

RESOLUTION NO. 2019-166

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
CERTIFYING THE FINAL ENVIRONMENTAL
IMPACT REPORT AND ADOPTING FINDINGS
OF FACT AND A MITIGATION MONITORING
AND REPORTING PROGRAM FOR NUTMEG
HOMES PROJECT PROPOSAL

CASE NOS.: SUB 18-0005 and ENV 18-0005

WHEREAS, Consultants Collaborative (“Applicant”) submitted a land use development application to build 135 new homes on property located in the north portion of the City of Escondido (“City”), on both sides of North Nutmeg Street, between North Centre City Parkway and Interstate 15. The Project site is comprised of three lots with Assessor’s Parcel Numbers 224-260-23, 224-260-46, and 224-260-47, legally described in Exhibit “D,” which is attached to this Resolution and incorporated herein by this reference as though fully set forth; and

WHEREAS, pursuant to the authority of Government Code Section 66410 et. seq., Government Code Sections 65864–65869.5, and all relevant articles and sections of the Escondido Zoning Code, said verified application in its entirety constitutes a General Plan Amendment, Rezone, Master and Precise Development Plan, Tentative Subdivision Map, Grading Exemption, and Specific Alignment Plan (“Project”); and

WHEREAS, said verified application was submitted to, and processed by, the Planning Division of the Community Development Department as Planning Case Nos. SUB 18-0005 and ENV 18-0005, in accordance with the rules and regulations of the Escondido Municipal and Zoning Codes, and the applicable procedures and time limits specified by the Permit Streamlining Act (Government Code Section 65920 et seq.) and

the California Environmental Quality Act (“CEQA”) (Public Resources Code Section 21000 et seq.); and

WHEREAS, pursuant to CEQA and its implementing regulations (the State CEQA Guidelines), 14 California Code of Regulations Section 15000 et. seq., the City is the lead agency for the Project, as the public agency with the principal responsibility for approving the proposed Project; and

WHEREAS, an Initial Study Checklist was prepared in accordance with CEQA Guidelines Section 15063. Based on the Initial Study, the City determined an EIR would be prepared to address potential direct and cumulative impacts associated with aesthetics, agricultural resources, biological resources, cultural resources (including tribal cultural resources), geology and soils, hazards and hazardous materials, land use and planning, noise, and transportation and traffic; and

WHEREAS, in accordance with Guidelines Section 15082, the City distributed a Notice of Preparation (“NOP”) of an EIR to the State Clearinghouse, local and regional responsible agencies, and other interested parties on August 29, 2018, for a 30-day comment period, which ended on October 1, 2018. The Initial Study was provided as an attachment to the NOP; and

WHEREAS, the Draft EIR for the proposed Project was then prepared and circulated for review and comment by the public, agencies, and organizations and was circulated for public review and comment pursuant to the State CEQA Guidelines by filing a Notice of Availability (“NOA”) of the Draft EIR for review with the County Clerk of San Diego. The NOA was also mailed to organizations and parties expressing interest in the Project on May 7, 2019, notifying the general public, public agencies, and

interested individuals and organizations that a 45-day public review period would begin on May 10, 2019, and end on June 24, 2019. The NOA was also filed with the City Clerk, published in the Daily Transcript, and posted on the City's website; and

WHEREAS, a Notice of Completion of the Draft EIR was circulated to State agencies for review through the State Clearinghouse, Office of Planning and Research (SCH No. 2018081063) on May 6, 2019; and

WHEREAS, during the 45-day public comment period of the Draft EIR, the City consulted with and requested comments from all responsible and trustee agencies, other regulatory agencies and others pursuant to State CEQA Guidelines Sections 15086 and 15087; and

WHEREAS, the City received comments concerning the Draft EIR from public agencies, organizations, and individuals, and pursuant to CEQA Guidelines Section 15088, the City prepared responses to all written comments received on the Draft EIR which raised environmental issues; and

WHEREAS, the City has determined that the comments received on the Draft EIR did not contain any significant new information within the meaning of CEQA Guidelines Section 15088.5 and therefore, recirculation of the Draft EIR is not required; and

WHEREAS, the City prepared a Final EIR, which contains the information required by CEQA Guidelines Section 15132, including the Draft EIR, the technical appendices and referenced documents, revisions and additions to those documents, public and agency comments on the Draft EIR and the City's responses to comments; and

WHEREAS, the Planning Commission did hold a duly noticed public hearing as prescribed by law to consider the certification of the Final EIR on October 22, 2019, during which it received any evidence and took and considered public testimony from those wishing to be heard regarding certification of the Final EIR; and

WHEREAS, the Planning Commission adopted Planning Commission Resolution No. 2019-23 recommending that City Council certify the EIR, adopt the CEQA Findings of Fact, and adopt the Mitigation Monitoring and Reporting Program; and recommending approval of said Project, on file with the Office of the City Clerk and incorporated herein by this reference as though fully set forth herein; and

WHEREAS, pursuant to Public Resources Code Section 21092.5, the City provided a Notice of City Council Public Hearing to all organizations and individuals who had previously requested such notice, and published the Notice of Public Hearing in the Daily Transcript and posted the Notice on the City's website; and

WHEREAS, the City Council did on November 20, 2019, hold a duly noticed public hearing as prescribed by law to consider the Planning Commission's recommendation to certify the Final EIR and approve said Project, during which it considered all factors relating to the EIR and the Project, including additional evidence and considered public testimony from those wishing to be heard regarding certification of the Final EIR; and

WHEREAS, the City Council has carefully reviewed and considered all environmental documentation comprising the Final EIR, including the Draft EIR and the revisions and additions thereto, the technical appendices and referenced documents, and the public comments and the responses thereto (Exhibit "A" of this Resolution, on

file in the Office of the City Clerk and incorporated herein by this reference as though fully set forth herein), and has found that the Final EIR considers all potentially significant environmental impacts of the Project and is complete and adequate, and fully complies with all requirements of CEQA and the State CEQA Guidelines; and

WHEREAS, at said public hearing, City Council members independently and jointly reviewed and analyzed the Draft EIR and Final EIR, and these documents reflect the independent judgment of the City Council and the City as the Lead Agency for the Project. The City Council considered all significant impacts, mitigation measures, Project alternatives identified in the Final EIR, and considered all written and oral communications from the public regarding the environmental analysis, and found that all potentially significant impacts of the Project have been lessened or avoided to the extent feasible; and

WHEREAS, pursuant to CEQA Guidelines Section 15091 and 15097, the City of Escondido has prepared CEQA Findings of Fact and a Mitigation Monitoring and Reporting Program, which have been filed with the City of Escondido (attached hereas as Exhibits "B" and "C" of this Resolution, incorporated herein by this reference as though fully set forth herein).

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

1. That the above recitations are true.
2. That in determining whether the proposed Project has a significant impact on the environment, and in adopting these Findings pursuant to Section 21081 of CEQA, the City has based its decision on substantial evidence and has complied with

CEQA Sections 21081.5 and 21082.2 and Guidelines Section 15901(b). In addition, the City has analyzed the potential for adverse secondary impacts that could result from the mitigation measures proposed as part of the Project pursuant to CEQA Guidelines Section 15126.4(a)(1)(D), and finds that no additional significant adverse impacts would result from implementation of Project mitigation measures.

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

4. That the findings of the Planning Commission, contained in Planning Commission Resolution No. 2019-023, on file with the Office of the City Clerk and incorporated herein by reference, are hereby adopted as the findings of the City Council.

5. That the City has made no decisions that constitute an irretrievable commitment of resources toward the proposed Project prior to certification of the Final EIR, nor has the City previously committed to a definite course of action with respect to the proposed Project.

6. That the City Council finds and determines that the applicable provisions of CEQA and the State CEQA Guidelines have been duly observed in conjunction with said hearing and the considerations of this matter and all of the previous proceedings related thereto. The City Council finds and determines that (a) the Final EIR is complete and adequate in scope and has been completed in compliance with CEQA and the State CEQA Guidelines for implementation thereof; (b) the Final EIR was presented to the City Council, and the City Council has fully reviewed and considered the information in Final EIR prior to approving the Project; and (c) the Final EIR reflects the City Council's independent judgment and analysis, and, therefore, the Final EIR is hereby declared to be certified in relation to the subject of this Resolution.

7. That pursuant to Public Resources Code Section 21081.6 and CEQA Guidelines Section 15091(d), the City Council hereby adopts and approves the Mitigation Monitoring and Reporting Program, which is appended hereto as Exhibit "C" and is made a part hereof by this reference, with respect to the significant environmental effects identified in the Final EIR, and hereby makes and adopts the provisions of the Mitigation Monitoring and Reporting Program as conditions of approval for the Project.

8. That this action is final on the date this Resolution is adopted by the City Council. Unless a shorter statute of limitations applies, the time limits for judicial review shall be as provided in California Code of Civil Procedures Section 1094.6.

9. That pursuant to Public Resources Code Section 21081. 6(a)(2) and CEQA Guidelines Section 15091(e), all documents and other materials, which constitute the record of proceedings, are located at the City of Escondido, City Civic Center. The City Clerk, whose office is located at 201 North Broadway, Escondido CA 92025, is hereby designated as the custodian of the documents and other materials which constitute the record of proceedings upon which the City Council's decision is based, which documents and materials shall be available for public inspection and copying in accordance with the provisions of the California Public Records Act.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Escondido at a regular meeting thereof this 20th day of November, 2019 by the following vote to wit:

AYES : Councilmembers: DIAZ, MARTINEZ, MASSON, MORASCO, MCNAMARA

NOES : Councilmembers: NONE

ABSENT : Councilmembers: NONE

APPROVED:

DocuSigned by:
Paul McNamara
CAACE20782954D3
PAUL MCNAMARA, Mayor of the
City of Escondido, California

ATTEST:

DocuSigned by:
Zack Beck
A58535D0BDC1430...
ZACK BECK, City Clerk of the
City of Escondido, California

RESOLUTION NO. 2019-166

EXHIBIT "A"

FINAL ENVIRONMENTAL IMPACT REPORT (OCT. 2019)

On file in the Office of the City Clerk, and available online at
<https://www.escondido.org/nutmeg.aspx>

EXHIBIT "B"

CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF FACT

On file in the Office of the City Clerk and online at <https://www.escondido.org/nutmeg.aspx>

Mitigation Monitoring and Compliance Program - SUB 18-0005 and ENV 18-0005

Mitigation Measure	Monitoring Phase	Monitoring Method	Enforcement Agency & Responsible Agency	Verification of Compliance		
				Initials	Date	Remarks
Biological Resources						
<p>MM BIO-1</p> <p>Prior to the issuance of any permit (i.e. grading, tree-trimming, or vegetation removal) by the City the Project Applicant shall demonstrate to the satisfaction of the City Community Development Director or City designee that if initial grading and vegetation removal activities (i.e., earthwork, clearing, and grubbing) must occur during the general bird breeding season for migratory birds and raptors (January 15 and September 15), the Project Applicant shall retain a qualified biologist to perform a pre-construction survey of potential nesting habitat to confirm the absence of active nests belonging to migratory birds and raptors afforded protection under the Migratory Bird Treaty Act and California</p>	<p>Prior to issuance of Grading Permit</p> <p>Prior to construction</p> <p>On-going during construction</p>	<p>General Contractor to consult with qualified biologist to verify compliance with requirements</p> <p>Qualified biologist to submit report documenting compliance with requirements</p>	<p>Verification by City of Escondido</p>			

Mitigation Monitoring and Compliance Program - SUB 18-0005 and ENV 18-0005

Mitigation Measure	Monitoring Phase	Monitoring Method	Enforcement Agency & Responsible Agency	Verification of Compliance		
				Initials	Date	Remarks
<p>Fish and Game Code. The pre-construction survey shall be performed no more than seven (7) days before the start of the activities. If the qualified biologist determines that no active migratory bird or raptor nests occur, the activities shall be allowed to proceed without any further requirements. If the qualified biologist determines that an active migratory bird or raptor nest is present, no construction activities shall occur until the young have fledged the nest and the nest is confirmed to no longer be active, as determined by the qualified biologist.</p>						
<p>MM BIO-2 Prior to the issuance of any grading permit that would impact coastal California gnatcatcher (CAGN) protocol surveys in accordance with Wildlife</p>	<p>Prior to issuance of Grading Permit Prior to construction On-going during construction</p>	<p>General Contractor to consult with qualified biologist to verify compliance with requirements Qualified biologist to submit report</p>	<p>Verification by City of Escondido</p>			

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Mitigation Measure	Monitoring Phase	Monitoring Method	Enforcement Agency & Responsible Agency	Verification of Compliance		
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<p>Agency criteria shall be accomplished. (This includes: from March 15 to June 30, a minimum of six (6) surveys shall be conducted at least one week apart; or, between July 1 and March 14, nine (9) surveys are required, to be conducted at minimum two (2) week intervals.) If surveys document absence of CAGN no additional avoidance or minimization measures are required. If surveys document the presence of CAGN occupied coastal sage scrub shall be fenced and construction within 500 feet of occupied habitat shall occur only between September 1 and February 15 to avoid indirect impacts to nesting CAGN. If avoidance is not feasible, a temporary noise barrier shall be used during construction, at the appropriate location(s), in coordination with Resources Agencies. The noise barrier</p>		documenting compliance with requirements				

Mitigation Monitoring and Compliance Program - SUB 18-0005 and ENV 18-0005

Mitigation Measure	Monitoring Phase	Monitoring Method	Enforcement Agency & Responsible Agency	Verification of Compliance		
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<p>shall attenuate noise levels to 60 dBA or less at the edge of breeding habitat.</p> <p>No permit (i.e. grading, tree-trimming, or vegetation removal) that would impact Coastal Sage Scrub, Southern Mixed Chaparral, or Coast Live Oak Woodland habitat on the project site shall be issued until the Project Applicant shall demonstrates to the satisfaction of the City Community Development Director or City designee that they will/have purchased off-site of suitable habitat within a City approved mitigation bank (such as the Daley Ranch Conservation Bank) at mitigation ratios noted in Table 4.3-2.</p>						
<p>MM BIO-3</p> <p>Prior to the issuance of any permit (i.e. grading, tree-trimming, or vegetation removal) by the City the Project Applicant shall demonstrate to the</p>	<p>Prior to issuance of Grading Permit</p> <p>Prior to construction</p>	<p>General Contractor to consult with qualified biologist to verify compliance with requirements</p>	<p>Verification by City of Escondido</p>			

Mitigation Monitoring and Compliance Program - SUB 18-0005 and ENV 18-0005

Mitigation Measure	Monitoring Phase	Monitoring Method	Enforcement Agency & Responsible Agency	Verification of Compliance		
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satisfaction of the City Community Development Director or City designee that the replacement of impacted mature trees will occur. Unless otherwise determined by the City mature trees will be replaced at a minimum 1:1 ratio. The Project Applicant shall replace protected trees at a minimum 2:1 ratio, unless otherwise determined by the City. The number, size, and species of replacement trees shall be determined on a case-by-case basis by the City's Director of Community Development or City designee.	On-going during construction	Qualified biologist to submit report documenting compliance with requirements				
Cultural Resources						
MM CR-1 The City of Escondido Planning Division ("City") recommends the applicant enter into a Tribal Cultural Resource Treatment and Monitoring Agreement (also known as	Prior to issuance of Grading Permit	Grading plan must include this measure as a note Agreement must be completed prior to	Verification by City of Escondido			

Mitigation Monitoring and Compliance Program - SUB 18-0005 and ENV 18-0005

Mitigation Measure	Monitoring Phase	Monitoring Method	Enforcement Agency & Responsible Agency	Verification of Compliance		
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<p>a pre-excavation agreement) with a tribe that is traditionally and culturally affiliated with the Project Location ("TCA Tribe") prior to issuance of a grading permit. The Pauma tribe shall be consulted prior to contracting with the Native American Monitor. The purposes of the agreement are (1) to provide the applicant with clear expectations regarding tribal cultural resources, and (2) to formalize protocols and procedures between the Applicant/Owner and the TCA Tribe for the protection and treatment of, including but not limited to, Native American human remains, funerary objects, cultural and religious landscapes, ceremonial items, traditional gathering areas and cultural items, located and/or discovered through a monitoring program in conjunction with the construction of the proposed project, including additional archaeological surveys and/or studies, excavations, geotechnical investigations, grading, and all other ground disturbing activities.</p>		<p>issuance of grading permit</p>				

Mitigation Monitoring and Compliance Program - SUB 18-0005 and ENV 18-0005

Mitigation Measure	Monitoring Phase	Monitoring Method	Enforcement Agency & Responsible Agency	Verification of Compliance		
				Initials	Date	Remarks
<p>MM CR-2</p> <p>Prior to issuance of a grading permit, the applicant shall provide written verification to the City that a qualified archaeologist and a Native American monitor associated with a TCA Tribe have been retained to implement the monitoring program. The archaeologist shall be responsible for coordinating with the Native American monitor. This verification shall be presented to the City in a letter from the project archaeologist that confirms the selected Native American monitor is from a TCA Tribe. The City, prior to any pre-construction meeting, shall approve all persons involved in the monitoring program.</p>	<p>Prior to issuance of Grading Permit</p> <p>The City, prior to any pre-construction meeting, shall approve all persons involved in the monitoring program.</p>	<p>Grading plan must include this measure as a note</p> <p>Project Applicant shall provide written verification to the City that a qualified archaeologist and a Native American monitor associated with a TCA Tribe have been retained to implement the monitoring program</p>	<p>Verification by City of Escondido</p>			
<p>MM CR-3</p> <p>The qualified archaeologist and a Native American monitor shall attend the pre-grading meeting with the grading</p>	<p>On-going during construction</p>	<p>Grading plan must include this measure as a note</p> <p>Native American monitor shall attend the pre-grading meeting</p>	<p>Verification by City of Escondido</p>			

Mitigation Monitoring and Compliance Program - SUB 18-0005 and ENV 18-0005

Mitigation Measure	Monitoring Phase	Monitoring Method	Enforcement Agency & Responsible Agency	Verification of Compliance		
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<p>contractors to explain and coordinate the requirements of the monitoring program.</p>		<p>Grading contractor shall explain and coordinate the requirements of the monitoring program</p>				
<p>MM CR-4</p> <p>During the initial grubbing, site grading, excavation or disturbance of the ground surface, the qualified archaeologist and the Native American monitor shall be on site full-time. The frequency of inspections shall depend on the rate of excavation, the materials excavated, and any discoveries of tribal cultural resources as defined in California Public Resources Code Section 21074. Archaeological and Native American monitoring will be discontinued when the depth of grading and soil conditions no longer retain the potential to contain cultural deposits. The qualified archaeologist, in consultation with the Native American monitor, shall be responsible for determining the duration and frequency of monitoring.</p>	<p>During the initial grubbing, site grading, excavation or disturbance of the ground surface. The qualified archaeologist, in consultation with the Native American monitor, shall be responsible for determining the duration and frequency of monitoring.</p>	<p>Grading plan must include this measure as a note</p> <p>During the initial grubbing, site grading, excavation or disturbance of the ground surface, the Project Applicants qualified archaeologist and the Native American monitor shall be on site full-time</p> <p>Any resources shall be addressed in accordance with CEQA</p> <p>Any resources shall be addressed as defined in California Public</p>	<p>Verification by City of Escondido</p>			

Mitigation Monitoring and Compliance Program - SUB 18-0005 and ENV 18-0005

Mitigation Measure	Monitoring Phase	Monitoring Method	Enforcement Agency & Responsible Agency	Verification of Compliance		
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		Resources Code Section 21074				
<p>MM CR-5</p> <p>In the event that previously unidentified tribal cultural resources are discovered, the qualified archaeologist and the Native American monitor, shall have the authority to temporarily divert or temporarily halt ground disturbance operation in the area of discovery to allow for the evaluation of potentially significant cultural resources. Isolates and clearly non-significant deposits shall be minimally documented in the field and collected so the monitored grading can proceed.</p>	On-going during construction	Grading plan must include this measure as a note Any resources shall be addressed in accordance with CEQA	Verification by City of Escondido			
<p>MM CR-6</p> <p>If a potentially significant tribal cultural resource is discovered, the archaeologist shall notify the City of said discovery. The qualified archaeologist, in consultation with the City, the TCA Tribe and the Native American monitor, shall determine the</p>	On-going during construction	Grading plan must include this measure as a note Any resources shall be addressed in accordance with CEQA	Verification by City of Escondido			

Mitigation Monitoring and Compliance Program - SUB 18-0005 and ENV 18-0005

Mitigation Measure	Monitoring Phase	Monitoring Method	Enforcement Agency & Responsible Agency	Verification of Compliance		
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<p>significance of the discovered resource. A recommendation for the tribal cultural resource's treatment and disposition shall be made by the qualified archaeologist in consultation with the TCA Tribe and the Native American monitor and be submitted to the City for review and approval.</p>						
<p>MM CR-7</p> <p>The avoidance and/or preservation of the significant tribal cultural resource and/or unique archaeological resource must first be considered and evaluated as required by CEQA. Where any significant tribal cultural resources and/or unique archaeological resources have been discovered and avoidance and/or preservation measures are deemed to be infeasible by the City, then a research design and data recovery program to mitigate impacts shall be prepared by the qualified archaeologist (using professional archaeological methods), in consultation with the TCA Tribe and the Native American monitor, and shall be subject to approval by the City. The</p>	<p>On-going during construction</p>	<p>Grading plan must include this measure as a note Any resources shall be addressed in accordance with CEQA</p>	<p>Verification by City of Escondido</p>			

Mitigation Monitoring and Compliance Program - SUB 18-0005 and ENV 18-0005

Mitigation Measure	Monitoring Phase	Monitoring Method	Enforcement Agency & Responsible Agency	Verification of Compliance		
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archaeological monitor, in consultation with the Native American monitor, shall determine the amount of material to be recovered for an adequate artifact sample for analysis. Before construction activities are allowed to resume in the affected area, the research design and data recovery program activities must be concluded to the satisfaction of the City.						
<p>MM CR-8</p> <p>As specified by California Health and Safety Code Section 7050.5, if human remains are found on the project site during construction or during archaeological work, the person responsible for the excavation, or his or her authorized representative, shall immediately notify the San Diego County Coroner's office. Determination of whether the remains are human shall be conducted on-site and in situ where they were discovered by a forensic anthropologist, unless the forensic anthropologist and the Native American monitor agree to remove the remains to an</p>	On-going during construction	Grading plan must include this measure as a note If human remains are found on the project site they shall be address as specified by California Health and Safety Code Section 7050.5 and with California Public Resources Code section 5097.98.	Verification by City of Escondido			

Mitigation Monitoring and Compliance Program - SUB 18-0005 and ENV 18-0005

Mitigation Measure	Monitoring Phase	Monitoring Method	Enforcement Agency & Responsible Agency	Verification of Compliance		
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<p>off-site location for examination. No further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains shall occur until the Coroner has made the necessary findings as to origin and disposition. A temporary construction exclusion zone shall be established surrounding the area of the discovery so that the area would be protected, and consultation and treatment could occur as prescribed by law. In the event that the remains are determined to be of Native American origin, the Most Likely Descendant, as identified by the Native American Heritage Commission, shall be contacted in order to determine proper treatment and disposition of the remains in accordance with California Public Resources Code section 5097.98. The Native American remains shall be kept in-situ, or in a secure location in close proximity to where they were found, and the analysis of the remains shall only occur</p>						

Mitigation Monitoring and Compliance Program - SUB 18-0005 and ENV 18-0005

Mitigation Measure	Monitoring Phase	Monitoring Method	Enforcement Agency & Responsible Agency	Verification of Compliance		
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<p>on-site in the presence of a Native American monitor.</p>						
<p>MM CR-9 If the qualified archaeologist elects to collect any tribal cultural resources, the Native American monitor must be present during any testing or cataloging of those resources. Moreover, if the qualified Archaeologist does not collect the cultural resources that are unearthed during the ground disturbing activities, the Native American monitor, may at their discretion, collect said resources and provide them to the TCA Tribe for respectful and dignified treatment in accordance with the Tribe's cultural and spiritual traditions. Any tribal cultural resources collected by the qualified archaeologist shall be repatriated to the TCA Tribe. Should the TCA Tribe or other traditionally and culturally affiliated tribe decline the collection, the collection shall be curated at the San Diego Archaeological Center. All other resources determined by the qualified archaeologist, in consultation</p>	<p>On-going during construction</p>	<p>Grading plan must include this measure as a note Native American monitor must be present during any testing or cataloging of those resources Any tribal cultural resources collected by the qualified archaeologist shall be repatriated to the TCA Tribe Any tribal cultural resources not accepted by the TCA Tribe shall be curated at the San Diego Archaeological Center</p>	<p>Verification by City of Escondido</p>			

Mitigation Monitoring and Compliance Program - SUB 18-0005 and ENV 18-0005

Mitigation Measure	Monitoring Phase	Monitoring Method	Enforcement Agency & Responsible Agency	Verification of Compliance		
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with the Native American monitor, to not be tribal cultural resources, shall be curated at the San Diego Archaeological Center.						
<p>MIM CR-10</p> <p>Prior to the release of the grading bond, a monitoring report and/or evaluation report, if appropriate, which describes the results, analysis and conclusion of the archaeological monitoring program and any data recovery program on the project site shall be submitted by the qualified archaeologist to the City. The Native American monitor shall be responsible for providing any notes or comments to the qualified archaeologist in a timely manner to be submitted with the report. The report will include California Department of Parks and Recreation Primary and Archaeological Site Forms for any newly discovered resources</p>	Prior to the release of the grading bond	<p>Grading plan must include this measure as a note</p> <p>Project Applicant's cultural resource qualified archaeologist shall prepare report</p> <p>Native American monitor shall provide opportunity to include notes or comments</p> <p>The report will include CA Department of Park and Recreation Forms if needed</p> <p>City Staff must approve all persons involved prior to pre-construction meeting</p>	Verification by City of Escondido			

Mitigation Monitoring and Compliance Program - SUB 18-0005 and ENV 18-0005

Mitigation Measure	Monitoring Phase	Monitoring Method	Enforcement Agency & Responsible Agency	Verification of Compliance		
				Initials	Date	Remarks
Hazards and Hazardous Materials						
<p>MM HAZ-1</p> <p>Prior to the issuance of any building permit, the project applicant shall demonstrate to the satisfaction of the City Building Department that all windows adjacent to preserved vegetation are dual paned with both panes tempered.</p>	<p>Prior to the issuance of any building permit.</p>	<p>Project Applicant shall demonstrate compliance to City Staff</p>	<p>Verification by City of Escondido</p>			
<p>MM HAZ-2</p> <p>2 Prior to the approval of the Final Landscape Plan, the wall and fence component shall provide a noncombustible, 8-foot wall at the rear or side yard that would function as a heat-deflecting landscape wall as shown on Figure 4.7-1 to the satisfaction of the City Community Development Department.</p>	<p>Prior to the approval of the Final Landscape Plan.</p>	<p>Project Applicant shall demonstrate compliance to City Staff</p>	<p>Verification by City of Escondido</p>			

Mitigation Monitoring and Compliance Program - SUB 18-0005 and ENV 18-0005

Mitigation Measure	Monitoring Phase	Monitoring Method	Enforcement Agency & Responsible Agency	Verification of Compliance		
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<p>MM HAZ-4</p> <p>Prior to the issuance of the first Certificate of Occupancy the project applicant shall provide CC&R's that demonstrate to the satisfaction of the City's Community Development Department and City Attorney that the annual review of landscape maintenance plans includes a third party evaluation of Fuel Modification Zones (FMZ) area that meet the requirements of the FMZ and City's Fire Department (EFD).</p>	<p>Prior to the issuance of the first Certificate of Occupancy.</p>	<p>Project Applicant shall demonstrate compliance to City Attorney and Community Development Director</p>	<p>Verification by City of Escondido</p>			
Noise						
<p>MM NOI-1</p> <p>In order to reduce the noise levels at the two proposed outdoor recreation areas, the project applicant shall construct two 8-foot sound walls, with one located on the south side of the</p>	<p>Prior to the issuance of the first building permit.</p>	<p>Project Applicant shall demonstrate compliance to City Staff</p>	<p>Verification by City of Escondido</p>			

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<p>outdoor recreation area that is located on the north side of Nutmeg Street and the other wall located southwest of the outdoor recreation area that is located on the south side of Nutmeg Street. The sound walls shall be constructed of a solid material (e.g., glass, concrete block, or plaster). The locations of the proposed outdoor recreation area sound walls are shown in Figure 4.10-5.</p>						
<p>MM NOI-2 The project applicant will provide a "windows closed" condition for each proposed residential townhome. A "window closed" condition is a term that means that a home is capable of providing adequate ventilation and temperature control without opening the windows. A "windows closed" condition requires a means of mechanical ventilation per Chapter 12, Section 1205 of the Uniform Building Code. This shall be achieved with a standard forced air conditioning and</p>	<p>Prior to the issuance of the first building permit.</p>	<p>Project Applicant shall demonstrate compliance to City Staff</p>	<p>Verification by City of Escondido</p>			

Mitigation Monitoring and Compliance Program - SUB 18-0005 and ENV 18-0005

Mitigation Measure	Monitoring Phase	Monitoring Method	Enforcement Agency & Responsible Agency	Verification of Compliance		
				Initials	Date	Remarks
heating system with a filtered outside air intake vent for each residential unit.						
MM NOI-3 For the P1-Villas, the project applicant shall require all windows and exterior doors on the northwest, southwest, and southeast sides of Building 1 to have a minimum STC rating of 30 STC. The locations of the mitigated windows and doors are shown on Figure 4.10-5.	Prior to the issuance of the first building permit for the P1-Villas.	Project Applicant shall demonstrate compliance to City Staff	Verification by City of Escondido			
MM NOI-4 For the P2-Villas, the project applicant shall require all windows and exterior doors on the southwest side of Buildings 12 to 18, the northwest side of Building 18, and the northwest side of the westernmost unit of Buildings 16 and 17 to have a minimum STC rating of 35 STC. In addition, all windows and exterior doors on the northwest side of Buildings 19 and 20 and southwest side of Building 19 and the southeast and northwest sides of Buildings 12 to 18 that	Prior to the issuance of the first building permit for the P2-Villas.	Project Applicant shall demonstrate compliance to City Staff	Verification by City of Escondido			

Mitigation Monitoring and Compliance Program - SUB 18-0005 and ENV 18-0005

Mitigation Measure	Monitoring Phase	Monitoring Method	Enforcement Agency & Responsible Agency	Verification of Compliance		
				Initials	Date	Remarks
<p>were not covered by the 35 STC requirement shall have a minimum STC rating of 30 STC. The locations of the mitigated windows and doors is shown on Figure 4.10-5.</p>						
Traffic and Transportation						
<p>MM TRA-1</p> <p>Prior to the occupancy of the proposed project the intersection of North Centre City Parkway/North Nutmeg Street will be improved to the satisfaction of the City as noted below:</p> <ul style="list-style-type: none"> • Installation of a traffic signal; • Restripe the southbound approach to provide a dedicated left-turn lane; and, <p>Construct a dedicated right-turn lane on the southbound approach of the intersection</p>	<p>Prior to the occupancy of the project.</p>	<p>Project Applicant shall demonstrate compliance to City Staff</p>	<p>Verification by City of Escondido</p>			

Mitigation Monitoring and Compliance Program - SUB 18-0005 and ENV 18-0005

Mitigation Measure	Monitoring Phase	Monitoring Method	Enforcement Agency & Responsible Agency	Verification of Compliance		
				Initials	Date	Remarks
<p>MM TRA-2</p> <p>The proposed project at the intersection of West Country Club Lane/ North Nutmeg Street will provide the following:</p> <ul style="list-style-type: none"> • Installation of a traffic signal at the intersection; and, • Restripe the southbound approach to provide a shared left-turn/through lane and a dedicated right-turn lane. 	Prior to the occupancy of the project.	Project Applicant shall demonstrate compliance to City Staff	Verification by City of Escondido			
<p>MM TRA-3</p> <p>Prior to the occupancy of the proposed project the existing right-of-way on North Nutmeg Street from West Country Club Lane to Via Alexandra will be widened to provide for a 14' wide southbound lane with curb, gutter, and sidewalk designed as a green streets facility. Improvements shall include</p>	Prior to the occupancy of the project.	Project Applicant shall demonstrate compliance to City Staff	Verification by City of Escondido			

Mitigation Monitoring and Compliance Program - SUB 18-0005 and ENV 18-0005

Mitigation Measure	Monitoring Phase	Monitoring Method	Enforcement Agency & Responsible Agency	Verification of Compliance		
				Initials	Date	Remarks
removal and reconstructions of existing driveways to private driveway standards and a parking restriction along the improved section of Nutmeg Street to the satisfaction of the City Engineer.						
<p>MM TRA-4</p> <p>The proposed project at the intersection of North Centre City Parkway/North Nutmeg Street intersection will provide the following minimum storage lengths for left turn and right-turn lanes:</p> <ul style="list-style-type: none"> • Eastbound Left-Turn Lane: 100 feet; and, • Southbound Right-Turn Lane: 125 feet 	Prior to the occupancy of the project.	Project Applicant shall demonstrate compliance to City Staff	Verification by City of Escondido			

Mitigation Monitoring and Compliance Program - SUB 18-0005 and ENV 18-0005

Mitigation Measure	Monitoring Phase	Monitoring Method	Enforcement Agency & Responsible Agency	Verification of Compliance		
				Initials	Date	Remarks
<p>MM TRA-5</p> <p>The proposed project at the intersection of Nutmeg Street/Project Access will provide 50-foot left-turn pockets for the eastbound and westbound left-turn lanes.</p>	<p>Prior to the occupancy of the project.</p>	<p>Project Applicant shall demonstrate compliance to City Staff</p>	<p>Verification by City of Escondido</p>			

EXHIBIT "D"

LEGAL DESCRIPTION

Parcel 1 (APN 240-260-23):

ALL THAT PORTION OF LOTS 1 AND 2 IN SECTION 5, TOWNSHIP 12 SOUTH, RANGE 2 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF ESCONDIDO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, LYING WESTERLY OF THE WESTERLY LINE OF LAND CONVEYED TO THE STATE OF CALIFORNIA BY DEED RECORDED MAY 15, 1947 IN BOOK 2380, PAGE 435 OF OFFICIAL RECORDS, SOUTHEASTERLY AND SOUTHERLY OF THE CENTER LINE OF COUNTY ROAD SURVEY NO. 1113 AS DESCRIBED IN DEED TO THE COUNTY OF SAN DIEGO RECORDED MAY 6, 1948 AS DOCUMENT NO. 45789 IN BOOK 2786, PAGE 349 OF OFFICIAL RECORDS AND EASTERLY AND NORTHERLY OF THE LAND CONVEYED TO THE STATE OF CALIFORNIA IN DEED RECORDED SEPTEMBER 28, 1971 AS FILE NO. 220908 OF OFFICIAL RECORDS.

Parcel 2 (APN 240-260-46):

ALL THAT PORTION OF LOTS 1 AND 2 IN SECTION 5, TOWNSHIP 12 SOUTH, RANGE 2 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF ESCONDIDO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, LYING WESTERLY OF THE WESTERLY LINE OF LAND CONVEYED TO THE STATE OF CALIFORNIA BY DEED RECORDED MAY 15, 1947 AS DOCUMENT NO. 51967, IN BOOK 2380, PAGE 435 OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTHERLY LINE OF SAID LOT 1 WITH THE WESTERLY LINE OF THE LAND CONVEYED TO THE STATE OF CALIFORNIA, BY DEED RECORDED MAY 15, 1947 AS DOCUMENT NO. 51967 IN BOOK 2380, PAGE 435 OF OFFICIAL RECORDS; THENCE ALONG THE SAID NORTHERLY LINE TO AND ALONG THE NORTHERLY LINE OF SAID LOT 2, SOUTH 89° 27' WEST 335.26 FEET; THENCE SOUTH 3° 36' 11" EAST TO THE CENTER LINE OF COUNTY ROAD SURVEY NO. 1113, AS DESCRIBED IN DEED TO THE COUNTY OF SAN DIEGO, RECORDED MAY 6, 1948 AS DOCUMENT NO. 45789 OF OFFICIAL RECORDS; THENCE NORTHEASTERLY AND EASTERLY ALONG SAID NORTHERLY LINE TO SAID WESTERLY LINE OF THE STATE OF CALIFORNIA LAND; THENCE NORTHERLY ALONG SAID WESTERLY LINE TO THE POINT OF BEGINNING.

Parcel 3 (APN 240-260-47):

ALL THAT PORTION OF LOTS 1 AND 2 IN SECTION 5, TOWNSHIP 12 SOUTH, RANGE 2 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF ESCONDIDO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, LYING WESTERLY OF THE WESTERLY LINE OF LAND CONVEYED TO THE STATE OF CALIFORNIA BY DEED RECORDED MAY 15, 1947 AS DOCUMENT NO. 51967, IN BOOK 2380, PAGE 435 OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTHERLY LINE OF SAID LOT 1 WITH THE WESTERLY LINE OF THE LAND CONVEYED TO THE STATE OF CALIFORNIA, BY DEED RECORDED MAY 15, 1947 AS DOCUMENT NO. 51967 IN BOOK 2380, PAGE 435 OF OFFICIAL RECORDS; THENCE ALONG THE SAID NORTHERLY LINE TO AND ALONG THE NORTHERLY LINE OF SAID LOT 2, SOUTH 89° 27' WEST 335.26 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 3° 36' 11" EAST TO THE CENTER LINE OF COUNTY ROAD SURVEY NO. 1113 AS DESCRIBED IN DEED TO THE COUNTY OF SAN DIEGO, RECORDED MAY 6, 1948 AS DOCUMENT NO. 45789 OF OFFICIAL RECORDS; THENCE SOUTHWESTERLY ALONG SAID LINE TO THE EASTERLY LINE OF THE STATE OF CALIFORNIA LAND DESCRIBED IN DEED TO THE STATE OF CALIFORNIA RECORDED JANUARY 10, 1973 AS FILE NO. 73-007572; THENCE NORTH 10° 53' 54" WEST 320.77 FEET TO THE NORTHERLY LINE OF SAID LOT 2; THENCE NORTH 89° 27' EAST 284.04 FEET TO THE TRUE POINT OF BEGINNING.