

ITEM 9.B.

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: David A. Bobardt, Community Development Director *D.A. Bobardt for D.B.*

DATE: September 1, 2011 (CC Meeting of 9/7/2011)

SUBJECT: Consider Appeal of Ventura County Planning Commission Approval of Minor Modification No. 3 to Conditional Use Permit No. 4915 for the Tom Barber Golf Center (LU10-0087)

BACKGROUND/DISCUSSION

On September 1, 2011, the Ventura County Planning Commission approved, by a 3-1 vote, Minor Modification No. 3 to Conditional Use Permit No. 4915, which, among other things, extended the permit for the Tom Barber Golf Center from 2017 to 2037. Lighting from the Tom Barber Golf Center has been an ongoing concern of the City. The permit extension hearing offered an opportunity for the County Planning Commission to make changes to the lighting conditions, if the Commission found the lighting to be a public nuisance. The County staff report is attached. Three out of the four Commissioners present did not find the lighting to be a public nuisance and voted to extend the permit with the Condition 21 A option, which maintains the status quo with limited adjustments to the lighting, (pages 44-45 of County Staff Report, attached). If the City Council is to appeal this decision, an appeal must be filed by September 12, 2011, with submittal of \$2,000.00. An option is to determine if the Cities of Thousand Oaks and Simi Valley would join us in the appeal and share costs.

STAFF RECOMMENDATION

Direct staff as deemed appropriate.

Attachment: County Staff Report

**COUNTY OF VENTURA
PLANNING COMMISSION STAFF REPORT AND RECOMMENDATIONS
HEARING OF SEPTEMBER 1, 2011**

A. PROJECT INFORMATION

1. **Request:** The applicant requests approval of Minor Modification No. 3 to Conditional Use Permit (CUP) 4915 for the Tom Barber Golf Center (LU10-0087). The requested modification would extend the effective term of the permit by 20 years, authorize the use of certain accessory structures, implement additional conditions of approval related to lighting, and modify a condition of approval related to groundwater resources.
2. **Applicant/Property Owner:** Tom Barber Golf Centers, LLC, 16416 Parthenia Street, North Hills, CA 91343-4603
3. **Applicant's Representative:** Mr. Tom Cohen, 2801 Townsgate Road, Suite 215, Westlake Village, CA 91361
4. **Decision-Making Authority:** Pursuant to the Ventura County Non-Coastal Zoning Ordinance (§8111-1.2.1.d), the Planning Director is the decision-maker for the requested Minor Modification. However, pursuant to the Ventura County Non-Coastal Zoning Ordinance, the Planning Director may defer the decision on the Minor Modification to the Planning Commission, if the project involves significant public controversy (§8111-4.1.1.b), or may be precedent setting (§8111-4.1.1.d). The Planning Director has decided to defer this decision to the Planning Commission because the proposed ongoing use of night lighting at this facility has been an issue of substantial public interest.
5. **Project Site Location and Parcel Number:** The project site is located at 15189 Tierra Rejada Road, adjacent to the intersection of Tierra Rejada Road and State Route 23, near the city of Moorpark, in the unincorporated area of Ventura County. The Tax Assessor's parcel number for the parcel that comprises the project site is 500-0-393-395 (Exhibit 2).
6. **Project Site Land Use and Zoning Designations:**
 - a. Countywide General Plan Land Use Map Designation: Open Space (Exhibit 2)
 - b. Zoning Designation: OS-10 ac (Open Space, 10 acre minimum lot size) (Exhibit 2)

7. Adjacent Zoning and Land Uses/Development (Exhibit 2):

Location in Relation to the Project Site	Zoning	Land Uses/Development
North	OS-40 ac (Open Space, 40 acre minimum lot size)	Golf course
South	OS-10 ac (Open Space, 10 acre minimum lot size)	Agriculture
East	OS-10 ac (Open Space, 10 acre minimum lot size)	Agriculture, residences
West	NA	State Route 23

- 8. History:** On January 14, 1997, the Board of Supervisors upheld on appeal the Planning Commission's November 7, 1996, decision to grant Conditional Use Permit 4915 for the construction and operation of a golf driving range on the subject property. This permit was granted for a 20-year period that ends on January 14, 2017. The Planning Director may approve an extension of the permitted uses for one additional 20-year period if the Permittee files a complete modification application and if certain conditions are met.

Subsequent to the initial approval in January 1997, the Planning Director approved one permit adjustment and two permit modifications to CUP 4915. The permit adjustment, approved on June 9, 1997, revised the original permit to: a) modify the hitting stalls to add concrete barriers and shade structures; b) reduce barrier fencing by approximately 900 lineal feet; c) reduce the area of synthetic turf by approximately 2.5 acres; d) relocate the office building and the driveway entrance; and, e) add one 20-foot by 20-foot storage/maintenance building.

The Planning Director approved CUP Modification No. 1 on October 26, 2000. This modification authorized the paving of the parking lot with asphalt concrete instead of decomposed granite. This was done to eliminate dust emissions, prevent the "tracking" of mud and gravel from the lot onto Tierra Rejada Road, and allow the all-weather use of the parking lot.

The Planning Director approved CUP Modification No. 2 on September 14, 2006. This modification authorized the construction of an approximately 1,800 square foot equipment storage building and the installation of nine shade structures at the driving range. The shade structures encompass about 1,170 square feet. Although approved, the applicant did not construct the equipment storage building. Under the terms of CUP Modification #2, the authorization to construct the building has expired.

In 1983, the County of Ventura, the City of Simi Valley and the City of Thousand Oaks entered into the Tierra Rejada Greenbelt Agreement. The County adopted a Greenbelt Ordinance as part of this agreement. This Ordinance was revised

and re-adopted by the County in 2009. The Tom Barber Golf Center is located within the Tierra Rejada Greenbelt.

As part of the Open Space Assembly Use ordinance (Ord. 4411) adopted in March 2010, the Board of Supervisors considered eliminating all golf courses with night lighting from the set of allowable uses in the Open Space (OS) zone. This would have made the Tom Barber Golf Center, the only existing golf course with night lighting in the OS zone, a legal, nonconforming use. However, the Board of Supervisors voted to remove golf courses with night lighting from the proposed amendment, permitting them to remain as an allowable use in the OS Zone.

- 9. Project Description:** The request for Minor Modification No. 3 of Conditional Use Permit 4915 includes the following components:
- a. The continuation of the golf driving range use for one additional 20-year period beyond the current permit expiration date of January 14, 2017 (i.e., to January 14, 2037).
 - b. The installation and use of four temporary shade structures on the northeast portion of the property as part of a private instructional area (See Exhibits 2 and 8). For the purposes of the proposed modification, these structures are considered accessory structures to the golf driving range use. The structures are not affixed to the ground and are less than 120 square feet each in area, making them exempt from building permit requirements. However, because the structures are not included in the existing permit, a permit modification is required to allow the accessory structures.
 - c. The installation of two sea cargo containers for tool and equipment storage in place of the storage building approved as part of Modification No. 2. These containers will provide a secure location for tool and equipment storage. Security lighting will be installed adjacent to these containers.
 - d. Modifications to golf driving range lighting to help ensure continuing compatibility with the surrounding community. These modifications include:
 - Permanent shut-down of the power to the lighting fixtures on the three existing light poles located at the west end of the tee line and closest to SR-23;
 - Replacement of all light bulbs used in fixtures on the light poles with bulbs that are designed with a white coating to reduce glare; and,
 - Reduction of the hours of night lighting such that the lights would be turned off at 9:30 pm rather than 10:00pm when Pacific Standard Time is in effect. When Pacific Daylight Time is in effect, lights would continue to be on until 10:00 pm.

- e. Revision of existing Condition of Approval No. 36 in regards to mitigation requirements for potential impacts to groundwater resources. This condition is proposed to be revised to clarify the mitigation requirements in view of changes in the source of water that serves the subject facility. The existing and proposed language are presented below:

Existing condition of approval:

36. WATER RESOURCES MITIGATION MEASURE

Since the impact to local and downstream groundwater supplies is unknown, it is assumed that 40 percent of the project water needs will (or may) be met by water extraction wells. Therefore, to reduce the potentially adverse impacts to a less than significant level, the permittee shall do the following prior to use inauguration:

- a) *Submit a letter to the Public Works Agency, Water Resources Division agreeing to facilitate and cooperate with the formation of a Tierra Rejada Basin Management Plan.*
- b) *Install a water meter to record water use by the proposed project.*
- c) *Provide funds to the Fox Canyon Groundwater Management Agency (GMA) in an annual payment of \$500.00 per acre foot. Subject payment shall be made to the Public Works Agency. Failure to provide payment shall constitute cause for permit revocation.*

Proposed revised condition of approval (renumbered to 45):

45. Water Resources: (MM)

Purpose: In order to reduce the potentially adverse impacts on groundwater resources to a less than significant level, the Permittee shall participate in the development of a Tierra Rejada Basin Management Plan.

Requirement: The Permittee shall take the following actions to assist in groundwater management efforts:

- a) Cooperate with the formation of a Tierra Rejada Basin Management Plan (TRBMP).
- b) Provide, upon request, information regarding the water usage at the Golf Driving Range as necessary for the TRBMP.
- c) Install a water meter to record water use at the subject facility.
- d) Submit a one-time payment of \$17,500.00 as the Tom Barber Golf Center's share of funding for the formation and implementation of the Tierra Rejada Basin Management Plan.

Documentation: The Permittee shall submit to the Public Works Agency, Water Resources Division 1) a letter in which the Permittee agrees to cooperate with the formation of a TRBMP and provide any water usage information requested as part of the implementation of a TRBMP and 2) photographic evidence that a water meter has been installed and 3) a payment of \$17,500.

Timing: The Permittee shall submit the documentation required by this condition of approval within 90 days of approval of Minor Modification No. 3 (LU10-0087) of CUP 4915. Failure to take the above-listed actions within the time period provided shall constitute cause for permit revocation.

Monitoring: Public Works Agency staff shall review the materials submitted by the Permittee for adequacy and shall inform the Planning Division and Permittee when the condition is satisfied.

As discussed in the Addendum to the Mitigated Negative Declaration (Exhibit 5) and in Section B of this staff report, the proposed change would not lessen the effectiveness of this measure or result in new impacts on groundwater resources.

B. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE

Pursuant to CEQA (Public Resources Code §21000 et seq.) and the State CEQA Guidelines (Title 14, California Code of Regulations, Division 6, Chapter 3, §15000 et seq.), the subject application is a "project" that is subject to environmental review.

On January 14, 1997, the Board of Supervisors adopted a Mitigated Negative Declaration (MND) that evaluated the environmental impacts of a Golf Driving Range with 75 tee boxes; putting green; chipping area; parking for 100 vehicles; and, a 1,200 square foot accessory building containing a snack room, offices, and restrooms. This MND is attached as Exhibit 4.

The proposed modification would allow the continued operation of the existing golf driving range for 20 years after the current permit expiration date. It would also allow for the construction of minor accessory structures at the existing site, including the installation of accessory shade structures and the installation of sea cargo containers in place of an approved accessory storage building at the site. These changes will not alter the fundamental nature of the use, and do not have the potential to increase environmental impacts from the project.

The proposed modification also includes a revision of Condition of Approval No. 36. This condition is a mitigation measure imposed due to a potentially significant impact on

groundwater resources identified in the environmental document prepared as part of the original review of the facility. As discussed below, the proposed change would not lessen the effectiveness of this measure or result in new impacts on groundwater resources.

The Camrosa Water District supplies water to the Tom Barber Golf Center. When CUP 4915 was granted in 1997, it was assumed that 40 percent of the water the Camrosa Water District supplied to the golf driving range would be groundwater produced from the local aquifer. Based on this assumption, the golf driving range would have a potentially significant impact on groundwater resources. Condition No. 36 (stated in Section A.9.d of this staff report, above) imposes three measures to mitigate this impact.

The fee discussed in Condition No. 36(c) was to be used to fund the cost of water injection into the aquifer by the Fox Canyon Groundwater Management Agency. This injection was to address the contribution of the golf driving range to potential groundwater overdraft in the local aquifer. However, water use records provided by the Camrosa Water District indicate that the water demand of the Tom Barber Golf Center is currently satisfied by pumpage from the Tierra Rejada Groundwater Basin and surface supplies purveyed by the Calleguas Water District. These water sources are not in a state of overdraft. Therefore, the payment of the fee identified in Condition No. 36(c) is no longer necessary to mitigate environmental impacts from the golf driving range. This fee may be eliminated without reducing the effectiveness of the environmental mitigation for the project. A modification to Condition No. 36(c) is proposed to eliminate the continuing payment of an annual fee for groundwater injection costs.

Although the fee set forth in Condition No. 36(c) would be eliminated under the proposed modification, the Permittee is still required to pay mitigation fees for the 14 years since the permit was granted. There are no records available identifying the origin of the water used by the golf driving range in the past. Thus, it is possible that the water demand during this period was satisfied by pumpage from an overdrafted groundwater basin as indicated in the original environmental analysis. Therefore, the mitigation fee would be required to address past project impacts. Because no fee payments have been made, the proposed modification to Condition No. 36(c) requires payment of the full \$17,500 owed by the applicant (i.e., the total fee for the 14-year period).

In addition, the existing Condition No. 36(a) indicates that the Tom Barber Golf Center should "facilitate and cooperate" with the formation of a Tierra Rejada Basin Management Plan. However, the County Watershed Protection District Groundwater Resources Section (GRS) has determined that the Permittee should not take on the role of "facilitator" of the formation of a basin management plan. Instead, the role of the Permittee should be limited to *cooperation* with the entity that ultimately prepares the plan. This cooperation involves providing information on project water use to the entity that ultimately prepares the Basin Management Plan. This clarification does not diminish the effectiveness of this mitigation measure. As part of the proposed

modification, Condition No. 36(a) has been revised (and renumbered to 45) to address this issue.

The MND that was prepared for the Golf Driving Range found that night-time lighting of the project site could cause significant, adverse impacts relative to glare and its effect on the "Open Space" character of surrounding properties. Therefore, to reduce these impacts to a less than significant level, the project was subject to a mitigation measure that required the applicant to install night lighting that:

- Incorporated low-level intensity lighting where possible for primary and secondary lighting;
- Incorporated directional ground lighting, and included lighting fixtures that were shielded where possible;
- Limited light pole structures to a maximum height of 35 feet; and,
- Directed night-time lighting to be turned off at 10:00 p.m.

The applicant prepared a lighting plan that was found to be in compliance with these mitigation requirements, installed the lighting according to the approved lighting plan, and has operated the Golf Driving Range in compliance with the time restriction of the of the mitigation measure. Exhibit 7 includes a letter from Mr. Jeff Swim, Lighting Services Coordinator, to Mr. Barry Lindsey, dated May 6, 2011, which evaluates the night lighting and concludes that the night lighting complies with the CEQA mitigation requirements stated above.

The existing environmental setting for the current permit modification request includes the operation of the night lighting authorized by CUP 4915. As part of the current proposal, the applicant has incorporated the following actions into the requested permit modification/project description to reduce the effects of the existing night lighting:

- Permanent shut-down of the power to the lighting fixtures on three of the nine existing light poles located along the tee line. The three lighting fixtures to be turned off are located at the west end of the tee line and closest to SR-23;
- Replacement of all light bulbs used in fixtures on the light poles with bulbs that are designed with a white coating to reduce glare; and,
- Reduction of the hours of night lighting such that the lights would be turned off at 9:30 pm rather than 10:00pm when Pacific Standard Time is in effect. When Pacific Daylight Time is in effect, lights would continue to be on until 10:00 pm.

These changes to the lighting plan would reduce the ongoing effects of the night lighting from the existing conditions. Thus, no new impacts related to night lighting would result from the requested permit modification.

The CEQA Guidelines [§15164(b)] state that the lead agency shall prepare an addendum to an adopted MND if: (1) minor changes or additions are necessary; but (2) none of the conditions described in the State CEQA Guidelines (§15162) calling for the preparation of a subsequent MND have occurred. Exhibit 5 includes a description of the changes or additions that are necessary to the MND, and a discussion of why none of the conditions described in the CEQA Guidelines that require the preparation of an EIR or subsequent MND exist.

Therefore, based on the information provided above and in light of the whole record, there is no substantial evidence to warrant the preparation of an EIR or subsequent MND, and the addendum to the MND (Exhibit 5) constitutes adequate environmental review and reflects the County's independent judgment and analysis.

C. CONSISTENCY WITH THE GENERAL PLAN

The Ventura County General Plan *Goals, Policies and Programs* (April 6, 2010, Edition, page 4) states:

...in the unincorporated area of Ventura County, zoning and any permits issued thereunder, any subdivision of land, any public works project, any public (County, Special District, or Local Government) land acquisition or disposition, and any specific plan, must be consistent with the Ventura County General Plan Goals, Policies and Programs, and where applicable, the adopted Area Plan.

Furthermore, the Ventura County Non-Coastal Zoning Ordinance (§8111-1.2.1.1.a and §8111-6.1) states that in order to be approved, a modification to a Conditional Use Permit must be found consistent with all applicable policies of the Ventura County General Plan.

Evaluated below is the proposed project's consistency with the applicable General Plan policies.

- 1. Resources Policy 1.3.2-4:** *Discretionary development shall not significantly impact the quantity or quality of water resources within watersheds, groundwater recharge areas or groundwater basins.*

The proposed modification does not involve a substantial change in the existing use of the site or an increase in water demand. The change in the existing Condition of Approval No. 36 (renumbered to 45) recognizes existing water resource conditions and would not diminish the effectiveness of the groundwater mitigation previously imposed on the Tom Barber Golf Center. As discussed in Section B of this staff report (above), no adverse effects on the quantity or quality of groundwater resources are anticipated. The Camrosa Water District has an adequate supply of water that meets Ventura County Watershed Protection District and State standards and would continue to serve the golf center.

Based on the above discussion, the proposed modification will be consistent with Policy 1.3.2-4.

- 2. Resources Policy 1.5.2-1:** *Discretionary development which could potentially impact biological resources shall be evaluated by a qualified biologist to assess impacts and, if necessary, develop mitigation measures.*

The proposed modifications to the golf driving range include the addition of accessory structures. These structures would be located on previously disturbed land within the developed project site. Thus, no impacts on sensitive biological resources are anticipated and the project does not require an evaluation by a qualified biologist.

Based on the above discussion, the project will be consistent with Policy 1.5.2-1.

- 3. Resources Policy 1.7.2-1:** *Notwithstanding Policy 1.7.2-2, discretionary development which would significantly degrade visual resources or significantly alter or obscure public views of visual resources shall be prohibited unless no feasible mitigation measures are available and the decision-making body determines there are overriding considerations.*

The proposed modifications to the golf driving range include the addition of accessory structures within the developed project site. The structures are single-story, and are obscured from view from adjacent public roadways by trees on the project site. Therefore, the proposed modifications would not degrade visual resources as seen from public places.

In addition, the proposed modifications to the existing permitted lighting fixtures would reduce the emission of light from this facility, as discussed in Section B of this staff report (above). Because the existing permitted night lighting facilities are part of the existing environmental setting, no new environmental impacts on visual resources would result from the requested permit modification. Neither the imposition of CEQA mitigation measures nor a statement of overriding considerations applies to the requested permit modification.

Based on the above discussion, the proposed project will be consistent with Policy 1.7.2-1.

- 4. Hazards Policy 2.2.2-2:** *No habitable structures shall be located across or on any active fault zone as defined by the Alquist-Priolo Earthquake Fault Zoning Act. Furthermore, no habitable structures shall be located within 50 feet of the mapped trace of an active fault unless an appropriate geologic investigation and report demonstrates that the site is not subject to a fault rupture hazard.*

The Simi/Santa Rosa earthquake fault hazard zone extends east to west along the northern edge of the project site. The proposed modification includes the installation of two sea cargo containers as accessory storage structures and the

installation of four temporary accessory shade structures. These structures are not defined as "habitable structures" that must be set back from a fault trace.

Based on the above discussion, the proposed modification will be consistent with hazards Policy 2.2.2-2.

5. **Hazards Policy 2.13.2-1:** *All discretionary permits shall be required, as a condition of approval, to provide adequate water supply and access for fire protection and evacuation purposes.*

Public Facilities and Services Policy 4.8.2-1: *Discretionary development shall be permitted only if adequate water supply, access and response time for fire protection can be made available.*

The proposed project involves the continued operation of an existing facility currently served by the Ventura County Fire Protection District (VCFPD). Adequate water supply and access facilities are already established and in use. As part of the proposed modification, the VCFPD has imposed additional project conditions to ensure that new structures are designed to include fire safety measures and adequate access for fire protection (Exhibit 3, Conditions Nos. 30-44).

Based on the above discussion, the proposed modification will be consistent with Policies 2.13.2-1 and 4.8.2-1.

6. **Hazards Policy 2.13.2-2:** *All discretionary permits in fire hazard areas shall be conditioned to include fire-resistant vegetation, cleared firebreaks, or a long-term comprehensive fuel management program as a condition of approval. Fire hazard reduction measures shall be incorporated into the design of any project in a fire hazard area.*

The project site is located within a high fire hazard area. Existing Condition No. 37 requires all grass or brush exposing any structures to be cleared for a distance of 100 feet, in compliance with the Ventura County Fire Protection Ordinance. The new structures included as part of the proposed modification would also be required to comply with this project condition (Exhibit 3, Condition No. 37).

Based on the above discussion, the proposed modification will be consistent with Policy 2.13.2-2.

7. **Hazards Policy 2.16.2-1:** *All discretionary development shall be reviewed for noise compatibility with surrounding uses. Noise compatibility shall be determined from a consistent set of criteria based on the standards listed below. An acoustical analysis by a qualified acoustical engineer shall be required of discretionary developments involving noise exposure or noise generation in*

excess of the established standards. The analysis shall provide documentation of existing and projected noise levels at on-site and off-site receptors, and shall recommend noise control measures for mitigating adverse impacts...

- (4) *Noise generators, proposed to be located near any noise sensitive use, shall incorporate noise control measures so that ongoing outdoor noise levels received by the noise sensitive receptor, measured at the exterior wall of the building, does not exceed any of the following standards:*
- a. *Leq1H of 55dB(A) or ambient noise level plus 3dB(A), whichever is greater, during any hour from 6:00 a.m. to 7:00 p.m.*
 - b. *Leq1H of 50dB(A) or ambient noise level plus 3dB(A), whichever is greater, during any hour from 7:00 p.m. to 10:00 p.m.*
 - c. *Leq1H of 45dB(A) or ambient noise level plus 3dB(A), whichever is greater, during any hour from 10:00 p.m. to 6:00 a.m.*

Section 2.16.2(4) is not applicable to increased traffic noise along any of the roads identified within the 2020 Regional Roadway Network (Figure 4.2.3) Public Facilities Appendix of the Ventura County General Plan (see 2.16.2-1(1)). In addition, State and Federal highways, all railroad line operations, aircraft in flight, and public utility facilities are noise generators having Federal and State regulations that preempt local regulations.

- (5) *Construction noise shall be evaluated and, if necessary, mitigated in accordance with the County Construction Noise Threshold Criteria and Control Plan.*

The proposed modification will not involve an increase in the volume or timing of noise generated by the operation of the existing golf center. Condition No. 52 approved as part of Modification No. 2, regulates noise associated with construction activity for site preparation and future development at the site. This condition limits construction activities to the hours of 7:00 AM to 7:00 PM on weekdays only (excluding holidays). This condition addresses any potential construction noise from development at the site. However, the additional structures proposed to be validated (i.e. sea cargo containers) have already been installed, and no additional construction activities are anticipated.

Based on the above discussion, the proposed modification will be consistent with Policy 2.16.2-1.

8. **Land Use Policy 3.1.2-5: *Building Intensity and Population Density: Except for Affordable/Elderly Housing developments that are eligible for density bonuses as specified in Article 16 of the Non-Coastal Zoning Ordinance, and Cultural Heritage Sites that are eligible for deviation as specified in the Non-Coastal Ordinance, the following building intensity and population density standards apply to the unincorporated areas of the County:...***

For all other unincorporated areas, the building intensity and population density standards shall be as specified in Figure 3.4.

The project site is zoned OS (Open Space) and, according to Figure 3.4 of the *General Plan Goals, Policies and Programs*, is subject to a maximum building coverage standard of five percent. Therefore, the site is allowed a maximum of one acre of building coverage. The current building coverage at the site is approximately 9,000 square feet, and the proposed permit modifications will result in 400 square feet of additional building (sea cargo container) coverage at the site. Therefore, the proposed modification is consistent with the maximum building coverage standards.

Based on the above discussion, the proposed project will be consistent with Policy 3.1.2-5.

9. **Land Use Policy 3.4.2-3:** *Commercial and industrial developments shall be designed to be generally compact, grouped and consolidated into functional units providing for sufficient off-street parking and loading facilities, maximizing pedestrian and vehicle safety and minimizing the impacts on traffic congestion.*

The proposed modification includes accessory structures located within the existing developed site, and does not expand the project footprint. The modification will not affect existing transportation conditions, generate new parking demand, or increase vehicle trips.

Based on the above discussion, the proposed modification will be consistent with Policy 3.4.2-3

10. **Land Use Policy 3.4.2-4:** *Commercial and industrial developments shall be designed to provide adequate buffering (e.g., walls, landscaping, setbacks), and on-site activities (e.g., hours of operation, scheduling of deliveries) shall be regulated to minimize adverse impacts (e.g., noise, glare, odors) on adjoining residential areas.*

A small number of residences are located directly to the east of the project site. Although the proposed modification includes the addition of accessory structures on the eastern portion of the site, these structures are located approximately 400 feet north of the existing residences, and are screened from view by existing trees. Security lighting associated with the accessory storage structures, which is directed away from the existing residences and onto the project site, is also screened by existing vegetation. Moreover, the addition of the accessory structures is not anticipated to increase the number of visitors to the golf driving range, or modify the permitted activities at the site.

Based on the above discussion, the proposed modification will be consistent Policy 3.4.2-4.

- 11. Public Facilities and Services Policy 4.1.2-2:** *Development shall only be permitted in those locations where adequate public services are available (functional), under physical construction or will be available in the near future.*

As discussed in Sections B and C.1 of this staff report (above), the project site is currently served by existing public services that are adequate to meet project needs. The additional accessory structures (i.e. sea cargo containers) proposed to be validated as part of the modification would not increase demand for any public services at the site.

Based on the above discussion, the proposed modification will be consistent with this policy.

- 12. Public Facilities and Services Policy 4.3.2-1:** *Development that requires potable water shall be provided a permanent potable water supply of adequate quantity and quality that complies with applicable County and State water regulations. Water systems operated by or receiving water from Casitas Municipal Water District, the Calleguas Municipal Water District or the United Water Conservation District will be considered permanent supplies unless an Urban Water Management Plan (prepared pursuant to Part 2.6 of Division 6 of the Water Code) or a water supply and demand assessment (prepared pursuant to Part 2.10 of Division 6 of the Water Code) demonstrates that there is insufficient water supply to serve cumulative development within the district's service area. When the proposed water supply is to be drawn exclusively from wells in areas where groundwater supplies have been determined by the Environmental Health Division or the Public Works Agency to be questionable or inadequate, the developer shall be required to demonstrate the availability of a permanent potable water supply for the life of the project.*

As discussed in Section B of this staff report (above), the Camrosa Water District has an adequate supply of water that meets Ventura County Watershed Protection District and State standards and would continue to serve the golf center. The proposed changes in the permit would not increase the water demand of the facility.

Based on the above discussion, the proposed project will be consistent with Policy 4.3.2-1.

- 13. Tierra Rejada Greenbelt Ordinance:** This ordinance was revised and re-adopted by the Board of Supervisors on November 10, 2009. The ordinance is not regulatory in nature (i.e. does not impose enforceable land use requirements on affected projects) but expresses "the County of Ventura's commitment to agricultural and open space land conservation goals and policies contained in the Ventura County General Plan." Specifically listed in the ordinance as an area of concern is the use of night lighting within the Greenbelt. As stated in the ordinance:

“Night lighting, particularly unshielded, upward facing and/or high intensity lighting, compromises open space values in terms of visual impact and effect on animal mobility, among others.”

The night lighting included in the Tom Barber Golf Center had been in operation for many years prior to the 2009 adoption of a revised Tierra Rejada Greenbelt Ordinance. As discussed in Section A.8 above, the Board of Supervisors considered eliminating all golf courses with night lighting from the set of allowable uses in the Open Space (OS) zone as part of the Open Space Assembly Use ordinance (Ord. 4411) adopted in March 2010. The Board of Supervisors, however, voted to allow such facilities to remain as an allowable use in the OS Zone. Thus, the proposed ongoing use of night lighting at the Tom Barber facility can be authorized with a modified CUP.

D. ZONING ORDINANCE COMPLIANCE

Pursuant to the Ventura County Non-Coastal Zoning Ordinance (§8105-4), the proposed accessory structures are allowed in the OS (Open Space) zone with the granting of a minor modification to the existing Conditional Use Permit. Upon the granting of the requested minor modification, the proposed project will be in compliance with this requirement.

The proposed project includes the addition of structures that are subject to the development standards of the Ventura County Non-Coastal Zoning Ordinance (§8106-1.1). Table 1 lists the applicable development standards and a description of whether the proposed project is designed in conformance with the development standards.

Table 1 – Development Standards Consistency Analysis

Type of Requirement	Zoning Ordinance Requirement	In Conformance?
Maximum Percentage of Building Coverage	5 percent	Yes
Front Setback	20 feet	Yes
Side Setback	10 feet	Yes
Rear Setback	15 feet	Yes
Maximum Building Height (accessory structures)	25 feet	Yes

The Ventura County Non-Coastal Zoning Ordinance (§8106-8.6) sets forth the following regulations that apply to light fixtures that are over two feet in height. Table 2 lists the regulations and a description of whether the proposed project complies with the regulations:

Table 2 – Light Fixtures Regulations Consistency Analysis

Regulation	Complies?
Sec. 8106-8.6.a: Maximum height of freestanding light fixture is 20 feet with a Zoning Clearance; over 20 feet up to 35 feet may be permitted with a Planning Director-approved Planned Development Permit. For commercial and industrial uses, such	Yes – CUP 4915 specified the maximum heights for the light fixtures.

Table 2 – Light Fixtures Regulations Consistency Analysis

Regulation	Complies?
heights shall be specified by the principal use permit.	
Sec. 8106-8.6.b: Such fixtures shall not be placed in side setbacks.	Yes – None of the light fixtures are located in the 10-foot side yard setbacks that apply to the project site.
Sec. 8106-8.6.c: Lights in excess of 150 watts shall not result in direct illumination of adjacent properties.	Yes -Based on the intensity of light measured at the property boundary. <i>(Note: Despite this determination based on intensity, the night lights do transmit light directly to offsite properties.)</i>

E. CONDITIONAL USE PERMIT FINDINGS AND SUPPORTING EVIDENCE

Pursuant to Section 8111-1.2.1.1 of the Ventura County Non-Coastal Zoning Ordinance, the Planning Commission must make certain findings in order grant the requested Minor Modification of the Conditional Use Permit. The ability to make each of the required findings is evaluated below.

- 1. The proposed development is consistent with the intent and provisions of the County's General Plan and of Division 8, Chapters 1 and 2, of the Ventura County Ordinance Code [§8111-1.2.1.1.a].**

Based on the information and analysis presented in Sections C and D of this staff report, the finding that the proposed development is consistent with the intent and provisions of the County's General Plan and of Division 8, Chapters 1 and 2, of the Ventura County Ordinance Code can be made.

- 2. The proposed development is compatible with the character of surrounding, legally established development [§8111-1.2.1.1.b].**

Facility Modifications (other than night lighting):

The proposed modification includes the addition of minor accessory structures, the installation of new security lighting, changes to the existing lighting on-site, and a change in the permit expiration date that would authorize the golf driving range to operate for an additional 20-year period. The accessory structures (sea cargo containers) proposed to be validated are located within the footprint of the existing development, and are screened from view from Tierra Rejada Road and the adjacent properties by existing vegetation. Security lighting associated with the accessory storage structures would be directed away from adjacent residences and onto the project site. The new security lighting is also screened from offsite view by existing vegetation. The accessory structures also meet the height and setback requirements of the OS (Open Space) zone. The proposed modification does not change the allowable uses at the site or increase the hours of operation of the golf driving range, and is not anticipated to increase the number of visitors to the site. Thus, the requested modification does not involve

substantial changes in the size and intensity of use of the existing driving range facility.

Night Lighting:

As discussed in Section B to this staff report (above), the existing night lighting is in compliance with the conditions of approval that pertain to impacts from glare identified in the MND prepared for the original consideration of the CUP for this facility. The applicant has proposed the following modifications of the existing permitted golf driving range lighting facilities to reduce offsite light emissions from the currently permitted level:

- Permanent shut-down of the power to the lighting fixtures on three of the nine existing light poles located along the tee line. The three lighting fixtures to be turned off are located at the west end of the tee line and closest to SR-23;
- Replacement of all light bulbs used in fixtures on the light poles with bulbs that are designed with a white coating to reduce glare; and,
- Reduction of the hours of night lighting such that the lights would be turned off at 9:30 pm rather than 10:00pm when Pacific Standard Time is in effect. When Pacific Daylight Time is in effect, lights would continue to be on until 10:00 pm.

There has not been a history of formal complaints filed with the County regarding the use of the night lighting at this facility. However, there has been substantial public commentary in past decision-maker hearings as well as correspondence received as part of the current permit process regarding the negative impact of the night lighting at the subject facility. There has also been a substantial show of support for the continuation of the golf center (including the night lights) in letters and petitions. The content of the public comment received is outlined in Section F of this staff report and included as Exhibit 6.

The proposed modifications to the existing permitted lighting fixtures would reduce the permitted level of light emissions from this facility, as discussed in Section B of this staff report (above). Despite the proposed changes in the night lighting facilities, the remaining lights (as currently configured) would affect night time visual resources in the Tierra Rejada Valley area.

The evaluation of the compatibility of the night lighting at the golf center with the character of the surrounding, legally established development is limited in scope as this facility was already granted a discretionary permit for such a land use. California case law holds that once a discretionary permit has been granted and the permittee has acted upon the permit to his or her detriment (e.g., incurred substantial liability, expended significant funds, performed substantial work, or

operated a business), the permit holder acquires a vested property right in that permit. (*Avco Community Developers, Inc. v. South Coast Regional Com.* (1976) 17 Cal.3d 785, 791; *Malibu Mountains Recreation, Inc. v. County of Los Angeles* (1998) 67 Cal.App.4th 359, 369.) In the case of the Tom Barber Golf Center, this vested right extends to the construction and subsequent operation and maintenance of the night lighting facilities.

When a permittee has acquired such a vested right in a CUP, the CUP may be revoked or terminated only if: (1) the permittee fails to comply with the reasonable terms and conditions in the CUP; or (2) there is a "compelling public necessity" to terminate such vested right. (*O'Hagen v. Board of Zoning Adjustment* (1971) 19 Cal.App.3d 151, 158.) A compelling public necessity justifying CUP revocation or termination for a lawful business or land use may exist where the conduct of that business constitutes a nuisance or some showing that the public interest in requiring such interference with that business or land use is reasonably necessary for the accomplishment of that public interest and is not unduly oppressive upon individuals. (*Id.* at p. 159.) [emphasis added]

Based on the California case law above, if the County wanted to further limit or eliminate the night lighting facilities, the County must make a finding that the continuing use of the existing night lighting facilities constitutes a public nuisance that must be abated or that the permittee has failed to comply with the terms and conditions of the CUP or has a history of unresolved land use violations. The following excerpts from the Civil Code serve to define a public nuisance:

Civil Code Section 3479 states that, "[a]nything which is injurious to health, including, but not limited to, the illegal sale of controlled substances, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway, is a nuisance."

Civil Code section 3480 defines a "public nuisance" as a nuisance "which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal."

Thus, your Commission's ability to make the required finding of compatibility with the surrounding development in order to grant the requested permit modification depends on whether there is sufficient evidence before you that the night time lighting constitutes a public nuisance or that the facility has a history of non-compliance. As this facility does not have a history of non-compliance, the issue of whether or not a public nuisance exists is before your Commission. The evidence available to the Commission for its consideration includes the correspondence from members of the public, the submitted petitions, the letters

of comment from the City of Moorpark, City of Thousand Oaks, City of Simi Valley, and the Santa Rosa Valley Municipal Advisory Council (Exhibit 6), this staff report, and the testimony presented at the public hearing.

The recommended conditions of approval would be different depending on the Commission's determination as outlined below.

Determination of no public nuisance:

If the Planning Commission finds that continued use of the existing night lighting (as reduced under the current proposal) at the Tom Barber Golf Center does not constitute a public nuisance, no new condition of approval would be required to address the effects of the night lighting. In this case, staff would recommend that Option A of condition of approval 21 (Condition 21A of Exhibit 3) be imposed on the project. Condition 21A allows for future Planning Director discretionary review of any proposed modification or replacement of the existing night lighting fixtures. Unless modified or replaced, the existing night lighting with the reductions proposed by the Permittee, would be allowed to remain in operation.

Determination of public nuisance:

If the Commission finds that continued use of the existing night lighting at the Tom Barber Golf Center constitutes a public nuisance pursuant to Civil Code sections 3479 and 3480 (reproduced above) that must be abated, a new condition of approval would be required to address the night lighting. In this case, staff would recommend that Option B of condition of approval 21 (Condition 21B) be imposed on the project. Condition 21B requires replacement and reconfiguration of the night lighting facilities to abate the public nuisance.

With the imposition of either one of the above recommended conditions of approval, the golf driving range facility would be compatible with the character of the surrounding established development.

Based on the above discussion, this finding can be made.

3. The proposed development would not be obnoxious or harmful, or impair the utility of neighboring property or uses [§8111-1.2.1.1.c].

The proposed modification would extend the duration of permitted activities at the project site for an additional 20 years beyond the current permit expiration date of January 14, 2017 (i.e., to January 14, 2037). Since the granting of the original permit in 1997, there has not been substantial development in the immediate vicinity of the existing golf center. The project site is surrounded to the west by a freeway, which effectively blocks the property from nearby uses on the opposite

side of the freeway. The remainder of the site is surrounded by a golf course to the north and agricultural uses to the south and east.

The existing conditions of approval for the golf driving range limit the hours of operation of the range, including the hours of operation of noise-generating activities and night time lighting. As part of the requested modification, the applicant proposes to reduce the hours of lighted night time operations. The change to a 9:30pm closing hour during a portion of the year combined with the reduction in the permitted use of pole-mounted lighting fixtures along the tee line would result in less emission of light than currently permitted. Thus, no new effect would be created by the proposed permit modifications.

Similar to the issue of compatibility discussed under Finding E.2 above, the evaluation of the effects of the night lighting at the golf center on neighboring property or uses is limited in scope because this facility was already granted a discretionary permit. Because of this, the Permittee has vested rights in the continuation of the facility. This vesting does not, however, extend to the continuation of a public nuisance. If the Commission finds that a public nuisance exists, it can feasibly be abated by imposition of a recommended condition of approval (Condition 21B). If the Commission finds that the continued use of the existing night lights does not constitute a nuisance, a new condition would not be required to address the effects of night lighting. Staff would recommend the imposition of Condition 21A to allow for future Planning Director discretionary review of any proposed modification or replacement of the existing night lighting fixtures.

With the imposition of either one of the above recommended conditions of approval, the continued operation of the golf driving range facility would not be obnoxious or harmful or impair the use of neighboring properties.

Based on the above discussion, this finding can be made.

4. The proposed development would not be detrimental to the public interest, health, safety, convenience, or welfare [§8111-1.2.1.1.d].

The proposed modification would allow the addition of accessory structures and new security lighting within the developed project site. The proposed modification would not expand the permitted uses at the project site, or increase the allowable hours of operation for the golf driving range. The conditions of approval require compliance with the Environmental Health Division's standards for septic systems and compliance with current fire access and building requirements. No increase in the number of visitors to the site is anticipated with the proposed modification. No additional traffic is expected on area roadways due to the modifications, and the modifications would not increase demands for water or sewage disposal facilities at the site.

Since the original approval of the driving range in 1997, the general area around the site has been identified as a potential movement corridor for wildlife. During the operational period of the facility, wildlife movement through culverts and underpass roads to traverse State Route 23 freeway has been observed. The continued operation of the driving range will not introduce a new adverse effect on wildlife movement. In any case, the facility does not obstruct wildlife movement during most of the night as it is closed and unoccupied between 10:00 pm and dawn. For a portion of the year, the operation of the lights would cease at 9:30pm under the requested permit modification. Openings in the site fencing are maintained to allow for animal migration.

Similar to the issue of compatibility discussed under Finding E.2 above, the evaluation of the effects of the night lighting at the golf center on the public interest, health, safety, convenience or welfare is limited in scope because this facility was already granted a discretionary permit. Because of this, the Permittee has vested rights in the continuation of the facility. This vesting does not, however, extend to the continuation of a public nuisance. If the Commission finds that a public nuisance exists, it can feasibly be abated by imposition of a recommended condition of approval (Condition 21B). If the Commission finds that the continued use of the existing night lights does not constitute a nuisance, a new condition would not be required to address the effects of night lighting. Staff would recommend the imposition of Condition 21A to allow for future Planning Director discretionary review of any proposed modification or replacement of the existing night lighting fixtures.

Some concern has been expressed in public comments (Exhibit 6) that the night lighting at the golf center is a distraction to drivers on Highway 23. According to California Highway Patrol records, a total of 66 accidents (with 21 injury collisions) occurred from 2005-2010 on the 2-mile segment of Highway 23 from Olson Road to Tierra Rejada Road nearest to the golf center. A similar segment of Highway 23 from Avenida de los Arboles to Olson Road experienced 80 accidents (with 21 injury collisions) over the same period. Thus, the operation of the golf center night lighting has not resulted in a localized increase in the accident rate.

With the imposition of either Condition 21A or Condition 21B, and the other recommended conditions of approval, the continued operation of the golf driving range facility would not be detrimental to the public interest, health, safety, convenience or welfare.

Based on the above discussion, this finding can be made.

5. The proposed development, if allowed by a Conditional Use Permit, is compatible with existing and potential land uses in the general area where the development is to be located [§8111-1.2.1.1.e].

The proposed modification would extend the duration of permitted activities at the project site for an additional 20 years beyond the current permit expiration date of January 14, 2017 (i.e., to January 14, 2037). Since the granting of the original permit in 1997, there has not been substantial development in the immediate vicinity of the existing golf center. The project site is surrounded to the west by State Route 23, which separates the property from nearby uses on the opposite side of the freeway. The remainder of the site is surrounded by a golf course to the north and agricultural uses to the south and east. These properties are zoned OS (Open Space) and thus are not anticipated to undergo substantial development in the future. Thus, the evaluation of compatibility presented under Finding E.2 (above) is applicable to both existing and potential land uses in the general area.

As discussed in Finding E.2 (above), the proposed modification also includes the addition of accessory structures and new security lighting located within the developed footprint of the project. The structures and new security lighting are screened from view from the adjacent public road and neighboring properties by existing vegetation, and do not expand the allowable uses or number of visitors at the project site. They are not out of character with the surrounding residential, agricultural, and open space uses. The proposed modification does not alter the allowable uses at the site.

Similar to the issue of compatibility discussed under Finding E.2 above, the evaluation of the compatibility of the night lighting at the golf center with existing and potential land uses is limited in scope because this facility was already granted a discretionary permit. Because of this, the Permittee has vested rights in the continuation of the facility. This vesting does not, however, extend to the continuation of a public nuisance. If the Commission finds that a public nuisance exists, it can feasibly be abated by imposition of a recommended condition of approval (Condition 21B). If the Commission finds that the continued use of the existing night lights does not constitute a nuisance, a new condition would not be required to address the effects of night lighting. Staff would recommend the imposition of Condition 21A to allow for future Planning Director discretionary review of any proposed modification or replacement of the existing night lighting fixtures.

With the imposition of either one of the above recommended conditions of approval, the continued operation of the golf driving range facility would be compatible with the character of the existing and potential land uses in the general area.

Based on the above discussion, this finding can be made.

6. The proposed development will occur on a legal lot [§8111-1.2.1.1f].

The existing parcel is a legal lot that gained its current configuration by the means of Parcel Map Waiver/Lot Line Adjustment Case No. PMW-959, as recorded in the Ventura County Recorder's Office on April 27, 2000, Document No. 2000-0070175-00. Therefore, this finding can be made.

F. PLANNING COMMISSION HEARING NOTICE AND PUBLIC COMMENTS

The Planning Division provided public notice regarding the Planning Director hearing in accordance with the Government Code (§65091) and Ventura County Non-Coastal Zoning Ordinance (§8111-3.1). The Planning Division mailed notice to owners of property within 300 feet of the subject project site and placed a legal ad in the Ventura County Star.

As of Sunday, August 21, 2011, Planning staff received 205 letters and emails from individuals regarding the proposed project. Letters were also provided by the City of Moorpark, the City of Thousand Oaks, the City of Simi Valley and the Santa Rosa Valley Municipal Advisory Council. In addition, two petitions have been submitted by the applicant. This commentary on the proposed project is attached as Exhibit 6 of this staff report.

Of the 205 letters and emails, 155 were in support of the granting of the permit extension. The remaining 50 did not support the granting of the permit extension based on opposition to the use of night lighting at the facility. The letters in support of granting the requested permit modification for the driving range cite its value as a source of public recreation.

In addition to the comments provided by general members of the public, comments were also provided by three nearby cities. Mr. David A. Bobardt, Community Development Director, submitted a letter on behalf of the City of Moorpark. The City of Moorpark opposes the proposed project due to the impacts from night lighting. However, should the Planning Commission approve the requested permit modification Mr. Bobardt requests that (1) the night lighting should be revised to further reduce the glare impacts from night lighting and, (2) the Planning Commission should defer the decision on the proposed project to the Board of Supervisors.

John C. Prescott, Community Development Director submitted a letter on behalf of the City of Thousand Oaks. The City of Thousand Oaks expresses concern over the night lighting and considers such lighting to be inconsistent with the basic purpose of the Tierra Rejada greenbelt. The City opposes the granting of the requested permit extension.

Robert O. Huber, Mayor of the City of Simi Valley, submitted a letter of comment reflecting the concerns expressed by the City Council at its August 8, 2011 hearing. The

City of Simi Valley finds that the glare from the night lighting at the facility "is not compatible with the intent and purposes of the Tierra Rejada Valley Greenbelt" and that "the impacts from nighttime lighting are unacceptable." The City opposes the proposed project "unless and until the nighttime lighting impacts are fully mitigated."

The Santa Rosa Valley Municipal Advisory Council submitted a letter of comment on the proposed permit modification request. The Council expresses the opinion that the night lighting at the facility constitutes "light pollution" that is "incompatible with the rural nature of the Tierra Rejada Greenbelt." The Council recommends that any extension of the permit not allow the use of night lighting.

In 2010, the issue of lighted driving ranges was raised during the County's consideration of amendments to the Zoning Ordinance that would apply to uses in the Open Space zone. Included in Exhibit 6 is a petition provided by the applicant and signed in early 2010 by 2,142 persons in opposition to the elimination of night lighted driving ranges from the "list of approved uses on open space zoned properties."

The applicant submitted a second petition enclosed with an August 12, 2011 letter. This petition expresses support for the requested permit extension and the availability of night lighting at the facility. This petition was signed by 600 persons in August of 2011.

The Planning Division has considered the above listed correspondence and finds that the required findings for approval can be made in view of the changes incorporated into the project conditions of approval.

G. RECOMMENDED ACTIONS

Based upon the preceding analysis and information provided, Planning Division Staff recommends that the Planning Commission take the following actions:

1. **CERTIFY** that the Planning Commission has reviewed and considered this staff report and all exhibits thereto, and has considered all comments received during the public comment process;
2. **FIND** that the Mitigated Negative Declaration as amended by the Addendum (Exhibit 5) prepared pursuant to Section 15164 of the State CEQA Guidelines constitutes adequate environmental review;
3. **MAKE** the required findings for the granting of Minor Modification No. 3 to Conditional Use Permit 4915 (LU10-0087) based on the substantial evidence presented in Section E of this staff report and the entire record;
4. **GRANT** Minor Modification No. 3 to Conditional Use Permit 4915 (LU10-0087), subject to the attached conditions of approval as modified by the Planning Commission at the public hearing (Exhibit 3);

5. **SPECIFY** that the Clerk of the Planning Division is the custodian, and 800 S. Victoria Avenue, Ventura, CA 93009 is the location, of the documents and materials that constitute the record of proceedings upon which this decision is based.

The decision of the Planning Commission is final unless appealed to the Board of Supervisors within 10 calendar days after the permit modification has been approved, conditionally approved, or denied (or on the following workday if the 10th day falls on a weekend or holiday). Any aggrieved person may file an appeal of the decision with the Planning Division. The Planning Division shall then set a hearing date before the Board of Supervisors to review the matter at the earliest convenient date.

If you have any questions concerning the information presented above, please contact Brian Baca at (805) 654-5192 or via e-mail at Brian.Baca@ventura.org.

Prepared by:



Brian R. Baca, Manager
Commercial and Industrial Permits

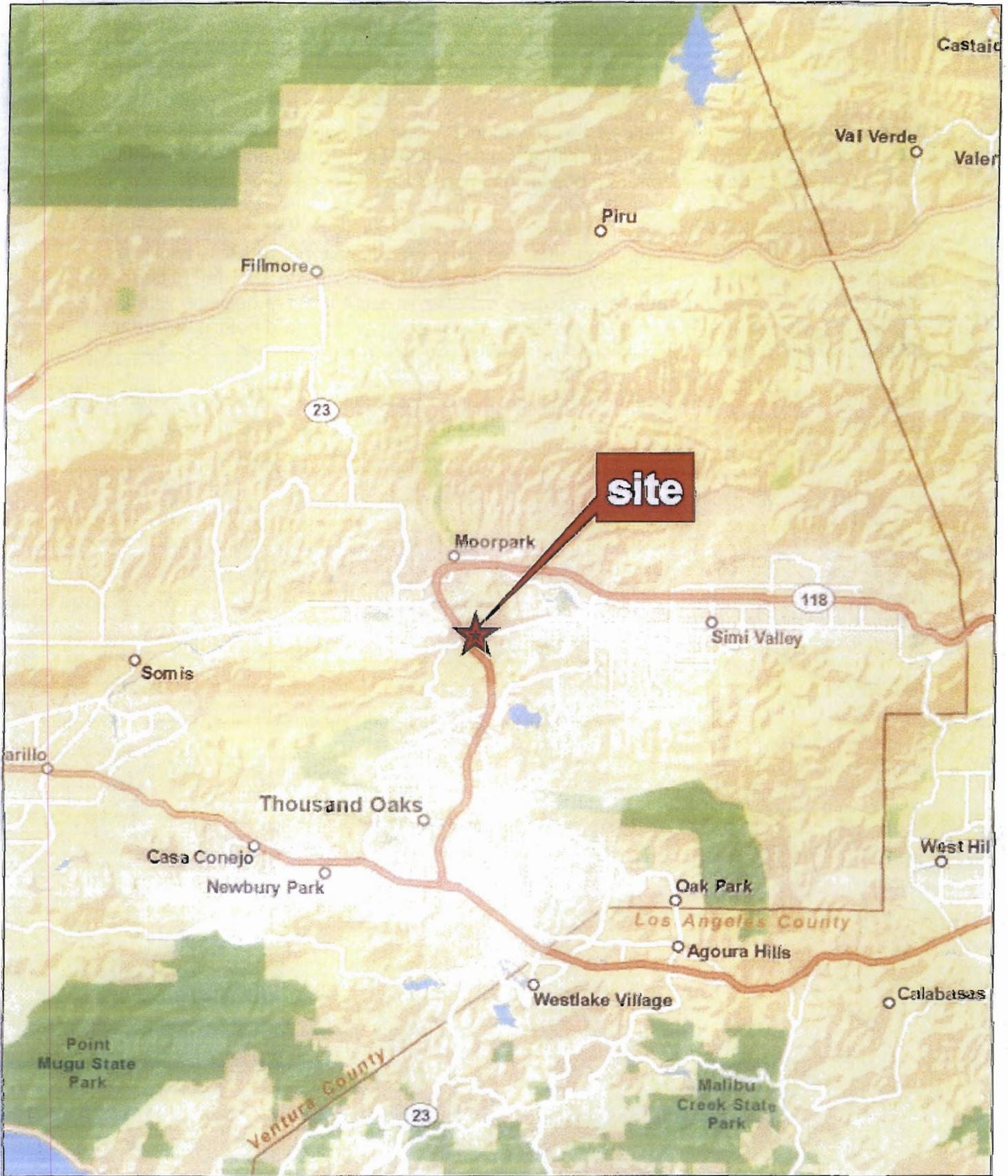
Reviewed by:



Kim Prillhart, Director

EXHIBITS

- Exhibit 2 - Aerial Photograph with General Plan and Zoning, Greenbelt Map, and Location Map
- Exhibit 3 - Conditions of Approval
- Exhibit 4 - Mitigated Negative Declaration
- Exhibit 5 - Mitigated Negative Declaration Addendum
- Exhibit 6 - Public Comments
- Exhibit 7 - Letter from Tom Barber to Kim Prillhart, dated May 17, 2011 (with attachments)
- Exhibit 8 - Site Plan



Ventura County, California
 Resource Management Agency
 GIS Development & Mapping Services
 Created on 3/14/2011



County of Ventura
 Planning Commission
 LU10-0087
 Exhibit 2 Maps



Disclaimer: The Agency and its staff do not warrant the accuracy, reliability, or completeness of the information contained in this map. The Agency and its staff are not responsible for any errors or omissions in this map. The Agency and its staff are not responsible for any damages or losses resulting from the use of this map. The Agency and its staff are not responsible for any actions taken based on the information contained in this map.

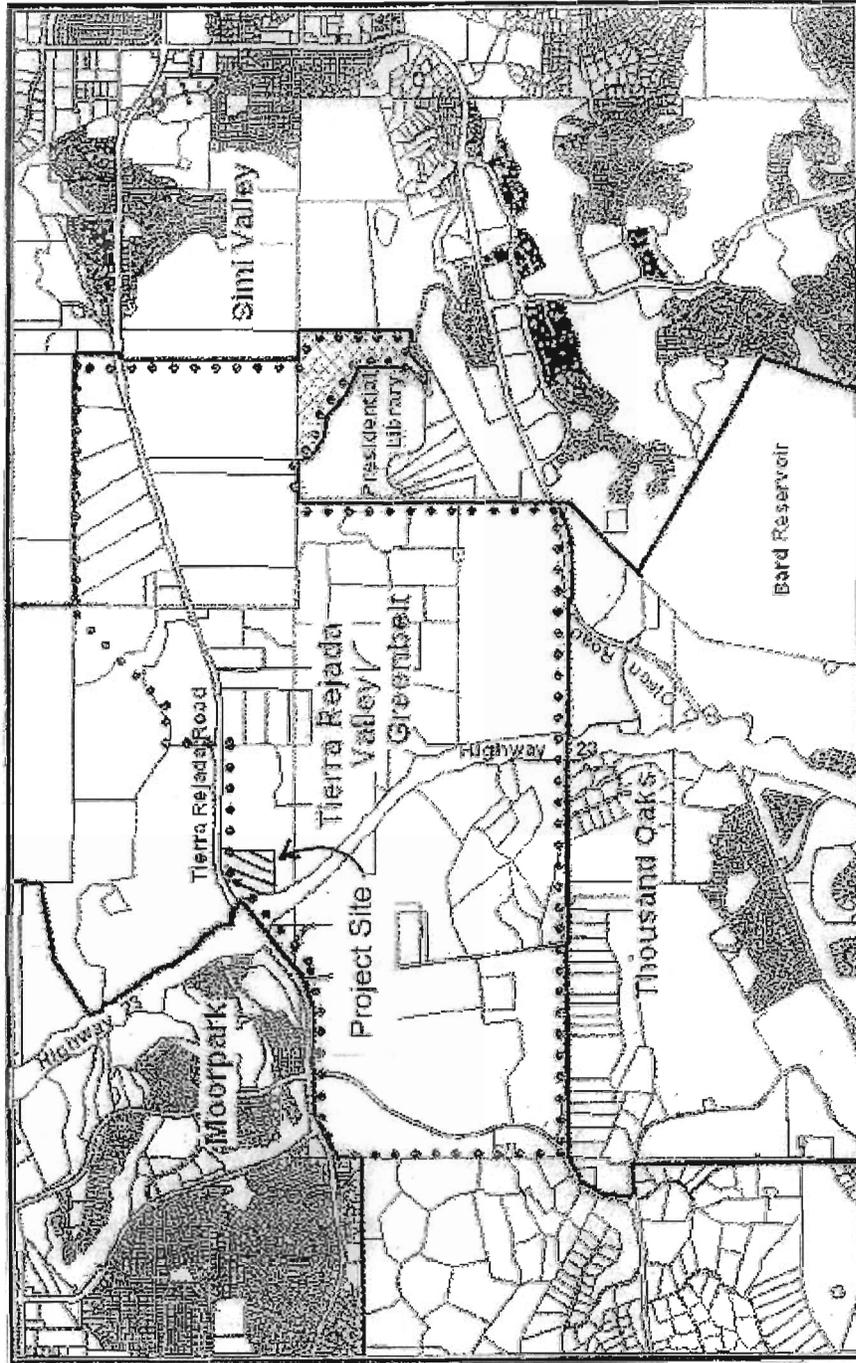


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Exhibit 2

LU10-0087

Tierra Rejada Valley Greenbelt (Amended)



**CONDITIONS OF APPROVAL FOR THE TOM BARBER GOLF CENTER
CONDITIONAL USE PERMIT LU10-0087
(Minor Modification #3 of CUP 4915)**

PLANNING DIVISION CONDITIONS:

NOTICE TO PERMIT HOLDER: Failure to abide by and faithfully comply with any conditions for the granting of this Permit shall constitute grounds for one or more of the following actions in accordance with the County's adopted Schedule of Enforcement Responses:

- Reporting of violations to the Planning Commission;
- Suspension of permitted operations;
- Modifications of permit conditions; and/or
- Revocation of the permit

It is the Permittee's or successors in interest, responsibility to be aware of and to comply with the permit conditions described below and the rules and regulations of all jurisdictions having authority over the use described herein.

1. **Project Description:**

This Conditional Use Permit is granted for the construction, maintenance and operation of a Golf Driving Range facility consisting of:

- Seventy-five tee boxes separated by concrete barriers.
- Practice putting green and chipping green.
- A 42,250 square foot paved parking lot for 100 vehicles.
- A 1,200 square foot accessory building containing a snack room, office, and restrooms.
- Ten shade structures that encompass a total of 1,170 square feet and are a maximum of 16 feet in height located at the tee boxes.
- Approximately 10 acres of land covered with synthetic turf as a golf target area.
- Two 320 square-foot sea cargo containers used for tool and equipment storage.
- Security lights installed adjacent to the sea cargo containers.
- Four temporary shade structures to be used for private instruction.
- Approximately 8 acres of landscaped area.
- Nine pole-mounted light fixtures located along the tee box line and one pole-mounted lighting fixture located adjacent to the putting green. *(Note: The three pole-mounted light fixtures located along the tee box line and closest to Highway 23 will be permanently turned off. The remaining six pole-mounted lights located along the tee box line may be operated only in accordance with*

all of the terms and conditions of this permit, including condition of approval #21.)

- Nine sets of ground mounted lights installed in the golf ball landing (synthetic turf) areas. *(Note: The use of these lighting fixtures shall be conducted only in accordance with all of the terms and conditions of this permit, including condition of approval #21.)*

Access to the site shall continue to be provided by a 28-foot wide driveway connected to Tierra Rejada Road. Water will continue to be provided by the Camrosa Water District. Sewage disposal shall be accomplished through the use of an onsite septic system.

The above facilities and uses shall be in conformance with the Site plans, Floor Plans, Building Elevations, and Landscape Plans approved by the County through the following actions:

- The granting of Conditional Use Permit 4915 on January 14, 1997;
- The approval of a Permit Adjustment on June 9, 1997;
- The granting of Modification #1 on October 26, 2000;
- The granting of Modification #2 on September 7, 2006;
- The granting of Modification #3 on [date].

The authorized uses and structures are depicted on the Site Plan, Floor Plans and Elevations labeled Exhibits "3", "4", and "5" of Conditional Use Permit 4915 approved by the County on January 14, 1997 as modified by the subsequent permit actions. The "as-built" grading plan dated January 12, 2011 reflects the changes authorized in the most recent permit modification.

Resource Management Agency Conditions

Planning Division:

2. Acceptance of Conditions and Schedule of Enforcement Responses:

The Permittee's acceptance of this CUP and/or commencement of construction and/or operations under this CUP shall be deemed to be acceptance by the Permittee of all conditions of this CUP. Failure to abide by and faithfully comply with any conditions for the granting of this CUP shall constitute grounds for the implementation of enforcement procedures as provided in the *Ventura County Non-Coastal Zoning Ordinance* (2010, Article 14), which include, but are not limited to, the following actions:

- Public reporting of violations to the Planning Commission and/or Board of Supervisors;
- Suspension of the uses listed in the Project Description (Condition No. 1);
- Modification of the CUP conditions listed herein;

- Recordation of a "Notice of Noncompliance" with the deed to the subject property;
- The imposition of administrative civil penalties; and/or
- Revocation of this CUP.

It is the Permittee's or the Permittee's successors-in-interest's responsibility to be aware of, and to comply with, the CUP conditions and the rules and regulations of all jurisdictions having authority over the uses described herein.

3. Time Limits:

a. Use Inauguration:

- (1) The decision on this modified CUP becomes effective upon the expiration of the decision's appeal period, or when any appeals filed regarding the decision on this CUP are resolved. After the decision on this CUP becomes effective, the Permittee must obtain:

A Construction Zoning Clearance (Zoning Clearance No. 1) in order to apply for a building permit for the proposed new construction.

A Zoning Clearance for Use Inauguration (Zoning Clearance No. 2) in order to inaugurate the uses provided in Condition No. 1 (Project Description). (A combined Construction/Use Inauguration Zoning Clearance may also be obtained if all of the required "prior to" conditions have been met.)

- (2) This CUP shall expire and become null and void if:

- a. A Construction Zoning Clearance has not been issued within one year from the granting of this CUP. The Planning Director may grant a one-year extension of time to obtain the Construction Zoning Clearance if the Permittee can demonstrate to the satisfaction of the Planning Director that the Permittee has made a diligent effort to inaugurate the permitted land use, and the Permittee has requested the extension in writing prior to the one year expiration date; or,
- b. A Use Inauguration Zoning Clearance (Zoning Clearance No. 2) has not been issued within one year after the issuance of a Building Permit to legalize the unpermitted structures. The Planning Director may grant a one-year extension of time to obtain a Use Inauguration Zoning Clearance if the Permittee can demonstrate to the satisfaction of the Planning Director that the Permittee has made a diligent effort to inaugurate the permitted land use,

and the Permittee has requested the extension in writing prior to the one year expiration date.

- (3) Prior to the issuance of a Construction Zoning Clearance and a Use Inauguration Zoning Clearance, all fees and charges billed to that date by any County agency, as well as all fines, penalties, and sureties, must be paid in full. After issuance of a Use Inauguration Zoning Clearance, any final billed processing fees must be paid within 30 days of the billing date or this PD is subject to revocation.

b. Operations Period:

The authorization to conduct the uses listed in the Project Description (Condition #1), as modified by the other conditions of approval, will cease when the CUP expires on **January 14, 2037**. Failure of the County to provide additional notification to the Permittee of the permit expiration date shall not constitute grounds for continuance of the uses permitted by this CUP after the expiration date. The Planning Director may grant a time extension for this CUP, provided that:

- (1) The Permittee files an application for a modification to this CUP that is deemed complete prior to the expiration date. The Permittee is encouraged to contact the Planning Division at least six months prior to the expiration date to determine the type of modification application that is required to allow the extension. If the Permittee submits an appropriate modification application prior to the expiration date, this CUP may continue in force until action is taken on the modification, and on any appeals.
- (2) The Permittee can demonstrate that the Permittee has continuously complied with all conditions of this CUP.
- (3) The Permittee can demonstrate that the permitted uses remain compatible with the land uses in the general area.
- (4) The Permittee can demonstrate that the permitted uses comply with the CUP approval standards of the Ventura County Ordinance Code in effect at the time the modification application is acted on by the Planning Director.
- (5) The Planning Director reviews the modification application and provides a written determination of the decision on the requested time extension for this CUP.

4. CUP Modification:

Prior to undertaking any operational or construction-related activity which is not expressly described in these conditions or applicable exhibits, the Permittee shall

contact the Planning Director to determine if the activity requires a modification of this CUP. The Planning Director may, at the Planning Director's discretion, require that the Permittee file a written and/or mapped description of the proposed activity prior to rendering a decision on whether a CUP modification is required. If a CUP modification is required, the modification shall be subject to:

- a. The modification approval standards of the Ventura County Ordinance Code in effect at the time the modification application is acted on by the Planning Director; and,
- b. Environmental review, as required pursuant to the California Environmental Quality Act (CEQA; California Public Resources Code, §21000-21178) and the State CEQA Guidelines (Title 14, California Code of Regulations, Chapter 3, §15000-15387), as amended from time to time.

5. Consolidation of All Approved Exhibits, Conditions, and Permits:

Prior to the issuance of a Use Inauguration Zoning Clearance, the Permittee shall provide the following in a form approved by the Planning Director:

- a. Documentation to verify that all of the requirements of the conditions/programs that are required prior to issuance of a Use Inauguration Zoning Clearance have been satisfied; and,
- b. Documentation to verify that all other entitlements and conditions imposed by any other agencies have been obtained or satisfied.

Within 30 days of any subsequent modifications of a permit or submission of an application for any permit, the applicable materials in revised form shall be submitted to the Planning Director.

6. Notice of CUP Requirements and Retention of CUP Conditions On-Site:

Unless otherwise required by the Planning Director, the Owner(s) of record, the contractors, and all other parties and vendors regularly dealing with the daily operation of the proposed facility shall be informed, in writing, by the Permittee of the pertinent conditions of this CUP. A current set of CUP conditions and exhibits shall be maintained at the site until expiration of this CUP.

7. Recorded "Notice of Land Use Entitlement":

Prior to the issuance of a Use Inauguration Zoning Clearance, and in accordance with the *Ventura County Non-Coastal Zoning Ordinance* (2010, §8111-8.3), the Permittee and property owner of record shall sign, have notarized, and record with the Office of the County Recorder, a "Notice of Land Use Entitlement" form furnished by the Planning Division, for each legal parcel within the project site. The "Notice of Land Use Entitlement" is to inform the present and future owners

of the property on which the CUP site is located that: the affected real property has been granted a CUP which contains certain conditions for the operation and maintenance of the property; and, the purchaser of the real property should be aware of those conditions. The Permittee shall submit a copy of the recorded "Notice of Land Use Entitlement" to the Planning Division to be filed with, and made part of, the case file.

8. Condition Compliance, Enforcement, and Other Responsibilities:

- a. **Cost Responsibilities:** The Permittee shall bear the full costs of all staff time, materials costs, or consultant costs associated with the approval of studies, generation of studies or reports, on-going permit compliance, and monitoring programs by establishing a revolving compliance account as described below in Condition 9.b. Specifically, the Permittee shall bear the full costs of the following:
- (1) Condition Compliance, which is defined herein to include, but is not limited to, the staff time, materials costs, or consultant costs associated with the approval of studies, generation of studies or reports, ongoing permit condition compliance review, and CEQA Mitigation Monitoring/other monitoring programs; and,
 - (2) Monitoring and enforcement costs, and any related fines or penalties assessed pursuant to the provisions of the Ventura County Ordinance Code, as it may be amended (Condition 8.c, below).
- b. **Establishment of Revolving Compliance Accounts:** Within 10 calendar days of the effective date of the decision on this Modification, the Permittee, or successors-in-interest, shall submit the following deposit and reimbursement agreement to the Planning Director.
- (1) \$500.00 for deposit into a revolving condition compliance and enforcement account to be used by Ventura County agencies to cover costs incurred by Ventura County for Condition Compliance review, monitoring and enforcement costs (Condition 8.a, above), and for enforcement costs and penalties assessed pursuant to the provisions of the Ventura County Ordinance Code, as it may be amended (Condition 8.c, below). The amount of this deposit may be modified by mutual agreement between the Permittee and the Planning Director; and
 - (2) A signed reimbursement agreement subject to the Permittee's right to challenge any charges, which obligates the Permittee to pay any Condition Compliance review, monitoring and enforcement costs (Condition 8.a, above), and for enforcement costs and penalties

assessed pursuant to the provisions of the Ventura County Ordinance Code, as it may be amended.

- c. **Monitoring and Enforcement Costs:** The *Ventura County Non-Coastal Zoning Ordinance* (2010, §8114-3.4) requires the Permittee, or the Permittee's successors-in-interest, to bear the full costs incurred by the County or its contractors for inspection and monitoring, and for enforcement activities related to the resolution of confirmed violations. Enforcement activities shall be in response to confirmed violations and may include such measures as inspections, public reports, penalty hearings, forfeiture of securities, and suspension of this CUP. Costs will be billed at the contract rates in effect at the time enforcement actions are required. The Permittee shall be billed for said fees and penalties pursuant to the *Ventura County Non-Coastal Zoning Ordinance* (2010, §8114-3.4), as it may be amended.

The \$500.00 deposit required by Condition 8.b(1) is being imposed to ensure that funds are available for legitimate and anticipated costs incurred for Condition Compliance. These funds shall cover costs for any necessary inspections or the resolution of confirmed violations of the conditions of this CUP and/or the *Ventura County Non-Coastal Zoning Ordinance* (2010) that may occur.

- d. **Billing Process:** The Permittee shall pay any written requests to replenish the deposit made by the Planning Director or designee within 30 days of receipt of the request. If requested by the Permittee, requests for payment shall be accompanied by an accounting of how the deposited funds have been spent. Failure to pay the required amount, or to maintain the required deposit, shall be grounds for suspension, modification, or revocation of this CUP. The Permittee shall have the right to challenge any charge or the reasonableness of any charge prior to payment.

9. **Defense and Indemnity:**

- a. As a condition of issuance and use of this CUP, including adjustment, modification, or renewal of this CUP, the Permittee agrees to:
- (1) Defend, at the Permittee's sole expense, any action brought against the County by a third party challenging either its decision to issue this CUP or the manner in which the County is interpreting or enforcing the conditions of this CUP; and,
 - (2) Indemnify the County against any settlements, awards, or judgments, including attorney's fees, arising out of, or resulting from, any such action. Upon demand from the County, the Permittee shall reimburse the County for any court costs and/or attorney's fees

which the County may be required by a court to pay as a result of any such action the Permittee defended or had control of the defense of the suit. The County may, at its sole discretion, participate in the defense of any such action, but such participation shall not relieve the Permittee of the Permittee's obligations under this condition.

- b. Neither the issuance of this CUP nor compliance with the conditions thereof shall relieve the Permittee from any responsibility otherwise imposed by law for damage to persons or property, nor shall the issuance of this CUP serve to impose any liability upon the County of Ventura, its officers, or employees for injury or damage to persons or property.
- c. Except with respect to the County's sole negligence or intentional misconduct, the Permittee shall indemnify, defend, and hold harmless the County, its officers, agents, and employees from any and all claims, demands, costs, and expenses, including attorney's fees, judgments, or liabilities arising out of the construction, maintenance, or operations described in Condition No. 1 (Permitted Land Uses), as it may be subsequently modified pursuant to the conditions of this CUP.

10. Invalidation of Condition(s):

If any of the conditions or limitations of this CUP are held to be invalid, that holding shall not invalidate any of the remaining conditions or limitations set forth. In the event that any condition contained herein is determined to be in conflict with any other condition contained herein, then where principles of law do not provide to the contrary, the conditions most protective of public health and safety and natural environmental resources shall prevail to the extent feasible, as determined by the Planning Director.

In the event that any condition imposing a fee, exaction, dedication, or other mitigation measure is challenged by the project sponsors in an action filed in a court of law, or threatened to be filed therein, which action is brought in the time period provided for by the Code of Civil Procedures (§1094.6), or other applicable law, this CUP shall be allowed to continue in force until the expiration of the limitation period applicable to such action, or until final resolution of such action, provided the Permittee has, in the interim, fully complied with the fee, exaction, dedication, or other mitigation measure being challenged.

If any condition is invalidated by a court of law, and said invalidation would change the findings and/or the mitigation measures associated with the approval of this CUP, the project may be reviewed, at the discretion of the Planning Director, by the Planning Commission and substitute feasible conditions/mitigation measures may be imposed to adequately address the subject matter of the invalidated condition. The determination of adequacy shall be made by the Planning Commission. If the Planning Commission cannot identify substitute feasible

conditions/mitigation measures to replace the invalidated condition, and cannot identify overriding considerations for the significant impacts that are not mitigated to a level of insignificance as a result of the invalidation of the condition, then this CUP may be revoked.

11. Consultant Review of Information and Consultant Work:

The County and all other permitting agencies shall have the option of referring any and all special studies that may be required by these conditions to an independent and qualified consultant for review and evaluation of issues beyond the expertise or manpower of County staff.

Prior to the County engaging any independent consultants or contractors pursuant to the conditions of this CUP, the County shall confer in writing with the Permittee regarding the necessary work for which to be contracted, as well as the costs of such work. Whenever feasible, the lowest bidder will be used. Any decisions made by staff may be appealed pursuant to the appeal procedures contained in the Ventura County Zoning Ordinance Code then in effect.

The Permittee may hire private consultants to conduct work required by the County, provided the consultant and the proposed scope-of-work are acceptable to the County. However, the County retains the right to hire its own consultants to evaluate any work undertaken by the operator or consultants under contract with the operator.

12. Relationship of CUP Conditions, Laws and Other Permits:

The design, maintenance, and operation of the CUP area and facilities thereon shall comply with all applicable requirements and enactments of Federal, State, and County authorities, as amended (e.g., County Business License Tax Ordinance), and all such requirements and enactments shall by reference become conditions of this CUP. In the event of conflicts between various requirements, the more restrictive requirements shall apply. In the event that any CUP condition contained herein is determined to be in conflict with any other CUP condition contained herein, then where principles of law do not provide to the contrary, the CUP condition most protective of public health and safety and environmental resources shall prevail to the extent feasible, as determined by the Planning Director.

No condition of this CUP for uses allowed by the Ventura County Ordinance Code shall be interpreted as permitting or requiring any violation of law, or any lawful rules or regulations or orders of an authorized governmental agency. Neither the issuance of this CUP nor compliance with the conditions of this CUP shall relieve the Permittee from any responsibility otherwise imposed by law for damage to persons or property.

13. Contact Person:

Prior to the issuance of a Use Inauguration Zoning Clearance, the Permittee shall provide the Planning Director with the contact information (e.g., name and/or position title, address, phone number, mailing and email addresses, and business and cell phone numbers) of the Permittee's field agent and other representatives who receive all orders, notices, and communications regarding matters of condition and code compliance at the CUP site. There always shall be a contact person designated by the Permittee. If deemed necessary by the Planning Director, one contact person shall be available via telecommunication, 24 hours a day, to respond to complaints by citizens and the County. If the address or phone number of the Permittee's agent should change, or the responsibility is assigned to another person or position, the Permittee shall provide the Planning Director with the new information within three calendar days.

14. Resolution of Complaints:

The following process shall be used to resolve complaints related to the project:

- a. The Permittee shall post the phone number for the designated Contact Person as identified pursuant to Condition No. 14 in a visible location on the site. The Contact Person shall be available via telephone on a 24-hour basis. Persons with concerns about an event as it is occurring may directly contact the Contact Person.
- b. If a written complaint is received by the County, Planning staff will contact the Permittee's Contact Person or the Permittee to request information regarding the alleged violation.
- c. If, following a complaint investigation, a violation of the Ventura County Ordinance Code or a condition of this permit is confirmed, enforcement actions pursuant to the Ventura County Non-Coastal Zoning Ordinance (§8114-3 et seq.) will be initiated.

15. Reporting of Major Incidents:

The Permittee shall immediately notify the Planning Director by telephone, email, FAX, and/or voicemail of any incidents (e.g., fires, explosions, spills, landslides, or slope failures) that could pose a hazard to life or property inside or outside the CUP area. Upon request of any County agency, the Permittee shall provide a written report of any incident within seven calendar days that shall include, but not be limited to, a description of the facts of the incident, the corrective measures used, and the steps taken to prevent a recurrence of the incident.

16. Correspondence from Other Agencies and Jurisdictions:

Copies of all correspondence, reports, or information related to land use and environmental issues covered by this CUP which are received by the Permittee from, or sent by the Permittee to, other State or local jurisdictions or agencies shall be provided to the Planning Division within five calendar days of their receipt/issuance.

17. Change of Ownership:

At least 10 calendar days prior to the effective date of the change of property ownership, or of lessee(s) or operator(s) of the permitted uses, there shall be filed, as an initial notice with the Planning Director, the new name(s), address(es), telephone/FAX number(s), and email addresses of the new owner(s), lessee(s), operator(s) of the permitted uses, and the company officer(s). A final statement that a transfer of ownership has occurred shall be provided to the Planning Director within 15 calendar days of the transfer. The statement shall include the following:

- (a) Any changes in name(s), address(es), telephone/FAX number(s), and email addresses of the new owner(s), lessee(s), operator(s) of the permitted uses, and company officer(s) from the initial notice;
- (b) A letter from the new property owner(s), lessee(s), and/or operator(s) of the permitted uses acknowledging and agreeing to comply with all conditions of this CUP; and,
- (c) The effective date and time of the transfer.

18. Site Restoration:

Upon expiration of the Conditional Use Permit, or abandonment of the uses permitted, the premises shall be restored by the Permittee to the physical conditions that existed prior to the issuance of the permit, to the extent feasible as determined by the Planning Director.

19. Landscaping:

The Landscaping installed at the Golf Driving Range shall be maintained in conformance with the Final Landscape Plan approved by the County on October 22, 1998 and maintained in County files.

20. Visual Resources:

Purpose: In order to minimize the visual impacts of barrier fencing, such fencing shall be limited in height.

Requirement: Barrier fencing shall be limited in height to twenty-five feet, screened with landscaping and colored to blend with the surrounding area.

Documentation: The Permittee shall submit fencing plans to the County Planning Division for review and approval.

Timing: Prior to issuance of the Zoning Clearance for Construction, an approved fencing plan shall be obtained by the Permittee.

Monitoring: Conformance with this requirement shall be assured through periodic condition compliance reviews conducted by the County Planning Division.

(Note: As of September 1, 2011, the golf center has already been constructed and all fencing installation completed.)

21. Glare from Night Lighting: (OPTION A)

Purpose: In order to minimize glare visible from offsite locations, the use of the golf range night lighting fixtures shall be limited.

Requirement: The Permittee shall incorporate the following design and operational limitations into the use of night lighting facilities:

- Low intensity lighting shall be used wherever possible for primary and secondary lighting.
- Lighting directed toward the ground shall be utilized to the extent feasible.
- Lighting fixtures shall be shielded where possible.
- Light pole structures shall be limited to a maximum height of 35 feet.
- Golf range night lights shall be turned off at 10:00 p.m. when Pacific Daylight Time is in effect, and turned off at 9:30 pm when Pacific Standard Time is in effect. Security lighting is permitted after 10:00 p.m.
- The light fixtures on the three light pole structures located at the west end of the tee line nearest to SR-23 shall be permanently turned off. Night lighting along the tee line shall be limited to the remaining six pole-mounted light fixtures.
- White-coated bulbs shall be used in all pole-mounted light fixtures.

- o Any replacement, modification or reconfiguration of any components of the night lighting fixtures shall require a Permit Adjustment or Permit Modification approved by the County of Ventura.

Documentation: The Permittee shall submit to the County Planning Division an application for a Permit Adjustment or Permit Modification for any proposed change in the night lighting fixtures.

Timing: Any required application for a Permit Adjustment or Permit Modification shall be submitted prior to any change in the night lighting fixtures.

Monitoring and Reporting: County Planning Division staff shall process any Permit Adjustment or Permit Modification application filed in regards to the night lighting fixtures. County staff shall also monitor compliance through periodic inspections and compliance reviews of this facility.

21. **Glare from Night Lighting: (OPTION B)**

Purpose: In order to minimize glare visible from offsite locations, the use of the golf range night lighting fixtures shall be limited.

Requirement: The Permittee shall incorporate and implement the following design and operational limitations into the use of night lighting facilities:

- o Low intensity lighting shall be used wherever possible for primary and secondary lighting.
- o All lighting of the golf driving range landing area (i.e. all turf areas) shall be accomplished through the use of downward-directed pole-mounted lights that are shielded to preclude the direct viewing of light sources (arc tube, heated filament, LED, etc.) from offsite areas. An alternate lighting equipment design, determined by the Planning Director to meet the intent of this requirement, may be utilized.
- o Light pole structures shall be limited to a maximum height of 35 feet, unless it is demonstrated to the satisfaction of the Planning Director that a greater height would reduce the number of fixtures necessary to illuminate the landing area or is necessary to prevent the direct viewing of light sources (arc tube, heated filament, LED, etc.) from offsite areas.
- o Golf range night lights shall be turned off at 10:00 p.m. when Pacific Daylight Time is in effect, and 9:30 pm when Pacific Standard Time is in effect. Security lighting is permitted after 10:00 p.m.
- o The light fixtures on the three light pole structures previously installed at the west end of the tee line nearest to SR-23 shall be permanently turned

off. The remaining six pole-mounted light fixtures located along the tee line shall be shielded to the extent necessary to preclude the direct viewing of the light sources (arc tube, heated filament, LED, etc.) from offsite areas. If such shielding would result in inadequate lighting along the tee line, adequate lighting may be provided through the installation of new downward-directed pole-mounted lights that are shielded to preclude the direct viewing of light sources (arc tube, heated filament, LED, etc.) from offsite areas. An alternate lighting equipment design, determined by the Planning Director to meet the intent of this requirement, may be utilized.

- White-coated bulbs shall be used in all pole-mounted light fixtures.

Documentation: The Permittee shall submit to the County Planning Division, for its prior review and approval, a revised facility lighting plan (including engineered drawings) for a modified driving range lighting system consistent with the above requirements.

Timing: The required plans shall be submitted by the Permittee to the County for review and approval (if in conformance with the above requirements) prior to July 14, 2016 (i.e. six months prior to the expiration of the initial 20-year permit period). The new lighting fixtures described in the approved plans shall be installed prior to January 14, 2018.

Monitoring and Reporting: County Planning Division staff and consultants shall review the revised facility lighting plan submitted by the Permittee for conformance with this condition. County staff shall also monitor compliance with the requirements listed in this condition through periodic inspections and compliance reviews of this facility.

22. Tree Protection:

Any removal or pruning of protected trees, or activities beneath the drip lines or within the root zones of protected trees, which is conducted after the completion of grading and construction activities, are subject to the Tree Protection Regulations of the *Ventura County Non-Coastal Zoning Ordinance* (2005, §8107-25 et seq.). The Permittee is advised to consult with the Planning Division before taking any action regulated by this ordinance and to allow only Planning Division certified tree trimmers to work on the trees.

23. **Archaeological and Paleontological Resources:**

In the event that archaeological or paleontological remains or artifacts are encountered during grading or construction activities, all such activities shall cease until discovered materials are examined and evaluated by an appropriate consultant. Any resumption of construction or grading activities shall be at the discretion of the Planning Director in consultation with the consultant.

24. **Construction Noise:**

Construction activity for site preparation and future development, as well as the delivery of construction equipment and materials, shall be limited to the hours between 7:00 AM and 7:00 PM, Monday through Friday. No construction shall occur on weekends or State holidays (e.g., Thanksgiving and Labor Day). Construction equipment maintenance shall be limited to the same hours. Non-noise generating construction activities such as interior painting are not subject to these restrictions.

Environmental Health Division

25. The Los Angeles Regional Water Quality Control Board adopted Order No. 01-031 to require general waste discharge requirements for commercial and multifamily sewage disposal systems (septic system). Wastewater generated by the project may be subject to waste discharge requirements. For more information regarding the Order and waste discharge requirements please contact the Los Angeles Regional Water Quality Control Board at 213/576-6600.
26. Prior to the issuance of a Zone Clearance, the Permittee shall obtain a Waste Discharge Report/determination of exemption for the sewage disposal system (septic system) from the Los Angeles Regional Water Quality Control Board or written authorization from the Los Angeles Regional Water Quality Control Board for the Ventura County Environmental Health Division to issue appropriate permits.
27. Only domestic waste as defined in the County Building Code Ordinance shall be discharged into the on-site sewage disposal system.
28. Prior to the issuance of a Zone Clearance, the Permittee shall repair the septic system. A repair permit shall be obtained from the Liquid Waste Section of the Environmental Health Division.
29. All water impoundments and storm water collection systems shall be constructed and maintained in a manner that will not create mosquito breeding sources.

Fire Protection District Conditions:

(Note: As of September 1, 2011, the golf center has already been constructed and all grading completed.)

30. All drives shall have a minimum vertical clearance of 13 feet 6 inches.
31. Approved turnaround areas or easements for fire apparatus shall be provided where the access road is 150 feet or farther from the main thoroughfare.
32. Prior to construction, the applicant shall submit two Street Improvement Plans to the Fire District for review and approval of access gates and roadway approach to gates.
33. Any gates, to control vehicle access, are to be located to allow a vehicle waiting for entrance, to be completely off the public roadway. The method of gate control shall be subject to review by County Bureau of Fire Prevention. A minimum clear open width of 15 feet (in each direction) shall be provided. If gates are to be locked, a Knox System shall be installed.
34. Prior to construction, the applicant shall submit plans to the Ventura County Bureau of Fire Prevention for the approval of the location of fire hydrants. Show existing hydrants on plan within 300 feet of the development.
35. Fire hydrants shall be installed and in service prior to combustible construction and shall conform to the minimum standards of the County Water Works Manual.
 - a. Each hydrant shall be a 6 inch wet barrel design, and shall have one 4 inch and two 2½ inch outlets.
 - b. The required fire flow shall be achieved at no less than 20 psi residual pressure.
 - c. Fire hydrants shall be spaced 300 feet on center, and so located that no structure will be farther than 150 feet from any one hydrant.
 - d. Fire hydrants shall be 24 inch on center, recessed in from the curb face.
36. The minimum fire flow required shall be determined by the type of building construction, proximity to other structures, fire walls, and fire protection devices provided, as specified by the 1994 Uniform Fire Code Appendix III-A and adopted Amendments. Given the present plans and information, the required fire flow is approximately 1,500 gallons per minute at 20 psi. The applicant shall verify that the water purveyor can provide the required volume at the project.
37. All grass or brush exposing any structures shall be cleared for a distance of 100 feet prior to framing, according to the Ventura County Fire Protection Ordinance.

38. Address numbers, a minimum of 6 inches high, shall be installed prior to occupancy, shall be of contrasting color to the background, and shall be readily visible at night. Where structures are set back more than 250 feet from the street, larger numbers will be required so that they are distinguishable from the street. In the event the structure(s) is not visible from the street, the address number(s) shall be posted adjacent to the driveway entrance.
39. Fire extinguishers shall be installed in accordance with National Fire Protection Association Pamphlet #10. The Placement of extinguishers shall be subject to review by the Fire District.
40. Commercial trash dumpsters and containers with an individual capacity of 1.5 cubic yards or greater shall not be stored or placed within 5 feet of openings, combustible walls, or roof eave lines unless protected by approved automatic fire sprinklers (Uniform Fire Code, Article 11).
41. If any building(s) is to be protected by an automatic sprinkler system and/or a fire alarm system, plans shall be submitted, with payment for plan check, to the Fire District.
42. Building plans of all A, E, I, and H occupancies shall be submitted to the Fire District for plan check.
43. Prefabricated Sea Cargo / Metal Storage Containers

Purpose: In order to ensure a reasonable degree of life and property protection is provided, a permit shall be required for each sea cargo container.

Requirement: The sea cargo containers shall be maintained in conformance with the Ventura County Building Department and Ventura County Fire Protection District Standards. If altered, these containers shall meet the requirements of the Building and Fire Codes that apply to new buildings.

Documentation: The Permittee shall submit plans that demonstrate the consistency of the proposed containers with the requirements of Ventura County Fire Protection District standards to the Fire Prevention Bureau for review and approval.

Timing: The required plans must be approved prior to the use of any container.

Monitoring and Reporting: A signed copy of the approval shall be kept on file with the Fire Prevention Bureau. The Fire Prevention Bureau shall conduct a final inspection to ensure that the prefabricated sea cargo/metal storage containers are installed according to the approval. Unless a modification is approved by the Fire Prevention Bureau, the Permittee, and any successors in interest, shall maintain the prefabricated sea cargo/metal storage containers for the life of the project as approved. (VCFPD-56)

44. Fire Code Permits

Purpose: In order to minimize fire hazards, the project shall be constructed in conformance with the requirements of the Ventura County Fire Code.

Requirement: The Permittee and/or tenant shall obtain all applicable Fire Code permits.

Documentation: The Permittee shall submit a Fire Code permit application along with required documentation/plans to the Fire Prevention Bureau for review and approval.

Timing: Prior to final occupancy clearance, installation or use of any required item or system, the Permittee must obtain approval of all necessary Fire Code permits.

Monitoring and Reporting: A copy of the approved Fire Code permits shall be kept on file with the Fire Prevention Bureau. The Fire Prevention Bureau shall conduct a final inspection to ensure that the requirements of the Fire Code permit are installed according to the approved plans. Unless a modification is approved by the Fire Prevention Bureau, the Permittee, and his successors in interest, shall maintain the conditions of the Fire Code permit for the life of the development.

(Note: As of September 1, 2011, the golf center has already been constructed and all grading completed.)

Public Works Agency Conditions:

45. Water Resources: (MM)

Purpose: In order to reduce the potentially adverse impacts on groundwater resources to a less than significant level, the Permittee shall participate in the development of a Tierra Rejada Basin Management Plan.

Requirement: The Permittee shall take the following actions to assist in groundwater management efforts:

- a) Cooperate with the formation of a Tierra Rejada Basin Management Plan (TRBMP).
- b) Provide, upon request, information regarding the water usage at the Golf Driving Range as necessary for the TRBMP.
- c) Install a water meter to record water use at the subject facility.
- d) Submit a one-time payment of \$17,500.00 as the Tom Barber Golf Center's share of funding for the formation and implementation of the Tierra Rejada Basin Management Plan.

Documentation: The Permittee shall submit to the Public Works Agency, Water Resources Division 1) a letter in which the Permittee agrees to cooperate with the formation of a TRBMP and provide any water usage information requested as part of the implementation of a TRBMP and 2) photographic evidence that a water meter has been installed and 3) a payment of \$17,500.

Timing: The Permittee shall submit the documentation required by this condition of approval within 90 days of approval of Minor Modification No. 3 (LU10-0087) of CUP 4915. Failure to take the above-listed actions within the time period provided shall constitute cause for permit revocation.

Monitoring: Public Works Agency staff shall review the materials submitted by the Permittee for adequacy and shall inform the Planning Division and Permittee when the condition is satisfied.

46. Waste Diversion and Recycling:

During any construction activity and as part of ongoing operations of the Tom Barber Golf facility, the Permittee (a commercial generator of waste) shall recycle waste material in accordance with County ordinances 4155, 4308 and 4421.

47. Used Oil Recycling:

The Permittee shall arrange for the lawful recycling of all discarded recyclable materials, including motor oil, used oil filters, batteries and antifreeze, removed from any vehicle maintained or repaired onsite during the operation of the facility.

48. Hazardous Waste Disposal Requirement:

The Permittee, as a commercial generator or accumulator of hazardous waste, shall adhere to all Federal and State Regulations that pertain to the storage, use and disposal of such materials.

Flood Control District Conditions:

49. All surface runoff and drainage from any project facilities shall be controlled by berms, vegetation, and/or other approved methods to ensure that surrounding land and water resources are protected from erosion, gulying, sedimentation, and contamination.

50. Prior to inauguration of the parking lot replacement, the project must incorporate the requirements of the Standard Urban Impact Mitigation Plan (SQUIMP), Ventura County Municipal Storm Water NPDES Permit (Board Order No. 00-108;

NPDES Permit No. CAS004004). At a minimum, the project plans and documents must address the following elements:

- a. Storm water pollutants of concern, such as heavy metals, oil and grease, and polycyclic aromatic hydrocarbons, should be minimized through infiltration of runoff prior to reaching the storm drain system or through the inclusion of structural or treatment control Best Management Practices (BMPs), that are designed to specified volume based or flow based standards and reviewed by the VCFCD, Water Quality Section;
- b. All storm drain inlets and catch basins within the project area shall be stenciled with prohibitive language and/or graphical icons to discourage illegal dumping;
- c. Provide proof of ongoing BMP maintenance. The verification will include the developer's signed statement accepting responsibility for all structural and treatment control BMP maintenance until the time the property is transferred; and
- d. Copies of BMP maintenance records and inspections logs shall be submitted to VCFCD by October 1st of each year.