



COMMUNITY DEVELOPMENT DEPARTMENT

MEMORANDUM

DATE: April 5, 2011

TO: The Honorable City Council

FROM: Jose E. Pulido, City Manager
By: Joseph M. Lambert, Community Development Manager *JL*

SUBJECT: **SECOND READING AND ADOPTION OF ORDINANCE NO. 11-944: A ZONE CHANGE FROM MUZ (MIXED-USE) TO C-2 (GENERAL COMMERCIAL); AND CONSIDERATION OF A CONDITIONAL USE PERMIT TO CONSTRUCT A SHOPPING CENTER 75,000 SQUARE FOOT COMMERCIAL RETAIL SHOPPING CENTER CALLED THE GATEWAY.**

RECOMMENDATION:

- a) Waive further reading and adopt Ordinance Number 11-944 by title only;
- b) Adopt Resolution No. 11-4735 for approval of a Conditional Use Permit (CUP 11-1778); and
- d) Adopt Resolution No. 11-4736 to adopt a Subsequent Mitigated Negative Declaration for the proposed project.

BACKGROUND:

1. On February 22, 2011, the Planning Commission adopted a Resolution recommending that the City Council approve Zone Change 09-1741, Conditional Use Permit 11-1778, and adopt a Subsequent Mitigated Negative Declaration for the proposed project.
2. On March 5, 2011, the City Council conducted a public hearing regarding the Zone Change, Conditional Use Permit, and draft Subsequent Mitigated Negative Declaration and introduced the draft Ordinance 11-944 for first reading. At this time, Ordinance No. 11-944 is presented for second reading and adoption by the City Council. Also, Resolution No. 11-4735 is presented for approval of a Conditional Use Permit (CUP 11-1778) and Resolution No. 11-4736 is presented to adopt a Subsequent Mitigated Negative Declaration for the proposed project.

PROPOSED DEVELOPMENT:

The applicant has applied for a Zone Change and Conditional Use Permit to build a 75,000 square foot commercial shopping center. The Zone Change is necessary to change the zoning from Mixed-Use (MUZ) back to the original General Commercial (C-2) zoning. The Conditional Use Permit (CUP) is required to construct a shopping center having two or more units and more than thirty thousand (30,000) square feet of lot area. Regarding the Conditional Use Permit, staff has included 49 conditions of approval in draft Resolution No. 11-4735 which set forth the project parameters, mitigation measures, and constraints.

As proposed by the applicant, the new all-commercial project, now called "The Gateway", would consist of a total of 75,000 square feet of commercial space. Compared to the 2006-approved project, the current project's square footage has been significantly reduced from approximately 124,600 square feet of commercial space and 52,000 square feet of residential condominium space.

ANALYSIS:

The proposed project complies with the provisions of the C-2 zone regarding height, setbacks, and land use. The maximum building height for the project is 39 feet, although the tower element adjacent to the corner of Rosemead Boulevard and Las Tunas Drive is 52 feet tall. As this tower is an architectural feature, it is not considered part of the overall building height. Most of the building elevations are between 22 feet and 33 feet in height. Although there is no height limit in the C-2 zone, a building over 45 feet tall requires a Site Plan Review, which is part of this approval.

Vehicular access to the site and parking lot would be taken from Elm Avenue (via Rosemead Boulevard) and from Las Tunas Drive. A driveway is also proposed adjacent to Sultana Avenue, but this driveway is intended for delivery truck access. Temple City Municipal Code Section 9291 establishes the number of parking spaces required for each use. The proposed project includes a total of 331 on-site parking spaces, exceeding the code requirement of 300 spaces, resulting in a surplus of 31 spaces. 129 spaces would be accommodated within a surface lot, while 202 spaces would be accommodated within an underground level. Based on this, the proposed 331 on-site parking spaces would appear to provide more than adequate parking.

The attached Initial Study and draft Subsequent Mitigated Negative Declaration includes an inventory of mitigation measures (pages 5-1 thru 5-4) that would reduce the identified impacts to a less than significant level. If the Subsequent Mitigated Negative Declaration were adopted by the City Council, the mitigation measures as listed would be implemented by the Mitigation Monitoring Program (pages 6-1 thru 6-5). Staff has also included the mitigation measures into the Draft Resolution approving the Conditional Use Permit.

At this time, staff recommends that the City Council adopt Ordinance No. 11-944 approving a Zone Change (ZC 09-1741). Staff recommends that the City Council adopt Resolution No. 11-4735 to approve a Conditional Use Permit (CUP 11-1778) and adopt Resolution No. 11-4736 to adopt a Subsequent Mitigated Negative Declaration for the proposed project.

CONCLUSION:

The proposed project combines a mix of retail, restaurant, and office uses. The project should promote increased pedestrian activity, will provide shopping and dining opportunities for the community at large. The potential increased commercial activity and pedestrian activity could enhance the vitality of businesses located near this main commercial node within the City. The Planning Commission recommended that the City Council approve the requested Zone Change and Conditional Use Permit, and also recommended that the City Council adopt a Subsequent Mitigated Negative Declaration for the proposed project.

FISCAL IMPACT:

This item does not have an impact on the Fiscal Year (FY) 2010-11 City Budget.

ATTACHMENTS:

- A. Ordinance No. 11-944 approving ZC 09-1741
- B. Draft Resolution No. 11-4735 approving CUP 11-1778
- C. Draft Resolution No. 11-4736 adopting a Subsequent Mitigated Negative Declaration for the proposed project
- D. Reduced Project Plans

ENCLOSURE:

Notice of Intent, Draft Subsequent Mitigated Negative Declaration, Initial Study and Appendices thereto.

ORDINANCE NO. 11-944

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE CITY, CALIFORNIA, **APPROVING** A ZONE CHANGE (ZC 09-1741) FROM MUZ (MIXED-USE) TO C-2 (GENERAL COMMERCIAL) AT 9021 LAS TUNAS DRIVE & 5770 ROSEMEAD BOULEVARD, AND AMENDING THE ZONING MAP OF THIS CITY ACCORDINGLY

THE CITY COUNCIL OF THE CITY OF TEMPLE CITY HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Based upon information presented in a Staff Report dated March 15, 2011, Planning Commission Resolution No. 11-2323 PC, and based upon a Public Hearing by this City Council on March 15, 2011 to consider such a Zone Change, the following findings are made:

1. The General Plan designation of the subject site is Commercial, which is consistent with the proposed C-2 (General Commercial) zoning of the site; and
2. The proposed Zone Change to C-2 is appropriate in this more urbanized portion of the City, located on primary streets in proximity to major transportation corridors. The project site is arguably within the most urbanized portion of the City at one of the main commercial nodes in the City (Rosemead Boulevard and Las Tunas Drive). The site is appropriate for commercial development of the nature proposed by the applicant; and
3. This site was zoned C-2 (General Commercial) prior to the 2006 action which changed the zoning to Mixed-Use; and
4. The project site is within "Block D" of the Rosemead Boulevard Redevelopment Project Area. The Gateway all-commercial project as proposed by the applicant would further the overall intent of the Rosemead Boulevard Redevelopment Project Area plan in that it would feature a variety of commercial uses which are identified as desirable in the Redevelopment Plan.

SECTION 2. This project should result in no significant effects upon the environment, a Subsequent Mitigated Negative Declaration has been prepared for this Zone Change (ZC 09-1741) and the related Conditional Use Permit (CUP 11-1778) and the City Council hereby adopts a Subsequent Mitigated Negative Declaration in accordance with the State CEQA Guidelines, as set forth in City Council Resolution No. 11-4736. The initial statement as prepared indicates that there is no potential for adverse impact to the environment as it relates to all wild animals, birds, plants, fish, amphibians and related ecological communities, including the habitat upon which the wildlife depends for its continued viability.

SECTION 3. Based upon the above findings, the City Council hereby adopts the requested Zone Change (ZC 09-1741), rezoning 9021 Las Tunas Drive & 5770 Rosemead Boulevard from MUZ (Mixed-Use) To C-2 (General Commercial) and amending the Zone Map of the City accordingly.

SECTION 4. The City Council finds and determines that this Ordinance and re-zoning is consistent with the adopted General Plan of the City as specifically set forth in Resolution N0. 00-3969 on November 7, 2000, and is consistent with the overall intent of the Rosemead Boulevard Redevelopment Project Area plan.

SECTION 5. The City Clerk shall certify to the passage and adoption of this ordinance and to its approval by the Mayor. The City Clerk is authorized and directed to cause this Ordinance to be published within fifteen (15) days after its passage in a newspaper of general circulation and circulated within the City in accordance with Government Code § 36933(a) or, to cause this Ordinance to be published in the manner required by law using the alternative summary and posting procedure authorized under Government Code § 36933(c).

APPROVED AND ADOPTED on this 5th day of April, 2011.

Mayor

ATTEST:

City Clerk

I, City Clerk of the City of Temple City, do hereby certify that the foregoing Ordinance, Ordinance No. 11-944, was introduced at the regular meeting of the City Council of the City of Temple City held on the 15th day of March, 2011 and was duly passed, approved and adopted by said Council at their regular meeting held on the 5th day of April, 2011 by the following vote:

AYES: Councilmember-
NOES: Councilmember-
ABSENT: Councilmember-
ABSTAIN: Councilmember-

City Clerk

RESOLUTION NO. 11-4735

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE CITY **APPROVING** A CONDITIONAL USE PERMIT (CUP 11-1778) TO CONSTRUCT A 75,000 SQUARE FOOT COMMERCIAL RETAIL SHOPPING CENTER CALLED THE GATEWAY PLAZA. THE CONDITIONAL USE PERMIT APPROVAL IS TO CONSTRUCT A SHOPPING CENTER HAVING TWO OR MORE UNITS, MORE THAN THIRTY THOUSAND (30,000) SQUARE FEET OF LOT AREA. THE APPROVED DEVELOPMENT CONSISTS OF APPROXIMATELY 49,500 SQUARE FEET OF RETAIL SPACE, 14,500 SQUARE FEET OF OFFICE SPACE, AND 11,000 SQUARE FEET OF RESTAURANT SPACE. (T.C.D. ENTERPRISE, INC./HOWARD POYOUROW) (CUP 11-1778)

THE CITY COUNCIL OF THE CITY OF TEMPLE CITY DOES HEREBY RESOLVE:

SECTION 1. Based upon information contained in the staff reports to the City Council and information contained in the Planning Commission staff report as well as the Planning Commission minutes; and based upon testimony received at a noticed public hearing before the City Council on March 15, 2011, the City Council approves the requested Conditional Use Permit, based upon based upon the following findings:

1. That the site for the proposed use is adequate in size, shape, topography and circumstances in that the site contains 159,521 square feet of land area, which is adequate for the proposed 75,000 square foot commercial shopping center. The proposed project includes a total of 331 on-site parking spaces, exceeding the code requirement of 300 spaces, resulting in a surplus of 31 parking spaces; and
2. That the site **does** have sufficient access to streets, adequate in width and pavement type to carry the quantity and quality of the traffic generated by the proposed use in that the site is accessed by Elm Avenue (via Rosemead Boulevard) from Las Tunas Drive, and from Sultana Avenue. Both Rosemead Boulevard and Las Tunas Drive is a "primary roads" as identified by the City's General Plan, which will have the capacity to carry the quantities of the traffic that will be generated by the proposed use; and
3. That the proposed use **will not** have an adverse effect upon the use, enjoyment or valuation of adjacent or neighboring properties or upon the public welfare in that the proposed development is consistent with its land use designation and the conditions of approval and mitigation measures listed for this project will be more than adequate to address any perceived impacts to the surrounding neighborhood.

SECTION 2. This project should result in no significant effects upon the environment, a Subsequent Mitigated Negative Declaration has been prepared for this Conditional Use Permit (CUP 11-1778) and the related Zone Change (ZC 09-1741) and the City Council hereby adopts a Subsequent Mitigated Negative Declaration in accordance with the State CEQA Guidelines, as set forth in City Council Resolution No. 11-4736. The initial statement as prepared indicates that there is no potential for adverse impact to the environment as it relates to all wild animals, birds, plants, fish, amphibians and related ecological communities, including the habitat upon which the wildlife depends for its continued viability..

SECTION 3. Accordingly, Conditional Use Permit 11-1778 is hereby approved, subject to the following conditions:

1. This Conditional Use Permit (CUP 11-1778) shall not be valid until the related Zone Change (ZC 09-1741) adopted by Ordinance No. 11-944 is approved and in effect.

2. The proposed development shall be in substantial compliance with the submitted plans date stamped February 17, 2011.
3. The property shall be consistently maintained and kept free of weeds, trash, debris, abandoned vehicles, vacated equipment, etc. to the satisfaction of the Community Development Department.
4. No commercial unit in the Center shall have less than 800 square feet of gross floor area.
5. Any business wishing to obtain a State License from Alcohol Beverage Control shall be subject to a separate Conditional Use Permit from the City.
6. The underground parking structure shall be lighted to the satisfaction of the City of Temple City Community Development Department, Los Angeles County Fire Department and Los Angeles County Sheriff's Department.
7. A detailed Master Sign Program program shall be submitted prior to issuance of building permits for all individual tenant exterior signage. No "canned" signs shall be allowed at the project site. All onsite signage shall be in compliance with the City's sign ordinance. All signage reviewed and approved by the Community Development Department shall require appropriate Building permits and approvals by the Community Development Department.
8. Security in the underground parking structure shall be provided as may be required by the Sheriff and Fire Departments as well as by the Community Development Department of Temple City. As a minimum, there shall be one full time security person and sufficient video cameras to monitor the facilities at all times.
9. Bicycle racks, bicycle lockers, and other bicycle facilities shall be provided to the satisfaction of the Community Development Department.
10. Any graffiti or acts of vandalism shall be removed or repaired within 24 hours.
11. A detailed landscape and irrigation plan prepared by a licensed Landscape Architect shall be submitted and approved by the Community Development Director or his designee prior to the issuance of building permits. Said landscaping shall be continuously maintained. Additional landscaping and design features shall be incorporated into the landscaped area between the parking lot and southerly property line to the satisfaction of the Community Development Director or his designee.
12. Additional landscape, hardscape, public seating, and water features shall be included in the final detailed landscape plan to the satisfaction of the Community Development Director.
13. The timing and ingress and egress points of construction of all onsite and offsite improvements shall be coordinated with the City of Temple City to the satisfaction of the Community Development Director.
14. Street trees and parkway landscaping shall be provided to the satisfaction of the Community Development Director and Parks and Recreation Director.
15. All proposed trash enclosures shall be covered with a solid decorative roof structure to the satisfaction of the Community Development Manager or his designee.
16. The conditions of approval contained in this Resolution may be enforced by the Sheriff's Office as well as by City staff. Any violation of any condition is a misdemeanor and may be processed directly by criminal complaint. The indemnity and enforcement provisions of the

Conditional Use Permit shall also be enforced as set forth therein.

17. The installation of lights for the parking lot shall be reviewed and approved by the Community Development Department; and any such installation shall include light shields to minimize glare affecting the surrounding residential neighborhood.
18. All proposed mechanical equipment should be screened from public view at all times. The location of such equipment shall be approved by the Community Development Department.
19. All activities and functions at the site shall be subject to the City's noise Ordinance. Any violation of the City's noise Ordinance as contained in Sections 9280 to 9282.1 shall be grounds for revocation of this Conditional Use Permit.
20. Permits: Provide a plot plan illustrating all of the right-of-way improvements from the centerline of street(s) to the property line(s). All work in the public right-of-way shall meet Los Angeles County Public Works Department standards and shall be reviewed by the City's Public Community Development Director. All permits shall be obtained from the Los Angeles County Public Works Department prior to commencement of any work in the public right-of-way.
21. All driveways serving the new commercial building shall be constructed to the satisfaction of the City's Traffic Engineer, the City's Community Development Director and Los Angeles County Public Works. All required signage shall be continuously maintained by the property owner.
22. Curb, Gutters, Sidewalks: Replace and/or upgrade driveway aprons, as may be required by the City's Community Development Director and the Los Angeles County Public Works Division. Driveways to be abandoned shall be replaced with standard curb, gutter, and/or sidewalk. Repair any broken or damaged curb, gutter, sidewalk, and pavement on streets within or abutting the subject property.
23. Surface Drainage: Provide all facilities necessary to accommodate contributory runoff and all surface drainage from the subject property and conduct it into appropriate storm drain facilities. No runoff shall be allowed to drain across a sidewalk. A drainage plan is required for the proposed project to address the above-mentioned concerns. Onsite drainage shall be contained onsite to the extent feasible utilizing biofiltration or similar system within the proposed parking lot. The landscaped areas in the parking lot shall serve as biofiltration devices.
24. Sewers: Provide sewer main and lateral improvements as required by the City's Community Development Director.
25. Underground Utilities: All utilities shall be provided underground from a primary service point in the public right-of-way or on a rear property line, to service panels or facilities on buildings. Prior to issuance of building permits, provide to the City's Community Development Director a detailed utility plan for review and approval showing all utility pipes, wires and conduits and their respective points of connection. All water meters shall be located outside of the sidewalk.

26. Disposal of Construction Waste: No construction activity waste material of any kind, including plaster, cement, paint, mud, or any other type of debris or liquid shall be allowed to be disposed of in the street or gutter, storm drain or sewer system. All debris spills shall be removed daily and the subject site shall use necessary dust control measures. Failure to comply with this condition will result in charges being filed with the District Attorney. (TCMC 3400-3411)
27. Solid Waste Management: Prior to issuance of Certificate of Occupancy, provide a written report to the City's Community Development Director showing description and quantity by weight of all construction and demolition debris, and method and location of disposal. Solid waste includes asphalt, concrete, brick, sand, earth, wood, plaster, drywall, paper, cardboard, wire, plastic, etc. Total quantities and general categories are required for all waste material, including weight tickets.
28. Stormwater Pollution: The property owner shall meet all requirements of the National Pollutant Discharge Elimination System (NPDES) related to pollutants, runoff or non-stormwater discharges (TCMC 8100-8405). The applicant shall receive approval from the City's Standard Urban Stormwater Mitigation Plan Consultant.
29. This Conditional Use Permit shall expire 24 months from the date of approval if said approval is not exercised within that time. If the project is not commenced prior to the expiration date, the applicant may apply in writing for an extension of time at least forty (40) days before the expiration date.
30. The building construction plans shall include a blue-line sheet(s) showing each page of this Resolution including all conditions of approval contained herein.
31. This Resolution shall not become valid until such time that the applicant and property owner has signed a copy of the Resolution acknowledging acceptance of the Conditions of Approval.

The following conditions are mitigation measures, which are also included in the related Initial Study/ Subsequent Mitigated Negative Declaration documents. Said mitigation measures (along with any amendments) shall be incorporated into a Mitigation Monitoring Program prepared by the applicant in accordance with the provisions of CEQA.

AESTHETICS

32. To mitigate the adverse aesthetic impact on residences immediately north of the project site created by the north wall of Building A and the block wall adjacent to the northerly property line, the applicant/developer will be required to pursue one or more of the following options, at the direction of the City:
 - A. Design and construct a series of appropriately scaled arches that cover the length of the north wall of Building A.
 - B. Install and maintain a "green screen" on and/or vine pockets adjacent to the block wall on the northerly property line. The landscaping shall be planted with evergreen vines or similar landscaping trained to grow up the wall.
 - C. Install and maintain vines or similar vertical landscaping at the base of the north wall of Building A. The landscaping shall be of a variety that discourages trespass and access to the wall, and that is attractive and evergreen.

D. The design and treatment of the north wall and Building A and the block wall adjacent to the northerly property line shall be reviewed and approved by the City Community Director prior to issuance of building permits on the project action on the project.

AIR QUALITY

33. For the demolition phase of construction, the applicant/permittee shall use a lean- NOX catalyst on both on-and off-road diesel equipment to reduce NOX emissions.
34. For the building construction phase of construction, the applicant/permittee shall use cooled exhaust gas recirculation on both on-and off-road diesel equipment to reduce NOX emissions.
35. The developer shall use zero Volatile Organic Compounds (VOC) content architectural coatings during the construction of the project and in accordance with SCAQMD regulations and guidelines.
36. All restaurant owners and/or operators shall be required to install emissions and odor control devices required by the South Coast Air Quality Management District and as applicable, Los Angeles County Health Department regulations. Such systems shall be installed and operable prior to the issuance of occupancy permits for any such restaurant.

GEOLOGY AND SOILS

37. Best Management Practices (BMPs) shall be employed during all site preparation, demolition, grading, and construction to ensure that all soil erosion and deposition are contained within the construction site. Such BMPs may include, but are not limited to, covering of the graded area or piled soil with straw or straw matting, and use of water for dust control.

NOISE

38. Construction activities shall be limited to the hours between 7:00 A.M. and 7:00 P.M. during the week and 8:00 A.M. and 6:00 P.M. on Saturdays. No construction activity shall occur on holidays or Sundays.
39. All heavy construction equipment and all stationary noise sources such as diesel generators shall have manufacturer-installed mufflers.
40. The project developer/applicant shall post a telephone number and name of a contact person for registering comments or complaints regarding construction noise. Such signage shall be posted in a clearly visible area along Rosemead Boulevard, Las Tunas Drive, and Sultana Avenue. All complaints shall be given to the City Planning Department on a daily basis.
41. Truck deliveries shall be limited to the hours between 7:00 A.M. and 10:00 P.M.
42. All mechanical equipment shall be acoustically shielded to levels that achieve the noise/land use compatibility criteria set forth in the City's General Plan Noise Element.
43. A 9-foot-high block wall shall be erected along the north property line, extending from the northeast corner of the project site west along the property line past Myda Avenue and west

to a point coinciding with the edge of the rear of the residence immediately adjacent to Elm Avenue, as shown on the figure below. The City will coordinate the design of the wall with the project developer.

44. Signs shall be posted at all parking structure exits cautioning drivers to maintain quiet and respect neighbors as they leave the site.
45. As part of the conditions of approval, the City shall reserve the right to limit the hours of operation of the restaurants as a means of reducing on-site noise in response to any prolonged, documentable evidence of noise conflicts.

TRANSPORTATION/TRAFFIC

46. Access to delivery truck loading area, and the subterranean parking structure will be provided via Elm Avenue. Elm Avenue will be striped to provide one inbound lane and one outbound lane. The Elm Avenue at Rosemead Boulevard driveway will offer full northbound and southbound inbound access, but will be limited to right-turn only egress. Westbound and eastbound left turn and through movements will not be allowed. Physical barriers, paint, and signage will be provided to ensure the intended ingress and egress operations. Also, a 35-foot curb return will be provided on the southeast corner of Rosemead Boulevard/Elm Avenue to facilitate easier right-turns for project traffic (refer to Figure 10 of the Traffic Study in Appendix D, March 2006 IS/MND).
47. Large truck circulation at site will enter at Sultana Avenue Driveway, back into loading dock, and exit to Rosemead Boulevard via Elm Avenue.
48. Sultana Avenue striping will remain matching existing conditions. City staff will monitor potential commercial traffic intrusion into neighborhoods adjacent to the project to determine if turn restrictions are required exiting the site at the Sultana Avenue Driveway.
49. The Las Tunas Drive curb edge adjacent the project will be coordinated with City Transportation Department staff to ensure accommodation of westbound vehicle lanes, a bus stop, and a dedicated right-turn lane at the Rosemead Boulevard/Las Tunas Drive intersection. Applicant will prepare roadway signing and striping plan on Las Tunas Drive in the project vicinity for review and approval by City Transportation Department staff.

SECTION 4. The City Clerk shall certify to passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED AND ADOPTED on this 5th day of April, 2011.

MAYOR

ATTEST:

City Clerk

I hereby certify that the foregoing resolution, Resolution No. 11-4735, was duly passed, approved and adopted by the City Council of the City of Temple City at a regular meeting held on the 5th day of April, 2011 by the following vote:

AYES: Councilmember-
NOES: Councilmember-
ABSENT: Councilmember-
ABSTAIN: Councilmember-

City Clerk

READ, APPROVED AND CONDITIONS ACCEPTED:

TCD Enterprises, LLC
Property Owner

Date

Howard Poyourow
Applicant

Date

RESOLUTION NO. 11-4736

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE CITY, CALIFORNIA ADOPTING A SUBSEQUENT MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING PROGRAM FOR ZC 09-1741 AND CUP 11-1778 - A ZONE CHANGE AND CONDITIONAL USE PERMIT TO CONSTRUCT A 75,000 SQUARE FOOT COMMERCIAL RETAIL SHOPPING CENTER CALLED THE GATEWAY PLAZA. THE PROPOSED PROJECT INVOLVES A ZONE CHANGE FROM MUZ (MIXED-USE) TO C-2 (GENERAL COMMERCIAL), AND A CONDITIONAL USE PERMIT TO CONSTRUCT A SHOPPING CENTER HAVING TWO OR MORE UNITS AND MORE THAN THIRTY THOUSAND (30,000) SQUARE FEET OF LOT AREA.

WHEREAS, TCD Enterprises, LLC. and Howard Poyourow have filed ZC 09-1741 and CUP 11-1778 as required by the City of Temple City Municipal Code; and,

WHEREAS, ZC 09-1741 and CUP 11-1778 have been submitted to construct a 75,000 square foot commercial retail shopping center called "The Gateway" project at 9021 Las Tunas Drive, Temple City, CA 91780, APN: 5387-013-031; and,

WHEREAS, an Initial Study, proposed Subsequent Mitigated Negative Declaration and proposed Mitigation Monitoring Program have been prepared regarding this project for consideration by the City Council; and,

WHEREAS, in light of the evidence that the project, as originally proposed, may have a significant effect on the environment as identified in the Initial Study, the applicant has agreed to revisions in the project plan and/or mitigation measures that will be imposed as conditions of approval on the project and are intended to mitigate any potential substantial effects identified in the Initial Study to a point where clearly no significant effect on the environment will occur; and,

WHEREAS, the City prepared a Notice of Intent to adopt a Subsequent Mitigated Negative Declaration which on February 17, 2011 was mailed to such responsible and trustee agencies as required; filed with the Clerk for the County of Los Angeles for posting; and provided to members of the public using a method permitted under CEQA Guidelines Section 15072(b); and,

WHEREAS, the draft Subsequent Mitigated Negative Declaration and Mitigation Monitoring Program, including the Initial Study and supporting documentation, were circulated and made available for a twenty (20) day public review period that commenced on February 22, 2011 and ended on March 15, 2011. During the public review period, the City received one written comments concerning the draft Subsequent Mitigated Negative Declaration; and,

WHEREAS, the City Council conducted a duly-noticed public hearing on March 15, 2011 to consider the Initial Study; proposed Subsequent Mitigated Negative Declaration; proposed Mitigation Monitoring Program, and application for the project at which hearing members of the public were afforded an opportunity to comment upon the project.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF TEMPLE CITY DOES RESOLVE, DETERMINE, FIND AND ORDER AS FOLLOWS:

SECTION 1: CEQA FINDINGS.

The Temple City City Council hereby finds, based on consideration of the whole record before it; including the City's local CEQA Guidelines and Thresholds of Significance; the Initial Study and documents incorporated therein; the proposed Subsequent Mitigated Negative Declaration; proposed Mitigation Monitoring Program; comments received thereon; and testimony heard at the public hearing, as follows:

1. Review Period: That the City has provided the public review period for the Subsequent Mitigated Negative Declaration for the duration required under CEQA Guidelines Sections 15073 and 15105; and
2. Compliance with Law: That the Initial Study, Subsequent Mitigated Negative Declaration and Mitigation Monitoring Program were prepared, processed, and noticed in accordance with the California Environmental Quality Act (Public Resources Code Section 21000 et seq.), the CEQA Guidelines (14 California Code of Regulations Section 15000 et seq.) and the local CEQA Guidelines and Thresholds of Significance adopted by the City of Temple City; and
3. Independent Judgment: That the Subsequent Mitigated Negative Declaration reflects the independent judgment and analysis of the City; and
4. Mitigation Monitoring Program: The monitoring program is designed to ensure compliance during project implementation in that changes to the project and/or mitigation measures have been incorporated into the project and are fully enforceable through permit conditions, agreements or other measures as required by Public Resources Code Section 21081.6.
5. No Significant Effect: That revisions made to the project plans agreed to by the applicant and/or mitigation measures imposed as conditions of approval on the project, avoid or mitigate any potential significant effects on the environment identified in the Initial Study to a point where clearly no significant effects on the environment will occur and there is no substantial evidence that the project, as proposed and conditioned, will have a significant effect on the environment.

SECTION 2: WILDLIFE RESOURCES.

Pursuant to Title 14, California Code of Regulation Section 753.5(c), the City Council has determined, based on consideration of the whole record before it, that there is no evidence that the proposed project will have the potential for any adverse effect on wildlife resources or the habitat upon which wildlife depends. Furthermore, on the basis of substantial evidence, the City Council hereby finds that any presumption of adverse impact has adequately been rebutted. Therefore, pursuant to Fish and Game Code Section 711.4(c)(2)(B) and Title 14, California Code of Regulations, Section 753.5.(a)(3), the project is not required to pay Fish and Game Department filing fees.

SECTION 3: LOCATION OF DOCUMENTS.

The Subsequent Mitigated Negative Declaration, Initial Study and Mitigation Monitoring Program, and Notice of Determination are on file and available for public review at Temple City City Hall, 9701 Las Tunas Drive, Temple City, California 91780. The Director of Community Development is the custodian of these documents.

SECTION 4: CITY COUNCIL ACTIONS.

The City Council hereby takes the following actions:

1. Subsequent Mitigated Negative Declaration: The Subsequent Mitigated Negative Declaration for ZC 09-1741 and CUP 11-1778 is hereby adopted and certified.
2. Mitigation Monitoring Program: The Mitigation Monitoring Program for ZC 09-1741 and CUP 11-1778 is hereby approved.
3. Notice of Determination: The Director of Community Development is directed to prepare and file with the Clerk for the County of Los Angeles, a Notice of Determination as provided under Public Resources Code Section 21152 and CEQA Guidelines 15075.

PASSED, APPROVED AND ADOPTED THIS 5th DAY OF APRIL 2011.

Mayor

ATTEST:

City Clerk

I hereby certify that the foregoing Resolution, Resolution No. 11-4736, was adopted by the City Council of the City of Temple City at a regular meeting held on the 5th day of April 2011 by the following vote:

AYES: Councilmember-
NOES: Councilmember-
ABSENT: Councilmember-
ABSTAIN: Councilmember-

City Clerk