



CITY COUNCIL

For City Clerk's Use:

APPROVED DENIED

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: _____

Date: July 25, 2012

TO: Honorable Mayor and Members of the City Council
FROM: Barbara J. Redlitz, Director of Community Development
SUBJECT: Extension of Time for Conditional Use Permit (PHG 12-0015) and Plot Plan to Modify the Talk of the Town Carwash/Restaurant Project (ADM 12-0007)

STAFF RECOMMENDATION:

It is requested that Council adopt Resolution No. 2012-98 approving the requested one-year extension of time for the Talk of the Town Conditional Use Permit (2004-66-CUP) and denying without prejudice the proposed modification to add a second driveway to the previously approved Talk of the Town project.

PLANNING COMMISSION RECOMMENDATION:

The proposed extension of time and modification to add a driveway has not been reviewed by the Planning Commission as the City Council was the original approval body for the project.

PROJECT DESCRIPTION:

A second request for a one-year extension of time for the previously approved Conditional Use Permit (2004-66-CUP) for the "Talk of the Town" carwash, oil change and restaurant project; and a referral from the Director of Community Development of a request to modify the site design for the project to add a second exit-only driveway between the future restaurant building and the western property line.

LOCATION:

The 1.34-acre site is on the northwestern corner of the intersection of Brotherton Road and Centre City Parkway, addressed as 400 Brotherton Road.

FISCAL ANALYSIS:

None

GENERAL PLAN ANALYSIS:

The City of Escondido General Plan designates the project site as General Commercial, which is characterized by a broad range of retail and service activities in local commercial, community shopping/office complexes and regional shopping centers. The site is regulated by the development standards listed for Area "B" of the South Escondido Boulevard Area Plan.

ENVIRONMENTAL REVIEW:

A Revised Mitigated Negative Declaration, City Log No. ER 2004-33, was issued on December 10, 2009. Mitigation measures were developed to reduce potential land use, transportation/traffic, air quality and noise impacts to a less than significant level. Pursuant to CEQA Section 15162, no additional environmental review need be prepared for the proposed new driveway since there are no substantial changes in the project that require major revisions to the previous environmental document due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

PREVIOUS ACTION:

On May 26, 2010, the City Council voted 4-1 (Councilmember Diaz opposed) to approve the Talk of the Town carwash/restaurant project consisting of an amendment to the South Escondido Boulevard Area Plan to conditionally allow carwashes in Area "B," and a Conditional Use Permit for an approximately 5,500 SF automated carwash and oil change facility with a 4,150 SF restaurant on a 1.34-acre site.

The City Council unanimously approved a modification to the project conditions of approval on October 13, 2010, to provide an alternative for the location of a required separation wall between the commercial property and adjacent residential properties. The modified condition allowed the applicant to construct the wall on his property, or enter into an agreement with approximately 10 individual homeowners to pay the cost for the homeowners to construct the wall at the top of the slope on their properties.

On August 10, 2011, the City Council voted 3-1-1 (Councilmember Diaz opposed, Councilmember Morasco abstained) to approve a one-year extension of time for the carwash Conditional Use Permit, and grant a Business Enhancement Zone (BEZ) waiver of \$72,500 that was due for utility undergrounding fees.

BACKGROUND:

In August 2011, the applicant paid the permit fees and was issued building permits to build the project two days prior to the City Council vote on the time extension request. Grading permits were issued by the Engineering Division during that same time period. The Building Official granted a one-time extension for the building permit in February 2012 when no construction had commenced and the permit was due to expire. No additional extensions of the building permit may be granted and the building permit is set to expire on July 30, 2012.

On January 30, 2012, the applicant requested a minor adjustment to the CUP pursuant to Zoning Code Section 33-1208 by filing an administrative request (Plot Plan) to add a second driveway to Brotherton Road. The proposed driveway is intended to be an exit-only driveway that is 16-feet wide and located between the future restaurant building and the western property line. No other changes to the size or location of buildings or parking spaces are proposed. While the Director of Community Development has the authority to approve or deny administrative plot plan applications, the Director has chosen to elevate this decision to the original approval body in light of the past history of community interest in the project. The Plot Plan application for the driveway was originally scheduled for City Council consideration on April 25, 2012, but was continued indefinitely that evening at the request of the applicant.

On May 15, 2012, the applicant filed a second request for a one-year extension of the Conditional Use Permit citing economic factors as the reason construction had not started. Construction on the site commenced earlier this month, but an inspection from the Building Division will be necessary to keep both the CUP and the building permit valid. It is unknown whether the contractor will be able to have enough work completed to call for a building inspection prior to the July 25 City Council meeting for the CUP extension. If the inspection is performed prior to the July 25 City Council meeting, the CUP is considered utilized and the requested extension from the Council is not necessary. This staff report assumes an extension of the CUP will still be needed, and combines that request with the applicant's other request to modify the site design to add a second driveway.

DISCUSSION:

Extensions of time for development entitlements are commonly granted by both the Planning Commission and City Council when it can be demonstrated that the applicant has not abandoned the project, has been diligently pursuing grading and/or building permits, and there are no substantial changes to the project or site circumstances. In this case, the applicant has commenced construction on the project under valid grading and building permits issued for the previously approved design of the project, there have been no changes to the circumstances of the site, and the applicant is not proposing any substantial changes to the previously approved project besides the proposed driveway addition that has no effect on building placement or parking spaces. Therefore, staff is recommending approval of the one-year extension of time for the Conditional Use Permit.

The approved project features a single driveway from Brotherton Road that loops through the site and provides access to all parking spaces for both buildings. The driveway has been designed to meet all Fire Department clearance and turning radius requirements. Several months after permits were issued to start construction, the applicant notified staff that they may want to add a second driveway to the site. This apparently was based on a discussion with a potential restaurant tenant who offered the suggestion that it would benefit restaurant patrons. Although the applicant initially desired a two-way driveway, there is only enough room between the building and the property line for a single-lane driveway.

The potential benefit realized by adding a one-way exit driveway in this location has not been demonstrated or explained well, and there does not appear to be a potential restaurant tenant awaiting the outcome of the proposal. The neighbors are concerned that the proposal would facilitate

a change in the restaurant from a quality sit-down operation to a fast food with drive-through. While it would be fairly simple to further modify the driveway to a drive-through, the South Escondido Boulevard Area Plan would require a Conditional Use Permit for that use. The disadvantage of placing a driveway between the building and adjacent residences is demonstrated by the increased noise levels at the residential properties. The original noise study prepared for the approved project indicated combined daytime noise levels at the western property line would range up to 47 dBA, which is consistent with City of Escondido noise standard of 50 dBA for residential zones. A revised Noise Impact Analysis, prepared by Eiler Associates, Inc., dated January 26, 2012, shows the new driveway would increase noise levels to the 50 dBA limit at the western property line.

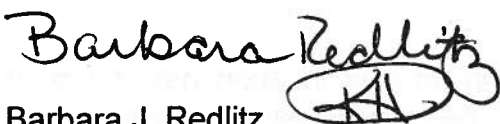
While the noise levels at the western and northern property lines would still comply with the City's maximum allowable level for residential zones, it was hoped that the applicant and the adjacent property owners could reach an agreement allowing the required separation wall to be built at the top of the slope where some noise attenuation benefit could be realized. The applicant has recently notified staff that negotiations with adjacent residents to build the separation wall at the top of the slope have failed. The wall will now be built at the bottom of the slope on the applicant's property to meet the Zoning Code requirements for separation between commercial and residential properties. While this meets the separation standard, it negates any potential ability for the wall to assist in minimizing sound levels from the project.

SUMMARY:


There are two issues for the Council to consider including the request for an extension of time for the Conditional Use Permit and the request to add a second driveway to the site from Brotherton Road. Staff supports the request for the extension of time because the project clearly has not been abandoned and is currently under construction. Staff is not recommending approval of the request for the second driveway at this time due to the lack of demonstrated need. There are several options the City Council can consider with respect to the driveway issue including:

1. Approve the proposal to add an exit-only driveway as requested by the applicant with the addition of the revised Engineering Division conditions (attached) to reflect the change in grading and storm water treatment;
2. Deny the proposal without prejudice as premature considering there is no restaurant tenant. This would allow the applicant to refile the proposal in the event there is a restaurant tenant who actually requests a second driveway.
3. Deny the proposed modification to add a second driveway.

Respectfully Submitted,



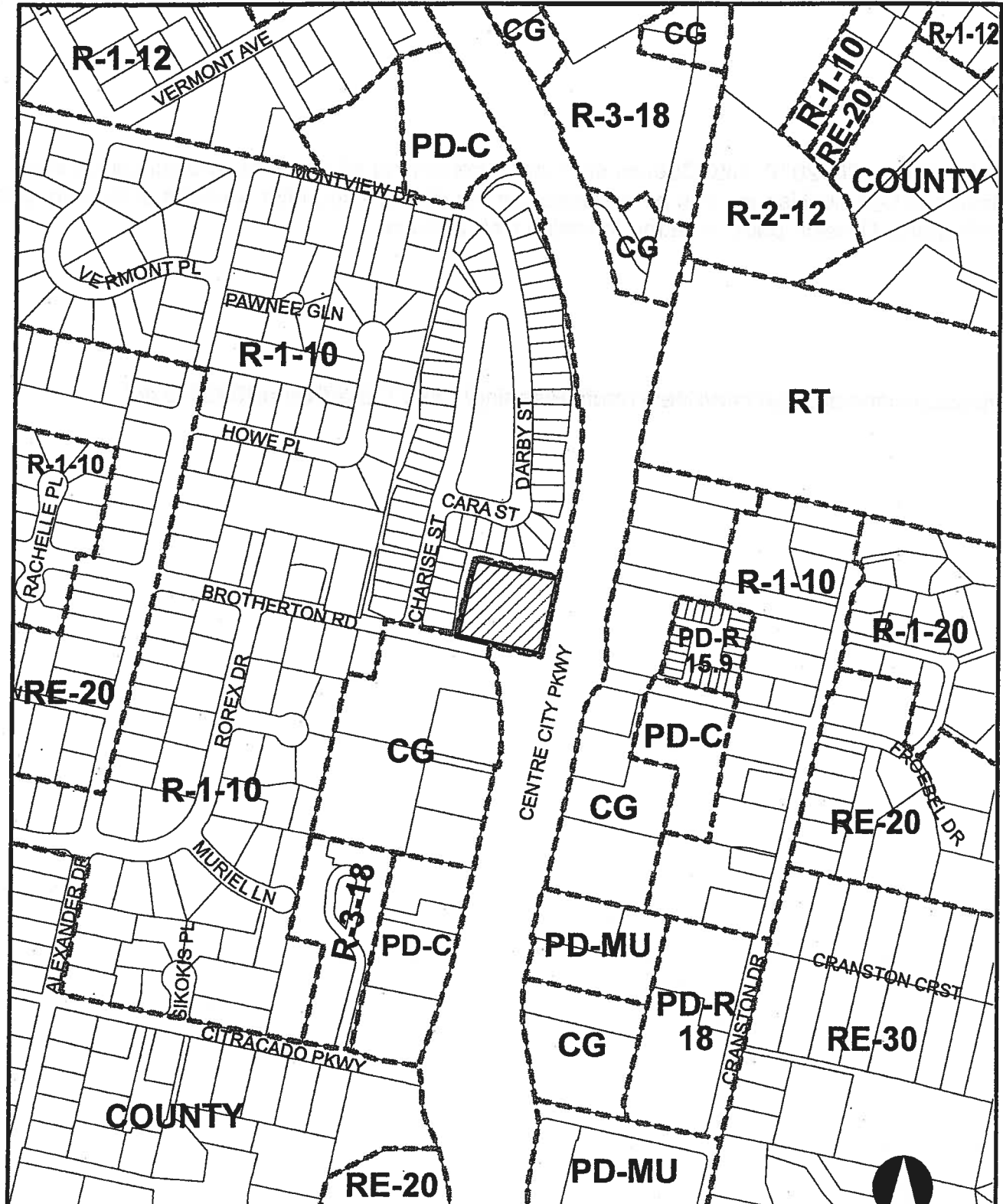
Barbara J. Redlitz
Director of Community Development



Bill Martin
Principal Planner

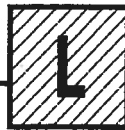
The original May 26, 2010, City Council staff report containing all graphics, project specifications, and discussion of technical issues can be accessed on the City of Escondido website at the very bottom of the Planning Division page or at the following web address:

<http://www.escondido.org/Data/Sites/1/pdfs/Planning/Talk/CCStaffReport052610.pdf>

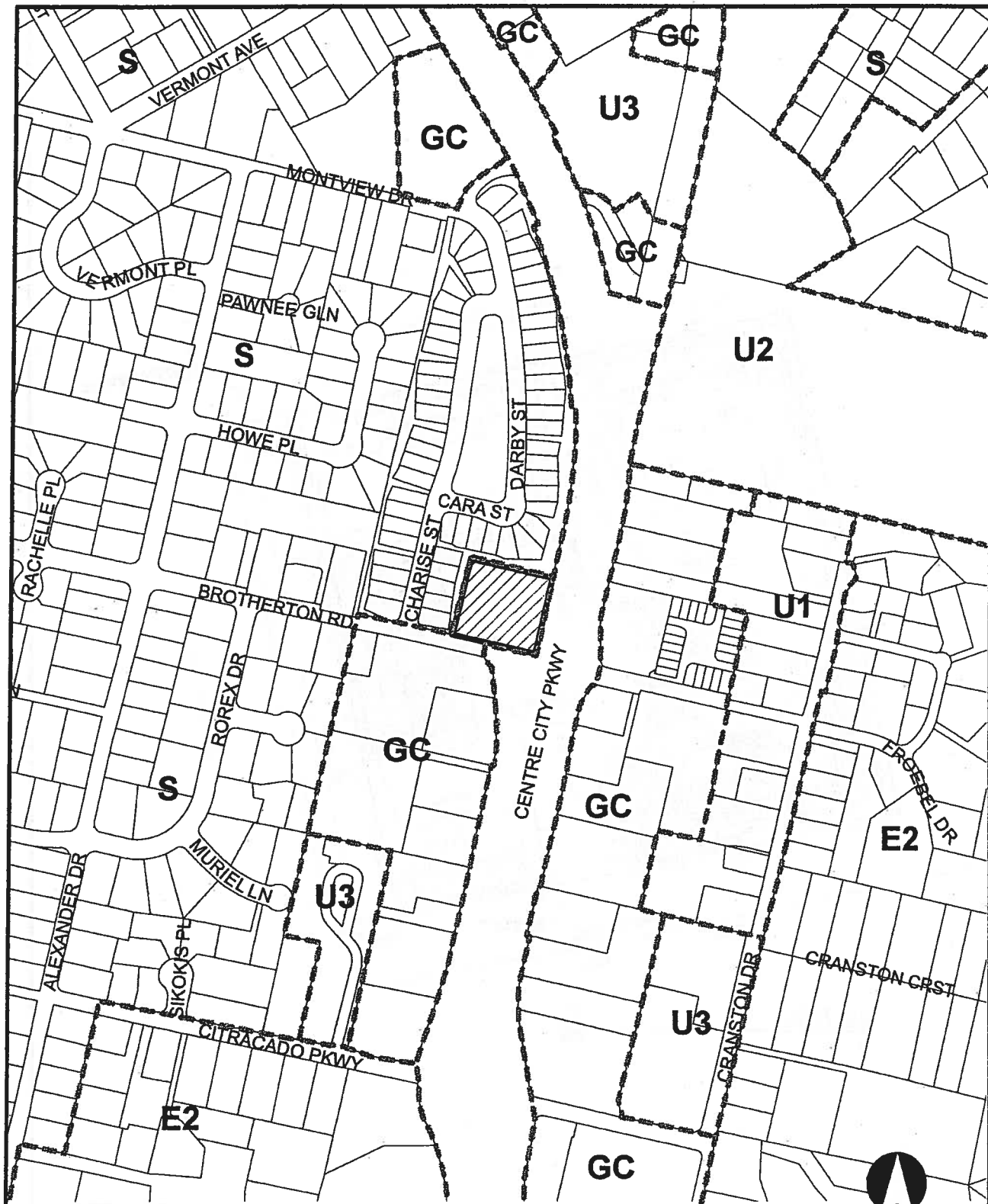


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**PROPOSED PROJECT
ADM 12-0007**



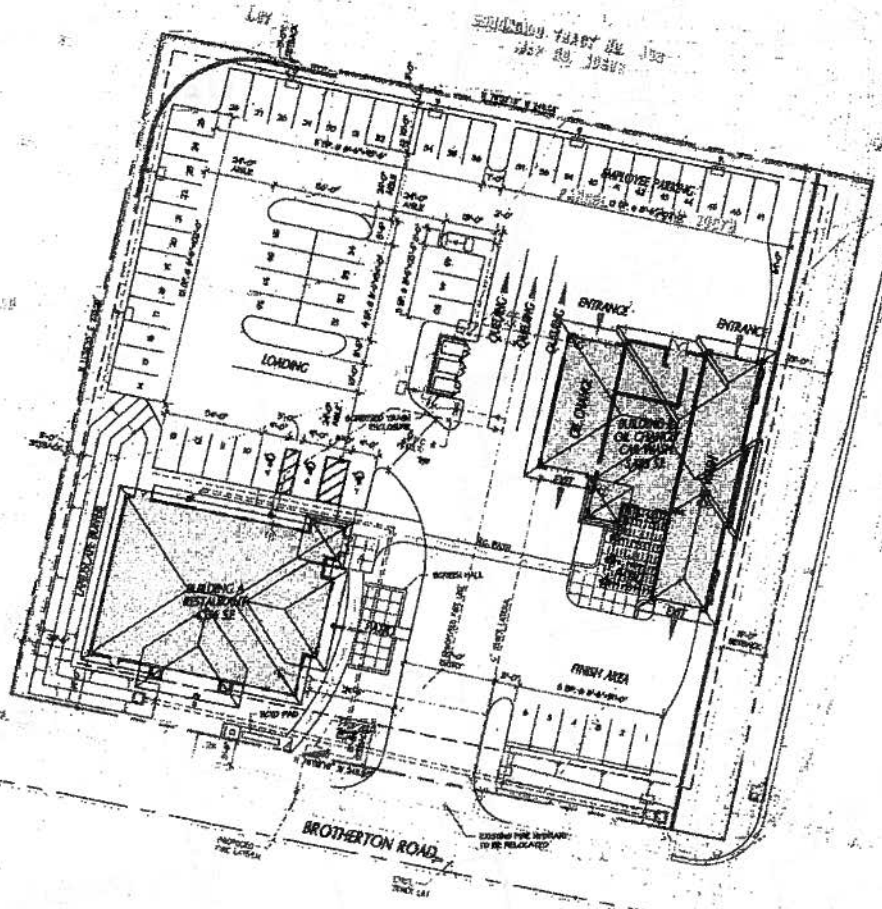
LOCATION/ZONING



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**PROPOSED PROJECT
ADM 12-0007**





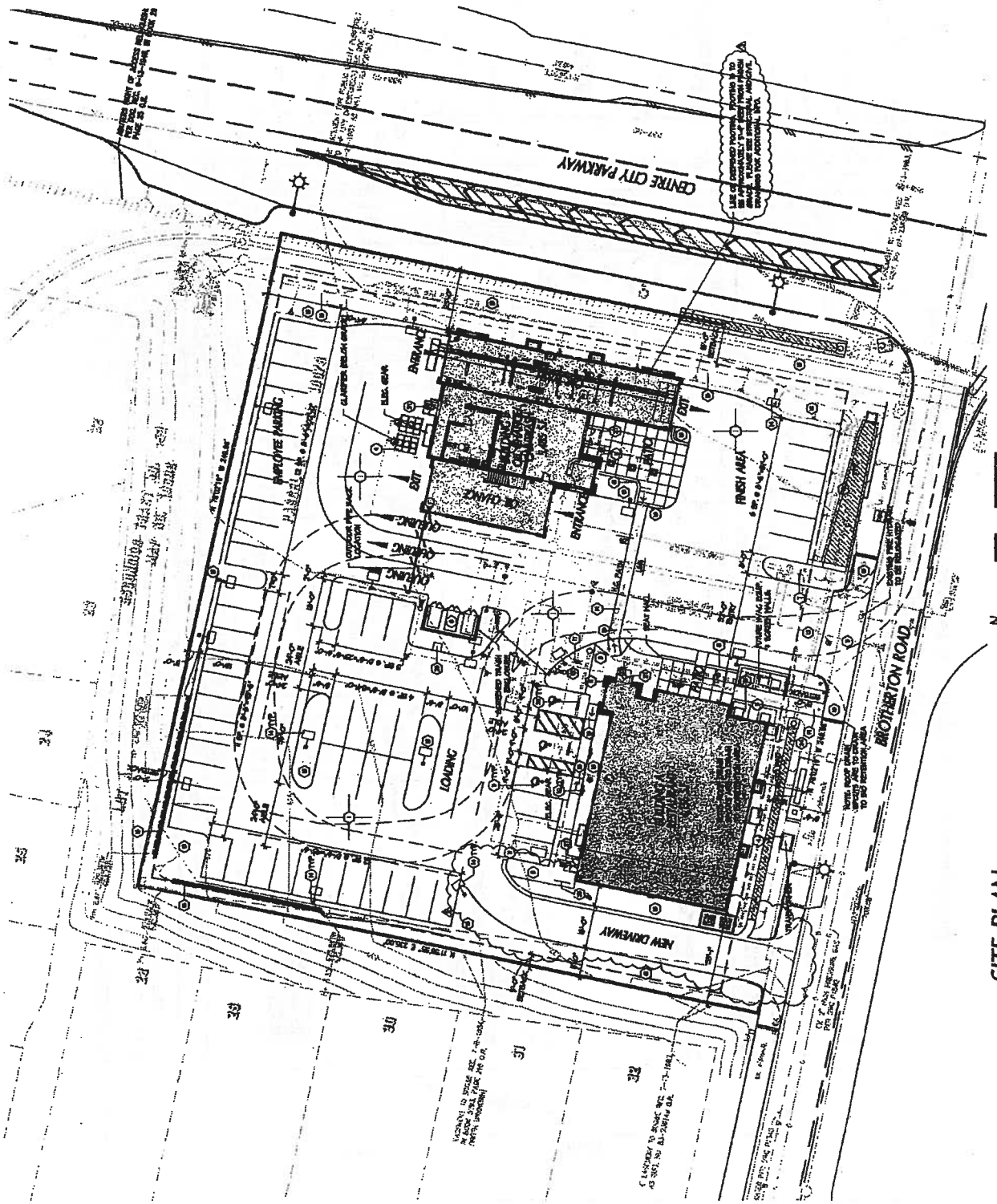
SITE PLAN



**PROPOSED PROJECT
2004-66-CUP/2004-02-AZ**



SITE PLAN



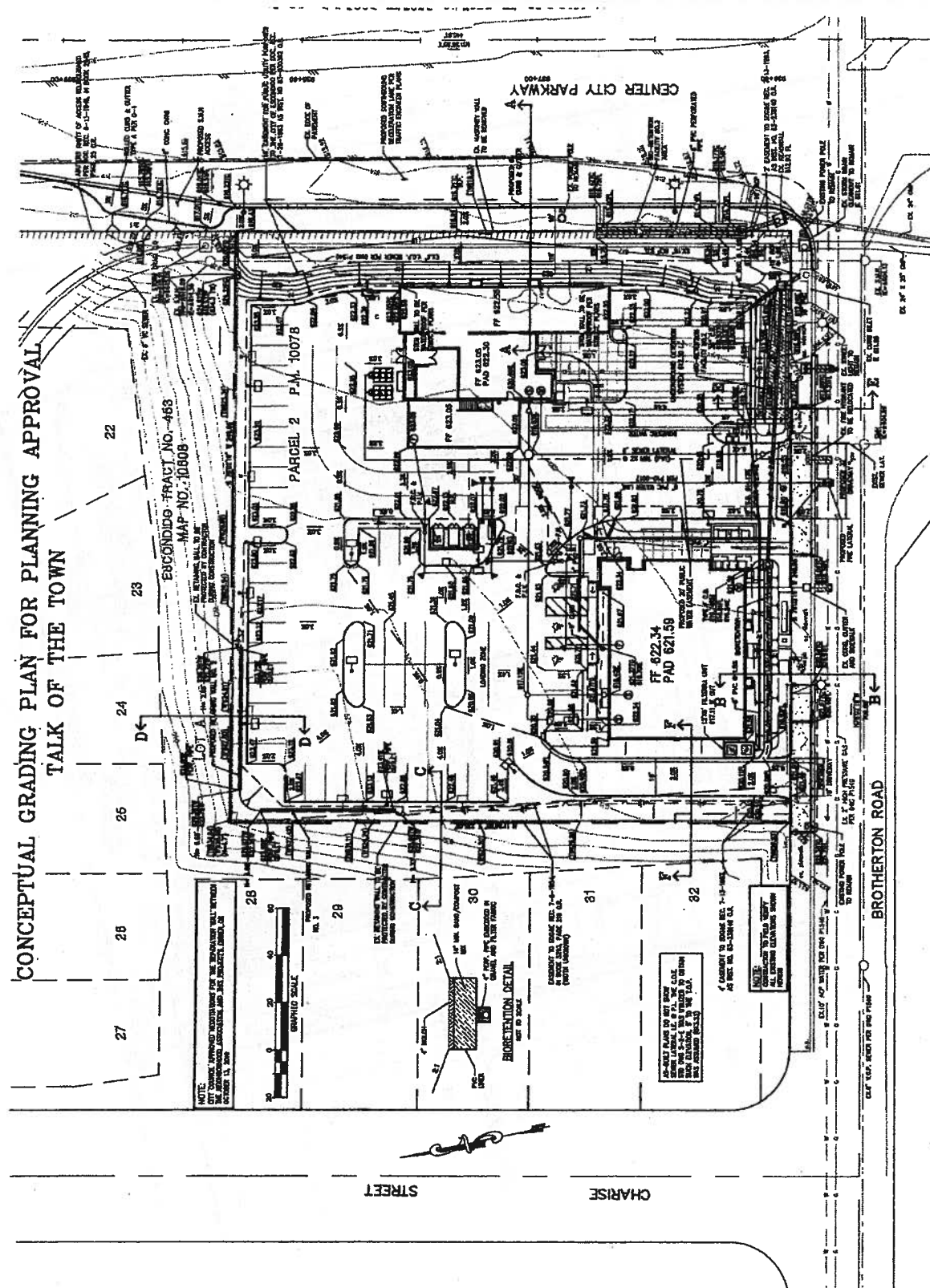
SITE PLAN

**PROPOSED PROJECT
ADM 12-0007**

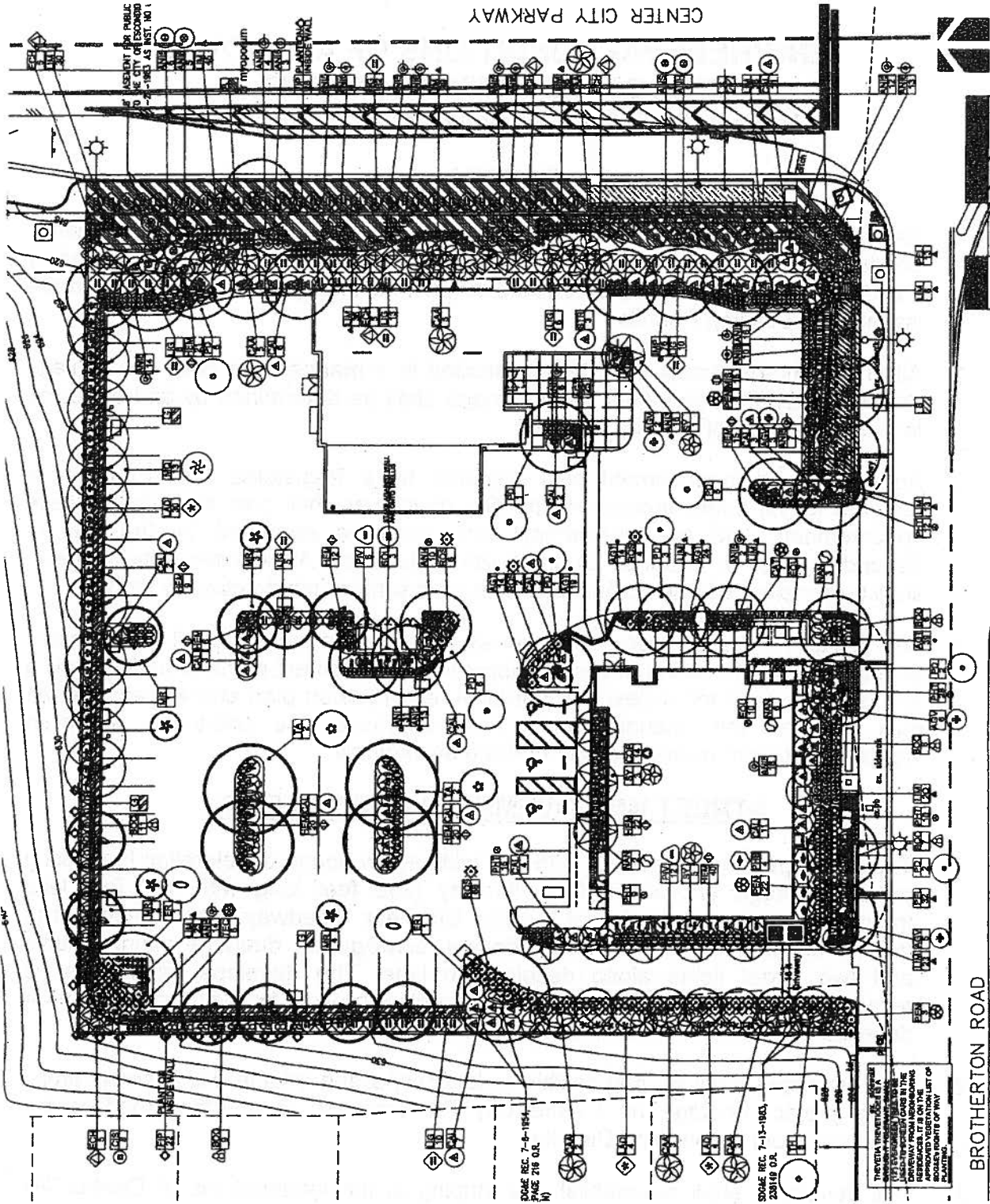


SITE PLAN

CONCEPTUAL GRADING PLAN FOR PLANNING APPROVAL
TALK OF THE TOWN



GRADING PLAN



**PROPOSED PROJECT
ADM 12-0007**



ENGINEERING CONDITIONS OF APPROVAL
TALK OF THE TOWN 2004-66-CUP
Revised for 2nd driveway exit to Brotherton Rd.

GENERAL

1. As surety for the construction of required off-site and/or on-site improvements, bonds and agreements in a form acceptable to the City Attorney shall be posted by the developer with the City of Escondido prior to the approval of plans and the issuance of Building Permits.
2. 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.
3. An engineered improvement plan prepared by a Registered Civil Engineer is required for all public improvements. The developer shall post security for these improvements and an improvement plan shall be approved by the City of Escondido prior to issuance of any building permits. All required improvements shall be constructed prior to final acceptance of subject construction by the City.
4. The design for the proposed 2nd driveway off of Brotherton Rd. shall be submitted as redline revisions to the previously approved improvement plans including signing and striping plans for review and approval, and revision plan check fees shall be paid. When the changes have been approved, the previously approved improvement plan mylars shall be modified accordingly.

STREET IMPROVEMENTS AND TRAFFIC

1. The developer shall construct a 15 foot wide south bound deceleration lane along project frontage on Centre City Parkway (250 feet long with 120 foot long transition) to the satisfaction of the City Engineer. Roadway improvements shall include construction of roadway widening, curb&gutter, drainage improvements and two street lights along deceleration lane. The developer shall also be responsible to prepare a striping & signage plan to allow for a fourteen foot wide deceleration lane and widen the existing bike lane from four to five feet.
2. The developer shall be responsible to landscape and irrigate the parkway areas along project frontage on Centre City Parkway and Brotherton Road to the satisfaction of the Planning Director.
3. The developer shall re-establish the striping at the intersections of Centre City Parkway /Brotherton Road and Brotherton Road/Frontage Road. This work shall be shown and approved as part of the striping & signage plan.

4. All driveways shall be alley-type in accordance with Escondido Standard Drawing No. 3, with a minimum throat width of minimum 24 feet.
5. The developer shall install a street light at the intersection Brotherton Road and new easterly driveway that shall be aligned with frontage road.
6. The developer shall be responsible for replacement of the existing drainage pipe across Brotherton Road, if it were found to be damaged at the time of final plans review, as determined by the City Engineer.
7. All unused driveways shall be removed and replaced with full height curb and gutter and sidewalk in accordance with City standards.
8. Adequate horizontal sight distance shall be provided at all street intersections and driveway entrances. Increased parkway widths, open space easements, and restrictions on landscaping may be required at the discretion of the City Engineer.
9. The developer's engineer shall prepare a complete signing and striping plan for all improved roadways. Developer's contractor shall do any removal of existing striping and all new signing and striping.
10. The developer 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.
11. The developer shall provide the City with cash contribution in the amount of \$50,000 towards future improvement of Centre City Parkway between Felicita Avenue and Brotherton Road, prior to issuance of Building Permit.
12. The developer shall provide the City with cash contribution in the amount of \$7,500 towards future improvement of the intersection of Brotherton Road and Felicita Avenue, prior to issuance of building permit.

GRADING

1. Site grading and erosion control plans prepared by a Registered Civil Engineer are required for all onsite improvements and shall submitted to the Engineering Department. Grading Plans are subject to approval by the Planning, Fire and Engineering Departments prior to issuance of a Grading Permit.
2. The design for the proposed 2nd driveway off of Brotherton Rd. shall be submitted as redline revisions to the previously approved grading plans for review and approval, and revision plan check fees shall be paid. When the changes have been approved the previously approved grading plan mylars shall be modified accordingly.

3. All private driveways and parking areas shall be paved with a minimum of 3" AC over 6" of AB or 5 1/2" PCC over 6" AB. All paved areas exceeding 15% slope or less than 1.0% shall be paved with PCC.
4. 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 retain wall design is in conformance with the recommendations and specifications as outlined in his report. Structural calculations shall be submitted for review by a Consulting Engineer for all walls not covered by Regional or City Standard Drawings. 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.
5. Erosion control, including riprap, interim sloping planting, gravelbags, 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.
6. A General Construction Activity Storm Water Permit is required from the State Water Resources Board for all storm water discharges associated with a construction activity where clearing, grading and excavation results in a land disturbance of one or more acres. Two copies of the Storm Water Pollution Prevention Plan shall be submitted to the City.

DRAINAGE

1. Final on-site and off-site storm drain improvements shall be determined to the satisfaction of the City Engineer and shall be based on a drainage study to be prepared by the engineer of work. The drainage study shall be in conformance with the City of Escondido Design Standards.
2. A revised Water Quality Technical Report in compliance with City's latest adopted Storm Water Management Requirements shall be prepared and resubmitted for approval prior to revising the improvement and grading plans. The revised Water Quality Technical Report shall reanalyze the entire revised project and include post construction storm water treatment measures and maintenance requirements.
3. All site drainage with emphasis on the parking and drive way areas shall be treated to remove expected contaminants using a high efficiency non-mechanical method of treatment where possible. The City highly encourages the use of bio-retention basins within or along the perimeter of the parking and driveway areas as the primary method of storm water treatment. The landscape plans will need to reflect these areas of storm water treatment.

4. The on-site trash enclosure area 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 City Engineer.
5. All on-site storm drains not in public easements are private. The responsibility for maintenance of these storm drains and all post construction storm water treatment facilities shall be that of the property owner.
6. The developer will be required to have the current owner of the property sign, notarize, and record a Storm Water Control Facility Maintenance Agreement.

WATER SUPPLY

1. Fire hydrants together with an eight (8") inch supply line from Brotherton Road shall be installed at locations approved by the Fire Marshal, designed and constructed to the satisfaction of the Utilities Director.
2. Separate water meters shall be installed for each building.
3. A Public Utility Easement shall be granted to the City of Escondido for all public water mains within the project site. The easement shall include all fire hydrants, water meters and other appurtenances. The minimum easement width shall be 20 feet.

RECYCLED WATER

1. The developer is required to construct an irrigation system, for the frontage on Centre City Parkway and Brotherton Road that can use either potable or recycled water. This system should be built to the satisfaction of the Planning and Utilities Directors.

SEWER

1. An access driveway shall be provided from Centre City Pkwy. to the existing sewer manhole in the northeast corner of the proposed project to the satisfaction of the Director of Utilities.
3. Separate 6" sewer laterals shall be installed from the public main to each building.
4. No trees or deep rooted plants shall be planted within 15' of sewer lines.

EASEMENTS AND DEDICATIONS

1. Necessary public utility easements (for sewer, water and storm drain) shall be granted to the City. The minimum easement width is 20 feet. Easements with additional utilities shall be increased accordingly.

2. Vehicular access rights to Center City Parkway shall be waived and relinquished to the City of Escondido.

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

REPAYMENTS AND FEES

1. A cash security shall be posted to pay any costs incurred by the City to clean-up eroded soils and debris, repair damage to public or private property and improvements, install new BMPs, and stabilize and/or close-up a non-responsive or abandoned project. Any moneys used by the City for cleanup or damage will be drawn from this security and the grading permit will be revoked by written notice to the developer until the required cash security is replaced. The cleanup cash security shall be released upon final acceptance of the grading and improvements for this project. The amount of the cash security shall be 10% of the total estimated cost of the grading, drainage, landscaping, and best management practices items of work with a minimum of \$5,000 up to a maximum of \$50,000, unless a higher amount is deemed necessary by the Director of Engineering Services.
2. The developer shall be required to pay all development fees of the City then in effect at the time, and in such amounts as may prevail when building permits are issued.

SURVEYING AND MONUMENTATION

1. All property corners shall be monumented by a person authorized to practice land surveying and a Record of Survey Map (or Corner Record if appropriate) shall be recorded.
2. A current preliminary title report shall be submitted with the grading plans.

UTILITY UNDERGROUNDING AND RELOCATION

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, and relocation. All new utilities shall be constructed underground.