

1 CITY OF MORENO VALLEY PLANNING COMMISSION
2 REGULAR MEETING
3 CITY HALL COUNCIL CHAMBER – 14177 FREDERICK STREET
4

5 Thursday, August 24, 2017 at 7:00 PM

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7
8 CALL TO ORDER
9

10
11 CHAIR BARNES – Good evening ladies and gentlemen. I would like to
12 welcome you to this evening’s meeting of the Planning Commission. Today is
13 Thursday, August 24, 2017, and it is 7:04 PM. May we have roll call please?
14

15
16 ROLL CALL
17

18 Commissioners Present:

19 Commissioner Baker
20 Commissioner Sims
21 Vice Chair Korzec
22 Chair Barnes
23 Commissioner Lowell – Excused absent
24

25
26 Staff Present:

27 Rick Sandzimier, Planning Official
28 Erica Tadeo, Administrative Assistant
29 Sergio Gutierrez, Case Planner
30 Mayra Salas, Case Planner
31 Jeff Bradshaw, Case Planner
32 Chris Ormsby, Senior Planner
33

34
35 Speakers:

36 Rafael Brugueras
37

38
39 PLEDGE OF ALLEGIANCE
40

41
42 CHAIR BARNES – Thank you. Commissioner Korzec, could you lead us in the
43 pledge?
44

1
2 **APPROVAL OF THE AGENDA**

3
4 Approval of Agenda

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6
7 **CHAIR BARNES** – At this time, we need to approve the Agenda. Can I get a
8 motion?

9
10 **COMMISSIONER BAKER** – I'll move that we approve the Agenda.

11
12 **COMMISSIONER SIMS** – I'll second.

13
14 **CHAIR BARNES** – A motion from Commissioner Baker and a second from
15 Commissioner Sims. All in favor...

16
17 **VICE CHAIR KORZEC** – Aye.

18
19 **CHAIR BARNES** – Aye.

20
21 **COMMISSIONER BAKER** – Aye.

22
23 **COMMISSIONER SIMS** – Aye.

24
25 **CHAIR BARNES** – Opposed? The motion carries unanimously.

26
27
28 Opposed – 0

29
30
31 **Motion carries 4 – 0**

32
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34 **CONSENT CALENDAR**

35
36 *All matters listed under Consent Calendar are considered to be routine and all*
37 *will be enacted by one rollcall vote. There will be no discussion of these items*
38 *unless Members of the Planning Commission request specific items be removed*
39 *from the Consent Calendar for separate action.*

40
41
42 **APPROVAL OF MINUTES**

43
44 Planning Commission - Special Meeting - July 20, 2017 at 7:00 PM

45
46 Approve as submitted

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2
3 **CHAIR BARNES** – Moving onto the Consent Calendar. We have the approval of
4 Minutes from the Special Meeting of July 20, 2017. Anyone have any comments,
5 corrections, adjustments?
6

7 **COMMISSIONER SIMS** – Well, I'd like to make a motion.
8

9 **CHAIR BARNES** – Please.
10

11 **COMMISSIONER SIMS** – I would like to make a motion to approve the Minutes
12 from the Planning Commission Special Meeting of July 20, 2017.
13

14 **CHAIR BARNES** – Thank you. Motion from Commissioner Sims and a second
15 from Commissioner Baker. All in favor...
16

17 **VICE CHAIR KORZEC** – Aye.
18

19 **CHAIR BARNES** – Aye.
20

21 **COMMISSIONER BAKER** – Aye.
22

23 **COMMISSIONER SIMS** – Aye.
24

25 **CHAIR BARNES** – Opposed? No opposed. Moving along.
26
27

28 Opposed – 0
29
30

31 **Motion carries 4 – 0**
32
33

34 **PUBLIC COMMENTS PROCEDURE** 35

36 *Any person wishing to address the Commission on any matter, either under*
37 *Public Comments section of the Agenda or scheduled items or public hearings,*
38 *must fill out a "Request to Speak" form available at the door. The completed*
39 *form must be submitted to the Secretary prior to the Agenda item being called by*
40 *the Chairperson. In speaking to the Commission, member of the public may be*
41 *limited to three minutes per person, except for the applicant for entitlement. The*
42 *Commission may establish an overall time limit for comments on a particular*
43 *Agenda item. Members of the public must direct their questions to the*
44 *Chairperson of the Commission and not to other members of the Commission,*
45 *the applicant, the Staff, or the audience. Upon request, this Agenda will be made*
46 *available in appropriate alternative formats to persons with disabilities in*

1 compliance with the Americans with Disabilities Act of 1990. Any person with a
2 disability who requires a modification or accommodation in order to participate in
3 a meeting should direct their request to Guy Pegan, our ADA Coordinator, at
4 (951) 413-3120 at least 72 hours prior to the meeting. The 72-hour notification
5 will enable the City to make reasonable arrangements to ensure accessibility to
6 this meeting.

7
8
9 **CHAIR BARNES** – Now to the Public Comments portion of the meeting. Do we
10 have any Speaker Slips?

11
12 **ADMINISTRATIVE ASSISTANT ERICA TADEO** – No.

13
14 **CHAIR BARNES** – No Speaker Slips, alright. We will move past Public
15 Comments. Moving onto Non-Public Hearing Items.

16
17
18 **NON-PUBLIC HEARING ITEMS**

19
20 None

21
22
23 **PLANNING OFFICIAL RICK SANDZIMIER** – We have none.

24
25 **CHAIR BARNES** – We have none, alright. Next, Public Hearing Items. The first
26 case is PEN17-0048. The Applicant is Martha Veloz, and do we have a Staff
27 Report?

28
29
30
31 **PUBLIC HEARING ITEMS**

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34 1. Case: PEN17-0048 (PA16-0026)
35
36 Applicant: Martha L. Veloz
37
38 Owner: John Lin
39
40 Representative: Melvin Evitt
41
42 Location: 13373 Perris Boulevard
43
44 Case Planner: Sergio Gutierrez
45
46 Council District: 1

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Proposal: PEN17-0048 Conditional Use Permit. An application to allow for the sale of beer and wine within an existing convenience store located at 13373 Perris Boulevard.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission **APPROVE** Resolution No. 2017-30, and thereby:

1. **CERTIFY** that this item is exempt from the provisions of the California Environmental Quality Act (CEQA), as a Class I Categorical Exemption, CEQA Guidelines, Section 15301 for Existing Facilities; and
2. **APPROVE** PEN17-0048 Conditional Use Permit subject to the attached Conditions of Approval included at Exhibit A.

PLANNING OFFICIAL RICK SANDZIMIER – I would like to introduce Sergio Gutierrez, a consultant that works for our department who will be making this presentation.

CHAIR BARNES – Welcome.

CASE PLANNER SERGIO GUTIERREZ – Thank you, Rick. Thank you, Chairman Barnes. Thank you, Planning Commission. The project consists of a Conditional Use Permit to allow alcoholic beverage sales within an existing 2,400 square foot Carniceria Las Glorias convenience store located at 13373 Perris Boulevard. The alcoholic beverage sales will be limited to beer and wine, offsite consumption only, through a Type 20 Alcohol License obtained by the California Department of Alcoholic Beverage Control. The current hours of operation for the convenience store are 7 a.m. to 9 p.m. The interior of the convenience store includes a variety of amenities, including groceries, a meat market, and household items, which make the convenience store unique. Based on the City's Municipal Code definitions in consideration of the size of the store, it was determined that this business most closely fit the convenience store, as opposed to the retail sales establishment. The project site is located within the Hometown Square Commercial Center in Suite D304 and D305. The site is surrounded by existing retail office and restaurant uses within the commercial center. The surroundings uses from the project site include residential to the west, commercial uses to the north, vacant land to the east zoned as office, and

1 existing commercial and residential uses to the south. The project site is located
2 in the Community Commercial Zone. Convenience store use is consistent with
3 the Community Commercial Zoning District. Based on the City's Municipal Code,
4 alcohol sales within convenience stores require a Conditional Use Permit if within
5 300 feet of residential. The site is located approximately 200 feet from
6 residential, which requires a Conditional Use Application. There are no proposed
7 exterior modifications to the site. The only modifications include interior, which
8 will accommodate a refrigerator for the beer and wine sales. To minimize
9 potential concerns, a Conditional Approval has been placed to limit alcohol sales
10 to current hours of operation, which are 7 a.m. to 9 p.m. The project was routed
11 and reviewed by the police department. The police had addressed specific
12 comments to Staff. The project was reviewed in accordance with the California
13 Environmental Quality Act Guidelines and determined to be exempt in that this
14 project qualifies as a Class I Categorical Exemption under Section 15301,
15 Existing Facilities. Staff recommends approval of Resolution 2017-30 and
16 thereby certify that the project is exempt from the California Environmental
17 Quality Act as a Class I Categorical Exemption, Section 15301, Existing
18 Facilities, and requests approval for Conditional Use Permit PEN17-0048,
19 subject to the attached Conditions of Approval included as Exhibit A. The
20 representative, Mr. Melvin Evitt, is present tonight to answer any questions that
21 may arise from the Planning Commission. Thank you.

22
23 **CHAIR BARNES** – Thank you very much. Would the Applicant like to make a
24 presentation?

25
26 **SPEAKER MELVIN EVITT** – Good evening. My name is Melvin Evitt. Also,
27 known as Nick Evitt. I reside at 5905 Glen Cliff Drive in Jurupa Valley. I have
28 been a real estate business broker for quite a number of years, and I've been to
29 Moreno Valley over the years, and they have been very cooperative with what I
30 have been requesting. The client is a very small operation, and they are
31 requesting that they be allowed to sell beer and wine in their store to accomplish
32 and complement their sales in meat, produce, and groceries. They are not
33 asking to...they'll even specify they don't even require singles. They would just
34 like to have prepackaged from the manufacturer. There is going to be a limited
35 space. They don't have a large space so they are respectfully requesting that
36 you allow them to have the sale of beer and wine. And, while we're talking about
37 this, ABC requires a PCN letter, a public convenience necessity letter, either by
38 the...in this case, I believe the police department is the one that authorizes that
39 or, if they would make comment, that they will make no decision that ABC can
40 issue the license with your approval and, until then, we're on a hold, so are there
41 any questions I can answer for you?

42
43 **VICE CHAIR KORZEC** – Can you explain what prepackaged is?
44

1 **SPEAKER MELVIN EVITT** – Like a 6-pack or a 12-pack, anything...no singles
2 sales of any size. No 12 ounce, 16 ounce, no 20 ounce, no 40 ounce; strictly
3 prepackaged items from the manufacturer.

4
5 **VICE CHAIR KORZEC** – And what about wine? Like wine coolers? Is that what
6 you're talking about?

7
8 **SPEAKER MELVIN EVITT** – Okay wine coolers come in 4-packs and we
9 could...you could eliminate the size of the containers of the wine at 750 mL. In
10 other words, you don't have a small, easy single-shot package. We are not
11 going to have any of that. The wine will consist of the 750 mL, a little less
12 than...a little less than a quart in size and the wines, beer and wine. No singles.

13
14 **COMMISSIONER SIMS** – I have a question.

15
16 **CHAIR BARNES** – Commissioner Sims, go ahead.

17
18 **COMMISSIONER SIMS** – On the sketch....it is on packet page 63, I don't know
19 if...yeah there it is.

20
21 **SPEAKER MELVIN EVITT** – I see it. Go ahead.

22
23 **COMMISSIONER SIMS** – So it looks like you're proposing to put the refrigerators
24 right in front of the restroom for this property. So, how is that going to work?
25 That looks like it is not going to work?

26
27 **SPEAKER MELVIN EVITT** – (blank air for several seconds) Does that clarify it
28 for you?

29
30 **COMMISSIONER SIMS** – Yeah, I just...the sketch, though, would tend to look
31 like the refrigerators are blocking the door....

32
33 **SPEAKER MELVIN EVITT** – No.

34
35 **COMMISSIONER SIMS** – To the restroom.

36
37 **SPEAKER MELVIN EVITT** – There is room to walk behind it.

38
39 **COMMISSIONER SIMS** – And I would assume that would...it would be placed
40 per Code, whatever building...

41
42 **PLANNING OFFICIAL RICK SANDZIMIER** – It would have to be by our Building
43 Code and existing requirements, and the width of the aisles would have to be
44 checked. We did not...actually let me ask Sergio. Sergio did you visit the site to
45 see if the entire interior of this place already has the shelving as described?
46

1 **CASE PLANNER SERGIO GUTIERREZ** – I did make a site visit. Unfortunately,
2 I did not go inside the convenience store. I mainly checked the exterior and did a
3 walk around the project site as far as the outside. I did not go inside to check on
4 the shelving as mentioned.

5
6 **PLANNING OFFICIAL RICK SANDZIMIER** – Okay, so in terms of changing out
7 the equipment to put in a new refrigerator, they would have to obtain the
8 appropriate business...I mean building permit, there would be an inspection
9 done, and the inspection would be to verify that it was installed correctly and that
10 it also maintains all the exiting requirements and would provide access to the
11 restroom. So we have some assurances that that could be accommodated, and
12 we can pass that information onto our building department if that is a concern of
13 the Commission that you would like us to emphasize. Thank you.

14
15 **CHAIR BARNES** – Commissioner Baker.

16
17 **COMMISSIONER BAKER** – I did visit the site and visited, I think, the manager or
18 the owner, and I think where they're going to put this...it seemed like to me...I
19 mean, it didn't measure anything out, but it seemed like it would work. And, I will
20 say this, this is one of the cleanest markets I've seen in a long time. I mean, it
21 really...he is spic and span, and they, they really do a nice job the way it looks to
22 me, but I'm no expert on markets but, when I went in there, it really looked nice.

23
24 **VICE CHAIR KORZEC** – You know, you're saying it's prepackaged right now
25 but, when you get this permit, I don't believe the ABC license says it has to be
26 prepackaged. So now you're talking prepackaged but, in a year, you could
27 eliminate that and do the regular bottles of wine and all those things, so I, I
28 understand your approach on this but I don't think that...first, we're just going for
29 the Conditional Use Permit, but I don't think the ABC license requires it to be
30 prepackaged. I think it's your plan for now but will it be your plan in a year?

31
32 **SPEAKER MELVIN EVITT** – When the City approves...if and when the City
33 approves this and you put a Condition in there that the beer and wine will be sold
34 as prepackaged items only, that goes directly to ABC, and they'll type up their
35 Conditions accordingly. If they decided after a year they want to change it and
36 try to sell singles, then they have to come back to the City and have to go back to
37 the ABC Board before it is considered. So that's, that's a year down the road
38 before they could even consider it, and they have no desire to sell singles
39 because they don't have room for it.

40
41 **VICE CHAIR KORZEC** – But things do change and you know....

42
43 **SPEAKER MELVIN EVITT** – Well, that's correct, but you're protected by the
44 Conditional Use Permit that you issue to the City....to ABC, and they will modify
45 and make the Conditions according to however you tell them.

1 **CHAIR BARNES** – Can Staff confirm that? Is that true?
2

3 **SENIOR PLANNER CHRIS ORMSBY** – Well just to clarify that...right now, as
4 the Conditional Use Permit Conditions are written, there is not a condition that
5 specifies a restriction of a sale of singles.
6

7 **CHAIR BARNES** – Okay. Do we know...do we know that what he has
8 presented is accurate that...
9

10 **PLANNING OFFICIAL RICK SANDZIMIER** – If I may, if I may add...the
11 Applicant has had or the applicant's representative had a meeting with our Staff
12 just a little bit earlier before the meeting, and we talked about this particular
13 issue. It has been the position of the Planning Department not to put such a
14 condition on the CUP at this point because that would be a very difficult condition
15 to enforce. If it is the prerogative of the Commission, we can enter that into the
16 Conditions of Approval. I just want to make sure that you understand it is an
17 enforcement issue, and so Chris is correct. With regard to ABC issuing a
18 license, that is a completely separate process from the approval of the
19 Conditional Use Permit, so tonight what we have before you is a
20 recommendation from the Staff to approve the Conditional Use Permit. That
21 Conditional Use Permit basically is a prerequisite for them to sell the alcohol at
22 the site. It does not remove the necessity for them to get an appropriate license
23 through the Alcoholic Beverage Control Board. If the Alcohol Beverage Control
24 Board is not yet prepared to issue a license, I just want to point out for the
25 Commission, for the CUP that you approve tonight, if you did go that route, it is
26 good for 36 months. So they would have up to 36 months to work out any of
27 their issues with ABC to get the license, and there are also opportunities, if for
28 whatever reason they weren't able to work out those issues within 36 months,
29 then the Applicant can always request an extension of time on their applications,
30 and we do have provisions in the Code to extend the time. I know that doesn't
31 necessarily give the Applicant some assurance that they are ready to go, but we
32 can't force the determination of Alcoholic Beverage Control Board. He is
33 absolutely correct that, right now, our process here at the City is, if ABC needs a
34 letter stating that there is a public necessity or convenience that can override
35 ABC's concerns with an oversaturated market, that determination is made by our
36 police department. And so he has stated the process correctly.
37

38 **CHAIR BARNES** – Okay. Does that answer your question?
39

40 **VICE CHAIR KORZEC** – Yeah. I have another question. I looked at the chart,
41 and I've actually gone...I go down that street all the time. I go to Dollar General.
42 There's a lot of people out there selling alcohol in that neighborhood. What
43 makes this market think that they are going to have a competitive edge over the
44 liquor store, over the other places along that strip that are selling alcohol?
45

1 **SPEAKER MELVIN EVITT** – They are not in there for competition. They are in
2 there to service their customers conveniently when they come in to buy the meat
3 for the barbecues, their produce, and their groceries and they would like to buy a
4 6-pack or a 12-pack and take it home. We're not in there to compete against
5 them. We're providing a community service for the customers. That's what the
6 purpose is behind this and there are...there are others licensed in the area. Yes,
7 they do have those, but they don't have groceries. The 7-11 doesn't have meat.
8 The 99 Cent Store doesn't have the same thing. This is a public convenience for
9 the customers, and that's what we're trying to do.

10
11 **CHAIR BARNES** – Thank you. Any other questions of the Applicant? I have
12 one the...thank you very much. I have a question on Condition P10, the outdoor
13 trash receptacle. Is that just a trash can or a trash enclosure?

14
15 **PLANNING OFFICIAL RICK SANDZIMIER** – Mr. Chairman can I ask...this does
16 require a Public Hearing, so I was wondering if your questions would be better if
17 there are any Public Comments on...if you would like to open the Public Hearing
18 first before we go into conditions...the questions on the conditions.

19
20 **CHAIR BARNES** – Okay.

21
22 **PLANNING OFFICIAL RICK SANDZIMIER** – I was just thinking that might be
23 a...just to close out the Public Hearing process.

24
25 **CHAIR BARNES** – Happy to do that. Alright, at this time I would like to open the
26 Public Hearing. Do we have any speakers?

27
28 **ADMINISTRATIVE ASSISTANT ERICA TADEO** – We do, just one. Rafael
29 Brugueras.

30
31 **CHAIR BARNES** – Mr. Brugueras.

32
33 **SPEAKER RAFAEL BRUGUERAS** – Good evening Chair, Vice-Chair,
34 Commissioners, Staff, and our guests. I want to thank Vice Chair Korzec for the
35 questions of how we all together collectively want to protect our city and make
36 sure that all the rules are in place, and this is a unique store because not every
37 store wants to serve you packages only. They want you to buy single bottles and
38 everything around this particular store is going to sell you single bottles but, this
39 store, they are either going to sell you a 4-pack, 12-pack or something larger.
40 Now, he made a good point because many of us that shop in the supermarket,
41 especially when we buy meats on sale and we get this urge to drink a wine with
42 it, we buy this wine at the supermarket level or at Costco, so we do get service
43 from these types of stores. Now, this is what this little store is going to do also;
44 have a service for customers that decide at that moment that they want to buy a
45 wine, a cooler, or a 6-pack, and that's it. No single bottles, nothing like that. So
46 we're not going to have a lot of traffic with a lot of people going in and buying

1 single bottles like they do at 7-11 or at the gas stations. We know that for a fact.
2 So this makes the store a little unique. The other thing what I like about it is that
3 they are trying to stay in the City of Moreno Valley and do business without
4 closing up, and I know if you went like she does, she shops at Dollar Tree, and I
5 know the neighborhood very well. This little store is among a jungle of big stores,
6 so they are not in competition with the big stores like you mentioned. They are
7 just trying to stay alive, stay in business, and serve the public. That's about it.
8 So I'm hoping that it does get approved, but I do appreciate her for coming up
9 with these questions to make sure that whatever happens that they stick to the
10 rules that they don't open up those packages in the future and, if they do, there
11 are conditions for them to come back to us or the ABC to let them know what
12 they want to do. I like what the Staff just said, and I love her question, and I hope
13 it gets approved so we can have them stay and serve our city as they have been
14 doing for however long, but we want them to stay in our city. Thank you so
15 much.

16

17 **CHAIR BARNES** – Thank you Mr. Brugueras. Any other speakers?

18

19 **ADMINISTRATIVE ASSISTANT ERICA TADEO** – No.

20

21 **CHAIR BARNES** – Alright. I will now ask if the Applicant would like to respond to
22 anything he just heard?

23

24 **SPEAKER MELVIN EVITT** – Sure. Again, thank you for letting me speak. I
25 do...would like to clarify about the PCN, the public convenience necessity letter,
26 which will be coming from the police department, and the police department, to
27 my understanding, have sent a letter to the Department of Alcoholic Beverage
28 Control stating it is up to ABC to make the determination and, according to Rich
29 at the ABC Office, the supervisor there, he says we have to have something from
30 the police department either saying...either denying it altogether or they have no
31 objection or their decision is not to or make no decision on the license. That's all
32 they ask. That is asked of the police department to make a statement to say they
33 have no decision on the issue of the license. Thank you.

34

35 **CHAIR BARNES** – Thank you very much. Yes....

36

37

38 **PLANNING OFFICIAL RICK SANDZIMIER** – Mr. Chairman, if I could just add...I
39 did look through the process that ABC has and, if a city's police department, in
40 this case is supposed to make a...or was asked to make a determination, if that
41 determination is not made within the 90-day period of time, in the absence of that
42 determination, then the ABC Board takes over the making the decision on their
43 own. So it seems like it would be a timely process if the...if the police
44 department was to put something on the record, but that is not the only
45 requirement. So, if the police department does not make a decision or there is a
46 90-day period that passes, then ABC has some rights that they have.

1
2 **CHAIR BARNES** – Thank you. Alright, having no other public speakers, we will
3 close the Public Hearing and do we have any comments or questions of Staff?
4

5 **VICE CHAIR KORZEC** – I’m confused because, in the paperwork that we have,
6 it says the Moreno Valley Police Department does not support the additional
7 license in it. When did this change and is there anybody here from the police
8 department because, reading this, they are worried about the oversaturation that
9 I am. I go to that neighborhood several times a month. I come from Steer N’
10 Stein. I stop there, and I shop. At night, there is a change in that neighborhood,
11 and there are a lot of people hanging out that obviously are drunk or....I don’t
12 even want to shed my opinion of what it is but, in that neighborhood at night,
13 there are a lot of people hanging out that look a little unseemly. This says that
14 the police department doesn’t support this and now I’m hearing that the police
15 might write a letter, so can someone clarify that for me?
16

17 **SENIOR PLANNER CHRIS ORMSBY** – Well, at this point, the police department
18 has not written a letter. They were...had indicated they might be here to answer
19 questions tonight. Unfortunately, they are not able to be here apparently. I think
20 the Staff Report pretty well described the whole scenario with regard to
21 oversaturation, what that means, and the police department’s position on
22 that...that’s pretty much the status.
23

24 **VICE CHAIR KORZEC** – But don’t really know if they are going to write the letter
25 or not.
26

27 **SENIOR PLANNER CHRIS ORMSBY** – At this point, that is correct.
28

29 **VICE CHAIR KORZEC** – That’s all...yeah. I’m going by what’s here. That was
30 official, and I know people say things, but I don’t know if that would happen. I do
31 have that same concern, oversaturation. I have nothing against this market. It’s
32 a lovely business but, when you have so many people selling alcohol in a
33 neighborhood and if the police are concerned about, perhaps increase in a crime
34 rate, then I think to protect the citizens I don’t know if we should consider this and
35 that’s all that I’m saying by what is put in front of us from the police department.
36

37 **PLANNING OFFICIAL RICK SANDZIMIER** – If I may try and provide a little
38 clarification on why the Staff Report says something, and it sounds like we’re
39 saying something different. It may just be a matter of semantics in terms of
40 referencing something as a letter that is going to be written. It is my
41 understanding in talking with the Staff, and I know directly in talking with the
42 police department a couple of weeks back that the police department had made
43 a determination that they did not want to issue a determination for a public
44 necessity and convenience. That’s what it reflected in your Staff Report. If there
45 is ongoing discussions with the police department, that can be the case, and the
46 applicant may be working with the police department to try and get that letter that

1 they are trying to seek, and that is a process that can continue. What I was
2 trying to describe earlier is, if the Commission was to move forward and take an
3 action on the Conditional Use Permit this evening, they cannot begin to sell
4 alcohol at that store until they secure the license through ABC Board. They
5 would have up to 3 years with the granting of this approval. They would still have
6 an active CUP. In the absence of a CUP, they could not go to ABC to get a
7 license to sell alcohol because then they would be in violation of our Municipal
8 Code, which requires them to have the Conditional Use Permit to allow that to
9 happen, so the CUP is a prerequisite for them to sell alcohol in any way. It is a
10 governing law here in the city because of the proximity of the store to residential.

11
12 **CHAIR BARNES** – Thank you. Commissioner Sims.

13
14 **COMMISSIONER SIMS** – Yeah, when I read through this report, I struggled a
15 little bit about that because, you know, the police, I would have deference to their
16 opinion on this and that but at the end of...what gives me some...what it sounds
17 like is, is they have not issued...if the police department has to provide
18 something to ABC if this goes through and gets a CUP and ABC permit is applied
19 for, then the police will have another bite at the apple to decide if they either want
20 to...it sounds like they can be...deny it, affirmatively deny it, or they could affirm it
21 and say, okay, we're good with it or they just say, uh, there is just no difference,
22 and they stand down. So I'm okay with that. I guess, for me, it comes down to
23 do we think this as a Planning Commission, do we think that this is a proper
24 Conditional Use for this business? I tend to think in my thought process, I think
25 it's okay. Mainly the fact that, and I did not go past the store, but I go to one of
26 the restaurants there quite often, and there is some, even early Sunday morning,
27 you can see some people hanging out at the liquor store on the north side of that
28 that you go, hmm, what are they doing there? But they are going to get their
29 singles to recover from Saturday or to keep the party going or whatever, so but a
30 business like this is a business that is catering to groceries and, you know, meat
31 market and so forth. I get the convenience part of it, to buy a 6-pack or 12-pack
32 or something and take it home to your little barbecue. That is different than going
33 to sell distilled and pints and singles, you know, tall cans and stuff like that. Not
34 saying that it won't happen later. That sounds like there is a way for them to
35 adjust their...well Commissioner Baker said that this guy is running a clean
36 shop. He is not going to want the single traffic, the guys that are buying single
37 traffic, to come and dirty up his store. He doesn't want that in his business.

38
39 **CHAIR BARNES** – Thank you, Commissioner Sims.

40
41 **COMMISSIONER BAKER** – And he really did express that to me. Looking at the
42 list here of the...there's only three stores right in that general area on this Census
43 Tract 425.21. It's the Dollar General and then you've got the Circle K and, what's
44 the other one on Perris Boulevard, there's the, I guess, that Valley Liquor. So
45 that's the three in the general vicinity. The rest of these, I don't know how big
46 this block is, but it goes all the way over to Alessandro. The rest of them are on

1 Alessandro, which have nothing to do with this location, but I think I could support
2 this the way it stands. I think in the given situation where they are going to sell it
3 with groceries and not sell the singles, and he really spelled that out. They don't
4 want to mess with the single business, and I was there at the night part too. I
5 stopped in and, not to discredit what you said, but I didn't see anything going on
6 around that store. Maybe it was the night I was there but, in the day part, it was
7 very good.

8
9 **VICE CHAIR KORZEC** – Yeah, the day part is fine.

10
11 **COMMISSIONER BAKER** – Very good. Okay.

12
13 **CHAIR BARNES** – Rick, I think you've probably answered this, but clarify to me
14 if this is approved and the police department then writes a letter of opposition, if
15 they take a position in opposition to this, what are ABC's options?

16
17 **PLANNING OFFICIAL RICK SANDZIMIER** – It's my understanding that ABC
18 would take the determination from the local jurisdiction into consideration when
19 they are going to make their determination on their license. Are they going to
20 issue a license if they have that determination? It's probably less likely that they
21 would, but I am not sure that they are precluded from doing that.

22
23 **CHAIR BARNES** – It's not an absolute.

24
25 **PLANNING OFFICIAL RICK SANDZIMIER** – I'd have to defer to ABC on that
26 but our assurance in the CUP, if you turn to page 60 of the document, the reason
27 we're comfortable as a Staff recommending this, is that Condition BD-12, which
28 is the second to last condition on page 60, is indicating that Alcohol Beverage
29 Control of the State of California approval will be required for alcohol licenses in
30 the area. No alcohol beverage sales can commence until a Type 20 Alcohol
31 License is secured, and the license must remain valid at all times. That's the
32 assurance we have in here, so long as they want to continue to work with ABC
33 and even in the event that the police department doesn't give them what they
34 want, it is my understanding they can continue to work with ABC until ABC is
35 comfortable issuing the license. If they can bring more compelling arguments to
36 our police department over the course of that negotiation to the point where our
37 police department is comfortable making a different determination, if they had
38 issued some sort of determination to them already, I think that is still an option
39 out there. I'm saying the doors not shut I guess.

40
41 **CHAIR BARNES** – I was just curious how much weight the police department
42 recommendation carried with ABC. It's not an absolute.

43
44 **PLANNING OFFICIAL RICK SANDZIMIER** – I don't know that it's an absolute. I
45 don't want to say that it's not important. I think that it is an important
46 consideration of ABC. I think that is a fair statement to make.

1
2 **CHAIR BARNES** – It seems that it should be, but I was just curious. Okay.
3 Anything else? Alright. Well, with no further comments, would anyone like to
4 make a motion?

5
6 **COMMISSIONER SIMS** – I'll make a motion.
7

8 **CHAIR BARNES** – Commissioner Sims.
9

10 **COMMISSIONER SIMS** – I would like to make a motion that the Planning
11 Commission approve Resolution No. 2017-30 and certify that this item is exempt
12 from the provisions of CEQA as a Class I Categorical Exemption and (2) approve
13 PEN17-0048, the Conditional Use Permit, subject to the attached Conditions of
14 Approval included as Exhibit A to the Staff Report.
15

16 **COMMISSIONER BAKER** – I'll second that.
17

18 **CHAIR BARNES** – A motion from Commissioner Sims and a second from
19 Commissioner Baker. Let me see if I can get the electronic wizardry
20 to....Commissioner Sims, would you hit the mover button and Commissioner
21 Baker can you hit the second? Again. One more time. There we go.
22

23 **COMMISSIONER BAKER** – Got it.
24

25 **CHAIR BARNES** – Alright, please vote; the rest of us. Alright, the...is somebody
26 missing? Alright, what am I doing wrong? Oh, all votes have been cast. Sorry,
27 operator error. I'm the Chair. Alright, three votes in favor, one opposed. The
28 motion carries. Thank you. Closing remarks from...
29

30
31 Opposed – 1
32

33
34 **Motion carries 3 – 1**
35

36
37 **PLANNING OFFICIAL RICK SANDZIMIER** – The item that you have just taken
38 an action on is an appealable action. If any interested party would like to file an
39 appeal on this item, they can direct their appeal through the Director of
40 Community Development to the City Council, and we would work with the City
41 Clerk to put it on an Agenda for the City Council within 30 days. They have 15
42 days to file that appeal.
43

44 **CHAIR BARNES** – Alright, thank you very much. Alright, moving onto Case No.
45 2, PEN17-0091. The Applicant is RSI Communities, and the request is for a
46 Variance. Staff Report?

1
2
3
4
5
6 2. Case: PEN17-0091
7
8 Applicant: RSI Communities, LLC.
9
10 Owner: RSI Communities, LLC.
11
12 Representative: Rola Nicasio
13
14 Location: 15436 El Braso Drive
15
16 Case Planner: Mayra Salas and Jeff Bradshaw
17
18 Council District: 4
19
20 Proposal: PEN17-0091
21
22
23
24

25 **STAFF RECOMMENDATION**

26
27 Staff recommends that the Planning Commission **APPROVE** Resolution No.
28 2017-31, and thereby:

- 29
30 1. **CERTIFY** that the project is exempt under the California Environmental
31 Quality Act in that it can be determined with certainty that there is no
32 possibility that the variance application could have a significant effect on
33 the environment and is therefore exempt under the general rule exemption
34 Section 15061 (b)(3) of the California Environmental Quality Act
35 Guidelines; and
36
37 2. **APPROVE** Variance application PEN17-0091 based on the findings
38 contained in this resolution.
39
40
41

42 **ASSOCIATE PLANNER JEFF BRADSHAW** – Thank you. Good evening, Chair
43 Barnes and Members of the Planning Commission. My name is Jeff Bradshaw.
44 I'm an Associate Planner with the Planning Division, and the application before
45 you this evening is a request for a Variance. The applicant, RSI Communities, is
46 requesting the Planning's consideration in the reduction of the street-side

1 setback for lot 48 of tract 22180-2 and, if you look at the Location Map on the
2 screen, this is a Recorded Map that is located on the northwest corner of Jensen
3 and Perris Boulevard. The lot is located interior to the tract and it is a...the lot
4 itself is a site that is vacant. It is flat and has been graded in the past. Areas
5 surrounding this particular location have comparable zoning. The zoning is R5 in
6 surrounding neighborhoods with some smaller-sized lots to the west that are
7 zoned RS10. There is an approved Planned Unit Development across the street
8 to the southwest that the Planning Commission approved recently called Legacy
9 Park and then, directly south, is the approved Walmart site that was also
10 presented to the Planning Commission within the last couple years. The specific
11 request is for a reduction in the street-side setback for lot 48. The size of the lot
12 is 0.14 of an acre. It is zoned R5 currently, and the request would allow for
13 reduction from the city's street-side setback standard of 15 feet to 11.9 feet. The
14 tract 22180-2 is a recorded phase of a Tentative Map that was approved prior to
15 City Incorporation, so this is a map...the original tentative was approved in April
16 of 1990 and, shortly after that, the map was recorded, so the design of this map
17 and the adjoining 22180-3 to the west were approved under a County Standard,
18 and it makes some of the lot sizes a little bit smaller than the current standard.
19 So, in this case, lot 48 is 61 feet in width. The current standard for the R5 zone
20 is 70 feet. The City Staff worked with the developer to see if we could come up
21 with any number of solutions to this challenge of siting a home on a narrow lot, a
22 corner lot. There is approved housing product for tract 22180-3 to the west,
23 which is also being developed by the Applicant. That same housing product was
24 also approved for this tract 22180-2, and we worked with them. We considered
25 every footprint that they had. We looked at combinations of setbacks and just
26 were not successful in coming up with a solution that would work and that brings
27 us here this evening with the request for the Variance. In the Staff Report, there
28 are some specific references to the City's requirements for a Variance, and I
29 wanted to read those into the record as part of the presentation. It reads, as
30 provided for in Section 9.02.100 of the Municipal Code, the purpose of a
31 Variance is to provide for equity in the use of property and to prevent
32 unnecessary hardships that might result from a strict or literal interpretation in
33 enforcement of certain regulations. The authority to grant Variances is vested
34 with the Planning Commission and requires a Public Hearing. Variances can be
35 granted with respect to Development Standards, which would include street-side-
36 yard setbacks, which is what is being requested by the Applicant. In this case,
37 the strict interpretation of the Code would result in an unnecessary hardship
38 because of the unique circumstances that apply to lot 48 and this tract. Again,
39 this map was recorded in October of 1990, prior to the adoption of our current
40 Code. It is designed with a lot width that is substandard to the current Code. All
41 other setbacks for lot 48 have been satisfied, so they have selected the smallest
42 housing, the smallest product, the smallest floor plan that they have in the
43 approved homes that the City approved for them and all of their setbacks can be
44 met, except for the street side yard setback. Lot 48 would be the only lot within
45 either this tract or the adjacent tract 22180-3, which is also being developed by
46 RSI that would require the Variance. In terms of the environmental for the

1 project, there was an environmental assessment that was prepared previously for
2 this original project, a Negative Declaration for the Tract Map rather. A Negative
3 Declaration was adopted for Tract Map 22180 on April 10, 1990. Over time, the
4 site has been disturbed through grading and other construction activities and,
5 considering the site conditions and the request for the Variance, the minor
6 change that would be requested by that Variance, Staff has reviewed this project
7 in light of the California Environmental Quality Act Guidelines and determined
8 that this project does not have the potential to cause a significant impact on the
9 environment and therefore qualifies for a General Rule Exemption as provided
10 for in Section 15061 of the California Environmental Quality Act Guidelines.
11 Standard notification was completed for this project. The site was posted. The
12 notification of the Public Hearing was also published in the local paper and
13 notices sent to all property owners within 300 feet of the site. As of this evening,
14 I did not receive any inquiries about tonight's Public Hearing or questions about
15 the Variance. With that, Staff would recommend the Planning Commission
16 approve Resolution 2017-31 certifying that the project is exempt under the
17 California Environmental Quality Act and approving Variance Application PEN17-
18 0091 based on the findings contained in the Resolution. That concludes my
19 report.

20
21 **CHAIR BARNES** – Thank you, Jeff. Is the Applicant present and wishing to
22 make a statement?

23
24 **ASSOCIATE PLANNER JEFF BRADSHAW** – I don't believe the Applicant was
25 able to make it this evening.

26
27 **CHAIR BARNES** – Okay, any questions from the Commissioners?

28
29 **COMMISSIONER SIMS** – I do have one. On the interior lots on the R5 Zone, it
30 looks like you have five on one side. Is there...what...if it's an interior lot, is the
31 other side five and would... is the other side larger?

32
33 **ASSOCIATE PLANNER JEFF BRADSHAW** – The standard is a combined 15
34 feet for interior lots, so you could go as small as five feet on one side as long as
35 you had 10 feet of setback on the other, and then it can be any other combination
36 as long as you have a minimum of at least five feet on the one side.

37
38 **COMMISSIONER SIMS** – So this one will have 60.9, or something like that, is
39 what we're looking at there?

40
41 **ASSOCIATE PLANNER JEFF BRADSHAW** – So, for corner lots, they would
42 need to meet the minimum of five feet and typically would have to meet the full
43 15 feet, and they are not able to do that here in this case but, yes, you're correct
44 in terms of the combined setbacks.

45

1 **COMMISSIONER SIMS** – So I guess my point on this is it's going to look
2 similar...

3
4 **ASSOCIATE PLANNER JEFF BRADSHAW** – Yeah...

5
6 **COMMISSIONER SIMS** – Along, along the streetscape to the other lots?

7
8 **ASSOCIATE PLANNER JEFF BRADSHAW** – That is something we also looked
9 at, in terms of placement of the wall and the street view and the parkway
10 dimension between the wall and the corner...and the sidewalk, will all look the
11 same as any of the other homes along the frontage.

12
13 **CHAIR BARNES** – Was the wall pulled back to five feet because there's a slope
14 between the pad and right-of-way or was that an effort to mitigate the Variance?

15
16 **ASSOCIATE PLANNER JEFF BRADSHAW** – No. I think the placement of the
17 wall is where the wall always would have been. If this was a 70-foot-wide lot, I
18 think the wall ends up placed....I don't know if I'm answering your question Chair
19 Barnes. I apologize.

20
21 **CHAIR BARNES** – Well normally, without a slope, they would put the wall along
22 the right-of-way to maximize the courtyard space.

23
24 **ASSOCIATE PLANNER JEFF BRADSHAW** – For corner lots, typically they
25 wouldn't have it right on the property line. There would be some width between
26 the right-of-way and the wall to allow for street trees and so this, this dimension
27 of five or six feet is pretty standard for corner lots and the placement of the wall.

28
29 **CHAIR BARNES** – Oh, okay. Alright, and then I think there's like nine other
30 corner lots. Those are all wider than 48, huh?

31
32 **ASSOCIATE PLANNER JEFF BRADSHAW** – This is the only lot between tract
33 22180-2, in which lot 48 is located and the adjoining tract that was also recorded
34 at the same time that requires the Variance.

35
36 **CHAIR BARNES** – Right, okay, alright. Any other questions?

37
38 **PLANNING OFFICIAL RICK SANDZIMIER** – Just one other comment about the
39 placement of the fence. At a corner lot, the other thing that is being taken into
40 consideration is the site distance, so the wall also has to be pulled back and over
41 to allow for the site distance from El Braso Drive in this particular location looking
42 in the direction where the wall would be so....

43
44 **CHAIR BARNES** – Alright, thank you. Well, having no public speakers. Oh, I'm
45 sorry....

1 **ADMINISTRATIVE ASSISTANT ERICA TADEO** – Actually, we do have one.

2
3 **CHAIR BARNES** – We do have a public speaker, yeah.

4
5 **ADMINISTRATIVE ASSISTANT ERICA TADEO** – Yes.

6
7 **CHAIR BARNES** – We don't have the Applicant. Alright, so, at this time, I will
8 open the Public Hearing.

9
10 **ADMINISTRATIVE ASSISTANT ERICA TADEO** – Rafael Brugueras.

11
12 **SPEAKER RAFAEL BRUGUERAS** – Good evening, Chair, Vice Chair,
13 Commissioners, Staff, and Guests. I'm glad that it took a little while to call me up
14 because I got to hear a lot more of the project, so that was good. So there is a
15 solution to the problem and it is unnoticeable, as Mr. Sims mentioned, as it all
16 gets done and all the trees get put in and the grass goes down and the bush. It's
17 just going to be a smaller lot. For some people, it will be a little small. I went by
18 there because I wanted to see how the City's growing on that side in District 4.
19 To know that the Walmart will go up one day, that more houses will be around
20 the school. I heard the year here, 1990. Wow, 27 years. Please don't let
21 another 27 years be empty on that little corner. We want to fill it up with a house
22 at least. Somebody will be happy not to have a lot to clean or something, but I
23 was happy to go by because I got to see of all the approvals and other things that
24 we're doing in the City of Moreno Valley. Please, let's move on. Accept it. It's a
25 small change, and it will finish out the project. Thank you.

26
27 **CHAIR BARNES** – Thank you, Mr. Brugueras. No other public speakers?

28
29 **ADMINISTRATIVE ASSISTANT ERICA TADEO** – No.

30
31 **CHAIR BARNES** – Alright, I'll close the Public Hearing. Now, any deliberation or
32 comments or possibly a motion? Oh, I'm sorry. I'm lost tonight. I can't get there.
33 Alright, do you want to make a motion?

34
35 **COMMISSIONER BAKER** – Whatever you want.

36
37 **CHAIR BARNES** – Proceed. I haven't done anything else right tonight, so I
38 better not make a motion.

39
40 **COMMISSIONER BAKER** – Okay, the Planning Commission hereby approves
41 Resolution, let me make sure, Resolution No. 2017-31 and thereby certifies that
42 the project is exempt from the California Environmental Quality Act in that it can
43 be determined with certainty that there is no possibility the Variance Application
44 could have a significant effect on the environment and therefore exempt under
45 Section 15061(b)(3).

1 **CHAIR BARNES** – We have a motion from Commissioner Baker, a second from
2 Commissioner Korzec. The rest of us, please vote. The motion carries 4-0. Do
3 we have a Staff wrap-up?

4
5
6 Opposed – 0
7

8
9 **Motion carries 4 – 0**

10
11
12 **PLANNING OFFICIAL RICK SANDZIMIER** – Yes. The decision of the Planning
13 Commission this evening is an appealable action. If any interested party would
14 like to file an appeal, they have 15 days to make an appeal. The appeal should
15 be directed in writing through the Director of Community Development to the City
16 Council. If we do receive an appeal, we will be working with the City Clerk to put
17 it on the Agenda for the City Council within 30 days.

18
19 **CHAIR BARNES** – Thank you, Mr. Sandzimier.
20

21
22
23 **OTHER COMMISSION BUSINESS**

24
25
26
27 **PLANNING COMMISSIONER COMMENTS**

28
29
30 **CHAIR BARNES** – Well, that being the closing case, do we have any closing
31 comments from the Commissioners?

32
33 **VICE CHAIR KORZEC** – I do.
34

35 **CHAIR BARNES** – Commissioner Korzec.
36

37 **VICE CHAIR KORZEC** – I want to wish Mr. Sims a happy birthday. We were
38 supposed to wear crazy hats tonight, and we all left them at home.

39
40 **CHAIR BARNES** – That’s right. That was actually in the Minutes.
41

42 **VICE CHAIR KORZEC** – So, happy birthday. You still have time to go out and
43 celebrate.
44

45 **COMMISSIONER SIMS** – I’m happy to have lived another year. I’m looking
46 forward to many more.

1
2 **CHAIR BARNES** – We’re happy that you could spend it with us, so thank you
3 Commissioner Sims. Alright, anything else?
4
5
6

7 **STAFF COMMENTS**
8

9 **CHAIR BARNES** – Well, thank you everyone. Thank you, Staff, for your support
10 and your assistance.
11

12 **PLANNING OFFICIAL RICK SANDZIMIER** – I have a Staff comment, if I may.
13

14 **CHAIR BARNES** – Please.
15

16 **PLANNING OFFICIAL RICK SANDZIMIER** – I just want to let the Commission
17 know we do have budget for the Planning Commission to provide for some
18 training opportunities from time to time. I don’t have a robust budget. We can’t
19 send you guys to everything but it just came to mind that we just recently had a
20 small event, the State of the City, which is also something that we can use some
21 of our budget to send some of you to, if you’d like to go. So, if you ever see
22 anything that comes up and you have a question to see if it is something that
23 would be eligible, don’t hesitate to give me a call. We’ll try and work with you to
24 get you the training that you need. We obviously budget some of the money to
25 try and send some of the Planning Commissioners to the Planning Commission
26 Academy that is put on by the League of California Cities, so that is part of what
27 that budget is for, but there is a little bit in there for some little things here and
28 there, so just wanted to let you know that.
29

30 **CHAIR BARNES** – Thank you, I appreciate that. Anything else?
31

32 **COMMISSIONER BAKER** – You know, I had one question here. Rick got...you
33 know, when we post these locations...there is one over on Elsworth there next
34 to Cactus, that sign has never been removed. Is that part of our contract with
35 those guys or do you need to know about that? I can shoot you an email if you
36 want to know about them?
37

38 **PLANNING OFFICIAL RICK SANDZIMIER** – If you see a sign that’s out there
39 after the case has already been heard...
40

41 **COMMISSIONER BAKER** – Yeah.
42

43 **PLANNING OFFICIAL RICK SANDZIMIER** – Bring it to my attention. I would
44 like our sign contractor to be removing those. We have talked to them about that
45 on projects in the past. Some of the push back they have given us is that they
46 like to take those signs and then relocate them to the next...they repurpose

1 them. They put a new print on them for the next project and move it but, if we
2 don't have any....another project coming up at the next Agenda and they leave
3 that sign out there for that long period of time, that's unsightly in my opinion. So,
4 if you see that, let me know. I have asked my Staff to look into that, and we'll
5 take care of it.

6
7 **COMMISSIONER SIMS** – I do want to....I live out on the east end, and I do want
8 to report that I see Larry Jacinto, grading contractor, pushing dirt around and re-
9 grading the development that was right across from the now defunct or....well I
10 shouldn't say defunct....it's the outlet now, Best Buy Outlet, so hopefully those
11 houses get up and more foot traffic gets in that commercial zone over there.

12
13 **CHAIR BARNES** – Very good. Anything else?

14
15
16
17 **ADJOURNMENT**

18
19 **CHAIR BARNES** – Alright, well, with that, thank you very much. We are
20 adjourned until the next regularly-scheduled meeting of....

21
22 **PLANNING OFFICIAL RICK SANDZIMIER** – September 28th I believe.

23
24 **CHAIR BARNES** – September 28, 2017? Is that correct?

25
26 **PLANNING OFFICIAL RICK SANDZIMIER** – Yeah.

27
28 **CHAIR BARNES** – Alright, September 28, 2017. We will see you then. Thank
29 you very much.

30
31
32 **NEXT MEETING**

33 *Next Meeting: Planning Commission Regular Meeting, September 28, 2017, at*
34 *7:00 PM, City of Moreno Valley, City Hall Council Chamber, 14177 Frederick*
35 *Street, Moreno Valley, CA 92553.*

36
37
38
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41
42
43
44 _____
45 Richard J. Sandzimier
46 Planning Official
Approved

_____ Date

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Jeffrey Barnes
Chair

Date