

**CITY COUNCIL RESOLUTION NO. 2006-013
CONDITIONS OF APPROVAL - FINAL
VILLAGE USE PERMIT 2005-032
NISPERO PROPERTIES, INC.
FEBRUARY 7, 2006**

EXHIBIT "A"

GENERAL CONDITIONS OF APPROVAL

1. Village Use Permit 2005-032 (VUP 2005-032) shall be developed in compliance with these conditions and all approved site plan, elevation, color, materials and other approved exhibits submitted for this application, and any subsequent amendment(s). In the event of any conflicts, these conditions shall take precedence. In the event the Development Agreement referenced in Condition #55 is not entered into, this Village Use Permit approval is null and void.
2. This approval shall expire two years after its effective date, as determined pursuant to Section 9.200.060.C of the Zoning Code, unless extended pursuant to the provisions of Section 9.200.080.
3. The applicant agrees to defend, indemnify, and hold harmless the City of La Quinta (the "City"), its agents, officers and employees from any claim, action or proceeding to attack, set aside, void, or annul the approval of this development application or any application thereunder. The City shall have sole discretion in selecting its defense counsel.

The City shall promptly notify the developer of any claim, action or proceeding and shall cooperate fully in the defense.

4. Prior to the issuance of any permit by the City, the applicant shall obtain the necessary permits and/or clearances from the following agencies:
 - Riverside County Fire Marshal
 - La Quinta Building and Safety Department
 - La Quinta Public Works Department (Grading/ Improvement/Encroachment Permits)
 - La Quinta Community Development Department
 - Riverside County Environmental Health Department
 - Desert Sands Unified School District
 - Coachella Valley Water District (CVWD)
 - Southern California Gas Company
 - Imperial Irrigation District (IID)
 - California Water Quality Control Board (CWQCB)
 - Waste Management of the Desert

The applicant is responsible for any requirements of the permits or clearances from those jurisdictions. If the requirements include approval of improvement plans, applicant shall furnish proof of said approvals prior to obtaining City approval of the plans.

5. The applicant shall comply with applicable provisions of the City's NPDES stormwater discharge permit, Sections 8.70.010 et seq. (Stormwater Management and Discharge Controls) and 13.24.170 (Clean Air/Clean Water), LQMC; Riverside County Ordinance No. 457; and the State Water Resources Control Board's Order No. 99-08-DWQ.
6. Handicap access and facilities shall be provided in accordance with Federal (ADA), State and local requirements. Handicap accessible parking shall generally conform to the approved exhibits for VUP 2005-032.
7. All parking area civil plans and improvements shall be developed in accordance with the standards set forth in applicable portions of Section 9.150.080 of the Zoning Code, and these conditions, which shall take precedence in the event of any conflicts with said Section. Any on-street parking/street improvement plans for Main Street, if submitted, shall be reviewed and approved by the Public Works Department, as to acceptable design standards. Any deviation from standards as applicable under Section 9.150.080 of the Zoning Code, may be approved by the Community Development and Public Works Departments, as part of the improvement plan review process.

PROPERTY RIGHTS

8. Prior to issuance of any permit(s), the applicant shall acquire or confer easements and other property rights necessary for the construction or proper functioning of the proposed development. Conferred rights shall include irrevocable offers to dedicate or grant access easements to the City for emergency services and for maintenance, construction and reconstruction of essential improvements.
9. The applicant shall offer for dedication all public street right-of-ways in conformance with the City's General Plan, Municipal Code, applicable specific plans, and/or as required by the City Engineer.
10. The public street right-of-way offers for dedication required for this development include:

A. PUBLIC STREETS

- 1) Avenida La Fonda (Local Street, 60' ROW) – The standard 35 feet from the centerline of Avenida La Fonda for a total 60-foot ultimate developed right of way.
11. The applicant shall offer for dedication those easements necessary for the placement of, and access to, utility lines and structures, drainage basins, mailbox clusters, and common areas shown on the Village Use Permit.
12. Direct vehicular access from any portion of the site with frontage along Avenida La Fonda and Main Street is restricted, except for those access points identified on the approved site plan, or as otherwise conditioned in these conditions of approval.
13. The applicant shall furnish proof of easements or written permission, as appropriate, from owners of any abutting properties on which grading, retaining wall construction, permanent slopes, or other encroachments are to occur.
14. The applicant shall cause no easements to be granted, or recorded, over any portion of the subject property, between the date of approval of this Village Use Permit and the date of final acceptance of the on-site and off-site improvements for this Village Use Permit, unless such easements are approved by the City Engineer.
15. Upon approval of this Village Use Permit, the applicant shall begin right-of-way vacation of the existing remnant public right-of-way at the corner of Avenida La Fonda and Main Street (Avenida Buena Ventura).
16. Applicant shall process a parcel merger, in order to incorporate Lots 68 and 77 into one parcel. The merger shall have been recorded prior to issuance of a permit for the main building.

IMPROVEMENT PLANS

As used throughout these conditions of approval, professional titles such as "engineer", "surveyor", and "architect" refer to persons currently certified or licensed to practice their respective professions in the State of California.

17. Improvement plans shall be prepared by or under the direct supervision of qualified engineers and/or architects, as appropriate, and shall comply with the provisions of Section 13.24.040 (Improvement Plans), LQMC.
18. The following improvement plans shall be prepared and submitted for review and approval by the City. A separate set of plans for each line item specified below shall be prepared. The plans shall utilize the minimum scale specified, unless otherwise authorized by the City Engineer in writing. Plans may be prepared at a larger scale if additional detail or plan clarity is desired.

Note: the applicant may be required to prepare other improvement plans not listed here pursuant to improvements required by other agencies and utility purveyors.

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| A. | On-Site Rough Grading Plans | 1" = 30' Horizontal |
| B. | PM10 Plan | 1" = 40' Horizontal |
| C. | SWPPP | 1" = 40' Horizontal |

NOTE: A through C to be submitted concurrently.

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| D. | On-Site Precise Grading Plans (Commercial Development) | 1" = 30' Horizontal |
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Other engineered improvement plans prepared for City approval that are not listed above shall be prepared in formats approved by the City Engineer prior to commencing plan preparation.

On-Site Precise Grading Plans shall normally include all on-site surface improvements including but not necessarily limited to finish grades for curbs & gutters, sidewalks, building floor elevations, parking lot improvements and ADA requirements for the parking lot and access to the building; and showing the existing street improvements out to at least the center lines of adjacent existing streets, including ADA accessibility route to surrounding buildings, parking facilities and public streets.

19. The City maintains standard plans, details and/or construction notes for elements of construction on the Public Works Online Engineering Library at the City website (www.la-quinta.org). Navigate to the Public Works Department home page and look for the Online Engineering Library hyperlink.

20. The applicant shall furnish a complete set of the AutoCAD files of all approved improvement plans on a storage media acceptable to the City Engineer. The files shall be saved in a standard AutoCAD format so they may be fully retrievable through a basic AutoCAD program.

At the completion of construction, and prior to the final acceptance of the improvements by the City, the applicant shall update the AutoCAD files in order to reflect the as-built conditions.

Where the improvement plans were not produced in a standard AutoCAD format, or a file format that can be converted to an AutoCAD format, the City Engineer will accept raster-image files of the plans

GRADING

21. Prior to occupancy of the project site for any construction, or other purposes, the applicant shall obtain a grading permit approved by the City Engineer.
22. To obtain an approved grading permit, the applicant shall submit and obtain approval of all of the following:
- A. A precise grading plan prepared by a qualified engineer or architect,
 - B. A preliminary geotechnical ("soils") report prepared by a qualified engineer,
 - C. A Fugitive Dust Control Plan prepared in accordance with Chapter 6.16 (Fugitive Dust Control), LQMC.

All grading shall conform to the recommendations contained in the Preliminary Soils Report, and shall be certified as being adequate by a soils engineer, or by an engineering geologist.

The applicant shall furnish security, in a form acceptable to the City, and in an amount sufficient to guarantee compliance with the approved Fugitive Dust Control Plan provisions as submitted with its application for a grading permit.

23. The applicant shall maintain all open graded, undeveloped land to prevent wind and water erosion of soils. All such land shall be planted with interim landscaping or provided with other erosion control measures as approved by the Public Works Departments under the Fugitive Dust Control Plan.

24. Prior to issuance of the main building permit, the applicant shall provide a lot pad certification, stamped and signed by qualified engineers or surveyor.

DRAINAGE

25. Nuisance water shall be retained onsite and disposed of in a manner acceptable to the City Engineer.

UTILITIES

26. The applicant shall obtain the approval of the City Engineer for the location of all utility lines within the right of way and all above-ground utility structures including, but not limited to, traffic signal cabinets, electrical vaults, water valves, and telephone stands, to ensure optimum placement for practical and aesthetic purposes.
27. Underground utilities shall be installed prior to overlying hardscape. For installation of utilities in existing, improved streets, the applicant shall comply with trench restoration requirements maintained or required by the City Engineer. The applicant shall provide certified reports of all utility trench compaction for approval of the City Engineer.
28. Prior to issuance of any building permit, the applicant shall provide evidence to the Public Works Department, of vacation of the existing 10-foot PUE along the common lot line of lots 68 and 77, along with any relocated easement(s) as may be required. Any in-ground utilities shall be relocated to the satisfaction of the purveyor of record, and the City Engineer

STREET AND TRAFFIC IMPROVEMENTS

29. The applicant shall comply with the provisions of Sections 13.24.060 (Street Improvements), 13.24.070 (Street Design - Generally) & 13.24.100 (Access For Individual Properties And Development), LQMC for public streets.
30. No additional street improvements are required, except for:

- A. Avenida La Fonda
 - 1) A five-foot wide sidewalk next to the curb along the property boundary with corner improvements and curb ramp per Standard 250 – Case A.
- B. Main Street
 - 1) A minimum five-foot wide sidewalk next to the curb along the property boundary, to consist of enhanced design materials (e.g. colored/stamped concrete, pavers, etc.) and to include provision for landscaped areas. The sidewalk design shall provide for minimum clearances of 4 feet for ADA accessibility. It is acknowledged that the applicant may submit street improvement plans for Main Street, to accommodate on-street parking along the inside curve (west side), but is not required to do so. Any such improvement plans shall be subject to review and approval by the Community Development and Public Works Departments, as specified in Condition 7. Generally, said plans shall be based on a 4-foot curb inset to the west from existing curb line along Main Street, for an 18-foot half-width pavement section, as measured from centerline to gutter flow line, along the project frontage.

PARKING LOTS AND ACCESS POINTS

- 31. The applicant shall conform to LQMC Chapter 9.150, relating to drive isle width, parking stall dimensions, and parking stall marking design requirements. Parking space markings shall be double four inch wide hairpin stripes as specified in LQMC Chapter 9.150. Exceptions to parking lot development standards shall be as shown on the plans and as set forth in these Conditions, which shall take precedence.
- 32. The applicant shall design street pavement sections using Caltrans' design procedure (20-year life) and site-specific data for soil strength and anticipated traffic loading (including construction traffic). Minimum structural sections shall be as follows (or approved equivalents for alternate materials):

Parking Areas	3.0" a.c./4.0" c.a.b.
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- 33. The applicant shall submit current mix designs (less than two years old at the time of construction) for base, asphalt concrete and Portland cement concrete.

The submittal shall include test results for all specimens used in the mix design procedure. For mix designs over six months old, the submittal shall include recent (less than six months old at the time of construction) aggregate gradation test results confirming that design gradations can be achieved in current production. The applicant shall not schedule construction operations until mix designs are approved.

34. General access points and turning movements of traffic are limited to the proposed access driveways on Main Street and Avenida La Fonda. All turn movements are permitted.
35. The entry driveway throat and parking aisle shall be permitted to be constructed as designed on the approved plans, at the depths as shown and 26 feet in width rather than the required 28 feet, as permitted under Section 9.65.030.A.3.a, in order to retain the parking space count of 49 on-site spaces. Use of wheel stops is not permitted.
36. A total space count of 49 parking stalls, including handicapped parking spaces, shall be provided. A minimum of 16 spaces shall be maintained as covered parking, to be designed and located as required under Section 9.150.080.B.5, LQMC.
37. Design and final location of the two trash enclosures shall be reviewed and approved by Waste Management., with the written and/or stamped plan approval to be submitted during the building plan check process. No permits for these facilities shall be issued without said approval.
38. A minimum four-foot high screen wall shall be provided at the west property line. The wall design shall be consistent with the materials and colors used on the main structure, subject to review and approval by Community Development. This shall be shown on the civil and landscape plans as submitted for plan check.

LANDSCAPING

39. On-site and off-site (streetscape) landscape, landscape lighting and irrigation plans shall be submitted for approval by the Community Development Department. Plans shall be in substantial conformance with the conceptual landscaping as approved for the project by Planning Commission. When plan checking is complete, the applicant shall obtain the signatures of CVWD and the

Riverside County Agricultural Commissioner prior to submitting for final acceptance by the Community Development Department.

40. The Silk trees located along the west property line shall be replaced with a non-deciduous (evergreen) variety, to be approved as part of the landscape plan check process.
41. The Phoenix Dactylifera species (Date Palms) to be used shall be purchased from within the Coachella Valley, per the requirement of the Riverside County Agricultural Commissioner.

QUALITY ASSURANCE

42. The applicant shall employ construction quality-assurance measures which meet the approval of the City Engineer.
43. The applicant shall employ or retain qualified engineers, surveyors, or other appropriate professionals as are required to provide the expertise with which to prepare and sign accurate record drawings, and to provide adequate construction supervision.
44. The applicant shall arrange for, and bear the cost of, all measurement, sampling and testing procedures not included in the City's inspection program but required by the City as evidence that construction materials and methods employed comply with plans, specifications and other applicable regulations.
45. Upon completion of construction, the applicant shall furnish the City with reproducible record drawings of all improvement plans which were approved by the City. Each sheet shall be clearly marked "Record Drawing," "As-Built" or "As-Constructed" and shall be stamped and signed by the engineer or surveyor certifying to the accuracy and completeness of the drawings. The applicant shall have all AutoCAD or raster-image files previously submitted to the City revised to reflect the as-built conditions.

FEES AND DEPOSITS

46. The applicant shall pay the City's established fees for plan checking and construction inspection. Fee amounts shall be those in effect when the applicant makes application for plan checking and permits.

47. Provisions shall be made to comply with the terms and requirements of the City's adopted Art in Public Places program in effect at the time of issuance of building permits.
48. Permit(s) issued under this approval shall be subject to the provisions of the Development Impact Fee program in effect at the time said permit(s) are issued.
49. Prior to the issuance of any building permit for the Site, the applicant shall pay the up-front parking fees, in the manner and amount as specified in the Development Agreement for Village Use Permit 2005-032.

FIRE PROTECTION

50. Specific fire protection requirements will be determined when final building plans are submitted for review. Final conditions will be addressed when building plans are submitted. A plan check fee must be paid to the Fire Department at the time building plans are submitted.

MISCELLANEOUS

51. The applicant shall submit a detailed project area lighting plan. Parking lot lighting is required, and shall meet the criteria set forth in Section 9.150.080.K, LQMC. All pole-mounted light standards shall conform to lighting standards as in effect when plans are reviewed. Under canopy lighting for building areas shall incorporate flush lens caps or similar recessed ceiling lighting.

The lighting plan shall be submitted for review at the time construction plan check for the permanent building permit is made to Building and Safety.

52. A comprehensive sign program shall be submitted for review and approval by the Planning Commission prior to establishment of any individual tenant signs for the project. Provisions of the sign program shall be in compliance with applicable sections of Chapter 9.160 of the Zoning Code. No signs shall be permitted to be placed on any portion of the roof projections or balcony railings along Main Street, and the west elevation.
53. All roof-mounted mechanical equipment must be internal to the roof design, or screened as an integral part of the roof structure, in a manner so as not to be visible from surrounding properties and streets. Working drawings showing all such equipment and locations shall be submitted to the Building and Safety

Department along with the construction plan submittal for building permits. The method and design must be approved by the Community Development Department, prior to any issuance of the main structural building permit.

54. The building plans submitted for plan check shall incorporate the following revisions:
 - A. The west elevation for the coffee shop portion of the building shall be modified to lower the stone veneer work, and add arched windows, and/or similar detailing, compatible with the main building.
 - B. Wrought iron railings used on the project shall reflect more of a hand-crafted detailing, similar to the photo exhibit examples in the approved plan set, as opposed to the standard appearance of railings as represented in the architectural renderings and elevations.
 - C. The proposed sign monument shall be reviewed as part of the sign program, as required by Condition 52. The monument shall be similar in design to the photo exhibit example of the fountain, contained in the approved plan exhibits.

55. It is understood by the Applicant that Nispero Properties, Inc, by payment of a deposit in the amount of \$5,000 on 12/21/05, has entered into an Agreement with the City relating to preparation and possible approval of a Development Agreement for the purpose of clarifying the applicant's parking obligations associated with development of Village Use Permit 2005-032. This Village Use Permit shall not be effective unless and until the Development Agreement has been approved by the City Council and recorded; the applicant further understands that the City Council may choose to reject entering the Development Agreement or modify its contents. While this approval will not be effective until such time as a Development Agreement may become effective, the time limits associated with approval of VUP 2005-032 shall be in effect with respect to expiration, as stated under Condition #2.

56. The permitted office and coffee bar uses shall be limited to those of a general intensity, consistent with the parking ratios of 1 space per 250 s.f. of office and 1 space per 150 s.f. of retail food with ancillary seating. This precludes use of any office space as a medical office use, and retail food with ancillary seating space for sit-down restaurant use, unless shared parking or tenant space reductions are determined to maintain the approved parking ratios for this building, or the Development Agreement is amended to allow payment of per-space fees to increase any use intensity for the project.

57. Use of the coffee bar lease space may be relocated to an alternate ground floor space, oriented toward the center of the main building proximate to the pedestrian entrance from Main Street. Limited unreserved ancillary outdoor seating for coffee bar patrons may be provided in the entry courtyard, whether or not the coffee bar space is relocated.