with conditions of Flood Control District, State Fish and Game and U.S. Army Corps of Engineers and the Town of Apple Valley.

**Apple Valley Fire Protection District**

- 36. The above referenced project is protected by the Apple Valley Fire Protection District. Prior to construction occurring on any parcel, the owner shall contact the Fire Department for verification of current fire protection development requirements.
- 37. All new construction shall comply with applicable sections of the 1988 Uniform Fire Code, Uniform Building Code, Development Code, Community Plans, and other statutes, ordinances, rules and regulations regarding fires and fire prevention adopted by the State, County or Apple Valley Fire Protection District.
- 38. Prior to final inspection, approved address numbers shall be placed on all new buildings.

Uniform Fire Code Section 10.20  
Install per A.V.F.P.D. Standard ARI #3

- 39. Each chimney used in conjunction with any fireplace or any solid fuel heating appliance shall be maintained with an approved spark arrestor.

Apple Valley Fire Protection District  
Ordinance 22

- 40. All flammable vegetation, such as dead shrubbery and dry grass, shall be removed from each building site a minimum distance of thirty (30) feet from any combustible building material, including the finished structure. This does not apply to single specimens of trees, ornamental shrubbery, or similar plants which are used as ground cover if they do not form a means of transmitting fire.

California Public Resources Code Section 4291

APPROVED

- 41. The development, and each phase thereof, shall have two points of paved vehicular access for fire and other emergency equipment, and for routes of escape which will safely handle evacuations. Each of these points of access shall provide an independent route into the area in which the development is located. This shall be completed prior to any combustible construction.

Apple Valley Fire Protection District, ARI #8

- 42. Fire lanes shall be provided, maintained and identified.

Uniform Fire Code Section 10.207  
Install per A.V.F.P.D. Standard Series #202

- 43. A turnaround shall be required at the end of each roadway one hundred fifty (150) feet or more in length shall be approved by the fire district. Cul-de-sac length shall not exceed six hundred (600) feet.

Uniform Fire Code, Section 10.307 (h)  
Apple Valley Fire Protection District,  
Ordinance 22, Section 1 (e)  
Install per A.V.F.P.D. Standard Series #202

- 44. Plans for fire protection systems designed to meet the fire flow requirements specified in the Conditions of Approval for this project shall be submitted to and approved by the Apple Valley Fire Protection District and water purveyor prior to the installation of said systems.

Apple Valley Fire Protection District  
Ordinance 15

A. System Standards

*Fire Flow	750	GPM @ 20 psi Residual Pressure
Duration	2	Hour(s)
Hydrant Spacing	660	Feet

\*If blank, flow to be determined by calculation when additional construction information is received.

- B. A total of five (5) fire hydrant(s) will be required. (Does not include school)\*

Install per A.V.F.P.D. Standard Series #101

\*The fire flow for the proposed school site shall be 1,500 gpm @ 20 psi residual pressure for a duration of four hours and hydrant spacing so that all portions of the building are within 150 feet of a fire hydrant.

- 45. Apple Valley Fire Protection District Final Subdivision/Tract/Development fees shall be paid to the Fire District prior to final map acceptance according to the current Apple Valley Fire Protection Fee Ordinance.

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**Building and Safety Division**

- 46. A preliminary soils report shall be filed with and approved by the Building Official prior to recordation of the final map.
- 47. Grading and drainage plans are to be submitted to, and approved by, the Division of Building and Safety
- 48. Submit plans and obtain building permits for all structures and walls.
- 49. A pre-construction permit and inspection are required prior to any land disturbing activity to verify requirements for erosion control, flood hazard, desert tortoise habitat, and native plant protection.
- 50. Erosion control plans are to be submitted to and approved by the Division of Building and Safety.
- 51. All utilities are required to be placed underground per Ordinance No. 89.
- 52. Check with State of California Fish and Game Department for 1603 requirements prior to any work beginning.
- 53. The relocation of Joshua trees must be supervised by an approved native plant expert. Prior to commencing this work, a plan and maintenance program must be approved by the Building Official.
- 54. All cross lot drainage requires easements and may require improvements at the time of development.
- 55. Prior to Final Map recordation, the applicant shall provide an analysis of slope stabilities for proposed Lots 1 through 13. This analysis shall include a determination of the required building setbacks from the rear property lines of the referenced lots. These building setbacks shall be delineated on the final map. The slope stability analysis and proposed building setback distances shall be reviewed and approved by the Town Engineer, Town Division of Building Services and the Town Division of Planning Services prior to final recordation of the subject tract map.

**Engineering Department**

- 56. Prior to issuance of a grading permit, a final drainage plan with street layouts shall be submitted for review and approval by the Town Engineer showing provisions for receiving and conducting offsite and onsite tributary drainage flows around or through the site in a manner which will not adversely affect adjacent or downstream properties. This plan shall consider retaining onsite drainage flows from a 100 year design storm.
- 57. Street improvement plans shall be submitted to the Town Engineer for review and approval.
- 58. All interior streets shall be improved to Town standards with curb, gutter and street pavement. Minimum residential width of streets shall be 36 feet curb to curb.
- 59. All streets except Yucca Loma abutting the development shall be improved a minimum half-width of 28 feet with curb and gutter on the development side.

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- APPROVED**
60. The street Yucca Loma Road shall be improved to the Town's full-width Modified Major Highway standards from Havassy Road to the Mojave River as approved by the Town Engineer. The design shall be consistent with the existing road design for Yucca Loma Road, east of the project.
  61. Provide the balance of a 104-ft right-of-way of road dedication along Yucca Loma Road to the Town of Apple Valley prior to final map approval.
  62. During the grading of the roads, soils testing of the road subgrades by a qualified soils engineering firm shall be performed to determine appropriate structural road section. Minimum asphalt concrete thickness for all streets shall be 0.25 feet.
  63. All required improvements shall be bonded in accordance with Town Development Code unless constructed and approved prior to approval and recordation of the Final Map.
  64. An encroachment permit shall be obtained from the Town prior to performing any work in any public right-of-way.
  65. Final improvement plans and profiles shall indicate the location of any existing utility which would affect construction and shall provide for its relocation at no cost to the Town.
  66. A final grading plan shall be submitted to the Town Engineer prior to issuance of a grading permit for review and approval. A grading permit shall not be issued until street improvement plans have been submitted to the Town Engineer for review and substantial completion of the street plans has been attained as determined by the Town Engineer.
  67. Street lights shall be required and shall conform to Town's standards for such. The developer shall form or annex into an assessment district to provide for the ongoing maintenance of the street lights.
  68. All road names shall be approved by the Town and such approval shall be coordinated through the Town Engineer.
  69. Prior to Town acceptance of the Final Map, subdivider shall present evidence to the Town Engineer that he has made a reasonable effort to obtain a non-interference letter from any utility company that may have rights of easement with the property boundaries.
  70. Utility lines shall be placed underground in accordance with the requirements of the Town.
  71. The developer shall make a good faith effort to acquire any required off-site property interests, and if he or she should fail to do so, the developer shall at least 120 days prior to submittal of the final map for approval, enter into an agreement to complete the improvements pursuant to Government Code Section 66462 at such time as the Town acquires the property interests required for the improvements. Such agreement shall provide for payment by the developer of all costs incurred by Town to acquire the off-site property interests required in connection with the subdivision. Security for a portion of these costs shall be in the form of a cash deposit in the amount given in an appraisal report obtained by the developer, at the developer's cost. The appraiser shall

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have been approved by the Town prior to commencement of the appraisal. Additional security may be required as recommended by the Town Engineer and Town Attorney.

72. Traffic impact fees adopted by the Town (Ordinance No. 42) shall be paid by the developer.
73. Any developer fees including but not limited to drainage fees shall be paid by the developer as per Town enactment.
74. Any required street striping shall be thermoplastic as approved by the Town Engineer.
- 75.\* In-lieu fees, based on a fair share amount, shall be paid to the Town of Apple Valley for storm drain facilities to be constructed along Yucca Loma Road as approved by the Town Engineer.
- 76.\* In-lieu fees, approved by the Town Engineer, shall be paid to the Town of Apple Valley to complete the construction of Yucca Loma Road to the Town's Major Road Standard from Havasu to the Mojave River.

Apple Valley Water District

77. The subject property is located within the boundaries of Apple Valley Water District Assessment District No. 5-A, which currently has an active assessment bond issue. The applicant must substantiate bond reapportionment. The bond reapportionment will divide the bond assessment among the subdivided parcels.
78. Sewage disposal shall be by connection to the Apple Valley Water District. Financial arrangements, plans and improvement agreements must be approved by the Apple Valley Water District.
79. Water purveyor shall be Apple Valley Ranchos Water District.

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## TOWN OF APPLE VALLEY PLANNING COMMISSION

# Staff Report

- AGENDA DATE:** December 18, 2013
- CASE NUMBER:** Tract Map No. 14582. Amendment No. 3
- APPLICANT:** Gar Brewton representing Yeager Bros. LLC
- PROPOSAL:** A request to amend Condition of Approval No. 35 of Tract Map No. 14582, requiring a 200-foot building setback from San Bernardino County Flood Control District right-of-way by allowing a seventy-five (75)-foot building setback.
- LOCATION:** The lots are located south of Yucca Loma Road, westerly side of Kasanka Trail, adjacent to the Mojave River. APNs: 3088-571-16 & 17, 3088-581-15 thru 18, 3088-591-08 thru 11.
- GENERAL PLAN DESIGNATION:** R-SF – Single Family Residential
- EXISTING ZONING:** R-SF – Single Family Residential
- ENVIRONMENTAL DETERMINATION:** The proposed Amendment is not anticipated to have a direct adverse impact upon the environment and, therefore, under the State Guidelines to implement the California Environmental Quality Act (CEQA), the project is exempt from further environmental review.
- CASE PLANNER:** Ms. Carol Miller, Senior Planner
- RECOMMENDATION:** Based on the information provided in the staff report and any testimony received at the public hearing, staff recommends that the Planning Commission approve Amendment No. 3, revising Condition Nos. 23, 24 and 35, and adding Condition Nos. 80, 81, 82 and 83.

### **BACKGROUND**

In 1992, Tentative Tract Map No. 14582 was approved by the Town for a forty-six (46) lot residential subdivision, located on approximately thirty-three (33) acres. Subsequent to the map approval, two amendments were requested. Amendment No. 1 was a request to amend the Conditions of Approval related to off-site improvements which was ultimately denied by the Town Council, and Amendment No. 2 was a request to amend the approved phasing from two (2) to three (3) phases. Phase 1 recorded in 1999, Phase 2 recorded in 2001 and Phase 3 recorded in 2003. The ten (10)



lots directly affected by Condition of Approval No. 35, are the lots within Phase 3, located adjacent to the Mojave River/County Flood Control District right-of-way.

In 1991, a request for comment was sent to all affected agencies, which included Fish and Wildlife Service, California Department of Fish and Wildlife (formerly Calif. Dept of Fish and Game), Army Corp of Engineers, and San Bernardino County Flood Control District. Comments received from County Flood Control District recommended to the Town that, if slope protection was not installed, a 200-foot minimum building setback was recommended. However, due to the conflict related to the preservation of the Mojave River habitat and Flood Control District's recommendation for the construction of some kind of river bank improvement, a second request for comment was sent. The letter dated February 4, 1992, stated that, if improvements were not installed, "the 200-foot minimum building setback is a recommendation only; it is up to the Town of Apple Valley to set the requirement if the Town desires to recommend a lesser building setback". Given the District's perceived expertise in the matter, the District's recommendation was included as a Condition of Approval.

Condition of Approval No. 35 states:

*"A 200-foot building setback shall be provided from the San Bernardino County Flood Control District right-of-way for any habitable structures to reduce the possibility of damage due to overflow and/or erosion. An acceptable alternative is construction of pile and wire revetment with rock facing along the river side of lots, with preservation of larger trees and re-vegetation of native plants and trees to be in compliance with conditions of Flood Control District, State Fish and Game and U.S Army Corps of Engineers and the Town of Apple Valley".*

Due to the requirements of Condition No. 35, the ten (10) lots in question were placed in the last phase. All the lots within Tract Map 14582 have been developed with the exception of the ten (10) lots within Phase 3. Due to the 200-foot setback requirement where the lot depth is only 180 feet, eliminated the ability to develop these lots. Therefore, the applicant has submitted a request to amend Condition No. 35 to allow a seventy-five (75)-foot building setback.

The applicant has submitted a geotechnical technical study to support the requested seventy-five (75)-foot building setback. The basis for the seventy-five (75)-foot building setback is related to the width of the widest portion of the Mojave River conservation easement as shown on the Composite Plan and the minimum structural setback requirement of the California Building Code (CBC) and the biological report prepared by Terra Madre Consultants.

This item was tabled from the May 15, 2013 Planning Commission meeting at the applicants request to allow them time to retain a consultant to examine and offer an opinion as to the hydraulic and geomorphic stability of the slope and the sufficiency of the proposed seventy-five (75)-foot building setback. West Consultant's Inc. analysis dated October 11, 2013 was received by the Town for review. The report was forwarded to the County of San Bernardino Department of Public Works on October 28, 2013 for comments. To date, no response to the report has been received.

## **ANALYSIS**

During project review, San Bernardino County Flood Control District required slope stability along the embankment, which included riprap toe protection and slope grading. The installation of such improvements would have required the removal of mature trees and vegetation. These improvements would not have been permitted by California Department of Fish and Wildlife and Lahontan Regional Water Quality Control Board due to the loss of habitat and potential impacts to water quality. This requirement also contradicts the current work being done on the Town's draft Multi-Species Habitat Conservation Plan (MHCP). Therefore, in absence of the required slope improvements, County Flood Control District required a 200-foot setback for structures.

Subsequent to the amendment filing, the Community development Director and Town Engineer met with County Flood Control personnel. Although County Flood Control staff could not explain the rationale for the 200-foot setback distance, they were not willing to change the recommendation out of concern with slope loss from river erosion, regardless to the fact there are residences that have been constructed upstream of the site within the 200-foot setback. Town staff also met with California Department of Fish and Wildlife who indicated the importance of the preserving established habitat and an important component to the Town's Multi-Species Habitat Conservation Plan (MHCP).

Absent of County Flood Control supporting a seventy-five (75)-foot building setback, staff requested the applicant to provide documentation from a geotechnical engineer regarding the adequacy of the seventy-five (75)-foot building setback from a slope stability standpoint. The Slope Stability Evaluation dated March 6, 2013, prepared by CHJ Consultants as an addendum was prepared that addressed the adequacy of the seventy-five (75)-foot setback from a slope stability standpoint. Although CHJ Consulting indicates in the study they could not quantify the potential for erosion associated with future flood events along the Mojave River, they found no evidence of significant slope erosion by the river using aerial photographs dating back to 1938. Also, based on soil deposits and vegetation along the tow of the slope, the potential for future erosion of the on-site slope was considered low, and therefore, took no exception to the seventy-five (75)-foot setback, if the slope remained in a natural condition. Because CHJ Consulting could not quantify the potential for erosion associated with future flood events along the Mojave River, the applicant retained West Consultants to provide the hydraulic and geomorphic (erosion) analysis. The Slope Stability Evaluation dated October 11, 2013, prepared by West Consultants (attached under separate cover) indicates that based on their analysis, the proposed seventy-five (75)-foot building setback appeared reasonable from a hydraulic and geomorphic perspective. The report further states, that although there is no guarantee that the bank will not recede at some point in the future, the proposed setback is estimated to have a low risk of being exceeded.

In addition to the geotechnical information provided by the applicant, the Federal Emergency Management Agency (FEMA) issued a letter of map revision (LOMR), effective October 15, 2012 that included the subject area. The map revision removed the subject area from being identified as within a flood hazard. This LOMR should have been an adequate reason for the County Flood Control to modify the 200-foot building setback recommendation.

Based on the above analysis, staff can support the applicants request to amend Condition No. 35, provided additional conditions of approval are amended and conditions of approval are added to ensure the protection of the slope and that documentation is in place that informs the homeowner/property owner of building restrictions. Therefore, staff is recommending that in addition to Condition No. 35, that Condition Nos. 23 and 24 also be amended due to the proximity of the lots to the Mojave River. Staff is also recommending four additional conditions be added as discussed below.

In recognition of the existing 1:1 slope along the west Tract boundary, which is assumed to have been created by past river flow erosion, staff is recommending amending Condition No 23. The purpose of the proposed language to Condition No. 23 is to alert and inform the property owner that the potential exists for slope erosion to occur under extreme river flow conditions and the responsibility of maintenance to ensure slope protection.

Due to changes in the Code requirement for chain link fencing, staff is recommending amending Condition of Approval No. 24 which addresses fencing and easement barriers. Since 1992, the Development Code has changed with respect to the use of chain link fencing. Because the lots are vacant, any future development is prohibited from the use of chain link. Therefore, the six (6)-foot high open fencing required to protect the easement and slope area shall consist of wrought iron at the top of slope.

Since there is no evidence that the conservation easement exists outside of the Composite Plan, staff is recommending Condition of Approval No. P80 that requires documentation be provided that the conservation easement was recorded on all lots adjacent to the Mohave River and reference to the Composite Plan on file with the Planning Division with respect to the rear setback prior to the issuance of a permit.

The geotechnical report states that a reduction in setback was acceptable provided water was not allowed to flow over the top of the slope causing erosion. To address this recommendation, staff has included Condition of Approval No. P81 which states no water shall be allowed to flow over the top of the slope as a result of landscape irrigation or nuisance water run-off.

Given the additional recommended language outlining property owner responsibility, an acceptable manner of notification to any future property owner might be in the form of the recordation of Covenant, Conditions and Restrictions (CC & Rs). These CC&Rs would be required to be reviewed and approved by the Town prior to the issuance of a permit. Staff has included a Condition of Approval (P82) addressing this issue.

### **Staff Recommended Revisions to the Approved Conditions of Approval**

Condition of Approval No. 23. A conservation easement shall be established for protection of endangered/threatened biologic species. This easement shall be provided as shown on tentative map as approved by Terra Madre Consultants. Further, native vegetation shall be retained within the easement area. The property owner shall accept responsible for the proper maintenance of the slope area, and the appropriate restoration of any erosion within each respective lot. Any portions of this easement area that have been previously graded or areas disturbed during construction of the project or deemed necessary for maintenance and the off-site improvements of the flood plain shall be re-vegetated with a combination of four winged salt bush, allscale, creosote bush, silver cholla, Joshua Trees and peach thorn and by plant material required by ~~County Flood Control~~, State Fish and ~~Game~~ Wildlife, U.S. Army Corps of Engineers.

Revised Condition of Approval No. 24. A split rail fence shall be placed along the westerly and northerly property lines of the project site. This fence shall be constructed in a manner which bars off-road vehicles from the ~~required~~ conservation easement. Additionally, a six (6) foot chain link or wrought iron fence shall be constructed along the easterly boundary of the ~~referenced~~ conservation easement in such a manner to prohibit access from the project to and through the conservation easement. Exact location and height of fencing and materials shall be reviewed and approved by the Town Planning Department prior to construction of all barrier fencing. The north and south ends of required conservation ~~zone~~ easement shall be provided with "softscape" areas to preclude off-road vehicle traffic. These proposed materials shall be reviewed and approved by the Town Planning Department prior to construction of ~~all the any barrier. fencing.~~ These areas shall be planted with dense rows of indigenous trees and berming. Fremont Cottonwood or similar species is the recommended species. ~~As an additional deterrent to vehicle traffic, large boulders shall be placed within bermed areas, and also areas bordering rows of planted trees.~~

Revised Condition of Approval No. 35. A ~~200~~ seventy-five (75) foot building setback shall be provided from the ~~top of slope~~ rear property line for any habitable or accessory structure. ~~to reduce the possibility of damage due to overflow and/or erosion. An acceptable alternative to construction of a pile and wire revetment with rock facility along the river side lots, with preservation of larger trees and re-vegetation of native plants and trees to be in compliance with the conditions of Flood Control District, State Fish and Game and U.S. Army Corps of Engineers, and the Town of Apple Valley.~~

Add Condition No. P80. Prior to the issuance of a permit, documentation shall be provided to the Planning Division that the conservation easement was recorded on all lots adjacent to the Mohave River and a notation appears on Title of each lot, informing the landowner the Composite Plan is on file with the Town of Apple Valley Planning Division.

Add Condition No. P81. No water shall be allowed to flow over the top of the slope as a result of landscape irrigation or nuisance water run-off.

Add Condition No. P82. Prior to the issuance of a permit, Covenant, Conditions and Restrictions (CC & Rs) shall reviewed and approved by the Town that indicate to the property owner is to accept periodic overflow and is responsible for the proper maintenance of the river bank slope area, and the appropriate restoration of any erosion within each respective lot that may result from such periodic Mojave River overflow, fencing, rear setback, and the prohibition of nuisance water flowing over the top of the slope.

Add Condition No. P83. The unprotected slope due to off-road activity located on Lot No. 1, shall be provided with slope protection/ erosion control.

For clarification purposes, Condition of Approval Nos. 80 thru 83 have been identified with a "P" to indicate they are Planning Division conditions of approval so as not to be confused as additional Apple Valley Water District conditions. The original Conditions of Approval have been attached for reference. All original conditions remain in affect except as amended by the supplemental Conditions of Approval as attached.

#### Environmental Assessment

The proposed amendment is not anticipated to have a direct adverse impact upon the environment and, therefore, under the State Guidelines to implement the California Environmental Quality Act (CEQA), the project is exempt from further environmental review.

#### Noticing

This item was advertised as a public hearing in the Apple Valley News newspaper on December 6, 2013.

#### **RECOMMENDATION:**

Based upon the information contained within this report, and any comments that may be received at the public hearing, it is recommended that the Planning Commission move to:

1. Determine that the amendment is not anticipated to have any direct or indirect impact upon the environment, as it has been determined that the proposed request is Exempt from further environmental review.
2. Find the facts presented in the staff report support the approval to revise Condition of Approval Nos. 23, 24, and 35, and the addition of Condition of Approval Nos. P80, P81, P82 and P83.
3. Approve Amendment No. 3 for Tract Map No. 14582 subject to revised Condition of Approval Nos. 23, 24, and 35, and the addition of Condition of Approval Nos. P80, P81, P82 and P83 as attached.

**Prepared By:**

**Reviewed By:**

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Carol Miller

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Lori Lamson

Senior Planner

Community Development Director

ATTACHMENTS:

1. Recommended Conditions of Approval
2. Original Approved Conditions of Approval
3. Site Detail
4. Photos
5. Bank Stability Report, West Consultants, Inc. – Under separate cover

**RECOMMENDED CONDITIONS OF APPROVAL**

Case No. Tract No. 14582 Amendment No. 3

23. A conservation easement shall be established for protection of endangered/threatened biologic species. This easement shall be provided as shown on tentative map as approved by Terra Madre Consultants. Further, native vegetation shall be retained within the easement area. The property owner shall accept responsibility for the proper maintenance of the slope area, and the appropriate restoration of any erosion within each respective lot. Any portions of this easement area that have been previously graded or areas disturbed during construction of the project or deemed necessary for maintenance shall be re-vegetated with a combination of four winged salt bush, allscale, creosote bush, silver cholla, Joshua Trees and peach thorn and by plant material required by, State Fish and Wildlife, U.S. Army Corps of Engineers.
24. A split rail fence shall be placed along the westerly and northerly property lines of the project site. This fence shall be constructed in a manner which bars off-road vehicles from the conservation easement. Additionally, a six (6) foot chain link or wrought iron fence shall be constructed along the easterly boundary of the conservation easement in such a manner to prohibit access from the project to and through the conservation easement. Exact location and height of fencing and materials shall be reviewed and approved by the Town Planning Department prior to construction of all barrier fencing. The north and south ends of required conservation easement shall be provided with "softscape" areas to preclude off-road vehicle traffic. These proposed materials shall be reviewed and approved by the Town Planning Department prior to construction of any barrier.
35. A seventy-five (75) foot building setback shall be provided from the rear property line for any habitable or accessory structure.
- P80. Prior to the issuance of a permit, documentation shall be provided to the Planning Division that the conservation easement was recorded on all lots adjacent to the Mohave River and a notation appears on Title of each lot, informing the landowner the Composite Plan is on file with the Town of Apple Valley Planning Division.
- P81. No water shall be allowed to flow over the top of the slope as a result of landscape irrigation or nuisance water run-off.
- P82. Prior to the issuance of a permit, Covenant, Conditions and Restrictions (CC & Rs) shall reviewed and approved by the Town that indicate to the property owner is to accept periodic overflow and is responsible for the proper maintenance of the river bank slope area, and the appropriate restoration of any erosion within each respective lot that may result from such periodic Mojave River overflow, fencing, rear setback, and the prohibition of nuisance water flowing over the top of the slope.
- P83. The unprotected slope due to off-road activity located on Lot No. 1, shall be provided with slope protection/ erosion control.

**TOWN OF APPLE VALLEY  
CONDITIONS OF APPROVAL**

**APPROVED** 6/23/12

**Case No. Development Permit No. 212**

**Note:** Asterisk (\*) indicates non-standard conditions.

**Planning Department**

1. This tentative subdivision shall comply with the provisions of the State Subdivision Map Act and the Town Development Code. This tentative approval shall expire (3) years from the date of approval by the Planning Commission/Town Council and/or Planning Department. A Time Extension may be approved in accordance with the State Map Act and Town Ordinance, if an extension application is filed and the appropriate fees are paid 30 days prior to the expiration date.
2. Subdivision phasing, including proposed common open space phasing, shall be as shown on the approved Tentative Tract Map.
- 3.\* Prior to the recordation of the Final Map or issuance of any Building Division permit, the following agencies shall provide written verification to the Engineering Department/Building and Safety Department that all pertinent Conditions of Approval and applicable regulations have been met:
  - Apple Valley Fire Protection District
  - Apple Valley Recreation and Park District
  - Apple Valley Unified School District
  - Apple Valley Water District
  - Engineering Division
  - Planning Division
  - County Flood Control and Transportation
  - State Fish and Game
  - U.S. Army Corps of Engineers
4. Sidewalks shall be provided along all secondary and major streets per Town standards or as necessary for safe and adequate pedestrian circulation.
5. Lot design and size shall conform to the Town Interim Design Guidelines and the Development Code.

APPROVED

- 6.\* The following setback lines shall be delineated on the composite development plan or recorded on the Final Map.
  - A front yard building setback line of at least 40 feet with an average of 45 feet. No more than two (2) adjacent lots shall have the same setback except on cul-de-sac and/or curvilinear streets. Minimum variation shall be three (3) feet.
  - A side yard building setback line of at least 25 feet adjacent to side streets on corner lots.
7. A copy of the final grading plan shall be submitted to the Planning Department for review and approval. All on-site cut and fill slopes shall:
  - Be limited to a maximum slope ratio of 2 to 1 and a maximum vertical height of thirty (30) feet except in the off-site side area of the Mojave River as modified by the improvements involved with the installation of the proposed revetment and service road to the satisfaction of the County of San Bernardino Flood Control District and U.S. Army Corps of Engineers. Setbacks from top and bottom of slopes shall be a minimum of one-half the slope height.
  - Be contour-graded to blend with existing natural contours.
  - Be a part of the downhill lot when within or between individual lots.
8. All slopes over three (3) feet in height shall be landscaped and irrigated according to Town Interim Development Guidelines.
9. In compliance with Town Ordinance #2684, the applicant shall agree to defend at his sole expense (with Attorneys approval by the Town), and indemnify the Town against any action brought against the Town, its agents, officers or employees resulting from or relating to this approval. The applicant shall reimburse the Town, its agents, officers or employees for any judgement, court costs and attorney's fees which the Town, its agents, officers or employees may be required to pay as a result of such action. The Town may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the applicant of his obligations under this condition.
10. Prior to recordation of the Final Map the developer or his assignee must conform to the park district Quimby Ordinance, unless waived at time of issuance of a building permit.
- 11.\* Three sets of detailed landscaping and irrigation plans for the required revegetation plan shall be prepared by a qualified professional, shall be submitted to the Director of Planning as necessary for review and approval prior to the issuance of building permits.
- 12.\* All site amenities, including architectural details, site amenities, landscaping and irrigation, and open space areas as shown on plans approved by the Town Planning Department, shall be installed prior to issuance of the Certificate of Occupancy. Landscaping shall utilize drought tolerant/desert-appropriate landscaping wherever feasible.



- APPROVED**
13. A Composite Development Plan (CDP) shall be filed with the Engineering, Planning and Building and Safety Departments prior to Final or Parcel Map processing by the Town. The CDP shall be reviewed and approved by these departments prior to recordation of the Final Map. The CDP shall provide additional survey and map information including, but not limited to, building criteria (e.g. setbacks), flood control criteria, Seismic and geological criteria, environmental criteria and easements of record. The CDP shall be labeled with the title "Composite Development Plan", and contain a section entitled "Composite Development Plan Notes". The applicant shall have listed under the CDP Notes section the conditions or mitigating measures required for the development of the subject property.
  14. The Developer shall comply with the Town's Native Plant Protection Ordinance, Section 811.0125.
  - 15.\* All proposed subdivision entry signs shall be approved by separate permit.
  - 16.\* Reverse frontage lot perimeter decorative block walls and landscaping/irrigation plans must be approved prior to issuance of building permits for lots adjacent to Yucca Loma Road. The proposed residences adjacent to Yucca Loma Road shall be constructed and designed in conformance with Uniform Building Code standards with regards to noise attenuation. The Assessment District shall be established to maintain these required improvements.
  17. All utility service boxes and connections shall be painted to match the building exterior on which they are located.
  18. All existing overhead utility services and wiring shall be relocated underground.
  19. All utility systems including gas, electric, telephone, water, sewer and cable TV shall be provided for underground, with easements provided as required, and designed and constructed in accordance with Town Codes and the utility provided. Telephone and cable TV, shall be pre-wired in the residence.
  - 20.\* The Covenants, Conditions and Restrictions (CC&Rs) if proposed by the applicant, shall be reviewed and approved by the Planning Department prior to final approval of the tract map. The CC&Rs shall include methods of maintaining the open space, or landscape assessment areas or recreational trails/paths and shall also contain applicable design standards adopted under the Mojave River Corridor Study, and shall prohibit equestrian uses on Lots 13-46.
  21. In accordance with Section 711.4 (c) of the Fish and Game Code, which was enacted by Assembly Bill No. 3158 in 1990, no project shall be operative, vested, or final until the filing fees required by this legislation have been paid. Section 711.4 of this legislation requires payment of One Thousand Two Hundred Fifty Dollars (\$1250) for each Negative Declaration and Eight Hundred Fifty Dollars (\$850) for each Environmental Impact Report to be collected by the County Clerk at the time of the filing of a Notice of Determination. The legislation also allows the County Clerk to collect a documentary handling fee of Twenty-Five Dollars (\$25.00). These fees shall be paid in a timely fashion in accordance with procedures established by the Town, County and State. No permits may be issued until such fees are paid.
  22. Prior to issuance of any grading or building permit, the applicant(s) shall sign and complete an "Acknowledgement of Conditions", and shall return the executed original to the Planning Department for inclusion in the case records.

APPROVED

23. A conservation easement shall be established for protection of endangered/threatened biologic species. This easement shall be provided as shown on tentative map as approved by Tierra Madre Consultants. Further, native vegetation shall be retained within this easement area. Any portions of this easement area that have been previously graded or areas disturbed during the construction of the project and the off-set improvements of the flood plane shall be re-vegetated with a combination of four-winged salt bush, allscale, creosote bush, silver cholla, Joshua trees and peach thorn and by plant materials required by County Flood Control, State Fish and Game, U.S. Army Corps of Engineers.
- 24.\* A split rail fence shall be placed along the westerly and northerly property lines of the project site. This fence shall be constructed in a manner which bars off-road vehicles from the required conservation easement. Additionally, a six (6) foot chain link fence shall be constructed along the easterly boundary of the referenced easement in such a manner to prohibit access from the project to and through the conservation easement. Exact locations and height of fencing and materials shall be reviewed and approved by the Town Planning Department prior to construction of all barrier fencing. The north and south ends of the required conservation zone shall be provided "softscape" areas to preclude off-road vehicle traffic. These areas shall be planted with dense rows of indigenous trees and berming. Fremont Cottonwood or a similar species is the recommended species. As an additional deterrent to vehicle traffic, large boulders shall be placed within bermed areas, and also in areas bordering rows of planted trees.
25. No roof-mounted equipment shall be placed on any building unless screened as specifically approved by the Planning Department (except for solar collection panels).
- 26.\* The applicant shall submit a computer-generated final map for recordation purposes. This map shall be reviewed and approved by the Town Planning and Engineering Departments prior to recordation.
- 27.\* All recommendations of the Biological Assessment and Addendum Biological Assessment performed by Tierra Madre Consultants for Tract 14582 dated October 1989, and March 1990 as modified by the off-site construction of the revetment and service road, shall be adhered to by the developer.
- 28.\* The applicants shall designate a curator and for the location of a responsible archaeological repository for the artifacts, which must be reviewed and approved by the Planning Division prior to release of the artifacts. The applicants will have to have this contracted prior to approval of the final map.
- 29.\* Decorative block perimeter wall shall be installed along boundaries of lots contiguous to the school site. Noise attenuation in building construction design of those residences is required in compliance with the Uniform Building Codes.
- 30.\* Bicycle paths, walkways and recreational equestrian trails shall be provided along Yucca Loma as deemed necessary by the Town Engineer and Director of Planning Services.
- 31.\* The developer shall strictly adhere to the conditions, permits and requirements for necessary clearances of the County Flood Control District, U.S. Fish and Wildlife, U.S. Army Corps of Engineers, State Fish and Game and the Town of Apple Valley for all on-site and off-site work related to the Mojave River Flood Plane and riparian habitat.

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- REMOVED**
- 32.\* A maintenance district shall be established or development annexed to a district for maintenance. The developer, applicant shall pay for all costs relating to establishment of the district.
  - 33.\* The proposed single family residential development filed under DP 212 shall comply with all applicable design criteria established by the Mojave River Corridor Study.
  - 34.\* The developer shall build one-story homes on all 18,000 square foot lots.

**San Bernardino County Flood Control District**

- 35.\* A 200 foot building setback shall be provided from San Bernardino County Flood Control District right-of-way for any habitable structures to reduce the possibility of damage due to overflow and/or erosion. An acceptable alternative is construction of pile and wire revetment with rock facing along the river side of lots, with preservation of larger trees and re-vegetation of native plants and trees to be in compliance with conditions of Flood Control District, State Fish and Game and U.S. Army Corps of Engineers and the Town of Apple Valley.

**Apple Valley Fire Protection District**

- 36. The above referenced project is protected by the Apple Valley Fire Protection District. Prior to construction occurring on any parcel, the owner shall contact the Fire Department for verification of current fire protection development requirements.
- 37. All new construction shall comply with applicable sections of the 1988 Uniform Fire Code, Uniform Building Code, Development Code, Community Plans, and other statutes, ordinances, rules and regulations regarding fires and fire prevention adopted by the State, County or Apple Valley Fire Protection District.
- 38. Prior to final inspection, approved address numbers shall be placed on all new buildings.

Uniform Fire Code Section 10.208  
Install per A.V.F.P.D. Standard ARI #3

- 39. Each chimney used in conjunction with any fireplace or any solid fuel heating appliance shall be maintained with an approved spark arrestor.

Apple Valley Fire Protection District  
Ordinance 22

- 40. All flammable vegetation, such as dead shrubbery and dry grass, shall be removed from each building site a minimum distance of thirty (30) feet from any combustible building material, including the finished structure. This does not apply to single specimens of trees, ornamental shrubbery, or similar plants which are used as ground cover if they do not form a means of transmitting fire.

California Public Resources Code Section 4291

APPROVED

- 41. The development, and each phase thereof, shall have two points of paved vehicular access for fire and other emergency equipment, and for routes of escape which will safely handle evacuations. Each of these points of access shall provide an independent route into the area in which the development is located. This shall be completed prior to any combustible construction.

Apple Valley Fire Protection District, ARI #8

- 42. Fire lanes shall be provided, maintained and identified.

Uniform Fire Code Section 10.207  
Install per A.V.F.P.D. Standard Series #202

- 43. A turnaround shall be required at the end of each roadway one hundred fifty (150) feet or more in length shall be approved by the fire district. Cul-de-sac length shall not exceed six hundred (600) feet.

Uniform Fire Code, Section 10.307 (h)  
Apple Valley Fire Protection District,  
Ordinance 22, Section 1 (e)  
Install per A.V.F.P.D. Standard Series #202

- 44. Plans for fire protection systems designed to meet the fire flow requirements specified in the Conditions of Approval for this project shall be submitted to and approved by the Apple Valley Fire Protection District and water purveyor prior to the installation of said systems.

Apple Valley Fire Protection District  
Ordinance 15

A. System Standards

*Fire Flow	750	GPM @ 20 psi Residual Pressure
Duration	2	Hour(s)
Hydrant Spacing	660	Feet

\*If blank, flow to be determined by calculation when additional construction information is received.

B. A total of five (5) fire hydrant(s) will be required. (Does not include school)\*

Install per A.V.F.P.D. Standard Series #101

\*The fire flow for the proposed school site shall be 1,500 gpm @ 20 psi residual pressure for a duration of four hours and hydrant spacing so that all portions of the building are within 150 feet of a fire hydrant.

- 45. Apple Valley Fire Protection District Final Subdivision/Tract/Development fees shall be paid to the Fire District prior to final map acceptance according to the current Apple Valley Fire Protection Fee Ordinance.

**Building and Safety Division**

APPROVED

46. A preliminary soils report shall be filed with and approved by the Building Official prior to recordation of the final map.
47. Grading and drainage plans are to be submitted to, and approved by, the Division of Building and Safety
48. Submit plans and obtain building permits for all structures and walls.
49. A pre-construction permit and inspection are required prior to any land disturbing activity to verify requirements for erosion control, flood hazard, desert tortoise habitat, and native plant protection.
50. Erosion control plans are to be submitted to and approved by the Division of Building and Safety.
51. All utilities are required to be placed underground per Ordinance No. 89.
52. Check with State of California Fish and Game Department for 1603 requirements prior to any work beginning.
53. The relocation of Joshua trees must be supervised by an approved native plant expert. Prior to commencing this work, a plan and maintenance program must be approved by the Building Official.
54. All cross lot drainage requires easements and may require improvements at the time of development.
55. Prior to Final Map recordation, the applicant shall provide an analysis of slope stabilities for proposed Lots 1 through 13. This analysis shall include a determination of the required building setbacks from the rear property lines of the referenced lots. These building setbacks shall be delineated on the final map. The slope stability analysis and proposed building setback distances shall be reviewed and approved by the Town Engineer, Town Division of Building Services and the Town Division of Planning Services prior to final recordation of the subject tract map.

**Engineering Department**

56. Prior to issuance of a grading permit, a final drainage plan with street layouts shall be submitted for review and approval by the Town Engineer showing provisions for receiving and conducting offsite and onsite tributary drainage flows around or through the site in a manner which will not adversely affect adjacent or downstream properties. This plan shall consider retaining onsite drainage flows from a 100 year design storm.
57. Street improvement plans shall be submitted to the Town Engineer for review and approval.
58. All interior streets shall be improved to Town standards with curb, gutter and street pavement. Minimum residential width of streets shall be 36 feet curb to curb.
59. All streets except Yucca Loma abutting the development shall be improved a minimum half-width of 28 feet with curb and gutter on the development side.

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- APPROVED**
60. The street Yucca Loma Road shall be improved to the Town's full-width Modified Major Highway standards from Havash Road to the Mojave River as approved by the Town Engineer. The design shall be consistent with the existing road design for Yucca Loma Road, east of the project.
  61. Provide the balance of a 104-ft right-of-way of road dedication along Yucca Loma Road to the Town of Apple Valley prior to final map approval.
  62. During the grading of the roads, soils testing of the road subgrades by a qualified soils engineering firm shall be performed to determine appropriate structural road section. Minimum asphalt concrete thickness for all streets shall be 0.25 feet.
  63. All required improvements shall be bonded in accordance with Town Development Code unless constructed and approved prior to approval and recordation of the Final Map.
  64. An encroachment permit shall be obtained from the Town prior to performing any work in any public right-of-way.
  65. Final improvement plans and profiles shall indicate the location of any existing utility which would affect construction and shall provide for its relocation at no cost to the Town.
  66. A final grading plan shall be submitted to the Town Engineer prior to issuance of a grading permit for review and approval. A grading permit shall not be issued until street improvement plans have been submitted to the Town Engineer for review and substantial completion of the street plans has been attained as determined by the Town Engineer.
  67. Street lights shall be required and shall conform to Town's standards for such. The developer shall form or annex into an assessment district to provide for the ongoing maintenance of the street lights.
  68. All road names shall be approved by the Town and such approval shall be coordinated through the Town Engineer.
  69. Prior to Town acceptance of the Final Map, subdivider shall present evidence to the Town Engineer that he has made a reasonable effort to obtain a non-interference letter from any utility company that may have rights of easement with the property boundaries.
  70. Utility lines shall be placed underground in accordance with the requirements of the Town.
  71. The developer shall make a good faith effort to acquire any required off-site property interests, and if he or she should fail to do so, the developer shall at least 120 days prior to submittal of the final map for approval, enter into an agreement to complete the improvements pursuant to Government Code Section 66462 at such time as the Town acquires the property interests required for the improvements. Such agreement shall provide for payment by the developer of all costs incurred by Town to acquire the off-site property interests required in connection with the subdivision. Security for a portion of these costs shall be in the form of a cash deposit in the amount given in an appraisal report obtained by the developer, at the developer's cost. The appraiser shall

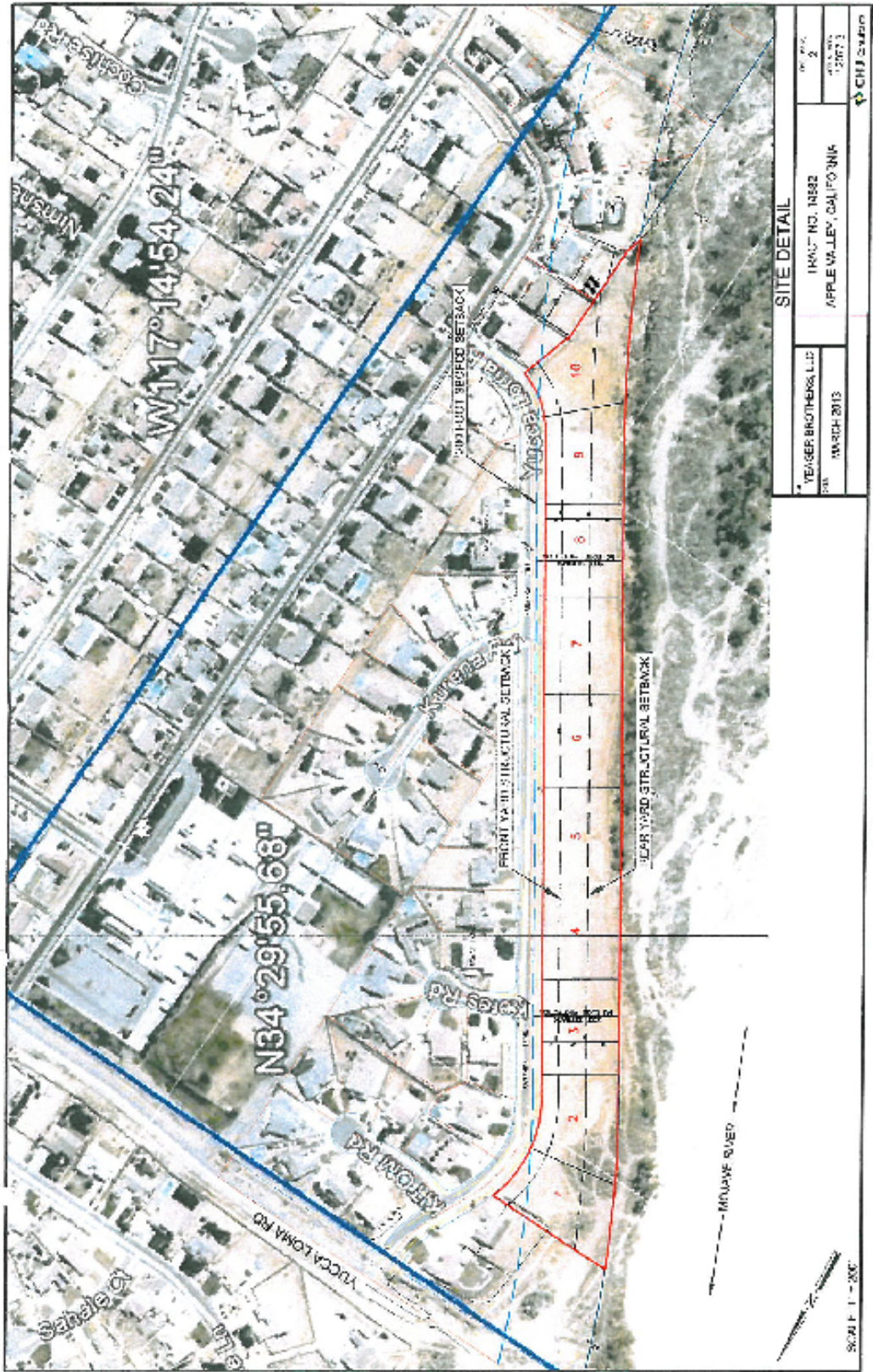
APPROVED  
have been approved by the Town prior to commencement of the appraisal. Additional security may be required as recommended by the Town Engineer and Town Attorney.

72. Traffic impact fees adopted by the Town (Ordinance No. 42) shall be paid by the developer.
73. Any developer fees including but not limited to drainage fees shall be paid by the developer as per Town enactment.
74. Any required street striping shall be thermoplastic as approved by the Town Engineer.
- 75.\* In-lieu fees, based on a fair share amount, shall be paid to the Town of Apple Valley for storm drain facilities to be constructed along Yucca Loma Road as approved by the Town Engineer.
- 76.\* In-lieu fees, approved by the Town Engineer, shall be paid to the Town of Apple Valley to complete the construction of Yucca Loma Road to the Town's Major Road Standard from Havasu to the Mojave River.

Apple Valley Water District

77. The subject property is located within the boundaries of Apple Valley Water District Assessment District No. 5-A, which currently has an active assessment bond issue. The applicant must substantiate bond reapportionment. The bond reapportionment will divide the bond assessment among the subdivided parcels.
78. Sewage disposal shall be by connection to the Apple Valley Water District. Financial arrangements, plans and improvement agreements must be approved by the Apple Valley Water District.
79. Water purveyor shall be Apple Valley Ranchos Water District.





**SITE DETAIL**

YEAGER BROTHERS, L.P. PREP. MARCH 2013	SHEET NO. 14882 APPLE VALLEY, CALIFORNIA DATE: 2013.3	SHEET NO. 2 DATE: 2013.3
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SCALE 1" = 20'







