

# **Council Meeting Agenda**

OCTOBER 13, 2010
CITY COUNCIL CHAMBERS ~ 4:00 P.M. & 7:00 P.M. 201 N. Broadway, Escondido, CA 92025

MAYOR Lori Holt Pfeiler

MAYOR PRO TEM **Dick Daniels** 

COUNCIL MEMBERS Sam Abed
Olga Diaz

Marie Waldron

CITY MANAGER Clay Phillips

CITY CLERK Marsha Whalen

CITY ATTORNEY Jeffrey Epp

DIRECTOR OF COMMUNITY DEVELOPMENT Barbara Redlitz

DIRECTOR OF ENGINEERING SERVICES Ed Domingue

#### **ELECTRONIC MEDIA:**

Electronic media which members of the public wish to be used during any public comment period should be submitted to the City Clerk's Office at least 24 hours prior to the Council 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 Council during the meeting are part of the public record and may be retained by the Clerk.

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.



OCTOBER 13, 2010 4:00 p.m. Meeting

# **Escondido City Council Community Development Commission**

#### **CALL TO ORDER**

**FLAG SALUTE** 

ROLL CALL: Abed, Daniels, Diaz, Waldron, Pfeiler

#### **ORAL COMMUNICATIONS**

At this time the public may comment on items not appearing on the agenda. State law prohibits the Council from discussing or taking action on such items, but the matter may be referred to the City Manager/staff or scheduled on a subsequent agenda. (Please refer to the back page of the agenda for instructions.)

#### **CONSENT CALENDAR**

Items on the Consent Calendar are not discussed individually and are approved in a single motion. However, Council members always have the option to have an item considered separately, either on their own request or at the request of staff or a member of the public

- 1. AFFIDAVITS OF PUBLICATION, MAILING AND POSTING (COUNCIL/CDC/RRB)
- 2. APPROVAL OF WARRANT REGISTER (Council/CDC)
- 3. APPROVAL OF MINUTES: None Scheduled
- **4. CALPERS INDUSTRIAL DISABILITY RETIREMENT OF STEVE TAKAJO** Request Council approve the Industrial Disability Retirement of Fire engineer Steve Takajo

Staff Recommendation: Approval (Human Resources: Sheryl Bennett)

RESOLUTION NO. 2010-154

 NOTICE OF COMPLETION FOR THE SIDEWALK PEDESTRIAN RAMP PROGRAM FOR 2009/2010 – Request Council authorize staff to file a Notice of Completion for the Sidewalk Pedestrian Ramp Program for 2009/2010

Staff Recommendation: Approval (Engineering Services: Ed Domingue)

6. NOTICE OF COMPLETION FOR TRACT 879, FEENEY PLACE – Request Council authorize staff to file a Notice of Completion for Tract 879, a seven lot subdivision located at Feeney Place and Alexander Drive

Staff Recommendation: Approval (Engineering Services: Ed Domingue)

#### CONSENT - RESOLUTIONS AND ORDINANCES (COUNCIL/CDC/RRB)

The following Resolutions and Ordinances were heard and acted upon by the City Council/CDC/RRB at a previous City Council/Community Development Commission/Mobilehome Rent Review meeting. (The title of Ordinances listed on the Consent Calendar are deemed to have been read and further reading waived.)

#### **PUBLIC HEARINGS**

7. DISPOSITION OF PROPERTY PURCHASED WITH AFFORDABLE HOUSING SET-ASIDE FUNDS (RECTANGULAR LOT ON NORTH ELM STREET/APN 230-103-2200) — Conduct a public hearing and receive public input on the grant of ownership of a vacant lot purchased with Affordable Housing Set aside funds to San Diego Habitat for Humanity in exchange for affordability restrictions on the subsequent development of the lot

Staff Recommendation: Approval (Housing Division: Roni Keiser)

#### **CURRENT BUSINESS**

8. PUBLIC ART PROJECT FOR THE CALIFORNIA CENTER FOR THE ARTS, ESCONDIDO (CCAE) MUSEUM COURTYARD — Request Council authorize a Budget Adjustment in the amount of \$22,000 from the Public Art Fund for a new public art project in the CCAE Museum Courtyard

Staff Recommendation: Approval (Community Services Dept.: Susan Pollack)

9. ESCONDIDO RECREATION FOUNDATION: ESCONDIDO QUALITY OF LIFE FUND — Request Council authorize the Mayor and City Clerk to execute a Funding Agreement with the San Diego Foundation to initiate a new Escondido Quality of Life Fund, and direct the Finance Director to deposit \$10,000 from the Recreation Scholarship fund with the San Diego Foundation to support Recreation, Parks and Older Adult programs and services

Staff Recommendation: Approval (Community Services/Recreation: Robin Bettin)

RESOLUTION NO. 2010-151

10. USE OF FUNDS FROM SALE OF CENTER FOR COMMUNITY SOLUTIONS AND BUDGET ADJUSTMENT – Request Council authorize the plan for the distribution of proceeds from the sale of the Center for Community Solutions to fund support for youth and family programs, per the endowment request and be deposited into the Recreation Reserve; and authorize a budget adjustment to accomplish this

Staff Recommendation: Approval (Community Services: Jerry Van Leeuwen)

#### **WORKSHOP**

11. PRESENTATION: CALIFORNIA HIGH SPEED RAIL WORKSHOP – Informational Presentation from California High Speed Rail Authority representatives on the status of high speed rail services between San Diego and Sacramento including a rail station in Escondido

Staff Recommendation: Receive and file (Community Dev./Planning: Barbara Redlitz)

#### **BRIEFING (Staff)**

#### **FUTURE AGENDA**

12. FUTURE AGENDA ITEMS - The purpose of this item is to identify issues presently known to staff or which members of the Council wish to place on an upcoming City Council agenda. Council comment on these future agenda items is limited by California Government Code Section 54954.2 to clarifying questions, brief announcements, or requests for factual information in connection with an item when it is discussed

Staff Recommendation: None (City Clerk's Office: Marsha Whalen)

#### **ORAL COMMUNICATIONS**

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#### COUNCIL/COMMISSION/ MEMBERS COMMENTS

# CLOSED SESSION: (COUNCIL/CDC/RRB)

#### 13. CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Government Code §54956.8)

**a.** Property: 520-540 North Spruce Street

Agency Negotiators: Clay Phillips

Negotiating parties: City and Washington Ventures LLC Under negotiation: Price and terms of payment

**b.** Property: 475 N. Spruce Agency Negotiator: Clay Phillips

Negotiating parties: City of Escondido and JMI Sports Under negotiation: Price and terms of payment

#### 14. CONFERENCE WITH LABOR NEGOTIATOR (Government Code §54957.6)

a. Agency Negotiator: Sheryl Bennett, Clay Phillips

Employee organization: Escondido City Employees' Association

Supervisory Bargaining Unit

**b.** Agency Negotiator: Sheryl Bennett, Clay Phillips

Employee organization: Escondido City Employees' Association

Administrative/Clerical/Engineering (ACE) Bargaining Unit

#### **ADJOURNMENT**



OCTOBER 13, 2010 7:00 p.m. Meeting

# Escondido City Council Community Development Commission

#### **CALL TO ORDER**

#### MOMENT OF REFLECTION:

City Council agendas allow an opportunity for a moment of silence and reflection at the beginning of the evening meeting. The City does not participate in the selection of speakers for this portion of the agenda, and does not endorse or sanction any remarks made by individuals during this time. If you wish to be recognized during this portion of the agenda, please notify the City Clerk in advance.

**FLAG SALUTE** 

ROLL CALL: Abed, Daniels, Diaz, Waldron, Pfeiler

#### **ORAL COMMUNICATIONS**

At this time the public may comment on items not appearing on the agenda. State law prohibits the Council from discussing or taking action on such items, but the matter may be referred to the City Manager/staff or scheduled on a subsequent agenda. (Please refer to the back page of the agenda for instructions.)

#### **PUBLIC HEARINGS**

15. MODIFICATION TO PLANNING CONDITION NO. 24 FOR CONDITIONAL USE PERMIT (2004-66-CUP) — A modification to Planning Condition No. 24 for the Talk of the Town car wash project (2004-66-CUP) to allow the required masonry separation wall to be constructed in one of three potential locations. The zoning code requires the wall to be constructed on the applicant's property line at the bottom of an adjacent slope. The proposed modification would allow two potential alternatives to permit placement of the wall at or near the top of the adjacent slope. One proposed alternative would allow the applicant to enter into an agreement with approximately nine individual homeowners to pay the cost for the homeowners to construct the wall at the top of the slope on their properties. The other alternative would allow the applicant to enter into an agreement with the New Traditions HOA to pay the cost for the HOA to construct the wall at or near the top of the slope on HOA property

Staff Recommendation: Approve the proposed modification to Planning Condition No. 24 for Conditional Use Permit 2004-66-CUP (Community Dev./Planning: Barbara Redlitz)

RESOLUTION NO. 2010-156

#### **CURRENT BUSINESS**

#### **BRIEFING (Staff)**

#### **ORAL COMMUNICATIONS**

At this time the public may comment on items not appearing on the agenda. State law prohibits the Council from discussing or taking action on such items, but the matter may be referred to the City Manager/staff or scheduled on a subsequent agenda.

# COUNCIL/COMMISSION/ MEMBERS COMMENTS

# **ADJOURNMENT**

UPCOMING MEETING SCHEDULE				
Date	Day	Time	Meeting Type	Location
October 20	NO MEETING	-	-	-
October 27	Wednesday	4pm ONLY	Council Meeting	Council Chambers
November 3	NO MEETING	-	-	-
November 10	Wednesday	4pm & 7pm	Council Meeting	Council Chambers

#### TO ADDRESS THE COUNCIL

The public may address the City Council on any agenda item. Please complete a Speaker's form and give it to the City Clerk. Comments are generally limited to 3 minutes.

If you wish to speak concerning an item *not* on the agenda, you may do so under "Oral Communications." Please complete a Speaker's form as noted above.

Handouts for the City Council should be given to the City Clerk. To address the Council, use the podium in the center of the Chambers, STATE YOUR NAME FOR THE RECORD and speak directly into the microphone.

#### AGENDA, STAFF REPORTS AND BACK-UP MATERIALS ARE AVAILABLE:

- Online at <a href="http://www.ci.escondido.ca.us/government/agendas/PublishedMeetings.htm">http://www.ci.escondido.ca.us/government/agendas/PublishedMeetings.htm</a>
- In the City Clerk's Office at City Hall
- In the Library (239 S. Kalmia) during regular business hours and
- Placed in the Council Chambers (See: City Clerk/Minutes Clerk) immediately before and during the Council meeting.

**AVAILABILITY OF SUPPLEMENTAL MATERIALS AFTER AGENDA POSTING:** Any supplemental writings or documents provided to the City Council regarding any item on this agenda will be made available for public inspection in the City Clerk's Office located at 201 N. Broadway during normal business hours, or in the Council Chambers while the meeting is in session.

#### LIVE BROADCAST

Council meetings are broadcast live on Cox Cable Channel 19 and can be viewed the following Sunday and Monday evenings at 6:00 p.m. on Cox Cable The Council meetings are also available live via the Internet by accessing the City's website at <a href="https://www.escondido.org">www.escondido.org</a>, and selecting: City Council/broadcasts of City Council Meetings/live video streaming.

Please turn off all cellular phones and pagers while the meeting is in session.

The City Council is scheduled to meet the first four Wednesdays of the month at 4:00 and 7:00 p.m. (Verify schedule with City Clerk's Office) Members of the Council also sit as the Community Development Commission and the Mobilehome Rent Review Board.

CITY HALL HOURS OF OPERATION Monday-Thursday 7:30 a.m. to 5:30 p.m.



If you need special assistance to participate in this meeting, please contact our ADA Coordinator at 839-4641. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility.

Listening devices are available for the hearing impaired – please see the City Clerk.



Date: October 13, 2010

TO:

Honorable Mayor and Members of the City Council

FROM:

Sheryl Bennett, Director of Human Resources

Cindy Titgen, Benefits and Workers' Compensation Manager

SUBJECT: Approval of CalPERS Industrial Disability Retirement for Steve Takajo

# **RECOMMENDATION:**

It is requested that Council adopt Resolution No. 2010-154 approving the California Public Employees' Retirement Systems (CalPERS) Industrial Disability Retirement for Fire Engineer Steve Takajo.

#### **BACKGROUND**:

Mr. Takajo is a 57 year old male Fire Engineer. He has been employed by the City of Escondido for over 28 years. He service retired on June 9, 2008, pending Industrial Disability Retirement. The basis for Mr. Takajo's Industrial Disability Retirement application is confirmed by medical reports from Dr. Jon Kelly and his condition is orthopedic in nature. Accordingly, Mr. Takajo is incapacitated within the meaning of the Public Employees' Retirement Law for the performance of his usual and customary duties in the position of Fire Engineer.

Under State Law, the City Council is required to adopt a Resolution determining that competent medical evidence supports the granting of an Industrial Disability Retirement. Based on medical evidence, staff recommends the City Council adopt Resolution No. 2010-154 approving the CalPERS Industrial Disability Retirement for Steve Takajo to be effective June 9, 2008.

Respectfully submitted,

Shervl Bennett

Human Resources Director

Benefits and Workers' Compensation Manager

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, APPROVING THE CALPERS INDUSTRIAL DISABILITY RETIREMENT FOR STEVE TAKAJO

WHEREAS, the City of Escondido (hereinafter referred to as "Agency") is a contracting agency of the California Public Employees' Retirement System (CalPERS); and

WHEREAS, the California Public Employees' Retirement Law requires that a contracting agency determine whether an employee of such agency in employment in which he is classified as a local safety member is disabled for purposes of the Public Employees' Retirement Law and whether such disability is "industrial" within the meaning of such law; and

WHEREAS, an application for Industrial Disability Retirement of Steve Takajo employed by the Agency in the position of Fire Engineer has been filed with CalPERS; and

WHEREAS, the City of Escondido has reviewed the medical and other evidence relevant to such alleged disability.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Escondido, as follows:

- 1. That the above recitations are true.
- 2. That the City Council of the City of Escondido does find and determine that Steve Takajo is incapacitated within the meaning of the Public Employees' Retirement Law for performance of his usual duties in the position of Fire Engineer.

- 3. That the City Council of the City of Escondido does find and determine that such disability is a result of injury or disease arising out of and in the course of employment.
- 4. That neither Steve Takajo nor the agency, the City of Escondido, has applied to the Workers' Compensation Appeals Board for a determination pursuant to Section 21166 whether such disability is industrial.
  - 5. That there is not a possibility of third party liability.
- 6. That the service member did service retire on June 9, 2008, pending approval of Industrial Disability Retirement and no dispute exists with regards to the retirement date. Mr. Takajo's last day on pay status was June 8, 2008.
  - 7. That advanced permanent disability payments will not be made.
- 8. That the City Council of the City of Escondido finds that the primary disability is orthopedic.



TO:

Honorable Mayor and Members of the City Council

FROM:

Edward N. Domingue, Director of Engineering Services

Bud Oliveira, Construction Project Manager

SUBJECT:

Notice of Completion for the Sidewalk Pedestrian Ramp Program 2009/2010

#### **RECOMMENDATION:**

It is requested that Council approve and accept the public improvements and authorize staff to file a Notice of Completion for the Sidewalk Pedestrian Ramp Program 2009/2010.

#### FISCAL ANALYSIS:

No direct fiscal impact.

#### PREVIOUS ACTION:

Resolution No. 2010-22 authorizing the Mayor and the City Clerk to execute a Public Improvement Agreement with Tri Group Construction and Development, Inc. in the amount of \$469,900 for the Sidewalk Pedestrian Ramp Program 2009/2010 was adopted on February 24, 2010.

#### **BACKGROUND:**

The Sidewalk Pedestrian Ramp Program 2009/2010 consisted of extensive concrete improvements in seven (7) areas of the City including removing and constructing sidewalks, constructing pedestrian ramps, cross gutters, curb and gutter, removing and replanting trees and placing asphalt concrete. The work included in this contract removed and replaced 21,792 square feet of sidewalk, 1,321 linear feet of curb and gutter and removed, replaced and made ADA compliant 33 pedestrian ramps.

Respectfully submitted,

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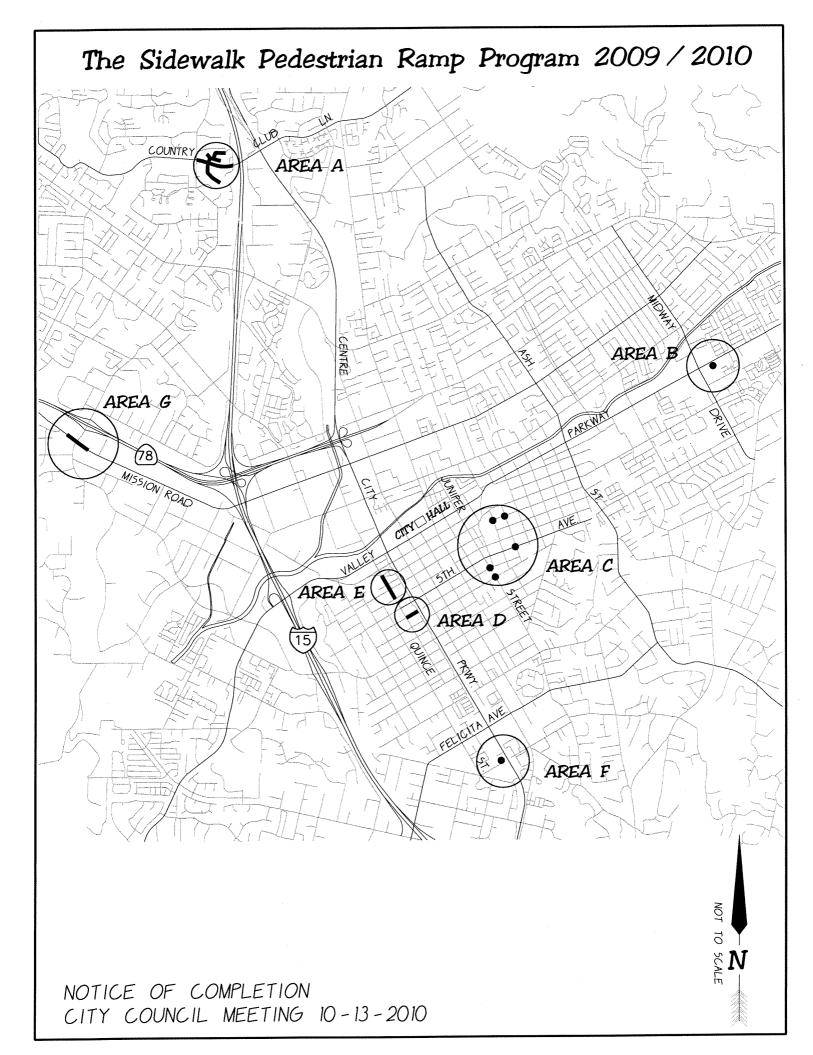
Edward N. Doming(ue) P.E.

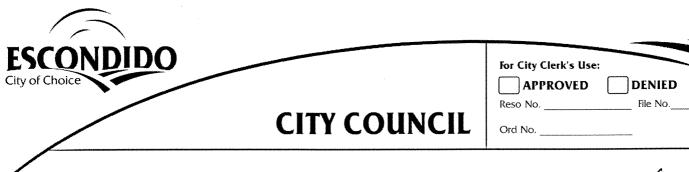
Director of Engineering Services

**Bud Oliveira** 

**Construction Project Manager** 

Bud Olivers





Agenda Item No.: Date: October 13, 2010

TO:

Honorable Mayor and Members of the City Council

FROM:

Edward N. Domingue, Director of Engineering Services

Bud Oliveira, Construction Project Manager

**SUBJECT:** Notice of Completion for Tract 879 Feeney Place

#### **RECOMMENDATION:**

It is requested that Council approve and accept the public improvements and authorize staff to file a Notice of Completion for Tract 879 Feeney Place and Alexander Drive Public Improvements

#### FISCAL ANALYSIS:

No direct fiscal impact.

#### PREVIOUS ACTION:

The final map was recorded on June 27, 2006.

# BACKGROUND:

Tract 879 is a seven (7) lot subdivision located at Feeney Place and Alexander Drive, developed by Hallmark Communities, Inc. The public improvements associated with this project include curb, gutter, sidewalk, water, sewer, storm drain, streetlights, pedestrian ramps and additional signage.

Respectfully submitted,

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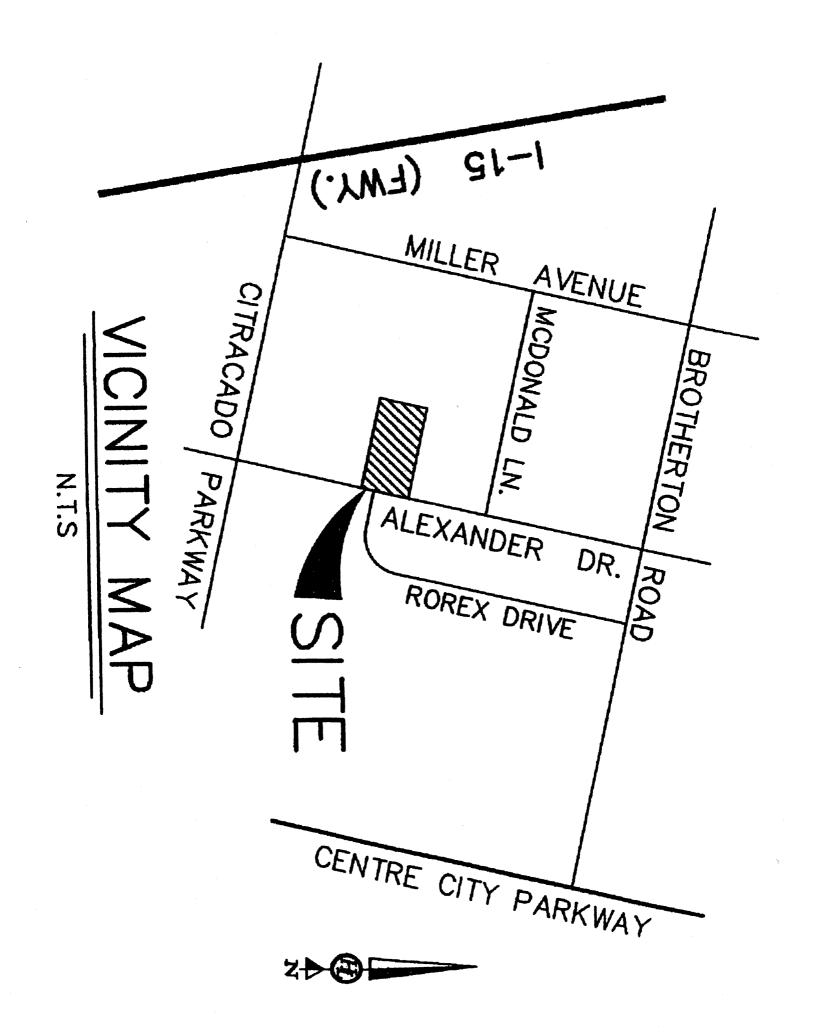
Edward N. Doming &, P.E.

Director of Engineering Services

**Bud Oliveira** 

**Construction Project Manager** 

Bud Oliveira





# CITY COUNCIL COMMUNITY DEVELOPMENT COMMISSION

For City Clerk's Use:	
APPROVED	DENIED
Reso No. CDC	File No
Ord No. CDC	

Agenda Item No.: 7
Date: October 13, 2010

TO:

Honorable Mayor/Chair

Members of the City Council/Community Development Commission

FROM:

Jerry Van Leeuwen, Director of Community Services

Roni Keiser, Housing Division Manager

SUBJECT: Public Hearing for Disposition of Property Purchased with Affordable Housing Set-Aside

Funds (Rectangular lot on N. Elm St./APN 230-103-2200)

#### **RECOMMENDATION:**

Staff recommends conducting the public hearing and receiving public input. Resolution CDC 2010-02 for granting ownership of the subject property to San Diego Habitat for Humanity (SDHFH) was previously adopted by the Community Development Commission (CDC) on June 9, 2010.

#### FISCAL ANALYSIS:

There will be no impact on the General Fund. The subject property was purchased with Affordable Housing Set-Aside funds and is being granted to an affordable housing developer for redevelopment in exchange for affordability restrictions.

### **BACKGROUND**:

On March 24, 2010, the CDC approved an allocation of Affordable Housing Set-Aside funds for the acquisition of vacant land located on North Elm Street (APN 230-103-2200). The CDC closed escrow on the subject property on April 28, 2010.

On June 9, 2010, the CDC adopted Resolution CDC 2010-02 approving the grant of ownership of the subject property to SDHFH in exchange for affordability restrictions on the subsequent development of the lot. The action was taken in conjunction with the award of HOME/CHDO funds following an approved RFP process, as well as the grant of title of the adjacent vacant parcel, addressed as 537 N. Elm Street (Resolution No. 2010-98) and purchased with Neighborhood Stabilization Program funds, to SDHFH.

California Redevelopment law (California Health and Safety Code (§33433)) requires that property purchased with tax increment money (including Affordable Housing Set-Aside Funds) may be sold or leased for development. The sale or lease must be approved by the CDC at a public hearing, and

Disposition of Elm Street Property (Housing) October 13, 2010 Page 2

notice of the hearing must be published at least once per week for at least two successive weeks. Publication of the notice was determined to be incomplete for the original public hearing of June 9, 2010. The change of ownership has not yet taken place, pending this corrective action.

Notice of the public hearing today was accomplished with publication in the local newspaper on both September 27<sup>th</sup> and October 4<sup>th</sup>, and fulfills the requirements of §33433. Proof of the publication has been filed with the City Clerk's office. No further action is necessary.

#### CONCLUSION AND RECOMMENDATION:

Staff recommends conducting the public hearing and receiving public input.

Respectfully submitted,

Jerry VanLeeuwen

Director of Community Services

Roni Keiser

Housing Division Manager



Agenda Item No.: State: October 13, 2010

TO:

Honorable Mayor and Members of the City Council

FROM:

Jerry Van Leeuwen, Director Community Services, and Susan Pollack, Public Art Consultant

SUBJECT:

New Public Art Project at the CCAE Museum Courtyard

#### **RECOMMENDATION:**

It is requested that Council approve the transfer of \$22,000 from the Public Art Fund for the CCAE Museum Courtyard project.

#### FISCAL ANALYSIS:

The Public Art Fund balance is sufficient to cover this project.

#### **GENERAL PLAN ANALYSIS:**

This action is in compliance with General Plan objectives regarding Image and Appearance.

#### PREVIOUS ACTION:

The Public Art Commission approved the project at its August 9, 2010 meeting.

#### **BACKGROUND:**

The Public Art Commission and the Center for the Arts, Escondido Museum are collaborating on a Public Art project to be installed in the Museum's newly renovated courtyard. In order to reach out to more people, the two groups are commissioning a permanent outdoor installation that will inspire creative exploration for youth, as well as engage adults. The intent is to extend the Museum's mission beyond the confines of its walls, using the Public Art as a gateway experience to the contemporary visual art within the gallery. The art will serve as a visual and tactile connector between the Museum, the Center's adjacent arts education studios, and Grape Day Park, introducing a new audience to contemporary art.

Roman de Salvo, a locally based and internationally recognized artist, has agreed to take on the courtyard project. de Salvo's work engages interaction, he is known for transforming mundane objects of our daily life into artworks that excite, and invite conversation on art and its relationship to our everyday lives. His proposal has two components. The first deals with our arid region and water conservation. The metal roof of the museum

collects dew during the night. Water collects in the rain gutters and drips down the downspout, watering the concrete even when it isn't raining. Mr. de Salvo proposes capturing this water and putting it to a good use. Concrete from the moist area would be removed, the exposed soil cultivated and planted with a grape vine.

He will then create an intricate maze on the adjacent wall which will support the vine as it grows. The maze becomes an attractive mural in relief as well as a challenging game that engages the public. The vine will be trained to solve the maze. The project encourages visual and tactile engagement, making the courtyard space more inviting but at the same time not limiting the use of the courtyard for Museum and private events.

Respectfully submitted,

Susan Pollack, Public Art Consultant

Jerry Van Leeuwer, Director, Community Services



# CITY OF ESCONDIDO

# **BUDGET ADJUSTMENT REQUEST**

Date of Request: September 30, 2010			······································	For Finance Use Only	
Department: Community Services				Log#_	
Division: Public Art				Fiscal Y	ear
Project/Budget Manager: Susan Policy Name Council Date (if applicable): Oct.13 (attack		4331 Extensi	ion		Budget Balances General Fund Accts Revenue Interfund Transfers Fund Balance
During MA against December 1	Account Nur	mher	Amount of Ir	ocrease	Amount of Decrease
Project/Account Description	Account Nur	IIDEI			, anount of beorease
CCAE Museum courtyard public art project			\$22,00	JU	
Public Art Fund	3050 130 (	000			\$22,000
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Explanation of Request:					
Transfer of \$22,000 from the Public		public art project	at the CCAE	viuseum	соипуага.
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Department Head	Date	City Manage	<b>!</b>		Date
/ Finance	Date	City Clerk			Date
Distribution (after approval): O	riginal: Finance				

FM\105 (Rev.11/06)

<b>ESCONDIDO</b> City of Choice		For City Clerk's Use:
City of Choice		APPROVED DENIED
	CITY COUNCIL	Reso No File No
	CITY COUNCIL	Ord No.
		Agenda Item No.:
•		

TO:

Honorable Mayor and Members of the City Council

FROM:

Robin Bettin, Assistant Director of Community Services

**SUBJECT:** Escondido Recreation Foundation

# **RECOMMENDATION:**

It is requested that Council adopt Resolution No. 2010-151 approving the Fund Agreement with the San Diego Foundation to initiate a new Escondido Quality of Life Fund, and direct the Finance Director to deposit the required amount of \$10,000 from the Recreation Scholarship Fund with the San Diego Foundation.

#### FISCAL ANALYSIS:

The Finance Director will be depositing \$10,000, as required by the San Diego Foundation, from the existing balance of the Recreation Scholarship account into the new Quality of Life fund administered by the San Diego Foundation. On October 23, 2010, the Recreation Division will be hosting "Families on Foot," a trail walk to raise money for the new foundation. All proceeds from the race will be deposited into the Quality of Life Fund. Monies placed into this account will be used to help defray capital expenses and help to fund programs and services in the Recreation, Parks and Older Adults Divisions of the City's Community Services Department.

#### **COUNCIL ACTION PLAN:**

This relates to the Council Action Plan for creating financial stability, by providing an alternate method for funding some of the Recreation, Parks and Older Adult programs and services, and capital expenditures. Staff hopes to increase donations to the department through the Foundation.

#### PREVIOUS ACTION:

During the budget preparation for FY 10/11, the Budget Subcommittee requested staff work towards reducing the Recreation Division's dependency on revenue collected from the Cable Franchise fees. Staff set a goal of reducing the amount needed from the Cable Franchise fee by \$200,000 over the next three to four years. The creation of the Quality of Life Fund is one of the strategies in this revenue enhancement plan.

Recreation Foundation October 13, 2010 Page 2

#### **BACKGROUND:**

Staff has researched various methods of starting a foundation or an independent 501C3 and recommends the foundation be established via a funding agreement with the San Diego Foundation. This will provide donors a 501C3 to make charitable donations to and will support Recreation, Parks and Older Adult programs and services for the community. The San Diego Foundation provides the oversight and management of the funds, and allows the Recreation, Parks and Older Adults Divisions to encourage donations that will financially support those program areas.

Respectfully submitted,

Robin Bettin

**Assistant Director of Community Services** 

11119

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AUTHORIZING THE MAYOR AND CITY CLERK, TO EXECUTE, ON BEHALF OF THE CITY, A FUND AGREEMENT WITH THE SAN DIEGO FOUNDATION

WHEREAS, the City of Escondido, ("City") recognizes the importance of providing recreational programs and services within the community; and

WHEREAS, it is the Council's desire for those programs and services to be fiscally sustainable; and

WHEREAS, beginning a Foundation to support programs and services in the areas of Recreation, Parks and Older Adults, is a way to provide supplemental funding for these services; and

WHEREAS, the San Diego Foundation has an excellent reputation of managing community funds; and

WHEREAS, the City Council desires at this time, and deems it to be in the best public interest, to approve a Fund Agreement ("Agreement") with the San Diego Foundation; and

WHEREAS, the Community Services Director recommends an amount of \$10,000 from the Recreation Division's Scholarship funds be deposited with the Foundation.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Escondido, California:

1. That the above recitations are true.

- 2. That the City Council accept the recommendation of the Community Services Director.
- 3. That the City Council authorizes the Director of Finance to deposit with the San Diego Foundation an amount of \$10,000 from the Recreation Scholarship fund.
- 4. That the Mayor and City Clerk are authorized to execute, on behalf of the City, an Agreement with the San Diego Foundation for the purpose of initiating a Quality of Life Fund. A copy of the Agreement is attached as Exhibit "A" and is incorporated by this reference.

Resolution No.	2010	-151	-
EXHIBIT	A		
Page	of_	4	-



# FUND AGREEMENT for the

Escondido - Quality of Life Fund (an Advised Non-Endowment fund)

THIS AGREEMENT is made and entered into on September 30, 2010, by and between THE SAN DIEGO FOUNDATION ("TSDF") and The City of Escondido ("Founder").

#### NAME OF THE FUND

Founder transfers assets irrevocably to TSDF to establish in TSDF the Escondido – Quality of Life Fund (the "Fund"). TSDF may receive additional irrevocable gifts of property acceptable to TSDF from time to time from Founder and from any other source to be added to the Fund, all subject to the provisions hereof.

#### 2. <u>PURPOSE</u>

Subject to the limitations of paragraph 4 below, the primary purpose of the fund shall be to support programs and services in the areas of Recreation, Parks and Older Adults within the City of Escondido.

#### 3. INVESTMENT OF FUNDS

TSDF shall have all powers necessary or desirable to carry out the purposes of the Fund, including, but not limited to, the power to retain, invest and reinvest the Fund in any manner within the "prudent person" standard and the power to commingle the assets of the Fund with those of other funds for investment purposes, subject however, to the requirements of Sections 5231 and 5240 of the California Corporations Code.

#### 4. <u>DISTRIBUTEES</u>

Subject to paragraph 6, principal and/or earnings allocated by TSDF to the Fund shall be distributed exclusively for charitable, scientific, literary or educational purposes or to organizations of the type to which an individual taxpayer may make deductible charitable contributions, gifts, and bequests under the income, gift and estate tax provisions of the Internal Revenue Code of 1986, as amended, and of the Revenue and Taxation Code of California. It is intended by the foregoing that at the time a distribution is made from the Fund, the distribution must be made for a charitable, scientific, literary or educational purpose as described in, or to an organization which is described in, Sections 170(c)(1) or (2), of the Internal Revenue Code of 1986, as amended, and Section 17201 of the Revenue and

Resolution	No.	20	0-	15	
EXHIBIT_		A			
Page	2		of_	4	

Taxation Code of California. Distributions from the Fund shall be within the purposes and procedures of TSDF as contained in its Articles of Incorporation and its Bylaws.

#### 5. RECOMMENDATIONS FOR DISTRIBUTION

- a. The Fund shall have an Advisory Committee, consisting of Assistant Director of Community Services, The City of Escondido, and Director of Community Services, The City of Escondido. The Fund Advisory Committee shall, from time to time, designate a Chair in writing signed by its members and delivered to TSDF. The Chair shall be the only person who has the authority to communicate the desires of the Fund Advisory Committee to TSDF, and shall be the "Fund Advisor." Upon the death, incapacity or resignation of any member of the Fund Advisory Committee, the remaining member(s) shall serve as the Fund Advisory Committee. Upon the death, incapacity or resignation of the last surviving member of the Fund Advisory Committee, this fund shall be converted to an endowment, to be held in perpetuity; with the Board of Governors of TSDF itself serving as the advisor of the Fund.
- b. Distributions from the Fund may be made from income and/or principal and shall be made at such times and in such amounts as may be determined by the Board of Governors. There shall be no requirement that income be distributed each year; income may be accumulated and added to principal. Consistent with the foregoing, distributions shall be made to such distributees of the type described in paragraph 4 as may be designated by TSDF; provided, however, that the Fund Advisor may from time to time submit to TSDF the names of distributees to which it is recommended that distributions be made, which distributees shall not be other than those described in paragraph 4. All recommendations from the Fund Advisor shall be solely advisory, and TSDF may accept or reject them, applying reasonable standards and guidelines with regard thereto.

#### 6. CONTINUITY OF THE FUND

The Fund shall continue so long as assets are available in the Fund and the purposes in the Fund can be served by its continuation. If the Fund is terminated for either of the above reasons, TSDF shall devote any remaining assets in the Fund exclusively for charitable purposes that:

- a. are within the scope of the charitable purposes of TSDF's Articles of incorporation; and.
- b. most nearly approximate, in the good faith opinion of the Board of Governors, the original purpose of the Fund.

#### 7. NOT A SEPARATE TRUST

The Fund shall be subject to the Articles of Incorporation and Bylaws of TSDF. All money and property in the Fund shall be assets of TSDF, and not a separate trust, and shall be subject only to the control of TSDF. Pursuant to Treasury Regulations, the Board of Governors of The San Diego Foundation has the power "to modify any restriction or condition on the distribution of funds for any specified charitable purpose or to any specified organization if, in the sole discretion of the Board of Governors, such restriction or condition becomes unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community or area served." Treas. Reg. §1.170A-9(f)(11)(v)(B) and (E).

		Resolution No. 2010-151
		EXHIBIT A
3.	COSTS OF THE FUND	Page 3 of 4
TSDF with tl type. A	nderstood and agreed that the Fund shall share a fair portion of to The administrative cost annually charged against the Fund shall he then current Fee Policy identified by TSDF as the fee structure Any costs to TSDF in accepting, transferring or managing propert shall also be paid from the Fund.	l be determined in accordance e applicable to Funds of this
9.	ACCOUNTING	
This F	Fund shall be accounted for separately and apart from other gifts t	to TSDF.
10.	CHARITABLE DEDUCTIONS	
shall b organi	ntended by Founder and by TSDF that federal gift, income and especiallowed to Founder and to Founder's estate and that TSDF sharization described in Sections 170(b)(1)(A)(vi), 170(c), 2055(a), and the Code of 1986.	all continue to qualify as an
	entire Agreement shall be construed and applied so as to comply was for allowance of such charitable deductions and for such qualifi	
in w	ITNESS WHEREOF, we execute this agreement on	·
Found	der: The City of Escondido	
Appro	oved by the Board of Governors of The San Diego Foundation or	a
By:		
	Gerald Hoffmeister Chair, Board of Governors	

Resolution	No. 20	IC	2-151	_
EXHIBIT_	A			_
Page	4	of	4	



A foundation for	your passion
Non-Endowment Investment Re	commendations
Escondido - Quality of L	ife Fund
Fund Balance of \$49,999.99 or less: All funds with a balance of \$49,999.00 or less will be assign	ned to Pool A (short term fixed income).
Fund Balance of \$50,000.00 or more: All funds with a balance of \$ 50,000.00 or more may select	from Pools A, B or C.
As advisor/founder to this fund I recommend the funds be	invested in the following pool:
☐ Pool A - Short Term Fixed Income ☐ Pool B - 30% Equity ☐ Pool C - 60% Equity - ( a 90-day advance notice	te for grants of \$10,000.00 or more)
Each of the investment pools above includes a money maneeds of those funds participating in the pool.	arket component to allow for the liquidity
Grants may be made from the funds throughout the life opool is recommended.	of the fund regardless of which investment
For purposes of making founder-recommended grant distrinctification of 7 - 14 days.	ibutions, The Foundation requires advance
I understand that assets in Investment Pools A, B & C wil losses according to market conditions.	ll experience both capital gains and capita
The City of Escondido	Date



TO:

Honorable Mayor and Members of the City Council

FROM:

Jerry Van Leeuwen, Director of Community Services

SUBJECT: USE OF FUNDS FROM SALE OF CENTER FOR COMMUNITY SOLUTIONS

#### **RECOMMENDATION:**

It is requested that Council approve distribution of proceeds from the sale of the Center for Community Solutions property to support youth and family programs.

#### FISCAL ANALYSIS:

Distribution will increase the following funds:

CDBG:

\$218,282

Share A Dream:

\$160,000

Recreation Reserve:

\$230,718

#### **COUNCIL ACTION PLAN:**

This request supports the Council's goal of financial stability.

#### PREVIOUS ACTION:

On July 14, 2010, the Council approved the sale of the City owned property to the Center for Community Solutions; however no decision was made as to the distribution of the funds.

#### **BACKGROUND:**

The property consists of two parcels. One parcel was originally purchased with \$150,000 in Community Development Block Grant (CDBG) funds, with an additional \$68,282 in CDGB funds expended on miscellaneous rehabilitation work. Per CDGB regulations, \$218,282 of the \$609,000 purchase price will go back into the CDGB unallocated fund balance to be allocated by Council at a public hearing.

Distribution of Funds From the Sale of the Center for Community Solutions. October 13, 2010 Page 2

A second parcel of this property was transferred as a charitable gift to the City, along with an endowment of approximately \$160,000 by the EYE, a not for profit organization providing services for children, youth and families that ceased operations, with the agreement that the property would be used to support youth and families. In keeping with the original gift, \$160,000 of the remaining proceeds from the sale of the property will go to the Share A Dream Scholarship fund, which will recoup the loss of the \$2,000 per month in lease payments that had been coming from the Center for Community Solutions; and the balance of \$230,718 will go to the Recreation Reserve Fund.

Staff is requesting \$230,718 be deposited into the Recreation Reserve to be used to support children and families, consistent with the endowment request. During the past budget process, the Budget Subcommittee requested the Recreation Division work on developing new revenue streams in order to reduce the reliance on the cable franchise fees. In a presentation April 6, 2010, to the subcommittee, staff discussed the need to develop new markets, by creating new programs, as opposed to only raising fees on existing customers. The funds from the sale of the Center for Community Solutions would be used as "venture capital" to help develop these new program markets. Identified opportunities include: a Preschool soccer program, water polo training, and a swim team.

The Recreation Division is working toward a \$200,000 reduction in the Cable franchise fee over the next three years, but needs the "venture capital" in order to develop the new markets and revenue streams.

Respectfully submitted,

erry Van Leeuwen, Director of Community Services



# CITY OF ESCONDIDO

#### **BUDGET ADJUSTMENT REQUEST**

Date of Request: October 13, 201	0		<u>F</u> s	or Finance Use Only
Department: Community Services	Log# _	Log#		
Division: Recreation	Fiscal Y	ear		
Project/Budget Manager: Robin B Name		6269 Extens	ion	Budget Balances General Fund Accts Revenue
Council Date (if applicable): Octol (attac	ber 13, 2010 ch copy of staff report)			Interfund Transfers Fund Balance
Project/Account Description	Account Numl	ber	Amount of Increase	Amount of Decrease
Sale of City Property	4901-116-00	0	\$218,282	
Share a Dream Scholarship	2109-112-00	00	\$160,000	
Sale of City Property	4901-112-00	0	\$230,718	
Explanation of Request:				
Proceeds from sale of the Center f	for Community Solutions	<b>.</b>		
	•			
	APPR	<u>OVALS</u>		
ent//	15-6-10			
Department Head	Date	City Manage	r	Date
for Kr	10-6-10	Oih : Oll :		Data
Finance /	Date	City Clerk		Date
Distribution (after approval):	Original: Finance			

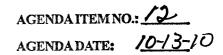


ITEM NO.: \_\_\_//\_\_\_

AGENDA: 10-13-10

# **COUNCIL AGENDA ITEM**

THERE IS NO MATERIAL FOR THIS ITEM





# **FUTURE CITY COUNCIL AGENDA ITEMS**

# October 7, 2010

AGENDA ITEMS AND COUNCIL MEETING DATES ARE SUBJECT TO CHANGE. CHECK WITH THE CITY CLERK'S OFFICE AT 839-4617

# OCTOBER 20, 2010 - NO MEETING

Green Sheet Due by Noon on WEDNESDAY, 10/6/10 Staff Reports/Resos due by Noon on 10/19/10

CONTRACTOR OF THE PARTY	f Reports/Resos due by Noon on 10/19/10
OC.	TOBER 27, 2010
4:0	0 p.m. ONLY
	CONSENT CALENDAR
	Quarterly Financial Report: Fourth Quarter Ending June 30, 2010 (G. Rojas)
1	The fourth quarters financial report provides an update on the City's financial condition based on the most current financial information available through 6/30/10.
	FY 2010 Justice and Mental Health Collaboration Program Grant (J. Maher)
2	The Police Department has received a \$200,000 FY 2010 Justice and Mental Health Collaboration Program Grant from the U. S. Department of Justice to enhance the Escondido's Community's Sobering and Stabilization Program (ECSS). If approved, grant funds will be used for police officer training, ECSS data collection software, mental health counseling for ECSS clients, 2 part-time Psychiatric Emergency Response (PERT) technicians to work with Police Officers and ECSS operations.
	Bid Award: Sports Center Office Expansion — Grading/ Utilities/Construction Improvements (R. Zaino)
3	Grading and utility work for the Sports Center Office Expansion is being performed in advance of the building construction due to poor soil conditions and required over-excavation and recompaction. This will avoid potential extra charges from the building contractor in the event grading work delays the building construction. The building construction will be advertised shortly after the first of the year as the grading work nears completion.

OCT	TOBER 27, 2010 (cont.)
	Approve a Funding Increase for FY 2009-2010 Street Maintenance Project (E. Domingue)
4	As a result of the low unit prices received in the bid for the project and the onset of the rainy season, additional work in the amount of up to \$616,700 should be added to this contract to optimize the added value of the low unit prices and effect repairs to as many areas possible in an effort to minimize maintenance activities over the winter.
5	Lease of City Hall office space (formerly Fire Adm.) to the Escondido Federal Credit Union (C. Grimm)
	(need green sheet)
	PUBLIC HEARINGS:
	Street Vacation - Portion of Spruce Street (A. Marc Aurele)
6	This public hearing is part of the street vacation process. The hearing provides an opportunity for members of the public or utility companies to present reasons why the street vacation should not be approved. The Council, by approving R2010-138 on September 1, 2010, set this public hearing date. This street vacation is at the request of the property owner Chris Herd.
	Zone Change, Master Plan & Precise Development Plan (PHG 10-0020) (B. Redlitz)
7	A Zone Change, along with the Master and Precise Development Plan to convert the fire station to an office use required approval by the City Council. The Planning Commission recommended approval on 9/28/10; vote:)
	CURRENT BUSINESS
	Minor League Baseball Ballpark Negotiations Points (C. Grimm)
8	Provide direction to staff pertaining to the process and steps necessary for the development of a minor league baseball ballpark in Escondido.
	Declaration of Impasse Affecting the Escondido City Employee's  Association – ACE Bargaining Unit  (S. Bennett)
9	The Escondido City Employee's Association-ACE Bargaining Unit and the City's negotiating team are requesting the opportunity to present their issues to the City Council pursuant to the Employer-Employees Labor Relations Resolution, Article IV, Section 17

ОСТ	TOBER 27, 2010 (cont.)	
10	Declaration of Impasse Affecting the Escondido City Employee's Association – SUP Bargaining Unit (S. Bennett)	
	The Escondido City Employee's Association-SUP Bargaining Unit and the City's negotiating team are requesting the opportunity to present their issues to the City Council pursuant to the Employer-Employees Labor Relations Resolution, Article IV, Section 17	
11	Future Agenda Items (M. Whalen)	
7:0	0 p.m. NO MEETING	



TO:

Honorable Mayor and Members of the City Council

FROM:

Barbara J. Redlitz, Director of Community Development

SUBJECT:

Modification to Planning Condition No. 24 for Conditional Use Permit 2004-66-CUP

(Talk of the Town)

#### STAFF RECOMMENDATION:

It is requested that Council adopt Resolution No. 2010-156 approving the proposed modification to Planning Condition No. 24 for Conditional Use Permit 2004-66-CUP.

#### PLANNING COMMISSION RECOMMENDATION:

The proposed modification to Planning Condition No. 24 has not been reviewed by the Planning Commission.

#### PROJECT DESCRIPTION:

A modification to Planning Condition No. 24 for the Talk of the Town carwash project (2004-66-CUP) to allow the required masonry separation wall to be constructed in one of three potential locations. The Zoning Code requires the wall to be constructed on the applicant's property line at the bottom of an adjacent slope. The proposed modification would allow two potential alternatives to permit placement of the wall at or near the top of the adjacent slope. One proposed alternative would allow the applicant to 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. The other alternative would allow the applicant to enter into an agreement with the New Tradition HOA to pay the cost for the HOA to construct the wall at or near the top of the slope on HOA property.

#### LOCATION:

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

#### FISCAL ANALYSIS:

None.

#### PREVIOUS ACTION:

The City Council approved a Conditional Use Permit for the Talk of the Town carwash/restaurant project and a related amendment to the South Escondido Boulevard Area Plan on May 26, 2010, by a vote of 4-1 (Councilmember Diaz opposed).

On September 21, 2010, the Council considered a proposed correction to the minutes of the May 26, 2010 hearing on the Talk of the Town project. Several neighbors and their HOA representative addressed the Council regarding the wall issue. There was a general consensus by the Council that this issue should be discussed at a future meeting with the intent to provide more flexibility to negotiate a potential solution.

### **BACKGROUND**:

During the City Council hearing on the carwash project, there was a substantial amount of discussion regarding the placement of a wall between the carwash project and the residences to the north and west. The neighbors are located at the top of a slope (owned by their HOA) that ranges in height from approximately nine feet to eighteen feet. Discussion centered on whether the wall was considered to be a noise wall or a separation wall, and whether it should be located on the applicant's property at the bottom of the slope or off-site at the top of the slope. The Council agreed with the neighbors that the wall would be more beneficial to them if it could be located at the top of the slope.

Several weeks ago when neighbors spoke to the Council regarding the wall location, discussion focused on Planning Condition No. 24 which provides a 60-day period for the residential HOA to consider accepting a wall on HOA property. It was suggested that neighbors should have a similar opportunity to accept a wall on their private properties. The proposed modification focuses on the location and funding issues associated with the separation wall, and does not open the previous commercial land use approval for reconsideration.

#### **DISCUSSION:**

The Zoning Code (Sec. 33-1082) requires a separation wall to be constructed as part of the carwash project. Separation walls are constructed at the common property line between any property used for commercial purposes and property zoned for residential purposes. A separation wall is six feet high (measured from the residential side) and must be constructed of masonry block or concrete. In this case, strict adherence to this requirement would result in the wall being constructed on the developer's property line at the bottom of the slope.

The Noise Impact Analysis for the project indicated noise levels at the western and northern property lines would range up to 47 dBA and 50 dBA respectively, which is consistent with 50 dBA limit established in the City of Escondido noise standards for residential zones. A noise wall is not required for this project. Noise walls, when required, must be solid with no gaps and are typically constructed of masonry block. Noise wall heights generally range from six feet to ten feet, depending on the amount of attenuation required by the noise analysis. Other acceptable noise wall materials include wood-framed stucco walls and plexiglass or a combination of these materials. Standard wood

2004-66-CUP October 13, 2010 Page 3

fencing is not considered to be an acceptable material for noise walls due to the gaps between fence boards.

While the Zoning Code requires the separation wall to be constructed on the commercial property at the bottom of the slope, there was general agreement during the Council hearing that it would be more beneficial to residents if it were located at the top of the slope. Staff suggested the Council could offer the residential HOA an opportunity to accept the wall on their property feeling that negotiation with a single entity may be more successful than negotiating with nine or ten individual property owners to replace their back fences. The Council motion to approve the project included a 60-day period where the HOA could agree (or not) to accept the wall on HOA property.

Staff included the following Planning Condition No. 24 in the Council resolution of approval to reflect the Council motion:

24. Prior to occupancy of any buildings, a six-foot-high masonry separation wall shall be constructed on the northern and western property lines as required by Section 33-1082 of the Zoning Code. Per the City Council approval granted on May 26, 2010, the New Traditions HOA shall have a 60-day period (ending July 26, 2010) during which the association can provide written consent to the developer allowing the wall to be installed on association property at the top of the slope for the benefit of adjacent residents. If permission is not granted within the 60-day timeframe, the developer shall be required to install the wall on his property as specified above.

The HOA ultimately decided not to allow the wall on their property. The HOA did indicate they would not object to the wall being constructed on the homeowners properties. While the HOA was reaching a conclusion they did not want the wall on their property, the homeowners at the top of the slope banded together and lobbied the developer to get the wall placed on their properties. The wall condition, as currently exists, does not specifically recognize this as an option. The proposed modification would include an option whereby the developer could work with the adjacent individual homeowners to place the wall on their properties to satisfy his separation wall requirement.

Staff proposes the following modification to Planning Condition No. 24:

24. Prior to occupancy of any commercial buildings, a six-foot-high masonry separation wall shall be constructed on the northern and western property lines as required by Section 33-1082 of the Zoning Code. Alternatively, the applicant shall be permitted to enter into an agreement with approximately ten individual homeowners to pay the cost for the homeowners to construct the wall at the top of the slope on their properties. Another acceptable alternative would allow the applicant to enter into an agreement with the New Tradition HOA to pay the cost for the HOA to construct the wall at or near the top of the slope on HOA property. This condition will be satisfied upon payment of the full cost of the wall to the homeowners or the HOA, or construction of the wall on the applicant's property as specified above.

Staff is hopeful the applicant can reach agreement with the residents to install the wall at the top of the slope. However, the proposed condition does not require the applicant to install the wall at the top of the slope because the applicant has no control over these residential properties. Similarly, the condition only requires payment of funds for a wall on the residential properties because the applicant

2004-66-CUP October 13, 2010 Page 4

can't control the timing of construction on private residential property. The elimination of an artificial time limit from the previous condition should allow plenty of opportunity to reach an agreement before there is an actual need to construct the wall. While the condition still allows the applicant to install the wall on his own property at the bottom of the slope, the applicant's representative has already started discussions with the individual property owners. The Council retains the ability to reconsider the CUP for modification or revocation if they feel the applicant's team is not negotiating in good faith.

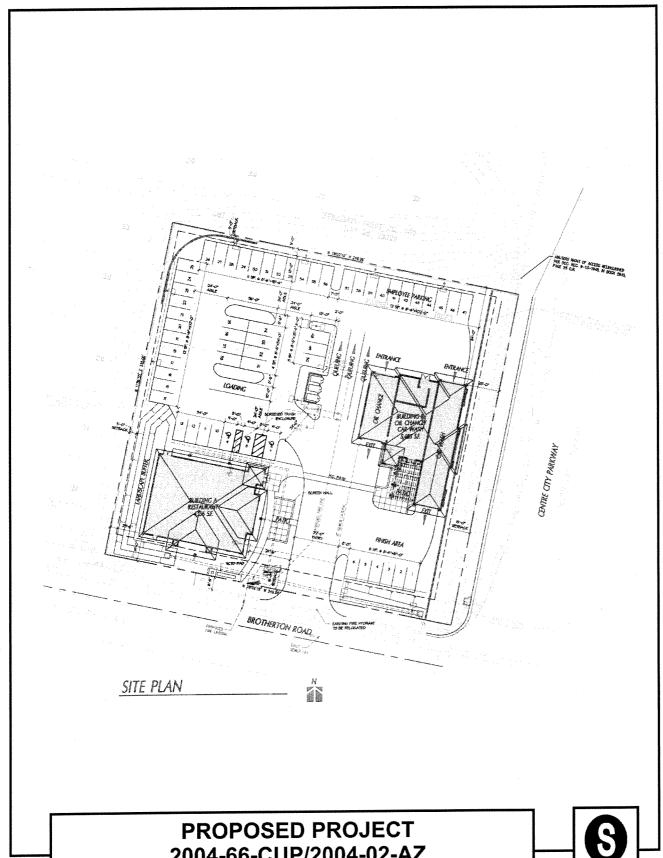
Respectfully submitted,

Barbara J. Redlitz

**Director of Community Development** 

Bill Martin

Principal Planner



2004-66-CUP/2004-02-AZ



A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, APPROVING A MODIFICATION TO PLANNING CONDITION NO. 24 FOR CONDITIONAL USE PERMIT 2004-66-CUP (TALK OF THE TOWN)

Applicant: McArdle Associates Architects

Planning Case No.: 2004-66-CUP

WHEREAS, pursuant to Article 61 of the Escondido Zoning Code, the City Council did, on May 26, 2010, consider, and by Resolution No. 2010-05 (R)(R), approve an application for a Conditional Use Permit for the construction of an automobile service commercial development consisting of an approximately 5,500 SF automated carwash and oil change facility as well as a 4,150 SF restaurant on a 1.34-acre site located in Area "B" of the South Escondido Boulevard Area Plan, on the northwestern corner of the intersection of Brotherton Road and Centre City Parkway, addressed as 400 Brotherton Road; and

WHEREAS, pursuant to Article 61 of the Escondido Zoning Code, public notification has been provided indicating the City Council's intent to consider a modification to Planning Condition No. 24 included in the previous resolution of approval; and

WHEREAS, pursuant to the California Environmental Quality Regulations, a Revised Mitigated Negative Declaration, City Log No. ER 2004-33, was issued on December 10, 2009; and

WHEREAS, this City Council has reviewed the Revised Mitigated Negative

Declaration, and the staff report, a copy of which is on file in the Planning Department; and

WHEREAS, this City Council desires at this time and deems it to be in the best public interest to approve said modification of Planning Condition No. 24 for Conditional Use Permit 2004-66-CUP;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Escondido, California, as follows:

- 1. That the above recitations are true.
- 2. That on the basis of the above review and consideration this City Council makes the following findings of fact:
  - A. That the use could be detrimental to the public health, safety or welfare unless further clarification on the location, funding and timing of construction for the separation wall required between the commercial development and the adjacent residential properties is provided as specified in the modified condition.
  - B. That the facilities to be constructed pursuant to the Conditional Use Permit are required by, and beneficial to, the community.

- C. That issuance of this modification to the Conditional Use Permit will not result in a deterioration of bordering land uses or create special problems for the area in which it is located.
- D. That issuance of this modification to the Conditional Use Permit will not adversely affect the community or neighborhood plan for the area in which it is located.
- 3. That in view of the above findings and applicable law, the City Council approves the proposed modification to Planning Condition No. 24 for Conditional Use Permit 2004-66-CUP, attached as Exhibit "A" to this resolution and incorporated by this reference.

Resoluti	ion No	2010-156	
Exhibit .			
Pag <b>e</b>		_ofl	

#### **EXHIBIT "A"**

# Modification to Planning Condition No. 24 for Conditional Use Permit 2004-66-CUP

24. Prior to occupancy of any commercial buildings, a six-foot-high masonry separation wall shall be constructed on the northern and western property lines as required by Section 33-1082 of the Zoning Code. Alternatively, the applicant shall be permitted to enter into an agreement with approximately ten individual homeowners to pay the cost for the homeowners to construct the wall at the top of the slope on their properties. Another acceptable alternative would allow the applicant to enter into an agreement with the New Tradition HOA to pay the cost for the HOA to construct the wall at or near the top of the slope on HOA property. This condition will be satisfied upon payment of the full cost of the wall to the homeowners or the HOA, or construction of the wall on the applicant's property as specified above.