

A.

Call to Order: \_\_\_\_\_

# City of Escondido **Zoning Administrator**

# **MEETING AGENDA**

201 North Broadway City Hall - Parkview Room March 30, 2023 3:00 p.m.

Zoning Administrator: Andrew Firestine, Director of Development Services

	Staff	Staff Present:			
	Publ	Public Present:			
B.	Agenda item:				
	1.	Minor Conditional Use Permit – PL22-0534			
		structure w oil change for an oil	: A request for a Minor Conditional Use Permit to modify an existing with interior tenant improvements and exterior enhancements for an instant facility. Approval of a minor conditional use permit is required is required change facility (classified as limited vehicle repair) in accordance with 3-332 and 33-764 of the Escondido Zoning Code.		
		Applicant:	645 W. Mission Avenue (APN: 228-270-76-00) Ashbeer Singh Greg Mattson, Contract Planner		
		<b>ENVIRONMENTAL STATUS:</b> The project is currently exempt from the California Environmental Quality Act (CEQA), in conformance with Section 15301, "Existing Facilities."			
			OF THE ZONING ADMINISTRATOR: Approved, as set to form Conditionally approved with the attached modifications Denied Continued to: Date Certain () Date Unknown Referred to Planning Commission		
C.	Adjo	urnment:			
I ce	rtify th	at these acti	ions were taken at the Zoning Administrator meeting on March 30, 2023.		
 Zon	_	Iministrator	Witness ning Administrator may be appealed to the Planning Commission pursuant to Zoning Code Section 33-1303		



Agenda Item No.: 1 Date: March 30, 2023

# ZONING ADMINISTRATOR

CASE NUMBER: PL22-0534

**APPLICANT:** Ashbeer Singh

**PROJECT LOCATION:** 645 W. Mission Avenue (Assessor Parcel Number: 228-270-76-00)

**REQUEST:** A request for a Minor Conditional Use Permit to modify an existing structure with interior tenant improvements and exterior enhancements for an instant oil change facility. Approval of a minor conditional use permit is required is required for an oil change facility (classified as limited vehicle repair) in accordance with sections 33-332 and 33-764 of the Escondido Zoning Code.

**STAFF RECOMMENDATION**: Approval

**GENERAL PLAN DESIGNATION:** General Plan: General Commercial (GC)

**ZONING:** Commercial General (C-G)

### **BACKGROUND/PROJECT DESCRIPTION:**

The subject site is 0.15 acres and is developed with an approximately 2,700 square foot commercial building. The building is current vacant, and was previously a Valvoline oil change facility which closed in 2019. The building fronts onto W. Mission Avenue with no direct access, however, the site has access from the internal driveways to the east and west. The applicant is requesting to re-activate this existing commercial use per section 33-332 "Limited vehicle repair" which is subject to a Minor Conditional Use Permit. The proposed use will offer express oil change services for passenger vehicles. In addition, renovations will include oil storage changes, access, other minor automotive and office improvements which are allowed under the existing commercial zoning (refer to Attachment 1). The proposed hours of operation are 7 am to 7:30 pm daily and the facility would be open seven days a week. The facility is anticipated to have three or four employees during the week and up to six employees on the weekends.

The project would require interior improvements to accommodation the new oil change facility. The applicant will bring the site up to current energy efficiency and construction standards, including repainting, landscaping, trees, parking spaces, oil storage, and handling areas, as well as new signage (under a separate permit). A new trash enclosure also would be constructed in the southeasterly corner, in accordance with the City's storm water requirements.

### **ENVIRONMENTAL STATUS:**

The California Environmental Quality Act ("CEQA") Guidelines list classes of discretionary projects that have been determined not to have a significant effect on the environment and as a result are exempt from further review under CEQA. The project is categorically exempt from further CEQA review pursuant to CEQA Guidelines section 15301 (Existing Facilities) as described further in the Findings of Fact, attached as Exhibit "B" to Zoning Administrator Resolution No. 2023-03.

### **REASON FOR STAFF RECOMMENDATION:**

- 1. All of the requirements of CEQA have been met because it was found that the project will not have a significant effect on the environment as demonstrated in the Categorical Exemption prepared in conformance with CEQA Guidelines section 15301, "Existing Facilities." The Project qualifies for the "Existing Facilities" exemption because it is located in area where all public services and facilities are available; has no value as habitat for endangered, rare, or threatened species; approval of the project, as conditioned, would not result in any significant effects on the environment; and the site is connected to City sewer and water services and can adequately be served by all required utilities and public services (refer to Attachment 2).
- 2. The project is consistent with Land Use Policies that support walkability, and the re-use of existing buildings for new commercial uses, which ensure that the proposed use economically supports and compliments the adjacent commercial viability. The granting of the Minor Conditional Use Permit will not result in any conflicts with surrounding land uses and would not materially degrade the level-of-service on adjacent streets, utilities or public facilities.
- 3. The project would provide three reconfigured off-site parking spaces, including one accessible space. However, due to the project site location and constraints, there is available parking in the adjacent commercial center lots, as well as street parking, it is anticipated that sufficient parking is available to serve the project.

Respectfully submitted,

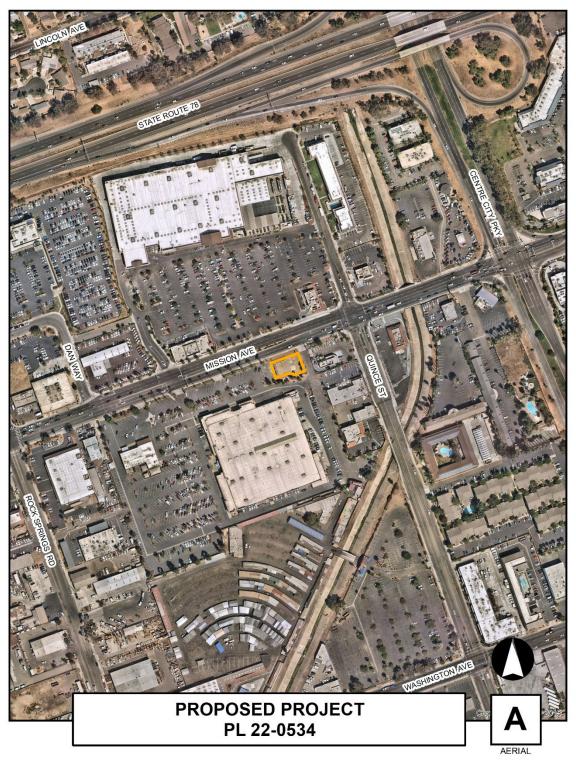
Greg B. Mattson, AICP Contract Planner

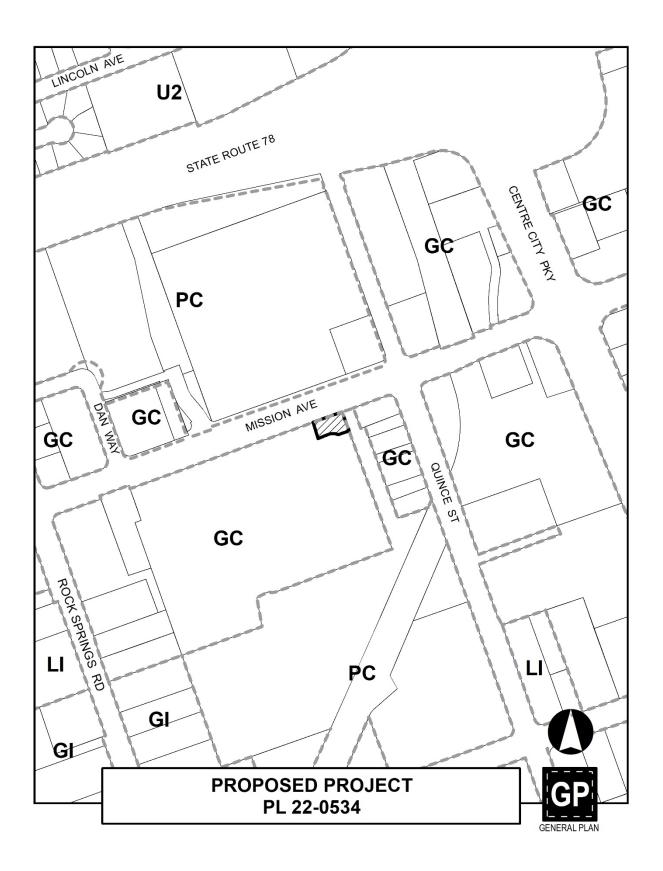
### **ATTACHMENTS:**

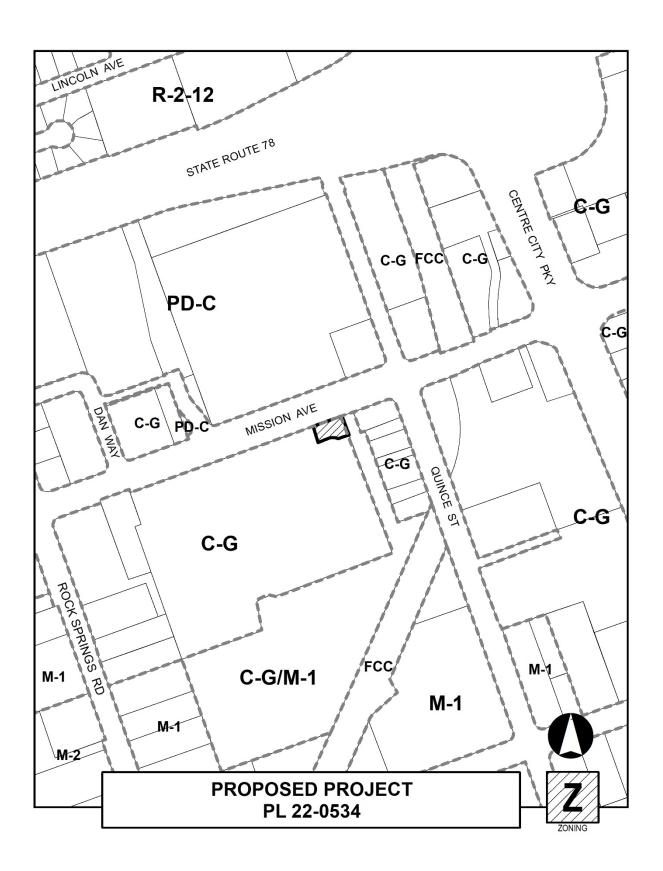
- 1. Project Location, Zoning, and General Plan Land Use Maps
- 2. CEQA Notice of Exemption
- 3. Zoning Administrator Resolution No. 2023-03, Including Exhibits A, B, C, and D

ATTACHMENT 1

Project Location, Zoning & General Plan Land Use







### **ATTACHMENT 2**



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

# **Notice of Exemption**

From:

City of Escondido

Planning Division

☐ State agency

☐ Other

201 North Broadway

Escondido, CA 92025

To: Assessor/Recorder/County Clerk Attn: Fish and Wildlife Notices 1600 Pacific Hwy, Room 260 San Diego, CA 92101

MS: A-33

Project Title/Case No: Valvoline Oil Change / PL22-0534

Project Location - Specific: The subject site is a 0.15 acre developed parcel located west of the intersection of West Mission Avenue and North Quince Street, and addressed as 645 W. Mission Avenue (APN: 228-270-76-00)

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

Description of Project: A request for a Minor Conditional Use Permit to modify the existing structure with interior tenant improvements and exterior enhancements for an instant oil change facility. Approval of a minor conditional use permit is required is required for an oil change facility (classified as limited vehicle repair) in accordance with sections 33-332 and 33-764 of the Escondido Zoning Code.

Name of Public Agency Approving Project: City of Escondido

Name of Person or Agency Carrying Out Project:

Name: Ashbeer Singh (Applicant)

Address: 3199 Airport Loop Drive, Suite D, Costa Mesa, CA 92626

☐ School district

Telephone: 657-757-3762

☐ Private entity

special district		
Exempt Status:	The Project is categorically exempt pursuant to CEQA Guidelines section 1	15301

("Existing Facilities").

Reasons why project is exempt The Project is a request to renovate an existing commercial property. The Project does not include the physical expansion of the building. This exemption is appropriate for the Project due to negligible expansion of the former use. The Project is in an area where all public services and facilities are available, and the project site is fully developed and has no potential of supporting

Local public Agency

environmentally sensitive habitat.	and has no personnal or supporting
Lead Agency Contact Person:	Area Code/Telephone/Extension: 760-839-4544
Signature Greg Mattson, AICP, Contract Planner	March 30, 2023

 Signed by Lead Agency Date received for filing at OPR:

☐ Signed by Applicant

**ATTACHMENT 3** 

Zoning Administrator

Hearing Date: March 30, 2023

Effective Date: April 13, 2023

RESOLUTION NO. 2023-03

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF ESCONDIDO, CALIFORNIA, APPROVING A MINOR CONDITIONAL USE PERMIT FOR AN OIL CHANGE FACILITY AT 645 W. MISSION AVENUE

APPLICANT: ASHBEER SINGH

CASE NO: PL22-0534

WHEREAS, the Zoning Administrator of the City of Escondido did, on March 30, 2023, hold a public hearing to consider a request for a Minor Conditional Use Permit (Planning Case No. PL22-0534) for an oil change facility (classified as limited vehicle repair) pursuant to sections 33-332 and 33-764 of the City's Zoning Code ("Project)", on a property addressed as 645 W. Mission Avenue (APN 228-270-76-00), more particularly described in Exhibit "A," and all persons desiring to speak did so; and

WHEREAS, evidence was submitted to and considered by the Zoning Administrator at or before the public hearing, including, without limitation, written information, and the staff report dated, March 30, 2023, which along with its attachments is incorporated herein by this reference; and

WHEREAS, a notice was published and mailed as required by the Escondido Zoning Code and applicable State law; and

WHEREAS, the application was assessed in conformance with the California Environmental Quality Act (CEQA) and a Notice of Exemption was prepared in conformance with CEQA Guidelines section 15301 "Existing Facilities"; and

WHEREAS, a staff report was presented discussing the issues in the matter.

NOW, THEREFORE, BE IT RESOLVED by the Zoning Administrator of the City of Escondido:

- 1. That the above recitations are true and correct.
- 2. That the project is categorically exempt from further CEQA review pursuant to CEQA Guidelines section 15301 (Existing Facilities). The Zoning Administrator has reviewed and considered the Notice of Exemption prepared for the project and has determined that it is complete and adequate, and there are no significant environmental effects.
- 3. That, considering the Findings of Fact attached as Exhibit "B" hereto, and applicable law, the Zoning Administrator hereby approves Planning Case No. PL22-0534, subject to the Conditions of Approval attached as Exhibit "C" hereto, as depicted in the Project Plans attached as Exhibit "D" hereto.
- 4. That this approval shall automatically become null and void unless a the use authorized by this approval has commenced within 24 months of the date of this approval, unless an Extension of Time is granted pursuant to Article 61 of the Escondido Zoning Code.

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

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

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

PASSED, ADOPTED AND APPROVED by the Zoning Administrator of the City of Escondido, California, at a regular meeting held on the 30<sup>th</sup> day of March 2023.

ANDREW FIRESTINE, AICP WITNESS

Zoning Administrator,
City of Escondido

Note: This action may be appealed to Planning Commission pursuant to Zoning Code Section 33-1303

### **EXHIBIT "A"**

# **LEGAL DESCRIPTION**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF ESCONDIDO, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

#### PARCEL 1:

PARCEL 1 OF PARCEL MAP NO. 14183, IN THE CITY OF ESCONDIDO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, FEBRUARY 25, 1988.

#### PARCEL 2:

AN EASEMENT AND RIGHT OF WAY FOR ROAD PURPOSES OVER AND ACROSS THAT PORTION OF PARCEL 2 OF PARCEL MAP NO. 14183, IN THE CITY OF ESCONDIDO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, FEBRUARY 25, 1986, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID PARCEL 2, THENCE SOUTH 20° 22' 43" EAST ALONG THE EASTERLY LINE THEREOF 108.00 FEET; THENCE NORTH 69° 38' 30" EAST 13 FEET; THENCE SOUTH 20° 22' 43" EAST 40.50 FEET; THENCE SOUTH 69° 38' 30" WEST 48.00 FEET TO THE EAST LINE OF PARCEL A OF SAID PARCEL MAP NO. 4640; THENCE NORTH 20° 22' 43" WEST ALONG THE EAST LINE AND THE NORTHERLY PROLONGATION THEREOF 148.50 FEET TO THE NORTH LINE OF SAID PARCEL B; THENCE NORTH 69° 38' 30" EAST ALONG SAID NORTH LINE 35.00 FEET TO THE POINT OF BEGINNING.

#### PARCEL 3:

A NON-EXCLUSIVE EASEMENT FOR CERTAIN RECIPROCAL EASEMENTS OVER THE COMMON AREAS AND FACILITIES OF THE PROJECT AND SET FORTH CERTAIN PROVISIONS RELATING TO CONSTRUCTION, OPERATION, AND USE OF THE PROJECT BY THAT CERTAIN CONSTRUCTION, OPERATION AND RECIPROCAL EASEMENT AGREEMENT RECORDED SEPTEMBER 14, 2015 AS INSTRUMENT NO. 2015-0484463 OFFICIAL RECORDS.

APN: 228-270-76-00

### **EXHIBIT "B"**

### FACTORS TO BE CONSIDERED / FINDINGS OF FACT

### **Environmental Determinations:**

- 4. Pursuant to the California Environmental Quality Act (Public Resources Code section 21000 et. seq.) ("CEQA"), and its implementing regulations (14 C.C.R. § 15000 et seq.) ("CEQA Guidelines"), the City of Escondido ("City") is the Lead Agency for the project ("Project"), as the public agency with the principal responsibility for approving the Project.
- 5. All of the requirements of CEQA have been met because it was found that the project will not have a significant effect on the environment as demonstrated in the Categorical Exemption prepared in conformance with CEQA Guidelines section 15301, "Existing Facilities." The Project qualifies for the "Existing Facilities" exemption because it is utilizing an existing structure with only minor interior and exterior improvements. Further, the Project located in area where all public services and facilities are available; has no value as habitat for endangered, rare, or threatened species; approval of the project, as conditioned, would not result in any significant effects on the environment; and the site is connected to City sewer and water services and can adequately be served by all required utilities and public services.
- 6. The Zoning Administrator has independently considered the full administrative record before it, which includes but is not limited to the March 30, 2023, Zoning Administrator staff report; testimony by staff and the public; and other materials and evidence submitted or provided to it. The administrative record demonstrates that each of the above requirements have been satisfied. No substantial evidence has been submitted that would support a finding that any of the above-described exemption requirements has not been satisfied. The Project will not have a significant effect on the environment, and all of the requirements of CEQA have been met.

# **Public Notice and Outreach:**

Planning Division staff provided public notice of the application in accordance with City and State public noticing requirements. A notice was published in the local newspaper on or around March 16, 2023. In addition, on around March 13, 2023, notices were sent to property owners within 500 feet of the project site. A public notice was also posted at the project site and on the City's website.

# Conditional Use Permit (Escondido Zoning Code Section 33-1203)

The Zoning Administrator has reviewed the record, including applicable CEQA findings, and makes the following findings for a Conditional Use Permit:

1. The project involves a renovation to an existing commercial structure to allow for the reestablishment of the oil change facility which previously occupied the site. The Project provides for adequate ingress and egress via two driveway access points. The Project is designed to accommodate parking, lighting (using only shielded, downward lighting that avoids light spill offsite), and landscaping that meets or exceeds the requirements contained in the Escondido Zoning Code, and will provide buffering and screening. The proposed project is consistent with the Land Use Policies that support community services and the re-use of existing buildings for new commercial uses, which ensures that the proposed use economically supports and compliments the adjacent commercial uses.

- 2. The Conditional Use Permit will not cause deterioration of bordering land uses or create special problems for the area in which it is located because the commercial activities will be limited to six employees on the weekend and four employees during the week. All necessary public services are available to serve it, and the commercial use is not anticipated to generate noise or other impacts that could be detrimental to adjacent properties.
- 3. The proposed Project will also meet the standard requirements of the Municipal Code and specific conditions, such as landscaping, which have been included in the Conditions of Approval for prior entitlements to ensure compliance. The Project site is located in an area where existing public services are readily available.
- 4. The Conditional Use Permit would provide additional employment opportunities for Escondido residents in a location that is easily accessible by public transit and nearby residential neighborhoods.

# Exhibit "C"

# PLANNING CASE NOS. PL22-0534 CONDITIONS OF APPROVAL

This Project is conditionally approved as set forth on the application received by the City of Escondido on September 8, 2022, and the Project drawings consisting of Site Plans, Floor Plans, Sections, Colored Architectural Elevations, and Landscape Plans; all designated as approved on March 30, 2023, and shall not be altered without express authorization by the Development Service Department.

For the purpose of these conditions, the term "Applicant" shall also include the Project proponent, owner, permittee, and the Applicant's successors in interest, as may be applicable.

### A. General:

- 1. **Acceptance of Permit.** If the Applicant fails to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the Applicant shall be deemed to constitute all of the following on behalf of the Applicant:
  - **a.** Acceptance of the Permit by the Applicant; and
  - **b.** Agreement by the Applicant to be bound by, to comply with, and to do all things required of or by the Applicant pursuant to all of the terms, provisions, and conditions of this Project Permit or other approval and the provisions of the Escondido Municipal Code or Zoning Code applicable to such Permit.
- 2. Permit Expiration. If the Permit was filed as or concurrent with a Tentative Map or Planned Development application, the Permit shall expire 36 months from the effective date of approval, unless additional time is granted pursuant to the Map Act or to the Escondido Municipal Code. If <u>not</u> filed as concurrent with a Tentative Map or Planned Development application, the Permit shall automatically expire after one year from the date of this approval, or the expiration date of any extension granted in accordance with the Escondido Municipal Code and Zoning Code.

The Permit shall be deemed expired if a building permit has not been obtained or work has been discontinued in the reliance of that building permit. If no building permits are required, the City may require a noticed hearing to be scheduled before the authorized agency to determine if there has been demonstrated a good faith intent to proceed, pursuant to and in accordance with the provision of this Permit.

3. Certification. The Director of Development Services, or their designee, is authorized and directed to make, or require the Applicant to make, all corrections and modifications to the Project drawings and any other relevant document comprising the Project in its entirety, as necessary to make them internally consistent and in conformity with the final action on

the Project. This includes amending the Project drawings as necessary to incorporate revisions made by the decision-making body and/or reflecting any modifications identified in these conditions of approval. A final Approved Plan set, shall be submitted to the Planning Division for certification electronically. Said plans must be certified by the Planning Division prior to submittal of any post-entitlement permit, including grading, public improvement, landscape, or building plans for the Project.

# 4. Conformance to Approved Plans.

- **a.** The operation and use of the subject property shall be consistent with the Project Description and Details of Request, designated with the Approved Plan set.
- **b.** Nothing in this Permit shall authorize the Applicant to intensify the authorized activity beyond that which is specifically described in this Permit.
- c. Once a permit has been issued, the Applicant may request Permit modifications. "Minor" modifications may be granted if found by the Director of Development Services to be in substantial conformity with the Approved Plan set, including all exhibits and Permit conditions attached hereto. Modifications beyond the scope described in the Approved Plan set may require submittal of an amendment to the Permit and approval by the authorized agency.
- Limitations on Use. Prior to any use of the Project site pursuant to this Permit, all Conditions of Approval contained herein shall be completed or secured to the satisfaction of the Development Services Department.

# 6. Certificate of Occupancy.

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

### 7. Availability of Permit Conditions.

a. Prior to building permit issuance, the Applicant shall cause a covenant regarding real property to be recorded that sets forth the terms and conditions of this Permit approval and shall be of a form and content satisfactory to the Director of Development Services or their designee.

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

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

10. Fees. The appropriate development fees and Citywide Facility fees shall be paid in accordance with the prevailing fee schedule in effect at the time of building permit issuance, to the satisfaction of the Director of Development Services or their designee. Through plan check processing, the Applicant shall pay development fees at the established rate. Such fees may include, but not be limited to: Permit and Plan Checking Fees, Water and Sewer Service Fees, School Fees, Traffic Mitigation Fees, Flood Control Mitigation Fees, Park Mitigation Fees, Fire Mitigation/Cost Recovery Fees, and other fees listed in the Fee Schedule, which may be amended. Arrangements to pay these fees shall be made prior to building permit issuance to the satisfaction of the Development Services Department.

Approval of this development project is conditioned upon payment of all applicable development fees and connection fees in the manner provided in Chapter 6 of the Escondido Municipal Code.

11. **Public Art Partnership Program.** All requirements of the Public Art Partnership Program, Ordinance No. 86-70 shall be satisfied prior to any building permit issuance. The ordinance requires that a public art fee be added at the time of the building permit issuance for the purpose of participating in the City Public Art Program.

# 12. Clerk Recording.

- a. Exemption. If the environmental determination prepared for the Project is a categorical exemption, the City of Escondido hereby notifies the Applicant that the County Clerk's Office requires a documentary handling fee of \$50 in order to file a Notice of Exemption. In order to file the Notice of Exemption with the County Clerk, in conformance with California Environmental Quality Act (CEQA) Guidelines section 15062, the Applicant should remit to the City of Escondido Planning Division, within two working days of the final approval of the Project (the final approval being the date of this letter) a certified check payable to the "County Clerk" in the amount of \$50. The filing of a Notice of Exemption and the posting with the County Clerk starts a 35-day statute of limitations period on legal challenges to the agency's decision that the Project is exempt from CEQA. Failure to submit the required fee within the specified time noted above will result in the Notice of Exemption not being filed with the County Clerk, and a 180-day statute of limitations period will apply.
- **b.** For more information on filing fees, please refer to the County Clerk's Office and/or the California Code of Regulations, Title 14, Section 753.5.
- 13. **Legal Description Adequacy.** The legal description attached to the application has been provided by the Applicant and neither the City of Escondido nor any of its employees assume responsibility for the accuracy of said legal description.
- 14. Application Accuracy. The information contained in the application and all attached materials are assumed to be correct, true, and complete. The City of Escondido is relying on the accuracy of this information and Project-related representations in order to process this application. Any permits issued by the City may be rescinded if it is determined that the information and materials submitted are not true and correct. The Applicant may be liable for any costs associated with rescission of such permits.
- 15. Revocation, Suspension, Modification. At any time after Project implementation, the City may require a noticed public hearing to be scheduled before the Planning Commission to determine if there has been demonstrated a good faith intent to proceed in reliance on this approval. This item may be referred to the appropriate decision-making body upon recommendation of the Director of Development Services or their designee for review and possible revocation or modification of the Permit regarding non-compliance with the Conditions of Approval.

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

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

## 16. Indemnification, Hold Harmless, Duty to Defend.

- The Applicant shall indemnify, hold harmless, and defend (with counsel reasonably a. acceptable to the City) the City, its Councilmembers, Planning Commissioners, boards, commissions, departments, officials, officers, agents, employees, and volunteers (collectively, "Indemnified Parties") from and against any and all claims, demands, actions, causes of action, proceedings (including but not limited to legal and administrative proceedings of any kind), suits, fines, penalties, judgments, orders, levies, costs, expenses, liabilities, losses, damages, or injuries, at law or in equity, including without limitation the payment of all consequential damages and attorney's fees and other related litigation costs and expenses (collectively, "Claims"), of every nature caused by, arising out of, or in connection with (i) any business, work, conduct, act, omission, or negligence of the Applicant or the owner of the Property (including the Applicant's or the owner of the Property's contractors, subcontractors, licensees, sublessees, invitees, agents, consultants, employees, or volunteers), or such activity of any other person that is permitted by the Applicant or owner of the Property, occurring in, on, about, or adjacent to the Property; (ii) any use of the Property, or any accident, injury, death, or damage to any person or property occurring in, on, or about the Property; or (iii) any default in the performance of any obligation of the Applicant or the owner of the Property to be performed pursuant to any condition of approval for the Project or agreement related to the Project, or any such claim, action, or proceeding brought thereon. Provided, however, that the Applicant shall have no obligation to indemnify, hold harmless, or defend the City as to any Claims that arise from the sole negligence or willful misconduct of the City. In the event any such Claims are brought against the City, the Applicant, upon receiving notice from the City, shall defend the same at its sole expense by counsel reasonably acceptable to the City and shall indemnify the City for any and all administrative and litigation costs incurred by the City itself, the costs for staff time expended, and reasonable attorney's fees (including the full reimbursement of any such fees incurred by the City's outside counsel, who may be selected by the City at its sole and absolute discretion and who may defend the City against any Claims in the manner the City deems to be in the best interests of the City).
- **b.** The Applicant further and separately agrees to and shall indemnify, hold harmless, and defend the City (including all Indemnified Parties) from and against any and all Claims brought by any third party to challenge the Project or its approval by the

City, including but not limited to any Claims related to the Project's environmental determinations or environmental review documents, or any other action taken by the City regarding environmental clearance for the Project or any of the Project approvals. Such indemnification shall include the Applicant's payment for any and all administrative and litigation costs and expenses incurred by the City in defending against any such Claims, including payment for all administrative and litigation costs incurred by the City itself, the costs for staff time expended, and reasonable attorney's fees (including the full reimbursement of any such fees incurred by the City's outside counsel, who may be selected by the City at its sole and absolute discretion and who may defend the City against any Claims in the manner the City deems to be in the best interests of the City and the Project).

C. The City, in its sole discretion and upon providing notice to the Applicant, may require the Applicant to deposit with the City an amount estimated to cover costs. expenses, and fees (including attorney's fees) required to be paid by the Applicant in relation to any Claims referenced herein, which shall be placed into a deposit account from which the City may draw as such costs, expenses, and fees are incurred. Within 14 days after receiving written notice from the City, the Applicant shall replenish the deposit account in the amount the City determines is necessary in the context of the further defense of such Claims. To the extent such deposit is required by the City, the amount of such deposit and related terms and obligations shall be expressed in a written Deposit Account Agreement, subject to the City Attorney's approval as to form. The City, in its sole and reasonable discretion, shall determine the amount of any initial deposits or subsequent deposits of funds, and the Applicant may provide documentation or information for the City to consider in making its determinations. Nothing within this subsection shall be construed as to relieve the Applicant's obligations to indemnify, hold harmless, or defend the City as otherwise stated herein.

## B. Construction, Maintenance, and Operation Obligations:

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

As a condition of receiving the land use approvals specified herein, Applicant shall maintain the property subject to the approvals in compliance with all applicable city codes governing the condition or appearance of property. In addition to compliance with such basic standards, the property subject to these approvals shall also be maintained free of trash, plant debris, weeds, and concrete (other than existing foundations and permanent structures). Any signs placed on the property advertising such property for sale or rent

shall be in accordance with applicable laws, and be kept clean, in like-new condition, and free from fading and graffiti at all times. This condition shall be applicable from the date the land use is approved. The failure to comply with this condition shall subject the approvals specified herein to revocation for failure to comply.

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

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

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

- Anti-Litter. The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, and garbage.
- 10. Roof, Wall, and Ground Level Equipment. All mechanical equipment shall be screened and concealed from view in accordance with Section 33-1085 of the Escondido Zoning Code.
- 11. Trash Enclosures. All appropriate trash enclosures or other approved trash systems shall be approved by the Planning and Engineering Divisions. The property owner or management company shall be responsible for ensuring that enclosures are easily assessable for garbage and recyclables collection; and that the area is managed in a clean, safe, and efficient manner. Trash enclosure covers shall be closed when not in use. Trash enclosures shall be regularly emptied. There shall be the prompt removal of visible signs of overflow of garbage, smells emanating from enclosure, graffiti, pests, and vermin.
- **12. Staging Construction Areas.** All staging areas shall be conducted on the subject property, subject to approval of the Engineering Department. Off-site staging areas, if any, shall be approved through the issuance of an off-site staging area permit/agreement.
- **13. Disturbance Coordinator.** The Applicant shall designate and provide a point-of-contact whose responsibilities shall include overseeing the implementation of Project, compliance with Permit terms and conditions, and responding to neighborhood concerns.
- 14. Construction Waste Reduction, Disposal, and Recycling. Applicant shall recycle or salvage for reuse a minimum of 65% of the non-hazardous construction and demolition waste for residential projects or portions thereof in accordance with either Section 4.408.2, 4.408.3, or 4.408.4 of the California Green Building Standards Code; and/or for non-residential projects or portions thereof in accordance with either Section 5.408.1.1, 5.408.1.2, or 5.408.1.3 of the California Green Building Standards Code. In order to ensure compliance with the waste diversion goals for all residential and non-residential construction projects, the Applicant must submit appropriate documentation as described in Section 4.408.5 of the California Green Building Standards Code for residential projects or portions thereof, or Section 5.408.1.4 for non-residential projects or portions thereof, demonstrating compliance with the California Green Building Standards Code sections cited above.
- 15. Construction Equipment Emissions. Applicant shall incorporate measures that reduce construction and operational emissions. Prior to the City's issuance of the demolition and grading permits for the Project, the Applicant shall demonstrate to the satisfaction of the Planning Division that its construction contractor will use a construction fleet wherein all 50-horsepower or greater diesel-powered equipment is powered with California Air Resources Board ("CARB") certified Tier 4 Interim engines or equipment outfitted with CARB-verified diesel particulate filters. An exemption from this requirement may be granted if (i) the Applicant provides documentation demonstrating that equipment with Tier 4 Interim engines are not reasonably available, and (ii) functionally equivalent diesel PM

emission totals can be achieved for the Project from other combinations of construction equipment. Before an exemption may be granted, the Applicant's construction contractor shall demonstrate to the satisfaction of the Director of Development Services that (i) at least two construction fleet owners/operators in San Diego County were contacted and those owners/operators confirmed Tier 4 Interim equipment could not be located within San Diego County during the desired construction schedule, and (ii) the proposed replacement equipment has been evaluated using the California Emissions Estimator Model ("CalEEMod") or other industry standard emission estimation method, and documentation provided to the Planning Division confirms that necessary project-generated functional equivalencies in the diesel PM emissions level are achieved.

16. Phasing. A phasing plan shall be submitted for all projects which include more than one building. The phasing plan shall identify the order in which all on- and off-site improvements will be installed, including triggers for improvements resulting from mitigation measures placed on the project through the environmental review process or required for General Plan conformance. The plan shall also identify the order in which structures will be built and occupied, the location of construction fencing at each phase of construction, and any other means necessary to prevent conflicts between construction traffic and users of the occupied buildings. The phasing plan shall be approved by the City Planner, Building Official, City Engineer and Fire Marshal prior to the issuance of a grading permit for the project. The phasing plan shall not be modified without written consent from the City of Escondido.

# C. Parking and Loading/Unloading.

- 1. Prior to any permit issuance, the Applicant shall coordinate with and obtain written permission from adjacent property owner(s) affected by proposed onsite and/or offsite improvements. The Applicant shall be solely responsible for acquisition of any necessary easements, agreements, etc. prior to plan approval. All easements, agreements, etc. shall be notarized and recorded in a format acceptable to the City Engineer. Off-site improvements include grading, parking layout, new landscaped island or work necessary to construct the project and/or the required improvements. A copy of this authorization shall be provided to the Planning and Engineering Divisions.
- 2. The Applicant shall provide a minimum of three off-street parking spaces, including one ADA compliant space. Onsite parking spaces shall be dimensioned per City standards and be maintained in a clean, well-marked condition. The striping shall be drawn on the plans or a note shall be included indicating double-striping per City standards.
- 3. Parking for disabled persons shall be provided (including "Van Accessible" spaces) in full compliance with the State Building Code.
- 4. No contractor or employee may store, or permit to be stored, a commercial or construction vehicle/truck; or personal vehicle, truck, or other personal property on public-right-of-way or other public property without permission of the City Engineer.

- **D. Landscaping:** The property owner or management company assumes all responsibility for maintaining all on-site landscaping; any landscaping in the public right-of-way adjacent to the property; and any retaining and freestanding walls in a manner that satisfies the conditions contained herein.
  - 1. Landscaped areas shall be maintained in a flourishing manner. Appropriate irrigation shall be provided for all landscape areas and be maintained in a fully operational condition.
  - 2. All existing planting and planter areas, including areas within the public right-of-way or adjacent property, shall be replaced/repaired and landscaping/irrigation brought into compliance with current standards by the property owner or Management Company.
  - 3. If at the time of planning final inspection that it is determined that sufficient screening is not provided, the Applicant shall be required to provide additional landscaping improvements to the satisfaction of the Planning Division.
  - 4. The landscaped areas shall be free of all foreign matter, weeds and plant material not approved as part of the landscape plan.
  - 5. Failure to maintain landscaping and the site in general may result in the setting of a public hearing to revoke or modify the Permit approval.
  - 6. Landscaping within the street/public right-of-way shall be installed and maintained by the property owner or Management Company.
  - 7. Appropriate screening landscaping shall be required around any transformers (new or existing) and shall be shown on the site plan and to the satisfaction of the Planning Division.
  - 8. **Landscaping Plans.** Applicant shall install all required improvements including screening walls, retaining walls, storm improvements, and landscaping in substantial conformance to the planting and irrigation schedule as shown on the final Approved Plan set.
    - a. A final landscape and irrigation plan shall be submitted to the Engineering Services Department for review and approval, if meeting any of the criteria listed under Section 33-1323 of the Zoning Code. Five copies of detailed landscape and irrigation plans shall be submitted to the Engineering Services Department with the second submittal. The initial submittal of the landscape plans shall include the required plan check fees, paid in accordance with the prevailing fee schedule in effect at the time of submittal. Details of Project fencing and walls, including materials and colors, shall be provided on the landscape plans. (Building permits may also be required.) The landscape and irrigation plans shall be reviewed and approved by the Planning Division and Engineering Services Department prior to issuance of grading permits, and shall be equivalent or superior to the conceptual landscape plans included as part of the Approved Plan set, to the satisfaction of the Planning Division. The required landscape and irrigation plans(s) shall comply

with the provisions, requirements and standards outlined in Article 62 (Landscape Standards) of the Escondido Zoning Code, except where stricter requirements are imposed by the State of California.

- b. Screening walls, retaining walls, storm improvements, and landscaping (i.e. planting and irrigation) is to be provided prior to final occupancy.
- c. The installation of the landscaping and irrigation shall be inspected by the Project landscape architect upon completion. He/she shall complete a Certificate of Landscape Compliance certifying that the installation is in substantial compliance with the approved landscape and irrigation plans and City standards. The Applicant shall submit the Certificate of Compliance to the Planning Division and request a final inspection.
- d. Any new freestanding walls and/or retaining walls shall incorporate decorative materials or finishes, and shall be indicated on the landscaping plans. (Building permits may also be required.) All freestanding walls visible from points beyond the Project site shall be treated with a protective sealant coating to facilitate graffiti removal. The sealant shall be a type satisfactory to the Director of Development Services or their designee.
- e. New or retrofitted trash enclosure shall accommodate vertical climbing plants, vines with support trellis panels, clinging non-deciduous or fast-growing shrubbery that will screen the enclosures wall surface. The Director of Development Services or their designee shall find that the proposed landscaping design, material, or method provides approximate equivalence to the specific requirements of this condition or is otherwise satisfactory and complies with the intent of these provisions.

### E. Specific Planning Division Conditions:

- 1. Hours of operation shall be limited to Monday through Sunday from 7 a.m. to 7:30 p.m.
- No more than 4 employees per weekday and 6 employee per weekend shall be permitted at any time. Any increase in these numbers shall require review and approval by the Director of Development Services or their designee.
- 3. The proposed trash enclosure must be covered at all times and shall be designed to City standards with a set back at least two feet from the property line.
- 4. No utilities shall be released for any purpose or Certificate of Occupancy issued until all requirements of the Planning and Building Divisions, Fire Department and Engineering Services Division have been completed.
- 5. The plans submitted for building permit shall include notes or details containing the necessary work involved in complying with these Project conditions.

- 6. The Project will be required to obtain a demolition permit for the required modifications and enhancements, and shall comply with construction waste management requirements.
- 7. An Encroachment Permit shall be obtained from the Engineering Department for all work within the public right-of-way. Contact the Engineering Field Office at 760 839-4664 to arrange for the Encroachment Permit and inspections, and note on the plans.
- 8. Proposed pedestrian access routes meeting current ADA requirements shall be provided into the project to the satisfaction of the City Engineer and City Building Official.
- 9. The truck loading and unloading operation shall be scheduled to not interfere with more than one service bay at any one time. The operator shall ensure that stacking and queuing for the service bay during truck loading and unloading operation does not disrupt the circulation and drive aisles throughout the center.
- 10. All vehicles parked in the parking lot shall be in operable condition. At no time shall any vehicle being repaired or serviced associated with this approval be stored outdoors in the parking lot.
- 11. Vehicle repair and service activities shall be wholly contained within the enclosed building.

# F. Fire Department Conditions:

- 1. Annual Fire operational permit is required.
- 2. Approval shall be obtained prior to the storage and/or use of hazardous materials as defined by the California Fire Code.

### **G.** Utilities Department Conditions:

### Water

- Fire hydrants, if required, together with an adequate water supply shall be installed at locations approved by the Fire Marshall. Fire hydrants shall connect to a minimum 8-inch water main.
- 2. The final locations and sizing of all required water mains, water services, fire hydrants, detector check assemblies, and other water appurtenances shall be designed and installed to the satisfaction of the Director of Utilities and the Utilities Engineer.
- 3. Fire suppression and sprinkler systems beyond the Detector Check Valves are private and shall be designed and constructed per current Building, Plumbing, and Fire Code Standards, and per the requirements of the City Fire Marshal and City Building Official and shall be approved by a separate submittal to the Building Department. Although

- private and approved by separate plans and permit, all fire suppression lines shall be shown for reference and review on the various final engineering plan sets.
- 4. All on-site water lines and backflow prevention devices beyond the City water meter or DCA shall be considered a private water system. The property owner shall be responsible for all maintenance of these water lines and appurtenances.
- 5. A 1-inch minimum water service, 1-inch water meter, and backflow prevention device shall be required for domestic water supply per City of Escondido Design Standards and Standard Drawings. Water meters and backflow prevention devices shall not be installed within a driveway apron or on private drive areas.
- 6. No trees or deep-rooted bushes shall be planted within 10-feet of any water mains.
- 7. There shall be no permanent structures located within the City's Public utility Easements.
- 8. Backflow prevention assemblies are private and should be located on private property. Backflows shall be located directly behind the public meter.
- Any water services to be replaced, reconnected or relocated as a part of this project shall be replaced in entirety from the public water main to the public water meter to the satisfaction of the Utilities Engineer and Water Distribution Department.
- 10. Any fire hydrants to be replaced, reconnected or relocated as a part of this project shall be replaced in entirety from the public water main to the fire hydrant per the satisfaction of the Utilities Engineer and Water Distribution.
- 11. The Developer shall disconnect at the public main, all water services and fire hydrants laterals to be abandoned, to the satisfaction of the Utilities Engineer and Water Distribution Department.

### Sewer

- A private 6-inch minimum PVC sewer lateral with a standard clean-out within 18-inches of the Public Utility Easement or ROW shall be constructed for the project and shown on the Improvement and Grading plans. Sewer laterals less than 8-inches in diameter shall connect to the sewer main with a wye or Inserta-Tee.
- 2. All sewer laterals shall be constructed per current City of Escondido Design Standards and Standard Drawings and per the current Uniform Plumbing Code.
- No trees or deep-rooted bushes shall be planted within 15-feet of any sewer main or within 10-feet of any sewer lateral. Sewer laterals shall be 5-feet horizontally clear from other utilities.

- 4. All sewer laterals shall be considered a private sewer system. The property owner shall be responsible for all maintenance of sewer laterals to the public sewer main.
- 5. Any sewer mains, laterals, and appurtenances shall be designed and constructed per current City of Escondido Design Standards and Standard Drawings, and to the satisfaction of the Utilities Engineer.
- 6. The project design shall be such that all existing or new sewer manholes are accessible at all times by City Vactor trucks for maintenance.
- 7. The Developer shall cap and plug at the public sewer main all sewer lines and laterals to be abandoned, to the satisfaction of the Utilities Engineer and the City Inspector.
- 8. The location of all sewer laterals shall be shown on the grading and improvement plans.

Exhibit "D"
Project Site Plans

