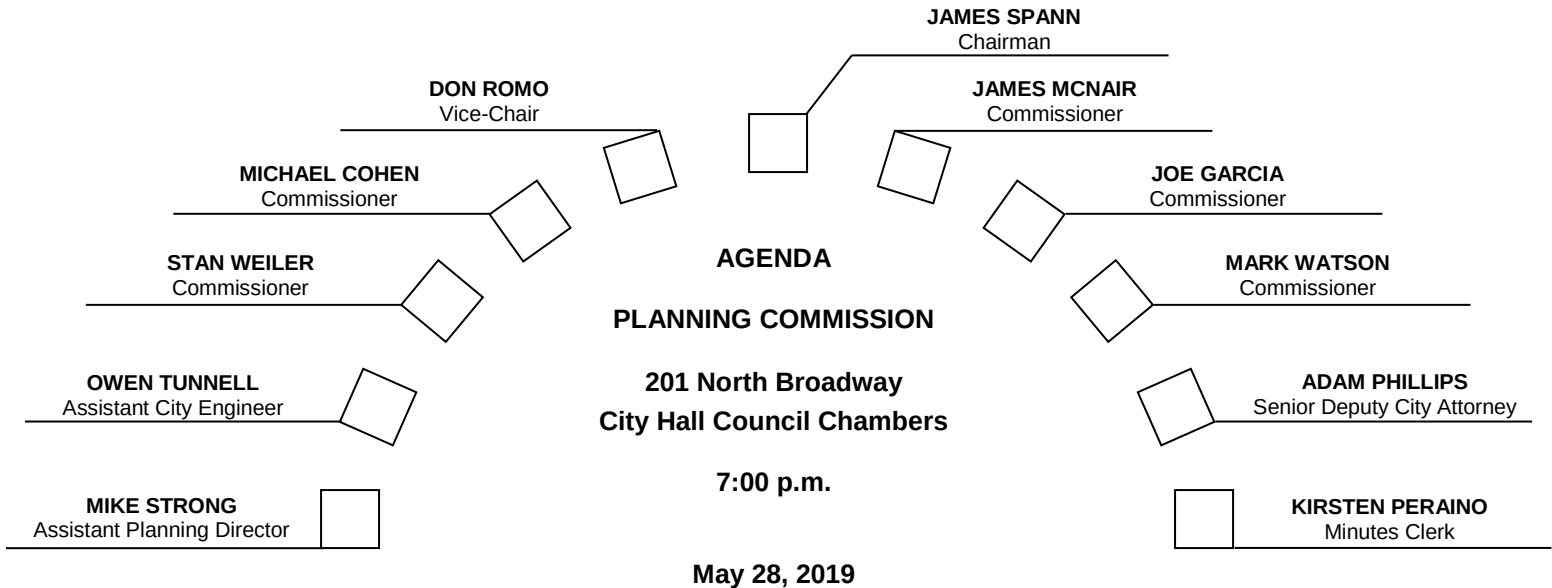


CITY OF ESCONDIDO

Planning Commission and Staff Seating



- A. CALL TO ORDER:** 7:00 p.m.
- B. FLAG SALUTE**
- C. ROLL CALL:**
- D. MINUTES:** 04/23/19

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

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

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

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

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

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

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

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

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

E. WRITTEN COMMUNICATIONS:

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

1. Future Neighborhood Meetings

F. ORAL COMMUNICATIONS:

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

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

G. PUBLIC HEARINGS:

Please try to limit your testimony to 3 minutes.

1. MASTER AND PRECISE DEVELOPMENT PLAN FOR A 127-UNIT MIXED-USE DEVELOPMENT WITHIN THE DOWNTOWN SPECIFIC PLAN – PHG 19-0010:

Request: A Master and Precise Development Plan to construct a 187,808 square foot, five-story mixed-use structure within the Historic District of the Downtown Specific Plan containing 127 apartment units, 1,175 sf of commercial space, underground parking, recreation areas for residents, and adjacent street improvements. The project will provide studios, 1-bedroom and 2-bedroom units ranging in size from 550 sf to 995 sf and 157 garage spaces including 26 tandem spaces. Public and guest parking spaces will be constructed on E. 2nd Avenue, Ivy Street and E. 3rd Avenue. Zoning provisions allow 76 units at the site. The request includes a Density Bonus of 35% or 27 units (including 9 units for Very Low Income households) for providing affordable housing and a 24-unit increase allocated from the Density Transfer Program for the Downtown Specific Plan area through a Development Agreement. The project also includes a request to adopt a Class 32 Exemption in accordance with the California Environmental Quality Act (CEQA).

PROPERTY SIZE AND LOCATION: The 1.002 acre site is located between East 2nd Avenue and East 3rd Avenue bordering on South Ivy Street addressed as 343 E. 2nd Avenue.

ENVIRONMENTAL STATUS: Exempt pursuant to a CEQA Section 15332, Class 32 In-fill development project prepared by Harris & Associates, February 2019.

APPLICANT: Touchstone Communities

STAFF RECOMMENDATION: Approval

COMMISSION ACTION:

PROJECTED COUNCIL HEARING DATE:

2. ZONING CODE AND SPECIFIC PLAN AMENDMENTS – AZ 18-0006:

REQUEST: A Zoning Code and Specific Plan Amendment to various sections of the Zoning Code and Specific Plans. In 2018, the City Council initiated a planning process to address various nonresidential land uses that tend to negatively impact surrounding properties. The overall work program, called the “Zoning Code and Land Use Study,” was created to comprehensively examine the degree to which various land use activities are permitted within each zoning district. With the study complete, the results have been compiled into a draft ordinance, involving a series of Escondido Zoning Code and Specific Plan Amendments. Most of the proposed amendments consist of changes to Articles 1, 16, 26, 56, and 57 of the Escondido Zoning Code; and the land use tables of the Downtown, East Valley, and South Centre City Specific Plans. The proposal also includes the adoption of the environmental determination prepared for the project.

PROPERTY SIZE AND LOCATION: Citywide

ENVIRONMENTAL STATUS: Exemption under the General Rule, CEQA Section 15061(b)(3).

APPLICANT: City of Escondido

STAFF RECOMMENDATION: Approval

COMMISSION ACTION:

PROJECTED COUNCIL HEARING DATE:

H. CURRENT BUSINESS:

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

I. ORAL COMMUNICATIONS:

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

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

J. PLANNING COMMISSIONERS

K. ADJOURNMENT

CITY OF ESCONDIDO

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

April 23, 2019

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

Commissioners present: James Spann, Chairman; Don Romo, Vice-chairman; Michael Cohen, Commissioner; James McNair, Commissioner; Mark Watson, Commissioner; and Stan Weiler, Commissioner.

Commissioners absent: Joe Garcia, Commissioner.

Staff present: Bill Martin, Director of Community Development; Owen Tunnell, Principal Engineer; Adam Phillips, Senior Deputy City Attorney; Darren Parker, Associate Planner; and Kirsten Peraino, Minutes Clerk.

MINUTES:

Moved by Commissioner Watson, seconded by Commissioner McNair to approve the Action Minutes of the April 9, 2019 meeting. Motion carried unanimously (6-0-0) Ayes: Cohen, McNair, Romo, Spann, Watson and Weiler. Garcia was absent.

WRITTEN COMMUNICATIONS: – None.

FUTURE NEIGHBORHOOD MEETINGS: – None.

ORAL COMMUNICATIONS: – None.

PUBLIC HEARINGS:

1. ESCONDIDO RESEARCH AND TECHNOLOGY CENTER SPECIFIC PLAN AMENDMENT AND CONDITIONAL USE PERMIT- PHG 18-0041, PHG 18-0042 AND ENV 18-0007:

REQUEST: An Amendment to the Escondido Research and Technology Center (ERTC) Specific Plan to allow temporary parking facilities as a conditionally permitted use, and a Conditional Use Permit (CUP) to allow a 727 space temporary parking facility in Planning Area 8 of the ERTC Specific Plan. The proposed Specific Plan Amendment would enable the review and consideration of the requested CUP, and would allow development of additional temporary parking lots within the ERTC Specific Plan in the future, subject to the issuance of a CUP. The proposal also includes the adoption of the Environmental review for the project.

PROPERTY SIZE AND LOCATION: The proposed ERTC Specific Plan Amendment (SPA) would affect all planning areas in the specific plan. The proposed temporary parking facility would be located on 8.84-acres on the east side of Citracado Parkway, and north of S. Andreasan Drive, (APNs 232-592-02, 03, 04, 05, 06 & 17).

ENVIRONMENTAL STATUS: The Specific Plan Amendment is consistent with the Environmental Impact Report (EIR) (SCH No. 20001121065) that was prepared for the ERTC Specific Plan and certified by the City Council in November 2002. The proposed temporary parking facility is categorically exempt from further review under the California Environmental Quality Act (CEQA), in conformance with section 15162, "Use of Previous EIR."

PUBLIC SPEAKERS:

James McCann, project developer/applicant spoke in support of project.

COMMISSIONER DISCUSSION AND QUESTIONS

The Commissioners discussed the various aspects of the project.

COMMISSION ACTION:

Moved by Commissioner McNair, seconded by Commissioner Weiler to approve the staff's recommendation with modification to Planning Condition #14. Motion carried unanimously (6-0-0) Ayes: Cohen, McNair, Romo, Spann, Watson and Weiler. Commissioner Garcia absent.

ADJOURNMENT:

Chair Spann adjourned the meeting at 7:20 p.m. The Planning Commission meeting scheduled for May 14, 2019 has been cancelled. The next regularly scheduled Planning Commission meeting will be held at 7:00 p.m. on Tuesday, May 28, 2019 in the City Council Chambers, 201 North Broadway Escondido, California.

Bill Martin, Acting Secretary to the
Escondido Planning Commission

Kirsten Peraino, Minutes Clerk

PLANNING COMMISSION

Agenda Item No.: G.1
Date: May 28, 2019

PROJECT NUMBER / NAME: PHG 19-0010 – “The Ivy”

REQUEST: A Master and Precise Development Plan to construct a 187,808 square foot, five-story mixed-use structure within the Historic District of the Downtown Specific Plan containing 127 apartment units, 1,175 sf of commercial space, underground parking, recreation areas for residents, and adjacent street improvements. The project will provide studios, 1-bedroom and 2-bedroom units ranging in size from 550 sf to 995 sf and 157 garage spaces including 26 tandem spaces. Public and guest parking spaces will be constructed on E. 2nd Avenue, Ivy Street and E. 3rd Avenue. Zoning provisions allow 76 units at the site. The request includes a Density Bonus of 35% or 27 units (including 9 units for Very Low Income households) for providing affordable housing and a 24-unit increase allocated from the Density Transfer Program for the Downtown Specific Plan area through a Development Agreement. The project also includes a request to adopt a Class 32 Exemption in accordance with the California Environmental Quality Act (CEQA).

LOCATION: 343 East 2nd Avenue

APPLICANT: Touchstone Communities, LLC

APN / APNS: 229-471-08 through -13

GENERAL PLAN / ZONING: SPA-9 / Historic District and Downtown Specific Plan

PRIMARY REPRESENTATIVE:
Addison Garza

DISCRETIONARY ACTIONS REQUESTED: Master and Precise Development Plan, Density Bonus Application, and Development Agreement to allocate density from the Density Transfer Program.

PREVIOUS ACTIONS: None

PROJECT PLANNER: Peggy Chapin, Planning Consultant, pchapin@escondido.org

CEQA RECOMMENDATION: Exemption - Class 32 CEQA Guidelines Section 15332

STAFF RECOMMENDATION: Approval, as conditioned

REQUESTED ACTION: Approve Planning Commission Resolution No. 2019-09

REPORT APPROVALS:

☒ Bill Martin, Community Development Director

☐ Mike Strong, Assistant Planning Director

A. BACKGROUND:

Downtown Escondido is a dynamic city center offering cultural events, retail, services, businesses, and medical offices, employment opportunities, and a range of housing within the core and in adjacent communities. The proposed project is located at the eastern end of the Escondido's downtown urban core, on the west side of South Ivy Street, between East 2nd and East 3rd Avenue (Exhibit A). The property was previously the site for the Palomar Hospital Surgery Center demolished in 2018. All structures, landscaping, and site improvements were removed. The property was rough graded and enclosed with a temporary fence. A 20-foot alley borders the western edge of the property.

Situated within the Historic District of the Downtown Specific Plan (DSP) area, the site is in close proximity to a variety of services, theaters, restaurants, grocery and specialty retail shops. Future residents could easily walk to local schools, churches, city library, City Hall, Escondido's Center of the Arts, and Grape Day Park. The Escondido Transit Station, located a ½ mile distance to the west, offers bus and Sprinter rail transit services to areas around San Diego County. "Cruising Grand", a historic car event and street fair occurs weekly during summer months. Cultural events at the Center for the Arts, street fairs, and weekly farmers market are an additional draw for local Escondido residents and visitors.

The applicant proposes to construct a five-story, 187,808 square foot, mixed-use building that includes 127 residential units for rent (including 9 units for Very Low Income households), underground parking, common recreational areas with pool, and other amenities. The residential unit mix would include 8 studios, 59 one-bedroom units, and 60 two-bedroom units. Each unit will be provided with a private balcony space. The first floor would provide a 1,045-square-foot leasing office with a lobby and mailroom for residents and a 1,175 square foot commercial space for restaurant, retail or office use (Site Plan and Concept Design Plans, Exhibit B).

The proposed structure would range in height from 63 feet at Ivy Street and E. 3rd Avenue to 75 feet at the northeast corner of E. 2nd Avenue and Ivy Street. Access to the proposed parking garage would be from a one-way southbound alley between East 2nd and East 3rd Avenues.

B. PROJECT ANALYSIS:

1. General Plan / Zoning

The City's General Plan and Downtown Specific Plan (DSP) encourages dense development in urbanized areas that are within close proximity to entertainment, retail, and professional offices. The site is located within the City's downtown core that allows for up to 75 dwelling units per acre. Based on the property size of 1.002 acres, current zoning would allow for 76 units and a four-story, 60' height structure. The request is to construct 127 units and a 5-five story structure ranging in height from 63' to 75'.

Surrounding land uses include multi-family and single-family residences to the east and south, the Palomar Medical Facility to the east, commercial development to the north, east, and west, and churches and offices immediately to the west.

The DSP contains provisions enabling an applicant to request modifications to standards contained in the DSP pursuant to a Planned Development Application. (Pp III-19).

2. Specific Plans Goals and Objectives:

The proposed project would be consistent with the goals and objectives of the Downtown Specific Plan. The project would increase the residential population downtown thereby increasing the volume of shoppers, frequency of diners, and patrons to the local businesses. The additional residents downtown would ultimately improve the overall economics of the downtown and the business community.

The DSP guidelines specifically state that “higher density, pedestrian-oriented and mixed-use projects are encouraged that add to the economic viability of the downtown (DSP pp III-11). Additional downtown goals are summarized below:

- Ensure its economic viability,
- Create a local and regional destination,
- Foster a vibrant atmosphere that offers mixed uses,
- Provide for street level and human scale design elements,
- Offer higher residential densities that support downtown commercial,
- Expand pedestrian connections and alternative transportation modes.
- Promote and achieve DSP goals require an active population who live, work, and play within the downtown.

Without adequate residential housing opportunities to generate enough pedestrian activity to support restaurants, stores, and businesses, the downtown will not meet its goals. Residential growth requires expanding the existing housing stock by encouraging and securing multi-family development.

3. Physical Characteristics

Located at the eastern end of the DSP Historic District, the property previously contained the Palomar Surgery Center which was demolished in 2018. The now-vacant 1.002-acre parcel is characterized by gentle sloping topography ranging from 666 feet to 688 feet above mean sea level and sloping at approximately 15% in a northwesterly direction. Proposed grading will maintain the existing grade resulting in the northern side of the structure higher than the southern portion of the structure. The proposed structure ranges in height from 63 feet at E. 3rd Avenue and S. Ivy Street to 75 feet in height at E. 2nd Avenue and S. Ivy Street.

The western portion of the property consists of a 20'-wide north-south traversing alley. Construction of the project will modify the two-way alley into a one-way alley with a southbound direction and a walkway along the eastern side of the alley, bordering the structure.

Off-site improvements are proposed on East 2nd Avenue, South Ivy Street, and East 3rd Avenue. Improvements on 2nd Avenue include removal and replacement of existing curb, gutter and sidewalk. The existing parkway would be reduced from 14 feet to 10 feet and the outside travel lane from 12 feet to 11 feet in order to accommodate a 6-foot wide bike lane adjacent to parallel parking along E. 2nd Street.

Ivy Street improvements consist of converting the existing two-way street to a one-way southbound street with angled parking and emergency parking along the project frontage. A landscaped bulb-out would be constructed at S. Ivy Street and East 3rd Avenue to detour traffic heading northbound on Ivy Street, south of 3rd Avenue. The existing non-contiguous sidewalk would be removed and a contiguous sidewalk along Ivy Street and 3rd Avenue would be constructed.

Grading of the project will result in exporting 10,000 cy of soil due to excavation for the underground parking structure. The building footprint encompasses the majority of the site. A retaining wall along the southeasterly property boundary serves as grade separation between the existing elevations on the public right of way and the finish grade of the structure.

4. Planned Development (Master and Precise Development Plan)

The application requests construction of a five-story mixed-use building that includes the following:

- 76 base residential units (75 dwelling units per acre)
- 35% Density Bonus or an additional 27 units ($76 \times .35 = 27$) including 11% or nine units for Very Low Income households
- 24 units transferred into the project from the Density Transfer Program
- Total units – 127 ($76 + 27 + 24 = 127$)
- 1,175 square feet of commercial space at northeast corner of East 2nd Ave and South Ivy Street in a southerly direction for one block
- Reorient the alley to a one-way southerly direction
- Adopt Class 32 CEQA Exemption prepared for the project.

The Master and Precise Development Plan includes a five-story building totaling 187,808 square feet. The structure would provide 127 residential units for rent (8 studios – 550 sf, 59 one-bedroom units ranging from 630 – 700 sf, and 60 two-bedroom units ranging from 820 – 995 sf), a 1,175 square foot commercial space, a two-story parking garage (first level – at grade and second level - below grade). The first level contains 20 residential units, commercial space, and common

recreation areas, fitness rooms, restrooms, and leasing office. The second, third and fourth levels each contain 27 residential units. The fifth level contains 26 residential units and a roof deck. The project proposes to exceed the DSP height limit of 60' and four stories in order to provide the additional affordable units.

The DSP allows for an applicant to request exemptions from the standards contained in the DSP when processing a planned development. The applicant proposes an exemption from the required number of parking spaces (234 spaces) in return for providing a total of 157 on-site spaces for residents and 27 street parking spaces for guests. As noted in the following table, the State parking requirement for a Density Bonus project would be 94 parking spaces.

Parking Summary Table

Parking Summary	Proposed	Required per Gov. Code 65915(p) for Density Bonus	Required per City Downtown Specific Plan
Unit Type	Spaces per unit	Spaces per unit	Spaces per unit
Studio – 8 units	1 per unit – 8	0.5 per bedroom – 4	1.0 per unit – 8
1 bedroom – 59 units	1.0 per unit – 59	0.5 per bedroom – 30	1.5 per unit – 89
2 bedroom – 60 units	1.5 per unit – 90	0.5 per bedroom – 60	1.75 per unit – 105
Guest	Guest on street - 27	Guest parking not required	0.25 per unit – 32
	Total Spaces - 157	Total Spaces - 94	0.25 per unit – 32
			Total Spaces - 202
	Total Proposed - 184	Total State Code - 94	Total City Code - 234

The applicant requests the following parking exemptions:

- Reduce the amount of required parking from 234 spaces to 184 spaces with 27 guest/public street spaces.
- Allow for offsite guest parking spaces along S. Ivy Street and E. 3rd Avenue.

Justification: CA Gov't Code limits parking to 0.5 spaces per bedroom for Density Bonus projects within ½ mile of a transit station to encourage the use of mass transit. Additionally, the City's DSP encourages a shift in orientation from building streets primarily for automobiles and to facilitate the broader vision of directing downtown's and the City's circulation system toward a truly 'multimodal' transportation network. The reduced parking encourages the use of alternate transportation such as bus and rail transit, bicycling, and walking.

5. Density Bonus Request

The proposed project will provide much needed rental housing including affordable units to the city and the community. The Housing Element, a component of the General Plan, assesses housing needs from January 1, 2013, through December 31, 2020, and identifies strategies and programs that focus on:

- 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 state of California requires all cities adopt a Housing Element that includes goals for providing adequate housing for all income levels. This Regional Housing Needs Assessment (RHNA) is assigned by income category. (§§ 65584 – 65584.09) Typically approximately 40 percent of the local housing need is to provide housing for the very low income and low income housing (collectively “lower income housing,” for households generally earning 80 percent or less of the area median income or AMI); approximately 20 percent for moderate income housing (those earning between 80 and 120 percent AMI); and the remaining 40 percent for above-moderate income housing (earnings over 120% AMI). The proposed development would provide an additional 9 units for very low income households (31-50% of the AMI) and 118 moderate units (81-120% of the AMI).

The California Density Bonus Law (California Government Code, Sections 65915–65918) encourages the development of affordable and senior housing, by affording applicants/developers with up to a 35 percent increase in project densities, depending on the amount of affordable housing provided. The amount of the density bonus is based upon the percentage of affordable units provided at each income level. The Downtown Specific Plan allows for 75 dwelling units per acre on the project site. Based on a 1.002-acre site, 76 units could be permitted. The applicant proposes to reserve 11% of its base density units (9-units) for Very Low Income households to qualify for the 35 percent density bonus (an additional 27 units) over the base density.

The Density Bonus is a state mandate. A developer who meets the requirements of the state law is entitled to receive the density bonus and other benefits as a matter of right. The Density Bonus Law allows for an applicant proposing affordable housing units to request waivers from the 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. The project is requesting a waiver to the following development standards in the Downtown Specific Plan: maximum height limit and stories, open space requirement, and street-side setback requirement.

The applicant requests the following waivers as part of the Density Bonus application:

- Open Space - Reduce the amount of required usable open space per unit from 300 sf to 171 sf per unit since the site does not have the area to provide additional open space and common open space is provided for residents.
- Side Yard Setback - Reduce the side yard setback along East 2nd Avenue from 14'0" to 12'1" to accommodate Class II bicycle lane.
- Increased Height - Increase the height from 60' and four stories to a range from 63' to 75' based on topography to construct a five-story structure that can accommodate the additional number of units and provide affordable housing.

6. Density Transfer Program Request

The recently approved Density Transfer Program within the Downtown Specific Plan area provides opportunities where an applicant can request approval to exceed residential densities on a case-by-case basis subject to approval of a Planned Development and Development Agreement. The Density Transfer Program establishes a density credit pool consisting of density not utilized on City-owned properties and/or unused density from undeveloped or underutilized properties. Available density contained in the Density Credit Pool could be transferred to a developing parcel to increase the density beyond what is permitted through maximum density allowances in the DSP. Upon submittal of a Planned Development Application and approval by the City Council, an applicant may request to have density transferred from the density pool provided there is available density.

The City is kick-starting the density credit pool with unused density from city-owned parcels within the DSP. Specifically, the city would transfer 48 available density units from Municipal Parking Lot #4 at the corner of East 2nd Avenue and Kalmia Street (APN 233-081-26-00) which is zoned for 75 dwelling units per acre. These credits will be placed in the Density Transfer Program credit pool and upon approval of this project 24 dwelling units would be transferred to the project site. This would result in the total number of 127 units.

While State Density Bonus Law mandates the approval of density bonus projects and related developer incentives when a project complies with state requirements, there is no similar City mandate to grant a density transfer request through the Density Transfer Program. Each project request to receive transfer units from the credit pool is reviewed on a case-by-case basis for project design, CEQA compliance and consistency with the DSP. All of these aspects are evaluated in other sections of this report.

7. Development Agreement Request

Development Agreements are administered pursuant to Article 58 of the Zoning Code. A Development Agreement is a voluntary legal agreement between the City and the developer. Generally, a developer receives increased certainty for constructing a project in return for providing more public benefit than normally required.

The proposed Development Agreement is necessitated by the applicant's request to receive a density transfer from the recently approved Density Transfer Program credit pool. In this case, the applicant is requesting 24 additional units from the credit pool. The credit pool has been created from an initial infusion of density from Municipal Parking Lot 4 on the northwestern corner of 2nd Avenue and Kalmia. The applicant has also requested a term be included in the Development Agreement that would freeze building permit fees at the July 2, 2018 level. Staff has determined that this would result in a savings of approximately \$420,000 from the fees in place today with even greater savings anticipated in future years when the project is actually constructed. In return for freezing fees and in consideration that the project does meet the open space standard in the Downtown Specific Plan, staff negotiated a \$300,000 payment from the applicant to fund a much-needed renovation of ballfield fencing in Kit Carson Park.

On May 20, 2019, the applicant met with staff to discuss the terms of the Development Agreement. The applicant noted that state law regulating density bonus projects (Government Code Sections 65915 – 65918) provides an allowance for incentives for those projects providing affordable housing per the law. Those incentives can include a reduction in open space. The applicant felt this justified elimination of the negotiated \$300,000 payment for Kit Carson Park. Staff disagrees and noted that, irrespective of the open space issue, the fencing contribution is the one public benefit provided by the project in return for the value provided by freezing development fees. Therefore, the terms in the agreement are presented as originally agreed upon. The applicant has noted they will be seeking relief from the City Council.

C. PROJECT COMPONENTS:

1. Design:

The proposed use will utilize an existing vacant property and construct a mixed-use five-story structure comprised of rental units and commercial space. The DSP design policies, standards & guidelines state that projects "shall incorporate high-profile and vertical design features sufficient to portray a desirable urban quality" (DSP pp III-7). Additionally, the project's commercial tenant will be located at the corner of the structure at East 2nd Avenue and South Ivy Street. Design features include decks/balconies for each unit, an open community plaza with pool and recreational features, and an exterior patio for outside seating at the commercial corner. The proposed building materials would incorporate a stucco sand finish with metal siding and precision block. The main body colors of the building materials would be white, tan, light and dark grey stucco, and light grey metal siding. Architectural features include:

- Diversity and variety of roof heights and balconies,
- A variety of building materials including stucco, metal siding, and metal rails,
- Alternating earth tones with maroon accents at pedestrian entry points
- Stucco expansion joints, decorative eyebrows, and stucco with foam trim around the windows

The site design is oriented towards Ivy Street with the main entrance facing South Ivy Street. Residents would access the parking garage from the alley. The DSP standards state that the buildings should be in close proximity to the street edge to provide an urban look. The project achieves this standard while providing articulation in wall planes to avoid a monotonous appearance.

2. Open Space Common Areas and Private Areas:

The project would provide four open space common areas totaling approximately 13,453 square feet. The largest area would be approximately 4,656 square feet and would include a community pool and spa; lounge and gas fire pits; artificial turf area; bar with gas fire pit feature; barbeque grills; and cabanas (Figure 5, Landscape Concept Plan). The community pool and spa would have set hours of 8:00 a.m. to 8:00 p.m. Specific components of the project include:

- 4,656 sf outdoor deck area with pool, spa, barbeque and lounge areas
- 1,746 sf outdoor courtyard with water feature and seating areas,
- 2,670 sf indoor community area consisting of a fitness center and restrooms, club room and media room.
- 735 sf rooftop deck for passive seating
- 1,045 sf leasing office with lobby and mailroom
- 8,271 sf of private balconies for residential unit (65 square feet/unit on average)

The DSP requires 300 square feet of open space per residential dwelling unit. The proposed development would provide 171 square feet of open space per unit. In order for the project to provide affordable housing units pursuant to the Density Bonus Law, the project is requesting a reduction to the open space standard. The existing development standards would preclude the construction of the permitted density under the State Density Bonus Law. The project site does not have the physical area to meet the required amount of open space and therefore would be entitled to relief from the open space standard in return for the provision of affordable housing units.

The proposed reduction in open space can additionally be supported because the site is in close proximity to major city park facilities. The site is located within a couple of blocks of Grape Day Park. Grape Day Park is the oldest park in the city with unique historic opportunities such as the Santa Fe Railroad depot, blacksmith shop, turn-of-the century working barn, museums and monuments. Other amenities include Heritage Walk, Vinehenge, an interactive public art project, horseshoe pits, municipal swimming pool, picnicking and restrooms.

3. Circulation and Parking

The project would provide a total of 157 on-site parking spaces for residents (26 tandem spaces) within a 62,473-square-foot two-story parking garage with one story below grade. The DSP allows up to 25% of the parking spaces to be tandem spaces (DSP pp III-20) The parking garage would designate four accessible spaces and five electric vehicle (EV) charging spaces. The proposed parking garage would also provide a private bicycle storage area on the first parking level. There will be 27 spaces for guests including two accessible spaces and one public EV charging space constructed fronting the project site along South Ivy Street and East 3rd Avenue. As described earlier in this report, the project proposes a reduction in parking requirements as part of the Planned Development process, and would provide more parking than the minimum required under State Density Bonus Law.

Parking Summary Table

Parking Summary	Proposed	Required per Gov. Code 65915(p) for Density Bonus	Required per City Downtown Specific Plan
Unit Type	Spaces per unit	Spaces per unit	Spaces per unit
Studio – 8 units	1 per unit – 8	0.5 per bedroom – 4	2.0 per unit – 8
1 bedroom – 59 units	2.0 per unit – 59	0.5 per bedroom – 30	1.5 per unit – 89
2 bedroom – 60 units	1.5 per unit – 90	0.5 per bedroom – 60	1.75 per unit – 105
Guest	Guest on street - 27	Guest parking not required	0.25 per unit – 32
	Total Spaces - 157	Total Spaces - 94	0.25 per unit – 32
	Total Proposed - 184	Total State Code - 94	Total Spaces - 202
			Total City Code - 234

Vehicular access to the proposed parking garage would be from the 20-foot wide alley between East 2nd Avenue and East 3rd Avenue along the western site boundary. The project would change the alley from its existing two-way configuration to a one-way southbound configuration that would be accessed from East 2nd Avenue.

Other proposed roadway improvements include modifying Ivy Street to a one-way direction southbound for one block along the project frontage to allow for additional street parking. A landscaped bulb-out would be constructed at the east side of Ivy and E. 3rd Avenue to direct northbound traffic on to E. 3rd Avenue. The existing 11.5 foot southbound travel lane and adjacent 8 foot parallel parking lane would be converted to a new 17 foot angled parking lane. The existing 11.5 foot northbound travel lane and adjacent 8 foot parallel parking lane would be converted to a 22 foot southbound lane. Additionally, the existing non-contiguous sidewalk, curb and gutter along South Ivy Street and East 3rd Avenue and would be replaced with a contiguous sidewalk, curb and gutter.

The project would make improvements to the existing 80-foot wide right-of-way (ROW) on East 2nd Avenue including removing and reconstructing the existing curb, gutter and sidewalk, construction of a bicycle lane along the southside of the roadway, and providing an enhanced bulb-out at the intersection of East 2nd Avenue and South Ivy Street to reduce traffic speeds and increase pedestrian safety. As part of the bicycle lane improvements, the two existing outside (north and south) vehicle through lanes on East 2nd Avenue would be reduced in width from 12 feet (existing) to 11 feet (proposed) and the existing sidewalk along the project frontage would be narrowed from 14 feet (existing) to 10 feet (proposed).

D. SUPPLEMENTAL DETAILS OF REQUEST

1. Property Size: 1.002 acres (6 parcels) 43,649 SF lot size
2. Density: 126.7 dwelling units per acre (127 units per 1.002 acres)

Proposed Project Density Table

Site Acreage	1.002 gross/net
Density Allowed per DSP – 75 du/acre	76 du/acre
Affordable Density Bonus of 35% (11% of 76 units provided for Very Low Income households)	27 units
Density Transferred from Density Transfer Program credit pool	24 units
Total Number of Units Proposed	127 units

3. Building Size: 187,808 SF including 127 residential units, 1,175 sf retail space, 5 stories over two parking levels
4. Commercial Area: 1,175 sf retail space
5. Parking:

<u>Required</u>	<u>Proposed</u>
234 spaces	184 (including 27 street spaces)
6. Parking/Garage: 2 Stories – 1 below grade, 157 spaces including 26 tandem spaces
7. Guest/Public Parking 27 street parking spaces including handicap.
8. Setbacks

	<u>Required</u>	<u>Proposed</u>
Street Side (E. 2 nd):	14' from ultimate curb face	12'1" from ultimate curb face
Street Front (S. Ivy St)	14' from ultimate curb face	14' from ultimate curb face
Street Side (E. 3 rd)	14' from ultimate curb face	14' from ultimate curb face
Rear Yard (alley)	None	None

9. Retaining Walls: A retaining wall would be constructed between the existing elevations of the public rights-of-way (ROW) and the proposed finish grade outside the building. The retaining wall along South Ivy Street would be a maximum exposed height of 4.6 feet when viewed from the project and less than 1 foot when viewed from South Ivy Street. The proposed retaining wall along the adjacent alley would be constructed between the proposed biofiltration basin and the paved alley ROW with an exposed height of 0.5–4.2 feet. The retaining wall in the alley would be a masonry retaining wall with tan stucco finish.
7. Signage: No building signage has been proposed at this time. All building/wall signage subject to conformance with the DSP and Article 66 (Sign Code).
8. Landscaping: New ornamental landscaping, irrigation, and street trees to be provided along E. 2nd, S. Ivy, and E. 3rd. Both bulb-outs proposed will be landscaped and irrigated. Biofiltration basins are designed within the landscaped area.
9. Street Improvements S. Ivy Street would be converted to a one-way southbound street for one block with angled parking from the intersection of E. 2nd Avenue to E. 3rd Avenue. A new landscaped bulb-out would be constructed to deter traffic heading northbound on South Ivy Street onto East 3rd Avenue. An enhanced bulb-out would be constructed at the intersection of E. 2nd Avenue and South Ivy Street. The existing 20'-wide, two-way alley would be converted to a one-way southbound only direction accessed from E. 2nd Avenue. All vehicles would enter from East 2nd Avenue and exit at East 3rd Avenue.
- Sidewalks will be constructed along S. Ivy Street, E. 3rd Avenue and a new sidewalk along E. 2nd Avenue. A bicycle lane would be installed along the southside of E. 2nd Avenue. Angled parking improvements would be installed along S. Ivy Street and E. 3rd Avenue.
10. Bicycle Lanes The project would install a Class 2 bicycle lane along the south side of East 2nd Avenue in conformance with the Bicycle Master Plan. The width of the lane reductions would allow for the striping of a new 6-foot wide bike lane between the southern outside vehicle lane and the existing parallel parking spaces adjacent to the sidewalk.
11. Parking The project provides a 62,472 square foot two-level parking garage containing 157 parking spaces for residents including 26 tandem spaces and an enclosed bicycle storage area on the first level. 27 off-site guest and public parking spaces would be constructed fronting the project site along S. Ivy Street and E. 3rd Avenue.

The DSP requires 202 resident parking space and 32 guest spaces for a total of 234 parking spaces. The project would provide a total of 184 spaces (157 garage space and 27 off-site spaces). The reduction in parking spaces and tandem spaces is requested through the Planned Development and as a Density Bonus incentive.

An emergency access space is located on S. Ivy Street near the front main entrance. Electric vehicle (EV) charging stations would be provided within the parking garage and an additional EV space along Ivy Street for guest/public parking space

12. Trash: One central trash enclosure would be accessed behind an 8-foot roll-up door along the alley with a hose bib and drain provided for cleanup. The concrete would be sloped and the drains would be tied to the sewer system to avoid pollutant runoff into Escondido Creek. Trash collection service would be provided 4 times a week by Escondido Disposal. Trash pickup would be limited to the hours between 8:00 a.m. and 5:00 p.m.

13. Fire Safety A fire lane/short-term loading zone and two 8-foot wide accessible parallel parking stalls would be located on South Ivy Street. Fire hydrants would be located near each of the four corners of the building.

14. Lighting Light fixtures will be installed to illuminate building exterior, walkways, parking areas, roof top deck, and along the alley walkway to provide security for residents and guests. Prior to building permit, a lighting plan would be prepared that indicates proposed lighting is adequate for walkways, are limited to low profile, low level to limit glare on adjacent property or public streets.

15. Utilities & Storm
Water Improvemts: The project's sewer and water laterals would connect to the City's public main pipelines. The project would add an 8-inch polyvinyl chloride (PVC) water main in East 3rd Avenue between South Ivy Street and the adjacent alley to support the fire flow demands of the project. Overhead utilities along the project's frontage on East 3rd Avenue and South Ivy Street would be installed underground.

A four to eight-foot wide biofiltration basin would be constructed along the length of the western project frontage with the alley. Run-off from the roof would be collected via roof drains and discharged into the biofiltration basin. A second biofiltration basin would be located at the intersection of East 2nd Avenue and the alley to meet the pollutant control and flow control standards required by the City's Standard Urban Storm Water Mitigation Plan (SUSMP).

16. Heating & Ventilation: Heating, ventilation, and air conditioning (HVAC) units would be installed on the roof in five clusters. Clusters would be set back a minimum of 20 feet from the edge of the roof. All HVAC equipment would be installed on mechanical pads with visual screening and acoustical enclosures such that noise from HVAC operation does not exceed 50 dBA at the nearest off-site receptor.

E. AVAILABILITY OF PUBLIC SERVICES

1. Effect on Police Service – The Police Department has expressed no concern regarding their ability to provide service to the site.
2. Effect on Fire Service – The site is served by Fire Station No. 1 (310 North Quince Street), which is within the seven and one-half minute response time specified for urbanized areas in the General Plan. Development of the site would contribute incremental increases in demand for fire services. Comments received from the Escondido Fire Department indicate that fire hydrants will be constructed at each of the corners of the site and adequate turning radius for fire apparatus will be constructed at corner and the alley. The Fire Department has indicated that adequate services can be provided to the site and the proposed project would not impact levels of service.
3. Traffic – The project site is located at 343 East 2nd Avenue, bound by East 2nd Avenue to the north, South Ivy Street on the east, alley to the west, and East 3rd Avenue to the south in the downtown area of Escondido. South Ivy Street is a north/south facility currently built as a two-lane roadway with on-street parking. The project proposes to convert South Ivy Street between East 2nd Avenue and East 3rd Avenue from two-way to one-way southbound traffic flow. East 2nd Avenue is east/west facility currently built as a three-lane roadway with one-way eastbound travel and on-street parking provided on both sides of the roadway. East 3rd Avenue is an east/west facility currently built as a two-lane roadway with a mix of angle and parallel parking provided on-street. The project will provide improvements for sidewalks, bicycle lanes, curb, and gutter, public parking, emergency access thereby improving the general condition of the surrounding roadways. According to the Engineering Division, the project does not materially degrade the levels of service on the adjacent streets.
4. Utilities – City sewer and water mains with sufficient capacity to serve the project are available within the adjoining street or easement. The project does not materially degrade the levels of service of the public sewer and water system.
5. Drainage – The project site is not located within a 100-year Flood Zone as indicated on current FEMA maps. There are no significant drainage courses within or adjoining the property. The project has provided a drainage study and designed drainage facilities to control runoff. Runoff from the project will be directed into a series of BMP treatment

swales and/or detention basins and/or inlet filter systems to separate targeted pollutants from the runoff before it leaves the site. The project does not materially degrade the levels of service of the existing drainage facilities.

F. ENVIRONMENTAL STATUS:

The proposed project qualifies for an exemption from the California Environmental Quality Act (CEQA) under Section 15332, Class 32 In-fill Development Project. CEQA Guidelines lists classes of projects that have been determined to not have a significant effect on the environment and as a result are exempt from review under CEQA. The site is currently vacant, disturbed, and cleared of all structures and vegetation.

A Class 32 CEQA Exemption for The Ivy Project was prepared by Harris & Associates in February 2019. The document demonstrates that the project or its circumstances would not result in any exceptions identified in CEQA Guidelines, Section 15300.2. Among the classes of projects that are exempt from CEQA review are those projects that are specifically identified as urban in-fill development. CEQA Guidelines, Section 15332, defines in-fill development (Class 32 exemptions) as being applicable to projects meeting the following conditions:

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

Based on the environmental analysis provided in the Class 32 CEQA Exemption, no circumstances previously evaluated in the previously certified Final EIR for the General Plan and Downtown Specific Plan (May 23, 2012) and the Addendum to the certified Final EIR (March 21, 2019) have changed with respect to the proposed development. In addition, the proposed project would not create substantial changes or bring to light new information of the substantial importance that was not previously examined in these Final EIR and Addendum. As a result, Harris & Associates prepared a Class 32 CEQA Exemption pursuant to the CEQA's requirements for an "in-fill development" within an urbanized area. The analysis presented in the Class 32 CEQA exemption from Harris & Associates, dated May 2019, demonstrates that the project qualifies for the exemption and does not have significant effect on the environment.

G. PUBLIC OUTREACH:

City staff presented the proposed development to several community groups including the Downtown Business Association on January 9, 2019, the Chamber of Commerce on January 10, 2019, the Historic Preservation Commission on March 21, 2019, and the Old Escondido Neighborhood on February 20, 2019. Community comments generally ranged from support for increased residential activity within the downtown area to generate a stronger customer base in support of retailers, services, entertainment, restaurants and other businesses that are part of a vibrant downtown economy to concern over the height of the proposed structure and the lack of historical design features.

H. CONCLUSIONS:

The proposed project is consistent with the General Plan and the Downtown Specific Plan as it encourages higher density urban residential growth in the Downtown SPA. The project site lies within the Downtown SPA's Historic Downtown District, which is "a successful specialty retail shopping and office employment area that is comfortable, attractive, and safe for pedestrians and employees. Grand Avenue, Escondido's Civic Center, and Grape Day Park are the focus and heart of Downtown. New development, higher densities, residential opportunities and pedestrian places and courtyards are encouraged to provide an optimal setting for urban living in close proximity to entertainment, retail and professional offices."

The Planning Commission has the authority to recommend approval of a Planned Development Permit that instills components of a well-planned development that would not impact the community and the environment. Information submitted with the project details how design components and/or conditions of approval would offset any impacts of the development and reflect how the project would further the goals and objectives of the DSP and the City's General Plan.

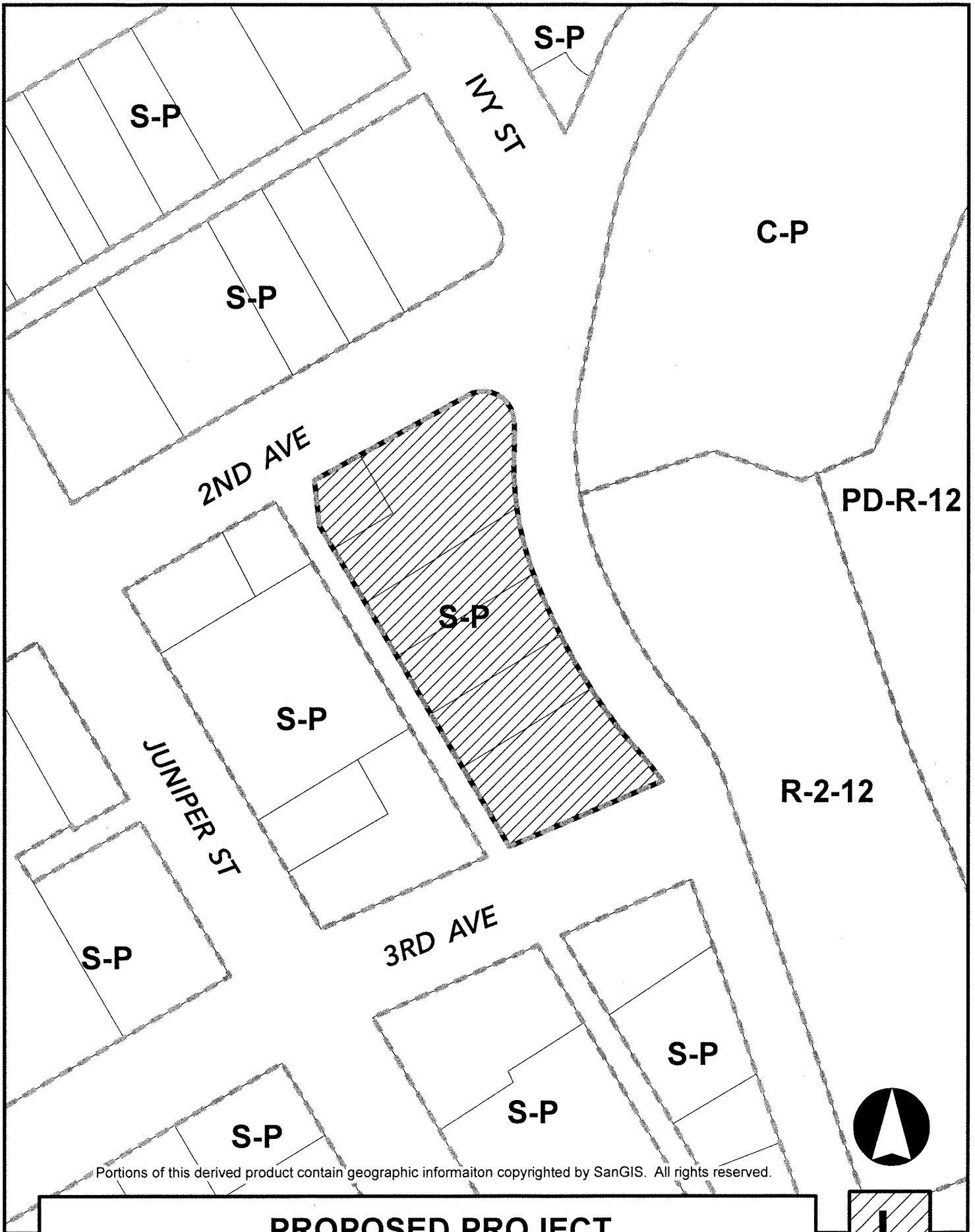
Staff recommends the Planning Commission approve the Master and Precise Development Plan for a five-story, 187,808 square foot, mixed-use building that includes 127 residential units including 9 units for Very Low Income households, underground parking, an outdoor common area with pool, and other amenities as outlined below:

- 1) Approve Master and Precise Development Plan, PHG 19-0010, that includes the following incentives:
 - a. Reduction from 234 required parking spaces to 157 garage spaces and 27 on-street spaces
 - b. Reduction of the street side yard setback from 14'0" to 12'1" along E. 2nd Avenue.
 - c. Reduction of open space from 300 sf per unit to 171 sf per unit.
 - d. Increase in the maximum height of 60' and four stories to 63 - 75 feet and five stories.

- 2) Approve the 35% Density Bonus request resulting in the provision of 9 units for Very Low Income households,
- 3) Approve the proposed Development Agreement to transfer density from Parking Lot #4 to Density Transfer Program credit pool and allocate a transfer 24 residential units from the credit pool to the project, and
- 4) Adopt the proposed Class 32 CEQA Exemption in compliance with CEQA guidelines.

ATTACHMENTS:

1. Location and General Plan Map
2. Comment letters
3. Resolution 2019-09

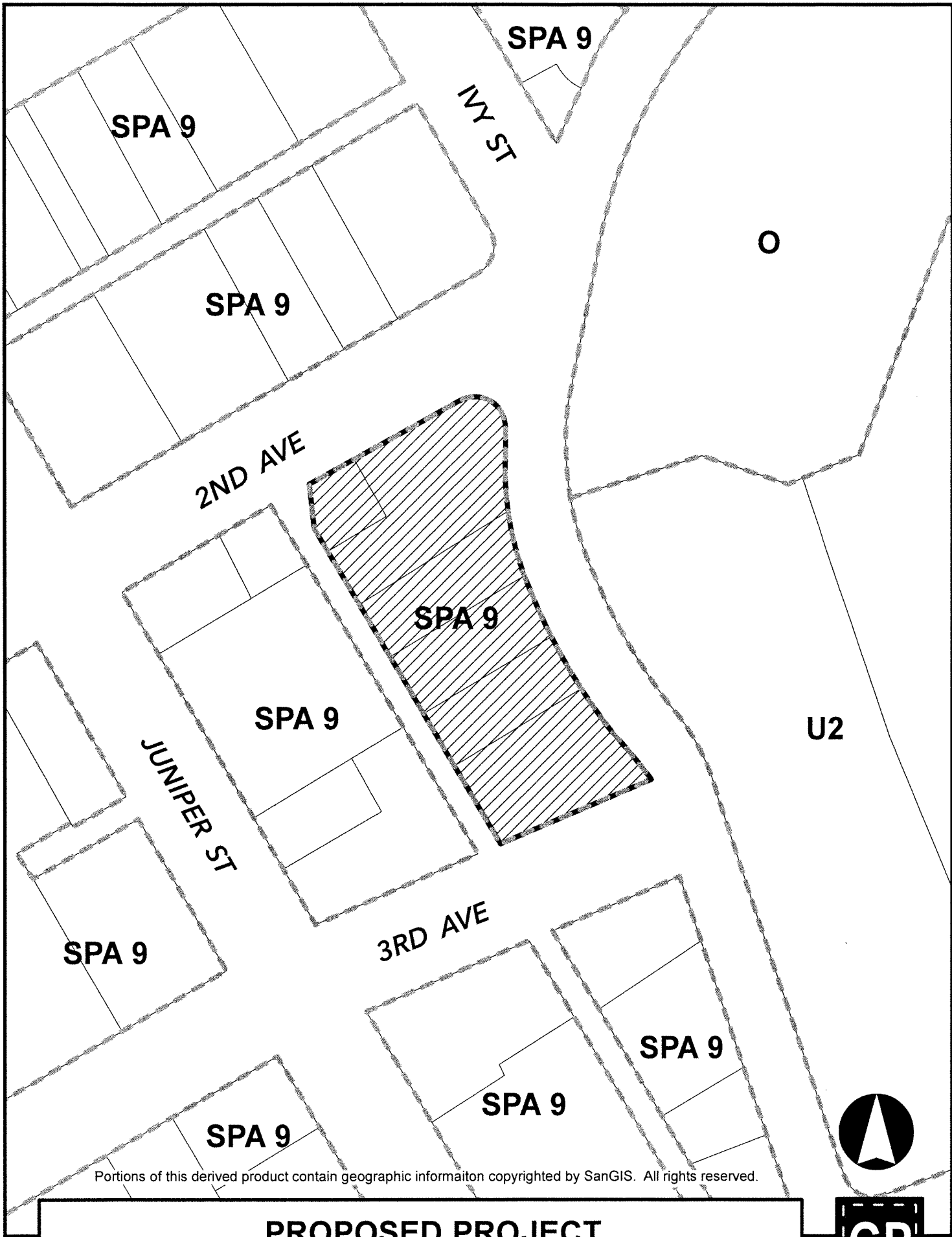


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PROPOSED PROJECT
SUB 19-0001/PHG 19-0010



LOCATION/ZONING



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PROPOSED PROJECT
SUB 19-0001/PHG 19-0010

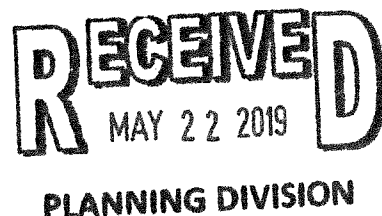


GENERAL PLAN

ATTACHMENT 2

5/20/19

Escondido Planning Commission
Escondido City Council
201 N. Broadway
Escondido, CA 92025



Dear Escondido Planning Commission,

We have some major concerns about the development plan PHG 19-0010 proposed to be an apartment unit behind us on the 1.002 acre site. Our family has lived on this property for over 50 years and therefore know the neighborhood extremely well.

Our concerns are:

1. Overcrowding-127 units on 1 acre. This invites problems associated with too many people in one small space; such as crime and noise pollution to name a few.
2. There are no open green spaces or parks for children to play. Affordable housing should have a place for physical activity within reasonable walking distance and Grape Day Park is many blocks away.
3. No planned public and guest parking spaces (says the spaces will be available on 2nd, IVY and E 3rd). The streets are always full of parking from the business and housing already here.
4. Traffic congestion-there are frequent accidents on the corner of 2nd and Juniper with already existing traffic.
5. City resources are already stretched so that repairs to sidewalks, roads, etc. are often postponed.
6. Why is a Class 32 Exemption being allowed?

Personal Concerns:

1. The safety of our grandchildren on our property during construction. They live in the house that borders the alley.
2. The structural damage that could occur to our buildings during construction of a 5-story structure so close to our buildings.

Sincerely,

Thomas Wade
Carol Wade

Thomas and Carol Wade
234 S. Juniper St.
Escondido CA 92025
760-855-3336
wadesix@yahoo.com

ATTACHMENT 3

Planning Commission
Hearing Date: May 28, 2019
Effective Date: May 29, 2019

PLANNING COMMISSION RESOLUTION NO. 2019-09

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF ESCONDIDO, CALIFORNIA,
RECOMMENDING APPROVAL OF A MASTER AND
PRECISE DEVELOPMENT PLAN FOR A 127-UNIT
MIXED-USE DEVELOPMENT, A DENSITY BONUS
FOR AFFORDABLE HOUSING, A DEVELOPMENT
AGREEMENT TO TRANSFER DENSITY AND
ADOPTION OF A CLASS 32 CEQA EXEMPTION

APPLICANT: Touchstone Communities

CASE NO: PHG 19-0010

WHEREAS, Touchstone Communities, LLC (aka Touchstone MF Fund I, LLC, hereinafter referred to as "Applicant"), filed a land use development application (Planning Case No. PHG 19-0010) constituting a request for a Master and Precise Development Plan for development of a five-story mixed-use structure containing 127 apartment units, 1,175 square feet of commercial space, underground parking, recreation areas for residents, and adjacent street improvements. The project will provide studios, 1-bedroom, and 2 bedroom units ranging in size from 550 square feet to 995 square feet and 157 garage spaces including 26 tandem spaces. The request includes a 35% Density Bonus or 27 units (including 9 units for Very Low Income households) for providing affordable housing and allocation of 24 units from the Density Transfer Program for the Downtown Specific Plan area through a Development Agreement resulting in development of 127 dwelling units on the site. The project also includes adoption of a Class 32 Exemption

accordance with the California Environmental Quality Act (CEQA). The 1.002-acre site is located at 343 E. 2nd Avenue (APNs 229-471---08, -09, -10, -11, -12, and -13), in the Historic District of the Downtown Specific Plan area, 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; 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 and commercial are permitted uses or conditionally permitted uses within the Historic District of the Downtown Specific Plan area plan, subject to the approval of a Master and Precise Development Plan Permit, in accordance with the Residential Land Use Matrix of the Downtown Specific Plan; 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; and

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

WHEREAS, the Planning Commission of the City of Escondido did, on May 28, 2019, hold 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 May 28, 2019, 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. The Planning Commission, in its independent judgment recommends that the City Council adopt the Class 32 CEQA Exemption, Section 15334 of the California Environmental Quality Act, prepared for the project by Harris & Associates, dated May 2019, as described in the May 28, 2019 Planning Commission Staff report and attached as Exhibit F.

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 "B," 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 Planning Commission hereby recommends the City Council approve the application to develop the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth in Exhibit "C," the graphic representations in the development plan set forth in Exhibit "D," and the Development Agreement set forth in Exhibit "E." This Planning Commission expressly declares that it would not have made this recommendation to approve 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. Said 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 and as specified in the Development Agreement approved for the project. 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, 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 28th day of May, 2019, by the following vote, to wit:

AYES:	COMMISSIONERS:
NOES:	COMMISSIONERS:
ABSTAINED:	COMMISSIONERS:
ABSENT:	COMMISSIONERS:

JAMES SPANN, Chairman
Escondido Planning Commission

ATTEST:

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.

KIRSTEN PERAINO, Minutes Clerk
Escondido Planning Commission

PHG 19-0010

EXHIBIT "A"

LEGAL DESCRIPTION

That certain real property located in the City of Escondido, County of San Diego, State of California, described as follows:

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

PARCEL A:

LOTS 7 THROUGH 11, INCLUSIVE, IN BLOCK "Q" ESCONDIDO, IN THE CITY OF ESCONDIDO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 336, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JULY 10, 1886, TOGETHER WITH THAT PORTION OF IVY STREET, FORMERLY CURVE STREET, ADJOINING SAID LOTS ON THE EAST WHICH LIES WESTERLY OF A LINE WHICH IS PARALLEL WITH AND 25.00 FEET WESTERLY FROM THE ORIGINAL CENTER LINE OF SAID IVY STREET, FORMERLY CURVE STREET, AS VACATED AND CLOSED TO PUBLIC USE BY ORDINANCE NO. 193 OF THE BOARD OF TRUSTEES OF THE CITY OF ESCONDIDO, A CERTIFIED COPY OF WHICH WAS RECORDED IN BOOK 751, PAGE 337 OF DEEDS. EXCEPTING THEREFROM, THAT PORTION DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWESTERLY CORNER OF SAID LOT 7; THENCE ALONG THE NORTHWESTERLY LINE THEREOF NORTH 59°16'20" EAST, 4.00 FEET; THENCE SOUTH 20°52'44" EAST, 23.38 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF SAID LOT 7; THENCE ALONG SAID SOUTHWESTERLY LINE NORTH 30°43'40" WEST, 23.04 FEET TO THE POINT OF BEGINNING. ALSO EXCEPTING THEREFROM, THAT PORTION DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEASTERLY CORNER OF SAID LOT 7; THENCE ALONG THE NORTHEASTERLY PROJECTION OF THE NORTHWESTERLY LINE OF SAID LOT 7, NORTH 59°16'20" EAST, 18.54 FEET TO A POINT ON A LINE WHICH IS PARALLEL TO AND 25.00 FEET WESTERLY OF THE CENTERLINE OF SAID IVY STREET, BEING A NON-TANGENT CURVE CONCAVE EASTERLY HAVING A RADIUS OF 704.29 FEET; THENCE ALONG SAID PARALLEL LINE FROM A TANGENT BEARING SOUTH 5°41'08" WEST, THROUGH A CENTRAL ANGLE OF 3°04'25" AN ARC DISTANCE OF 37.78 FEET TO A CUSP WITH A 20.00 FOOT RADIUS CURVE, CONCAVE SOUTHWESTERLY; THENCE ALONG SAID CURVE FROM A TANGENT BEARING NORTH 2°36'43" EAST, THROUGH A CENTRAL ANGLE OF 123°20'23" AN ARC DISTANCE OF 43.05 FEET TO A POINT OF TANGENCY WITH SAID NORTHWESTERLY LINE OF LOT 7; THENCE ALONG SAID NORTHWESTERLY LINE NORTH 59°16'20" EAST, 19.77 FEET TO THE POINT OF BEGINNING.

PHG 19-0010

PARCEL B:

LOT 12 IN BLOCK "Q" OF ESCONDIDO, IN THE CITY OF ESCONDIDO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 336, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JULY 10, 1886. ALSO, THE WEST 15 FEET OF IVY STREET, FORMERLY CURVE STREET, ADJOINING SAID LOT 12 ON THE EAST, AS VACATED AND CLOSED TO PUBLIC USE BY ORDINANCE NO. 193 OF THE BOARD OF TRUSTEES OF THE CITY OF ESCONDIDO, A CERTIFIED COPY OF WHICH WAS FILED IN THE COUNTY RECORDER'S OFFICE IN BOOK 751, PAGE 337 OF DEEDS.

APN: 229-471-09-00 and 229-471-12-00 and 229-471-13-00 and 229-471-10-00 and 229-471-11-00 and 229-471-08-00

Exhibit "B"
Findings of Fact

PHG 19-0010
The Ivy
343 E. 2nd Avenue

Master and Precise Development Plan

1. The proposed project is consistent with the maximum density of the downtown specific plan with the application for a Density Bonus and allocation of additional units from the Density Transfer Program to ensure the viability of the project with 9 Very Low Income households.
2. The design and improvement of the proposed development is consistent with the General Plan and the Downtown Specific Plan since the development is permitted in the Historic District of the Downtown Specific Plan Area #9 and the development standards established with the Historic District except where noted for the exceptions in accordance with the Density Bonus Ordinance.
3. The site is suitable for a mixed-use multi-family development since the site is within the urbanized area of the downtown which can offer the tenants availability to services, restaurants and retail and is within walking distance to the transit center.
4. The site is physically suitable for the proposed density of development since the property is within a high-density redevelopment area that was previously a blighted property in the central core of downtown. Development of the property will assist in the ongoing revitalization of the downtown retail core by establishing a permanent residential base in the downtown area.
5. The improvements are not likely to cause substantial environmental concerns since the property was previously the site of a medical facility that has since been demolished and rough graded, and since there are no stream courses or endangered wildlife on the property as determined during environmental review.
6. The design of the project and the type of improvements are not likely to cause serious public health problems since the project will not degrade the levels of service on the adjoining streets or drainage system as the project incorporates street and drainage improvements are part of the project and city sewer and water is available to the site.
7. All of the requirements of the California Environmental Quality Act have been met since it was found that the project will not have a significant effect on the environment as demonstrated in the Class 32 CEQA Exemption prepared for the Ivy Project by Harris Associates, February

2019. Design mitigation measures were incorporated into the Conditions of Approval for noise impacts and cultural resources.

Development Agreement

1. The Development Agreement is consistent with the goals and objectives of the Historic District of the Downtown Specific Plan since it enables the property owner to construct a greater number of units in support a vibrant downtown economy through the Density Transfer Program while maintaining the overall limit of 5,275 dwelling units in the Downtown Specific Plan area.
2. The Development Agreement conforms to the need for public convenience, general welfare and good land use practices since the project will provide affordable and moderate income housing within ½ mile of mass transit and is located in close proximity to retail and services, parks, library, and cultural events.

Exhibit "C"
Conditions of Approval
PHG 19-0010
The Ivy
343 E. 2nd Avenue

PROJECT DESIGN MEASURES

NOISE

1. **PDF-NOI 1.** Construction equipment shall be properly outfitted and maintained with manufacturer recommended noise-reduction devices.
2. **PDF-NOI 2.** Diesel equipment shall be operated with closed engine doors and equipped with factory recommended mufflers.
3. **PDF-NOI 3.** Mobile or fixed "package" equipment (e.g., arc welders and air compressors) shall be equipped with shrouds and noise-control features that shall be readily available for this type of equipment.
4. **PDF-NOI 4.** Electrically powered equipment shall be used instead of pneumatic or internal-combustion-powered equipment where feasible.
5. **PDF-NOI 5.** Unnecessary idling of internal combustion engines (e.g., in excess of 5 minutes) shall be prohibited.
6. **PDF-NOI 6.** Material stockpiles and mobile equipment staging, parking, and maintenance areas shall be located as far as practicable from noise-sensitive receptors.
7. **PDF-NOI 7.** The use of noise-producing signals, including horns, whistles, alarms, and bells, shall be for safety warning purposes only.
8. **PDF-NOI 8.** No project-related public address or music system shall be audible at any adjacent noise-sensitive receptor.
9. **PDF-NOI 9.** A temporary sound barrier shall be installed along the length of the alley on the northwestern boundary of the project site between construction operations and adjacent receptors. Due to equipment exhaust pipes being approximately 7–8 feet above ground, a sound wall at least 10 feet in height above grade would mitigate noise levels to within acceptable levels. To reduce noise levels effectively, the sound barrier shall be constructed of a material, most likely plywood, with a minimum weight of 2 pounds per square foot with no gaps or

perforations, and remain in place until the conclusion of demolition, grading, and construction activities. Also shown on Figure 7 is the location of the temporary sound barrier (PDF-NOI –9). The sound barrier shall be constructed of a material, most likely plywood, with a minimum weight of two pounds per square foot with no gaps or perforations and remain in place until the conclusion of demolition, grading, and construction activities.

10. **PDF-NOI 10.** The applicant or contractor shall notify residences within 100 feet of the project's property line in writing within 1 week of any construction activity such as concrete sawing, asphalt removal, or heavy grading operations. The notification shall describe the activities anticipated, provide dates and hours, and include contact information with a description of a complaint and response procedure.
11. **PDF-NOI 11.** The on-site construction supervisor shall have the responsibility and authority to receive and resolve noise complaints. A clear appeal process for the affected resident shall be established prior to construction commencement to allow for resolution of noise problems that cannot be immediately solved by the site supervisor.
12. **PDF-NOI-12.** Prior to issuance of a building permit, as a condition of project approval, the applicant would prepare an additional exterior-to-interior noise report completed by a qualified acoustical consultant for the proposed on-site residences that would face East 2nd Avenue. The information in this report would include wall heights and lengths, room volumes, and window and door tables typical for a building plan, as well as information on any other openings in the building shell. The report shall also assume a "windows-closed" condition and that vehicles on East 2nd Avenue are traveling at 30 miles per hour. With this specific building plan information, which is not currently available, the report would determine the predicted interior noise levels at the planned on-site buildings. If predicted noise levels are found to be in excess of 45 CNEL, the report would identify architectural materials or techniques that could be included in project design plans to reduce noise levels to 45 CNEL in habitable rooms. Standard measures such as glazing with Sound Transmission Class (STC) ratings from a STC 22 to STC 60, as well as walls with appropriate STC ratings (34 to 60), should be considered. The report would be submitted and approved by the City prior to the issuance of a building permit.

CULTURAL RESOURCES

PDF-CR-1. The 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 project, including additional archaeological surveys and/or studies, excavations, geotechnical investigations, grading, and all other ground disturbing activities.

PDF-CR-2. 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 has 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 confirming that the selected Native American monitor is associated with a TCA Tribe. Prior to any pre-construction meeting, the City shall approve all persons involved in the monitoring program.

PDF-CR-3. 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, in addition to reviewing the grading plan to assist in determining the necessity of the Luiseño Native American monitor and archaeological monitor's presence.

PDF-CR-4. During the initial grubbing, site grading, excavation (including post-demolition activities to assess the condition of the subsurface stratigraphy), or disturbance of the ground surface, the qualified archaeologist and the Native American monitor shall be on site where deemed appropriate and necessary by the archaeologist and Luiseño Native American monitor. If imported fill materials, or fill used from other areas of the project site, are to be incorporated at the project site, then those fill materials shall be absent of any tribal cultural resources. The frequency of inspections shall depend on the rate of excavation, the materials excavated, and any discoveries of tribal cultural resources as defined in PRC Section 21074.

PDF-CR-5. 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 operations in the area of discovery to allow for evaluation of potentially significant cultural resources. Isolates and clearly non-significant deposits shall be minimally documented in the field and collected so that the monitored grading can proceed.

PDF-CR-6. 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 treatment and disposition of the tribal cultural resource shall be

made by the qualified archaeologist in consultation with the TCA Tribe and the Native American monitor, and shall be submitted to the City for review and approval.

PDF-CR-7. The avoidance and/or preservation of the significant tribal cultural resource and/or unique archaeological resource must first be considered and evaluated under 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, 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 qualified archaeologist, 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.

PDF-CR-8. In accordance with CEQA, all tribal cultural resources shall be treated with culturally appropriate dignity. If the qualified archaeologist elects to collect any tribal cultural resources, the Native American monitor must be present during the collection and cataloging of those resources. Moreover, if the qualified archaeologist does not collect the tribal 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. It is the preference of the City that all tribal cultural resources be repatriated to the TCA Tribe, as such preference would be the most culturally sensitive, appropriate and dignified. Therefore, any tribal cultural resources collected by the qualified archaeologist shall be provided to the TCA Tribe. Evidence that all cultural materials collected have been repatriated shall be in the form of a letter from the TCA Tribe to whom the tribal cultural resources have been repatriated identifying that the archaeological materials have been received.

Or,

Any tribal cultural resources collected by the qualified archaeologist shall be curated with its associated records at a San Diego curation facility or a culturally affiliated Tribal curation facility that meets federal standards per 36 CFR Part 79, and, therefore, would be professionally curated and made available to other archaeologists/researchers for further study. The collections and associated records, including title, shall be transferred to the San Diego curation facility or culturally affiliated Tribal curation facility and shall be accompanied by payment of the fees necessary for permanent curation. Evidence that all cultural materials collected have been curated shall be in the form of a letter from the curation facility stating that the prehistoric archaeological materials have been received and that all fees have been paid.

PDF-CR-9. Prior to the release of the grading bond, a monitoring report and/or evaluation report, if appropriate, that 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.

DENSITY BONUS CONDITIONS

1. The project shall provide a minimum of nine dwelling units for Very Low Income Households. Prior to issuance of a grading 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.
2. All 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.
3. The developer agrees not to sell, transfer or otherwise dispose of the project or any portion thereof, without obtaining the prior written consent of the Director of Community Development. Such consent shall be given upon receipt from the developer of reasonable evidence satisfactory to the Director of Community Development that the purchaser, or other transferee, has assumed, in writing and in full, the requirements and obligations specified in the agreement. The consent of the Director of Community Development shall not be unreasonable withheld or delayed.

PLANNING DIVISIONS CONDITIONS

1. The developer shall be required to pay all development fees of the City then in effect at the time and in such amounts as may prevail when building permits are issued, including any applicable City-Wide Facilities fees and fees specified in the Development Agreement.
2. All construction and grading shall comply with all applicable requirements of the Escondido Zoning Code and requirements of the Planning Division, Engineering Division, Building Division, and Fire Department as well as those contained in the Development Agreement approved for the project.

3. If blasting is required, verification of a San Diego County Explosives Permit and a copy of the blaster's public liability insurance policy shall be filed with the Fire Chief and City Engineer prior to any blasting within the City of Escondido.
4. 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.
5. All requirements of the Public Art Partnership Program, Ordinance No. 86-70, shall be satisfied prior to 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.
6. All exterior lighting shall conform to the requirements of Article 35 (Outdoor Lighting) of the Escondido Zoning Code. All outdoor lighting shall be provided with appropriate shields to prevent light from adversely affecting adjacent properties.
7. A minimum of 157 covered parking spaces shall be provided within the parking garage for each unit. A minimum of 27 guest/public parking spaces including accessible spaces shall be constructed along South Ivy Street and East 3rd Avenue fronting the project as reflected in the Master and Precise Development Plan. All parking spaces shall be striped in accordance with the Zoning Code. Driveways and fire lanes do not allow for parking and curb markings and fire lanes signs are required to the satisfaction of the Fire Marshall. As indicated on the architectural plans, electric vehicle (EV) charging parking spaces will be installed and maintained for the life of the project. In addition, an additional EV charging space would be provided as part of the project's guest parking along South Ivy Street. Prior to issuance of a building permit, the applicant shall submit to the Planning Division and receive approval of a detailed parking management plan setting forth the management responsibilities and assignment of spaces and for the parking garage.
8. Parking for disabled persons shall be provided (including "Van Accessible" spaces) in full compliance with Section 1129B (Accessible Parking Required) of the California Building Code, including signage. All parking stalls shall be provided with six-inch curbing or concrete wheel stops in areas where a vehicle could reduce minimum required planter, driveway or sidewalk widths.
9. An inspection by the Planning Division will be required prior to operation of the project. Items subject to inspection include, but are not limited to parking layout and striping (double-stripe), identification of handicap parking stalls and required tow-away signs, lighting, landscaping, as well as any outstanding condition(s) of approval. Everything should be installed prior to calling for an inspection, although preliminary inspections may be requested. Contact the project planner at (760) 839-4671 to arrange a final inspection.

10. Trash enclosures must be designed and built per City standards, and permanently maintained. All trash enclosures (including existing trash enclosures) shall meet current engineering requirements for storm water quality, which includes installation of a hose bib and sewer drain for cleanup. Solid metal doors shall be incorporated into the trash enclosure. A decorative exterior finish shall be used. All trash enclosures shall be of sufficient size to allow for the appropriate number of trash and recyclable receptacles as determined by the Planning Division and Escondido Disposal, Inc.
11. All new utilities shall be underground.
12. All rooftop equipment must be fully screened from all public view utilizing materials and colors which match the building, to the satisfaction of the Director of Community Development. The final building plans shall clearly indicate that any proposed rooftop equipment is properly screened. Ground mounted equipment should be located to avoid conflict with pedestrian circulation and access, as well as to screen the equipment from view as much as possible.
13. All habitable buildings shall be noise-insulated to maintain interior noise levels not to exceed 45 dBA or less. An Acoustical Analysis shall be submitted with the building plans for the project. Any measures recommended in the study shall be incorporated into the building plans with appropriate notes/specifications.
14. Tubular steel fences shall be provided along the walls at the north east corner of the building for areas that meet building code height requirements.
15. Appropriate sight distance shall be maintained at driveways and intersections to the satisfaction of the Engineering Division.
16. Any walls (retaining and screen) shall be constructed with split-face decorative block or shall be stucco-finished to match the building on site.
17. All exterior lighting shall conform to the requirements of Chapter 33 Article 35 (Outdoor Lighting) of the Escondido Zoning Code which provides regulations to minimize glare, light trespass, and artificial sky glow. A copy of the lighting plan shall be included as part of the building plans and prepared to the satisfaction of the Planning Division. The plan shall include exterior building lighting, walkway lighting and security lighting. Outdoor lighting would be utilized as needed for parking areas, sidewalks, roof top deck, and security within the project site.
18. Animals/pets shall be permitted within the residential units and on site in a manner that is consistent with the R-4 zone standards.
19. As proposed, the buildings, architecture, colors, and materials and the conceptual landscaping of the proposed development shall be in accordance with the Master and Precise Development Plan, staff report, exhibits and the project's Details of Request, to the satisfaction of the Planning

Division. In return for concessions on development standards and City fees, the project proposes a high quality, attractive downtown living experience. Any future design modifications that, in the opinion of the Community Development Director, lessen the quality of the exterior appearance or amenity level shall require approval of the City Council.

20. All trash enclosures must be designed and installed per the Master and Precise Development Plan, in coordination with the Engineering Department, storm water control requirements, and shall be architectural compatible with the building. Trash collection at the project site would be limited to between 8:00 a.m. and 5:00 p.m., Monday through Friday. The project proposes a central trash collection enclosure located within the underground parking garage. The enclosure would be accessed through an 8-foot roll-up door along the alley on the western boundary of the project site. The enclosures would not be visible from outside the building.
21. Any decorative pavement, driveways, and sidewalks shall be indicated on the building and landscape plans, including appropriate notes regarding type and color of materials. Decorative paving, colored concrete and other decorative materials shall be incorporated at the project entry driveways to the satisfaction of the Director of Community Development, along with appropriate landscaping consistent with the Master and Precise Development Plan.
22. Balconies and patios shall be kept in a neat and orderly manner. Items stored on balconies should be kept out of view and/or properly screened. Items shall not be hung over railings or across balconies or patios (such as towels, clothing, etc.). This information shall be included in the lease agreement with tenants.
23. Appropriate vehicle backup areas shall be provided at the terminus of drive isles within the parking garages. These areas shall be identified on the grading and site plans per the Master and Precise Development Plan.
24. An inspection by the Planning Division is required prior to occupancy of the project. Items subject to inspection include, but are not limited to, parking layout and striping, identification of handicap parking stalls and required signage, perimeter fences, landscaping, trash enclosures, and architectural materials and colors as well as any other conditions of approval. All of Conditions of Approval shall be installed and complete prior to calling for final inspections. Preliminary inspections may be requested. Contact the project planner or assigned planner at 760.839.4671 to arrange for either a preliminary inspections or a final inspection.
25. The property owner or management company assumes all responsibility for maintaining landscaping and irrigation along street frontage and within the two bulb outs at E. 2nd Avenue and Ivy Street and E. 3rd Avenue and Ivy Street. Landscaping shall be designed to screen any utilities located within the bulb-out(s).
26. No signage is approved as part of this permit. A separate sign permit shall be required prior to the installation of any signs. Proposed signs are limited to monument signage at the entrance,

along with necessary directional signage, and street signage. All signs must be consistent with the sign standards of the Downtown Specific Plan.

27. Commercial uses for the 1,175 square foot commercial space on the first floor shall be limited to the uses permitted or conditionally permitted in the Historic District of the Downtown Specific Plan.
28. Private secure bicycle parking facility for residents shall be installed on the main level of the parking garage. In addition, public bicycle parking would be provided at two locations along South Ivy Street and East 3rd Avenue.
29. A construction noise management plan that describes the measures included on the construction plans to ensure compliance with project features and noise limits must be prepared and submitted to the City's Planning Division for review and approval prior to issuance of the grading permit.
30. No amplified equipment will be permitted on the rooftop deck without first obtaining a temporary use permit from the City of Escondido.
31. This Planned Development shall become null and void unless utilized within 24 months (two years) of the effective date of approval unless the Development Agreement provides additional terms. Utilization shall be defined as the start of grading in accordance with an approved grading permit.
32. All habitable buildings shall be noise-insulated to maintain interior noise levels not exceeding 45 dBA or less.
33. No exemptions from the Grading Ordinance are approved as part of this project. All proposed grading shall conform with the conceptual grading as shown on the Planned Development.

LANDSCAPING CONDITIONS

34. Prior to occupancy, all perimeter, slope and open space landscaping and below ground irrigation shall be installed. All vegetation shall be maintained for the life of the project in a flourishing manner, and kept free of all foreign matter, trash, weeds and plant materials not approved as part of the approved landscape plan. All irrigation shall be maintained in a fully operational condition.
35. Seven copies of a detailed landscape and irrigation plan(s) shall be submitted prior to issuance of grading and/or building permits, and shall be equivalent or superior to the concept plan approved by the Master and Precise Development Plans to the satisfaction of the Planning Division. The landscape plans shall include screening for all utilities and the two bulb outs constructed as part of the street improvements. A plan check fee based on the current fee schedule will be collected at the time of the submittal. The required landscape and irrigation plans(s) shall comply with the provisions, requirements, and standards outlines in Article 62 (Landscape Standards) of the Escondido Zoning Code, except where stricter requirements are

imposed by the State of California. The plans shall be prepared by, or under the supervision of a licensed landscape architect.

36. 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 and State (if applicable) standards. The applicant shall submit the Certificate of Compliance to the Planning Division prior to final landscape inspection.
37. Street trees shall be provided along each of the site's street frontages. Placement of the street trees along East 2nd Avenue shall be coordinated with the Fire Marshall and in conformance with the Landscape Plan and the City's Street Tree List. All street trees shall be double staked and if planted within five feet of the pavement, provided with root barriers.
38. Details of project fencing and walls, including materials and colors, shall be provided on the landscape plans and building plans.
39. The project proposes improvements to the existing 55-foot-wide ROW within South Ivy Street to convert the existing two-way street into a one-way southbound street with angled parking fronting the project site. A new bulb out along with a "Do Not Enter/Wrong Way" sign at the intersection of East 3rd Avenue and South Ivy Street would be constructed to deter traffic from heading northbound on South Ivy Street from East 3rd Avenue. An enhanced bulb out would be constructed at the intersection of East 2nd Avenue and South Ivy Street. Landscaping and irrigation will be installed to the satisfaction of the Director of Community Development and will provide screening for any utilities installed within the bulb outs.
40. The on-site landscaping for the project would consist of trees, shrubs, and groundcovers with moderate to low water requirements. The biofiltration basins described would be planted with various sedges (flowering plants) and grasses with consideration for varying soil conditions. An automatic irrigation system shall be installed to provide coverage for all planting areas. Low precipitation equipment shall provide sufficient water for plant growth with minimum water loss due to water run-off.

ON-SITE MANAGEMENT PLAN

41. A Management Plan that identifies how the spaces will be allocated to the residents that includes signage reserving the street parking for public, guests, and handicapped accessibility shall be submitted to the Planning Division prior to occupancy to the satisfaction of the Community Development Director. Long-term parking over 72 hours will not be permitted fronting the project on public streets.
42. Prior to occupancy, the applicant shall submit a Management Plan for the project manager that provides for ongoing maintenance of lighting, signing and striping, parkway landscaping and

irrigation, storm water treatment basins, and facilities, sewer laterals, common open spaces, public utilities easements areas, public walkways, and alley. These provisions shall be approved by the Engineering Department prior to occupancy.

43. The Management Plan shall include provisions for maintenance of frontage and bulb-out landscaping, irrigation, fencing, retaining walls and fencing along project frontages and within the landscaped areas of the project.
44. The Management Plan shall reference the recorded Storm Water Control Facility Maintenance Agreement and approved Storm Water Quality Management Plan for the project.
45. The Management Plan shall identify responsibility for liability for damage and repair to City utilities in the event that damage is caused by tenants, vehicles or personnel servicing the property or delivery personnel, and/or operation of maintenance personnel of the project.
46. The Management Plan shall state that if stamped concrete or decorative pavers or used within walkways within the City right-of-ways, any damage and repair/replacement shall be the responsibility of the management company and/or project owner.

FIRE DEPARTMENT CONDITIONS

1. An adequate water supply with minimum fire flow shall be as determined by the Fire Marshall
2. An approved all-weather access shall be provided to the site before any combustibles are brought to the project site.
3. Fire underground, alarm, standpipes, and fire sprinkler plans shall be a deferred submittal to the Escondido Fire Department prior to building permit submittal.
4. Access shall be a paved all-weather roadway with the ability to withstand the weight of apparatus of 75,000 lbs.
5. Fire lanes shall be designated and approved by the Fire Marshall and painted red with white letter, marked "no parking fire lane." Fire lane shall be maintained by the project management company for the duration of the project.
6. All rescue windows shall remain unobstructed of trees and vegetation to the satisfaction of the Fire Marshall.
7. The minimum turning radius at all corners of the project site shall be 28 feet from inside curve.
8. The commercial component of the project shall require a separate FDC/PIV Connection.

9. Construction type shall be clarified as 5 stories is not permitted with a Type V. Check with Fire Marshall.
10. Fire Sprinklers shall have to comply with NFPA 13 due to height change. Note on the plans.

**ENGINEERING CONDITIONS OF APPROVAL
THE IVY – 343 E. 2nd Avenue - PHG19-0010**

GENERAL

1. The Developer shall provide the City Engineer with a current Preliminary 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 proposed project or improvements, these facilities shall be relocated subject to approval of the owner of the utility/facility prior to approval of Grading plans and 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, 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 Warranty (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. 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.
7. 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.

8. The Developer's engineer shall submit to the Planning Department 3 copies of the Master and Precise Development Plan as presented to the Planning Commission and approved by the City Council together with any changes contained in the adopted final conditions of approval. These copies shall be signed by the Planning Department verifying that they are an accurate reproduction of the approved Master and Precise Development Plan and one of these copies 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 Final Engineering approval and to the satisfaction of the City Engineer. Specific details, including final street improvement widths, right-of-way widths, concrete curb and gutters, drainage, lighting, etc. shall be resolved to the satisfaction of the City Engineer.
2. The developer shall construct street improvements, including but not limited to, concrete curb, gutter, sidewalk, street lights, street trees, paving and base on the streets adjoining the project boundary. See appropriate sections of the current Escondido Design Standards and Standard Drawings for additional details.
3. The 6" PCC curb and gutter bulb-outs to accommodate parallel parking along 2nd Avenue shall be constructed at a distance of 22' from centerline and the 6" PCC curb and gutter in the parking area indent shall be constructed at a distance of 30' from centerline. Full structural section paving shall extend a minimum of 3' beyond the lip of gutter at the pop-outs to ensure that a smooth cross-sectional transition to these new improvements is maintained.
4. Curb return bulb-outs at the alley exit to accommodate diagonal parking along 3rd Avenue shall be constructed to come tangent at a distance of 12' from centerline and indents in the parking area shall be reconstructed with 6" PCC curb and gutter at a distance of 26' from centerline. Full structural section paving shall extend a minimum of 3' beyond the lip of gutter at the bulb-outs to ensure that a smooth cross-sectional transition to these new improvements is maintained.
5. New 30' minimum radius curb returns shall be reconstructed at the project's easterly corners at the intersections of 2nd Avenue and Ivy Street and 3rd Avenue and Ivy Street and shall be designed to maintain a minimum 22' wide one-way south bound lane for Ivy Street across the project's frontage. The existing street light at the intersection of 2nd Avenue and Ivy Street shall be relocated and retrofitted with an LED light fixture in accordance with Escondido Standard Drawing No. E-1-E.
6. The one-way south designation of Ivy Street shall include the design and construction of 6" PCC curb and gutter raised directional bulb-outs on the east side of the Ivy Street at the 3rd Avenue tee intersection and at the long skew intersection of Ivy Street

and 2nd Avenue to the satisfaction of the City Engineer. These raised directional barrier bulb-out areas shall be landscaped and maintained in perpetuity by the project owner.

7. The existing street light behind the east side of Ivy Street at the proposed 3rd Avenue raised bulb-out area shall be relocated and retrofitted with an LED fixture in accordance with Escondido Standard Drawing No. E-1-E.
8. The existing street light mid-block along the project's Ivy Street frontage shall be retrofitted with an LED light head in accordance with Escondido Standard Drawing No. E-1-E.
9. The Developer shall be required to construct new LED street lights in accordance with Escondido Standard Drawing No. E-1-E at each end of the alley at 2nd Avenue and 3rd Avenue.
10. New ADA compliant curb ramps shall be constructed at all new and reconstructed curb return, alley entrances, and pedestrian crossing locations adjacent to the project to the satisfaction of the City Engineer.
11. The access opening to the project's parking structure shall have a minimum throat width of 24 feet and shall be adequately illuminated from the building structure to the satisfaction of the City Engineer and Building Official.
12. Sidewalk construction shall be contiguous to the curb along Ivy, but shall be non-contiguous along 2nd Avenue and 3rd Avenue in accordance with current Escondido Design Standards.
13. The Developer will be responsible for a minimum 1 ½" grind and 2" asphalt concrete overlay of 2nd Avenue and 3rd Avenue in full lane widths as necessary due to the required utility and storm drain installation. The determination of the extent of the grind and overlay shall be to the satisfaction of the City Engineer.
14. The Developer will be responsible for a minimum 1 ½" grind and 2" asphalt concrete overlay of the alley due to the many utility trenches necessary to serve this project, and shall be completed prior to issuance of a Certificate of Occupancy.
15. The Developer will be required to slurry seal Ivy Street along the project frontage after all trench patching is complete. This shall be done to extend the life of the pavement and to facilitate the restriping required here.
16. The Developer shall remove and replace all damaged sidewalk, curb and gutter, and alley ribbon gutter along all project frontages to the satisfaction of the City Engineer prior to issuance of a Certificate of Occupancy.

17. Adequate horizontal sight distance shall be provided at all street and alley intersections. Restrictions on landscaping and placement of planter walls may be required at the discretion of the City Engineer.
18. The Developer's engineer shall prepare and submit for approval by the City Engineer a complete final Signing and Striping plan for all improved and modified roadways. The developer will be responsible for removal of all existing and the construction of all new signing and striping in compliance with the current CA MUTCD standards and to the satisfaction of the City Engineer.
19. The Developer shall repaint all pavement striping and markings adjacent to the project that have been damaged and prematurely faded due to project construction traffic to the satisfaction of the City Engineer.
20. Pedestrian access routes meeting current ADA requirements shall be provided into the project to the satisfaction of the City Engineer and City Building Official.
21. All gated entrances shall be approved by the City Engineer, Building Official, and the Fire Marshal.
22. 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.
23. Due to the amount of grading export from the project site and expected construction material deliveries, the Developer's traffic engineer will be required to provide a detailed haul route and truck trip scheduling plan for review and approval by the City Engineer. This plan shall be approved prior the issuance of an Encroachment Permit.

GRADING

1. A site grading and erosion control plan shall be approved by the Engineering Department prior to issuance of building permits. The first submittal of the grading plan shall be accompanied by three 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 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 retain wall design is in conformance with the recommendations and specifications as outlined in his 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.

3. 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.
4. 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.
5. A Construction General Permit is required from the State Water Resources Control Board for all storm water discharges associated with a construction activity where clearing, grading, and excavation results in a land disturbance of one or more acres.
6. All blasting operations performed in connection with the improvement of the project shall conform to the City of Escondido Blasting Operations Ordinance.
7. All existing foundations and structures shall be removed or demolished from the site.
8. The parking entrance grades shall conform to current Escondido Design Standards and Escondido Standard Drawings for driveways.

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. A minimum 18" RCP storm drain extension together with clean-outs and curb inlets is required in 2nd Avenue from Juniper Street to the project frontage as needed to convey project and upstream storm water. Design of this storm drain extension shall be to the satisfaction of the City Engineer. Construction of this storm drain shall be in accordance with the Standards and Specifications of the City of Escondido.
3. The existing drainage entering and conveyed by Ivy Street across the projects frontage shall be evaluated in the Drainage Study and additional storm drain

extension to and within Ivy Street may be required at the discretion of the City Engineer.

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 biofiltration treatment requirements in accordance with the City's Storm Water Design Manual.
5. All site drainage shall be treated to remove expected contaminants using a high efficiency non-mechanical method of treatment. The City highly encourages the use of bio-retention areas as the primary method of storm water retention and treatment. The grading and landscape plans will need to reflect these areas of storm water treatment.
6. All drainage associated with the project's public street improvements other than overlay shall be treated to remove expected contaminants using "Green Street" standard facilities. The proposed curb pop-out areas can be utilized for this purpose. The maintenance in perpetuity of these "Green Street" or other storm water treatment facilities in the public right-of-way shall be the responsibility of the Property Owner and shall be detailed in the Storm Water Quality Management Plan (SWQMP).
7. The Developer is required to have the current owner of the property sign and notarize for recording a Storm Water Control Facility Maintenance Agreement.
8. All on-site storm drains are private. The responsibility for maintenance of these storm drains shall be that of the Property Owner.
9. 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.

WATER SUPPLY

1. An 8" water main extension is required in 3rd Street from Ivy Street to Juniper Street in order to provide adequate water service and/or fire protection for the proposed project. Construction of the water main shall be in accordance with the Standards and Specifications of the City of Escondido.

2. All water mains, water services, detector check assemblies, and other water appurtenances within the City of Escondido's water service area shall be designed and installed at locations approved by the Utilities Engineer.
3. Fire hydrants together with an adequate water supply shall be installed at locations approved by the Fire Marshal.
4. Where fire hydrants are being relocated, the abandoned fire hydrant laterals shall be abandoned at the water main. All existing gate valves and tees shall be removed and a straight run of pipe shall be replaced within the water main to the nearest joints.
5. No trees or deep rooted plants shall be planted within 10 feet of any water service.
6. All on-site water lines not in public easements will be considered a private water system. The Property Owner will be solely responsible for all maintenance of these water lines and facilities.

SEWER

1. A minimum 6" polyvinyl chloride (PVC) sewer lateral shall be installed with a standard clean-out at the property line. All sewer laterals shall be installed at a right angle to the main in conformance with the Design Standards. 8" sewer laterals shall be connected to the public sewer at a manhole.
2. All abandoned sewer laterals shall be removed or capped at the property line and so noted on the improvement plans to the satisfaction of the Utilities Engineer.
3. No trees or deep rooted bushes shall be planted within 10' of any sewer lateral, or within 15' of any sewer main.
4. All sewer laterals will be considered a private sewer system. The Property Owner will be responsible for all maintenance of sewer lateral(s) to the sewer main.
5. 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. The initial submittal of the landscape plans shall include the required plan check fees.

EASEMENTS AND DEDICATIONS

1. All easements, both private and public, affecting subject property shall be shown and delineated on the Grading Plans.
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 is responsible for making the arrangements to quitclaim all easements of record which conflict with the proposed development prior to approval of the Grading plans and Building Permits. If an easement of record contains an existing utility that must remain in service, proof of arrangements to quitclaim the easement once new utilities are constructed must be submitted to the City Engineer prior to approval of the Grading plans and Building Permits. Building permits will not be issued for construction which will conflict with existing easements or utilities, nor will any securities be released until the existing easements are quitclaimed.

Material necessary for processing a dedication or easement shall include: a current grant deed or title report, a legal description and plat of the dedication or easement signed and sealed by a person authorized to practice land surveying (document size) and traverse closure tapes. The City will prepare all final public documents.

SURVEYING AND MONUMENTATION

1. All property corners shall be monumented by a person authorized to practice land surveying and a Record of Survey (or Corner Record if appropriate) shall be recorded.

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 property boundary or along fronting streets and alley shall be relocated underground as required by the City's Ordinance. Due to determined infeasibility 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. If a waiver is approved, the Developer will be required to pay the waiver fee as adopted by City Council Resolution.
2. All new dry utilities required to serve the project shall be constructed underground.
3. 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.

EXHIBIT "D"



ACCESSIBLE PARKING SUMMARY

PROVIDED ACCESSIBLE STALLS
(INCLUDED IN TOTAL STALLS):
RESIDENT ACCESSIBLE = 4 STALLS (GARAGE)
GUEST ACCESSIBLE = 2 STALLS (STREET)

ELECTRIC VEHICLE CHARGING (INCLUDED IN TOTAL STALLS)

PER CBGSC 4.106.4.2: 3% OF ALL PARKING TYPES

GARAGE = 157 STALLS X 3% = 5 STALLS
STREET = 27 STALLS X 3% = 1 STALL



DESIGNATED LOCATION OF FUTURE
ELECTRIC VEHICLE CHARGING
LOCATIONS

PARKING SUMMARY

REQUIRED PARKING:(LOCATED WITHIN 0.5
MILES OF A MAJOR TRANSIT STOP. 0.5
PARKING STALLS REQUIRED PER BEDROOM,
PER CA 65915(p)(2)
8 STUDIO X .5 STALL = 4 STALLS
59 1 BD X .5 STALLS = 60 STALLS
60 2 BD X 1 STALLS = 60 STALLS
TOTAL STALLS = 94 STALLS

PARKING PROVIDED:
131 STANDARD STALLS
26 TANDEM (27.3% OF UNITS)
27 STREET STALLS (GUEST-IVY/3RD)
184 STALLS TOTAL

BUILDING HEIGHT SUMMARY

AVERAGE GRADE = 676
PODIUM DECK = 684
TOP OF ROOF SHEATHING = 739
BUILDING HEIGHT ABV. AVG. GRADE = 63'

BUILDING AREAS

BASEMENT PARKING LEVEL	26,436 S.F.
MAIN PARKING LEVEL	36,037 S.F.
1ST FLOOR BUILDING	29,268 S.F.
1ST FLOOR OPEN PODIUM	6,402 S.F.
2ND FLOOR BUILDING	29,115 S.F.
3RD FLOOR BUILDING	29,115 S.F.
4TH FLOOR BUILDING	29,115 S.F.
5TH FLOOR BUILDING	28,756 S.F.
TOTAL BUILDING (ABV GRADE)	187,808 S.F.
F.A.R. = 4.30	

OPEN SPACE SUMMARY

COMMON AREA @ PODIUM	6,402 S.F.
COMMON AREA @ GRADE	3,646 S.F.
ROOF DECK	735 S.F.
CLUBROOM/FITNESS/MEDIA	2,670 S.F.
PRIVATE BALCONIES (65 SF/U AVG)	8,271 S.F.
TOTAL OPEN SPACE PROVIDED	21,724 S.F.
AVERAGE OPEN SPACE/UNIT	171 S.F.

UNIT SUMMARY

51	PL 1	1BD/1 BA	@ 630 SF
10	PL 2	2BD/1 BA	@ 820 SF
27	PL 3	2 BD/2 BA	@ 910 SF
10	PL 4	2 BD/2 BA	@ 986 SF
13	PL 5	2 BD/2 BA	@ 995 SF
08	PL A	STUDIO	@ 550 SF
08	PL B	1BD/1 BA	@ 700 SF
127	TOTAL UNITS		

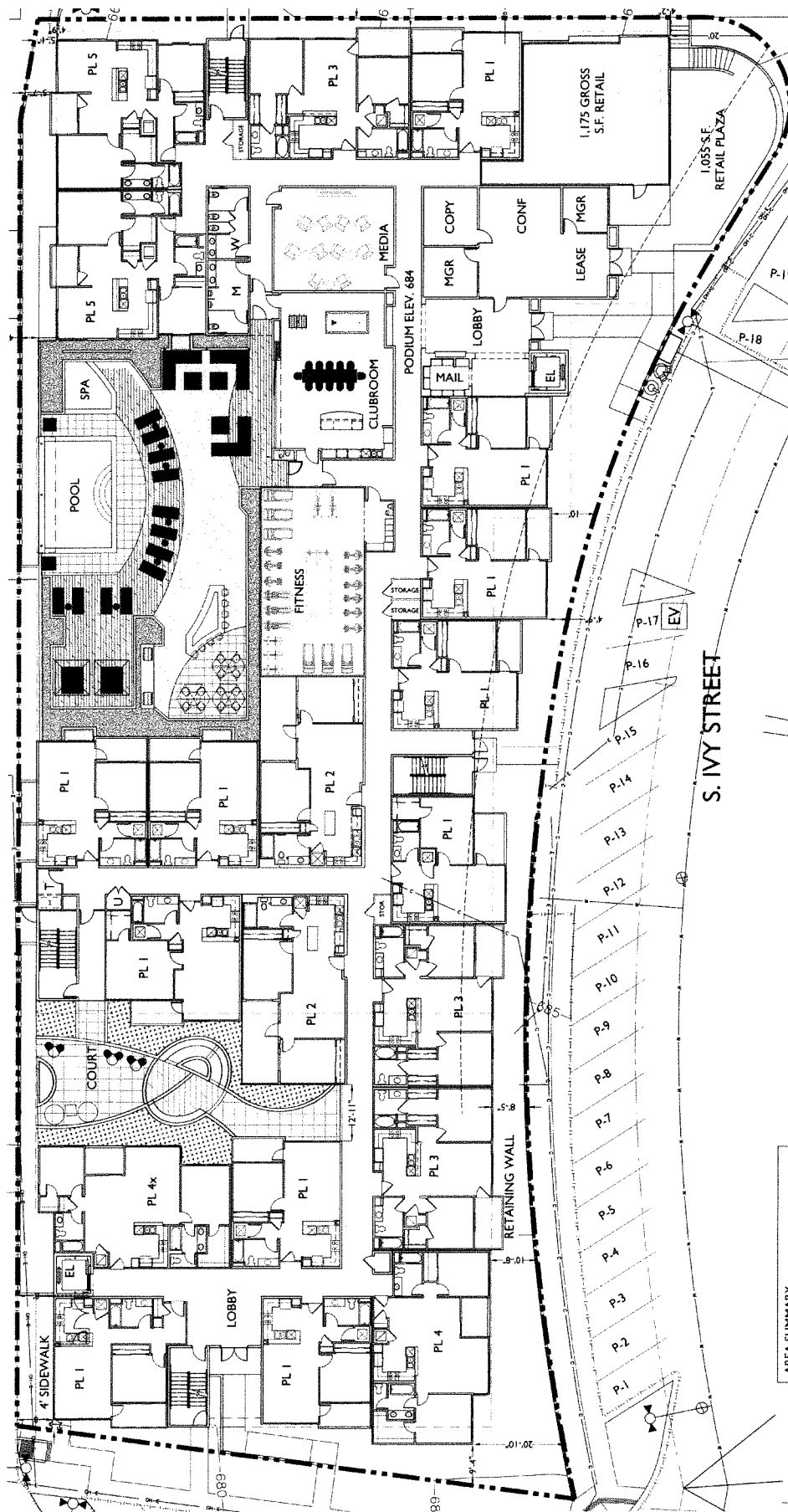
PROJECT SUMMARY

DOWNTOWN SPECIFIC PLAN
HISTORIC DOWNTOWN DISTRICT
SITE AREA 1 ACRE (43,648 SF)
TOTAL UNITS 127 STACKED FLATS
DENSITY 127 DU/ACRE
LOT COVERAGE 35,670 SF (81.7%)

PROPOSED PROJECT
PHG 19-0010₅₃.

S

SITE MAP



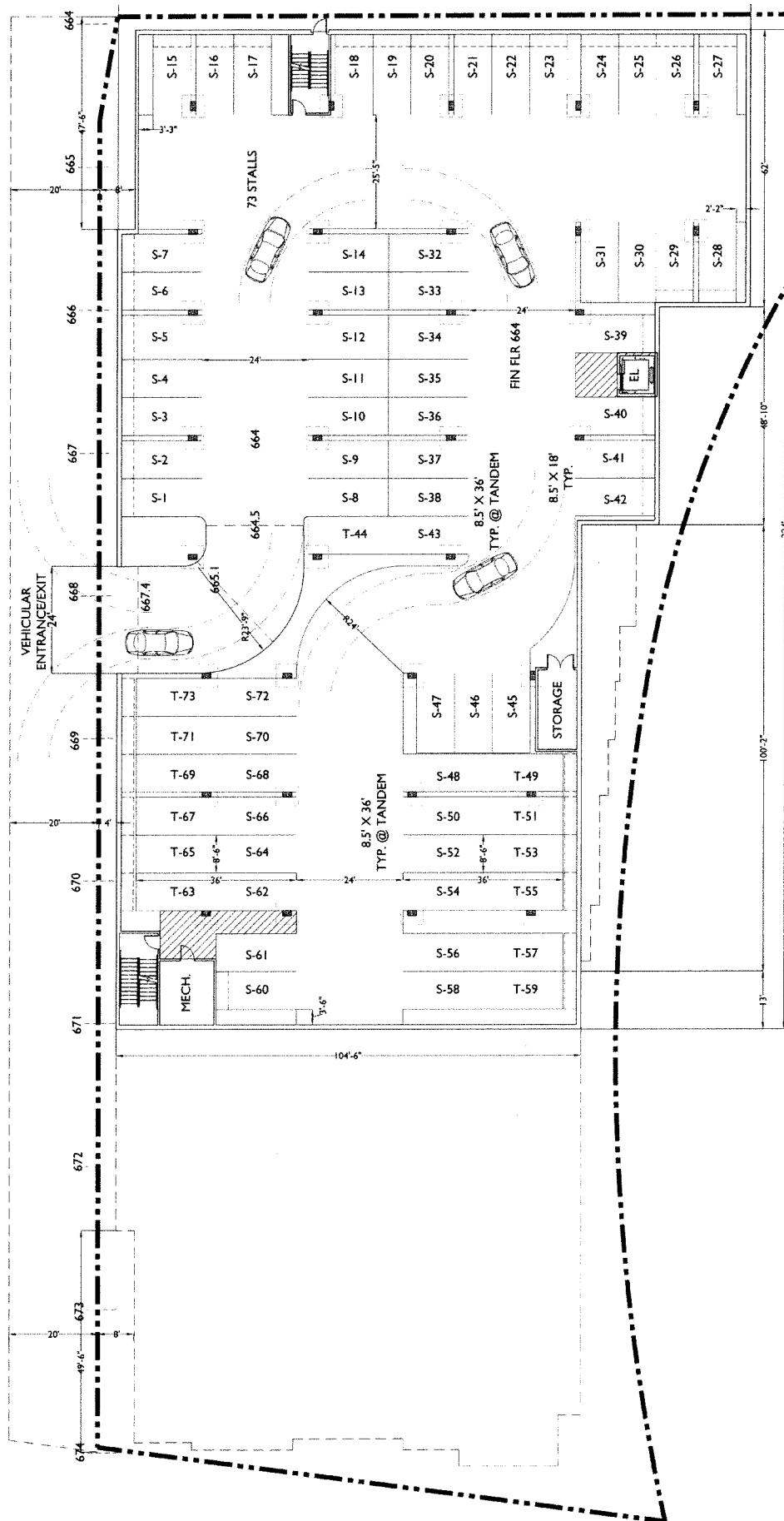
SCALE: 1" = 10'-0"
MAP 1/4 2010

AREA SUMMARY	
POOLDECK	4,656 S.F.
COURTYARD	1,746 S.F.
FITNESS	1,083 S.F.
CLUBROOM	966 S.F.
MEDIA	621 S.F.
RESTROOMS	307 S.F.
LEASING	1,045 S.F.
RETAIL PLAZA	1,175 S.F.
UNIT CORRIDOR STORAGE	1,055 S.F.
221 CU. FT. EACH	1 TOTAL
235 CU. FT. EACH	2 TOTAL
276 CU. FT. EACH	1 TOTAL

PROPOSED PROJECT
PHG 19-001054-

F

FLOOR PLAN - FIRST FLOOR



AREA SUMMARY	
MECHANICAL STORAGE	176 S.F.
UNIT GARAGE STORAGE	159 S.F.
81.8 CU. FT. EACH	39 TOTAL

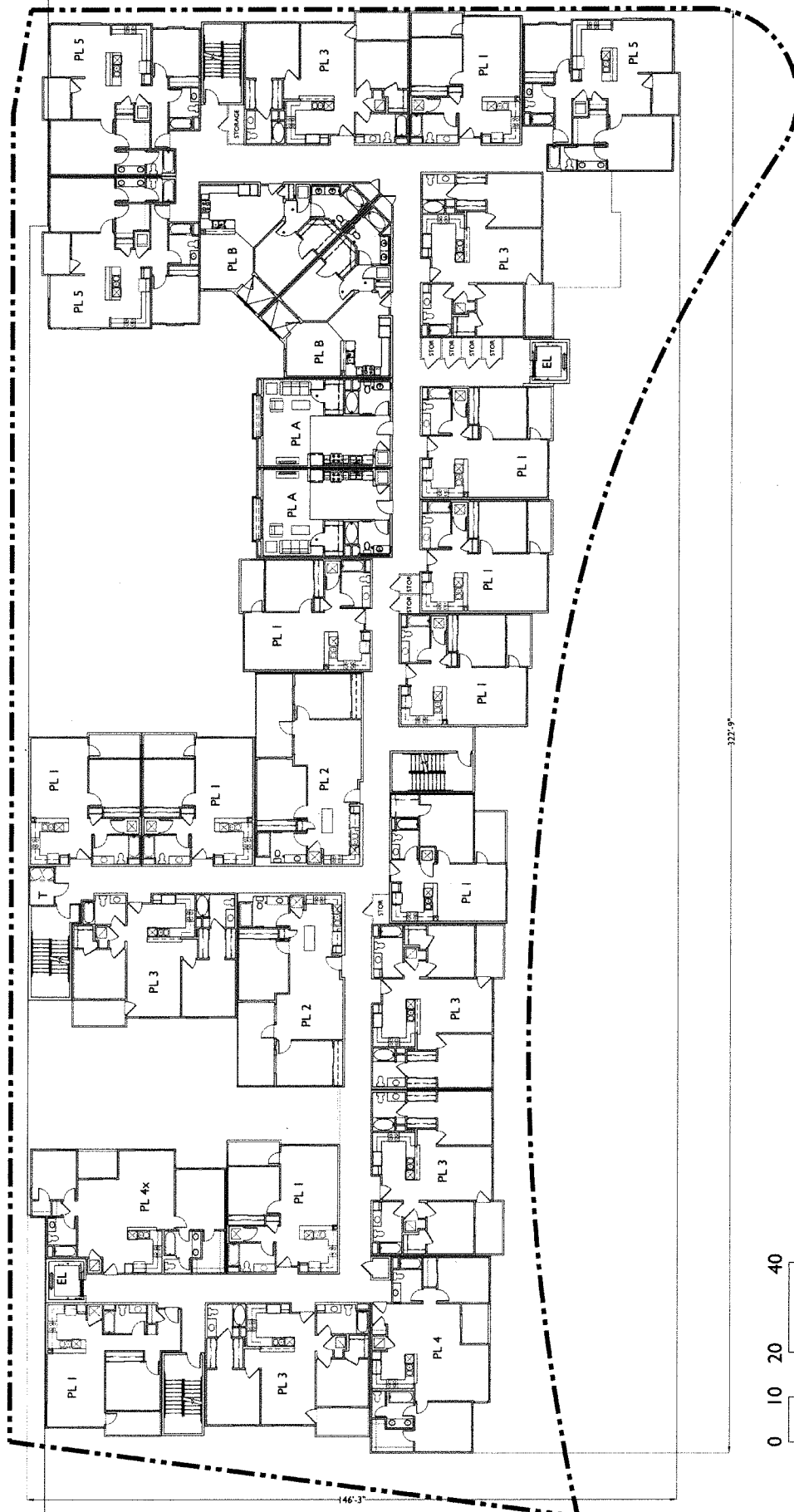
VEHICLE TURNING RADIUS
OUTSIDE RADIUS = 30'-0"
INSIDE RADIUS = 23'-0"

0" 10 20 40

PROPOSED PROJECT
PHG 19-0010₅₆

P

PARKING PLAN - BASEMENT

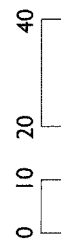
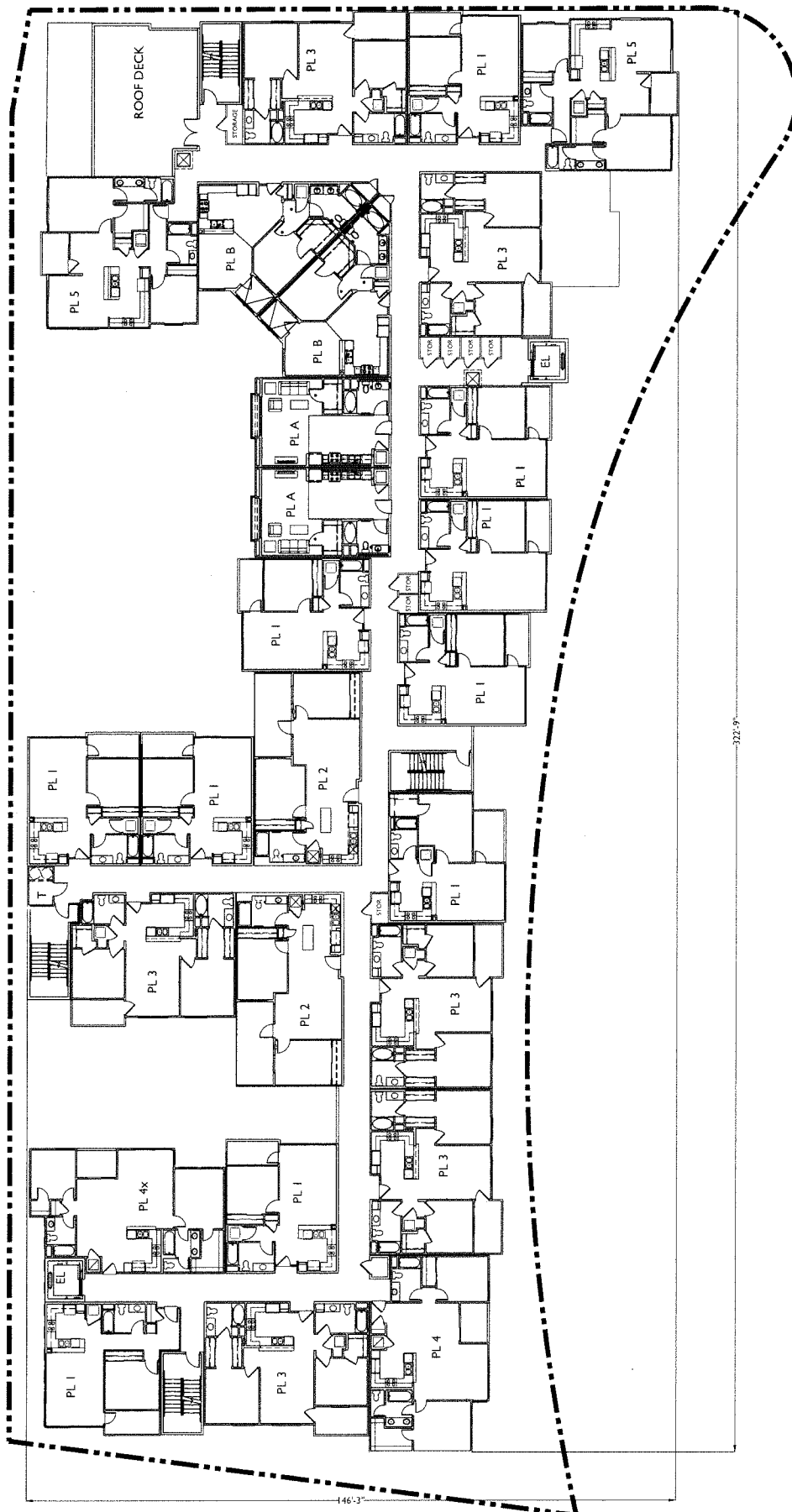


SECOND FLOOR
THIRD FLOOR
FOURTH FLOOR

PROPOSED PROJECT
PHG 19-0010₅₇

F

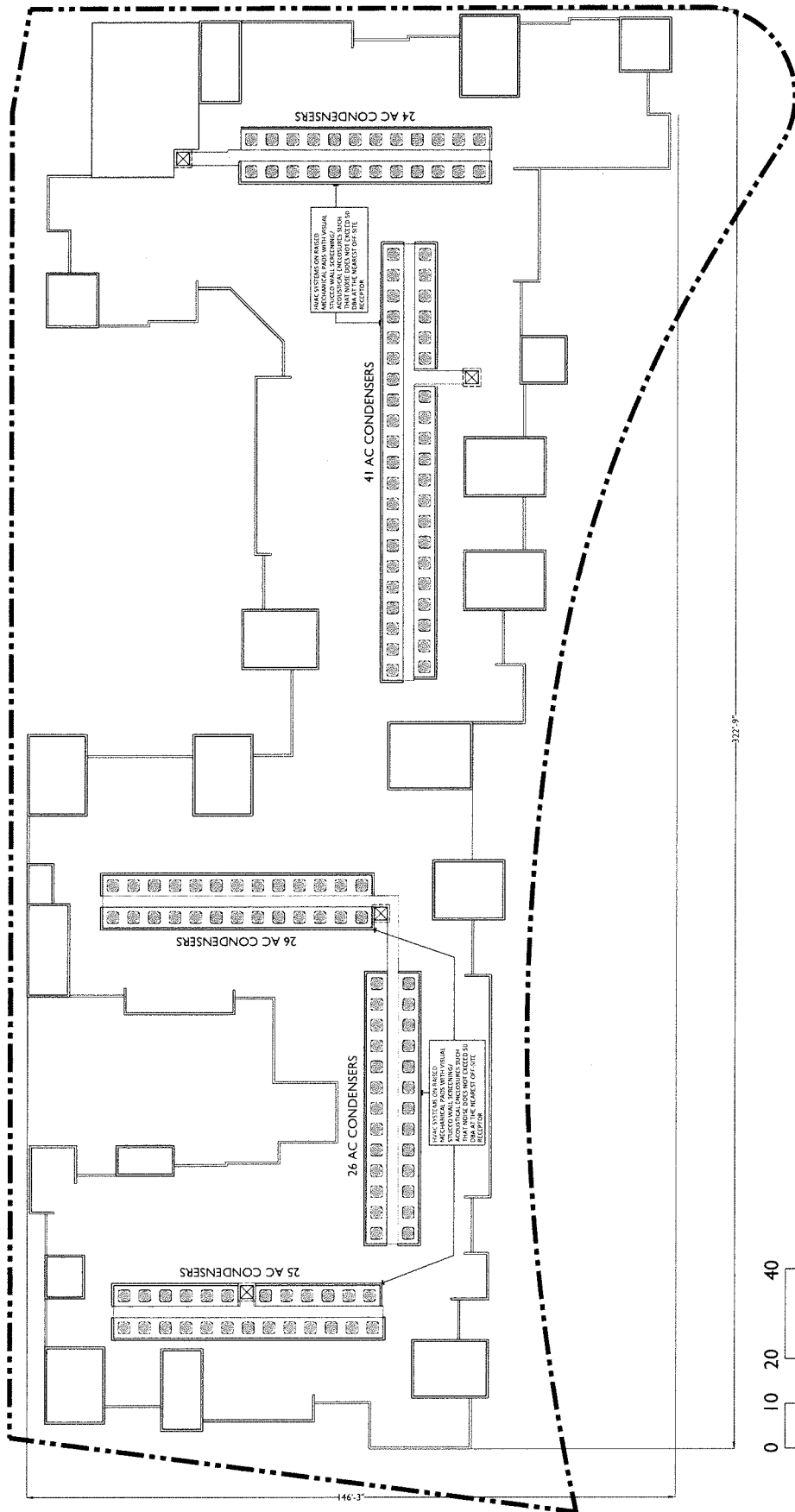
FLOOR PLANS



PROPOSED PROJECT
PHG 19-0010₅₈

F

FLOOR PLAN - 5TH FLOOR



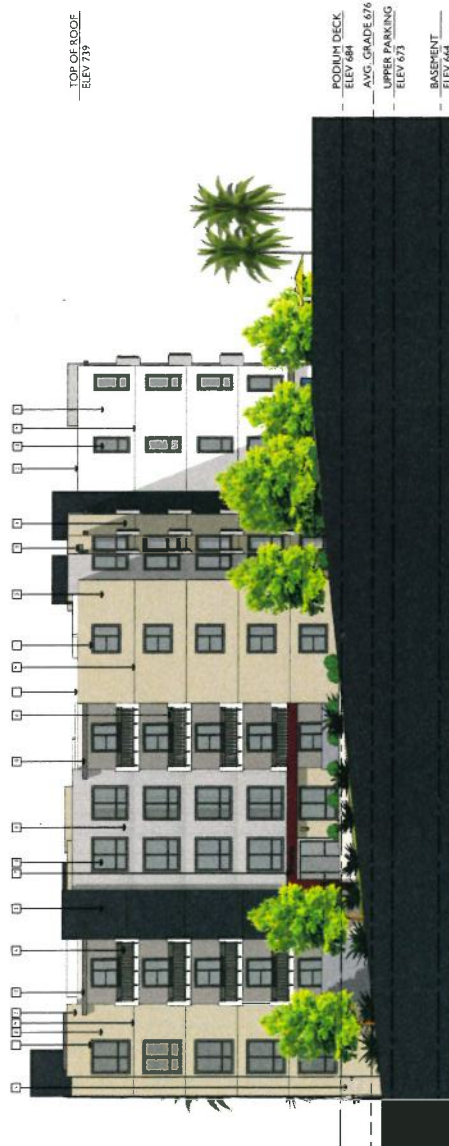
PROPOSED PROJECT
PHG 19-0010₅₉

R

ROOF PLAN



IVY STREET (NORTHEAST) ELEVATION



3RD AVENUE (SOUTHEAST) ELEVATION

MATERIAL SCHEDULE

1. ROOF - BUILT UP ROOFING
2. ROOF - PARAPET WALL
3. WALL - EXTERIOR STUCCO, SAND FINISH
4. WALL - METAL SIDING
5. WALL - PRECISION BLOCK
6. METAL RAILING - FACE MOUNTED
7. PARKING GARAGE ENTRANCE SIGNAGE
8. DECORATIVE METAL SCREEN @ GARAGE
9. STUCCO EXPANSION JOINT
10. DECORATIVE EYEBROW
11. 2X STUCCO O/ FOAM TRIM
12. ROOF DECK W/ SOLID ROOF
13. VINYL WINDOW
14. METAL ROLL UP DOOR
15. STORMWATER PLANTER
16. SECURITY/SAFETY LIGHTING
17. BUILDING ENTRANCE SIGNAGE
18. DECORATIVE METAL EYEBROW AWNING

PROPOSED PROJECT
PHG 19-001060-

E

ELEVATIONS



ALLEY (SOUTHWEST) ELEVATION

MATERIAL SCHEDULE

1. ROOF - BUILT UP ROOFING
2. ROOF - PARAPET WALL
3. WALL - EXTERIOR STUCCO, SAND FINISH
4. WALL - METAL SIDING
5. WALL - PRECISION BLOCK
6. METAL RAILING - FACE MOUNTED
7. PARKING GARAGE ENTRANCE SIGNAGE
8. DECORATIVE METAL SCREEN @ GARAGE
9. STUCCO EXPANSION JOINT
10. DECORATIVE EYEBROW
11. 2X STUCCO O/ FOAM TRIM
12. ROOF DECK W/ SOLID ROOF
13. VINYL WINDOW
14. METAL ROLL UP DOOR
15. STORMWATER PLANTER
16. SECURITY/SAFETY LIGHTING
17. BUILDING ENTRANCE SIGNAGE



2ND STREET (NORTHWEST) ELEVATION

PROPOSED PROJECT
PHG 19-0010₆₁.

E

ELEVATIONS



PROPOSED PROJECT
PHG 19-0010₆₂.

P

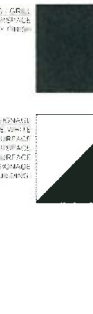
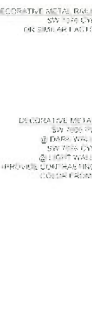
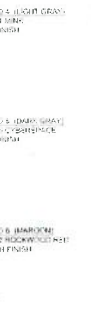
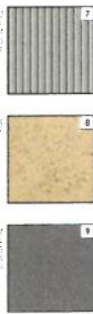
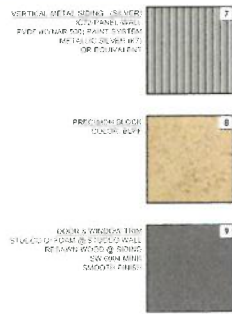
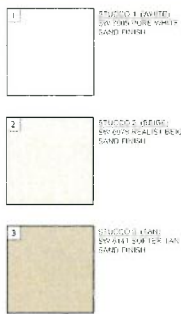
PERSPECTIVES



PROPOSED PROJECT
PHG 19-0010₆₃.

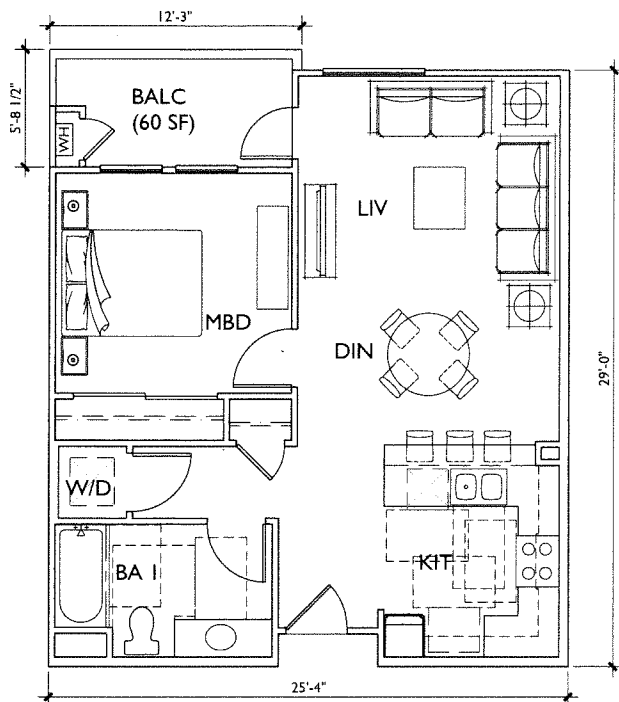
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PERSPECTIVES



PROPOSED PROJECT PHG 19-0010₆₄-

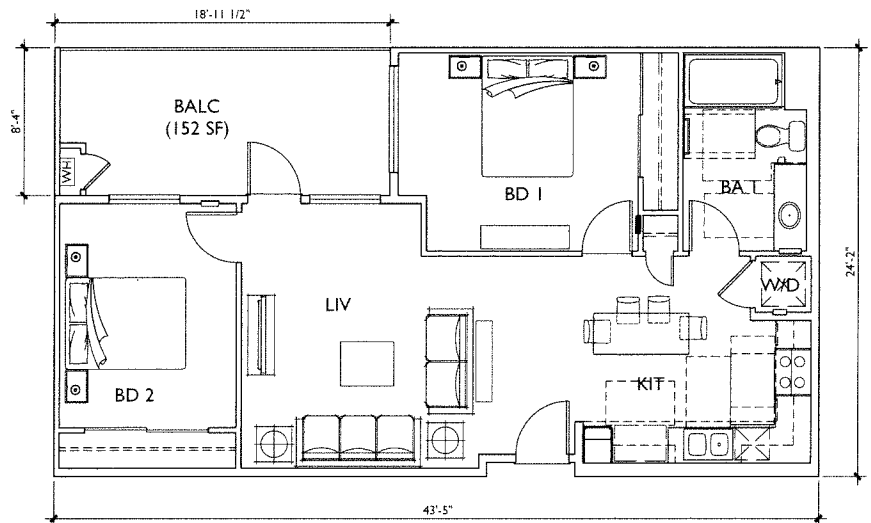




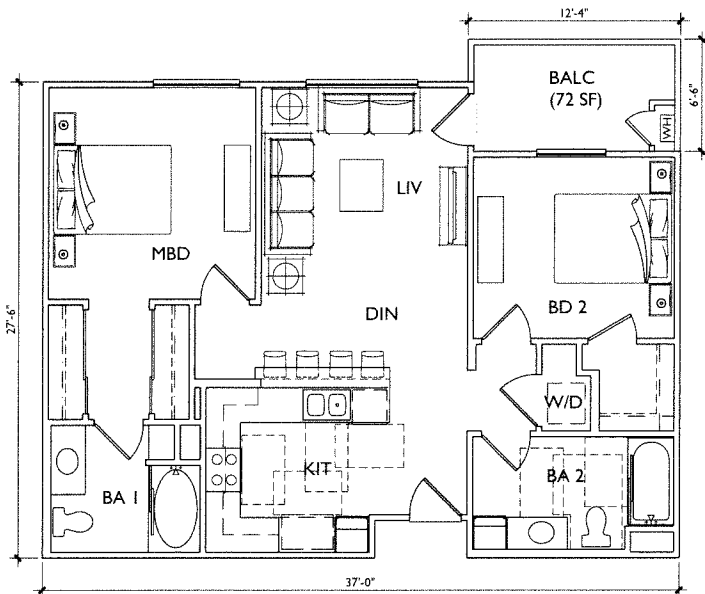
PLAN 1 - 630 SF NET 1BD/1BA

UNIT NOTES:

- ALL AIR CONDITIONING UNITS SHALL BE LOCATED ON THE ROOF SCREENED BY PARAPET WALLS. REFER TO SHEET 7.
- 81.8 CU. FT OF STORAGE PROVIDED FOR EACH UNIT IN GARAGE AS LOCKABLE OVER HOOD STORAGE AT PARKING STALLS. REFER TO SHEETS 3 AND 4 FOR LOCATIONS.
- ALL UNITS IN AN ELEVATED BUILDING ARE REQUIRED TO BE ADAPTABLE AND ON AN ACCESSIBLE ROUTE.



PLAN 2 - 820 SF NET 2BD/1BA



PLAN 3 - 910 SF NET 2BD/2BA

UNIT SUMMARY	
PLAN 1 AREA SUMMARY:	
TOTAL LIVABLE -	630 S.F.
PRIVATE OPEN SPACE (DECK) -	60 S.F.
PLAN 2 AREA SUMMARY:	
TOTAL LIVABLE -	820 S.F.
PRIVATE OPEN SPACE (DECK) -	152 S.F.
PLAN 3 AREA SUMMARY:	
TOTAL LIVABLE -	910 S.F.
PRIVATE OPEN SPACE (DECK) -	72 S.F.
PLAN 4 AREA SUMMARY:	
TOTAL LIVABLE -	986 S.F.
PRIVATE OPEN SPACE (DECK) -	53 S.F.
PLAN 5 AREA SUMMARY:	
TOTAL LIVABLE -	995 S.F.
PRIVATE OPEN SPACE (DECK) -	55 S.F.

LEGEND:



- TANKLESS WATER HEATER

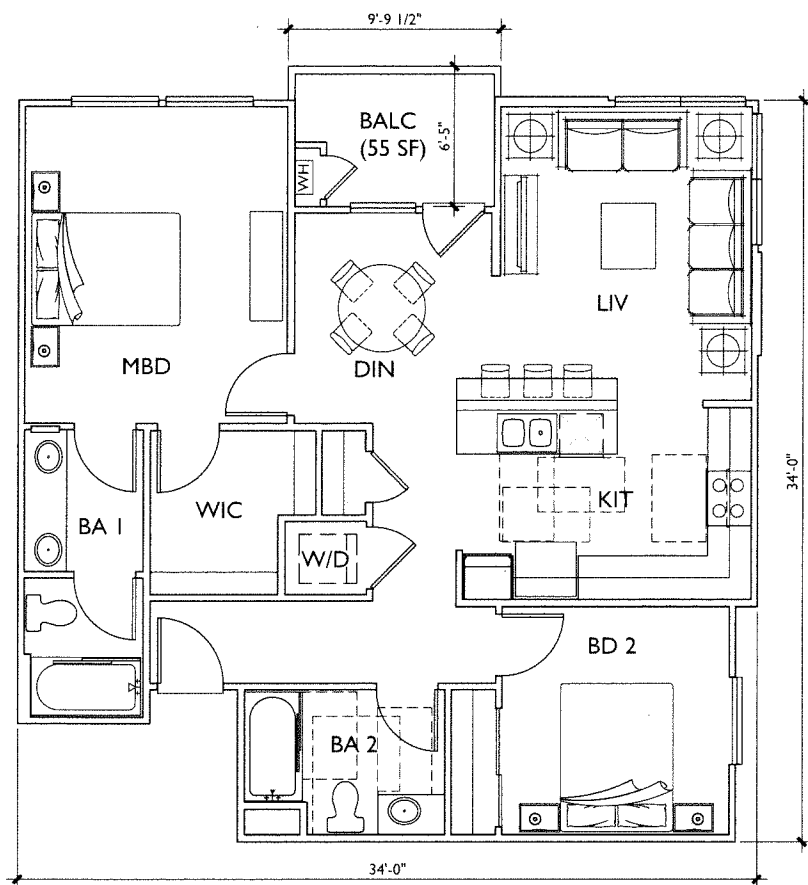


- STACKING WASHER AND DRYER

PROPOSED PROJECT
PHG 19-0010₆₅

UP

UNIT PLANS

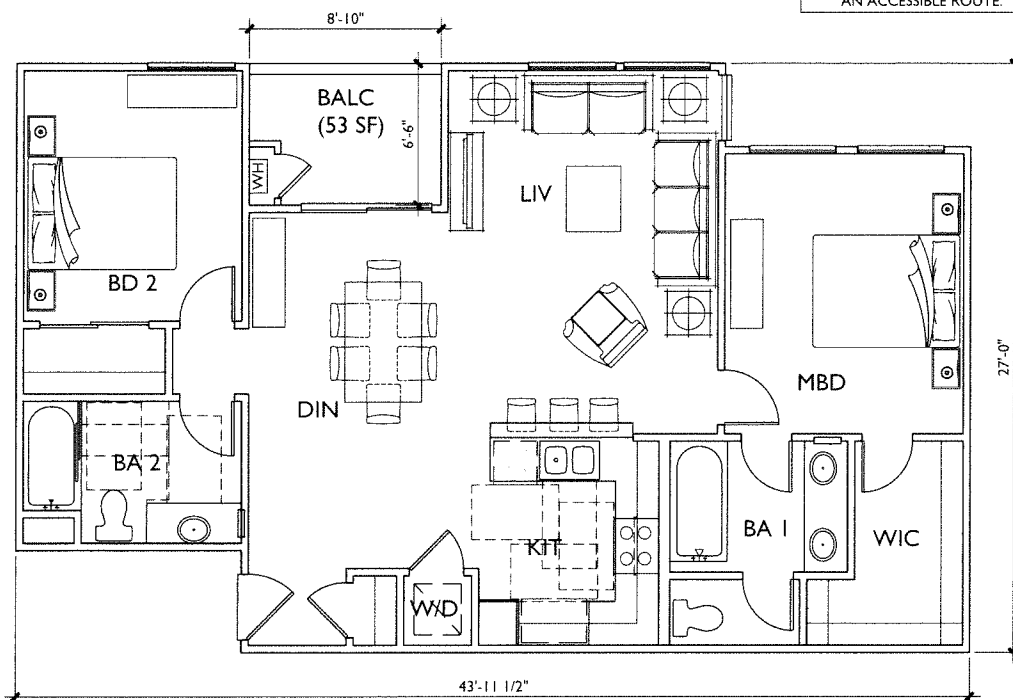


PLAN 5 - 995 SF NET 2BD/2BA

UNIT SUMMARY	
PLAN 1 AREA SUMMARY:	
TOTAL LIVABLE -	630 S.F.
PRIVATE OPEN SPACE (DECK) -	60 S.F.
PLAN 2 AREA SUMMARY:	
TOTAL LIVABLE -	820 S.F.
PRIVATE OPEN SPACE (DECK) -	152 S.F.
PLAN 3 AREA SUMMARY:	
TOTAL LIVABLE -	910 S.F.
PRIVATE OPEN SPACE (DECK) -	72 S.F.
PLAN 4 AREA SUMMARY:	
TOTAL LIVABLE -	986 S.F.
PRIVATE OPEN SPACE (DECK) -	53 S.F.
PLAN 5 AREA SUMMARY:	
TOTAL LIVABLE -	995 S.F.
PRIVATE OPEN SPACE (DECK) -	55 S.F.

LEGEND:	
WH	- TANKLESS WATER HEATER
W/D	- STACKING WASHER AND DRYER

- UNIT NOTES:**
- ALL AIR CONDITIONING UNITS SHALL BE LOCATED ON THE ROOF SCREENED BY PARAPET WALLS. REFER TO SHEET 7.
 - 81.8 CU. FT OF STORAGE PROVIDED FOR EACH UNIT IN GARAGE AS LOCKABLE OVER HOOD STORAGE AT PARKING STALLS. REFER TO SHEETS 3 AND 4 FOR LOCATIONS.
 - ALL UNITS IN AN ELEVATED BUILDING ARE REQUIRED TO BE ADAPTABLE AND ON AN ACCESSIBLE ROUTE.



PLAN 4 - 986 SF NET 2BD/2BA

PROPOSED PROJECT
PHG 19-0010₆₆

UP

UNIT PLANS

UNIT SUMMARY

PLAN A AREA SUMMARY:

TOTAL LIVABLE - 550 S.F.
PRIVATE OPEN SPACE (DECK) - 0 S.F.

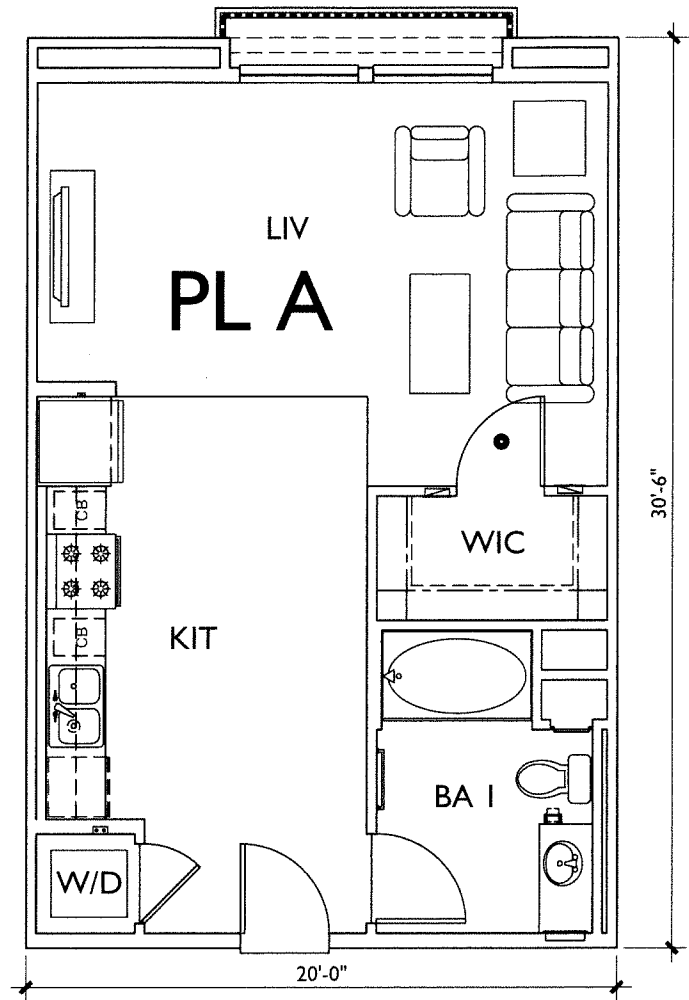
PLAN B AREA SUMMARY:

TOTAL LIVABLE - 700 S.F.
PRIVATE OPEN SPACE (DECK) - 40 S.F.

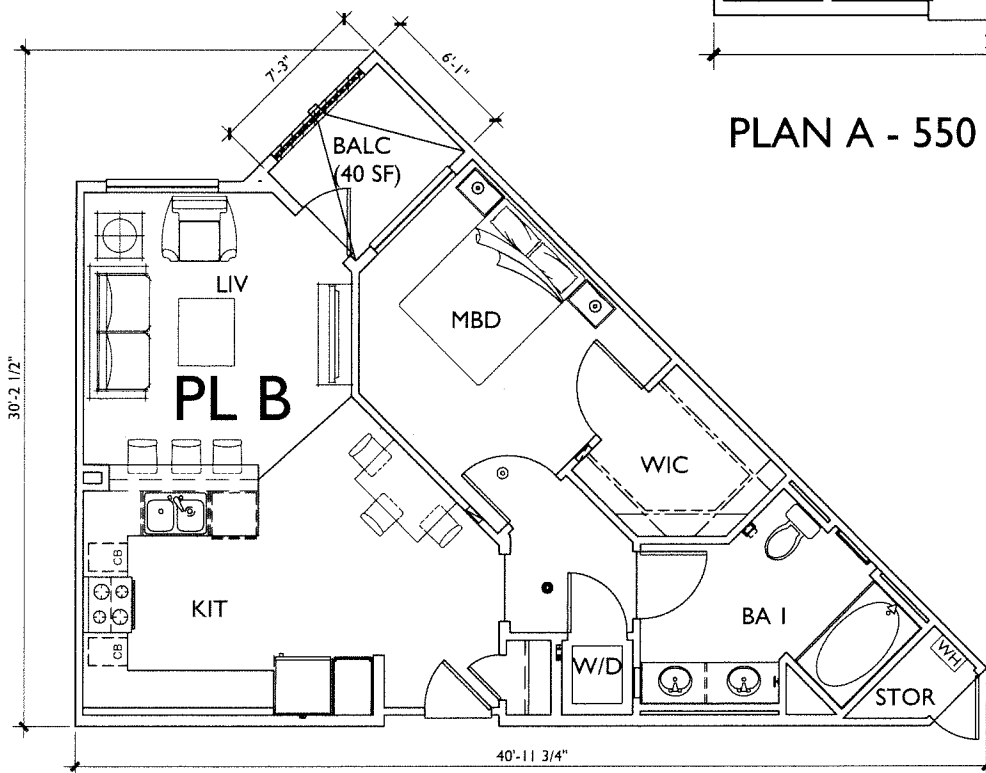
LEGEND:

WH - TANKLESS WATER HEATER

W/D - STACKING WASHER AND DRYER



PLAN A - 550 SF NET STUDIO

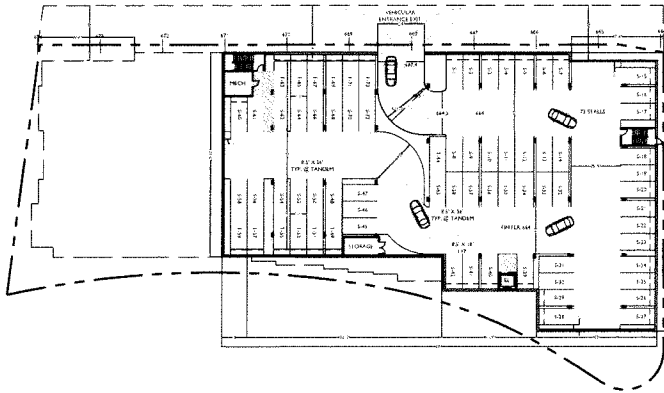


PLAN B - 700 SF NET IBD/IBA

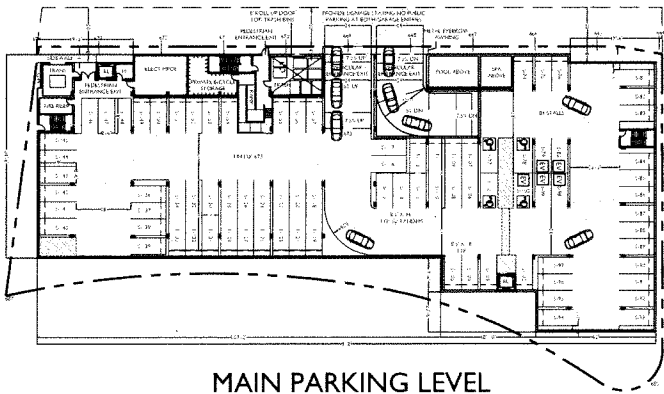
PROPOSED PROJECT
PHG 19-0010₆₇.

UP

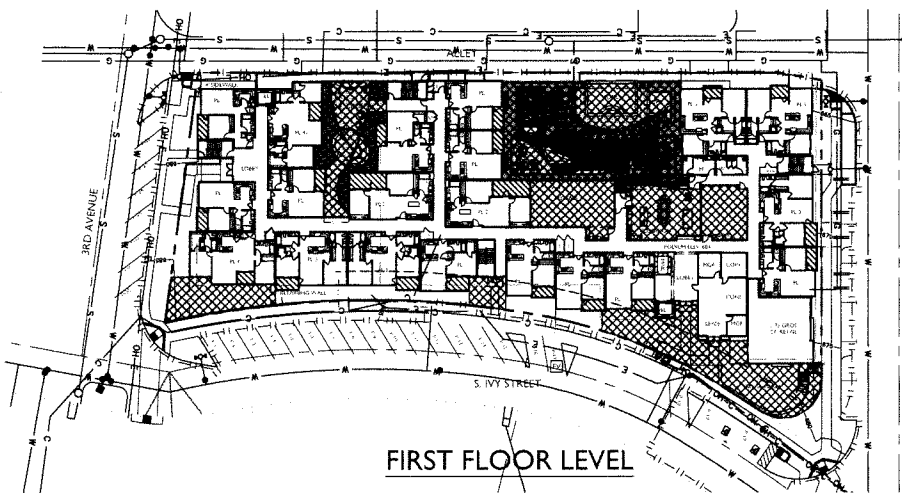
UNIT PLANS



BASEMENT PARKING LEVEL



MAIN PARKING LEVEL



FIRST FLOOR LEVEL

FAR SUMMARY:

BASEMENT PARKING LEVEL	26,436 S.F.
MAIN PARKING LEVEL	36,037 S.F.
FIRST FLOOR	35,670 S.F.
SECOND FLOOR	29,115 S.F.
THIRD FLOOR	29,115 S.F.
THIRD FLOOR	29,115 S.F.
FORTH FLOOR	28,756 S.F.
TOTAL	214,244 S.F.

TOTAL ABOVE GRADE 187,808 S.F.

FAR = 187,808 S.F. / 43,648 S.F. = 4.30 FAR
LOT COVERAGE =
 35,670 S.F. / 43,648 S.F. = 81.7%

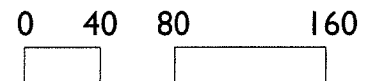
OPEN SPACE SUMMARY:

	COMMON	PRIVATE
FIRST FLOOR	12,718 S.F.	1,474 S.F.
SECOND FLOOR	N/A	1,713 S.F.
THIRD FLOOR	N/A	1,713 S.F.
FORTH FLOOR	N/A	1,713 S.F.
FIFTH FLOOR	735 S.F.	1,658 S.F.
TOTAL	13,453 S.F.	8,271 S.F.

TOTAL OPEN SPACE =
 21,724 S.F. / 127 UNITS = 171 S.F./UNIT

COMMON OPEN SPACE BY AREA:

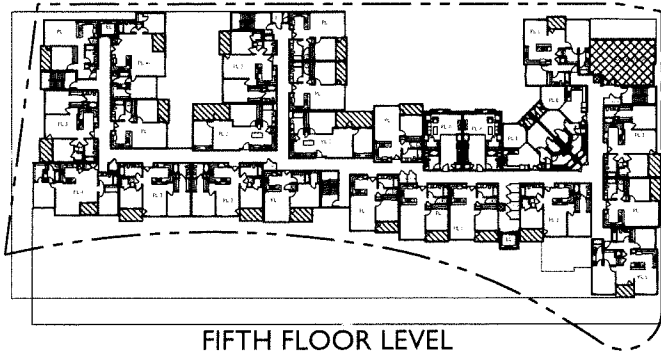
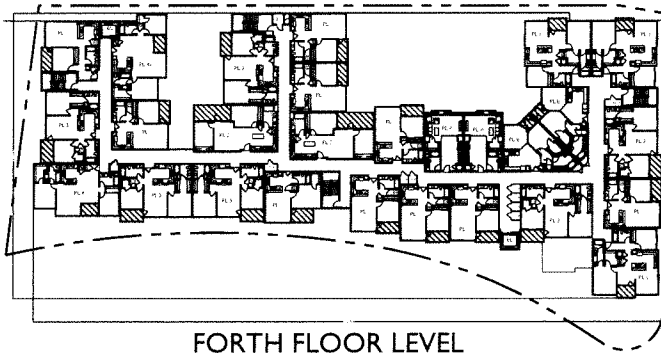
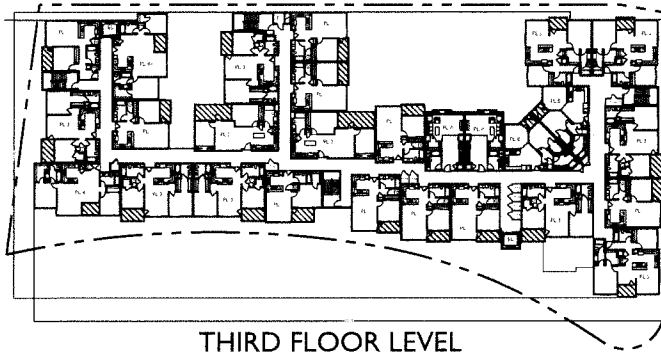
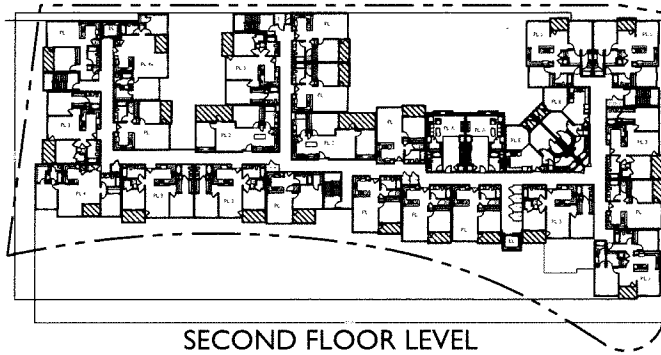
POOL DECK	4,656 S.F.
CLUBROOM	966 S.F.
COURTYARD	1,746 S.F.
FITNESS	1,083 S.F.
MEDIA ROOM	621 S.F.
COMMON @ GRADE	3,646 S.F.
ROOF DECK	735 S.F.
TOTAL COMMON AREA	=13,453 SF



PROPOSED PROJECT
PHG 19-0010₆₈

OP

OPEN SPACE



FAR SUMMARY:

BASEMENT PARKING LEVEL	26,436 S.F.
MAIN PARKING LEVEL	36,037 S.F.
FIRST FLOOR	35,670 S.F.
SECOND FLOOR	29,115 S.F.
THIRD FLOOR	29,115 S.F.
THIRD FLOOR	29,115 S.F.
FORTH FLOOR	28,756 S.F.
TOTAL	214,244 S.F.

TOTAL ABOVE GRADE 187,808 S.F.

FAR = 187,808 S.F. / 43,648 S.F. = 4.30 FAR
LOT COVERAGE =

35,670 S.F. / 43,648 S.F. = 81.7%

OPEN SPACE SUMMARY:

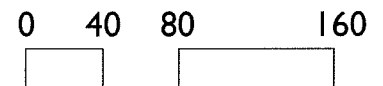
	COMMON	PRIVATE
FIRST FLOOR	12,718 S.F.	1,474 S.F.
SECOND FLOOR	N/A	1,713 S.F.
THIRD FLOOR	N/A	1,713 S.F.
FORTH FLOOR	N/A	1,713 S.F.
FIFTH FLOOR	735 S.F.	1,658 S.F.
TOTAL	13,453 S.F.	8,271 S.F.

TOTAL OPEN SPACE =

21,724 S.F. / 127 UNITS = 171 S.F./UNIT

COMMON OPEN SPACE BY AREA:

POOL DECK	4,656 S.F.
CLUBROOM	966 S.F.
COURTYARD	1,746 S.F.
FITNESS	1,083 S.F.
MEDIA ROOM	621 S.F.
COMMON @ GRADE	3,646 S.F.
ROOF DECK	735 S.F.
TOTAL COMMON AREA	=13,453 SF

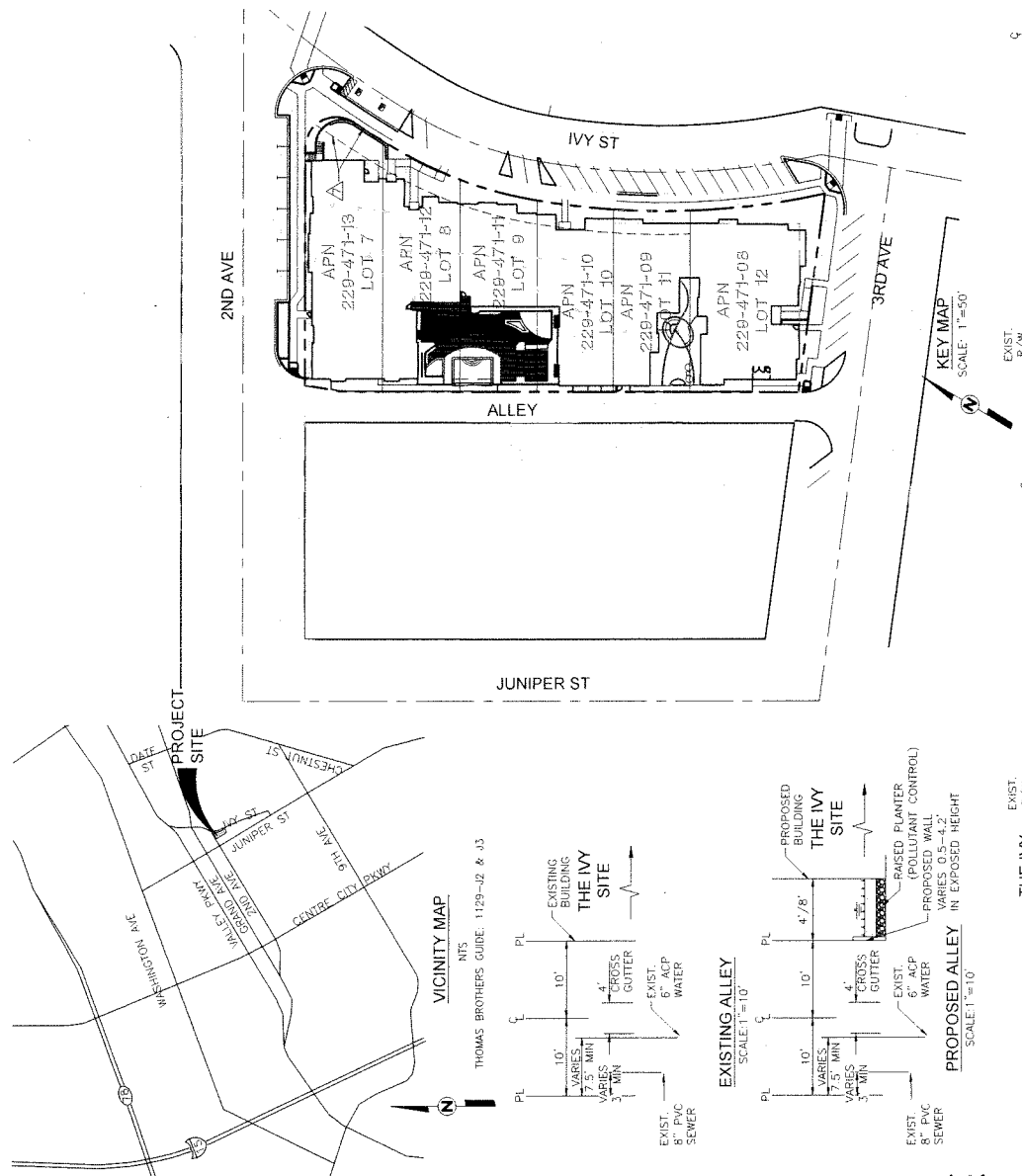


PROPOSED PROJECT
PHG 19-0010₆₉.

OP

OPEN SPACE

LEGEND	STD. DWGS.	SYMBOL
GRADING ITEMS		
PROPERTY BOUNDARY		---
EXISTING LOT LINE		---
EXISTING EASEMENT		---
EXISTING STREET CENTERLINE		---
EASEMENT CALL OUT		④
EXISTING CONTOUR		---
EXISTING STORM DRAIN		---
EXISTING WATER MAIN		---
EXISTING WATER SERVICE W/ NO METER		---
EXISTING FOG, FV & FIRE SERVICE W/ NO METER		---
EXISTING SEWER MAIN		---
FILL SLOPE		2:1
CUT SLOPE		2:1
DAYLIGHT LINE		11-11-11-11
PROPOSED CONTOUR		785
BLADED SWALE		---
PROPOSED BUILDING FOOTPRINT		---
BUILDING SETBACK		---
PARKING GARAGE LEVEL 1 LIMITS		---
PARKING GARAGE LEVEL 2 LIMITS		---
PROPOSED CURB & GUTTER		---
PROPOSED SIDEWALK		---
PROPOSED AC PAVEMENT		---
STORM DRAIN R.C.P.	G-1-E	---
STORM DRAIN CLEANOUT TYPE "B"	D-9	---
BROOKS BOX		---
AREA DRAIN		---
PROPOSED SUBDRAIN		---
PROPOSED CURB OUTLET		---
PROPOSED 8" WATER MAIN		---
PROPOSED WATER SERVICE		---
PROPOSED DCA	W-2-W	---
PROPOSED FIRE HYDRANT	W-7-W	---
PROPOSED BLOW OFF	W-3-E	---
PROPOSED AIR VACC		---
PROPOSED VALVE		---
PROPOSED FOG & FV		---
PROPOSED 6" PVC SEWER LATERAL	S-2-E	---
PROPOSED RETAINING WALL		---
PROPOSED BIOFILTRATION BASIN		---
PROPOSED CURB RAMP		---

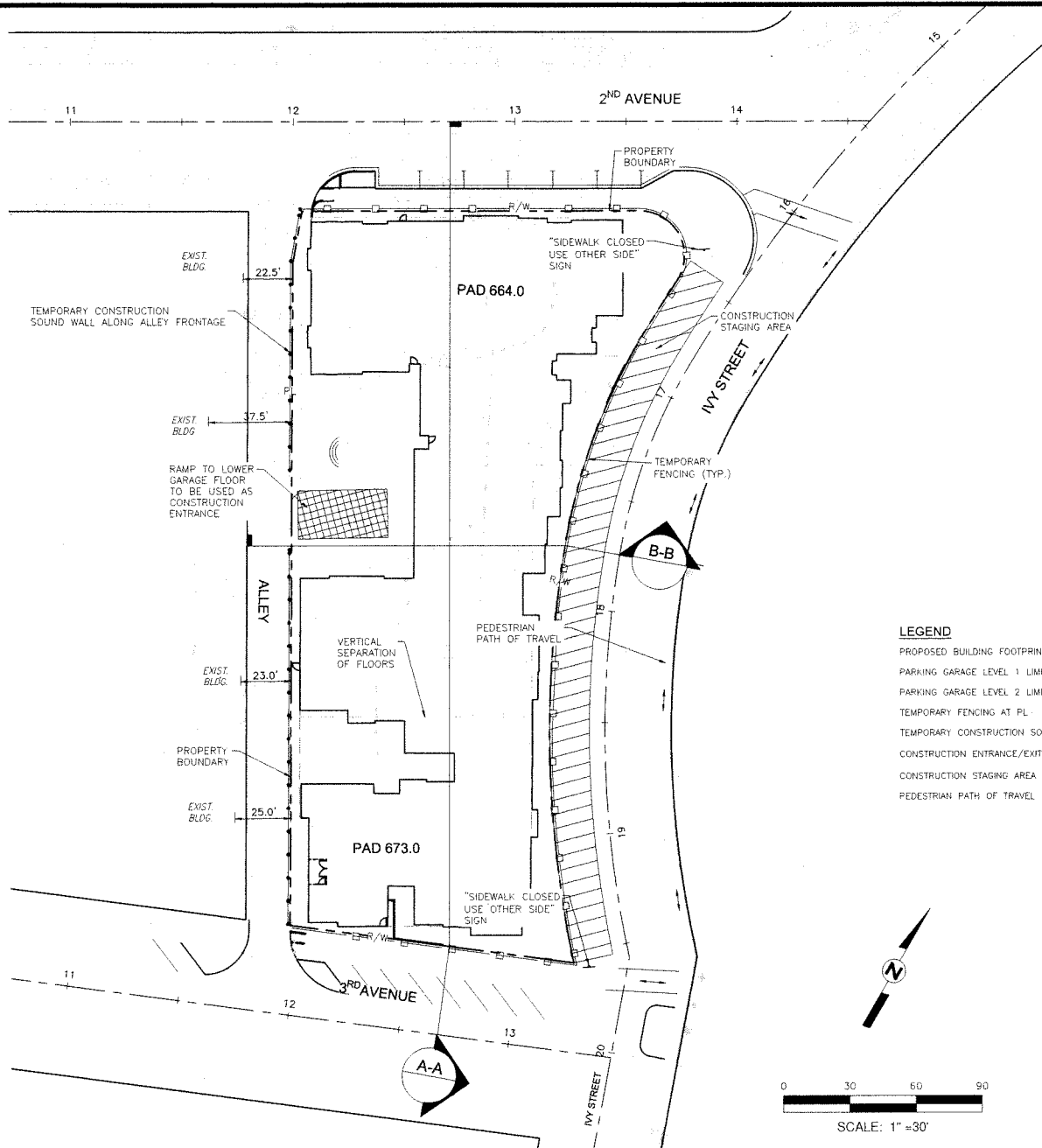


PROPOSED PROJECT
PHG 19-001070.

MASTER & PRECISE
DEVELOPMENT PLAN FOR
THE IVY

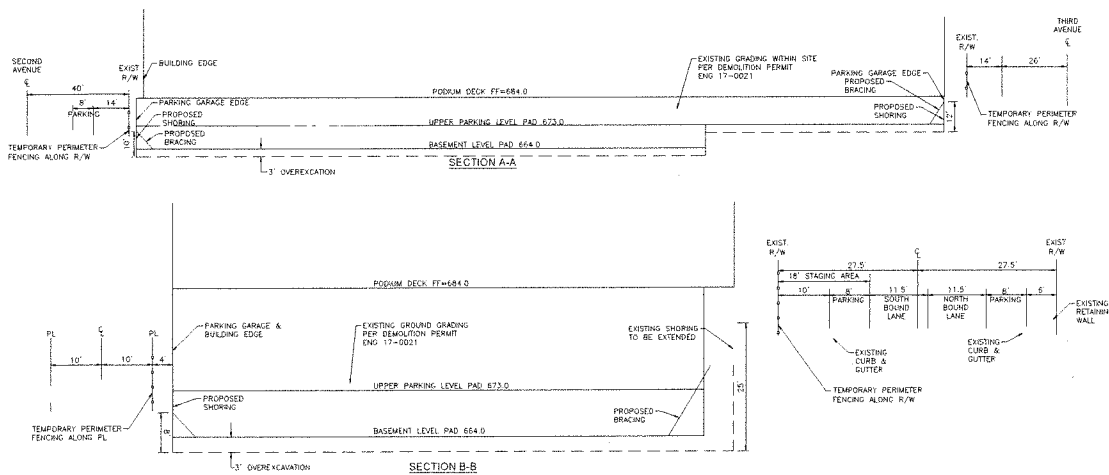
M

MASTER PLAN



LEGEND

- PROPOSED BUILDING FOOTPRINT
- PARKING GARAGE LEVEL 1 LIMITS
- PARKING GARAGE LEVEL 2 LIMITS
- TEMPORARY FENCING AT PL
- TEMPORARY CONSTRUCTION SOUND WALL
- CONSTRUCTION ENTRANCE/EXIT
- CONSTRUCTION STAGING AREA
- PEDESTRIAN PATH OF TRAVEL

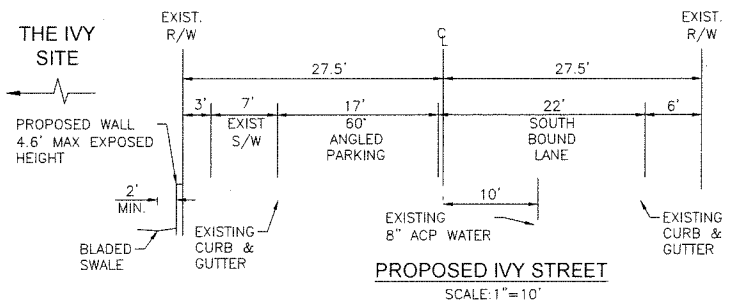
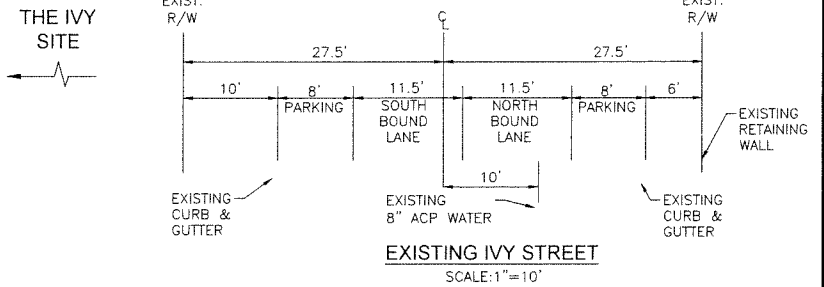
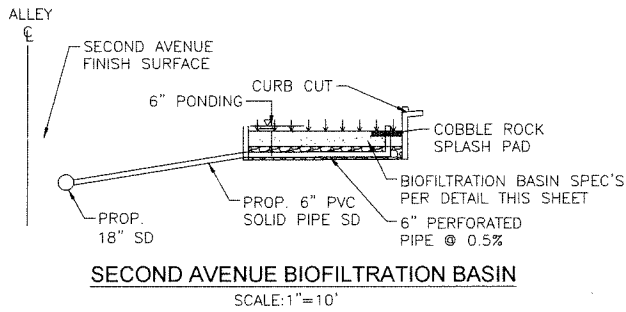
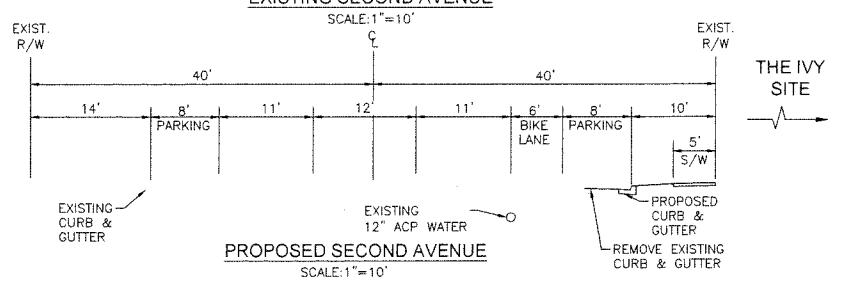
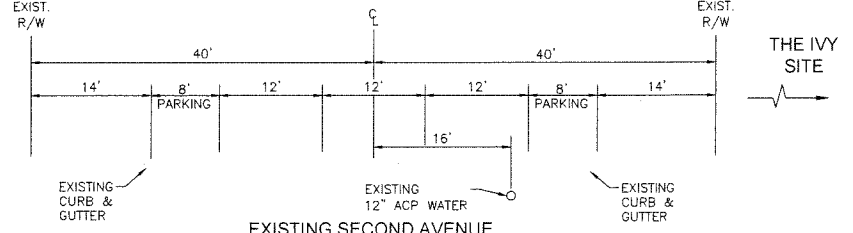
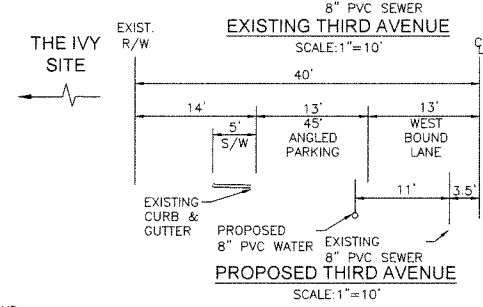
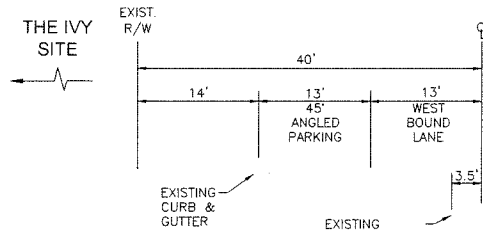
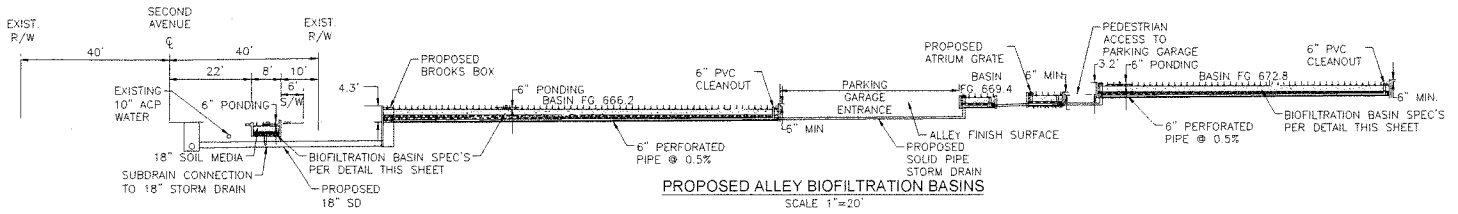


MASTER & PRECISE
DEVELOPMENT PLAN FOR
THE IVY

PROPOSED PROJECT
PHG 19-001072-

M

MASTER PLAN

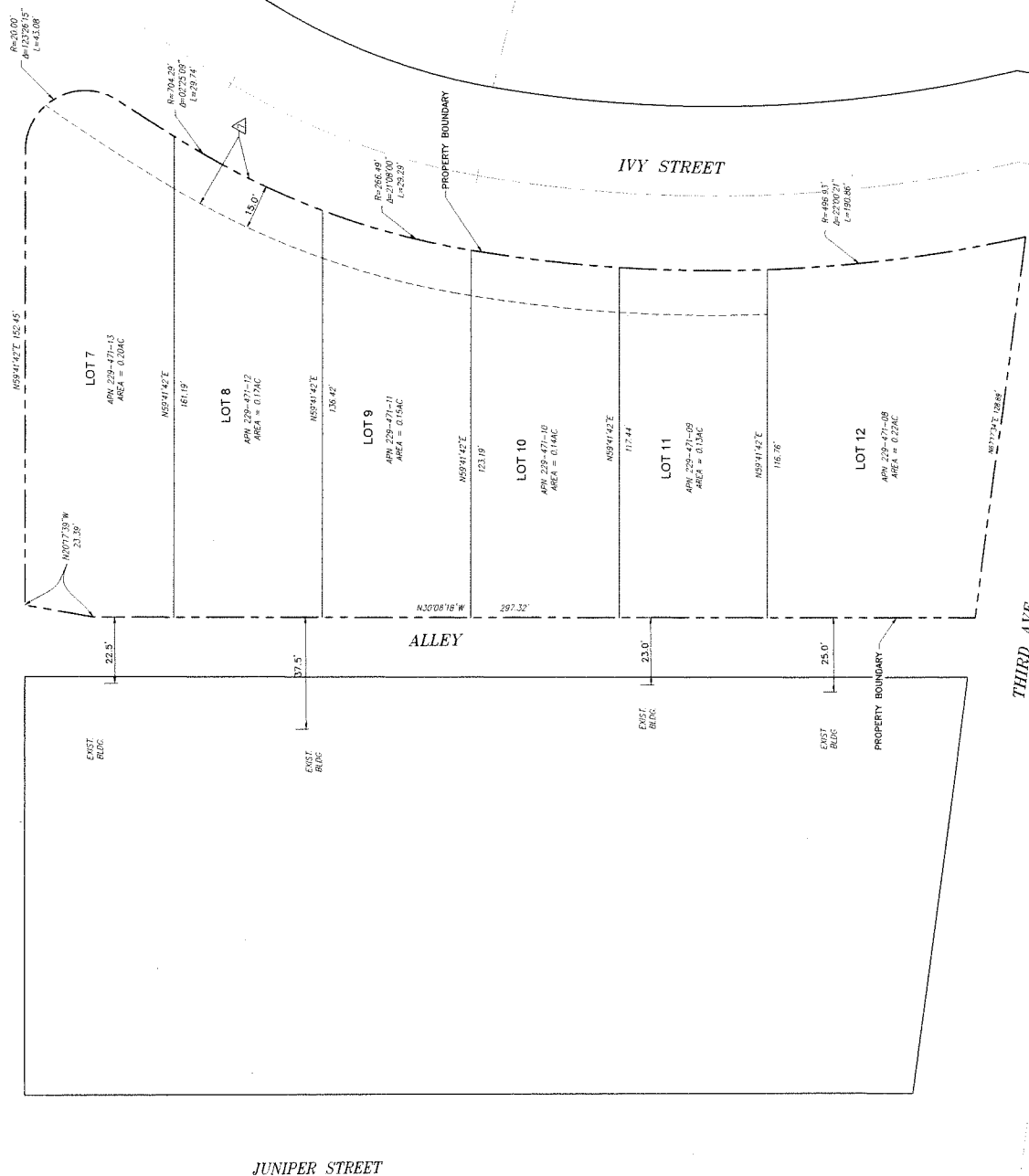


MASTER & PRECISE
DEVELOPMENT PLAN FOR
THE IVY

PROPOSED PROJECT
PHG 19-001073.

M

MASTER PLAN



M

MASTER PLAN

EXHIBIT "E"

24681

RECORDING REQUESTED BY:

CITY CLERK, CITY OF ESCONDIDO

WHEN RECORDED MAIL TO:

CITY CLERK
CITY OF ESCONDIDO
201 N. BROADWAY
ESCONDIDO, CA 92025

THIS SPACE FOR RECORDER'S USE ONLY

APN: 229-471-08, 229-471-09, 229-471-10, 229-471-11, 229-471-12, and 229-471-13

Recording Fees Exempt Per Government Code Section 27383

**DEVELOPMENT AGREEMENT
for The Ivy**

between

CITY OF ESCONDIDO

and

TOUCHSTONE MF FUND I, LLC

_____, 2019

DEVELOPMENT AGREEMENT

This Development Agreement ("Agreement") is entered into by and between the City and Owner.

RECITALS

WHEREAS, Government Code Sections 65864 through 65869.5 and Articles 58 and 68 of the City's Zoning Code authorize the City to enter into binding development agreements with persons or entities having legal or equitable interests in real property for the purpose of establishing certainty in the development process for both the City and the property owner, and to enable specific terms regarding property development, to be negotiated and agreed upon; and

WHEREAS, the purposes of the Agreement are to eliminate uncertainty in the planning and development of the Project by assuring Owner that it may develop the Property, in accordance with existing laws, subject to the terms and conditions contained in the Agreement; assure the orderly installation of necessary improvements and the provision for public services appropriate for the development of the Project; and enable the City to obtain substantial public benefits by virtue of the Agreement.

NOW THEREFORE, in consideration of the mutual covenants and conditions set forth herein, the Parties agree as follows:

ARTICLE I

Definitions

1. **"Amendment"** refers to any written amendment to this Agreement approved by the City Council as provided in Article II, Section 3.
2. **"Annual Review"** refers to the Owner's demonstration of compliance with the terms of this Agreement every 12 months.
3. **"Assignee"** refers to an assignee of this Agreement in accordance with Article II, Section 2 and approved by the City in writing.
4. **"CEQA"** refers to the California Environmental Quality Act, California Public Resources Code §§21000 et seq.
5. **"City"** refers to the City of Escondido, its City Council, its mayors and council members, past and present, and employees and agents.

6. **"Cure Period"** refers to the period of time in which a default may be cured, which will be 30 days.
7. **"Development Fees"** refers to the development related fees as provided in the City's Fee Guide for Development Projects Revised 7-2-2018, attached as Exhibit C.
8. **"Director"** refers to the Director of Community Development.
9. **Effective Date.** The effective date of the Agreement shall be the day that is 30 days after the City Council's adoption of an ordinance approving this Agreement.
10. **"Entitlements"** refers to all approvals and permits necessary or incidental to the development of the Project or any portion thereof, whether discretionary or ministerial, including but not limited to, specific plans, tentative or final tract map approvals, whether standard or vesting, conditional use permits, variances, project plans, grading permits, building permits, and this Agreement and includes all conditions of approval regarding any particular Entitlement.
11. **"Exaction"** refers to any fee, tax, requirement, condition, dedication, restriction, or limitation imposed by the City upon the development of the Property at any time in accordance with the Existing Laws.
12. **"Existing Laws"** refers to the ordinances, resolutions, codes, rules, regulations, general plan, stormwater regulations and official policies of the City and the State of California governing the development of the Property, including, but not limited to, the permitted uses of the Property, the density or intensity of use, the design, improvement and construction standards and specifications for the Project, including the maximum height and size of proposed buildings, and the provisions for reservation and dedication of land for public purposes, in effect on the Effective Date of this Agreement.

13. **"Future Exaction"** refers to Exactions imposed after the Effective Date, whether by ordinance, initiative, resolution, rule, regulation, policy, order or otherwise.
14. **"Future Laws"** refers to all ordinances, resolutions, codes, rules, regulations, and official policies implemented by the City after the Effective Date, whether by ordinance, initiative, resolution, rule, regulation, policy, order or otherwise. Future Laws includes changes to the Existing Laws.
15. **"General Fees"** refers to all general development fees which the City may levy pursuant to Government Code Sections 66000 et seq. ("the Mitigation Fee Act"), including, but not limited to, application fees, processing fees, utility connection fees, inspection fees, capital facilities fees, development impact fees, traffic impact fees, park fees and such other similar fees as may be enacted from time to time and generally applied throughout the City, excluding Development Fees.
16. **"General Plan"** refers to the City's General Plan in effect on the Effective Date.
17. **"Minor Modifications"** refers to minor modifications regarding the performance of this Agreement that are consistent with the Entitlements and have minimal impacts to the City's operations in terms of timing, performance, or value.
18. **"Modification"** refers to a modification approved by the City Council as provided in Article VI, Section 5.
19. **"Operating Memorandum"** refers to addenda to this Agreement to document changes or adjustments in the performance of this Agreement as specified in Article III, Section 7.
20. **"Owner"** refers to Touchstone MF Fund I, LLC, a Delaware limited liability company, who has legal or equitable interest in the real property which is the subject of this Agreement.
21. **"Party"** City or Owner may be referred to individually as Party or collectively as Parties.

22. **"Project"** shall mean and refer to all improvements described in the Entitlements and this Agreement.
23. **"Property"** shall mean the certain real property located in the County of San Diego, State of California as described in the Exhibit A.
24. **"Public Benefits"** shall refer to the consideration given by Owner to the City, as described in Exhibit B attached hereto, in return for the City's good faith performance of all applicable terms and conditions in this Agreement.
25. **"Public Improvements"** refers to any public improvements required to be constructed as conditions of approval to the Entitlements or as additionally provided in this Agreement.
26. **"Review Letter"** refers to a letter from the City regarding a statement of Owner's compliance with this Agreement, following a positive Annual Review by the City.
27. **"Term"** shall refer to the term of this Agreement as provided in Article II, Section 1.

ARTICLE II

General Provisions

1. **Term of Agreement.** The term of this Agreement shall commence on the Effective Date and shall continue for five (5) years unless terminated, modified, amended or extended as permitted by this Agreement. After the expiration of the Term, this Agreement shall be deemed terminated and of no further force or effect. This Agreement shall terminate with respect to any lot and such lot shall be released and no longer subject to the Agreement, without the execution or recordation of any further document, when a certificate of occupancy has been issued for the building(s) on the lot.
2. **Assignment.** The rights and obligations of Owner under the Agreement may be assigned by Owner as part of an assignment of the Property, only after receiving written approval from the

City. Owner shall provide thirty (30) days advance written notice to the City of any requested assignment, which may not be unreasonably conditioned, delayed, or withheld. The City shall have the right to ensure that the proposed assignee has the financial capability to complete and fulfill any uncompleted requirements relating to the Public Benefits and Public Improvements. Notwithstanding the foregoing, Owner may assign this Agreement in conjunction with a transfer of the Property without any additional consent to any entity in which Touchstone Communities, LLC or Kerry Garza, has the majority ownership interest of, or directly controls the day to day operations. Any assignment agreement must be in writing and expressly provide that (a) the assignment shall be subject to this Agreement; and (b) the Assignee assumes all of Owner's rights and obligations with respect to the Property, or portion thereof, assigned.

3. **Amendment of Agreement.** The Agreement may be amended in writing by the mutual consent of the Parties in accordance with Article 58, Chapter 33 of the Escondido Zoning Code as well as any applicable state or federal law. The Agreement shall include any amendment properly approved and executed. Minor Modifications in the manner of performance shall not constitute an Amendment to the Agreement and may be accomplished through an Operating Memorandum.

4. **Enforcement.** Unless amended or terminated as provided herein, this Agreement is enforceable by either Party or its successors and assigns, notwithstanding any Future Laws, which alter or amend the Existing Laws.

5. **Defense and Indemnification.**

a. Owner agrees to defend, indemnify, and hold harmless, City, and provide and pay all costs for a defense of and judgment against the City, including any award for attorney's fees and litigation costs, in any legal action filed in a court of competent jurisdiction by a third party challenging the Project, or any component thereof, or this Agreement. Upon the Effective Date,

the Owner shall deposit security, such as a bond, letter of credit, or other security to cover the costs of any such defense in a reasonable amount as determined by the City of Escondido City Attorney. Said security may be released after all applicable statutes of limitation have expired.

b. Owner shall further indemnify, defend and hold harmless the City and its officers, employees and agents from and against any and all liabilities, claims, actions, causes of action, proceedings, suits, administrative proceedings, damages, fines, penalties, judgments, orders, liens, levies, costs and expenses of whatever nature, including reasonable attorneys' fees and disbursements, arising out of any violation, or claim of violation of the San Diego Municipal Storm Water Permit (Order No. R9-2015-0001) of the California Regional Water Quality Control Board Region 9, San Diego, as amended or extended, which the City might suffer, incur, or become subject by reason of or occurring as a result of or allegedly caused by the construction of the Project.

c. The City shall have no liability to the Owner or any other person for, and Owner shall indemnify, defend, protect and hold harmless the City from and against, any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses of whatever nature, including reasonable attorneys' fees and disbursements, which the City may suffer or incur or to which the City may become subject as a result of or allegedly caused by the payment of prevailing wages for construction of the Project or any of the Public Benefits or Public Improvements.

d. If any action or proceeding is brought against the City by reason of any of the matters against which Owner has agreed to indemnify the City as provided above, Owner, upon notice from the City, shall defend the City at Owner's expense by counsel chosen by the City. The City need not have first paid for any of the matters to which the City is entitled to indemnification

in order to be so indemnified. The provisions of this section shall survive the expiration or earlier termination of this Agreement.

6. **Third Party Challenges.** In the event the validity, applicability, or implementation of the Agreement is challenged by means of legal proceedings by any party other than the City and Owner, it shall be the City's option, at its sole and absolute discretion, whether to undertake the defense of such challenge. If the City determines not to defend such challenge, it shall be the option of Owner, to defend the validity, applicability, or implementation of this Agreement in the proceeding at Owner's sole expense. The City and Owner agree to cooperate in the defense of any such challenges.

7. **Notices.** All notices or communication between the City and Owner pursuant to the Agreement shall be in writing and shall be given by personal delivery, overnight delivery service, certified or registered mail, facsimile or telecopy to the addresses set forth below. The addresses may be changed by giving (ten) 10 days written notice.

A. City

City of Escondido
Attention: Director of Community Development
201 N. Broadway
Escondido, CA 92025

with a copy to:

City Attorney
201 N. Broadway
Escondido, CA 92025

B. Owner

Touchstone MF Fund I, LLC
C/O Touchstone Communities, LLC
Attention: Kerry Garza and Addison Garza
9909 Mira Mesa Blvd., Suite 150
San Diego, CA 92131

Phone: (858) 248-4951

with a copy to:

David W. Ferguson, Esq.
Lounsbery Ferguson Altona & Peak, LLP
960 Canterbury Place, Suite 300
Escondido, CA 92025-3836
Phone: (760) 743-1201

8. **Conflict of State or Federal Laws.** If state or federal laws or regulations enacted after the Effective Date prevent compliance with any provision of this Agreement or require changes in any Entitlements, those laws or regulations shall be controlling and the Parties shall make a good faith, reasonable attempt to modify this Agreement to comply both with the intent of the Agreement and with the new laws or regulations.

The City shall timely assist Owner in securing any permits, including permits from other public agencies, which may be required as a result of the modifications, suspensions, or alternate courses of action.

ARTICLE III

Development of the Property

1. **Applicable Rules, Regulations, and Policies.** Owner shall have the vested right, to the fullest extent allowed by law, to develop the Property in accordance with the Entitlements, Existing Laws and this Agreement. During the Term, the Entitlements, Existing Laws and this Agreement shall control the overall design, development and construction of the Project. Notwithstanding the foregoing, nothing in this Agreement shall preclude the City from applying changes occurring from time to time in the uniform codes published in Title 24 of the California Code of Regulations

and adopted by the City, including local amendments, in effect when the building permits are issued.

2. **Future Laws.** Future Laws shall not apply to the Project except as expressly provided in this Agreement. Future Laws may be applied to the Project if they are not in conflict with the Existing Laws. Owner may give the City written notice of its election to have any Future Law applied to the Property, in which case such Future Law will be considered an Existing Law for purposes of this Agreement.

3. **Future Discretionary Reviews.** Except as set forth in this Agreement, the City shall retain its discretionary rights in reviewing applications for Entitlements. Owner's applications for Entitlements and the City's review thereof, must comply with the Existing Laws and with the terms and conditions of this Agreement. The City shall not impose any conditions upon Entitlements that are more restrictive than or inconsistent with the terms of this Agreement or the Existing Laws, except as required by state or federal law. The City may conduct, in accordance with CEQA and the Existing Laws, an environmental review for Entitlements. The City may impose, if required by CEQA, additional mitigation measures to mitigate significant adverse environmental effects that were not previously considered, or were found to be infeasible to mitigate at the time of approval of this Agreement. Nothing herein is intended to require or authorize additional CEQA environmental review or mitigation measures beyond that otherwise required by CEQA.

4. **Permitted Uses and Density.** The Agreement shall vest the right to develop the Property to the fullest extent allowed by law with respect to the permitted uses of land, density and intensity of uses, and the rate or timing and phasing of development as described in the Entitlements which are hereby incorporated as if fully set forth in this Agreement. The permitted uses, density, and intensity of use of the Project, the maximum height and size of proposed buildings and provisions

for reservation or dedication of land for public purposes, shall substantially conform to those specified in the Entitlements, Existing Laws and this Agreement. All other aspects of the Project that are not specified in the Entitlements shall be determined by the Existing Laws, except as expressly provided herein.

5. **Time for Construction and Completion of the Project.** Owner cannot predict when or the rate or the order in which the Property or the parcels will be developed, if at all. Such decisions depend upon numerous factors that are not within the control of the Owner, such as market orientation and demand, interest rates, absorption, completion, and other similar factors. Therefore, Owner shall have the right to develop the Property in phases, in such order, at such rate, and at such times as Owner deems appropriate in Owner's business judgment, subject only to the provisions of this Agreement and the Entitlements. Owner shall be entitled to apply for and receive approval of permits, building permits, and other Entitlements for use at any time and for any or all portions or phases of the Project, provided that application is made in a manner consistent with this Agreement and the Entitlements.

The City may require, and will process, all customary plans and agreements generally applicable to developers in the City for similar works of onsite or offsite improvements.

6. **Moratorium.** No City-imposed moratorium or other limitation (whether relating to the rate, timing or sequencing of the development or construction of all or any part of the Property, whether imposed by ordinance, initiative, resolution, policy, order or otherwise, and whether enacted by the City Council, an agency of the City, the electorate, or otherwise) affecting parcel or subdivision maps (whether tentative, vesting tentative, or final), building permits, occupancy certificates or other entitlements to use or service (including, without limitation, water and sewer) approved, issued or granted within the City, or portions of the City, shall apply to the Property to

the extent such moratorium or other limitation is in conflict with this Agreement; provided, however, the provisions of this Section shall not affect the City's compliance with moratoria or other limitations mandated by other governmental agencies or court-imposed moratoria, as established by the initiative process, or as otherwise established by law.

7. **Operating Memoranda.** The Parties acknowledge that the provisions of this Agreement require cooperation between the City and Owner, and that the refinements and further development of the Project hereunder may demonstrate that changes are appropriate with respect to the details of performance of the Parties hereunder. The Parties desire, therefore, to retain a certain degree of flexibility with respect to those items covered in general terms under this Agreement. If and when, from time to time during the Term, the Parties find that such Minor Modifications are necessary or appropriate, they may effectuate such Minor Modifications through Operating Memoranda approved by the Parties, which, after execution, shall be attached hereto as addenda and become a part hereof, and may be further changed and amended from time to time as necessary with further approval by the City and Owner. No such Operating Memorandum shall require prior notice or hearing, or constitute an amendment or modification to this Agreement; and in the case of the City, such Operating Memorandum may be acted upon by the City Manager or his designee. Failure of the Parties to enter into any such Operating Memorandum shall not affect or abrogate any of the rights, duties or obligations of the Parties hereunder or the provisions of this Agreement. An Operating Memorandum may be recorded as an addendum to this Agreement.

8. **Term of Project Approvals.** The term of each of the Entitlements shall be extended for a period of time through the Term of the Agreement. Should this Agreement be terminated, the Owner shall have thirty (30) days to submit an application for the extension of any of the approved Entitlements.

9. **Infrastructure Capacity.** Subject to Owner's proportionate contribution to infrastructure and the Public Benefits provided by Owner, in accordance with the requirements of the Entitlements, the City hereby acknowledges that it will have sufficient capacity in its infrastructure services and utility systems, including, without limitation, traffic circulation, flood control, sanitation service and, except for reasons beyond the City's control, sewer collection, sewer treatment, water supply, treatment, distribution and service, to accommodate the Project. To the extent that the City renders such services or provides such utilities, the City hereby agrees that it will serve the Project and that there shall be no restriction on connections or service for the Project except for reasons beyond the City's control. Notwithstanding the foregoing, the City acknowledges that sufficient capacity for sewer collection and treatment for the Project exists as of the Effective Date.

10. **Easements.** Easements dedicated for pedestrian use shall be permitted to include public easements for underground improvements, including but not limited to, drainage, water, sewer, gas, electricity, telephone, cable and other utilities and facilities, so long as they do not unreasonably interfere with pedestrian use.

11. **Public Benefits and Improvements.** Owner agrees to design and construct the improvements as provided in the Entitlements and provide the Public Benefits as described in Exhibit B. These requirements shall survive the termination of this Agreement. However, should the Project be abandoned and an entirely new project applied for, the foregoing requirements shall terminate.

12. **Fees.** The Owner shall pay the Development Fees in the amounts specified in the Fee Guide, attached as Exhibit C. The Owner shall pay the General Fees in the amounts applicable at

the time of building permit issuance. The payment of Development Fees and General Fees may be deferred in accordance with City requirements separately from this Agreement.

ARTICLE IV

Provision of Public Benefits

1. **Description of Public Benefits.** Owner shall provide the City with the Public Benefits, as further described in Exhibit B, as consideration for the City's good faith performance of all applicable terms and conditions in this Agreement and Exhibit B.
2. **Occupancy Contingent on Construction of Public Improvements.** Owner acknowledges that the City shall not grant a certificate of occupancy for any building constructed on the Property prior to the construction of all Public Improvements. This contingency for occupancy shall survive the termination of this Agreement.
3. **Grading Permit Contingent on Security for Public Benefits.** Prior to issuance of a grading permit, Owner must enter into an improvement agreement or agreements which will detail Owner's construction obligations for Public Improvements and the Public Benefits, and will require Owner to provide financial security for completion of construction, in a form or forms as approved by the City Attorney.
4. **Processing During Third Party Litigation.** The filing of any third party lawsuit(s) against the City or Owner relating to this Agreement, any Entitlements, or to other development issues affecting the Property shall not delay or stop the development, processing or construction of the Project or approval of Entitlements, unless the third party obtains a court order preventing the activity, in which case the term of this Agreement shall be tolled for the duration of the legal action and the expiration date of the Agreement shall be extended by the time during which the term is tolled.

ARTICLE V

Annual Review

1. **Owner Responsibilities.** At least every twelve (12) months during the Term, Owner shall demonstrate good faith substantial compliance with the major provisions of the Agreement and provide, to the best extent possible, the status and timing of development of the Project and related public improvements to the City for an Annual Review. If requested by the City, Owner shall provide any additional detail or information necessary to demonstrate good faith compliance with any particular provision of this Agreement identified by the City.
2. **Opportunity to be Heard.** Owner shall be permitted an opportunity to be heard orally and in writing at any noticed public hearing regarding its performance under this Agreement. Owner shall be heard before each appropriate board agency or commission and the City Council at any required public hearing concerning a review of performance under this Agreement.
3. **Information to be Provided to Owner.** The City shall mail to Owner a copy of staff reports and related exhibits concerning Agreement performance, a minimum of ten (10) calendar days prior to consideration and review by the City Council.
4. **Annual Review Letter.** If Owner is found to be in substantial compliance with this Agreement after the Annual Review, the City shall issue, upon written request by Owner, a Review Letter to Owner stating that, based upon information known or made known to the City Council, the City Planning Commission, and/or the City Manager, this Agreement remains in effect and Owner is in compliance. Owner may record the Review Letter in the Official Records of the County of San Diego.

5. **Failure of Annual Review.** The City's failure to perform an Annual Review of Owner's substantial compliance with the terms and conditions of the Agreement shall not constitute or be asserted as a default by Owner.

ARTICLE VI

Delay, Default, Remedies, and Termination

1. **Notice and Cure of Default.** In the event of a material default, the Party alleging a default shall give the defaulting Party a notice of default in writing. The notice of default shall specify the nature of the alleged material default. During the Cure Period, the Party charged shall not be considered in breach. If the default is cured within the Cure Period, then no breach shall be deemed to exist. Any notice given pursuant to the preceding sentence shall specify the nature of the alleged failure and, where appropriate, the manner in which such alleged failure satisfactorily may be cured.

2. **Waiver.** Failure or delay in giving notice of default shall not constitute a waiver of any other material default. Except as otherwise expressly provided in this Agreement, a failure or delay in asserting any rights or remedies as to any default shall not operate as a waiver of any default or of any rights or remedies otherwise available to a Party or deprive a Party of the right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any rights or remedies it may have.

3. **Default by Owner.** The Director may recommend the review and termination of this Agreement to the City Council upon an occurrence of a material default that is not cured within the Cure Period. The foregoing does not limit any of the City's other remedies upon a material breach of this Agreement by the Owner.

4. **Default by the City.** Upon a material default by the City, that is not cured within the Cure Period, Owner, without limiting any of its other remedies, shall not be obligated to complete any of its obligations under this Agreement.

5. **Termination or Modification.** Any termination or modification of this Agreement shall be done in accordance with Article 58, Chapter 33 of the Escondido Zoning Code as well as any applicable state or federal law. Owner shall have sixty (60) days from the Effective Date to sign the Agreement or the Agreement shall automatically expire.

ARTICLE VII

Encumbrances and Releases on Property

1. **Discretion to Encumber.** This Agreement shall not prevent or limit Owner, in any manner, from encumbering the Property or any portion of the Property or any improvement on the Property by any mortgage. The City acknowledges that lenders providing financing may require modifications to this Agreement and the City agrees, upon request, from time to time, to meet with Owner and/or representatives of lenders to negotiate in good faith any lender request for modification provided any modification does not will not affect the timely completion or fulfillment of any requirements in the Entitlements or this Agreement relating to the Public Benefits.

ARTICLE VIII

Miscellaneous Provisions

1. **Rules of Construction.** The singular includes the plural; the masculine gender includes the feminine; "shall" is mandatory; "may" is permissive.

2. **Severability.** If any non-material provision of this Agreement shall be adjudged by a court of competent jurisdiction to be invalid, void, or illegal, it shall in no way affect, impair, or

invalidate any other provision of this Agreement. If any material part of the Agreement is adjudged by a court of competent jurisdiction to be invalid, void, or illegal, the Parties shall take all steps necessary to modify the Agreement to implement the original intent of the Parties in a valid and binding manner. These steps may include the waiver by either of the Parties of their right under the unenforceable provision. If, however, this Agreement objectively cannot be modified to implement the original intent of the Parties and the Party substantially benefited by the material provision does not waive its rights under the unenforceable provision, the executory portions of the Agreement shall become void.

3. **Entire Agreement.** Except as expressly referred to herein, this Agreement constitutes the entire understanding and agreement of the Parties with respect to the subject matter of this Agreement. This Agreement supersedes all other negotiations and previous agreements between the Parties with respect to that subject matter.

4. **Waivers.** All waivers of the provisions of this Agreement must be in writing and signed by the appropriate agents of the City or of Owner.

5. **Recording.** The City Clerk shall cause a copy of this Agreement to be recorded with the Office of the County Recorder of San Diego County, California within (ten) 10 days following the Effective Date. Upon the completion of performance of this Agreement or its revocation or termination, a statement evidencing completion, revocation, or termination signed by the appropriate agents of Owner and the City shall be recorded in the Official Records of San Diego County, California.

6. **Project as a Private Undertaking.** It is specifically understood by the Parties that the Project is a private development and that Owner shall have the full power and exclusive control of

the Property subject to the provisions of this Agreement. Any improvements completed remain the property of the Owner unless the City has explicitly accepted any improvement.

7. **Captions.** The captions of the Agreement are for convenience and reference only and shall not define, explain, modify, construe, limit, amplify or aid in the interpretation, construction or meaning of any of the provisions of the Agreement.

8. **Consent.** Where the consent or approval of a Party is required or necessary under this Agreement, the consent or approval shall not be withheld unreasonably.

9. **The City's Ongoing Statutory Authority.** Except as expressly stated, nothing in this Agreement shall limit the City's authority and responsibility under the California Constitution and applicable California statutes to act in the best interests of the public health, safety, and welfare, and nothing in this Agreement is intended to limit in any way the legislative discretion otherwise afforded the Escondido City Council under state or federal law.

10. **Covenant of Cooperation.** The Parties shall cooperate with and assist each other in the performance of the provisions of the Agreement including assistance in obtaining permits for the development of the Property which may be required from public agencies other than the City. The covenant of cooperation shall include, to the maximum extent permitted by law, that the City shall use its best efforts to prevent any ordinance, measure, moratorium or other limitation from invalidating, prevailing over or making impossible any provision of the Agreement, and the City shall cooperate with Owner to keep this Agreement in full force and effect. Owner reserves the right to challenge any such ordinance, measure, moratorium, or other limitation in a court of law if it becomes necessary to protect the development rights vested in the Property pursuant to this Agreement.

11. **Further Actions and Instruments.** Each of the Parties shall cooperate with and provide reasonable assistance to the other in the performance of all obligations under this Agreement and the satisfaction of the conditions. Upon the request of either Party, the other Party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement to carry out the intent and to fulfill the provisions of the Agreement or to evidence or consummate the transactions contemplated herein.

12. **Successors and Assigns.** Subject to Article II Section 2 above, the burdens of this Agreement shall be binding upon, and the benefits of this Agreement inure to, all successors-in-interest and assigns of the Parties.

13. **Time of the Essence.** Time is of the essence of this Agreement and of each and every term and condition hereof.

14. **Applicable Laws.** This Agreement shall be construed and enforced in accordance with the laws of the State of California. All statutory references are to California statutes.

15. **No Waiver of Existing Rights or Applicable Laws.** This Agreement shall not constitute a waiver of any of Owner's existing rights or applicable laws, nor shall it limit or expand Owner's right to challenge any General Fee as being contrary to applicable law or to challenge any existing or Future Exaction as being in excess of Exactions permitted by applicable law.

16. **Authorization.** Each person executing this Agreement hereby warrants and represents that he/she has the authority to enter into this Agreement and to bind his/her respective entity to the provisions hereof. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original.

17. **No Third Party Beneficiaries.** This Agreement and each and every provision hereof is for the exclusive benefit of the Parties hereto and not for the benefit of any third party.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the Parties have executed this Agreement:

CITY OF ESCONDIDO

CITY OF ESCONDIDO

By: _____
Paul McNamara
Its: Mayor

By: _____
Diane Halverson
Its: Clerk

By: TOUCHSTONE MF FUND I, LLC, a Delaware limited liability company

By: TOUCHSTONE COMMUNITIES, LLC, a California limited liability company

Its: Manager

By: _____

Its: Manager

APPROVED AS TO FORM:

CITY OF ESCONDIDO

OFFICE OF THE CITY ATTORNEY
MICHAEL R. MCGUINNESS, City Attorney

By: _____

TOUCHSTONE MF FUND I, LLC

By: _____
David W. Ferguson
Attorney for Owner

Exhibit A

LEGAL DESCRIPTION

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

PARCEL A:

LOTS 7 THROUGH 11, INCLUSIVE, IN BLOCK "Q" ESCONDIDO, IN THE CITY OF ESCONDIDO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 336, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JULY 10, 1886, TOGETHER WITH THAT PORTION OF IVY STREET, FORMERLY CURVE STREET, ADJOINING SAID LOTS ON THE EAST WHICH LIES WESTERLY OF A LINE WHICH IS PARALLEL WITH AND 25.00 FEET WESTERLY FROM THE ORIGINAL CENTER LINE OF SAID IVY STREET, FORMERLY CURVE STREET, AS VACATED AND CLOSED TO PUBLIC USE BY ORDINANCE NO. 193 OF THE BOARD OF TRUSTEES OF THE CITY OF ESCONDIDO, A CERTIFIED COPY OF WHICH WAS RECORDED IN BOOK 751, PAGE 337 OF DEEDS. EXCEPTING THEREFROM, THAT PORTION DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWESTERLY CORNER OF SAID LOT 7; THENCE ALONG THE NORTHWESTERLY LINE THEREOF NORTH 59°16'20" EAST, 4.00 FEET; THENCE SOUTH 20°52'44" EAST, 23.38 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF SAID LOT 7; THENCE ALONG SAID SOUTHWESTERLY LINE NORTH 30°43'40" WEST, 23.04 FEET TO THE POINT OF BEGINNING. ALSO EXCEPTING THEREFROM, THAT PORTION DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEASTERLY CORNER OF SAID LOT 7; THENCE ALONG THE NORTHEASTERLY PROJECTION OF THE NORTHWESTERLY LINE OF SAID LOT 7, NORTH 59°16'20" EAST, 18.54 FEET TO A POINT ON A LINE WHICH IS PARALLEL TO AND 25.00 FEET WESTERLY OF THE CENTERLINE OF SAID IVY STREET, BEING A NON-TANGENT CURVE CONCAVE EASTERLY HAVING A RADIUS OF 704.29 FEET; THENCE ALONG SAID PARALLEL LINE FROM A TANGENT BEARING SOUTH 5°41'08" WEST, THROUGH A CENTRAL ANGLE OF 3°04'25" AN ARC DISTANCE OF 37.78 FEET TO A CUSP WITH A 20.00 FOOT RADIUS CURVE, CONCAVE SOUTHWESTERLY; THENCE ALONG SAID CURVE FROM A TANGENT BEARING NORTH 2°36'43" EAST, THROUGH A CENTRAL ANGLE OF 123°20'23" AN ARC DISTANCE OF 43.05 FEET TO A POINT OF TANGENCY WITH SAID NORTHWESTERLY LINE OF LOT 7; THENCE ALONG SAID NORTHWESTERLY LINE NORTH 59°16'20" EAST, 19.77 FEET TO THE POINT OF BEGINNING.

PARCEL B:

LOT 12 IN BLOCK "Q" OF ESCONDIDO, IN THE CITY OF ESCONDIDO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO.

336, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JULY 10, 1886. ALSO, THE WEST 15 FEET OF IVY STREET, FORMERLY CURVE STREET, ADJOINING SAID LOT 12 ON THE EAST, AS VACATED AND CLOSED TO PUBLIC USE BY ORDINANCE NO. 193 OF THE BOARD OF TRUSTEES OF THE CITY OF ESCONDIDO, A CERTIFIED COPY OF WHICH WAS FILED IN THE COUNTY RECORDER'S OFFICE IN BOOK 751, PAGE 337 OF DEEDS.

APN: 229-471-09-00 and 229-471-12-00 and 229-471-13-00 and 229-471-10-00 and 229-471-11-00 and 229-471-08-00

Exhibit B

I. PUBLIC BENEFITS AND PUBLIC IMPROVEMENTS

- A. **KIT CARSON BALLPARK.** Owner shall pay the City \$300,000 for the City's use towards Kit Carson ballpark improvements. Said payment shall be made within ninety (90) days of the first issuance of a building permit for the Project.
- B. **CONTRIBUTIONS TO TRANSFER PROGRAM.** Owner has contributed a total of \$38,130 for the City's analysis and establishment of a Density Transfer Program for the City's Downtown Specific Plan area, including payments for City staff time and for the preparation of the Density Transfer Program CEQA environmental document.

II. DENSITY TRANSFER FROM CITY DENSITY TRANSFER PROGRAM

- A. **DENSITY TRANSFER.** The City will transfer 24 units of density from the City Density Credit Pool, established by the City's Density Transfer Program.
- B. **CALCULATION OF DENSITY BONUS.** Any density bonus shall be calculated based on the 76 units as provided in the Downtown Specific Plan and will not include any transferred density in the calculation.

III. TEMPORARY USE OF CITY RIGHT OF WAY

- A. Owner shall be granted temporary exclusive use of a portion of the parking lane on 2nd Avenue and South Ivy Street during construction, subject to City approval and any terms and conditions of an encroachment permit. Owner's use of these areas is required for the construction of the Project, the completion of City required Public Improvements to 2nd Avenue, and Public Improvements to South Ivy Street, as depicted in the Project Entitlements.

Exhibit C

| **Class 32 CEQA Exemption**

The Ivy Project

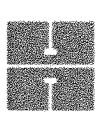
May 2019

Prepared for:



**City of Escondido
Planning Division
201 N. Broadway
Escondido California 92025
Contact: Peggy Chapin
(760) 717-1300**

Prepared by:



Harris & Associates

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Section 1 **Project Description**

1.1 Project Summary

1. **Project Title:** The Ivy

2. **Lead Agency Name and Address:**
City of Escondido
Planning Division
201 North Broadway
Escondido, California 92025

3. **Contact Person and Phone Number:**
Peggy Chapin
(760) 717-1300

4. **Project Location:**
343 East 2nd Avenue, west side of Ivy Street
Assessor's Parcel Numbers 229-471-08,-09,-10,-11,-12, and -13

5. **Project Sponsor's Name and Address:**
Touchstone Communities
9909 Mira Mesa Boulevard, Suite 150
San Diego, California 92131

6. **Existing General Plan Designations:**
S-P-9

7. **Existing Zoning:**
SPA#9

8. **Requested Permits:** The applicant seeks approval of applications for a Planned Development (Master and Precise Development Plans) and Tentative Subdivision Map from the City of Escondido (City).

1.2 Existing Setting and Neighboring Land Uses

The 1.002-acre site of The Ivy (project) is a nearly rectangular-shaped site that is located on the west side of South Ivy Street, between East 2nd and East 3rd Avenues, in the City of Escondido, California (Figure 1, Regional Location, and Figure 2, Project Site). Topographically, the project site generally slopes downward toward the west. Elevations range from about 687 feet at the

southeast corner of the site to approximately 664 feet at the northwest corner. The site is currently vacant, disturbed, and has been cleared of all structures and vegetation.

The project site is located in the developed and urban area of downtown Escondido. According to the Downtown Specific Plan, the project site lies within the Historic Downtown District. Immediately surrounding land uses to the project site consist of multi-family residential and commercial uses to the south and east and commercial and residential uses to the north and west. Types of commercial uses surrounding the project site include restaurants, retail shops, office spaces, museums, and a library. Directly east of the project site are an office building and residential uses consisting of multi-family residential units. Single-family residences are located further to the east and south of the project site.

1.3 Description of Project

The project proposes to construct a five-story mixed-use building that includes 127 residential units for rent including 11 units for Very Low Income Households, 1,175 square feet of commercial space, underground parking, an outdoor common area with pool, and other amenities on a 1.002-acre site between East 2nd Avenue and East 3rd Avenue, west of South Ivy Street and east of an alley (Figure 3, Proposed Site Plan). The project would construct a single five-story building totaling 187,808 square feet, containing a mix of residential and commercial uses with two levels of parking below. The parking levels would be stair-stepped with changing grade, with the lowest level below only the northern portion of the building. The proposed building would be 63 feet above average grade in height. The building would be constructed per the requirements of the California Building Code (CBC) that is in effect at the time building plans are submitted for permit approvals (including CALGreen requirements). Access to the proposed parking garage would be from a one-way southbound alley between East 2nd and East 3rd Avenues.

The Density Bonus Law (found in California Government Code, Sections 65915–65918) encourages the development of affordable and senior housing, by affording applicants/developers with up to a 35 percent increase in project densities, depending on the amount of affordable housing provided. The amount of the density bonus is based upon the percentage of affordable units provided at each income level. The project would reserve 11 percent of 76 base units for Very Low Income Households. Providing this amount of affordable housing units would qualify the project for a density bonus of 35 percent over the maximum allowable density. In addition, the Density Bonus Law allows for the waiver or reduction of 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.

The project requests a waiver to development standards identified in the Downtown Specific Plan, Chapter III, Section B. The project requests a waiver to building height requirement to

allow for a building height of 63 feet and five stories as opposed to a maximum height limit of 60 feet and four stories to accommodate the number of units proposed. The project also requests a reduction in the street side setback requirement along 2nd Avenue of 1.9 feet to accommodate a new bike lane. Finally, the project also proposes a modification to allow 171 square feet of open space per unit as opposed to 300 square feet per unit as required in the Downtown Specific Plan, Chapter III, Section B.

In addition, the project seeks the approval of a Planned Development (Master and Precise Development Plans). This permit implements the Planned Development (P-D) zone pursuant to Article 19 of the Zoning Code. Under the Planned Development permit, the project would request parking modifications to allow for 27 percent of parking spaces to be in a tandem configuration instead of 25 percent and allow the 24 required guest parking spaces to be along the proposed one-way South Ivy Street frontage instead of on site within the proposed parking garage.

Project Components

Proposed Residential Units. The project would construct a five-story mixed use building that includes 127 residential units for rent, for a total of 98,193 square feet of residential space. The residential unit mix would include 8 studios, 59 one-bedroom units, and 60 two-bedroom units. The residential component would include 9 units reserved for Very Low Income Households. A 65-square-foot (average) private balcony space would be provided with each unit. All units would provide heat and air conditioning. The heating, ventilation, and air conditioning (HVAC) units would be located on the roof. The first floor would consist of a 1,045-square-foot leasing office with a lobby and mailroom for residents.

Proposed Commercial Use. The project proposes 1,175 square feet of commercial space on the first floor. The commercial space would front 2nd Avenue and could be used for restaurant, retail or office space.

Proposed Architectural Design. The proposed building materials would incorporate stucco and finish with metal siding and precision block. The main body colors of the building materials would be white, tan, light and dark grey stucco, and light grey metal siding (Figure 4a, Project Perspective from South Ivy Street and East 2nd Avenue, and Figure 4b, Project Perspective from 2nd Avenue and the Alley).

Important architectural features include:

- A diversity and harmony of roof heights
- A variety of building materials including stucco, metal siding, and metal rails
- Alternating earth tones with maroon accents at pedestrian entry points
- Stucco expansion joints, decorative eyebrows, and stucco with foam trim around the windows

Open Space Common Areas and Private Areas. The project would provide four open space common areas totaling approximately 13,453 square feet. The largest area would be approximately 4,656 square feet that would include a community pool and spa; lounge and gas fire pits; artificial turf area; bar with gas fire pit feature; barbeque grills; and cabanas (Figure 5, Landscape Concept Plan). The community pool and spa would have set hours of 8:00 a.m. to 8:00 p.m. There would be approximately 3,646 square feet of common area at grade. A separate 1,746 square feet open courtyard area would provide a lounge area with a gas fire pit and water feature. The project would also include a 2,670-square-foot indoor community area consisting of a fitness center and restrooms, club room and media room on the first floor of the building.

A 735-square-foot rooftop deck would also be provided at the northwestern corner of the building and would be limited to passive seating areas with a 49 maximum occupant requirement. At night the rooftop deck would be illuminated with low-level lighting pointing towards the building.

In addition to the common open space areas, the project would include one private balcony for each residential unit (65 square feet/unit on average) for a total of 8,271 square feet of private open space. Combined common and private open space areas would total 21,724 square feet of open space or an average of 171 square feet per residential dwelling unit.

Vehicular Access and Parking. Vehicular access to the proposed parking garage would be from the 20 foot wide alley between East 2nd Avenue and East 3rd Avenue along the western site boundary. The project would change the alley from its existing two-way configuration to a one-way southbound configuration that would be accessed from East 2nd Avenue.

The project would provide a total of 184 on-site and off-site parking spaces. The proposed 62,473-square-foot parking garage would provide two stories of parking with one story below grade and would include 157 spaces for project residents. Of the 157 spaces in the parking garage, 26 would be tandem parking spaces. The parking garage would designate four accessible spaces and five electric vehicle (EV) charging spaces. The proposed parking garage would also provide a private bicycle storage area on the first parking level.

In addition, 27 off-site parking spaces would be constructed fronting the project site along South Ivy Street and East 3rd Avenue. Included in the 27 off-site parking spaces would be two accessible parallel spaces and one public EV charging space that would be provided along South Ivy Street.

Adjacent Roadway and Project Frontage Improvements. The project would include the following adjacent roadway improvements that would be implemented simultaneously with on-site construction activities to ensure adequate access to the project site and safety for vehicles and pedestrians. The project has been designed to accommodate the construction of a new Class II bicycle lane along its East 2nd Avenue frontage as a project design feature.

The project would make improvements to the existing 80-foot wide right-of-way (ROW) on East 2nd Avenue. The roadway currently provides three eastbound vehicle lanes. As part of the project, the two existing outside (north and south) vehicle through lanes on East 2nd Avenue would be reduced in width from 12 feet (existing) to 11 feet (proposed) and the existing sidewalk along the project frontage would be narrowed from 14 feet (existing) to 10 feet (proposed). The width reductions would allow for the striping of a new 6-foot wide bike lane between the southern outside vehicle lane and the existing parallel parking spaces adjacent to the sidewalk. The project would also remove and reconstruct the existing curb, gutter and sidewalk along the East 2nd Avenue project frontage. An enhanced bulb out would also be constructed at the intersection of East 2nd Avenue and South Ivy Street to reduce traffic speeds and increase pedestrian safety.

The project also proposes improvements to the existing 55-foot-wide ROW within South Ivy Street to convert the existing two-way street into a one-way southbound street with angled and parallel parking fronting the project site. The existing 11.5 foot southbound travel lane and adjacent 8 foot parallel parking lane would be converted to a new 17 foot angled parking lane. The existing 11.5 foot northbound travel lane and adjacent 8 foot parallel parking lane would be converted to a 22 foot southbound lane. A fire lane/short-term loading zone and two 8 foot wide accessible parallel parking stalls would be located directly in front of the building's main entrance on South Ivy Street. Fire hydrants would be located near each of the four corners of the building. Existing hardscape areas on South Ivy Street would be removed and replaced with planter islands where changes to parking angles are proposed. A proposed bulb out, along with a "Do Not Enter/Wrong Way" sign would be constructed at the intersection of East 3rd Avenue and South Ivy Street to deter traffic from heading northbound on South Ivy Street. Finally, the project would remove the existing non-contiguous sidewalk, curb and gutter along South Ivy Street and East 3rd Avenue and would replace it with a contiguous sidewalk, curb and gutter.

Stormwater Features. A 4- to 8-foot wide biofiltration basin would be constructed along the length of the western project frontage with the alley. Run-off from the roof would be collected via roof drains and discharged into the biofiltration basin. In addition, the project would construct a second biofiltration basin at the intersection of East 2nd Avenue and the alley to meet the pollutant control and flow control standards required by the City's Standard Urban Stormwater Mitigation Plan (SUSMP).

Landscaping. The on-site landscaping for the project would consist of trees, shrubs and ground covers with moderate to low water requirements (see Figure 5). The biofiltration basins described in the Stormwater Features section above would be planted with various sedges (flowering plants) and grasses. All plantings and irrigation equipment would conform to the City Article 62 Landscape Standards as well as the water budget requirements.

The project would also include off-site landscaping. Six trees would be installed within the proposed sidewalk planting area adjacent to East 2nd Avenue, and five trees would be installed within the proposed sidewalk planting area adjacent to East 3rd Avenue. Along South Ivy Street, 16 street trees would be planted within the linear planted sidewalk area as well as several planted parking islands adjacent to the street curb. Accent trees of the palm species would be installed at the project's two street intersections at East 2nd Avenue/South Ivy Street and East 3rd Avenue/South Ivy Street. The enhanced bulb-out proposed at the intersection of East 2nd Avenue and South Ivy Street would be landscaped with low-water-use shrubs and ground cover. The proposed tree species would conform to the City's Approved Street Tree List.

Utilities. The project's sewer and water laterals would connect to the City's public main pipelines. The project would add an 8-inch polyvinyl chloride (PVC) water main in East 3rd Avenue between South Ivy Street and the adjacent alley to support the fire flow demands of the project. Overhead utilities along the project's frontage on East 3rd Avenue and South Ivy Street would be undergrounded as part of the project.

Retaining Walls, Fencing, and Guardrails. Retaining walls would be built along the project's frontage with South Ivy Street and the alley. A proposed retaining wall along the southeasterly property boundary at South Ivy Street would serve as grade separation between the existing elevations of the public rights-of-way (ROW) and the proposed finish grade outside the building. The proposed retaining wall along South Ivy Street would be a maximum exposed height of 4.6 feet when viewed from the project and less than 1 foot when viewed from South Ivy Street. The proposed retaining wall along the adjacent alley would be constructed between the proposed biofiltration basin and the paved alley ROW with an exposed height of 0.5–4.2 feet. The retaining wall in the alley would be a masonry retaining wall with tan stucco finish.

Recycling and Trash Enclosures. One trash enclosure would be provided within the proposed parking garage and would be accessed from the adjacent alley on the western boundary of the project site. An 8 foot roll-up door for the trash bins would be provided along the garage wall at the alley. Floor drains and a water source hose bib would be included in the trash enclosure for maintenance. The concrete would be sloped and the drains would be tied to the sewer system to avoid pollutant runoff into Escondido Creek.

Heating and Ventilation Systems. Heating, ventilation, and air conditioning (HVAC) units would be installed on the project rooftop. The HVAC units for the project would be installed in five clusters with 24 to 41 units in each cluster for a total of 142 units. Clusters would be set back from the edge of the rooftop by 20 feet or more at all locations. HVAC equipment would be installed on

mechanical pads with visual screening and acoustical enclosures such that noise from HVAC operation does not exceed 50 dBA at the nearest off-site receptor¹ (Figure 6, The Ivy Roof Plan).

Project Design Features

The following design features have been incorporated into the project that would reduce the potential for impacts associated with these issues.

Noise

The following project design features (PDF) would be implemented by the project to comply with the City's Noise Ordinance:

PDF-NOI-1. Construction equipment shall be properly outfitted and maintained with manufacturer recommended noise-reduction devices.

PDF-NOI-2. Diesel equipment shall be operated with closed engine doors and equipped with factory recommended mufflers.

PDF-NOI-3. Mobile or fixed "package" equipment (e.g., arc welders and air compressors) shall be equipped with shrouds and noise-control features that shall be readily available for this type of equipment.

PDF-NOI-4. Electrically powered equipment shall be used instead of pneumatic or internal-combustion-powered equipment where feasible.

PDF-NOI-5. Unnecessary idling of internal combustion engines (e.g., in excess of 5 minutes) shall be prohibited.

PDF-NOI-6. Material stockpiles and mobile equipment staging, parking, and maintenance areas shall be located as far as practicable from noise-sensitive receptors.

PDF-NOI-7. The use of noise-producing signals, including horns, whistles, alarms, and bells, shall be for safety warning purposes only.

PDF-NOI-8. No project-related public address or music system shall be audible at any adjacent noise-sensitive receptor.

PDF-NOI-9. A temporary sound barrier shall be installed along the length of the alley on the northwestern boundary of the project site between construction operations and adjacent receptors. Due to equipment exhaust pipes being approximately 7–8 feet above ground, a sound wall at least

¹ Project-specific HVAC specifications are currently unknown. Based on noise levels estimated for a similar project, it is anticipated that enclosures providing at least a 4 dBA noise reduction would be required. Final design and barrier installation would be verified by a qualified acoustical engineer.

10 feet in height above grade would mitigate noise levels to within acceptable levels. To reduce noise levels effectively, the sound barrier shall be constructed of a material, most likely plywood, with a minimum weight of 2 pounds per square foot with no gaps or perforations, and remain in place until the conclusion of demolition, grading, and construction activities. The final design would be as recommended by the noise study completed by a qualified acoustical consultant and included on the building plans for review by City staff.

PDF-NOI-10. The applicant or contractor shall notify residences within 100 feet of the project's property line in writing within 1 week of any construction activity such as concrete sawing, asphalt removal, or heavy grading operations. The notification shall describe the activities anticipated, provide dates and hours, and include contact information with a description of a complaint and response procedure.

PDF-NOI-11. The on-site construction supervisor shall have the responsibility and authority to receive and resolve noise complaints. A clear appeal process for the affected resident shall be established prior to construction commencement to allow for resolution of noise problems that cannot be immediately solved by the site supervisor.

PDF-NOI-12. Prior to issuance of a building permit, as a condition of project approval, the applicant would prepare an additional exterior-to-interior noise report completed by a qualified acoustical consultant for the proposed on-site residences that would face East 2nd Avenue. The report would be submitted with the building plans. The information in this report would include wall heights and lengths, room volumes, and window and door tables typical for a building plan, as well as information on any other openings in the building shell. The report shall also assume a "windows-closed" condition and that vehicles on East 2nd Avenue are traveling at 30 miles per hour. With this specific building plan information, which is not currently available, the report would determine the predicted interior noise levels at the planned on-site buildings. If predicted noise levels are found to be in excess of 45 CNEL, the report would identify architectural materials or techniques that could be included in project design plans to reduce noise levels to 45 CNEL in habitable rooms. Standard measures such as glazing with Sound Transmission Class (STC) ratings from a STC 22 to STC 60, as well as walls with appropriate STC ratings (34 to 60), should be considered. The report would be submitted and approved by the City prior to the issuance of a building permit.

Cultural Resources

The San Luis Rey Band of Mission Indians has requested monitoring during construction as a result of consultation under Assembly Bill (AB) 52. Therefore, to comply with AB 52, the following project design features would be made conditions of project approval:

PDF-CR-1. The 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 (TCA) with the project location (i.e., 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 project, including additional archaeological surveys and/or studies, excavations, geotechnical investigations, grading, and all other ground disturbing activities.

PDF-CR-2. 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 has 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 confirming that the selected Native American monitor is associated with a TCA Tribe. Prior to any pre-construction meeting, the City shall approve all persons involved in the monitoring program.

PDF-CR-3. 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, in addition to reviewing the grading plan to assist in determining the necessity of the Luiseño Native American monitor and archaeological monitor's presence.

PDF-CR-4. During the initial grubbing, site grading, excavation (including post-demolition activities to assess the condition of the subsurface stratigraphy), or disturbance of the ground surface, the qualified archaeologist and the Native American monitor shall be on site where deemed appropriate and necessary by the archaeologist and Luiseño Native American monitor. If imported fill materials, or fill used from other areas of the project site, are to be incorporated at the project site, then those fill materials shall be absent of any tribal cultural resources. The frequency of inspections shall depend on the rate of excavation, the materials excavated, and any discoveries of tribal cultural resources as defined in PRC Section 21074.

PDF-CR-5. 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 operations in the area of discovery to allow for evaluation of potentially significant cultural resources. Isolates and clearly non-significant deposits shall be minimally documented in the field and collected so that the monitored grading can proceed.

PDF-CR-6. 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 treatment and disposition of the tribal cultural resource shall be made by the qualified archaeologist in consultation with the TCA Tribe and the Native American monitor, and shall be submitted to the City for review and approval.

PDF-CR-7. The avoidance and/or preservation of the significant tribal cultural resource and/or unique archaeological resource must first be considered and evaluated under 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, 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 qualified archaeologist, 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.

PDF-CR-8. In accordance with CEQA, all tribal cultural resources shall be treated with culturally appropriate dignity. If the qualified archaeologist elects to collect any tribal cultural resources, the Native American monitor must be present during the collection and cataloging of those resources. Moreover, if the qualified archaeologist does not collect the tribal 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. It is the preference of the City that all tribal cultural resources be repatriated to the TCA Tribe, as such preference would be the most culturally sensitive, appropriate and dignified. Therefore, any tribal cultural resources collected by the qualified archaeologist shall be provided to the TCA Tribe. Evidence that all cultural materials collected have been repatriated shall be in the form of a letter from the TCA Tribe to whom the tribal cultural resources have been repatriated identifying that the archaeological materials have been received.

Or,

Any tribal cultural resources collected by the qualified archaeologist shall be curated with its associated records at a San Diego curation facility or a culturally affiliated Tribal curation facility that meets federal standards per 36 CFR Part 79, and, therefore, would be professionally curated and made available to other archaeologists/researchers for further study. The collections and associated records, including title, shall be transferred to the San Diego curation facility or

culturally affiliated Tribal curation facility and shall be accompanied by payment of the fees necessary for permanent curation. Evidence that all cultural materials collected have been curated shall be in the form of a letter from the curation facility stating that the prehistoric archaeological materials have been received and that all fees have been paid.

PDF-CR-9. Prior to the release of the grading bond, a monitoring report and/or evaluation report, if appropriate, that 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.

Project Construction

Construction of the project is anticipated to begin in 2019 and take approximately 20 months to complete. Site preparation to include grading and shoring would be accomplished first and would take approximately 2 months.

To accommodate the lowest pad, basement level of parking, project would require the excavation to a depth of 12 feet below existing demolition grade (673 feet MSL) to a disturbance depth of 661 feet MSL. The finish floor of basement parking would be 664 feet MSL. The project would involve 10,610 cubic yards (cy) of cut and 10 cy of fill for the underground parking structure, and 220 cy of cut and 520 cy of fill for grading up to the building perimeter. The total export from the project site would be 10,300 cy of materials, which would be disposed of at a permitted facility. Export would involve a total of 17 truck trips per day at 15 cy/trip.

Building construction would last approximately 17–18 months, which includes about 5 months of architectural coating. Equipment expected to be used on site includes construction trucks, material deliveries, concrete trucks, and waste-hauling trucks. Truck sizes would vary based on purpose, but on average, 32 truck trips per day are anticipated during the construction phase.

It is anticipated that construction traffic, especially heavy trucks and materials deliveries, would use the nearest arterial road, which would be the one-way couplet of West Valley Parkway and 2nd Avenue, to gain access to and from the project site. Construction staging would be accommodated on South Ivy Street along the project's easterly frontage within the area of the future off-site angled guest parking (Figure 7, The Ivy Construction Staging Plan). This staging area would be fenced off to protect the public right-of-way from construction activity and would provide adequate width for two-way or eventual proposed one-way circulation on the remainder of Ivy Street. The staging area boundaries would provide an adequate turning radius for emergency vehicles turning on and from South Ivy Street. South Ivy Street would remain open to

traffic during construction. Construction workers would be required to park off site, using on-street parking. In addition, as part of the conditions of project approval, the owner and/or contractor would be required to prepare and implement a construction traffic control plan to the satisfaction of the City Traffic Engineer to avoid construction-related impacts to nearby streets and intersections, especially during peak-hour times.

Also shown on Figure 7 is the location of the temporary sound barrier (PDF-NOI-9). The sound barrier shall be constructed of a material, most likely plywood, with a minimum weight of two pounds per square foot with no gaps or perforations and remain in place until the conclusion of demolition, grading, and construction activities.

Section 2 Categorical Exemption Criteria

Article 19 of the California Environmental Quality Act (CEQA Guidelines, Sections 15300–15333), includes a list of classes of projects that have been determined to not have a significant effect on the environment and as a result, are exempt from review under CEQA. The analysis contained in this document provides substantial evidence that The Ivy project qualifies for an exemption pursuant to CEQA Guidelines, Section 15332, as a Class 32 in-fill development project, and would not have a significant effect on the environment.

In summary, this document demonstrates that the project qualifies for an exemption under CEQA Guidelines, Section 15332, as an infill development project as it: (1) is consistent with the General Plan designation and policies and Zoning regulations; (2) is located within the City limits, surrounded by urban uses and is less than 5 acres in size; (3) has no value for endangered, rare or threatened species; (4) would not result in any significant effects related to traffic, noise, air quality or water quality; and (5) can be adequately served by all required utilities and public services.

Additionally, this document demonstrates that the project or its circumstances would not result in any exceptions identified in CEQA Guidelines, Section 15300.2, and that the project qualifies for a CEQA Exemption as a Class 32 Infill Development Project.

2.1 Class 32 (In-Fill Development)

Among the classes of projects that are exempt from CEQA review are those projects that are specifically identified as urban in-fill development. CEQA Guidelines, Section 15332, defines in-fill development (Class 32 exemptions) as being applicable to projects meeting the following conditions:

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

The analysis presented in the following section provides substantial evidence that the project properly qualifies for an exemption under CEQA Guidelines, Section 15332, as a Class 32 in-fill development, and would not have a significant effect on the environment.

2.2 Exceptions

Even if a project is ordinarily exempt under any of the potential categorical exemptions, CEQA Guidelines, Section 15300.2, provides specific instances where exceptions to otherwise applicable exemptions apply. Exceptions to a categorical exemption apply in the following circumstances, effectively nullifying a CEQA categorical exemption:

- **Location.** Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located. A project that is ordinarily insignificant in its impact on the environment may, in a particularly sensitive environment, be significant. Therefore, these classes are considered to apply all instances except where the project may impact an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.
- **Cumulative Impact.** All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time, is significant.
- **Significant Effect.** A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity would have a significant effect on the environment due to unusual circumstances.
- **Scenic Highways.** A categorical exemption shall not be used for a project that may result in damage to scenic resources, including but not limited to trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements that are required as mitigation by an adopted negative declaration or certified EIR.
- **Hazardous Waste Sites.** A categorical exemption shall not be used for a project located on a site that is included on any list compiled pursuant to Section 65962.5 of the Government Code.
- **Historic Resources.** A categorical exemption shall not be used for a project that may cause a substantial adverse change in the significance of a historic resource.

The following analysis presents substantial evidence that there are no exceptions that apply to the project or its site, that the project would not have a significant effect on the environment, and that the Class 32 exemption is applicable.

Section 3 CEQA Exemption Checklist

3.1 Criterion Section 15332(a): General Plan and Zoning Consistency

Yes No

- ☒ ☐ The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.

The current project site land use designation is SPA #9 and site zoning is SPA #9, which indicates the project site lies within the boundaries of the Escondido Downtown SPA and is subject to the policies and regulations of the Downtown Specific Plan. The General Plan and the Downtown Specific Plan contain guidelines and regulations to promote higher density urban residential growth in the Downtown SPA. The project site lies within the Downtown SPA's Historic Downtown District, which is "a successful specialty retail shopping and office employment area that is comfortable, attractive, and safe for pedestrians and employees. Grand Avenue, Escondido's Civic Center, and Grape Day Park are the focus and heart of Downtown. New development, higher densities, residential opportunities and pedestrian places and courtyards are encouraged to provide an optimal setting for urban living in close proximity to entertainment, retail and professional offices" (City of Escondido 2013a).

The project proposes to construct 127 stacked residential units on the 1.002-acre project site. The Downtown Specific Plan allows for residential land uses at the project site to be developed at a density of up to 75 dwelling units per acre (du/ac) or 76 units in total. In addition, the project would reserve 11 percent of the units (9 units of the 76) for Very Low Income Households. Providing 11 percent of Very Low Income units would qualify the project for a density bonus of 35 percent over the maximum allowable density (76 du/ac), pursuant to Density Bonus Law, Section 65915, of the California Government Code, for an increase of 27 units. An additional 24 units would be requested under the City's Density Transfer Program for a total of 127 total dwelling units. This program is an amendment to the Downtown SPA to help facilitate a density credit pool, which is an assembly of available, unused density units from undeveloped, developed, or developing properties that can be used to increase the density of a developing parcel without increasing the total number of dwelling units allowed in the Downtown Specific Plan area.

Overall, the project would conform to the development and design regulations outlined in the Downtown Specific Plan. The project would be consistent with the following relevant guidelines under the Downtown Specific Plan and Zoning Regulations that were adopted for the purpose of avoiding or mitigating an environmental effect, as noted in Tables 1 and 2.

Table 1. Consistency with Applicable Downtown Specific Plan Guidelines

Land Use Guidelines	Consistency Evaluation
A1. Smart Growth Policies, Standards and Guidelines Guideline 2) a) Proposed projects should preserve, respect and promote the existing character, scale, architecture and the patterns of the historically significant downtown.	Consistent. The project would enhance the visual quality of the project site by introducing an aesthetically cohesive development with associated landscaping. The proposed building materials would incorporate stucco sand finish with metal siding and precision block. The main body colors of the building materials would be white, tan, light and dark grey stucco, and light grey metal siding. The contemporary design would blend with the urban character of the City and would not detract or provide overly ornate details, color pallets or design features. The architectural features of the building would be consistent with the architectural styles within the Downtown Historic District. Two photo simulations were created (Figure 8, View from East 2nd Avenue Looking Northeast, and Figure 9, View from South Ivy Street Looking Northwest). The photo simulations serve as an indicator of the extent of the visual character and quality changes that would occur on site from implementation of the project. Figure 8 depicts the existing and proposed views of the project site along 2nd Avenue looking southeast. Figure 9 depicts the existing and proposed views of the project site from Ivy Street looking northwest. As shown in the photo simulations, the project would be consistent with the character and architecture of the surrounding area. The proposed building would be 63 feet above average grade and would be five stories. The Downtown Specific Plan has a maximum height limit of 60 feet and four stories. In order for the project to provide affordable housing units pursuant to the Density Bonus Law (Section 65915(b)), the project is requesting a waiver to the building height and stories requirements. The existing development standards of 60 feet and four stories would physically preclude the construction of the project as designed. The project site is 1.002 acres; therefore, the project building height must be increased by 3 feet and number of stories must be increased by one story to fit all of the project components including the affordable housing units. Therefore, with the Density Bonus Law waiver for height and stories, the project would be consistent with this guideline.
A2.Complete Street Policies, Guidelines, and Standards Guideline a. 2) e) Bicycling in the downtown areas should be promoted as a common mode of transportation and recreation to help reduce traffic congestion and improve public health.	Consistent. The project would help promote the use of bicycles by providing project frontage along East 2nd Avenue that would accommodate the construction of a missing segment of a Class 2 bike lane, a key component of Escondido's Bicycle Master Plan. In addition, the proposed parking garage would also provide secure bicycle storage for residents, which would promote the use of bicycles as a common mode of transportation.
A2.Complete Street Policies, Guidelines, and Standards Guideline a. 2) g) Noise and other impacts of truck traffic and deliveries in residential and mixed-use neighborhoods should be minimized by limiting when these can occur.	Consistent. The project proposes residential uses and it is anticipated that operational noise sources would include trucks associated with trash and recycling removal. The project proposes central trash collection from the parking garage. Trash service would be provided by Escondido Disposal. The schedule for waste collection has not yet been established; however, trash collection is anticipated be required four times per week for solid waste and one time per week for recyclables. The existing commercial and multi-family residential uses currently use dumpsters and have disposal

Table 1. Consistency with Applicable Downtown Specific Plan Guidelines

Land Use Guidelines	Consistency Evaluation
	requirements similar to what would be required for the project. Section 17-232 of the City's Noise Ordinance limits trash collection to the hours between 6:00 a.m. and 10:00 p.m. However, as a project feature, Trash collection at the project site would be limited to between 8:00 a.m. and 5:00 p.m., Monday through Friday. Given the short duration and relative infrequency of individual collection events, and scheduling collection during prime activity hours, the addition of one additional waste collection customer in the project site would have little impact on the operation of surrounding land uses and would not be noticeably different than existing conditions. Green waste would be disposed of by the contracted landscape company as part of project operation. In addition, construction of the project would utilize a variety of trucks. Construction of the project would result in a temporary noise increase in and around the project site from the use of construction equipment including trucks. To reduce impacts on nearby residences from temporary construction noise, implementation of project design features ensures that no impact would occur.
A2.Complete Street Policies, Guidelines, and Standards Guideline a. 2) h) Development that supports the use of electric vehicles (i.e., battery charging stations, preferred parking areas, etc.) are encouraged.	Consistent. The proposed parking garage would encourage electric vehicle (EV) use by designating five EV charging parking spaces. In addition, an additional EV charging space would be provided as part of the project's guest parking along South Ivy Street.
A2.Complete Street Policies, Guidelines, and Standards Guideline c. 2) a) Projects should include narrow turning radiuses and corner "bulb-outs" where appropriate to slow vehicular traffic and enhance pedestrian safety.	Consistent. The project proposes improvements to the existing 55-foot-wide ROW within South Ivy Street to convert the existing two-way street into a one-way southbound street with angled parking fronting the project site. A new bulb out along with a "Do Not Enter/Wrong Way" sign at the intersection of East 3rd Avenue and South Ivy Street would be constructed to deter traffic from heading northbound on South Ivy Street from East 3rd Avenue. An enhanced bulb out would be constructed at the intersection of East 2nd Avenue and South Ivy Street. These project features would slow vehicular traffic and enhance pedestrian safety.
A2.Complete Street Policies, Guidelines, and Standards Guideline d. 2) b) The safety and efficiency of accessing the public street network from private properties should be considered by controlling driveway access locations, installing medians and access controls, maintaining minimum distances from intersections, consolidating driveway access, and encouraging interconnected parking lots.	Consistent. Vehicular access to the proposed parking garage has been consolidated and limited to one entry/exit point accessible from the 20-foot wide alley between East 2nd Avenue and East 3rd Avenue along the western site boundary. The project would change the alley from its existing two-way configuration to a one-way southbound only direction that would be accessed from East 2nd Avenue. The reconfiguration of the alley would control access to the proposed building. All vehicles would enter the alley via East 2nd Avenue and all vehicles would leave the alley via East 3rd Avenue.
B. Development Standards Guideline B. 1. Parking. On-site parking shall be provided according to Article 39 of the Escondido Zoning Code, in conjunction with the provisions stipulated in the Downtown Specific Plan.	Consistent. The project proposes 127 multi-family residential units consisting of 8 studios, 59 one-bedroom units, and 60 two-bedroom units. Based on the requirement of Article 39 of the Escondido Zoning Code, the project is required to provide 202 resident parking spaces and 32 guest spaces for a total of 234 parking spaces. The project would provide a total of 184 on- and off-site parking spaces. The underground parking garage would

Table 1. Consistency with Applicable Downtown Specific Plan Guidelines

Land Use Guidelines	Consistency Evaluation
	provide 157 residential spaces. In addition, the project proposes 27 off-site guest spaces fronting the project site along South Ivy Street and East 3rd Avenue instead of providing the guest spaces on site. The project includes 9 affordable housing units. In addition, the project is located within 0.5 miles of a major transit stop. A major transit stop, as identified in the SANDAG 2050 Regional Transportation Plan, is defined as a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods. The multi-modal Escondido Transit Center is 0.7 miles from the project site. There are three North County Transit District (NCTD) regional bus routes having stops within ¼ mile of the project and which all connect to the Escondido Transit Center. Specifically, Route 351/352 (Escondido Circulator) has 14 minute headways during peak hours. The nearest stop pairing is located at Grand Avenue/South Juniper Street which is located one block to the north of the project site. Therefore, this route is considered a major transit stop. Therefore, pursuant to Section 65915, subdivision (p)(2) of the California Government Code, the parking requirement for the project shall not exceed 0.5 spaces per bedroom (187 total bedrooms), or 94 on-site spaces total, inclusive of handicapped and guest parking. The project includes 157 on-site spaces, which exceeds the required 94 by 63 spaces. In addition, the project also provides 27 off-site (on-street) guest spaces, for a total of 184 parking spaces.
B1. Parking Guideline b) 1) At least one parking space for each residential unit shall be covered, or enclosed, except for guest parking.	Consistent. The project would meet this guideline because it would include a two-story underground parking garage that would provide 157 enclosed spaces to serve 127 residential units.
B1. Parking Guideline b) 3) Tandem parking proposed for residential development shall be processed through the Planned Development application.	Consistent. The project proposes to process a Planned Development Application to permit 26 tandem parking spaces in the proposed parking garage. Additionally, pursuant to Section 65915, subdivision (p)(4), of the California Government Code, a development may provide on-site parking through tandem parking.
B1. Parking Guideline b) 5) A maximum 25 percent of residential units may be provided with tandem spaces.	Consistent. The project would include 26 tandem parking spaces in the garage for residents. This represents 20 percent of the total residential units, which is below the maximum 25 percent allowed. Additionally, pursuant to Section 65915, subdivision (p)(4), of the California Government Code, a development may provide on-site parking through tandem parking.
Guideline B 4. Refuse Areas. Trash and storage enclosures shall be of a size, type, and quantity approved by the City. All enclosures shall be attractive in design and integrated into the main building's architecture. They shall be shielded from view within a building or within an area enclosed by a solid wall not	Consistent. The project proposes a central trash collection enclosure located within the underground parking garage. The enclosure would be accessed through an 8-foot roll-up door along the alley on the western boundary of the project site. The enclosures would not be visible from outside the building.

Table 1. Consistency with Applicable Downtown Specific Plan Guidelines

Land Use Guidelines	Consistency Evaluation
less than six feet in height and constructed with a roof structure that screens the enclosure from higher elevations. Said storage areas shall be located so that they are oriented away from public streets, and residential areas, secured from unauthorized entry, and easily accessible to collection vehicles as well as meet all National Pollution Discharge and Elimination System (NPDES) requirements.	
Guideline B. 5. Landscaping. Landscaping shall conform to Article 62 of the Escondido Zoning Code. Deviations from the code may be approved on a case-by-case basis through the Planned Development process, providing justification is documented to support the request to the satisfaction of the City.	Consistent. The on-site landscaping for the project would consist of trees, shrubs and ground covers with moderate to low water requirements As stated on the landscape concept plan, (Figure 5) all planting and irrigation would conform to the City Article 62 Landscape Standards as well as the water budget requirements.
B6. Usable Open Space Guideline 6 b). A minimum of 300 square feet of usable open space shall be provided per residential unit. Required open space may be reduced up to 50% subject to Planned Development and Development Agreement approval in exchange for alternative open space benefitting the public.	Consistent. The project would provide four open space common areas totaling approximately 13,453 square feet. The largest area would be a 4,656-square-foot space that would include a community pool and spa; lounge and gas fire pits; artificial turf area; bar with gas fire pit feature; barbeque grills; and cabanas (Figure 5). There would be 3,646 square feet of common area at grade. A separate 1,746-square-foot open courtyard area would provide a lounge area with a gas fire pit and water feature. The project would also include a 2,670-square-foot indoor community area consisting of a fitness center, club room and media room on the first floor of the building. A 735-square-foot rooftop deck would also be provided at the northwestern corner of the building. In addition to the common open space areas, the project would include private balconies for each residential unit (65 square feet/unit average) for a total of 8,271 square feet of private open space. The project would provide a total of 21,724 square feet of open space or an average of 171 square feet per residential dwelling unit. The project proposes less than the required 300 square feet per residential du. In order for the project to provide affordable housing units pursuant to the Density Bonus Law, the project is requesting a waiver to the usable open space standard of 300 square feet per residential du. The existing development standards would physically preclude the construction of the permitted density under the Density Bonus Law. The project site is 1.002 acres; therefore, the project's open space requirement would need to be decreased to provide all of the project components including the affordable housing units. The project site does not have the physical area to meet the required amount of open space. Therefore, with the waiver, the usable open space standard would not apply and the project would be consistent.

Table 2. Consistency with Applicable Zoning Regulations

Zoning Guidelines	Consistency Evaluation
Article 18 Specific Plan	Consistent. See Table 1 for the project's consistency with applicable Downtown Specific Plan Guidelines.
Article 35. Outdoor Lighting	Consistent. Outdoor lighting would be utilized as needed for parking areas, sidewalks, roof top deck, and security within the project site. All outdoor lighting would be required to comply with Chapter 33, Article 35, Outdoor Lighting, of the Escondido Municipal Code, which provides regulations to minimize glare, light trespass, and artificial sky glow.
Article 40. Historical Resources.	Consistent. The project site is located in the highly developed and urban area of downtown Escondido. The project site is currently vacant, disturbed, and cleared of all structures and vegetation. A records search was conducted at the South Coastal Information Center (SCIC) at San Diego State University by Richard L. Carrico on March 22, 2018, for the project site. The records search did not identify any historic resources on the project site.
Article 47 Environmental Quality	Consistent. The project's Categorical Exemption is being prepared pursuant to CEQA Guidelines, Section 15332, as a Class 32 in-fill development project.
Article 55 Grading and Erosion Control	Consistent. Construction of the project would require grading and excavation of 10,830 cy of soil, which would loosen sediment and could result in erosion or siltation. However, construction of the project requires City approval of a grading and erosion control plan. The grading and erosion control plan and Stormwater Pollution Prevention Program are required for plan check and approval by the Land Development Engineer, as well as the Planning Division, prior to provision of permits for the project, and would include construction best management practices (BMP) to reduce erosion or siltation.
Article 62 Water Efficient Landscape Regulations	Consistent. The on-site landscaping for the project would consist of trees, shrubs, and ground covers with moderate to low water requirements (Figure 5). The biofiltration basins described under the Stormwater Features in Section 1.3 would be planted with various sedges (flowering plants) and grasses. Plants have been selected with consideration for varying soil conditions. An automatic irrigation system shall be installed to provide coverage for all planting areas. Low precipitation equipment shall provide sufficient water for plant growth with minimum water loss due to water run-off.

The design of the project meets the criteria of CEQA Guidelines, Section 15332(a), as being consistent with the General Plan and applicable zoning regulations for the project site.

3.2 Criterion Section 15332(b): Project Location, Size, and Context

Yes No

- ☒ ☐ The proposed development occurs within city limits on a project site of no more than 5 acres substantially surrounded by urban uses

The approximately 1.002-acre project site is located in the highly developed and urban area of downtown Escondido. The project site is surrounded by parcels developed with urban land uses and/or paved public streets. CEQA, Section 21072, defines a qualified urban use as “any residential, commercial, public institutional, transit, or transportation passenger facility, or retail use, or any combination of those uses.” The project is on a site within City limits that is no more than 5 acres and substantially surrounded by urban uses.

3.3 Criterion Section 15332(c): Endangered, Rare, or Threatened Species

Yes No

- ☒ ☐ The project site has no value as habitat for endangered, rare or threatened species.

The project site is located in the highly developed and urban Downtown Specific Plan area of the City. The project site is currently vacant, disturbed, and has been cleared of all structures and vegetation. The project site does not contain habitat suitable for candidate, sensitive, or special status species. In addition, no riparian habitat, other sensitive natural community, or potential jurisdictional features were observed within the project site or within a 100-foot boundary from the project site. The project site has no value as a habitat or special-status species and, therefore, adheres to the criteria of CEQA Guidelines, Section 15332(c).

3.4 Criterion Section 15332(d): Traffic

Yes No

- ☒ ☐ Approval of the project would not result in any significant effects relating to traffic.

The project would not result in any significant traffic or transportation-related impacts, as discussed below. There is no exception to the Class 32 exemption related to traffic or transportation criteria. A Transportation Impact Analysis for the project was prepared by Linscott, Law and Greenspan, Engineers (LLG 2019) as provided in Appendix A and is summarized below.

Existing Conditions

The project site is located at 343 East 2nd Avenue, bound by East 2nd Avenue to the north, South Ivy Street on the east, alley to the west, and East 3rd Avenue to the south in the downtown area of Escondido. South Ivy Street is a north/south facility currently built as a two-lane roadway

with on-street parking. The project proposes to convert South Ivy Street between East 2nd Avenue and East 3rd Avenue from two-way to one-way southbound traffic flow. East 2nd Avenue is east/west facility currently built as a three-lane roadway with one-way eastbound travel and on-street parking provided on both sides of the roadway. East 3rd Avenue is an east/west facility currently built as a two-lane roadway with a mix of angle and parallel parking provided on-street. The project site is currently vacant.

The project study area includes the following eight existing intersections and four street segments. These locations were selected using the methodology published in the City's Traffic Impact Analysis Guideline (2013b).

Street Segments:

- South Juniper Street
 - East 2nd Avenue to East 3rd Avenue
- South Ivy Street
 - East 2nd Avenue to East 3rd Avenue
- 2nd Avenue
 - South Ivy Street to South Juniper Street
- 3rd Avenue
 - South Ivy Street to South Juniper Street

Intersections:

- South Juniper Street/Valley Parkway
- South Juniper Street/Grand Avenue
- South Juniper Street/East 2nd Avenue
- South Juniper Street/East 3rd Avenue
- South Ivy Street/East 3rd Avenue
- South Ivy Street/East 2nd Avenue
- Valley Boulevard/Grand Avenue
- Valley Parkway/Hickory Street

Project-Generated Traffic

Operational

The project traffic generation calculations were conducted using the trip generation rates published in SANDAG's "Not so Brief Guide of Vehicular Traffic Generation Rates for San Diego Region" (April 2002). Based on the type and density of homes proposed by the project, SANDAG specifies a residential trip rate of 6 ADT/ dwelling unit (DU). This SANDAG

“Apartment” rate applies to any multi-family housing in excess of 20 DU/acre, which corresponds to the project’s proposed 127 DU on the 1.002-acre site. The “Specialty Retail” rate was used for the project’s proposed 1,175 square feet of ground floor retail. Although SANDAG allows for an up to 10 percent trip reduction for mixed-use developments where residential and commercial retail are combined, this reduction was conservatively not applied, given the small amount of retail.

Table 3 shows a summary of the traffic generated by the project. The project would generate 809 daily trips with 62 total AM peak hour trips (13 inbound/ 49 outbound) and 73 total PM peak hour trips (50 inbound/23 outbound).

Table 3. Project Trip Generation

Land Use	Size	Daily Trip Ends (ADT)		AM Peak Hour					PM Peak Hour				
		Rate ¹	Volume	% of ADT	In:Out	Volume			% of ADT	In:Out	Volume		
					Split	In	Out	Total		Split	In	Out	Total
Apartment	127 DU	6/DU ²	762	8	20:80	12	49	61	9	70:30	48	21	69
Specialty Retail	1,175 KSF	40/KSF ³	47	3	60:40	1	0	1	9	50:50	2	2	4
Total Project	—	—	809	—	—	13	49	62	—	—	50	23	73

Source: LLG 2019.

Notes:

¹ Rate is based on SANDAG’s (Not So) Brief Guide of Vehicular Traffic Generation Rates for the San Diego Region, April 2002.

² DU = Dwelling Unit

³ KSF = 1,000 Square Feet

Street Level of Service

In addition to the proposed residential building, the project proposes to convert South Ivy Street between East 2nd Avenue and East 3rd Avenue from two-way to one-way, southbound-only traffic. Therefore, the “Plus Project” scenarios include the rerouting of baseline traffic to account for this conversion, in addition to new trips generated by the project. The “Without Project” scenario assumes South Ivy Street would remain a two-way roadway. The majority of project traffic is anticipated to access the project site via the existing mid-block alley. This alley would also be designated for one-way southbound travel, meaning traffic would enter from East 2nd Avenue and exit to East 3rd Avenue. The portion of the project traffic utilizing the guest parking on South Ivy Street on the eastern edge of the site would also arrive via East 2nd Avenue and depart toward East 3rd Avenue. With the addition of project traffic, all the street segments are calculated to continue to operate at acceptable LOS C or better as shown in Table 4. Therefore, under the Existing Plus Project condition, project-related street segment impacts would be less than significant.

Table 4. Existing Plus Project Street Segment LOS Summary

Street Segment	Capacity ¹	Existing			Existing Plus Project				Impact?
		ADT ²	LOS ³	V/C ⁴	ADT	LOS	V/C	Δ^5	
Juniper Street 2nd Avenue to 3rd Avenue	15,000	7,570	B	0.505	8,195	C	0.546	0.041	No
Ivy Street 2nd Avenue to 3rd Avenue	10,000	300	A	0.030	161	A	0.016	(0.014)	No
2nd Avenue Juniper Street to Ivy Street	25,000	13,520	C	0.541	14,242	C	0.570	0.029	No
3rd Avenue Juniper Street to Ivy Street	10,000	290	A	0.029	655	A	0.066	0.037	No

Source: LLG 2019.

Notes:

¹ Capacities based on the City's Roadway Classification

² Average Daily Traffic

³ Level of Service

⁴ Volume to Capacity ratio

⁵ Project Attributable increase in V/C. Decreases related to rerouting of traffic due to conversion of Ivy Street to one-way southbound.

Intersection Level of Service

As shown in Table 5 with the addition of project traffic, all study area intersections are calculated to continue to operate at acceptable LOS C or better. Therefore, under the Existing Plus Project condition, project-related intersection impacts would be less than significant.

Table 5. Existing Plus Project Intersection LOS Summary

Intersection	Control Type	Peak Hour	Existing		Existing Plus Project			Impact?
			Delay ¹	LOS ²	Delay	LOS	Δ^3	
Juniper St/Valley Pkwy	Signal	AM	10.5	B	11.0	B	0.5	No
		PM	7.8	A	8.0	A	0.2	
Juniper St/Grand Ave	Signal	AM	6.8	A	6.9	A	0.1	No
		PM	7.2	A	7.3	A	0.1	
Juniper St/2nd Ave	Signal	AM	7.1	A	7.5	A	0.4	No
		PM	9.9	A	11.2	B	1.3	
Juniper St/3rd Ave	MSSC ⁴	AM	12.6	B	13.2	B	0.6	No
		PM	14.6	B	16.1	C	1.5	
Ivy St/3rd Ave	MSSC ⁴	AM	9.1	A	9.3	A	0.2	No
		PM	9.0	A	9.2	A	0.2	
Ivy St/2nd Ave	MSSC ⁴ /Unsig ⁵	AM	11.4	B	—	—	—	No
		PM	18.8	C	—	—	—	
Valley Blvd/Grand Ave	Signal	AM	11.5	B	11.5	B	0.0	No
		PM	13.4	B	13.4	B	0.0	
Valley Pkwy/Hickory St	Signal	AM	9.5	A	9.5	A	0.0	No
		PM	10.6	B	10.6	B	0.0	

Source: LLG 2019.

Notes:

¹ Average delay expressed in seconds per vehicle.

² Level of Service.

³ Δ denotes an increase in delay due to project.

⁴ MSSC: Minor street Stop Controlled intersection. Minor street left turn delay is reported.

⁵ With conversion of Ivy Street to one-way southbound, there are no controlled movements at this intersection.

Construction

Construction activities would include demolition, excavation, grading, concrete pours, and building of the structures. The project's construction trip generation was based on the building construction, which is estimated to last 18 months and would require 32 truck trips per day. The building construction phase would generate higher overall truck trips for the longest portion of the overall construction period. Table 6 shows a summary of the traffic generated by the project for the duration of construction. The project construction would generate 172 daily trips with 47 total AM peak-hour trips (40 inbound and 7 outbound) and 47 total PM peak-hour trips (7 inbound and 40 outbound).

Table 6. Project Trip Generation during Construction

Construction Trips	Vehicles	Daily Trip Rate	PCE ¹	ADT ²	AM Peak Hour			PM Peak Hour		
					In	Out	Total	In	Out	Total
Trucks ³	32	2	1.5	96	6	6	12	6	6	12
Employees ⁴	30	2	1.0	60	30	0	30	0	30	30
<i>Subtotal</i>	62	—	—	156	36	6	42	6	36	42
10% Misc. Trips (non-trucks)	6	—	—	16	4	1	5	1	4	5
Total Construction Traffic	68	—	—	172	40	7	47	7	40	47

Notes:

- ¹ Passenger Car Equivalents. Based on the Highway Capacity Manual's Exhibit 11-10, a Passenger Car Equivalent (PCE) factor of 1.5 for level terrain was applied.
- ² Average Daily Trips.
- ³ Given that heavy vehicle traffic will occur throughout a 24-hour workday, 4 trucks were conservatively assumed to access the site during both the AM and PM peak hours (6 with PCE factor of 1.5/vehicle).
- ⁴ 100% of the on-site employees conservatively assumed to drive alone in passenger vehicles to the site and to arrive during the AM peak hour and depart during the PM peak hour.

Traffic generated by construction would be less than the project's trip generation on both an ADT and peak-hour basis. It is anticipated that construction traffic, and especially heavy trucks and materials deliveries, would use the nearest arterial road, the one-way couplet of West Valley Parkway and 2nd Avenue, to gain access to and from the project site. As shown in Table 5, the local intersections serving these arterials are calculated to operate at excellent LOS A and B during peak hours under near-term (Existing + Cumulative) conditions. Traffic along these arterials is predominantly westbound during the AM peak hour and eastbound during the PM peak. Construction traffic would be counter-flow to these conditions, with the majority of trips inbound to the site in the morning and outbound from the site in the evening, which would further serve to limit the effect these trips have on the street system. Therefore, construction-related traffic impacts would be less than significant.

Congestion Management Program Evaluation

The project's average daily trips would have less than significant impacts to the surrounding circulation network and would not require alterations to roadways or intersections such that the project would conflict with SANDAG's Congestion Management Program. No impact would occur.

Pedestrian, Bicycle, and Vehicle Safety

Contiguous sidewalks would be constructed along South Ivy Street and East 3rd Avenue along with a new sidewalk along East 2nd Avenue. The proposed parking garage would provide a private secure bicycle parking facility for residents on the main level. In addition, public bicycle parking would be provided at two locations along South Ivy Street and East 3rd Avenue. The existing and proposed bus, pedestrian, and bicycle facilities would provide safe non-vehicular

access and circulation to public transit, as well as to the retail commercial uses that are located to the north and east of the project site in the Downtown SPA.

Vehicular access to the proposed parking garage would be from the 20-foot wide alley between East 2nd Avenue and East 3rd Avenue along the western site boundary. The project would change the alley from its existing two-way configuration to a one-way southbound-only direction that would be accessed from East 2nd Avenue. Residents exiting the proposed garage would only be able to turn left towards East 3rd Avenue. Adequate site distance would be provided to drivers exiting the parking structure. East 3rd Avenue is a one-way road westbound, therefore drivers would only be able to turn right onto East 3rd Avenue when exiting the project site via the alley. Adequate sight distance would be provided at the alley's intersection with East 3rd Avenue for drivers making the right turn onto East 3rd Avenue.

Transit Service

NCTD BREEZE Bus Line provides stops within 0.25 miles of the project site that service Route 351/352 (Escondido Circulator), Route 355/357 (El Norte Parkway and Valley Parkway) and Route 388 (Escondido to Pala). In addition, the multi-modal Escondido Transit Center is located 0.7 miles from the project site.

Changes in Air Traffic Patterns

The nearest airports are McClellan-Palomar Airport, located 12.9 miles to the west, and Ramona Airport, located 19.5 miles to the southeast. Project traffic would not cause an increase in air traffic levels, or create a physical impediment that would necessitate an alteration of flight patterns. The project would not result in any changes in air traffic patterns and no mitigation is required.

3.5 Criterion Section 15332(d): Noise

Yes No

☒ ☐ Approval of the project would not result in any significant effects relating to noise.

The project would not result in any significant effects relating to noise, as discussed below. There is no exception to the Class 32 exemption related to traffic or transportation criteria. A Noise Technical Memorandum for the project was prepared by Harris and Associates (Harris 2019a) as provided in Appendix B and is summarized below.

General Information on Noise

The California Department of Transportation defines noise as sound that is loud, unpleasant, unexpected, or undesired. Sound pressure levels are quantified using a logarithmic ratio of actual sound pressures to a reference pressure squared, called "bels." A bel is typically divided into tenths, or decibels (dB). Sound pressure alone is not a reliable indicator of loudness because

frequency (or pitch) also affects how receptors respond to the sound. To account for the pitch of sounds and the corresponding sensitivity of human hearing to them, the raw sound pressure level is adjusted with a frequency-dependent A-weighting scale that is stated in units of decibels (dBA) (Caltrans 2013).

A receptor's response to a given noise may vary depending on the sound level, duration of exposure, character of the noise sources, the time of day during which the noise is experienced, and the activity affected by the noise. Activities most affected by noise include rest, relaxation, recreation, study, and communications. In consideration of these factors, different measures of noise exposure have been developed to quantify the extent of the effects from a variety of noise levels. The community noise equivalent level (CNEL) is the average equivalent A-weighted sound level over a 24-hour period. This measurement applies weights to noise levels during evening and nighttime hours to compensate for the increased disturbance response of people at those times. CNEL is the equivalent sound level for a 24-hour period with a +5 dBA weighting applied to sound occurring between 7:00 p.m. and 10:00 p.m. and a +10 dBA weighting applied to sound occurring between 10:00 p.m. and 7:00 a.m. (City of Escondido 2012a).

The dB level of a sound decreases (or attenuates) as the distance from the source of that sound increases. For a single point source, such as a piece of mechanical equipment, the sound level typically decreases by approximately 6 dBA for each doubling of distance from the source. Sound that originates from a linear, or "line" source, such as vehicular traffic, attenuates by approximately 3 dBA per doubling of distance. Other contributing factors that affect sound reception include ground absorption, natural topography that provides a natural barrier, meteorological conditions, and the presence of human-made obstacles such as buildings and sound barriers (Caltrans 2013).

General Information on Vibration

The Federal Transit Administration (FTA) describes groundborne vibration as vibration that can cause buildings to shake and rumbling sounds to be heard. In contrast to airborne noise, groundborne vibration is not a common environmental problem. It is unusual for vibration from sources such as buses and trucks to be perceptible, even in locations close to major roads. Common sources of groundborne vibration are trains; buses on rough roads; and construction activities such as blasting, pile driving, and operation of heavy earth-moving equipment. The effects of groundborne vibration include feel-able movement of the building floors, rattling of windows, shaking of items on shelves or hanging on walls, and rumbling sounds. In extreme cases, the vibration can cause damage to buildings. Building damage is typically only a factor in the case of blasting and pile driving during construction. Groundborne vibration related to potential building damage effects is generally related to the peak particle velocity (PPV) in inches per second (FTA 2018).

Ambient Noise Levels

Noise-sensitive land uses include noise receptors (receivers) where an excessive amount of noise would interfere with normal activities. The City's General Plan Community Protection Element lists residential development, care facilities, schools, churches, transient lodging, hospitals, healthcare facilities, libraries, museums, cultural facilities, golf courses, and passive recreational sites as sensitive receptors. Community noise sources defined as common indoor and outdoor noise sources are also identified in the Community Protection Element. Commercial, general office, and industrial land uses are not considered noise-sensitive land uses. Specific community noise sources of note include the City's roadway network (including Interstate 15 and State Highway 78), the NCTD Sprinter commuter rail service, two firing ranges, and flight operations to and from McClellan-Palomar Airport and helicopter travels to and from Palomar-Pomerado Hospital (City of Escondido 2012a).

Vehicle noise is the main source of ambient noise in the vicinity of the project site. No project-specific noise measurements were conducted for the project because noise contours for vehicular traffic in the Downtown Specific Plan area were calculated under existing and horizon year conditions for the Escondido General Plan Update, Downtown Specific Plan Update, and Climate Action Plan Final Environmental Impact Report (EIR) (City of Escondido 2012b). These noise contours are considered adequate and conservative to represent noise conditions on the project site because the Future 2030 Noise Contour scenario assumes buildout conditions on the project site. Therefore, these contours assume a higher traffic volume than existing conditions and demonstrate higher associated traffic noise. According to the EIR, the northern portion of the project site is within the existing 60 dBA CNEL noise contour for East 2nd Avenue (Figure 4.12-1 in City of Escondido 2012b). Under the Future 2030 Noise Contour scenario, the northern portion of the project site is within the 70, 65, and 60 dBA CNEL contours for East 2nd Avenue, and the western portion of the site is within the 60 dBA CNEL contour for South Juniper Street.

The anticipated primary project operational noise sources include vehicular traffic; heating, ventilation, and air conditioning (HVAC) systems; trash and recycling removal; and nuisance noise.

Thresholds of Significance

The project would result in a significant impact if it violates the Escondido Municipal Code (City of Escondido 2018), which restricts the times of day when construction may occur (7:00 a.m. to 6:00 p.m., Monday through Friday; 9:00 a.m. to 5:00 p.m. on Saturday; and not at all on Sunday or public holidays). The City also has a maximum 1-hour average construction noise limit of 75 dB at noise-sensitive land uses unless a variance has been obtained from the City Manager in advance per Section 17-234(d) of the City's Noise Ordinance.

Based on the City General Plan Community Protection Element standards (City of Escondido 2012a), a significant impact would occur if project construction activities would expose vibration-sensitive uses to vibration levels that exceed 65 vibration decibels (VdB), residences and buildings where people normally sleep to 80 VdB, or institutional land uses with primarily daytime uses to 83 VdB. The FTA damage thresholds indicate that, for buildings not extremely sensitive to vibration, a damage threshold of between 0.2 inches per second to 0.5 inches per second would apply depending on the type of building.

As stated in the City's General Plan Community Protection Element (City of Escondido 2012a), the noise level goal for multifamily residential uses is 65 dBA CNEL at the exterior use areas. In addition, General Plan Noise Policy 5.4 establishes an interior noise standard of 45 dBA CNEL. A significant impact would occur if operation of the project would cause noise levels in excess of the established standards.

A significant direct impact would occur from project-generated traffic if buildings where people normally sleep and institutional land uses with primarily daytime and evening uses are exposed to noise level increases in excess of the incremental noise standards on Figure VI-14 of the General Plan Community Protection Element (City of Escondido 2012a) (Table 7).

Table 7. Exterior Incremental Noise Impact Standards for Noise-Sensitive Uses (dBA)

Residences and Buildings Where People Normally Sleep ¹		Institutional Land Uses with Primarily Daytime and Evening Uses ²	
Existing L_{dn}	Allowable Noise Increment	Existing Peak Hour L_{eq}	Allowable Noise Increment
45	8	45	12
50	5	50	9
55	3	55	6
60	2	60	5
65	1	65	3
70	1	70	3
75	0	75	1
80	0	80	0

Source: City of Escondido 2012a.

Notes: dBA = A-weighted decibel; L_{dn} = day-night average sound level; L_{eq} = equivalent continuous sound level

Noise levels are measured at the property line of the noise sensitive land use.

¹ This category includes homes, hospitals, and hotels where a nighttime sensitivity to noise is assumed to be of utmost importance.

² This category includes schools, libraries, theaters, and churches where it is important to avoid interference with activities such as speech, meditation, and concentration on reading material.

Project Construction Noise

Construction would result in a temporary noise increase on and around the project site.

Construction of the project would take place within the hours specified in Section 17-234 of the Escondido Municipal Code. No special construction techniques (i.e., pile driving or blasting) are

anticipated to be necessary for construction of the project. Noise levels from the anticipated construction activities were modeled using the Federal Highway Administration Roadway Construction Noise Model to estimate the worst-case project construction noise level at a distance of 50 feet from the project site. Equipment used during site preparation and grading would include graders; rubber-tired dozers; and tractors, loaders, or backhoes. In addition, dump trucks would be used for hauling excavated soil off site. Up to approximately 32 trucks would be required per day for hauling. During building construction, equipment would include welders, a generator set, a forklift, a crane, an air compressor, and a tractor, loader, or backhoe. In addition, construction would involve the use of light-duty and heavy-duty trucks for worker and material delivery trips.

According to the noise modeling results, the worst-case construction noise would be 83.6 dBA sound level equivalent (L_{eq}) at a distance of 60 feet, assuming construction equipment is operational at the same time (grader, dozer, tractor, dump truck, and two trucks). The nearest residential receptors are located approximately 60 feet east of the project site, on the eastern side of South Ivy Street. Therefore, construction noise levels at the nearest noise-sensitive land use could exceed the City's maximum 1-hour construction noise limit of 75 dB. However, the contractor would be required to comply with the Noise Ordinance for noise levels from project-related grading and construction activities set forth in the Escondido Municipal Code, Sections 17-234 (Construction Equipment) and 17-238 (Grading), of 75 dBA (1-hour average) when measured at or within the property lines of any property that is developed and used for residential purposes. A construction noise management plan that describes the strategies for managing and monitoring noise to ensure compliance with the noise limit would be prepared by the applicant and submitted to the City's Planning Division with the building plans for review and approval prior to issuance of the grading permit. The following project design features (PDF) would be included and implemented as necessary to comply with the City's Noise Ordinance:

PDF-NOI-1. Construction equipment shall be properly outfitted and maintained with manufacturer recommended noise-reduction devices.

PDF-NOI-2. Diesel equipment shall be operated with closed engine doors and equipped with factory recommended mufflers.

PDF-NOI-3. Mobile or fixed "package" equipment (e.g., arc welders and air compressors) shall be equipped with shrouds and noise-control features that shall be readily available for this type of equipment.

PDF-NOI-4. Electrically powered equipment shall be used instead of pneumatic or internal-combustion-powered equipment where feasible.

PDF-NOI-5. Unnecessary idling of internal combustion engines (e.g., in excess of 5 minutes) shall be prohibited.

PDF-NOI-6. Material stockpiles and mobile equipment staging, parking, and maintenance areas shall be located as far as practicable from noise-sensitive receptors.

PDF-NOI-7. The use of noise-producing signals, including horns, whistles, alarms, and bells, shall be for safety warning purposes only.

PDF-NOI-8. No project-related public address or music system shall be audible at any adjacent noise-sensitive receptor.

PDF-NOI-9. A temporary sound barrier shall be installed along the length of the alley on the northwestern boundary of the project site between construction operations and adjacent receptors. Due to equipment exhaust pipes being approximately 7–8 feet above ground, a sound wall at least 10 feet in height above grade would mitigate noise levels to within acceptable levels. To reduce noise levels effectively, the sound barrier shall be constructed of a material, most likely plywood, with a minimum weight of 2 pounds per square foot with no gaps or perforations, and remain in place until the conclusion of demolition, grading, and construction activities. The final design would be as recommended by the noise study completed by a qualified acoustical consultant and included on the building plans for review by City staff.

PDF-NOI-10. The applicant or contractor shall notify residences within 100 feet of the project's property line in writing within 1 week of any construction activity such as concrete sawing, asphalt removal, or heavy grading operations. The notification shall describe the activities anticipated, provide dates and hours, and include contact information with a description of a complaint and response procedure.

PDF-NOI-11. The on-site construction supervisor shall have the responsibility and authority to receive and resolve noise complaints. A clear appeal process for the affected resident shall be established prior to construction commencement to allow for resolution of noise problems that cannot be immediately solved by the site supervisor.

Groundborne Vibration

Construction and operation of the project could result in groundborne vibration.

Construction Vibration. The FTA Transit Noise and Vibration Impact Assessment Manual (FTA 2018) describes equipment typically used in transportation construction projects; however, the information can be used to understand possible vibration impacts from other types of construction projects as well. The FTA damage thresholds indicate that, for buildings not extremely sensitive to vibration, a damage threshold of between 0.2 inches per second to 0.5 inches per second would apply depending on the type of building. As stated previously, the nearest receptors (residences) are located

approximately 60 feet east of the project site, on the east side of South Ivy Street. There are no known vibration-sensitive uses or institutional land uses within 100 feet of the project site.

Table 8 identifies various vibration velocity levels for typical construction equipment. As shown in Table 8, construction equipment has the potential to disturb residences and buildings where people normally sleep when they are in proximity to construction activities (i.e., as close as 25 feet).

Table 8. Vibration Source Levels for Construction Equipment

Construction Equipment	At 25 Feet		At 60 Feet		At 100 Feet	
	Approximate VdB	PPV (in/sec)	Approximate VdB ¹	PPV (in/sec) ²	Approximate VdB ¹	PPV (in/sec) ²
Large Bulldozer	87	0.089	76	0.024	69	0.011
Loaded Trucks	86	0.076	75	0.020	68	0.010
Jackhammer	79	0.035	68	0.009	61	0.004
Small Bulldozer	58	0.003	47	0.001	40	0
Caisson Drilling	87	0.089	76	0.024	69	0.011
Roller	94	0.210	83	0.056	76	0.026
Pile Driver (impact, upper range)	112	1.518	101	0.408	94	0.190
Pile Driver (sonic, upper range)	105	0.734	94	0.197	87	0.011

Source: City of Escondido 2012b.

Notes: in/sec = inches per second; PPV = peak particle velocity; VdB = vibration decibel

¹ Based on the formula $PPV_{equip} = PPV_{ref} \times (25/d)^{1.5}$ provided by the FTA (2018), where d is the distance from the source of vibration to the receptor.

² Based on the formula $VdB = VdB(25 \text{ feet}) - 30\log(d/25)$ provided by the FTA (2018), where d is the distance from the source of vibration to the receptor.

Equipment used during site preparation and grading would include graders; rubber-tired dozers; and tractors, loaders, or backhoes. In addition, a dump truck may be used for hauling excavated soil off site. During building construction, equipment would include welders; a generator set; a forklift; a crane; an air compressor; and a tractor, loader, or backhoe. In addition, construction would involve the use of light-duty and heavy-duty trucks for worker and material delivery trips. No pile driving is anticipated. Based on the information presented in Table 7, vibration levels from project construction activities would not have the potential to exceed the residential receptor threshold of 80 VdB or 0.2 PPV at distances up to 60 feet from construction equipment. Furthermore, the project would comply with Sections 17-234, 17-238, and 17-240 of the Noise Ordinance, which limit operation of construction equipment to the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturdays. Impacts would be less than significant.

Operational Vibration. No permanent noise sources that would expose persons to excessive groundborne vibration or noise levels would be located within the project site. In addition, long-term operational activities associated with the project would not involve the use of any

equipment or processes that would result in potentially significant levels of ground vibration. Therefore, this impact would be less than significant.

Operational Noise

The following sections describe the project's long-term noise impacts from traffic and stationary noise sources.

Transportation Noise Affecting the Project Site

This analysis of operational on-site transportation noise used the traffic volumes from the Transportation Impact Analysis (LLG 2019) under the Existing Plus Project scenario and standard noise modeling equations adapted from the FHWA Highway Traffic Noise Prediction Model (FHWA 2008) to conservatively estimate on-site exterior noise levels from traffic. Four street segments were evaluated for Existing and Existing Plus Project noise levels, as shown in Table 9. The resulting noise levels on East 2nd Avenue between South Juniper Street and South Ivy Street would exceed the City standard of 65 dBA CNEL by 1 dBA CNEL (66 dBA CNEL) with and without project traffic. The project's contribution would be 0 dBA CNEL, and would not result in an increase in the existing ambient noise level without the project. The 66 dBA CNEL noise level is consistent with the City's General Plan EIR Future 2030 Noise Contour scenario, which shows that the northern portion of the project site would be within the 70 dBA CNEL contour for East 2nd Avenue.

Table 9. Project Traffic Noise Levels. Existing and Existing Plus Project

Segment	Existing Noise Level (dBA CNEL)	Existing Plus Project Noise Level (dBA CNEL)	Change in Noise Level	Allowable Increase ¹	Significant Impact?
South Juniper Street from East 2nd Avenue to East 3rd Avenue	64	64	0	+2	No
South Ivy Street from East 2nd Avenue to East 3rd Avenue	46	43	-3	+8	No
East 2nd Avenue from South Juniper Street to South Ivy Street	66	66	0	+1	No
East 3rd Avenue from South Juniper Street to South Ivy Street	46	50	+4	+8	No

Sources: Harris 2019a; LLG 2019.

Notes: CNEL = community noise equivalent level; dBA = A-weighted decibel

¹ Source: Figure VI-14, City of Escondido 2012a.

Traditional architectural materials are normally able to reduce exterior to interior noise by up to 15 dBA (City of Escondido 2012a). Thus, an exterior noise level of 60 dBA would be necessary

to reach the interior noise standard of 45 dBA CNEL. According to the Future 2030 Noise Contours in the City's General Plan EIR, portions of the project site would fall within the 65 or 70 dBA noise contours. Furthermore, as shown in Table 9, existing exterior noise levels currently exceed 60 CNEL along the East 2nd Avenue project frontage between South Juniper Street and South Ivy Street. Traditional architectural materials with a noise reduction of 15 dBA would not be expected to attenuate interior noise of the proposed residential units facing East 2nd Avenue to a level of 45 CNEL. In order to comply with the City's General Plan Community Protection Element interior noise standard the following project design feature would be included as a condition of project approval:

PDF-NOI-12. Prior to issuance of a building permit the applicant would prepare an additional exterior-to-interior noise report completed by a qualified acoustical consultant for the proposed on-site residences that would face East 2nd Avenue. The report would be submitted with the building plans. The information in this report would include wall heights and lengths, room volumes, and window and door tables typical for a building plan, as well as information on any other openings in the building shell. The report shall also assume a "windows-closed" condition and that vehicles on East 2nd Avenue are traveling at 30 miles per hour. With this specific building plan information, which is not currently available, the report would determine the predicted interior noise levels at the planned on-site buildings. If predicted noise levels are found to be in excess of 45 CNEL, the report would identify architectural materials or techniques that could be included in project design plans to reduce noise levels to 45 CNEL in habitable rooms. Standard measures such as glazing with Sound Transmission Class (STC) ratings from a STC 22 to STC 60, as well as walls with appropriate STC ratings (34 to 60), should be considered. The report would be submitted and approved by the City prior to the issuance of a building permit.

Note that this would be considered a condition of project approval because this issue concerns the impact of the existing ambient noise environment on the project, not the project's impact on the environment. CEQA is intended to protect the existing environment from impacts that would result from the project. Generally, CEQA does not consider impacts of the existing environment on a proposed land use to be significant (*South Orange County Wastewater Authority v. City of Dana Point* 2011). However, in cases where a project may exacerbate existing conditions, such as noise exposure, the CEQA analysis must consider the impact of future residents or users of a project (*California Building Industry Association v. Bay Area Air Quality Management District* 2015).

Off-Site Transportation Noise

A comparison of existing noise levels with and without the project are provided in Table 10. A comparison of future noise levels with cumulative development, with and without the project, are provided in Table 9. Although the project would increase noise along some surrounding roadways (South Juniper Street and East 3rd Avenue under Existing Plus Project conditions and East 2nd Avenue and East 3rd Avenue under Existing Plus Cumulative Plus Project conditions),

these increases would not exceed the allowable incremental noise increases under either scenario. Therefore, impacts from off-site transportation noise would be less than significant.

Table 10. Project Traffic Noise Levels – Existing Plus Cumulative With and Without Project

Segment	Existing Plus Cumulative Noise Level (dBA CNEL)	Existing Plus Cumulative Plus Project Noise Level (dBA CNEL)	Change in Noise Level	Allowable Increase ¹	Significant Impact?
South Juniper Street from East 2nd Avenue to East 3rd Avenue	64	64	0	+2	No
South Ivy Street from East 2nd Avenue to East 3rd Avenue	46	43	-3	+8	No
East 2nd Avenue from South Juniper Street to South Ivy Street	66	67	+1	+1	No
East 3rd Avenue from South Juniper Street to South Ivy Street	46	50	+4	+8	No

Sources: Harris 2019a; LLG 2019.

Notes: CNEL = community noise equivalent level; dBA = A-weighted decibel

¹ Source: Figure VI-14 of the General Plan Community Protection Element

On-Site Heating, Ventilation, and Air Conditioning Systems

Stationary operational noise sources are regulated by the limits outlined in Escondido Municipal Code, Section 17-229 (City of Escondido 2012a), which states that noise in multifamily residential zones shall not exceed 55 dBA L_{eq} from 7:00 a.m. to 10:00 p.m. or 50 dBA L_{eq} from 10:00 p.m. to 7:00 a.m. For commercial zones, noise shall not exceed 60 dBA L_{eq} from 7:00 a.m. to 10:00 p.m. or 55 dBA L_{eq} from 10:00 p.m. to 7:00 a.m. The HVAC units for the project would be installed in four clusters with 24 to 35 units in each cluster for a total of 110 units. Clusters would be set back from the edge of the rooftop by 20 feet or more at all locations. The specifications of the HVAC systems that would be installed on the project rooftop are unknown at this time. Therefore, the specifications for the HVAC systems of a similar multifamily residential project are assumed (ABC 2018). Individual HVAC units not installed within an enclosure would have the potential to generate a noise level of up to 79 dBA L_{eq} at the unit (approximately 3 feet). Combined noise levels from multiple units would be higher at the source. The combined noise level from 35 units simultaneously operating at 79 dBA L_{eq} would be approximately 94 dBA at 3 feet. This estimate is conservative because it assumes an equal distance from all units and simultaneous operation. The closest residences to the proposed building would be the residences on the eastern side of South Ivy Street, located approximately 55 feet from the proposed residential building. With an additional 20-foot rooftop setback, unenclosed HVAC units could generate a noise level of approximately 66 dBA L_{eq} at the nearest residence. The closest commercial building is located on

the western side of the alley, approximately 25 feet west of the proposed building. At this distance, noise levels would be approximately 71 dBA.

The proposed residential building would be five stories tall. The surrounding commercial and residential uses are two stories tall. This difference in height would likely break the line of sight between the HVAC units and receptors so that the project itself would provide an approximately 5 dBA reduction in HVAC noise exposure (FTA 2018). Noise levels at the nearest residences would be approximately 61 dBA, and noise levels at the nearest commercial uses would be approximately 66 dBA without installation of noise-reducing features. However, as a project feature, the HVAC units on the project rooftop would be installed within enclosures such that noise from HVAC operation would not exceed 50 dBA at the nearest off-site receptor (Summa 2019). Although the exact specifications of the project HVAC units and selected enclosures are unknown at this time, it is anticipated that enclosures providing at least an 11 dBA noise reduction would be required. Installation of HVAC units inside enclosures providing at least an 11 dBA noise reduction would reduce noise levels at the nearest residences to 50 dBA or below and noise levels at the nearest commercial uses to 55 dBA or below.² Specific screening design and materials would be included with the building plans. Therefore, this impact would be less than significant.

Recycling and Trash Collection Noise

The project proposes a central trash collection enclosure located within the parking garage. The enclosure would be accessed through an 8-foot roll-up door along the alley on the western boundary of the project site. Trash service would be provided by Escondido Disposal. The schedule for waste collection has not yet been established; however, trash collection is anticipated to be required three times per week for solid waste and once per week for recyclable materials. The existing commercial and residential uses surrounding the project site currently require waste disposal services. The existing commercial and multifamily residential uses currently employ dumpsters and have disposal requirements similar to what would be required for the project. Section 17-232 of the City's Noise Ordinance limits trash collection to the hours between 6:00 a.m. and 10:00 p.m. However, as a project feature, trash collection at the project site would be limited to between 8:00 a.m. and 5:00 p.m., Monday through Friday. Given the short duration and relative infrequency of individual collection events and scheduling collection during prime activity hours, the addition of one waste collection customer on the project site would have little impact on the operation of surrounding land uses and would not be noticeably different than existing conditions. This impact would be less than significant.

² The exact specifications of the HVAC enclosures are unknown at this time; however, an 11 dBA reduction is within achievable noise reductions advertised by commercial HVAC enclosure providers. For example, the NOISEBLOCK enclosure system developed by Kinetic Noise Control offers typical noise reductions of 20–35 dBA (Kinetics Noise Control 2016).

Landscape Equipment and Nuisance Noise

Noise from residential land use is typically limited to nuisance noise, such as yelling or loud music. Additionally, the project would provide outdoor open space areas that would increase human activity on the project site and be a potential source of nuisance noise. These areas include an outdoor activity with a community pool and spa, a lounge and gas fire pits, an artificial turf area, a bar with a gas fire pit feature, barbeque grills, and cabanas. There would be 3,646 square feet of common area at grade. A separate open courtyard area would provide a lounge area with a gas fire pit and water feature. A 735-square-foot rooftop deck would also be provided at the northwestern corner of the building and be limited to passive seating areas. The common areas would provide gathering areas, and noise would generally be limited to typical conversation levels that would not be audible at surrounding properties, with the exception of the pool. The pool would potentially result in louder conversational noise levels from more active use, such as children playing. As a project feature, lease agreements would include rules related to nuisance noise, including music, at the pool to future limit noise exposure.

General residential noise sources, such as landscape equipment, and other intermittent or neighborhood noise, such as yelling, amplified music, or barking dogs (often characterized as nuisance noise), are regulated by the limits within the Sections 17-237 and 17-240 of the Noise Ordinance. Nuisance noise is difficult to control due to the variety of noise sources and intermittent nature of the impact. Additionally, the project site is located in a developed urban area that currently experiences ambient traffic noise and nuisance noise. For example, a community pool is located directly across South Ivy Street from the project at the existing residential development. It is unlikely that intermittent audible residential noise would be significantly different or excessive compared to existing conditions. Compliance with the City's Noise Ordinance would limit exposure to nuisance noise. Therefore, impacts would be less than significant.

3.6 Criterion Section 15332(d): Air Quality

Yes No

☒ ☐ Approval of the project would not result in any significant effects relating to air quality.

The project would not result in any significant effects relating to air quality, as discussed below. There is no exception to the Class 32 exemption related to traffic or transportation criteria. An Air Quality Technical Memorandum for the project was prepared by Harris and Associates (Harris 2019b) as provided in Appendix C1 and is summarized below. Additionally, a Greenhouse Gas Technical Memorandum is included as Appendix C2.

General Information on Air Quality

The project site is located within the San Diego Air Basin (SDAB). The San Diego Air Pollution Control District (SDAPCD) manages air quality in the SDAB. The SDAPCD operates a network of ambient air monitoring stations throughout the SDAB. The purpose of the monitoring stations is to measure ambient concentrations of pollutants and determine whether ambient air quality meets the California Ambient Air Quality Standards (CAAQS) and the National Ambient Air Quality Standards (NAAQS). The City operates the Escondido–East Valley Parkway Monitoring Station located on East Valley Parkway, which measures ozone (O₃), nitrogen dioxide (NO₂), particulate matter less than 10 microns (PM₁₀), and particulate matter less than 2.5 microns (PM_{2.5}) concentrations. No carbon monoxide (CO) data are available from monitoring sites in the SDAB after 2012, and no data are available for sulfur dioxide (SO₂) after 2013. However, with one exception for CO during the firestorms of October 2003, the SDAB has not violated the state or federal standards for CO or SO₂ in the last 20 years (SDAPCD 2017).

Concentrations of 1-hour O₃ exceeded CAAQS in 2017, and 8-hour O₃ CAAQS and NAAQS were exceeded in 2015, 2016, and 2017. The NAAQS and CAAQS for PM₁₀ were not exceeded in any of the 3 years. The monitored 24-hour PM_{2.5} values were not exceeded either. Likewise, the 1-hour and annual NAAQS and CAAQS for NO₂ were not exceeded.

The following sections describe the project's construction- and operation-related air quality impacts and CO impacts.

Significance Thresholds

The thresholds listed in Table 11 represent screening-level thresholds that can be used to evaluate whether project-related emissions could cause a significant impact on air quality.

Table 11. Screening Level Criteria Thresholds for Air Quality Impacts

Pollutant	Emission Rate		
	(pounds/hour)	(pounds/day)	(tons/year)
PM ₁₀	—	100	15
PM _{2.5}	—	55	10
NO _x	25	250	40
SO _x	25	250	40
CO	100	550	100
Pb	—	3.2	0.6
VOC	—	75	13.7

Sources: County of San Diego 2007; SDAPCD 2018.

Notes: CO = carbon monoxide; NO_x = oxides of nitrogen; Pb = lead and lead compounds; PM₁₀ = particulate matter less than 10 microns; PM_{2.5} = particulate matter less than 2.5 microns; SO_x = oxides of sulfur; VOC = volatile organic compounds

Emissions below the screening-level thresholds would not cause a significant impact. For nonattainment pollutants (O₃, with O₃ precursors NO_x and VOCs, and PM₁₀), if emissions exceed the thresholds shown in Table 10, the project could result in a cumulatively considerable net increase in these pollutants and, thus, could have a significant impact on the ambient air quality.

Consistency with Applicable Air Quality Plans

The SDAPCD manages air quality in the SDAB. Air quality plans applicable to the SDAB include the RAQS, addressing state requirements, and applicable portions of the California State Implementation Plan (SIP), addressing federal requirements. The RAQS and SIP outline the SDAPCD's plans and control measures designed to attain state and federal air quality standards. The RAQS and SIP were most recently updated in 2016.

The RAQS and SIP rely on San Diego Association of Government (SANDAG) growth projections, which are based in part on the City of Escondido and County of San Diego (County) General Plans. As such, projects that propose development consistent with the growth anticipated by the applicable general plans are consistent with the RAQS and applicable portions of the SIP. In the event that a project proposes development that is less dense than anticipated within the General Plan, the project would be consistent. If a project proposes development that is greater than that anticipated in the local plan and SANDAG's growth projections, the project may conflict with the SIP and RAQS and may contribute to a potentially significant cumulative impact on air quality. Cumulative projects located in the SDAB would have the potential to result in a cumulative impact to air quality if, in combination, they would conflict with or obstruct implementation of the RAQS. Individual projects that are inconsistent with the regional planning documents upon which the RAQS is based would have the potential to result in cumulative operational impacts if they represent development and population increases beyond regional projections.

The SDAB has been designated as a federal nonattainment area for O₃ and a state nonattainment area for O₃, PM₁₀, and PM_{2.5}. Emissions of PM₁₀ and PM_{2.5} associated with construction generally result in short-term impacts. As discussed previously, the emissions of criteria pollutants from project construction would be below the significance levels. Construction would be short term and temporary in nature. Once construction is complete, construction-related emissions would cease. Long-term operation of the facility would include customers and employees of the retail store; residents of 127 units living in the building; and associated services to serve and maintain the building, such as mail delivery, trash removal, and landscape and pool maintenance. Projected ongoing operational emissions generated by the project from area, mobile, and energy sources would not exceed the significance thresholds for criteria pollutants VOC, NO_x, CO, SO_x, PM₁₀, and PM_{2.5}. As such, the project would result in less than significant impacts related to criteria pollutant emissions from construction and operation.

Regarding long-term cumulative operational emissions in relation to consistency with local air quality plans, the applicable general plan for the City is the May 2012 General Plan (City of Escondido 2012a). The project proposes to construct housing at a density of 127 dwelling units per acre on a site with a land use designation that anticipates 75 dwelling units per acre. However, by relying on the City's density transfer pool and the State Density Bonus Law, the level of development proposed by the project would not conflict with the overall growth forecasted in the General Plan for the Downtown Escondido area. Therefore, the project would be consistent with SANDAG and the General Plan's growth projections and would not conflict with or obstruct implementation of the SIP or RAQS. Therefore, the project's contribution to cumulative air quality impacts would be less than significant.

Construction-Phase Criteria Pollutant Emissions

Construction of the project would result in temporary air pollutants associated with soil disturbance, dust emissions, employee and material delivery vehicle exhaust, off-gassing from paving and coating activities, and combustion pollutants from off-road construction equipment. Construction-related air pollution emissions can vary from day to day, depending on the level of activity, type of activity, and prevailing weather conditions. The primary air pollutants of concern from construction activities are particulate matter (including both PM₁₀ and PM_{2.5}), CO, and O₃ precursors (including VOCs) and oxides of nitrogen (NO_x).

The project is smaller than the air quality study trigger criteria presented in Table 4.3-12 of the City's General Plan EIR that would trigger the need for an air quality impact assessment (the level for apartment land uses with a density of 20 or more dwelling units per acre is 420 dwelling units) (City of Escondido 2012b). Nonetheless, anticipated air pollution emissions were quantified to further demonstrate consistency with the SDAPCD thresholds. The project's criteria pollutant emissions were calculated using the California Emissions Estimator Model (CalEEMod), version 2016.3.2, based on information provided by Touchstone Communities. Table 12 shows the estimated maximum daily construction emissions associated with the construction of the project.

Table 12. Estimated Maximum Daily Construction Emissions (pounds/day)

Construction Year	VOC	NO _x	CO	PM ₁₀	PM _{2.5}
2019	4.1	41.3	25.4	4.4	2.5
2020	37.2	33.5	26.8	3	1.7
Maximum Daily Emissions	37.2	41.3	26.8	4.4	2.5
Significance Threshold	75	250	550	100	55
Level Exceeded?	No	No	No	No	No

Sources: Harris 2019b; County of San Diego 2007; SDAPCD 2018.

Notes: CO = carbon monoxide; NO_x = oxides of nitrogen; PM₁₀ = particulate matter less than 10 microns in diameter; PM_{2.5} = particulate matter less than 2.5 microns in diameter; VOC = volatile organic compound

Assumes watering of construction site would occur twice daily, use of low-VOC paints, and reduction of construction vehicle speed in compliance with Regulation 4, Rule 52, Particulate Matter; Rule 55, Fugitive Dust Rule; and Rule 67, Architectural Coatings, of the SDAPCD's rules and regulations and the City's General Plan EIR Mitigation Measure Air-1.

Construction of the project would be short term and temporary. As shown in Table 12, daily construction emissions would not exceed the significance thresholds for VOC, NO_x, CO, PM₁₀, or PM_{2.5}. This impact would be less than significant.

Operational-Phase Criteria Pollutant Emissions

After construction is completed, the project would be associated with ongoing air pollution associated with mobile vehicle sources; energy consumption; and “area” sources of emissions, which include landscaping, off-gassing from painting, and other consumer products.

The main operational emissions sources associated with the project would be from traffic. Project-specific estimates of daily vehicle trips were obtained from the Transportation Impact Analysis (LLG 2019). CalEEMod defaults were used for trip length, distribution, purpose, weekday/weekend ratios, vehicle mix, and vehicle emissions factors. Operational energy source emissions would result from on-site natural gas use. Emissions associated with area sources, such as consumer product use and landscaping, would also be generated. Based on the project plans (Summa 2019), it is assumed that the project would not include hearths or wood-burning stoves in the proposed residential units.

As with construction emissions, the project’s criteria pollutant emissions were calculated using CalEEMod, version 2016.3.2. Table 13 presents a summary of maximum daily operational emissions for the project at full buildout and compares these emissions with the SDAPCD air quality impact analysis significance thresholds.

Table 13. Estimated Maximum Daily Operational Emissions (pounds/day)

Source	VOC	NO _x	CO	SO _x	PM ₁₀	PM _{2.5}
Area	4.6	0.1	10.5	<0.1	0.1	0.1
Energy	<0.1	0.2	0.1	<0.1	<0.1	<0.1
Mobile	1.5	6.2	17.7	0.1	4.8	1.3
Maximum Daily Emissions	6.1	6.5	28.3	0.1	4.9	1.4
Significance Threshold	75	250	550	250	100	55
Level Exceeded?	No	No	No	No	No	No

Sources: Harris 2019b; County of San Diego 2007; SDAPCD 2018.

Notes: CO = carbon monoxide; NO_x = oxides of nitrogen; PM₁₀ = particulate matter less than 10 microns in diameter; PM_{2.5} = particulate matter less than 2.5 microns in diameter; SO_x = sulfur oxide; VOC = volatile organic compound

In compliance with Rule 67, Architectural Coatings, of the SDAPCD’s rules and regulations, assumes use of low-VOC paints. Assumes no hearths or wood-burning stoves, per the project plans (Summa 2019).

As shown in Table 13, operational emissions for the project would be substantially below the significance threshold for criteria pollutants. This impact would be less than significant.

Carbon Monoxide

A Carbon Monoxide (CO) hotspot is an area of localized CO pollution caused by high vehicle intensity, such as congested intersections and parking garages. If a project increases average delay at signalized intersections operating at level of service E or F or causes an intersection that would operate at level of service D or better without the project to operate at level of service E or F with the project, a quantitative screening is required. The intersections relevant to the analysis of the project's potential for CO hotspots are those included in the study area for the Transportation Impact Analysis (LLG 2019), which are the intersections with the potential to accommodate the most project traffic. According to the Transportation Impact Analysis (LLG 2019), the study area intersections are forecasted to continue to operate at an acceptable level of service with the project. There would be no potential for a CO hotspot or exposure of sensitive receptors to substantial, project-generated, local CO emissions. Impacts related to CO hotspots would be less than significant.

Toxic Air Contaminants

According to the County Guidelines for Determining Significance – Air Quality (County of San Diego 2007), diesel particulate matter is the primary Toxic Air Contaminates (TAC) of concern for typical land use projects that do not propose stationary sources of emissions regulated by the SDAPCD. The dose to which receptors are exposed is the primary factor used to determine health risk. Dose is a function of the concentration of a substance or substances in the environment and the duration of exposure to the substance. Thus, the risks estimated for a maximally exposed individual are higher if a fixed exposure occurs over a longer time period. Health risk assessments, which determine the exposure of sensitive receptors to TAC emissions, are typically based on a 70-year exposure period; however, such assessments should be limited to the period or duration of activities associated with a project.

Project construction would result in short-term emissions of diesel particulate matter from the exhaust of off-road, heavy-duty diesel equipment. As presented in Table 12, maximum daily particulate emissions, which include diesel particulate matter, would be relatively low compared to the significance thresholds. Additionally, the construction period would be relatively short (20 months) compared to the typical 70-year analysis considered for potential health risk assessments. Combined with the dispersive properties of diesel particulate matter, construction-related emissions of TACs would not expose sensitive receptors to substantial emissions of TACs. Therefore, impacts would be less than significant.

As the project would involve the development of multi-family residential uses, project operation would not introduce any new stationary sources of TACs such as diesel-fueled backup generators that are more commonly associated with large commercial and industrial uses. In addition, the project is sited more than 1 mile from the nearest freeway (Interstate 15), which is well over the

500-foot threshold set by the CARB (CARB 2005) to avoid exposure of residents to TACs. The site is not within buffer distances included in the City's General Plan EIR that would require preparation of a health risk assessment (within 500 feet of a waste transfer facility or 1 mile of operating industrial land uses, medical facilities, or research and development facilities that generate a substantial source of TACs). As discussed previously, the project would not have the potential to expose sensitive receptors to TACs from hotspots resulting from mobile sources to an extent that health risks could result, and associated impacts would be less than significant.

Odors

Typical odor sources are generally associated with municipal, industrial, or agricultural land uses, such as wastewater treatment plants, landfills, confined animal facilities, composting stations, food manufacturing plants, refineries, and chemical plants. The occurrence and severity of odor impacts depend on the nature, frequency, and intensity of the source, the wind speed and direction, and the sensitivity of receptors. The project would not involve land uses typically associated with odor complaints. Odors may be generated from vehicles and equipment exhaust emissions during construction of the project. Odors produced during construction would be attributable to emissions from tailpipes of construction equipment and architectural coatings. Such odors are temporary and generally occur at magnitudes that would not affect substantial numbers of people. Therefore, odor impacts resulting from project construction and operation would be less than significant.

3.7 Criterion Section 15332(d): Water Quality

Yes No

☒ ☐ Approval of the project would not result in any significant effects relating to water quality.

The proposed project would not result in any significant effects relating to water quality, as discussed below. There is no exception to the Class 32 exemption related to traffic or transportation criteria. A Drainage Study for the project prepared by Touchstone Communities (Touchstone Communities 2017), and the Storm Water Quality Management Plan (SWQMP) prepared for the project by Touchstone Communities (Touchstone Communities 2018) as provided in Appendix D and is summarized below.

The Ivy project is located within the Escondido Hydrologic Sub-Area (HSA 904.62), which is part of the Escondido Creek Hydrologic Area (HA 904.60) and Carlsbad Hydrologic Unit (HU 904.00). The site is relatively flat with slopes that do not exceed 15 percent.

The project site is located within the jurisdiction of the San Diego Regional Water Quality Control Board (RWQCB). The San Diego RWQCB requires a permit for municipalities to discharge stormwater into local waterways. The City is subject to the requirements of the San Diego Region

Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit, Order No. No. R9-2013-0001 as amended by R9-2015-0001 and R9-2015- 0100 (San Diego MS4 Permit). City compliance with the San Diego MS4 Permit is required by state and federal law. Compliance with these existing stormwater regulations and the City's SCAs would ensure that the project would not result in significant effects relating to water quality, consistent with the requirement of the Class 32 exemption under CEQA Guidelines, Section 153332(d). Potential water quality concerns associated with the project are discussed below.

Groundwater Conservation

The project would connect to the existing municipal water system and would not use groundwater on the site. At the time that the Stormwater Quality Management Plan (SWQMP) was prepared, the former medical facility had not been demolished and was still present on the project site. The SWQMP compares the site condition with the medical facility present to the project condition. Under this scenario, the impervious areas on the site would change from 0.84 acres to 0.87 acres or a 4 percent increase (Touchstone Communities 2018). However, the current condition of the project site is a vacant, disturbed property with no development. CEQA requires the project to compare the proposed condition to current baseline conditions. Therefore, development of the project would change the site from an existing 100 percent pervious 1.002-acre site to a site with 0.87 acres of impervious surfaces. Thus, the site would not provide as much groundwater recharge potential under the project condition. However, per the City's Urban Water Management Plan (UWMP), the City does not depend on groundwater sources in its water supplies (City of Escondido 2011). Therefore, the project would not substantially deplete or interfere with groundwater supplies and impacts would be less than significant.

Stormwater Runoff

Construction Impacts. Construction of the project would require grading and excavation of soils, which would loosen sediment, and then have the potential to mix with surface water runoff and degrade water quality. Additionally, construction would require the use of heavy equipment and construction-related chemicals, such as concrete, cement, asphalt, fuels, oils, antifreeze, transmission fluid, grease, solvents and paints. These potentially harmful materials could be accidentally spilled or improperly disposed of during construction and, if mixed with surface water runoff, could wash into and pollute receiving waters.

These types of water quality impacts during construction of the project would be prevented through implementation of a grading and erosion control plan that is required by the City's Grading and Erosion Control Ordinance (Article 55 of the Municipal Code) and the State General Permit to Discharge Stormwater Associated with Construction Activities (NPDES No. CAS000002), which requires preparation of a SWPPP by a Qualified SWPPP Developer. The grading and erosion control plan and SWPPP are required for plan check and approval by the

Land Development Engineer, as well as the Planning Division, prior to provision of permits for the project, and would include construction BMPs such as:

- Silt Fence, Fiber Rolls, or Gravel Bag
- Street Sweeping and Vacuuming
- Sedimentation Basin
- Storm Drain Inlet Protection
- Stabilized Construction Entrance/Exit
- Vehicle and Equipment Maintenance, Cleaning, and Fueling
- Hydroseeding
- Material Washout
- Stockpile Management
- Spill Prevention and Control
- Solid Waste Management
- Concrete Waste Management

Adherence to applicable requirements and implementation of the appropriate BMPs would ensure that potential water quality degradation associated with construction activities would be minimized, and impacts would be less than significant.

Operational Impacts. The Ivy project would mimic the existing drainage patterns, which flow in a northwesterly direction (Touchstone Communities 2017). Runoff from the roof and outdoor decks would be discharged from roof drains into four raised planters located on the outdoor podium decks. Runoff from the raised planters would then be directed to a biofiltration planter BMP located in the alley. A private storm drain line would convey the flows from the biofiltration planter BMP north from the alley where it would eventually discharge into an upsized 18-inch public storm drain on 2nd Avenue. In addition, a second biofiltration basin would be located at the intersection of the alley and 2nd Avenue to treat the pavement associated with widening of East 2nd Avenue and the newly constructed sidewalk on 2nd and 3rd Avenue and Ivy Street. The runoff from the second biofiltration basin would also tie into the 18-inch public storm drain line on East 2nd Avenue. The proposed biofiltration basins located in the alley and East 2nd Avenue would treat pollutants and meet flow control requirements for the project. In addition, floor drains and a water source hose bib would be included in the trash enclosure area for maintenance. The concrete would be sloped and the drains would be tied to the sewer system to avoid pollutant runoff into Escondido Creek. Finally, the proposed landscaping outside the building footprint would not be included as part of the Drainage Management Area (DMA) as surrounding flows would not come with the hardscape from the project. Therefore, the project is considered to be self-mitigating.

With implementation of the operational treatment control biofiltration basin BMPs that would be required by the City pursuant to the SUSMP, potential pollutants would be reduced to the maximum extent feasible. Therefore, development of the project would not violate any water quality standards or waste discharge requirements, including but not limited to increasing pollutant discharges to receiving waters. Impacts would be less than significant.

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Section 4 **Exceptions to Categorical Exemptions Checklist**

In addition to investigating the applicability of CEQA Guidelines, Section 15332 (Class 32), this CEQA document also assesses whether any of the exceptions to qualifying for the Class 32 categorical exemption for an in-fill project are present. The following analysis compares the criteria of CEQA Guidelines, Section 15300.2 (Exceptions), to the project.

4.1 Criterion Section 15300.2(a): Location

Yes No

- ☐ ☒ Is there an exception to the Class 32 exemption for the project due to its location in a particularly sensitive environment, such that the project may impact an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies?

This exception applies to CEQA exemptions under Classes 3, 4, 5, 6, and 11. The project qualifies as a Class 32 Urban In-fill exemption, and therefore this criterion section is not applicable. The project site is located within a developed urban area and there are no environmental resources of hazardous or critical concern that are designated, precisely mapped, or officially adopted in the vicinity of the project site, or that could be adversely affected by the project. Therefore, the exception under CEQA Guidelines, Section 15300.2(d), does not apply to the project.

4.2 Criterion Section 15300.2(b): Cumulative Impact

Yes No

- ☐ ☒ Is there an exception to the Class 32 exemption for the project due to significant cumulative impacts of successive projects of the same type and in the same place, over time?

In general the geographic context for cumulative impacts is the Downtown Specific Plan area. Future growth and development projects within the Downtown Specific Plan area have the potential to impact a variety of resources discussed in the CEQA Guidelines. It is anticipated that development of future cumulative projects would undergo CEQA review. Future development would be subject to federal, state, and local regulations and would be required to comply with the goals and policies in the City's Downtown Specific Plan. All resource topics associated with the project have been analyzed in accordance with CEQA and the CEQA Guidelines and were found to pose no impacts, less than significant impacts. Therefore, the project would not make a cumulatively considerable contribution to a significant cumulative impact. Therefore, the exception under CEQA Guidelines, Section 15300.2(d), does not apply to the project.

4.3 Criterion Section 15300.2(c): Significant Effect

Yes No

- ☐ ☒ Is there an exception to the Class 32 exemption for the project because there is a reasonable possibility that the project will have a significant effect on the environment due to unusual circumstances?

There are no known unusual circumstances applicable to the project or project site that could result in a significant effect on the environment. Therefore, the exception under CEQA Guidelines, Section 15300.2(c), does not apply to the project.

4.4 Criterion Section 15300.2(d): Scenic Highway

Yes No

- ☐ ☒ Is there an exception to the Class 32 exemption for the project because project may result in damage to scenic resources including but not limited to, trees, historic buildings, rock outcroppings or similar resources, within a highway officially designated as a state scenic highway?

The project site is not located in the vicinity of any designated or eligible state scenic highway. The project site is not located within the Interstate 15 scenic corridor as defined in the City's General Plan Resource Conservation Element (City of Escondido 2012a). Additionally, the Resource Conservation Element does not identify any local scenic roadways (City of Escondido 2012a). Therefore, the exception under CEQA Guidelines, Section 15300.2(d), does not apply to the project.

4.5 Criterion Section 15300.2(e): Hazardous Waste Sites

Yes No

- ☐ ☒ Is there an exception to the Class 32 exemption for the project because the project is located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code?

The project site contained a medical facility that was constructed in the mid to late 1980's. The medical facility was demolished in early 2018 and the site is now vacant. A Phase I ESA was conducted in 2017 prior to the medical facility being demolished and is provided in Appendix E. As part of the Phase I ESA (Christian Wheeler 2017), a computerized record search was performed by Environmental Data Resources, Inc. (EDR), in April 2017. The search included all documented environmental incidents and operating permits within a 0.25-mile to 1-mile radius of the subject property. Based on the results of this search, which were negative, it was confirmed that the project site is not located on a hazardous materials site pursuant to Government Code, Section 65962.5. Therefore, the project would not result in a significant hazard to the public or the environment due to the presence of hazardous materials sites

identified pursuant to Government Code, Section 65962.5. According to the Phase I ESA (Christian Wheeler 2017), there was no evidence of storage tanks, drums, hazardous substances, or petroleum projects, unidentified containers, odors, and/or pools of liquids prior to demolition. Therefore, the exception under CEQA Guidelines, Section 15300.2(d), does not apply to the project.

4.6 Criterion Section 15300.2(f): Historic Resources

Yes No

- ☐ ☒ Is there an exception to the Class 32 exemption for the project because the project may cause a substantial adverse change in the significance of a historic resource?

Historic Resources

The project site is located in the highly developed and urban area of downtown Escondido. The project site is currently vacant, disturbed, and recently cleared of all structures and vegetation. A Literature Search and Background Research Report was prepared by Recuerdos Research on April 13, 2018 (Recuerdos Research 2018), and is provided in Appendix F. As part of the report, a records search was conducted at the South Coastal Information Center (SCIC) at San Diego State University by Richard L. Carrico on March 22, 2018, for the project site. The record search did not identify any historic resources within or adjacent to the project site as defined by Section 15064.5 (Recuerdos Research 2018). The project site is located along the perimeter of the historic downtown district of the Downtown Specific Plan area; however, no historic resources are located on the project site. The project includes a diversity of roof heights, a variety of building materials including stucco, metal siding, and metal rails and alternating grey tones with maroon accents that blend with the urban character of the City at the pedestrian entry that and are consistent with the Downtown Specific Plan. The use of varied rooflines reduce the overall scale of the building. The building height is consistent with the surrounding buildings also located along the perimeter of the historic downtown district. The project would not result in a substantial adverse change to a historic resource. Therefore, the exception under CEQA Guidelines, Section 15300.2(d), does not apply to the project.

Archaeological Resources

A records search was conducted at the SCIC at San Diego State University by Richard L. Carrico of Recuerdos Research on March 22, 2018, for the project site. One archaeological site (SDI-5209) was identified during the records search that is located approximately 2,800 feet southeast of the project site on a slight rise above the Escondido Valley floor. Site SDI-5209 is recorded as a dense set of bedrock milling features containing more than 70 milling slicks and 1 shallow mortar (Recuerdos Research 2018). Due to the distance of this recorded site to the project site, the project would have no impact on this site.

Previous uses of the project site include residential development followed by a former medical facility. Therefore, it is unlikely that any evidence of pre-contact or historic-period archaeological cultural resources exists at the project site and no further testing or monitoring is required. However, the San Luis Rey Band of Mission Indians has requested monitoring during construction as a result of consultation under AB 52. Therefore, in order to comply with AB 52, the following project design features would be made a condition of project approval:

PDF-CR-1. The City recommends that the applicant enter into a Tribal Cultural Resource Treatment and Monitoring Agreement (also known as a pre-excavation agreement) with a tribe that is TCA with the project location (i.e., 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 project, including additional archaeological surveys and/or studies, excavations, geotechnical investigations, grading, and all other ground disturbing activities.

PDF-CR-2. 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 has 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 confirming that the selected Native American monitor is associated with a TCA Tribe. Prior to any pre-construction meeting, the City shall approve all persons involved in the monitoring program.

PDF-CR-3. 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, in addition to reviewing the grading plan to assist in determining the necessity of the Luiseño Native American monitor and archaeological monitor's presence.

PDF-CR-4. During the initial grubbing, site grading, excavation (including post-demolition activities to assess the condition of the subsurface stratigraphy), or disturbance of the ground surface, the qualified archaeologist and the Native American monitor shall be on site where deemed appropriate and necessary by the archaeologist and Luiseño Native American monitor. If imported fill materials, or fill used from other areas of the project site, are to be incorporated at the project site, then those fill materials shall be absent of any tribal cultural resources. The frequency of inspections shall depend on the rate of excavation, the materials excavated, and any discoveries of tribal cultural resources as defined in PRC Section 21074.

PDF-CR-5. 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 operations in the area of discovery to allow for evaluation of potentially significant cultural resources. Isolates and clearly non-significant deposits shall be minimally documented in the field and collected so that the monitored grading can proceed.

PDF-CR-6. 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 treatment and disposition of the tribal cultural resource shall be made by the qualified archaeologist in consultation with the TCA Tribe and the Native American monitor, and shall be submitted to the City for review and approval.

PDF-CR-7. The avoidance and/or preservation of the significant tribal cultural resource and/or unique archaeological resource must first be considered and evaluated under 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, 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 qualified archaeologist, 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.

PDF-CR-8. In accordance with CEQA, all tribal cultural resources shall be treated with culturally appropriate dignity. If the qualified archaeologist elects to collect any tribal cultural resources, the Native American monitor must be present during the collection and cataloging of those resources. Moreover, if the qualified archaeologist does not collect the tribal 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. It is the preference of the City that all tribal cultural resources be repatriated to the TCA Tribe, as such preference would be the most culturally sensitive, appropriate and dignified. Therefore, any tribal cultural resources collected by the qualified archaeologist shall be provided to the TCA Tribe. Evidence that all cultural materials collected have been repatriated shall be in the form of a letter from the TCA Tribe to whom the tribal cultural resources have been repatriated identifying that the archaeological materials have been received.

Or,

Any tribal cultural resources collected by the qualified archaeologist shall be curated with its associated records at a San Diego curation facility or a culturally affiliated Tribal curation facility that meets federal standards per 36 CFR Part 79, and, therefore, would be professionally curated and made available to other archaeologists/researchers for further study. The collections and associated records, including title, shall be transferred to the San Diego curation facility or culturally affiliated Tribal curation facility and shall be accompanied by payment of the fees necessary for permanent curation. Evidence that all cultural materials collected have been curated shall be in the form of a letter from the curation facility stating that the prehistoric archaeological materials have been received and that all fees have been paid.

PDF-CR-9. Prior to the release of the grading bond, a monitoring report and/or evaluation report, if appropriate, that 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.

4.7 Criterion Section 15300.2: Other Potential Effects

Yes No

- ☐ ☒ Is there an exception to the Class 32 exemption for the project because the project may result in substantial adverse impacts other than those discussed above?

No additional substantial adverse impacts have been identified or are anticipated beyond those discussed above.

Section 5 Report Preparation

Harris & Associates (Categorical Exemption Report, Air Quality, and Noise Studies)

Diane Sandman, AICP, Project Director

Sharon Toland, Senior Air Quality, Greenhouse Gas Emissions, and Noise Specialist

Esther Daigneault, Senior Environmental Analyst

Kelsey Hawkins, Environmental Analyst

Andrew Turpin, GIS/Graphics

Lindsey Messner, Technical Editor

Christian Wheeler Associates (Phase I ESA)

Shawn Caya, RGE, Registered Professional Engineer

Troy S. Wilson, CEG, Certified Engineering Geologist

David R. Russell, CEG, Certified Engineering Geologist

KTU+A (Visual Simulations)

Mike Singleton, Principal

Stephen Nunez, Senior Designer/Planner

Linscott Law & Greenspan Engineers (Transportation Impact Analysis)

John Keating, Principal

Roman Lopez, Transportation Planner II

Recuerdos Research (Cultural Resources)

Richard Carrico, Principal/Owner

Touchstone Communities (Drainage and Stormwater)

Alberto Sandoval, Registered Professional Engineer

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LEGEND
Project Site



Source: Google Earth 2018

Figure 2
Project Site

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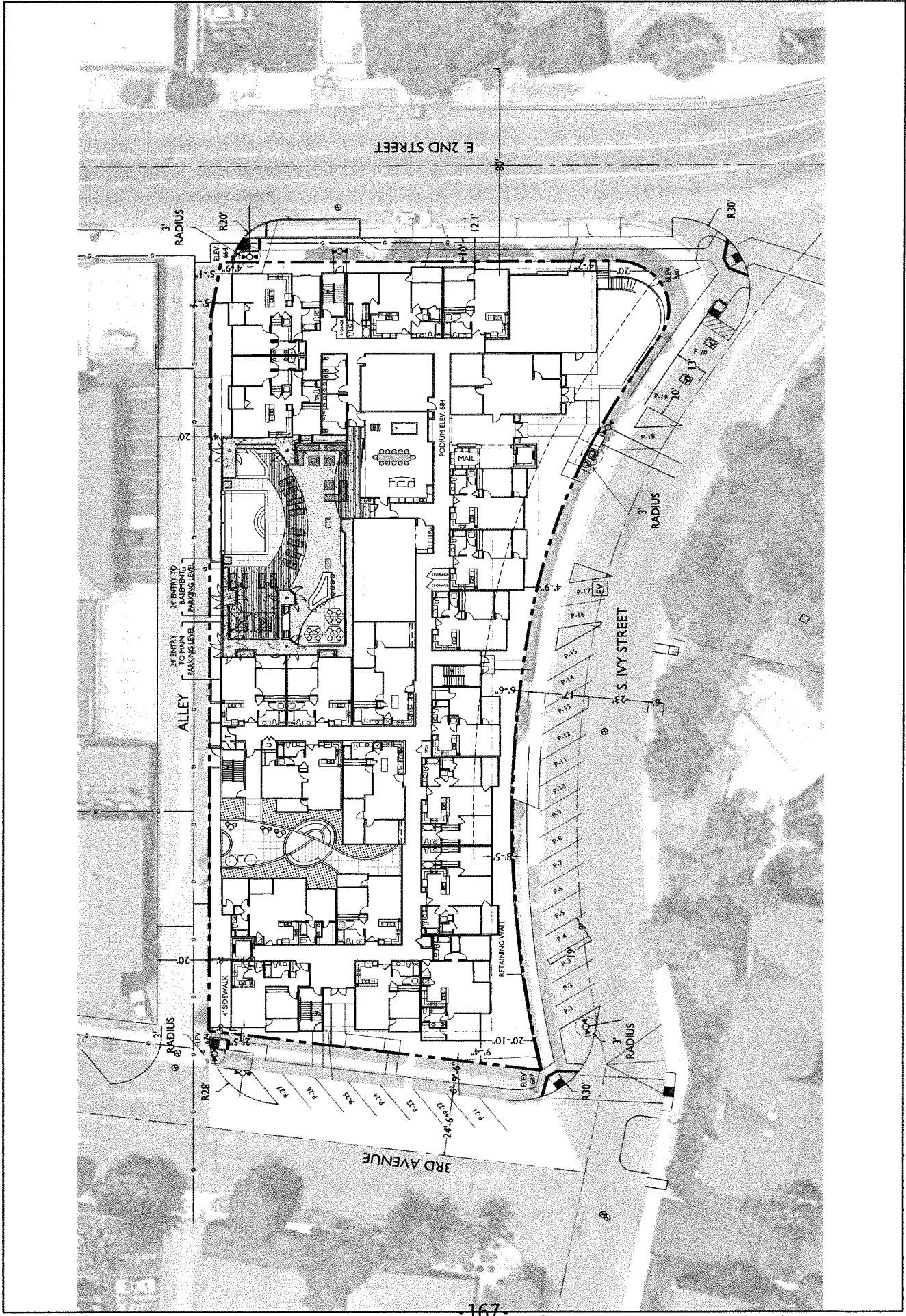
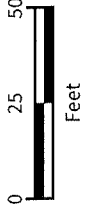


Figure 3
Proposed Site Plan



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Source: Summa Architecture 2018

Figure 4a
Project Perspective from South Ivy Street and East 2nd Avenue

No Scale

Harris & Associates



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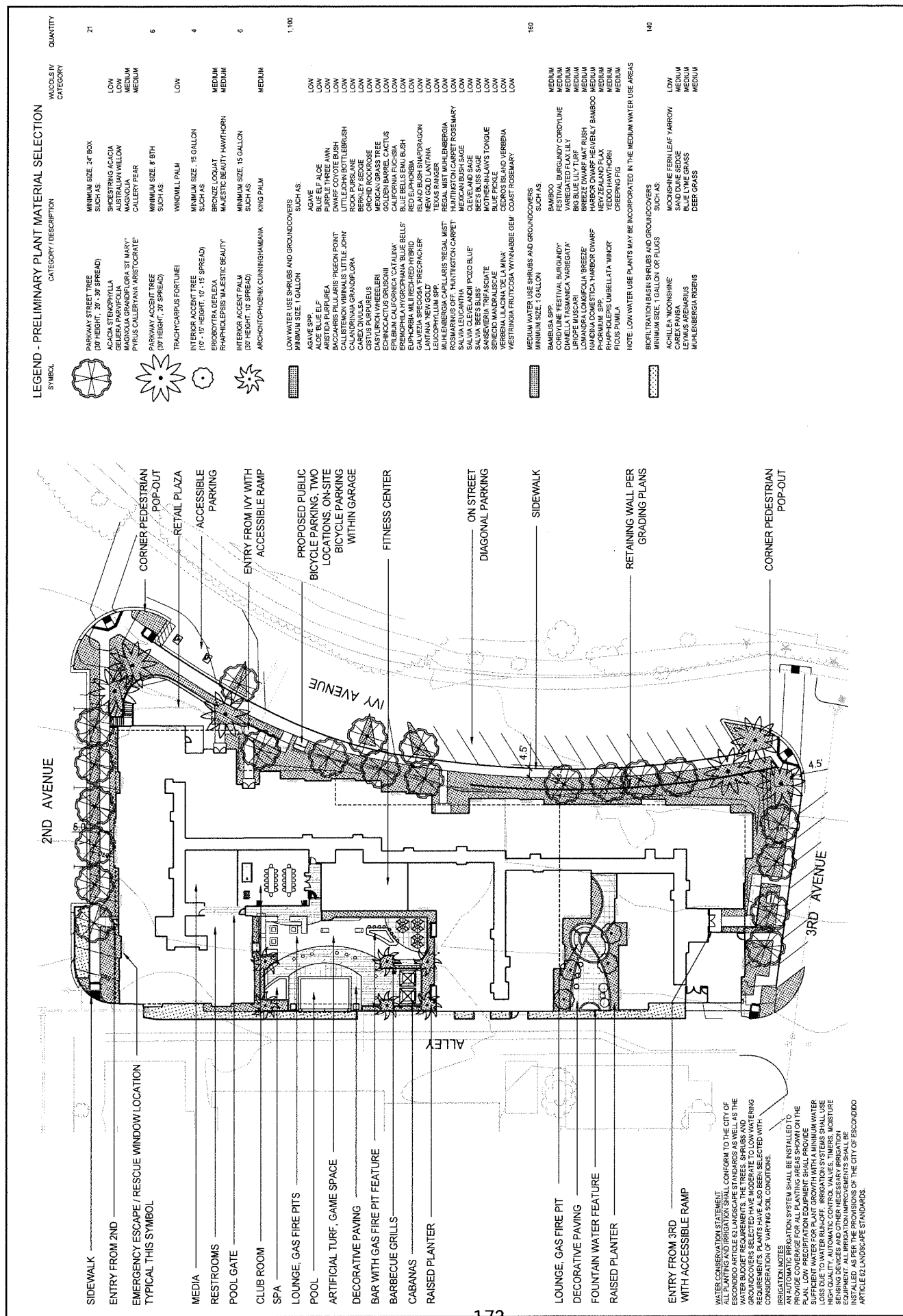
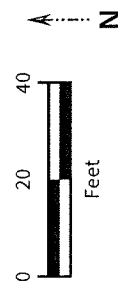


Figure 5 Landscape Concept Plan

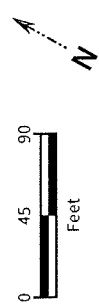
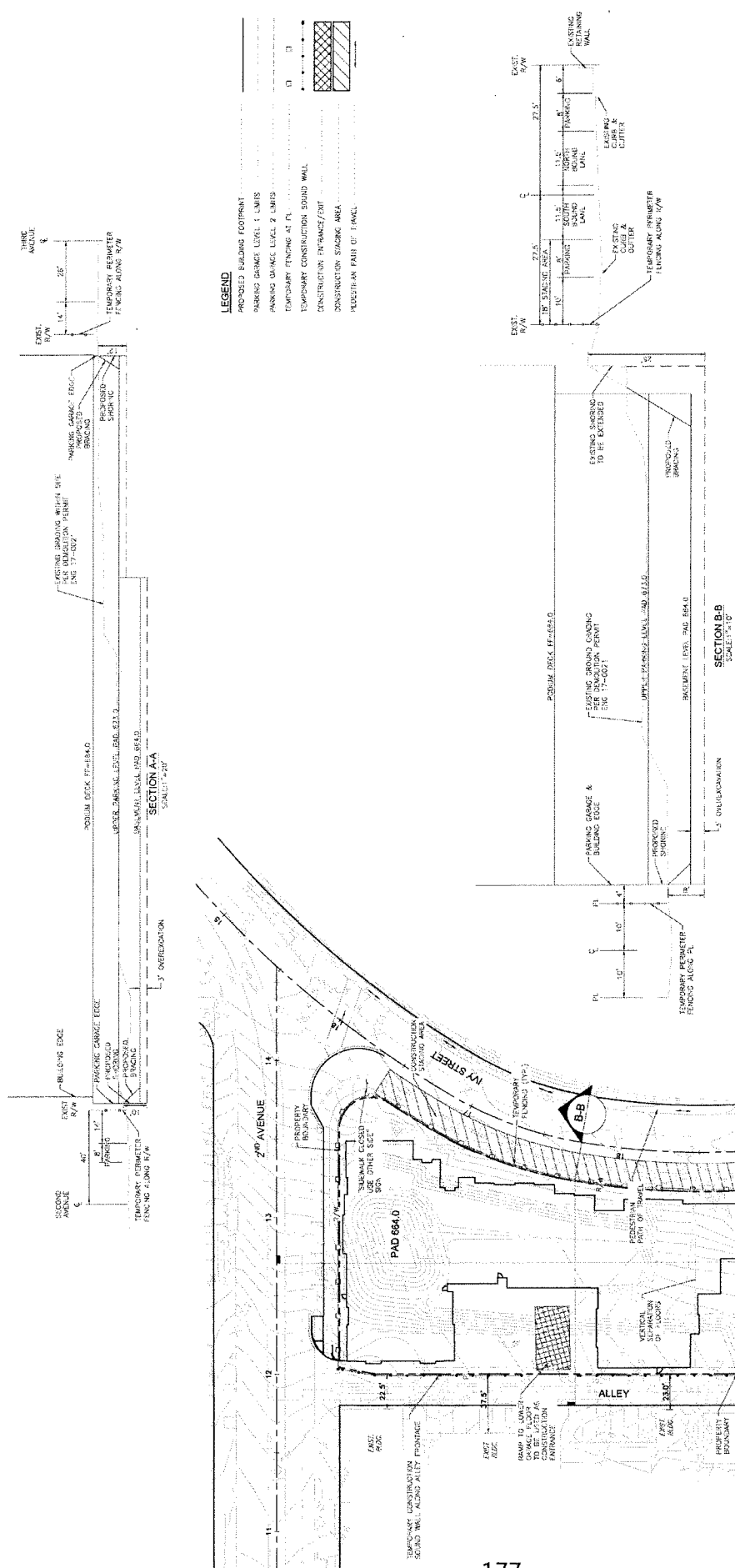
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Figure 7
The Ivy Construction Staging Plan

Source: TSAC Engineering



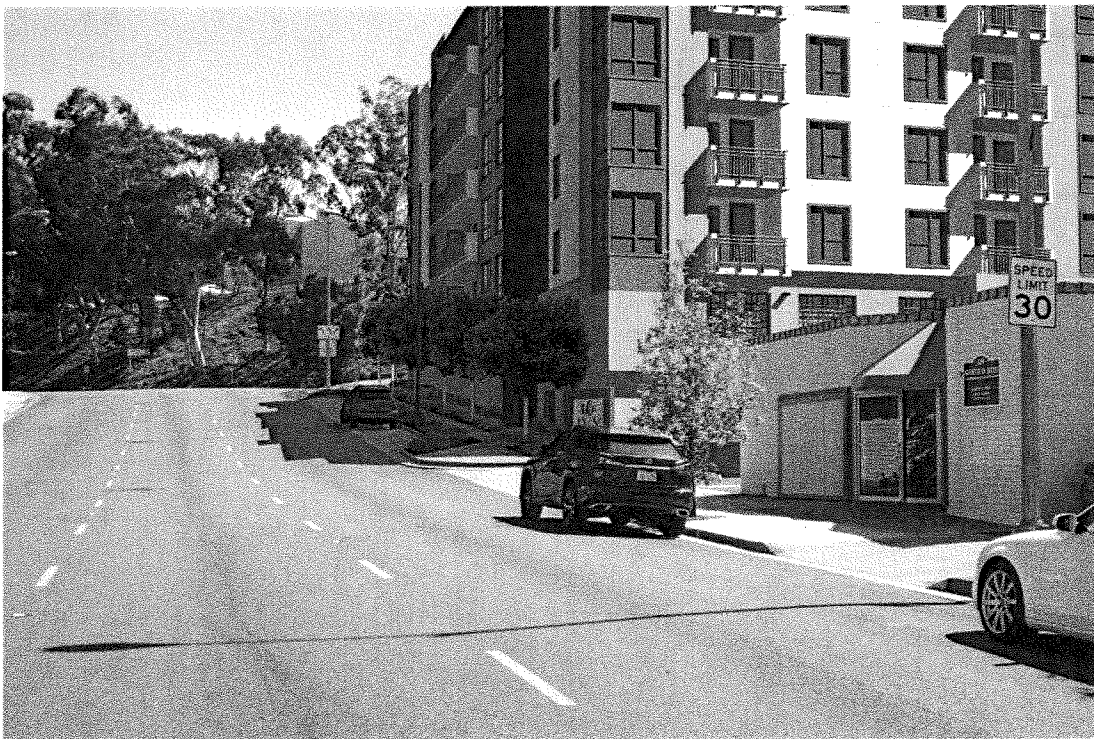
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Candidate Keyview #1 | Existing Condition



Candidate Keyview #1 | Proposed Condition



Keymap

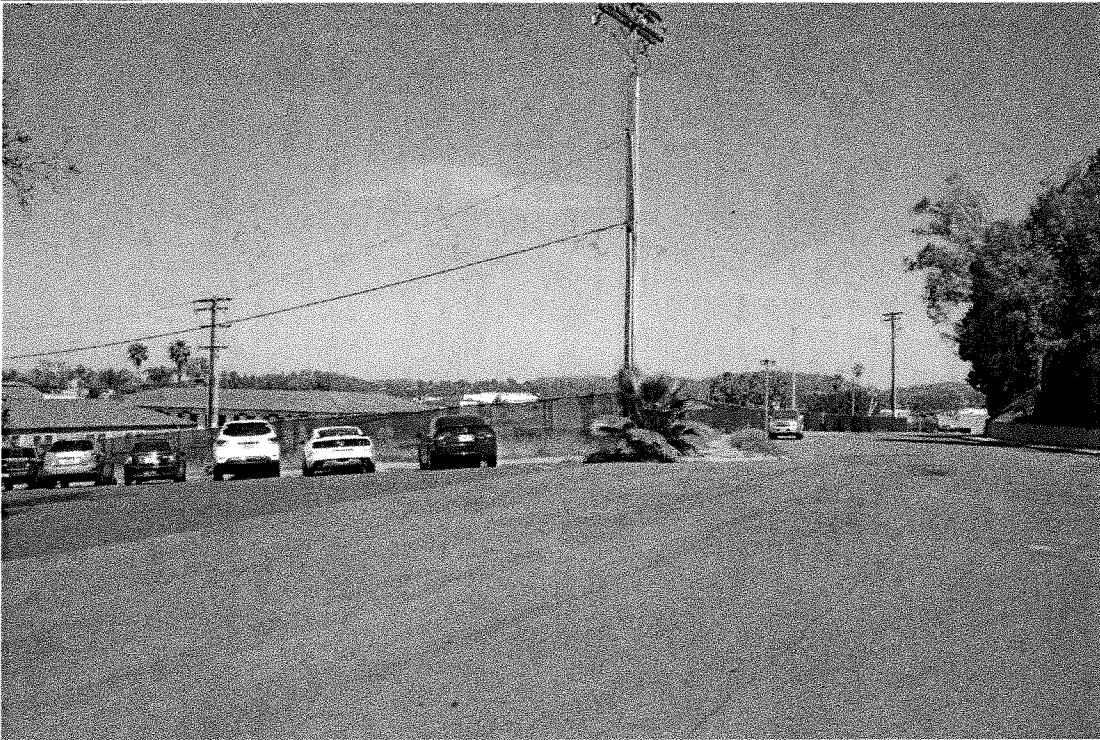
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Source: KTU&A 2019

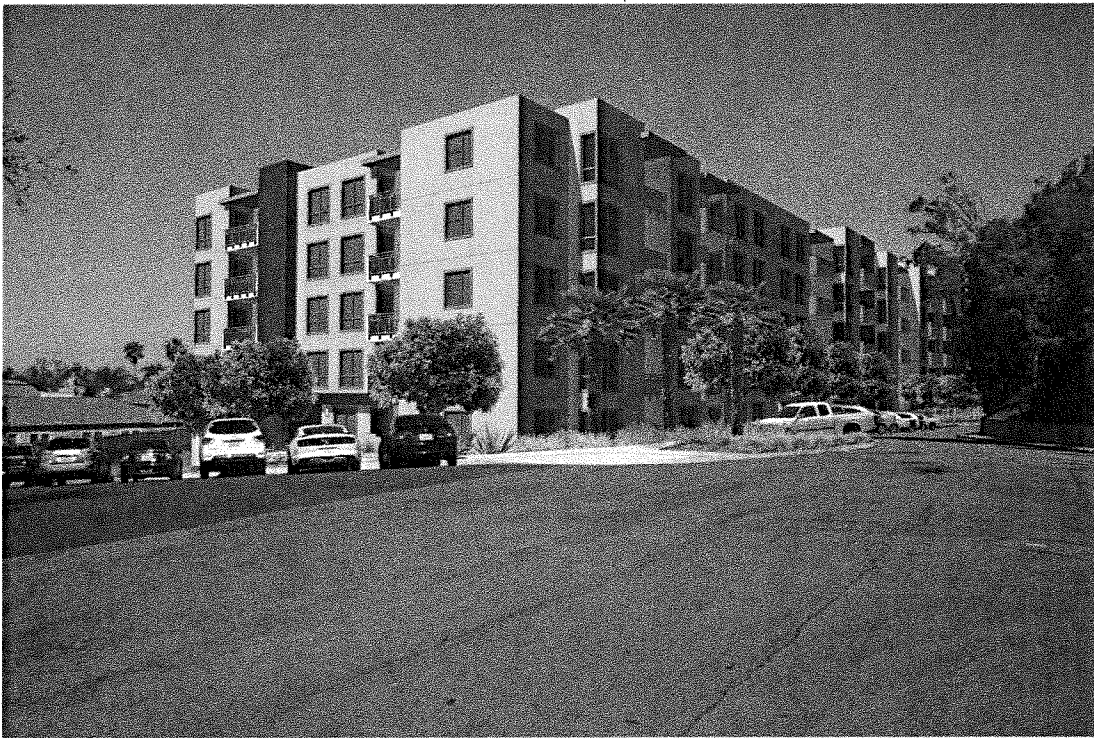


Harris & Associates

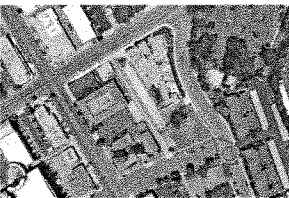
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Candidate Keyview #2 | Existing Condition



Candidate Keyview #2 | Proposed Condition



Keymap

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PLANNING COMMISSION

Agenda Item No.: G.2
Date: May 28, 2019

PROJECT NUMBER / NAME: AZ 18-0006 / Zoning Code and Land Use Study

REQUEST: The Project involves a proposed update to the Escondido Zoning Code and any relevant specific plans to enhance regulation of over-saturated or potentially objectionable non-residential land uses, and determine which uses should be reviewed for consideration of additional discretionary criteria. No development project is proposed.

LOCATION: Citywide

APPLICANT: City of Escondido

APN / APNS: N/A

PRIMARY

REPRESENTATIVE: Planning Division

GENERAL PLAN / ZONING: N/A

DISCRETIONARY ACTIONS REQUESTED: Zoning Code and Specific Plan Amendments

PREVIOUS ACTIONS: Planning Case No. AZ 18-0006

PROJECT PLANNER: Mike Strong, Assistant Planning Director
mstrong@escondido.org

CEQA RECOMMENDATION: Exempt (CEQA Guidelines Section 15061(b)(3)).

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

REQUESTED ACTION: Approve Planning Commission Resolution No. 2019-10

CITY COUNCIL HEARING REQUIRED: ☒ YES ☐ NO

REPORT APPROVALS: ☒ Bill Martin, Community Development Director
☒ Mike Strong, Assistant Planning Director

A. BACKGROUND:

It is important for cities and counties to regularly monitor and maintain codes and regulations to preserve and improve public health, safety, and general welfare of residents, businesses, and community members. For any particular district, the Zoning Code includes permitted use tables listing descriptions of what land uses may occur in each zone. Some uses will be permitted, which means that the use is not subject to subjective criteria and is allowed-by-right. Other uses will be listed as “conditional” or “special” uses. These are subject to discretionary criteria and a local government may deny the land use or place specific conditions on approval of the use. In addition, some land use activities may also be listed as prohibited. Although the City of Escondido has amended the Zoning Code from time to time over the past several years, the City has never performed a comprehensive review of the Zoning Code land use matrix. Examining this portion of the code helps residents visualize desirable and undesirable aspects of land use patterns and provides a foundation for the planning policies guiding future development.

On June 20, 2018, the City Council helped kick-off a planning process to address various non-residential land uses that tend to negatively impact surrounding properties. The overall work program, called the “Zoning Code and Land Use Study,” was created to comprehensively examine the degree to which various land use activities are permitted in each zoning district. The land use activities covered by the Zoning Code and Land Use Study consist of car dealerships and sales; auto repair services and shops; fleet maintenance and storage yards; smoke, e-cigarette, and vape shops; tattoo parlors; laundromats and dry-cleaning; lodging, motels, and hotels; thrift, pawn, consignment and second-hand dealers; discount/bargain stores; banks; check-cash and payday establishments; drive-through services/restaurants; and off-site beer/liquor sales. These land uses or topics areas were identified because of their propensity to generate potential health hazards, poor aesthetics, reduction in home values, urban form consistency issues, over-concentration issues, or create neighborhood compatibility issues.

Preliminary recommendations on potential Zoning Code and Specific Plan Amendments were provided to the City Council on March 20, 2019 (provided as Attachment “1”). Direction from the City Council on March 20, 2019 was utilized to create draft Planning Commission Resolution No. 2019-10, which combines all of the proposed changes into a single document, concluding the Zoning Code and Land Use Study. The series of actions contained within Draft Planning Commission Resolution 2019-10 involves:

- Municipal Code Amendments to Chapter 15 (Secondhand Dealers) and Chapter 17 (Tattoo Parlors);
- Zoning Code (Chapter 33) Amendments to Article 1, Article 16, Article 26, Article 57, and Article 63;
- Ancillary and conforming amendments to Downtown Specific Plan, East Valley Specific Plan, and South Centre City Specific Plan.

Zoning Code and Specific Plan Amendments require Planning Commission recommendation and City Council adoption. As noted above, the project also proposes Municipal Code Amendments to Chapters 15 and 17. 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 Agenda Report because of their relationship and co-dependence to the rest of the study. Furthermore, the May 28, 2019 public hearing will continue to provide additional public input opportunities that can support the development of the final ordinance(s).

B. PROJECT ANALYSIS:

The first step in the Zoning Code and Land Use Study was to discuss, understand, and reflect on City staff's experience administering the Zoning Code in Escondido; learn of professional experience elsewhere; and conduct research on best practices from other communities. This provided an opportunity to build study context, establish a menu of potential regulatory options, and create a framework for public engagement. The second step of the Zoning Code Land Use Study was to engage the public through conversations about how the updated Zoning Code could be improved within the defined scope of the study. City staff published two (2) print display advertisements in the Union Tribune and sent 500 direct mailers to the businesses covered and involved in the study. These notices created project awareness and identified potential input opportunities. City staff also hosted two (2) stakeholder meetings on January 15 and 31, 2019, to hear directly from interested parties on the subject study. At these meetings, participants spoke of personal experiences, desired values, and commented on specific issues with the existing Zoning Code. The feedback received at these meetings, and with follow-up communications, formed the steering guidance necessary to move forward with the study.

Based on research, best practices, and community feedback, a comprehensive set of preliminary recommendations were presented to City Council on March 20, 2019. The City Council Agenda Report (provided as Attachment "1") covered a review of all the land use activities covered by the study and the degree in which changes could be made to strengthen local regulations. In general, the City Council majority (through Minute Action) confirmed and endorsed the results of the study and directed City staff to prepare ordinances to complete the study. City Council also provided direction to staff to develop stricter land use policies for tobacco and vaping product retailing. Because this area of policy had not been previously considered by the public nor presented to the businesses currently engaged in tobacco and vaping product sales, City staff facilitated an additional stakeholder meeting on May 16, 2019. The focus of this outreach was to solely discuss potential tobacco and vaping product regulation, including potentially developing a tobacco retail license. Notices were sent to interested parties, as well as every tobacco and vaping product operator in the city. Although fourteen (14) stakeholders attended the meeting, most represented community health support groups or advocates. Only one (1) store owner was present. All those attending supported some form of additional regulation, including adding new delineations for vaping products (like e-cigarettes) and drug paraphernalia. Although there was broad support for

additional regulation, feedback received on licensing was mixed as some had a few concerns that a local license program could inadvertently cause enforcement issues. Since City staff is still processing the feedback received, draft Planning Commission Resolution No. 2019-10 does not include any proposed tobacco regulations. The subject matter will return to the Planning Commission for a noticed public hearing at a future meeting date.

As mentioned previously in this report, the land use activities covered by the Zoning Code and Land Use Study consist of car dealerships and sales; auto repair services and shops; fleet maintenance and storage yards; smoke, e-cigarette, and vape shops; tattoo parlors; laundromats and dry-cleaning; lodging, motels, and hotels; thrift, pawn, consignment and second-hand dealers; discount/bargain stores; banks; check-cash and payday establishments; drive-through services/restaurants; and off-site beer/liquor sales. Codifying the results of the Zoning Code Land Use Study leads to significant modifications to the physical structure of our Municipal Code, Zoning Code, and Specific Plans. In consideration of the scope and size of the amendments, and because of the interdependence of some regulations, some of the changes have been grouped together in sections. This broken-down methodology should help facilitate public and commissioner review. As such, four (4) exhibits to draft Planning Commission Resolution No. 2019-10 comprise the totality and full results of the Zoning Code and Land Use Study, excepting tobacco regulations (which will return at a future meeting date).

Exhibit “B” – proposed code changes to address vehicle sales, services, and storage:

- Article 1 to Chapter 33 (General Provisions): definitions to include vehicles sales, vehicle repair services, fleet storage and tow yard storage, and junkyards and wrecking yards;
- Article 16 to Chapter 33 (Commercial Zones): land use table modifications;
- Article 26 to Chapter 33 (Industrial Zones): land use table modifications;
- Article 57 to Chapter 33 (Miscellaneous Use Restrictions): regulations added for vehicles sales, vehicle repair services, fleet storage and tow yard storage, and junkyards and wrecking yards; and
- Ancillary and conforming amendments to Downtown Specific Plan, East Valley Specific Plan, and South Centre City Specific Plan.

Exhibit “C” – proposed code changes to address tattoo parlors:

- Article 13 to Chapter 17 (Tattoo Parlors): definitions operator obligations, permit required;
- Article 1 to Chapter 33 (General Provisions): definitions to expand the definition of tattoo parlors;
- Article 16 to Chapter 33 (Commercial Zones): land use table modifications; and
- Ancillary and conforming amendments to Downtown Specific Plan, East Valley Specific Plan, and South Centre City Specific Plan.

Exhibit “D” – proposed code changes to address banking, bargain basement stores, drive-through services, laundry and dry-cleaning services, liquor stores, lodging, and used merchandise sales:

- Article 3 to Chapter 15 (Secondhand Dealers);
- Article 1 to Chapter 33 (General Provisions): definitions to include banking, bargain basement store, consignment stores, pawn shops, secondhand stores, and thrift shops;
- Article 16 to Chapter 33 (Commercial Zones): land use table modifications, drive-through facility requirements added, and laundry and dry cleaning services regulations added;
- Article 26 to Chapter 33 (Industrial Zones): land use table modifications;
- Article 57 to Chapter 33 (Miscellaneous Use Restrictions): used merchandise sales regulations added;
- Article 63 to Chapter 33 (Transient Lodging Facilities): design guidelines for lodging modified; and
- Ancillary and conforming amendments to Downtown Specific Plan, East Valley Specific Plan, and South Centre City Specific Plan.

Zoning, locational, site and building design, and operational regulations for the different establishments covered by the Zoning Code and Land Use Study are necessary to 1) protect the City’s retail trade, maintain property values, protect and preserving the quality of the City’s neighborhoods and the City’s commercial districts; and 2) restore community value and commercial prevent deterioration and/or degradation of the vitality of the community before the problem exists, rather than waiting for problems to be created. Use allowance control and/or buffer requirements are a legitimate and reasonable means of balancing the various land uses in order to minimize and control problems associated with such businesses and thereby protect the health, safety and welfare of Escondido residents, preserve the quality of life, and preserve the character of surrounding neighborhoods. The proposed requirements of the City do not unreasonably restrict the establishment or operation of constitutionally protected businesses nor do they preclude reasonable siting alternatives.

1. General Plan Consistency

The proposed Municipal Code, Zoning Code, and Specific Plan 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 in non-residential areas ensures land use compatibility is achieved. The proposed modifications are based on best practices, facilitated by community input and refined according to zoning and planning standards. The proposed Zoning Code and Specific Plan Amendments are also consistent with Policy 4.2 for neighborhood maintenance and preservation since the project seeks to protect neighborhoods

and community character from the encroachment of incompatible activities or land uses. Land use authority is maintained in key areas of the city so that more economically prosperous and well-designed commercial districts can be developed over time through the implementation of the project (Goal 8 of the Land Use and Community Form Element). The project is intended to support and strengthen the important role that land use and design play in creating a city that is characterized by attractive and functionally efficient commercial support services and development.

2. Zoning Code / Specific Plans Definitions

The existing list of Zoning Code definitions are incomplete and outdated. The City's current Zoning Code takes a one-size fits all approach to different land use classifications. The project proposes an update to definitions and making sure land use category references are internally consistent. New definitions to Section 33-8 address banking, bargain basement stores, consignment shops, fleet storage, junk yards, pawn shop, secondhand store, tattoo parlors, thrift shop, tow yard storage, vehicle repair services, and vehicle sales. The project proposes these new definitions to be integrated, horizontally and internally consistent throughout the various codes and plans. As necessary, it also differentiates between different types of businesses and would facilitate different degrees of new land use regulation or control. The universal approach would assist City staff in administering the Zoning Code and Specific Plans.

3. Regulation of Use

State legislation confers zoning powers to local governments. Zoning is the principal tool by which cities and counties implement the goals and future development plans expressed in their respective long-range comprehensive plans (i.e. General Plans). Zoning accomplishes this by regulating how land is used. The most common way to do this is through the administration and enforcement of a local zoning map and zoning code(s) or ordinance(s). A zoning map depicts the boundaries of each zoning district within the jurisdiction. A zoning code or ordinance is a written document that establishes specific regulations for a zone or zoning district. Together, the zoning map and zoning code/ordinance help divide a city or county into districts (zones or zoning districts) and establish regulations for each district.

The Escondido Zoning Code (Chapter 33 of the Municipal Code) establishes four principal land use class categories for the city, consisting of open space zones (Article 3), residential zones (Article 6), commercial zones (Article 16), and industrial zones (Article 26). (Overlay zones and specific plans omitted intentionally for sake of exposition.) In most cases, each land use class category is broken down into more defined categories, which includes almost any type of land use that might be proposed. For example, the portion of the code permitting industrial land use activity corresponds to industrial office (I-O), industrial park (I-P), light industrial (M-1), and general industrial (M-2) zone district designations. Each zoning designation permits and/or regulates a different level of activity.

For any particular district, the Zoning Code includes permitted use tables listing descriptions of what land uses may occur in each zone. The zoning district is located on the vertical column and the use is located on the horizontal row of this matrix. Some uses will be permitted (often referred to as an “outright permitted use”), which means that the approval of the use is not subject to approval subjective criteria. Other uses will be listed as “conditional” or “special” uses. These are subject to discretionary criteria and a local government may deny the land use or place conditions on approval of the use. Conditional use (a project based permit) is typically allowed subject to public notice and permit hearing procedure in front of the Zoning Administrator or Planning Commission. In addition, some uses may also be listed as prohibited, whereby the use is not allowed in the applicable zoning designation.

Since zoning regulations and restrictions are used by cities and counties to control and direct the development of property, this portion of the project proposes changes to our existing land use controls for certain land use activities (i.e. principally permitted, conditionally permitted, or prohibited land uses), as summarized below.

- Vehicle sales – require a Conditional Use Permit in areas where the use is currently permitted by-right. Create a new category for boutique vehicles sales and permit the use in the CG Zone.
- Auto repair shops – Require Conditional Use Permits for “limited repair” in commercial areas where permitted by-right; “general repair” in commercial and industrial zones; and “commercial vehicle repair” in the M-2 Zone.
- Fleet maintenance and storage yards – Require a Conditional Use Permit in the CG, M-1, and M-2 Zones.
- Tattoo parlors - Require a Conditional Use Permit in the CG Zone and prohibit parlors within 1,000 feet of any other parlor and 500 feet from any licensed alcoholic beverage dispensing operation.
- Laundromats and dry-cleaning – Limit on-site pressing through a Conditional Use Permit. Commercial laundry or pressing only allow in industrial zones.
- Lodging, motels, and hotels – No proposed change.
- Thrift, pawn, consignment and second-hand dealers – Require a Conditional Use Permit in areas where currently permitted. Prohibit pawnshops citywide.
- Discount/bargain stores - Require a Conditional Use Permit in areas where currently permitted.
- Banks – Require drive-through establishments to obtain a Conditional Use Permit. Prohibit banks on the corner lots of the retail core area of the downtown.
- Check-cash and payday establishments – Prohibit use citywide.
- Drive-through services/restaurants - Require drive-through establishments to obtain a Conditional Use Permit.
- Liquor stores – Require a Conditional Use Permit where the use is permitted by-right.

In the development and execution of this ordinance, it is recognized that there are certain land uses, including pawn shops and check-cash / payday establishments, which create conditions harmful to the public health, welfare, and safety when such uses are allowed to become numerous or concentrated within a limited geographical area, or when such uses exist near residential neighborhoods, family-oriented uses or sites commonly used by minors. The negative secondary effects from pawn shops and check-cash / payday businesses constitutes a harm which the City has a substantial government interest in preventing and/or abating. Special prohibitions on these land use activities are therefore necessary to protect the community from consequent blight, depreciated property values, predatory lending, law enforcement problems, and interference with residential neighborhoods as well as interference with activities oriented toward families or minors.

4. Development and Performance Standards

To complement new land use allowances, development and performance standards have been proposed to ensure land use compatibility of new projects. New development and performance standards are intended to supplement the existing development concepts of the underlying zone and help provide design professionals, property owners, commissioners, staff, and residents with a clear and common understanding of the City's expectations for the planning, design, and review of development proposals in Escondido, and to increase the community's awareness and appreciation of design considerations. While the City of Escondido promotes diversity and variety, there is a desire for consistency in the quality of development, enjoined with the maintenance and enhancement of public health, safety, and general welfare.

5. Omitted Topic Areas Not Included in Draft Resolution 2019-10

As previously mentioned in this Agenda Report, tobacco regulations will be reviewed under the cover of a future Agenda Report at a noticed public hearing. Any Planning Commission recommendation to amend our codes will be transmitted to City Council for final action.

In addition to the list of land use activities covered by the Zoning Code Land Use Study, the March 20, 2019 City Council Agenda Report also identified potential code revisions to address single-room occupancy units (hotel conversions to residential units) and extended-stay lodging. Both land use activities could be accommodated with revisions to Article 63 (Transient Lodging Facilities Ordinance) of the Zoning Code. However, these topic areas have been omitted from draft Resolution No. 2019-10 for the following reasons:

- Single room occupancy - Single room occupancy (more commonly abbreviated to SRO) is a form of micro-housing that is typically aimed at residents with low or minimal incomes who rent small, furnished single rooms with a bed, chair, and sometimes a small desk. SROs are typically converted from underutilized, older-stock hotels and motels. In order to provide support for conversion of a hotel / motel room to a residential apartment, the

underlying General Plan and Zoning Map designations must allow for residential densities. However, there are not many places in Escondido that permit residential densities where existing hotels / motels are located. Therefore, an affirmative vote from registered Escondido voters is needed to modify residential density allowances and permit SRO conversions. For this reason, City staff recommends to not pursue a citywide SRO Ordinance at this time. The South Centre City Specific Plan is the only area of the City that allows for SRO conversions. For the time being, interested parties of SROs would be directed to this portion of the city.

- Extended stay lodging – Currently, it is a violation to stay in a hotel / motel for more than thirty (30) days. When long-term occupancy is established, of more than thirty (30) days, no transient occupancy tax (TOT) is collected. Law enforcement steers illegal long-term occupancy from local hotels / motels and is asked to frequently enforce violations of the Transient Lodging Facilities Ordinance. Not only do violators not pay a TOT, but long-term occupancy is typically associated with other nuisances which is disruptive to the vitality of the lodging facility. Under an extended stay use provision, a hotel / motel operator could rent out a room for thirty (30) or more days, but less than ninety (90) days within a six (6) month period of time. This could be problematic if the provisions were heavily utilized by our limited TOT business sector. This could also create law enforcement challenges. Furthermore, the core provisions of establishing an Extended Stay Ordinance would require hotel or motel owners to specify which units were short-term stay and which were long-term stay, on a certain date. Vacant units would be divided between both categories, meaning that units that never had a rental were, could be granted more than a “short-term” status. It would be problematic to monitor for violations and the number of units for each category to determine the official “unit usage” for the building. For this reason, City staff recommends not pursuing an Extended Stay Ordinance at this time. The subject matter can be monitored as there may be reason to re-evaluate the topic in the future.

C. ENVIRONMENTAL STATUS:

The proposed project is categorically exempt from environmental review in conformance with CEQA Section 15061(b)(3). The activity is covered by the general rule that exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment. Approval of the proposed amendment to the Escondido Zoning Code would not individually or cumulatively result in the possibility of creating significant effects on the environment because the proposed amendments to the Zoning Code and Specific Plans establish criteria that in turn would be utilized to assess and process future land use development applications. The proposed Zoning Code and Specific Plan Amendments are not a “physical condition” that will impact the environment for the purposes of CEQA. Therefore, the proposed project is not subject to CEQA under the General Rule and no further environmental review is necessary.

D. CONCLUSIONS:

The proposed project clearly and effectively implements land use development goals and objectives of the General Plan. It seeks to establish and update local standards and guidelines for land use activities in non-residential areas to ensure land use compatibility is achieved, neighborhoods are preserved, and community character is protected. 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.

The Zoning Code Land Use Study concluded that some land use activities can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition. However, some forms of development — covering industrial, commercial, and other non-residential activities may carry potentially specific, direct and direct impacts that can be detrimental to both neighboring properties and the community as a whole. These may include impacts related to socioeconomic and social equity; public health; environmental justice; urban design and visual; hazardous material storage, solid waste, and sanitation services; energy; transportation and mobility; air quality; noise; and neighborhood character. The City of Escondido has certain provisions found in its Zoning Code relating to zoning and buffer requirements for businesses that are in need of refinement. The Planning Commission is being asked to support refinements and updates to specific planning and zoning use, development, and/or performance standards for some businesses types operating within Escondido. The public health, safety and welfare of the City and its residents require the enactment of this ordinance in order to: (1) mitigate and reduce the potential adverse secondary effects of some businesses, including but not limited to crime and the prevention of blight in neighborhoods; (2) protect the quality of life and neighborhoods in the City, the City's retail and commercial trade, and local property values, and minimize the potential for nuisances; and (3) protect the peace, welfare and privacy of persons who own, operate and/or patronize these businesses. This project provides new standards and criteria by which future development will proceed, ensuring that the design and operation of such uses work towards a more livable Escondido.

ATTACHMENTS:

1. March 20, 2019 City Council Agenda Report
2. Draft Planning Commission Resolution No. 2019-10
3. Public Correspondences

ATTACHMENT 2

Planning Commission

Hearing Date: May 28, 2019

Effective Date: May 29, 2019

PLANNING COMMISSION RESOLUTION NO. 2019-10

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF ESCONDIDO, CALIFORNIA,
RECOMMENDING APPROVAL OF A SERIES OF
ACTIONS TO COMPLETE THE ZONING CODE LAND
USE STUDY, AMENDING PORTIONS OF THE
MUNICIPAL CODE, ZONING CODE, AND SPECIFIC
PLANS

APPLICANT: City of Escondido

CASE NO: AZ 18-0006

WHEREAS, the Planning Commission of the City of Escondido did, on May 28, 2019 hold a Public Hearing to consider a proposal to modify the Municipal Code, Zoning Code, and Specific Plans to enhance regulation of over-saturated or potentially objectionable non-residential land uses.

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.
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. That the Planning Commission certifies that it has reviewed and considered the environmental review and determined that it is complete and adequate for this project. The proposed project is exempt from CEQA, pursuant to Section 15061(b)(3). The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The proposed Municipal Code, Zoning Code, and Specific Plan 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 California Environmental Quality Act (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," "C," and "D."

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 28th day of May, 2019, by the following vote, to wit:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAINED: COMMISSIONERS:

ABSENT: COMMISSIONERS:

JAMES SPANN, Chairman
Escondido Planning Commission

ATTEST:

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.

KIRSTEN PERAINO, Minutes Clerk
Escondido Planning Commission

EXHIBIT “A”
FACTORS TO BE CONSIDERED/FINDINGS OF FACT
AZ 18-0006

1. The Planning Commission’s recommendation is based on factors pursuant to Section 33-1263 of the Escondido Zoning Code. The action to which the Commission takes action on helps conclude a Zoning Code and Land Use Study, which comprehensively examined the degree to which various land use activities are permitted in each zoning district. The land use activities covered by this phase of the Zoning Code and Land Use Study consisted of car dealerships and sales; auto repair services and shops; fleet maintenance and storage yards; tattoo parlors; laundromats and dry-cleaning; lodging, motels, and hotels; thrift, pawn, consignment and second-hand dealers; discount/bargain stores; banks; check-cash and payday establishments; drive-through services/restaurants; and off-site beer/liquor sales. These land uses or topics areas were included because of their propensity to generate potential health hazards, poor aesthetics, reduction in home values, urban form consistency issues, over-concentration issues, or create neighborhood compatibility issues.
2. Cities from time to time make significant efforts to tailor their city's ordinances to create a local community that develops in a way that the local policy-makers desire. Cities use its "police power" to create laws that promote the general health, safety, and welfare of its citizens. The public health, safety, and welfare of the City of Escondido would not be adversely affected by the proposed batch of Municipal Code, Zoning Code and Specific Plan Amendments because the project establishes and updates, as necessary, local standards and guidelines for land use activities in non-residential areas to ensure land use compatibility is achieved, neighborhoods are preserved, and community character is protected. The adoption of the ordinances utilized to support and complete the Zoning Code and Land Use Study would enable City officials and City staff to effectively implement selected long-term objectives.
3. The proposed batch of amendments would be consistent with the goals and policies of the General Plan because they address they advance a number of land use goals and policies. Goal 2 et. seq. policies of the Land Use and Community Form Element addresses the need for regulations that clearly and effectively implement land use development goals and objectives. This project is based on establishing and updating, as necessary, local standards and guidelines for land use activities to reflect current values. The proposed project is also consistent with Policy 4.2 of the same element for neighborhood maintenance and preservation since the project seeks to protect neighborhoods and community character from the encroachment of incompatible activities or land uses. Land use authority is maintained in key areas of the city so that more economically prosperous and well-designed commercial districts can be developed over time through the implementation of the project (Goal 8 of the Land Use and Community Form Element).

4. Land use regulation must strike a balance between private property rights and the public interests. The responsibility for determining the relationship between acceptable and permissible land uses and specific land use control rests with the City of Escondido City Council. The Planning Commission, as an appointed body to recommend and provide advice to the City Council on land use and planning related matters, finds that land use compatibility and its goals should be promoted through proactive planning and zoning techniques to promote and protect the public health, safety, and general welfare.

The Zoning Code Land Use Study concluded that some land use activities can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition. However, some forms of development — covering industrial, commercial, and other non-residential activities may carry potentially specific, direct and direct impacts that can be detrimental to both neighboring properties and the community as a whole. These may include impacts related to socioeconomic and social equity; public health; environmental justice; urban design and visual; hazardous material storage, solid waste, and sanitation services; energy; transportation and mobility; air quality; noise; and neighborhood character.

The City of Escondido has certain provisions found in its Zoning Code relating to zoning and buffer requirements for businesses that are in need of refinement. The Planning Commission finds that it is necessary and appropriate to amend various provisions of the Zoning Code to add, refine, and update the provisions relating to planning and zoning standards for these businesses operating within Escondido. The public health, safety and welfare of the City and its residents require the enactment of this ordinance in order to: (1) mitigate and reduce the potential adverse secondary effects of some businesses, including but not limited to crime and the prevention of blight in neighborhoods; (2) protect the quality of life and neighborhoods in the City, the City's retail and commercial trade, and local property values, and minimize the potential for nuisances; and (3) protect the peace, welfare and privacy of persons who own, operate and/or patronize these businesses. This project provides new criteria by which future development will proceed, ensuring that the design and operation of such uses effectively mitigate the aforementioned associated problems.

- A. New levels of use authorization addressed by this ordinance (i.e. locations for principally permitted, conditionally permitted, or prohibited land uses), provides a means to enhance the community's identity and relatively high standard of living with associated quality of life. Through its Zoning Code provisions, the City of Escondido seeks to maintain property values, protect tax revenues, provide neighborhood social and economic stability, attract business and industry, and encourage conditions that make the City of Escondido a pleasant place to live and work.
- B. The Planning Commission has a reasonable basis to believe that there are land use compatibility issues relating the siting of certain facilities and their customers.

Locational criteria are a legitimate and reasonable means of ensuring that certain businesses are conducted in a manner so as to minimize their adverse secondary effects and thereby protect the health, safety, and welfare of the City's residents, protect citizens from increased crime, preserve the quality of life, preserve property values and the character of surrounding neighborhoods and businesses, and deter the spread of urban blight.

- C. New development and performance standards are intended to supplement the existing development concepts of the underlying zone and help provide design professionals, property owners, commissioners, staff, and residents with a clear and common understanding of the City's expectations for the planning, design, and review of development proposals in Escondido, and to increase the community's awareness and appreciation of design considerations. Escondido's overall design character is not defined by any existing or designated themes, elements, or development types; the City's character can best be portrayed by its diversity. The City is composed of individual and often separated areas, each having its own unique qualities. These qualities relate to a number of elements including the age, use, type, style, and design of development. It is diversity and variety that will continue to define the character of the community. While the City of Escondido promotes diversity and variety, there is a desire for consistency in the quality of development enjoined with the maintenance and enhancement of public health, safety, and general welfare.
5. In the development and execution of this ordinance, it is recognized that there are certain land uses including pawn shops and check-cash / payday establishments, which create conditions harmful to the public health, welfare, and safety when such uses are allowed to become numerous or concentrated within a limited geographical area, or when such uses exist near residential neighborhoods, family-oriented uses or sites commonly used by minors. The negative secondary effects from pawn shops and check-cash / payday businesses constitutes a harm which the City has a substantial government interest in preventing and/or abating. Special prohibitions on these land use activities are therefore necessary to protect the community from consequent blight, depreciated property values, predatory lending, law enforcement problems, and interference with residential neighborhoods as well as interference with activities oriented toward families or minors.
6. In the development and execution of this ordinance, it is recognized that tattoo parlors are subject of comprehensive state licensing and regulation requirements that address floor plan requirements, rules for furnishings, guidelines for sterilization and sanitation, guidelines during and after tattoo procedure, and guidelines for waste disposal. All tattoo parlors must adhere to rules set by the Occupational Safety and Health Administration and Centers for Disease Control and Prevention.

Tattoos, tattooing, and the business of tattooing are considered a form of artistic expression. Cities must ensure that there are sufficient locations in which tattoo parlors may operate. The

project proposes changes to Chapter 17 (Tattoo Parlors) of the Municipal Code to provide a uniform set of standards for the body art industry to protect the health and safety of body art practitioners, their customers and the public. The project also proposes changes to Chapter 33 (Zoning Code) to address land use authorization. Special regulations separating such uses from each other and from alcohol serving establishments is necessary to protect the community from consequent blight, depreciated property values, law enforcement problems, and interference with residential neighborhoods.

Body art is an invasive process that includes piercing, tattooing, application of permanent cosmetics, and branding. These practices present the potential for spreading blood-borne diseases, such as Hepatitis B. The proposed project does not violate any freedom of speech protections and offers new operator obligations to ensure the preservation of public health, safety, and general welfare. The buffer requirements of the City do not unreasonably restrict the establishment or operation of constitutionally protected tattoo businesses. The Planning Commission recognizes that these buffer requirements do not preclude reasonable siting alternatives and that there are several hundred potentially available sites for tattoo establishments.

The Planning Commission finds that the revisions to the City's Municipal Code and Zoning Code implemented by this ordinance are necessary in order to respond to recent developments within the marketplace, community interest, regulation of uses, and case law and in order to protect the City from the potential adverse secondary effects of tattoo parlors, including crime, the protection of the City's retail trade, maintenance of property values, protecting and preserving the quality of the City's neighborhoods and the City's commercial districts, and the protection of the City's quality of life, based on the referenced Zoning Code Land Use Study and the findings set forth herein. Specifically, the revisions and amendments to the City's Municipal Code and Zoning Code included in this ordinance are essential and necessary to ensure the orderly land use regulation as to uses within the City and thereby protect the public peace, safety and general welfare in the City of Escondido.

7. The proposed Zoning Code Amendments do not conflict with any Specific Plan as the project embodies several ancillary and conforming Specific Plan Amendments. The portion of the project that consists of Specific Plan Amendments meet the minimum requirements of Section 65451 of the Government Code.
8. There are no assurances to residents and project proponents that the affected chapters and sections of this project will not be subject to future revisions.

EXHIBIT “B”

AZ 18-0006

CODE AMENDMENTS – VEHICLE SALES AND STORAGE USE RELATED CHANGES

SECTION I.

Amend the Chapter 33 of the Escondido Municipal Code to read as specified below. The changes are listed in order by section number, with ~~strikeout~~ typeface illustrating deletions and underline typeface illustrating new text.

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS

Section 33-8. Definitions.

Fleet storage means storage or parking of one or more vehicles used regularly in business operations. Where the parking of vehicles constitutes the principal use on the site, the use activity is considered a principal use. Typical fleet storage uses include taxi fleets, mobile catering trucks, car or truck (service delivery) storage, or delivery truck fleets. Excluded are car dealerships and vehicle junkyard or vehicle dismantling services.

Junk yards mean any space of two hundred (200) square feet or more of area of any lot used for the storage, sale, keeping or abandonment of inoperable vehicles, wrecking yards or salvage yards, junk or waste material, including scrap metal or other scrap materials, or for the dismantling, demolition or abandonment of automobiles, other vehicles, machinery or parts thereof, other than an impound yard.

Tow yard storage means a business or offering the services of a vehicle towing service, whereby disabled motor vehicles are towed or otherwise removed from the place where they are disabled by a truck; automobile; or other vehicle so adapted to that purpose, such as tow truck dispatch centers; or in the business of storing disabled motor vehicles. Excluded are sales/rentals of vehicles (i.e. car dealerships) and junkyard or dismantling services.

Vehicle repair services.

(1) Commercial vehicle repair includes uses that repair and maintain the mechanical components of the bodies of large trucks, mass transit vehicles, large construction or agricultural equipment, aircraft or boats. Commercial vehicle repair may also include general auto repair-type functions.

(2) General vehicle repair includes major repair of automobiles, motorcycles, recreational vehicles, or light trucks. Examples of use include body and fender shops;

brake shops; full-service motor vehicle repair garages; machine shops; painting shops; towing services; and transmission shops. Does not include vehicle dismantling or salvage and tire retreading or recapping. General vehicle repair may also include limited vehicle repair-type functions.

(3) *Limited vehicle repair* includes minor repair of automobiles, motorcycles, recreational vehicles, or light trucks, vans, or similar size vehicles. Examples of use include brake adjustments and repairs; installation of electronic equipment (e.g., alarms, stereos, etc.); servicing of cooling, electrical, fuel, and exhaust systems; oil and lube shops; tire sales and installation shops; wheel alignment and balancing; auto glass installation and services.

Vehicle sales.

(1) *Boutique car sales* means a business associated with sales of automobiles, light trucks, vans, small trailers, and small recreational vehicles subject to registration, licensed by the Department of Motor Vehicles (DMV) with or without on-site vehicle inventory. Boutique car sales would allow a licensed dealer, that functions primarily as an office or broker, to store no more than two (2) vehicles on site at any given time.

(2) *Car dealership* means a well-defined sales and service area or car lot primarily engaged in the sale, long term storage, or rental or leasing of automobiles, light trucks, vans, small trailers, and small recreational vehicles to the public with a vehicle dealers permit or rental company permit licensed by the Department of Motor Vehicles (DMV). A car dealership may engage in auto retail sales, auto wholesales, auto broker sales, rental leasing, or any other DMV business partnership. Sales and leasing of heavy trucks and tractors are included within the category of "tractor or heavy truck sales, storage, rental."

(3) *Parts and accessories sale and supply* means an auto supply store or retailer specializing in new and rebuilt, package vehicle supplies, parts, and accessories, including the incidental assembling of customized items or parts onto vehicles.

(4) *Tractor or heavy truck sales* means an establishment primarily engaged in the sale, long term storage, or rental or leasing of tractor or heavy trucks, aircraft, marine crafts, large recreational vehicles and campers, equipment rental and leasing dealerships.

ARTICLE 16. COMMERCIAL ZONES

Section 33-332. Principal land uses.

Table 33-564. Permitted and conditionally permitted principal uses.

Use Title	CG	CN	CP
Retail Trade			
Automotive and marine craft			
<u>Boutique car sales*</u> (subject to Article 57)	<u>P</u>	---	---
<u>Car dealership*</u> (subject to Article 57)	<u>C</u>	---	---
Sales lots and parts <u>Parts and accessories sale and supply (including autos, motorcycles, trailers, campers, recreational vehicles and marine craft vehicles) excluding farm and construction vehicles, three-axle trucks, and buses)</u>	P	---	---
<u>Parts and accessories sale and supply (farm and construction vehicles, three-axle trucks, and buses)</u>	---	---	---
<u>Tractor or heavy truck sales, storage, or rental* (subject to Article 57)</u>	<u>C</u>	---	---
Services			
Automotive services (including motorcycles, marine craft, and recreational vehicles)			

Rental and leasing* (Article 57 and Council Resolution #73-264-R) with or without drivers, taxicab service	<u>P</u>	---	---
Repair and related services, except tire retreading and auto body <u>Limited vehicle repair* (subject to Article 57)</u>	<u>PC#</u>	---	---
Auto body <u>General vehicle repair* (subject to Article 57)</u>	C	---	---
<u>Commercial vehicle repair* (subject to Article 57)</u>	==	==	==
<u>Tire retreading* (subject to Article 57)</u>	==	==	==
<u>Junkyard and wrecking yard* (subject to Chapter 15 and Article 57)</u>	==	==	==
<u>Fleet storage* (subject to Article 57)</u>	<u>C</u>	---	---
<u>Tow yard storage* (subject to Article 57)</u>	==	---	---

ARTICLE 16. COMMERCIAL ZONES

Section 33-333. Permitted accessory uses and structures.

Table 33-564. Permitted accessory uses and structures.

Use Title	CG	CN	CP
<u>Fleet storage* (subject to Article 57)</u>	<u>P</u>	---	---
<u>Tow truck operation incidental to repair* (subject to Article 57)</u>	<u>P/C</u>	---	---

ARTICLE 26. INDUSTRIAL ZONES

Section 33-564. ~~Land~~ Principal land uses.

Table 33-564. Permitted and conditionally permitted principal uses.

Use Title	I-O	M-1	M-2	I-P
Auto, RV and boat sales** (subject to Article 57)	P	P	P	P
Automotive services (excluding gasoline service stations and car- wash related uses)	---	P	P	---
Boat repair	---	P	P	---
<u>Automotive services</u> <u>(including motorcycles,</u> <u>marine craft, and</u> <u>recreational vehicles)</u>				
<u>Gasoline sales or</u> <u>services</u>	---	---	---	---
<u>Fleet fueling</u>	---	P	P	---
<u>Car-wash,</u>	---	C	C	---
<u>polishing,</u>				
<u>vacuuming, or</u>				
<u>detailing (primary</u> <u>or accessory use)</u>				
<u>Limited vehicle</u> <u>repair* (subject to</u> <u>Article 57)</u>	---	P	P	---
<u>General vehicle</u> <u>repair* (subject to</u> <u>Article 57)</u>	---	C#	C#	---
<u>Commercial</u> <u>vehicle repair*</u> (subject to Article 57)	---	---	C	---
<u>Tire retreading*</u> (subject to Article 57)	==	---	---	---
<u>Junkyard and</u> <u>wrecking yard*</u> (subject to Chapter 15 and Article 57)	==	---	C	---

<u>Fleet storage*</u> (subject to Article 57)	---	<u>C</u>	<u>C</u>	---
<u>Tow yard storage*</u> (subject to Article 57)	---	---	<u>C</u>	---
Fleet fueling	---	<u>P</u>	<u>P</u>	---
<u>Vehicle Sales</u>				
<u>Boutique car sales*</u> (subject to Article 57)	---	---	---	---
<u>Car dealership*</u> (subject to Article 57)	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Parts and accessories sale and supply</u>	---	<u>P</u>	<u>P</u>	<u>P</u>
<u>Tractor or heavy truck sales, storage, or rental*</u> (subject to Article 57)	---	<u>C</u>	<u>C</u>	---

ARTICLE 26. INDUSTRIAL ZONES

Section 33-565. ~~Accessory~~Permitted accessory uses and structures.

Table 33-565. Permitted accessory uses and structures.

Use Title	I-O	M-1	M-2	I-P
<u>Fleet storage*</u> (subject to Article 57)	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Tow truck operation incidental to repair*</u> (subject to Article 57)	---	<u>P/C</u>	<u>P/C</u>	---

ARTICLE 57. MISCELLANEOUS USE RESTRICTIONS

Section 33-1114. ~~Motor vehicle, aircraft, marine craft, trailer and camper, motorcycle, equipment rental and leasing dealerships~~Vehicle sales, vehicle repair services, fleet storage and tow yard storage, and junkyards and wrecking yards

~~The city council shall, after recommendation by the city planning commission, adopt a resolution setting forth site development standards for motor vehicle, aircraft, marine craft, trailer and camper, motorcycle, equipment rental and leasing dealerships in the industrial zones.~~

~~The standards and criteria established by said resolution shall be applied as conditions for approval of all plot plans falling within the above categories of uses unless specific findings are made and enumerated by the director of community development stating unique circumstances and undue hardship which would require a modification of the standards and criteria.~~

(a) General requirements. The following requirements and standards apply to boutique car sales, car dealerships, tractor and heavy truck sales, vehicle repair services, fleet storage and tow yard storage, and junkyards and wrecking yards.

(1) Required building. A permanent structure or building with a minimum of three hundred (300) square feet shall be maintained on-site to support the land use activity. The building shall be a permanent structure. The quality of architecture and building materials of all on-site structures shall meet or exceed surrounding structures. Modular or portable buildings, trailers, or mobile homes for this purpose are prohibited.

(2) Amplified sound. The use or installation of a public address system or amplified sound system is prohibited. No loud or boisterous noises are allowed to emanate from the place of business, either by persons congregating there or by the playing of recording instruments, radios, and/or television sets or other sound-producing equipment.

(3) Parking areas. Customer and employee parking areas shall be easily accessible and located separately from vehicle display or storage areas. Ground markings and signs shall clearly indicate the location of customer and employee parking. All storage/display spaces shall be clearly lined, numbered and designated.

(4) The property shall be developed and maintained in a neat, quiet, and orderly condition and operated in a manner so as not to be detrimental to adjacent properties and occupants. This shall encompass the maintenance of exterior facades of the building, designated parking areas serving the use, walls and fences and the perimeter of the site (including all public parkways).

(5) Lighting. All outdoor lights shall be served by underground wiring and shall be shielded from adjacent properties.

(b) Boutique car sales. Boutique car 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 Section 33-1114(a), and this section. No boutique car sales 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 on-site of no more than two (2) cars in paved, lined and numbered spaces no smaller than eight and one-half (8 1/2) feet in width and eighteen (18) feet in length.

(2) Display. Vehicles shall not be displayed on any above ground apparatus. The use of temporary structures and/or devices to elevate vehicles above the average grade of the site for display is specifically prohibited. All vehicle inventory must be stored on-site and not in the public right-of-way.

(3) No boutique car sales establishment shall be operated in conjunction with nor share any operating space with any other boutique car sales or car dealership business.

(4) Any lights provided to illuminate any car sales area permitted by this section shall be comparable and of the same intensity to that of the rest of the commercial or industrial area or premises and so arranged to reflect the light away from adjacent properties.

(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 Section 33-1114(a), and this section. 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, lined and numbered 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.

(2) Display. Elevating vehicles above the average grade of the site for display purposes shall be limited to the use of landscaped earthen berms or mounds, or permanent structures designed so as to be architecturally compatible with existing structures or buildings on the project site and/or adjacent thereto. The use of temporary structures or devices for such purposes is specifically prohibited. All vehicle inventory must be stored on-site and not in the public right-of-way.

(3) Screening. 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. Display of vehicles along street frontages shall be screened by compact evergreen hedge or alternate landscaping in a manner which screens the undersides of vehicles from public view. Display of other equipment and

materials shall be screened by a solid fence or wall of at least six (6) feet in height, with enhanced landscaping along the perimeter.

(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.

(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 Section 33-1114(a), and this section. 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). Outdoor storage of non-operational vehicles is prohibited in all zones, unless authorized as a permitted or conditionally permitted use (refer to "tow yard and storage") and reviewed and approved for code compliance.

(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 right-of-ways 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; and shall not be dirty or dusty.

(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 decision-maker. 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.

(e) Fleet storage and tow yard storage. Fleet storage and tow yard storage 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 Section 33-1114(a) unless specified herein, and this section. No fleet storage or tow yard storage project shall be granted a permit unless the following requirements are satisfied:

(1) A vehicle that is not in working order shall not be stored on such premises for more than forty-eight (48) hours. Vehicles shall not be wrecked or dismantled; shall have hoods, trunks and doors closed; shall not be dirty or dusty; and shall not be parked or stored on public property or public rights-of-way. Junkyards and dismantling services is regulated by Chapter 15 of the Municipal Code.

(2) Sale Prohibited. No vehicle or any component of a vehicle shall be parked on public or private property advertising the vehicle or any other service or merchandise for sale.

(3) Required Building. A building shall be required to support tow yard storage services, if the use is maintained as a principal use, consistent with the general development standards of Section 33-1114(a); however, a building is not required to support fleet storage as a principal use.

(4) Screening. Perimeter screening shall be by a solid, uniform fence or wall with a maximum height as specified in the ordinance of the zoning district. 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 right-of-ways 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.

(5) Landscaping Required. A five (5) foot wide planting area with trees shall be provided along the interior sides of screen wall. A separate landscaped planter shall be provided on-site with a minimum of five (5) feet wide dimensions along all street frontages, subject to Water Efficient Landscape Standards and street tree planting standards.

(6) Tow trucks for tow yard storage – Storage or tow trucks is considered an integral part of the tow truck dispatching service which is the main permitted use. When subject to the conditions of the M-2 Zone or the WM General district of the South Centre City Specific Plan, the storage of these trucks must be located in the rear half of the lot and be enclosed by a six (6) foot high solid wall or fence with solid gates.

(7) Fleet storage as a principal use. Demand analysis and mitigation as specified in section 33-1125 of this article.

(8) Fleet storage as an accessory use. Accessory fleet storage areas must be incidental to a principal land use activity, and the accessory storage is located on the same site or lot as the primary use, and is considered an integral part of that business. Accessory outdoor fleet storage and must be located in a manner that minimizes the visual impact of the fleet storage through means of placement, barrier, or landscape screening to the extent appropriate. Accessory fleet storage shall not include any of the following: 1) a tow truck, tractor, trailer or semi-trailer, designed to pull or transport passenger automobiles; or 2) accessory display of rental, leasable, or for-sale vehicles or equipment. The accessory storage or display of such is permitted only if they are otherwise permitted in the zone in which the facility is located.

(f) Junkyards. Junkyards and wrecking yards 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 Section 33-1114(a) unless specified herein, and this section. No junkyards or wrecking yards project shall be granted a permit unless the following requirements are satisfied:

(1) Required Building. A building is not required to support junkyards and wrecking yard uses.

(2) Screening and Landscaping Required. Perimeter screening shall be placed along the perimeter of the property by a solid, uniform fence or wall with a maximum height as specified in the ordinance of the zoning district. A five (5) foot wide planting area with trees shall be provided along the interior sides of solid screen wall. A separate landscaped planter shall be provided on-site with a minimum of five (5) feet wide dimensions along all street frontages, subject to Water Efficient Landscape Standards and street tree planting standards.

(3) Demand analysis and mitigation as specified in section 33-1125 of this article.

SECTION II.

Amend the Downtown Specific Plan to read as specified below. The changes are listed in order by section number, with ~~strikeout~~ typeface illustrating deletions and underline typeface illustrating new text.

FIGURE II-2

Permitted and Conditional Uses

Land Use	HD*	PV	CCU	GT	M	SG	CN
Transportation and Miscellaneous Services (subject to Article 57)							
<u>Boutique car sales</u>	---	---	---	---	---	---	---
<u>Car dealership, excluding car-rental services</u>	---	---	---	---	---	---	---
Car-rental services, excluding maintenance and repair of vehicles	---	---	C	C ---	---	---	---
<u>Fleet storage (as a primary use)</u>	---	---	---	---	---	---	---
<u>Fleet storage (as an accessory use)</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Junkyard and wrecking yard</u>	---	---	---	---	---	---	---
<u>Tow yard storage</u>	---	---	---	---	---	---	---
<u>Tow truck operation incidental to repair</u>			<u>P/C</u>	<u>P/C</u>			

<u>Tractor or heavy truck sales, storage, or rental</u>	---	---	---	---	---	---	---
Transit stations and car-rental services , including maintenance and repair	---	---	---	P	---	---	---
<u>Vehicle repair (light)</u>	---	---	---	---	---	<u>C</u>	---
<u>Vehicle repair (general, or commercial)</u>	---	---	---	---	---	---	---

SECTION III.

Amend the East Valley Specific Plan to read as specified below. The changes are listed in order by section number, with ~~strikeout~~ typeface illustrating deletions and underline typeface illustrating new text.

SECTION 4. LAND USE

TABLE 4.1

Permitted and Conditional Permitted Principal Uses

Land Use	CG	CP	HP
Automotive services			
<u>Automobile supply stores with incidental installation</u>	<u>P</u>	---	---
<u>Boutique car sales or car dealership</u>	---	---	---
Limited vehicle <u>Auto-repair</u> and service in freestanding or single tenant building	C	---	---
Limited vehicle <u>Auto-repair</u> and service in multi-tenant center which were comprehensively designed and approved for automotive repair prior to Area Plan	P	---	---
<u>General vehicle repair</u>	<u>C</u>	---	---
<u>Commercial vehicle repair</u>	---	---	---
<u>Junkyard and wrecking yard</u>	---	---	---
<u>Tow yard storage</u>	---	---	---
<u>Tractor or heavy truck sales, storage, or rental</u>	<u>C</u>	---	---

SECTION 4. LAND USE

TABLE 4.2

Permitted Accessory Uses and Structures

Use Title	CG	CP	HP
<u>Fleet storage (as an accessory use)</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Tow truck operation incidental to repair</u>	<u>P/C</u>	<u>---</u>	<u>---</u>

SECTION 4. LAND USE

Section 4.7 Prohibited Uses

All uses not listed as permitted primary or accessory uses, or conditionally permitted uses shall be prohibited. Such prohibited uses include but are not limited to those which for a special emphasis are listed below:

(a) Automobile, motorcycle, truck and trailer rentals

(b) Boat sales and rentals

(c) Check cashing as a primary use

(d) Commercial vehicle repair

~~(d)~~(e) Equipment rental and leasing services

~~(e)~~(f) Motor vehicle sales and car dealerships (new or used), including boutique car sales, recreational vehicles, motorcycles and other motorized vehicles

~~(f)~~(g) Pawn shops

~~(g)~~(h) Retail uses with across the board maximum pricing or “everything under” pricing

~~(h)~~(i) Social services and charitable organizations involving the direct distribution of goods or services to the ultimate client at this location

~~(i)~~(j) Swap meets (interior or exterior), involving the rental or leasing of numerous small, delineated spaces to separate, unrelated proprietors which collectively sell a wide variety of goods and services, within a building, location or business, as a single entity

~~(j)~~(k) Tattoo parlors

~~(k)~~(l) Thrift stores

(m) Tow yard storage, junkyards, and fleet storage as a primary use

~~(l)~~(n) Used or secondhand merchandise, excluding consignment sales

~~(m)~~(o) All uses and structures not listed as permitted primary or accessory uses, or conditionally permitted uses shall be prohibited. However, the Director of Community Development may approve a use, after study and deliberation, which is found to be consistent with the purposes of this article, similar to the uses listed as permitted uses, and not more detrimental to the zone than those uses listed as permitted uses

~~(n)~~(p) Any existing residential structure shall not be used for both residential and commercial purposes at the same time.

SECTION IV.

Amend the South Centre City Specific Plan to read as specified below. The changes are listed in order by section number, with ~~strikeout~~ typeface illustrating deletions and underline typeface illustrating new text.

CHAPTER 4. TABLE 4.2

Permitted Land Uses for Specified Districts/Subareas

[illegible]

<u>Article 57 of the EZC)</u>									
TRANSPORTATION RELATED SERVICES									
Automotive services									
• Tire retreading and recapping	P---	---	---	---	---	---	--	---	---
• <u>Tow yard storage (subject to Article 57 of the EZC)</u>	<u>CUP#</u>	---	---	---	---	---	--	---	---
• <u>Vehicle repair, commercial (subject to 57 of EZC)</u>	<u>CUP</u>	---	---	---	---	---	--	---	---
• Vehicle repair, general—(see definition) <u>(subject to 57 of EZC)</u>	<u>PCUP#</u>	---	---	---	CUP	---	--	---	---
• Vehicle repair, limited (see definition) <u>(subject to 57 of EZC)</u>	P	---	---	---	CUP#	---	CUP#	---	---

CHAPTER 10. APPENDICES

Definitions.

Fleet storage means storage or parking of one or more vehicles used regularly in business operations. Where the parking of vehicles constitutes the principal use on the site, the use activity is considered a principal use. Typical fleet storage uses include taxi fleets, mobile catering trucks, car or truck (service delivery) storage, or delivery truck fleets. Excluded are car dealerships and vehicle junkyard or vehicle dismantling services.

Junk yards mean any space of two hundred (200) square feet or more of area of any lot used for the storage, sale, keeping or abandonment of inoperable vehicles, wrecking yards or salvage yards, junk or waste material, including scrap metal or other scrap materials, or for the dismantling, demolition or abandonment of automobiles, other vehicles, machinery or parts thereof, other than an impound yard.

Tow yard storage means a business or offering the services of a vehicle towing service, whereby disabled motor vehicles are towed or otherwise removed from the place where they are disabled by a truck; automobile; or other vehicle so adapted to that purpose, such as tow truck dispatch centers; or in the business of storing disabled motor vehicles. Excluded are sales/rentals of vehicles (i.e. car dealerships) and junkyard or dismantling services.

Vehicle repair—general.

Major repair of automobiles, motorcycles, recreational vehicles, or trucks. Examples of use include body and fender shops; brake shops; full-service motor vehicle repair garages; machine shops; painting shops; towing services; and transmission shops. Does not include vehicle dismantling or salvage and tire retreading or recapping.

Vehicle repair—limited.

Minor repair of automobiles, motorcycles, recreational vehicles, or light trucks, vans, or similar size vehicles. Examples of use include brake adjustments and repairs; installation of electronic equipment (e.g., alarms, stereos, etc.); servicing of cooling, electrical, fuel, and exhaust systems; oil and lube shops; tire sales and installation shops; wheel alignment and balancing; auto glass installation and services.

Vehicle repair services.

(1) **Commercial vehicle repair** includes uses that repair and maintain the mechanical components of the bodies of large trucks, mass transit vehicles, large construction or agricultural equipment, aircraft or boats. Commercial vehicle repair may also include general auto repair-type functions.

(2) **General vehicle repair** includes major repair of automobiles, motorcycles, recreational vehicles, or light trucks. Examples of use include body and fender shops; brake shops; full-service motor vehicle repair garages; machine shops; painting shops; towing services; and transmission shops. Does not include vehicle dismantling or salvage and tire retreading or recapping. General vehicle repair may also include limited vehicle repair-type functions.

(3) **Limited vehicle repair** includes minor repair of automobiles, motorcycles, recreational vehicles, or light trucks, vans, or similar size vehicles. Examples of use include brake adjustments and repairs; installation of electronic equipment (e.g., alarms, stereos, etc.); servicing of cooling, electrical, fuel, and exhaust systems; oil and lube

shops; tire sales and installation shops; wheel alignment and balancing; auto glass installation and services.

EXHIBIT “C”

AZ 18-0006

CODE AMENDMENTS – TATTOO PARLORS

SECTION I.

Amend the Chapter 17 of the Escondido Municipal Code to read as specified below. The changes are listed in order by section number, with ~~strikeout~~ typeface illustrating deletions and underline typeface illustrating new text.

ARTICLE 13. TATTOO PARLORS AND MOBILE TATTOO VEHICLES

DIVISION 2. TATTOO PARLORS

Section 17-268. Customers.

- (a) No tattooing shall be done on skin surfaces which have rash, pimples, boils, or infections or manifest any evidence of unhealthful conditions.
- (b) No tattoo shall be administered to any person under the age of eighteen (18) years of age.
- (c) No tattooing shall be performed on any person who has given a history of jaundice or hepatitis infection within the previous thirty (30) days.
- (d) Specified anatomical areas shall not be exposed in publicly accessible areas of the tattoo parlor business or viewable from the public right-of-way.

ARTICLE 13. TATTOO PARLORS AND MOBILE TATTOO VEHICLES

DIVISION 2. TATTOO PARLORS

Section 17-269. Operator.

- (a) The operator shall be free of communicable diseases and have no pustular skin lesions.
- (b) The operator shall not smoke during the tattoo operation.
- (c) The operator shall wear a clean, light-colored, short-sleeved smock during the tattoo operation.
- (d) The operator shall wear disposable gloves during the tattooing operation.

(e) No tattoo parlor shall be operated in conjunction with nor share any operating space with any other business. Service of alcohol, marijuana/cannabis based substances, or other controlled substance shall not be permitted in conjunction with a tattoo parlor.

(f) The entrance door and storefront window glazing shall be 100 percent clear and free of obstructions such as signs, window tinting, shelving, or racks. An opening shall be provided through which an unobstructed view of the interior of the premises can be obtained from the exterior of the building.

(g) The operator shall ensure that specified anatomical areas of customers shall not be exposed in publicly accessible areas of the business or viewable from the public right-of-way.

(h) The operator of a tattoo parlor shall prevent loitering and loud noises around the subject site during and after the hours of business operations.

(i) The property shall be developed and maintained in a neat, quiet, and orderly condition and operated in a manner so as not to be detrimental to adjacent properties and occupants. This shall encompass the maintenance of exterior facades of the building, designated parking areas serving the use, walls and fences and the perimeter of the site (including all public parkways).

(j) The operator of the tattoo parlor shall comply with all applicable state and local laws as they may be amended from time to time, including Health and Safety Code Sections 119300 et seq. (California Safe Body Art Act), Penal Code Section 653, and County of San Diego Department of Environmental Health regulations.

ARTICLE 13. TATTOO PARLORS AND MOBILE TATTOO VEHICLES

DIVISION 2. TATTOO PARLORS

Section 17-281. Permit required.

(a) It shall be unlawful for any person to engage in the business of operating a tattoo parlor establishment, or a mobile tattoo vehicle, without first applying for and receiving approval of a permit from the deputy director of environmental health services.

(b) No tattoo parlor shall be located within 1,000 feet of any other tattoo parlor, as measured from the nearest walls of the buildings within which the tattoo parlors are established.

(c) No tattoo parlor shall be located within 500 feet of any licensed alcoholic beverage dispensing operation offering said beverages for on-site consumption.

SECTION II.

Amend the Chapter 33 of the Escondido Municipal Code to read as specified below. The changes are listed in order by section number, with ~~strikeout~~ typeface illustrating deletions and underline typeface illustrating new text.

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS

Section 33-8. Definitions.

Tattoo parlor means any permanent premises where a tattoo artist does tattooing for a fee or for other consideration. Tattoo parlor establishments also include body piercing and other body art services, but do not include beauty salons including cosmetology involving ear piercing, permanent eye and lip lining.

ARTICLE 16. COMMERCIAL ZONES

Section 33-332. Principal land uses.

Table 33-564. Permitted and conditionally permitted principal uses.

Use Title	CG	CN	CP
Barber, beauty, nail, and tanning services	P	P	P
Personal services, NEC (including clothing and costume rental, tattooing, marriage bureaus, baby-sitting services, etc.)	P	---	---
<u>Personal services</u>			
<u>Barber, beauty, nail, and tanning services</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Clothing and costume rental, marriage bureaus, baby-sitting services, etc.</u>	<u>P</u>	---	---
<u>Tattoo parlor and body piercing* (subject to Chapter 17)</u>	<u>C</u>	---	---

SECTION III.

Amend the Downtown Specific Plan to read as specified below. The changes are listed in order by section number, with ~~strikeout~~ typeface illustrating deletions and underline typeface illustrating new text.

FIGURE II-2

Permitted and Conditional Uses

Land Use	HD*	PV	CCU	GT	M	SG	CN
HEALTH AND PERSONAL SERVICES							
<u>Tattoo parlor and body piercing*</u> (subject to Chapter 17 of the <u>Municipal Code</u>)	---	---	---	---	---	---	---

SECTION IV.

Amend the South Centre City Specific Plan to read as specified below. The changes are listed in order by section number, with ~~strikeout~~ typeface illustrating deletions and underline typeface illustrating new text.

CHAPTER 4. TABLE 4.2

Permitted Land Uses for Specified Districts/Subareas

Land Uses	WM General	WM Comm.	9 th Overlay	13 th District	Felicita District	EB MU Overlay	EB Comm	SE Comm	SE MU Overlay
PERSONAL & OTHER SERVICES									
Tattoo parlor or body piercing (<u>subject to</u> <u>Chapter 17 of</u> <u>Municipal Code</u>)	<u>CUP#</u>	---	---	---	---	---	--	---	---

EXHIBIT “D”

AZ 18-0006

CODE AMENDMENTS – ADDITIONAL NONRESIDENTIAL USE RELATED CHANGES

SECTION I.

Insert “**Article 3. SECONDHAND DEALERS**” to Chapter 15 after “Sections 15-22 –15-31. Reserved” and prior to “Section 15-32” to delineate article organization.

SECTION II.

Amend the Chapter 33 of the Escondido Municipal Code to read as specified below. The changes are listed in order by section number, with ~~strikeout~~ typeface illustrating deletions and underline typeface illustrating new text.

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS

Section 33-8. Definitions.

Banking.

(1) ATM kiosk is an electronic telecommunications devise or electronic banking outlet that allows customers to complete basic financial transactions without the aid of a bank teller or chartered financial institution representative.

(2) Bank means a State or Federally chartered financial institution, credit union, mortgage lender, savings and loan association, or industrial loan company which offers financial services that include lending money, collecting deposits, issuing currencies and debit cards, and transaction processing, and other typical banking services, with or without a teller.

(3) Check-cash / pay day means fringe bank institution or uses defined as other than a State or Federally chartered institution, credit union, mortgage lender, savings and loan association or industrial loan company, that offers deferred deposit transaction services or check cashing services and loans for payment of a percentage fee. The term included, but is not limited to, deferred deposit transaction (payday loan) businesses that make loans upon assignment of wages received, check cashing businesses that charge a percentage fee for cashing a check or negotiable instrument, and vehicle title lenders who offer a short-term loan secured by the title to a vehicle. Non-profit financial institutions are not included in this definition.

Bargain basement store means any for-profit or non-profit store including any establishment, operation, or enterprise with one or more of the following characteristics: 1) a majority of the store's merchandise is offered for sale at a price equal to or below \$5.00; 2) merchandise priced at or below \$5.00 occupies at least one-half of the store's floor area which is devoted to retail sales; 3) used items represent a majority of the merchandise offered for sale in the store; or 4) used merchandise occupies at least one-half of the floor area in the store devoted to retail sales. Used merchandise herein is defined as all forms of used items including without limitation items that were formerly used but have been repaired, refurbished, and /or repackaged. The bargain basement store definition excludes: 1) bona fide antique stores; 2) thrift stores, pawn shops, second-hand dealers, and pawn shops; 3) stores which primarily engage in the sale of used books, periodicals, videos, or DVDs; 4) stores specializing in the sale of highly collectible items such as used coins, stamps, baseball cards, and other similar collectibles; and 5) a store where the majority of the items sold, measured by receipts or number of items sold, consist of food and/or beverage items.

Consignment shop is a retail establishment primarily engaged in the retail sale of non-donated, second-hand merchandise, and the merchandise is placed for sale with the establishment by the owner of the merchandise. Upon sale of the merchandise the purchase price is divided between the consignment shop owner and the owner of the merchandise. The establishment shall be limited to one type of merchandise, including but not limited to, clothing and related accessories, children's apparel and furniture, sporting equipment, or furniture and related home furnishings. This use does not include the sale of guns, appliances, mattresses, or vehicles.

Liquor store means any store designed and operated for the selling of alcoholic beverages with the selling of any other merchandise being incidental to the primary operation of selling liquor.

Pawn shop means a pawnbroker or business establishment that loans money, either for himself or herself, or for any other person, upon any personal property or personal security being purchased and resold to the vendor or other assignee at prices previously agreed upon. This use does not include the sale of guns, appliances, mattresses, or vehicles.

Secondhand store (or second-hand dealer) means conducting, managing, or carrying on the business of buying and selling used merchandise, such as jewelry, watches, diamonds, clothing, musical instruments, luggage, sporting goods, furniture, etc. This use does not include the sale of guns, appliances, mattresses, or vehicles.

Thrift shop is a retail establishment or non-profit organization primarily engaged in selling used merchandise which has been obtained through bulk-purchases, or through donations or gifts and where the donor receives no value upon the sale of such merchandise, and where the use is designed to sell donated merchandise at a price below reasonable market value. The second-hand sale of guns, appliances, mattresses, or vehicles is prohibited under this classification. This use does not include establishments which sell used merchandise on consignment

ARTICLE 16. COMMERCIAL ZONES

Section 33-332. Principal land uses.

Table 33-564. Permitted and conditionally permitted principal uses.

Use Title	CG	CN	CP
Retail Trade			
<u>Used Merchandise</u>			
<u>Consignment shop*</u> (subject to Chapter 15 and Article 57)	<u>C</u>	---	---
<u>Pawn shop* (subject to Chapter 15 and Article 57)</u>	---	---	---
<u>Secondhand store*</u> (subject to Chapter 15 and Article 57)	<u>C</u>	---	---
<u>Thrift shop* (subject to Chapter 15 and Article 57)</u>	<u>C</u>	---	---
Retail Trade			
General Retail			
<u>Bargain basement store</u>	<u>C</u>	---	---
<u>Drugstores with drive-through*</u> (subject to section 33-341)	<u>C</u>	<u>C</u>	<u>C</u>
<u>Pharmacies with drive-through*</u> (subject to section 33-341)	<u>C</u>	<u>C</u>	<u>C</u>
<u>Florists, gifts, cards, newspapers, and magazines with drive-through*</u> (subject to section 33-341)	<u>C</u>	<u>C</u>	<u>C</u>
<u>General retail with drive-through*</u> (subject to section 33-341)	<u>C</u>	<u>C</u>	<u>C</u>

Food and Liquor			
Liquor stores, packaged (off-sale)	<u>PC</u>	<u>PC</u>	---
Services			
Financial Services (including banks, securities brokers, credit offices, real estate services)	<u>P</u>	<u>P</u>	<u>P</u>
<u>Bank</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Bank with drive- through* (subject to section 33-341)</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Check-cash/pay day</u>	---	---	---
<u>Real estate service or security broker</u>	<u>P</u>	<u>P</u>	<u>P</u>
Services			
Other Services			
Laundry and dry cleaning services			
Self-service, coin-operated* (section 33-343)	<u>P</u>	<u>P</u>	---
Pick-up service only* (section 33- 343)	<u>P</u>	<u>P</u>	<u>P</u>
Dry cleaning, laundering, pressing and dyeing for on-site retail customers only* (section 33- 343)	<u>PC</u>	---	---
<u>Commercial laundry or pressing* (section 33-343)</u>	---	---	---

ARTICLE 16. COMMERCIAL ZONES

Section 33-333. Permitted accessory uses and structures.

Table 33-564. Permitted accessory uses and structures.

Use Title	CG	CN	CP
<u>ATM kiosk</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>ATM kiosk (drive-in,* drive-through*) (section 33-341)</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Drive-in,* drive-through* (section 33-341)</u>	<u>C</u>	<u>C</u>	<u>C</u>

ARTICLE 16. COMMERCIAL ZONES

Section 33-341. Commercial drive-through facilities requirements.

(a) ~~Plot Plan~~Conditional Use Permit Required. ~~A plot plan application shall be required for all drive-through facilities not associated with a project requiring a discretionary application.~~Conditional Use Permit approval shall be required for the establishment of any use that offers drive-in or drive-through facilities. This shall include drive-through uses in conjunction with, but not limited to, washing/detailing automotive services (automated or hand-washed), retail trades, eating and drinking establishments, banks and other financial institutions, pharmacies, and other services.

(b) Development Standards. The following development standards shall apply to all drive-through commercial facilities to ensure that such developments do not have negative impacts on traffic, safety, air quality and visual character of the area in which they are located:

- (1) Pedestrian walkways that intersect the drive-through drive aisles, shall have clear visibility, and be emphasized by enriched paving or striping.
- (2) Drive-through aisles shall have a minimum twelve (12) foot width on curves and a minimum eleven (11) foot width on straight sections.
- (3) The drive-through stacking lane shall be situated so that any overflow from the stacking lane shall not spill out onto public streets or major aisles of any parking lot. Sufficient vehicle stacking room shall be provided on-site behind the speaker area where orders are taken to accommodate a minimum of six (6) vehicles or greater if determined necessary by the director of community development. The drive-through stacking lane shall be separated physically from the user's parking lot and shall have a capacity of twenty (20) linear feet per vehicle.
- (4) Drive-through aisles shall be constructed with (PCC) concrete.
- (5) Drive-through aisles and associated structures should be oriented away from public streets and surrounding land uses unless significant screening is provided to the satisfaction of the director of community development by means of heavy landscaping, decorative walls, and sound attenuating devices. A five (5) foot-wide planter between the drive-through aisle and the parking area that includes shade trees consistent with those used in the parking areas.
- (6) No ingress and egress points shall conflict with turning movements at nearby street intersections. The design of the site and placement of structures shall be done in a manner that: 1) minimizes the number of driveway cuts; and 2) provides adequate and

safe queuing and maneuvering of vehicles to prevent interference with circulation of the site, adjacent uses, or queuing within/onto public right-of-way.

(7) Buildings with drive-through facilities shall be located with a minimum separation of two hundred (200) feet from any other structure containing a drive-through facility. Certain types of drive-through services may require less separation if substantiated by acceptable data

(8) Canopy. A canopy should be provided at the drive through pick-up window area (i.e. covered with a trellis or open-air canopy) to cover the area of service exchange and the drive aisle. In the design of the covered drive-through space, applicants shall take positive steps to protect employees of the drive-through facility from emissions caused by idling cars and "tunneling" effects. "Tunneling" will be deemed to occur where a roof/wall structure encloses a space of more than thirty (30) feet. Such situations are discouraged unless air quality analyses performed by the applicant shows that unusual pollutant concentrations will not occur.

(9) The architecture of drive-through canopies, building fenestration, and other structures used to support the drive-through shall be compatible and harmonize with that of the building, shopping center, and/or structures within the immediate area in terms of building color, materials, mass, scale, and form. All building elevations should be architecturally enhanced. High quality building materials are encouraged. Reflective, glossy, and fluorescent surfaces are discouraged.

(10) When located on a site within one hundred (100) feet of any residential zone or use (measured from the nearest property lines), hours of operation for the drive-through service shall be limited from 7:00 a.m. to 10:00 p.m. daily. If the use is located greater than one hundred (100) feet from a residential use, then there are no restrictions on the hours of operation, unless regulated pursuant to Conditional Use Permit. The designated Review Authority may grant limitations or exceptions through a Conditional Use Permit after preparation of a qualified noise study. Drive-through speakers shall not be audible from adjacent residentially zoned or used properties.

ARTICLE 16. COMMERCIAL ZONES

Section 33-343. ~~Reserved~~Laundry and dry cleaning services.

(a) No new dry-cleaning with on-site cleaning or commercial laundry establishment shall be located within two hundred (200) feet of a residential zone or residential use unless the establishment utilizes a high-trans fluorinated alternative rather than using carbon Trichloroethylene (TCE) and Perchloroethylene (PERC).

(b) The operator of the approved "self-service laundromats" use shall prevent loitering and loud noises around the subject site during and after the hours of business operations. Management or a staff representative (e.g. attendant) must be present during hours of operation.

(c) No liquid or solid waste or similar material that may contaminate water supplies, interfere with bacterial process in sewage treatment, or otherwise cause the emissions of dangerous or

offensive elements shall be discharged into the public sewer or private disposal system, except as determined by the permit decision-maker in accordance with applicable regulations.

ARTICLE 26. INDUSTRIAL ZONES

Section 33-564. ~~Land~~ Principal land uses.

Table 33-564. Permitted and conditionally permitted principal uses.

Use Title	I-O	M-1	M-2	I-P
Banks/automated teller machines	---	P	P	---
<u>Financial Services</u>				
<u>Bank</u>	---	P	P	---
<u>Bank (drive-in,* drive-through*) (section 33-341)</u>	---	C	C	---
<u>Check-cash/pay day</u>	---	---	---	---
<u>Real estate service or security broker</u>	P	---	---	P
<u>Laundry and Dry Cleaning Services</u>				
<u>Self-service, coin-operated</u>	---	---	---	---
<u>Pick-up service only</u>	---	---	---	---
<u>Dry cleaning, laundering, pressing and dying for on-site retail customers only</u>	---	---	---	---
<u>Commercial laundry or pressing</u>	---	C	C	---

ARTICLE 26. INDUSTRIAL ZONES

Section 33-565. ~~Accessory~~ Permitted accessory uses and structures.

Table 33-565. Permitted accessory uses and structures.

Use Title	I-O	M-1	M-2	I-P
<u>ATM kiosk</u>	P	P	P	P
<u>ATM kiosk (drive-in,* drive-through*) (section 33-341)</u>	C	C	C	C

ARTICLE 57. MISCELLANEOUS USE RESTRICTIONS

Section 33-1127. ~~Reserved.~~Used merchandise sales.

(a) All consignment shops, secondhand stores, and thrift shops shall provide or satisfy the following criteria:

(1) A designated area inside the building shall be established for the receipt, sorting and processing of goods. Donated goods or received merchandise shall be accepted only during regular business hours.

(2) No more than thirty (30) percent of the floor area shall be utilized for receiving, sorting and storage of donated and traded goods.

(3) Signs advising patrons that the merchandise/goods within the store are primarily preowned.

(4) Enclosed Activities. All activities shall be completely enclosed within the building for the use.

(5) Property Maintenance. The subject property shall be maintained free of trash and debris at all times. Management shall be responsible for the removal of litter from the subject property, adjacent property, and streets that results from the thrift store (with adjacent property owner consent). The property shall be developed and maintained in a neat, quiet, and orderly condition and operated in a manner so as not to be detrimental to adjacent properties and occupants. This shall include the maintenance of exterior facades of the building, designated parking areas serving the use, walls and fences and the perimeter of the site (including all public parkways).

(6) The storefront windows shall be permanently maintained as displays of merchandise in a professional and attractive manner (i.e., unsightly clothing racks and displays shall not be placed adjacent to the windows).

(7) Thrift shop. All goods donated for sale at the thrift shop must be accepted through the rear of the store. Adequate directional signage shall be provided from the main entrance to the use to direct individuals to the collection area. The collection area shall be noticed to prohibit depositing goods during nighttime hours or when the store is closed. Signage should include daytime collection hours for donated goods.

(8) All secondhand dealers are subject to the limitations and restrictions of Chapter 15 (Secondhand Dealer Ordinance).

(b) Pawn shops are prohibited use. Any existing pawn shop store or proprietor with a duly issued permit may continue to operate subject to the limitations and restrictions of Chapter 15 (Secondhand Dealer Ordinance) and Article 61 of Chapter 33.

ARTICLE 63. TRANSIENT LODGING FACILITIES

Section 33-1344. Design Guidelines.

I. TYPES OF TRANSIENT LODGING FACILITIES

A. Definitions and Expected Features. Transient lodging covers a wide spectrum of facilities from budget motels to resort destinations. Economy class, business/convention facilities and bed and breakfast establishments are also included. A customer chooses a facility to serve a particular need. While features of one type of establishment may be found in another, the following is a breakdown of facilities into three types:

1. Economy. Hotels and motels located on or near major arterials that serve the more budget-minded tourist and business clientele. Facilities can be generalized as being one or two stories with 200 rooms or fewer and having outdoor corridors and basic recreational amenities such as a pool and/or spa. Adjacent surface parking is typical.

2. Full Service. Hotels and motels located near business centers, downtowns or other major arterials convenient to major attractions. They generally provide a broader range of amenities and may include health clubs or other recreational facilities, restaurants, lounges, conference and convention facilities, laundry, secretarial and taxi services and business-oriented shopping facilities.

3. Resort. Hotels and lodgings typically sited on a prominent or otherwise attractive location and/or providing recreational amenities either on-site or within close proximity. They are treated as a destination point and offer a relaxing or vacation-type climate. They often include amenities similar to full service hotels such as restaurants, lounges, meeting facilities and shopping to attract conventions and other businesses.

B. Minimum Parcel Size. The site for a proposed facility shall meet the minimum lot size requirement for the underlying zone. Refer to the Zoning Ordinance for the minimum setback, height and floor area ratio requirements.

C. Businesses space and restaurants. Full service and resort hotels and lodging designed, constructed or used for 25 or more guest rooms or more may include a business supportive space use conducted therein for the convenience of the occupants and their guests, a boutique retail space, or a restaurant for use primarily by the hotel occupants and their guests.

1. The entrance to the business or restaurant shall be from the inside of the hotel.

2. The floor area used for all the businesses and restaurants in the facility shall not exceed thirty (30) percent of the total ground floor area of all the buildings comprising the hotel which are on a single lot or contiguous lots.

II. SITE DESIGN

A. Develop the project design in a manner which is consistent with the established City of Escondido Design Review Guidelines.

B. Provide site planning that accomplishes a desirable transition with the streetscape and adequate landscaping, parking and safe pedestrian movement.

C. Utilize setbacks in excess of zoning restrictions.

D. Preserve and respect the existing topography by integrating buildings with the hillsides. When grading is required, create several smaller pads rather than one large one.

- E. Utilize building height and scale which is compatible with the site and existing or anticipated adjoining buildings. Cluster buildings to attain village scale. Break up long building expanses with plazas and landscaping.
- F. Maximize view opportunities of distant hills and mountains and other natural and manmade landmarks from the complex.
- G. Ensure that full architectural treatment is provided on all building elevations, particularly those fronting major Circulation Element Streets.
- H. Centrally locate the lobby and office for easy access from streets and hotel units.
- I. Provide buffer areas between guest rooms and public amenities such as restaurants, lounges and game rooms. This may be accomplished with lobby areas, landscape areas or passive recreation areas.
- J. Create an individual theme for the project site which is reinforced through architectural, landscaping, signage and streetscape treatments.
- K. Create a sense of arrival with unique focus to the project. Create sense of place and individual identity for each project by appropriate utilization of design treatments.
- L. Provide outdoor-oriented areas and activities such as cafes, kiosks, booths, benches, etc.
- M. Orient buildings around courtyards, arcades and plazas whenever possible.
- N. Avoid parking areas between street and building. Provide parking in rear of buildings.
- O. Consider crime prevention design and ease of surveillance in site planning and access design. Exemplary measures include visual corridors into the project from major roadways, landscaping to maintain views of pedestrian areas from drive aisles, and sufficient night lighting of pedestrian and parking areas.
- P. Exterior corridors on multi-level buildings are strongly discouraged and should not be located adjacent to residential uses.

III. RELATIONSHIP TO COMMUNITY

- A. Maintain a sense of community. Integrate projects with adjacent development.
- B. Provide an attractive landscape tradition to adjoining properties.
- C. Provide buffers for any project features which may have negative impacts upon adjacent properties.
- D. The property shall be developed and maintained in a neat, quiet, and orderly condition and operated in a manner so as not to be detrimental to adjacent properties and occupants. This shall include the maintenance of exterior facades of the building, designated parking areas serving the use, walls and fences and the perimeter of the site (including all public parkways), subject to section 33-1344(X).

VII. PARKING AREAS AND ACCESS (Refer to Article 39 of this chapter for specific parking regulations.)

- A. Provide the parking and loading space requirements as found in the Zoning Ordinance.

- B. Locate loading spaces away from the front and exterior side of the facility or otherwise screen them from view. Loading spaces shall operate in a safe and efficient manner so as to not interfere with vehicular circulation and parking.
- C. Provide valet parking or adequate loading and unloading as part of the design and operating standards of the facility. Short term parking should be provided in close proximity to the office/check-in areas. Delivery and loading areas should be screened to minimize adverse visual and noise-related impacts to adjacent uses.
- D. Coordinate project access with adjacent intersection design and median cuts in abutting arterial and major highways.
- E. Design the pads as close to the street elevations as possible where the development abuts a major road to facilitate vehicular access, project visibility and drainage.
- F. Lay out car and pedestrian flow patterns carefully within the site, to minimize auto/pedestrian conflicts and insure adequate fire and delivery vehicle access.
- G. Soften the visual impact of parking areas on- and off-site by using landscaped islands; landscape screening, berms, walls; breaking up parking into sub-lots or into areas associated with particular uses; utilizing textured paving and walkways; or similar design measures.
- H. Coordinate the design of projects and associated expanded parkways with the parkways and medians of adjacent roadways including landscaping, project entries, street furniture and fencing.
- I. Coordinate site planning with transit stops.
- J. Use shading devices extensively in parking and pedestrian areas, such as canopy trees, arcades, decorative awnings and porticos.
- K. Orient buildings to provide parking through rear entrances where possible.

ARTICLE 63. TRANSIENT LODGING FACILITIES

Section 33-1347. ~~Reserved.~~ Operator obligations.

- (a) A manager and a minimum of one (1) additional employee shall be on duty at all times.
- (b) Guest registration requirements per Chapter 16-D of the Municipal Code.
- (c) Operator has duties and obligations to their guests to furnishing proper accommodations and to exercise proper care for the guest's safety. The duty is fulfilled when reasonable care is taken to promote the guest's safety, morals, comfort convenience, and general welfare; and to prevent a guest's exposure to dangers.
- (d) The operator of the approved use shall prevent loitering and loud noises around the subject site during and after the hours of business operations.
- (e) Extended stay. No room shall be made available for extended stay or be provided to guests to occupy for more than 30 consecutive days.

(f) Every manager or person in control of a transient lodging facility in Escondido shall post in a conspicuous place in each room which is for rent or hire a printed statement of the specific charge or rate of charges by the day, week or month to be charged for said room or rooms. No charge or sum shall be collected or received for any greater sum than entitled to under the statement of charges or rates posted.

(g) Transient occupancies are subject to the transient occupancy tax requirements of Chapter 25 of the Municipal Code.

SECTION III.

Amend the Downtown Specific Plan to read as specified below. The changes are listed in order by section number, with ~~strikeout~~ typeface illustrating deletions and underline typeface illustrating new text.

FIGURE II-2

Permitted and Conditional Uses

[illegible]

antiques, collectibles, coins, consignment and stamps, excluding pawn shops, second hand and thrift stores.							
<u>Pawn shop (subject to Article 57 of the Zoning Code)</u>	---	---	---	---	---	---	---
<u>Secondhand store (subject to Article 57 of the Zoning Code)</u>	---	---	---	---	---	---	---
<u>Thrift shop (subject to Article 57 of the Zoning Code)</u>	---	---	---	---	---	---	---
FOOD AND LIQUOR SALES							
<u>Liquor stores, packaged (off-sale)</u>	---	---	---	---	---	---	---
GENERAL OFFICE AND FINANCIAL SERVICES							
<u>ATM kiosk</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>ATM kiosk with drive-through</u>	---	<u>C¹²</u>	<u>C¹²</u>	<u>C¹²</u>	<u>C¹²</u>	<u>C¹²</u>	<u>C¹²</u>
Financial institutions, banks, savings and loans¹³ (excluding check cashing and/or payday loans as a primary use), visitor and information center (including Downtown Business Association), governmental services, police and fire stations, etc. that provide direct contact with the public	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Financial institutions, banks, savings and loans with drive-through</u>	---	<u>C¹²</u>	<u>C¹²</u>	<u>C¹²</u>	<u>C¹²</u>	<u>C¹²</u>	<u>C¹²</u>
<u>Check cash / pay day</u>	---	---	---	---	---	---	---

3 Only permitted on Escondido Boulevard.

6 Only permitted on Pennsylvania Avenue and the north side of Valley Parkway between Kalmia and Ivy Streets.

12 Drive-through ~~eating and drinking~~ establishments shall be permitted with a Conditional Use Permit, subject to the provisions in Article 16, Section 33-341

13 Prohibited on corner lots of the retail core area.

SECTION IV.

Amend the East Valley Specific Plan to read as specified below. The changes are listed in order by section number, with ~~strikeout~~ typeface illustrating deletions and underline typeface illustrating new text.

SECTION 4. LAND USE

TABLE 4.1

Permitted and Conditional Permitted Principal Uses

Land Use	CG	CP	HP
RETAIL TRADE			
<u>Food and Drink Sales</u>			
<u>Liquor stores, packaged (off-sale)</u>	---	---	---
<u>General Retail</u>			
<u>Bargain basement stores</u>	---	---	---
<u>Consignment shop (Section 33-1127 of the Zoning Code*)</u>	<u>P</u>	---	---
<u>Drug stores with drive-through (Section 33-341 of the Zoning Code*)</u>	<u>C</u>	<u>C</u>	---
<u>Florists, gifts, cards, newspapers and magazines with drive-through (Section 33-341 of the Zoning Code*)</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>General retail of new merchandise.</u>	<u>C</u>	---	---

<u>NEC (with drive-through (Section 33-341 of the Zoning Code*))</u>			
SERVICES			
Financial services and institutions			
• <u>Check-cash / pay day</u>	---	---	---
Other services			
• Laundry and dry cleaning services <u>(Section 33-343 of the Zoning Code*)</u>			
○ <u>Commercial laundry</u>	---	---	---

SECTION 4. LAND USE

TABLE 4.2

Permitted Accessory Uses and Structures

Use Title	CG	CP	HP
<u>ATM kiosk</u>	<u>P</u>	<u>P</u>	---
<u>ATM kiosk with drive-through (Section 33-341 of the Zoning Code*)</u>	<u>C</u>	---	---
<u>Drive-through (Section 33-341 of the Zoning Code*)</u>	<u>C</u>	<u>C</u>	<u>C</u>

SECTION IV.

Amend the South Centre City Specific Plan to read as specified below. The changes are listed in order by section number, with ~~strikeout~~ typeface illustrating deletions and underline typeface illustrating new text.

CHAPTER 4. TABLE 4.2

Permitted Land Uses for Specified Districts/Subareas

Land Uses	WM General	WM Comm.	9 th Overlay	13 th District	Felicita District	EB MU Overlay	EB Comm	SE Comm	SE MU Overlay
BUSINESS, OFFICE, GOVERNMENT & FINANCIAL (EXCLUDING MEDICAL)									
<u>Check-cash / pay day</u>	---	---	---	---	---	---	---	---	---
PERSONAL & OTHER SERVICES									
Laundry and dry cleaning services (Subject to <u>Section 33-342 of the EZC</u>):									
• <u>Dry- cleaning with on-site pressing</u>	P	---	---	---	---	---	---	---	---
RETAIL TRADE									
<u>General Retail</u>									
• <u>Bargain basement store</u>	---	---	---	<u>CUP</u>	---	---	---	---	---
• Second hand and thrift stores, <u>and</u> consignment	---	---	<u>CUP#</u>	---	---	---	<u>CUP#</u>	---	---

shops—and pawn shops (Subject to Article 57 of the EZC)									
• Pawn shop (Subject to Article 57 of the EZC)	---	---	---	---	---	---	---	---	---
Food and liquor									
• Liquor store, packaged (off-sale alcoholic beverages)	---	---	---	CUP	CUP	<u>PCUP</u>	CUP	CUP	CUP
SPECIAL USES									
Drive-through facilities, including drive-through banks, dairies, drug stores/pharmacies, grocery stores, cleaners, etc., which are either an incidental use to the primary use or constitute the primary use (Subject to Section 33-341 of the EZC)	---	CUP	---	---	CUP	---	---	---	---
ACCESSORY USES AND STRUCTURES									
<u>ATM kiosk</u>	---	---	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>ATM kiosk with drive-through</u>	---	<u>CUP</u>	---	<u>CUP</u>	<u>CUP</u>	---	---	---	---

CHAPTER 10. APPENDICES

Definitions.

Bargain basement store means any for-profit or non-profit store including any establishment, operation, or enterprise with one or more of the following characteristics: 1) a majority of the store's merchandise is offered for sale at a price equal to or below \$5.00; 2) merchandise priced at or below \$5.00 occupies at least one-half of the store's floor area which is devoted to retail sales; 3) used items represent a majority of the merchandise offered for sale in the store; or 4) used merchandise occupies at least one-half of the floor area in the store devoted to retail sales. Used merchandise herein is defined as all forms of used items including without limitation items that were formerly used but have been repaired, refurbished, and /or repackaged. The bargain basement store definition excludes: 1) bona fide antique stores; 2) thrift stores, pawn shops, second-hand dealers, and pawn shops; 3) stores which primarily engage in the sale of used books, periodicals, videos, or DVDs; 4) stores specializing in the sale of highly collectible items such as used coins, stamps, baseball cards, and other similar collectibles; and 5) a store where the majority of the items sold, measured by receipts or number of items sold, consist of food and/or beverage items.

ATTACHMENT 1

Due to the number of pages of Attachment 1, a link has been provided to review the document electronically, which connects to the full March 20, 2019 City Council Agenda Packet.

<https://www.escondido.org/Data/Sites/1/media/agendas/Council/2019/03-20-19%20CC%20Agenda%20Packet.pdf>

A hardcopy of the Attachment is available for review in the Office of the City Clerk during normal business hours. To obtain a copy, please the City Clerk at (760) 839-4617. For City Council members, a copy is available in the City Council reading file.

ATTACHMENT 3

Mike Strong

From: Troutman, Parke <Parke.Troutman@sdcounty.ca.gov>
Sent: Friday, February 08, 2019 10:52 AM
To: Mike Strong
Subject: Follow up on smoke/vape shop zoning
Attachments: DensityTobRetailers CDPH FS 2017.pdf

Hello, Mike,

I wanted to follow up a little with about the tobacco/vape shop issue. I know you're thinking primarily of those stores and not the broader issue of tobacco retailers, but ChangeLab Solutions has [a new tool on tobacco retailer density](#). It describes a number of cities that have restrictions specifically on stores that primarily sell tobacco products. In addition to the link, I'm also including something that the California Department of Public Health assembled on density issues around tobacco retailers. It kinda acts as an executive summary for the ChangeLab Solutions tool.

An issue distinct to smoke/vape shops: we have heard in other jurisdictions that businesses adjacent to smoke/vape shops do not like their presence because of drifting smoke (e.g., onto their restaurant patio). This is potentially a hassle to treat as a nuisance, so we asked ChangeLab Solutions if they knew of any ordinance that required such shops to be standalone (to create distance and avoid any kind of ventilation sharing). ChangeLab Solutions did not have an example but offered to help you write one (free technical support: they have a grant from the California Tobacco Control Program). They are a well-known public health legal group in the Bay Area that does a lot of research on a whole host of issues, from food policy to active transportation to tobacco.

Have a good weekend – Parke

Parke Troutman, Planning and Policy Development Specialist
Maternal, Child and Family Health Services
County of San Diego Health & Human Services Agency
C: 619-753-2581





KAREN L. SMITH, MD, MPH
Director and State Public Health Officer

State of California—Health and Human Services Agency
California Department of Public Health



EDMUND G. BROWN JR.
Governor

Density of Tobacco Retailers Fact Sheet

Overview: Proximity and density of tobacco retailers within communities influences smoking behaviors through greater exposure to tobacco advertisements and increased availability of tobacco price promotions at the point of sale.¹⁻⁶ Higher density of tobacco retailers within a community discourages quit attempts by triggering real-time cravings; providing cues to smoke; and promoting impulse purchase of tobacco products, especially discounted products.^{2,5,7-9} Adopting and/or amending local tobacco retailer licensing ordinances to include zoning and conditional use permits can reduce the density of tobacco stores near schools, youth sensitive areas, and residential areas.

Density of Tobacco Retailers

- Managing the density of tobacco retailers is an important component to comprehensive tobacco use prevention and control strategy.¹
 - Tobacco retailers are less likely to request identification or enforce state laws on the sale of tobacco products to young people (13-18 years of age) in areas with a higher density of tobacco retailers.¹⁰
 - Higher density of tobacco retailers in a community is associated with increased susceptibility of non-smokers starting to smoke in the future.¹¹
 - The price of tobacco products is lower in communities with a higher density of tobacco retailers and shorter travel time to tobacco retail outlets.¹²
 - Higher density of tobacco retailers within communities increases exposure to tobacco product advertisement and access to discounted tobacco products.^{1,13,14}
- In the United States, the number of tobacco retailers is disproportionately high, considering the consumer demand for tobacco products.¹⁵
 - For every 10,000 consumers in California, there are approximately 96 tobacco retailers.¹⁵
- Tobacco retailers are more prevalent in low-income communities and communities with a large proportion of Hispanic; foreign-born residents; African American; and Lesbian, Gay, Bisexual, and Transgender (LGBT) populations.^{1,13,14,16}



California Tobacco Control Program
Density of Tobacco Retailers Fact Sheet

Impact of Tobacco Retailer Density on Tobacco Use

- Higher density of tobacco retailers per area or population:
 - Is associated with higher prevalence of smoking,^{4,10,12,16-21} increased cigarette purchases,²² and reduced smoking cessation over time.^{2,3}
 - Middle school youth exposed to tobacco products in a retail setting multiple times per week are twice as likely to ever smoke or start smoking within 12 months of a visit to the store, compared to those with less retail exposure to tobacco products.²³
 - Increased density of tobacco retailers within one mile of schools increases the likelihood that youth will purchase cigarettes from tobacco retailers rather than getting tobacco products from social sources.²²
 - Higher density of tobacco retailers within three-quarters to one mile of a young person's home is associated with greater access and exposure to tobacco products and advertising and increased frequency of smoking.²⁴
 - Higher density of tobacco retailers around an individual's home increased the odds of ever smoking by 53 percent and current smoking by 47 percent.²¹
 - Increases access to tobacco products and renormalizes smoking behavior.²¹
 - Increases exposure to retail advertisements and promotions and discourages quit attempts by triggering real-time cravings, cues to smoke, and promoting the impulse purchase of tobacco products.^{5,7-9}
 - Increases resident access to tobacco products, while reducing the distance to obtain tobacco products and the price of tobacco products.^{12,24}

Strategies to Influence Tobacco Retailer Density

- Adopting local tobacco retailer license (TRL) ordinances that are more restrictive than state law:
 - Are effective policy methods for prohibiting and/or restricting the underage tobacco product sales, reducing the point of sale marketing of tobacco products to young people, reducing the rate of tobacco initiation among young people, and reducing consumption of tobacco products among adults.²⁵
 - Should include fees to support enforcement of TRLs at the local level.
 - Can restrict use of coupons, regulate placement of tobacco products and advertisements, and control the location and the density of tobacco retailers with a community.^{25,26}
 - In California, as of June 2016, 126 municipalities have ordinances requiring businesses that sell tobacco to obtain a local TRL.²⁷

California Tobacco Control Program
Density of Tobacco Retailers Fact Sheet

- Adopting zoning laws or conditional use permits (CUP) can reduce or limit the number of tobacco retailers within a community.
 - Federal, state, and local governments can adopt zoning laws to regulate how land and property is used.²⁵
 - Zoning laws typically specify the areas in which residential, industrial, recreational, or commercial activities may take place.²⁵
 - A CUP is a type of zoning law that adds certain conditions to the use of land, even if that use is consistent with existing zoning laws.²⁵
- In California, nearly 60 municipalities have adopted local tobacco zoning or CUP ordinances that do one or more of the following: 1) prohibit the sale of tobacco products within a certain distance from schools, 2) prohibit tobacco retailers from being within a specified distance from other tobacco retailers, and 3) limit the number of tobacco retailers within a community.²⁸

California Tobacco Control Program
Density of Tobacco Retailers Fact Sheet

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California Tobacco Control Program
Density of Tobacco Retailers Fact Sheet

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Mike Strong

From: Gena Knutson <gena@vcc.org>
Sent: Tuesday, October 23, 2018 12:11 PM
To: Mike Strong
Subject: FW: email 2/2
Attachments: TRL Presentation.MarieBomanDavis.pdf

Hi Mike,

Here's part 2 of the email.

Attached please find the following items.

1. Maps with detailed distance of smoking shops and schools via GoogleMaps
2. Excel Sheets with specific data (names and addresses) regarding tobacco retailers within 1000 feet of schools both public and private

The data used is reflected on the GIS analysis via Esri by Dr. Marie Boman-Davis at National University

3. Presentation created by Dr. Boman-Davis

I also highly recommend using the California Community Health Assessment Tool since it allows you to add layers on specific demographics of the neighborhoods in Escondido.

<http://websites.greeninfo.org/stanford/cchat/>

Please note that we used multiple sources to verify distance/location of shops. Depending on the source you will get different results—however, the results are pretty consistent, i.e., distance and number of tobacco retail shops.

Thanks,

Gena

Miriam Avilez, MPH, Program Coordinator

Health Promotion Center

Tobacco Control Program

P 760-631-5000 x 1001 F 760-414-3736

miriam.avilez@vcc.clinic

www.vcc.clinic



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Tobacco Retailer Licensing Education

1 2 3 4 5 6 7 8 9

TOBACCO RETAILER LICENSING EDUCATION: A Community and University Collaboration

Boman-Davis, M., Jackson, K., Moya, K.,
Knutson, G., and Unayao-Putman, L.

Corresponding Author:
Marie Boman-Davis, PhD, MPH, MCHES, Assistant Professor, Department of
Community Health
School of Health and Human Services, National University, San Diego, CA, USA
mbomanDavis@nu.edu

Funding Acknowledgements:

- This material was made possible by funds from the County of San Diego, Health and Human Services Agency, Public Health Services received from the California Department of Public Health, under contract #CTCP-13-37.
- This material was made possible by funds received from the Department of Community Health, School of Health and Human Services, National University.

Conference Presenters:

- Dr. Boman-Davis, Assistant Professor, National University
- Mr. Murphy, III, Agents of Change at National University, BSPH Student (Guest)

Photo Source:
Healthy Stores for a Healthy Community
www.healthystoresforhealthycommunity.com/visuals



healthy
WORKS
COUNTY OF SAN DIEGO
HEALTH & HUMAN SERVICES



Tobacco Retailer Licensing Education

1 2 3 4 5 6 7 8 9

Hello and Welcome!

My name is Dr. Marie Boman-Davis and I first used GIS as a Public Health graduate student. I am now an Assistant Professor in the Department of Community Health, School of Health and Human Services, Onsite Lead of the Bachelors of Science in Public Health, and Faculty Advisor to a public health surveillance student organization, *Agents of Change at National University* which is based in San Diego, California, USA.

We serve a dizzying array of students with different interests and skills but they all recognize that "PLACE MATTERS" as we begin to incorporate GIS into our research and classrooms across the University.

Our community partners have rich spatial data and we have a committed service team ready to put GIS tools to work; therefore, we formed community and university partnerships, specifically to support local and national tobacco control efforts.

Today we will share one of our community collaboration success stories. National University partnered with the Tobacco Control Resource Program, County of San Diego, Health and Human Services Agency, Public Health Services and Vista Community Clinic (VCC) on Tobacco Retailer Licensing (TRL) education.



Vista Community Clinic



Tobacco Retailer Licensing Education

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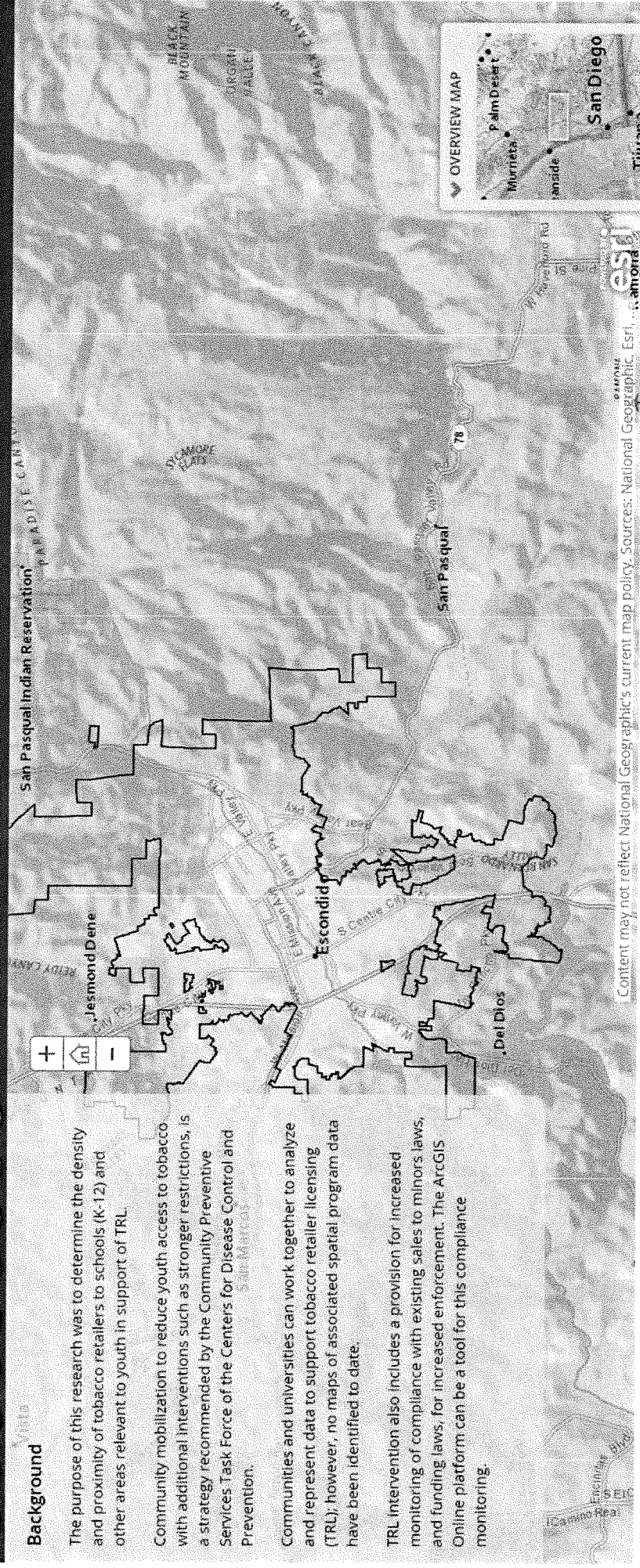
Background

The purpose of this research was to determine the density and proximity of tobacco retailers to schools (K-12) and other areas relevant to youth in support of TRL.

Community mobilization to reduce youth access to tobacco with additional interventions such as stronger restrictions, is a strategy recommended by the Community Preventive Services Task Force of the Centers for Disease Control and Prevention.

Communities and universities can work together to analyze and represent data to support tobacco retailer licensing (TRL); however, no maps of associated spatial program data have been identified to date.

TRL intervention also includes a provision for increased monitoring of compliance with existing sales to minors laws, and funding laws, for increased enforcement. The ArcGIS Online platform can be a tool for this compliance monitoring.



A story map



Edit

Content may not reflect National Geographic's current map policy. Sources: National Geographic, Esri, and other sources.

Tobacco Retailer Licensing Education

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Community Methods

- Establishments were selected from a list of state licensed tobacco retailers provided by the California Board of Equalization for San Diego County.
- Retailers operating in the City of Escondido were identified and a community agency educated them on the existing laws that restrict the sale of tobacco products to minors. They also provided educational materials (e.g., Stop Tobacco Access to Kids) to all 170 centers of All Kids Access which were required to be posted in stores.
- A random sample of stores that had received an educational visit and materials (retailers) were surveyed by trained youth following a purchase protocol.
- Youth purchase survey data were recorded in an Excel spreadsheet and after receiving IRB approval the de-identified data (e.g., removal of youth identifiers) were shared with a university team.

University Methods

IRB Approval
In accordance with IRB Policy for Protection of Human Research Subjects 45 CFR 46.101, the National University Institutional Review Board determined this research was Exempt from IRB Review.

Data Management and Analyses

- Data were merged, normalized, geocoded and imported into National University's ArcGIS Online organizational account.
- The resulting point layer with attribute information representing survey stores was created as a feature service, symbolized and added to a web map containing previously identified points of interest (e.g., airports, high schools) with a San Diego basemap reference.
- Using GIS provided a first look at these data in relation to points of interest and immediately generated new questions about density and distribution that were not previously possible by reviewing a tabular inventory.
- The store locations were buffered and spatial analyses of nearby points of interest were conducted. Additional information about the survey locations (e.g., American Community Survey demographics) was obtained using ESRI's web-based Community Analyst platform, building from the data created in the ArcGIS Online web maps.
- Correlational analyses were conducted inside ArcGIS Online and data were exported for inferential analyses (e.g., logistic regression) using a free statistical software.

Photo Source:
Community Health
www.healthystandardcommunity.com/education



Tobacco Retailer Licensing Education

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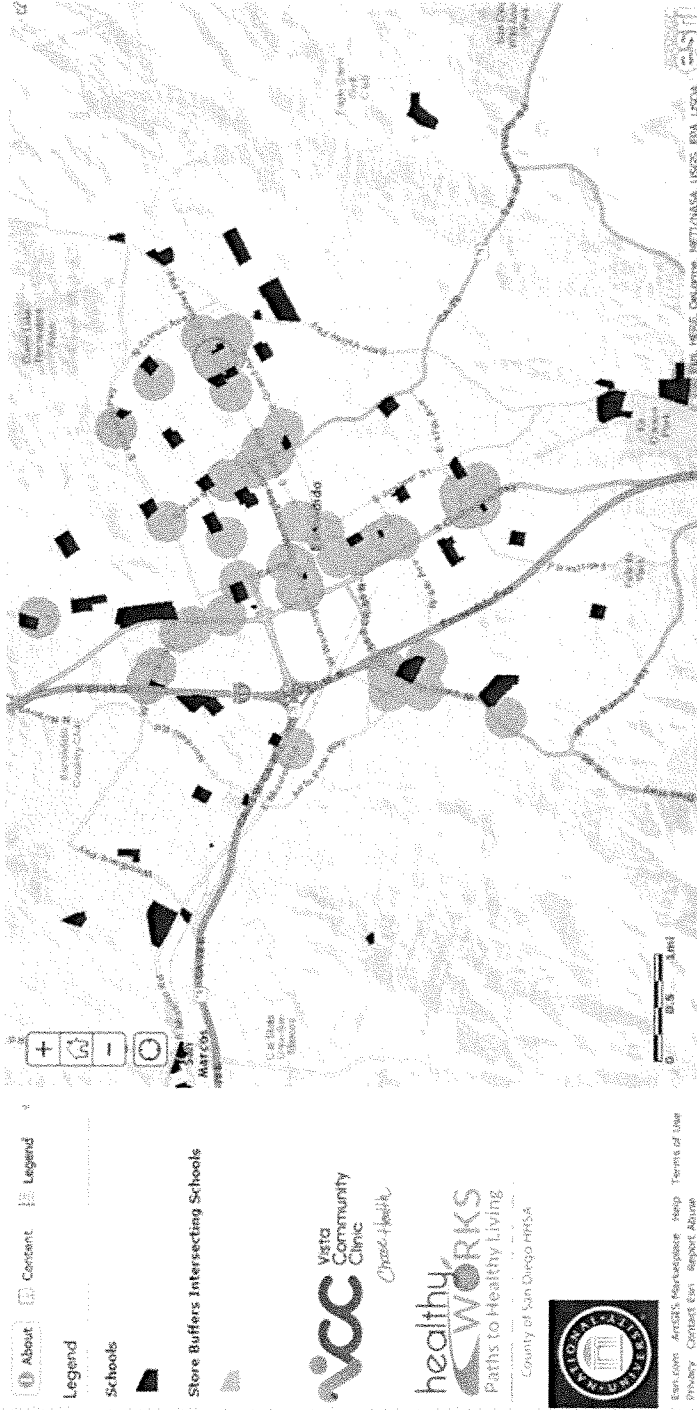
Advantage of GIS Analysis

For the first time, Vista Community Clinic (VCC) was able to study the relationship between tobacco retailer locations and school locations. Other places that young people gather, such as skate parks and libraries were also mapped.

VCC provided spatial information in excel spreadsheets. These data were normalized and then added as content to National University's ArcGIS Online Organizational account.

Street address, postal code, and youth purchase survey data were used in geospatial analysis including density, proximity, and distribution. Point layers representing retailer locations with attribute information about sales, were created as a feature service, symbolized, buffered and added to a web map with a local basemap reference.

Data enrichment provided information on median household income for properties in proximity to the retailers.



Tobacco Retailer Licensing Education

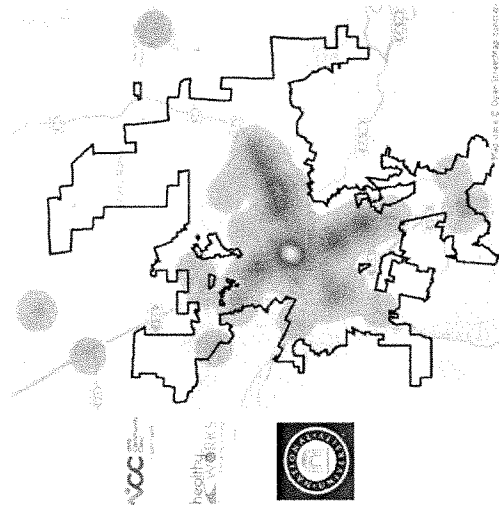
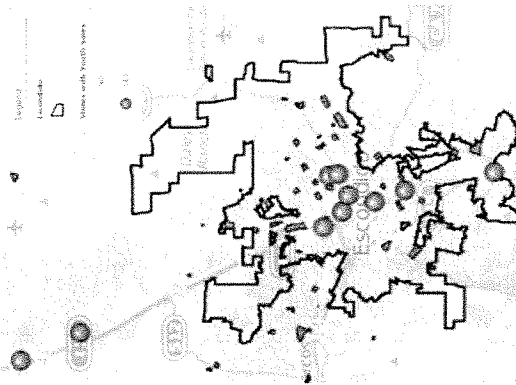
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Results

Maps represented the density of educated tobacco retailers, youth purchase survey results, retailer proximity to schools and other youth serving facilities, and results from inferential analyses (e.g., the adjusted odds of sales to minors).

Approved maps were presented to policy makers (e.g., City Council members) and other key stakeholders to educate them about the benefits of TRL.

Additionally, key stakeholders were educated about the problems of illegal sales to minors, concentration of retailers in proximity to schools, and the benefit of TRL, with support from the mapped data.



Legend
Store Distribution
High
Low
Escondido

Tobacco Retailer Licensing Education

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Solutions

Communities and universities can work together to analyze and present data to support tobacco retailer licensing (TRL) to prevent youth access to tobacco.

ArcGIS Online and Community Analyst allowed private tobacco retailer data and public data about communities to be combined for an innovative spatial and inferential analysis and mapped documentation.

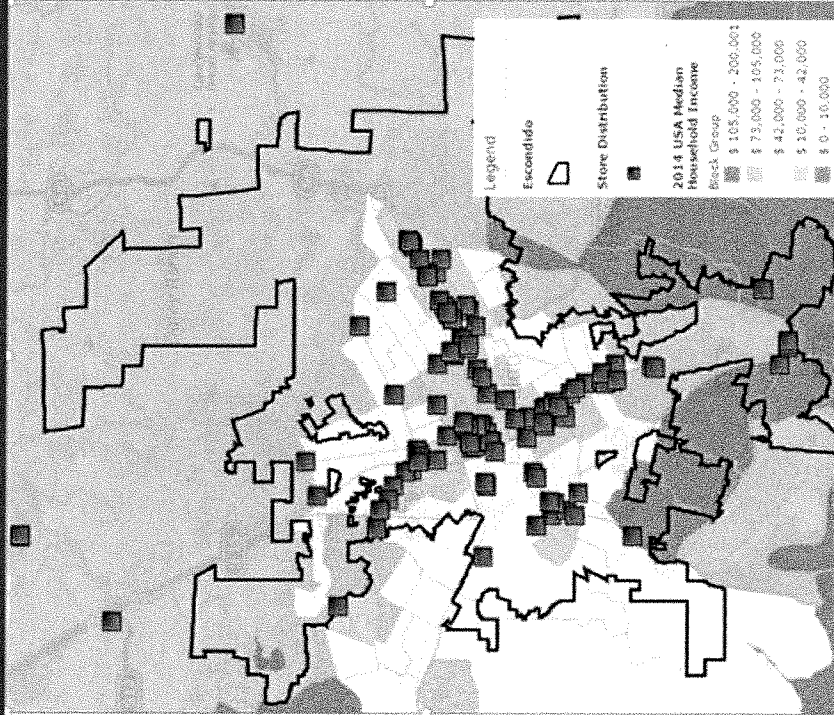
Conclusions

ArcGIS Online interactive mapping and spatial analysis tools combined with inferential statistics can generate meaningful data and powerful messages to promote health policy.

For example: The correlation between the lowest Median Household Income and tobacco retailers is so high, these interactive maps help identify areas indicative of social health disparities and calls to mind discussions about health equity and social justice issues.



PHOTO SOURCE:
Healthy Stores for a Healthier Community
www.healthycommunitiesforchildren.org/atlanta



Tobacco Retailer Licensing Education

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esri
A story map
Edit

Discussion

This is the first known collaborative map produced that used spatial analyses to support TRL in the City of Escondido.

Data sharing allowed the University's ArcGIS Online Organizational account to become a secure place for collaborative analyses and results generation.

Once the investigation was complete, it became a platform for sharing findings with public stakeholders.

Future Steps

Incorporate stakeholder feedback from the first VCC presentations to refine data inputs and analysis, to better pinpoint areas of concern for TRL. Conduct inferential analyses and incorporate findings in Story Maps and maps for public hearings to publicize the results of the research.



Tobacco Retailer Licensing Education

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Application for Health GIS

Community organizations large and small often have treasure troves of programmatic data that includes a spatial component. GIS layers, excel spreadsheets, or hand written data collection forms can all be meaningful sources of data.

Partnering with a willing participant that has an ArcGIS Online Organizational account and expertise in GIS can provide powerful tools to leverage that programmatic data for positive change.

Understanding analysis within ArcGIS Online and Community Analyst can position agencies to improve their spatial data collection plans and quickly demonstrate how spatial data can be combined with targeted mapped information to create a compelling story about their area of interest.

Join in! Focused partnerships like the one between National University, VCC and County of San Diego Health and Human Services Agency can be a model for other Health Care programs.

Community Analyst

Reports

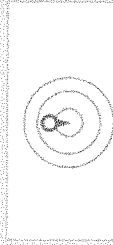
Maps

Create Maps from Data Define Areas for Reports

View Search for web maps and groups

Find Location

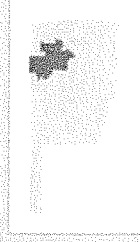
Enter an address or latitude, then add rings to determine distance around it.



WATCH VIDEO

Select Geography

Select a country, ZIP Code or any of the available geographies for your analysis.



WATCH VIDEO

Draw Polygon

Draw a custom polygon around an area of your interest.



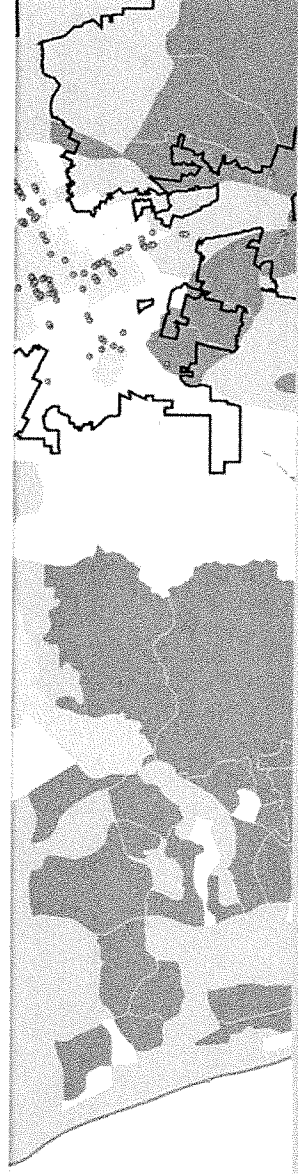
WATCH VIDEO

Import File

Import a list of addresses from an Excel spreadsheet or shapefile.



WATCH VIDEO



Mike Strong

From: Gena Knutson <gena@vcc.org>
Sent: Tuesday, October 23, 2018 12:09 PM
To: Mike Strong
Subject: FW:
Attachments: Escondido Tobacco Retail google maps search.pdf; DATA_GIS 2014 Escondido CA Tobacco Retail Shops.xlsx

Hi Mike,

Hope you are well and we've done some more research on the proposed zoning of smoke, e-cigarette and vapes shops and the location of schools to these businesses

Attached please find the following items.

1. Maps with detailed distance of smoking shops and schools via GoogleMaps
2. Excel Sheets with specific data (names and addresses) regarding tobacco retailers within 1000 feet of schools both public and private

The data used is reflected on the GIS analysis via Esri (Environmental Systems Research Institute) by Dr. Marie Boman-Davis at National University

3. Presentation created by Dr. Boman-Davis (followed in the next email-document is too large)

I also highly recommend using the California Community Health Assessment Tool since it allows you to add layers on specific demographics of the neighborhoods in Escondido.

<http://websites.greeninfo.org/stanford/cchat/>

Please note that we used multiple sources to verify distance/location of shops. Depending on the source you will get different results—however, the results are pretty consistent, ie., distance and number of tobacco retail shops. Let me know if you have questions.

Best, Gena

Gena M. Knutson, Program Manager II
Health Promotion Center
P 760-631-5000 ext.7165, F 760-414-3736
gena@vcc.org
www.vistacommunityclinic.org



Vista
Community
Clinic



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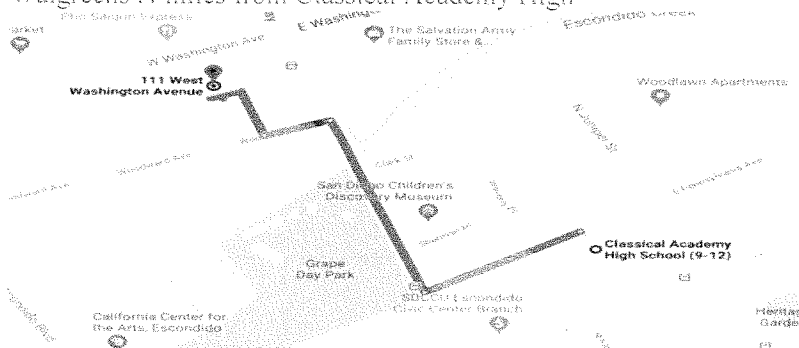
Tobacco Retail Shops in Escondido, CA Distance of less than a mile from schools via Google Maps

Google Maps

Drive 0.4 mile, 2 min

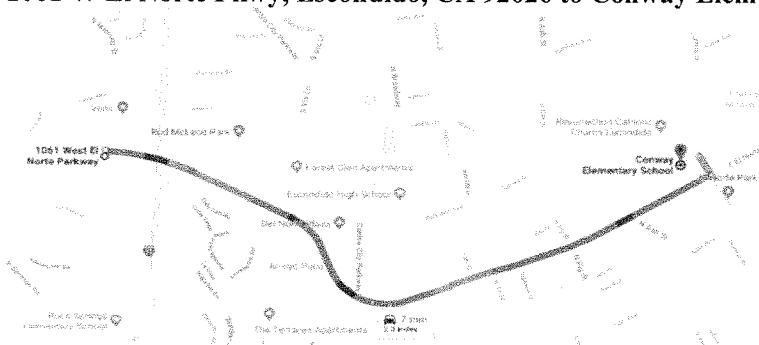
Classical Academy High School (9-12) to 111 W Washington Ave, Escondido, CA 92025

Walgreens .4 miles from Classical Academy High



Drive 2.3 miles, 7 min

1061 W El Norte Pkwy, Escondido, CA 92026 to Conway Elementary School



Drive 0.6 mile, 3 min

1141 E Washington Ave STE A to Mission Middle School



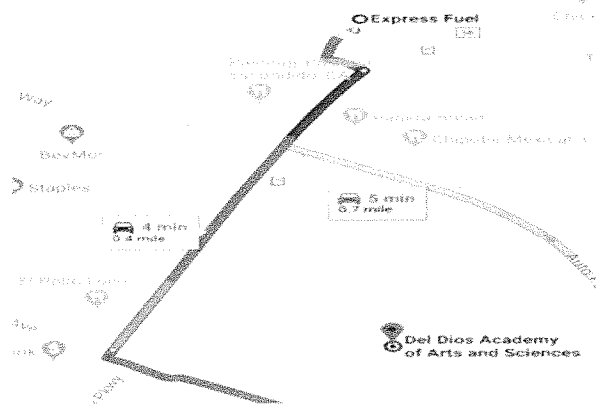
Drive 0.5 mile, 2 min

El Norte Liquor to Escondido High School



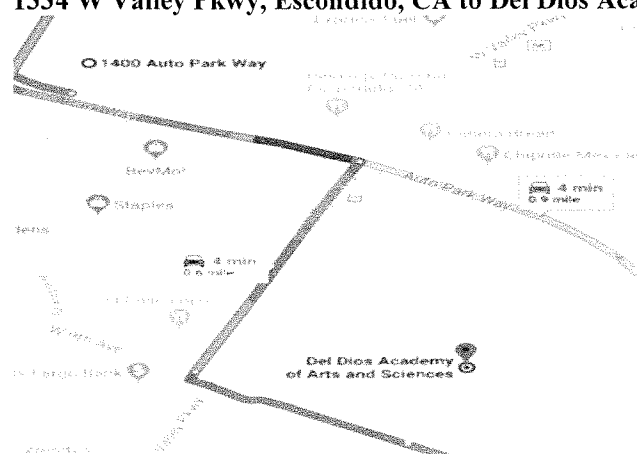
Drive 0.4 mile, 4 min

Express Fuel to Del Dios Academy of Arts and Sciences



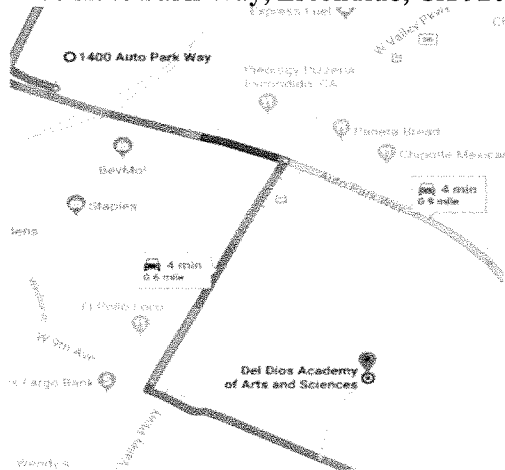
Drive 0.3 mile, 1 min

1334 W Valley Pkwy, Escondido, CA to Del Dios Academy of Arts and Sciences



Drive 0.6 mile, 4 min

1400 Auto Park Way, Escondido, CA 92029 to Del Dios Academy of Arts and Sciences



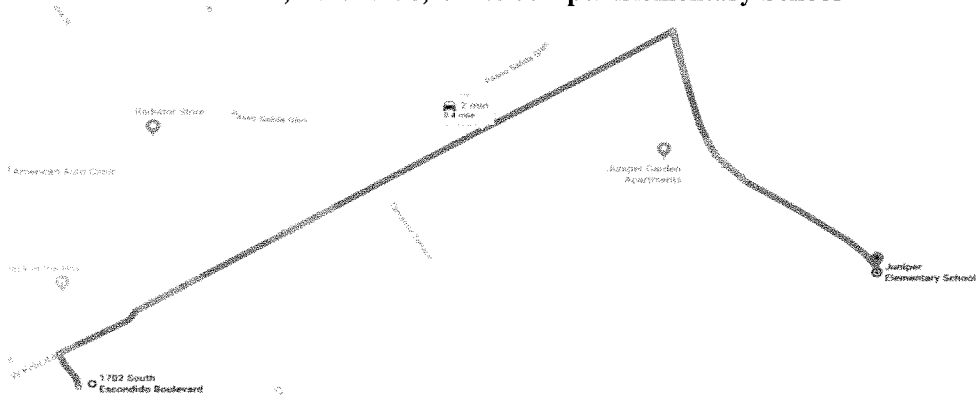
Drive 0.4 mile, 3 min

1570 W Valley Pkwy, Escondido, CA 92029 to Del Dios Academy of Arts and Sciences



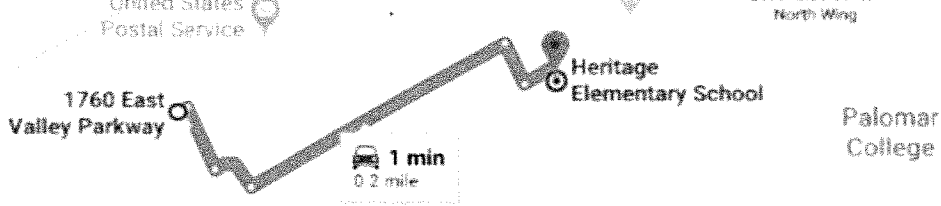
Drive 0.4 mile, 2 min

1702 S Escondido Blvd, Escondido, CA to Juniper Elementary School



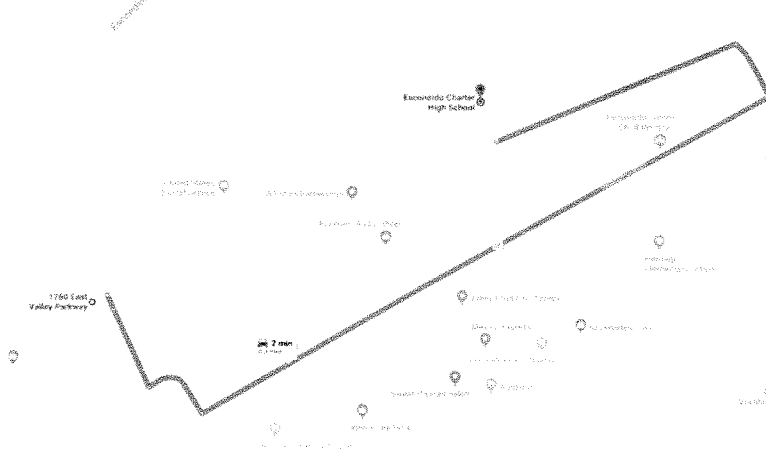
Drive 0.2 mile, 1 min

1760 E Valley Pkwy, Escondido, CA 92027 to Heritage Elementary School



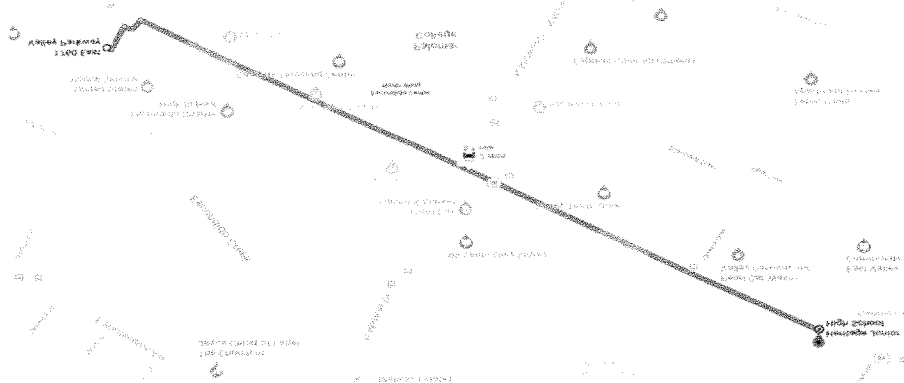
Drive 0.3 mile, 2 min

1760 E Valley Pkwy, Escondido, CA 92027 to Escondido Charter High School



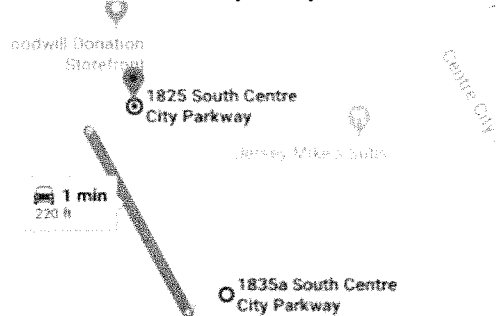
Drive 0.7 mile, 2 min

1760 E Valley Pkwy, Escondido, CA 92027 to Heritage Junior High School

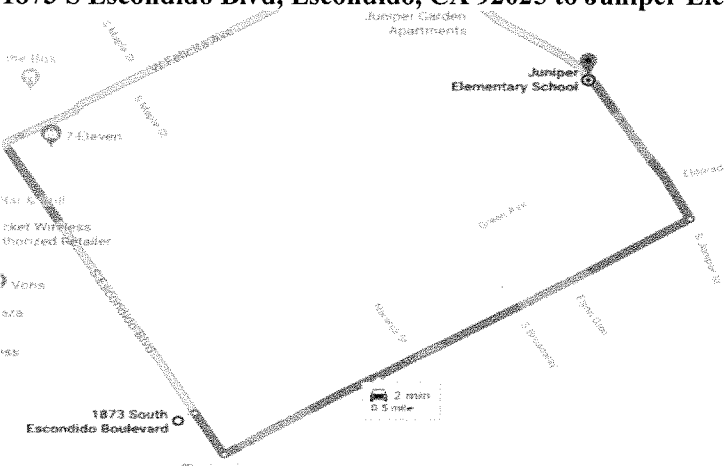


Drive 220 ft, 1 min

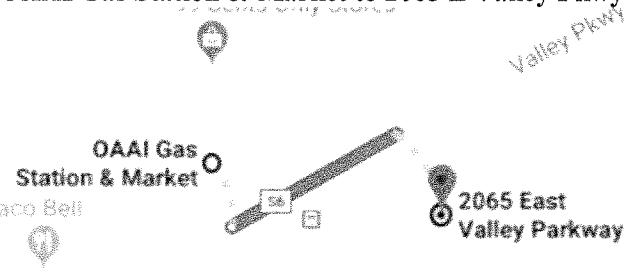
1835a S Centre City Pkwy to 1825 S Centre City Pkwy



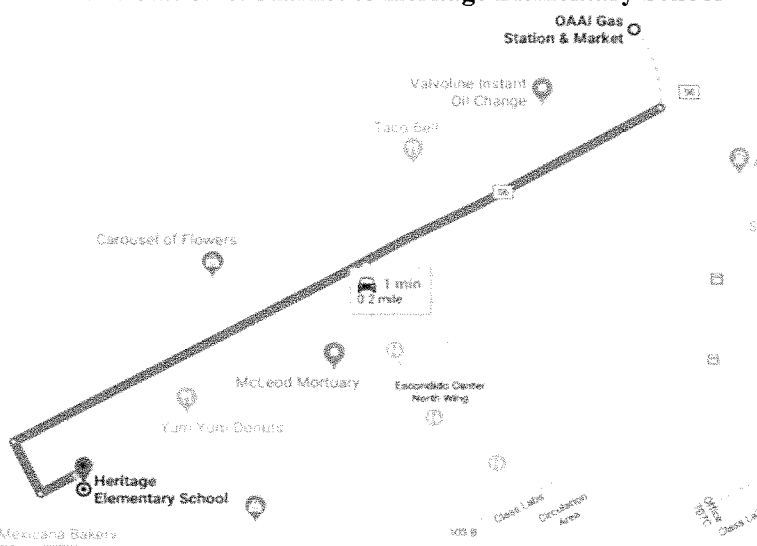
Drive 0.5 mile, 2 min
1873 S Escondido Blvd, Escondido, CA 92025 to Juniper Elementary School



Drive 358 ft, 1 min
OAAI Gas Station & Market to 2065 E Valley Pkwy, Escondido, CA 92027



Drive 0.2 mile, 1 min
OAAI Gas Station & Market to Heritage Elementary School



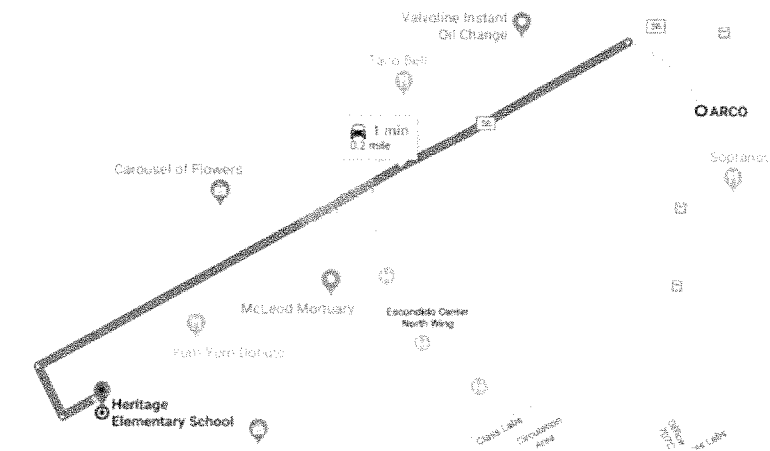
OAAI Gas Station & Market to Escondido Charter High School

OAAI Gas Station & Market to Heritage Junior High School

ARCO, 2015 E Valley Pkwy, Escondido, CA to Heritage Junior High School

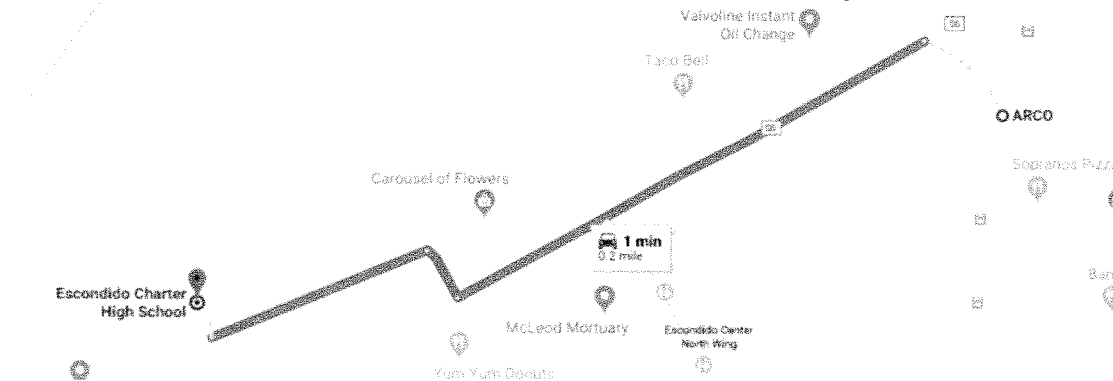
Drive 0.2 mile, 1 min

ARCO, 2015 E Valley Pkwy, Escondido, CA to Heritage Elementary School



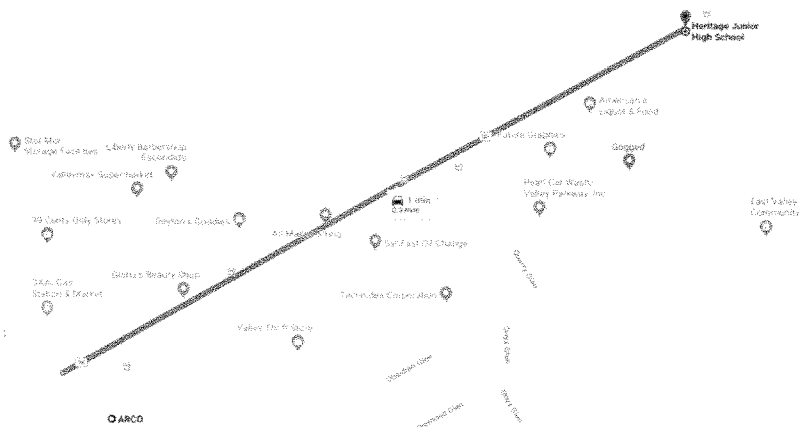
Drive 0.2 mile, 1 min

ARCO, 2015 E Valley Pkwy, Escondido, CA to Escondido Charter High School



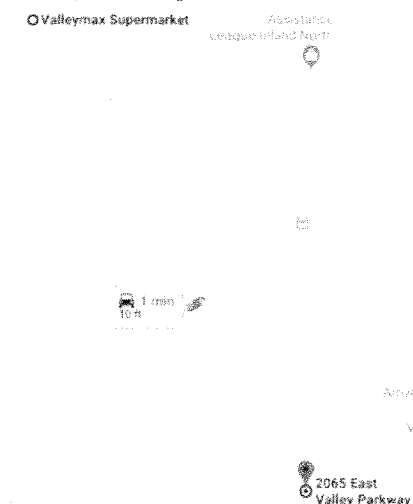
Drive 0.3 mile, 1 min

ARCO, 2015 E Valley Pkwy, Escondido, CA to Heritage Junior High School



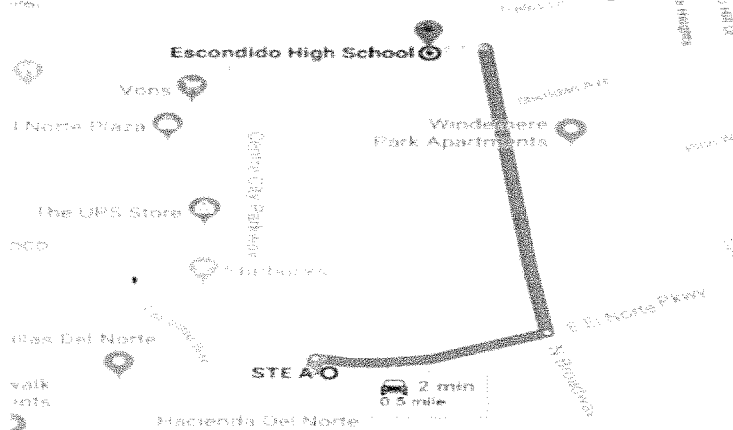
Drive 10 ft, 1 min

Valleymax Supermarket to 2065 E Valley Pkwy, Escondido, CA 92027



Drive 0.5 mile, 2 min

1284 N Escondido Blvd STE A to Escondido High School



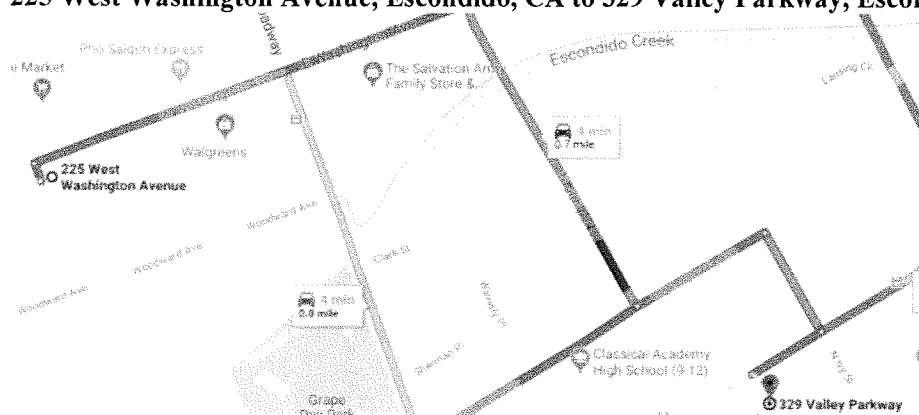
Drive 0.5 mile, 3 min

225 West Washington Avenue, Escondido, CA to Classical Academy High School (9-12)



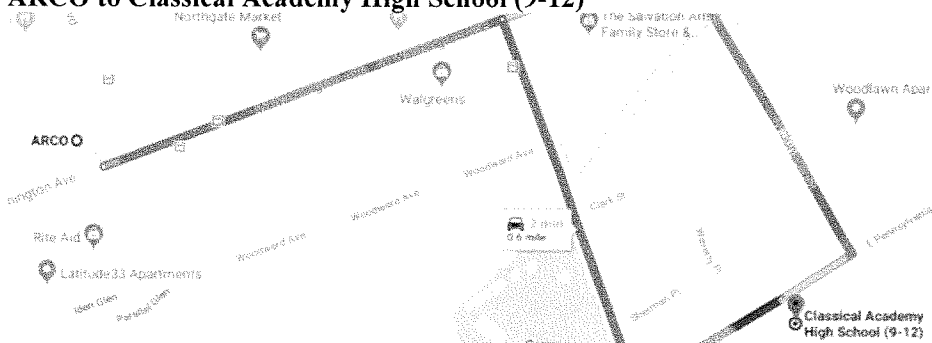
Drive 0.7 mile, 4 min

225 West Washington Avenue, Escondido, CA to 329 Valley Parkway, Escondido, CA



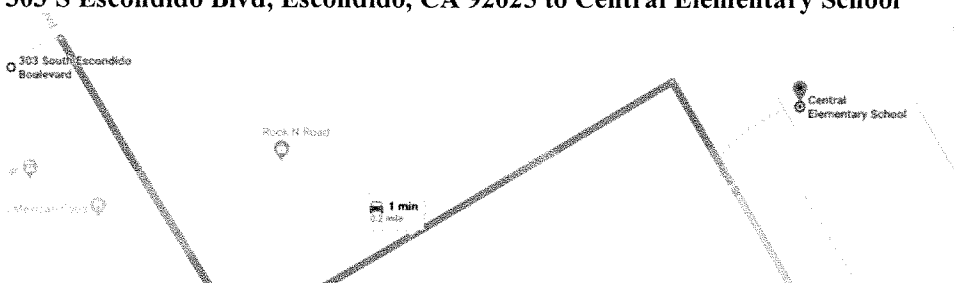
Drive 0.6 mile, 2 min

ARCO to Classical Academy High School (9-12)



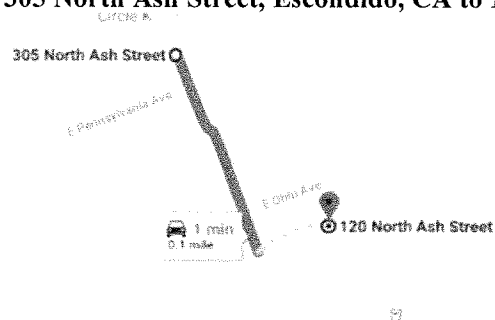
Drive 0.2 mile, 1 min

303 S Escondido Blvd, Escondido, CA 92025 to Central Elementary School



Drive 0.1 mile, 1 min

305 North Ash Street, Escondido, CA to 120 North Ash Street, Escondido, CA



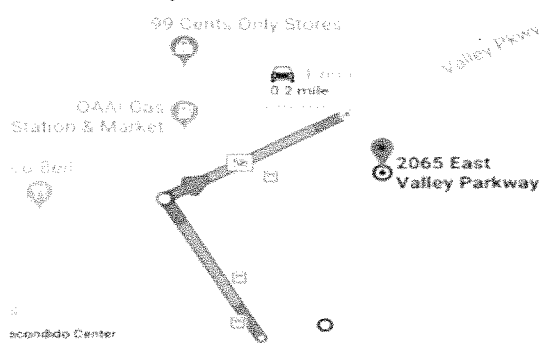
Drive 0.6 mile, 2 min

Rite Aid to Classical Academy High School (9-12)



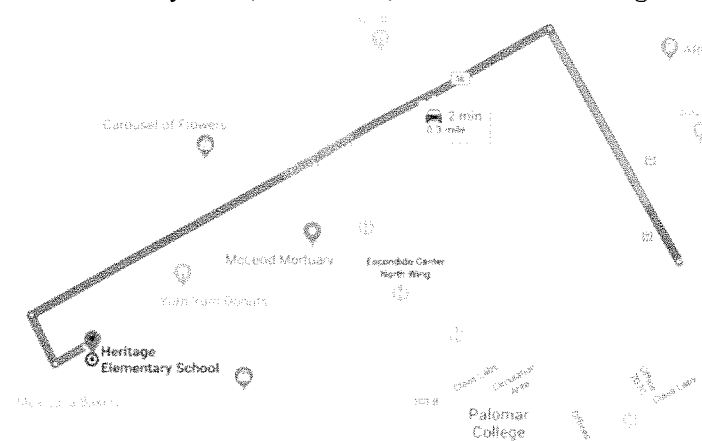
Drive 0.2 mile, 1 min

320 N Midway Dr A, Escondido, CA 92027 to 2065 East Valley Parkway, Escondido, CA



Drive 0.3 mile, 2 min

320 N Midway Dr A, Escondido, CA 92027 to Heritage Elementary School

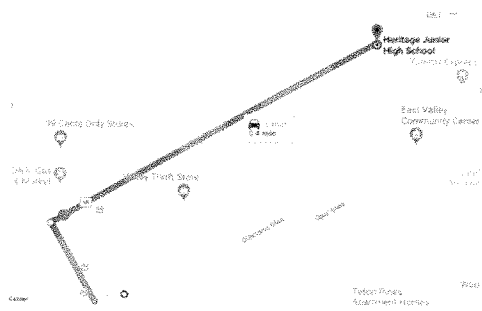


Drive 0.3 mile, 2 min

320 N Midway Dr A, Escondido, CA 92027 to Escondido Charter High School



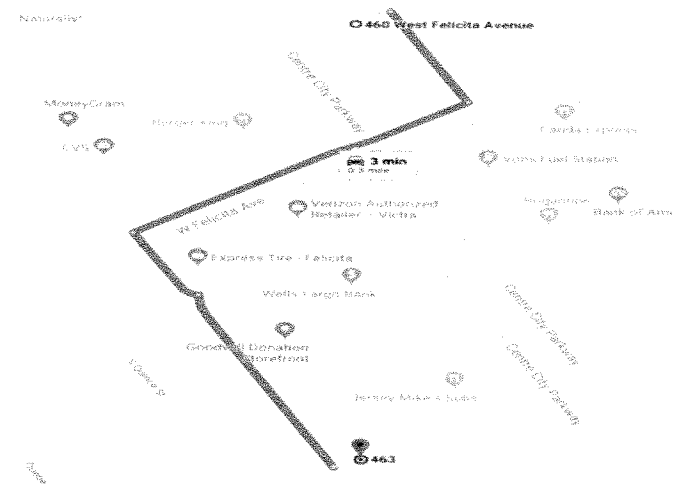
320 N Midway Dr A, Escondido, CA 92027 to Heritage Junior High School



Vons 351 W Felicita Ave, Escondido, CA 92025 to 1835a S Centre City Pkwy #463

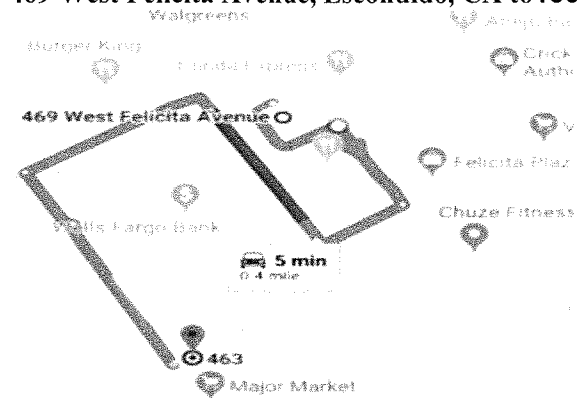


460 West Felicita Avenue, Escondido, CA to 1835a S Centre City Pkwy #463



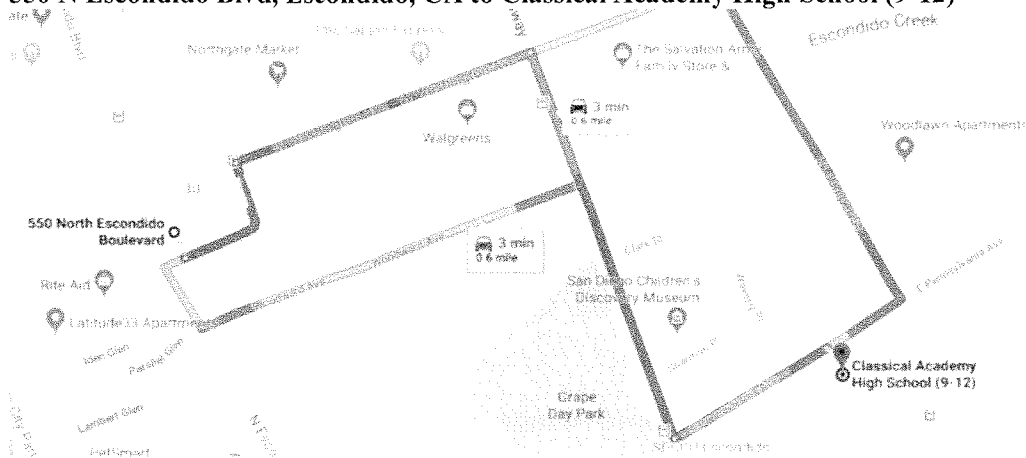
Drive 0.4 mile, 5 min

469 West Felicita Avenue, Escondido, CA to 1835a S Centre City Pkwy #463



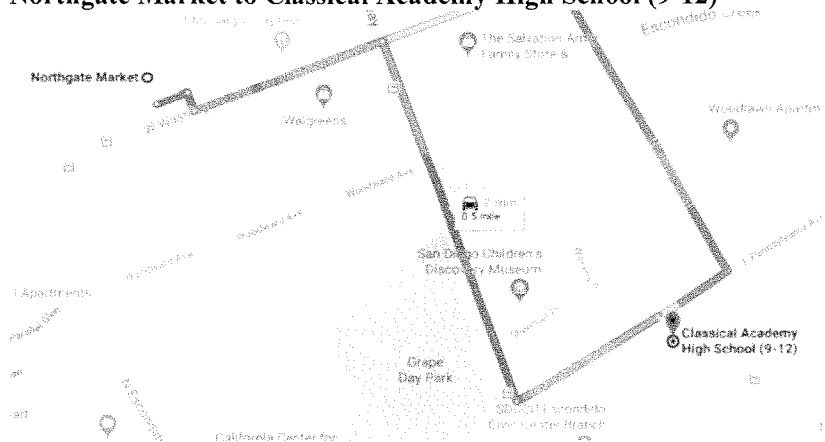
Drive 0.6 mile, 3 min

550 N Escondido Blvd, Escondido, CA to Classical Academy High School (9-12)



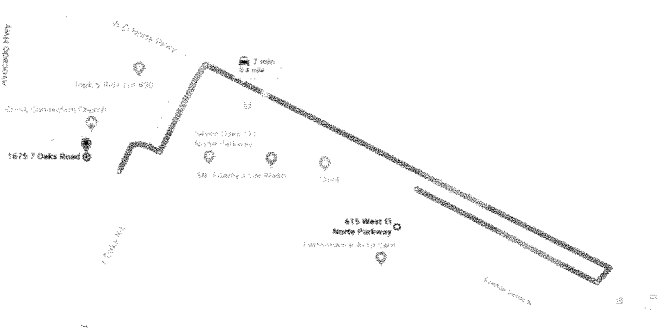
Drive 0.5 mile, 2 min

Northgate Market to Classical Academy High School (9-12)

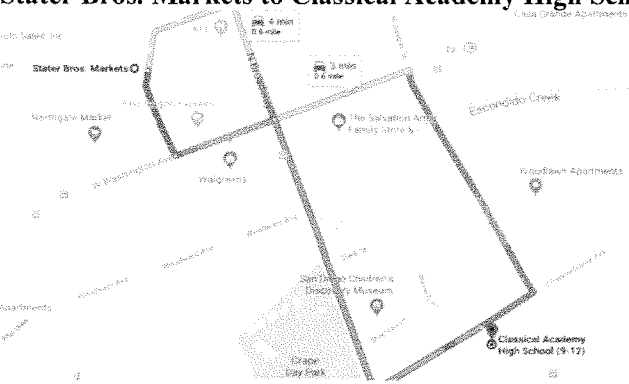


Dive 0.4 mile, 2 min

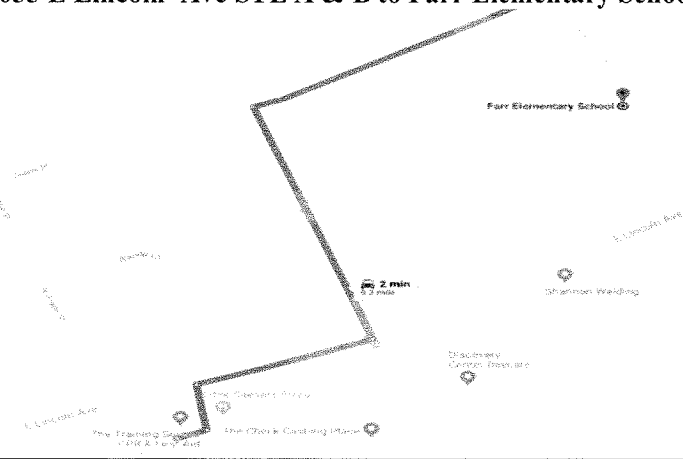
615 West El Norte Parkway, Escondido, CA to 1675 7 Oaks Rd, Escondido, CA 92026



Drive 0.5 mile, 3 min
Stater Bros. Markets to Classical Academy High School (9-12)

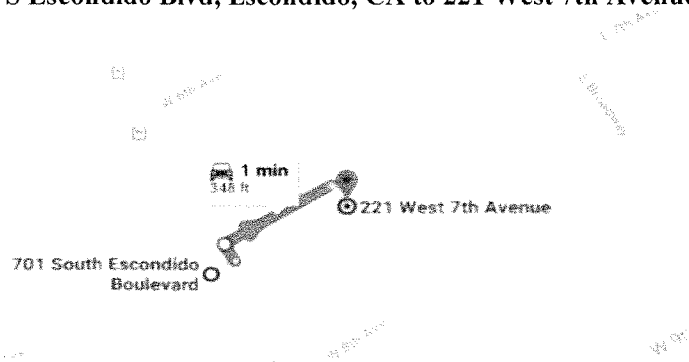


Drive 0.3 mile, 2 min
655 E Lincoln Ave STE A & B to Farr Elementary School



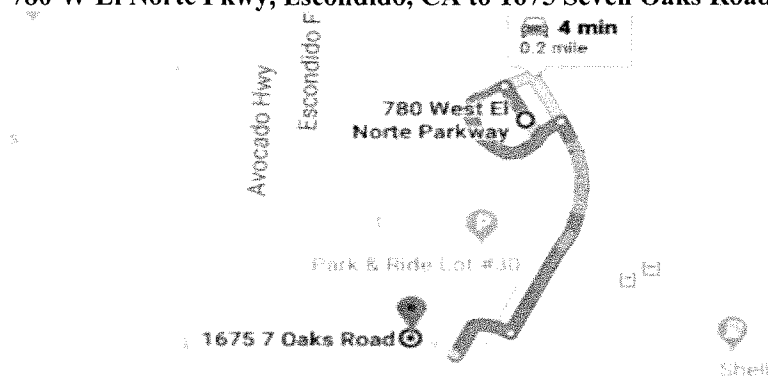
Drive 348 ft, 1 min

701 S Escondido Blvd, Escondido, CA to 221 West 7th Avenue, Escondido, CA



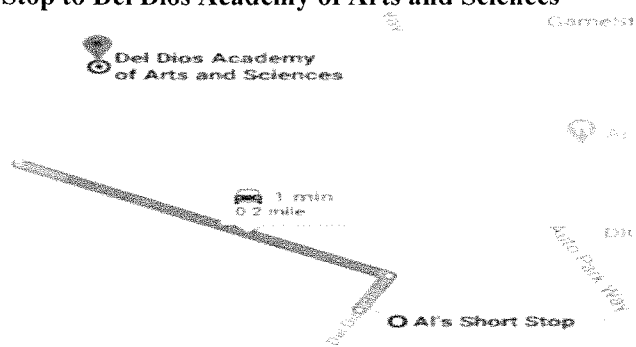
Drive 0.2 mile, 3 min

780 W El Norte Pkwy, Escondido, CA to 1675 Seven Oaks Road, Escondido, CA



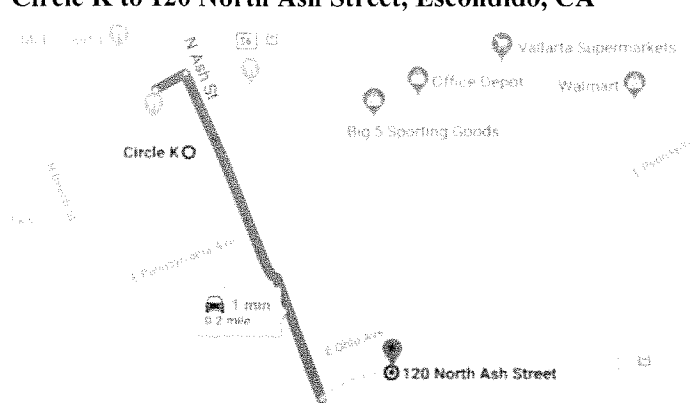
Drive 0.2 mile, 1 min

Al's Short Stop to Del Dios Academy of Arts and Sciences



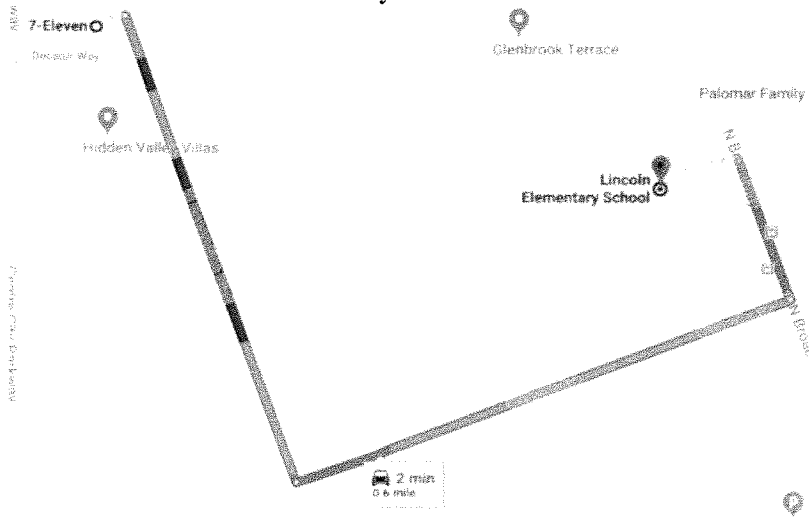
Drive 0.2 mile, 1 min

Circle K to 120 North Ash Street, Escondido, CA



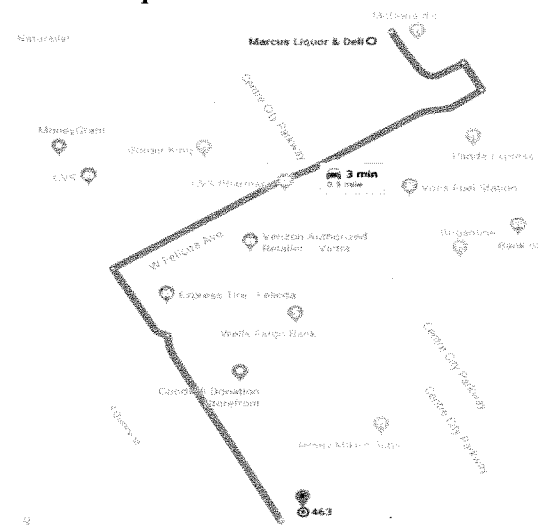
Drive 0.6 mile, 2 min

7-Eleven to Lincoln Elementary School



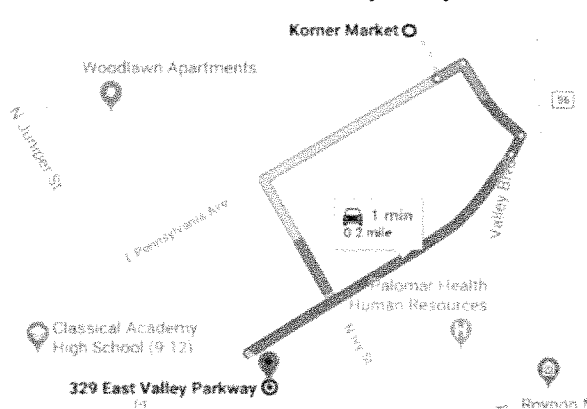
Drive 0.3 mile, 3 min

Marcus Liquor & Deli to 1835a S Centre City Pkwy



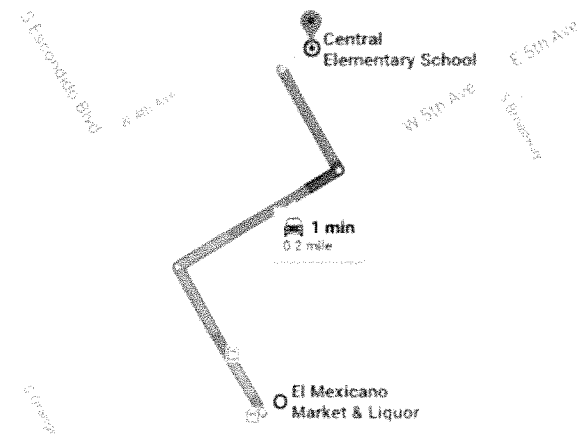
Drive 0.2 mile, 1 min

Korner Market to 329 E Valley Pkwy, Escondido, CA 92025



Drive 0.2 mile, 1 min

El Mexicano Market & Liquor to Central Elementary School



Drive 0.1 mile, 1 min

El Mexicano Market & Liquor to 221 West 7th Avenue, Escondido, CA



STORE_NAME	ADDRESS	CITY	ZIP_CODE	Youth_Sale	Median_Income_2014	#_of_Schools_1000ft
ARCO AM/PM	100 LA TERRAZA BLVD	ESCONDIDO	92025	NO	\$64,650	0
VONS #2345	1000 W EL NORTE PKWY	ESCONDIDO	92026	NO	\$56,763	0
MEADOWS DELI MARKET	10326 MEADOW GLEN WAY E	ESCONDIDO	92026	NO	\$92,482	0
MY GOOD MARKET	1061 EL NORTE PARKWAY	ESCONDIDO	92027	NO	\$66,139	1
WALGREENS #05455	111 W WASHINGTON AVE	ESCONDIDO	92025	NO	\$19,135	1
LENA'S LIQUOR	1141 E WASHINGTON AVE STE A	ESCONDIDO	92025	NO	\$47,977	1
RONCO GAS	1158 E WASHINGTON AVE	ESCONDIDO	92025	NO	\$47,977	0
GO MART LIQUOR	120 W EL NORTE PKWY	ESCONDIDO	92026	NO	\$40,216	0
WALMART MARKET #3084	1266 E VALLEY PKWY	ESCONDIDO	92027	NO	\$43,803	1
EL NORTE LIQUOR	1284 N ESCONDIDO BLVD STE A	ESCONDIDO	92026	NO	\$36,016	1
EXPRESS FUEL	1296 W VALLEY PKWY	ESCONDIDO	92029	NO	\$0	1
PRODUCTOS ORTIZ MARKET	1310 S ESCONDIDO BLVD STE A	ESCONDIDO	92025	NO	\$38,418	0
SUPERMERCADO VALLARTA #30	1315 E VALLEY PKWY	ESCONDIDO	92027	NO	\$47,910	0
7-ELEVEN # 27495B	1334 W VALLEY PKWY	ESCONDIDO	92029	NO	\$39,291	1
AUTO PARK CAR WASH	1400 AUTO PARK WAY	ESCONDIDO	92029	NO	\$39,291	1
ALBERTSONS STORE 6713	1509 E VALLEY PKWY	ESCONDIDO	92027	NO	\$46,811	0
RICK'S GROCERY & DELI	1509 S ESCONDIDO BLVD	ESCONDIDO	92025	NO	\$42,889	0
DBH ENTERPRISES INCORPORATED	1550 E GRAND AVE	ESCONDIDO	92027	NO	\$41,922	0
7-ELEVEN #2112-13629	1560 E GRAND AVE	ESCONDIDO	92027	NO	\$41,922	0
Albertsons STORE 6705	1570 W VALLEY PKWY	ESCONDIDO	92029	NO	\$45,453	1
WALGREENS #05700	1574 E VALLEY PKWY	ESCONDIDO	92027	NO	\$45,654	0
VIVA MARKET #2	1632 E VALLEY PKWY	ESCONDIDO	92027	NO	\$41,570	0
PRICE LIQUOR	1650 E VALLEY PKWY	ESCONDIDO	92027	NO	\$41,394	0
7-11 ELEVEN #13619D	1702 S ESCONDIDO BLVD	ESCONDIDO	92025	NO	\$44,494	1
KENNEDY'S KARNE # 2	1760 E VALLEY PKWY	ESCONDIDO	92027	NO	\$37,032	3
RITE AID #5629	1825 S CENTRE CITY PKWY	ESCONDIDO	92025	NO	\$53,800	1
7-ELEVEN 21803	1860 W EL NORTE PKWY	ESCONDIDO	92026	NO	\$51,789	0
ESCONDIDO ONE STOP LIQUOR STR INC	1873 S ESCONDIDO BLVD	ESCONDIDO	92025	NO	\$44,532	1
LOPEZ MARKET #2	200 W EL NORTE PKWY STE 5	ESCONDIDO	92026	NO	\$40,216	0
OAAI GAS STATIONS	2004 E VALLEY PKWY	ESCONDIDO	92027	NO	\$32,509	4
ARCO GAS STATION	2015 E VALLEY PKWY	ESCONDIDO	92027	NO	\$32,509	4
VALLEYMAX SUPERMARKET	2040 E VALLEY PKWY	ESCONDIDO	92027	NO	\$30,762	1
ORIENTAL FOOD MARKET	205 W MISSION AVE STE T	ESCONDIDO	92025	NO	\$19,229	0
SHELL SAP 120881	2110 W MISSION AVE	ESCONDIDO	92027	NO	\$61,632	1
G & M OIL #180	215 E VIA RANCHO PKWY	ESCONDIDO	92025	NO	\$0	0
AMERICAN LIQUOR	2209 E VALLEY PKWY	ESCONDIDO	92027	NO	\$28,245	1
STATION 2 (Golden State)	225 W WASHINGTON AVE	ESCONDIDO	92025	NO	\$19,229	1
A-1 LIQUOR SUPER SEVEN	2250 S ESCONDIDO BLVD STE 101	ESCONDIDO	92025	NO	\$83,117	0
VARSO GAS	2306 S ESCONDIDO BLVD	ESCONDIDO	92025	NO	\$79,900	0
VONS #2156	2345 E VALLEY PKWY	ESCONDIDO	92027	NO	\$28,681	0
PRICE MISSION LIQUOR	240 W MISSION AVE STE D	ESCONDIDO	92025	NO	\$19,285	0
RALPHS #90	2417 E VALLEY PKWY	ESCONDIDO	92027	NO	\$31,140	0
LA FAVORITA MARKET #6	245 W EL NORTE PKWY STE A	ESCONDIDO	92026	NO	\$36,016	0
7-11 2011-21786 B	263 E GRAND AVE	ESCONDIDO	92025	NO	\$18,823	1
MESA ROCK ARCO	26915 MESA ROCK RD	ESCONDIDO	92026	NO	\$0	0
FOOD MART	2825 AUTO PARK WAY	ESCONDIDO	92029	NO	\$0	0
ESCONDIDO ARCO AM/PM	300 W WASHINGTON AVE	ESCONDIDO	92025	NO	\$18,750	1
HOLIDAY WINE CELLAR	302 W MISSION AVE	ESCONDIDO	92025	NO	\$18,750	0
UNITED OIL #18	303 S ESCONDIDO BLVD	ESCONDIDO	92025	NO	\$33,559	1
K&S MARKET	305 N ASH ST	ESCONDIDO	92027	NO	\$29,808	1
RITE-AID #5628	315 W WASHINGTON AVE	ESCONDIDO	92025	NO	\$21,552	1
CORNER FOOD LIQUOR	320 N MIDWAY DR # A	ESCONDIDO	92027	NO	\$34,214	4
VONS #2049	330 W EL NORTE PKWY	ESCONDIDO	92026	NO	\$37,688	1
DEL LAGO SHELL	3480 DEL LAGO BLVD	ESCONDIDO	92029	NO	\$0	0
VONS #2344	351 W FELICITA AVE # 395	ESCONDIDO	92025	NO	\$49,340	1
RETAIL	434 W 5TH AVE	ESCONDIDO	92025	NO	\$34,265	0
EL NORTE ARCO	450 W EL NORTE PKWY	ESCONDIDO	92026	NO	\$40,081	0
WALGREENS 10142	460 W FELICITA AVE	ESCONDIDO	92025	NO	\$50,161	1
VON'S FUEL STATION #2344	469 W FELICITA AVE	ESCONDIDO	92025	NO	\$51,778	1
7 ELEVEN #2112-36705H	503 W WASHINGTON AVE	ESCONDIDO	92025	NO	\$44,096	0
CALIFORNIA SUPER GAS	510 W 5TH AVE	ESCONDIDO	92025	NO	\$34,726	0
7-ELEVEN 13597E	522 W 9TH AVE	ESCONDIDO	92025	NO	\$35,571	0
LATINO'S MEAT MARKET #1	525 W GRAND AVE	ESCONDIDO	92025	NO	\$34,146	0
SUN VALLEY FUEL	550 N ESCONDIDO BLVD	ESCONDIDO	92025	NO	\$18,750	1
7-ELEVEN STORE #21804F-2111	555 W COUNTRY CLUB LN	ESCONDIDO	92026	NO	\$59,991	0
NORTHGATE MARKET # 28	606 N ESCONDIDO BLVD	ESCONDIDO	92025	NO	\$19,285	1
EL NORTE SHELL	615 W EL NORTE PKWY	ESCONDIDO	92026	NO	\$40,755	1
STATER BROS. MARKETS	635 N BROADWAY	ESCONDIDO	92025	NO	\$19,223	1
QWIK KORNER MARKET & DELI	655 E LINCOLN AVE STE A & B	ESCONDIDO	92026	NO	\$32,401	1
CEDAR MARKET	701 S ESCONDIDO BLVD	ESCONDIDO	92025	NO	\$35,000	1
SNACK & BOTTLE SHOP	703 E VALLEY PKWY	ESCONDIDO	92025	NO	\$29,123	0
NORTH COUNTY AUTO CENTER ESCONDIDO	750 N ESCONDIDO BLVD	ESCONDIDO	92025	NO	\$19,285	0
SO CAL GAS & WASH LLC	761 N BROADWAY	ESCONDIDO	92025	NO	\$20,577	0
SHELL SAP 135278	780 W EL NORTE PKWY	ESCONDIDO	92026	NO	\$55,698	1
LA SORPRESA BARATA	840-860 EAST VALLEY PARKWAY	ESCONDIDO	92025	NO	\$28,287	0
AL'S SHORT STOP	908 DEL DIOS HWY	ESCONDIDO	92029	NO	\$52,199	1
UNIQUE SMOKE SHOP	945 W VALLEY PKWY STE K	ESCONDIDO	92025	NO	\$63,924	0
SHELL SAP 135275	105 E VIA RANCHO PKWY	ESCONDIDO	92025	YES	\$0	0
CIRCLE K FOOD STORES #8545	1161 E VALLEY PKWY	ESCONDIDO	92025	YES	\$28,183	1
7-ELEVEN 2011-27524B	1177 N ESCONDIDO BLVD	ESCONDIDO	92026	YES	\$42,384	1
ALL SEASONS MARKET	30012 HWY 395	ESCONDIDO	92026	YES	\$89,750	0
MARCUS LIQUOR & DELI	440 W FELICITA AVE STE 105	ESCONDIDO	92025	YES	\$50,157	1
KORNER MARKET	482 E PENNSYLVANIA AVE	ESCONDIDO	92025	YES	\$23,572	1
EL MEXICANO MARKET AND LIQUOR	602 S ESCONDIDO BLVD	ESCONDIDO	92025	YES	\$34,809	2
7-ELEVEN 36959	620 N ASH ST	ESCONDIDO	92027	YES	\$47,259	0
CIGARETTE CITY	659 N BROADWAY	ESCONDIDO	92025	YES	\$19,359	0
MARKET PLACE	8875 LAWRENCE WELK DR	ESCONDIDO	92026	YES	\$75,000	0

School Name 1	School Name 2	School Name 3
Conway Elementary (2.3 miles)		
Classical Academy High (4 miles)		
Mission Middle (.6 miles)		
Light and Life Christian School (2.6 miles)		
Escondido High School (.5miles)		
Del Dios Middle (.4miles)		
Del Dios Middle (.3 miles)		
Del Dios Middle (.6 miles)		
Del Dios Middle (.4 miles)		
Juniper Elementary (.4 miles)		
Heritage K-8 Charter (.2 miles)	Escondido Charter High (.3miles)	Heritage Digital Academy Charter Middle (.7 miles)
North County Christian School (220ft)		
Juniper Elementary (.5miles)		
Escondido Community Day (358ft)	Heritage K-8 Charter (.2miles)	Escondido Charter High (.2miles)
Escondido Community Day (.3miles)	Heritage K-8 Charter (.2miles)	Escondido Charter High (.2miles)
Escondido Community Day		
Lincoln Elementary (.5miles)		
Glen View Elementary (3.5miles)		
Escondido Community Day (10ft)		
Classical Academy High (.5miles)		
Summerhill School, Inc. (.7miles)		
Classical Academy High (.6 miles)		
Central Elementary (.2miles)		
Light and Life Christian School (.1miles)		
Classical Academy High (.6 miles)		
Escondido Community Day (.2miles)	Heritage K-8 Charter (.3miles)	Escondido Charter High (.3miles)
Escondido High School (1mile)		
North County Christian School (.6miles)		
North County Christian School (.3miles)		
North County Christian School (.4miles)		
Classical Academy High (.6miles)		
Classical Academy High (.5miles)		
Calvary Online School (.4miles)		
Classical Academy High (.5miles)		
Farr Avenue Elementary (.3miles)		
Getsemani Bible Heritage School of Escondido(348 ft)		
Calvary Online School.2miles)		
Del Dios Middle (.2miles)		
Light and Life Christian School (.2miles)		
Lincoln Elementary (.6miles)		
North County Christian School (.3miles)		
Summerhill School, Inc. (.2miles)		
Central Elementary (.2miles)	Getsemani Bible Heritage School of Escondido(.6miles)	

Mike Strong

From: Mike Strong
Sent: Friday, January 18, 2019 5:15 PM
Cc: Bill Martin
Subject: January 15, 2019 Public Meeting Follow-up

Thanks again for attending the first zoning code land use study meeting. This email confirms that I have your address and will use it to keep you informed of next steps.

Please let me know if you need anything.

Mike Strong
Assistant Planning Director
City of Escondido
(760) 839-4556
mstrong@escondido.org



Mike Strong

From: Troutman, Parke <Parke.Troutman@sdcounty.ca.gov>
Sent: Tuesday, May 21, 2019 2:12 PM
To: Mike Strong
Cc: Haley E. Guiffida
Subject: Tobacco control

Hello, Mike,

Just tried to call. I am tentatively scheduled to talk to the youth at Escondido Educational COMPACT about the tobacco control and I wanted to make sure that I spoke about the right things. I was wondering, since I wasn't able to attend the stakeholder meeting (I teach TuTH nights this quarter), could I have a list of what the proposals about tobacco are going to the planning commission? I heard from VCC that TRL took up the bulk of the discussion at the stakeholder meeting. Your previous email mentioned updating definitions. VCC said that you mentioned something about tobacco shops at the beginning but they couldn't remember exactly what it was.

Also, do you need any data or model language?

Thank you! ~~ Parke

Parke Troutman, Planning and Policy Development Specialist
Maternal, Child and Family Health Services
County of San Diego Health & Human Services Agency
C: 619-753-2581



Mike Strong

From: Lynda Barbour <lynda.barbour@cancer.org>
Sent: Sunday, May 19, 2019 3:36 PM
To: Mike Strong
Cc: Lisa Archibald (Lisa.Archibald@gmail.com)
Subject: Tobacco retail license follow up
Attachments: CLS 2018 PolicyOptions TRL.pdf; C4TPO 2019.05 Matrix-of-Strong-Local-TRL-Ordinances.pdf; C4TPO 2018 Tobacco-Retailer-Licensing-is-Effective.pdf

Hi Mike, It was great to see you this week. Thanks for giving us the opportunity to weigh in on this policy issue. We look forward to partnering with staff to develop a strong ordinance, that meets the needs of the city and protects our young people.

Most of what we referenced in the discussion can be found via Change Lab Solutions. I'm attaching one document that outlines different policy options. Change Lab also has model ordinances prepared so city staff don't have to draft, just review and make changes to fit their city needs.

<https://www.changelabsolutions.org/product/california-comprehensive-tobacco-retailer-licensing>

You asked for the matrix of strong TRL ordinances- the Center for Tobacco Policy and Organizing maintains that document and it was recently updated.

I hope these help. I look forward to the staff report.

Best,
Lynda

Lynda Barbour, MPH
Southern California Government Relations Director
619.682.7416 | m: 619.742.4861 | f: 619.296.0928

American Cancer Society Cancer Action Network, Inc.
5333 Mission Center Road Suite 105
San Diego, CA 92108
acsan.org | 1.800.227.2345



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Policy Provisions for a Tobacco Retailer License

Your community has a range of policy choices to consider when designing a local tobacco retailer licensing ordinance. ChangeLab Solutions' *Comprehensive Tobacco Retailer Licensing Ordinance* (TRL model ordinance) contains the basic elements for an effective licensing ordinance that can be used to enforce federal, state, and local tobacco control laws. Communities can supplement the TRL model ordinance with additional policy options (also called *plug-ins*) to ensure compliance with local business standards, reduce youth access to tobacco products, limit the negative impact of tobacco use on public health, and advance health equity.

This fact sheet describes several additional policy options. The TRL model ordinance and plug-ins are available at www.changelabsolutions.org/publications/model-TRL-Ordinance. If you would like help in adapting any of these models for your community, please contact us at www.changelabsolutions.org/tobaccoquestions.

Restrictions on Eligibility for a License

A local tobacco retailer licensing ordinance allows a community to exercise better control over where tobacco products are sold. Tobacco retailer density tends to be higher in communities that experience structural inequities. Limiting where tobacco is sold can reduce youth consumption and help to combat tobacco-related health disparities.

Tobacco-free pharmacies

This policy option prohibits businesses that contain pharmacies from obtaining a tobacco retailer license. The sale of tobacco products at stores containing pharmacies may convey a mixed message to consumers, who often rely on these businesses for health-related services. Because stores containing pharmacies frequently provide health-related information to the public, communities may be concerned that the sale of tobacco at these stores conveys a tacit approval of these products to the public. Further, stores containing pharmacies often stock tobacco products near cessation aids, compromising the efforts of smokers who are trying to quit.

No licenses near schools

This policy option prohibits a license for a business operating too close to a school. Children are more likely to experiment with tobacco products when tobacco retailers are located near schools. In addition, tobacco manufacturers aggressively target advertisements for menthol cigarettes near California high schools with higher proportions of Black students. Communities can use this eligibility restriction in combination with a restriction on licenses near other youth-populated areas to establish tobacco-free zones surrounding schools and other areas frequented by youth and young adults.

No licenses near other youth-populated areas

This policy option prohibits tobacco retailer licensing for businesses located close to areas frequented by youth such as playgrounds, libraries, child care centers, and parks that are open to the public. Restricting tobacco sales within a certain distance from areas where youth often gather may help reduce both youth and adult smoking rates.

Nearly 200 California cities and counties have adopted TRL ordinances. More than 100 of these ordinances meet criteria established by the American Lung Association in California's Center for Tobacco Policy and Organizing and include effective provisions related to eligibility, fees, and enforcement.

For more information on strong tobacco retailer licensing laws and the communities that have adopted them, see center4tobaccopolicy.org/tobacco-policy/tobacco-retail-environment.



Several communities have prohibited businesses that contain pharmacies from obtaining tobacco retailer licenses because these businesses provide health-related services to the public. For more information on prohibiting tobacco product sales in pharmacies, see www.changelabsolutions.org/infographic/tobacco-free-pharmacies.

New tobacco retailers must be a specified distance from current retailers

To prevent the concentration of tobacco retailers within particular neighborhoods, this policy option restricts how close tobacco retailers may be to one another. The number of tobacco retailers in a neighborhood affects youth smoking behaviors and youth access to tobacco products. Additionally, tobacco retailer density is greater in communities with low incomes and high proportions of residents who identify as African American or Hispanic, which perpetuates disparities in tobacco use and associated negative health effects.

No licenses near cannabis retailers

This policy option prohibits tobacco retailer licensing for businesses located near cannabis retailers. Research has found that cannabis dispensaries are disproportionately concentrated in communities of color and areas with large numbers of young adults. Regulating the proximity of tobacco retailers to cannabis retailers is one way to combat the overconcentration of these businesses in underserved communities.

Number of available licenses is limited based on population

This policy option caps the total number of tobacco retailer licenses that can be issued in a city or county based on population. While state law limits the number of alcohol licenses that can be issued in a particular area, there is no similar cap on tobacco retailer licenses. Communities can also apply this approach at a more granular level by setting license caps for each administrative subdivision (eg, San Francisco's caps on licenses within each supervisor district). Communities may be concerned about the number of tobacco retailers in their city or county because greater tobacco retailer density may lead to higher smoking rates. This policy option provides one tool that a community can use to restrict the total number of tobacco retailer licenses that may be issued.

No license for restaurants or bars

This policy option prohibits restaurants, bars, and other businesses that offer food or alcohol for on-site consumption from obtaining a tobacco retailer license. Communities may want to place restrictions on restaurants because non-traditional retailers such as restaurants illegally sell tobacco products to minors at higher rates than other retailers. Communities may want to prohibit tobacco sales at bars because young adult bar patrons already have particularly high smoking rates.

No license for businesses that allow smoking

This policy option prohibits a business from obtaining a tobacco retailer license if the business allows smoking anywhere on the premises. Although state law prohibits smoking in most businesses, smoking is still permitted in tobacco shops, private smokers lounges, and unenclosed outdoor areas, such as bar patios. One purpose of this policy option is to separate places where smoking is permitted from places where tobacco is sold to minimize impulsive tobacco use, such as social smoking at bars.

Additional Requirements for Retailers

A local tobacco retailer licensing ordinance provides an effective tool to enforce a wide range of laws related to the sale and use of tobacco products. The following policy options allow communities to address public health concerns related to tobacco sales and use in communities most often targeted by the tobacco industry.

Minimum pack size for little cigars and cigars

This policy option limits the sale of cigars sold individually and in small packages. These products are particularly appealing to youth due to their low prices, with some cigars selling for less than 70 cents apiece. Though little cigars and cigarillos are often similar to cigarettes, they are not covered by the federal and state laws that prohibit retailers from selling cigarettes individually or in small quantities. In 2014, nearly two-thirds of US middle school and high school cigar smokers reported using flavored cigars. One option



Communities can use tobacco retailer licensing to prohibit the redemption of coupons and discounts that make tobacco products more affordable for youth.



A variety of cigars, little cigars, and cigarillos are packaged for single sale and sold for less than a dollar each. As part of tobacco retailer licensing, communities can prohibit the sale of cigars sold individually or in small packages.

for reducing youth access to inexpensive cigars is to prohibit the sale of individual cigars and to establish a minimum pack size for these products. For more information on this policy option, see our fact sheet, available at www.changelabsolutions.org/publications/limiting-teen-friendly-cigars.

Minimum price for tobacco products

This policy option allows communities to establish minimum prices for tobacco products, such as a pack of cigarettes or little cigars. A price floor raises the cost barrier for tobacco sales and can be especially effective in deterring youth tobacco use. Like excise taxes, minimum pricing presents additional equity concerns because it's a regressive measure. However, preliminary evidence suggests that establishing a minimum price for tobacco products is a promising strategy to reduce tobacco use and tobacco-related health disparities. Setting a minimum price for some products, such as electronic smoking devices, requires more careful deliberation due to the way these products are packaged and sold. Communities interested in setting minimum prices for products other than cigarettes and cigars should contact ChangeLab Solutions for assistance.

No redemption of discounts, coupons, and promotions

This policy option prohibits retailers from honoring discounts, coupons, and promotions for tobacco products. Tobacco companies target youth and underserved communities with price discounts and coupons, so this policy option can be an effective way to combat health equity issues associated with tobacco use.

No sales of flavored tobacco products, including menthol cigarettes

This policy option prohibits licensed retailers from selling all flavored tobacco products, including menthols and flavored alternative tobacco products such as electronic smoking devices. Flavored tobacco products are considered starter products that help establish long-term tobacco use. Additionally, marketing for these products targets youth, communities of color, and LGBTQ communities.

No drug paraphernalia sales

This policy option gives communities an additional tool to combat sales of drug paraphernalia. Under this provision, if a retailer is found to have violated state laws regarding drug paraphernalia or controlled substances, that retailer will also be in violation of the tobacco retailer license, and the penalties of the licensing ordinance will apply. For more information on this policy option, see our fact sheet, available at www.changelabsolutions.org/publications/drug-paraphernalia.

Signage requirements

ChangeLab Solutions' *Model California Ordinance for Reducing Storefront Window Signage* prohibits tobacco retailers from covering more than 15% of their windows with signs. The percentage can be adjusted to fit the needs of the community. This strategy is similar to California's Lee Law, which is intended to promote public safety in liquor stores by restricting the amount of advertising that retailers can display on their windows.

Enforcement Options

The TRL model ordinance contains mandatory penalties for violating the licensing provisions. This policy option provides additional enforcement options.

Alternatives to license suspension

The TRL model ordinance mandates suspension of a license if a retailer violates the ordinance. However, in some circumstances, a local jurisdiction may want discretion to impose a different penalty if warranted. This policy option allows local government staff to impose a fine on a retailer instead of suspending the retailer's license for the time specified in the ordinance. If your community wants to provide this discretion, mandatory minimum alternative penalties should still be specified in your ordinance. For example, this policy option provides that a fine would be available only for a first or second violation and only if the retailer admits that a violation occurred.



Limiting signage can promote public safety by ensuring that enforcement officials have a clear view into stores.

ChangeLab Solutions is a nonprofit organization that provides legal information on matters relating to public health. The legal information in this document does not constitute legal advice or legal representation. For legal advice, readers should consult a lawyer in their state.

This material was made possible by funds received from Grant Number 14-10214 with the California Department of Public Health, California Tobacco Control Program.

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Photos by Lydia Daniller and ChangeLab Solutions.



California Department of Public Health

MAY 2019

In order to reduce illegal sales of tobacco products to minors, many cities and counties in California have adopted strong local tobacco retailer licensing ordinances. This document highlights the 156 ordinances that are considered strong, as well as the fee and enforcement provisions. A strong local tobacco licensing law is defined as one that includes the following four components:

- Requirements that all retailers that sell tobacco products must obtain a license and renew it annually.
- A fee set high enough to sufficiently fund an effective program including administration of the program and enforcement efforts. An enforcement plan, that includes compliance checks, should be clearly stated.
- Coordination of tobacco regulations so that a violation of any existing local, state or federal tobacco regulation violates the license.
- A financial deterrent through fines and penalties including the suspension and revocation of the license. Fines and penalties should be outlined in the ordinance.

Below is a list of the 156 local ordinances in California that have met the requirements for a strong local tobacco retailer licensing ordinance along with basic information about the community population, license fee and designated

enforcement agencies. The jurisdictions are listed in alphabetical order under each county in order to make it easy to compare fee and enforcement details for similar jurisdictions.

For the table below, the agencies that enforce these ordinances have been categorized in the following way:

- **Law Enforcement:** Includes Police Departments and Sheriff Departments
- **Health Department:** Includes Environmental Health Services, Departments of Public Health, Health Services Department, and Health and Human Services Divisions.
- **City Officials:** Includes City Manager, City Attorney, and any authorized city official
- **Other:** Includes Community Development Services, Department of Finance, code enforcement agencies/ services, Administrative Services, Neighborhood Preservation Division, neighborhood services inspectors, Business License Division, and District Attorneys

Other documents on tobacco retailer licensing, including a fact sheet on the effectiveness of these ordinances, are available at: <http://Center4TobaccoPolicy.org/tobacco-policy/tobacco-retail-environment>

Community	Date Passed	Population	Fee	Designated Administration/Enforcement Agencies			
				Law Enforcement	Health Department	City Officials	Other
Alameda County							
Alameda	November 2018	70,177	TBD	X			
Albany	February 2009	18,988	\$250	X			
Berkeley	December 2002	121,238	\$427*	X	X		
Hayward	July 2014	161,040	\$400				X
Oakland	April 2008	426,074	\$1500**	X			
San Leandro	March 2018	90,553	\$500	X			
Union City	November 2010	73,452	\$665	X			
Butte County							
Oroville	March 2013	18037	\$30			X	
Contra Costa County							
Clayton	June 2001	21,405	\$93 (initial) \$46 (renew)	X			
Concord	September 2006	128,370	\$160	X			
Contra Costa County	January 2003	173,454	\$287*		X		
El Cerrito	October 2015	24,600	\$485 (initial) \$439 (renew)	X			X
Oakley	December 2018	41,714	\$484.18				
Richmond	June 2009	111,785	\$1,602.44**	X			
San Pablo	April 2004	31,053	\$196				X
Fresno County							
Firebaugh	August 2009	8,202	\$190	X			
Parlier	April 2012	15,500	\$200	X			
Imperial County							
Calexico	February 2004	40,921	TBD	X		X	
Kern County							
Arvin	September 2016	21,157	\$275-\$655		X		
California City	February 2007	14,248	\$275-\$655		X		
Delano	June 2008	53,152	\$275-\$655	X			
Kern County	November 2006	311,015	\$275-\$655		X		
McFarland	May 2007	14,919	\$275-\$655		X		
Shafter	November 2016	18,868	\$275-\$655		X		

Community	Date Passed	Population	Fee	Designated Administration/Enforcement Agencies			
				Law Enforcement	Health Department	City Officials	Other
Taft	August 2016	9,492	\$275-\$655		X		
Tehachapi	February 2007	12,280	\$275-\$655		X		
Wasco	March 2007	26,980	\$275-\$655		X		
Los Angeles County							
Artesia	January 2009	16,904	TBD	X		X	
Baldwin Park	October 2008	75,537	\$342	X			X
Beverly Hills	August 2010	34,646	No Fee Planned	X			
Burbank	February 2007	105,033	\$181	X			
Calabasas	June 2009	24,202	No Fee Planned*			X	
Carson	November 2006	93,674	\$500	X			X
Cerritos	January 2008	50,039	\$50*	X			
Compton	July 2007	100,050	\$500	X			X
Culver City	July 2009	40,103	\$235	X			X
Duarte	May 2013	22,033	\$100	X			
El Monte	November 2011	114,268	\$300	X			X
El Segundo	June 2010	16,717	\$250	X			
Gardena	July 2008	60,721	\$120 **	X			X
Glendale	September 2007	201,748	\$255	X			
Hawaiian Gardens	July 2011	14,753	\$246				X
Hawthorne	July 2009	87,662	\$375	X			X
Hermosa Beach	January 2019	19,708	\$404 (initial) \$344 (renew)	X			
Huntington Park	November 2011	59,383	No Fee Planned	X			
Inglewood	October 2007	114,900	\$350	X			X
La Canada Flintridge	June 2009	20,497	\$50*	X		X	
La Verne	January 2017	32,389	\$300	X		X	
Lancaster	June 2006	157,820	\$261	X			
Lawndale	October 2009	33,365	\$150				X
Lomita	May 2007	20,403	\$150	X			X
Long Beach	February 2008	480,173	\$442	X	X	X	
Los Angeles (City)	September 2005	4,041,707	\$300		X	X	X
Los Angeles County	December 2007	1,053,030	\$235	X	X		
Lynwood	October 2012	71,997	TBD			X	

Community	Date Passed	Population	Fee	Designated Administration/Enforcement Agencies			
				Law Enforcement	Health Department	City Officials	Other
Manhattan Beach	November 2015	35,924	TBD			X	
Malibu	November 2011	12,742	No Fee Planned*				X
Maywood	August 2006	27,6333	\$46 (initial) \$11.50 (renew)				X
Montebello	September 2009	63,917	\$300	X			
Monterey Park	April 2010	61,606	\$40*	X			
Palmdale	January 2010	158,605	\$350			X	
Pasadena	February 2004	143,333	\$225	X	X		
San Fernando	October 2008	24,486	\$250				X
San Gabriel	March 2010	41,020	\$300	X			
Santa Monica	November 2008	93,834	\$135			X	
Sierra Madre	November 2006	11,010	\$30	X			
South El Monte	September 2014	20,883	\$120				X
South Pasadena	February 2009	25,992	\$150				X
Temple City	December 2012	36,389	\$320 (initial) \$75 (renew)	X			
Marin County							
Corte Madera	March 2019	69,214	TBD		X		
Fairfax	December 2017	7,598	TBD			X	
Larkspur	April 2019	12,396	TBD		X		
Marin County	May 2012	69,214	\$25		X		
Mill Valley	September 2012	14,910	\$25	X			
Novato	January 2017	54,522	\$50 or less			X	
San Rafael	August 1991	60,842	\$48 (initial) \$10 (renew)				X
Sausalito	November 2018	7,601	\$50			X	
Mendocino County							
Fort Bragg	December 2012	7,772	\$195			X	
Mendocino County	April 2010	59,668	\$350		X		
Ukiah	December 2012	16,314	\$35	X		X	
Willits	October 2003	4,928	\$75		X		
Modoc County							
Alturas	February 2016	2,537	\$100 (initial) \$25(renew)	X			

Community	Date Passed	Population	Fee	Designated Administration/Enforcement Agencies			
				Law Enforcement	Health Department	City Officials	Other
Monterey County							
Carmel-By-The-Sea	June 2013	3,842	\$286	X	X		
Monterey	November 2014	28,828	\$286	X	X		
Monterey County	May 2012	107,009	\$286	X	X		
Salinas	January 2015	162,470	\$286	X	X		
Nevada County							
Grass Valley	November 2009	12,859	\$100	X			
Nevada City	November 2006	3,208	\$100	X			
Orange County							
Santa Ana	October 2006	341,341	\$635	X	X		
Riverside County							
Banning	August 2006	31,068	\$444		X		
Beaumont	December 2006	46,179	\$444		X		
Calimesa	June 2007	8,637	\$444		X		
Cathedral City	January 2016	52,381	\$444		X		
Canyon Lake	June 2009	10,891	\$444		X		
Coachella	July 2007	45,551	\$444		X		
Corona	October 2005	167,759	\$444		X		
Desert Hot Springs	August 2007	29,111	\$444		X		
Eastvale	October 2010	64,613	\$444		X		
Hemet	March 2008	81,868	\$444		X		
Jurupa Valley	September 2011	101,315	\$444		X		
Lake Elsinore	August 2007	62,092	\$444		X		
Menifee	December 2009	90,660	\$444		X		
Moreno Valley	September 2007	206,750	\$444		X		
Murrieta	May 2006	114,914	\$444		X		
Norco	March 2006	26,882	\$444		X		
Palm Springs	October 2018	48,142	\$444		X		
Perris	August 2008	75,739	\$444		X		
Rancho Mirage	May 2017	18,194	\$444		X		
Riverside (City)	May 2006	326,792	\$444		X		
Riverside County	January 2010	373,755	\$444		X		
San Jacinto	June 2006	47,925	\$444		X		

Community	Date Passed	Population	Fee	Designated Administration/Enforcement Agencies			
				Law Enforcement	Health Department	City Officials	Other
Temecula	June 2006	111,024	\$444		X		
Wildomar	July 2008	35,782	\$444		X		
Sacramento County							
Elk Grove	September 2004	171,059	\$270	X			
Rancho Cordova	February 2005	73,872	\$218	X			
Sacramento (City)	April 2019	493,025	\$370	X			X
Sacramento County	May 2004	584,729	\$309	X	X		
San Benito County							
Hollister	May 2006	36,677	\$269	X			X
San Diego County							
Chula Vista	March 2018	243,916	TBD	X		X	X
El Cajon	June 2004	102,803	\$675				X
Lemon Grove	December 2018	27,108	TBD	X			
San Marcos	July 2016	94,042	\$190	X			
Solana Beach	July 2009	13,527	\$110**				X
Vista	May 2005	101,797	\$250	X			
San Francisco County							
San Francisco	November 2003	874,228	\$315	X	X		
San Luis Obispo County							
Arroyo Grande	February 2005	17,736	\$208	X			
Grover Beach	September 2005	13,438	\$224	X			
San Luis Obispo (City)	August 2003	46,724	\$278	X			
San Luis Obispo County	October 2008	120,549	\$342	X			
San Mateo County							
Half Moon Bay	October 2018	12,870	\$153	X			
Pacifica	February 2008	38,124	\$79	X			X
Santa Barbara County							
Carpinteria	April 2013	13,943	\$379	X	X		
Goleta	May 2014	31,760	\$534	X	X		

*City or County fee does not fully cover administration and enforcement of the tobacco retailer license. Rather, the fee is supplemented with another stable source of funds, such as Master Settlement Agreement (MSA) funds or general funds.

** Fees may have additional restrictions, charges or may be combined with another fee.

Sources: Population figures are from California Department of Finance, E-1 Population Estimates for Cities, Counties and the State with Annual Percent Change — Jan. 1, 2016 and 2017.

Community	Date Passed	Population	Fee	Designated Administration/Enforcement Agencies			
				Law Enforcement	Health Department	City Officials	Other
Santa Barbara County	November 2010	143,439	\$409*	X	X		
Santa Clara County							
Campbell	December 2012	42,726	\$51	X			
Gilroy	November 2014	55,936	\$100	X			
Los Gatos	May 2017	31,314	\$425	X	X		
Morgan Hill	April 2014	44,145	\$125				X
Palo Alto	October 2017	65,412	\$425	X			
Santa Clara County	November 2010	87,764	\$425	X	X		
Saratoga	June 2015	30,569	\$50*	X		X	
Santa Cruz County							
Santa Cruz	October 2012	65,070	\$425	X			
Santa Cruz County	April 2011	136,193	\$318	X	X		
Scotts Valley	December 2015	12,163	No Fee Planned				
Watsonville	October 2012	53,015	\$255-\$382			X	
Sonoma County							
Healdsburg	November 2014	11,800	\$445	X			
Sonoma	June 2015	10,989	\$246	X			
Sonoma County	April 2016	151,371	\$350		X		
Windsor	March 2018	27,555	\$350		X	X	
Stanislaus County							
Riverbank	July 2010	24,610	\$25-\$200	X		X	
Ventura County							
Oxnard	February 2012	207,772	\$51*				X
Yolo County							
Davis	August 2007	68,740	\$344		X		X
Winters	January 2016	7,255	\$344		X		X
Woodland	June 2015	59,616	\$360				X
Yolo County	May 2006	30,122	\$344		X		X

Tobacco Retailer Licensing Is Effective



THE CENTER
for Tobacco Policy & Organizing



SEPTEMBER 2018

In California, 144 communities have adopted strong local tobacco retailer licensing ordinances in an effort to reduce illegal sales of tobacco products to minors. That includes the following four components:

- License that all retailers must obtain in order to sell tobacco products and that must be renewed annually.
- A fee set high enough to sufficiently fund an effective program including administration of the program and enforcement efforts. An enforcement plan, that includes compliance checks, should be clearly stated.
- Coordination of tobacco regulations so that a violation of any existing local, state or federal tobacco regulation violates the license.
- A financial deterrent through fines and penalties including the suspension and revocation of the license. Fines and penalties should be outlined in the ordinance.

The table below lists illegal sales rates to minors before and after a strong licensing law was enacted. These sales rates were determined by youth tobacco purchase surveys administered by local agencies. It is important to note that results from the youth tobacco purchase surveys have a number of different factors that influence change. Results from these surveys are somewhat dependent on certain factors that differ in each community, such as the age of the youth and the number of stores surveyed. Furthermore, other factors that could impact these rates include statewide laws, other city policies, or statewide or national media campaigns. The data below shows that these decreases occur after a tobacco retailer license has

been established. The results overwhelmingly demonstrate that local tobacco retailer licensing ordinances with strong enforcement provisions are effective. Rates of illegal tobacco sales to minors have decreased, often significantly, in all municipalities with a strong tobacco retailer licensing ordinance where there is before and after youth sales rate data available. However, a licensing ordinance by itself will not automatically decrease sales rates; proper education and enforcement about the local ordinance and state youth access laws are always needed.

Before and after youth sales rate data is available for the following 41 California communities with strong licensing ordinances- Banning, Baldwin Park, Beaumont, Berkeley, Burbank, Calabasas, Carpentaria, Coachella, Contra Costa County, Corona, Davis, Delano, Desert Hot Springs, El Cajon, Elk Grove, Goleta, Grass Valley, Grover Beach, Kern County, La Canada Flintridge, Los Angeles County, Morgan Hill, Murrieta, Norco, Oroville, Pasadena, Riverside, Rosemead, Sacramento, Sacramento County, San Fernando, San Francisco, San Luis Obispo, San Luis Obispo County, Santa Barbara County, Sonoma County, Tehachapi, Vista, Winters, Woodland, and Yolo County.

For more resources on these ordinances, including the Matrix of Strong Local Tobacco Retailer Licensing Ordinances with policy and enforcement details for every strong ordinance in the state, visit: www.Center4TobaccoPolicy.org

For model tobacco retailer licensing ordinance language, visit ChangeLab Solutions at changelabsolutions.org

Table of youth sales rates before and after the adoption of a strong tobacco retailer licensing ordinance

City/County	Date Passed	Annual Fee	Youth Sales Rate Before Ordinance	Most Recent Youth Sales Rate
Banning	August 2006	\$350	77%	21%
Baldwin Park	October 2008	\$342	34%	9%
Beaumont	December 2006	\$350	63%	20%
Berkeley	December 2002	\$427*	38%	4.2%
Burbank	February 2007	\$235	26.7%	5%
Calabasas	June 2009	\$0*	30.8%	5%
Carpentaria	April 2012	\$379	26%	7%
Coachella	July 2009	\$350	69%	11%
Contra Costa County	January 2003	\$160*	37%	13%
Corona	October 2005	\$350	50%	17%
Davis	August 2007	\$377	30.5%	12%
Delano	June 2008	\$165	23%	5.6%
Desert Hot Springs	August 2007	\$350	48%	4%
El Cajon	June 2004	\$698	40%	1%
Elk Grove	September 2004	\$270	17%	16.7%
Goleta	May 2014	\$534	21%	7%
Grass Valley	November 2009	\$100	27%	0%
Grover Beach	September 2005	\$244	46%	17%
Kern County	November 2006	\$165	34%	13.3%
La Canada Flintridge	June 2009	\$50*	47.1%	0%
Los Angeles County	December 2007	\$235	30.6%	8%
Morgan Hill	April 2014	\$125	15%	0%
Murrieta	May 2006	\$350	31%	7%
Norco	March 2006	\$350	40%	6%
Oroville	March 2013	\$30	22.6%	0%
Pasadena	January 2004	\$225	29%	0%
Riverside	May 2006	\$350	65%	31%
Rosemead	July 2017	\$235	32%	22%
Sacramento	March 2004	\$324	27%	15.1%
Sacramento County	May 2004	\$287	21%	7.1%
San Fernando	October 2008	\$250	38.5%	3%
San Francisco	November 2003	\$175*	22.3%	13.4%
San Luis Obispo	August 2003	\$255	17%	13%
San Luis Obispo County	October 2008	\$342	33.3%	5%
Santa Barbara County	November 2010	\$235	21%	3%
Sonoma County	April 2016	\$350	18.4%	1.3%
Tehachapi	February 2007	\$165	8%	16.7%
Vista	May 2005	\$250	39%	1.9%
Winters	January 2016	\$377	47%	19%
Woodland	June 2015	\$377	32%	8%
Yolo County	May 2006	\$377	28%	7.8%

*City or County fee does not fully cover administration and enforcement of the tobacco-retailer license. Rather, the fee is supplemental with another stable source of funds, such as the Master Settlement Agreement (MSA) funds or general funds. See the Center's Matrix of Strong Local Tobacco Retailer Licensing Ordinances for full details about the administration and enforcement of these ordinances.

Mike Strong

From: Lisa Archibald <Lisa.Archibald@vcc.org>
Sent: Friday, May 17, 2019 12:16 PM
To: Mike Strong
Cc: Haley E. Guiffrida; Carina Esquivel; Gena Knutson
Subject: TRL Resources
Attachments: Matrix-of-Local-Ordinances-Restricting-Flavored-Tobacco-2019-05-07.pdf; Matrix-of-Strong-Local-TRL-Ordinances-May-2019-05-07.pdf; Budgeting for a TRL Fee in CA.pdf; Lemon Grove TRL Ordinance.pdf; TRL_CombinedPlug-Ins_FINAL_20180814.docx; PolicyOptionsFactSheet-Dec 2018 Revision_FINAL_20181220.pdf

Mike,

Thank you for a engaging meeting last night regarding a Tobacco Retail License policy for Escondido. There are a few resources I wanted to share with you.

- Updated **Matrix of cities/counties with a strong TRL** (May 2019)
 - You shared you took a look at the San Marcos policy, which is a great example. **Lemon Grove** has a more recent one as well.
- Updated **Matrix of cities/counties with plug-in restricting flavored tobacco products** (May 2019)
- **Plug-In options**, specifically take a look at “**No Drug Paraphernalia Sales**”
 - This plug-in helps local agencies enforce state laws regulating the sale of drug paraphernalia. Stores that sell drug paraphernalia commonly sell cigarettes or other tobacco products. These retailers often claim that their drug paraphernalia, such as bongs or pipes used to smoke methamphetamine or other illicit drugs, is in fact tobacco paraphernalia. California law regulates the sale of drug paraphernalia and preempts local ordinances on the subject. However, a provision can be incorporated into a local tobacco retailer licensing ordinance to make violations of state laws regarding drug paraphernalia or controlled substances a violation of a tobacco retailer license as well. Under this approach, if a retailer is found to have violated state laws regarding drug paraphernalia or controlled substances, that retailer will also be in violation of the local tobacco retailer license, and the penalties of the licensing ordinance will apply.
- **Budgeting Checklist** . In the checklist VCC has worked with San Marcos in regards to supporting enforcement efforts to include: preparing/updating data collection forms, prepare/update routes for operations, recruit and train youth decoys and chaperones, conduct buy operations, fill out post-operations forms
- **ChangeLab Solutions** – Take a look at their website <https://www.changelabsolutions.org/product/tobacco-retailer-licensing-playbook>
 - Calculating TRL Fees [webinar](#)
 - I have reached out to ChangeLab to get in contact with their lead TRL attorney who can assist with any technical/legal language the city may want to consider. Once I hear back from them, I can forward that contact to you.

I hope you have a great weekend. Please let me know how VCC can be of any further assistance to you.

Regards,

Lisa Archibald, MSW
Program Manager, Tobacco Control

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Budgeting for a Local Tobacco Retailer License Fee in California

A Checklist for Cities and Counties

The effectiveness of any local California tobacco retailer license (TRL) ordinance depends largely on enforcement. The ability to fund implementation and enforcement is thus important for communities interested in adopting a TRL ordinance. ChangeLab Solutions has developed a TRL fee calculator to help cities and counties determine an appropriate fee that adequately supports the costs associated with implementing and enforcing a TRL system. This fee calculator is available at: www.changelabsolutions.org/tobacco-control/trl-fee-calculator.

This checklist has been prepared to be used in conjunction with the TRL fee calculator though it can also be used separately as a reference without using the calculator. It is designed to help jurisdictions think through all the costs associated with a TRL ordinance, including staff and non-staff costs (the latter referring to costs such as fuel/mileage, supplies, overhead, etc.). This checklist is based on ChangeLab Solutions' legal analysis of permissible costs that may be recouped from a TRL fee. The list of tasks and budget line items below is not meant to be exhaustive. Each jurisdiction may have different costs associated with implementation and enforcement.

Task / Budget Line Item		Type of Cost	Comments
☐ ESTABLISH, MAINTAIN, AND ADMINISTER TRL SYSTEM			
1	☐ Figure out system for issuing licenses	Staff	This may include the following: ▪ Figuring out what department and which staff will be responsible for reaching out to the business community; and which department and which staff will be responsible for issuing/renewing/maintaining licenses. ▪ Figuring out how to coordinate between departments and staff. ▪ Figuring out which division or subdivision within a department is responsible for the above.
2	☐ Compile and maintain list of potential tobacco retailers	Staff	This may include the following: ▪ Collaborating with the California Board of Equalization (BOE) to obtain a list of tobacco retailers. ▪ Checking the list from the BOE to see which establishments need a local TRL. This includes determining which establishments from the BOE list are within your jurisdiction and comparing the BOE list with your own local list of tobacco retailers. ▪ Conducting online searches (e.g., Google, Yelp) to complete a comprehensive search of potential tobacco retailers that require a local TRL. ▪ Determining what establishments fall under exceptions, if any. ▪ Running periodic reports or analyses on existing tobacco retailers.



Task / Budget Line Item		Type of Cost	Comments
☐ ESTABLISH, MAINTAIN, AND ADMINISTER TRL SYSTEM Continued			
3	☐ Establish and maintain electronic database for TRL system	Staff	▪ This is the technology cost related to establishing and maintaining an electronic database. This may include time/cost spent to establish a database from scratch or incorporate into the jurisdiction's existing database for other types of licenses; and costs associated with system updates or improvements. ▪ The database should have the ability to monitor retailers and all violations for each retailer.
		Non-staff	The city/county may outsource this task instead of using its own employees. In that case, an amount can be budgeted under this line item (non-staff costs).
4	☐ Proactively engage the business community so that they are aware of the TRL ordinance (e.g., effective date, requirements, fines/penalties)	Staff	This may include the following: ▪ Calling businesses and/or commerce/trade groups. ▪ E-mailing businesses and/or commerce/trade groups (including drafting the e-mail and attachments, if any). ▪ Sending US Postal mail to businesses and/or commerce/trade groups (including drafting letters or flyers). ▪ Attending community meetings or meetings hosted by commerce/trade groups (including drafting letters or flyers). ▪ Conducting in-person visits to businesses directly.
		Non-staff	This may include the following costs: ▪ Calls ▪ Postage ▪ Envelopes/paper ▪ Mileage/fuel/auto transport
5	☐ Answer questions by the business community	Staff	This may include the following: ▪ Answering retailers' questions when they call. ▪ Answering e-mails. ▪ Answering questions in person when people come into the office.
6	☐ Prepare and disseminate information about TRL ordinance; prepare and disseminate TRL applications	Staff	This may include the following: ▪ Drafting and disseminating background information and instructions for applying for a TRL on the city/county website. ▪ Drafting and disseminating background information and instructions for applying for a TRL through mass distribution via US Postal mail. ▪ Drafting the application form for license issuance/renewal.
		Non-staff	This may include the following costs: ▪ Calls ▪ Postage ▪ Envelopes/paper ▪ Mileage/fuel/auto transport
7	☐ Receive and process applications for initial license issuance	Staff	This may include the following: ▪ Processing payment. ▪ Checking all applications for completeness and reaching out to applicants who submit incomplete forms. ▪ Checking each applicant to ensure that it meets the requirements for receiving a license. ▪ Coordinating with other departments, as applicable (e.g., Department of Public Health, Finance Department, Business License Department, Police Department, City Attorney's Office).



	Task / Budget Line Item	Type of Cost	Comments
☐ ESTABLISH, MAINTAIN, AND ADMINISTER TRL SYSTEM Continued			
8	☐ Prepare and mail licenses	Staff	This includes time for preparing and mailing licenses.
		Non-staff	This may include the following costs: ▪ Envelopes/paper/certificates ▪ Postage
9	☐ Monitor retailers for license expiration and renewal	Staff	This includes time for monitoring retailers for license expiration and renewal.
10	☐ Prepare and disseminate information/applications for renewal	Staff	This may include the following: ▪ Drafting reminder/instructions for renewing which can be disseminated through e-mail or US Postal mail. ▪ Drafting and disseminating background information and instructions for renewing license on city/county website.
		Non-staff	This may include the following costs: ▪ Envelopes/paper ▪ Postage
11	☐ Receive and process applications for license renewal	Staff	This may include the following: ▪ Processing payment. ▪ Checking all applications for completeness and reaching out to applicants who submit incomplete forms. ▪ Checking each applicant to ensure that it meets the requirements for receiving a license. ▪ Coordinating with other departments, as applicable (e.g., Department of Public Health, Finance Department, Business License Department, Police Department, City Attorney's Office).
12	☐ Enter data into and update database for license issuance and renewal	Staff	This includes time for data entry.
☐ ENFORCEMENT: CONDUCTING COMPLIANCE CHECKS			
13	☐ Meet with all related personnel to: (1) coordinate enforcement strategy; and (2) develop/maintain policy and procedure for enforcement	Staff	This involves inter-agency coordination and may include, as applicable: (1) Department of Public Health; (2) Finance Department; (3) Business License Department; (4) Police Department; and/or (5) City Attorney's Office. This may include the time for training different agencies.
14	☐ Prepare/update data collection forms	Staff	This includes time for preparing/updating the forms that the youth decoys, chaperones, and/or enforcement personnel will use for each operation.
15	☐ Prepare/update routes for the buy operations	Staff	This includes time for preparing the route for each day's enforcement operations.
16	☐ Recruit and train youth decoys and chaperones	Staff	This includes time for recruiting and training youth decoys and chaperones that accompany the youth decoys during enforcement operations.
		Non-staff	This may include the following costs: ▪ Incentives for youth decoys and chaperones ▪ Food for youth decoys and chaperones during training sessions ▪ Mileage/fuel/auto transport



Task / Budget Line Item		Type of Cost	Comments
☐ ENFORCEMENT: CONDUCTING COMPLIANCE CHECKS Continued			
17	☐ Conduct buy operations using youth decoys	Staff	This includes time for conducting the youth decoy operations.
		Non-staff	This may include the following costs: ▪ Equipment/software/technical support used to aid enforcement efforts (e.g., tablet, laptops, phones, cameras, audio devices) ▪ Mileage/fuel/auto transport ▪ Money used by youth decoys to purchase tobacco products ▪ Food for youth decoys before/during/after decoy operations
18	☐ Fill out post-operation forms	Staff	This includes time for filling out forms after each youth decoy operation.
19	☐ Update database for enforcement/compliance results	Staff	This includes time for data entry.
☐ ENFORCEMENT: AFTER THE COMPLIANCE CHECKS			
20	☐ Meet with all related personnel as necessary to: (1) coordinate post-compliance check strategy; and (2) next steps for violators.	Staff	This involves inter-agency coordination and may include, as applicable: (1) Department of Public Health; (2) Finance Department; (3) Business License Department; (4) Police Department; and/or (5) City Attorney's Office. This may include the time for training different agencies.
21	☐ Prepare and deliver violation notices	Staff	This includes the time for preparing and delivering violation notices and/or notices of non-violation (i.e., congratulations letters).
		Non-staff	This may include the following costs: ▪ Envelopes/paper ▪ Postage
22	☐ File/prosecute/settle cases	Staff	This may include the following: ▪ Filing cases. ▪ Preparing for cases (including gathering and organizing evidence, and collaborating with different agencies, as applicable). ▪ Prosecuting and/or settling cases (including preparing to testify, testifying, and collaborating with different agencies, as applicable).
		Non-staff	This may include court fees.
23	☐ Update database for case/settlement results	Staff	This includes time for data entry.
24	☐ Develop press release and respond to media	Staff	This includes time for developing a press release and handling media inquiries.
25	☐ Monitor retailers for license suspension/revocation	Staff	This may include the following: ▪ Keeping track of retailers for license suspension/revocation. ▪ Suspending/revoking licenses, as appropriate (including time on administrative hearings and collaborating with different agencies, as applicable). ▪ Inspecting establishments to ensure that retailers with suspended/revoked licenses are not selling tobacco products.
		Non-staff	This may include the following costs: ▪ Envelopes/paper ▪ Postage ▪ Mileage/fuel/auto transport related to inspections for suspended/revoked licenses
26	☐ Aggregate/analyze data	Staff	This includes analyzing data and preparing regular reports and analyses.



	Task / Budget Line Item	Type of Cost	Comments
☐ MISCELLANEOUS			
27	☐ Think about and establish system for collecting/transferring revenue	Staff	This may include the following costs: ▪ Figuring out a system for collecting revenue. ▪ Figuring out what department is responsible for collecting revenue. ▪ Figuring out how to transfer money between departments for reimbursement.
28	☐ Process fiscal claims to reimburse participants	Staff	This includes processing paperwork for reimbursements to youth decoys and/or chaperones, or other fiscal paperwork for other departments.
29	☐ Material/other costs: miscellaneous supplies, equipment	Non-staff	This includes supplies and equipment not already listed above.
30	☐ Material/other costs: overhead expenses	Non-staff	This includes overhead expenses not already listed above.

This checklist was developed by ChangeLab Solutions with funds received from the California Department of Public Health, under contract #09-11182.

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Law & policy innovation for the common good.

**Comprehensive Tobacco
Retailer Licensing Ordinance
A Model California Ordinance
Regulating the Tobacco Retail Environment**

“Plug-in” Policy Options

Revised August 2018 (*Originally issued June 2008*)

These supplemental policy options are intended to be incorporated into ChangeLab Solutions' *Model Comprehensive Tobacco Retailer Licensing Ordinance*.

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This material was made possible by funds received from Grant Number 14-10214 with the California Department of Public Health, California Tobacco Control Program.

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Introduction

ChangeLab Solutions' *Model Comprehensive Tobacco Retailer Licensing Ordinance* ("Model Ordinance") is designed to assist California cities and counties interested in establishing or strengthening a local tobacco retailer licensing ("TRL") program and further regulating the tobacco retail environment. Communities have adopted TRL laws to ensure compliance with local business standards, reduce youth access to tobacco products, limit the negative public health and equity effects associated with tobacco use, and enforce local, state, and federal tobacco control laws. The Model Ordinance can be used as a vehicle for optional "plug-in" policies that enhance the ordinance. For example, communities can use the plug-ins to control the density or location of tobacco retailers, to prohibit certain types of businesses from selling tobacco, or to regulate sales of certain products (the June 2018 revision of the Model Ordinance incorporates many of these plug-ins).

The plug-ins were developed to address a variety of concerns reported by communities throughout California. For each plug-in, we have provided model findings that support the adoption of the policy, as well as model language that can be incorporated into your community's existing tobacco retailer licensing ordinance.

Although the plug-in provisions are intended to be incorporated into the Model Ordinance, some of them can be enacted independently, with revisions. Adopting a plug-in provision both as part of a licensing ordinance and as a separate ordinance may provide additional enforcement options. Please consult ChangeLab Solutions or your local government attorney if you want to incorporate any of the plug-in provisions into your existing licensing ordinance and/or adopt the provisions as a separate ordinance.

How to Use These Plug-ins

When adding these plug-ins to ChangeLab Solutions' Model Ordinance, fill in any blanks that have been provided (e.g., [____]) to customize the language to your local code. Some options are followed by comments describing the legal provisions in more detail. Some degree of customization is always necessary to make an ordinance consistent with a community's existing laws. Note that if a term is capitalized in the plug-in, it is a term that is defined in that provision or in ChangeLab Solutions' Model Ordinance.

After adding these plug-in provisions to the tobacco retailer licensing ordinance, please verify that all the internal references to other sections are correct. Your city attorney or county counsel will likely be the best person to accomplish this for you. If you have questions about how to adapt these plug-ins for your community, please contact ChangeLab Solutions through our website at www.changelabsolutions.org/tobaccoquestions.

There are four categories of plug-ins, which are described below: (1) policies that limit the businesses eligible for a tobacco retailer license; (2) policies that further restrict the products that tobacco retailers can sell and the purchasers to whom they can sell; (3) policies that provide additional options for enforcing licensing laws; and (4) policies that regulate the price of tobacco

products.

Part I: Which Businesses Are Eligible for a Tobacco Retailer License?

Part I contains several plug-ins that restrict the types of businesses and locations eligible for a tobacco retailer license. For example, a jurisdiction could restrict tobacco sales near schools or prohibit pharmacies from selling tobacco products. Limiting where tobacco is sold can curtail youth access to tobacco products, target enforcement of the licensing provisions, and combat social perceptions that tobacco use is normal or acceptable.

Several of these plug-ins restrict tobacco sales based on a retailer's proposed location. As a result, they may affect how your city or county implements its zoning ordinance. It may be appropriate for an ordinance adopting these plug-ins to amend the community's zoning ordinance to reflect, or perhaps to cross-reference, the language of the plug-ins. Such integration will ensure that planning decisions take tobacco retailing restrictions into account when considering convenience stores, gas stations, and other uses that could involve tobacco sales. For more information, see ChangeLab Solutions' memo *Municipal Authority to Regulate the Location and Operation of Tobacco Retailers*, available at www.changelabsolutions.org/publications/location-tobacco-retailers.

The eligibility plug-ins can add new restrictions on retailers who currently have licenses to sell tobacco products. Communities will need to decide how to treat these existing license-holders. There are several approaches. For example, a community could “grandfather” existing tobacco retailers—that is, allow them to continue to operate until the retailer lets its license lapse, closes for more than 60 days, or changes its business operation significantly. Alternatively, communities can phase out existing retailers through a lottery system or other mechanism. Communities that want to explore alternatives to grandfathering existing retailers should contact ChangeLab Solutions at www.changelabsolutions.org/tobaccoquestions.

Part II: What Are the Additional Requirements for Licensed Tobacco Retailers?

As a condition of selling tobacco products, local governments can require retailers to comply with provisions that may help further reduce the initiation of tobacco use among young people. Part II of this document includes plug-ins that create additional requirements for tobacco retailers. These plug-ins address drug paraphernalia and signage.

Part III: What Are Other Options for Enforcing Tobacco Retailer Licensing Laws?

Part III of this document includes a plug-in that provides additional options for enforcing a tobacco retailer licensing ordinance. ChangeLab Solutions' Model Ordinance includes mandatory penalties for violations of the licensing provisions. This plug-in is designed to assist cities and counties that want discretion to impose penalties that are different from those in the Model Ordinance, such as fining a retailer instead of suspending the retailer's license.

Part IV: What are Pricing-Related Requirements for Licensed Tobacco Retailers?

Part IV of this document includes three additional options for regulating the price of tobacco products. The three policy options are:

1. A prohibition on redemption of tobacco discounts, coupons, and promotions;
2. An establishment of a minimum package size for little cigars and cigars; and
3. An establishment of a minimum price for cigarettes, little cigars, and cigars.

Changes in the November 2014 Version

This version includes an update to the Plug-In *Establishment of a Minimum Pack Size for Little Cigars and Cigars*. The Plug-In was updated to: (1) require little cigars to be sold in packages of 20 little cigars; and (2) allow an exception for cigars that are above a certain price threshold (e.g., “premium cigars”).

Changes in the July 2018 Version

This version includes technical amendments to align with recent changes to state and federal tobacco control laws. It also incorporates the pricing-related plug-ins previously maintained in a separate document and removes the plug-ins to: (1) limit tobacco sales to off-sale alcohol retailers; and (2) prohibit significant tobacco retailers. These plug-ins remain available upon request. Importantly, this version does *not* include substantive revisions to the relevant background information, findings, or citations. For the most current background information, findings, and citations, please see the ChangeLab Solutions’ *Model Comprehensive Tobacco Retailer Licensing Ordinance*, available at <http://changelabsolutions.org/publications/model-TRL-Ordinance>. Please contact ChangeLab Solutions if you have questions regarding these plug-in policies.

Part I: Which Businesses Are Eligible for a Tobacco Retailer License?

Tobacco Free Pharmacies*

Restricting Tobacco Retailers Near Schools*

Reducing Density of Tobacco Retailers, by Location*

Reducing Density of Tobacco Retailers, by Population*

No Tobacco Sales at Restaurants and Bars

No Tobacco Sales at Businesses That Allow Smoking

*** Plug-in included in the June 2018 Model Ordinance**

Tobacco Free Pharmacies*

The sale of tobacco products at stores containing pharmacies may convey a mixed message to consumers, who rely on these businesses for health-related services. Because stores containing pharmacies provide health-related information to the public, communities may be concerned that the sale of tobacco at these stores conveys an implied approval of these products. Further, stores containing pharmacies often stock tobacco products near cessation aids, compromising the efforts of people who are trying to quit. This plug-in addresses these concerns by prohibiting businesses that contain pharmacies from obtaining a tobacco retailer license.

Several court cases have established that a California city or county may enact a law banning the sale of tobacco in stores that contain pharmacies so long as the law does not treat similar stores containing pharmacies differently from one another. San Francisco's law prohibiting tobacco sales in pharmacies, enacted in 2008, survived several lawsuits, including constitutional challenges based on the First Amendment and Equal Protection guarantees. *Philip Morris USA v. City and County of San Francisco*, 345 F. App'x 276 (9th Cir. 2009); *Safeway Inc. v. City & County of San Francisco*, 797 F. Supp. 2d 964 (N.D. Cal. 2011); *Walgreen Co. v. City & County of San Francisco*, 185 Cal. App. 4th 424, 110 Cal. Rptr. 3d 498 (2010).

***Note: The June 2018 Model Ordinance incorporates this plug-in.**

Amendments to ChangeLab Solutions' Model Ordinance

In SECTION I. FINDINGS, add the following findings to the Model Ordinance prior to the clause beginning with "NOW THEREFORE":

WHEREAS, by selling tobacco products, pharmacies reinforce positive social perceptions of smoking, convey implied approval of tobacco use, and send a message that it is not so dangerous to smoke;¹ and

WHEREAS, The Tobacco Education and Research Oversight Committee for California, as well as the American Pharmacists Association, the California Pharmacists Association, and the California Medical Association have called for the adoption of state and local prohibitions of tobacco sales in drug stores and pharmacies;² and

WHEREAS, more than 95 percent of consumers have said they would continue shopping at drugstores that became tobacco-free as much or more often;³ and

WHEREAS, children are particularly influenced by cues suggesting that smoking is acceptable;⁴ and

COMMENT: Additional findings could include local information regarding tobacco sales by businesses containing pharmacies, such as the number of such businesses that have illegally sold tobacco products to youth.

In SECTION II:

In Sec. [____ (*5)]. LIMITS ON ELIGIBILITY FOR A TOBACCO RETAILER LICENSE, add the following subsection:

(__) PHARMACIES. No license may issue, and no existing license may be renewed, to authorize Tobacco Retailing in a Pharmacy. For the purposes of this subsection, “Pharmacy” means any retail establishment in which the profession of pharmacy is practiced by a pharmacist licensed by the State of California in accordance with the Business and Professions Code and where prescription pharmaceuticals are offered for sale, regardless of whether the retail establishment sells other retail goods in addition to prescription pharmaceuticals.

COMMENT: The sale of tobacco products at stores containing pharmacies may convey a mixed message to consumers, who rely on these businesses for health-related services. Because stores containing pharmacies provide health-related information to the public, communities may be concerned that the sale of tobacco products at these stores conveys a implied approval of these products. Further, stores containing pharmacies often stock tobacco products near cessation aids, compromising the efforts of people who are trying to quit. This plug-in addresses these concerns by prohibiting businesses that contain pharmacies from obtaining or renewing a tobacco retailer license.

Restricting Tobacco Retailers Near Schools*

This plug-in prohibits a tobacco retailer license from being issued to or renewed for a business operating too close to a school or other area frequented by youth. Research shows that children are more likely to experiment with tobacco products when tobacco retailers are located near schools. Restricting tobacco sales within a certain distance of schools, playgrounds, libraries, and similar venues can help reduce youth initiation.

The plug-in establishes “tobacco-free zones” around schools and other Youth-Populated Areas. The suggested setback of 1,000 feet can be increased or decreased according to community needs. Further, a city or county can customize the definition of Youth-Populated Areas so that it covers the places in a community where children frequently gather.

***Note: The June 2018 Model Ordinance incorporates this plug-in.**

Amendments to ChangeLab Solutions’ Model Ordinance

In SECTION I. FINDINGS, add the following findings to the Model Ordinance prior to the clause beginning with “NOW THEREFORE”:

WHEREAS, the density of tobacco retailers, particularly in neighborhoods surrounding schools, has been associated with increased youth smoking rates;⁵ and

WHEREAS, a study of California high school students found that the prevalence of smoking was higher at schools in neighborhoods with five or more tobacco outlets than at schools in neighborhoods without tobacco outlets;⁶ and

WHEREAS, a California study found that the density of tobacco retailers near schools was positively associated with the prevalence of students reporting experimental smoking;⁷ and

*In SECTION II, Sec. [____ (*5)]. LIMITS ON ELIGIBILITY FOR A TOBACCO RETAILER LICENSE, add the following subsection:*

(☐) SCHOOLS AND YOUTH-POPULATED AREAS. Tobacco Retailing is prohibited near schools and areas with youth populations as follows:

- (1) No license may issue, and no existing license may be renewed, to authorize Tobacco Retailing within [one thousand (1,000)] feet of a Youth-Populated Area as measured by a straight line from the nearest point of the property line of the parcel on which the Youth-Populated Area is located to the nearest point of the property line of the parcel on which the applicant’s business is located. For the purposes of this subsection and subsection (2), a “Youth-Populated Area” means a parcel [in the [City / County]] that is occupied by:
 - (i) a private or public kindergarten, elementary, middle, junior high, or high school;
 - [(ii) a library open to the public;]

- [(iii) a playground open to the public;]
- [(iv) a youth center, defined as a facility where children, ages 6 to 17, inclusive, come together for programs and activities;]
- [(v) a recreation facility open to the public, defined as an area, place, structure, or other facility that is used either permanently or temporarily for community recreation, even though it may be used for other purposes. “Recreation facility” includes, but is not limited to, a gymnasium, playing court, playing field, and swimming pool;]
- [(vi) an arcade open to the public;]
- [(vii) a park open to the public or to all the residents of a private community;]
- [(viii) a licensed child-care facility or preschool [other than a small-family day care facility [or a large-family day care facility] as defined in California Health & Safety Code § 1596.78] ;]
- [(ix) _____].

COMMENT: Small-family day care facilities are allowed on residentially zoned property and are limited to 8 or fewer children under age 10. Large-family day care facilities with up to 14 children under age 10 are also allowed on residentially zoned property. Depending on the number and location of these facilities, some communities might consider excluding them from the limitations where Tobacco Retailers may locate.

- (2) A Tobacco Retailer operating lawfully on the date this ordinance is adopted that is ineligible to receive or renew a Tobacco Retailer’s license for a location pursuant to subsection (1), and any Tobacco Retailer operating lawfully that becomes ineligible to receive or renew a Tobacco Retailer’s license due to the creation of a new Youth-Populated Area, may apply for and receive a one-time, non-renewable license for the location pursuant to the standard licensing application procedure.

COMMENT: As Youth-Populated Areas are created in the future, existing retailers may later become ineligible to renew a license. In addition, if this plug-in is incorporated into an existing tobacco retailer licensing system, some existing retailers may also become ineligible to renew a license. An “amortization” provision like the one described above could allow existing tobacco retailers in good standing to obtain a special, one-time license to continue selling tobacco for the period of the license (typically one year) despite being too close to a school or Youth-Populated Area, essentially “grandfathering” for a limited time.

Reducing Density of Tobacco Retailers, by Location*

The number of tobacco retailers in a neighborhood (something land use planners call “density”) affects youth smoking behaviors and youth access to tobacco products. Additionally, in some communities, disadvantaged neighborhoods are disproportionately impacted by high tobacco retailer density. To prevent the concentration of tobacco retailers in particular neighborhoods, this plug-in restricts how close tobacco retailers may be to one another. Communities may want to lower the density of tobacco retailers as one tool to help reduce the overall availability of tobacco products, especially for youth.

This plug-in limits the proximity of new tobacco retailers to existing tobacco retailers. Many California cities use a similar approach to prevent overconcentration of alcohol retailers. These cities have ordinances that require new alcohol retailers to be located a specified minimum distance from existing businesses that sell alcohol. This plug-in adapts this strategy to tobacco retailers by prohibiting tobacco retailer licenses from being issued to businesses that are near existing tobacco retailers.

The plug-in applies only to new tobacco retailers and “grandfathers” existing tobacco retailers, even if the existing retailers are too close together to meet the new standards. However, once a tobacco retailer stops selling tobacco for 60 days, allows the license to lapse, or substantially changes business operations, the retailer loses the “grandfathered” status and can obtain a new license only if the proximity regulation allows it. Essentially such a retailer is viewed as a “new” retailer wishing to sell tobacco for the first time. The plug-in does not otherwise provide language to “phase out” one of two (or more) legal, pre-existing tobacco retailers that are located too close to one another. If “phase-out” language is important to your community, contact ChangeLab Solutions.

***Note: The June 2018 Model Ordinance incorporates this plug-in.**

Amendments to ChangeLab Solutions’ Model Ordinance

In SECTION I. FINDINGS, add the following findings to the Model Ordinance prior to the clause beginning with “NOW THEREFORE”:

WHEREAS, a high density of tobacco retailers has been associated with increased smoking rates, particularly among youth;⁸ and

WHEREAS, a study of California neighborhoods found that the density and proximity of tobacco retailers influence smoking behaviors, including number of cigarettes smoked per day;⁹ and

WHEREAS, studies show that the number and density of tobacco retailers serving areas of economic disadvantage are disproportionately high;¹⁰ and

WHEREAS, if tobacco retailers concentrate in a particular geographic area, market conditions could impact community health. For example, competition among retailers can lead to

special promotions such as sales or discounts that drive additional demand and increase smoking by youth, who are particularly sensitive to the cost of tobacco products.¹¹ And, manufacturers may offer discounts on their products more frequently in saturated markets;¹² and

*In SECTION II, Sec. [____ (*5)]. LIMITS ON ELIGIBILITY FOR A TOBACCO RETAILER LICENSE, add the following subsection:*

() PROXIMITY TO OTHER RETAILERS.

- (1) No license may issue, and no existing license may be renewed, to authorize Tobacco Retailing within [five hundred (500)] feet of a Tobacco Retailer location already licensed pursuant to this [article / chapter] as measured by a straight line from the nearest point of the property line of the parcel on which the applicant's business is located to the nearest point of the property line of the parcel on which an existing licensee's business is located.

COMMENT: A high density of tobacco retailers has been associated with increased smoking rates, particularly among youth, and studies show that the number of tobacco retailers in underserved areas is disproportionately high. This plug-in limits the proximity of new tobacco retailers to existing tobacco retailers.

The distance between tobacco retailers should be determined based on the needs of your community and the location of existing tobacco retailers. For example, a community that wants no more than one tobacco retailer per city block could examine whether a 500-foot buffer zone between retailers would sufficiently control the density of retailers. The density of existing tobacco retailers may vary significantly throughout a city or county. This provision could be further tailored to your community's needs by restricting tobacco retailer density in specified areas or neighborhoods.

- (2) Notwithstanding subsection (1), a Tobacco Retailer operating lawfully on the date this ordinance is adopted that would otherwise be eligible for a Tobacco Retailer license for the location for which a license is sought may receive or renew a license for that location so long as all of the following conditions are met:
- i. the license is timely obtained and is renewed without lapse or permanent revocation (as opposed to temporary suspension);
 - ii. the Tobacco Retailer is not closed for business or otherwise suspends Tobacco Retailing for more than sixty (60) consecutive days;
 - iii. the Tobacco Retailer does not substantially change the business premises or business operation. A substantial change to the business operation includes, but is not limited to, the transferring of a location:
 - a. to a new Proprietor(s) in an Arm's Length Transaction; or
 - b. for which a significant purpose is avoiding the effect of violations of this [article / chapter]; and



- iv. the Tobacco Retailer retains the right to operate under other applicable laws.
- v. If the [City / County] determines that a Tobacco Retailer has substantially changed their business premises or operation and the Tobacco Retailer disputes this determination, the Tobacco Retailer bears the burden of proving by a preponderance of evidence that such change(s) do not constitute a substantial change.

COMMENT: This subsection “grandfathers” existing tobacco retailers, meaning that a tobacco retailer lawfully operating on the date this ordinance is adopted and who meets the conditions enumerated in this subsection may continue to renew their tobacco retailer license regardless of their proximity to other tobacco retailers. A tobacco retailer will lose this “grandfathered” status if they, for example, close their business or suspend tobacco retailing for more than sixty (60) consecutive days. They will also lose their grandfathering status if they substantially change the business premises or operations. For these purposes, a substantial change to the business operation includes the transfer of the business in an Arms-Length Transaction (defined in the Model Ordinance). However, so long as the transfer is not intended to avoid the effects of violations of the ordinance, a tobacco retailer will not lose their grandfathered status for transferring the business to a relative or related companies or partners.

Reducing Density of Tobacco Retailers, by Population*

This plug-in caps the total number of tobacco retailer licenses that can be issued in a city or county based on population. This strategy is similar to the regulation of alcohol licenses under California Business and Professions Code section 23817.5, which limits the number of retailers in a city or county that may sell alcohol for consumption off the premises to one per 2,500 inhabitants. There is no similar cap on tobacco retailer licenses. Communities may be concerned about the number of tobacco retailers in their city or county because greater tobacco retailer density may lead to higher smoking rates. This plug-in provides one tool for restricting the number of tobacco retailers in a community.

If a community already has reached its cap on licenses, the plug-in “grandfathers” existing tobacco retailers. However, if an existing retailer stops selling tobacco for 60 days, allows its license to lapse, or substantially changes its business, the retailer loses the “grandfathered” status and can obtain a new license only if the density regulation allows it. Essentially such a retailer is viewed as a “new” retailer wishing to sell tobacco for the first time. As a result, some “grandfathered” retailers will eventually be eliminated through attrition as businesses close and cannot be replaced.

If you do not want to “grandfather” all existing retailers, your community could proactively “phase out” excess tobacco retailers. Alternative language could provide an amortization period for all existing retailers (essentially “grandfathering” for a limited time), but eventually bring down the number of retailers through a lottery system. For alternative language to phase out excess retailers, please contact ChangeLab Solutions.

***Note: The June 2018 Model Ordinance incorporates this plug-in.**

Amendments to ChangeLab Solutions’ Model Ordinance

In SECTION I. FINDINGS, add the following findings to the Model Ordinance prior to the clause beginning with “NOW THEREFORE”:

WHEREAS, a high density of tobacco retailers has been associated with increased smoking rates, particularly among youth;¹³ and

WHEREAS, the density and proximity of tobacco retailers influence smoking behaviors, including number of cigarettes smoked per day;¹⁴ and

WHEREAS, the presence of tobacco in retail settings normalizes the use of tobacco products and triggers smoking urges among former smokers and those attempting to quit;¹⁵ and

WHEREAS, there are approximately 36,700 licensed tobacco retailers in California;¹⁶ and

COMMENT: Further findings could address the current number of tobacco retailers in the city or county as compared with its population. Population estimates are available from the California Department of Finance at www.dof.ca.gov/research/demographic/reports/estimates/e-1/.

In SECTION II, Sec. [____ (*5)]. LIMITS ON ELIGIBILITY FOR A TOBACCO RETAILER LICENSE, add the following subsection:

(__) POPULATION AND DENSITY. The issuing of Tobacco Retailer licenses is limited as follows:

- (1) The total number of Tobacco Retailer licenses within the [City / County] shall be limited to one for each [2,500], or fraction thereof, inhabitants of the [City / County].

COMMENT: Statewide, there is approximately one tobacco retailer for every 1,000 people. This provision provides a default of one tobacco retailer for every 2,500 people to reduce retailer density below the current statewide average. Setting the benchmark at 2,500 also makes the number of tobacco retailers in a community consistent with the number of off-sale alcohol retailers. A community will need to compare its population with the current number of tobacco retailers to determine whether the suggested benchmark will result in a reduction in retailers.

- (2) For the purposes of this subsection, the total population of the [City / County] shall be determined by the most current published total available from the U.S. Census Bureau or the California State Department of Finance, whichever has been more recently updated, as of the date the license application is filed.

COMMENT: This subsection is similar to California Business and Professions Code Section 23817.9, which dictates how the population will be measured to assist in determining the number of off-sale beer and wine retailers in a community.

- (3) No new license may be issued to authorize Tobacco Retailing if the number of Tobacco Retailer licenses already issued equals or exceeds the total number authorized pursuant to subsection (1).
- (4) Notwithstanding subsections (1) through (3), a Tobacco Retailer operating lawfully on the date this ordinance is adopted that would otherwise be eligible for a Tobacco Retailer license for the location for which a license is sought may receive or renew a license for that location so long as all of the following conditions are met:
 - i. the license is timely obtained and is renewed without lapse or permanent revocation (as opposed to temporary suspension);
 - ii. the Tobacco Retailer is not closed for business or otherwise suspends Tobacco Retailing for more than sixty (60) consecutive days;
 - iii. the Tobacco Retailer does not substantially change the business premises or business operation. A substantial change to the business operation includes, but is not limited to, the transferring of a location:
 - a. to a new Proprietor(s) in an Arm's Length Transaction; or



- b. for which a significant purpose is avoiding the effect of violations of this [article / chapter]; and
- iv. the Tobacco Retailer retains the right to operate under other applicable laws.
- v. If the [City / County] determines that a Tobacco Retailer has substantially changed their business premises or operation and the Tobacco Retailer disputes this determination, the Tobacco Retailer bears the burden of proving by a preponderance of evidence that such change(s) do not constitute a substantial change.

COMMENT: This subsection “grandfathers” existing tobacco retailers, meaning that a tobacco retailer lawfully operating on the date this ordinance is adopted and who meets the conditions enumerated in this subsection may continue to renew their tobacco retailer license regardless of the total number of tobacco retailers licensed in the jurisdiction. A tobacco retailer will lose this “grandfathered” status if they, for example, close their business or suspend tobacco retailing for more than sixty (60) consecutive days. They will also lose their grandfathered status if they substantially change the business premises or operations. For these purposes, a substantial change to the business operation includes the transfer of the business in an Arms-Length Transaction (defined in the Model Ordinance). However, so long as the transfer is not intended to avoid the effects of violations of the ordinance, a tobacco retailer will not lose their grandfathered status for transferring the business to a relative or related companies or partners.

No Tobacco Sales at Restaurants and Bars

This plug-in prohibits bars, restaurants, and other businesses that offer food or alcohol for on-site consumption from obtaining a tobacco retailer license. In recent years, “non-traditional” retailers such as restaurants have illegally sold tobacco products to youth at higher rates than the statewide average. Further, communities may be concerned that selling tobacco products in restaurants conveys a message, particularly to children, that tobacco use is commonplace and acceptable.

With regard to bars, young adults who patronize these businesses have particularly high smoking rates. Communities may be concerned that selling tobacco at these venues further encourages smoking among a demographic that already has a high rate of tobacco use.

If a community decides that it is most appropriate to focus its efforts on one type of business—for example, if local data show illegal sales by businesses selling food for on-site consumption—the plug-in can be amended to prohibit tobacco sales by those businesses only.

Amendments to ChangeLab Solutions’ Model Ordinance

In SECTION I. FINDINGS, add the following findings to the Model Ordinance prior to the clause beginning with “NOW THEREFORE”:

WHEREAS, young people’s perceptions of smoking behaviors in social environments influence whether they begin to smoke;¹⁷ and

WHEREAS, children and young people are particularly influenced by cues suggesting smoking is acceptable;¹⁸ and

WHEREAS, restaurants are more likely to sell tobacco illegally to underage youth than other retailers;¹⁹ and

WHEREAS, the recent increase in illegal tobacco sales to youth is largely a result of an increase in illegal sales at non-traditional retailers such as restaurants and markets;²⁰ and

WHEREAS, young adult bar patrons in one California study reported a current smoking rate of 47 percent, nearly four times the 2010 state smoking prevalence for young adults;²¹

WHEREAS, social environments such as bars and clubs are important venues for public health efforts to address young adult smoking;²² and

*In SECTION II, Sec. [____ (*5)]. LIMITS ON ELIGIBILITY FOR A TOBACCO RETAILER LICENSE, add the following subsection:*

- ☐ **BARS AND RESTAURANTS.** No license may issue, and no existing license may be renewed, to authorize Tobacco Retailing at any location that is (i) licensed under state law to serve alcoholic beverages for consumption on the premises (eg, an “on-sale” license issued by the California Department of Alcoholic Beverage Control); or (ii) offering food for sale for consumption on the premises. For example, and without limitation, Tobacco Retailing is prohibited in bars and restaurants.

No Tobacco Sales at Businesses That Allow Smoking

This plug-in prohibits a business from obtaining a tobacco retailer license if it allows smoking anywhere on the premises. Although state law prohibits smoking in most businesses, smoking is still permitted in tobacco shops, private smokers' lounges, and unenclosed outdoor areas, such as bar patios. This plug-in applies only to these venues. One purpose of this plug-in is to separate places where smoking is permitted from places where tobacco is sold to minimize impulsive tobacco use, such as "social smoking" at bars. Another purpose is to regulate businesses, such as hookah bars, whose primary profit is directly derived by actively inducing and encouraging people to smoke. For more information on limiting secondhand smoke exposure, see ChangeLab Solutions' *Model Ordinance: Comprehensive Smokefree Places*, available at www.changelabsolutions.org/publications/comp-smokefree-places.

Amendments to ChangeLab Solutions' Model Ordinance

In SECTION I. FINDINGS, add the following findings to the Model Ordinance prior to the clause beginning with "NOW THEREFORE":

WHEREAS, social environments such as bars and clubs are important venues for public health interventions to reduce young adult smoking;²³ and

WHEREAS, a California study found that nearly half of young adults who patronize bars and clubs reported seeing people smoking at these establishments;²⁴ and

WHEREAS, efforts to decrease perceptions of smoking as a socially acceptable behavior in bars and nightclubs may help reduce smoking among young adults;²⁵

WHEREAS, exemptions from smokefree air laws have facilitated the emergence of niche tobacco markets, such as hookah bars and tobacco shops;²⁶ and

WHEREAS, [City Council / Board of Supervisors] finds that separating places where smoking is permitted from places where tobacco is sold is necessary to promote the health of our residents by reducing impulsive smoking and social pressure to smoke; and

*In SECTION II, Sec. [____ (*3)]. LIMITS ON ELIGIBILITY FOR A TOBACCO RETAILER LICENSE, add the following subsection:*

- () SMOKING ON PREMISES. No license may issue, and no existing license may be renewed, to authorize Tobacco Retailing at any location where Smoking is permitted inside the premises or in any adjacent outdoor area owned, leased, or operated by the Person to be licensed. In addition, no license may issue, and no existing license may be renewed, to authorize Tobacco Retailing at any location where Smoking is permitted within [twenty-five (25)] feet of any doorway, window, opening, or other vent into the licensed premises. For purposes of this subsection, "Smoking" means inhaling, exhaling, burning, or carrying any lighted, heated, or ignited cigar, cigarette, cigarillo, pipe, hookah, electronic device, or any other device that delivers nicotine or other substances to a person.



Part II: What Are the Additional Requirements for Licensed Tobacco Retailers?

No Drug Paraphernalia Sales

Signage Requirements

No Drug Paraphernalia Sales

This plug-in helps local agencies enforce state laws regulating the sale of drug paraphernalia. Stores that sell drug paraphernalia commonly sell cigarettes or other tobacco products. These retailers often claim that their drug paraphernalia, such as bongs or pipes used to smoke methamphetamine or other illicit drugs, is in fact tobacco paraphernalia.

California law regulates the sale of drug paraphernalia and preempts local ordinances on the subject. However, a provision can be incorporated into a local tobacco retailer licensing ordinance to make violations of state laws regarding drug paraphernalia or controlled substances a violation of a tobacco retailer license as well. Under this approach, if a retailer is found to have violated state laws regarding drug paraphernalia or controlled substances, that retailer will also be in violation of the local tobacco retailer license, and the penalties of the licensing ordinance will apply.

For additional information on this topic, see ChangeLab Solutions' fact sheet, *Pipe Down! How to Address Drug Paraphernalia in Your Community*, available at www.changelabsolutions.org/publications/drug-paraphernalia.

Amendments to ChangeLab Solutions' Model Ordinance

In SECTION I. FINDINGS, add the following findings to the Model Ordinance prior to the clause beginning with "NOW THEREFORE":

WHEREAS, state law prohibits sales of "drug paraphernalia";²⁷ and

WHEREAS, many retailers nevertheless sell items that are commonly known to be "drug paraphernalia," including bongs and pipes used to smoke methamphetamine and other illicit drugs, claiming that such items are intended for tobacco use; and

WHEREAS, several California cities require compliance with state drug paraphernalia laws as a condition of obtaining and maintaining a local tobacco retailer license;²⁸ and

*In SECTION II, Sec. [____ (*1)]. DEFINITIONS, add the following definition in alphabetical order:*

☐ "Drug Paraphernalia" has the meaning set forth in California Health and Safety Code section 11014.5, as that section may be amended from time to time.

*In SECTION II, Sec. [____ (*2)]. GENERAL REQUIREMENTS AND PROHIBITIONS, after subsection (g), add the following subsection:*

☐ DRUG PARAPHERNALIA. In the course of Tobacco Retailing or in the operation of the business or maintenance of the location for which a license issued, it shall be a violation of this [article / chapter] for any licensee or any of the licensee's agents or employees to violate any local, state, or federal law regulating controlled substances or Drug Paraphernalia, such as, for example, California Health and Safety Code section 11364.7, as that section may be amended from time to time.

*In Sec. [____ (*6)]. APPLICATION PROCEDURE, add the following subparagraph in subsection (a):*

- ☐ A statement signed by each Proprietor that no Drug Paraphernalia is or will be sold at the location for which the license is sought.

COMMENT: To provide retailers notice of which items are considered drug paraphernalia, communities should give retailers a copy of California Health and Safety Code section 11014.5, which lists products that are considered drug paraphernalia under state law.

Signage Requirements

This plug-in prohibits tobacco retailers from covering more than 15 percent of windows and clear doors with signs to ensure visibility into stores by law enforcement. The percentage can be adjusted to fit the needs of the community. This strategy is similar to California Business and Professions Code section 25612.5(c)(7), which is intended to promote public safety in liquor stores by restricting the amount of signage that these retailers can display on windows.

As with alcohol retailers, requiring tobacco retailers to limit signage helps law enforcement view store interiors. Maintaining visibility inside tobacco retail outlets can deter robberies and violations of other laws, such as those prohibiting tobacco sales to underage youth, self-service displays of tobacco products, and sales of drug paraphernalia. Additionally, this plug-in can help address aesthetic concerns that the community may have regarding the appearance of retailers' storefronts.

This plug-in does not address or affect the signs required by the STAKE Act (California Business & Professions Code section 22950 *et seq.*).

Many sign ordinances or sign provisions of zoning ordinances include a general restriction on the percentage of window area that can be devoted to signage. Communities that use this plug-in should ensure it is made consistent with any broader signage restriction that already appears in the community's code. Communities wishing to restrict storefront signage for all retailers, including retailers that do not sell tobacco or alcohol, can use ChangeLab Solutions' *Model California Ordinance for Reducing Storefront Window Signage*, available at <http://changelabsolutions.org/publications/storefront-signage-ordinance>.

Amendments to ChangeLab Solutions' Model Ordinance

In SECTION I. FINDINGS, add the following findings to the Model Ordinance prior to the clause beginning with "NOW THEREFORE":

WHEREAS, restricting the area of signage that tobacco retailers display on windows promotes community safety by ensuring law enforcement can easily view store interiors from public rights of way; and

WHEREAS, to prevent workplace violence, the U.S. Occupational Safety and Health Administration recommends that retailers ensure that customer service and cash register areas are visible from outside the establishment;²⁹ and

WHEREAS, a number of communities have enacted ordinances to improve natural surveillance—in other words, increasing visibility inside areas most likely to be the target of crime—to promote community safety;³⁰

*In SECTION II, Sec. [____ (*2)]. GENERAL REQUIREMENTS AND PROHIBITIONS, after subsection (g), add the following subsection:*

☐ SIGNAGE.

- (1) In the course of Tobacco Retailing or in the operation of a business or maintenance of a location for which a license issued, it shall be a violation of this [article / chapter] for a licensee, or any of the licensee's agents or employees, to cover more than [15] percent of the area of each window and clear door of the location with signs of any sort [, excluding signage mandated by local, state, or federal law]. For the purposes of this subsection, the area covered shall be computed to include (i) all clear areas within signs; and (ii) signs that are not attached to windows or clear doors but are visible from exterior public rights of way in the same manner as if they were attached to windows or clear doors.
- (2) All signs shall be placed and maintained to ensure law enforcement personnel have a clear and unobstructed view of the interior of the premises, including the area in which the cash registers are maintained, from exterior public rights of way or from the entrance. However, this subsection shall not apply to premises where there are no windows, or where the design or location of windows or landscaping precludes a view of the interior of the premises from exterior public rights of way or from the entrance.

Part III:

What Are Other Options for Enforcing Tobacco Retailer Licensing Laws?

Alternatives to License Suspension

Alternatives to License Suspension

The Model Ordinance contains mandatory penalties for violations. However, a city or county may want discretion to impose a different penalty in some circumstances. This plug-in contains language to guide the exercise of this discretion. The plug-in enables a local government representative to establish a fine amount without approval by the local legislative body, while at the same time providing guidelines to ensure that an appropriate penalty is levied. This plug-in provides some flexibility in what is otherwise a mandatory penalty system. Minimum stipulated penalties are provided to ensure that the agreement does not fail to deter future violations. The minimum terms can be changed to suit a particular community.

Note that cities and counties generally cannot impose *fines* in excess of \$1,000 per violation. See Government Code section 36901. This plug-in provides for an *agreed penalty*, which is agreed to voluntarily by the retailer, rather than imposed by the local agency, and may exceed \$1,000. However, the government may choose to reduce the penalty to \$1,000 per violation.

*In SECTION II. add a new Sec. [____ (*17)] to read as follows:*

Sec. [____ (*17)]. AGREED PENALTY IN LIEU OF HEARING. For a first or second alleged violation of this [article / chapter] within any [sixty-month (60)] period, the [local government representative] may allow a Tobacco Retailer alleged to have violated this [article / chapter] to agree to the penalties provided in this section in lieu of the penalties that would otherwise apply under this [article / chapter] and to forego a hearing on the allegations. Notice of any agreement shall be provided to the Department and no hearing shall be held. Agreements shall not be confidential and shall contain the following terms as well as any other non-criminal provisions established by the [local government representative] in the interests of justice:

- (a) After a first alleged violation of this [article / chapter] at a location:
 - (1) an agreement to stop acting as a Tobacco Retailer for [one (1) day];
 - (2) an administrative penalty of [one thousand dollars (\$1,000)]; and
 - (3) an admission that the violation occurred and an acknowledgment that the violation will be considered in determining the fine or penalty for any future violation.
- (b) After a second alleged violation of this [article / chapter] at a location within any [sixty-month (60)] period:
 - (1) an agreement to stop acting as a Tobacco Retailer for [ten (10) days];
 - (2) an administrative penalty of at least [five thousand dollars (\$5,000)]; and
 - (3) an admission that the violation occurred and an acknowledgment that the violation will be considered in determining the fine or penalty for any future violations.

Part IV:

Pricing-Related Requirements for Licensed Tobacco Retailers

Legal Issues Related to Pricing Plug-ins

Findings Applicable to All Pricing Plug-ins

Prohibition on Redemption of Tobacco Discounts, Coupons, and Promotions*

Establishment of a Minimum Package Size for Little Cigars and Cigars*

Establishment of a Minimum Price for Cigarettes, Little Cigars, and Cigars*

*** Plug-in included in the June 2018 Model Ordinance**

Legal Issues Related to Pricing Plug-ins

Local governments considering these plug-in policy options should review legal issues related to the local government's authority as well as the relevant federal laws. These issues are discussed below.

1. *Police Power*

"Police power" describes the power of government to regulate private conduct to protect and further the public's health, safety, or general welfare.³¹ It is the primary source of authority for nonfederal health-related statutes, regulations, and ordinances.³² Courts have generally held that tobacco minimum price laws and related restrictions are proper exercises of a state's police power.³³

2. *Relevant Federal Laws*

Antitrust – The Sherman Act. Federal antitrust laws prohibit monopolistic behavior and collusion between private businesses in setting prices. Whether a minimum price law is preempted by the Sherman Act depends largely on whether the minimum price is set by the government itself. Laws that require or facilitate collusion among private market participants in setting prices violate the Sherman Act and are generally preempted.³⁴ Government laws that regulate a market and establish baseline prices are generally not preempted.³⁵ A minimum price law must be carefully crafted to ensure that it does not foster or facilitate collusion among tobacco companies. The minimum price plug-in clearly establishes a minimum price and does not require or facilitate collusion among private businesses.

The Federal Family Smoking Prevention and Tobacco Control Act. Although the Federal Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) gives the FDA regulatory authority over tobacco products, the act contains language that expressly reserves certain areas of tobacco regulation to state and local governments:

Except as provided in paragraph (2)(A),³⁶ nothing in this chapter, or rules promulgated under this chapter, shall be construed to limit the authority of [...] a State or political subdivision of a State [...] to enact, adopt, promulgate, and enforce any law, rule, regulation, or other measure with respect to tobacco products that is in addition to, or more stringent than, requirements established under this chapter, including a law, rule, regulation, or other measure relating to or prohibiting the sale, distribution, possession, exposure to, access to, advertising and promotion of, or use of tobacco products by individuals of any age [...].³⁷

This non-preemption is very broad and expressly allows state and local regulation of tobacco sales, distribution, advertising, and promotion. We conclude that the Tobacco Control Act

likely does not preempt the policy options available in this publication.

First Amendment – Freedom of Speech. The First Amendment to the U.S. Constitution forbids the government from making any law “abridging the freedom of speech.” It also provides some degree of protection for corporate advertising and promotion—in legal terms, “commercial speech.”³⁸ Under Supreme Court case law, “commercial speech” has come to mean that the right of corporations to advertise and promote their products and services can outweigh the government’s right to regulate commercial speech to safeguard public health, safety, and welfare.³⁹

Our plug-in prohibiting redemption of tobacco discounts and coupons focuses on sales practices: the sale of tobacco products through discounts and coupons, including those that reward consumers who purchase multiple packs at once. Insofar as it regulates sales practices, the policy should not be viewed as implicating any right to free speech. That said, the tobacco industry may argue that the First Amendment is implicated by a pricing policy that prohibits coupons and multi-pack offers.

In September 2013, the First Circuit Court of Appeals analyzed a First Amendment challenge in an analogous context involving a Providence, Rhode Island, ordinance that prohibits the redemption (but not distribution) of coupons and sales of tobacco multi-packs.⁴⁰ The appellate court upheld the district court’s ruling, finding no First Amendment violation. Because the restrictions were intended to control the price of tobacco products, they did not implicate commercial speech at all—the tobacco companies were still able to distribute coupons and otherwise advertise and promote their products.⁴¹ New York City’s ordinance, which was largely modeled after the ordinance in Providence, was challenged in court on similar grounds and ruled constitutional by a federal district court in the Second Circuit.⁴² Similarly, the policy options in this publication address sales practices and not advertising.

Federal Cigarette Labeling and Advertising Act (FCLAA). Before it was amended by the Tobacco Control Act in 2009, the Federal Cigarette Labeling and Advertising Act (FCLAA) preempted any state or local law related to cigarette advertising and promotion if the law was based on health-related concerns. (As noted earlier, existing cigarette minimum price laws were enacted to protect economic competition, whereas these plug-ins are intended to promote public health.)

The FCLAA states, “[n]o requirement or prohibition based on smoking and health shall be imposed under state law with respect to the advertising or promotion of any cigarettes...”⁴³ The Tobacco Control Act leaves that part of the FCLAA language unchanged, but adds language to expressly allow state or local governments to impose “specific bans or restrictions on the time, place, and manner, but not content, of the advertising or promotion of any cigarettes.”⁴⁴

Even if the plug-ins establishing a minimum price or prohibiting coupon redemption were found to fall within the scope of FCLAA (i.e., if a court finds that the provisions regulate advertising or promotion), they stand a good chance of being upheld under the exceptions added by the Tobacco Control Act as regulations affecting the “manner, but not the content” of promotion.⁴⁵ The appellate court that upheld the Providence pricing ordinance discussed the “manner” exception at length and concluded that the ordinance does not regulate the “content” of the promotional materials, but merely the “manner” of how cigarettes may be sold and purchased.⁴⁶ The district court analyzing New York City’s ordinance came to the same conclusion.⁴⁷

Likewise, these plug-ins do not regulate the content of any advertising or promotional materials. And even if FCLAA is implicated by some provisions, the “manner” exception should apply.

Findings Applicable to All Three Plug-ins

In SECTION I. FINDINGS, add the following findings to the Model Ordinance prior to the clause beginning with “NOW THEREFORE”:

WHEREAS, the health effects of non-cigarette tobacco products such as cigars, cigarillos, smokeless tobacco, and shisha are substantial and life-threatening as demonstrated by research that shows that non-cigarette tobacco products have addictive levels of nicotine, harmful toxins, and dangerous carcinogens;^{48,49,50,51,52,53,54}

WHEREAS, unlike cigarette use which has steadily declined among youth, the prevalence of the use of non-cigarette tobacco products has remained statistically unchanged and in some cases actually increased among youth;^{55,56,57,58,59}

WHEREAS, in addition to cigarettes, non-cigarette tobacco products are widely available across the state. For example:

- 83.7 percent of California tobacco retailers sell cigars/cigarillos;⁶⁰
- 79.4 percent sell flavored non-cigarette tobacco products;⁶¹
- 56.1 percent sell chewing tobacco;⁶²
- 45.7 percent sell electronic smoking devices;⁶³

WHEREAS, in California the cheapest available cigarettes sell for an average of only \$4.30 per package;⁶⁴

WHEREAS, the availability of inexpensive tobacco products leads to increased tobacco use⁶⁵ as evidenced by more than one hundred academic studies that conclusively show that when tobacco products are made more expensive, fewer people use tobacco, fewer initiate tobacco use, and more people quit tobacco use;^{66,67,68,69,70,71}

WHEREAS, for every one percent increase in the cost of tobacco products there is a decrease in consumption,⁷² and a 20 percent price increase would reduce:

- Demand for cigarettes by approximately 10.4 percent;⁷³
- The prevalence of adult tobacco use by 3.6 percent;⁷⁴
- Initiation of tobacco use by young people by 8.6 percent;⁷⁵

WHEREAS, youth under age 18 are particularly responsive to changes in tobacco prices.^{76,77} For example:

- When cigarettes cost more, fewer adolescents start smoking;⁷⁸

- Price reductions can offset the effects of price increases on youth smoking initiation, especially among youth aged 14 to 17 years;^{79,80}
- The evidence is suggestive that tobacco companies deliberately target youth with price reductions;^{81,82,83}

WHEREAS, price reduction strategies are used by the tobacco industry to counter state and local tobacco control efforts and appeal to price-sensitive consumers;^{84,85}

WHEREAS, tobacco companies spend considerably to decrease the price of their products in order to increase demand for cigarettes.⁸⁶ For example:

- Tobacco companies spend the majority of their marketing budgets on price discounts, accounting for nearly \$7 billion of \$8.4 billion advertising and promotional expenditures in 2011;⁸⁷
- Tobacco companies spend hundreds of millions – nearly \$758 million in 2011 – on promotional allowances requiring tobacco retailers and wholesalers to reduce prices at the point of sale;⁸⁸
- Tobacco companies use a variety of promotional strategies including off-invoice discounts, buy downs, and voluntary price reductions;⁸⁹

WHEREAS, the tobacco industry's price discounting strategies, such as coupons, multiple-package discounts, and cartons, are popular among consumers. For example:

- An estimated 55.4 percent of adults use some price minimizing strategy;⁹⁰
- In California, those who use price minimizing strategies save an average of \$1.04 per pack (or 18.6 percent off the total);⁹¹
- The 19.8 percent of adults who smoke cigarettes report that they use coupons to purchase cigarettes;⁹²
- The tobacco industry spent over \$171.2 million in 2011 on consumer coupons;⁹³

WHEREAS, approximately half of stores in California that sell cigarettes advertise cigarette price promotions;⁹⁴

WHEREAS, although federal and state law ban the sale of individual cigarettes,^{95,96} neither federal nor state laws restrict the sale of individual little cigars and cigars;

WHEREAS, many retailers sell little cigars and cigars individually, making them more affordable and appealing to youth.⁹⁷ For example:

- 78.1 percent of California tobacco retailers sell cigarillos for less than \$1;⁹⁸

- From 1995 to 2008, annual sales of cigarillos increased by 255 percent, and sales of little cigars increased by 316 percent;⁹⁹
- Cigar smoking is the second most common form of tobacco use among youth;¹⁰⁰ and

WHEREAS, a 10 percent increase in cigar prices significantly reduces cigar use among youth;¹⁰¹ and

WHEREAS, a simple flat rate minimum price, if high enough, would eliminate the sale of low-cost cigarettes.¹⁰²

Prohibition on Redemption of Tobacco Discounts, Coupons, and Promotions*

This policy option is intended to prohibit the redemption of tobacco discounts, coupons, and promotions. The purpose of this policy option is to prohibit price discrimination and increase the cost of low-cost tobacco products. Price discrimination allows retailers to capture sales from consumers at a regular price without losing sales from more price-sensitive consumers. This plug-in effectively diminishes the tobacco industry's ability to capture more price-sensitive consumers, including youth and individuals with lower incomes.

***Note: The June 2018 Model Ordinance incorporates this plug-in.**

Amendments to ChangeLab Solutions' Model Ordinance

*In SECTION II, Sec. [____ (*1)]. DEFINITIONS, add the following definitions in alphabetical order among the existing definitions of the Model Ordinance:*

- ☐ "Cigarette" means: (1) any roll of tobacco wrapped in paper or in any substance not containing tobacco; and (2) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its Packaging and Labeling, is likely to be offered to, or purchased by, Consumers as a Cigarette described herein.
- ☐ "Consumer" means a Person who purchases a Tobacco Product for consumption and not for Sale to another.
- ☐ "Coupon" means any voucher, rebate, card, paper, note, form, statement, ticket, image, or other issue; whether in paper, digital, or other form; used for commercial purposes to obtain an article, product, service, or accommodation without charge or at a discounted price.
- ☐ "Full Retail Price" means the price listed for a Tobacco Product on its Packaging or on any related shelving, advertising, or display where the Tobacco Product is sold or offered for Sale, plus all applicable taxes and fees if such taxes and fees are not included in the listed price.
- ☐ "Manufacturer" means any Person, including any repacker or relabeler, who manufactures, fabricates, assembles, processes, or labels a Tobacco Product; or imports a finished Tobacco Product for sale or distribution into the United States.
- ☐ "Package" or "Packaging" means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane) in which a Tobacco Product is sold or offered for Sale to a Consumer.
- ☐ "Sale" or "Sell" means any transfer, exchange, barter, gift, offer for sale, or distribution for a commercial purpose, in any manner or by any means whatsoever.

*In SECTION II, Sec. [____ (*2)]. GENERAL REQUIREMENTS AND PROHIBITIONS, after subsection (g), add the following subsection:*

- ☐ **PACKAGING AND LABELING.** No Tobacco Retailer shall Sell any Tobacco Product to any Consumer unless such product: (1) is sold in the original Manufacturer's Packaging intended for Sale to Consumers; and (2) conforms to all applicable federal Labeling requirements.
- ☐ **DISPLAY OF PRICE.** The price of each Tobacco Product offered for Sale shall be clearly and conspicuously displayed to clearly indicate the price of the product.
- ☐ **PROHIBITION OF TOBACCO COUPONS AND DISCOUNTS.** No Tobacco Retailer shall:
 - (1) honor or redeem, or offer to honor or redeem, a Coupon to allow a Consumer to purchase a Tobacco Product for less than the Full Retail Price;
 - (2) Sell any Tobacco Product to a Consumer through a multiple-Package discount or otherwise provide any such product to a Consumer for less than the Full Retail Price in consideration for the purchase of any Tobacco Product or any other item; or
 - (3) provide any free or discounted item to a Consumer in consideration for the purchase of any Tobacco Product.

COMMENT: This plug-in prohibits the following types of discounts:

- (1) Redemption of any Coupons, whether the Consumer obtains the Coupon in the store or elsewhere (eg, magazine, online printout, mailer, or phone app);
- (2) Discounts to reward Consumers for buying more than one Tobacco Product (eg, "Buy two packs of cigarettes, get one free," "buy five Cigars, get a pack of Cigarettes for half price"); and
- (3) Discounts for other items (eg, "Buy a pack of Cigarettes and get a free lighter").

Establishment of a Minimum Pack Size for Little Cigars and Cigars*

This plug-in requires that little cigars be sold in packages of at least 20 little cigars. It also requires cigars to be sold in packages of a certain size (with an exception for premium cigars at the discretion of the local jurisdiction). Requiring that little cigars and cigars be sold in packs of a certain size raises the cost barrier to purchase these products. This does not mean that the products themselves are more expensive, but consumers will still have to pay more to get more. Raising the cost barrier is expected to deter youth from purchasing these products. Though this policy does not lead to an actual price increase for cigars, it nevertheless raises the cost barrier for purchase and can have a similar public health impact.

For more information, see ChangeLab Solutions' fact sheet, *Limiting 'Teen-Friendly' Cigars: What Communities Can Do*, available at www.changelabsolutions.org/publications/limiting-teen-friendly-cigars.

***Note: This plug-in is already incorporated in the Model Ordinance.**

Amendments to ChangeLab Solutions' Model Ordinance

*In SECTION II: In Sec. [____ (*1)]. DEFINITIONS, add the following definitions in alphabetical order among the existing definitions of the Model Ordinance:*

COMMENT: The definitions of "Little Cigar" and "Cigar" are adapted from federal classification for federal tax purposes. California's definitions of little cigar and cigar for state tax purposes conform to the federal definitions. Localities are necessarily concerned with enforcement. This plug-in's definitions of little cigar and cigar allow local jurisdictions to leverage existing federal enforcement of tobacco product packaging to identify tobacco products in stores. Federal law requires little cigars and cigars, as defined under federal law, to be designated as such on packaging. Please note that the following definitions are already included in ChangeLab Solutions' Model *Comprehensive Tobacco Retailer Licensing Ordinance*, available at <http://changelabsolutions.org/publications/model-TRL-Ordinance>.

- ☐ "Cigar" means any roll of tobacco other than a Cigarette wrapped entirely or in part in tobacco or any substance containing tobacco and weighing more than three pounds per thousand.
- ☐ "Consumer" means a person who purchases a Tobacco Product for consumption and not for Sale to another.
- ☐ "Little Cigar" means any roll of tobacco other than a Cigarette wrapped entirely or in part in tobacco or any substance containing tobacco and weighing no more than three pounds per thousand. "Little Cigar" includes, but is not limited to, any tobacco product known or labeled as "small cigar" or "little cigar."
- ☐ "Package" or "Packaging" means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane) in which a Tobacco Product is sold or offered for Sale to a Consumer.

- ☐ “Sale” or “Sell” means any transfer, exchange, barter, gift, offer for sale, or distribution for a commercial purpose, in any manner or by any means whatsoever.

*In Sec. [____ (*2)]. GENERAL REQUIREMENTS AND PROHIBITIONS, after subsection (g), add the following subsection:*

- ☐ PACKAGING AND LABELING. No Tobacco Retailer shall Sell any Tobacco Product to any Consumer unless such product: (1) is sold in the original manufacturer’s Packaging intended for Sale to Consumers; and (2) conforms to all applicable federal Labeling requirements.
- ☐ MINIMUM PACKAGE SIZE FOR LITTLE CIGARS AND CIGARS. No Tobacco Retailer shall Sell to a Consumer:
- (1) Any Little Cigar unless it is sold in a Package of at least [twenty] Little Cigars; or
- (2) Any Cigar unless it is sold in a Package of at least [six] Cigars [; provided, however, that this subsection shall not apply to a Cigar that has a price of at least [\$X.00] per Cigar, including all applicable taxes and fees].

COMMENT: This plug-in requires a minimum pack size for little cigars and cigars. Requiring little cigars and cigars to be sold in packs of a certain size raises the cost barrier to purchase these products. The purpose of this subsection is not to directly raise the price of little cigars and cigars; rather, the purpose is to raise the cost of any single transaction. For language to establish a price floor for cigarettes, little cigars, and cigars, see page 37 or ChangeLab Solutions’ *Model Comprehensive Tobacco Retailer Licensing Ordinance*, available at <http://changelabsolutions.org/publications/model-TRL-Ordinance>.

The minimum package size of twenty (20) little cigars is consistent with the minimum package size for cigarettes established by federal law. An option is provided to set a different minimum package size for little cigars; however, because little cigars and cigarettes are very similar, establishing different minimum package sizes may simply encourage the substitution of one product for the other.

Subsection (2) provides an option to exempt cigars that meet a certain price threshold. Because the policy goal of a minimum package size requirement is to raise the cost barrier for any single transaction, the requirement may not be necessary for products that are already expensive enough to deter sales to youth. For example, a single cigar that costs \$10 may not need to be sold in a pack of six to deter youth sales.

Establishment of a Minimum Price for Cigarettes, Little Cigars, and Cigars*

Establishing a minimum price for certain tobacco products can raise prices and reduce demand; however, the public health impact will depend on prevailing tobacco prices in the local jurisdiction and the minimum price that is set.

Excise taxes remain the most commonly used and most proven strategy for regulating the prices of tobacco products. Through taxation, governments raise the price of tobacco products to decrease consumption; however, governments also receive additional revenue from the increased taxes. However, such a policy may not be politically feasible. In California, it is not an option for local jurisdictions due to state preemption. Thus, local jurisdictions may wish to raise tobacco prices by other means.

***Note: This plug-in is already incorporated in the Model Ordinance.**

Amendments to ChangeLab Solutions' Model Ordinance

*In SECTION II, Sec. [____ (*1)]. DEFINITIONS, add the following definitions in alphabetical order among the existing definitions of the Model Ordinance:*

- ☐ “Cigar” means any roll of tobacco other than a Cigarette wrapped entirely or in part in tobacco or any substance containing tobacco and weighing more than three pounds per thousand.
- ☐ “Cigarette” means: (1) any roll of tobacco wrapped in paper or in any substance not containing tobacco; and (2) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its Packaging and Labeling, is likely to be offered to, or purchased by, Consumers as a Cigarette described herein.
- ☐ “Consumer” means a Person who purchases a Tobacco Product for consumption and not for Sale to another.
- ☐ “Little Cigar” means any roll of tobacco other than a Cigarette wrapped entirely or in part in tobacco or any substance containing tobacco and weighing no more than three pounds per thousand. “Little Cigar” includes, but is not limited to, Tobacco Products known or labeled as small cigar, little cigar, or cigarillo.
- ☐ “Manufacturer” means any Person, including any repacker or relabeler, who manufactures, fabricates, assembles, processes, or labels a Tobacco Product; or imports a finished Tobacco Product for sale or distribution into the United States.
- ☐ “Package” or “Packaging” means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane) in which a Tobacco Product is sold or offered for Sale to a Consumer.

- ☐ “Sale” or “Sell” means any transfer, exchange, barter, gift, offer for sale, or distribution for a commercial purpose, in any manner or by any means whatsoever.

*In SECTION II, Sec. [____ (*2)]. GENERAL REQUIREMENTS AND PROHIBITIONS, after subsection (g), add the following subsection:*

- ☐ **PACKAGING AND LABELING.** No Tobacco Retailer shall Sell any Tobacco Product to any Consumer unless such product: (1) is sold in the original Manufacturer’s Packaging intended for Sale to Consumers; and (2) conforms to all applicable federal Labeling requirements.
- ☐ **DISPLAY OF PRICE.** The price of each Tobacco Product offered for Sale shall be clearly and conspicuously displayed to clearly indicate the price of the product.
- ☐ **MINIMUM PRICES FOR CIGARETTES, LITTLE CIGARS, AND CIGARS.** No Tobacco Retailer shall Sell to a Consumer:
- (1) Cigarettes at a price that is less than [\$X.00] per Package of 20 Cigarettes, including all applicable taxes and fees;
 - (2) Little Cigars at a price that is less than [\$X.00] per Package of 20 Little Cigars, including all applicable taxes and fees; or
 - (3) Cigars at a price that is less [\$X.00] per Cigar, including all applicable taxes and fees.

COMMENT: This provision directly sets a price floor for the Sale of Cigarettes, Little Cigars, and Cigars. For Cigarettes and Little Cigars, the price floor is set as a minimum price required (eg, \$7) for a *Package* of Cigarettes or Little Cigars. The price floor is set differently for Cigars (*per Cigar* vs. *per Package*) because the number of Cigars in a Package varies greatly.

An option is provided to set different price floors for Cigarettes and Little Cigars; however, because these products are very similar, different price floors may simply encourage purchase of the cheaper alternative. Importantly, this plug-in is drafted with the expectation that the minimum pack size plug-in is also being adopted. Local jurisdictions interested in adopting a minimum price for Little Cigars without a corresponding minimum Package size should contact ChangeLab Solutions for assistance.

Setting a minimum price for other types of Tobacco Products such as smokeless tobacco, pipe tobacco, and electronic smoking devices requires more careful deliberation due to the manner in which these other products are packaged and sold. Local jurisdictions interested in additional minimum pricing options should contact ChangeLab Solutions for assistance.

- (4) The minimum prices established in this section shall be adjusted annually (percent change in the annual average, not seasonally adjusted) by the Department in proportion with the Consumer Price Index: all urban consumers

for all items for the [*Insert Statistical Area*] statistical area as reported by the United States Bureau of Labor Statistics or any successor to that index.

COMMENT: This provision specifies that the minimum price for Cigarettes, Little Cigars, and Cigars established by subsections (1) through (3) will be adjusted annually in proportion with the Consumer Price Index. This annual adjustment occurs automatically without further action by the city council or board of supervisors and ensures that the effectiveness of the minimum prices do not diminish over time due to inflation.

The federal Bureau of Labor Statistics releases CPI data specific to particular regions or metropolitan areas, referred to as “statistical areas.” For California, these statistical areas include: (1) Los Angeles–Long Beach–Anaheim, (2) Pacific Division (includes all Pacific states), (3) Riverside–San Bernardino–Ontario, (4) San Diego–Carlsbad, and (5) San Francisco–Oakland–Hayward. Local jurisdictions should choose the nearest statistical area and insert it into the subsection above. More information on regional resources for the Consumer Price Index are available at <https://www.bls.gov/cpi/regional-resources.htm>. If your community has questions about selecting the appropriate statistical area, please contact ChangeLab Solutions for assistance.

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- ² Tobacco Education and Research Oversight Committee for California. 2006. *Confronting a Relentless Adversary: A Plan for Success Toward a Tobacco-Free California 2006-2008*, p. 18, www.cdph.ca.gov/programs/tobacco/Documents/TEROC/2006-2008%20Master%20Plan.pdf
- ³ Katz MH. 2008. "Banning Tobacco Sales in Pharmacies: The Right Prescription." *Journal of the American Medical Association*. 300(12): 1451-1453.
- ⁴ DiFranza JR, Wellman RJ, Sargent JD, et al. 2006. "Tobacco Promotion and the Initiation of Tobacco Use: Assessing the Evidence for Causality." *Pediatrics* 6: e1237-e1248, doi: 10.1542/peds.2005-1817
- ⁵ Henriksen L, Feighery EC, Schleicher NC, et al. 2008. "Is Adolescent Smoking Related to Density and Proximity of Tobacco Outlets and Retail Cigarette Advertising Near Schools?" *Preventive Medicine* 47: 210-214.
- ⁶ Henriksen L, Feighery EC, Schleicher NC, et al. 2008. "Is Adolescent Smoking Related to Density and Proximity of Tobacco Outlets and Retail Cigarette Advertising Near Schools?" *Preventive Medicine* 47: 210-214.
- ⁷ McCarthy WJ, Mistry R, Lu Y, et al. 2009. "Density of Tobacco Retailers Near Schools: Effects on Tobacco Use Among Students." *American Journal of Public Health*, 99(11): 2006-2013.
- ⁸ Henriksen L, Feighery EC, Schleicher NC, et al. 2008. "Is Adolescent Smoking Related to Density and Proximity of Tobacco Outlets and Retail Cigarette Advertising Near Schools?" *Preventive Medicine* 47: 210-214.
- ⁹ Chuang YC, Cubbin C, Ahn D, et al. 2005. "Effects of Neighbourhood Socioeconomic Status and Convenience Store Concentration on Individual Level Smoking." *Journal of Epidemiology and Community Health* 59: 568-573.
- ¹⁰ Novak SP, Reardon SF, Raudenbush SW, et al. 2006. "Retail Tobacco Outlet Density and Youth Cigarette Smoking: A Propensity Modeling Approach." *American Journal of Public Health* 96: 670-676.
- ¹¹ Feighery EC, Schleicher NC, Boley Cruz T, et al. 2008. "An Examination of Trends in Amount and Type of Cigarette Advertising and Sales Promotions in California Stores, 2002–2005." *Tobacco Control*. 17(2): 93-98.
- ¹² Chaloupka FJ, Cummings KM, Morley CP, et al. 2002. "Tax, Price and Cigarette Smoking: Evidence from the Tobacco Documents and Implications for Tobacco Company Marketing Strategies." *Tobacco Control*. 11: i62-i72.
- ¹³ Henriksen L, Feighery EC, Schleicher NC, et al. 2008. "Is Adolescent Smoking Related to Density and Proximity of Tobacco Outlets and Retail Cigarette Advertising Near Schools?" *Preventive Medicine* 47: 210-214.
- ¹⁴ Chuang YC, Cubbin C, Ahn D, et al. 2005. "Effects of Neighbourhood Socioeconomic Status and Convenience Store Concentration on Individual Level Smoking." *Journal of Epidemiology and Community Health* 59: 568-573.
- ¹⁵ McDaniel PA and Malone RE. 2011. "Why California Retailers Stop Selling Tobacco Products, and What Their Customers and Employees Think About It When They Do." *BMC Public Health* 11: 848.
- ¹⁶ Chapman R. 2012. *State Health Officer's Report on Tobacco Use and Promotion in California*. California Department of Public Health, California Tobacco Control Program, p. 12, www.cdph.ca.gov/Documents/EMBARGOED%20State%20Health%20Officers%20Report%20on%20Tobacco.pdf
- ¹⁷ U.S. Department of Health and Human Services. 2000. *Reducing Tobacco Use: A Report of the Surgeon General*. Atlanta: US National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 62, www.cdc.gov/tobacco/data_statistics/sgr/2000/complete_report/index.htm
- ¹⁸ DiFranza JR, Wellman RJ, Sargent JD, et al. 2006. "Tobacco Promotion and the Initiation of Tobacco Use: Assessing the Evidence for Causality." *Pediatrics* 6: e1237-e1248, doi: 10.1542/peds.2005-1817
- ¹⁹ Chapman R. 2012. *State Health Officer's Report on Tobacco Use and Promotion in California*. California Department of Public Health, California Tobacco Control Program, p. 8, www.cdph.ca.gov/Documents/EMBARGOED%20State%20Health%20Officers%20Report%20on%20Tobacco.pdf
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- ²¹ Jiang N and Ling PM. 2013. "Impact of Alcohol Use and Bar Attendance on Smoking and Quit Attempts Among Young Adult Bar Patrons." *American Journal of Public Health* 103(5): e53-e61.
- ²² Ling PM, Neilands TB, and Glantz SA. 2009. "Young Adult Smoking Behavior: A National Survey." *American Journal of Preventive Medicine* 36(5): 389-394.

- ²³ Ling PM, Neilands TB, and Glantz SA. 2009. "Young Adult Smoking Behavior: A National Survey." *American Journal of Preventive Medicine* 36(5): 389-394.
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- ²⁵ Jiang N and Ling PM. 2013. "Impact of Alcohol Use and Bar Attendance on Smoking and Quit Attempts Among Young Adult Bar Patrons." *American Journal of Public Health* 103(5): e53-e61.
- ²⁶ Maher JE, Morris DS, Girard KE, et al. 2012. "Consequences of Clean Indoor Air Exemptions in Oregon: The Hookah Story." *Tobacco Control*. [Electronic publication ahead of print].
- ²⁷ Cal. Health & Safety Code §§ 11014.5, 11364.7.
- ²⁸ American Lung Association in California, Center for Tobacco Policy and Organizing. 2012. *Matrix of Strong Local Tobacco Retailer Licensing Ordinances*, www.center4tobacopoly.org/CTPO/_files/_file/Matrix%20of%20Strong%20Local%20Tobacco%20Retailer%20Licensing%20Ordinances%20June%202012.pdf
- ²⁹ Occupational Safety and Health Administration. 2009. *Recommendations for Workplace Violence Prevention Programs*, p. 9, www.osha.gov/Publications/osh3153.pdf
- ³⁰ Casteel C and Peek-Asa C. 2000. "Effectiveness of Crime Prevention Through Environmental Design (CPTED) in Reducing Robberies." *American Journal of Preventive Medicine* 18(4): 99-115.
- ³¹ See Hodge, J.G. Jr. 1997. "Implementing Modern Public Health Goals Through Government: An Examination Of New Federalism And Public Health Law." *J. Contemp. Health L. & Pol'y* 14: 93-126, p. 94; see also Gostin, L.O. 2008. *Public Health Law: Power, Duty, Restraint*. Berkeley, CA: University of California Press, p. 79. (Gostin defines police power as: "The inherent authority of the state (and, through delegation, local government) to enact laws and promulgate regulations to protect, preserve, and promote the health, safety, morals, and general welfare of the people. To achieve these communal benefits, the state retains the power to restrict, within federal and state constitutional limits, private interests—including personal interests in autonomy, privacy, association, and liberty, as well as economic interests in freedom to contract and uses of property.")
- ³² *Id.*
- ³³ See generally, Francis M. Dougherty, *Validity, Construction, and Application of State Statutory Provisions Prohibiting Sales of Commodities Below Cost – Modern Cases*, 41 A.L.R. 4th 612 (1985); see, e.g., *Simonetti v. State*, 132 So.2d 252 (Ala. 1961) (upholding an Alabama statute prohibiting any wholesaler or retailer to sell, offer to sell, or advertise cigarettes at less than cost under the state's general police power).
- ³⁴ *California Retail Liquor Dealers Ass'n v. Midcal Aluminum, Inc.*, 445 U.S. 97 (1980) (the Supreme Court held that California's wine pricing law was preempted by the Sherman Act because it gave wine producers the power to eliminate competition by setting minimum prices).
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California Department of Public Health

MAY 2019

In order to reduce illegal sales of tobacco products to minors, many cities and counties in California have adopted strong local tobacco retailer licensing ordinances. This document highlights the 156 ordinances that are considered strong, as well as the fee and enforcement provisions. A strong local tobacco licensing law is defined as one that includes the following four components:

- Requirements that all retailers that sell tobacco products must obtain a license and renew it annually.
- A fee set high enough to sufficiently fund an effective program including administration of the program and enforcement efforts. An enforcement plan, that includes compliance checks, should be clearly stated.
- Coordination of tobacco regulations so that a violation of any existing local, state or federal tobacco regulation violates the license.
- A financial deterrent through fines and penalties including the suspension and revocation of the license. Fines and penalties should be outlined in the ordinance.

Below is a list of the 156 local ordinances in California that have met the requirements for a strong local tobacco retailer licensing ordinance along with basic information about the community population, license fee and designated

enforcement agencies. The jurisdictions are listed in alphabetical order under each county in order to make it easy to compare fee and enforcement details for similar jurisdictions.

For the table below, the agencies that enforce these ordinances have been categorized in the following way:

- **Law Enforcement:** Includes Police Departments and Sheriff Departments
- **Health Department:** Includes Environmental Health Services, Departments of Public Health, Health Services Department, and Health and Human Services Divisions.
- **City Officials:** Includes City Manager, City Attorney, and any authorized city official
- **Other:** Includes Community Development Services, Department of Finance, code enforcement agencies/ services, Administrative Services, Neighborhood Preservation Division, neighborhood services inspectors, Business License Division, and District Attorneys

Other documents on tobacco retailer licensing, including a fact sheet on the effectiveness of these ordinances, are available at: <http://Center4TobaccoPolicy.org/tobacco-policy/tobacco-retail-environment>

Community	Date Passed	Population	Fee	Designated Administration/Enforcement Agencies			
				Law Enforcement	Health Department	City Officials	Other
Alameda County							
Alameda	November 2018	70,177	TBD	X			
Albany	February 2009	18,988	\$250	X			
Berkeley	December 2002	121,238	\$427*	X	X		
Hayward	July 2014	161,040	\$400				X
Oakland	April 2008	426,074	\$1500**	X			
San Leandro	March 2018	90,553	\$500	X			
Union City	November 2010	73,452	\$665	X			
Butte County							
Oroville	March 2013	18037	\$30			X	
Contra Costa County							
Clayton	June 2001	21,405	\$93 (initial) \$46 (renew)	X			
Concord	September 2006	128,370	\$160	X			
Contra Costa County	January 2003	173,454	\$287*		X		
El Cerrito	October 2015	24,600	\$485 (initial) \$439 (renew)	X			X
Oakley	December 2018	41,714	\$484.18				
Richmond	June 2009	111,785	\$1,602.44**	X			
San Pablo	April 2004	31,053	\$196				X
Fresno County							
Firebaugh	August 2009	8,202	\$190	X			
Parlier	April 2012	15,500	\$200	X			
Imperial County							
Calexico	February 2004	40,921	TBD	X		X	
Kern County							
Arvin	September 2016	21,157	\$275-\$655		X		
California City	February 2007	14,248	\$275-\$655		X		
Delano	June 2008	53,152	\$275-\$655	X			
Kern County	November 2006	311,015	\$275-\$655		X		
McFarland	May 2007	14,919	\$275-\$655		X		
Shafter	November 2016	18,868	\$275-\$655		X		

Community	Date Passed	Population	Fee	Designated Administration/Enforcement Agencies			
				Law Enforcement	Health Department	City Officials	Other
Taft	August 2016	9,492	\$275-\$655		X		
Tehachapi	February 2007	12,280	\$275-\$655		X		
Wasco	March 2007	26,980	\$275-\$655		X		
Los Angeles County							
Artesia	January 2009	16,904	TBD	X		X	
Baldwin Park	October 2008	75,537	\$342	X			X
Beverly Hills	August 2010	34,646	No Fee Planned	X			
Burbank	February 2007	105,033	\$181	X			
Calabasas	June 2009	24,202	No Fee Planned*			X	
Carson	November 2006	93,674	\$500	X			X
Cerritos	January 2008	50,039	\$50*	X			
Compton	July 2007	100,050	\$500	X			X
Culver City	July 2009	40,103	\$235	X			X
Duarte	May 2013	22,033	\$100	X			
El Monte	November 2011	114,268	\$300	X			X
El Segundo	June 2010	16,717	\$250	X			
Gardena	July 2008	60,721	\$120 **	X			X
Glendale	September 2007	201,748	\$255	X			
Hawaiian Gardens	July 2011	14,753	\$246				X
Hawthorne	July 2009	87,662	\$375	X			X
Hermosa Beach	January 2019	19,708	\$404 (initial) \$344 (renew)	X			
Huntington Park	November 2011	59,383	No Fee Planned	X			
Inglewood	October 2007	114,900	\$350	X			X
La Canada Flintridge	June 2009	20,497	\$50*	X		X	
La Verne	January 2017	32,389	\$300	X		X	
Lancaster	June 2006	157,820	\$261	X			
Lawndale	October 2009	33,365	\$150				X
Lomita	May 2007	20,403	\$150	X			X
Long Beach	February 2008	480,173	\$442	X	X	X	
Los Angeles (City)	September 2005	4,041,707	\$300		X	X	X
Los Angeles County	December 2007	1,053,030	\$235	X	X		
Lynwood	October 2012	71,997	TBD			X	

Community	Date Passed	Population	Fee	Designated Administration/Enforcement Agencies			
				Law Enforcement	Health Department	City Officials	Other
Manhattan Beach	November 2015	35,924	TBD			X	
Malibu	November 2011	12,742	No Fee Planned*				X
Maywood	August 2006	27,6333	\$46 (initial) \$11.50 (renew)				X
Montebello	September 2009	63,917	\$300	X			
Monterey Park	April 2010	61,606	\$40*	X			
Palmdale	January 2010	158,605	\$350			X	
Pasadena	February 2004	143,333	\$225	X	X		
San Fernando	October 2008	24,486	\$250				X
San Gabriel	March 2010	41,020	\$300	X			
Santa Monica	November 2008	93,834	\$135			X	
Sierra Madre	November 2006	11,010	\$30	X			
South El Monte	September 2014	20,883	\$120				X
South Pasadena	February 2009	25,992	\$150				X
Temple City	December 2012	36,389	\$320 (initial) \$75 (renew)	X			
Marin County							
Corte Madera	March 2019	69,214	TBD		X		
Fairfax	December 2017	7,598	TBD			X	
Larkspur	April 2019	12,396	TBD		X		
Marin County	May 2012	69,214	\$25		X		
Mill Valley	September 2012	14,910	\$25	X			
Novato	January 2017	54,522	\$50 or less			X	
San Rafael	August 1991	60,842	\$48 (initial) \$10 (renew)				X
Sausalito	November 2018	7,601	\$50			X	
Mendocino County							
Fort Bragg	December 2012	7,772	\$195			X	
Mendocino County	April 2010	59,668	\$350		X		
Ukiah	December 2012	16,314	\$35	X		X	
Willits	October 2003	4,928	\$75		X		
Modoc County							
Alturas	February 2016	2,537	\$100 (initial) \$25(renew)	X			

Community	Date Passed	Population	Fee	Designated Administration/Enforcement Agencies			
				Law Enforcement	Health Department	City Officials	Other
Monterey County							
Carmel-By-The-Sea	June 2013	3,842	\$286	X	X		
Monterey	November 2014	28,828	\$286	X	X		
Monterey County	May 2012	107,009	\$286	X	X		
Salinas	January 2015	162,470	\$286	X	X		
Nevada County							
Grass Valley	November 2009	12,859	\$100	X			
Nevada City	November 2006	3,208	\$100	X			
Orange County							
Santa Ana	October 2006	341,341	\$635	X	X		
Riverside County							
Banning	August 2006	31,068	\$444		X		
Beaumont	December 2006	46,179	\$444		X		
Calimesa	June 2007	8,637	\$444		X		
Cathedral City	January 2016	52,381	\$444		X		
Canyon Lake	June 2009	10,891	\$444		X		
Coachella	July 2007	45,551	\$444		X		
Corona	October 2005	167,759	\$444		X		
Desert Hot Springs	August 2007	29,111	\$444		X		
Eastvale	October 2010	64,613	\$444		X		
Hemet	March 2008	81,868	\$444		X		
Jurupa Valley	September 2011	101,315	\$444		X		
Lake Elsinore	August 2007	62,092	\$444		X		
Menifee	December 2009	90,660	\$444		X		
Moreno Valley	September 2007	206,750	\$444		X		
Murrieta	May 2006	114,914	\$444		X		
Norco	March 2006	26,882	\$444		X		
Palm Springs	October 2018	48,142	\$444		X		
Perris	August 2008	75,739	\$444		X		
Rancho Mirage	May 2017	18,194	\$444		X		
Riverside (City)	May 2006	326,792	\$444		X		
Riverside County	January 2010	373,755	\$444		X		
San Jacinto	June 2006	47,925	\$444		X		

Community	Date Passed	Population	Fee	Designated Administration/Enforcement Agencies			
				Law Enforcement	Health Department	City Officials	Other
Temecula	June 2006	111,024	\$444		X		
Wildomar	July 2008	35,782	\$444		X		
Sacramento County							
Elk Grove	September 2004	171,059	\$270	X			
Rancho Cordova	February 2005	73,872	\$218	X			
Sacramento (City)	April 2019	493,025	\$370	X			X
Sacramento County	May 2004	584,729	\$309	X	X		
San Benito County							
Hollister	May 2006	36,677	\$269	X			X
San Diego County							
Chula Vista	March 2018	243,916	TBD	X		X	X
El Cajon	June 2004	102,803	\$675				X
Lemon Grove	December 2018	27,108	TBD	X			
San Marcos	July 2016	94,042	\$190	X			
Solana Beach	July 2009	13,527	\$110**				X
Vista	May 2005	101,797	\$250	X			
San Francisco County							
San Francisco	November 2003	874,228	\$315	X	X		
San Luis Obispo County							
Arroyo Grande	February 2005	17,736	\$208	X			
Grover Beach	September 2005	13,438	\$224	X			
San Luis Obispo (City)	August 2003	46,724	\$278	X			
San Luis Obispo County	October 2008	120,549	\$342	X			
San Mateo County							
Half Moon Bay	October 2018	12,870	\$153	X			
Pacifica	February 2008	38,124	\$79	X			X
Santa Barbara County							
Carpinteria	April 2013	13,943	\$379	X	X		
Goleta	May 2014	31,760	\$534	X	X		

*City or County fee does not fully cover administration and enforcement of the tobacco retailer license. Rather, the fee is supplemented with another stable source of funds, such as Master Settlement Agreement (MSA) funds or general funds.

** Fees may have additional restrictions, charges or may be combined with another fee.

Sources: Population figures are from California Department of Finance, E-1 Population Estimates for Cities, Counties and the State with Annual Percent Change — Jan. 1, 2016 and 2017.

Community	Date Passed	Population	Fee	Designated Administration/Enforcement Agencies			
				Law Enforcement	Health Department	City Officials	Other
Santa Barbara County	November 2010	143,439	\$409*	X	X		
Santa Clara County							
Campbell	December 2012	42,726	\$51	X			
Gilroy	November 2014	55,936	\$100	X			
Los Gatos	May 2017	31,314	\$425	X	X		
Morgan Hill	April 2014	44,145	\$125				X
Palo Alto	October 2017	65,412	\$425	X			
Santa Clara County	November 2010	87,764	\$425	X	X		
Saratoga	June 2015	30,569	\$50*	X		X	
Santa Cruz County							
Santa Cruz	October 2012	65,070	\$425	X			
Santa Cruz County	April 2011	136,193	\$318	X	X		
Scotts Valley	December 2015	12,163	No Fee Planned				
Watsonville	October 2012	53,015	\$255-\$382			X	
Sonoma County							
Healdsburg	November 2014	11,800	\$445	X			
Sonoma	June 2015	10,989	\$246	X			
Sonoma County	April 2016	151,371	\$350		X		
Windsor	March 2018	27,555	\$350		X	X	
Stanislaus County							
Riverbank	July 2010	24,610	\$25-\$200	X		X	
Ventura County							
Oxnard	February 2012	207,772	\$51*				X
Yolo County							
Davis	August 2007	68,740	\$344		X		X
Winters	January 2016	7,255	\$344		X		X
Woodland	June 2015	59,616	\$360				X
Yolo County	May 2006	30,122	\$344		X		X



May 22, 2019

City of Escondido Planning Commission
c/o Mr. Mike Strong
Assistant Planning Director
Planning Division
201 North Broadway
Escondido, California 92025

Re: Zoning Code Land Use Study

Dear Commissioners and Mr. Strong:

I would like to thank you for your time and consideration in allowing Goodwill Industries of San Diego County to offer our input into the formulation of the revised land use recommendations by City Staff.

My understanding is that the City has been diligently working to re-define some of the land use definitions and standards within the city for many months. Specifically, the uses that are being reconsidered include Used Car Sales, Auto Repair Shops, Fleet & Car Storage, Smoke E-cig and Vape Shops, Tattoo Parlors, Nail Salons, Laundromats and Dry Cleaning, Lodging/Motel/Hotels, Thrift/Consignment/Pawn/Second Hand Stores, Discount Stores, Banks, Check-Cash Establishments and Drive-Thru Businesses.

Each of the above uses offer their own unique products and services to the community. However, each also presents their own unique challenges. Goodwill is prepared to speak to the benefits and challenges surrounding the "second hand" retail business and why we are requesting your consideration during this land use review.

Goodwill Industries of San Diego County (GISD) was established in San Diego in 1930 and is a non-profit social enterprise that depends upon the revenue generated from the sale of valuable donations from the community, to provide employment and training opportunities to people with disabilities and other barriers to employment. Goodwill serves seniors, young adults, veterans and military families, and others facing challenges to finding employment. Our goal is to equip people to become gainfully employed, advance their careers and care for themselves and their families. Goodwill Industries of San Diego County operates 30 retail stores within the County that are known for providing quality used merchandise. This includes clothing, shoes, accessories, home décor, housewares, and furniture.

GISD currently has four (4) facilities in Escondido. We own a building at the intersection of Centre City Parkway and Washington Street that is a retail store and donation collection center. We also own a building on Grand Avenue that is an employment office and training facility. We lease a warehouse on Don Lee Place that is our North County Distribution Hub. Finally, we lease a unit on S. Centre City Parkway that is a donation collection center.

We are facing a challenge in that we have outgrown our retail store and donation center on Centre City Parkway. We have been in that location for 11 years and value the patronage of the community. We would like to continue to serve our loyal customers in the area by providing both quality used goods and employment services. Finding a location in the city that we can afford and one that is the correct size and configuration is very difficult. However, we have identified one.

The building we are interested in is the building that Rite-Aid recently vacated that is located at the intersection of W. Washington Avenue and N. Escondido Boulevard. It is located one (1) block from our existing location.

Its size, configuration, parking and placement on the site all work very well for our use. This proposed facility would (1) increase our retail sales area and donation processing area, (2) increase our parking spaces and (3) provide for a donation drop off area in the rear of the building out of site from passing traffic. Our current location's sales floor area is less than desirable, ideally it would be larger and not include a second floor. The parking spaces are fewer than desirable, thus causing customers to leave because they can't find a place to park. Finally, a combination of the donation drop off being located in the front of the store and the processing area being too small for the quantity of donations received, causes a less than pleasant appearance. We would like to correct all of these things and this is an opportunity to do that. Please see the matrix below for a more specific site comparison.

	Building Size/ Land Area	Parking
<i>Existing Location</i>		
506 W. Washington Ave.	13,352 sq.ft./ .63 acres	39 parking spaces
<i>Proposed Location</i>		
315 W. Washington Ave.	17,908 sq.ft./2.12 acres	111 parking spaces

Unfortunately, the zoning for the proposed location is different than that of our current location. Our current location is zoned CG (General Commercial), in which our use is currently permitted. The proposed location is zoned Downtown SP, and is part of the CCU District (Centre City Urban District) within that zone. The CCU District currently permits general retail uses, but specifically excludes pawn shops, second hand and thrift stores.

When we learned of this zoning restriction we contacted Planning staff and asked how we might initiate a zoning or land use modification. Staff suggested talking with Mr. Strong to better understand the process. During that discussion, we learned that the staff was already in the process of analyzing various land use definitions and standards. Among those standards being reviewed are “thrift stores, consignment stores, pawn shops and second hand dealers”. Mr. Strong suggested that now might be a good time to present our thoughts and learn if there is a way to create a “win-win” for both the City and GISD.

Towards that end we had the opportunity to review a draft copy of the staff’s report entitled “Zoning Code Land Use Study – Preliminary Recommendations”. Specifically, Item #9 “Thrift Stores, Consignment Stores, Pawn Shops and Second-Hand Dealers”.



Staff’s recommendations in that section include;

- Add definitions to the Zoning Code and differentiate between “thrift stores”, “pawn shops”, “second hand dealers” and “consignment shops” with all zoning terms.
- Conditionally permit “thrift stores”, “second hand dealers” and “consignment shops” within the CG zone.
- Prohibit “pawn shops” citywide.
- Clarify the prohibition of “thrift stores”, “pawn shops”, “second hand dealers” and allowance of “consignment stores” in limited zones of the East Valley specific plans. Continue similar regulations in the Downtown Specific Plan and also prohibit the “consignment stores” use in the downtown area.

We respectfully request that consideration be given to amending the second bullet point to read;

- Conditionally permit “thrift stores”, “second hand dealers” and “consignment shops” within the CG zone **and the CCU District of the Downtown Specific Plan Area.**

The report goes on and addresses adding new standards and guidelines. In summary, the new standards and guidelines include;

1. A designated area inside the building for receipt, sorting and processing of goods. Donated goods accepted only during regular business hours. Donations must be accepted through the rear of the store. Directional signage from the entrance to the collection area, post notice that depositing goods after hours is prohibited and include daytime collection hours for donated goods.
2. No more than 30% of the floor area shall be used for receiving, sorting or storage of donated goods.
3. Post a notice that states the merchandise is primarily preowned.
4. All activities will be completely enclosed within the building.
5. Maintain the property free of trash and debris at all times. Be responsible for the removal of litter from the subject property and adjacent properties that that results from the thrift store.
6. Maintain in a neat, quiet and orderly condition
7. Storefront windows to be permanently maintained in a professional manner.
8. Exterior lighting to illuminate collection points.

Each of these conditions are reasonable. The only comment I have is that our business model suggests that our processing/donation area represent approximately 40% of the floor area. That is not to say that 30% won't work. Increasing our holding power to 40% allows us to service the site with fewer trucks and is therefore more efficient.

If we are successful in obtaining permission to operate at this proposed location we would cease to operate our retail store and donation center located at 506 W. Washington. We would either lease or sell the building to a user whose requirement is suited to the building.

I assure you that GISD will work hard to exceed the expectations of the City by being conscientious about the appearance of our facility and considerate of our neighbors. We will strive to be an asset to the community by providing needed employment services and job training.

Again, thank you for your time and consideration.

Sincerely,
GOODWILL INDUSTRIES OF SAN DIEGO COUNTY

David S. Kubly
Director of Projects