Table of Contents

pc2024_07_09_Agenda	Page 1
Item 1- La Atalaya RM CUP CDP	Page 5
Item 2 - Inclusionary and Condos	Page 130
Item 3- Viewpoint Valet SR w ATT - CUP22-003 CDP23-019	Page 170
Item 4- TVS24-001 (Anstis, 111 11th Street)	Page 204

Del Mar Planning Commission Agenda

City of Del Mar, Town Hall
1050 Camino del Mar, Del Mar, California

Civility Works: The Del Mar Code of Civil Discourse: Together we will promote inclusion; listen to understand; show respect; be clear and fair; and focus on the issue.

Philip Posner
Chair

Ted Bakker
Commissioner

Jas Grewal
Commissioner

John Spelich
Commissioner

Vacant
Commissioner

Karen Brindley
Planning & Community Development Director

Amanda Lee
Principal Planner

Regular Meeting
Tuesday, July 9, 2024 at 6:00 PM

It is the intention of your Planning Commission to be receptive to your concerns about your community. Your participation in local government will assure a responsible and efficient City of Del Mar.

Public Participation/Comment: Members of the public can participate in Planning Commission meetings in-person only. Anyone may address the Commission for up to three minutes, at the Chair's discretion, on items on the agenda. Members of the public wishing to speak on items not on the agenda may do so under Oral Communications. Agenda items may be addressed in any order at the discretion of the Chair. When addressing the Planning Commission, please state your name for the record. Any electronic presentations must be received before 12 p.m. on the date of the Planning Commission meeting. No PowerPoint presentations can be loaded during the meeting.

Please submit a completed "Speaker Slip", including the item number you wish to speak on, to City staff prior to the Chair announcing the agenda item. The forms are located near the door at the rear of the Meeting Room. When called to speak, please approach the podium and state your name for the record.

Written Comments: Members of the public can participate in the meeting by submitting a written red dot comment via email to planning@delmar.ca.us. The deadline to submit written comments is 12 p.m. on the day of the meeting and the subject line of your email should clearly state the agenda item you are commenting on.

Project Applicants/Representatives: Applicants and their team of representatives shall limit their [total] presentations to 10 minutes or less.

Viewing the Meeting and Access to Agenda Materials: Members of the public can watch the meeting live on the City's website at: http://delmar.12milesout.com/Video/Live and on Cable TV Spectrum Ch. 24, AT&T Ch. 99 starting at 6:00 PM. Agenda materials and communications from the public on agenda items, "Red Dots", are available on the City's website: http://www.delmar.ca.us/AgendaCenter and a hard copy of the agenda materials are available at Del Mar City Hall and the Del Mar Library during their business hours.

Assistance for persons with Disabilities: In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Administrative Services Department at 1050 Camino del Mar or by calling (858) 755-9313. Notification of at least 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

As a courtesy to all meeting attendees, **please set cellular phones to silent mode** and engage in conversations outside the Town Hall.

Regular Meetings of the Planning Commission are generally held on the second Tuesday of the month, beginning at 6:00 p.m. For further information regarding the scheduling of meetings or meeting agendas, check the City's website at www.delmar.ca.us, or call the Planning Department's office at 858-755-9313. A full Planning Commission agenda packet with all backup information is available at City Hall, the Del Mar Library, and on the City's website the Thursday before each Planning Commission meeting.

Meeting will end at 11:00 p.m. unless extended by a majority vote of the Commissioners. If all the items on the agenda are not heard, the remaining items will be heard the following Tuesday (if facilities are available) at 1050 Camino Del Mar.

Consent Calendar: The Consent Calendar is considered by the Planning Commission near the beginning of the agenda. Items placed on the Consent Calendar will be approved in accordance with the staff recommendations for the item unless removed from the Consent Calendar by Commissioners, staff, or a member of the public. If you wish to keep an item from being placed on the Consent Calendar, please submit an email to planning@delmar.ca.us or to the staff member prior to the meeting by 3:30 p.m. the day of the meeting.

Final action. The decision of the Planning Commission is final unless a written appeal is filed with the City Clerk, accompanied with a processing fee, within ten (10) working days from the date of notice of the action taken on the application. An approved permit shall not be valid until the 10-day appeal period has expired. The appeal is then forwarded to the City Council, which determines at the Initial Consideration whether to reject the appeal, thereby upholding the Planning Commission's decision, or to set the matter for a subsequent date for a new (de novo) public hearing review. If a de novo public hearing is set by the City Council, an additional fee will be required.

Meeting Decorum: All persons attending the Planning Commission meeting shall conduct themselves in a courteous and respectful manner. Comments shall be directed to the members of the Commission, rather than to others in attendance at the meeting. The Chairperson (or Vice Chair or Chair pro-tem in their absence), is designated as the parliamentarian for the meeting. As deemed appropriate, they may interrupt a speaker with instruction to redirect their remarks to relevant points on the agenda item before the Commission. They may also terminate a speaker's oral presentation if comments continue to be non-relevant or become disrespectful.

Note: The entirety of the City of Del Mar is located within the Coastal Zone. Some of the development projects listed on this agenda, as noted, require the receipt of a Coastal Development Permit. Some of these projects may also lie in what is known as the "Coastal Development Appeals Area". For the projects located in the appeals area, the City's action on the requested Coastal Development Permit may be appealed to the California Coastal Commission. An appeal may be filed with the Coastal Commission within the ten calendar days following the Coastal Commission's receipt of a notice from the City of its final action on the Coastal Development Permit application. However, before an appeal may be filed with the Coastal Commission, the City's action on the CDP application must be final, meaning that all of the City's [separate and internal] appeals processes must first be exhausted.

ROLL CALL

APPROVAL OF MINUTES

1. May 14, 2024 Minutes

UPDATE

PLANNING COMMISSION/STAFF DISCUSSION (Non-Application Items)

HEARING FROM THE AUDIENCE ON ITEMS NOT LISTED ON THE AGENDA (Oral Communications)

DISCUSSION AND BRIEFING (Application Items)

CONSENT CALENDAR:

The Planning Commission at the beginning of the meeting can place any item on the agenda upon the Consent Calendar. Consent Calendar items are not subject to public testimony. If you have a concern and wish to present information to the PC, you must be present at the beginning of the meeting to ensure the item will not

be placed on consent or write a letter to the PC prior to the meeting expressing why the application should be taken off the Consent Calendar.

NEW APPLICATION(S):

ITEM 1
RM23-001
CUP24-001
CDP24-008

APN: 299-200-65-00
Location: 690 Serpentine Drive
Applicant: La Atalaya, LLC
Applicant Representative: Adam Birnbaum, AMB Planning Services, LLC
Zone: R1-40
Overlay Zone: Bluff, Slope, and Canyon, Lagoon, WUI, Open Space
Environmental Status: Pursuant to the requirements of the California Environmental Quality Act (CEQA) a Mitigated Negative Declaration (MND) was certified by the City Council on February 1, 2021 for the previously approved subdivision and related improvements pursuant to City Council Resolution 2021-05. Pursuant to CEQA Guidelines Section 15162, no further environmental documentation is necessary since there has not been a substantial change in circumstance that would necessitate a new environmental review.
Staff Contact: Jennifer Gavin, Associate Planner
Description: A request for the Planning Commission's recommendation to City Council for approval of a revision to conditions for previously approved Tentative Map TTM18-004 and approval of Coastal Development Permit CDP24-008 and Conditional Use Permit CUP24-001 for the construction of roadway, utility, and safety improvements partially located in a steep slope setback within the Bluff, Slope, and Canyon Overlay and Lagoon Overlay.

**This project is located within the Coastal Commission's Appeal Jurisdiction*

ITEM 2
A24-001/ ZA24-005/LCPA24-004 (Inclusionary Housing)

A24-002 (Condo Conversions)

Project: Amendments to the Inclusionary Housing and Condo Conversion Regulations for Implementation of Housing Element Programs 4D and 4E and Related Amendments to the Zoning Code and Local Coastal Program
Locations: Citywide
Applicant: City of Del Mar
Environmental Status: The 6th Cycle Housing Element Final Program Environmental Impact Report (PEIR) and associated Mitigation, Monitoring, and Reporting Program was certified by the City Council on October 5, 2020 (State Clearinghouse (SCH) No. 2020029064). The Final PEIR is available at: **www.delmar.ca.us/DocumentCenter/View/7171/Final-PEIR-91020**
The amendments would not result in significant effects on the environment or an increase in the severity of effects on the environment as previously analyzed and identified in the Final PEIR. Pursuant to CEQA Guidelines Section 15162, no further environmental documentation is necessary.
Staff Contact: Amanda Lee, Principal Planner alee@delmar.ca.us
Description: This is a request for a recommendation from the Planning Commission to the City Council on the proposed amendments to the Del Mar Municipal Code Chapters 24.21 and 24.40 to repeal and replace the City's existing Inclusionary Housing Regulations and amend the existing Condo Conversion regulations to implement Housing Element Programs 4D and 4E; and related minor correction amendments to the DMMC Chapters 30.24 and 30.25 to ensure consistency between the Inclusionary Housing regulations and density standards for the North Commercial Zone and Professional Commercial Zone in the City's Zoning and Code and Local Coastal Program. The amendments will be subject to introduction and adoption by the City Council at future public hearings. The Inclusionary Housing/Condo Conversion Ordinance would take effect 30 days from adoption by the City Council. The companion minor correction amendments to the LCP and Zoning Code will require certification by the Coastal Commission following City Council adoption.

ITEM 3
CUP22-003
CDP23-019

APN: 299-100-34-00
Location: 2201 San Dieguito Drive
Applicant: Blue Water Valet, Viewpoint Brewery
Applicant Representative: Robert Scott
Zone: North Commercial
Overlay Zone: Lagoon Overlay and Floodplain Overlay
Environmental Status: Exempt
Staff Contact: Elizabeth Yee, Associate Planner
Description: A request for Conditional Use Permit and Coastal Development Permit to operate a valet parking operation in conjunction with an existing brewery/restaurant (Viewpoint Brewery) on property located at 2201 San Dieguito Drive in the North Commercial Zone and Lagoon Overlay and Floodplain Overlay.

**This project is located within the Coastal Commission's Appeal Jurisdiction*

ITEM 4
TVS24-001

Applicant: Stuart Anstis
Applicant Address: 111 11th Street
Applicant APN: 300-094-03-00
Tree Owner: Tom Harrington
Site Address (Vegetation Location): 107 11th Street
Site APN (Vegetation Location): 300-094-02-00
Environmental Status: This initial determination does not constitute a project under the California Environmental Quality Act (CEQA) and is not subject to analysis.
Staff Contact: Monique Gil, Associate Planner
Description: The Planning Commission is being asked to evaluate the applicants view blockage claim, under Del Mar Municipal Code Chapter 23.51 (Trees, Scenic Views, and Sunlight), and determine whether or not unreasonable view blockage has occurred from vegetation located on a neighboring property.

ADJOURNMENT

I, Adriana Jaramishian, Associate Planner for the City of Del Mar, certify that a copy of the foregoing was posted at the Del Mar City Hall on Thursday, June 27, 2024.

_____
Adriana Jaramishian
Associate Planner

City of Del Mar
Staff Report

PLANNING COMMISSION
STAFF REPORT
July 9, 2024

APPLICATION(S): RM23-001, CDP24-008, CUP24-001

REQUEST: A request for Planning Commission recommendation to City Council for approval of a revision to conditions of approval on previously approved Tentative Map TTM18-004 and approval of Coastal Development Permit (CDP) CDP24-008 and Conditional Use Permit (CUP) CUP24-001 for the construction of roadway, utility, and safety improvements located in a steep slope setback within the Bluff, Slope, and Canyon Overlay and Lagoon Overlay Zones.

APPLICANT/OWNER: La Atalaya, LLC

APPLICANT'S REPRESENTATIVE: Adam Birnbaum

SITE LOCATION: 690 Serpentine Drive
Exhibit

ASSESSOR PARCEL NUMBERS: 299-192-24-00, 299-261-14-00, 299-261-42-00, 299-261-43-00, 299-200-62-00, 299-200-63-00, 299-200-64-00, 299-200-65-00

COMMUNITY PLAN DESIGNATION: Very Low Density Residential

ZONE: R1-40

OVERLAY ZONES: Bluff, Slope & Canyon Overlay Zone, Open Space Overlay Zone, and Lagoon Overlay Zone

ENVIRONMENTAL REVIEW:

Pursuant to the requirements of the California Environmental Quality Act (CEQA) a Mitigated Negative Declaration (MND) was certified by the City Council on February 1, 2021 for the previously approved subdivision and related improvements pursuant to City Council Resolution 2021-05. Pursuant to CEQA Guidelines Section 15162, no further environmental documentation is necessary since there has not been a substantial change in circumstance that would necessitate a new environmental review.

COMMUNITY PLAN AND ZONING DESIGNATIONS:

The Community Plan designates the R1-40 Zone for Very Low Density Residential Development at a density of 0-1 unit per acre. The Community Plan states that, "This land use category is intended to allow single-family development that preserves an open character on land within areas that include steep slopes, bluffs, and/or canyons."

The entire project site is located within the Bluff, Slope and Canyon (BSC-OZ) and Open Space Overlay Zones and partially in the Lagoon Overlay Zone (L-OZ). The subject site is also located in the Wildland Urban Interface (WUI).

HOUSING IMPACT: This action will not have an impact on housing because the project does not propose any new housing units and the Tentative Map (TTM18-004) did not include any new net legal lots for the potential of new housing units in the future.

BACKGROUND:

On February 1, 2021, the City Council held a public hearing and approved a Tentative Tract Map application (TTM18-004), Conditional Use Permit (CUP18-004), and Coastal Development Permit (CDP18-016) to reconfigure 8 lots totaling approximately 18.1 acres of land bound by San Dieguito Road to the north, Zapo Street to the south, Gatun Road to the west, and Serpentine Drive to the east, commonly referred to as " the Snake wall properties." A project location map has been included as Exhibit A. Associated with the subdivision map were proposals to perform related roadway and utility improvements; and to vacate two public utility easements and a public alley using the summary vacation process outlined in the California Streets and Highways Code. Due to the site's location in the Bluff, Slope, and Canyon Overlay Zone, a Conditional Use Permit (CUP18-04) was required to: 1) ensure the newly configured lots would be appropriate for development within an area of substantially steep slopes; and 2) because necessary access road improvements would require grading at the bottom of a substantially steep slope and within a steep slope setback. The approved subdivision included lot line adjustments for six lots (Lots 1, 2, 3, 4, 5, 6) and relocated two residential lots with access via Serpentine Drive to a portion of the contiguously owned property just south of San Dieguito Drive adjacent to Lots 5 and 6. The approved Tentative Map has been included as Exhibit B.

The original application requests were only for the subdivision of land into new legal lots and associated access improvements and did not include proposed development of any new residential units.. The City Council also certified an associated Mitigated Negative Declaration/Initial Study for the subdivision and adopted the recommended Mitigation Monitoring and Reporting Program.

In accordance with State law and Del Mar Municipal Code, the original approval of TTM18-004 by the City Council was to expire after two years. On February 6, 2023, the City Council granted the applicant an Extension of Time (EOT) for the Tentative Map of three years, extending the

Map's expiration to February 6, 2026. If needed, applicant is able to ask for one more three-year extension, if requested prior to February 6, 2026, for a total of 8 years allowed by State law.
On February 1, 2024 the previously approved CDP and CUP, which are valid for three years after issuance, expired. Therefore, new permits are being requested for the improvements that provide roadway, utility, emergency access and other related improvements to the newly configured lots adjacent to San Dieguito Drive. The required improvements include the following:

- The construction of a new private road "La Atalaya Way" (including grading and retaining walls); the improvement of the un-named alley adjacent to Proposed Lot 5; and the placement of utilities in the alley and new private road;
- The modification of a driveway gate adjacent to Lot 5 to provide adequate access for emergency vehicles;
- The modification of the "Snake Wall" in order to provide adequate sightlines for vehicles exiting the alley off of San Dieguito Drive;
- A new gate on Lot 7 on the access easement to Lot 3; and
- The removal of a shed from Lot 7.

PROJECT DESCRIPTION:

The Applicant is seeking the following two approvals from the City Council:

1) **Revision to the Previously Approved Conditions of Tentative Parcel Map TTM18-004**

The Applicant is requesting a revision to City Council Resolution 2021-05 to allow the applicant more than twenty-four (24) months to construct the private/public improvements required by TTM18-004 for access to Lots 5-8 through. As explained below, the request is to allow the applicant the ability to enter into a Development Agreement with the City. Through a separate application process, an approved Development Agreement can provide additional timing allowances and vesting of required entitlements for public and private improvements required with a subdivision. In order to allow for a Development Agreement to be an associated component of the TTM, the original conditions of approval must be amended to add a new condition allowing the Development Agreement.

As a part of the February 1, 2021, City Council approval of TTM18-004, condition "E-1(T)" requires the Applicant to complete all public improvements within 24 months of receiving approval from the Engineering Department; which would occur shortly before approval of the Final Map by City Council (City Council Resolution 2021-05 has been included as Exhibit C). The Applicant has indicated to staff that the subdivision map is related to Estate Planning efforts and that they do not plan to develop these new lots within, or soon after, the two-year time frame and are thus requesting the ability to have more time to perform all required improvements. In consultation with the City Attorney, staff has been advised that a future Development Agreement would be the pathway to extending the typical expiration date of the various entitlements in order for the required improvements to be completed at a later date (more than the two years included in the original approval). If the City Council approves the modification of the Conditions of Approval

to allow for the addition of the allowance to submit a Development Agreement, it would be brought forward by the Applicant, at a later date, which would provide more details on the duration, included permits, required public and private improvements, etc. A suggested condition of approval is included in the draft resolution as Condition S-2 (Exhibit D).

2) New Conditional Use and Coastal Development Permits

The CUP and CDP for the required related improvements have expired and the Applicant is seeking new permits (CUP24-001 and CDP24-008) for improvements that have otherwise not changed in scope or circumstance since the City Council originally approved the entitlements on February 1, 2021.

The plans approved by the City Council on February 1, 2021, as they relate to the required improvements related to TTM18-004 have not changed and the scope of work is the same as was analyzed and approved previously, with exception to the minor addition of a vehicular gate on Lot 7 on the access path to Lot 3. The February 1, 2021, City Council approval found all required improvements to be consistent with the requirements of the Bluff, Slope, and Canyon, Lagoon, and Open Space Overlays. Attached to this report is the February 1, 2021, City Council Report which provides an analysis for the CUP and CDP as it relates to consistency with the property overlays, Zoning Code, Community Plan, and the City's Local Coastal Program (Exhibit E).

The addition of the gate adds a nominal amount of encroachment into the steep slope and is therefore still consistent with the prior analysis in that the overall percentage of steep slope encroachment (3.4%) is within the allowable per DMMC 30.52.60 (See Exhibit F). The draft Planning Commission resolution (Exhibit D) includes the findings needed for approval of the CUP and CDP.

CONCLUSION / RECOMMENDATION:

As it relates to the request for a new condition allowing for the future use of a Development Agreement for the subdivision, staff finds this request to be reasonable and allows for improvements to be completed closer to potential development of the lots. Therefore, staff recommends approval of the draft resolution (Exhibit D) recommending approval to the City Council.

Regarding the request for a new Conditional Use Permit (CUP24-001) and new Coastal Development Permit (CDP24-008), approval of these permits would be consistent with prior City Council Action since the DMMC does not provide for time extensions to these permits. Therefore, staff further suggests that the Planning Commission recommend City Council approval of CUP23-001 and CDP24-008. Proposed findings for approval of new permits have been included within Exhibit E.

Respectfully submitted,

Jennifer Gavin
Associate Planner

Exhibits:

Exhibit A – Project Location Map
Exhibit B- TTM18-004
Exhibit C- City Council Resolution 2021-05
Exhibit D- Draft Resolution
Exhibit E- February 1, 2021 City Council Report
Exhibit F- Site Plan/Steep Slope Analysis

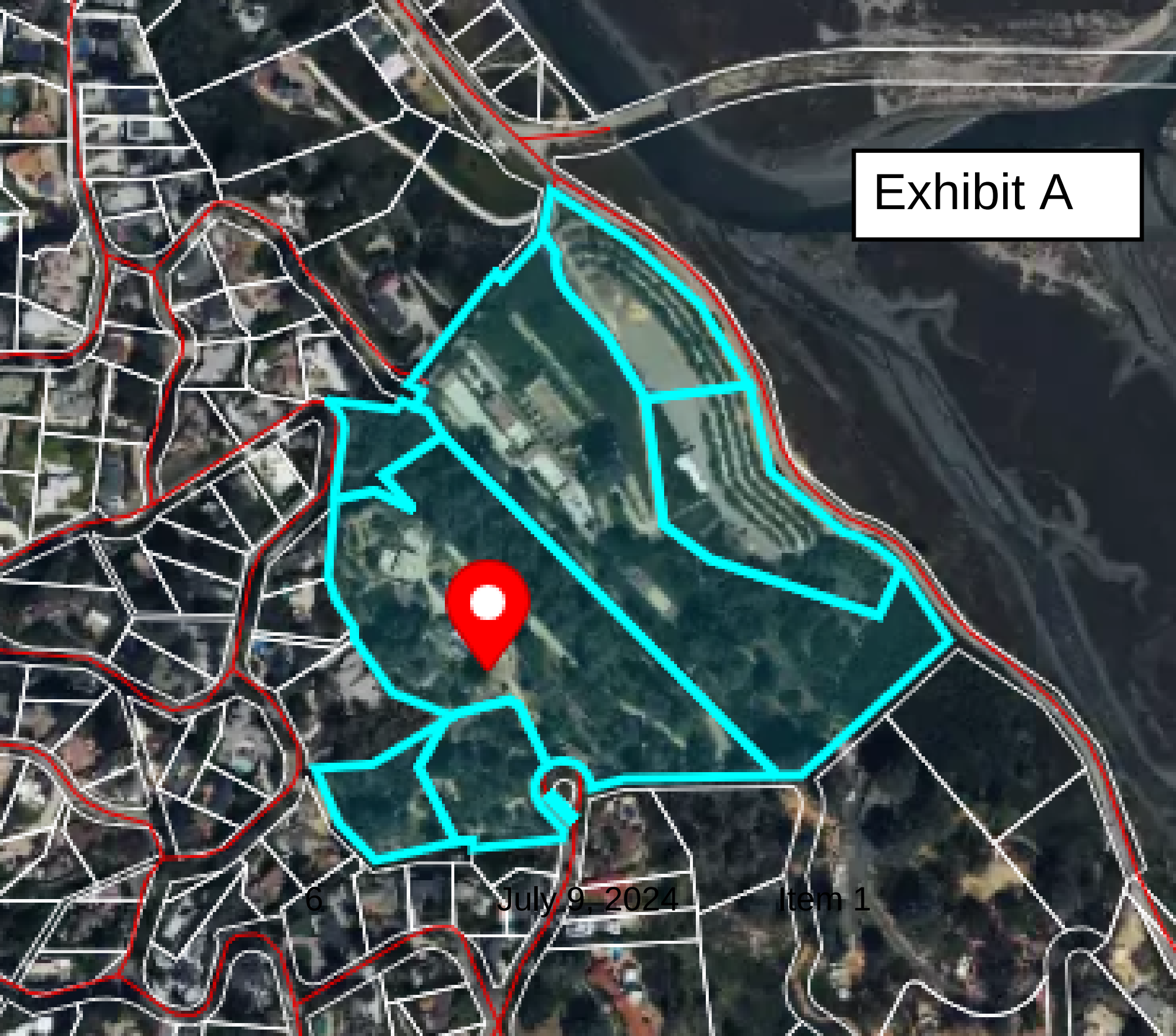


Exhibit A

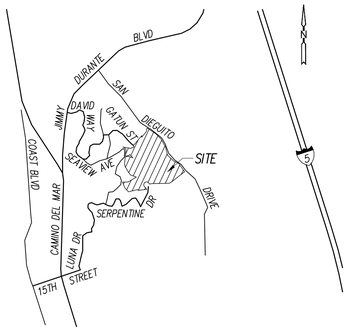
VESTING TENTATIVE MAP FOR LA ATALAYA

TM No. 18-004

NOTES:

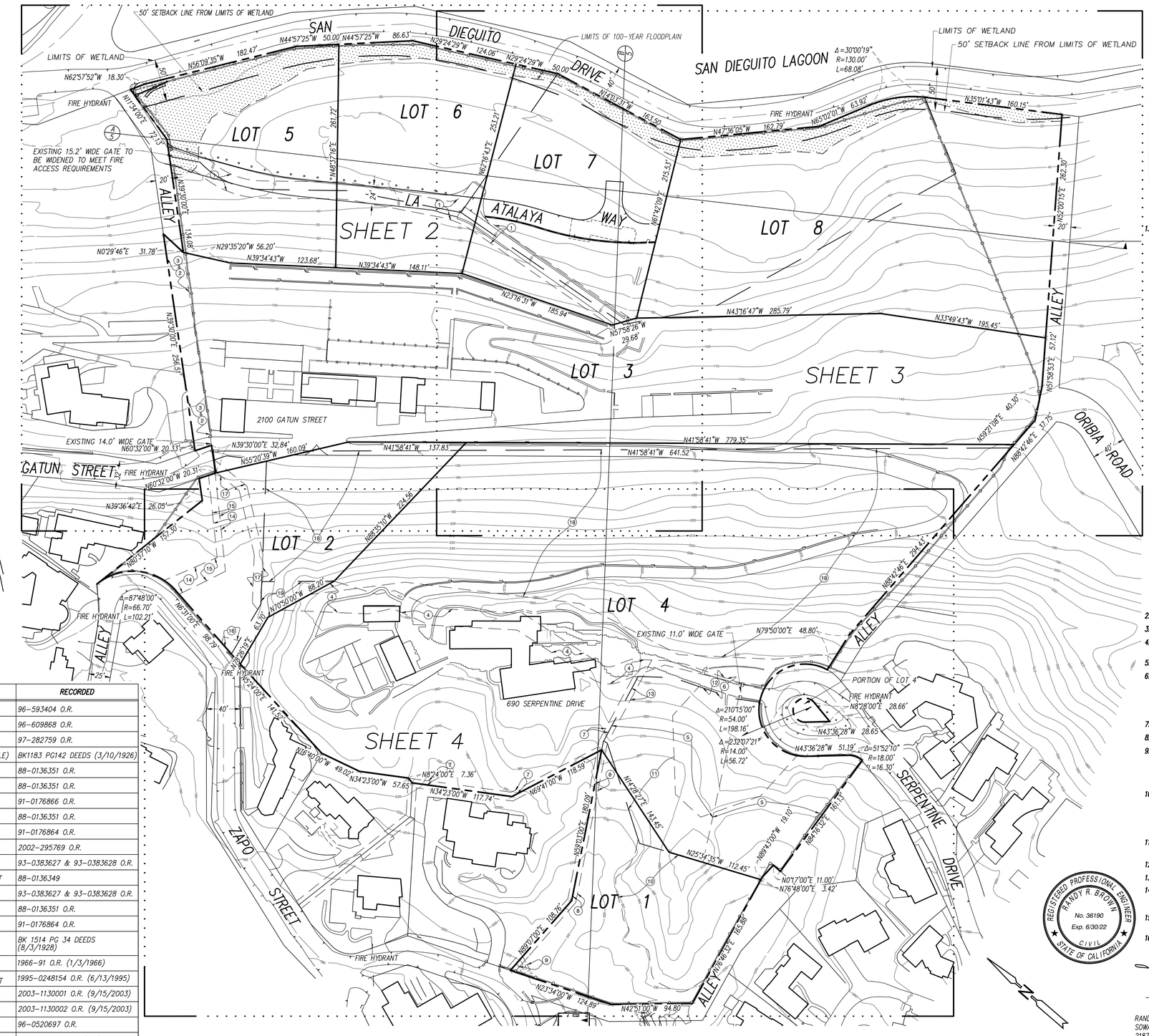
1. THIS IS NOT A BOUNDARY SURVEY. BOUNDARY INFORMATION PER RECORD DATA.
2. THE PROPERTY LINES SHOWN HEREON WERE CALCULATED FROM RECORD DATA USING A MIN. OF TWO (2) TIES TO CERTAIN FOUND SURVEY MONUMENTS.
3. EASEMENTS SHOWN HEREON ARE BASED ON PRELIMINARY TITLE REPORTS PREPARED BY FIDELITY NATIONAL TITLE COMPANY.

LOT NUMBER	GROSS AREA	NET AREA
LOT 1	41,108	41,108
LOT 2	47,505	47,505
LOT 3	173,386	173,386
LOT 4	270,130	270,130
LOT 5	47,876	43,036
LOT 6	46,987	42,524
LOT 7	51,834	41,009
LOT 8	110,013	110,013
TOTAL	788,839	768,711



VICINITY MAP

N.T.S.



KEY MAP

SCALE = 1"=60'

SCALE: 1" = 60'

EXISTING EASEMENT TABLE:

#	EXISTING PARCEL	EASEMENT	FOR	RECORDED
(1) ★	1, 2 & 3	ITEM NO. 7	INGRESS, EGRESS & UTILITIES	96-593404 O.R.
(2)	3	ITEM NO. 8	DRAINAGE INFRASTRUCTURE	96-609868 O.R.
(3)	3	ITEM NO. 9	SDG&E UTILITIES	97-282759 O.R.
	4, G, O	ITEM NO. 2	SEWER & WATER EASEMENT (UNPLOTTABLE)	BK1183 PG142 DEEDS (3/10/1926)
(4) ★	4	ITEM NO. 5	UTILITY	88-0136351 O.R.
(5) ★	G	ITEM NO. 5	DEED RESTRICTION- HEIGHT LIMITS	88-0136351 O.R.
(6) ★	4	ITEM NO. 6	ACCESS, INGRESS, EGRESS & UTILITY	91-0176866 O.R.
(7) ★	4	ITEM NO. 5	UTILITY	88-0136351 O.R.
(8)	O	ITEM NO. 9	INGRESS, EGRESS & UTILITY	91-0176864 O.R.
(9)	O	ITEM NO. 12	PRIVATE DRAINAGE CONNECTION	2002-295769 O.R.
(10)	O	ITEM NO. 10, 11	OPEN SPACE RESTRICTIONS	93-0383627 & 93-0383628 O.R.
★	O	ITEM NO. 4	HEIGHT RESTRICTION, 281' MAX OVER LOT	88-0136349
(11)	G	ITEM NO. 10, 11	OPEN SPACE RESTRICTIONS	93-0383627 & 93-0383628 O.R.
(12) ★	G	ITEM NO. 5	INGRESS, EGRESS & UTILITY	88-0136351 O.R.
(13)	G	ITEM NO. 9	INGRESS, EGRESS & UTILITY	91-0176864 O.R.
(14) ★★	U	ITEM NO. 2	ELECTRICAL, WATER, SEWER, OR GAS PIPELINES	BK 1514 PG 34 DEEDS (8/3/1928)
(15) ★★	U	ITEM NO. 6	WATER PIPELINE	1966-91 O.R. (1/3/1966)
★	U	ITEM NO. 7	HEIGHT RESTRICTION, 245' MAX OVER LOT	1995-0248154 O.R. (6/13/1995)
(16)	U	ITEM NO. 9	PRIVATE SEWER	2003-1130001 O.R. (9/15/2003)
(17)	U	ITEM NO. 10	PRIVATE DRAINAGE	2003-1130002 O.R. (9/15/2003)
(18)	4	ITEM NO. 8	OPEN SPACE PRESERVATION AREA	96-0520697 O.R.
(19) ★★★			ALLEY ADJACENT TO EXIST. PARCEL 4/LOT U	MAP 1343, REC. 6/08/1911

NOTE: ★ EASEMENT PROPOSED TO BE QUITCLAIMED WITH THIS APPLICATION
★★ EASEMENT PROPOSED TO BE VACATED WITH THIS APPLICATION
★★★ ALLEY RIGHT-OF-WAY PROPOSED TO BE VACATED WITH THIS APPLICATION

OWNERS / APPLICANT

THE SUBDIVIDER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE CITY OF DEL MAR AND ITS AGENTS, OFFICERS AND EMPLOYEES FROM ANY CLAIM, ACTION OR PROCEEDING AGAINST THE CITY OF DEL MAR OR ITS AGENTS, OFFICERS OR EMPLOYEES TO ATTACK, SET ASIDE, VOID, OR ANNUL AN APPROVAL FROM THE CITY OF DEL MAR CONCERNING THIS SUBDIVISION WHEN SUCH ACTION IS BROUGHT WITHIN THE TIME PERIOD SPECIFIED IN GOVERNMENT CODE SECTION 66499.37. THIS CERTIFICATE IS CONDITIONED UPON THE CITY OF DEL MAR PROVIDING PROMPT NOTICE TO THE SUBDIVIDER AS PROVIDED BY THE ACT.

SUBDIVIDER WILL NOT SEEK THE CREATION OF A SPECIAL DISTRICT

SIGNATURE OF OWNER / APPLICANT

5/23/18
DATE

LA ATALAYA, LLC
P.O. BOX 1129
DEL MAR, CA 92014

SITE ADDRESS: 690 SERPENTINE DRIVE
DEL MAR, CA. 92014

1. ABBREVIATED LEGAL DESCRIPTION:

299-200-62 (PARCEL 1) PORTIONS OF LOTS 783 AND 784 OF ARDEN HEIGHTS UNIT NO. 6
1854 SAN DIEGUITO DRIVE ACCORDING TO MAP THEREOF NO 1592.
* 989-25010223-D-SG4

299-200-63 (PARCEL 2) PORTIONS OF LOTS 781, 782 AND 783 OF ARDEN HEIGHTS UNIT NO. 6,
** 989-25010224-D-SG4 ACCORDING TO MAP THEREOF NO. 1592.

299-200-64 (PARCEL 3) ALL OF LOTS "A" AND "B", AND A PORTION OF LOT T OF ARDEN
2100 GATUN STREET HEIGHTS UNIT NO. 4 ACCORDING TO MAP THEREOF NO. 1343, AND
* 989-25010225-D-SG4 PORTIONS OF LOTS 780, 781, 782, 783, 784, 785 AND ORIBIA ROAD AND GATUN STREET, AS VACATED, OF ARDEN HEIGHTS UNIT NO. 6 ACCORDING TO MAP THEREOF NO. 1592.

299-200-65 (PARCEL 4) A PORTION OF LOT G AND ALL OF LOTS H,I,J AND S IN BLOCK 12
690 SERPENTINE DRIVE OF ARDEN HEIGHTS UNIT NO. 3 ACCORDING TO MAP THEREOF NO. 1285,
* 989-25010226-D-SG4 TOGETHER WITH A PORTION OF LOT T OF ARDEN HEIGHTS UNIT NO. 4, ACCORDING TO MAP THEREOF NO. 1343, AND ALL OF LOTS 780 AND 785 OF ARDEN HEIGHTS UNITS NO. 6, ACCORDING TO MAP THEREOF NO. 1592, PURSUANT TO CITY OF DEL MAR CERTIFICATE OF COMPLIANCE COC-96-1 RECORDED OCTOBER 14, 1996 AS INSTRUMENT NO. 1996-0520702 OF OFFICIAL RECORDS.

299-261-42 (LOT G) PORTIONS OF LOTS G AND O IN BLOCK 12 OF ARDEN HEIGHTS UNIT
* 989-25010228-D-SG4 NO. 3, ACCORDING TO MAP THEREOF NO. 1285 TOGETHER WITH THOSE PORTIONS OF THE ALLEYS ADJOINING SAID LOTS G AND O ON THE NORTH AND EAST CLOSED TO PUBLIC USE.

299-261-43 (LOT O) A PORTION OF LOT O IN BLOCK 12 OF ARDEN HEIGHTS NO. 3
* 989-25010229-D-SG4 ACCORDING TO MAP THEREOF NO. 1285, TOGETHER WITH THAT PORTION OF THE ALLEY ADJOINING LOTS G AND O OF SAID ARDEN HEIGHTS UNIT NO. 3 ON THE NORTH AS CLOSED TO PUBLIC USE.

299-261-14 (BLOCK 30) BLOCK 30 OF ARDEN HEIGHTS #3 ACCORDING TO MAP THEREOF
**989-25010227-D-SG4 NO. 1285.

299-192-24 (LOT U) LOT U OF BLOCK 12 OF ARDEN HEIGHTS UNIT NO. 4, ACCORDING TO
**989-25010222-D-SG4 MAP THEREOF NO. 1343 TOGETHER WITH THAT PORTION OF GATUN STREET, AS VACATED.

* -ORDER NUMBER REFLECTED ON FIDELITY NATIONAL TITLE COMPANY REPORTS DATED 9/12/18
** -ORDER NUMBER REFLECTED ON FIDELITY NATIONAL TITLE COMPANY REPORTS DATED 10/03/18

2. ASSESSOR'S NUMBER: 299-192-24, 299-261-14, 42 & 43, 299-200-62, 63, 64 & 65

3. DATE OF PREPARATION: 11/05/19

4. GROSS AREA: 788,839 SF
NET AREA: 768,711 SF

5. TOTAL NUMBER OF PROPOSED LOTS: 8

6. PRESENT ZONING: R1-40
PROPOSED ZONING: R1-40
PRESENT USE: RESIDENTIAL
PROPOSED USE: RESIDENTIAL
MINIMUM LOT AREA REQUIRED: 40,000 SF

7. GENERAL PLAN DESIGNATION: VERY LOW DENSITY RESIDENTIAL

8. ASSOCIATED PERMITS: N/A

9. LOCATION AND STATUS OF EXISTING LEGAL ACCESS TO SUBJECT PROPERTY FROM A PUBLICLY MAINTAINED ROAD: SAN DIEGUITO DRIVE – 40' WIDE
GATUN STREET – 32' WIDE
ZAPO STREET – 32' TO 40' WIDE
SERPENTINE DRIVE – 40' WIDE

10. WATER DISTRICT: CITY OF DEL MAR
SEWER DISTRICT: CITY OF DEL MAR
FIRE DISTRICT: CITY OF DEL MAR
SCHOOL DISTRICT: DEL MAR ELEMENTARY / SAN DIEGUITO UNION HIGH SCHOOL
UTILITY PROVIDER: SAN DIEGO GAS & ELECTRIC

11. BASIS OF ELEVATIONS: CITY OF DEL MAR VERTICAL BENCHMARK SYSTEM
STATION DESIGNATION "SNAKEWALL" ELEVATION = 303.64'

12. CALIFORNIA COORDINATE: 292-1691

13. TAX RATE AREA: 11001

14. SOLAR ACCESS: ALL LOTS WITHIN THIS SUBDIVISION HAVE MINIMUM OF 100 SQUARE FEET OF SOLAR ACCESS FOR EACH FUTURE DWELLING UNIT ALLOWED BY THIS SUBDIVISION.

15. UTILITIES: EACH UNIT WILL HAVE SEPARATE WATER, GAS AND ELECTRIC METERS AND SEWER LATERALS

16. EARTHWORK QUANTITIES: CUT: 250 C.Y. MAX CUT: 3'
FILL: 450 C.Y. MAX FILL: 8'
IMPORT: 200 C.Y.

REGISTERED PROFESSIONAL ENGINEER
RANDY R. BROWN
No. 36190
Exp. 6/30/22
CIVIL
STATE OF CALIFORNIA

SIGNATURE OF PREPARER

11/05/19
DATE

RANDY R. BROWN RCE 36190 EXP. 6/30/20
SOWARDS AND BROWN ENGINEERING, INC.
2187 NEWCASTLE AVENUE SUITE 103
CARDIFF BY THE SEA
CALIFORNIA 92007
PHONE: (760) 436-8500

REV 1/19/21
JOB NO. 18-030 11/05/19

SOWARDS & BROWN ENGINEERING
CONSULTING ENGINEERS
2187 NEWCASTLE AVENUE SUITE 103
CARDIFF BY THE SEA, CA., 92007
TEL. 760/436-8500 FAX 760/436-8603

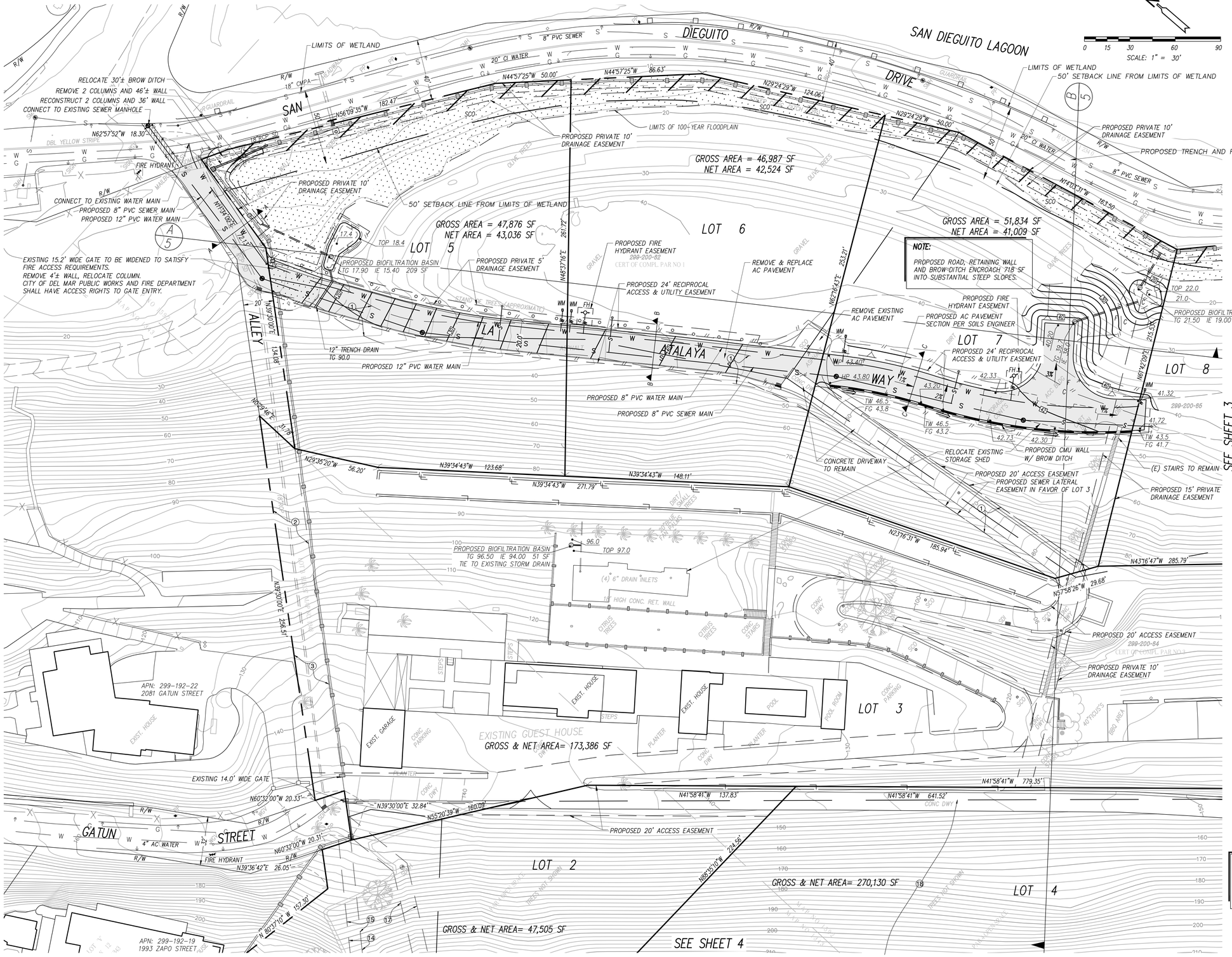
p:\2018\18-030\18030tsm.dwg

VESTING TENTATIVE MAP FOR LA ATALAYA

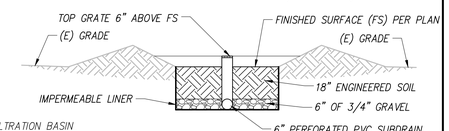
TM No. 18-004

SCALE: 1" = 30'

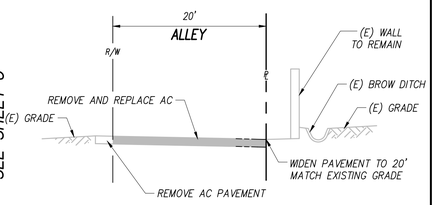
LEGEND	SYMBOL
SUBDIVISION LINE	
PROPOSED PROPERTY LINE	
EXISTING PROPERTY LINE	
ADJACENT PROPERTY LINE	
EASEMENT LINE	
SNAKE WALL W/ COLUMNS	
EXISTING BUILDING	
LIMITS OF AC	
PROPOSED AC PAVEMENT	
SAW CUT LINE	
LIMITS OF WORK	
PROPOSED WATER SERVICE	W
PROPOSED FIRE HYDRANT	
PROPOSED SEWER LATERAL	S
SEWER CLEAN OUT	
EXISTING FIRE HYDRANT	
EXISTING GUARDRAIL	
EXISTING POWER POLE (PP)	
RELINQUISH ACCESS RIGHTS	



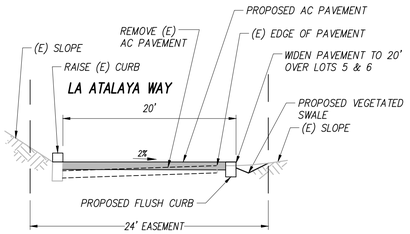
TYPICAL BASIN SECTION
N.T.S.



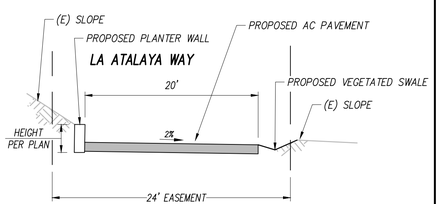
SECTION A-A
N.T.S.



SECTION B-B
N.T.S.



SECTION C-C
N.T.S.



NOTE:
SEE SHEET 1 FOR EASEMENT LEGEND
SEE SHEET 3 FOR SPECIAL NOTES

REGISTERED PROFESSIONAL ENGINEER
ANDREW B. BROWN
No. 36190
Exp. 6/30/20
CIVIL
STATE OF CALIFORNIA

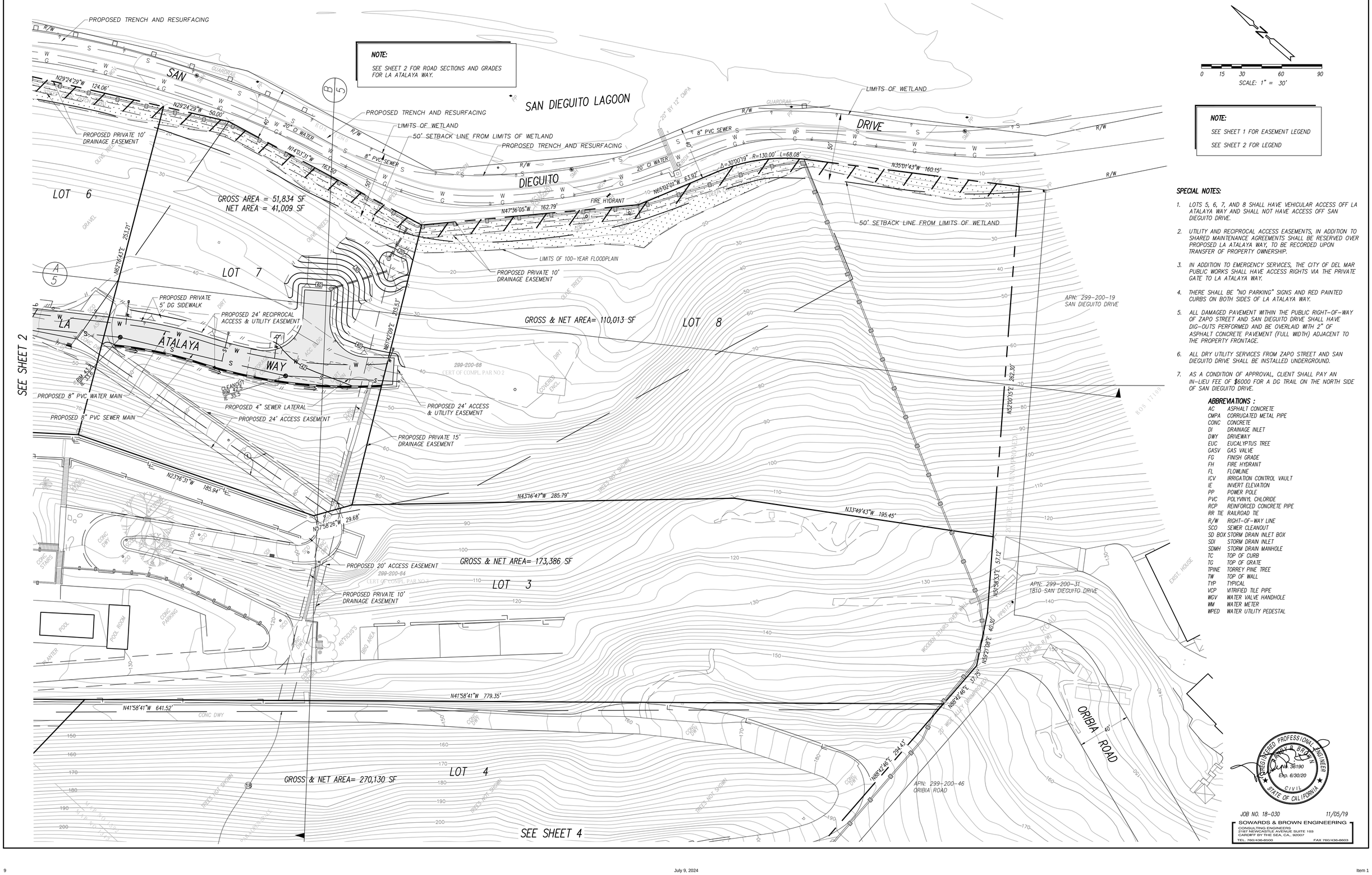
JOB NO. 18-030 11/05/19

SOWARDS & BROWN ENGINEERING
CONSULTING ENGINEERS
2187 NEWCASTLE AVENUE SUITE 103
CARDIFF BY THE SEA, CA., 92007
TEL: 760/436-8500 FAX 760/436-8603

VESTING TENTATIVE MAP FOR LA ATALAYA

TM No. 18-004

SHEET 3 OF 6



NOTE:

SEE SHEET 1 FOR EASEMENT LEGEND

SEE SHEET 2 FOR LEGEND

SPECIAL NOTES:

1. LOTS 5, 6, 7, AND 8 SHALL HAVE VEHICULAR ACCESS OFF LA ATALAYA WAY AND SHALL NOT HAVE ACCESS OFF SAN DIEGUITO DRIVE.
2. UTILITY AND RECIPROCAL ACCESS EASEMENTS, IN ADDITION TO SHARED MAINTENANCE AGREEMENTS SHALL BE RESERVED OVER PROPOSED LA ATALAYA WAY, TO BE RECORDED UPON TRANSFER OF PROPERTY OWNERSHIP.
3. IN ADDITION TO EMERGENCY SERVICES, THE CITY OF DEL MAR PUBLIC WORKS SHALL HAVE ACCESS RIGHTS VIA THE PRIVATE GATE TO LA ATALAYA WAY.
4. THERE SHALL BE "NO PARKING" SIGNS AND RED PAINTED CURBS ON BOTH SIDES OF LA ATALAYA WAY.
5. ALL DAMAGED PAVEMENT WITHIN THE PUBLIC RIGHT-OF-WAY OF ZAPO STREET AND SAN DIEGUITO DRIVE SHALL HAVE DIG-OUTS PERFORMED AND BE OVERLAID WITH 2" OF ASPHALT CONCRETE PAVEMENT (FULL WIDTH) ADJACENT TO THE PROPERTY FRONTAGE.
6. ALL DRY UTILITY SERVICES FROM ZAPO STREET AND SAN DIEGUITO DRIVE SHALL BE INSTALLED UNDERGROUND.
7. AS A CONDITION OF APPROVAL, CLIENT SHALL PAY AN IN-LIEU FEE OF $6000 FOR A DG TRAIL ON THE NORTH SIDE OF SAN DIEGUITO DRIVE.

ABBREVIATIONS :

AC	ASPHALT CONCRETE
CMPA	CORRUGATED METAL PIPE
CONC	CONCRETE
DI	DRAINAGE INLET
DWY	DRIVEWAY
EUC	EUCALYPTUS TREE
GASV	GAS VALVE
FG	FINISH GRADE
FH	FIRE HYDRANT
FL	FLOWLINE
ICV	IRRIGATION CONTROL VAULT
IE	INVERT ELEVATION
PP	POWER POLE
PVC	POLYVINYL CHLORIDE
RCP	REINFORCED CONCRETE PIPE
RR TIE	RAILROAD TIE
R/W	RIGHT-OF-WAY LINE
SCO	SEWER CLEANOUT
SD BOX	STORM DRAIN INLET BOX
SDI	STORM DRAIN INLET
SDMH	STORM DRAIN MANHOLE
TC	TOP OF CURB
TG	TOP OF GRATE
TPINE	TORREY PINE TREE
TW	TOP OF WALL
TYP	TYPICAL
VCP	VITRIFIED TILE PIPE
WCV	WATER VALVE HANDHOLE
WM	WATER METER
WPED	WATER UTILITY PEDESTAL

REGISTERED PROFESSIONAL ENGINEER
JOHNNY R. BROWN
No. 36190
Exp. 6/30/20
CIVIL
STATE OF CALIFORNIA

JOB NO. 18-030 11/05/19

SOWARDS & BROWN ENGINEERING
CONSULTING ENGINEERS
2187 NEWCASTLE AVENUE SUITE 103
CARDIFF BY THE SEA, CA., 92007
TEL. 760/436-8500 FAX 760/436-8603

VESTING TENTATIVE MAP FOR LA ATALAYA

TM No. 18-004

SHEET 4 OF 6

SEE SHEET 2

SEE SHEET 3

LOT 2

GROSS & NET AREA= 47,505 SF

LOT 4

GROSS & NET AREA= 270,130 SF

LOT 1

GROSS & NET AREA= 41,108 SF

ALLEY TO BE VACATED AS A PART OF THIS APPLICATION

PROPOSED TRENCH AND RESURFACING

CONNECT TO EXISTING SEWER MANHOLE

APPROXIMATE LOCATION OF EXISTING 6" VCP SEWER

EXISTING MAIN HOUSE COMPOUND

EXISTING 11.0' WIDE GATE

PORTION OF LOT 4

APN: 299-192-19
1993 ZAPO STREET

APN: 299-261-22
1969 ZAPO STREET

APN: 299-261-34
1945 ZAPO STREET

APN: 299-261-35
1905 ZAPO STREET

APN: 299-261-23
1919 ZAPO STREET

APN: 299-261-04
1959 ZAPO STREET

APN: 299-200-46
ONIBIA ROAD

APN: 299-261-45
641 SERPENTINE DRIVE

APN: 299-261-11
SERPENTINE DRIVE

APN: 299-261-10
624 SERPENTINE DRIVE

APN: 299-261-08
548 SERPENTINE DRIVE

APN: 299-261-07
540 SERPENTINE DRIVE

APN: 299-261-06
532 SERPENTINE DRIVE

ZAPO STREET

SERPENTINE DRIVE

ALLEY (UNIMPROVED)

ALLEY

0 15 30 60 90

SCALE: 1" = 30'

NOTE:

SEE SHEET 1 FOR EASEMENT LEGEND

SEE SHEET 2 FOR LEGEND

SEE SHEET 3 FOR SPECIAL NOTES

REGISTERED PROFESSIONAL ENGINEER
JAMES R. BROWN
No. 36190
Exp. 6/30/20
CIVIL
STATE OF CALIFORNIA

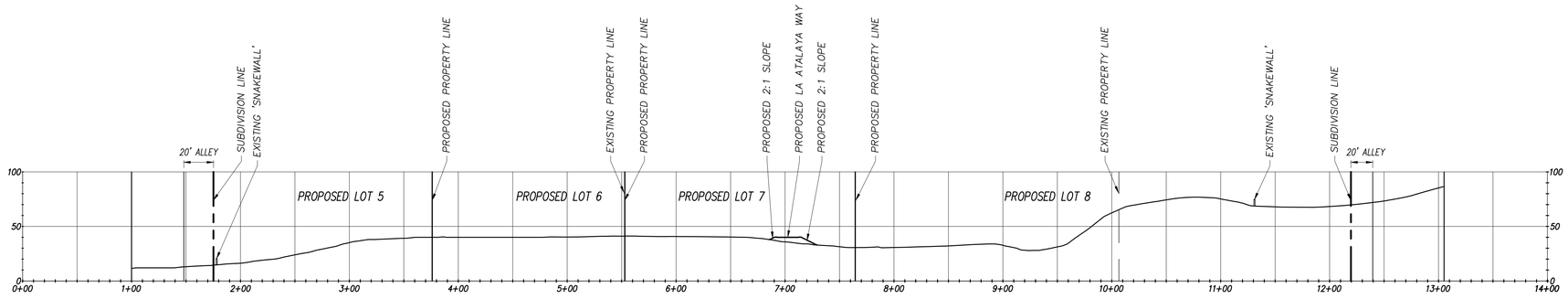
REV 1/19/21

JOB NO. 18-030 11/05/19

SOWARDS & BROWN ENGINEERING
CONSULTING ENGINEERS
2167 NEWCASTLE AVENUE SUITE 103
CARDIFF BY THE SEA, CA., 92007
TEL. 760-436-5500 FAX 760/436-8603

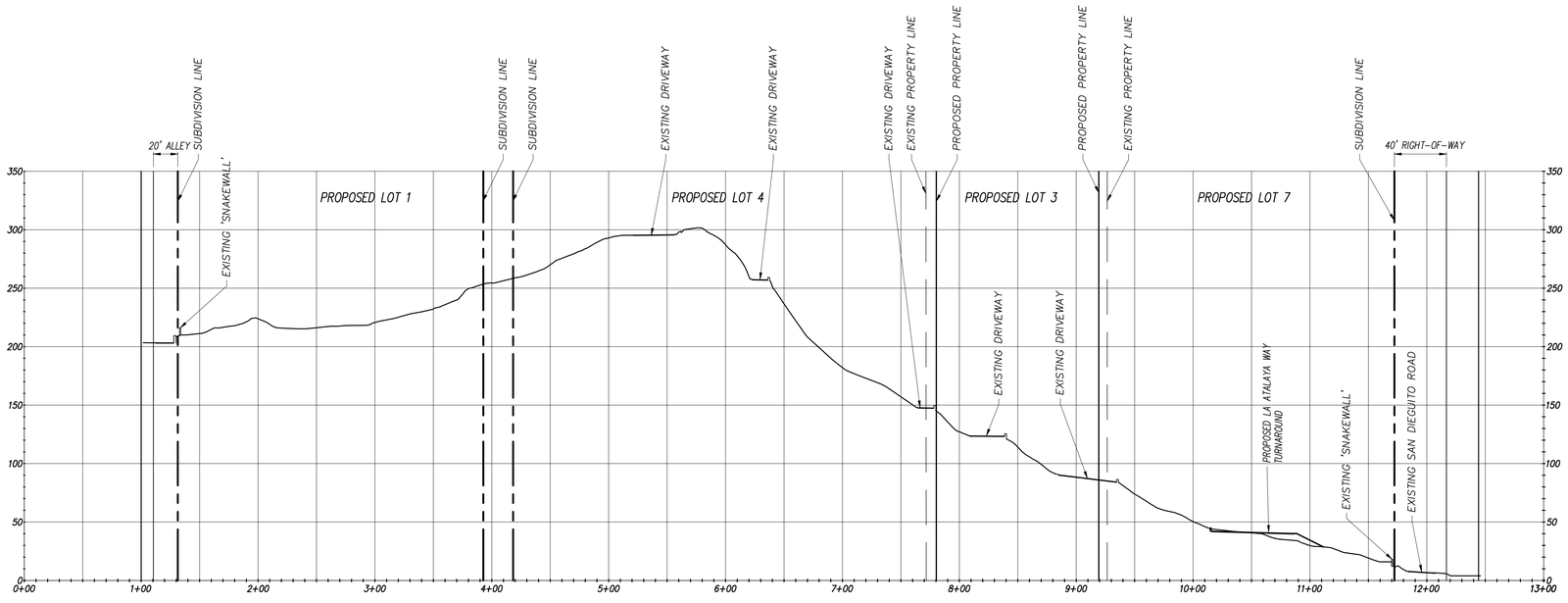
VESTING TENTATIVE MAP FOR LA ATALAYA

TM No. 18-004



SECTION A

SCALE = 1"=60'



SECTION B

SCALE = 1"=60'

p:\2018\18-030\18030tsm.dwg

REGISTERED PROFESSIONAL ENGINEER
JIMMY R. BROWN
No. 36190
Exp. 6/30/20
CIVIL
STATE OF CALIFORNIA

JOB NO. 18-030 11/05/19

SOWARDS & BROWN ENGINEERING
CONSULTING ENGINEERS
2167 NEWCASTLE AVENUE SUITE 103
CARDIFF BY THE SEA, CA., 92007
TEL. 760/436-8500 FAX 760/436-8603

VESTING TENTATIVE MAP FOR LA ATALAYA

TM No. 18-004

SHEET 6 OF 6

0 10 20 40 60
SCALE: 1" = 20'

AASHTO: 36 MPH SIGHT DISTANCE (345 FEET)
NO RESTRICTION

345'

R/W

GRAND AVE

DIRT/ PARKING

SMH

SIGN

DBL YELLOW STRIPE

SAN DIEGUITO LAGOON

RELOCATE A PORTION OF EXISTING SNAKE WALL AND BROW DITCH TO PROVIDE 33 MPH STOPPING SIGHT DISTANCE

N62°57'52"W 18.30'

PP

GUARDRAIL

HEADWALL

EXISTING SPEED BUMP

AASHTO: 33 MPH STOPPING DISTANCE (230 FEET)

NO VISUAL OBSTRUCTION ALLOWED IN THIS SIGHT TRIANGLE

MAILBOXES

15'

SAN DIEGUITO DRIVE

230'

N56°09'35"W 182.47'

N44°57'25"W 50.00'

N44°57'25"W 186.63'

40'

PROPOSED ROAD WIDENING

N11°34'00"E 72.13'

7' HIGH CONC. WALL

SDBOX

2'DEEP CONC. DITCH (TYP.)

NO VISUAL OBSTRUCTION ALLOWED IN THIS SIGHT TRIANGLE

ALLEY

N39°30'00"E 134.08'

LA ATALAYA WAY

LOT 5

LOT 6

OLIVE TREES

289-200-82
CERT OF COMPL PAR NO 1

STAND OF TREES (APPROXIMATE)

GRAVEL

10

20

30

40

50

NOTE:

POSTED SPEED LIMIT IS 25 MPH

WESTBOUND 85th % SPEED IS 33 MPH

EASTBOUND 85th % SPEED IS 36 MPH

LINE-OF-SIGHT 15' BACK FROM EDGE OF ROADWAY – AASHTO POLICY

SIGHT DISTANCE EXHIBIT

SCALE = 1"=20'

REGISTERED PROFESSIONAL ENGINEER
JERRY R. BROWN
No. 36190
Exp. 6/30/20
CIVIL
STATE OF CALIFORNIA

JOB NO. 18-030 11/05/19

SOWARDS & BROWN ENGINEERING
CONSULTING ENGINEERS
2167 NEWCASTLE AVENUE SUITE 103
CARDIFF BY THE SEA, CA., 92007
TEL. 760/436-8500 FAX 760/436-8603

p:\2018\18-030\18030tsm.dwg

RESOLUTION NO. 2021-05

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, TO ADOPT A MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING REPORTING PROGRAM AND APPROVING A TENTATIVE TRACT MAP (TTM18-004), COASTAL DEVELOPMENT PERMIT (CDP18-016), AND CONDITIONAL USE PERMIT (CUP18-004) TO SUBDIVIDE EIGHT LOTS TOTALING APPROXIMATELY 18.1 ACRES OF LAND KNOWN AS "LA ATALAYA" INTO EIGHT RECONFIGURED LOTS SOUTH OF SAN DIEGUITO DRIVE, NORTH OF ZAPO STREET, EAST OF GATUN STREET, AND WEST OF SERPENTINE DRIVE; TO MAKE RELATED ROADWAY AND UTILITY IMPROVEMENTS

WHEREAS, La Atalaya, LLC (Applicant) is the owner of real property commonly referred to as "La Atalaya" identified by Assessor Parcel Numbers (APNs) 299-200-65-00, 299-261-43-00, 299-261-42-00, 299-261-14-00, 299-192-24-00, 299-200-64-00, 299-200-62-00, and 299-200-63-00; and

WHEREAS, the Applicant applied for a Tentative Tract Map (TTM18-004), Coastal Development Permit (CDP18-016), and Conditional Use Permit (CUP18-004), to reconfigure eight existing lots and make associated roadway and utility improvements; and

WHEREAS, the Project site is located within the R1-40 Zone (Very Low Density Residential), the Bluff, Slope and Canyon Overlay Zone (BSC-OZ), the Lagoon Overlay Zone (L-OZ), and the Open Space Overlay Zone; and

WHEREAS, the Project requests a Wetland Buffer reduction pursuant to Del Mar Municipal Code (DMMC) Section 30.53.100 in the L-OZ from 100 feet to 50 feet; and

WHEREAS, the City determined that the Project was subject to the California Environmental Quality Act (CEQA) and as such, prepared an Initial Study and Mitigated Negative Declaration (IS/MND) (State Clearinghouse (SCH) No. 2020100558) for the project. The IS/MND was prepared in accordance with applicable law, including CEQA, Public Resources Code of Regulations section 21000 et seq., the CEQA Guidelines, 14 California Code of Regulations section 15000 et seq., and the City's Supplemental CEQA Regulations. The IS/MND was circulated for a 30-day review period to the public, responsible agencies, and other interested persons for review and comment for between October 29, 2020 to November 30, 2020; and

WHEREAS, written comments were received on the IS/MND during the 30-day review period; and

WHEREAS, the IS/MND concluded that the implementation of the Project will have less than significant impacts with mitigation measures included for potential adverse impacts to Biological Resources, Cultural Resources, Noise, and Tribal Cultural Resources; and

WHEREAS, under CEQA, a lead agency makes a determination on a Project requiring the implementation of measures to mitigate or avoid significant effects on the environment; and CEQA also requires a lead agency to adopt a Mitigation Monitoring and Reporting Program (MMRP) to ensure compliance with the mitigation measures during Project implementation. As such, a MMRP has been prepared for the Project for consideration by the City of Del Mar City Council as the decision-maker and lead agency for the Project; and

Whereas, the City of Del Mar City Hall located at 1050 Camino del Mar, Del Mar, CA 92014 (online at www.delmar.ca.us) is the custodian of the documents and other material which constitutes the record of proceedings upon which a decision is based; and

WHEREAS, on January 12, 2021, the Planning Commission of the City of Del Mar held a public hearing to consider a recommendation to the Del Mar City Council regarding adoption of the IS/MND and MMRP and approval of TTM18-004, CDP18-016, and CUP18-004, and at which time all persons desiring to be heard were heard; and

WHEREAS, evidence was submitted and considered to include without limitation:

a. Plans submitted by the Applicant.
b. Written information submitted with the application.
c. Oral testimony from Staff, the applicant, and the public.
d. Staff report, dated January 12, 2021, which is incorporated by this reference, as though fully set forth herein.
e. Additional information submitted during the hearing; and

WHEREAS, the Planning Commission received testimony from neighboring properties primarily concerned by potential impacts related to the relocation of a public sewer line from proposed Lot 1 into the adjacent unimproved public alley and the improvement of a service road to access an existing manhole in a public alley; and

WHEREAS, on January 12, 2021, the Planning Commission of the City of Del Mar recommended to the City Council adoption of the IS/MND and MMRP and approval of TTM18-004, CDP18-016, CUP18-004, and SV20-001; and for staff to research alternatives to the sewer and alley improvements adjacent to proposed Lot 1; and

WHEREAS, staff from the Planning and Community Development Department met with the City Engineer/Public Works Director who determined that the sewer relocation and alley improvements adjacent to proposed Lot 1 could be re-evaluated at the time of any future residential development and that alternatively the requirement of an easement over the existing sewer line would be an appropriate condition of approval for the TTM; and

WHEREAS, on January 19, 2021, the Applicant submitted a revised TTM to omit the sewer and alley improvements; and

WHEREAS, on February 1, 2021, the City Council of the City of Del Mar held a public hearing to consider adoption of the IS/MND and MMRP and approval of TTM18-004, CDP18-016, and CUP18-004, and at which time all persons desiring to be heard were heard; and

WHEREAS, evidence was submitted and considered to include without limitation:

a. Plans submitted by the Applicant.
b. Written information submitted with the application.
c. Oral testimony from Staff, the applicant, and the public.
d. Staff report, dated February 1, 2021, which is incorporated by this reference, as though fully set forth herein.
e. Additional information submitted during the hearing.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Del Mar, California, that the City Council adopts the Mitigated Negative Declaration (SCH No. 2020100558) for Project and the associated Mitigation Monitoring and Reporting Program, based on the following findings:

1. That the revised Mitigated Negative Declaration (SCH No. 2020100558) for the Project has been prepared in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the CEQA Guidelines thereto (14 California Code of Regulations Section 15000 et seq.);

2. That the MND for the Project reflects the independent judgment of the City of Del Mar as the lead agency;

3. That the MND for the Project is accurate and complete.

AND BE IT FURTHER RESOLVED by the City Council of the City of Del Mar, California, that the Tentative Tract Map (TTM18-004) for the above-mentioned subdivision of property be approved based upon the following findings:

1. The proposed map is consistent with the Del Mar Community (General) Plan in that the proposed residential use and density of development are permitted under the General (Community) Plan requirements;

2. As conditioned, the design and improvement of the proposed subdivision is consistent with the General (Community) Plan in that the design provides sufficient lot area and street access for proper development;

3. The site is physically suitable for the type of development in that the lot is capable of supporting the proposed residential subdivision and potential future development in the R1-40 Zone;

4. The site is physically suitable for the proposed density of development in that the project is within the standards specified in the Del Mar Subdivision and Zoning Ordinances;

5. As conditioned, the design of the subdivision and the proposed improvements are not anticipated to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, as determined by CEQA review analyzed in the IS/MND;

6. As conditioned, the design of the subdivision and the type of improvements are not anticipated to cause serious public health problems, as determined by CEQA review analyzed in the IS/MND;

7. The design of the subdivision and the type of improvements will not conflict with any easements acquired by the public at-large and which are recorded or established by judgment of a court of competent jurisdiction;

8. The proposed map meets the requirements of the Subdivision Map Act and the Del Mar Subdivision Ordinance, and has been approved by the City Engineer as being consistent with those requirements; and

9. All provisions of the Del Mar Municipal Code pertaining to subdivisions are met.

AND BE IT FURTHER RESOLVED by the City Council of the City of Del Mar, California, that Coastal Development Permit (CDP18-016) for the above-mentioned subdivision of property and associated roadway and utility development be approved based upon the following findings:

1. That the use for which the CDP is applied is permitted within the zone in which the property is located;

   The reconfiguration of land for eight lots intended for residential use is permitted within the R1-40 (Very Low Density Residential) Zone in which the property is located;

2. That the proposal meets the criteria of the applicable chapters of this Title;

   The proposed project, as conditioned, meets the criteria of the applicable chapters of the Del Mar Zoning Code, specifically Chapter 30.10 (R1-40, Very Low Density Residential), Chapter 30.52 (Bluff, Slope and Canyon Overlay Zone), Chapter 30.53 (Lagoon Overlay Zone), Chapter 30.60 (Open Space Overlay Zone), Chapter 30.61 (Public Access), and Chapter 30.80 (Parking);

3. That the granting of such Coastal Development Permit will be in conformity with the certified City of Del Mar Local Coastal Program (LCP);

The CDP, as conditioned, will be in conformity with the certified City of Del Mar LCP with respect to resource protection standards, avoidance of hazards regulations and public access standards;

4. That for all development proposals located seaward of the first public roadway, the proposed development is consistent with and implements the applicable requirements for provision of public access contained in this Title and in the public access and public recreation policies of Chapter 3 of the California Coastal Act;

   The development, which is located within an identified Public Access Trail site along the frontage of proposed lots 5-8 in the City's Land Use Plan of the City's Local Coastal Program, as conditioned, is consistent with and implements the applicable requirements for provision of public access contained in City's certified LCP and in the public access and public recreation policies of Chapter 3 of the California Coastal Act;

5. That for all development proposals involving the construction or placement of a shoreline protection device, that the proposed development is consistent with and implements the applicable requirements of the Beach Overlay Zone and Setback Seawall Zone provisions contained in this Title and is consistent with and implements the provisions of the Chapter Three Policies of California Coastal Act;

   Due to the site's location, no shoreline protection devices are proposed or required as part of this project;

6. That the proposal is consistent with and implements the provisions of public view protection Policies IV-22 through IV-27 of the City of Del Mar LCP Land Use Plan;

   The project is consistent with and implements the provisions of public view protection policies of the City's certified LCP, including those of the LCP Land Use Plan;

7. That for all development proposals on sites with identified wetland resources, that the proposed development is consistent with and implements the provisions of the Lagoon Overlay Zone as contained within the City of Del Mar Local Coastal Program Implementing Ordinances and Land Use Plan;

   The development proposal, which is partially located in the L-OZ, as conditioned, is consistent with and implements the provisions of that L-OZ, as contained within the City's LCP Implementing Ordinances and Land Use Plan.

AND BE IT FURTHER RESOLVED by the City Council of the City of Del Mar, California, that Conditional Use Permit (CUP18-004) for the above-mentioned subdivision

of property and the associated roadway and utility improvements be approved based upon the following findings:

1. That the use for which the Conditional Use Permit is applied for is permitted within the zone in which the property is located;

   The current request to improve a private street referred to as "La Atalaya Way" and the potential future development of single-family residences with associated amenities are permitted in the R1-40 Zone, BSC-OZ, and the L-OZ;

2. That the granting of such Conditional Use Permit will not be detrimental to the public health, safety, comfort, convenience and general welfare, will not adversely affect the established character of the surrounding neighborhood, and will not be injurious to the property or improvements in such vicinity and zone in which the property is located;

   The established character of the surrounding neighborhood is one of single-family residences and vacant residential lots located within the R1-40 Very Low Density Residential Zone, BSC-OZ, Open Space Zone, and the L-OZ. The project has been reviewed to ensure that it would not adversely affect the natural resources found in the referenced Overlay Zones. As the application for subdivision only proposes a reconfiguration of lots with no net new lots created, and associated roadway and utility improvements at this time, any other potential improvements have been shown for conceptual and environmental review purposes (the project does not include the development of new residences). As such, the granting of the CUP would not be injurious to the property or improvements in the vicinity of the site;

3. That the proposed use is properly located in relation to the community as a whole and to other land uses and to transportation and service facilities in the vicinity; and further, that the use can be adequately served by such public facilities and street capacities without placing an undue burden on such facilities and streets;

   The proposed residential use is properly located within the community. Any future development of a single-family residence would be an allowed use within the R1-40 Zone and associated Overlay Zones. As conditioned, this subdivision project involving the re-configuration of eight legal parcels of land into eight zoning and subdivision compliance residential parcels would not place an undue burden upon public streets or public facilities. Further, the proposed request includes the vacation of two public easements and one undeveloped "paper alley" all of which are no longer in use and not needed for future City services in the area;

4. That the site is of sufficient size to accommodate the proposed use and all yards, open spaces, walls and fences, parking, loading, landscaping and such other features as are required by this Chapter or as are needed, in the opinion

of the Planning Commission, or City Council on appeal, are properly provided to be compatible and harmonious with nearby uses;

The requirements of the R1-40 Zone call for a minimum lot size of 40,000 square feet in area. The eight developable lots would result in at least a 40,000 square feet minimum lot size required for the R1-40 Zone. The lots are of sufficient size to accommodate all uses and improvements required by the zone while maintaining the required yards, steep slope setback areas, and 50-foot wetland buffer areas of the R1-40 Zone, BSC-OZ, and L-OZ;

5. That the granting of such Conditional Use Permit will not be contrary to the adopted Community Plan, including its goals, objectives, or policies, or to the objectives of any ordinance, regulation, or plan in effect to implement said Community Plan;

   This CUP request involves a proposal to reconfigure eight lots of approximately 18.1 acres of land into eight different lots and to construct roadway and utility improvements within the BSC-OZ and L-OZ. As proposed and conditioned, the subdivision would be consistent with the use, density, and property development standards of the R1-40 Zone; the standards for protection of sensitive natural resources of the BSC-OZ and L-OZ; and the access, public view, and resource protection standards of the City's certified LCP.

AND BE IT FURTHER RESOLVED by the City Council of the City of Del Mar, California, that the steep slope encroachment required for the private street improvement across proposed Lots 5-8 be approved based upon the following finding:

1. Pursuant to DMMC Section 30.52.060A1.d, improvements are allowed to encroach into the steep slope area by 10% when less than 75% of the site contains steep slopes and a finding can be made that there is no feasible alternative to slope encroachment;

   The private street improvements encroach into the steep slope areas by approximately 4%, which is less than the allowable 10%. The new roadway would be roughly located where the existing driveway currently crosses the existing two lots, so placement of the new road in the existing location would minimize the amount of new disturbance to the steep slopes and steep slope setbacks. Given the steep slopes to the south and the wetland buffer to the north of the lots, it appears that slope encroachment is required in order to have an adequate building site outside of the protected resources for future residences.

AND BE IT FURTHER RESOLVED by the City Council of the City of Del Mar, California, that as required by the Bluff, Slope, and Canyon Overlay Zone for the above-mentioned subdivision of property be approved based on the following findings:

1. The proposed design and improvements of the subdivision will be consistent with the criteria of the Bluff, Slope, and Canyon Overlay Zone;

The proposed design and improvements of the subdivision would be consistent with the criteria of the BSC-OZ in that each lot has demonstrated that there are buildable areas outside of the steep slope and steep slope setbacks;

2. No subdivision shall be approved which creates a lot or lots that are composed entirely or nearly entirely of substantial steep slopes as defined in this Chapter;

   The subdivision has been created in such a way that each of the vacant lots would have a maximum of 75.1% or less steep slopes which leaves a building site of 25% or greater outside of the substantial steep slopes;

3. No subdivision or boundary adjustment shall be approved for creation or realignment of a lot(s) that would be incapable of supporting subsequent construction with the provision of the steep slope setbacks specified in the Bluff, Slope, and Canyon Overlay Zone;

   As designed, the subdivision has demonstrated the ability to support construction outside of the steep slopes and steep slope setbacks.

AND BE IT FURTHER RESOLVED by the City Council of the City of Del Mar, California, that the request for a wetland buffer reduction pursuant to DMMC Section 30.53.100(B) from 100 feet to 50 feet for proposed Lots 5-8 be approved based upon the following finding:

1. That the physical characteristics of the site, such as the size and dimensions of the property are adequate to protect the resources of the adjacent wetlands, based on site-specific factors. When making such a finding, the Planning Commission shall, in consultation with the California Department of Fish and Game, consider site-specific factors such as the type and size of the development proposed; the mitigation measures provided (such as planting of vegetation or construction of fencing); elevation differentials which may exist between the proposed development and wetland areas; the need for upland transitional habitat; or other similar factors which will serve to contribute to the purposes of a wetland buffer area;

   A 50-foot wetland buffer is appropriate because of the location of San Dieguito Drive, the existing onsite historic Snake Wall, which consists of a six-foot-tall masonry barrier that isolates the project boundary from off-site wetland resources, and the inclusion of an open space easement which would protect 0.51 acres of Southern Maritime Chaparral. The Snake Wall has served well to prevent domestic animals from obtaining access into the wetlands. Implementation of a full 100-foot wetland buffer does not appear the security of the San Dieguito wetlands and reduction in the wetland buffer does not appear to result in any further protection of the wetlands from the existing conditions in any way. However, establishment of a 100-foot wetland buffer would substantially limit the future potential development of the parcels at the northern

portion of the site further into the steep slopes. This would result in an adverse impact upon Southern Maritime Chaparral and could create potential visual impacts. Further, the City has received concurrent from California Department of Fish and Wildlife for a reduction in wetland buffer from 100 feet to 50 feet.

AND BE IT FURTHER RESOLVED by the City Council of the City of Del Mar, California, that as required by the Lagoon Overlay Zone for the above-mentioned subdivision of property be approved based on the following finding:

1. No subdivision shall be approved unless a finding is made that the proposed design of the subdivision and its improvements will be consistent with the criteria of the Lagoon Overlay Zone. Specifically, no subdivision shall be approved for creation of a lot(s) which would be incapable of either: 1) supporting the construction of a use allowed within the underlying zone; or 2) supporting such construction with provision of the applicable wetland setbacks and other resource protection measures required pursuant to this Chapter. In reviewing the subdivision proposal, there shall be consideration of the probable impacts that the project, including subsequent development on the lot(s), will have on preservation of wetlands resources;

   As evidenced by a Future Development Planning Study, in the event that future development of new residence(s) on the six vacant lots could be supported outside of the proposed 50-foot wetland buffer and would be required to meet the development standards of the L-OZ.

AND BE IT FURTHER RESOLVED by the City Council of the City of Del Mar, California, that applications TTM18-004, CDP18-016, and CUP18-004 are approved subject to the following conditions:

[Note: The conditions listed below may have intentional gaps in numbering or lettering.]

General Conditions:

G-1 *[Business License]*
Prior to commencement of any work on site, all contractors and subcontractors shall obtain a valid City of Del Mar Business License. The general contractor shall be responsible for ensuring that all subcontractors obtain required Business License and shall retain copies of said permits on site for verification by City staff.

G-3 *[Development Authorization Limited to Plan Set]*
The approvals are granted based on submitted plans dated January 19, 2021 and so identified by the staff of the Del Mar Planning and Community Development Department. Revisions to these plans and/or any proposals for modification shall require review and prior authorization from the appropriate entities of the City of Del Mar.

G-4 *[Encroachment Permit for Work in Right-of-Way]*
Any work proposed or required within a City of Del Mar public right-of-way or access easement, or required within a public right-of-way or access easements pursuant to the conditions of approval of this actions, shall be subject to the prior receipt of a City of Del Mar Encroachment Permit. Applications for Encroachment Permits shall include plans depicting all proposed private and public improvements including, but not limited to, improvements involving drainage, grading and/or public utilities. The required Encroachment Permit shall be subject to review and approval by the City of Del Mar in accordance with the procedures set forth in the DMMC and may include requirements for inspections and/or submittal of a security deposit(s). Please note that Design Review Board or Planning Commission approval of plans indicating right-of-way improvements does not constitute approval of the separately required Encroachment Permit.

G-5 *[Requirement for Development/Building Permits]*
Prior to commencement of work, the applicant or agent shall obtain all required Development/Building Permits.

G-7 *[Code Compliance]*
Approval of this application shall not waive the requirement for compliance with the provisions of the Del Mar Municipal Code or other applicable City regulations in effect at the time of Development/Building Permit issuance, unless specifically waived in this approval authorization.

G-11 *[Plan for Construction-Phase Impacts]*
Prior to issuance of Development/Building Permits or commencement of project implementation (whichever comes first), the applicant shall provide a plan for construction-phase parking and equipment/materials storage for the project. The plan must include the following:

a. Identification of an on-site material storage location;
b. Identification of an on-site equipment storage location;
c. Identification of at least two on-site parking spaces which will remain available throughout the duration of the project;
d. Location of any temporary sanitary facilities;
e. A note stating that "If on-street parking is utilized, a minimum street access clearance of 20ft. will be maintained";
f. Map displaying any/all haul routes; and
g. Contact information (phone number and Email) for the on-site supervisor(s);
    1. This information must also be posted on-site in a location which is readily visible from the public right-of-way for the duration of the project.

The plan required herein shall be subject to the review and written approval of the Planning and Community Development Director, working in consultation with Parking Enforcement and Public Works Departments. Haul routes and work and/or storage of material or equipment within a City right-of-way will require the receipt of an Encroachment Permit. The requirements mentioned above may be modified by the

Planning and Community Development Director upon a determination that sufficient alternatives have been proposed which achieve a similar level of compliance.

G-11A In addition to the submittal of a Construction Phase Impact Plan, the applicant must place a Construction Parking Placard in all vehicles associated with the project which will be parked off-site. The placard must remain in plain view on the dashboard of the vehicle throughout the duration of the project. A Construction Parking Placard can be obtained from the City of Del Mar Planning and Community Development Department.

G-13 *[Permit Expiration]*
The Conditional Use Permit (CUP18-004) and Coastal Development Permit (CDP18-016) shall each expire three (3) years from the date of approval. The Tentative Tract Map (TTM18-004) shall expire twenty-four (24) months after its approval or conditional approval by the City Council. Upon application received at a meeting of the City Council at least sixty (60) days prior to the expiration of TTM18-004, the City Council may extend the time of expiration for a period not to exceed three (3) years from the date of approval of TTM18-004.

G-14 [*Preconstruction Meeting]*
Prior to any demolition, construction, and/or land disturbances occurring on-site, a pre-construction meeting shall be held. Attendees to this meeting shall include representatives from the City of Del Mar's Planning and Community Development Department, City Engineer, the Project Contractor/Superintendent, the Project Architect, the Project Engineer, the property owner and any others essential for the proper implementation and completion of this project. At a minimum, the following issues shall be reviewed at this meeting:

a. City of Del Mar inspection requirements.
b. Process for requests for plan modification and determinations of substantial conformance.
c. Discretionary permit conditions and requirements.
d. Construction hour limitations and noise standards.
e. Construction access and parking including equipment/materials storage and maintenance.
f. Work within public rights-of-way and/or easements.
g. Stormwater Best Management Practices.
h. Tree-preservation requirements.
i. Demolition permit requirements.
j. Signage requirements/limitations.
k. Neighborhood impact issues.
l. Key contact information.
m. Business license requirements.
n. Construction and demolition waste diversion requirements
o. Any other pertinent construction related activities and or information.

G-15 *[Statement of Accuracy/Agreement Regarding Third-Party Lawsuits]*
Prior to the issuance of Building Permits or project commencement, whichever comes first, the applicant shall submit a statement regarding the accuracy of submitted plans/materials and agreeing to hold the City of Del Mar harmless from third-party lawsuits filed challenging the City's approval of these approvals. The agreement shall also include a commitment to defend the City of Del Mar from any third-party lawsuits filed challenging the City's approval of this permit. The form and content of the statement and agreement required herein shall be subject to the review and approval of the Planning and Community Development Director.

G-16 [*Compliance with City Noise Regulations]*
The applicant and all parties involved with implementation of the project shall comply with the regulations of the DMMC with regard to construction noise. The regulations stipulate that all construction activities are limited to the following periods: between 7:00 a.m. and 7:00 p.m. Monday through Friday, and between 9:00 a.m. and 7:00 p.m. on Saturdays. Construction activities are prohibited during other hours and on Sundays and City Holidays. The City's Noise Ordinance, Chapter 9.20 of the Del Mar Municipal Code, includes the dates of City Holidays, and can be viewed on the City's web page (www.delmar.ca.us).

G-17 *[Dig Alert]*
Prior to excavation or trenching, the applicant shall call Underground Service Alert of Southern California (Dig Alert at 800-227-2600) for a mark out of service utilities.

G-18 *[Rules for Construction-Related Signage]*
All construction-related signage posted at the project site shall comply with DMMC Chapter 30.84 (Signs). The pertinent sections of the Sign Chapter allow installation of a total 5.5 square feet of temporary signage on a residential property (that is cumulative of all signs posted). Such signs may be posted for a maximum of sixty (60) days in a calendar year.

The restrictions noted above do not apply to the Development Pending, Construction Noise Notice and Building Permit signs required by the City as part of the project review process.

All construction related signage, including City required signs, shall be removed prior to final approval of the project.

Fire Conditions:

F-2 [*Access Road Minimum Dimensions*]
Any new fire apparatus access roads shall have an unobstructed improved width of not less than 20 feet and an unobstructed vertical clearance of 13 feet 6 inches. Exception: Single-Family residential driveways serving no more than two (2) single-family dwellings shall have minimum of 16 feet, curb line to curb line, of unobstructed improved width. Access roads shall be designed and maintained to support the imposed loads of not less than 75,000 pounds and shall be provided with an approved paved surface to provide all-weather driving capabilities.

- The fire apparatus access road shall comply with the requirements of California Fire Code (CFC) Section 503 with local amendments and shall extend to within 150 feet of all portions of the facility and all portions of the exterior walls of the first story of the buildings as measured by an approved route around the exterior of the building.

- Any existing access roadways shall be required to meet Access Road Minimum Dimension requirements, pursuant to the CFC with local amendments, in place at the time of new development on any of the proposed parcels.

F-4 *[Dead Ends]*
Any new dead-end fire access roads in excess of 150 feet in length shall be provided with an approved area for turning around fire apparatus. A cul-de-sac shall be provided in residential areas where the access roadway serves more than four (4) structures. The minimum unobstructed paved radius width for a cul-de-sac shall be 36 feet in residential areas with no parking.

- Any existing access roadways shall be required to meet Dead End requirements, pursuant to the CFC with local amendments, in place at the time of new development on any of the proposed parcels.

F-5 *[Grade]*
The gradient for a new fire apparatus access roadway shall not exceed 20.0%. Grades exceeding 15.0% (incline or decline) shall not be permitted without mitigation. Minimal mitigation shall be a surface of Portland cement concrete, with a deep broom finish perpendicular to the entire direction of travel. Additional mitigation measures may be required where deemed appropriate. The angle of departure and angle of approach of a fire access roadway shall not exceed seven degrees (12 percent).

- Any existing access roadways shall be required to meet the grade requirements, pursuant to the CFC with local amendments, in place at the time of any new development on the proposed parcels.

F-6 *[Gates]*
All new gates or other structures or devices, which could obstruct fire access roadways or otherwise hinder emergency operations, are prohibited unless they meet standards approved by the Fire Department. An approved emergency key-operated switch and/or an approved emergency traffic control-activating strobe light sensor shall be installed per Del Mar Fire Department standards.

F-7 *[Response Maps]*
Any new development, which necessitates updating of emergency response maps by virtue of new structures, hydrants, roadways or similar features, shall be required to provide map updates in one of the following formats (AutoCad DWG, DXF, ESRI shapefile, ESRI personal geodatabase, or XML format) and shall be charged a reasonable fee for updating all response maps.

F-8 *[Construction Materials]*
Prior to delivery of combustible building construction materials to the project site all of the following conditions shall be completed to the satisfaction of the Fire Department:

1. All wet and dry utilities shall be installed and approved by the appropriate inspecting department or agency;
2. As a minimum the first lift of asphalt paving shall be in place to provide a permanent all-weather surface for emergency vehicles; and
3. Water supply for fire protection (fire hydrants and standpipes) shall be installed, in service and accepted by the Fire Department and applicable water district.

F-10 *[Obstruction of Roadways During Construction]*
All roadways shall be a minimum of 20 feet in width during construction and maintained free and clear, including the parking of vehicles, in accordance with the California Fire Code and the Del Mar Fire Department.

F-11 *[Fire Hydrants and Fire Flows]*
The applicant shall provide fire hydrants of a type, number, and location satisfactory to the Del Mar Fire Department. A letter from the water agency serving the area shall be provided that states the required fire flow is available. Fire hydrants shall be of a bronze type. Multi-family residential or industrial fire hydrants shall have two (2) 4" inch and two (2) 2 ½" inch NST outlets. Residential fire hydrants shall have one (1) 4" inch NST outlet, and one (1) 2 ½" inch NST outlets.

F-12 *[Fuel Modification Zones/Fire Breaks]*
The applicant shall provide and maintain fire/fuel breaks to the satisfaction of the Del Mar Fire Department. Fire/fuel breaks size and composition shall be determined by the Fire Department and shown on the improvement /grading plans and final map and building plans.

F-13 *[Address Numbers]*
Approved numbers and/or addresses shall be placed on all new and existing buildings and at appropriate additional locations as to be plainly visible and legible from the street or roadway fronting the property from either direction of approach. Said numbers shall contrast with their background, and shall meet the following minimum standards as to size: 4" high with a ½" inch stroke width for residential buildings, 8" high with a ½" stroke for commercial and multi-family residential buildings, 12" high with a 1" stroke for industrial buildings. Additional numbers shall be required where deemed necessary by the Fire Marshal, such as rear access doors, building corners, and entrances to commercial centers.

F-14 *[Address Numbers for Structures Located Off Roadway]*
Where structures are located off a roadway on long easements/driveways, a monument marker shall be placed at the entrance where the easement/driveway intersects the main roadway. Permanent address numbers with height conforming to Fire Department standards shall be affixed to this marker.

F-15A *[Automatic Fire Sprinkler System-One- and Two-Family Dwellings]*
Structures shall be protected by an automatic fire sprinkler system designed and installed to the satisfaction of the Fire Department. Plans for the automatic fire sprinkler system shall be approved by the Fire Department prior to installation.

F-16 *[Fire Resistive Construction Requirements for Wildland/Urban Interface Areas]*
Structures shall meet all wildland/urban interface standards to the satisfaction of the Fire Department. Structures shall comply with current California Building Code Chapter 7A.

F-18 *[Class "A" Roof]*
All structures shall be provided with a Class "A" Roof covering to the satisfaction of the Del Mar Fire Department.

Local Coastal Program:

LCP-1 *[Prohibition on Grading During the Rainy Season]*
In accordance with DMMC Sections 30.52.120 A4 and 30.53.140 C no grading shall occur between November 15th of any year and March 15th of the following year, unless specifically authorized through the written approval of the Planning and Community Development Department Director.

LCP-2 *[Coastal Development Permit Appealable]*
This project is located within the Coastal Appeal Zone. The City's action on CDP18-016 may be appealed to the California Coastal Commission pursuant to Coastal Act Section 30603 and DMMC Chapter 30.75.

Special Conditions:

SC-1 *[Indemnification]*
The permittee/owner shall defend (with attorneys approved by the City), indemnify and hold harmless the City of Del Mar, its agents, officers, and employees from any claims, damages, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void, or annul an approval of the City, its advisory agencies, appeal boards, or legislative body concerning this approval or permit. The City will promptly notify the permittee/owner of any such claim, action, or proceeding against the City and will cooperate fully in the defense.

SC-2 *[Open Space Deed Restrictions]*
Prior to City Council approval of the Final Map, the applicant shall record the following open space deed restriction against the deed for the property:

1. An open-space deed restriction shall apply to the area of the 50-foot wetland buffer along Lots 5-8. The purpose of the deed restriction is to preclude development that would encroach into or cause impacts to the San Dieguito Lagoon and wetlands. The deed restriction shall prohibit the development and/or placement of structures or landscaping in the affected area. Prior to recordation, the form and content of the easement language shall be reviewed and approved by the City.

SC-3 *[Requirement for Design Review and Land Conservation Permits]*
In accordance with the DMMC, implementation of the proposed CDP and CUP shall be subject to the separate receipt of valid DRB and LC permits. Implementation of the CDP and CUP granted herein shall be subject to compliance with all terms and conditions of said DRB and LC permits.

SC-4 *[Recordation of Access Easements]*
Prior to the recordation of the Final Map, the applicant shall provide evidence of all required recorded easements for continued use of that portion of the private access drive that extends over off-site properties. The form and content of the easement(s) shall be subject to the review and approval of the Planning and Community Development Director.

SC-5 *[Satisfaction of Requirements of Related Alley/street Vacation]*
Prior to the recordation of the Final Map, the applicant shall provide evidence that all conditions of approval of the Street/Alley Vacation for that portion of the un-named alley adjacent to Lots 2 and 4 that were approved by the City Council, and that all required documents have been executed and, where applicable, recorded against the deed for the properties. The submitted evidence shall be subject to the review and approval of the Planning and Community Development Director.

SC-6 *[Prohibition of Highly Invasive Vegetation]*
California Invasive Plant Council (Cal-IPC) high rate plants shall not be included on any site plan, landscape plan, or development proposal located within the boundaries of the TTM18-004 subdivision.

SC-7 *[Protection of Snake Wall]*
The "Snake Wall" masonry perimeter wall shall be protected in place. Modifications to the wall may be considered, provided all City approvals have been obtained and compliance with Mitigation Measure CUL-1 (Snake Wall Modification) is demonstrated, for access to Lot 1 and as required by the City to address health and safety concerns or to satisfy any other conditions of the subdivision approval associated with Lot 1 or any other lot.

Engineering Conditions:

E-1 *[Private Access Road]*
Prior to issuance of approval of the Final Map, the applicant shall prepare and receive approval for, a private Roadway and Utility Plan for the access drive to Lot 5, 6, 7 and 8. The required Plan shall also include the installation of those measures necessary to provide sewer, water, storm drain, and other utilities to serve the proposed project.

In addition to identifying the manner in which access and utilities are to be provided, the Improvement Plans shall address the following:

E-1A The manner in which storm water from the project site and its impervious surfaces will be collected and conveyed to public storm water runoff systems;
E-1B The discharge location of proposed storm drains as depicted in approved TM 18-004;

E-1C The grading required to install utility lines and widen access driveway/ private roadway (known as La Atalaya Way);

E-1D The location and size of the existing or proposed utilities to serve the proposed project (i.e., sewer, water, storm drain, etc.);

E-1E Applicant shall design La Atalaya Way (from San Dieguito Drive) to accommodate a Fire Truck turning south bound onto the Alley from east bound San Dieguito Drive. Additionally, the applicant shall ensure that a Fire Truck can make a left-hand turn from the Alley onto east La Atalaya Way and make the hammer head turn at the terminus of La Atalaya Way. Applicant shall make any modifications to the Alley and La Atalaya Way to ensure emergency vehicle access in and out the development. This may include removal and reconstruction of existing facilities;

E-1F All proposed utilities within the project shall be installed underground in accordance with current utility engineering practices. Existing aerial utilities shall be removed and/or placed underground, as required by the City Engineer;

E-1G Letter(s) of permission to grade/improve from adjoining property owner affected by the Access Road shall be obtained. The applicant shall also furnish proof to the City Engineer of the acquisition of all necessary rights of entry, permits and/or easements for the construction of off-site temporary or permanent road and drainage improvements prior to any construction within these areas;

E-1H San Dieguito Drive shall have dig-outs performed and be Slurry Sealed (full width) adjacent to the property frontage, as indicate on Tentative Map or as directed by the City Engineer (or representative) in the field;

E-1I A Private Road Maintenance agreement shall be incorporated into the CC&R for the project;

E-1J Applicant shall comply with all applicable requirements of the Uniform Fire Code and Fire Marshall requirements;

E-1K The applicant shall pay for and install all street name signs, traffic regulatory and warning signs, and any necessary street striping and markings required by the City Engineer. Street striping and markings shall be raised ceramic markers or thermoplastic material, as directed by the City Engineer. The applicant shall also pay for and install blue reflective markers two feet (2') off the center line of the street line adjacent to all fire hydrants;

E-1L Any existing City Improvements, within the public right-of-way that are damaged by the applicant or his agents or employees, shall be repaired by the applicant at his own expense;

E-1M The proposed on-site storm drain system shall be constructed to the satisfaction of the City Engineer;

E-1N The applicant shall comply with all applicable National Pollutant Discharge Elimination System (NPDES) requirements to the satisfaction of the City Engineer;

E-1O The removal and replacement of the existing perimeter wall at the easterly intersection of San Dieguito Drive and the un-named alley shall be performed to accommodate the line of site requirements established by the

City Traffic Engineer. All as depicted on sheet 6 of the approved Tentative map;

E-1P Following construction completion, the project Engineer shall inspect as-built improvements. Significant discrepancies, if any, between the approved plans and as-built conditions shall be brought to the attention of the Planning and Community Development Department and City Engineer. An as-built plan prepared by the project Engineer will be required. Prior to final sign-off by the City Engineer, the project designer shall sign the as-built plan indicating that the project was completed in accordance with said plan;

E-1Q The applicant shall provide an adequate reliable water supply for fire protection with a minimum fire flow as specified by the Fire District. Fire flow calculations must include water pressures as specified by the City Engineer. All hydrants shall be tested to ensure actual flows meet or exceed Fire District requirements and the City of Del Mar requirements. The applicant shall provide written acceptance of these flows by the Fire District;

E-1R Applicant will pay a $6,000 in-lieu fee for the planned Riverpath Phase III trail extension;

E-1S The applicant shall provide joint trenching for telephone, gas, electric, cable TV and fiber optic service for every vacant parcel; and

E-1T The public improvements listed above the applicant shall post a security in the form of a bond or cash deposit valued at 150% of the estimated costs of the required improvements. The development agreement shall include the stipulation that all improvements for which security is being posted will be completed within 24 months of the date of approval of the plans. Upon completion of the work to the satisfaction of the City Engineer, the cash deposit or security shall be returned to the applicant, less any amount utilized by the City as outlined in the agreement, and less 25% of approved engineer's estimate, which will be retained as a warranty security. The warranty security shall be held pending City inspection one (1) year following completion of the work. The warranty security may be used at that time to correct deficiencies, if any, and the remainder returned to the applicant. Agreements shall be of a form and type acceptable to the Planning and Community Development Director, City Engineer and City Attorney.

E-2 *[Separate Permits for Off-site Work]*
All improvements to off-site facilities, including the provision of access road and/or utility lines as proposed or required pursuant to the conditions of these approvals, shall be subject to the receipt of separate City permits, as applicable.

E-3 *[Drainage Plan for Lots Affected by Private Access Road]*
Prior to the issuance of Permits, the applicant shall provide a detailed Drainage Plan for the project prepared by a Registered Civil Engineer. The Plan shall be prepared in accordance with the latest edition of the City's "Applicant's Guide to Procedures for a Grading Permit" and shall be subject to the review and approval of the Planning and

Community Development Department Director in consultation with the City Engineer. The Plan required herein shall be prepared to minimize the amount of impervious surface area of the development and to maximize the on-site dissipation of storm water run-off. The Plan shall be in compliance with applicable NPDES stormwater requirements and shall incorporate the use of "Best Management Practices" (BMPs) to control runoff or discharge onto the City rights-of-way and to avoid run-off onto adjacent private properties.

In addition to the considerations listed above, the Plan shall also address/incorporate the following:

E-3A A topographical map indicating property lines, topographic features and existing and/or proposed structures prepared by a Registered Civil Engineer or a Licensed Land Surveyor. Said map shall include two-foot contour lines and/or sufficient spot elevations to clearly represent existing and proposed topographical features, and existing and proposed drainage patterns. Said map shall also show entire property boundary including any assumed found monuments, and bearings and distances based on record information. Survey shall extend minimum 25 feet beyond limits of work;

E-3B The location of all existing or proposed easements within the property boundary;

E-3C The methods for providing temporary erosion control during the construction phase of the project, complete with the inclusion of standard erosion control notes;

E-3D The manner in which drainage shall be controlled to eliminate the discharge of nuisance water and to ensure that existing or proposed private pipe outlets will not convey or discharge nuisance water onto adjacent properties or into the public right-of-way (i.e., from irrigation, pool/spa/water feature splash run-off, planter area drains, French drains, etc.);

E-3E Depict the existing and proposed sewer and water mains and laterals serving the residence;

E-3F Include a Hydrology/Hydraulic Report prepared by a Registered Engineer that addresses how storm water will be adequately collected and conveyed on and across the proposed development and access roadways. The report shall also address the tributary area for run-off directed to and across the subject property. The report shall include calculations and details demonstrating that if proposed inlets/outlets, etc. are plugged or overloaded, the site is capable of conveying storm flows in a manner that is not detrimental (including flooding and erosion) to surrounding properties. The report shall address both existing and proposed conditions;

E-3G Incorporate all recommendations pursuant to the Hydrology/Hydraulic Report prepared for the project;

E-3H Depict the location of erosion control devices to be implemented in the event of rainfall;

E-3I Depict the limits of grading;

E-3J Include storm drain run-off "Best Management Practices" that minimize the volumes of urban run-off discharge to City rights-of-way, as acceptable to the City Engineer;

E-3K Ensure that the grading and other construction activities meet the provisions specified in the California Regional Water Quality Control Board (RWQCB), San Diego Region, Order R9-2013-0001, NPDES No. CAS0109266 – Section D.2 and subsequent orders;

E-3L Interception of run-off from the access roadway (La Atalaya Way) shall not direct flow to the existing un-named alley. This may be accomplished by incorporation of pervious driving surfaces, diversion to landscaped areas using swales or grates, etc. The project engineer's evaluation shall include, but not be limited to, consideration of the potential effect of proposed construction on site groundwater and moisture conditions. Provide spot grades and/or contours to substantiate design; and

E-3M Following construction completion, the project designer shall inspect as-built improvements. Significant discrepancies, if any, between the approved plans and as-built conditions shall be brought to the attention of the Planning and Community Development Department and City Engineer. An as-built plan prepared by the project designer will be required. Prior to final sign-off by the City Engineer, the project designer shall sign the as-built plan indicating that the project was completed in accordance with said plan.

E-4 *[Engineering Fee]*
The applicant shall provide fees as delineated in the City's Engineering Review Fee Schedule as funds necessary for Engineering Department review of the proposed site improvements. If additional review beyond the scope outlined in the Engineering Review Fee Schedule becomes necessary, a supplemental deposit(s) will be required.

E-11 *[Geotechnical Report Requirement]*
Prior to issuance of Permits, the applicant shall provide a Geotechnical Report for the project. The Report shall be prepared, signed and sealed by a Certified Engineering Geologist and a Geotechnical Engineer or Registered Civil Engineer. This Report shall be subject to review and approval by the City Engineer, City Building Department, and if deemed necessary, a third-party with expertise in geotechnical issues. The report required herein shall:

E-11A Include all standard information as required by the City's Grading Ordinance;

E-11B Evaluate existing site constraints;

E-11C Evaluate potential effect of proposed construction on nearby slopes, sensitive topographic features and neighboring properties;

E-11D Include a geotechnical evaluation of the long-term stability of adjacent slopes;

E-11E Provide any mitigation measures as necessary;

E-11F Provide recommendations for any special construction methods as necessary;

E-11G Include the preparation of field tests to be performed at the site during construction, so as to ensure that field conditions are suitable for the approved construction. The results of such tests may necessitate revisions

to the project with such revisions subject to review by the appropriate City entities;

E-11H If retaining walls are required, give recommendations for back-cuts for the construction of retaining walls. These recommendations shall include a time limit that the back-cuts can remain in place without either creating a stable backfill, or completing construction of the approved retaining walls. If the recommended time deadlines are not met, the applicant, by signing these conditions, grants the City permission to work on their private property to secure the back-cuts, and use the cash security to perform the work;

E-11I If temporary shoring is required, the geotechnical consultant shall provide necessary geotechnical parameters and recommendations, including maximum cuts and time limits;

E-11J Address the feasibility of long term infiltration of stormwater runoff onsite, and if subdrains will be required for any proposed infiltration BMPs. If infiltration is not proposed or not feasible then the Geotechnical Engineer must specify why or indicate the areas where it is not feasible;

E-11K Address the presence of groundwater and the need to provide subdrains for groundwater extraction. If extracted groundwater is discharged to surface waters, the project must comply with State RWQCB Order No. R9-2008-0002; and

E-11L Provide R values for pavement sections of Access Roadway (La Atalaya Way).

E-12 *[Authorization for Off-site Work]*

E-12A Prior to the issuance Permits, the applicant shall obtain letters of permission from affected property owners if construction or construction access is required across property lines; and

E-12B The following note shall be included on the plans for the Permit: "No grading shall occur outside the limits of the approved grading plan unless prior written authorization is obtained from the City and the owners of any other affected properties."

E-13 *[Grading – Separate Permits for Borrow or Disposal Site]*

A separate Grading Plan shall be submitted and approved and a separate Grading Permit issued for any off-site borrow or disposal site, if located within City limits. An Encroachment Permit will be required to identify the haul route proposed for this purpose. If the borrow or disposal site is located outside of the City, the applicant shall provide evidence of receipt of required permits/authorizations.

E-15 *[Priority Storm Water Mitigation Plan (SWMP)]*

Prior to issuance of Development/Building Permits, the applicant shall submit a SWMP for City review and approval that addresses the following:

E-15A Control the post-development peak storm water run-off discharge rates and velocities to maintain or reduce pre-development downstream erosion;

E-15B Conserve natural areas;

E-15C Minimize pollutants of concern from urban runoff through implementation of source control BMPs;

E-15D Remove pollutants of concern from urban runoff through implementation of structural BMPs;
E-15E Avoid directly connected impervious areas where feasible;
E-15F Protect slopes and channels from eroding;
E-15G Include storm drain stenciling and signage;
E-15H Include properly designed outdoor material storage areas;
E-15I Include properly designed trash storage areas;
E-15J Ensure that post-development runoff does not contain pollutant loads which have not been reduced to the maximum extent practicable;
E-15K Comply with the City's BMP Design Manual;
E-15L Include a detailed Operations and Maintenance Plan (O&M Plan) for all treatment control BMPs, that includes a minimum, the designated responsible parties to manage the stormwater BMPs, employee training program and duties, operating schedule, maintenance frequency, routine service schedule, specific maintenance activities, copies of any additional required permits; cost estimate for implementation of the O&M Plan;
E-15M Demonstrate the funding mechanism to ensure ongoing long-term maintenance of all structural post construction Best Management Practices (BMPs);
E-15N Identify affected receiving water bodies; and
E-15O Include an exhibit that clearly shows the limits and quantities of impervious area in both the pre and post development conditions.

The structural BMPs required herein shall be designed so as to filter or treat the volume or flow outlined in the numeric sizing criteria outlined below:

Volume
Volume-based BMPs shall be designed to filter or treat the volume of runoff produced from a 24-hour 85th percentile storm event, as determined from the local historical rainfall record.

E-16 *[BMP Details]*
Prior to issuance of Development/Building Permits, all post construction BMPs shall be shown in detail on the construction plans and submitted to the City for review and approval. For all post-construction treatment control BMPs, submit an operation and maintenance manual detailing requirements for the property owner to maintain BMPs into perpetuity. An easement shall be granted to the City for inspection of post-construction treatment control BMPs as needed. The project shall comply with the existing and subsequent Del Mar Jurisdictional Urban Runoff Management Plan and the State of California and NPDES.

E-17 *[SWPPP Requirement]*
Prior to issuance of Development/Building Permits, the applicant shall submit for City review and approval and implement a Storm Water Pollution Prevention Plan (SWPPP), to manage storm water and non-storm water discharges from the site at all times. The SWPPP shall describe all BMPs to be implemented year-round. Specific BMP implementation may be dependent upon wet or dry season operations. The SWPPP shall

also emphasize that erosion prevention is the most important measure for keeping sediment on-site during construction. The applicant shall provide evidence of existing coverage under the State of California's statewide General NPDES Permit for Storm Water Discharges Associated with Construction Activities at all times.

E-18 *[Soil Stabilization]*
The applicant shall utilize sediment controls only as a supplement to erosion prevention for keeping sediment on-site during construction – NEVER as a single or primary method.

E-18A The applicant shall clear and grade only the areas on the project site that are necessary for construction. These areas shall be clearly denoted on the plans;
E-18B The applicant shall minimize exposure time of disturbed soil areas;
E-18C The applicant shall submit a schedule to the City for review and approval, with proposed dates, demonstrating the minimization of grading during the wet season and coinciding the grading with dry weather periods, permanent revegetation and landscaping as early as feasible, temporary stabilization and reseeding of disturbed soil areas as early as feasible; and
E-18D The applicant shall stabilize all slopes per City approved method.

E-19 *[Required Backflow Prevention]*
If the project authorized by this permit will involve installation or retention of any plumbing drainage fixtures at a level below that of the PUBLIC sewer main serving the project site, the applicant shall install a private backflow prevention device on their private lateral per the requirements shown below.

The plans shall be submitted prior to the issuance of Development/Building Permits and shall be according to the Uniform Plumbing Code and subject to the review and written approval of the Planning and Community Development Director and City Engineer. Once installed, the private backflow prevention device(s) shall be subject to inspection by the City Engineer prior to final sign off for the project.

E-20 *[Access to Water Meters]*
Access to proposed or existing water meters located on or immediately adjacent to the property shall remain open and unobstructed at all times. Prior to the issuance of Development/Building Permits, the applicant shall demonstrate that no structure or vegetation is proposed so as to restrict access to the water meter. In the event access is blocked by project implementation, the applicant shall be responsible for the removal any obstruction at his/her expense or shall pay for the cost of relocating the water meter to allocation acceptable to the Public Works Department.

E-22 *[Compliance with City of Del Mar JURMP]*
This project shall conform to the construction component in the latest edition of the City's Jurisdictional Urban Runoff Management Program (JURMP).

E-24 *[Design of Inlets/outlets]*
Site drainage shall be designed such that, in the event of plugged or overloaded inlets/outlets, storm flows will be conveyed in a manner that is not detrimental to the site or other properties.

E-30 *[Peak Runoff Mitigation]*
The proposed improvements shall result in a net decrease in impervious area. If this is considered infeasible, the applicant must submit a Hydrology and Hydraulics report. The report must demonstrate that the project mitigates the increase in peak runoff through the use of acceptable Low Impact Development (LID) features.

E-34 *[Utility Service]*
If any new or modified connections to the water or sewer mains in the public right-of-way are proposed, additional plan sets and review fees may be required.

E-38 *[Stormwater Compliance]*
Stormwater compliance requirements are subject to change based on adoption of revisions to state and local regulations. Recent changes to the regulations include the following: revised Priority Development Project definitions, additional/revised hydromodification mitigation requirements, and increased emphasis on on-site retention/re-use. These changes could significantly impact the design, type, and size of BMPs necessary for compliance. The new regional MS4 Permit (Order No. R9-2013-0001) was adopted May 8, 2013.

E-39 *[Site Conditions]*

E-39A The applicant, in order to reduce tracking of mud throughout the City, shall be responsible for cleaning up or any expenses incurred by the City for cleaning up mud, debris, etc. from City streets, that is attributed to this project during construction;

E-39B The applicant shall restrict hours of work for the use of heavy equipment during grading and improvements between the hours of 7:30AM to 5:00PM, this includes the warm up of equipment. Saturday, Sunday and City holiday work is prohibited;

E-39C Any relocation or under grounding of SDG&E facilities or other utilities shall be done at the applicant's expense;

E-39D All activities undertaken in accordance with this Tentative Subdivision Map shall comply with the City's General Plan and Municipal Code. In cases of conflict between the City's Municipal Code, these standard conditions of approval, or Tentative Map-specific conditions of approval, the governing priority shall be, to the extent legally permitted, as follows: 1) City's Municipal Code regulations; 2) City's General Plan; 3) Standard Conditions; and

E-39E The applicant is responsible for notifying all sub-contractors of the Best Management Practices (BMP's) to be implemented. Applicant is responsible for compliance by all subcontractors. Failure to comply with the approved construction BMP's will result in the issuance of verbal warnings,

correction notices, administrative citations or a project stop work order. City shall provide verbal and written notice of the violation prior to the issuance of a stop work notice;

E-40 [Map Conditions]

E-40A The applicant shall record CC&R's at the time of recordation of the Final Map creating the individual lots of this subdivision. The CC&R's will provide for a manager to be responsible for maintenance and repair, with each lot owner responsible for its pro rata share of the maintenance costs. The manager may be an owner, a third-party manager designated by the owners, or a special purpose entity such as an owners' association. The CC&R's shall be subject to the review and approval of the City Attorney and Community Development Director prior to recordation of the final parcel map, and shall include the following:

The manager shall be responsible for the maintenance of all common areas, such as landscaping, parking, and access roads;

E-40B Right of way or easement acquisitions necessary to implement any portion of this Final Map, including public improvements, shall be obtained by the applicant at its sole expense prior to the City's consideration of the Final Map which encompasses the particular improvement;

E-40C The applicant shall provide and show on the Final Map all necessary easements for access, streets, alleys, sewer and water facilities, utilities and drainage facilities, irrigation facilities and other facilities as requested by the City. These include but are not limited to the following:

a) Reciprocal assess easement along La Atalaya Way for the benefit of Lots 3 and 5 through 8.
b) Utility access easement along La Atalaya Way for the benefit of the City of Del Mar and other utility purveyors for Lots 5 through 8.
c) The vacation and quitclaim of easements listed on sheet one of the Vested Tentative Map.
d) The unnamed alley east of proposed Lot 4 will not be vacated by the City.
e) The applicant shall provide, on the final map, a 15-foot wide sewer easement in favor of the City of Del Mar for the existing 6" VCP sewer main within proposed Lot 1;

E-40D Final Map shall be in substantial conformance to the approved Tentative Map and must be submitted to the City Engineering Department for review and approval. The Final Map shall be prepared, wet signed and sealed by a Civil Engineer or Land Surveyor, registered in the State of California and licensed to prepare Final Maps; and

E-40E Reciprocal easements shall be provided insuring access to all parcels affected over private road/driveway known as La Atalaya Way, to the satisfaction of the City Engineer.

Biological Resource Conditions:

BIO-1 *[Site Specific Biological Survey]*

Prior to the issuance of any Building Permit(s) for future residential development on Lots 1, 2, and 8, site-specific biological surveys shall be conducted to delineate the precise location of sensitive habitat and assess project-specific impacts. The biological survey shall include:

1. The methods used to determine the presence of sensitive biological resources;
2. Vegetation mapping of all vegetation communities and/or land cover types;
3. The locations of any sensitive plant or wildlife species;
4. An evaluation of the potential for occurrence of any listed, rare, and narrow endemic species; and
5. An evaluation of the significance of any potential direct or indirect impacts from the proposed project.

If potentially significant impacts to sensitive biological resources are identified, future project level grading and site plans shall incorporate project design features to minimize direct impacts on sensitive resources to the extent feasible, and the report shall also review the mitigation already identified and dedicated as deed restricted open space on the Final Subdivision Map. Exhibit A to this resolution shows the areas that will be deed restricted open space upon recordation of the Final Subdivision Map and identifies the habitat type and area of each mitigation open space. By setting aside four future mitigation areas, each development already has enough mitigation available to fully mitigate for their proposed project-based impacts. If the specific plans for homebuilding result in habitat impacts greater than the mitigation set aside in the Final Subdivision Map specified above, then the site-specific biological surveys required for Lots 1, 2 and 8, as applicable, shall also recommend appropriate mitigation to be implemented by the future homebuilding applicant to reduce the impacts to below a level of significance. No future site-specific biological surveys and no habitat mitigation is required for issuance of any permits related to Lots 3 through 7.

BIO-2 *[Nesting Birds]*
If future development occurs during the breeding season (January 1 to July 15 for raptors and February 15 to August 31 for other birds) and otherwise cannot be avoided, the applicant shall be responsible for a qualified biologist to conduct a pre-construction nesting bird survey prior to the commencement of any ground disturbing activities to determine the presence/absence, location, and status of any active nests on or adjacent to the survey area. All areas within 500 ft of impacts for all lots shall be surveyed 3 days prior to the start of construction. The extent of the survey buffer area surrounding each site shall be a minimum of 500 ft if FESA- or CESA-listed species or raptors are present. If listed species are present or if an active nest is found, the biologist shall consult with

the appropriate agency, and be present on-site during construction to ensure that birds are not being agitated. The biologist shall have the authority to stop construction if birds are agitated, and the buffer shall be adjusted accordingly. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the Migratory Bird Treaty Act and the California Fish and Game Code and minimize the potential for project delay, nesting bird surveys shall be performed by the qualified biologist prior to project commencement. In the event that active nests are discovered, the biologist shall recommend suitable noise attenuation measures or a suitable buffer (distance to be determined by the biologist) shall be established around such active nests, and no construction within the buffer shall be allowed until the biologist has determined that the nest(s) is no longer active (i.e., the nestlings have fledged and are no longer reliant on the nest). Completion of this mitigation measure shall be a condition of any future residence building permits issued for any of the lots included in the La Atalaya Final Subdivision Map.

Cultural Resource Condition:

CUL-1 *[Snake Wall Modification]*
Prior to modification of the historic Snake Wall, the project applicant shall hire a professional who is qualified to complete the Secretary of the Interior's Standards for Architectural and Engineering documentation in order to mitigate the Snake Wall in the form of the equivalent to Historic American Building Survey (HABS) documentation. HABS level I documentation includes a full set of drawings depicting existing or historic conditions and large format negative photographs in black and white of exterior and interior views to add to the written history and description in the existing report titled La Atalaya – Snake Wall Historic Evaluation Report. The drawings shall include a site plan, elevations, cross sections, and details of construction techniques and architectural elements.

CUL-2 *[Unanticipated Discovery of Tribal Cultural and Archaeological Resources]*

During ground disturbing activities, a qualified archaeological monitor shall be present in case unexpected intact subsurface deposits or features are uncovered. Upon discovery of any tribal, cultural, or archaeological resources during ground disturbing activities, the Applicant shall immediately cease such activities in the immediate vicinity. The find will then be assessed by a qualified archeologist retained by the Applicant and a tribal monitor/consultant approved by the consulting tribe. The Applicant shall promptly notify the Planning and Community Development Director to the discovery of resources. If the resources are Native American in origin, the consulting tribe shall coordinate with the landowner regarding treatment and curation of these resources. Typically, the tribe will request preservation in place or recovery for educational purposes. At the direction of the qualified archaeologist and tribal monitor/consultant, and in coordination with the Planning and Community Development Department, work may continue on other parts of the affected site while evaluation and, if necessary, additional protective measures are completed at the affected portion of the site pursuant to State CEQA Guidelines §15064.5[f]. If a resource is determined by the qualified archaeologist to constitute a "historical resource" or "unique archaeological resource," time and funding to allow for

sufficient implementation of avoidance measures must be made available. The treatment plan established for the resources shall be in accordance with State CEQA Guidelines §15064.5(f) for historical resources. Preservation in place (i.e., avoidance) is the preferred manner of treatment upon identification of unique archeological resources (Public Resources Code §§21083.2(b)). If preservation in place is not feasible, treatment may include implementation of archaeological data recovery excavations to remove the resource along with subsequent laboratory processing and analysis. All tribal cultural resources shall be returned to the consulting tribe. Any historic archaeological material that is not Native American in origin shall be curated at a public, non-profit institution with a research interest in the materials, such as the San Diego Archeological Center. Acceptance and curation of the historic archeological materials will be at the discretion of the institution. If no institution accepts the archaeological material, they shall be offered to the consulting tribe or the Del Mar Historical Society for educational purposes.

Geology and Soils Condition

GEO-1 *[Paleontological Monitoring]*

For future development identified as having high paleontological sensitivity, the applicant shall:

a. Prior to ground disturbing activities, the Applicant shall retain a qualified Project Paleontologist, defined as a paleontologist who meets the Society of Vertebrate Paleontology standards for Qualified Professional Paleontologist, to direct all mitigation measures related to paleontological resources.

b. Prepare a Paleontological Monitoring and Compliance Program. After design of the development has been finalized to determine the precise extent and location of ground disturbing activities, and prior to ground disturbing activities, the Project Paleontologist shall prepare a Paleontological Monitoring and Compliance Program to be implemented during the ground disturbing activities. The program shall be prepared in accordance with the standards set forth by current Society of Vertebrate Paleontology guidelines (2010). Prior to ground disturbing activities, the program shall be provided to the City of Del Mar.

Ground disturbing activities where paleontological sensitivity has been identified shall be monitored full-time by a qualified paleontological monitor during initial ground disturbing activities.

The program shall be supervised by the Project Paleontologist in coordination with the City. The duration and timing of the monitoring shall be determined by the Project Paleontologist. If the Project Paleontologist determines that full-time monitoring is no longer warranted, he or she may recommend to the City that monitoring be reduced to periodic spot-checking or cease entirely. Monitoring shall be reinstated, if reduction or suspension would need to be reconsidered by the Project Paleontologist.

The program shall outline the procedures for construction staff Worker Environmental

Awareness Program (WEAP) training, paleontological monitoring extent and duration, salvage and preparation of fossils, the final mitigation and monitoring report, and paleontological staff qualifications.

c. Paleontological WEAP. Prior to ground disturbing activities, the Project Paleontologist or his or her designee shall conduct construction personnel training regarding the appearance of fossils and the procedures for notifying paleontological staff should fossils be discovered by construction staff. The WEAP shall be presented at a preconstruction meeting that a qualified paleontologist shall attend.

d. Fossil Discovery. In the event of a fossil discovery by construction personnel, all work in the find's immediate vicinity shall cease, and the City of Del Mar and a qualified paleontologist shall be contacted to evaluate the find before restarting work in the area. If ground disturbing activities bring potentially sensitive geologic deposits to the surface in areas considered to have an undetermined paleontological sensitivity, these areas shall be inspected and further assessed. If it is determined that the fossil(s) is (are) scientifically significant, the qualified paleontologist shall complete the following conditions:

i. Salvage of Fossils. If fossils are discovered, the Project Paleontologist or paleontological monitor shall recover them. Typically, fossils can be safely salvaged quickly by a single paleontologist and not disrupt construction activity. In some cases, larger fossils (such as complete skeletons or large mammal fossils) require more extensive excavation and longer salvage periods. In this case, the paleontologist shall have the authority to temporarily direct, divert, or halt construction activity to ensure that the fossil(s) can be removed in a safe and timely manner.

ii. Preparation and Curation of Recovered Fossils. Once salvaged, the City shall ensure that significant fossils are identified to the lowest possible taxonomic level, prepared to a curation-ready condition, and curated in a scientific institution with a permanent paleontological collection (such as the San Diego County Natural History Museum), along with all pertinent field notes, photos, data, and maps. Fossils of undetermined significance at the time of collection may also warrant curation at the discretion of the Project Paleontologist. Field collection and preparation of fossil specimens shall be performed by the Project Paleontologist with further preparation as needed by an accredited museum repository institution at the time of curation.

e. Final Paleontological Monitoring and Compliance Report. Upon completion of ground disturbing activities (and curation of fossils, if necessary) the Project Paleontologist shall prepare a Final Paleontological Monitoring and Compliance Report outlining the results of the Paleontological Monitoring and Compliance Program. The report shall be provided to the City of Del Mar and shall include discussion of the location, duration, and methods of the monitoring, stratigraphic sections, any recovered fossils, and the scientific

significance of those fossils, and where fossils were curated.

Noise Condition:

NOS-1 *[Construction Noise]*

To reduce construction-related noise impacts, where construction activities would exceed the standards established in DMMC Section 9.20.050 (Construction Noise), the Applicant shall require construction contractors to implement a site-specific Noise Reduction Program, which includes the following measures, ongoing through demolition, grading, and/or construction:

a. Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically-attenuating shields or shrouds), wherever feasible.
b. Construction noise reduction methods such as shutting off idling equipment, maximizing the distance between construction equipment staging areas and occupied residential areas, and use of electric air compressors and similar power tools, rather than diesel equipment, shall be used where feasible.
c. During construction, stationary construction equipment shall be placed such that emitted noise is directed away from or shielded from sensitive noise receivers.
d. During construction, stockpiling and vehicle staging areas shall be located as far as practical from noise sensitive receptors.
e. Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for construction shall be hydraulically or electronically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler shall be used [this muffler can lower noise levels from the exhaust by up to approximately 10 dB(A)]. External jackets on the tools themselves shall be used where feasible (this can achieve an approximately 5.0-dBA reduction. Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible.

NOS-2 *[Complaint Tracking Program]*

Prior to demolition, grading, or building permit approval, the Applicant shall submit to the Planning and Community Development Department a list of measures to respond to and track complaints pertaining to construction noise, ongoing throughout demolition, grading, and/or construction. At minimum, these measures shall include the following:

a. A procedure to the public for notifying the City's Code Compliance Officer and Sheriff's Department (during regular construction hours and off-hours);
b. A requirement for a sign to be posted by the Applicant on-site specifying the permitted construction days and hours, and notification procedure, and who

to notify in the event of a noise-related concern. The sign shall also include the construction contractor's telephone numbers (during regular construction hours and off-hours); and

c. A requirement for a preconstruction meeting to be held with the Applicant and general contractor/on-site project manager to confirm that noise measures and practices (including construction hours, neighborhood notification, posted signs, etc.) are completed.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Del Mar, California, at a Regular Meeting held this 1st day of February, 2021.

Terry Gaasterland, Mayor
City of Del Mar

APPROVED AS TO FORM:

Leslie E. Devaney, City Attorney
City of Del Mar

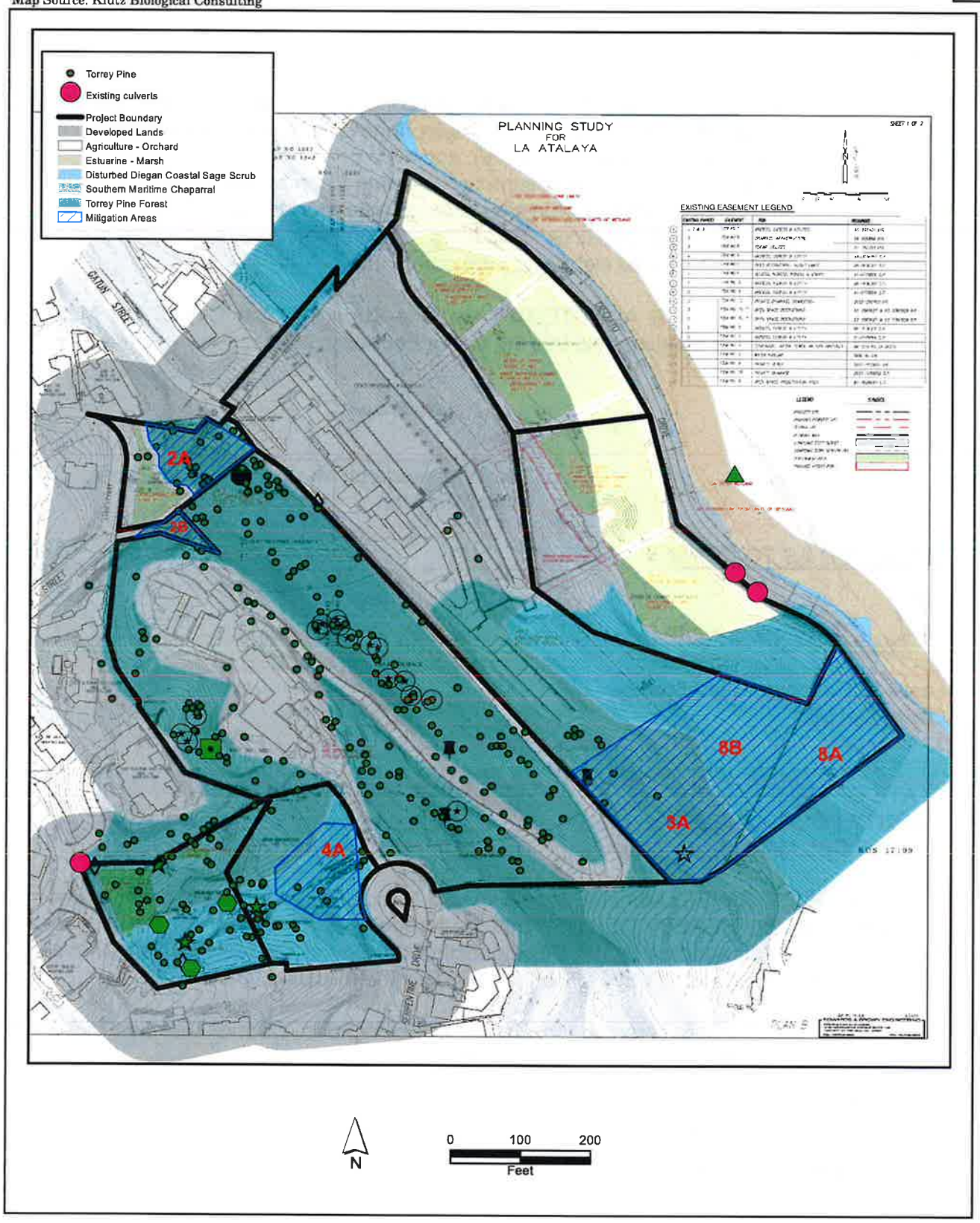
ATTEST AND CERTIFICATION:
STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
CITY OF DEL MAR

I, ASHLEY JONES, Administrative Services Director/City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution 2021-05, adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 1st day of February 2021 by the following vote:

AYES:	Mayor Gaasterland, Deputy Mayor Worden, Council Members Druker, Martinez and Quirk
NOES:	None
ABSENT:	None
ABSTAIN:	None

Ashley Jones
Administrative Services Director/City Clerk
City of Del Mar

Map Source: Klutz Biological Consulting



RECON

M:\JOBS5\9378\env\graphics\fig6.ai 10/06/20 lb

July 9, 2024

FIGURE 6
Project Mitigation

Item 1

RESOLUTION NO. PC-2024-xx

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DEL MAR, CALIFORNIA RECOMMENDING TO THE CITY COUNCIL APPROVAL OF A REVISION TO COUNCIL RESOLUTION 2021-05 (RM23-001) AND TO APPROVE A COASTAL DEVELOPMENT PERMIT (CDP24-008), AND A CONDITIONAL USE PERMIT (CUP24-001) FOR THE CONSTRUCTION OF REQUIRED ROADWAY, UTILITY, AND SAFETY IMPROVEMENTS WITHIN THE BLUFF, SLOPE, AND CANYON, OPEN SPACE, AND LAGOON OVERLAY ZONES.

APN(S): 299-192-24-00, 299-261-14-00, 299-261-42-00, 299-261-43-00, 299-200-62-00, 299-200-63-00, 299-200-64-00, 299-200-65-00

WHEREAS, on February 1, 2021, the City Council approved Tentative Tract Map (TTM18-004), Conditional Use Permit (CUP18-004), and Coastal Development Permit (CDP18-016) to reconfigure eight (8) lots totaling approximately 18.1 acres of land and to make associated roadway emergency access, and utility improvements; and

WHEREAS, in accordance with State law and Del Mar Municipal Code the original approval of TTM18-004 was to expire after two years; and

WHEREAS, on February 6, 2023, the City Council granted the Applicant an Extension of Time (EOT) for three years; and

WHEREAS, the CUP and CDP approved in conjunction with the subdivision are vested with the subdivision's approval in that as long as the subdivision does not expire prior to the approval and recordation of the Final Map, the related CUP and CDP entitlements remain valid; and

WHEREAS, the CUP and CDP as they relate to the required improvements to provide roadway, utility, and emergency access in order to serve the newly configured lots expired after three years since substantial construction of these improvements had not begun; and

WHEREAS, the Applicant is required to obtain a new CUP and CDP prior to construction of the roadway, utility, and emergency access improvements; and

WHEREAS, on May 22, 2023, La Atalaya, LLC (Applicant) applied for a Revised Map RM23-001 to modify the conditions of approval provided in City Council Resolution 2021-05; and

WHEREAS, on February 20, 2024**,** The Applicant also applied for Coastal Development Permit CDP24-008, and Conditional Use Permit CUP24-001 to allow construction of required roadway, utility, and safety improvements within the Bluff Slope and Canyon, Open Space, and Lagoon Overlay Zones; and

WHEREAS, pursuant to the requirements of the California Environmental Quality Act (CEQA) a Mitigated Negative Declaration (MND) was certified by the City Council on February 1, 2021 for the previously approved subdivision and related improvements pursuant to City Council Resolution 2021-05; and

WHEREAS, the Applicant is requesting a modification to the conditions of approval (RM23-001) to be able to request a Development Agreement in order to request more time to perform required improvements related to previously approved Tentative Tract Map (TTM18-004); and

WHEREAS, a previously approved Conditional Use Permit (CUP18-004) and Coastal Development Permit (CDP18-016) for the same roadway, utility, and safety improvements was approved by the City Council on February 1, 2021 and has since expired; and

WHEREAS, a new Conditional Use Permit and Coastal Development Permit are needed for the required improvements but where the scope of work has not changed since the previous approval; and

WHEREAS, on July 9, 2024, the Planning Commission of the City of Del Mar held a public hearing to consider a recommendation to the Del Mar City Council regarding approval of **RM23-001/CDP24-008/CUP24-001** and at which time all persons desiring to be heard were heard; and

WHEREAS, evidence was submitted and considered to include without limitation:

a. Plans submitted by the applicant.
b. Written information submitted with the application.
c. Oral testimony from Staff, the applicant, and the public.
d. Staff report, dated July 9, 2024, which is incorporated by this reference, as though fully set forth herein.
e. Additional information submitted during the hearing.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Del Mar recommends approval of Revised Map (RM23-001) to revise the conditions of approval to allow the Applicant to request a future Development Agreement that would address CUP/CDP expiration dates, be recommended for conditional approval by the City Council; and

AND BE IT FURTHER RESOLVED by the Planning Commission of the City of Del Mar, that Coastal Development Permit (CDP24-008) for the required roadway, utility, and safety improvements within the Bluff Slope and Canyon and Lagoon Overlay Zone be recommended for conditional approval by the City Council, and that approval be based upon the following findings:

1. **That the use for which the Coastal Development Permit is applied is permitted within the zone in which the property is located.**

   The improvements are permitted within the R1-40 (Very Low Density Residential) Zone, and Lagoon Overlay (L-OZ) and Bluff, Slope, and Canyon Overlay (BSC-OZ) Zones in which the property is located;

2. **That the proposal meets the criteria of the applicable chapters of this Title.**
   The proposed project, as conditioned, meets the criteria of the applicable chapters of the Del Mar Zoning Code, specifically Chapter 30.10 (R1-40, Very Low Density Residential),

Chapter 30.52 (Bluff, Slope and Canyon Overlay Zone), Chapter 30.53 (Lagoon Overlay Zone), Chapter 30.60 (Open Space Overlay Zone), and Chapter 30.61 (Public Access).

3. **That the granting of such Coastal Development Permit will be in conformity with the certified City of Del Mar Local Coastal Program (LCP)**.

   The Coastal Development Permit, as conditioned, will be in conformity with the certified City of Del Mar Local Coastal Program (LCP) with respect to resource protection standards, avoidance of hazards regulations and public access standards;

4. **That for all development proposals located seaward of the first public roadway, the proposed development is consistent with and implements the applicable requirements for provision of public access contained in this Title and in the public access and public recreation policies of Chapter 3 of the California Coastal Act**.

   The development, which is located seaward of the first public roadway, as conditioned, is consistent with and implements the applicable requirements for provision of public access contained in The Del Mar Zoning Code and in the public access and public recreation policies of Chapter 3 of the California Coastal Act in that the Applicant is required to pay an in-lieu fee towards the City's Riverpath Project, located just across San Dieguito Drive from the project area, since there is not space adjacent to the snakewall to accommodate a path of access to walk adjacent to the lagoon.

5. **That for all development proposals involving the construction or placement of a shoreline protection device, that the proposed development is consistent with and implements the applicable requirements of the Beach Overlay Zone and Setback Seawall Zone provisions contained in this Title and is consistent with and implements the provisions of the Chapter Three Policies of California Coastal Act.**

   No shoreline protection devices are proposed as part of this project.

6. **That the proposal is consistent with and implements the provisions of public view protection Policies IV-22 through IV-27 of the City of Del Mar LCP Land Use Plan.**

   The project is consistent with and implements the provisions of public view protection policies of the City of Del Mar Local Coastal Program, including those of the LCP Land Use Plan in that there are no improvements which would impact public views; and

7. **That for all development proposals on sites with identified wetland resources, that the proposed development is consistent with and implements the provisions of the Lagoon Overlay Zone as contained within the City of Del Mar Local Coastal Program Implementing Ordinances and Land Use Plan.**

   The development proposal, which is partially located in the Lagoon Overlay Zone, as conditioned, is consistent with and implements the provisions of that Lagoon Overlay Zone, as contained within the City of Del Mar Local Coastal Program Implementing

Ordinances and Land Use Plan in that the project site is buffered from the lagoon by a public street and a solid perimeter wall and there are no wetlands identified on-site.

AND BE IT FURTHER RESOLVED by the Planning Commission of the City of Del Mar, that Conditional Use Permit (CUP24-001) for the above-mentioned subdivision of property be recommended for conditional approval by the City Council, and that approval be based upon the following findings:

1. **That the use for which the Conditional Use Permit is applied for is permitted within the zone in which the property is located.**

   The requested improvements are permitted in the R1-40 Zone, Bluff, Slope and Canyon Overlay, Open Space, and the Lagoon Overlay Zones.

2. **That the granting of such Conditional Use Permit will not be detrimental to the public health, safety, comfort, convenience and general welfare, will not adversely affect the established character of the surrounding neighborhood, and will not be injurious to the property or improvements in such vicinity and zone in which the property is located.**

   The established character of the surrounding neighborhood is one of single-family residences and vacant residential lots located within the R1-40 Very Low Density Residential Zone, Bluff, Slope and Canyon Overlay Zone, Open Space Zone, and the Lagoon Overlay Zone. The required improvements will improve safety to the surrounding neighborhood in that the "Snake Wall" is to be modified to improve sightlines for cars exiting the alley onto San Dieguito Road and also requires the widening of a driveway gate for emergency vehicles to be able to access the lots off of San Dieguito Drive.

3. **That the proposed use is properly located in relation to the community as a whole and to other land uses and to transportation and service facilities in the vicinity; and further, that the use can be adequately served by such public facilities and street capacities without placing an undue burden on such facilities and streets.**

   The proposed improvements would not place an undue burden upon public streets, or public facilities and will in fact improve safety in that the "Snake Wall" is proposed to be modified to improve sight lines and a driveway gate is being widened to provide access to emergency vehicles.

4. **That the site is of sufficient size to accommodate the proposed use and all yards, open spaces, walls and fences, parking, loading, landscaping and such other features as are required by this Chapter or as are needed, in the opinion of the Planning Commission, or City Council on appeal, are properly provided to be compatible and harmonious with nearby uses.**

   The requirements of the R1-40 Zone call for a minimum lot size of 40,000 square feet in area. The eight developable lots would result in at lots that meet the 40,000 square feet minimum lot size required in the R1-40 Zone. The lots are of sufficient size to accommodate all uses and improvements required by the zone while maintaining the

required yard, steep slope setback areas, and 50 foot wetland buffer areas of the R1-40 Zone, Bluff, Slope, and Canyon Overlay Zone, and Lagoon Overlay Zone.

5. **That the granting of such Conditional Use Permit will not be contrary to the adopted Community Plan, including its goals, objectives, or policies, or to the objectives of any ordinance, regulation, or plan in effect to implement said Community Plan.**

   The requested improvements are consistent with the use, density and property development standards of the R1-40 Zone; the standards for protection of sensitive natural resources of the Lagoon, and Bluff, Slope and Canyon Overlay Zone; and the access, public view and resource protection standards of the City's Local Coastal Program (LCP); and

AND BE IT FURTHER RESOLVED by the Planning Commission of the City of Del Mar, that the steep slope encroachment required for the street improvement of the private road across Lots 5-8 be recommended for conditional approval by the City Council, and that approval be based upon the following finding:

1. **Pursuant to DMMC30.52.060A1.d. improvements are allowed to encroach into the steep slope area by 10% when less than 75% of the site contains steep slopes and a finding can be made that there is no feasible alternative to slope encroachment.**

   The private street improvements and new gate encroach into the steep slope areas less than 10% (4% encroachment). The new roadway would be roughly located where the existing driveway currently crosses the existing two lots, so placement of the new road in the existing location would minimize the amount of new disturbance to the steep slopes and steep slope setbacks. Given the steep slopes to the south and the wetland buffer to the north of the lots it appears that slope encroachment is required in order to have an adequate building site outside of the protected resources for future residences.

AND BE IT FURTHER RESOLVED by the Planning Commission of the City of Del Mar that applications RM23-001, CUP24-001, and CDP24-008 are recommended for City Council approval subject to the following conditions:

[Note: The conditions listed below may have intentional gaps in numbering or lettering.]

<u>General Conditions</u>:

G-2 [Compliance with Previous Conditions]
Approval of this application shall be in compliance with all previous conditions of approval pursuant to City Council Resolution 2021-05 dated February 1, 2021.

G-3 *[Development Authorization Limited to Plan Set]*
This permit is granted based on submitted plans dated March 25, 2024 and so identified by the staff of the Del Mar Planning and Community Development Department. Revisions to these

plans and/or any proposals for modification shall require review and prior authorization from the appropriate entities of the City of Del Mar.

G-13 *[Permit Expiration]*
This Conditional Use and Coastal Development Permits shall expire three years from the date of approval.

Special Conditions:

S-2 [Development Agreement]
Prior to the recordation of the Final Map and expiration of any required discretionary permits, the Applicant may submit for a Development Agreement to be adopted by City Council prior to the issuance of building permits pursuant to Del Mar Municipal Code Chapter 24.65 (Development Agreements).

Local Coastal Program:

LCP-2 [Coastal Development Permit Appealable]
This project is located within the Coastal Appeal Zone. The City's action on CDP24-008 may be appealed to the California Coastal Commission pursuant to Coastal Act Section 30603 and DMMC Chapter 30.75.

PASSED AND ADOPTED by the Planning Commission of the City of Del Mar, this **9th day of July, 2024** by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Philip Posner
Planning Commission

ATTEST:

_____
Karen Brindley
Planning and Community Development Director

City of Del Mar Agenda Report

TO: Honorable Mayor and City Council Members

FROM: Joseph D. Smith, AICP, Planning and Community Development Director
Jennifer Gavin, Associate Planner
Via CJ Johnson, City Manager

DATE: February 1, 2021

SUBJECT: Request to Adopt a Mitigated Negative Declaration and Approve Tentative Tract Map (TTM18-004), Coastal Development Permit (CDP18-016), Street Vacation (SV20-001), and Conditional Use Permit (CUP18-004) for an Eight-Lot Reconfiguration on 18.1 acres, including Roadway and Utility Improvements and a Summary Vacation of Public Easements and Alley

Applicant/Owner: La Atalaya, LLC
Assessor Parcel Numbers (APNs): 299-200-65-00, 299-261-43-00, 299-261-42-00, 299-261-14-00, 299-192-24-00, 299-200-64-00, 299-200-62-00, and 299-200-63-00

Location: South of San Dieguito Road, north of Zapo Street, east of Gatun Road, and west of Serpentine Drive. The project is located in the California Coastal Commission's appeal jurisdiction.

REQUESTED ACTION/RECOMMENDATION:
Staff recommends that the City Council conduct a public hearing and 1) adopt the proposed resolution (Attachment A) adopting a Mitigated Negative Declaration (MND) (State Clearinghouse (SCH) No. 2020100558) and Mitigation Monitoring and Reporting Program (MMRP) and approving a Tentative Tract Map (TTM18-004), Coastal Development Permit (CDP18-016), and Conditional Use Permit (CUP18-004) for the reconfiguration of eight lots known as "La Atalaya," totaling approximately 18.1 acres of land into eight different lots; to make related roadway and utility improvements; and 2) adopt a resolution (Attachment B) approving an application for Summary Vacation (SV20-001) of two public easements and a public alley in compliance with the California Streets and Highways Code.

City Council Action:

ACTION TAKEN: SEE PAGE TWO

ACTION TAKEN FOR ITEM 14:

IT WAS MOVED BY MAYOR GAASTERLAND, SECONDED BY DEPUTY MAYOR WORDEN TO ADOPT RESOLUTION 2021-05, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, TO ADOPT A MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING REPORTING PROGRAM AND APPROVING A TENTATIVE TRACT MAP (TTM18-004), COASTAL DEVELOPMENT PERMIT (CDP18-016), AND CONDITIONAL USE PERMIT (CUP18-004) TO SUBDIVIDE EIGHT LOTS TOTALING APPROXIMATELY 18.1 ACRES OF LAND KNOWN AS "LA ATALAYA" INTO EIGHT RECONFIGURED LOTS SOUTH OF SAN DIEGUITO DRIVE, NORTH OF ZAPO STREET, EAST OF GATUN STREET, AND WEST OF SERPENTINE DRIVE; TO MAKE RELATED ROADWAY AND UTILITY IMPROVEMENTS", WITH CONDITION OF APPROVAL THAT EACH LOT PRESERVE INTACT THE WALL, AND MINOR MODIFICATION TO THE WALL ON LOT 1 AS NEEDED TO ACCESS THE PROPERTY. (VOTE 5-0)

IT WAS MOVED BY MAYOR GAASTERLAND, SECONDED BY COUNCILMEMBER MARTINEZ TO ADOPT RESOLUTION 2021-06, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, APPROVING SUMMARY VACATION OF TWO PUBLIC EASEMENTS FROM A VACANT LOT (APN 299-192-24-00) AND AN ALLEY BETWEEN THE VACANT LOT AT APN 299-192-24-00 AND THE PROPERTY AT 690 SERPENTINE DRIVE (APN 299-200-65-00)." (VOTE 5-0)

EXECUTIVE SUMMARY:
The applicant is requesting approval of a Tentative Tract Map (TTM), Coastal Development Permit (CDP), Street Vacation (SV), and Conditional Use Permit (CUP) to reconfigure eight lots totaling approximately 18.1 acres of land into eight different lots. No new lots would be created by the TTM. Two of the lots include an existing residence that would remain. The applicant's requests are solely limited to the subdivision of land into eight legal lots and does not propose residential development on the remaining six vacant lots. However, the applicant does propose related roadway and utility improvements and to vacate two public easements and a public alley that will be discussed further in this report.

Pursuant to the California Environmental Quality Act (CEQA), the Planning and Community Development Department prepared an Initial Study and MND (IS/MND) (Attachment C). Even though the applicant is not requesting residential development, the IS/MND analyzes the proposed lot configuration assuming residential build-out of the six vacant lots. The Initial Study identified potential impacts in the areas of Biological Resources, Cultural Resources, Noise, Geology and Soils, and Tribal Cultural Resources. Mitigation measures were included with the MND to reduce all impacts to less than significant with mitigation. A MMRP would be adopted with City Council's adoption of the MND.

PLANNING COMMISSION RECOMMENDATION:
On January 12, 2021, the Planning Commission conducted a public hearing on the request and received public testimony from the applicant and neighboring property owners. Written and oral public testimony presented to the Planning Commission included concerns primarily focused around future development of proposed Lot 1 and, more specifically, a condition of approval requiring the applicant to relocate a City-owned public sewer line that traverses proposed Lot 1 by moving it to the adjacent, un-improved public alley. Of particular concern to the neighboring property owners was the additional requirement for alley improvements in order to provide an access road to an existing manhole in the alley for City maintenance purposes. The neighbors felt this would be disruptive and out of character with the alley in its unimproved state.

After much discussion regarding the recommended condition for sewer/alley public improvements adjacent to proposed Lot 1, the Planning Commission adopted a resolution unanimously recommending that the City Council adopt the MND and approve the requested TTM and associated development applications. Additionally, the Planning Commission recommended that staff revisit the issue concerning public sewer/alley access and determine whether there are alternatives that would address the neighbors' concerns prior to the item's consideration by the City Council.

Following the Planning Commission hearing, Planning staff met with the City Engineer/Public Works Director to evaluate alternatives to the sewer relocation and alley improvements. The City Engineer found that it would be more efficient if the sewer

relocation and alley improvements occurred concurrent with any future development on proposed Lot 1. As such, the City Engineer included a revised condition simply requiring an access easement over the existing sewer line on proposed Lot 1 thereby leaving the unimproved alley in its current state. If, and when, a residence is proposed on Lot 1 in the future, the City Engineer will re-evaluate if the sewer relocation and alley improvements would be required at that time. The proposed map (Attachment D) reflects the sewer line and alley in its current state and the attached resolution (Attachment A) includes a modified condition of approval (Condition E40C e) requiring an access easement over the existing sewer line.

DISCUSSION/ANALYSIS:
The Project proposes to subdivide eight existing parcels, consisting of a total of approximately 18.1 acres, into eight reconfigured single dwelling unit residential lots as follows:

Assessor Parcel Number (APN)	Street Access From	Existing Lot Label*	Proposed Lot Label**
299-261-43	Zapo Street	Lot O	Lot 1
299-192-24	Zapo Street	Lot U	Lot 2
299-200-64	Gatun Street	Parcel 3	Lot 3
299-200-65	Serpentine Drive	Parcel 4	Lot 4
299-261-14	Serpentine Drive	Block 30	Lot 4
299-261-42	Serpentine Drive	Lot G	Lot 4
299-200-62	San Dieguito Drive	Parcel 1	Lots 5 & 6
299-200-63	San Dieguito Drive	Parcel 2	Lots 7 & 8

*The existing configuration of lots has been included as Attachment E.
**The proposed TTM (map) is included as Attachment C.

Existing lots “O”, “U”, “Block 30”, “G”, and Parcels 1 and 2 are all vacant undeveloped lots for which development is not proposed at this time. Existing “Parcel 3” and “Parcel 4” are existing developed lots featuring single dwelling units to remain.

Tentative Tract Map
The applicant is requesting approval of a TTM to subdivide eight existing lots into eight reconfigured lots. No new lots would result from the action. All existing development on proposed Lots 3 and 4 would remain and no additional residential development is proposed at this time on the remaining six vacant lots. The following improvements are included with the proposed TTM (map) which require subsequent Design Review and Land Conservation approvals (where applicable) prior to approval of the Final Map:

- The relocation of a shed from proposed Lot 7 to Lot 3
- A new private road referred to as “La Atalaya Way” across proposed Lots 5-8
- The existing and historic “Snake Wall” needs to be modified in order to provide adequate access for emergency vehicles where the alley from San Dieguito Drive

meets the new private road "La Atalaya Way". Further, modifications are necessary in order to improve vehicle sight lines when exiting the alley onto San Dieguito Drive.

Del Mar Municipal Code (DMMC) Section 24.12.030 (Subdivisions) requires that lots proposed as part of a subdivision application meet the minimum lot dimension standards identified in the underlying zone, which in this case is the R1-40 Zone (Very Low Density Residential). The proposed parcel boundaries have been arranged to meet the size and design requirements of the R1-40 Zone. DMMC Section 30.10.070 (Zoning) sets forth the development standards for subdivisions in the R1-40 Zone. All eight proposed parcels would conform to the required design and dimensions of the R1-40 Zone as shown in the table below:

Design Standard	**R1-40 Zone**	**Lot 1**	**Lot 2**	**Lot 3**	**Lot 4**	**Lot 5**
Min. Lot Size	**40,000 sf.**	41,108 sf.	47,505 sf.	173,386 sf.	270,130 sf.	43,036 sf.
Min. Street Frontage	**20 ft.**	220 ft.*	215 ft.	32 ft.	266 ft.	202 ft.
Min. Lot Width	**75 ft.**	184 ft.	170 ft.	139 ft.	389 ft.	195 ft.
Min. Lot Depth	**100 ft.**	196 ft.	270 ft.	1,008 ft.	572 ft.	239 ft.

Design Standard	**R1-40 Zone**	**Lot 6**	**Lot 7**	**Lot 8**
Min. Lot Size	**40,000 sf.**	42,524 sf.	41, 009 sf.	110, 013 sf.
Min. Street Frontage	**20 ft.**	148 ft.	216 ft.	24 ft.
Min. Lot Width	**75 ft.**	180 ft.	210 ft.	453 ft.
Min. Lot Depth	**100 ft.**	267 ft.	250 ft.	250 ft.

*The existing street frontage for proposed Lot 1 is from an unimproved alley which, per the DMMC, is considered a "street" when there is no access from a right-of-way (Zapo Street).

The proposed TTM has been reviewed by Public Works/Engineering, Fire, and Planning Departments for Subdivision Ordinance requirements. Pursuant to these reviews, conditions of approval have been recommended to ensure the project's consistency with the provisions of the Zoning Code, the policies and goals of the Del Mar Community Plan, and the City's certified Local Coastal Program (LCP).

The recommended conditions of approval and findings required for the TTM are included in the attached resolution (Attachment A).

Conditional Use Permit:

The project is subject to the receipt of a Conditional Use Permit (CUP) due to the site's location within the Bluff, Slope and Canyon Overlay Zone, Open Space Overlay Zone, and the Lagoon Overlay Zone. In addition, a CUP is required because the improvement of "La Atalaya Way" is partially located within areas considered steep slopes and steep slope setbacks as defined by the DMMC.

Bluff, Slope and Canyon Overlay Zone (BSC-OZ):
The BSC-OZ (DMMC Section 30.52.100) requires a CUP to be obtained in the case of a proposed subdivision and for certain improvements within areas considered steep slopes and steep slope setbacks. The BSC-OZ is intended to protect bluffs, related canyons and steep slopes, as well as protect downstream resources from potential adverse impacts caused from erosion and sedimentation. The entire project site is located within the BSC-OZ.

Steep slopes are present in the eight lots as follows:

Proposed Lot	Steep Slope Area	% Steep Slopes on Site
Lot 1	24,682 sf.	60%
Lot 2	35,666 sf.	75.1%
Lot 3	91,280 sf.	52.7%
Lot 4	210,220 sf.	77.8%
Lot 5	15,285 sf.	35.5%
Lot 6	11,237 sf.	26.4%
Lot 7	17,951 sf.	43.8%
Lot 8	80,995 sf.	73.6%

The development of "La Atalaya Way" requires encroachment into the steep slope setbacks and steep slopes as follows:

Proposed Lot	Encroachment into Steep Slope Setback	Encroachment into Steep Slopes	% Steep Slope Encroachments
Lot 5	805 sf.	0 sf.	0%
Lot 6	1,184 sf.	0 sf.	0%
Lot 7	2,170 sf.	718 sf.	4%
Lot 8	60 sf.	0 sf.	0%

The "La Atalaya Way" improvements encroach into steep slope areas by 4%, which is less than the allowable 10% encroachment pursuant to DMMC Section 30.52.060A.1.d. The new roadway would be roughly located where the existing driveway currently crosses the existing two lots. This allows the placement of the new road largely within the existing

location thereby minimizing the amount of new disturbance in steep slopes and steep slope setbacks. Given the steep slopes to the south and the wetland buffer to the north of the lots (further described in L-OZ below) it appears that slope encroachment is required in order to have an adequate building site outside of the protected resources for future residences.

As part of the CEQA process, the applicant submitted a future development planning study that shows the potential buildable areas of the six vacant lots given the typical zoning and various overlay constraints (Attachment F). With exception to proposed Lot 2, the remaining five proposed lots were able to site a potential building pad for a residence which was one-story (per the BSC overlay design requirements) and the maximum FAR allowed. Lot 2 has a conceptual building area, which is approximately 1,218 square feet less than zoning would otherwise allow. However, there would still be approximately 4,180 square feet of developable area and the proposed changes to the lot only add additional steep slope area without reducing the existing developable area.

Pursuant to DMMC 30.52.060 findings are required both for a subdivision within the Bluff, Slope, and Canyon Overlay Zone and for encroachment of improvements into the Steep Slope Area and setbacks. The suggested findings are included in the resolution attached as Attachment A.

Lagoon Overlay Zone (L-OZ):
The L-OZ was incorporated into the DMMC as a part of the LCP's Implementing Ordinances, which gives authority to the City to issue Coastal Development Permits. The L-OZ is intended to protect the wetland resources of the San Dieguito and the Los Peñasquitos Lagoons, and their sensitive upland habitats. The partial location of the subdivision site (proposed Lots 5-8) within the L-OZ triggers a requirement for a CUP. Proposed Lots 1-4, south of the San Dieguito lots, are not located within the L-OZ.

In reviewing such CUP applications, the City Council is to analyze a proposal to determine: 1) if any impact is proposed within a wetland area; 2) the appropriateness of any requested reduction of a wetland buffer; and 3) the retention of wetland areas in open space easements with appropriate mitigation measures.

The project proposes to incorporate a reduced minimum 50-foot wetland buffer (where 100 feet is normally required) on proposed Lots 5-8. Per the L-OZ, the reduction is allowed with concurrence from the California Department of Fish and Wildlife (CDFW) and findings made by the Planning Commission. The buffer begins along the edge of the San Dieguito Lagoon vegetation and edge of San Dieguito Drive pavement on the northern boundary of San Dieguito Drive. The existing road footprint and historic Snake Wall that occurs along the project boundary would remain within the buffer. Beyond the Snake Wall, the project would implement an additional 15 to 22 feet of wetland buffer on proposed Lots 5-8. All project improvements would occur outside of the on-site wetland buffer and a condition of approval has been included which requires a deed restricted

open space be placed on the portions of these proposed lots within the 50-foot buffer. Additionally, an open space easement is required over a portion of proposed Lot 8 (see Attachment G) which would preserve 0.51 acres of Southern Maritime Chaparral.

A 50-foot wetland buffer appears to be appropriate because of the location of San Dieguito Drive, the existing on-site historic Snake Wall, which consists of a six-foot-tall masonry barrier that isolates the project boundary from off-site wetland resources, and the inclusion of an open space easement that would protect 0.51 acres of Southern Maritime Chaparral. The Snake Wall appears to have served well to prevent domestic animals from obtaining access into the wetlands. Implementation of a full 100-foot wetland buffer does not appear to result in any further protections of the wetlands and reduction in the wetland buffer does not appear to adversely affect the wetlands from the existing conditions. However, establishment of a 100-foot wetland buffer would substantially limit future potential development of the parcels at the northern portion of the site. As a result, a 100-foot buffer could push proposed and future potential development further into steep slopes. This would result in an adverse impact upon Southern Maritime Chaparral and create potential visual impacts.

Pursuant to DMMC Section 30.53.170, specific findings are required both for a subdivision within the L-OZ and for a wetland buffer reduction. On January 12, 2021, the Planning Commission made findings to support this reduction and CDFW provided concurrence with the reduction (Attachment H). Should the City Council want to approve the reduction, suggested findings are included in the draft resolution (Attachment A).

Conditional Use Permit Findings:
Pursuant to DMMC Chapter 30.60, each determination granting a CUP for subdivision of land within the BSC-OZ and L-OZ shall be supported by findings made by the City Council. Suggested findings are included in Attachment A.

Coastal Development Permit:
The project site is located within the California Coastal Zone and, therefore, requires the receipt of a Coastal Development Permit (CDP). The applicant has submitted the necessary materials and the CDP application is included with the requested TTM and CUP reviewed by the Planning Commission. The standards of review for the CDP application are the Implementing Ordinances of the City's certified LCP.

Staff has reviewed the application for its consistency with the applicable provisions of the LCP, specifically resource protection, avoidance of hazards, and public access standards. Regarding public access standards, the project is located within an identified Public Access Trail site along the frontage of proposed lots 5-8 in the City's Land Use Plan of the City's Local Coastal Program. As such, the development is subject to review under the public access standards of DMMC Chapter 30.61. The regulatory standards require that any decision on a requested CDP include a specific finding(s) as to why the requested CDP should or should not be conditioned to require the provision of public

access opportunities to and/or along the shoreline, opportunities in the form of public access easements, installation of access improvements, or both.

Applicable to the project, staff is recommending that a finding can be made to require a $6,000 in-lieu payment toward the City's planned Riverpath Phase III extension to be located immediately across San Dieguito Drive from proposed Lots 5-8. Because of the location of the Snake Wall and the change in topography directly in front of proposed Lots 5-8, citing the planned Riverpath Phase III extension within the project site would not be feasible. Therefore, the in-lieu fee is considered a sufficient alternative for providing public access within proximity to the San Dieguito Lagoon.

Due to the site's location, the project is located in the appeal jurisdiction of the California Coastal Commission (CCC). As such, the City's action on the CDP application will be appealable to the CCC by an aggrieved person or by any two of the CCC Commissioners. Information on the CCC appeal process is available at https://coastal.ca.gov/cdp/cdp-forms.html

Coastal Development Permit Findings:
Pursuant to DMMC Chapter 30.75, each determination granting a CDP for development shall be supported by findings made by the City Council. Suggested findings are included in Attachment A.

Street Vacation:
The applicant is requesting to vacate two public easements that cross proposed Lot 2 and a 2,879 square foot undeveloped public alley ("paper alley") located between proposed Lots 2 and 4. In the past, the two easements used to serve a water tower that was located on this site and has since been removed. The paper alley is undeveloped, unused, and consists primarily of steep slopes. Future use is not anticipated. If vacated, the 2,879 square foot area would revert to proposed Lot 2.

Note that a variety of other private easements are being considered by the applicant to be quitclaimed; however, because these are private, City review and approval is not required.

The City Council is required to follow the procedures for a right-of-way vacation as outlined in California Streets and Highways Code (SHC) Section 8320. Staff has determined that, per the SHC, the vacation requests are eligible for a "summary" vacation process. This type of process requires City Council approval and recordation of a resolution and a depiction of the areas vacated, which are shown on the proposed TTM subdivision map. A (separate) resolution for approval of SV20-001 has been included as Attachment B to this report.

This street vacation request has also been reviewed by Public Works/Engineering to determine the appropriateness of the right-of-way vacation. As part of that review, no objections were raised on vacating the two public easements and paper alley.

Street Vacation Findings:
Pursuant to SHC Section 8320, vacations shall be supported by findings made by the City Council. Suggested findings are included in Attachment B

FISCAL IMPACT:
There would be no fiscal impact to the City as this is a private development proposal. All fees associated with the project and CEQA processing have been paid by the applicant. Additionally, all costs associated with any future development of the subdivision, including required public improvements, would be paid by the applicant or future owners of the subdivided lots.

ENVIRONMENTAL IMPACT:
Pursuant to the provisions of CEQA, the Planning and Community Development Department prepared an Initial Study and MND (Attachment C). The MND includes a Mitigation Monitoring and Reporting Program (MMRP) for the proposed project with measures to ensure conformance with the applicable provisions of the BSC-OZ. The Initial Study identified potential impacts for the following areas: Biological Resources, Cultural Resources, Noise, Geology and Soils, and Tribal Cultural Resources. A detailed review of the potential impacts is included in the Initial Study. The MND includes mitigation measures that reduce all impacts to less than significant levels with mitigation. All mitigation measures included in the MND are included as conditions of approval in the requested permits.

In accordance with Public Resources Code Section 21091 and CEQA Guidelines Section 15073, the draft IS/MND was circulated for public review and comments for a 30-day period from October 29, 2020 through November 30, 2020. The documents were made available at the Del Mar Public Library and on the City's website. Due to the COVID-19 pandemic, City Hall was closed to the public during the comment period and a physical copy of the IS/MND was not provided at this location. Four comments from the public, other agencies, or interested parties were submitted to the City. The IS/MND concludes that all identified potential impacts can be reduced to less than significant with mitigation. The City of Del Mar City Hall, located at 1050 Camino del Mar, Del Mar, CA 92014 (online at www.delmar.ca.us), is the custodian of the documents and other material which constitutes the record of proceedings upon which a decision is based.

ATTACHMENTS:
Attachment A – Draft Resolution for Applications TTM18-004, CDP18-016, CUP18-004
Attachment B- Draft Resolution for Summary Vacation (SV18-001)
Attachment C – Draft IS/MND and MMRP
Attachment D – Proposed TTM (Subdivision Map)

Attachment E – Existing Lot Configuration
Attachment F – Future Development Planning Study
Attachment G – Open Space Exhibit
Attachment H – Correspondence from CDFW

RESOLUTION NO. 2021-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, TO ADOPT A MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING REPORTING PROGRAM AND APPROVING A TENTATIVE TRACT MAP (TTM18-004), COASTAL DEVELOPMENT PERMIT (CDP18-016), AND CONDITIONAL USE PERMIT (CUP18-004) TO SUBDIVIDE EIGHT LOTS TOTALING APPROXIMATELY 18.1 ACRES OF LAND KNOWN AS "LA ATALAYA" INTO EIGHT RECONFIGURED LOTS SOUTH OF SAN DIEGUITO DRIVE, NORTH OF ZAPO STREET, EAST OF GATUN STREET, AND WEST OF SERPENTINE DRIVE; TO MAKE RELATED ROADWAY AND UTILITY IMPROVEMENTS; IN THE CITY OF DEL MAR, CALIFORNIA

WHEREAS, La Atalaya, LLC (Applicant) is the owner of real property commonly referred to as "La Atalaya" identified by Assessor Parcel Numbers (APNs) 299-200-65-00, 299-261-43-00, 299-261-42-00, 299-261-14-00, 299-192-24-00, 299-200-64-00, 299-200-62-00, and 299-200-63-00; and

WHEREAS, the Applicant applied for a Tentative Tract Map (TTM18-004), Coastal Development Permit (CDP18-016), and Conditional Use Permit (CUP18-004), to reconfigure eight existing lots and make associated roadway and utility improvements; and

WHEREAS, the Project site is located within the R1-40 Zone (Very Low Density Residential), the Bluff, Slope and Canyon Overlay Zone (BSC-OZ), the Lagoon Overlay Zone (L-OZ), and the Open Space Overlay Zone; and

WHEREAS, the Project requests a Wetland Buffer reduction pursuant to Del Mar Municipal Code (DMMC) Section 30.53.100 in the L-OZ from 100 feet to 50 feet; and

WHEREAS, the City determined that the Project was subject to the California Environmental Quality Act (CEQA) and as such, prepared an Initial Study and Mitigated Negative Declaration (IS/MND) (State Clearinghouse (SCH) No. 2020100558) for the project. The IS/MND was prepared in accordance with applicable law, including CEQA, Public Resources Code of Regulations section 21000 et seq., the CEQA Guidelines, 14 California Code of Regulations section 15000 et seq., and the City's Supplemental CEQA Regulations. The IS/MND was circulated for a 30-day review period to the public, responsible agencies, and other interested persons for review and comment for between October 29, 2020 to November 30, 2020; and

WHEREAS, written comments were received on the IS/MND during the 30-day review period; and

WHEREAS, the IS/MND concluded that the implementation of the Project will have less than significant impacts with mitigation measures included for potential

adverse impacts to Biological Resources, Cultural Resources, Noise, and Tribal Cultural Resources; and

WHEREAS, under CEQA, a lead agency makes a determination on a Project requiring the implementation of measures to mitigate or avoid significant effects on the environment; and CEQA also requires a lead agency to adopt a Mitigation Monitoring and Reporting Program (MMRP) to ensure compliance with the mitigation measures during Project implementation. As such, a MMRP has been prepared for the Project for consideration by the City of Del mar City Council as the decision-maker and lead agency for the Project; and

Whereas, the City of Del Mar City Hall located at 1050 Camino del Mar, Del Mar, CA 92014 (online at www.delmar.ca.us) is the custodian of the documents and other material which constitutes the record of proceedings upon which a decision is based; and

WHEREAS, on January 12, 2021, the Planning Commission of the City of Del Mar held a public hearing to consider a recommendation to the Del Mar City Council regarding adoption of the IS/MND and MMRP and approval of TTM18-004, CDP18-016, and CUP18-004and at which time all persons desiring to be heard were heard; and

WHEREAS, evidence was submitted and considered to include without limitation:

a. Plans submitted by the Applicant.
b. Written information submitted with the application.
c. Oral testimony from Staff, the applicant, and the public.
d. Staff report, dated January 12, 2021, which is incorporated by this reference, as though fully set forth herein.
e. Additional information submitted during the hearing; and

WHEREAS, the Planning Commission received testimony from neighboring properties primarily concerned by potential impacts related to the relocation of a public sewer line from proposed Lot 1 into the adjacent unimproved public alley and the improvement of a service road to access an existing manhole in a public alley; and

WHEREAS, on January 12, 2021, the Planning Commission of the City of Del Mar recommended to the City Council adoption of the IS/MND and MMRP and approval of TTM18-004, CDP18-016, CUP18-004, and SV20-001; and for staff to research alternatives to the sewer and alley improvements adjacent to proposed Lot 1; and

WHEREAS, staff from the Planning and Community Development Department met with the City Engineer/Public Works Director who determined that the sewer relocation and alley improvements adjacent to proposed Lot 1 could be re-evaluated at the time of any future residential development and that alternatively the requirement of

an easement over the existing sewer line would be an appropriate condition of approval for the TTM; and

WHEREAS, on January 19, 2021, the Applicant submitted a revised TTM to omit the sewer and alley improvements; and

WHEREAS, on February 1, 2021, the City Council of the City of Del Mar held a public hearing to consider adoption of the IS/MND and MMRP and approval of TTM18-004, CDP18-016, and CUP18-004, and at which time all persons desiring to be heard were heard; and

WHEREAS, evidence was submitted and considered to include without limitation:

a. Plans submitted by the Applicant.
b. Written information submitted with the application.
c. Oral testimony from Staff, the applicant, and the public.
d. Staff report, dated February 1, 2021, which is incorporated by this reference, as though fully set forth herein.
e. Additional information submitted during the hearing.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Del Mar adopts the Mitigated Negative Declaration (SCH No. 2020100558) for Project and the associated Mitigation Monitoring and Reporting Program, based on the following findings:

1. That the revised Mitigated Negative Declaration (SCH No. 2020100558) for the Project has been prepared in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the CEQA Guidelines thereto (14 California Code of Regulations Section 15000 et seq.);

2. That the MND for the Project reflects the independent judgment of the City of Del Mar as the lead agency; and

3. That the MND for the Project is accurate and complete;

AND BE IT FURTHER RESOLVED by the City Council of the City of Del Mar that the Tentative Tract Map (TTM18-004) for the above-mentioned subdivision of property be approved based upon the following findings:

1. The proposed map is consistent with the Del Mar Community (General) Plan in that the proposed residential use and density of development are permitted under the General (Community) Plan requirements;

2. As conditioned, the design and improvement of the proposed subdivision is consistent with the General (Community) Plan in that the design provides sufficient lot area and street access for proper development;

3. The site is physically suitable for the type of development in that the lot is capable of supporting the proposed residential subdivision and potential future development in the R1-40 Zone;

4. The site is physically suitable for the proposed density of development in that the project is within the standards specified in the Del Mar Subdivision and Zoning Ordinances;

5. As conditioned, the design of the subdivision and the proposed improvements are not anticipated to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, as determined by CEQA review analyzed in the IS/MND;

6. As conditioned, the design of the subdivision and the type of improvements are not anticipated to cause serious public health problems, as determined by CEQA review analyzed in the IS/MND;

7. The design of the subdivision and the type of improvements will not conflict with any easements acquired by the public at-large and which are recorded or established by judgment of a court of competent jurisdiction;

8. The proposed map meets the requirements of the Subdivision Map Act and the Del Mar Subdivision Ordinance, and has been approved by the City Engineer as being consistent with those requirements; and

9. All provisions of the Del Mar Municipal Code pertaining to subdivisions are met;

AND BE IT FURTHER RESOLVED by the City Council of the City of Del Mar, that Coastal Development Permit (CDP18-016) for the above-mentioned subdivision of property and associated roadway and utility development be approved based upon the following findings:

1. That the use for which the CDP is applied is permitted within the zone in which the property is located.

   The reconfiguration of land for eight lots intended for residential use is permitted within the R1-40 (Very Low Density Residential) Zone in which the property is located;

2. That the proposal meets the criteria of the applicable chapters of this Title.

   The proposed project, as conditioned, meets the criteria of the applicable chapters of the Del Mar Zoning Code, specifically Chapter 30.10 (R1-40, Very Low Density Residential), Chapter 30.52 (Bluff, Slope and Canyon Overlay Zone), Chapter 30.53 (Lagoon Overlay Zone), Chapter 30.60 (Open Space Overlay Zone), Chapter 30.61 (Public Access), and Chapter 30.80 (Parking);

3. That the granting of such Coastal Development Permit will be in conformity with the certified City of Del Mar Local Coastal Program (LCP).

   The CDP, as conditioned, will be in conformity with the certified City of Del Mar LCP with respect to resource protection standards, avoidance of hazards regulations and public access standards;

4. That for all development proposals located seaward of the first public roadway, the proposed development is consistent with and implements the applicable requirements for provision of public access contained in this Title and in the public access and public recreation policies of Chapter 3 of the California Coastal Act.

   The development, which is located within an identified Public Access Trail site along the frontage of proposed lots 5-8 in the City's Land Use Plan of the City's Local Coastal Program, as conditioned, is consistent with and implements the applicable requirements for provision of public access contained in City's certified LCP and in the public access and public recreation policies of Chapter 3 of the California Coastal Act;

5. That for all development proposals involving the construction or placement of a shoreline protection device, that the proposed development is consistent with and implements the applicable requirements of the Beach Overlay Zone and Setback Seawall Zone provisions contained in this Title and is consistent with and implements the provisions of the Chapter Three Policies of California Coastal Act.

   Due to the site's location, no shoreline protection devices are proposed or required as part of this project;

6. That the proposal is consistent with and implements the provisions of public view protection Policies IV-22 through IV-27 of the City of Del Mar LCP Land Use Plan.

The project is consistent with and implements the provisions of public view protection policies of the City's certified LCP, including those of the LCP Land Use Plan; and

7. That for all development proposals on sites with identified wetland resources, that the proposed development is consistent with and implements the provisions of the Lagoon Overlay Zone as contained within the City of Del Mar Local Coastal Program Implementing Ordinances and Land Use Plan.

   The development proposal, which is partially located in the L-OZ, as conditioned, is consistent with and implements the provisions of that L-OZ, as contained within the City's LCP Implementing Ordinances and Land Use Plan;

AND BE IT FURTHER RESOLVED by the City Council of the City of Del Mar, that Conditional Use Permit (CUP18-004) for the above-mentioned subdivision of property and the associated roadway and utility improvements be approved based upon the following findings:

1. That the use for which the Conditional Use Permit is applied for is permitted within the zone in which the property is located;

   The current request to improve a private street referred to as "La Atalaya Way" and the potential future development of single-family residences with associated amenities are permitted in the R1-40 Zone, BSC-OZ, and the L-OZ;

2. That the granting of such Conditional Use Permit will not be detrimental to the public health, safety, comfort, convenience and general welfare, will not adversely affect the established character of the surrounding neighborhood, and will not be injurious to the property or improvements in such vicinity and zone in which the property is located.

   The established character of the surrounding neighborhood is one of single-family residences and vacant residential lots located within the R1-40 Very Low Density Residential Zone, BSC-OZ, Open Space Zone, and the L-OZ. The project has been reviewed to ensure that it would not adversely affect the natural resources found in the referenced Overlay Zones. As the application for subdivision only proposes a reconfiguration of lots with no net new lots created, and associated roadway and utility improvements at this time, any other potential improvements have been shown for conceptual and environmental review purposes (the project does not include the development

of new residences). As such, the granting of the CUP would not be injurious to the property or improvements in the vicinity of the site;

3. That the proposed use is properly located in relation to the community as a whole and to other land uses and to transportation and service facilities in the vicinity; and further, that the use can be adequately served by such public facilities and street capacities without placing an undue burden on such facilities and streets.

   The proposed residential use is properly located within the community. Any future development of a single-family residence would be an allowed use within the R1-40 Zone and associated Overlay Zones. As conditioned, this subdivision project involving the re-configuration of eight legal parcels of land into eight zoning and subdivision compliance residential parcels would not place an undue burden upon public streets or public facilities. Further, the proposed request includes the vacation of two public easements and one undeveloped “paper alley” all of which are no longer in use and not needed for future City services in the area;

4. That the site is of sufficient size to accommodate the proposed use and all yards, open spaces, walls and fences, parking, loading, landscaping and such other features as are required by this Chapter or as are needed, in the opinion of the Planning Commission, or City Council on appeal, are properly provided to be compatible and harmonious with nearby uses.

   The requirements of the R1-40 Zone call for a minimum lot size of 40,000 square feet in area. The eight developable lots would result in at least a 40,000 square feet minimum lot size required for the R1-40 Zone. The lots are of sufficient size to accommodate all uses and improvements required by the zone while maintaining the required yards, steep slope setback areas, and 50-foot wetland buffer areas of the R1-40 Zone, BSC-OZ, and L-OZ; and

5. That the granting of such Conditional Use Permit will not be contrary to the adopted Community Plan, including its goals, objectives, or policies, or to the objectives of any ordinance, regulation, or plan in effect to implement said Community Plan.

   This CUP request involves a proposal to reconfigure eight lots of approximately 18.1 acres of land into eight different lots and to construct roadway and utility improvements within the BSC-OZ and L-OZ. As proposed and conditioned, the subdivision would be consistent with the use, density, and property development standards of the R1-40 Zone; the standards for protection of sensitive natural resources of the BSC-OZ and

L-OZ; and the access, public view, and resource protection standards of the City's certified LCP;

AND BE IT FURTHER RESOLVED by the City Council of the City of Del Mar, that the steep slope encroachment required for the private street improvement across proposed Lots 5-8 be approved based upon the following finding:

1. Pursuant to DMMC Section 30.52.060A1.d, improvements are allowed to encroach into the steep slope area by 10% when less than 75% of the site contains steep slopes and a finding can be made that there is no feasible alternative to slope encroachment.

   The private street improvements encroach into the steep slope areas by approximately 4%, which is less than the allowable 10%. The new roadway would be roughly located where the existing driveway currently crosses the existing two lots, so placement of the new road in the existing location would minimize the amount of new disturbance to the steep slopes and steep slope setbacks. Given the steep slopes to the south and the wetland buffer to the north of the lots, it appears that slope encroachment is required in order to have an adequate building site outside of the protected resources for future residences;

AND BE IT FURTHER RESOLVED by the City Council of the City of Del Mar, that as required by the Bluff, Slope, and Canyon Overlay Zone for the above-mentioned subdivision of property be approved based on the following findings:

1. The proposed design and improvements of the subdivision will be consistent with the criteria of the Bluff, Slope, and Canyon Overlay Zone.

   The proposed design and improvements of the subdivision would be consistent with the criteria of the BSC-OZ in that each lot has demonstrated that there are buildable areas outside of the steep slope and steep slope setbacks;

2. No subdivision shall be approved which creates a lot or lots that are composed entirely or nearly entirely of substantial steep slopes as defined in this Chapter.

   The subdivision has been created in such a way that each of the vacant lots would have a maximum of 75.1% or less steep slopes which leaves a building site of 25% or greater outside of the substantial steep slopes; and

3. No subdivision or boundary adjustment shall be approved for creation or realignment of a lot(s) that would be incapable of supporting subsequent

construction with the provision of the steep slope setbacks specified in the Bluff, Slope, and Canyon Overlay Zone.

As designed, the subdivision has demonstrated the ability to support construction outside of the steep slopes and steep slope setbacks;

AND BE IT FURTHER RESOLVED by the City Council of the City of Del Mar, that the request for a wetland buffer reduction pursuant to DMMC Section 30.53.100(B) from 100 feet to 50 feet for proposed Lots 5-8 be approved based upon the following finding:

1. That the physical characteristics of the site, such as the size and dimensions of the property are adequate to protect the resources of the adjacent wetlands, based on site-specific factors. When making such a finding, the Planning Commission shall, in consultation with the California Department of Fish and Game, consider site-specific factors such as the type and size of the development proposed; the mitigation measures provided (such as planting of vegetation or construction of fencing); elevation differentials which may exist between the proposed development and wetland areas; the need for upland transitional habitat; or other similar factors which will serve to contribute to the purposes of a wetland buffer area.

   A 50-foot wetland buffer is appropriate because of the location of San Dieguito Drive, the existing onsite historic Snake Wall, which consists of a six-foot-tall masonry barrier that isolates the project boundary from off-site wetland resources, and the inclusion of an open space easement which would protect 0.51 acres of Southern Maritime Chaparral. The Snake Wall has served well to prevent domestic animals from obtaining access into the wetlands. Implementation of a full 100-foot wetland buffer does not appear the security of the San Dieguito wetlands and reduction in the wetland buffer does not appear to result in any further protection of the wetlands from the existing conditions in any way. However, establishment of a 100-foot wetland buffer would substantially limit the future potential development of the parcels at the northern portion of the site further into the steep slopes. This would result in an adverse impact upon Southern Maritime Chaparral and could create potential visual impacts. Further, the City has received concurrent from California Department of Fish and Wildlife for a reduction in wetland buffer from 100 feet to 50 feet;

AND BE IT FURTHER RESOLVED by the City Council of the City of Del Mar, that as required by the Lagoon Overlay Zone for the above-mentioned subdivision of property be approved based on the following finding:

1. No subdivision shall be approved unless a finding is made that the proposed design of the subdivision and its improvements will be consistent with the criteria of the Lagoon Overlay Zone. Specifically, no subdivision shall be approved for creation of a lot(s) which would be incapable of either: 1) supporting the construction of a use allowed within the underlying zone; or 2) supporting such construction with provision of the applicable wetland setbacks and other resource protection measures required pursuant to this Chapter. In reviewing the subdivision proposal, there shall be consideration of the probable impacts that the project, including subsequent development on the lot(s), will have on preservation of wetlands resources.

   As evidenced by a Future Development Planning Study, in the event that future development of new residence(s) on the six vacant lots could be supported outside of the proposed 50-foot wetland buffer and would be required to meet the development standards of the L-OZ;

AND BE IT FURTHER RESOLVED by the City Council of the City of Del Mar that applications TTM18-004, CDP18-016, and CUP18-004 are approved subject to the following conditions:

[Note: The conditions listed below may have intentional gaps in numbering or lettering.]

General Conditions:

G-1 *[Business License]*
Prior to commencement of any work on site, all contractors and subcontractors shall obtain a valid City of Del Mar Business License. The general contractor shall be responsible for ensuring that all subcontractors obtain required Business License and shall retain copies of said permits on site for verification by City staff.

G-3 *[Development Authorization Limited to Plan Set]*
The approvals are granted based on submitted plans dated January 19, 2021 and so identified by the staff of the Del Mar Planning and Community Development Department. Revisions to these plans and/or any proposals for modification shall require review and prior authorization from the appropriate entities of the City of Del Mar.

G-4 *[Encroachment Permit for Work in Right-of-Way]*
Any work proposed or required within a City of Del Mar public right-of-way or access easement, or required within a public right-of-way or access easements pursuant to the conditions of approval of this actions, shall be subject to the prior receipt of a City of Del Mar Encroachment Permit. Applications for Encroachment Permits shall include plans depicting all proposed private and public improvements including, but not limited to, improvements involving drainage, grading and/or public utilities. The required

Encroachment Permit shall be subject to review and approval by the City of Del Mar in accordance with the procedures set forth in the DMMC and may include requirements for inspections and/or submittal of a security deposit(s). Please note that Design Review Board or Planning Commission approval of plans indicating right-of-way improvements does not constitute approval of the separately required Encroachment Permit.

G-5 *[Requirement for Development/Building Permits]*
Prior to commencement of work, the applicant or agent shall obtain all required Development/Building Permits.

G-7 *[Code Compliance]*
Approval of this application shall not waive the requirement for compliance with the provisions of the Del Mar Municipal Code or other applicable City regulations in effect at the time of Development/Building Permit issuance, unless specifically waived in this approval authorization.

G-11 *[Plan for Construction-Phase Impacts]*
Prior to issuance of Development/Building Permits or commencement of project implementation (whichever comes first), the applicant shall provide a plan for construction-phase parking and equipment/materials storage for the project. The plan must include the following:

a. Identification of an on-site material storage location;
b. Identification of an on-site equipment storage location;
c. Identification of at least two on-site parking space which will remain available throughout the duration of the project;
d. Location of any temporary sanitary facilities;
e. A note stating that “If on-street parking is utilized, a minimum street access clearance of 20ft. will be maintained”;
f. Map displaying any/all haul routes; and
g. Contact information (phone number and Email) for the on-site supervisor(s);
    1. This information must also be posted on-site in a location which is readily visible from the public right-of-way for the duration of the project.

The plan required herein shall be subject to the review and written approval of the Planning and Community Development Director, working in consultation with Parking Enforcement and Public Works Departments. Haul routes and work and/or storage of material or equipment within a City right-of-way will require the receipt of an Encroachment Permit. The requirements mentioned above may be modified by the Planning and Community Development Director upon a determination that sufficient alternatives have been proposed which achieve a similar level of compliance.

G-11A In addition to the submittal of a Construction Phase Impact Plan, the applicant must place a Construction Parking Placard in all vehicles associated with the project which will be parked off-site. The placard must remain in plain view on the dashboard of the vehicle throughout the duration of the project. A Construction Parking Placard can be obtained from the City of Del Mar Planning and Community Development Department.

G-13 *[Permit Expiration]*
The Conditional Use Permit (CUP18-004) and Coastal Development Permit (CDP18-016) shall each expire three (3) years from the date of approval. The Tentative Tract Map (TTM18-004) shall expire twenty-four (24) months after its approval or conditional approval by the City Council. Upon application received at a meeting of the City Council at least sixty (60) days prior to the expiration of TTM18-004, the City Council may extend the time of expiration for a period not to exceed three (3) years from the date of approval of TTM18-004.

G-14 [*Preconstruction Meeting]*
Prior to any demolition, construction, and/or land disturbances occurring on-site, a pre-construction meeting shall be held. Attendees to this meeting shall include representatives from the City of Del Mar's Planning and Community Development Department, City Engineer, the Project Contractor/Superintendent, the Project Architect, the Project Engineer, the property owner and any others essential for the proper implementation and completion of this project. At a minimum, the following issues shall be reviewed at this meeting:

a. City of Del Mar inspection requirements.
b. Process for requests for plan modification and determinations of substantial conformance.
c. Discretionary permit conditions and requirements.
d. Construction hour limitations and noise standards.
e. Construction access and parking including equipment/materials storage and maintenance.
f. Work within public rights-of-way and/or easements.
g. Stormwater Best Management Practices.
h. Tree-preservation requirements.
i. Demolition permit requirements.
j. Signage requirements/limitations.
k. Neighborhood impact issues.
l. Key contact information.
m. Business license requirements.
n. Construction and demolition waste diversion requirements
o. Any other pertinent construction related activities and or information.

G-15 *[Statement of Accuracy/Agreement Regarding Third-Party Lawsuits]*
Prior to the issuance of Building Permits or project commencement, whichever comes first, the applicant shall submit a statement regarding the accuracy of submitted plans/materials and agreeing to hold the City of Del Mar harmless from third-party lawsuits filed challenging the City's approval of these approvals. The agreement shall also include a commitment to defend the City of Del Mar from any third-party lawsuits filed challenging the City's approval of this permit. The form and content of the statement and agreement required herein shall be subject to the review and approval of the Planning and Community Development Director.

G-16 [*Compliance with City Noise Regulations]*
The applicant and all parties involved with implementation of the project shall comply with the regulations of the DMMC with regard to construction noise. The regulations stipulate that all construction activities are limited to the following periods: between 7:00 a.m. and 7:00 p.m. / Monday through Friday and between 9:00 a.m. and 7:00 p.m. on Saturdays. Construction activities are prohibited during other hours and on Sundays and City Holidays. The City's Noise Ordinance, Chapter 9.20 of the Del Mar Municipal Code, includes the dates of City Holidays, and can be viewed on the City's web page (www.delmar.ca.us).

G-17 *[Dig Alert]*
Prior to excavation or trenching, the applicant shall call Underground Service Alert of Southern California (Dig Alert at 800-227-2600) for a mark out of service utilities.

G-18 *[Rules for Construction-Related Signage]*
All construction-related signage posted at the project site shall comply with DMMC Chapter 30.84 (Signs). The pertinent sections of the Sign Chapter allow installation of a total 5.5 square feet of temporary signage on a residential property (that is cumulative of all signs posted). Such signs may be posted for a maximum of sixty (60) days in a calendar year.

The restrictions noted above do not apply to the Development Pending, Construction Noise Notice and Building Permit signs required by the City as part of the project review process.

All construction related signage, including City required signs, shall be removed prior to final approval of the project.

<u>Fire Conditions:</u>

F-2 [*Access Road Minimum Dimensions*]
Any new fire apparatus access roads shall have an unobstructed improved width of not less than 20 feet and an unobstructed vertical clearance of 13 feet 6 inches. Exception: Single-Family residential driveways; serving no more than two (2) single-

family dwellings, shall have minimum of 16 feet, curb line to curb line, of unobstructed improved width. Access roads shall be designed and maintained to support the imposed loads of not less than 75,000 pounds and shall be provided with an approved paved surface to provide all-weather driving capabilities.

- The fire apparatus access road shall comply with the requirements of California Fire Code (CFC) Section 503 with local amendments and shall extend to within 150 feet of all portions of the facility and all portions of the exterior walls of the first story of the buildings as measured by an approved route around the exterior of the building.

- Any existing access roadways shall be required to meet Access Road Minimum Dimension requirements, pursuant to the CFC with local amendments, in place at the time of new development on any of the proposed parcels.

F-4 *[Dead Ends]*
Any new dead-end fire access roads in excess of 150 feet in length shall be provided with an approved area for turning around fire apparatus. A cul-de-sac shall be provided in residential areas where the access roadway serves more than four (4) structures. The minimum unobstructed paved radius width for a cul-de-sac shall be 36 feet in residential areas with no parking.

- Any existing access roadways shall be required to meet Dead End requirements, pursuant to the CFC with local amendments, in place at the time of new development on any of the proposed parcels.

F-5 *[Grade]*
The gradient for a new fire apparatus access roadway shall not exceed 20.0%. Grades exceeding 15.0% (incline or decline) shall not be permitted without mitigation. Minimal mitigation shall be a surface of Portland cement concrete, with a deep broom finish perpendicular to the entire direction of travel. Additional mitigation measures may be required where deemed appropriate. The angle of departure and angle of approach of a fire access roadway shall not exceed seven degrees (12 percent).

- Any existing access roadways shall be required to meet the grade requirements, pursuant to the CFC with local amendments, in place at the time of any new development on the proposed parcels.

F-6 *[Gates]*
All new gates or other structures or devices, which could obstruct fire access roadways or otherwise hinder emergency operations, are prohibited unless they meet standards approved by the Fire Department. An approved emergency key-operated switch

and/or an approved emergency traffic control-activating strobe light sensor shall be installed per Del Mar Fire Department standards.

F-7 *[Response Maps]*
Any new development, which necessitates updating of emergency response maps by virtue of new structures, hydrants, roadways or similar features, shall be required to provide map updates in one of the following formats (AutoCad DWG, DXF, ESRI shapefile, ESRI personal geodatabase, or XML format) and shall be charged a reasonable fee for updating all response maps.

F-8 *[Construction Materials]*
Prior to delivery of combustible building construction materials to the project site all of the following conditions shall be completed to the satisfaction of the Fire Department:

1. All wet and dry utilities shall be installed and approved by the appropriate inspecting department or agency;
2. As a minimum the first lift of asphalt paving shall be in place to provide a permanent all-weather surface for emergency vehicles; and
3. Water supply for fire protection (fire hydrants and standpipes) shall be installed, in service and accepted by the Fire Department and applicable water district.

F-10 *[Obstruction of Roadways During Construction]*
All roadways shall be a minimum of 20 feet in width during construction and maintained free and clear, including the parking of vehicles, in accordance with the California Fire Code and the Del Mar Fire Department.

F-11 *[Fire Hydrants and Fire Flows]*
The applicant shall provide fire hydrants of a type, number, and location satisfactory to the Del Mar Fire Department. A letter from the water agency serving the area shall be provided that states the required fire flow is available. Fire hydrants shall be of a bronze type. Multi-family residential or industrial fire hydrants shall have two (2) 4" inch and two (2) 2 ½" inch NST outlets. Residential fire hydrants shall have one (1) 4" inch NST outlet, and one (1) 2 ½" inch NST outlets.

F-12 *[Fuel Modification Zones/Fire Breaks]*
The applicant shall provide and maintain fire/fuel breaks to the satisfaction of the Del Mar Fire Department. Fire/fuel breaks size and composition shall be determined by the Fire Department and shown on the improvement /grading plans and final map and building plans.

F-13 *[Address Numbers]*
Approved numbers and/or addresses shall be placed on all new and existing buildings and at appropriate additional locations as to be plainly visible and legible from the street or roadway fronting the property from either direction of approach. Said numbers shall contrast with their background, and shall meet the following minimum standards as to

size: 4" high with a ½" inch stroke width for residential buildings, 8" high with a ½" stroke for commercial and multi-family residential buildings, 12" high with a 1" stroke for industrial buildings. Additional numbers shall be required where deemed necessary by the Fire Marshal, such as rear access doors, building corners, and entrances to commercial centers.

F-14 *[Address Numbers for Structures Located Off Roadway]*
Where structures are located off a roadway on long easements/driveways, a monument marker shall be placed at the entrance where the easement/driveway intersects the main roadway. Permanent address numbers with height conforming to Fire Department standards shall be affixed to this marker.

F-15A *[Automatic Fire Sprinkler System-One- and Two-Family Dwellings]*
Structures shall be protected by an automatic fire sprinkler system designed and installed to the satisfaction of the Fire Department. Plans for the automatic fire sprinkler system shall be approved by the Fire Department prior to installation.

F-16 *[Fire Resistive Construction Requirements for Wildland/Urban Interface Areas]*
Structures shall meet all wildland/urban interface standards to the satisfaction of the Fire Department. Structures shall comply with current California Building Code Chapter 7A.

F-18 *[Class "A" Roof]*
All structures shall be provided with a Class "A" Roof covering to the satisfaction of the Del Mar Fire Department.

Local Coastal Program:

LCP-1 *[Prohibition on Grading During the Rainy Season]*
In accordance with DMMC Sections 30.52.120 A4 and 30.53.140 C no grading shall occur between November 15th of any year and March 15th of the following year, unless specifically authorized through the written approval of the Planning and Community Development Department Director.

LCP-2 *[Coastal Development Permit Appealable]*
This project is located within the Coastal Appeal Zone. The City's action on CDP18-016 may be appealed to the California Coastal Commission pursuant to Coastal Act Section 30603 and DMMC Chapter 30.75.

Special Conditions:

SC-1 *[Indemnification]*
The permittee/owner shall defend (with attorneys approved by the City), indemnify and hold harmless the City of Del Mar, its agents, officers, and employees from any claims,

damages, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void, or annul an approval of the City, its advisory agencies, appeal boards, or legislative body concerning this approval or permit. The City will promptly notify the permittee/owner of any such claim, action, or proceeding against the City and will cooperate fully in the defense.

SC-2 *[Open Space Deed Restrictions]*
Prior to City Council approval of the Final Map, the applicant shall record the following open space deed restriction against the deed for the property:

1. An open-space deed restriction shall apply to the area of the 50-foot wetland buffer along Lots 5-8. The purpose of the deed restriction is to preclude development that would encroach into or cause impacts to the San Dieguito Lagoon and wetlands. The deed restriction shall prohibit the development and/or placement of structures or landscaping in the affected area. Prior to recordation, the form and content of the easement language shall be reviewed and approved by the City.

SC-3 *[Requirement for Design Review and Land Conservation Permits]*
In accordance with the DMMC, implementation of the proposed CDP and CUP shall be subject to the separate receipt of valid DRB and LC permits. Implementation of the CDP and CUP granted herein shall be subject to compliance with all terms and conditions of said DRB and LC permits.

SC-4 *[Recordation of Access Easements]*
Prior to the recordation of the Final Map, the applicant shall provide evidence of all required recorded easements for continued use of that portion of the private access drive that extends over off-site properties. The form and content of the easement(s) shall be subject to the review and approval of the Planning and Community Development Director.

SC-5 *[Satisfaction of Requirements of Related Alley/street Vacation]*
Prior to the recordation of the Final Map, the applicant shall provide evidence that all conditions of approval of the Street/Alley Vacation for that portion of the un-named alley adjacent to Lots 2 and 4 that were approved by the City Council, and that all required documents have been executed and, where applicable, recorded against the deed for the properties. The submitted evidence shall be subject to the review and approval of the Planning and Community Development Director.

SC-6 *[Prohibition of Highly Invasive Vegetation]*
California Invasive Plant Council (Cal-IPC) high rate plants shall not be included on any site plan, landscape plan, or development proposal located within the boundaries of the TTM18-004 subdivision.

Engineering Conditions:

E-1 *[Private Access Road]*
Prior to issuance of approval of the Final Map, the applicant shall prepare and receive approval for, a private Roadway and Utility Plan for the access drive to Lot 5, 6, 7 and 8. The required Plan shall also include the installation of those measures necessary to provide sewer, water, storm drain, and other utilities to serve the proposed project.

In addition to identifying the manner in which access and utilities are to be provided, the Improvement Plans shall address the following:

E-1A The manner in which storm water from the project site and its impervious surfaces will be collected and conveyed to public storm water runoff systems;
E-1B The discharge location of proposed storm drains as depicted in approved TM 18-004;
E-1C The grading required to install utility lines and widen access driveway/ private roadway (known as La Atalaya Way);
E-1D The location and size of the existing or proposed utilities to serve the proposed project (i.e., sewer, water, storm drain, etc.);
E-1E Applicant shall design La Atalaya Way (from San Dieguito Drive) to accommodate a Fire Truck turning south bound onto the Alley from east bound San Dieguito Drive. Additionally, the applicant shall ensure that a Fire Truck can make a left-hand turn from the Alley onto east La Atalaya Way and make the hammer head turn at the terminus of La Atalaya Way. Applicant shall make any modifications to the Alley and La Atalaya Way to ensure emergency vehicle access in and out the development. This may include removal and reconstruction of existing facilities;
E-1F All proposed utilities within the project shall be installed underground in accordance with current utility engineering practices. Existing aerial utilities shall be removed and/or placed underground, as required by the City Engineer;
E-1G Letter(s) of permission to grade/improve from adjoining property owner affected by the Access Road shall be obtained. The applicant shall also furnish proof to the City Engineer of the acquisition of all necessary rights of entry, permits and/or easements for the construction of off-site temporary or permanent road and drainage improvements prior to any construction within these areas;
E-1H San Dieguito Drive shall have dig-outs performed and be Slurry Sealed (full width) adjacent to the property frontage, as indicate on Tentative Map or as directed by the City Engineer (or representative) in the field;
E-1I A Private Road Maintenance agreement shall be incorporated into the CC&R for the project;
E-1J Applicant shall comply with all applicable requirements of the Uniform Fire Code and Fire Marshall requirements;

E-1K The applicant shall pay for and install all street name signs, traffic regulatory and warning signs, and any necessary street striping and markings required by the City Engineer. Street striping and markings shall be raised ceramic markers or thermoplastic material, as directed by the City Engineer. The applicant shall also pay for and install blue reflective markers two feet (2') off the center line of the street line adjacent to all fire hydrants;

E-1L Any existing City Improvements, within the public right-of-way that are damaged by the applicant or his agents or employees, shall be repaired by the applicant at his own expense;

E-1M The proposed on-site storm drain system shall be constructed to the satisfaction of the City Engineer;

E-1N The applicant shall comply with all applicable National Pollutant Discharge Elimination System (NPDES) requirements to the satisfaction of the City Engineer;

E-1O The removal and replacement of the existing perimeter wall at the easterly intersection of San Dieguito Drive and the un-named alley shall be performed to accommodate the line of site requirements established by the City Traffic Engineer. All as depicted on sheet 6 of the approved Tentative map;

E-1P Following construction completion, the project Engineer shall inspect as-built improvements. Significant discrepancies, if any, between the approved plans and as-built conditions shall be brought to the attention of the Planning and Community Development Department and City Engineer. An as-built plan prepared by the project Engineer will be required. Prior to final sign-off by the City Engineer, the project designer shall sign the as-built plan indicating that the project was completed in accordance with said plan;

E-1Q The applicant shall provide an adequate reliable water supply for fire protection with a minimum fire flow as specified by the Fire District. Fire flow calculations must include water pressures as specified by the City Engineer. All hydrants shall be tested to ensure actual flows meet or exceed Fire District requirements and the City of Del Mar requirements. The applicant shall provide written acceptance of these flows by the Fire District;

E-1R Applicant will pay a $6,000 in-lieu fee for the planned Riverpath Phase III trail extension;

E-1S The applicant shall provide joint trenching for telephone, gas, electric, cable TV and fiber optic service for every vacant parcel; and

E-1T The public improvements listed above the applicant shall post a security in the form of a bond or cash deposit valued at 150% of the estimated costs of the required improvements. The development agreement shall include the stipulation that all improvements for which security is being posted will be completed within 24 months of the date of approval of the plans. Upon completion of the work to the satisfaction of the City Engineer, the cash deposit or security shall be returned to the applicant, less any amount utilized by the City as outlined in the agreement, and less 25% of approved engineer's

estimate, which will be retained as a warranty security. The warranty security shall be held pending City inspection one (1) year following completion of the work. The warranty security may be used at that time to correct deficiencies, if any, and the remainder returned to the applicant. Agreements shall be of a form and type acceptable to the Planning and Community Development Director, City Engineer and City Attorney.

E-2 *[Separate Permits for Off-site Work]*
All improvements to off-site facilities, including the provision of access road and/or utility lines as proposed or required pursuant to the conditions of these approvals, shall be subject to the receipt of separate City permits, as applicable.

E-3 *[Drainage Plan for Lots Affected by Private Access Road]*
Prior to the issuance of Permits, the applicant shall provide a detailed Drainage Plan for the project prepared by a Registered Civil Engineer. The Plan shall be prepared in accordance with the latest edition of the City's "Applicant's Guide to Procedures for a Grading Permit" and shall be subject to the review and approval of the Planning and Community Development Department Director in consultation with the City Engineer. The Plan required herein shall be prepared to minimize the amount of impervious surface area of the development and to maximize the on-site dissipation of storm water run-off. The Plan shall be in compliance with applicable NPDES stormwater requirements and shall incorporate the use of "Best Management Practices" (BMPs) to control runoff or discharge onto the City rights-of-way and to avoid run-off onto adjacent private properties.

In addition to the considerations listed above, the Plan shall also address/incorporate the following:

E-3A A topographical map indicating property lines, topographic features and existing and/or proposed structures prepared by a Registered Civil Engineer or a Licensed Land Surveyor. Said map shall include two-foot contour lines and/or sufficient spot elevations to clearly represent existing and proposed topographical features, and existing and proposed drainage patterns. Said map shall also show entire property boundary including any assumed found monuments, and bearings and distances based on record information. Survey shall extend minimum 25 feet beyond limits of work;

E-3B The location of all existing or proposed easements within the property boundary;

E-3C The methods for providing temporary erosion control during the construction phase of the project, complete with the inclusion of standard erosion control notes;

E-3D The manner in which drainage shall be controlled to eliminate the discharge of nuisance water and to ensure that existing or proposed

private pipe outlets will not convey or discharge nuisance water onto adjacent properties or into the public right-of-way (i.e., from irrigation, pool/spa/water feature splash run-off, planter area drains, French drains, etc.);

E-3E Depict the existing and proposed sewer and water mains and laterals serving the residence;

E-3F Include a Hydrology/Hydraulic Report prepared by a Registered Engineer that addresses how storm water will be adequately collected and conveyed on and across the proposed development and access roadways. The report shall also address the tributary area for run-off directed to and across the subject property. The report shall include calculations and details demonstrating that if proposed inlets/outlets, etc. are plugged or overloaded, the site is capable of conveying storm flows in a manner that is not detrimental (including flooding and erosion) to surrounding properties. The report shall address both existing and proposed conditions;

E-3G Incorporate all recommendations pursuant to the Hydrology/Hydraulic Report prepared for the project;

E-3H Depict the location of erosion control devices to be implemented in the event of rainfall;

E-3I Depict the limits of grading;

E-3J Include storm drain run-off "Best Management Practices" that minimize the volumes of urban run-off discharge to City rights-of-way, as acceptable to the City Engineer;

E-3K Ensure that the grading and other construction activities meet the provisions specified in the California Regional Water Quality Control Board (RWQCB), San Diego Region, Order R9-2013-0001, NPDES No. CAS0109266 – Section D.2 and subsequent orders;

E-3L Interception of run-off from the access roadway (La Atalaya Way) shall not direct flow to the existing un-named alley. This may be accomplished by incorporation of pervious driving surfaces, diversion to landscaped areas using swales or grates, etc. The project engineer’s evaluation shall include, but not be limited to, consideration of the potential effect of proposed construction on site groundwater and moisture conditions. Provide spot grades and/or contours to substantiate design; and

E-3M Following construction completion, the project designer shall inspect as-built improvements. Significant discrepancies, if any, between the approved plans and as-built conditions shall be brought to the attention of the Planning and Community Development Department and City Engineer. An as-built plan prepared by the project designer will be required. Prior to final sign-off by the City Engineer, the project designer shall sign the as-built plan indicating that the project was completed in accordance with said plan.

E-4 *[Engineering Fee]*
The applicant shall provide fees as delineated in the City's Engineering Review Fee Schedule as funds necessary for Engineering Department review of the proposed site improvements. If additional review beyond the scope outlined in the Engineering Review Fee Schedule becomes necessary, a supplemental deposit(s) will be required.

E-11 *[Geotechnical Report Requirement]*
Prior to issuance of Permits, the applicant shall provide a Geotechnical Report for the project. The Report shall be prepared, signed and sealed by a Certified Engineering Geologist and a Geotechnical Engineer or Registered Civil Engineer. This Report shall be subject to review and approval by the City Engineer, City Building Department, and if deemed necessary, a third-party with expertise in geotechnical issues. The report required herein shall:

E-11A Include all standard information as required by the City's Grading Ordinance;
E-11B Evaluate existing site constraints;
E-11C Evaluate potential effect of proposed construction on nearby slopes, sensitive topographic features and neighboring properties;
E-11D Include a geotechnical evaluation of the long term stability of adjacent slopes;
E-11E Provide any mitigation measures as necessary;
E-11F Provide recommendations for any special construction methods as necessary;
E-11G Include the preparation of field tests to be performed at the site during construction, so as to ensure that field conditions are suitable for the approved construction. The results of such tests may necessitate revisions to the project with such revisions subject to review by the appropriate City entities;
E-11H If retaining walls are required, give recommendations for back-cuts for the construction of retaining walls. These recommendations shall include a time limit that the back-cuts can remain in place without either creating a stable backfill, or completing construction of the approved retaining walls. If the recommended time deadlines are not met, the applicant, by signing these conditions, grants the City permission to work on their private property to secure the back-cuts, and use the cash security to perform the work;
E-11I If temporary shoring is required, the geotechnical consultant shall provide necessary geotechnical parameters and recommendations, including maximum cuts and time limits;
E-11J Address the feasibility of long term infiltration of stormwater runoff onsite, and if subdrains will be required for any proposed infiltration BMPs. If infiltration is not proposed or not feasible then the Geotechnical Engineer must specify why or indicate the areas where it is not feasible;

E-11K Address the presence of groundwater and the need to provide subdrains for groundwater extraction. If extracted groundwater is discharged to surface waters, the project must comply with State RWQCB Order No. R9-2008-0002; and

E-11L Provide R values for pavement sections of Access Roadway (La Atalaya Way).

E-12 *[Authorization for Off-site Work]*

E-12A Prior to the issuance Permits, the applicant shall obtain letters of permission from affected property owners if construction or construction access is required across property lines; and

E-12B The following note shall be included on the plans for the Permit: "No grading shall occur outside the limits of the approved grading plan unless prior written authorization is obtained from the City and the owners of any other affected properties."

E-13 *[Grading – Separate Permits for Borrow or Disposal Site]*

A separate Grading Plan shall be submitted and approved and a separate Grading Permit issued for any off-site borrow or disposal site, if located within City limits. An Encroachment Permit will be required to identify the haul route proposed for this purpose. If the borrow or disposal site is located outside of the City, the applicant shall provide evidence of receipt of required permits/authorizations.

E-15 *[Priority Storm Water Mitigation Plan (SWMP)]*

Prior to issuance of Development/Building Permits, the applicant shall submit a SWMP for City review and approval that addresses the following:

E-15A Control the post-development peak storm water run-off discharge rates and velocities to maintain or reduce pre-development downstream erosion;

E-15B Conserve natural areas;

E-15C Minimize pollutants of concern from urban runoff through implementation of source control BMPs;

E-15D Remove pollutants of concern from urban runoff through implementation of structural BMPs;

E-15E Avoid directly connected impervious areas where feasible;

E-15F Protect slopes and channels from eroding;

E-15G Include storm drain stenciling and signage;

E-15H Include properly designed outdoor material storage areas;

E-15I Include properly designed trash storage areas;

E-15J Ensure that post-development runoff does not contain pollutant loads which have not been reduced to the maximum extent practicable;

E-15K Comply with the City's BMP Design Manual;

E-15L Include a detailed Operations and Maintenance Plan (O&M Plan) for all treatment control BMPs, that includes a minimum, the designated

responsible parties to manage the stormwater BMPs, employee training program and duties, operating schedule, maintenance frequency, routine service schedule, specific maintenance activities, copies of any additional required permits; cost estimate for implementation of the O&M Plan;

E-15M Demonstrate the funding mechanism to ensure ongoing long-term maintenance of all structural post construction Best Management Practices (BMPs);

E-15N Identify affected receiving water bodies; and

E-15O Include an exhibit that clearly shows the limits and quantities of impervious area in both the pre and post development conditions.

The structural BMPs required herein shall be designed so as to filter or treat the volume or flow outlined in the numeric sizing criteria outlined below:

Volume

Volume-based BMPs shall be designed to filter or treat the volume of runoff produced from a 24-hour 85th percentile storm event, as determined from the local historical rainfall record.

E-16 *[BMP Details]*

Prior to issuance of Development/Building Permits, all post construction BMPs shall be shown in detail on the construction plans and submitted to the City for review and approval. For all post-construction treatment control BMPs, submit an operation and maintenance manual detailing requirements for the property owner to maintain BMPs into perpetuity. An easement shall be granted to the City for inspection of post-construction treatment control BMPs as needed. The project shall comply with the existing and subsequent Del Mar Jurisdictional Urban Runoff Management Plan and the State of California and NPDES.

E-17 *[SWPPP Requirement]*

Prior to issuance of Development/Building Permits, the applicant shall submit for City review and approval and implement a Storm Water Pollution Prevention Plan (SWPPP), to manage storm water and non-storm water discharges from the site at all times. The SWPPP shall describe all BMPs to be implemented year-round. Specific BMP implementation may be dependent upon wet or dry season operations. The SWPPP shall also emphasize that erosion prevention is the most important measure for keeping sediment on-site during construction. The applicant shall provide evidence of existing coverage under the State of California's statewide General NPDES Permit for Storm Water Discharges Associated with Construction Activities at all times.

E-18 *[Soil Stabilization]*
The applicant shall utilize sediment controls only as a supplement to erosion prevention for keeping sediment on-site during construction – NEVER as a single or primary method.

E-18A The applicant shall clear and grade only the areas on the project site that are necessary for construction. These areas shall be clearly denoted on the plans;
E-18B The applicant shall minimize exposure time of disturbed soil areas;
E-18C The applicant shall submit a schedule to the City for review and approval, with proposed dates, demonstrating the minimization of grading during the wet season and coinciding the grading with dry weather periods, permanent revegetation and landscaping as early as feasible, temporary stabilization and reseeding of disturbed soil areas as early as feasible; and
E-18D The applicant shall stabilize all slopes per City approved method.

E-19 *[Required Backflow Prevention]*
If the project authorized by this permit will involve installation or retention of any plumbing drainage fixtures at a level below that of the PUBLIC sewer main serving the project site, the applicant shall install a private backflow prevention device on their private lateral per the requirements shown below.

The plans shall be submitted prior to the issuance of Development/Building Permits and shall be according to the Uniform Plumbing Code and subject to the review and written approval of the Planning and Community Development Director and City Engineer. Once installed, the private backflow prevention device(s) shall be subject to inspection by the City Engineer prior to final sign off for the project.

E-20 *[Access to Water Meters]*
Access to proposed or existing water meters located on or immediately adjacent to the property shall remain open and unobstructed at all times. Prior to the issuance of Development/Building Permits, the applicant shall demonstrate that no structure or vegetation is proposed so as to restrict access to the water meter. In the event access is blocked by project implementation, the applicant shall be responsible for the removal any obstruction at his/her expense or shall pay for the cost of relocating the water meter to allocation acceptable to the Public Works Department.

E-22 *[Compliance with City of Del Mar JURMP]*
This project shall conform to the construction component in the latest edition of the City's Jurisdictional Urban Runoff Management Program (JURMP).

E-24 *[Design of Inlets/outlets]*
Site drainage shall be designed such that, in the event of plugged or overloaded inlets/outlets, storm flows will be conveyed in a manner that is not detrimental to the site or other properties.

E-30 *[Peak Runoff Mitigation]*
The proposed improvements shall result in a net decrease in impervious area. If this is considered infeasible, the applicant must submit a Hydrology and Hydraulics report. The report must demonstrate that the project mitigates the increase in peak runoff through the use of acceptable Low Impact Development (LID) features.

E-34 *[Utility Service]*
If any new or modified connections to the water or sewer mains in the public right-of-way are proposed, additional plan sets and review fees may be required.

E-38 *[Stormwater Compliance]*
Stormwater compliance requirements are subject to change based on adoption of revisions to state and local regulations. Recent changes to the regulations include the following: revised Priority Development Project definitions, additional/revised hydromodification mitigation requirements, and increased emphasis on on-site retention/re-use. These changes could significantly impact the design, type, and size of BMPs necessary for compliance. The new regional MS4 Permit (Order No. R9-2013-0001) was adopted May 8, 2013.

E-39 *[Site Conditions]*

E-39A The applicant, in order to reduce tracking of mud throughout the City, shall be responsible for cleaning up or any expenses incurred by the City for cleaning up mud, debris, etc. from City streets, that is attributed to this project during construction;

E-39B The applicant shall restrict hours of work for the use of heavy equipment during grading and improvements between the hours of 7:30AM to 5:00PM, this includes the warm up of equipment. Saturday, Sunday and City holiday work is prohibited;

E-39C Any relocation or under grounding of SDG&E facilities or other utilities shall be done at the applicant’s expense;

E-39D All activities undertaken in accordance with this Tentative Subdivision Map shall comply with the City’s General Plan and Municipal Code. In cases of conflict between the City’s Municipal Code, these standard conditions of approval, or Tentative Map-specific conditions of approval, the governing priority shall be, to the extent legally permitted, as follows:

1) City's Municipal Code regulations; 2) City's General Plan; 3) Standard Conditions; and

E-39E The applicant is responsible for notifying all sub-contractors of the Best Management Practices (BMP's) to be implemented. Applicant is responsible for compliance by all subcontractors. Failure to comply with the approved construction BMP's will result in the issuance of verbal warnings, correction notices, administrative citations or a project stop work order. City shall provide verbal and written notice of the violation prior to the issuance of a stop work notice;

E-40 [Map Conditions]

E-40A The applicant shall record CC&R's at the time of recordation of the Final Map creating the individual lots of this subdivision. The CC&R's will provide for a manager to be responsible for maintenance and repair, with each lot owner responsible for its pro rata share of the maintenance costs. The manager may be an owner, a third-party manager designated by the owners, or a special purpose entity such as an owners' association. The CC&R's shall be subject to the review and approval of the City Attorney and Community Development Director prior to recordation of the final parcel map, and shall include the following:

The manager shall be responsible for the maintenance of all common areas, such as landscaping, parking, and access roads;

E-40B Right of way or easement acquisitions necessary to implement any portion of this Final Map, including public improvements, shall be obtained by the applicant at its sole expense prior to the City's consideration of the Final Map which encompasses the particular improvement;

E-40C The applicant shall provide and show on the Final Map all necessary easements for access, streets, alleys, sewer and water facilities, utilities and drainage facilities, irrigation facilities and other facilities as requested by the City. These include but are not limited to the following:

a) Reciprocal assess easement along La Atalaya Way for the benefit of Lots 3 and 5 through 8.
b) Utility access easement along La Atalaya Way for the benefit of the City of Del Mar and other utility purveyors for Lots 5 through 8.
c) The vacation and quitclaim of easements listed on sheet one of the Vested Tentative Map.
d) The unnamed alley east of proposed Lot 4 will not be vacated by the City.

e) The applicant shall provide, on the final map, a 15-foot wide sewer easement in favor of the City of Del Mar for the existing 6" VCP sewer main within proposed Lot 1;

E-40D Final Map shall be in substantial conformance to the approved Tentative Map and must be submitted to the City Engineering Department for review and approval. The Final Map shall be prepared, wet signed and sealed by a Civil Engineer or Land Surveyor, registered in the State of California and licensed to prepare Final Maps; and

E-40E Reciprocal easements shall be provided insuring access to all parcels affected over private road/driveway known as La Atalaya Way, to the satisfaction of the City Engineer.

Biological Resource Conditions:

BIO-1 *[Site Specific Biological Survey]*

Prior to the issuance of any Building Permit(s) for future residential development on Lots 1, 2, and 8, site-specific biological surveys shall be conducted to delineate the precise location of sensitive habitat and assess project-specific impacts. The biological survey shall include:

1. The methods used to determine the presence of sensitive biological resources;
2. Vegetation mapping of all vegetation communities and/or land cover types;
3. The locations of any sensitive plant or wildlife species;
4. An evaluation of the potential for occurrence of any listed, rare, and narrow endemic species; and
5. An evaluation of the significance of any potential direct or indirect impacts from the proposed project.

If potentially significant impacts to sensitive biological resources are identified, future project level grading and site plans shall incorporate project design features to minimize direct impacts on sensitive resources to the extent feasible, and the report shall also review the mitigation already identified and dedicated as deed restricted open space on the Final Subdivision Map. Exhibit A to this resolution shows the areas that will be deed restricted open space upon recordation of the Final Subdivision Map and identifies the habitat type and area of each mitigation open space. By setting aside four future mitigation areas, each development already has enough mitigation available to fully mitigate for their proposed project-based impacts. If the specific plans for homebuilding result in habitat impacts greater than the mitigation set aside in the Final Subdivision Map specified above, then the site-specific biological surveys required for Lots 1, 2 and 8, as applicable, shall also recommend appropriate mitigation to be implemented by the future homebuilding applicant to reduce the impacts to below a

level of significance. No future site-specific biological surveys and no habitat mitigation is required for issuance of any permits related to Lots 3 through 7.

BIO-2 *[Nesting Birds]*
If future development occurs during the breeding season (January 1 to July 15 for raptors and February 15 to August 31 for other birds) and otherwise cannot be avoided, the applicant shall be responsible for a qualified biologist to conduct a pre-construction nesting bird survey prior to the commencement of any ground disturbing activities to determine the presence/absence, location, and status of any active nests on or adjacent to the survey area. All areas within 500 ft of impacts for all lots shall be surveyed 3 days prior to the start of construction. The extent of the survey buffer area surrounding each site shall be a minimum of 500 ft if FESA- or CESA-listed species or raptors are present. If listed species are present or if an active nest is found, the biologist shall consult with the appropriate agency, and be present on-site during construction to ensure that birds are not being agitated. The biologist shall have the authority to stop construction if birds are agitated, and the buffer shall be adjusted accordingly. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the Migratory Bird Treaty Act and the California Fish and Game Code and minimize the potential for project delay, nesting bird surveys shall be performed by the qualified biologist prior to project commencement. In the event that active nests are discovered, the biologist shall recommend suitable noise attenuation measures or a suitable buffer (distance to be determined by the biologist) shall be established around such active nests, and no construction within the buffer shall be allowed until the biologist has determined that the nest(s) is no longer active (i.e., the nestlings have fledged and are no longer reliant on the nest). Completion of this mitigation measure shall be a condition of any future residence building permits issued for any of the lots included in the La Atalaya Final Subdivision Map.

<u>Cultural Resource Condition:</u>

CUL-1 *[Snake Wall Modification]*
Prior to modification of the historic Snake Wall, the project applicant shall hire a professional who is qualified to complete the Secretary of the Interior's Standards for Architectural and Engineering documentation in order to mitigate the Snake Wall in the form of the equivalent to Historic American Building Survey (HABS) documentation. HABS level I documentation includes a full set of drawings depicting existing or historic conditions and large format negative photographs in black and white of exterior and interior views to add to the written history and description in the existing report titled La Atalaya – Snake Wall Historic Evaluation Report. The drawings shall include a site plan, elevations, cross sections, and details of construction techniques and architectural elements.

CUL-2 *[Unanticipated Discovery of Tribal Cultural and Archaeological Resources]*

During ground disturbing activities, a qualified archaeological monitor shall be present in case unexpected intact subsurface deposits or features are uncovered. Upon discovery of any tribal, cultural, or archaeological resources during ground disturbing activities, the Applicant shall immediately cease such activities in the immediate vicinity. The find will then be assessed by a qualified archeologist retained by the Applicant and a tribal monitor/consultant approved by the consulting tribe. The Applicant shall promptly notify the Planning and Community Development Director to the discovery of resources. If the resources are Native American in origin, the consulting tribe shall coordinate with the landowner regarding treatment and curation of these resources. Typically, the tribe will request preservation in place or recovery for educational purposes. At the direction of the qualified archaeologist and tribal monitor/consultant, and in coordination with the Planning and Community Development Department, work may continue on other parts of the affected site while evaluation and, if necessary, additional protective measures are completed at the affected portion of the site pursuant to State CEQA Guidelines §15064.5[f]. If a resource is determined by the qualified archaeologist to constitute a “historical resource” or “unique archaeological resource,” time and funding to allow for sufficient implementation of avoidance measures must be made available. The treatment plan established for the resources shall be in accordance with State CEQA Guidelines §15064.5(f) for historical resources. Preservation in place (i.e., avoidance) is the preferred manner of treatment upon identification of unique archeological resources (Public Resources Code §§21083.2(b)). If preservation in place is not feasible, treatment may include implementation of archaeological data recovery excavations to remove the resource along with subsequent laboratory processing and analysis. All tribal cultural resources shall be returned to the consulting tribe. Any historic archaeological material that is not Native American in origin shall be curated at a public, non-profit institution with a research interest in the materials, such as the San Diego Archeological Center. Acceptance and curation of the historic archeological materials will be at the discretion of the institution. If no institution accepts the archaeological material, they shall be offered to the consulting tribe or the Del Mar Historical Society for educational purposes.

<u>Geology and Soils Condition</u>

GEO-1 *[Paleontological Monitoring]*

For future development identified as having high paleontological sensitivity, the applicant shall:

a. Prior to ground disturbing activities, the Applicant shall retain a qualified Project Paleontologist, defined as a paleontologist who meets the Society of Vertebrate Paleontology standards for Qualified Professional Paleontologist, to direct all mitigation measures related to paleontological

resources.

b. Prepare a Paleontological Monitoring and Compliance Program. After design of the development has been finalized to determine the precise extent and location of ground disturbing activities, and prior to ground disturbing activities, the Project Paleontologist shall prepare a Paleontological Monitoring and Compliance Program to be implemented during the ground disturbing activities. The program shall be prepared in accordance with the standards set forth by current Society of Vertebrate Paleontology guidelines (2010). Prior to ground disturbing activities, the program shall be provided to the City of Del Mar.

Ground disturbing activities where paleontological sensitivity has been identified shall be monitored full-time by a qualified paleontological monitor during initial ground disturbing activities.

The program shall be supervised by the Project Paleontologist in coordination with the City. The duration and timing of the monitoring shall be determined by the Project Paleontologist. If the Project Paleontologist determines that full-time monitoring is no longer warranted, he or she may recommend to the City that monitoring be reduced to periodic spot-checking or cease entirely. Monitoring shall be reinstated, if reduction or suspension would need to be reconsidered by the Project Paleontologist.

The program shall outline the procedures for construction staff Worker Environmental Awareness Program (WEAP) training, paleontological monitoring extent and duration, salvage and preparation of fossils, the final mitigation and monitoring report, and paleontological staff qualifications.

c. Paleontological WEAP. Prior to ground disturbing activities, the Project Paleontologist or his or her designee shall conduct construction personnel training regarding the appearance of fossils and the procedures for notifying paleontological staff should fossils be discovered by construction staff. The WEAP shall be presented at a preconstruction meeting that a qualified paleontologist shall attend.

d. Fossil Discovery. In the event of a fossil discovery by construction personnel, all work in the find's immediate vicinity shall cease, and the City of Del Mar and a qualified paleontologist shall be contacted to evaluate the find before restarting work in the area. If ground disturbing activities bring potentially sensitive geologic deposits to the surface in areas considered to have an undetermined paleontological sensitivity, these areas shall be inspected and further assessed. If it is determined that the fossil(s) is (are) scientifically significant, the qualified paleontologist shall complete the

following conditions:

i. Salvage of Fossils. If fossils are discovered, the Project Paleontologist or paleontological monitor shall recover them. Typically, fossils can be safely salvaged quickly by a single paleontologist and not disrupt construction activity. In some cases, larger fossils (such as complete skeletons or large mammal fossils) require more extensive excavation and longer salvage periods. In this case, the paleontologist shall have the authority to temporarily direct, divert, or halt construction activity to ensure that the fossil(s) can be removed in a safe and timely manner.

ii. Preparation and Curation of Recovered Fossils. Once salvaged, the City shall ensure that significant fossils are identified to the lowest possible taxonomic level, prepared to a curation-ready condition, and curated in a scientific institution with a permanent paleontological collection (such as the San Diego County Natural History Museum), along with all pertinent field notes, photos, data, and maps. Fossils of undetermined significance at the time of collection may also warrant curation at the discretion of the Project Paleontologist. Field collection and preparation of fossil specimens shall be performed by the Project Paleontologist with further preparation as needed by an accredited museum repository institution at the time of curation.

e. Final Paleontological Monitoring and Compliance Report. Upon completion of ground disturbing activities (and curation of fossils, if necessary) the Project Paleontologist shall prepare a Final Paleontological Monitoring and Compliance Report outlining the results of the Paleontological Monitoring and Compliance Program. The report shall be provided to the City of Del Mar and shall include discussion of the location, duration, and methods of the monitoring, stratigraphic sections, any recovered fossils, and the scientific significance of those fossils, and where fossils were curated.

<u>Noise Condition:</u>

NOS-1 *[Construction Noise]*

To reduce construction-related noise impacts, where construction activities would exceed the standards established in DMMC Section 9.20.050 (Construction Noise), the Applicant shall require construction contractors to implement a site-specific Noise Reduction Program, which includes the following measures, ongoing through demolition, grading, and/or construction:

a. Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment

redesign, use of intake silencers, ducts, engine enclosures, and acoustically-attenuating shields or shrouds), wherever feasible.

b. Construction noise reduction methods such as shutting off idling equipment, maximizing the distance between construction equipment staging areas and occupied residential areas, and use of electric air compressors and similar power tools, rather than diesel equipment, shall be used where feasible.
c. During construction, stationary construction equipment shall be placed such that emitted noise is directed away from or shielded from sensitive noise receivers.
d. During construction, stockpiling and vehicle staging areas shall be located as far as practical from noise sensitive receptors.
e. Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for construction shall be hydraulically or electronically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler shall be used [this muffler can lower noise levels from the exhaust by up to approximately 10 dB(A)]. External jackets on the tools themselves shall be used where feasible (this can achieve an approximately 5.0-dBA reduction. Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible.

NOS-2 *[Complaint Tracking Program]*

Prior to demolition, grading, or building permit approval, the Applicant shall submit to the Planning and Community Development Department a list of measures to respond to and track complaints pertaining to construction noise, ongoing throughout demolition, grading, and/or construction. At minimum, these measures shall include the following:

a. A procedure to the public for notifying the City's Code Compliance Officer and Sheriff's Department (during regular construction hours and off-hours);
b. A requirement for a sign to be posted by the Applicant on-site specifying the permitted construction days and hours, and notification procedure, and who to notify in the event of a noise-related concern. The sign shall also include the construction contractor's telephone numbers (during regular construction hours and off-hours); and
c. A requirement for a preconstruction meeting to be held with the Applicant and general contractor/on-site project manager to confirm that noise measures and practices (including construction hours, neighborhood notification, posted signs, etc.) are completed.

Resolution No. 2021-__
Regarding Permit No. TTM18-004, CDP18-016, and CUP18-004

PASSED, APPROVED AND ADOPTED by the City Council of the City of Del Mar, California, at a Regular Meeting held the 1st day of February, 2021.

_____
Terry Gaasterland, Mayor
City of Del Mar

APPROVED AS TO FORM:

_____
Leslie E. Devaney, City Attorney
City of Del Mar

ATTEST AND CERTIFICATION:
STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
CITY OF DEL MAR

I, Ashley Jones, Administrative Services Director/City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution 2021-___, adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 1st day of February 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Ashley Jones
Administrative Services Director/City Clerk
City of Del Mar

Map Source: Klutz Biological Consulting

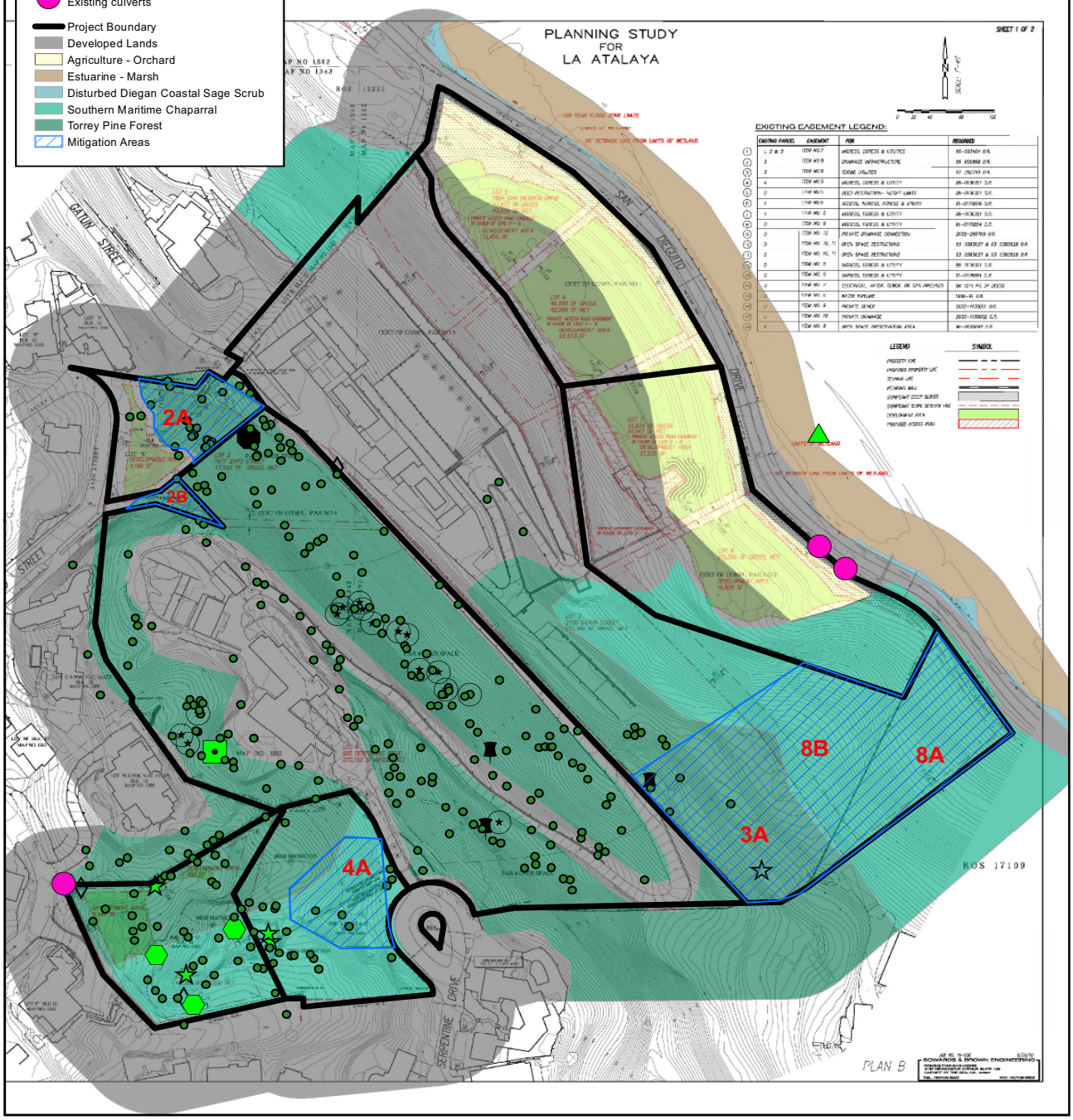


FIGURE 6
Project Mitigation

RESOLUTION NO. 2021-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, APPROVING SUMMARY VACATION OF TWO PUBLIC EASEMENTS FROM A VACANT LOT (APN 299-192-24-00) AND AN ALLEY BETWEEN THE VACANT LOT AT APN 299-192-24-00 AND THE PROPERTY AT 690 SERPENTINE DRIVE (APN 299-200-65-00) IN THE CITY OF DEL MAR, CALIFORNIA

WHEREAS, Section 8300 et seq. of the California Streets and Highways Code provides for the summary vacation of streets and public service easements by City Council resolution where the portion of the street to be vacated is excess to the City's right-of-way needs and is no longer required for street or highway purposes; and

WHEREAS, La Atalaya, LLC (Applicant) is the owner of real property identified by Assessor Parcel Numbers (APNs) 299-200-65-00 and 299-192-24-00; and

WHEREAS, the Applicant has requested the vacation of two public easements over a vacant lot identified by APN 299-192-24-00 and a public alley between the vacant lot identified by APN 299-192-24-00 and the property at 690 Serpentine Drive (APN 299-200-65-00), as further described in the Tentative Tract Map (TTM18-004) included as Attachment C to the City Council Agenda Report dated February 1, 2021; and

WHEREAS, the City Council finds that:

a) The subject public right-of-way and service easements to be vacated are not needed for present or prospective public use, either for street purposes or for any other public circulation use such as pedestrian, bikeway, or other non-motorized transportation access; and

b) The subject public right-of-way to be vacated has been impassable for vehicular travel for a period of five (5) years or more; and

c) No public funds have been expended for maintenance on the subject public right-of-way or service easements to be vacated or for a period of 5 years or more; and

d) The portion of street to be vacated does not contain active public utility facilities or public utility facilities will be unaffected by the vacation; and

e) Those properties adjoining the portion of street to be vacated will continue to have access; and

f) The public will benefit from the vacation through improved utilization of land; and

g) The vacation is not inconsistent with the General Plan; and

h) The public street system for which the right-of-way was originally acquired will not be detrimentally affected by this vacation; and

i) The legal descriptions and area depictions on the Tentative Tract Map (TTM18-004) are technically correct and in compliance with Chapter 3, Part 3, Division 9 of the Streets and Highways Code and other applicable State and local laws; and

WHEREAS, from and after the date of recording of this Resolution, the subject public easements and right-of-way will be vacated and will no longer constitute a public easement or street,

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

1. That the two public easements over the vacant lot identified by APN 299-192-24-00 and a public alley between the vacant lot identified by APN 299-192-24-00 and the property at 690 Serpentine Drive (APN 299-200-65-00), as further described in the Tentative Tract Map included as Attachment C to the City Council Agenda Report dated February 1, 2021, is ordered vacated.

2. That the City Clerk is directed to record a certified copy of the Resolution of Vacation with the County Recorder.

Resolution No. 2021-__
Regarding Summary Vacation No. SV20-001

PASSED, APPROVED AND ADOPTED by the City Council of the City of Del Mar, California, at a Regular Meeting held the 1st day of February, 2021.

_____
Terry Gaasterland, Mayor
City of Del Mar

APPROVED AS TO FORM:

_____
Leslie E. Devaney, City Attorney
City of Del Mar

ATTEST AND CERTIFICATION:
STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
CITY OF DEL MAR

I, Ashley Jones, Administrative Services Director/City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution 2021-___, adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 1st day of February 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Ashley Jones
Administrative Services Director/City Clerk
City of Del Mar

The IS/MND materials are too large in size to reproduce for inclusion in the printed staff report, but are available for review on the City of Del Mar's website at:
http://www.delmar.ca.us/Archive.aspx?ADID=1507

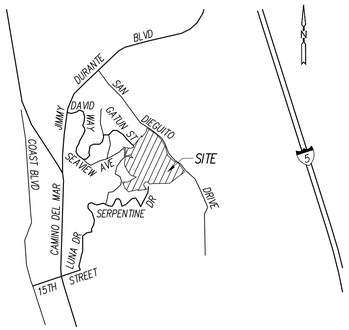
VESTING TENTATIVE MAP FOR LA ATALAYA

TM No. 18-004

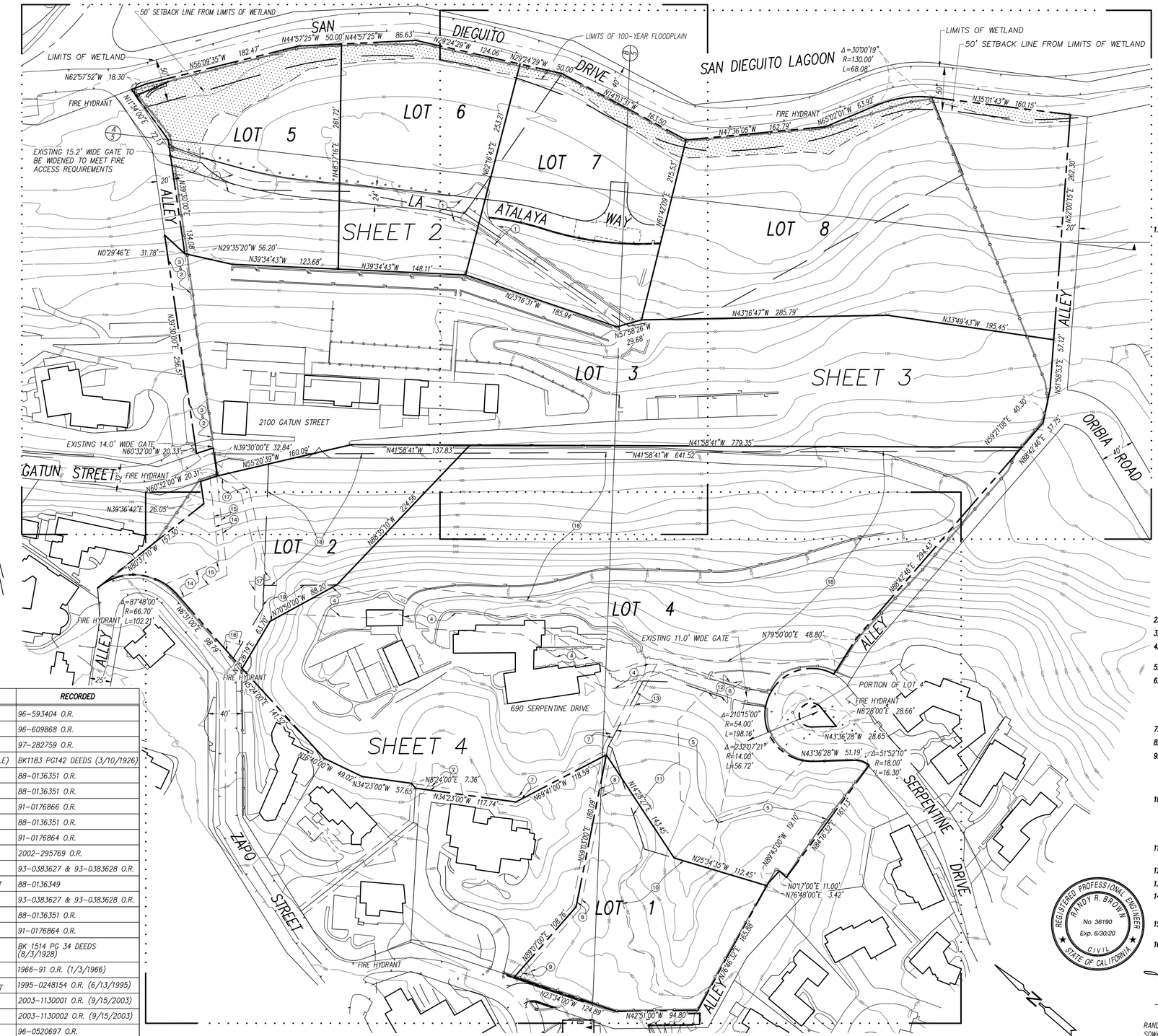
NOTES:

1. THIS IS NOT A BOUNDARY SURVEY. BOUNDARY INFORMATION PER RECORD DATA.
2. THE PROPERTY LINES SHOWN HEREON WERE CALCULATED FROM RECORD DATA USING A MIN. OF TWO (2) TIES TO CERTAIN FOUND SURVEY MONUMENTS.
3. EASEMENTS SHOWN HEREON ARE BASED ON PRELIMINARY TITLE REPORTS PREPARED BY FIDELITY NATIONAL TITLE COMPANY.

LOT NUMBER	GROSS AREA	NET AREA
LOT 1	41,108	41,108
LOT 2	47,505	47,505
LOT 3	173,386	173,386
LOT 4	270,130	270,130
LOT 5	47,876	43,036
LOT 6	46,987	42,524
LOT 7	51,834	41,009
LOT 8	110,013	110,013
TOTAL	788,839	768,711



VICINITY MAP
N.T.S.



KEY MAP
SCALE = 1"=60'

SCALE: 1" = 60'
0 30 60 120 180

EXISTING EASEMENT TABLE:

#	EXISTING PARCEL	EASEMENT	FOR	RECORDED
(1) ★	1, 2 & 3	ITEM NO. 7	INGRESS, EGRESS & UTILITIES	96-593404 O.R.
(2)	3	ITEM NO. 8	DRAINAGE INFRASTRUCTURE	96-609868 O.R.
(3)	3	ITEM NO. 9	SDG&E UTILITIES	97-282759 O.R.
	4, G, O	ITEM NO. 2	SEWER & WATER EASEMENT (UNPLOTTABLE)	BK1183 PG142 DEEDS (3/10/1926)
(4) ★	4	ITEM NO. 5	UTILITY	88-0136351 O.R.
(5) ★	G	ITEM NO. 5	DEED RESTRICTION- HEIGHT LIMITS	88-0136351 O.R.
(6) ★	4	ITEM NO. 6	ACCESS, INGRESS, EGRESS & UTILITY	91-0176866 O.R.
(7) ★	4	ITEM NO. 5	UTILITY	88-0136351 O.R.
(8)	O	ITEM NO. 9	INGRESS, EGRESS & UTILITY	91-0176864 O.R.
(9)	O	ITEM NO. 12	PRIVATE DRAINAGE CONNECTION	2002-295769 O.R.
(10)	O	ITEM NO. 10, 11	OPEN SPACE RESTRICTIONS	93-0383627 & 93-0383628 O.R.
★	O	ITEM NO. 4	HEIGHT RESTRICTION, 281' MAX OVER LOT	88-0136349
(11)	G	ITEM NO. 10, 11	OPEN SPACE RESTRICTIONS	93-0383627 & 93-0383628 O.R.
(12) ★	G	ITEM NO. 5	INGRESS, EGRESS & UTILITY	88-0136351 O.R.
(13)	G	ITEM NO. 9	INGRESS, EGRESS & UTILITY	91-0176864 O.R.
(14) ★★	U	ITEM NO. 2	ELECTRICAL, WATER, SEWER, OR GAS PIPELINES	BK 1514 PG 34 DEEDS (8/3/1928)
(15) ★★	U	ITEM NO. 6	WATER PIPELINE	1966-91 O.R. (1/3/1966)
★	U	ITEM NO. 7	HEIGHT RESTRICTION, 245' MAX OVER LOT	1995-0248154 O.R. (6/13/1995)
(16)	U	ITEM NO. 9	PRIVATE SEWER	2003-1130001 O.R. (9/15/2003)
(17)	U	ITEM NO. 10	PRIVATE DRAINAGE	2003-1130002 O.R. (9/15/2003)
(18)	4	ITEM NO. 8	OPEN SPACE PRESERVATION AREA	96-0520697 O.R.
(19) ★★★			ALLEY ADJACENT TO EXIST. PARCEL 4/LOT U	MAP 1343, REC. 6/08/1911

NOTE: ★ EASEMENT PROPOSED TO BE QUITCLAIMED WITH THIS APPLICATION
★★ EASEMENT PROPOSED TO BE VACATED WITH THIS APPLICATION
★★★ ALLEY RIGHT-OF-WAY PROPOSED TO BE VACATED WITH THIS APPLICATION

OWNERS / APPLICANT

THE SUBDIVIDER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE CITY OF DEL MAR AND ITS AGENTS, OFFICERS AND EMPLOYEES FROM ANY CLAIM, ACTION OR PROCEEDING AGAINST THE CITY OF DEL MAR OR ITS AGENTS, OFFICERS OR EMPLOYEES TO ATTACK, SET ASIDE, VOID, OR ANNUL AN APPROVAL FROM THE CITY OF DEL MAR CONCERNING THIS SUBDIVISION WHEN SUCH ACTION IS BROUGHT WITHIN THE TIME PERIOD SPECIFIED IN GOVERNMENT CODE SECTION 66499.37. THIS CERTIFICATE IS CONDITIONED UPON THE CITY OF DEL MAR PROVIDING PROMPT NOTICE TO THE SUBDIVIDER AS PROVIDED BY THE ACT.

SUBDIVIDER WILL NOT SEEK THE CREATION OF A SPECIAL DISTRICT

SIGNATURE OF OWNER / APPLICANT

5/23/18
DATE

LA ATALAYA, LLC
P.O. BOX 1129
DEL MAR, CA 92014

SITE ADDRESS: 690 SERPENTINE DRIVE
DEL MAR, CA. 92014

1. **ABBREVIATED LEGAL DESCRIPTION:**

299-200-62 (PARCEL 1) PORTIONS OF LOTS 783 AND 784 OF ARDEN HEIGHTS UNIT NO. 6
1854 SAN DIEGUITO DRIVE ACCORDING TO MAP THEREOF NO 1592.
* 989-25010223-D-SG4

299-200-63 (PARCEL 2) PORTIONS OF LOTS 781, 782 AND 783 OF ARDEN HEIGHTS UNIT NO. 6,
** 989-25010224-D-SG4 ACCORDING TO MAP THEREOF NO. 1592.

299-200-64 (PARCEL 3) ALL OF LOTS "A" AND "B", AND A PORTION OF LOT T OF ARDEN
2100 GATUN STREET HEIGHTS UNIT NO. 4 ACCORDING TO MAP THEREOF NO. 1343, AND
* 989-25010225-D-SG4 PORTIONS OF LOTS 780, 781, 782, 783, 784, 785 AND ORIBIA ROAD AND GATUN STREET, AS VACATED, OF ARDEN HEIGHTS UNIT NO. 6 ACCORDING TO MAP THEREOF NO. 1592.

299-200-65 (PARCEL 4) A PORTION OF LOT G AND ALL OF LOTS H,I,J AND S IN BLOCK 12
690 SERPENTINE DRIVE OF ARDEN HEIGHTS UNIT NO. 3 ACCORDING TO MAP THEREOF NO. 1285,
* 989-25010226-D-SG4 TOGETHER WITH A PORTION OF LOT T OF ARDEN HEIGHTS UNIT NO. 4, ACCORDING TO MAP THEREOF NO. 1343, AND ALL OF LOTS 780 AND 785 OF ARDEN HEIGHTS UNITS NO. 6, ACCORDING TO MAP THEREOF NO. 1592, PURSUANT TO CITY OF DEL MAR CERTIFICATE OF COMPLIANCE COC-96-1 RECORDED OCTOBER 14, 1996 AS INSTRUMENT NO. 1996-0520702 OF OFFICIAL RECORDS.

299-261-42 (LOT G) PORTIONS OF LOTS G AND O IN BLOCK 12 OF ARDEN HEIGHTS UNIT
* 989-25010228-D-SG4 NO. 3, ACCORDING TO MAP THEREOF NO. 1285 TOGETHER WITH THOSE PORTIONS OF THE ALLEYS ADJOINING SAID LOTS G AND O ON THE NORTH AND EAST CLOSED TO PUBLIC USE.

299-261-43 (LOT O) A PORTION OF LOT O IN BLOCK 12 OF ARDEN HEIGHTS NO. 3
* 989-25010229-D-SG4 ACCORDING TO MAP THEREOF NO. 1285, TOGETHER WITH THAT PORTION OF THE ALLEY ADJOINING LOTS G AND O OF SAID ARDEN HEIGHTS UNIT NO. 3 ON THE NORTH AS CLOSED TO PUBLIC USE.

299-261-14 (BLOCK 30) BLOCK 30 OF ARDEN HEIGHTS #3 ACCORDING TO MAP THEREOF
**989-25010227-D-SG4 NO. 1285.

299-192-24 (LOT U) LOT U OF BLOCK 12 OF ARDEN HEIGHTS UNIT NO. 4, ACCORDING TO
**989-25010222-D-SG4 MAP THEREOF NO. 1343 TOGETHER WITH THAT PORTION OF GATUN STREET, AS VACATED.

* -ORDER NUMBER REFLECTED ON FIDELITY NATIONAL TITLE COMPANY REPORTS DATED 9/12/18
** -ORDER NUMBER REFLECTED ON FIDELITY NATIONAL TITLE COMPANY REPORTS DATED 10/03/18

2. **ASSESSOR'S NUMBER:** 299-192-24, 299-261-14, 42 & 43, 299-200-62, 63, 64 & 65
3. **DATE OF PREPARATION:** 11/05/19
4. **GROSS AREA:** 788,839 SF
   NET AREA: 768,711 SF
5. **TOTAL NUMBER OF PROPOSED LOTS:** 8
6. **PRESENT ZONING:** R1-40
   PROPOSED ZONING: R1-40
   PRESENT USE: RESIDENTIAL
   PROPOSED USE: RESIDENTIAL
   MINIMUM LOT AREA REQUIRED: 40,000 SF
7. **GENERAL PLAN DESIGNATION:** VERY LOW DENSITY RESIDENTIAL
8. **ASSOCIATED PERMITS:** N/A
9. **LOCATION AND STATUS OF EXISTING LEGAL ACCESS TO SUBJECT PROPERTY FROM A PUBLICLY MAINTAINED ROAD:** SAN DIEGUITO DRIVE – 40' WIDE
   GATUN STREET – 32' WIDE
   ZAPO STREET – 32' TO 40' WIDE
   SERPENTINE DRIVE – 40' WIDE
10. **WATER DISTRICT:** CITY OF DEL MAR
    SEWER DISTRICT: CITY OF DEL MAR
    FIRE DISTRICT: CITY OF DEL MAR
    SCHOOL DISTRICT: DEL MAR ELEMENTARY / SAN DIEGUITO UNION HIGH SCHOOL
    UTILITY PROVIDER: SAN DIEGO GAS & ELECTRIC
11. **BASIS OF ELEVATIONS:** CITY OF DEL MAR VERTICAL BENCHMARK SYSTEM
    STATION DESIGNATION "SNAKEWALL" ELEVATION = 303.64'
12. **CALIFORNIA COORDINATE:** 292-1691
13. **TAX RATE AREA:** 11001
14. **SOLAR ACCESS:** ALL LOTS WITHIN THIS SUBDIVISION HAVE MINIMUM OF 100 SQUARE FEET OF SOLAR ACCESS FOR EACH FUTURE DWELLING UNIT ALLOWED BY THIS SUBDIVISION.
15. **UTILITIES:** EACH UNIT WILL HAVE SEPARATE WATER, GAS AND ELECTRIC METERS AND SEWER LATERALS
16. **EARTHWORK QUANTITIES:** CUT: 250 C.Y. MAX CUT: 3'
    FILL: 450 C.Y. MAX FILL: 8'
    IMPORT: 200 C.Y.

REGISTERED PROFESSIONAL ENGINEER
RANDY R. BROWN
No. 36190
Exp. 6/30/20
CIVIL
STATE OF CALIFORNIA

SIGNATURE OF PREPARER

11/05/19
DATE

RANDY R. BROWN RCE 36190 EXP. 6/30/20
SOWARDS AND BROWN ENGINEERING, INC.
2187 NEWCASTLE AVENUE SUITE 103
CARDIFF BY THE SEA
CALIFORNIA 92007
PHONE: (760) 436-8500

JOB NO. 18-030 11/05/19

SOWARDS & BROWN ENGINEERING
CONSULTING ENGINEERS
2187 NEWCASTLE AVENUE SUITE 103
CARDIFF BY THE SEA, CA., 92007
TEL. 760/436-8500 FAX 760/436-8603

p:\2018\18-030\18030tsm.dwg

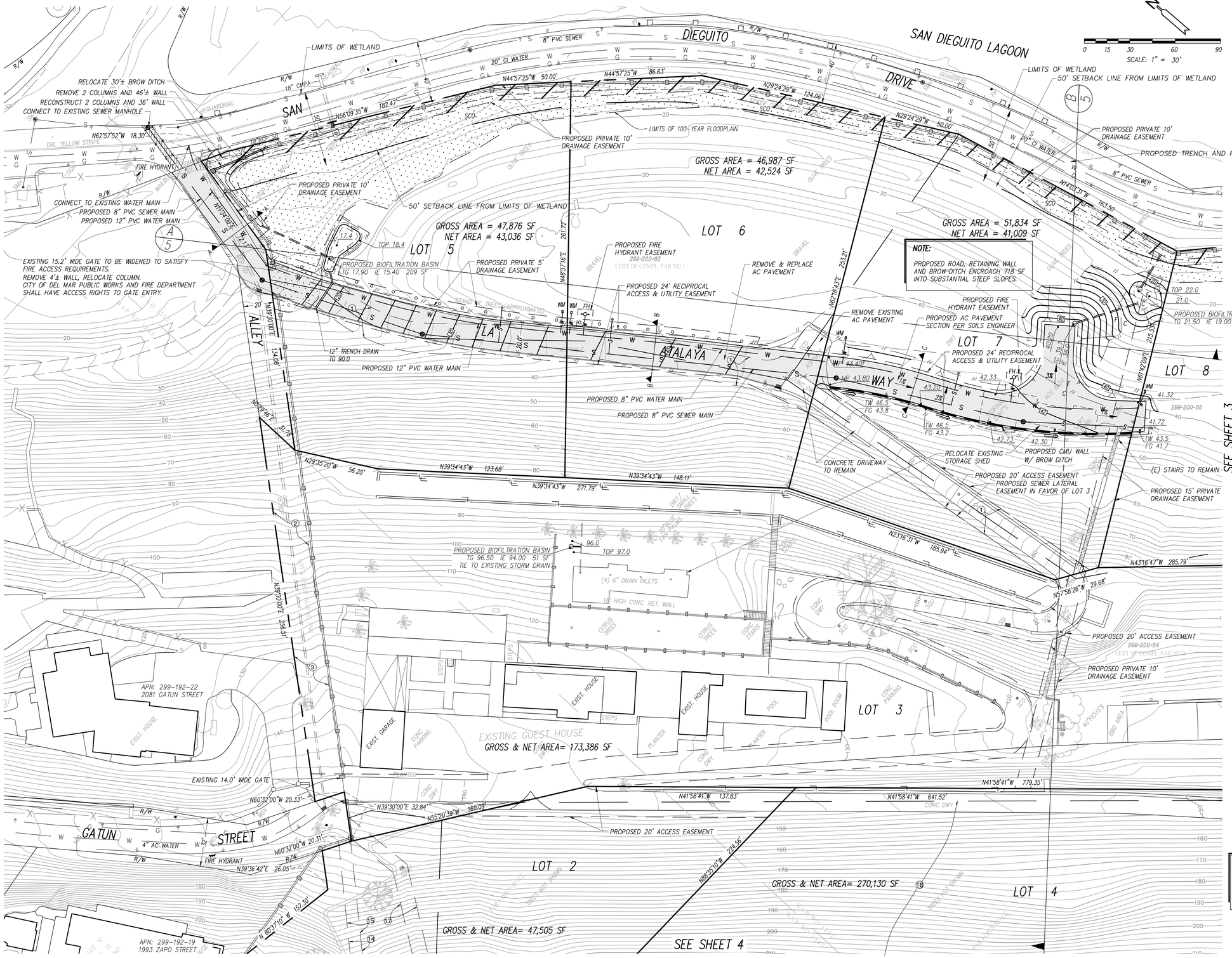
VESTING TENTATIVE MAP FOR LA ATALAYA

TM No. 18-004

SHEET 2 OF 6

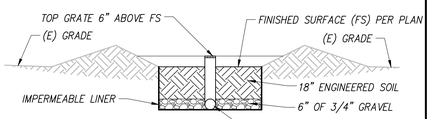
SCALE: 1" = 30'

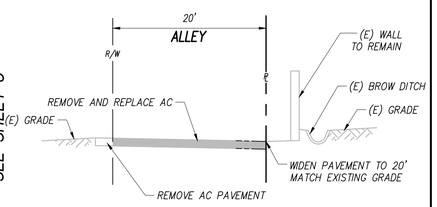
LEGEND	SYMBOL
SUBDIVISION LINE	
PROPOSED PROPERTY LINE	
EXISTING PROPERTY LINE	
ADJACENT PROPERTY LINE	
EASEMENT LINE	
SNAKE WALL W/ COLUMNS	
EXISTING BUILDING	
LIMITS OF AC	
PROPOSED AC PAVEMENT	
SAW CUT LINE	
LIMITS OF WORK	
PROPOSED WATER SERVICE	W
PROPOSED FIRE HYDRANT	
PROPOSED SEWER LATERAL	S
SEWER CLEAN OUT	
EXISTING FIRE HYDRANT	
EXISTING GUARDRAIL	
EXISTING POWER POLE (PP)	
RELINQUISH ACCESS RIGHTS	



TYPICAL BASIN SECTION

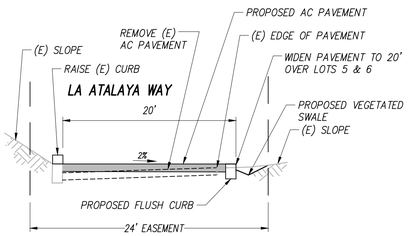
N.T.S.





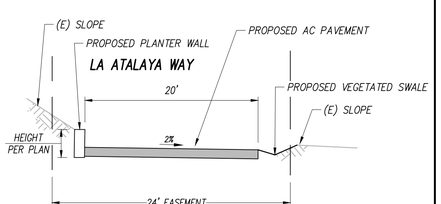
SECTION A-A

N.T.S.



SECTION B-B

N.T.S.



SECTION C-C

N.T.S.

NOTE:

SEE SHEET 1 FOR EASEMENT LEGEND

SEE SHEET 3 FOR SPECIAL NOTES

REGISTERED PROFESSIONAL ENGINEER
MAX B. BROWN
No. 36190
Exp. 6/30/20
CIVIL
STATE OF CALIFORNIA

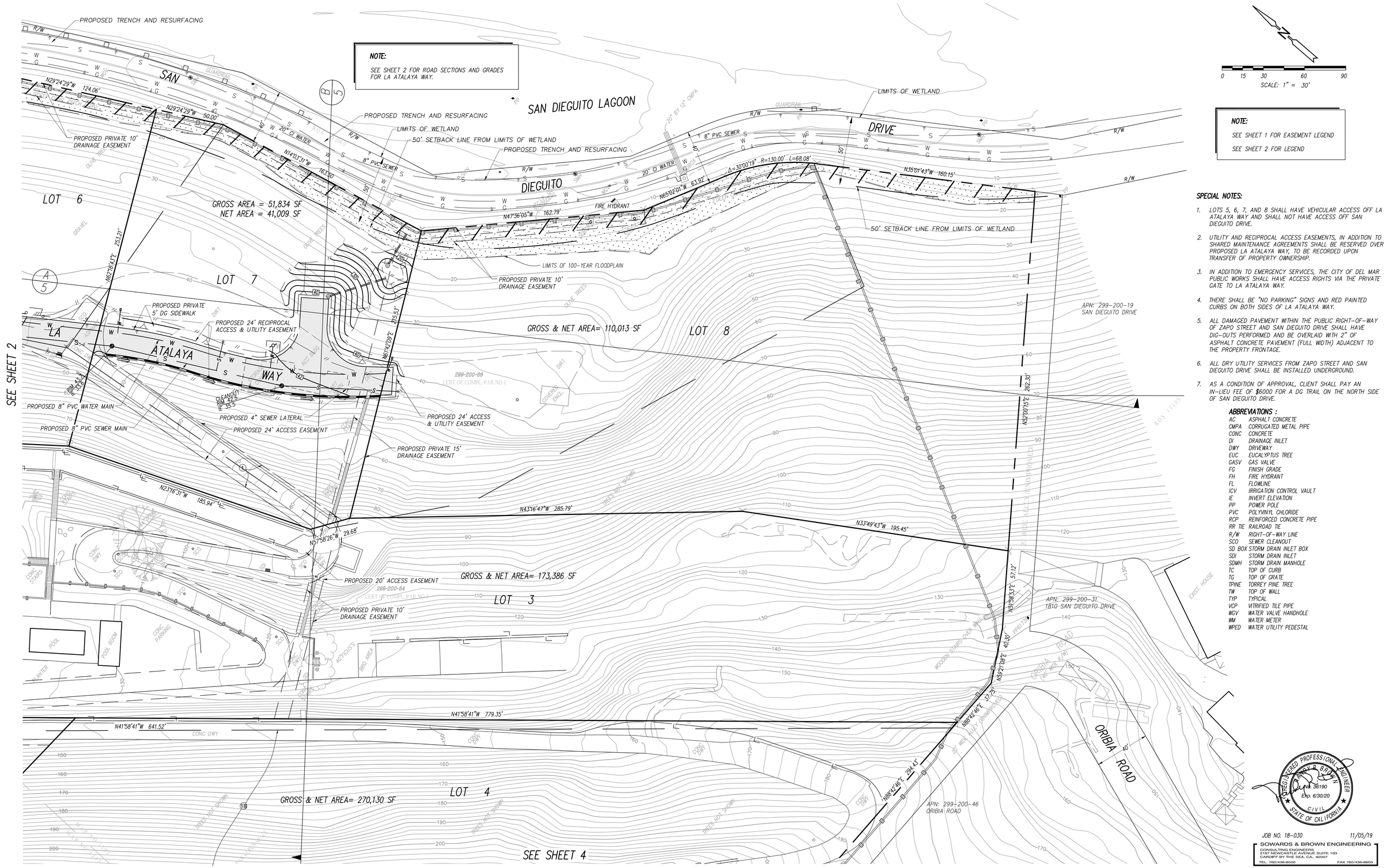
JOB NO. 18-030 11/05/19

SOWARDS & BROWN ENGINEERING
CONSULTING ENGINEERS
2187 NEWCASTLE AVENUE SUITE 103
CARDIFF BY THE SEA, CA., 92007
TEL: 760/436-8500 FAX 760/436-8603

VESTING TENTATIVE MAP FOR LA ATALAYA

TM No. 18-004

SHEET 3 OF 6



NOTE:

SEE SHEET 1 FOR EASEMENT LEGEND

SEE SHEET 2 FOR LEGEND

SPECIAL NOTES:

1. LOTS 5, 6, 7, AND 8 SHALL HAVE VEHICULAR ACCESS OFF LA ATALAYA WAY AND SHALL NOT HAVE ACCESS OFF SAN DIEGUITO DRIVE.
2. UTILITY AND RECIPROCAL ACCESS EASEMENTS, IN ADDITION TO SHARED MAINTENANCE AGREEMENTS SHALL BE RESERVED OVER PROPOSED LA ATALAYA WAY, TO BE RECORDED UPON TRANSFER OF PROPERTY OWNERSHIP.
3. IN ADDITION TO EMERGENCY SERVICES, THE CITY OF DEL MAR PUBLIC WORKS SHALL HAVE ACCESS RIGHTS VIA THE PRIVATE GATE TO LA ATALAYA WAY.
4. THERE SHALL BE "NO PARKING" SIGNS AND RED PAINTED CURBS ON BOTH SIDES OF LA ATALAYA WAY.
5. ALL DAMAGED PAVEMENT WITHIN THE PUBLIC RIGHT-OF-WAY OF ZAPO STREET AND SAN DIEGUITO DRIVE SHALL HAVE DIG-OUTS PERFORMED AND BE OVERLAID WITH 2" OF ASPHALT CONCRETE PAVEMENT (FULL WIDTH) ADJACENT TO THE PROPERTY FRONTAGE.
6. ALL DRY UTILITY SERVICES FROM ZAPO STREET AND SAN DIEGUITO DRIVE SHALL BE INSTALLED UNDERGROUND.
7. AS A CONDITION OF APPROVAL, CLIENT SHALL PAY AN IN-LIEU FEE OF $6000 FOR A DG TRAIL ON THE NORTH SIDE OF SAN DIEGUITO DRIVE.

ABBREVIATIONS :

AC	ASPHALT CONCRETE
CMPA	CORRUGATED METAL PIPE
CONC	CONCRETE
DI	DRAINAGE INLET
DWY	DRIVEWAY
EUC	EUCALYPTUS TREE
GASV	GAS VALVE
FG	FINISH GRADE
FH	FIRE HYDRANT
FL	FLOWLINE
ICV	IRRIGATION CONTROL VAULT
IE	INVERT ELEVATION
PP	POWER POLE
PVC	POLYVINYL CHLORIDE
RCP	REINFORCED CONCRETE PIPE
RR TIE	RAILROAD TIE
R/W	RIGHT-OF-WAY LINE
SCO	SEWER CLEANOUT
SD BOX	STORM DRAIN INLET BOX
SDI	STORM DRAIN INLET
SDMH	STORM DRAIN MANHOLE
TC	TOP OF CURB
TG	TOP OF GRATE
TPINE	TORREY PINE TREE
TW	TOP OF WALL
TYP	TYPICAL
VCP	VITRIFIED TILE PIPE
WCV	WATER VALVE HANDHOLE
WM	WATER METER
WPED	WATER UTILITY PEDESTAL

JOB NO. 18-030 11/05/19

SOWARDS & BROWN ENGINEERING
CONSULTING ENGINEERS
2187 NEWCASTLE AVENUE SUITE 103
CARDIFF BY THE SEA, CA., 92007
TEL. 760/436-8500 FAX 760/436-8603

VESTING TENTATIVE MAP FOR LA ATALAYA

TM No. 18-004

SHEET 4 OF 6

SEE SHEET 2

SEE SHEET 3

LOT 2

GROSS & NET AREA= 47,505 SF

LOT 4

GROSS & NET AREA= 270,130 SF

LOT 1

GROSS & NET AREA= 41,108 SF

ALLEY (UNIMPROVED)

ZAPO STREET

SERPENTINE DRIVE

ALLEY

APN: 299-192-19
1993 ZAPO STREET

APN: 299-261-22
1969 ZAPO STREET

APN: 299-261-34
1945 ZAPO STREET

APN: 299-261-35
1905 ZAPO STREET

APN: 299-261-23
1919 ZAPO STREET

APN: 299-261-04
1959 ZAPO STREET

APN: 299-200-46
ONIBIA ROAD

APN: 299-261-45
641 SERPENTINE DRIVE

APN: 299-261-11
SERPENTINE DRIVE

APN: 299-261-10
624 SERPENTINE DRIVE

APN: 299-261-08
548 SERPENTINE DRIVE

APN: 299-261-07
540 SERPENTINE DRIVE

APN: 299-261-06
532 SERPENTINE DRIVE

EXISTING MAIN HOUSE COMPOUND

EXIST. HOUSE

EXIST. GARAGE

EXIST. CONC. DRIVEWAY

ALLEY TO BE VACATED AS A PART OF THIS APPLICATION

PROPOSED TRENCH AND RESURFACING

EXISTING 11.0' WIDE GATE

CONNECT TO EXISTING SEWER MANHOLE

APPROXIMATE LOCATION OF EXISTING 8" VCP SEWER

FIRE HYDRANT

8" PVC WATER

6" VCP SEWER

6" AC WATER

N70°50'00"W 88.20'

N68°35'10"W 224.56'

N16°40'00"W 49.02'

N34°23'00"W 57.65'

N34°23'00"W 112.74'

N8°24'00"E 7.36'

N69°41'00"W 116.59'

N14°28'27"E 143.45'

N25°34'35"W 112.45'

N69°43'09"W 9.10'

N07°17'00"E 11.00'

N76°48'00"E 3.42'

N68°42'40"E 224.43'

N73°52'07"E 48.88'

N43°36'28"W 28.65'

N43°36'28"W 51.19'

N69°27'00"E 108.76'

N25°34'00"E 124.89'

N42°51'00"W 94.80'

N78°46'32"E 165.88'

N84°16'32"E 161.13'

N68°28'00"E 28.66'

N60°37'10"W 157.30'

N18°26'19"E 65.70'

N6°31'00"E 98.49'

N6°31'00"E 15.78'

N52°24'00"E 141.52'

Δ=87°46'00" R=66.70' W=102.21'

Δ=210°15'00" R=54.00' L=198.16'

Δ=23°07'21" R=14.00' L=56.72'

Δ=51°52'10" R=18.00' L=16.30'

PORTION OF LOT 4

TW 196.5
FG 194.0

RIM 226.1
IE 217.0

0 15 30 60 90

SCALE: 1" = 30'

NOTE:

SEE SHEET 1 FOR EASEMENT LEGEND

SEE SHEET 2 FOR LEGEND

SEE SHEET 3 FOR SPECIAL NOTES

REGISTERED PROFESSIONAL ENGINEER
PHILIP R. BROWN
No. 38190
Exp. 6/30/20
CIVIL
STATE OF CALIFORNIA

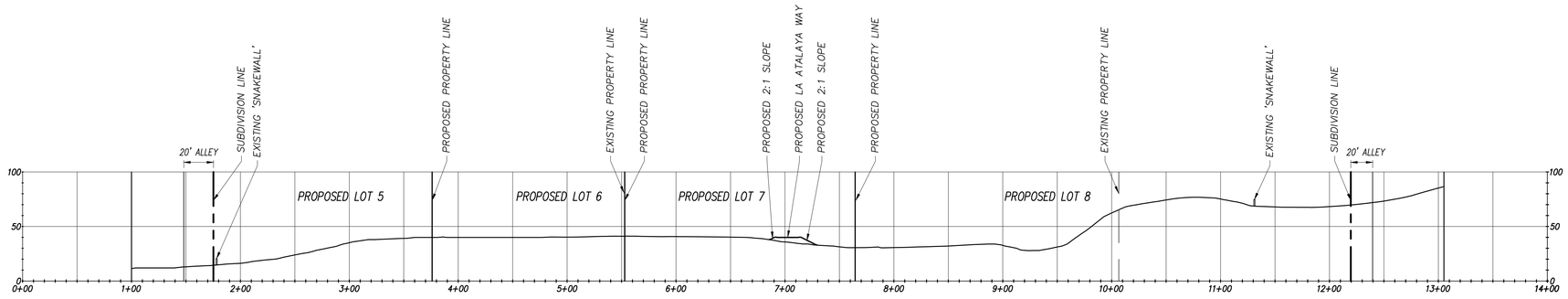
REV 1/18/21

JOB NO. 18-030 11/05/19

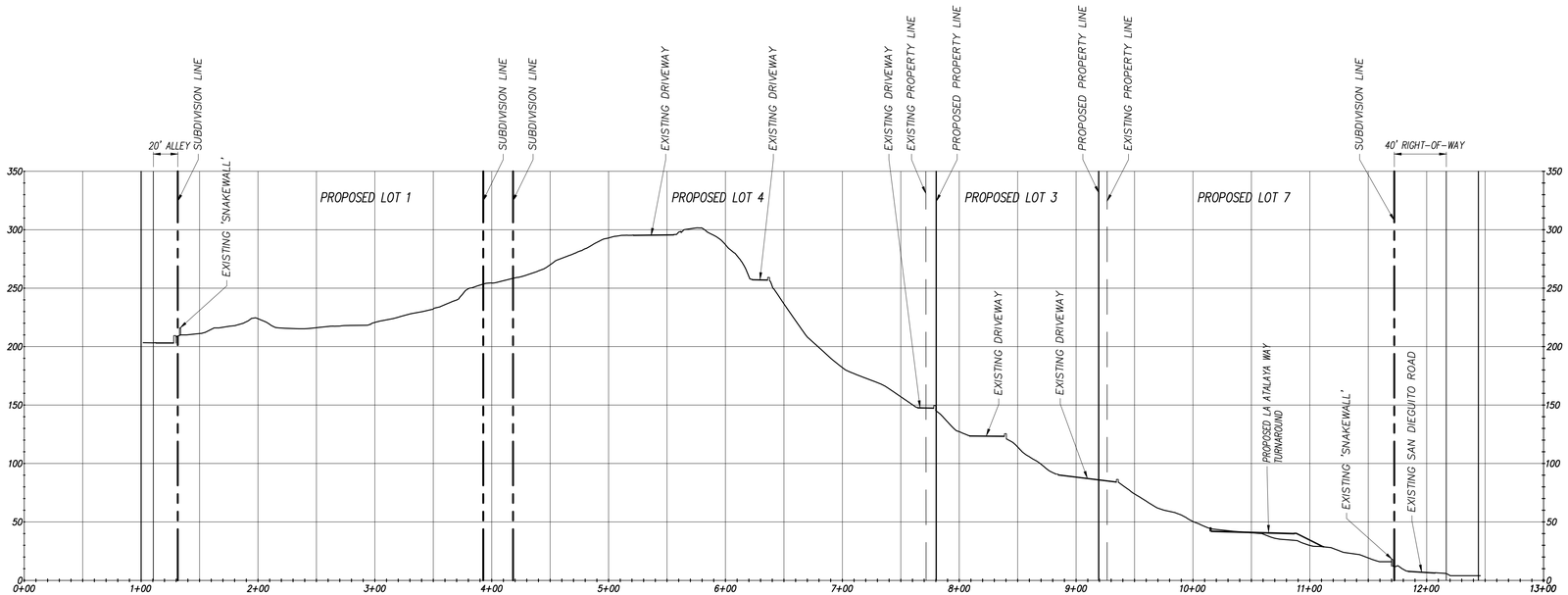
SOWARDS & BROWN ENGINEERING
CONSULTING ENGINEERS
2187 NEWCASTLE AVENUE SUITE 103
CARDIFF BY THE SEA, CA., 92007
TEL. 760/436-8500 FAX 760/436-8603

VESTING TENTATIVE MAP FOR LA ATALAYA

TM No. 18-004



SECTION A
SCALE = 1"=60'



SECTION B
SCALE = 1"=60'

p:\2018\18-030\18030tsm.dwg

REGISTERED PROFESSIONAL ENGINEER
TIMOTHY B. BROWN
No. 36190
Exp. 6/30/20
CIVIL
STATE OF CALIFORNIA

JOB NO. 18-030 11/05/19

SOWARDS & BROWN ENGINEERING
CONSULTING ENGINEERS
2167 NEWCASTLE AVENUE SUITE 103
CARDIFF BY THE SEA, CA., 92007
TEL. 760/436-8500 FAX 760/436-8603

VESTING TENTATIVE MAP FOR LA ATALAYA

TM No. 18-004

SHEET 6 OF 6

0 10 20 40 60
SCALE: 1" = 20'

AASHTO: 36 MPH SIGHT DISTANCE (345 FEET)
NO RESTRICTION

345'

R/W

GRAND AVE

DIRT/ PARKING

SMH

SIGN

DBL YELLOW STRIPE

SAN DIEGUITO LAGOON

RELOCATE A PORTION OF EXISTING SNAKE WALL AND BROW DITCH TO PROVIDE 33 MPH STOPPING SIGHT DISTANCE

N62°57'52"W 18.30'

PP

GUARDRAIL

HEADWALL

EXISTING SPEED BUMP

AASHTO: 33 MPH STOPPING DISTANCE (230 FEET)

NO VISUAL OBSTRUCTION ALLOWED IN THIS SIGHT TRIANGLE

MAILBOXES

SAN DIEGUITO DRIVE

230'

N56°09'35"W 182.47'

N44°57'25"W 50.00'

N44°57'25"W 186.63'

7' HIGH CONC. WALL

SDBOX

2'DEEP CONC. DITCH (TYP.)

PROPOSED ROAD WIDENING

N11°34'00"E 72.13'

NO VISUAL OBSTRUCTION ALLOWED IN THIS SIGHT TRIANGLE

ALLEY

N39°30'00"E 134.08'

LA ATALAYA WAY

LOT 5

LOT 6

OLIVE TREES

289-200-82
CERT OF COMPL PAR NO I

STAND OF TREES (APPROXIMATE)

GRAVEL

10 20 30 40 50

15' 20'

NOTE:

POSTED SPEED LIMIT IS 25 MPH

WESTBOUND 85th % SPEED IS 33 MPH

EASTBOUND 85th % SPEED IS 36 MPH

LINE-OF-SIGHT 15' BACK FROM EDGE OF ROADWAY – AASHTO POLICY

SIGHT DISTANCE EXHIBIT

SCALE = 1"=20'

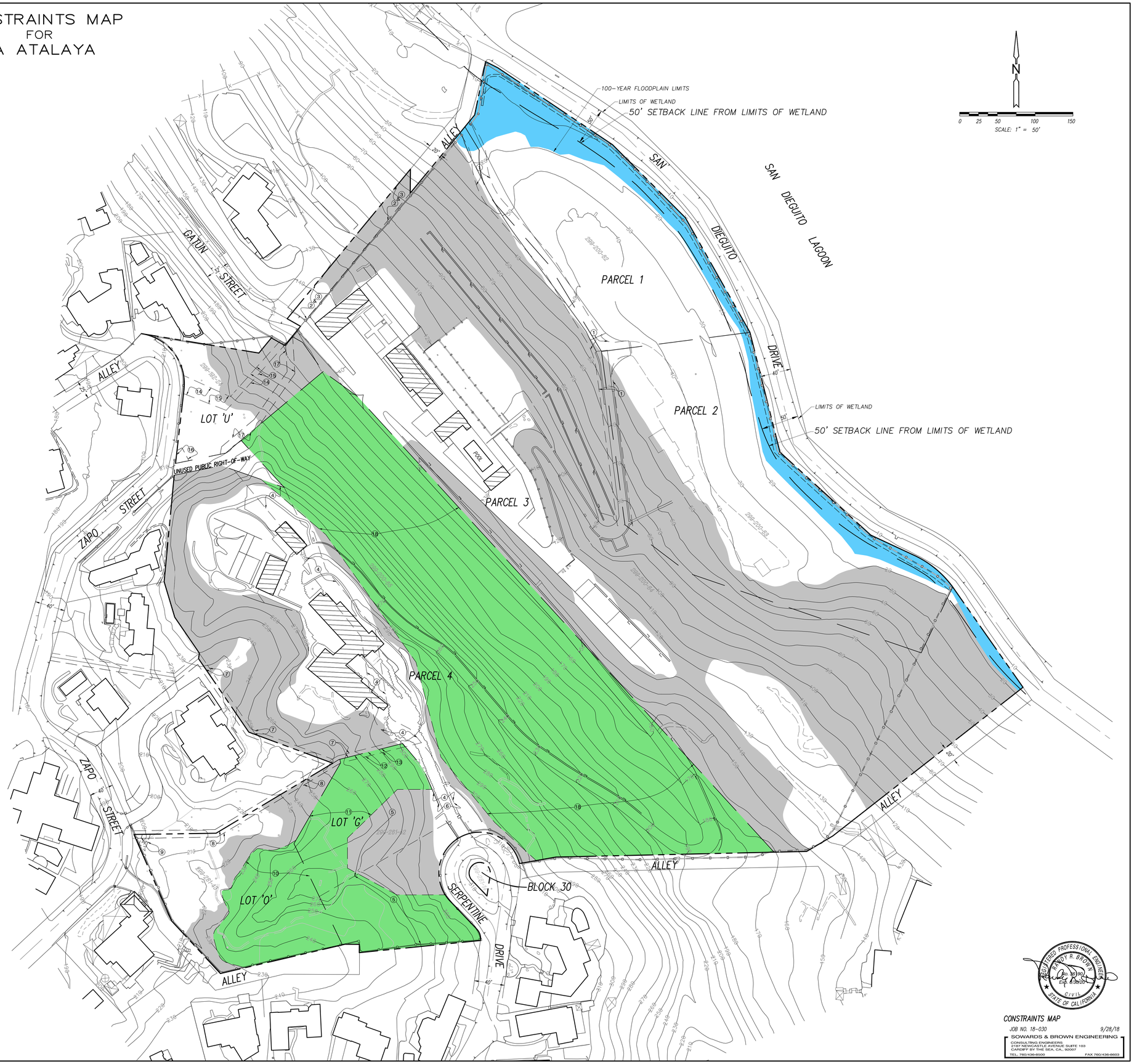
REGISTERED PROFESSIONAL ENGINEER
GARY R. BROWN
No. 36190
Exp. 6/30/20
CIVIL
STATE OF CALIFORNIA

JOB NO. 18-030 11/05/19

SOWARDS & BROWN ENGINEERING
CONSULTING ENGINEERS
2167 NEWCASTLE AVENUE SUITE 103
CARDIFF BY THE SEA, CA., 92007
TEL. 760/436-8500 FAX 760/436-8603

p:\2018\18-030\18030tsm.dwg

CONSTRAINTS MAP
FOR
LA ATALAYA



LEGEND	SYMBOL
SUBDIVISION LINE	
EXISTING PROPERTY LINE	
ADJACENT PROPERTY LINE	
EXISTING EASEMENT LINE	
50' WETLAND SETBACK LINE	
SNAKE WALL W/ COLUMNS	
EXISTING BUILDING	
SUBSTANTIAL STEEP SLOPES	
FEMA 100-YEAR FLOODPLAIN	
OPEN SPACE DEED RESTRICTION	

EXISTING EASEMENT LEGEND:

#		EXISTING PARCEL	EASEMENT	FOR	RECORDED
1	★	1, 2 & 3	ITEM NO. 7	INGRESS, EGRESS & UTILITIES	96-593404 O.R.
2		3	ITEM NO. 8	DRAINAGE INFRASTRUCTURE	96-609868 O.R.
3		3	ITEM NO. 9	SDG&E UTILITIES	97-282759 O.R.
		4	ITEM NO. 2	SEWER & WATER EASEMENT (UNPLOTTABLE)	BK 1183 PG 142 DEEDS
4	★	4	ITEM NO. 5	INGRESS, EGRESS & UTILITY	88-0136351 O.R.
5	★	G	ITEM NO. 5	DEED RESTRICTION- HEIGHT LIMITS	88-0136351 O.R.
6	★	4	ITEM NO. 6	ACCESS, INGRESS, EGRESS & UTILITY	91-0176866 O.R.
7	★	4	ITEM NO. 5	INGRESS, EGRESS & UTILITY	88-0136351 O.R.
8		O	ITEM NO. 9	INGRESS, EGRESS & UTILITY	91-0176864 O.R.
9		O	ITEM NO. 12	PRIVATE DRAINAGE CONNECTION	2002-295769 O.R.
10		O	ITEM NO. 10, 11	OPEN SPACE RESTRICTIONS	93-0383627 & 93-0383628 O.R.
	★	G	ITEM NO. 4	HEIGHT RESTRICTION, 281' MAX OVER LOT	88-0136349
11		G	ITEM NO. 10, 11	OPEN SPACE RESTRICTIONS	93-0383627 & 93-0383628 O.R.
12	★	G	ITEM NO. 5	INGRESS, EGRESS & UTILITY	88-0136351 O.R.
13		G	ITEM NO. 9	INGRESS, EGRESS & UTILITY	91-0176864 O.R.
14	★	U	ITEM NO. 2	ELECTRICAL, WATER, SEWER, OR GAS PIPELINES	BK 1514 PG 34 DEEDS
15	★	U	ITEM NO. 6	WATER PIPELINE	1966-91 O.R.
	★	U	ITEM NO. 7	HEIGHT RESTRICTION, 245' MAX OVER LOT	1995-0248154 O.R.
16		U	ITEM NO. 9	PRIVATE SEWER	2003-1130001 O.R.
17		U	ITEM NO. 10	PRIVATE DRAINAGE	2003-1130002 O.R.
18		4	ITEM NO. 8	OPEN SPACE PRESERVATION AREA	96-0520697 O.R.

NOTE: ★ EASEMENT PROPOSED TO BE QUITCLAIMED WITH THIS APPLICATION

REGISTERED PROFESSIONAL ENGINEER
RANDY R. BROWN
No. 36990
Exp. 6-30-20
CIVIL
STATE OF CALIFORNIA

CONSTRAINTS MAP
JOB NO. 18-030 9/28/18
SOWARDS & BROWN ENGINEERING
CONSULTING ENGINEERS
2187 NEWCASTLE AVENUE SUITE 103
CARDIFF BY THE SEA, CA., 92007
TEL: 760/436-6500 FAX 760/436-6503

p:\2018\18-030\18030Plot.dwg

PLANNING STUDY
FOR
LA ATALAYA

PROPOSED LOT DATA

PROPOSED LOT	GROSS AREA (1)	NET AREA	MAXIMUM F.A.R.	DEVELOPMENT AREA (2)	EXISTING COVERAGE	EXISTING F.A.R. (3)	LOT FRONTAGE	LOT WIDTH	LOT DEPTH
1	41,108	41,108	5,139	5,904	--	--	220'	184'	196'
2	47,505	47,505	5,398	4,180	--	--	215'	170'	270'
3	173,386	173,386	21,673	N/A	5.2%	3.6%	32'	139'	1,008'
4	270,130	270,130	33,766	N/A	3.3%	7.0%	266'	389'	572'
5	47,876	43,036	5,380	13,455	--	--	202'	195'	239'
6	46,987	42,524	5,316	24,573	--	--	148'	180'	267'
7	51,834	41,009	5,126	21,235	--	--	216'	210'	250'
8	110,013	110,013	13,752	16,828	--	--	24'	453'	250'

(1) ASSUMES CITY OF DEL MAR WILL VACATE THE PUBLIC RIGHT-OF-WAY OVER THE UNIMPROVED ALLEY CURRENTLY EXISTING BETWEEN A PORTION OF PROPOSED LOTS 2 AND 4.
(2) DOES NOT INCLUDE ANY ENCROACHMENT INTO SUBSTANTIALLY STEEP SLOPES AS ALLOWED BY CODE.
(3) LOT 3 BUILDING AREA: 6,222 SF
LOT 4 BUILDING AREA: 18,804 SF

SUBSTANTIAL STEEP SLOPE DATA

PROPOSED LOT	NET AREA	SUBSTANTIAL STEEP SLOPE AREA	SUBSTANTIAL STEEP SLOPE AREA / NET AREA	AREA OF LA ATALAYA WAY IMPROVEMENTS IN SUBSTANTIAL STEEP SLOPE AREA	AREA OF LA ATALAYA WAY IMPROVEMENTS IN SUBSTANTIAL STEEP SLOPE AREA / SUBSTANTIAL STEEP SLOPE AREA
1	41,108	24,682	60.0%	0	0
2	47,505	35,666	75.1%	0	0
3	173,386	91,280	52.7%	0	0
4	270,130	210,220	77.8%	0	0
5	43,036	15,285	35.5%	0	0
6	42,524	11,237	26.4%	0	0
7	41,009	17,951	43.8%	718	4.0%
8	110,013	80,995	73.6%	0	0

LEGEND / SYMBOL

- SUBDIVISION LINE
- PROPOSED PROPERTY LINE
- EXISTING PROPERTY LINE
- ADJACENT PROPERTY LINE
- EXISTING EASEMENT LINE
- PROPOSED SETBACK LINE
- SUBSTANTIAL SLOPE SETBACK LINE
- 50' WETLAND SETBACK LINE
- SNAKE WALL W/ COLUMNS
- EXISTING BUILDING
- RETAINING WALL
- SUBSTANTIAL STEEP SLOPES
- FEMA 100-YEAR FLOODPLAIN
- OPEN SPACE DEED RESTRICTION
- DEVELOPMENT AREA
- PROPOSED ACCESS ROAD
- POTENTIAL BUILDING FOOTPRINT TO REFLECT MAXIMUM F.A.R.

NOTE:
POTENTIAL BUILDING FOOTPRINTS ARE EXAMPLES SOLELY FOR THE PURPOSE OF ILLUSTRATING MAXIMUM F.A.R.

EXISTING EASEMENT TABLE:

#	EXISTING PARCEL	EASEMENT	FOR	RECORDED
1 ★	1, 2 & 3	ITEM NO. 7	INGRESS, EGRESS & UTILITIES	96-593404 O.R.
2	3	ITEM NO. 8	DRAINAGE INFRASTRUCTURE	96-609868 O.R.
3	3	ITEM NO. 9	SDG&E UTILITIES	97-282759 O.R.
	4, G, O	ITEM NO. 2	SEWER & WATER EASEMENT (UNPLOTTABLE)	BK1183 PG142 DEEDS (3/10/1926)
4 ★	4	ITEM NO. 5	UTILITY	88-0136351 O.R.
5 ★	G	ITEM NO. 5	DEED RESTRICTION- HEIGHT LIMITS	88-0136351 O.R.
6 ★	4	ITEM NO. 6	ACCESS, INGRESS, EGRESS & UTILITY	91-0176866 O.R.
7 ★	4	ITEM NO. 5	UTILITY	88-0136351 O.R.
8	O	ITEM NO. 9	INGRESS, EGRESS & UTILITY	91-0176864 O.R.
9	O	ITEM NO. 12	PRIVATE DRAINAGE CONNECTION	2002-295769 O.R.
10	O	ITEM NO. 10, 11	OPEN SPACE RESTRICTIONS	93-0383627 & 93-0383628 O.R.
★	O	ITEM NO. 4	HEIGHT RESTRICTION, 281' MAX OVER LOT	88-0136349
11	G	ITEM NO. 10, 11	OPEN SPACE RESTRICTIONS	93-0383627 & 93-0383628 O.R.
12 ★	G	ITEM NO. 5	INGRESS, EGRESS & UTILITY	88-0136351 O.R.
13	G	ITEM NO. 9	INGRESS, EGRESS & UTILITY	91-0176864 O.R.
14 ★★	U	ITEM NO. 2	ELECTRICAL, WATER, SEWER, OR GAS PIPELINES	BK 1514 PG 34 DEEDS (3/14/1928)
15 ★★	U	ITEM NO. 6	WATER PIPELINE	1966-91 O.R.
★	U	ITEM NO. 7	HEIGHT RESTRICTION, 245' MAX OVER LOT	1995-0248154 O.R.
16	U	ITEM NO. 9	PRIVATE SEWER	2003-1130001 O.R.
17	U	ITEM NO. 10	PRIVATE DRAINAGE	2003-1130002 O.R.
18	4	ITEM NO. 8	OPEN SPACE PRESERVATION AREA	96-0520697 O.R.
19 ★★★			ALLEY ADJACENT TO EXIST. PARCEL 4/LOT U	MAP 1343, REC. 6/08/1911

NOTE: ★ EASEMENT PROPOSED TO BE QUITCLAIMED WITH THIS APPLICATION
★★ EASEMENT PROPOSED TO BE VACATED WITH THIS APPLICATION
★★★ ALLEY RIGHT-OF-WAY PROPOSED TO BE VACATED WITH THIS APPLICATION

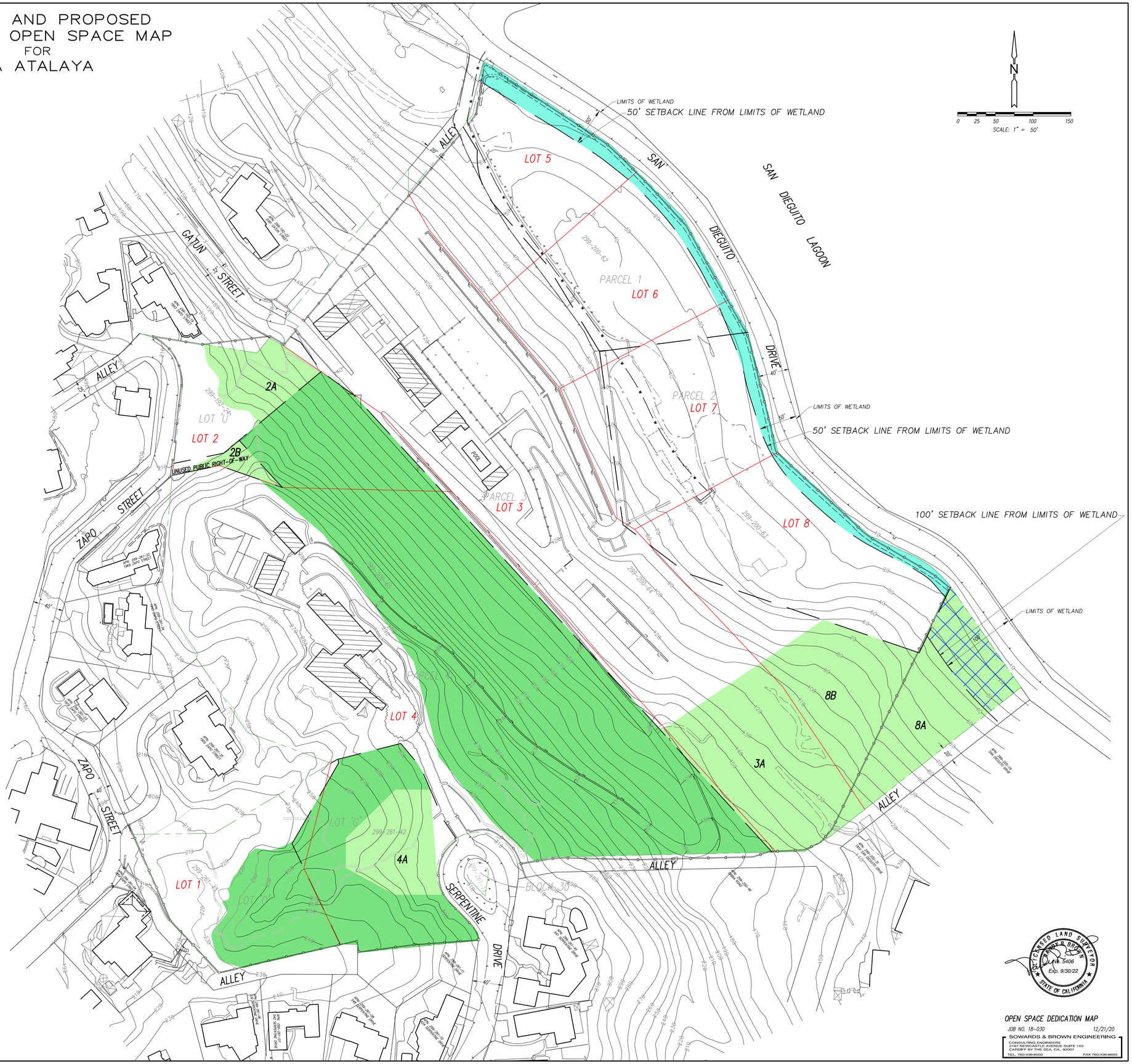
REGISTERED PROFESSIONAL ENGINEER
TROY R. BROWN
No. 63035
EXP. 6-30-20
CIVIL
STATE OF CALIFORNIA

PLANNING STUDY
JOB NO. 18-030 09/03/19

SOWARDS & BROWN ENGINEERING
CONSULTING ENGINEERS
2187 NEWCASTLE AVENUE SUITE 103
CARDIFF BY THE SEA, CA. 92007
TEL. 760/436-8500 FAX 760/436-8503

p:\2018\18-030\180309dp.dwg

EXISTING AND PROPOSED DEDICATED OPEN SPACE MAP FOR LA ATALAYA



LEGEND	SYMBOL
SUBDIVISION LINE	
EXISTING PROPERTY LINE	
ADJACENT PROPERTY LINE	
ADJACENT PROPERTY LINE	
WETLAND SETBACK LINE	
SNAKE WALL W/ COLUMNS	
EXISTING BUILDING	
EXISTING OPEN SPACE DEDICATION	
PROPOSED MITIGATION OPEN SPACE DEDICATION	
PROPOSED WETLAND SETBACK DEDICATION	
PROPOSED MITIGATION OPEN SPACE AND 100' WETLAND SETBACK DEDICATIONS	

I CERTIFY THAT I AM A LICENSED LAND SURVEYOR
CHRIS R. BROWN
LS No. 5406
Exp. 9/30/22
STATE OF CALIFORNIA

OPEN SPACE DEDICATION MAP
JOB NO. 18-030 12/21/20

SOWARDS & BROWN ENGINEERING
CONSULTING ENGINEERS
2187 NEWCASTLE AVENUE SUITE 103
CARDIFF BY THE SEA, CA., 92007
TEL: 760/436-8500 FAX 760/436-8503

G:\2018\18-030\18030ttc.dwg

Matt Bator

Subject: FW: Follow Up Regarding Buffer Reduction- La Atalaya Subdivision
Attachments: La Atalaya CDFW Revisions.pdf

From: Levy, Elyse@Wildlife <Elyse.Levy@Wildlife.ca.gov>
Sent: Monday, January 11, 2021 2:05 PM
To: Jennifer Gavin <jgavin@delmar.ca.us>
Cc: Turner, Jennifer@Wildlife <Jennifer.Turner@wildlife.ca.gov>; Matt Bator <MBator@delmar.ca.us>
Subject: RE: Follow Up Regarding Buffer Reduction- La Atalaya Subdivision

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Jennifer,
Thank you for making the requested revisions. The Department conditionally approves the request given the attached MND revisions, and a condition of approval added to the resolution which requires a deed restriction for all lots.
Thank you for coordinating with CDFW on the buffer reduction request. Please let me know if you have further questions, or require future coordination concerning the La Atalaya Subdivision Project.
Sincerely,
Elyse

PROOF OF PUBLICATION (2015.5 C.C.P.)

State Of California,
County of San Diego

I am a citizen of the United States and a resident of the County aforesaid: I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am an authorized representative of
Del Mar Times
a newspaper of general circulation, printed and published weekly in the County of San Diego, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of 05/28/2010, Case Number #37-2010-00051582-CU-PT-NC;
that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of the said newspaper
and not in any supplement thereof
on the following
Dates, to-wit:

January 21, 2021

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Dated: **January 21, 2021**
At: San Diego, California

CGaza
_____
Signature
Cris Gaza
UT Community Press

CITY OF DEL MAR
NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on Monday, the 1st day of February, 2021, at 4:30 p.m., (or as soon thereafter as practicable) the City of Del Mar City Council will conduct a public hearing via teleconference on the following:

A request for approval of a Tentative Tract Map (TTM18-004), Coastal Development Permit (CDP18-016), Street Vacation(SV20-001), and Conditional Use Permit(CUP18-004) to reconfigure 8 lots totaling approximately 18.1 acres of land into eight (8) different lots south of San Dieguito Road, north of Zapo Street, east of Gatun Road, and west of Serpentine Drive; to make related roadway and utility improvements; and for the summary vacation of two public easements and a public alley. Also, a request for certification of the associated draft Mitigated Negative Declaration for the project. The project is located in the Coastal Commission's appeals area.

Those desiring to be heard in favor of or in opposition to this item will be given an opportunity to do so by commenting telephonically during the meeting or by submitting written comment. Those desiring to make a telephonic comment should visit the City's website for instructions and to submit a tele-comment request form by 12:00 PM the day of the meeting: http://www.delmar.ca.us/publiccomment. Comments submitted via email should be sent to cityclerk@delmar.ca.us by 12:00 PM the day of the meeting. For emailed comments, the subject line of your email should clearly state the item number you are commenting on. All comments received by the deadline will be transmitted to the City Council prior to the start of the meeting. Written comments may also be submitted by mail to the City Council at 1050 Camino del Mar, Del Mar, CA, 92014. Attention: Administrative Services Director/City Clerk. On any correspondence, please reference the hearing title and date. Materials related to this public hearing, will be available at least 72 hours in advance of the meeting on the City's website, http://www.delmar.ca.us/AgendaCenter, and at the Del Mar Library during their limited hours of operation. If you have questions about the information in this notice, please contact Jennifer Gavin at jgavin@delmar.ca.us .

Under California Government Code 65009, if you challenge the nature of the proposed action in Court, you may be limited to raising only those issues you or someone else raised telephonically at the public hearing described in this notice, or written correspondence delivered to the City at, or prior to, the public hearing.

/s/: Ashley Jones, Administrative Services Director/City Clerk
Date: January 14, 2021
DM7746433 1/21/21

CITY STAFF RESPONSES TO CITY COUNCILMEMBER QUESTIONS
REGARDING February 1, 2021 CITY COUNCIL AGENDA
Dated 2/1/21 1:15PM

1. **Agenda Item #5 Prop 68 grant application:** Can Parks and Recreation Committee time put in count towards our local match?

Staff Response: Volunteer labor is an eligible match source. Like with in-house staff time, the city must maintain time and attendance records showing actual volunteer hours worked on the project. They refer to https://independentsector.org for obtaining volunteer hourly wage value for budgeting/accounting purposes, and according to this resource the estimated value of each volunteer hour is $27.20. More detail can be found here: https://independentsector.org/value-of-volunteer-time-2020/. For reference the per capita match information is outlined on page 13 of the procedural guide document: https://www.parks.ca.gov/pages/1008/files/Per_Capita_Program_Procedural_Guide_Sept_2020_9.1.20.pdf.

2. **Agenda Item #6 DRB Policy Manual Update:**

a. Can the manual clarify if "days" means calendar or business days?

Staff Response: Staff suggests removal of the word "calendar" in that section for consistency. When required otherwise, the term "working days" is used.

b. Can the manual reference the ADR process conducted by staff?

Staff Response: Staff suggests a simple reference to the ADR section of the Design Review Ordinance (DMMC Chapter 23.08), where this information is already spelled out. Can be added to a motion for approval.

c. Many provisions in the manual use the word "shall." Can we consider a lead in statement to the effect that this manual is intended to provide guidance and clarity but in all cases where it might conflict with the provisions of state law, the DMMC, or the DRO, those will control?

Staff Response: Yes. This language can be added to a motion for approval.

d. Can we consider a reference to and explanation of the new DRB rules on ADUs/JrADUs?

Staff Response: Staff's suggestion would be to add it if necessary at a later date, with a new section that highlights various "housing" programs that exempt certain developments from discretionary review. For now, staff suggests it remain a topic covered in new Board member training.

e. Should the manual include the rules and procedure for DRB member site visits?

Staff Response: Staff suggests that this be an issue returned to the DRB for consideration and development, to be reviewed by the City Council at a later date with other proposed updates.

f. Can the role of the ex officio DRB member be addressed in the manual?

Staff Response: Staff agrees that Section 2.1 of the Policy Manual (DRB Membership) needs to be updated to include the ex-officio member and a brief statement of their role can be included listing or cited with a reference to DMMC 2.38.010, where the standards of DRB membership are provided in the DMMC. Can be added to a motion for approval.

g. Can the manual include information on Board conflicts?

Staff Response: Staff suggests a reference to the City's current conflict of interest guidelines.

h. Page 42, Section 4.2: Requires mailing of notice. Aren't there situations when publishing can be done in lieu of mailing i.e. for city wide changes?

Staff Response: Not really in the case of development review before the DRB. Publishing notice for Citywide changes is used for legislative issues.

i. Does the language on Page 51 preclude simultaneous processing of DRB, LC, TRP, and CDP applications?

Staff Response: This can be clarified by adding reference to necessary "permits issued by the Planning Commission."

j. Page 54 Step 5: Is the person ceding time required to be present as is the rule at council?

Staff Response: Yes, the DRB follows the City Council's lead on this issue.

3. **Agenda Item #7 Agreement for Water Quality Testing**:

a. Are these expenses recovered in the water rates? Staff Response: Yes**.**
b. Is Fairgrounds or reclaimed water tested? Staff Response: Potable yes (at the sources), reclaimed no.
c. Do we test for water service outside the city, e.g. fairgrounds property east of JDB served by Del Mar? Staff Response: no
d. Do we test in the city for water purveyed by Santa Fe Irrigation District (SFID) on the North Bluff? Staff Response: No, however, SFID is required to test the water they serve and report it to the agencies.
e. Are there any wells in Del Mar? Staff Response: no
f. If so are they tested? Staff Response: N/A

CITY STAFF RESPONSES TO CITY COUNCILMEMBER QUESTIONS
REGARDING February 1, 2021 CITY COUNCIL AGENDA
Dated 2/1/21 1:15PM

4. **Agenda Item #11 Approval of 2021 Legislative Policy Guidelines:**

a. Intro Summary: Can it be revised to read "Support Funding opportunities for projects *consistent with city goals?*

Staff Response: Staff agrees the proposed revision narrows the Guiding Principle to specifically focus on identifying funding for city goals and priorities.

b. 1E(new): Should it reference residential not just businesses?

c. III Public Protection Crimes: Should we have a position on license plate readers, facial recognition technology, smart street lights, drones, and other surveillance technologies that some law enforcement use?

d. III C fire: Is it clear Del Mar is not asking for Homeland Security grants/equipment, as some cities have, for firearms, armored vehicles, and similar?

e. IV(A) Transportation: Should we have a clear statement regarding rail?
f. Section V(E): Should we have an item clarifying that storm water fees are property related?
g. V(H): Should we have an item regarding blue carbon projects?

Staff Response: Regarding these recommendations – these are all good items to be discussed with the City Council for direction.

h. A7: "*planning and construction of the following types of improvements at the Del Mar Fairgrounds: permanent rail platform; permanent housing; mobility hubs; fleet mobility services; and micro-mobility solutions*."

Staff Response: Staff is recommending these revisions because the terms align with SANDAG's 2050 Regional Plan – staff can provide more detail at the meeting if needed.

5. **Agenda Item #13 Encroachment Permit for Hedge on 964 Crest Road:**

a. Has there ever been an accident at this curve?

Staff Response: Staff is checking with Public Works and the Sheriff's Department to get this answer.

b. What is the speed of vehicles around this curve?

Staff Response: The posted speed limit is 15 miles per hour. Heading South there is a speed sign as you approach 964 Crest. As you head North from the stop sign at Hoska there is no speed limit sign,

yet there is a speed bump in front of 964 Crest (north side of turn) and one on the south side of the turn.

c. How long has the hedge been there with its current height?

Staff Response: According to the applicant they planted the new hedge in 2014, however a second row of hedges was planted sometime after 2015 when this google photograph was taken.

6. **Agenda Item #14 La Atalaya:** Does La Atalya pay housing fees where they are substantially reconfiguring their lots but are not adding to the total number of lots?

Staff Response: Housing fees are only required for any "new" lots created as a result of a subdivisions map. In this case, there are no net new lots created since it goes from eight existing lots to eight proposed lots. Therefore, no housing fees required. Please see DMMC section is 24.21.035.

7. **Agenda Item #15 FY 19-20 CAFR and Audited Financial Results:**

a. On page 73, the summary table includes a transfer out of "other funds" of -$3.381 million.

What is this "transfer out" line item? What is the right way to think about it? (Extra revenue or extra expense?)

As I recall, the budgeted "transfer in" of -$542,160 was the loan (unused) from Measure Q. Is that correct? What is the nature of the final transfer in of $86,613?

Staff Response: It is important to note that for the purposes of the CAFR, the Measure Q, PEG, and Special Project Funds are all considered "General Fund". For internal reporting and fiscal management purposes, the City has created separate funds for these funding sources.

"Transfer out" represents monies that are transferred to different funds and paid out, in this case, with General Fund monies. The opposite is true for "Transfer In" which represents monies coming in to the General Fund from other funds. Since Measure Q is considered General Fund, the transfer within the two internal reporting funds is not represented in the CAFR, but is represented in the Reserve Summary Report that is included in this staff report starting on page 179. The approximate $3.38 million transferred out of General Fund include:

Subsidies:	Gas Tax	$451,000
	Open Space	$745,000
	SLESF	$96,000
	Regional Com	$29,000
Funding	Capital Imp	$2,000,000

The majority of the final transfer in the amount of $86,600 is from the Road Maintenance Rehabilitation Fund, which are transferred into the General Fund to offset any road construction costs that were completed during the fiscal year.

b. Looking at total revenues and total expenses, FY20 ended with +$1.3 million, correct?

Staff Response: Yes, but keep in mind that this includes, Measure Q and PEG funds.

c. Tax revenues were $13.632 million. How does this break down?

Staff Response:

Property tax	$6.6 million
TOT	$2.3 million
Sales and use	$1.47 million
Measure Q	$2.3 million
Franchise tax	$390,000
Business license	$236,000
Transfer Tax	$161,000

The figures above represent the major tax revenues received by the City, and does not take into account any rounding of the numbers or smaller miscellaneous tax revenues received by the City (so the total won't tie out exactly).

d. Is Measure Q revenue included in the $13.632 million figure?

Staff Response: Yes, that figure does include Measure Q revenue

e. What are the end of FY20 balances for?

Staff Response:

General Fund Contingency	$2.5 million
Measure Q Fund	$1.16 million
Pension Reserve	$1.22 million
Covid-19 Economic Contingency	$213,000
Equipment Replacement	$725,000
Self-Insurance/Leave Liability	$325,000
any other contingency funds	

f. Page 23: Can we update the Profile to reflect Del Mar's recent Charter Amendment Section 2.02?

Staff Response: We will take note of this request and update the Profile to reflect Del Mar's Charter Amendment for the next CAFR submittal in June 2021. Please note that the purpose of tonight's agenda item is to present the results of the CAFR to the City Council, which have already been submitted to the Government Finance Officers Association (GFOA) so there is little opportunity for non-substantive changes to the report at this point in the process.

g. Page 26: "Completed habitat restoration phase of the Torrey Pines Bridge Seismic Rehabilitation Project." What/where was the restoration?

Staff Response: The Torrey Pines Bridge Seismic Rehabilitation project was completed in 2014. Construction of the project resulted in 0.73-acre of temporary impacts to Diegan coastal sage scrub and maritime succulent scrub that were present within construction limits. Fish and Wildlife service required 2:1 mitigation (1:1 onsite plus 1:1 offsite) of the habitat. Construction also resulted in 0.047-acre of temporary impacts to marshes and unvegetated channels. Fish and Wildlife service required 1:1 mitigation of the habitat.

As part of the required mitigation, the impacted areas were planted/monitored during the project's Habitat Restoration Phase from 2015 through 2020. Fish and Wildlife has inspected the final restoration and approved the project's close out permit.

h. Page 29: The discussion of reserve policies does not mention the Housing Reserve Fund—granted we deferred funding it due to covid, but we did set it up, no? It is referenced in program 7a of our draft 6TH Cycle HEU and in item 10 at page 3. Again, anywhere we can show HCD we have housing programs we should in my opinion, including in the CAFRE.

Staff Response: When the City Council approved the two-year budget for Fiscal Years 2019-20 and 2020-21, they directed that a Housing Reserve Fund be created in FY 20-21. The CAFR covers the 2019-20 fiscal year period, which was prior to the Housing Reserve Fund being created. And, in light of the City's financial situation, what would have been the first contribution of $300K to the newly created fund was eliminated for this fiscal year. At such time that a reserve contribution is made to the Housing Reserve Fund, it will be reported in our financials.

i. Page 106: What is this? "The nonmajor Supplemental Law Enforcement Special Revenue Fund exceeded budgets by $19,206. This fund has adequate resources to cover the budget overage." Page 118 describes it as follows, but not how/why we are over budget: "The **Supplemental Law Enforcement Special Revenue Fund** is used to account for grant revenue received by the City from the State of California for supplemental law enforcement expenditures.

Staff Response: This section of the CAFR must disclose any fund that exceeded its approved appropriation. The Supplemental Law Enforcement Special Revenue Fund was used to pay for the Park Ranger program, which wasn't eliminated until the end of FY 2019-2020. The budget overage was a result of the Park Ranger's resignation, and an unanticipated leave payout. Please note that although these types of payouts are recorded in their corresponding fund, the Leave Liability Reserve Fund is used to cover costs associated with leave payouts.

j. Page 151: What is "district" tax? "District tax" is also referenced in the chart on page 160.

Staff Response: The District tax referenced on page 151 refers to Measure Q funds, which is the legal name for this type of collected tax. The chart on page 160 refers to the City of Mar Direct tax, which represents the percentage of property tax that is allocated to the City of Del Mar, and paid by property owners. All other mention of "District" on this chart refers to the School District and any other Special Districts, which are not funds allocated to the City of Del Mar.

k. Page 177: Does the 2300 labor force include fairgrounds employees? Seems not, but it doesn't say.

Staff Response: The total labor force data included on this page is provided by the State of California, Employment Development Department, and it is the City's understanding that this does not include employment data for Fairgrounds.

l. Page 178: Can this be explained? I'm not sure what it is saying. I think it addresses how part time/seasonal employees are counted, and may include fairgrounds? Since this is a hot topic it should be clear what this says, who prepared it, and what data are used.

Staff Response: Page 178 describes how the labor force data is calculated by the State of California. For smaller cities, like Del Mar, the ratios are calculated from census data. It also indicates that data is not seasonally adjusted, and does not represent the current economic condition of the City. Without doing

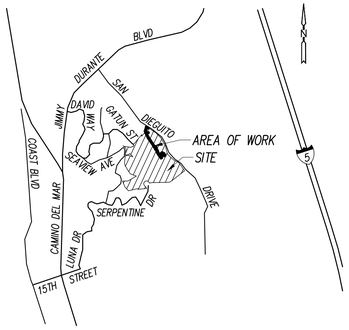
an actual survey, or paying a firm that will do the survey for the City, the State of California data is the best available, and used by many cities to complete the Statistical Section of the CAFR.

SITE PLAN FOR LA ATALAYA IMPROVEMENTS

NOTES:

1. THIS IS NOT A BOUNDARY SURVEY. BOUNDARY INFORMATION PER RECORD DATA.
2. THE PROPERTY LINES SHOWN HEREON WERE CALCULATED FROM RECORD DATA USING A MIN. OF TWO (2) TIES TO CERTAIN FOUND SURVEY MONUMENTS.
3. EASEMENTS SHOWN HEREON ARE BASED ON PRELIMINARY TITLE REPORT PREPARED BY FIDELITY NATIONAL TITLE COMPANY DATED 10/19/23.

LOT NUMBER	GROSS AREA	NET AREA
LOT 1	41,087	41,087
LOT 2	47,406	47,406
LOT 3	173,448	173,448
LOT 4	270,278	270,278
LOT 5	47,019	42,178
LOT 6	46,500	42,474
LOT 7	51,721	44,965
LOT 8	109,208	109,208
TOTAL	786,667	771,044



VICINITY MAP
N.T.S.

KEY MAP
SCALE = 1"=60'

SCALE: 1" = 60'

OWNERS / APPLICANT

THE SUBDIVIDER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE CITY OF DEL MAR AND ITS AGENTS, OFFICERS AND EMPLOYEES FROM ANY CLAIM, ACTION OR PROCEEDING AGAINST THE CITY OF DEL MAR OR ITS AGENTS, OFFICERS OR EMPLOYEES TO ATTACK, SET ASIDE, VOID, OR ANNUL AN APPROVAL FROM THE CITY OF DEL MAR CONCERNING THIS SUBDIVISION WHEN SUCH ACTION IS BROUGHT WITHIN THE TIME PERIOD SPECIFIED IN GOVERNMENT CODE SECTION 66499.37. THIS CERTIFICATE IS CONDITIONED UPON THE CITY OF DEL MAR PROVIDING PROMPT NOTICE TO THE SUBDIVIDER AS PROVIDED BY THE ACT.

SUBDIVIDER WILL NOT SEEK THE CREATION OF A SPECIAL DISTRICT

SIGNATURE OF OWNER / APPLICANT — DATE: 3/25/24

LA ATALAYA, LLC
P.O. BOX 1129
DEL MAR, CA 92014

SITE ADDRESS: 690 SERPENTINE DRIVE
DEL MAR, CA. 92014

LEGEND	SYMBOL
SUBDIVISION LINE	
PROPOSED PROPERTY LINE	
EXISTING PROPERTY LINE	
ADJACENT PROPERTY LINE	
EASEMENT LINE	
SNAKE WALL W/ COLUMNS	
EXISTING BUILDING	
LIMITS OF AC	
PROPOSED AC PAVEMENT	
SAW CUT LINE	
LIMITS OF WORK	
PROPOSED WATER SERVICE	W
PROPOSED FIRE HYDRANT	
PROPOSED SEWER LATERAL	S
PROPOSED SEWER CLEAN OUT	
EXISTING FIRE HYDRANT	
PROPOSED PVC STORM DRAIN PIPE (2% MIN)	
PROPOSED BIOFILTRATION BASIN RISER	
PROPOSED 6" TRAFFIC RATED TRENCH DRAIN	
PROPOSED MASONRY RETAINING WALLS	
PROPOSED VEGETATED SWALE	
PROPOSED BIOFILTRATION BASIN	

ABBREVIATIONS :

AC	ASPHALT CONCRETE	RCP	REINFORCED CONCRETE PIPE
CMPA	CORRUGATED METAL PIPE	RR TIE	RAILROAD TIE
CONC	CONCRETE	R/W	RIGHT-OF-WAY LINE
DI	DRAINAGE INLET	SCO	SEWER CLEANOUT
DWY	DRIVEWAY	SD BOX	STORM DRAIN INLET BOX
EUC	EUCALYPTUS TREE	SDI	STORM DRAIN INLET
GASV	GAS VALVE	SDMH	STORM DRAIN MANHOLE
FG	FINISH GRADE	TC	TOP OF CURB
FH	FIRE HYDRANT	TG	TOP OF GRATE
FL	FLOWLINE	TPINE	TORREY PINE TREE
ICV	IRRIGATION CONTROL VAULT	TW	TOP OF WALL
IE	INVERT ELEVATION	TYP	TYPICAL
PP	POWER POLE	VCP	VITRIFIED TILE PIPE
PVC	POLYVINYL CHLORIDE	WGV	WATER VALVE HANDHOLE
		WM	WATER METER
		WPED	WATER UTILITY PEDESTAL

EARTHWORK:

	OUTSIDE	UNDER	TOTAL
EXCAVATION:	350 CY	0 CY	350 CY MAX 5.8'
FILL:	460 CY.	0 CY	460 CY MAX 8.4'
IMPORT:	110 CY.	0 CY	110 CY

EASEMENT TABLE:

#	EXISTING PARCEL	EASEMENT	FOR	RECORDED
	4, G, O	ITEM NO. 1, 14	SEWER & WATER EASEMENT (UNPLOTTABLE)	BK1183 PG142 DEEDS (3/10/1926)
★	O	ITEM NO. 3	HEIGHT RESTRICTION, ELEV 281 OVER LOT	88-136349 O.R.
(1)	O	ITEM NO. 8	OPEN SPACE RESTRICTION	93-0383627 O.R.
(2)	G	ITEM NO. 9	OPEN SPACE RESTRICTION	93-0383628 O.R.
(3)	O	ITEM NO. 10	PRIVATE DRAINAGE CONNECTION	2002-295769 O.R.
(4) ★	U	ITEM NO. 11	ELECTRICAL, WATER, SEWER, GAS PIPELINES	BK1514 PG34 DEEDS (8/3/1928)
(5) ★	U, 3	ITEM NO. 13, 16	WATER PIPELINE	1966-91 O.R. (1/3/1966)
(6)	4	ITEM NO. 20	OPEN SPACE PRESERVATION AREA	1996-0520697 O.R.
(7)	3	ITEM NO. 21	DRAINAGE INFRASTRUCTURE	1996-0609868 O.R.
(8)	3	ITEM NO. 22	SDG&E UTILITIES	1997-0282759 O.R.
(9) ★★★			ALLEY ADJACENT TO EXIST. PARCEL 4/LOT U	MAP 1343, REC. 6/08/1911
(10) ★★	U	PARCEL 4	PRIVATE SEWER EASEMENT	REPLACE 2003-1130001 O.R.
(11) ★★	U	PARCEL 4	PRIVATE DRAINAGE EASEMENT	REPLACE 2003-1130002 O.R.
(12) ★★	1, 2, 3		PRIVATE ROAD, PUBLIC UTILITY EASEMENT	
(13) ★★	1		RECIPROCAL DRAINAGE EASEMENT	
(14) ★★	1		PUBLIC WATER EASEMENT (HYDRANT)	
(15) ★★	2		PUBLIC WATER EASEMENT (HYDRANT)	
(16) ★★	1, 2		RECIPROCAL DRAINAGE EASEMENT	
(17) ★★	2, 3		PRIVATE DRIVEWAY EASEMENT	
(18) ★★	1, 3		PRIVATE DRAINAGE EASEMENT	

NOTE: ★ EASEMENT PROPOSED TO BE QUITCLAIMED WITH THIS APPLICATION
★★ EASEMENT PROPOSED WITH THIS APPLICATION
★★★ ALLEY RIGHT-OF-WAY APPROVED FOR VACATION PER PREVIOUS APPLICATION

REGISTERED PROFESSIONAL ENGINEER
RANDY R. BROWN
No. 36190
Exp. 6/30/24
CIVIL
STATE OF CALIFORNIA

SIGNATURE OF PREPARER — DATE: 3/25/24

RANDY R. BROWN RCE 36190 EXP. 6/30/24
SOWARDS AND BROWN ENGINEERING, INC.
2187 NEWCASTLE AVENUE SUITE 103
CARDIFF BY THE SEA
CALIFORNIA 92007
PHONE: (760) 436-8500

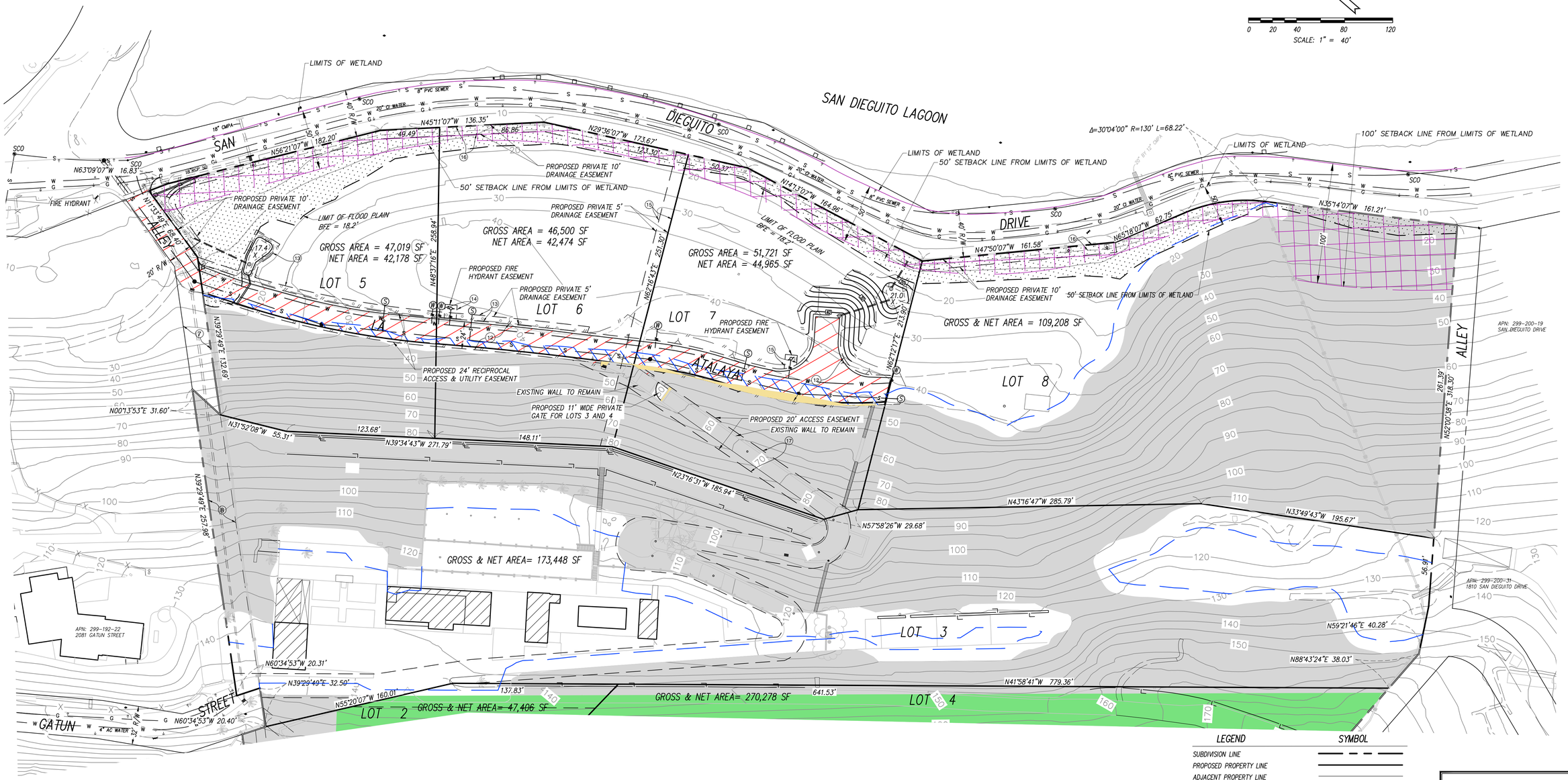
JOB NO. 18-030 3/25/24

SOWARDS & BROWN ENGINEERING
CONSULTING ENGINEERS
2187 NEWCASTLE AVENUE SUITE 103
CARDIFF BY THE SEA, CA., 92007
TEL. 760/436-8500 FAX 760/436-8603

p:\2018\18-030\18030tsm.dwg

SITE PLAN FOR LA ATALAYA IMPROVEMENTS

0 20 40 80 120
SCALE: 1" = 40'



SUBSTANTIAL STEEP SLOPE DATA FOR PROJECT AREA (LOTS 5 THRU 8)

PROPOSED LOT	NET AREA	SUBSTANTIAL STEEP SLOPE AREA	SUBSTANTIAL STEEP SLOPE AREA / NET AREA	AREA OF LA ATALAYA WAY IMPROVEMENTS IN SUBSTANTIAL STEEP SLOPE AREA	AREA OF LA ATALAYA WAY IMPROVEMENTS IN SUBSTANTIAL STEEP SLOPE / SUBSTANTIAL STEEP SLOPE AREA	SUBSTANTIAL STEEP SLOPE AND SETBACK AREA	AREA OF LA ATALAYA WAY IMPROVEMENTS IN SUBSTANTIAL STEEP SLOPE AND SETBACK AREA	AREA OF LA ATALAYA WAY IMPROVEMENTS IN SUBSTANTIAL STEEP SLOPE AND SETBACK AREA / SUBSTANTIAL STEEP SLOPE AND SETBACK AREA
5	42,178	15,243	36.1%	0	0	17,223	835	4.9%
6	42,474	10,960	26.5%	20	0.2%	12,907	1,266	9.8%
7	44,965	15,179	40.0%	404	2.7%	20,112	2,525	12.6%
8	109,208	80,857	74.0%	0	0	85,176	0	0
TOTAL	238,825	125,324	52.5%	424	0.3%	135,418	4,626	3.4%

LEGEND

LEGEND	SYMBOL
SUBDIVISION LINE	
PROPOSED PROPERTY LINE	
ADJACENT PROPERTY LINE	
EXISTING EASEMENT LINE	
SNAKE WALL W/ COLUMNS	
EXISTING BUILDING	
RETAINING WALL	
SUBSTANTIAL STEEP SLOPES	
OPEN SPACE DEED RESTRICTION	
SUBSTANTIAL STEEP SLOPE SETBACK	
ENCROACHMENT INTO SUBSTANTIAL STEEP SLOPE SETBACK	
ENCROACHMENT INTO SUBSTANTIAL STEEP SLOPES	
WETLAND SETBACK	
PROPOSED ACCESS ROAD	
100-YEAR FLOODPLAIN	

NOTE:

SEE SHEET 1 FOR EASEMENT TABLE

REGISTERED PROFESSIONAL ENGINEER
TIMOTHY B. BROWN
No. 36190
Exp. 6/30/24
CIVIL
STATE OF CALIFORNIA

JOB NO. 18-030 3/25/24

SOWARDS & BROWN ENGINEERING
CONSULTING ENGINEERS
2187 NEWCASTLE AVENUE SUITE 103
CARDIFF BY THE SEA, CA., 92007
TEL. 760/436-8500 FAX 760/436-8603

SITE PLAN FOR LA ATALAYA IMPROVEMENTS

SCALE: 1" = 30'

SPECIAL NOTES:

1. LOTS 5, 6, 7, AND 8 SHALL HAVE VEHICULAR ACCESS OFF LA ATALAYA WAY AND SHALL NOT HAVE ACCESS OFF SAN DIEGUITO DRIVE.
2. UTILITY AND RECIPROCAL ACCESS EASEMENTS, IN ADDITION TO SHARED MAINTENANCE AGREEMENTS SHALL BE RESERVED OVER PROPOSED LA ATALAYA WAY.
3. IN ADDITION TO EMERGENCY SERVICES, THE CITY OF DEL MAR PUBLIC WORKS SHALL HAVE ACCESS RIGHTS VIA THE PRIVATE GATE TO LA ATALAYA WAY.
4. THERE SHALL BE "NO PARKING" SIGNS AND RED PAINTED CURBS ON BOTH SIDES OF LA ATALAYA WAY.
5. LOTS 5, 6, 7 AND 8 SHALL HAVE VEHICULAR ACCESS OFF OF LA ATALAYA WAY AND SHALL NOT HAVE ACCESS RIGHTS OFF OF SAN DIEGUITO DRIVE.

SAN DIEGUITO LAGOON

SAN DIEGUITO DRIVE

LA ATALAYA WAY

ALLEY

GATUN STREET

LOT 2 — GROSS & NET AREA= 47,406 SF

LOT 3 — GROSS & NET AREA= 173,448 SF

LOT 4 — GROSS & NET AREA= 270,278 SF

LOT 5 — GROSS AREA = 47,019 SF, NET AREA = 42,178 SF

LOT 6 — GROSS AREA = 46,500 SF, NET AREA = 42,474 SF

LOT 7 — GROSS AREA = 51,721 SF, NET AREA = 44,965 SF

LOT 8 — 109,208 SF GROSS, NET (2.507 AC)

EXISTING GUEST HOUSE

APN: 299-192-22
2081 GATUN STREET

APN: 299-192-19
1993 ZAPO STREET

LIMITS OF WETLAND

50' SETBACK LINE FROM LIMITS OF WETLAND

LIMITS OF 100-YEAR FLOODPLAIN

RELOCATE 30'± BROW DITCH
REMOVE 2 COLUMNS AND 46'± WALL
RECONSTRUCT 2 COLUMNS AND 36' WALL
CONNECT TO EXISTING SEWER MANHOLE

CONNECT TO EXISTING WATER MAIN
PROPOSED 8" PVC SEWER MAIN
PROPOSED 12" PVC WATER MAIN

EXISTING 15.2' WIDE GATE TO BE WIDENED TO SATISFY FIRE ACCESS REQUIREMENTS.
REMOVE 4'± WALL, RELOCATE COLUMN.
CITY OF DEL MAR PUBLIC WORKS AND FIRE DEPARTMENT SHALL HAVE ACCESS RIGHTS TO GATE ENTRY.

EXISTING 14.0' WIDE GATE

PROPOSED PRIVATE 10' DRAINAGE EASEMENT

PROPOSED PRIVATE 5' DRAINAGE EASEMENT

PROPOSED 24' RECIPROCAL ACCESS & UTILITY EASEMENT

PROPOSED FIRE HYDRANT EASEMENT
299-200-82
CERT OF COMPL PAR NO 1

PROPOSED BIOFILTRATION BASIN
TG 17.90 IE 15.40 209 SF
TOP 18.4

PROPOSED BIOFILTRATION BASIN
TG 21.50 IE 19.00 163 SF
TOP 22.0
21.0

12" TRENCH DRAIN
TG 90.0

PROPOSED 12" PVC WATER MAIN

PROPOSED 8" PVC WATER MAIN

PROPOSED 8" PVC SEWER MAIN

PROPOSED 11' WIDE PRIVATE GATE FOR LOTS 3 AND 4

REMOVE & REPLACE AC PAVEMENT

REMOVE EXISTING AC PAVEMENT

PROPOSED FIRE HYDRANT EASEMENT

PROPOSED AC PAVEMENT SECTION PER SOILS ENGINEER

PROPOSED 24' RECIPROCAL ACCESS & UTILITY EASEMENT

CONCRETE DRIVEWAY TO REMAIN

PROPOSED CMU WALL W/ BROW DITCH

PROPOSED 20' ACCESS EASEMENT

PROPOSED SEWER LATERAL EASEMENT IN FAVOR OF LOT 3

PROPOSED TRENCH AND RESURFACING

(E) STAIRS TO REMAIN

PROPOSED 20' ACCESS EASEMENT
299-200-84
CERT OF COMPL PAR NO 2

N45°11'07"W 136.35'
N29°36'07"W 173.67'
N14°13'07"W 164.96'
N47°50'
N62°16'43"E 251.30'
N62°21'17"E 213.90'
N48°37'16"E 258.94'
N29°29'49"E 132.69'
N11°53'49"E 68.40'
N56°21'07"W 182.20'
N63°09'07"W 16.83'
N00°13'53"E 31.60'
N31°52'08"W 55.31'
N39°34'43"W 271.79'
N23°16'31"W 185.94'
N57°58'26"W 29.68'
N39°29'49"E 257.98'
N60°34'53"W 20.31'
N39°29'49"E 32.50'
N55°20'07"W 160.01'
N60°34'53"W 20.40'
N39°33'49"E 26.13'
N68°29'31"W 224.57'

123.68'
148.11'
137.83'
641.53'

TOP GRATE 6" ABOVE FS
(E) GRADE
IMPERMEABLE LINER
FINISHED SURFACE (FS) PER PLAN
(E) GRADE
18" ENGINEERED SOIL
6" OF 3/4" GRAVEL
6" PERFORATED PVC SUBDRAIN

TYPICAL BASIN SECTION
N.T.S.

20' ALLEY
REMOVE AND REPLACE AC
MIN 3" AC PAVEMENT OVER 5" CTB
AC PAVEMENT OUTSIDE OF R/W TO REMAIN
(E) GRADE
(E) WALL TO REMAIN
(E) BROW DITCH
(E) GRADE
WIDEN PAVEMENT TO 20' MATCH EXISTING GRADE
REDWOOD HEADER OR CURB PER PLAN
REDWOOD HEADER

SECTION A-A
N.T.S.

REMOVE (E) AC PAVEMENT
(E) EDGE OF PAVEMENT
MIN 3" AC PAVEMENT OVER 5" CTB
(E) GRADE
REMOVE & REPLACE CURB AT NEW ALIGNMENT
WIDEN PAVEMENT TO 20' OVER LOTS 5 & 6
LA ATALAYA WAY
VEGETATED SWALE
(E) SLOPE
20'
6"
2%
6"x8" PCC FLUSH CURB
24' ROAD & UTILITY EASEMENT
5' DRAINAGE EASEMENT

SECTION B-B
N.T.S.

LA ATALAYA WAY
(E) GRADE
VEGETATED SWALE
PLANTER WALL PER GRADING PLAN
MIN 3" AC PAVEMENT OVER 5" CTB
FINISH GRADE (FG) PER PLAN
VEGETATED SWALE
(E) GRADE
20'
2%
6"x8" PCC FLUSH CURB
24' EASEMENT

SECTION C-C
N.T.S.

NOTE:
SEE SHEET 1 FOR EASEMENT TABLE

REGISTERED PROFESSIONAL ENGINEER
TROY R. BROWN
No. 36190
Exp. 6/30/24
CIVIL
STATE OF CALIFORNIA

JOB NO. 18-030 3/25/24

SOWARDS & BROWN ENGINEERING
CONSULTING ENGINEERS
2187 NEWCASTLE AVENUE SUITE 103
CARDIFF BY THE SEA, CA., 92007
TEL. 760/436-8500 FAX 760/436-8603

SITE PLAN FOR LA ATALAYA IMPROVEMENTS

0 10 20 40 60
SCALE: 1" = 20'

AASHTO: 36 MPH SIGHT DISTANCE (345 FEET)
NO RESTRICTION

345'

R/W

GRAND AVE

DIRT/ PARKING

SIGN

SMH

DBL YELLOW STRIPE

RELOCATE A PORTION OF EXISTING SNAKE WALL AND BROW DITCH TO PROVIDE 33 MPH STOPPING SIGHT DISTANCE

SAN DIEGUITO LAGOON

N63°09'07"W 16.83'

PPGUARDRAIL

NO VISUAL OBSTRUCTION ALLOWED IN THIS SIGHT TRIANGLE

15'

EXISTING SPEED BUMP

AASHTO: 33 MPH STOPPING DISTANCE (230 FEET)

230'

HEADWALL

PP

SDBOX

7' HIGH CONC. WALL

2'DEEP CONC. DITCH (TYP.)

N56°21'07"W 182.20'

40'

DIEGUITO

DRIVE

PROPOSED ROAD WIDENING

N11°33'49"E 68.40'

20'

NO VISUAL OBSTRUCTION ALLOWED IN THIS SIGHT TRIANGLE

49.49'

N45°11'07"W 136.35'

86.86'

OLIVE TREES

ALLEY

N37°28'49"E 132.69'

LA ATALAYA WAY

LOT 5

LOT 6

299-200-82
CERT OF COMPL PAR NO I

N48°37'18"E 258.94'

GRAVEL

10 20 30 40 50

NOTE:

POSTED SPEED LIMIT IS 25 MPH

WESTBOUND 85th % SPEED IS 33 MPH

EASTBOUND 85th % SPEED IS 36 MPH

LINE-OF-SIGHT 15' BACK FROM EDGE OF ROADWAY – AASHTO POLICY

SIGHT DISTANCE EXHIBIT

SCALE = 1"=20'

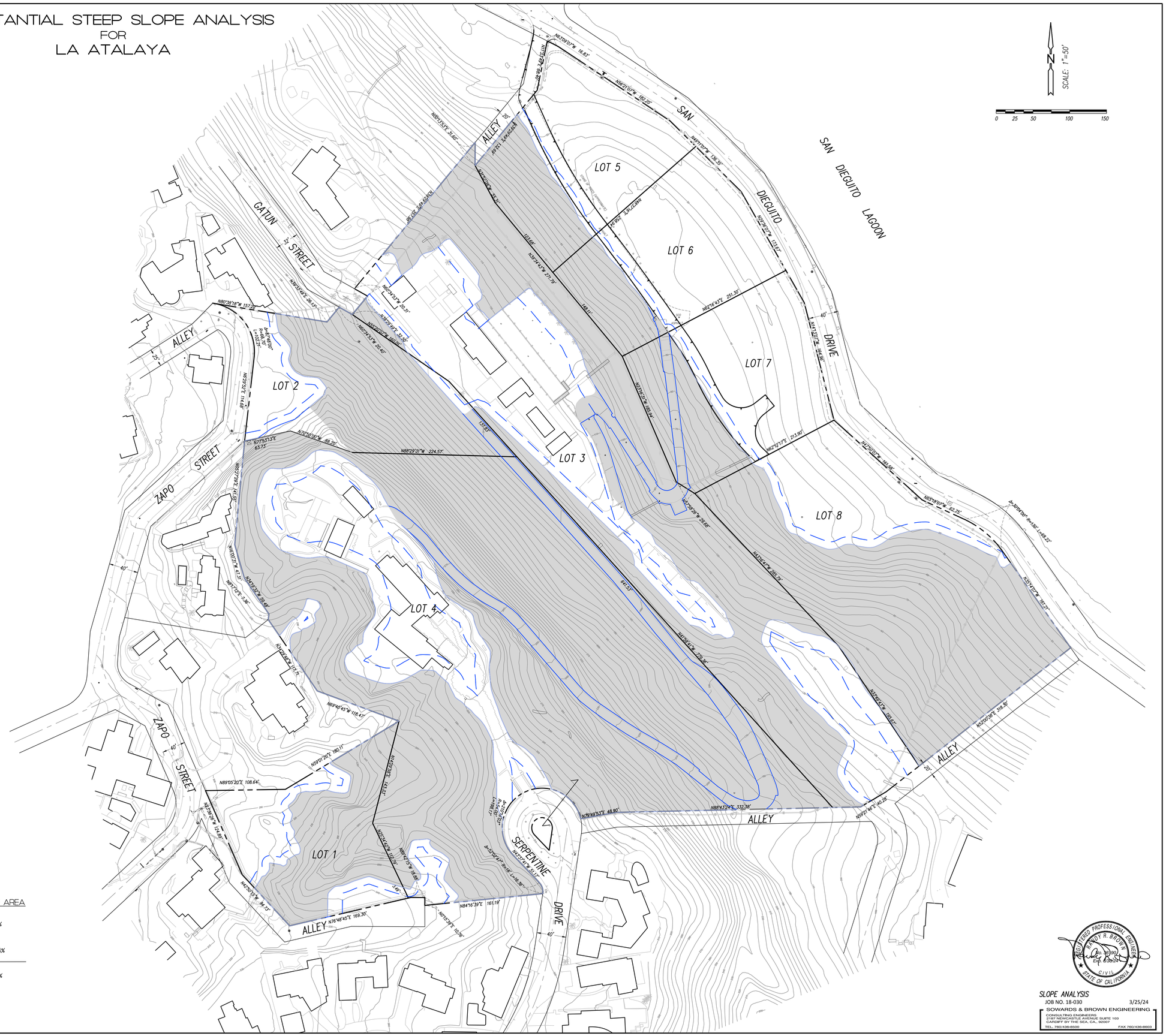
REGISTERED PROFESSIONAL ENGINEER
JEFFREY R. BROWN
No. 38190
Exp. 6/30/24
CIVIL
STATE OF CALIFORNIA

JOB NO. 18-030 3/25/24

SOWARDS & BROWN ENGINEERING
CONSULTING ENGINEERS
2167 NEWCASTLE AVENUE SUITE 103
CARDIFF BY THE SEA, CA., 92007
TEL. 760/436-8500 FAX 760/436-8603

p:\2018\18-030\18030tsm.dwg

SUBSTANTIAL STEEP SLOPE ANALYSIS
FOR
LA ATALAYA



SLOPE ANALYSIS

SYMBOL	DESCRIPTION	AREA (S.F.)	% OF SITE AREA
	"SUBSTANTIAL STEEP SLOPES"	484,908 SF	61.6%
	REMAINING SITE AREA	301,759 SF	38.4%
	TOTAL SITE AREA	786,667 SF	100%

REGISTERED PROFESSIONAL ENGINEER
TIMOTHY R. BROWN
No. 38102
Exp. 6-30-25
CIVIL
STATE OF CALIFORNIA

SLOPE ANALYSIS
JOB NO. 18-030 3/25/24

SOWARDS & BROWN ENGINEERING
CONSULTING ENGINEERS
2355 MAIN STREET, SEA CAL SUITE 103
CARDIFF BY THE SEA, CA., 92007
TEL. 760/436-6500 FAX 760/436-6603

City of Del Mar
Staff Report

PLANNING COMMISSION
STAFF REPORT
July 9, 2024

APPLICATIONS: Municipal Code Amendments to the Affordable Housing Mitigation/Inclusionary Housing Regulations (A24-001) and Condominium Conversion Regulations (A24-002) per Housing Element Programs 4D and 4E and companion amendments to the Zoning Code (ZA24-005) and Local Coastal Program (LCP24-004) for consistency with the Inclusionary Housing regulations.

REQUEST: This is a request for a recommendation from the Planning Commission to the City Council related to proposed amendments to the Del Mar Municipal Code (DMMC) to repeal and replace the City's existing Affordable Housing Mitigation/Inclusionary Housing requirements and Condominium Conversion regulations. The amendments are needed to demonstrate that the local regulations are consistent with State law to implement the 6th Cycle Housing Element Programs 4D and 4E (planning years 2021-2029). Related minor correction amendments are also needed to ensure consistency between the inclusionary housing regulations and development regulations in the North Commercial (NC) Zone and Professional Commercial (PC) Zone in the City's Zoning Code and certified LCP. See the draft Inclusionary Housing amendments (including the companion amendments to the City's Zoning Code and certified LCP) in Report Exhibit A and the draft Condo Conversion amendments in Exhibit B.

APPLICANT: City of Del Mar

STAFF CONTACT: Amanda Lee, Principal Planner

LOCATION: Citywide

BACKGROUND:
During the 6th Cycle Housing Element update process in 2020-2021, a comment letter was submitted to the California Department of Housing and Community Development (HCD) by a law firm (Allen Matkins) expressing concern that the City's existing inclusionary housing requirements are too restrictive and act as a barrier to the development of affordable housing. Therefore, Programs 4D and 4E were incorporated into the Housing Element as a City commitment to amend the existing inclusionary housing requirements and condominium conversion regulation.

Inclusionary Housing
Inclusionary housing is a type of planning strategy that is imposed on residential development projects to produce affordable housing. The objective for these amendments is to modify the local inclusionary housing requirements to be consistent with applicable State laws, including State Density Bonus law (DBL) and produce units to meet the City's lower income unit regional housing needs allocation (RHNA).

For the 6th Cycle Housing Element covering years 2021-2029, the City's total housing unit obligation is 175 units. This includes 12 low-income carryover units from the 5th Cycle in addition to the assigned 163 RHNA units, which includes an allocation of 31 above moderate-income units, 31 moderate-income units, 64 low-income units, 19 very low-income units, and 18 extremely low-income units. Tenants qualify based on household income level. Currently, the Area Median Income (AMI) for the San Diego region, effective April 17, 2024, is $119,500. The gross income range for a low income household is 50 to 80% of AMI, 30 to 50% for very low income, and 15 to 30% for extremely low income. This means a one-person household qualifies as lower income with an income that does not exceed $84,900. See Exhibit E for the complete AMI chart.

The State counts units towards the City's 6th Cycle obligation based on building permits issued as of June 30, 2020. The City has approved two affordable housing projects with a cumulative total of 12 lower income units that will count toward the City's RHNA once building permits are issued. As shown below, 161 net-new units, including the two approved affordable housing project entitlements (58 units), have been approved for the 6th Cycle as of July 1, 2024:

Income Level	**6th Cycle RHNA Obligation**	**6th Cycle Units with Building Permits 2020-2024**	**941 CDM and Watermark (Projects with Entitlements)**	**Total Units with Approved Entitlements**	**Remaining RHNA Obligation**
Above Moderate	31 units	41 units	46 units	87	None - 56 units above RHNA
Moderate	31 units	62 units	-	62	None - 31 units above RHNA
Low	76 units	-	8	8	68 units
Very Low/ Extremely Low	37 units	-	4	4	33 units
TOTAL	**175 units**	**103 units**	**58 units**	**161 units**	

Key takeaways:

- City has exceeded its targets for units in the above moderate- and moderate-income RHNA categories primarily through accessory dwelling unit (ADU) production.
- To produce at least 113 lower income units (low-income, very low-income, and extremely low-income units), the City's adopted plan is to utilize the inclusionary housing requirements to yield a portion of these units through incentive programs and through dedication within proposed multi-unit development projects (i.e., 941 CDM project, Watermark project, and density bonus projects); and meet the remaining portion of lower income units on the State Fairgrounds and two City-owned lots.

For additional information on Housing Element implementation, refer to the City's website: https://www.delmar.ca.us/852/6th-Cycle-Housing-Element-Program-Implem

Condominium Conversions

Under California law, a condominium (condo) is "an estate in real property that consists of an undivided interest in common in a portion of real property coupled with a separate interest in a space called a unit" per Civil Code, §1351(f). Condominium conversions are a type of subdivision project that require processing of a subdivision map to convert multi-unit residential development from rental units to individual ownership units in accordance with the Subdivision Map Act and DMMC Chapter 24.40. This type of project can adversely impact the availability of existing older rental housing stock, which is an important source of comparatively more affordable, lower rent housing in Del Mar. The objective of the code amendments is to modify the condominium conversion regulations consistent with the Subdivision Map Act, identify measures to preserve existing rental units in accordance with the Housing Element goals, and where a proposed change to condo ownership is appropriate, require disclosure of the existing property conditions and dedication of units for lower income households consistent with the inclusionary housing regulations.

In Del Mar, condominium maps have been a common development request. The City has records of at least 65 maps that were processed since 1985 to create condominiums. Currently, the City has 17 multi-unit condominium complexes with a combined total of 421 units and individual complexes that range between 5 units and 126 units. The remainder of the condo maps were processed for two-unit development condominium ownership projects in the R2 and RM zones. The City has 10 existing apartment complexes with a combined total of 374 units and individual complexes that range between 12 and 97 units, which currently provide rental housing options. See Exhibit C.

The existing mitigation for affordable housing (DMMC Chapter 24.41) and condominium conversion regulations (DMMC Chapter 24.40) has not changed much over time, which has resulted in some inconsistencies between newer State laws and the local condominium conversion regulations.

Following is a brief summary of the history:

- In 1976 the Del Mar voters adopted amendments to the Del Mar Community Plan to reduce the allowable density in areas where apartment development was previously allowed.
- In the 1980s there was high demand to convert rental housing to ownership units. State laws were passed to further regulate condo conversions with the intent to preserve rental-housing.
- In April 1985, the City Council adopted Ordinance 396, which reorganized code sections in DMMC Title 24 related to subdivisions, including DMMC Chapter 24.21 Dedications: Affordable Housing Assistance and DMMC Chapter 24.40 Conversion of Residential Property.
- In the 1990s and 2000s there was also high demand to convert rental units to ownership units.
- Between 1993 and 2002, the Council further amended DMMC Chapter 24.21 via Ordinance 631 (August 1993); Ordinance 648 (August 1994); and Ordinance 743 (April 2002) in response to additional State laws that included tenant protections and requirements for disclosure of the physical conditions of the structure and property amenities.
- In July 2003, the City's Planning and Community Development Director established a non-codified "Administrative Policy 816" to clarify local procedures for condominium conversion

applications including the required physical elements report and physical standards compliance.

- In May 2015, the City Council adopted Ordinance 905, which amended DMMC Chapter 24.21 (Dedication: Affordable Housing Mitigation) regulation and DMMC Chapter 24.40 (Conversion of Residential Property) and updated the associated affordable housing in-lieu fee to address a 5th Cycle Housing Element program commitment.
- In March 2021, the 6th Cycle Housing Element adopted by City Council included Programs 4D and 4E to update the City's inclusionary housing requirements and condominium conversion regulations.

ANALYSIS:
The proposed amendments would repeal and replace the inclusionary housing requirements and existing condominium conversion regulations as further described below:

Inclusionary Housing Regulations (DMMC Chapter 24.21)
The City's Inclusionary Housing regulations are currently set forth in DMMC Chapter 24.21: https://library.municode.com/ca/del_mar/codes/municipal_code?nodeId=TIT24SU_CH24.21DEAFHOMI

The proposed regulations identify the purpose, definitions, applicability, required mitigation and calculation methodology, and the required inclusionary housing agreement components and standards. The regulations also identify procedures for an applicant to request an exception to avoid a taking, enforcement procedures, and appeal procedures.

As proposed, DMMC Chapter 24.21 would be repealed and replaced to update the Inclusionary Housing requirements. For consistency, a set of companion amendments with minor corrections are also being processed to ensure consistency by updating existing inclusionary housing references in the North Commercial Zone (DMMC Chapter 30.24) and Professional Commercial Zone (DMMC Chapter 30.25). A matrix summary and draft code changes are provided in Exhibit A.

Currently, applicants for multi-unit housing development projects, including new condominiums and condo conversions, must set-aside at least one of the new units for rental at below market rate to a low-income household (projects with less than 10 units) or set-aside at least 20 percent of the new units for projects with 10 or more units. Existing DMMC Sections 24.21.025 and 24.21.030 provide alternative options for the developer to pay in-lieu fees or develop the affordable units off-site instead of constructing the affordable units on-site.

As proposed, applicants for multi-unit housing development will be required to enter into an affordable housing regulatory agreement and provide a minimum 15 percent set-aside of lower income units. The existing alternative options for payment of in-lieu fees and off-site development would be removed, except for subdivision map projects that create new lots but do not propose units, which would still be required to pay one in-lieu fee per net-new lot that is created. This meets the project objectives to reduce the inclusionary housing requirement below the existing 20% requirement, achieve consistency with State DBL, and remove the in-lieu fee option to ensure

lower income units are built on-site. The proposal is consistent with the 15% lower income inclusionary housing standard in the City of Solana Beach and City of Poway; and is consistent with the City of Encinitas 15% standard for very low-income units and requirement to build lower income units on-site. The City of Del Mar's proposed inclusionary housing amendments are summarized in the table below:

	Existing	**Proposed**	**Applicability**
Mitigation for Multi-Unit Housing Development including New Condos	Requires set-aside of at least one unit for rental at below market rate to a low-income household (projects with less than 10 units) or set-aside at least 20 percent of the units for rental at specified lower income household rental rates (projects with 10 or more units). Allows payment of in lieu fee (projects with 5 or fewer units).	Requires a minimum 15 percent set-aside (instead of 20 percent) for all multi-unit projects creating two or more units and all condo conversion projects. The same set of lower income units required to be set-aside for inclusionary housing may also be used to comply with the restricted percentages and household income levels required for the project per State DBL. Eliminates the prior alternative compliance options for payment of in-lieu fees or off-site development. All multi-unit development projects and condo conversion projects will be required to comply with the inclusionary housing requirement to set-aside lower income units on-site within the project.	Applies to multi-unit projects with lower income housing component (i.e., RM, NC, PC, CC zones)[1]. Ensures that in circumstances where a project application complies with State DBL, the project is not required to provide additional affordable units to meet the local inclusionary housing requirements.
Mitigation for Condo Conversions	Requires set-aside of at least one unit for rental at below market rate to a low-income household (projects with less than 10 units) or set-aside at least 20 percent of the units for rental at specified lower income household rental rates (projects with 10 or more units). Allows payment of in-lieu fee (projects with 5 or fewer units); or donation of an equivalent number of off-site unit(s) within the City (all projects).		Applies to condominium conversion projects converting rental units on a common property (i.e., apartments or R2[2]/RM two-unit development). Ensures that mitigation is imposed to support production of affordable housing.
Mitigation for Creation of New Lots	Requires payment of one in-lieu fee for each net-new lot created as part of the subdivision (currently $27,350 per lot per the 2024-2025 fee schedule)	No change	Applies to proposed subdivisions to create new lots via Tentative Parcel Map (minor subdivision) or Tentative Map (major subdivision).

[1]***Medium Density Mixed Residential (RM); North Commercial (NC); Professional Commercial (PC); Central Commercial (CC) Zones***
[2]***High Density Mixed Residential (R2) Zone***

In accordance with State Density Bonus law, projects with five or more units are eligible for processing a density bonus project application (see Exhibit D for a summary of State DBL). To ensure consistency with the 2013 Napa court case standard, local jurisdictions must allow the same set of affordable units to fulfill both the State DBL and inclusionary housing requirements for the number of affordable units and level of affordability. The proposed inclusionary housing regulations will be consistent with State DBL and the local Density Bonus Ordinance (DMMC Chapter 30.90) adopted by the City Council on May 6, 2024, which implemented Housing Element Program 1G.

Condominium Conversion Regulations (Chapter 24.40)

As proposed, the DMMC Chapter 24.40 Condominium Conversion regulations would be repealed and replaced. A matrix summary and draft code changes are provided in Exhibit B and a link to the existing regulations is provided below:
https://library.municode.com/ca/del_mar/codes/municipal_code?nodeId=TIT24SU_CH24.40COREPR

The proposed regulations identify the purpose, applicability, process for approval, definitions, and submittal requirements, which include various reports and assessments as necessary to disclose the physical condition of all structures and facilities on the property, and the standards and findings for approval of the associated tentative parcel map or tentative subdivision map. The regulations also identify procedures for tenant notification, requirements for provision of tenant relocation assistance, requirements for the tenants to be offered a first right of refusal for the tenant to purchase a unit prior to units being offered for sale to the general public, and enforcement procedures.

The most significant changes are clarifications related to the submittal requirements and standard of review to align with current review practices. All condo conversions must conform to the codes in effect at the time of subdivision map approval with some exceptions. The regulations allow legal non-conforming structures, parking, and density to be maintained and require any code violations to be corrected prior to approval. Updated development standards related to fire protection, utility metering, and water and sewer lateral requirements were incorporated.

While it is recognized that the City's existing older apartments provide an important source of more affordable, lower cost rental housing that should be maintained consistent with the Housing Element goal to preserve existing rental housing and provide housing options for a range of income levels. It is also recognized that, when properly regulated, condominium conversions can provide affordable housing opportunities when mitigation is required. The mitigation requirements required for condominium development and condominium conversions are set forth in the inclusionary housing requirements in DMMC Chapter 24.21 as identified above. It was determined that the required standards and findings for approval of condo conversions will sufficiently protect against the unanticipated loss of older rental housing to condominiums in order to preserve existing rental units that provide naturally occurring lower cost housing.

In summary, the proposed amendments demonstrate that the City's local implementation procedures for inclusionary housing and condominium conversions comply with State law and satisfy the City's Housing Element Program 4D and 4E commitments to clarify the mitigation requirements that apply to new multi-dwelling unit development and condominium conversions.

Next Steps:
The Inclusionary Housing/Condo Conversion Ordinance is scheduled to be presented to the City Council in September 2024 for adoption and would take effect 30 days from the date of adoption by the City Council because DMMC Chapters 24.21 and 24.40 are not a part of the City's certified Local Coastal Program and are not subject to approval by the Coastal Commission. The proposed regulations are consistent with State law, including the Subdivision Map Act, Coastal Act, and State housing laws, and would not be in conflict with the City's certified Local Coastal Program (LCP).

The companion amendments/minor corrections to update existing inclusionary housing references in the North Commercial (NC) Zone (DMMC Chapter 30.24) and Professional Commercial (PC) Zone (DMMC Chapter 30.25) will be submitted to the Coastal Commission for approval following City Council adoption of the Inclusionary Housing/Condo Conversion Ordinance and Companion NC and PC Zoning/LCP Amendments Ordinance.

ENVIRONMENTAL STATUS: The requested action is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) because the activity is covered by the common sense exemption that CEQA only applies to projects which have the potential for causing a significant effect on the environment. The proposed code amendments have been analyzed and it has been determined that they would not result in significant effects on the environment or an increase in the severity of effects on the environment. No further environmental documentation is necessary.

HOUSING IMPACT: The proposed amendment would bring the City's Municipal Code into compliance with State Law. The amendments clarify the City's affordable housing mitigation requirements, which determine the number of affordable housing units that are required to be dedicated for proposed multiple dwelling unit development. The amendments also clarify the procedures and requirements for the conversion of residential rental units to condominium development, which creates common interest ownership development. These amendments include measures to preserve existing older apartments that provide more affordable, lower cost rentals.

RECOMMENDATION:

Staff recommends that the Planning Commission provide a recommendation to the City Council to confirm the CEQA determination and adopt the amendments to DMMC Title 24 relating to Inclusionary Housing and Condominium Conversion regulations and the companion amendments with minor corrections to the density standard in the North Commercial Zone and Professional Commercial Zone in Zoning Code and Local Coastal Program for consistency with the proposed Inclusionary Housing regulations.

Respectfully submitted,

Amanda Lee
Principal Planner

Exhibit A – DMMC Chapter 24.21 Inclusionary Housing Draft Code Language
Exhibit B – DMMC Chapter 24.40 Condominium Conversions Draft Code Language
Exhibit C – Existing Apartment and Condominium Complexes
Exhibit D - Summary of State Density Bonus Law
Exhibit E – Area Median Income (2024) Adjusted for Household Size

7/3/2024

Matrix for Inclusionary Housing

	Code Section	Description
1	**Purpose 24.21.010**	Purpose is to produce lower income affordable housing consistent with housing needs identified in the Housing Element; ensure the affordable units are in proportion to overall increase in new units.
2	**Definitions 24.21.020**	Creates definitions for the following terms: Affordable Housing (including income categories), Household, Inclusionary Unit, Market Rate Unit, Ownership Unit, Primary Residence, and Rental Unit.
3	**Applicability 24.21.030**	Applies to residential development of two or more units; and to the creation of lots through a subdivision map. It does not apply to non-residential development, modifications to existing units with no increase in the number of units, replacement of involuntarily damaged or destroyed units within two years, ADUs, homeless shelters, supportive housing, transitional housing, residential care facilities, health care facilities, or conversion of mobile home parks.
4	**Required Mitigation and Calculation Methodology 24.21.040**	Requires development of two or more units to reserve at least 15% of the units as lower income units. The same set of affordable units count to meet inclusionary and State DBL requirements. There is no alternative compliance for projects developing units (i.e., no in lieu fee and no off-site option). The inclusionary housing calculation is rounded up to the nearest whole number. Existing in-lieu mitigation fees per Council-adopted 2024=2025 Fee Schedule: • In-Lieu fee for Subdivisions: $27,350 per net-new lot created • In-lieu fee payment option ($35 per sf of habitable area) for new Condos and Condo Conversions would be removed In lieu fees collected for creation of net-new lots will be deposited in Housing Assistance Fund for use to implement lower income units.
5	**Inclusionary Housing Plan and Agreement 24.21.050**	Applicant must submit plan for processing concurrently with all other permits for the project. Applicant must enter into agreement with the City and record as deed restriction on property to run with the land and be binding on future owners and successors of interest.
6	**Standards 24.21.060**	The affordable and market rate units must be constructed concurrently, must be comparable in terms of size, design, materials, quality, appearance, and must be dispersed throughout the project. Ownership and rental units must be affordable for 55 years. Owner must certify the income of the tenant or purchaser. Affordable units must be occupied as the principal residence of the tenant.
7	**Exception to Avoid Taking 24.21.070**	Provides a process to accommodate Owners who demonstrate economic hardship and a need for exception to avoid a taking.
8	**Enforcement 24.21.080**	Enforcement is consistent with DMMC Chapter 1.08.
9	**Appeal Process 24.21.090**	Provides for an appeal to City Council.
10	**Severability 24.21.100**	Identifies a severability clause in case certain terms or provisions become void by law or court decision.
11	**NC and PC Zone Density 30.24.070 and 30.25.070**	Removes provision in the existing Zoning Code and certified LCP that is in conflict with the proposed inclusionary housing regulations.

Existing Del Mar Municipal Code (DMMC) Chapter 24.21 is proposed to be repealed and replaced as follows:

Existing DMMC Chapter 24.21 (Dedication: Affordable Housing Mitigation) to be repealed: https://library.municode.com/ca/del_mar/codes/municipal_code?nodeId=TIT24SU_CH24.21DEAFHOMI

Proposed text to replace the existing Chapter 24.21 with new Inclusionary Housing regulations:

Chapter 24.21 INCLUSIONARY HOUSING

24.21.010 Purpose and Intent.

Local governments have a responsibility to exercise their powers to facilitate the development of housing to adequately provide for the housing needs of all economic segments of the community, as stated in Government Code Section 65580. The City's Housing Element identifies that the City of Del Mar faces a shortage of affordable dwelling units and calls for the continued implementation of an inclusionary housing program as an affordable housing mitigation strategy to produce affordable housing at low-, very low-, and extremely low-income levels.

The purpose of this Chapter is to ensure that the limited remaining developable land in the City is utilized in a manner consistent with the City's housing polices and needs. The provisions of this Chapter advance a legitimate State interest by establishing standards and procedures to facilitate the development of housing that is affordable to a range of households with varying income levels. The intent of this Chapter is to materially reduce cost impacts and increase the financial feasibility of affordable housing production to ensure that the addition of affordable dwelling units is in proportion with the overall increase in new dwelling units, and that the same affordable dwelling units are counted towards both the inclusionary housing and density bonus law provisions under this Code, consistent with State law and case law authority.

24.21.020 Definitions.

For purposes of implementing the provisions of this Chapter, the following words and phrases shall have the meaning as assigned below.

> *Affordable housing* shall mean housing for which the total housing cost paid by a qualifying household, including utilities, does not exceed a specified percentage of the local area median income (AMI), as published and periodically updated by the State of California Department of Housing and Community Development (HCD) in accordance with Section 50093 of the California Health and Safety Code. The following household income categories meet the State law criteria for lower income affordable housing:

1. *Low-income household* shall mean a lower income household whose gross income is in the range of 50 to 80 percent of AMI, adjusted for household size.

2. *Very low-income household* shall mean a lower income household whose gross income is in the range of 30 to 50 percent of AMI, adjusted for household size.

3. *Extremely low-income household* shall mean a lower income household whose gross income is in the range of 15 to 30 percent of AMI, adjusted for household size.

Household shall mean one person living alone or two or more persons sharing a dwelling unit.

Inclusionary unit shall mean a dwelling unit, offered for sale or rent, at affordable housing rates to low-, very low-, or extremely low-income households.

Market-rate unit shall mean a dwelling unit, offered for sale or rent, on the open market at the prevailing market rate.

Ownership unit shall mean a dwelling unit designed and intended to be sold.

Primary Residence means a dwelling unit owned and occupied as the owner's principal place of residence, where the owner lives more than six (6) months per year. For purposes of this Chapter, an owner can only have one primary residence at any given time.

Rental unit shall mean a dwelling unit designed and intended to be rented.

24.21.030 Applicability.

A. This Chapter shall apply to residential development projects, where the dwelling units will be offered for sale or rent, resulting in:

1. The development of two (2) or more dwelling units, including, but not limited to, mixed income projects, and mixed-use projects; or

2. The conversion of two (2) or more dwelling units to condominiums in accordance with Chapter 24.40 of this Code.

B. This Chapter shall apply to the creation of lots through a subdivision map.

C. This Chapter shall not apply to the following:

1. Projects that are not a residential development project or that do not include a residential development component.

2. Projects for which the City enters into a development agreement in accordance with Government Code Sections 65864 et seq. before the effective date of this Chapter, provided that the project complies with the inclusionary requirements set forth in such development agreement or any preceding inclusionary housing ordinance in effect on the date the development agreement was executed.

3. Construction, alteration, improvement, expansion, or extension of existing dwelling units, provided that the number of dwelling units is not increased, except that this Chapter shall apply to the subdivision of land for the conversion of apartments to condominiums.

4. Reconstruction, restoration, or rebuilding of dwelling units to replace previously existing dwelling units on the same lot that were involuntarily damaged or destroyed within two (2) years prior to the application for a building permit for the new dwelling units, provided that the number of dwelling units is not increased.

5. Construction of accessory dwelling units in accordance with Chapter 30.91 of this Code.

6. Construction of homeless shelters, supportive housing, transitional housing, residential care facilities, and health care facilities.

7. Conversion of mobile home parks in accordance with Chapter 24.44 of this Code.

24.21.040 Required Mitigation and Calculation Methodology.

A. Inclusionary Units.

1. All residential development projects subject to this Chapter that result in the creation of dwelling units shall reserve at least fifteen percent (15%) of the dwelling units as inclusionary units for occupancy by low-, very low-, or extremely low-income households.

2. As a condition of approval of any Tentative Map or Tentative Parcel Map that proposes the creation of residential lots, the subdivider shall pay one in-lieu fee for each net-new lot to be created as part of the subdivision.

a. The rate of the in-lieu fee shall be as established or amended by Resolution of the City Council.

b. The condition shall specify that all in-lieu fees required by this Section are to be paid to the City prior to approval of the subdivision's Final Parcel Map at the rate of the in-lieu fee in existence at the time of payment.

c. Any in-lieu fees collected shall be deposited in the Del Mar Housing Assistance Fund, which is an existing housing trust fund that is administered in accordance with Section 24.21.080.

B. Fractional Units. When calculating the number of inclusionary units, a number that results in a fraction of a whole number shall be rounded up to the nearest whole number.

C. Compliance with Density Bonus Law. An applicant that seeks to construct affordable housing to qualify for a density bonus in accordance with State law and Chapter 30.90 of this Code, may count those dwelling units that qualify for a density bonus towards satisfying the inclusionary housing requirements of this Chapter.

D. No Alternative Means of Compliance. All qualifying residential development projects under Section 24.21.030(A) must comply with the inclusionary housing requirements of this Chapter. No alternative means of compliance may be provided to satisfy compliance with the inclusionary housing requirements of this Chapter.

24.21.050 Inclusionary Housing Plan and Agreement

A. The applicant of a residential development project subject to this Chapter shall comply with the following requirements:

1. Inclusionary Housing Plan. The applicant shall submit an inclusionary housing plan, on a form approved by the City, detailing how the provisions of this Chapter will be implemented for the proposed residential development project. The inclusionary housing plan shall be processed concurrently with all other permits required for the residential development project and shall be subject to the approval of the Planning and Community Development Director, with the option of review and approval by the City Council. The inclusionary housing plan shall include, at a minimum, the following:

a. The location, tenure (ownership units or rental units), and size of the market-rate, commercial space and/or inclusionary units;

b. The basis for calculating the number of inclusionary units;

c. A floor or site plan depicting the location of the inclusionary units;

d. The household income categories to be accommodated by the residential development;

e. A description of the mechanisms that will be used to ensure that the inclusionary units remain affordable for the required duration;

f. A schedule for production of the inclusionary units;

g. For phased development projects, a phasing plan that provides for the timely development of the number of inclusionary units proportionate to each proposed phase of the project and a schedule for completion;

h. Any proposed density bonus, concessions or incentives, waivers or modifications of development standards, reduced parking ratios, or other regulatory incentives requested in accordance with Chapter 30.09 of this Code; and

i. Any additional information or documentation that may be required by the City.

2. Inclusionary Housing Agreement. The applicant shall enter into an inclusionary housing agreement with the City, on a form approved by the City, to ensure that all requirements of this Chapter are satisfied.

a. The inclusionary housing agreement shall include, at a minimum, the following:

i. A description of the residential development;

ii. The number of units approved for the residential development, including the number of ownership units or rental units, household income categories, and tenure of affordability of the inclusionary units (55 year minimum);

iii. The location, unit size(s) (square footage), and number of bedrooms of the inclusionary units;

iv. Where applicable, tenure and conditions governing the initial sale of the inclusionary units or establishing rules and procedures for qualifying tenants, setting rental rates, filling vacancies, and operating and maintaining inclusionary units;

v. Documents identifying the rental restrictions, resale restrictions, and provisions for changes in title that will be used to secure the continued affordability of the inclusionary units for the required duration, including, but not limited to, deeds of trust, rights of first refusal, procedures for rent and sales price increases, required disclosure of deed restrictions affecting the re-sale of for-sale units and the City's first right of refusal to buy the unit(s) to provide affordable housing or other documents; and

vi. The standards and process that will be used to determine household income and certify qualifying households for the rental or ownership units within the project as applicable.

vii. A provision for annual monitoring to ensure implementation of the ongoing maintenance obligations.

viii. Compliance with State and Federal laws;

ix. Prohibition against discrimination;

x. Indemnification of City;

xi. City's right to inspect units and documents;

xii. Remedies for applicant's breach of agreement; and

xiii. Any additional information or documentation that may be required by the City.

b. Following execution of the agreement by all parties, the completed agreement shall be recorded as a deed restriction on the property designated for the location of inclusionary units. The agreement shall run with the land and be binding on all future owners and successors in interest of the property.

B. City Approvals.

1. Development Permit Approvals. No Development Permit approval shall be issued until the applicant has submitted the inclusionary housing plan to the City. This shall include all Development Permits that are required to be issued for the project irrespective of whether the permit issuance is required through a discretionary or ministerial process.

2. Map or Building Permit. No tentative map, parcel map, final map shall be approved, or, where a map is not being processed, no building permit shall be issued unless the City has approved the inclusionary housing plan and the inclusionary housing agreement has been recorded against the property.

3. Certificate of Occupancy. No certificate of occupancy shall be issued unless the approved inclusionary housing plan has been fully implemented.

24.21.060 Standards for Inclusionary Units.

A. Design. Inclusionary units constructed in accordance with this Chapter shall be:

1. Reasonably dispersed throughout the residential development so as not to create a concentration of inclusionary units on one floor on to an area on a specific floor;

2. Proportional, in terms of the number and size of bedrooms to the market-rate units in the residential development;

3. Comparable, in terms of size, design, materials, finished quality, and appearance, to the market-rate units in the residential development, and be consistent with the City's design review objective standards. Interior finishes and amenities may differ from those provided in the market-rate units, but neither the workmanship nor the products may be of substandard or inferior quality; and

4. Permitted the same access to common entrances, common areas, parking, amenities, and recreational facilities as the occupants of the market-rate units in the residential development.

B. Timing of Construction. The inclusionary units shall be constructed concurrently with the market-rate units. If the City approves a phased project, a proportional share of the inclusionary units shall be constructed within each phase of the residential development project. Building permits and final inspections or

certificates of occupancy shall be issued concurrently for the inclusionary units and the market-rate units.

C. Continued Affordability.

1. Ownership Unit. Inclusionary ownership units shall remain restricted at an affordable sales price to the designated household income category at which the inclusionary ownership unit was first purchased for a period of at least fifty-five (55) years, unless a longer term is required in accordance with State law or financing requirements.

   a. Transfer. Renewed restrictions will be entered into on each change of ownership, up to the fifty-five (55) year affordability term, upon transfer of an inclusionary ownership unit prior to the expiration of the 55-year affordability period.

   b. Resale. The resale price of an inclusionary ownership unit shall be limited to the lesser of (1) the fair market value of the unit, or (2) the seller's lawful purchase price, increased by the rate of increase of AMI during the seller's ownership. To the extent authorized in any resale restrictions or operative Inclusionary Housing Agreement, the seller may recover at time of sale the market value of capital improvements made by the seller and may authorize an increase in the maximum allowable sales price to achieve such recovery. The resale restrictions shall allow the City a right of first refusal to purchase any inclusionary ownership unit at the maximum price that could be charged to an income-eligible household at any time the owner proposes sale of the inclusionary ownership unit.

2. Rental Unit. Inclusionary rental units shall remain restricted at an affordable rental price to the designated household income category at which the inclusionary rental unit was first rented for a period of at least fifty-five (55) years, or a longer period of time if required in accordance with State law or by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

3. Required Documentation. The City may require, in a form approved by the City, the provision of documents, such as rental restrictions, resale restrictions, or a regulatory agreement to secure the continued affordability of the inclusionary units, establish standards for determining household income, provide ongoing maintenance obligations, define procedures for rent and sales price increases, and other requirements.

4. Income Certification.

a. Ownership Unit. The applicant and any subsequent owner of an inclusionary ownership unit offered for sale shall certify, on a form approved by the City, the income of the purchaser.

b. Rental Unit. The owner of an inclusionary rental unit offered for rent shall certify, on a form approved by the City, the income of the tenant at the time of the initial rental of the inclusionary unit and annually thereafter.

D. Primary Residence.

1. The owner or lessee of an inclusionary unit shall reside in the unit as their primary residence, unless otherwise approved in writing by the City for rental to a third-party eligible household for a limited period of time due to household hardship.

2. No owner or lessee of an inclusionary unit shall lease or sublease, as applicable, an inclusionary unit without the prior written permission of the City.

E. General Prohibitions.

1. No person shall sell or rent an inclusionary unit at a price or rent in excess of the applicable affordable housing cost placed on the unit in accordance with this Chapter.

2. No person shall sell or rent an inclusionary unit to person(s) that do not meet the income restrictions under this Chapter.

3. No person shall provide false or materially incomplete information to the City or to a seller or lessor of an inclusionary unit to obtain occupancy of housing for which that person is not eligible.

4. No person shall sublease or rent an inclusionary unit for any use other than affordable housing. Use of an inclusionary unit as a short-term rental for dwelling, lodging, or sleeping purposes for 30 consecutive days or less is prohibited.

F. No Conflict of Interest. Officials, employees, or consultants of the City, members of City boards and commissions, and the applicant shall comply with all applicable laws, regulations, and policies relating to conflicts of interest as to their eligibility to develop, construct, sell, rent, lease, occupy, or purchase an inclusionary unit.

24.21.070 Exception in Case of Hardship to Avoid a Taking.

A. An applicant may request an exception to the requirements of this Chapter subject to approval by the City Council as necessary to avoid a taking.

B. Any request for an exception pursuant to this Section shall be submitted to the City concurrently with the inclusionary housing plan and shall set forth in detail the factual and legal basis for the claim. The request shall be reviewed and considered in the same manner and at the same time as the inclusionary housing plan.

C. The applicant shall bear the burden of presenting substantial evidence to the City supporting the request for an exception to avoid a taking. The City may assume each of the following, when applicable:

1. The applicant will provide the most economical inclusionary units feasible, while still meeting the requirements of this Chapter; and

2. The applicant will benefit from the incentives of residential development as described in this Chapter and elsewhere in this Code.

D. Notwithstanding any other provision of this Section, the City Council may grant an exception based upon a finding that applying the requirements of this Chapter would result in an unconstitutional taking of property or would result in any other unconstitutional result.

24.21.080 Administration and Enforcement.

A. Del Mar Housing Assistance Fund. The City Council may, by resolution, establish fees for the ongoing administration, monitoring and enforcement of this Chapter, which fees may be updated as necessary. Any fees collected by the City in accordance with this Chapter shall be deposited into the Del Mar Housing Assistance Fund, which is an existing housing trust fund. The City will continue to make these funds available for rental subsidy and/or other affordable housing-related programs such as the acquisition of land and construction of affordable units designated for low-, very low-, or extremely low-income households in the City and/or for costs and expenses related to administration of the housing trust fund.

B. Required Compliance. Failure of any official or agency to fulfill the requirements of this Chapter shall not excuse any developer or owner from the requirements of this Chapter. No permit, license, map, or other approval or entitlement for a residential development project shall be issued, including, without limitation, a

final inspection or certificate of occupancy, until all applicable requirements of this Chapter have been satisfied.

C. Enforcement. The regulations of this Chapter, including the terms of any inclusionary housing agreement or document prepared to administer the affordability and eligibility requirements of an inclusionary unit, shall be enforced according to the provisions in Chapter 1.08 of this Code.

D. Forfeiture.

1. Ownership Unit. If an inclusionary unit for sale is sold for an amount in excess of the resale price controls required by this Chapter, the buyer and seller shall be jointly and severally liable to the City for the entire purchase price of the unit. Recovered funds shall be deposited into the affordable housing trust fund. Notwithstanding the foregoing, upon written request for time to cure any violation given to the City by the buyer and/or seller, it shall be within the discretion of the City to allow the buyer and seller 180 days to cure any violation of the resale price controls.

2. Rental Unit. Any lessor who leases an inclusionary unit in violation of this Chapter shall be required to forfeit to the City all money so obtained. Recovered funds shall be deposited into the affordable housing trust fund.

E. Remedies Not Exclusive. The remedies provided for herein shall be cumulative and not exclusive and shall not preclude the City from any other remedy or relief to which it otherwise would be entitled under law or equity including but not limited to, taking action to revoke, deny or suspend any permit issued to the residential development, including a building permit, certificate of occupancy, or discretionary approval.

24.21.090 Appeal Process.

An appeal by an applicant or interested person seeking City Council review of a determination made pursuant to this Chapter shall be filed in accordance with Chapter 1.12 of this Code.

24.21.100 Severability.

Should a court of competent jurisdiction determine that these regulations are void or if certain terms or provisions are voided, then those regulations shall either become void in their entirety, or, where the courts have determined that certain terms or provisions are void by operation of the law, then those terms and provisions shall have no force or effect.

Companion Amendments to the Zoning Code and certified Local Coastal Program

DMMC Chapter 24.21 is not part of the City's certified Local Coastal Program (LCP). A companion set of amendments to the LCP is needed to ensure consistent Citywide implementation on the new inclusionary housing regulations. See below for the proposed minor corrections to the existing density standards in DMMC Zoning Code Chapter 30.24 (North Commercial Zone) and Chapter 20.25 (Professional Commercial Zone) in the certified LCP. The amendments are narrow in scope and limited only to the changes necessary for consistency with the updated Inclusionary Housing Ordinance. The Zoning Code and LCP Amendments will be acted upon in a separate Ordinance that will be subject to adoption by the City Council and certification by the California Coastal Commission following action by the City Council to adopt the Inclusionary Housing Ordinance amendments:

Minor Corrections to the Existing LCP North Commercial Zone Density Standards:

30.24.070 - Development Standards.

In the NC Zone, the following development standards apply:

A. Density: Up to a maximum of 20 dwelling units per acre

~~1.~~ All residential development or conversions shall provide affordable housing in accordance with the City's inclusionary housing regulations under Chapter 24.21 of this Code.

~~2. Notwithstanding Section 24.21.030, residential development or conversions of two, three, four or five units on one lot shall set-aside one unit for rental at below market rate to a low income household or donate one off-site unit, within the City's jurisdiction, of a like size and condition to the City or a City approved organization to be reserved for use as Affordable Housing. The option for payment of the In-Lieu Housing Mitigation Fee shall not be allowed.~~

[No changes to Section B. (Lot Dimensions) through Section C. (Construction Standards).]

Minor Corrections to the existing LCP Professional Commercial Zone Density Standards:

30.25.070 - Development Standards.

In the PC Zone, the following development standards apply:

A. Density: Up to a maximum of 20 dwelling units per acre

~~1.~~ All residential development or conversions shall provide affordable housing in accordance with the City's inclusionary housing regulations under Chapter 24.21 of this Code.

~~2. Notwithstanding Section 24.21.030, residential development or conversions of two, three, four or five units on one lot shall set-aside one unit for rental at below market rate to a low income household or donate one off-site unit, within the City's jurisdiction, of a like size and condition to the City or a City approved organization to be reserved for use as Affordable Housing. The option for payment of the In-Lieu Housing Mitigation Fee shall not be allowed.~~

[No changes to Section B Lot Dimensions through Section C. Construction Standards.]

7/3/24

Matrix for Condo Conversions

	Proposed Code Section	Description
1	**Purpose 24.40.010**	The purpose is to regulate common interest subdivisions to preserve the City's existing supply of apartments because conversion to condos can adversely impact this source of more affordable units.
2	**Applicability & Process for Approval 24.40.020**	The Ordinance applies to the conversion of existing dwelling units to condos, community apartment projects, or tenancy in common form of ownership. Removes all code references to stock cooperatives.
3	**Definitions 24.40.030**	Added definitions for common interest subdivisions, community apartments, condominium conversions, and tenancy in common.
4	**Submittal Requirements and Disclosure of Reports 24.40.040**	Clarifies the requirement for disclosure of the physical condition of the units, structure, and property to potential buyers, which involves submittal of multiple reports and documents that must identify the deficiencies in the physical conditions and what must be improved.
5	**Standards for Condo Conversions 24.40.050**	All condo conversions must comply with the DMMC in effect at the time of TM approval, except as otherwise provided. Allows residential with legal non-conforming structure, non-conforming parking, and/or non-conforming density to be converted to condos. Must comply only with applicable provisions of Building Code in effect at time of application. Violations must be corrected prior to Final Map approval. Clarification of standards was added relating to fire protection, smoke/carbon monoxide detectors, sound transmission, utility meters, water/sewer laterals, irrigation meters, private storage space, laundry facilities, landscape maintenance, and the condition of equipment and appliances in each dwelling unit. Projects must conform as necessary to reasonably ensure the structure achieves a high degree of appearance, quality, and safety. Requires dedication of 15% of units for lower income households.
6	**Notice to Tenants, First Right of Refusal to Purchase, and Tenant Relocation Assistance 24.40.060**	Requires the subdivider to give notice to prospective tenants per SMA law; and provide notice of public hearings for the project. Identifies that tenants shall be afforded first right of refusal within 90 days of final approval for the tenant to purchase a unit prior to offering the unit for sale to the general public. Requires a relocation payment to qualifying tenants who would be displaced. The payment would be three months rent based on HUD's annual Fair Market Rent specific to the San Diego region for apartment size. Qualifying tenant must be 62 years of age, disabled, or have dependent children living in the unit at least 30 days per year. Eligible tenant must have resided at least 90 days prior to the date the notice of application for condo conversion is issued.
7	**Findings for Approval 24.40.070**	States the required findings for approval.
8	**Enforcement 24.40.080**	The regulations shall be enforced in accordance with Chapter 1.08.
9	**Severability 24.40.090**	Adds a severability section in case regulations, in whole or in part, are determined to be void.

Draft Condo Conversion Ordinance to Repeal Existing Chapter 24.40 and Replace with the following:

24.40.010 Purpose.

A. The conversion of residential rental units to ownership housing through common interest subdivision projects can have an adverse impact on the supply and availability of rental housing and result in the displacement of residents, who may be required to move from Del Mar due to the lack of opportunities for affordable replacement housing within the community. The State has determined that providing affordable housing is a "Statewide" concern resulting in numerous legislative attempts to protect affordable housing and to increase available housing opportunities for households at all income levels.

Measures are needed to preserve the City's existing supply of older dwelling units and apartments, which are an important source of comparatively more affordable, lower rent housing. When properly regulated, condominium conversions can create affordable housing units for lower income households through requirements for a portion of the units to be reserved as rent-restricted affordable units. In order to stem the loss of rental housing and maintain housing opportunities for a range of income levels, including moderate-, low-, very low-, and extremely low-income households, the City finds it is necessary to reasonably regulate condominium conversions.

B. The purpose of this Chapter is to establish criteria for the conversion of existing dwelling units to condominiums in common interest subdivision projects to:

1. Provide reasonable protection and mitigation for those persons renting dwelling units, who would be displaced by the conversion of such dwelling units to a condominium or similar form of ownership.

2. Reduce the impact of such conversions by providing notification of the proposed conversion, disclosure of the physical conditions of the structure that is offered for purchase, an opportunity to purchase the unit, and adequate time and assistance for relocation where applicable.

3. Ensure that converted housing achieves a high degree of appearance, quality, and safety, and is consistent with the goals of the City.

4. Achieve the affordable housing goals set forth in the Housing Element component of the Del Mar Community Plan.

24.40.020 Applicability and Process for Approval.

A. The proposed conversion of existing dwelling units to condominiums is subject to the procedures and requirements of the California Subdivision Map Act (Government Code §§66410 et seq., as those sections may be amended from time to time), including obtaining either:

1. A Tentative Map in accordance with Chapter 24.50 subject to Planning Commission recommendation and City Council approval and a Final Map in accordance with Chapter 24.54 subject to City Council approval for a major subdivision into five or more parcels; or

2. A Tentative Parcel Map in accordance with Chapter 24.60 subject to Planning Commission recommendation and City Council approval and a Final Map in accordance with Chapter 24.54 subject to City Council approval or a Parcel Map Waiver in accordance with Chapter 24.64 subject to Planning Commission approval for a minor subdivision into four or fewer parcels.

B. The provisions of this Chapter shall apply to the conversion of any existing units to a condominium, community apartment project, or other similar tenancy-in-common form of ownership.

24.40.030 Definitions

For purposes of implementing the provisions of this Chapter, the following words and phrases shall have the meaning assigned below:

Common interest subdivision shall mean a form of ownership in which the owner has exclusive ownership of a particular lot or unit combined with common ownership or beneficial use of certain areas and facilities that are owned jointly with other owners.

Community apartments shall mean a residential project that is a type of common interest subdivision with areas that are shared in common and where each apartment "tenant" has an ownership interest in the overall apartment complex in addition to having an exclusive right to occupancy of an apartment unit within the development. This definition applies only to community apartment projects of five or more units/interests that are processed in accordance with the Subdivision Map Act and this Chapter and does not apply to the leasing of traditional apartments where one entity owns the land and building(s) and rents out apartment units under leases where the tenant has the exclusive right to occupancy of an apartment but has no ownership interest in the property.

Condominium conversion shall mean a residential project that is a type of common interest subdivision with areas that are shared in common and where each condominium

owner is entitled to exclusively occupy a unit within the development after conversion from a residential rental unit to an ownership unit in accordance with the Subdivision Map Act and this Chapter.

Tenancy-in-common shall mean an undivided form of ownership interest shared in common in accordance with the Subdivision Map Act and this Chapter.

24.40.040 Submittal Requirements and Disclosure of Submitted Reports.

In compliance with the procedures and requirements for obtaining either a Tentative Map or Tentative Parcel Map in accordance with Chapters 24.50 and 24.60, the subdivider shall provide the following submittal requirements:

A. A complete application form and fees in accordance with the adopted City's Fee Schedule to cover processing of the application and mailed notification to the occupant of each unit to be converted providing notice of the scheduled public hearings at which the application will be reviewed.

B. The accompanying plat that depicts the lot lines and includes the provisions for permanent monumentation and other features deemed necessary by the City Engineer.

C. The approved Coastal Development Permit, Design Review Board Permit, and other documentation where applicable to demonstrate that the proposed subdivision complies with the requirements established by the State and the City.

D. A Physical Element Report to disclose the structural condition of all elements of the property including but not limited to foundations, electrical, plumbing, utilities, walls, frames, ceiling, windows, appliances, mechanical equipment, stone and brickwork, fireplaces, exterior lighting, recreational facilities, refuse/recycling/compost disposal facilities, sound transmission of each building, and parking facilities.

1. Regarding each such element, the report shall state, to the best knowledge or estimate of the applicant, when such element was built or installed; the condition of each element; the approximate date upon which such element will require replacement and/or when said element was replaced; the approximate condition of each element; and the approximate date upon which said application for conversion was filed and accepted by the City.

2. The report shall identify any known defection or unsafe elements and set forth the proposed corrective measures to be employed.

3. The report shall identify for each element any variation of the physical condition from the current zoning code and building code in effect on the date of application.

E. A Pest Control Report from a licensed structural termite and pest control specialist certifying whether or not all attached or detached structures are free of infestation and structural damage caused by pests and dry rot.

F. Within the Coastal Bluff Overlay Zone or Bluff, Slope, and Canyon Overlay Zone, a Geotechnical Report prepared by a licensed engineer to disclose any known soil and geological conditions regarding soil deposits, rock formations, faults, groundwater and landslides in the vicinity of the project, and a statement regarding any known evidence of soils problems relating to the structures. Reference shall be made to any previous geotechnical reports or soils reports for the site and copies of said reports shall be submitted.

G. A Paint Assessment Report by a licensed painting contractor verifying the condition of the painting throughout the project, including building interior and exterior surfaces and an estimate of the remaining life of the paint.

H. A Roof Assessment Report by a licensed roofing contractor verifying the condition of the roofs of all structures and an estimate of the remaining physical life of the roofs.

I. A Common Area Assessment Report on the condition of the common area improvements, including landscaping, lighting, utilities and streets.

J. A Water and Sewer Assessment Report that provides documentation proving that the existing water and sewer lateral sizes meet the building's needs without compromising flow capacity or compliance with public infrastructure standards.

K. A statement of how the development meets the required findings for approval in Section 24.40.070, including an explanation of how the development complies with the required standards in Section 24.40.050, including any repairs or improvements the subdivider intends to make to demonstrate the project will achieve a high degree of appearance, quality, and safety.

L. The covenants, conditions and restrictions (CC&Rs) and rules and regulations that would apply to all owners of condominium units within the project, which shall include, at a minimum: the conveyance of units; assignment of parking and storage areas; an agreement for common area maintenance; provision of common area access to the street frontage of the development; and an estimate of any initial assessment fees anticipated for such maintenance. The fee estimate shall identify the anticipated water and sewer fees.

M. Specific information concerning the demographic and financial characteristics of the project (e.g., square footage and number of rooms in each unit; rental rate history; monthly vacancy rate; number of tenants and tenant households in the project; etc.)

N. Any other information which, in the opinion of the Director, will assist in determining whether the proposed project will be consistent with the purposes of this Chapter.

O. The final form of the required reports and documents identified above shall be subject to approval by the City. The reports in their accepted form shall remain on file with the Planning and Community Development Department for review by any interested persons.

P. The subdivider shall provide prospective buyers with a copy of all final reports prior to executing any purchase agreement or other contract to purchase a unit in the project. The seller shall give the purchaser sufficient time to review said reports. Copies of the reports shall be made available at all times at the sales office and shall be posted at various locations, as approved by the City, at the project site.

24.40.050 Standards for Condominium Conversions.

A. All condominium conversions shall conform to the Municipal Code in effect at the time of Tentative Map approval, including, but not limited to, the provisions of Chapter 24.21 (Inclusionary Housing), except as otherwise provided in this Chapter.

1. Legal non-conforming structures, parking, and density may be maintained in accordance with Section 24.40.050(C).

2. Any code violations must be corrected prior to the approval.

B. *Building Regulations.* The project shall conform to the applicable provisions of the Building Codes in effect at the time of application submittal.

C. *Zoning Regulations.* The project shall conform to the applicable standards of Del Mar Municipal Code Title 30 in effect at the time of application submittal except as herein provided. Legal nonconforming structures may be converted, including property that is nonconforming with the underlying zoning designation's maximum density development standards. However, to achieve a high degree of appearance, quality, and safety, the City may require abatement of any legal non-conformity if such abatement is determined to be reasonably feasible, financially or structurally.

D. *Fire Prevention*

1. *Smoke Detectors.* Each dwelling unit shall be provided smoke detectors that comply with the latest California Building Code standards, which shall be mounted in each bedroom and outside each bedroom in the immediate vicinity of the bedrooms, and on each story of the dwelling unit.

2. *Carbon Monoxide Detectors.* Carbon monoxide detectors shall be provided in dwelling units that contain a fuel-burning appliance or fuel-burning fireplace or an attached garage, which shall be located outside each bedroom or in the immediate vicinity of the bedrooms, on each level of the dwelling unit, and in each bedroom where a fuel-burning appliance of fireplace is located within the bedroom.

3. *Maintenance of Fire Protection Systems.* All fire hydrants, fire alarm systems, portable fire extinguishers and other fire protection equipment shall be retained in an operable condition at all times and in compliance with applicable codes and standards.

E. *Sound Transmission.*

1. *Shock Mounting of Mechanical Equipment.* All permanent mechanical equipment such as motors, compressors, pumps, and compactors which is determined by the Planning and Community Development Department to be a source of structural vibration or structure-borne noise shall be shock mounted with inertia blocks or bases and/or vibration isolators in a manner approved by the Planning and Community Development Department.

2. *Noise Standards.* Each dwelling unit shall conform to all interior and exterior sound transmission standards of the California Building Code. In such cases where present standards cannot reasonably be met, the City Council may require the applicant to notify potential buyers of the noise deficiency currently existing within these units.

F. *Utility Metering.* Each dwelling unit shall be separately metered for gas and electricity. A plan for equitable sharing of common area utilities shall be developed prior to final map approval and included in the covenants, conditions and restrictions (CC&Rs). In such cases where the subdivider can demonstrate that this standard cannot or should not reasonably be met, this standard may be modified by the City Council.

G. *Water and Sewer*. The condominium conversion shall comply with the following water and sewer requirements:

1. Water Laterals and Water Meters

a. The converted condominium structure may utilize a single water lateral for potable water supply.

b. The applicant's designer must verify and ensure that the existing water lateral pipe size has the adequate capacity to provide the necessary water flow to all proposed fixtures within the condominium conversion. If not, then an appropriately sized water lateral and meter shall be installed.

c. A separate water lateral and meter shall be required for landscape irrigation.

2. Sewer Laterals

a. The converted condominium structure may use a single sewer lateral for sewage needs.

b. The applicant’s designer must ensure that the sewer lateral has the capacity to effectively convey the effluent per the standard requirements specified by the Public Works Department.

H. *Private Storage Space.* Each dwelling unit shall have a private storage space with a minimum volume of at least 200 cubic feet of enclosed weather-proofed and lockable private storage in addition to guest, linen, pantry, and clothes storage spaces customarily provided. Such space may be provided in any location approved by the Planning and Community Development Department but shall not be divided into two or more locations. In such cases where the subdivider can demonstrate that this standard cannot or should not reasonably be met, this standard may be modified by the City Council.

I. *Laundry Facilities.* A laundry area shall be provided in each unit. In such cases where the subdivider can demonstrate that this standard cannot or should not reasonably be met, this standard may be modified by the City Council.

J. *Landscape Maintenance.* All landscaping shall be restored as necessary and maintained to achieve a high degree of appearance and quality, especially following remodeling or construction efforts associated with conversion of the property to condominium ownership.

K. *Condition of Equipment and Appliances.* The developer shall provide written certification to the buyer of each unit at the close of escrow that any dishwashers, garbage disposals, stoves, refrigerators, hot water tanks, and air conditioners that are provided are in operable working condition as of the close of escrow. When the homeowners' association takes over management of the development, the developer shall provide written certification to the association that any pool and pool equipment (filter, pumps, chlorinator) and any appliances and mechanical equipment to be owned in common by the association is in operable working condition.

24.40.060 Tenant Notification, First Right of Refusal to Purchase Units, and Relocation Assistance.

A. Applications for conversion of residential real property into a condominium project, a community apartment project, or a project with similar tenancy-in-common form of ownership shall comply with all of the findings set forth in Section 66427.1 of the Subdivision Map Act, as that section may be amended from time to time, and provisions in this Section relating to tenant notification, offers to tenants for first right of refusal to purchase a unit, and tenant relocation assistance.

B. Tenant Notification

1. The subdivider shall provide notice to prospective tenants in accordance with Sections 66452.17 and 66452.18 of the Subdivision Map Act, as those sections may be amended from time to time, and shall provide evidence of receipt of each tenant of the notices required herein.

2. The subdivider shall post a notice of application on the property and provide a notice of application to the occupant of each unit to be converted.

3. Mailed notice of any public hearing of the Planning Commission and/or City Council at which the application for the Final Map or Map Waiver will be reviewed shall be provided to the occupant of each unit to be converted.

C. Tenant First Right of Refusal to Purchase Converted Units

1. Prior to offering a converted dwelling unit for sale to the general public, the tenant(s) of a dwelling unit approved for condominium conversion shall be afforded the first right of refusal to purchase one of the converted dwelling units. The offer shall be provided to each tenant for a period of 90 calendar days from the date of issuance of the final City approval unless the tenant gives prior written notice of his or her intention not to exercise the right. The offer to tenants shall provide the same or more favorable terms and conditions than the dwelling unit will initially be offered to the general public.

2. If the number of displaced tenants desiring to purchase one of the converted units is greater than the number of units available, a lottery system shall be used to determine a priority ranking.

D. Tenant Relocation Assistance

1. As a condition of approval of any application for a condominium conversion, the subdivider shall provide a Tenant Relocation Payment to the tenants of the rental units who would be displaced as a result of the condominium conversion and who meet the criteria of either a "Qualified Tenant" or an "Eligible Tenant," as specified in this Section.

   For purposes of Chapter 24.40, the following terms shall apply:

   a. *Qualified Tenant* shall mean a tenant who has resided in the rental unit to be converted for at least 90 days prior to date at which provision of a notice of intent of a condominium conversion is issued pursuant to the requirements of this Chapter and who, as of the date of the City's authorization of the condominium conversion, meets one or more of the following criteria:

      i. Is 62 years of age or older;

      ii. Has a disability, as defined by criteria set forth by the Social Security Administration (SSA); or

      iii. Has one or more minor dependent children who has lived with the tenant for at least 300 days of the current or previous calendar year.

   b. *Eligible Tenant* shall mean a person, 18 years of age or older, who has resided at the property for at least 90 days prior to date at which provision of a notice of intent of a condominium conversion is issued pursuant to the requirements of this Chapter but who does not meet the criteria of a Qualified Tenant, as specified in this Section.

2. Rate of the Tenant Relocation Payment. All residents who reside within a unit being converted shall be entitled to relocation assistance in the amount of three months rent based on the Fair Market Rent for apartment size for the San Diego region as determined on an annual basis by the United States Department of Housing and Urban Development (HUD).

3. The payment of the Tenant Relocation Payment shall be paid as follows:

   a. If the rental unit is occupied solely by a single Qualified or Eligible Tenant, they shall be paid the full amount of the Tenant Relocation Payment.

b. If a rental unit is occupied by two or more persons, each shall be paid a pro-rata share of the Tenant Relocation Fee based on their qualification as either a Qualified or Eligible Tenant.

4. The disbursement of Tenant Relocation Payments shall be paid by cashier's check, sent by registered mail a minimum of 60 days prior to the date at which the Qualified or Eligible Tenants are required to relocate from the premises.

5. A minimum of 20 calendar days prior to dispersing Tenant Relocation Payments, the Subdivider shall provide the Planning Director with a summary of the Tenant Relocation Payments to be made.

24.40.070 Required Findings for Approval.

The City Council shall not approve an application for conversion unless the City Council finds that:

A. All provisions of this Chapter are met;

B. The proposed conversion is consistent with the City of Del Mar Community Plan (General Plan), including the Housing Element and the certified Local Coastal Program;

C. The proposed conversion will conform to the Municipal Code in effect at the time of Tentative Map approval except as otherwise provided in this Chapter;

D. The overall design and physical condition of the conversion achieves a high degree of appearance, quality and safety; and

E. The conversion would not result in displacement of lower income and moderate income households without the subdivider providing for adequate relocation compensation or mitigation.

24.40.080 Enforcement.

The regulations of this Chapter shall be enforced according to the provisions in Chapter 1.08.

24.40.090 Severability.

Should a court of competent jurisdiction determine that these regulations are void or if certain terms or provisions are voided, then those regulations shall either become void in their entirety, or, where the courts have determined that certain terms or provisions are void by operation of the law, then those terms and provisions shall have no force or effect.

Exhibit C

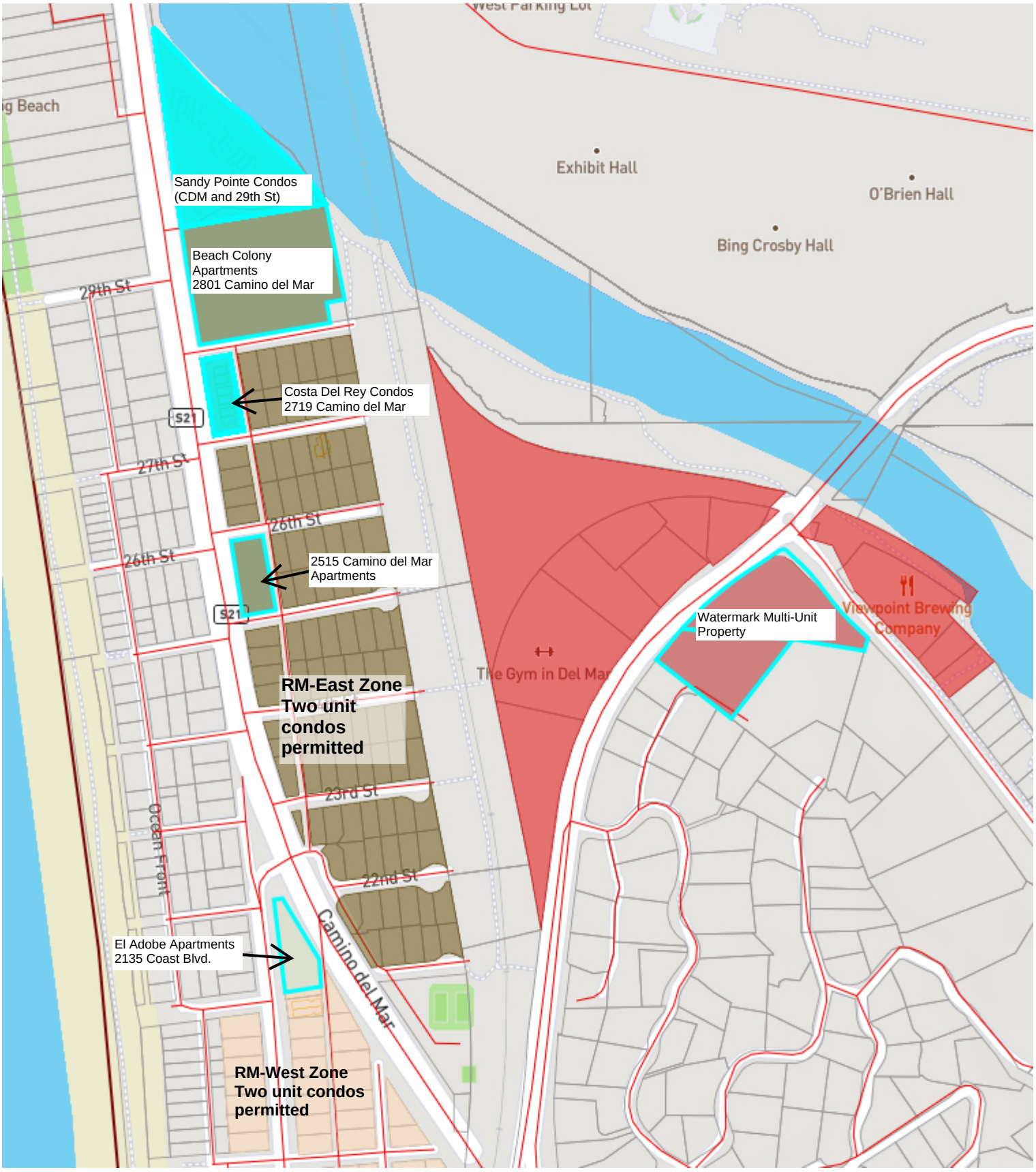
	Multi-Unit Condos in Residential Zones	# of Units	Zone
1	Del Mar Woods Condos	126	RM-South
2	212 4th Street Condos	18	RM-South
3	424 Stratford Court Condos	38	RM-South
4	515 Stratford Court Condos	10	RM-South
5	519 Stratford Court Condos	18	RM-South
6	460 Camino del Mar Condos	18	RM-South
7	Sea Cliff Way Condos (Stratford Ct/Sea Cliff)	5	RM-South
8	155 15th Street Condos	28	R2
9	1552 Camino del Mar Condos	24	R2
10	1558 Camino del Mar Condos	20	R2
11	1562 Camino del Mar Condos	36	R2
12	1844 Camino del Mar (Del Mar Villas Condos)	24	R2
13	1735 Coast Blvd Condos	5	RM-West
14	1757 Coast Blvd Condos	10	RM-West
15	1750 Ocean Front Condos	5	RM-West
16	Costa Del Rey Condos (2719 Camino del Mar)	16	RM-East
17	Sandy Pointe Condos (CDM and 29th Street)	20	RM-East
		421 units total	

	Apartment Properties in Residential Zones	# of Units	Zone
1	Los Arboles Apartments (201 4th Street)	97	RM-South
2	167 4th Street Apartments	12	RM-South
3	425 Stratford Court Apartments	18	RM-South
4	510 Stratford Court Apartments	48	RM-South
5	703 Stratford Court Apartments	12	RM-South
6	Ocean Village Apartments (1425 Ocean Avenue)	22	R2
7	El Adobe Apartments (2135 Coast Blvd)	12	RM-West
8	2515 Camino del Mar Apartments	14	RM-East
9	Beach Colony Apartments (2801 Camino del Mar)	86	RM-East
		321 units total	

	Apartments in Commercial Zones	# of Units	Zone
1	Terraces at Del Mar Apartments (526 Camino del Mar)	53	VC
2	941 CDM Multi-Unit – building permit pending *Includes 2 deed-restricted affordable units*	8	941 CDM SP
3	Watermark Multi-Unit – building permit pending *Includes 10 deed-restricted affordable units*	50	NC
		111 units total	

Two-unit condominium ownership lots exist throughout the R2 zone and RM zones

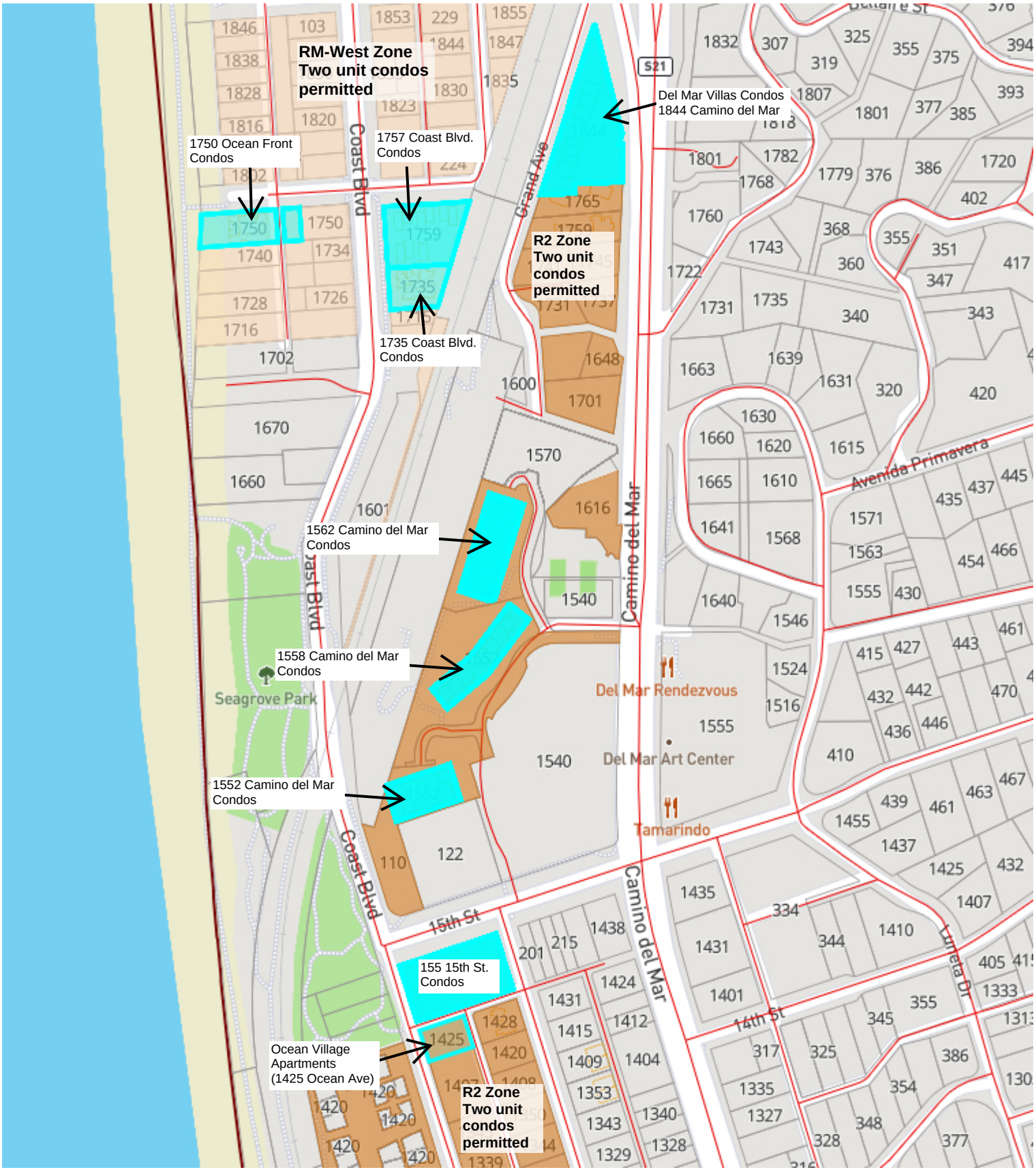
North Beach and North Commercial Zone Multi-Unit Properties



1" = 425 ft	Multi-Unit Property	RM-East Zone RM-West Zone	North Commercial Zone

This map may represents a visual display of related geographic information. Data provided here on is not guarantee of actual field conditions. To be sure of complete accuracy, please contact the responsible staff for most up-to-date information.

City Center Multi-Unit Properties



1" = 344 ft	Multi-Unit Property	RM-West Zone R2 Zone	

This map may represents a visual display of related geographic information. Data provided here on is not guarantee of actual field conditions. To be sure of complete accuracy, please contact the responsible staff for most up-to-date information.

South Stratford Multi-Unit Properties

1" = 472 ft	Multi-Unit Property	R2 Zone	RM-Central Zone
		RM-South Zone	Visitor Commercial Zone

This map may represents a visual display of related geographic information. Data provided here on is not guarantee of actual field conditions. To be sure of complete accuracy, please contact the responsible staff for most up-to-date information.

SUMMARY OF DENSITY BONUS LAW

Background on State Density Bonus Law (DBL) - Government Code § 65915

Allows housing or mixed-use development at a density above maximum set in the General Plan (Del Mar Community Plan) and Zoning Code. In exchange for increased density, a certain number of the units must be income-restricted and reserved for very-low income, low-income, or moderate-income households. The Coastal Act and policies of the certified Local Coastal Program apply to DBL projects. DBL provides three types of benefits that qualifying applicants may request from the City to facilitate affordable housing development:

1) Incentives or concessions that provide project cost reductions;

2) Waivers and reductions of development standards that would physically preclude project development at the density permitted per DBL and with incentives granted per DBL; and

3) Reductions in parking requirements per Government Code § 65915(p).

Project Eligibility and Location

Any housing development that proposes five or more dwelling units and incorporates at least one of the housing-related requirements below is eligible for a density bonus:

Density Bonus awarded per Project Type per State Density Bonus Law	
Projects with 5% "Very Low Income", 10% "Low Income", or 20% "Moderate Income" rental units restricted for at least 55 years	20% density bonus
Projects with 10% "Very Low Income" units for transitional foster youth, disabled veterans, or homeless restricted at least 55 years	
Senior housing projects that limit age of tenants, not the income (Civil Code § 51.3 and 51.12)	
Projects with 15% "Very Low Income", 24% "Low Income", or 44% "Moderate Income" rental units restricted for at least 55 years	50% density bonus
Projects with 100% affordable units (excluding manager unit) with max 20% moderate units	
Projects that donate land (at least one acre) for very low-income (Gov Code § 65915(g))	15% to 35% density bonus
Projects that provide a child care facility (Gov Code §65915(h))	Equivalent square footage of child care facility for bonus units

Potential DBL project locations include the North Commercial and Professional Commercial Zones and will include the Central Commercial Zone (Ordinance pending per Housing Element).

Maximum Density Bonus

Opportunities for a project density bonus are set on a sliding scale based on percentage of units in the project that will be set aside as income-restricted; and number of units in specified household income categories (very low, low, or moderate). The maximum density bonus that can be awarded is 50% of the base units (pre-density bonus), which applies to projects that include at least 44% moderate-income units or 24% low-income units or 15% very low-income units. The density bonus calculation is based on the allowable density of the base zone. No additional density will be awarded beyond the 50% density bonus.

Incentives/Concessions and Determination of Economic Infeasibility

An applicant may request incentives/concessions to reduce costs to build a DBL project with affordable units. Incentives and concessions have the same meaning under DBL. Typically, development projects must comply with design standards and development regulations (i.e., height, floor area ratio, lot coverage, and setbacks). DBL allows projects to deviate from design standards and development regulations if the standard regulations would make the project economically infeasible to build. Requested incentives or concessions must result in identifiable and actual cost reductions for affordable housing development. An applicant shall provide reasonable documentation to explain how the request will reduce costs to build the project. The City may deny an incentive or concession if it finds it would be contrary to state or federal law, or would have a specific, adverse and unavoidable impact on public health, safety or on a listed historic property.
DBL allows up to five "incentives" to be requested based on the number of income-restricted units:

Income Category	% of Reserved Units				
Very Low	5%	10%	15%	16%	100% lower income (up to 20% moderate income)
Low	10%	17%	24%	N/A	
Moderate	10% for sale	20% for sale	30% for sale	45% for sale	
Senior	N/A	N/A	100%	N/A	N/A
Maximum Incentives	1	2	3	4	5

Waivers and Determination of Physical Infeasibility

A waiver is a reduction or modification of "development standards" and other regulations when those requirements would make project construction physically infeasible without waiver approval. "Development standards" includes a site or construction condition, including, but not limited to, height, setbacks, floor area, open space requirements or parking. The determination of physical infeasibility considers the density permitted per DBL and scenarios with project incentive(s) granted. There is no limit to the number of waivers an applicant can request. However, waiver requests must be accompanied by reasonable documentation that explains the request and visually demonstrates in exhibits that the existing development standard, if not waived or reduced, would physically preclude development of the project. The City may deny a waiver if it finds it would be contrary to state or federal law, or would have a specific, adverse and unavoidable impact on public health, safety or on a listed historic property.

Housing & Community Development Services

blank-white

Income Limits AMI Chart

San Diego County

Area Median Income (AMI) and Income Limits

2024 Area Median Income (AMI)
for San Diego County is

$119,500

San Diego County Income Limits Effective April 17, 2024			
Family Size	30% of AMI Extremely Low Income	50% of AMI Very Low Income	80% of AMI Low Income
1	31,850	53,050	84,900
2	36,400	60,600	97,000
3	40,950	68,200	109,150
4	45,450	75,750	121,250
5	49,100	81,850	130,950
6	52,750	87,900	140,650
7	56,400	93,950	150,350
8	60,000	100,000	160,050

FAQs

Housing Directory

Areas Served

Fair Housing

Forms

City of Del Mar
Staff Report

PLANNING COMMISSION
STAFF REPORT
July 9, 2024

APPLICATION: CUP22-003, CDP23-019

REQUEST: A request for a Conditional Use Permit and a Coastal Development Permit to operate a valet parking operation in conjunction with an existing brewery/restaurant (Viewpoint Brewery) and recission of the existing Shared Parking Permit (P15-001) through the release of the existing covenant for shared parking requirements on property located at 2201 San Dieguito Drive and in the North Commercial Zone and Lagoon Overlay.

*The property is located within the Coastal Commission's Appeals Jurisdiction.

APPLICANT: Blue Water Valet and Charles Koll of Viewpoint Brewery

PROPERTY OWNER: 2201 DEL MAR LLC

SITE LOCATION: 2201 San Dieguito Drive

ASSESSOR PARCEL NUMBER: 299-100-34-00

ZONE: North Commercial (NC)

OVERLAY ZONE: Lagoon Overlay Zone

COMMUNITY PLAN DESIGNATION: The property is designated as North Commercial (NC) located south of the San Dieguito River and Lagoon and is intended to allow for a range of commercial and light industrial uses.

ENVIRONMENTAL REVIEW: Pursuant to the California Environmental Quality Act (CEQA), the proposed project has been analyzed and determined to be Categorically Exempt pursuant to CEQA Guidelines Section 15301(e), Class 1 – Existing Facilities, because the proposed project involves the use of the existing parking lot for valet parking to facilitate current operations of Viewpoint Brewery and restaurant with no proposed construction or expansion of use. It is further determined that none of the other exceptions to the use of a Categorical Exemption apply to this project (CEQA Guidelines Section 15300.2).

HOUSING IMPACT: The project does not include the demolition, alteration, or development of any housing units. Therefore, the approval of the requested discretionary development application would not have any adverse impact on the City of Del Mar's housing supply or housing affordability.

BACKGROUND:

The project site is located at 2201 San Dieguito Drive in the North Commercial zone (see Exhibit A) and is located along north side of San Dieguito Drive. The property is located in the Lagoon Overlay Zones, and the Coastal Commission's Appeal Jurisdiction. The subject property is bound by San Dieguito Drive to the south, San Dieguito River to the north, a City Parking lot to the west, and a commercial office building to the east. The 47,916 square-foot lot is developed with one large commercial building to the north east, one office with storage to the south west and a smaller storage building in the south east corner, totaling 16,050 square feet. The site is non-conforming in that the existing development onsite exceeds the allowable Floor Area Ratio (FAR) for the NC Zone and is located within the 100 feet wetland buffer.

The tenants on site include a mix of daytime commercial tenants including Del Mar Blueprint, Del Mar Automotive, River Path Chiropractic, Koll Enterprises (office and storage), Viewpoint Brewery and a private office used by the property owner. Existing site configuration includes sixty (60) parking spaces, of which fifty-four (54) satisfy the off-street parking requirements for existing mix of tenants pursuant to the parking requirements of the current Del Mar Municipal Code (DMMC) Section 30.80.030. The required amount of parking per DMMC 30.80.030 is 54 spaces for all uses on site. There are an additional six spaces available on site that are unassigned to any specific tenant and are of shared use across all of the commercial tenants of the property.

Viewpoint Brewery (previously referred to as Vigilante Brewing Company) was established in 2015 through the approval of Administrative Design Review (ADR15-046) for the brewery use and operation. The brewery use required additional parking that couldn't be provided through the existing onsite parking under the requirements of Chapter DMMC 30.80 (Parking Code) in effect at the time. On October 13, 2015, the Planning Commission approved Shared Parking Permit (P15-001) to allow onsite shared parking spaces to accommodate Viewpoint Brewing operations. This approval was based on and contingent upon the operations, uses, parking site plan and conditions of approval at that time and recorded in a covenant (Exhibit C). However, the tenant uses, and Parking Code have changed since the approval of the shared parking permit. Under the current Parking Code that became effective October 18, 2023, the parking ratios for the existing commercial/industrial uses on site comply with the City's adopted Parking Code and therefore the recorded shared parking agreement is not required per the DMMC parking ratios. Based on the current tenant configuration, the subject site requires fifty- four (54) parking spaces, and sixty (60) parking spaces are provided on site, which is six more parking stalls than required per the Parking Code.

In 2021, Viewpoint Brewery applied for Design Review Board Permit (DRB21-022) and received approval for the replacement of an outdoor patio cover for the existing outdoor seating area, and storage tank. It was determined at the time the proposed project complied with the provisions of the Del Mar Municipal Code, including the provisions of the shared parking agreement.

PROJECT DESCRIPTION:

In 2022, the applicant applied for a new application seeking a Conditional Use Permit and a Coastal Development Permit to provide valet parking to service the Viewpoint Brewing Company restaurant and tasting room operations. The valet service would be operated by Blue Water Valet Services and their proposed plan for the valet operations has been included as Exhibit B.

Valet Parking for commercial uses is regulated by DMMC Section 30.80.160, which allows for valet parking operations through the issuance of a Conditional Use Permit, reviewed and approved by the Planning Commission. The request to add a valet parking service to the existing brewery/restaurant use is not required in order to meet the parking code requirements, but instead is requested as a voluntary operation by the owners and operators of Viewpoint Brewery to better facilitate parking for the existing businesses on site. The proposed valet service would increase the parking functionality of the existing development to alleviate long-standing parking issues in an area where on-street public parking is severely limited.

According to the applicant's Letter of Operations (Exhibit B), the valet service would operate Monday through Friday from 5:30 PM to 10:00 PM and Saturday, Sunday, and Holidays from 11:30 AM to 10:00 PM. The valet service would apply to the entire site with the exception of the spaces dedicated to Del Mar Blueprint vehicle storage and the Accessible spaces. The Accessible spaces would remain free and open for use and access throughout operating hours. The parking lot for the site contains sixty (60) spaces. With the proposed valet service, the site's parking capacity will increase to seventy- four (74) spaces, achieved through the addition of fourteen (14) spaces across three different sections of stacked parking. Queueing for valet service would commence adjacent to the pedestrian ramp to Viewpoint Brewing and before the first accessible spaces and would maintain a minimum of a twenty-four foot (24') wide, one-way drive aisle throughout the property during the operations of the valet parking use. This configuration allows for two lanes of one- way travel through the site to accommodate one lane for vehicles waiting for valet services and one lane for maintaining valet services. During the hours of valet service, the valet parking "stacking" of vehicles would reduce the existing thirty- two foot (32') wide southern driveway to a 24' driveway. All circulation through the site would commence from the northwest entrance and exit at the lot's southwest corner onto San Dieguito in one direction at all times, consistent with the existing circulation on site. The proposed queuing arrangement demonstrates that the site can accommodate up to six cars waiting for valet service, which will prevent queuing onto San Dieguito Drive and other potential circulation impacts. Four attendants will be assigned to facilitate the rotation of cars and assist patrons with parking during the valet hours of operation.

As required by Chapter DMMC 30.80, the required parking for any commercial use must be provided free of charge unless it is requested and approved under a Conditional Use Permit by the Planning Commission. The proposed charge for valet service would be five dollars ($5) per vehicle, which would be less expensive than the adjacent City Parking lot price of four dollars ($4) per hour which was established in order to discourage patrons of the brewery and other establishments from using the adjacent City Parking lot, which is dedicated to the San Dieguito Lagoon trail. DMMC §30.80.020.D also stipulates that valet service would not be able to charge for the services during the first thirty

minutes of the operational hours and the last thirty minutes of the operational hours. As proposed by the applicant, the valet operation hours would comply with this requirement.

Referenced earlier, the applicant also seeks to remove the existing Shared Parking Permit approved under application P15-001. The DMMC Chapter 30.80 previously required more parking than could be provided on site for the all the on-site uses, which were then met through the implementation of the Shared Parking Permit. However, on October 18, 2023, the parking code update went into effect, reducing the parking ratios for restaurant uses. In the case of Viewpoint Brewery, the new parking rate is applied to the combination of restaurant and manufacturing use. The previous parking code required parking for restaurants with outdoor dining areas, but under the new code, restaurants with outdoor areas that are the same size or smaller than the dining area inside the restaurant, do not need to provide additional parking spaces. The parking requirements for the six current uses on site comply with DMMC 30.80, therefore the shared parking agreement is no longer necessary. The subject site and existing tenant configurations comply with the parking required per DMMC 30.80. Therefore, the removal of the existing Shared Parking Permit would require a recission of covenant.

The project is also located in the Lagoon Overlay Zone and the Coastal Commission's Appeal jurisdiction. The proposed project does not include any physical development that would expand the current non-conforming development onsite. However, the project does require a Coastal Development Permit due to its location and for the proposed valet parking use to be reviewed pursuant to the requirements of the City of Del Mar Local Coastal Program (LCP). Pursuant to Municipal Code Chapter 30.76, the existing siting of the building constitutes a legal nonconformity. And, as noted, no new grading, construction or intensification of use is proposed. Therefore, in accordance with the referenced Code chapter, the wetland setback, and any other zoning nonconformities, may continue.

ANALYSIS:

The project site is located in the North Commercial (NC) zone, Lagoon Overlay Zone, as well as the Coastal Commission Appeal Jurisdiction. The proposed valet parking request was analyzed pursuant to the provisions of DMMC Chapter 30.74 (Conditional Use Permit), DMMC Chapter 30.80 (Parking), DMMC Section 30.80.160 (Conditional Use Permit for Valet Parking), and other codes applicable for the property's zone/overlay zone.

The proposed valet parking use requires a conditional use permit for the following operation's to be permitted:

1. Hours of operation for valet service:
    - Monday through Friday: 5:30 PM - 10:00 PM
    - Saturday, Sunday, and Holidays: 11:30 AM - 10:00 PM
    - Fee- free valet services in the first thirty minutes of business operations and the last thirty minutes of business operations.

2. The location for pick-up and drop-off of customer vehicles to occur;

- Valet Services provided on a twenty-four foot wide one way driveway with two lanes, one to accommodate queueing with pick up and drop off and one to accommodate circulation and valet operations and maneuvering.

3. The location of the off-street parking facilities where customer vehicles will be parked and stored;
    - Valet Services would operate on and within the existing parking lot of 2201 San Dieguito Drive.
    - All parking spaces on site would be used for valet parking with the exception of the vehicle storage for Del Mar Blueprint and the Accessible spaces which are required to be maintained as free and self-park.
4. Signage for the valet parking operation;
    - Valet Services would have signs with the direction of traffic and the cost of services of five dollars per vehicle.
5. The number of required off-street parking spaces authorized by the permit where valet parking is being used as an equivalency for compliance;
    - Valet would provide an addition of fifteen additional parking spaces to the existing code complaint off street parking located on the project site.
6. Any conditions to ensure that valet parking operations will not interfere with required off-street parking;
    - Valet services and operations would operate as specified in the Letter of Operations (Attachment B)
7. Proof of general liability insurance and garage liability insurance; and
    - Valet Services would be conditioned to demonstrate and maintain the proof of general liability insurance and garage liability insurance.
8. Copies of any executed agreements (between the valet parking operator and the business being served by the valet parking operator or between the valet parking operator and the property owner where vehicles will be parked and stored off-site) as necessary to demonstrate compliance with the Permit.
    - Valet Services would be conditioned to demonstrate and maintain the proof of copies of any executed agreements as necessary to demonstrate compliance with the Permit.

The provisions of Chapter 30.74 require that each determination granting a Conditional Use Permit be supported by the set of standards shown in **bold print** below. For each Standard, staff has provided a proposed "finding" of compliance. The proposed findings are also contained within the draft Resolution of Approval attached as Exhibit D.

A. That the use for which the Conditional Use Permit is applied for is permitted within the zone in which the property is located.

Proposed finding: The proposed project is located in the City's North Commercial (NC) Zone and Lagoon Overlay Zone. According to the City's Community Plan and Zoning Ordinance, the NC Zone is "designed to allow commercial activities that provide a service to the community." In the NC Zone, Valet Parking is a permitted use with the application and approval of a Conditional Use Permit. The

existing businesses on the project site are established, compliant commercial uses and the proposed valet parking is compatible with the adjacent uses present on the property. The project site and existing tenant mix complies with the amount of parking required per DMMC 30.80. It is important to note that this application does not propose any new development, grading, or modifications to the existing building, its mixed-use commercial operations or the parking lot configuration. The valet parking would not be utilized until after 5 pm on weekdays (normal operational hours of the other businesses on the site) and all-day on weekends when the rest of the commercial center is not in operation. The valet parking will help to facilitate the existing restaurant and brewery operations of Viewpoint Brewing and applies to all parking spaces onsite without self-parking allowed except at the Accessible parking spaces.

Additionally, the regulatory framework governing valet parking is outlined in the DMMC and certified Local Coastal Program (LCP), Section 30.80.160. The proposed project adheres to these specified standards, ensuring compliance with the relevant regulations that are found in the Applicant's Letter of Operations (Exhibit B). In conclusion, the proposed use for valet parking to serve the existing brewery and restaurant is allowed within the NC Zone.

B. That the granting of such Conditional Use Permit will not be detrimental to the public health, safety, comfort, convenience and general welfare, will not adversely affect the established character of the surrounding neighborhood, and will not be injurious to the property or improvements in such vicinity and zone in which the property is located.

Proposed finding: The granting of this Conditional Use Permit will not be detrimental to public health, safety, comfort, convenience, or general welfare. It will not adversely affect the established character of the surrounding neighborhood and will not be injurious to the property or improvements in the vicinity and zone where the property is located. The proposed valet parking would operate within the existing property lines and parking lot configuration, will be staffed and operated according to the Applicant's Letter of Operation, and would increase the parking functionality of the existing development to alleviate long standing parking issues in an area where on-street public parking is severely limited. The operations of the project consider all of the following aspects required by the valet parking code:

1. Hours of operation;
2. The location for pick-up and drop-off of customer vehicles to occur;
3. The location of the off-street parking facilities where customer vehicles will be parked and stored;
4. Signage for the valet parking operation;
5. The number of required off-street parking spaces authorized by the permit where valet parking is being used as an equivalency for compliance;
6. Any conditions to ensure that valet parking operations will not interfere with required off-street parking;
7. Proof of general liability insurance and garage liability insurance; and
8. Copies of any executed agreements (between the valet parking operator and the business being served by the valet parking operator or between the valet parking operator and the property

owner where vehicles will be parked and stored off-site) as necessary to demonstrate compliance with the Permit.

All such information has been provided by the applicants and reviewed by staff for conformance with the requirements of DMMC §30.80.160.

In addition, disabled patrons of Viewpoint Brewing may elect to self-park in accordance with Condition CUP-7.

C. That the proposed use is properly located in relation to the community as a whole and to other land uses and to transportation and service facilities in the vicinity; and further, that the use can be adequately served by such public facilities and street capacities without placing an undue burden on such facilities and streets.

Proposed finding: The proposed use is properly located in relation to the community, other land uses, and transportation and service facilities in the vicinity. Furthermore, the valet parking use would integrate with the surrounding community and adjacent uses, benefiting from existing infrastructure, would not overburden public resources or street capacities, and can be adequately served by public facilities and street capacities without placing an undue burden on these systems. The use would operate within the existing fully developed property and would provide additional parking capacity for the operations of Viewpoint Brewery in an area where on-street public parking is severely limited.

D. That the site is of sufficient size to accommodate the proposed use and all yards, open spaces, walls and fences, parking, loading, landscaping and such other features as are required by this Chapter or as are needed, in the opinion of the Planning Commission, or City Council on appeal, are properly provided to be compatible and harmonious with nearby uses.

Proposed finding: The site is of sufficient size to accommodate the proposed use, including all required yards, open spaces, walls and fences, parking, loading, landscaping, and other necessary features. The property on which the valet parking would operate is fully developed with uses and an existing parking lot which complies with applicable DMMC regulations. The uses on the site are harmonious with nearby uses and have functioned without incident for decades. The City Engineers reviewed and confirmed that the configuration was adequate to meet the city standards to ensure adequate ingress and egress through the project site with the proposed valet service. The addition of valet parking will maintain this compatibility and will not create any conflicts with surrounding properties or uses, since there is no proposed overlap of valet use during the operational hours of the other commercial business on the site. The valet service will enhance parking efficiency and customer service, significantly improving the existing development's parking functionality. This will help address longstanding parking issues in an area with severely limited on-street public parking.

E. That the granting of such Conditional Use Permit will not be contrary to the adopted Community Plan, including its goals, objectives, or policies, or to the objectives of any ordinance, regulation, or plan in effect to implement said Community Plan.

Proposed finding: As conditioned, the granting of this Conditional Use Permit will not be contrary to, nor adversely affect any of the policies of the Del Mar Community Plan or any documents in effect to implement the Community Plan. The CUP application, and its associated materials have been reviewed and conditioned to ensure compliance with the applicable zoning ordinance regulations, adopted to implement the Community Plan, including those established for valet parking and in the Applicant's Letter of Operation.

The site is located in the LCP's Lagoon Overlay Zone and while project site does not contain any identified wetland resources it is located near the wetlands of the San Dieguito Lagoon. The Lagoon Overlay Zone generally requires a 100-foot-wide setback between the edge of wetlands and new development. However, this project does not propose any new development to the site and the proposed valet parking will operate completely onsite in existing parking spaces. The parking lot is adjacent to and accessed from San Dieguito Drive and is located south of the existing multi-tenant building. Given the location of the parking area, the increased parking capacity that will occur through the implementation of valet parking would not have an adverse impact on the adjacent wetlands, as the existing parking lot fronts on San Dieguito Drive and the existing building is located between the parking lot and the San Dieguito Lagoon. There are no physical improvements with the proposed project.

COASTAL DEVELOPMENT PERMIT CDP23-019:

The subject project is located within the appeals jurisdiction of the California Coastal Zone and pursuant to DMMC §30.75.040, a Coastal Development Permit (CDP) is required for the proposed increase of parking use on the site zoned for a mixture of commercial uses through the proposal of a valet parking service use. While, this increase of parking is not intensifying any existing uses, it would allow for more onsite parking and better facilitations of parking demands of the existing development §30.75.140 stipulates seven findings that must be made for approval of a CDP. As proposed, the project would comply with the standards of development noted in the referenced DMMC Section and listed below in **bold print**. Accordingly, staff has included recommended findings for approval the CDP request. The standards and recommended findings, listed below and within Exhibit D, include:

1. **That the use for which the Coastal Development Permit is applied is permitted within the zone in which the property is located.**

   Valet Parking is a permitted use within the North Commercial Zone, Lagoon Overlay Zone.

2. **That the proposal meets the criteria of the applicable chapters of this Title.**

   The proposed project, as designed and conditioned, meets the criteria of the applicable chapters of the Del Mar Zoning Code, specifically: Chapters 30.80 (Parking); 30.53 (Lagoon Overlay Zone); 30.74 (Conditional Use Permits); and 30.75 (Coastal Development Permits).

3. **That the granting of such Coastal Development Permit will be in conformity with the certified City of Del Mar Local Coastal Program.**

   The Coastal Development Permit, as conditioned, is consistent with the certified City of Del Mar Local Coastal Program. The project site is located within a special overlay zone identified in the LCP, Lagoon Overlay Zone. The proposed use is permitted through the application and approval of a Conditional Use Permit and no physical development or expansion of facilities is proposed in this application.

4. **That for all development proposals located seaward of the first public roadway, the proposed development is consistent with and implements the applicable requirements for provision of public access contained in this Title and in the public access and public recreation policies of Chapter 3 of the California Coastal Act.**

   The project is consistent with and implements the applicable requirements for provision of public access contained in the Del Mar Zoning Code and in the public access and public recreation policies of Chapter 3 of the California Coastal Act. The project is identified as appealable to the California Coastal Commission based pursuant to the City's Post LCP-Certification and Appeal Jurisdiction Map. Adequate public coastal access is available adjacent to the project site via the Del Mar River Path public trail that can be accessed to the north and south of the site. Further, the valet parking program would improve public coastal access because it would create additional on-site parking capacity on the subject commercial site, therefore reducing impacts on the existing City parking lot created for the San Dieguito Lagoon trail access and the (separate) parking area for the Grand Avenue Bridge coastal overlook.

5. **That for all development proposals involving the construction or placement of a shoreline protection device, that the proposed development is consistent with and implements the applicable requirements of the Beach Overlay Zone and Setback Seawall Zone provisions contained in this Title and is consistent with and implements the provisions of the Chapter Three Policies of California Coastal Act.**

   The Project is not located within the shoreline.

6. **That the proposal is consistent with and implements the provisions of public view protection policies IV-22 through IV-27 of the City of Del Mar LCP Land Use Plan.**

   The proposed valet parking use is consistent with and implements the provisions of public view protection policies of the City of Del Mar Local Coastal Program, including those of the LCP Land Use Plan Since no physical development or expansion to the existing structures on the project site is proposed.

7. **That for all development proposals on sites with identified wetland resources, that the proposed development is consistent with and implements the provisions of the Lagoon Overlay Zone as contained within the City of Del Mar Local Coastal Program Implementing Ordinances and Land Use Plan.**

   The proposed valet parking use is consistent with and implements the provisions of the Lagoon Overlay Zone as contained within the City of Del Mar Local Coastal Program Implementing Ordinances and Land Use Plan**.** No physical development or expansion to the existing structures on the project site to accommodate the proposed valet parking use are proposed and the parking spaces to be used for increased parking capacity are outside of the required wetland buffer.

CORRESPONDENCE:

As of the writing of this report, no correspondence has been received regarding the subject project.

RECOMMENDATION:

It is staff's position that the proposed project meets the required findings to approve Conditional Use Permit CUP22-003, Coastal Development Permit CDP23-019 and rescission of the previously approved Shared Parking Permit (P15-001). Therefore, staff recommends that the Planning Commission adopt the draft Resolution of Approval attached as Exhibit D, thus approving the valet parking program subject to the findings and conditions included therein.

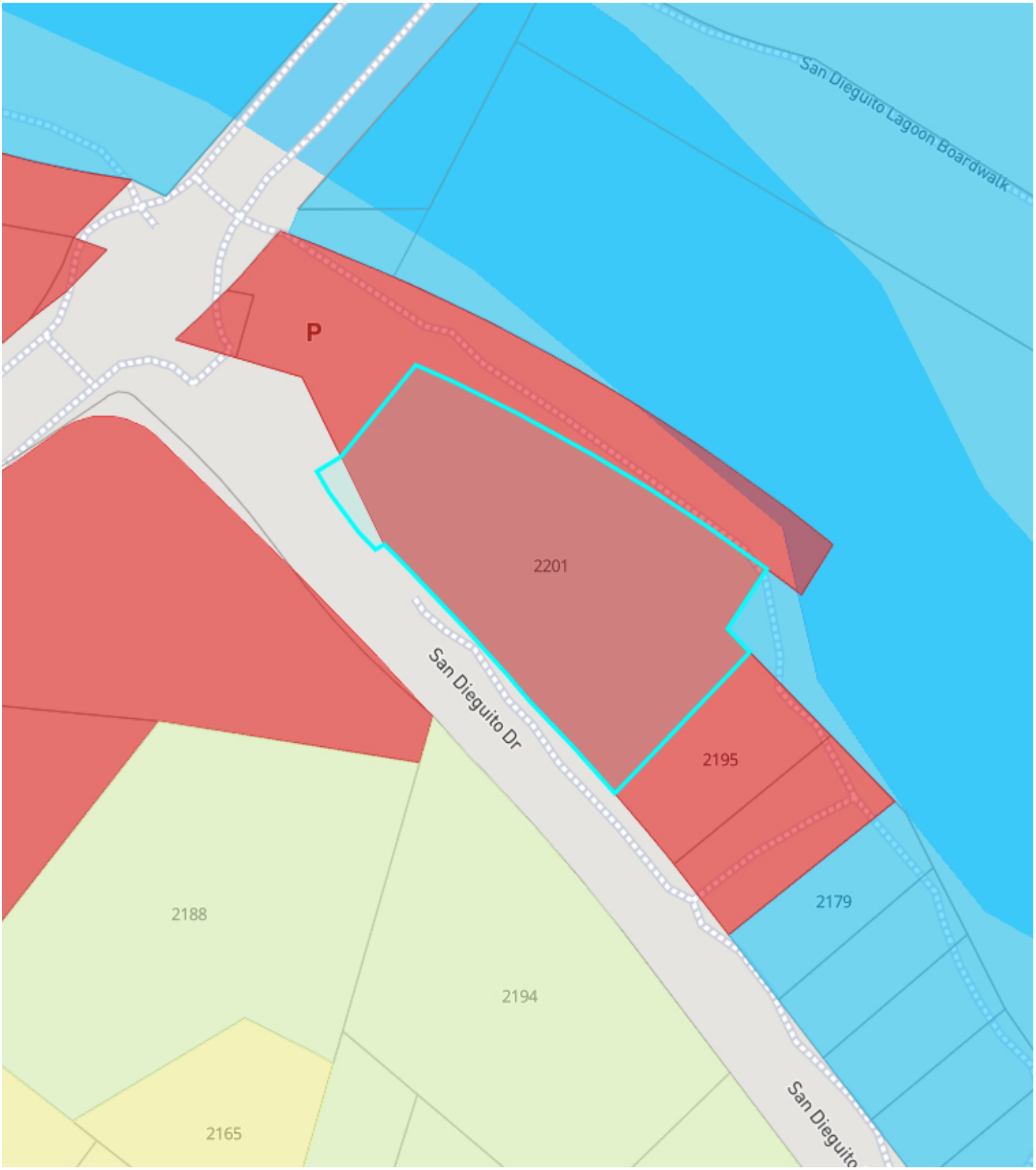
Respectfully submitted,

Elizabeth Yee
Associate Planner

Exhibit A – Vicinity Map
Exhibit B – Letter of Operations
Exhibit C- P15-001 Shared Parking Permit Covenant
Exhibit D – Draft Planning Commission Resolution of Approval PC-2024-XX

EXHIBIT A

Vicinity Map



1" = 116 ft	2201 San Dieguito Dr	06/19/2024	

This map may represents a visual display of related geographic information. Data provided here on is not guarantee of actual field conditions. To be sure of complete accuracy, please contact the responsible staff for most up-to-date information.

EXHIBIT B

June 8, 2024

Blue Water Valet
1941 Dove Lane #302
Carlsbad, CA 92007

City of Del Mar Planning Commission
1050 Camino del Mar
Del Mar, CA 92014

RE: **Viewpoint Valet Operating Plan Summary**

Background:

As a way of background, Blue Water Valet has been providing professional valet services to our valued clients since 2008, serving such notable clients as the Port of San Diego, Little Italy, and high-quality restaurants throughout San Diego County. Our motto that “we make parking problems disappear and we believe that every customer is VIP” is what keeps us in business and what is reflected in the below operating plan for Viewpoint Brewing Company and Restaurant, who we have served since their inception.

The Benefits of a Valet Parking Program:

Valet parking is a great way to provide convenience and excellent customer service and is an important part of an overall customer service experience. The main advantage of valet parking is convenience and ease of access. Valet parking offers guests easy access to their vehicles. Rather than having to search for parking spots and having to walk far distances to their destinations, valet parking allows customers to access their vehicles quickly and easily. Valet parking is especially convenient in bad weather.

Valet parking also adds a sense of safety. With valet parking, customers can be sure that their vehicles are being watched and monitored by a professional and trusted parking attendant. Blue Water Valet is fully well insured, and we are knowledgeable about nearly every make and model of car, including aftermarket alarm systems, keyless ignitions, etc.

Valet parking is a great way to provide excellent customer service. Customers appreciate being able to access their vehicles and the customer service they receive quickly and easily from a valet parking attendant can often be the deciding factor in whether they return to the venue or not. Valet parking also adds a touch of professionalism to any venue. Customers can be confident that their vehicles are being safely monitored and stored, and it adds an element of luxury to their experience.

Viewpoint Valet Operating Plan:

Blue Water Valet will implement a proven system to handle the expected number of cars and guests. This may include, but is not limited to, having designated attendants on-site as greeters, stackers, and parkers, a system for marking car locations, a system for parking and stacking, a system for directional signage for safe and efficient traffic flow, and a system to expedite the safe drop off and car return at the end of the stay.

Valet hours of operation are Monday Thru Friday 5:30pm-10pm, Saturday, Sunday, and Holidays 11:30am-10pm and will not overlap with normal operating hours of other tenant businesses.

The fee for valet is: $5.00.

At Viewpoint, the flow of traffic is one-way, with one entrance at the west end of the main parking lot and one exit at the east end, and all traffic going in the same direction. Multiple directional signs direct customers where to enter, where to go, where to stop and where to exit.

We have a midpoint for drop off and pick up and a valet podium near the drop-off area, located along the entry walkway to the front entrance of the restaurant. Blue Water Valet will have on-site attendants on duty to make sure traffic flow and valet parking is conducted in a safe and efficient manner. Parking spots will be managed based on flow and time and physical needs of the customers, and we will direct all customer traffic to pull in inside the parking lot in manner that does not disturb neighboring residents or businesses. The valet attendant holds all the keys and can park the cars two or more deep, as they can move cars out of the way to free a blocked-in car.

There are 65 existing parking spaces for tenants at 2201 San Dieguito Road. An advantage of valet parking is that it is possible to pack more cars into a given physical space, in what is generally known as "stack parking," and our attendants will have the ability to “stack” vehicles to increase parking capacity by at least an additional 15 cars, for a total of 80 cars accommodated by valet service. For large events, additional overflow parking is available, as needed, at the west side of the RiverPath Chiropractic/Del Mar Blueprint building.

City staff and the Planning Commission should also note that all disabled parking will remain as existing so our patrons can choose valet service or park themselves without any disruption or any fee to them to use the disabled spaces.

In summary, our valet service is a convenience to the public, saving them time so that their worries and concerns are handled in an efficient manner, and they can enjoy the benefits of being social in a public setting. Blue Water representatives are available should you have any questions about our operating procedures and safeguards to ensure a safe, efficient, a pleasurable experience by the public and restaurant-goers enjoying an experience at Viewpoint Brewing Company.

Respectfully,

Raul Espinosa, Operating Partner
Blue Water Valet

EXHIBIT C

DOC# 2017-0445146

Sep 28, 2017 08:52 AM
OFFICIAL RECORDS
Ernest J. Dronenburg, Jr.,
SAN DIEGO COUNTY RECORDER
FEES: $39.00

PAGES: 9

PLEASE COMPLETE THIS INFORMATION

RECORDING REQUESTED BY:

City of Del Mar

AND WHEN RECORDED MAIL TO:

City Clerk
City of Del Mar
1050 Camino del Mar
Del Mar, CA 92014

THIS SPACE FOR RECORDER'S USE ONLY

COVENANT REGARDING REAL PROPERTY

Assessor's Parcel No. 299-100-34

A. Kevin J. McHugh and Teri A. McHugh, Trustees of the McHugh Trust dated February 19, 1990 ("PROPERTY OWNER" hereinafter) is the owner of real property which is commonly known as 2201 San Dieguito Drive, Del Mar, California 92014 ("PROPERTY" hereinafter) and which is described in Exhibit A.

B. In consideration of conditional approval of Shared Use Parking Permit No. P15-001, approved by Planning Commission Resolution No. 2015-14 on October 13, 2015 by the City of Del Mar ("CITY" hereinafter), PROPERTY OWNER hereby covenants and agrees to do the following:

See Exhibit B (Parking Covenant) and Exhibit C (Approved Parking Restriping Plan) which is attached hereto and made a part hereof.

C. This Covenant shall run with the land and be binding upon and inure to the benefit of the future owners, encumbrances, successors, heirs, personal representatives, transferees, and assigns of the respective parties.

D. If either party is required to incur costs to enforce the provisions of this Covenant, the prevailing party shall be entitled to full reimbursement of all costs, including reasonable attorneys' fees, from the other party.

E. Failure of PROPERTY OWNER to comply with the terms of this Covenant shall constitute consent to the filing by CITY of a Notice of Violation of Covenant.

F. By action of the City Council, CITY may assign to a person or persons impacted by the performance of this Covenant, the right to enforce this Covenant against PROPERTY OWNER.

Accepted by the City of Del Mar, California, this

13th day of July, 2017 ~~2016.~~

CITY OF DEL MAR

Scott Huth, City Manager — Date: 7/13/17

--NOTARIZATION NOT REQUIRED--

PERMITTEES:
AGREED AND ACCEPTED:

McHugh Trust
Kevin J. McHugh and Teri A. McHugh

Kevin J. McHugh, Trustee — Date: 6-28-17

Teri A. McHugh, Trustee — Date: 6/28/17

--NOTARIZATION REQUIRED--

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of San Diego)

On June 28, 2017 before me, Natalie Christine Jordan, Notary Public, personally appeared Teri A. McHugh and Kevin J. McHugh, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that ~~he/she~~/they executed the same in ~~his/her~~/their authorized capacity(ies), and that by ~~his/her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ **(Seal)**
Notary Public

NATALIE CHRISTINE JORDAN
Notary Public - California
San Diego County
Commission # 2178184
My Comm. Expires Jan 1, 2021

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of _____)

On _____ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ **(Seal)**
Notary Public

EXHIBIT A

TO COVENANT REGARDING
SHARED USE PARKING PERMIT NO. P15-001

Affected Property:

Address: 2201 San Dieguito Drive
APN: 299-100-34

Legal Description:

PARCEL A:

THAT PORTION OF LOT 828 OF ARDEN HEIGHTS NO. 6, IN THE CITY OF DEL MAR, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF NO. 1592, FILED IN THE OFFICE OF THE RECORDER OF SAID SAN DIEGO COUNTY, JULY 18, 1913, AS DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWESTERLY CORNER OF LOT 832 OF SAID ARDEN HEIGHTS NO. 6; THENCE ALONG THE NORTHERLY LINE OF GRAND AVENUE, SOUTH 74°40'00" EAST 59.06 FEET TO THE BEGINNING OF A CURVE; THENCE ALONG THE SOUTHWESTERLY LINE OF THAT PORTION OF GRAND AVENUE AS CLOSED BY ORDER OF THE BOARD OF SUPERVISORS MAY 29, 1933, FOLLOWING THE ARC OF THE SAID CURVE, WHICH IS CONCAVE TO THE SOUTHWEST AND HAS A RADIUS OF 100.00 FEET AND A RADIAL BEARING OF SOUTH 15°20'00" WEST THROUGH A CENTRAL ANGLE OF 47°33'30" A DISTANCE OF 83.01 FEET; THENCE SOUTH 27°06'30" EAST 24.75 FEET; THENCE NORTH 41°33'00" EAST 90.18 FEET TO AN INTERSECTION WITH THE SOUTHWESTERLY RIGHT OF WAY LINE OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY; THENCE SOUTHEASTERLY ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE ALONG THE ARC OF A 1407.70 FOOT RADIUS CURVE CONCAVE SOUTHWESTERLY THROUGH AN ANGLE OF 12°19'36" A DISTANCE OF 302.35 FEET; THENCE SOUTH 36°14'20" WEST 49.49 FEET; THENCE SOUTH 43°45'50" EAST 25.65 FEET; THENCE SOUTH 46°02'40" WEST 174.00 FEET TO AN INTERSECTION WITH THE CENTER LINE OF SAN DIEGUITO DRIVE AS SHOWN ON COUNTY ROAD SURVEY NO. 923 ACCORDING TO THE MAP THEREOF ON FILE IN THE OFFICE OF THE SURVEYOR OF SAID SAN DIEGO COUNTY; THENCE NORTH 43°57'20" WEST ALONG SAID CENTER LINE 75.00 FEET; THENCE NORTH 46°02'40" EAST 215.00 FEET MORE OR LESS TO AN INTERSECTION WITH THE SOUTHWESTERLY LINE OF SAID RAILWAY COMPANY'S RIGHT OF WAY; THENCE NORTHWESTERLY ALONG SAID SOUTHWESTERLY LINE 72.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTHWESTERLY ALONG SAID SOUTHWESTERLY LINE 72.00 FEET; THENCE SOUTH 46°02'40" WEST 176.00 FEET MORE OR LESS CENTER LINE OF SAID SAN DIEGUITO DRIVE; THENCE SOUTHEASTERLY ALONG SAID CENTER LINE TO AN INTERSECTION WITH A LINE BEARING SOUTH 46°02'40" WEST FROM THE TRUE POINT OF BEGINNING; THENCE NORTH 46°02'40" EAST ALONG SAID LINE 200.00 FEET MORE OR LESS TO THE TRUE POINT OF BEGINNING.

PARCEL B:

THAT PORTION OF LOT 828 OF ARDEN HEIGHTS NO. 6 IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF NO. 1592 FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JULY 18, 1913, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWESTERLY CORNER OF LOT NO. 832 OF ARDEN HEIGHTS NO. 6; THENCE ALONG THE NORTHERLY LINE OF GRAND AVENUE, SOUTH 74°40'00" EAST A DISTANCE OF 59.06 FEET TO THE BEGINNING OF A CURVE; THENCE ALONG THE SOUTHWESTERLY LINE OF THAT PORTION OF GRAND AVENUE AS CLOSED BY ORDER OF THE BOARD OF SUPERVISORS MAY 29, 1933, FOLLOWING THE ARC OF SAID CURVE, WHICH IS CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 100.00 FEET AND A RADIAL BEARING OF SOUTH 15°20'00" WEST THROUGH A CENTRAL ANGLE OF 47°33'30" A DISTANCE OF 83.01 FEET; THENCE SOUTH 27°06'30" EAST 24.75 FEET; THENCE NORTH 41°33'00" EAST 90.18 FEET TO AN INTERSECTION WITH THE SOUTHWESTERLY RIGHT OF WAY LINE OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY; THENCE SOUTHEASTERLY ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE ALONG THE ARC OF A 1407.70 FOOT RADIUS CURVE CONCAVE SOUTHWESTERLY THROUGH AN ANGLE OF 12°19'36" A DISTANCE OF 302.35 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 36°14'20" WEST 49.49 FEET ; THENCE SOUTH 43°45'50" EAST 25.65 FEET; THENCE SOUTH 46°02'40'WEST 174.00 FEET TO AN INTERSECTION WITH THE CENTER LINE OF SAN DIEGUITO DRIVE AS SHOWN ON COUNTYROAD SURVEY NO. 923, ACCORDING TO THE MAP THEREOF ON FILE IN THE OFFICE OF THE SURVEYOR OF SAID SAN DIEGO COUNTY, THENCE NORTH 43°57'20"WEST ALONG SAID CENTER LINE 75.00 FEET; THENCE NORTH 46°02'40" EAST 215.00 FEET MORE OR LESS TO AN INTERSECTION WITH THE SOUTHWESTERLY LINE OF SAID RAILWAY COMPANY'S RIGHT OF WAY; THENCE SOUTHEASTERLY ALONG SAID SOUTHWESTERLY LINE 45.00 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL C:

THAT PORTION OF LOT 828 OF ARDEN HEIGHTS NO. 6 IN THE CITY OF DEL MAR, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF NO. 1592, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO, JULY 18, 1913, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWESTERLY CORNER OF LOT NO. 832 OF ARDEN HEIGHTS NO. 6; THENCE ALONG THE NORTHERLY LINE OF GRAND AVENUE, SOUTH 74°40'00" EAST A DISTANCE OF 59.06 FEET TO THE BEGINNING OF A CURVE; THENCE ALONG THE SOUTHWESTERLY LINE OF THAT PORTION OF GRAND AVENUE AS CLOSED BY ORDER OF THE BOARD OF SUPERVISORS MAY 29, 1933, FOLLOWING THE ARC OF SAID CURVE, WHICH IS CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 100.00 FEET AND A RADIAL BEARING OF SOUTH 15°20'00" WEST THROUGH A CENTRAL ANGLE OF 47°33'30" A DISTANCE OF 83.01 FEET; THENCE SOUTH 27°06'30" EAST 24.75 FEET; THENCE NORTH 41°33'00" EAST 90.18 FEET TO AN INTERSECTION WITH THE SOUTHWESTERLY RIGHT OF WAY LINE OF THE ATCHISON, TOPEKA AND
SANTA FE RAILWAY COMPANY; THENCE SOUTHEASTERLY ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE, ALONG THE ARC OF A 1407.70 FOOT RADIUS CURVE CONCAVE SOUTHWESTERLY THROUGH AN ANGLE OF 12°19'36" A DISTANCE OF 302.35 FEET; THENCE SOUTH 36°14'20" WEST 49.49 FEET; THENCE

SOUTH 43°45'50" EAST 25.65 FEET; THENCE SOUTH 46°02'40" WEST 174.00 FEET TO AN INTERSECTION WITH THE CENTER LINE OF SAN DIEGUITO DRIVE AS SHOWN ON COUNTY ROAD SURVEY NO. 923, ACCORDING TO THE MAP THEREOF ON FILE IN THE OFFICE OF THE SURVEYOR OF SAID SAN DIEGO COUNTY; THENCE NORTH 43°57'20" WEST ALONG SAID CENTER LINE 75.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 46°02'40" EAST 215.00 FEET MORE OR LESS TO AN INTERSECTION WITH THE SOUTHWESTERLY LINE OF SAID RAILWAY COMPANY'S RIGHT OF WAY; THENCE NORTHWESTERLY ALONG SAID SOUTHWESTERLY LINE 72.00 FEET; THENCE SOUTH 46°02'40" WEST 200.00 FEET MORE OR LESS TO THE CENTER LINE OF SAID SAN DIEGUITO DRIVE; THENCE SOUTH 43°57'20" EAST ALONG SAID CENTER LINE 70.00 FEET MORE OR LESS TO THE TRUE POINT OF BEGINNING.

PARCEL D:

THAT PORTION OF LOT 828 OF ARDEN HEIGHTS NO. 6 IN THE CITY OF DEL MAR, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF NO. 1592 FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID SAN DIEGO COUNTY, JULY 18, 1913, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWESTERLY CORNER OF LOT 832 OF SAID ARDEN HEIGHTS NO. 6; THENCE ALONG THE NORTHERLY LINE OF GRAND AVENUE SOUTH 74°40'00" EAST 59.06 FEET TO THE BEGINNING OF A CURVE; THENCE ALONG THE SOUTHWESTERLY LINE OF THAT PORTION OF GRAND AVENUE AS CLOSED BY ORDER OF THE BOARD OF SUPERVISORS MAY 29, 1933, FOLLOWING THE ARC OF SAID CURVE WHICH IS CONCAVE TO THE SOUTHWEST AND HAS A RADIUS OF 100.00 FEET AND A RADIAL BEARING OF SOUTH 15°20'00" WEST THROUGH A CENTRAL ANGLE OF 47°33'30" A DISTANCE OF 83.01 FEET; THENCE SOUTH 27°06'30" EAST 24.75 FEET; THENCE NORTH 41°33'00" EAST 90.18 FEET TO A POINT HEREINAFTER KNOWN AS POINT "A"; BEING ON THE SOUTHWESTERLY RIGHT OF WAY LINE OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY; THENCE SOUTHEASTERLY ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE ALONG THE ARC OF A 1407.70 FOOT RADIUS CURVE CONCAVE SOUTHWESTERLY THROUGH AN ANGLE OF 12°19'36" A DISTANCE OF 302.35 FEET; THENCE SOUTH 36°14'20" WEST 49.49 FEET; THENCE SOUTH 43°45'50" EAST 25.65 FEET; THENCE SOUTH 46°02'40" WEST 174.00 FEET TO AN INTERSECTION WITH THE CENTER LINE OF SAN DIEGUITO DRIVE AS SHOWN ON COUNTY ROAD SURVEY NO 923 ACCORDING TO THE MAP THEREOF ON FILE ON THE OFFICE OF THE SURVEYOR OF SAID SAN DIEGO COUNTY; THENCE NORTH 43°57'20" WEST ALONG SAID CENTER LINE 75.00 FEET; THENCE NORTH 46°02'40" EAST 215.00 FEET MORE OR LESS TO AN INTERSECTION WITH THE SOUTHWESTERLY LINE OF SAID RAILWAY COMPANY'S RIGHT OF WAY; THENCE NORTHWESTERLY ALONG SAID SOUTHWESTERLY LINE, 144.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTHWESTERLY ALONG SAID SOUTHWESTERLY LINE TO THE AFOREMENTIONED POINT "A"; THENCE SOUTH 41°33'00" WEST 90.18 FEET; THENCE SOUTH 62°47'30" WEST 20.00 FEET TO THE CENTER LINE OF SAID SAN DIEGUITO DRIVE; THENCE
SOUTHEASTERLY ALONG SAID CENTER LINE TO AN INTERSECTION WITH A LINE BEARING SOUTH 46°02"40" WEST FROM THE TRUE POINT OF BEGINNING; THENCE NORTH 46°02'40" EAST ALONG SAID LINE 176.00 FEET MORE OR LESS TO THE TRUE POINT OF BEGINNING.

EXHIBIT B

TO COVENANT REGARDING REAL PROPERTY
SHARED USE PARKING PERMIT NO. P15-001

DUTIES AND OBLIGATIONS OF PROPERTY OWNER

The property owners and all successors in interest of PROPERTY shall provide a minimum of thirty-seven (37) parking spaces for the exclusive use by restaurant/bar, partially shared from other tenants as follows:

1) Shared parking spaces shall be provided anytime the restaurant/bar operates more than 900 square feet of service area, at a ratio of 1 parking space per 90 square feet of service area (kitchen included). At full operation (3,060 square feet of service area), thirty-seven (37) total parking spaces shall be provided as such:
    a. As conditionally approved by the Planning Commission at their October 13, 2015 meeting, the Shared Use Parking Permit was approved with the following:
        i. The restaurant/bar is to have thirteen (13) dedicated parking spaces within the existing parking lot which is adequate for the operation of their 1,477 square foot manufacturing space and 900 square foot service area (tasting room) with hours of operation prior to 6pm Monday thru Friday.
        ii. The restaurant/bar is required to have 37 total parking spaces in order to operate with a 1,477 square foot manufacturing area and a 3,060 service area, with hours of operation beginning after 6pm Monday thru Friday and on weekends. The twenty-four (24) shared parking spaces have been proposed from other businesses on the property which have operational hours ending prior to 6pm as follows:
            1. Del Mar Blue Print, 7a.m.-5p.m. Monday-Friday. Ten (10) of their thirteen (13) spaces are available for use after 5pm.
            2. Del Mar Automotive, 7a.m.-5p.m.Monday to Friday, Their six (6) spaces are available after 5p.m.
            3. Riverpath Chiropractic, 7a.m. to 5p.m.

2) Shared parking spaces shall be provided from other tenants on the site, who may not be in operation when the spaces are being used by the restaurant/bar.

3) No substantial overlap may occur between the principal operating hours of other tenants and the restaurant/bar. "No substantial overlap" shall mean that, on a daily basis, there will be at least one hour between the time of closing of one use and the opening of the restaurant/bar. This does not apply to normal support services such as cleaning and maintenance operations.

4) Not more than 66% of the required off-street parking spaces for a use or activity will be satisfied through the use of this Shared Parking Permit

5) Parking spaces to be used for Shared Use Parking will be unencumbered for any uses or activities other than those for which the Shared Use Parking Permit is proposed;

6) All Shared Use Parking spaces shall meet the location, design, and layout requirements for off-street parking required in DMMC Chapter 30.80

OWNER understands and agrees that any variation to the Shared Use Parking Permit will terminate OWNER'S rights under this covenant, unless CITY'S written approval is first obtained.

OWNER agrees to provide 30 days written notice to the CITY in advance of any change in OWNER'S entitlements under the Shared Use Parking Permit.

PROJECT DATA

EXISTING BUILDING

JURISDICTION:	CITY OF DEL MAR
ZONING	NC
COMMUNITY PLAN USE	PUBLIC FACILITIES
CONSTRUCTION TYPE	TYPE V NON-RATED, NON SPRINKLERED
NUMBER OF STORIES	1
OCCUPANCY GROUP (S)	B
EXISTING USE	BUSINESS OFFICES

SITE INFORMATION

OWNER: TBR II KEVIN MC HUGH
2201 SAN DIEGUITO DR. DEL MAR CA 92014

PROJECT ADDRESS: 2201 SAN DIEGUITO DR. DEL MAR CA 92014

APN: 299-100-84

PARKING ANALYSIS

DM Automotive = 6 spaces

DM Blueprint = 13 spaces

Rose Tinting = 4 spaces

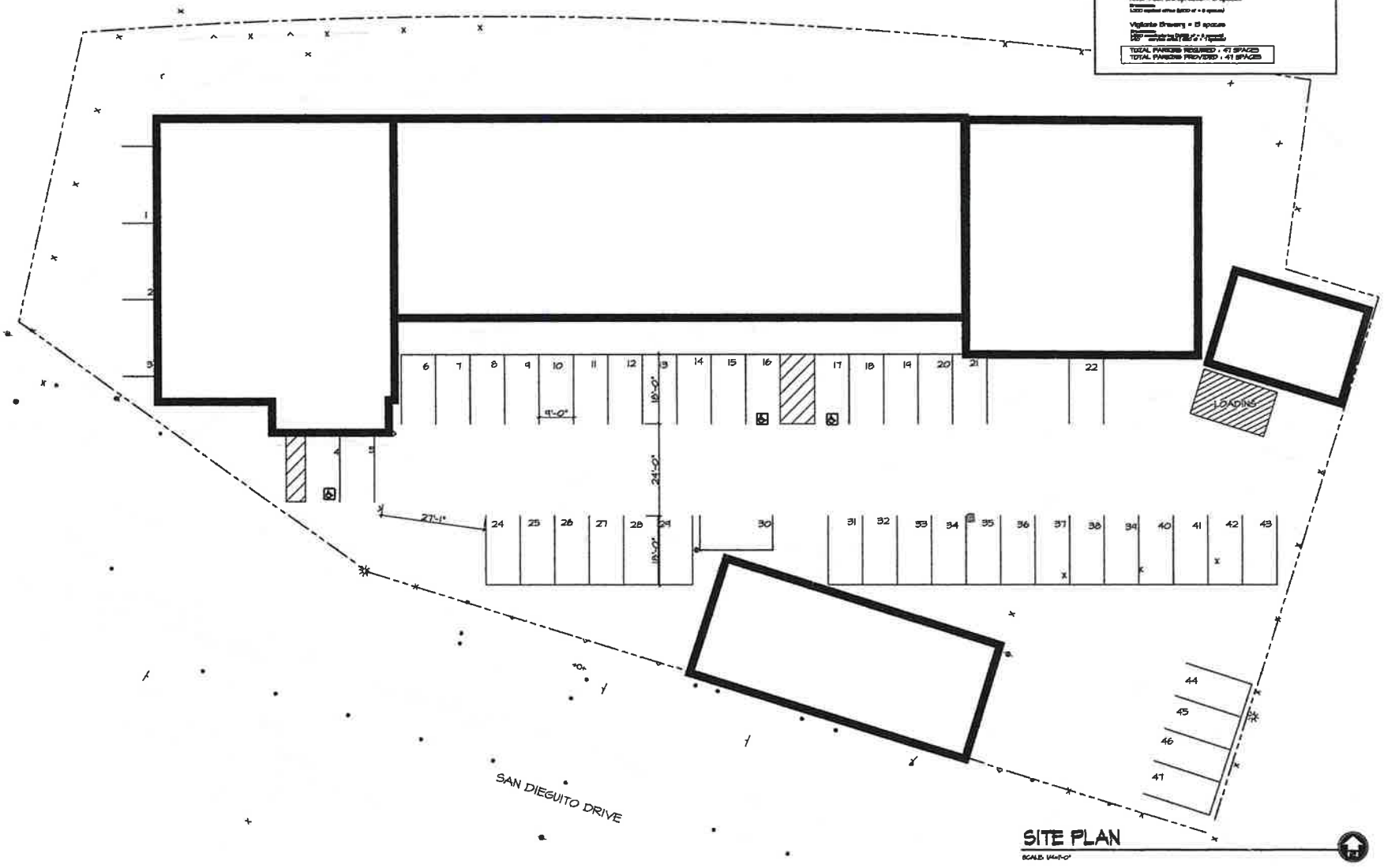
CO's = 2 spaces

Kevin's Office = 1 space

River Path Chiropractic = 5 spaces

Vigilante Brewery = 15 spaces

TOTAL PARKING REQUIRED = 47 SPACES
TOTAL PARKING PROVIDED = 41 SPACES



SITE PLAN
SCALE: 1/64"=1'-0"

marks architects

architecture
interior design
retail
restaurants
space planning
master planning
land consultant
coop

3243 fourth ave.
san diego ca 92103
619-795-9448

71985 hwy 111 #1
rancho mirage ca 92270
760-610-8364

VIGILANTE BREWING COMPANY
2201 SAN DIEGUITO DR, DEL MAR CA

REVISIONS	DATE
PLANNING SUBMITTAL	
BUILDING DEPARTMENT SUBMITTAL	

LICENSED ARCHITECT
GRANT A. MARKS
STATE OF CALIFORNIA

www.marksarchitects.com
JOB NUMBER
2324
SHEET

PLAN
A0.1

EXHIBIT D

RESOLUTION NO. PC-2024-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DEL MAR, APPROVING A CONDITIONAL USE PERMIT AND COASTAL DEVELOPMENT PERMIT TO OPERATE A VALET PARKING PROGRAM IN CONJUNCTION WITH AN EXISTING BREWERY/RESTAURANT (VIEWPOINT BREWERY); AND RESCISSION OF EXISITING SHARED PARKING PERMIT P15-001 FOR PARKING ASSOCIATED WITH VIEWPOINT BREWERY AND RESTAURANT, LOCATED ON PROPERTY WITHIN THE NORTH COMMERCIAL ZONE AT 2201 SAN DIEGUITO DRIVE, DEL MAR, CALIFORNIA

APN: 299-100-34-00

WHEREAS, Charles Koll and Blue Water Valet Service ("Applicants") with authorization from 2201 DEL MAR LLC (" Property Owner"), filed an application for a Conditional Use Permit (CUP22-003) and Coastal Development Permit (CDP23-019) ("Project") to operate valet parking operation in conjunction with an existing brewery/restaurant (Viewpoint Brewery) and the recission of the existing Shared Parking Permit (P15-001) of the existing covenant for parking on property; and

WHEREAS, the Project constitutes a request as provided by Title 23 of the Del Mar Municipal Code (DMMC); and

WHEREAS, the Project is located at 2201 San Dieguito Drive (APN: 299-100-34-00) located within the North Commercial Zone and Lagoon Overlay Zone; and

WHEREAS, the Project is located in the Coastal Commission's Appeal Jurisdiction; and

WHEREAS, Viewpoint Brewery (previously referred to as Vigilante Brewing Company) was established in November 18, 2015, through the Design Review Board approval of Administrative Design Review (ADR15-046) for a tenant improvement to allow for the brewery and restaurant use and operation; and

WHEREAS, on October 13, 2015, the Planning Commission approved a Shared Parking Permit (P15-001) to allow onsite shared parking spaces to be used in conjunction with the brewery use; and

WHEREAS, exterior improvements for Viewpoint Brewery was approved in 2021, through the Design Review Board (DRB21-002) for the replacement of an existing outdoor patio and storage tank; and

WHEREAS, the City of Del Mar City Council adopted Ordinance Number 999 for a modified parking code that went into effect on October 18, 2023; and

WHEREAS, on July 9, 2024 the Planning Commission of the City of Del Mar held a duly noticed public hearing to review the referenced entitlements at which time all persons desiring to be heard were heard; and

WHEREAS, oral and written testimony was submitted and considered to include without limitation:

a. Plans submitted by the applicant.
b. Written information submitted with the application.
c. Staff Report, date July 9, 2024; and
d. Additional information submitted during the hearing.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Del Mar, that the project is listed among the classes of projects determined to have less than significant adverse effect on the environment and therefore, is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301(e) Existing Facilities; and

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Planning Commission of the City of Del Mar, that the approval of **CUP22-003** is based on the following findings:

1. The proposed project is located in the City's North Commercial (NC) Zone and Lagoon Overlay Zone. According to the City's Community Plan and Zoning Ordinance, the NC Zone is "designed to allow commercial activities that provide a service to the community." In the NC Zone, Valet Parking is a permitted use with the application and approval of a Conditional Use Permit. The existing businesses on the project site are established, compliant commercial uses and the proposed valet parking is compatible with the adjacent uses present on the property. The project site and existing tenant mix complies with the amount of parking required per DMMC 30.80. It is important to note that this application does not propose any new development, grading, or modifications to the existing building, its mixed-use commercial operations or the parking lot configuration. The valet parking would not be utilized until after 5 pm on weekdays (normal operational hours of the other businesses on the site) and all-day on weekends when the rest of the commercial center is not in operation. The valet parking will help to facilitate the existing restaurant and brewery operations of Viewpoint Brewing and applies to all parking spaces onsite without self-parking allowed except at the Accessible parking spaces.

   Additionally, the regulatory framework governing valet parking is outlined in the DMMC and certified Local Coastal Program (LCP), Section 30.80.160. The proposed project adheres to these specified standards, ensuring compliance with the relevant regulations that are found in the Applicant's Letter of Operations (Exhibit B). In conclusion, the proposed use for valet parking to serve the existing brewery and restaurant is allowed within the NC Zone.

2. The granting of this Conditional Use Permit will not be detrimental to public health, safety, comfort, convenience, or general welfare. It will not adversely affect the established character of the surrounding neighborhood and will not be injurious to the property or improvements in the vicinity and zone where the property is located. The proposed valet parking would operate within the existing property lines and parking lot configuration, will be staffed and operated according to the Applicant's Letter of Operation, and would increase the parking functionality of the existing development to alleviate long standing parking issues in an area where on-street public parking is severely limited.

The operations of the project consider all of the following aspects required by the valet parking code:

a. Hours of operation;
b. The location for pick-up and drop-off of customer vehicles to occur;
c. The location of the off-street parking facilities where customer vehicles will be parked and stored;
d. Signage for the valet parking operation;
e. The number of required off-street parking spaces authorized by the permit where valet parking is being used as an equivalency for compliance;
f. Any conditions to ensure that valet parking operations will not interfere with required off-street parking;
g. Proof of general liability insurance and garage liability insurance; and
h. Copies of any executed agreements (between the valet parking operator and the business being served by the valet parking operator or between the valet parking operator and the property owner where vehicles will be parked and stored off-site) as necessary to demonstrate compliance with the Permit.

All such information has been provided by the applicants and reviewed by staff for conformance with the requirements of DMMC §30.80.160.

In addition, disabled patrons of Viewpoint Brewing may elect to self-park in accordance with Condition CUP-7.

3. The proposed use is properly located in relation to the community, other land uses, and transportation and service facilities in the vicinity. Furthermore, the valet parking use would integrate with the surrounding community and adjacent uses, benefiting from existing infrastructure, would not overburden public resources or street capacities, and can be adequately served by public facilities and street capacities without placing an undue burden on these systems. The use would operate within the existing fully developed property and would provide additional parking capacity for the operations of Viewpoint Brewery in an area where on-street public parking is severely limited.

4. The site is of sufficient size to accommodate the proposed use, including all required yards, open spaces, walls and fences, parking, loading, landscaping, and other necessary features. The property on which the valet parking would operate is fully developed with uses and an existing parking lot which complies with applicable DMMC regulations. The uses on the site are harmonious with nearby uses and have functioned without incident for decades. The City Engineers reviewed and confirmed that the configuration was adequate to meet the city standards to ensure adequate ingress and egress through the project site with the proposed valet service. The addition of valet parking will maintain this compatibility and will not create any conflicts with surrounding properties or uses, since there is no proposed overlap of valet use during the operational hours of the other commercial business on the site. The valet service will enhance parking efficiency and customer service, significantly improving the existing development's parking functionality. This will help address longstanding parking issues in an area with severely limited on-street public parking.

5. As conditioned, the granting of this Conditional Use Permit will not be contrary to, nor adversely affect any of the policies of the Del Mar Community Plan or any documents in effect to implement the Community Plan. The CUP application, and its associated materials have been reviewed and conditioned to ensure compliance with the applicable zoning ordinance regulations, adopted to implement the Community Plan, including those established for valet parking and in the Applicant's Letter of Operation.

   The site is located in the LCP's Lagoon Overlay Zone and while project site does not contain any identified wetland resources it is located near the wetlands of the San Dieguito Lagoon. The Lagoon Overlay Zone generally requires a 100-foot-wide setback between the edge of wetlands and new development. However, this project does not propose any new development to the site and the proposed valet parking will operate completely onsite in existing parking spaces. The parking lot is adjacent to and accessed from San Dieguito Drive and is located south of the existing multi-tenant building. Given the location of the parking area, the increased parking capacity that will occur through the implementation of valet parking would not have an adverse impact on the adjacent wetlands, as the existing parking lot fronts on San Dieguito Drive and the existing building is located between the parking lot and the San Dieguito Lagoon. There are no physical improvements with the proposed project.

AND BE IT FURTHER RESOLVED by the Planning Commission of the City of Del Mar, that the approval of **Coastal Development Permit CDP23-019** based on the following findings:

1. **That the use for which the Coastal Development Permit is applied is permitted within the zone in which the property is located.**

   Valet Parking is a permitted use within the North Commercial Zone, Lagoon Overlay Zone.

2. **That the proposal meets the criteria of the applicable chapters of this Title (Title 30-Zoning).**

   The proposed project, as designed and conditioned, meets the criteria of the applicable chapters of the Del Mar Zoning Code, specifically: Chapters 30.80 (Parking); 30.53 (Lagoon Overlay Zone); 30.74 (Conditional Use Permits); and 30.75 (Coastal Development Permits).

3. **That the granting of such Coastal Development Permit will be in conformity with the certified City of Del Mar Local Coastal Program (LCP)**.

   The Coastal Development Permit, as conditioned, is consistent with the certified City of Del Mar Local Coastal Program. The project site is located within a special overlay zone identified in the LCP, Lagoon Overlay Zone. The proposed use is permitted through the application and approval of a Conditional Use Permit and no physical development or expansion of facilities is proposed in this application.

4. **That for all development proposals located seaward of the first public roadway, the proposed development is consistent with and implements the applicable requirements for provision of public access contained in this Title (Title 30-Zoning). and in the public access and public recreation policies of Chapter 3 of the California Coastal Act**.

   The project is consistent with and implements the applicable requirements for provision of public access contained in the Del Mar Zoning Code and in the public access and public recreation policies of Chapter 3 of the California Coastal Act. The project is identified as appealable to the California Coastal Commission based pursuant to the City's Post LCP-Certification and Appeal Jurisdiction Map. Adequate public coastal access is available adjacent to the project site via the Del Mar River Path public trail that can be accessed to the north and south of the site. Further, the valet parking program would improve public coastal access because it would create additional on-site parking capacity on the subject commercial site, therefore reducing impacts on the existing City parking lot created for the San Dieguito Lagoon trail access and the (separate) parking area for the Grand Avenue Bridge coastal overlook.

5. **That for all development proposals involving the construction or placement of a shoreline protection device, that the proposed development is consistent with and implements the applicable requirements of the Beach Overlay Zone and Setback Seawall Zone provisions contained in this Title and is consistent with and implements the provisions of the Chapter Three Policies of California Coastal Act.**

   The Project is not located within the shoreline.

6. **That the proposal is consistent with and implements the provisions of public view protection Policies IV-22 through IV-27 of the City of Del Mar LCP Land Use Plan.**

   The proposed valet parking use is consistent with and implements the provisions of public view protection policies of the City of Del Mar Local Coastal Program, including those of the LCP Land Use Plan Since no physical development or expansion to the existing structures on the project site is proposed.

7. **That for all development proposals on sites with identified wetland resources, that the proposed development is consistent with and implements the provisions of the Lagoon Overlay Zone as contained within the City of Del Mar Local Coastal Program Implementing Ordinances and Land Use Plan.**

   The proposed valet parking use is consistent with and implements the provisions of the Lagoon Overlay Zone as contained within the City of Del Mar Local Coastal Program Implementing Ordinances and Land Use Plan**.** No physical development or expansion to the existing structures on the project site to accommodate the proposed valet parking use are proposed and the parking spaces to be used for increased parking capacity are outside of the required wetland buffer.

AND BE IT FURTHER RESOLVED by the Planning Commission of the City of Del Mar that Shared Parking Permit P15-001 is no longer required for legal operation of the Applicant's commercial business at 2201 San Dieguito Drive and is hereby rescinded.

AND BE IT FURTHER RESOLVED by the Planning Commission of the City of Del Mar that the approval of **CUP23-001** and **CDP23-011** shall be subject to the following conditions:

GENERAL CONDITIONS

[Note: The conditions listed below may have gaps in numbering or lettering. These gaps are intentional.]

G-1 *[Business License]*
Prior to commencement of any work on site, all contractors and subcontractors shall obtain a valid City of Del Mar Business License. The general contractor shall be responsible for ensuring that all subcontractors obtain required Business License and shall retain copies of said permits on site for verification by City staff.

G-3 *[Development authorization limited to plan set]*
This permit is granted based on submitted plans dated June 20, 2024, and so identified by the staff of the Del Mar Planning and Community Development Department. Revisions to these plans and/or any proposals for modification shall require review and prior authorization from the appropriate entities of the City of Del Mar.

G-5 *[Requirement for Building Permits]*
Prior to commencement of work, the applicant or agent shall obtain all required Building Permits.

G-6 *[Construction and Demolition Waste Recycling Requirement]*
Owners and builders generating any construction and demolition debris on a project must comply with the minimum requirements regarding recycling or reuse for salvage set forth in the 2016 California Green Building Standards Code, Title 24, Part 11. This includes, but is not limited to, the submittal of a Construction Waste Management Plan and a minimum diversion of 65% of non-hazardous construction and demolition waste. Signage shall be posted on-site with information identifying materials to be diverted. All work associated with the project shall be done in conformance with the City of Del Mar's Mandatory Recycling Ordinance (No. 590).

G-7 *[Code compliance]*
Approval of this application shall not waive the requirement for compliance with the provisions of the Del Mar Municipal Code or other applicable City regulations in effect at the time of Building Permit issuance, unless specifically waived in this permit authorization.

G-13 *[Permit Expiration]*
This permit shall expire three (3) years from the date of approval, on July 9, 2027, unless valet operations have commenced and have been maintained in accordance with the operational standards included with approval of CUP22-003. Should the valet operations authorized by this permit cease for more than 180 consecutive days, a new Conditional Use Permit must be obtained prior to any reinstatement of the valet service.

G-16 [*Compliance with City Noise Regulations]*
The applicant and all parties involved with implementation of the project shall comply with the regulations of the DMMC with regard to construction noise. The regulations stipulate that all construction activities are limited to the following periods: between 7:00 a.m. and 7:00 p.m./Monday through Friday and between 9:00 a.m. and 7:00 p.m. on Saturdays. Construction activities are prohibited during other hours and on Sundays and City Holidays. The City's Noise Ordinance, Chapter 9.20 of the Del Mar Municipal Code, includes the dates of City Holidays, and can be viewed on the City's web page (www.delmar.ca.us).

G-17 *[Dig Alert]*
Prior to excavation or trenching, the applicant shall call Underground Service Alert of Southern California (Dig Alert- 1-800-227-2600) for a mark out of service utilities.

G-18 *[Rules for Construction-Related Signage]*
All construction-related signage posted at the project site shall comply with DMMC Chapter 30.84 (Signs). The pertinent sections of the Sign Chapter allow installation of a total of 5.5 square feet of temporary signage on a residential property (that is cumulative of all signs posted). Such signs may be posted for a maximum of sixty (60) days in a calendar year.

The restrictions noted above do not apply to the Development Pending, Construction Noise Notice and Building Permit signs required by the City as part of the project review process.

All construction-related signage, including City required signs, shall be removed prior to final approval of the project.

FIRE CONDITIONS:

[Note: The conditions listed below may have gaps in numbering or lettering. These gaps are intentional.]

F-2 *[Access Road Minimum Dimensions]*
Fire apparatus access roads shall have an unobstructed improved width of not less than 20 feet; curb line to curb line, and an unobstructed vertical clearance of not less than 13 feet 6 inches.

SPECIAL CONDITIONS:

[Note: The conditions listed below may have gaps in numbering or lettering. These gaps are intentional.]

SC-1 *[Indemnification]*

To the fullest extent of the law, the permittee/owner shall defend (with attorneys approved by the City), indemnify and hold harmless the City of Del Mar, its Councilmembers, its Planning Commissioners, its agents, contractors, officers, and employees (the "indemnities") from any and all claims, damages, action, regulatory violations, citizen suits, or proceeding against the City or its agents, officers, or employees to attack, set aside, void, or annul an approval of the City, its advisory agencies, appeal boards, or legislative body concerning this approval or permit. The City will promptly notify the permittee/owner of any such claim, action, or proceeding against the City and will cooperate fully in the defense. Such indemnification obligations shall not apply where the claim is a direct result of an indemnity willful misconduct or gross negligence.

SC-2 *[Conditional Use Permits – Revocation/modification of Conditions]*

In the event that any of the conditions of this permit are not satisfied, the Planning Director shall set a public hearing before the Planning Commission to determine whether the CUP should be revoked. Additionally, upon showing of a compelling public necessity demonstrated at a noticed public hearing, the City of Del Mar, acting through the appropriate entity, may add, amend, or delete conditions of this permit.

S-9 [*Code Enforcement*]

The development authorized with this permit is part of an active Code Enforcement case. As part of the condition of approval, and to close the active code enforcement case, the applicant shall take all required steps to obtain a valid Building Permit for any parking space re-striping prior to the commencement, or continuation of work on this site. The applicant shall do so within 30 calendar days of the City's action approving all required discretionary permits for this project. Evidence of the receipt of the Building Permit shall be submitted to the Code Enforcement Official as proof of compliance. The applicant shall not commence any other development on the property until this condition has been satisfied.

S-10 [*Release of Covenant*]

Upon acceptance of the City and after the Applicant has received final inspection approval on all Building Permits required, a "Release of Covenant" shall be recorded with the County of San Diego. Such release shall be obtained for the release of the Shared Parking Permit (P15-001)

CONDITIONAL USE PERMIT CONDITIONS:

CUP-1 *[Operation limited to Letter of Operation]*

This permit is granted based on submitted Letter of Operations dated June 8, 2024, and so identified by the staff of the Del Mar Planning and Community Development Department. Revisions to these plans and/or any proposals for modification shall require review and prior authorization from the appropriate entities of the City of Del Mar.

CUP-2 *[Operating Hours Limited to Specified Times]*

This permit is granted based on the submitted operating hours as follows:

- Monday through Friday: 5:30 PM - 10:00 PM
- Saturday, Sunday, and Holidays: 11:30 AM - 10:00 PM

CUP-2A *[Operational Overlap]*

Valet Parking Operators shall ensure that these operating hours do not overlap with the normal operating hours of other tenant businesses. Revisions to these operating hours and/or any proposals for modification shall require review and prior authorization from the appropriate entities of the City of Del Mar.

CUP-3 *[Valet Fee Structure]*

The applicant, owner of business, property owner, and operators of the valet parking service shall adhere to the valet service fee set at $5.00. Valet Parking Operators shall seek review and obtain prior authorization from the appropriate entities of the City of Del Mar for any changes to the fee structure.

CUP-3A *[Fee- Free Valet Parking Services]*

The applicant, owner of business, property owner, and operators of the valet parking service shall adhere to Del Mar Municipal Code which prohibits the charging of a fee for parking in the first 30 minutes of business operations and the last 30 minutes of business operations.

CUP-4 *[Traffic Flow and Parking Management Plan]*

The applicant, owner of business, property owner, and operators of the valet parking service shall maintain traffic flow and prescribed in the approved Letter of Operations and Parking Management Plan, which includes:

- One-way traffic through the northwest entrance to the southwest exit
- Placement of directional signage for guiding customers
- Establishment of a drop-off/pick-up point and valet podium
- On-site attendants to ensure safe and efficient traffic flow
- Maintain 24-foot-wide drive aisle for circulation and emergency services
- Valet attendants holding keys for stack parking.

Valet Parking Operators shall seek review and prior authorization from the appropriate entities of the City of Del Mar for any revisions to this traffic flow and parking management plan and/or any proposals for modification.

CUP-5 *[Parking Capacity Plan]*

The applicant, owner of business, property owner, and operators of the valet parking service shall maintain usable parking spaces in the existing parking lot with a minimum of 60 parking spaces during non- valet parking operational hours.

CUP-6 *[Valet Parking Capacity Plan]*

The applicant, owner of business, property owner, and operators of the valet parking service shall adhere to the submitted parking capacity plan, which includes accommodating a total of 74 cars, including the use of stack parking to increase capacity by at most 14 cars. Valet Parking Operators shall seek review and prior authorization from the appropriate entities of the City of Del Mar for any revisions to this parking capacity plan and/or any proposals for modification.

CUP-7 *[Disabled Parking Accessibility]*

The applicant, owner of business, property owner, and operators of the valet parking service shall maintain all disabled parking spaces unchanged and available, allowing patrons the option to use valet service or park themselves without any disruption or fee.

CUP-8 *[Customer Service and Safety Standards]*

The applicant, owner of business, property owner, and operators of the valet parking service shall adhere to ensuring vehicle safety and monitoring by professional attendants and maintain comprehensive insurance coverage.

CUP-9 *[Letters of Acknowledge]*

The applicant, owner of business, property owner, and operators of the valet parking service shall maintain up to date the Letters of Acknowledge from the property owners and all adjacent tenants, including all new tenants.

CUP-10 *[Communication with City Staff]*

The applicant, owner of business, property owner, and operators of the valet parking service shall adhere to the understanding that valet operator's representatives will be available to address any questions from City Staff or the Planning Commission regarding operating procedures and safeguards. Valet Parking Operators shall seek review and prior authorization from the appropriate entities of the City of Del Mar for any changes to communication protocols.

PASSED AND ADOPTED by the Planning Commission of the City of Del Mar this 9th day of July, 2024 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____

Philip Posner, Chair
Planning Commission Chair
City of Del Mar, California

ATTEST:

_____

Karen Brindley
Director of Planning and Community Development
City of Del Mar, California

City of Del Mar
Staff Report

PLANNING COMMISSION
STAFF REPORT
July 9, 2024

APPLICATION: TVS24-001

APPLICANT:
Name: Stuart Anstis
Address: 111 11th Street
Del Mar, CA 92014
APN#: 300-094-03-00

TREE OWNER:
Name: Tom Harrington
Address: 107 11th Street
Del Mar, CA 92014
APN #: 300-094-02-00

ENVIRONMENTAL STATUS: The Planning Commission is being asked to evaluate the Applicants view blockage claim, under Del Mar Municipal Code Chapter 23.51 (Trees, Scenic Views, and Sunlight), and determine whether or not unreasonable view blockage has occurred from vegetation located on a neighboring property. This initial determination does not constitute a project under the California Environmental Quality Act (CEQA) and is not subject to analysis.

BACKGROUND

The Trees, Scenic Views and Sunlight Ordinance (TSVS) is set forth in the Del Mar Municipal Code (DMMC) Chapter 23.51 (Exhibit A) and provides a process by which property owners may seek City action to restore scenic views and/or sunlight access lost as a result of tree/vegetation growth on another property. The TSVS process includes several required criteria and procedures that must be followed before a binding determination of the City can be rendered. The intent of the process is to encourage all possible efforts at a private resolution to the dispute prior to City involvement in the matter. However, if unable to resolve a scenic view or sunlight obstruction issue after making reasonable efforts, including attempting mediation, a property owner (or legal occupant with written permission of the property owner) may submit a request (application) to have the matter heard by the Planning Commission.

Submitted TSVS applications are subject to a two-step process by which applicants are required to first demonstrate they have a pre-existing scenic view from a Primary Living Area (PLA) that has been unreasonably obstructed by tree growth on another property and that the obstructed scenic view is eligible for restorative action. If the first step is satisfied per the code, the second step involves City action to determine the appropriate action to reasonably restore the prior scenic view and/or sunlight access that was lost and adopt the required restorative action by Resolution. A

TSVS application is subject to Planning Commission decision and is appealable to the City Council.

TSVS Application:

On February 27, 2024, Stuart Anstis (Applicant) submitted a Trees, Scenic Views, and Sunlight application (TVS24-001, Exhibit B), asserting one (1) Chinese elm tree (*Ulmus parvifolia,* and referred to herein as "Elm Tree") located on the property at 107 11th Street had grown to unreasonably obstruct pre-existing scenic views from the Primary Living Area (PLA), a living room, of his residence located at 111 11th Street. A vicinity map, showing the location of the Applicants' residence and Tree Owner residence has been included as Exhibit C to this report. With the TSVS application materials, the Applicant also submitted documentation of correspondence, including an offer to engage in third party mediation, with the Tree Owner, prior and after the filing of their application, however the parties did not come to an agreement.

The Tree Owner at 107 11th Street was notified on March 21, 2024, of the filing of the TSVS application and that the application had been set for public hearing before the Planning Commission. In the time between the application submittal and setting the application for a public hearing, staff worked with the Applicant to acquire all required documentation per the DMMC. In preparation for the Planning Commission hearing, the Tree Owner submitted various materials and an arborist's Report regarding the Subject Elm Tree (Exhibit D).

ANALYSIS

As set forth in DMMC §23.51.030 (A), in order for an application to be eligible for review by the Planning Commission the following eligibility criteria must be met and verified by City staff:

1. **The Subject Tree(s) or vegetation are located within 300 feet of the Applicant's property.**

The Subject Tree is located to the west and within 300 feet of the Applicant's property at 107 11th Street. The attached location map (Exhibit E) shows the location of the tree and defines a 300-foot radius from the Applicant's home.

2. **The Applicant is seeking restoration of scenic views or sunlight that has been obstructed by tree(s) or vegetation since the time that the Applicant purchased or occupied the residence or within the last ten years, whichever is the shorter time period;**

Mr. Anstis has owned the residence at 111 11th Street since 1993. Mr. Anstis has provided undated photographic evidence into the record of a scenic, blue water, ocean view, and believes the photo was taken within the last ten years. Mr. Anstis asserts that this view was maintained until at least 2018.

Applicant's Request

The Applicant's residence is a two-story, single-unit home. As previously mentioned, the Applicant took ownership of the residence in 1993, so the establishment date for any scenic views observed and protected from the home's PLA in accordance with DMMC Chapter 23.51 would be from 2014 forward, as that is within the last 10 years of the application filing.

The TSVS application materials describe the proposed PLA, observed Scenic Views, and provides a history of claimed scenic view loss (Exhibit B). In these application materials, the Applicant asserts that the PLA of the residence is the living room, which is located on the second floor towards the northwest corner of the home. The portion of scenic view for which the Applicant is seeking restoration is observed in a northwesterly direction and is comprised of blue water and horizon/sky from the Pacific Ocean. Staff performed a search of City Records and did not find evidence of any other PLA being claimed by the Applicant.

Exhibit B of this report also includes materials to document the Applicant's attempt to resolve the view obstruction conflict with the current neighbors (including an offering to engage in mediation), and expressed that previous owner, The Sturgis Family, kept the tree trimmed to maintain the Applicant's scenic view during their occupancy of the home. According to the Applicant, there is one elm tree causing the alleged view obstruction. The elm tree is located approximately 5 feet west of the common boundary separating the two properties. The height and width of the tree was not provided by the Applicant, Arborist Report, or the Tree Owner.

Tree Owner's Response

The Tree Owner's property (107 11th Street) includes a two-story main residence and attached accessory dwelling unit on an approximately 8,000 square-foot lot located in the High Density Mixed residential (R2) zone. The combined residences are located at the far southern portion of the lot. There are several trees and other vegetation on the property, north of the structure, however, the TSVS application is limited to the elm tree noted earlier.

Upon receiving notification that a TSVS application had been submitted to the City, the Tree Owner provided a response to the application and Applicants' claims (Exhibit D) stating that the elm tree provides privacy into the yard, and stated the Applicant provided photo of an unobstructed view was take during a season which the elm tree was bare of leaves. Additionally, the tree owner reported that the elm tree has been trimmed three times since 2021, and he removed a pine tree that can be seen in the unobstructed view to improve the Applicants view, but that the Applicant never had an unobstructed view of the coastline.

The Tree Owner provided an Arborist Report, included in Exhibit D, and states that structural trimming to the extent the Applicant is requesting to restore their views would be detrimental to the tree. The arborist report states that "removal of any significant portion of the uppermost tree canopy is likely to expose structurally critical trunk issue to risk of sunburn and dieback," and that the height of the elm tree is naturally limited by the salty spray carried from the ocean by the

prevailing breeze. The arborist report recommends pruning be limited to structural pruning and reserved at the lowest level of material removal required to satisfy pruning objectives.

PLANNING COMMISSION ACTION - FINDINGS REQUIRED (STEP ONE)

The decision-making procedure for TSVS applications is a two-step process. The first step is for the Planning Commission to establish whether the two findings required by DMMC § 23.51.050 can be made. The two required findings are as follows:

1. **DMMC §23.51.050 (A):**
   That the Applicant has contacted the Subject Tree owner and has made reasonable efforts to resolve the dispute as set forth in DMMC Subsection 23.51.040 (B). Proof of the Applicant's effort shall include documented attempts (registered mail, etc.) to reach and confer with the Subject Tree owner, and documentation supporting efforts to mediate the dispute.

The Applicant submitted evidence they have been in contact with the Tree Owner multiple times in an attempt to resolve this dispute without City involvement, including proposing third-party mediation. Based on information submitted into the record by the Applicant, it was determined that the application has been "filed" in accordance with DMMC §23.51.040 (B), and pursuant to DMMC §23.51.040 (C), is now before the Planning Commission for consideration. Based on the information submitted, staff recommends that the above-cited finding can be made.

2. **DMMC §23.51.050 (B):**
   That the Scenic View from or the Sunlight reaching the real property of the Applicant is unreasonably obstructed and the manner in which the Scenic View and/or Sunlight is obstructed.

In order for the Commission to make this finding, the following facts must first be established:

2a. The Planning Commission will first need to establish if the view blockage being claimed is indeed a "Scenic View" and if the PLA from which the view is observed is qualifies under the definition of "Primary Living Area." As defined by DMMC §23.51.020 M, a "Scenic View" includes "a view of the ocean, lagoons, canyons, the community and its landscapes and urban forest character, or other scenic vistas, from the Primary Living Area of a residence." A "Primary Living Area" is defined by DMMC §23.51.020(J) as "that (single) portion of a residence from which a Scenic View is observed most often by the occupants and guests at the residence. The determination of Primary Living Area is to be made on a case-by-case basis and shall be consistent with any prior determinations made by the City." Staff is not aware of any prior determinations regarding the establishment of the PLA for 111 11th Street.

As stated in the application materials for TSVS24-001 (Exhibit B), the Applicant states the PLA of the home is the living room located on the northwest corner of the residence. It is staff's observation that the majority of what is visible from the PLA is the Subject Elm Tree and the amount of blue water ocean depicted in the photograph of an obstructed view, un-dated, has been reduced.

2b. If the Planning Commission is able to make a determination that the obstructed view in question is a "Scenic View," from the PLA of the residence, the Planning Commission must next establish if this view is being "unreasonably obstructed" by the Subject Elm Tree located at 107 11th Street using the criteria listed under DMMC § 23.51.050(B) (Exhibit A). This Code Section lists seventeen factors for the Commission to consider when determining if view obstruction from vegetation is "unreasonable." While not all seventeen factors listed in the above-cited Code are necessarily applicable, staff recommends the Planning Commission review the application with specific attention to the following factors and the staff comments provided:

1. **The extent of alleged Scenic View obstruction, expressed as a percentage of the total Scenic View, and calculated by means of a surveyor's transit or by photographs or both:**
   Based on the photos taken from the primary living area, of the entire view, it appears that the majority of the scenic view is taken from the alleged obstruction of the west facing window, as well as the majority of the blue water/Pacific Ocean view.

2. **Documentable evidence that demonstrates the Scenic Views and/or Sunlight that existed at the time the Applicant purchased or began occupying a property, or in the last ten years, whichever is shorter;**
   The Applicant did submit photo evidence that demonstrates a partial scenic view existed and stated that the photo was taken within the last 10 years, which is the shorter of the two criteria. Evidence to confirm the date at which the photo was taken was not provided.

3. **The quality of the pre-existing Scenic View(s) and/or Sunlight being obstructed;**
   The Applicant is seeking to preserve/restore a blue-water view of the Pacific Ocean and horizon, which is considered to be a high-quality view.

4. **That the implementation of a Restorative Action will not create an unreasonable infringement of the Subject Tree owner's privacy that could not be mitigated;**
   It does not appear that the trimming of the Subject Elm Tree would create an unreasonable infringement on the Tree Owner's privacy, as there would still be additional vegetation and fencing separating the Tree Owner's property from neighboring property at 107 11th Street. The lot's dwelling units are located further to the south, leaving the northern portion of the R2, which is capable of supporting an additional primary dwelling unit by Code, open and visible from the public right-of-way (11th Street).

6. **The extent to which the Subject Tree causes shadows or reduces air circulation and/or light;**
   According to the Applicant, the Subject Elm Tree causes shadows that prevent the main living space from receiving afternoon sun.

8. **The variety of Subject Tree, its projected rate of growth and maintenance requirements;**

According to Sunset's Western Garden Book, Chinese elm trees are fast growing trees, reaching 40 to 60 feet tall, that require thinning in their older years to lessen chance of storm damage. However, the arborist report provided by the Tree Owner, states that the subject Elm Tree's height is limited by the ocean spray carried by the breeze, and pruning should be limited to structural pruning and reserved at the lowest level of material removal required to satisfy pruning objectives. The reports specifies that removal of any significant portion of the uppermost tree canopy is likely to expose the trunk tissue to sunburn and dieback.

9. **The aesthetic quality of the Subject Tree, including but not limited to species characteristics, size, growth, form and vigor;**
   According to the Arborist's report, the elm tree appears to be in good health with no obvious structural defects.

10. **The extent to which the location of the Subject Tree with respect to overall appearance, design, or use benefits the Subject Tree owner's property;**
    It is unclear how long the elm tree has been located on the Tree Owner's property, but the Applicant stated that the prior Tree Owner had maintained the foliage adjacent to the primary living space from the time he purchased the property in 1993. According to the Tree owner, the elm tree provides privacy to the backyard.

12. **The extent to which privacy (visual and auditory) and wind screening is provided by the Subject Tree to the owner and to neighbors;**
    As previously mentioned, the Tree Owner stated that the elm tree provides privacy to the backyard. The Tree Owner did not specify if wind screening is provided.

13. **The extent to which energy conservation and/or climate control is provided by the Subject Tree;**
    The Tree Owner asserts that the Subject Elm Tree provides shading to the northeastern portion of their outdoor area.

14. **The extent to which wildlife habitat is provided by the Subject Tree;**
    Evidence of wildlife habitat was not provided by the Applicant, or arborist report, but the Tree Owner provided that the tree is used by birds.

15. **Whether the Subject Tree is a "Protected Tree", as defined herein and in Chapter 23.50 (Trees);**
    The subject vegetation is not a protected tree pursuant to DMMC § 23.50.020(E).

16. **The value of the Subject Tree to the community/neighborhood; and**
    As mentioned above, the subject vegetation is not a protected tree according to the DMMC, however, it is mature vegetation that is easily visible from public rights-of-way.

17. **Whether the Subject Tree is located on public right-of-way or City-owned property.**
    The elm tree is not located on public right-of-way or City-owned property.

RESTORATIVE ACTION (STEP TWO)

If the Planning Commission is able to make the required two findings pursuant to DMMC §23.51.050, the Commission would then need to determine the appropriate action pursuant to DMMC §23.51.070 to restore the Applicant's view so it can be reasonably maintained as documented. As a part of this decision the Commission will need to make two decisions:

1. The type of restorative action pursuant to DMMC §23.51.070(B) (Exhibit A)

2. Any additional written conditions including if ongoing maintenance is required and the time schedule (for example annual, bi-annual trimmings).

In the past, the Planning Commission has often utilized a subcommittee of the Planning Commission to assist in preparation of a recommended restorative action plan for consideration by the entire Planning Commission at a subsequent public hearing. If this is the direction the Planning Commission chooses to take for this application, then the appropriate action would be to appoint a two-Commissioner subcommittee following the vote on the above-cited findings, then continue the hearing to a future Planning Commission meeting.

It should be noted that only the restorative action would be discussed and acted on at the next meeting, as the determination of findings had already been made.

Once the Planning Commission has adopted a Resolution documenting its determination for restorative action, the entire action on the TSVS application is appealable to the City Council. The Applicants and Tree Owner would be subject to the procedures outlined in DMMC §23.51.080 for implementation of the final restorative action after the local appeal rights have been exhausted and the decision becomes effective.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission's review include consideration of the written and photographic evidence submitted by both parties and the personal observations made while visiting the subject properties, in order to determine if the required findings can be made.

If the Planning Commission decides that the findings cannot be made pursuant to DMMC §23.51.050, then the Commission would need to make findings for denial of TSVS22-001 for the record and no further action would be taken.

If the Planning Commission decides that both findings can be made pursuant to DMMC §23.51.050, then, as previously described, the Planning Commission should discuss what the appropriate restorative action may be and, if necessary, employ a subcommittee of the Commission to make a recommendation for action at a future public hearing.

Respectfully Submitted,

Monique Gil, Associate Planner

Exhibits

Exhibit A – DMMC Chapter 23.51
Exhibit B – TSVS22-001 Application Materials
Exhibit C – Vicinity Map
Exhibit D – Tree Owner Materials
Exhibit E – Tree Location Exhibit

Chapter 23.51

TREES, SCENIC VIEWS AND SUNLIGHT

23.51.010 Purpose. [Ord. 747, 780]

A. The City recognizes that Trees, Scenic Views and plentiful Sunlight contribute to the special character of Del Mar and to the overall quality of life enjoyed by residents, property owners, and visitors in Del Mar.

B. Trees, Vegetation, and other landscaping produce a wide variety of significant psychological and tangible benefits for residents, property owners, and visitors in Del Mar. Trees contribute to the economic value and comfortable enjoyment of the community, neighborhoods and individual properties. Trees provide aesthetic value as part of an urban forest, visual and auditory privacy, climate control, wind screening, soil stability, and wildlife habitat.

C. Scenic views, whether of the Pacific Ocean, nearby lagoons, canyons, the community and its landscapes and urban forest character, or other scenic vistas, produce a variety of significant and tangible benefits for residents, property owners and visitors. Scenic views provide inspiring vistas, encourage distinct and creative architecture, and contribute to the economic value and comfortable enjoyment of real property within the City of Del Mar.

D. Plentiful Sunlight provides an opportunity to utilize solar energy and contributes to the economic value and comfortable enjoyment of real property within the City of Del Mar.

E. The purpose of this chapter is to acknowledge the benefits derived from Trees, Scenic Views and plentiful Sunlight and to balance the goal of maintaining each of them when possible. This chapter also provides a process by which persons may seek to restore Scenic Views and/or Sunlight that has been unreasonably obstructed by the growth and/or installation of Trees and Vegetation.

23.51.020 Definitions. For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section: [Ord. 780]

A. "Applicant" shall mean any property owner (or legal occupant with written permission of the property owner) who alleges that Trees or Vegetation located on the property of another person unreasonably obstructs a pre-existing Scenic View or Sunlight and who has filed a [Trees, Scenic Views and Sunlight] Application with the City to restore said view or sunlight.

B. "Certified Arborist" shall mean Certified Arborist as that term is defined by the International Society of Arboriculture.

C. "Crown reduction/shaping" shall mean a method of comprehensive trimming that reduces a Tree's height and/or spread. Crown reduction entails the reduction of the top, sides or individual limbs of a Tree by removal of leaders or the longest portion of limbs to a lateral large enough to assume to terminal.

D. "Heading back" shall mean a pruning process where overall reduction of the mass of a Tree is achieved by modification to major limbs.

E. "Imminent Danger" shall mean the immediate risk to the health, safety or welfare of any person or real property, whether private or publicly owned.

F. "Lacing" shall mean a comprehensive method of trimming that systematically and sensitively removes excess portions of a Tree and improves the structure of the Tree.

G. "Mediation" shall mean a private, voluntary process in which an impartial and qualified third party facilitates communication between parties to a dispute to promote settlement.

H. "Obstruction" shall mean any substantial blocking or diminishment of Scenic Views and/or Sunlight that is attributable to the growth, improper maintenance or location of a Tree or Vegetation.

I. “Person” shall mean any individual, corporation, partnership, firm, or other legal entity (including the City of Del Mar), owning property or residing within the Del Mar City limits. [Ord. 780]

J. “Primary Living Area” shall mean that [single] portion of a residence from which a Scenic View is observed most often by the occupants and guests at the residence. The determination of Primary Living Area is to be made on a case-by case basis and shall be consistent with any prior determinations made by the City.

K. “Protected Tree” shall mean any of the following:

1. A Tree of the species *Cupressus macrocarpa* (Monterey Cypress),

2. A Tree of the species *Pinus torreyana* (Torrey Pine); or

3. A Tree of any species and located on property within the Central Commercial, Open Space Overlay zones of the City, within a public right-of-way, or on public or City-owned property.

4. Any Tree planted as a result of required mitigation for the removal of another Protected Tree. [Ord. 729]

L. “Restorative Action” shall mean any specific action required to resolve a dispute relating to the unreasonable obstruction of a pre-existing Scenic View or Sunlight.

M. “Scenic View” shall mean a view of the ocean, lagoons, canyons, the community and its landscapes and urban forest character, or other scenic vistas, from the Primary Living Area of a residence.

N. “Severe pruning” shall mean the cutting of branches and/or trunk of a Tree in a manner which substantially reduces the overall size of the Tree or destroys the existing symmetrical appearance, natural shape or health of the Tree and which results in the removal of main lateral branches leaving the trunk and branches of the Tree in a stub appearance. “Topping” and “Heading back” as defined herein are considered to be severe pruning.

O. “Site of Subject Tree” shall mean the property on which a Subject Tree is located.

P. “Subject Tree” shall mean a Tree for which a claim has been made by an Applicant regarding the unreasonable obstruction of a Scenic View or Sunlight.

Q. “Sunlight” shall mean the availability of direct or indirect Sunlight to the Primary Living Area or to the existing solar energy system of a residence.

R. “Thinning” shall mean the selective removal of entire branches from a Tree so as to improve visibility through the Tree and/or improve the Tree’s structural condition.

S. “Tree” shall mean any perennial plant growing on public or private property, having a self-supporting woody main stem or trunk with the potential to obstruct Scenic Views or Sunlight, including but not limited to Trees, shrubs, hedges, and bushes or any plant material planted or growing in a dense continuous line so as to form a thicket barrier or naturally grown fence. References to “Tree” shall include the plural.

T. “Tree Removal” shall mean the elimination of any Tree or plant from its present location.

U. “Topping” shall mean eliminating the upper portion of the trunk or main leader of a Tree. Topping is not recommended in almost all cases.

V. “Trimming” shall mean the selective removal of portions of branches from a Tree so as to modify the Tree shape or profile or otherwise alter the Tree’s appearance.

W. “Vegetation” shall mean all plant material, including but not limited to, those referenced in this section for the term “Tree”.

X. “Windowing” shall mean a form of thinning by which openings or “windows” are created to restore Scenic Views and/or Sunlight.

23.51.030 Rights Established.

A. A person shall have the right to seek restoration and preservation of Scenic Views or Sunlight that existed at the time they purchased or occupied a property or in the last ten years, whichever is shorter, when such Scenic Views from the Primary Living Area, or Sunlight available to the Primary Living Area or solar energy system of a residence, have subsequently been unreasonably obstructed by the growth of Trees or Vegetation located within the Del Mar City limits and 300 feet of the Applicant's property boundary.

B. In order to establish such rights pursuant to this Chapter, the Applicant shall follow the process established in this Chapter.

C. Any person whose Tree(s) is the subject of a Trees, Scenic Views and Sunlight application shall be granted the right to, under Applicant supervision, access the Applicant's Primary Living Area and personally view and/or document the alleged blockage and Scenic Views and/or Sunlight. By signing the Trees, Scenic Views and Sunlight application, the Applicant shall acknowledge and accept this right given to the Tree owner.

D. All persons are advised that the alteration and removal of certain Trees requires a permit under DMMC Chapter 23.50 (Trees). The applicability of DMMC Chapter 23.50 should be determined by the City prior to any action on Trees.

23.51.040 Procedure

A. Any person who desires to resolve a conflict between Trees, Scenic Views and Sunlight may submit an application to the Department of Planning and Community Development on a form approved by the Director.

B. The application shall be deemed to have been filed when:

1. The Director has determined that the application is complete, has been submitted in proper form and meets the criteria established in Section 23.51.030 A of this Chapter; and

2. The Applicant has submitted to the City the required fee, in an amount to be established by resolution of the City Council, to cover the administrative costs of processing the application; and

3. The Director has determined that the Applicant has contacted the Subject Tree owner and has made reasonable efforts, including documented efforts to engage in mediation, to resolve the dispute and that these efforts have not been successful.

C. The Director shall cause the application to be presented at a noticed public hearing conducted by the City of Del Mar Planning Commission. [Ord. 780]

D. Within ten (10) working days after the application has been deemed filed, City staff shall notify the Subject Tree owner, in writing, and provide the following:[Ord. 780]

1. A copy of the Trees, Scenic Views and Sunlight application;

2. A copy of DMMC Chapter 23.51;

3. A statement explaining that there is still time and an opportunity to resolve the matter by discussions between the Applicant and the Subject Tree owner prior to the scheduled public hearing;

4. Information about the mediation process, including a handout from the Del Mar Community Mediation Advisory Committee, and encouragement to use mediation. Additional informational materials associated with dispute resolution shall be distributed as they are made available; and

5. Notice that a written response to the application may be submitted for review by the Planning Commission prior to the hearing, the deadline for any such response, and the date and time of the hearing.

E. At least ten (10) days prior to the public hearing, notice shall be published and mailed to property owners of record of real property within 300 feet of both the Applicant’s property boundaries and of the site of the Subject Tree.

F. At the hearing, each party shall be allowed time to present evidence pertinent to the application/claim. The public shall also be given an opportunity to comment on the application. The Applicant shall not thereafter raise arguments that were not presented during the public hearing or in the written record.

G. The Planning Commission shall make a decision on the Application based on the criteria listed in Section 23.51.050 of this Chapter. An action approving an Application shall be set forth in a Resolution and accompanied by Conditions of Restorative Action that identify the specific manner in which the Subject Tree is to be trimmed, pruned, removed or otherwise altered in accordance with Section 23.51.070 of this Chapter. The Planning Commission's decision shall become final on the eleventh (11th) working day following such determination, unless the decision is appealed to the City Council in accordance with the provisions of this Code (Section 23.51.100). [Ord. 780]

H. The Conditions of Restorative Action and required term of maintenance (if deemed appropriate) imposed by the Planning Commission may be recorded in a covenant against the deed for the property on which the Subject Tree is located. If required, the covenant shall run with the land to help guarantee permanent preservation of pre-existing Scenic Views and/or Sunlight. [Ord. 780]

23.51.050 Standards for Determining Unreasonable Obstruction. Prior to rendering a decision in favor of the Applicant, the Planning Commission shall make the following findings of fact: [Ord. 780]

A. That the Applicant has contacted the Subject Tree owner and has made reasonable efforts to resolve the dispute as set forth in DMMC Section 23.51.040 B. Proof of the Applicant's efforts shall include documented attempts (registered mail, etc.) to reach and confer with the Subject Tree owner, and documentation supporting efforts to mediate the dispute; and

B. That the Scenic View from or the Sunlight reaching the real property of the Applicant is unreasonably obstructed and the manner in which the Scenic View and/or Sunlight is obstructed. In determining whether the Scenic

View from and/or Sunlight reaching the real property of the Applicant is unreasonably obstructed, the Planning Commission shall consider several factors, which include but are not limited to, the following: [Ord. 780]

1. The extent of alleged Scenic View obstruction, expressed as a percentage of the total Scenic View, and calculated by means of a surveyor's transit or by photographs or both:

2. Documentable evidence that demonstrates the Scenic Views and/or Sunlight that existed at the time the Applicant purchased or began occupying a property, or in the last ten years, whichever is shorter;

3. The quality of the pre-existing Scenic View(s) and/or Sunlight being obstructed;

4. That the implementation of a Restorative Action will not create an unreasonable infringement of the Subject Tree owner's privacy that could not be mitigated;

5. The extent to which the Subject Tree interferes with efficient operation of a Applicant's pre-existing solar energy systems;

6. The extent to which the Subject Tree causes shadows or reduces air circulation and/or light;

7. The extent to which the Applicant's Scenic Views and/or Sunlight has been diminished over time by factors other than Subject Tree growth;

8. The variety of Subject Tree, its projected rate of growth and maintenance requirements;

9. The aesthetic quality of the Subject Tree, including but not limited to species characteristics, size, growth, form and vigor;

10. The extent to which the location of the Subject Tree with respect to overall appearance, design, or use benefits the Subject Tree owner's property;

11. The extent to which soil stability is provided by the Subject Tree, considering soil structure, degree of slope and extent of the Subject Tree's root system per a report from a licensed soils engineer (if applicable);

12. The extent to which privacy (visual and auditory) and wind screening is provided by the Subject Tree to the owner and to neighbors;

13. The extent to which energy conservation and/or climate control is provided by the Subject Tree;

14. The extent to which wildlife habitat is provided by the Subject Tree;

15. Whether the Subject Tree is a "Protected Tree", as defined herein and in Chapter 23.50 (Trees);

16. The value of the Subject Tree to the community/neighborhood; and

17. Whether the Subject Tree is located on public right-of-way or City-owned property.

23.51.060 Criteria for Determining Appropriate Restorative Action. After it has been determined, through the hearing process, that unreasonable obstruction has occurred, then the following unweighted factors shall be considered in determining appropriate Restorative Action:

A. Any hazards posed by the Subject Tree to persons or structures on the property of the Applicant including, but not limited to, fire danger, as determined by a City Fire Official, and the danger of falling limbs or Trees, as determined by a Certified Arborist;

B. The variety of Subject Tree, its projected rate of growth and maintenance requirements;

C. The aesthetic quality of the Subject Tree, including but not limited to species characteristics, size, growth, form and vigor;

D. The location of the Subject Tree with respect to overall appearance, design, or use of the Subject Tree owner's property;

E. Soil stability provided by the Subject Tree considering soil structure, degree of slope and extent of the Subject Tree’s root system per a report from a licensed soils engineer;

F. Privacy (visual and auditory) and wind screening provided by the Subject Tree to the owner and to neighbors;

G. Energy conservation and or climate control provided by the Subject Tree;

H. Wildlife habitat provided by the Subject Tree;

I. Whether the Subject Tree is a “Protected Tree”, as defined herein and in Chapter 23.50 (Trees);

J. The value of the Subject Tree to the community/neighborhood; and

K. Whether the Subject Tree is located on public right-of-way or City-owned property.

23.51.070 Hierarchy of Restorative Actions

A. Restorative Action may include additional written conditions (including ongoing maintenance), and directions as to appropriate timing of such actions, and may be made to run with the land and apply to successors in interest. Where removal is required, replacement by appropriate species should be considered, but may not always be required.

B. View and/or Sunlight Restorative Actions must be consistent with all other provisions of this chapter. In cases where Trimming, Windowing, or other Restorative Action may affect the health of a Tree which is to be preserved, such actions should be carried out in accordance with standards established by the International Society of Arboriculture for use in the State of California. Severe pruning should be avoided due to the damage such practice causes a Tree’s form and health. Restorative Actions may include, but are not limited to the following, in order of preference:

1. Lacing: Lacing is the most preferred pruning technique that removes excess foliage and can improve the structure of the Tree.

2. Windowing: Windowing may be utilized where possible, if it does not adversely affect the Tree's growth pattern or health. Topping should not be done to accomplish windowing.

3. Crown reduction/shaping: Crown reduction/shaping is preferable to topping or Tree removal, if it is determined that the impact of crown reduction does not destroy the visual proportions of the Tree, adversely affect the Tree's growth pattern or health, or otherwise constitute a detriment to the Tree in question.

4. Heading back: Heading back is only to be permitted for Trees specifically planted and maintained as a hedge, espalier, bonsai or in pollard form and if Restorative Actions 1 through 3 of this section will not accomplish the determined restoration and the subsequent growth characteristics will not create a future obstruction of greater proportions.

5. Tree Removal: Tree removal may be considered when the above-mentioned Restorative Actions are judged to be ineffective and may be accompanied by replacement plantings of appropriate plant materials to restore the maximum level of benefits lost due to Tree removal. The City of Del Mar has designated certain Trees as "Protected Trees". Any alteration or removal of Protected Trees will require a permit from the City's Planning Director pursuant to DMMC Chapter 23.50.

6. Stand Thinning: The removal of a portion of the total number of Trees from a grove of Trees, without any replacement plantings.

23.51.080 Restorative Work and Allocation of Costs. When the Planning Commission has rendered a decision in favor of the Applicant, the following procedures shall be enacted: [Ord. 780]

A.

1. The Subject Tree owner shall submit to the Applicant and the City two (2) itemized estimates for

carrying out the Restorative Work required by the Resolution. The estimates shall be supplied by licensed landscape or licensed Tree service contractors, under the supervision of a Certified Arborist, acceptable to the City, within (30) days after the adoption of the Resolution.

2. Within fifteen (15) days of receiving the cost estimates, the Applicant shall deposit with the City an amount equal to the lower cost estimate. Failure of the Applicant to make the required deposit within 15 days will render the resolution of approval null and void. After the required deposit is received by the City, the Subject Tree owner will then, at her/his sole discretion, choose the company by which she/he wishes the work done, as found acceptable to the City, and shall order the work done within 30 days after receiving the Applicant’s deposit or such other period of time as the Planning Commission may determine to be reasonable and appropriate. If the Subject Tree owner does not have the work completed within the time period indicated by the Planning Commission or within 30 days, the City will order the work completed and charge the Subject Tree owner with any costs incurred above the estimate selected.

3. Upon completion of the work, the Subject Tree owner shall notify the City and shall submit a copy of an invoice showing that the work was performed. Upon submittal of the invoice and verification by City staff of the compliance, the City shall transmit the funds from the City deposit account to the Subject Tree owner. If the paid invoice submitted by the Subject Tree owner is for an amount less than the funds in the City's trust account, the Subject Tree owner shall only be transmitted an amount equal to the actual cost of the trimming. In such situations, the balance of the trust account shall be refunded back to the Applicant or applied to the Applicant's permit processing account, if that account contains a negative balance. If the paid invoice submitted by the Subject Tree owner is for an amount that exceeds the funds in the City's trust account, the Subject Tree owner shall only receive the funds from the City trust account, and the Subject Tree owner shall be responsible for paying the difference. If a Subject Tree owner chooses to do the required work himself/herself, then the Subject Tree

owner shall not be compensated from the City trust account and the amount in the trust account shall be refunded to the Applicant(s).

B. In the event that the Planning Commission or Council makes the determination that the Subject Tree constitutes a hazard to the safety of the Applicant or his/her property, and is being maintained by the Subject Tree owner in disregard for the safety of others, the Subject Tree owner shall: 1) cause appropriate corrective work to be performed within 30 days; 2) pay all costs for work performed; and 3) deposit with the City an amount equal to that expended by the Applicant as required by section 23.51.040 B2 of this Chapter and the fees shall be refunded to the Applicant.

23.51.090 Ongoing Maintenance. If ongoing maintenance is required as a condition of the Planning Commission's approval in favor of the Applicant, said maintenance work shall be performed according to the time schedule (annually, bi-annually, etc.) established by the Planning Commission. On each occasion that scheduled maintenance is to occur, the procedures indicated in section 23.51.080 shall apply. [Ord. 780]

23.51.100 Appeal. The decision of the Planning Commission may be appealed to the City Council pursuant to this Code. The provisions of Section 1094.6 of the California Code of Civil Procedure are applicable to judicial review of the City of Del Mar's decisions pursuant to this Chapter. [Ord.780]

23.51.110 Enforcement. The Subject Tree owner shall comply with any work prescribed by the Planning Commission or Council no later than ninety (90) days after final action on the Application, unless, it is determined that it is less harmful to the Subject Tree for the work to occur at a specific time of the year, in which case, the work shall be performed no later than ninety (90) days from a date set by the Planning Commission or Council. Thereafter, the continued maintenance (if required by Resolution) of the Subject Tree that is not in compliance with the final order prescribed by the Planning Commission or Council shall constitute a misdemeanor or infraction, punishable in accordance with the provisions of DMMC 1.08 and is declared a public nuisance which may be enjoined or abated as provided by law. [Ord. 780]

23.51.120 Limitations.

A. It is not the intent of the City in adopting this Chapter to affect obligations imposed by an existing easement or a valid pre-existing covenant or agreement.

B. Nothing in the Chapter shall deny private parties the right to seek remedial action for imminent danger caused by Trees.

City of Del Mar
Department of Planning and Community Development
1050 Camino del Mar
Del Mar, CA 92014

Phone: 858-755-9313 Fax: 858-755-2794
Hours: M-TH 1:00 pm – 5:30 pm
FRI 1:00 pm – 4:30 pm
www.delmar.ca.us

TSVS - _____ - _____

Submittal Date: _____ Planner: _____

Fees: PL: _____ GPF: _____ Noticing: _____

Receipt No.: _____

Trees, Scenic Views and Sunlight Application

APPLICANT:	
Applicant(s): Stuart Anstis	
Mailing Address: 111 11th St	
City / State: Del Mar CA	Zip: 92014
Phone No(s): 858 261 9157	
Email: sanstis@ucsd.edu	
Signature(s): Stuart Anstis 2/19/24	
OWNER (if not primary applicant listed above):	
Owner: Stuart Anstis	
Mailing Address: 111 11th St	
City / State: Del Mar CA 92014	Zip:
Phone No(s): 858 261 9157	
Email: sanstis@ucsd.edu	
Signature(s) (authorizing applicant to submit application): Stuart Anstis 2/19/24	
APPLICANT'S PROPERTY INFORMATION:	
Site Address: 111 11th St Del Mar CA 92014	
Mailing Address: same	
Assessor Parcel No.:	
TREE / VEGETATION – OWNER'S PROPERTY INFORMATION:	
Owners Name Tom Harrington	
Site Address: 101 11th St Del Mar CA 92014	
Mailing Address: same. Email: tomharrington44@gmail.com	
Assessor's Parcel Number:	
Zone: 80ft	Overlay Zone:
Approximate distance from the applicant's property: Lot adjacent. Foliage ~30ft House ~80ft	

The applicant shall complete the following information. No application will be deemed complete unless all sections are answered in full. Attach additional pages if necessary.

1. Describe the **Primary Living Area** of your residence. Describe the scenic view that is being obstructed and the specific tree/vegetation that is causing the obstruction. If the tree/vegetation is obstructing sunlight from reaching the Primary Living Area or solar energy system of the residence, please describe:

My primary living area is my living room with a large picture window approx 15ft wide x 3ft high, facing west towards the ocean. When I moved into my house in 1993, and for many years afterwards, I enjoyed an uninterrupted view of the ocean over the rooftops of my neighbor Myrna Sturgis, who lived at #101 The sunlight used to shine into my room from ~3pm (depending on the time of year) until sunset. But the foliage from my neighbor's trees now completely obscures the ocean view and blocks out the afternoon sunlight after ~3pm. My neighbor Thomas Harrington has persistently refused to cut down this foliage, despite at least three separate in-person requests over the years.

2. Explain the steps you have taken to resolve this matter with the tree/vegetation owner. Please provide documentation of these actions. [Note: Early neighbor consultation and attempts to resolve the problem using Mediation Services are required prior to any consideration by the Planning Commission.]

See Attachments #1 (narrative) and #2 (Supporting evidence from Emails) and #3 (3 photographs)

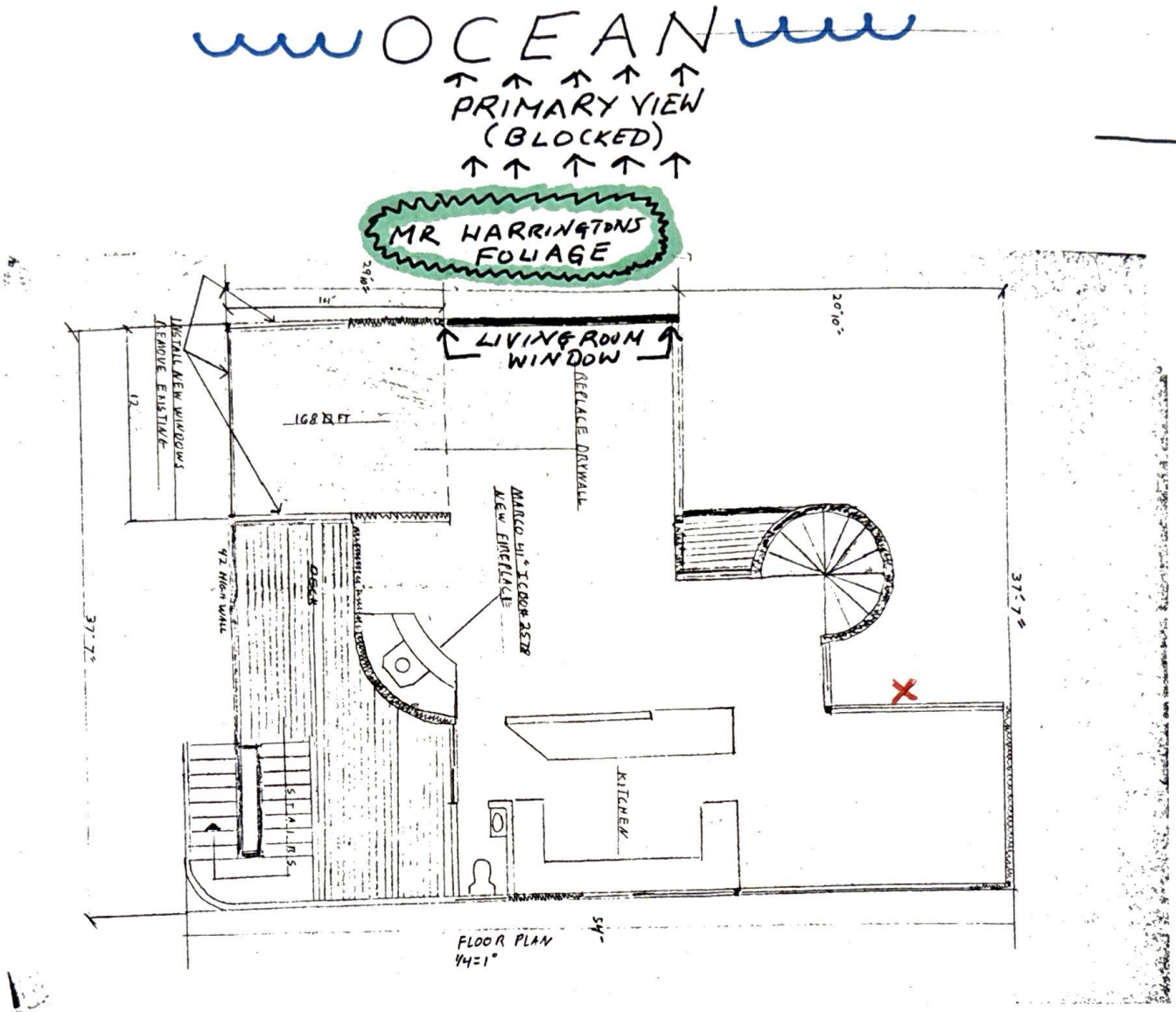
Photographs in Attachment#3 shows the previously unobstructed view of the ocean fomerly visible out of my window (Photograph 1) but now blocked by foliage (Photograph 2).

3. The Planning Commission will only consider applications regarding scenic views and/or sunlight access that existed at the time you purchased or occupied the subject property or in the last ten years, whichever is shorter. Please describe all (required) evidence you have submitted to document the date and extent of the <u>unobstructed</u> view or amount of sunlight reaching your Primary Living Area or solar energy system. Also, please provide evidence that documents the date of property purchase of occupation of the residence.

I have lived at 111 11th St Del Mar for 30 years. My previous neighbor was Myrna Sturgis who aways kept her foliage trimmed. But over the past two years I have repeatedly asked my new neighbor Mr. Harrington to trim his foliage and restore my ocean view. These requests were either in Emails, reproduced in Attachment #2., or else during in-person meetings. Mr. Harrington never trimmed his foliage, but instead produced a large variety of Excuses. In my Email of February 18th 2024 I asked if he was willing to go to mediation. He replied promptly, not mentioning mediation but instead inviting me to pick my battles

See Attachments #1 (narrative) and #2 (Supporting evidence from Emails), #3 (3 photographs) and #4 (Grant Deed)

· Attachment #3 – Photo 1 shows the previously unobstructed view of the ocean formerly visible out of my window.
· Attachment #3 – Photo 2 shows that Mr. Harrington's foliage blocks my primary view of the ocean and cuts off afternoon sunlight from my living room.
· Attachment #4 - the 'Grant Deed' as documentary evidence that I purchased 111, 11th Street in 1993 (30 years ago)



FLOOR PLAN OF 111 11TH ST, DEL MAR CA 92014

ATTACHMENT #3 – PHOTO 1

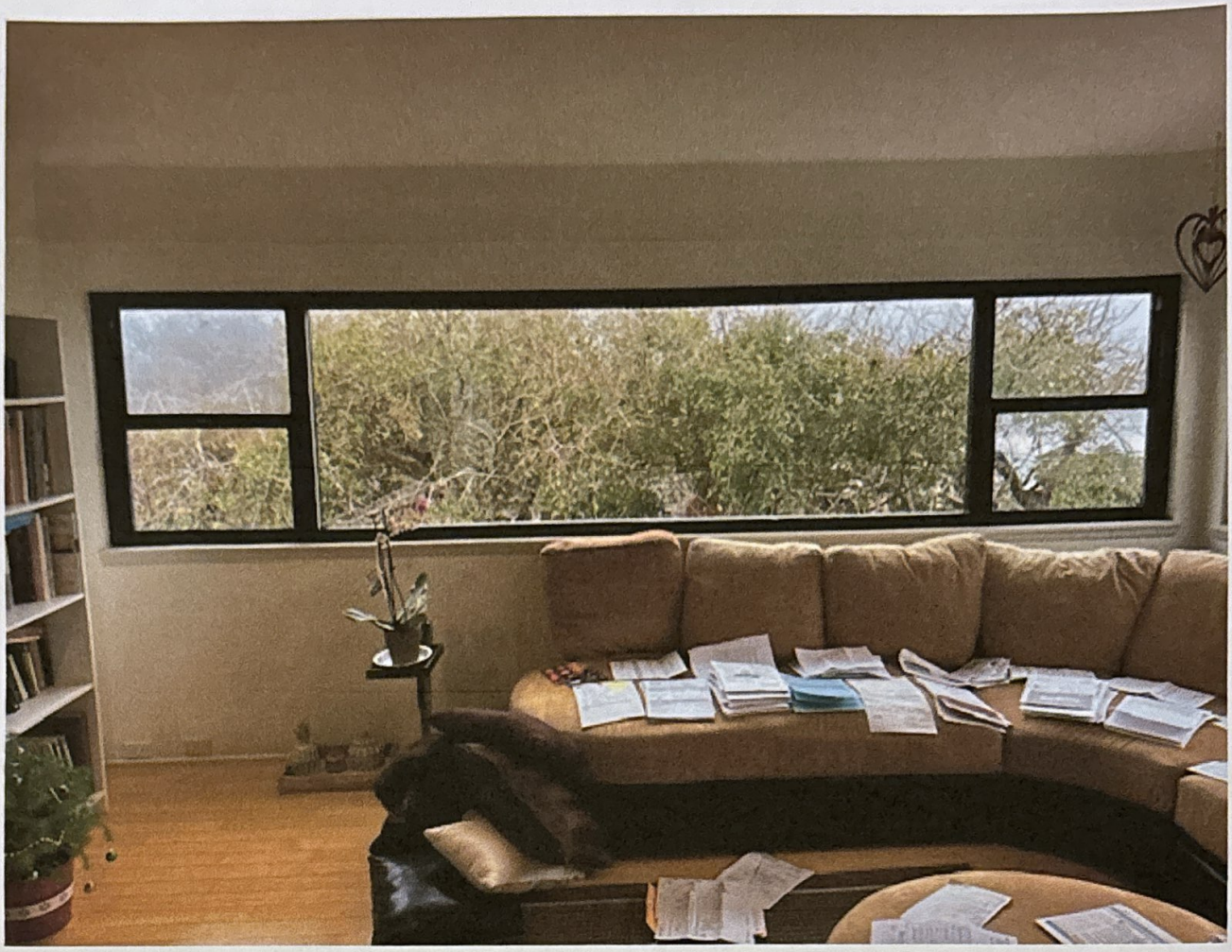
THE PREVIOUSLY UNOBSTUCTED VIEW OF THE OCEAN FORMERLY VISIBLE OUT OF MY WINDOW FOR 30 YEARS.

T

From: STUART ANSTIS stuartanstis@icloud.com
Subject: P2
Date: January 22, 2024 at 3:24 PM
To: Anstis, Stuart sanstis@ucsd.edu

SA

ATTACHMENT #3 - PHOTO 2



Sent from my iPhone

TOM HARRINGTON'S FOLIAGE BLOCKS MY PRIMARY VIEW OF THE OCEAN AND CUTS OFF THE AFTERNOON SUNLIGHT FROM MY LIVING ROOM.

From: **STUART ANSTIS** stuartanstis@icloud.com
Subject: Photo
Date: January 22, 2024 at 3:24 PM
To: Anstis, Stuart sanstis@ucsd.edu

SA

ATTACHMENT #3 - PHOTO 3.

Sent from my iPhone

TOM HARRINGTON HAS BUILT A HOUSE WHOSE WINDOWS GAZE DIRECTLY INTO MY BACKYARD AT A DISTANCE OF 60 INCHES (5 FEET) FROM OUR DIVIDING FENCE.

From: Stuart Anstis
To: Del Mar City Planning Commission
Re: Rebuttal of Mr. Harrington's attorney's letter.

Summary

The May 10, 2024 letter is a document of selfish entitlement. The issue is that Mr. Harrington's foliage is completely blocking my view of the ocean and cutting off the sunlight from my living room window; and for multiple years now, he has refused to trim it despite my many requests. The letter seeks to deflect attention from the actual issue by going into great irrelevant detail about the species, age and appearance of the tree (which for some reason they call the subject tree) that is blocking my view. This makes no difference. I simply want Mr. Harrington to do the neighborly thing and trim back his foliage to restore my view of the ocean, much as the prior property owner did for decades before.

This letter is the latest in a series of maneuvers, excuses, and supposed reasons why Mr. Harrington cannot possibly cut back his foliage. He has now gone to the extent of hiring a law firm to further cloud the issue rather than expend a fraction of that cost on trimming the tree which blocks my primary, and sole, view of the ocean.

Mr. Harrington's tree is doing one thing well – it is blocking my view of the story poles on his property which evidence the very extensive buildings he proposes to erect. This is no accident, as the proposed structure will also severely compromise my view of the ocean. The only reason I can fathom he has opted for this course is to argue his development will not block my view because I have no view since it is already blocked by his tree. I do not like to attribute such duplicity to a neighbor, but this conclusion is hard to avoid.

Details. (Paragraphs from Mr. Harrington's letter are pasted in and colored red. My rebuttals are in black).

The applicant has not established an entitlement to the claimed view

Del Mar's Trees, Scenic Views and Light Ordinance provides in relevant part: "A person shall have the right to seek restoration and preservation of Scenic Views or Sunlight that existed at the time they purchased or occupied a property or *in the last ten years, whichever is shorter* ...." (DMMC § 23.51.030(A), italics added.) An application therefore must be supported by "*[d]ocumentable evidence* that demonstrates the Scenic Views and/or Sunlight that existed at the time the Applicant purchased or began occupying a property, or *in the last ten years, whichever is shorter*." (DMMC § 25.51.050(B)(2), italics added.) But the only evidence the applicant provides of his previously existing view is an undated photograph, attached as "PHOTO 1" to his application. Though applicant conspicuously fails to provide a date for the photograph—indeed, part of what might be a date label in the lower left corner is cropped—the photograph appears to be well over ten years old. The applicant is not entitled to have his view restored to what it was over ten years ago, and the applicant has not provided "documentable evidence" of what the

view was within the last ten years. It is therefore impossible for Mr. Harrington to know what view the applicant seeks to have restored, and the application fails for lack of evidence.

"Photo 1" is dated November 2018, so it is six years old – that is, it is within the last 10 years as required by the ordinance. Moreover, I have attested to the view that I have had for over 30 years, and my neighbors will likewise testify – all of which is to say, there is ample evidence of my "entitlement to the claimed view."

The applicant has not established a loss of view

Even if it were assumed that "PHOTO 1" was taken within the last ten years, the applicant has not established any loss of view. Notice that "PHOTO 1" was taken during the winter season, when the branches were bare of foliage. Those same branches filled with foliage would have blocked *all* of the applicant's whitewater view, even without any additional growth. In all the seasons of the year other than winter, the applicant's view was not materially better than it is now, based on the evidence that has been provided. Furthermore, the comparison photograph provided by the applicant, "PHOTO 2," is misleadingly taken at a lower angle than "PHOTO 1," making the current view look worse than it really is.

The fiction employed here is patently obvious. Mr. Harrington speciously claims that I have no "whitewater view" when the photos show otherwise. When the tree is trimmed, I can easily see the waves crashing on the shore across my entire bay window. As it stands now, I am able to barely eke out such views at one corner of the window, and that, too, will disappear if the tree is permitted to continue to grow uncontrolled.

Attached below is "PHOTO 4," taken on May 26, 2024, which shows the obstructed view. Please compare this to "PHOTO 1" (also shown below) to compare the unobstructed view when the tree is trimmed – notably, the photos are taken at precisely the same angle. Mr. Harrington's claims to the contrary are baseless.

PHOTO 1 TAKEN NOVEMBER 2018

PHOTO 4 TAKEN 05/26/24

The applicant's view has not been unreasonably obstructed

The Trees, Scenic Views and Light Ordinance does not exist to lock in residents' views as they existed at some date in the past; the ordinance applies only when "Scenic Views from the Primary Living Area, or Sunlight available to the Primary Living Area ... have subsequently been *unreasonably* obstructed by the growth of Trees or Vegetation ...." (DMMC § 23.51.030(A), italics added.) Here, Mr. Harrington has not allowed the vegetation on his property to get out of control. To the contrary, he has trimmed the Subject Tree three times since he purchased the property on October 11, 2021—most recently less than six weeks ago. (See enclosed receipts.) At most the crown of the Subject Tree has increased by a foot or two. In addition, Mr. Harrington has entirely removed the mature pine tree that can be seen in the right half of "PHOTO 1," so in that respect the applicant's view has improved. (See the photograph attached to the application below "PHOTO 2," showing that the mature pine tree is gone.)

Mr. Harrington has allowed the "Subject Tree" to grow unchecked in an uncontrolled manner ever since he moved in. I am no arborist, but I can see with my own eyes that the offending tree is thicker, higher and denser than when he first purchased the property a few years ago. There is nothing reasonable about purposefully letting his tree grow, after my repeated neighborly requests, to ensure that I cannot see the Scenic View from my home, and to greatly diminish the Sunlight from entering my property in the afternoon.

1. The extent of alleged Scenic View obstruction, expressed as a percentage of the total Scenic View, and calculated by means of a surveyor's transit or by photographs or both

The applicant has not provided a surveyor's transit and has not calculated the extent of the alleged Scenic View obstruction as a percentage. Furthermore, as noted, the single photograph that the applicant has provided of the previously existing view is undated and appears to be much greater than ten years old, and therefore not useful for making such a calculation.

2. Documentable evidence that demonstrates the Scenic Views and/or Sunlight that existed at the time the Applicant purchased or began occupying a property, or in the last ten years, whichever is shorter

Again, the applicant's single photograph of the previously existing view is undated and obviously older than ten years. The applicant therefore has not provided the documentable evidence required by the ordinance.

The photograph in question dates from November 2018. It should not take a ***surveyor's transit,*** whatever that is, to get Mr Harrington to do the decent neighborly thing and trim back his foliage. No neighbor in Del Mar has ever, to my knowledge, asked for or expected any such thing. Mr. Harrington is imposing unnecessary obstacles. In any case, the photo speaks volumes and is sufficient to meet the requirements of the ordinance.

4. That the implementation of a Restorative Action will not create an unreasonable infringement of the Subject Tree owner's privacy that could not be mitigated

If the Subject Tree were pruned low enough to give the applicant a relatively unobstructed view of the coast, this would severely compromise its ability to give privacy to Mr. Harrington's backyard. The applicant would then have a view directly down into the backyard from his alleged Primary Living Area.

AND

12. The extent to which privacy (visual and auditory) and wind screening is provided by the Subject Tree to the owner and to neighbors

As noted, the Subject Tree is the only means of providing privacy for Mr. Harrington's backyard. Without the tree, the applicant could peer directly into Mr. Harrington's backyard from the applicant's alleged Primary Living Area.

Paragraphs 4 and 12 both refer to Mr. Harrington's alleged privacy. Mr. Harrington's house is approximately **80 ft (**Eighty feet) from my living room window. He has just built a large house that gazes into my own backyard from a distance of **60 inches.** It seems that Mr Harrington's privacy is more important to him than my privacy. Notwithstanding this juxtaposition, the tree can be trimmed to permit my historic view of the ocean from my "alleged Primary Living Area" without sacrificing Mr. Harrington's privacy – much as it has for the 30 years preceding his purchase of the neighboring property. In fact, if properly trimmed, and maintained in that manner, my view would not extend to his backyard, but rather to the peak of the home's existing roof. It appears that Mr. Harrington is aiming to ensure that I do not see the monstrous size of the building he wishes to construct which will ensure that my view of the ocean is fully obliterated.

6. The extent to which the Subject Tree causes shadows or reduces air circulation and/or light

As shown in the photographs appended to the arborist's report and those enclosed separately, the Subject Tree has been appropriately thinned and trimmed and allows air circulation and light penetration. It is not overly dense or hedge-like.

On the contrary. Mr Harrington's photographs are taken from the side and give completely irrelevant views of is foliage. None of them are taken from the crucial direction, which is from my living room window. The attached photograph shows that this foliage does completely block my view of the ocean. It also cuts off the sunlight from my living room in the afternoons. Mr Harrington's photographs show none of this.

8. The variety of Subject Tree, its projected rate of growth and maintenance requirements

The Subject Tree, a Chinese Elm, is fully mature, having been planted long before the applicant purchased his property. According to the prior owner of Mr. Harrington's property, the tree is approximately sixty years old. As a mature tree, it is not projected to grow significantly larger. Furthermore, as explained in the enclosed arborist's report, the "[h]eight of [the] tree is naturally limited by the salty spray carried from the ocean by the prevailing breeze." For maintenance, the arborist recommends that "[p]runing should be limited to structural pruning and reserved at the lowest level of material removal required to satisfy pruning objectives." The arborist further recommends: "Retain as much leaf canopy as possible. Reserve pruning for thinning cuts, where structurally beneficial. Avoid removing any more material from the tree than is necessary to satisfy maintenance objectives."

9. The aesthetic quality of the Subject Tree, including but not limited to species characteristics, size, growth, form and vigor

The Subject Tree, a mature Chinese Elm, is a handsome tree, and the applicant does not contend otherwise. The tree is mature, and as such is not expected to increase significantly in size. Additionally, as noted, the tree's height "is naturally limited by the salty spray carried from the ocean by the prevailing breeze." Mr. Harrington's arborist assesses the tree's health condition as "Good" and its structural condition as "Fair."

10. The extent to which the location of the Subject Tree with respect to overall appearance, design, or use benefits the Subject Tree owner's property

The Subject Tree benefits the owner's property by providing much-needed shade, privacy, and cooling for the home and backyard. ….

16. The value of the Subject Tree to the community/neighborhood

The Subject Tree is a beautiful, mature tree that enhances the aesthetics of the community.

Nothing about the age or species of the tree gives Mr. Harrington the right to block my ocean view. Nor does the arborist's claim that trimming the tree, as it has historically been maintained, would damage the tree in any manner. Rather, the report appears to be bought and paid for by Mr. Harrington to obfuscate – nebulously suggesting retention of "as much leaf canopy as possible." The tree canopy can remain largely intact while still permitting my Scenic Views, and Sunlight to enter my home, much as it has for decades.

The great advantage to Mr. Harrington in not pruning his tree lies not in the state of that tree, but in its ability to block my view of the story poles he has recently erected outlining the enormous building he proposes to erect. This building promises to further compromise my view of the ocean. For these reasons I request Del Mar City Council to instruct Mr. Harrington to trim his foliage with no further prevarications or delays.

Exhibit C - Vicinity Map

1" = 198 ft	TVS24-001 (Anstis, 111 11th Street)	06/24/2024	

This map may represents a visual display of related geographic information. Data provided here on is not guarantee of actual field conditions. To be sure of complete accuracy, please contact the responsible staff for most up-to-date information.

AANNESTAD ANDELIN & CORN LLP
160 CHESTERFIELD DRIVE • SUITE 201
CARDIFF-BY-THE-SEA • CALIFORNIA 92007
www.aac.law • (760) 944-9006

Coastal Property Rights, Land Use & Litigation

May 10, 2024

VIA EMAIL

Monique Gil, Associate Planner
Planning & Community Development Department
City of Del Mar
1050 Camino del Mar
Del Mar, California 92014
mgil@delmar.ca.us

Re: Trees, Scenic Views and Sunlight Application (101/107 11th Street)

Dear Ms. Gil:

I am the attorney for Thomas Harrington, owner of 101 and 107 11th Street and the tree that is the subject of Dr. Stuart Anstis' application dated February 19, 2024. Dr. Anstis' application should be rejected for the following reasons:

The applicant has not established an entitlement to the claimed view

Del Mar's Trees, Scenic Views and Light Ordinance provides in relevant part: "A person shall have the right to seek restoration and preservation of Scenic Views or Sunlight that existed at the time they purchased or occupied a property or *in the last ten years*, *whichever is shorter* …." (DMMC § 23.51.030(A), italics added.) An application therefore must be supported by "*[d]ocumentable evidence* that demonstrates the Scenic Views and/or Sunlight that existed at the time the Applicant purchased or began occupying a property, or *in the last ten years, whichever is shorter*." (DMMC § 25.51.050(B)(2), italics added.) But the only evidence the applicant provides of his previously existing view is an undated photograph, attached as "PHOTO 1" to his application. Though applicant conspicuously fails to provide a date for the photograph—indeed, part of what might be a date label in the lower left corner is cropped—the photograph appears to be well over ten years old. The applicant is not entitled to have his view restored to what it was over ten years ago, and the applicant has not provided "documentable evidence" of what the view was within the last ten years. It is therefore impossible for Mr. Harrington to know what view the applicant seeks to have restored, and the application fails for lack of evidence.

The applicant has not established a loss of view

Even if it were assumed that "PHOTO 1" was taken within the last ten years, the applicant has not established any loss of view. Notice that "PHOTO 1" was taken during the winter season, when the branches were bare of foliage. Those same branches filled with foliage would have blocked *all* of the applicant's whitewater view, even without any additional growth. In all the seasons of the year other than winter, the applicant's view was not materially better than it is now, based on the evidence that has been provided. Furthermore, the comparison photograph provided by the applicant, "PHOTO 2," is misleadingly taken at a lower angle than "PHOTO 1," making the current view look worse than it really is.

The applicant's view has not been unreasonably obstructed

The Trees, Scenic Views and Light Ordinance does not exist to lock in residents' views as they existed at some date in the past; the ordinance applies only when "Scenic Views from the Primary Living Area, or Sunlight available to the Primary Living Area … have subsequently been *unreasonably* obstructed by the growth of Trees or Vegetation …." (DMMC § 23.51.030(A), italics added.) Here, Mr. Harrington has not allowed the vegetation on his property to get out of control. To the contrary, he has trimmed the Subject Tree three times since he purchased the property on October 11, 2021—most recently less than six weeks ago. (See enclosed receipts.) At most the crown of the Subject Tree has increased by a foot or two. In addition, Mr. Harrington has entirely removed the mature pine tree that can be seen in the right half of "PHOTO 1," so in that respect the applicant's view has improved. (See the photograph attached to the application below "PHOTO 2," showing that the mature pine tree is gone.)

The factors under section 23.51.050(B) weigh against the application

Section 23.51.050(B) of the Trees, Scenic Views and Light Ordinance sets forth several factors to be considered in deciding whether to grant an application under the ordinance. All the relevant factors weigh against granting the application, or are at worst neutral.

1. The extent of alleged Scenic View obstruction, expressed as a percentage of the total Scenic View, and calculated by means of a surveyor's transit or by photographs or both

The applicant has not provided a surveyor's transit and has not calculated the extent of the alleged Scenic View obstruction as a percentage. Furthermore, as noted, the single photograph that the applicant has provided of the previously existing view is undated and appears to be much greater than ten years old, and therefore not useful for making such a calculation.

2. Documentable evidence that demonstrates the Scenic Views and/or Sunlight that existed at the time the Applicant purchased or began occupying a property, or in the last ten years, whichever is shorter

Again, the applicant's single photograph of the previously existing view is undated and obviously

older than ten years. The applicant therefore has not provided the documentable evidence required by the ordinance.

3. The quality of the pre-existing Scenic View(s) and/or Sunlight being obstructed

The preexisting view (assuming without evidence that the photograph provided by the applicant was taken within the relevant time period) was *not* of great quality. As explained, with full foliage most of the year, the applicant's view of the whitewater would have been completely blocked. Furthermore, the preexisting view was partially blocked by a mature pine tree, which has now been removed. The applicant's preexisting view at best was of the distant horizon looking over the trees. The applicant never had an unobstructed view of the coast.

4. That the implementation of a Restorative Action will not create an unreasonable infringement of the Subject Tree owner's privacy that could not be mitigated

If the Subject Tree were pruned low enough to give the applicant a relatively unobstructed view of the coast, this would severely compromise its ability to give privacy to Mr. Harrington's backyard. The applicant would then have a view directly down into the backyard from his alleged Primary Living Area.

5. The extent to which the Subject Tree interferes with efficient operation of an Applicant's pre-existing solar energy systems

The applicant does not allege that the Subject Tree interferes with a pre-existing solar energy system, or that he even has such a system.

6. The extent to which the Subject Tree causes shadows or reduces air circulation and/or light

As shown in the photographs appended to the arborist's report and those enclosed separately, the Subject Tree has been appropriately thinned and trimmed and allows air circulation and light penetration. It is not overly dense or hedge-like.

7. The extent to which the Applicant's Scenic Views and/or Sunlight has been diminished over time by factors other than Subject Tree growth

The applicant's views and sunlight have not diminished by factors other than Subject Tree growth. To the contrary, they have been improved by the removal of the mature pine tree as mentioned.

8. The variety of Subject Tree, its projected rate of growth and maintenance requirements

The Subject Tree, a Chinese Elm, is fully mature, having been planted long before the applicant purchased his property. According to the prior owner of Mr. Harrington's property, the tree is approximately sixty years old. As a mature tree, it is not projected to grow significantly larger.

Furthermore, as explained in the enclosed arborist's report, the "[h]eight of [the] tree is naturally limited by the salty spray carried from the ocean by the prevailing breeze." For maintenance, the arborist recommends that "[p]runing should be limited to structural pruning and reserved at the lowest level of material removal required to satisfy pruning objectves." The arborist further recommends: "Retain as much leaf canopy as possible. Reserve pruning for thinning cuts, where structurally beneficial. Avoid removing any more material from the tree than is necessary to satisfy maintenance objectives."

9. The aesthetic quality of the Subject Tree, including but not limited to species characteristics, size, growth, form and vigor

The Subject Tree, a mature Chinese Elm, is a handsome tree, and the applicant does not contend otherwise. The tree is mature, and as such is not expected to increase significantly in size. Additionally, as noted, the tree's height "is naturally limited by the salty spray carried from the ocean by the prevailing breeze." Mr. Harrington's arborist assesses the tree's health condition as "Good" and its structural condition as "Fair."

10. The extent to which the location of the Subject Tree with respect to overall appearance, design, or use benefits the Subject Tree owner's property

The Subject Tree benefits the owner's property by providing much-needed shade, privacy, and cooling for the home and backyard.

11. The extent to which soil stability is provided by the Subject Tree, considering soil structure, degree of slope and extent of the Subject Tree's root system per a report from a licensed soils engineer (if applicable)

This factor is not applicable.

12. The extent to which privacy (visual and auditory) and wind screening is provided by the Subject Tree to the owner and to neighbors

As noted, the Subject Tree is the only means of providing privacy for Mr. Harrington's backyard. Without the tree, the applicant could peer directly into Mr. Harringon's backyard from the applicant's alleged Primary Living Area.

13. The extent to which energy conservation and/or climate control is provided by the Subject Tree

As noted, the Subject Tree is a mature tree that provides shade and cooling for Mr. Harrington's home and backyard.

14. The extent to which wildlife habitat is provided by the Subject Tree

The Subject Tree is frequently used by birds.

15. Whether the Subject Tree is a "Protected Tree", as defined herein and in Chapter 23.50 (Trees)

The Subject Tree is not a "Protected Tree."

16. The value of the Subject Tree to the community/neighborhood

The Subject Tree is a beautiful, mature tree that enhances the aesthetics of the community.

17. Whether the Subject Tree is located on public right-of-way or City-owned property

The subject tree is not located on a public right-of-way or City-owned property.

Granting the application would result in undue damage to the Subject Tree

The Subject Tree is a mature tree. Its general size and shape are long-established. To give the applicant the view he seeks would require a drastic reduction in the canopy or removal of major limbs. Such measures are strongly discouraged in the ordinance: "Severe pruning should be avoided due to the damage such practice causes a Tree's form and health." (DMMC § 23.51.070(B.) Likewise, the City's Public Tree Policy Manual specifies "excessive pruning," "topping," and "[t]aking any action which could lead to the death of a tree or could permanently damage its health" as "prohibited acts." (Del Mar Public Tree Policy Manual § 2.10.)[1] The definition of "excessive pruning" includes "removing in excess of one-fourth (25 percent) or greater, of the functioning leaves and stems," as well as "Heading Cuts" and "Topping Cuts." (*Id.*, § 1.11.) "Topping means the practice of cutting back large-diameter branches or truncating the main stem." (*Id.*, § 1.27.)

The preferred remedy therefore is "lacing" (DMMC § 23.51.070(B)(1)), but *this has already been done*, as shown by the enclosed photographs and receipts. To improve the applicant's view any further, beyond what has already been accomplished by lacing and removal of the mature pine tree, would require more drastic measures, which Mr. Harrington's arborist recommends against. As the arborist explains in his enclosed report: "Many of the subject trees have a structural pruning recommendation as a method of achieving risk mitigating objectives. In mature trees (such as most of these), *the structure has already been developed and can often not be corrected without performing large pruning cuts that increase the likelihood [of] decays*. For this reason, the structural pruning on the subject trees should primarily concentrate on reducing end weight to create less mechanical stress on weak areas (such as branch unions and roots/basal area). Reduction and removal pruning cuts (not topping) should be applied during the structural pruning process to help achieve risk mitigation objectives." (Italics added.)

For the foregoing reasons, Dr. Anstis' application should be denied. We reserve the right to submit

[1] "Although the primary intent of [the Public Tree Policy Manual] is to provide guidance to the City for the management of public trees, all Del Mar residents are urged to use it as a reference tool for selecting, planting and maintaining privately-owned trees within the City." (Del Mar Public Tree Policy Manual, p. 5.)

additional information.

Very truly yours,

AANNESTAD ANDELIN & CORN LLP

Lee M. Andelin

cc: Thomas Harrington

Chinese Elm (*Ulmus parvifolia*) Assessment

101 11th Street, Del Mar, CA, 92014

Treehugger Care & Consulting

SUBMITTED TO:

Thomas Harrington

(650)468-5657

Tomharrington44@gmail.com

PREPARED BY:

Tony Gurnoe

(760)815-4186

tony@treehuggercare.com

ISA Certified Tree Risk Assessment Arborist

Certification #WE-14380A

CA DPR Applicator License #166195

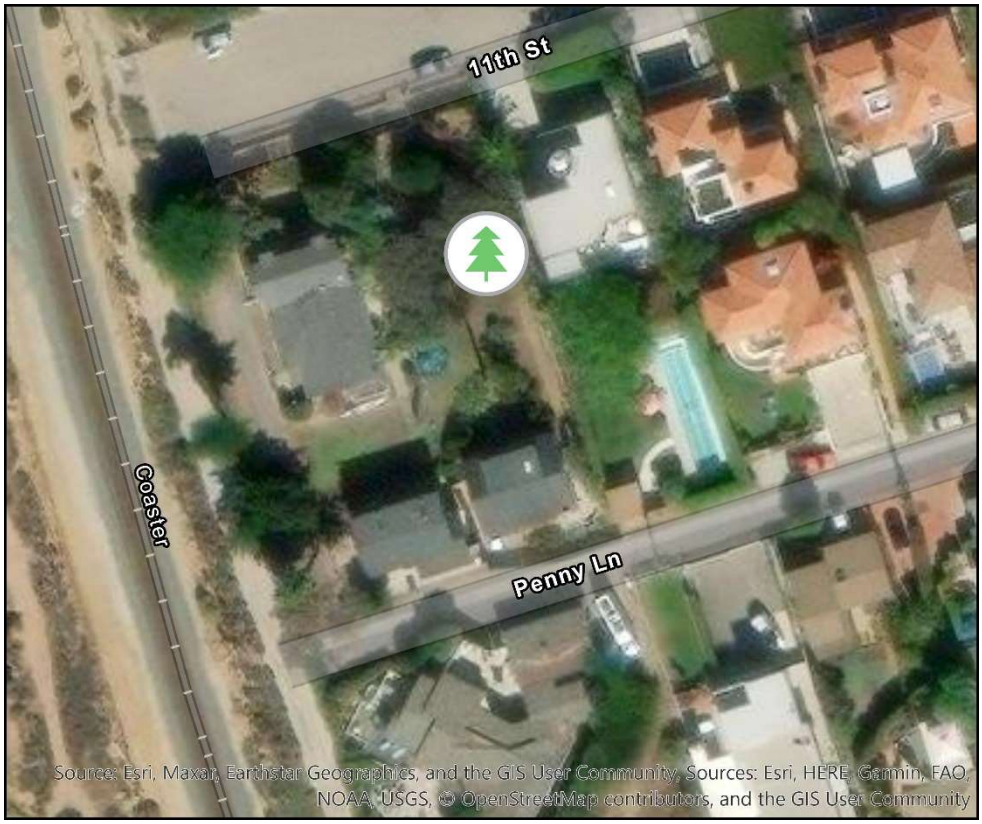
November 1, 2023

Treehugger Care & Consulting

BACKGROUND AND ASSIGNMENT

In October of 2023, Treehugger Care & Consulting (THCC) was contacted by Tom Harrington in regard to assessing a large, old growth *Ulmus parvifolia* tree at 101 11th Street in Del Mar, CA. The assessment was to focus on any reasonable methods to ensure the greatest viewshed corridors for the neighboring property to the east as possible without compromising the health of the subject tree. The subject tree had previously been pruned in June of 2023. That dose of pruning focused on mitigating structural issues with the tree and removal of dead or damaged wood.

Figure 1 – Location of subject tree at 101 11th Street, Del Mar, CA



OBSERVATIONS

The subject tree was assessed with an emphasis on health maintenance on October 23rd. The structural integrity of the tree was assessed using industry **BMP**. Each tree **crown** and **stem** was visually inspected, looking for defects such as **included bark**, **cavities**, **fungal fruiting bodies**,

[1] Terms appearing in boldface type are defined in the Glossary at the end of this report.

and/or **decay**. Inspections of defects within the crowns was limited to a ground-level visual inspection. On site, the following relevant observations were noted:

Refer to photos in Appendix A for additional details.

- Tree has responded favorably to previous maintenance efforts – canopy is relatively full and in good health.
- Height of tree is naturally limited by the salty spray carried from the ocean by the prevailing breeze.
- Pruning should be limited to **structural pruning** and reserved at the lowest level of material removal required to satisfy pruning objectives.
- Removal of any significant portion of the uppermost tree canopy is likely to expose structurally critical trunk tissue to risk of sunburn and dieback.

Species	Health Condition	Structural Condition	Management Recommendations
Chines Elm (*Ulmus parvifolia*)	Good	Fair	Retain as much leaf canopy as possible. Reserve pruning for thinning cuts, where structurally beneficial. Avoid removing any more material from the tree than is necessary to satisfy maintenance objectives.

REVIEW OF RECOMMENDATION TERMS

Structural Pruning – Many of the subject trees have a structural pruning recommendation as a method of achieving risk mitigating objectives. In mature trees (such as most of these), the structure has already been developed and can often not be corrected without performing large pruning cuts that increase the likelihood decays. For this reason, the structural pruning on the subject trees should primarily concentrate on reducing end weight to create less **mechanical stress** on weak areas (such as branch unions and roots/ basal area). **Reduction and removal pruning** cuts (not topping) should be applied during the structural pruning process to help achieve risk mitigation objectives.

HEALTH

The subject tree has signs of foliar salt burn in the uppermost canopy. To help improve the health of the trees, it is recommended to provide deep irregular irrigation as needed to supplement natural rainfall.

Treehugger Care & Consulting

APPENDIX A – EXAMPLE PHOTOS

Photo #1

- Good retained seasonal leaf production and improved structure in the tree as a result of prior maintenance efforts

Treehugger Care & Consulting

Photo #2

- Subject tree viewed from the west

Treehugger Care & Consulting

ASSUMPTIONS AND LIMITING CONDITIONS

1. Care has been taken to obtain all information from reliable sources. All data has been verified insofar as possible; however, the THCC can neither guarantee nor be responsible for the accuracy of information provided by others. Standard of Care has been met with regards to this project within reasonable and normal conditions.
2. THCC will not be required to give testimony or to attend court by reason of this report unless subsequent contractual agreements are made, including payment of an additional fee for such services as described in the fee schedule and contract of engagement.
3. Loss or alteration of any part of this report invalidates the entire report.
4. Possession of this report or a copy thereof does not imply right of publication or use for any purpose by any other than the person to whom it is addressed, without the prior written consent of the THCC.
5. This report and any values expressed herein represent the opinion of the THCC, and the THCC's fee is in no way contingent upon the reporting of a stipulated result, a specified value, the occurrence of a subsequent event, nor upon any finding to be reported.
6. Unless expressed otherwise: 1) information contained in this report covers only those items that were examined and reflects the condition of those items at the time of inspection; and 2) the inspection is limited to visual examination of accessible items without dissection, excavation, or coring, unless otherwise stated. There is no warranty or guarantee, expressed or implied, that problems or deficiencies of the tree(s) or property in question may not arise in the future.
7. Arborists are tree specialists who use their education, knowledge, training, and experience to examine trees, recommend measures to enhance the beauty and health of trees, and attempt to reduce the risk of living near trees. It is highly recommended that you follow the arborist recommendations; however, you may choose to accept or disregard the recommendations and/or seek additional advice.
8. Arborists cannot detect every condition that could possibly lead to the structural failure of a tree. Trees are living organisms that fail in ways we do not fully understand. Conditions are often hidden within trees and below ground. Arborists cannot guarantee that a tree will be healthy or safe under all circumstances, or for a specific period of time.
9. Any recommendation and/or performed treatments (including, but not limited to, pruning or removal) of trees may involve considerations beyond the scope of the arborist's services, such as property boundaries, property ownership, site lines, disputes between neighbors, and any other related issues. Arborists cannot take such considerations into account unless complete and accurate information is disclosed to the arborist. An arborist can then be expected to consider and reasonably rely on the completeness and accuracy of the information provided.

10. The author has no personal interest or bias with respect to the subject matter of this report or the parties involved. He/she has inspected the subject tree(s) and to the best of their knowledge and belief, all statements and information presented in the report are true and correct.
11. Unless otherwise stated, trees were examined using the risk assessment criteria detailed by the International Society of Arboriculture's publications *Best Management Practices – Tree Risk Assessment* and the *Tree Risk Assessment Manual (Second Edition).*

REFERENCES

Harris, Richard W., James R. Clark, and Nelda P. Matheny. *Arboriculture: Integrated Management of Landscape Tree, Shrubs, and Vines.* New Jersey: Prentice Hall, 2004. Print
(ISA) *International Society of Arboriculture*. Web. 15 March 2014.

Kelby Fite, E. Thomas Smiley. *Best Management Practices: Managing Trees During Construction.* Illinois: International Society of Arboriculture, 2008. Print.

Edward F. Gilman, Brian Kempf, Nelda Matheny, Jim Clark. *Structural Pruning, A Guide For The Green Industry:* Urban Tree Foundation, 2013.

Dunster, Julian A., E. Thomas Smiley, Nelda Matheny, and Sharon Lilly. *Tree Risk Assessment Manual (Second Edition).* Illinois: International Society of Arboriculture, 2017. Print.

Smiley, Thomas E., Nelda Matheny, and Sharon Lilly. *Best Management Practices: Tree Risk Assessment.* Illinois: International Society of Arboriculture, 2011. Print.

Harris, Richard W., James R. Clark, and Nelda P. Matheny. *Arboriculture: Integrated Management of Landscape Tree, Shrubs, and Vines.* New Jersey: Prentice Hall, 2004. Print

Treehugger Care & Consulting

GLOSSARY

Best Management Practices (BMPs) – The International Society of Arboriculture has developed a series of Best Management Practices (BMPs) for the purpose of interpreting tree care standards and providing guidelines of practice for arborists, tree workers, and the people who employ their services.

Canopy – The part of the crown composed of leaves and small twigs (Harris, Clark, and Matheny 526).

Cavity – An open wound, characterized by the presence of decay and resulting in a hollow (Harris, Clark, and Matheny 527).

Codominant – Equal in size and relative importance, usually associated with either the trunks/stems or scaffold limbs/branches in the crown (Harris, Clark, and Matheny 527).

Crown – The leaves and branches of a tree measured from the lowest branch on the trunk to the top of the tree (Harris, Clark, and Matheny 527).

Decay – Process of degradation of woody tissues by fungi and bacteria through the decomposition of cellulose and lignin (Harris, Clark, and Matheny 527).

Epicormic sprout - Shoot that arises from latent or adventitious buds.

Failure – Breakage of stem, branch, roots, or loss of mechanical support in the root system (Smiley, Matheny, and Lilly 48).

Fungal Fruiting Bodies – Any complex fungal structure that contains or bears spores.

Included Bark – Pattern of development at branch junctions where bark is turned inward rather than pushed out (Harris, Clark, and Matheny 529).

Level 2 Basic Assessment: - A Level 2 or basic assessment is a detailed visual inspection of a tree and its surrounding site, and a synthesis of the information collected. It requires that a tree risk assessor walk completely around a tree looking at the site, buttress roots, trunk, and branches. A basic assessment may include the use of simple tools to gain additional information about the tree or defects. This is the standard assessment that is performed by arborists in response to a client's request for tree risk assessment (Smiley, Matheny, and Lilly 15).

Mechanical stress – Force applied over the length of a branch or stem, adjusted for cross sectional area; force on the crown from gravity, ice, snow, or wind applied over the trunk length, adjusted for cross sectional area.

Stem – The main trunk of a tree or other plant (Harris, Clark, and Matheny 533).

Structural Pruning – Pruning that influences the orientation, spacing, growth rate, strength of attachment or ultimate size of branches and stems, resulting in a strong tree.

Target – People, property, or activities that could be injured, damaged, or disrupted by a tree (Smiley, Matheny, and Lilly 50).

Target zone – The area where a tree or branch is likely to land if it were to fail (Smiley, Matheny, and Lilly 50).

Invoice

 # INV-000052

Balance Due
$411.00

Treehugger Care and Consulting, LLC
Company ID : Treehugger Care and Consulting, LLC
Tax ID : 92-0404723
1061 Woodlake Dr.
Cardiff by the Sea California 92007
U.S.A

Bill To
Tom Harrington
101 11th St.
Del Mar
California

Invoice Date : November 18, 2023
Terms : Net 30
Due Date : December 18, 2023

Subject :

Chinese Elm Pruning

#	Item & Description	Percent Complete	Item Budget	Amount
1	Structural pruning of easternmost Chinese elm tree to encourage clear viewshed corridors on north and south sides of the tree.	5.00	75.00	375.00
2	Greenwaste dump fees	1.00	36.00	36.00
			Sub Total	411.00
			Total	**$411.00**
			Balance Due	**$411.00**

Notes

Thank you for the payment and support!

Payment Options

107-11th St Tree

Reply | Reply All | Forward | ...

TH

Thomas Harrington <tomharrington44@gmail.com>
To Monique Gil

Wed 4/24/2024 9:32 AM

You replied to this message on 4/24/2024 10:12 AM.
If there are problems with how this message is displayed, click here to view it in a web browser.

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I wish to submit the following 5 reasons why the tree should stay just as it is:

1. Privacy. Most house would never be allowed to have a living room window look straight down into an adjacent property yard. This is confirmed by a DRB member.
2. The tree was there long before Stuart was there, going back to around 1950. It was nurtured by the previous owner, Myrna, for 60 years she lived there, and is a key reason that my wife and I purchased the property and intend to have it in our rear garden.
3. Trimming the foliage from the tree would potentially kill the tree, according to the Arborist's report I have submitted.
4. I have accommodated Stuart's wishes several times to give him more light and better views on each side of the tree.
5. he has a nice view of the ocean white caps on the end of 11th St., just not over this tree at an angle because the tree has grown. One day he will likely be able to look under the foliage.

Very truly yours,
Thomas Harrington

PURPOSE

The City of Del Mar is committed to the preservation of its unique village-like atmosphere, which is distinguished by its valuable and treasured community forest. Through sustaining the ecosystem, creating visually aesthetic landscaping, and maintaining and encouraging a diversity of trees, both in terms of age and species, our goal to preserve our environment can be achieved.

The Tree Ordinance (Section 23.50) of the Del Mar Municipal Code provides for the orderly protection of specified trees to promote the health, safety, welfare, and quality of life for the residents of the City. By assuring the preservation and protection of the urban forest through regulations and standards of care, our natural resources will continue to enhance the landscape, streets, and parks, while helping to define the unique character of Del Mar.

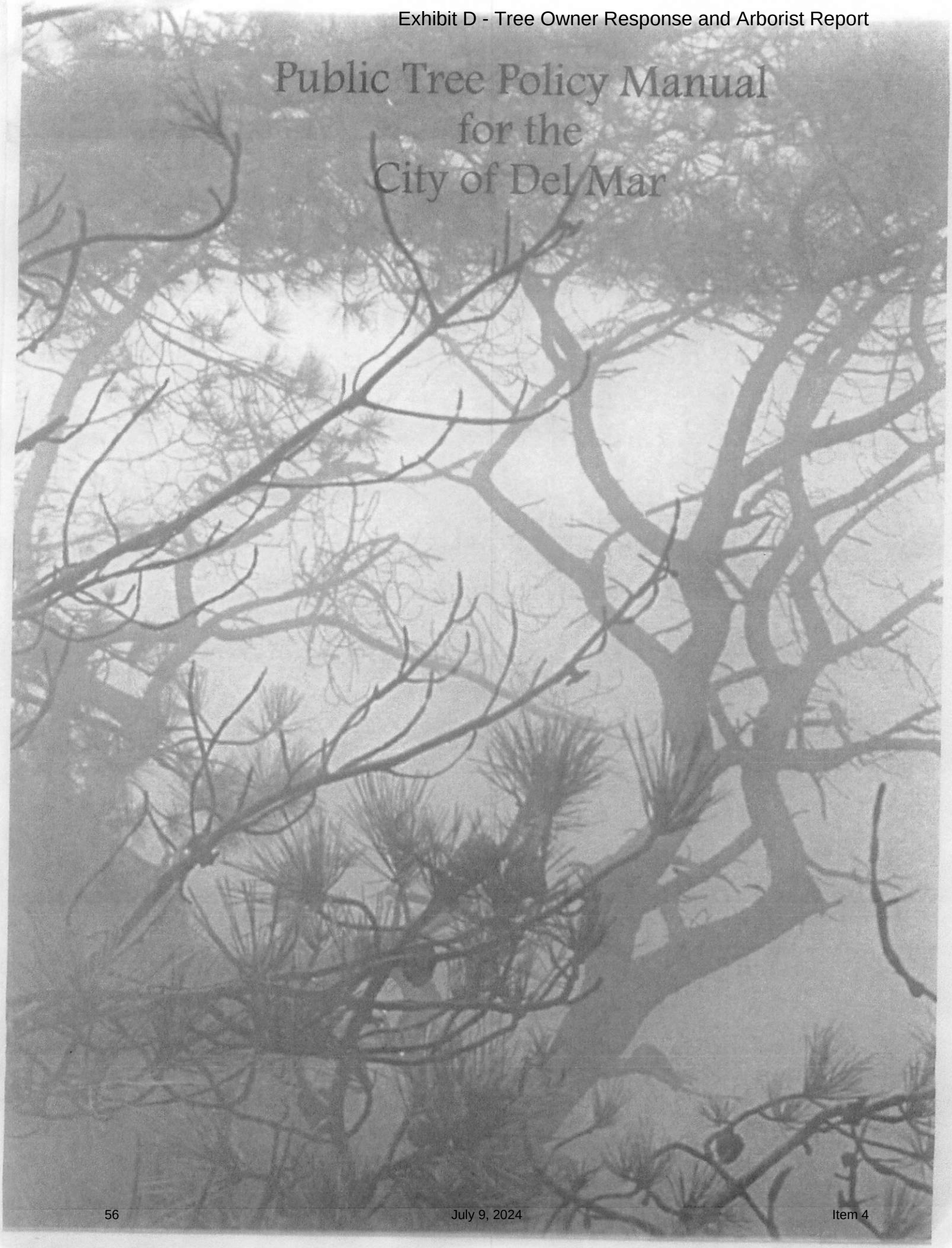
This Public Tree Policy Manual establishes the specific technical regulations, standards, and specifications needed to implement the Ordinance, and to realize the City's public forest goals.

These goals are intended to provide consistent care and achievement in the following areas:

- Insure and promote preservation of the existing tree canopy cover within the City limits.
- Provide recommended standards for the maintenance of protected and public trees. Del Mar's protected trees are the Torrey Pine and the Monterey Cypress as well as all trees of any species which are located within the Central Commercial, Open Space Overlay Zones of the City, within a public right-of-way, or on public or city-owned property.
- Provide a standardized content for tree reports required by the City.
- Establish criteria for determining when a tree is unsafe and a possible threat to public health, safety, welfare and/or the urban forest.
- Provide standards for the replacement of trees that are permitted to be removed.
- Increase the survivability of trees during and after construction events by providing protection standards and best management practices.

Although the primary intent of this policy manual is to provide guidance to the City for the management of public trees, all Del Mar residents are urged to use it as a reference tool for selecting, planting and maintaining privately-owned trees within the City.

Public Tree Policy Manual for the City of Del Mar



Published by
The City of Del Mar
Department of Planning and Community
Development Department
1050 Camino del Mar
Del Mar, CA 92014
Phone 858-755-9313
Fax 858-755-2794

October 2003
Final Approval – February 2, 2004

This document is available on the
City of Del Mar's website:
www.delmar.ca.us

Cover Photo by Harriet Schuman

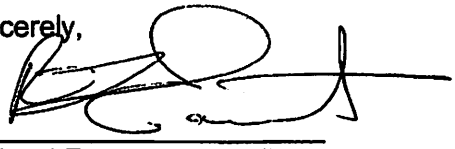
Del Mar Residents, City Officials and All Interested Parties

On February 2, 2004, the City Council of the City of Del Mar officially approved the Public Tree Policy Manual for the City of Del Mar as represented in this report.

Countless hours of effort by many citizens, city officials and staff have been donated to the preparation and adoption of the Manual. Formal acknowledgements of these efforts cannot nearly equal in value the contributions that have been made by these individuals toward the future of the Del Mar Community.

In this context, we believe, and trust that others will agree, that this Public Tree Policy Manual serves as a standard excellence equal to the task of preserving the quality of our liveable village.

Sincerely,



Richard Earnest, Councilmember
Mayor 2003 - 2004

CITY COUNCIL
David Druker
Crystal Crawford
Richard Earnest
Jerry Finnell
Henry Abarbanel

DEL MAR FOREST MANAGEMENT COMMITTEE
Ann Dempsey
Ann Marie Borman
Dolores Jamison
Harriet Schuman
Katherine Finnell
Lee Haydu
Sandy McCay

STAFF
Lauraine Brekke-Esparza, City Manager
Tamara Smith, City Attorney
Linda Niles, Planning Director
David Scherer, Public Works Director
Matt Bator, Associate Planner

CONSULTANTS
Martin Poirier, Spurlock Poirier Land Architects
Larry Holmes, Holmes Landscape Company

City of Del Mar

Public Tree Policy Manual
Standards and Specifications

TABLE OF CONTENTS

PURPOSE.....5

SECTION 1.00 DEFINITIONS.....6

SECTION 2.00 TREE MAINTENANCE GUIDELINES.....11
2.10 Prohibited Acts
2.15 Standards for Pruning Public Trees
2.20 Pruning Mature Trees
2.25 Pruning Distressed Trees
2.30 Pruning Young Trees
2.35 Wildlife Avoidance/Migratory Bird Treaty Act Compliance
2.40 Fertilizing
2.45 Watering Schedule
2.50 Soil Improvement
2.60 Insect and Disease Control
2.80 Fruit Control
2.90 Fire Protection
2.95 Tips for Selecting an Arborist

SECTION 3.00 REMOVAL, REPLACEMENT AND PLANTING OF TREES.....19
3.10 Tree Removal
3.20 Tree Planting Specifications
3.30 Planting Stock and Materials
3.40 Planting Site Preparation
3.50 Planting the Tree
3.60 Planting in Difficult Soil Conditions

SECTION 4.00 HAZARDOUS TREES.....24
4.10 Emergency Removal Conditions
4.20 Criteria Used by the City to determine if a Tree is Hazardous
4.25 Determining a Tree's Hazard Rating
4.40 Hazard Reduction and Prevention

SECTION 5.00 PROTECTION OF TREES DURING CONSTRUCTION.....27
5.10 Tree Protection and Preservation Plan
5.15 Pre-Construction Requirement
5.20 Activities During Construction & Demolition near Trees
5.25 Damage to Trees
5.30 Inspection Schedule
5.40 Pavement and Hardscape Conflicts with Tree Reports

SECTION 6.00 TREE REPORTS.....38
6.05 Type of Report – Letter Format
6.15 Letter Report – Submittals
6.30 Tree Protection and Preservation Report
6.35 Site Plan
6.40 Tree Appraisal

APPENDICES

A. City of Del Mar Tree Ordinance (DMMC 23.50)
B. City of Del Mar Torrey Pine Tree Maintenance Guide (Not yet available)
C. List of Preferred Street Trees (Not yet available)
D. Tree Protection Standard Notes
E. ISA Hazard Evaluation Form (sample)
F. ISA Tree Pruning Guidelines
G. Standard Practices for Tree Care Operations - ANSI A300-1995 (Reference Source)
H. Safety Standards, ANSI Z133.1-1994 (Reference Source)
I. Torrey Pine Tree Planting Detail and Watering Specifications
J. Tree Planting Guidelines

PURPOSE

The City of Del Mar is committed to the preservation of its unique village-like atmosphere, which is distinguished by its valuable and treasured community forest. Through sustaining the ecosystem, creating visually aesthetic landscaping, and maintaining and encouraging a diversity of trees, both in terms of age and species, our goal to preserve our environment can be achieved.

The Tree Ordinance (Section 23.50) of the Del Mar Municipal Code provides for the orderly protection of specified trees to promote the health, safety, welfare, and quality of life for the residents of the City. By assuring the preservation and protection of the urban forest through regulations and standards of care, our natural resources will continue to enhance the landscape, streets, and parks, while helping to define the unique character of Del Mar.

This Public Tree Policy Manual establishes the specific technical regulations, standards, and specifications needed to implement the Ordinance, and to realize the City's public forest goals.

These goals are intended to provide consistent care and achievement in the following areas:

- Insure and promote preservation of the existing tree canopy cover within the City limits.
- Provide recommended standards for the maintenance of protected and public trees. Del Mar's protected trees are the Torrey Pine and the Monterey Cypress as well as all trees of any species which are located within the Central Commercial, Open Space Overlay Zones of the City, within a public right-of-way, or on public or city-owned property.
- Provide a standardized content for tree reports required by the City.
- Establish criteria for determining when a tree is unsafe and a possible threat to public health, safety, welfare and/or the urban forest.
- Provide standards for the replacement of trees that are permitted to be removed.
- Increase the survivability of trees during and after construction events by providing protection standards and best management practices.

Although the primary intent of this policy manual is to provide guidance to the City for the management of public trees, all Del Mar residents are urged to use it as a reference tool for selecting, planting and maintaining privately-owned trees within the City.

SECTION 1.00 DEFINITIONS

For the purposes of this *Policy* and interpretation of regulations, the following definitions shall apply:

1. Certified Arborist is an individual who has demonstrated knowledge and competency through obtainment of the current International Society of Arboriculture arborist certification, or a Registered Consulting Arborist with the American Society of Consulting Arborists. A certified arborist can be found in the yellow pages of the local telephone book or from the Western Chapter of the ISA at (916) 641-2990 (www.wcisa.org). A Registered Consulting Arborist with the American Society of Consulting Arborists can be found by utilizing the ASCA's referral directory on www.asca-consultants.com .

2. City Arborist means the person designated as such by the City of Del Mar.

3. Compaction means compression of the soil structure or texture by any means that creates an upper layer that is impermeable ('cap'). Compaction is injurious to roots and the health of a tree *(see Soil Compaction Damage, Section 5.20-A).*

4. Dangerous see Hazardous.

5. Dead Tree means a tree that is dead or that has been damaged beyond repair or is in an advanced state of decline (where an insufficient amount of live tissue, green leaves, limbs or branches, exists to sustain life) and has been determined to be such by a certified arborist. This definition may include a tree that is "dying." If the tree has been determined to be dead, removal may be permitted in accordance with Section 23.50.080 C-1 of the Del Mar Municipal Code.

6. Diameter at Breast Height (DBH) or Diameter at Standard Height (DSH) means the diameter of the perimeter tree trunk at four and one-half feet (or 54 inches) above natural grade level The diameter may be calculated by using the following formula: DBH= circumference at 4.5-feet / 3.142 (D=C/Pi). To determine the DBH of multi-trunk trees or measuring trees on slopes, consult the current Guide for Plant Appraisal, published by the Council of Tree and Landscape Appraisers.

7. Director means the Director of Planning and Community Development or the Director's designee, unless otherwise specified in the Policy.

8. Discretionary Development Approval means Design Review Board or City Council approval.

9. Disturbance refers to all of the various activities from construction or development that may damage trees.

10. Dripline Area means the suggested minimum area within X distance from the trunk of a tree in a typical location, measured from the perimeter of the trunk of the tree at 54-inches above natural grade, where X equals a distance ten times the diameter of the trunk at 54-inches above natural grade, or the distance to the outermost edge of the tree canopy, whichever is the lesser distance. (Example; a tree with a DBH of 24" has a drip line radius of 240", (24"DBH x 10 = 240" or 20 feet from the trunk in all directions; 18"DBH x 10 = 180" or 15 feet.

11. Excessive Pruning means removing in excess of one-fourth (25 percent) or greater, of the functioning leaves and stems. Pruning in excess of 25 percent is injurious to the tree and is a prohibited act. Excessive pruning typically results in the tree appearing as a 'bonsai', 'lion's-tailed', 'lolly-popped' or overly thinned *(see 'Standards for Pruning Protected Trees', Section 2.15)*. "Heading Cuts' and "Topping Cuts" are considered to be excessive pruning in the City of Del Mar.

Unbalanced Crown: Excessive pruning also includes removal of the leaf or stem area predominantly on one side, topping, or excessive tree canopy or crown raising. Exceptions are when clearance from overhead utilities or public improvements is required or to abate a hazardous condition or a public nuisance *(see Definitions, Section 1.17)*.

Roots: Excessive pruning may include the cutting of any root two (2) inches or greater in diameter. It is recommended that a Certified Arborist be consulted prior to the any cutting or removal of tree roots.

12. Hazardous Tree refers to a tree that possesses a structural defect which poses an imminent risk if the tree or part of the tree that would fall on someone or something of value (target)(*see Hazardous Trees, Section 4.00)*

13. Injury means a wound resulting from any activity, including but not limited to 'excessive pruning', cutting, trenching, excavating, altering the grade, paving or compaction within the tree protection zone of a tree. Injury shall include bruising, scarring, tearing or breaking of roots, bark, trunk, branches or foliage, herbicide or poisoning, or any other action foreseeably leading to the death or permanent damage to tree health.

14. Project Arborist means a certified arborist (*see Certified Arborist, Section 1.1*) retained by a property owner or development applicant for the purpose of overseeing on-site activity involving the welfare of the trees to be retained. The project arborist shall be responsible for all reports, appraisals, tree preservation plans, or inspections as required.

15. Protected Tree means: 1) a tree of the species *Cupressus macrocarpa* (Monterey Cypress); 2) a tree of the species *Pinus torreyana* (Torrey Pine); 3) a tree of any species located on property within the Central Commercial, Open Space Overlay Zones of the City, within a public right-of-way, or on public or City-owned property; or 4) any tree planted as a result of required mitigation for the removal of another Protected Tree(s).

16. Protective Tree Fencing means a temporary enclosure erected around a tree to be protected at the boundary of the Tree Protection Zone. The fence serves three primary functions: 1) to keep the foliage crown, branch structure and trunk clear from direct contact and damage by equipment, materials or disturbances; 2) to preserve roots and soil in an intact and non-compacted state; and 3) to identify the Tree Protection Zone (*see Section 5.15-E*) in which no soil disturbance is permitted and activities are restricted.

17. Public Nuisance means something that is offensive to the community or that violates the legal rights of persons or the community, as determined only by the Director of Planning and Community Development, City Attorney or the Public Works Department.

18. Public Tree means any tree growing within the street right-of-way [outside of private property], public property or easements. In some cases, property lines lie several feet behind the sidewalks or the edge of the paved street. A City Encroachment Permit is required prior to any work on or around these trees. Check with the Public Works Department to verify prior to any work near a street tree.

19. Recommended Practice means an action, treatment, technique or procedure that may be implemented for superior care or preservation of trees. Recommended practices may be required under specific conditions of approval for discretionary development projects or injury mitigation.

20. Removal means any of the following: 1) complete tree removal such as cutting to the ground or extraction of the tree; or 2) taking any action foreseeably leading to the death of a tree or permanent damage to its health or structural integrity, including but not limited to excessive pruning, cutting, girdling, poisoning, over watering, unauthorized relocation or transportation of a tree, or trenching, excavation, altering the grade, or paving within the dripline of the tree.

21. Required Practice means a mandatory action, treatment, technique or standard of care required to be implemented by the property owner, developer, contractor or designee for the preservation of trees.

22. Root Buffer means a temporary layer of material to protect the soil texture and roots. The buffer shall consist of a base course of tree chips spread over the root area to a minimum of 6-inch depth, capped by a base course of 3/4-inch quarry gravel to stabilize 3/4-inch plywood on top.

23. Site Plan means a set of drawings (e.g. preliminary drawings, site plan, grading, demolition, building, utilities, landscape, irrigation, tree survey, etc.) that show existing site conditions and proposed landscape improvements, including trees to be removed, relocated or retained. Site plans shall include the following minimum information that may impact trees: 1) surveyed tree location, species, size (height, width, DBH or DSH), dripline area (including trees located on neighboring property that overhang the project site) and street trees within 30-feet of the project site; 2) paving, concrete, trenching or grade change (including the limits of over-excavation) located within the tree protection zone; 3) existing and proposed utility pathways; 4) surface and subsurface drainage and aeration systems to be used; 5) walls, tree wells, retaining walls and grade change barriers, both temporary and permanent; 6) landscaping, irrigation and lighting within dripline of trees, including all lines, valves, etc; or 7) location of other landscaping and significant features. All of the final approved site plan sheets shall reference tree protection instructions (*see also Site Plan, Section 6.35*).

24. Soil Compaction means the compression of soil particles that may result from the movement of construction tools (wheelbarrows etc.), workers, heavy machinery and trucks, or storage of construction materials, structures, paving, etc. within the Tree Protection Zone. Soil compaction can result in atrophy of roots and potential death of the tree, with symptoms often taking 3 to 10-years to manifest (*see Soil Compaction, Section 5.20-A; and Aeration, Section 2.50-A*).

25. Soil Fracturing means the loosening of hard or compacted soil around a tree by means of a pneumatic soil probe (Gro-gun) that delivers sudden bursts of air to crack, loosen or expand the soil to improve the root growing environment.

26. Target is a term used to include people, vehicles, structures or something subject to damage by a tree. Note: A tree may not be a hazard if a *"target"* is absent within the falling distance of a tree or its parts (e.g., a defective tree in a non-populated area away from pathways may not be considered a hazard.)

27. Topping means the practice of cutting back large-diameter branches or truncating the main stem.

28. Tree Appraisal means a method of determining the monetary value of a tree as it relates to the real estate value of the property, neighborhood or community. When required, a certified arborist determines the appraisal by adjusting a tree's basic value by its condition, location and species using the most recent edition of the Guide for Plant Appraisal, published by the Council of Tree and Landscape Appraisers (*see Tree Reports, Section 6.00*).

29. Tree Protection and Preservation Plan means a plan prepared by a certified arborist or registered landscape architect that outlines measures to protect and preserve trees on a project (*see Tree Protection and Preservation Plan, Section 5.10 and Reports, Section 6.30*). This plan shall include requirements for preconstruction; treatments during demolition and/or construction; establishment of a Tree Protection Zone for each tree; tree monitoring and inspection schedule; and a provision for continued maintenance of those trees after construction according to the requirements in this Manual.

30. Tree Protection Zone or (TPZ) means, unless otherwise specified by a project arborist or City Arborist, the area of temporary fenced tree enclosure (*see Protective Tree Fencing, Section 5.15-D, and Section 5.15-E*). Within the TPZ, roots that are critical for tree survival are typically found in the upper three foot soil horizon, and may extend beyond the dripline area. Protecting the roots in the TPZ is necessary to ensure the tree's survival. The TPZ is a restricted activity zone where no soil disturbance is permitted, unless otherwise approved. TPZ must be identified for each tree and shown on all applicable improvement plans for a development project. Restricted and approved activities within the TPZ are outlined in Section 5.15-E. Unless otherwise specified, the approved minimum TPZ shall be formulated in the following way: the TPZ radius shall be 10 times the DBH of the trunk or the distance to the outermost edge of the tree canopy, whichever is the lesser distance. (*see Dripline area, Section 1.10*). For example: a 2-foot DBH = a 20-foot radius from the perimeter of the trunk—or a 40-foot TPZ. The City Arborist retains discretionary right to extend or modify the TPZ at any time.

31. Tree Report means a report submitted to the City for review that is prepared by a certified arborist retained by the property owner or agent.

32. Tree Survey Report In the case of a discretionary development approval, a tree survey report is required to provide information about all trees on the site including: inventory of all trees, location, species, size, condition, maintenance needs, potential impacts of disturbance, recommended mitigation measures, tree appraisal value, etc. (*see Tree Reports, Section 6.00*).

33. Tree Policy Manual is this document.

34. Trenching means any excavation to provide irrigation, install foundations, utility lines, services, pipe, drainage or other property improvements below grade. Trenching within the TPZ is injurious to roots and tree health and is prohibited, unless approved. If trenching is approved within the TPZ, it must be in accordance with instructions and table outlined in this Manual (*see Trenching, Section 5.20-C, and Pavement and Hardscape Conflicts with Tree Roots, Section 5.40*).

35. Verification of Tree Protection means the project arborist shall verify, in writing, that all pre-construction conditions have been met (tree fencing, erosion control, pruning, etc.) and are in place. An initial inspection of protective fencing and written verification must be submitted to the City Arborist prior to demolition, grading or building permit issuance (*see Inspections, Section 5.30*).

36. Vertical Mulching means augering, hydraulic or air excavation of vertical holes within a tree's root zone to loosen and aerate the soil, typically to mitigate compacted soil. Holes are typically penetrated 4- to 6-feet on center, 2- to 3-feet deep, 2- to 6-inches in diameter and backfilled with either perlite, vermiculite, peat moss or a mixture thereof.

SECTION 2.00 TREE MAINTENANCE GUIDELINES

INTRODUCTION
This chapter establishes recommendations for the care and maintenance of Del Mar's public trees. These recommendations apply to all persons who own or are engaged in the business of repairing, maintaining, or preserving these trees. The following recommendations are set forth for pruning (including for utility, fire safety and traffic encroachment purposes), planting, watering, soil and nutrient requirements, as well as insect, disease and fruit control. Guidelines for selecting an arborist are also included. These guidelines are based on sound arboricultural principles and are applicable to trees, shrubs and woody plants.

2.10 PROHIBITED ACTS

The following prohibited maintenance practices for protected trees apply.

A. Excessive Pruning
Except for clearance pruning of utility lines, traffic or abating a Public Nuisance, excessive pruning (*see Excessive Pruning, Section 1.11*) shall be considered a prohibited act.

B. Topping
Topping shall be considered a prohibited act (*see Topping, Section 1.27*). Seek alternatives to topping (*see Types of Pruning, Section 2.20-A*).

C. Other prohibited actions
Taking any action which could lead to the death of a tree or could permanently damage its health, including but not limited to excessive pruning, cutting, girdling, poisoning, over watering, unauthorized relocation or transportation of a tree, or trenching, excavating, altering the grade, or paving within the dripline area of a tree.

2.15 STANDARDS FOR PRUNING PUBLIC TREES

The most compelling reason to prune trees is to develop a strong, safe framework. All work to be performed on public trees shall be in accordance with the following standards:

A. Permission
Prior to performing any work on a public tree, an Encroachment Permit from the City of Del Mar must first be obtained. The requirement does not pertain to City personnel or contracted service providers involved in work related/approved activities.

B. Specifications
When an Encroachment Permit is required for work involving a public tree, specifications for the proposed work shall be written and shall be administered by a qualified arborist. Such specifications shall be designed to promote the preservation of tree structure and health.

C. Industry Standards

All work on public trees shall be in accordance with the most current edition of the following industry standards: (*see Performance Standards. Standard Practices for Tree Care Operations - ANSI A300-1995 Appendix G; Safety Standards, ANSI Z133.1-1994, Appendix H; and Tree Pruning Guidelines, Appendix F).*

2.20 PRUNING MATURE TREES

There are six types of pruning that may be required for use on mature regulated trees (*see ISA Tree Pruning Guidelines, Appendix F*). Prior to working on the tree, the tree worker is required to be familiar with these types of pruning as stated in the Performance Standards, ANSI, A300-1995. Species-specific pruning promotes the natural shape of the tree (i.e. excurrent, decurrent, vase-shaped, fast growing, etc.)

A. Types of Pruning

- Crown Cleaning
- Crown Thinning
- Crown Raising
- Crown Restoration
- Crown Reduction
- Utility Pruning

B. Tree Injury

Climbing and pruning practices shall not injure the tree except for the pruning cuts.

C. Timing of Pruning

To reduce the probability of insect infestation, disease, or infection, the following seasonal restrictions apply, except when public safety is a concern (*see Tree Pruning, Surgery and Removal, Section 5.15-G*):

- Pine (Pinus spp.) or Elm (Ulmus spp.): Do not prune March-October.
- All species: Do not prune during the flush of spring shoot growth.
- Trees with thin bark: Do not prune in summer when sunscald injury may be a factor.
- Deciduous trees (leafless in winter): Best pruned November-February.
- Hazardous trees of any species may be pruned any time of the year for abatement reasons.

2.25 PRUNING DISTRESSED TREES

Distressed trees require as much leaf area as possible to overcome stressed conditions. To avoid additional injury, the following measures shall be followed for these trees.

A. Injury or Disturbance

If a tree has been damaged by injury or disturbance, delay pruning until deadwood becomes evident (typically 1-3 years after injury). Crown cleaning is then recommended.

B. Neglect

Trees that have received little or no care or maintenance may need moderate crown thinning, reduction of end weights, or entire crown restoration.

Exhibit D - Tree Owner Response and Arborist Report

765231

CUSTOMER'S ORDER NO.	DEPARTMENT	DATE
		5-28-24

NAME Tom

ADDRESS 101 11th st

CITY, STATE, ZIP Del mar

SOLD BY	CASH	C.O.D.	CHARGE	ON ACCT.	MDSE. RETD.	PAID OUT

	QUANTITY	DESCRIPTION	PRICE	AMOUNT
1	1	1 month service March	$400	
2				
3				
4	2	Remove trash		
5				
6	3	Trimm Back Tree from neighbor	$680	
7				
8				
9				
10		Total	$1,080	
11				
12				
13		Thank you		
14				
15				
16				
17				
18				

RECEIVED BY

01-11

A-5605
T-46320/46960

KEEP THIS SLIP FOR REFERENCE

INVOICE

Invoice# INV-000052

Balance Due
$411.00

Treehugger Care & Consulting

Treehugger Care and Consulting, LLC
Tax ID : 92-0404723
1061 Woodlake Dr.
Cardiff by the Sea California 92007

Bill To
Tom Harrington
101 11th St.
Del Mar
California

Invoice Date : November 18, 2023
Terms : Net 30
Due Date : December 18, 2023

Subject :
Chinese Elm Pruning

#	Item & Description	Qty (Hours)	Rate (Dollars)	Amount
1	Structural pruning of easternmost Chinese elm tree to encourage clear viewshed corridors on north and south sides of the tree.	5.00	75.00	375.00
2	Greenwaste dump fees	1.00	36.00	36.00
			Sub Total	411.00
			Total	**$411.00**
			Balance Due	**$411.00**

Notes
Thank you for the payment and support!

Payment Options

53221HS Deluxe 1-800-328-0304 or www.deluxe.com/shop

1075

DATE 10-3-23

TO Pedro Francisco

FOR

		BAL. BRO'T FOR'D
DEPOSITS		
TOTAL		
THIS CHECK	650 -	
OTHER		
BALANCE		

TAX DEDUCTIBLE

53221HS Deluxe 1-800-328-0304 or www.deluxe.com/shop

1076

DATE 10/31/23

TO Pedro Francisco

FOR Oct. 400
Tip Melaluka 950

		BAL. BRO'T FOR'D
DEPOSITS		
TOTAL	1350	
THIS CHECK	1350	
OTHER		
BALANCE		

TAX DEDUCTIBLE

53221HS Deluxe 1-800-328-0304 or www.deluxe.com/shop

1077

DATE 11/27/23

TO Pedro Francisco

FOR 32 plants x
120 ea

		BAL. BRO'T FOR'D
DEPOSITS		
TOTAL		
THIS CHECK	3,840 -	
OTHER		
BALANCE		

TAX DEDUCTIBLE

D45AVV SLKDK06 10/22/2021 11:21 -61-

Exhibit E - Tree Location Map

1" = 161 ft	TVS24-001 (Anstis, 111 11th Street)	06/24/2024	

This map may represents a visual display of related geographic information. Data provided here on is not guarantee of actual field conditions. To be sure of complete accuracy, please contact the responsible staff for most up-to-date information.