

AGREEMENT BIBLIOGRAPHY

Agreement With:	Food Partners, LLC
Agreement Type:	Development Agreement - DA-106-90 - 11171 Garden Grove Blvd.
Date Approved:	09 28 1999
Start Date:	09 28 1999
End Date:	09 27 2003
Contract Amount:	\$3,660
Comments:	SP-246-99 Community Development/Planning
Insurance Expiration:	N/A
Date Archived:	



GARDEN GROVE

CITY OF GARDEN GROVE, CALIFORNIA

11222 ACACIA PARKWAY, P.O. BOX 3070, GARDEN GROVE, CALIFORNIA 92842

Bruce A. Broadwater
Mayor

(714) 741-5040

Ho Chung
Mayor Pro Tem November 9, 1999

William Dalton
Councilman

Mark Leyes
Councilman

Mark Rosen
Councilman

Food Partners, LLC
Attn: Mark Burger
177 S. Beverly Drive
Beverly Hills, CA 90212-3002

Enclosed for your files is a copy of the recorded Development Agreement by and between the City of Garden Grove and Food Partners, LLC for property located at 11171 Garden Grove Boulevard.

Sincerely,

Ruth E. Smith
City Clerk

By: Priscilla Stierstorfer
Deputy City Clerk

Enclosure

c: Community Development

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City Clerk's Office
City of Garden Grove
11222 Acacia Parkway
Garden Grove, CA 92640

Recorded in the County of Orange, California
Gary L. Granville, Clerk/Recorder
No Fee
19990749324 10:29am 10/26/99
008 25018467 25 23
A12 21 6.00 60.00 0.00 0.00 0.00 0.00

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(Space above for Recorder.)

This document is exempt for payment
of a recording fee pursuant to
Government Code Section 6103.

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Dated: 9/28/99

DEVELOPMENT AGREEMENT

**FOOD PARTNERS, LLC.
SP-246-99 and V-254-99**

THIS AGREEMENT is made this 28th day of September, 1999, by the CITY OF GARDEN GROVE, a municipal corporation ("CITY") and Food Partners, LLC. ("DEVELOPER").

RECITALS

The following recitals are a substantive part of this Agreement:

1. The PROPERTY OWNER and DEVELOPER entered into a Disposition and Development Agreement (DDA) on June 8, 1999, for the construction of a 4,700 square foot, fast food restaurant for McDonald's, at 11171 Garden Grove Boulevard.
2. The CITY and DEVELOPER desire to enter into this DEVELOPMENT AGREEMENT for the construction of an approximately 4,700 square foot, fast food restaurant with drive-through lane and an indoor playplace.
3. The PROJECT is a development requiring certain discretionary approvals by the CITY before it may be constructed.

4. The CITY'S Planning Commission approved Site Plan No. SP-246-99 and V-254-99, on July 7, 1999, conditioned upon DEVELOPER entering into a Development Agreement.
5. Government Code Section 65864 et seq. provides the authority for CITY to enter into binding development agreements with a developer having a legal and equitable interest in real property.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. DURATION. The term of this Agreement shall be coterminous with the terms of the DDA, provided however, in the event that if the DDA is terminated, this Agreement shall also be terminated and be of no further force or effect.
2. Permitted Uses. The following uses are permitted at the PROJECT: An approximately 4,700 square foot, fast food restaurant for McDonald's with a drive-through lane and an indoor playplace, as permitted under Site Plan No. SP-246-99 and Variance No. V-254-99.
3. Density/Intensity. The density or intensity of this project is as follows: An approximately 4,700 square foot, fast food restaurant as approved under Site Plan No. SP-246-99 and Variance No. V-254-99.
4. Maximum Height and Building Size. The maximum height and building size are as follows: The maximum building height shall be 25 feet and 6 inches as indicated on the approved site plan. The total building area shall not exceed 4,700 square feet for the proposed restaurant.
5. Reservation or Dedication. The reservation of easements or dedication of property to the City is as follows: As described in Planning Commission Resolution No. 5014.
6. Improvements. The improvements described in the Planning Commission Resolution No. 5014 shall be constructed prior to the occupancy of the proposed restaurant.
7. Scope of Project. The Project shall consist of those uses stated in paragraph two, with a density/intensity that does not exceed the limit stated in paragraph three, with a building height and size that does not exceed the limit stated in paragraph four.

8. Resolution/Material Terms. All conditions of approval as per Planning Commission Resolution No. 5014, attached hereto and incorporated herein as Exhibit "1," are material terms of this Agreement. Breach of any condition of approval shall be deemed to be a breach of this Development Agreement.
9. Reimbursement. DEVELOPER shall pay CITY as follows:
 - 9.1 Amount. One percent of building valuation.
 - 9.2 Not to Exceed. Payment under this Agreement shall not exceed \$3,660.00.
10. Records of Expenses. DEVELOPER shall keep records in which complete and correct entries will be made of construction costs. These records will be available to CITY.
11. City Agreement. CITY agrees that one (1) percent of the project valuation, not to exceed \$3,660.00 will reimburse CITY for the cost of certain CITY services required by the proposed development that are not otherwise being reimbursed to CITY.
12. Payment Due Date. The reimbursement amount shall be due and payable prior to the issuance of building permits for the PROJECT or one year from the date of approval of this agreement by the City Council, whichever shall occur first.
13. Termination Provisions. This Agreement may be terminated upon the happening of any of the following events:
 - A. Failure of Developer to perform any of the provisions of this Agreement following written notice thereof and a reasonable opportunity to cure such matter(s), or
 - B. Mutual agreement of the parties.
14. Periodic Review. CITY shall review DEVELOPER'S performance every twelve (12) months at the anniversary of the adoption of this Agreement. DEVELOPER shall demonstrate good faith compliance with the terms of this Agreement. If as a result of the review CITY finds and determines, based upon substantial evidence, that DEVELOPER has not complied in good faith with terms or conditions of this Agreement, CITY may terminate the Agreement in accordance with the requirements of applicable law and following written notice thereof and a reasonable opportunity to cure such matter(s). This review shall be conducted by the Director of Community Development.

15. City Discretion. CITY retains its right and discretion, under all applicable Codes, to approve or disapprove any item related to this PROJECT which it has not specifically agreed to via this Agreement. DEVELOPER acknowledges that it shall comply with all CITY requirements for applications and permits of any nature and that this Agreement does not relieve DEVELOPER of the necessity of filing appropriate applications and permits.

16. Improvement Schedule. The following improvements shall be constructed by the stated dates:

All on-site improvements required in Planning Commission Resolution No. 5014 shall be completed prior to the issuance of any certificates of occupancy or release of any public utilities.

17. Developer Breach. Failure of DEVELOPER to construct improvements as specified, or to pay amounts specified in a timely fashion, shall result in the withholding of building permits, any other permit or certificate of occupancy until the breach is remedied to satisfaction of CITY.

18. Non-Liability of Officials and Employees of the City. No official or employee of CITY shall be personally liable to DEVELOPER in the event of any default or breach by CITY, or for any amount which will become due to DEVELOPER, or any obligation under the terms of this Agreement.

19. Notices. All notices shall be personally delivered or mailed to the below listed addresses, or to such other address as may be designated by written notice. These addresses shall be used for delivery or service of process. Any party hereto may change the address to when notices are sent by providing written notice thereof.

A. Address of DEVELOPER is as follows:
FOOD PARTNER, LLC.
177 S. Beverly Drive
Beverly Hills, CA 90212


B. Address of CITY is as follows:
City of Garden Grove
11222 Acacia Parkway
Garden Grove, CA 92840

20. DEVELOPER'S Proposal. The Project shall include DEVELOPER's proposal, as approved and identified pursuant to Planning Commission Resolution No. 5014, which shall be incorporated herein by this reference. In the event of any

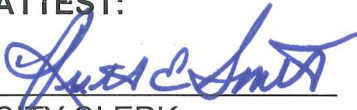
IN WITNESS WHEREOF, these parties have executed this Agreement on the day and year shown below.

Date:

CITY OF GARDEN GROVE

BY 
Mayor

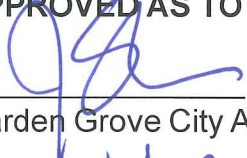

ATTEST:


CITY CLERK
DATE: 10-4-99

"DEVELOPER"
Food Partners, LLC.

By: Mark T. Burger on behalf of the
MTB Family Ltd Partnership
Its: Member
Date: 8/23/99
(Signature must be notarized.)

APPROVED AS TO FORM:

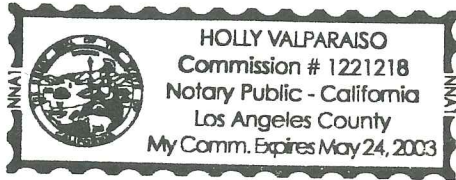

Garden Grove City Attorney
Date: 

If DEVELOPER is a corporation, a Corporate Resolution and/or Corporate Seal is required. If a partnership, Statement of Partnership must be submitted to CITY.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of CALIFORNIA
County of LOS ANGELES
On AUGUST 27, 1999 before me, Holly Valparaiso,
Date Name and Title of Officer (e.g., Jane Doe, Notary Public)
personally appeared Mark T. Burger,
Name(s) of Signer(s)

personally known to me – **OR** – proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Holly Valparaiso
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Individual
- Corporate Officer
Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer Is Representing:

Signer's Name: _____

- Individual
- Corporate Officer
Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer Is Representing:

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
 County of Orange } ss.

On 10-4-99, before me, Priscilla Stierstorfer,
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
 personally appeared Bruce Broadwater + Ruth Smith,
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence



to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Priscilla Stierstorfer
 Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

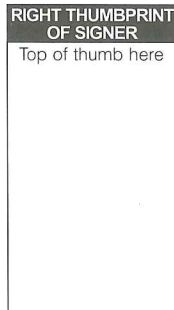
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____



RESOLUTION NO. 5014

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GARDEN GROVE RECOGNIZING THE PREVIOUSLY ADOPTED NEGATIVE DECLARATION, AND APPROVING SITE PLAN NO. SP-246-99 AND VARIANCE NO. V-254-99 FOR A PROPERTY LOCATED ON THE NORTH SIDE OF GARDEN GROVE BOULEVARD, WEST OF EUCLID STREET AT 11171 GARDEN GROVE BOULEVARD, PARCEL 1 OF LLA-4-99.

BE IT RESOLVED that the Planning Commission of the City of Garden Grove, in regular session assembled on August 4, 1999, does hereby recognize the previously adopted Negative Declaration, and approve Site Plan No. SP-246-99 and Variance No. V-254-99.

BE IT FURTHER RESOLVED in the matter of Site Plan No. SP-246-99 and Variance No. V-254-99, the Planning Commission of the City of Garden Grove does hereby report as follows:

1. The subject case was initiated by McDonald's Corporation.
2. The applicant is requesting Site Plan approval to construct a 4,700 square foot restaurant with a drive-through lane and an indoor playplace (McDonald's Restaurant) and Variance request to deviate from the required on-site parking requirement. A Development Agreement is also proposed.
3. The previously adopted Negative Declaration for the project considered the necessary entitlement including a Site Plan, Code Amendment, and Variance applications, therefore no further environmental action is necessary.
4. The property has a General Plan Land Use designation of Mixed Use and is currently zoned MX/33 (Mixed Use District Area 33 of the Community Center Specific Plan).
5. Existing land use, zoning, and General Plan designation of property in the vicinity of the subject property have been reviewed.
6. Report submitted by City staff was reviewed.
7. Pursuant to a legal notice, a public hearing was held on August 4, 1999, and all interested persons were given an opportunity to be heard.
8. The Planning Commission gave due and careful consideration to the matter during its meeting of August 4, 1999; and

BE IT FURTHER RESOLVED, FOUND AND DETERMINED that the facts and reasons supporting the conclusion of the Planning Commission, as required under Municipal Code Section 9.24.030, are as follows:

FACTS:

The site area is approximately 1.80 acres in size.

The site is part of the Garden Grove Educational Center Phase II which consists of two separate parcels. Parcel 1 (the parking lot) is owned by the Garden Grove Agency for Community Development and Parcel 2 (the subject site and educational building) is owned by Food Partners, LLC.

On June 8, 1999, the Garden Grove Agency for Community Development entered into a Disposition and Development Agreement with Food Partners, LLC. for the development of the proposed restaurant. The proposed restaurant will be located on Parcel 2.

A minimum of 47 parking spaces is required for the proposed restaurant.

The site requires a total of 458 spaces for the educational center and the proposed restaurant.

The site will provide a total of 354 spaces resulting in a code deficiency of 104 parking spaces, or approximately 23 percent below the code requirement. The applicant is requesting a Variance to deviate from the required on-site parking

An amendment to the MX/33 zone of the CCSP is also proposed, in conjunction with the Site Plan and Variance application, in order to allow the proposed restaurant to have a drive-through lane. The proposed amendment is district specific (within the area bounded by Acacia Parkway, Euclid Street, Garden Grove Boulevard, and the area east of Main Street) and would allow restaurants with a drive-through lane.

Government Code Section 65864 provides the authority for the City to enter into a Development Agreement with the applicant.

FINDINGS AND REASONS:

SITE PLAN:

1. The Site Plan complies with the spirit and intent of the provisions, conditions, and requirements of the Municipal Code, the Community Center Specific Plan (CCSP),

and other applicable ordinances. The site is located within the described zone and therefore, consistent with the General Plan designation. However, a Code Amendment is proposed to amend the MX/33 zone of the CCSP to allow the proposed restaurant to have a drive-through lane. The proposed project is consistent with the existing General Plan designation which permits commercial retail uses.

The site is adequate to accommodate the proposed commercial development including permitted building height, setbacks, and landscaping, except for the required on-site parking. The proposed commercial development is compatible with the surrounding development.

2. The proposed commercial development does not adversely affect essential on-site facilities such as loading and unloading areas, traffic circulation, and points of vehicular and pedestrian access, and on-site parking. A parking study with a parking management plan will be reviewed and approved by the City Traffic Engineer prior to the issuance of building permits to ensure that there will be adequate on-site parking allocation for the entire Educational Center and the Main Street parking areas.
3. The proposed commercial development will not adversely affect essential public facilities such as streets and alleys, utilities and drainage channels. Utilities and drainage channels in the area are in place to accommodate the development.
4. The proposed commercial development has a reasonable degree of physical, functional, and visual compatibility with the neighboring uses and desirable neighborhood characteristics. The proposed commercial development will be architecturally compatible with the neighboring uses. The design and conditioning of the proposed development will enhance and insure a reasonable degree of compatibility with adjacent uses.
5. Through the planning and design of building and building placement, the provision of landscaping and other site amenities will attain an attractive environment for the occupants of the property. The project has been designed in accordance with City Code landscape provisions and will provide an adequate amount of landscaped areas. The necessary agreements for the protection and maintenance of improvements will be achieved through the conditions of approval for the project.

VARIANCE:

Parking:

1. There are exceptional circumstances to the development on the property as the site is located in a redevelopment area where property size is limited, which adversely affects the ability to achieve the required number of on-site parking spaces. Furthermore, a traffic study has been prepared to address any potential traffic impacts to the adjacent streets. Additionally, a parking study with a traffic management plan for the subject site including the Main Street area must be reviewed and approved by the City Traffic Engineer prior to the issuance of building permits.
2. There are other properties in the area that have been granted parking variances for similar types of uses, particularly where a parking study and a parking management plan substantiate the availability of adequate parking. Therefore, approval of the requested Variance would allow the development to enjoy the same property rights that exist for other commercial developments located in the same vicinity.
3. If the Variance is granted it will not be materially detrimental to the public welfare or injurious to the development or the surrounding properties. As demonstrated by the traffic study, the existing major street intersections are adequate to accommodate the amount of traffic that will be generated by the proposed restaurant and the anticipated uses planned for the subject site. Furthermore, the applicant is required to submit a parking study with a parking management plan to the Community Development and Public Works Departments for review and approval prior to the issuance of building permits, to ensure there will be adequate parking allocation for tenants on the premises.
4. Granting of the Variance will not adversely affect the City's General Plan. The proposed restaurant is consistent with the existing General Plan designation as the site allows retail commercial developments, educational facilities, and similar related uses. By allowing the new commercial development with a reduction in on-site parking, the use of the facility for the purposes stated in the General Plan has been met.

INCORPORATION OF FACTS AND FINDINGS SET FORTH IN STAFF REPORT

In addition to the foregoing, the Commission incorporates herein by this reference, the facts and findings set forth in the staff report.

BE IT FURTHER RESOLVED that the Planning Commission does conclude:

1. The Site Plan and Variance possess characteristics that would indicate justification of the request in accordance with Municipal Code Section 9.24.030.D.3 & 6 (Site Plan and Variance).
2. In order to fulfill the purpose and intent of the Municipal Code, and, thereby, promote the health, safety, and general welfare, the following conditions of approval shall apply to Site Plan No. SP-246-99 and Variance No. V-254-99:

CONDITIONS OF APPROVAL:

- A. All below-listed conditions of approval are required to be recorded. Recordation of said conditions is the responsibility of the applicant, and proof of such recordation is required prior to issuance of building permits. All conditions of approval are required to be adhered to for the life of the project, regardless of property ownership. Any changes of the conditions of approval require approval of the Planning Commission.
- B. Approval of this Site Plan and Variance shall not be construed to mean any waiver of applicable and appropriate zoning and other regulations; and wherein not otherwise specified, all requirements of the City of Garden Grove Municipal Code shall apply.
- C. Minor modifications may be approved by the Community Development Department and/or Planning Commission. If other than minor changes are made in the proposed development, a new Site Plan application shall be filed which reflects the revisions made to, or changes to the use of the building.
- D. The approved floor plan is an integral part of the decision approving this Site Plan. There shall be no change in the design of the floor plan without the approval of the Community Development Department. Any change in the approved site plan and/or floor plan which has the effect of expanding or intensifying the proposed use shall require a new Site Plan.
- E. All lighting structures shall be placed so as to confine direct rays to the subject property. All exterior lights shall be reviewed and approved by the City's Planning Section. The applicant shall be responsible for providing adequate parking area lighting in compliance with City regulations, at a minimum of two footcandles of light on the parking surface during regular business for all

businesses, and one foot-candle for non-business hours. Light standards shall match the Educational Center and shall not exceed 20 feet in height.

- F. The developer shall submit detailed plans for the pad building site showing the proposed location of utilities and mechanical equipment to the Community Development Department for review and approval prior to the issuance of building permits. The project shall also be subject to the following:
1. All on-site utilities pertaining to the improvements proposed under this Site Plan shall be installed or relocated underground.
 2. Above-ground utility equipment (e.g., electrical, gas, telephone, cable TV) shall not be located in the street setbacks, or any parking areas and shall be screened to the satisfaction of the Community Development Department.
 3. No roof-mounted mechanical equipment shall be permitted unless a method of screening complementary to the architecture of the building is approved by the Community Development Department prior to the issuance of building permits. Said screening shall block visibility of any roof-mounted mechanical equipment from view of public streets and surrounding properties.
 4. All ground- or wall-mounted mechanical equipment shall be screened from view of public streets and surrounding properties.
- G. The following provisions of the Public Works' Engineering Division shall be complied with:
1. Lot line adjustment application to configure lot for this development shall be reviewed, approved, and recorded prior to utility release.
 2. All new utilities shall be placed underground in the public right-of-way and on-site.
 3. Grading, water and sewer, and utility plans shall be required. Plans shall be prepared by a registered Civil Engineer. Grease traps shall be installed on sewer laterals for all food facilities and shall be installed on the outside of the building downstream of the last connection in an area that is accessible for routine maintenance.

4. Separate plans prepared by a Registered Civil Engineer shall be required for construction of improvements within the public right-of-way.
 5. All on-site improvements shall be removed prior to new construction.
 6. Wheelchair ramps shall be constructed in new landing(s) per City Standard Plan B-108.
 7. Access rights to adjacent arterial roadways shall be restricted to approved driveway locations.
 8. Bonds shall be posted to secure all work within the public right-of-way. An encroachment permit shall be required for work performed within the public right-of-way.
 9. Any new or required block walls and/or retaining wall and trash enclosures shall be shown on the grading plans. Block walls shall be developed to City Standards or designed by a Registered Engineer.
 10. In accordance with the 1972 Clean Water Act and National Pollution Discharge Elimination System (NPDES) requirements, the developer shall be required to submit a long term, post construction, Water Quality Management Plan (WQMP). The WQMP shall include provisions for the installation and maintenance of appropriate structural facilities and conduct a non-structural Best Management Practices (BMPs). The plan shall be submitted to and approved by the Public Works and Community Development Departments prior to the issuance of a grading or building permit, whichever occur first. The project shall also be subject to all conditions in the latest edition of the Drainage Area Management Plan (DAMP) and appendices. All oil and grease shall be stored within the building. A separate wash area connected to the sewer lateral shall be provided in the building for cleaning all food preparation equipment including floor mats.
 11. A geotechnical study prepared by a registered geotechnical engineer shall be required. The report shall analyze the liquefaction potential of the site and make recommendations.
- H. The following provisions of the Public Works' Traffic Engineering Division shall be complied with:

1. Entrance to the property shall be posted with a sign indicating that unauthorized vehicles will be removed at the owner's expense. The sign shall be of the size, type, and location specified in the California Vehicle Code and Garden Grove Municipal Code.
 2. All handicap parking stalls shall be marked and signed in accordance with California Vehicle Code. All parking stalls shall be per City standards, and hairpin striped. All curbs not associated with a parking stall shall be painted red and parking shall be prohibited in those areas.
 3. Prior to the building permit issuance, **a detailed parking management plan shall be submitted to the Traffic Engineer and to the Planning Division for review and approval. The plan must include parking allocation, management, and enforcement for all tenants within the entire Education Center and Coastline College.**
 4. Traffic mitigation fees shall be paid, if any, prior to the issuance of building permits for the restaurant.
 5. ~~The old Walnut street entrance shall be redesigned to accommodate ingress and egress to the adjacent bank's parking lot area.~~
- I. All conditions from the Garden Grove Fire Department and the Uniform Fire Code shall be met.
- J. The building plans, site plans and all construction shall comply with the current editions of the U.B.C., U.P.C., U.M.C., and N.E.C. as amended by the City of Garden Grove and State of California handicap access, energy conservation and sound transmission control requirements.
- K. The following provisions of the Garden Grove Public Works' Water Services Division shall be met:
1. A T.V video of Walnut Street sewer main shall be required to verify the condition of sewer and determine if repairs are necessary.
 2. The sewer main depth shall be verified to demonstrate adequate fall for sewer lateral per the U.P.C.
 3. Water service shall be taken off of the existing water main in Walnut Street.

4. An easement of the water service and meter shall be prepared by the Civil Engineer and shall be dedicated by the property owner for public water facilities prior to utility release for new building.
 5. A backflow prevention device shall be required on water service per City standards. The device shall be inspected by the cross connection specialist after installation. The device shall be tested immediately after installation and once a year by a certified backflow device tester and the results shall be submitted to the Public Works Utilities Services Division.
- L. The following provisions of the Garden Grove Sanitation District shall be met:
1. All new trash enclosures shall be built per City Standard No. B-502 to accommodate a trash bin. The trash enclosure doors shall be kept closed and secured except during trash disposal or pickup. The trash pickup shall be a minimum of three times a week **or less if a trash compactor will be provided.**
 2. The trash enclosure shall be placed in an accessible location. The location shall be reviewed and approved by the Community Development and Public Works Departments. The trash enclosure shall be constructed to match the building exterior materials.
 3. The trash enclosure area shall be maintained in a neat and sanitary manner.
- M. No exterior piping, plumbing, or mechanical duct work shall be permitted on any exterior facade and/or visible from any public right-of-way or adjoining property.
- N. Hours and days of construction and grading shall be as follows as set forth in the City of Garden Grove's Municipal Code Section 8.47.010 referred to as the County Noise Ordinance as adopted:
1. Monday through Saturday - not before 7 a.m. and not after 8 p.m. (of the same day).
 2. Sunday and Federal Holidays - may work same hours but subject to noise restrictions as stipulated in Section 8.47.010 of the Municipal Code.
- O. The developer shall submit a complete, detailed landscape plan governing the proposed development which reflects the approved landscape plans, with any necessary modifications, as submitted under the Site Plan application. Said plan

shall include type, size, location and quantity of all plant material. It shall include irrigation plans staking and planting specifications. The landscape plan is also subject to the following:

1. A complete, permanent, automatic remote control irrigation system shall be provided for all landscaped areas shown on the plan. The sprinklers shall be of low flow/precipitation sprinkler heads for water conservation.
 2. The developer is and shall be responsible for installation and maintenance of all landscaping on the property. Said responsibility shall extend to the sidewalk curb or pavement of adjoining streets.
 3. No trees shall be planted closer than five feet (5') from any public right-of-way. Trees planted within ten feet (10') of any public right-of-way shall be planted in a root barrier shield. All landscaping along street frontage(s) adjacent to driveways shall be of the low height variety to ensure safe site clearance.
 4. Unless otherwise specified, the plan shall provide a mixture of a minimum of ten (10) percent of the trees at 48-inch box, ten (10) percent of the trees at 36-inch box, fifteen (15) percent of the trees at 24-inch box and sixty (60) percent of the trees at 15-gallon. Remaining five (5) percent may be of any size.
 5. Mounding and berming shall be incorporated into the street frontage landscape areas along Garden Grove Boulevard. Such berming shall not exceed 36 inches above the highest adjacent curb.
 6. The developer shall provide a minimum of one 24-inch box tree for every 30 feet of street frontage. These trees may be grouped or clustered.
 7. A decorative masonry wall of thirty-six inches in height and/or landscaped berm of equal height shall be provided between the drive-through lane and the required landscape area along Garden Grove Boulevard. **The wall and/or landscaped berm shall commence at the "pre-order" area and shall end at the easterly edge of building where the dining area ends.** The overall landscaped berm and/or wall design shall be reviewed and approved by the Community Development Department prior to the building permit issuance.
- P. Prior to the construction of the new commercial building, the site area shall be secured with a six-foot (6') high chain link fence. Access gate(s) are permitted

and the fence shall be removed upon construction of permanent perimeter fencing and/or completion of the project.

- Q. The site shall be permitted to have one monument sign. The monument sign shall be in compliance with the City Sign Ordinance. The size, color, and style of the monument sign shall be reviewed and approved by the Community Development Department prior to sign permit issuance.
- R. No animated or flashing signs shall be allowed on the premises. All awnings around the proposed restaurant shall not contain any graphics or signage.
- S. The restaurant shall be limited to six (6) wall signs. ~~The word "Playplace" shall be one straight line and shall consist of only one color.~~
- T. All signs require separate permits and shall be installed in accordance with the provisions of the sign ordinance and the approved sign criteria, and shall be approved by the Community Development Department.
- U. No more than 15% of the total window area and clear doors on each face of the building shall bear advertising or signs of any sort.
- V. The property owner shall enter into a maintenance agreement with the City of Garden Grove to ensure proper maintenance and upkeep of the property.
- W. Litter shall be removed daily from the premises including adjacent public sidewalks and all parking areas under the control of the applicant. These areas shall be swept or cleaned, either mechanically or manually, on a weekly basis, to control debris.
- X. The permittee shall submit a signed letter acknowledging receipt of the decision approving Site Plan No. SP-246-99 and Variance No. V-254-99 and his/her agreement with all conditions of the approval.
- Y. During construction the developer shall comply with the following measures to contain fugitive dust as required by the General Plan EIR:
 - 1. Adherence to SCAQMD Rule 403, Fugitive Dust, as revised, which includes dust minimization measures such as daily watering of soils, application of non-toxic soils stabilizers, replacement of ground cover in disturbed areas as soon as possible, suspension of excavating and grading operations when wind speeds (or instantaneous gusts) exceed 25

miles per hour, and maintenance of a minimum two feet of freeboard on all trucks hauling dirt, sand, soil or other loose material.

2. Sweeping of streets near construction area.
 3. Rinsing of wheels on construction vehicles prior to leaving construction area.
 4. Paving of all construction access roads at least 100 feet onto the site from the main access points.
 5. Use of electricity from power poles rather than temporary diesel or gasoline powered generators.
 6. Use of methanol, natural gas, propane or butane-powered on-site mobile equipment rather than diesel or gasoline powered equipment.
- Z. During construction, if paleontological or archaeological resources are found all attempts will be made to preserve in place or leave in an undisturbed state in compliance with CEQA.
- AA. Graffiti shall be removed from the premises and all parking lots under the control of the licensee and/or the property owner within 120 hours of application.
- BB. The exit doors shall be kept closed at all times during the hours of operation of the premises except in case of emergency or to permit deliveries. Panic hardware on doors shall comply with all City code requirements.
- CC. There shall be no deliveries from or to the premises, mechanized parking lot sweeping, or trash pickup before 8:00 a.m. and after 10:00 p.m., seven days a week, **or as approved by the Community Development Director.**
- DD. The parking lot area shall comply with all requirements of the City of Garden Grove and the State of California regarding parking accessibility of the physical handicapped.
- EE. The applicant is advised that the establishment is subject to the provisions of State Law AB 13, which prohibits smoking inside the establishment as of January 1, 1995.
- FF. SP-246-99 and V-254-99 shall not be effective until A-199-99 is in effect.

GG. The subject Site Plan and Variance shall expire one year after the effective date of this Resolution unless the Development Agreement has been recorded and fees paid.

ADOPTED this 4th day of August 1999.

/s/ EARL HUTCHINSON
CHAIRMAN

I HEREBY CERTIFY that the foregoing resolution was duly adopted at the regular meeting of the Planning Commission of the City of Garden Grove, State of California, held on August 4, 1999, by the following votes:

AYES:	COMMISSIONERS:	HUTCHINSON, BUTTERFIELD, JONES, OH, TRAN
NOES:	COMMISSIONERS:	FREZE, BARRY
ABSENT:	COMMISSIONERS:	NONE

/s/ TERESA POMEROY
SECRETARY

PLEASE NOTE: Any request for court review of this decision must be filed within 90 days of the date this decision was final (See Code of Civil Procedure Section 1094.6).

A decision becomes final if it is not timely appealed to the City Council. Appeal deadline is August 25, 1999.

City Council Minutes
October 26, 1999

SECOND READING OF ORDINANCES NO. 2489, NO. 2490, NO. 2491, NO. 2492,
AND NO. 2493 (F: 115.A-202-99) (F: 106.90) (F: 115.A-203-99) (F: 61.6)

It was moved by Councilman Rosen, seconded by Councilman Dalton, and carried by unanimous vote, that full reading of Ordinances No. 2489, No. 2490, No. 2491, No. 2492, and No. 2493 be waived.

ORDINANCE NO. 2490 was presented for second reading and adoption and the title read in full, entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE ADOPTING A DEVELOPMENT AGREEMENT BETWEEN CLAYTON, CLAYTON AND COMPANY, LTD., AND THE CITY OF GARDEN GROVE, FOR PROPERTY LOCATED ON THE NORTH SIDE OF TRASK AVENUE, BETWEEN EUCLID STREET AND ELMWOOD STREET, AT 13472 EUCLID STREET, PARCEL NOS. 100-101-48, 49, 50, 51, 52 & 53 (F: 106.90)

Councilman Chung moved, seconded by Councilman Leyes, that Ordinance No. 2490 be and hereby is passed. Upon the following vote:

AYES: COUNCILMEMBERS: (3) CHUNG, LEYES, BROADWATER
NOES: COUNCILMEMBERS: (2) DALTON, ROSEN
ABSENT: COUNCILMEMBERS: (0) NONE

said Ordinance No. 2490 was declared passed.

ORDINANCE NO. 2490

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE ADOPTING A DEVELOPMENT AGREEMENT BETWEEN CLAYTON, CLAYTON AND COMPANY, LTD. AND THE CITY OF GARDEN GROVE, FOR PROPERTY LOCATED ON THE NORTH SIDE OF TRASK AVENUE, BETWEEN EUCLID STREET AND ELMWOOD STREET, AT 13472 EUCLID STREET, PARCEL NOS. 100-101-48, 49, 50, 51, 52, & 53

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES ORDAIN AS FOLLOWS:

Section 1. A Development Agreement is hereby adopted for Site Plan No. SP-250-99 and Conditional Use Permit No. CUP-469-99 for property located on the north side of Trask Avenue, between Euclid Street and Elmwood Street. A copy of the Development Agreement is on file in the City Clerk's Office.

Section 2. This ordinance shall take effect thirty (30) days after adoption and shall within fifteen (15) days of adoption be published with the names of Councilmembers voting for and against the same in a newspaper adjudicated and circulated in the City of Garden Grove.

The foregoing Ordinance was passed by the City Council of the City of Garden Grove on the 26th day of October, 1999.

ATTEST:

/s/ BRUCE A. BROADWATER
MAYOR

/s/ PRISCILLA STIERSTORFER
DEPUTY CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS:
CITY OF GARDEN GROVE)

I, PRISCILLA STIERSTORFER, Deputy City Clerk of the City of Garden Grove, do hereby certify that the foregoing Ordinance was introduced and presented on October 12, 1999 with vote as follows:

AYES: COUNCILMEMBERS: (3) CHUNG, LEYES, BROADWATER
NOES: COUNCILMEMBERS: (2) DALTON, ROSEN
ABSENT: COUNCILMEMBERS: (0) NONE

and was passed on October 26, 1999, by the following vote:

AYES: COUNCILMEMBERS: (3) CHUNG, LEYES, BROADWATER
NOES: COUNCILMEMBERS: (2) DALTON ROSEN
ABSENT: COUNCILMEMBERS: (0) NONE

/s/ PRISCILLA STIERSTORFER
DEPUTY CITY CLERK

City Council Minutes
September 28, 1999

ORDINANCE NO. 2485 was presented for second reading and adoption and the title read in full, entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE ADOPTING A DEVELOPMENT AGREEMENT BETWEEN FOOD PARTNERS, LLC., AND THE CITY OF GARDEN GROVE FOR PROPERTY LOCATED ON THE NORTH SIDE OF GARDEN GROVE BOULEVARD, WEST OF EUCLID STREET, AT 11071 GARDEN GROVE BOULEVARD, PARCEL NO. 1 OF LLA-4-99

Councilman Chung moved, seconded by Councilman Dalton, that Ordinance No. 2485 be and hereby is passed. Upon the following vote:

AYES: COUNCILMEMBERS: (5) CHUNG, DALTON, LEYES, ROSEN,
BROADWATER
NOES: COUNCILMEMBERS: (0) NONE
ABSENT: COUNCILMEMBERS: (0) NONE

said Ordinance No. 2485 was declared passed.

ORDINANCE NO. 2485

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE
ADOPTING A DEVELOPMENT AGREEMENT BETWEEN FOOD PARTNERS,
LLC., AND THE CITY OF GARDEN GROVE FOR PROPERTY LOCATED ON THE
NORTH SIDE OF GARDEN GROVE BOULEVARD, WEST OF EUCLID STREET,
AT 11071 GARDEN GROVE BOULEVARD, PARCEL NO. 1 OF LLA-4-99

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES ORDAIN AS
FOLLOWS:

SECTION 1:

A Development Agreement is hereby adopted for Site Plan No. SP-246-99 and Variance No. V-254-99 for property located at the north side of Garden Grove Boulevard, west Euclid Street. A copy of the Development Agreement is on file in the City Clerk's Office.

SECTION 2:

This ordinance shall take effect thirty (30) days after adoption and shall within fifteen (15) days of adoption be published with the names of Councilmembers voting for and against the same in a newspaper adjudicated and circulated in the City of Garden Grove.

The foregoing Ordinance was passed by the City Council of the City of Garden Grove on the 28th day of September, 1999.

ATTEST:

/s/ BRUCE A. BROADWATER
MAYOR

/s/ RUTH E. SMITH
CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS:
CITY OF GARDEN GROVE)

I, RUTH E. SMITH, City Clerk of the City of Garden Grove, do hereby certify that the foregoing Ordinance was introduced and presented on September 14, 1999, with a vote as follows:

AYES: COUNCILMEMBERS: (5) CHUNG, DALTON, LEYES, ROSEN, BROADWATER
NOES: COUNCILMEMBERS: (0) NONE
ABSENT: COUNCILMEMBERS: (0) NONE

and was passed on September 28, 1999, by the following vote:

AYES: COUNCILMEMBERS: (5) CHUNG, DALTON, LEYES, ROSEN, BROADWATER
NOES: COUNCILMEMBERS: (0) NONE
ABSENT: COUNCILMEMBERS: (0) NONE

/s/ RUTH E. SMITH
CITY CLERK