

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

416B



FROM: TLMA - Planning Department

SUBMITTAL DATE:

December 14, 2009

SUBJECT: Adoption of Resolution No. 2009-345, a Certificate of Tentative Cancellation of a Land Conservation Contract and Diminishment of Mira Loma Agricultural Preserve No. 10, Amendment No. 8, Map No. 994 – Applicant: Birtcher Developments, LLC – Engineer / Representative: Albert A. Webb Associates – Second Supervisorial District – Prado-Mira Loma Zoning District – Eastvale Area Plan – 53.37 Gross Acres

RECOMMENDED MOTION: Adoption of Resolution No. 2009-345, a Certificate of Tentative Cancellation of a Land Conservation Contract and Diminishment of Mira Loma Agricultural Preserve No. 10, Amendment No. 8, Map No. 994, based upon the hereinafter listed findings and conclusions:

FINDINGS:

1. On October 27, 2009, the Board of Supervisors tentatively approved a request by Birtcher Developments, LLC, to diminish Mira Loma Agricultural Preserve No. 10 and to cancel the land conservation contract as it applies to 33.41 acres of the 53.37-acre project site.
2. Three parcels comprise the 53.37-acre project site; however, only two parcels are subject to contract. The project site is located northerly of 65th Street, southerly of the San Bernardino/Riverside County line, east of and adjacent to the Cucamonga Creek Flood Control Channel and west of and adjacent to Archibald Avenue in western Riverside County.

Ron Goldman
Planning Director

FINANCIAL DATA

Current F.Y. Total Cost:	\$ N/A	In Current Year Budget:	N/A
Current F.Y. Net County Cost:	\$ N/A	Budget Adjustment:	N/A
Annual Net County Cost:	\$ N/A	For Fiscal Year:	N/A

SOURCE OF FUNDS: N/A

Positions To Be Deleted Per A-30

Requires 4/5 Vote

APPROVE

C.E.O. RECOMMENDATION:

BY
Tina Grande

County Executive Office Signature

Policy

Consent

Dep't Recomm.:
Per Exec. Ofc.:

Prev. Agn. Ref.:

District: Second

Agenda Number:

3.59

FORM APPROVED COUNTY COUNSEL
BY
LARISA R-MCKENNA
DATE 12/14/09
Departmental Concurrence

To the Honorable Board of Supervisors

RE: Adoption of Resolution No. 2009-345, a Certificate of Tentative Cancellation of a Land Conservation Contract and Diminishment of Mira Loma Agricultural Preserve No. 10, Amendment No. 8, Map No. 994

December 14, 2009

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3. Diminishment of Mira Loma Agricultural Preserve No. 10, Map No. 134, includes only the parcels subject to contract, Assessor's Parcel No. (APN) 144-010-037-6 and 144-010-038-7. The remaining parcel, APN 144-010-033-2, was previously diminished from the boundaries of the affected agricultural preserve under Agricultural Preserve Case No. 1014.
4. The alternative land use proposed for the project site upon cancellation of the current land conservation contract is Tentative Parcel Map No. 35865 (PM35865) and Plot Plan No. 23219 (PP23219). PM35865 will subdivide the contracted and non-contracted portions of the project site into 14 industrial parcels and four (4) lettered lots (for internal roads and external road right-of-way) to allow development of 14 industrial buildings ranging between 12,638 square feet to 91,784 square feet for a total of 738,432 square feet, including 266,461 square feet of landscaping area, and 1,188 parking spaces.
5. Upon adoption of the Certificate of Tentative Cancellation by the Board of Supervisors, the landowner would be required to comply with the following conditions prior to the issuance of a Certificate of Final Cancellation:
 - a. Payment within one year of the total amount of the cancellation fee of \$960,500.00 to the Treasurer of Riverside County, or, if after one year following the date of recordation of the Certificate of Tentative Cancellation, payment of a re-computed fee;
 - b. All conditions necessary for the County to issue grading permits for Parcel Map No. 35865 and Plot Plan No. 23219 (APN 144-010-033-2, 144-010-037-6 and 144-010-038-7) shall have been met.
6. Once all the conditions and contingencies enumerated on the Certificate of Tentative Cancellation have been satisfied, the landowner would notify the Board of Supervisors to that effect.
7. Within 30 days of such notification, a Certificate of Final Cancellation would be executed and recorded, thereby removing the subject parcels from the effect of the land conservation contract and diminishing the agricultural preserve.

**RESOLUTION NO. 2009-345
CERTIFICATE OF TENTATIVE CANCELLATION
OF LAND CONSERVATION CONTRACT AND
DIMINISHMENT OF AGRICULTURAL PRESERVE**

(Government Code Section 51283.4)

WHEREAS, Corporation of the President of the East Los Angeles Stake of the Church of Jesus Christ Latter Day Saints, a corporation sole, entered into a Land Conservation Contract with the County of Riverside pursuant to the Land Conservation Act of 1965 (Government Code Section 51200 et. seq.) for land within Mira Loma Agricultural Preserve No. 10, which contract is dated January 1, 1971, and was recorded on February 24, 1971 as Instrument No. 18235 in the office of the County Recorder of Riverside County, California; and,

WHEREAS, Robin D. Quincey and Bernadette J. Quincey, as Trustees of the Quincey Family Trust, the subsequent owners of Assessor's Parcel No. (APN) 144-010-037-6 and 144-010-038-7, filed a Notice of Nonrenewal on May 27, 2003, which notice was recorded on August 8, 2003 as Instrument No. 2003-604286, in the Office of the County Recorder of Riverside County, California;

WHEREAS, Birtcher Developments, LLC, as authorized representative of MMI/BDI Riverside Archibald Avenue, LLC, the owner of the property subject to the Land Conservation Contract referenced above, all of which property is described in the attached legal description entitled "EXHIBIT A, MIRA LOMA AGRICULTURAL PRESERVE NO. 10, AMENDMENT NO. 8, (DIMINISHMENT), MAP NO. 994," petitioned to cancel the contract and to diminish Mira Loma Agricultural Preserve No. 10, Map No. 134; and,

WHEREAS, a public hearing was held on this matter by the Riverside County Board of Supervisors on September 15, 2009, October 20, 2009, and October 27, 2009; and,

WHEREAS, all provisions of the California Environmental Quality Act (CEQA) and the

FORM APPROVED COUNTY COUNSEL
BY: *[Signature]*
CARISA R-MCKENNA
DATE: 12/14/09

1 **Procedures for Implementing CEQA in Riverside County have been satisfied, including**
2 **Environmental Impact Report No. 515 (SCH No. 2008081117), which consider the impacts of the**
3 **establishment of the proposed alternative land use, as well as the impacts of this cancellation**
4 **request; and,**

5 **WHEREAS, Parcel Map No. 35865 and Plot Plan No. 23219 are the alternative use; and,**

6 **WHEREAS, Parcel Map No. 35865 will divide the 53.37-acre (gross) project site into 14**
7 **industrial parcels and four (4) lettered lots (for internal roads and external road right-of-way)**
8 **and Plot Plan No. 23219 will allow development of 14 industrial buildings ranging between**
9 **12,638 square feet to 91,784 square feet for a total of 738,432 square feet, including 266,461**
10 **square feet of landscaping area, and 1,188 parking spaces; and,**

11 **WHEREAS, the amount of the cancellation fee, pursuant to Section 51283.4 of the**
12 **Government Code, has been determined and certified by this Board to be \$960,500.00; now,**
13 **therefore,**

14 **BE IT RESOLVED, FOUND, AND DETERMINED by the Board of Supervisors of the**
15 **County of Riverside, State of California, in regular session assembled on December 22, 2009,**
16 **that:**

- 17 **1. The cancellation is consistent with the purposes of the Land Conservation Act of**
18 **1965.**
- 19 **2. The cancellation is for land on which a notice of nonrenewal has been served**
20 **pursuant to Section 401 of these Rules and Government Code Section 51245.**
- 21 **3. The cancellation is not likely to result in the removal of adjacent lands from**
22 **agricultural use.**
- 23 **4. The cancellation will not result in discontinuous patterns of urban development.**
- 24 **5. There is no proximate noncontracted land which is both available and suitable**
25 **for the use to which it is proposed the contracted land be put, or, that**
26 **development of the contracted land would provide more contiguous patterns of**
27 **urban development than development of proximate noncontracted land.**
- 28 **6. The cancellation of said contract and diminishment of the agricultural preserve,**

1 and the use of the land for the proposed alternative use are consistent with the
2 Riverside County General Plan.

3 7. The conditions with which the landowner must comply following the date of the
4 recording of this Certificate of Tentative Cancellation are as follows:

5 a. Payment within one year of the total amount of the cancellation fee of
6 \$960,500.00 to the Treasurer of Riverside County, or, if after one year
7 following the date of recordation of this Certificate of Tentative
8 Cancellation, payment of the recomputed fee referenced on page 4 of this
9 resolution. This condition shall not be interpreted as constituting a
10 limitation on the period of validity of this Certificate of Tentative
11 Cancellation, nor shall an Extension of Time application be required.

12 b. All conditions necessary for the County of Riverside to issue grading permits
13 on Parcel Map No. 35865 and Plot Plan No. 23219 (APN 144-010-033-2,
14 144-010-037-6 and 144-010-038-7) shall have been met.

15 BE IT RESOLVED, FOUND, DETERMINED, AND ORDERED that the Clerk of this
16 Board shall file and record copies of this resolution, map and boundary description, in the
17 Office of the County Recorder of Riverside County, California, and transmit copies thereof to
18 the Director of Conservation of the State of California, the Treasurer of Riverside County, and
19 the Assessor of Riverside County; and, that, upon fulfillment of all of the conditions, the
20 landowner will be entitled to a Certificate of Final Cancellation which provides as follows:

21 1. Mira Loma Agricultural Preserve No. 10, Map No. 134, dated February 16, 1971,
22 as amended, will be further amended by deleting therefrom the area shown on
23 the map entitled "MIRA LOMA AGRICULTURAL PRESERVE NO. 10,
24 AMENDMENT NO. 8, (DIMINISHMENT), MAP NO. 994," and described by
25 boundary description thereof, said map and description both being on file in the
26 Office of the Clerk of the Board.

27 2. The Land Conservation Contract between the County of Riverside and
28 Corporation of the President of the East Los Angeles Stake of the Church of

1 Jesus Christ Latter Day Saints, a corporation sole, dated January 1, 1971 and
2 recorded February 24, 1971 as Instrument No. 18235, in the Office of the County
3 Recorder of Riverside County, California, will be canceled as said contract
4 applies to land referenced in the petition of MMI/BDI Riverside Archibald
5 Avenue, LLC, thereby removing from the effect of said contract the real property
6 in the County of Riverside, State of California, described in the exhibit entitled,
7 "EXHIBIT A, MIRA LOMA AGRICULTURAL PRESERVE NO. 10,
8 AMENDMENT NO. 8, (DIMINISHMENT), MAP NO. 994," a copy of which is
9 attached hereto and incorporated herein by reference.

10 BE IT FURTHER RESOLVED that, if the cancellation fee of \$960,500.00 is not paid
11 within one year following the recordation of this Certificate of Tentative Cancellation, the fee
12 shall be recomputed pursuant to Government Code Section 51283.4 (a), and the landowner shall
13 be required to pay the recomputed fee as a condition to final cancellation of the contract.

14 BE IT FURTHER RESOLVED that, upon application of the landowner, the Board may
15 hereafter amend a tentatively approved specified alternative use if the Board finds that such
16 amendment is consistent with the findings made pursuant to Government Code Section 51282.

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EXHIBIT A
MIRA LOMA AGRICULTURAL PRESERVE NO. 10
MAP NO. 994
(DIMINISHMENT)

ASSESSOR'S PARCEL NO. 144-010-037-6:

That portion of the northeast quarter of Section 27, Township 2 South, Range 7 West, San Bernardino Meridian, in the County of Riverside, State of California, also being a portion of Parcel "A" of that certain Grant Deed recorded July 13, 2007 as Document No. 2007-0458920, Official Records of said county and state, said portion described as follows:

COMMENCING at the southeast corner of Parcel 2 of Record of Survey filed in Book 34, page 81 of Records of Survey, Records of Riverside County, California;

Thence North 00° 15' 00" West along the easterly line of said Parcel 2, said easterly line also being the westerly right-of-way line of Archibald Avenue (60.00 feet wide) as shown on said Record of Survey, a distance of 1334.04 feet to a point of intersection with a line parallel with and distant northwesterly 7.50 feet, measured at a right angle, from the centerline of a 120.00 foot wide easement to Southern California Edison as described in document recorded January 25, 1952 in Book 1336, page 397, Official Records of said county and state, said point being the, said point also being the southeasterly corner of said Parcel "A";

Thence South 69° 11' 38" West along said parallel line and along the southeasterly line of said Parcel "A", a distance of 1149.02 feet to the TRUE POINT OF BEGINNING;

Thence continuing South 69° 11' 38" West along said parallel line, a distance of 185.45 feet to the southwesterly corner of said Parcel "A";

Thence North 00° 15' 00" West along the westerly line of said Parcel "A" a distance of 65.11 feet to a point thereon;

Thence North 89° 45' 00" East, a distance of 173.64 feet to the TRUE POINT OF BEGINNING.

Containing 5653 square feet, more or less.

ASSESSOR'S PARCEL NO. 144-010-038-7:

That portion of the northeast quarter of Section 27, Township 2 South, Range 7 West, San Bernardino Meridian, in the County of Riverside, State of California, as shown on a Record of Survey filed in Book 34, page 81 of Records of Survey in the Office of the County Recorder of said county, also being a portion of Parcel "B" of that certain Grant Deed recorded July 13, 2007 as Document No. 2007-0458920, Official Records of said county and state, said portion described as follows:

COMMENCING at the southeast corner of Parcel 2 as shown on said Record of Survey;

Thence along the easterly line of said Parcel 2, also being the westerly right-of-way line of Archibald Avenue, 60.00 feet wide, as shown on said Record of Survey, North 00° 15' 00" West, 1334.04 feet to a point of intersection with a line parallel with and 7.50 feet northwesterly of the centerline of a 120.00 foot wide easement to Southern California Edison as described in Document recorded January 25, 1952 in Book 1336, page 397, Official Records of said county;

Thence along said parallel line South 69° 11' 38" West, 1334.47 feet to the TRUE POINT OF BEGINNING;

Thence continuing along said parallel line South 69° 11' 38" West, 1329.70 feet to a point on the westerly line of said Parcel 2, said westerly line also being a 8900.00 foot radius, non-tangent curve, concave easterly, a radial line to said point bears North 89° 01' 01" West;

Thence northerly along said curve through a central angle of 09° 15' 42" an arc distance of 1438.64 feet to the northwest corner of Parcel 3 as shown on said Record of Survey;

Thence along the northerly line of said Parcel 3 North 89° 45' 30" East, 2347.72 feet to the northeast corner of said Parcel 3;

Thence along the easterly line of said Parcel 3, also being the westerly right-of-way line of Archibald Avenue as shown on said Record of Survey South 00° 15' 00" East, 30.00 feet to a line parallel with and 30.00 feet southerly of said northerly line of Parcel 3;

Thence along said parallel line South 89° 45' 30" West, 1249.50 feet;

Thence South 00° 15' 00" East, 932.50 feet to the TRUE POINT OF BEGINNING.

Containing 33.28 Acres, more or less.

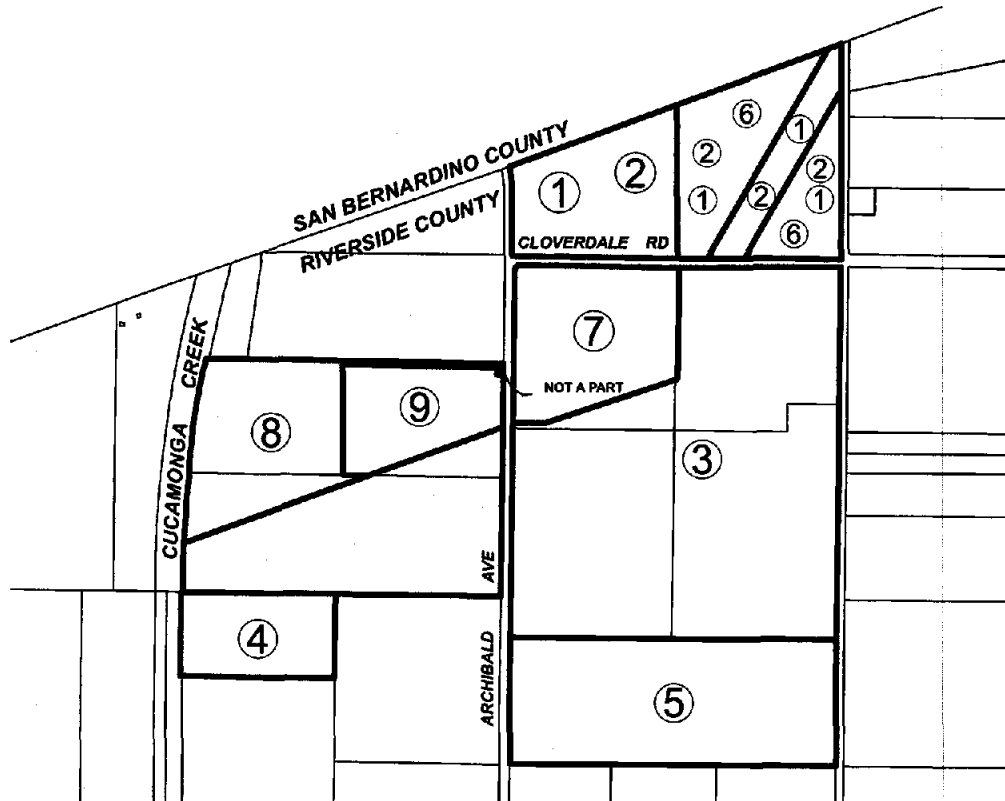
Assessor Parcel No.	Acres (net)	Owners
144-010-037-6	00.13	MMI/BDI Riverside Archibald Avenue, LLC
144-010-038-7	33.28	MMI/BDI Riverside Archibald Avenue, LLC
TOTAL	33.41	

MAP NO. 134 MIRA LOMA AGRICULTURAL PRESERVE NO. 10

994

AMENDED BY MAP NO. 464, 598, 820, 880, 922, 936, 980, 994, 1014

T. 2 S., R. 7 W. S.B.B. & M.



AMENDMENTS:

- NO. 1, (ENLARGEMENT), JANUARY 31, 1978 , MAP NO. 464
- NO. 2, (DIMINISHMENT), ABANDONED , MAP NO. 598
- NO. 3, (DIMINISHMENT), FEBRUARY 4, 2003, MAP NO. 820
- NO. 4, (DIMINISHMENT), OCTOBER 18, 2005, MAP NO. 880
- NO. 5, (DIMINISHMENT), FEBRUARY 28, 2006 ,MAP NO. 922
- NO. 6, (DIMINISHMENT), , MAP NO. 936
- NO. 7, (DIMINISHMENT), APRIL 29, 2008 , MAP NO. 980
- NO. 8, (DIMINISHMENT), , MAP NO. 994
- NO. 9, (DIMINISHMENT), JULY 21, 2009, MAP NO. 1014

ADOPTED ON FEBRUARY 16, 1971
BY THE BOARD OF SUPERVISORS
OF THE COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA.

