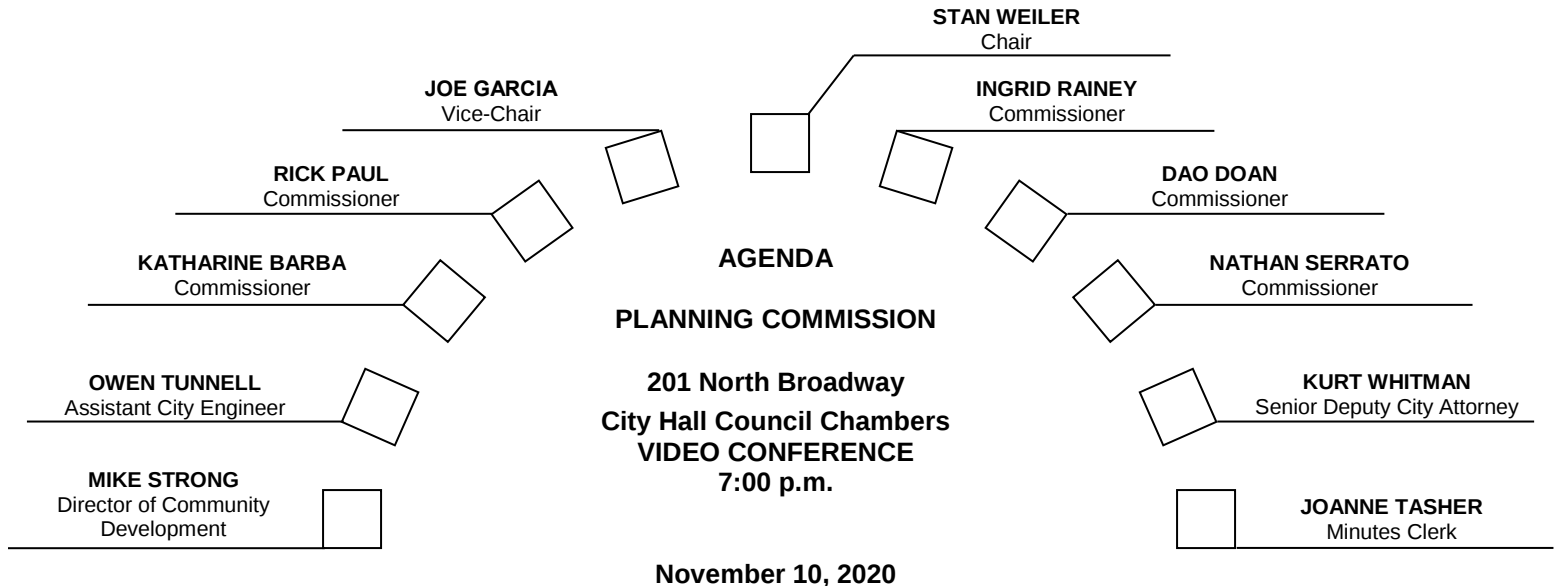


# CITY OF ESCONDIDO

## Planning Commission and Staff Seating



- A. CALL TO ORDER:** 7:00 p.m.
- B. FLAG SALUTE**
- C. ROLL CALL:**
- D. MINUTES:** 10/27/20

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 Chair.

Pursuant to Governor Newsom's Executive Orders, including N-25-20 and N-29-20: Certain Brown Act requirements for the holding of a public meeting have been temporarily suspended and members of the Zoning Administrator and staff will participate in this meeting via teleconference. In the interest of reducing the spread of COVID-19, members of the public are encouraged to submit their agenda and non-agenda comments online at the following link <https://www.escondido.org/public-comment-form.aspx>. Council Chambers will be closed, no public allowed.

Public Comment: To submit comments in writing, please do so at the following link: <https://www.escondido.org/public-comment-form.aspx>. If you would like to have the comment read out loud at the meeting (not to exceed three minutes), please write "Read Out Loud" in the subject line. All comments received from the public will be made a part of the record of the meeting. The meeting will be available for viewing via public television on Cox Communications Channel 19 (Escondido only). The meeting will also be live streamed online at the following link: <https://www.escondido.org/> and click on the graphic showing "live stream - meeting in progress".

To watch the archived Planning Commission meeting(s) please visit:  
<https://escondido.12milesout.com/presentations/boards-and-commissions-and-state-of-the-city-videos>

**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 3 minutes.**

**1. TENTATIVE SUBDIVISION MAP AND CONDOMINIUM PERMIT – SUB 20-0002 and PHG 20-0019:**

REQUEST: The project is a Tentative Subdivision Map and Condominium Permit for ten (10) for-sale townhome units and associated amenities. Townhomes will be configured as five (5) duplexes. Each unit will have two (2) stories, three (3) bedrooms and 2.5 bathrooms, and a private two (2)-car garage. The project includes a request for a density bonus per the provisions of the California Density Bonus Law (Government Code Section 65915), including waivers from development standards for open space and setbacks, and a parking reduction that would preclude guest parking. The project is eligible for this density bonus because all units will be sold to low-income households (i.e., households with income not exceeding 80% of the Area Median Income). The proposal also includes the adoption of the environmental determination prepared for the project.

PROPERTY SIZE AND LOCATION: The project site is 0.6 acres in size and is located at 245 East El Norte Parkway (APN # 229-040-14).

ENVIRONMENTAL STATUS: The project is categorically exempt from CEQA pursuant to CEQA Guidelines section 15332, "In-Fill Development Projects." This exemption is applicable when the proposed development is consistent with the applicable general plan designation, general plan policies, and zoning designation and regulations; occurs within city limits on a site of no more than five (5) acres substantially surrounded by urban uses; has no value as habitat for endangered, rare, or threatened species; would not result in significant effects to traffic, noise, air quality, or water quality; and can be adequately served by required utilities and public services.

APPLICANT: Habitat for Humanity

STAFF RECOMMENDATION: Approval to City Council

COMMISSION ACTION:

PROJECTED COUNCIL HEARING DATE:

**2. MASTER AND PRECISE DEVELOPMENT PLAN MODIFICATION – PL 20-0601:**

REQUEST: A Master and Precise Development Plan modification to install gates and fencing along at an existing 126-unit multi-family apartment project. The project would include the installation of security gates across all three project driveways. The two driveways along W. Valley Parkway would change to one-way driveways, with the eastern driveway enter-only and the western driveway exit-only. The driveway on W. Grand Avenue would continue to provide two-way access (enter and exit). Fencing and man-gates connecting to existing structures and fences would be installed, as would a fence along the east side of an existing pedestrian pathway leading from W. Grand Avenue to W. Valley Parkway. All gates would be electric. Residents would be provided with remotes for site access, and callboxes would be installed for guest access. Up to 8 parking spaces would be removed in order to accommodate installation of the gates. The proposal also includes the adoption of the environmental determination prepared for the project.

PROPERTY SIZE AND LOCATION: The 2.6 acre project site is located between W. Valley Parkway and W. Grand Avenue, immediately east of the NCTD railroad right-of-way and directly across W. Valley Parkway from the Escondido Transit Center. The property is addressed as 700 – 730 W. Grand Avenue.

ENVIRONMENTAL STATUS: The project is exempt from environmental review pursuant to Section 15301 (Existing Facilities) of the State CEQA Guidelines.

APPLICANT: Lyon Living

STAFF RECOMMENDATION: Conditional Approval

COMMISSION ACTION:

PROJECTED COUNCIL HEARING DATE:

**3. ZONING CODE AMENDMENT – PL 20-0636:**

REQUEST: A series of Escondido Municipal Code and Zoning Code Amendments to address changes in state laws, correct errors, and clarify or improve existing regulations. The proposal involves minor amendments to Article 1 of Chapter 32 of the Municipal Code; and Article 1 (General Provisions and Definitions), Article 6 (Residential Zones), Article 16 (Commercial Zones), Article 26 (Industrial Zones), Article 39 (Off-Street Parking), Article 40 (Historical Resources), Article 57 (Miscellaneous Use Restrictions), Article 70 (Accessory Dwelling Units) of the Escondido Zoning Code. The proposal also includes the adoption of the environmental determination prepared for the project.

PROPERTY SIZE AND LOCATION: Citywide

ENVIRONMENTAL STATUS: The project is exempt from environmental review pursuant to CEQA Section 2080.17 and CEQA Guidelines sections 15301, 15304, 15282(h), and 15061(b)(3).

APPLICANT: City of Escondido

STAFF RECOMMENDATION: Approval to City Council

COMMISSION ACTION:

PROJECTED COUNCIL HEARING DATE:

**H. ITEMS CONTINUED FROM OCTOBER 27, 2020:**

**1. CLIMATE ACTION PLAN UPDATE – PHG 18-0009:**

REQUEST: The Climate Action Plan Update (“CAP Update”) consists of a comprehensive update to the 2013 CAP. The CAP update serves as a roadmap for the City to reduce citywide greenhouse gas emissions (“GHG emissions”) and builds on the 2013 CAP by updating the GHG emissions inventory with a new baseline year and forecasting emissions, consistent with state legislation and executive orders that are aimed at reducing Statewide GHG emissions. This includes AB 32, which established a target of reducing Statewide GHG levels to 1990 levels by 2020; SB 32, which established a mid-term target of reducing Statewide GHG levels to 40 percent below 1990 levels by 2030; and Executive Order S-3-05, which recommends a longer-term statewide GHG reduction goal of reducing emissions to 80 percent below 1990 levels by 2050. By establishing consistency with state legislation, the CAP Update seeks to streamline future development approvals within the City. The City has also developed a Climate Action Plan Consistency Review Checklist, in conjunction with the CAP Update, to provide a streamlined review process for proposed new development projects that are subject to discretionary review and trigger environmental review pursuant to CEQA. The CAP Update also provides a range of adaptation strategies and measures as an additional component to climate action planning. The City recognizes the importance of building resilience in the community to future climate change—related impacts through climate adaptation. Through “adaptation planning” the City is undertaking a process of identifying climate risks and opportunities, assessing the options to manage these risks and opportunities, and implementing actions to sustain and even improve the community’s quality of life. The Planning Commission will be asked to review and consider the project and provide a recommendation to the City Council. The proposal also includes the adoption of the environmental determination prepared for the project.

PROPERTY SIZE AND LOCATION: Citywide

ENVIRONMENTAL STATUS: A Draft Initial Study/Mitigated Negative Declaration (“IS/MND”) was issued for a 30-day public review, beginning on July 1, 2020, and ending July 31, 2020, in conformance with the California Environmental Quality Act (“CEQA”). The IS/MND incorporates mitigation measures that will avoid or mitigate impacts related to cultural/tribal cultural resources to a less than significant level.

APPLICANT: City of Escondido

STAFF RECOMMENDATION: Approval to City Council

COMMISSION ACTION:

PROJECTED COUNCIL HEARING DATE:

**I. CURRENT BUSINESS:**

Note: Current Business items are those that 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.

**J. 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.

**K. PLANNING COMMISSIONERS**

**L. ADJOURNMENT**

**CITY OF ESCONDIDO**

**ACTION MINUTES OF THE REGULAR MEETING OF THE  
ESCONDIDO PLANNING COMMISSION  
VIDEO/VIRTUAL CONFERENCE**

**October 27, 2020**

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

**Commissioners present:** Stan Weiler, Chair; Joe Garcia, Vice-Chair, Katharine Barba, Commissioner; Dao Doan, Commissioner; Rick Paul, Commissioner; Ingrid Rainey, Commissioner; and Nathan Serrato, Commissioner.

**Commissioners absent:** None.

Introduction of the new Planning Commissioner, Nathan Serrato.

**Staff present:** Mike Strong, Director of Community Development; Kurt Whitman, Senior Deputy City Attorney; Owen Tunnell, Assistant City Engineer; and Kirsten Peraino, Minutes Clerk.

**MINUTES:**

Moved by Commissioner Paul and seconded by Commissioner Barba to approve the Action Minutes of the October 13, 2020 Planning Commission meeting with the changes as discussed by Chair Weiler and Commissioners Rainey and Paul. Motion carried 5-0-2; Garcia and Serrato abstained.

**WRITTEN COMMUNICATIONS:** Received.

**FUTURE NEIGHBORHOOD MEETINGS:** None.

**ORAL COMMUNICATIONS:** None.

**PUBLIC HEARINGS:**

**1. CLIMATE ACTION PLAN UPDATE – PHG 18-0009:**

REQUEST: The Climate Action Plan Update (“CAP Update”) consists of a comprehensive update to the 2013 CAP. The CAP update serves as a roadmap for the City to reduce citywide greenhouse gas emissions (“GHG emissions”) and builds on the 2013 CAP by updating the GHG emissions inventory with a new baseline year and forecasting emissions, consistent with state legislation and executive orders that are aimed at reducing Statewide GHG emissions. This includes AB 32, which established a target of reducing Statewide GHG levels to 1990 levels by 2020; SB 32, which established a mid-term target of reducing Statewide GHG levels to 40 percent below 1990 levels by 2030; and Executive Order S-3-05, which recommends a longer-term statewide GHG reduction goal of reducing emissions to 80 percent below 1990 levels by 2050. By establishing consistency with state legislation, the CAP Update seeks to streamline future development approvals within the City. The City has also developed a Climate Action Plan Consistency Review Checklist, in conjunction with the CAP Update, to provide a streamlined review process for proposed new development projects that are subject to discretionary review and trigger environmental review pursuant to CEQA. The CAP Update also provides a range of adaptation strategies and measures as an additional component to climate action planning. The City recognizes the importance of building resilience in the community to future climate change—related impacts through climate adaptation. Through “adaptation planning” the City is undertaking a process of identifying climate risks and opportunities, assessing the options to manage these risks and opportunities, and implementing actions to sustain and even improve the community’s quality of life. The Planning Commission will be asked to review and consider the project and provide a recommendation to the City Council. The proposal also includes the adoption of the environmental determination prepared for the project.

**PROPERTY SIZE AND LOCATION:** Citywide

ENVIRONMENTAL STATUS: A Draft Initial Study/Mitigated Negative Declaration ("IS/MND") was issued for a 30-day public review, beginning on July 1, 2020, and ending July 31, 2020, in conformance with the California Environmental Quality Act ("CEQA"). The IS/MND incorporates mitigation measures that will avoid or mitigate impacts related to cultural/tribal cultural resources to a less than significant level.

STAFF RECOMMENDATION: Approval to City Council

PUBLIC SPEAKERS (SUBMITTED WRITTEN COMMENTS):

**Aisha Wallace-Palomares**, submitted comments in favor of the CAP.

**Richard Halsey**, submitted comments in favor of the CAP.

**Mathew Vasilakis**, submitted comments in favor of the CAP.

**David Robertson**, submitted comments in favor of the CAP.

COMMISSIONER DISCUSSION

The Commissioners discussed many aspects of the Climate Action Plan.

COMMISSION ACTION:

A public hearing was held, after which Chair Weiler closed the public hearing. After some discussion on the matter, a motion to postpone the agenda item was brought and approved 7-0. Pursuant to the approved motion, the discussion of this matter will continue at the next Planning Commission Meeting scheduled for November 10, 2020, at which time Director Strong will provide recommendations on the two letters of Written Communication that were received by the Commissioners on October 27, 2020.

CURRENT BUSINESS: None.

ORAL COMMUNICATIONS:

Announcement that this was Kirsten Peraino's last meeting.

Welcome to the new Planning Commissioner Nathan Serrato.

**PLANNING COMMISSIONERS:** None.

**ADJOURNMENT:** Chair Weiler adjourned the meeting at 10:18 p.m. to the next regularly scheduled Planning Commission meeting to be held at 7:00 p.m. on Tuesday, November 10, 2020, in the City Council Chambers via video conference, 201 North Broadway Escondido, California.

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Mike Strong, Secretary to the  
Escondido Planning Commission

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Joanne Tasher, Minutes Clerk

## PLANNING COMMISSION

Agenda Item No.: G.1  
Date: November 10, 2020

**PROJECT NUMBER / NAME:** SUB 20-0002 and PHG 20-0019 / Habitat for Humanity 10-Unit Townhomes

**REQUEST:** A Tentative Subdivision Map and Condominium Permit for ten (10) condominiums and associated amenities. All units in the development would be for sale to households qualifying as “low income”, with an income between 50 and 80 percent of the Area Median Income (“AMI”), and the Project includes a density bonus per the provisions of the State of California Density Bonus Law. Units would be configured as semi-attached homes, and each unit would be two (2) stories, with three (3) bedrooms, 2.5 bathrooms, approximately 1,245 square feet of living space, and a private two (2)-car garage. Each unit would have private open space at the rear, and a common amenity area would be located at the middle of the site, with seating, garden boxes, barbeque, and pet station.

**LOCATION:** 245 East El Norte Parkway

**APPLICANT:** Ryan Waufle, PLSA

**APN / APNS:** 229-040-14

**PRIMARY REPRESENTATIVE:**  
Roxann Janes, San Diego Habitat  
for Humanity

**GENERAL PLAN / ZONING:** U-2 (Urban II) / R-  
2-12 (Light Multiple Residential)

**DISCRETIONARY ACTIONS REQUESTED:** Tentative Subdivision Map and Condominium Permit

**PREVIOUS ACTIONS:** City Council Resolution No. 2019-188, to preliminarily authorize \$1,000,000 in HOME funds to San Diego Habitat for Humanity for the development of the Project site with affordable housing.

**PROJECT PLANNER:** Ann Dolmage, Associate Planner, [adolmage@escondido.org](mailto:adolmage@escondido.org)

**CEQA RECOMMENDATION:** The Project is categorically exempt from CEQA pursuant to CEQA Guidelines section 15332, “In-Fill Development Projects.”

**STAFF RECOMMENDATION:** Recommend approval by the City Council, as conditioned

**REQUESTED ACTION:** Approve Planning Commission Resolution No. 2020-15

**CITY COUNCIL HEARING REQUIRED:** ☒ YES ☐ NO

**REPORT APPROVALS:** ☒ Mike Strong, Community Development Director

**A. BACKGROUND:**

The Project site is vacant and no records show that it has ever been developed. In 2016, an application was filed for Plot Plan approval of six (6) apartments, under ADM 16-0067. That application was subsequently withdrawn. In 2018, staff conducted a pre-application meeting with another potential applicant interested in constructing seven (7) apartment units on the site, but no formal application followed that meeting.

On March 21, 2019, the Housing and Neighborhood Services Division released a Request for Proposals (“RFP”), inviting organizations to request funding for the provision of affordable rental housing or first-time homebuyer opportunities, through the rehabilitation of blighted properties or the acquisition of long-term affordability covenants. In response to this RFP, San Diego Habitat for Humanity (“Habitat”) submitted a proposal for the development of 245 East El Norte Parkway with for-sale condominiums, to be sold exclusively to low-income households.

On July 17, 2019, City Council authorized a seed money loan to Habitat in the amount of \$15,000 to determine the viability of developing the Project site with the proposed multi-family development. The loan was made possible with funds from HOME, a program of the United States Housing and Urban Development (“HUD”). HOME provides grants to states and local governments to implement activities (often in partnership with local non-profit organizations) that will create affordable housing for low- and very low-income households.

On December 18, 2019, City Council adopted Resolution No. 2019-188 to authorize the Director of Community Development to preliminarily commit \$1,000,000 in HOME funds to Habitat for the acquisition of 245 East El Norte Parkway and the construction of ten (10) condominium units, and to authorize the Mayor and City Clerk to execute any necessary loan agreements. (This \$1,000,000 included the \$15,000 that had previously been loaned to Habitat as seed money.) Although these funds have been programmed for a specific purpose, this preliminary allocation does not irrevocably commit the City to approving the Project. The developer is still required to perform all requisite steps associated with a land use development application, including compliance with the California Environmental Quality Act (“CEQA”).

On February 3, 2020, Habitat submitted an application to the Planning Division for a Tentative Subdivision Map and Condominium Permit. These land use development applications comprise Planning Case File No. SUB 20-0002 and PHG 20-0019, respectively.

**B. PROJECT ANALYSIS:**

**1. General Plan / Zoning**

The Project site has a General Plan land use designation of Urban II (U-2), which allows multi-family residential uses at a density up to 12 (twelve) units per acre, with no minimum density.

The General Plan states that projects close to the upper limit in density are appropriate adjacent to parks and open space; along transit route and major and secondary thoroughfares; near shopping centers, recreational activity centers, entertainment areas, and libraries; and near areas of existing or planned high density, such as a mixed-use district. The Project site is located on East El Norte Parkway near the intersection with North Broadway. Both of these routes are classified as Major Roads in the General Plan, and provide access to several North County Transit District (“NCTD”) bus lines. Commercial services are available in close proximity to the Project site, including a shopping center at El Norte Parkway and North Centre City Parkway that includes a major supermarket, drug store, and various other retailers and restaurants. Several multi-family developments currently exist in the area, including Avocado Court (apartments) and Skylark Terrace (condominiums) on El Norte, and Villa La Paz (condominiums) on Broadway.

The zoning classification of the Project site is Light Multiple Residential or R-2, with an allowed density of up to twelve (12) units per acre. While the R-2 district does allow multi-family projects, it is intended for lower-height, lower-density development in close proximity to single-family residential neighborhoods. The Project site is bordered by single-family housing on both the east and west sides (one single-family home on an R-2 lot on the west side, and a large neighborhood with single-family zoning on the east side).

Per the densities allowed by the General Plan and Zoning Code, the 0.6-acre Project site would accommodate up to seven (7) units for a standard multi-family development. However, the Project includes a density bonus request per the State of California Density Bonus Law (“State Density Bonus Law”), bringing the total units requested to ten (10). Further explanation of the terms of this law and its applicability to the Project is provided in the next section.

The Housing Element portion of the General Plan identifies strategies and programs that focus on the following goals:

- Conserving and improving existing affordable housing,
- Providing adequate housing sites,
- Assisting in the development of affordable housing,
- Removing governmental and constraints to housing development, and
- Promoting fair housing opportunities.

The proposed Project would add ten (10) low-income housing units to Escondido’s stock, helping the City to meet its legally-mandated housing allocations, and providing opportunities for families below the income levels described here to become homeowners. For 2020, the AMI for San Diego County is \$92,700 for a household of four (4) people, and the upper income limit to qualify for low-income housing is \$92,400 for the same household size. (This upper limit for the low-income category is not a straight 80 percent calculation of the AMI, because HUD makes adjustments when housing costs for the overall region are high).

## **2. Affordable Housing and Density Bonus Request**

The State Density Bonus Law (California Government Code, Sections 65915–65918) grants a development project a higher density than normally allowed by the applicable zoning regulations when that project includes provisions for affordable housing. The amount of the density increase depends on the percentage of the project that will be affordable as well as the level of affordability. For a project where at least 20 percent of the units are designated for low-income households, a density bonus up to 35 percent may be applied.

The Project site allows for 7.2 units at its base density of 12 units per acre. A fractional unit is not possible, so if this proposal had included no affordable housing (and therefore no density bonus), the allowed yield would be rounded down to seven (7) units. Because 100 percent of these units would be sold to low-income buyers, the Project qualifies for a 35 percent density bonus. The State Density Bonus Law allows all density calculations to be rounded up, so the Project's revised base density is (8) units, and 35 percent of that base density is 2.8 units, which is also rounded up to three (3) units. The applicant is therefore eligible for up to eleven (11) units on the site per law, but is proposing to construct ten (10) units.

The State Density Bonus Law is a mandate, and any developer who meets the requirements of the law is entitled to receive the density bonus and other benefits as a matter of right. The State Density Bonus Law allows an applicant proposing affordable housing units to request waivers from local development standards where these standards would physically preclude the construction of a project at the permitted density. There is no limit on the number of development standard waivers that may be requested or granted for a project. Habitat is requesting the following waivers as part of the density bonus application, with the justification that the project site could not accommodate ten (10) units as allowed by the State Density Bonus Law if the waivers were not included.

- Open Space – The Escondido Zoning Code requires multi-family projects in the R-2 zone to provide 400 square feet of usable open space for each unit, plus an additional 200 square feet for each unit, for each bedroom over one (1). In other words, a three (3)-bedroom unit is responsible for 800 square feet of open space. The Project proposes to provide 450 square feet of usable open space per unit, in the form of private yards/patios and a common amenity area.
- Setbacks – The Escondido Zoning Code requires a minimum 15-foot front setback and a minimum 15-foot rear setback for the R-2 zone. The Project proposes a 10-foot front setback and five (5)-foot rear setback.

### 3. Fiscal Analysis

Community Facilities District (“CFD”) No. 2020-1 was formed by City Council on May 13, 2020. This CFD levies a special tax on new residential developments obtaining entitlement approval after the CFD formation date, to offset the cost of government services associated with this development.

On July 28, 2020, the Applicant signed a Unanimous Approval Form indicating agreement to annex into CFD No. 2020-01, Zone 2020-2. The annexation was approved at the City Council meeting on September 16, 2020. The annual special tax for this Project will be \$743.00 per unit (\$7,430.00 for all units) for Fiscal Year 2020/2021. This tax will be subject to yearly increases, at the maximum rate of inflation as determined by the Consumer Price Index (“CPI”) and at a minimum rate of two (2) percent per year.

### 4. Noise

The Project site is located on a Major Road per the General Plan’s Circulation Element, and experiences street noise, per noise contours provided in Figure VI-17 of the Community Protection Element (which is supported by noise data tables in the General Plan’s Environmental Impact Report). General Plan Noise Policy 5.2 states the following:

*“Apply a CNEL of 60 dB or less for single family and 65 dB or less for multi-family as goals where outdoor use is a major consideration (back yards in single family housing developments, and recreation areas in multifamily housing developments) as discussed in Figure VI-13, and recognize that such levels may not necessarily be achievable in all residential areas.”*

The noise contours in the General Plan indicate that the 65 dB contour along this portion of El Norte Parkway is located 101 feet from the centerline of the street, or 50 feet from the front property line of the Project site. Therefore, all proposed units within 50 feet of the front property line could experience outdoor noise levels exceeding a CNEL of 65 dB. Per the site plan, this would include Unit 1 and its associated yard, as well as Unit 2 and most of its associated yard.

The above language from the General Plan implies that while this Project includes private yards for each unit, its multi-family status means that the 65 decibel (dB) noise limit applies only to the common amenity area, which will be located approximately 150 feet from the front property line and behind three (3) structures, and therefore shielded by the street (and outside of the 65 db contour). Additionally, Figure VI-13 in the Community Protection Element states that the 60 or 65 dB noise standard should not be applied to patios or balconies associated with residential uses; for most of the proposed units, a patio will occupy a substantial portion of the private yard.

The information in the previous paragraph notwithstanding, the Housing and Neighborhood Services Division completed an “Environmental Assessment- Determinations and Compliance Findings for HUD-Assisted Projects (24 CFR Part 58)” before awarding federally-sourced loan money to Habitat as described earlier in this report. The purpose of this assessment was to ensure that the Project would conform to HUD development requirements. The document notes that HUD considers an outdoor noise level of 65 dB to be acceptable for residential developments (24 CFR Part 51, Subpart B), and states that the Project should include an eight (8)-inch thick block wall “along the exterior yard” to provide noise attenuation for the rear yards of the units closest to the street. (A wall height and precise location was not noted.)

Therefore, the Project has been conditioned to require the private yard area for Unit 1 to be enclosed on its west, north, and east sides with a solid block wall six (6) feet in height and eight (8) inches thick. This wall shall also extend southward to encompass the east side of the yard behind Unit 2.

Further information about all wall and fence types proposed by the Project is provided later in this report.

### **C. PROJECT COMPONENTS:**

#### **1. Design and Materials**

The Project would consist of ten (10) semi-attached condominium units, configured as five (5) buildings, each containing two (2) units with one shared wall between them. Units would be arranged in a row along the east side of the site, with a common driveway along the west side of the site. A hammerhead turnaround would be located approximately midway along the driveway to enable larger vehicles (including emergency vehicles) to exit the property quickly and safely.

All units would utilize the same floor plan, though it would be mirrored within each pair. The floor plan would provide approximately 1,245 square feet of living space, with a kitchen, living room, and half-bath on the ground floor, and three (3) bedrooms, two (2) full bathrooms, and laundry room on the second floor. Each unit would have a two (2)-car garage with access from the common driveway, and a small fenced yard with patio on the east side of the unit. Access into the living areas of each unit would be through the garage, through a door on the side of the unit, and through sliding glass doors adjacent to the patio. The exterior of the units will consist of fiber cement siding in two shades of gray-blue. Trim, window frames, and garage doors will be white, and the asphalt shingle roof will be gray. Per Habitat’s response to the City’s RFP for affordable housing projects, all units will meet Energy Star 3.0 certification, will have rooftop solar panels, and will incorporate sustainable and/or recyclable materials such as Hardie siding and laminate and ceramic tile flooring.

Section 33-955 of the Zoning Code contains development standards that are specific to condominium projects. These standards require in-unit laundry and private storage in the amount of 80 cubic feet for each unit, and three (3)-bedroom units are each required to contain at least 1,000 square feet of living space. The Project meets or exceeds these standards. (While the Project does not include designated storage closets as found in some developments, it has been conditioned to require the garages to meet the minimum dimensions stated in Section 33-769 of the Zoning Code, so storage can be accommodated within the garages without displacing vehicles.)

No designated guest parking is provided for this Project. Per the Escondido Zoning Code, multi-family projects typically require parking spaces for the units themselves (at ratios dependent on the number of bedrooms in the units), plus guest parking at a ratio of one (1) space per four (4) units or fraction thereof. However, Section 65915(p)(1)(B) of the State Density Bonus Law states that for a density bonus project, units containing two (2) or three (3) bedrooms cannot be required to provide more than two (2) spaces per unit, inclusive of guest and handicapped parking. The Project would provide two (2) spaces per unit, in the form of private garages, and therefore has fulfilled its parking obligations per state law.

## **2. Open Space and Amenities**

The Escondido Zoning Code defines “usable open space” as any area or facility used for landscaping, walkways, recreation activities, or decorative artwork and fountains, that does not exceed a grade of ten (10) percent and has a minimum dimension of at least ten (10) feet on each side (or five (5) feet on each side, for balconies). Open space requirements for multi-family projects vary, depending on the specific zoning and bedroom count. Three-bedroom units in the R-2 zone are required to provide 800 square feet of open space per unit, so a project consisting of ten (10) units with three (3) bedrooms each normally would be responsible for 8,000 square feet of usable open space. The Project is proposing to provide 4,500 square feet of usable open space, or 450 square feet per unit.

A common amenity area would be located toward the center of the development site. This area would include a barbeque (with hot coal bin), garden boxes, a dog rest area (with synthetic turf and waste station), and seating. A trash enclosure and mailbox unit would also be located in this area.

## **3. Landscaping and Fencing**

The Project will remove six (6) existing trees from the site, including an oak tree that is over ten (10) inches in diameter and therefore qualifies as a “protected tree” per the Zoning Code. Per the vegetation protection and replacement standards in the Zoning Code, protected oaks removed by development must be replaced at a 2:1 ratio with new oak trees.

The applicant has submitted a conceptual landscape plan for the Project, showing a variety of trees, shrubs, and groundcovers across the site. A formal landscape package submittal (including a final planting plan, as well as irrigation details and water efficiency calculations) will be required as a condition of approval for the Project. The conceptual landscape plan indicates that two (2) California live oak trees would be planted at the front of the property, in a narrow strip of land between the sidewalk and a proposed six (6)-foot fence at the site's front property line. The Planning Division maintains a list of recommended street trees, which indicates that oaks are appropriate only for large planting areas due to their potential height and tendency to spread. Since available space on this 0.6-acre site is limited, the Project has been conditioned to require the applicant to provide justification in the formal landscape package that the replacement oaks can be accommodated at the Project site. If the oaks cannot be accommodated, this condition of approval allows the applicant to arrange for an off-site planting on City property, through coordination with the Planning Division and Public Works Department.

The topography of the Project site currently slopes gently downward, from north to south. The Project would grade the property to create flat building pads for the units, but the pads at the north end of the site still would be slightly higher in elevation than those at the south end. The Project therefore proposes low retaining walls between Units 2 and 3, between 4 and 5, and between 8 and 9, as well as at the rear property line. A six (6)-foot vinyl fence would be installed along the side and rear property lines, as well as between the yards behind the units, and would be placed on top of the retaining walls where needed.

#### **4. Stormwater Management**

The topography of the Project site slopes gently downward, from a high point at the northeast corner of the site to a low point at the southwest corner, and stormwater runoff historically has moved from the front of the property to the rear. The Project proposes to install an underground stormwater detention system below the common driveway. Stormwater would enter the underground system through a storm drain at the end of the driveway, then exit the system (and the property) through a discharge point in the retaining wall along the rear property line. From there, it would be conveyed through a proposed concrete ditch along the edge of a parking lot for the Villa La Paz condominium complex, which would connect to an existing ribbon gutter in that same parking lot. Habitat has obtained a letter from Elite Community Management (on behalf of the Villa La Paz Maintenance Corporation) expressing permission for the construction of a ribbon gutter on their property, and a condition of approval has been included requiring an easement for this gutter.

## **SUPPLEMENTAL DETAILS OF REQUEST**

1. Property Size: 0.6 acres
2. Number of Units: 10 air-space condominium units
3. Density: 16.7 units per acre with density bonus (12 units per acre allowed per the underlying zoning, for projects with no density bonus)
4. Building/Unit Mix: 5 separate buildings, each containing 2 units  
Approximately 1,245 SF of living area per unit  
All units will have 3 bedrooms and 2.5 bathrooms
5. Building Height:
 

|                           |                                         |
|---------------------------|-----------------------------------------|
| <u>Required for R-2</u>   | <u>Proposed</u>                         |
| 2 stories and 35' maximum | 2 stories and 22'2" to top of ridgeline |
6. Floor Area Ratio
 

|                         |                 |
|-------------------------|-----------------|
| <u>Required for R-2</u> | <u>Proposed</u> |
| 0.60 maximum            | 0.48            |
7. Lot Coverage
 

|                         |                 |
|-------------------------|-----------------|
| <u>Required for R-2</u> | <u>Proposed</u> |
| 50% maximum             | 33%             |
8. Design/Materials: Fiber cement siding in light blue-gray and dark blue-gray. Trim, window frames, and garage doors in white. Asphalt shingle roof in gray. Specific material brands and colors to be identified on the construction plans.
9. Parking:
 

|                                                                          |                                          |                                                                               |
|--------------------------------------------------------------------------|------------------------------------------|-------------------------------------------------------------------------------|
| <u>Required for R-2</u>                                                  | <u>Required for<br/>Density Bonus</u>    | <u>Proposed</u>                                                               |
| 20 regular spaces<br>(2 spaces per unit);<br>1 space covered<br>per unit | 20 regular spaces<br>(2 spaces per unit) | 20 regular spaces<br>(2 spaces per unit);<br>all spaces will be<br>in garages |
| 3 guest spaces<br>(1 space per 4 units<br>or fraction thereof)           |                                          | No guest parking                                                              |

The Project conforms to Section 65915(p)(1)(B) of the State Density Bonus Law, which prohibits agencies from requiring more than 2 spaces per unit, inclusive of any guest or handicapped parking. The proposed parking provisions satisfy the required vehicular parking ratio.

| 10. Setbacks         | <u>Required for R-2</u> | <u>Proposed</u> |
|----------------------|-------------------------|-----------------|
| Front (north)        | 15'                     | 10'             |
| Side (east and west) | 5' each                 | 5' each         |
| Rear (south)         | 15'                     | 5'              |

The density bonus request includes waivers from the typical front and rear setbacks for the R-2 zone. The front yard setback is proposed to be ten (10) feet. The rear yard is proposed to be five (5) feet. Building eaves are expected to further encroach into the front and rear setback areas, and the Project has been conditioned to limit these encroachments to the dimensions allowed by Section 33-104 of the Zoning Code.

| 11. Open Space | <u>Required for R-2</u>  | <u>Proposed</u>          |
|----------------|--------------------------|--------------------------|
|                | 800 square feet per unit | 450 square feet per unit |

The density bonus request includes a waiver from the typical open space requirement for the R-2 zone.

12. Signage: No sign requests are included with the proposed Project. Should the applicant choose to install signage at the site, a separate sign permit will be required per Article 66 of the Escondido Zoning Code Sign Ordinance), unless exempt from the provisions of that ordinance.

13. Landscaping: New ornamental landscaping throughout premises, including street trees to be provided along El Norte Parkway.

14. Trash: A shared trash enclosure will be located at the amenity area at the center of the site, to conform to the City's Trash Enclosure Guidelines. Trash collection service would be provided by Escondido Disposal.

15. Code Violations None

#### **D. ENVIRONMENTAL STATUS:**

The Project is categorically exempt from CEQA, pursuant to CEQA Guidelines section 15332, "In-Fill Development." This exemption is applicable for projects that can meet the following criteria:

- The project is consistent with the applicable general plan designation, all applicable general plan policies, and the applicable zoning designation and regulations.
- The project occurs within city limits on a project site of no more than five (5) acres that is substantially surrounded by urban uses.
- The project site has no value as habitat for endangered, rare, or threatened species.
- The project would not result in significant effects related to traffic, noise, air quality, or water quality.
- The project site can be adequately served by all required utilities and public services.

The Project is consistent with the General Plan designation of U-2 and the zoning classification of R-2-12, as described in this staff report. Waivers from development standards for open space and setbacks are included in the proposal, but are allowed per State Density Bonus Law. The Project site is within City limits, is less than five (5) acres, and is completely surrounded by urban uses. The site has no value as habitat for endangered, rare, or threatened species, due to its small size, the fact that it is fully enclosed by other developed properties and a major street (and therefore not connected to any wildlife corridors), and the scarcity of vegetation. Since it would construct fewer than 120 units, the Project would not generate enough greenhouse gas emissions to exceed the 2,500 MT CO<sub>2</sub>e threshold identified in the 2013 Escondido Climate Action Plan. The Project is purely residential and the noise generated by ten (10) new units is not expected to substantially impact the surrounding neighborhood; any complaints of excessive noise would be handled by the Escondido Police Department as with any other residential neighborhood. The Project has been reviewed by several City departments and divisions (including Fire, Engineering, Environmental Services, and Utilities) who have determined that it can be served by utilities and public services, and that stormwater can be adequately managed, as shown on the Project plans and as conditioned.

Vehicle trip generation rates published by SANDAG indicate that the addition of ten (10) condominium units to the site would generate 80 average daily trips ("ADTs"). Under SB 743, which went into effect statewide on July 1, 2020, lead agencies are required to consider how many vehicle miles traveled ("VMTs") are generated by a project when determining whether that project could result in traffic impacts. The City of Escondido has not yet adopted significance criteria or methodologies for VMT analysis; however, the *Guidelines for Transportation Impact Studies of the San Diego Region* (May 2019) states that projects generating less than 500 ADTs are small enough to be presumed not to cause significant traffic impacts, and should not need to prepare a VMT analysis. The State of California Office of Planning and Research has also issued its own guidance, which indicates that residential projects with 100 percent affordable units that are located on infill sites can be presumed to have a less than significant VMT impact, since they generally have transit access and are within walking or bicycling distance to shopping and other services (both of these assumptions are correct for this site).

As noted earlier in this report, before Habitat applied to the Planning Division for a Tentative Subdivision Map and Condominium Permit, they applied to the Housing and Neighborhood Services Division for a loan of funds from a federal source (the HOME program of HUD), and received approval of that loan from City Council. As also noted previously, this action does not have a legally binding effect on any possible future discretionary action. While processing the request for loan funds, Housing and Neighborhood Services conducted their own review of the Project to ensure compatibility with the National Environmental Policy Act ("NEPA"), the federal counterpart to CEQA. Housing determined that the Project would not cause any significant impacts to the environment that require mitigation under NEPA, but asked that the Project be conditioned to install a solid wall at the front of the site to attenuate outdoor noise for units near El Norte Parkway (as described earlier), and to require tribal monitoring and a clearly-defined procedure for handling cultural resources or human remains in the event they are discovered.

during ground-disturbing activities. Conditions of approval are proposed to address both of these issues.

**E. CONCLUSIONS:**

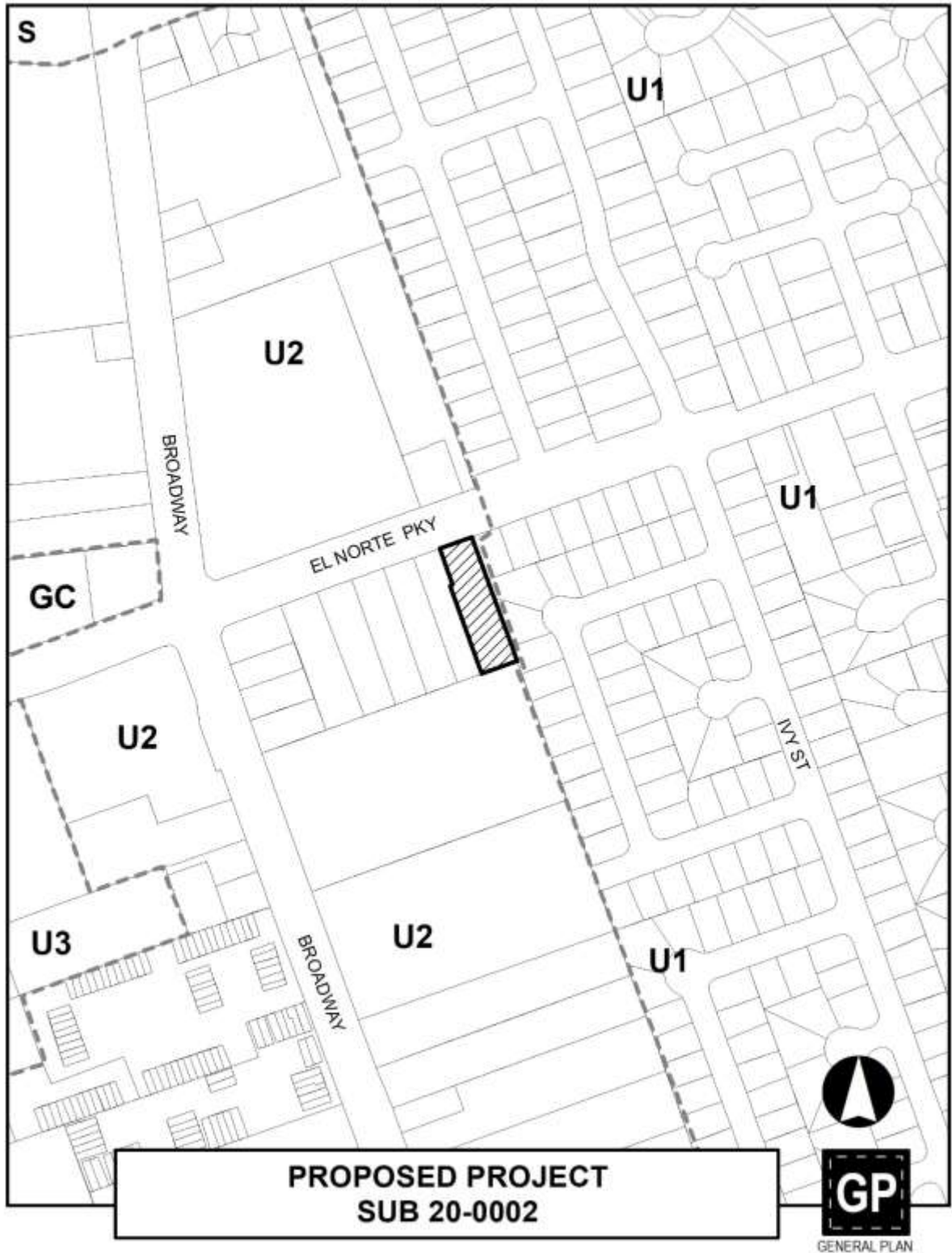
The Planning Commission is the authorized agency for granting discretionary approval of a Tentative Subdivision Map. However, the City Council is the authorized agency for granting approval of a Condominium Permit. When one concurrent application is filed for both approval types, the full project is brought to Planning Commission first for a recommendation on approval or denial, and is then brought to City Council for a final decision.

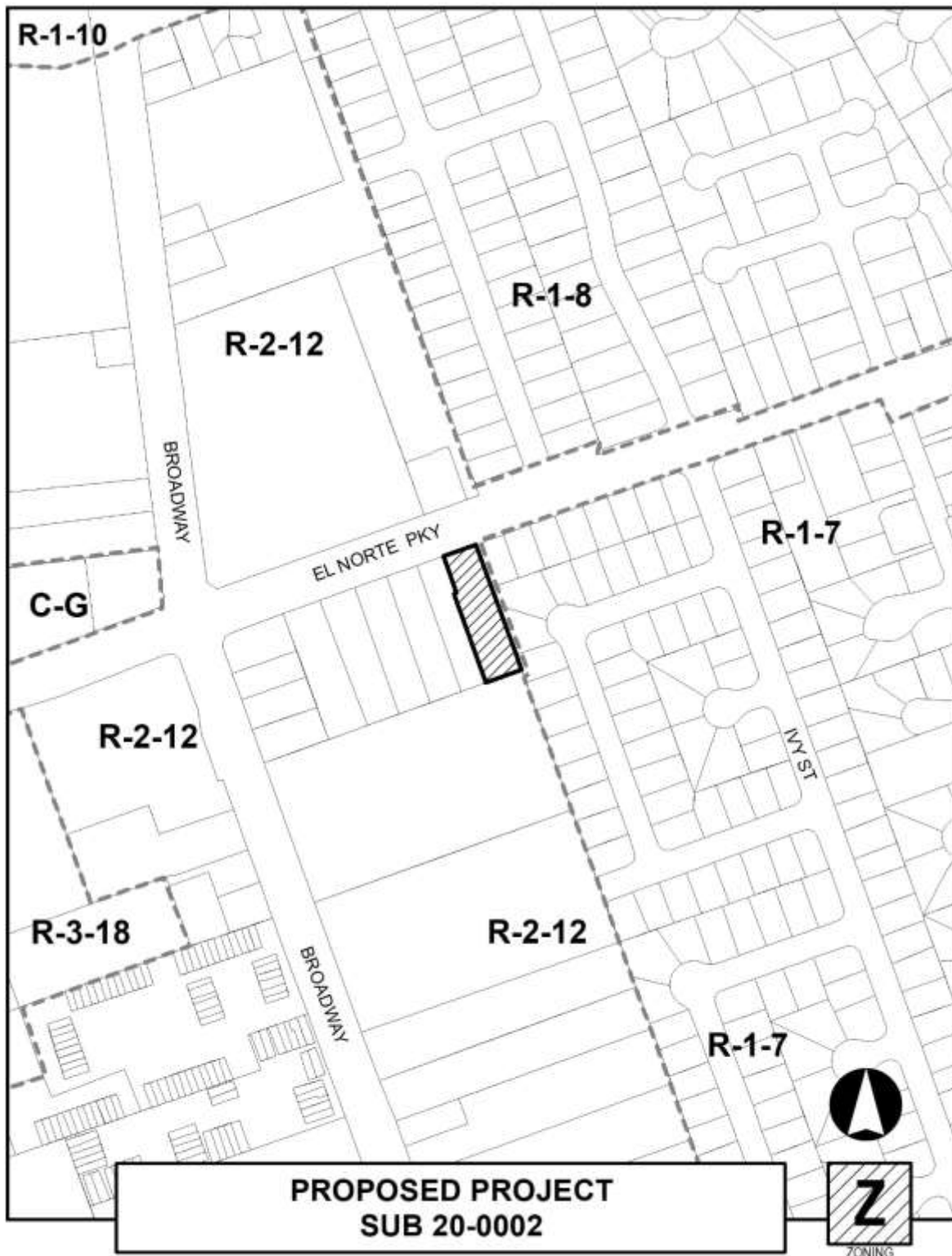
The proposed Project is consistent with the General Plan, as well as with the development standards for the R-2-12 zone, with the exception of two waivers as allowed by the State Density Bonus Law (Government Code Section 65915, subsection (e)). The Project as proposed will not have a significant effect on the environment, as designed and conditioned. The site is suitable for the type and intensity of use or development which is proposed. Staff recommends that the Planning Commission recommend approval of Planning Case Nos. SUB 20-0002 and PHG 20-0019, based upon the factors/findings and conditions contained in the attached Draft Planning Commission Resolution No. 2020-15.

**ATTACHMENTS:**

1. Location and General Plan Map
2. Unanimous Approval Form (Community Facilities District No. 2020-2)
3. Density Bonus Letter from Habitat for Humanity, October 1, 2020
4. Draft Planning Commission Resolution 2020-15

**ATTACHMENT 1**





## ATTACHMENT 2

### UNANIMOUS APPROVAL

#### Community Facilities District No. 2020-1 of the City of Escondido (Services)

July 28, 2020

Community Facilities District No. 2020-1  
of the City of Escondido (Services)  
201 North Broadway  
Escondido, CA 92025  
Attention: City Manager

The City of Escondido (the "City") has formed Community Facilities District No. 2020-1 of the City of Escondido (Services) (the "District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, commencing with Section 53311 of the Government Code (the "Act"). The purpose of the District is to finance (1) certain services (collectively, the "Services") described in Attachment "B" to Resolution No. 2020-24 of the City Council of the City adopted April 9, 2020 (the "Resolution of Intention") caused by development within the District and (2) "Incidental Expenses" as said term is defined in the Rate and Method of Apportionment.

The undersigned property owner (the "Owner") here by states and certifies as follows:

1. This Unanimous Approval is submitted by the Owner who is the record owner of fee title to the real property and improvements thereon as described in Attachment "A" hereto (collectively, the "Annexation Territory"). The Owner has provided the District sufficient and current evidence of their ownership of fee title to the Annexation Territory and possesses all legal authority necessary to execute this Unanimous Approval.

2. There are no registered voters residing within the Annexation Territory and have been none during the 90-day period preceding July 28, 2020.

3. This Unanimous Approval constitutes the unanimous approval of the Owners in favor of the following within the meaning of Sections 53329.6, 53339.2 and 53339.3 of the Act:

(a) Annexation. The annexation of the Annexation Territory to the District for the purpose of financing the Services and Incidental Expenses set forth in Attachment "B" to the Resolution of Intention.

(b) Special Tax. The levy of special taxes (the "Special Tax") in the Annexation Territory to finance the Services and the Incidental Expenses in accordance with the Rate and Method and this Unanimous Approval.

Pursuant to Section 53329.6 of the Act, this Unanimous Approval constitutes the vote of the qualified elector in favor of the matters addressed in this Section 3 for purposes of the California Constitution, including, but not limited to Articles XIII A and XIII C.

4. The Owner hereby acknowledges that no further hearings or procedures are required with respect to the approval of the matters set forth in Section 3 above.

5. The Owner understands and hereby unanimously approves that the Special Tax is authorized to be levied on the Annexation Territory annexed to the District, and the lien is a continuing lien which shall secure each annual levy of the Special Taxes and which shall continue in force and effect until the Special Tax obligation is canceled in accordance with law or until the Special Tax ceases to be levied and a notice of cessation of special tax is recorded in accordance with Section 53330.5 of the Government Code.

6. The Owner hereby waives any and all requirements with respect to the approval of the matters set forth in this Unanimous Approval, including without limitation, the preparation of an impartial analysis, arguments or rebuttals concerning elections as provided for by Elections Code Sections 9160 to 9167, inclusive, and 9190 and preparation of a tax rate statement as provided in Section 9401 of the Elections Code and any further notices of such approvals as may be required pursuant to the Elections Code or the Government Code. Having been fully advised with respect to the approval process set forth herein, the Owner waives compliance with any and all provisions of the Elections Code and Government Code, with any time limits or other procedural requirements pertaining to this Unanimous Approval.

The undersigned hereby represents that compliance with any additional procedural requirements for the Unanimous Approval provided for herein, including the receipt of any arguments for or against such approval and impartial analyses and the time limitations which may apply in connection with scheduling, mailing and publishing notices, are unnecessary in light of the fact that the undersigned has received sufficient information regarding the imposition of the special tax as set forth in Resolution No. 2020-44 of the City Council of the City adopted May 13, 2020 (the "Resolution of Formation") to allow it to properly complete the this Unanimous Approval. The Owner further waives its right to make any protest or complaint or undertake any legal action challenging the validity of this Unanimous Approval and any proceedings taken in connection therewith or the levy of the special tax to finance the costs of the Services for the benefit of the Annexation Territory.

7. The Owner hereby authorizes the District to execute and record in the office of the Recorder of the County of San Diego, a notice of special tax lien in accordance with Streets & Highways Code Section 3117.5, which shall give notice that a lien to secure payment of the Special Tax is imposed by the District.

8. This Unanimous Approval shall be effective upon its execution and delivery.

The foregoing Unanimous Approval is hereby executed this 20<sup>th</sup> day of July, 2020 in  
San Diego, California.

[Signature] For San Diego Habitat for Humanity  
record owner of the Property.

ATTACHMENT A  
ANNEXATION TERRITORY

Real property in the City of Escondido, County of San Diego, State of California, described as follows:

Assessor's Parcel Nos: 229-040-14-00

ATTACHMENT 3



8128 Mercury Court  
San Diego, CA 92111  
P1619-283-4663  
F1619-516-5264  
license #955336

building strength, stability and self-reliance through shelter

sandiegohabitat.org

Updated:  
October 1, 2020

**A San Diego Habitat for Humanity Project**  
**Location: 245 E. El Norte Parkway**

**Project Overview:**

San Diego Habitat for Humanity is proposing a multi-family affordable housing project. This El Norte development plan will consist of 10 duplex units (5 buildings). 100% of the homes, after construction will be sold to low income households under 80% of the Area Median Income.

The proposed project will transform a vacant, underutilized parcel and provide affordable home ownership opportunities for 10 local families. All units will be approximately 1250sf, with 3 bedrooms and 2 bathrooms, a 2 car attached garage, and open space. See attached site plan.

This development will be one of the few developments in San Diego County offering 100% home ownership affordability opportunities to households under 80% AMI.

**Application of California Density Bonus Law (Government Code Section 65915)**

Habitat's El Norte project qualifies for a density bonus and waiver or reduction of development standards because all units are affordable.

The City has established a Preliminary Application Review pursuant to Section 3301413 of the Escondido Zoning Code, which states that in order to apply for a density bonus or residential incentives, the developer shall first submit to the planning division a written proposal for a project [Section 33-1413(a)]. This document is intended to serve as the written proposal satisfying the City requirement.

**City of Escondido Preliminary Application Review Requirements – Section 330-1413(b)**

1. Density Bonus Report per Section 33-1412(a) – see Density Bonus Report section below.

33-1412(1):

Location: 245E. El Norte Parkway  
APN: 229-040-14  
Site Area: .6 acres / 26,136 sf  
Existing Zoning: R-2-12 – Light Multifamily Residential  
Minimum Lot Size: 6,000 sf

|                           |           |
|---------------------------|-----------|
| Maximum Permitted Density | 12du/acre |
|---------------------------|-----------|



all locations: 619-516-5267

**ReStore**

San Diego  
8108 Mercury Court  
San Diego, CA 92111

Escondido  
837 Metcalf Street  
Escondido, CA 92025

National City  
310 National City Boulevard  
National City, CA 91950

Carlsbad  
1810 Marron Road  
Carlsbad, CA 92008



8128 Mercury Court  
San Diego, CA 92111  
PI619-283-4663  
FI619-516-5264  
license #955336

building strength, stability and self-reliance through shelter

sandiegohabitat.org

|                                              |                               |
|----------------------------------------------|-------------------------------|
| Property Size                                | .6 acres                      |
| Number of Units at Maximum Permitted Density | 7.2 (rounded to 8)            |
| Affordable Units                             | All units                     |
| Density Bonus Units (@35%)                   | 2.52                          |
| Total Project Units Proposed                 | 10 duplex units (5 buildings) |

33-1412(2): N/A - This property has been vacant for over 5 years.

33-1412(3): N/A - This property has been vacant for over 5 years, thus there are no recorded restrictions.

33-1412(4): N/A - No - a density bonus is not requested for a land donation.

33-1412(5): N/A - No - a density bonus is not requested under a joint commercial and housing partnership.

33-1412(6): Density Bonus Requested Concessions/Incentives: See #8 Below

33-1412(7): N/A - Mixed use zoning is not proposed.

33-1412(8): Density Bonus Requested Waivers.

| Waiver                 | Development Standard per General Plan                                                                     | Proposed                           | Justification                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|------------------------|-----------------------------------------------------------------------------------------------------------|------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Open Space Requirement | 400 sf per unit, plus 200 sf for each bedroom over one.<br><br>= 800 sf per unit<br><br>Section 33-108(b) | 450 sf per unit                    | Requesting a waiver to the useable open space standard of 800 square feet per residential unit. The existing open space development standard would physically preclude the construction of the project as designed. The project is efficiently utilizing the .6 acre site, which results in limited physical area to meet the existing open space standard. Therefore, the existing open space development standard would need to be reduced or waived in order for the project to be constructed as designed. |
| Setback Requirements   | Front: 15'<br>Rear: 15'<br>Side: 5'                                                                       | Front: 10'<br>Rear: 5'<br>Side: 5' | Requesting waiver to the front and rear setback requirement. Existing development standard would preclude construction of the project as designed. The project efficiently utilizes the .6 acre                                                                                                                                                                                                                                                                                                                |



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license #955336

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|                |             |              |                                                                                                                                                                                                                            |
|----------------|-------------|--------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                |             |              | site, which results in limited physical area to meet the setback standard. Therefore, the existing setback development standard would need to be reduced or waived in order for the project to be constructed as designed. |
| Smaller Garage | 19.5' x 20' | 19.5' x 18.5 | Requesting a slightly smaller garage size of as a concession. Redesign efforts are costly and reduced living area in an already small unit impacts quality of life.                                                        |

33-1412(9): Density Bonus Parking Reduction.

| <i>Normal Development Standard:</i>                                                 | <i>Parking Reduction Request:</i>                                                                                                               |
|-------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|
| 2 parking spaces per unit, plus one guest space per four units or fraction thereof. | Pursuant to Section 65915(p)(1) of the State Density Bonus law Habitat desires to provide two spaces per unit with no additional guest parking. |

33-1412(10): N/A – No child care facility proposed.

33-1412(11): N/A – no condominium conversion proposed.



**ReStore**  
all locations: 619-516-5267

**San Diego**  
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San Diego, CA 92111

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**Carlsbad**  
1810 Marmon Road  
Carlsbad, CA 92008

#### **ATTACHMENT 4**

Planning Commission  
Hearing Date: November 10, 2020  
Effective Date: November 11, 2020

#### **PLANNING COMMISSION RESOLUTION NO. 2020-15**

**A RESOLUTION OF THE PLANNING COMMISSION OF  
THE CITY OF ESCONDIDO, CALIFORNIA,  
RECOMMENDING APPROVAL OF A TENTATIVE  
SUBDIVISION MAP AND CONDOMINIUM PERMIT, FOR  
A TEN-UNIT CONDOMINIUM DEVELOPMENT**

**APPLICANT:** Ryan Waufle, Pasco Laret Suiter & Associates

**CASE NOS:** SUB 20-0002 and PHG 20-0019

WHEREAS, Ryan Waufle of Pasco Laret Suiter & Associates ("Applicant"), filed a land use development application (Planning Case Nos. SUB 20-0002 and PHG 20-0019) constituting a request for a Tentative Subdivision Map along with a Condominium Permit, for the proposed development of ten (10) townhome units ("Project"). The site currently is 0.6 acres in size and is located at 245 East El Norte Parkway (APN 229-040-14, in the Light Multiple Residential Zone (R-2-12); and

WHEREAS, the subject property is all that real property described in Exhibit "A," which is attached hereto and made a part hereof by this reference as though fully set forth herein ("Property"); and

WHEREAS, the land use development application was submitted to, and processed by, the Planning Division of the Community Development Department in accordance with the rules and regulations of the Escondido Zoning Code and the applicable procedures and time limits specified by the Permit Streamlining Act

(Government Code Section 65920 et seq.) and California Environmental Quality Act (“CEQA”) (Public Resources Code Section 21000 et seq.); and

WHEREAS, multi-family residential development (air-space condominium units) is a permitted use within the R-2-12 Zone, subject to the approval of a Tentative Subdivision Map and Condominium Permit, in accordance with Sections 33-94 and 33-951 of the Escondido Zoning Code, and Section 32.201.01 of the Escondido Municipal Code; and

WHEREAS, pursuant to CEQA and CEQA Guidelines (Title 14 of California Code of Regulations, Section 15000 et. seq.), the City is the Lead Agency for the Project, as the public agency with the principal responsibility for approving the proposed Project; and

WHEREAS, due to the use of funds for this Project, the Project qualifies for review under the National Environmental Policy Act (42 U.S.C. 4321 et seq., herein after NEPA); and

WHEREAS, the Planning Division did study said request, performed necessary investigations, prepared a written report, and does recommend approval of the Project as depicted on the plan set shown in Exhibit “B,” which is attached hereto and made a part hereof by this reference as though fully set forth herein; and

WHEREAS, City staff provided public notice of the application in accordance with City and State public noticing requirements.

WHEREAS, on November 10, 2020, the Planning Commission held a duly noticed public hearing as prescribed by law. At said hearing, this Planning Commission received and considered the reports and recommendation of the Planning Division and gave all persons full opportunity to be heard and to present evidence and testimony respecting

said matter. Evidence was submitted to and considered by the Planning Commission, including, without limitation:

- a. Written information including plans, studies, written and graphical information, and other material, submitted by the Applicant;
- b. Oral testimony from City staff, interested parties, and the public;
- c. The staff report, dated November 10, 2020, with its attachments as well as City staff's recommendation on the Project, which is incorporated herein as though fully set forth herein; and
- d. Additional information submitted during the public hearing; and

WHEREAS, said public hearing before the Planning Commission was conducted in all respects as required by the Escondido Municipal Code and the rules of this Planning Commission; and

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Escondido:

1. That the above recitations are true and correct.
2. Public Resources Code Section 21084 requires the CEQA Guidelines to include a list of classes of projects which have been determined *not* to have a significant effect on the environment and which shall be exempt from the provisions of CEQA. The Planning Commission, in its independent judgement, has determined the Project to qualify for the "In-Fill Development" exemption under Section 15332 of the CEQA Guidelines, since it is consistent with the General Plan and zoning regulations; occurs within city limits on a site no more than five (5) acres that is substantially surrounded by urban uses; occurs on a site with no value as habitat for endangered, rare, or threatened

species; would not result in significant effects to traffic, noise, air quality, or water quality; and can be adequately served by required utilities and public services.

3. The Project is a project under CEQA and NEPA. NEPA and CEQA lead agencies must each reach their own conclusions about which level of environmental review and documentation a particular project requires. These environmental review regulations shall generally apply to the whole of the Project, and not separately to each individual permit that a project may require. Therefore, a single review shall be performed for each project, and shall apply to every permit required for that project. If a project is determined to be exempt from environmental review, every permit related to the project shall likewise be deemed exempt.

4. After consideration of all evidence presented, and studies and investigations made by the Planning Commission and in its behalf, the Planning Commission makes the following substantive findings and determinations, attached hereto as Exhibit "C," relating to the information that has been considered. In accordance with the Findings of Fact and the foregoing, the Planning Commission reached a recommendation on the matter as hereinafter set forth.

5. The Planning Commission hereby recommends that City Council approve the application to use the subject property for said purpose specified above and subject to each and all of the conditions hereafter set forth in Exhibit "D". The Planning Commission expressly declares that it would not have made this recommendation for this land use development application except upon and subject to each and all of said conditions, which shall run with the land and be binding upon the Applicant, the owner,

and all subsequent owners of the subject property, and all persons who use the subject property for the use permitted hereby.

6. The development plan is on file in the Planning Division of the Community Development Department and is available for inspection by anyone interested herein, and said development plan is incorporated herein by this reference, the same as if it were fully set forth herein. This Project is conditionally approved as set forth on the application and Project drawings, all designated as approved by the Planning Commission, and shall not be altered without the express authorization by the Planning Division. Any deviations from the approved plans shall be reviewed by the City for substantial compliance and may require amendment by the appropriate hearing body.

BE IT FURTHER RESOLVED that, pursuant to Government Code Section 66020(d)(1):

1. NOTICE IS HEREBY GIVEN that the Project is subject to dedications, reservations, and exactions, as specified in the Conditions of Approval. The Project is subject to certain fees described in the City of Escondido's Development Fee Inventory on file in both the Community Development and Public Works Departments. The Applicant 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. It is the City's intent that the costs representing future development's share of public facilities and capital improvements be imposed to ensure that new development pays the capital costs associated with growth. The Applicant is advised to review the Planned Fee Updates portion of the web page, [www.escondido.org](http://www.escondido.org), and regularly monitor and/or review fee-related information to plan for the costs associated with undertaking the Project.

2. NOTICE IS FURTHER GIVEN that the 90-day period during which to protest the imposition of any fee, dedication, reservation, or other exaction described in this resolution begins on the effective date of this resolution, and any such protest must be in a manner that complies with Section 66020.

PASSED, ADOPTED AND APPROVED by a majority vote of the Planning Commission of the City of Escondido, California, at a regular meeting held on the 10<sup>th</sup> day of November, 2020, by the following vote, to wit:

|            |                |
|------------|----------------|
| AYES:      | COMMISSIONERS: |
| NOES:      | COMMISSIONERS: |
| ABSTAINED: | COMMISSIONERS: |
| ABSENT:    | COMMISSIONERS: |

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STAN WEILER, Chair  
Escondido Planning Commission

ATTEST:

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MIKE STRONG, Secretary of the  
Escondido Planning Commission

I hereby certify that the foregoing Resolution was passed at the time and by the vote above stated.

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Joanne Tasher, Minutes Clerk  
Escondido Planning Commission

## **EXHIBIT "A"**

### **LEGAL DESCRIPTION**

**Planning Case Nos.: SUB 20-0002 and PHG 20-0019**

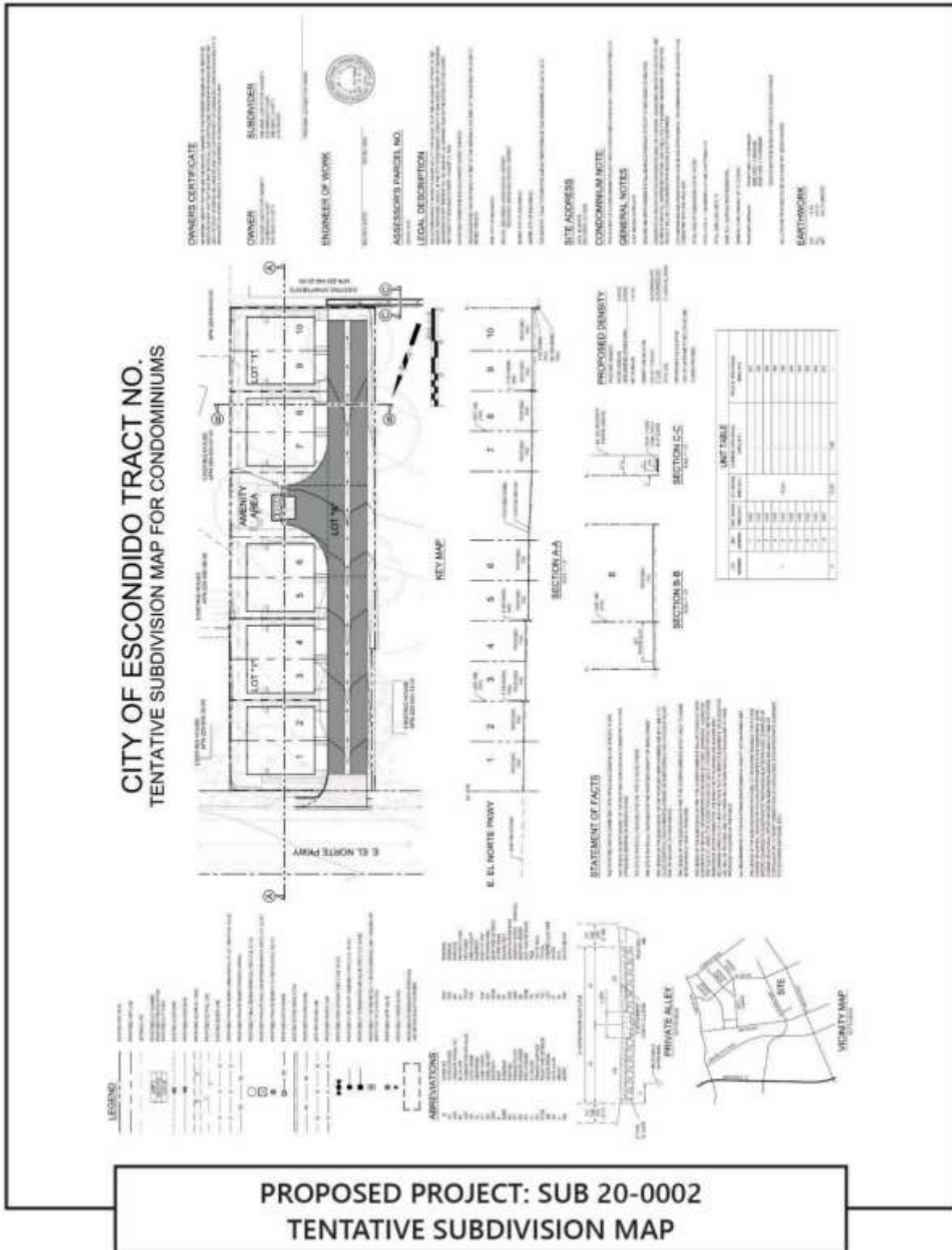
**THE NORTHEASTERLY 146 FEET 9 INCHES OF LOT 11 OF BLOCK 170 OF THE RE-SURVEY OF PART OF THE RANCHO RINCON DEL DIABLO, IN THE CITY OF ESCONDIDO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 723, MADE BY J. M. GRAHAM, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, AUGUST 13, 1892.**

**EXCEPTING THEREFROM THE SOUTHWEST 58 FEET THEREOF.**

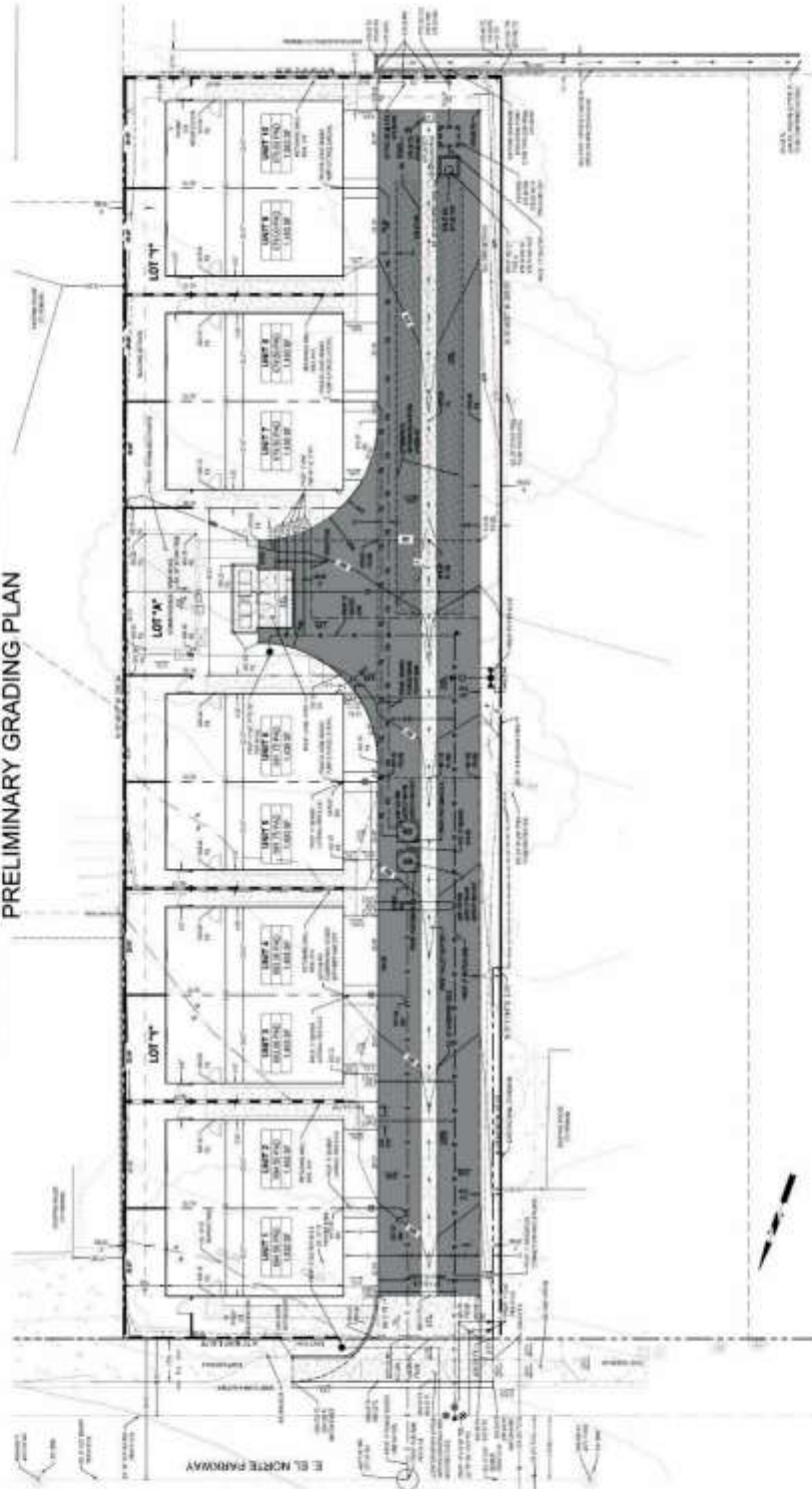
**ALSO EXCEPTING THE NORTHERLY 87 FEET OF THE WESTERLY 2.00 FEET OF THE EASTERLY 88.00 FEET 9 INCHES THEREOF.**

Assessor's Parcel Number 229-040-14

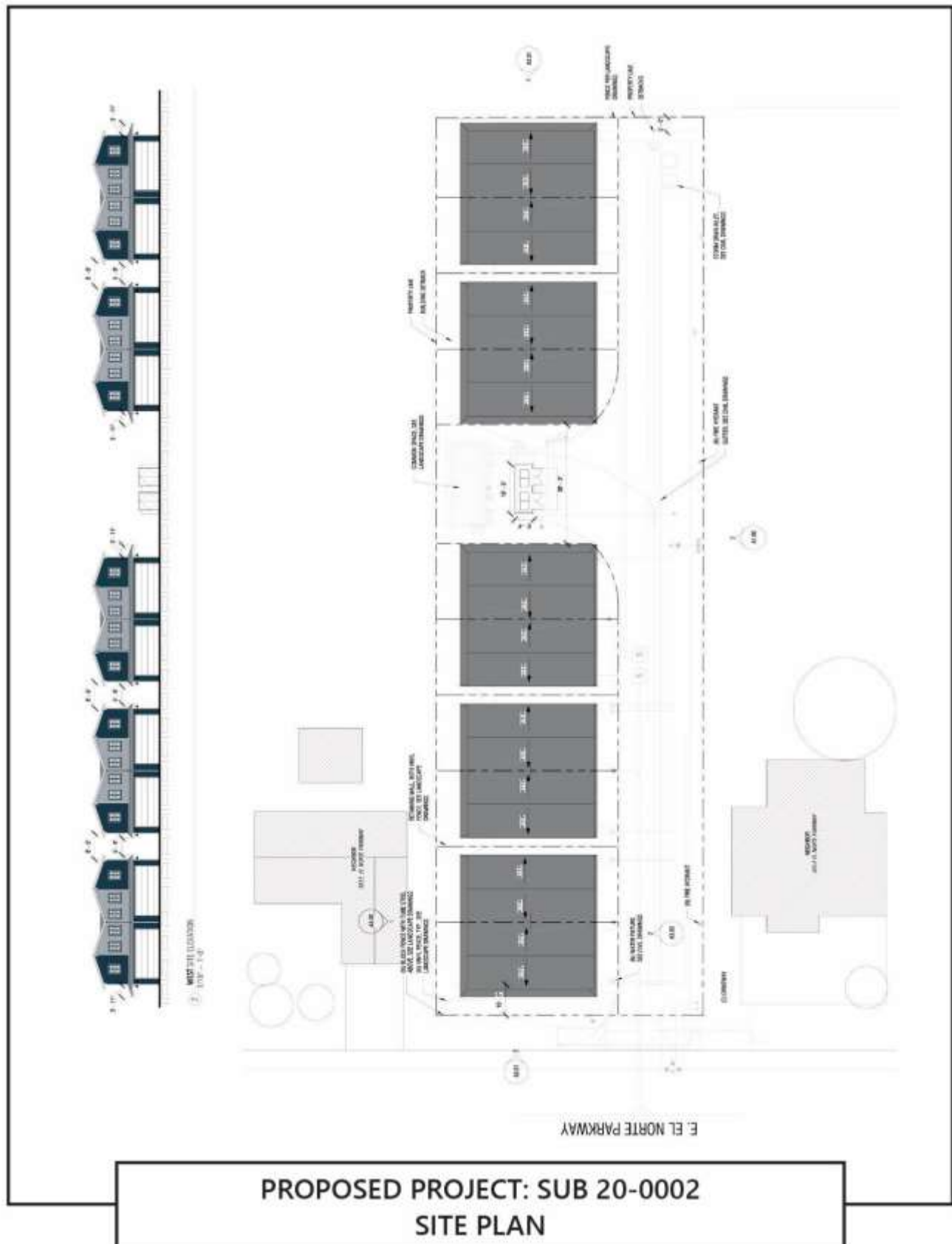
# **EXHIBIT "B"** **PROJECT PLANS** Planning Case Nos.: SUB 20-0002 and PHG 20-0019

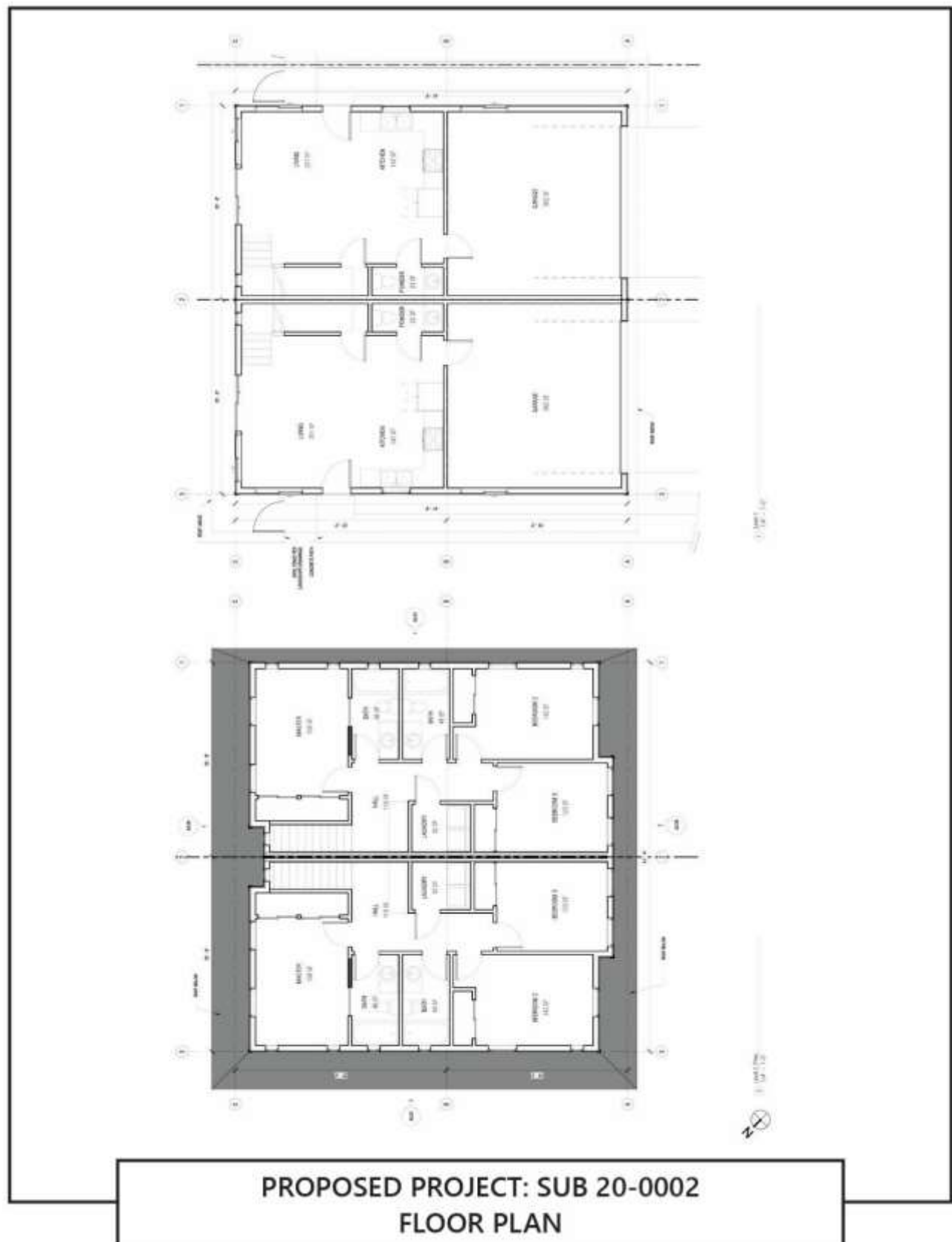


**CITY OF ESCONDIDO TRACT NO.  
TENTATIVE SUBDIVISION MAP FOR CONDOMINIUMS  
PRELIMINARY GRADING PLAN**

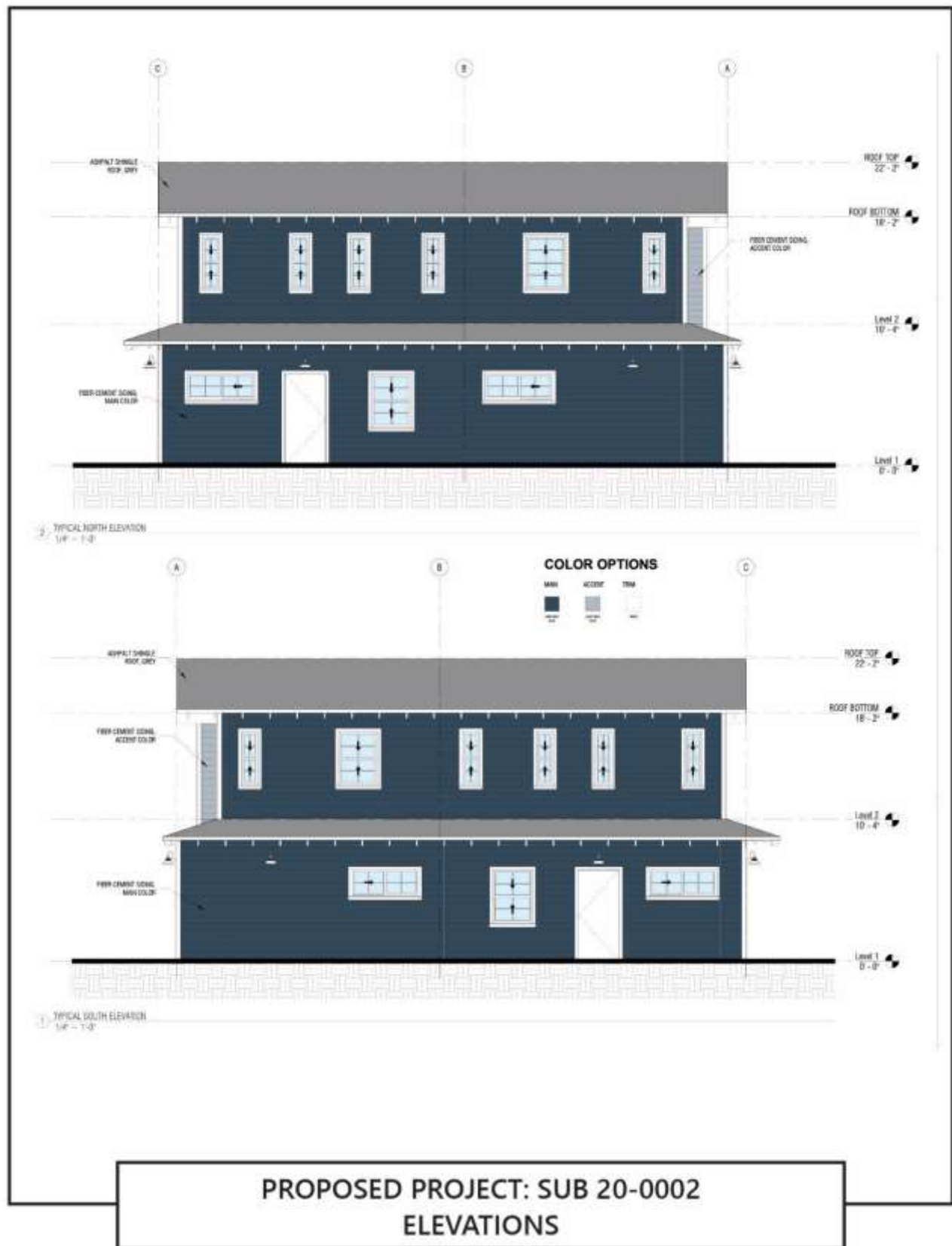


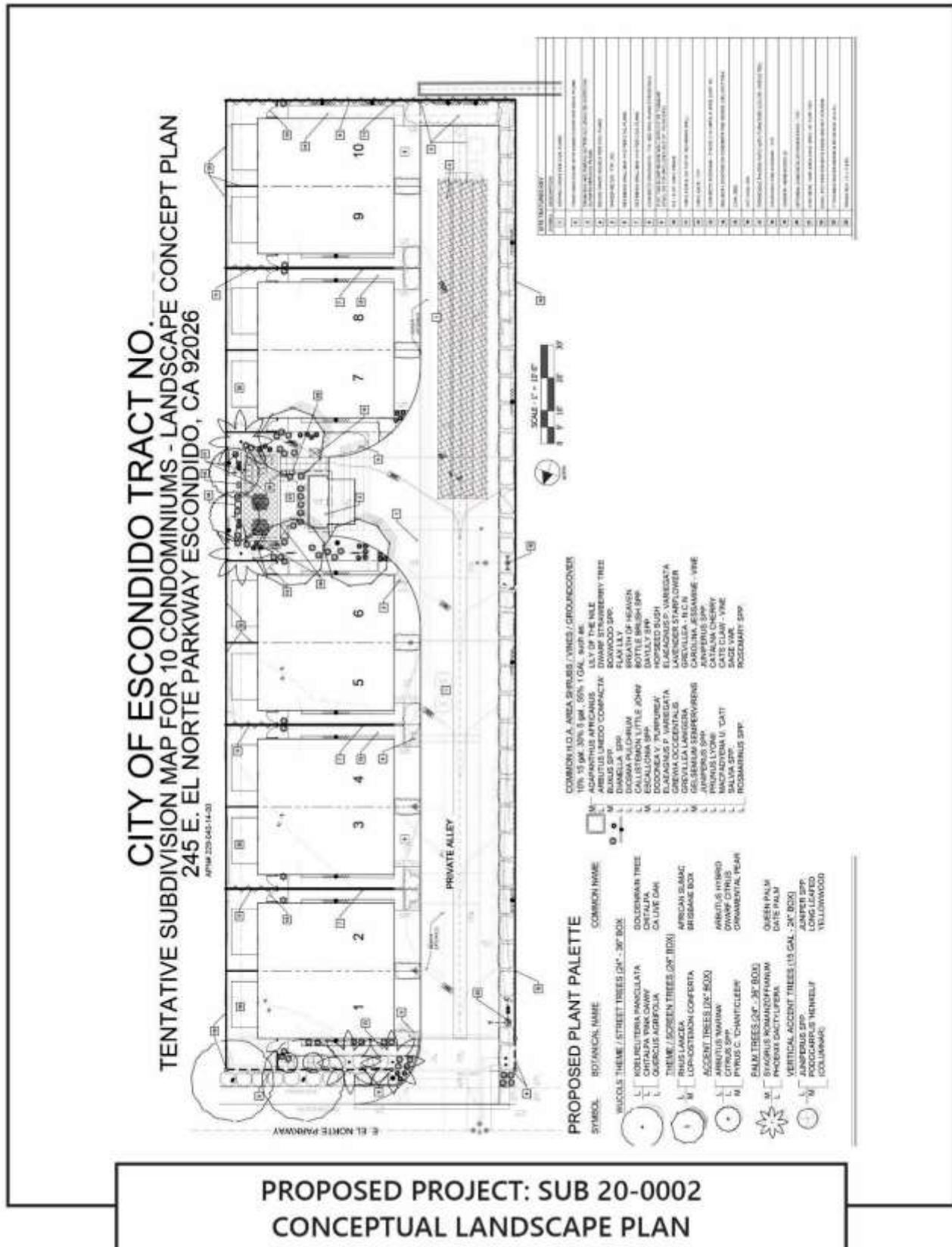
**PROPOSED PROJECT: SUB 20-0002  
PRELIMINARY GRADING PLAN**

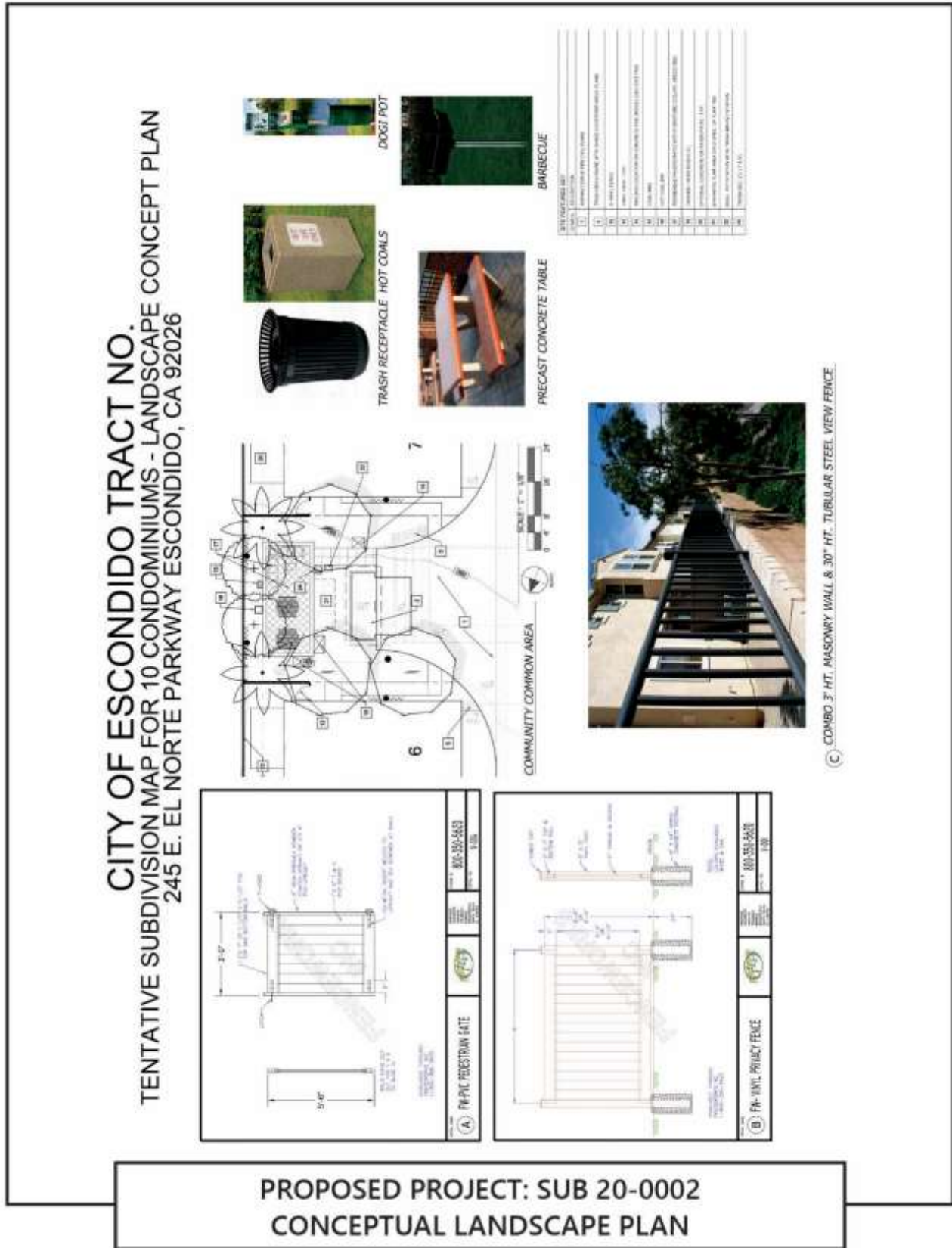












## EXHIBIT “C”

### FINDINGS OF FACT / FACTORS TO BE CONSIDERED

Planning Case Nos.: SUB 20-0002 and PHG 20-0019

#### Public Notice and Outreach:

Planning Division staff provided public notice of the application in accordance with City and State public noticing requirements. A notice was published in the local newspaper on October 29, 2020. In addition, 205 notices were sent to owners and occupants within 500 feet of the Project site. A public notice was also provided at the on the Project site, on the City’s website, and posted at City Hall and City Library.

#### Tentative Subdivision Map Determinations

1. The Planning Commission makes the finding that findings (a) through (g) below, as contained in Section 66474 of the California Government Code, apply to this Project for the reasons stated as follows:

| Findings for Tentative Map Approval                                                                                                        | Explanation of Finding                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|--------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A. That the proposed map is consistent with applicable general and specific plans as specified in Section 65451 of the Subdivision Map Act | The General Plan land use designation for the site is Urban II (U-2). The proposed subdivision is consistent with the allowed uses for the U-2 land use designation. The U-2 land use designation allows a maximum density of 12 dwelling units per acre. The Project site is 0.6 acres and the allowed yield would be 7.2 units for a non-affordable Project, rounded down to seven (7) units. Because the Project will be 100 percent affordable, the State Density Bonus Law permits the base density to be rounded up to eight (8) units, and a 35 percent density bonus may be applied to that base, bringing the total number of allowed units to eleven (11). The Project proposes to construct ten (10) units on the site. The Project site is not located within an existing or proposed specific plan. |
| B. That the design or improvement of the proposed subdivision is consistent with applicable general and specific plans.                    | The Project will be 100 percent affordable and therefore eligible for a density bonus, allowing it to exceed the typical density for the U-2 land use designation and the R-2-12 zone. As conditioned, the design and improvements of the proposed subdivision are consistent with                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

|                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                | the General Plan. Furthermore, the payment of development impact fees, as well as annexation into CFD No. 2020-1, will avoid or lessen the likelihood of future impacts related to the provision of public services, and will maintain consistency with Housing Element and Growth Management policies related to assessing fiscal impacts of new development and ensuring provisions to offset costs to public facilities and services.                                                                                                                                                                                                                                                                                                           |
| C. The Project site is physically suitable for the proposed type of Project.                                                                                                                   | The site is suitable for the residential type of development proposed since adequate access and utilities can be provided to the site. The Project would not result in the destruction of desirable natural features, nor be visually obstructive or disharmonious with surrounding areas because the site is not located on a skyline or intermediate ridge, and does not contain any significant topographical features. A conceptual landscape plan provided by the applicant proposes to plant a variety of trees, shrubs, and groundcovers throughout the Project site.                                                                                                                                                                       |
| D. That the site is physically suitable for the proposed density of development.                                                                                                               | <p>The granting of the Tentative Subdivision Map would not violate the requirements, goals, policies, or spirit of the General Plan. The density proposed by the Project is allowed per the provisions of the State Density Bonus Law. Adequate access to the Project can be provided via El Norte Parkway.</p> <p>The Project would not be out of character for the area because the proposed development would be well integrated into its surroundings in terms of building height and appearance. The new residences would incorporate compatible and integrated architecture, materials, and colors. The Project would not be visually obstructive or disharmonious with surrounding areas, or harm major views from adjacent properties.</p> |
| E. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially or avoidably injure fish or wildlife or their habitat. | The Project is exempt from the California Environmental Quality Act (CEQA) per section 15332 of the CEQA Guidelines ("In-Fill Development"). The Project would not cause substantial environmental damage and would avoid injury to fish or wildlife, or their habitat, because the site is located within an                                                                                                                                                                                                                                                                                                                                                                                                                                      |

|                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                              | urban setting with no bodies of water and limited vegetation.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| F. That the design of the subdivision or the type of improvements is not likely to cause serious public health concerns.                                                                                     | The design of the Tentative Map and the type of improvements are not likely to cause serious public health problems. The Project site is outside of any flood hazard areas as indicated on flood maps maintained by the Federal Emergency Management Agency ("FEMA"), and outside of any earthquake fault zones as shown on maps maintained by the California Department of Conservation. The Project's proposed driveway alignment, grade and width; drainage and sanitary facilities and utilities, including alignments and grades thereof; location and size of all required easements and rights-of-way; unit configuration; traffic and emergency access; grading; and open space and recreational amenities were all reviewed for compliance with relevant City policies and codes. |
| G. That the design of the subdivision or the type of improvements would not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. | The design of the map and type of improvements would not conflict with easements of record, or easements established through court judgment, or acquired by the population at large, for access through, or use of property within the proposed map. All easements identified in the preliminary title report for the subject property are shown on the proposed Tentative Subdivision Map. No conflicts with easements of record have been identified.                                                                                                                                                                                                                                                                                                                                    |

2. All permits and approvals applicable to the proposed Tentative Map pursuant to Chapter 33 of the Municipal Code have been obtained, or conditions of approval have been proposed to ensure they will be obtained. Approval of a Condominium Permit along with the Tentative Map will allow the applicant to implement the design of the subdivision as shown on the map. The Project has been conditioned to require grading, landscaping, and building permits necessary to construct the Project as proposed.
3. The proposed Tentative Map shall be in conformity with the zone in which it is located. The Project site currently is zoned R-2-12 (Light Multiple Residential; maximum 12 units/acre). The Project would provide a total of ten (10) units, including a base density of eight (8) units and two (2) bonus units, as allowed per the provisions of the State Density Bonus Law. The Tentative Subdivision Map has been conditioned appropriately to provide all infrastructure improvements including open space and landscaping.

4. All applicable requirements of the Subdivision Map Act and any ordinance of the City of Escondido regulating land divisions have been satisfied.
5. The Project is exempt from CEQA per section 15332 of the CEQA Guidelines, which covers in-fill development meeting specified criteria. As discussed in the staff report of November 10, 2020, the Project satisfies these criteria because it is consistent with the provisions and policies of the City of Escondido General Plan and Zoning Code; is located on a site within City limits that is under five (5) acres, is substantially surrounded by urban uses, and can be served by utilities and public services; is not expected to create impacts to traffic and air quality that exceed applicable thresholds; and is located on land that does not have value as habitat for rare, threatened, or endangered species. After Project approval, a Notice of Exemption will be filed with the County of San Diego Clerk's Office, along with the applicable filing fees.

#### **Condominium Permit Determinations**

1. The Project is a new condominium project, and is subject to current zoning, design review, drainage, engineering, fire protection, seismic, and building code requirements. The Project has been reviewed by various City departments and divisions, including Planning, Engineering, Traffic Engineering, Building, Fire, Utilities, Environmental Programs, and the staff design review team. All requirements of these departments and divisions have been incorporated into the Project plans, or have become conditions of approval for the Project.
2. Because the Project will construct new condominium buildings instead of converting existing buildings to condominiums, there are no required upgrades or modifications to fix nonconforming conditions.
3. The Project will contain architectural and site-planning features commonly found in projects that maintain a majority of owner-occupied units. All units in the development will contain three (3) bedrooms and approximately 1,245 square feet of living space, comparable with other for-sale condominium units in Escondido, and with other Habitat for Humanity projects. Each unit will have a private garage, fenced yard with patio, and in-unit laundry. Common amenities will include a barbeque, garden boxes, pet area, and outdoor seating. Landscaping will be provided throughout the site in all common areas.
4. The Project provides sufficient parking commensurate with its location and design. Each unit will have two (2) designated parking spaces, which is the typical requirement for three (3)-bedroom units in multi-family projects, as well as duplex units of any size, per Escondido's off-street parking standards (Section 33-765 of the Zoning Code). The Project provides no separate guest parking, but State Density Bonus Law pre-empts the City from requiring more than two (2) spaces per unit, inclusive of any guest or handicapped parking.

5. The Project's open space is well-designed, properly distributed, and does not unreasonably restrict disabled access. Each unit in the development would have a private, fenced yard area with patio, accessible directly from the unit. A common amenity area would be centrally-located on the site, with a variety of social and recreational facilities. The common area would be accessible via a paved walkway leading from the common driveway.
6. The Project conforms to the General Plan and applicable zoning provisions. The Project site is located in the Urban II (U-2) designation of the General Plan, and the Light Multiple Residential (R-2-12) zone of the Zoning Code. Both of these designations allow multi-family projects of up to 12 units per acre. Because all of the units in the Project would be reserved for low-income households, the Project is eligible for a density bonus per the State Density Bonus Law (California Government Code Sections 65915 through 65918). Therefore, the Project would construct ten (10) units (for a density of 16.7 units per acre) as allowed in the terms of that law. The State Density Bonus Law allows an unlimited number of waivers from typical development standards, when those standards would physically preclude the construction of a project at the permitted density. The Project proposes waivers from the typical R-2-12 standards for open space and setbacks, as explained in the November 10, 2020 staff report. All other development standards required for the R-2-12 zone are satisfied or have been conditioned.
7. The Project is not required to submit a maintenance and replacement program to the City as part of the Project application, because it is a new condominium development, not a condominium conversion.
8. The Project is not subject to the tenant notification and information process described in the California Subdivision Map Act, Article 49 (Air Space Condominium and Community Apartment Projects) of the Escondido Zoning Code, and Chapter 32 (Subdivision) of the Escondido Municipal Code, since it is a new condominium development and not a condominium conversion, and no tenants currently reside on the site.
9. The Project is not responsible for releasing security deposits or providing rental payment history reports to any existing tenants, since it is a new condominium development and not a condominium conversion, and no tenants currently reside on the site.

## **EXHIBIT “D”**

### **CONDITIONS OF APPROVAL**

#### **Planning Case Nos.: SUB 20-0002 and PHG 20-0019**

This Project is conditionally approved as set forth on the application received by the City of Escondido on **February 3, 2020**, and the Project drawings consisting of Site Plans, Floor Plans, Architectural Elevations, Civil Sheets/Grading, Landscape Plans, and Colored Elevations; and shall not be altered without express authorization by the Community Development Department.

For the purpose of these conditions, the term “Applicant” shall also include the Project proponent, owner, permittee, or its successor(s) in interest, as may be applicable.

#### **General Conditions**

- 1. Acceptance of Permit.** Should the Applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the Applicant shall be deemed to constitute all of the following on behalf of the Applicant:
  - a.** Acceptance of the Permit by the Applicant; and
  - b.** Agreement by the Applicant to be bound by, to comply with, and to do all things required of or by the Applicant pursuant to all of the terms, provisions, and conditions of this Project Permit or other approval and the provisions of the Escondido Municipal Code or Zoning Code applicable to such Permit.
- 2. Permit Expiration.** The Tentative Subdivision Map and corresponding Condominium Permit shall automatically expire after three (3) years from the date of this approval, or the expiration date of any extension granted in accordance with the Escondido Municipal Code or Zoning Code.
- 3. Certification.** The Director of Community Development, or his/her designee, is authorized and directed to make, or require the applicant to make, all corrections and modifications to the Project drawings and any other relevant document comprising the Project in its entirety, as necessary to make them internally consistent and in conformity with final action on the Project. This includes amending the Project drawing as necessary to incorporate revisions made by the decision-making body and/or reflecting any modifications identified in these conditions of approval. Said Plans must be certified by the Planning Division prior to submittal of any post-entitlement permit, including grading, public improvement, landscape, or building plans for the project.

**4. Conformance to Approved Plans.**

- a. The operation and/or use of the subject property shall be consistent with the Project Description and Details of Request, designated with the Approved Plan set.
- c. Nothing in this Permit shall authorize the Applicant to intensify the authorized activity beyond that which is specifically described in this Permit.
- d. Once a permit has been issued, the Applicant may request Permit modifications. "Minor" modifications may be granted if found by the Director of Community Development to be in substantial conformity with the Approved Plan set, including all exhibits and Permit conditions attached hereto. Modifications beyond the scope described in the Approved Plan set may require submittal of an amendment to the Permit and approval by the authorized agency.

**5. Limitations on Use.** Prior to any use of the Project site pursuant to this Permit, all Conditions of Approval contained herein shall be completed or secured to the satisfaction of the Community Development Director.

**6. Certificate of Occupancy.**

- a. No change in the character of occupancy or change to a different group of occupancies as described by the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required, and any such change in occupancy must comply with all other applicable local and state laws.
- b. Prior to final occupancy, a Planning Final Inspection shall be completed to ensure that the property is in full compliance with the Permit terms and conditions. The findings of the inspection shall be documented on a form and content satisfactory to the Director of Community Development.

**7. Availability of Permit Conditions.**

- a. Prior to building permit issuance, the Applicant shall cause a covenant regarding real property to be recorded that sets forth the terms and conditions of this Permit approval and shall be of a form and content satisfactory to the Director of Community Development.
- b. The Applicant shall make a copy of the terms conditions of this Permit readily available to any member of the public or City staff upon request. Said terms and conditions shall be printed on any construction plans that are submitted to the Building Division for plan check processing.

- 8. Right to Entry.** The holder of this Permit shall make the premises available for inspection by City staff during construction or operating hours and allow the investigations of property necessary to ensure that minimum codes, regulations, local ordinances and safety requirements are properly followed. The Applicant shall provide such business records, licenses, and other materials necessary upon request to provide evidence of compliance with the conditions of approval, as well as federal, state, or laws.
- 9. Compliance with Federal, State, and Local Laws.** Nothing in this Permit shall relieve the Applicant from complying with conditions, performance standards, and regulations generally imposed upon activities similar in nature to the activity authorized by this permit. (Permits from other agencies may be required as specified in the Permit's Details of Request.) This Permit does not relieve the Applicant of the obligation to comply with all applicable statutes, regulations, and procedures in effect at the time that any engineering permits or building permits are issued unless specifically waived herein.

No part of this Permit's approval shall be construed to permit a violation of any part of the Escondido Municipal or Zoning Code. During Project construction and after Project completion, the Applicant shall ensure the subject land use activities covered by this Permit is conducted in full compliance with all local and state laws.

- 10. Fees.** The appropriate development fees and Citywide Facility fees shall be paid in accordance with the prevailing fee schedule in effect at the time of building permit issuance, to the satisfaction of the Director of Community Development. Through plan check processing, the Applicant shall pay development fees at the established rate. Such fees may include, but not be limited to: Permit and Plan Checking Fees, Water and Sewer Service Fees, School Fees, Traffic Mitigation Fees, Flood Control Mitigation Fees, Park Mitigation Fees, Fire Mitigation/Cost Recovery Fees, and other fees listed in the Fee Schedule, which may be amended. Arrangements to pay these fees shall be made prior to building permit issuance to the satisfaction of the Community Development Department.
- 11. Community Facility District or Funding Mechanism.** The Applicant shall fund all on-going operational costs of providing municipal services required for the Project, the amount of such funding to be determined by the City Council at the time of Project approval. Such funding shall occur through either an agreement to form or annex into a Community Facilities District ("CFD") or the establishment of another lawful funding mechanism reasonably acceptable to the City ("Public Services Funding Agreement"). The provisions of the Public Services Funding Agreement shall specify any terms and limitations necessary to implement the CFD or other funding mechanism to offset the impacts to public services associated with the project. The City Manager, or City Manager's designee, shall be authorized to approve and execute the Public Services Funding Agreement, and the Public Services Funding Agreement shall be finalized prior to the City's issuance of any permit for the Project.

- 12. Public Partnership Program.** All requirements of the Public Partnership Program, Ordinance No. 86-70 shall be satisfied prior to any building permit issuance. The ordinance requires that a public art fee be added at the time of the building permit issuance for the purpose of participating in the City Public Art Program.
- 13. Clerk Recording.** 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. In order to file the Notice of Exemption with the County Clerk, in conformance with 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 date of this letter) 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 specified 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. For more information on filing fees, please refer to the County Clerk's Office and/or the California Code of Regulations, Title 14, Section 753.5.
- 14. Legal Description Adequacy.** 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.
- 15. Application Accuracy.** The information contained in the application and all attached materials are assumed to be correct, true, and complete. The City of Escondido is relying on the accuracy of this information and Project-related representations in order to process this application. Any permits issued by the City may be rescinded if it is determined that the information and materials submitted are not true and correct. The Applicant may be liable for any costs associated with rescission of such permits.
- 16. Revocation, Suspension, Modification.** At any time after Project implementation, the City may require a noticed public hearing to be scheduled before the Planning Commission to determine if there has been demonstrated a good faith intent to proceed in reliance on this approval. This item may be referred to the appropriate decision-making body upon recommendation of the Director of Community Development for review and possible revocation or modification of the Permit regarding non-compliance with the Conditions of Approval.

This Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing, and after the following findings are fully investigated:

- a. A violation of any term or condition not abated, corrected or rectified within the time specified on the notice of violation; or
- b. A violation of any City ordinance, state law, or federal law not abated, corrected or rectified within the time specified on the notice of violation; or
- c. The use as presently conducted creates or constitutes a nuisance.

**17. Indemnification.** The Applicant shall hold harmless the City, its Council Members, its Commission and Boards, officers, agents, employees, and representatives from liability for any award, damages, costs and fees incurred by the City and/or awarded to any plaintiff in an action challenging the validity of any approval or denial of the application and from and against any and all claims, losses, proceedings, damages, causes of action, liabilities, costs and expenses, including reasonable attorney's fees, arising from or in connection with, or caused by (i) any act, omission or negligence of Applicant, or their respective contractors, licensees, invitees, agents, sublessees, servants or employees, wherever on or adjacent to the property the same may occur; (ii) any use of the property, or any accident, injury, death or damage to any person or property occurring in, or on or about the property, or any part thereof, or from the conduct of the Applicant or owner's business or from any activity, work or thing done, permitted or suffered by Applicant or owner or its sublessees, contractors, employees, or invitees, in or about the property, other than to the extent arising as a result of City's sole active negligence or to the extent of any willful misconduct of the City; and (iii) any default in the performance of any obligations of Applicant's or owner's part to be performed under the terms of this Agreement, or arising from any negligence of Applicant or owner, or any such claim or any action or proceeding brought thereon; and in case any action or proceedings be brought against the City, its officers, employees, agents and representatives, by reason of any such claim, Applicant or owner, upon notice from City, shall defend the same at its expense by counsel reasonably satisfactory to City. Applicant further agrees to and shall indemnify, defend, protect, and hold harmless the City, its officers, employees, agents and representatives, from and against any and all actions brought by any third party to challenge the Project or its approval by the City, including environmental determinations. Such indemnification shall include any costs and expenses incurred by City in such action(s), including reasonable attorney's fees.

### **Construction, Maintenance, and Operation Obligations**

- 1. Code Requirements.** All construction shall comply with the applicable requirements of the Escondido Municipal Code, Escondido Zoning Code, California Building Code; and the requirements of the Planning Division, Engineering Services Department, Director of Community Development, Building Official, City Engineer, and the Fire Chief in carrying out the administration of said codes. Approval of this Permit request shall not waive compliance with any City regulations in effect at the time of Building Permit issuance unless specifically waived herein.

- 2. Agency License and Permitting.** In order to make certain on- or off-site improvements associated with the Approved Plan set, the Permit request may require review and clearance from other agencies. Nothing in these Conditions of Approval shall be construed as to waive compliance with other government agency regulations or to obtain permits from other agencies to make certain on- or off-site improvements prior to Final Map recordation, grading permit issuance, building permit issuance, or certificate of occupancy as required. This review may result in conditions determined by the reviewing agency.

At all times during the effective period of this Permit, the Applicant and any affiliated responsible party shall obtain and maintain in valid force and effect, each and every license and permit required by a governmental agency for the construction, maintenance, and operation of the authorized activity.

- 3. Utilities.** All new utilities and utility runs shall be underground, or fee payment in-lieu subject to the satisfaction of the City Engineer.
- 4. Signage.** All proposed signage associated with the Project must comply with Article 66 (Sign Ordinance) of the Escondido Zoning Code. Separate sign permits will be required for Project signage. All non-conforming signs shall be removed. The Applicant shall submit with any sign permit graphic/list of all signs to be removed and retained, along with any new signage proposed.
- 5. Noise.** All Project generated noise shall conform to the City's Noise Ordinance (Ordinance 90-08).
- 6. Lighting.** All exterior lighting shall conform to the requirements of Article 35 (Outdoor Lighting Ordinance) of the Escondido Zoning Code.
- 7. General Property Maintenance.** The property owner or management company shall maintain the property in good visual and functional condition. This shall include, but not be limited to, all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping. The Applicant shall paint and re-paint all building exteriors, accessory equipment, and utility boxes servicing the Project, as necessary to maintain clean, safe, and efficient appearances.
- 8. Anti-Graffiti.** The Applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement, including all areas of the job site for when the Project is under construction.
- 9. Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, and garbage.
- 10. Roof, Wall, and Ground Level Equipment.** All mechanical equipment shall be screened and concealed from view in accordance with Section 33-1085 of the Escondido Zoning Code.

- 11. Trash Enclosures.** Appropriate trash enclosure(s) or other approved trash system shall be approved by the Planning and Engineering Division. The property owner or management company shall be responsible for ensuring that enclosures are easily assessable for garbage and recyclables collection; and that the area is managed in a clean, safe, and efficient manner. Trash enclosure covers shall be closed when not in use. Trash enclosures shall be regularly emptied. There shall be the prompt removal of visible signs of overflow of garbage, smells emanating from enclosure, graffiti, pests, and vermin.
- 12. Staging Construction Areas.** All staging areas shall be conducted on the subject property, subject to approval of the Engineering Department. Off-site staging areas, if any, shall be approved through the issuance of an off-site staging area permit/agreement.
- 13. Disturbance Coordinator.** The Applicant shall designate and provide a point-of-contact whose responsibilities shall include overseeing the implementation of Project, compliance with Permit terms and conditions, and responding to neighborhood concerns.
- 14. Parking and Loading/Unloading.** A minimum of 20 garage parking spaces shall be provided on site as discussed in the staff report to the satisfaction of the City Engineer and Director of Community Development. All required parking spaces shall remain available for operable vehicles and shall not be used for inoperable vehicles or general storage.
- 15. Landscaping:** The property owner or management company assumes all responsibility for maintaining all on-site landscaping; any landscaping in the public right-of-way adjacent to the property, and any retaining and freestanding walls in a manner that satisfies the conditions contained herein.
  - a.** Landscaped areas shall be maintained in a flourishing manner. Appropriate irrigation shall be provided for all landscape areas and be maintained in a fully operational condition.
  - b.** All existing planting and planter areas, including areas within the public right-of-way, shall be repaired and landscaping brought into compliance with current standards. All dead plant material shall be removed and replaced by the property owner or management company.
  - c.** The landscaped areas shall be free of all foreign matter, weeds and plant material not approved as part of the landscape plan.
  - d.** Failure to maintain landscaping and the site in general may result in the setting of a public hearing to revoke or modify the Permit approval.

**16. Landscaping Plans.** Applicant shall install all required improvements including screening walls, retaining walls, storm improvements, and landscaping in substantial conformance to the planting and irrigation schedule as shown on the final Approved Plan set.

- a. A final landscape and irrigation plan shall be submitted to the Planning Division for review and approval, if meeting any of the criteria listed under Section 33-1323 of the Zoning Code. Five (5) copies of detailed landscape and irrigation plans shall be submitted to the Engineering Services Department with the second submittal of the grading plan. The initial submittal of the landscape plans shall include the required plan check fees, paid in accordance with the prevailing fee schedule in effect at the time of submittal. Details of Project fencing and walls, including materials and colors, shall be provided on the landscape plans. (Building permits may also be required.) The landscape and irrigation plans shall be reviewed and approved by the Planning Division and Engineering Services Department prior to issuance of grading permits, and shall be equivalent or superior to the conceptual landscape plans included as part of the Approved Plan set, to the satisfaction of the Planning Division. The required landscape and irrigation plans(s) shall comply with the provisions, requirements and standards outlined in Article 62 (Landscape Standards) of the Escondido Zoning Code, except where stricter requirements are imposed by the State of California.
- b. Screening walls, retaining walls, storm improvements, and landscaping (i.e. planting and irrigation) are to be provided prior to final occupancy.
- c. The installation of the landscaping and irrigation shall be inspected by the Project landscape architect upon completion. He/she shall complete a Certificate of Landscape Compliance certifying that the installation is in substantial compliance with the approved landscape and irrigation plans and City standards. The Applicant shall submit the Certificate of Compliance to the Planning Division and request a final inspection.
- d. Any new freestanding walls and/or retaining walls shall incorporate decorative materials or finishes, and shall be indicated on the landscaping plans. (Building permits may also be required.) All freestanding walls visible from points beyond the Project site shall be treated with a protective sealant coating to facilitate graffiti removal. The sealant shall be a type satisfactory to the Director of Community Development.
- e. New or retrofitted trash enclosures shall accommodate vertical climbing plants, vines with support trellis panels, and/or clinging non-deciduous or fast growing shrubbery that will screen the enclosure's wall surface. The Director of Community Development shall find that the proposed landscaping design, material, or method provides approximate equivalence to the specific requirements of this condition or is otherwise satisfactory and complies with the intent of these provisions.

**Specific Planning Conditions**

1. The project shall install a solid block wall along the west, north, and east sides of the private yard for Unit 1, as well as the east side of the private yard for Unit 2, to attenuate street noise for these yard areas. This wall shall be six (6) feet in height and a minimum of eight (8) inches thick. Any other fences or walls within the ten (10)-foot front setback area shall conform to the height limits described in Sections 33-1080 and 33-1081 of the Escondido Zoning Code.
2. Per Section 33-769 of the Escondido Zoning Code, minimum interior dimensions for the two-car garages shall be 19.5 feet wide by 20 feet deep, free and clear of any obstructions. The building plans submitted to the Building Division shall show that this requirement can be met.
3. Per Section 33-104 (c)(1) of the Escondido Zoning Code, building eaves may project no more than four (4) feet into a front or rear setback area, and no more than two (2) feet into a side setback area. Additionally, no eave projection shall be closer than three (3) feet to any lot line. The building plans submitted to the Building Division shall show that this requirement can be met.
4. The Preliminary Grading Plan submitted to the Planning Division shows that the project will remove one (1) oak tree qualifying as a “protected tree” per the definition in Section 33-1052 of the Escondido Zoning Code, in the approximate location of the common amenity area. Two replacement oaks are shown on the conceptual landscape plan submitted for SUB 20-0002, as required by Section 33-1069. As part of the landscape package submittal required for this project, the applicant or developer shall provide justification that this proposed replanting location can support these trees. If the replacement trees cannot be accommodated in this location or elsewhere on the project site, the applicant or developer shall coordinate with Planning and Public Works for the off-site replanting of these trees on City property.
5. The following mitigation monitoring and reporting program shall be implemented to address potential impacts to unidentified and unknown tribal cultural resources within the proposed Project Area and/or Location.
  - a. The City of Escondido Planning Division (“City”) recommends the applicant enter into a Tribal Cultural Resource Treatment and Monitoring Agreement (also known as a pre-excavation agreement) with a tribe that is traditionally and culturally affiliated with the Project Location (“TCA Tribe”) prior to issuance of a grading permit. The purposes of the agreement are (1) to provide the applicant with clear expectations regarding tribal cultural resources, and (2) to formalize protocols and procedures between the Applicant/Owner and the TCA Tribe for the protection and treatment of, including but not limited to, Native American human remains, funerary objects, cultural and religious landscapes, ceremonial items, traditional gathering areas and cultural items, located and/or discovered through a monitoring program in conjunction with the construction of the proposed project, including additional archaeological surveys and/or studies,

excavations, geotechnical investigations, grading, and all other ground disturbing activities.

- b.** Prior to issuance of a grading permit, the applicant shall provide written verification to the City that a qualified archaeologist and a Native American monitor associated with a TCA Tribe have been retained to implement the monitoring program. The archaeologist shall be responsible for coordinating with the Native American monitor. This verification shall be presented to the City in a letter from the project archaeologist that confirms the selected Native American monitor is from a TCA Tribe. The City, prior to any pre-construction meeting, shall approve all persons involved in the monitoring program.
- c.** The qualified archaeologist and a Native American monitor shall attend the pre-grading meeting with the grading contractors to explain and coordinate the requirements of the monitoring program.
- d.** During the initial grubbing, site grading, excavation or disturbance of the ground surface, the qualified archaeologist and the Native American monitor shall be on site full-time. The frequency of inspections shall depend on the rate of excavation, the materials excavated, and any discoveries of tribal cultural resources as defined in California Public Resources Code Section 21074. Archaeological and Native American monitoring will be discontinued when the depth of grading and soil conditions no longer retain the potential to contain cultural deposits. The qualified archaeologist, in consultation with the Native American monitor, shall be responsible for determining the duration and frequency of monitoring.
- e.** In the event that previously unidentified tribal cultural resources are discovered, the qualified archaeologist and the Native American monitor, shall have the authority to temporarily divert or temporarily halt ground disturbance operation in the area of discovery to allow for the evaluation of potentially significant cultural resources. Isolates and clearly non-significant deposits shall be minimally documented in the field and collected so the monitored grading can proceed.
- f.** If a potentially significant tribal cultural resource is discovered, the archaeologist shall notify the City of said discovery. The qualified archaeologist, in consultation with the City, the TCA Tribe and the Native American monitor, shall determine the significance of the discovered resource. A recommendation for the tribal cultural resource's treatment and disposition shall be made by the qualified archaeologist in consultation with the TCA Tribe and the Native American monitor and be submitted to the City for review and approval.
- g.** The avoidance and/or preservation of the significant tribal cultural resource and/or unique archaeological resource must first be considered and evaluated CEQA. Where any significant tribal cultural resources and/or unique archaeological resources have been discovered and avoidance and/or preservation measures are deemed to be

- infeasible by the City, then a research design and data recovery program to mitigate impacts shall be prepared by the qualified archaeologist (using professional archaeological methods), in consultation with the TCA Tribe and the Native American monitor, and shall be subject to approval by the City. The archaeological monitor, in consultation with the Native American monitor, shall determine the amount of material to be recovered for an adequate artifact sample for analysis. Before construction activities are allowed to resume in the affected area, the research design and data recovery program activities must be concluded to the satisfaction of the City.
- h.** As specified by California Health and Safety Code Section 7050.5, if human remains are found on the project site during construction or during archaeological work, the person responsible for the excavation, or his or her authorized representative, shall immediately notify the San Diego County Coroner's office. Determination of whether the remains are human shall be conducted on-site and in situ where they were discovered by a forensic anthropologist, unless the forensic anthropologist and the Native American monitor agree to remove the remains to an off-site location for examination. No further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains shall occur until the Coroner has made the necessary findings as to origin and disposition. A temporary construction exclusion zone shall be established surrounding the area of the discovery so that the area would be protected, and consultation and treatment could occur as prescribed by law. In the event that the remains are determined to be of Native American origin, the Most Likely Descendant, as identified by the Native American Heritage Commission, shall be contacted in order to determine proper treatment and disposition of the remains in accordance with California Public Resources Code section 5097.98. The Native American remains shall be kept in-situ, or in a secure location in close proximity to where they were found, and the analysis of the remains shall only occur on-site in the presence of a Native American monitor.
  - i.** If the qualified archaeologist elects to collect any tribal cultural resources, the Native American monitor must be present during any testing or cataloging of those resources. Moreover, if the qualified Archaeologist does not collect the cultural resources that are unearthed during the ground disturbing activities, the Native American monitor, may at their discretion, collect said resources and provide them to the TCA Tribe for respectful and dignified treatment in accordance with the Tribe's cultural and spiritual traditions. Any tribal cultural resources collected by the qualified archaeologist shall be repatriated to the TCA Tribe. Should the TCA Tribe or other traditionally and culturally affiliated tribe decline the collection, the collection shall be curated at the San Diego Archaeological Center. All other resources determined by the qualified archaeologist, in consultation with the Native American monitor, to not be tribal cultural resources, shall be curated at the San Diego Archaeological Center.
  - j.** Prior to the release of the grading bond, a monitoring report and/or evaluation report, if appropriate, which describes the results, analysis and conclusion of the archaeological monitoring program and any data recovery program on the project site

shall be submitted by the qualified archaeologist to the City. The Native American monitor shall be responsible for providing any notes or comments to the qualified archaeologist in a timely manner to be submitted with the report. The report will include California Department of Parks and Recreation Primary and Archaeological Site Forms for any newly discovered resources.

### **Housing and Neighborhood Services Conditions**

1. The project shall provide a minimum of ten (10) dwelling units for Low Income Households (*households earning less than 80% of the Area Median Income for the San Diego-Carlsbad-San Marcos MSA*). Prior to issuance of a building permit, the developer shall sign a binding affordable housing agreement with the City, which sets forth the conditions and guidelines to be met in the implementation of Density Bonus Law requirements and/or any other applicable requirements. The agreement will also establish specific compliance standards and remedies available to the City upon failure by the developer to restrict units to target households for the prescribed time period (55 years for all target units as described in Section 33-1416 of the Zoning Code). Income qualified first-time homebuyer households will be approved by the City of Escondido Housing & Neighborhood Services Division for the duration of the affordability period.
2. All affordability agreements shall be binding on the developers, their heirs, transferees, assigns, successors, administrators, executors, and other representatives, and recorded on the deed for the requisite period of time.

### **Building Conditions**

1. The applicant shall submit a complete set of construction plans to the Development Services Department for building permit plan check processing. The submittal shall include a Soils/Geotechnical Report, structural calculations, and State Energy compliance documentation (Title 24). Construction plans shall include a site plan, a foundation plan, floor and roof framing plans, floor plan(s), section details, exterior elevations, and materials specifications. Submitted plans must show compliance with the latest adopted editions of the California Residential Code (The International Residential Code with California Amendments, the California Mechanical, Electrical and Plumbing Codes). These comments are preliminary only. A comprehensive plan check will be completed prior to permit issuance and additional technical code requirements may be identified and changes to the originally submitted plans may be required.

### **Fire Conditions**

1. All fire underground, fire alarms, and fire sprinkler plans shall be deferred submittals to the Escondido Fire Department.
2. Access shall be a minimum of 24 feet in width.
3. Access shall be paved in an approved all-weather surface able to hold 75,000 pounds.

**ENGINEERING CONDITIONS:**

**GENERAL**

1. The Developer shall provide the City Engineer with a Subdivision Guarantee and Title Report covering subject property.
2. The location of all existing on-site and adjacent utilities and storm drain facilities shall be determined by the Developer's engineer. If a conflict occurs with the proposed project or improvements, arrangements for relocation of the conflicting utilities/facilities shall be made with the owner of the utility/facility prior to approval of the Grading plans and Final Map. This utility/facility relocation work shall be completed prior to issuance of Building Permits.
3. Improvement plans prepared by a Civil Engineer are required for all public street and utility improvements and a Grading/Private Improvement plan prepared by Civil Engineer is required for all grading, drainage and private onsite improvement design. Landscaping Plans shall be prepared by a Landscape Architect.
4. The Developer shall post securities in accordance with the City prepared Bond and Fee Letter based on a final Engineer's Estimate of Grading and Improvements Cost prepared by the project engineer. The Developer is required to provide a Cash Clean Up deposit for all grading, landscaping, private Improvements and onsite drainage improvements prior to approval of Grading Plans and issuance of Grading Permit. This Cash Clean Up Deposit amount shall be 10% of the total cost of the project private improvements, drainage and landscaping. The Developer is required to provide Performance (100% of total public improvement cost estimate), Labor and Material (50% of total public improvement cost estimate) and Guarantee and Warrantee (10 % of total public improvement cost estimate) bonds for all public improvements prior to approval of the Improvement Plans and issuance of Building Permits. All improvements shall be completed prior to issuance of a Certificate of Occupancy.
5. As surety for the construction of required off-site and/or on-site improvements, bonds and agreements in a form acceptable to the City Attorney shall be posted by the Developer with the City of Escondido prior to the approval of any building permit.
6. No Building Permits shall be issued for any construction within this Subdivision until the Final Subdivision Map is recorded and either:
  - a) All conditions of the Tentative Subdivision Map have been fulfilled, or
  - b) Those conditions unfulfilled at the time of an application for Building Permits shall be secured and agreements executed in a form and manner satisfactory to the City Attorney and City Engineer.

7. If site conditions change adjacent to the proposed development prior to completion of the project, the Developer will be responsible to modify his/her improvements to accommodate these changes. The determination and extent of the modification shall be to the satisfaction of the City Engineer.
8. All public improvements shall be constructed in a manner that does not damage existing public improvements. Any damage shall be determined by and corrected by the Developer to the satisfaction of the City Engineer.
9. The Developer's engineer shall submit to the Planning Department 3 copies of the Tentative Map as presented to the Planning Commission and approved by the City Council together with any changes contained in the adopted final conditions of approval. The Tentative Map will be certified by the Planning Department verifying that they are an accurate reproduction of the approved Tentative Map and must be included with the first Final Engineering submittal for plan check to the Engineering Department.

#### **STREET IMPROVEMENTS AND TRAFFIC**

1. Public street improvements shall be constructed to City Standards in effect at the time of the Tentative Map approval and shall be submitted on public improvement plans prepared by a Civil Engineer to the satisfaction of the City Engineer. Specific details, including final concrete driveway apron design for the project entrances, concrete curb & gutter and sidewalk replacement, drainage, street lighting, etc. shall be resolved to the satisfaction of the City Engineer.
2. The project's access drive shall be constructed as an alley-type driveway apron with a minimum throat width of 24-feet and a driveway apron with a 4-foot minimum ADA path of travel maintained near the right-of-way line to the satisfaction of the City Engineer. The developer and their engineer shall design one driveway that serves both this project and the existing home on the adjacent parcel to the west of this project. The developer and their engineering shall coordinate construction of this driveway with the property owner of the adjacent parcel west of this project.
3. All on-site driveways, and parking areas will be private. Typical sections and design details shall be to the satisfaction of the City Engineer and Community Development Director.
4. The Developer shall remove and replace all damaged sidewalk, curb and gutter, along all project frontages to the satisfaction of the City Engineer prior to issuance of a Certificate of Occupancy.
5. The Developer will be required to provide a detailed detour and traffic control plan, for all construction and staging activities, and any requested materials placement within existing rights-of-way to the satisfaction of the City Engineer. This plan shall include any proposed sidewalk closures and provide for alternate pedestrian access around the project site. This

plan shall be approved prior to the issuance of an Encroachment Permit for construction or other project activities within the public right-of-way.

### **GRADING and SITE IMPROVEMENTS**

1. A site grading and erosion control plan prepared by a registered Civil Engineer shall be approved by the Engineering Department prior to issuance of building permits. The first submittal of the grading plan shall be accompanied by 2 copies of the preliminary soils and geotechnical report. The Soils Engineer will be required to indicate in the soils report that he/she has reviewed the grading design and found it to be in conformance with his/her recommendations.
2. All private driveways and parking areas shall be paved with a minimum of 3" AC over 6" of AB or 7" PCC over 6" AB. All paved areas exceeding 15% slope or less than 1.0% shall be paved with PCC.
3. Any proposed retaining walls not a part of the building foundations or stem walls shall be shown on and permitted as part of the site grading plan. Profiles and structural details shall be shown on the site grading plan and the Soils Engineer shall state on the plans that the proposed retaining wall design is in conformance with the recommendations and specifications as outlined in the Geotechnical report. Structural calculations shall be submitted for review by a Consulting Engineer for all walls not covered by Regional or City Standard Drawings. Stem walls, foundation structures, or deepened footings that are to be constructed as part of a building structure will be permitted as part of the Building Dept. plan review and permit process.
4. The Developer will be required to obtain permission from adjoining property owners for any off-site grading, drainage improvements on APN 229-040-20-69, or work necessary to construct the project and/or the required improvements.
5. Erosion control, including riprap, interim slope planting, sandbags, or other erosion control measures shall be provided to control sediment and silt from the project. The Developer shall be responsible for maintaining all erosion control facilities throughout the project.
6. The Developer shall be responsible for the recycling of all excavated materials designated as Industrial Recyclables (soil, asphalt, sand, concrete, land clearing brush and rock) at a recycling center or other location(s) approved by the City Engineer.
7. All blasting operations performed in connection with the improvement of the project shall conform to the City of Escondido Blasting Operations Ordinance.
8. All existing foundations, structures, trees not otherwise than those designated "to remain" on the Tentative Map, shall be removed or demolished from the site.
9. All driveway grades shall conform to current Escondido Design Standards and Escondido Standard Drawings.

## **DRAINAGE**

1. Final on-site and off-site storm drain improvements shall be determined to the satisfaction of the City Engineer and shall be based on a Drainage Study to be prepared by the Engineer of Work. The drainage study shall be in conformance with the City of Escondido Design Standards.
2. All on-site storm drains not in public easements are private. The responsibility for maintenance of these storm drains shall be that of the Home Owner's Association. Provisions stating this shall be included in the CC&R'S.
3. The project shall limit drainage flows to their pre-construction rates. Details and calculations for the detention basins shall be submitted and approved as part of the grading plan check.
4. A Storm Water Quality Management Plan (SWQMP) in compliance with the City's latest adopted Storm Water Design Manual shall be prepared for all newly created or replaced onsite impervious areas, impervious frontage, and required offsite improvements. The SWQMP shall be submitted for approval with the final improvement and grading plans. The SWQMP shall include treatment calculations, post-construction storm water treatment measures, and maintenance requirements and responsibilities both for onsite treatment and also any "Green Street" facilities located in the public right-of-way. The SWQMP shall demonstrate how proposed proprietary best management practices meet bio-filtration treatment requirements in accordance with the City's Storm Water Design Manual.
5. The Developer will be required to have the current owner of the property sign, notarize, and record a Storm Water Control Facility Maintenance Agreement.
6. All storm water treatment and retention facilities and their drains including the bio-retention basins and planters, any permeable paver areas shall be considered private. The responsibility for maintenance of these post construction storm water treatment facilities shall be that of the Property Owner.
7. The project owner shall perpetually maintain all permeable surfaces in accordance to the standards established by the County of San Diego Green Streets manual in effect at the time the grading permits are issued. City shall have the right to inspect all permeable surfaces as needed to ensure they function as designed. City shall have the right to require qualified third party testing at the property owner's expense when surface failure is suspected. Contractor qualifications are outlined in the County of SD Green Streets manual. The project owner will be required to repair or reinstall the permeable surface for all failing surfaces to County of SD Green Streets manual standards in place at the time of the grading permit. In the event of failure to maintain the permeable pavers system that result in not functioning as designed, the project owner will be responsible to replace the pervious pavers system with an alternate method of storm water treatment system or will be required to transition the project to a priority storm water development project by complying with the applicable requirements, including

development of a Storm Water Quality Management Plan and the installation of structural best management practices.

### **FIRE**

1. All fire underground, fire alarms, and fire sprinkler plans shall be deferred submittals to the Escondido Fire Department.
2. Access shall be a min of 24ft in width.
3. Access shall be paved in an approved all-weather surface able to hold 75,000. Lbs.

### **WATER SUPPLY**

1. The locations and sizing of all required water mains, water services, fire hydrants, detector check assemblies, and other water appurtenances shall be designed and installed to the satisfaction of the Director of Utilities and the Utilities Engineer.
2. Improvement plans for all proposed water mains shall be prepared by a Civil Engineer and submitted to the City of Escondido for review and approval.
3. All public water mains shall be located under asphalt or concrete pavement and not under curbs, gutters, medians or sidewalks.
4. Fire hydrants together with an adequate water supply shall be installed at locations approved by the Fire Marshal. The Developer shall submit with the first submittal of final engineering a Fire Exhibit approved by the City Fire Marshal showing the locations of all required hydrants, detector check assemblies and post indicator valves.
5. All proposed fire hydrants shall be public and meet the current City of Escondido Standards, and shall connect to a minimum 8" diameter public water main.
6. Water services, meters and backflow prevention devices shall be a minimum of 1-inch in size. Water meters and backflow prevention devices shall not be installed within driveway aprons or drive areas.
7. Backflow prevention assemblies are private and should be located on private property. Backflows shall be located directly behind the public meter.
8. All fire hydrants to be replaced, reconnected or relocated as a part of this project shall be replaced in entirety from the public water main to the fire hydrant per the satisfaction of the Utilities Engineer and Water Distribution.
9. Fire suppression and sprinkler systems beyond the Detector Check Valves are private and shall be designed and constructed per current Building, Plumbing, and Fire Code Standards, and per the requirements of the City Fire Marshal and City Building Official and shall be approved by a separate submittal to the Building Department.

10. All water mains within easements shall be installed under a min. 20-foot wide all-weather road surface designed to the satisfaction of the Utilities Engineer.
11. All on-site water lines and backflow prevention devices not in public easements or the City's Right of Way shall be considered a private water system. The Property Owner will be solely responsible for all maintenance of these water lines and facilities.
12. There shall be no permanent structures or private facilities allowed within a public utility easement. Where private storm drains are necessary, they shall be the outer-most utility.
13. No trees or deep-rooted plants shall be planted within 10-feet of any water service.

### **SEWER**

1. The location and sizing of all Sewer mains shall be per City of Escondido Design Standards and to the satisfaction of the Director of Utilities and the Utilities Engineer.
2. Improvement plans for all proposed sewer mains shall be prepared by a Civil Engineer and shall be submitted to the City for review and approval.
3. All sewer mains, force mains, sewer laterals, forced sewer laterals and appurtenances shall be designed and constructed per current City of Escondido Design Standards and Standard Drawings, and to the satisfaction of the Director of Utilities and Utilities Engineer
4. Sewer laterals less than 8-inches in diameter shall connect to the sewer main with a wye fitting or Insert a-Tee. 8-inches in diameter sewer laterals shall be connected to the public sewer at a manhole.
5. The Developer shall construct an 8-inch public backbone sewer system on-site to serve the project as shown on the Tentative Map. The private forced sewer main shall discharge to a private sewer manhole built to City standards prior to gravity sewerage to a public manhole. All manholes shall be accessible at all times by City Vactor trucks.
6. No trees or deep-rooted bushes shall be planted within 15-feet of any sewer main or within 10-feet of any sewer lateral. Sewer laterals shall be 5-feet horizontally clear from other utilities.
7. All abandoned sewer laterals shall be capped and plugged at the public sewer main to the satisfaction of the Utilities Engineer and the City Inspector.
8. All sewer laterals, private sewer pumps, private force laterals, and private manholes shall be considered a private sewer system. The property owners and/or Home Owners Association shall be responsible for all maintenance of the private sewer system. Provisions stating this shall be included in the CC&Rs.
9. In the event that the City of Escondido Collections Division is called out to the property to respond to private sewer system odors, backups or spills, the Home Owners Association

shall reimburse the City of Escondido for all time and material costs incurred by the City. Provisions stating this shall be included in the CC&Rs.

10. A minimum 20-foot all weather access road (suitable for use by the City's Vector trucks) shall be required for access to all sewer manholes. A turn-around may be required.
11. There shall be no permanent structures or private utilities located within public sewer or public utility easements. Where it is necessary that the private storm drains share a public easement, they shall be placed on the outer-most edge away from the public sewer or water.
12. Any new development whose wastewater discharge may contain pollutants not normally found or in concentrations in excess of those normally found in domestic wastewater shall require a wastewater discharge permit according to the Escondido Municipal Code, Chapter 22, Article 8. New users shall apply at least ninety (90) days prior to connecting to or contributing to the City's wastewater system and a permit must be obtained prior to commencement of any discharge to the system

#### **LANDSCAPE**

1. A site landscaping and irrigation plan shall be submitted to the Engineering Department with the second submittal of the grading plan for review and approval by Engineering and Planning Departments. The initial submittal of the landscape plans shall include the required plan check fees.

#### **FINAL MAP - EASEMENTS**

1. All easements, both private and public, affecting subject property shall be shown and delineated on the Final Map.
2. Public utility easements for sewer, water, storm drain, etc. which are deemed necessary by the City Engineer shall be granted to the City.
3. The developer shall obtain a private drainage easement from the owner of APN 229-040-20-69 for the proposed drainage improvements on APN 229-040-20-69 prior to approval of the grading plan.
4. An emergency access easement shall be granted to the City on the Final Map. The minimum width of the easement shall be 24 feet and to the satisfaction of the City Engineer and Fire Marshal.

#### **REPAYMENTS AND FEES**

1. A cash security shall be posted to pay any costs incurred by the City to clean-up eroded soils and debris, repair damage to public or private property and improvements, install new BMPs, and stabilize and/or close-up a non-responsive or abandoned project. Any moneys used by the City for cleanup or damage will be drawn from this security and the grading permit will be revoked by written notice to the Developer until the required cash security is replaced. The

cleanup cash security shall be released upon final acceptance of the grading and improvements for this project. The amount of the cash security shall be 10% of the total estimated cost of the grading, drainage, landscaping, and best management practices items of work with a minimum of \$5,000 up to a maximum of \$50,000, unless a higher amount is deemed necessary by the City Engineer.

2. 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.

#### **UTILITY UNDERGROUNDING AND RELOCATION**

1. All existing overhead utilities within the subdivision boundary or along fronting streets shall be relocated underground as required by the Subdivision Ordinance. The developer may request a waiver of this condition by writing a letter to the City Engineer explaining his/her reasons for requesting the waiver. The developer will be required to pay a waiver fee as adopted by City Council resolution.
2. The Developer shall sign a written agreement stating that he has made all such arrangements as may be necessary to coordinate and provide utility construction, relocation and undergrounding. All new utilities shall be constructed underground.

#### **CC&R's**

1. Copies of the CC&R's shall be submitted to the Engineering Department and Planning Department for approval prior to approval of the Final Map.
2. The Developer shall make provisions in the CC&R's for maintenance by the Home Owners' Association of private driveways, parking areas, private utilities (including sewer and water), storm water and drainage facilities, private street lighting, landscaping both onsite and within fronting public right-of-ways. These provisions must be approved by the Engineering Department prior to approval of the Final Map.
3. The CC&R's must state that the Home Owners' Association assumes liability for damage and repair to City utilities in the event that damage is caused by the property owners' association when repair or replacement of private utilities is done.
4. The CC&R's must state that (if stamped concrete is used in the private driveway) the homeowners' association is responsible for replacing the stamped concrete in kind if the City has to trench the street for repair or replacement of an existing utility.

## PLANNING COMMISSION

Agenda Item No.: G.2  
Date: November 10, 2020

**PROJECT NUMBER / NAME:** PL 20-0601 / Rowan (formerly Gateway Grand)

**REQUEST:** A Master and Precise Development Plan modification to install gates and fencing at an existing 126-unit multi-family apartment project. The project would include the installation of security gates across all three project driveways, and fencing and pedestrian gates along the perimeter of the property. Up to 8 parking spaces would be removed in order to accommodate installation of the gates at the project driveways. The proposal also includes the adoption of the environmental determination prepared for the project.

**LOCATION:** 700 – 730 W. Grand Avenue

**APPLICANT:** Lyon Living

**APN / APNS:** 232-100-16-00

**PRIMARY REPRESENTATIVE:**  
Carolyn Hillgren

**GENERAL PLAN / ZONING:** SPA 9 / SP

**DISCRETIONARY ACTIONS REQUESTED:** Master and Precise Development Plan Modification

**PREVIOUS ACTIONS:** On October 12, 2016, the City Council approved a Tentative Subdivision Map, Specific Plan Amendment, Master and Precise Development Plan, and Development Agreement for a 126-unit multi-family development at the subject property. (City Council Ordinance No. 2016-16 and Resolution No. 2016-144). On January 14, 2020, the Planning Commission approved a Precise Development Plan modification to allow the installation of projecting/blade signs (Planning Commission Resolution No. 2020-02).

**PROJECT PLANNER:** Adam Finestone, Principal Planner

**CEQA RECOMMENDATION:** Exempt (CEQA Guidelines Section 15301 – Existing Facilities)

**STAFF RECOMMENDATION:** Approval, as conditioned

**REQUESTED ACTION:** Approve Planning Commission Resolution No. 2020-17

**CITY COUNCIL HEARING REQUIRED:** ☐ YES ☒ NO

**REPORT APPROVAL:** ☒ Mike Strong, Director of Community Development

**A. BACKGROUND:**

A Master and Precise Development Plan for the Gateway Grand multi-family residential project was approved by the City Council on October 12, 2016 (Planning Case Nos. SUB 16-0001, PHG 16-0005, and ENV 16-0001). Construction was completed in August of this year. The development, located at 700 – 730 W. Grand Avenue, consists of 126 residential units within three, 5 story buildings with indoor and outdoor recreational space, a 1,000 square foot commercial/flex space, parking, landscaping and associated site improvements on a 2.6-acre parcel in the Gateway Transit District of the Downtown Specific Plan.

**B. PROJECT DESCRIPTION:**

At time of approval, a condition was placed on the project which prohibited the installation of gates across the project driveways. Since completion of construction, circumstances have demonstrated that the project would benefit from the installation of security gates and fencing. As such, the applicant has submitted a request to eliminate the condition of approval described above. This would be accomplished through a modification to the approved Master and Precise Development Plan to allow the installation of the aforementioned security features.

Specific site modifications required to accommodate the request include changing the two project driveways along W. Valley Parkway to one-way driveways, with the eastern driveway being enter-only and the western driveway exit-only. (The project driveway on W. Grand Avenue would continue to provide both entry and exit functionality.) Fencing and pedestrian gates connecting to existing structures and fences would be installed, as would a fence along the east side of an existing pedestrian pathway leading from W. Grand Avenue to W. Valley Parkway. All gates would be electric, residents would be provided with remotes for site access, and callboxes would be installed for guest access. Up to eight parking spaces would be removed in order to accommodate installation of the gates. Aside from the site modifications described above, no changes to the project would be made.

**C. PROJECT ANALYSIS:**

**1. General Plan / Zoning**

The General Plan land-use designation for the subject property is Specific Planning Area (SPA 9), which implements the Downtown Specific Plan. The property is zoned SP (Specific Plan) and is located within the Gateway Transit District of the Downtown Specific Planning. Said specific plan establishes development standards and guidelines for properties in the specific plan area.

Pursuant to section 33-411 of the Escondido Zoning Code, the Planning Commission may approve changes to a master development plan at a public hearing when the changes are consistent with the purpose of the master development plan, provided that such changes do not

increase the established densities, change uses of land, or the location or amounts of land devoted to specific land uses. Intrinsic in this authority is the Planning Commission's ability to approve modifications to a precise development plan.

The applicant's request to modify the Master and Precise Development Plan would not result in any changes to said plan that exceed the Planning Commission's approval authority. Since the proposed modification entails only the addition of security gates and fencing, and the requisite removal of up to eight parking spaces, it is consistent with the Master Development Plan's purpose, and has no effect on residential densities or approved land uses. It is also consistent with the goals and policies established for the property by the Downtown Specific Plan, as well as the General Plan.

## **2. Parking Reduction**

The Master and Precise Development Plan approved by City Council Ordinance No. 2016-16 allowed for a reduction in the number of parking spaces which otherwise would have been required for this project. Specifically, the project provided 226 parking spaces where 246 were required. This reduction is consistent with parking ratios recommended by the San Diego Association of Governments "SANDAG" for transit-oriented development projects, which suggests 208 parking spaces as an appropriate number for this project.

As noted above, installation of security gates would require the elimination of up to eight parking spaces. (It is possible that fewer spaces may be eliminated depending on the exact geometries of the proposed gates in relation to vehicles backing out of existing parking spaces. Exhibit "B" to draft Planning Commission Resolution No. 2020-17 depicts a proposed reduction of six spaces, which may not be sufficient.) Landscaping would be provided in locations where parking spaces are eliminated, except where said spaces are being eliminated to provide an area for vehicles to turn at the end of Driveway B if no parking spaces are available.

The elimination of eight parking spaces would result in a total of 218 spaces being provided on the project site, which still exceeds SANDAG's recommendation. Staff believes this reduction is appropriate for the site due to its location immediately across W. Valley Parkway from the Escondido Transit Station. Further, the applicant has indicated their interest in entering into a parking agreement with the bank/office property immediately to the east of the project site should it be determined necessary, which would allow for overflow resident parking during off-peak hours for that property.

## **D. ENVIRONMENTAL STATUS:**

The Project is Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15301 – Existing Facilities – of the State CEQA Guidelines. In staff's opinion, the project would not have any adverse impacts to the environment.

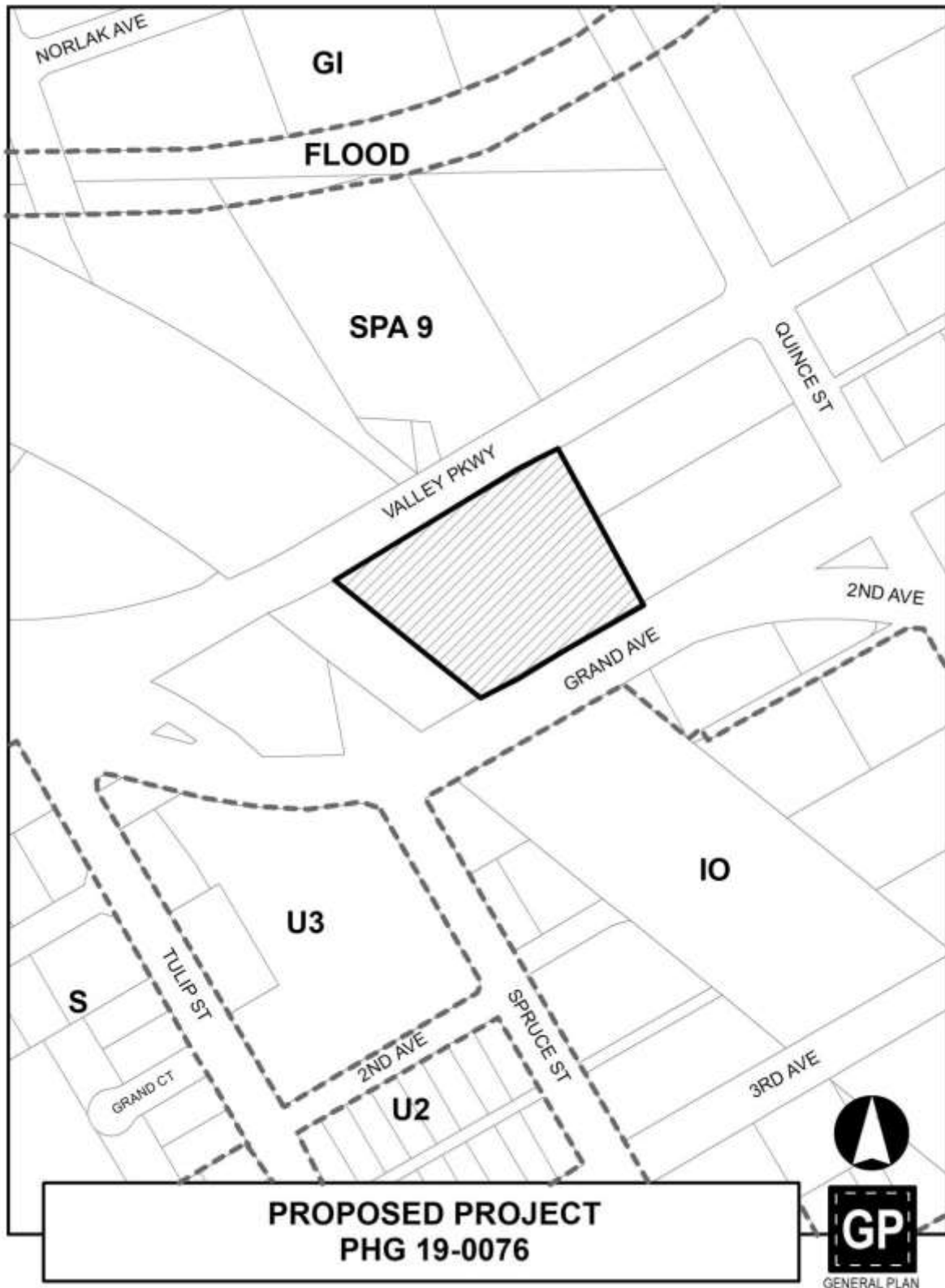
**E. CONCLUSIONS:**

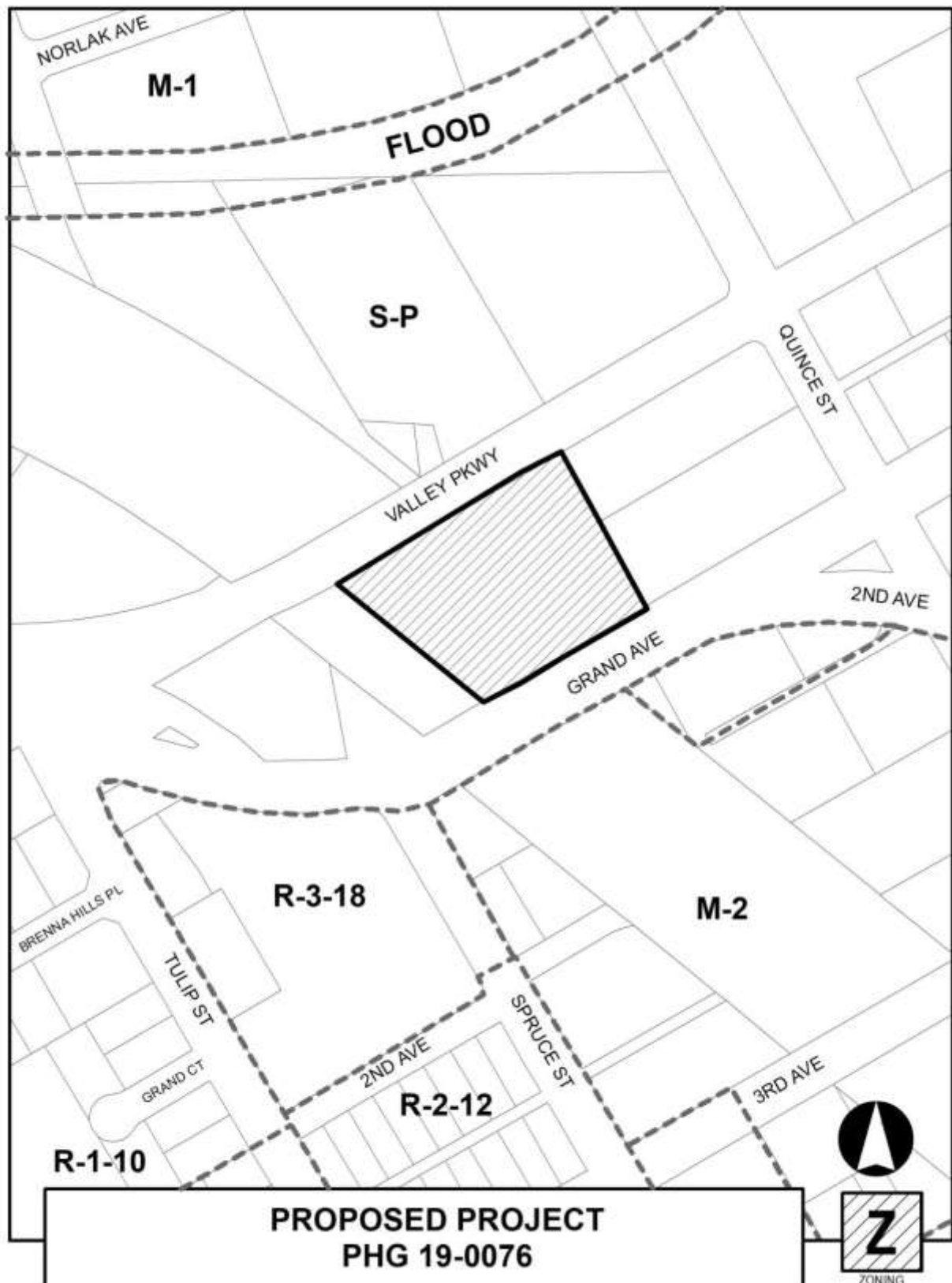
The Planning Commission is authorized to take discretionary action on the proposed Master and Precise Development Plan modification to allow the installation of security gates and fencing, and the removal of a condition of approval prohibiting such gates. No other discretionary permits are requested or required for the proposed scope of work. City staff recommends that the Planning Commission adopt draft Planning Commission Resolution No. 2020-17, approving Planning Case No. PL 20-0601, based upon the findings of fact and conditions of approval attached to the draft resolution as Exhibits "C" and "D," respectively, and as depicted in Exhibit "B."

**ATTACHMENTS:**

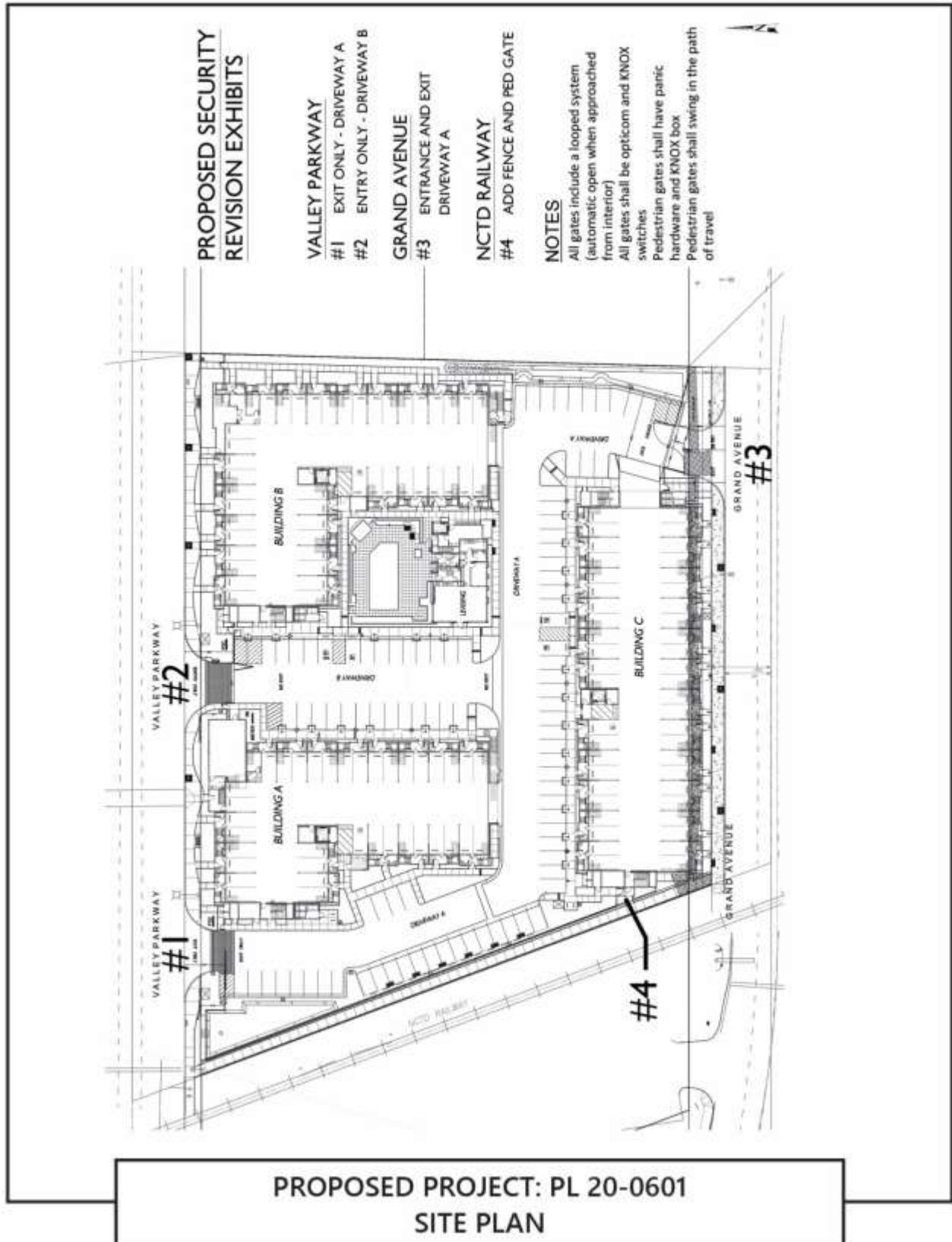
1. Location and General Plan Map
2. Project Plans
3. Site Photographs
4. Draft Planning Commission Resolution No. 2020-17

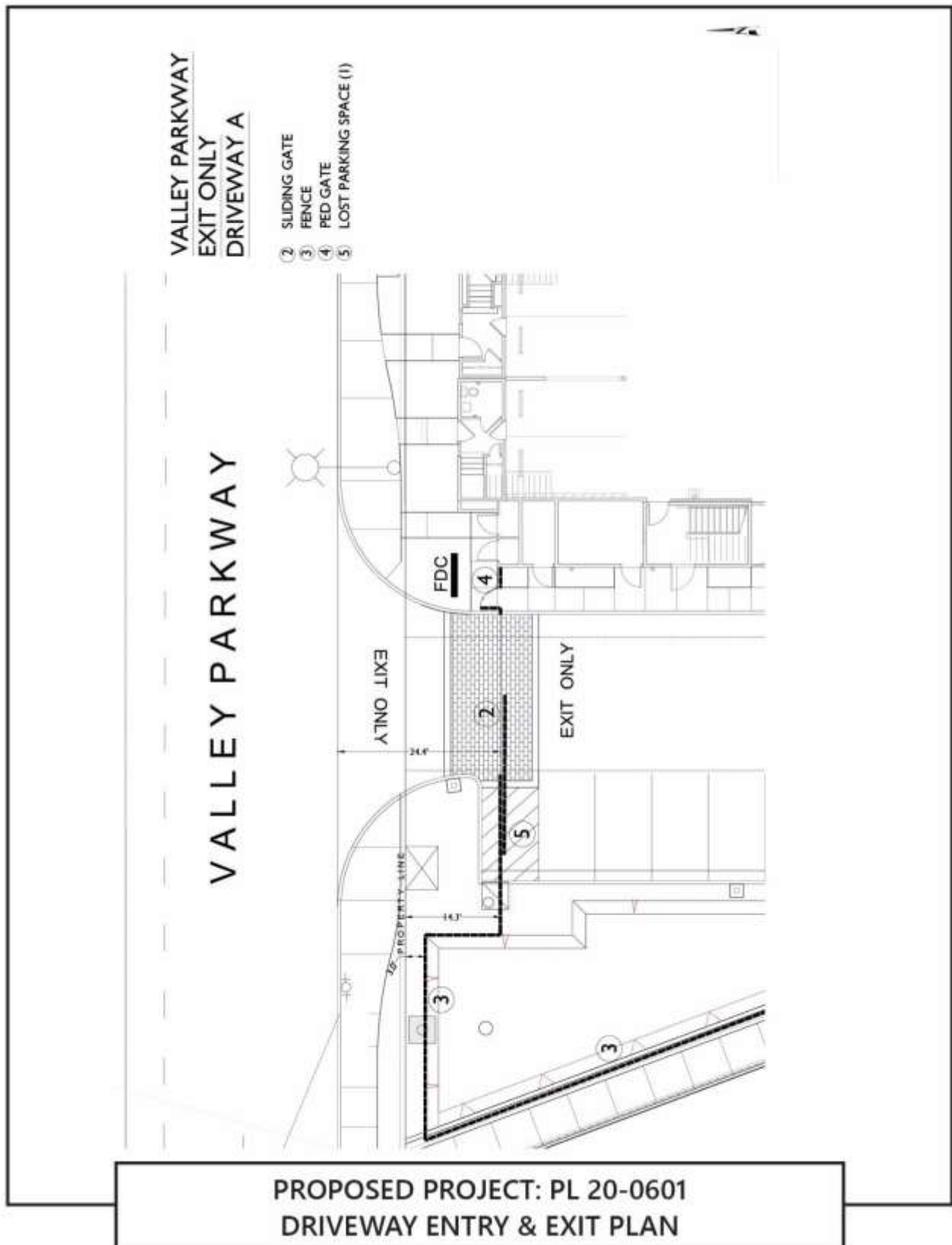
## ATTACHMENT 1

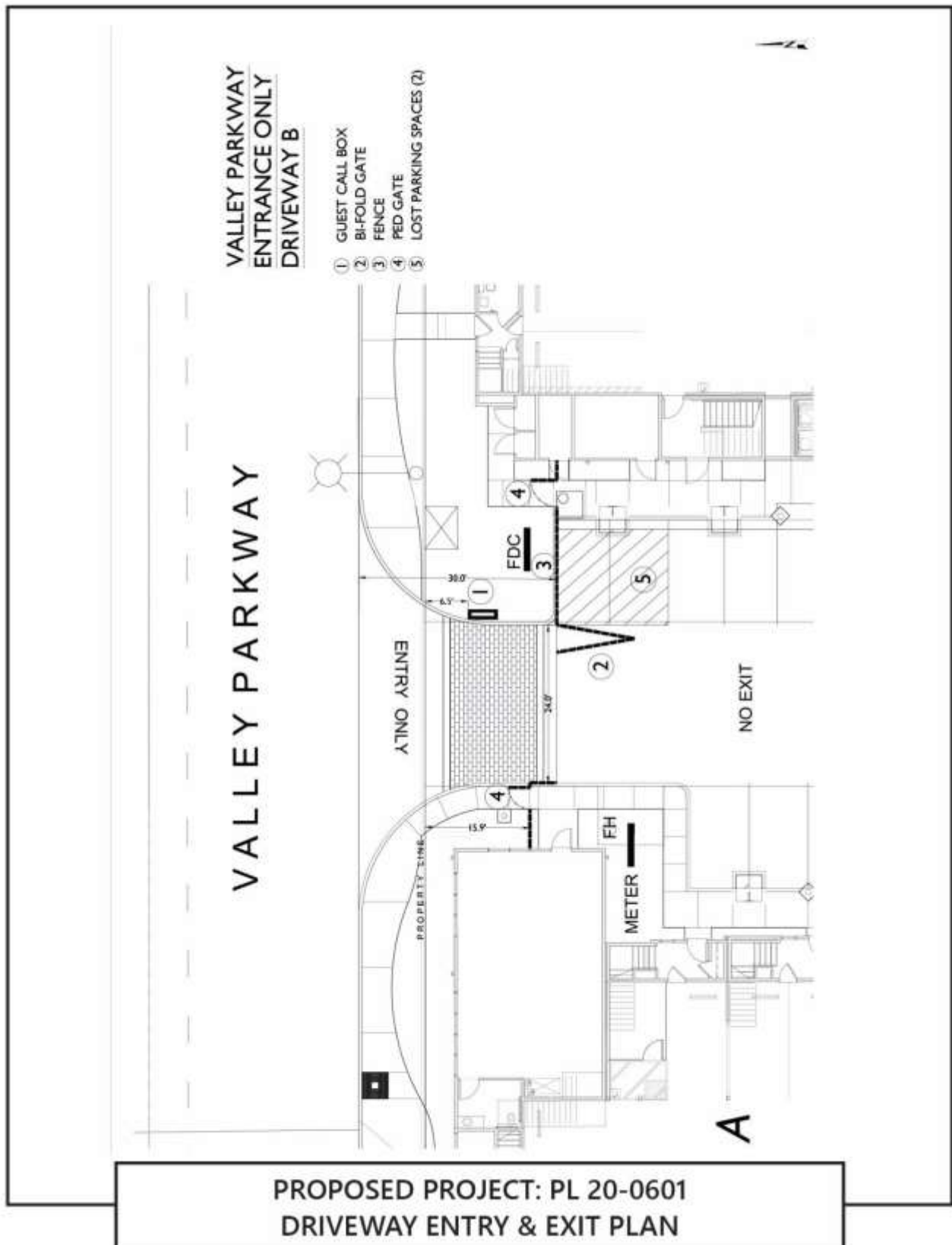


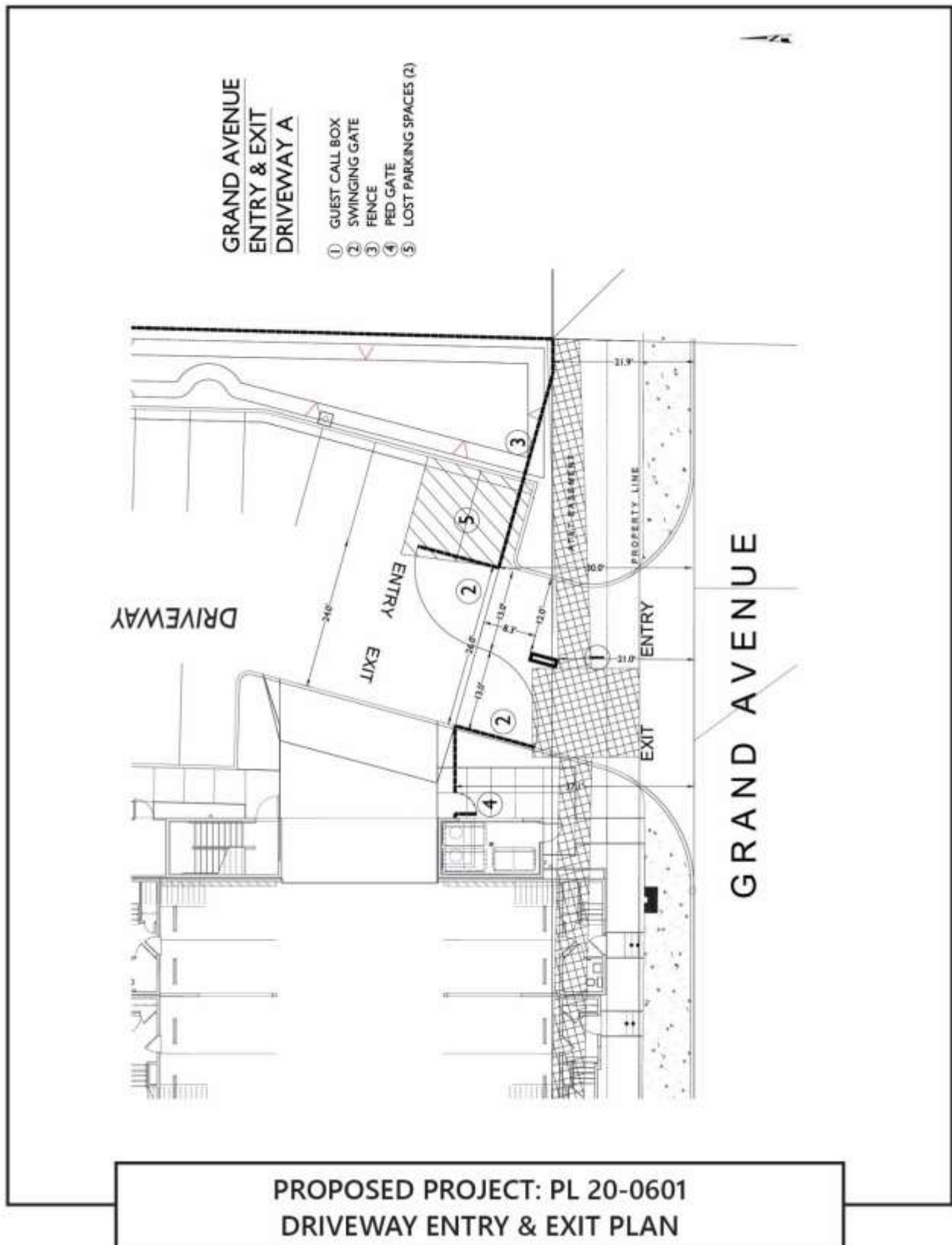


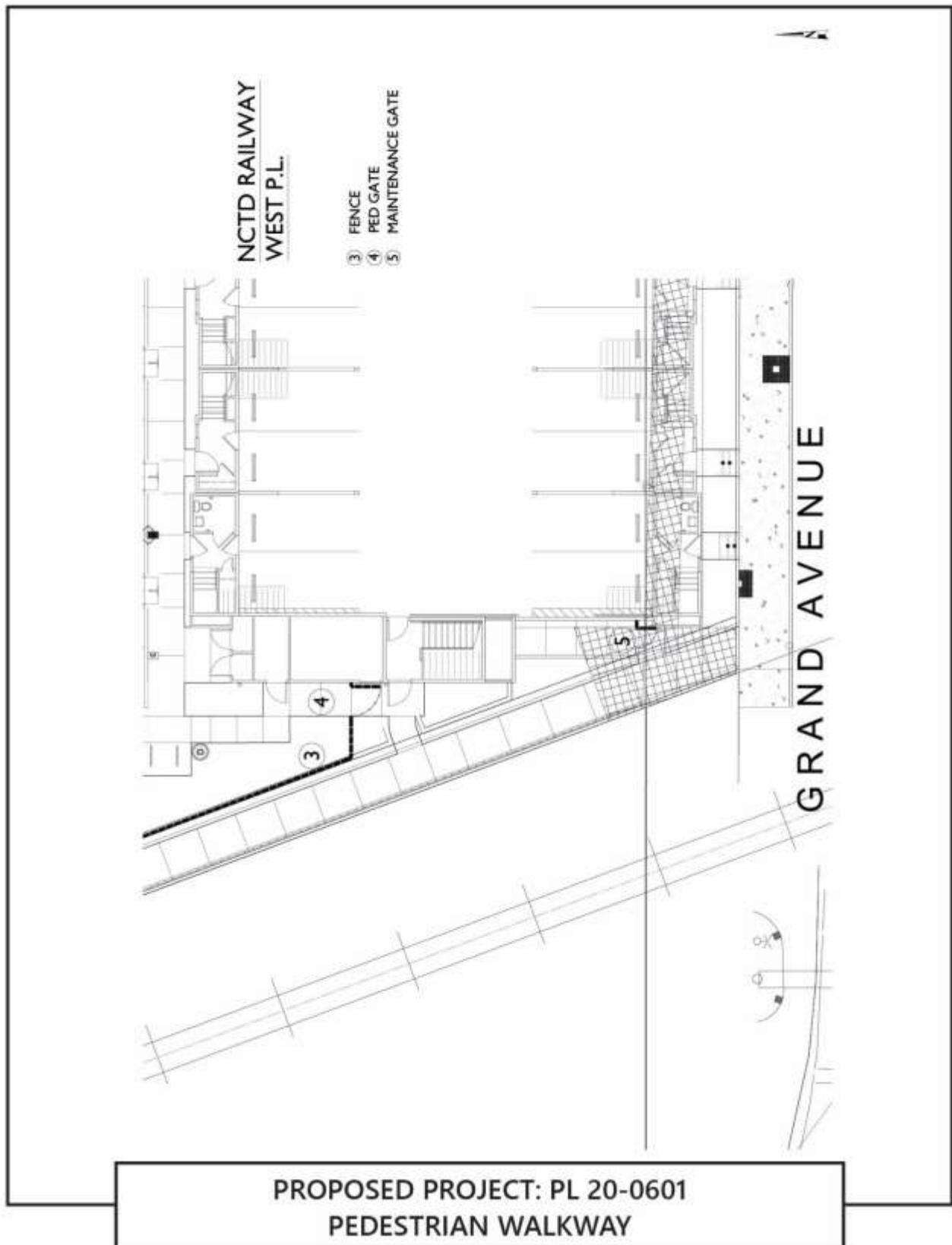
## ATTACHMENT 2

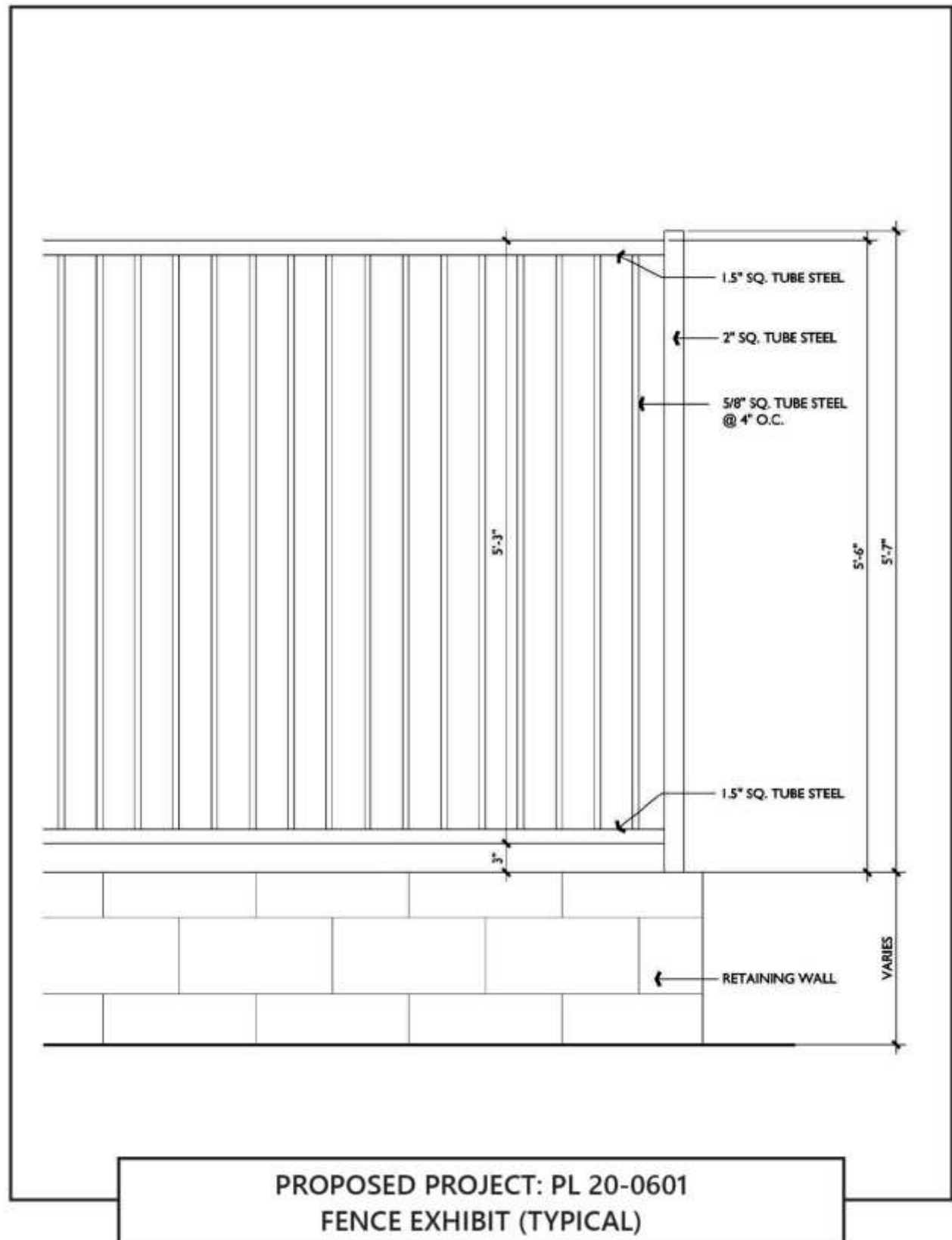


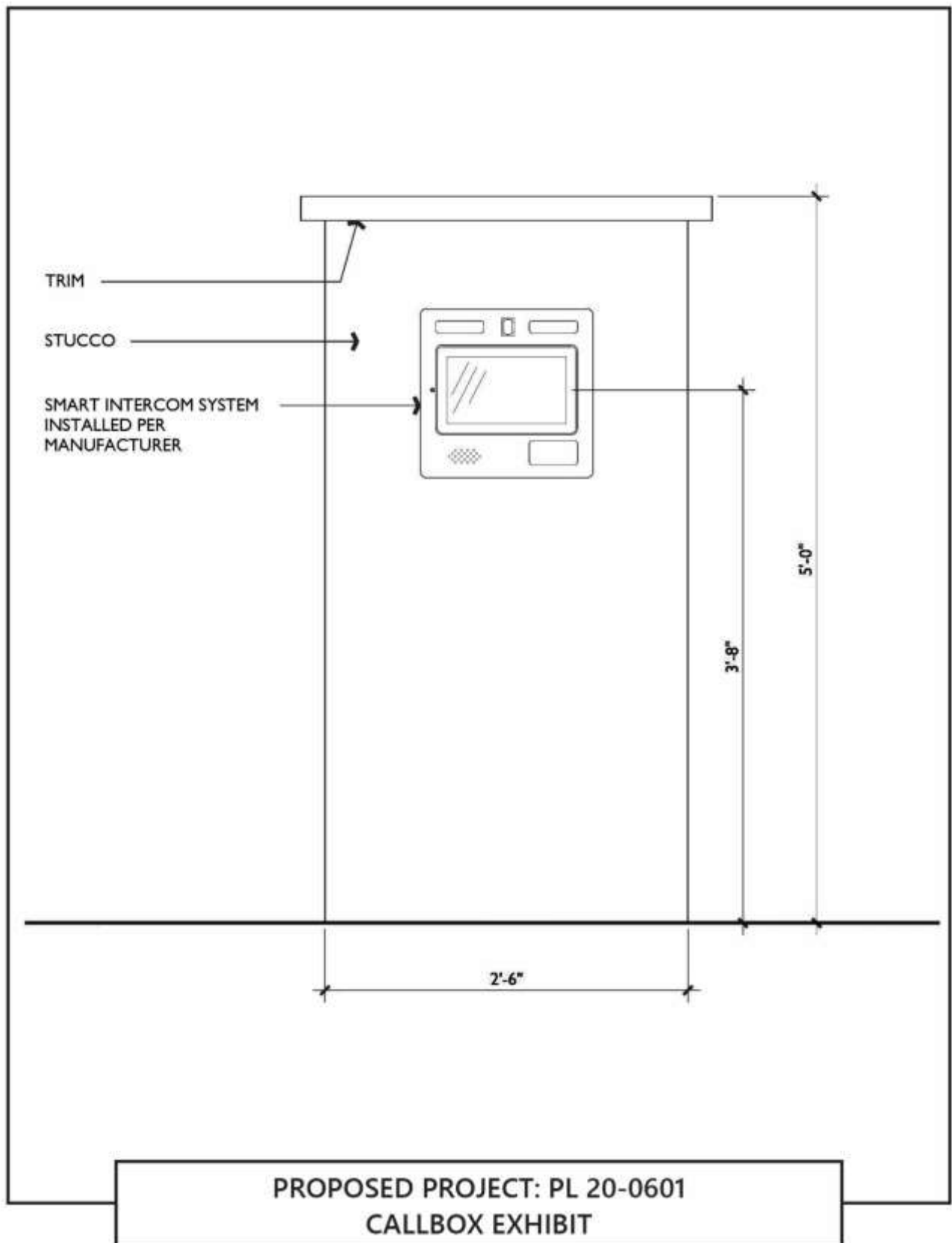












**ATTACHMENT 3**



**PROPOSED PROJECT: PL 20-0601  
W. VALLEY PKWY - WEST DRIVEWAY**



**PROPOSED PROJECT: PL 20-0601  
W. VALLEY PKWY - EAST DRIVEWAY**



**PROPOSED PROJECT: PL 20-0601  
GRAND AVE. DRIVEWAY**



**PROPOSED PROJECT: PL 20-0601  
WALKWAY ALONG WEST PROPERTY LINE**

**ATTACHMENT 4**

Planning Commission

Hearing Date: November 10, 2020

Effective Date: November 21, 2020

**PLANNING COMMISSION RESOLUTION NO. 2020-17**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ESCONDIDO, CALIFORNIA, APPROVING A MASTER AND PRECISE DEVELOPMENT PLAN MODIFICATION FOR THE ROWAN PROJECT (FORMERLY GATEWAY GRAND, SUB 16-0001)

APPLICANT: Carolyn Hillgren, Lyon Living

CASE NO: PL 20-0601

WHEREAS, Lyon Living (herein after referred to as "Applicant"), filed a land use development application (Planning Case No. PL 20-0601) constituting a request for a Master and Precise Development Plan modification to allow security gates and fencing for an existing 126-unit multi-family apartment project located on a 2.6-acre site at 700 – 730 W. Grand Avenue (APN 232-100-16-00), in the SP (Specific Plan) zone; and

WHEREAS, the subject property is located in the Gateway Transit District of the Downtown Specific Plan, and is all that real property described in Exhibit "A," which is attached hereto and made a part hereof by this reference as though fully set forth herein; and

WHEREAS, the land use development application was submitted to, and processed by, the Planning Division of the Community Development Department in accordance with the rules and regulations of the Escondido Zoning Code and the

applicable procedures and time limits specified by the Permit Streamlining Act (Government Code Section 65920 et seq.) and California Environmental Quality Act ("CEQA") (Public Resources Code Section 21000 et seq.); and

WHEREAS, pursuant to CEQA and CEQA Guidelines (Title 14 of California Code of Regulations, Section 15000 et. seq.), the City is the Lead Agency for the Project, as the public agency with the principal responsibility for approving the proposed Project; and

WHEREAS, the Planning Division did study said request, performed necessary investigations, prepared a written report, and does recommend approval of the Project as depicted on the plan set shown in Exhibit "B," which is attached hereto and made a part hereof by this reference as though fully set forth herein; and

WHEREAS, City staff provided public notice of the application in accordance with City and State public noticing requirements; and

WHEREAS, the Planning Commission of the City of Escondido did, on November 10, 2020, hold a duly noticed public hearing as prescribed by law. At said hearing, the Planning Commission received and considered the reports and a recommendation of the Planning Division, and gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter. Evidence was submitted to and considered by the Planning Commission, including, without limitation:

- a. Written information including plans, studies, written and graphical information, and other material, submitted by the Applicant;
- b. Oral testimony from City staff, interested parties, and the public;

- c. The staff report, dated November 10, 2020, with its attachments as well as City staff's recommendation on the Project, which is incorporated herein as though fully set forth herein; and
- d. Additional information submitted during the public hearing; and

WHEREAS, said public hearing before the Planning Commission was conducted in all respects as required by the Escondido Municipal Code and the rules of this Planning Commission.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Escondido that:

- 1. The above recitations are true and correct.
- 2. The proposed project is exempt from CEQA pursuant to Section 15301 of the CEQA Guidelines.
- 3. After consideration of all evidence presented, and studies and investigations made by the Planning Commission and on its behalf, the Planning Commission makes the substantive findings and determinations, attached hereto as Exhibit "C," relating to the information that has been considered. In accordance with the Findings of Fact and the foregoing, the Planning Commission reached a recommendation on the matter as hereinafter set forth.
- 4. The application to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth in Exhibit "D" is hereby **approved** by the Planning Commission. This Planning Commission expressly declares that it would not have approved this land use development application except

upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the Applicant, the owner, and all subsequent owners of the subject property, and all persons who use the subject property for the use permitted hereby.

5. The Planning Commission, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of San Diego in accordance with CEQA Guidelines.

6. Said plan is on file in the Planning Division of the Community Development Department and is available for inspection by anyone interested herein, and said development plan is incorporated herein by this reference, the same as if it were fully set forth herein. This Project is conditionally approved as set forth on the application and Project drawings, all designated as approved by the Planning Commission, and shall not be altered without the express authorization by the Planning Division. Any deviations from the approved plans shall be reviewed by the City for substantial compliance and may require amendment by the appropriate hearing body.

BE IT FURTHER RESOLVED that, pursuant to Government Code Section 66020(d)(1):

1. NOTICE IS HEREBY GIVEN that the Project is subject to dedications, reservations, and exactions, as specified in the Conditions of Approval. The Project is subject to certain fees described in the City of Escondido's Development Fee Inventory on file in both the Community Development and Public Works Departments.

The Applicant 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. It is the City's intent that the costs representing future development's share of public facilities and capital improvements be imposed to ensure that new development pays the capital costs associated with growth. The Applicant is advised to review the Planned Fee Updates portion of the web page, [www.escondido.org](http://www.escondido.org), and regularly monitor and/or review fee-related information to plan for the costs associated with undertaking the Project.

2. NOTICE IS FURTHER GIVEN that the 90-day period during which to protest the imposition of any fee, dedication, reservation, or other exaction described in this resolution begins on the effective date of this resolution, and any such protest must be in a manner that complies with Section 66020.

PASSED, ADOPTED AND APPROVED by a majority vote of the Planning Commission of the City of Escondido, California, at a regular meeting held on the 10<sup>th</sup> day of November, 2020, by the following vote, to wit:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAINED: COMMISSIONERS:

ABSENT: COMMISSIONERS:

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Stan Weiler, Chairman  
Escondido Planning Commission

ATTEST:

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MIKE STRONG, Secretary of the  
Escondido Planning Commission

I hereby certify that the foregoing Resolution was passed at the time and by the vote above stated.

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Joanne Tasher, Minutes Clerk  
Escondido Planning Commission

Decision may be appealed to City Council  
pursuant to Zoning Code Section 33-1303

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**PLANNING CASE NO. PL 20-0601**

LOT 1 OF ESCONDIDO TM NO. SUB16-0001, IN THE CITY OF ESCONDIDO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, AS SHOWN ON MAP NO. 16318, FILED ON DECEMBER 6, 2018, IN THE OFFICE OF THE SAN DIEGO COUNTY RECORDER.

EXHIBIT "B"  
PL 20-0601

**PROPOSED SECURITY  
REVISION EXHIBITS**

**VALLEY PARKWAY**

- #1 EXIT ONLY - DRIVEWAY A
- #2 ENTRY ONLY - DRIVEWAY B

**GRAND AVENUE**

- #3 ENTRANCE AND EXIT  
DRIVEWAY A

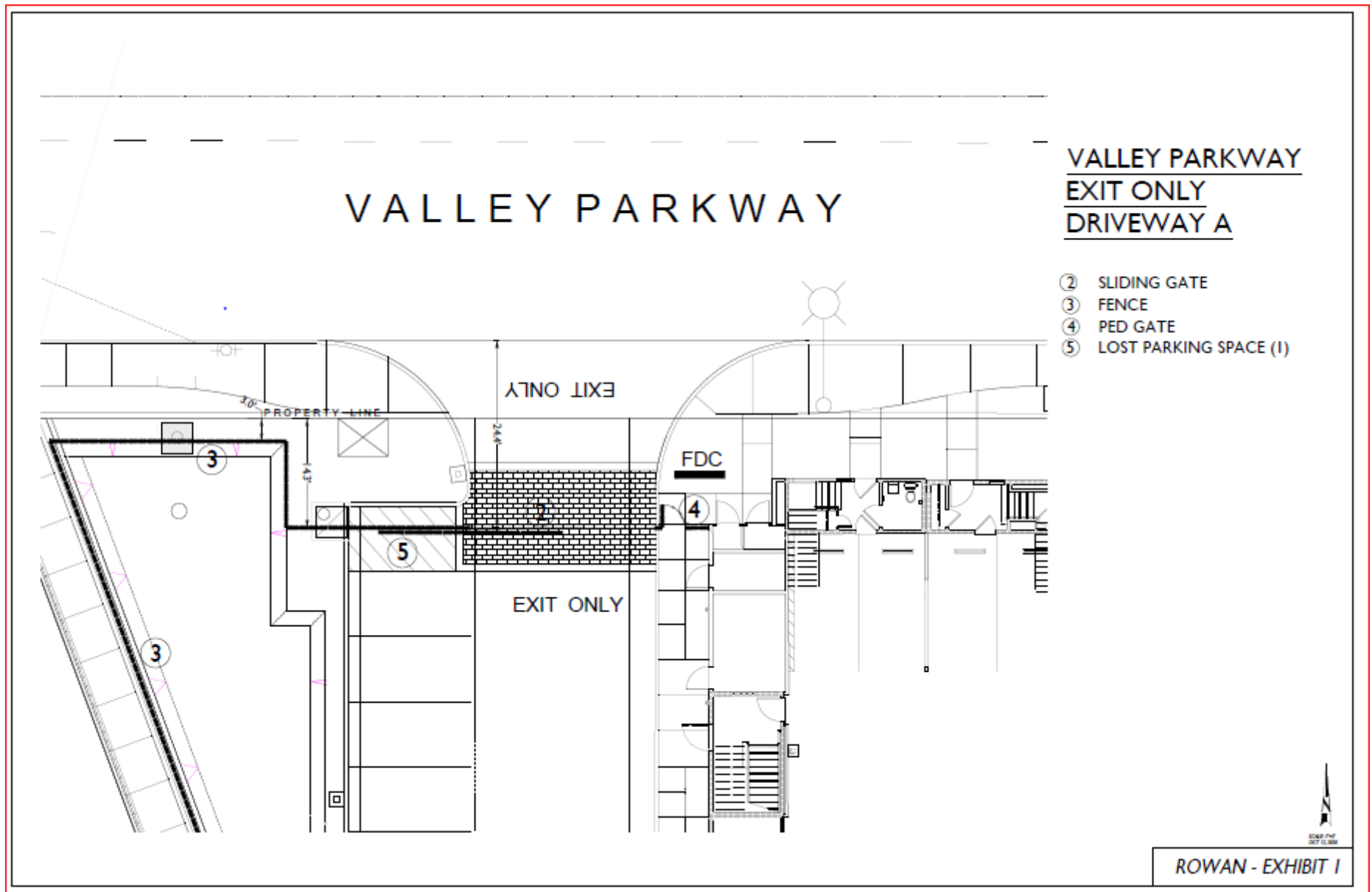
**NCTD RAILWAY**

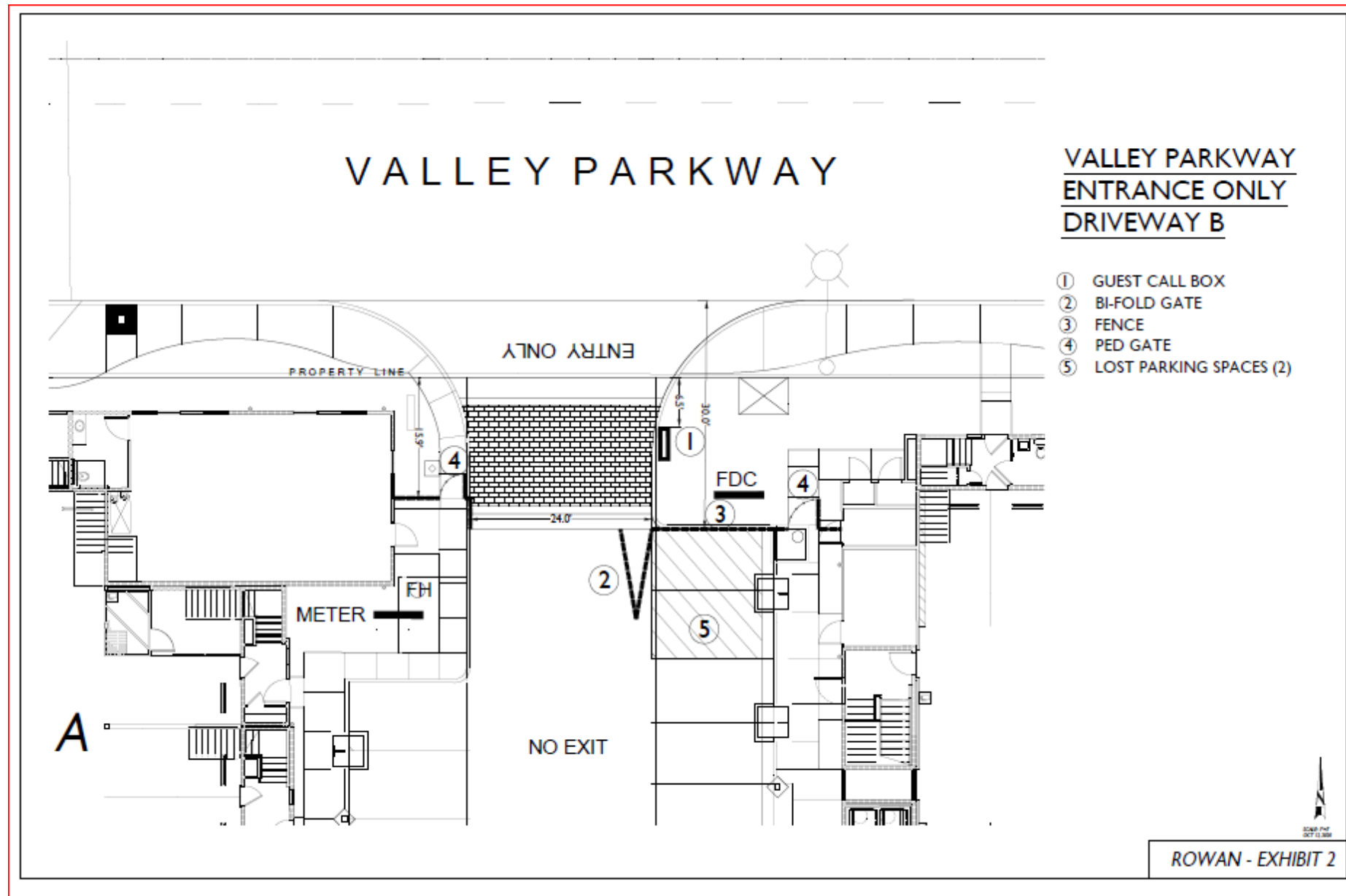
- #4 ADD FENCE AND PED GATE

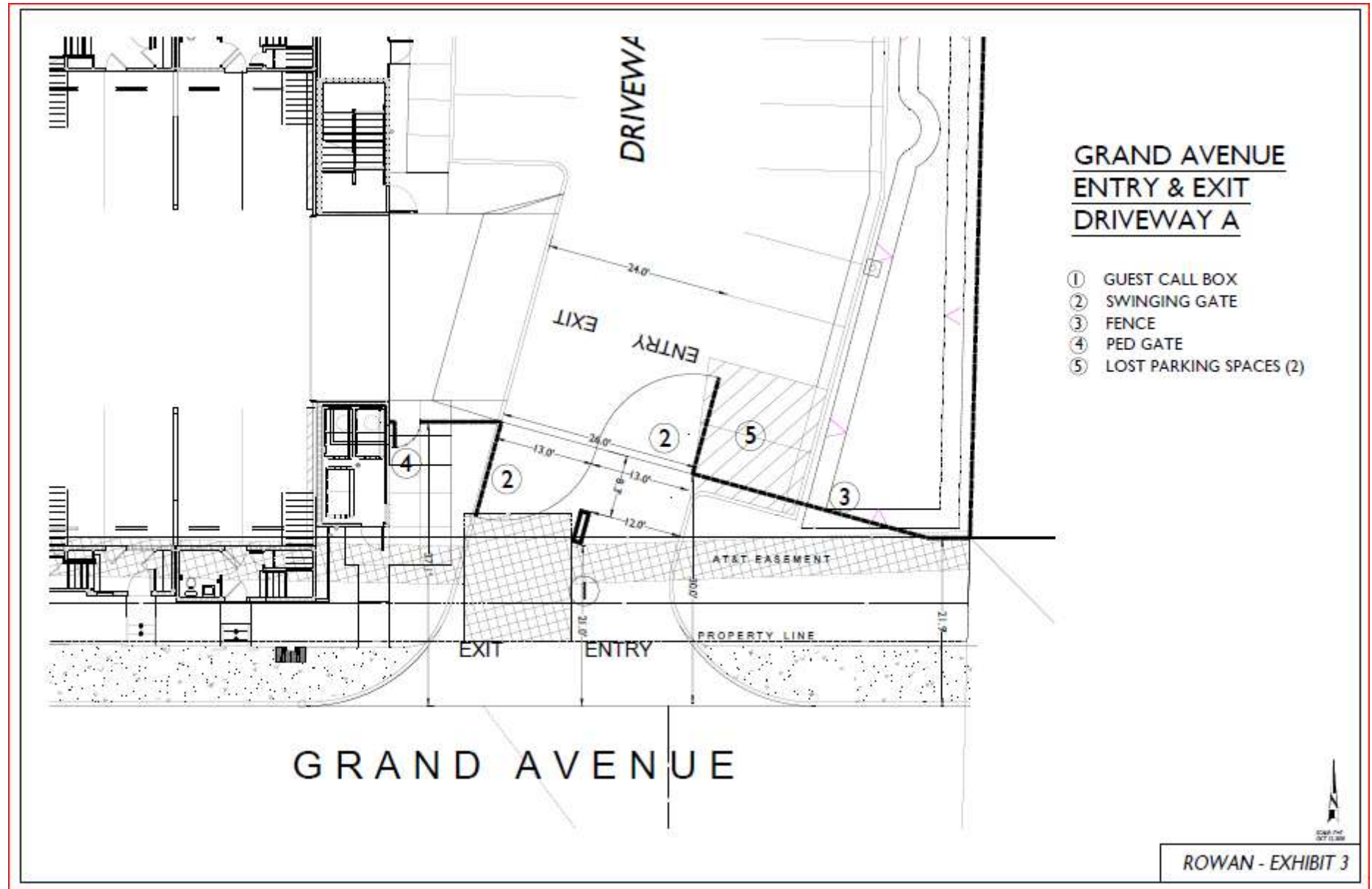
**NOTES**

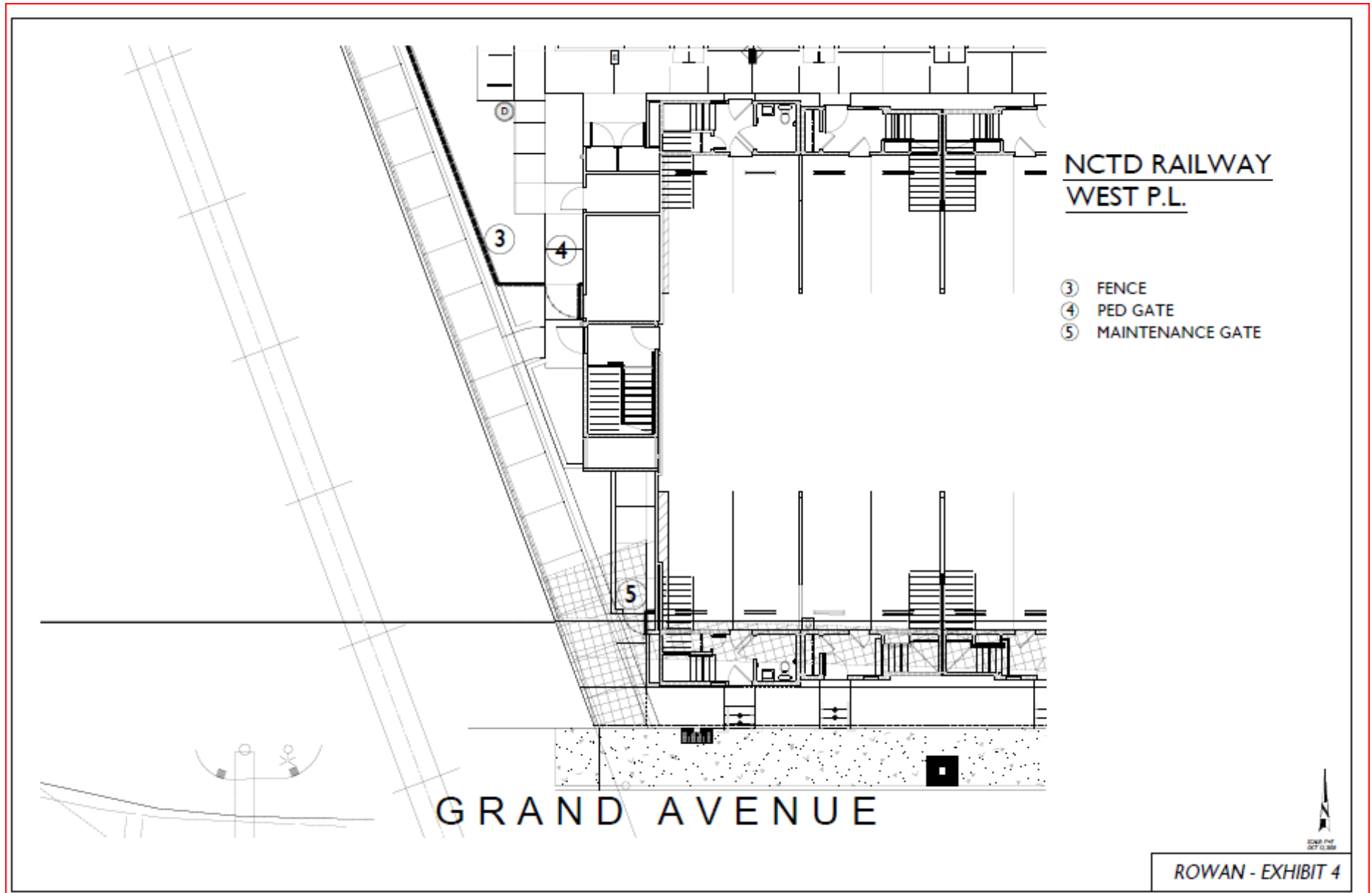
- All gates include a looped system  
(automatic open when approached  
from interior)
- All gates shall be opticom and KNOX  
switches
- Pedestrian gates shall have panic  
hardware and KNOX box
- Pedestrian gates shall swing in the path  
of travel

ROWAN - PROPOSED









**EXHIBIT “C”**  
**PLANNING CASE NO. PL 20-0601**  
**FINDINGS OF FACT**

**Master and Precise Development Plan Modification**

1. Except as modified herein, the Escondido Planning Commission hereby reaffirms the Findings of Fact made by the Escondido City Council at the time of approval of the Planned Development Permit for the project, attached as Exhibit “A” to City Council Ordinance No. 2016-16.
2. The Planned Development process allows for flexibility in design to achieve master planned projects that achieve superior visual and functional quality. The Rowan project is a multi-family residential development which includes architectural features and landscaping materials that are well-designed and provide an inviting atmosphere for project residents.
3. Resident and employee safety and security is paramount to the vitality of any project and property, and adequate measures must be taken to protect said safety and security. The provision of security gates and fencing serves this purpose.
4. Approval of the proposed modification to the Master and Precise Development Plan would be based on sound principles of land use because the proposed modification would be compatible with the overall design of the project.
5. Approval of the proposed modification to the Master and Precise Development Plan would not cause a deterioration of bordering land uses for the area in which it is located because the modification would provide for controlled access to the subject property without affecting access rights to other properties. Conditions of approval would require that gates remain open during peak traffic hours (when deliveries and visitors are more likely) to minimize the potential of vehicles impacting traffic flow while waiting for gates to open. Electronic/remote access would be provided for residents to further assist in this effort.
6. The reduction in parking required to accommodate the security gates is appropriate due to the proximity of the property to the Escondido Transit Center, as supported by the parking ratios recommended by the San Diego Association of Governments (SANDAG) for transit-oriented developments. The minimum number of parking spaces existing after the installation of the security gates would be 218 spaces, which exceeds the 208 spaces recommended by SANDAG.

**Environmental Determination**

1. Public Resources Code Section 21084 requires the CEQA Guidelines to include a list of classes of projects which have been determined *not* to have a significant effect on the environment and which shall be exempt from the provisions of CEQA. The Planning Commission, in its independent judgement, has determined the Project to be exempt from environmental review in conformance with Section 15301 of the CEQA guidelines because the project proposes only a minor alteration to an existing private facility, namely the installation of security gates and fencing, for a project for which a mitigated negative declaration was previously approved.

**EXHIBIT “D”**  
**PLANNING CASE NO. PL 20-0601**  
**CONDITIONS OF APPROVAL**

This Project is conditionally approved as set forth on the application for a Precise Development Plan modification, received by the City of Escondido on October 8, 2020, and the Project drawings consisting of the site plan, enlargements, and other exhibits; all designated as approved on November 10, 2020, and shall not be altered without express authorization by the Community Development Department.

For the purpose of these conditions, the term “Applicant” shall also include the Project proponent, owner, permittee, or its successor(s) in interest, as may be applicable.

**A. Prior Approvals:**

1. All conditions of approval previously applied to this Master and Precise Development Plan (Planning Case Nos. SUB 16-0001 and PHG 19-0076) by City Council Ordinance No. 2016-16, City Council Resolution No. 2016-144, and Planning Commission Resolution No. 2020-02, including all mitigation measures, shall remain in effect unless specifically modified herein.

**B. General:**

1. **Acceptance of Permit.** Should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
  - a. Acceptance of the Permit by the applicant; and
  - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this Project Permit or other approval and the provisions of the Escondido Municipal Code or Zoning Code applicable to such Permit.
2. **Permit Expiration.** The Permit shall automatically expire after one (1) year from the date of this approval, or the expiration date of any extension granted in accordance with the Escondido Municipal Code or Zoning Code.

The Permit shall be deemed expired if a building permit has not been obtained or work has been discontinued in the reliance of that building permit. If no building permits are required, the City may require a noticed hearing to be scheduled before the authorized

agency to determine if there has been demonstrated a good faith intent to proceed, pursuant to and in accordance with the provision of this Permit.

3. **Certification.** The Director of Community Development, or his/her designee, is authorized and directed to make, or require the applicant to make, all corrections and modifications to the Project drawings and any other relevant document comprising the Project in its entirety, as necessary to make them internally consistent and in conformity with the final action on the Project. This includes amending the Project drawings as necessary to incorporate revisions approved by the Planning Commission and/or reflecting any modifications identified in these conditions of approval. If revisions are deemed to be necessary, three (3) copies of final approved plan set shall be submitted to the Planning Division for certification.
4. **Conformance to Approved Plans.**
  - a. The operation and/or use of the subject property shall be consistent with the Details of Request, designated with the Approved Plan set.
  - b. Nothing in this Permit shall authorize the applicant to intensify the authorized activity beyond that which is specifically described in this Permit.
  - c. Once a permit has been issued, the applicant may request Permit modifications. "Minor" modifications may be granted if found by the Director of Community Development to be in substantial conformity with the Approved Plan set, including all exhibits and Permit conditions attached hereto. Modifications beyond the scope described in the Approved Plan set may require submittal of an amendment to the Permit and approval by the authorized agency.
5. **Limitations of Use.** Prior to any use of the Project site pursuant to this Permit, all Conditions of Approval contained herein shall be completed or secured to the satisfaction of the Community Development Department.
6. **Right to Entry.** The holder of this Permit shall make the premises available for inspection by City staff during construction or operating hours and allow the investigations of property necessary to ensure that minimum codes, regulations, local ordinances and safety requirements are properly followed. The applicant shall provide such business records, licenses, and other materials necessary upon request to provide evidence of compliance with the conditions of approval, as well as federal, state, or local laws.
7. **Compliance with Federal, State, and Local Laws.** Nothing in this Permit shall relieve the applicant from complying with conditions, performance standards, and regulations generally imposed upon activities similar in nature to the activity authorized by this permit. (Permits from other agencies may be required as specified in the Permit's Details of

Request.) This Permit does not relieve the applicant of the obligation to comply with all applicable statutes, regulations, and procedures in effect at the time that any engineering permits or building permits are issued unless specifically waived herein.

No part of this Permit's approval shall be construed to permit a violation of any part of the Escondido Municipal or Zoning Code. During Project construction and after Project completion, the applicant shall ensure the subject land use activities covered by this Permit is conducted in full compliance with all local and state laws.

8. **Public Partnership Program.** All requirements of the Public Partnership Program, Ordinance No. 86-70 shall be satisfied prior to any building permit issuance. The ordinance requires that a public art fee be added at the time of the building permit issuance for the purpose of participating in the City Public Art Program.
9. **Fees.** The appropriate development fees and Citywide Facility fees shall be paid in accordance with the prevailing fee schedule in effect at the time of building permit issuance, to the satisfaction of the Director of Community Development. Through plan check processing, the applicant shall pay development fees at the established rate. Such fees may include, but not limited to: Permit and Plan Checking Fees, Park Mitigation Fees, Fire Mitigation/Cost Recovery Fees, and other fees listed in the Fee Schedule, which may be amended. Arrangements to pay these fees shall be made prior to building permit issuance to the satisfaction of the Community Development Department.
10. **County Clerk Recording Filing Fees.**
  - a. The environmental determination prepared for the Project is a categorical exemption. 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. 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 "San Diego 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.
  - b. For more information on filing fees, please refer to the County Clerk's Office and/or the California Code Regulations, Title 14, Section 753.5.

11. **Legal Description Adequacy.** 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.
12. **Application Accuracy.** The information contained in the application and all attached materials are assumed to be correct, true and complete. The City of Escondido is relying on the accuracy of this information and Project-related representations in order to process this application. Any permits issued by the City may be rescinded if it is determined that the information and materials submitted are not true and correct. The applicant may be liable for any costs associated with rescission of such permits.
13. **Revocation, Suspension, Modification.** At any time after Project implementation, the City may require a noticed public hearing to be scheduled before the Planning Commission to determine if there has been demonstrated a good faith intent to proceed in reliance on this approval. This item may be referred to the appropriate decision-making body upon recommendation of the Director of Community Development for review and possible revocation or modification of the Permit regarding non-compliance with the Conditions of Approval.

This permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing, and after the following findings are fully investigated:

- a. A violation of any term or condition not abated, corrected or rectified within the time specified on the notice of violation; or
  - b. A violation of any City ordinance, state law, or federal law not abated, corrected or rectified within the time specified on the notice of violation, or
  - c. The use presently conducted creates a nuisance.
14. **Indemnification.** The applicant shall hold harmless the City, its Council Members, its Commission and Boards, officers, agents, employees, and representatives from liability for any award, damages, costs and fees incurred by the City and/or awarded to any plaintiff in an action challenging the validity of this Permit and from and against any and all claims, losses, proceedings, damages, causes of action, liabilities, costs and expenses, including reasonable attorney's fees, arising from or in connection with, or caused by (i) any act, omission or negligence of applicant, or their respective contractors, licensees, invitees, agents, sub lessees, servants or employees, wherever on or adjacent to the property the same may occur; (ii) any use of the property, or any accident, injury, death or damage to any person or property occurring in, or on or about the property, or any part thereof, or

from the conduct of the applicant or owner's business or from any activity, work or thing done, permitted or suffered by applicant or owner or its sub lessees, contractors, employees, or invitees, in or about the property, other than to the extent arising as a result of City's sole active negligence or to the extent of any willful misconduct of the City; and(iii) any default in the performance of any obligations of applicant's or owner's part to be performed under the terms of this Agreement, or arising from any negligence of applicant or owner, or any such claim or any action or proceeding brought thereon; and in case any action or proceedings be brought against the City, its officers, employees, agents and representatives, by reason of any such claim, applicant or owner, upon notice from City, shall defend the same at its expense by counsel reasonably satisfactory to City. Owner further agrees to and shall indemnify, defend, protect, and hold harmless the City, its officers, employees, agents and representatives, from and against any and all actions brought by any third party to challenge the Project or its approval by the City, including environmental determinations. Such indemnification shall include any costs and expenses incurred by Agency and City in such action(s), including reasonable attorney's fees.

**C. Construction, Maintenance, and Operation Obligations:**

1. **Code Requirements.** All construction shall comply with the applicable requirements of the Escondido Municipal Code, Escondido Zoning Code, Building Code; and the requirements of the Planning Department, Director of Community Development, Building Official, and the Fire Chief in carrying out the administration of said codes. Approval of this Permit request shall not waive compliance with any City regulations in effect at the time of Building Permit issuance unless specifically waived herein.
2. **Agency License and Permitting.** In order to make certain on- or off-site improvements associated with the Approved Plan set, the Permit request may require review and clearance from other agencies. Nothing in these Conditions of Approval shall be construed as to waive compliance with other government agency regulations or to obtain permits from other agencies to make certain on- or off-site improvements prior to Final Map recordation. This review may result in conditions determined by the reviewing agency.

At all times during the effective period of this Permit, the applicant and any affiliated responsible party shall obtain and maintain in valid force and effect, each and every license and permit required by a governmental agency for the construction, maintenance, and operation of the authorized activity.

3. **Utilities.** All new utilities and utility runs shall be underground.
4. **Signage.** All proposed signage shall be as described in Planning Commission Resolution No. 2020-02.

5. **Noise.** All Project generated noise shall conform to the City's Noise Ordinance (Ordinance 90-08).
6. **Lighting.** All Project lighting shall conform to the requirements of Article 35, Outdoor Lighting, of the Escondido Zoning Code.
7. **General Property Maintenance.** The property owner or management company shall maintain the property in good visual and functional condition. This shall include, but not be limited to, all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping. The applicant shall paint and re-paint all building exteriors, accessory equipment, and utility boxes servicing the Project, as necessary to maintain clean, safe, and efficient appearances.
8. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement, including all areas of the job site for when the Project is under construction.
9. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, and garbage.
10. **Landscaping.** The property owner or management company assumes all responsibility for maintaining all on-site landscaping; any landscaping in the public right-of-way adjacent to the property, including potted plants; and any retaining and freestanding walls in a manner that satisfies the conditions contained herein.
  - a. Landscaped areas shall be maintained in a flourishing manner. Appropriate irrigation shall be provided for all landscape areas and be maintained in a fully operational condition.
  - b. All existing planting and planter areas, including areas within the public right-of-way, shall be repaired and landscaping brought into compliance with current standards. All dead plant material shall be removed and replaced by the property owner or management company.
  - c. If at the time of planning final inspection that it is determined that sufficient screening is not provided, the applicant shall be required to provide additional landscaping improvements to the satisfaction of the Planning Division.
  - d. The landscaped areas shall be free of all foreign matter, weeds and plant material not approved as part of the landscape plan.

- e. Failure to maintain landscaping and the site in general may result in the setting of a public hearing to revoke or modify the Permit approval.

**11. Roof, Wall, and Ground Level Equipment.** All mechanical equipment shall be screened and concealed from view in accordance with Section 33-1085 of the Escondido Zoning Code. Rain gutters shall be painted to match the walls on which they are mounted.

**12. Staging Construction Areas.** All staging areas shall be conducted on the subject property, subject to approval of the Engineering Department. Off-site staging areas, if any, shall be approved through the issuance of an off-site staging area permit/agreement.

**13. Disturbance Coordinator.** The applicant shall designate and provide a point-of-contact whose responsibilities shall include overseeing the implementation of Project, compliance with Permit terms and conditions, and responding to neighborhood concerns.

**D. Security Gates and Fencing:**

1. Planning Division Condition No. 14 (City Council Ordinance No. 2016-16, Exhibit "C") is expressly and specifically modified by this approval, as detailed in these conditions of approval.
2. All vehicular gates shall be electric with manual override capabilities in the event of a power outage.
3. Landscaping and bollards shall be provided at call box locations
4. Final callbox details shall be identified on building plans. Design, colors and materials shall be compatible with those used on the existing buildings on-site.
5. Residents shall be provided with remote controls or other electronic means of access (i.e. smart phone application).
6. Vehicular entrance gates shall remain open between the hours of 7:00 a.m. and 7:00 p.m. The City Engineer may require modifications to these hours if it is determined that they are not sufficient to preclude impacts to traffic flows on W. Valley Parkway and/or W. Grand Avenue resulting from vehicle queuing.
7. Appropriate signage and stenciling shall be provided (both internal to the site and external facing the public right-of-way) to inform drivers of one-way functionality of driveways on W. Valley Parkway. A directional signage and striping/stenciling plan shall be submitted for review and approval prior to building permit issuance.

8. Specific design details of fences and gates included as part of Exhibit "B" to this resolution are considered representative of the final design. Final design details shall be provided on the building plans and shall be reviewed and approved by the Director of Community Development prior to building permit issuance.
9. Underground electronic loops or other means of vehicle detection shall be installed to prevent security gates from striking vehicles.
10. All gates (including the exit only gate on W. Valley Parkway) shall be equipped with Opticom sensors and KNOX switches for emergency access.
11. Access to all public utility lines and easements shall be provided to the Escondido Utilities Department at all times. The applicant shall arrange for the provision of access directly with the Utilities Department, and Utilities Department approval shall be required prior to building permit issuance.
12. Up to eight parking may be removed in order to accommodate the installation of the security gates.
13. With the exception of areas needed for vehicle turn-around spaces, landscaping shall be provided in all locations where parking spaces are removed.
14. The applicant shall enter into an agreement with the property owner directly to the east of the project site for the overnight use of parking spaces on the property directly east of the project site if it is determined to be necessary to address any parking insufficiencies that may arise upon full occupancy of the project site.
15. Planning Division Condition No. 19 (City Council Ordinance No. 2016-16, Exhibit "C") is expressly and specifically modified to require a minimum of 218 parking spaces to be provided on-site.
16. Exit gates shall open automatically as an exiting vehicle approaches.
17. When open, gates shall not encroach into the fire lane(s).
18. Pedestrian gates shall have panic hardware for emergency exiting, and shall swing in the direction of egress.
19. Knox boxes shall be provided on the exterior of the pedestrian gates for Police and Fire Department emergency access.
20. Gates and fences shall not block access to fire hydrants or other fire suppression equipment.

21. All gates shall be set back a minimum of 30 feet from the street. This includes the Exit Only gate at Driveway #1.

## PLANNING COMMISSION

Agenda Item No.: G.3  
Date: November 10, 2020

**PROJECT NUMBER / NAME:** PL 20-0636 / Omnibus Code Clean-Up

**REQUEST:** A series of proposed Municipal and Zoning Code Amendments to address changes in state laws, correct errors, and improve existing regulations. The proposal involves minor amendments to Chapter 32 of the Municipal Code; and Article 1 (General Provisions and Definitions), Article 6 (Residential Zones), Article 16 (Commercial Zones), Article 19 (Planned Development Zone), Article 26 (Industrial Zones), Article 39 (Off-Street Parking), Article 40 (Historical Resources), Article 57 (Miscellaneous Use Restrictions), and Article 70 (Accessory Dwelling Units) of the Escondido Zoning Code. The proposal also includes the adoption of the environmental determination prepared for the project

**LOCATION:** Citywide

**APPLICANT:** City of Escondido

**APN / APNS:** N/A

**PRIMARY  
REPRESENTATIVE:** Planning Division

**GENERAL PLAN / ZONING:**  
N/A

**DISCRETIONARY ACTIONS REQUESTED:** Municipal Code and Zoning Code Amendments

**PREVIOUS ACTIONS:** N/A

**PROJECT PLANNER:** Mike Strong, Assistant Planning Director  
[mstrong@escondido.org](mailto:mstrong@escondido.org)

**CEQA RECOMMENDATION:** Exempt (CEQA section 2080.17 and CEQA Guidelines sections 15301, 15304, 15282(h), and 15061(b)(3))

**STAFF RECOMMENDATION:** Provide a recommendation to City Council to approve the Project.

**REQUESTED ACTION:** Approve Planning Commission Resolution No. 2020-18

**CITY COUNCIL HEARING REQUIRED:** ☒ YES ☐ NO

**REPORT APPROVALS:** ☒ Mike Strong, Director of Community Development

**BACKGROUND:**

It is important that municipalities periodically review and update their codes and regulations to ensure that they stay current and up-to-date. In 2017, the City initiated a new, recurring work program to annually review the Zoning Code to see if anything needs to be updated to reflect State mandated changes, correct errors or inconsistencies, and to address today's land use challenges. Now, as established, the Planning Division is able to maintain a regular process and consistent schedule for maintaining the City's codes and regulations. These amendments are combined into a single clean-up batch proposal, called Annual Omnibus Code Clean-Up, as a means of efficiently modifying the Zoning Code.

In early 2020, a batch of amendments were prepared and approved. The City Council adopted Ordinance No. 2020-07 to change the implementing ordinances for food truck vending, density bonus projects, accessory dwelling units, and temporary uses and activities. It was acknowledged at the time that a second omnibus batch of amendments would still be processed later in the year. The purpose of this report is to present the second batch of amendments. This second batch of amendments focuses more on the need to correct minor errors in the text, incorporate code interpretations, and improve existing regulations to eliminate uncertainty for staff, customers, and the public.

Zoning Code Amendments are prepared as ordinances and require Planning Commission recommendation and City Council adoption. As noted above, the 2020 batch of amendments also proposes Municipal Code Amendments to Chapter 32. Typically, the Planning Commission will not review proposed amendments to Municipal Code because the amendments are not within their purview. However, they have been included herein this staff report because of their relationship and co-dependence to other areas of the omnibus. Furthermore, the February 25, 2020 public hearing with the Planning Commission will provide additional public input opportunities that can support the development of the final ordinance(s).

**A. PROJECT ANALYSIS:**

For the second Omnibus Code Cleanup for 2020, the suggested amendment list includes amendments to various articles of the Municipal Code and Zoning Code. Many of the proposed changes are self-explanatory consisting of reformatting, grammar and punctuation corrections, or simple updates to reflect current regulations of the City. The proposed Amendment are provided as an exhibit to Draft Resolution No. 2020-18.

The proposed Zoning Code Amendments would be consistent with the existing General Plan goals and policies. Goal 2 et seq. policies of the Land Use and Community Form portion of the General Plan addresses the need for regulations that clearly and effectively implement land use development goals and objectives. The basis of establishing and updating, as necessary, local standards and guidelines for land use activities ensures land use compatibility is achieved. The proposed amendments would not be detrimental to the public interest, health, safety,

convenience, or welfare of the City because they are proposed concurrent with application procedures and safeguards to be implemented by the Community Development Department to protect the public interest, health, safety convenience or welfare. The batch of amendments relate to organizational effectiveness and efficiency and are considered a housekeeping measure. The proposed Zoning Code changes would make the code more internally consistent and easier to understand and apply. The amendments make corrections, clarifications, and updates to improve the application process or how the codes are administered.

**B. ENVIRONMENTAL STATUS:**

This project is categorically exempt from the California Environmental Quality Act ("CEQA") since there would be no possibility of a significant effect on the environment. To the extent that the proposed ordinance allows improvements of property, such as the conversion of existing structures or accessory uses, the ordinance qualifies for Class 1 and Class 4 Categorical Exemption. The ordinance qualifies for the Class 1 Categorical Exemption (CEQA Guidelines Section 15301) because it would involve new/revised policies and procedures that would involve negligible or no expansion of an existing use, including small additions to existing structures. Class 4 Categorical Exemption (CEQA Guidelines 15304) includes minor temporary use of land having negligible or no permanent effects on the environment. The portion of the proposed code amendments that relate to accessory dwelling units are statutorily exempt from CEQA pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Section 15282(h), which exempts adoption of ordinances regarding accessory dwelling units. Pursuant to Section 21080.17 of the California Public Resources Code, the adoption of the ordinance is statutorily exempt from CEQA. Under Public Resources Code Section 21080.17, CEQA does not apply to the adoption of an ordinance by a city or county to implement the provisions of Section 65852.2 of the Government Code (Accessory Dwelling Unit law). The ordinance implements Government Code Section 65852.2 within the City in a manner that is consistent with the requirements of state law. Other portions of the ordinance are exempt from CEQA Guidelines Section 15061(b)(3) because upon examination of the factual record it can be seen with certainty that there is no possibility the project will actually have a significant effect on the environment. The scope of some of the proposed changes being considered through this action includes corrective clerical errors or clarification of ambiguities and relates to organizational and administrative actions of government that will not result in direct or indirect physical changes in the environment.

**D. CONCLUSIONS:**

The Planning Division maintains a regular process and consistent schedule for maintaining the City's codes and regulations. These amendments are combined into a single clean-up batch proposal, called Annual Omnibus Code Clean-Up, as a means of efficiently modifying the Zoning Code. The City proposes to amend the Municipal Code and Zoning Code to correct minor errors in the text, incorporate code interpretations, and improve existing regulations to eliminate uncertainty for staff, customers, and the public. The batch of amendments relate to organizational

effectiveness and efficiency and are considered a housekeeping measure. The Planning Commission has the authority under Section 33-1262 of Article 61 of the Escondido Zoning Code (Administration and Enforcement Ordinance) to review and consider amendments to the Zoning Code, which requires a Planning Commission recommendation to City Council. No other discretionary permits are requested or required.

**ATTACHMENT:**

1. Draft Planning Commission Resolution No. 2020-18

**ATTACHMENT 1**

Planning Commission  
Hearing Date: November 10, 2020  
Effective Date: November 11, 2020

PLANNING COMMISSION RESOLUTION NO. 2020-18

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ESCONDIDO, CALIFORNIA, RECOMMENDING APPROVAL TO AMEND ARTICLE 1 OF CHAPTER 32 OF THE MUNICIPAL CODE; AND ARTICLE 1 (GENERAL PROVISIONS AND DEFINITIONS), ARTICLE 6 (RESIDENTIAL ZONES), ARTICLE 16 (COMMERCIAL ZONES), ARTICLE 26 (INDUSTRIAL ZONES), ARTICLE 39 (OFF-STREET PARKING), ARTICLE 40 (HISTORICAL RESOURCES), ARTICLE 57 (MISCELLANEOUS USE RESTRICTIONS), AND ARTICLE 70 (ACCESSORY DWELLING UNITS) OF THE ESCONDIDO ZONING CODE

APPLICANT: City of Escondido

CASE NO: PL 20-0636

WHEREAS, the Planning Commission of the City of Escondido did, on November 10, 2020 hold a Public Hearing to consider the Municipal Code and Zoning Code Amendments request; and

WHEREAS, the following determinations were made:

1. That a notice was published and mailed as required by the Escondido Zoning Code and applicable State law.
2. That the application was assessed in conformance with the California Environmental Quality Act ("CEQA").

3. That a staff report was presented discussing the issues in the matter
4. That a Public Hearing was held and that all persons desiring to speak did so.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Escondido:

1. That the above recitations are true and correct.
2. The proposed Municipal Code and Zoning Code Amendments are exempt from CEQA, pursuant to Class 1 Categorical Exemption (CEQA Guidelines Section 15301) because it would involve new/revised policies and procedures that would involve negligible or no expansion of an existing use, including small additions to existing structures; and Class 4 Categorical Exemption (CEQA Guidelines 15304) because it includes minor temporary uses of land having negligible or no permanent effects on the environment. The portion of the proposed code amendments that relate to accessory dwelling units are statutorily exempt from CEQA pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Section 15282(h), which exempts adoption of ordinances regarding accessory dwelling units. Under Public Resources Code Section 21080.17, CEQA does not apply to the adoption of an ordinance by a city or county to implement the provisions of Section 65852.2 of the Government Code (Accessory Dwelling Unit law). Other portions of the ordinance are exempt from CEQA Guidelines Section 15061(b)(3) because upon examination of the factual record it can be made certain that the Municipal and Zoning Code Amendments would not, in and of themselves, result in development or any other material change to the environment.

Projects seeking to implement the amended provisions would be subject to separate review under the CEQA.

3. After consideration of all evidence presented, and studies and investigations made by the Planning Commission and in its behalf, the Planning Commission makes the following substantive findings and determinations, attached hereto as Exhibit "A," relating to the information that has been considered. In accordance with the Findings of Fact and the foregoing, the Planning Commission reached a recommendation on the matter as hereinafter set forth.

4. That, considering the Findings of Fact and applicable law, the Planning Commission hereby makes a motion to recommend City Council approval of said amendments, attached as Exhibit "B."

PASSED, ADOPTED AND APPROVED by a majority vote of the Planning Commission of the City of Escondido, California, at a regular meeting held on the 10<sup>th</sup> day of November, 2020, by the following vote, to wit:

|            |                |
|------------|----------------|
| AYES:      | COMMISSIONERS: |
| NOES:      | COMMISSIONERS: |
| ABSTAINED: | COMMISSIONERS: |
| ABSENT:    | COMMISSIONERS: |

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Stan Weiler, Chairman  
Escondido Planning Commission

ATTEST:

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MIKE STRONG, Secretary of the  
Escondido Planning Commission

I hereby certify that the foregoing Resolution was passed at the time and by the vote above stated.

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Joanne Tasher, Minutes Clerk  
Escondido Planning Commission

**EXHIBIT “A”**  
**PL 20-0636**  
**FATORS TO BE CONSIDERED / FINDINGS OF FACT**

**Municipal and Zoning Code Amendment Determinations:**

1. Over the years, staff and customers have found certain sections of the Municipal Code and Zoning Code are vague, unclear, or conflicting, which results in confusion and disagreement in code interpretation. It is important that the City of Escondido review policies and procedures on an on-going basis to ensure a customer-focused government through transparent services and positive organizational culture.
2. The Planning Division maintains a regular process and schedule for maintaining the City's codes and regulations. Those issues that have been identified are being addressed as part of this clean-up effort, whereby all code amendments have been combined in a single batch, called an omnibus. Additional items to correct or improve the Zoning Code may be considered in the next annual omnibus code clean-up cycle.
3. This ordinance continues the City's long-standing commitment to affordable housing and the provision of incentives for the creation of this desired housing type and is integrated with the City's other existing regulations promoting affordable housing production.
4. The Planning Commission's recommendation is based on applicable factors pursuant to Section 33-1263 of the Escondido Zoning Code. The public health, safety, and welfare would not be adversely affected by the proposed batch of Zoning Code Amendments because they correct internal inconsistencies, improve readability, update references to other code sections or regulatory documents, codify prior interpretations, and make the code consistent with changing state or federal regulations. The proposed batch of Zoning Code amendments would be consistent with the goals and policies of the General Plan because they address changes in state laws, correct errors, and improve existing regulations to eliminate uncertainty for staff, customers, and the public. This effort is not intended to be a comprehensive update to the local code or change land use densities or intensities. The proposed Zoning Code amendments do not conflict with any specific plan.

**EXHIBIT “B”**  
**PL 20-0636**

**CHAPTER 32. SUBDIVISIONS.**

**ARTICLE 1. GENERAL PROVISIONS.**

**Sec. 32.102. Definitions.**

DENSITY: The number of residential dwelling units per acre of lot area excluding areas of remainder parcels, areas of nonresidential development, the panhandle portion of a flag lot, and areas of dedication for Circulation Element streets street rights-of-way, adjustments for floodways as defined by the Federal Emergency Management Agency (FEMA—see Flooding Map) or the City, slope categories, and other environmental factors as designated.

**ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS**

**Sec. 33-6. Interpretation.**

(a) In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public peace, health, safety, convenience, comfort, prosperity or general welfare.

(1) The provisions of this Zoning Ordinance apply to all zones and all uses of land unless otherwise stated. The provisions shall be regarded and applied as the minimum requirements and maximum potential limits for the promotion of public health, safety, comfort, convenience, and general welfare of the City and its residents. When this Zoning Ordinance provides for discretion on the part of a City official or body, that discretion may be exercised to impose more stringent requirements than identified in this Zoning Ordinance, as may be necessary to promote orderly land use development and the purposes of this Zoning Ordinance.

(2) Any provisions of an adopted specific plan related to subjects contained in the Zoning Ordinance shall prevail over the provisions of the Zoning Ordinance to the extent of any conflict between the Zoning Ordinance and the specific plan.

(3) It is not intended by this chapter to abrogate, annul, impair or interfere with any existing or future provision of law or ordinance or with any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use or occupation of buildings or premises or upon the height or location of buildings or structures or upon the lot area per family, size of yards and open spaces, number of garages or other requirements whatsoever, than is imposed or required by such existing laws, ordinances, easements, covenants or agreements, the provisions of this chapter shall govern.

(b) The Director shall have the responsibility and authority to interpret the meaning and applicability of all provisions and requirements of this Zoning Ordinance. Whenever the Director determines that the meaning or applicability of any of the requirements of this Zoning Ordinance are subject to interpretation generally, or as applied to a specific case, the Director may issue an official interpretation. In any case where there is difficulty in interpreting and applying the provisions of this chapter to any specific case or situation, the Planning commission shall upon request interpret the intent of this chapter by written policy and said interpretation shall be followed in applying said provisions.

## **ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS**

### **Sec. 33-7. ~~Building permits~~Permits and licenses required.**

(a) All departments, officials or public employees vested with the duty or authority to issue permits or licenses where required by law shall conform to the provisions of this chapter. No such license or permit for uses, buildings, or purposes where the same would be in conflict with the provisions of this title shall be issued. Any such license or permit, if issued in conflict with the provisions hereof, shall be null and void.

(b) Permits and licenses.

(1) Building permits, pursuant to Chapter 6 of the Municipal Code.

Before commencing any work pertaining to the erection, construction, reconstruction, moving, conversion, alteration or addition to any building or structure within the City of Escondido, a permit for each separate building or structure shall be secured from the building official of said city by the owner or his or her agent for said work, and it is unlawful to commence said work until and unless said permit shall have been obtained.

(A) An approved final building inspection from the building division shall be obtained prior to any use or occupancy of the building or structure or portion thereof.

(B) Certificate of occupancy required. No occupancy of a building or structure, or a proposed use of a building or structure, can occur before a certificate of occupancy is approved and issued and the project complies with all state building regulations and provisions of this Zoning Ordinance. A temporary certificate of occupancy may be issued by the building division when determined appropriate, subject to the approval of the City Building Official.

(2) Business licenses, pursuant to Chapter 16 of the Municipal Code.

Every person engaged or intending to engage in any calling, business, occupation, or profession, in whole or in part, including the exercise of any corporate or franchise powers, within the limits of the City, whether or not an office or physical location for the business lies within the City, is required to pay an annual license fee for the privilege of doing any business and obtain a business license.

(A) No person shall be entitled or authorized to engage in business within the City until such time as the Director has approved and issued a business license pursuant to the terms of Chapter 16.

(B) Business licenses are issued for revenue purposes. The issuance or possession of a license confers no rights or privileges and only serves to prove that a business license fee has been paid for the period specified on the license certificate. Licenses are not deemed regulatory in any way and are not proof of compliance with zoning, building or any other regulations of the city.

(C) Certain business types may require additional review and approval from other departments or agencies.

## **ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS**

**Sec. 33-8. Definitions. New definitions to be inserted or replaced, maintaining the sequencing of the existing alphabetical order.**

Alley means any public thoroughfare, having a width of not more than thirty (30) feet. An alley shall not be considered a street for the purposes of calculating building or structure setbacks or height.

Density means the number of residential dwelling units per acre of lot area but shall exclude areas of remainder parcels; areas of nonresidential development; the panhandle portion of a flag lot; and areas of dedication for street rights-of-way, adjustments for floodways as defined by the Federal Emergency Management Agency (FEMA—see Flooding Map) or the City, slope categories, and other environmental factors as designated. Minimum and maximum density calculations for an individual site shall utilize the net lot area to determine the applicable number of dwelling units. Any density calculation that results in a fractional unit shall be rounded down to the next whole number.

Floor area means the total area of all floors and interior habitable area of a building included ~~within~~ the outside faces of the building's exterior walls, exclusive of basement and attic storage space and areas within a building used for the parking of vehicles.

Floor area ratio (also FAR) is the ratio of a building's floor area divided by the net lot ~~areameasurement of a building's floor area in relation to the size of the lot that the building is located on.~~ FAR is expressed as a decimal unit~~number, and is derived by dividing the total floor area of the building (i.e. interior habitable area) by the total area of the parcel (building floor area ÷ net lot area).~~

Guest house means any living quarters that is no more than 1,000 square feet within a detached accessory building for the sole use of persons employed on the premises or for temporary use by guests of the occupants of the premises, which living quarters have no kitchen facilities and are not rented or otherwise used as a separate dwelling.

Kitchen means any portion of an accessory living quarters arranged for or conducive to the preparation or cooking of food, by the inclusion of a sink, garbage disposal, hot water line,

dishwasher, place of not less than 10 cubic feet to accommodate a refrigerator, 220 AC or 240-volt electrical outlet or stove, storage cabinets and counter space that are of reasonable size in relation to the building, and any other item required by the Building Code. An efficiency kitchen shall be considered to have the same features as a kitchen, but is smaller in size and scope in relation to the land use activity or building. At a minimum, the size and scope of an efficiency kitchen should meet or exceed the following criteria: a sink with a maximum waste line of 1.5 (1 1/2) inches, a cooking facility with appliances that do not require electrical service greater than 120 volts, a food preparation counter, and storage cabinets.

*Lot* means:

(1) A parcel of real property shown as a delineated parcel of land with a number and other designation on the final map of subdivision recorded in the office of the county recorder of San Diego County; or

(2) A parcel of land, the dimensions or boundaries of which are defined by a record of survey maps recorded in the office of the county recorder of San Diego County in accordance with the law regulating the subdivision of land; or

(3) A parcel of real property not delineated as in subsection (1) or (2) of this definition, and containing not less than the prescribed minimum area required in the zone in which it is located and which abuts at least one (1) public street or easement which the planning commission has designated adequate for access purposes, and is held under one (1) ownership.

(4) The various definitions in this category are as follows:

(A) *Lot area (gross)* means the total area measured in a horizontal plane, included within the lot lines of a lot or parcel of land.

(B) *Lot area (net)* means lot area excluding areas of remainder parcels, areas of nonresidential development, the panhandle portion of a flag lot, and areas of dedication for street rights-of-way; adjustments for floodways as defined by the Federal Emergency Management Agency (FEMA—see Flooding Map) or the City; slope categories; and other environmental factors as designated. The net lot area shall be used in the calculation of minimum allowed residential density, project floor area/lot coverage calculations, and other standards or requirements as so specified.

(C) *Lot coverage* means the total horizontal area of a lot, parcel or building site covered by any building which extends more than three (3) feet above the surface of the ground level and including any covered car parking spaces. Covered patios shall not be considered as lot coverage provided that said patio is not more than fifty (50) percent enclosed.

(D) *Lot depth* means the horizontal length of a straight line connecting the bisecting points of the front and the rear lot lines.

(E) *Lot width* means the horizontal distance between the side lot lines measured at right angles to the line comprising the depth of the lot at a point midway between the front and rear lot lines.

(F) *Cul-de-sac lot* means an interior lot taking access from and having frontage primarily on the bulb of a cul-de-sac.

(G) *Flag lot* means a lot in the approximate configuration of a flag pole, panhandle, or sign post, with the pole or post functioning primarily as an access way to the main body of the lot

from the street of access, meeting the requirements of Section 33-1084. In determining setbacks for a flag lot, the handle or access portion of the lot shall not be used to determine building setbacks. The Director shall determine the front, side, and rear of a flag lot for the purposes of identifying setbacks and yards, guided by the relationship of the lot and to surrounding lots and structures. Setbacks shall be determined as though no handle was on the lot.

Low Barrier Navigation Center means a low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing. Low Barrier means best practices to reduce barriers to entry, as further defined in Government Code section 65660.

## **ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS**

### **Sec. 33-14. Zoning districts.**

(a) \_\_\_\_ In order to carry out orderly growth and development in the city, this chapter provides for various zoning classifications (e.g., R-1, R-2, R-3, etc.) in order to promote and protect the public health, safety, convenience and general welfare of the inhabitants, and through the orderly and planned use of land resources which are presently a part of said city, or which may become a part thereof in the future.

(b) \_\_\_\_ The boundaries of all zones shall be shown on an “official zoning map” maintained by the Director, which is made a part of this chapter. Whenever the boundaries of zones are changed, or property is reclassified to another zone pursuant to Article 61, the Director shall alter the official zoning map to reflect such changes.

## **ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS**

### **Sec. 33-15. Zoning district boundary uncertainty.**

~~The boundaries of each zoning district shall be as shown on the “official zoning map,” which is made a part of this chapter.~~In the event of any conflict between the official zoning map and any legal description or other designation of the boundary or boundaries of any zoning district, or where any uncertainty exists as to the boundary or boundaries of any zoning district shown on the official zoning map, the official zoning map shall prevail and the location of such boundary or boundaries shall be fixed as follows:

(a) \_\_\_\_ Where such boundaries are indicated by scales as approximately following street, alley or lot lines in existence at the time the zoning district map(s) was adopted, such lines shall be construed to be such boundaries.

(b) Where any public street, alley or any private right-of-way or easement of any railroad, railway, canal, transportation or public utility company is vacated or abandoned, the existing zone which abuts said land shall apply to such vacated or abandoned property, then each such zone shall be considered to extend to the centerline of said vacated or abandoned property.

(c) In unsubdivided land or where a zoning district boundary divides a parcel, the location of such boundary, unless same is indicated by dimensions, shall be determined by use of the scale appearing on the map.

## **ARTICLE 6. RESIDENTIAL ZONES**

### **Sec. 33-95. Permitted accessory uses and structures.**

(a) Accessory uses and structures are permitted in residential zones, provided they are incidental to, and do not substantially alter the character of the permitted principal use or structure. Such permitted accessory uses and structures include, but are not limited to, those listed in Table 33-95.

(1) When provided by these regulations, it shall be the responsibility of the Director to determine if a proposed accessory use is necessarily and customarily associated with, and is appropriate, incidental, and subordinate to, the principal use, based on the Director's evaluation of the resemblance of the proposed accessory use to those uses specifically identified as accessory to the principal uses and the relationship between the proposed accessory use and the principal use.

## **ARTICLE 6. RESIDENTIAL ZONES**

### **Sec. 33-102. Accessory ~~buildings side~~ building setback and ~~building~~ requirements.**

(a) Accessory buildings or structures that are attached to the main building shall conform to the front, side, or rear yard setback requirements of the underlying zone for the main building, except as specified herein.

(1) Patios, when enclosed on three (3) sides or less may extend into the rear setback a maximum of fifty (50) percent of the required depth of that setback, pursuant to Section 33-1079.

(2) Allowed projections into setbacks pursuant to Section 33-104.

(3) Animal enclosures pursuant to Section 33-145 and Section 33-146.

(b) Detached accessory buildings or structures.

(1) Front yard setbacks. Detached accessory buildings shall conform to the front yard setback requirements of the underlying residential zone.

(2) Side yard setbacks for detached accessory buildings.

(A) The interior side setback of any detached accessory building located less than seventy (70) feet from the front property line in single- and multi-family zones, or fifty (50) feet from the front property line in the R-T zone (unless superseded by Title 25), shall be the same as that required for the main building, pursuant to Table 33-100.

~~(b)~~(B) A detached accessory building may be located on a side property line ~~which that~~ is not contiguous to a street if, and only if, all of the following conditions are met:

~~(1)~~(i) The building is located seventy (70) feet, or more, from the front property line (fifty (50) feet in the R-T zone, unless superseded by Title 25); and

~~(2)~~(ii) Has facilities for the discharge of all roof drainage onto the subject lot or parcel of land; and

~~(3)~~(iii) The building does not require a building permit.

~~(c)~~(C) ~~An~~A detached accessory building shall have a minimum side setback of ten (10) feet for a side property line which is contiguous to a street.

~~(d)~~(D) ~~An~~A detached accessory building having direct vehicular access from an alley shall be located not less than twenty-five (25) feet from the edge of the alley farthest from the building.

~~(e)~~(E) ~~An~~A detached accessory building that is seventy (70) feet or more from the front property line in single- and multi-family zones, or fifty (50) feet in the R-T zone, but which does not meet the requirements of subsection ~~(b)~~(B) above, may not be located closer than five (5) feet from the interior side property line in single- and multi-family zones, or three (3) feet in the R-T zone (unless superseded by Title 25). ~~Awnings, cornices, eaves, belt courses, sills, buttresses or other similar architectural features may project into an accessory building setback area by no more than two (2) feet.~~

~~(f)~~ In the R-A and R-E zones, setbacks for accessory structures do not apply to animal enclosures.

~~(g)~~ Accessory buildings located within a required side yard setback area for the primary structure shall be limited to one (1) story and sixteen (16) feet in height.

~~(h)~~ A minimum of five (5) feet is maintained for clear access between the detached accessory building and any other building or structure.

~~(i)~~ Accessory dwelling units shall conform to the side yard setback requirements of the underlying residential zone, unless otherwise permitted by Article 70.

(3) Rear yard setbacks.

(A) No detached accessory building shall be situated on the rear property line in the R-T zone unless superseded by Title 25.

(B) A detached accessory building may be located on the rear property line in all residential zones (except the R-T zone) if, and only if, all the following conditions are met:

(i) The building does not require a building permit; and

(ii) Has facilities for the discharge of all roof drainage onto the subject lot or parcel of land.

(C) For detached accessory buildings that do not meet the conditions listed in subsection (B), a building(s) may be located within a required rear yard setback area in all residential zones, but only in the following circumstances:

(i) In the R-A and R-E zone districts, a building(s) may be located within a required rear yard setback area provided that such building(s) is located no closer than ten (10) feet to a rear lot line, and shall not cover more than fifty (50) percent of the width of the rear setback area.

(ii) In all other single-family and multi-family zones (except the R-T zone), the building(s) may be located within the rear yard setback provided that a minimum of five (5) feet is maintained, and a building(s) shall not cover more than fifty (50) percent of the width of the rear setback area. Additional usable open space requirements may apply on the premises, depending on the requirements of the underlying zoning district.

(D) An accessory building having direct vehicular access from an alley shall be located not less than twenty-five (25) feet from the edge of the alley farthest from the building.

(E) On a reverse corner lot the rear property line of which is also the side property line of the contiguous property, an accessory building shall be located not less than five (5) feet from the rear property line.

(c) Accessory dwelling units (attached or detached) shall conform to the front, side, and rear yard setback requirements of the underlying residential zone for the main building, unless otherwise permitted by Article 70.

## **ARTICLE 6. RESIDENTIAL ZONES**

### **Sec. 33-103. Accessory buildings rear setback and building requirements.**

~~(a) No accessory building shall be situated on the rear property line in the R-T zone unless superseded by Title 25.~~

~~(b) An accessory building may be located on the rear property line in all residential zones (except the R-T zone) if, and only if, all the following conditions are met:~~

~~(1) The building does not require a building permit; and~~

~~(2) Has facilities for the discharge of all roof drainage onto the subject lot or parcel of land.~~

~~(c) For accessory buildings that do not meet the conditions listed in subsection (b), accessory building(s) may be located within a required rear yard setback area in all residential zones, but only in the following circumstances:~~

~~(1) In the R-A and R-E zone districts, detached accessory building(s) may be located within a required rear yard setback area provided that such building(s) are located no closer than ten (10) feet to a rear lot line, and shall not cover more than fifty (50) percent of the width of the rear setback area.~~

~~(2) In all other single-family and multi-family zones (except the R-T zone), detached accessory building(s) may be located within the rear yard setback provided that a minimum of five (5) feet is maintained, and shall not cover more than fifty (50) percent of the width of the rear setback area. Additional usable open space requirements may apply on the premises, depending on the requirements of the underlying zoning district.~~

~~(3) Awnings, cornices, eaves, belt courses, sills, buttresses or other similar architectural features may project into an accessory building setback area by no more than two (2) feet, pursuant to Section 33-104.~~

~~(4)(a)~~ Accessory buildings located within a required side or rear yard setback area for the primary structure shall be limited to one (1) story and sixteen (16) feet in height.

~~(b)~~ Accessory buildings are subject to the property development standards as set forth in Section 33-107, building requirements, generally.

~~(1)~~ In addition to the restrictions of Section 33-107, a guest house or accessory dwelling unit shall not have a total floor area that exceeds fifty (50) percent of the existing living area of the main building, unless otherwise permitted pursuant to Article 70.

~~(2)~~ A guest house may be attached to an accessory dwelling unit provided that the overall combined floor area of the combined building or structure does not exceed seventy-five (75) percent of the main unit.

~~(c)~~ The minimum distance between the residence (or main building) and a detached accessory building shall be ten (10) feet. If the residence (or main building) and detached accessory building are both one (1) story in height, then the minimum separation requirement may be reduced to five (5) feet. A minimum of five (5) feet is maintained for clear access between the detached accessory building and any other building or structure.

~~(d)~~ Nothing in this section or in Section 33-107 shall be construed to limit the development of an accessory dwelling unit in the location and manner as specified by Article 70.

~~(d)~~ An accessory building having direct vehicular access from an alley shall be located not less than twenty-five (25) feet from the edge of the alley farthest from the building.

~~(e)~~ On a reverse corner lot the rear property line of which is also the side property line of the contiguous property, an accessory building shall be located not less than five (5) feet from the rear property line.

~~(f)~~ In the R-A and R-E zones, setbacks for accessory structures do not apply to animal enclosures.

~~(g)~~ Accessory dwelling units, shall conform to the rear yard setback requirements of the underlying residential zone, unless otherwise permitted by Article 70.

## ARTICLE 16. COMMERCIAL ZONES

### Sec. 33-107. Principal land uses. Table 33-332 PERMITTED AND CONDITIONALLY PERMITTED PRINCIPAL USES

#### Sec. 33-107. Building requirements, generally.

Table 33-107 lists building requirements in residential zones (excluding mobilehome parks approved pursuant to Article 45).

**Table 33-107**

| Building Requirements | R-A | R-E | R-1 | R-2 | R-3 | R-4 | R-5 | R-T* |
|-----------------------|-----|-----|-----|-----|-----|-----|-----|------|
|-----------------------|-----|-----|-----|-----|-----|-----|-----|------|

|                                                                   |                 |                 |                 |                 |                 |                 |                 |                 |
|-------------------------------------------------------------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| Minimum distance between residence and accessory buildings (feet) | 10 <sup>5</sup> | 10 <sup>5</sup> | 10 <sup>5</sup> | 10 <sup>5</sup> | 10 <sup>5</sup> | 10 <sup>5</sup> | 10 <sup>5</sup> | 10 <sup>5</sup> |
|-------------------------------------------------------------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|

**Notes:**

- 1 Buildings or structures in excess of one (1) story and located adjacent to single-family zoned land, shall provide a setback equal to the abutting setback required by the single-family zone standards, plus five (5) additional feet for each story over two (2) on the property line(s) abutting the single-family zone(s) as noted in sections 33-100 and 33-101. Additionally, building features such as windows, doors, balconies, etc., bulk and scale shall not adversely affect the adjacent single-family property.
- 2 Area is exclusive of porches, garages, carports, entries, terraces, patios or basements.
- 3 FAR is the numerical value obtained by dividing the total gross floor area of all buildings on the site by the total area of the lot or premises.
- 4 Except that the maximum FAR for the RE-20 zone shall be 0.5; and for the RE-170 and RE-210 zones the maximum FAR shall be 0.3.
- 5 Pursuant to Section 33-103(c), if the residence (or main building) and detached accessory building are both one (1) story in height, then the minimum separation requirement may be reduced to five (5) feet, unless a greater distance is required by local building and fire code requirements for fire separation.
- \* Requirements apply unless superseded by Title 25.

**ARTICLE 16. COMMERCIAL ZONES**

**Sec. 33-332. Principal land uses. Table 33-332 PERMITTED AND CONDITIONALLY PERMITTED PRINCIPAL USES**

| Use Title                                                                                                                                                 | CG           | CN       | CP       |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|----------|----------|
| <del>Mobilehome parks or travel trailer parks* (Articles 45 &amp; 46)</del>                                                                               | <del>G</del> |          |          |
| Car-wash, polishing, vacuuming, or detailing (primary or accessory use)* <u>(Article 57)</u>                                                              | C            |          |          |
| <u>Low Barrier Navigation Center (only in mixed use overlay areas that are zoned for mixed use and nonresidential zones permitting multi-family uses)</u> | <u>P</u>     | <u>P</u> | <u>P</u> |

**ARTICLE 16. COMMERCIAL ZONES**

**Sec. 33-333. Permitted accessory uses and structures.**

(a) Accessory uses and structures are permitted in commercial zones, provided they are incidental to, and do not substantially alter the operating character of the permitted principal use or structure as determined by the director of community development. Such permitted accessory uses and structures include, but are not limited to, the following: those listed in Table 33-333.

(1) When provided by these regulations, it shall be the responsibility of the Director to determine if a proposed accessory use is necessarily and customarily associated with, and is appropriate, incidental, and subordinate to the principal use, based on the Director's evaluation of the resemblance of the proposed accessory use to those uses specifically identified as accessory to the principal uses and the relationship between the proposed accessory use and the principal use.

## **Article 19. PLANNED DEVELOPMENT ZONE**

### **Sec. 33-401. General provisions and standards for planned development.**

(a) In the event of conflict between any other provision of the Escondido Zoning Code and a requirement of a planned development zone, the requirement of the planned development zone shall prevail.

(b) Planned development zones shall only be established on parcels of land which are suitable for and of sufficient size to be planned and developed in a manner consistent with the purposes of this article.

(c) Planned development zones shall be in conformity with the Escondido General Plan and any applicable specific plans. A planned development zone shall not be adopted without findings that the proposed planned development conforms to such plans and policies relative to compliance with the general location, amounts and densities of such uses as set forth in the Escondido General Plan; or in any applicable specific plans.

(d) Planned development zones may combine a variety of land uses. Mixed uses may include any skillful combination of residential, commercial, industrial and agricultural uses, and may occur among or within buildings as long as the uses are compatible with each other and with existing and potential uses surrounding the zone.

(1) To ensure that the purpose and provisions of a formally adopted zoning district or specific plan of record shall be conformed to, land use activities shall be limited exclusively to such uses as are permitted or conditionally permitted in the underlying zone or specific plan to which the site is classified.

(e) Compliance with the requirements of a master development plan is necessary for any person or public agency to lawfully establish, construct, occupy, maintain, reconstruct, alter, expand, or replace any use of land or structure within the planned development zone.

(1) The zoning standards in effect immediately prior to the planned development zoning, if consistent with the underlying General Plan designation, shall apply regarding specified properties within a planned development zone that are not associated with a master development plan. Otherwise, those properties not associated with a master development plan shall be subject to the nonconforming use provisions of Article 61.

(f) The general provisions, conditions, and exceptions applicable to all zoning districts and specific plans shall be applied as presented to all sites in a planned development zone, unless a different regulation or standard is prescribed and enacted as part of this article.

(1) Development standards including, but not limited to, area, coverage, light and air orientation, building height, sign placement and design, site planning, street furniture placement and design, yard requirements, open spaces, off-street parking and screening for planned developments, shall be governed by site-specific standards which shall be adopted as part of the zone. Such standards shall result in a superior development that presents enhanced design in all facets of the project (site, architecture, materials, amenities, landscaping, etc.) for an overall high quality planned development.

## ARTICLE 26 INDUSTRIAL ZONES

### Sec. 33-564. Land Uses. Table 33-564 PERMITTED AND CONDITIONALLY PERMITTED PRINCIPAL USES

| Use Title                                                                                              | I-O | M-1 | M-2 | I-P |
|--------------------------------------------------------------------------------------------------------|-----|-----|-----|-----|
| Car-wash, polishing, vacuuming, or detailing (primary or accessory use) <u>(subject to Article 57)</u> |     | C   | C   |     |

## Article 39. OFF-STREET PARKING

### Sec. 33-765. Parking spaces required.

|                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-----------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>Emergency Shelter</u>                                                                            | <u>Two (2) spaces per facility for staff plus one (1) space for each employee. Emergency shelters must also provide adequate provisions for loading and unloading or pick-up and drop-off zones.</u>                                                                                                                                                                                                                                                                                      |
| <u>Car dealerships or motor vehicle, machinery sales and repair garages (excluding motorcycles)</u> | 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; <u>and/or</u> one (1) space for each two hundred fifty (250) square feet of garage floor area.                                                                                                                                                                                                                             |
| <u>Car dealerships and motor vehicle sales (excluding motorcycles)</u>                              | <u>Indoor space: one (1) parking space for each two thousand (2,000) square feet of floor area.</u><br><br><u>Outdoor space: Employee and customer parking of no fewer than three (3) spaces shall be provided at a minimum, provided that one (1) additional employee/customer parking space shall be required for each additional twenty (20) spaces used for outdoor storage or outdoor display. Exceptions to these requirements may be reviewed and considered as part of a CUP.</u> |

## **ARTICLE 40. HISTORICAL RESOURCES**

### **Sec. 33-798. Permits and permit procedures.**

(e) Review processes. Following the planning division's receipt of a complete application, the director shall determine the appropriate review process as follows:

(1) Minor projects. Minor projects shall be subject to planning division staff review. Minor projects include:

(A) Placement or removal of exterior objects and the restoration and exterior changes to materials (siding, brick, stucco, metal, etc.) and structures including porches (columns, cornices), roofs (covering, change in shape), any painting of exterior surfaces, satellite dishes, solar collectors, freestanding walls, fences and retaining walls, and any modifications to historical signs; and

(B) The following projects involving historic resources listed on the local register and property located within an historical overlay district: painting of exterior surfaces, restoration and exterior changes to architectural details and decorative elements (fish scale, shingles, dentils, shutters), porches (trim, railing, ornamentation), exterior staircases, exterior doors, windows, skylights, mechanical systems (window units, exhaust fans, vents), storm windows and doors, security grilles, and fire escapes.

## **Article 57. MISCELLANEOUS USE RESTRICTIONS**

### **Sec. 33-1109. Swimming pools.**

(a) Definition. As used in this section, a swimming pool is any confined body of water, located either above or below the finished grade of the site, which exceeds one hundred (100) square feet in surface area and two (2) feet in depth, and which is designed, used or intended to be used for swimming or bathing purposes. The provisions of this section do not apply to indoor pools.

(b) Front, side and rear yards.

(1) All swimming pools constructed after the effective date of the ordinance codified in this article shall be subject to the front yard and side yard setback requirements as set forth in the applicable zoning regulation, but in no case shall a swimming pool be located closer than five (5) feet from any property line.

(2) Tanks, heating, filtering and pumping equipment shall be subject to the front yard and side yard setback requirements of the applicable zone, except that such accessories may be located within such required yards if installed entirely below the finished grade of the site and

covered with a permanent protective cover. In the rear yard, tanks, filtering and pumping equipment must provide at least a five (5) foot separation to the rear lot lines.

(3) No single pool or combination of pools or spas shall cover more than fifty (50) percent of the required lot area, pursuant to Section 33-1079.

(c) Fence requirements and protection measures against drowning.

(1) Every swimming pool shall be enclosed by a natural barrier, wall, fence and/or other structure having a minimum height of five (5) feet and constructed or situated so as to prevent unauthorized entrance thereto. Such fence, structure or wall shall not occupy a front yard required by applicable zoning regulations but may occupy a side or rear yard so required;

~~(2)(A) The enclosing wall or fence may contain a gate. All gates shall have an automatic closing device and be self-latching, with the latches placed at least four (4) feet above the ground. Gates shall be kept securely closed and latched at all times.~~ shall comply as an enclosure as defined in the Swimming Pool Safety Act (Health and Safety Code section 115923) and the International Swimming Pool and Spa Code;

~~(3)(B) The fence, gate and all other protective devices shall meet all fire exit requirements and other applicable provisions of law; and~~

(C) Public pools and pools associated with multi-family facilities are subject to pool enclosure and safety feature provisions regulated by the Department of Environmental Health.

(2) Swimming pools require the following measures against drowning or injury:

(A) At least two (2) non redundant additional safety features listed in Health and Safety Code section 115922, accepted by the City Building Official; and

(B) Other safety feature provisions deemed necessary by the City Building Official for entrapment avoidance.

(d) Variances and exemptions. The building inspector may waive the fencing requirements of this section upon an adequate showing that an alternative safeguard against unauthorized entry to the swimming pool exists or will be provided, and that the physical conditions of the site make the erection of a fence or wall impractical.

## **Article 57. MISCELLANEOUS USE RESTRICTIONS**

### **Sec. 33-1114. Vehicle sales, vehicle repair services, fleet storage and tow yard storage, and junkyards and wrecking yards.**

(c) Car Dealerships and Tractor or Heavy Truck Sales, Storage, or Rental. Car dealerships and tractor or heavy truck sales shall be allowed as provided in any Permitted and Conditionally Permitted Principal Use Matrix and shall comply with the development standards of the zoning district, general development standards of subsection (a) above, and this subsection. No dealership project shall be granted a permit unless the following requirements are satisfied:

(1) That the area controlled by the business is of sufficient size to allow storage or display of on-site of vehicles in paved and lined spaces no smaller than eight and one-half (8 1/2) feet in width and eighteen (18) feet in length. Employee and customer parking of no fewer than three (3) spaces shall be provided at a minimum, provided that one (1) additional employee/customer parking space shall be required for each additional twenty (20) spaces used for storage or display. Additional off-street parking may be required pursuant to Article 39.

(2) Display. All vehicle inventory must be stored on-site and not in the public right-of-way.

(3) Landscaping. The vehicles and other display materials shall be set back five (5) feet from a street and shall not be located in required parking areas. Wheel stops or some other type of protective device shall be provided as necessary to prevent vehicles from damaging fences, walls, buildings or landscaped areas, or from extending across any public or private property lines. A landscape planter a minimum of five (5) feet wide shall be provided along all street frontages, subject to Water Efficient Landscape Standards and street tree planting standards. Said landscaping shall be continuous and include a decorative planter area at the corner of intersecting streets unless a building is located at the corner or otherwise prevents continuity.

(d) Vehicle Repair Services. Vehicle repair services shall be allowed as provided in any Permitted and Conditionally Permitted Principal Use Matrix and shall comply with the development standards of the zoning district, general development standards of subsection (a) above, and this subsection. No vehicle repair services project shall be granted a permit unless the following requirements are satisfied.

(1) All tires, barrels, new or discarded auto parts, vehicles under repair and other storage of materials used or sold on the premises must be stored and maintained inside the building if in a CG commercial zone (section 33-337), M-1 industrial zone (section 33-571), or similar zone district; or screened from view from adjacent properties and streets by a solid screen barrier in the M-2 industrial zone (Section 33-571).

(A) Outdoor storage of non-operational vehicles is prohibited in all zones, subject to subsection (5), unless authorized as a permitted or conditionally permitted use (refer to "tow yard and storage") and reviewed and approved for code compliance.

(B) No person engaged in conducting or carrying on the business of an auto repair shop as defined in the Zoning Code shall store, display or park upon a public street or highway any motor vehicle in his/her possession or under his/her control between the hours of 5:00 p.m. and 7:00 a.m., including Saturdays, Sundays, and holidays.

(C) No person engaged in conducting or carrying on the business of an auto repair shop as defined in the Zoning Code, shall repair, remodel, overhaul, recondition or paint any automobile, other motor vehicle, or any parts thereof, in his/her possession or under his/her control, upon any public street or highway.

(2) Residential and street adjacency. All new structures shall be oriented to face building, workstation, and service bay entrances, away from abutting residential properties and the public right-of-way to the extent practicable.

(3) Service bays shall be screened from adjacent properties and public view by a wall, fence, hedge or other appropriate plant or landscape material between the service bay and the property line to the extent practicable. Solid fencing or walls shall be constructed of brick, block, stone or frame-stucco. An ornamental masonry wall shall be provided along all property lines that abut property used or zoned for residential purposes. Screening shall minimize the visual impact to the extent appropriate, through means of placement, barrier, or camouflage. Screening shall be designed to blend into the surrounding architecture or landscape so that the object or land use is not apparent to the casual observer. The face of all screen walls facing public rights-of-way shall be landscaped with shrubs, trees, and climbing vines. Use of walls and screening techniques shall meet crime prevention standards and provide graffiti deterrence elements.

(4) Landscaping required. A landscape planter a minimum of five (5) feet wide shall be provided along all street frontages, subject to Water Efficient Landscape Standards and street tree planting standards. Said landscaping shall be continuous and include a decorative planter area at the corner of intersecting streets unless a building is located at the corner or otherwise prevents continuity.

(5) Automobiles that are drivable in their present condition and are awaiting repairs are not considered to constitute "storage." Transported automobiles must be repairable and may be stored on the site if they are intended to be repaired. Vehicles or equipment parked or stored on the site shall not be used as a source of parts and shall not be sold unless the business is also licensed for vehicle or equipment sales. A vehicle that is not in working order shall not be stored on such premises for more than forty-eight (48) hours, excluding days when business transactions do not take place such as public holidays or the weekend. Vehicles shall not be wrecked or dismantled; shall have hoods, trunks and doors closed.

(6) Tow truck operation incidental to repair. No commercial tow truck, tractor, trailer or semi-trailer, designed to pull or transport passenger automobiles, may be parked on the premises of a "auto supply stores with incidental installations" or "limited auto repair" station or service garage for more than four (4) hours within any twenty-four (24) hour period, except in case of emergency. Exceptions to exceed the four (4) hour limitation may be granted for "general repair" and "commercial vehicle repair" facilities as determined by the permit review authority. The storage of these trucks must be within an enclosed building or service bay of a commercial or industrial zone (CG, M-1, or M-2); or be located in the rear half of the lot of an industrial zone (M-1 or M-2 Zone) and be enclosed by a six (6) foot high solid wall or fence with solid gates.

## **Article 57. MISCELLANEOUS USE RESTRICTIONS**

### **Section 33-1116. Household pets in the residential zones.**

(d) Adult rabbits, white mice, chipmunks, squirrels, chinchillas, guinea pigs, hamsters and the like, only in accordance with the following schedule:

|               |                                                   |
|---------------|---------------------------------------------------|
| R-A, R-E zone | <del>As provided in the zone</del> Up to 25 total |
| R-1 zone      | Up to four (4) total                              |

|                             |                     |
|-----------------------------|---------------------|
| R-T, R-2, R-3 and R-4 zones | Up to two (2) total |
|-----------------------------|---------------------|

## **Article 70. ACCESSORY DWELLING UNITS AND JUNIOR DWELLING ACCESSORY UNITS**

### **Sec. 33-1473. Occupancy limitations.**

(a) Allowed use.

(1) One attached or detached accessory dwelling unit may be permitted in conjunction with an existing or proposed single-family residence on a lot zoned for single-family or multifamily residential use.

(A) The accessory dwelling unit is either attached to, or located within, the proposed or existing main building or attached garages, storage areas, or similar use; or a detached accessory structure and located on the same lot as the proposed or existing single-family home.

(B) An accessory dwelling unit may be permitted on a lot where a junior accessory dwelling unit exists or is proposed.

(2) One junior accessory dwelling unit may be permitted in conjunction with an existing or proposed single-family residential use.

(A) The junior accessory dwelling unit is located within the proposed or existing main building or attached garages, storage areas, or similar use.

(B) A junior accessory dwelling unit may be permitted on a lot where an accessory dwelling unit exists or is proposed.

(3) Number of accessory dwelling units on legal lots with existing or proposed multifamily dwelling units:

(A) Shall be permitted to construct at least one accessory dwelling unit within the portions of existing multifamily dwelling structures ~~that are not used as livable space~~ and shall allow up to twenty-five (25) percent of the existing multifamily dwelling units.

(B) Not more than two (2) accessory dwelling units are permitted that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling.

(b) Owner-occupied.

(1) The owner-occupancy requirement shall not be applied to any accessory dwelling unit.

(2) A junior accessory dwelling unit may be used as habitable space, only so long as either the remaining portion of the main dwelling unit, or the newly created junior accessory dwelling unit is occupied by the owner of record of the property, unless otherwise exempted by this section.

(A) Owner-occupancy for a junior accessory dwelling unit shall not be required if the owner is an agency, land trust, or housing organization.

(3) Deed restriction. The city shall require the recordation of a deed restriction if owner-occupancy is required pursuant to this section.

(A) Prior to issuance of a building permit, the property owner shall execute a deed restriction setting forth the owner-occupancy requirements, in a form and substance satisfactory to the director of community development and city attorney's office, which shall be recorded in the office of the county recorder. The covenant shall also include the following terms and limitations:

(i) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, and shall not be subdivided in any manner that would authorize such sale or ownership.

(ii) A statement that the deed restriction may be enforced against future purchasers and the restrictions shall be bindings upon any successor in ownership of the property.

(iii) The junior accessory dwelling unit shall be a legal unit, and may be used as habitable space, only so long as the owner of record of the property occupies the premises.

(iv) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section, and if applicable the occupancy limitations of the California Health and Safety Code Section 17958.1.

(c) All local building and fire code requirements apply, as appropriate, to accessory dwelling units and junior accessory dwelling units.

(1) A certificate of occupancy shall not be issued for the accessory dwelling unit and/or junior accessory dwelling unit until the building official issues a certificate of occupancy for the main building.

(2) Prior to approval on properties with a private sewage system, approval by the County of San Diego Department of Environmental Health, or any successor agency, may be required.

(d) The accessory dwelling unit and/or junior accessory dwelling unit is not intended for sale, except in conjunction with the sale of the primary residence and property.

(e) The accessory dwelling unit and junior accessory dwelling unit may be rented separate from the primary residence, but only with a rental agreement and with terms greater than thirty (30) days.

(f) The accessory dwelling unit and/or junior accessory dwelling unit shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the premises. ~~However, accessory dwelling units and/or junior accessory dwelling units shall be incidental, appropriate, and clearly subordinate to the primary use of the property.~~

(1) The accessory dwelling unit and/or junior unit shall be deemed to be a legal unit and permit such accessory use of property, which use is specifically identified by the accessory use regulations for the underlying zone; and shall allow such other accessory uses which are necessarily and customarily associated with, ~~and are appropriate, incidental, and subordinate to,~~ such principal residential use of the premises, except as otherwise provided by this subsection.

(A) An accessory dwelling unit and/or junior accessory dwelling unit shall be deemed an independent dwelling unit for the sole purpose of establishing a home occupation permit within

the accessory dwelling unit and junior accessory dwelling unit, subject to the terms and limitations of Article 44. The limitations for home occupations shall be shared with the principal use and/or main building.

(B) No more than the quantities of animals specifically listed in Table 33-95(a) of Article 6 or section 33-1116 of Article 57 is permitted on the premises. The limitations for animal keeping and household pets shall be shared with the principal use and/or main building.

(C) For all other accessory use of property, the accessory dwelling units and/or junior accessory dwelling unit shall be controlled in the same manner as the principal use within each zone, and shall not expand or be conveyed separately from the primary use. When provided by these regulations, it shall be the responsibility of the director of community development to determine if a proposed accessory use is necessarily and customarily associated with, and is appropriate, incidental, and subordinate to the principal use, accessory dwelling unit, and/or junior accessory dwelling unit, based on the director's evaluation of the resemblance of the proposed accessory use and the relationship between the proposed accessory use and the principal use

## **Article 70. ACCESSORY DWELLING UNITS AND JUNIOR DWELLING ACCESSORY UNITS**

### **Sec. 33-1474. Development standards.**

(a) Accessory dwelling units shall be subject to all development standards of the zone in which the property is located, except as modified below. Notwithstanding, this section shall be interpreted liberally in favor of accessory dwelling unit construction. Furthermore, any property development standard provided herein that regulates the minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings shall permit at least an eight hundred fifty (850) square foot accessory dwelling unit to be constructed in compliance with all other local development standards and building code requirements.

(1) Number of bedrooms. ~~For units eight hundred (800) square feet or less, a maximum of one (1) bedroom shall be permitted. Two (2) bedrooms may be permitted if the living area of the accessory dwelling unit exceeds eight hundred (800) square feet. No more than two (2) bedrooms shall be permitted. There is no allowed limit on the number of bedrooms provided that the accessory dwelling unit and/or junior accessory dwelling unit complies with local building and fire code requirements.~~

(2) The accessory dwelling unit shall be provided with a separate exterior entry. The accessory dwelling unit shall not have direct, interior access into the main building.

(3) The accessory dwelling unit shall include separate bath/sanitation facilities and include a separate kitchen.

(4) Setbacks. ~~Attached and detached accessory dwelling units shall conform to the setback requirements of the underlying residential zone for the primary structure. Detached accessory dwelling units, other than those structures otherwise regulated within this section, may~~

have a building height and setbacks as outlined for accessory residential structures of the underlying zone, except that a setback of no more than four (4) feet from the side and rear lot lines shall be required for a detached accessory dwelling unit. Roof eaves and other architectural projections for accessory dwelling units shall comply with section 33-104.

(A) An accessory dwelling unit proposed to be constructed above an existing detached garage shall have a minimum ~~five (5)~~four (4) foot setback to side and rear property lines.

(B) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit. The accessory dwelling unit may include an expansion of not more than one hundred fifty (150) square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress, subject to the terms and limitations of this article.

(5) Maximum unit size. The maximum accessory dwelling unit size is determined by the size of the lot as provided in Table 33-1474. The living area of the accessory dwelling unit shall not exceed more than fifty (50) percent of the existing or proposed living area of the primary residence.

(A) If authorized by the underlying zoning, an accessory dwelling unit may be attached to a guest house provided that the overall combined floor area of the combined building or structure does not exceed seventy-five (75) percent of the main unit.

(B) When an accessory dwelling unit is attached to other accessory building(s) or structure(s), such as a garage, carport, or patio cover, the overall combined building area of the structure(s) shall not exceed the existing floor area of the main residence.

**Table 33-1474**

| <u>Lot size</u>                     | <u>Maximum Permitted Accessory Dwelling Unit Size</u> |                            |
|-------------------------------------|-------------------------------------------------------|----------------------------|
|                                     | <u>1 bedroom or less</u>                              | <u>More than 1 bedroom</u> |
| <u>Less than 20,000 square feet</u> | <u>850 square feet</u>                                | <u>1,000 square feet</u>   |
| <u>20,000 square feet or more</u>   | <u>1,000 square feet</u>                              | <u>1,000 square feet</u>   |

| <u>Lot size</u>                     | <u>Maximum Permitted Accessory Dwelling Unit Size</u> |
|-------------------------------------|-------------------------------------------------------|
| <u>Less than 20,000 square feet</u> | <u>850 square feet</u>                                |
| <u>&gt; 20,000 square feet</u>      | <u>1,000 square feet</u>                              |

(6) Minimum unit size. The minimum permitted size of an accessory dwelling unit shall be the size of an efficiency unit as defined by the California Health and Safety Code Section 17958.1. The minimum unit size of the residential zone shall not apply to the accessory dwelling unit that is built on the same legal lot as the primary residence in compliance with all local development standards.

(7) Height. Accessory dwelling units shall conform to the height limits of the zone.

(8) Lot coverage. The combined area of all structures on a lot shall conform to the lot coverage limitation of the zone in which the property is located.

(b) Junior accessory dwelling units, as constructed within the existing or proposed single-family residence, shall be subject to all development standards of the zone in which the property is located, except as modified below.

(1) Number of bedrooms. A maximum of one (1) bedroom shall be permitted.

(2) The junior accessory dwelling unit shall be provided with a separate exterior entry and may have direct, interior access into the main building.

(3) A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

(4) The junior accessory dwelling unit shall include an efficiency kitchen.

(5) Maximum unit size. The maximum junior accessory dwelling unit size shall not exceed 500 square feet in total floor area and shall be contained entirely within an existing or proposed single-family residence and may include an expansion of not more than one hundred fifty (150) square feet beyond the same physical dimensions of the existing residence to accommodate ingress and egress.

(6) Minimum unit size. The minimum permitted size of a junior accessory dwelling unit shall be the size of an efficiency unit as defined by the California Health and Safety Code Section 17958.1. The minimum unit size of the residential zone shall not apply to the junior accessory dwelling unit that is built on the same legal lot as the primary residence in compliance with all local development standards.

(7) Except as provided herein, a junior accessory dwelling unit shall comply with all other zoning code standards, including but not limited to setbacks, building height, floor area ratio, and lot coverage.

(c) Parking requirements.

(1) Notwithstanding any other law, the city will not impose parking standards for an accessory dwelling unit or junior accessory dwelling unit.

(2) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, replacement parking is not required.

~~(d) Garage conversions and personal storage. If an existing garage is converted to an accessory dwelling unit or junior accessory dwelling unit and no replacement garage space is provided, a minimum of one hundred sixty (160) additional cubic feet of lockable, enclosable storage must be provided on the same lot to mitigate the loss of personal storage space.~~

~~(e)(d) Design of the unit. Accessory dwelling units shall be designed to minimize the effect of the new accessory dwelling unit on adjacent properties.~~

~~(1) Any potential impacts shall be oriented to the primary residence. Access doors and entry for the accessory dwelling unit shall not be oriented to the nearest adjacent property line or create a second "front door" that is comparable to the main entrance. The design, construction, and presence of the accessory dwelling unit shall conform with the single-family character of the neighborhood.~~

(2) ~~Proposed accessory dwelling units shall respect the residential scale and design character of existing homes.~~ The accessory dwelling unit's color and materials must match those of the primary residence, ~~maintaining compatibility with the neighborhood.~~ The director shall review accessory dwelling unit applications to ensure the addition is integrated with the primary structure with respect to roof design, height, compatible materials, color, texture, and design details. If the accessory dwelling unit is an addition to a site with known historic resources or has been determined to have historic value by the director, all improvements shall retain the historical and/or architectural value and significance of the landmark, historical building, or historical district as specified by Section 33-1475. The improvements shall be compatible with and retain the texture and material of the primary building(s) and/or structure(s) or its appurtenant fixtures, including signs, fences, parking, site plan, landscaping and the relationship of such features to similar features of other buildings within an historical district.

~~(f)~~(e) Addresses. The addresses of both units shall be displayed in such a manner that they are clearly seen from the street.

~~(g)~~(f) Fire sprinklers. Accessory dwelling units and junior accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

## **Article 70. ACCESSORY DWELLING UNITS AND JUNIOR DWELLING ACCESSORY UNITS**

### **Section 33-1476. Existing non-permitted accessory units.**

This article shall apply to all accessory dwelling units or junior accessory dwelling units which exist on the date of passage of the ordinance. All units which do not have a permit, or cannot receive a permit, upon passage of the ordinance codified herein shall be considered in violation and shall be subject to code enforcement action.

(a) Existing nonconforming units. Accessory dwelling units or junior accessory dwelling units that exist as of the effective date of this section that have previously been legally established may continue to operate as legal nonconforming units. Any unit that exists as of the effective date of this section, and has not previously been legally established, is considered an unlawful use, unless the director of community development determines that the unit meets the provisions of this section and a permit is approved and issued.

(1) Conversion of legally established structures. The conversion of legally established structures ~~that exist as of the effective date of this section~~ shall require that the unit meet the provisions of this code. Any legally established waivers or nonconformity that exist on the effective date of this section may continue, provided that in no manner shall such waiver or nonconformity be expanded.

(2) Administration and enforcement of any non-conforming building standard shall be conducted in accordance with California Health and Safety Code section 17980.12.

## **Article 70. ACCESSORY DWELLING UNITS AND JUNIOR DWELLING ACCESSORY UNITS**

### **Section 33-1477. Application and procedure.**

The Director shall approve or disapprove an application for an accessory dwelling unit or junior accessory dwelling unit, ministerially, within sixty (60) days after receiving a complete application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the director may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the director acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the sixty (60) day time period shall be tolled for the period of the delay. ~~The director may refer any application to the planning commission or historic preservation commission prior to the director's decision for conformance with the specific criteria outlined in section 33-1474, subject to an approval process that includes only ministerial provisions and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision.~~