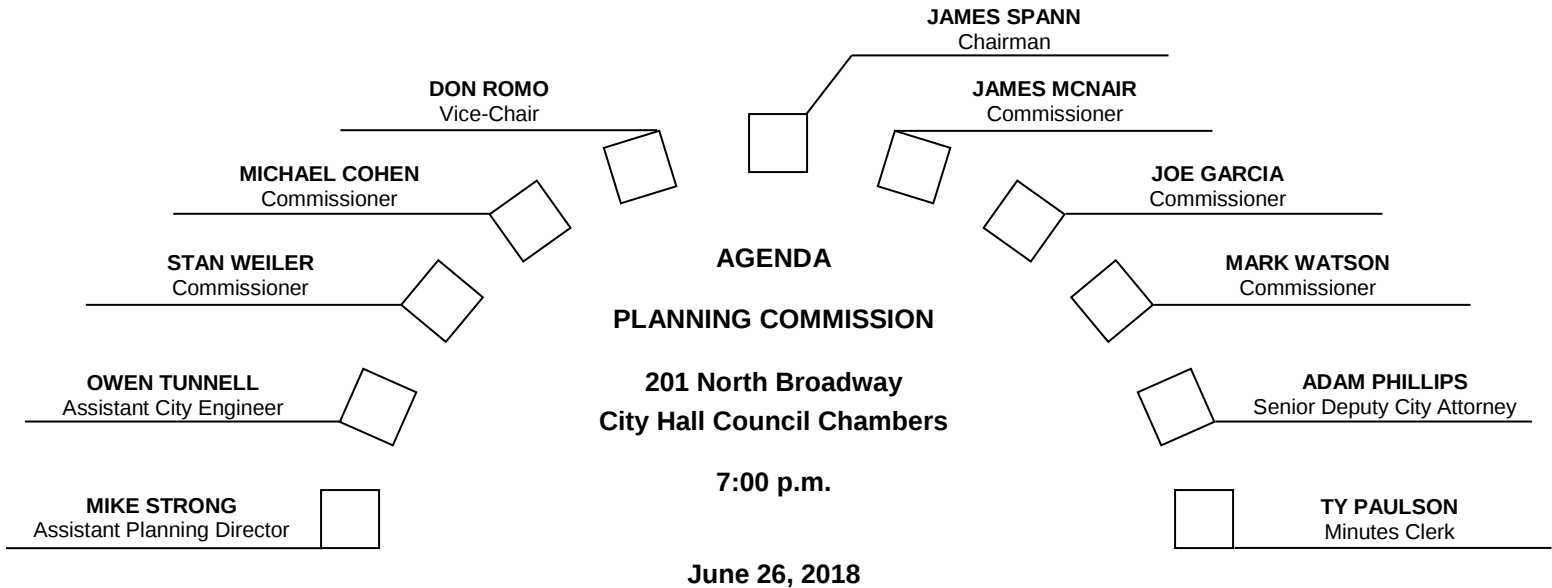


CITY OF ESCONDIDO

Planning Commission and Staff Seating



- A. CALL TO ORDER:** 7:00 p.m.
- B. FLAG SALUTE**
- C. ROLL CALL:**
- D. MINUTES:** 05/08/18

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

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

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

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

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

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

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

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

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

E. WRITTEN COMMUNICATIONS:

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

1. Future Neighborhood Meetings

F. ORAL COMMUNICATIONS:

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

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

G. PUBLIC HEARINGS:

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

1. [DOWNTOWN SPECIFIC PLAN AMENDMENT AND CONDITIONAL USE PERMIT – PHG 17-0014; PHG 17-0015 AND ENV 17-0003:](#)

REQUEST: The project includes three components. The first component modifies Article 1 (Definitions) of the Escondido Zoning Code to define drive-through establishments. The second component is an Amendment to the Downtown Specific Plan to allow drive-through restaurants within the Center City Urban (CCU) and Gateway Transit (GT) Districts, which currently prohibits this type of use. The third component of the project is a Conditional Use Permit (CUP) to allow the construction of a 1,900-square-foot Starbucks coffee shop with drive-through, at 350 West Valley Parkway. The proposed Specific Plan Amendment enables the review and consideration of the site development plan application and would authorize future development of drive-through establishments within the Centre City Urban and Gateway Transit Districts of the Downtown Specific Plan area with issuance of a CUP. Upon issuance of a CUP and completion of the project, the existing Starbucks franchise operating at 320 W. Valley Parkway would relocate to the new facility. The vacated building would remain vacant or be leased to another permitted business or land use activity. The proposal also includes the adoption of a Final Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the project.

PROPERTY SIZE AND LOCATION: The proposed Downtown Specific Plan Amendment (SPA) would change the use allowance matrix of the Gateway Transit (GT) and the Centre City Urban (CCU) Districts. The proposed Starbucks-drive through business would be located within an approximately 4.58-acre commercial center on the north side of West Valley Parkway between Escondido Boulevard and Center City Parkway, addressed as 350 West Valley Parkway (APN 229-332-45).

ENVIRONMENTAL STATUS: A Final IS/MND has been prepared in compliance with all requirements contained in the California Environmental Quality Act (CEQA) and Article 47 (Environmental Quality Regulations) of the Escondido Zoning Code. Mitigation measures were developed to reduce potential impacts to Tribal Cultural Resources.

APPLICANT: Eddie Goldberg

STAFF RECOMMENDATION: Approval

COMMISSION ACTION:

PROJECTED COUNCIL HEARING DATE:

2. REZONE, MASTER DEVELOPMENT PLAN, TENTATIVE SUBDIVISION MAP, GRADING EXEMPTION, SPECIFIC ALIGNMENT PLAN, AND DEVELOPMENT AGREEMENT – SUB 15-0002, PHG 15-0004, and ENV 15-0001:

REQUEST: The proposed project would rezone the 40.62-acre development site from RE-20 (Residential Estates; 20,000 SF minimum lot size) to PD-R (Planned Development- Residential), and a Master Development Plan would implement lot clustering and establish development standards for a new residential subdivision. The project also includes a Tentative Subdivision Map for 55 single-family residential lots, eight open space lots, a private street lot, and an emergency access street lot. Residential lot sizes in the new development would range from approximately 10,005 SF to 24,557 SF, with an average residential lot size of 11,915 SF. Approximately 20.04 acres of open space would be provided to offset the reduction of residential lot sizes as required by the Escondido General Plan, as well as to provide recreation space, stormwater facilities, and protection of biologically sensitive areas. Grading Exemptions are requested to allow fill slopes up to 64' within 50' of the property line; fill slopes up to 65' beyond 50' of the property line; and cut slopes up to 42'. An application for a Precise Development Plan would be filed at a later time to provide details on architectural design. A Specific Alignment Plan application was filed in conjunction with the proposed project and proposes improvements to Bear Valley Parkway between Ranchito Drive and the north end of the residential development site. A Development Agreement proposes terms for the acquisition of right-of-way to complete these improvements, as well as financial responsibility for their completion. The request also includes certification of the Final Environmental Impact Report prepared for the project.

PROPERTY SIZE AND LOCATION: The 40.62-acre residential development site is located on the east side of Bear Valley Parkway, north of Sunset Drive/Ranchito Drive and south of Choya Canyon Road. It is addressed as 661 Bear Valley Parkway (APNs 237-131-01 and 237-131-02).

ENVIRONMENTAL STATUS: The Draft Environmental Impact Report (City Log No. ENV 15-0001) was issued for a 45-day public review on March 27, 2017. Responses to comments received on the Draft EIR have been incorporated into the Final EIR. Mitigation measures required under CEQA were developed to reduce the potential for adverse impacts with respect to biological resources, cultural/tribal cultural resources, geology and soils, hazards and hazardous materials, noise, and transportation and traffic.

APPLICANT: Spieth & Wohlford Inc.

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

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

May 8, 2018

The meeting of the Escondido Planning Commission Meeting 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; Joe Garcia, Commissioner; James McNair, Commissioner; Mark Watson, Commissioner; and Stan Weiler, Commissioner.

Commissioners absent: None.

Staff present: Bill Martin, Director of Community Development; Mike Strong, Assistant Planning Director; Adam Finestone, Principal Planner; Darren Parker, Associate Planner; Owen Tunnell, Assistant City Engineer; Adam Phillips, Senior Deputy City Attorney; and Ty Paulson, Minutes Clerk.

MINUTES:

Moved by Commissioner Weiler, seconded by Commissioner McNair, to approve the minutes of the April 24, 2018, meeting as amended by Chairman Spann to correct the list of those commissioners sworn in to office. Motion carried. Ayes: Garcia, McNair, Spann, Romo, Watson, and Weiler. Noes: None. Abstained: Cohen. (6-0-1)

WRITTEN COMMUNICATIONS – Received.

FUTURE NEIGHBORHOOD MEETINGS – None.

ORAL COMMUNICATIONS:

Chairman Spann provided a proclamation to Jeffrey Weber for his public service to the City of Escondido.

Bill Martin, Community Services Director, thanked Jeffrey Weber for his services to the City.

PUBLIC HEARINGS:

Item 2 taken out of order.

2. ZONING CODE AMENDMENT – AZ 18-0004:

REQUEST: Amendment to the Escondido Zoning Code to change the number of menu boards allowed for drive-through restaurants. Current citywide sign regulations allow up to two (2) freestanding menu board signs for each drive-through business. The proposed Zoning Code Amendment would increase the maximum number of menu board signs allowed to accommodate businesses that feature more than one stacking lane. The proposal also includes the adoption of the environmental determination prepared for the project.

PROPERTY SIZE AND LOCATION: Citywide

Adam Finestone, Principal Planner, referenced the staff report and noted that staff recommended approval of the proposed resolution, recommending that the City Council adopt, with any suggested edits, amendments to Article 66 of the Zoning Code, for the following reasons:

- The proposed amendment would update sign regulations to accommodate drive-through restaurants constructed with multiple drive-through lanes.
- Allowing two (2) boards per stacking lane helps promote and achieve appropriate site development of drive-through facilities. Allowing a preview board and an order board for each stacking lane will further one of the purposes of providing multiple stacking lanes by reducing the likelihood that queuing vehicles would spill out on public streets and major parking lot aisles.

Commissioner Watson asked if the proposed sign would utilize fixed graphics. Mr. Finestone replied in the affirmative.

Commissioner Cohen and staff discussed the proposed access for the project.

ACTION:

Moved by Commissioner Weiler, seconded by Commissioner Watson, to approve staff's recommendation. Motion carried unanimously. (7-0)

1. APPEAL OF ADMINISTRATIVE DECISION – PHG 18-0008:

REQUEST: An appeal of Administrative Decision Per Article 40, Section 33-803 of the Escondido Zoning Code, for the non-emergency demolition of a skating rink building constructed in 1950 and remodeled in 1959. Demolition of the building has been requested in conjunction with a Plot Plan application to construct a carwash facility on the property. In accordance with City policy, the existing building was evaluated to determine if the building constitutes a significant historic resource. The assessment concluded that the subject building does not qualify under any criterion for nomination to the California Register of Historical Resources/National Register of Historical Places, and is not eligible for listing on the Local Register of Historical Places. Therefore, the Planning Division concluded that the non-emergency demolition permit could be considered at a staff level. Gary and Christine Stang (Skate World) is appealing the administrative decision to the Planning Commission. The subject site is located within the CG (Commercial General) zone, and within the GC (General Commercial) General Plan designation. The scope of the hearing only includes the procedure and findings for obtaining a non-emergency demolition permit.

PROPERTY SIZE AND LOCATION: The subject site is located on the east side of N. Broadway, just north of Mission Avenue and south of Lincoln Avenue, addressed as 862 N. Broadway, (APN: 229-130-49)

Mike Strong, Assistant Planning Director, noted that the item was an appeal of an administrative decision that a determination was made that the subject building and site were not historically significant in the review of a demolition permit. This limits the scope of the public hearing. He stated that the Commission was not considering the demolition permit, the future use of the site, the proposed plot plan application for a carwash facility at the site, or the interim ordinance for a moratorium on all carwash primary uses or future uses for the site.

Darren Parker, Associate Planner, referenced the staff report and noted staff issues were whether the existing structure or subject site was historically significant and whether the property may contain historical resources even if they haven't previously been identified. Staff recommended upholding the administrative decision due to the following:

- The scope of the public hearing only includes the procedure and findings for obtaining a non-emergency demolition permit. Article 40, Section 33-803 of the Escondido Zoning Code allows for the issuance of a non-emergency demolition permit if the structure is not considered Historically

significant. There were no procedural violations that justifies further proceedings.

- The existing structure is not historically significant concluded by an historical assessment that was completed on April 7, 2017 by Brian Smith and Associates and in accordance with CEQA and Section 33-803 of Article 40 (Historical Resources) of the Escondido Zoning Code.

Commissioner Watson asked if the request included the review of the historical report to determine if it was accurate in its findings. Mr. Strong replied in the affirmative.

Chairman Spann noted that he had received 20 speaker slips in favor of the appeal who did not want to speak.

Christina Stang, Operations Manager at Skateworld San Diego, noted that they filed the appeal to stop the demolition of the only single-span structure in San Diego County, and to protect the childhood memories of hundreds of individuals. She then asked the audience who were in favor of the appeal to stand (whereby the majority of the audience stood). She noted that the Commission had received over 30 letters in support of the appeal. She expressed concern with the historical report potentially being bias due to being done a party who was hired by the owner of the subject property. She asked that they be allowed to hire their own historian to vet the exterior and interior so as to receive an unbiased evaluation of the property. She noted that the skating surface at the subject site was still in good shape in 2013. She stated that they had created a Facebook Page that had over 1,500 people trying to save the site. She asked that the Commission help save the Ups-N-Downs.

Geoff Barry, Attorney for Skateworld, felt the historical report had the potential to be bias because it was done by the developer's historian. He felt that any report of similar nature was subjective based on personal opinions of the author. He stated that the developer's historian identified 2 out of 7 elements to determine the sites historical significance, noting his view that only one more was needed to classify it as historical. He stated that the author of the historical report found that the building could qualify for the City's Historical Register but then disqualified it. Mr. Barry asked that any decision be delayed for 45 days to allow Skateworld's historians to vet the developer's report and provide further information on the potential historical significance of the subject property. He indicated that the 45-day delay should not be prejudicial to the developer since the moratorium had already been imposed. He felt this allowed both parties time to present additional evidence.

Gary Stang, Owner/Operator of Skateworld, noted that he had operated Skateworld for over 43 years. He stated that they catered to schools, private events, fundraisers, and had been a magnet to draw people to Linda Vista. He indicated that they were the only roller skating facility in San Diego, noting they received numerous calls from North County residents asking when they were going to open in North County. He elaborated that skating rinks provided drug and alcohol free, affordable family entertainment that helped keep kids off the street. He also felt that they could create a viable business using the subject site.

Commissioner Weiler asked Mr. Stang how long he had been in negotiations with the subject property owner. Mr. Stang noted that they had their broker contact the property owner who indicated the facility was being demolished and a carwash was being put in.

Commissioner McNair stated that the letter from Skateworld indicated that they made contact with the owner back in 2013, questioning whether any negotiations had occurred during the last five years. Mr. Stang noted that he had not had any discussions with the property owner. Christina Stang commented that they had visited the property in 2013 and opened discussions with the property's broker to no avail.

Commissioner McNair asked Mr. Stang whether they felt the subject property could be a viable roller skating business if the moratorium was given and the building was not demolished. Mr. Stang stated that he would like the opportunity to open negotiations with the property owner.

Robert Reed, Escondido, noted that his mother and father skated at Ups-N-Downs along with his siblings. He felt a skating facility would help bring back affordable family entertainment to the community and help with the City's economic plan to make Escondido a destination city. He also noted that the closest skating facility was located in San Diego.

Jodene Reid, Escondido, was in favor of the appeal.

Teri Fowles, Escondido, noted she had skated at Ups-N-Downs since she was a child along with her children. She stated that Escondido had a large skating community. She indicated that she used to drop off and pick up kids at Ups-N-Downs, noting it provided a safe environment and kept kids off the street. She was in favor of saving the single span building, feeling it was historical in nature and could ultimately be a viable business under the right management.

Brett Stang, San Diego, noted that in 2013 they visited the subject property and tried to negotiate with the property owner to no avail due to the property owner

wanting to wait to see if a large vehicle corporation was interested in the property. He stated that they were very interested in leasing the property. He felt Escondido had a need for a skating facility. He elaborated that they were in favor of the appeal to continue this item for 45 days.

April Hanna, Escondido, noted she was an avid roller skater, noting that skating helped both physically and mentally. She stated that she had met numerous individuals while working at UPS who had frequented Ups-N-Downs. She expressed her desire to see the property become a masterpiece for the City as a skating rink, feeling the City needed a place for passionate skaters.

John Hall, Encinitas, thanked the City for hearing the public and thanked the Stang family for their interest. He noted that he was a former professional roller derby skater, skating coordinator, and trained many actors and actresses how to skate. He stated he used to be part of a skating rink in an area that had gang activity. He noted that they were able to convert gang members into working citizens and get many of them off the street. He elaborated that he was a security guard for Skateworld and had never seen gang activity. He noted that skating facilities provided drug and alcohol free family entertainment at a reasonable price. He felt that a skating facility was needed in North County.

Aaron McCann, Escondido, felt the subject facility had historical significance. He noted he had looked at the subject property in the past to create a viable skating rink to no avail. He questioned whether the property owner was now willing to negotiate since they were willing to sell the property.

Alexi Ohre, Oceanside, noted that she had multiple birthday parties at Ups-N-Downs. She felt the historical report did not encapsulate the historical significance of this facility to the community. She noted that she was a roller derby skater, noting this type of facility as well as heavily sought after. She also stated that they used to hold afterschool programs at Ups-N-Downs for at risk teens, noting this type of facility was needed.

Jennifer Dolge, Escondido, stated that she was on a roller derby team and skated at Ups-N-Downs until 2010. She stated that North County had two adult youth roller derby teams, noting that North County needed a skating facility. She felt that reopening the skating rink would help the youth and families of Escondido.

Stephanie McCann, Escondido, noted that the closest skating facility was in San Diego, noting her view that Escondido did not have many activities. She asked that the subject facility not be demolished; noting there were thousands of memories associated with the facility, which she felt should be considered in the historical report.

Tara Mallis, Escondido, stated that the memories and cultural significance attached to the subject property needed to be factored into the historical report. She indicated that it was clear from the Facebook Page and from the amount of people at this hearing that Ups-N-Downs was a critical part of Escondido's history.

Alyssa and Serenity McCann, Escondido, expressed their enthusiasm with actively participating in roller derby at Skate World.

Robert Bleuer, Escondido, noted that he has lived in Escondido his whole life and was concerned with the loss of family entertainment establishments such as the bowling alley and miniature golf facility. He felt saving Ups-N-Downs would be the first step to help make Escondido a family city. He stated that he worked with at risk children, expressing his concern that there was nowhere in the City for kids to be entertained or interact with other kids in a safe environment at a reasonable cost. He also encouraged the City to restore the Ritz Movie Theatre on Grand Avenue.

Mr. Hall noted that Beau Humphries wanted to speak on behalf of the armed forces in favor of the appeal.

Marian Sedio, Valley Center, stated that she used to bring foster kids from a boys ranch in Valley Center to Ups-N-Downs, noting it was very therapeutic to them. She also felt Ups-N-Downs had helped keep kids off the street.

Commissioner Watson asked Mr. Barry if he had an example of bias in the historian's report. Mr. Barry stated that he was suggesting that the bias was due to the historian was hired by the developer.

Commissioner Watson asked Mr. Barry if he was aware of any other examples that would qualify the property as historically significant. Mr. Barry noted that the report had identified two out of the seven elements that would qualify it as historic.

Commissioner Watson asked Mr. Barry if they were prepared to commission a historical report. Mr. Barry replied in the affirmative.

Kristina Halleox, Escondido, expressed her passion with roller derby and quad roller skating. She stated that they were requesting time to show the historical significance of the property.

Chairman Spann asked staff to reiterate and clarify the scope of the public hearing and what specifically was to be considered by the Commission.

Mr. Strong noted that the item before the Commission was to contemplate whether the site was historically significant and whether the property contained historic resources.

Commissioner Weiler asked if the Commission was only considering whether the facility was a historic resource. Mr. Strong further clarified the matter of the appeal was based on a notice received by the appellant about an intended decision based on the procedure and findings for the issuance of a non-emergency demolition permit. The basis of that decision being on the historical status of the site.

Commissioner Weiler asked if staff's view was that the property did not meet the threshold to be considered a historic site. Mr. Strong replied the affirmative based on the evidence included in the historical assessment and in consideration of all evidence of record to date. Mr. Strong also noted that the subject site is not listed on any registry or local survey of historical buildings.

Commissioner Weiler asked if the appellant could appeal the decision of the Planning Commission to the City Council. Mr. Strong replied in the affirmative.

Commissioner Weiler asked when the Historic Preservation Commission would become involved. Mr. Strong noted that the Historic Preservation would only become involved if the property was determined to be historic.

Commissioner Garcia noted that he was torn between the property owner rights and the passion and desire to retain the facility by the public. He also questioned whether there was enough interest today to make it a viable business.

Commissioner Weiler noted that he skated at Ups-N-Downs and would like to see it reopen. He sympathized with the passion to reopen the facility and also with the property owner. He stated that the question before the Commission was whether the site was historic, noting to date studies had shown that the facility did not meet the criteria as a historic structure.

Vice-chairman Romo expressed his concern with the subjectivity resting on both parties, noting that the issue with the skating facility was that the value did not appear to work for the proposed business.

Chairman Spann noted that roller skating was a wonderful past time. He did not feel the subject facility could generate the type of revenue needed to keep it viable. He also stated that he concurred with the historical report.

Commissioner McNair did not feel memories made a site historic.

ACTION:

Moved by Commissioner McNair, seconded by Commissioner Weiler, to approve staff's recommendation. Motion carried unanimously. (7-0)

Chair Spann adjourned the meeting at 8:30 pm and reconvened the meeting at 8:34 pm.

1. Informational presentation on the Climate Action Plan Update (PHG 18-0009), and summary of anticipated outreach events and activities.

Mike Strong, Assistant Planning Director, referenced the staff report and provided a presentation on climate action planning and the anticipated approach to updating the City's Climate Action Plan. No action was required at this time except to provide direction to staff as appropriate.

Commissioner Weiler asked that the Commission be informed of any future workshops or community meetings. Mr. Strong indicated that the Commission would receive regular updates on the work program, including public outreach activities.

Vice-chair Romo and Mr. Strong discussed the threshold goals.

Commissioner Watson and Mr. Strong discussed the penalties and rewards for jurisdictions meeting their threshold goals.

Commissioner Watson felt some of the 2050 goals appeared to be significant.

Marian Sedio, Valley Center, noted that she wanted to be part of the proposed process and stated that she appreciated the work being done by City staff. She also asked that the process be open and transparent.

ORAL COMMUNICATIONS: None.

PLANNING COMMISSIONERS: No comments.

ADJOURNMENT:

Chair Spann adjourned the meeting at 9:09 p.m. The next meeting was scheduled for June 12, 2018, at 7:00 p.m. in the City Council Chambers, 201 North Broadway, Escondido, California.

Mike Strong, Secretary to the Planning
Commission

Ty Paulson, Minutes Clerk

DRAFT

PLANNING COMMISSION

Agenda Item No.: G.1
Date: June 26, 2018

CASE NUMBER: PHG 17-0014, PHG 17-0015, & ENV 17-0003

APPLICANT: Eddie Goldberg

LOCATION: The proposed Downtown Specific Plan Amendment (SPA) would change the use allowance matrix of the Gateway Transit (GT) and the Centre City Urban (CCU) Districts. The proposed Starbucks drive-through business would be located within an approximately 4.58-acre commercial center on the north side of West Valley Parkway between Escondido Boulevard and Center City Parkway, addressed as 350 West Valley Parkway (APN 229-332-45).

TYPE OF PROJECT: Specific Plan Amendment and Conditional Use Permit

PROJECT DESCRIPTION: The project includes three components. The first component modifies Article 1 (Definitions) of the Escondido Zoning Code to define drive-through establishments. The second component is an Amendment to the Downtown Specific Plan to allow drive-through restaurants within the Center City Urban (CCU) and Gateway Transit (GT) Districts, which currently prohibits this type of use. The third component of the project is a Conditional Use Permit (CUP) to allow the construction of a 1,900-square-foot Starbucks coffee shop with drive-through, at 350 West Valley Parkway. The proposed Specific Plan Amendment enables the review and consideration of the site development plan application and would authorize future development of drive-through establishments within the Centre City Urban and Gateway Transit Districts of the Downtown Specific Plan area with issuance of a CUP. Upon issuance of a CUP and completion of the project, the existing Starbucks franchise operating at 320 West Valley Parkway would relocate to the new facility. The vacated building would remain vacant or be leased to another permitted business or land use activity. The proposal also includes the adoption of a Final Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the project.

STAFF RECOMMENDATION: Recommend the City Council approve the proposed Specific Plan Amendment and CUP as set forth in this staff report and described in Exhibit "B"

GENERAL PLAN DESIGNATION/ZONING (FOR THE CONDITIONAL USE PERMIT):

General Plan: Specific Plan Area 9 (SPA 9).

Zoning: Downtown Specific Plan (Centre City Urban District)

BACKGROUND/SUMMARY OF ISSUES: Currently there are five (5) drive-through establishments in the Centre City Urban District of the Downtown Specific Plan and one (1) in the Gateway Transit District. Four (4) of these establishments are related to the fast-food industry, including Albertos, KFC, Taco Bell, and McDonalds. However, the Specific Plan does not permit drive-through restaurants and these existing uses do not conform with the zoning requirements. Any new drive-through facility proposed within the Specific Plan would have to amend the plan to authorize this type of land use activity.

The Planning Division received a request from Helf Pavilion, LLC, to develop a drive-through coffee facility at 350 W. Valley Parkway. Per Chapter VIII of the Downtown Specific Plan, amendments to said Specific Plan require initiation by the City Council prior to submittal of a formal application. The City Council provided direction to staff on February 14, 2018 to process the application.

The proposed Downtown Specific Plan Amendment request would allow drive-through establishments in the Centre City Urban District and Gateway District of the Downtown Specific Plan, subject to a Conditional Use Permit (CUP). In consideration of potential concerns about the concentration, location, and certain characteristics associated with new drive-through establishments, language has been added to the Specific Plan to help control the intensity of this land use category type and to ensure its compatibility with surrounding commercial uses, as outlined in the draft code language (attached to this report as Exhibit "B"). Zoning Code Article 16, Section 33-341 was adopted by Ordinance No. 2018-07R, earlier this year, which provided additional regulation of drive-through facilities, citywide. Additional revisions would be made to various sections of the Downtown Specific Plan and the City's Zoning Code as part of this amendment.

The CUP has been requested in order to establish a Starbucks drive-through establishment (Starbucks) as a drive-through restaurant at 350 W. Valley Parkway. The proposed drive-through restaurant consists of a 1,900 square foot building within a 4.58-acre commercial shopping center (consisting of a cinema, retail shops and restaurants) on the north side of West Valley Parkway between Escondido Boulevard and Center City Parkway. The proposed facility generally satisfies all of the proposed criteria set forth in the proposed Specific Pan Amendment.

A Draft Initial Study and Mitigated Negative Declaration (IS/MND) was prepared for the proposed project and identified potentially significant impacts in the areas of Tribal Cultural Resources. The Draft IS/MND was circulated for public review for 20 days (April 24, 2018 – May 14, 2018). No comments were received. Mitigation measures have been identified that would reduce all potential impacts to a less-than-significant level. Therefore, preparation of an Environmental Impact Report is not required. A copy of the Final IS/MND can be found at the following link:

<https://www.escondido.org/Data/Sites/1/media/PDFs/Planning/starbucks/MNDStarbucksDriveThrough.pdf>

Staff feels the issues are as follows:

1. Appropriateness of the proposed Specific Plan Amendment to allow drive-through establishments within the Downtown Specific Plan (Center City Urban and Gateway Transits Districts).
2. Whether the subject commercial site is appropriate for the proposed drive-through establishment and whether the operation would impact adjacent uses.

REASONS FOR STAFF RECOMMENDATION: Staff recommends approval of the Project for the following reasons:

1. The Zoning Code Amendment adds definitions for "drive-through business" to the Zoning Code. This amendment is necessary to establish parameters to this particular use category type. The Specific Plan Amendment proposes to add a new land use category to the Specific Plan to conditionally permit drive-through businesses. This would maximize the City's ability to exercise discretionary review of applications for drive-through establishments. Discretionary review is a higher level of review of land use development applications. The

decision-maker may exercise discretion in granting approval of drive-through establishments proposals.

2. The subject site is appropriate for a drive-through business since the site is located within a large commercial shopping center, with adequate access, and conditions of approval would be applied to the Project, which would address any potential impacts the business may have on other adjacent businesses and adjacent properties.
3. The Final IS/MND has been prepared in compliance with all requirements contained on the California Environmental Quality Act and Article 47 (Environmental Quality Regulations) of the Escondido Zoning Code. The project applicant has agreed to implement all mitigation measures identified in the Final IS/MND in order to reduce all potentially significant environmental impacts to a less-than-significant level, in accordance with the Mitigation Monitoring Reporting Program (MMRP) prepared for the project.

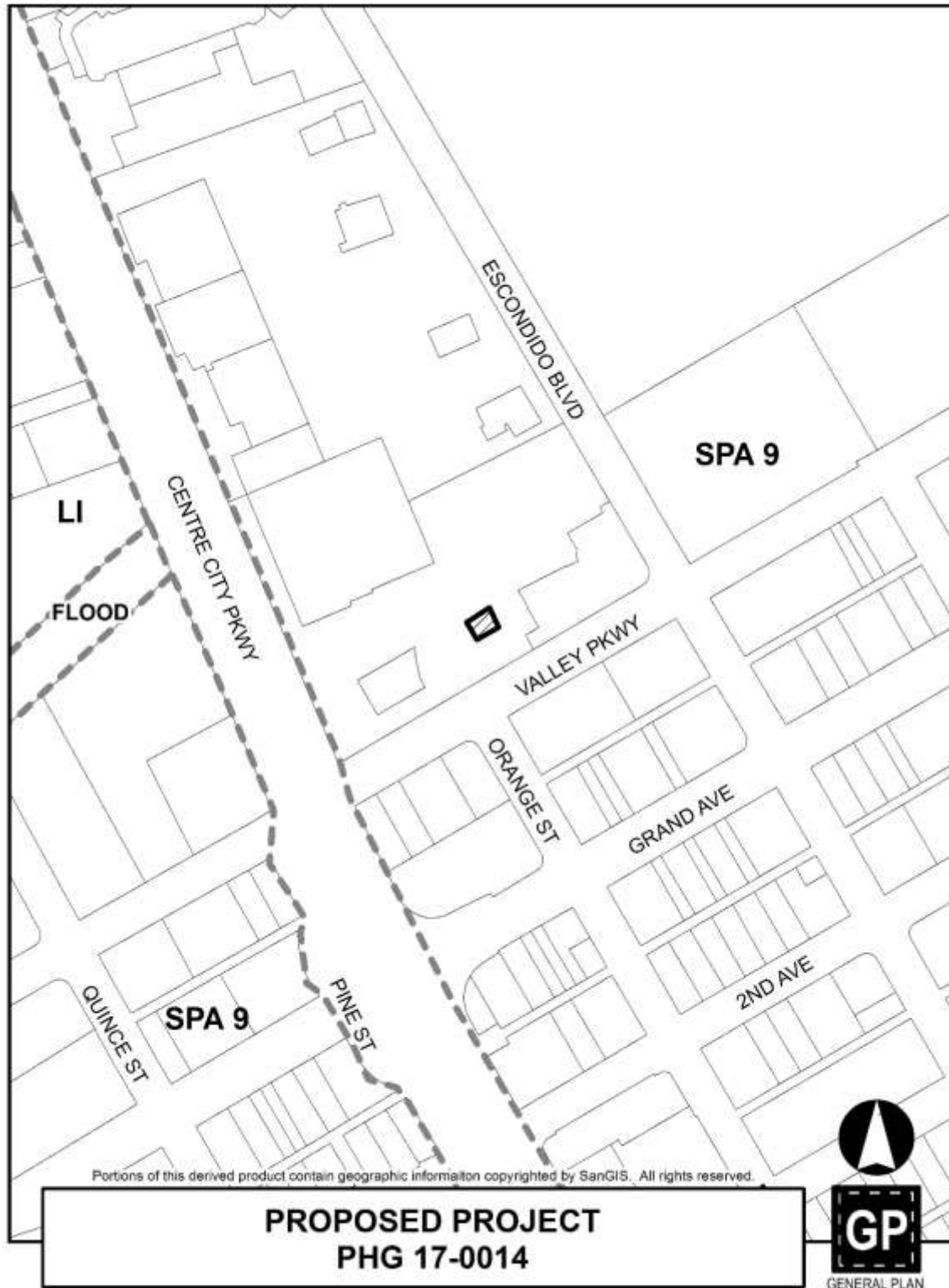
Respectfully Submitted,

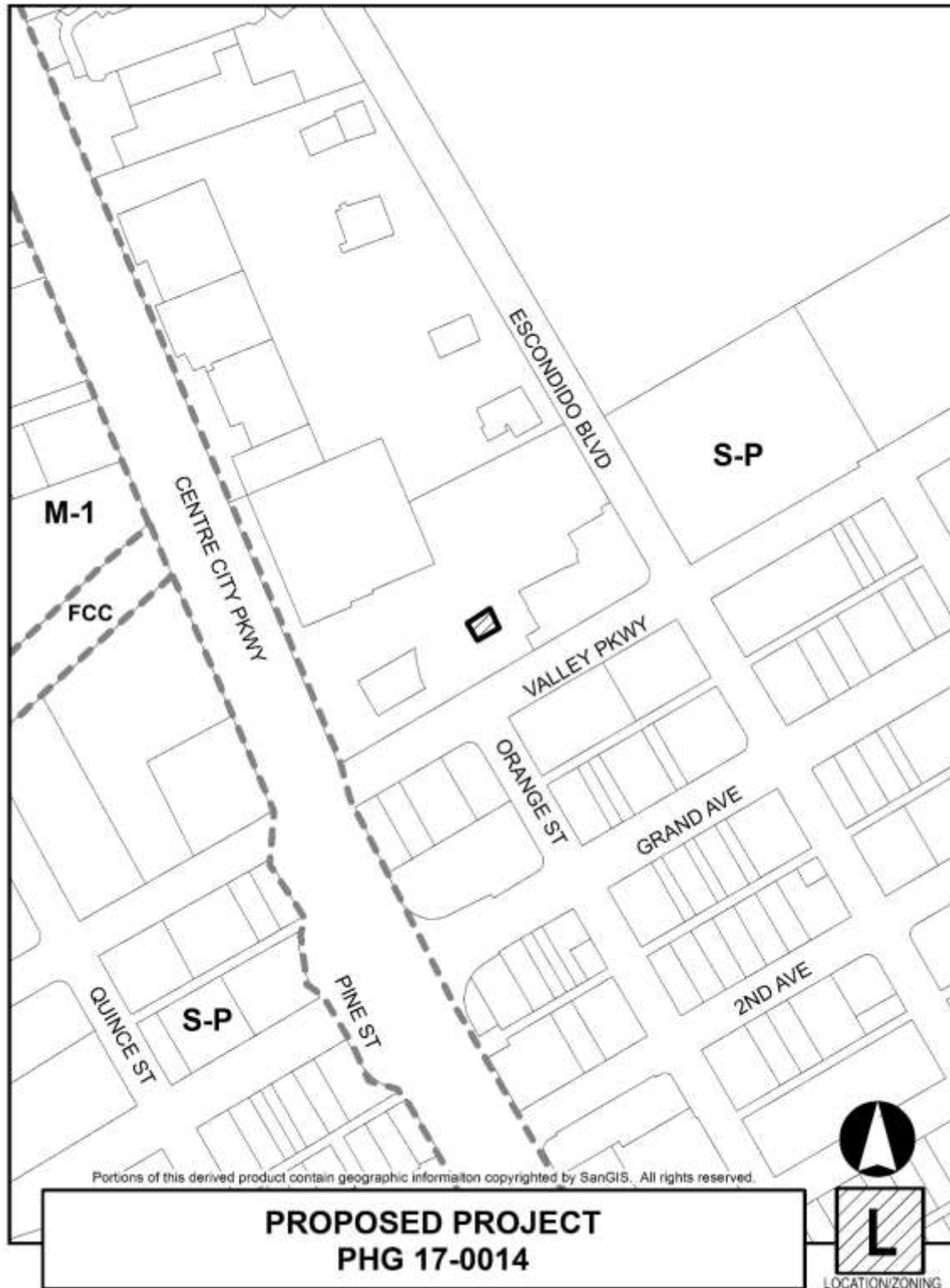


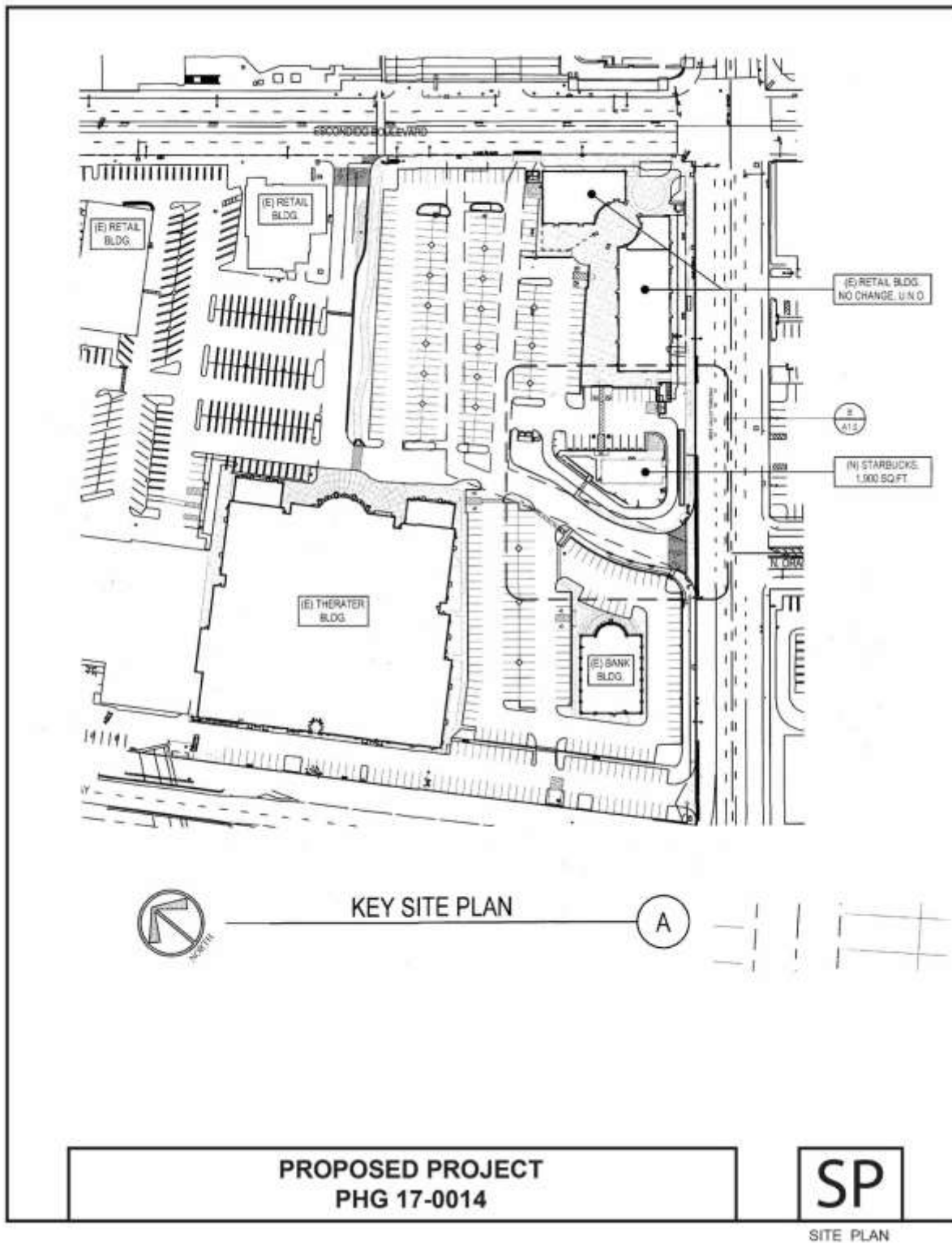
Darren Parker
Associate Planner

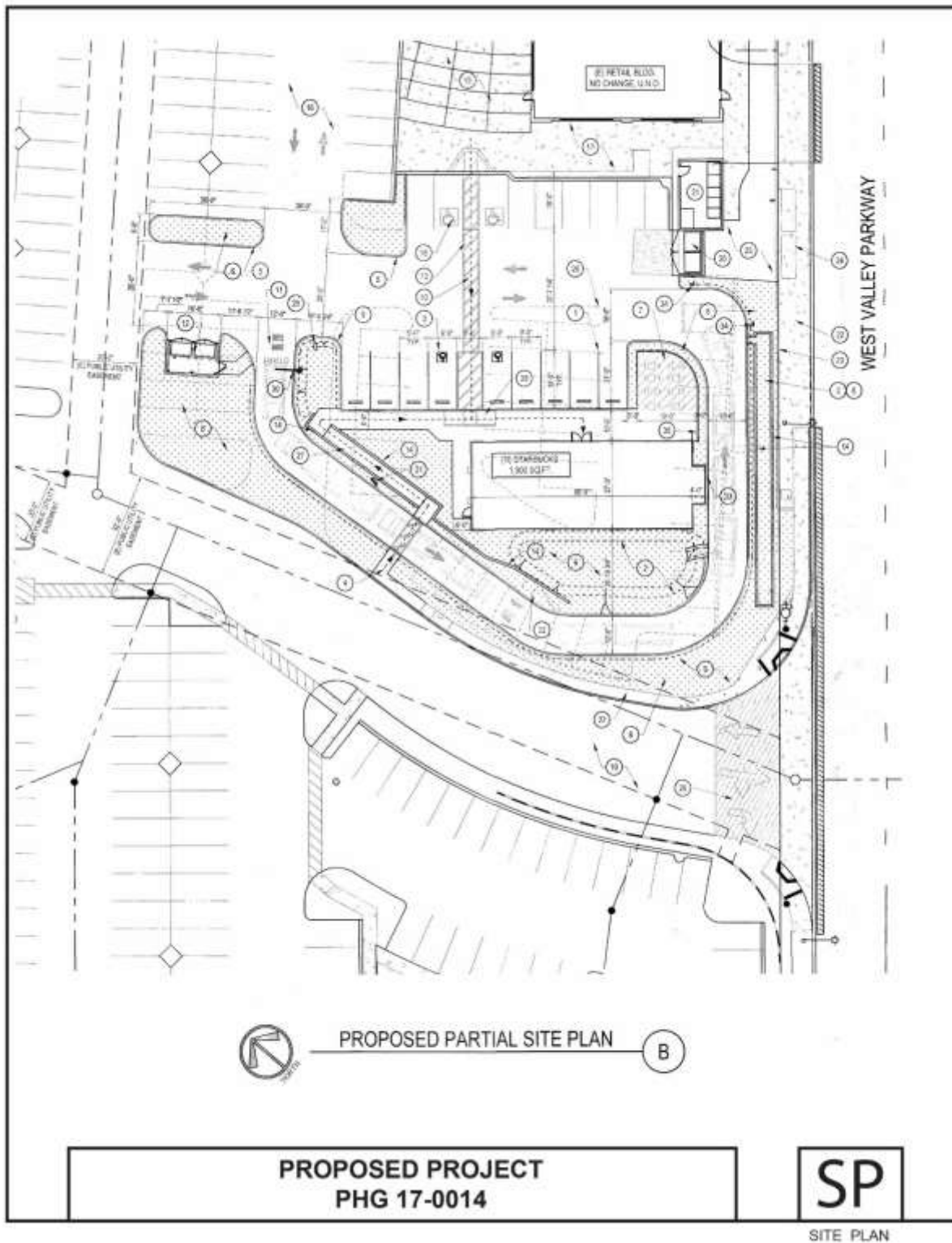
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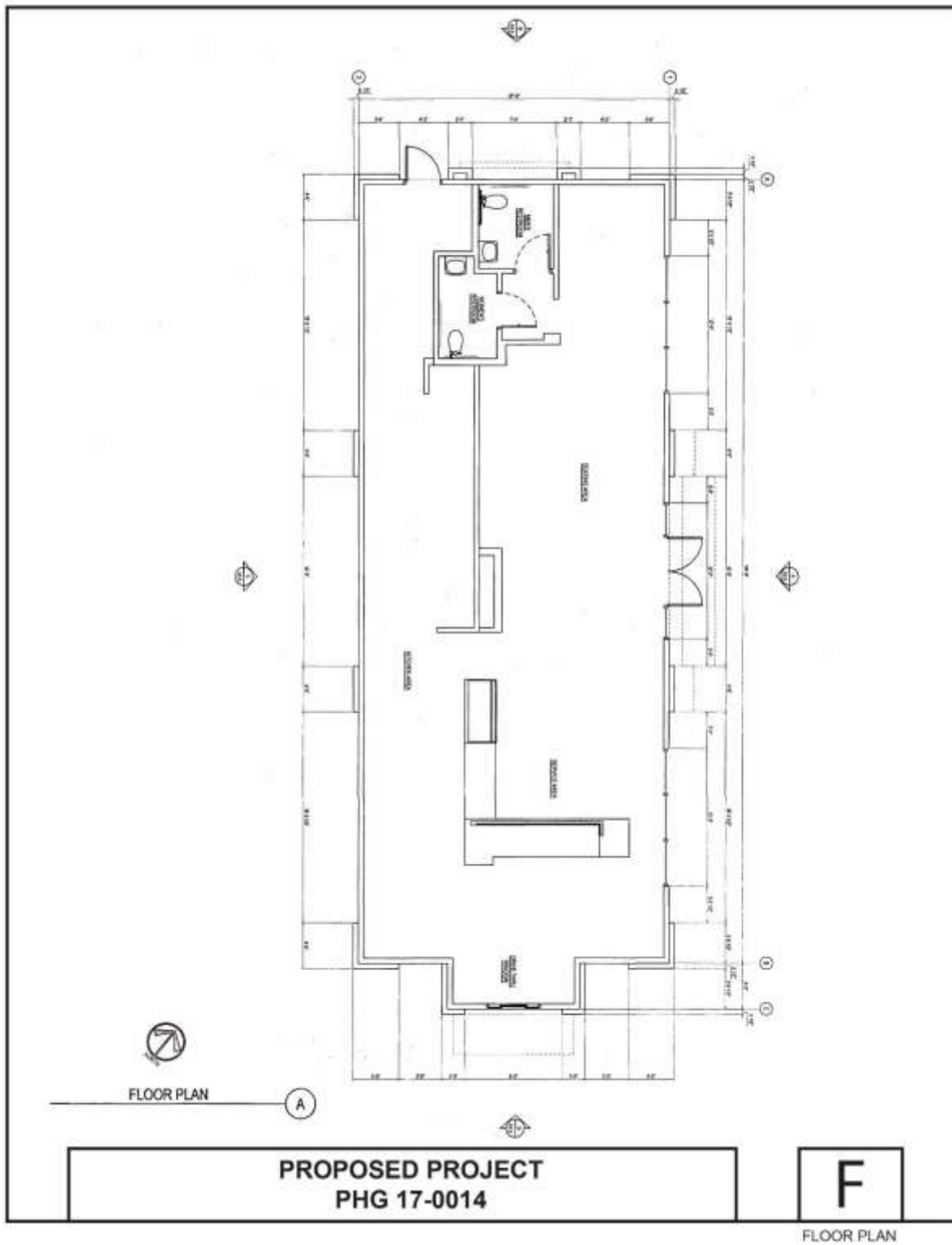
- A. Factors to be Considered/Findings of Fact
- B. Proposed Zoning Code and Specific Plan Amendment
- C. Conditions of Approval
- D. Mitigation Monitoring Report (MMRP)

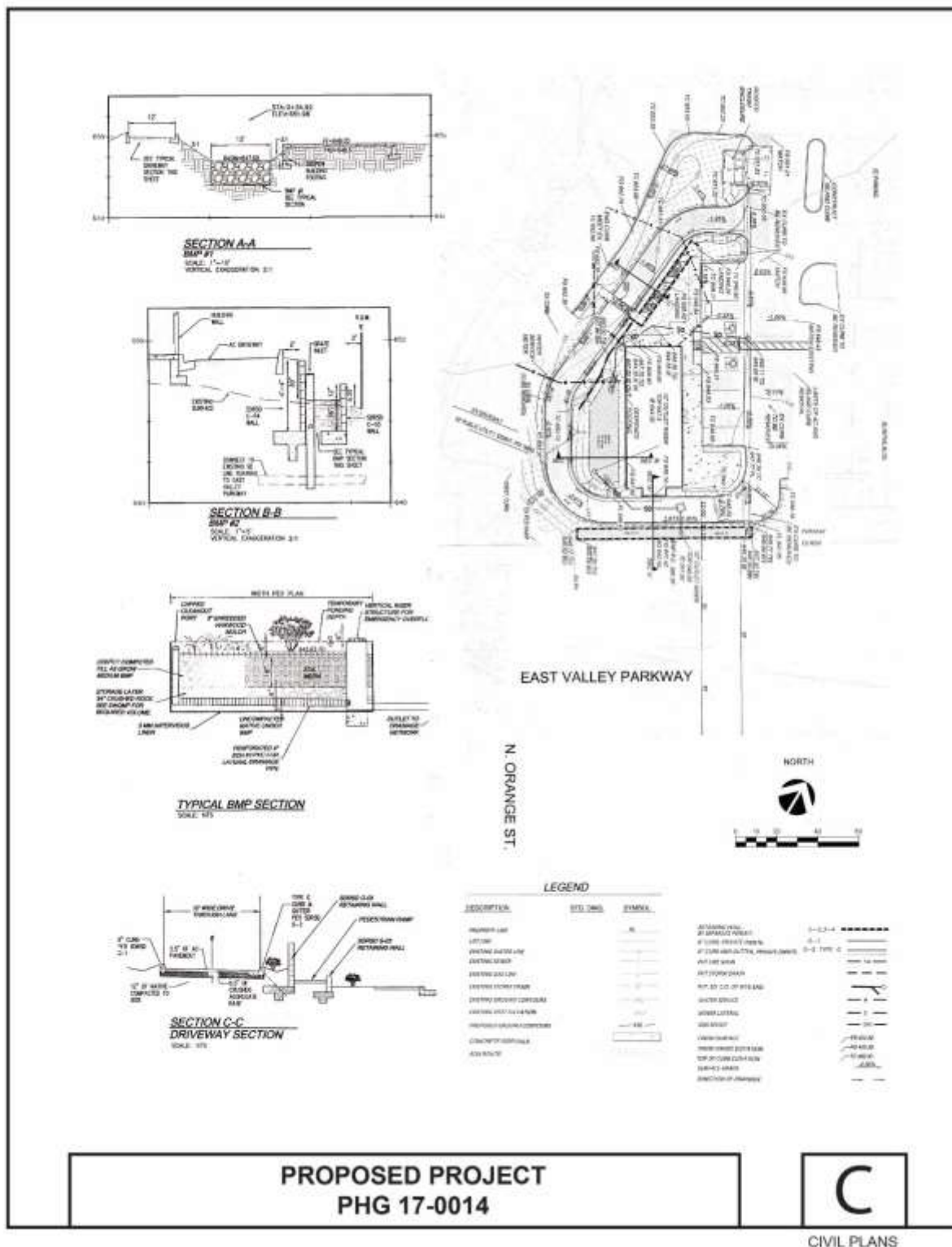


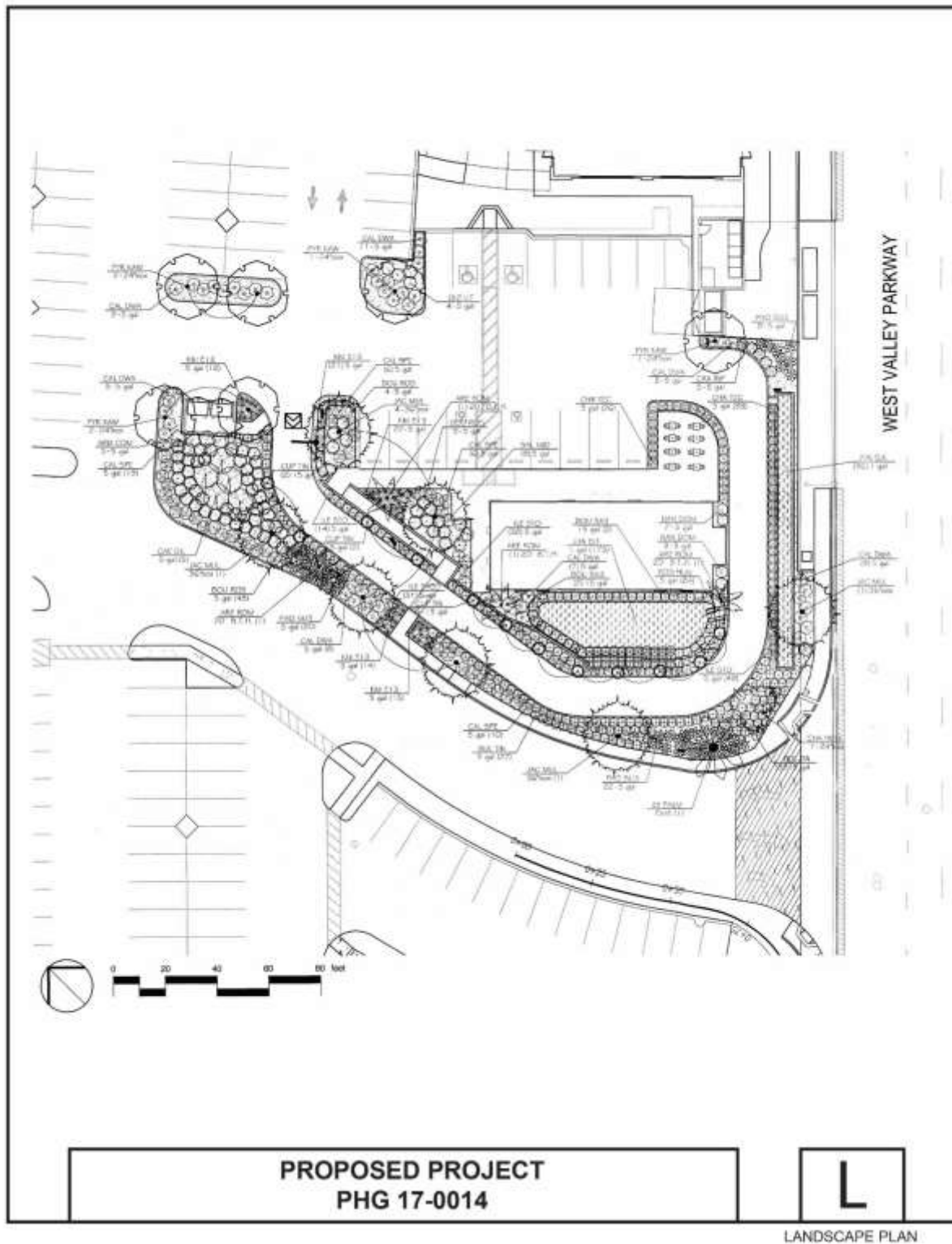
















NORTH ELEVATION

A



WEST ELEVATION

B

PROPOSED PROJECT
PHG 17-0014

E

ELEVATIONS - COLOR



SOUTH ELEVATION

C



EAST ELEVATION

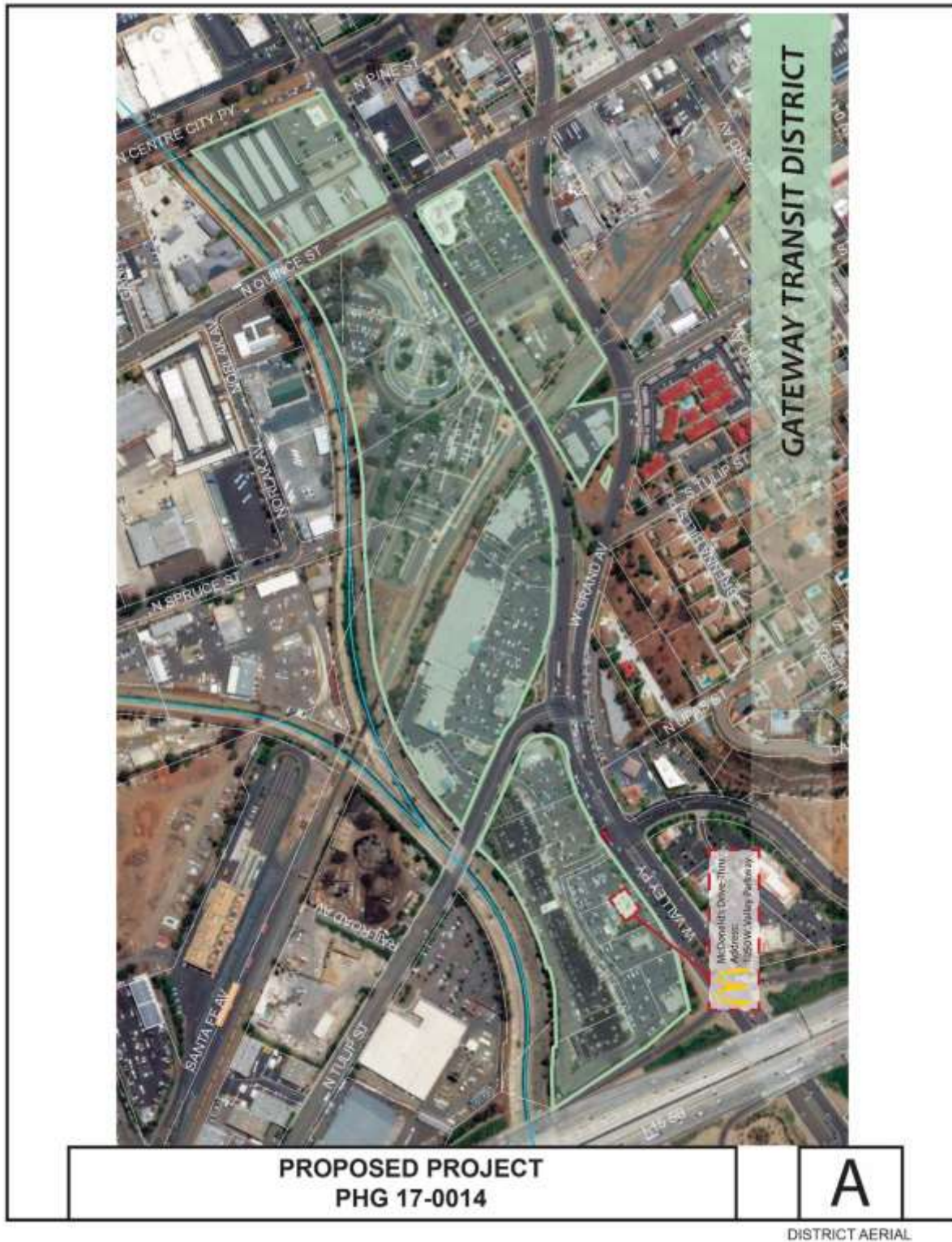
D

PROPOSED PROJECT
PHG 17-0014

E

ELEVATIONS - COLOR





ANALYSIS

A. LAND USE COMPATIBILITY/SURROUNDING ZONING

NORTH: SP zoning (Specific Plan-Center City Urban District) –immediately to the north of the subject is an existing commercial shopping center consisting of a cinema, restaurants and retail shops.

SOUTH: SP zoning (Specific Plan-Historic Downtown District) – Directly south of the project site across W. Valley Parkway is a parking lot and a bank building (Wells Fargo) This building takes access from W. Valley Parkway.

EAST: SP zoning (Specific Plan) – Directly east of the subject site is multi commercial building consisting of restaurants and retail. Across Escondido Blvd is the Escondido Performance Art Center.

WEST: SP zoning (Specific Plan-Center Urban District) – immediately to the west of the subject site across the driveway access off of W. Valley Parkway is a vacant commercial building (previous use was a bank) within the same shopping center as the project site.

B. ENVIRONMENTAL STATUS: A Final IS/MND has been prepared in compliance with all requirements contained in the California Environmental Quality Act (CEQA) and Article 47 (Environmental Quality Regulations) of the Escondido Zoning Code. Mitigation measures were developed to reduce potential impacts to Tribal Cultural Resources. The project applicant has agreed to implement all mitigation measures identified in the Final IS/MND in order to reduce all potentially significant environmental impacts to a less-than-significant level, in accordance with the Mitigation Monitoring Reporting Program (MMRP) prepared for the project.

C. AVAILABILITY OF PUBLIC SERVICES

1. Effect on Police Service -- The Police Department expressed no concern regarding their ability to serve the site.
2. Effect on Fire Service – The Fire Department has expressed no concern relative to its ability to provide service to the site.
3. Traffic -- The proposed amendment to the Downtown Specific Plan is not expected to have a significant impact on traffic. Access to the proposed drive-through business site is provided off of W. Valley Parkway, which is a collector road. The Engineering Services Department indicated that the proposed project is not anticipated to have any significant individual or cumulative impacts to the circulation system or degrade the levels of service on any of the adjacent roadways or intersections.
4. Utilities – Water and sewer service to the site is currently provided by the City of Escondido. The project would not impact utility services to the site.
4. Drainage – There are no significant drainage courses on or adjacent to the site. The project would not impact existing facilities because the site is fully developed and no new development is proposed.

D. ZONING CODE AND SPECIFIC PLAN AMENDMENT ANALYSIS

Drive-through restaurants have proven to be successful as they target the mobile and car-oriented markets with the convenience and service of food or other services. Currently, drive-through business are not defined in the City's Zoning Code or the Downtown Specific Plan. Drive-through business are permitted and regulated in the City commercial zones (Article 16, Section 33-341) and are prohibited in the Downtown Specific Plan.

Zoning determines what can be built on your property and which uses are allowed. Typically, this is provided within the Zoning Code and Specific Plans, and land uses are categorized as primary permitted uses, accessory uses permitted in combination with a primary use, temporary uses, conditional uses, and prohibited uses. Conditionally permitted land uses are subject to review by the City's Zoning Administrator or Planning Commission through a public hearing. One method to control and regulate drive-through establishments is to control where they are conditionally permitted in the Downtown Specific Plan.

The Zoning Code Amendment proposes to define drive-through business and the Specific Plan Amendment proposes to add a new land use category type in the Downtown Specific Plan to conditionally permit drive-through business (as a primary use) in the Center City Urban District and Gateway Transit Districts. Accessory use of a drive-through (incidental to another permitted land use) would be permitted in all districts. Currently, six (6) drive-through businesses exist within the Center City Urban and Gateway Transit Districts of the Downtown Specific Plan. If the Commission is interested in conditionally permitting drive-through establishments within the two (2) districts of the Downtown Specific Plan (and prohibiting them elsewhere in the Specific Plan), then staff recommends referencing the existing requirements of Section 33-341 and establishing additional requirements for drive-through businesses in the Downtown Specific Plan. Staff recommends that uses which contain drive-through facilities in the Specific Plan be located on a site having a minimum frontage of one hundred (100) feet on a major street as indicated in the City's General Plan; and must have a minimum separation of 500' from any other business that operate a drive-through as a primary use. Collectively, the proposed additional criteria can be used to ensure that drive-through business support the City's adopted goals, policies and plans for future land use development.

As proposed, the Specific Plan Amendment would create use authorization for these uses and provide a mechanism to bring the existing drive-through business into conformity. The Specific Plan Amendment would reduce/narrow the inventory of land available for this use type if operating as a primary use, while at the same time create more flexibility for accessory use of a drive-through.

E. CONDITIONAL USE PERMIT ANALYSIS

A drive-through coffee facility requested a Conditional Use Permit (CUP) to operate as a drive-through business use within an existing 4.58 commercial shopping center (consisting of a cinema, retail shops and restaurants) located in the Center City Urban district of the Downtown Specific Plan. The proposed drive-through restaurant consists of a 1,900 square foot building. Conditions of approval have been proposed to ensure that the proposed use is compatible with existing and future commercial users in the complex. The proposed use is not anticipated to generate noise, traffic, or other impacts that would be detrimental to adjacent properties or uses. Staff believes the proposed drive-through business is compatible with the surrounding industrial uses and appropriate for the site, and is therefore recommending approval of the proposed CUP.

Site and Building Design

Building mass, architectural style and plantings are designed to be compatible with commercial development in the surrounding area. The completion of the project would result in a new building, one that is in scale with the site and the surrounding vicinity. The proposed building meets all of the development standards for the subject zone. The proposed drive-through will have ingress and egress points internal to the parking lot of the commercial center. Sufficient stacking area is provided to ensure that the drive-through will function without impairing on-site or off-site circulation. The landscape plan provides a variety of existing and/or proposed trees, shrubs and groundcovers that will enhance the commercial center and provide adequate screening of the parking lot area, the drive-through facilities and the new trash enclosure.

**SUPPLEMENT TO STAFF REPORT/DETAILS OF REQUEST
(FOR THE CONDITIONAL USE PERMIT)**

A. PHYSICAL CHARACTERISTICS:

The proposed drive-through business consists of a 1,900 SF building within an existing 4.58-acre commercial shopping center. The property includes a number of commercial uses, including a grocery store, cinema, retail and restaurants, parking, landscaping, and associated site improvements. The property fronts on and takes access from a driveway on the north side of W. Valley Parkway. The project site is surrounded by similarly improved commercial/retail properties.

B. SUPPLEMENTAL DETAILS OF REQUEST

1. Property Size: 0.45 –acres (Within a 4.58-acre shopping center)
2. Building Size: 1,900 square feet
3. Parking:
 - Provided: 524 parking spaces (Overall parking for the shopping center)
 - Required: 9 parking spaces are required for 1,900 SF building at parking ratio of 1/200 (for shopping centers over 3-acres)

EXHIBIT “A”
FACTORS TO BE CONSIDERED/FINDINGS OF FACT
PHG17-00014, PHG17-0015 & ENV17-0003

Specific Plan Amendment

1. The public health, safety and welfare would not be adversely affected by the proposed Specific Plan Amendment. The proposed amendment revises the permitting process for drive-through establishments. The proposed Specific Plan Amendment, establishing special use regulations, would not be detrimental to surrounding properties because the proposed changes are to enhance neighborhood capability and land-use related buffering. Proposed and future projects must comply with any applicable laws and standards. This includes the Building Code, the Fire Code, and any property standards bylaws.
2. The proposed Specific Plan Amendment would not be detrimental to surrounding properties because drive-through establishments conditions of approval would be applied through the Conditional Use Permit (CUP) process that would restrict activities to those with negligible impacts on surrounding properties. Any compatibility issues would be analyzed and addressed as part of the CUP process on a case-by-case basis.
3. The proposed Specific Plan Amendment would be consistent with the goals and policies of the General Plan because the amendment would not, in and of itself, result in the development or any other material change to the environment. The proposed Specific Plan Amendment would not diminish the Quality of Life Standards of the General Plan, nor adversely impact community health or natural resources.
4. The proposed Zoning Code Amendment would not affect nor conflict with any adopted specific plans.

Conditional Use Permit (CUP)

1. Granting the CUP for the proposed drive-through establishment is based on sound principles of land use and would not create a nuisance, cause deterioration of bordering land uses, or create special problems for the area in which it is located because the use would be constructed within an existing commercial shopping center within the Downtown Specific Plan (Center City Urban District). The demand for parking does not exceed the supply of available spaces. Conditions of Approval would be applied to ensure that the drive-through establishment does not disrupt the current commercial uses and activities on site.
2. The CUP would not adversely affect or be inconsistent with any community or neighborhood plans in effect for the site or surrounding area. Said CUP is being processed in conjunction with a Specific Plan Amendment, which enables the approval of the CUP.
3. The CUP would assist in achieving the goals and policies in the General Plan.
4. The public health, safety and welfare would not be adversely affected by the proposed CUP because the drive-through business would be regulated by the conditions of approval and certain design standards and other permit related criteria, which

encompasses new specific conditions or standards, as amended through this proposed amendment.

5. The proposed CUP would provide a necessary and desirable service to the downtown community without adversely affecting the surrounding area or the city as a whole.
6. The CUP would become effective on the effective date of the proposed Zoning Code and Specific Plan Amendment.

Environmental Review:

1. Pursuant to the California Environmental Quality Act, (CEQA, Public Resources Code Section 21000 et. seq.), and its implementing regulations (the State CEQA Guidelines), 14 California Code of Regulations Section 15000 et. seq., the City of Escondido is the Lead Agency for the project ("Project"), as the public agency with the principal responsibility for approving the proposed grading permit to facilitate the construction of drive-through establishment and parking, located at 350 W. Valley Parkway.
2. An Initial Study/Mitigated Negative Declaration (IS/MND) for the Project was prepared, published, circulated and reviewed in accordance with the requirements of CEQA, the State CEQA Guidelines, and the local environmental procedures. The decision-making body of the Lead Agency shall adopt the proposed IS/MND only if:
 - It finds on the basis of the whole record before it that there is no substantial evidence the project will have a significant effect on the environment, and
 - The IS/MND reflects the Lead Agency's independent judgment and analysis.
3. The IS/MND and Mitigation Monitoring and Reporting Plan (MMRP), collectively constitute the environmental documentation under and pursuant to CEQA, the CEQA Guidelines, and local environmental procedures relating to the project, and shall be referred to herein collectively as the "CEQA Documents."
4. The Planning Commission has received the material record supporting all of the CEQA Documents for the project. The Planning Commission, finds that there is no substantial evidence that the project or any of its aspects could result in significant adverse impacts related to the CEQA Documents. All previously identified impacts have been mitigated to less than a significant level. The Planning commission also finds that the mitigation measures listed in the MMRP will not cause any potentially significant effects of their own.

EXHIBIT “B”

PROPOSED ZONING CODE AND SPECIFIC PLAN AMENDMENT LANGUAGE

SECTION I.

Amend the various Zoning Code sections to read as specified below (The changes are listed in order by section number, with ~~strikeout~~ typeface illustrating deletions and underline-typefaces illustrating new text.

Article 1, Section 33-8, Definitions. This section shall be amended to incorporate the following definition:

Drive-through business is defined as any building, establishment, or facility that provides a specified “drive-through” lane or driveway where customers receive a service or purchase goods while remaining in a motor vehicle in designated stacking aisles. Products or services are typically provided or dispensed through an attendant at a service window, order kiosk, and/or an automated machine. Drive-through businesses may operate as the primary use, such as in restaurants, eating establishments and coffee shops; or as an accessory use in combination with other uses, such as pharmacies, financial institutions, personal service shops, and other retail or customer-based service uses. A drive-through business does not include an automated car-wash service or gas pump island; however, they may be regulated similarly.

SECTION II.

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

Downtown Specific Plan, Figure II-2, Permitted and Conditional Uses. The table and footnote shall be amended to read as follows:

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

<u>LAND USE</u>	HD*	PV	CCU	GT	M	SG*	CN
<u>GENERAL RETAIL (continued)</u>							
Carpet and floor covering and installations	P6			P		P3	P6
Large appliance sales	P7	P	P	P	P1	P3	P6

Home Furnishings with retail display (not including "mattress only", carpet, and discount furniture stores)	P	P	P	P	P1	P3	P6
Hardware, paint, glass, tools, home improvement	P	P	P	P	P1	P1, P3	P6
Medical equipment sales/rentals and supplies	P7		P	P	P1	P3	P6
Outdoor vending machines		P					
<u>EATING AND DRINKING ESTABLISHMENTS</u>							
All types of eating establishments providing meal service from an on-site operating commercial-grade kitchen, and / or dessert service from an on-site operating commercial-grade freezer / refrigerator facility with, or without, incidental sale of alcohol (including micro-breweries and outdoor dining, but with no drive-through), with no live amplified entertainment or dancing	P	P	P	P	P	P3, P11	
<u>Eating establishments as drive-through businesses</u>			<u>C12**</u>	<u>C12**</u>			
Eating establishments (as defined above) with indoor amplified entertainment and/or dancing	P	P	P	P	P	C3	
Wine- and beer-tasting establishments (only with retail sales involving related merchandise that includes a significant portion of the sales area)	P	P	P	P	P	P3	
Drinking establishments, bars and nightclubs serving alcohol with or without live entertainment and / or dance	C	C	C	C	C	C3	

NOTES:

P = Permitted C = Conditional Use Permit required

- 1 Under 3,000 square feet.
- 2 Within Grand Avenue's "retail-core area" use is not permitted on ground floor facing Grand Avenue unless located behind a solid wall, and such wall shall be located at least 25% of the building depth back from the front, with a minimum of 25 feet of front retail depth, whichever is more. Primary entrance to this use must be from the alley. No signage facing Grand Avenue is permitted.
- 3 Only permitted on Escondido Boulevard.
- 4 Only permitted within a multi-tenant building, and shall not occupy more than 30% of the gross floor area.
- 5 Only in conjunction with an approved residential project.
- 6 Only permitted on Pennsylvania Avenue and the north side of Valley Parkway between Kalmia and Ivy Streets.
- 7 Not allowed along Grand Avenue on ground floor within the "retail core area."
- 8 Residential and mixed-use projects are permitted in specified areas, subject to a Planned Development approval in Article 19 of the Zoning Code.
- 9 No residential uses permitted between Woodward Avenue, Washington Avenue, Escondido Boulevard and Broadway.
- 10 Not allowed along Grand Avenue on ground floor between Grand and adjacent alleys.
- 11 Permitted on Local Historic Register properties.
- * Existing automobile dealerships are a non-conforming use. Conversion of these sites to a new and substantially different use shall require plot plan review or a Conditional Use Permit subject to the provisions in the Permitted Use Matrix.
- 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.
- ** The use which contains a drive-through facility as a primary use shall be located on a site having minimum frontage of 100 feet on a Circulation Element Street as indicated in the City's General Plan, and must have a minimum separation of 500 feet from any other business that operates a drive-through as a primary use.

DOWNTOWN DISTRICTS:

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

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

EXHIBIT "C"
CONDITIONS OF APPROVAL
PHG 17-0015
(Starbuck Drive thru)

General:

1. All uses, hours of operation, and activities shall be substantially consistent with the Details of Request on-file with the Planning Division, and as described within this report. Any substantial changes to the hours of operation shall subject to review and written approval by the Director of Community Development or his/her designee.
2. All uses shall be conducted entirely within the existing building.
3. Appropriate fire access and ADA compliant paths of travel shall be maintained, as may be required by the Fire Department and Building Division.
4. 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.
5. 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.
6. The City of Escondido hereby notifies the applicant that the County Clerk's office requires a documentary handling fee of \$50.00 in order to file a Notice of Determination for the project (environmental determination for the project). In order to file the Notice of Exemption with the County Clerk, in conformance with the California Environmental Quality Act (CEQA) Section 15062, the applicant shall remit to the City of Escondido Planning Division, within two working days of the final approval of the project (the final approval being the hearing date of the Planning Commission or City Council, if applicable), a certified check payable to the "San Diego County Clerk" in the amount of \$2,330.75. The filing of a Notice of Determination and the posting with the County Clerk starts a 35-day statute of limitations period on legal challenges to the agency's decision that the project is exempt from CEQA. Failure to submit the required fee within the specific time noted above will result in the Notice of Exemption not being filed with the County Clerk, and a 180-day statute of limitations will apply.
7. This Conditional Use Permit shall become null and void unless utilized within 12 months of the effective date of approval.
8. One trash enclosure and enclosed area dedicated for recyclable materials shall be provided, and shall be screened from public view. The design, size, location, appropriate access and method of roofing of the enclosure shall be detailed on the building plans and approved by the Planning and Engineering Divisions.
9. As approved by the City Staff Design Review on April 19, 2018, 2016 and revised May 24, 2018 the elevations, design, colors, landscaping and materials for the project shall be as shown on the color elevations and as modified by these conditions.

10. All new mechanical equipment (air conditioning units) and appurtenances placed on the roof structure shall be screened from public view to the satisfaction of the Planning Division. The preferred method of screening is by parapet wall or other architecture feature, which shall be clearly demonstrated on the building plans to the satisfaction of the Planning Division.
11. All new and existing perimeter fencing/walls shall be shown on the revised plans and landscape plans to the satisfaction of the Planning Division.
12. The hardscape area shown on the plans dated May 24, 2018 should be of decorative paving and shown on the revised plans to the satisfaction of the Planning Division
13. All new exterior lighting shall be arranged so as not to reflect upon adjoining property or streets. Exterior lighting shall conform to Article 35 of the Zoning Code. Outdoor lighting plans and lamp information shall be included in the building plans.
14. All new utility service shall be underground.
15. This project shall conform to the Public Art Partnership Program, Article 37 of the Escondido Zoning Code.
16. No outside storage is approved for this site.
17. No expansion of the drive-through business would be allowed without a conditional use permit modification.
18. Approval of this conditional use permit in no way implies approval of any sign or sign location. A separate permit is required.
19. Outdoor dining area for the overall pad area shall be limited to 300 SF. After the first 300 SF, parking shall be provided in accordance with Article 39, "Off Street Parking Ordinance" for the additional outdoor dining area.
20. Drive-through aisles shall have a minimum twelve (12) foot width on curves and a minimum eleven (11) foot width on straight sections and shall be shown on the revised site plan to the satisfaction of the Planning Division.
21. No utilities shall be released for any purpose or Certificate of Occupancy issued until all requirements of the Planning, Engineering, and Building Divisions have been completed.\
22. The plans submitted for building permit shall include notes or details containing the necessary work involved in complying with these project conditions

Landscaping:

1. If the proposed rehabilitated landscaping totals 2,500 SF or more, or new landscaped areas total 500 SF or more, a Landscape Documentation Package shall be prepared by, or under the supervision of, a licensed design professional and shall conform to the Escondido Zoning Code, Article 62 and the California Department of Water Resources Model Water Efficient Landscape Ordinance (MWELO). The plans shall indicate any existing trees or landscaping that is to remain as well as new landscape areas.
2. All existing and proposed landscaping shall be permanently maintained in a flourishing manner. Any landscaping that is removed shall be replaced and noted on the site plan to the satisfaction of the Planning Division.
3. All areas in this proposed development, which are not used for structures, parking, driveways, approved storage, or walkways, shall be landscaped.

4. The landscape plan shall be revised to reflect the current site plan and to show all locations of fire hydrants, transformers, utility boxes, driveways, utility easements and other easements of record.
5. Appropriate screening landscaping shall be required around any transformers and shall be shown on the landscape plan to the satisfaction of the Planning Division.
6. The outdoor seating area shall incorporate landscaping and shown on the final landscape plans to the satisfaction of the Planning division.
7. Trees located within six-feet of pavement shall be provided with root barriers.
8. Tree wells, shall have a minimum dimension of four (4) by four (4) feet square and shall contain one tree, fifteen (15) gallon in size and six (6) feet in height.
9. Terminal islands shall be a minimum of five (5) feet wide and shall contain at least one (1) tree for each row of parking spaces for which the island terminal is serving
10. Finger islands shall be a minimum of five (5) feet wide and shall contain at a minimum of one (1) tree, fifteen (15) gallon in size and six (6) in height.
11. Existing tree wells within the center shall contain one tree, fifteen (15) gallon in size and six (6) feet in height. Several trees have been removed and shall be replaced and noted on the landscape plans to the satisfaction of the Planning Division.
12. Additional landscaping and vines shall be grown onto walls and fences to soften their appearance, particularly the trash enclosure in the southeast corner of the site to the satisfaction of the Planning Division.
13. Additional landscaping consisting of trees and shrubs along W. Valley Parkway shall be provided to help screen the drive-through. Plant material shall be identified on the final landscape plan(s) to the satisfaction of the Planning Division.
14. Details of the green garden wall to help screen the drive-through shall be shown on the revised landscape plans to the satisfaction of the Planning Division.
15. All new and existing perimeter fencing/walls shall be shown on the final landscape plans.
16. The revised site plan and/or landscape plan shall incorporate measures to the satisfaction of the Planning Division, which screen peripheral views of parking areas particularly from the streets. Possible screening measures may include a combination of screen walls, fencing, or landscaping in connection with berming.
17. All required landscape improvements shall be installed and all vegetation growing in an established, flourishing manner prior to occupancy. The required landscape areas shall be free of all foreign matter, weeds and plant materials not approved as part of the landscape plan.
18. The installation of the landscaping and irrigation shall be inspected by project design professional upon completion. He/she shall complete a Certificate of Landscape Compliance certifying that the installation is in substantial compliance with the approved landscape and irrigation plans and City standards. The applicant shall submit the Certificate of Compliance to the Planning Division and request a final inspection.
19. All landscaping shall be permanently maintained in a flourishing manner. All permanent irrigation shall be maintained in fully operational condition.

Building:

1. Approval and subsequent development is subject to all conditions and requirements of the California Building Code and Building Division.
2. The project shall comply with the 2016 California Building Code
3. Check clearances in restrooms per Title 24 accessibility requirements.
4. When the occupant load exceeds 49, 2 exits are required, separated by at least ½ the diagonal dimensions of the space. The required exits may not exit thru the kitchen. Note: occupancy noted as A2 on sheet A1.0, no occupant load shown.
5. Path of travel from the public way shown thru the vehicle drive aisle for the restaurant. Please consider an alternate path.

Fire: No comments

Tribal Cultural Resources :

- CUL-1- The City of Escondido Planning Division ("City") recommends the applicant enter into a Tribal Cultural Resource Treatment and Monitoring Agreement (also known as a pre-excavation agreement) with a tribe that is traditionally and culturally affiliated with the Project Location ("TCA Tribe") prior to issuance of a grading permit. The purposes of the agreement are (1) to provide the applicant with clear expectations regarding tribal cultural resources, and (2) to formalize protocols and procedures between them. Applicant/Owner and the TCA Tribe for the protection and treatment of, including but not limited to, Native American human remains, funerary objects, cultural and religious landscapes, ceremonial items, traditional gathering areas and cultural items, located and/or discovered through a monitoring program in conjunction with the construction of the proposed project, including additional archaeological surveys and/or studies, excavations, geotechnical investigations, grading, and all other ground disturbing activities.
- CUL-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 have been retained to implement the monitoring program. The archaeologist shall be responsible for coordinating with the Native American monitor. This verification shall be presented to the City in a letter from the project archaeologist that confirms the selected Native American monitor is associated with a TCA Tribe. The City, prior to any pre-construction meeting, shall approve all persons involved in the monitoring program.
- CUL-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.
- CUL-4- During the initial grubbing, site grading, excavation or disturbance of the ground surface, the qualified archaeologist and the Native American monitor shall be on site full-time. The frequency of inspections shall depend on the rate of excavation, the materials excavated, and any discoveries of tribal cultural resources as defined in California Public Resources Code Section 21074. Archaeological and Native American monitoring will be discontinued when the depth of grading and soil conditions no longer retain the potential to contain cultural deposits.

The qualified archaeologist, in consultation with the Native American monitor, shall be responsible for determining the duration and frequency of monitoring.

- CUL-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 operation in the area of discovery to allow for the evaluation of potentially significant cultural resources. Isolates and clearly non-significant deposits shall be minimally documented in the field and collected so the monitored grading can proceed.
- CUL- 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 the tribal cultural resource's treatment and disposition shall be made by the qualified archaeologist in consultation with the TCA Tribe and the Native American monitor and be submitted to the City for review and approval.
- CUL-7- The avoidance and/or preservation of the significant tribal cultural resource and/or unique archaeological resource must first be considered and evaluated as required by CEQA. Where any significant tribal cultural resources and/or unique archaeological resources have been discovered and avoidance and/or preservation measures are deemed to be infeasible by the City, then a research design and data recovery program to mitigate impacts shall be prepared by the qualified archaeologist (using professional archaeological methods), in consultation with the TCA Tribe and the Native American monitor, and shall be subject to approval by the City. The archaeological monitor, in consultation with the Native American monitor, shall determine the amount of material to be recovered for an adequate artifact sample for analysis. Before construction activities are allowed to resume in the affected area, the research design and data recovery program activities must be concluded to the satisfaction of the City.
- CUL-8- As specified by California Health and Safety Code Section 7050.5, if human remains are found on the project site during construction or during archaeological work, the person responsible for the excavation, or his or her authorized representative, shall immediately notify the San Diego County Coroner's office. Determination of whether the remains are human shall be conducted on-site and in situ where they were discovered by a forensic anthropologist, unless the forensic anthropologist and the Native American monitor agree to remove the remains to an off-site location for examination. No further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains shall occur until the Coroner has made the necessary findings as to origin and disposition. A temporary construction exclusion zone shall be established surrounding the area of the discovery so that the area would be protected, and consultation and treatment could occur as prescribed by law. In the event that the remains are determined to be of Native American origin, the Most Likely Descendant, as identified by the Native American Heritage Commission, shall be contacted in order to determine proper treatment and disposition of the remains in accordance with California Public Resources Code section 5097.98. The Native American remains shall be kept in-situ, or in a secure location in close proximity to where they were found, and the analysis of the remains shall only occur on-site in the presence of a Native American monitor.
- CUL-9 If the qualified archaeologist elects to collect any tribal cultural resources, the Native American monitor must be present during any testing or cataloging of those resources. Moreover, if the qualified Archaeologist does not collect the cultural resources that are unearthed during the ground disturbing activities, the Native American monitor, may at their discretion, collect said resources and provide them to the TCA Tribe for respectful and dignified treatment in accordance with the Tribe's cultural and spiritual traditions. Any tribal cultural resources

collected by the qualified archaeologist shall be repatriated to the TCA Tribe. Should the TCA Tribe or other traditionally and culturally affiliated tribe decline the collection, the collection shall be curated at the San Diego Archaeological Center. All other resources determined by the qualified archaeologist, in consultation with the Native American monitor, to not be tribal cultural resources, shall be curated at the San Diego Archaeological Center.

CUL-10 Prior to the release of the grading bond, a monitoring report and/or evaluation report, if appropriate, which describes the results, analysis and conclusion of the archaeological monitoring program and any data recovery program on the project site shall be submitted by the qualified archaeologist to the City. The Native American monitor shall be responsible for providing any notes or comments to the qualified archaeologist in a timely manner to be submitted with the report. The report will include California Department of Parks and Recreation Primary and Archaeological Site Forms for any newly discovered resources

ENGINEERING CONDITIONS OF APPROVAL
350 W. Valley Parkway
PHG17-0014

IMPROVEMENTS

1. All onsite and offsite improvements shall be constructed in a manner that does not damage existing public improvements. Any damage shall be determined by and corrected to the satisfaction of the Director of Engineering Services.
2. Pedestrian access routes shall be provided into the project to the satisfaction of the Building Official and the Director of Engineering Services.

SITE DRAINAGE

1. A grading plan together with erosion control details prepared by a Registered Civil Engineer is required for all onsite improvements and shall be submitted separately to the Engineering Department. Grading plans are subject to approval by the Planning, Fire and Engineering Departments.
2. All private driveways and parking areas shall be paved with a minimum of 3" AC over 6" of AB or 7" PCC over 6" AB. All paved areas exceeding 15% slope or less than 1.0% shall be paved with PCC.
3. Erosion control, including riprap, interim sloping planting, gravel bags, 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 development of the project.
4. A Final Storm Water Quality Management Plan (SWQMP) in compliance with the City's latest adopted Storm Water Standards (BMP Manual) shall be prepared for all onsite, newly created impervious frontage, and required offsite improvements and submitted for approval together with the final improvement and grading plans. The Storm Water Quality Management Plan shall include hydro-modification calculations, treatment calculations, post construction storm water treatment measures and maintenance requirements.
5. All proposed retaining walls shall be shown on and permitted as part of the site grading plan. Profiles and structural details shall be shown on the site grading plan and the Soils Engineer shall state on the plans that the proposed retaining wall design is in conformance with the recommendations and specifications as outlined in the report. Structural calculations shall be submitted for review by a Consulting Engineer for all walls not covered by Regional or City Standard Drawings. Retaining walls or deepened footings that are to be constructed as part of building structure will be permitted as part of the Building Dept. plan review and permit process.
6. The on-site trash enclosure areas shall drain toward a landscaped area and include a roof over the enclosure in accordance with the City's Storm Water Management requirements and to the satisfaction of the Director of Engineering Services.
7. A Storm Water Control Facility Maintenance Agreement (SWCFMA) shall be executed by the property owner(s) and filed with the County Recorder's Office. All storm drains constructed with this project shall be considered private. The responsibility for maintenance of these storm drains and all post construction storm water treatment facilities shall be that of the property owner.

8. 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 Director of Engineering Services.
9. The Developer shall be responsible to repair or replace any driveway approach, curb and gutter, sidewalk, or other damages as a result of construction activities associated with this project.
10. After the approval of the site grading and erosion control plan, and prior to the start of construction of the grading improvements, the developer will be required to obtain a Grading Permit and Encroachment Permit from the Engineering Field Office.
11. A current preliminary title report shall be submitted with the grading plans.

*All site grading and erosion control plans shall be prepared by a Registered Civil Engineer. A separate submittal to the Engineering Department is required for the site grading and erosion control plans. Plans will **not** be forwarded from the Building Department.*

UTILITIES

1. Separate sewer laterals shall be installed from the public main to each building and shall be 6" PVC minimum with a standard clean-out at the property line or easement line. All sewer laterals shall be installed at right angle to the main in conformance with the City's Design Standards.
2. No trees or deep rooted plants shall be planted within 10' of sewer mains, sewer laterals, water mains, and water services.
3. 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.

WATER SUPPLY

1. Fire hydrants and fire service lines shall be installed at locations approved by the Fire Marshal and adequate public water mains and/or service laterals shall be installed per improvement plans submitted to and approved by the Director of Engineering Services and Director of Utilities.
2. An engineered improvement plan prepared by a Registered Civil Engineer is required for all public water improvements. The developer shall post security and fees for these improvements and an improvement plan shall be approved by the City of Escondido prior to issuance of any building permits. All required fire service and /or fire hydrant improvements shall be constructed prior to issuance of final occupancy by the City.
3. No trees or deep rooted plants shall be planted within 10' of water mains and water service.

EASEMENTS

1. All existing and proposed easements, both private and public, affecting subject property shall be shown and labeled on the grading plans and improvement plans if required. All structures shall be constructed or located outside all public and private easements.

CASH SECURITY 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 landscaping and 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 proper owner until the cash securities are replaced. The cleanup 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 Director of Engineering Services.
2. The developer will 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

1. 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.

**ATTACHMENT “D”
MITIGATION MONITORING REPORT
CASE No: ENV17-0003**

PROJECT NAME: Mitigated Negative Declaration

PROJECT DESCRIPTION: The project includes three components. The first component modifies Article 1 (Definitions) of the Escondido Zoning Code to define drive-through establishments. The second component is an Amendment to the Downtown Specific Plan to allow drive-through restaurants within the Center City Urban (CCU) and Gateway Transit (GT) Districts, which currently prohibits this type of use. The third component of the project is a Conditional Use Permit (CUP) to allow the construction of a 1,900-square-foot Starbucks coffee shop with drive-through, at 350 West Valley Parkway. The proposed Specific Plan Amendment enables the review and consideration of the site development plan application and would authorize future development of drive-through establishments within the Centre City Urban and Gateway Transit Districts of the Downtown Specific Plan area with issuance of a CUP. Upon issuance of a CUP and completion of the project, the existing Starbucks franchise operating at 320 West Valley Parkway would relocate to the new facility. The vacated building would remain vacant or be leased to another permitted business or land use activity. The proposal also includes the adoption of a Final Mitigated Negative Declaration and Mitigation Monitoring and reporting program for a drive-through establishment.

PROJECT LOCATION: 350 W. Valley Parkway (APN 229-332-45)

APPROVAL BODY/DATE:

PROJECT MANAGER: Darren Parker-Associate Planner
(760)-839-4553

CONTACT PERSON: Eddie Goldberg
PHONE NUMBER:

Mitigation Measures are to be implemented

NATURE OF IMPACT	MITIGATION MEASURE	IDENTIFICATION. NO. LOCATION IN DOC.	RESPONSIBIL ITY FOR IMPLEMENT.	CERTIFIED INITIAL/D ATE	COMMENTS
CUL 1	The City of Escondido Planning Division (“City”) recommends the applicant enter into a Tribal Cultural Resource Treatment and Monitoring Agreement (also known as a pre-excavation agreement) with a tribe that is traditionally and culturally affiliated with the Project Location (“TCA Tribe”) prior to issuance of a grading permit. The purposes of	Tribal Cultural Resource (6). Mitigation Measure #1	Applicant		

	the agreement are (1) to provide the applicant with clear expectations regarding tribal cultural resources, and (2) to formalize protocols and procedures between them. Applicant/Owner and the TCA Tribe for the protection and treatment of, including but not limited to, Native American human remains, funerary objects, cultural and religious landscapes, ceremonial items, traditional gathering areas and cultural items, located and/or discovered through a monitoring program in conjunction with the construction of the proposed project, including additional archaeological surveys and/or studies, excavations, geotechnical investigations, grading, and all other ground disturbing activities.				
CUL 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 have been retained to implement the monitoring program. The archaeologist shall be responsible for coordinating with the Native American monitor. This verification shall be presented to the City in a letter from the project archaeologist that confirms the selected Native American monitor is associated with a TCA Tribe. The City, prior to any pre-construction meeting, shall approve all persons involved in the monitoring program	Tribal Cultural Resources (5). Mitigation Measure #2	Applicant		
CUL 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	Tribal Cultural Resource (6)- Mitigation Measure #3	Applicant		

CUL 4	During the initial grubbing, site grading, excavation or disturbance of the ground surface, the qualified archaeologist and the Native American monitor shall be on site full-time. The frequency of inspections shall depend on the rate of excavation, the materials excavated, and any discoveries of tribal cultural resources as defined in California Public Resources Code Section 21074. Archaeological and Native American monitoring will be discontinued when the depth of grading and soil conditions no longer retain the potential to contain cultural deposits. The qualified archaeologist, in consultation with the Native American monitor, shall be responsible for determining the duration and frequency of monitoring	Tribal Cultural Resource (6)- Mitigation Measure #4	Applicant		
CUL 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 operation in the area of discovery to allow for the evaluation of potentially significant cultural resources. Isolates and clearly non-significant deposits shall be minimally documented in the field and collected so the monitored grading can proceed	Tribal Cultural Resource (6)- Mitigation Measure #5	Applicant		
CUL 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 the tribal cultural resource's treatment and disposition shall be made by the qualified archaeologist in consultation with the TCA Tribe and the	Tribal Cultural Resource (6)- Mitigation Measure #6	Applicant		

	Native American monitor and be submitted to the City for review and approval.				
CUL 7	The avoidance and/or preservation of the significant tribal cultural resource and/or unique archaeological resource must first be considered and evaluated as required by CEQA. Where any significant tribal cultural resources and/or unique archaeological resources have been discovered and avoidance and/or preservation measures are deemed to be infeasible by the City, then a research design and data recovery program to mitigate impacts shall be prepared by the qualified archaeologist (using professional archaeological methods), in consultation with the TCA Tribe and the Native American monitor, and shall be subject to approval by the City. The archaeological monitor, in consultation with the Native American monitor, shall determine the amount of material to be recovered for an adequate artifact sample for analysis. Before construction activities are allowed to resume in the affected area, the research design and data recovery program activities must be concluded to the satisfaction of the City	Tribal Cultural Resource (6)-Mitigation Measure #7	Applicant		
CUL 8	As specified by California Health and Safety Code Section 7050.5, if human remains are found on the project site during construction or during archaeological work, the person responsible for the excavation, or his or her authorized representative, shall immediately notify the San Diego County Coroner's office. Determination of whether the remains are human shall be conducted on-site and in situ where they were discovered by a forensic anthropologist, unless the forensic anthropologist and the Native American monitor agree to remove the remains to an off-	Tribal Cultural Resource (6)-Mitigation Measure #8	Applicant		

	site location for examination. No further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains shall occur until the Coroner has made the necessary findings as to origin and disposition. A temporary construction exclusion zone shall be established surrounding the area of the discovery so that the area would be protected, and consultation and treatment could occur as prescribed by law. In the event that the remains are determined to be of Native American origin, the Most Likely Descendant, as identified by the Native American Heritage Commission, shall be contacted in order to determine proper treatment and disposition of the remains in accordance with California Public Resources Code section 5097.98. The Native American remains shall be kept in-situ, or in a secure location in close proximity to where they were found, and the analysis of the remains shall only occur on-site in the presence of a Native American monitor				
CUL 9	If the qualified archaeologist elects to collect any tribal cultural resources, the Native American monitor must be present during any testing or cataloging of those resources. Moreover, if the qualified Archaeologist does not collect the cultural resources that are unearthed during the ground disturbing activities, the Native American monitor, may at their discretion, collect said resources and provide them to the TCA Tribe for respectful and dignified treatment in accordance with the Tribe's cultural and spiritual traditions. Any tribal cultural resources collected by the qualified archaeologist shall be repatriated to the TCA Tribe. Should the TCA Tribe or other traditionally and culturally affiliated tribe decline the collection, the collection shall be	Tribal Cultural Resource (6)- Mitigation Measure #9	Applicant		

	curated at the San Diego Archaeological Center. All other resources determined by the qualified archaeologist, in consultation with the Native American monitor, to not be tribal cultural resources, shall be curated at the San Diego Archaeological Center				
CUL 10	Prior to the release of the grading bond, a monitoring report and/or evaluation report, if appropriate, which describes the results, analysis and conclusion of the archaeological monitoring program and any data recovery program on the project site shall be submitted by the qualified archaeologist to the City. The Native American monitor shall be responsible for providing any notes or comments to the qualified archaeologist in a timely manner to be submitted with the report. The report will include California Department of Parks and Recreation Primary and Archaeological Site Forms for any newly discovered resources	Tribal Cultural Resource (6)- Mitigation Measure #10	Applicant		

ACKNOWLEDGEMENT OF ENFORCEABLE COMMITMENT

Case No.: ENV17-0003

The items listed on the attached Mitigation Monitoring Program constitute an enforceable commitment in conformance with Section 21081.6(b) of the California Environmental Quality Act (Public Resources Code Sections 21000-21178). The applicant shall be required to provide, and comply with, all of the mitigation measures listed herein. These mitigation measures also have been included as conditions of the project approval.

6-19-18
Date

EDWARD L GOLDBERG
Applicant's Name (printed)

Edward Goldberg
Applicant's Signature

PLANNING COMMISSION

Agenda Item No.: G.2
Date: June 26, 2018

- CASE NUMBER:** SUB15-0002, PHG15-0004, and ENV15-0001
- APPLICANT:** Jack Henthorn & Associates, for Spieth & Wohlford, Inc.
- LOCATION:** The residential development site is located on the east side of Bear Valley Parkway, just south of the intersection with Choya Canyon Road and north of the intersection with Sunset/Ranchito Drive, and addressed as 661 Bear Valley Parkway (APNs 237-131-01 and 237-131-02)
- TYPE OF PROJECT:** Rezone, Master Development Plan, Tentative Subdivision Map, Grading Exemption, Specific Alignment Plan, and Development Agreement
- PROJECT DESCRIPTION:** A Rezone, Master Development Plan, Tentative Subdivision Map, Grading Exemption, Specific Alignment Plan, and Development Agreement for a new residential development, to include 55 single-family residential lots, eight open space lots, a private street lot, and an emergency access road lot, on a 40.62-acre property addressed as 661 Bear Valley Parkway.
- STAFF RECOMMENDATION:** Recommend approval to City Council subject to Condition of Approval
- GENERAL PLAN DESIGNATION:** E2 (Estate II)
- ZONING:** RE-20 (Residential Estates; 20,000 SF minimum lot size)
- BACKGROUND/SUMMARY OF ISSUES:**

The project site consists of two lots (APNs 237-131-01 and 237-131-02) on 41.27 gross acres and 40.62 net acres. Exploratory mining activities took place on the property in the late 19th century and/or early 20th century, though no significant mineral resources have ever been found. Starting in 1938, the property was planted with citrus and avocado trees, and production of these crops continued until at least 1979, though the groves were not removed until sometime between 1989 and 1995. A single-family residence and detached garage were constructed on the property in 1946. The residence and garage are the only remaining features on the site, along with a driveway, irrigation system, and filled mine shafts. Vegetation is minimal on the majority of the site, and consists mostly of patchy grasses and ornamental plantings, though the southern portion of the site (particularly along the southwestern boundary) contains substantial riparian habitat and disturbed cactus scrub.

The project proposes to construct a new residential development on two lots (APNs 237-131-01 and 237-131-02), collectively comprising 41.27 gross acres or 40.62 net acres, and addressed as 661 Bear Valley Parkway. The project would also include improvements to the segment of Bear Valley Parkway adjacent to the project site. Specifically, the project would consist of the following components:

- A Rezone from RE-20 (Residential Estates; minimum lot size of 20,000 SF) to PD-R (Planned Development-Residential).
- A Master Development Plan to allow lot clustering and reduction of lot sizes below the 20,000 SF required for the Estate II designation of the General Plan. Approval of a Precise Development Plan will also be required, but the applicant or developer will submit an application for this at a later date.
- A Tentative Subdivision Map for 55 residential lots with net sizes ranging from 10,005 SF to 24,557 SF; eight open space lots (Lots A-H) with a combined size of 20.04 acres; one private street lot; and one emergency access road lot. Two of the open space lots (C and D) would be occupied by bioretention basins; another five open space lots (A, B, F, G, and H) would remain undeveloped for protection of slopes, biological habitat, and fuel modification zones; and the eighth open space lot (E) would contain a

pocket park, to include a tot lot, bocce ball court, shade structure, seating, and landscaping. A private, ten-foot-wide decomposed gravel walking trail would provide pedestrian connectivity to Bear Valley Parkway at two locations: near the pocket park, and at the southwest corner of the development site (a new sidewalk along the east side of Bear Valley Parkway is proposed under this project, and is discussed below, in the Specific Alignment Plan discussion). The applicant has provided information on proposed development standards for the residences, which are described later in the staff report. Elevation plans and floor plans for the proposed homes will be provided at a later date, when the applicant or developer submits an application for a Precise Development Plan.

- Grading Exemptions to allow fill slopes up to 64' in height within 50' of the property line (on Open Space Lots A, B, and C), fill slopes up to 65' in height beyond 50' of the property line (on Open Space Lots C, F, and G), and cut slopes up to 42' (on Lots 6 through 9, Lot 45, and Open Space Lots B and C), as shown on a Grading Exemption exhibit provided by the applicant and included as an exhibit to this staff report. The City's Grading Ordinance requires Grading Exemption approval for any fill slope within 50' of a property line that exceeds a height of ten feet, any fill slope beyond 50' of a property line that exceeds a height of 20', and any cut slope that exceeds a height of 20'.
- A Specific Alignment Plan (SAP) for phased street improvements to Bear Valley Parkway, which are discussed in more detail in the Conformance with City Policy/Analysis section later in this staff report. The first phase would add a second northbound lane along the development frontage, as well as curb, gutter, sidewalk, and stormwater improvements, and relocation of an existing bicycle lane and utility poles. The second phase would extend these improvements to the off-site segment between Sunset/Ranchito Drive and the south end of the development site. The third phase would construct improvements along the west side of Bear Valley Parkway, including a second southbound travel lane, curb, gutter, sidewalk, and stormwater improvements, as well as realignment of the Encino/Bear Valley intersection and a median on Bear Valley Parkway. A Development Agreement, described next, would specify responsibility for right-of-way acquisition, construction of improvements, and reimbursement of improvement costs.
- A Development Agreement for SAP improvements to the east side of Bear Valley Parkway, including terms for right-of-way acquisition and funding of the Phase 2 improvements between Sunset/Ranchito Drive and the south end of the residential development site. A full copy of the proposed agreement is attached to this staff report, but highlights include the following:
 - The owner would be responsible for depositing a contribution of \$215,000 with the City, no later than the date upon which security must be posted for these offsite improvements. Beginning on the third anniversary of the effective date of the agreement, this contribution would be subject to annual adjustments to reflect increases in the Los Angeles Construction Cost Index (CCI). Should this contribution ever exceed 50 percent of reimbursable costs (described next), the contribution would be reduced and any excess refunded to the owner.
 - The owner would be responsible for publicly bidding the off-site improvements to qualified contractors, and the City would confirm the lowest responsible and responsive bid price, and reimburse the owner for these costs upon substantial completion of the off-site improvements, as well as costs for permit fees and engineering, design, and mitigation costs on a pro rata basis. Reimbursement would be provided in an amount of \$98,000 within 30 days of written request by the owner, with the remaining costs reimbursed within four years of the notice of completion of the off-site improvements.
 - Acquisition of right-of-way for off-site improvements would be the initial responsibility of the project owner, but should the owner be unable to acquire this right-of-way, the City could elect to do so upon written request by the owner. The City would then have nine months to acquire the right-of-way after approval of improvement plans and posting of security for public improvements. The City would reimburse the owner for actual costs of right-of-way acquisition, in an amount not to exceed the appraised value of the right-of-way.
 - Necessary stormwater improvements would need to be established to full growth to perform as designed by the City Engineer, prior to turning over maintenance responsibility to a homeowners' association (HOA) to be maintained in perpetuity. Should the adjacent parcel (APN No. 239-050-20) be developed, the HOA would have no further maintenance responsibility and the City would assign such responsibility to that property owner.

The project will also require approval of a Precise Development Plan for the specific design of the residential units, including floor plans, exterior finishes and colors, etc. The applicant has elected to defer this approval to a later date, but has proposed some general development standards and design guidelines as part of the Master

Development Plan application. These standards and guidelines are discussed in detail in the “Supplemental Details of Request” section of this staff report. At the June 26, 2018 Planning Commission hearing, the Commission is requested to review, consider, and recommend City Council approval of the Rezone, Master Development Plan, Tentative Subdivision Map, Grading Exemption, Specific Alignment Plan, and Development Agreement. No other discretionary permits are requested at this time; however, as noted previously, a Precise Development Plan is ultimately required for this scope of work and would be scheduled for a public hearing at a later date. The Planning Commission is the authorized agency for reviewing and granting discretionary approvals for a Precise Development Plan. The scope of the Master Development Plan (to be considered in conjunction with other discretionary actions on June 26, 2018) and the scope of the Precise Development Plan (to be considered later) are described in the proposed conditions of approval, later in this staff report.

Staff believes that the issues are as follow:

1. Whether the proposed residential lot clustering, and the Rezone and Planned Development approvals necessary to implement this clustering, are appropriate for the project site and the surrounding area.
2. Whether the development standards proposed under the Preliminary and Master Development Plan are appropriate for the project and consistent with standards for similar residential developments in the area.
3. Whether the proposed Specific Alignment Plan improvements are appropriate for the affected segment of Bear Valley Parkway and beneficial to the residential development as well as the wider community.
4. Whether the project conforms to guidelines and policies for development on slopes, as described in the Grading Ordinance and the General Plan.

REASONS FOR STAFF RECOMMENDATION:

1. The current zoning of the project site is RE-20 (Residential Estates; minimum lot size of 20,000 SF). The applicant has proposed a development design that would establish 55 residential lots, with net lot sizes ranging from 10,005 SF to 24,557 SF, and an average net lot size of 11,645 SF. The General Plan's Residential Clustering Policy 5.1 allows single-family residential projects in the E2 designation to contain lots as small as 10,000 SF when a planned development or specific plan is in effect and lot clustering is utilized. The applicant requests approval of a Rezone to Planned Development-Residential to implement lot clustering. Per Residential Clustering Policy 5.2, clustering is intended not to maximize density or yield or circumvent zoning, but as a tool to preserve slopes, ridgelines, or sensitive habitat, or to provide a community benefit. The proposed clustering would allow the project to designate open space areas to protect slopes and biologically sensitive areas, and to provide recreational amenities and bioretention facilities.

2. Although the development would require review and approval of a Precise Development Plan to include details on building elevations, floorplans, recreational amenities, etc., the applicant has provided details about proposed development standards with the Master Development Plan request, which enables sufficient land use character context assessment and site design review. These details are explained further in the “Supplemental Details of Request” section later in this staff report. Many of the proposed standards are similar to those of the Single Family Residential (R-1) zone, the zone characterized by lot sizes similar to those in the proposed development. All proposed deviations from R-1 standards are identified. As set forth, the proposed project would create a viable solution to a unique set of design challenges and spatial complexities on-site.

3. The project includes a Specific Alignment Plan (SAP) for widening and improvements on a segment of Bear Valley Parkway between Sunset/Ranchito Drive and the northernmost point of the proposed residential development site. The SAP would be implemented across three phases, each of which would require acquisition of additional right-of-way and/or vacation of existing right-of-way as depicted on the plans provided by the applicant. The first phase would construct improvements along the residential development frontage, to include a second northbound lane, curb, gutter, “green street” stormwater facilities (e.g., vegetated swales and street tree wells), bike lane relocation, and utility pole relocation. The second phase would extend these improvements southward, along the eastern frontage between Sunset/Ranchito Drive and the south end of the proposed development site. The third phase would install similar improvements along the west side of Bear Valley Parkway for the entire road segment between the north end of the project site and Sunset/Ranchito Drive, including a second southbound lane (bringing the total number of lanes to four), curb, gutter, sidewalk, green street measures,

and bike lane relocation. The third phase would also construct a median in this segment of Bear Valley Parkway and realign and signalize the Encino/Bear Valley intersection. Phase Three would not be the responsibility of the applicant or developer, and at this time there is no timeline for its completion; it is shown on the applicant's SAP plans only for informational purposes so that City staff and decision-makers can see how improvements installed by the applicant/developer will fit in with the ultimate configuration for Bear Valley Parkway. The proposed SAP improvements would bring the segment of Bear Valley Parkway adjacent to the proposed residential development into closer conformity with Major Road design standards as described in the Mobility and Infrastructure Element of the General Plan. The additional northbound lane to be provided by the applicant or developer would help to ease congestion for motorists in the relative short-term, as would the additional southbound lane to be constructed at some point in the future. New sidewalks on Bear Valley Parkway would provide a safe walking environment for pedestrians and existing bike lanes would be retained with minor relocation to make room for other improvements. The design of the street improvements incorporates measures for managing stormwater runoff. While not included in the SAP per se, the applicant has proposed to signalize the project entrance as a project feature, which would simplify ingress and egress for residents of the development and promote safety for other motorists and roadway users on Bear Valley Parkway.

4. The City's Grading Ordinance (Article 55 of the Zoning Code) includes policies and guidelines for the Hillside and Ridgeline Protection Overlay District. This district includes parcels that are located in proximity to an identified intermediate or skyline ridge and/or contain slopes of 15 percent or greater on any portion of the parcel. Per General Plan Residential Development Policies 3.11 and 3.13 and Community Character Policy 1.12, as well the Grading Ordinance, development on slopes over 35 percent is prohibited. Density allowed in this slope category by the applicable General Plan land use designation may be transferred to flatter slopes on the development site, when the site is located within a planned development zone or specific plan.

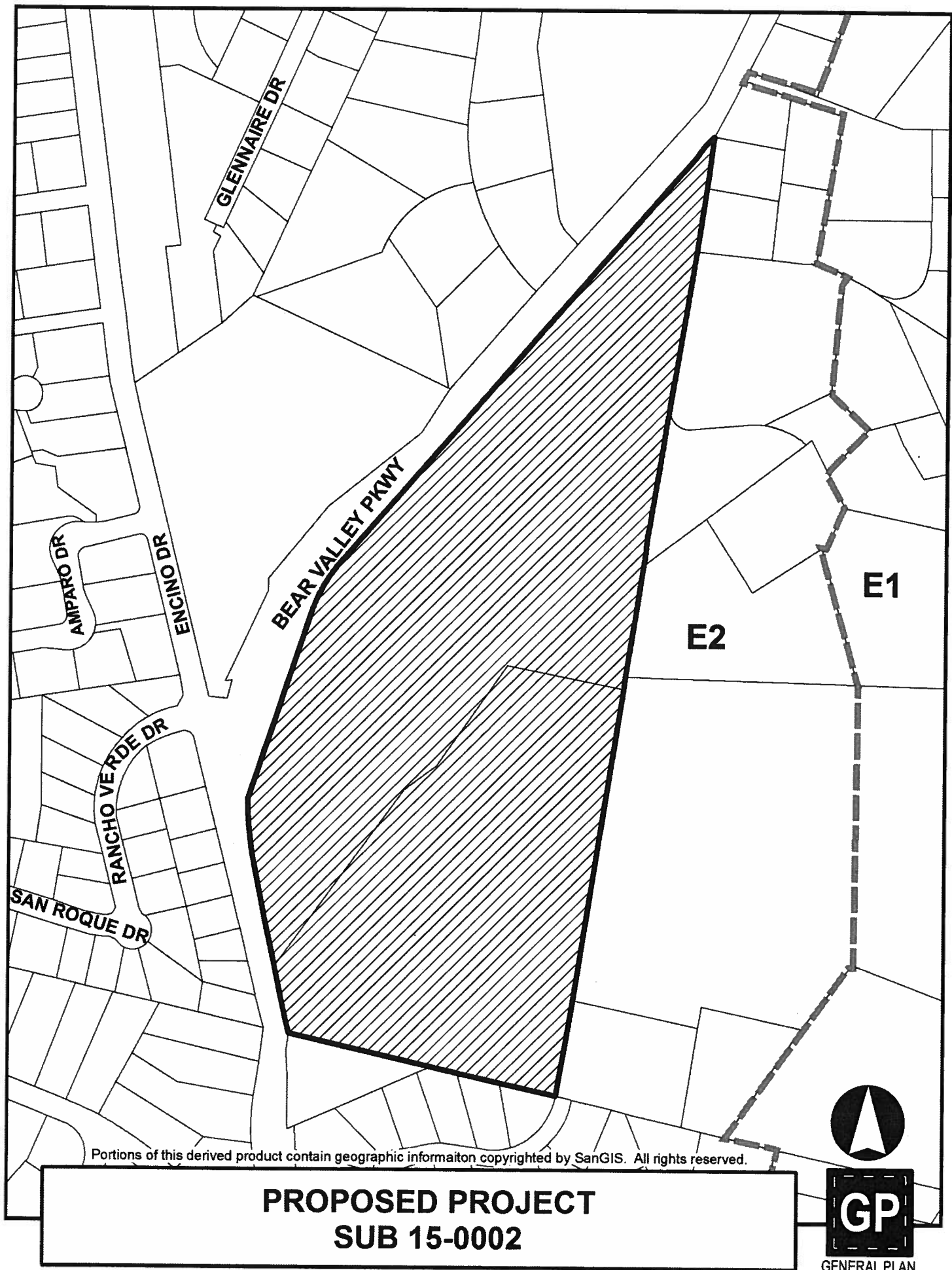
Though no ridgelines are identified on the project site per the hillside and ridgeline overlay map on file in the Community Development Department, a slope analysis provided by the applicant indicates that the site contains slopes over 15 percent, including some slopes that exceed 35 percent. The proposed project includes a request for a Rezone from Residential Estates, 20,000 SF minimum (RE-20) to Planned Development-Residential (PD-R), as well as approval of a Preliminary and Master Development Plan. Therefore, density assigned to the slopes exceeding 35 percent may be transferred to lesser slopes on the project site.

Per the slope analysis, most slopes over 35 percent on the project site are concentrated within areas that are precluded from any grading or construction activities, such as Lot H. However, small and isolated areas of steep slopes do exist within areas of the project site where grading and/or improvements are proposed, including Open Space Lots C through E, a portion of Lot G that falls within the grading boundary, the right-of-way dedication area along Bear Valley Parkway, the emergency access road lot, and the far rear corner of Lot 43. The Grading Ordinance states that "small isolated areas of slope over thirty-five (35) percent will be reviewed by the director for their development potential" (Section 33-1067.B of the City of Escondido Zoning Code), which gives the City the discretion to allow development on slopes that do not meet the standards for protection as envisioned by the General Plan and implementing ordinances. For the reasons included herein this staff report, sufficient information has been provided to make a determinative finding to support the foregoing encroachments into limited steep slope areas.

Respectfully submitted,



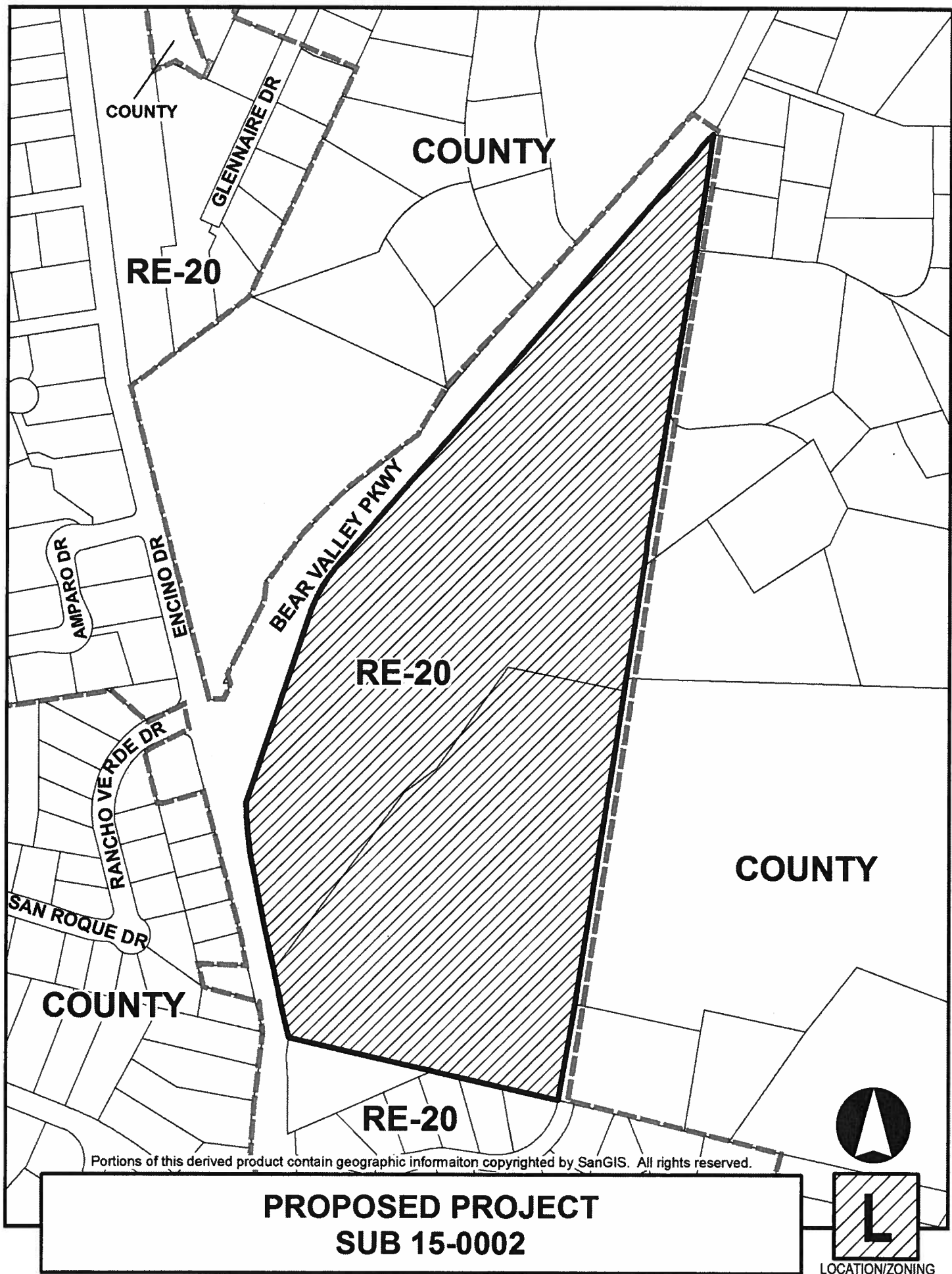
Ann Dolmage
Associate Planner

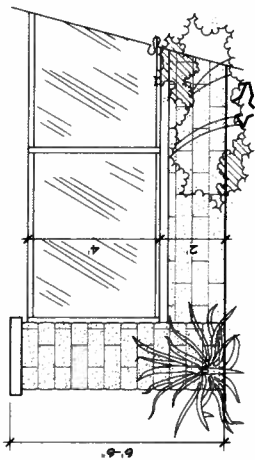


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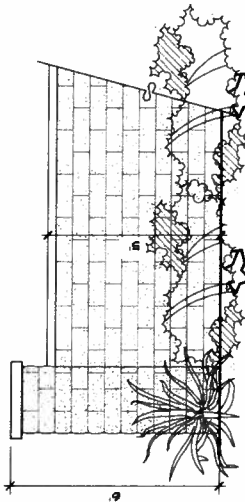
PROPOSED PROJECT SUB 15-0002



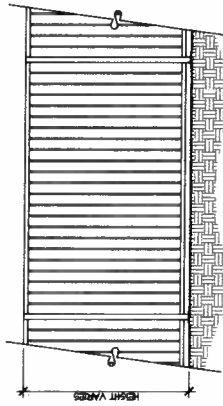




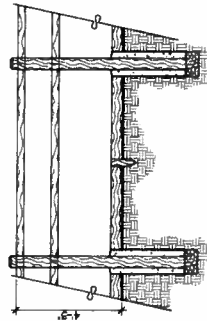
6' FIRE DEFLECTION WALL - 2' SLUMP BLOCK W/ WITH 4' BIRD SAFE GLASS



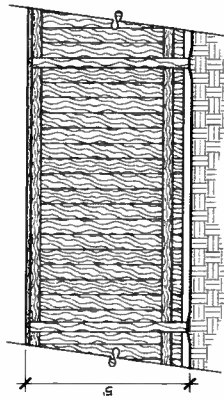
6' SLUMP BLOCK PILASTER AND 5' SLUMP BLOCK WALL W/ STUCCO



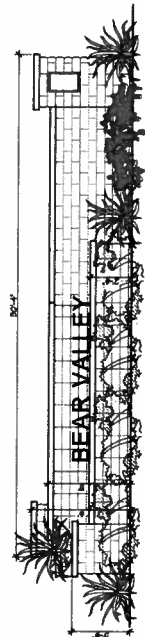
TUBULAR STEEL FENCE



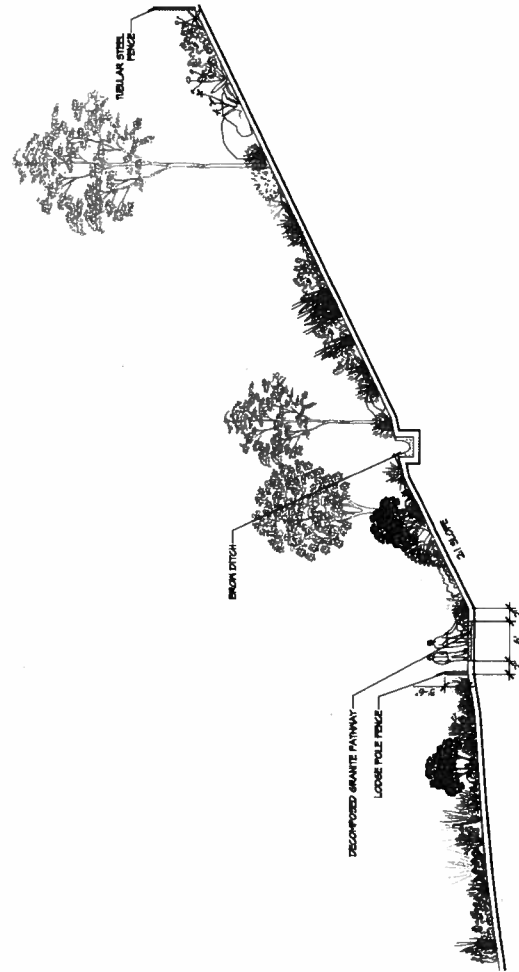
TRAIL FENCE



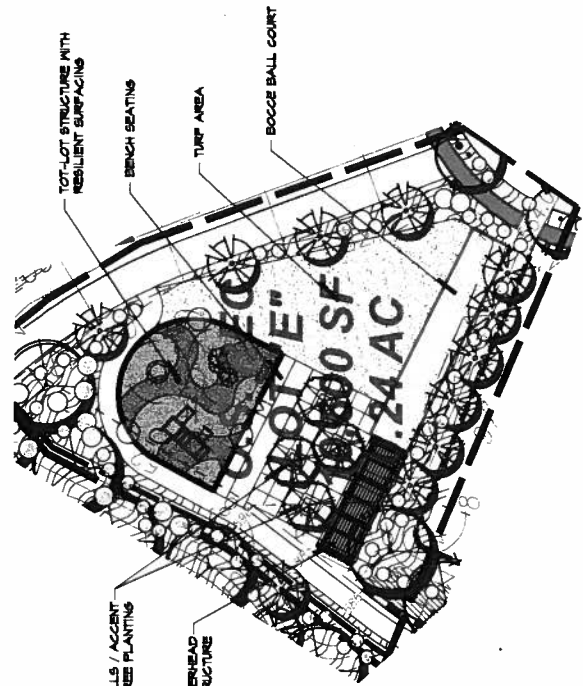
5'-0" WOOD/VINYL FENCE



BEAR VALLEY ENTRY MONUMENT



DECOMPOSED GRANITE TRAIL SECTION



—10—



MOW CURB
 5' CHU WALL
 5' WOOD/VINYL FENCE
 5' TUBULAR STEEL FENCE
 42" TUBULAR STEEL FENCE
 TRAIL FENCE



COASTAL SAGE SCRUB RE-VEGETATION AREAS

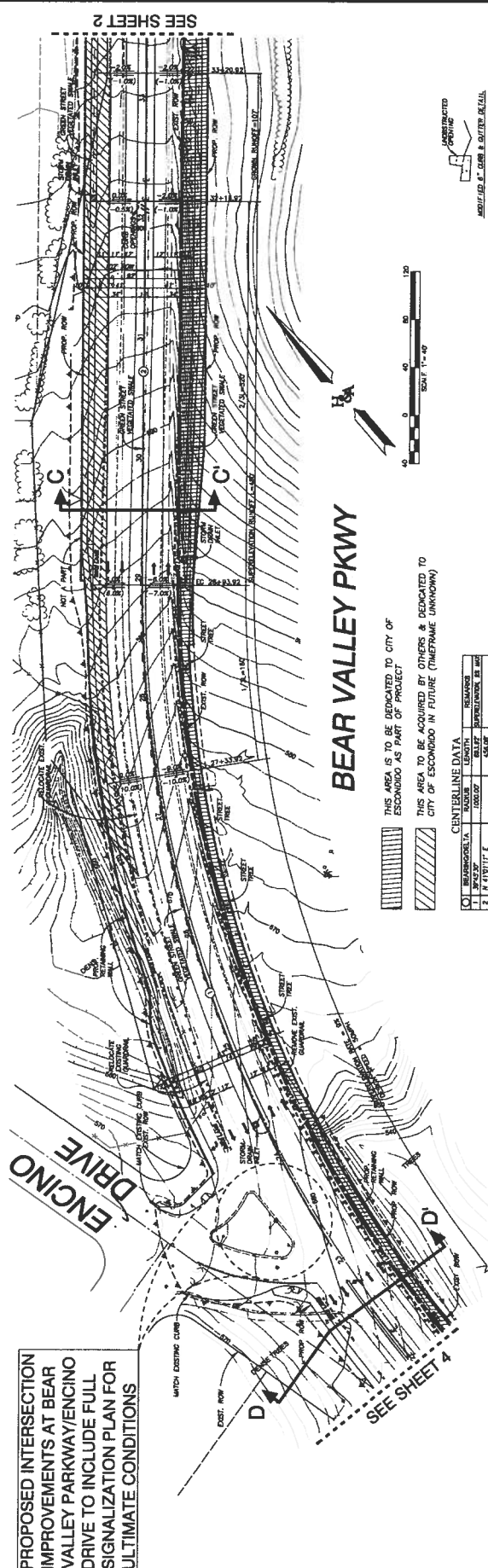
COASTAL SAGE SCRUB RE-VEGETATION AREAS

[illegible]

PRIVATE/H.O.A. DROUGHT TOLERANT SLOPE LANDSCAPE AREAS

STREET / BIO-RETENTION / PARK LANDSCAPE AREAS

STREET / BIO-RETENTION / PARK LANDSCAPE AREAS



PROPOSED INTERSECTION IMPROVEMENTS AT BEAR VALLEY PARKWAY/ENCINO DRIVE TO INCLUDE FULL SIGNALIZATION PLAN FOR ULTIMATE CONDITIONS

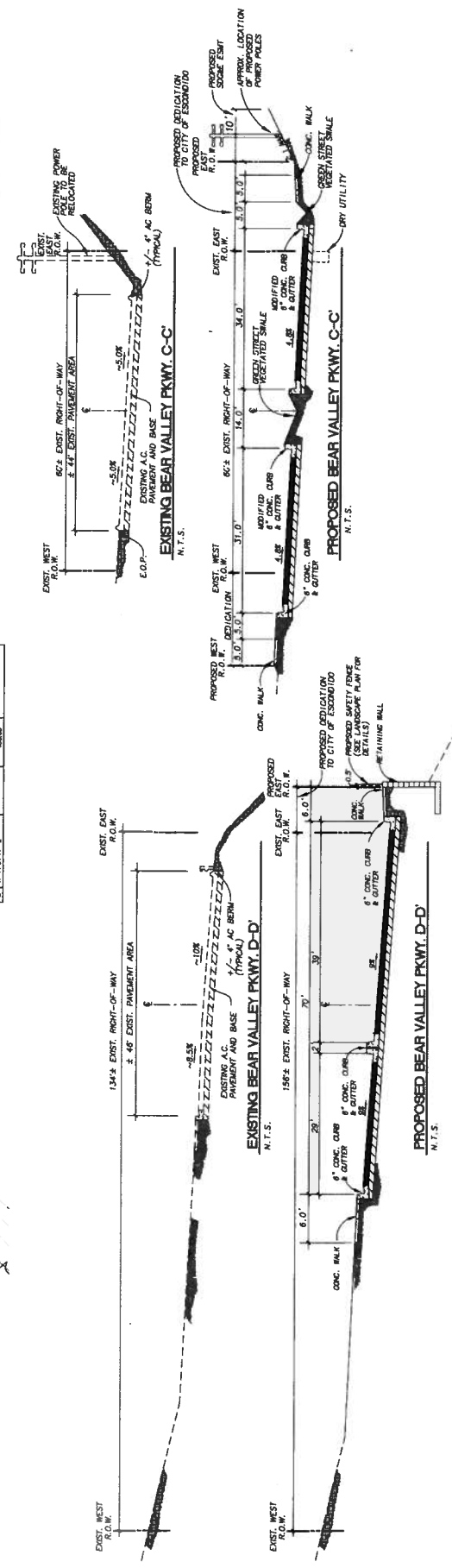
BEAR VALLEY PKWY

THIS AREA IS TO BE DEDICATED TO CITY OF ESCONDIDO AS PART OF PROJECT

THIS AREA TO BE ACQUIRED BY OTHERS & DEDICATED TO CITY OF ESCONDIDO IN FUTURE (TIMELINE UNKNOWN)

CENTERLINE DATA

NO.	STATION	LENGTH	REMARKS
1	100+00	100+00	REMARKS
2	100+00	100+00	REMARKS



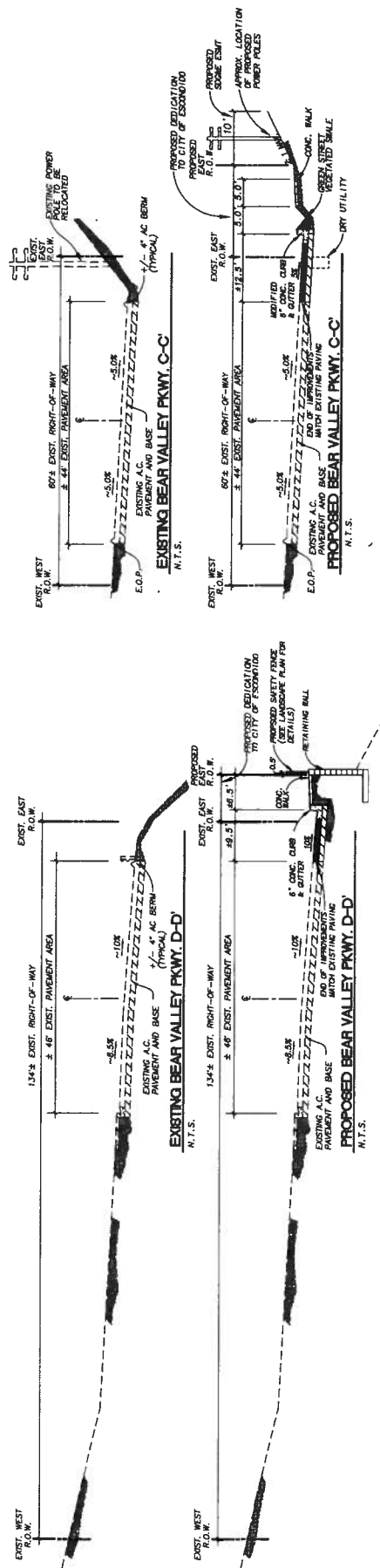
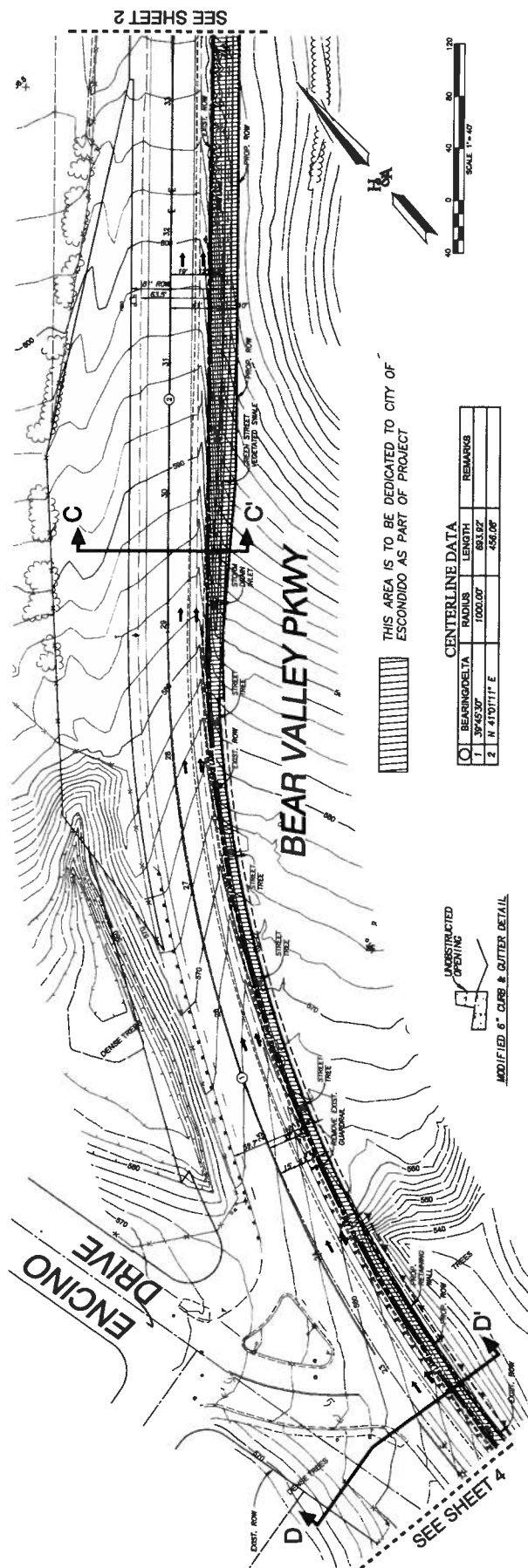
PROPOSED PROJECT
SUB 15-0002

S

43

S





PROPOSED PROJECT
SUB 15-0002

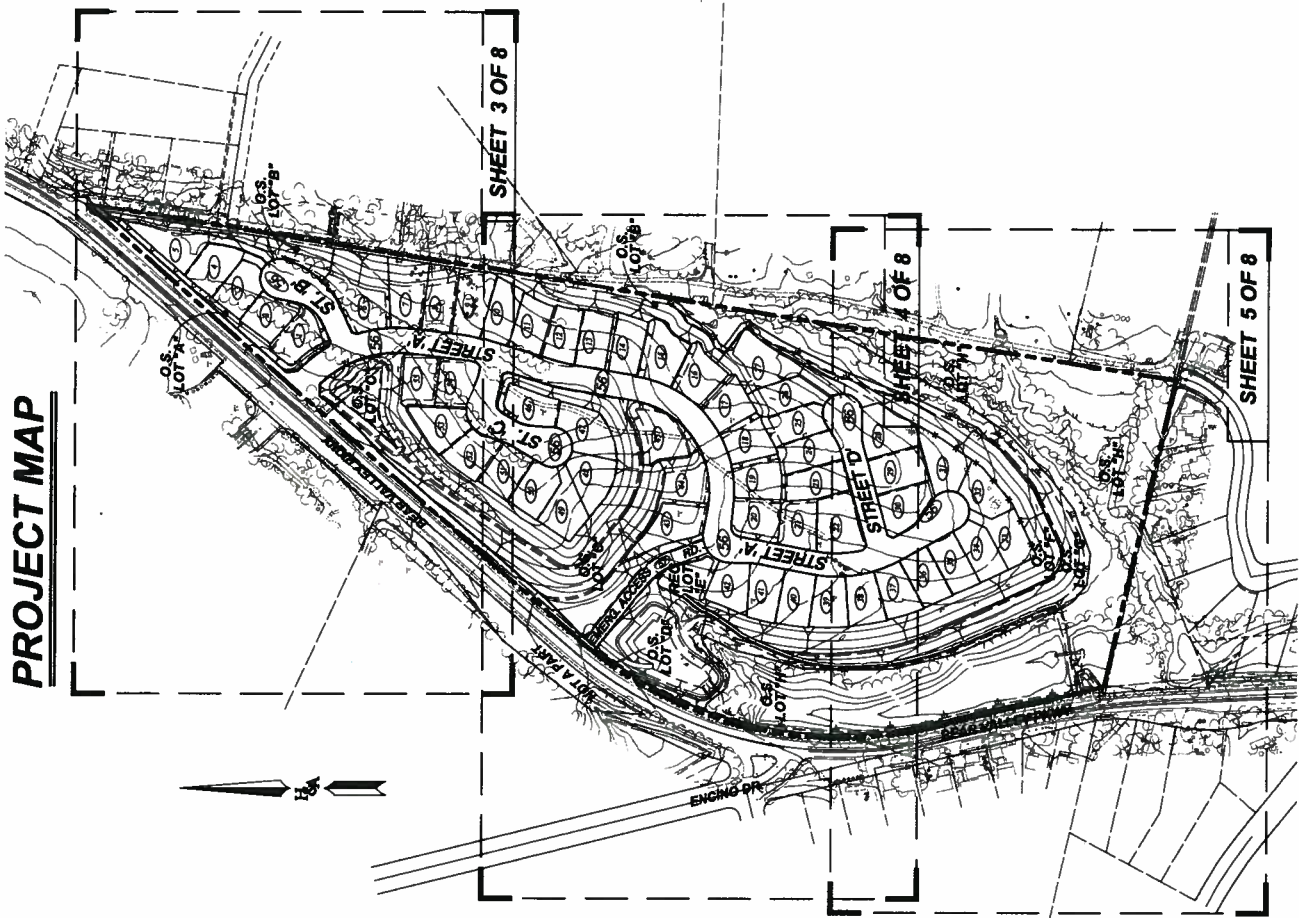
S

46

S



PROJECT MAP



PROPOSED PROJECT
SUB 15-0002

T

LOTING SUMMARY

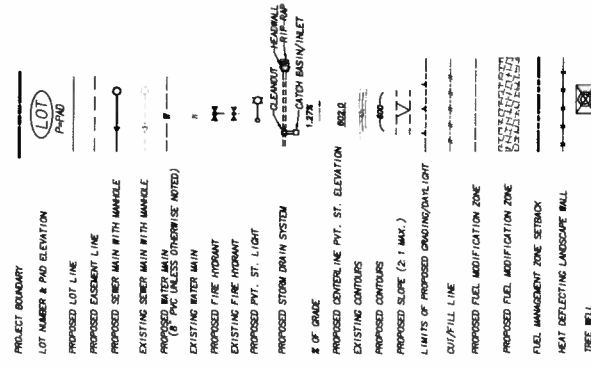
LOT #	GROSS LOT AREA (SQ FT)	GROSS LOT AREA (ACRES)	NET LOT AREA (EXCLUDING PARKING)
1	11,100	0.25	11,100
2	10,002	0.23	10,002
3	10,162	0.23	10,162
4	11,730	0.27	10,537
5	21,674	0.50	15,164
6	24,957	0.57	24,957
7	14,462	0.33	14,462
8	11,762	0.27	11,762
9	12,662	0.29	12,662
10	10,814	0.25	10,814
11	10,225	0.23	10,225
12	10,149	0.23	10,149
13	10,217	0.23	10,217
14	11,451	0.26	11,451
15	12,831	0.29	12,831
16	11,515	0.26	11,515
17	11,002	0.25	11,002
18	10,462	0.24	10,462
19	11,098	0.25	11,098
20	11,215	0.26	11,215
21	10,512	0.24	10,512
22	14,808	0.34	14,808
23	11,767	0.27	11,767
24	10,808	0.25	10,808
25	10,002	0.23	10,002
26	11,600	0.27	11,600
27	25,074	0.58	16,098
28	13,408	0.31	13,408
29	11,800	0.27	11,800
30	11,911	0.27	11,911
31	12,027	0.28	12,027
32	10,194	0.23	10,194
33	11,390	0.26	11,390
34	10,410	0.24	10,410
35	10,075	0.23	10,075
36	10,125	0.23	10,125
37	10,125	0.23	10,125
38	10,397	0.24	10,397
39	10,397	0.24	10,397
40	10,394	0.24	10,394
41	10,423	0.24	10,423
42	10,264	0.23	10,264
43	14,962	0.34	14,962
44	12,264	0.28	12,264
45	16,018	0.37	16,018
46	10,445	0.24	10,445
47	12,832	0.29	12,832
48	11,594	0.26	11,594
49	11,594	0.26	11,594
50	10,300	0.24	10,300
51	10,077	0.23	10,077
52	10,005	0.23	10,005
53	11,008	0.25	11,008
54	10,891	0.25	10,891
55	10,890	0.25	10,890
56	655,304	15.00	655,304
57	14,179	0.32	14,179
58	10,002	0.23	10,002
59	11,615	0.27	11,615
60	10,770	0.24	10,770
61	12,008	0.28	12,008
62	10,002	0.23	10,002
63	10,002	0.23	10,002
64	10,002	0.23	10,002
65	10,002	0.23	10,002
66	10,002	0.23	10,002
67	10,002	0.23	10,002
68	10,002	0.23	10,002
69	10,002	0.23	10,002
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71	10,002	0.23	10,002
72	10,002	0.23	10,002
73	10,002	0.23	10,002
74	10,002	0.23	10,002
75	10,002	0.23	10,002
76	10,002	0.23	10,002
77	10,002	0.23	10,002
78	10,002	0.23	10,002
79	10,002	0.23	10,002
80	10,002	0.23	10,002
81	10,002	0.23	10,002
82	10,002	0.23	10,002
83	10,002	0.23	10,002
84	10,002	0.23	10,002
85	10,002	0.23	10,002
86	10,002	0.23	10,002
87	10,002	0.23	10,002
88	10,002	0.23	10,002
89	10,002	0.23	10,002
90	10,002	0.23	10,002
91	10,002	0.23	10,002
92	10,002	0.23	10,002
93	10,002	0.23	10,002
94	10,002	0.23	10,002
95	10,002	0.23	10,002
96	10,002	0.23	10,002
97	10,002	0.23	10,002
98	10,002	0.23	10,002
99	10,002	0.23	10,002
100	10,002	0.23	10,002
PROPOSED TOTAL SF	1,798,874		
PROPOSED TOTAL AC	40.82		

* PARKABLE LOTS

GENERAL NOTES

- TOTAL PROJECT GROSS SITE AREA: 41.77 ACRES
TOTAL PROJECT DEVELOPMENT AREA: 40.82 ACRES
TOTAL PROJECT PARKING AREA: 0.95 ACRES
NET PROJECT AREA (EXCLUDING R/W DEDICATION): 39.87 ACRES
- NUMBER OF LOTS: 100
50 RESIDENTIAL LOTS (LOTS 1-50)
2 PRIVATE STREET LOTS (LOTS 51-52)
1 RECREATION LOT (LOT 53)
1 COMMERCIAL LOT (LOT 54)
1 INDUSTRIAL LOT (LOT 55)
1 ASSESSOR'S PARCEL NUMBER: 237-131-01 & 237-131-02
1. ASSESSOR'S PARCEL NUMBER: 237-131-01 & 237-131-02
2. MINIMUM PERMITTED LOT SIZE: 10,000 SQ. FT. OF RESIDENTIAL CLUSTER POLICY 5.1
3. MINIMUM PERMITTED LOT SIZE: 10,000 SQ. FT. OF RESIDENTIAL CLUSTER POLICY 5.1
4. PROJECT NET DENSITY: 1.38 DU/AC (35 UNITS/39.87 AC.)
5. PROJECT NET DENSITY: 1.38 DU/AC (35 UNITS/39.87 AC.)
6. PROJECT NET DENSITY: 1.38 DU/AC (35 UNITS/39.87 AC.)
7. PROJECT NET DENSITY: 1.38 DU/AC (35 UNITS/39.87 AC.)
8. PROJECT NET DENSITY: 1.38 DU/AC (35 UNITS/39.87 AC.)
9. INDIVIDUAL TRACT GROUP IS PROPOSED WITH THIS SUBDIVISION.

LEGEND



ABBREVIATIONS

- FL FLOW LINE
- TR TOP OF WALL
- GR GRADE BREAK
- PI POINT OF INTERSECTION (V.C.)
- FS FINISH SURFACE
- W WATER
- NS NOT TO SCALE
- RE RECLAIMED WATER
- NS NOT TO SCALE
- VE VERTICAL CURVE
- IE INVERT ELEVATION
- RP REINFORCED CONCRETE PIPE

PROJECT SUMMARY

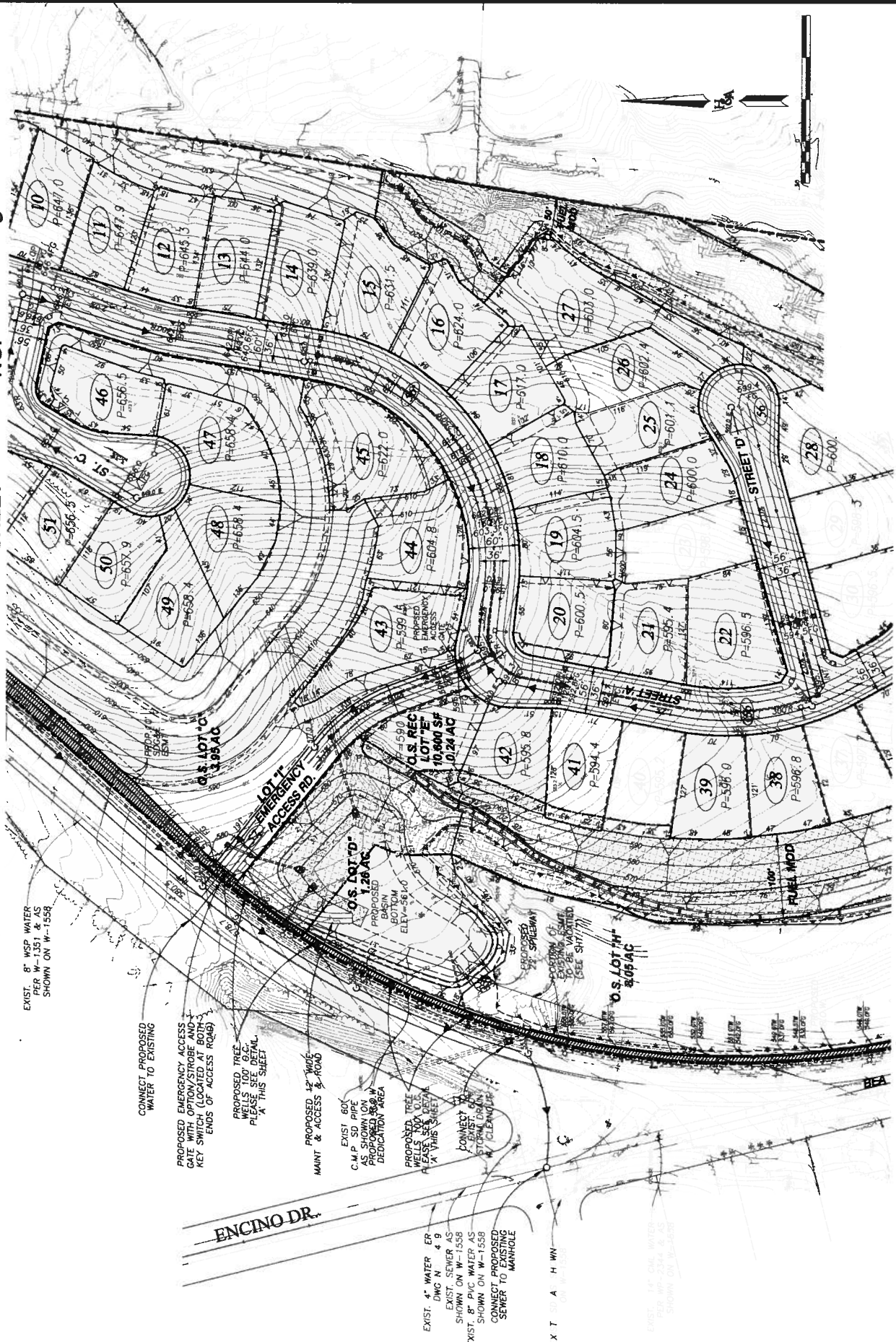
ITEM	NO.	AC.	% OF SITE
TOTAL PROJECT AREA	41.77	100.00	
TOTAL PROJECT DEVELOPMENT AREA	40.82	97.70	
TOTAL PROJECT PARKING AREA	0.95	2.30	
NET PROJECT AREA (EXCLUDING R/W DEDICATION)	39.87	95.40	
RESIDENTIAL LOT AREA	39.87	95.40	
COMMERCIAL LOT AREA	0.00	0.00	
INDUSTRIAL LOT AREA	0.00	0.00	
RECREATION LOT AREA	0.00	0.00	
TOTAL LOT AREA	39.87	95.40	

OPEN SPACE SUMMARY

OPEN SPACE DESCRIPTION	SQ. FT.	AC.
TOTAL OPEN SPACE (LOT 1 THROUGH 10)	1,798,874	40.82
TOTAL LOT AREA UNDER 10,000 SQ. FT.	1,798,874	40.82
TOTAL LOT AREA OVER 10,000 SQ. FT.	1,798,874	40.82
TOTAL OPEN SPACE PROVIDED	1,798,874	40.82

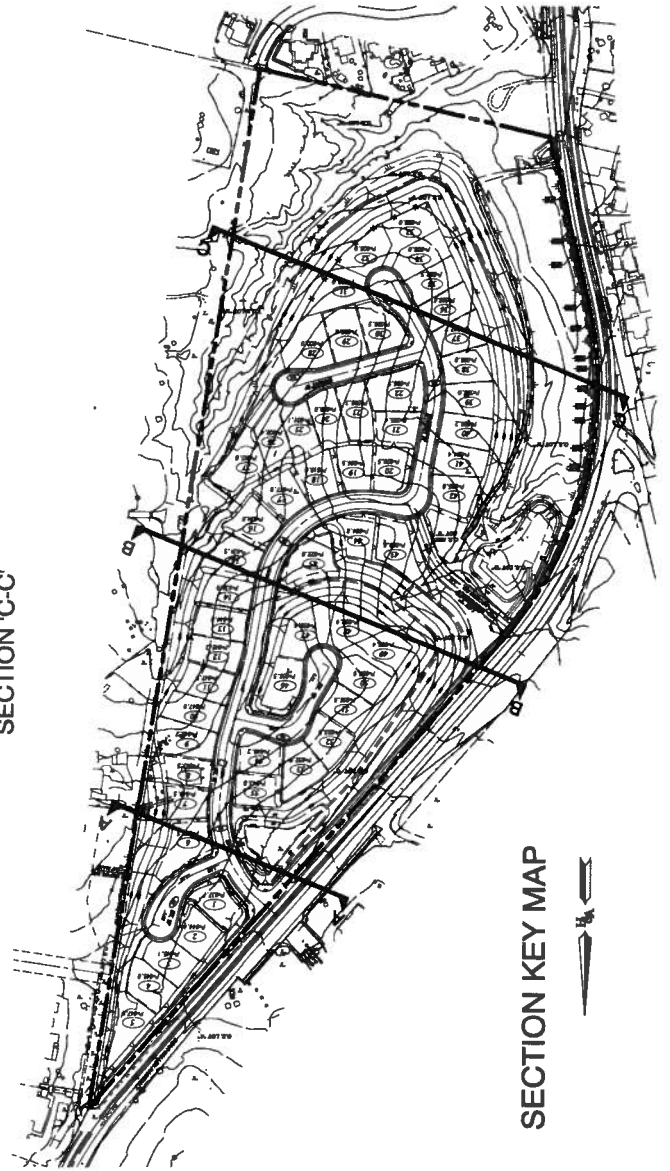
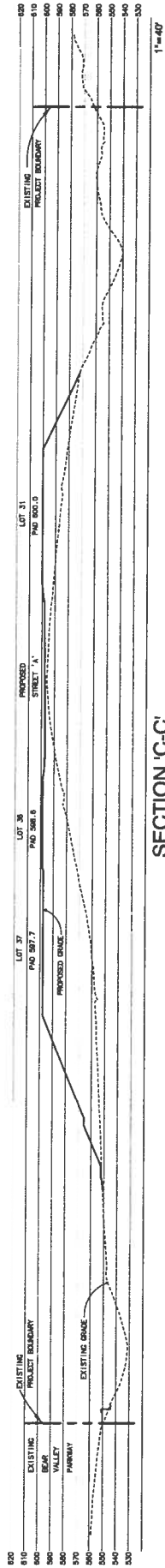
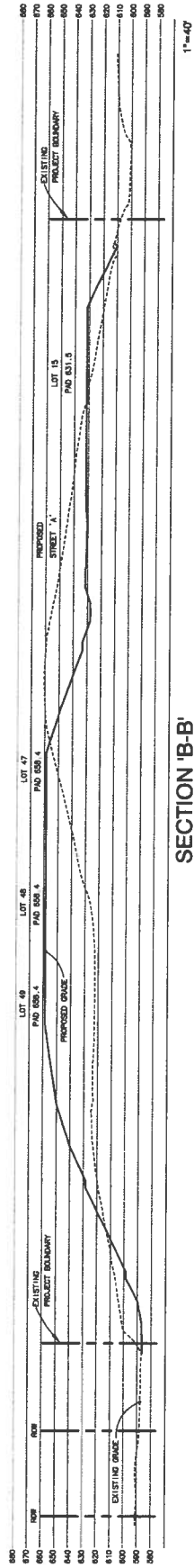
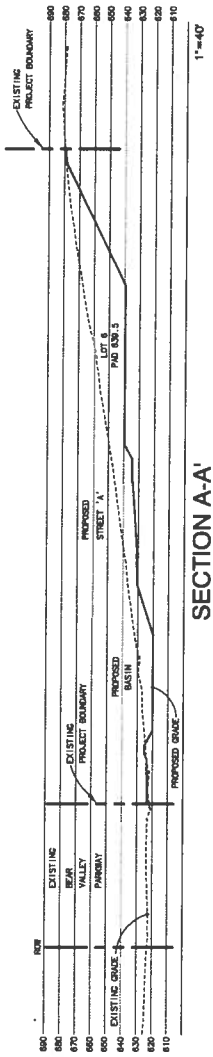
SEE SHEET NO. 3

SHEET NO. 5



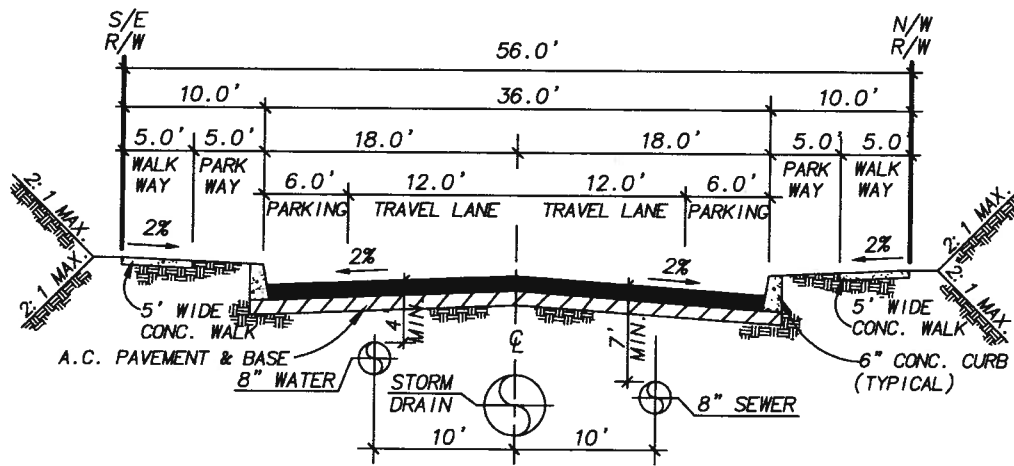
**PROPOSED PROJECT
SUB 15-0002**

TM



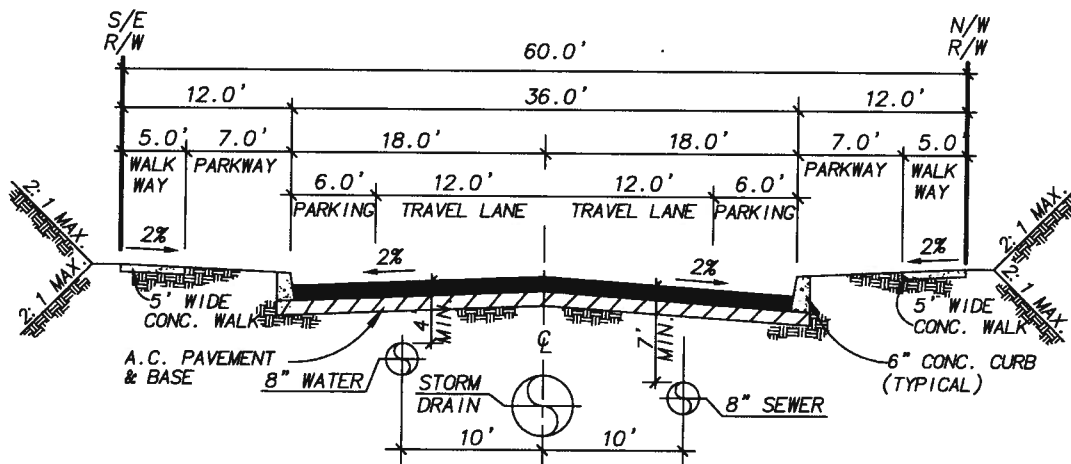
PROPOSED PROJECT
SUB 15-0002

TM



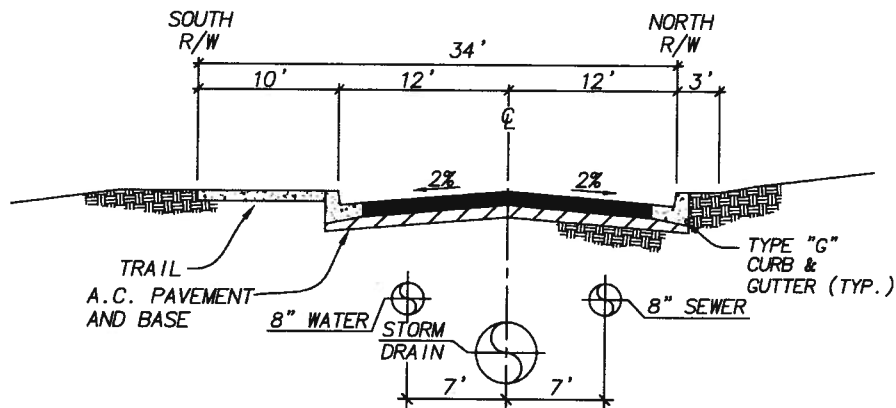
**PRIVATE RESIDENTIAL STREET
STREETS 'B', 'C', 'D' & PORTION OF STREET 'A'**

NTS



**PRIVATE RESIDENTIAL STREET
PORTION OF STREET 'A'**

NTS



EMERGENCY ACCESS & TRAIL

SCALE: 1" = 10'

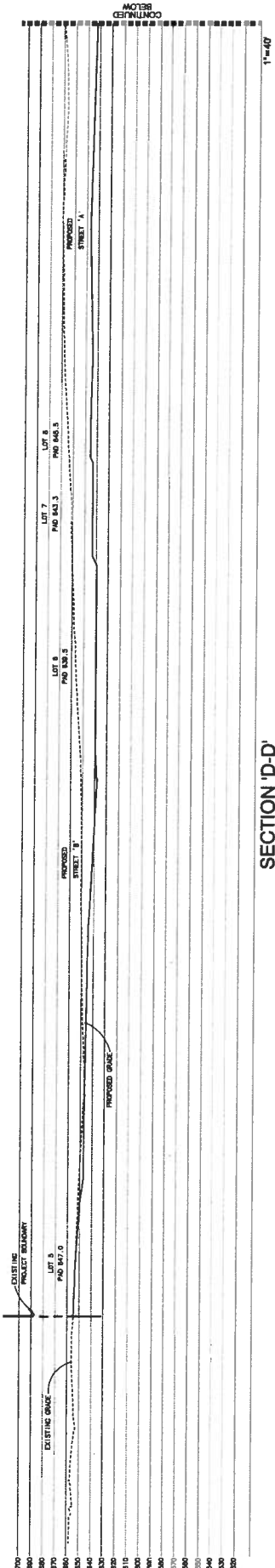
NOTE: EMERGENCY ACCESS SHALL BE GATED AT BEAR VALLEY ENTRANCE AND STREET "A" ENTRANCE.

**PROPOSED PROJECT
SUB 15-0002**

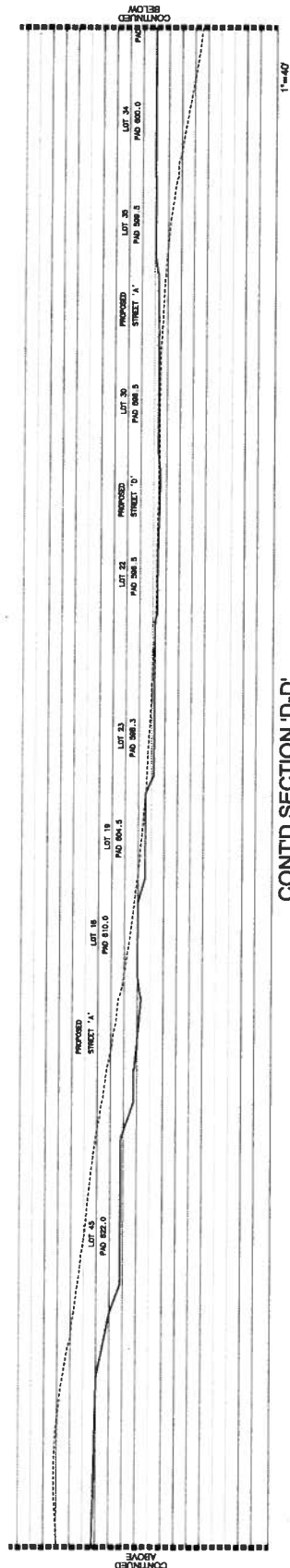
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S

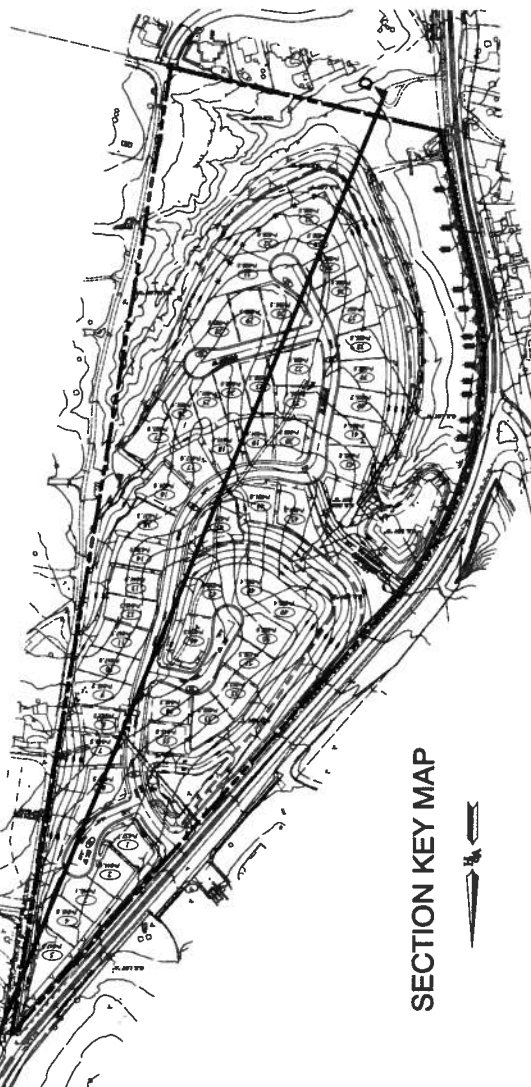
SECTIONS



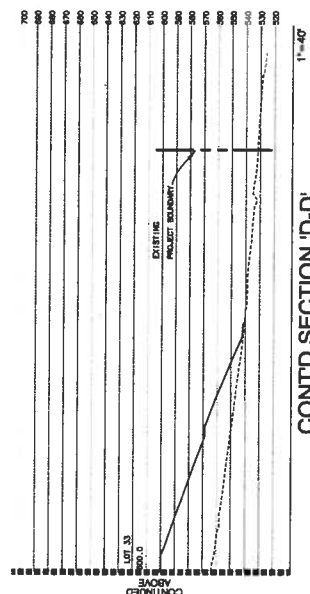
SECTION 'D-D'



CONT'D SECTION 'D-D'



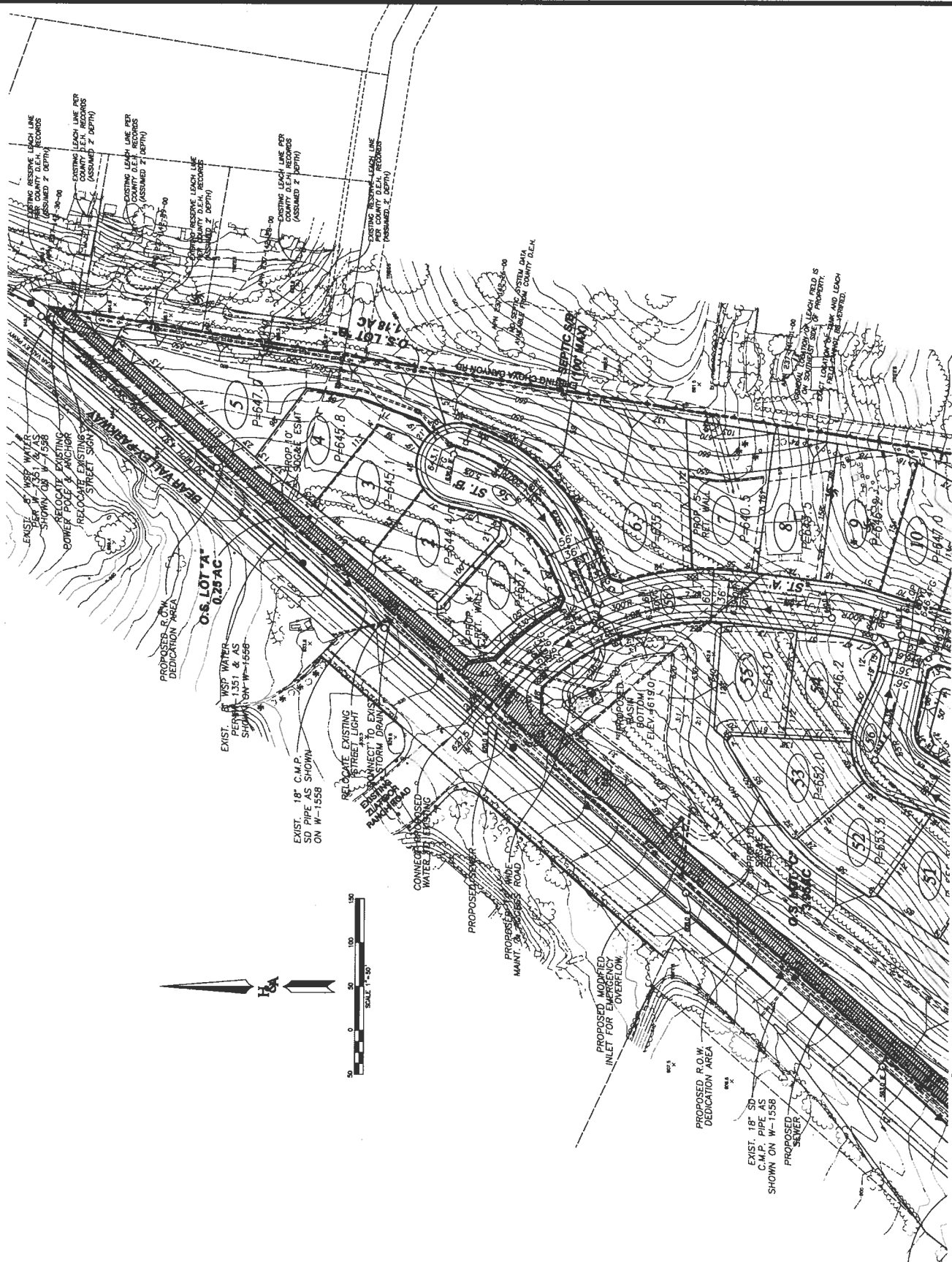
SECTION KEY MAP



CONT'D SECTION 'D-D'

PROPOSED PROJECT
SUB 15-0002

TM



**PROPOSED PROJECT
SUB 15-0002**

TM

SEE SHEET NO. 4

ST. 8" WSP WATER
PER W-1351 & AS
SHOWN ON W-1558

EXIST. 18" SD
C.M.P. PIPE AS
SHOWN ON W-1558
PROPOSED
SERIES

PROPOSED R.O.W.
DEDICATION AREA

PROPOSED MODIFIED
INLET FOR EXISTING
OVERFLOW

PROPOSED 8' WIDE
MAINT. 3' ACCESS ROAD

CONNECTED HYDROPOSED
WATER TREATING

RELOCATE EXISTING
STREET LIGHT
TO EXISTING
DRAINAGE STORM DRAIN
RAILROAD

EXIST. 18" C.M.P.
SD PIPE AS SHOWN
ON W-1558

EXIST. 8" WSP WATER
PER W-1351 & AS
SHOWN ON W-1558

PROPOSED R.O.W.
DEDICATION AREA

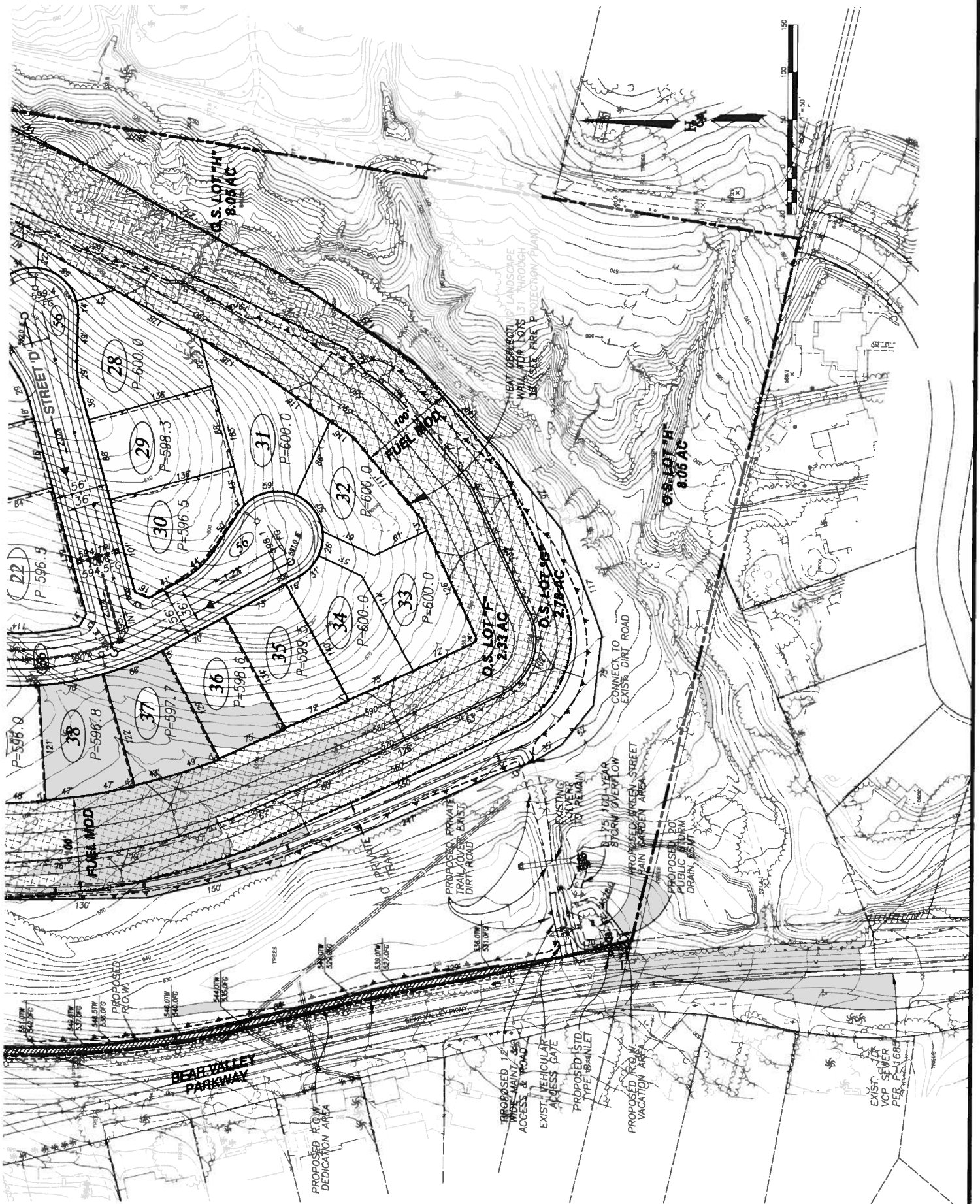
RELOCATE EXISTING
POWER POLE & ANCHOR
TO EXISTING
STREET SWAN

EXIST. 8" WSP WATER
PER W-1351 & AS
SHOWN ON W-1558

EXISTING RESERVE LEACH LINE
PER COUNTY D.E.N. RECORDS
(ASSUMED 2' DEPTH)

EXISTING LEACH LINE PER
COUNTY D.E.N. RECORDS
(ASSUMED 2' DEPTH)

EXISTING LEACH LINE PER
COUNTY D.E.N. RECORDS
(ASSUMED 2' DEPTH)



**PROPOSED PROJECT
SUB 15-0002**

TM

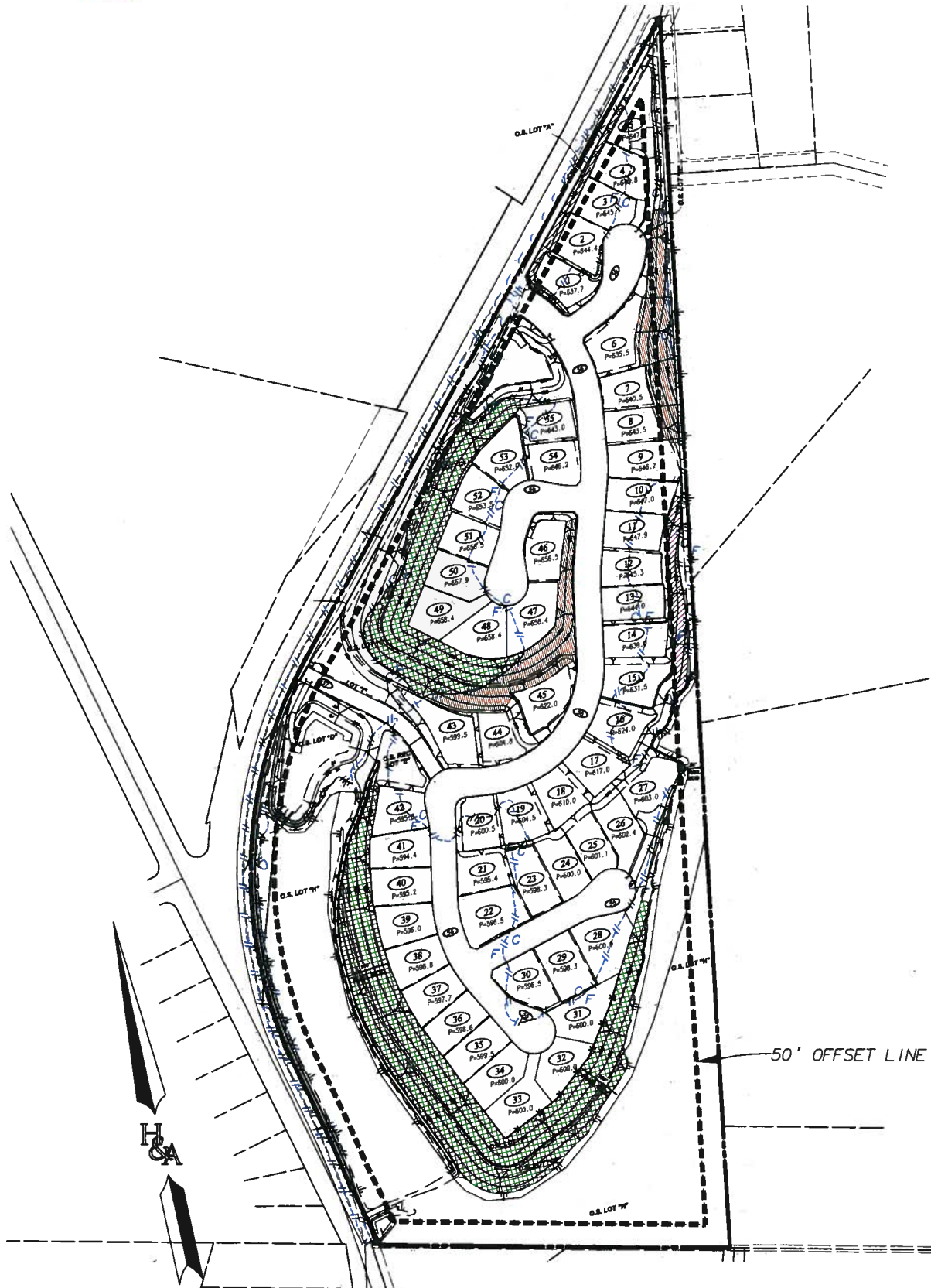


**PROPOSED PROJECT
SUB 15-0002**

S

LEGEND

- AREA 1  FILL SLOPES WITHIN 50' OF THE PROPERTY LINE, LIMITED TO 10' IN HEIGHT; PROPOSE UP TO 64' (OS LOTS A, B & C)
- AREA 2  FILL SLOPES BEYOND 50' OF THE PROPERTY LINE, LIMITED TO 20' IN HEIGHT; PROPOSE UP TO 65' (OS LOTS C, F & G)
- AREA 3  CUT SLOPES LIMITED TO 20' IN HEIGHT; PROPOSE UP TO 42' (LOTS 6-9, 45 & OS LOTS B & C)



PROPOSED PROJECT
SUB 15-0002

G

ANALYSIS

A. LAND USE COMPATIBILITY/SURROUNDING ZONING

NORTH - County A70 (Limited Agricultural) zoning – The properties to the north of the proposed residential development are located within the County of San Diego and have A70 (Limited Agricultural) zoning, which is intended for areas with moderate- to high-quality agricultural land and permits a variety of agricultural uses (crop production, livestock raising, packing and production) as well as single-family residences. The lots in this area vary greatly in size, from ten acres or more for properties at the southwest and northeast corner of the intersection of Bear Valley Parkway and Eldorado Drive, to one acre or less for properties along Eldorado Drive and east of Bear Valley Parkway. Many of the lots are developed with single-family homes.

SOUTH - City RE-20 (Residential Estates; 20,000-SF minimum lot size), City RE-40 (Residential Estates; 40,000-SF minimum lot size), and County RR (Rural Residential) zoning – The area directly south of the proposed development site is located within the City of Escondido and is primarily zoned RE-20, with some areas of RE-40 zoning. The area southwest of the project site, on the west side of Bear Valley Parkway, is located within the County and has RR zoning. Regardless of their jurisdictional status, most lots in this area are smaller (under one acre) and are developed with single-family residences.

EAST - County A70 and City PD-R 1.02 (Planned Development-Residential; 1.02 units/acre) zoning – Most properties to the east of the development site are located within the County and have A70 zoning, though one neighborhood (Canyon View Estates) is located within the City and is a residential planned development with an average lot size of one acre.

WEST - County A70, County RR, County RS (Single Family Residential), and City RE-20 – The area west of Bear Valley Parkway, east of Encino Drive, and south of Eldorado Drive contains both County zoning (A70, RR, and RS) and City zoning (RE-20). West of Encino Drive, the RE-20 and RS zoning continues. Some County RS neighborhoods west of the project site (primarily around Eldorado Drive) have been rezoned RE-20, in anticipation of future annexation to the City. Most properties west of the project site have been developed with single-family residences, though one property at the intersection of Bear Valley Parkway and Encino Drive is occupied by the Kingdom Hall of Jehovah's Witnesses.

B. AVAILABILITY OF PUBLIC SERVICES

1. **Effect on Police Service** – General Plan Quality of Life Standard #4 requires an initial police response time of no more than five minutes for Priority 1 calls (crimes in progress or life-threatening incidents) and no more than 6.5 minutes for Priority 2 calls (serious but non-life-threatening incidents). Per the General Plan EIR, the existing Escondido Police Headquarters at 1163 North Centre City Parkway is anticipated to provide adequate service to the City as mandated by the General Plan, for the next 34 years (or 40 years as measured from the General Plan EIR's 2012 publication date). The project would be consistent with growth anticipated in the General Plan; therefore, existing police facilities would be able to provide service to the project site, and no new or improved facilities would be required as a result of the project. Since the project site is already located within City limits, it is already included within the Police Department's service area (Beat 51). Therefore, no significant impacts to police services are anticipated in connection with this project.
2. **Effect on Fire Service** – The closest fire station to the project site is Fire Station 4 in the Escondido Fire District Service Area District 4. This station is located approximately 1.25 miles to the south of the project site, at 3301 Bear Valley Parkway, and houses one paramedic fire engine and one brush engine. Per General Plan Quality of Life Standard #3, within urbanized areas of the City, an initial response time of 7.5 minutes for all structure fire and emergency Advanced Life Support calls and a maximum response time of ten minutes for supporting companies shall be maintained. The applicant has provided a Fire Protection Plan that identifies four stations in the district that would respond to the project site within seven minutes; the closest station would arrive within 4.2 minutes. The Fire Protection Plan also estimates that the project would generate about 16 additional calls per year, which is not a large enough increase in demand to require a new or improved station facility. The above information notwithstanding, the General Plan EIR does identify a need for two additional stations under buildout conditions, one of which would be constructed in the Highway 78 area (east of Bear Valley Parkway).

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and would be near the project site. When constructed, the project site and surrounding neighborhood would have one additional station that could serve them within the response timeframe required by the General Plan.

3. Traffic/Circulation – The proposed project would take access from Bear Valley Parkway. The primary entrance/exit to the residential development would be located near the north end of the project site, across the street from the entrance to Zlatibor Ranch, a 14-lot subdivision within County jurisdiction. As a feature of the project, this intersection would be signalized by the applicant. An unsignalized, gated access road would also be provided roughly 900 feet south of the primary entrance/exit; this secondary access would be for emergency purposes only.

The General Plan's Mobility & Infrastructure Element classifies Bear Valley Parkway as a Major Road between Sunset Drive/Ranchito Drive and East Valley Parkway. Per the General Plan, Major Roads are typically four-lane roadways with painted or raised landscaped medians, bike lanes, intersections spaced a minimum of 1/8-mile apart, and left-turn restrictions at minor, unsignalized driveways. Currently, Bear Valley Parkway has just one northbound and one southbound lane within the segment that begins just north of the Peet Lane/Las Palmas Avenue intersection and ends just south of the San Pasqual Valley Road intersection (the residential project site fronts this section of Bear Valley Parkway). Northbound/southbound separation in this area, where it exists, is provided by a center left turn lane instead of a median.

The applicant has submitted a Specific Alignment Plan that proposes the following improvements to Bear Valley Parkway in the segment between Sunset/Ranchito Drive and Choya Canyon Road:

- Widening of the existing right-of-way (currently ranges from $\pm 60'$ to $\pm 134'$ depending on location; would be widened to $\pm 77'$ to $\pm 142'$);
- A second northbound vehicle lane;
- Relocation of an existing bike lane to accommodate the new northbound vehicle lane;
- Curb, sidewalk, and gutter along the northbound side;
- "Green street" vegetated swale, rain garden, and street trees along or near the northbound side (for stormwater management purposes); and
- Relocation of power poles on northbound side, to accommodate the widened right-of-way.

To identify any potential traffic impacts related to the proposed development, a traffic impact analysis was prepared by Linscott, Law & Greenspan (the final version, dated January 18, 2017, is included in the Final EIR as Appendix R). The traffic analysis estimated that the project would generate 550 average daily trips (ten average daily trips per residence), with 44 of those trips (eight percent) occurring in the peak AM hour and 55 of those trips (ten percent) occurring during the peak PM hour. Most of the 44 trips during the AM peak hour would be outgoing (exiting the development), while most of the 55 trips during the PM peak hour would be incoming.

Per the City's *Traffic Impact Analysis Guidelines*, a road segment operating at a level of service (LOS) of D, E, or F with a project is considered to experience a significant impact when the project causes a change delay to the volume-to-capacity ratio of at least 0.02, and/or a speed reduction of at least one mile per hour (mph). An intersection operating at an LOS of D, E, or F with the project is considered to be significantly impacted when the project increases the delay at that intersection by at least two seconds. The traffic analysis for this project found that the intersection of Bear Valley Parkway and Encino Drive would experience a significant impact in the existing + cumulative growth + project category. Currently, this intersection operates at an LOS of D in the AM peak hour and C in the PM peak hour. Implementation of the proposed project, when combined with cumulative growth, would degrade the LOS at this intersection to F in the AM peak hour and E in the PM peak hour. The AM peak hour delay would increase by 3.9 seconds and the PM peak hour delay would increase by 6.7 seconds at this intersection. Mitigation is proposed to make a fair-share contribution toward realignment and signalization of this intersection. The proposed realignment would simplify the intersection to include one approach lane and one departure lane, and would connect Encino Drive to Bear Valley Parkway at a 90-degree angle, with a reduced median between the approach and departure lanes. This proposed realignment design is shown in the SAP. Said mitigation would improve LOS at this intersection to C in the AM peak hour and A in the PM peak hour (for existing + cumulative growth + project).

4. **Utilities** – The proposed residential development would be served by City water and sewer. An existing 8"-diameter gravity sewer is located within Encino Drive. Near the Encino/Bear Valley intersection, this line continues southward along Bear Valley Parkway and then Via Rancho Parkway, gradually stepping up in size and ending at Lift Station #1 on Sunset Drive (adjacent to I-15). The project would construct a new 8"-diameter sewer main between Choya Canyon Road and the Encino/Bear Valley intersection, to connect to the existing main. The residential development would have a system of sewer lines within its internal road network which would connect to the new main in Bear Valley Parkway. The City of Escondido Wastewater Master Plan (June 2012) identifies the residential development site as an "additional 2030 service area", so the site is included in the flow projections estimated through planning year 2030. Additionally, the hydraulic flow analyses conducted for the Master Plan showed that all existing sewage flows and projected Year 2030 sewage flows can be accommodated by the existing trunk sewer system in Bear Valley Parkway.

An existing 8" water line runs within Bear Valley Parkway along the full length of the development site. No extensions of this main would be required in conjunction with this project.

5. **Drainage** – The applicant has provided a drainage study for the project (last revised April 1, 2016). The study notes that three drainage courses run through the site in a generally north to south direction. A western drainage course collects runoff near the westerly boundary of the project (from the project site itself, as well as from Bear Valley Parkway, via gaps in an AC berm along the site boundary). The western drainage also conveys run-on from a small off-site slope area west of Bear Valley Parkway. A central drainage course collects runoff from the central portion of the project hillside. Finally, an eastern drainage course collects runoff from the easterly slopes of the project as well as off-site hillsides to the east. All three courses discharge from the site at its southern boundary, and drain together to form a small creek leading to Lake Hodges.

The overall north/south drainage pattern would generally remain unchanged after project development. The project would direct on-site runoff to two new bioretention basins within Open Space Lots C and D, and stormwater would be conveyed from these basins to discharge alongside a 60" culvert that crosses Bear Valley Parkway near the Encino Drive intersection. Runoff would then continue southward through the western drainage course to discharge over the southern boundary of the development site. Road widening activities in Bear Valley Parkway would include a new storm drain inlet to collect runoff that would also discharge into the western drainage. The eastern course would be maintained and would meet the western course at the same confluence point to the south of the development site.

In addition to the drainage study, the applicant has submitted a preliminary Stormwater Quality Management Plan (SWQMP) for the design of proposed stormwater management facilities, including the two bioretention basins on the development site and the Green Streets facilities (vegetated swales, street trees, and rain garden) within the Bear Valley Parkway corridor. A condition of approval has been proposed to require the applicant to submit a Final SWQMP to Engineering when final improvement and grading plans are submitted.

C. ENVIRONMENTAL STATUS

On November 28, 2016, a Notice of Preparation (NOP) was distributed for the project in compliance with Section 15082 of the California Environmental Quality Act (CEQA) Guidelines. The NOP included an Initial Study that identified several environmental topics/issues that should receive further analysis due to their potential to experience significant project-related impacts. These issues included aesthetics, agricultural resources, biological resources, cultural resources (including tribal cultural resources), geology and soils, hazards and hazardous materials, land use and planning, noise, and transportation and traffic. The Initial Study concluded that an Environmental Impact Report (EIR) was the appropriate format for analysis of these issues. The Initial Study also identified several issues that were not expected to experience significant environmental impacts, and therefore could be excluded from further analysis in the EIR, including forestry resources, air quality, energy and greenhouse gases, hydrology/water quality, mineral resources, paleontological resources, population/housing, public services, recreation, and utilities/service systems. Four comments were submitted from state and local agencies in response to the NOP.

A Draft Environmental Impact Report (EIR) was then prepared for the project and circulated for a 45-day public review from March 27, 2017 through May 12, 2017. Fifteen comments from state/local agencies and individuals were received during this review period, and responses to those comments have been incorporated into the Final EIR. A sixteenth party, the San Luis Rey Band of Mission Indians, submitted a letter on August 3, after the public

review period had closed; a copy of this letter is attached to the staff report. Mitigation measures required under CEQA were developed to reduce the potential for adverse impacts with respect to biological resources, tribal cultural resources, geology and soils, hazards and hazardous materials, noise, and transportation and traffic.

D. CONFORMANCE WITH CITY POLICY/ANALYSIS

General Plan

The residential development site is located within the Estate II (E2) land use designation of the General Plan. The General Plan allows up to two units per acre on slopes of 0-25 percent, one unit per acre on slopes of 25-35 percent, and one unit per 20 acres on slopes of 35 percent or greater in the E2 designation. As explained in the Supplement to Staff Report/Details of Request section of this report, the topography of this site allows up to 73 units. Since the applicant has proposed 55 single-family residential lots, the project would not exceed the maximum allowed density for the E2 designation, and no General Plan Amendment would be necessary. The current zoning of the project site is RE-20 (Residential Estates, minimum lot size of 20,000 SF). The applicant is proposing to change the zoning of the site to PD-R (Planned Development- Residential) to allow lot clustering with individual net lot sizes as small as 10,015 SF.

General Plan Residential Lot Clustering Policies 5.1 through 5.10 provide guidance for the design of clustered single-family developments, to protect natural resources, maintain topography, and avoid creating or worsening hazards. Policy 5.9 requires planned developments to provide open space that equals or exceeds the reduction in lot sizes from what the General Plan designation requires. The development site is located in the Estate II (E2) designation of the General Plan, which requires a minimum lot size of 20,000 SF. Lot sizes in the project would be as small as 10,015 SF, and the average net lot size would be 11,645 SF. The reduction in lot sizes would total 615,943 SF, and the project proposes to provide 873,076 SF (20.04 acres) of open space.

General Plan Planned Development Policies 6.1 through 6.4 provide guidance for large-scale planned development projects, to ensure that they complement the existing community. Policy 6.3 in particular holds planned developments to high standards in terms of visual quality, protection of natural resources and settings, maintenance of open space and common areas, and separation between new developments and existing neighborhoods. The Final EIR for the project proposes several mitigation measures for the protection of biological and cultural resources. Extensive open space is proposed for various purposes, including protection of slopes and natural resources, bioretention areas, recreational facilities, and fuel modification zones. These open space areas are largely concentrated around the development site perimeter, providing a buffer between the new residences and the surrounding neighborhood. Design guidelines and standards have been proposed for the development that would ensure a visually appealing, high-quality product.

Multiple policies and standards within the General Plan address development on slopes. General Plan Community Character Policy 1.12 prohibits development on slopes over 35 percent. Residential Development Policies 3.11 and 3.13 state that density may be transferred from these slopes exceeding 35 percent to other areas of the site, at a rate of one dwelling unit per 20 acres. These policies also appear in the City's Grading Ordinance, contained within Article 55 of the Zoning Code. The proposed project has been designed to avoid placing residential construction on slopes greater than 35 percent. Small, isolated slopes of 35 percent or greater would be affected by grading and/or improvement activities as described earlier in the staff report, but these isolated areas do not meet the standards of steep slope protection as envisioned by the General Plan or its implementing ordinances.

Open Space

The proposed project would provide eight open space areas ranging in size from 0.22 to 8.05 acres, for recreational amenities, bioretention areas, fuel modification areas, and protection of slopes and biologically sensitive areas. Most of these open space areas would be concentrated around the perimeter of the project site (particularly the south end of the site, where sensitive habitat is located and slopes are steepest), providing a buffer between residential development on the site and existing development on adjoining properties. The neighborhood surrounding the development site is residentially zoned, with some areas under the jurisdiction of the City of Escondido and others under the jurisdiction of the County of San Diego. While the neighborhoods to the east and northwest of the project site contain larger properties ranging from approximately an acre to several acres in size, neighborhoods to the southwest (on the opposite side of Bear Valley Parkway) and the south contain

parcels that are comparable in size (a quarter of an acre to half an acre) to those proposed under this project. Therefore, the proposed lot clustering would be compatible with the surrounding residential character.

Noise and Vibration

An acoustical study (last revised April 27, 2016) and construction vibration study (prepared May 19, 2016) were completed for the residential development site by Investigative Science & Engineering, Inc. An additional acoustical/vibration study was prepared by Harris and Associates on September 27, 2016, to cover the full-width Bear Valley Parkway widening and improvement activities proposed under the project's SAP. These studies were conducted to investigate the project's conformance to City of Escondido noise regulations and inform the noise analysis in the project's EIR, and are included in the Final EIR as Appendices O through Q.

Several mitigation measures have been proposed in the Final EIR as a result of these studies. Noise and vibration during construction activities would be minimized via practices such as location of stationary noise sources (e.g., temporary generators) as far from sensitive receptors as possible, prohibition of truck idling along streets near receptors, and phasing of noise-generating activities. The use of "quiet" equipment and best available noise-control measures, such as mufflers, intake silencers, engine enclosures, noise-attenuating shields or shrouds, and/or sound blankets, would also be required to reduce construction noise levels to an hourly average of 75dBA at any residential property line, to conform to requirements described in Chapter 17 (Offenses- Miscellaneous Provisions), Article 12 (Noise Abatement and Control) of the City of Escondido Municipal Code. All neighbors within 75 feet of any daytime vibration-producing activities would be informed in writing of these activities at least three weeks prior to starting work.

Measures have also been proposed to minimize noise for residents of the new development. These measures would require review of final site plans, building elevations, and floor plans by a qualified acoustical consultant to ensure that interior noise levels in the new residences do not exceed 45 dBA, and application of noise insulation treatments if needed. Additionally, a sound wall would be constructed along the property lines adjacent to Bear Valley Parkway for Lots 1 through 5 (for Lot 1, the sound wall would extend along a portion of the property line that is adjacent to the project entrance). This sound wall would ensure that outdoor areas on these five residential lots would not exceed noise limits specified in the General Plan's Community Protection Element.

Aesthetics and Visual Impacts

The project EIR contains an analysis of visual impacts of the proposed residential development, including visual simulations from three viewpoints along nearby roads (two on Bear Valley Parkway and one on Choya Canyon Road). As noted in the EIR and supported by these simulations, the project would be constructed to conform to the existing site topography and would not significantly project above any ridgelines. The project would not significantly obstruct scenic vistas of distant ridgelines or hilltops for motorists, bicyclists, or pedestrians traveling northbound or southbound on Bear Valley Parkway. For travelers on Choya Canyon Road, the development has the potential to obstruct views of Bernardo Mountain and distant intermediate ridgelines. However, Choya Canyon Road is considerably less traveled than Bear Valley Parkway, and views of hills and ridgelines are already partially obstructed by existing development, landscaping, and utility lines, as well as trees planted along a portion of the road. The EIR therefore determined that the residential development and SAP would cause less than significant impacts to scenic vistas.

The above analysis notwithstanding, during the review period for the Draft EIR, a resident at the intersection of Choya Canyon Road and Chaparral Lane (directly east of the project site) expressed concern that a landscaped HOA area proposed for the northeastern boundary of the development site would obstruct views of surrounding hills from his home and therefore diminish his property value. To address this concern, the applicant modified the proposed planting plan for this area of the project to replace certain tree species with shorter species, including palo verde, redbud, and various shrubs, succulents, and grasses. A five-foot-tall tubular steel fence is proposed for this portion of the development boundary for visual transparency.

As noted previously in this staff report, a Precise Development Plan is required for this project to establish the design of the residences, including building elevations and floor plans. The applicant has elected to seek this approval at a later time, when a specific developer has been selected. When a Precise Development Plan application is submitted, the application will be reviewed by the City for conformance with various codes and regulations, and will undergo design review by Planning staff to ensure that it generates an attractive product that

is compatible with the surrounding area, prior to being scheduled for a public hearing before the Planning Commission. In the meantime, the applicant has provided some general design guidelines and development standards for the project to enable a more thorough review of the Master Development Plan. These guidelines and standards are discussed in the Supplemental Details of Request section of this report.

Specific Alignment Plan Improvements

A Specific Alignment Plan (SAP) is proposed for phased street improvements to Bear Valley Parkway, as follows:

- Phase 1: Includes improvements along the east side of Bear Valley Parkway, along the residential project frontage (approximately 2,937 linear feet). New improvements would include one additional northbound travel lane, curb, gutter, sidewalk, and stormwater improvements in accordance with the United States Environmental Protection Agency (USEPA) Green Streets guidelines (vegetated swales, street tree wells, etc.) An existing Class II bike lane would remain, as would existing utility poles, but both would be shifted eastward to accommodate the widened road and right-of-way. Completion of Phase 1 improvements would require dedication of land along the majority of the project frontage to widen the Bear Valley Parkway right-of-way to accommodate proposed street improvements, though a small portion of the existing right-of-way at the far south end of the development site would need to be vacated. The applicant or developer would assume full responsibility for Phase 1 improvements.
- Phase 2: Includes improvements along the east side of Bear Valley Parkway, between Sunset/Ranchito Drive and the southern boundary of the residential development (approximately 528 linear feet). As with Phase 1, these improvements would include the second northbound lane (to transition from the single northbound lane south of the Sunset/Ranchito intersection), curb, gutter, sidewalk, bike lane, and stormwater measures. A proposed Development Agreement would define the terms for acquisition of the right-of-way necessary in order to complete these off-site improvements, as well as responsibility for installing the improvements (see below).
- Phase 3: Includes improvements along the west side of Bear Valley Parkway (approximately 3,560 linear feet between Choya Canyon Road and Sunset Drive/Ranchito Drive, including the intersection with Encino Drive). This phase would also construct a center median ranging in width from 2' to 14' and containing a vegetated swale for stormwater management, and would signalize and realign the intersection of Bear Valley Parkway and Encino Drive. The applicant would not be responsible for improvements on this side of the road, and a timeline for their completion has not been determined, though a condition of approval has been proposed requiring the applicant to make a fair-share contribution toward the realignment and signalization of the Bear Valley/Encino intersection. The applicant has provided a plan showing the ultimate buildout of Phase 3 improvements for informational purposes, so that staff and decision-makers can see how Phase 1 and Phase 2 improvements will tie into the ultimate vision for this segment of Bear Valley Parkway.

E. PUBLIC PARTICIPATION AND NOTICE

Public outreach was conducted in the City's review and consideration of the Project proposal. The Project application was circulated to various City, County, and regional agencies for review, and modifications were made to the Project to address any concerns. No new issues of concern have been identified. Comments from agencies have either been addressed through the processing of the Project or have been included as Conditions of Approval. These conditions have been compiled as Exhibit "B" and are attached to this report.

On May 25, 2016, the applicant held a meeting at Bear Valley Middle School to discuss the project proposal with neighbors and answer any questions. At the applicant's request, staff did not attend or participate in this meeting.

On November 28, 2016, a Notice of Preparation (NOP) and Initial Study were distributed for the project in compliance with CEQA, to inform the public that an EIR was determined to be the appropriate format for analysis of project-related environmental impacts. Four comments were submitted from state and local agencies in response to the NOP; these comments and responses were included within the Draft EIR for the project.

A Draft Environmental Impact Report (EIR) was then prepared for the project and circulated for a 45-day public review from March 27, 2017 through May 12, 2017. Fifteen comments from state/local agencies and individuals were received during this review period, and responses to those comments were incorporated into the Final EIR. Correspondence from the San Luis Rey Band of Mission Indians was received on August 3, 2017, after the review period for the Draft EIR had closed but before the Final EIR was released. Additionally, correspondence from Richard Kolb (a neighbor of the project), the Rincon Band of Luiseño Indians, and the San Diego County Archaeological Society was received between August and October of 2017, following the release of the Final EIR. The comments contained within these four letters received outside of the public review period for the Draft EIR do not raise any additional environmental concerns that were not addressed within the EIR. Copies of these four letters are attached to this staff report.

The City of Escondido Zoning Code requires notice of this public hearing be published in a local paper and mailed to owners and occupants of property within 500 feet of the subject property at least ten days in advance of the meeting. Notice of a public hearing for this project was published in the Daily Transcript on June 14, which is twelve days in advance of the meeting. Direct mailing also occurred in advance of the meeting, and as a courtesy, the meeting notice was posted at City Hall and on the Planning Division's Internet site under "Public Notices".

SUPPLEMENT TO STAFF REPORT/DETAILS OF REQUEST

A. PHYSICAL CHARACTERISTICS:

The residential development site consists of two lots which combined comprise 40.62 acres. The site is on the east side of Bear Valley Parkway, just south of Choya Canyon Road and about 580 feet north of Ranchito Drive/Sunset Drive. Topography on the site is sloping, with a high point of 678 AMSL (above mean sea level) in the north-central portion of the site, and the lowest part at the southern end of the site, where the riparian corridor is located.

The Specific Alignment Plan would affect a segment of Bear Valley Parkway between Ranchito Drive/Sunset Drive to the south and Choya Canyon Road to the north. This segment has a total linear length of 3,560 feet. The overall directional trend of this segment is north/south, though it follows the curve of the residential development site. Street improvements on this segment of Bear Valley Park are limited; both sides have a Class II bike lane, while the west side has curb, gutter, and sidewalk only along the frontage of Zlatibor Ranch (a subdivision that falls within County jurisdiction).

B. SUPPLEMENTAL DETAILS OF REQUEST:

General Details	
Residential Project Size	40.62 net acres across two lots (APNs 237-131-01 and 237-131-02; collectively addressed as 661 Bear Valley Parkway)
Specific Alignment Plan Dimensions	3,560 linear feet of improvements along east side of Bear Valley Parkway
Permitted Density by Slope Category	0-15 percent: 16.1 ac (32.2 units allowed at 2 units/acre) 15-25 percent: 18.8 ac (37.6 units allowed at 2 units/acre) 25-35 percent: 3.2 ac (3.2 units allowed at 1 unit/acre) 35+ percent: 2.8 ac (0.14 unit allowed a 1 unit/20 acres) Total units permitted: 73 (rounded down from 73.14)

Proposed Development Standards		
	Proposed Standard	R-1 Standard (While the project site is currently zoned RE-20, the proposed lot sizes are comparable to those found in R-1 developments)
Front Setback	15' minimum to habitable area or side-facing garage 20' minimum to front-facing garage	Same as proposed
Side Setback	Interior Lots: 5' minimum each side Corner Lots: 5' minimum interior side; 10' minimum street side	Interior Lots: 5' minimum one side; 10' minimum opposite side Corner Lots: Same as proposed
Rear Setback	20' minimum to house (top of slope setbacks shall be per the approved Fire Protection Plan)	Same as proposed
Setback Projections	Bay windows, fireplaces, balconies, decks, eaves, buttresses, pot shelves, latticework, foundation columns and facades, and other similar architectural features may project a maximum of 2' into the rear yard setback and 4' into the front yard setback, but at no point may they be closer than 3' from the property line. No projections of any type shall be placed above the roof of any residential dwelling, except one or more chimneys and vent stacks.	Certain architectural features may project up to 4' into the front or rear yard setback and 2' into the side yard setback, but shall be no closer than 3' to any lot line.
Lot Coverage	45 percent maximum	40 percent maximum
Floor Area Ratio	0.5 maximum; may exceed with approval of Community Development Director	0.5 maximum, with no option to exceed
Building Height	One-Story Residences: 24' maximum Two-Story Residences: 35' maximum Measured from finished floor to high point of roof (excluding chimneys)	35' maximum, measured from grade to high point of roof
Proposed Amenities		
Fencing and Walls	- Slump block sound wall along rear property lines of Lots 1-5, for noise minimization- 5' height with 6' pilasters - Fire deflection walls along rear property lines of Lots 31 to 33, per fire analysis- 4' of bird-safe glass on top of 2' of slump block	

	• Solid rail fencing for separation between residential lots in selected areas (where a rear property line of one property abuts a rear or side property line of another)- 5' height • Tubular steel fencing for separation between residential lots and open space areas- height to vary • Solid rail fence along walking trail, to define route and discourage access into open space areas- 4'3" height • Guard rail along top of retaining wall adjacent to Open Space Lot H, for safety purposes- height and materials per Building Code • Retaining walls on Lots 1 and 7, as well as Open Space Lots A and H, as indicated per grading details on Tentative Map
Recreational Amenities	• Pocket park in Open Space Lot "E", to include a tot lot, bocce ball court, shade structure, seating, and landscaping/turf • Private gravel trail with connectivity to the emergency access road directly adjacent to the pocket park, as well as to the vehicular maintenance access road near the southwest corner of the development(both access roads connect directly to Bear Valley Parkway) • Pedestrian seating in landscaped areas between Lots 5 and 6 and Lots 27 and 28
Proposed Design Guidelines	
General Guidelines for Architectural Design, Development Pattern, and Building Orientation	The development shall contain a mix of one- and two-story units. No more than 85 percent of the residential lots may be developed with two-story units (i.e., a minimum of 15 percent shall contain one-story units). Two-story units shall be designed to keep the perceived scale compatible with surrounding structures. Scale may be minimized by employing a building design technique that sets the second story back from the front and sides of the first story a distance sufficient to reduce the apparent overall scale of the building. Varied designs and reverse building plans shall be employed for variety and visual interest. Architecture shall incorporate design elements and building materials commonly associated with California ranch-style homes. Primary wall surface materials may include wood, brick, tile, glass block, river rock, stone, plaster, and/or stucco. When plaster or stucco is the main surface material on exterior walls, it shall be offset through the use of additional materials as listed here. Color palettes shall reflect and blend with the natural setting. Colors shall not be bright, reflective, metallic, or otherwise visually out of character with the natural setting. Wall colors shall be predominantly soft earth tones such as beige, brown, green, or sandy hues. Pastels (such as pink, salmon, or mauve) and pure whites shall be avoided. Roof colors may vary, but colors conflicting with the natural setting (such as bright blue or orange) shall be prohibited. Window designs shall incorporate one or more of the following elements: • Deeply recessed windows • Paned windows • Decorative window ledges

	• Window lintels • Accent and varied-shape windows • Window boxes and planters with architecturally evident supports • Exterior wood trim surrounds • Accent colors on shutters or other elements • Arched elements Front building facades shall incorporate a minimum of four varieties of design elements to create character and interest. These elements may vary depending on the specific architectural style used, and may include: • At least one of the window design elements listed above (required) • Varied roof planes • Exposed roof beams or rafter tails • Dormers • Deeply recessed doors • Paned doors • Door lintels • Covered balconies • Arched elements • Variations in colors of accent materials Side and rear elevations adjacent to public or private roads shall incorporate a minimum of two of the architectural elements listed above. For homes adjacent to Bear Valley Parkway, fenestration detailing on the elevation facing that road shall be equal to, or superior to, the fenestration detailing on the front elevation. Long, unbroken planes without offset shall be minimized. Offsets and articulation of building mass shall reflect the organization of the floor plans. Accessory structures shall be reflective of the design guidelines noted above. Location, size, and other elements shall be in accordance with City of Escondido Zoning Code regulations for the RE-20 zone, and the specific approvals for 661 Bear Valley Parkway. Specific details regarding architectural design shall be provided with a Precise Development Plan application, to be submitted at a later date, and shall be subject to review and approval by the staff design review committee and Planning Commission. In cases where site characteristics, existing improvements, or special circumstances make substantial adherence to the design guidelines impractical, substantial compliance may not be possible. In this case, new home design or development and improvements must meet or exceed the intent of the design guidelines, as stated above. These standards and guidelines are intended to help maintain a high-quality neighborhood design by providing guidance for the design of new houses, additions, and/or remodels.
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**FINDINGS OF FACT/FACTORS TO BE CONSIDERED
EXHIBIT "A"**

Environmental Documentation Determinations:

1. Pursuant to the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et. seq.), and its implementing regulations (the State CEQA Guidelines), 14 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.
2. In accordance with CEQA Guidelines Section 15082, the City distributed a Notice of Preparation ("NOP") of the Draft EIR to the State Clearinghouse, local and regional responsible agencies, and other interested parties on November 28, 2016, for a 30-day public comment period. Various agencies and other interested parties responded to the NOP.
3. The Draft EIR for the proposed Project was then prepared and after completing the Draft EIR (SCH No. 2016111060), the City released the document for public review for a 45-day public comment period by filing a Notice of Availability with the County Clerk of San Diego. The 45-day public comment period started March 27, 2017, and ended May 12, 2017. During the public comment period of the Draft EIR, the City consulted with and requested comments from all responsible and trustee agencies, other regulatory agencies and others pursuant to State CEQA Guidelines Sections 15086 and 15087.
4. The City received comments concerning the Draft EIR from public agencies, organizations, and individuals, and pursuant to CEQA Guidelines Section 15088, the City prepared responses to all written comments received on the Draft EIR which raised environmental issues. The City has determined that the comments received on the Draft EIR did not contain any significant new information within the meaning of CEQA Guidelines Section 15088.5 and therefore, recirculation of the Draft EIR is not required.
5. The City prepared a Final EIR, which contains the information required by CEQA Guidelines Section 15132, including the Draft EIR, the technical appendices and referenced documents, revisions and additions to those documents, public and agency comments on the Draft EIR, and the City's responses to comments.
6. Based on staff's review of the Project, no special circumstances exist that would create a reasonable possibility that granting a Rezone, Preliminary and Master Development Plan, Tentative Subdivision Map, Grading Exemption, Specific Alignment Plan, and Development Agreement for this Project would have a significant effect on the environment beyond what was previously analyzed and disclosed.
7. The Planning Commission has carefully reviewed and considered all environmental documentation comprising the Final EIR, including the Draft EIR and the revisions and additions thereto, the technical appendices and referenced documents, and the public comments and the responses thereto (on file in the Office of the City Clerk and incorporated by this reference), and has found that the Final EIR considers all potentially significant environmental impacts of the Project and is complete and adequate, and fully complies with all requirements of CEQA and the State CEQA Guidelines. The Planning Commission has considered all significant impacts, mitigation measures, and Project alternatives identified in the Final EIR and found that all potentially significant impacts of the Project have been lessened or avoided to the extent feasible. The Planning Commission also finds that the Project alternatives would not satisfy the Project objectives as effectively as the Project. Pursuant to Public Resource Code Section 21082.1(c)(3) and CEQA Guidelines Section 15090(a)(3), the Planning Commission also finds that the EIR reflects the City's independent judgment as the lead agency for the proposed Project.
8. As required by CEQA, the City, in recommending City Council adoption of these Findings of Fact, also recommends adoption of the Mitigation Monitoring and Reporting Program (MMRP) included in the Final EIR. The Planning Commission finds that the MMRP meets the requirements of California Public Resources Code (PRC) Section 21081.6 by providing for the implementation and monitoring of measures intended to mitigate the potentially significant effects of the recommended Plan.

Rezone Determinations:

1. The proposed Rezone would not be detrimental to the public health, safety, or welfare of the City because the development standards and building requirements allowed under the Rezone would be subject to all local and State regulations including, but not limited to, Air Pollution Control District regulations, Public Works Department regulations, Health Department regulations, Zoning Code standards, Fire Department standards, and Building and Safety Division regulations. The proposal meets the purpose of the Municipal and Zoning Codes as it would be consistent with the established rules of the proposed zoning districts. The Project site has been thoroughly analyzed for applicable environmental impacts related to this proposed development (Environmental Impact Report, State Clearinghouse #2016111060), and as appropriate, the Final EIR recommends measures to mitigate potential impacts.
2. The property involved is suitable for the uses permitted by the proposed zone. The proposed Rezone would change the zoning of the subject property from RE-20 (Residential Estates; 20,000-SF minimum lot size) to PD-R (Planned Development-Residential). The change of zone is proposed in conjunction with a Preliminary and Master Development Plan that would allow clustering of 55 single-family residential lots ranging from 10,005 SF to 24,557 SF in size, as well as approximately 20.02 acres of open space. No General Plan Amendment is necessary for the project, since the density of the residential development conforms to the standards of the existing E2 (Estate II) land use designation, and the E2 land use designation is consistent with the proposed PD-R zone per Land Use Zoning Policy 2.3 and Figure II-32 of the General Plan.
3. The uses proposed for the subject property would not be detrimental to surrounding properties since the site is located in an established residential area containing a range of similar residential uses at a relatively similar size. All public services and utilities to serve the Project would remain as identified in the General Plan or applicable Municipal and Zoning Codes. The open space system serves as a natural physical barrier, which provides ample distances from adjacent residential areas and proposed residential land uses, and protects slopes, biological resources, and fuel modification zones. Proposed development standards and design guidelines provide a clear design concept and are compatible with the character of buildings on adjoining and nearby properties.
4. The proposed change is consistent with the adopted General Plan. The proposed residential density does not exceed the maximum allowed for the E2 land use designation. The purpose of the Planned Development (PD) zone is to encourage development of parcels with comprehensive site planning and building design; provide a flexible regulatory procedure by which the basic public purposes of the General Plan and development policies may be accomplished for specific parcels; encourage creative approaches to land use through variation in siting of buildings and appropriate mixing of various uses and design of facilities; promote and create public and private open space as an integral part of land development design; encourage private development of older areas of the City or areas which are not conducive to development under traditional zoning designations; and enhance and preserve property with unique features, such as historical significance, biological resources, or unusual topography and landscape features. Upon approval of the proposed Rezone, zoning for the entire property would be PD-R and the proposed Master Development Plan would be consistent with the intent of the General Plan and Municipal Code. The project site has a unique set of design challenges and spatial complexities with regard to lot orientation, circulation, and transitional areas from adjacent properties. The Master Development Plan provides an opportunity to address these complexities while also promoting the design and creation of new housing with neighborhood compatibility for consistency with General Plan policies and addressing site organization and urban form, setbacks, and building transitions.
5. The proposed Rezone does not establish a residential density below 70 percent of the maximum permitted density of any lot or parcel of land previously zoned R-3, R-4, or R-5.
6. The relationship of the proposed changes is not applicable to any specific plans.

Planned Development Determinations

1. The location, design, and residential density of the proposed Planned Development is consistent with the goals and policies of the Escondido General Plan and any applicable specific plan or with any policies

adopted by, or being considered by the Escondido city council, or in the process of being prepared and adopted. The proposed project would create 55 single-family lots with net sizes ranging from 10,005 SF to 24,557 SF, with an average net lot size of 11,645 SF or 0.27 acre. While the General Plan designation of Estate II (E2) requires a minimum lot size of 20,000 SF, this minimum lot size may be reduced to 10,000 SF when the project site is included within a planned development or specific plan, per General Plan Residential Clustering Policy 5.1. The project includes 20.04 acres of open space to protect slopes, sensitive biological habitat, and fuel modification zones, and to provide recreational amenities and stormwater management facilities; per Residential Clustering Policy 5.7, these are acceptable uses for permanent open space in a planned development. Per Residential Clustering Policy 5.9, the reduction in residential lot sizes proposed under this Planned Development does not exceed the open space provided. The project does not exceed the density allowed for the E2 designation, since it proposes 55 units, while the E2 designation allows 73 units.

2. The proposed location allows the Planned Development to be well integrated with its surroundings. The project site is surrounded by residential neighborhoods characterized by single-family homes on lots ranging from roughly a quarter-acre to several acres in size. Proposed development standards are largely consistent with those assigned to the City's R-1 (Single Family Residential) zone. While the applicant has chosen to defer application for a Precise Development Plan to a later date, some general design guidelines have been provided which state that the new homes would incorporate a balance of single-story elements and feature natural colors and materials to coordinate with the surrounding environment.
3. All vehicular traffic generated by the Planned Development will be accommodated safely and without causing undue congestion upon adjoining streets. A traffic impact analysis was prepared for the project and a mitigation measure has been proposed in the EIR to require the applicant to make a fair-share contribution toward the signalization and realignment of the Encino/Bear Valley intersection. The project also proposes a Specific Alignment plan to add a second northbound lane and other improvements to the portion of Bear Valley Parkway between Sunset/Ranchito Drive and the north end of the development site, and signalization the project entry has been proposed as a project feature.
4. The proposed location and design allows residents within the zone to be adequately serviced by existing or proposed public facilities and services and does not provide an undue or negative impact on existing public facilities and services. All utilities intended for the site are already in place or can be extended to serve the site. Police and fire services are available and sufficient for the development, as described in the June 26 2018 staff report.
5. The overall design of the proposed Planned Development produces an attractive, efficient and stable environment. Design guidelines have been proposed to require single-story elements, with the use of decorative accents and natural colors and materials in the new residences. Recreational amenities have been proposed for the development, including a pocket park and walking trail. A conceptual landscape plan has been provided that includes attractive and regionally-appropriate plantings for fuel modification zones, HOA areas, bioretention basins, the pocket park, and along interior streets.
6. The Planned Development is well integrated with its settings, does not require excessive earthmoving or grading, or destruction of desirable natural features, nor is visually obstructive or disharmonious with surrounding areas and facilities, and does not substantially harm major views from adjacent properties. While grading will be necessary to construct the project, the development has been designed to coordinate with the existing topography of the site, and the project's effects on views from surrounding streets and residences has been analyzed within the project's EIR.
7. The uses proposed have a beneficial effect not obtainable under existing zoning regulations, and any departure from existing ordinance requirements shall be warranted by the design and the amenities incorporated in the Planned Development in accord with adopted city policy. While the site's existing RE-20 zoning does allow construction of single-family residences, the proposed Planned Development would allow a development of the same overall density as an RE-20 development, but with clustered lots that avoid constraints such as steep slopes and sensitive biological habitat. The Planned Development would include permanent open space for protection of a majority of these slopes and habitat, as well as for recreational amenities to benefit the development's residents.

Tentative Subdivision Map Determinations:

1. The Planning Commission makes the finding that none of the findings (a) through (g) below in Section 66474 of the California Government Code that require a City to deny approval of a Tentative Subdivision Map apply to this Project for the reasons stated as follows:

Findings for Tentative Map Approval	Explanation of Finding
A. That the proposed map is consistent with applicable general and specific plans as specified in Section 65451 of the Subdivision Map Act	The proposed Project has been reviewed in accordance with the City's General Plan. The proposed subdivision is consistent with the General Plan because the E2 land use designation allows residential uses on the Project site. The E2 land use designation allows a maximum density of two dwelling units/acre for slopes under 25 percent, one dwelling unit/acre for slopes between 25 and 35 percent, and one dwelling unit per 20 acres for slopes over 35 percent. The topography of the Project site allows 73 dwelling units, and the proposed Tentative Subdivision Map is consistent with this maximum density since it includes 55 dwelling units. The Project meets the minimum lot size standard of 10,000 SF for planned developments in the E2 land use designation, and provides sufficient open space to compensate for the proposed residential lot clustering. The Project is also consistent, and advances, a number of other important goals and policies of the General Plan, as discussed in the June 26, 2018 Planning Commission staff report. The Project site is not located within an existing or proposed specific plan.
B. That the design or improvement of the proposed subdivision is consistent with applicable general and specific plans.	The General Plan allows for clustering of single family lots to maintain site topography, protect natural resources, and avoid hazards. Implementation of lot clustering is allowed only within Planned Development Zones or Specific Planning Areas. To conform to this requirement, the applicant has proposed a Rezone of the site to PD-R, as well as a Master Development Plan. Proposed residential lot sizes would exceed 10,000 SF, which is the minimum required lot size for clustered developments in the E2 land use designation. Development standards and design guidelines are proposed under the Master Development Plan; however, the Project's proposed street alignments, grades and widths; drainage and sanitary facilities and utilities, including alignments and grades thereof; location and size of all required easements and rights-of-way; emergency access road and fuel modification zones; lot size and configuration; traffic access; grading; and recreational amenities were all reviewed for compliance to relevant City policies and codes. As conditioned, the design and improvements of the proposed subdivision are consistent with the General Plan.
C. The Project site is physically suitable for the proposed type of Project.	The Project site has been thoroughly analyzed for applicable environmental impacts related to this proposed development (Environmental Impact Report, State Clearinghouse #2016111060), and

	as appropriate, the Final EIR recommends measures to mitigate potential impacts. The site is suitable for the residential type of development proposed since the Project is located on property that is adjacent to residential uses at a relatively similar size and scale. The location, access, density, size, and type of uses proposed in the Tentative Subdivision Map are compatible with the existing and future land uses in the surrounding neighborhood. Adequate access and utilities can be provided to the site. A view analysis has been provided in the EIR that demonstrates that the proposed grading design would not result in any significant adverse visual or compatibility impacts with adjacent lots, nor block any significant views. The project would not result in the destruction of desirable natural features, nor be visually obstructive or disharmonious with surrounding areas because the site is not located on a skyline or intermediate ridge, and does not contain any significant topographical features. A conceptual landscape plan provided by the applicant proposes to plant a variety of trees and shrubs on graded slopes and as screening between the development site and adjacent neighborhoods.
D. That the site is physically suitable for the proposed density of development.	The granting of the Tentative Subdivision Map would not violate the requirements, goals, policies, or spirit of the General Plan. The Estate II Land Use designation allows for a maximum of two dwelling units per acre for slopes under 25 percent, one dwelling unit per acre for slopes between 25 and 35 percent, and one dwelling unit per 20 acres for slopes over 35 percent. Per Residential Development Policies 3.11 through 3.13, development on slopes over 35 percent is restricted, but the density assigned to that category may be transferred to flatter slope categories within a project site. The topography of the Project site allows for 73 units based on these ratios. The proposed subdivision would create 55 single-family residential lots, consistent with the allowable density. The portions of the site that contain slopes over 35 percent would be preserved in open space areas that would preclude grading or development activities, or are small and isolated and therefore do not meet the standards of steep slope protection as envisioned by the General Plan or its implementing ordinances. The Project also would not be out of character for the area because the proposed development would be well integrated into its surroundings. The new residences would incorporate single-story elements, as well as compatible and integrated architecture, materials, and colors. The project would not be visually obstructive or disharmonious with surrounding areas, or harm major views from adjacent properties, and the development would provide an attractive pedestrian access throughout the site. Necessary services and facilities are available or can be provided.

E. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially or avoidably injure fish or wildlife or their habitat.	The Project site has been thoroughly analyzed for applicable environmental impacts related to this proposed development (Environmental Impact Report, State Clearinghouse #2016111060). No special status plant or animal species were discovered on the Project site during the preparation of the Project's biological technical report. Impacts to vegetation communities, nesting birds, and jurisdictional aquatic resources were identified, and mitigation measures have been proposed in the Final EIR to reduce these impacts to a less than significant level.
F. That the design of the subdivision or the type of improvements is not likely to cause serious public health concerns.	The design of the map and the type of improvements are not likely to cause serious public health problems. The Project's proposed street alignments, grades and widths; drainage and sanitary facilities and utilities, including alignments and grades thereof; location and size of all required easements and rights-of-way; fuel modification zones; lot size and configuration; traffic and emergency access; grading; and open space and recreational amenities were all reviewed for compliance to relevant City policies and codes. Deviations from City of Escondido standards are requested for Bear Valley Parkway improvements, as explained in the proposed Specific Alignment Plan, as well as the Project's interior streets, where a right-of-way reduction (60' to 56') is proposed for Streets B through D and a portion of Street A, as well as a reduction of centerline horizontal radius from 435' to 200'. Deviations from R-1 development standards and grading exemptions are also proposed as discussed in the June 26, 2018 staff report (although the current zoning of the site is RE-20, the R-1 zone was selected for comparison since typical lot sizes in that zone are comparable to lot sizes proposed by the project). Elsewhere, the proposed subdivision map has been designed to meet the requirements of the City and other service agencies standards. All necessary public facilities and services are in place or can be extended to serve the Project, which comes with support from fire, sewer, water, and school service providers, indicating that existing facilities are available to service the Project. New homes are not proposed to be located in areas that contain earthquake faults, flooding or dam inundation potential. Environmentally sensitive areas and drainage courses are maintained and incorporated within the plan. The design of the subdivision would not result in serious health problems and would not be detrimental to the public welfare or injurious to other property in the territory in which the property is situated.
G. That the design of the subdivision or the type of improvements would not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.	The design of the map and type of improvements would not conflict with easements of record, or easements established through court judgment, or acquired by the population at large, for access through, or use of property within the proposed

	map. All easements identified in the preliminary title report for the subject property are shown on the proposed Tentative Subdivision Map. No conflicts with easements of record have been identified.
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2. All permits and approvals applicable to the proposed Tentative Map pursuant to Chapter 33 of the Municipal Code have been obtained, or conditions of approval have been proposed to ensure they will be obtained. Approval of a Rezone, Master Development Plan, Grading Exemptions, and a Specific Alignment Plan along with the Tentative Map will allow the applicant to implement the design of the subdivision as shown on the map. The project has been conditioned to require several permits necessary to construct the project as proposed, including grading, landscape, building, and encroachment permits from the City of Escondido, as well as permits from outside agencies, such as the State and/or Regional Water Quality Control Board and State Department of Fish and Game.
3. The proposed Tentative Map shall be in conformity with the zone in which it is located. The project site is currently zoned RE-20. However, a Rezone is proposed in conjunction with the Tentative Map to change the zoning to PD-R, and a Master Development Plan is proposed to allow clustering of residential lots. All residential lots on the Tentative Map would exceed 10,000 SF, which is the minimum allowed for clustered lots in the E2 land use designation of the General Plan. The Tentative Subdivision Map has been conditioned appropriately to provide all infrastructure improvements including interconnected street system, pedestrian connectivity, and sufficient open space and landscaping. The conditions of approval and subsequent design review of future residential development would ensure consistency with all standard requirements.
4. All applicable requirements of the Map Act and any ordinance of the City of Escondido regulating land divisions have been satisfied.

Grading Exemption Determinations

1. Granting the proposed new and modified Grading Exemptions is consistent with the Grading Design Guidelines for the following reasons:
 - a. The grading activity does not affect sensitive biological species or habitats, mature or protected trees, and required landscaping, and the development shall incorporate erosion control measures as defined in the City's stormwater management requirements.
 - b. The proposed Grading Exemptions would not create a negative visual impact upon neighboring properties and the public right of way because landscaping on the slopes will assist in softening the visual effect.
 - c. The proposed slopes would not intrude into or disturb the use of any adjacent property or adversely block the primary view of any adjacent parcels; disturb any utilities or drainage facilities; obstruct circulation patterns or access; nor preclude the future development of any adjacent parcel.
 - d. The proposed design of the slopes would not adversely affect any adjoining septic systems. The cut slope in Lot B is the closest exempted slope to neighboring properties to the east, which are served by individual septic systems. Information collected from the County Department of Environmental Health and a neighboring property owner during the preparation of the EIR indicates that those systems are an adequate distance from the proposed cut slope to conform to County setback standards, and setbacks are called out on the proposed Tentative Map. The proposed project will be provided with sewer service.
 - e. The project's homes would be built on lots that would be generally lower in elevation as compared to adjacent homes to the direct east. The project's EIR indicates that no significant impacts to aesthetics or visual quality would arise as a result of the project.
 - f. The proposed cut and fill slopes would be structurally stable since all slopes will be manufactured so as not to exceed a standard 2:1 inclination.

All graded areas shall be protected from wind and water erosion through compliance with the City's stormwater management requirements. The development will be required to incorporate interim erosion

control plans, certified by the project engineer and reviewed and approved by the City's Engineering Services Department.

Specific Alignment Plan Determinations:

1. Bear Valley Parkway is classified on the City of Escondido's Circulation Element as a Major Road (4-lanes) for the segment north of Sunset/Ranchito Drive, which passes the proposed residential development site. Between Eldorado Drive to the north of the proposed residential development and San Pasqual Road to the south, capacities range from 15,000 ADT to 37,000 ADT. In response to site conditions and constraints, the Project is proposing modifications to Major Road standards for Bear Valley Parkway between Sunset/Ranchito Drive and the northern point of the residential development site.
2. The roadway improvements to Bear Valley Parkway between Sunset/Ranchito Drive and the north end of the residential development site, as proposed in the Project's Specific Alignment Plan (SAP), would create a more "complete street" by widening right-of-ways; adding an additional northbound lane for vehicles; adding a sidewalk along the frontage of the residential development site (to connect to the existing sidewalk that ends just north of Sunset/Ranchito Drive); and installing Green Street features along the east side of the street for stormwater management (to include vegetated swales, rain gardens, and street trees); to provide a modified Major Road that achieves City standards for acceptable levels of service.

Development Agreement Determinations:

1. The proposed Development Agreement is consistent with the objectives, policies, general land uses, and programs specified in the General Plan. The Project site is located within the Estate II (E2) land use designation of the General Plan, where density is limited to two dwelling units per acre for slopes under 25 percent, one dwelling unit per acre for slopes between 25 and 35 percent, and one dwelling unit per acre for slopes over 35 percent. The topography of the site would allow for 73 units under the above ratios. The project proposes to build 55 units, and therefore is consistent with the maximum density permissible for the E2 land use designation. The purpose of the Development Agreement is to define terms for completion and funding of street improvements to Bear Valley Parkway, as shown in a Specific Alignment Plan proposed in conjunction with this residential development. The Project development proposal promotes amenities beyond those expected under a conventional development, and achieves greater flexibility in design and context-sensitive use of land. General Plan Street Network Policy 7.2 allows for Specific Alignment Plans for unique situations when standard road widening is not adequate for future needs, or when special conditions/constraints exist which require a detailed implementation plan. The applicant has proposed to install several improvements to Bear Valley Parkway along the east side of the road between Sunset/Ranchito Drive and the north end of the development site, to include a second northbound travel lane, sidewalk, curb, gutter, and relocation of an existing bicycle lane; however, the proposed road width would not conform to Major Road standards as defined by the General Plan and the City of Escondido Design Standards and Standard Drawings so approval of a Specific Alignment Plan is required.
2. The proposed Development Agreement is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located all other provisions of Chapter 33. As described above, the project proposes to build 55 units, and therefore is consistent with the maximum density permissible for the E2 land use designation. The project also proposes a Rezone to PD-R and a Master Development Plan to allow for residential lot clustering. In conjunction with these proposals, a Specific Alignment Plan would install several improvements to Bear Valley Parkway along the east side of the road between Sunset/Ranchito Drive and the north end of the development site, to include a second northbound travel lane, sidewalk, curb, gutter, and relocation of an existing bicycle lane. The proposed Development Agreement would define terms for acquisition of right-of-way for improvements located off the development site (i.e., between Sunset/Ranchito Drive and the southern boundary of the residential development), as well as reimbursement of costs for these off-site improvements.
3. The proposed Development Agreement is in conformity with public convenience, general welfare, and good land use practices. New street improvements outlined in the Specific Alignment Plan include one additional northbound vehicle lane on Bear Valley Parkway between Sunset/Ranchito Drive and Choya Canyon Road, as well as curb, gutter, sidewalk, and stormwater management features such as vegetated

swales and tree wells. An existing bicycle lane would be retained, though it would be shifted to the east to accommodate the widened road right-of-way. These improvements would benefit all users of Bear Valley Parkway, and per the Development Agreement, the portion along the frontage of the development site would be provided by the applicant or developer at no public cost.

4. The proposed Development Agreement will not be detrimental to the health, safety, and general welfare of the City. An additional northbound lane on Bear Valley Parkway will increase the capacity of the road in this area, and a new sidewalk on the east side of the road will provide pedestrian access in an area that does not currently enjoy it, and will provide connectivity to an existing sidewalk south of Sunset/Ranchito Drive. The Specific Alignment Plan includes stormwater features, such as vegetated swales and tree wells, to prevent runoff from the road from damaging neighboring properties.
5. The Development Agreement is consistent with the provisions of State law (Government Code, Sections 65864 – 65869.5) to develop in accordance with project approvals and existing laws. These Government Code Sections outline requirements related to the contents of agreements, the applicability of an agreement and on the public hearing and approval process. The proposed Development Agreement is consistent with Government Code Section 65864, which states that the lack of certainty in the approval of development projects can result in a waste of resources and escalated housing costs while discouraging comprehensive planning, because the proposed Development Agreement provides certainty to the applicant regarding fees required and construction obligations for associated public improvements for a period of five years. In addition, the agreement complies with Article 58 of the Escondido Zoning Code, which outlines the procedures and requirements for the review, approval and amendment of development agreements.
6. The proposed Development Agreement would not adversely affect the orderly development of property or the preservation of property values since the project would be developed in conformance with the existing E-2 designation of the General Plan, and in conformance with the General Plan's policies for planned developments. In addition, the agreement does not allow a use that would not be permitted by the Zoning Code. The agreement specifies the duration of the agreement, the terms of the agreement, responsibility for obtaining right-of-way for off-site SAP improvements, and reimbursement for these improvements.

Hillside and Ridgeline Protection Overlay Determinations

1. The bulk, scale, density, and overall character of the proposed development is compatible with the surrounding neighborhood and with the natural, cultural, scenic and open space resources of the area. The density of the project does not exceed the maximum allowed for the E2 land use designation of the General Plan. Proposed development standards for setbacks, building height, lot coverage, etc. are comparable with standards for a development in the R-1 (Single Family Residential) zone. Open space areas have been proposed for protection of slopes and sensitive biological habitat, as well as to provide fuel modification zones, stormwater management facilities, and recreational amenities.
2. The location and design of the proposed development respects and preserves the natural landform, vegetation, and wildlife of the project. Through avoidance and minimization techniques, the project proposes to cluster residential development so as to avoid steep slopes and sensitive biological habitat concentrated at the south end of the site, to the extent possible. Mitigation measures have been proposed to enhance and/or establish biological habitat to remediate the impacts to that do occur. The overall profile of the development will follow the existing topography of the site, with the highest areas of the development toward the north end of the site and the lowest to the south. No ridgelines are located on the project site per the hillside and ridgeline overlay map on file at the Community Development Department.
3. The location and design of the development does not substantially alter the natural appearance and land form of the hillsides and ridges. No ridgelines are located on the project site per the hillside and ridgeline overlay map on file at the City. While the site does contain sloped areas of 35 percent or greater, most of these areas are located toward the south end of the development site, within proposed open space areas where grading and construction would not occur. Isolated slopes of 35 percent or greater would be

located within areas proposed for Bear Valley Parkway widening, the emergency access road, and the far rear corner of Lot 43, as well as portions of open space lots where grading would occur and/or certain improvements, such as recreational amenities and bioretention basins, would be constructed. These areas are fragmented and relatively small, and do not meet the standards of steep slope protection envisioned by the General Plan or its implementing ordinances.

4. The location and design of the proposed development will protect the safety of current and future residents, and will not create a significant threat to life and property due to slope instability, fire, flood, mud flow, erosion, or other hazards. City Engineering staff have reviewed the project's conceptual grading design, and will review the final grading plan submittal as a condition of approval for the project. A geotechnical report, fire protection plan, and drainage study have been provided to aid staff review and to inform the environmental analysis in the project EIR, and mitigation measures and conditions of approval have been proposed where appropriate to minimize threats to life and property. No flood hazard zones exist on the site per FEMA's flood hazard maps.
5. All grading associated with the project has been minimized to the extent possible, preserving the character of the property while utilizing appropriate erosion control practices as determined by Engineering staff to avoid erosion, slides, or flooding, in order to have as minimal an effect on said environment as possible. Grading information has been provided with the project application and reviewed by Engineering staff. Conditions of approval have been proposed to require issuance of a grading permit prior to any ground-disturbing activities, and to require the use of erosion-control measures during grading.

Proceedings:

1. The Record of Proceedings upon which the Planning Commission bases its decision includes, but is not limited to: (1) the Final EIR and the appendices and technical reports cited in and/or relied upon in preparing the Final EIR; (2) the staff reports, City files and records and other documents, prepared for and/or submitted to the City relating to the Final EIR and the Project itself; (3) the evidence, facts, findings and other determinations set forth in herein; (4) the General Plan and the Escondido Municipal Code; (5) all designs, plans, studies, data and correspondence submitted to the City in connection with the Final EIR and the Project itself; (6) all documentary and oral evidence received at public workshops, meetings, and hearings or submitted to the City during the comment period relating to the Final EIR and/or elsewhere during the course of the review of the Project itself; (7) all other matters of common knowledge to the City, including, but not limited to, City, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the City and its surrounding areas.

CONDITIONS OF APPROVAL EXHIBIT "B"

Mitigation Measures

Mitigation BIO-1: If construction activity occurs during the breeding season for raptors and other birds (typically January 1 through September 15), a one-time biological survey for nesting bird species shall be conducted within the proposed impact area and a 300-foot buffer within 72 hours prior to construction. This survey is necessary to ensure avoidance of impacts on nesting raptors (e.g., Cooper's hawk and red-tailed hawk) and/or birds protected by the federal MBTA. If any active nests are detected, the area shall be flagged and mapped on the construction plans along with a minimum of a 300-foot buffer and up to a maximum of 500 feet for raptors, as determined by the project biologist, and shall be avoided until the nesting cycle is complete. The project biologist may reduce the avoidance buffer if a reduced buffer maintains protection of the nesting cycle of the avian species.

Mitigation BIO-2: To mitigate impacts on sensitive habitats from the proposed residential development, the project applicant shall establish or enhance at least 2.01 acres (a 3:1 ratio) of southern coast live oak riparian forest with establishment of 0.67 acre within an on-site mitigation area and enhancement of 1.34 acre within the open space area in general, including enhancing the 0.13 acre area of non-native riparian and enhancing the balance within the area mapped as southern coast live oak riparian forest that contains non-native and invasive species (Table 3.3-10). The mitigation shall occur within the open space lot (Lot H) totaling 8.0 acres. The mitigation area occurs along the ephemeral drainage that runs along the southern boundary of the proposed residential development site, as shown in Figure 3.3-3. A Conceptual Mitigation Plan shall be prepared as part of the permit application process (i.e., CWA Section 401/404 permit) described in mitigation measure BIO-5 by persons with expertise in southern California ecosystems and native plant revegetation techniques. The Conceptual Mitigation Plan shall include, at a minimum (a) the location of the mitigation site; (b) the plant species to be used, container sizes, and seeding rates; (c) a schematic depicting the mitigation area; (d) planting schedule; (e) a description of the irrigation methodology; (f) measures to control exotic vegetation on site; (g) specific success criteria; (h) a detailed monitoring program; (i) contingency measures should the success criteria not be met; and (j) identification of the party responsible for meeting the success criteria and providing for conservation of the mitigation site in perpetuity.

Mitigation BIO-3: To mitigate impacts on sensitive habitats in the proposed SAP improvements area, the SAP improvements applicant shall establish/enhance southern coast live oak riparian forest (or similar vegetation community) at a suitable location at a 1:1 to 3:1 mitigation ratio. If establishment or enhancement is unavailable or not practical, the SAP improvements applicant shall secure mitigation credits at an approved mitigation bank at a 1:1 to 3:1 mitigation ratio. Details will be finalized as part of the permit application process (i.e., CDFW Section 1602 Streambed Alteration Agreement) described in mitigation measure BIO-6.

Mitigation BIO-4: To mitigate impacts on jurisdictional habitat in the proposed residential development, the project applicant shall establish or enhance approximately 0.03 (1:1 mitigation ratio) acre of unvegetated stream channel (Table 3.3-11). The mitigation area occurs along the ephemeral drainage that runs along the southeastern boundary, as shown in Figure 3.3-3. The 0.03 acre plus the 2.01 acre from mitigation measure BIO-2 will result in establishment of 2.04 acres within the mitigation area. Details shall be provided in a Conceptual Mitigation Plan, which shall be prepared as part of the permit process (i.e., CWA Section 401/404 permit) described in mitigation measure BIO-5.

Mitigation BIO-5: To comply with the state and federal regulations for impacts on jurisdictional aquatic resources, the following agency permits are required, or verification that they are not required shall be obtained:

- A CWA, Section 401/404 permit issued by the RWQCB and the USACE for all project-related disturbances of non-wetland waters of the United States and/or associated wetlands.
- A Section 1602 Streambed Alteration Agreement issued by CDFW for all project-related disturbances of any streambed and associated riparian habitat. Permits are required to be obtained by the applicant prior to the impact on the resources.

As noted in mitigation measures BIO-2 and BIO-4, a Conceptual Mitigation Plan is required to provide compensatory mitigation for impacts. The on-site wetland preservation area and the proposed wetland mitigation area (Open Space, Lot H) shall be protected under a covenant of easement or conservation easement. A long-term management plan for the area shall be prepared and will include maintenance of the wetland functions and

values of the existing and restored habitat in perpetuity by the Home Owners Association, underlying land owner, or an approved land manager. The land manager shall be an entity approved by CDFW and USFWS according to a long-term management plan approved by these agencies. The responsible party shall deter access to the Open Space through the use of signage and/or barriers, which will also be placed along the proposed trail within the Open Space. The tasks in the long-term management plan shall provide for long-term monitoring; documentation of site conditions; and tasks such as removal of trash, repair of any vandalism, and control of invasive species. The long-term management plan shall also provide BMPs that help reduce the spread of Polyphagous and Kuroshio shot hole borers (SHBs). BMPs may include on-site worker education, reporting of infestations, equipment disinfection, pruning infected limbs, avoidance of transport of infected host tree materials, chipping potential infected material to less than one inch in size and solarizing prior to removal or composting, and solarizing or burning of cut material that is potentially infected. The condition of the Open Space shall be documented annually by preparation of an annual report submitted to the City and resource agencies. The responsible party shall also be responsible for implementation of any remedial measures (e.g., planting native wetland plants) to repair damage or loss due to any of the above-mentioned factors. The long-term management plan shall be funded by a non-wasting endowment for which the amount can be determined via preparation of a Property Analysis Record or similar method.

Mitigation BIO-6: To comply with the state and federal regulations for impacts on jurisdictional aquatic resources, the following agency permit is required, or verification that it is not required shall be obtained:

- A Section 1602 Streambed Alteration Agreement issued by CDFW for all project-related disturbances of any streambed and associated riparian habitat. Permits are required to be obtained by the applicant prior to the impact on the resources.

Mitigation BIO-7: Prior to the issuance of grading permits, the residential development applicant shall submit a Tree Mitigation Program to the City Community Development Department for review and approval. The Tree Mitigation Program shall focus on preservation, restoration, and enhancement of preserved oak trees/stands through sustainable tree plantings and native tree planting in the transition area between open space and development areas throughout the project site. Table 3.3-12 identifies the total number of plantings required to meet the intent of the City's tree protection and replacement requirements. A minimum of 195 trees (including coast live oak and other suitable native or ornamental species) shall be planted within the residential development landscape areas. The Tree Mitigation Program shall ensure that a minimum of 773 landscape trees are planted on the residential development site, as shown in Table 3.3-13.

Mitigation BIO-8: To meet the City's mitigation planting requirements for the removal and encroachment of trees, 60 trees shall be planted along Bear Valley Parkway following completion of the proposed SAP improvements. Table 3.3-14 identifies the total number of plantings required to meet the intent of the City's tree protection and replacement requirements. A minimum of 60 trees (including coast live oak and other suitable native or ornamental species) shall be planted in areas along Bear Valley Parkway. Table 3.3-15 provides a list of species that are not invasive, are acceptable to fire agencies, and are anticipated to perform well along Bear Valley Parkway.

Mitigation BIO-9: The following measures shall be implemented prior to, during, and following site activities to minimize Polyphagous Shot Hole Borer (PSHB) and Kuroshio Shot Hole Borer (KSHB) spread.

1. Provide education of on-site workers regarding shot hole borers and its spread (provided by the biological monitor)
2. Report sign of shot hole borer infestation to the CDFW and University of California Riverside's Eskalen Lab
3. Disinfect hand tools and machinery used to cut trees, chip trees, and process trees.
4. If infection is observed, remove infested/infected limbs to the extent feasible. If warranted, entire trees may require removal and would be coordinated with the City and or CDFW, as appropriate.
5. Avoid and minimize transportation of potential host tree materials.
6. Following tree felling for known host tree species within the disturbance area, the trees will be ground to less than one-inch diameter and solarized, prior to spreading on-site or delivering to a landfill.
7. Cut logs of known host species that are too large to be chipped/ground will be solarized before being removed from the site.
8. If acceptable, known host species material will be burned in lieu of other protective measures if determined to be preferred to chipping and solarization.
9. Post project landscapes will be maintained in good horticultural condition and trees will be provided necessary maintenance for establishment and growth.

Mitigation CR-1: The City of Escondido Planning Division recommends the applicant enter into a Tribal Cultural Resource Treatment and Monitoring Agreement (also known as a preexcavation 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 and the TCA Tribe for the protection and treatment of, including but not limited to, Native American human remains; funerary objects; cultural and religious landscapes; ceremonial items; traditional gathering areas; and cultural items located and/or discovered through a monitoring program in conjunction with the construction of the proposed project, including additional archaeological surveys and/or studies, excavations, geotechnical investigations, grading, and all other ground disturbing activities.

Mitigation 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 have been retained to implement the monitoring program. The archaeologist shall be responsible for coordinating with the Native American monitor. This verification shall be presented to the City in a letter from the project archaeologist 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.

Mitigation 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.

Mitigation CR-4: During the initial grubbing, site grading, excavation, or disturbance of the ground surface, the qualified archaeologist and the Native American monitor shall be onsite full-time. If imported fill materials, or fill used from other areas of the project site, are to be incorporated at the project site, 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. Archaeological and Native American monitoring will be discontinued when the depth of grading and soil conditions no longer have the potential to contain cultural deposits. The qualified archaeologist, in consultation with the Native American monitor, shall be responsible for determining the duration and frequency of monitoring.

Mitigation 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.

Mitigation CR-6: If a potentially significant tribal cultural resource is discovered, the archaeologist shall notify the City of said discovery and shall conduct consultation with TCA tribes to determine the most appropriate mitigation. 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.

Mitigation 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.

Mitigation 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. The project archaeologists shall document evidence that all cultural materials have been curated and/or repatriated as follows:

1) 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

(2) 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.

Mitigation 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.

Mitigation CR-10: As specified by California Health and Safety Code Section 7050.5, if human remains are found on the project site during construction or during archaeological work, the person responsible for the excavation, or his or her authorized representative, shall immediately notify the San Diego County Coroner's office. Determination of whether the remains are human shall be conducted onsite and in situ where they were discovered by a forensic anthropologist, unless the forensic anthropologist and the Native American monitor agree to remove the remains to an offsite location for examination. No further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains shall occur until the Coroner has made the necessary findings as to origin and disposition. A temporary construction exclusion zone shall be established surrounding the area of the discovery so that the area would be protected, and consultation and treatment could occur as prescribed by law. In the event that the remains are determined to be of Native American origin, the Most Likely Descendant, as identified by the Native American Heritage Commission, shall be contacted in order to determine proper treatment and disposition of the remains in accordance with California Public Resources Code section 5097.98. The Native American remains shall be kept in situ, or in a secure location in close proximity to where they were found, and the analysis of the remains shall only occur onsite in the presence of a Native American monitor.

Mitigation GEO-1: To reduce impacts related to soil stability and expansive soils on the proposed residential development site, the tentative map grading plan shall include the recommendations contained in the Geotechnical Investigation (Appendix I-1) and the Geotechnical Update Report (Appendix I-2), or equivalent measures identified in a Final Geotechnical Report, prior to the issuance of grading permits. The recommendations regarding expansive soils and the existing known mine excavations are listed below.

a. Potentially expansive clayey soils, where encountered, shall be thoroughly mixed with an abundance of sandy granular soils available from the project site bedrock excavations to manufacture a very low expansive mixture. Alternatively, expansive clayey soils shall be selectively buried within deeper site fills and away from the finish fill slope faces, with the upper pad grades and embankment surfaces capped with good quality sandy soils, as recommended in the Geotechnical Investigation (Appendix I-1).

b. Mine-related excavations with ten feet minimum of competent bedrock overburden are determined not to be susceptible to future collapse (as inspected and approved by the project geotechnical consultant) and will be sealed and capped. The following procedures will be applied to the four known former mining shafts:

1. Test Pit 4: Due to the shallow nature of the excavation, the mine tunnel shall be exposed in both directions with a large track hoe or suitable excavating equipment. The northern portion of the mine tunnel shall be exposed to its end and backfilled with 90 percent compacted soil. Should the north end of the mine excavation extend beyond the property line (and possibly beneath Bear Valley Parkway), the tunnel shall be exposed and backfilled with 90 percent compacted soil to the extent necessary or equivalent measure to provide soils stability on the residential development site and for proposed Bear Valley Parkway Frontage Improvements, as determined by a qualified geotechnical engineer in consultation with the City of Escondido engineering department. The south portion of the mine tunnel shall be continuously exposed to its end or until a minimum of ten feet of competent bedrock is exposed. The open mine excavation, if exposed with a minimum of ten feet of competent bedrock, will be capped as outlined in the Geotechnical Investigation (Appendix I-1).
2. Test Pit 7: The nearly horizontal mine shaft and associated secondary mine excavations exposed at this location are located within a planned deep cut area and are expected to be completely removed as part of the cut grading operation. If the shaft continues below finish grade, it shall be completely excavated and backfilled with 90 percent compacted soil, as approved by the geotechnical engineer.
3. Test Pit 9: The well-developed horizontal mine tunnel (adit) at this location is in a planned fill slope area. The entrance to this mine excavation shall be exposed and the overburden removed until there is a minimum of ten feet of competent bedrock above the mine excavation. The opening shall then be sealed as outlined in the Geotechnical Investigation (Appendix I-1).
4. Test Pit 15: The mine excavation exposed at this location is in a planned deep fill area. The entrance to this mine excavation shall be exposed and the overburden removed until there is a minimum of ten feet of competent bedrock above the mine excavation. The excavation shall then be sealed as outlined in the Geotechnical Investigation (Appendix I-1).

Mitigation GEO-2: To reduce project impacts related to soil stability and expansive soils on the proposed SAP improvements site, the tentative map grading plan shall include the recommendations contained in the Geotechnical Investigation for Proposed Roadway Improvements (Appendix J), or equivalent measures identified in a Final Geotechnical Report, prior to the issuance of grading permits. The recommendations include the following:

1. Over-excavation to suitable materials or ground stabilization shall be used.
2. Over-excavation for treatment of bearing soil under the proposed wall foundations shall be extended to well-compacted fills or dense native ground and placed back as a properly compacted fill.
3. To address surface drainage and storm water control, drainage swales shall be constructed along the top of all graded slopes and surface run-off shall be collected and directed to a selected location in a controlled manner.

Mitigation HAZ-1: At least ten days prior to demolition or removal of existing on-site structures, the project applicant shall submit an Asbestos Demolition or Renovation Operational Plan (Notice of Intention) to the City Community Development Department. This plan shall be prepared by an asbestos consultant licensed with the California State Licensing Board and certified by Cal OSHA to conduct an asbestos inspection in compliance with Asbestos NESHAP requirements. The Asbestos NESHAP, as specified under Rule 40, CFR 61, Subpart M, (enforced locally by the San Diego APCD, under authority, per Regulation XI, Subpart M - Rule 361.145), requires the owner of an establishment set for demolition to submit an Asbestos Demolition or Renovation Operational Plan at least ten working days before any asbestos stripping or removal work begins (such as site preparation that would break up, dislodge or similarly disturb asbestos-containing material.) Removal of all asbestos-containing material or potential asbestos-containing material on the project site shall be monitored by the certified asbestos consultant and shall be performed in accordance with all applicable laws, including Title 8 CCR Section 1529, Asbestos; OSHA standards; and the San Diego County APCD Rule 361.145, Standard for Demolition and Renovation.

Mitigation HAZ-2: Demolition or removal of existing on-site structures constructed pre-1979 shall be performed by a Certified Lead Inspector/Assessor, as defined in Title 17, CCR Section 35005, and in accordance with all applicable laws pertaining to the handling and disposal of lead-based paint. Lead-based materials exposure is regulated by Cal OSHA. Title 8 CCR Section 1532.1 requires testing, monitoring, containment, and disposal of lead-based materials such that exposure levels do not exceed Cal OSHA standard.

Mitigation NOI-1: Prior to approval of final project designs, the residential development applicant shall incorporate a perimeter block noise wall, or similar noise-attenuating structure, that fronts proposed lots 1–5 into the residential development design. The noise wall shall be approximately 552 feet in length and 5 feet high in front of lots 1–4 and 6 feet high in front of lot 5. Refer to Figure 3.8-1 for the location and heights of the noise wall.

Mitigation NOI-2: Prior to construction, a qualified acoustical consultant shall review final site plans, building elevations, and floor plans to calculate expected interior noise levels, as required by state noise regulations. Project-specific acoustical analyses are required by Title 24 to confirm that the design results in interior noise levels reduced to 45 dBA or lower. The specific determination of what noise insulation treatments are necessary shall be completed on a unit-by-unit basis. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the City along with the building plans, and shall be approved prior to issuance of a building permit.

Building sound insulation requirements may include the provision of forced-air mechanical ventilation for residential units as recommended by the qualified acoustical consultant, so that windows can be kept closed at the occupant's discretion to control noise.

Special building techniques (e.g., sound-rated windows and building façade treatments) shall be implemented as recommended by the qualified acoustical consultant to maintain interior noise levels at or below acceptable levels. These treatments may include, but are not limited to, sound-rated windows and doors, sound-rated wall constructions, acoustical caulking, and protected ventilation openings.

Mitigation NOI-3: At least 3 weeks prior to the start of construction activities, the construction contractor shall provide written notification to all residences located within 75 feet of the proposed construction activities informing them of the estimated start date and duration of daytime vibration-generating construction activities. This notification shall include information about the potential for nuisance vibration. The City shall provide a phone number for the affected residences to call if they have concerns about construction-related vibration. If additional houses are built within 75 feet of the proposed development site prior to completion of proposed construction, written notification shall be provided to these residences as well.

Mitigation NOI-4: For construction activities within 75 feet of residences on Bear Valley Parkway, the construction contractor shall implement the following measures during construction:

1. Stationary sources, such as temporary generators, shall be located as far from nearby vibration-sensitive receptors as possible.
2. Trucks shall be prohibited from idling along streets serving the construction site where vibration-sensitive receptors are located.
3. Demolition, earthmoving, and ground-disturbing operations shall be phased so as not to occur in the same time period.

If additional houses are built within 75 feet of the proposed development site prior to completion of proposed construction, the measures shall be implemented for these residences as well.

Mitigation NOI-5: Prior to grading activities, the construction contractor shall implement and monitor the noise reduction measures described below to the extent necessary to reduce construction noise levels to below an hourly average noise level of 75 dBA at any residential property line. Noise reduction measures are required for all construction within 145 feet of a residence. Any one or a combination of measures can be used as necessary. Typical measures that may be implemented include the following, as necessary, to achieve compliance with the City's noise ordinance:

- Use "quiet" gasoline-powered compressors or other electric-powered compressors, and use electric-powered rather than gasoline- or diesel-powered forklifts for small lifting.
- Locate stationary noise sources, such as temporary generators, as far from nearby receptors as possible.
- Use the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds) for construction equipment and trucks.
- Muffle and enclose stationary noise sources within temporary sheds or incorporate insulation barriers.
- Limit simultaneous operation of construction equipment or limit construction time within an hour to reduce hourly average noise level.

- Implement temporary noise barriers, such as sound blankets, of a sufficient height and thickness around the perimeter of the construction area to minimize construction noise to 75 dBA as measured at the applicable property lines of the adjacent uses.

To ensure compliance with the City's Noise Ordinance, noise monitoring shall be conducted on the first day of typical construction. A 1-hour noise measurement shall be conducted in accordance with Section 17-228 of the City's Noise Ordinance at 50 feet from the most intensive construction activity. If it is determined that construction would have the potential to exceed the hourly construction noise level limit at any residential property, additional noise control measures shall be implemented as necessary and an additional noise measurement will be conducted to confirm compliance.

Mitigation TR-1: To address operating deficiencies, a fair-share contribution will be made to realignment and signalization of the unsignalized intersection. It is proposed that the intersection be realigned such that Encino Drive is simplified to include one approach lane and one departure lane. Also, the median separating the approach and departure lanes is proposed to be reduced as Encino Drive is realigned to intersect with Bear Valley Parkway at a 90-degree angle. These proposed improvements are consistent with the designs shown in the SAP.

General Conditions

1. This Project is conditionally approved as set forth on the application and project drawings submitted to the City of Escondido, all designated as approved by the City Council on [placeholder until CC meeting], and shall not be altered without express authorization by the Director of Community Development.
2. The Project shall be completed in substantial conformance to the plans approved, except as modified herein. The Project shall be constructed and operated by the Applicant in accordance with the authorized use as described in the application materials and plans on file with the Office of the Clerk of the City of Escondido. Any additional uses or facilities other than those approved with this permit, as described in the approved plans, will require a separate application and approval.
3. Approval of all Project-related permits will expire 36 months after the approval of this Project, or as otherwise stipulated by an approved Development Agreement, unless the conditions have been met or an extension of time has been approved pursuant to the Municipal Code.
4. The City reserves the right to modify or terminate the Development Agreement upon the failure or refusal to comply with the terms of the Agreement by the Developer. Unless amended or otherwise terminated, the Development Agreement is enforceable during its term by a party to the Agreement. The City Manager is authorized and directed to perform all acts authorized to be performed by the City Manager in the administration of the Development Agreement pursuant to the terms of the Development Agreement.
5. Applicant shall and does hereby agree to indemnify, protect, defend, and hold harmless the City of Escondido, its Council members, officers, employees, agents, and representatives, from and against any and all liabilities, losses, damages, demands, claims and costs, including court costs and attorney's fees incurred by the City arising, directly or indirectly, from (a) City's approval and issuance of the series of actions that this Project comprises, and/or (b) City's approval or issuance of any permit or action, whether discretionary or ministerial, in connection with the land use and activity contemplated described by this Project. This obligation survives until all legal proceedings have been concluded and continues even if the City's approval is not validated.
6. If any of the following conditions fail to occur, or if they are, by their terms, to be implemented and maintained over time, if any of such conditions fail to be so implemented and maintained according to their terms, the City shall have the right to revoke or modify all approvals herein granted; deny or further condition issuance of all future building permits; deny, revoke, or further condition all certificates of occupancy issued under the authority of approvals herein granted; record a notice of violation on the property title; institute and prosecute litigation to compel their compliance with said conditions or seek damages for their violation.
7. If any condition for construction of any public improvements or facilities, or the payment of any fees in-lieu thereof, imposed by this approval or imposed by law on this Project are challenged, this approval shall be suspended as provided in Government Code Section 66020. If any such condition is determined to be invalid,

this approval shall be invalid unless the City Council determines that the project without the condition complies with all requirements of law.

Tentative Subdivision Map

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 permits are issued, including any applicable City-Wide Facilities fees.
2. Three copies of a revised Tentative Map, reflecting all modifications and any required changes shall be submitted to the Planning Division for certification prior to submittal of grading plans, landscape plans and the final map.
3. 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.
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. 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.
6. All new utilities shall be underground.
7. All project-generated noise shall comply with the City's Noise Ordinance (Ord. 90-08) to the satisfaction of the Planning Division.
8. All lots shall meet the minimum 10,000 SF net lot area and average lot width requirements of the Master Plan. In no event shall the reduction of lot sizes for this clustered residential development exceed the amount of open space area within the development. Conformance with these requirements shall be demonstrated on the Tentative Map submitted for certification, the grading plan and final map. Non-compliance with these minimum standards will result in revisions to the map.
9. No street names are established as part of this approval. A separate request shall be submitted prior to final map.
10. This Tentative Subdivision Map shall expire concurrently with the term of the associated Development Agreement if a final map has not been approved or an extension of time has not been granted.
11. The final map shall include a conservation easement over the biological open space lots. The HOA shall be responsible to contract with a qualified biologist/resource manager to oversee management of these areas.
12. Access roads and project grading must comply with SDG&E guidelines for any encroachment to, and into, right of way. Any grading to be performed within SDG&E right of way requires a "permission to grade" letter.
13. The City of Escondido hereby notifies the applicant that State Law (SB 1535) effective January 1, 2007, requires certain projects to pay fees for purposes of funding the California Department of Fish and Wildlife. If the project is found to have a significant impact to wildlife resources and/or sensitive habitat, in accordance with state law, the applicant should remit to the City of Escondido Planning Division, within two (2) working days of the effective date of this approval (the "effective date" being the end of the appeal period, if applicable), a certified check payable to "County Clerk", in the amount of \$3,218.00 for a project with an Environmental Impact Report. These fees include an authorized County administrative handling fee of \$50.00. Failure to remit the required fees in full within the time specified above will result in County notification to the State that a fee was required but not paid, and could result in State imposed penalties and recovery under the provisions of the Revenue and Taxation code. Commencing January 1, 2007, the State Clearinghouse and/or County Clerk will not accept or post a Notice of Determination filed by a lead agency unless it is accompanied by one of the following: 1) a check with the correct Fish and Wildlife filing fee payment, 2) a receipt or other proof of payment showing previous payment of the filing fee for the same project, or 3) a completed form from the

Department of Fish and Wildlife documenting the Department's determination that the project will have no effect on fish and wildlife. If the required filing fee is not paid for a project, the project will not be operative, vested or final and any local permits issued for the project will be invalid (Section 711.4(c)(3) of the Fish and Game Code).

14. All utility connections shall be designed to coordinate with the architectural elements of the site so as not to be exposed except where necessary. Locations of pad mounted transformers, meter boxes, and other utility related items shall be included in the site plan submitted with the building permit application with an appropriate screening treatment. Transformers, terminal boxes, meter cabinets, pedestals, ducts and other facilities may be placed above ground provided they are screened with landscaping.
15. The open space recreation lot shall feature a mixture of active and passive recreation opportunities and amenities of quality commensurate to the proposed housing development, to the satisfaction of the Director of Community Development.
16. All pedestrian passageways in the designated trail connection as depicted on the approved Tentative Subdivision Map shall have walkway non-slip surfaces, such as decomposed granite, to enable multi-generational use, designed to prevent dust, and otherwise be designed to allow convenient use for outdoor activities. There shall be no obstructions above the open space except for devices to enhance its usability, such awning structures.

Master Development Plan

1. The Project includes a Fire Protection Plan which is located in Appendix K of the Project's Final EIR and describes the wildland fire resistance features incorporated into the project. The key fire resistance features incorporated into the project are listed below:
 - The project shall maintain Fuel Modification Zones (FMZs) as described in Figure 5 (Fuel Modification Map) of the Fire Protection Plan.
 - On Lots 31 through 41, where final setback from structure to top of slope is less than 30 feet for two-story structures, a six-foot-tall, non-combustible, heat-deflecting view wall shall be provided at the top of slope/edge of lot, per the specifications noted in Section 6 of the Fire Protection Plan and to the satisfaction of the Planning Division and Fire Department. The aforementioned heat-deflecting landscape walls shall be constructed of opaque fire resistant material (such as masonry) and any glass or transparency material shall be modified to prevent bird collisions using materials recommended by the American Bird Conservancy or equivalent.
 - On Lots 31 through 41, windows on the wildland-exposed side of the residence shall be dual pane with both panes tempered, to the satisfaction of the Planning Division and Fire Department.
 - The foregoing wildland fire resistance features shall also apply to Lots 15, 16, 27 and 28.
2. 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.
3. All exterior residential lighting shall conform to the requirements of Article 35 (Outdoor Lighting) of the Escondido Zoning Code. All residential outdoor lighting shall be provided with appropriate shields to prevent light from adversely affecting adjacent properties.
4. A minimum ten-foot separation between detached residences shall be maintained at all times.
5. Setbacks for primary and accessory structures shall be as described in the Details of Request and depicted on the Master Plan/Tentative Map. The Administrative Adjustment process administered by the Planning Division may be utilized by homeowners to request encroachments into setback areas up to 25 percent of the required setback.
6. No signage is approved as part of this permit. A separate sign permit shall be required prior to the installation of any signs. All proposed signage associated with the project must comply with the Master Plan where

specified. All other signs must comply with the City of Escondido Sign Ordinance (Article 66, Escondido Zoning Code) standards for the RE (Residential Estates) zone.

7. Prior to issuance of a grading permit, the emergency access road width, pavement and gate specifications shall be reviewed and approved by the Fire Department.
8. This Master Development Plan approval adopts development standards for area, coverage, light and air orientation, building height, sign placement and design, site planning, street furniture placement and design, yard requirements, open spaces, off-street parking, and screening, per Section 33-401(f) of the City of Escondido Zoning Code, and as described in the June 26, 2018 staff report under "Supplemental Details of Request".
9. All new home design or development and/or improvement shall comply with or meet the intent of the Master Development Plan criteria through methods listed in the standards and guidelines, as listed in the June 26, 2018 staff report, or through alternative methods that achieve the same objective. The Master Development Plan standards and guidelines shall be used in conjunction with the Precise Development Plan and any other standards and guidelines, as applicable.
10. Prior to issuance of building permits, the applicant shall obtain approval for a Precise Development Plan that shall be reviewed, considered, and approved by the Planning Commission. The Precise Development Plan application submittal shall incorporate details provided for the Master Development Plan in regards to exterior property boundaries, proposed lot boundaries, topography, landscaping, open space, street widths and improvements, etc. Additionally, the Precise Development Plan shall include details regarding the following:
 - Floor plans for all structures, including use of rooms, dimensions, and square footage. No more than 85 percent of the lots shall contain two-story homes, to maintain consistency with General Plan residential policies. Each residence shall include a two-car garage (minimum) with a minimum interior width of 19.5' and a minimum interior depth of 20' that is free and clear of obstructions.
 - Exterior elevation plans for all structures, including types and colors of materials, heights of buildings, and details for north, south, east, and west elevations.
 - Locations of all proposed structures, including dimensions of setbacks and building separations, as well as locations of any structures on adjacent properties within 50 feet of the property line.
 - Location, design, and treatment for all fences and walls.

Grading and Grading Exemptions

1. Exemptions from the Grading Ordinance are approved as part of this project, as shown on the Grading Exemption exhibit provided by the applicant and included within the June 26, 2018 staff report. These exemptions include fill slopes within 50' of a property line up to 64' in height (on Open Space Lots A, B, and C), fill slopes beyond 50' of a property line up to 65' in height (Open Space Lots C, F, and G), and cut slopes up to 42' in height (Lots 6 through 9, Lot 45, and Open Space Lots B and C).
2. All project grading shall conform with the approved Tentative Subdivision Map. In cases where no grading is proposed at the time of the Tentative Parcel Map, or in cases where the grading plan later submitted is not consistent with the approved Tentative Parcel Map, the Applicant shall be required to obtain a substantial conformance determination or map amendment for grading prior to issuance of grading permits.
3. A plan shall be submitted for approval by the Director of Community Development, the Engineering Services Department, and the Fire Department regarding the security treatment of the site during the construction phase, the on- and off-site circulation and parking of construction workers' vehicles, and any heavy equipment needed for the construction of the Project.
4. All roadways shall be a minimum of 24 feet in width during construction and maintained free and clear, including the parking of vehicles, in accordance with the California Fire Code and the Escondido Fire Department.
5. The Postmaster shall approve final location of mailbox kiosks associated with this Project prior to issuance of a precise grading permit.

Landscaping

1. Four copies of a detailed landscape and irrigation plan(s) shall be submitted prior to issuance of grading or building permits, and shall be equivalent or superior to the planting plan attached as an exhibit to the satisfaction of the Planning Division. 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 outlined in Article 62 (Landscape Standards) of the Escondido Zoning Code. The plans shall be prepared by, or under the supervision of, a licensed landscape architect.
2. Details of project fencing and walls, including materials and colors, shall be depicted on the landscape plans.
 - Outside of any and all fuel modification zones as depicted on the Tentative Subdivision Map or associated Fire Protection Plan, the Applicant shall install additional landscaping to screen any freestanding or retaining walls that are proposed, to the extent practicable, to the satisfaction of the Director of Community Development. Any wall, fence or combination thereof exceeding six feet in height and facing any neighboring property or visible from the public right-of-way shall be subject to design review pursuant to the Escondido Zoning Code. Where a minimum two feet horizontal offset is provided, within which screening vegetation is provided to the satisfaction of the Director of Community Development, the fence/wall may not be considered one continuous structure for purpose of measuring height and may be exempted from design review provided none of the offset fences or walls exceed six feet in height.
 - All retaining and other freestanding walls, fences, and enclosures shall be architecturally designed in a manner similar to, and consistent with, the primary structures (e.g. stucco - coated masonry, split - face block or slump stone). These items shall be approved by the Director of Community Development prior to the issuance of building and /or grading permits.

All masonry freestanding or retaining walls visible from points beyond the project site shall be treated with a protective sealant coating to facilitate graffiti removal. The sealant shall be of a type satisfactory to the Director of Community Development. The Applicant and/or HOA shall be responsible for the removal in a timely manner of any graffiti posted on such walls.
 - All landscaping shall be maintained in a healthy and thriving condition, free from weeds, trash, and debris. All irrigation systems shall be maintained to provide the optimum amount of water to the landscape for plant growth without causing soil erosion and runoff.
3. Fencing shall preclude humans from traveling into the areas to be preserved as biological open space.
4. All fencing for basin areas shall be set back at least five feet from back of sidewalk or edge of pavement to allow the appropriate integration of landscape screening to the satisfaction of the Planning Division.
5. Landscaping adjacent to preserved land shall not include species listed as highly or moderately invasive by the California Invasive Plant Council (Cal- IPC 2013).
6. Plants on the Prohibited Plant List (Appendix D of the Fire Protection Plan) shall not be planted on the site unless otherwise approved by the Escondido Fire Department.
7. All vegetation (including existing vegetation to be retained) shall be maintained in a flourishing manner, and kept free of all foreign matter, weeds and plant materials not approved as part of the landscape plan. All irrigation shall be maintained in fully operational condition.
8. The Homeowners Association (HOA) shall be responsible for maintenance of landscaping in all common areas and fuel modification zones, in compliance with the requirements detailed within the Fire Protection Plan (Appendix K of the Final EIR) and as determined by the Escondido Fire Department. Prior to issuance of building permits, all fuel modification zones shall be permanently marked at the property line to delineate the zones and aid ongoing maintenance activities.

9. All fuel modification zone vegetation management activities shall be completed annually by May 15 and more often as needed for fire safety, as determined by the Escondido Fire Department.
10. Landscape plans for fuel modification zones shall be prepared in accordance with the concept plans provided with the project and the following criteria listed in the Fire Protection Plan for the project (Final EIR Appendix K) to the satisfaction of the Fire Department and the Planning Division.
 - a. Non-fire resistant trees (including conifers, pepper trees, eucalyptus, cypress, Washingtonia palms and acacia species), shall not be planted on this site. All fire resistant tree species (many species including oak) shall be planted and maintained at a minimum of ten feet from the tree's drip line to any combustible structure.
 - b. For streetscape plantings, fire resistant trees can be planted ten feet from edge of curb to center of tree trunk. Care should be given to the type of tree selected, that it will not encroach into the roadway, or produce a closed canopy effect.
 - c. Limit planting of large unbroken masses especially trees and large shrubs. Groups should be two to three trees maximum, with mature foliage of any group separated horizontally by at least ten feet, if planted on less than 20 percent slope, and 20 feet, if planted on greater than 20 percent slope.
 - d. If shrubs are located underneath a tree's drip line, the lowest branch should be at least three times as high as the understory shrubs or ten feet, whichever is greater.
 - e. Existing trees can be pruned ten feet away from roof, eave, or exterior siding, depending on the tree's physical or flammable characteristics and the building construction features.
 - f. All tree branches shall be removed within ten feet of a fireplace chimney or outdoor barbecue.
11. The installation of the common area and right-of-way landscaping and irrigation shall be inspected by the project landscape architect upon completion. He/she shall complete a Certificate of Landscape Compliance certifying that the installation is in substantial compliance with the approved landscape and irrigation plans and City standards. The applicant shall submit the Certificate of Compliance to the Planning Division and request a final inspection.
12. Street trees shall be provided along each of the site's interior street frontages, in conformance with the Landscape Ordinance and the City of Escondido Street Tree List. Trees within five feet of the pavement shall be provided with root barriers. Street trees adjacent to retaining walls on Bear Valley Parkway shall be provided in accordance with the Master Plan.
13. Street trees shall be permitted in roadside fuel management zones provided the following standards are maintained by the HOA.
 - a. For streetscape plantings, fire resistant trees can be planted ten feet from edge of curb to center of tree trunk. Care should be given to the type of tree selected, that it will not encroach into the roadway, or produce a closed canopy effect.
 - b. Crowns of trees located within defensible space shall maintain a minimum horizontal clearance of ten feet for fire resistant trees.
 - c. Mature trees shall be pruned to remove limbs one-third the height or six feet, whichever is less, above the ground surface adjacent to the trees.
 - d. Dead wood and litter shall be regularly removed from trees.
 - e. Ornamental trees shall be limited to groupings of 2-3 trees with canopies for each grouping separated horizontally as described in Table 4907.3 from Escondido Fire Code.
14. The CC&Rs for the proposed development shall require that the homeowner landscape installation on residential lots must be completed within six (6) months of close of escrow.
15. The builder will be responsible for providing initial stabilization of the front yards, using hydro-seed and the homeowner shall be responsible for maintaining the method of stabilization through the completion of landscape improvements installed by the homeowner.

CC&Rs

1. Applicant shall establish a homeowner's association (HOA) and corresponding covenants, conditions and restrictions (CC&Rs). Prior to recordation of the Final Map, two copies of the CC&Rs shall be submitted to the Planning Division for review and approval. Except for those public improvements located in the public right-of-way, the CC&Rs shall contain provisions for the maintenance of any common landscaping, open space, walls, the emergency access road, common drainage facilities, fuel modification zones, etc. to the satisfaction of the Planning and Engineering Divisions. A review fee established in the current fee schedule shall be collected at the time of submittal.

Prior to issuance of a building permit, the Applicant shall provide the Planning Division with a recorded copy of the official CC&Rs that have been approved by the Department of Real Estate and the Planning and Engineering Divisions. At a minimum, the CC&Rs shall contain the following provisions:

- a. Notice and Amendment. A copy of any proposed amendment shall be provided to the City in advance. If the proposed amendment affects the City, City shall have the right to disapprove. A copy of the final approved amendment shall be transmitted to City within 30 days for the official record.
- b. Failure of Association to Maintain Common Area Lots and Easements. In the event that the Association fails to maintain the "Common Area Lots and/or the Association's Easements," the City shall have the right, but not the duty, to perform the necessary maintenance. If the City elects to perform such maintenance, the City shall give written notice to the Association, with a copy thereof to the Owners in the Project, setting forth with particularity the maintenance which the City finds to be required and requesting the same be carried out by the Association within a period of 30 days from the giving of such notice. In the event that the Association fails to carry out such maintenance of the Common Area Lots and/or Association's Easements within the period specified by the City's notice, the City shall be entitled to cause such work to be completed and shall be entitled to reimbursement with respect thereto from the Owners as provided herein.
- c. Special Assessments Levied by the City. In the event the City has performed the necessary maintenance to either Common Area Lots and/or Association's Easements, the City shall submit a written invoice to the Association for all costs incurred by the City to perform such maintenance of the Common Area Lots and or Association's Easements; and pursue collection.
- d. Landscape Maintenance Responsibilities. The HOAs and individual lot or unit owner landscape maintenance responsibilities shall be established.
- e. Homeowner improvements such as balconies, trellis, and decks. The CC&Rs shall set forth requirements for the HOA to review and approve all homeowner landscape and hardscape plans to ensure compliance with local, State and Federal laws. The CC&Rs shall state the individual lot or unit owner allowances and prohibitions regarding balconies, trellis, decks and other improvements as regulated by the Project approval.

**ENGINEERING CONDITIONS OF APPROVAL
TRACT SUB15-0002 661 BEAR VALLEY PKWY.**

GENERAL

1. Improvement plans prepared by a Civil Engineer are required for all public street and utility improvements. Grading/Private Improvement plans prepared by a Civil Engineer is required for all grading, drainage and private onsite improvement design. Landscaping Plans shall be prepared by a Landscape Architect. Traffic signal plans shall be prepared by a Traffic Engineer. The developer shall post securities in accordance with the City-prepared bond and fee letter based on a final estimate of grading and improvements cost prepared by the project engineer. The project owner is required to provide performance, labor and material and guarantee and warrantee bonds for all public improvements and a Grading bond for all grading, landscaping and private improvements (not including buildings) prior to approval of the Grading/Private Improvement plan, Final Map, and Improvement Plans.
2. As surety for the construction of required off-site and on-site improvements, bonds and agreements in forms acceptable to the City Attorney shall be posted by the developer with the City of Escondido prior to the approval of Grading Permit and/or Final Subdivision Map.
3. No building Permits shall be issued prior to recordation of Final Map unless appropriate securities are deposited and agreements executed as approved by the City Engineer and City Attorney.
4. Grading Permit may be issued prior to approval of the Final Map, upon completion of the following requirements; a) City Engineer approval of the Grading & Erosion Control plan, Drainage and Storm Water Quality Management Plan (SWQMP); b) review of the Landscaping & Irrigation Plans; c) Compliance with all Planning requirements related to project Grading; d) Post bonds and fees for, Erosion Control, Grading, Drainage, Landscaping and Irrigation improvements. All private access and utilities easements encumbering the project property shall be quit claimed prior to approval of the Grading Plans or satisfactory documentation to allow the developer to grade in the areas encumbered by easements shall be provided to the City Engineer.
5. The location of all existing on-site utilities shall be determined by the project engineer. If a conflict occurs with proposed lots, these utilities shall be relocated.
6. All public improvements shall be constructed in a manner that does not damage existing public improvements. Any damage shall be determined by and corrected to the satisfaction of the City Engineer.
7. The project owner shall submit to the Planning Department a copy of the Tentative Map as presented to the Planning Commission and the City Council. The Tentative Map will be signed by the Planning Department verifying that it is an accurate reproduction of the approved Tentative Map and must be included in the first submittal for plan check to the Engineering Department.
8. If multiple Final Maps are to be recorded for this project; the City Engineer will determine the extent of public and private improvements to be constructed with each Final Map.
9. If the project is constructed in multiple phases, the City Engineer will determine the extent of on-site and offsite improvements required to be completed for each phase prior to issuance of occupancy for the units within the phase.

STREET IMPROVEMENTS AND TRAFFIC

1. Public and Private street improvements shall be designed in accordance with the City of Escondido Design Standards, Adopted Specific Alignment Plan for Bear Valley Parkway and requirements of the City Engineer.
2. The project owner shall construct public and private street improvements for the following streets:

<u>STREET</u>	<u>CLASSIFICATION</u>
Bear Valley Parkway (BVP)	BVP Specific Alignment Plan (SAP) (Proposed project improvements)
Interior Streets (A-D)	Residential (Private)
Emergency Access Easement and Public Trail	Private Access Easement Rd. (24' with curb& gutter + 10' Trail)

3. The project owner shall be responsible for final design and construction of east side of Bear Valley Parkway, along project frontage, in accordance with the adopted Bear Valley Parkway Specific Alignment Plan (SAP) and to the requirement of the City Engineer. Bear Valley Parkway improvements shall include roadway widening in accordance with the SAP and resurfacing of the existing roadway (along project frontage) to center line with grind and overlay or type 2 slurry as determined by the City Engineer at the time of final improvement plans review. The project owner shall also be responsible for preparation and implementation of a signing and striping plan for the BVP improvements and upgrading existing signage to new standards.
4. The project owner shall be responsible for design and construction of a traffic signal system at the intersection of Bear Valley Parkway and Zilatibor Ranch Road/ Street "A". The project owner shall prepare and submit for approval by the City Engineer a complete traffic signal with signing and striping for review and approval by the City Engineer. The new traffic signal shall be interconnected with the existing traffic signal at the intersection of Bear Valley Parkway and Sunset/Ranchito. The project owner's traffic engineer shall prepare a timing plan for the new traffic signal in coordination with the traffic signal at the intersection of Bear Valley Parkway and Sunset/Ranchito and implement the timing plan prior to signal operation.
5. The project owner shall be responsible for resurfacing of the entire intersection of Bear Valley Parkway and Zilatibor Ranch Road/ Street "A" due to impact from construction of a new signal system to the requirements of the City Engineer.
6. The developer will be responsible for overlay of any section of Bear Valley Parkway that will be subject to multiple utility trenches necessary to serve this project. The determination of the extent of the overlay shall be to the satisfaction of the City Engineer.
7. Adequate horizontal sight distance shall be provided at all street intersections.
8. Street lighting in accordance with Escondido Standard Drawing E-1-E shall be required on all onsite private streets. It shall be the responsibility of the Home Owner's Association to adequately maintain the street lighting system and such maintenance responsibility shall be clearly stated in the CC&R's.
9. 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.
10. The project owner shall be responsible to provide the City Engineer with an onsite signing and striping plan for review and approval. The project owner shall construct all onsite signing and striping in accordance with the approved plan prior to project occupancy.
11. The project owner will be required to provide a detailed detour and traffic control plan, for all construction within existing rights-of-way, to the satisfaction of the Traffic Engineer and the Field Engineer. This plan shall be approved prior the issuance of an Encroachment Permit for construction within the public right-of-way.

GRADING

1. A site grading and erosion control plan shall be approved by the Engineering Department. The first submittal of the grading plan shall be accompanied by 3 copies of the preliminary soils and geotechnical report. The soils engineer will be required to indicate in the soils report and on the grading plan, that he/she has reviewed the grading and retaining wall design and found it to be in conformance with his or her recommendations.

2. Erosion control, including desilting basins, silt fences, straw wattles, interim sloping planting, gravel bags, 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 development of the project.
3. All proposed retaining walls shall be shown on and permitted as part of the site grading plan. Profiles and structural details shall be shown on the site grading plan and the Soils Engineer shall state on the plans that the proposed retaining wall design is in conformance with the recommendations and specifications as outlined in the Geotechnical Report. Structural calculations shall be submitted for review by a Consulting Engineer for all walls not covered by Regional or City Standard Drawings.
4. The project owner 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 General Construction Activity Permit is required from the State Water Resources Board prior to issuance of Grading Permit and the WDID number shall be listed on the Grading plans.
6. All driveway grades and profiles shall conform to current Escondido Design Standards and Escondido Standard Drawings.
7. All blasting operations performed in connection with the improvement of the project shall conform to the City of Escondido Blasting Operations Ordinance.
8. Unless specifically permitted to remain by the County Health Department, any existing wells within the project shall be abandoned and capped, and all existing septic tanks within the project shall be pumped and backfilled per County Health Department requirements.

DRAINAGE

1. Final on-site and off-site drainage improvements shall be designed and constructed in accordance with the City's standards and to the requirements of the City Engineer, based on the approved drainage study prepared by the project owner's engineer. The existing CMP storm drains to which project drainage connects to shall be inspected and repaired if needed to the requirements of City Engineer.
2. A Final Storm Water Quality Management Plan (SWQMP) in compliance with City's latest adopted Best Management Practices Design Manual shall be prepared for all onsite and newly created impervious frontage and required offsite improvements and submitted for approval by the City Engineer together with the final improvement and grading plans. The Storm Water Quality Management Plan shall include hydro-modification calculations, treatment calculations, post construction storm water treatment measures and maintenance requirements.
3. All onsite drainage systems, storm water treatment and retention facilities and their storm drains shall be private and maintained by the home owners association. Provisions stating the maintenance responsibilities shall be included in the CC&Rs.
4. The project owner will be required to submit a signed, notarized and recorded copy of Storm Water Control Facility Maintenance Agreement by the home owners' association to the City Engineer. This Agreement shall be referenced and included in the CC&Rs.

WATER SUPPLY

1. All water main locations and sizing shall be to the satisfaction of the Utilities Engineer. Required water main improvements shall include construction of minimum 8-inch water mains (to serve single family residences), to the satisfaction of the City Engineer and Utilities Engineer. All proposed water mains shall be sized to provide the required fire flow while still meeting City Standards. Based on an estimated fire flow of 2,500 GPM, the westerly dead-end portions of proposed internal water main (everything south of node 16 in Streets A & D of the May 2015 Dexter Wilson Water System Analysis) shall be 12", in order to meet maximum velocity

requirements. In conjunction with this Water System Analysis, all proposed water mains are to be designed at a minimum to meet AWWA C-900 DR 14 Class 305 for PVC pipe.

2. Water mains to serve the proposed development shall be looped through the site and connect to the existing water main in Bear Valley Parkway at two separate connection points.
3. Fire hydrants together with an adequate water supply shall be installed at locations approved by the Fire Marshal.
4. Because fire sprinklers are required by the Fire Department, a 1" minimum water service, 1" water meter, and back flow prevention device shall be required for each lot. Water meters and back flow prevention devices shall not be installed within the driveway apron or private drive areas.
5. No trees or deep rooted plants shall be planted within ten feet of any water service.
6. All water mains, services, and appurtenances within the City of Escondido's service area shall be installed per current City of Escondido Design Standards and Standard Drawings.

SEWER

1. All sewer main locations and sizing of mains shall be to the satisfaction of the Utilities Engineer. Required sewer main improvements include the extension of a minimum 8-inch main in Bear Valley Parkway, across property frontage from the connection point to the north end of property, to serve the project. No horizontal or vertical curves are allowed in sewer mains. The connection point to the existing sewer system may need to move to the manhole in Bear Valley Parkway, south of Encino, in order to achieve minimum slopes on mains. Also, construction of minimum 8-inch mains within the development are required to serve the project.
2. Private 4" minimum PVC sewer laterals with standard clean-outs within 18" of the Public Utilities Easement shall be constructed for each Lot containing a single family residence and shown on the Improvement and Grading plans. The construction of all sewer laterals shall be included in the improvement plans and bonding quantities.
3. No trees or deep rooted bushes shall be planted within ten feet of any sewer lateral, or within 15' of any sewer main.
4. All sewer laterals will be considered a private sewer system. The property owners and/or the Home Owners Association will be responsible for all maintenance of their individual sewer laterals to the sewer main. Provisions stating this shall be included in the CC&Rs.
5. All sewer mains, laterals, and appurtenances shall be installed per current City of Escondido Design Standards and Standard Drawings.

CC&R's

1. Copies of the CC&R's shall be submitted to the Engineering Department and Planning Department for approval prior to approval of the Final Map. The developer shall make provisions in the CC&R's for maintenance by the home owners' association of all project features including but not limited to private streets, including parkway landscaping and street lighting; drainage swales; all project onsite storm drain system, water quality and hydro-modification/detention facilities; sewer laterals; all facilities in common open spaces including, fencing, landscape and irrigation; emergency access easement and Bear Valley Parkway project frontage parkway landscaping and offsite green street features. Above provisions must be approved by the Engineering and Planning Departments prior to approval of the Final Map.
2. The CC&R shall make provisions in the CC&R recognizing that the City shall have the right, but not the obligation, to enforce those Protective Covenants set forth in this Declaration in favor of, or in which the City has an interest. In the event that the home owners' association fails to maintain the project features, water quality and hydro-modification/detention facilities; sewer laterals; all facilities in common open space; private

streets and Bear Valley Parkway parkways; and public utility and emergency access easements.

If the City elects to perform such maintenance, the City shall give written notice to the home owners' association, setting forth with particularity the maintenance which the City finds to be required and requesting the same be carried out by the home owners' association within a period of 30 days from the giving of such notice. In the event that the home owners' association fails to carry out the required maintenance within the period specified by the City's notice, the City shall be entitled to cause such work to be completed and shall be entitled to reimbursement with respect thereto from the property owners as provided herein.

In the event the City has performed the necessary maintenance on behalf of the home owners' association, the City shall submit a written invoice to the Home Owners Association for all costs incurred by the City to perform such maintenance and pursue collection.

3. The CC&R's shall reference the recorded Storm Water Control Facility Maintenance Agreement and the approved SWQMP for the project.
4. The CC&R's must state that (if stamped concrete is used in the private street) the Home Owners Association is responsible for replacing the stamped concrete in kind if the City or its contractor has to trench the street for repair or replacement of an existing utility.
5. The CC&Rs must state that the Home Owners Association assumes liability for damage and repair to City utilities in the event that damage is caused by the Home Owners Association or their contractors when repair or replacement of private utility or storm water facility is done.
6. Prior to issuance of a building permit, the Applicant shall provide the Planning and Engineering with a recorded copy of the official CC&Rs that have been approved by the Department of Real Estate and the City Planner.
7. A copy of any future proposed amendments to the CC&R shall be provided to the City Planner in advance. If the proposed amendment affects the City, City shall have the right to disapprove. A copy of the final approved amendment shall be transmitted to City within 30 days for the official record.

FINAL MAP - EASEMENTS AND DEDICATIONS

1. The developer shall make all necessary dedications for public rights-of-way for public streets or public utilities and emergency access easements for the private streets according to the following street classifications.

<u>STREET</u>	<u>CLASSIFICATION</u>
Bear Valley Parkway	Specific Alignment Plan (Proposed project improvements))
Interior Streets (A-D)	Residential (Private w/ PUE)
Emergency Access Easement and Public Trail	Private Access Easement (34' wide) (24' Emergency Access and 10' Public Trail easements)

2. The project owner shall prepare, submit and process for City Engineer approval a Final Map to subdivide this Project.
3. The applicant shall provide the City Engineer with a Subdivision Guarantee and Title Report covering the subject property.
4. All necessary right-of-ways, public utilities and emergency access easements shall be granted on the Final Map.

5. All easements, both private and public, affecting subject property shall be shown and delineated on the Final Map. Necessary right-of-ways, public utilities and emergency access easements shall be granted on the Final Map.
6. A Public Utility Easement shall be granted over the Private Street. The public utility easement shall extend a minimum of five feet beyond the improved, curb-to-curb roadway width. When sidewalks are required, the public utility easement shall extend a minimum of four feet behind the back of sidewalk.
7. Private Drainage Easements shall be shown on the Final Map and granted to the Home Owners Association upon transfer of title for all private drainage facilities including brow ditches (five feet wide minimum) and storm drain pipes (ten feet wide minimum) needed to convey storm water within the project.
8. 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 final map. 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 Final Map. If an easement of record contains an existing access that could not be quit claimed, grading permit will not be issued for lots in which construction will conflict with existing access rights unless the developer provides the City Engineer satisfactory documentation prior to issuance of Grading Permit or Final Map approval.
9. Prior to the recordation of a Final Map, the Applicant shall reference on the map any parcels or lots that benefit the public, which includes all trail and park facilities, in a manner meeting the approval of the Director of Community Development.
10. The project owner shall be responsible for obtaining any easements or letters of permission from property owners subject to project's construction impact to their driveways or yards.
11. Necessary public utility easements for sewer, water, storm drain, etc. shall be granted to the City on the Final Map. The minimum easement width is 20 feet. For a single utility line and 24 feet for an Emergency Access road. Easements with additional utilities shall be increased to the requirements of the Utilities Engineer.
12. The project owner shall provide the City Engineer with a Subdivision Guarantee and Title Report covering subject property.

REPAYMENTS, FEES AND CASH SECURITIES

1. The project owner shall be required to pay all development fees, including any repayments in effect prior to approval of the Final Subdivision Map. All development impact fees are paid at the time of Building Permit.
2. The project owner shall provide the City Engineer with fair share contribution towards future Bear Valley Parkway corridor improvements in the amount of \$34,000 prior to approval of the Final Map. Fair share contribution is required to offset project's minor impact on intersection of Bear Valley Parkway and Encino Dr. and segment of Bear Valley Parkway between Sunset Dr. and Las Palmas Ave that are currently operate at unacceptable level of service. Fair share contribution will be applied to future signalization of Bear Valley Parkway and Las Palmas Avenue and improvement of Bear Valley Parkway between Sunset and Las Palmas Ave. to Major Road standards.
4. A sewer repayment in the amount of \$6,310.62 is due to the City of Escondido for existing sewer improvements that contribute to serving this project per Sewer Repayment File No. 50 and approved by City Council Resolution 74-100.
5. A water repayment in the amount of \$8,162.92 is due the City of Escondido for existing water improvements that contribute to serving this project per Water Repayment File No. 50 and approved by City Council Resolution 74-100.
6. A water repayment in the amount of \$4,062.16 is due to the City of Escondido for existing water improvements that contribute to serving this project per Water Repayment File No. 69 (Mutual WD).

7. 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 \$50,000.

UTILITY UNDERGROUNDING AND RELOCATION

1. The project owner is responsible for undergrounding of overhead utilities along project frontage or payment of undergrounding in lieu fee when undergrounding of the overhead utilities is not feasible.
2. The existing S.D.G&E 69KV electric lines along project frontage are exempt from undergrounding by payment of undergrounding in lieu fee (\$467/l.f. per 2017 fee schedule). Total electric undergrounding in lieu fee is estimated at \$514,188 for 1,587 l.f. of overhead electric lines along project frontage. The project owner may underground or choose to pay undergrounding in lieu fee for telephone and cable lines (\$83/l.f. for telephone and \$60/l.f. for cable, per 2017 fee schedule) in addition to electric in lieu fee, to avoid undergrounding of overhead utilities. Total telephone and cable undergrounding in lieu fee is estimated at \$226,941. The project owner shall be responsible for the cost of relocation of all existing overhead utilities lines and poles along project frontage to allow for construction of Bear Valley Parkway frontage improvements.
3. All new dry utilities to serve the project shall be constructed underground.
4. 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.

Draft Development Agreement

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: XXX-XXX-XX

**Recording Fees Exempt Per Government Code Section 27383
DEVELOPMENT AGREEMENT
for 661 Bear Valley Parkway**

between

CITY OF ESCONDIDO

and

[Entity]

_____, 2018

**DRAFT COPY
FOR STUDY ONLY**

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. "**Director**" refers to the Director of Community Development.
5. "**CEQA**" refers to the California Environmental Quality Act.
6. "**City**" refers to the City of Escondido, its City Council, its mayors and council members, past and present, and employees and agents.
7. "**Cure Period**" refers to the period of time in which a default may be cured, which will be 30 days.
8. "**Development Fees**" refers to the development related fees as provided in the City's Fee Guide and referred to as development fees.

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FOR STUDY ONLY**

9. **"Differing Site Condition"** means unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the contract.
10. **"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.
11. **"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.
12. **"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.
13. **"Existing Laws"** refers to the ordinances, resolutions, codes, rules, regulations, general plan, stormwater regulations and official policies of the City 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.
14. **"Future Exaction"** refers to Exactions imposed after the Effective Date, whether by ordinance, initiative, resolution, rule, regulation, policy, order or otherwise.
15. **"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.
16. **"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.
17. **"General Plan"** refers to the City's General Plan in effect on the Effective Date.
18. **"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.
19. **"Modification"** refers to a modification approved by the City Council as provided in Article VI, Section 5.

20. "**Offsite Improvements**" refers to the Public Benefit offsite improvements as defined in Section I.B of Exhibit B to this Agreement.
21. "**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.
22. "**Owner**" refers to [entity], who has legal or equitable interest in the real property which is the subject of this Agreement.
23. **Party**. City or Owner may be referred to individually as Party or collectively as Parties.
24. "**Project**" shall mean and refer to all improvements described in the Entitlements and this Agreement.
25. "**Property**" shall mean the certain real property located in the County of San Diego, State of California as described in the Exhibit A.
26. "**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.
27. "**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.
28. "**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.
29. "**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. 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. 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.

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 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 acceptable to City, such acceptance not to be unreasonably withheld. 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

[Entity]
Attention: [Name]
[Address]

with a copy to:

[Name]
[Address]

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 Map(s) and Other Project Approvals.** Pursuant to California Government Code Section 66452.6(a), the term of the subdivision map that is processed on all or any portion of the Property and the term of each of the Entitlements shall be extended for a period of time through the Term of the Agreement. The extension pursuant to Government Code Section 66452.6(a) shall be in addition to any other available extensions pursuant to applicable law. Should this Agreement be terminated, the Owner shall have thirty (30) days to submit an application for the extension of any portion of an approved tentative map.

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.

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 Improvements.** Owner agrees to design and construct the improvements as provided in Exhibit B to this Agreement. The Owner's requirement to design and construct the improvements and the City's obligation to reimburse Owner, in Exhibit B, shall survive the termination of this Agreement, provided that notwithstanding any other provision in this Agreement, the Parties' obligations under this Section 11 shall terminate upon the expiration of the tentative subdivision map.

12. **Fees.** The Owner shall pay the Development Fees and General Fees in the amounts in effect at the time Owner submits payment of the fees unless otherwise explicitly provided in 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.

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 improvements described in Exhibit B. This contingency for occupancy shall survive the termination of this Agreement, provided that the contingency for occupancy shall terminate upon expiration of the tentative subdivision map.

3. **Recordation of Final Map Contingent on Security for Public Benefits.** Prior to recordation of the Final Map, 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.

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: _____
Sam Abed
Its: Mayor

By: _____
Diane Halverson
Its: Clerk

[entity]

By: [entity]

By: _____
Name: _____
Its: _____

APPROVED AS TO FORM:

CITY OF ESCONDIDO

By: _____
Michael R. McGuiness
City Attorney

[entity]

By: _____
name, Esq.
Attorney for Owner

Exhibit A

LEGAL DESCRIPTION

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

DRAFT

Exhibit B

I. PUBLIC BENEFITS AND IMPROVEMENTS

- A. BEAR VALLEY PARKWAY FRONTAGE.** Owner shall design and construct a 2,937-foot stretch of Bear Valley Parkway by adding one north-bound lane along the project frontage together with construction of curb and gutter and a 5-foot-wide concrete sidewalk.
- B. CONTRIBUTION.** The Owner shall deposit \$215,000 ("Contribution") with the City for its use not later than the date upon which security must be posted for the Offsite Improvements. The Contribution shall be adjusted as set forth herein to reflect the annual increase, if any, in the Los Angeles Construction Cost Index ("CCI") when compared to the previous year. The adjustments shall commence on the third anniversary of the Effective Date hereof to reflect any increase in the CCI between the third and fourth anniversaries of the Effective Date, and continue annually thereafter until the Offsite Improvements are complete. Owner shall deposit with the City appropriate CCI adjustment payments concurrently with the posting of security for the Offsite Improvements, and annually thereafter until the Offsite Improvements are complete. The CCI adjustment payments, if any, shall be added to the Contribution for purposes of this Section I.B and Section II.A, below. The Contribution shall be subject to any reductions as provided in Section II.A. Any reduction in the Contribution, as set forth in Section II.A, below, will be refunded to Owner upon completion of the Offsite Improvements.
- C. OFFSITE IMPROVEMENTS.** Owner shall design and construct a 528 - foot stretch of Northbound Bear Valley Parkway from the south edge of the residential development to Ranchito Drive in accordance with the BVP Specific Alignment Plan, which includes but is not limited to storm water improvements in accordance with green street designs, curb, gutter and a 5-foot-wide concrete sidewalk. Owner shall ensure necessary storm water improvements in accordance with the USEPA Green Streets guidelines and handbooks are established to full growth to perform as designed as determined by the City Engineer, prior to turning over the maintenance responsibility to an HOA to be maintained in perpetuity and contained in the Project's CC&Rs. Should the adjacent parcel, APN No. XXX-XX-XXX, be developed the HOA shall have no further maintenance responsibility, and the City will assign such responsibility for maintenance to the property owner in accordance with City standards and policies.
- D. RIGHT OF WAY.** The Owner and City recognize that certain additional right of way is needed for construction of these Offsite Improvements. Owner shall prepare the plats and legal descriptions for the necessary right of way for the Offsite Improvements, which must be approved by the City. Owner shall use its best efforts to acquire the right of way. If Owner is unable to acquire the right of way despite its best efforts, Owner must give the City written notice of the Owner's inability to acquire the right of way before the Owner's submission of improvement plans and securities for the Public Improvements. The City may seek to acquire the right of

way after receiving said notice from the Owner. If the City elects to do so, the City will have nine (9) months to acquire the necessary right of way after approval of the improvement plans and the posting of security for the Public Improvements.

II. FEE CREDITS AND REIMBURSEMENTS

- A. REIMBURSEMENT FOR OFFSITE IMPROVEMENTS.** The City will reimburse the Owner for the Reimbursable Costs as provided in this Section II.A. The Owner shall publically bid the offsite improvement project to qualified contractors. The City will confirm the lowest responsible and responsive bid price ("Bid Price"). In addition to the Bid Price, the City will also reimburse Owner for permit fees and engineering, design, and mitigation costs on a pro rata basis for the Offsite Improvements ("Other Costs"). Collectively, the Bid Price and the Other Costs make up the Reimbursable Costs. Upon substantial completion of the Offsite Improvements, the City will reimburse Owner \$98,000 within thirty (30) days of a written request from Owner. The remaining Reimbursable Costs will be paid by the City on or before 4 years from the notice of completion for the Offsite Improvements. Reimbursable Costs must be incurred after the Effective Date. The Contribution provided above shall be reduced, and any excess refunded to Owner, as set forth in Section I.B above, to the extent that the Contribution exceeds fifty percent (50%) of the Reimbursable Costs.

By way of example only, in the event the Reimbursable Costs are \$450,000, and the Contribution amounts to \$230,000 (original \$215,000 Contribution plus \$15,000 CCI adjustment), then the Contribution would be reduced to \$225,000 (50% of the Reimbursable Costs) and the City would reimburse Owner an additional \$5,000 pursuant to Section I.B, above. Using the preceding example, in the event Reimbursable Costs were \$470,000 rather than \$450,000, there would be no reduction in the Contribution (Contribution does not, in this example, exceed 50% of Reimbursable Costs).

- B. REIMBURSEMENT FOR RIGHT OF WAY.** The City will reimburse the Owner for the actual costs of acquisition for the right of way acquired by the Owner, in an amount not to exceed the appraised value of the necessary right of way. Any reimbursable costs in this Section II B must be incurred after the Effective Date and are separate and apart from the limits on reimbursements contained in Section II A.

III. TIMING AND COOPERATION

- A.** The City and Owner agree to cooperate towards the requirements in this Agreement including a permitting and construction schedule.

**Correspondence Received by City After Close
of Draft EIR Public Review Period**

Ann F. Dolmage

From: Merri Lopez-Keifer <lopezkeifer@gmail.com>
Sent: Thursday, August 03, 2017 1:20 PM
To: Ann F. Dolmage; Carmen Mojado
Subject: SLR Comment Letter on 661 Bear Valley Parkway DEIR
Attachments: 661 Bear Valley Parkway DEIR Comments.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Ann,

Attached please find a letter from the San Luis Rey Band of Mission Indians regarding the 661 Bear Valley Parkway DEIR. I realize that the comment period has ended, but am hopeful that you can still include the Tribe's comment letter within the document.

Best,

Merri

Merri Lopez-Keifer
Chief Legal Counsel
San Luis Rey Band of Mission Indians
(925) 457-3395
lopezkeifer@gmail.com

The information in this e-mail message is intended for the confidential use of the addressees only. The information is subject to attorney-client privilege and/or may be attorney work product. Recipients should not file copies of this e-mail with publicly accessible records. If you are not an addressee or an authorized agent responsible for delivering this e-mail to a designated addressee, you have received this e-mail in error, and any further review, dissemination, distribution, copying or forwarding of this e-mail is strictly prohibited. If you received this e-mail in error, please notify us immediately at (925) 457-3395. Thank you.

SAN LUIS REY BAND OF MISSION INDIANS

1889 Sunset Drive • Vista, California 92081

760-724-8505 • FAX 760-724-2172

www.slrmissionindians.org

August 3, 2017

Ann Dolmage
Associate Planner
Planning Division
City of Escondido
201 North Broadway
Escondido, CA 92025

VIA ELECTRONIC MAIL
adolmage@escondido.org

**RE: COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT REPORT
FOR THE 661 BEAR VALLEY PARKWAY PROJECT (CITY PROJECT#
SUB 15-0002 AND SCH #2016111060)**

Dear Ms. Dolmage:

We, the San Luis Rey Band of Mission Indians ("Tribe"), have received and reviewed the City of Escondido's ("City's") Draft Environmental Impact Report ("DEIR") and all of its supporting documentation as it pertains specifically to the protection and preservation of Luiseño tribal cultural resources that may be located within the parameters of the 661 Bear Valley Parkway Project's ("Project's") property boundaries and/or areas of impact. The Tribe also acknowledges that the City and the Tribe have been engaged in consultation regarding this project since 2015.

After our review of the DEIR and continuing our consultation with the City via Assembly Bill 52, the Tribe is satisfied with the *revised* proposed tribal cultural resource mitigation measures (as of August 2, 2017) that will be recommended and supported by City Staff for inclusion in the DEIR and adoption by the decision makers for the City.

The San Luis Rey Band of Mission Indians appreciates this opportunity to provide the City of Escondido with our comments on the 661 Bear Valley Parkway Project. As stated above, the Tribe is satisfied with the *revised* mitigation measures for tribal cultural resources as reflected in our August 2, 2017 confidential communication with the City pursuant to Assembly Bill 52. As always, we look forward to working with the City to guarantee that the requirements of the CEQA are rigorously applied to this Project and all projects. We thank you for your continuing assistance in protecting our invaluable Luiseño tribal cultural resources.

Sincerely,



Chief Legal Counsel

Ann F. Dolmage

From: Richard Kolb <kolbrh.rk@gmail.com>
Sent: Monday, August 14, 2017 8:14 PM
To: Ann F. Dolmage
Cc: Mike & Cindy Peters; Ernel&Virginia Toledo; Ted Reguly; Ishmael Rasool; Ralph Tan; Andy Bera; Brendan Kelly; Stan & Hanna Haladus; Sam&Alia Mansour; Ron & Ning Cooper; Dan & Denise Ehret; Chuck Aeling
Subject: Re: Draft EIR for Bear Valley Pkwy. Project

Thx Ann. However, I'm not happy that they basically totally disregarded our comments without adequate explanation. It's one thing to disagree with our comments but something else altogether to not even provide a discussion of the comments. I expected more from the City than this but I imagine the developers have more influence with the City than local residents. The County paid a lot of attention to concerns of the residents in this area several times regarding developments on the NW corner of the intersection of BVP and San Pasqual Valley Rd.; even going so far as to have open hearings on the proposals in question at the time. Our HOA would like to know if there will be another opportunity to address the City at the next step in the approval process. Sincerely,

Richard Kolb

On Aug 14, 2017, at 9:28 AM, Ann F. Dolmage <adolmage@escondido.org> wrote:

Hi Richard,

The Final EIR is now on our website. Just go here:

<https://www.escondido.org/bear-valley-parkway--residential-project.aspx>

The link to the full document is under the "Final EIR" heading at the bottom of the page.

Thank you,

Ann Dolmage
Associate Planner
City of Escondido
201 North Broadway
Escondido, CA 92025
(760) 839-4548 (phone)
(760) 839-4313 (fax)
adolmage@escondido.org

-----Original Message-----

From: Richard Kolb [mailto:kolbrh.rk@gmail.com]
Sent: Friday, August 11, 2017 7:03 PM
To: Ann F. Dolmage <adolmage@escondido.org>
Subject: Re: Draft EIR for Bear Valley Pkwy. Project

Ann,

I see the EIR has not been updated yet; is there a problem? Thx,

Richard Kolb

On May 30, 2017, at 7:38 AM, Ann F. Dolmage <adolmage@escondido.org> wrote:

Hi Richard,

Yes, I did receive those comments- thank you. Right now, the consultant who prepared the Draft EIR is working on the final version, and that version will include responses to all the comments we received during the review period. The final version will probably be ready sometime in June and will be posted here:

<https://www.escondido.org/bear-valley-parkway--residential-project.aspx>

I can send you an email reminder when it's posted, if you like.

Thank you,

Ann Dolmage
Associate Planner
City of Escondido
201 North Broadway
Escondido, CA 92025
(760) 839-4548 (phone)
(760) 839-4313 (fax)
adolmage@escondido.org

-----Original Message-----

From: Richard Kolb [mailto:kolbrh.rk@gmail.com]
Sent: Saturday, May 27, 2017 8:02 AM
To: Ann F. Dolmage <adolmage@escondido.org>
Subject: Re: Draft EIR for Bear Valley Pkwy. Project

Good Morning Ann,

I was just wondering if you received the comments I forwarded you on 5/2/17 regarding the BVP Project. Thx,

Richard Kolb

On Apr 25, 2017, at 7:40 AM, Ann F. Dolmage <adolmage@escondido.org> wrote:

Hi Richard,

Yes, you can send them to me. You can either email them to me, or mail them to this address:

Ann Dolmage, Associate Planner
Community Development Department
City of Escondido
201 N. Broadway
Escondido, CA 92025

Thank you,

Ann Dolmage
Associate Planner
City of Escondido
201 North Broadway
Escondido, CA 92025
(760) 839-4548 (phone)
(760) 839-4313 (fax)
adolmage@escondido.org

-----Original Message-----

From: Richard Kolb [mailto:kolbrh.rk@gmail.com]
Sent: Monday, April 24, 2017 7:58 PM
To: Ann F. Dolmage <adolmage@escondido.org>
Subject: Draft EIR for Bear Valley Pkwy. Project

Ann,

Do we send comments on the EIR directly to you? Thx,

Richard Kolb

Ann F. Dolmage

From: Ann F. Dolmage
Sent: Tuesday, September 19, 2017 5:00 PM
To: 'Erica Martinez'
Cc: Destiny Colucho
Subject: RE: Bear Valley Parkway Residential Project SUB 15-0002, ENV 15-0001

Hello,

Thank you for the email.

Our mitigation measures have been worded to require the applicant to use a tribal monitor that is associated with a TCA tribe during any ground-disturbing activities, and to provide staff with proof that the monitor (and an archaeologist) have been retained before issuance of a grading permit, but we do not typically specify which monitor they should use. We recommend that you get in touch with the applicant's representative, Jack Henthorn, to discuss arrangements for monitoring services. Here is his contact information:

(760) 438-4090
henthorn@jhenthorn.com

Thank you,

Ann Dolmage
Associate Planner
City of Escondido
201 North Broadway
Escondido, CA 92025
(760) 839-4548 (phone)
(760) 839-4313 (fax)
adolmage@escondido.org



From: Erica Martinez [mailto:emartinez@RinconTribe.org]
Sent: Tuesday, September 19, 2017 4:19 PM
To: Ann F. Dolmage <adolmage@escondido.org>

Cc: Destiny Colocho <DColocho@RinconTribe.org>

Subject: Bear Valley Parkway Residential Project SUB 15-0002, ENV 15-0001

Dear Ms. Dolmage:

This letter is written on behalf of the Rincon Band of Luiseño Indians. We have received your notification regarding the Bear Valley Parkway Residential Project SUB15-0002, ENV15-0001 and we thank you for the opportunity to consult on this project. The location you have identified is within the Territory of the Luiseño people, and is also within Rincon's specific area of Historic interest.

Embedded in the Luiseño Territory are Rincon's history, culture and identity. The project is within the Luiseno Aboriginal Territory of the Luiseño people. Thank you for providing the Rincon Band with a copy of the Final EIR for the above mentioned project. We would like to request that the Rincon Band be selected to enter into a Tribal Cultural Resource Treatment and Monitoring Agreement mentioned in mitigation measure CR- and to provide the TCA tribal services that are outlined in the mitigation measures CR-2 to CR-8.

We look forward to hearing from you. If there are any questions or concerns please do not hesitate to contact our office at (760) 297-2635 at your convenience.

Thank you for the opportunity to protect and preserve our cultural assets.

Sincerely,

Erica H. Ortiz-Martinez

Administrative Assistant

For Destiny Colocho, Manager

Cultural Resources Department

Rincon Band of Luiseño Indians

1 West Tribal Road | Valley Center, CA 92082

Office: 760-297-2635

Fax: 760-692-1498

Email: emartinez@rincontribe.org



*Rincon Band of
Luiseño Indians*

www.rincontribe.org