

City of Compton
OFFICE OF THE CITY ATTORNEY

CH-1
Additional Attachment

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October 4, 2011

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

Re: Hearing No. 11-0780

An appeal from the discretionary decision of the Planning Commission to approve a conditional use permit request to establish a short-term trucking container parking lot on the Southern California Edison Right-of-Way located at 6947 Sportsman Drive in District 9.

Conditional Use Permit Application No. 1104-06

Application received: April 12, 2011

Applicant: Flying M Ranch LLC, a wholly owned subsidiary of Martin Container, Inc.
1402 East Lomita Boulevard
Wilmington, CA 90748

THE PROPOSED PROJECT

The Project Site

The property is located in the City of Long Beach and is adjacent to the City of Compton. The subject site has a General Plan designation of LUD #11, Open Space/Park District, along with a zoning classification of Medium Industrial (IM).

The Project Description

Flying M Ranch LLC (hereinafter referred to as "Flying M") seeks to develop a short-term trailer parking facility that would necessarily involve the storage and transport of containers to and from the site. The facility would provide a total of 242 storage/parking spaces for trailers with containers. According to the Mitigated Negative Declaration ("MND") prepared by the California Public Utilities Commission, as the lead agency, in connection with its approval of Southern California Edison's Application 08-02-021, the containers would hold a wide variety of items and materials, some of which could be



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hazardous in nature.¹ Flying M proposes to enter and exit the site from Sportsman Drive, a street located entirely in the City of Compton. The containers would remain mounted on wheeled chassis and would not be stored on the ground. Two portable office buildings would also be located on the project site. Each office would be 1,600 square feet and would be located near the site entrance. The buildings would have restrooms and would be used for processing paperwork. Flying M does not plan to hook up to the sanitary sewer (the nearest sanitary sewer line is located in the City of Compton). The portable office building would have holding tanks that would be pumped out as needed by a maintenance service. Water for the site is to be supplied from municipal sources. There are no groundwater wells on the site. It should be noted that the closest municipal water source belongs to the City of Compton (which could not provide water service outside of its jurisdiction).

The proposed project would be for the temporary storage of the trailers predominantly from the Ports of Los Angeles and Long Beach, for distribution either to the ports or to nearby warehouses. The Flying M facility would operate 24 hours a day, seven days a week. Flying M anticipates that approximately 5 trucks per hour would drop off or pick up trailers, creating 10 trips (5 in and 5 out of the site) per hour. This would be approximately 120 trailers a day, or 240 trips total a day. The site would have parking capacity for 242 trailers and it is anticipated that the use rate would be 80 percent, resulting in an average of 194 trailers parked on-site at any one time. Trailer parking would not exceed 72 hours. The estimated average time that a trailer would be on-site is 39 hours. It is also estimated that there will be 32 private vehicle trips per day.

According to the MND, the proposed project is intended to operate under the Clean Truck Program, part of the Clean Air Action plan adopted by the Port of Long Beach and the Port of Los Angeles in November of 2006. It should be noted, that last month (July 15, 2011), a federal judge ruled that the Long Beach Harbor Commission acted illegally when it changed its Clean Truck Program without first complying with the California Environmental Quality Act ("CEQA").

According to the MND, traffic noise related to the proposed project would occur during all hours of the day including nights and weekends, and this would notably increase the noise along access routes. Truck traffic along Atlantic Avenue would increase more than two-fold, which would result in a substantial permanent increase in ambient noise levels along routes that access the site. Operational noise associated with truck traffic would result in an increase in ambient noise levels of approximately 3 to 6 dBA depending on

¹ At the time the CPUC was considering SCE's application, the City of Long Beach represented to the CPUC that the proposed project was a permitted use and, therefore, no discretionary approval was involved. As such, it was the City of Long Beach's position that no environmental review under CEQA was necessary. The City of Long Beach was not a Responsible Agency, did not participate in the preparation of the MND and was not on the service list for A. 08-02-021.

what time of the day the truck traffic occurs. Noise caused by truck traffic steadily and equally during all daytime and nighttime hours would likely result in a 6 dBA increase to the day-night noise levels along access routes. This would result in noise levels of approximately 65 dBA Ldn along Atlantic Avenue.

Site Preparation

The site is a 13.5 acre parcel, located under and around Southern California Edison's Hinson-Lighthipe Transmission right-of-way. It is presently an unimproved parcel of land. Flying M plans to improve the site by paving 10.3 acres of the parcel with asphaltic concrete. Approximately 3.2 acres are unusable and would be covered with a compacted crushed base material. A six-foot chain-link fence would be installed around the site. Site improvement would involve grading, paving, fencing, lighting, and installation of underground utilities. The project would be completed in a single phase upon obtaining all project approvals. Project implementation would take approximately six months.

According to the MND, disturbance of soil during the project construction could result in soil erosion and lowered water quality through increased turbidity and sediment deposition into the Los Angeles River and ultimately Los Angeles Harbor and the Pacific Ocean. Construction equipment and vehicles could accidentally discharge oil and other construction-related chemical contaminants which could wash into the same water bodies. Construction materials that could potentially contaminate the construction area include lead-based pain flakes, diesel fuel, gasoline, lubrication oil, hydraulic fluid, antifreeze, transmission fluid, lubricating grease, and other fluids.

Sportsman Drive

Sportsman Drive was released to the City of Compton in 1966 by the State of California. The roadway, as released in 1966, was a 40 foot roadway with an S-curve near the intersection with Atlantic Avenue. Sportsman Drive is south of Alondra Boulevard and is entered and exited off of the west side of Atlantic Avenue. Upon entering Sportsman Drive from Atlantic Avenue, there is a curve of about 90 degrees to the left. There is then an immediate curve to the right of about 60 degrees. The roadway then runs straight till the road dead ends at the border line between Compton and Long Beach. There is no public roadway or other public property on the Long Beach side of the border line. In its present form, the Sportsman Drive is approximately 22 feet wide and is paved with asphalt. There are no curbs, gutters or storm drains under or along Sportsman Drive. It is not physically possible for two trucks to travel in opposite direction along Sportsman Drive at the same time. The minimum requirement for the proposed truck traffic would be between 60 feet to 80 feet at the curbs.

Sensitive Uses

The MND identifies nearby sensitive uses include residential areas approximately 0.15 miles to the west, across I-710, and approximately 0.25 miles east of the site. The nearest school, approximately 0.4 miles northeast of the site, is a YMCA preschool at 700 E. 70th Street in Long Beach. Other schools in the vicinity include the David Jordan High

School, approximately 0.5 miles southeast of the site, the Alexander Hamilton Middle School, approximately 0.7 miles northeast of the site, and the Long Beach Bible Institute, approximately 0.5 miles southeast of the site. Other sensitive receptors include Coolidge Park Community Center, approximately 0.5 miles southwest of the site, Kelly Park, approximately 0.6 miles northwest of the site, and the Paramount Meadows Nursing Center, approximately 1.0 miles northeast of the site.

REASONS FOR APPEAL:

- (1) Inadequate notice
- (2) Failure to fully comply with CEQA and failure to perform an adequate environmental review by the City of Long Beach Planning Department
- (3) No factual basis to support Finding #1 – project is inconsistent with General Plan
- (4) No factual basis to support Finding #2 – project is detrimental to surrounding community, public health, safety, general welfare, environmental quality, etc.
- (5) Applicant will be unable to comply with conditions of approval 12, 13, 14 and Finding D.1 of #3
- (6) Failure of the Planning Department through CEQA to consider the condition of Sportsman Drive or alternative truck routes
- (7) Failure of the Planning Department through CEQA to consider the lack of water and/or sewer service to site
- (8) Failure of the Planning Department through CEQA to consider or analyze the ability of fire and/or/emergency services to respond
- (9) Failure to determine if Sportsman Drive is a public or private roadway

INADEQUATE NOTICE

According to Section 21.21.302(A) of the Long Beach Municipal Code (“LBMC”), notice of the hearing before the Planning Commission was supposed to be given not less than 14 days before the hearing. The City of Compton did not receive notice until the day before the June 16, 2011 hearing on Flying M’s application for a conditional use permit (“CUP”). During the Planning Commission hearing, City Staff admitted that they had not mailed timely notice to the City of Compton and hand wrote out an envelope on Friday June 10, 2011, and mailed the notice at that time. Moreover, the City of Compton was never invited to review the plans during the development review phase of the project. Nor was Compton ever afforded any opportunity to offer comments.

FAILURE TO FULLY COMPLY WITH CEQA AND FAILURE TO PERFORM AN ADEQUATE ENVIRONMENTAL REVIEW

Under CEQA, a review must be completed before a project is approved. 14 CCR § 15352(a). Any decision by a public agency that “commits the agency to a definite course of action in regard to a project” entails approval, including the execution of a contract, the provision of financial assistance, or the issuance of a permit or license. 14 CCR § 15352(b). “Project” means any activity which has the potential to cause a direct or reasonably foreseeable indirect physical change in the environment, and which: (1) is directly undertaken by a public agency; (2) receives financial assistance from a public

agency; or (3) involves the issuance of a lease, permit, license, or other entitlement for use by a public agency. Pub. Res. Code § 21065, 14 CCR § 15378(a). In October of 2010, the City of Long Beach adopted an ordinance which required a CUP for trucking uses within the City's industrial zones. The ordinance became effective November 18, 2010. Flying M filed its application for a CUP on April 12, 2011. Consequently, Flying M's project was subject to CEQA.

The Staff Report presented to the Planning Commission on June 16, 2011, contained the following information regarding environmental compliance:

In accordance with the Guidelines for Implementation of the California Environmental Quality Act (CEQA), a Categorical Exemption (CE 11-032) was issued for the proposed project by the City of Long Beach tiered from a Mitigated Negative Declaration prepared by the California Public Utilities Commission (Exhibit D – Categorical Exemption.)

Exhibit D was a one page document, signed by Craig Chalfant on June 8, 2011, stating:

THE ABOVE PROJECT HAS BEEN FOUND TO BE EXEMPT FROM
CEQA IN ACCORDANCE WITH STATE GUIDELINES SECTION
15303, Class 3, New Construction of Small Structures.

The use of the Categorical Exemption under Section 15303 is inappropriate for this project. A review of the language of the Class 3 exemption illustrates the size and scale of projects intended for the class 3 exemption.

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include, but are not limited to:

(a) One single-family residence, or a second dwelling unit in a residential zone. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption.

(b) A duplex or similar multi-family residential structure, totaling no more than four dwelling units. In urbanized areas, this exemption applies to apartments, duplexes and similar structures designed for not more than six dwelling units.

(c) A store, motel, office, restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area. In urbanized areas, the exemption also applies to up to four such commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use if not involving the use of significant amounts of hazardous substances where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive.

(d) Water main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction.

(e) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.

(f) An accessory steam sterilization unit for the treatment of medical waste at a facility occupied by a medical waste generator, provided that the unit is installed and operated in accordance with the Medical Waste Management Act (Section 117600, et seq., of the Health and Safety Code) and accepts no offsite waste.

In short, the Class 3 New construction or Conversion of Small Structures is not applicable to a 13 acre site of which 10.3 acres will be graded and paved over a six month period, with two onsite modular offices placed thereon and which will provide for the storage of 242 truck trailers. The proposed project is outside the scope of the exemption and therefore not consistent with the Class 3 determination. The proposed project may potentially have large amounts of hazardous waste onsite, generate truck traffic and route it in such a manner as to unnecessarily impact adjacent lands. In terms of size the project goes beyond the land area required for residence or a 10,000 square foot commercial building. All of the uses mentioned in the Class 3 exemption would typically only require about one acre of land.

One of the foundational concepts of CEQA is to view the project and its potential impacts on the environment in as comprehensive a view as possible to provide the decision makers with all the information available to make the most informed decision. A categorical exemption does not provide any analysis or discuss any environmental impacts that may or may not be significant.

The language in the Environmental Review section of the June 16, 2011, Staff Report is also unusual. It states that the categorical exemption is "tiering" off the previous mitigated negative declaration prepared by the CPUC. The problem is that this is incorrect. Tiering refers to Environmental Impact Reports not exemptions or MND's. See, 14 CCR § 15152, especially § 15152(h). Attempting to incorporate the analysis of a

previous MND by reference is inappropriate. "Tiering does not excuse the lead agency from adequately analyzing reasonably foreseeable significant environmental effects of the project and does not justify deferring such analysis to a later tier EIR or negative declaration." 14 CCR § 15152(b). The CPUC was reviewing SCE's application to lease the project site to Flying M. The review took place over a year earlier and determined that the Initial Study they completed warranted a MND. Long Beach was not a Responsible Agency and did not participate in the preparation of the MND.

Prior to approval of the CUP, the decision-making body must consider the proposed document together with any comments received during the public review process. Adoption must be supported by findings that: (1) based on the record as a whole there is no substantial evidence that the project will have as significant effect on the environment; and (2) the document reflects the lead agency's independent judgment and analysis. 14 CCR § 15074(b). In addition, if mitigation measures are required or incorporated into a project as part of the CEQA process, whether through an EIR or a MND, the lead agency must adopt a reporting or monitoring program to ensure compliance with those mitigation measures. These measures must be enforceable through permit conditions, agreements or other mechanisms.

As previously mentioned, the MND was prepared by the CPUC as lead agency in its own matter (the approval of SCE's application to lease the site to Flying M) and not the City of Long Beach's approval of a CUP for Flying M. Neither the June 16, 2011, Staff Report or Staff's presentation at the Planning Commission explained both how the City of Long Beach Planning Department was able to view the same project and make a determination that the project not only did not warrant a MND or a Negative Declaration, but a Categorical Exemption which requires no analysis or studies. If they were going to reference a previous environmental document, a new Initial Study would have to be done for this project and the previous MND re-circulated. In addition, there was no substantive discussion about the MND so as to comply with 14 CCR § 15074(b) and the MND was not adopted as required under CEQA and the mitigations measures in the MND not addressed.

NO FACTUAL BASIS TO SUPPORT FINDING #1 – PROJECT IS INCONSISTENT WITH THE GENERAL PLAN

According to Long Beach Municipal Code Section 21.25.201, the purpose of a conditional use permit is as follows:

The City recognizes that certain types of land use, due to the nature of the use, require individual review. Such review shall determine whether the type of use proposed, or the location of that use, is compatible with surrounding uses, or, through the imposition of development conditions, can be made compatible with surrounding uses. This Division establishes the procedures for this review.

LBMC, Sec. 21.25.201. The required findings for a CUP are set forth in LBMC Section 21.25.206:

The following findings must be analyzed, made and adopted before any action is taken to approve or deny the subject permit and must be incorporated into the record of the proceedings relating to such approval or denial:

- A. The approval is consistent with and carries out the General Plan, any applicable specific plans such as the local coastal program and all zoning regulations of the applicable district;
- B. The proposed use will not be detrimental to the surrounding community including public health, safety or general welfare, environmental quality or quality of life;
- C. The approval is in compliance with the special conditions for specific conditional uses, as listed in Chapter 21.52; and
- D. The related development approval, if applicable, is consistent with the green building standards for public and private development as listed in Section 21.45.400.

According to the Long Beach General Plan, the LUD No. 11 Open Space and Park District is described as follows:

This district is quite diverse, compressing into one general category the numerous types of land and water acres that remain “open.” Thus, open space is defined as any area of land or water that is essentially unimproved and largely devoted to an undeveloped or unconstructed type of use. Land that has been graded or planted, has a walking/bicycling/skating path or nominal roadway system or surface parking thereon, is considered open space. Beyond privately held pools, yards, setback areas, rooftop gardens, balconies, porches, and the like, open space uses in Long Beach include the following: parks, plazas, promenades and boardwalks, vacant lots, cemeteries, community gardens, golf courses, beaches, flood control channels and basins, rivers and river levees, utility rights-of-way (e.g. transmission tower areas), oil drilling sites, median strips and back up lots, offshore islands, marinas, inland bodies of water, the ocean, estuaries and lagoons. **All lands designated LUD No. 11 are intended to remain in or be redeveloped in the future in (essentially) an open condition. [emphasis added]**

Park open spaces are tracts of land, most often publicly held, which are accessible to the general public (usually for free but sometimes with a parking/access fee) for the purposes of preserving natural and habitat areas, and promoting the mental and physical health of the community

through recreational, cultural and relaxation pursuits. Parks are characterized by green (or beach and water) open spaces devoted to leisure activities including the enjoyment of nature, wildlife, cultural heritage, sports, and similar activities. Park open spaces should be distributed in a community so that all citizens, regardless of race, age handicapped condition, gender, or socio-economic status, have access to the benefits they offer. Existing imbalances in park open space locations shall be corrected over time to better serve the citizenry of Long Beach.

In ecological preserves (officially designated as such by Federal, State, local or regional authorities) disturbances of natural ecosystems are prohibited. Other environmentally sensitive areas are to be protected, enhanced and preserved. Any development of public lands and offshore open space to the breakwater must be minimal and is subject to specific planning with appropriate public participation and public hearing before decision.

Commercial recreation uses designated to contribute to a park patron's total experience, supplement the Department's recreational services and aesthetically compliment existing programming and facilities, may be permitted subject to specific findings under the Conditional Use provisions of the zoning regulations.

Proposed minor expansions of existing open space facilities, or the creation of new mini parks, may be found to conform to the General Plan without amendment, at the discretion of the City Planning Commission.

Long Beach General Plan, pp. 73-74. The Medium Industrial or IM district is described as follows in LBMC Section 21.33.020(B):

The Medium Industrial (IM) district allows a wide range of industries and industrial processes that involve more intensive operations. The district provides areas where most industries may locate, provided they meet the performance standards defined in Section 21.33.090 (Performance Standards). While the emphasis is on industrial, manufacturing, and related uses, office and commercial uses intended to serve nearby industries and employees may be permitted. The performance and development standards are intended to allow a wide range of uses as long as those uses will not impact adjacent uses.

The IM district generally will include industrial and manufacturing operations on a larger scale than those in the IL district. Outdoor storage and limited outdoor activities may be permitted. These examples are

intended to represent typical characteristics within the district, not all potential operations.

LBMC, Sec. 21.33.020(B). According to Table 33-2 in the LBMC, which details the permitted uses in the IL, IM and IG zones, transportation uses (SIC codes 41, 421, 4215, 423, 473 and 478) with outdoor container storage require a conditional use permit in any of the three zones.

The project, as proposed, is completely inconsistent with the open space designation. The Long Beach General Plan state, "all lands designated LUD No. 11 are intended to remain in or be redeveloped in the future in (essentially) an open condition." The grading and paving over of 10.3 acres of land in order to place 242 trucks on the site makes a mockery out of the General Plan.

NO FACTUAL BASIS TO SUPPORT FINDING #2 – PROJECT IS DETRIMENTAL TO SURROUNDING COMMUNITY, PUBLIC HEALTH, SAFETY, GENERAL WELFARE, ENVIRONMENTAL QUALITY, ETC.

The CPUC's MND contemplates that hazardous materials will be hauled in the trucks that will use the proposed trucking facility. The June 16th Staff Report states that businesses involved in the transfer of hazardous waste shall not be located within two thousand feet of any residential zone or use, any hotel or motel, any school or day care facility, any hospital or convalescent home, any church or similar facility, or any public assembly use. The report goes on to state, "[t]he subject site is not located within 2,000 feet of a residential zone, hotel or motel, school, hospital or church."

If the MND is incorporated by reference somehow, then there is an issue with the MND stating that there are sensitive land uses .15 and .40 of a mile from the project site and the Staff Report stating that there are no sensitive land uses within 2,000 feet.² The MND identifies nearby sensitive uses include residential areas approximately 0.15 miles to the west, across I-710, and approximately 0.25 miles east of the site. The nearest school, approximately 0.4 miles northeast of the site, is a YMCA preschool at 700 E. 70th Street in Long Beach. Other schools in the vicinity include the David Jordan High School, approximately 0.5 miles southeast of the site, the Alexander Hamilton Middle School, approximately 0.7 miles northeast of the site, and the Long Beach Bible Institute, approximately 0.5 miles southeast of the site. Other sensitive receptors include Coolidge Park Community Center, approximately 0.5 miles southwest of the site, Kelly Park, approximately 0.6 miles northwest of the site, and the Paramount Meadows Nursing Center, approximately 1.0 miles northeast of the site.

² As discussed below, the MND, upon which the CPUC's approval was based, is in direct conflict with the adopted conditional use permit finding D.1 of #3.

APPLICANT WILL BE UNABLE TO COMPLY WITH CONDITIONS OF APPROVAL 12, 13, 14 and FINDING D.1 of #3

Presently, Sportsman Drive is a dead end roadway. There is no access to Atlantic Avenue and Alondra Boulevard from the project site. All traffic to and from the site will have to go through the southern access road to Artesia Boulevard. Consequently, Flying M. will not be able to comply with conditions of approval related to ingress and egress from Sportsman Drive, especially condition #12.

As mentioned else, Finding #3 D.1 is incorrect. Several sensitive uses are located within 2,000 of the project site.

FAILURE TO CONSIDER CONDITION OF SPORTSMAN DRIVE OR ALTERNATIVE TRUCK ROUTES

As previously mentioned, Sportsman Drive as presently constituted, is about 22 feet wide. It has an S-curve that would make it impossible for the contemplated truck traffic; 10 trips per hour or 240 trips per day, seven days a week. The consequence would be backed up trucks, the emission of pollutants, and traffic jams on Atlantic Boulevard.

Although the Cushman & Wakefield depiction of the site reflects the access from Artesia Boulevard (referred to as the "Gated Road"). There is no analysis of the truck traffic or truck routes, generally or of using Artesia Boulevard for ingress and egress, specifically. Instead, the depiction states, "Note: No truck traffic in Long Beach." Furthermore, Condition of Approval No. 12 states, "[a]ll truck traffic for this site shall only be accessible via Alondra Boulevard." A proper review under CEQA could have provided the answer the question of why the northern route was selected and conditioned as the only route? The southern route down Atlantic seems equally direct and could be used as well. Moreover, the use of Artesia would place the trucks half a block from the 710 Freeway entrances. Instead, the only justification for using Sportsman Drive, and as was presented to the Planning Commission, was that Long Beach would derive the benefits and Compton would bear the burdens.

FAILURE TO CONSIDER THE LACK OF WATER AND/OR SEWER SERVICE TO THE PROJECT SITE

Although the plans provided by Flying M indicate that they will need at least water service from a municipality, the closest provider is the Compton which cannot provide water service outside of its jurisdiction. Similarly, Compton's sewer line is the closest sewer line to the site.

FAILURE TO CONSIDER OR ANALYZE THE ABILITY OF FIRE AND EMERGENCY SERVICES TO RESPOND

According to the MND, mitigation measure HAZ-1 requires the preparation of a Risk Management Plan, including preventative measures and an emergency response plan. Preventative measures should include onsite emergency spill response and clean-up kits or an identified spill-leak response firm. An emergency response plan should include,

but not be limited to, isolating the leaking truck and ensuring that the leaking truck does not leave the site. Employees should be instructed in preventative and response procedures and a statement that this has taken place shall be provided to the CPUC.

There is nothing in the June 16th Staff Report or the conditions of approval that address this mitigation measure. A mitigation monitoring program ("MMP") is needed and an exemption makes no provision for the adoption of an MMP. The possibility of a hazardous waste spill or release of toxic fumes must be addressed. Though Flying M contends that trailer parking would not exceed 72 hours, there are no conditions of approval restricting the length of time a truck could remain on-site. Given that the contents of the containers are unknown, the potential for hazardous waste spills or explosions must be considered, especially in light of the fact the site is next to the Los Angeles River and the 710 Freeway. An incident involving hazardous substances could cause problems well beyond the borders of Long Beach.

In addition, there has been no discussion of the provision of fire or emergency services. Since the property is completely in Long Beach, the City of Long Beach Fire Department and its emergency services should provide protection. However, the entire project is premised on ingress and egress from Sportsman Drive, which is in Compton. Moreover, the closest fire hydrant is located on Sportsman Drive. Compton cannot and should not provide municipal services to Long Beach without an agreement that would include the reimbursement of any and all costs to the City of Compton and appropriate indemnification provisions.

FAILURE TO DETERMINE IF SPORTSMAN DRIVE IS A PUBLIC OR PRIVATE ROADWAY

This City will not pursue this issue on appeal.

CONCLUSION

Based on the foregoing, as well as the arguments and evidence presented by Appellant Compton Hunting and Fishing Club, the City of Compton opposes this proposed land use and respectfully requests that its appeal be granted and decision of the Planning Commission on Conditional Use Permit Application No. 1104-06 be reversed and Flying M's application for a CUP be denied.

Respectfully submitted,


CRAIG J. CORNWEL
CITY ATTORNEY