

CITY OF ESCONDIDO

Planning Commission and Staff Seating



- A. CALL TO ORDER:** 7:00 p.m.
- B. FLAG SALUTE**
- C. ROLL CALL:**
- D. MINUTES:** 10/28/14

The Brown Act provides an opportunity for members of the public to directly address the Planning Commission on any item of interest to the public before or during the Planning Commission's consideration of the item. If you wish to speak regarding an agenda item, please fill out a speaker's slip and give it to the minutes clerk who will forward it to the chairman.

Electronic Media: Electronic media which members of the public wish to be used during any public comment period should be submitted to the Planning Division at least 24 hours prior to the meeting at which it is to be shown.

The electronic media will be subject to a virus scan and must be compatible with the City's existing system. The media must be labeled with the name of the speaker, the comment period during which the media is to be played and contact information for the person presenting the media.

The time necessary to present any electronic media is considered part of the maximum time limit provided to speakers. City staff will queue the electronic information when the public member is called upon to speak. Materials shown to the Commission during the meeting are part of the public record and may be retained by the City.

The City of Escondido is not responsible for the content of any material presented, and the presentation and content of electronic media shall be subject to the same responsibilities regarding decorum and presentation as are applicable to live presentations.

If you wish to speak concerning an item not on the agenda, you may do so under "Oral Communications" which is listed at the beginning and end of the agenda. All persons addressing the Planning Commission are asked to state their names for the public record.

Availability of supplemental materials after agenda posting: any supplemental writings or documents provided to the Planning Commission regarding any item on this agenda will be made available for public inspection in the Planning Division located at 201 N. Broadway during normal business hours, or in the Council Chambers while the meeting is in session.

The City of Escondido recognizes its obligation to provide equal access to public services for individuals with disabilities. Please contact the A.D.A. Coordinator, (760) 839-4643 with any requests for reasonable accommodation at least 24 hours prior to the meeting.

The Planning Division is the coordinating division for the Planning Commission.
For information, call (760) 839-4671.

E. WRITTEN COMMUNICATIONS:

"Under State law, all items under Written Communications can have no action, and will be referred to the staff for administrative action or scheduled on a subsequent agenda."

1. Future Neighborhood Meetings

F. ORAL COMMUNICATIONS:

"Under State law, all items under Oral Communications can have no action, and may be referred to the staff for administrative action or scheduled on a subsequent agenda."

This is the opportunity for members of the public to address the Commission on any item of business within the jurisdiction of the Commission.

G. PUBLIC HEARINGS:

Please try to limit your testimony to 2-5 minutes.

1. CONDITIONAL USE PERMIT – PHG 14-0027:

REQUEST: A Conditional Use Permit (CUP) to allow a public charter high school (Diego Hills Charter School) in a ±3,028-SF office within an existing shopping center. Although the applicant expects an enrollment of 200 students, as well as eight teachers and four support employees; due to the independent-study format, only 14 people total are expected on-site at any given time. Each student would meet with a teacher for a weekly one-hour appointment to discuss assignments, and would complete his/her work at home or at another off-site location. The project includes interior modifications, including the installation of walls to separate the space into individual rooms. No exterior modifications are proposed. The proposal also includes the adoption of the environmental determination prepared for the project.

PROPERTY SIZE AND LOCATION: The subject property is 9.35 acres and the building to be occupied is addressed as 800 West Valley Parkway.

ENVIRONMENTAL STATUS: The proposed project is categorically exempt from environmental review in conformance with CEQA Section 15301, "Existing Facilities".

APPLICANT: Diego Hills Public Charter, Inc.

STAFF RECOMMENDATION: Approval

COMMISSION ACTION:

PROJECTED COUNCIL HEARING DATE:

2. [**ZONING CODE AMENDMENT – AZ 14-0003 and CONDITIONAL USE PERMIT – PHG 14-0029:**](#)

REQUEST: An amendment to Article 26 of the Escondido Zoning Code to allow dog boarding as a Conditional Use within the Light Industrial (M-1) and General Industrial (M-2) zones. The request also includes a Conditional Use Permit to allow a dog-boarding facility within an approximately 3,600 SF suite in an industrial building in the M-2 zone. The proposal also includes the adoption of the environmental determination prepared for the project.

PROPERTY LOCATION: Citywide (Zoning Code Amendment) and 2750 Auto Park Way, Suite 22 (APN 228-381-75)

ENVIRONMENTAL STATUS: The proposed project is exempt from environmental review in conformance with CEQA Guidelines Section 15061(b)(3). The activity is covered by the general rule which exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment.

APPLICANT: Penny DiLoreto

STAFF RECOMMENDATION: Approval

COMMISSION ACTION:

PROJECTED COUNCIL HEARING DATE:

3. [**AMENDMENT TO THE ESCONDIDO MUNICIPAL AND ZONING CODES – AZ 14-0004:**](#)

REQUEST: A Zoning Code Amendment to establish permitted locations, standards, definitions, and processing procedures for massage establishments in concert with recent state legislation effective January 2015. The amendment would: 1) Establish Article 38 pertaining to 'Massage Establishments,' 2) Amend Article 16 of the Zoning Code (Commercial Zones), 3) Amend Article 39 of the Zoning Code (Off-Street Parking), 4) Amend the East Valley Parkway, South Escondido Boulevard Area Plans, and Downtown Specific Plan. The project also involves amending Section 16A of the Escondido Municipal Code pertaining to Massage Establishments that will be considered separately by the City Council. The proposal also includes the adoption of the environmental determination prepared for the project.

LOCATION: Citywide

ENVIRONMENTAL STATUS: Pursuant to Section 15061(b)(3), "General Rule," the project is exempt from the California Environmental Quality Act (CEQA)

APPLICANT: City of Escondido

STAFF RECOMMENDATION: Approval

COMMISSION ACTION:

PROJECTED COUNCIL HEARING DATE:

H. CURRENT BUSINESS:

1. **Design Review of a new freestanding menu-board sign (case [PHG 11-0007](#)) proposed for the ARCO AM/PM carwash. The proposed sign would be 8 feet in height consisting of three separate sign panels with a total sign area of 33.5 square feet.**

Location: 450 W. El Norte Pkwy

Applicant: ARCO AM/PM

Note: Current Business items are those which under state law and local ordinances do not require either public notice or public hearings. Public comments will be limited to a maximum time of three minutes per person.

I. ORAL COMMUNICATIONS:

"Under State law, all items under Oral Communications can have no action and may be referred to staff for administrative action or scheduled on a subsequent agenda."

This is the opportunity for members of the public to address the Commission on any item of business within the jurisdiction of the Commission.

J. PLANNING COMMISSIONERS

K. ADJOURNMENT

CITY OF ESCONDIDO

**MINUTES OF THE REGULAR MEETING OF THE
ESCONDIDO PLANNING COMMISSION**

October 28, 2014

The meeting of the Escondido Planning Commission was called to order at 7:00 p.m. by Chairman Weber in the City Council Chambers, 201 North Broadway, Escondido, California.

Commissioners present: Jeffery Weber, Chairman; Bob McQuead, Vice-chairman; Gregory Johns, Commissioner; James Spann, Commissioner; and Merle Watson, Commissioner.

Commissioners absent: Ed Hale, Commissioner and Guy Winton, Commissioner.

Staff present: Bill Martin, Deputy Planning Director; Owen Tunnell, Principal Engineer; Rozanne Cherry, Principal Planner; Gary McCarthy, Senior Deputy City Attorney; and Ty Paulson, Minutes Clerk.

MINUTES:

Moved by Commissioner McQuead, seconded by Commissioner Spann, to approve the minutes of the October 14, 2014, meeting. Motion carried unanimously. (5-0)

WRITTEN COMMUNICATIONS – Received.

FUTURE NEIGHBORHOOD MEETINGS – None.

ORAL COMMUNICATIONS – None.

PUBLIC HEARINGS:

1. **CONDITIONAL USE PERMIT – PHG 14-0019 Continued from October 14, 2014:**

REQUEST: A Modification to an existing Conditional Use Permit for Redwood Terrace Continuing Care Retirement Community to allow the facility to expand by changing the 8,552 SF existing Elderlink facility from adult daycare to 24-hour memory care and acquiring one (1) existing residential unit on a separate lot located along Redwood Street. These properties are across the street from the

main campus and will become part of the facility's operations, which include 9 other separate residential structures on 12th Avenue and Redwood Street. Recreational facilities such as a pool, physical fitness room and community garden will also be located at the memory care site for the use of all Redwood Terrace residents. The zoning of the two subject properties is R-1-7 with a U1 General Plan designation. The main campus is zoned R-2-8 with a U2 General Plan designation. The proposal also includes the adoption of the environmental determination prepared for the project.

LOCATIONS: 1151 & 1220 S. Redwood Street (APNs 236-074-1700 and 236-094-1600) totaling approximately 0.77 acre are to be added to the operations of the main campus at 710 W. 13th Avenue (APN 236-073-0100) located on the property bordered by West 12th Avenue, South Redwood Street, West 13th Avenue and South Tulip Street.

Rozanne Cherry, Principal Planner, referenced the staff report and noted staff issues were whether the proposed expansions affect the neighborhood adversely, i.e.; regarding pedestrian access, traffic, and parking, and whether the changes are aesthetically appropriate for the neighborhood. Staff recommended approval based on the following: 1) The proposed project will not adversely impact the neighborhood since the additional residential unit across the street from the main campus is already existing and no density increase is being requested; this residence will be occupied and function much as any other residential unit in the neighborhood; the proposed 24-hour memory care will decrease the traffic to the property, as elderly residents will be staying within the facility and not be arriving each morning and departing each evening; and the number of employees at the facility will drop from 13 to 9, which will reduce traffic and parking pressures in the area; and 2) The proposed project will blend with the neighborhood and improve the aesthetics of the additional property acquired by Redwood Terrace as it will be fully renovated, including extensive remodeling of the structure itself, relandscaping of the yard, and curb, gutter and sidewalk improvements. The change of use at the current Elderlink facility will involve only minor exterior changes to the existing structures and no new structures which can readily be seen from the surrounding neighborhood will be added.

Commissioner Johns referenced the pedestrian signals at 12th and Spruce and asked if there was a history of safety issues. Mrs. Cherry replied in the negative. Commissioner Johns expressed his concern with creating a false sense of security for pedestrians trying to cross the street. Mr. Tunnell noted that the concept was to encourage pedestrians to cross the street at the safest place. He also stated that approval of the subject crosswalk would go to the Transportation Commission.

Chairman Weber and staff discussed the proposed parking for the employees of Redwood Terrace.

Chairman Weber asked if consideration was given for a crosswalk at 12th and Redwood. Mr. Tunnell replied in the negative and noted that the bulk of the pedestrian crossings were anticipated at Spruce Street.

John Luttrell, Diamond Bar, applicant, stated that the concept for the new facility would be to encourage more foot traffic on the campus along with expanding the activities for the residents. He indicated that the subject facility would increase the number of dementia residents from six to 13. He also stated that the facility was being remodeled to be more energy efficient.

Dorothy Cole, member of the board for Redwood Terrace, Escondido, noted that she was here at the request of Jack Anderson, Chairman of the Board for Redwood Terrace as well as two other board members who were in support of the subject request. She stated that the subject request would provide additional memory care services, expand the pool therapy and fitness program, and provide for a garden. She then asked for the support of the Commission.

Manuel Correa, Escondido, member of the South Tulip Street Neighborhood Group and representing Steve Emery, President of the South Tulip Street Neighborhood Group, noted that they voted unanimously in favor of the subject modification. He stated that the proposed modifications would enhance the neighborhood. He asked the Commission to support the proposal.

ACTION:

Moved by Commissioner Johns, seconded by Commissioner McQuead, to approve staff's recommendation. Motion carried unanimously. (5-0)

2. ZONING CODE AMENDMENT – AZ 14-0002:

REQUEST: Amend Article 35 of the Escondido Zoning Code regarding Outdoor Lighting to add standards for LED lights, expand the definitions sections and other revisions. The proposal also includes the adoption of the environmental determination prepared for the project.

LOCATION: Citywide

Rozanne Cherry, Principal Planner, referenced the staff report and noted staff's main issue was whether the proposed changes were appropriate. Staff recommended approval based on the following: 1) The code changes would provide more flexibility for lighting systems to address energy conservation while maintaining compatibility with astronomical studies; and 2) The proposed Correlated Color Temperature (CCT) standard for LED lamps would be consistent with the standard for street lights, acceptable to Palomar Observatory, and provide more options in the design of outdoor lighting.

Commissioner Johns and Mrs. Cherry discussed the methods for controlling outdoor lighting that already exceeded the established standards.

ACTION:

Moved by Commissioner McQuead, seconded by Chairman Weber, to approve staff's recommendation. Motion carried unanimously. (5-0)

**3. MODIFICATION TO A MASTER AND PRECISE DEVELOPMENT PLAN
- PHG 14-0022:**

REQUEST: A modification to a Master and Precise Development Plan (2007-25-PD) to change the previously approved office building from an approximately 43,107 SF structure to an approximately 36,614 SF structure. The maximum building height is proposed to remain at 56'-2" and the building will still include three stories of Class A office space. The proposed development includes a decrease in the number of parking spaces from 156 spaces to 146 spaces. Off-site improvements include the re-striping of La Terraza Boulevard and the installation of a traffic signal at the northern driveway that serves the project and the adjacent future hotel development. The proposal also includes the adoption of the environmental determination prepared for the project.

PROPERTY SIZE AND LOCATION: The subject property is 1.75 acres and is located at 300 La Terraza Boulevard (APN 232-150-68).

Bill Martin, Deputy Planning Director, referenced the staff report and noted staff issues were the appropriateness of modifying the Master and Precise Plan for the office building to allow a smaller structure and a corresponding decrease in parking, whether the proposed architecture conforms to the La Terraza Corporate Center Design Guidelines, and whether off-site improvements on La Terraza Boulevard are necessary to protect line of sight for vehicles exiting the property, especially at the northern driveway (shared between this site and the hotel site). Staff recommended approval based on the following: 1) Staff felt the

proposed modification to the building design is appropriate since it utilizes materials that are similar to those approved under 2007-25-PD. It also provides a smaller amount of floor area within a smaller footprint. While the number of parking spaces provided will be reduced from 156 to 146, the smaller floor area will reduce the number of required spaces to 122, resulting in a surplus of 24 spaces. This eliminates the need for a BEZ parking reduction that was previously granted for the office building site. The building will contain three stories as previously approved and no additional building height is proposed; 2) Staff felt the proposed architectural design and building materials are consistent with the La Terraza Corporate Center Design Guidelines since the building was designed by the author of the guidelines and includes exterior materials such as a stone veneer, low-reflective colored glass, and metal accents, as specified in the guidelines. The project underwent design review by Planning staff on August 28, 2014 and again on October 2, 2014. Several recommendations were made during these reviews, and the applicant incorporated these recommendations into the final project design; and 3) The northern driveway that serves the project is shared with the future hotel property. A previous modification to earlier designs shifted the driveway to the south to provide better access to the hotel property, which is elevated above the street. The curving nature of La Terraza Boulevard in this area restricts the ability of drivers exiting the project driveway to adequately see oncoming cars in the street. Staff has conditioned the project to require off-site improvements to maintain line of sight for drivers exiting the property, especially at the northern driveway. These improvements will include re-striping La Terraza Boulevard to shift traffic toward the center of the street and away from the driveways, as well as signaling the northern driveway when that driveway is constructed and utilized (either during the construction of the office building, or construction of the hotel, which will be sharing the northern driveway with the office building).

Chairman Weber and staff discussed the timing for construction of the proposed driveway and the need for traffic control on La Terraza Boulevard during construction of the project.

ACTION:

Moved by Vice-chairman McQuead, seconded by Commissioner Watson, to approve staff's recommendation. Motion carried unanimously. (5-0)

CURRENT BUSINESS: None.

ORAL COMMUNATIONS: None.

PLANNING COMMISSIONERS:

Discussion ensued regarding the status of the property on the southeastern corner of 3rd Avenue and Escondido Boulevard.

Mr. Martin stated there would be no meetings in November and the next Planning Commission meeting would be on December 9th.

ADJOURNMENT:

Chairman Weber adjourned the meeting at 8:04 p.m. The next meeting was scheduled for December 9th, 2014, at 7:00 p.m. in the City Council Chambers, 201 North Broadway, Escondido, California.

Bill Martin, Secretary to the Escondido
Planning Commission

Ty Paulson, Minutes Clerk

PLANNING COMMISSION

Agenda Item No.: G.1
Date: December 9, 2014

CASE NUMBER: PHG 14-0027

APPLICANT: Diego Hills Public Charter, Inc. (Learn4Life)

LOCATION: The project site is located in the Gateway Center, a shopping center on the northeast corner of the intersection of North Tulip Street and West Valley Parkway, and is addressed as 800 West Valley Parkway (APN 232-110-21).

TYPE OF PROJECT: Conditional Use Permit

PROJECT DESCRIPTION: A Conditional Use Permit (CUP) to allow a public charter school in an approximately 3,028-SF office suite within an existing shopping center. The suite to be occupied is located at the east end of the center, in a building originally intended for office and financial uses. The school, Diego Hills Charter School (part of the Learn4Life network), would provide personalized, one-on-one education for students in grades 9 through 12 who wish to pursue a high school education in an independent study format. Each student would have a weekly appointment with a teacher to receive, submit, and evaluate assignments and to participate in assessments, but would otherwise complete his or her schoolwork at home or another off-site location. The applicant is proposing interior modifications to the office suite, including the installation of walls to separate the space into offices, meeting rooms, open study areas, a break room, an I.T. room, and restrooms. No changes to the exterior of the building have been proposed.

STAFF RECOMMENDATION: Approval

GENERAL PLAN DESIGNATION: SPA-9 (Specific Plan Area 9: Downtown Specific Plan)

ZONING: S-P (Downtown Specific Plan Area)

BACKGROUND/SUMMARY OF ISSUES:

The applicant is seeking a Conditional Use Permit to utilize a 3,028-SF leased office suite within Gateway Center, a shopping center at the intersection of North Tulip Street and West Valley Parkway, as a public charter school. The school, known as Diego Hills Charter School, would serve students in grades 9 through 12 (ages 14 through 19) who are seeking an education in an independent study format. The applicant, Learn4Life, currently operates two other schools under the Diego Hills Charter School name in San Diego and Murrieta. These schools are chartered through the Dehasa School District, based in El Cajon. Learn4Life also runs a network of other charter schools throughout Southern and Central California. Secondary schools are a conditional use in the Gateway Transit District of the Downtown Specific Plan.

The suite to be occupied is located on the first floor of Building 2 as identified on the plans for 2000-75-PPL, the original, approved plot plan for the center. This building is located at the east end of the center, adjacent to the Escondido Transit Center, and has two floors of office space above a garage. When the shopping center was originally permitted under 2000-75-PPL, this building was designated for office and financial uses; other tenants currently include Veros Credit and Regents Bank. The applicant has cited the school's non-traditional, office-based approach as justification for this location. The applicant estimates that 80% of the school's students are expected to use public transportation to travel to the site, which makes its proximity to the Escondido Transit Center desirable.

Each student at Diego Hills would visit the school (also known as a "resource center") for a weekly, pre-determined appointment with an assigned teacher. During this appointment, he or she would submit and discuss previous assignments, receive new assignments, and participate in assessments. The majority of schoolwork would be completed at home or at another off-site location, and no formal classes would be conducted as in a traditional high school. The applicant has provided an anticipated enrollment figure of 200 students. At this level of enrollment, they would employ

eight teachers (one teacher per 25 enrolled students). The school day would be broken into two five-hour shifts from 8 a.m. to 1 p.m. and 1 p.m. to 6 p.m., and four teachers would be in the facility for each shift. Assuming a one-hour appointment for each student, this would result in a total of 40 students being seen on any given day (four students per hour times 10 hours), and the entire 200-student enrollment being seen in any given week. Four employees would also be hired as support staff (three staff members per 150 students). Given these figures, the applicant has indicated that at any given time during the school day, the facility could have up to 14 occupants, including four teachers, four staff members, and six students (four of whom would be involved in appointments, and two of whom may be waiting their turn or preparing to leave).

The applicant is proposing interior tenant improvements to prepare the school space for occupancy, including the installation of walls to separate the space into offices, meeting rooms, open study areas, a break room, an I.T. room, and restrooms. No exterior improvements are proposed, aside from the installation of signage, which will require a separate sign permit. No recreation activities or facilities are proposed. The applicant intends to use office space on the second floor of this same building (above the school) for administrative offices. Because administrative offices are a permitted use in the Gateway Transit District of the Downtown Specific Plan, and because students will not have access to this area, no CUP is required for the offices on the second floor.

Staff feels that the issues are as follow:

1. Whether an independent-study charter school is an appropriate use within the Gateway Center.
2. Whether the specific building to be occupied by the applicant can comply with all building and fire codes applicable to an educational facility.
3. Whether the existing parking supply in the center is sufficient to accommodate the school as well as the other commercial and office uses.

REASONS FOR STAFF RECOMMENDATION:

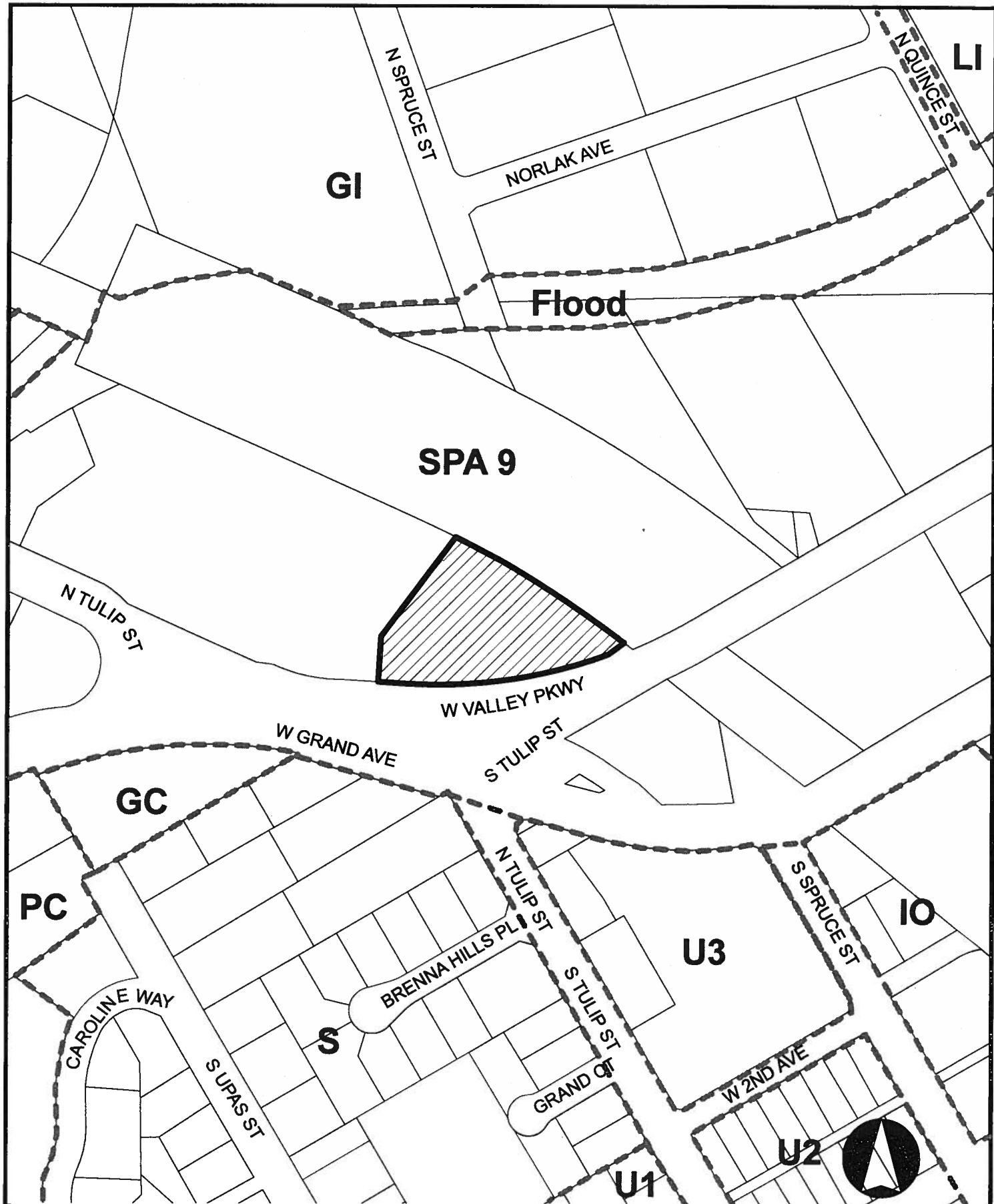
1. The Gateway Center was originally approved under 2000-75-PPL. As a condition of approval, the applicant was required to provide a minimum of 30,000 SF of office floor area in the combined area of Buildings 1 and 2, with the remaining floor area of these two buildings available for retail or food-service use. In most situations, a charter school would be considered an educational use, not an office use, but the applicant for PHG 14-0022 has demonstrated that this particular charter school will more closely resemble an office use than a traditional high school. Each student will visit the facility once a week for a scheduled appointment with his or her teacher. This time is intended for the discussion of assignments and participation in assessments, and most schoolwork will be completed at home or another off-site location. The applicant has indicated that they expect no more than 14 occupants in the school at any one time (four teachers, four support staff, and six students).
2. Building Division staff have reviewed the project application and the furniture plan provided by the applicant, and have determined that the applicant would be required to provide proper fire separation between the school space and the other tenants, per California Building Code (CBC) Section 508, including a one-hour rated wall assembly (for buildings with an approved fire sprinkler system) or a two-hour rated wall assembly (for buildings without sprinklers). Opening protection would also be required for any doors or openings into the adjacent occupancy, per CBC Table 716.5. The applicant was notified of these requirements and indicated that they could comply and wanted to proceed. All requirements from the Building Department have been incorporated in the conditions of approval.
3. Gateway Center is required to provide 544 parking spaces under the terms of 2000-75-PPL and subsequent modifications. The applicant has demonstrated that 544 spaces currently exist, so parking supply is sufficient if the center is used as originally intended. For public or private senior high schools, the Zoning Code provides an off-street parking standard of one parking space for each employee and one for each three students for which the facility is designed. If the proposed charter school were required to use the same parking standard for 200 students, eight teachers, and four staff members, it would need to provide 79 spaces, a significant portion of the existing lot for Gateway Center. Designating this many spaces for the school alone could result in either the need for additional parking, or limitations on the use of the remainder of the center. Given that the applicant expects no more than 14 people in the school facility at any time (a capacity more characteristic of an office than a school)

and also expects most students to arrive by public transportation, staff feels the 1:200 ratio for the original shopping center could continue to apply, and no additional parking should be required.

Respectfully Submitted,



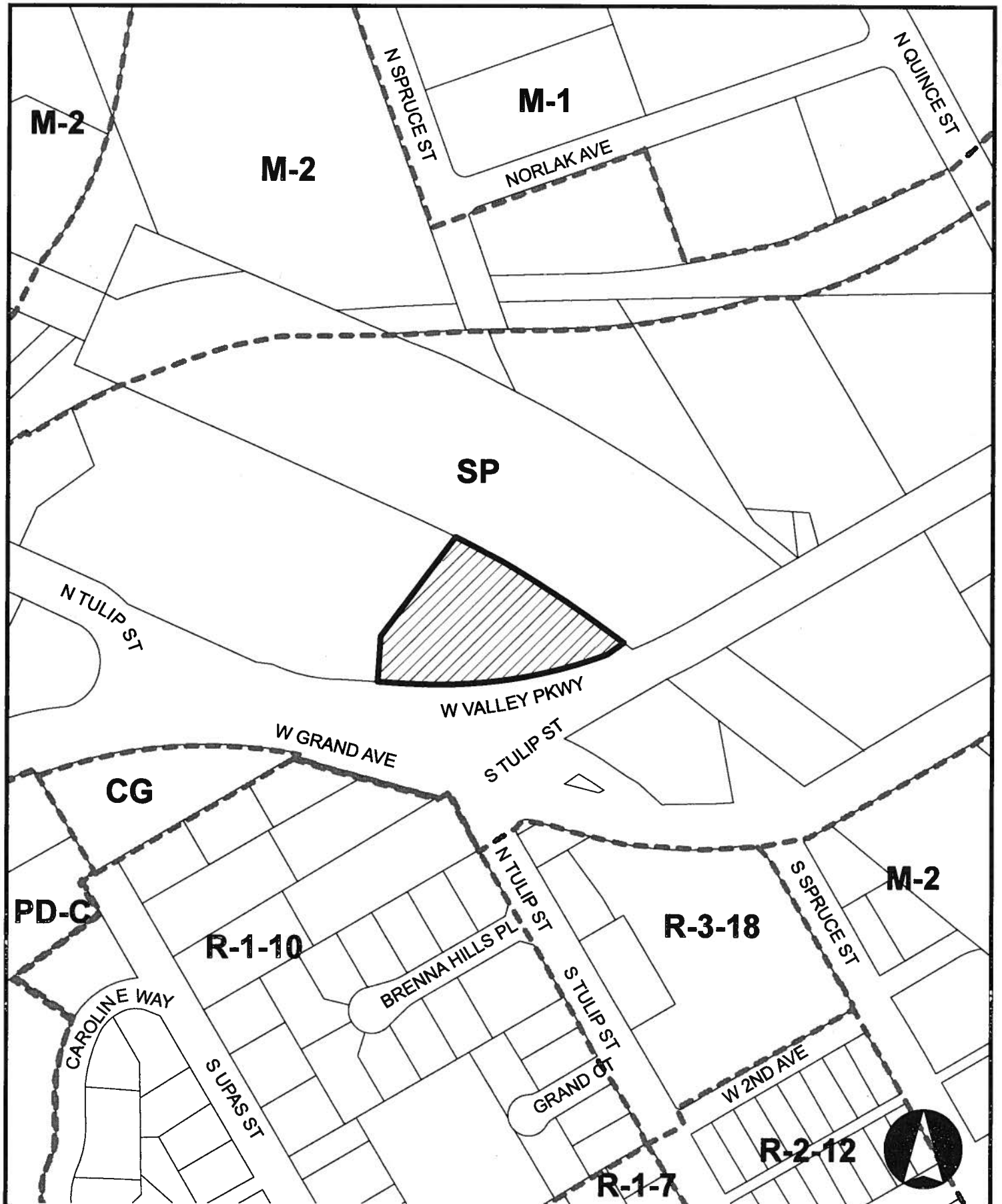
Ann Dolmage
Associate Planner



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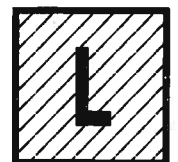
PROPOSED PROJECT
PHG 14-0027



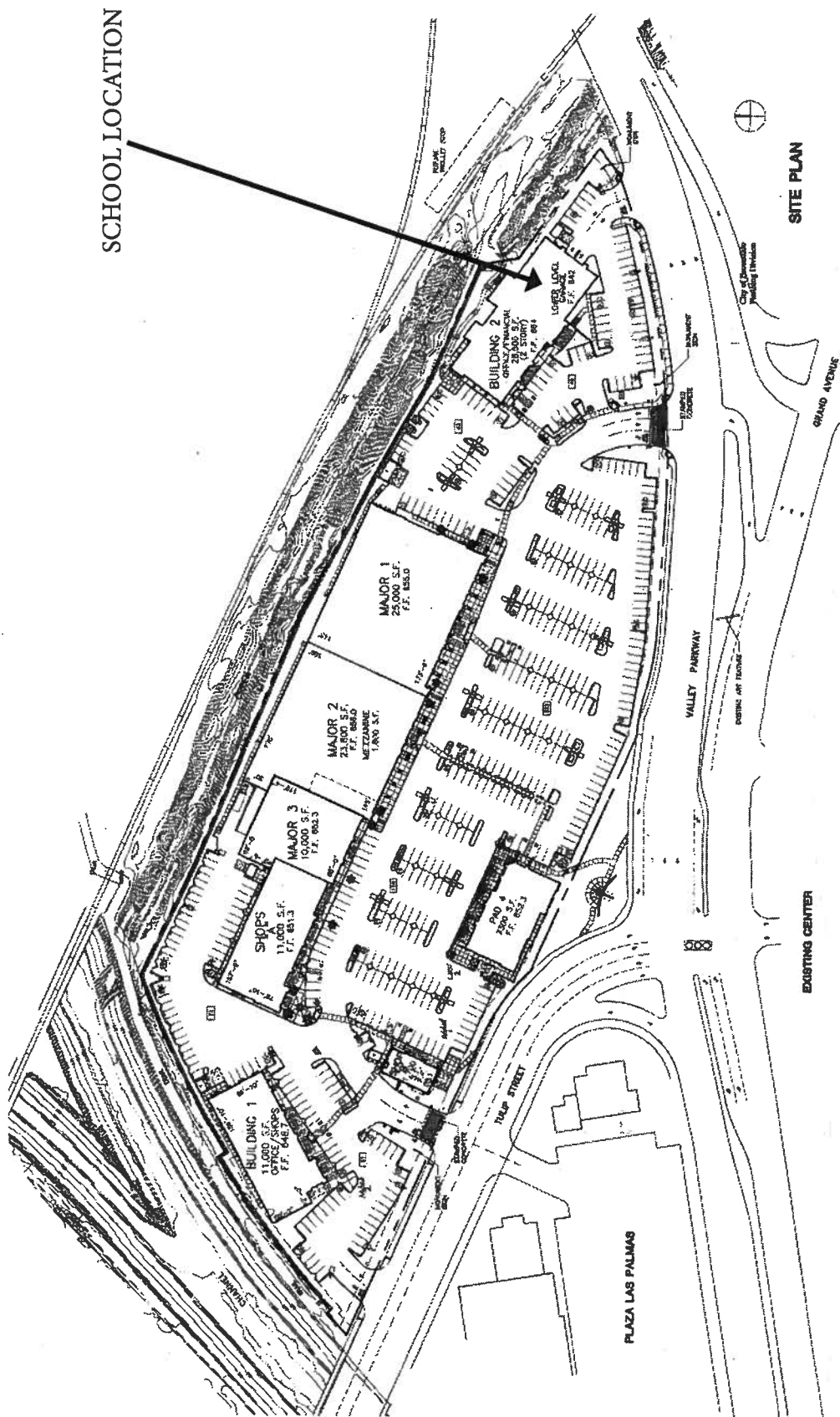


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PROPOSED PROJECT
PHG 14-0027

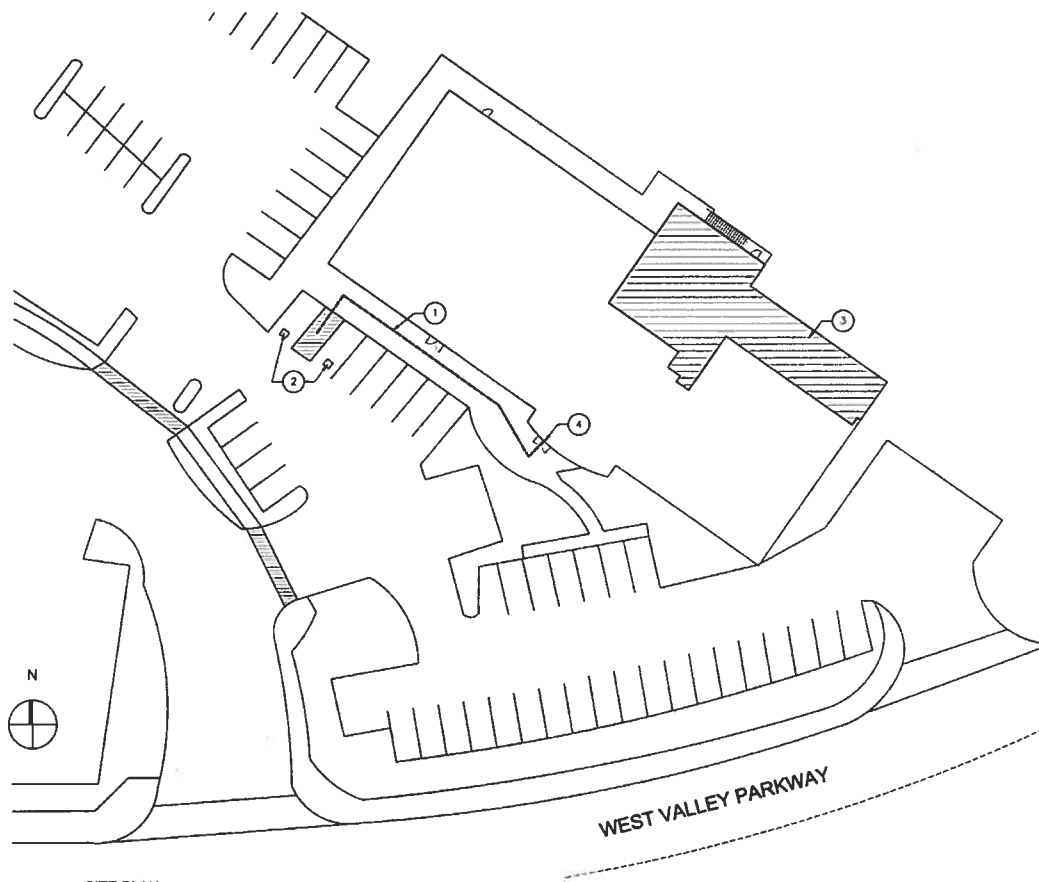


LOCATION/ZONING



PROPOSED PROJECT
PHG 14-0027





SITE PLAN

L

PROPOSED PROJECT
PHG 14-0027



SITE PLAN

PROPOSED PROJECT PHG 14-0027



WALL LEGEND:
1. ALL WALLS ARE 5/8" GYPSUM BOARD PER WALL TYPE ON A7.1
U.N.O.
2. USE MOISTURE RESISTANT GYPSUM BOARD AT ALL WET WALL
LOCATIONS.
3. COORDINATE ALL DATA, POWER, PHONE, CABLE AND ACCESSORY
LOCATIONS WITH OWNER.

NOTES:
1. ALL DIMENSIONS ARE TO FACE OF FINISH OR CENTER LINE OF
COLUMN/WALL U.N.O.
2. FLOOR LEVEL = ± 0'-0" UNLESS NOTED OTHERWISE
3. SEE SHEET A7.1 FOR WALL TYPE LEGEND

DIMENSION LEGEND:

 DENOTES A DIMENSION TO
THE CENTERLINE OF AN OBJECT
 DENOTES A DIMENSION TO
THE FACE OF AN OBJECT

KEYNOTES: FLOOR PLAN

- (E1) EXISTING EXTERIOR WALL TO REMAIN
- (E2) EXISTING THIR DEMISING WALL TO REMAIN
- (E3) EXISTING INTERIOR WALL TO REMAIN
- (E4) EXISTING INTERIOR DOOR TO REMAIN
- (E5) EXISTING EXTERIOR WINDOWS TO REMAIN, TYPICAL
- (E6) EXISTING STRUCTURAL COLUMN TO REMAIN
- (E7) EXISTING BRACE FRAME TO REMAIN
- (E8) EXISTING ELECTRICAL PANELS TO REMAIN
- (1) INFILL OPENING WITH NEW STUD WALL - TO MATCH EXISTING
- (2) MATCH INDICATES A NEW STUD WALL - SEE WALL TYPE ON SHEET A7.1
- (3) ALL EXISTING WALLS WHICH REMAIN ARE TO BE REPAIRED, TEXTURED AND PAINTED AS NEEDED
- (4) FINISH SURFACES TO ALIGN BOTH SIDES, TYPICAL
- (5) NEW DOOR - SEE DOOR SCHEDULE ON A10.1
- (6) EXISTING WINDOW TO BE RELOCATED HERE, ALIGN HEADER HEIGHT WITH THE TOP OF ADJACENT DOOR HEADER
- (7) NEW SINK PER PLUMBING DRAWINGS
- (8) NEW CASEWORK, SEE INTERIOR ELEVATIONS ON SHEET A7.2
- (9) FALSE MULLION
- (10) SINGLE LITE FENCH DOOR PER DOOR SCHEDULE ON SHEET A10.1
- (11) EXISTING DOORS TO BE RELOCATED FROM PREVIOUS LAYOUT SEE A2.0
- (12) FURR OUT EXISTING WALL AS REQUIRED TO ALIGN FINISH SURFACE WITH ADJACENT NEW WALL
- (13) NEW FIRE EXTINGUISHER

ANALYSIS

A. LAND USE COMPATIBILITY/SURROUNDING ZONING

- NORTH - S-P zoning (Downtown Specific Plan Area)- The parking lot for Escondido Transit Center lies to the direct north of the project site. M-1 (Light Industrial) and M-2 (General Industrial) zoning lies further north, on the opposite side of Escondido Creek.
- SOUTH - R-1 (Single-Family), R-2 (Light Multi-Family), and R-3 (Medium Multi-Family) zoning are located on the south side of West Valley Parkway. A small area of CG (General Commercial) zoning is located at the south end of the North Tulip Street/West Valley Parkway intersection, and is occupied by a commercial strip mall.
- EAST - S-P zoning (Downtown Specific Plan Area)- The Escondido Transit Center and associated parking lie to the east of the project site. The former police station and an office building at 613 West Valley Parkway are also located to the east, just beyond the transit center and on the south side of West Valley Parkway.
- WEST - S-P zoning (Downtown Specific Plan Area)- Plaza Las Palmas (a shopping center) occupies the property to the direct west of the project site, on the opposite side of North Tulip Street. PD-I (Planned Development-Industrial) lies to the north of Plaza Las Palmas and is occupied by Ice-Plex. PD-C (Planned Development-Commercial) lies to the south (on the opposite side of West Valley Parkway) and is occupied by La Terraza Corporate Center.

B. AVAILABILITY OF PUBLIC SERVICES

1. Effect on Police Service – The Police Department has expressed no concern regarding the project or their ability to provide service to the site.
2. Effect on Fire Service – The Fire Department has expressed no concern that the project modifications will impact levels of service or their ability to adequately serve the project. The site is served by Fire Station #1 (310 North Quince St.), which is within the five minute response time mandated by the General Plan.
3. Traffic - The project takes access from West Valley Parkway and North Tulip Street. The Circulation Element of the Escondido General Plan classifies West Valley Parkway as a Prime Arterial from the I-15 northbound ramps to North Tulip Street, and a Collector Street from North Tulip Street to Hickory Street. North Tulip Street is classified as a Collector Street between West Valley Parkway and Hale Avenue. Based on the San Diego Association of Government's (SANDAG) traffic generation rates for the San Diego region, a high school generates 1.3 ADTs (average daily trips) per student. Assuming 40 students visit the facility each day, the project would result in 52 ADTs. Per the 2011 data in Table 4.16-2 of the Downtown Specific Plan and Climate Action Plan, all adjacent streets described above are currently operating at well below the adopted capacity; therefore, an increase of 52 ADTs will not significantly impact these streets. All segments of West Valley Parkway between the I-15 northbound ramps and Centre City Parkway operate at an LOS of C, with the exception of the segment between North Tulip Street and South Tulip Street, which operates at an LOS of A. North Tulip Street operates at an LOS of B between West Valley Parkway and Hale Avenue.
4. Utilities – City sewer and water mains with sufficient capacity to serve the project are available within the adjoining street or easement. The project modification does not materially degrade the levels of service of the public sewer.
5. Drainage – The project site is not located within a 100-year flood zone as indicated on current FEMA maps. There are no significant drainage courses within the property, though Escondido Creek runs along the northwest boundary of the shopping center.

C. ENVIRONMENTAL STATUS

The proposed project qualifies as a Categorical Exemption under CEQA Section 15301, Existing Facilities (interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances). A Notice of Exemption was prepared on December 2, 2014, and will be filed upon project approval. The project will have a de minimis impact on fish and wildlife resources as no sensitive or protected habitat occurs on-site or will be impacted by the proposed project.

D. CONFORMANCE WITH CITY POLICY/ANALYSIS

General Plan

The project site is located within the Gateway Transit District of the Downtown Specific Planning Area (SPA 9) of the City of Escondido General Plan. Secondary schools require a conditional use permit in this district. The intent of the Gateway District is to accommodate employee-intensive professional, office, and select commercial and professional services. Some areas within the district are targeted for high-density residential uses that can benefit from these employment centers and major thoroughfares, though the area west of the Escondido Transit Center (including the project site) has no provisions for residential development and is intended for retail and office uses. The operational characteristics of the proposed school use allow it to function more like a traditional office setting. Students may patronize the many retail and food-service businesses in the area on their way to and from appointments, which could help boost the economic vitality of the area.

Whether Gateway Center is an Appropriate Location for the Proposed Use

The tenant space proposed to be utilized for the school use is located in a building designed to primarily serve office tenants. In most situations, a charter school would be considered an educational use, not an office use, but the applicant has demonstrated that for land-use purposes, this particular charter school will more closely resemble an office use than a traditional high school. The school will not be occupied by the entire student body at any given time; instead, students will cycle in and out of the building for weekly, scheduled appointments with teachers during the hours of 8 a.m. and 6 p.m. Students will use their appointment times to discuss assignments with teachers and receive assessments, and will complete the bulk of their schoolwork off-site. The applicant has indicated that the school will have no more than 14 occupants at any given time, which aligns more closely with what is expected for a professional office than for a school. Furthermore, the applicant has provided an expected enrollment figure of 200 students, which is much smaller than most high schools in Escondido (charter or traditional). Since Learn4Life locates its charter schools in commercial or office complexes instead of standalone campuses, its enrollment packet contains a form that states that loitering in the center before or after appointments is not allowed, and that any inappropriate behavior, such as vandalism or use of illegal substances, may result in dismissal from the school and/or law enforcement involvement. This helps to minimize any negative impacts to other businesses in the area and to maintain the original commercial/office character of the site.

Another charter high school in the area, Classical Academy High School, recently obtained Conditional Use Permit approval (under PHG 12-0023) to relocate their campus from Woodward Avenue to a downtown location. During that process, a concern was raised by an owner of nearby commercial property that locating a school in that area could impact the ability of future businesses to obtain liquor licenses from the State of California Department of Alcoholic Beverage Control (ABC). Planning staff consulted with ABC, who stated that existing liquor licenses would not be affected, but that a "consideration point" would exist for new liquor licenses proposed within 600 feet of a school. This would not mean that future licenses would automatically be denied, but that ABC could deny a license where there was evidence that normal operations of the licensed premises would be contrary to the public welfare and morals. They could also decide to issue the license, but to impose conditions to lessen the attraction to youth (for example, limiting advertising or hours of operation). The staff report for PHG 12-0023 noted that the school's Woodward Avenue campus was located near at least two businesses with liquor licenses, without incident, and that staff was unaware of any licenses that had been denied due to proximity to the school. Diego Hills Public Charter will be located just over 600 feet from Cocina del Charro Restaurant, the closest business to the school that currently serves alcohol. The remaining businesses in Gateway Center within this 600-foot buffer include Michaels, Barnes and Noble, Veros Credit, and Regent Bank. Liquor licenses could eventually be sought for areas to the east of the project site that are located within the Gateway Transit District of the Downtown Specific Plan, since eating/drinking establishments and food/liquor sales are allowed uses in this area.

However, there is no evidence at this time that the proximity of this area to the charter school would result in outright denial of a liquor license by ABC. As described above, ABC would consider each new license on a case-by-case basis.

Whether the Existing Building Can Accommodate an Educational "E" Occupancy

While the proposed use may be considered closer to an office use than a school use for purposes of land use compatibility, an analysis was necessary to determine whether it would need to meet building and fire code requirements for educational occupancy, or whether a different occupancy classification could apply. Building 2 was originally designed and constructed for office space ("B" occupancy). The applicant for Diego Hills Charter School supplied staff with a furniture plan for their space, which was routed to the Building Department for review. Building determined that an "E" occupancy would apply for the school. Since the remainder of Building 2 would still consist of "B" occupancies, the applicant would be required to provide proper fire separation between the school space and the other tenants, per California Building Code (CBC) Section 508. This would include a one-hour rated wall assembly (for buildings with an approved fire sprinkler system) or a two-hour rated wall assembly (for buildings without sprinklers). Opening protection would also be required for any doors or openings into the adjacent occupancy, per CBC Table 716.5. Since these requirements are potentially significant, the applicant was notified about them prior to scheduling the project for public hearing. The applicant has confirmed that they will comply with these requirements. All comments from the Building Department have been incorporated into the conditions of approval for this project.

Whether Existing Parking Supply is Sufficient to Accommodate Both the Proposed Use and Existing Uses at this Location

Gateway Center is required to provide 544 parking spaces under the terms of 2000-75-PPL and subsequent modifications. This figure assumes a ratio of one space per 200 square feet of floor area, as specified in the Zoning Code for a shopping center on a minimum lot size of three acres and containing multiple uses. The parking requirement also includes a BEZ reduction of 57 spaces (the square footage of the center would normally have required 601 spaces). The applicant has demonstrated that 544 spaces currently exist, so parking supply is sufficient if the center is used as originally intended. For public and private senior high schools, the Zoning Code requires one parking space for each employee and one for each three students for which the facility is designed. This standard is appropriate for high schools that are designed to accommodate an entire student body and staff during an all-day school "shift", have a significant percentage of students arriving by personal vehicle, and have sporting events, music/theater productions, and other activities that draw large numbers of visitors outside of normal school hours. If the proposed charter school were required to use the same parking standard for 200 students, eight teachers, and four staff members, it would need to provide 79 spaces, a significant portion of the existing lot for Gateway Center. Designating this many spaces for the school alone could result in either the need for additional parking, or limitations on the use of the remainder of the center. Given that the applicant expects no more than 14 people in the school facility at any time, which is a capacity more characteristic of an office than a school, Planning staff have determined that the 1:200 ratio for the original shopping center could continue to apply, and no additional parking should be required. The applicant has pointed out that many students are expected to travel to the site via public transportation, since the Escondido Transit Center is next door and a bus stop is located directly in front of the shopping center. This further minimizes the impact of the school on parking.

SUPPLEMENT TO STAFF REPORT/DETAILS OF REQUEST

A. PHYSICAL CHARACTERISTICS

The shopping center occupies a site that is approximately 9.35 acres in size and mostly flat. The building to be occupied by the proposed use (Building 2) is located at the east end of the center. Because the building site slopes down slightly from the front of the building to the rear, the main entry and the garage entry are both at ground level, though the garage is below the office floors. Two driveways provide access to the site from West Valley Parkway. The eastern driveway provides right-turn access into the site and right-turn access out of the site. The western driveway is signalized and provides both right-turn and left-turn access into the site, and right-turn access out of the site (neither driveway allows drivers to turn left out of the parking lot). Two additional driveways provide access to the center from North Tulip Avenue. Vegetation on the site consists solely of limited landscaped areas, since the site is fully developed. Escondido Creek borders the northwest side of the center, and rail tracks leading to and from Escondido Transit Center border the remainder of the northern boundary.

B. SUPPLEMENTAL DETAILS OF REQUEST

- | | |
|-------------------------|---|
| 1. Property Size: | 9.35 acres |
| 2. Proposed Use: | Public charter school with independent study format, grades 9-12 and ages 14-19 |
| 3. Proposed school: | Located on first floor of Building 2. Total office floor area is 3,028 SF. Floor plan includes entry/waiting area, open study area, two meeting rooms, two offices, break room, I.T. room, storage room, and restrooms. Main access to the office suite is through a shared lobby just inside the front doors of Building 2. Access also available via a stairway off the rear of the building. |
| 4. Number of Students: | 200 total enrollment |
| 5. Number of Employees: | 12 (eight teachers and four support staff) |
| 6. Hours of Operation: | Monday through Friday, 8 a.m. to 6 p.m. |
| 7. Parking: | 544 spaces for shopping center (one space per 200 square feet of floor area, minus parking reduction of 57 spaces). Includes 511 spaces in the surface lot and 33 in the underground garage. |

C. CODE COMPLIANCE ANALYSIS

	<u>Building 2 (Existing)</u>	<u>Code Requirement</u>
1. Setbacks		
Front (south/west)	60' from ultimate street curb face to southern corner of Building 2	At right of way or 14' from ultimate street curb face, whichever is greater
Side (northwest)	735' from northern corner of Building 2 to closest point on northwest property line	Interior: None Street: At right of way or 14' from ultimate street curb face, whichever is greater
Rear (northeast)	10'	None

2. Building Height	31' (three stories including garage)	60' (up to four stories)
3. Lot Frontage	1,425'±	50'
4. Lot Size	9.35 acres	None

EXHIBIT "A"

**FINDINGS OF FACT
PHG 14-0027**

1. Granting the proposed Conditional Use Permit for the charter school would be based upon sound principles of land use and in response to services required by the community, as the project will provide educational opportunities for students seeking a high school education in a non-traditional format.
2. The proposed Conditional Use Permit would not cause deterioration of bordering land uses or create special problems for the area in which it is located. Parking and traffic generation for Gateway Center were analyzed as part of the original permit for the center (2000-75-PPL) and the Mitigated Negative Declaration that was adopted for that permit (City Log No. ER 2000-21). The charter school is not expected to increase traffic above and beyond what was already accounted for in the original permit. The project will utilize a suite within an existing building, and will not involve any exterior modifications to that building, aside from the installation of signage, which will require a separate permit. The project has been conditioned such that it will preserve the public health, safety and general welfare of the community.
3. The proposed Conditional Use Permit has been considered in relationship to its effect on the community and determined to be compatible with surrounding development and all services can be provided to the site.
4. The project qualifies as a Categorical Exemption as described in Section 15301 of the State CEQA Guidelines. No significant issues remain unresolved through compliance with code requirements and the conditions of approval. The project will have no impact on fish and wildlife resources as no sensitive or protected habitat occurs in the project construction site or will be impacted by the proposed modifications.

EXHIBIT "B"

**CONDITIONS OF APPROVAL
PHG 14-0027**

PLANNING CONDITIONS

1. Enrollment for the school shall be capped at 200 students and no more than six students shall occupy the school at any given time. Changes in these levels will require approval of a modification to this Conditional Use Permit.
2. Prior to issuance of a building permit for the project, the shed located in the parking garage under Building 2 shall be removed or relocated so as not to obstruct any parking spaces or interfere with traffic circulation in the garage.
3. The developer shall be required to pay all development fees of the City then in effect at the time and in such amounts as may prevail when building permits are issued, including any applicable City-Wide Facilities fees.
4. All construction shall comply with all applicable requirements of the Escondido Zoning Code and requirements of the Planning Division, Engineering Division, Building Division, and Fire Department.
5. The project shall be in substantial conformance with the plans/exhibits and details in the staff report to the satisfaction of the Planning Division.
6. The operation of this facility shall be in accordance with all applicable state and/or county laws and licensing requirements.
7. The City of Escondido hereby notifies the applicant that the County Clerk's office requires a documentary handling fee of \$50.00 in order to file a Notice of Exemption for the project (environmental determination for the project). In order to file the Notice of Exemption with the County Clerk, in conformance with the California Environmental Quality Act (CEQA) Section 15062, the applicant should remit to the City of Escondido Planning Division, within two working days of the final approval of the project (the final approval being the hearing date of the Planning Commission or City Council, if applicable), a certified check payable to the "County Clerk" in the amount of \$50.00. The filing of a Notice of Exemption and the posting with the County Clerk starts a 35 day statute of limitations period on legal challenges to the agency's decision that the project is exempt from CEQA. Failure to submit the required fee within the specific time noted above will result in the Notice of Exemption not being filed with the County Clerk, and a 180 day statute of limitations will apply.
8. An inspection by the Planning Division will be required prior to operation of the project. Everything should be installed prior to calling for an inspection, although preliminary inspections may be requested. Contact the project planner at (760) 839-4671 to arrange a final inspection.
9. The premises shall be made available for inspection by City staff during hours of operation and shall provide such records, licenses or other materials necessary to show evidence of compliance with the conditions of this permit.
10. No signage is approved as part of this permit. A separate sign permit shall be required prior to the installation of any signs. All proposed signage associated with the project must comply with the City of Escondido Sign Ordinance (Article 66, Escondido Zoning Code).
11. All exterior lighting shall conform to the requirements of Article 35 (Outdoor Lighting) of the Escondido Zoning Code. All outdoor lighting shall be provided with appropriate shields to prevent light from adversely affecting adjacent properties.
12. All rooftop equipment must be fully screened from public view to the satisfaction of the Director of Community Development. The final building plans shall clearly indicate the location and height of all roof top equipment and demonstrate that the height of the top of the roof well is sufficient to screen the mechanical equipment.

13. All new utilities and utility runs shall be underground.
14. This CUP shall become null and void unless utilized within twelve months of the effective date of approval.
15. All conditions included with the approval of 2000-75-PPL and subsequent modifications shall remain in full force and effect unless superseded by the conditions contained herein.
16. This item may be referred back to the Planning Commission upon recommendation of the Director of Community Development for review and possible revocation or modification of the Conditional Use Permit upon receipt of nuisance complaints regarding the facility or non-compliance with the Conditions of Approval.
17. The legal description attached to the application has been provided by the applicant and neither the City of Escondido nor any of its employees assume responsibility for the accuracy of said legal description.

BUILDING CONDITIONS

1. Fire separation of mixed uses is required per California Building Code (CBC) Section 508.
2. Code analysis is required.
3. Building plans shall show exit discharge. Two exits are required where the occupant load in the room or space exceeds 49. Panic Hardware may be required.
4. Plumbing fixtures shall comply with California Plumbing Code (CPC) Table 422.1 and Table A.
5. Building plans shall show all disabled access requirements per CBC Chapter 11B.

FIRE CONDITIONS

1. Fire alarm and smoke detectors shall be installed.
2. Exit pathways shall be illuminated.



CITY OF ESCONDIDO
PLANNING DIVISION
201 NORTH BROADWAY
ESCONDIDO, CA 92025-2798
(760) 839-4671

Notice of Exemption

To: San Diego County Recorder's Office
Attn: James Scott
P.O. Box 121750
San Diego, CA 92101-1750

From: City of Escondido
Planning Division
201 North Broadway
Escondido, CA 92025

Project Title/Case No.: PHG 14-0027 (Diego Hills Public Charter, Inc.)

Project Location - Specific: 800 West Valley Parkway (APN: 232-110-21)

Project Location - City: Escondido **Project Location - County:** San Diego

Description of Project: Request for approval of a Conditional Use Permit to allow a public charter high school (Diego Hills Charter School) in an office suite within an existing office/commercial center. An enrollment of 200 students is proposed, as well as eight teachers and four support employees. The school would utilize an independent-study approach; each student would have a weekly one-hour appointment with a teacher at the school, but would complete his or her schoolwork at home or at another off-site location. Up to 14 people are expected in the facility at any given time. The applicant is proposing interior modifications to the office (e.g., construction of walls to separate the space into rooms). No exterior modifications to the building are proposed.

Name of Public Agency Approving Project: City of Escondido

Name of Person or Agency Carrying Out Project:

Name: Learn4Life

Telephone: (661) 272-1225

Address: 42455 10th Street West, Suite 105, Lancaster, CA 93534

☒ Private entity ☐ School district ☐ Local public agency ☐ State agency ☐ Other special district

Exempt Status:

Categorical Exemption. CEQA Section 15301(a), Class 1, "Existing Facilities"

Reasons why project is exempt:

1. The project involves interior modifications to an office within an existing building, such as the construction of partitions and electrical/plumbing conveyances. No new buildings will be constructed, nor will any existing buildings be increased in size.
2. The project site is located within the Downtown Specific Plan Area of the City of Escondido General Plan, and the building to be occupied has historically been used for office and financial purposes without creating any adverse impacts to the surrounding properties. Due to the school's independent-study format, only a small number of students and staff will be in the facility at any given time, unlike a traditional high school which accommodates the entire student body each day. Therefore, the building's office character will be maintained.
3. The project site was previously graded and built out, and has no value as habitat for endangered, threatened, or rare species.

Lead Agency Contact Person: Ann Dolmage

Area Code/Telephone/Extension (760) 839-4548

Signature: Ann Dolmage

Ann Dolmage, Associate Planner

12-2-14

Date

☒ Signed by Lead Agency

Date received for filing at OPR:

☐ Signed by Applicant

PLANNING COMMISSION

Agenda Item No.: G.2
Date: December 9, 2014

CASE NUMBER: AZ14-0003 and PHG 14-0029

APPLICANT: Penny DiLoreto (Dog Park)

LOCATION: Citywide for the proposed Zoning Code Amendment; 2750 Auto Park Way, Suite 22 (APN 228-381-75) for the Conditional Use Permit

TYPE OF PROJECT: Zoning Code Amendment and Conditional Use Permit

PROJECT DESCRIPTION: An amendment to Article 26 of the Escondido Zoning Code to allow dog boarding as a Conditional Use within the Light Industrial (M-1) and General Industrial (M-2) zones, along with a Conditional Use Permit to allow a dog-boarding facility within an approximately 3,600 SF industrial suite. The proposal also includes the adoption of the environmental determination prepared for the project.

STAFF RECOMMENDATION: Approval

GENERAL PLAN DESIGNATION/ZONING: GP: General Industrial (GI); Zoning Light Industrial (M-2)

BACKGROUND/SUMMARY OF ISSUES:

The proposed code amendment and Conditional Use Permit are in response to a code compliance action regarding the current boarding of dogs at the K9 Dog Park facility. A business license was issued to operate a dog training facility with some accessory retail within an approximately 3,600 SF suite in a larger industrial development. Dog boarding/kennels is not a permitted primary use within the industrial or other zones throughout the City. However, incidental overnight boarding/care of animals has been allowed in conjunction with animal hospitals and pet stores. The facility owner (Penny DiLoretto) therefore has submitted an application to amend the Zoning Code to allow dog boarding within the M-1 and M-2 industrial zones in conjunction with a Conditional Use Permit to allow dog boarding at the subject site. The City has deferred the code compliance action for the current boarding of dogs at the facility until a final decision by the Planning Commission and City Council regarding the proposed Code Amendment and CUP.

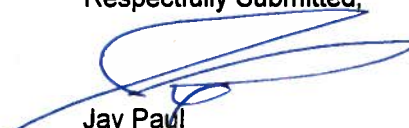
Staff feels the issues are as follows:

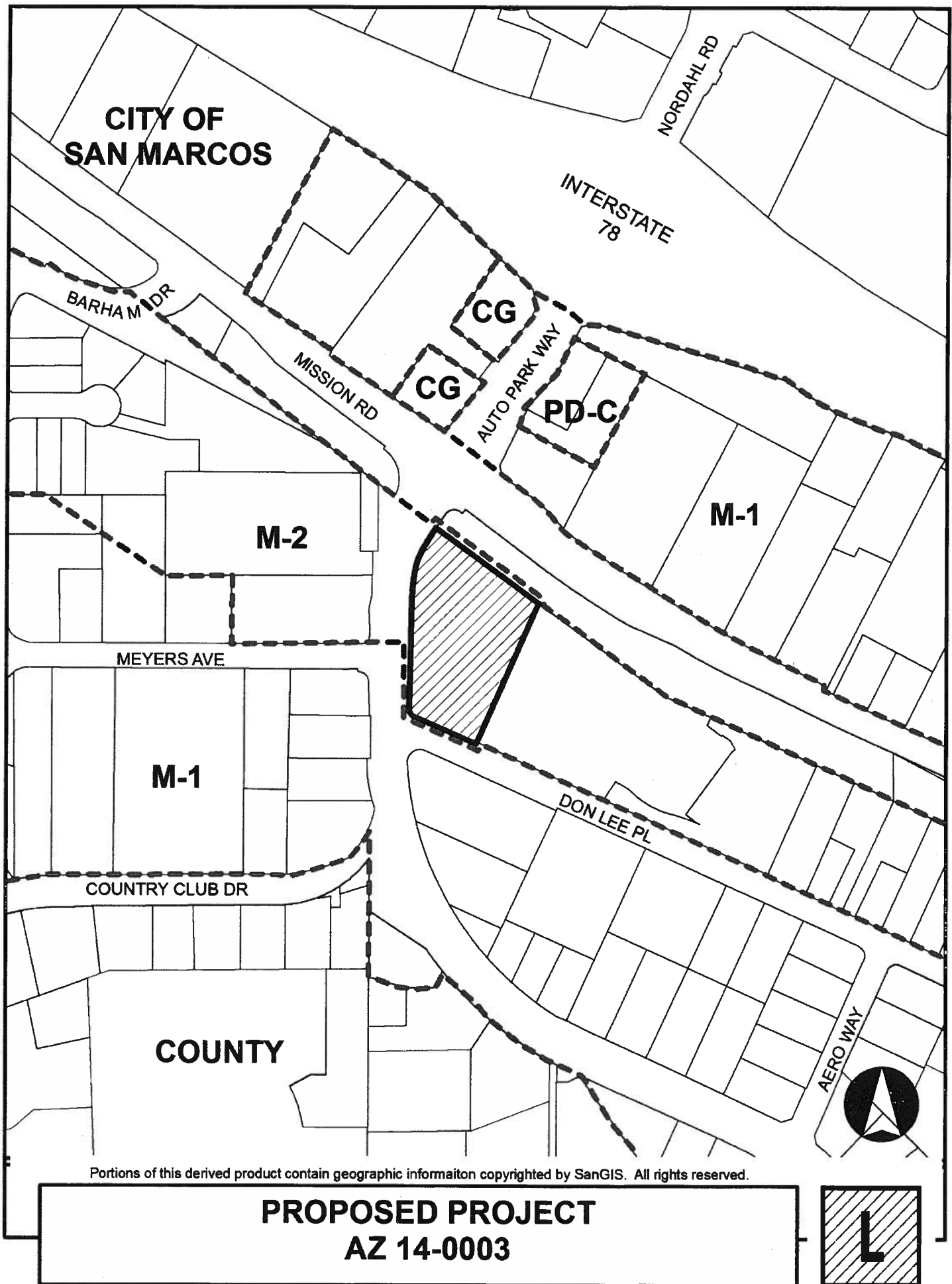
1. Appropriateness of the code amendment to allow dog boarding within the industrial zones (M1 and M2).
2. Whether the subject industrial site is appropriate for dog boarding and whether the operation would impact adjacent uses.

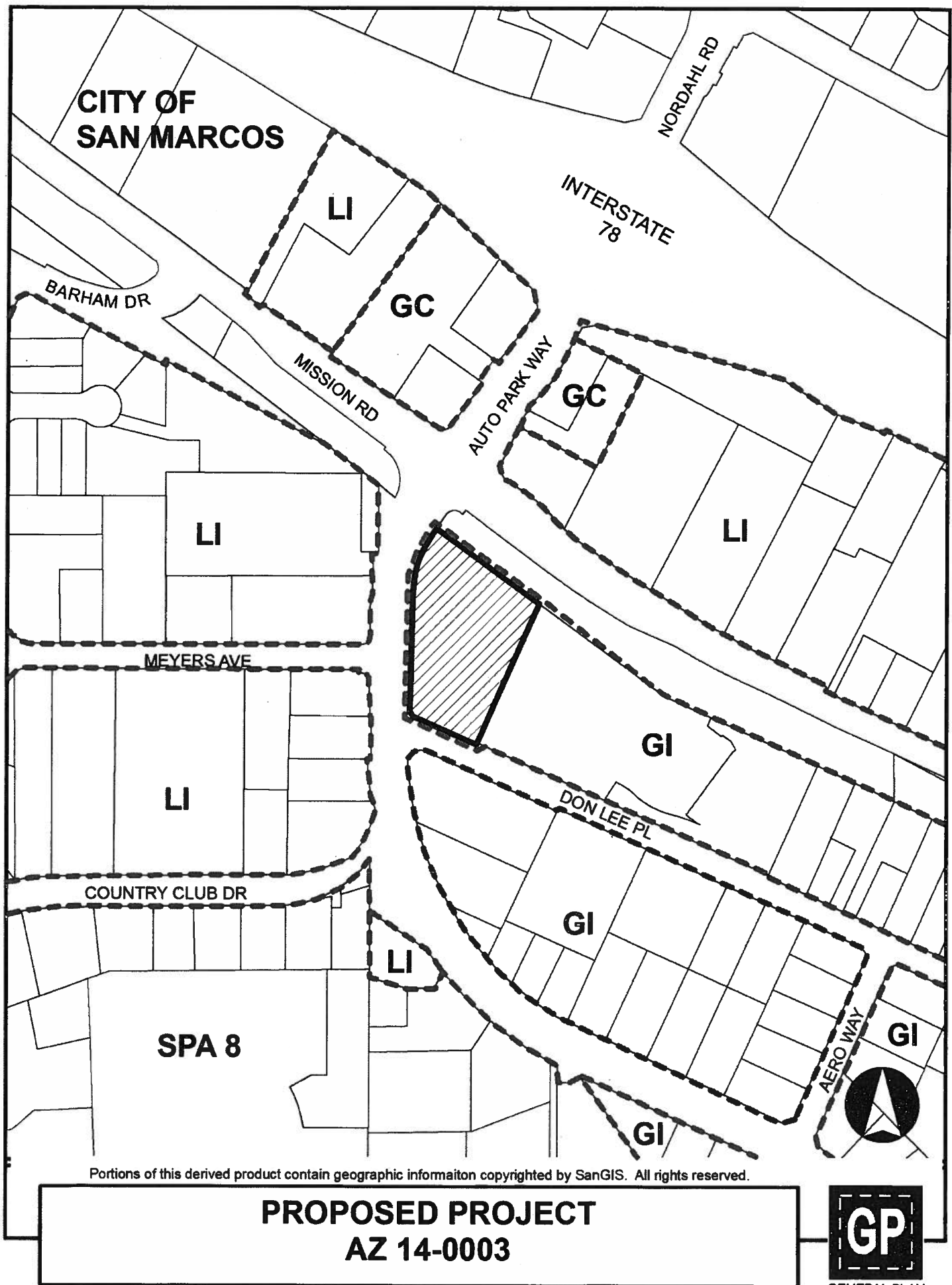
REASON FOR STAFF RECOMMENDATION:

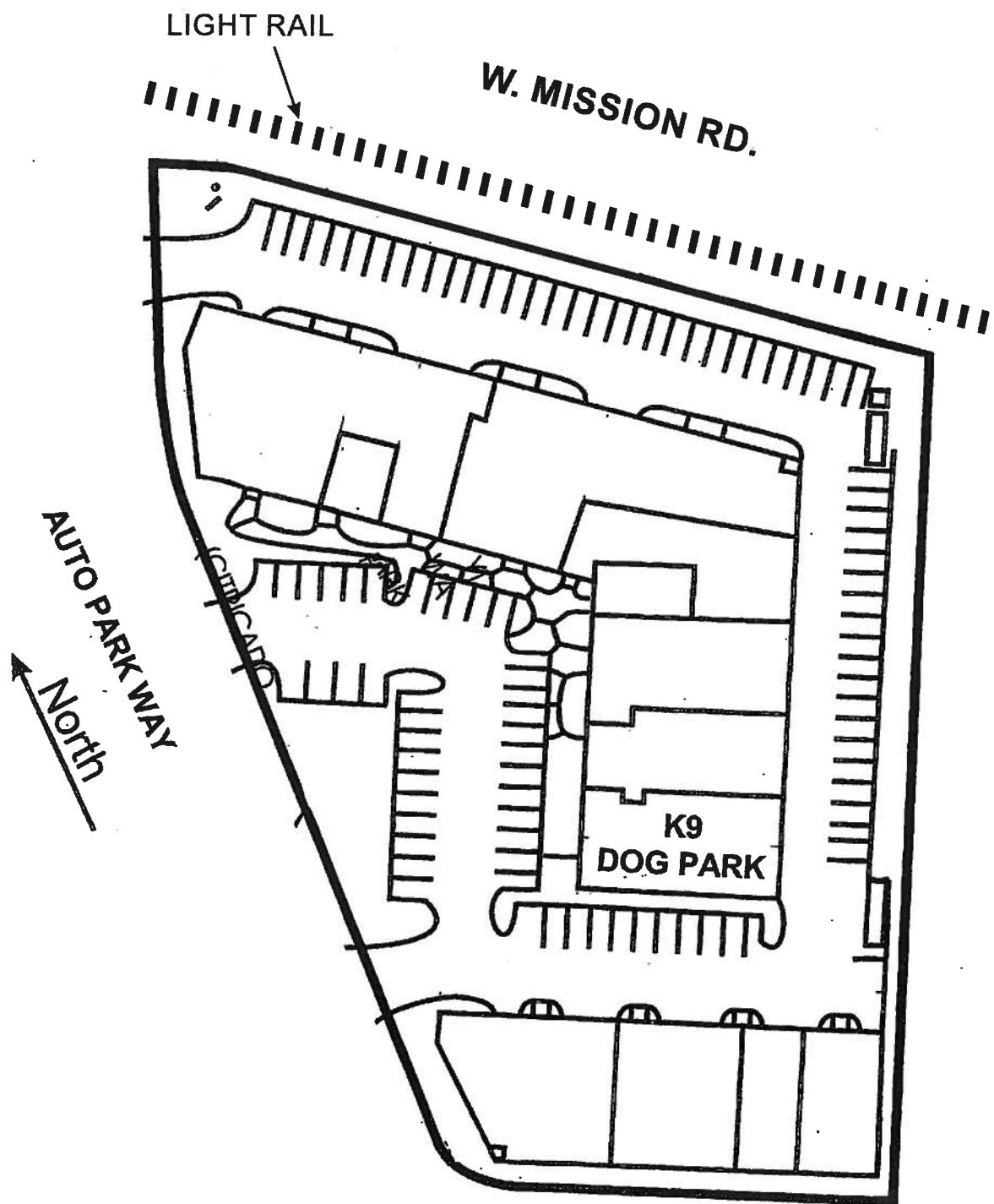
1. Staff feels industrial zone is appropriate for dog boarding and training as a primary use because incidental animal boarding already is allowed within the M-1 and M-2 zones. Allowing animal boarding within the industrial zones also reduces the potential for conflicts with non-compatible adjacent land uses.
2. Staff feels the subject site is appropriate for dog boarding because the size of the suite is large enough to reasonably accommodate all of the uses proposed by the applicant; dogs would be boarded indoors; additional noise insulation has been incorporated into the kennels; and there are no adjacent uses/businesses that would be adversely affected by the boarding of dogs on the site.

Respectfully Submitted,


Jay Paul
Associate Planner



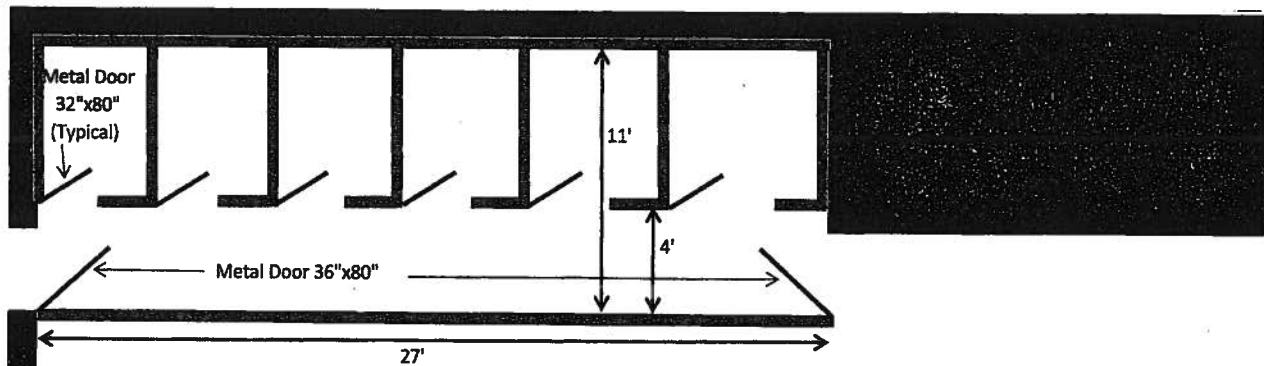




PROPOSED PROJECT
AZ 14-0003/PHG 14-0029

S
SITE PLAN

KENNELS

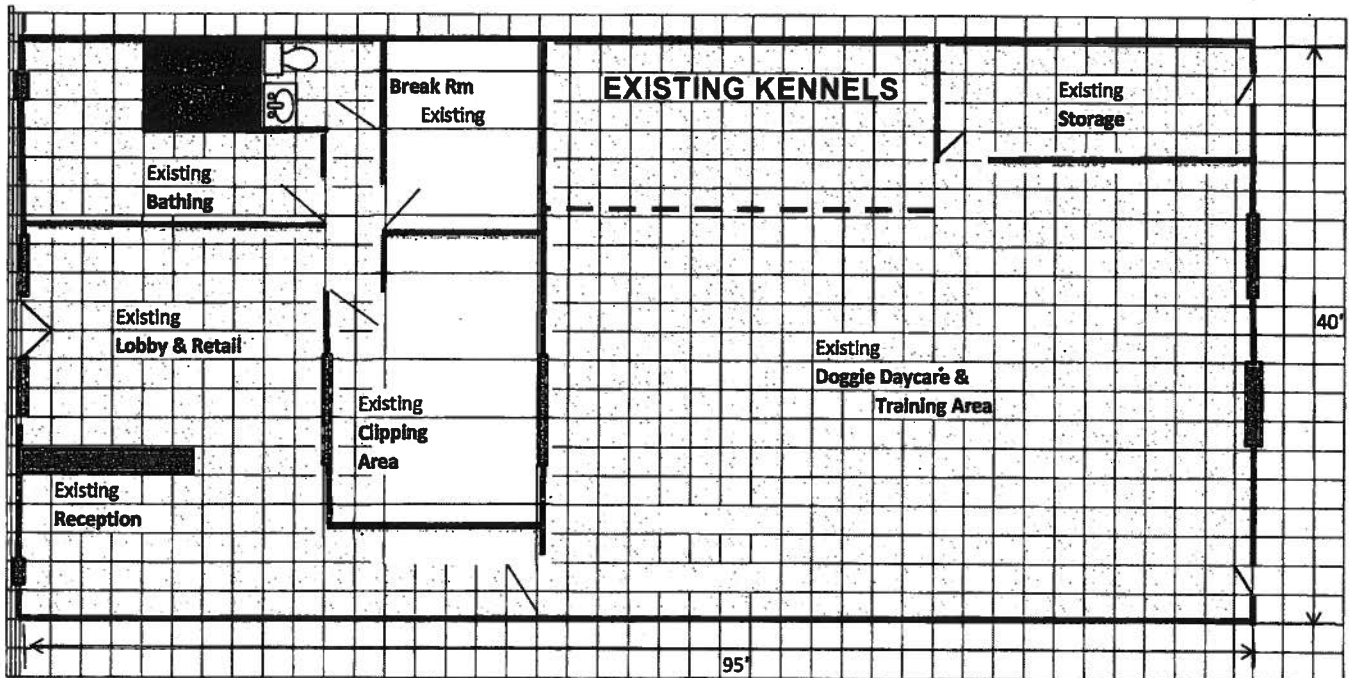


CONSTRUCTION MATERIALS:

- ~ Perimeter studs: 3 5/8" x 10' Steel Stud 25 Gauge
- ~ Perimeter wall 5/8" Sheet Rock
- ~ Kennel interior studs: 3 5/8" x 8' Steel Stud 25 Gauge
- ~ Kennel wall 1/2" Sheet Rock
- ~ Kennel Wainscot 4' .09 FRP Wall Panel White
- ~ Deck: 2"x10"x12' on 24" center with plywood deck
- ~ Ceiling: 2"x4" acoustical tile in drop ceiling
- ~ Insulation: R40 walls and ceiling
- ~ Lever type door knobs
- ~ 3/8" bolt anchors on 24" center base plate to concrete floor

STORAGE FOR:

- ~ Dog Beds
- ~ Dry dog food
- ~ Dog bowls
- ~ Dogs for overnight boarding



PROPOSED PROJECT
AZ 14-0003/PHG 14-0029

F
FLOOR PLAN

ANALYSIS

A. LAND USE COMPATIBILITY/SURROUNDING ZONING

NORTH: M-1 zoning (Light Industrial) / A variety of industrial and commercial uses are located north and northwest of the site north of Mission Road. The Sprinter light rail line is located immediately north along the northern property boundary.

SOUTH: M-1 zoning (Light Industrial) / A Chevy commercial truck dealership is located south of the project on the southern side of Don Lee Place. A variety of industrial uses are located further to the southeast.

EAST: M-2 zoning (General Industrial) / An industrial building with industrial/manufacturing uses is located east of the site, including outdoor storage. A power plant facility is located further to the east.

WEST: M-2 zoning (General Industrial) / A variety of industrial uses are located west of the site along the western side of Auto Park Way, including a Sprinter Light Rail station.

B. ENVIRONMENTAL STATUS

1. The proposed project is exempt from environmental review in conformance with CEQA Guidelines Section 15061(b)(3). The activity is covered by the general rule which exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment. Approval of the proposed amendment to the Escondido Zoning Code would not individually or cumulatively result in the possibility of creating significant effects on the environment. Therefore, the proposed amendment to the Zoning Code is not subject to CEQA under the General Rule and no further environmental review is necessary.

C. AVAILABILITY OF PUBLIC SERVICES

1. **Effect on Police Service** -- The Police Department expressed no concern regarding their ability to serve the site.
2. **Effect on Fire Service** -- The Fire Department has expressed no concerns relative to its ability to provide service to the site.
3. **Traffic** -- Access to the site is provided from Auto Park Way, which is classified as a Major Road. The Engineering Division indicated the proposed project would not result in any adverse impacts to the level of service on the adjacent roadways or intersections.
4. **Utilities** -- Water and sewer service to the site is currently provided by the City of Escondido. The project would not impact utility services to the site.
5. **Drainage** -- There are no significant drainage courses on or adjacent to the site. The project would not impact existing facilities because the site is fully developed and no new development is proposed.

D. CONFORMANCE WITH CITY POLICY

General Plan

There are no specific General Plan policies related to household pets or the boarding and keeping of household pets. However, the proposed amendment to allow the boarding of dogs and cats within the M-1 and M-2 zone would be consistent with the goals and policies of the General Plan because the proposed use would not diminish the Quality-of-Life Standards of the General Plan, nor adversely impact the community health or natural resources. The proposal would be consistent with the General Plan Economic Prosperity Goals that encourage a wide range of businesses that create and sustain a strong economic base and provide for the full employment of a diverse set of skills.

Appropriateness of the Code Amendment to allow dog boarding within the industrial zones (M1 and M2).

Staff has received inquiries in the past regarding the ability to establish dog boarding and dog daycare type facilities within the City, but the Zoning Code currently does not allow dog boarding/kennels (indoor or outdoor) as a primary use within any zone. However, limited dog boarding has been permitted as an incidental use in association with veterinarian offices, animal hospitals and pet stores (such as Petco and PetSmart). Animal hospitals and care currently is a permitted use within the M-1 and M-2 industrial zones and staff feels the industrial zones would be appropriate for dog boarding and care as a primary use because of the reduced potential for conflicts with non-compatible adjacent land uses (such as residential or office commercial). Many cities throughout San Diego County allow dog boarding/kennels within their industrial zones as either a permitted or conditionally permitted use. Staff feels the discretionary CUP process would be appropriate to evaluate the boarding of dogs and cats in order to evaluate each request and site on a case-by-case basis to establish reasonable limitations on the total number of animals; overall size of the facility; compatibility with adjacent properties and other factors that might be specific to the proposed use or property. Dog and cat boarding would include shelter and care of animals on a daily or overnight basis to include feeding, grooming and other associated activities including training. However, the retail sale of dog and cats, breeding, or the operation of an animal shelter would not be permitted. The applicant indicated that customers have inquired about dog boarding services in Escondido, but have to be referred to other locations outside of the City. Staff feels that dog boarding would be a convenient and needed service that should be available in Escondido rather than residents having to go to other jurisdictions. The proposed code language is attached as Exhibit "B."

Whether the Proposed Industrial Site/Suite is appropriate for Dog Boarding

K9 Dog Park currently leases an approximately 3,600 SF suite within a larger industrial complex that contains a variety of light industrial and commercial businesses. The suite contains a separate and secured interior area (approx. 11' x 27') that was constructed to accommodate up to six dogs within separate kennels for overnight boarding. Additional sound attenuation was incorporated into the kennels to reduce the potential for noise impacts to adjacent businesses, especially during evening hours. All of the kennels and interior spaces are monitored with cameras that can be viewed off-site when the business closes for the evening. K9 Dog Park also offers a wide range of services besides boarding to include dog daycare, grooming, various training programs, and some ancillary retail sale of specialty pet food and other merchandise. The business hires a range of service professionals from dog trainers, groomers and also interns from various teaching institutions. A veterinarian service is provided on a limited schedule several times a month as needed. Staff feels the project site is appropriate for dog boarding because all boarding activities would be conducted within a separate and secure interior space that has been designed to mitigate any potential impacts to adjacent businesses. There also is sufficient secured interior space for dog daycare and other training activities. The site has sufficient parking to support the proposed use and the site is surrounded by a variety of industrial uses that would not be affected by the boarding of dogs on the site. All boarding is required to be conducted inside the building. However, supervised walks, exercise and limited outdoor training type activities are allowed. The applicant indicated that most training is conducted inside the building. Staff has not received any complaints regarding the operation of the facility from adjacent businesses and is therefore recommending approval of the Conditional Use Permit.

SUPPLEMENT TO STAFF REPORT/DETAILS OF REQUEST

A. PHYSICAL CHARACTERISTICS

The 40,755 SF industrial complex (Rincon Business Center) was constructed in 1979 and consists of two single-story buildings with in-line suites. The property fronts onto and takes access from three driveways via Auto Park Way on the west. The site also is adjacent to the Sprinter rail line along the northern boundary. Don Lee Place is located along the southern boundary of the property.

B. SUPPLEMENTAL DETAILS OF REQUEST

1. Property Size: 2.34 acres (one parcel)
2. Building Size:
 Bldg. 1 29,244 SF
 Bldg. 2 11,440 SF
 40,684 Total Building Area
3. Suite Size: 3,720 SF
4. Parking:
 Provided: 92 (including 4 handicap) throughout center

 Required: 5 spaces to support the Suite 22 (Dog Park) based on 1:800 ratio for training area (approx. 3,315 SF) and 1:400 for kennel area (approx. 405 SF).

 Total Required
 for existing uses and
 proposed Dog Park: 87 spaces were required for all uses in the center based on a previous Parking/Tenant Use Update prepared for the K9 Dog Park business license. The additional kennel area would require one additional space for a total of 88 spaces.
5. Number of Dogs: 6 kennels currently provided. The facility could potentially accommodate up to 15 dogs for overnight boarding with additional interior improvements.
6. Services Provided: Overnight dog boarding
Dog daycare
Dog Grooming
Dog Training
7. Days and Hours of Operation:

Monday – Friday	7:00 a.m. – 6:00 p.m. for day care Employees on site from 6:30 a.m. to 6:30 p.m.
Saturday	Training/Grooming only (typ. 7:00 p.m. to 6:00 p.m.) but hours may vary as needed
Sunday	Closed to public but employees on site to cater to boarded dogs (training, walking, exercise and sanitation type activities)

Boarding 24 hours, 7 days a week
Personnel available 24 hours on call basis as needed and interior monitored off-site through video surveillance system. All hours may vary as needed.

EXHIBIT "A"

FACTORS TO BE CONSIDERED/FINDINGS OF FACT AZ14-0003 AND PHG14-0029

Zoning Code Amendment

1. The public health, safety and welfare would not be adversely affected by the proposed Zoning Code Amendment, because dog boarding and care already is allowed within the M-1 and M-2 zone in association with an animal hospital/veterinarian office as an accessory use. The amendment would now allow dog boarding and care as a primary use within the M-1 and M-2 zone through the Conditional Use Permit process. Each request would be evaluated on a case-by-case basis through the CUP process to ensure the public health, safety and welfare would not be adversely affected, and appropriate conditions applied as necessary.
2. The proposed Zoning Code Amendment would not be detrimental to surrounding properties because the zoning category is not being changed. The property involved would be suitable for the uses permitted by the proposed zone because dog boarding already is allowed as an incidental use within the M-1 and M-2 zones. The request now would allow dog boarding as primary use within the M-1 and M-2 zones where more intensive indoor and outdoor uses are directed and allowed. Dog boarding would require a discretionary Conditional Use Permit to be approved to ensure compatibility with adjacent properties.
3. There are no specific General Plan policies related to household pets or the boarding and keeping of household pets. However, the proposed amendment to allow the boarding of dogs and cats within the M-1 and M-2 zone would be consistent with the goals and policies of the General Plan because it would not diminish the Quality-of-Life Standards of the General Plan, nor adversely impact the community health or natural resources. The proposal would be consistent with the General Plan Economic Prosperity Goals that encourage a wide range of businesses that create and sustain a strong economic base and provide for the full employment of a diverse set of skills. Dog Boarding would provide a needed service for Escondido residents. There are no General Plan policies related to household pets.
4. There are no Specific Plans that would be affected by the proposed code amendment.

Conditional Use Permit

1. Granting this Conditional Use Permit for the proposed K9 Dog Park is based on sound principles of land use and would not create a nuisance, cause deterioration of bordering land uses or create special problems for the area in which it is located because the use would be located within the M-2 industrial building and is not adjacent to any sensitive land uses that would be affected by the business operations. All dog boarding would be conducted within the industrial building within specially designed individual suites for the animals. The proposed use would not create any adverse traffic or noise impacts to surrounding properties. Appropriate access, on-site circulation and parking currently are provided to accommodate the business. The project will not diminish the Quality-of-Life Standards of the General Plan as the project would not degrade the levels of service on adjacent street and intersections, and adequate public facilities would be provided (as discussed in the staff report prepared for the project). The CUP would not adversely affect or be inconsistent with any community or neighborhood plans in affect for the site or surrounding area.
2. There are no specific General Plan policies related to household pets or the boarding and keeping of household pets. However, the proposed amendment to allow the boarding of dogs and cats within the M-1 and M-2 zone would be consistent with the goals and policies of the General Plan because the proposed use would not diminish the Quality-of-Life Standards of the General Plan, nor adversely impact the community health or natural resources. The proposal would be consistent with the General Plan Economic Prosperity Goals that encourage a wide range of businesses that create and sustain a strong economic base and provide for the full employment of a diverse set of skills.

3. The public health, safety and welfare would not be adversely affected by the proposed Conditional Use Permit because appropriate on-site facilities and supervision are available to care for the dogs without affecting adjacent business or properties. All appropriate permits will be obtained for the operation of the facility.
4. This proposal is in response to services required by the community in order to provide quality dog boarding and care within the City of Escondido.
5. The proposed rezone is exempt from environmental review in conformance with CEQA Guidelines Section 15061(b)(3). The activity is covered by the general rule which exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment.

EXHIBIT "B"

PROPOSED CODE CHANGES DRAFT 12-2-14

Table 33-564 Permitted and Conditionally Permitted Principle Uses is amended to include the following use:

Use Title	I-O	M-1	M-2	I-P
Dog and Cat Boarding (indoor boarding only). Dog training, feeding and care, animal grooming and 'dog daycare' also allowed. Does not include dog shelters, animal sales or breeding.		C	C	

EXHIBIT "C"

CONDITIONS OF APPROVAL PHG 14-0029 (K9 Dog Park)

General

1. All construction and grading shall comply with all applicable requirements of the Escondido Zoning Code and requirements of the Planning Division, Engineering Department, Building Division, and Fire Department. All necessary building permits shall be submitted within 30 days of the effective date of approval of this Conditional Use Permit.
2. All uses, hours of operation, and activities shall be substantially consistent with the Details of Request and conditions of approval contained within this report.
3. Appropriate fire access and ADA compliant paths of travel shall be provided from the public way, parking areas and to all accessible areas of the lower floor and outdoor spaces, as may be required by the Fire Department and Building Division.
4. Colors, materials and design of the project shall conform to the exhibits and references in the staff report, to the satisfaction of the Planning Division.
5. The developer shall be required to pay all development fees of the City then in effect at the time and in such amounts as may prevail when building permits are issued, including any applicable City Wide Facilities fees.
6. All animals must be kept within the enclosed building at all times, except for supervised walks or scheduled outside training activities. Outside boarding of animals shall not be allowed. The site shall be maintained in a neat, orderly and sanitary condition.
7. Upon the receipt of any valid complaints regarding operation of the facility or noise from barking dogs, the applicant shall make the necessary operational or structural changes to adequately address the issues, as may be deemed appropriate by the Director of Community Development. This CUP also may be revoked or the terms/conditions of the CUP modified as necessary upon any valid continual nuisance complaints regarding the facility in accordance with Article 61 of the Escondido Zoning Code.
8. This CUP shall become null and void unless utilized within 12 months of the effective date of approval.



CITY OF ESCONDIDO
PLANNING DIVISION
201 NORTH BROADWAY
ESCONDIDO, CA 92025-2798
(760) 839-4671

Notice of Exemption

To: San Diego County Recorder's Office
Attn: Deputy County Clerk
P.O. Box 121750
San Diego, CA 92112-1750

From: City of Escondido
201 North Broadway
Escondido, CA 92025

Project Title/Case No.: AZ 14-0003 and PHG14-0029

Project Location - Specific: 2750 Auto Park Way, Suite 22 (APN 228-381-75)

Project Location - City: Escondido, **Project Location - County:** San Diego

Description of Project: An amendment to Article 26 of the Escondido Zoning Code to allow dog boarding and training as a Conditional Use within the Light Industrial (M-1) and General Industrial (M-2) zones, along with a Conditional Use Permit to allow a dog-boarding and training facility within an approximately 3,600 suite in an industrial building. The proposal also includes the adoption of the environmental determination prepared for the project.

Name of Public Agency Approving Project: City of Escondido

Name of Person or Agency Carrying Out Project:

Name: Penny DiLoreto (K9 Dog Park) Telephone: (760) 745-3647

Address: 2750 Auto Park Way (Suite 22) Escondido, CA 92029

☒ Private entity ☐ School district ☐ Local public agency ☐ State agency ☐ Other special district

Exempt Status: Categorical Exemption. Section 15061(b)(3) "General Rule."

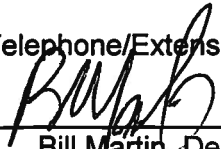
Reasons why project is exempt:

1. The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.
2. The amendment would now allow dog boarding and care as a primary use within the M-1 and M-2 zone through the Conditional Use Permit process. The industrial zone is appropriate for dog boarding and training as a primary use because incidental animal boarding already is allowed within the M-1 and M-2 zones. Each request would be evaluated on a case-by-case basis through the CUP process to ensure the public health, safety and welfare would not be adversely affected, and appropriate conditions applied as necessary.

Lead Agency Contact Person: Jay Paul, Planning Division

Area Code/Telephone/Extension (760) 839-4537

Email: jpaul@ci.escondido.ca.us

Signature: 

December 4, 2014

Bill Martin, Deputy Director of Planning

Date

☒ Signed by Lead Agency

Date received for filing at OPR: N/A

PLANNING COMMISSION

Agenda Item No.: G.3
Date: December 9, 2014

CASE NUMBER: AZ 14-0004

APPLICANT: City of Escondido

LOCATION: Citywide

TYPE OF PROJECT:

A Zone Code Amendment to establish permitted locations, standards, definitions, and processing procedures for massage establishments in concert with recent state legislation effective January 2015. The amendment would: 1) Establish Article 38 pertaining to 'Massage Establishments,' 2) Amend Article 16 of the Zoning Code (Commercial Zones), 3) Amend Article 39 of the Zoning Code (Off-Street Parking), 4) Amend the East Valley Parkway, South Escondido Boulevard Area Plans, and Downtown Specific Plan. The project also involves amending Section 16A of the Escondido Municipal Code pertaining to Massage Establishments that will be considered separately by the City Council.

PROJECT DESCRIPTION:

- 1) Establish Article 38 "Massage Establishments" (Exhibit C) of the Zoning Code to:
 - a) Include up-to-date language describing the Article's purpose
 - b) Define a massage establishment as a business that devotes 15% or more of its gross floor area to the practice of massage, as determined by the Municipal Code.
 - c) Identify locations where massage establishments are permitted by right and by conditional use permit. As proposed, massage establishments would be classified as permitted uses within nine specified commercial shopping centers totaling approximately 180 acres situated throughout the community. These centers are currently developed; massage establishments proposing to operate as a permitted use would be required to locate within one of the following centers (also see Exhibit B):

Center Name

Civic Center Plaza
Del Norte Plaza
El Norte Parkway Plaza
Escondido Gateway
Escondido Promenade Center
Ferrara Plaza
Major Market Shopping Center
Plaza las Palmas
Westfield North County

Address

311 - 445 N. Escondido Boulevard
302 - 358 W. El Norte Parkway
1000 W. El Norte Parkway
810 - 860 W. Valley Parkway
1200 - 1290 Auto Parkway
2401 - 2447 E. Valley Parkway
1805 - 1895 S. Centre City Parkway
970 - 1138 W. Valley Parkway
200 - 298 E. Via Rancho Parkway

Massage establishments, as defined in Chapter 16A of the Municipal Code, not located within commercial shopping centers listed above would be subject to a conditional use permit in the General Commercial (CG) zone unless otherwise prohibited.

2) Amend the following codes to provide consistency with Article 38:

- a) Zoning Code Article 16 (Commercial Zones): Amend Table 33-332 (Permitted and Conditionally Permitted Principal Uses) to add 'massage establishments* (Article 38)' to the "Medical, Dental, and Related Health Services" category as P/C in the CG zone column describing the use as permitted or conditionally permitted based on the establishment's location (Exhibit D).
- b) Zoning Code Article 39 (Off-street Parking): Amend Sec. 33-765 (Parking Spaces Required) to rename the existing land use "massage parlor" (listed as a retail use) to "massage establishment," and to reclassify as an office use and retain the current parking requirement of one (1) space per 100 sq. ft. gross floor area (Exhibit E).
- c) East Valley Parkway Area Plan: Amend Table 4.1 (Permitted and Conditionally Permitted Principal Uses) to add "Massage Establishments (Article 38*)" in the "Medical, Dental, and Related Health Services" category as P/C in the CG zone column describing the use as permitted or conditionally permitted based on the establishment's location (Exhibit F).
- d) South Escondido Boulevard Area Plan: Amend Ordinance 92-1, Section 8 (Conditional Use Permits) to add land use code #6296 with a Use Title: "Massage Establishments pursuant to Article 38." (Exhibit G)
- e) Downtown Specific Plan: Amend Figure II-2 (Permitted and Conditional Uses) to add "massage establishments" in the "Health and Personal Services" category as permitted (P) in the Center City Urban (CCU) district with the following footnote: Massage Establishments may be permitted only in certain centers pursuant to Article 38 (Exhibit H).

Note: Chapter 16A of the City's Municipal Code "Massage Establishments" is proposed for separate consideration by the City Council. A draft is attached as Exhibit I for the Planning Commission's information. The Municipal Code Amendment would:

- a) Establish an up-to-date purpose and definition of massage establishments;
- b) Prescribe operating standards for massage establishments;
- c) Establish "Massage Establishment permit," as well as the processing procedures for obtaining said permits.

STAFF RECOMMENDATION: The Commission should recommend **approval** of the proposed code amendment, including the environmental documentation associated with the project, to the City Council (see Exhibit D).

GENERAL PLAN DESIGNATION: Citywide

ENVIRONMENTAL STATUS: Pursuant to California Environmental Quality Act (CEQA) Section 15601(b)(3) the project is exempt.

BACKGROUND/SUMMARY OF ISSUES:

California did not regulate massage businesses or massage professionals prior to 2009. Local jurisdictions were able to regulate the industry by ordinances imposing standards related to hours of operation, sanitary conditions, education and other areas of interest and concern. Regulations varied from jurisdiction to jurisdiction; Escondido exercised its land-use and zoning authority to address local concerns associated with massage establishments. With the rise in prominence of several franchise massage businesses, the massage industry began lobbying for the creation of a certification process that emphasized the professionalism of massage practitioners and therapists.

The massage industry helped craft Senate Bill (SB) 731 in 2008 which established a voluntary certification process for massage professionals through the California Massage Therapy Council (CAMTC), a nonprofit public benefit corporation. CAMTC comprises 20 board members who are primarily owners of massage establishments and representatives of massage associations or schools that offer massage. The board also includes one member appointed by the League of California Cities, one appointed by the California State Association of Counties (CSAC) and one by the Department of Consumer Affairs. The bill's intent was to professionalize the industry by creating uniform standards for massage practitioners and therapists, with the idea that the massage industry should be treated "no better and no worse" than any other professional service provider. The bill authorized CAMTC to certify massage professionals, conduct background checks and investigate schools offering massage degrees.

The current law allows jurisdictions to regulate businesses that provide massage services through employees or independent contractors who are not certified by CAMTC. But the law does not allow a jurisdiction to regulate CAMTC-certified massage therapists or businesses that employ certified massage therapists unless the jurisdiction applies the regulations to other professional services in a uniform manner. In addition, legislation provides that certified massage therapists have the right to practice massage without any other license, permit or authorization.

Other provisions require local governments to charge the lowest business license fee of any professional service to massage establishments and prohibit local governments from requiring restrooms, showers or other facilities not uniformly required of other professional services. Local jurisdictions are also prohibited from requiring unlocked doors when no staff is available. The statute is set to expire on January 1, 2015.

Since the enactment of SB 731, some jurisdictions, including Escondido have seen a tremendous increase in the number of massage establishments as a whole, particularly the increase in illicit massage establishments. Escondido had 12 massage establishments in 2009, and over 25 establishments in 2014, and the number continues to grow.

The prohibition on local regulation appears to have created additional opportunities for brothels and human trafficking, which has been encountered in Escondido and other jurisdictions. According to law enforcement personnel, indications of illegal activity exist at businesses that:

- Claim to offer massage but have locked doors with security cameras;
- Employ only women;
- Have a strictly male clientele;
- Employ individuals with no identification or passports; and
- Present indications of people sleeping on-site at the business.

While CAMTC is responsible for the certification of massage professionals, it does not have the authority to regulate the businesses or their owners. Closing these illicit businesses has proved difficult and costly. Police stings have resulted in arrests of both certified and uncertified workers. It is not unusual for these massage establishments to remain open for business.

Assembly Bill (AB) 1147, otherwise known as the Massage Therapy Act was supported by CAMTC, signed into law on September 18, 2014, and will go into effect on January 1, 2015. The existence of CAMTC continues under AB 1147 until January 1, 2017, and makes other significant changes to existing law. The new legislation substantially expands the authority of cities and counties to impose land use regulations on massage businesses, but that authority is not unlimited. Jurisdictions are restricted in the regulations they can impose on *individual* CAMTC certificate holders. However, AB 1147 changes the ability of cities and counties to impose land use regulations on massage *businesses*. As of January 1, 2015, the law provides that:

- No city or county shall prohibit a person or group of persons certified by CAMTC from engaging in their business, occupation, or profession, or any portion of that business, occupation, or profession.
- No city or county shall prohibit a person certified by CAMTC from engaging in any act or performing any procedure that falls within their professionally recognized scope of practice.
- Cities and counties may adopt or enforce a local ordinance governing zoning, business licensing, or reasonable health and safety requirements for all massage establishments.
- Cities and counties may, by local ordinance, require that all massage establishments obtain a license, permit, certificate, or other authorization in order to operate lawfully in their jurisdiction.

It should be noted that AB 1147 specifically prohibits jurisdictions from:

- Defining or regulating any massage establishment as adult entertainment, regardless of whether the establishment is using CAMTC certified individuals to provide massage for compensation or not.

- Requiring massage establishments to have windows or walls that don't extend from floor to ceiling or have other internal physical structures that interfere with a client's reasonable expectation of privacy.
- Requiring client draping that goes beyond the covering of genitalia and female breasts, or mandating that the client wear special clothing.
- Not allowing a massage establishment to lock its external doors if the establishment is a business entity owned by one individual with one or no employees or independent contractors.
- Refer to Exhibit J for additional information from the League of California Cities, including frequently asked questions.

The City regularly reviews and updates its codes and ordinances. Modifications are typically necessary to respond to changes in the law and judicial rulings. After reviewing Escondido's massage establishment regulations, City staff determined it needed to be refined and updated with regard to recent changes afforded by AB 1147. The proposed revisions are necessary to protect the public health, safety and welfare of the community by:

- 1) Mitigating and reducing the judicially recognized potential adverse secondary effects of illicit massage establishments, including but not limited to, increased crime, the proliferation of blight in neighborhoods;
- 2) Protecting the quality of life and neighborhoods in the City, the City's retail and commercial trade, and local property values, and minimizing the potential for nuisances related to the operation of illicit massage establishments; and,
- 3) Protecting the peace, welfare and privacy of persons who own, operate and/or patronize legitimate massage establishments.

A summary of issues include:

- 1) Whether the proposed amendment is in conformance with AB 1147.
- 2) Whether defining a massage establishment as a business that devotes 15% or more of its gross floor area to the practice of massage is appropriate.
- 3) Whether the proposed locational requirements will mitigate adverse secondary impacts associated with illicit massage establishments.

REASONS FOR STAFF RECOMMENDATION:

- 1) The proposed amendment represents the most recent and legally-defensible provisions pertaining to massage establishments, based on extensive study and analysis of AB 1147. The proposed amendments comply with AB 1147 and are appropriate based on analysis and comparison with other adopted ordinances, case law, and judicial rulings.

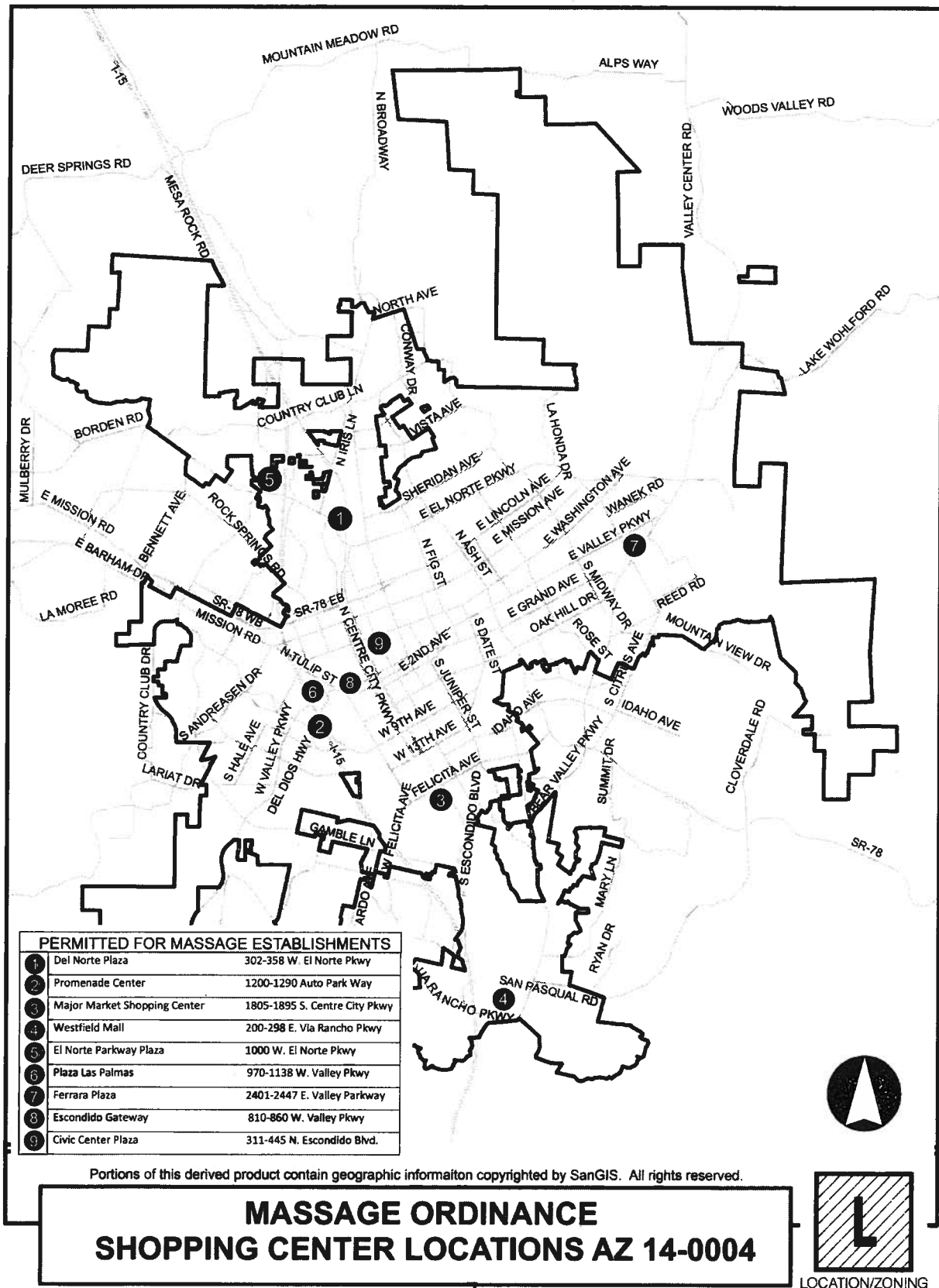
- 2) Escondido businesses are permitted to involve ancillary uses constituting a distinct minority percentage of the establishment's activities. Staff has historically defined 15% as an appropriate limitation for ancillary activities associated with a business's primary use.
- 3) Identifying appropriate locations for establishing massage businesses as a permitted use within well-maintained, heavily trafficked commercial shopping centers totaling approximately 180 acres will provide sufficient opportunities for legitimate establishments to operate. Requiring a conditional use permit (CUP) for massage establishments seeking to locate in the General Commercial (CG) zone elsewhere in the community allows the city to individually regulate the operating characteristics of the business with the intent to protect the community from potential adverse effects of illicit massage establishments.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Jay Petrek", written in a cursive style.

Jay Petrek
Assistant Planning Director

EXHIBIT B LOCATIONS FOR MESSAGE ESTABLISHMENTS AS A PERMITTED USE



ANALYSIS

A. LAND USE COMPATIBILITY/SURROUNDING ZONING

Commercial and/or residential properties exist in the four cardinal directions of surrounding each of the nine shopping centers. Residential properties do not orient toward the front of any of the centers with the exception of El Norte Parkway Plaza (1000 W. El Norte Parkway), and Ferrara Plaza (2401 - 2447 E. Valley Parkway), which are located across from residential developments.

B. AVAILABILITY OF PUBLIC SERVICES

1. Effect on Police Service – The Police Department has worked closely with staff regarding the preparation of the proposed amendment. The Department supports the amendments and has expressed no concern regarding their ability to monitor any massage establishment or fulfill the obligations set forth in the proposed ordinance.

The Police Department conducted a workshop for massage establishment owners to discuss AB 1147, outline pending regulations, and discuss issues on December 4, 2014. Seven massage establishment representatives attended the meeting and staff responded to questions regarding licensing, fingerprinting and the schedule for the Massage Establishment Ordinance public hearings.

2. Effect on Fire Service – The Fire Department has expressed no concerns relative to its ability to provide service any future massage establishments. The locations where massage establishments locate are within commercial zones that are in close proximity to existing fire stations.
3. Traffic – The Engineering Department has expressed no concerns regarding the proposed amendment to the Zoning Code.
4. Utilities – The Engineering Department has indicated that the proposed amendment will not significantly affect utilities.
5. Drainage – The Engineering Department has indicated that the proposed amendment will not significantly affect drainage.

C. ENVIRONMENTAL STATUS

1. Pursuant to California Environmental Quality Act (CEQA) Section 15061(b)(3) the code amendment is exempt. A Notice of Exemption was issued on December 2, 2014.
2. In staff's opinion, no significant issues remain unresolved through compliance with code requirements and the recommended conditions of approval.

3. The project will not impact on fish and wildlife resources as no sensitive or protected habitat occurs on-site or will be impacted by the proposed development since locations for massage establishments are developed commercial areas containing no fish or wildlife resources.

D. CONFORMANCE WITH CITY POLICY

General Plan -

Neighborhood Maintenance & Preservation Policy 4.2 states that: "residential neighborhoods shall be protected from the encroachment of incompatible activities or land uses...which may have a negative impact on the residential living environment." Commercial Land Use Policy 8.6 states that: "future commercial activities shall be organized into planned, grouped concentrations....and incorporate features that minimize impacts on adjacent sensitive uses associated with noise, property maintenance, product deliveries, trash service, and other potentially incompatible characteristics." Police Services Policy 3.8 states "Enhance crime prevention by working with human care agencies, recreational agencies, educational services and community groups to (a) reduce victimization....and, (c) maintain awareness of potential problem areas." Based on staff's analysis, the proposed code amendments conform to Escondido's General Plan policies.

E. ISSUE ANALYSIS:

- 1) *Whether the proposed amendment is in conformance with AB 1147.*

The City Attorney's Office, Police Department, Planning and Code Enforcement Divisions routinely monitor other agencies' ordinance amendments, court rulings and changes in the law to determine appropriate changes to Escondido's ordinances. Staff finds that these studies and recent legislation afforded by AB 1147 are relevant to the problems addressed by the City in enacting this Ordinance.

Licensing or regulatory permits and operating standards for massage establishments are allowed by AB 1147. These provisions are considered a legitimate and reasonable means to help assure that such businesses comply with reasonable regulations that minimize and control problems associated with illicit massage establishments. The proposed modifications are designed to strengthen provisions in the Zoning Code by establishing updated definitions, standards and regulations for massage establishments in concert with AB 1147. The amendments take into account protecting fundamental freedoms, recognizing the benefits of legitimate massage establishments, and ensuring the community's desire to protect public health and safety.

2) Whether defining a massage establishment as a business that devotes 15% or more of its gross floor area to the practice of massage is appropriate.

Escondido businesses are permitted to include ancillary use(s) and activities that constitute a distinct minority percentage of the establishment's primary activities. Many businesses include massage as a component to the services they offer including physicians, chiropractors, physical therapists, day spas, beauty parlors, etc. It is not the intent of this code amendment to classify every business that offers massages as a 'massage establishment.'

Staff has historically defined 15% as an appropriate limitation for conducting ancillary activities associated with a business's primary use. As an example, a manufacturing business is allowed up to 15% of its gross floor area for the retail sale of the product manufactured on-site. Defining a massage establishment as a business that devotes 15% or more of its gross floor area to the practice of massage is appropriate based on staff's historical determination of primary versus ancillary business activities. In addition, the definition would not restrict the location of businesses that involve massage as an ancillary component of its operations beyond that which is already regulated in the zoning code.

3) Whether the proposed changes will mitigate adverse secondary impacts associated with illicit massage establishments.

There is substantial evidence that an increase in crime tends to accompany, concentrate around, and be aggravated by illicit massage establishments, including but not limited to the crimes of prostitution, human trafficking, violence against persons and property. The convincing evidence is that illicit massage establishments have a negative effect on nearby businesses and residential areas, causing, among other adverse secondary effects, an increase in general crime and a decrease in property values. Regulations for massage establishments are appropriate to prevent potential deterioration and/or degradation of the vitality of the community before problems intensify, rather than waiting for additional problems to be created.

Establishing locational standards for massage establishments, as permitted by AB 1147, is a legitimate and reasonable means of ensuring that the potential adverse secondary impacts generated by illicit massage establishments are mitigated. Staff further recognizes that the regulation of massage establishments in and of itself is not sufficient to preclude the above noted secondary effects, and that zoning restrictions regarding the appropriate locations for such facilities are necessary in order to combat these secondary effects. The regulations will also protect citizens from increased crime, preserve the quality of life, preserve property values and the character of surrounding neighborhoods and businesses, and deter the spread of urban blight.

The locational requirements contained in this Ordinance do not unreasonably restrict the establishment or operation of massage establishments in the City and a sufficient and reasonable number of alternative locations for massage establishments are provided by this Ordinance totaling approximately 180 acres. It should be noted that nothing in the proposed Ordinance is intended to authorize, legalize, or permit the establishment, operation, or maintenance of any business, building, or use which violates any City ordinance or any statute of the State of California regarding public nuisances, unlawful or indecent exposure, sexual conduct, lewdness, obscene or harmful matter, or the exhibition or public display thereof. Licensing and operational standards are a legitimate and reasonable means of accountability to ensure that operators of massage establishments comply with reasonable regulations and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.

G. CONCLUSION / RECOMMENDATION:

Staff has been advised that the proposed text is the most legally defensible based on existing law and judicial rulings pertaining to massage establishments. Therefore staff recommends approval of the proposed ordinance with the noted modifications.

EXHIBIT A
AZ 14-0004
FACTORS TO BE CONSIDERED

- 1) Including those factors discussed in the staff report, approval of the proposed ordinance amendment will not be adverse to the public health, safety and welfare and will not be injurious to the property or improvements in the zone or vicinity in which the property is located. The proposed ordinance provides operational standards and business licence provisions for massage establishments to address the adverse secondary effects of illicit massage establishments while providing sufficient avenues to operate legitimate massage establishments as afforded by law.
- 2) The proposed amendment will not impact parking, ingress and egress, landscaping and design requirements for massage establishments since they will be primarily directed to operate in existing shopping centers totaling approximately 180 acres that already have approved development standards. Massage establishments that choose not to locate within an identified shopping center identified in the ordinance may locate in the CG (General Commercial) zone with a conditional use permit subject to discretionary approval unless otherwise restricted.
- 3) The proposed amendment establishes a protocol for the licensing of massage establishments in such a manner to minimize the potential negative secondary effects of crime, lowered property values and higher vacancy rates in an area thus implementing the goals and policies of the General Plan as stated in Land Use and Community Form Policies that call for the strengthening and promoting of existing commercial uses.

EXHIBIT C

ARTICLE 38. MASSAGE ESTABLISHMENTS

Sec. 33-750. Purpose.

It is the purpose and intent of this chapter to regulate the operations of massage establishments, which tend to have judicially recognized adverse secondary effects on the community, including, but not limited to, increases in crime in the vicinity of massage establishments; decreases in property values in the vicinity of massage establishments; increases in vacancies in residential and commercial areas in the vicinity of massage establishments; interference with residential property owners' enjoyment of their properties when such properties are located in the vicinity of massage establishments as a result of increases in crime, litter, noise, and vandalism; and the deterioration of neighborhoods. Special regulation of these businesses is necessary to prevent these adverse secondary effects and the blighting or degradation of the neighborhoods in the vicinity of massage establishments.

Sec. 33-751. Definitions.

In addition to any other definitions contained in the municipal code, all words and phrases included in this chapter pertaining to massage establishments shall be consistent with the definitions in Chapter 16A, Article 1, section 16A-1, unless it is clearly apparent from the context that another meaning is intended.

Businesses, including day spas, salons, beauty parlors, barber shops etc., that provide up to 15% of their gross floor area for massage activities are not considered massage establishments, however, persons administering massages at said establishments shall comply with all state and local licensing provisions.

Sec. 33-752. Location of massage establishments.

(a) Massage establishments, as defined in Chapter 16A, Article 1, section 16A-1 of this code, shall be a permitted use only in certain commercial shopping centers listed below:

Center Name	Address
Civic Center Plaza	311 - 445 N. Escondido Boulevard
Del Norte Plaza	302 - 358 W. El Norte Parkway
El Norte Parkway Plaza	1000 W. El Norte Parkway
Escondido Gateway	810 - 860 W. Valley Parkway
Escondido Promenade Center	1200 - 1290 Auto Parkway
Ferrara Plaza	2401 - 2447 E. Valley Parkway
Major Market Shopping Center	1805 - 1895. S. Centre City Parkway
Plaza las Palmas	970 - 1138 W. Valley Parkway
Westfield North County	200 - 298 E. Via Rancho Parkway

(b) Massage establishments, as defined in Chapter 16A, Article 1, section 16A-1 of this code, not located within commercial shopping centers listed in sec. 33-752(a) shall be permitted in the General Commercial (CG) zone subject to a conditional use permit pursuant to Article 61 unless otherwise prohibited.

(c) A massage establishment legally established prior to the adoption of this ordinance operating with a valid business license and other appropriate approvals that does not comply with sec. 33-752 (a) or (b) shall be considered a legal non-conforming use pursuant to Article 61, Division 3.

(d) Any person violating or causing the violation of any locational provisions regulating massage establishments pursuant to sec. 33-752 shall be subject to the remedies of section 33-753 of this article.

(e) The requirements of subsections (a), (b), and (c) of this section shall be in addition to any other relevant provisions of this code.

Sec. 33-753. Violations.

(a) Any person operating or causing the operation of a massage establishment on any parcel in which no application for a massage establishment permit under Chapter 16A has been granted, or any person violating or causing the violation of any of the locational provisions regulating massage establishments shall be subject to license revocation/suspension pursuant to section 16A-16, a fine of not more than one thousand dollars (\$1,000.00) pursuant to Government Code Sections 36900 and 36901, and any and all other civil remedies. All remedies provided herein shall be cumulative and not exclusive. Any violation of these provisions shall constitute a separate violation for each and every day during which such violation is committed or continued.

(b) In addition to the remedies set forth in sec. 33-753(a), any violation of any of the locational provisions pursuant to sec. 33-752 regulating massage establishments is hereby declared to constitute a public nuisance and may be abated or enjoined.

(c) If a massage establishment permit is revoked or not renewed, no massage establishment permit may be issued for a massage establishment at the same location for one year.

Sec. 33-754. Regulations Nonexclusive.

The provisions of this chapter regulating massage establishments are not intended to be exclusive, and compliance therewith shall not excuse noncompliance with any other provisions of the municipal code and/or any other regulations pertaining to the operation of businesses as adopted by the city council of the City of Escondido.

Sec. 33-755. Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of this chapter and the ordinance to which it is a part, or any part thereof is held for any reason to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, the remaining sections, subsections, paragraphs, sentences, clauses, and phrases shall not be affected thereby. The city council hereby declares that it would have adopted this chapter and the ordinance to which it is a part regardless of the fact that one or more sections, subsections, paragraphs, sentences, clauses, or phrases may be determined to be unconstitutional, invalid, or ineffective.

Secs. 33-756—33-759. Reserved.

EXHIBIT D

Zoning Code Article 16 (Commercial Zones): Amend Table 33-332 (Permitted and Conditionally Permitted Principal Uses) to add 'massage establishments* (Article 38)' to the "Medical, Dental, and Related Health Services" category as P/C in the CG zone column describing the use as permitted or conditionally permitted based on the establishment's location.

Table 33-332

PERMITTED AND CONDITIONALLY PERMITTED PRINCIPAL USES

The conversion of existing or vacant automobile dealerships to a new, substantially different, use shall require plot plan review pursuant to section 33-344 of this article.

Use Title	CG	CN	CP
Residential and Lodging			
Bed and breakfast* (Article 32)	C		
Hotels and motels* (Article 63)	C		
Mobilehome parks or travel trailer parks* (Articles 45 & 46)	C		
Manufacturing, Wholesale Trade, and Storage			
Mini-warehouse storage facilities* (section 33-339)	C		
Newspaper printing and publishing	P		
Retail Trade			
Automotive and marine craft			
Sales lots and parts and accessories sale and supply (including autos, motorcycles, trailers, campers, recreational vehicles and marine craft vehicles excluding farm and construction vehicles, three-axle trucks, and buses)	P		
Gasoline service stations including concurrent sale of alcoholic beverages and motor vehicle fuel* (Articles 57 and Council Resolution #5002)			
With facilities to dispense gasoline to 4 or fewer vehicles at a time	P		
With facilities to dispense gasoline to 5 or more vehicles at a time	C		
Food and liquor			
Food stores (grocery, produce, candy, baked goods, meat, delicatessen, etc.), off-sale beer and wine, off-sale general license excluding concurrent sale	P	P	
With facilities to dispense gasoline to 4 or fewer vehicles at a time* (Article 57)	P		
With facilities to dispense gasoline to 5 or more vehicles at a time* (Article 57)	C		
Liquor stores, packaged (off-sale)	P	P	
General retail			

Use Title	CG	CN	CP
Building materials and supplies including lumber, heating, plumbing, and electrical equipment, etc. (outdoor storage or sale subject to CUP)	P		
Drugstores	P	P	P
Pharmacies	P	P	P
Florists, gifts, cards, newspapers and magazines	P	P	P
Furniture, home and office furnishing and equipment, electrical appliances, and office machines and supplies	P		
General retail, NEC (as determined by the director of community development, based on conformance with the purpose of the specific zone, interaction with customers, the appearance of the building, the general operating characteristics, and the type of vehicles and equipment associated with the use, and including incidental assembling of customized items)	P	P	
Hospital/medical equipment sales	P		P
Nurseries and garden supply stores	P	P	
Outdoor retail, NEC (as a principal use)	C		
Sporting goods (includes ammunition and firearms, fishing, hunting, golf, playground equipment, etc.)	P		
Temporary seasonal sales such as Christmas tree and wreath sales, pumpkin sales, etc., on vacant lots subject to site plan approval	P	P	P
Eating and Drinking Establishments			
Cabarets and nightclubs (with or without alcoholic beverages, including comedy clubs, magic clubs, etc.)	C		
Drinking places—alcoholic beverages (on-sale beer and wine and on-sale general licenses and public premises) includes bars and taverns, does not include restaurants serving alcoholic beverages	C		
Restaurants, cafés, delicatessens, sandwich shops, etc.			
Without alcoholic beverages	P	P	P
With on-sale beer and wine and on-sale general licenses	P	C	C
Auto oriented (drive-in,* drive-through*) (section 33-341)	P		
Specialized food sales from pushcart facilities* (section 33-342)	P	P	P
Services			
Animal care (excluding kennels)	P	P	
Automotive services (including motorcycles, marine craft and recreational vehicles)			
Car-wash, polishing, detailing	P		
Rental and leasing* (Article 57 and Council Resolution #73-264-R) with or without drivers, taxicab service	P		
Repair and related services, except tire retreading and auto body	P		
Auto body	C		
Miscellaneous auto service, except repair and wash (includes motor clinics, auto towing service only)	P		

Proposed
Text
Change

Use Title	CG	CN	CP
Educational services			
Day nurseries, child care centers* (Article 57)	P	C	C
Schools, including kindergarten, elementary, junior, and senior high schools* (Article 57)	P		C
University, college, junior college, and professional schools	P		C
Vocational and trade schools	P		C
Other special training (including art, music, drama, dance, language, etc.)	P	P	
Special needs education	P	P	P
Government services			
Administrative centers and courts	P	C	P
Other government services NEC excluding correctional institutions	C		C
Police and fire stations	C	C	C
Financial services and institutions (including banks, securities brokers, credit offices, real estate services)			
Insurance	P	P	P
Hospital and medical service organizations (including Blue Cross, Blue Shield, etc.)	P		P
Medical, dental and related health services			
Hospitals, excluding small medical clinics	C		C
<u>Massage Establishments* (Article 38)</u>	<u>P/C</u>		
Medical, dental and optical laboratories	P		P
Medical clinics and blood banks	P		P
Medical, dental, optical, and other health care offices	P	P	P
Other medical and health services NEC	P		P
Sanitariums, convalescent and licensed residential care facilities Sanitariums, convalescent and residential care facilities approved prior to the effective date of Ordinance 2014-15 are exempt from voluntary work limitations identified in section 33-1243 (Exceptions to nonconforming use provisions). Expansions and/or intensification of said facilities shall require a conditional use permit subject to Article 61.	C		C
Offices and business services, except medical			
General business services (including advertising, credit reporting, building services, news syndicate, employment services, computer services, drafting, detective/protective services, etc.)	P	P	P
General office use (includes professional offices)	P	P	P
Mailing, accounting and office services	P	P	P
Travel agencies and services	P	P	P
Repair services, except automotive			
Apparel and shoe repair and alteration	P	P	
Bicycle repair	P	P	

Use Title	CG	CN	CP
Locksmiths and key shops	P	P	P
Miscellaneous repair services (excluding machine shops and welding services)	P		
Small appliance repair and services (including TV, radio, small electronics, computers, household appliances, etc.)	P	P	
Watch, clock, and jewelry repair	P	P	P
Social, professional, and religious organizations and services			
Churches, synagogues, temples, missions, religious reading rooms, and other religious activities* including columbariums and mausoleums* as an incidental use (Article 57) Religious establishments listed above and/or assembly uses on property designated Planned Office in the general plan: Existing churches may operate subject to their approved conditional use permits. Expansions may occur subject to Article 57 that do not increase the boundary of the conditional use permit, including parking areas within the Planned Office designation. No new religious establishments and/or assembly uses are permitted on land in the general plan designated Planned Office.	P	C	C
Social and professional organizations (political membership, veterans, civic, labor, charitable and similar organizations, etc.)	P	C	P
Youth organizations* (Article 57)	P	C	
Other services			
Assembly halls, fraternities, sororities, lodges, etc.	C		
Barber, beauty, nail, and tanning services	P	P	P
Equipment rental and leasing service* (Article 57 and Council Resolution #73-264-R) (includes airplanes, business equipment, furniture, construction equipment, sanitation units, sports equipment, etc.)	P		
Mortuary (excluding crematories and mausoleums)	P		
Hospital/medical equipment rental and leasing	P		P
Laundry and dry cleaning services			
Self-service, coin-operated	P	P	
Pick-up service only	P	P	P
Dry cleaning, laundering, pressing and dying for on-site retail customers only	P		
Personal services, NEC (including clothing and costume rental, tattooing, marriage bureaus, baby-sitting services, etc.)	P		
Photographic and duplicating services:			
Blueprinting	P		P
Photocopying	P	P	P
Studios, developing, printing, and similar services, except commercial photography	P	P	P
Commercial photography, including aerial photographs and	P		P

Use Title	CG	CN	CP
mapping services			
Picture framing, assembly only	P	P	
Recycling services* (Article 33):			
Reverse vending machines occupying a total of 50 square feet or less	P	P	P
Small collection facilities occupying a total of 500 square feet or less	P	P	P
Aluminum can and newspaper redemption center without can crushing facilities	C		
Cultural Entertainment and Recreation			
Adult entertainment establishments* (Article 42)	P		
Cultural, including museums, art galleries, etc.	P		C
Entertainment assembly, amphitheater, concert halls, exhibit halls	C		
Health and fitness facilities, including gymnasiums, athletic clubs, body building studios, dance studios, martial arts schools, etc.	P	P	C
Swimming schools and pools	C	C	
Libraries	P	P	C
Parks	P	P	P
Sports and recreation facilities, including bowling alleys, billiards, indoor and outdoor skating facilities, batting cages, riding schools and stables, etc.	C		
Theaters, indoor motion picture	P		
Transportation, Communications and Utilities			
Transportation			
Ambulance and paramedic	C		C
Bus and train depots	P		
Helipad (as an incidental use only)* (Article 57)	C		C
Park-and-ride facilities	P	P	P
Parking lots and parking structures (short-term)	P		P
Taxicab stand	P		P
Communications (telephone, telegraph, radio, TV, etc.)			
Broadcasting (radio and/or television), recording, and/or sound studios	P		P
Personal wireless service facilities* (subject to Article 34)			
Roof-mounted or building-mounted facilities incorporating stealthy designs and/or screened from public ways or significant views	P	P	P
Pole-mounted or ground-mounted facilities that incorporate stealthy designs and do not exceed 35' in height	P	P	P
Pole-mounted or ground-mounted facilities that exceed 35' in height or roof-mounted or building-mounted designs which project above the roofline and are not completely screened or considered	C	C	C

Use Title	CG	CN	CP
stealthy			
Other communications, NEC	C		C
Radio and television transmitting towers	C		C
Telephone exchange stations and telegraph message centers	P	P	P
Utilities (electric, gas, water, sewage, etc.)			
Central processing, regulating, generating, control, collection, storage facilities and substations	C	C	C
Distribution facilities	P	P	P

a) * = Subject to special regulations—see Article in parentheses.

b) P = Permitted use;

c) C = Conditionally Permitted Use [subject to a Conditional Use Permit (CUP)] pursuant to section 33-1200 et seq.

d) NEC = Not Elsewhere Categorized.

EXHIBIT E

Zoning Code Article 39 (Off-street Parking): Amend Sec. 33-765 (Parking Spaces Required) to rename the existing land use "massage parlor" (listed as a retail use) to "massage establishment," and to reclassify as an office use and retain the current parking requirement of one (1) space per 100 sq. ft. gross floor area.

Sec. 33-765. Parking spaces required.

Except as specifically required in applicable zoning regulations, specific plans, or in section 33-782, Parking for historic structures, the number of off-street parking spaces shall be not less than that specified below. When an addition is made to an existing building, only the square footage in such addition need be used in computing the required off-street parking.

Use	Parking Spaces Required
Residential	
Single-family and two (2) family residences	Two (2) car garage or carport for each unit.
Bed and breakfast	One (1) parking space for each sleeping room available for rent, in addition to those spaces required by this section for the primary residential use. All spaces shall be located on-site.
Second dwelling units	One (1) parking space for the unit, in addition to those spaces required by this section for the primary residential use. All spaces shall be located on-site.
Multiple Dwellings	
Bachelor	One (1) parking space per unit.
One (1) bedroom	One and one-half (1 1/2) parking space per unit.
Two (2) bedroom	One and three-quarter (1 3/4) parking space per unit.
Three (3) or more bedrooms	Two (2) parking spaces per unit.
	Each unit shall have a minimum of one (1) covered parking space. In addition, there shall be provided a guest parking space for each four (4) units or fraction thereof. On-street parking spaces, when approved by the staff development committee, may be counted toward fulfilling this requirement. Street frontages abutting the subject property and which are included in the circulation element of the general plan shall not be included in fulfilling this requirement.
Mobilehome parks	Two (2) parking spaces for each site. Parking may be in tandem. In addition, one (1) space for each ten (10) sites for the laundry and recreation facilities.

Use	Parking Spaces Required
Rooming houses, lodging houses, clubs and fraternities having sleeping rooms	One (1) parking space for each two (2) sleeping rooms.
Sanitariums, children's homes, homes for the aged, asylums, nursing homes	One (1) parking space for each three (3) beds.
Commercial	
Automobile accessory shops	One (1) parking space for each six hundred (600) square feet of gross floor area.
Automobile service stations	One (1) parking space for each service stall.
Banks, and savings and loans	One (1) parking space for each two hundred (200) square feet of gross floor area.
Barber shops and beauty salons	One (1) parking space for every six hundred (600) square feet of gross floor area.
Furniture, large appliance stores and personal computer stores	One (1) parking space for each eight hundred (800) square feet of gross floor area.
Hotel, motel, and bed and breakfast facility	One (1) parking space for each sleeping unit, plus one (1) parking space for the resident manager, plus one (1) loading space, minimum size ten (10) feet wide, thirty-five (35) feet long and fourteen (14) feet high for each twenty thousand (20,000) square feet of commercial use included in the facility (restaurant, bar, store, etc.), one (1) parking space for each one hundred (100) square feet of restaurant gross floor area, one (1) parking space for each one hundred (100) square feet of assembly area (meeting halls, auditoriums, conference rooms, etc.).
Motor vehicle, machinery sales and repair garages (excluding motorcycles)	One (1) parking space for each one thousand (1,000) square feet of display floor area, one (1) space for each eight hundred (800) square feet of storage area, one (1) space for each two hundred fifty (250) square feet of garage floor area.
Truck or motor home repair vehicles twenty-five (25) feet or longer	One (1) space for every one thousand (1,000) square feet.
Motorcycle sales and repair	One (1) parking space for each two hundred fifty (250) square feet of gross floor area.
Pushcart food sales	No parking shall be required for pushcart food sales facilities except as required on a case-by-case basis as determined by the community development director as part of plot plan review procedure.
Offices	

Proposed
Text
Change

Use	Parking Spaces Required
General business and professional	Four (4) parking spaces or one (1) parking space for each three hundred (300) square feet of gross floor area, whichever is greater. For offices in the industrial park zone or industrial park overlay, the requirement shall be one (1) parking space for each two hundred fifty (250) square feet of gross floor area.
Medical, dental and clinics	One (1) parking space for each two hundred (200) square feet of gross floor area.
<u>Massage Establishments</u>	<u>One (1) space per one hundred (100) square feet.</u>
Restaurants/Food	
Restaurants, bars, night clubs and others	
Having less than four thousand (4,000) square feet	One (1) parking space for each one hundred (100) square feet of gross floor area. Outdoor dining areas not to exceed three hundred (300) square feet shall be exempt from parking subject to Miscellaneous Use Restrictions, section 33-1111 of Article 57 of this chapter.
Having four thousand (4,000) square feet	Forty (40) parking spaces plus one (1) for each fifty (50) square feet of gross floor area over four thousand (4,000) square feet. Outdoor dining areas not to exceed three hundred (300) square feet shall be exempt from parking subject to Miscellaneous Use Restrictions, section 33-1111 of Article 57 of this chapter.
Drive-in, drive-up, drive-thru	Twenty (20) parking spaces plus one (1) for each one hundred (100) square feet of gross floor area over four thousand (4,000) square feet. Outdoor dining areas not to exceed three hundred (300) square feet shall be exempt from parking subject to Miscellaneous Use Restrictions, section 33-1111 of Article 57 of this chapter.
Product specialty, donuts, ice cream, bakery, etc.	One (1) parking space for each one hundred fifty (150) square feet. Outdoor dining areas not to exceed three hundred (300) square feet shall be exempt from parking subject to Miscellaneous Use Restrictions, section 33-1111 of Article 57 of this chapter.
Retail	
General retail, except as otherwise specified herein	One (1) parking space for each two hundred fifty (250) square feet of gross floor area.
Coin operated laundry	One (1) space per two hundred fifty (250) square feet.
Open retail, nurseries and vehicle sales lots not otherwise specified	One (1) parking space for each one thousand (1,000) square feet of lot area.
Trailer and boat sales lots	One (1) space per two thousand (2,000) square feet of lot supplies.

Proposed
Text
Change

Use	Parking Spaces Required
Shopping center (for the purpose of this article, a shopping center shall have a minimum lot area of three (3) acres and have multiple uses)	One (1) parking space for each two hundred (200) square feet of gross floor area.
Stamp redemption centers	One (1) space.
Tailor shops, shoe repair	Three (3) parking spaces or one (1) parking space for each six hundred (600) square feet of gross floor area, whichever is greater.
Massage parlor	One (1) space per one hundred (100) square feet.
Recreational	
Auditoriums and other places of public assembly and clubs, lodges having no sleeping facilities	One (1) parking space for each five (5) seats and one (1) for each one hundred (100) square feet of assembly area not having fixed seats.
Bowling alleys	Four (4) parking spaces for each alley. In addition, spaces for incidental uses shall be provided in accordance with standards specified for the particular use.
Game and athletic courts	Two (2) parking spaces for each court.
Gymnasium, skating rinks, billiard halls, dance schools, karate schools	One (1) parking space for each five (5) seats plus one (1) for each two hundred (200) square feet of recreation floor area.
Golf driving ranges	One (1) parking space for each driving tee.
Miniature or pitch and putt golf courses	Three (3) parking spaces for each hole or two (2) for each hole plus the requirement for the accessory uses, whichever is greater.
Swimming pools	One (1) parking space for each one hundred fifty (150) square feet of gross water surface area.
Theaters and auctions	One (1) parking space for each five (5) seats or one (1) parking space for each thirty-five (35) square feet of assembly area.
Industrial	
Kennels, veterinary hospitals and veterinary offices	One (1) parking space for each two hundred (200) square feet of examining and operating areas, plus one (1) parking space for each four hundred (400) square feet of additional floor area.
Recycling facility	One (1) space for each five hundred (500) square feet of material processing area; one (1) space for each five thousand (5,000) square feet of outdoor storage area; one (1) space for each scale or bin plus one (1) space (for waiting) per two (2) scales or bins for customer parking.

Use	Parking Spaces Required										
Manufacturing uses, research and testing laboratories, food processing, printing and engraving shops and contractors	A. Parking standards for the M-1 and M-2 zones. One (1) space for each vehicle used in conjunction with the business, plus one (1) parking space for each five hundred (500) square feet of open or enclosed area devoted to the primary use, except contractors' open storage yards one (1) space per one thousand (1,000) square foot lot.										
	B. Parking standards for the IP and IP-O zones.										
	<table> <tr> <th>Suite Size</th><th>Space/Sq. Ft.</th></tr> <tr> <td><5,000 sq. ft.</td><td>1/400</td></tr> <tr> <td>5,000 to 9,999 sq. ft.</td><td>1/500</td></tr> <tr> <td>10,000 to 19,999 sq. ft.</td><td>1/575</td></tr> <tr> <td>>20,000 sq. ft.</td><td>1/650</td></tr> </table>	Suite Size	Space/Sq. Ft.	<5,000 sq. ft.	1/400	5,000 to 9,999 sq. ft.	1/500	10,000 to 19,999 sq. ft.	1/575	>20,000 sq. ft.	1/650
Suite Size	Space/Sq. Ft.										
<5,000 sq. ft.	1/400										
5,000 to 9,999 sq. ft.	1/500										
10,000 to 19,999 sq. ft.	1/575										
>20,000 sq. ft.	1/650										
	Plus one (1) space per one thousand (1,000) square foot lot for contractors' open storage yards.										
Salvage yard, junk yards, auto wrecking, storage yards, lumber yards and similar uses	One (1) parking space per employee on the largest shift or one (1) space per five thousand (5,000) square feet of lot area, whichever is greater.										
Truck terminals	One (1) parking space for each three thousand (3,000) square feet of lot area.										
Warehouse and wholesale business and mini-storage	A. Parking standards for the M-1 and M-2 zones. One (1) parking space for each eight hundred (800) square feet of gross floor area. One (1) space per five thousand (5,000) square feet of floor area and storage lot for mini-storage.										
	B. Parking standards for the IP and IP-O zones.										
	<table> <tr> <th>Suite Size</th><th>Space/Sq. Ft.</th></tr> <tr> <td><5,000 sq. ft.</td><td>1/500</td></tr> <tr> <td>5,000 to 9,999 sq. ft.</td><td>1/600</td></tr> <tr> <td>10,000 to 19,999 sq. ft.</td><td>1/700</td></tr> <tr> <td>>20,000 sq. ft.</td><td>1/800</td></tr> </table>	Suite Size	Space/Sq. Ft.	<5,000 sq. ft.	1/500	5,000 to 9,999 sq. ft.	1/600	10,000 to 19,999 sq. ft.	1/700	>20,000 sq. ft.	1/800
Suite Size	Space/Sq. Ft.										
<5,000 sq. ft.	1/500										
5,000 to 9,999 sq. ft.	1/600										
10,000 to 19,999 sq. ft.	1/700										
>20,000 sq. ft.	1/800										
	One (1) parking space per five thousand (5,000) square feet of floor area and storage lot for mini-storage.										
Miscellaneous											
Churches, chapels, religious meeting halls and their accessory uses	One (1) parking space for each five (5) seats or one (1) parking space for every one hundred (100) square feet of gross floor area for assembly areas without fixed seating (twenty-two (22) inches of linear bench constitutes one (1) seat).										

Use	Parking Spaces Required
Hospitals	One and one-quarter (1 1/4) parking spaces for each bed.
Libraries, museums and library stations	One (1) parking space for each two hundred fifty (250) square feet of gross floor area.
Mortuaries	One (1) parking space for every fifty (50) square feet of gross assembly floor area.
Schools, private and public:	
Grade schools, elementary and junior high schools	One (1) parking space for each employee and faculty member.
Senior high schools	One (1) parking space for each employee and one (1) for each three (3) students for which the facility is designed.
Trade schools, business colleges and commercial schools	One (1) parking space for each one and one-half (1 1/2) students of the maximum capacity of the classroom plus one (1) space for each faculty member.
Emergency shelters	One (1) parking space for each employee, volunteer, service provider and non-client who will be on-site during peak periods, plus one (1) space per three (3) beds.
Transportation terminals and facilities, public utilities, colleges, stadiums, sport arenas and golf courses	Adequate number as determined by the planning commission after special study has been performed.

EXHIBIT F

East Valley Parkway Area Plan: Amend Table 4.1 (Permitted and Conditionally Permitted Principal Uses) to add "Massage Establishments (Article 38*)" in the "Medical, Dental, and Related Health Services" category as P/C in the CG zone column describing the use as permitted or conditionally permitted based on the establishment's location.

EAST VALLEY PARKWAY AREA PLAN

Table 4.1

PERMITTED AND CONDITIONALLY PERMITTED PRINCIPAL USES

USE TITLE	CG	CP	HP
RESIDENTIAL AND LODGING:			
• Bed and Breakfast (Article 32*)	C*		C*
• Hotels and Motels (Article 63*)	C*		
• Lodging for organization members only	C		
• Mobile home or travel trailer parks (Articles 45 & 46*)	C*		
• Multi-family residential as part of a mixed-use project	PD		
MANUFACTURING, WHOLESALE TRADE, AND STORAGE:			
• Any use or structure permitted or conditionally permitted in a zone and involving hazardous materials (Section 33-666*)	C*	C*	C*
• Mini-warehouse storage facilities (Section 33-339*)	C*		
• Newspaper printing and publishing	P		
RETAIL TRADE:			
Automotive and marine craft			
• Automotive parts and accessories sales with no repair or installation	P		
• Gasoline service stations including concurrent sale of alcoholic beverages and motor vehicle fuel (Article 57* and Council Resolution #5002*)	C*		
Food Sales			
• Food stores (grocery, produce, candy, baked goods, meat, delicatessen, etc.), excluding sale of liquor, tobacco and smoking-related products as primary use	P		
• With facilities to dispense gasoline (Article 57*)	C*		
General Retail			
• Antique and Consignment stores	P		
• Building materials and supplies including lumber, heating, plumbing, and electrical equipment, etc. (Outdoor storage or sale subject to CUP)	P		
• Drugstores	P	P	

USE TITLE	CG	CP	HP
- Florists, gifts, cards, newspapers and magazines - Furniture, home and office furnishing and equipment, electrical appliances, and office machines and supplies	P P	P	P
- General retail of new merchandise, NEC (as determined by the Director of Community Development, based on conformance with the purpose of the specific zone, interaction with customers, the appearance of the building, the general operating characteristics, the type of vehicles and equipment associated with the use, and including incidental assembling of customized items); - Hospital/medical equipment sales - Nurseries and garden supply stores - Outdoor retail, NEC (as a principal use) - Pharmacies - Sporting goods (includes ammunition and firearms, fishing, hunting, golf, playground equipment, etc.) - Temporary seasonal sales such as Christmas tree and wreath sales, pumpkin sales, etc., on vacant lots subject to site plan approval	P P P P P P	P	P P
EATING AND DRINKING ESTABLISHMENTS:			
Cabarets and nightclubs (with or without alcoholic beverages, including comedy clubs, magic clubs, etc.)	C		
Drinking places-alcoholic beverages (on-sale beer and wine and on-sale general licenses and public premises) includes bars and taverns, does not include restaurants serving alcoholic beverages.	C		
Restaurants, cafes, delicatessens, sandwich shops, etc. without alcoholic beverages	P	P	P
- With on-sale beer and wine and on-sale general licenses - Auto oriented drive-in, drive-through (Section 33-341*) - Specialized food sales from pushcart facilities (Section 33-342*)	P P* P*	P*	P*
SERVICES:			
Animal Care (excluding kennels)	P		
Automotive services (including motorcycles, motorized vehicles, marine craft and recreational vehicles)			
- Auto repair and service in freestanding or single tenant building - Auto repair and service in multi-tenant centers which were comprehensively designed and approved for automotive	C P		

USE TITLE	CG	CP	HP
repair prior to Area Plan			
• Car-wash, polishing, detailing as primary use	C		
Educational services			
• Day nurseries, child care centers (Article 57*)	C*	C*	C*
• Schools, including kindergarten, elementary, junior, and senior high schools (Article 57*)	P*		C*
• Special needs education	P	P	P
• University, college, junior college, and professional schools	P	P	C
• Vocational and trade schools	P	P	
• Other special training (including art, music, drama, dance, language, etc.)	P		
Government services			
• Administrative centers and courts	P	P	C
• Employment and training services	P	P	P
• Operation Centers	C	C	C
• Police and fire stations	C	C	C
• Postal services	P	P	P
Financial services and institutions			
• Banks, securities brokers, credit offices (excluding check cashing as a primary use)	P	P	
• Insurance	P	P	P
Medical, dental and related health services			
• Counseling services	C	C	C
• Hospitals, excluding small medical clinics	C	C	C
• Medical clinics and blood banks	P		P
• Medical, dental, optical, and other health care offices and laboratories	P	P	P
• Sanitariums, convalescent and residential care facilities	C		C
• Other medical and health services NEC	C	C	C
• <u>Massage Establishments (Article 38*)</u>	<u>P/C</u>		
Offices and business services, except medical			
• Call centers and telemarketing services	C	C	C
• General business services (including advertising, building services, credit reporting, detective/protective services, drafting, employment services, news syndicate, computer services, etc.)	P	P	P
• General office use (includes professional offices, legal services)	P	P	P
• Mailing, stenographic, accounting and office services	P	P	P
• Messenger services	P	P	P
• Real estate services	P	P	

Proposed
Text
Change

USE TITLE	CG	CP	HP
Travel agencies and services	P	P	
Repair services, except automotive			
Apparel and shoe repair and alteration	P		
Bicycle repair	P		
Locksmiths and key shops	P	P	
Miscellaneous repair services (excluding machine shops and welding services)	P		
Small appliance repair and services (including TV, radio, VCR, computers, household appliances, etc.)	P		
Watch, clock, and jewelry repair	P	P	
Social, professional, and religious organizations and services			
Churches, synagogues, temples, missions, religious reading rooms, and other religious activities including columbaria and mausoleums as an incidental use (Article 57*)	C*	C*	C*
Professional organizations (political membership, veterans, civic, labor, and similar organizations, etc.)	P	P	P
Social services and charitable organizations including only office and administrative activities, and excluding direct distribution of goods or services to the ultimate client at this location	P	P	P
Youth Organizations (Article 57*)	C*		
Other services			
Assembly halls, fraternities, sororities, lodges, etc.	C		
Barber, beauty, nail, and tanning services, excluding tattoo parlors	P	P	P
Hospital/medical equipment rental and leasing	P		P
- Laundry and dry cleaning services: - Self-service, coin-operated - Pick-up service only - Dry cleaning, laundering, pressing and dying for on-site retail customers only	P	P	
Mortuary (excluding crematories and mausoleums)	P		P
Personal services, NEC (including clothing and costume rental, marriage bureaus, baby-sitting services, etc.)	P		
- Photographic and duplicating services: - Blueprinting and photocopying - Studios, developing, printing, and similar services, except commercial photography - Commercial photography, including aerial photographs and mapping services	P	P	P
	P	P	P
	P		P

USE TITLE	CG	CP	HP
Picture framing, assembly only	P		
- Recycling Services - Reverse vending machines occupying a total of fifty (50) square feet or less (Article 33*): - Small collection facilities occupying a total of five hundred (500) square feet or less (Article 33*): - Aluminum can and newspaper redemption center without can crushing facilities (Article 33*):	P* P* C*	P* P*	P* P*
CULTURAL ENTERTAINMENT AND RECREATION:			
Adult entertainment establishments (Article 42*)	P*		
Amusement assembly, including amusement parks, arcades, dance halls, drive-in movie theaters, miniature golf, go-carts, electronic game centers, etc.	C		
Cultural, including museums, art galleries, etc.	P	P	
Entertainment assembly, including gymnasiums, athletic clubs, body building studios, dance studios, martial arts schools, etc.	C		
Health and fitness facilities, including gymnasiums, athletic clubs, body building studios, dance studios, martial arts schools, etc.	P	C	C
Libraries	P	P	C
Parks	P	P	P
Sports and recreation facilities, including bowling alleys, billiards, indoor and outdoor skating facilities, batting cages, riding schools and stables, etc.	C		
Swimming schools and pools	C		
Theaters, indoor motion picture and legitimate	P		
TRANSPORTATION, COMMUNICATIONS AND UTILITIES:			
Transportation			
Ambulance and paramedic	C		C
Bus and train depots	P		
Park-and-ride facilities	P	P	P
Parking lots and parking structures (short term)	P	P	P
Taxicab stand	P		P
Communications (telephone, telegraph, radio, TV, etc.)			
Broadcasting (radio and/or television), recording, and/or sound studios	P	P	
- Personal wireless service facilities - roof-mounted or building-mounted facilities	P* P*	P* P*	P* P*

USE TITLE	CG	CP	HP
incorporating stealthy designs and/or screened from public ways or significant views (Article 34*)			
• pole-mounted or ground-mounted facilities that incorporate stealthy designs and do not exceed 35' in height (Article 34*)	P*	P*	P*
• pole-mounted or ground-mounted facilities that exceed 35' in height or roof-mounted or building-mounted designs which project above the roofline and are not completely screened or considered stealthy (Article 34*)	C*	C*	C*
• Other communications, NEC	C	C	
• Radio and television transmitting towers	C	C	
• Telephone exchange stations and telegraph message centers	P	P	
Utilities (electric, gas, water, sewage, etc.)			
• Central processing, regulating, generating, control, collection, storage facilities and substations	C	C	C
• Distribution facilities	P	P	P

* = Subject to special regulations –see Zoning Code Article in parentheses

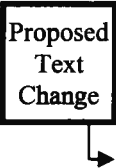
NEC = Not Elsewhere Categorized

EXHIBIT G

South Escondido Boulevard Area Plan: Amend Ordinance 92-1, Section 8 (Conditional Use Permits) to add land use code #6296 with a use Title: "Massage Establishments pursuant to Article 38."

**South Escondido Boulevard Area Plan
Section 8. Conditional Use Permits.**

(a) The uses which are normally allowed by right in the CG or CT zones and are not listed as permitted uses within this ordinance shall require a conditional use permit and are subject to Section 33-1203 of Article 61 of the Zoning Code. Such conditional uses include, but are not limited to, those which special emphases are listed below:

<u>Use No.</u>	<u>Use Title</u>
1400	Mobile home Parks
1500	Transient lodgings (requires Planning Commission consideration and City Council approval) (pursuant to Ord. 87-28; 8/7/87, and Ord. 91-5; 4/3/91) (See also (c) and (d) of this section)
4753	Satellite dish antennas pursuant to Article 34
5210	Lumber and other building material
5410	Groceries to include concurrent sale of alcoholic beverages and motor vehicle fuel, and convenience stores (See Sec. 8(g)) (Ord. 87-69; 2/6/88)
5511	Auto sales – new and used
5512	Auto sales – used
5520	Tires, batteries and accessories (excluding recapping and vulcanizing)
5530	Gasoline service stations (in accordance with Section 33-1115 (to include concurrent sale of alcoholic beverages and motor vehicle fuel with four or fewer pumps) (Ord. 87-69; 2/6/88)
5820	Drinking places – alcoholic beverages
6100	Finance services with drive-thru tellers
 6296	<u>Massage Establishments pursuant to Article 38</u>
6397	Auto, truck and trailer rental (Area B only)
6411	Automobile repair (except body shop) (Area A)
6412	Tire rethreading and recapping (Area A)
6416	Automated Carwashes (Area B only)
6416-6417	Carwash Facilities (within Area "A" only on properties where automotive businesses [a gas station, car lots, auto sales and/or service, etc.] have been previously located and permitted)
6419	Other automobile services, except repair and wash, NEC

6513-6516	Sanitariums, convalescent and rest home facilities (Area A) (Permitted in Area B)
6910	Religious activities

(b) An existing Conditional Use Permit may be expanded by ten percent or 1,000 SF, whichever is less and may be exempted by the Director of Planning and Building from Conditional Use Permit processing requirements. Expansion beyond the established thresholds shall conform to this Article.

(c) Transient lodging existing at the time of adoption of this ordinance may continue to operate and shall be subject to Ord. 91-5. 4/3/91, and Ord. 89-36. 8/2/89.

(d) Existing transient lodging whereby the average length of stay exceeds the 30 day limit requirement established in Ord. 91-05 may be exempt from those provisions, as determined by the Director of Planning and Building, provided the following findings are made:

1) The property has been historically used for transient lodging in which the average stay exceeds 30 days.

2) The structures do not threaten the public health, safety and welfare.

3) Smoke detectors have been provided in each unit and inspections of heating and ventilation systems shall be performed biyearly and evidence of these inspections are submitted to the satisfaction of the Planning and Building Department.

(f) All drive-through facilities such as drive-through restaurants, drive-through dairies, drive-through grocery stores, and drive-through banks which are either an incidental use to the primary use or constitute the primary use require a conditional use permit.

(g) A convenience market includes the retail sales of food, beverages and small convenience items primarily for off-premises consumption and typically found in establishments with long or late hours of operation and a relatively small building. This definition excludes delicatessens and other specialty food shops and establishments having a sizeable assortment of fresh fruits and vegetables and fresh cut meat.

EXHIBIT H

Downtown Specific Plan: Amend Figure II-2 (Permitted and Conditional Uses) to add "Massage Establishments" in the "Health and Personal Services" category as permitted (P) in the Center City Urban (CCU) district with the following footnote: Massage Establishments may be permitted only in certain centers pursuant to Article 38.

(Note: Amended Figure II-2 begins on the next page)

**Downtown Specific Plan
FIGURE II-2
PERMITTED AND CONDITIONAL USES
(Page 1 of 6)**

LAND USE		HD*	PV	CCU	GT	M	SG*	CN
RESIDENTIAL AND LODGING (in accordance with Figure II-3A)								
Bed-and-breakfast establishments (subject to regulations of Article 32 of the Zoning Code)							C	C
Residential-care facilities							C	C
Hotels and Motels (subject to regulations of Article 63 of the Zoning Code)		C	C	C	C	C	C3	
Residential above ground floor in specified areas, in conjunction with permitted non-residential use on ground floor (refer to Figure II-3 for appropriate locations and housing types)		P	P9	P	P	P	P	P
Residential, on ground floor in specified areas (refer to Figures II-3 and II-4 for appropriate locations and housing types)		P7, P8	P8, P9	P8	P8	P8	P8	P
Home Occupations (subject to regulations of Article 44 of the Zoning Code)		P5	P5	P5	P5	P5	P5	P5
GENERAL RETAIL								
New merchandise sold in department stores, drugstores, pharmacies, and retail establishments selling toys, flowers, gifts, stationery, jewelry, leather, apparel, shoes (including repair), china, glassware, pottery, crafts, cigars, yardage goods, pets, hobbies, art supplies, automobile supply stores (without installation), video sales and rental, music (including incidental recording, instruction and instrument repair), books / magazines / newspapers, sporting goods, bicycles / cameras / electronics / office business / small household appliance sales and service, and other similar retail goods and incidental services NEC. Prohibited uses include retail uses with across the board maximum pricing or "everything under" pricing and surplus goods.		P	P	P	P	P	P3	P6
Previously owned goods and merchandise including antiques, collectibles, coins, consignment and stamps, excluding pawn shops, second hand and thrift stores.								
Automobile supply stores with incidental installation					P		P3	

NOTES:

P = Permitted C = Conditional Use Permit required

- 1 Under 3,000 square feet.
- 2 Within Grand Avenue's "retail-core area" use is not permitted on ground floor facing Grand Avenue unless located behind a solid wall, and such wall shall be located at least 25% of the building depth back from the front, with a minimum of 25 feet of front retail depth, whichever is more. Primary entrance to this use must be from the alley. No signage facing Grand Avenue is permitted.
- 3 Only permitted on Escondido Boulevard.
- 4 Only permitted within a multi-tenant building, and shall not occupy more than 30% of the gross floor area.
- 5 Only in conjunction with an approved residential project.
- 6 Only permitted on Pennsylvania Avenue and the north side of Valley Parkway between Kaimia and Ivy Streets.
- 7 Not allowed along Grand Avenue on ground floor within the "retail core area."
- 8 Residential and mixed-use projects are permitted in specified areas, subject to a Planned Development approval in Article 19 of the Zoning Code.
- 9 No residential uses permitted between Woodward Avenue, Washington Avenue, Escondido Boulevard and Broadway.
- 10 Not allowed along Grand Avenue on ground floor between Grand and adjacent alleys.
- 11 Permitted on Local Historic Register properties.
- * Existing automobile dealerships are a non-conforming use. Conversion of these sites to a new and substantially different use shall require plot plan review or a Conditional Use Permit subject to the provisions in the Permitted Use Matrix.

DOWNTOWN DISTRICTS:

HD	Historic Downtown
PV	Park View
CCU	Centre City Urban
GT	Gateway Transit
M	Mercado
SG	Southern Gateway
CN	Creekside Neighborhood

NOTE: Should a conflict arise between this matrix and the land-use district text, the land use district text discussion shall take precedence in determining the appropriateness of the land use.

FIGURE II-2
PERMITTED AND CONDITIONAL USES
 (Page 2 of 6)

<u>LAND USE</u>		HD*	PV	CCU	GT	M	SG*	CN
GENERAL RETAIL (continued)								
Carpet and floor covering and installations		P6			P		P3	P6
Large appliance sales		P7	P	P	P	P1	P3	P6
Home Furnishings with retail display (not including "mattress only", carpet, and discount furniture stores)		P	P	P	P	P1	P3	P6
Hardware, paint, glass, tools, home improvement		P	P	P	P	P1	P1, P3	P6
Medical equipment sales/rentals and supplies		P7		P	P	P1	P3	P6
Outdoor vending machines			P					
EATING AND DRINKING ESTABLISHMENTS								
All types of eating establishments providing meal service from an on-site operating commercial-grade kitchen, and / or dessert service from an on-site operating commercial-grade freezer / refrigerator facility with, or without, incidental sale of alcohol (including micro-breweries and outdoor dining, but with no drive-through), with no live amplified entertainment or dancing		P	P	P	P	P	P3, P11	
Eating establishments (as defined above) with indoor amplified entertainment and/or dancing		P	P	P	P	P	C3	
Wine- and beer-tasting establishments (only with retail sales involving related merchandise that includes a significant portion of the sales area)		P	P	P	P	P	P3	
Drinking establishments, bars and nightclubs serving alcohol with or without live entertainment and / or dance		C	C	C	C	C	C3	

NOTES:

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- Only permitted on Escondido Boulevard.
- Only permitted within a multi-tenant building, and shall not occupy more than 30% of the gross floor area.
- Only in conjunction with an approved residential project.
- Only permitted on Pennsylvania Avenue and the north side of Valley Parkway between Kaimia and Ivy Streets.
- Not allowed along Grand Avenue on ground floor within the "retail core area."
- Residential and mixed-use projects are permitted in specified areas, subject to a Planned Development approval in Article 19 of the Zoning Code.
- No residential uses permitted between Woodward Avenue, Washington Avenue, Escondido Boulevard and Broadway.
- Not allowed along Grand Avenue on ground floor between Grand and adjacent alleys.
- Permitted on Local Historic Register properties.
- Existing automobile dealerships are a non-conforming use. Conversion of these sites to a new and substantially different use shall require plot plan review or a Conditional Use Permit subject to the provisions in the Permitted Use Matrix.

DOWNTOWN DISTRICTS:

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SG	Southern Gateway
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FIGURE II-2
PERMITTED AND CONDITIONAL USES
 (Page 3 of 6)

<u>LAND USE</u>		HD*	PV	CCU	GT	M	SG*	CN
FOOD AND LIQUOR SALES (excluding convenience and package stores)								
General grocery stores less than 7,000 SF and specialty foods, including imported and/or unique food products, produce, candy, baked goods, meat, etc., specialty liquor sales involving off-sale unique brands of beer, wine, and distilled spirits	P	P	P	P	P	P	P3	P6
General grocery stores exceeding 7,000 SF of sales area with, or without, alcohol sales	P7	P	P	P	P	P	P3	P6
Convenience markets, excluding package stores			C	C	C			
GENERAL OFFICE AND FINANCIAL SERVICES								
Administrative, business and professional offices, employment agencies, secretarial services, realtors/real estate offices and counseling services, travel and ticket agencies	P2	P	P	P	P	P	P	P6
Short-term political campaign offices with a maximum duration of six months	P	P	P	P	P	P	P	P6
Financial institutions, banks, savings and loans (excluding check cashing and/or payday loans as a primary use), visitor and information center (including Downtown Business Association), governmental services, police and fire stations, etc. that provide direct contact with the public	P	P	P	P	P	P	P	P6
Off-site sales and call centers	P10						P	P6
HEALTH AND PERSONAL SERVICES								
Medical/dental/optical/offices, clinics and laboratories, licensed alternative health-care establishments, day spas, excluding acupuncture and massage establishments as primary uses.	P2	P	P	P	P	P	P	P6
Barber, beauty salons including cosmetology involving ear piercing, permanent eye and lip lining, excluding other body piercing, body art, and inking parlors	P	P	P	P	P	P	P3	P6
Massage Establishments (permitted in centers pursuant to Article 38)				P				

NOTES:

P = Permitted C = Conditional Use Permit required

- Under 3,000 square feet.
- Within Grand Avenue's "retail-core area" use is not permitted on ground floor facing Grand Avenue unless located behind a solid wall, and such wall shall be located at least 25% of the building depth back from the front, with a minimum of 25 feet of front retail depth, whichever is more. Primary entrance to this use must be from the alley. No signage facing Grand Avenue is permitted.
- Only permitted on Escondido Boulevard.
- Only permitted within a multi-tenant building, and shall not occupy more than 30% of the gross floor area.
- Only in conjunction with an approved residential project.
- Only permitted on Pennsylvania Avenue and the north side of Valley Parkway between Kaimia and Ivy Streets.
- Not allowed along Grand Avenue on ground floor within the "retail core area."
- Residential and mixed-use projects are permitted in specified areas, subject to a Planned Development approval in Article 19 of the Zoning Code.
- No residential uses permitted between Woodward Avenue, Washington Avenue, Escondido Boulevard and Broadway.
- Not allowed along Grand Avenue on ground floor between Grand and adjacent alleys.
- Permitted on Local Historic Register properties.
- Existing automobile dealerships are a non-conforming use. Conversion of these sites to a new and substantially different use shall require plot plan review or a Conditional Use Permit subject to the provisions in the Permitted Use Matrix.

DOWNTOWN DISTRICTS:

HD	Historic Downtown
PV	Park View
CCU	Centre City Urban
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M	Mercado
SG	Southern Gateway
CN	Creekside Neighborhood

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Proposed
Text
Change

FIGURE II-2
PERMITTED AND CONDITIONAL USES
 (Page 4 of 6)

<u>LAND USE</u>	<u>HD*</u>	<u>PV</u>	<u>CCU</u>	<u>GT</u>	<u>M</u>	<u>SG*</u>	<u>CN</u>
<u>SPECIALTY SERVICES (includes similar ancillary uses NEC)</u>							
Animal services (indoor only) to include pet training, boarding, pet spas, pet day care and veterinary clinics, excluding kennels	P7		P	P	P	P3	P6
Photographic developing and photocopy services, watch and clock repair, locksmiths	P	P	P	P	P	P	P6
Music recording/practice studios	P2	P4	P	P	P	P4	P1, 6
Custom-furniture upholstery and repair	P7					P3	P6
Picture framing shops	P	P4	P	P	P	P3	P6
Postal services including parcel delivery (public/private)	P2	P	P	P	P	P	P
Cleaning and laundering services without on-site cleaning	P7	P1	P1	P1		P1, 4	P1, 5, 6
Cleaning establishments and laundries, self-service or coin operated	P10	P				C	P1, 5, 6
Mortuaries	C10	C				C	C6
Tailors and dressmakers and alterations	P2	P	P	P	P	P	P5, 6
<u>ENTERTAINMENT, RECREATION AND CULTURAL</u>							
Dance facilities, pinball and electronic game arcades	C		C		C		
Athletic clubs, health studios, yoga, jazzercise, aerobics, zumba and similar programs	P7	P	P	P	P	P3	P6

NOTES:

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- 5 Only in conjunction with an approved residential project.
- 6 Only permitted on Pennsylvania Avenue and the north side of Valley Parkway between Kaimia and Ivy Streets.
- 7 Not allowed along Grand Avenue on ground floor within the "retail core area."
- 8 Residential and mixed-use projects are permitted in specified areas, subject to a Planned Development approval in Article 19 of the Zoning Code.
- 9 No residential uses permitted between Woodward Avenue, Washington Avenue, Escondido Boulevard and Broadway.
- 10 Not allowed along Grand Avenue on ground floor between Grand and adjacent alleys.
- 11 Existing automobile dealerships are a non-conforming use. Conversion of these sites to a new and substantially different use shall require plot plan review or a Conditional Use Permit subject to the provisions in the Permitted Use Matrix.

DOWNTOWN DISTRICTS:

HD Historic Downtown
 PV Park View
 CCU Centre City Urban
 GT Gateway Transit
 M Mercado
 SG Southern Gateway
 CN Creekside Neighborhood

NOTE: Should a conflict arise between this matrix and the land-use district text, the land use district text discussion shall take precedence in determining the appropriateness of the land use.

FIGURE II-2
PERMITTED AND CONDITIONAL USES
 (Page 5 of 6)

LAND USE		HD*	PV	CCU	GT	M	SG*	CN
ENTERTAINMENT AND RECREATION (continued)								
Galleries and studios pertaining to artists, craft workers and photographers (including incidental developing and printing), libraries, museums, etc., including incidental sale of merchandise pertaining to the primary use		P	P	P	P	P	P	P6
Dance studios and schools		P	P	P	P	P	P3	P6
Marital arts schools and training facilities		P10		P	P	P	P3	P6
Entertainment establishments (including internet cafes) with incidental sale of food or alcohol (excluding incidental entertainment in restaurants)		C	C	C	C	C	C3	C6
Parks - general recreation		P	P	P	P	P	P	P
Roller-skating and bowling alleys and similar indoor arena sports				P	P	C		
Swimming pools and schools			P					P6
Theater, live and motion picture		P	P	P	P			
SOCIAL, PROFESSIONAL, RELIGIOUS ORGANIZATIONS								
Churches, synagogues, temples, missions, religious reading rooms, and other religious activities (not allowed within Grand Avenue "historic retail core area")		C7	C	C	C	C	C	C
Social and professional organizations that conduct group and/or membership meetings on the premises, including political, veterans, civic, labor, charitable and similar organizations		C2	C	C	C	C	C	C
Youth Organizations			C	C	C	C	C	C

NOTES:

P = Permitted C = Conditional Use Permit required

- Under 3,000 square feet.
- Within Grand Avenue's "retail-core area" use is not permitted on ground floor facing Grand Avenue unless located behind a solid wall, and such wall shall be located at least 25% of the building depth back from the front, with a minimum of 25 feet of front retail depth, whichever is more. Primary entrance to this use must be from the alley. No signage facing Grand Avenue is permitted.
- Only permitted on Escondido Boulevard.
- Only permitted within a multi-tenant building, and shall not occupy more than 30% of the gross floor area.
- Only in conjunction with an approved residential project.
- Only permitted on Pennsylvania Avenue and the north side of Valley Parkway between Kalmia and Ivy Streets.
- Not allowed along Grand Avenue on ground floor within the "retail core area."
- Residential and mixed-use projects are permitted in specified areas, subject to a Planned Development approval in Article 19 of the Zoning Code.
- No residential uses permitted between Woodward Avenue, Washington Avenue, Escondido Boulevard and Broadway.
- Not allowed along Grand Avenue on ground floor between Grand and adjacent alleys.
- Permitted on Local Historic Register properties.
- Existing automobile dealerships are a non-conforming use. Conversion of these sites to a new and substantially different use shall require plot plan review or a Conditional Use Permit subject to the provisions in the Permitted Use Matrix.

DOWNTOWN DISTRICTS:

HD Historic Downtown
 PV Park View
 CCU Centre City Urban
 GT Gateway Transit
 M Mercado
 SG Southern Gateway
 CN Creekside Neighborhood

NOTE: Should a conflict arise between this matrix and the land-use district text, the land use district text discussion shall take precedence in determining the appropriateness of the land use.

FIGURE II-2
PERMITTED AND CONDITIONAL USES
 (Page 6 of 6)

LAND USE	HD*	PV	CCU	GT	M	SG*	CN
EDUCATION							
Educational facilities for adults	C	P	C	P	P	P	C6
Daycare facilities	C10	C	C	C	C	C	C6
Schools-(primary education)		C		C	C	C	C
Schools-(secondary education)	C6	C		C	C	C	C
COMMUNICATIONS (wireless facilities subject to Article 34)							
Broadcasting (radio and/or television stations)	C7	C	C	C	P	C	C6
Newspaper printing and publishing	C7		C1	C1	C1	C1	C6
TRANSPORTATION AND MISCELLANEOUS SERVICES							
Car-rental services, excluding maintenance and repair of vehicles			C	C			
Parking lots (municipal)	P	P	P	P	P	P	P
Parking lots (private full fee)	C	C	C	C	C	C	C
Taxicab, trolley, shuttle and pedicab stands	P	P	P	P	P	P	P
Transit stations and car-rental services, including maintenance and repair				P			
Seasonal sales not exceeding 30 days, (including pumpkin, Christmas tree and wreath sales between October 1 and December 31, both dates inclusive, to the extent permitted by other statutory and ordinance provisions). Structures and materials used for seasonal sales shall be removed from the premises immediately after December 31 and the property shall be restored to a neat condition	P	P	P	P	P	P	P
Miscellaneous Government Operations that do not provide direct contact with the public	C	C	C	C	C	C	C

NOTES:

P = Permitted C = Conditional Use Permit required

- Under 3,000 square feet.
- Within Grand Avenue's "retail-core area" use is not permitted on ground floor facing Grand Avenue unless located behind a solid wall, and such wall shall be located at least 25% of the building depth back from the front, with a minimum of 25 feet of front retail depth, whichever is more. Primary entrance to this use must be from the alley. No signage facing Grand Avenue is permitted.
- Only permitted on Escondido Boulevard.
- Only permitted within a multi-tenant building, and shall not occupy more than 30% of the gross floor area.
- Only in conjunction with an approved residential project.
- Only permitted on Pennsylvania Avenue and the north side of Valley Parkway between Kalmia and Ivy Streets.
- Not allowed along Grand Avenue on ground floor within the "retail core area."
- Residential and mixed-use projects are permitted in specified areas, subject to a Planned Development approval in Article 19 of the Zoning Code.
- No residential uses permitted between Woodward Avenue, Washington Avenue, Escondido Boulevard and Broadway.
- Not allowed along Grand Avenue on ground floor between Grand and adjacent alleys.
- Permitted on Local Historic Register properties.
- Existing automobile dealerships are a non-conforming use. Conversion of these sites to a new and substantially different use shall require plot plan review or a Conditional Use Permit subject to the provisions in the Permitted Use Matrix.

DOWNTOWN DISTRICTS:

HD	Historic Downtown
PV	Park View
CCU	Centre City Urban
GT	Gateway Transit
M	Mercado
SG	Southern Gateway
CN	Creekside Neighborhood

NOTE: Should a conflict arise between this matrix and the land-use district text, the land use district text discussion shall take precedence in determining the appropriateness of the land use.

EXHIBIT I
Draft Municipal Code Amendment

Chapter 16A MASSAGE REGULATION

ARTICLE 1. GENERAL

Sec. 16A-1. Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings ascribed to them in this section:

(a) *California Massage Therapy Council (CAMTC)* shall mean the state organized non-profit organization created to regulate the massage industry set forth in Chapter 10.5 of Division 2 of the Business and Professions Code of the state (commencing with Section 4600).

(b) *CAMTC certificate* shall mean a current and valid certificate issued by the California Massage Therapy Council to a massage technician.

(c) *City* shall mean the City of Escondido.

(d) *Hearing Officer* shall mean any *person* appointed by the city manager to preside over the administrative hearings provided by this code.

(e) *Massage* shall mean any method of pressure on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external parts of the body with the hands or the other parts of the body, with or without the aid of any mechanical or electrical apparatus or appliances or with or without such supplementary aids as rubbing alcohol, liniments, antiseptic, oils, powder, creams, lotions, ointments, or other preparations commonly used in this practice. It does not include contact with specified anatomical areas, as defined herein, which is prohibited by this chapter and by Chapter 16E of the Escondido Municipal Code.

(f) *Massage establishment* shall mean a business or organization where an individual, firm, association, partnership, corporation, or other combination of individuals, certified in accordance with California Business and Professions Code sections 4600 through 4620, provide, offer, sell, deliver, or dispense massage as a distinct service for compensation. The terms "massage business" or "certified massage business" are included within this definition for the purposes of this chapter.

(g) *Massage establishment permit* shall mean a regulatory license issued by the Chief of Police upon submission of satisfactory evidence as required that a massage business employs or uses only certified massage therapists or practitioners possessing valid and current state certifications and has satisfied all other requirements pursuant to the provisions of this chapter.

(h) *Massage technician* shall mean any person who gives or administers to another person, for any form of consideration whatsoever, a massage as defined in this chapter. The terms "massage therapist," "massage practitioner," or any other terms used within the massage industry are included within this definition for the purposes of this chapter.

(i) *Operator* shall mean any person who supervises, manages, directs, organizes, controls, or in any other way is responsible for or in charge of the daily operation, conduct, or activities of a massage establishment.

(j) *Owner* shall mean any of the following individuals:

- (1) The sole practitioner of a sole proprietorship operating a massage establishment.
- (2) Any general partner of a general or limited partnership that owns a massage establishment.
- (3) Any person who has ten (10) percent or greater ownership interest in a corporation that owns a massage establishment.
- (4) Any person who is a member of a limited liability company that owns a massage establishment.
- (5) All owners of any other type of business entity that owns a massage establishment,
- (6) Any person identified as an owner on the massage establishment permit.

(k) *Person* shall mean any individual, firm, association, business, trust, organization, corporation, partnership, company, or any other entity which is recognized by law as the subject of rights or duties.

(l) *Specified anatomical areas* shall mean any of the following areas of the human body: pubic region, human genitals, perineum, anal region, and the areas of the female breasts that include the areola and the nipple.

Sec. 16A-2. Exemptions.

This chapter does not apply to the following:

(a) State-licensed professionals while engaged in the performance of the duties of their respective professions and while limited to the scope of their California state licenses including acupuncturists, aestheticians, barbers, chiropractors, cosmetologists, exercise physiologists, manicurists, nurses, naturopathic doctors, occupational therapists, osteopaths, physical therapists, and physicians.

(b) Trainers of any semiprofessional or professional athlete or athletic team, or athletic trainers hired by a local, state or federal government agency.

(c) Any educational institution regulated by the State of California, including any portion of the institution providing massage services, such as student clinics and work study programs, regulated under such state license. (Ord. No. 2011-17 § 2, 12-7-11)

Sec. 16A-3 – 16A-5. Reserved.

ARTICLE 2. MESSAGE CERTIFICATION AND OPERATION

Sec. 16A-6. Massage certification required.

It is unlawful for any person to engage in, conduct or carry on, in or upon any premises within the city the business of providing massage, for any compensation without being in possession of a valid CAMTC certificate.

Sec. 16A-7. Owner and operator requirements.

(a) It is unlawful for any person to own, manage, or operate in or upon any premises within the city a massage establishment in the absence of a massage establishment permit as provided issued pursuant to this chapter.

(b) It is unlawful for the owner or operator of any massage establishment to allow any person to perform massage at the massage establishment while committing any violation of this chapter.

(c) It is unlawful for the owner or operator of any massage establishment to offer or provide massage services unless the owner or a designated on-site operator is present at the massage establishment.

(d) It is unlawful for a person to own or operate a massage establishment that does not meet one of the following conditions:

- (1) The massage establishment is a sole proprietorship and the sole proprietor possesses a valid CAMTC certificate; or
- (2) The massage establishment only employs or uses massage technicians who possess a valid CAMTC certificate.

(e) It is unlawful for an owner or operator to fail to properly supervise any employee or independent contractor working in their massage establishment. Owners and operators are responsible for the conduct of their massage technicians at the massage establishment. A violation of any regulation by a massage technician contained in this chapter shall be prima facie evidence of the failure to supervise.

(f) It is unlawful for an owner or operator to operate a massage establishment without posting a list of services and the name of the on-site operator on the wall closest to the main entrance in the massage establishment.

(g) It is unlawful for an owner or operator to operate a massage establishment unless the CAMTC certificate for each massage technician is posted in public view or maintained in a clearly labeled and identifiable binder that is kept in the immediate vicinity of the cash register.

(h) It is unlawful for an owner or operator to allow or permit a massage technician to provide any services not specifically provided on the posted list of services as required in subsection (f) or for an owner or operator to receive any compensation for additional services not specifically included on the posted list of services.

(i) It is unlawful for an owner or operator to allow a massage technician to lock any door or doors leading to a room used to provide massage. This provision shall not apply when there is no staff available to ensure the security for clients and staff who are behind closed doors. A patron may lock any door when alone in any room at any time.

(j) It is unlawful for an owner or operator to fail to maintain a record of services provided for each treatment. The record of treatment shall include the name and address of the patron, the name of the massage technician, the name of the operator, the type of service provided, and the time the service began and ended.

(k) It is unlawful for the owner or operator to provide any massage between the hours of 10:00 p.m. and 7:00 a.m. or to remain open and provide any other services between the same hours.

(l) It is unlawful for an owner or operator to fail to provide to all patrons clean and sanitary towels, and opaque coverings capable of covering the patron's specified anatomical areas. Such coverings shall be used for one customer and shall not be reused without first being cleaned.

(m) It is unlawful for an owner or operator to fail to provide or use disinfecting agents and sterilizing equipment sufficient to assure cleanliness.

(n) It is unlawful for an owner or operator to fail to provide or use disposable or washable protective coverings on massage tables and all massage tables shall be covered with durable, washable plastic, or other waterproof material.

(o) It is unlawful for an owner or operator to fail to keep or maintain on file and ready for inspection a statement designating the individual operator(s) responsible for the day-to-day operations when the massage establishment owner is not on the premises.

(p) It is unlawful for an owner or operator to not have a designated owner or operator on the premises at all times the massage establishment is open.

(q) It is unlawful for an owner or operator to engage in, conduct or carry on business of a massage establishment unless they have a policy of insurance issued by an insurance company authorized to do business in the State of California evidencing that the person is insured under a liability insurance policy providing minimum coverage of one million dollars (\$1,000,000.00) for injury or death to any person arising out of the operation of any massage establishment and the administration of a massage. Evidence of such a policy should be available at inspection upon request.

(r) It is unlawful for an owner or operator to operate a massage establishment if the main entrance to a massage establishment is locked during posted business hours. An owner or operator shall ensure at least one (1) employee or independent contractor directly observes the entrance, without use of camera surveillance equipment, to ensure access to the main entrance and to ensure the security of all patrons.

(s) It is unlawful for an owner or operator to operate a massage establishment if any external door is locked, unless the business is owned by one individual with one or no employees or independent contractors.

(t) It is unlawful for an owner or operator to operate a massage establishment unless every employee or independent contractor of a massage establishment wears a uniform consistent with the service provided. The uniform shall be made of non-transparent material and may not expose any specified anatomical area. Swimwear, lingerie, and undergarments may not be used as a uniform or displayed as part of a uniform.

(u) It is unlawful for an owner or operator to operate a massage establishment which is used for residential or sleeping purposes.

(v) It is unlawful for an owner or operator to fail to notify the Chief of Police in writing of any changes in massage technicians, including proof of CAMTC certificate, or of a change in ownership interest or designated operator within seven calendar days of such change.

(w) It is unlawful for an owner or operator to operate a massage establishment in which any unprofessional conduct occurs as defined by Business & Professions Code section 4609.

Sec. 16A-8. Inspection by officials.

The investigating officials of the city shall have the right as otherwise provided for by law to enter the premises of a massage establishment from time to time during regular business hours for the purpose of making a reasonable inspection to enforce compliance with this chapter.

Sec. 16A-9. Massage technician requirements.

(a) It is unlawful for any person to give, provide, or administer to another person for any form of consideration a massage as defined in this chapter at a massage establishment or any location removed from a massage establishment within the city without a valid CAMTC certificate.

(b) It is unlawful for a massage technician to practice massage for any form of consideration within the city without providing their CAMTC certificate to the department of community development as part of the business licensing process. The registration application shall include the: (1) massage technician's name, residence address and telephone number; (2) the employer name, work addresses and telephone number; and (3) a copy of the massage technician's CAMTC certificate.

(c) It is unlawful for any person to give, provide, or administer to another person for any form of compensation whatsoever a massage as defined in this chapter at a massage establishment or any location from a massage establishment within the city in the absence of a valid business license pursuant to Chapter 16 of the Escondido Municipal Code. A separate business license is required for each location if a massage technician works at multiple massage establishments.

(d) It is unlawful for a massage technician to provide any service not specifically listed on the massage establishment's posted list of services.

(e) It is unlawful for a massage technician to remove any article of the massage establishment uniform or other article of clothing while providing any massage service.

(f) It is unlawful for a massage technician to provide massage when any specified anatomical areas of either patron or massage technician are exposed.

(g) It is unlawful for a massage technician to touch the specified anatomical area of a patron.

(h) It is unlawful for a massage technician to lock the door to the room where massage is provided or to provide massage unless no staff is available to ensure security for clients and massage staff.

(i) It is unlawful for a massage technician to accept direct payment or gratuity from any patron.

(h) It is unlawful for a massage technician to engage in any unprofessional conduct as defined by Business & Professions Code section 4609.

Sec. 16A-10 – 16A-15. Reserved.

ARTICLE 3. ENFORCEMENT

Sec. 16A-16. Violations.

Violation of any provisions of this chapter shall be treated as a strict liability offense, regardless of intent. Any person violating any of the provisions of this chapter is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine in an amount not to exceed one thousand dollars (\$1,000.00), or imprisonment in the county jail not to exceed six (6) months, or both. Any violation may also be subject to civil penalties and any other legal remedy provided in this code or state law. Each violation described in this chapter may be charged as a separate count for each day the violation occurs.

Sec. 16A-17. Unlawful operation declared a nuisance.

In addition to the legal remedies provided for in this code, the violation of any provision of this chapter shall be and the same is hereby declared to be unlawful and a public nuisance. The City Attorney may, in addition to, or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings for abatement, removal or injunction thereof, in the manner provided by law. The City Attorney shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as shall abate or remove such massage establishment and restrain and enjoin any person from operating, conducting or maintaining a massage establishment contrary to the provisions of this chapter.

Sec. 16A-18. Severability.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this chapter. The council hereby declares that it would have adopted the division and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that anyone or more sections, subsections, sentences, clauses or phrases be declared invalid.

Sec. 16A-19—16A-24. Reserved.

ARTICLE 4. Massage Establishments

Sec. 16A-25. Massage establishment permit.

No person may own or operate a massage establishment without an annual permit issued by the Chief of Police. The Chief of Police, or designee, shall have the power and authority to promulgate rules, regulations and requirements that are consistent with the provisions of this Chapter and applicable state law to investigate, issue, suspend or revoke massage establishment permits. The Chief of Police shall collect a non-refundable fee, as established by city council resolution, to recoup all investigate costs. A massage establishment permit is not transferrable. A business providing massage services by certified massage technicians as an incidental use to their primary business, as authorized by the Escondido Zoning Code, are exempt from the requirements of this article.

Sec. 16A-26. Massage establishment registration certificate expiration and renewal

A massage establishment registration certificate shall be valid for one year, coinciding with the city business license effective and expiration dates.

Sec. 16A-27. Permit application.

(a) An application for a massage establishment permit shall be filed by an Owner on a form provided by the City submitted under penalty of perjury and shall include the following information:

- (1) The full, true name under which the business will be conducted and proposed location.
- (2) A complete description of all services to be provided at the proposed massage establishment.
- (3) The full, true name, residential address, telephone number and date of birth of the massage establishment owner(s). Each corporate officer or partner of a massage establishment shall provide their individual information as required on the application.
- (4) A valid and current driver's license and/or identification card issued by a state or federal government agency or other photographic identification bearing a bona fide seal by a foreign government.
- (5) If the owner is a domestic stock, domestic nonprofit and qualified foreign corporations, limited liability company, general partnership and limited partnership information of record with the California Secretary of State, then the owner shall include copies of the following:
 - a. A Business Entity Status Report, issued by the California Secretary of State.

- b. Articles of incorporation, charter, articles of association, statement of partnership authority, certificate of limited partnership or similar foundational document.
 - c. Residential and business addresses of each person with more than a 5 percent ownership interest in the massage establishment business entity.
- (6) Two passport size photographs of the owner or the designated officer or partner authorized to apply for the massage establishment permit.
 - (7) Tax identification number.
 - (8) The name, address and telephone number of the lessor real property owner and a copy of lease or rental agreement.
 - (9) The original valid and current state certificate issued by CAMTC for each massage technician who will work in the massage establishment.
 - (10) The name and address of any massage business or other similar business providing massage services owned or operated by any person whose name is required to be given pursuant to this section for the five (5) years immediately preceding this filing of the application.
 - (11) A complete statement listing and explaining any and all aliases and fictitious names used by the owner(s) within the last five (5) years.
 - (12) A signed statement authorizing the City, its officers, agents and employees, to conduct a background check of the owner(s), to seek information and conduct an investigation into the trust of the statements set forth in the application and to ensure continual compliance with all applicable provisions of law.
 - (13) Completed fingerprinting and background check for the owner(s) applying for an establishment permit unless otherwise certified by CAMTC.
 - (14) Proof of required liability insurance.
 - (15) Any other information as may be reasonably required by the Chief of Police to identify the business owner, applicant and business entity, and to ensure compliance with all applicable laws and regulations.

(b) If the owner is a legal entity other than a natural person, the legal entity shall authorize, in writing, at least one of its officers or partners to act as its behalf. The owner(s) or designated officer or partner shall complete and sign all application forms required of an individual applicant under this chapter. The legal entity's representative must, at all times, meet all of the requirements set by this chapter or the massage establishment permit shall be suspended or revoked.

(c) The owner(s) shall acknowledge responsibility for the conduct of all employees or independent contractors working on the premises of the business and acknowledging that failure to comply with the California Business and Professions Code section 4600 et seq. with any local, state or federal law, or with the provisions of this chapter may result in the suspension or revocation of the massage establishment permit.

(d) Upon receipt of the completed application, the Chief of Police, or designee, may refer the application to other city department that may inspect the premises proposed to be used as a massage business and shall make a written recommendation to the Police Chief or designee concerning compliance with the respective requirements. The Police Chief or designee shall have up to 30 days after the submission of all required information to complete an investigation.

Sec. 16A-28. Approval or denial of massage establishment permit.

A massage establishment regulatory license shall be issued by the Chief of Police, or designee, to any massage establishment that demonstrates all of the following:

(a) The operation, as proposed by the applicant, if permitted, would comply with all applicable laws, including, but not limited to, the City's building, zoning, business license, and health regulations and all requirements listed in this chapter;

(b) The massage establishment employs or uses only massage practitioners with CAMTC state certificates whose certifications are valid and current and that owners of the state certificates are the same persons who whom CAMTC issued valid and current identification cards; and

(c) The applicant has provided all information, assurances, or documentation required by this chapter, has not failed to reveal any fact material to qualification, and has not supplied information that is untrue or misleading as to a material fact pertaining to the qualification criteria.

(d) The background check for any applicant/owner authorized by the chapter shows that such person has not been required to register under the provisions of Section 290 of the California Penal Code; there exists no probable cause to believe a violation of the crimes indicated in this Article or California Penal Code section 415; has not had an individual or business permit or license with any agency, board, city, county, territory, or state denied, revoked, restricted, or suspended within the last five (5) years; and has not been subject to an injunction for nuisance under Penal Code section 11225 through 11235 within the last five years.

Sec. 16A-29. Massage establishment permit suspension or revocation.

(a) An establishment permit may be suspended or revoked upon any of the following grounds:

- (1) There is cause to believe an owner or operator has committed a violation that could have caused denial of the massage establishment regulatory license.
- (2) There is cause to believe an owner has made a material misrepresentation on the application for a massage establishment regulatory license or renewal.
- (3) There is cause to believe the owner or operator or massage technician has engaged in conduct in a manner which violates any of the provisions of this chapter, any conditions of the massage establishment permit, or any of

the laws which would have been grounds for denial of the massage establishment regulatory license.

- (4) Violations of this chapter or of California Business and Professions Code section 4600 et seq. have occurred on the business premises.
- (5) The owner or operator has failed to comply with one or more of the owner and operation requirements under this chapter.
- (6) The registered license holder has engaged in fraud, misrepresentation, or false statements in obtaining an establishment registration certificate.

(b) Any repeat violations or any arrests that result in criminal charges shall provide a prima facie basis for revocation.

Sec. 16A-30. Appeals.

(a) Notice of Permit Denial, Suspension or Revocation shall contain a statement of the violation(s) which constitute the basis for the suspension or revocation and information about the right to appeal. Notice of the Suspension or Revocation shall be given by first class mail to the owner and real property owner at the addresses shown on the massage establishment permit. Service shall be deemed complete when the Notice is mailed by first class mail. The owner shall have ten (10) calendar days from the date the Notice is served to appeal to the City Manager in writing and upon payment of a administrative decision appeal fee. Upon issuance of a Notice of Suspension or Revocation, the massage establishment permit shall be surrendered and no massage activity may occur while any appeal proceeds.

(b) Upon receipt of an appeal, the City Manager shall appoint a hearing officer. A hearing shall be scheduled upon not less than ten (10) calendar days and not more than 30 days, unless extended by mutual agreement. Notice of the hearing shall be given by first class mail to the owner and real property owner at the addresses shown on the massage establishment permit. Service shall be deemed complete when the Notice is mailed.

(c) The hearing officer's jurisdiction is limited to determining whether evidence exists to provide grounds for the massage establishment permit denial, suspension or revocation.

(d) The City shall provide proof of any violations by a preponderance of the evidence. Formal rules of evidence shall not apply to the hearing.

(e) The hearing officer shall:

- (1) Receive evidence regarding the proposed suspension, revocation or permit denial.
- (2) Maintain a record of all evidence introduced.
- (3) Record the hearing.
- (4) Consider the nature, volume, severity, and frequency of any violations.
- (5) Decide whether grounds exist of the suspension or revocation or denial.

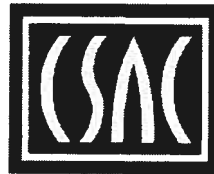
- (6) Issue a written decision within 7 days of the hearing that includes the factual and legal basis of the decision and a notice of the appeal rights contained in this chapter.

(f) The hearing officer's decision shall be final upon mailing by first class mail to the owner and real property owner at the addresses listed on the massage establishment permit application.

(g) The hearing officer's decision is subject to review under Code of Civil Procedure section 1094.6.

Sec. 16A-31. Reapplication after denial of massage establishment permit.

If a massage establishment permit is revoked or not renewed, no massage establishment permit may be issued for a massage establishment at the same location for one year.



December 3, 2014

To: City and County Officials

From: Assembly Members Susan Bonilla, Jimmy Gomez and Chris Holden

Re: Implementation of AB 1147

As authors of AB 1147, we carried this legislation in order to return broad control over land use to local governments in regulating massage establishments in the best interests of the individual community.

While the bill does not go into effect until January 1, 2015, many jurisdictions are considering, or are in the process of updating their ordinances. There have been numerous questions regarding what AB 1147 authorizes and what it prohibits. As authors of this bill, we have worked together with the League of California Cities, the California State Association of Counties, the American Planning Association, California Chapter and the California Police Chiefs Association to help answer some of these questions.

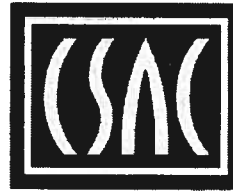
The answers to these questions are presented for informational purposes only and do not constitute legal advice from the organizations involved with putting together this document. Each jurisdiction should consult with its city attorney/county counsel to gain a complete understanding of AB 1147, its impact on the existing ordinances, and its legal authority to regulate massage therapy businesses.

Sincerely,

The Honorable Susan Bonilla
Assembly Member, 14th District

The Honorable Jimmy Gomez
Assembly Member, 51st District

The Honorable Chris Holden
Assembly Member, 41st District



FAQs with Regards to Implementation of AB 1147

The answers to these FAQs are presented for informational purposes only and do not constitute legal advice from the organizations involved with putting together this document. Each jurisdiction should consult with its city attorney/county counsel to gain a complete understanding of AB 1147, its impact on the jurisdiction's existing ordinances, and its legal authority to regulate massage therapy businesses. The provisions of AB 1147 take effect January 1, 2015.

1) Q: Is a massage business that only uses certified massage professionals exempt from local regulation?

A: No. Article XI, section 7 of the California Constitution as well as Business and Professions Code section 460(c), Government Code section 37101, Business and Professions Code 16000 and Government Code 51034 all recognize the authority of a city to regulate businesses that provide massage therapy services. Under AB 1147, cities and counties may regulate the business that provides the massage therapy services and California Massage Therapy Council (CAMTC) may regulate the individuals who apply for certification to provide massage therapy services. This division of authority and responsibility is reflected in the following statement of Legislative intent: "It is the intent of the Legislature that broad control over land use in regulating massage establishments be vested in local governments so that they may manage those establishments in the best interests of the individual community, and that the requirements and practice of the profession of massage remain a matter of statewide concern, regulation, and oversight" (Business & Professions Code 4600.5(b)).

2) Q. What limitations does AB 1147 impose on local regulation of certified massage professionals?

A. A local jurisdiction may not (1) prohibit a person of one sex from engaging in the massage of a person of the other sex; (2) define a massage establishment as an adult entertainment business, or otherwise regulate a massage establishment as adult entertainment; (3) require a massage establishment to have windows or walls that do not extend from the floor to ceiling or have other internal physical structures (such as windows) that interfere with a client's privacy; (4) impose client draping requirements or otherwise require clients to wear special clothing; (5) prohibit a massage establishment from locking its external doors if the business is owned by one individual with one or no employees; (6) require a massage establishment to post any notice in an area that may be viewed by clients that contain explicit sexual language; (7) require a person certified by CAMTC to take any test, medical examination, or background check; (8) require a person certified by CAMTC to get a license, permit, or other authorization to provide massage unless that person is a business owner; (9) impose a dress code stricter than that imposed by AB 1147; or (10) prohibit massage techniques permitted by CAMTC (Government Code 51034(c)).

3) Q: Can a jurisdiction require independent contractors, sole providers, and owners of a massage business to obtain a business license, massage permit, register with the police, or get a background check?

A: Yes. Under Government Code 51034(c)(8), a city may require a massage business owner, including a sole provider or independent contractor who is CAMTC certified, to obtain a business license, and/or massage permit or other entitlement to carry on the business of massage therapy. Independent contractors in the "business" of providing massage therapy can be regulated as a "business."

4) Q: As part of its regulation of massage therapy businesses, can a jurisdiction require the business owner to provide a current listing of its employees and independent contractors, their CAMTC certifications and other relevant information?

A: Yes. A jurisdiction's business regulation ordinance may require a business owner to submit a list of all of its employees and independent contractors, their certification status, and notify the local government when this information changes.

5) Q: Can a jurisdiction require a conditional use permit (CUP) for massage businesses?

A: Yes. Business and Professions Code 460(c) provides explicit authorization to adopt land use regulations pertaining to massage businesses. A jurisdiction may amend its zoning ordinance to require a CUP for a massage business. However, a jurisdiction may not impose conditions on the conditional use permit that would violate the provisions of Government Code 51034(c)(1)-(10) as described in Question No. 2. An application for a CUP for a massage business would be considered under the same procedures provided in the jurisdiction's zoning ordinances for other uses for which a CUP is required. Jurisdictions should review their zoning ordinances to determine whether a massage business in operation prior to January 1, 2015 is a lawful non-conforming use.

6) Q: Can a jurisdiction impose a restriction on the location of a massage business? i.e. 300 feet from a school, park etc.

A: AB 1147 gives local governments broad authority to use its Constitutional police power to select zoning districts that are most appropriate for massage. However, a jurisdiction may not define or otherwise regulate a massage establishment as "adult entertainment." A zoning ordinance that imposes a restriction on the location of a massage establishment such as 300 feet from a school or park will be reviewed under a "reasonable and not arbitrary" standard.

7) Q: Can a jurisdiction require individual massage therapists (who operate as employees) to obtain a business license, massage permit, register with the police, or get a background check?

A: No. A jurisdiction may not require an individual massage therapist who holds a certificate from CAMTC and operates as an employee to obtain any kind of license or permit or meet any other educational requirements, or to register with the police or submit to a background investigation (Government Code 51034(c)(8)).

8) Q: What is the best way to make sure that only CAMTC-certified massage professionals work in my jurisdiction?

A: AB 1147 separates the certification of massage therapists from the regulation of massage businesses. The certification of massage therapists is the responsibility of the CAMTC. The regulation of massage businesses is the responsibility of local jurisdictions. Therefore, the best way to make sure that only CAMTC-certified massage professionals work in a jurisdiction is to adopt an ordinance that requires massage businesses to use CAMTC-certified massage professionals only. Another way is to adopt an ordinance that prohibits a person from working in the jurisdiction as a massage therapist without a certificate issued by CAMTC. Because it's possible that the latter way might be interpreted as conflicting with the CAMTC's role in certifying massage therapists, we believe that imposing the restriction on the business is preferable.

9) Q: Can jurisdictions regulate the hours of operation of a massage business?

A: Yes. Jurisdictions can specify hours of operation based upon such factors as a commercial use in a residential neighborhood or other reasonable requirements.

10) Q: Can a jurisdiction prohibit a massage professional from working out of his or her home?

A: A jurisdiction can impose restrictions on massage professionals working out of their homes in the same manner that a jurisdiction regulates other professionals or business owners operating out of their homes. Some local governments regulate business owners operating from their homes through a home occupation permit.

11) Q: Can a jurisdiction limit the number of massage establishments in its jurisdiction?

A: A jurisdiction may limit the number of massage establishments in its jurisdiction if the jurisdiction is able to articulate a reasonable basis for the cap.

12) Q: Is a jurisdiction prohibited from requiring physical improvements, such as transparent exterior windows?

A: No. However, a list of physical improvements that may not be required is described in the answer to Question #2.

13) Q: Can a jurisdiction adopt regulations to prohibit a massage business from opening in the same location as a previous business with illegal activity?

A: Yes, if there is a reasonable basis for this regulation.

14) Q: Can a jurisdiction adopt regulations holding the owner accountable for the actions of its employees and independent contractors?

A: Yes. An ordinance regulating massage businesses may include a provision holding the business owner responsible for how the business is conducted by its employees or independent contractors. In addition, Business and Professions Code section 4607 provides that CAMTC may discipline an owner or operator of a massage business or establishment who is CAMTC-certified for the conduct of all individuals providing massage for compensation on the business premises.

15) Q: May a jurisdiction impose land use regulations on massage businesses that are different than those imposed on other professional services?

A: Yes. This is one of the most significant changes to the law made by AB 1147. Prior to AB 1147, jurisdictions were allowed to regulate businesses using certified massage professionals only to the extent that the jurisdiction uniformly applied those regulations to all other business professionals. This is no longer the law.

16) Q: Can a jurisdiction enter massage establishments and make reasonable inspections?

A: Yes. Jurisdictions can conduct reasonable inspections as part of its ordinance requirements as well as recover the reasonable costs of these inspections and other regulatory requirements.

17) Q: Is a conditional use permit fee of \$20,000-\$30,000 legal?

A: It depends. Fees, charges and rates are generally imposed in return for a specific benefit conferred or privilege granted. A local government has the authority to impose fees, charges and rates under its police power through California Constitution Article XI, §7. A fee may not exceed the estimated reasonable cost of providing the service or regulatory act for which the fee is charged. A fee that does exceed such cost may be considered a special tax. In addition, fees, charges and rates must be reasonable, fair and equitable in nature and proportionately representative of the costs incurred by the regulatory agency. AB 1147 includes the following statement of Legislative intent: "It is the intent of the Legislature that local governments impose and enforce only reasonable and necessary fees...."

18) Q: Can a jurisdiction prohibit condoms on the premises?

A: Yes. A jurisdiction can prohibit condoms on the premises of a massage establishment as a standard in its ordinance if there is a reasonable basis for this requirement.

19) Q: How can a jurisdiction handle a massage business that (after a police sting and surrender of the business license) transfers the business to another individual?

A: A jurisdiction may include in its ordinance a requirement that prohibits a massage business permit from being transferred without notice to and consent of the local government.

20) Q: Can a jurisdiction adopt and enforce a dress code for massage therapists?

A: Yes. AB 1147 includes certain restrictions on how certified massage therapists may dress. A jurisdiction may include those restrictions in its ordinance. Be aware, however, that a jurisdiction may not include stricter requirements for certified therapists. If dress code restrictions are included in a jurisdiction's ordinance, and an employee violates those restrictions, then the jurisdiction may enforce those provisions of its ordinance against the business as it determines appropriate. Violations of a municipal code may be enforced civilly, criminally, or through administrative enforcement. A jurisdiction is also encouraged to use the procedure outlined in question no. 23 to notify CAMTC of a violation.

12/03/2014

21) Q: What impact will AB 1147 have on existing massage businesses?

A: Each jurisdiction should carefully review the provisions of its municipal code regarding non-conforming uses of land and imposing new regulations on existing businesses.

22) Q: Can a jurisdiction impose a temporary moratorium on approval of massage businesses?

A: Yes. AB 1147 takes effect on January 1, 2015. State law allows a city to adopt an interim ordinance that prohibits otherwise allowed uses when those uses conflict with a pending land use study. Such a measure requires a 4/5 vote of the jurisdiction; must contain a finding that there is a current and immediate threat to the public health, safety or welfare; and may be adopted without following the notice and adoption procedures required for other ordinances. The measure has an initial duration of 45 days and may be extended as specified by Government Code 65858. Jurisdictions should exercise caution before imposing a temporary moratorium if they have previously adopted a moratorium on the approval of massage businesses.

23) Q: Is there a process for a jurisdiction to follow if it wishes to inform CAMTC that it believes that a certified massage therapist is in violation of state or local law?

A: Yes. A city is encouraged to report that information to CAMTC by going to CAMTC's homepage (www.camtc.org) and clicking on the link to "File a Complaint Against a CAMTC Certificate Holder."

24) Q: If a massage therapist with a CAMTC certificate is arrested for prostitution or violating the Sex Offender Registration Act, will his or her certificate be revoked?

A: If CAMTC receives notice that a certificate holder has been arrested and charges have been filed alleging prostitution or a violation of the Sex Offender Registration Act, the council is required to immediately suspend the certificate and notify the city or county in which the certificate holder lives or works of the suspension. If the person is convicted, the certificate is permanently revoked. If a certificate holder commits a different act that is punishable as a sexually related crime or otherwise violates provisions of AB 1147, CAMTC may (but is not required to) take disciplinary action including, for some violations, suspending the certificate.

25) Q: Who should jurisdictions report violations to?

A: Violations of local ordinances should be prosecuted administratively, civilly, or criminally in accordance with the provisions of the jurisdiction's municipal code. If a jurisdiction believes that a CAMTC certified massage therapist is violating state law, then the jurisdiction is additionally encouraged to inform CAMTC as described under question no.23.

26) Q. What prompts the inspection/investigation of a massage therapy school that could change the status to "unapproved"?

A: CAMTC explains that when it receives credible information alleging that the massage therapy school has violated one of the provisions of its Procedures for Un-Approval of Schools (available at www.camtc.org/Schools.aspx); this information prompts the investigation of a school. CAMTC also looks for anomalies or changing patterns in applications and transcripts that may warrant investigation.

27) How does CAMTC obtain the actual certificate of those persons whose certification has been suspended or revoked?

A: CAMTC explains that it requests that revoked certificate holders return their certificates and ID cards to CAMTC. In order to check whether a specific person has an active and valid CAMTC certificate, local jurisdictions can check the "Verify Certification" link on CAMTC's website.

28) Q. Does AB 1147 apply to massage therapists who do not have a CAMTC certificate?

A. No. AB 1147 only applies to massage therapists who have a CAMTC certificate. AB 1147 does not affect the authority of a city to regulate massage therapists who do not have CAMTC certificates or massage businesses who employ massage therapists who do not have CAMTC certificates.

Planning Commission
December 9, 2014
AZ 14-0004



CITY OF ESCONDIDO
PLANNING DIVISION
201 NORTH BROADWAY
ESCONDIDO, CA 92025-2798
(760) 839-4671

Notice of Exemption

To: San Diego County Recorder's Office
Attn: James Scott
1600 Pacific Highway #260
P.O. Box 121750
San Diego, CA 92112-1750

From: City of Escondido
Planning Division
201 North Broadway
Escondido, CA 92025

Project Title/Case No.: AZ 14-0004

Project Location - Specific: Citywide.

Project Location - City: Escondido

Project Location - County: San Diego

Description of Project:

To amend Section 16A of the Escondido Municipal Code, establish Article 38 of the Escondido Zoning Code, amend Article 16 of the Zoning Code (Commercial Zones), amend Article 39 of the Zoning Code (Off-Street Parking), amend the East Valley Parkway, South Escondido Boulevard Area Plans, and amend the Downtown Specific Plan to establish permitted locations, standards, definitions, and processing procedures for massage establishments in concert with recent state legislation effective in January 2015.

Name of Public Agency Approving Project: City of Escondido

Name of Person or Agency Carrying Out Project: City of Escondido: Telephone: (760) 839-4671
Address: 201 North Broadway, Escondido, CA 92025 ☒ Local public agency

Exempt Status: Categorical Exemption. Type and section number: 15061(b)(3), "General Rule."

Reasons why project is exempt:

1. The proposed Amendments to the Zoning Code and Municipal Code do not involve any physical modifications or lead to any physical improvements beyond those typically exempt. The Amendment involves only a modification to the permitted use matrix in various commercial sectors of the Zoning Code, establishing a new section in the Zoning Code pertaining specifically to massage establishments, and an amendment to the Municipal Code to ensure consistency.
2. There is no possibility that the proposed Amendments would have a significant effect on the environment, since they consist of text changes and a new section related to massage establishments. No physical modifications are proposed and no development standards are being modified. A separate environmental review would be required for any future projects, and they would be conditioned to comply with adopted development standards.
3. In staff's opinion the proposed amendments would have no impact on fish and wildlife resources, since no sensitive species or habitat would be impacted by the proposed provisions. The amendments involve language modifications to the Zoning Code and Municipal Code only and no physical or property zone changes are proposed.

Lead Agency Contact Person: Jay Petrek Area Code/Telephone/Extension (760) 839-4556

Signature: 
Assistant Planning Director

December 2, 2014
Date

☒ Signed by Lead Agency

Date received for filing at OPR: _____

☐ Signed by Applicant

PLANNING COMMISSION

Agenda Item No.: H.1
Date: December 9, 2014

CASE NUMBER: SIGN 14-0031 (Original File No. PHG 11-0007)

APPLICANT: ARCO AM/PM

LOCATION: 450 W. El Norte Parkway

TYPE OF PROJECT: Design Review for Freestanding Sign

PROJECT DESCRIPTION: A request for design review of a new freestanding menu-board sign proposed for the ARCO AM/PM carwash. The proposed sign structure would be 8 feet in height consisting of three separate sign panels with a total sign area of 33.5 SF.

STAFF RECOMMENDATION: Approval, as conditioned including additional landscaping

ZONING: Planned Development-Commercial (PD-C)

BACKGROUND: The City's Sign Ordinance establishes the maximum height and area for freestanding signs based on the size of the lot or commercial center, and the amount of freestanding signs allowed is based on the number of streets a business fronts onto. The ARCO AM/PM gasoline station/convenience store is situated on a 1.34-acre parcels and fronts onto El Norte Parkway and Iris Lane. Therefore, the business would be allowed two freestanding signs. One freestanding monument price/logo sign currently is located on the site. The maximum sign area allowed with staff approval for a lot between 1 and 3 acres is 30 SF and a height of 6 feet. The Zoning Code allows for larger freestanding signs (up to 100 SF and 15 feet in height) but requires Planning Commission approval. Drive-through businesses also are allowed two additional menu/price signs up to 6 feet in height and 32 SF in area.

The ARCO AM/PM gas station/convenience store originally was approved in 1997 as part of a larger Master Development Plan (City File No. 97-24-PD) and modified in 2011 (PHG 11-0007) to allow an automated carwash on the site. The carwash has been completed, but the plans did not include provisions for a pay station or menu board/sign. The project applicant has submitted plans to install a small automated pay station kiosk along with an approximately 8.5-foot-high freestanding lighted metal canopy designed to shade the east-facing pay station during morning and mid-day hours. A vehicle height clearance bar also has been incorporated into the canopy. The pay station equipment pad and canopy have been approved at the staff level. However, the plans also include an 8-foot-high, 33.5 SF freestanding menu-board sign that contains three separate internally lit box-type panels that would list available carwash options and promotions. Because the menu-board sign is slightly larger (2-feet taller and 1.5 SF larger) than can administratively be approved, design review approval by the Planning Commission is necessary. Although the individual menu-board sign is slightly larger than allowed at the staff level, it would not exceed the total overall signage (freestanding and wall signs) that would be allowed for the entire facility.

DISCUSSION: Article 64 of the Escondido Zoning Code establishes standards for review of signs and indicates that a sign should harmonize with and be subordinate to the building it services, and be appropriately sized in mass and height to maintain a scale suitable to pedestrians, the mass of the buildings, and the area in which it is located. The proposed pay station kiosk, canopy and menu-board sign would be situated within a landscape island along Iris Lane in front of the carwash entrance. The proposed new menu sign only would be single faced and orient inward towards the gas station. It is not designed to attract customers along the adjacent streets. Because the sign is single-faced, additional landscaping (appropriate height shrubs) would be planted around the entire pay station/kiosk pad area to supplement the existing landscaping, which would screen the back of the sign panels facing Iris Lane. The applicant indicated similar panel type signs could be installed on the walls of the carwash near the entrance, but the approach area drive aisle is too far away from the pay station kiosk to be easily readable or convenient for customers. Staff feels the proposed sign's design and materials would be compatible with the overall mass and scale of the existing carwash building, gasoline station canopy and convenience store. Therefore staff is recommending approval of the menu-board sign with the installation of additional landscaping around the entire pay station area and subject to the recommended conditions listed below. The

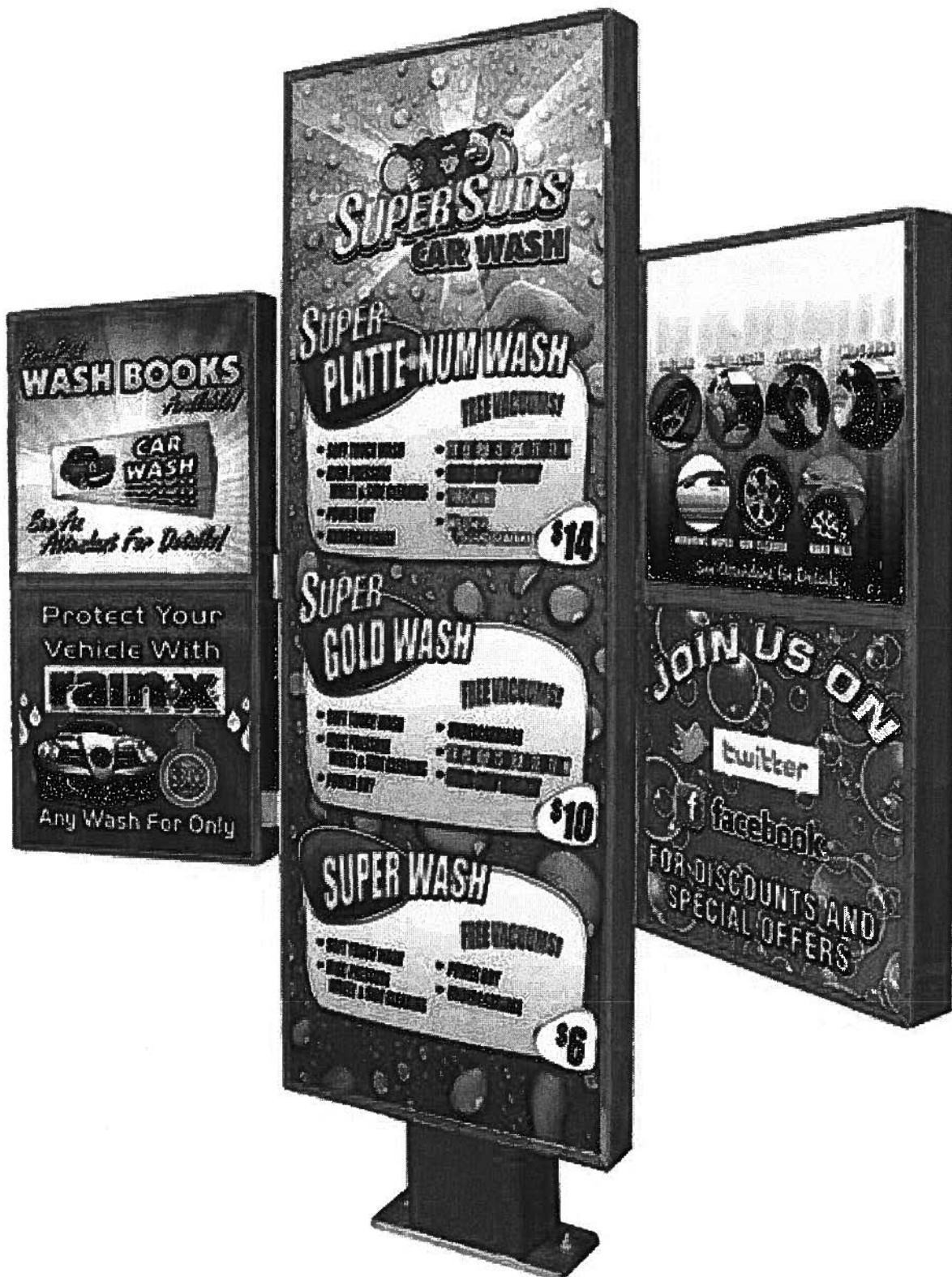
applicant feels with the new canopy and sign would similar to other canopies and menu boards located throughout Escondido.

1. The menu board sign only shall display the carwash options and promotions related to operation of the carwash. The sign shall not contain any advertising for alcoholic or tobacco products.
2. Additional landscaping shall be installed around the pay station and menu board/sign pad area. Appropriate medium to tall shrubs shall be used to complement the existing landscaping. The landscaping shall be shown on the sign plan/building plans for the project.
3. A separate sign plan (with the appropriate fee) shall be submitted to the Planning Division for review and approval.
4. No advertising type signage shall be attached to the pay station canopy or support poles.

Respectfully Submitted,

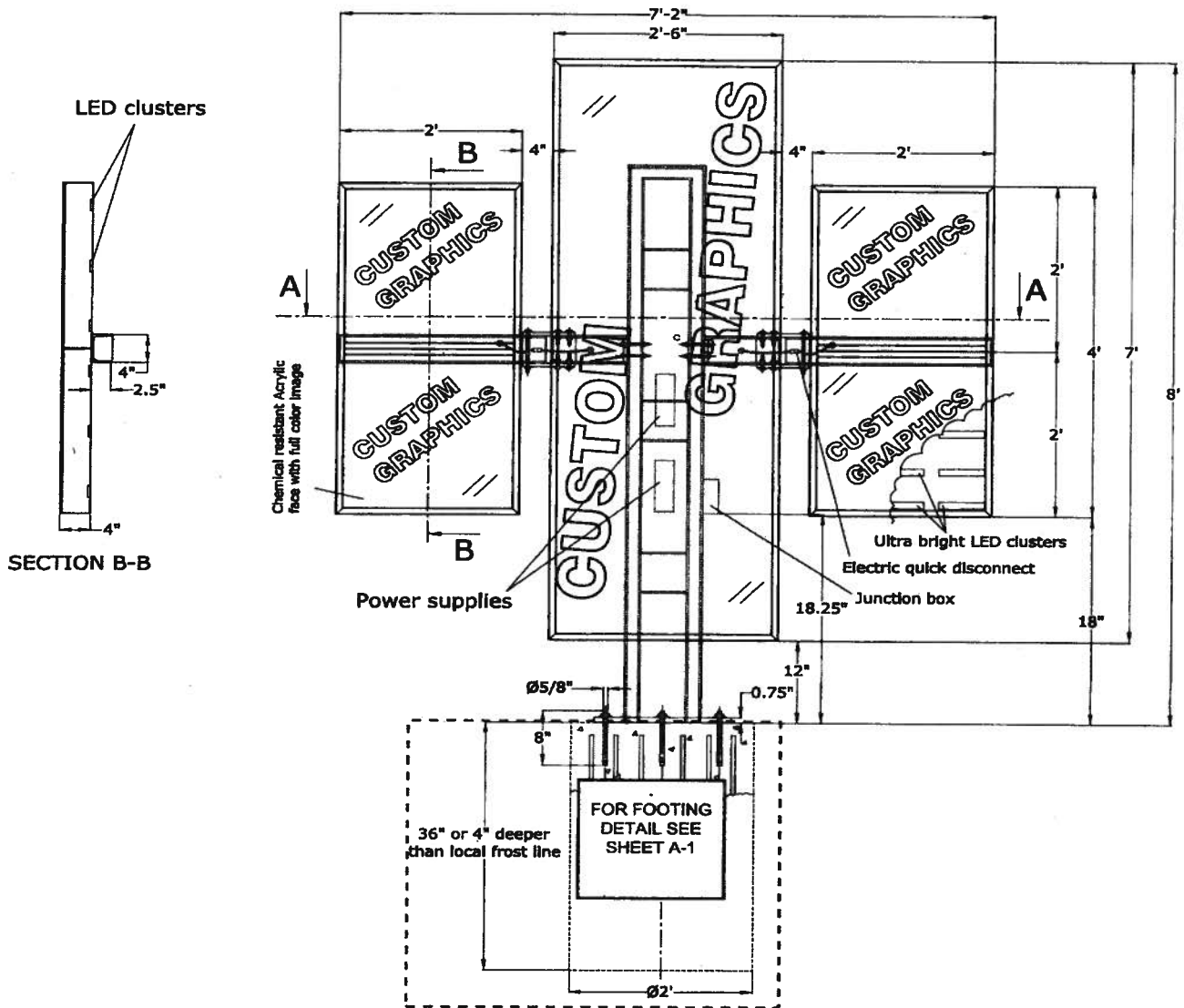


Jay Paul
Associate Planner



EXAMPLE - SIGN COPY MAY VARY

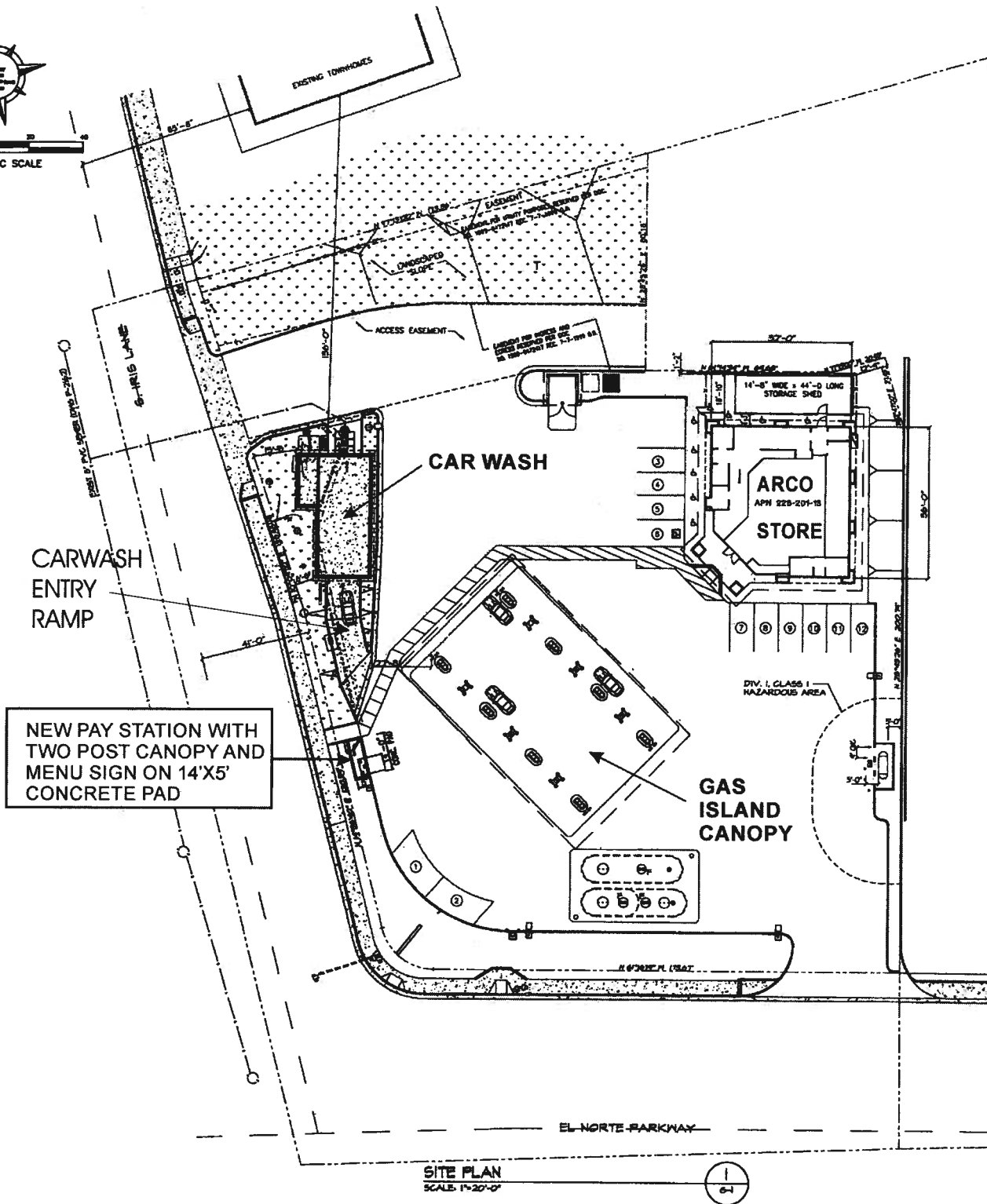
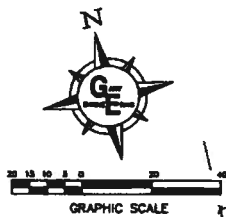
PROPOSED PROJECT
PHG 11-0007



PROPOSED MENU BOARD/SIGN

PROPOSED PROJECT
PHG 11-0007



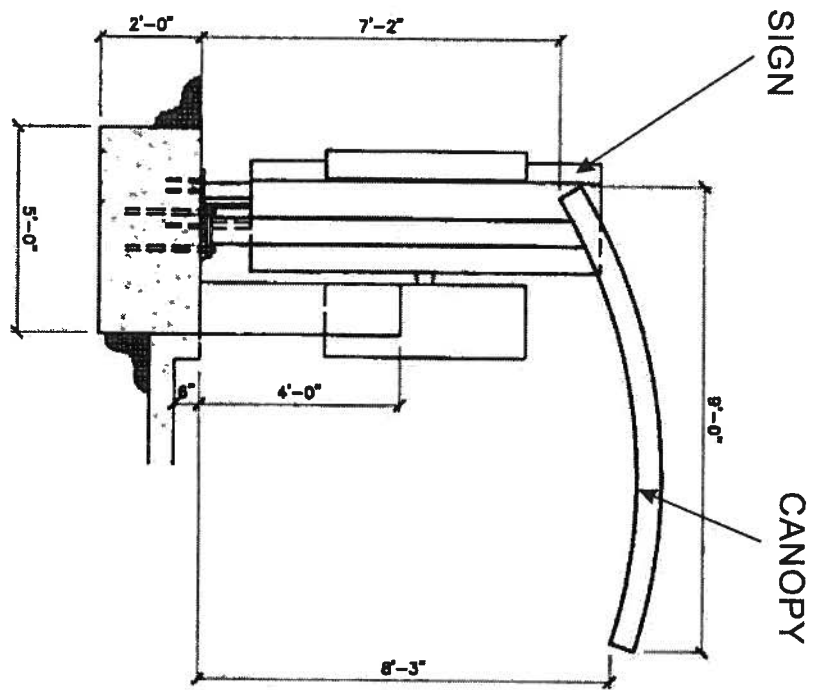


PROPOSED PROJECT PHG 11-0007



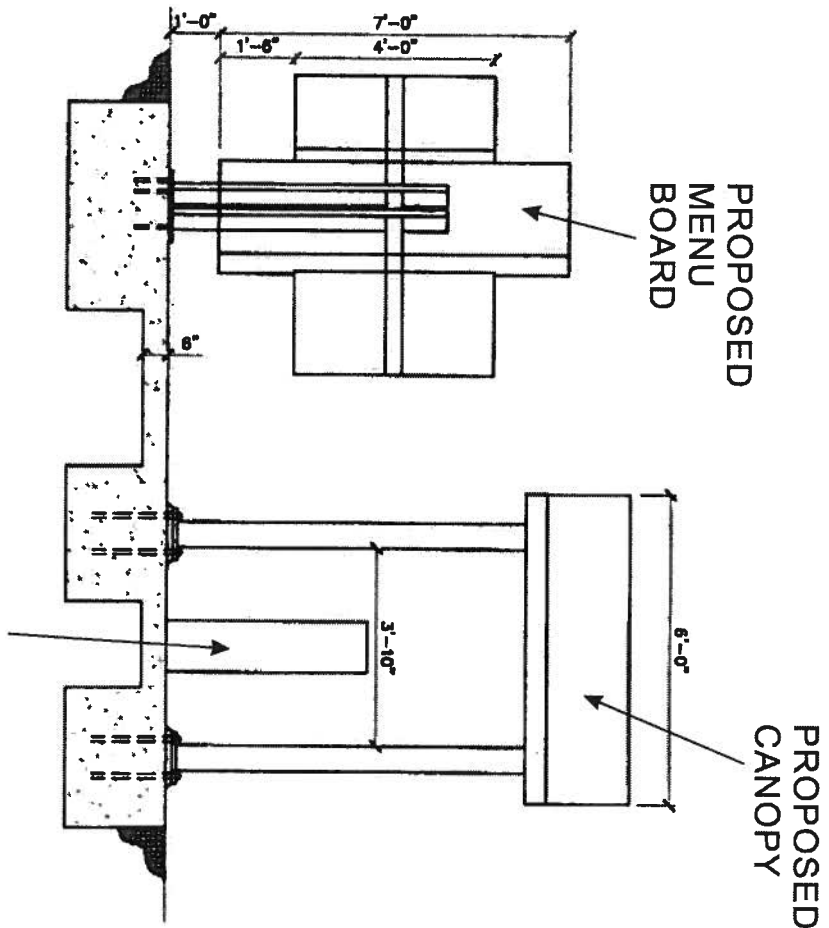
SITE PLAN





END ELEVATION

2
A-1



REAR ELEVATION

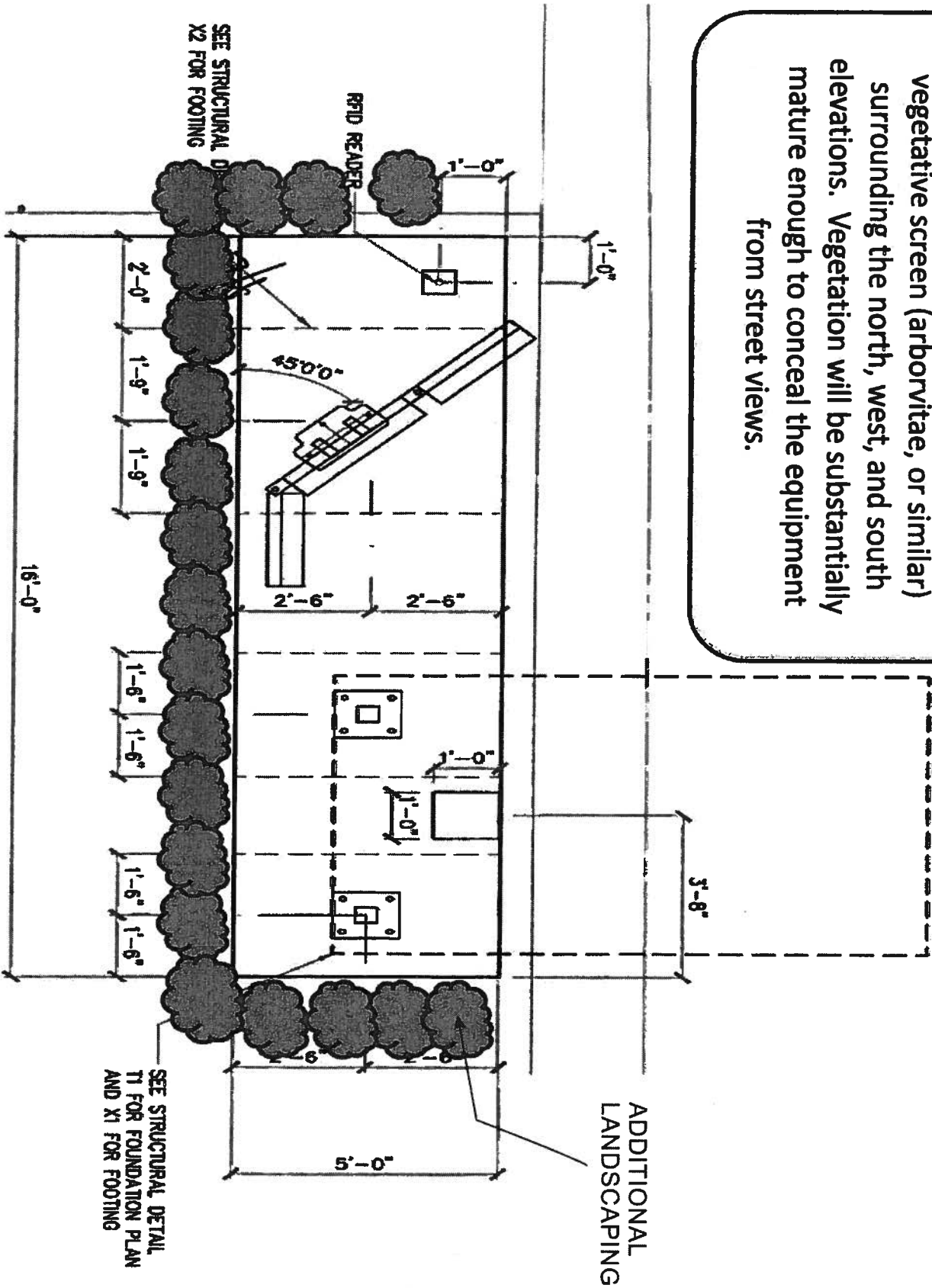
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A-1

PROPOSED
PAY STATION
PORTAL

PROPOSED PROJECT
PHG 11-0007



Plan view of equipment pad with proposed vegetative screen (arborvitae, or similar) surrounding the north, west, and south elevations. Vegetation will be substantially mature enough to conceal the equipment from street views.



**PROPOSED PROJECT
PHG 11-0007**



LANDSCAPE PLAN