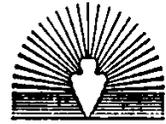




**LAND USE SERVICES DEPARTMENT
PLANNING DIVISION
PLANNING COMMISSION STAFF REPORT**



HEARING DATE: June 20, 2013

AGENDA ITEM NO: 2

Vicinity Map

VICINITY MAP N ↑

PROJECT DESCRIPTION

APN: 0294-031-06 THRU -21, -40
APPLICANT: Joseph E. Bonadiman & Associates, Inc.
PROPOSAL: Establish a Land Conservation Contract within an existing Agricultural Preserve on 178.35 acres.
COMMUNITY: Redlands / 3rd Supervisorial District
LOCATION: Canyon Road, Both Sides; 1000' east of Whittier Avenue
PROJECT NO.: P201200414/LLC
REP(S): Joseph E. Bonadiman & Associates, Inc.
STAFF: Christney Barilla



30 Hearing Notices Sent: June 6, 2013

Report Prepared by: Christney Barilla

SITE DESCRIPTION:

Parcel Size: Parcel total 178.35 acres.
Terrain: Moderate to above moderate slope.
Vegetation: Native cottonwoods, willows and vegetation with riparian wildlife both mammalian and avian.

EXISTING LAND USES AND DISTRICT DESIGNATIONS:

AREA	EXISTING LAND USE	ZONING/OVERLAY DISTRICT
Site	Residential	AG-10-AP (Agricultural – 10 Acres Min. – Agricultural Preserve); Biological Burrowing Owl (SE)
North	Residential	AG-10-AP (Agricultural – 10 Acres Min. – Agricultural Preserve); Biological Burrowing Owl (SE)
South	Residential	AG-10-AP (Agricultural – 10 Acres Min. – Agricultural Preserve); Biological Burrowing Owl (SE)
East	Residential	AG-10-AP (Agricultural – 10 Acres Min. – Agricultural Preserve); Biological Burrowing Owl (SE)
West	Residential	RL-10 (Rural Living – 10 Acres Min.); Biological Burrowing Owl (SE)

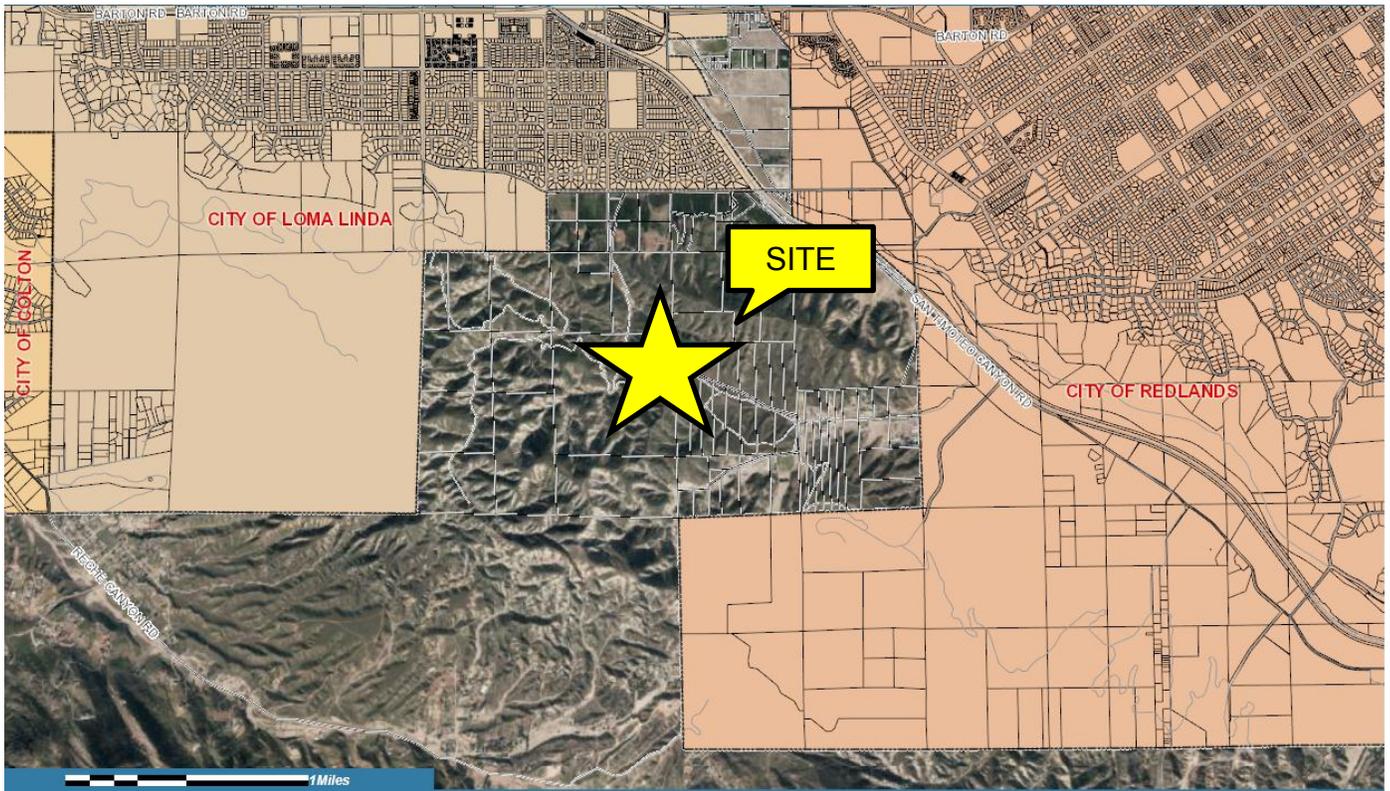
	AGENCY	COMMENTS
City Sphere of Influence MAC/CAP:	Redlands	No Comments
Water Service:	N/A	Not required
Septic/Sewer Service:	N/A	Not required

STAFF RECOMMENDATION: That the Planning Commission recommend **APPROVAL** of the Land Conservation Contract by the Board of Supervisors.

In accordance with Section 86.08.010 of the Development Code, this action may be appealed to the Board of Supervisors.

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VICINITY MAP

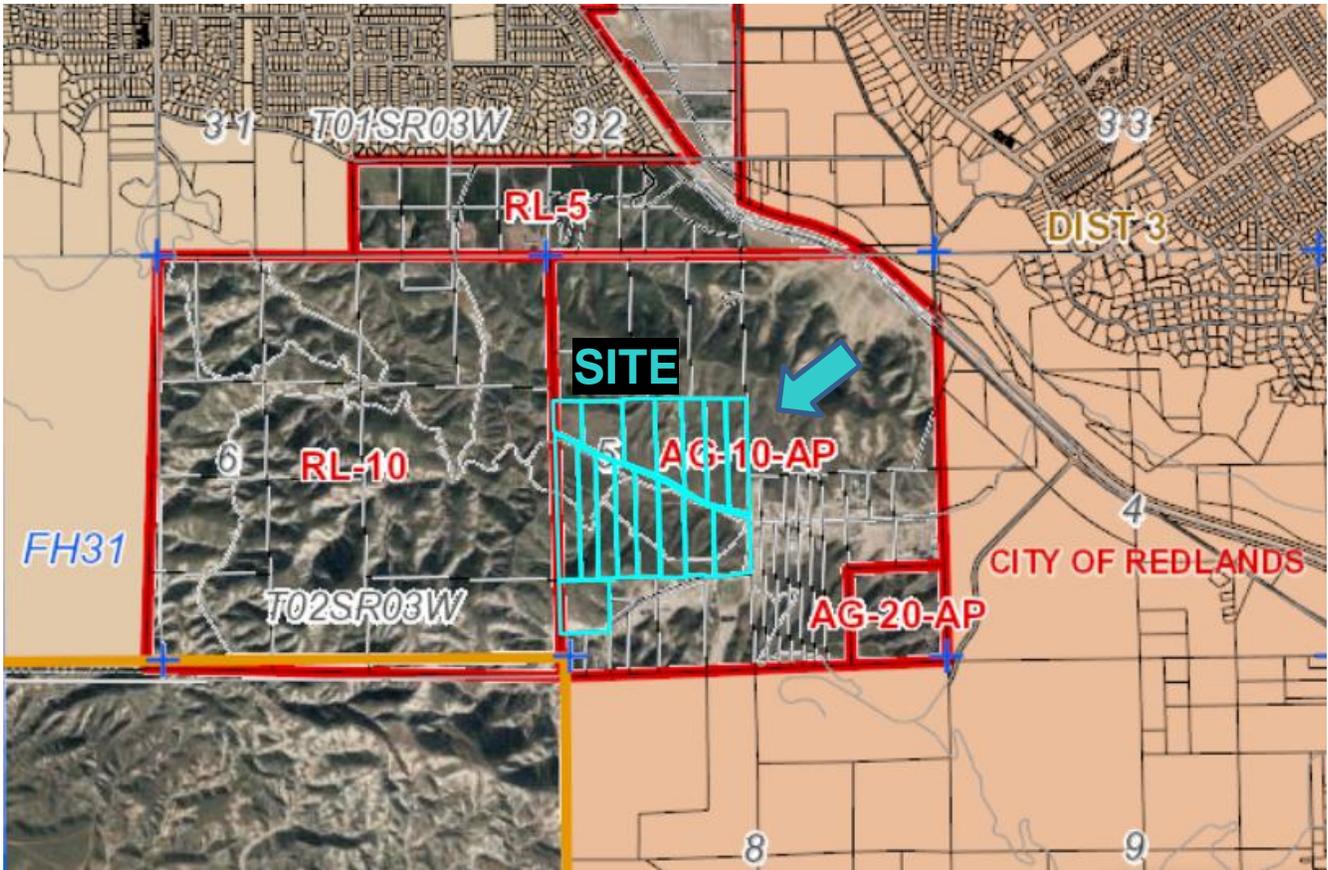


AERIAL VIEW



SITE

LAND USE ZONING DISTRICT MAP



SITE PHOTOS



View looking east into the site.

SITE PHOTOS – CONTINUED



View looking west into the site.

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SITE PHOTOS - CONTINUED



View looking north into the site

SITE PHOTOS – CONTINUED



View looking south into the site

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BACKGROUND:

Laura Anne Ramirez is requesting that the County enter into a Land Conservation Contract (LCC) for a 178.35 acre site located in the Redlands – San Timoteo Area Agricultural Preserve, which was established in the late 1960's. The Project is located on both sides of Canyon Road approximately 1000 feet east of Whittier Avenue in the unincorporated Redlands area of the County of San Bernardino. The site is also within the City of Redlands Sphere of Influence and the Third Supervisorial District. The LLC site is zoned Agricultural – 10 Acre Minimum – Agricultural Preserve (AG-10-AP). The 178.35 acre project area consists of eighteen (18) parcels which are currently used as agricultural open space.

The California Land Conservation Act of 1965, also known as the Williamson Act, is the State's principal policy for the preservation of agricultural and open-space land. It is a voluntary, locally administered program that provides a mechanism for local governments to protect farmland and open space in cooperation with the owners of the land. Landowners enroll parcels under contracts with local governments to restrict lands to agriculture and compatible open-space uses for a minimum of 10 years. In return, the land is assessed for property taxes at a rate consistent with its actual use rather than potential market value.

Since the Williamson Act inception, the County has received a measure of compensation from the state to help cover the tax break. However, no such funding has been granted by the state since the 2008-2009 budget year. Amendments to the Budget Act of 2009 reduced the Williamson Act Subvention payments budget to \$1,000, essentially suspending the subvention payments to the counties. Despite this cut to the subvention payments, the Department of Conservation's Williamson Act Program is still in place. Department of Conservation staff are still available as a resource to counties, individual landowners, and the general public. Williamson Act contracts were not affected by the budget cut, and also remain in place.

The proposed parcels for enrollment under contract, are within the boundaries of an agricultural preserve. By definition the agricultural preserve consists of prime agricultural land, which qualifies for a rating between 80 to 100 on the Storie Index Rating. The Storie Index expresses numerically the relative degree of suitability of soil for general intensive agricultural use, as it exists at the time of evaluation. The agricultural preserve land qualifies for rating as Class I or Class II in the Soil Conservation Service Land Use Capability Classification.

According to the County Development Code, an Agricultural Preserve Overlay shall be applied to properties within an Agricultural Preserve as defined in the California Land Conservation Act of 1965 (Williamson Act), Government Code Section 51200, et seq., and as designated upon the General Plan land use maps. The Agricultural Preserve Overlay may be applied only to properties designated in the Resource Conservation (RC), Agriculture (AG), Rural Living (RL), and Floodway (FW) Land Use Zoning Districts.

In addition, because the preservation of agricultural land uses is essential to the economic well-being of the County, the Agricultural Preserve (AP) Overlay is intended to protect vital agricultural uses by limiting allowed land uses to those that are compatible and supportive of agriculture and related uses and/or agricultural by-products; including agricultural open space. Development and new land uses proposed within the Agricultural Preserve Overlay must comply with the development standards of the applicable primary zoning district which is Agricultural (AG).

ANALYSIS: Land Conservation Contract (LCC)

Since the proposed site is within an Agricultural Preserve (AP) Overlay established by Sections 82.01.020 (Land Use Plan and Land Use Zoning Districts) and 82.01.030 (Overlays) of the County Development Code, which identifies properties within an established agricultural preserve, the properties may be subject to a Land Conservation Contract executed between the landowner and the Board. These agreements offer tax advantages to the landowner and include an enumerated list of the allowed uses for the commercial production of plant and animal products that have been found to be compatible with agriculture. Currently the Redlands – San Timoteo Area Agricultural Preserve consists of approximately 682.12 acres of prime agricultural land. The 178.35 acre site area consists of eighteen (18) parcels which are used as agricultural open space. The 178.35 acre site is surrounded on all sides by either an Agricultural or Rural Living Land Use Zoning Designations.

The applicant has indicated that they intend to continue to maintain the site as agricultural preserve property for at least 10 years, and would like to obtain the property tax advantage for doing so. California Government Code Section 51242 requires that land subject to a Williamson Act contract must be: 1) devoted to agricultural uses or open space, and 2) located within an area designated by a city or county as an agricultural preserve. As the site lies within an established agricultural preserve and is well suited for continued agricultural open space property; staff determined that the land meets the requirements for entry into a Williamson Act contract. Since the parcels are within an Agricultural Land Use Zoning Designation with an Agricultural Preserve Overlay the agricultural open space use is consistent with the General Plan and the Development Code.

PUBLIC NOTICES:

On December 19, 2012 County Staff mailed the Project notices to 28 owners of property within 1,300 feet of the external boundaries of the Project site, as required by Development Code Section 84.27.070. In response, Staff received no comments from the public.

ENVIRONMENTAL DETERMINATION:

In compliance with the California Environmental Quality Act (CEQA), it has been determined that the project qualifies for a Categorical Exemption pursuant to Section 15317 of the CEQA Guidelines. This exemption states that the establishment of agricultural preserves and the making and renewing of open space contracts under the Williamson Act are exempt.

SUMMARY:

The applicant conducted a site analysis and determined that the site is within and an Agricultural Preserve and would be beneficial to remain as agricultural open space by entering into a Land Conservation Contract with the County to restrict lands to agriculture and compatible open-space uses for a minimum of 10 years. Based on the findings of fact and the Project compliance with the County's Development Code and General Plan, staff recommends approval of a Land Conservation Contract.

Joseph E. Bonadiman & Associates, Inc.
P201200414
APN: 0294-031-06 THRU -21, -40
Planning Commission Hearing – June 20, 2013

RECOMMENDATION:

That the Planning Commission recommends to the Board of Supervisors to:

1. **ADOPT** the Findings for approval of a Land Conservation Contract contained in the Staff Report;
2. **APPROVE** the establishment of this Land Conservation Contract; and
3. **FILE** the Notice of Exemption.

ATTACHMENTS:

Exhibit A: Findings
Exhibit B: Draft Contract

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EXHIBIT A

FINDINGS

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Joseph E. Bonadiman & Associates, Inc.
P201200414
APN: 0294-031-06 THRU -21, -40
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LAND CONSERVATION CONTRACT FINDINGS

General findings for a Land Conservation Contract.

1. The proposed land use conservation contract and the open space use are consistent with the goals, maps, policies, and standards of the General Plan and the Development Code.
2. The proposed land use conservation contract site lies within an established agricultural preserve.
3. There is no substantial evidence that the project will have a significant effect on the environment, as determined and justified by the Notice of Exemption.

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EXHIBIT B

DRAFT CONTRACT

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Recording Requested by:

County of San Bernardino
Land Use Services Department
Planning Division

and when recorded mail to above and:

Laura Anne Ramirez
P. O. Box 1525
Loma Linda, CA 92345

SPACE ABOVE THIS LINE FOR RECORDERS USE ONLY

LAND CONSERVATION CONTRACT
Contract Number 2013-603

THIS CONTRACT is made and entered into this ___th day of (month) 2013, by and between Laura Anne Ramirez hereinafter referred to as "OWNER", and the COUNTY OF SAN BERNARDINO, a political subdivision of the State of California, hereinafter referred to as "COUNTY."

WITNESSETH:

WHEREAS, OWNERS possess certain real property located within the COUNTY, which property is presently devoted to agricultural and compatible uses and is particularly described in Exhibit "A", attached hereto and made a part hereof, and

WHEREAS, said property is located in the Redlands/San Timoteo Agricultural Preserve heretofore established by COUNTY by Resolution dated February 10, 1970, which referenced that Agricultural Preserve Map, and

WHEREAS, both OWNERS and COUNTY desire to limit the use of said property to agricultural and compatible uses in order to discourage premature and unnecessary conversion of such lands from agricultural uses, recognizing that such land has definite public value as open space and that the preservation of such land in agricultural production constitutes an important physical, social, aesthetic and economic asset to the COUNTY to maintain the agricultural economy of the COUNTY and the State of California, and

WHEREAS, both OWNERS and COUNTY intend that the terms, conditions and restrictions of this Contract are substantially similar to contracts authorized by the California Land Conservation Act of 1965, as amended, so as to be an enforceable restriction under the provisions of California Revenue and Taxation Code Section 422.

NOW, THEREFORE, the parties in consideration of the mutual covenants and conditions set forth herein and the substantial public benefits to be derived therefrom, do hereby agree as follows:

(1) CALIFORNIA LAND CONSERVATION ACT OF 1965, AS AMENDED. This contract is made and entered into pursuant to the California Land Conservation Act of 1965, as amended, (Chapter 7 of Part 1 of Division 1 of Title 5 of the California Government Code commencing with Section 51200) and is subject to all the provisions, including amendments thereto which may be enacted, which are specifically applicable to such contracts.

(2) AGRICULTURAL AND COMPATIBLE USES. During the term of this contract or any renewals thereof, the above-described land shall not be used for any purpose, other than the production of agricultural commodities for commercial purposes and compatible uses as listed in the resolution establishing the preserve within which the land is located, a copy of such list is attached hereto and marked as Exhibit "B".

(3) ADDITIONAL USES. The Board of Supervisors of COUNTY may from time to time and during the term of this contract or any extensions thereof, by resolution add to those uses listed in the resolution establishing the preserve within which the land is located.

(4) CONDEMNATION. In the event of an action in eminent domain or on acquisition in lieu of eminent domain in respect to the land, or any part thereof, described herein, this contract shall be subject to the provisions of Government Code Section 51290 et seq.

(5) TERM OF CONTRACT. This contract shall be effective commencing on [\[...commencing on the 1st day of January following date approved by the Board and remaining in effect for a ten year period\]](#) January 1, _____ and shall remain in effect for a period ending December _____, and during such renewals of this contract.

This contract shall be automatically extended for an additional year on the first day of each January (so that the un-expired term is ten (10) years from the first day of each January), unless notice of non-renewal is given pursuant to Government Code Section 51245 et seq. Upon receipt of timely notice of non-renewal by either party, this contract shall remain in effect for the balance of the period remaining since the original execution or the last renewal of the contract, as the case may be.

(6) NO PAYMENTS BY COUNTY. OWNERS shall not receive any payment from COUNTY in consideration of the obligations imposed hereunder, it being recognized and agreed that the consideration for the execution of this contract is the substantial public benefit to be derived herefrom and the advantage which will accrue to OWNERS as a result of the effect on the method of determining the assessed value of land described herein and any reduction thereof due to the imposition of the limitations on its use contained herein.

(7) SUCCESSORS IN INTEREST. This contract shall run with the land described herein, and shall be binding upon the heirs, successors and assigns of OWNERS.

(8) CANCELLATION. Except as provided in Clause 9, below, this contract may be cancelled as to any or all of the land described in Exhibit "A" by mutual agreement of OWNERS and COUNTY providing such cancellation is strictly pursuant to the provisions of Government Code Sections 51280 through 51285.

(9) DIVISION OF LAND UNDER CONTRACT. Whenever the land under this contract is divided, the owner of any parcel may exercise, independent of any other owner of a portion of the divided land, any of the rights of the owner of the original contract, including the right to give notice of non-renewal and to petition for cancellation. The effect of any such action by the owner of a parcel created by the division of land under contract shall not be imputed to the owners of the remaining parcels and shall have no effect on the contract as it applies to the remaining parcels of divided land.

(10) INFORMATION FROM OWNERS. OWNERS, upon request of COUNTY, shall provide information relating to OWNERS' obligation under this contract.

(11) ACTS OF NONRENEWAL BY COUNTY. Removal of land under this contract from an agricultural preserve shall be the equivalent of notice of non-renewal by COUNTY and COUNTY shall at least 60 days prior to the next renewal date following the removal, serve a notice of non-renewal as provided in Government Code Section 51245.

(12) TERMINATION DOCUMENT RECORDATION. In the event of termination of this contract by (1) notice of non-renewal, (2) cancellation, (3) nullification by annexation or condemnation, the COUNTY shall record the appropriate documents in the County Recorder's Office and file such documents with any other governmental agency authorized to receive them.

(13) ANNEXATION OF LAND WITHIN ONE MILE. In the event that the land of OWNERS, or any portion thereof, which is included in Exhibit "A" and is within one mile of the boundaries of a city at the time this contract is executed, is subsequently annexed by such city, but such city by its acts does not succeed to all the rights, duties and powers of this contract, then OWNERS and the land, or such portion thereof, shall be subject to a charge amounting to the differential (for the last five assessments prior to annexation, or the actual number of assessments, if less than five, during the existence of this contract) between the taxes as actually computed under this contract, and the taxes which would have been computed without the benefit of the restrictions of this contract.

(14) NOTICES. Any notices required to be given hereunder or required to be given by law shall be given by United States registered mail, return receipt requested, and any notice to the COUNTY shall be sent to the Clerk of the Board of Supervisors of San Bernardino County, San Bernardino, CA 92415, and any notice to OWNERS shall be sent to the last known address as shown on the latest assessment roll. Such address shall be the proper address for every person in the case of multiple owners.

(15) SEVERABILITY. It is understood and agreed by the parties hereto that if any of these provisions shall contravene the Land Conservation Act of 1965, as amended, or be invalid under any law, such contravention or invalidity shall be construed as if not containing the particular provision or provisions held to be invalid, and the rights and obligations of the parties shall be construed and enforced accordingly.

NOTE: All owners, including multiple owners, and spouses, must execute this agreement. All signatures must be notarized, either separately or collectively. Please obtain the certification sheets necessary for the signatures and attach them after this page.

OWNER:

Laura Anne Ramirez, an unmarried woman

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN BERNARDINO)

On _____ before me, _____,
personally appeared _____,

who proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that her/she/they executed the same in his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS by hand and official seal.

Signature _____

EXHIBIT "A"

DESCRIPTION OF PROPERTY

<u>TAX PARCEL NUMBER</u>	<u>EXACT DESCRIPTION FROM LAST TAX STATEMENT</u>
0294-031-06	Lot 1 thru 12, incl., 14-thru 16, incl. and North ½ of Lot 19, Security Acres, Tract No. 2064, County of San Bernardino, State of California, as per Map in Book 30, page 21 Maps of Said County
0294-031-07	
0294-031-08	
0294-031-09	
0294-031-10	
0294-031-11	
0294-031-12	
0294-031-13	
0294-031-14	
0294-031-15	
0294-031-16	
0294-031-17	
0294-031-18	
0294-031-19	
0294-031-20	
0294-031-21	
0294-031-38	
0294-031-39	

The location of the Agricultural Preserve in which the subject property lies is shown in the San Bernardino Agricultural Preserve Maps available at the public information counter of the County of San Bernardino Land Use Services Department or at the Departmental Website: <http://cms.sbcounty.gov/lus/Planning/ZoningOverlayMaps/ZoningMaps.aspx>

EXHIBIT B

UNIFORM RULES AND COMPATIBLE USES FOR AGRICULTURAL PRESERVES IN SAN BERNARDINO COUNTY

The following uses are subject to Land Use Zoning District and General Plan requirements and are hereby determined to be agricultural and compatible uses within an agricultural preserve and all other uses are prohibited therein:

Compatible uses. The following land use types have been determined to be compatible:

- (1) Agricultural use, described as any use of land for the purpose of producing an agricultural commodity, consisting of any and all plant and animal products for commercial purposes, provided the use is permitted by the primary zoning district and not prohibited by other law or ordinance.
- (2) A stand for display and sale of agricultural commodities produced on the premises or other premises within the preserve.
- (3) Gas, electric, water, communication utility facilities, and similar public service facilities, operated by a public agency or mutual water company.
- (4) Public highways.
- (5) Fire protection facilities.
- (6) Flood control works, including channel rectification and alteration.
- (7) Public works required for fish and wildlife enhancement and preservation.
- (8) Improvements for the primary benefit of the land within the preserve.
- (9) State improvements described in Government Code Section 51293(d).
- (10) Single dwellings only for the use of an owner or manager of land within the agricultural preserve, or a person employed on the land, if the use is permitted by the applicable primary zoning district, but not exceeding three dwellings for each parcel of not less than 10 acres.
- (11) Farm labor camps, including temporary trailer housing, subject to all applicable requirements of this Development Code and all other applicable laws.
- (12) Drying, packing or other processing of an agricultural commodity usually performed on the premises where it is produced.
- (13) A legal use existing on the date the land is included within an agricultural preserve, but any use since discontinued for two years shall not be resumed unless permitted under these rules.
- (14) A use required to be permitted by an amendment to the California Land Conservation Act of 1965 hereafter adopted.

(15) "Open space uses" as defined in Government Code Section 51201.

(16) Religious facilities. Total square footage of all structures on site shall not exceed 12,000 square feet. Minimum parcel size shall be 10 acres, unless the parcel was created before January 1, 1991, in which case the minimum parcel size shall be five acres.

(17) Agriculturally oriented schools with an approved Conditional Use Permit, subject to provisions adopted by the Board of Supervisors on November 3, 1980 regarding compatibility within an Agricultural Preserve.

(18) Resource Recovery Systems designed for the use of animal or plant products or waste for no less than 75 percent of their fuel or material source (percent measured as British Thermal Unit heat content for energy generation or percent of volume of materials consumed for agricultural products averaged over the current year of operation) for the production of a commodity for the primary benefit of the agricultural community or for the generation of electricity, unless prohibited by other law or ordinance.

(A) Any temporary or permanent use of more than 25 percent non-animal or plant products or waste (percent measured as described above) by an approved project is subject to Commission approval and their finding that an adequate animal or plant product or waste supply is not available to maintain the approved design output capacity of the project due to interruptions of delivery or elimination of the source beyond the feasible control of the applicant.

(B) Commission approval to exceed 25 percent non-animal or plant product or waste shall apply only as long as an adequate animal or plant product or waste supply is not available and subject to prohibition by other law or ordinance. Sludge materials shall not be permitted as an alternative source.

(19) Recreational uses as defined by California Government Code Subsections 51201(e) and (n), subject to Conditional Use Permit.

(b) Additional uses. Any use determined by the Board to be a compatible use in all agricultural preserves, after a public hearing with 10 days published notice and other notice as may be required. Thereafter, the use shall be deemed compatible in any agricultural preserve, provided that it is not inconsistent with uses listed in Subsection A., above.