

**TOWN OF
APPLE VALLEY, CALIFORNIA**

AGENDA MATTER

Subject Item:

APPEAL (NO. 2011-003) OF THE PLANNING COMMISSION'S DENIAL OF CONDITIONAL USE PERMIT NO. 2010-02, A REQUEST TO CONSTRUCT AND OPERATE A SUBREGIONAL WASTEWATER RECLAMATION FACILITY ADJACENT TO THE EXISTING OTOE ROAD SEWER LIFT STATION. THE WASTEWATER RECLAMATION PLANT WILL HAVE AN INITIAL TREATMENT CAPACITY OF 1.0 MILLION GALLONS PER DAY (MGD) AVERAGE FLOW AND A PHASED BUILD OUT TREATMENT CAPACITY OF 4.0 MGD.

Appeal Applicant: Victor Valley Wastewater Reclamation Authority (VVWRA)

Location: The site is located within the southwest corner of Lenny Brewster Sports Center on the north side of Otoe Road, APNs 0440-012-59 and -60.

Summary Statement:

The applicant for CUP No. 2010-02 is appealing the Planning Commission's May 4, 2011 denial of the proposed subregional wastewater facility. The purpose of the proposed Apple Valley wastewater reclamation plant is to provide adequate wastewater treatment capacity to comply with public health and safety regulations and to meet future subbasin water supply demands. The project is also intended to supply recycled water in order to meet part of the long-term water supply requirements of the Town.

(continued on next page)

Recommended Action:

**Open the public hearing and take public testimony.
Close the public hearing. Then:**

1. Find that, pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), Section 15270 (a), a project which is denied is Exempt from CEQA.
2. The facts presented within the staff report for the Council hearing of May 24, 2011, including the comments of the public and Planning Commissioners as reflected in the Planning Commission Meetings minutes of April 6, 2011 and May 4, 2011, and including the negative findings contained in Planning Commission Resolution 2011-02, are hereby adopted.
3. Deny Conditional Use Permit No. 2010-02

Proposed by: Planning Division

Item Number _____

Town Manager Approval: _____ **Budget Item** Yes No N/A

Council Meeting 5/24/11

10-1

Summary Statement
Page Two

Pursuant to Development Code Section 9.12.250 *Appeals*, the applicant or anyone who is dissatisfied with a decision of the Planning Commission, may appeal that decision within ten (10) days from the date of the decision. On May 6, 2011, an appeal of the Planning Commission's denial of Conditional Use Permit No. 2010-02 was filed.

On April 6, 2011, the Planning Commission conducted a public hearing on Conditional Use Permit No. 2011-02. Following consideration of the information within the staff report, the public hearing and discussion, the Planning Commission reached a consensus for denial of the proposed subregional wastewater. The Commission directed that the item be brought back on May 4, 2011, in order for staff to prepare negative "Findings", as discussed at the public hearing by Planning Commission. Prior to the May 4th public hearing, the Planning Commission visited a similar facility in the City of Corona. At the May 4, 2011 public hearing, the Commission considered the information within the staff report (attached) and comments from the applicant and the public.

As indicated in the attached minute excerpt for the meetings of April 6, 2011 and May 4, 2011, the consensus of the Commission was the project should not be approved based upon the determination that the proposed facility would not be compatible with the surrounding residential development. After public testimony and discussion amongst the Commission members, a motion was made to adopt findings for denial of the Conditional Use Permit with the Findings contained in Planning Commission Resolution 2011-02 (attached).

The Appeal application (attached), explains the reasons why the applicant believes the appeal should be granted, allowing the construction of the wastewater facility at the proposed location. In summary, the applicant cites the design of the project has the least amount of negative impacts on the surrounding community, and the time and expense of relocating the facility.

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 for denial consistent with the Planning Commission's determination. Also, in keeping with standard practice, and if the original staff recommendation to the Planning Commission was for approval, staff has submitted with this staff report the original Findings for approval. This is also appropriate in view of the fact the project has been included as a Town Council Vision priority and the fact the Town is a member of the VVWRA Joint Powers Authority

Should the Town Council take action to approve this Appeal, it would be appropriate for the Council to also approve attached Resolution No. 2011-18 and include the Conditions of Approval as provided for within the April 6, 2011 Planning Commission staff report. An approval of the appeal to overturn the Planning Commission denial of the project will require the Council, pursuant to the California Environmental Quality Act (CEQA), as a responsible agency for the Wastewater Reclamation Plant, to review and concur with the conclusions and mitigation measures included in the Wastewater Reclamation EIR. The EIR for the facility has been provided on a separate disk.

Attachments:

1. Appeal application
2. Minute excerpts from the Planning Commission meetings of April 6, 2011 and May 4, 2011 (draft)
3. Planning Commission report from May 4, 2011 (includes the April 6, 2011 staff report and Planning Commission Resolution No. 2011-02)
4. Resolution No. 2011-18
5. EIR Disc



APPEAL

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

Date Submitted: 5/6/11 Case No.: APL 2011-003 Received By: cm
Planning Fee: \$ 244. Other Fees: _____ Case Planner: cm

Type or print legibly in ink only

PROPERTY ADDRESS APNs 0440-012-59 and -60

FEE

	<u>Initial Deposit</u>	<u>Actual Cost not to exceed</u>
<input type="checkbox"/> Appeal Fee – To Planning Commission	\$224.00	\$224.00
<input checked="" type="checkbox"/> Appeal Fee – To Town Council	\$224.00	\$224.00

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

APPELLANT INFORMATION

Name Victor Valley Wastewater Reclamation Authority Telephone 760.948.9849 x110
Fax 760.948.9897 Email Lolds@VWVRA.com
Address 15776 Main Street, Ste 3
City Hesperia State CA Zip 92307

PROJECT INFORMATION

Project Number Being Appealed Conditional Use Permit No. 2011-002
Project Description Approval to allow the construction and operation of a suregional wastewater reclamation facility adjacent to the existing Otoe Road sewer lift station. The wastewater reclamation plant will have an initial treatment capacity of 1.0 million gallons per day (MGD) average flow and a phased build-out treatment capacity of 4.0 MGD.
Assessor's Parcel No. (s) 0440-012-59 and -60 Tract _____ Lot _____

APPEAL STATEMENT

1. I am/We do hereby appeal the findings/conditions/interpretations of the Town of Apple Valley:
(Check one)

- | | |
|---|--|
| <input checked="" type="checkbox"/> Planning Commission | <input type="checkbox"/> Planning Director |
| <input type="checkbox"/> Public Works Director | <input type="checkbox"/> Building Official |
| <input type="checkbox"/> Town Engineer | <input type="checkbox"/> Fire Chief |

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

- | | |
|--|--|
| <input type="checkbox"/> Planning Commission | <input checked="" type="checkbox"/> Town Council |
|--|--|

3. I/We am/are appealing the project action taken to:
(Check those which apply)

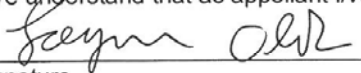
- | | |
|---|---|
| <input checked="" type="checkbox"/> Deny the project | <input type="checkbox"/> Adopt a Negative Declaration |
| <input type="checkbox"/> Approve the project | |
| <input type="checkbox"/> *Approve the project condition of (specify): | |

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.

We are seeking approval of the location of our proposed wastewater reclamation facility and the adoption of the certified Environmental Impact Report and mitigation measures. VVWRA spent extra time and money, specifically in regards to ensuring that the facility had no negative impacts on the surrounding community, as well as have the least amount of impact on the operations of the park. Relocation of the current proposed site will add significant time and costs to the project, which has been in the planning stages for 20 years, and would be of great benefit to the community and its efforts in becoming more sustainable.

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


Signature

Signature

Date 5 May 11

DRAFT MINUTES
EXCERPT

TOWN OF APPLE VALLEY
PLANNING COMMISSION
Regular Meeting
Wednesday, April 6, 2011

CALL TO ORDER

At 6:00 p.m. on April 6, 2011, the Regular Meeting of the Planning Commission of the Town of Apple Valley was called to order by Chairman Tinsley.

ROLL CALL

PLANNING COMMISSION

Roll call was taken with the following members present: Commissioner David Hernandez, Commissioner Jason Lamoreaux, Commissioner Daniel Seagondollar, Vice-Chairman Larry Cusack, and Chairman B.R. "Bob" Tinsley.

STAFF PRESENT

Lori Lamson, Assistant Director of Community Development; Carol Miller, Senior Planner; Richard Pedersen, Deputy Town Engineer; Haviva Shane, Town Attorney and Patty Hevle, Planning Commission Secretary.

PLEDGE OF ALLEGIANCE

1. APPROVAL OF MINUTES

A. Minutes for the Regular Meeting of February 16, 2011.

MOTION:

Motion by Commissioner Hernandez, seconded by Vice-Chairman Cusack, to approve the Minutes for the Regular Meeting of February 16, 2011.

Motion carried by the following vote: Ayes: Commissioner Hernandez, Commissioner Lamoreaux, Commissioner Seagondollar, Vice-Chairman Cusack, and Chairman Tinsley. Noes: None. Abstain: None. Absent: None.

2. Conditional Use Permit No. 2011-002.

Applicant: Victor Valley Wastewater Reclamation Authority (VWRA)

Location: The site is located within the southwest corner of Brewster Sports Center on the north side of Otoe Road; APNs 0440-012-59 and -60.

Chairman Tinsley opened the public hearing at 6:03 p.m.

Ms. Carol Miller, Senior Planner, presented the staff report as filed by the Planning Division. She stated the Engineering Division recommended street improvements be waived because the project is in the Dry Lake area. If the Commission agreed, then Engineering Conditions of Approval Nos. EC2, EC3, EC4, EC6, EC8 and EC14 could be deleted.

Ms. Miller commented that the Environmental Impact Report (EIR) was completed and certified on February 17, 2011 by the VVWRA Board; however, as the responsible agency, the Town is required to concur with the Findings and Mitigations included in the EIR.

Commissioner Seagondollar requested to know if Development Impact Fees were going to be waived.

Ms. Miller responded the fees would not be waived.

Commissioner Hernandez commented on in-lieu fees instead of waiving of the fees for curb, gutter and sidewalks.

Mr. Richard Pedersen, Deputy Town Engineer, stated waiving of in-lieu fees was for parcel maps; however, there are no subdivisions in the Dry Lake area. He further commented that Traffic Impact Fees (TIF) can be used for any location within the Town where there is a need.

Vice-Chairman Cusack expressed concerns regarding the location, stating he thought it was originally to be located outside of Brewster Park to the east.

Commissioner Lamoreaux had questions concerning the site elevation and whether any of the amenities that are being removed would be replaced, which included horseshoe pits.

Ms. Miller responded they were not adding any recreational amenities; just landscaping.

Commissioner Hernandez stated his concerns with odors and noise from the facility, since it is close to residential properties.

Ms. Miller stated it is a closed-in facility and that odors are supposed to be undetectable.

Mr. Ryan Orr, the Public Information Officer for VVWRA, introduced Mr. Garcia from HDR to answer any questions concerning the plant.

Mr. Garcia stated there is a plant in Corona, and he could arrange for the Commission to tour that plant if they felt the need to do so. He stated it has the same components as the facility being proposed for the Town. Mr. Garcia stated the tanks are treated for odors and all equipment is located underground to alleviate any noise. He stated the design of the plant is sensitive to odors and noise.

Chairman Tinsley asked about the future growth of the facility.

Mr. Garcia responded that any additional facilities would be within the existing fence area. The building has already been designed to accommodate additional tanks, so there will be no further expansion other than is being proposed.

Commissioner Lamoreaux commented on importing fill dirt within the flood zone area. Mr. Pedersen responded there is a requirement in the Development Code that prevents bringing materials into the Dry Lake area. Any materials used must come from within the Dry Lake area.

Commissioner Seagondollar commented on the 100-year storm flood waters and how the project plans for mitigation.

Mr. Garcia stated all the facilities are above flood level and the pumps have motors above the flood level, as well as immersable pumps to minimize noise.

Mr. Garcia further commented there would be no employees at the facility full time; however, there will be one person checking the facility on a regular basis.

Mr. Brett Jurgensen, Apple Valley, spoke against the project and read a statement outlining his concerns. He felt the project should be placed in an industrial area, not near residential or a park.

Mr. George Mable, Apple Valley, also spoke against the project stating homes near the project would be adversely affected by the odor and property values would decrease.

Chief Art Bishop, Apple Valley Fire Protection District (AVFPD), expressed concerns regarding the need for specialized rescue equipment due to the pit and the confined spaces, and asked that an additional Condition of Approval be added to address these issues. He further stated he had not had an opportunity to meet with and advise the applicant of the conditions needed by the Fire District for such a project.

Ms. Lamson requested to know if the applicant, Mr. Garcia, agreed to all of the Conditions of Approval.

Mr. Garcia commented that he did not agree with the concerns expressed by Chief Bishop. He further commented that he needed more time to consult with someone regarding all of the Conditions of Approval before he could agree to all of them.

Commissioner Hernandez had questions on the use of off-site ponds.

Mr. Garcia stated the ponds were for the disposal of unusable recycled water and that geology studies would have to be done before the ponds were located. He further encouraged the Commission to visit the facility in Corona.

Ms. Lamson stated the zoning in the project area is Very-Low Density Residential and that the project was not a violation of the Zoning Ordinance or the General Plan.

Ms. Miller commented on the identification in the EIR of the noise levels and of the mitigation measures in place.

Ms. Miller further commented that the confined space rescue, as mentioned by Chief Bishop of the AVFPD, was not discussed at any of the project meetings. She commented on concerns expressed by airport staff concerning the off-site ponds, but they had imposed no Conditions of Approval on the project.

Commissioner Cusack expressed his concern that, due to the odor it may cause, the project was located too close to single-family residences and the park

Commissioner Seagondollar commented he also was concerned about the possible noise level.

Ms. Miller responded that the noise level identified in the EIR is what is typical for the exterior of a single-family residential neighborhood. She did state the facility would operate twenty-four (24) hours a day.

Mr. John Williams, Apple Valley, requested to know if the horseshoe pits at Brewster Park would be removed, stating they have five (5) to six (6) tournaments throughout the year at the park.

Ms. Miller stated that not all of them would be removed. She stated she received no comments from the Parks and Recreation Commission regarding the project.

Ms. Lamson stated that the Park and Recreation Commission may be addressing the issue in its Park Master Plan.

Mr. George Mable commented further on noise levels.

Since there was no one else in the audience requesting to speak to this item, Chairman Tinsley closed the public hearing at 7:05 p.m.

Commissioner Hernandez commented the project was incompatible with the surrounding area.

Commissioner Seagondollar agreed, feeling the project should be located further from the park and residences.

Commissioner Lamoreaux concurred, stating Fire Chief Bishop's request should be considered. Mr. Lamoreaux further stated that the applicant needs to evaluate the conditions of approval and concur and also felt it should be located further from a residential area.

Vice-Chairman Cusack was also in agreement with the views expressed by the Commissioners.

Chairman Tinsley was not in favor of the project and felt the Fire District's concerns should be addressed. He would also like to see the horseshoe pit issue resolved to the satisfaction of the Parks and Recreation Commission. He also had issues with the storage ponds being too close to the airport and attracting birds.

Ms. Lamson suggested the Commission continue the item to the May 4, 2011, meeting to allow staff the time to bring back Findings for Denial which the Commission could consider at that time.

MOTION:

Motion by Commissioner Hernandez, seconded by Commissioner Lamoreaux, that the Planning Commission move to continue this item to the May 4, 2011 Planning Commission meeting and direct staff to bring back Findings for Denial at that time.

ROLL CALL VOTE:

Ayes: Commissioner Hernandez
 Commissioner Lamoreaux
 Commissioner Seagondollar
 Vice-Chairman Cusack
 Chairman Tinsley

Noes: None

Abstain: None

Absent: None

The motion carried by a 5-0-0-0 vote

DRAFT MINUTES
EXCERPT

TOWN OF APPLE VALLEY
PLANNING COMMISSION
Regular Meeting
Wednesday, May 4, 2011

CALL TO ORDER

At 6:01 p.m., the Regular Meeting of the Planning Commission of the Town of Apple Valley for May 4, 2011, was called to order by Vice-Chairman Cusack.

ROLL CALL

PLANNING COMMISSION

Roll call was taken with the following members present: Commissioner David Hernandez, Commissioner Jason Lamoreaux, Vice-Chairman Larry Cusack and Absent: Chairman B.R. "Bob" Tinsley.

STAFF PRESENT

Lori Lamson, Assistant Director of Community Development; Carol Miller, Senior Planner; Doug Fenn, Senior Planner; Dennis Cron, Assistant Town Manager, Municipal Operations and Contract Services; Haviva Shane, Town Attorney; and Patty Hevle, Planning Commission Secretary.

3. Conditional Use Permit No. 2011-002.

Applicant: Victor Valley Wastewater Reclamation Authority (VWVRA)

Location: The site is located within the southwest corner of Brewster Sports Center on the north side of Otoe Road; APNs 0440-012-59 and -60.

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

The applicant, Mr. Logan Olds, General Manager for VWVRA, addressed questions asked at the last meeting. He stated he had met with the Apple Valley Fire Protection District to address their concerns and an agreement had been reached regarding their issues with the project.

Mr. Olds stated that the facility had been designed to eliminate any noise issues.

He further commented the design is such that 100 percent of the odor will be completely contained. He explained the odor filtering process that will be used.

Mr. Olds stated that consideration was given to locating the facility directly across from the present location and east of the park; however, the landowner felt the property was worth more than it actually was and to obtain this location would have required an eminent domain situation.

Commissioner Hernandez requested to know if there was any other location in Apple Valley that would accommodate the project.

Mr. Olds responded that it had been a long-term plan of the Town to locate the facility in this area, and there is enough flow to operate it at this location. He stated the Town would incur considerable costs to reroute and rebuild the existing sewer system in order to pump to an entirely different location. He stated that gravity is the most important consideration for these types of facilities and they are generally built in the lowest possible point.

Mr. Olds also reassured the Commission he was very confident that the noise levels will be very low and that one of their top priorities was elimination of noise from the facility.

Commissioner Lamoreaux commented on moving the facility to the southeast corner within the park.

Mr. Olds responded he was informed by Town staff that placing the facility inside the park in the southeast corner would create too much of an impact on the park.

Mr. Dennis Cron, Assistant Town Manager, Municipal Operations and Contract Services, responded to questions asked by Vice-Chairman Cusack. Mr. Cron stated the project went before the Park and Recreation Committee and they had no issues with the current location.

Mr. Cron commented on the reasoning behind choosing the facility location. He further stated that the sewer collection system had been designed to carry flows to that location throughout the years, including financial resources to obtain this goal.

Mr. Cron also responded to concerns about noise, stating that VVWRA is building the facility with the blowers and motors underground, so that it will be quiet at surface level. He stated that VVWRA has assured staff that the facility will be quiet and odor free.

Vice-Chairman Cusack opened the public hearing at 6:30 p.m.

Mr. Brett Jurgensen, Apple Valley, was opposed to the project in the present location.

Ms. Sierra Webb, Apple Valley, spoke in favor of the project and commented about the benefits of using reclaimed water.

Chief Art Bishop of the Apple Valley Fire Protection District stated he toured the Corona plant and the applicants had alleviated all of the Fire District's concerns regarding the facility.

Ms. Margie Kier, Apple Valley, commented on noise and odor concerns and stated she was against the project.

Mr. Logan Olds, the applicant, stated the facility could be moved if the Commission so desired; however, he requested the Commission move forward with the project as the

Town has been aware of the need for recycled water for many years and has been planning for it.

Vice-Chairman Cusack requested to know if Mr. Olds agreed with all of the Conditions of Approval, including the modified conditions for the Fire District. Mr. Olds stated that, on behalf of the VVWRA, he agreed to all of them.

Since there was no one else in the audience requesting to speak to this item, Vice-Chairman Cusack closed the public hearing at 6:45 p.m.

Town Attorney Haviva Shane suggested to the Commission that, if they are considering approving the project, she would recommend a continuance and direct staff to bring back a resolution for approval.

Ms. Lori Lamson, Assistant Director of Community Development, stated the Commission could deny the project without prejudice to allow the applicant to redesign the project and bring it back or have the appeal rights with the Council. If the item were tabled, it could be brought back at a later date with a new site location.

The Commission was in consensus that they did not approve of the project location.

Mr. Dennis Cron clarified that moving the facility outside of the park is an option, however; there still needs to be a buffer of park land around the facility. He stated that staff could not support a project that did not have a buffer.

Vice-Chairman Cusack stated there was a park around the facility in Corona.

Mr. Cron further commented that the project meets all of Council's goals to implement it, as well as the location having a buffer, horse trail, setback area and road right-of-way. It will also be as far from the residents across the street as the current pump station.

Mr. Olds stated there would be issues if the project location were moved, but they would not be difficult to overcome.

Town Attorney Haviva Shane commented that, if the project were to be relocated, the Environmental Impact Report would have to be recertified through CEQA.

Mr. Art Bishop, speaking for the Mojave Water Agency (MWA) stated that the MWA received a \$20 million grant for water reclamation. He stated that the MWA Board had agreed to offer a portion of that to Apple Valley and Hesperia. Mr. Bishop wanted the Commission to be aware that the money is grant money and the use of it is time sensitive.

MOTION:

Motion by Commissioner Hernandez, seconded by Commissioner Lamoreaux, that the Planning Commission move to deny the application, without prejudice, and adopt Planning Commission Resolution No. 2011-002.

ROLL CALL VOTE:

Ayes: Commissioner Hernandez
Commissioner Lamoreaux
Vice-Chairman Cusack
Noes: None
Abstain: None
Absent: Chairman Tinsley
The motion carried by a 3-0-0-1 vote

ADJOURNMENT

Motion by Vice-Chairman Cusack, seconded by Commissioner Lamoreaux, and unanimously carried, to adjourn the meeting of the Planning Commission at 7:32 p.m. to the Regular Meeting on June 1, 2011.

Respectfully Submitted by:

Patty Hevle
Planning Commission Secretary

Approved by:

Vice-Chairman Larry Cusack

Agenda Item No. 2



Town of Apple Valley

**TOWN OF APPLE VALLEY
PLANNING COMMISSION**

Staff Report

AGENDA DATE: May 4, 2011 (Continued from the April 6, 2011 Planning Commission meeting)

CASE NUMBER: Conditional Use Permit No. 2011-002

APPLICANT: Victor Valley Wastewater Reclamation Authority (VWVRA)

PROPOSAL: The applicant requests approval to allow the construction and operation of a subregional wastewater reclamation facility adjacent to the existing Otoe Road sewer lift station. The wastewater reclamation plant will have an

initial treatment capacity of 1.0 million gallons per day (MGD) average flow and a phased build-out treatment capacity of 4.0 MGD.

LOCATION: The site is located within the southwest corner of Lenny Brewster Sports Center on the north side of Otoe Road, APNs 0440-012-59 and -60.

ENVIRONMENTAL DETERMINATION

Based upon an Initial Study, pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), a Negative Declaration has been prepared for this project. However, due to the Planning Commission's direction to staff to prepare findings for denial, this is considered exempt due to Section 15061 (a) (4) – projects in which the local authority denies.

CASE PLANNER: Ms. Carol Miller, Senior Planner

RECOMMENDATION: Pursuant to Planning Commission direction, Planning Commission Resolution No. 2011-002 has been prepared with Negative Findings to support the Commission's stated intent to deny this project.

Background

On April 6, 2011, the Planning Commission conducted a public hearing on Conditional Use Permit No. 2011-002. Following the public hearing and discussion, the Planning Commission reached a consensus for denial of the proposed wastewater reclamation project. The consensus was the project should not be approved based upon the Commission's determination that the proposed facility would not be compatible with the surrounding residential area due to noise and odor, and that the facility impacted the function and quality of the adjacent sports complex. The Commission directed that the item be continued to May 4, 2011, for the purpose of enabling staff to complete the negative "Findings" as discussed at the public hearing by Planning Commission.

Based upon direction to staff at the April 6, 2011 hearing, Planning Commission findings for denial have been included in the attached Planning Commission Resolution No. 2011-002.

RECOMMENDATION

Based upon the information contained within this report, the Planning Commission actions of April 6, 2011, stating its intent to deny the subject applications and any input received from the public hearing, it is recommended that the Planning Commission move to:

1. Find that the facts presented in the staff report do not support the required Findings for approval and adopt the negative comments for the findings for denial in the May 4, 2011 staff report.
2. Adopt the negative comments as provided in the staff report for the findings deny the Conditional Use Permit.

Prepared By:

Reviewed By:

Carol Miller
Senior Planner

Lori Lamson
Assistant Director of Community Development

ATTACHMENTS:

1. Planning Commission Resolution No. 2011-002
2. Planning Commission from the Staff Report April 6, 2011 Meeting

PLANNING COMMISSION RESOLUTION NO. 2011 – 002

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, DENYING AN APPLICATION FOR A CONDITIONAL USE PERMIT TO ALLOW THE CONSTRUCTION AND OPERATION OF A SUB-REGIONAL WASTEWATER RECLAMATION FACILITY ADJACENT TO THE EXISTING OTOE ROAD LIFT STATION WITHIN THE OPEN SPACE (O-S) ZONING DESIGNATION FOR PROPERTY LOCATED WITHIN THE SOUTHWEST CORNER OF LENNY BREWSTER SPORTS CENTER ON THE NORTH SIDE OF OTOE, APNs 0440-012-59 AND 0440-012-60

WHEREAS, Victor Valley Wastewater Reclamation Authority (VWVRA) (the "Applicant") filed an application (Conditional Use Permit No. 2011-002) requesting approval of a Conditional Use Permit ("CUP") to allow operation of a wastewater reclamation plant with an initial treatment capacity of 1.0 million gallons per day (MGD) average flow and a phased build out treatment capacity of 4.0 MGD (the "Application" or the "Project"). The proposed location for the Project is an approximately three (3) acre site located within the southwest corner of Lenny Brewster Sports Center on the north side of Otoe Road, Assessor Parcel Numbers 0440-012-59 and 0440-012-60 (the "Subject Site"). The Subject Site is located within the Open Space (O-S) zoning designation.

WHEREAS, on April 6 and May 4, 2011, the Planning Commission of the Town of Apple ("Planning Commission") conducted duly noticed public hearings on the Application at which time all persons wishing to testify in connection with the proposed Application were heard, and the Application was comprehensively reviewed; and

WHEREAS, during the public hearing the Planning Commission received and considered extensive testimony regarding public concerns with the location of the proposed Project; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, BE IT RESOLVED, THAT IN CONSIDERATION OF THE EVIDENCE PRESENTED AT THE PUBLIC HEARING, AND FOR THE REASONS DISCUSSED BY THE COMMISSIONERS AT SAID HEARING, THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY, CALIFORNIA, FINDS AND DETERMINES AS FOLLOWS:

Section 1. The Recitals set forth above are true and correct and are incorporated herein by reference.

Section 2. In consideration of the evidence received at the public hearing on the Application, and for the reasons discussed by the Commissioners at said hearing and the findings made in this Resolution, the Planning Commission hereby denies the Application.

Section 3. In consideration of the evidence received at the public hearing on the Application, and for the reasons discussed by the Commissioners at said hearing and the findings made in this Resolution, the Planning Commission hereby finds that the Application does not comply with the zoning regulations set forth in Section 9.16.090 of Chapter 9.16 of Title 9 of the Town of Apple Valley Municipal Code (the "Development Code").

A. Section 9.16.090(A)(2) of the Development Code provides that in order to grant a CUP, the Planning Commission must find that: *the location, size, design and operating*

characteristics of the proposed Project will be compatible with and will not adversely affect or be materially detrimental to adjacent uses, residents, buildings, structures or natural resources.

1. Public comment from residents, and a review of the proposed operation of the Project and the Subject Site indicate that the proposed Project, a wastewater reclamation facility to be operated twenty-four (24) hours per day, with a maximum capacity of 4.0 MGD, may adversely affect or be materially detrimental to adjacent uses and residents, and is not compatible with such adjacent uses.

a. Uses in the immediate vicinity of the Subject Site include the Lenny Brewster Sports Center, and single family residences.

b. The nearest residence property is located within 200 feet and nearest residence is within 350 feet of the proposed Project.

c. Odor and noise that may be generated by the proposed Project may adversely affect or be materially detrimental to the adjacent park and recreational uses, and to adjacent residents.

d. There is insufficient buffer between the proposed Project and the adjacent park, recreation and residential uses.

B. Section 9.16.090(A)(5) of the Development Code provides that in order to grant a CUP, the Planning Commission must find that: *there will not be a harmful effect upon desirable neighborhood characteristics.*

1. Public comment from residents and persons that utilize the Lenny Brewster Sports Center, and a review of the proposed operation of the Project and the Subject Site indicate that the proposed Project may have a detrimental effect on the characteristics of the neighborhood in which the Subject Site is located.

a. The Subject Site is located within the southwest corner of Lenny Brewster Sports Center on the north side of Otoe Road. The Project will require removal of horseshoe courts and will reduce the size of the park by approximately 7-8%. Noise and odors that may be generated by the proposed Project may have a detrimental effect on the characteristics of the Lenny Brewster Sports Center, and may decrease the use and enjoyment of this facility.

b. The Subject Site is located less than 200 feet away from the nearest residential property and less than 400 feet from the nearest residence. Noise and odors that may be generated by the proposed Project may have a negative impact on the desirable characteristics of the residential neighborhood adjacent to the Subject Site, and may reduce property values in the neighborhood.

C. Section 9.16.090(A)(9) of the Development Code provides that in order to grant a CUP, the Planning Commission must find that: *there are no other relevant negative impacts of the proposed use that cannot be reasonably mitigated.*

1. Public comment from residents indicated that the proposed Project has other relevant negative impacts that cannot be reasonably mitigated.

a. The Proposed Project may impact the quality of life and home values in the residential neighborhood adjacent to the Subject Site, and may reduce the use and enjoyment of the Lenny Brewster Sports Center.

D. Section 9.16.090(A)(10) of the Development Code provides that in order to grant a CUP, the Planning Commission must find that: *the impacts, as described in paragraphs 1 through 9 of Section 9.16.090(A) of the Development Code, and the proposed location, size, design and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, nor be materially injurious to properties or improvements in the vicinity, nor be contrary to the adopted General Plan.*

1. Public comment from residents, and a review of the proposed operation of the Project and the Subject Site indicate that the proposed Project, a wastewater reclamation facility to be operated twenty-four (24) hours per day, with a maximum capacity of 4.0 MGD, including off-site storage ponds, may be detrimental to the public health, safety or welfare, and/or may be materially injurious to properties or improvements in the vicinity.

a. The odors and noise that may be generated from twenty-four (24) hour operation of the proposed Project may have a detrimental effect on the public health, safety and welfare and/or may be materially injurious to properties and improvements in the vicinity. The odors and noise that may be generated by the proposed Project may reduce the quality of life of the adjacent residents, may reduce the use and enjoyment of the park facilities, and may negatively impact property values in the vicinity of the Subject Site.

Approved and adopted by the Planning Commission of the Town of Apple Valley this 4th day of May, 2011.

B.R. "Bob" Tinsley, Chairman

ATTEST:

I, Patty Hevle, Secretary to the Planning Commission of the Town of Apple Valley, California, do hereby certify that the foregoing resolution was duly and regularly adopted by the Planning Commission at a regular meeting thereof, held on the 4th day of May 2011, by the following vote, to-wit:

AYES:
NOTES:
ABSENT:
ABSTAIN:

Patty Hevle, Planning Commission Secretary



TOWN OF APPLE VALLEY PLANNING COMMISSION

Staff Report

- AGENDA DATE:** April 6, 2011
- CASE NUMBER:** Conditional Use Permit No. 2011-002
- APPLICANT:** Victor Valley Wastewater Reclamation Authority (VWVRA)
- PROPOSAL:** The applicant requests approval to allow the construction and operation of a sub-regional wastewater reclamation facility adjacent to the existing Otoe Road sewer lift station. The wastewater reclamation plant will have an initial treatment capacity of 1.0 million gallons per day (MGD) average flow and a phased build out treatment capacity of 4.0 MGD.
- LOCATION:** The site is located within the southwest corner of Lenny Brewster Sports Center on the north side of Otoe Road, APNs 0440-012-59 and -60.
- ENVIRONMENTAL DETERMINATION:** The VWVRA prepared an EIR for the proposed project (SCH #2010051087). The Town was a Responsible Agency through that process, and provided comments on the Draft EIR. In accordance with CEQA Section 15050, the Planning Commission will consider the environmental effects described in "Town of Apple Valley Wastewater Reclamation Plant EIR" and proposed mitigation measures.
- CASE PLANNER:** Ms. Carol Miller, Senior Planner
- RECOMMENDATION:** Approval
- PROJECT SITE AND DESCRIPTION**
- A. Project Size:
The subject area is approximately 3.3 acres in size.
- B. General Plan Designations:
- | | |
|----------------|--------------------------------------|
| Project Site – | Open Space (O-S) |
| North - | Very Low Density Residential (R-VLD) |
| South - | Very Low Density Residential (R-VLD) |
| East - | Very Low Density Residential (R-VLD) |
| West - | Very Low Density Residential (R-VLD) |

C. Surrounding Zoning and Land Use:

Project Site-	Open Space Recreation (OS-R), Lenny Brewster Sports Center
North -	Very Low Density Residential (R-VLD), Vacant Land and Single Family Residential
South -	Very Low Density Residential (R-VLD), Vacant Land and Single Family Residential
East -	Very Low Density Residential (R-VLD), Vacant Land
West -	Very Low Density Residential (R-VLD), Vacant Land and Single Family Residential

D. Site Characteristics:

The Apple Valley Wastewater Reclamation Plant is proposed to be located adjacent to the Town's existing sewer lift station within the Lenny Brewster Sports Center, a public park just north of Otoe Road. The subject area is relatively flat and contains some park improvements (horseshoe pits), park entrance, and maintenance building, all proposed to be removed or relocated.

ANALYSIS

A. General:

Pursuant to the Development Code, a Conditional Use Permit (CUP) is required for government facilities or public installations, other than offices, which allows the Commission an opportunity to consider certain uses which may have potential adverse impacts upon surrounding property or the general public. The Victor Valley Wastewater Reclamation Authority is a four (4) member Joint Powers Authority that includes the cities of Victorville and Hesperia, the Town of Apple Valley, and the San Bernardino County Service Areas 42 and 64.

The purpose of the Apple Valley wastewater reclamation plant is to provide adequate wastewater treatment capacity to comply with public health and safety regulations and to meet future subbasin water supply demands. The project is also intended to supply recycled water in order to meet part of the long-term water supply requirements of the Town. The wastewater reclamation plant will have an initial treatment capacity of 1.0 million gallons per day (MGD) average flow and a phased build-out treatment capacity of 4.0 MGD.

The wastewater reclamation plant will treat a portion of the wastewater from the Town's sewer collection system, reuse the treated water in a beneficial manner, and return the solids to the sewer for treatment at the Westside Regional Reclamation Plant in Victorville. This will reduce the overall load on the collection system of the Westside Regional facility while creating recycled water. Another benefit is the reduction of recycled water infrastructure and the subsequent energy costs of pumping the recycled water back up grade to the recycled water users.

The primary areas of concern associated with wastewater reclamation are typically odor and noise. These have been addressed individually below.

1. Odor

Wastewater treatment plants do have potential odor issues and is the primary issue to surrounding land uses. The project proposes the operation to be conducted within the structure and no exterior wastewater treatment is proposed. The EIR indicates that, with proper operating odor control units, the air in the immediate vicinity will have a "wet earth" odor character. Within 500 feet, additional atmospheric dilution reduces the odor to below the detection threshold of the most sensitive receptors. Because the plant will discharge

waste solids back into the collection system for treatment, truck traffic is eliminated and the odors that are associated with solids handling.

2. Noise

The vast majority of equipment will be located within buildings. The high volume blowers are proposed to be located within the concrete basement and noise enclosures to reduce their potential noise impact to the surrounding neighborhood. Each blower is provided an individual enclosure to reduce the noise level within the building to further reduce the noise impact on operators. Other noise control features have been incorporated into the design of the project.

B. Analysis:

The subject site is located within the 100-year flood hazard associated with the Apple Valley Dry Lake. Although the site is on the fringe of the flood zone, mitigation is required to protect the site from flood hazards. To address this issue, a two (2)-foot retaining wall is proposed along the northerly facility boundary and landscape berming around the perimeter. For security purposes, a six (6)-foot high wrought iron fence is proposed. In locations where there will be a retaining wall, the fencing will be located on top of the wall for an overall height of eight (8) feet. This overall fence height is permitted.

The project area is comprised of two (2) separate legal parcels. The site plan indicates the proposed facility to cross over the parcel lines between the sewer lift station parcel and the Brewster Park parcel. A lot merger or lot line adjustment prior to occupancy is required such that the lift station and wastewater facility encompass the same parcel (Condition of Approval No. P12).

1. Traffic and Circulation

The project does include the relocation of the existing park entrance from Otoe Road. A new fifty-four (54)-foot wide driveway from Otoe Road is proposed that will serve as a park entrance and wastewater facility entrance. Although Otoe Road is paved, it is currently not fully developed in accordance with the General Plan Circulation Element. In accordance with the Equestrian trail standards, sufficient setback is being provided to accommodate the future twelve (12)-foot wide Lifeline Trail which will be installed at such time the Town constructs the trail along the entire park and lift station parcel frontages.

The standard Engineering conditions of approval have been incorporated into the staff report. However, the Engineering Division is recommending that the street improvements for this project, namely curbs, gutters and sidewalk, be waived by the Planning Commission. Because of the unique location of the project, being that it is located in the Lenny Brewster Sports Center, in the Apple Valley Dry Lake, curbs and gutters are not needed for drainage. The right-of-way of forty-four (44) feet is consistent with the Circulation Element. However, due to set back issues, it is recommended that a sidewalk easement be required for the northerly four (4) feet of the forty-four (44)-foot right-of-way requirement. If the recommendation is acceptable, Condition of Approval Numbers EC2, EC3, EC4, EC6, EC8, and EC14 may be deleted.

2. Drainage

The project will include impervious areas (such as driveways, parking areas and structures), which will create additional surface runoff. The Engineering Division has recommended Condition No. EC1, which requires that a final drainage plan be submitted

for review and approval to the Town Engineer, showing provisions for receiving and conveying off-site and on-site tributary drainage flows around or through the site in a manner which will not adversely affect adjacent or downstream properties.

In accordance with the Development standards, the building is setback fifty (50) feet from the front property line. A twenty (20)-foot landscape setback is being provided along Otoe Road which exceeds the ten (10)-foot minimum.

The Development Code does not specify a parking ratio for the proposed use. The site plan indicates four (4) parking spaces located parallel to the building. The number of spaces is based on the anticipated number of employees. However, if additional parking is needed, sufficient parking is available within the park parking lot located adjacent to the facility.

In addition to the park entrance being relocated further east, the site demolition plan indicates the removal of some existing structures and park improvements. A small park maintenance building and its perimeter fencing will be removed and approximately forty (40) horseshoe pits will be removed. Where feasible, existing landscaping material will be incorporated into the new planter areas.

C. Architecture:

The building elevations indicate a twenty-three (23)-foot high structure that includes tile roofing and stucco and block wainscot siding with architectural treatments. The design is considered typical for such a facility within proximity to residential areas. Many of the design elements on the building can be commonly found on a single-family residence. Staff finds the architectural design to be compatible with the surrounding area.

D. Development Review Committee:

On March 3, 2011, the Development Review Committee (DRC) reviewed this project. The project was distributed prior to the meeting to all affected agencies and comments and recommended Conditions of Approval are attached for Commission review and consideration.

E. Environmental Assessment:

Pursuant to the California Environmental Quality Act (CEQA), the Town of Apple Valley is a responsible agency for the Wastewater Reclamation Plant. As a responsible agency, the Town must review and concur with the conclusions and mitigation measures included in the Wastewater Reclamation EIR. The EIR for the facility has been provided on a separate disk.

The environmental impacts generated were analyzed in the Environmental Impact Report (EIR) prepared by the Victor Valley Wastewater Reclamation Authority (VWRA) for the Town of Apple Valley Wastewater Reclamation Plant and related facilities. The EIR was certified by the Commissioners on February 17, 2011. The Mitigation Monitoring Program for the EIR contains mitigation measures under the categories of Aesthetics, Geology and Soils, and Transportation/Circulation.

F. Noticing:

This item was advertised as a public hearing in the Apple Valley News newspaper on March 25, 2011.

G. Findings:

As required under Section 9.16.090 of the Development Code, prior to approval of a Conditional Use Permit, the Planning Commission must make specific Findings. The Findings, and a suggested comment to address each, are presented below:

1. That the proposed location, size, design and operating characteristics of the proposed use is consistent with the General Plan, the purpose of this Code, the purpose of the zoning district in which the site is located, and the development policies and standards of the Town;

Comment: The proposed wastewater reclamation plant is located in the southwest portion of Lenny Brewster Sports Center adjacent to the Town's sewer lift station. The reclamation facility building proposes a twenty-three (23)-foot high structure that includes tile roofing and stucco siding with architectural treatments that appear similar to a typical single family residence and similar to the structures located within the park. The General Plan and Zoning designation of the subject site is Open Space (O-S). This designation permits government or public facilities subject to the approval of a Conditional Use Permit. The proposed location, size, design and operating characteristics are consistent with the General Plan Water, Wastewater and Utilities Element Policy 1A, Program 1.A.1 which states "The Town shall support the Department of Public Works, the various domestic water service providers serving the Town, and the VVWRA in the development of alternative sources of groundwater recharge, and expansion of facilities to treat and distribute reclaimed, and or recycled water." The proposed site, as it's designed, is consistent with this design and site requirements.

2. That the location, size, design and operating characteristics of the proposed use will be compatible with, and will not adversely affect nor be materially detrimental to, adjacent uses, residents, buildings, structures or natural resources;

Comment: It is not anticipated that the project will adversely affect nor be materially detrimental to adjacent uses since the collection system and recycled water pipeline will be placed below ground surface. Further any pump stations and similar facilities will be housed in the structures which have been designed to blend in with the adjacent structures and provide sound attenuation. Also, based on the design and operating characteristics of the facility, odor is not anticipated to impact the surrounding land uses.

3. That the proposed use is compatible in scale, bulk, lot coverage, and density with adjacent uses;

Comment: The building has a building setback of fifty (50) feet from the front property line along Otoe Road. The building design proposes a maximum height of twenty-three (23) feet. In addition, perimeter landscaping will add buffering to the site. Therefore, the proposed facility is a compatible use because the site has been designed with adequate setbacks, parking, landscaping, and access point.

4. That there are public facilities, services and utilities available at the appropriate levels, or that these will be installed at the appropriate time to serve the project as they are needed;

Comment: There are existing public facilities, services and utilities available to serve the site.

5. That there will not be a harmful effect upon desirable neighborhood characteristics;

Comment: It is not anticipated that the project will have a harmful effect on the neighborhood characteristics since the collection system and recycled water pipeline will be placed below ground surface. Further, any pump stations and similar facilities will be housed in the structures that have been designed to blend in with the adjacent structures.

6. That the generation of traffic will not adversely impact the capacity and physical character of surrounding streets;

Comment: Traffic generated from the project will not adversely impact the surrounding area. As stated in the EIR, the proposed project will not generate sufficient traffic during construction or operations to reduce the level of service on any of the roads that serve the site.

7. That traffic improvements and/or mitigation measures are provided in a manner adequate to maintain the existing service level or a Level of Service (LOS) C or better on arterial roads and are consistent with the Circulation Element of the General Plan;

Comment: As stated in Finding No. 6, it is anticipated that this project will not have an impact upon the roadway system and the project is anticipated to maintain LOS levels in conformance with the General Plan.

8. That there will not be significant harmful effects upon environmental quality and natural resources;

Comment: The Apple Valley Wastewater Reclamation Plant has been reviewed pursuant to the CEQA, and all significant adverse impacts are mitigated to the maximum extent feasible. All environmental impacts related to the Conditional Use Permit application have been disclosed in an Environmental Impact Report certified by the VVWRA on February 17, 2011.

9. That there are no other relevant negative impacts of the proposed use that cannot be reasonably mitigated;

Comment: The Apple Valley Wastewater Reclamation Plant has been reviewed pursuant to the CEQA, and all significant adverse impacts are mitigated to the maximum extent feasible. All environmental impacts related to the Conditional Use Permit application have been disclosed in an Environmental Impact Report certified by the VVWRA on February 17, 2011.

10. That the impacts, as described in paragraphs 1 through 9 above, and the proposed location, size, design and operating characteristics of the proposed use and the conditions under which it would be maintained will not be detrimental to the public health, safety or welfare, nor be materially injurious to properties or improvements in the vicinity, nor be contrary to the adopted General Plan;

Comment: See Finding Nos. 1 and 9.

11. That the proposed conditional use will comply with all of the applicable provisions of this title.

Comment: See Findings Nos. 1 and 2. Pursuant to the Development Code, a Conditional Use Permit is required for government or public facilities to afford the Commission the opportunity to review the architecture and potential land use conflicts. The Code allows government or public facilities within the Open Space recreation zoning districts, with approval of a Conditional Use Permit.

12. That the materials, textures and details of the proposed construction, to the extent feasible, are compatible with the adjacent and neighboring structures;

Comment: Although the project is located within a public park and adjacent to a sewer lift station with single-family residential scattered to the south and west, the structure has been designed with sensitivity towards the residential properties. The building elevations indicate tile roofing, stucco siding and colored concrete wainscot which are commonly used in the construction of a single-family residence.

13. That the development proposal does not unnecessarily block public views from other buildings or from public ways, or visually dominate its surroundings with respect to mass and scale to an extent unnecessary and inappropriate to the use;

Comment: The Town of Apple Valley's General Plan recognizes the protection of local scenic resources as necessary for maintaining the overall livability and aesthetic qualities of the Town, and identifies the surrounding knolls, hills, and natural desert environment as important natural resources that should be preserved as Open Space. The proposed project is not located within a Scenic Corridor and will not have a substantial adverse effect on a scenic vista as there are none identified within the vicinity of the project site that would be affected by development of the site. Nevertheless, the structure has been designed to blend in with the adjacent structures with a maximum height of twenty-three (23) feet.

14. That quality in architectural design is maintained in order to enhance the visual environment of the Town and to protect the economic value of existing structures.

Comment: The reclamation facility building proposes a twenty-three (23)-foot high structure that includes tile roofing and stucco siding with architectural

treatments that appear similar to a typical single family residence and similar to the structures located within the park.

15. That access to the site and circulation on and off-site is safe and convenient for pedestrians, bicyclists, equestrians and motorists.

Comment: The project does include the relocation of the park entrance. Nevertheless, the existing on- and off-site circulation patterns of the development provide a safe and convenient manner for access. In accordance with the equestrian trail standards, the site plan is providing sufficient area for the future installation of the Lifeline trail along Otoe Road.

RECOMMENDATION

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

1. Determine that as a responsible agency for the Final Environmental Impact Report (EIR) for the Apple Valley Wastewater Reclamation Plant project as prepared and certified by VVWRA, has considered the EIR and the environmental effects and concurs with the lead agency, that the Final EIR is complete and adequate and fully complies with all requirements of CEQA.
2. Recognizes and concur with the mitigation measures adopted by VVWRA as a part of the final EIR, and the Commission finds that these mitigation measures reduce the identified potentially significant impacts to a level of insignificance and to less than significant.
3. Find that the facts presented in the staff report support the required Findings for approval and adopt those Findings.
4. Approve Conditional Use Permit No. 2011-002 subject to the attached Conditions of Approval.
5. Direct staff to file a Notice of Determination.

Carol Miller
Senior Planner

Lori Lamson
Assistant Director of Community Development

ATTACHMENTS:

1. Site Plan
2. Building Elevations
3. Floor Plan
4. Landscape Plan
5. Zoning Map
6. EIR (On CD disk)

RECOMMENDED CONDITIONS OF APPROVAL
Case Number No. CUP 2011-002

Please note: Many of the suggested Conditions of Approval presented herewith are provided for informational purposes and are otherwise required by the Municipal Code. Failure to provide a Condition of Approval herein that reflects a requirement of the Municipal Code does not relieve the applicant and/or property owner from full conformance and adherence to all requirements of the Municipal Code.

Planning Division Conditions of Approval

- P1. This project shall comply with the provisions of State law and the Town of Apple Valley Development Code and the General Plan. This conditional approval, if not exercised, shall expire three (3) years from the date of action of the reviewing authority, unless otherwise extended pursuant to the provisions of application of State law and local ordinance. The extension application must be filed, and the appropriate fees paid, at least sixty (60) days prior to the expiration date. The Conditional Use Permit become effective ten (10) days from the date of the decision unless an appeal is filed as stated in the Town's Development Code.
- P2. Prior to issuance of a building permit, the following agencies shall provide written verification to the Planning Division that all pertinent conditions of approval and applicable regulations have been met:
- Apple Valley Fire Protection District
Apple Valley Ranchos Water Company
Apple Valley Public Works Division
Apple Valley Engineering Division
Apple Valley Planning Division
- P3. The applicant shall agree to defend, at its sole expense (with attorneys approved by the Town), hold harmless and indemnify the Town, its agents, officers and employees, against any action brought against the Town, its agents, officers or employees concerning the approval of this project or the implementation or performance thereof, and from any judgment, 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 in the defense of any such action, but such participation shall not relieve the applicant of this obligation under this condition.
- P4. The approval of Conditional Use Permit No. 2011-002 by the Planning Commission is recognized as acknowledgment of Conditions of Approval by the applicant, unless an appeal is filed in accordance with Section 9.12.250, *Appeals*, of the Town of Apple Valley Development Code.
- P5. The filing of a Notice of Determination requires the County Clerk to collect a documentary handling fee of fifty dollars (\$50.00). The fee must be paid in a timely manner in accordance with Town procedures. No permits may be issued until such fee is paid.
- P6. Parking requirements shall be met and be in compliance with Town standards. All parking stalls shall be clearly striped and permanently maintained with double or hairpin lines.

- P7. Required parking spaces shall be provided for the handicapped in accordance with Town standards and in accordance with Title 24 of the California Administrative Code. The handicapped spaces shall be located as close as practical to the entrance of the facility. Each space must be provided with access ramps and clearly marked in accordance with Title 24 of the California Administrative Code.
- P8. It is the sole responsibility of the applicant on any Permit, or other appropriate discretionary review application for any structure, to submit plans, specifications and/or illustrations with the application that will fully and accurately represent and portray the structures, facilities and appurtenances thereto that are to be installed or erected if approved by the Commission. Any such plans, specifications and/or illustrations that are reviewed and approved by the Planning Commission at an advertised public hearing shall accurately reflect the structures, facilities and appurtenances expected and required to be installed at the approved location without substantive deviations, modifications, alterations, adjustments or revisions of any nature.
- P9. Lighting fixtures throughout the site shall be of a type and be located in such a manner that no light or reflected glare is directed off-site and shall provide that no light is directed above a horizontal plane passing through the bottom of the fixture. All glare shall be directed onto the site and away from adjacent properties.
- P10. Final landscape and irrigation plans shall be submitted and installed prior to issuance of occupancy permits, subject to approval by the Planning Division. A report from a licensed landscape architect shall be provided describing the types of trees proposed and their ability to sustain and grow within the high desert climate. In addition, this report shall provide a water budget that complies with the Town of Apple Valley Landscape Irrigation Ordinance and State of California's Water Efficiency Landscape Ordinance
- P11. All required and installed landscaping shall incorporate and maintain a functioning automatic sprinkler system, and said landscaping shall be maintained in a neat, orderly, disease and weed free manner at all times.
- P12. Rooftop mechanical and electrical equipment shall be screened as an integral part of the architecture.
- P13. A Lot Merger application shall be approved and recorded prior to the issuance of any building permit on the vacant parcel.
- P14. All mitigation measures described in the final EIR will be implemented pursuant to the mitigation monitoring program adopted by the VVWRA as part of the project.

Engineering Division Conditions of Approval

- EC1. 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.
- EC2. Street improvement plans shall be submitted to the Town Engineer for review and approval.

- EC3. All streets abutting the development shall be improved a minimum half-width of twenty-eight (28) feet with curb, gutter and sidewalk on the development side.
- EC4. Otoe Road adjacent to the property shall be improved to the Town's half-width Secondary Road standards.
- EC5. A forty-four (44)-foot wide half-width road dedication along Otoe Road shall be granted to the Town of Apple Valley prior to Issuance of Grading Permit.
- EC6. During the grading of the streets, soils testing of the street subgrades by a qualified soils engineering firm shall be performed to determine appropriate structural street section. Minimum asphalt concrete thickness for all streets shall be 0.33 ft.
- EC7. An encroachment permit shall be obtained from the Town prior to performing any work in any public right of way.
- EC8. 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.
- EC9. A final grading plan shall be approved by the Town Engineer prior to issuance of a grading permit. 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.
- EC10. The developer 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 within the property boundaries.
- EC11. Utility lines shall be placed underground in accordance with the requirements of the Town.
- EC12. Traffic impact fees adopted by the Town shall be paid by the developer.
- EC13. Any developer fees adopted by the Town including but not limited to drainage fees shall be paid by the developer.
- EC14. Any required street striping shall be thermoplastic as approved by the Town Engineer.

Apple Valley Fire Protection District Conditions of Approval

- FD1. 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 District for verification of current fire protection development requirements.
- FD2. All new construction shall comply with applicable sections of the California Fire Code, California Building Code, and other statutes, ordinances, rules, and regulations regarding fires and fire prevention adopted by the State, County, or Apple Valley Fire Protection District.

FD3. All combustible vegetation, such as dead shrubbery and dry grasses, 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, Sec. 4291

FD4. Prior to combustible construction, the development and each phase thereof, shall have two points of paved 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.

Apple Valley Fire Protection District
Ordinance 44
Install per A.V.F.P.D. Standard ARI #8

FD5. Fire lanes shall be provided with a minimum width of thirty (30) feet, maintained, and identified.

Apple Valley Fire Protection District Ordinance 49
Install per A.V.F.P.D. Standard Series #202

FD6. A turnaround shall be required at the end of each roadway one hundred fifty (150) feet or more in length and shall be approved by the Fire District. Cul-de-sac length shall not exceed one thousand (1,000) feet.

Turning radius on all roads within the facility shall not be less than twenty-two (22) feet inside and minimum of forty (40) feet outside turning radius with no parking on street, or forty-seven (47) feet with parking. Road grades shall not exceed twelve percent (12%) unless approved by the Chief.

Apple Valley Fire Protection District
Ordinance 49
Install per A.V.F.P.D. Standard Series #202

FD7. Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Said numbers shall contrast with their background.

Commercial and industrial developments shall have street addresses and location approved by the Fire District. Where the building setback exceeds 200 feet from the roadway, additional non-illuminated contrasting eighteen (18)-inch numbers shall be displayed at the property entrance. When these developments have rear doors of each unit, the unit number shall be a minimum of six (6) inches and shall contrast with their background.

Apple Valley Fire Protection District, Ordinance 49

FD8. 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 42

A. Unless otherwise approved by the Fire Chief, on-site fire protection water systems shall be designed to be looped and fed from two (2) remote points.

B. System Standards:

*Fire Flow 1500 GPM @ 20 psi Residual Pressure

Duration 2 Hour(s)

Hydrant Spacing 330 Feet

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

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

C. A total of 1 additional fire hydrant will be required on site for the fire protection. It is the responsibility of the owner/developer to provide all new fire hydrants with reflective pavement markers set into pavement and curb identification per A.V.F.P.D. Standard.

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

FD9. An approved fire sprinkler system shall be installed throughout any building:

- Exceeds 4,999 square feet
- Two stories or greater.
- Existing building(s) with intensification of use, or
- Other per California Building Code requirements.

The system shall be supervised and connected to an approved alarm monitoring station and provide local alarm which will give an audible signal at a protected location. Supervision to be both water flow and tamper. Sprinkler work may not commence until approved plans and permits have been issued by the Fire District.

Apple Valley Fire Protection District, Ordinance 49

FD10. A letter shall be furnished to the Fire District from the water purveyor stating that the required fire flow for the project can be met prior to the Formal Development Review Committee meeting

FD11. Prior to issuance of building permit, the developer shall pay all applicable fees as identified in the Apple Valley Fire Protection District Ordinance. \$0.586 Square Foot.

FD12. A Knox Box Rapid Entry System shall be required for this project.

Apple Valley Fire Protection District Ordinance 49

FD13. Quantities of Hazardous Material shall be provided at the time of building plan review.

Apple Valley Ranchos Water Company Conditions of Approval

AVR1. The existing twelve (12)-inch water main located on the north side of Otoe Road will need to be extended to the easterly property line in accordance with Rule 15 of the California Public Utilities Commission.

AVR2. A two (2)-inch domestic service line will need to be extended from the existing water main to the street right-of-way for onsite use as indicated on the Yard Piping Relocation Plan dated Oct. 2010. The existing service line will remain in place as indicated on the Piping Demo Plan. A backflow protection device will be required for both of these services and installed onsite, adjacent to the street right-of-way.

AVR3. A four (4)-inch service line is required and will be extended from the proposed water main to the right-of-way and will comply with Rule 16 of the California Public Utilities Commission. This service line is needed to serve the proposed and/or existing site. One offsite and one onsite fire hydrant extension appears to be required. A backflow protection device will be required and installed onsite, adjacent to the street right-of-way for this water service and the onsite fire hydrant lines.

AVR4. A Supply Facility Fee will be collected at \$800 per 5/8" meter. One Two (2)-inch water meter will be required as indicated on the Yard Piping Relocation Plan dated Oct. 2010. There are eight (8), 5/8-inch equivalent meters in a two (2)-inch meter. $8 \times \$800 = \$6,400$.

ARV5. A Water Acquisition Fee is required in order for AVRWC to have rights to provide water to the project. This fee is based on the annual water usage per acre-foot for this type of development. This one time charge is subject to change and is determined at the time of construction. Presently, an acre-foot of water is \$3,500.

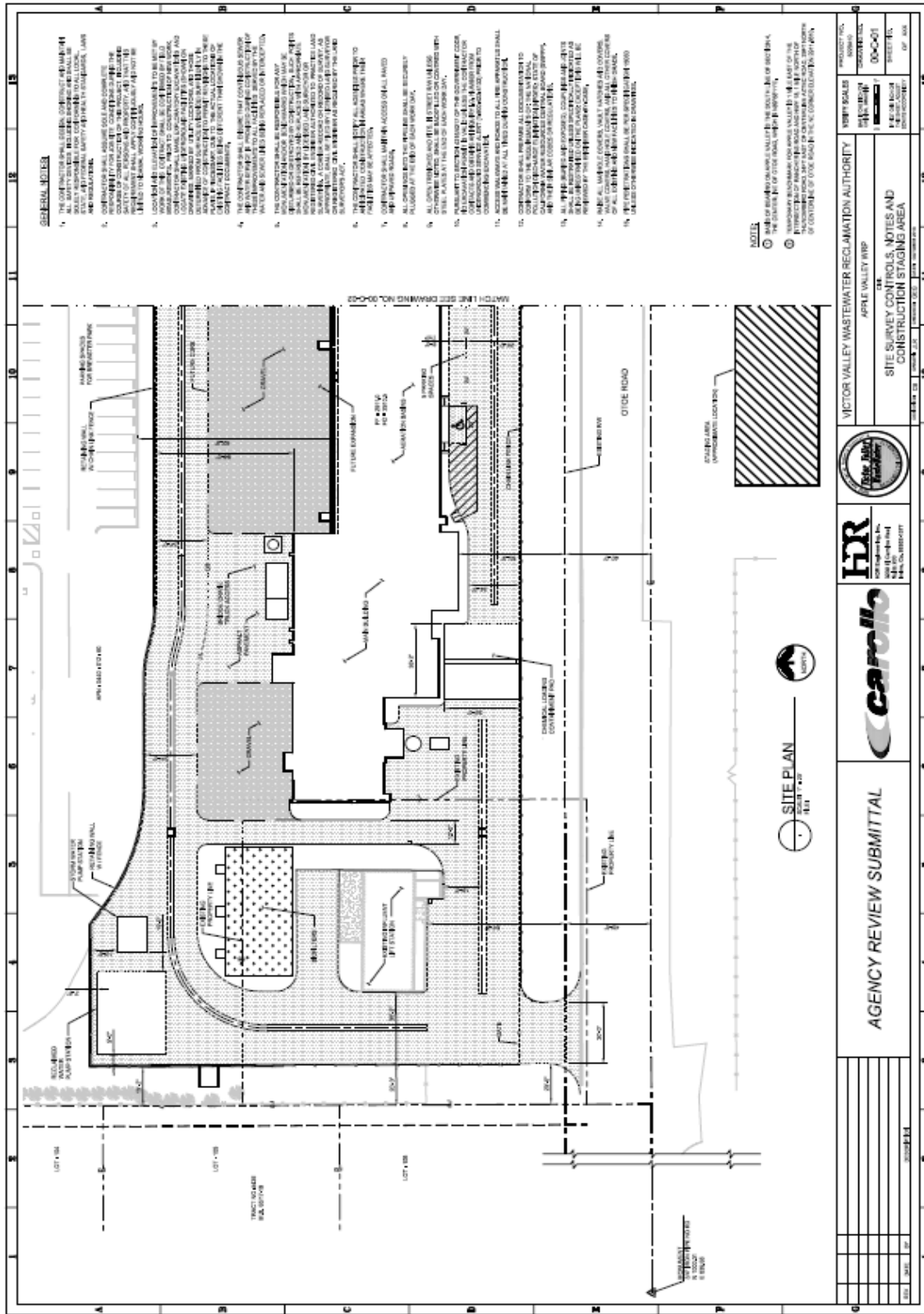
Building and Safety Division Conditions of Approval

None

Public Works Division Conditions of Approval

None

END OF CONDITIONS



GENERAL NOTES

1. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL APPLICABLE AGENCIES AND AGENCIES OF LOCAL, STATE AND FEDERAL GOVERNMENT.
2. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AND TO ALL UTILITIES AT ALL TIMES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL APPLICABLE AGENCIES AND AGENCIES OF LOCAL, STATE AND FEDERAL GOVERNMENT.
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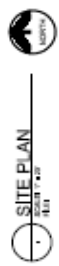
VICTOR VALLEY WASTEWATER RECLAMATION AUTHORITY
APRIL VALLEY WRP
SITE SURVEY CONTROLS, NOTES AND CONSTRUCTION STAGING AREA

HR
HARRIS ENGINEERS & ARCHITECTS
1400 W. 14TH STREET
VICTOR VALLEY, CA 92393

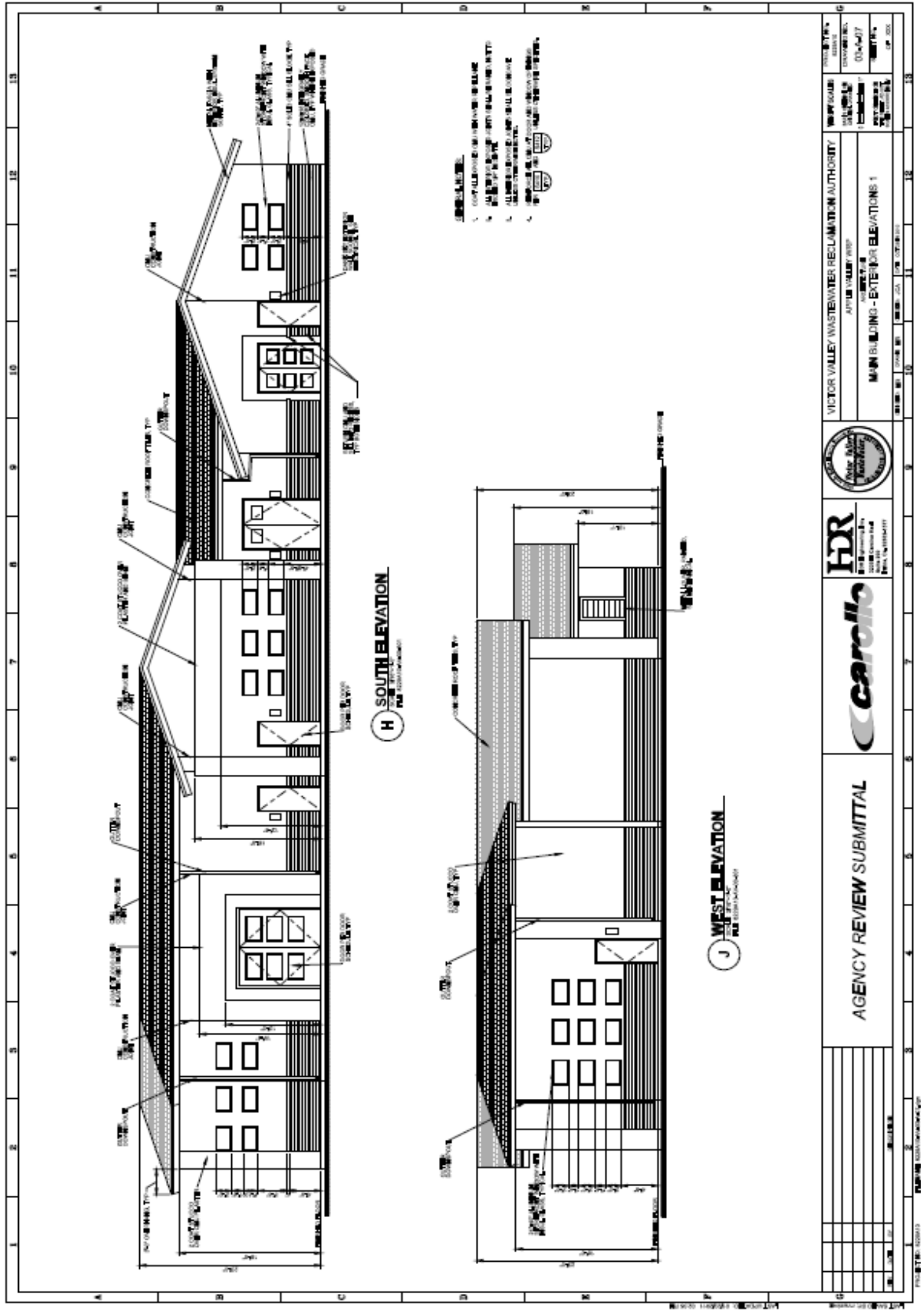
carroll
CARROLL ENGINEERING & ARCHITECTURE
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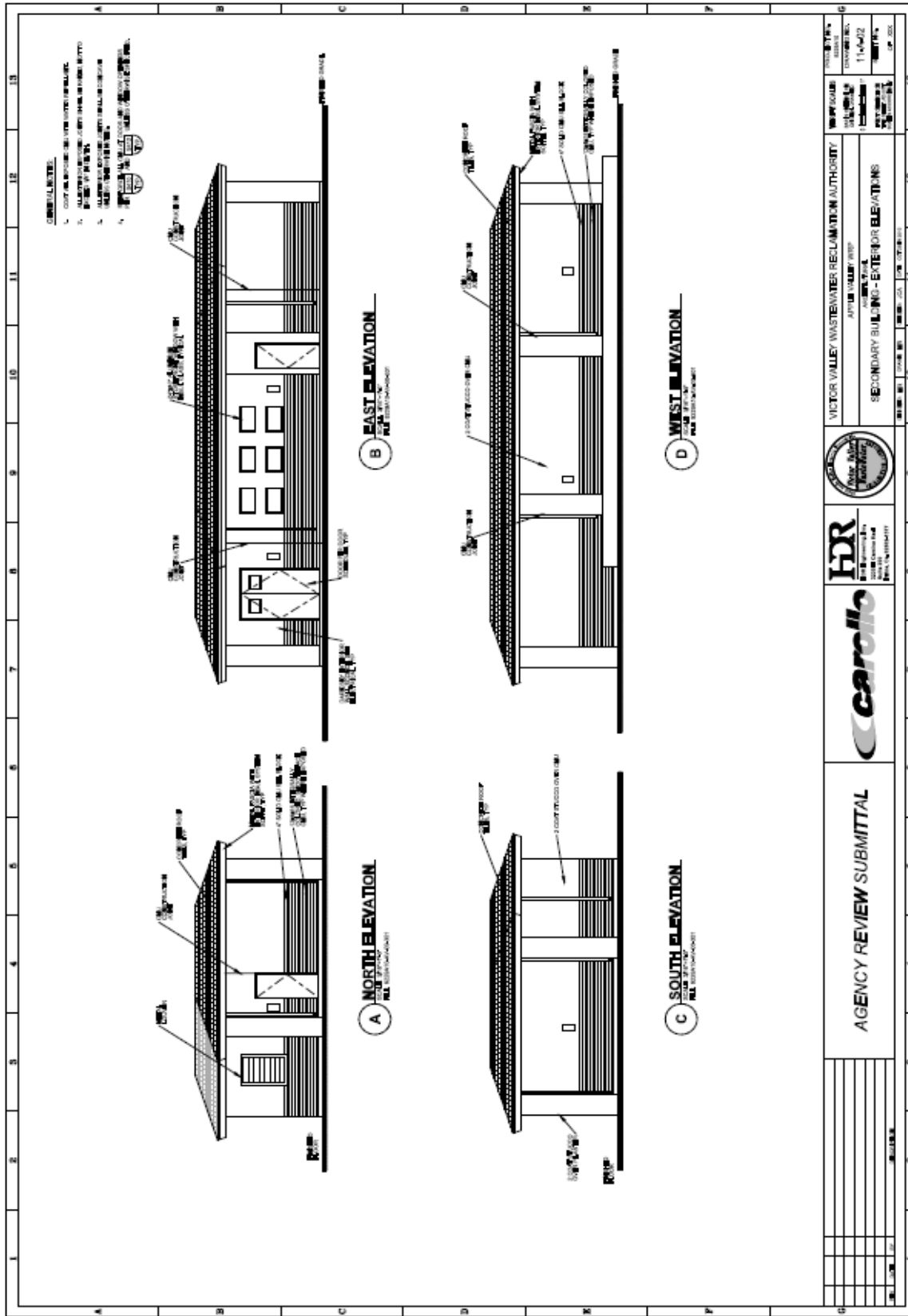
AGENCY REVIEW SUBMITTAL

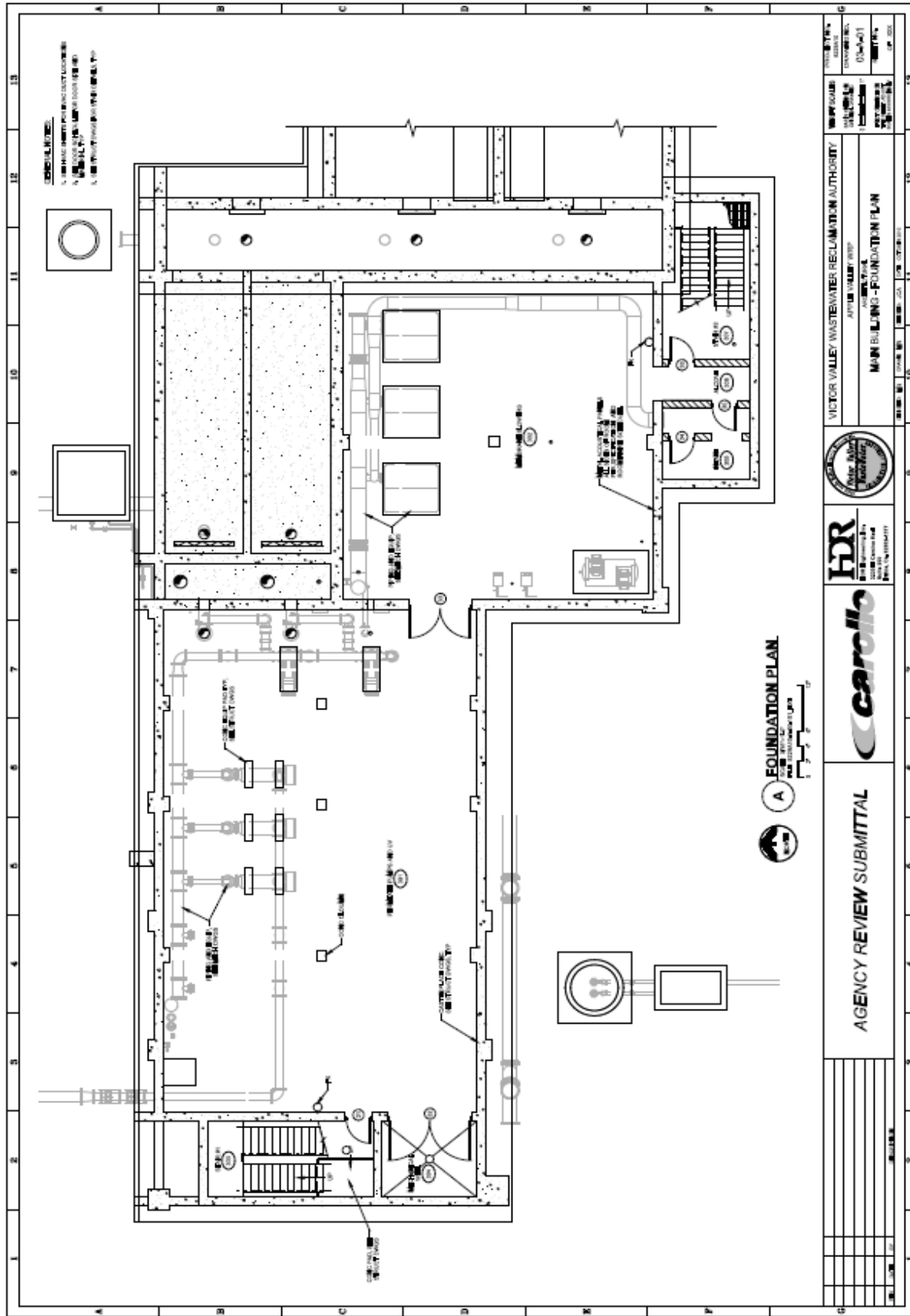
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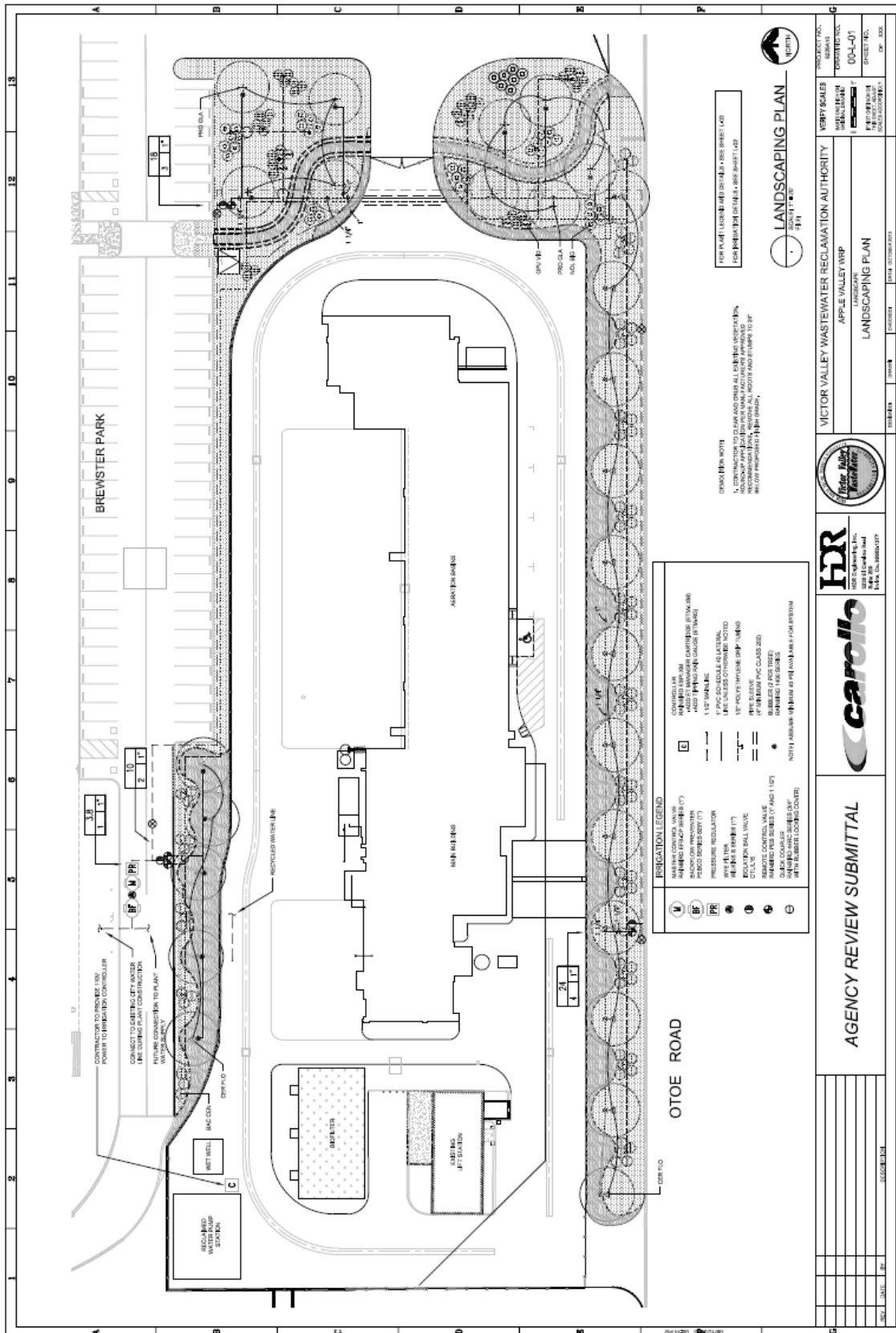


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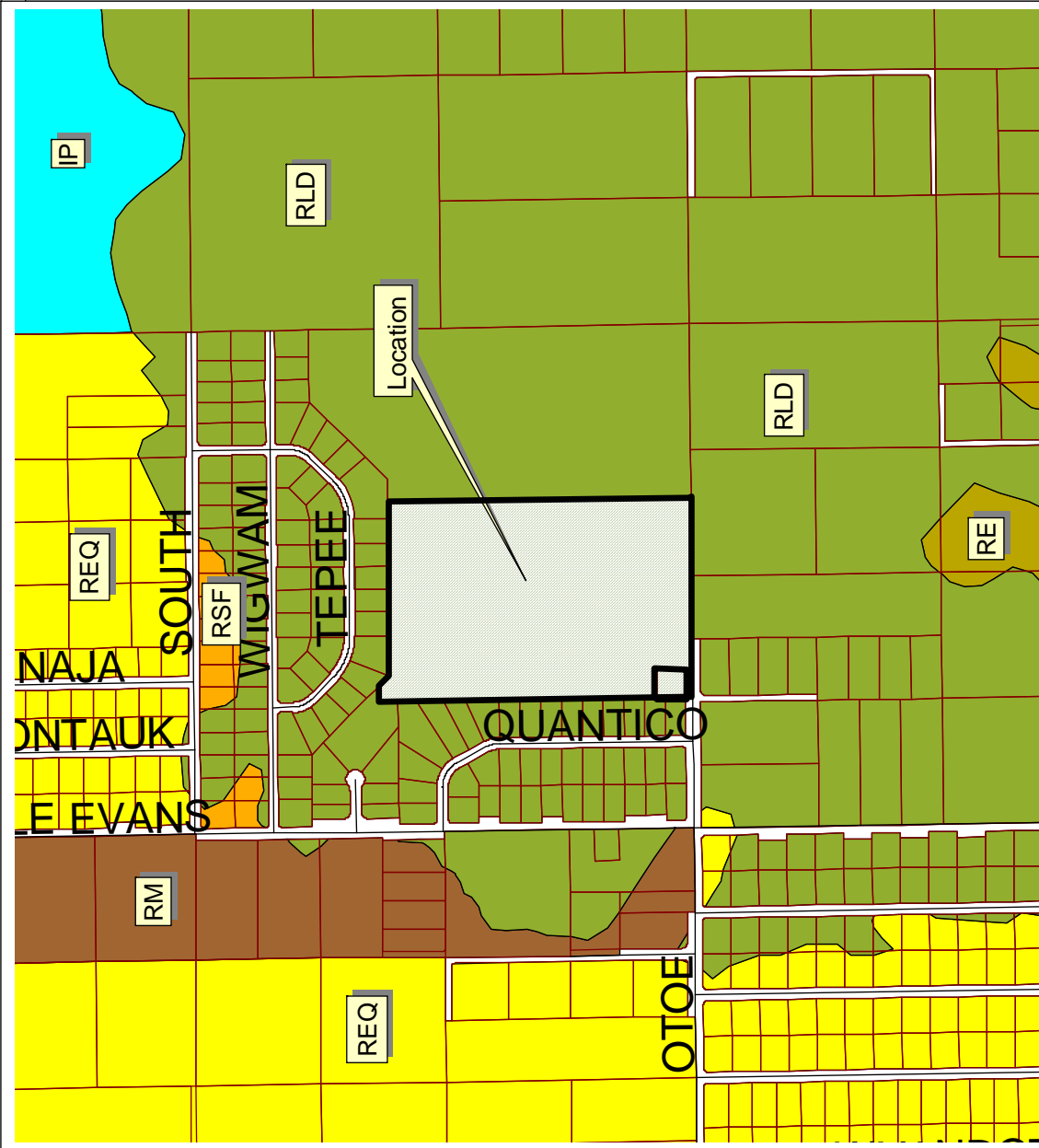






Zoning/Location Map

Conditional Use Permit No. 2011-002



Southwest corner of
Lenny Brewster Park
APN 0440-012-59 & -60



Legend

- Residential Districts**
- (R-VLD) Very Low Density Residential (1 du/5+ per gross acre)
 - (R-A) Residential Agriculture (1 du/2.5 gross ac)
 - (R-LD) Low Density Residential (1 du/2.5 to 5 gross ac)
 - (R-E) Estate Residential (1 du/1 to 2.5 gross ac)
 - (RE-3/4) Estate Residential 3/4 (1 du/0.75 net ac)
 - (R-EQ) Equestrian Residential (1 du/0.4 to 0.9 net ac)
 - (R-SF) Single Family Residential (1 du/0.4 to 0.9 net ac)
 - (R-M) Multi-Family Residential (2 to 20 du/net ac)
 - (MHP) Mobile Home Park
 - (PRD) Planned Residential Development
- Commercial/Office Districts**
- (C-G) General Commercial
 - (C-V) Village Commercial
 - (C-S) Service Commercial
 - (O-P) Office Professional
 - (C-R) Regional Commercial
- Industrial Districts**
- (I-P) Planned Industrial
 - (I-RE) Resource Extraction
- Other Districts**
- (PF) Public Facilities
 - (OS-C) Open Space Conservation
 - (OS-R) Open Space Recreation
 - (MU) Mixed Use
 - (SP) Specific Plan
- Overlay Districts**
- (A-1) Airport Overlay District
 - (A-2) Airport Overlay District
 - (F-H) Flood Hazard Overlay District
 - (FHL) Flood Hazard Lake Overlay District

TOWN COUNCIL RESOLUTION NO. 2011 - 18

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, OVERTURNING THE PLANNING COMMISSION'S DENIAL OF CONDITIONAL USE PERMIT NO. 2011-002, AND APPROVING A REQUEST TO CONSTRUCT AND OPERATE A SUB-REGIONAL WASTEWATER RECLAMATION FACILITY ADJACENT TO THE EXISTING OTOE ROAD LIFT STATION WITHIN THE OPEN SPACE (O-S) ZONING DESIGNATION FOR PROPERTY LOCATED WITHIN THE SOUTHWEST CORNER OF LENNY BREWSTER SPORTS CENTER ON THE NORTH SIDE OF OTOE, APNs 0440-012-59 AND 0440-012-60

WHEREAS, Victor Valley Wastewater Reclamation Authority (VWVRA) (the "Applicant") filed an application (Conditional Use Permit No. 2011-002) requesting approval of a Conditional Use Permit ("CUP") to allow operation of a wastewater reclamation plant with an initial treatment capacity of 1.0 million gallons per day (MGD) average flow and a phased build out treatment capacity of 4.0 MGD (the "Application" or the "Project"). The proposed location for the Project is an approximately 3.3 acre site located within the southwest corner of Lenny Brewster Sports Center on the north side of Otoe Road, Assessor Parcel Numbers 0440-012-59 and 0440-012-60 (the "Subject Site"). The Subject Site is located within the Open Space (O-S) zoning designation.

WHEREAS, on April 6 and May 4, 2011, the Planning Commission of the Town of Apple ("Planning Commission") conducted duly noticed public hearings on the Application at which time all persons wishing to testify in connection with the proposed Application were heard, and the Application was comprehensively reviewed; and

WHEREAS, the Application was referred to all affected public agencies; and

WHEREAS, the Application was reviewed, studied, and was denied by the Planning Commission as being inconsistent with the Town of Apple Valley ("Town") General Plan and not meeting the requirements of the Town's Development Code; and

WHEREAS, a timely appeal of the denial of the Application was received by the Town Clerk ("Appeal"); and

WHEREAS, on May 24, 2011 the Town Council of the Town of Apple Valley ("Town Council") conducted a duly noticed public hearing on the Appeal at which time all persons wishing to testify in connection with the Appeal and the Application were heard; and

WHEREAS, the Appeal and the Application were comprehensively reviewed and considered and, following the May 24, 2011 public hearing, the Application was determined by the Town Council to be consistent with the Town's adopted General Plan and the requirements of the Town's Development Code; and

WHEREAS, the Application was reviewed, studied, and found to comply with the California Environmental Quality Act ("CEQA"); and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, BE IT RESOLVED, THAT IN CONSIDERATION OF THE EVIDENCE CONTAINED IN THE RECORD AND THE INFORMATION PRESENTED AT THE PUBLIC HEARING, THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, FINDS AND DETERMINES AS FOLLOWS:

Section 1. The Recitals set forth above are true and correct and are incorporated herein by reference.

Section 2. Based on the entire record before the Town Council and all written and oral

evidence presented, including the staff report, the Town Council hereby overturns the Planning Commission's denial of the Application and approves the Appeal for the reasons set forth below:

As required under Section 9.16.090 of the Development Code, the Town Council makes the following specific findings.

1. That the proposed location, size, design and operating characteristics of the proposed Project is consistent with the General Plan, the purpose of the Code, the purpose of the zoning district in which the proposed Project is located, and the development policies and standards of the Town.

a. The proposed Project has been designed to eliminate noise to the fullest extent possible. Based on testimony provided by the Applicant, elimination of sound was given a top priority in the design of the Project, and technology selected for use as part of the Project is as quiet as possible. Blowers used as part of the biological process of reclaiming wastewater pumped to the facility are proposed to be located below ground in a basement surrounded by concrete. Pumps are designed to be located below ground within the water column.

b. The proposed Project has been designed so that all noxious odors that may be generated by Project operations will be fully contained. Based on testimony provided by the Applicant, every element of the proposed Project has been designed to process and clean the air of odors. Aeration basins are designed to be completely covered and enclosed. Biofilters will be used to eliminate odor from sulfides, and remove any odors from the air. The Project is proposed to be located downwind from other existing uses.

c. The Project is proposed to be located in the southwest portion of Lenny Brewster Sports Center adjacent to the Town's existing sewer lift station. The reclamation facility building proposes a twenty-three (23)-foot high structure that includes tile roofing and stucco siding with architectural treatments that appear similar to a typical single family residence and similar to the structures located within the park. No building that is part of the proposed Project will be taller than a two story home.

d. The General Plan and Zoning designation of the Subject Site is Open Space (O-S). This designation permits government or public facilities subject to the approval of a CUP. The proposed location, size, design and operating characteristics of the proposed Project are consistent with the General Plan Water, Wastewater and Utilities Element Policy 1A, Program 1.A.1 which states "The Town shall support the Department of Public Works, the various domestic water service providers serving the Town, and the VVWRA in the development of alternative sources of groundwater recharge, and expansion of facilities to treat and distribute reclaimed, and or recycled water."

e. The proposed Project, as designed, is consistent with this design and site requirements, and is a state of the art facility that is intended to benefit the community.

f. The Project is proposed to be located where the wastewater requiring treatment is located, and where the need for reclaimed water is. The proposed Project site is at a low point geographically within the Town, and thus utilizes the benefit of gravity. The proposed Project meets a permanent need for reclaimed water and water reclamation within the Town, and is ideally located between residential and future industrial uses.

g. The Town Parks Commission considered the proposed Project and approved the proposed operation and location of the Project.

2. That the location, size, design and operating characteristics of the proposed Project will be compatible with, and will not adversely affect nor be materially detrimental to, adjacent uses,

residents, buildings, structures or natural resources.

a. The proposed Project has been designed to eliminate odor and noise, and therefore is not anticipated to be materially detrimental to the adjacent park and recreational uses, or to adjacent residents. There is sufficient buffer between the proposed Project and the adjacent park, recreation and residential uses, including landscaping buffer, setbacks and other buffers.

b. The proposed Project is not anticipated to adversely affect nor be materially detrimental to adjacent uses since the collection system and recycled water pipeline will be placed below ground surface.

c. Any pump stations and similar Project facilities will be housed in the structures which have been designed to blend in with the adjacent structures and provide sound attenuation. In addition, based on the design and operating characteristics of the proposed Project, odor is not anticipated to impact the surrounding land uses.

d. The proposed Project will not adversely impact natural resources and, in fact, will have a positive impact on natural resources by providing a source of reclaimed wastewater which will be utilized for the benefit of natural resources within the Project vicinity and the Town. By locating the Project at the proposed site, the benefit of gravity will reduce the energy required to pump the wastewater, as compared to an alternate site location. Use of reclaimed water will save energy and will support the sustainability goals of the Town.

3. That the proposed Project is compatible in scale, bulk, lot coverage, and density with adjacent uses.

a. The Project building, as proposed, has a building setback of fifty (50) feet from the front property line along Otoe Road. The proposed Project is buffered by horseshoe trails and road right of way. The building design proposes a maximum height of twenty-three (23) feet, and will be no taller than a standard two story home.

b. Perimeter landscaping will add buffering to the site.

c. The proposed Project is a compatible use because the site has been designed with adequate setbacks, parking, landscaping, and access point.

4. That there are public facilities, services and utilities available at the appropriate levels, or that these will be installed at the appropriate time to serve the project as they are needed.

a. There are existing public facilities, services and utilities available to serve the proposed Project.

5. That there will not be a harmful effect upon desirable neighborhood characteristics.

a. The proposed Project is not anticipated to have a harmful effect on desirable neighborhood characteristics since the Project has been designed to eliminate noise and odors, and to be visually compatible with the surrounding neighborhood.

b. Although the proposed Project would require elimination of horseshoe courts, the park contains sufficient remaining horseshoe courts to serve the community based on use data, and/or additional horseshoe courts can be added to the park to replace any horseshoe courts removed by the Project.

c. The Project wastewater collection system and recycled water pipeline, as proposed, will be placed below the ground surface to eliminate potential visual, noise and odor impacts of the Project.

d. In addition, any Project pump stations and similar facilities will be housed in structures that have been designed to blend in with adjacent structures.

6. That the generation of traffic will not adversely impact the capacity and physical character of surrounding streets.

a. Traffic generated from the proposed Project will not adversely impact the surrounding area.

b. As stated in the EIR, the proposed Project will not generate sufficient traffic during construction or operations to reduce the level of service on any of the roads that serve the Project site.

7. That traffic improvements and/or mitigation measures are provided in a manner adequate to maintain the existing service level or a Level of Service (LOS) C or better on arterial roads and are consistent with the Circulation Element of the General Plan.

a. It is anticipated that the proposed Project will not have an impact upon the roadway system and the proposed Project is anticipated to maintain LOS levels in conformance with the General Plan.

8. That there will not be significant harmful effects upon environmental quality and natural resources.

a. The proposed Project has been reviewed pursuant to CEQA, and all significant adverse impacts are mitigated to the maximum extent feasible. There are no Project impacts that cannot be mitigated to a level of less than significant impact.

b. All environmental impacts related to the Application have been disclosed in an Environmental Impact Report certified by the Applicant on February 17, 2011.

9. That there are no other relevant negative impacts of the proposed Project that cannot be reasonably mitigated.

a. As described in this Resolution, the proposed Project has been designed to eliminate and mitigate all potential negative impacts of the Project, and there are no anticipated negative impacts that cannot be reasonably mitigated.

10. That the impacts, as described in paragraphs 1 through 9 above, and the proposed location, size, design and operating characteristics of the proposed Project and the conditions under which it would be maintained will not be detrimental to the public health, safety or welfare, nor be materially injurious to properties or improvements in the vicinity, nor be contrary to the adopted General Plan.

a. As described in this Resolution, potential visual, noise and odor impacts of the proposed Project have been eliminated through the Project design, and the Project is not anticipated to have a detrimental or injurious impact on persons or property within its vicinity.

11. That the proposed Project will comply with all of the applicable provisions of Title 9.16.090 of the Development Code.

a. Pursuant to the Development Code, a CUP is required for government or public facilities to afford the Town the opportunity to review the architecture and potential land use conflicts. The Code allows government or public facilities within the Open Space recreation zoning districts, with approval of a CUP. If the Application is approved, the proposed Project will comply with all applicable provisions of the Development Code.

12. That the materials, textures and details of the proposed construction, to the extent

feasible, are compatible with the adjacent and neighboring structures.

a. Although the Project is proposed to be located within a public park and adjacent to a sewer lift station, with single-family residential scattered to the south and west, Project structures have been designed with sensitivity towards the residential properties.

b. The building elevations indicate tile roofing, stucco siding and colored concrete wainscot which are commonly used in the construction of a single-family residence.

13. That the development proposal does not unnecessarily block public views from other buildings or from public ways, or visually dominate its surroundings with respect to mass and scale to an extent unnecessary and inappropriate to the use.

a. The Town's General Plan recognizes the protection of local scenic resources as necessary for maintaining the overall livability and aesthetic qualities of the Town, and identifies the surrounding knolls, hills, and natural desert environment as important natural resources that should be preserved as Open Space.

b. The proposed Project is not located within a scenic corridor and will not have a substantial adverse effect on a scenic vista, as there are none identified within the vicinity of the Project site that would be affected by development of the Project. Nevertheless, the proposed Project has been designed to blend in with adjacent structures, and will not exceed a maximum height of twenty-three (23) feet.

14. That quality in architectural design is maintained in order to enhance the visual environment of the Town and to protect the economic value of existing structures.

a. The Project reclamation facility building proposes a twenty-three (23)-foot high structure that includes tile roofing and stucco siding with architectural treatments that appear similar to a typical single family residence and similar to the structures located within the park.

15. That access to the site and circulation on and off-site is safe and convenient for pedestrians, bicyclists, equestrians and motorists.

a. The proposed Project includes the relocation of the park entrance. Nevertheless, the existing on- and off-site circulation patterns of the development provide a safe and convenient manner for access.

b. In accordance with the equestrian trail standards, the Project site plan provides sufficient area for the future installation of the Lifeline trail along Otoe Road.

Section 3. That the Town Council, as a responsible agency for the Final Environmental Impact Report (EIR) for the Apple Valley Wastewater Reclamation Plant project as prepared and certified by VVWRA, has considered the EIR and the environmental effects and concurs with the lead agency, that the Final EIR is complete and adequate and fully complies with all requirements of CEQA.

Section 4. That the Town Council recognizes and concur with the mitigation measures adopted by VVWRA as a part of the final EIR, and the Town Council finds that these mitigation measures reduce the identified potentially significant impacts to a level of insignificance and to less than significant.

Section 5. Based on the entire record before the Town Council and all written and oral evidence presented, the Town Council finds that the Application complies with the requirements of CEQA.

Section 6. This Resolution shall become effective upon its adoption.

Approved and adopted by the Town Council of the Town of Apple Valley this 24th day of May, 2011.

Scott Nassif, Mayor

ATTEST:

Town Clerk