

# CITY OF SOLANA BEACH

SOLANA BEACH CITY COUNCIL, SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY,  
PUBLIC FINANCING AUTHORITY, & HOUSING AUTHORITY



## AGENDA

### Joint SPECIAL Meeting

Wednesday, December 5, 2018 \* 6:00 p.m.

City Hall / Council Chambers, 635 S. Highway 101, Solana Beach, California

- City Council meetings are video recorded and archived as a permanent record. The [video](#) recording captures the complete proceedings of the meeting and is available for viewing on the City's website.
- Posted Reports & Supplemental Docs contain records up to the cut off time prior to meetings for processing new submittals. Complete records containing meeting handouts, PowerPoints, etc. can be obtained through a [Records Request](#).

### PUBLIC MEETING ACCESS

The Regular Meetings of the City Council are scheduled for the 2nd and 4th Wednesdays and are broadcast live on Cox Communications-Channel 19, Spectrum(Time Warner)-Channel 24, and AT&T U-verse Channel 99. The video taping of meetings are maintained as a permanent record and contain a detailed account of the proceedings. Council meeting tapings are archived and available for viewing on the City's [Public Meetings](#) webpage.

### AGENDA MATERIALS

A full City Council agenda packet including relative supporting documentation is available at City Hall, the Solana Beach Branch [Library](#) (157 Stevens Ave.), La Colonia Community Ctr., and online [www.cityofsolanabeach.org](http://www.cityofsolanabeach.org). Agendas are posted at least 72 hours prior to regular meetings and at least 24 hours prior to special meetings. Writings and documents regarding an agenda of an open session meeting, [received](#) after the official posting, and distributed to the Council for consideration, will be made available for public viewing at the same time. In addition, items received at least 1 hour 30 minutes prior to the meeting time will be uploaded online with the courtesy agenda posting. Materials submitted for consideration should be forwarded to the [City Clerk's department](#) 858-720-2400. The designated location for viewing of hard copies is the City Clerk's office at City Hall during normal business hours.

### SPEAKERS

Please submit a speaker slip to the City Clerk prior to the meeting, or the announcement of the Section/Item, to provide public comment. Allotted times for speaking are outlined on the speaker's slip for each agenda section: Oral Communications, Consent, Public Hearings and Staff Reports.

### SPECIAL ASSISTANCE NEEDED

In compliance with the Americans with Disabilities Act of 1990, persons with a disability may request an agenda in appropriate alternative formats as required by Section 202. Any person with a disability who requires a modification or accommodation in order to participate in a meeting should direct such request to the [City Clerk's office](#) (858) 720-2400 at least 72 hours prior to the meeting.

As a courtesy to all meeting attendees, please set cellular phones and pagers to silent mode and engage in conversations outside the Council Chambers.

### CITY COUNCILMEMBERS

**David A. Zito**, Mayor

**Jewel Edson**, Deputy Mayor

**Judy Hegenauer**, Councilmember

**Lesa Heebner**, Councilmember

**Peter Zahn**, Councilmember

Gregory Wade  
City Manager

Johanna Canlas  
City Attorney

Angela Ivey  
City Clerk

**SPEAKERS:**

Please submit your speaker slip to the City Clerk prior to the meeting or the announcement of the Item. Allotted times for speaking are outlined on the speaker's slip for Oral Communications, Consent, Public Hearings and Staff Reports.

**READING OF ORDINANCES AND RESOLUTIONS:**

Pursuant to [Solana Beach Municipal Code](#) Section 2.04.460, at the time of introduction or adoption of an ordinance or adoption of a resolution, the same shall not be read in full unless after the reading of the title, further reading is requested by a member of the Council. If any Councilmember so requests, the ordinance or resolution shall be read in full. In the absence of such a request, this section shall constitute a waiver by the council of such reading.

**CALL TO ORDER AND ROLL CALL:**

**CLOSED SESSION REPORT:** (when applicable)

**FLAG SALUTE:**

**APPROVAL OF AGENDA:**

**ORAL COMMUNICATIONS:**

This portion of the agenda provides an opportunity for members of the public to address the City Council on items relating to City business and not appearing on today's agenda by submitting a speaker slip (located on the back table) to the City Clerk. Comments relating to items on this evening's agenda are taken at the time the items are heard. Pursuant to the Brown Act, no action shall be taken by the City Council on public comment items. Council may refer items to the City Manager for placement on a future agenda. The maximum time allotted for each presentation is THREE MINUTES (SBMC 2.04.190). Please be aware of the timer light on the Council Dais.

**COUNCIL COMMUNITY ANNOUNCEMENTS / COMMENTARY:**

*An opportunity for City Council to make brief announcements or report on their activities. These items are not agendized for official City business with no action or substantive discussion.*

**A. CONSENT CALENDAR:** (Action Items) (A.1.)

Items listed on the Consent Calendar are to be acted in a single action of the City Council unless pulled for discussion. Any member of the public may address the City Council on an item of concern by submitting to the City Clerk a speaker slip (located on the back table) before the Consent Calendar is addressed. Those items removed from the Consent Calendar by a member of the Council will be trailed to the end of the agenda, while Consent Calendar items removed by the public will be discussed immediately after approval of the Consent Calendar.

**A.1. Minutes of the City Council.**

Recommendation: That the City Council

1. Approve the Minutes of the City Council Meetings held July 11, 2018, and September 26, 2018.

**[Item A.1. Report \(click here\)](#)**

*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.*

**NOTE: The City Council shall not begin a new agenda item after 10:30 p.m. unless approved by a unanimous vote of all members present. (SBMC 2.04.070)**

**B. PUBLIC HEARINGS:** (B.1. – B.2.)

This portion of the agenda provides citizens an opportunity to express their views on a specific issue as required by law after proper noticing by submitting a speaker slip (located on the back table) to the City Clerk. After considering all of the evidence, including written materials and oral testimony, the City Council must make a decision supported by findings and the findings must be supported by substantial evidence in the record. An applicant or designee(s) for a private development/business project, for which the public hearing is being held, is allotted a total of fifteen minutes to speak, as per SBMC 2.04.210. A portion of the fifteen minutes may be saved to respond to those who speak in opposition. All other speakers have three minutes each. Please be aware of the timer light on the Council Dais.

**B.1. Public Hearing: 661-781 South Nardo Drive and 821 Stevens Avenue, Solana Highlands, Applicant: H.G. Fenton, Case 17-14-29.** (File 0600-40)

The proposed Project meets the minimum objective requirements under the SBMC, can be found to be consistent with the General Plan and the LCP (Local Coastal Plan) LUP (Land Use Plan), and may be found, as conditioned, to meet the discretionary findings required as discussed in this report to approve a DRP (Development Review Permit), SDP (Structure Development Permit) and VTPM (Vested Tentative Parcel Map). Therefore, Staff recommends that the City Council:

1. Conduct the Public Hearing: Open the public hearing, Report Council disclosures, Receive public testimony, Close the public hearing.
2. Consider certification of the FEIR and adoption of **Resolution 2018-131**
3. If the City Council certifies the FEIR and makes the requisite Findings of Fact and approves the project or an alternative, adopt **Resolution 2018-132** conditionally approving a DRP, SDP and VTPM, for the Solana Highlands project, consider approval of the fee waiver, density bonus and development standards waivers, for a residential community and affordable senior housing project, at 661-781 South Nardo Drive and 821 Stevens Avenue, Solana Beach.

**[Item B.1. Report \(click here\)](#)**

*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.*

**B.2. Public Hearing: Fiscal Year 2019-2020 Community Development Block Grant Funds – ADA Pedestrian Ramp Improvements.** (File 0390-32)

Recommendation: That the City Council

1. Conduct the Public Hearing: Open the public hearing, Report Council disclosures, Receive public testimony, Close the public hearing.
2. Adopt **Resolution 2018-149**:
  - a. Finding that the funding request and project implementation are exempt from the California Environmental Quality Act pursuant to the State CEQA Guidelines.
  - b. Approving the list of public street ADA ramp locations.
  - c. Requesting FY 2019-20 Community Development Block Grant Funds for ADA pedestrian ramp improvements at various public street intersections listed in Attachment 1, Exhibit
  - d. Finding that all of FY 2019-20 CDBG funds, presently estimated at a total of \$70,000, are designated to be used for ADA pedestrian ramp improvements.
  - e. Authorizing the City Manager to execute the County contract for management and implementation of the CDBG program.

[Item B.2. Report \(click here\)](#)

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**WORK PLAN COMMENTS:**

**COMPENSATION & REIMBURSEMENT DISCLOSURE:**

**COUNCIL COMMITTEE REPORTS:** [Council Committees](#)

**REGIONAL COMMITTEES: (outside agencies, appointed by this Council)**

**STANDING COMMITTEES: (All Primary Members) (Permanent Committees)**

**ADJOURN:**

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**Next Scheduled Meeting for December 12, 2018**

**5:30 p.m. Special Meeting (accepting election results, leaving Councilmembers)**

**6:00 p.m. – Regular Meeting (seating new Councilmembers)**

*Always refer the City's website Event Calendar for updated schedule or contact City Hall.*

[www.cityofsolanabeach.org](http://www.cityofsolanabeach.org) 858-720-2400

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**AFFIDAVIT OF POSTING**

STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

CITY OF SOLANA BEACH

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I, Angela Ivey, City Clerk of the City of Solana Beach, do hereby certify that this Agenda for the December 5, 2018 Council Meeting was called by City Council, Successor Agency to the Redevelopment Agency, Public Financing Authority, and the Housing Authority of the City of Solana Beach, California, was provided and posted on November 30, 2018 at 2:30 p.m. on the City Bulletin Board at the entrance to the City Council Chambers. Said meeting is held at 6:00 p.m., December 5, 2018, in the Council Chambers, at City Hall, 635 S. Highway 101, Solana Beach, California.

Angela Ivey, City Clerk  
City of Solana Beach, CA

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**UPCOMING CITIZEN CITY COMMISSION AND COMMITTEE MEETINGS:**

*Regularly Scheduled, or Special Meetings that have been announced, as of this Agenda Posting. Dates, times, locations are all subject to change. See the [Citizen Commission's Agenda webpages](#) or the City's Events [Calendar](#) for updates.*

- **Budget & Finance Commission**  
Thursday, January 17, 2019, 5:30 p.m. (City Hall)
- **Climate Action Commission**  
Wednesday, January 16, 2019, 5:30 p.m. (City Hall)
- **Parks & Recreation Commission**  
Thursday, January 10, 2019, 4:00 p.m. (Fletcher Cove Community Center)
- **Public Arts Commission**  
Tuesday, January 22, 2019, 5:30 p.m. (City Hall)
- **View Assessment Commission**  
Tuesday, January 15, 2019, 6:00 p.m. (Council Chambers)

# CITY OF SOLANA BEACH

SOLANA BEACH CITY COUNCIL, SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY,  
PUBLIC FINANCING AUTHORITY, & HOUSING AUTHORITY



## MINUTES

Joint Meeting - Closed Session

Wednesday, July 11, 2018 \* 5:00 p.m.

City Hall / Council Chambers, 635 S. Highway 101, Solana Beach, California

### CITY COUNCILMEMBERS

David A. Zito, Mayor

Jewel Edson, Deputy Mayor

Judy Hegenauer, Councilmember

Lesa Heebner, Councilmember

Peter Zahn, Councilmember

Gregory Wade  
City Manager

Johanna Canlas  
City Attorney

Angela Ivey  
City Clerk

### CALL TO ORDER AND ROLL CALL:

Mayor Zito called the meeting to order at 5:00 p.m.

Present: David A. Zito, Jewel Edson, Judy Hegenauer, Lesa Heebner, Peter Zahn  
Absent: None  
Also Present: Greg Wade, City Manager  
Johanna Canlas, City Attorney

### PUBLIC COMMENT ON CLOSED SESSION ITEMS (ONLY):

*Report to Council Chambers and submit speaker slips to the City Clerk before the meeting recesses to closed session.*

### CLOSED SESSION:

- 1. CONFERENCE WITH LABOR NEGOTIATORS**  
Pursuant to Government Code Section 54957.6  
Agency designated representative: Gregory Wade  
Employee organizations: Solana Beach Firefighter's Association
- 2. PUBLIC EMPLOYEE PERFORMANCE EVALUATION**  
Pursuant to Government Code Section 54957  
City Manager
- 3. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**  
Pursuant to Government Code Section 54956.9(d)(2)  
One (1) Potential case

**ACTION:** No reportable action.

### ADJOURN:

Mayor Zito adjourned the meeting at 6:14 p.m.

# CITY OF SOLANA BEACH

SOLANA BEACH CITY COUNCIL, SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY,  
PUBLIC FINANCING AUTHORITY, & HOUSING AUTHORITY



## MINUTES

Joint REGULAR Meeting

Wednesday, July 11, 2018 \* 6:00 P. M.

City Hall / Council Chambers, 635 S. Highway 101, Solana Beach, California

**Minutes contain a summary of significant discussions and formal actions taken at a City Council meeting.**

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### CITY COUNCILMEMBERS

David A. Zito, Mayor

Jewel Edson, Deputy Mayor

Judy Hegenauer, Councilmember

Lesa Heebner, Councilmember

Peter Zahn, Councilmember

Gregory Wade  
City Manager

Johanna Canlas  
City Attorney

Angela Ivey  
City Clerk

### CALL TO ORDER AND ROLL CALL:

Deputy Mayor Zito called the meeting to order at 6:20 p.m.

Present: David A. Zito, Jewel Edson, Judy Hegenauer, Lesa Heebner, Peter Zahn

Absent: None

Also Present: Greg Wade, City Manager  
Johanna Canlas, City Attorney  
Angela Ivey, City Clerk,  
Dan King, Assistant City Manager  
Mo Sammak, City Engineer/Public Works Dir.  
Marie Berkuti, Finance Manager  
Joseph Lim, Community Development Dir.

### CLOSED SESSION REPORT:

Johanna Canlas, City Attorney, stated that there was no reportable action.

### FLAG SALUTE:

### APPROVAL OF AGENDA:

**Motion:** Moved by Councilmember Heebner and second by Deputy Mayor Edson to approve. **Approved 5/0.** Motion carried unanimously.

**PRESENTATIONS:** Ceremonial items that do not contain in-depth discussion and no action/direction.

## KAABOO

Nate Pringer, Brett Arendt, and Josh Goodman presented a PowerPoint (on file) reviewing the upcoming event and multiple logistics and statistics.

Council and Staff discussed the radio communication among the traffic control personnel, video cameras to react and dispatch to challenged areas, parking, repeating the extra Sheriff's presence, efforts to meet with Homeowners Associations (HOA), providing names of the Solana Beach HOAs in the surrounding area that should be contacted, extending the perimeter around the event and heavier Sheriff's deployment, and improving the geofence to manage utilization of Uber and similar transportation. Discussion continued regarding traffic circulation flow issues, long walks for pedestrians due to the closing of the Solana Gate, a potential temporary pedestrian bridge to aid walkers from Solana Beach area, bike-parking location, and to continue to address the larger crowd and accommodate alternative transportation.

## **ORAL COMMUNICATIONS:**

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Dave Rolland, Office of Senator Toni Atkins, spoke about updates including the State budget, Senator Atkin's key role in crafting the budget, the reduction of the deficit, funding of schools, wildfire threat, recovery from last year's fire, prevention of future fires, transit, housing and homelessness, and rebuilding of transportation structures around the state.

## **COUNCIL COMMUNITY ANNOUNCEMENTS / COMMENTARY:**

*An opportunity for City Council to make brief announcements or report on their activities. These items are not agendaized for official City business with no action or substantive discussion.*

### **A. CONSENT CALENDAR:** (Action Items) (A.1. - A.11.)

Items listed on the Consent Calendar are to be acted in a single action of the City Council unless pulled for discussion. Any member of the public may address the City Council on an item of concern by submitting to the City Clerk a speaker slip (located on the back table) before the Consent Calendar is addressed. Those items removed from the Consent Calendar by a member of the Council will be trailed to the end of the agenda, while Consent Calendar items removed by the public will be discussed immediately after approval of the Consent Calendar.

#### **A.1. Register Of Demands.** (File 0300-30)

Recommendation: That the City Council

1. Ratify the list of demands for June 9 - 22, 2018.

Item A.1. Report (click here)



*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.*

**Motion:** Moved by Councilmember Zahn and second by Deputy Mayor Edson to approve.  
**Approved 5/0.** Motion carried unanimously.

#### **A.2. General Fund Adopted Budget for Fiscal Year 2017-2018 Changes.** (File 0330-30)

Recommendation: That the City Council

1. Receive the report listing changes made to the Fiscal Year 2017-2018 General Fund Adopted Budget.

Item A.2. Report (click here)

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**Motion:** Moved by Councilmember Zahn and second by Deputy Mayor Edson to approve.  
**Approved 5/0.** Motion carried unanimously.

#### **A.3. Marvista-Canyon-Glenmont Storm Drain Contract.** (File 0850-40)

Recommendation: That the City Council

1. Adopt **Resolution 2018-090:**
  - a. Awarding the construction contract to Scott Michael, Inc., in the amount of \$162,614, for the Marvista-Canyon-Glenmont Storm Drain, Bid 2018-04.
  - b. Approving an amount of \$25,000 for construction contingency.
  - c. Authorizing the City Manager to execute the construction contract on behalf of the City.
  - d. Authorizing the City Manager to approve cumulative change orders up to the construction contingency amount.

Item A.3. Report (click here)

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**Motion:** Moved by Councilmember Zahn and second by Deputy Mayor Edson to approve.  
**Approved 5/0.** Motion carried unanimously.

#### **A.4. Seascape Sur Beach Access Stairway – Maintenance and Repairs.** (File 0740-30)

Recommendation: That the City Council

1. Adopt **Resolution 2018-084:**
  - a. Authorizing the City Engineer to accept as complete the Seascape Sur Beach Access Stairway – Maintenance and Repairs, Bid No. 2017-06, constructed by Conan Construction, Inc.
  - b. Authorizing the City Clerk to file a Notice of Completion.

Item A.4. Report (click here)

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**Motion:** Moved by Councilmember Zahn and second by Deputy Mayor Edson to approve.  
**Approved 5/0.** Motion carried unanimously.

**A.5. 2018 Street Maintenance & Repair Project.** (File 0820-35)

Recommendation: That the City Council

1. Adopt **Resolution 2018-091**:
  - a. Awarding a construction contract for the 2018 Street Maintenance & Repair Project, Bid 2018-03, in the amount of \$781,656.65, to PAL General Engineering.
  - b. Approving an amount of \$18,000 for construction contingency.
  - c. Authorizing the City Manager to execute the construction contract on behalf of the City.
  - d. Authorizing an appropriation of \$50,000 from the Gas Tax Fund into the project budget unit.
  - e. Authorizing the City Treasurer to amend the Fiscal Year 2018/19 Adopted Budget accordingly.

[Item A.5. Report \(click here\)](#)

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**Motion:** Moved by Councilmember Zahn and second by Deputy Mayor Edson to approve.

**Approved 5/0.** Motion carried unanimously.

**A.6. Transportation Impact Fee Fund and the County Service Area (CSA) 135H Fund.**  
(File 0840-10)

Recommendation: That the City Council

1. Adopt **Resolution 2018-094** approving the establishment of the Transportation Impact Fee Capital Improvement Fund (#455) and the County Service Area (CSA) 135H Special Revenue Fund (#271) in the City's FY 2017/18 Adopted Budget.

[Item A.6. Report \(click here\)](#)

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**Motion:** Moved by Councilmember Zahn and second by Deputy Mayor Edson to approve.

**Approved 5/0.** Motion carried unanimously.

**A.7. League of California Cities' 2018 Annual Business Meeting Voting Delegates Designees.** (File 0140-10)

Recommendation: That the City Council

1. Appoint Councilmember Edson, primary voting delegate, Councilmember Heebner, 1<sup>st</sup> alternate, and City Manager, Gregory Wade, 2<sup>nd</sup> alternate, as the voting delegates for the 2018 Annual Business Meeting of the League of California Cities Annual Conference being held September 12-14, 2018 in Long Beach, or provide alternative appointments.
2. Authorize the City Clerk to attest to the appointments and submit the Official Voting Form to the League of California Cities by August 31, 2018.

[Item A.7. Report \(click here\)](#)

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**Motion:** Moved by Councilmember Zahn and second by Deputy Mayor Edson to approve.  
**Approved 5/0.** Motion carried unanimously.

**A.8. Solana Energy Alliance 2018 Integrated Resource Plan.** (File 1010-40)

Recommendation: That the City Council

1. Adopt **Resolution 2018-102** approving the Solana Energy Alliance 2018 Integrated Resource Plan

[Item A.8. Report \(click here\)](#)

[A.8. Updated Report 1 \(7-9\)](#)

*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.*

**Motion:** Moved by Councilmember Zahn and second by Deputy Mayor Edson to approve.  
**Approved 5/0.** Motion carried unanimously.

**A.9. Circle Drive Sewer Pipeline Replacement Project.** (File 1040-26)

Recommendation: That the City Council

1. Adopt **Resolution 2018-100:**
  - a. Authorizing the City Council to accept as complete the Circle Drive Sewer Pipeline Replacement, Bid 2017-10, performed by Burtech Pipeline.
  - b. Authorizing the City Clerk to file a Notice of Completion.
  - c. Authorizing an appropriation of \$4,789 from the Sanitation Fund into the project budget unit.
  - d. Authorizing the City Treasurer to amend the Fiscal Year 2017/18 Adopted Budget accordingly.

[Item A.9. Report \(click here\)](#)

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**Motion:** Moved by Councilmember Zahn and second by Deputy Mayor Edson to approve.  
**Approved 5/0.** Motion carried unanimously.

**A.10. Calling the General Municipal Election for November 6, 2018.** (File 0430-20)

Recommendation: That the City Council

1. Adopt **Resolution 2018-103** Calling and Giving Notice of the Holding of a General Municipal Election to be held on Tuesday, November 6, 2018, for the Election of Certain Officers as required by the Provision of the Laws of the State of California Relating to General Law Cities and determining tie vote provisions.
2. Adopt **Resolution 2018-104** requesting the Board of Supervisors of the County of San Diego to Consolidate a General Municipal Election to be held on Tuesday, November 6, 2018, with the Statewide General Election to be held on that date.
3. Adopt **Resolution 2018-105** adopting regulations for Candidates for Elective Office pertaining to Candidate's Statements submitted to the voters at an Election.

Item A.10. Report (click here)

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**Motion:** Moved by Councilmember Zahn and second by Deputy Mayor Edson to approve.  
**Approved 5/0.** Motion carried unanimously.

**A.11. Consideration of Resolution 2018-092 Adopting Fiscal Year 2018/19 Salary and Compensation Plans for the Non-Represented (Executive Management, Mid-Management, Management and Confidential) Employees, the Solana Beach Miscellaneous Unit (SBEA-MISC), the Marine Safety Unit (SBEA/MSU), City Manager, Part-Time/Seasonal/Temporary Employees, and Elected Officials, and creating a Management Analyst series. (File 0520-10)**

Recommendation: That the City Council

1. Adopt **Resolution 2018-092** approving FY 2018/19 Salary and Compensation Plans for Executive Management, Mid-Management, Confidential, Marine Safety, Miscellaneous, Fire, City Manager, Part-Time/Seasonal/Temporary employees and Elected Officials.

Item A.11. Report (click here)

Item A.11. Staff Report Update 1 (7-11)

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**Motion:** Moved by Councilmember Zahn and second by Deputy Mayor Edson to approve.  
**Approved 5/0.** Motion carried unanimously.

**A.12. Tentative Agreement for a Four-Year Memorandum of Understanding between the City of Solana Beach and the Solana Beach Firefighters Association.**

Recommendation: That the City Council

1. Adopt **Resolution 2018-101:**
  - a. Approving a Tentative Agreement for a four-year Memorandum of Understanding between the City of Solana Beach and the Solana Beach Firefighters' Association for Fiscal Years (FY) 2018/19, 2019/20, 2020/21 and 2021/22.
  - b. Approving an appropriation of \$185,425 to the General Fund allocated between salary and benefits as determined by the Finance Department.
  - c. Authorizing the City Treasurer to amend the FY 2018/19 Adopted Budget accordingly.

Item A.12. Report (click here)

A.12. Staff Report Update 1 (7-10)

*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.*

**Motion:** Moved by Councilmember Zahn and second by Deputy Mayor Edson to approve.  
**Approved 5/0.** Motion carried unanimously.

## **B. PUBLIC HEARINGS:** (B.1. – B.2.)

This portion of the agenda provides citizens an opportunity to express their views on a specific issue as required by law after proper noticing by submitting a speaker slip (located on the back table) to the City Clerk. After considering all of the evidence, including written materials and oral testimony, the City Council must make a decision supported by findings and the findings must be supported by substantial evidence in the record. An applicant or designees for a private development/business project, for which the public hearing is being held, is allotted a total of fifteen minutes to speak, as per SBMC 2.04.210. A portion of the fifteen minutes may be saved to respond to those who speak in opposition. All other speakers have three minutes each. Please be aware of the timer light on the Council Dais.

### **B.1. Public Hearing: 982 Avocado Place, Applicant: Seaview FA, LLC.; APN: 298-292-21, Case # 17-17-19.** (File 0610-60)

The proposed project meets the minimum zoning requirements under the SBMC, may be found to be consistent with the General Plan and may be found, as conditioned, to meet the discretionary findings required as discussed in this report to approve a Development Development Permit (DRP) and administratively issue a Structure Development Permit (SDP). Therefore, Staff recommends that the City Council:

1. Conduct the Public Hearing: Open the Public Hearing, Report Council Disclosures, Receive Public Testimony, and Close the Public Hearing.
2. Find the project exempt from the California Environmental Quality Act pursuant to Section 15303 of the State CEQA Guidelines; and
3. If the City Council makes the requisite findings and approves the project, adopt **Resolution 2018-096** conditionally approving a DRP and an administrative SDP to construct a new single-level, single-family residence with an attached three-car garage and perform associated site improvements on a vacant lot at 982 Avocado Place, Solana Beach.

Item B.1. Report (click here)

B.1. Supplemental Docs (Updated 3-28 at 10:00am)

*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.*

Greg Wade, City Manager, introduced the item.

Katie Benson, Associate Planner, presented a PowerPoint (on file).

Deputy Mayor Zito opened the public hearing.

Council disclosures.

Orville Power, Applicant, presented a PowerPoint (on file) and reviewed the proposed project that they had worked on for four years, their objectives in designing a home, the difficulty of the parcel shape and slope, working with their neighbors in addressing concerns about the knoll which they decided to remove, the driveway access grade, and anticipating the views of potential future neighbors in the surrounding area, the varied setbacks around the house, addressed concerns of one View Assessment filing regarding

tree height, addressed other various comments from neighbors, and had just recently lowered the height 4 ft.

Council, Staff and Applicant discussed how the house would be lowered in height working with his architect reducing the plate height and the pad down, and the knoll would be about 5-6 ft. lower.

Ted Van Arsdale spoke of his support of the project and the applicant addressing the concerns of the neighborhood.

Diane Carty spoke about her support of the project and appreciate the lowering of the project.

**Motion:** Moved by Councilmember Heebner and second by Deputy Mayor Edson to close the public hearing. **Approved 5/0.** Motion carried unanimously.

**Motion:** Moved by Councilmember Edson and second by Councilmember Heebner to approve. **Approved 5/0.** Motion carried unanimously.

**B.2. Public Hearing: 766 Castro Street, Applicant: Raymundo Sandoval, Case # 17-17-18, APN: 298-162-22.** (File 0600-40)

The proposed project meets the requirements under the SBMC, is consistent with the General Plan, and may be found, as conditioned, to meet the discretionary findings required as discussed in this report to approve the requested Tentative Parcel Map and Minor Subdivision. Therefore, Staff recommends that the City Council:

1. Conduct the Public Hearing: Open the Public Hearing, Report Council Disclosures, Receive Public Testimony, and Close the Public Hearing.
2. Find the project exempt from the California Environmental Quality Act pursuant to Section 15301 of the State CEQA Guidelines; and
3. If the City Council makes the requisite findings and approves the project, adopt **Resolution 2018-095** conditionally approving the proposed two-lot Minor Subdivision Tentative Parcel Map at 766 Castro Street.

[Item B.2. Report \(click here\)](#)

*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.*

Greg Wade, City Manager, introduced

Katie Benson, Associate Planner, presented a PowerPoint (on file).

Deputy Mayor Zito opened the public hearing.

Council disclosures.

Raymundo Sandoval, Applicant, waived his opportunity to make a formal presentation.

Council and Mr. Sandoval discussed the narrow street in the project area and the applicant's willingness to accept a condition to require the workers to park onsite during the project.

**Motion:** Moved by Councilmember Heebner and second by Councilmember Hegenauer to close the public hearing. **Approved 5/0.** Motion carried unanimously.

**Motion:** Moved by Councilmember Heebner and second by Councilmember Zahn to approve and adding a condition requiring workers to park on the project site during the project. **Approved 5/0.** Motion carried unanimously.

**C. STAFF REPORTS:** (C.1. - C.2.)  
*Submit speaker slips to the City Clerk.*

**C.1. Purchase and Sale Agreement for the Real Property Located at 700 Stevens Avenue and to Establish an Internal Service Fund to Receive Funds from the Sanitation Fund as a Loan to Pay for the Acquisition.** (File 049-70)

Recommendation: That the City Council

1. Adopt **Resolution 2018-069:**

- a. Approving the purchase and sale agreement for 700 Stevens Avenue (Purchase and Sale Agreement) for \$2.8 million.
- b. Establishing an internal service fund named "Real Property Acquisition" to receive funds from the Sanitation Fund to pay for the acquisition of 700 Stevens Avenue.
- c. Authorizing the transfer of \$2.8 million from the Sanitation fund to the "Real Property Acquisition" fund as a loan payable to the Sanitation fund at an annual interest rate of 2.78% for seven years with annual payments equal to \$445,699.
- d. Authorizing the City Manager to take any and all actions needed to effectuate the purchase of 700 Stevens Avenue.

Item C.1. Report (click here)

*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.*

Greg Wade, City Manager, introduced the item and presented a PowerPoint (on file).

Council discussed the loan terms paying back to the sewer fund, that the City aimed to maintain \$5million dollars for the sewer fund reserve balance that would be maintained, closing escrow in September, and the opportunity for the community building up La Colonia Park.

**Motion:** Moved by Councilmember Zahn and second by Deputy Mayor Heebner to approve. **Approved 5/0.** Motion carried unanimously.

Deputy Mayor Zito recessed the meeting at 7:50 p.m. for a break and reconvened at 7:55 p.m.

**C.2. Proposed Fee Study and Cost Allocation Plan.** (File 0390-23)

Recommendation: That the City Council

1. Review the Fee Study Update report prepared by R&C Specialists and provide direction to Staff as to the next steps.

Item C.2. Report (click here)

C.2. Staff Report Update 1 (7-11)

*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.*

Greg Wade, City Manager, introduced the item.

Marie Berkuti, Finance Manager, introduced the consultants presenting the fee study results.

Eric Johnson and Chu Thai of Revenues & Cost Specialists presented a PowerPoint (on file).

Council discussed the amount of subsidy among current fees, supporting the View Assessment process by continuing to subsidize it, reviewing replacement costs and fee for non-residents use of Fletcher Cove and La Colonia Community Centers, business certificate low fees,

Discussion, presentation, and inquiries or direction provided.

**COMPENSATION & REIMBURSEMENT DISCLOSURE:** None

GC: Article 2.3. Compensation: 53232.3. (a) Reimbursable expenses shall include, but not be limited to, meals, lodging, and travel. 53232.3 (d) Members of a legislative body shall provide brief reports on meetings attended at the expense of the local agency at the next regular meeting of the legislative body.

**COUNCIL COMMITTEE REPORTS:**

**REGIONAL COMMITTEES: (outside agencies, appointed by this Council)**

**STANDING COMMITTEES: (All Primary Members) (Permanent Committees)**

**ADJOURN:**

Deputy Mayor Zito adjourned the meeting at 8:33 p.m.



# CITY OF SOLANA BEACH

SOLANA BEACH CITY COUNCIL, SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY,  
PUBLIC FINANCING AUTHORITY, & HOUSING AUTHORITY



## MINUTES

**Joint Meeting - Closed Session**

**Wednesday, September 26, 2018 \* 5:00 p.m.**

City Hall / Council Chambers, 635 S. Highway 101, Solana Beach, California

Teleconference Location: Hotel Belleclaire, 250 West 77th Street, New York, NY (Zahn)

Omni Nashville Hotel, 250 5th Ave S, Nashville, TN 37203 (Edson) – added 9-21-18

### CITY COUNCILMEMBERS

**David A. Zito, Mayor**

**Jewel Edson, Deputy Mayor**

**Judy Hegenauer, Councilmember**

**Lesa Heebner, Councilmember**

**Peter Zahn, Councilmember**

Gregory Wade  
City Manager

Johanna Canlas  
City Attorney

Angela Ivey  
City Clerk

### CALL TO ORDER AND ROLL CALL:

Mayor Zito called the meeting to order at 5:00 p.m.

Present: David A. Zito, Jewel Edson, Judy Hegenauer, Lesa Heebner, Peter Zahn  
Absent: None  
Also Present: Greg Wade, City Manager  
Johanna Canlas, City Attorney

**PUBLIC COMMENT ON CLOSED SESSION ITEMS (ONLY): None**

### CLOSED SESSION:

#### **1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

Pursuant to Government Code Section 54956.9(d)(2)  
Two (2) Potential cases.

#### **2. CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION**

Pursuant to Government Code Section 54956.9(d)(4)  
One (1) Potential case(s).

#### **3. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

Pursuant to Government Code Section 54956.9(d)(1)  
Beach & Bluff Conservancy v. City of Solana Beach, California Coastal Commission,  
Surfrider (Case No. 37-2013-00046561-CU-WM-NC)

**Action:** No reportable action.

### ADJOURN:

Mayor Zito adjourned the meeting at 6:00 p.m.

# CITY OF SOLANA BEACH

SOLANA BEACH CITY COUNCIL, SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY,  
PUBLIC FINANCING AUTHORITY, & HOUSING AUTHORITY



## MINUTES

Joint REGULAR Meeting

Wednesday, September 26, 2018 \* 6:00 p.m.

Minutes contain a summary of significant discussions and formal actions taken at a City Council meeting.

City Hall / Council Chambers, 635 S. Highway 101, Solana Beach, California

Teleconference - Hotel Aspen, 110 West Main Street, Aspen, Colorado

- City Council meetings are video recorded and archived as a permanent record. The video recording captures the complete proceedings of the meeting and is available for viewing on the City's website.
- Posted Reports & Supplemental Docs contain records up to the cut off time prior to meetings for processing new submittals. Complete records containing meeting handouts, PowerPoints, etc. can be obtained through a [Records Request](#).

### CITY COUNCILMEMBERS

David A. Zito, Mayor

Jewel Edson, Deputy Mayor

Judy Hegenauer, Councilmember

Lesa Heebner, Councilmember

Peter Zahn, Councilmember

Gregory Wade  
City Manager

Johanna Canlas  
City Attorney

Angela Ivey  
City Clerk

### CALL TO ORDER AND ROLL CALL:

Deputy Mayor Zito called the meeting to order at 6:02 p.m.

Present: David A. Zito, Jewel Edson, Judy Hegenauer, Lesa Heebner, Peter Zahn

Absent: None

Also Present: Greg Wade, City Manager  
Johanna Canlas, City Attorney  
Angela Ivey, City Clerk,  
Dan King, Assistant City Manager  
Mo Sammak, City Engineer/Public Works Dir.  
Marie Berkuti, Finance Manager  
Joseph Lim, Community Development Dir.

CLOSED SESSION REPORT: (when applicable)

FLAG SALUTE:

CLOSED SESSION REPORT: (when applicable)

FLAG SALUTE:

### APPROVAL OF AGENDA:

**Motion:** Moved by Councilmember Hegenauer and second by Councilmember Heebner to approve. **Approved 5/0.** Motion carried unanimously.

## **ORAL COMMUNICATIONS:**

This portion of the agenda provides an opportunity for members of the public to address the City Council on items relating to City business and not appearing on today's agenda by submitting a speaker slip (located on the back table) to the City Clerk. Comments relating to items on this evening's agenda are taken at the time the items are heard. Pursuant to the Brown Act, no action shall be taken by the City Council on public comment items. Council may refer items to the City Manager for placement on a future agenda. The maximum time allotted for each presentation is THREE MINUTES (SBMC 2.04.190). Please be aware of the timer light on the Council Dais.

Kristine Schindler spoke about participating in Walk-tober, International Walk to School Day on October 10<sup>th</sup>, and safety needed with increased activity on the streets.

Carla Hayes spoke about a Change.org petition of 1,340 signers opposing the potential Del Mar rezoning, concerns with views, traffic, water supply and environmental issues, and asked that Council put it on a future agenda.

Al Evans requested an update on the S.E.A. (Solana Energy Alliance) regarding the number of participants and non-participants, current costs of the program, initial loan and terms of the loan, and who would be responsible if the program failed.

## **COUNCIL COMMUNITY ANNOUNCEMENTS / COMMENTARY:**

*An opportunity for City Council to make brief announcements or report on their activities. These items are not agendized for official City business with no action or substantive discussion.*

### **A. CONSENT CALENDAR:** (Action Items) (A.1. – A.5.)

Items listed on the Consent Calendar are to be acted in a single action of the City Council unless pulled for discussion. Any member of the public may address the City Council on an item of concern by submitting to the City Clerk a speaker slip (located on the back table) before the Consent Calendar is addressed. Those items removed from the Consent Calendar by a member of the Council will be trailed to the end of the agenda, while Consent Calendar items removed by the public will be discussed immediately after approval of the Consent Calendar.

#### **A.1. Register Of Demands.** (File 0300-30)

Recommendation: That the City Council

1. Ratify the list of demands for August 18 – September 7, 2018.

Item A.1. Report (click here)

*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.*

**Motion:** Moved by Councilmember Hegenauer and second by Councilmember Heebner to approve. **Approved 5/0.** Motion carried unanimously.

#### **A.2. General Fund Adopted Budget for Fiscal Year 2018-2019 Changes.** (File 0330-30)

Recommendation: That the City Council

1. Receive the report listing changes made to the Fiscal Year 2017-2018 General Fund Adopted Budget.

Item A.2. Report (click here)

*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.*

**Motion:** Moved by Councilmember Hegenauer and second by Councilmember Heebner to approve. **Approved 5/0.** Motion carried unanimously.

**A.3. Regional Wireless Emergency Alert System.** (File 0240-60)

Recommendation: That the City Council

1. Adopt **Resolution 2018-127**:
  - a. Approving the Wireless Emergency Alert Memorandum of Agreement between the County of San Diego and the City of Solana Beach; and
  - b. Authorizing the City Manager to execute the Memorandum of Agreement on behalf of the City of Solana Beach.

Item A.3. Report (click here)

*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.*

**Motion:** Moved by Councilmember Hegenauer and second by Councilmember Heebner to approve. **Approved 5/0.** Motion carried unanimously.

**A.4. 234 S. Rios Sewer Main Construction.** (File 1040-60)

Recommendation: That the City Council

1. Adopt **Resolution 2018-125** authorizing the City Manager to execute an agreement on behalf of the City with the owners of 234 South Rios Avenue for a sewer main construction reimbursement agreement.

Item A.4. Report (click here)

*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.*

**Motion:** Moved by Councilmember Hegenauer and second by Councilmember Heebner to approve. **Approved 5/0.** Motion carried unanimously.

**A.5. Engineering/Public Works Replacement Tractor.** (File 0370-26, 0380-60)

Recommendation: That the City Council

1. Adopt **Resolution 2018-121**:
  - a. Approving the purchase of a 2018 Kubota Tractor for \$48,546.
  - b. Authorizing an appropriation of \$48,546 from the Asset Replacement Reserve Fund into the Asset Replacement Public Works Vehicle Expenditure account.
  - c. Authorizing the City Treasurer to amend the FY 2017-2018 Adopted Budget accordingly.

Item A.5. Report (click here)

*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.*

**Motion:** Moved by Councilmember Hegenauer and second by Councilmember Heebner to approve. **Approved 5/0.** Motion carried unanimously.

## **C. STAFF REPORTS:** (C.1.)

*Submit speaker slips to the City Clerk.*

### **C.1. Lomas Santa Fe Corridor Improvement Project Clarification.** (File 0820-15)

Recommendation: That the City Council

1. Adopt **Resolution 2018-129** providing clarification and direction on the study of a potential roundabout at the intersection of Lomas Santa Fe Drive and Highland Drive as part of the Lomas Santa Fe Corridor Improvement Project.

[Item C.1. Report \(click here\)](#)

[Item C.1. Supplemental Docs \(Updated 9-26 at 2:45pm\)](#)

*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office*

Greg Wade, City Manager, introduced the item, summarized public comments received regarding roundabouts from the August 22<sup>nd</sup> and September 11<sup>th</sup> Council Meetings, and said that 284 responses opposed the study of any roundabouts, 72 responses favored the studying of all four roundabouts, 30 responses supported the study of one roundabout at Highland, 12 responses favored studying a hybrid design, and that overall 71% of the responses opposed the studying of any roundabouts and 29% favored studying some form of roundabouts.

Councilmember Heebner spoke about her history and opposition to past projects and her understanding of the opposition to roundabouts, and made a motion to eliminate the consideration and studying of all roundabouts and retaining of all four lanes on Lomas Santa Fe east of Las Banderas.

Harley Gordon spoke in favor of eliminating all roundabouts, the public being heard, and retaining all driving lanes between Highland and Interstate-5 (I-5).

Kelly Harless spoke about opposing all roundabouts, no reduction of lanes on Lomas Santa Fe east of the I-5, the opposite points of view on the issue, the hard work that went into the proposal, and resolving the issue.

Kristi Becker spoke about opposing any further study of roundabouts, maintaining four lanes on Lomas Santa Fe, and safety for all modes of transportation without roundabouts.

Kristine Schindler spoke about the transformation of the corridor towards a "complete street" that benefits all users, traffic calming, and supporting the project proposal without restrictions.

Elizabeth Borst spoke about supporting roundabouts because they helped traffic flow, adding at least one roundabout at Highland, safer streets for all ages and abilities, the current safety risk of aged drivers on Lomas Santa Fe without stop signs or roundabouts, and to continue research of all options.

Dorothy Deans spoke about being visually impaired, the ease of using roundabouts for walking or driving her motorbike, critics changing their view of roundabouts after using them,

trucks being able to pass through them, the benefit to traffic, bikers, and were safer for children, and that she favored having at least one roundabout.

Paul Dickstein spoke about his support of roundabouts, his positive experience using them in other cities, the smooth and continuous traffic flow with roundabouts, current delays on Lomas Santa Fe with controlled intersections, the spread of misconceptions about roundabouts, support for the expert traffic engineers and outside consultants, and to support the four proposed roundabouts.

Tammy Tidmore spoke about her incident regarding the removal of her ROAR (Residents Opposing All Roundabouts) signs and the difficulty getting them back.

Ted Axe spoke about being the General Manager at the Lomas Santa Fe Country Club, its opposition to any traffic restrictions along the corridor, maintaining the current four lanes, and the three roundabouts in Carlsbad that caused confusion and recently removed at the City's expense.

Roger Boyd spoke about continued evaluation of all design options, his opposition to the resolution, this early rejection of applicable options, encouraging the public to make suggestions but not demand inclusion or rejection of design concepts at this early stage, and consider allowing a newly elected Council to take responsibility of the project.

Mary Jane Boyd spoke about the need for additional education, keeping residents engaged and active in the decision-making, her opposition to interference or restrictions at this phase of the study, that importance of obtaining the data for the project and allowing Staff and engineers to finish the study, and her support for the continued study of roundabouts.

Marjorie Williams spoke about the majority of East side residents opposing roundabouts and her support to eliminating the roundabouts.

Dawn Seymour spoke about favoring the continuation of the study, the many opportunities to improve the corridor, not supporting a specific number of roundabouts, and giving Staff the opportunity to determine what was best.

John Frank spoke about the survey results showing an overwhelming number of people against roundabouts, and that more thought should go into how to sell a project of this magnitude to residents.

Richard Rothschild spoke about his opposition to roundabouts and the reduction of Lomas Santa Fe down to one lane because it would not help traffic calming.

Leane Marchese spoke about being in favor of the continued study of roundabouts, decisions not being based on who made comments to Council, that she had always liked roundabouts, and their use in other parts of the world.

Christy Whalen spoke about being the manager of the Rancho Santa Fe Association, opposing restrictions on Lomas Santa Fe, and that reducing lanes or adding roundabouts would make traffic worse and emergency response more difficult.

Laurel Graziano spoke about her visually impaired son who would never be able to drive which encouraged her interest in alternative modes of transportation, the traffic calming needed on Lomas Santa Fe, the consideration of pedestrians, and her support for listening to the engineers and consultants.

Craig Nelson spoke about his early opposition to traffic jamming and roundabouts, the public's response and going back to Phase 1 to redesign, getting input from businesses and other cities, and the reduction of two bike lanes to one lane on Lomas Santa Fe would be dangerous.

Karl Rudnick (time donated by Jill Cooper) spoke about better outreach in Phase 3, increased e-blasts and workshops, publicizing at Bike Walk Solana Meetings, and consideration of a multi-use path from Highland to the Coastal Rail Trail.

Shawna McGarry spoke about her support of the draft plan, Lomas Santa Fe becoming safer for pedestrians, support for roundabouts, a separate crossing path for Earl Warren and Skyline students, and a multiuse path to the coast.

Deputy Mayor Edson spoke about the traffic calming and safety goal, making the street user friendly for everyone, and if the goals could be met without roundabouts then she would support Councilmember Heebner's earlier motion.

Councilmember Zahn spoke about the public comments, changing his mind and favoring the elimination of all roundabouts on Lomas Santa Fe, and supporting the motion.

Mayor Zito spoke about supporting the motion, the data that showed roundabouts were safer, the vast majority of citizens opposing roundabouts, his support to eliminate them due to the community's preference, the roundabout matter put the whole project at risk, and that public outreach would be further improved in the future.

Councilmember Hegenauer spoke about supporting the resolution, opposing roundabouts, and requested that drivers slow down.

**Motion:** Moved by Councilmember Heebner and second by Deputy Mayor Edson to approve to amend the resolution to eliminate all roundabouts, preserve four lanes of travel and remove numbers 3. and 4. **Approved 5/0.** Motion carried unanimously.

**Mayor Zito recessed the meeting at 7:55 p.m. for a break and reconvened at 8:00 p.m.**

**B. PUBLIC HEARINGS:** (B.1. - B.2)

This portion of the agenda provides citizens an opportunity to express their views on a specific issue as required by law after proper noticing by submitting a speaker slip (located on the back table) to the City Clerk. After considering all of the evidence, including written materials and oral testimony, the City Council must make a decision supported by findings and the findings must be supported by substantial evidence in the record. An applicant or designee for a private development/business project, for which the public hearing is being held, is allotted a total of fifteen minutes to speak, as per SBMC 2.04.210. A portion of the fifteen minutes may be saved to

respond to those who speak in opposition. All other speakers have three minutes each. Please be aware of the timer light on the Council Dais.

**B.1. Public Hearing: Partial Street Vacation at 982 Avocado Place.** (File 0820-73)

Staff recommends that the City Council:

1. Conduct the Public Hearing: Open the Public Hearing, Report Council Disclosures, Receive Public Testimony, and Close the Public Hearing.
2. Consider adoption of **Resolution 2018-119**:
  - a. Approving that the portion of the public street right-of-way described and shown on Exhibits A and B of Resolution 2018-119 shall be vacated.
  - b. Authorizing the City Clerk to certify a copy of this resolution and have it recorded at the County of San Diego Recorder in accordance with Section 8325 of the Streets and Highway Code.

[Item B.1. Report \(click here\)](#)

*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.*

Greg Wade, City Manager, introduced the item.

Mo Sammak, Public Works/Engineering Dir., presented a PowerPoint (on file).

Mayor Zito opened the Public Hearing.

Council disclosures.

Council and Staff discussed that the area of the proposed vacation was too small and on a slope making it unsuitable for a pocket park, and that a landscape plan could be conditioned to limit the height of the trees for similar concerns to height.

**Motion:** Moved by Councilmember Heebner and second by Councilmember Hegenauer to close the public hearing. **Approved 5/0.** Motion carried unanimously.

**Motion:** Moved by Councilmember Heebner and second by Councilmember Hegenauer to approve. **Approved 5/0. Motion carried unanimously.**

**B.2. Public Hearing: 301 W. Cliff Street, Applicant: Meineke, Case 17-17-10.** (File 0600-40)

The proposed project meets the minimum zoning requirements under the SBMC, may be found to be consistent with the General Plan and may be found, as conditioned, to meet the discretionary findings required as discussed in this report to approve a DRP. Therefore, Staff recommends that the City Council:

1. Conduct the Public Hearing: Open the Public Hearing, Report Council Disclosures, Receive Public Testimony, and Close the Public Hearing.



2. Find the project exempt from the California Environmental Quality Act pursuant to Section 15303 of the State CEQA Guidelines; and
3. If the City Council makes the requisite findings and approves the project, adopt **Resolution 2018-124** conditionally approving a Development Review Permit (DRP) and an Structure Development Permit (SDP) to construct a replacement two-story, single-family residence with an attached garage and subterranean basement level, and perform associated site improvements 301 W. Cliff Street, Solana Beach.

Item B.2. Report (click here)

B.2. Supplemental Docs (Updated 9-25 at 1pm)

*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.*

Greg Wade, City Manager, introduced the item.

Regina Ochoa, Assistant Planner, presented a PowerPoint (on file).

Mayor Zito opened the Public Hearing.

Council Disclosures.

Council and Staff discussed the concern about the height of the trees, the agreement with the neighbors to keep trees at a lower height and the height of the building, and that the zoning area did permit permanent window wells in the setback.

Bob Moldenhauer spoke about being a successor trustee for the Streater Family, that the revisions were a product of discussions with the claimant, and that he thought that the issues had been resolved.

Ryan Meineke, applicant, spoke about the property being his home and not an investment property, the many revisions were made including a 4ft. height reduction, the total redesign of the home and the new landscape plan were based on discussions with the neighbors, and that they wanted to be good neighbors and made the necessary revisions.

Kevin Mulliney, architect, spoke about his past work in beach communities, this being the largest project change he had ever made due to neighbor concerns, and that the changes had caused considerable delays on the project.

**Motion:** Moved by Councilmember Heebner and second by Councilmember Hegenauer to close the public hearing. **Approved 5/0.** Motion carried unanimously.

**Motion:** Moved by Councilmember Heebner and second by Councilmember Hegenauer to approve. **Approved 5/0.** Motion carried unanimously.

### **C. STAFF REPORTS:** (C.2.)

*Submit speaker slips to the City Clerk.*

## C.2. Year-End Budget Adjustments for Fiscal Year 2017-2018. (File 0330-30)

Recommendation: That the City Council

1. Accept and file the General Fund Update for Fiscal Year (FY) 2017-2018.
2. Provide direction to Staff regarding whether to use an amount of the projected General Fund surplus to fund the PARS Irrevocable Trust as part of a budget appropriation to the General Fund and other funds as determined by the Finance Department for Fiscal Year 2017-2018.
3. Provide direction to Staff regarding whether to use an amount of the projected General Fund surplus to fund the City CIP fund.
4. Provide direction to Staff regarding whether to authorize the FY 2018-2019 PERS Side Fund payment to the Sanitation Fund of \$168,269 be made in FY 2017-2018.
5. Approve **Resolution 2018-128** revising appropriations in the Fiscal Year 2017-2018 Budget.

[Item C.2. Report \(click here\)](#)

*Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.*

Greg Wade, City Manager, introduced the item.

Marie Berkuti, Finance Manager, presented a PowerPoint (on file).

Council and Staff discussed the numbers in the report, the unexpected legal costs for the District Election process was on last year's budget, additional legal funds included in the City Attorney's budget, and the recent property purchase would not affect this year's budget.

Discussion continued regarding allocating \$450,000 towards P.A.R.S. (Public Agency Retirement Services) Trust, \$155,000 towards paying off the P.E.R.S. (Public Employees Retirement System) side fund, and allocating the remaining \$420,000 C.I.P. (Capital Improvement Projects) budget for projects such as the Marine Safety Center and La Colonia Tot Lot, whether to allocate some surplus towards staffing needs.

**Motion:** Moved by Councilmember Heebner and second by Councilmember Hegenauer to approve with the following allocations: \$158k to pay off PERS side fund, \$400k deposited to PARS, and \$420k towards C.I.P. projects. **Approved 4/1** (Noes: Zahn).

### **WORK PLAN COMMENTS:**

*Adopted June 13, 2018*

### **COMPENSATION & REIMBURSEMENT DISCLOSURE:** None

GC: Article 2.3. Compensation: 53232.3. (a) Reimbursable expenses shall include, but not be limited to, meals, lodging, and travel. 53232.3 (d) Members of a legislative body shall provide brief reports on meetings attended at the expense of the local agency at the next regular meeting of the legislative body.

**COUNCIL COMMITTEE REPORTS:**

**REGIONAL COMMITTEES: (outside agencies, appointed by this Council)**

**STANDING COMMITTEES: (All Primary Members) (*Permanent Committees*)**

**ADJOURN:**

Mayor Zito adjourned the meeting at 9:09 p.m.



# STAFF REPORT CITY OF SOLANA BEACH

**TO:** Honorable Mayor and City Council Members

**FROM:** Gregory Wade, City Manager

**MEETING DATE:** December 5, 2018

**ORIGINATING DEPT:** Community Development Department

**SUBJECT:** **Public Hearing: Consideration of Resolution Nos. 2018-131, 2018-132, and 2018-133 Certifying the Final Environmental Impact Report and Approving an Application for a Development Review Permit, Structure Development Permit, Vesting Tentative Parcel Map, Density Bonus and Waiver of Development Standards, and Fee Waiver for Solana Highlands, a 260-unit residential community including affordable senior housing at 661 - 781 South Nardo Drive and 821 Stevens Avenue (Case # 17-14-29 Applicant: H.G. Fenton)**

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## **BACKGROUND:**

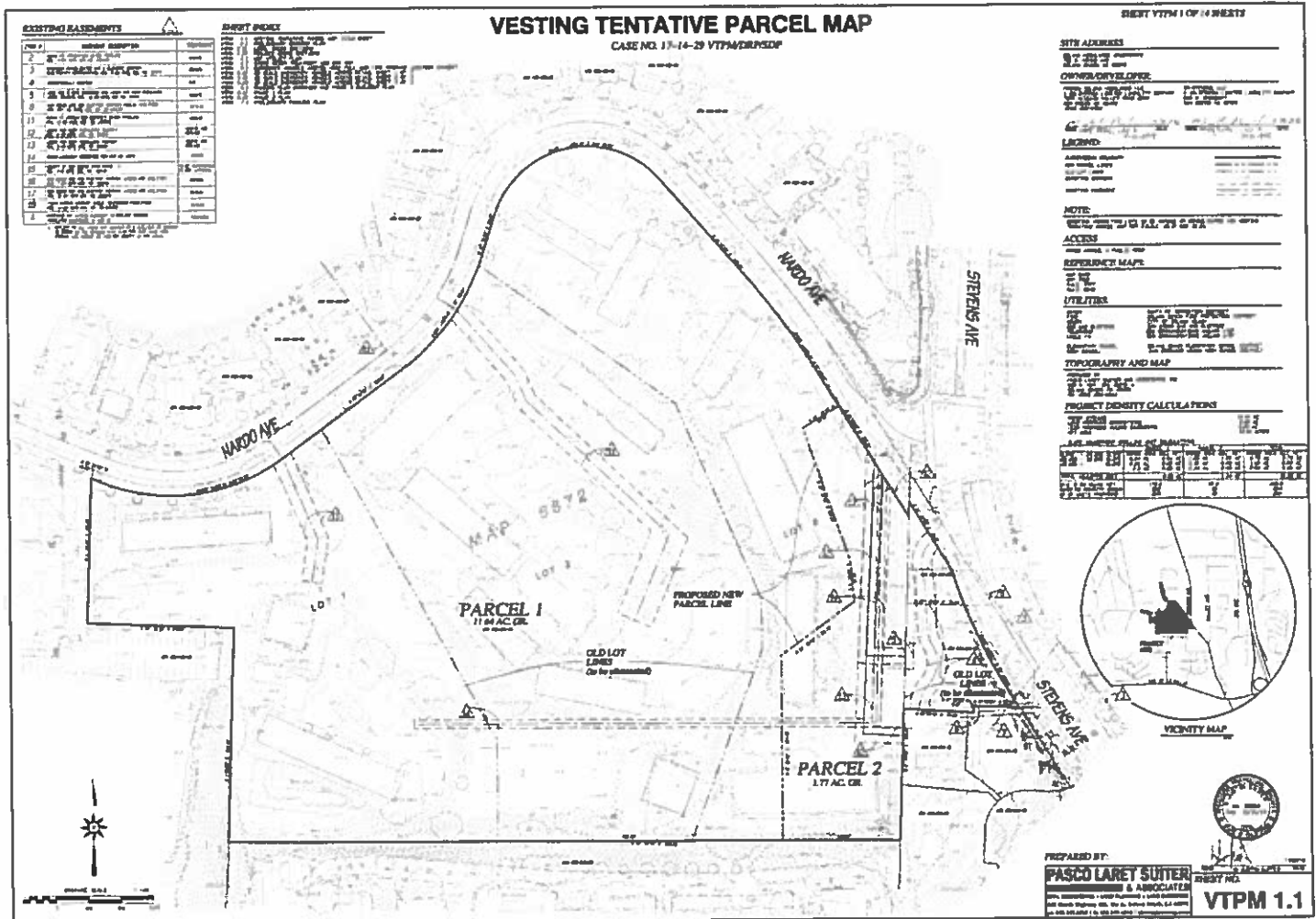
The Applicant, H.G. Fenton, is requesting City Council certification of the Final Environmental Impact Report (FEIR) and approval of a Development Review Permit (DRP), Structure Development Permit (SDP), and Vesting Tentative Parcel Map (VTPM) to construct the Solana Highlands Revitalization Project (the "Project"). The applicant is also seeking approval of an Affordable Housing Density Bonus and Waiver of Development Standards under density bonus law, and a Fee Waiver. The proposed Project is a residential development consisting of 260 residential units (including 32 senior affordable units) comprised of studios, one- and two-bedroom units, 10,287 square feet of clubhouse/leasing office space, 261,266 square feet of landscaped area, 65,434 square feet of open space, 525 on-site parking spaces including 233 in garages, 22 covered parking spaces and 270 open/guest parking spaces. The site is located within the City of Solana Beach High Density Residential (HR) Zone at 661-781 South Nardo Drive and 821 Stevens Avenue.

CITY COUNCIL ACTION:

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The existing 13.4 acre (583,704 gross square feet) Project site is composed of three parcels. The applicant is proposing to consolidate three existing parcels (12.99 acres in size, 0.31 acres in size and 0.11 acres in size) into two parcels as follows: Parcel 1, 11.64 acres (228 rental apartments) and Parcel 2, 1.77 acres (32 affordable senior units) as shown below:



The proposed maximum height of the Project was certified on June 18, 2018 as follows:

- The highest point of the Project is 149.5 above Mean Sea Level (MSL), measured at Story Pole #39, with a building height of 25 feet at that location.
- The maximum height of the Project is 47.1' above the lowest point of the existing/proposed grade at Story Pole #86 where the project site elevation is 116 feet above MSL at that location.

Proposed grading for the Project consists of 175,000 cubic yards of cut, 22,000 cubic yards of fill and 154,000 cubic yards to be exported off-site. The Engineering Department has added a condition that the Applicant shall participate in the City's Sand Compatibility and Opportunistic Use Program (SCOUP) if the material to be excavated is suitable for

beach replenishment purposes up to a maximum of 150,000 cubic yards per the requirements of the City's SCoup regulatory agency permits.

Application for the Project was originally submitted on October 8, 2014. Story poles were subsequently installed onsite as part of the SDP process. In response to the submittal of multiple claims for view assessment, in November 2015 the City's View Assessment Commission (VAC) conducted their proceedings and recommended denial of the Project due to the potential for view impairment for all view claimants.

Following the VAC recommendation, the Project Applicant initiated a redesign process which included outreach to the view claimants and members of the surrounding community in an effort to minimize the potential for view impairment and to respond to other neighborhood concerns.

In 2017, the Applicant submitted a revised site plan and design modifications which generally proposed an overall lowering of the elevation/grade of the site to reduce the potential for private view impairment. The key changes from the previous (2014/2015) submittal and the currently proposed (2017/2018) Project include the following:

- Building pads across the site were dropped between 3 feet and 17.5 feet.
- The secondary (western) driveway was relocated 114.5 feet to the east and as a result, Buildings 5 and 10 pad elevations increased by 12 feet and 11.5 feet, respectively, and are on the west side of the driveway (upslope) instead of the east.
- Lowering the building pads was accomplished by increasing the amount of soil to be excavated and exported off site from 19,500 cubic yards to 154,000 cubic yards of export. Export will be transported to the City's beach for beach nourishment under the City's SCoup permits, or, if unsuitable or otherwise subject to regulatory constraints, to a local landfill or sold as fill for other projects.
- Building 3 (along South Nardo Drive) was eliminated from the site plan altogether to create a park area.
- The Building 25 pad has been lowered by approximately 9 feet and is separated from the rest of the site with separate vehicular access driveway off Stevens Avenue using the existing curb cut to accommodate the 32-unit affordable senior housing community.
- Building 15 on the southern border of the site was reduced in height from three to two stories, reducing its approximately 19 feet lower than originally proposed.
- The portion of Building 16 that runs parallel to the southern border of the site was reduced from three to two stories so that the roofline of Building 16 along the southern border is now approximately 19 feet lower than originally proposed.

- The southern portion of Building 23 that fronts on the southern border of the site was reduced from three to two stories so that the roofline of building 23 along the southern border is now approximately 20 feet lower than originally proposed.

Following these design revisions, story poles were again installed for a 30-day SDP review period between June 19 and July 20, 2018 for the revised building elements. Following the receipt of three (3) claims for view assessment, one of which proceeded to the VAC as discussed later in this staff report, the following revisions were proposed:

- The Building 12 ridgeline has been lowered 6 additional feet.
- Building 13 ridgeline has been lowered an additional 4.5 feet.
- Building 10 (internal to the site) now includes two additional units on the south side of the building which have been relocated from Building 12 in order to drop the roofline of Building 12 by 6 feet.



The Applicant's revised proposed Project is the subject of this Staff Report and related Resolutions and the FEIR.



As explained in further detail in the CEQA Compliance section of this Staff Report and in Chapter 6 (Alternatives) of the DEIR, the Applicant's previously proposed project from 2014 is now included as an alternative (Alternative 6) to the proposed Project.

Project plans and Story Pole Plan are provided in Attachment 1. The Vesting Tentative Parcel Map plans are provided in Attachment 2. Staff notes that the Project plans under consideration by the City Council propose a modified design from the Applicant's 2017 submittal to address modifications made by the Project Applicant in response to the most recent view assessment process as previously noted and discussed later in this staff report.

The proposed Project meets the following thresholds for the requirement of a DRP: 1) new construction totaling 30,000 gross square feet or more, 2) any residential project of 20 or more units, 3) any new residential structure or structural addition in the HR zones which exceeds 25 feet in height, or 4) any project that includes grading in excess of 100 cubic yards. An SDP is required as the Project exceeds a height of 16 feet above existing/proposed grade. An Environmental Impact Report (EIR) was prepared for the Project in accordance with the California Environmental Quality Act of 1970 (CEQA).

The issues before the Council are: 1) whether to adopt Resolution 2018-131 (Attachment 3) certifying the FEIR (Attachment 4) for the proposed Project pursuant to the Findings of Fact (Attachment 5 (3 Phase Development) or Attachment 6 (Single Phase Development)); 2) if the Council certifies the FEIR, whether to approve, approve with conditions, or deny the Applicant's request for a DRP, SDP, and VTPM and adopt Resolution 2018-132 (Attachment 7); 3) whether to approve the Affordable Housing Density Bonus and Waiver of Development Standards; and 4) whether to approve the requested Fee Waiver.

### **DISCUSSION:**

The existing project site is bounded by South Nardo Drive on the north, Stevens/Valley Avenue to the east, Saint James Church and Academy to the west and the Turfwood residential condominium community to the south. If the Project is approved, the three existing parcels will be consolidated into two parcels through a parcel map process that would occur as a ministerial action prior to building permit issuance.

The site is irregularly shaped and currently varies from an elevation of approximately 60 to 150 feet above MSL, sloping generally upward in elevation from the southeast area of the site to northwest. The project site is currently developed with 194 multi-family residential units and associated amenities within the Solana Highlands community and four additional multi-family units located to the east.

The Solana Highlands apartment complex was constructed in the early 1970s. It is comprised of 16 buildings, carports and surface parking, various hardscape and landscape areas (including driveways and open green space areas), a coin-operated laundry room, tennis courts, a clubhouse with administrative offices, a fitness room, a business center, a swimming pool and three additional adjacent structures providing four



multi-family units. The adjacent multi-family homes were constructed in the late 1940s and mid-1970s.

The proposed Project would involve demolition of all existing development on site and construction of a new rental apartment community consisting of 228 new multi-family residential units, and 32 affordable senior housing units, for a total of 260 new units in 24 buildings on-site. The project proposes a net increase of 62 residential units consisting of 32 affordable senior units and 28 market rate units.

### Market Rate Apartments

The market rate portion of the Project would have a total of 113 one-bedroom units averaging 816 square feet and 120 two-bedroom units averaging 1,108 square feet. All residential units would have private outdoor space in the form of either balconies (for upper-floor units) or patios (for ground-floor units), laundry facilities, storage space, individual parking garages, and surface parking. Common area project amenities on-site would include a recreation facility/clubhouse building and associated recreation facilities such as a pool, spa, barbecue areas, walking paths, and passive usable open space areas. Additionally, the proposed project would include a small fenced park area, along South Nardo Avenue, which would also provide views through the site to the south.

The project site would include three internal architecturally themed/unified neighborhoods: Bungalow, Valley View, and Lifestyle.

- The Bungalow neighborhood would be two and three stories in height and would feature 23 one-bedroom/one-bathroom units and 43 two-bedroom/two-bathroom units. The Bungalow neighborhood would be located along South Nardo Avenue, with setbacks of a minimum of 25 feet from the property line.
- The Valley View neighborhood would be two and three stories in height and would feature 41 one-bedroom/one-bathroom units and 42 two-bedroom/two-bathroom units. The Valley View neighborhood would be internal to the project site.
- The Lifestyle neighborhood would be three stories in height and would feature 49 one-bedroom/one-bathroom units and 30 two-bedroom/two-bathroom units. The Lifestyle neighborhood would be located along the southern edge and southeastern slope of the project site toward Stevens Avenue.

The existing four entrances to the project site located off South Nardo Avenue would be reduced to two driveways for the market rate apartment complex.

Currently, there are 315 parking spaces onsite including 75 covered parking spaces, 236 open parking spaces, and 4 parking spaces serving the separate four multi-family units. If the existing project was built today under the current standards of Solana Beach Municipal Code (SBMC) Section 17.52.010, the required amount of onsite parking would range between 348 spaces and 396 parking spaces, depending on the number of bedrooms in each unit. Thus, there is an existing shortage of onsite parking under the SBMC.

Parking for the market rate portion of proposed Project would be provided entirely onsite in the form of garages, covered parking and surface parking. A total of 495 parking spaces are required for this Project under SBMC. The Project proposes a total of 525 onsite parking spaces, 488 of which are for the market rate apartments and 37 spaces for the affordable senior housing units. The market rate portion of the Project includes 233 garage spaces, 22 covered spaces, and 233 surface parking spaces. At least one parking space will be dedicated to each residential unit, with two-bedroom units also provided an additional dedicated onsite parking space. Additionally, there are 57 guest parking spaces provided as required under the SBMC (one space for every 4 units). As a condition of approval for the Project, the guest spaces shall remain open and available (i.e., unassigned) for both guest and resident parking. The project has also been conditioned to have a Parking Management Plan in place to manage available parking to meet the needs of residents and avoid widespread resident use of adjacent street parking. The Parking Management Plan shall allocate spaces depending on the number of bedrooms and contain provisions in tenant leases that clearly restrict the garage space from impeding the ability to park an automobile in the garage and allow garages to be inspected periodically. The apartment Project also includes 50 bicycle spaces and 17 motorcycle spaces as required by SBMC 17.52 as well as 9 accessible and 2 van accessible spaces as required by the Americans with Disabilities Act (ADA) Standards for Accessible Design.

### Affordable Senior Housing

The 32-unit affordable senior housing portion of the Project consists of 12 studios averaging 420 square feet, 15 one-bedroom units averaging 517 square feet and 5 two-bedroom units averaging 756 square feet. All senior residential units would have private outdoor space in the form of either balconies (for upper-floor units) or patios (for ground-floor units) and surface parking at 1 space for the studio and one-bedroom units and 2 spaces for the two-bedroom units.

The affordable senior units would be located adjacent to the Lifestyle neighborhood and would feature similar architectural features and expression. The 32 affordable senior units would satisfy the affordable housing requirements for the project, and would provide an inclusive senior community with its own common amenities including a community room and outdoor open space. A dedicated driveway for the affordable senior units off Stevens Avenue in the approximate location of the existing access driveway would be provided. This driveway will also continue to provide access for the three existing units that will remain on the adjacent properties.

As noted above, parking for the Senior Housing includes one space for each studio and one-bedroom unit (27 spaces) and two spaces for each two-bedroom unit (10 spaces) for a total of 37 parking spaces. All parking spaces for the Senior Housing is provided in a surface parking area and includes 1 accessible and 1 van accessible parking spaces as required by the Americans with Disabilities Act (ADA) Standards for Accessible Design.

### Project Objectives

The overall objectives of the Project are as follows:

- To revitalize, modernize, and update the existing project site, which currently includes the 194-unit Solana Highlands apartment complex and four multi-family units, with the development of 260 new apartments to replace the existing units, parking, a separate leasing facility/club house building, recreational amenities, a system of internal and interconnected paths, and landscaping throughout the site.
- Maximize the contribution to the City's share of the San Diego Association of Governments (SANDAG) regional housing needs allocation goals of 150 affordable housing units by providing 32 new affordable senior units in the City via California's density bonus law and the City's density bonus and affordable housing ordinances.
- Provide for new residential development in the City that is environmentally sustainable and incorporates best practices for water conservation, use of recycled water for landscaping, "green" construction methods, and energy efficiency.
- Enhance community character and provide for a revitalized residential development that has fewer impacts on local circulation by providing off-site traffic-calming measures on South Nardo Avenue, reducing the number of site driveways, relocating the primary entrance closer to main transportation arterials, and optimizing internal circulation and increasing on-site parking availability for residents.
- Provide new landscaping and increased building setbacks at certain locations along South Nardo Avenue to enhance the streetscape.
- Use architecture and design elements to ensure high-quality, modern design and aesthetics by providing a variety of unit types within differing but unified neighborhoods on the project site.
- Use beach-sand-quality materials targeted for off-site export for beach renourishment as part of the City's Sand Compatibility and Opportunistic Use Program.

The project would be designed and developed using sustainable development practices and design features. These practices include Title 24 California Code of Regulations standards, described in detail in Section 3.2, Air Quality, and Section 3.4, Greenhouse Gas Emissions, of the FEIR. In addition to the measures that are part of the Title 24 measures, the project would include the following energy-efficiency measures in its design:

- Electric vehicle charging stations at selected surface parking spaces for residents and guests.
- Pre-wired garages for electric vehicle charging stations at select locations.
- Photovoltaic solar panels.

- Low-water-use appliances, in-home fixtures, and irrigation.
- Low VOC (volatile organic compound) paints.
- Community recycling program. In addition to meeting the City's recycling requirements, property management would actively promote recycling. Recycling bins would be provided throughout the property, including next to office printers at the leasing office and at mail stations. At move-in, residents would be supplied with reusable tote bags and reusable water bottles to help reduce trash. At the leasing office, eco-friendly cups made from recycled plant material would be used for water and coffee, and property management staff would be discouraged from using anything but reusable water bottles and coffee cups.
- Energy Star appliances.
- Energy-efficient lighting (LED); appliance; and heating, ventilation, and air conditioning (HVAC) design.
- Saltwater pool with solar heating.
- Building insulation elements installed under the inspection of the Home Energy Rating System (HERS) rating agency.
- Drought-tolerant landscaping.
- Reclaimed water use for irrigation.
- Walking paths and bicycle lockers to promote more sustainable lifestyles for residents, employees, and guests.
- As a condition of approval, the Applicant has agreed to have all tenants and general electric meters participate in Solana Energy Alliance's (SEA) "SEA Green" (100% Renewable) program.

Grading for the Project would be designed to lower the elevation of the project site to create new, flatter pads that would enable the increased density and improve internal circulation for pedestrians and vehicles. Retaining walls necessary to facilitate site grading are shown in Attachment 1, Figure 2-4, Site Plan. Visible portions of retaining walls would range in height from 3 to 16.25 feet for masonry walls (18.5 feet for staggered walls on an incline) and 2 to 7 feet for plantable keystone walls. Landscaping, including bushes and trees, would be placed at the base of retaining walls to screen them from view and blend in with other landscaping elements proposed for the Project.

As currently proposed, the Project would involve a phased construction plan designed to enable partial occupancy of the site over a period of approximately 39 months. Under this construction plan, three phases of development would occur which are anticipated to have varying durations with some phases being longer in duration and others shorter. The FEIR also analyzed the proposed Project as a single-phased construction project

that could be completed over a 24-month period. This is identified in the EIR as Alternative 7.

Project Overview

The following Table 1 provides an overview of the specific zoning regulations for the development of the property compared to the Applicant’s proposed Project design. The development standards that apply to this Project are provided in the SBMC.

**Table 1 Lot and Proposed Project Information**

LOT INFORMATION																
<p><b>Property Address:</b> 661 through 781 South Nardo Drive and 821 Stevens Avenue</p> <p><b>Lot Size:</b> 583,704 ft<sup>2</sup> (13.4 acres) gross/net area of 3 existing parcels and future 2 parcels after consolidation</p> <p><b>Maximum Allowable Floor Area:</b> 0.75 or 437,778 ft<sup>2</sup> (calculated based on gross floor area)</p> <p><b>Proposed FAR:</b> 0.564 or 329,157 ft<sup>2</sup></p> <p><b>Maximum Building Height*:</b> 30 ft.</p> <p><b>Proposed Building Height*:</b> 47.1 ft.</p> <p><i>*Subject to density bonus or waiver of development standard</i></p>	<p><b>Zone:</b> HR (High Density Residential)</p> <p><b>Overlay Zone:</b> None.</p> <p><b>Density Allowed:</b> 13-20 du/ac or 207 Dwelling Units</p> <p><b>Density Requested *:</b> 19.4 du/ac - 260 Dwelling Units</p> <p><b>Setbacks:</b></p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;"><b>Required:</b></th> <th style="text-align: center;"><b>Proposed:</b></th> </tr> </thead> <tbody> <tr> <td>Front:</td> <td style="text-align: center;">25 Ft.</td> <td style="text-align: center;">25 Ft.</td> </tr> <tr> <td>Rear:</td> <td style="text-align: center;">10 Ft.</td> <td style="text-align: center;">25 Ft.</td> </tr> <tr> <td>Side (Street):</td> <td style="text-align: center;">10 Ft.</td> <td style="text-align: center;">10 Ft.</td> </tr> <tr> <td>Side (Interior):</td> <td style="text-align: center;">10 Ft.</td> <td style="text-align: center;">25 Ft.</td> </tr> </tbody> </table>		<b>Required:</b>	<b>Proposed:</b>	Front:	25 Ft.	25 Ft.	Rear:	10 Ft.	25 Ft.	Side (Street):	10 Ft.	10 Ft.	Side (Interior):	10 Ft.	25 Ft.
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PROPOSED PROJECT INFORMATION																
<p><b>Proposed Square Footage Breakdown:</b></p> <table style="width: 100%; border-collapse: collapse;"> <tbody> <tr> <td style="width: 60%;">Residential:</td> <td style="text-align: right;">318,870 ft<sup>2</sup></td> </tr> <tr> <td>Clubhouse/Leasing center:</td> <td style="text-align: right;">10,287 ft<sup>2</sup></td> </tr> <tr> <td><b>Total Building ft<sup>2</sup> Proposed:</b></td> <td style="text-align: right;"><b>329,157 ft<sup>2</sup></b></td> </tr> <tr> <td><b>Total Residential/Building Area:</b></td> <td style="text-align: right;"><b>318,870 ft<sup>2</sup> or 54.6%</b></td> </tr> </tbody> </table>	Residential:	318,870 ft <sup>2</sup>	Clubhouse/Leasing center:	10,287 ft <sup>2</sup>	<b>Total Building ft<sup>2</sup> Proposed:</b>	<b>329,157 ft<sup>2</sup></b>	<b>Total Residential/Building Area:</b>	<b>318,870 ft<sup>2</sup> or 54.6%</b>	<p><b>Proposed Landscape and Open Space Components:</b></p> <table style="width: 100%; border-collapse: collapse;"> <tbody> <tr> <td style="width: 60%;">Landscaping:</td> <td style="text-align: right;">261,266 ft<sup>2</sup></td> </tr> <tr> <td>Open Space:</td> <td style="text-align: right;">65,434 ft<sup>2</sup></td> </tr> </tbody> </table>	Landscaping:	261,266 ft <sup>2</sup>	Open Space:	65,434 ft <sup>2</sup>			
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<p><b>Required Permits:</b></p> <p><b>DRP:</b> New construction over 30,000 square feet. New residential units in excess of 20 units. New structures in excess of 25 feet in height in HR zone. Grading in excess of 100 cubic yards.</p> <p><b>SDP:</b> For construction in excess of 16 feet in height measured from existing grade.</p>																
<p><b>Proposed Grading:</b> Cut: 175,000 yd<sup>3</sup> Fill: 22,000 yd<sup>3</sup> Export: 154,000 yd<sup>3</sup></p>																
<p><b>Required Parking:</b> 495 spaces</p> <p><b>Proposed Parking:</b> 525 spaces</p> <p><b>Proposed Fences and Walls:</b> Waiver of development standards requested to allow maximum wall and fence heights as noted in Table 3 due to the amount of grading required and general lowering of the grade of the site.</p>	<p><b>Existing Development:</b> High density multi-family residential (rental) community consisting of 198 units, club house and leasing center, swimming pool, driveways and parking areas, fencing, utility poles, and landscaping.</p> <p><b>To be demolished:</b> Yes</p> <p><b>To Remain:</b> N/A <b>Other:</b> N/A</p>															

As shown above, the proposed Project meets or exceeds the required setbacks listed in the SBMC. The Project also complies with the applicable development regulations for a

high density residential development, including parking, density and floor area, except where waivers of development standards have been specifically requested, such as building height.

Resolutions for this Project for Council consideration have been prepared and attached to this staff report. Resolution 2018-131 has been drafted for City Council's consideration to certify the FEIR based on the draft Findings of Fact and FEIR. Resolution 2018-132 provides the full text of the pertinent regulations for the DRP, SDP and VTPM and Staff has prepared draft findings of approval of the DRP, SDP and VTPM for the Project for Council's consideration based upon the information provided in this Staff Report. The Council may direct Staff to modify any of the Resolutions to reflect the findings and conditions it deems appropriate as a part of the public hearing process. If the Council determines the FEIR should not be certified and the Project is to be denied, Staff will prepare appropriate resolutions for consideration at a subsequent Council meeting.

The following is a discussion of the findings for a DRP, SDP and VTPM, as each applies to the proposed Project, as well as a discussion of the development plans and recommended conditions as contained in the attached Resolutions, as well as a discussion regarding the FEIR, mitigation measures, and project alternatives.

The City Council will also need to review a Density Bonus and Waiver of Development Standards, and Fee Waiver, each of which are described later in this report.

### **Development Review Permit Compliance**

The proposed project requires a DRP for the following reasons: 1) new construction over 30,000 square feet, 2) new residential construction in excess of 20 units, 3) new structures in excess of 25 feet in height in the HR zones, and 4) grading in excess of 100 cubic yards. In addition to meeting the zoning requirements, the Project must also be found in compliance with development review criteria pursuant to SBMC 17.68.040. The following is a list of the development review criteria topics:

1. Relationship with Adjacent Land Uses
2. Building and Structure Placement
3. Landscaping
4. Roads, Pedestrian Walkways, Parking, and Storage Areas
5. Grading
6. Lighting
7. Usable Open Space

The City Council may approve, or conditionally approve, a DRP only if all of the findings listed below can be made. Resolution 2018-132 provides the full discussion of the findings.

1. The proposed development is consistent with the general plan and all applicable requirements of the zoning ordinance including special regulations, overlay zones, and specific plans.
2. The proposed development complies with the development review criteria.
3. All discretionary permits and approvals required by the city, including variances, conditional use permits, tentative maps, and comprehensive sign plans have been obtained prior to or concurrently with the development review permit.
4. If the development project also requires a permit or approval to be issued by a state or federal agency, the city council may conditionally approve the development review permit upon the applicant obtaining the required permit or approval from the other agency.

If the above findings cannot be made, the Council shall deny the DRP. The following is a discussion of the applicable development review criteria as they relate to the proposed Project.

The Project is also located within the Coastal Zone as the entire City of Solana Beach is within the Coastal Zone. As a condition of project approval, the Applicant will be required to obtain a Coastal Development Permit, Waiver, or Exemption from the California Coastal Commission prior to the issuance of a building permit by the City.

### **Relationship with Adjacent Land Uses**

The subject lot is located within the High Residential Density (HR) Zone which is described by SBMC Section 17.20.010 as follows:

- High Residential Zone (HR) – (13 to 20 dwelling units/net acre): This zone is intended for multiple-family attached units such as apartments and condominium buildings. Such areas are located in close proximity to major community facilities, commercial centers and transportation routes. It is intended that development in this zone utilize innovative site planning, and provide on-site recreational amenities.

The proposed Project is a redevelopment of an existing developed site currently occupied by a 194-unit residential apartment complex and 4 other multifamily units. The site is located in an urban setting and is surrounded by mix of residential land use types including single family residential neighborhoods to the north, Solana Pointe residential apartments to the northeast, single-family homes to the southeast, Turfwood condominiums to the south, and St. James Catholic Church and academy campus to the west.

### **General Plan Consistency**

The proposed Project may be found consistent with the General Plan, which designates the property as High Density Residential (HR), and may be found to be consistent with

the following General Plan policies in the City's Land Use (LU) Element for residential land uses:

- Policy LU-1.1: Encourage the development and protection of healthy residential neighborhoods by ensuring sensitive transitions between those neighborhoods and adjoining areas and preventing deterioration through rehabilitation and maintenance efforts.
- Policy LU-1.2: The City's land use plan shall include residential land uses comprising a range of housing types, locations, and densities.
- Policy LU-1.3: In order to protect the rental housing stock, protect purchasers of dwelling units, assure consistency with the general plan density requirements, assure adequate parking, and assure adequate public facilities, conversion of existing apartments to condominiums or other similar forms of subdivision shall be regulated pursuant to City zoning and subdivision ordinances.
- Policy LU-1.4: Pursue opportunities to improve and protect existing residential neighborhoods by enhancing the pedestrian and bicycle experience, implementing traffic calming measures where appropriate, and providing convenient access to schools, parks, beaches, and other amenities and services.
- Policy LU-6.6: Promote infill development, redevelopment, rehabilitation, and reuse efforts that protect and contribute positively to existing neighborhoods and surrounding areas.
- Policy LU-6.7: Promote appropriate transitions in building height and bulk which are sensitive to the visual and physical character of adjacent neighborhoods.

The Project could be found to be consistent with the following General Plan programs and goals in the City's Housing Element which the City is committed to implementing the housing goals, including regional housing needs assessment / local share goals and affordable housing goals, including:

- Continuing to implement the density bonus and affordable housing ordinances.
- Addressing and mitigating constraints to housing development.
- Providing affordable housing for the elderly (seniors) as an identified "Special Needs Group" in the Housing Element.
- Meeting the local share of the Regional Housing Needs Assessment (RHNA) as established by SANDAG by providing a portion of the 150 affordable units the City must provide under State law.
- Developing a site that was identified as having development potential for 260 dwelling units in the City's Housing Element.



- Achieving the need for housing rehabilitation to preserve neighborhood quality.

The Housing Element identified the Solana Highlands project site as one that could accommodate up to 66 additional residential units and was a site identified as having adequate density to accommodate lower income housing. Under current state law, if these additional units are not affordable units, the City must demonstrate that adequate sites remain to accommodate the City's remaining need for lower income housing. As proposed, the Project includes 32 low income affordable senior units. Since this is fewer than the number shown in the Housing Element, the City needs to make findings under the 'no net loss' statute (Gov't Code Section 65863) to show that it has adequate sites remaining to accommodate its remaining lower income housing need.

The City's total lower income need for the 2013-2021 Housing Element period was 150 units under its regional housing needs allocation (RHNA). The City has approved 10 lower income units on South Sierra Street (the Pearl). The City has also approved 5 low income Accessory Living Units that are deed restricted in perpetuity. If 32 low income units are approved in Solana Highlands, the City's remaining lower income RHNA will total 103 units.

The Housing Element identified sites for up to 280 lower income units, significantly more than the 150 required. The three largest sites remaining (City Hall (14 units), 140 South Sierra Parking Lot (20 units), and North County Transit District Station (113 units)) together can accommodate 147 lower income units, well in excess of the 103 units required. Therefore the City has more than adequate sites to accommodate its remaining lower income housing need.

#### Local Coastal Plan/Land Use Plan Consistency

The Solana Beach City Council adopted a Local Coastal Plan (LCP) Land Use Plan (LUP) on February 27, 2013 (amended and certified on June 11, 2014). Although the LUP has been certified by the California Coastal Commission, the Local Implementation Plan (LIP) portion of the LCP has not yet been certified; as such, the provisions of the LUP are considered by the Coastal Commission to be advisory rather than mandatory at this time.

The purpose of the LUP is to implement the State's goals for the coastal zone. The City's LUP provides long-term goals that promote the beneficial use of lands in the City and the beach and shoreline for residents and visitors alike. The LCP LUP designates the property as High Density Residential. This land use category is intended to be developed with 13 to 20 dwelling units per acre. This zone is intended for multiple-family attached units such as apartments and condominium buildings. Such areas are located in close proximity to major community facilities, commercial centers, and transportation routes. It is intended that development in this zone utilize innovative site planning and provide on-site recreational amenities.

The proposed Project could be found to be consistent with LCP/LUP. In particular, the proposed Project could be found to be consistent with the policies in Chapter 5 – New Development, which includes general policies for new development, and policies for residential development, high density development and redevelopment, energy efficiency

and archaeology. The proposed Project could also be found to be consistent with the policies in Chapter 7 – Public Works, including policies for circulation and traffic.

### **Affordable Housing, Density Bonus and Waiver of Development Standards, and Fee Waiver**

#### **Affordable Housing Ordinance**

The City has adopted an Affordable Housing Ordinance, Solana Beach Municipal Code Chapter 17.70. Section 17.70.040 states that an Affordable Housing Plan shall be submitted as part of the first approval of any residential project and shall be processed, reviewed, and approved, conditionally approved, or denied concurrently with all other applications required for the residential project.

For rental housing projects, the Affordable Housing Ordinance requires either the payment of a rental housing impact fee or provision of at least 15 percent of the units rented to very low or low income households, along with City provision of a regulatory incentive. (SBMC Section 17.70.025.) Here, 15.5 percent of the base density of 207 units is proposed to be units rented to low income households, in exchange for the regulatory incentives of a density bonus and waivers of certain development standards. Therefore the proposal provides the affordable units required by the Affordable Housing Ordinance.

Per SBMC Section 17.70.040, if affordable units are proposed to be provided, the affordable housing plan shall include the following, as applicable:

1. Number, affordability level, unit type, tenure, number of bedrooms, location, size, and design of all affordable units.

*The applicant has submitted an application to provide 32 low income senior rental units in one building on the property, shown on the site plan, and has proposed 12 studios, 15 one-bedroom units, and 5 two-bedroom units.*

2. Construction schedule and phasing of affordable units in relation to unrestricted units.

*The Project proposes to construct the affordable units in Phase II of the project.*

3. Description of provisions for income certification and screening of potential purchasers and/or renters of affordable units, resale control mechanisms, and ongoing monitoring and administration

*These provisions are contained in the affordable housing agreement prepared by the City.*

4. Any requested alternative pursuant to SBMC 17.70.030, including information as required by the community development director regarding the alternative.

*The affordable units are being proposed on-site and no alternative pursuant to SBMC is being requested.*

5. If the affordable units are proposed for rental occupancy, the developer's agreement to the limitation on rents as required by SBMC 17.70.025(B) and any city assistance requested.

*The developer has proposed to provide the affordable rental units to obtain a density bonus and waivers of development standards and has agreed to the limitation on rents in exchange for the density bonus. State density bonus law requires that the City ensure the continued affordability of the units for 55 years, and that the rents be limited to those affordable to low income households. The affordable housing agreement prepared by the City is consistent with this requirement.*

6. Such additional information as may be required by the community development director to ensure conformance of the project with this chapter or the general plan or any specific plan.

The Affordable Housing Agreement will be recorded against the property prior to final or parcel map approval for the residential Project or prior to issuance of any building permit, whichever comes first.

The Affordable Housing Ordinance requires that, in multifamily projects, the affordable units may not have a geographic concentration and must have the same size and number of bedrooms as the market-rate projects. (SBMC Section 17.70.035.) However, state and federal fair housing laws require that senior housing include design features to meet the physical and social needs of seniors (such as additional lighting and a community room) and that the housing publish and adhere to policies limiting occupants to seniors. This requires that the senior housing all be contained in a separate building. Consequently, in the case of senior affordable housing, the City cannot enforce its requirement that the units be integrated into the Project. Also, because senior households are almost entirely comprised of one or two persons (and primarily one-person households), senior affordable housing typically is comprised of studio and one-bedroom apartments, with a few two-bedroom apartments.

Based on the requirements of federal and state law, the Affordable Housing Plan could be found consistent with the City's Affordable Housing Ordinance.

#### Request for Density Bonus and Waivers of Development Standards

The City has adopted a Density Bonus Ordinance, Solana Beach Municipal Code Section 17.20.050, to implement State Density Bonus Law (Government Code Section 65915 – 65918) (together "Density Bonus Law"). Density Bonus Law allows a density bonus, concessions, waivers, and parking reductions when a developer proposes to provide

rental housing affordable to low income households (generally households earning 80 percent of median income or less, adjusted for family size).

**Density Bonus**

The developer has requested a density bonus of 53 units in exchange for providing 15.5 percent low income units to satisfy the City's Affordable Housing Ordinance. The California Court of Appeal, in the 2013 case *Latinos Unidos v. County of Napa*, held that developers are entitled to a density bonus for affordable units required under a City's affordable housing ordinance. The calculation of the density bonus is explained below.

SBMC Chapter 17.20 allows for residential development on the site with a maximum of 20 dwelling units per net acre. The maximum number of units permitted is determined by multiplying the net acreage of the lot by the maximum dwelling unit density permitted for the zone. The net lot area is 583,704 square feet or 13.4 acres. Therefore, the maximum allowable density for the lot is calculated as follows:

$$13.4 \text{ acres} \times 20 \text{ dwelling units per acre} = 268 \text{ units.}$$

This number is adjusted downward due to the presence of onsite slopes that exceed 20% as shown in Table 2 per the requirements of SBMC 17.20.030-C.

**Table 2 - Slope Adjustment for Dwelling Units**

Slope	Acres	Allowable Density / Adjustment	Dwelling Units
0-25%	9.79	20 (none)	195.8 Units
25-40%	1.08	10 (50%)	10.8 Units
40%	2.54	0 (100%)	0.00 Units
			<b>206.6 Units</b>

The base allowable density of the site, excluding the slopes as noted above, is 207 units as 206.6 units is required by state law to be rounded up to the next whole unit number.

Under the SBMC and California law, the provision of the affordable apartments allows the applicant to receive a density bonus, allowing additional market-rate apartments to be constructed. The following steps outline the proposed Project's density bonus request and provide details as to how the number of dwelling units being proposed was derived:

- **Step 1:** The project site is zoned HRd, which provides for a maximum allowable density of 13 to 20 dwelling units per acre. State law requires that the density bonus be calculated from the maximum permitted density.
- **Step 2:** SBMC Section 17.20.030(B)(4) requires an adjustment to the maximum allowable density for multiple-dwelling-unit projects located in or in proximity to sensitive land, such as steep slopes. A majority of the project site is located on slopes of 0% to 25%. Table 2 (above) identifies the number of acres on site located on a slope and the corresponding density adjustment that applies to those acres.

As shown in Table 2-2, after applying the slope-adjusted density, the proposed Project's permitted maximum allowable density would be 206.6 units, rounded up under state density bonus law to 207 units.

- **Step 3:** The Project proposes to provide 15.5% of the permitted 207 units as senior housing affordable to low-income households (32 low-income units).
- **Step 4:** State law and SBMC Section 17.20.050 entitle the Project to a density bonus of 27.5%. Therefore, the project's actual permitted maximum allowable density is 264 units ( $0.275 \times 207$  permitted units = 56.93 additional units, rounded up to 57;  $207 + 57 = 264$ ). (California Government Code, Section 65915).
- **Step 5:** Although the Project would be allowed to build 264 units with the 27.5% density bonus, the project is proposing to construct 260 units, which is a density bonus of 26%. Although a density bonus of 26% would only require 29 affordable housing units, 32 affordable units are being provided. The 32 affordable units would be senior low-income units rented to persons 62 years of age and older and containing the elements required for senior housing under California Civil Code Section 51.2(d), such as accessible paths of travel and grab bars. They would be subject to a rental regulatory agreement with a term of 55 years, and would be rented to individuals or couples at affordable rents as required by SBMC Section 17.20.050) and state density bonus law (Government Code Section 65915(c)(1)).

The Applicant is proposing 260 residential units or 19.4 dwelling units per gross acre, consistent with Density Bonus Law.

#### Waivers of Development Standards

According to SBMC Section 17.20.050 and state density bonus law, the City is required to approve a request for a waiver or modification of a development standard that would physically preclude the construction of a housing development with a density bonus, unless the request violates state or federal law, has a specific health or safety impact, or has an impact on a historic building. A development standard is a site or construction condition, such as a height limit or setback requirement or parking standard reduction.

The Applicant has applied for the following waivers of development standards under state density bonus law:

- Waivers of the development standards shown in Table 3 that would otherwise physically preclude development of the Project with the density bonus that the Project is entitled to: building height limit increase; wall and fence height increase; and additional retaining wall height.

**Table 3 - Requested Waivers of Development Standards**

Requested Waiver	Existing City Standard	Proposed Project
Wall and fence height	16 feet	A maximum of 35 feet (e.g., 6 foot tall fence over 29 feet of fill) outside the building setbacks in the interior of the property due to the proposed finished grade elevations at various locations across the site.
	42 inches (3.5 feet) (existing condition)	Increase to 180 inches (15 feet) within the front and street side yards to accommodate the lowering of the existing grade to the proposed pad elevations along South Nardo Avenue at the most northwesterly corner of the project site.
		Increase to 120 inches (10 feet) high maximum within the front and street side yards on the east side of the project along South Nardo Avenue and Stevens Avenue.
	6 feet	A maximum of 15 feet along the southerly side of the project within the 25 foot rear yard setback.
Maximum exposed height of retaining wall	72 inches (6 feet)	A maximum of up to 15 feet to accommodate areas just beyond the building footprints of Buildings 11, 12, 13, 15 and 16. These buildings incorporate a 15 foot tall internal wall to create a split level building given the slopes/topographical contours onsite. A retaining wall matching that height is proposed to extend out enough to create pedestrian access to the sides of the building at both the upper and lower levels.
Building height	30 feet	A maximum of up to 47 feet. Without this waiver, the project would be physically precluded from being constructed. The Applicant has indicates that the entire project as proposed could not be constructed without reshaping the ground within the project boundaries. Without a waiver of the building height requirement reshaping the ground could not occur sufficient to allow the development.

Per SBMC Section 17.20.050 (G), the City must approve requests for waivers of development standards, unless the City makes a written finding that:

- a. The development standard would not physically preclude the construction of a housing development with the density bonus; or
- b. The waiver would have a specific adverse impact on public health and safety or the physical environment, as defined in Government Code Section 65589.5(d)(2), and there is no feasible way to mitigate or avoid the adverse impact; or
- c. The waiver would have an adverse impact on any property listed in the California Register of Historical Resources; or
- d. The waiver would be contrary to state or federal law.

Without the proposed waivers, pad elevations required to fulfill the proposed design goals would not be feasible. Also, driveways could not be constructed to facilitate vehicular or pedestrian access to building pads set at elevations that allow the proposed development

to be built with proposed sensitivity to the surrounding/neighborhood properties. The intent of the walls is to allow the new buildings on the north side of the site to “step down” from South Nardo Avenue and create a condition where buildings are no taller than or closer to the street than what currently exists.

Therefore, the City Council may find that the development standards being waived, if strictly enforced, would physically preclude the construction of the development with the density bonus.

According to the FEIR, no significant unavoidable adverse environmental effects would occur from implementation of the Project, and the waivers would not affect a historic resource or be contrary to state or federal law. As conditioned, the proposed Project gives consideration to the protection of surrounding areas from potential adverse effects and provides protection of the property from adverse surrounding influences such as negative impacts of light, air, and noise.

#### Fee Waiver Request

SBMC Section 17.70.045 allows the City Council, in its sole discretion, to discount fees if it finds that a fee waiver would help meet Housing Element needs. The Applicant has requested a fee waiver of \$500,000. The City retained the firm of Keyser Marston Associates, Inc. (KMA) to review and evaluate the fee waiver request and proforma for the Project. KMA has prepared an analysis (Attachment 8) which concluded that the proposed Project demonstrates the need for financial assistance related to the provision of 32 low income (senior) housing units. They further concluded that the requested fee waiver would not provide a windfall profit to the Applicant. As such, the requested fee reduction is warranted by the proposed Project’s economic characteristics.

#### Building and Structure Placement

The project includes a total of 260 units with a breakdown as follows:

- 12 studio apartments that are 420 square feet in size
- 128 one-bedroom apartments ranging in size from 517 to 954 square feet
- 120 two-bedroom apartments ranging in size from 731 to 1,212 square feet.

Project amenities on site would include a recreation facility/clubhouse building and associated recreation facilities such as a pool, spa, barbecue areas, walking paths, and passive usable open space. Additionally, the Project would include a small private park along South Nardo Avenue to reduce effects to public and private views in proximity to the existing greenspace on site.

The SBMC includes development standards for high density residential development based on the zone in which the project is located, including required setbacks, maximum FAR, and building height, which are shown in Table 1. The requested development standard waivers shown in Table 3 notwithstanding, the proposed Project meets or exceeds all required setbacks, and is below the maximum allowable FAR. Required

parking and landscaping standards are contained in the City's Off Street Parking Design Manual (OSPDM). The Project meets or exceeds the parking requirements of the SBMC and the requirements of the OSPDM).

The highest point of the Project is 149.5 above Mean Sea Level (MSL), measured at Story Pole #39, with a building height of 25 feet at that location. The maximum height of the Project is 47.1' above the lowest point of the existing/proposed grade at Story Pole #86, where the project site elevation is 116 feet above MSL at that location. The Applicant has requested a waiver of the 30-foot height standard for the proposed Project as noted in Table 3.

Therefore, pursuant to the requirements of the placement of buildings and structures, the City Council may find that the design of the Project has minimized adverse impacts on the surrounding properties and has been designed in a manner which visually and functionally enhances their intended use and complements the existing site topography.

### **Landscaping**

Per SBMC Section 17.56.040, the proposed development is subject to the City's Water Efficient Landscape Regulations. The existing site contains developed areas and vegetation consisting of both native trees and non-native ornamental trees, shrubs and other plant species. As a condition of approval for the Project, the Applicant shall connect to the City's reclaimed water facilities to provide all on- and off-site irrigation with reclaimed water.

The conceptual landscaping plan for the Project proposes 261,266 square feet of landscape area which is equal to approximately 45% of the project site. The proposed landscape plan is shown in Attachment 1. During construction of the proposed Project, it is anticipated that all of the existing trees, shrubs and other vegetation would be removed as part of the proposed Project due to the extent of grading that is proposed on site to lower pad elevations.

The Project has been conditioned to comply with the LCP LUP Policy 3.53 regarding mitigation for native tree species removed from a project site. The inclusion of 5 California Sycamores would replace the existing mature 5 California Sycamores on site in accordance with City LCP requirements for native tree mitigation.

The Project would include the installation of mature (boxed) trees to reduce visual and aesthetic effects from the loss of the existing vegetation on site. Larger shade trees would include approximately ten (10) 84-inch box Coast Live Oaks along the southern edge of the site and approximately sixty (60) trees that would be a mix of Coast Live Oaks, Aleppo Pines, and California Sycamores, in 24-inch boxes throughout the site. A further mix of trees ranging in size and style (as shown in the Landscape Plan, in Attachment 1) includes over 400 trees to be planted on site.

The landscape plan includes the use of native species and/or drought-tolerant plant material. No invasive or potentially invasive species would be used. Planting is intended to be a connecting device linking the various pieces of the project site and design styles. The landscape plan uses plant material to help define spaces, create/encourage



circulation paths, emphasize entry points, and provide softness and scale to the architecture. Evergreen, deciduous, and flowering material are proposed throughout the site and mature native trees are proposed. New landscaping would use significantly less water than the current landscaping, as the proposed project would use reclaimed water for all landscape uses and would also comply with all California landscape water-usage standards.

The Applicant's conceptual landscape plan has been reviewed by the City's third-party landscape architect who has recommended approval of the conceptual landscape plan. The Applicant would be required to submit detailed construction landscape drawings that would be reviewed by the City's third-party landscape architect for conformance with the conceptual plan. In addition, the City's third-party landscape architect would perform inspections during the construction phase of the project. A separate condition has been added to require that native or drought-tolerant and non-invasive plant materials and water-conserving irrigation systems are required to be incorporated into the landscaping to the extent feasible.

### **Roads, Pedestrian Walkways, Parking, and Storage Areas**

Residential projects in the City are required to comply with parking standards in the SBMC 17.52. The parking for the affordable senior housing element are per the State bonus density code (CGC 65915(p)), as shown on the Parking Plan Sheet 0-0.1 in Attachment 1. Although this maximum required parking ratio applies to the entire property, the Applicant is complying with SBMC Chapter 17.52 for the market-rate portion of the site.

As shown in Table 4 below, the proposed Project meets or exceeds the parking requirements for automobile and motorcycle parking as outlined in SBMC 17.52. There are no requirements for bicycle parking for residential development projects; however up to 50 bicycle parking spaces will be provided onsite.

Pedestrian paths are provided throughout the site to facilitate internal pedestrian circulation across and within the site.

Table 4 Proposed Parking

	Solana Highlands (228 units)			Affordable Senior Units (32 units)			
	Per SBMC 17.52.040		Total Provided	Per Cal Gov. Code 65915(p)			Total Provided
Automobile Parking Spaces	units	spaces/unit		total			
Studio	0	1.00	0.00	12	1.00	12.00	
One-Bedroom	113	1.50	169.50	15	1.00	15.00	
Two-Bedroom	115	2.00	230.00	5	2.00	10.00	
Guest spaces	228	.25	57.00	32	n/a	0.00	
<b>Total Parking Spaces</b>			<b>457</b>			<b>37</b>	<b>37</b>
ADA requirement <small>(included above)</small>							
ADA Spaces			9			2	2
ADA Van Accessible			2			1	1
Motorcycle Parking (1)	1% of parking area		17	not applicable			
Bicycle Parking	1/per 10 auto space		48.8	not applicable			(2)

Notes: (1) 1% of parking area = 400sf, which equates to 17 motorcycle spaces.

(2) Bicycle parking to be located on racks within unit garages. Minimum of 50 to be provided.

All the required automobile and motorcycle parking spaces would be provided onsite as shown in Table 4. Vehicular access to the site would be provided from two driveway locations on South Nardo Drive. In addition, direct access to the affordable senior housing building would be provided from the existing curb cut serving the existing multi-family units off Stevens Avenue located south of the intersection of South Nardo Drive and Stevens Avenue.

All entrances would provide full movement driveways allowing inbound and outbound movements. The Project driveways are proposed to be unsignalized.

Pedestrian access to the project site would be provided via new and/or improved perimeter sidewalks along South Nardo Drive and Stevens Avenue.

**Grading**

Grading is proposed in the amount of 175,000 cubic yards with 154,000 cubic yards of soil to be exported off-site. The project site varies from an elevation of approximately 61 to 68 feet above MSL, sloping upward from southeast to northwest. The majority of the proposed grading is intended to facilitate a general lowering of elevations on the site to address the potential for private view impairment and to facilitate internal circulation for pedestrians as well as vehicles.

The Engineering Department has included a condition of approval that the Applicant shall participate in the Sand Compatibility and Opportunistic Use Program (SCOUP) and deposit beach-quality sand excavated from the site up to a maximum of 150,00 cubic

yards on city beaches if the Applicant's soil engineer determines that any or all of the material to be exported is compatible with beach sediment in accordance with the City's SCoup permits.

### **Lighting**

Conditional approval of this Project includes the requirement that all new exterior lighting fixtures be in conformance with the City-Wide Lighting Regulations of the Zoning Ordinance (SBMC 17.60.060). All light fixtures will be shielded so that no light or glare is transmitted or reflected in such concentrated quantities or intensities as to be detrimental to the surrounding area. Adequate lighting shall be provided in all parking areas used by the public for safe pedestrian and vehicular movement. A minimum lighting level of 0.2 foot-candles is required for all parking areas. All lights provided to illuminate any loading space or parking area shall be designed, adjusted, and shielded to avoid casting light toward public roads and adjoining residential properties.

### **Open Space**

The Project is a high density residential development within the HR Zone and, pursuant to the SBMC, requires common usable open space in the amount of 250 square feet per residential unit for a total of 65,000 square feet. The proposed project provides a total of 65,434 square feet of open space as shown on Sheet L-0.2 in Attachment 1. In addition, as designed, each of the proposed residential units has its own patio (first floor units) or balcony (for second floor units) that is directly accessed from the residence.

The proposed Project includes passive usable open space areas as well as a small fenced park area, along South Nardo Avenue. Other common area project amenities on-site would include a recreation facility/clubhouse building and associated recreation facilities such as a pool, spa, barbecue areas, and walking paths.

### **Structure Development Permit Compliance**

The Project must also be found to comply with all of the requirements of SBMC Chapter 17.63, View Assessment, and requires an SDP given that proposed structures would exceed 16 feet in height.

As part of the permit application for the Project as designed in 2014 (i.e., Alternative 6 in the EIR), temporary story poles were erected on the project site in June 2015 to show the height and general outline of the previously proposed structures. After notice was issued to residents within 1,000 feet of the project site, the City received fifteen claims of potential view impairment. Three view claimants withdrew their claims and the remaining twelve view claims were evaluated by the View Assessment Committee (VAC) in October 2015. The VAC recommended denial of the project due to the inability to make the required findings. Given that the previous project did not proceed and the VAC rendered their formal recommendation, the proceedings were concluded and the Project application

processing became inactive for approximately two years as the Applicant sought input from the community on a redesign of the Project.

As part of the proposed Project's permit application, revised story poles were installed and certified on June 16, 2018 to show the height and outline of the currently proposed structures. As certified, the story poles show a maximum building height of 47.1 feet from the proposed grade. On June 21, 2018, a public notice was issued to residents within 300 feet, as well as to all previous (2015) view claimants of the project area (as the 2015 notice was mailed to a 1,000-foot radius) notifying them of the proposed Project. The deadline for residents to submit a view assessment claim was July 20, 2018. Three new applications for view assessment were received by the deadline including one from a person who was also a claimant in 2015. One of the three view claimants formally withdrew their view claim in August 2018.

In September 2018, as part of the ongoing communication and coordination with the remaining two view claimants, the Applicant installed additional flagging for Building 12 and Building 13 to represent a height reduction to the ridgelines to these buildings as requested by the view claimants. The Applicant reduced the ridgeline of Building 12 by 6 feet and the ridgeline of Building 13 by four and a half feet. The six foot lowering of the ridgeline of Building 12 resulted in a potential loss of two units from this building which the Applicant relocated to the south side (downslope) of Building 10, which is internal to the site, creating no potential view impairment. A story pole waiver request was received by the City on October 2, 2018 for this modification and was granted by the City for Building 10. Lowering of the rooflines of Buildings 12 and 13 are within the building envelopes of the buildings which were previously story poled and then re-certified again in September 2018. As a result of these building height changes, a second view claimant formally withdrew their view claim on October 11, 2018.

On October 16, 2018, the VAC considered testimony from the H.G. Fenton (applicant) and John Wilson (claimant) regarding the claimant's view. After due consideration, the VAC voted (3-2) to recommend to City Council that the Structure Development Permit (SDP) be approved. Subsequent to the VAC's decision, staff received a request from Mr. Wilson wishing to have his view claim be further considered by City Council which is included as Public Correspondence Received in Attachment 9.

During the VAC hearing on October 16, 2018, Dana Flach provided testimony regarding her prior view claim. Although the City received a view claim from only one of the twelve prior 2015 view claimants by the July 20, 2018 deadline, Staff contacted all prior 2015 view claimants about their prior claims to determine if they wished to pursue their view claims. On November 20, 2018, the VAC also considered four previously filed claims (Dana Flach, Steven and Karen Gordon, Mark Brady, and Phil Weber) who had requested reconsideration. After considering testimony from the Applicant and claimants, the VAC voted (5-0) to recommend to City Council that the SDP be approved.

As of the writing of this staff report, Staff has received one additional formal request from the November 20<sup>th</sup> claimants for City Council to further consider their claims (Dana Flach). However, the claimants are aware that the City Council has final authority regarding the project entitlements. If the City Council approves the DRP, SDP and VTPM and makes the requisite findings to certify the EIR and approve the Project, the Applicant will be required to show compliance with the approved maximum height and three-dimensional

building envelope that was approved by the SDP at the time of submittal for a building permit and also prior to requesting a framing inspection.

### **Vesting Tentative Map**

The Applicant has applied for a vesting tentative map. The approval or conditional approval of a vesting tentative map confers a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards at the time of approval. The proposed vesting tentative map would change the number of lots from the existing three lots to two lots and includes the following information: preliminary grading information that includes, but is not limited to, building pad and finished floor elevations, fire hydrant, water, sewer, storm drain, wet utility and storm water information, emergency access and hose pull information, a phasing plan and preliminary parking plan. The applicant has also requested that the City Council consider a project expiration period of 60 months after California Coastal Commission approval, due to the size and nature of the proposed project and the potential for displacement of approximately 500 Solana Beach residents during construction.

The Project must comply with the subdivision criteria contained SBMC Sections 16.17.020(C) and (H), and 16.17.040 (Vesting Tentative Maps). These sections specify that the City Council may approve, or conditionally approve, a vesting tentative parcel map only if all of the following findings can be made:

1. The proposed map is consistent with applicable general and specific plans and applicable provisions of SBMC Title 17;
2. That the design or improvement of the proposed subdivision is consistent with applicable provisions of SBMC Title 17;
3. The site is physically suitable for the type of development;
4. That the site is physically suitable for the proposed density of development;
5. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage and avoidably injure fish or wildlife or their habitat; unless an environmental impact report was prepared in respect to the project and a finding was made pursuant to Section 21081(c) of the Public Resources Code that specific economic, social or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report;
6. The design of the subdivision or the type of improvements is not likely to cause serious public health problems;
7. The design of the subdivision or the type of improvements will not conflict with easements of record or easements established by court judgment acquired by the public at large, for access through or use of property within the proposed subdivision;

8. In the case of the conversion of residential real property to a common interest development project, that any of the notices to tenants required by law have been sent or will be given as required by the Subdivision Map Act; and
9. Subject to the exceptions contained in Section 66474.4 of the Government Code, that the property is not subject to a contract entered into pursuant to the Land Conservation Act of 1965 (Williamson Act) and the parcels resulting from the subdivision would be too small to sustain agricultural use.
10. That all public facilities necessary to serve the subdivision or mitigate any impacts created by the subdivision, will be available for the entire time that the vesting tentative parcel map is valid, plus any time during which the rights conferred by SBMC 16.17.030 exist.

The proposed Project may be found consistent with the General Plan, which designates the property as High Residential (HR), which allows 13-20 dwelling units per acre. The proposed Project is equivalent to 19.4 dwelling units per acre. The proposed Project is consistent with the objectives of the General Plan that encourage the development and maintenance of healthy residential neighborhoods, the stability of transitional neighborhoods, and the rehabilitation of deteriorated neighborhoods. In addition, one of the policies of the land use plan is to include residential land uses comprising of a range of housing types, locations and densities. The surrounding properties are designated Medium-High Residential (MHR), Low-Medium Residential (LMR) and Public/Institutional (PI).

The property is located within the HR Zone, which allows up to twenty dwelling units per net acre. The maximum allowable density for the 13.4 net acre parcel is 260 dwelling units. The Project proposes 260 dwelling units at a density of 19.47 dwelling units per acre, which is allowed by the HR Zone. Per SBMC Section 17.20.010(F), the HR Zone is intended for multiple-family attached units such as apartments and condominium buildings. Therefore, the proposed Project is consistent with all applicable requirements of the Zoning Ordinance (Title 17), including Chapter 17.20, which delineates maximum allowable Density, Permitted Uses and Structures, the minimum lot dimensions and the required setbacks for the HR Zone.

Before the City was incorporated, the County of San Diego ("County"), on January 24, 1969, approved San Diego Special Use Permit No. P 68-187 (the "SUP") for the development of the Property. On May 22, 1970, the County modified the SUP. As part of that modification, the former Property owner granted an easement to the County, which the County accepted and recorded. As the successor to the County upon incorporation, the City now holds the easement's Grantee interest. Any development of the Property is

now subject to the City's zoning, permit requirements, and development regulations. Discretionary permit approvals by the City would act as an amendment to the SUP P 68-187 or supersede the SUP in its entirety. Please see City Attorney Opinion for in depth discussion and analysis (Attachment 10).

An existing public sewer easement is shown on the tentative map that serves the existing apartment buildings. The proposed Project will eliminate the need for the sewer easement. The new buildings will connect to the sewer main in Stevens Avenue. Therefore, the Applicant has requested that the City vacate the sewer easement. The California Streets and Highways Code Section 8333 et seq. sets forth procedures for the vacation of public service easements that “have been superseded by relocation, or determined to be excess by the easement holder, and there are no other public facilities located within the easement.”

Additionally, the Engineering Department has included conditions of approval that require improvements to the existing roadway network adjacent to and in the general vicinity of the proposed project boundary. These improvements are consistent with the City's circulation element and implement certain recommendations of the City's Comprehensive Active Transportation Strategies (CATS) Program, which would satisfy the applicant's Transportation Impact Fee (TIF) requirement. The applicant will be required to obtain an Engineering permit for construction of public improvement to the satisfaction of the City Engineer, if the Project is approved. The proposed conditions of approval to improvement the roadway network are as follows:

- On Nardo Avenue between East Solana Circle and Nardito Lane install a speed table (a long, flat speed bump), a thermoplastic continental crosswalk for pedestrian crossing and a solar powered pedestrian flashing sign with corresponding signage and striping.
- At the intersection of Nardo Avenue and Fresca Street, install concrete curb extensions and thermoplastic continental cross walk for pedestrian crossing at the stop-controlled north leg of South Nardo Avenue/Fresca Street along with a solar powered pedestrian crossing flashing sign with corresponding signage.
- On Nardo Avenue install raised concrete chokers with sufficient lengths and widths; one at approximately 230 feet west of Fresca Street and a second one at approximately 360 feet east of Nardito Lane. Additionally the applicant shall install two “Solar Powered Electronic Speed Signs” within this segment of Nardo Avenue.
- On both sides of South Nardo between Solana Circle and Stevens Avenue install Sharrow marking pavement legends.
- Applicant shall modify the Traffic signal at Nardo Avenue and Stevens Avenue to install a signal indicator for traffic calming purposes to emphasize a safe right turn on red from eastbound Nardo to southbound Stevens Avenue.
- On Nardo Avenue west of Stevens Avenue install a raised concrete median and corresponding signage, striping, and pavement legends to channelize traffic. This may require elimination of on-street parking along South Nardo on both side of the street.

- On west side of Valley Avenue, south of Nardo Avenue provide appropriate regulatory signs to prohibit left turn out of the proposed driveway for the senior housing complex.
- Installation of a “Solar Powered Electronic Speed Sign” on Southbound Stevens Avenue or other means to calm traffic approaching Turfwood driveway access
- The applicant shall also be responsible for enhancements to the operation of Turfwood driveway access at Valley Avenue. These Enhancements may include but not be limited to:
  - Modification of the traffic signal timing at the intersection of Valley Avenue and Stevens Avenue to provide for a more efficient egress at the Turfwood Lane access. The proposed signal timing enhancement may include construction of additional loop detectors on northbound Valley Avenue and associated communication and control equipment in the cabinet.
  - Striping the Turfwood driveway for a distance of approximately 50 feet from Valley Avenue to accommodate one inbound lane, one outbound left turn lane, and one outbound right turn lane. Additionally, the applicant shall install “Keep Clear” legend on Valley Avenue at Turfwood driveway.
  - The Applicant will work with the City Engineer and the adjacent property owner to improve the sight visibility line for vehicles exiting Turfwood Lane.

### **Public Art**

A Public Art Fee program for development of public art in accordance with the MAP sets aside one-half percent (0.5%) of the total construction budget of covered private development projects initiated in the City of Solana Beach. This fee can be paid into the

City-controlled Reserve Public Art Account or used by the developer to incorporate or purchase City-approved public art for their project. The public artwork may be located in immediate proximity to the said project or placed at a sited MAP location.

The City’s Master Art Policy (MAP) indicates that when a residential with a building permit valuation of \$500,000 or more and five (5) or more dwelling units, the Applicant is required to pay the Public Art Fee of 0.5% of the total building valuation. In the case of a redevelopment project such as the proposed project, the public art fee that is assessed would be based on the net increase of the 62 units provided onsite.

If the Applicant incorporates public art into the proposed development project in accordance with the procedures of the MAP, the Public Art Fee can be refunded at the final inspection of the public art installation. The Applicant has indicated that they want to incorporate art into the proposed Project to satisfy the requirements of the MAP, however, no definitive art plan has been submitted for consideration. Therefore, the applicant shall be conditioned to pay the Public Art Fee.



### **CEQA Compliance:**

An Environmental Impact Report (EIR) was prepared for this Project in conformance with the California Environmental Quality Act of 1970 (CEQA). The EIR was prepared as a Project EIR pursuant to Section 15161 of the State CEQA Guidelines.

The FEIR is contained in two volumes and consists of the following parts plus the Findings of Fact which are a stand-alone document:

#### Volume 1:

Section 1: Introduction

Section 2: Responses to Comments

Section 3: Errata and Changes to the DEIR

Section 4: Mitigation Monitoring and Reporting Program

#### Volume 2:

Section 5: Draft EIR and Appendices

### **EIR Overview**

H.G. Fenton initially submitted an application in 2014 to construct a 260-unit project on the site, consisting of 260 residential units including 32 units of affordable housing, clubhouse and leasing center, parking, landscaping and related improvements (“previous project”). As explained in greater detail in Chapter 1 of the EIR, a Notice of Preparation (NOP) of the EIR was prepared for the previous project design in compliance with State CEQA Guidelines Section 15082.

On November 14, 2014, the NOP was distributed by the City. The NOP was circulated to interested agencies, groups, and individuals for a period of 57 days, during which time comments were solicited pertaining to environmental issues/topics that the EIR should evaluate. Although the required public review and comment period for a Draft EIR is 45 days, the public review and comment period was extended from 45 days to 57 days as a courtesy to the community due to the winter holidays.

A scoping meeting was held on November 20, 2014. As discussed in the Executive Summary of the DEIR and as included as Appendix A to the FEIR, a number of public commenters expressed concerns about impacts related to transportation/circulation,

population and housing, noise, water supply, safety hazards, and recreation. These concerns have been identified as areas of known controversy were analyzed within the DEIR. Appendix A contains copies of the scoping meeting PowerPoint presentation and comment letters that were received by the City during the NOP public scoping period.

All verbal and written comments were reviewed and considered during the preparation of the EIR and are provided in Appendix A of the EIR. At the end of the 57-day NOP review and comment period, the State of California Governor's Office of Planning and Research, State Clearinghouse (SCH) issued a project number (2014111028) for the EIR.

In 2015, the VAC recommended denial of the Applicant's proposed project due to the potential impairment of private views. In 2017, the Applicant (H.G. Fenton) submitted a modified site plan with a generally lowered site elevation/grade as the new "proposed project". The new site plan was included as the "Proposed Project" in the EIR for the project site. The original site plan (recommended for denial by the VAC in 2015) then became an alternative that was evaluated in the DEIR (Alternative 6).

The currently proposed Project is wholly located within the footprint of the previous project footprint and proposes similar residential uses and an affordable housing component; therefore, the proposed project was considered to be a modification to the previous project and relied upon the 2014 NOP.

As the CEQA Lead Agency, the City prepared a Request for Proposals (RFP) seeking a qualified consultant team to prepare an EIR for the proposed Project. Dudek was chosen to prepare the Draft EIR to analyze the potential environmental impacts associated with the proposed Project. The DEIR was distributed to the public and public agencies on June 19, 2018 through August 2, 2018 for a 45-day review period for the purpose of providing comments "*on the sufficiency of the document in identifying and analyzing the possible impacts on the environment and ways in which the significant effects of the project might be avoided and mitigated*" (State CEQA Guidelines Section 15204). Following the close of the public review period, Dudek prepared written responses to the comments received, made revisions to the text of the DEIR, and on October 30, 2018, the City published the Final EIR (FEIR).

The proposed Project was reviewed against the applicable environmental issues contained in the Initial Study Checklist in Appendix G of the CEQA Guidelines. Environmental topics for which potentially significant impacts have been identified are addressed in Chapter 3 (Existing Conditions, Impacts, and Mitigation) of the EIR for the proposed project, and include: aesthetics; air quality; biological resources; cultural resources; geology/soils; greenhouse gas emissions (GHG's); hazards and hazardous materials; hydrology and water quality; land use and planning; noise; population and housing; public services and recreation; traffic and circulation; public utilities, service systems, and energy; tribal cultural resources and recreation. Agricultural resources and mineral resources were found not to be significant as the site contains no agricultural lands or mineral resources and therefore were not discussed in detail in the EIR. Section 15128 of the CEQA Guidelines requires that an EIR contain a brief statement disclosing the reasons why various possible significant effects of a proposed project were found not to be significant and, therefore, have not been discussed in detail in the EIR.

The EIR considered a reasonable range of project alternatives, including a no project alternative. The FEIR concludes that the potential impacts associated with the proposed project, through the incorporation of mitigation measures, will be mitigated to a level of

insignificance. The FEIR discusses the project alternatives, the issue areas, and the mitigation measures in detail; they are summarized below.

### **Summary of EIR Impact Analysis and Mitigations**

The EIR's conclusions for the environmental topics are addressed in Chapter 3 of the EIR, including potentially significant project impacts and levels of significance, and, if applicable, mitigation measures (MM) and levels of significance after mitigation. In identifying the following impacts, the City has considered project design features, as well as the applicable plans, programs, regulations, and policies. The project design features are part of the proposed Project that the Staff has reviewed and the City Council will consider and will be made conditions of Project approval. The City requires that the proposed Project be implemented consistent with the project description, project design features and applicable plans, programs, regulations and policies to which the proposed project is subject.

The FEIR concludes that the proposed Project would have less than significant impacts and require no mitigation measures in the following areas:

- Aesthetics
- Greenhouse Gas Emissions
- Geology and Soils
- Hydrology and Water Quality
- Land Use and Planning
- Population and Housing
- Public Services Utilities and Service Systems
- Transportation and Traffic
- Recreation
- Energy
- Tribal Cultural Resources

The FEIR concludes that implementation of the proposed Project could result in potentially significant impacts that would be mitigated to below a level of significance with in the following areas:

- Air Quality (AQ-1) – mitigating impacts during construction activities
- Biological Resources (BIO-1 & BIO-2) – mitigating impacts to mature native trees and nesting birds
- Cultural Resources (CUL-1, CUL-2, & CUL-3) – potential for undiscovered resources & tribal consultation
- Hazards and Hazardous Materials (HAZ-1 & HAZ-2) – avoiding asbestos and lead paint impacts during demolition of existing buildings
- Noise (NOI-1 through NOI-8) – mitigating impacts associated with construction noise and HVAC operations

The FEIR and the MMRP contains a detailed discussion of the environmental analysis and a description of each of the above-noted mitigation measures.

### **Summary of Alternatives**

In accordance with CEQA Guidelines Section 15126.6(a), an EIR must contain a discussion of “a range of reasonable alternatives to a project, or the location of a project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.” Section 15126.6(f) further states that “the range of alternatives in an EIR is governed by the ‘rule of reason’ that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice.” Thus, the following discussion focuses on project alternatives that are capable of eliminating potentially significant environmental impacts or substantially reducing them as compared to the proposed project, even if the alternative would impede the attainment of some project objectives, or would be more costly.

In accordance with CEQA Guidelines Section 15126.6(f)(1), among the factors that may be taken into account when addressing the feasibility of alternatives are: (1) site suitability; (2) economic viability; (3) availability of infrastructure; (4) general plan consistency; (5) other plans or regulatory limitations; (6) jurisdictional boundaries; and (7) whether the proponent can reasonably acquire, control, or otherwise have access to the alternative site.

As stated above from CEQA Guidelines Section 15126(a), an EIR shall address a range of reasonable alternatives that would “feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project.” This DEIR found that the proposed project would have less than significant impacts, with incorporation of mitigation measures, in all environmental issue areas; no impacts resulting from the proposed project would remain significant and unavoidable.

The alternatives presented and considered in the DEIR constitute a range of reasonable alternatives necessary to permit a reasoned choice among the options available to the City and/or the project proponent. In addition, other alternatives were considered but rejected from further analysis in the DEIR because they were not feasible or otherwise would not reasonably attain the basic project objectives. Alternatives considered but rejected (i.e., Alternatives 1-5) are described in Section 6.4 of the DEIR.

Three alternatives were evaluated in the DEIR including the following:

- Alternative 6 - Originally Proposed Project (Reduced Export Alternative);
- Alternative 7 - Single Phase Construction Alternative;
- Alternative 8 - No Project Alternative; and
- Environmentally Superior Alternative.

The CEQA Guidelines require identification and evaluation of alternatives to determine if they would lessen or avoid the significant impacts identified in Chapter 4 for the proposed project. CEQA also requires consideration of a “No Project Alternative” and identification of the Environmentally Superior Alternative from among the project alternatives. If the “No Project Alternative” is the Environmentally Superior Alternative, the EIR needs to identify an environmentally superior alternative from among the other alternatives. CEQA Guidelines also state that an EIR should identify any alternatives that were considered by the lead agency but were rejected and briefly explain the reasons underlying the lead agency’s determination and rejection of any alternatives.

A comparative environmental analysis is provided for each of the alternatives in Chapter 6 of the EIR. Table 6-2 provides a comparison between the proposed Project and each project alternative with regard to potentially significant impacts.

A brief summary of the project alternatives evaluated in the DEIR is provided below.

**Alternative 6 - Originally Proposed Project Design (Reduced Export Alternative):** The project was originally proposed, as submitted to the City in 2014 (and reviewed by the VAC in October 2015), to include less on-site grading and substantially reduced export, only 19,500 cubic yards of cut material for export compared to the proposed projects’ 154,000 cubic yards. As a result, the originally proposed project is also a reduced export alternative retained as an alternative in the DEIR as it would result in reduced severity of short-term or temporary construction related impacts associated with the removal of less soil (air quality, GHG, traffic and noise impacts).

**Alternative 7 - Single Phase Construction Alternative:** The Single Phase Construction Alternative – Alternative 7 would result in the same type and extent of development as the proposed Project, but construction would be completed within a single phase of approximately 24 months rather than the three-phase, 39-month construction period of the proposed Project. This alternative is intended to substantially reduce the potentially significant impacts of the proposed Project due to construction noise and the period of exposure to environmental effects on air quality, noise, and traffic within the surrounding neighborhood by limiting the duration of the construction period. This alternative would require that all existing residents living on site re-locate to other housing for the duration of project construction. Under the proposed Project, residents could have the option of being temporarily re-located on site to either existing apartments or the newly constructed apartments as phases of the Project are completed. Grading cut and fill quantities and associated truck trips would be anticipated to be to the same as those of the proposed Project. Because there would not be any residential trips occurring at the same time as haul truck trips or other construction trips, daily maximum trips would be reduced during construction under this alternative compared to the proposed project. Traffic circulation changes would remain unchanged with this alternative compared to the proposed Project. This alternative also meets most of the Project’s objectives.

**Alternative 8 - No Project Alternative:** Under the No Project Alternative, the applicant would not undertake any construction, and the existing dwelling units and the project site would remain as they are today. The current facility would continue under normal operation and maintenance activities, ostensibly retrofitting improvements to modernize, rehabilitate, or otherwise improve the existing apartments in a manner that would not require discretionary permits from the City. The No Project Alternative would however, avoid the removal of many existing on-site trees, since the existing grade of the site would be retained. None of the project objectives would be met. None of the benefits to improved storm water, improved sustainability, increased residential units, or improved community character with a modernized site and architectural design that is consistent in scale and character to the surrounding neighborhood would be realized. The access points would remain unchanged; no off-site improvements to the roadways, such as driveway consolidation or traffic-calming measures, would be undertaken; and internal circulation and on-site parking for residents would not be optimized. No affordable housing via California's density bonus law would be developed. Site hydrology would not be improved, and off-site storm water flows would not be reduced. Increased energy efficiency and greater water conservation through the use of recycled water for landscaping would also not be achieved. No impacts would result from the No Project Alternative.

**Environmentally Superior Alternative:** CEQA Guidelines Section 15126.6(a) states that an EIR must describe a range of reasonable alternatives to the proposed project. As evaluated in Chapter 3 of this DEIR, the potentially significant impacts of the proposed project would affect biological resources (mature native trees and nesting birds), cultural resources (potential for undiscovered resources) including tribal cultural resources, hazardous materials (demolition of existing buildings) and noise (construction noise and HVAC operations). As it would avoid impacts to each of these issue topics, the No Project Alternative would be the Environmentally Superior Alternative. However, CEQA Guidelines Section 15126.6(e)(2) also states that if the environmentally superior alternative is the "no project" alternative, the EIR must also identify an environmentally superior alternative from among the other alternatives. The Original Proposed (Reduced Export) – Alternative 6 would be the Environmentally Superior Alternative from the remaining alternatives, as although it would increase private view impacts, it would also reduce the severity of significant impacts to air quality and noise during construction compared to the proposed Project, while achieving most of the basic project objectives.

### **Areas of Controversy**

Section 15123 of the CEQA Guidelines requires the summary of an EIR to include areas of controversy known to the Lead Agency including issues raised by agencies and the public. On November 14, 2014, a Notice of Preparation (NOP) for the Solana Highlands project EIR was distributed. In accordance with Section 15082 of the CEQA Guidelines, the NOP was circulated to interested agencies, groups, and individuals for a period not

less than 30 days, during which time comments were solicited pertaining to environmental topics and issues that the EIR should evaluate. The NOP comment period ended on January 9, 2015. In addition, a public scoping meeting was held on November 20, 2014.

Comments received during the NOP public scoping period were considered during the preparation of the DEIR. The NOP and comments are included in Appendix A to the DEIR. Comment letters were received as a result of the NOP and public scoping meeting and covered a variety of topics, including aesthetics and visual effects, parking, transportation/circulation, population and housing, noise, water supply, safety hazards, and recreation. Appendix A contains the scoping meeting presentation and comment letters that were received during the NOP public scoping period. Since the release of the NOP, the applicant conducted further public engagement over the course of approximately three years, made revisions to the proposed project and submitted a revised site plan to the City. All issues raised during scoping have been addressed in the FEIR.

### **Comments Received on Draft EIR**

During the 45-day public review period for the DEIR, the City received 23 comment letters. Following the close of the public review and comment period, the City received an additional 2 comment letters. Comments were received by the following agencies, organizations, and individuals on the Draft EIR:

- |  |  |  |
|--|--|--|
| 1. San Diego County<br>Archaeological<br>Society | 10. Gayle and Mark Wells                             | 20. Scott and Angelique<br>Sorensen            |
| 2. Bette Hoffman                                 | 11. Joe and Emily<br>Behrmann                        | 21. San Diego<br>Association of<br>Governments |
| 3. Bill Evans                                    | 12. Johanna Visuri                                   | 22. Saint James Church<br>and Academy          |
| 4. Bruce Headley                                 | 13. John Wilson III                                  | 23. Steve Scott                                |
| 5. Candace Goldstein                             | 14. Molly Fleming                                    | 24. Thomas Kaiser                              |
| 6. Dana Flach                                    | 15. Mitch Williams                                   | 25. Viejas Band of<br>Kumeyaay Indians         |
| 7. Emily Lindley                                 | 16. Nancy Stern                                      |  |
| 8. Gary and Sherry<br>Lynes                      | 17. Governor's Office of<br>Planning and<br>Research |  |
| 9. Gary and Sherry<br>Lynes                      | 18. Paula Warren                                     |  |
|  | 19. Russell Hunt                                     |  |

Comments received spanned a variety of issues but focused primarily on issues including traffic, onsite parking, offsite parking, proposed traffic calming measures, landscaping, visual impacts and construction phasing. Responses to comments were sent to all commenters via certified mail on October 30, 2018. The FEIR includes responses to these comments as required, based on the CEQA Guidelines Section 15088 – Evaluation of and Response to Comments, sub-section (c), which states:

“The written response shall describe the disposition of significant environmental issues raised (e.g., revisions to the proposed project to mitigate anticipated impacts or objections). In particular, the major environmental issues raised when the Lead Agency's position is at variance with recommendations and objections raised in the comments must be addressed in detail giving reasons why specific comments and suggestions were not accepted. There must be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice.”

A copy of all comments received by the City on the DEIR and full written responses to these comments on the DEIR can be found in the Chapter 2 of the FEIR. Any revisions to the DEIR included in the response to comments are indicated as underlined text (e.g., underlined text), and deletions are indicated as strikethrough text (e.g., ~~strikethrough text~~) as shown in the “FEIR, Errata, Chapter 3. In the revised DEIR, text changes resulting from the comments received are also indicated as underlined and/or as strikethrough text, with a vertical line in the outside margin of the page. The revisions to the text changes include additional discussion of certain topics and changes to language for the purpose of increased clarity.

As noted in the responses to comments and as discussed in detail in the FEIR, the revisions do not affect the conclusions of the EIR and the FEIR is adequate as prepared. No revisions or additions to the project or EIR are necessary.

If the Project is approved by the City Council, a Notice of Determination (Section 15375) will be filed.

**PUBLIC HEARING NOTICE:**

Notice of the City Council Public Hearing for the project covering all entitlements including the DRP, SDP, Vesting Tentative Map, Density Bonus and Development Standards Waivers, and Fee Waiver, was published in the San Diego Union Tribune twice, more than 10 days prior to the public hearing. The same public notice was mailed to property owners and occupants within 600 feet of the proposed project site more than 10 days prior to the scheduled public hearing date of December 5, 2018.

**FISCAL IMPACT:** N/A

**WORK PLAN:** N/A

**OPTIONS:**

FEIR:

- Certify the FEIR and approve Staff recommendation adopting the attached Resolution 2018-131.
- Deny certification of the FEIR. If the City Council does not certify the FEIR, Staff would return a Resolution for Denial of the certification of the EIR at a later date.



**DRP/SDP/VTPM:**

- If the City Council certifies the FEIR, approve Staff recommendation to conditionally approve the DRP, SDP and VTPM as provided in Resolution 2018-132, including the density bonus and development standards waivers.
- If the City Council certifies the FEIR, approve Staff recommendation to approve the DRP, SDP and VTPM as provided in Resolution 2018-132 subject to additional specific conditions necessary for the City Council to make all required findings for the approval of a DRP, SDP and VTPM. Staff would return a revised Resolution of Approval at a later date.
- If the City Council certifies the FEIR but cannot make all required findings for the DRP, SDP and VTPM, deny the project. Staff will return a Resolution of Denial for the project at a later date.
- If the City Council denies certification of the FEIR, deny the project. Staff would return a Resolution of Denial for the project at a later date.

**AFFORDABLE HOUSING PLAN:**

- If the City Council certifies the FEIR, approves Staff recommendation to conditionally approve the DRP and SDP as provided in Resolution 2018-132, the
- City Council would concurrently approve Resolution 2018-133 approving the Affordable Housing Plan.
- If the City Council certifies the FEIR but cannot make all required findings for the DRP, SDP and VTPM or the Affordable Housing Plan, deny the project. Staff will return a Resolution of Denial for the project at a later date.
- If the City Council denies certification of the FEIR, deny the project. Staff would return a Resolution of Denial for the project at a later date.

**FEE WAIVER:**

- If the City Council certifies the FEIR, and approves the Staff recommendation to conditionally approve the DRP, SDP and VTPM as provided in Resolution 2018-132, the City Council would concurrently approve the requested Fee Waiver.
- If the City Council certifies the FEIR, and approves the Staff recommendation to conditionally approve the DRP, SDP and VTPM as provided in Resolution 2018-132, but cannot make the findings to approve the Fee Waiver; or if the City Council certifies the FEIR but cannot make all required findings for the DRP, SDP and VTPM, deny the Fee Waiver. Staff will return a Resolution of Denial for the project at a later date.
- If the City Council denies certification of the FEIR, deny the project. Staff would return a Resolution of Denial for the project at a later date.

**DEPARTMENT RECOMMENDATION:**

The proposed Project meets the minimum objective requirements under the SBMC, can be found to be consistent with the General Plan and the LCP LUP, and may be found, as conditioned, to meet the discretionary findings required as discussed in this report to approve a DRP, SDP and VTPM. Therefore, Staff recommends that the City Council:

1. Conduct the Public Hearing: Open the public hearing, Report Council disclosures, Receive public testimony, Close the public hearing.
2. Consider certification of the FEIR and adoption of Resolution 2018-131
3. If the City Council certifies the FEIR and makes the requisite Findings of Fact and approves the project or an alternative, adopt Resolution 2018-132 conditionally approving a DRP, SDP and VTPM, for the Solana Highlands project, consider approval of the fee waiver, density bonus and development standards waivers, for a residential community and affordable senior housing project, at 661-781 South Nardo Drive and 821 Stevens Avenue, Solana Beach.

**CITY MANAGER'S RECOMMENDATION:**

Approve Department Recommendation

  
\_\_\_\_\_  
Gregory Wade, City Manager

Attachments:

1. Project Plans, Dated October 24, 2018
2. Vesting Tentative Parcel Map, Dated November 5, 2018
3. Resolution 2018-131, certifying the EIR and adopting Findings of Fact and the MMRP
4. Final Environmental Impact Report – Exhibit B to Resolution 2018-131
5. FEIR Findings of Fact (3 Phase Construction) – Exhibit A to Resolution 2018-131
6. FEIR Alternative Findings of Fact (Single Phase Construction) – Exhibit A to Resolution 2018-131
7. Resolution 2018-132 approving DRP, SDP and VTPM
8. KMA Fee Reduction Analysis
9. Public Correspondence Received
10. Opinion of the City Attorney Memorandum

**Project Plans**

**Dated October 24, 2018**

**Available for review at Community Development Counter**

Vesting Tentative Parcel Map

Dated November 5, 2018

Available for review at Community Development Counter

**RESOLUTION NO. 2018-131**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT AND ADOPTING FINDINGS OF FACT PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, FOR THE SOLANA HIGHLANDS PROJECT, A RESIDENTIAL COMMUNITY WITH 32 UNITS OF AFFORDABLE SENIOR HOUSING, ON PROPERTY AT 661-781 SOUTH NARDO DRIVE AND 821 STEVENS AVENUE.**

**APPLICANT: HG. FENTON  
CASE NO.: 17-14-29 EIR**

**WHEREAS**, in 2014, H.G. Fenton (hereinafter referred to as "Applicant") submitted an application for a Development Review Permit (DRP) and Structure Development Permit (SDP) to redevelop an existing developed site on property located at 661-781 South Nardo Drive and 821 Stevens Avenue in the city of Solana Beach, consisting of the demolition of the existing apartment development and four multi-family units on site and construction of a new apartment complex consisting of 228 new multi-family residential units, and 32 affordable senior units, for a total of 260 new units in 24 buildings and 525 on-site parking spaces on the site (hereinafter considered the "proposed project" or "project"); and

**WHEREAS**, pursuant to the California Environmental Quality Act ("CEQA"), Public Resources Code Section 21000, et seq., and its guidelines for implementation ("CEQA Guidelines"), California Code of Regulations, Title 14, Section 15000, et seq., the City of Solana Beach ("City"), as lead agency, determined that an Environmental Impact Report (EIR) would be required for the proposed project and filed a Notice of Preparation ("NOP") of an Environmental Impact Report ("EIR") on November 13, 2014; and

**WHEREAS**, the NOP was distributed to the State Clearinghouse, local and regional responsible agencies, and other interested parties, during which time comments were solicited pertaining to environmental issues/topics that the EIR should evaluate; and

**WHEREAS**, the City held an NOP Scoping meeting on November 20, 2014, where comments were recorded and written comments on the NOP were also received as listed in Appendix A to the Draft Environmental Impact Report ("DEIR"); and

**WHEREAS**, the DEIR was prepared for the project addressing the project's potential effects on the environment; and

**WHEREAS**, impacts analyzed in the DEIR include aesthetics; air quality; biological resources; cultural resources; tribal cultural resources; geology/soils; greenhouse gas emissions (GHG's); hazards and hazardous materials; hydrology and water quality; land use and planning; noise; population and housing; public services and recreation; transportation/traffic; public utilities, service systems, and energy; and

**WHEREAS**, in 2017, the Applicant submitted a revised site plan with a generally lowered grade for the proposed project; and

**WHEREAS**, initially, the Applicant's 2015 originally proposed project became an alternative to the proposed project following the View Assessment Commission's recommendation for denial in October 2015 and the Applicant's 2017 revised site plan project was determined to be the proposed project for purposes of the EIR; and

**WHEREAS**, the 2015 project is now included as an EIR alternative; and

**WHEREAS**, the Applicant's project is wholly located within the footprint of the 13.4 acre project site footprint and proposes the same number of residential units, parking spaces and other amenities as was proposed in 2015, and therefore is considered to be a modification to the original proposed project and relies upon the 2014 NOP; and

**WHEREAS**, a Notice of Completion of the DEIR was sent to the State Clearinghouse and the DEIR was circulated to State agencies for review through the State Clearinghouse (SCH), Office of Planning and Research (SCH No. 2014111028); and

**WHEREAS**, the DEIR was made available for review and comment by the public, agencies, and organizations from June 19, 2018 through August 2, 2018; and

**WHEREAS**, a Notice of Availability of the DEIR for review was mailed to organizations and parties expressing interest in the project, filed with the City Clerk, published in the San Diego Union Tribune, and posted on the City's website; and

**WHEREAS**, the City has prepared responses to the comments received on the DEIR, which have been incorporated into the Final EIR; and

**WHEREAS**, the City prepared a Final Project Environmental Impact Report ("FEIR"), with four parts, including 1) an Introduction, 2) a Mitigation Monitoring and Reporting Program (MMRP), 3) Comments and Response to Comments, and 4) the Draft EIR and its Appendices, with revisions incorporated as identified; and

**WHEREAS**, the responses to comments have been provided in a timely manner to the commenters on October 30, 2018; and

**WHEREAS**, the City published the FEIR on October 26, 2018; and

**WHEREAS**, on December 5, 2018, the City Council held a duly noticed public hearing regarding the FEIR and the proposed project during which it considered all factors relating to the FEIR and the proposed project and considered public testimony from those wishing to be heard regarding certification of the FEIR and approval of the proposed project; and

**WHEREAS**, the public hearing was conducted pursuant to the provisions of Solana

Beach Municipal Code Section 17.72.030; and

**WHEREAS**, pursuant to CEQA Guidelines Sections 15091, 15093, and 15097, the City has prepared Findings of Fact, attached hereto as Exhibit A, and a Mitigation Monitoring and Reporting Program, attached hereto as Exhibit B, which have been filed with the City Clerk.

**NOW THEREFORE**, the City Council of the City of Solana Beach, California, does resolve and find as follows:

1. That the foregoing recitations are true and correct and are incorporated in these findings as though fully set forth.
2. The City Council independently has received, reviewed, and considered the entire record, both oral and written, including the proposed FEIR and EIR Findings of Fact, prior to making a decision, and this decision is based upon the evidence contained in the administrative record, including information presented at the hearing and any information the City Council gathered by viewing the site and the area as disclosed at the hearing.
3. The City Council finds and determines that the applicable provisions of CEQA and the 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.
4. The City Council adopts and certifies the FEIR in compliance with CEQA pursuant to Sections 15090 and 15132 of the CEQA Guidelines and makes the following additional findings:
  - A. Pursuant to Section 15090 of the CEQA Guidelines, the City Council hereby certifies that: a) the FEIR has been completed in compliance with CEQA; b) the FEIR was presented to the City Council, and the City Council reviewed and considered the information contained in the FEIR prior to approving the Project; and c) the FEIR reflects the independent judgment and analysis of the City Council of the City of Solana Beach.
  - B. Pursuant to Section 21081 of CEQA and Section 15091 of the CEQA Guidelines, the City Council finds and determines that the proposed project is approved despite the existence of certain significant environmental effects identified in the Final EIR and, hereby adopts the Findings of Fact attached hereto as Exhibit A and incorporates said findings herein by reference. Exhibit A of this Resolution provides the Findings of Fact required under Section 15091 of the CEQA Guidelines for each significant environmental effect of the project, the feasibility of mitigation measures, and the feasibility of alternatives.
  - C. In determining whether the proposed project has a significant impact on the

environment, and in adopting these Findings pursuant to Section 15091 of the CEQA Guidelines and 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);

- D. Pursuant to Section 15097 of the CEQA Guidelines, the City Council hereby adopts the MMRP prepared for the proposed project, which is included in the FEIR and which is hereby adopted and made a condition of approval of the proposed project. That MMRP is incorporated herein by reference and is considered part of the administrative record for the proposed project;
  - E. The MMRP designates responsibility and anticipated timing for the implementation of mitigation measures. The City's Community Development Department, Planning Division, will serve as the MMRP Coordinator;
  - F. The City reviewed the comments received on the DEIR and the responses thereto and has determined that neither the comments received nor the responses to such comments add significant new information regarding environmental impacts associated with the proposed project that would require recirculation of the Draft EIR pursuant to CEQA Guidelines Section 15088.5;
  - G. 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 Solana Beach City Hall. The City Clerk, whose office is located at 635 Highway 101 Solana Beach, California 92075, 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; and
  - H. Having received, reviewed, and considered all information and documents in the record, the City hereby conditions the proposed project and finds as stated in these Findings. To the extent that these Findings conclude that various project design features and mitigation measures outlined in the Final EIR are feasible and have not been modified, superseded, or withdrawn, the City hereby binds itself to implement these measures. These Findings, therefore constitute a binding set of obligations that will come into effect when the City formally approves the proposed project. The project design features and adopted mitigation measures are included in the MMRP adopted concurrently with these Findings and will be effectuated through the process of project implementation.
5. INDEMNIFICATION AGREEMENT: The Applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's



fees, against the City's or its elected officials, agents, officers, or employees, compliance with the requirements of CEQA and the CEQA Guidelines relating to the preparation and certification of the FEIR including, but not limited to, any action to attack, set aside, void, challenge, or annul certification of the FEIR and any environmental document or decision. The City will promptly notify the Applicant of any claim, action, or proceeding. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and the Applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Applicant shall not be required to pay or perform any settlement unless such settlement is approved by Applicant.

6. NOTICE TO APPLICANT: Pursuant to Government Code Section 66020, you are hereby notified that the 90-day period to protest the imposition of the fees, dedications, reservations, or other exactions described in this resolution commences on the effective date of this resolution. To protest the imposition of any fee, dedications, reservations or other exactions described in this resolution you must comply with the provisions of Government Code Section 66020. Generally, the resolution is effective upon expiration of the tenth day following the date of adoption of this resolution, unless the resolution is appealed or called for review as provided in the Solana Beach Zoning Ordinance.

PASSED, AND ADOPTED, and APPROVED at a regular meeting of the City Council of the City of Solana Beach, California, held on the 5<sup>th</sup> day of December, 2018, by the following vote:

AYES: Councilmembers –  
NOES: Councilmembers –  
ABSENT: Councilmembers –  
ABSTAIN: Councilmembers –

\_\_\_\_\_  
DAVID A. ZITO, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
JOHANNA N. CANLAS, City Attorney

\_\_\_\_\_  
ANGELA IVEY, City Clerk

Final Environmental Impact Report

Exhibit B to Resolution 2018-131

Provided to City Council separately

Final and Draft Environmental Impact Report and Appendices may be viewed at [https://www.ci.solana-beach.ca.us/index.asp?SEC=207E2E07-1777-4F8C-8BA5-8DD1780E6FF6&DE=790956B8-A69E-4B76-A9EA-E325DA9C72D1&Type=B\\_BASIC](https://www.ci.solana-beach.ca.us/index.asp?SEC=207E2E07-1777-4F8C-8BA5-8DD1780E6FF6&DE=790956B8-A69E-4B76-A9EA-E325DA9C72D1&Type=B_BASIC)

# CEQA FINDINGS OF FACT

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## 1 INTRODUCTION

The City of Solana Beach hereby makes the following Findings of Fact concerning the Final Environmental Impact Report (FEIR) (SCH no. 2014111028) for the Solana Highlands Revitalization Project (project or proposed project) pursuant to the California Environmental Quality Act (CEQA), California Public Resources Code Section 21000, et seq., and its implementing regulations, California Code of Regulations, Title 14, Section 15000 et seq. (CEQA Guidelines).

The FEIR was prepared for the proposed project to identify and evaluate the potential impacts on the environment which would result from revitalizing the existing Solana Highlands apartment complex, including provision of affordable housing. The City of Solana Beach (City) is Lead Agency under CEQA.

The proposed project would involve the demolition of a total of 198 existing residential units on the site and construction of a new apartment complex consisting of 228 new multi-family residential units, and 32 affordable senior housing units, for a total of 260 new units in 24 buildings on site. The proposed project would result in a net increase of 62 residential units. The proposed project is located on 13.4 acres at 661 to 781 South Nardo Avenue and 821 Stevens Avenue in the City of Solana Beach in north coastal San Diego County, California.

Grading for the proposed project would be designed to lower the elevation of the project site to create new, flatter pads that would accommodate the increased density and improve internal circulation for pedestrians and vehicles. The proposed project would involve a phased construction plan designed to enable partial occupancy of the site throughout the construction period. Required permits for the proposed project would include a Development Review Permit, a Structure Development Permit, an Affordable Housing Plan, a Waiver of Development Standards, a Sewer Easement Abandonment Permit, a Development Agreement, an Adjustment Plan/Tentative Parcel Map, permits that may be required by other agencies including a Coastal Development Permit, and a development agreement with the City for the proposed density bonus.

Pursuant to CEQA Guidelines Section 15132, the FEIR for the proposed project consists of the following components:

- Copies of the written comment letters from responsible agencies and the general public concerning the Draft Environmental Impact Report (DEIR), along with the City's responses as the Lead Agency to significant environmental points raised in this and other communication received during the comment, review, and consultation process;
- The DEIR, including appendices;

- An Errata presenting changes made to the EIR in strikeout/underline format) in response to public comment; and
- A Mitigation Monitoring and Reporting Program (MMRP).

The potential environmental effects, mitigation measures, and alternatives analyzed in the DEIR, the public comments and responses thereto, and the public outreach and public participation described in the DEIR have influenced the design of the project. These analyses found in the DEIR and the public outreach processes reflect the City's commitment to incorporate into the final project design the environmental considerations identified during the CEQA process.

## **2 PROJECT DESCRIPTION**

### **2.1 Project Location**

The project site encompasses approximately 13.4 acres on three parcels (Assessor's Parcel Numbers 298-260-33, 298-281-10, and 298-164-22). The proposed project is located at 661 to 781 South Nardo Avenue and 821 Stevens Avenue in the City of Solana Beach in north coastal San Diego County, California.

### **2.2 Project Components**

The proposed project is described in greater detail in the DEIR, Chapter 2, Project Description.

The proposed project would involve demolition of the existing apartment development on site and construction of an updated apartment complex consisting of 228 new multi-family residential units and 32 affordable senior housing units, for a total of 260 new units in 24 buildings. The project proposes a net increase of 62 residential units.

Residential buildings would range in height from two to three stories and would provide a total of 12 studio apartments, 128 one-bedroom units, and 120 two-bedroom units. The three-story affordable senior building would contain all 12 of the studio apartments, 15 of the one-bedroom units, and 5 of the two-bedroom units, with the balance of the project comprised of 113 one-bedroom and 115 two-bedroom units. Additionally, the project would include a small private park along South Nardo Avenue to reduce effects to public and private views in proximity to the existing greenspace on site.

The project site would be divided into three neighborhoods: Bungalow, Valley View, and Lifestyle. The existing four entrances to the project site located off South Nardo Avenue would be reduced to two driveways for the main apartment complex. The first driveway would be located along the northwest portion of South Nardo Avenue in approximately the same location as the existing driveway in this location. The second driveway would become the main driveway located

closer to Stevens Avenue along the eastern portion of South Nardo Avenue. The senior-designated building would be served by a third driveway, located off of Stevens Avenue in approximately the same location as the existing driveway that currently serves the off-site units owned by the applicant. The proposed project would replace the existing 311 on-site parking spaces and provide 525 on-site parking spaces. There would be 233 garage spaces, a minimum of 22 covered spaces, and up to 270 uncovered spaces. Traffic-calming measures along South Nardo Avenue would be constructed as part of the proposed project.

Earthwork for the project would result in 176,000 cubic yards of cut and 22,000 cubic yards of fill, with 154,000 cubic yards of export. Exported material would be assessed for suitability for use with the City's Sand Compatibility and Opportunistic Use Program (SCOUP), and any material identified as suitable would be placed on the City's beaches; otherwise, soil export is assumed to be transported to the Otay Landfill as the maximum haul distance/impact for the purposes of this analysis. The proposed project would involve a phased construction plan designed to enable partial occupancy of the existing buildings on site for the total construction period. The three project neighborhoods, Valley View, Lifestyle and Bungalow, may be constructed over multiple phases.

The project applicant would be required to enter into a Development Agreement with the City requiring a percentage of the apartments to be deed-restricted at specific affordability levels. In conjunction with City of Solana Beach Municipal Code (SBMC) and California law, the provision of the affordable apartments allows the applicant to receive a bonus in the project's density, allowing additional market-rate apartments to also be constructed.

SBMC Section 17.20.050, and California state law allow for the waiver of development standards for projects applying for a density bonus. Grading of the site is intended to achieve the proposed density and number of units that would allow for the inclusion of 32 affordable housing units and related density bonus. The City requires that height standards be measured from the lower of existing grade or proposed grade. Therefore, in some areas, fill would be placed below proposed buildings, walls, or fences and is included as part of the proposed height calculation.

## **2.3 Project Objectives**

CEQA requires that an EIR include a statement of the project objectives (CEQA Guidelines Section 15124(b)). The proposed project is intended to accomplish the following objectives:

- Revitalize, modernize, and update the existing project site, which currently includes the 194-unit Solana Highlands apartment complex and four multi-family units, with the development of 260 new apartments to replace the existing units, parking, a separate leasing facility/club house building, recreational amenities, a system of internal and interconnected paths, and landscaping throughout the site.

- Maximize contribution to the City’s share of the San Diego Association of Governments regional housing needs allocation goals of 150 affordable housing units by providing 32 new affordable senior units in the City via California’s density bonus law and the City’s density bonus ordinance.
- Provide for new residential development in the City that is environmentally sustainable and incorporates best practices for water conservation, use of recycled water for landscaping, “green” construction methods, and energy efficiency.
- Enhance community character and provide for a revitalized residential development that has fewer impacts on local circulation by providing off-site traffic-calming measures on South Nardo Avenue, reducing the number of site driveways, relocating the primary entrance closer to main transportation arterials, and optimizing internal circulation and increasing on-site parking.
- Use beach-sand-quality materials targeted for off-site export for beach nourishment as part of the City’s SCOUNP.
- Provide new landscaping and increased building setbacks at certain locations along South Nardo Avenue to enhance the streetscape.

## **2.4 Discretionary Actions**

The DEIR is intended to provide environmental documentation pursuant to CEQA to evaluate the potential environmental effects associated with the proposed project. As such, the DEIR covers all discretionary permits proposed as part of the project.

The following approvals are requested from the City for the proposed project:

- Development Review Permit
- Structure Development Permit
- Affordable Housing Plan
- Density Bonus and Waiver of Development Standards: Building Height and Wall, Fence, and Retaining Wall Height Waiver (interior of property, as well as front, side, and rear yard setbacks)
- Approval of a Fee Waiver
- Sewer Easement Abandonment Permit
- Development Agreement
- Ministerial Parcel Map

The City will utilize the FEIR and associated supporting documentation in its decision to approve the required discretionary permits. Additional agencies can use this FEIR and supporting documentation in their decision-making process to issue additional approvals. Permits that may be required by other agencies, include, but are not limited to, a Coastal Development Permit from the California Coastal Commission, a General Construction Permit, and approval of a site-specific Stormwater Pollution Prevention Plan.

### **3 PUBLIC PARTICIPATION**

CEQA establishes mechanisms to inform the public and decision makers about the nature of the proposed project and the extent and types of impacts that the project and its alternatives would have on the environment, should the project or alternatives be implemented. Pursuant to CEQA Guidelines Section 15082, the City circulated a Notice of Preparation (NOP) dated November 14, 2014, to interested agencies, organizations, and parties. The NOP was also sent to the State Clearinghouse at the California Office of Planning and Research. The State Clearinghouse assigned a state identification number (SCH no. 2014111028) to this DEIR.

The NOP is intended to encourage public participation and interagency communication regarding the proposed action so that agencies, organizations, and individuals are afforded an opportunity to respond with specific comments and/or questions regarding the scope and content of the EIR. A public scoping meeting was held on November 20, 2014, at the City of Solana Beach City Council Chambers (635 South Highway 101) to gather additional public input. The 30-day public scoping period ended on December 14, 2014.

Comments received during the NOP public scoping period were considered during the preparation of this DEIR. The NOP and comments are included in Appendix A to the DEIR. Comment letters were received as a result of the NOP and public scoping meeting and covered a variety of topics, including transportation/circulation, population and housing, noise, water supply, safety hazards, and recreation. Appendix A contains the transcript of the scoping meeting and comment letters that were received during the NOP public scoping period. Since the release of the NOP, the applicant conducted further public engagement, and made revisions to the proposed project (2017) and submitted a revised site plan and grading plan to the City.

In addition to the public scoping meeting held on November 20, 2014, the City made the DEIR available for public review and comment pursuant to CEQA Guidelines section 15088. The public review and comment period began on June 19, 2018 and ended on August 2, 2018. The City received 23 comments during the public comment period from interested public agencies and individuals. Additionally, 2 comment letters were received after the close of the public comment period. These comments and the City's written responses to the comments are contained in Chapter 2, Response To Comments, of the FEIR.

### 3.1 Record of Proceedings

For the purposes of CEQA and the findings contained herein, the record of the administrative proceedings for the City’s decision concerning certification of the FEIR for the project includes, but is not limited to, the following documents:

- The Notice of Preparation (NOP), dated November 14, 2014
- The DEIR and Appendices, dated June 2018
- The Final EIR including Errata, Comments and Responses to Comments, and the DEIR and Appendices
- The Mitigation Monitoring and Reporting Program (MMRP)
- All documents and other materials listed as references and/or incorporated by reference in the DEIR, FEIR, and the appendices thereto
- Findings and resolutions adopted by the City in connection with the project
- Reports, studies, memoranda, maps, staff reports, or other planning documents relating to the project prepared by City staff and consultants to the applicant or City
- All documents and other materials submitted to the City by other public agencies or members of the public in connection with the project through the close of the public hearing at which the project was approved
- The minutes, recordings, and transcripts of public hearings held by the City concerning the FEIR and the project
- Matters of common knowledge to the City
- Documents expressly cited or referenced in these findings, in addition to those cited above
- Other materials required to be included in the record of proceedings by California Public Resources Code Section 21167.6(e)

The documents and materials that constitute the record of administrative proceedings are maintained at the City of Solana Beach’s Community Development Department at 635 South Highway 101, Solana Beach, California 92075. The custodian for these records is the City Clerk.

## 4 FINDINGS PURSUANT TO CEQA

### 4.1 Purpose

CEQA requires the City to make written findings of fact for each significant environmental impact identified in the FEIR (Public Resources Code Section 21081; CEQA Guidelines Section 15091). The purpose of findings of fact is to systematically restate the potentially significant effects of the



proposed project on the environment and to determine the feasibility of mitigation measures and alternatives identified in the FEIR that would avoid or substantially lessen these potentially significant effects. If significant impacts cannot be avoided or reduced to below a level of significance by the implementation of all feasible mitigation measures, the City must review the alternatives identified in the FEIR and determine whether they are feasible. These findings of fact set forth the reasons, and the evidence in support of, the City's determinations regarding the mitigation of potentially significant environmental impacts.

## **4.2 Terminology**

A "finding" is a written statement made by the City that explains how the City has chosen to address each significant impact and alternative identified in the FEIR. Each finding identifies a potentially significant impact and provides an ultimate conclusion regarding each significant impact, supported by substantial evidence and an explanation of how the evidence supports the conclusion.

For each potentially significant impact identified in the DEIR, CEQA requires the City to make a written finding reaching one or more of the following conclusions:

1. Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant effect;
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency; or
3. Specific legal, economic, social, or technological, or other considerations, including considerations for the provision of employment opportunities for highly trained works, make infeasible the mitigation measures or alternatives identified in the Final EIR (Pub. Res. Code Section 21081 (a); CEQA Guidelines Section 15091 (a)).

A mitigation measure or an alternative is considered "feasible" if it is capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors (Public Resources Code Section 21061.1; CEQA Guidelines Section 15364).

## **4.3 Legal Effect**

To the extent that these findings conclude that mitigation measures identified in the FEIR are feasible and have not been modified, superseded, or withdrawn, the City hereby binds itself to implement those measures. These findings are not merely informational, but constitute a binding set of obligations upon the City and responsible agencies that take effect upon the City's adoption of the resolutions certifying the FEIR and approving the proposed project.

#### **4.4 Mitigation Monitoring and Report Program**

In adopting these findings, the City also adopts an MMRP pursuant to Public Resources Code Section 21081.6. This program is designed to ensure the proposed project implements the identified mitigation measures in conjunction with the project. The program is set forth in the Solana Highlands Revitalization Project Mitigation Monitoring and Reporting Program (MMRP), which is included in the FEIR and DEIR as Chapter 8.

### **5 SUMMARY OF IMPACTS**

Chapter 3 of the DEIR presents the Environmental Impact Analysis of the proposed project. Based on the analysis contained in DEIR Chapter 3, the FEIR concludes that the proposed Solana Highlands Revitalization Project will have no significant impacts and require no mitigation measures with respect to the following issues:

- Aesthetics
- Greenhouse Gas Emissions
- Geology and Soils
- Hydrology and Water Quality
- Land Use and Planning
- Population and Housing
- Public Services Utilities and Service Systems
- Transportation and Traffic
- Recreation
- Energy

Based on the analysis contained in DEIR Chapter 3, the FEIR concludes that the proposed Solana Highlands Revitalization Project will have potentially significant impacts that can be avoided or reduced to a level below significance by the implementation of feasible mitigation measures with respect to the following issues:

- Air Quality
- Biological Resources
- Cultural Resources
- Hazards and Hazardous Materials
- Noise
- Tribal Cultural Resources

Based on the analysis contained in DEIR Chapter 3, the FEIR concludes that the proposed Solana Highlands Revitalization Project will not have any significant unavoidable impacts and that all significant impacts of the proposed project can be avoided or reduced to a level below significance by implementation of the mitigation measures identified in the FEIR and the MMRP.

## **6 FINDINGS REGARDING SIGNIFICANT DIRECT, INDIRECT, AND CUMULATIVE EFFECTS MITIGATED TO LESS THAN SIGNIFICANT**

### **6.1 Air Quality**

#### **Substantial Pollutant Concentrations**

##### *Impact*

The results of the Health Risk Assessment demonstrate that the toxic air contaminants exposure from construction diesel exhaust emissions would result in cancer risk on site above the 10 in 1 million threshold for the proposed project; therefore, the proposed project may expose sensitive receptors to substantial pollutant concentrations and would result in a potentially significant impact.

##### *Finding*

Pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the project that will substantially lessen or avoid the significant effect identified in the DEIR to a level of below significance.

##### *Facts in Support of Finding*

The results of the Health Risk Assessment demonstrate that the toxic air contaminants exposure from construction diesel exhaust emissions would result in cancer risk on site above the 10 in 1 million threshold for the proposed project. The Chronic Hazard Index for the proposed project would be less than 1. Therefore, toxic air contaminants emissions from construction activities of the proposed project may expose sensitive receptors to substantial pollutant concentrations and would result in a potentially significant impact; therefore, mitigation measure AQ-1 (health risk construction measures) is required to reduce the emissions of diesel particulate matter from construction and the associated health risk. Mitigation measure AQ-1 provides as follows:

**AQ-1:** To reduce the potential for health risks as a result of construction of the project the Applicant shall:

- A. Prior to the start of construction activities, the project applicant, or its designee, shall ensure that all diesel-powered excavators, forklifts, paving

equipment, rollers, rubber tired dozers, scrapers, and tractors/loaders/backhoes, are powered with CARB certified Tier 4 Interim engines, except where the project applicant establishes to the satisfaction of the City that Tier 4 Interim equipment is not available.

- All other diesel-powered construction equipment will be classified as Tier 3 or higher, at a minimum, except where the project applicant establishes to the satisfaction of the City that Tier 3 equipment is not available.

In the case where the applicant is unable to secure a piece of equipment that meets the Tier 4 Interim requirement, the applicant may upgrade another piece of equipment to compensate (from Tier 4 Interim to Tier 4 Final).

Engine Tier requirements in accordance with this measure shall be incorporated on all construction plans. As the construction fleet details assumed for this analysis were based on best available data at the time of preparation (June 2018), construction fleet and operating scenarios may change once a contractor is selected prior to construction anticipated to be mid-2020.

- B. Prior to the commencement of any demolition, grading or construction activity on the project site, if the applicant makes any changes to the fleet construction, the applicant will conduct a supplemental health risk assessment (HRA) to ensure that the health risk associated with the construction scenario at the time of construction is no greater risk than the 10 in one million as stated in the EIR.

All emissions for criteria pollutants would be well below the San Diego Air Pollution Control District thresholds. In addition, construction best management practices would be implemented to further limit exposure of sensitive receptors to criteria pollutants, consistent with San Diego Air Pollution Control District Rule 55. With implementation of mitigation measure AQ-1, the emissions of diesel particulate matter are significantly reduced compared to the unmitigated scenario. Implementation of this mitigation measure will reduce the potential impact to air quality to a level that is less than significant.

### *Reference*

DEIR Section 3.2, Air Quality.

## 6.2 Biological Resources

### Candidate, Sensitive, or Special-Status Species

#### *Impact*

The proposed project has the potential to directly and indirectly impact nesting birds as a result of construction-related disturbance.

#### *Finding*

Pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the project that will substantially lessen or avoid the significant effect identified in the Final EIR to a level below significance.

#### *Facts in Support of Finding*

Based on community feedback regarding site design changes based on to reduce building pad elevations to minimize effects on potential private off-site views of the project site and provide senior affordable housing on-site, it is anticipated that all on-site trees (including both non-native and native) may be removed and replaced. Where removal of native trees cannot be avoided, per Land Use Plan (LUP) Policy 3.52, they must be replaced on a 1:1 ratio per LUP Policy 3.53 (City of Solana Beach 2013). As provided in the proposed Landscape Plan (Figure 2-6 of the DEIR), native trees including 5 California sycamore trees and 10 large (84-inch box) coast live oak trees would be incorporated into project landscaping, thereby replacing the number of existing native trees removed. The proposed Landscape Plan is proposed. In addition, to ensure the loss of existing mature native trees is mitigated in accordance with LUP Policy 3.53, mitigation measure BIO-1 requires a Tree Protection Plan.

Mitigation measure BIO-1 provides as follows:

**BIO-1:** Prior to certificate of occupancy, the applicant shall complete, to the satisfaction of the City of Solana Beach, a Tree Protection Plan. As required by Policy 3.53 of the Land Use Plan, the applicant shall replace all native trees (five sycamores) at a 1:1 ratio, and shall ensure maturity and viability of the root zone. Further, based on the removal of other trees on site as a result of development, and as outlined in the project's Tree Inventory and Protection Plan, the applicant shall provide an arborist's certification that the replacement trees are in good health and thriving. Monitoring will occur three times during year 1, twice during year 2, and annually during years 3 through 5. Following each monitoring inspection, a monitoring report will be provided by the arborist as notification to the City of Solana Beach that the trees are healthy and establishing. The final monitoring report will provide

certification that the trees are healthy and established. Should any of the trees die during the monitoring period, they will be replaced by a minimum 72-inch box tree and will be monitored for the remainder of the 5 year period. Declining trees will be provided appropriate measures to improve health or structural condition, or the tree(s) will be replaced.

Policy 3.32 of the Solana Beach LUP requires surveys and an appropriate disturbance setback, if necessary, where opportunities for birds to nest exists. The proposed project would be required under LUP Policy 3.32 to conduct nesting bird surveys prior to ground-disturbing activities. Mitigation measure BIO-2 provides as follows:

**BIO-2:** The project biologist shall conduct pre-construction surveys in the proposed project impact area and a 500-foot buffer around the impact area no earlier than 7 days prior to any on-site grading and construction activities that would occur during the nesting/breeding season of special-status birds or birds protected under the Migratory Bird Treaty Act. Pre-construction surveys shall be conducted between January 1 and September 15, or as determined by the project biologist. The purpose of the pre-construction surveys shall be to determine whether occupied nests are present in the impact zone or within 500 feet of the impact zone boundary. In addition, surveys shall be conducted every 2 weeks for sensitive nesting birds during the breeding season.

If occupied nests are found, then the limits of construction to avoid occupied nests shall be established by the project biologist in the field with flagging, fencing, or other appropriate barriers (e.g., 300 to 500 feet), and construction personnel shall be instructed about the sensitivity of nest areas. If nesting sensitive birds are detected at any time during the breeding season, the California Department of Fish and Wildlife shall be notified, and the project biologist shall serve as a weekly construction monitor during those periods when construction activities are to occur near active nest areas (i.e., within 100 feet of setback) to avoid inadvertent impacts to nests. The project biologist may adjust the 250-foot or 500-foot setback at his or her discretion depending on the species and the location of the nest (e.g., if the nest is well protected in an area buffered by dense vegetation). Once the nest is no longer occupied for the season, construction may proceed.

With implementation of mitigation measures BIO-1 and BIO-2, operational impacts to nesting birds would be less than significant, as native trees would be replaced at a 1:1 ratio. Implementation of these mitigation measures will reduce the potential impacts to biological resources to a level that is less than significant.

*Reference*

DEIR Section 3.3, Biological Resources.

**Local Policies or Ordinances***Impact*

The proposed project would require the removal of all mature trees on site that could potentially provide habitat for sensitive species; impacts would be potentially significant.

*Finding*

Pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the project that will substantially lessen or avoid the significant effect as identified in the FEIR to a level below significance.

*Facts in Support of Finding*

The LUP requires the protection of native trees, including oak, manzanita, sycamore, cottonwood, willow, and toyon trees. There are five sycamore trees located on site. Under the LUP, development must be sited and designed to avoid removal of trees and encroachment into the root zone of each tree. Where the removal of trees cannot be avoided by any feasible project alternative, replacement trees must be provided.

Therefore, as the proposed project would require the removal of all mature trees on site that could potentially provide habitat for sensitive species, impacts would be potentially significant. With implementation of mitigation measures BIO-1 and BIO-2 (tree protection plan, pre-construction surveys) the proposed project would not conflict with the LUP.

Mitigation measure BIO-1 provides as follows:

- BIO-1:** Prior to certificate of occupancy, the applicant shall complete, to the satisfaction of the City of Solana Beach, a Tree Protection Plan. As required by Policy 3.53 of the Land Use Plan, the applicant shall replace all native trees (five sycamores) at a 1:1 ratio, and shall ensure maturity and viability of the root zone. Further, based on the removal of other trees on site as a result of development, and as outlined in the project's Tree Inventory and Protection Plan, the applicant shall provide an arborist's certification that the replacement trees are in good health and thriving. Monitoring will occur three times during year 1, twice during year 2, and annually during years 3 through 5. Following each monitoring inspection, a monitoring report will be provided by the arborist as notification to the City of Solana Beach

that the trees are healthy and establishing. The final monitoring report will provide certification that the trees are healthy and established. Should any of the trees die during the monitoring period, they will be replaced by a minimum 72-inch box tree and will be monitored for the remainder of the 5 year period. Declining trees will be provided appropriate measures to improve health or structural condition, or the tree(s) will be replaced.

Mitigation measure BIO-2 provides as follows:

**BIO-2:** The project biologist shall conduct pre-construction surveys in the proposed project impact area and a 500-foot buffer around the impact area no earlier than 7 days prior to any on-site grading and construction activities that would occur during the nesting/breeding season of special-status birds or birds protected under the Migratory Bird Treaty Act. Pre-construction surveys shall be conducted between January 1 and September 15, or as determined by the project biologist. The purpose of the pre-construction surveys shall be to determine whether occupied nests are present in the impact zone or within 500 feet of the impact zone boundary. In addition, surveys shall be conducted every 2 weeks for sensitive nesting birds during the breeding season.

If occupied nests are found, then the limits of construction to avoid occupied nests shall be established by the project biologist in the field with flagging, fencing, or other appropriate barriers (e.g., 300 to 500 feet), and construction personnel shall be instructed about the sensitivity of nest areas. If nesting sensitive birds are detected at any time during the breeding season, the California Department of Fish and Wildlife shall be notified, and the project biologist shall serve as a weekly construction monitor during those periods when construction activities are to occur near active nest areas (i.e., within 100 feet of setback) to avoid inadvertent impacts to nests. The project biologist may adjust the 250-foot or 500-foot setback at his or her discretion depending on the species and the location of the nest (e.g., if the nest is well protected in an area buffered by dense vegetation). Once the nest is no longer occupied for the season, construction may proceed.

The project would be consistent with all other relevant goals and policies within the Solana Beach General Plan, Solana Beach Municipal Code, and LUP regarding the preservation and protection of biological resources. Implementation of these mitigation measures will reduce the potential impacts to biological resources to a level that is less than significant.

### *Reference*

DEIR Section 3.3, Biological Resources.



## 6.3 Cultural Resources

### Archaeological Resources

#### *Impact*

In the unexpected event that grading and excavation activities during construction of the proposed project unearth intact archaeological materials, a potential significant impact could result.

#### *Finding*

Pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the project that will substantially lessen or avoid the significant effect as identified in the FEIR to a level below significance.

#### *Facts in Support of Finding*

The potential for intact, unknown, subsurface prehistoric archaeological materials to be present on the project site is considered very low because the site has been fully developed since the 1970s. However, in the unexpected event that grading and excavation activities during construction of the proposed project unearth intact archaeological materials, a potential impact could result. Given the poor ground surface visibility during the pedestrian survey and the close proximity of SDI-10238, archaeological monitoring is recommended during any ground disturbance that extends beyond previously disturbed depths, in order to protect any previously unknown subsurface cultural deposits, including during any pre-construction soil testing and the initial grading of the site. In the event that any previously undetected cultural resources are encountered, all work should cease in the vicinity of the discovery in order to evaluate findings and determine whether additional archaeological work is needed. Therefore, impacts to archaeological resources would be potentially significant, and mitigation measure CUL-1 (archaeological monitor and a Native American (Kumeyaay) monitor) would be required.

Mitigation measure CUL-1 provides as follows:

**CUL-1:** Prior to the start of any ground-disturbing activity, the project applicant shall retain an archaeological monitor and a Native American (Kumeyaay) monitor, approved by the City of Solana Beach (City), to monitor ground-disturbing activities associated with the proposed project, including but not limited to grading, excavation, brush clearance, and grubbing. The archaeological and Native American monitors shall conduct preconstruction cultural resources worker sensitivity training to bring awareness to personnel of actions to be taken in the event of a cultural resources discovery. The duration and timing of

monitoring shall be determined by the qualified archaeologist in consultation with the City.

Initially, all ground-disturbing activities associated with the proposed project shall be monitored. However, the qualified archaeologist, based on observations of soil stratigraphy or other factors, and subject to the approval of the City, may reduce the level of monitoring as warranted. In the event that cultural resources are unearthed during ground-disturbing activities, the archaeological monitor shall have the authority to halt or redirect ground-disturbing activities away from the vicinity of the find so that the find can be evaluated. If the find is determined to be potentially significant, the archaeologist, in consultation with the City and appropriate Native American monitor and group(s) (if the find is a prehistoric or Native American resource), shall develop a treatment plan. Construction activities shall be redirected to other work areas until the treatment plan has been implemented or the qualified archaeologist determines that work can resume in the vicinity of the find.

Implementation of this mitigation measure will reduce the potential impact to archaeological resources to a level that is less than significant.

### ***Reference***

DEIR Section 3.5, Cultural Resources.

### **Paleontological Resources**

#### ***Impact***

Due to the depth of excavation during grading activities, there is a potential to encounter unknown paleontological resources. Therefore, impacts to unknown paleontological resources would be potentially significant.

#### ***Finding***

Pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the project that will substantially lessen or avoid the significant effect as identified in the FEIR to a level below significance.

#### ***Facts in Support of Finding***

Most paleontological resources are not exposed at the surface, and most fossils are found during earthmoving activities when geologic features are exposed. The City is almost entirely developed,

so the likelihood of encountering subsurface paleontological or archaeological resources is greatest on sites that have been minimally excavated in the past (e.g., undeveloped parcels, vacant lots, and lots containing surface parking; undeveloped areas around historic buildings; under buildings with post, pier, slab, or shallow wall foundations without basements). Previously excavated areas, such as the project site, are generally considered to have a low potential for paleontological or archaeological resources because the soil containing the archaeological resources has been removed.

However, due to the depth of excavation during grading activities, there is a potential to encounter unknown paleontological resources. Because the exact depths of any potential sensitive resources are unknown, in the event that unexpected intact paleontological resources are unearthed during ground-disturbing activities, impacts would be potentially significant, and mitigation measure CUL-2 (paleontological mitigation) would be required.

Mitigation measure CUL-2 provides as follows:

**CUL-2:** Prior to the start of any ground-disturbing activity, the project applicant shall retain a qualified paleontologist (an individual with an MS or PhD in paleontology or geology who is familiar with paleontological procedures and techniques, who is knowledgeable in the geology and paleontology of San Diego County (County), and who has worked as a paleontological mitigation project supervisor in the County for a least 1 year) who shall attend the pre-construction meeting to consult with the grading and excavation contractors concerning excavation schedules, paleontological field techniques, and safety issues. A paleontological monitor (an individual who has experience in the collection and salvage of fossil materials, working under the direction of a qualified paleontologist) shall be on site on a full-time basis during the original cutting of previously undisturbed deposits of high paleontological resource potential (e.g., Quaternary terrace and landslide deposits correlative with the Bay Point Formation and Torrey Sandstone) to inspect exposures for contained fossils.

In the event that paleontological resources are discovered or unearthed during project subsurface activities, all earth-disturbing work within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist. The paleontologist shall notify the City to determine procedures that should be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the proposed project on the qualities that make the resource important. The plan shall be submitted to the City for review and approval prior to implementation.

Implementation of this mitigation measure will reduce the potential impact to paleontological resources to a level that is less than significant.

### *Reference*

DEIR Section 3.5, Cultural Resources.

### **Human Remains**

#### *Impact*

In the unexpected event that human remains are unearthed during construction activities, impacts would be potentially significant.

#### *Finding*

Pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the project that will substantially lessen or avoid the significant effect as identified in the EIR to a level below significance.

#### *Facts in Support of Finding*

No cultural resources were identified within the Area of Potential Effect in the records search or during the pedestrian field survey. The project site is not currently being used, nor has it historically been used, as a cemetery, and there is no evidence that the site has been used for any human burials. There is a low probability of encountering human remains during ground-disturbing activities.

However, unanticipated discoveries of human remains require handling in accordance with California Public Resources Code, Section 5097.98, which states that in the event that human remains are discovered during construction, construction activity shall be halted and the area shall be protected until consultation and treatment can occur as prescribed by law. In the unexpected event that human remains are unearthed during construction activities, impacts would be potentially significant, and mitigation measure CUL-3 (contact the County coroner) would be required.

Mitigation measure CUL-3 provides as follows:

**CUL-3:** In the event of accidental discovery of any human remains during construction of the proposed project, the applicant is responsible for the discovery and shall contact the County coroner immediately. Construction activities shall be halted in accordance with Section 15064.4(e)(1) of the California Environmental Quality Act Guidelines and Section 7050.5 of the California Health and Safety Code. If the

remains are found to be Native American, California Health and Safety Code, Section 7050.5(c), and California Public Resources Code, Section 5097.98 (as amended by Assembly Bill 2641), shall be followed by the City.

Implementation of this mitigation measure will reduce the potential impact to cultural resources to a level that is less than significant.

### *Reference*

DEIR Section 3.5, Cultural Resources.

## **6.4 Hazards and Hazardous Materials**

### **Routine Transport, Use, or Disposal of Hazardous Materials**

#### *Impact*

The potential exists that additional asbestos-containing materials would be encountered during the demolition phases of the proposed project. Therefore, impacts would be potentially significant.

#### *Finding*

Pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the project that will substantially lessen or avoid the significant effect as identified in the FEIR to a level below significance.

#### *Facts in Support of Finding*

Department of Toxic Substances Control HAZNET records indicate that approximately 10.95 tons of asbestos were removed from the site in 2004; approximately 0.84 tons of asbestos were removed and disposed of in 2005 and 2006; 3.2 tons and 1.6 tons were removed in separate disposals in 2010; 1.2 tons were removed in 2011; and 4.8 tons were removed in 2013. Due to the history of asbestos-containing materials on site, the potential exists that additional asbestos-containing materials could be encountered during the demolition phases of the proposed project. This would be a potentially significant impact, and mitigation measures HAZ-1 and HAZ-2 (asbestos survey performed by the County Department of Environmental Health and lead-based-paint survey performed by a Certified Lead Inspector/Assessor, respectively) would be required.

Mitigation measure HAZ-1 provides as follows:

**HAZ-1:** Prior to the start of demolition, an asbestos survey shall be performed by the County of San Diego (County) Department of Environmental Health (DEH), Occupational Health Program (OHP) for all on-site structures that will be disturbed by demolition

activities in accordance with County Administrative Manual Asbestos Policy 0050-01-9. The survey shall cover the entire building to be demolished, document the location and types of asbestos found, and determine whether any on-site abatement of asbestos-containing materials is necessary. If asbestos is located during the survey, an abatement work plan shall be prepared by the applicant and approved by County DEH in compliance with local, state, and federal regulations for removal of such materials. The work plan shall include specifications for the proper removal and disposal of asbestos. The County DEH, OHP, or its designee will monitor project applicant's implementation of the asbestos work plan to ensure that proper controls are implemented and to ensure compliance with the work plan requirements and abatement contractor specifications. Any necessary asbestos sampling and abatement shall be done by a California Occupational Safety and Health Administration (Cal/OSHA)-certified asbestos consultant/contractor and all costs associated with such sampling and abatement shall be paid for by the project applicant.

In addition, the project applicant shall comply with all San Diego Air Pollution Control District and Cal/OSHA notification requirements pertaining to the disturbance of asbestos-containing materials. When applicable, the project applicant shall make these notifications prior to the activity as follows:

- A. 10-day notification to the San Diego Air Pollution Control District for renovation/demolition activities. (Note: These are 10 working days; asbestos activities can start on the 11th day. Working days means Monday through Friday, including holidays that fall on these days.)
- B. 24-hour notification to Cal/OSHA.

Mitigation measure HAZ-2 provides as follows:

**HAZ-2:** Prior to the start of demolition, a lead-based-paint survey shall be performed by a Certified Lead Inspector/Assessor as defined in Title 17, California Code of Regulations, Section 35005, approved by the City and paid for by the project applicant, for all on-site structures that will be disturbed by demolition activities in accordance with local, state, and federal regulations. The survey shall cover the entire building to be demolished, document the location and types of lead-based paint found, and determine whether any on-site abatement of lead-based paint is necessary. If lead-based paint is located during the survey, an abatement work plan shall be prepared by the County DEH in compliance with local, state, and federal regulations for any necessary removal of such materials. The work plan shall include specifications for the proper removal and disposal of lead-based paint. The

project applicant shall implement the work plan and shall be responsible for payment of all fees and costs associated with preparation and implementation of the work plan. The County DEH, OHP, or its designee will monitor project applicant's implementation of the lead-based paint work plan to ensure that proper controls are implemented and to ensure compliance with the work plan requirements and abatement contractor specifications.

The applicant shall retain a California-licensed lead-based-paint abatement contractor, approved by the City, for the removal work and proper removal methodology as outlined by Cal/OSHA (8 CCR 1529), and all other applicable federal, state, and local regulations regarding the removal, transport, and disposal of lead-containing material shall be applied. The lead-based-paint abatement work plan shall include a monitoring plan to be conducted by a qualified consultant during abatement activities to ensure compliance with the work plan requirements and abatement contractor specifications. The work plan shall include provisions for construction worker training, worker protection, and conducting exposure assessments as needed. As part of the work plan, construction contractors shall consult federal OSHA regulations (29 CFR 1926.62) and Cal/OSHA regulations (8 CCR 1532.1) regarding lead in construction standards for complete requirements. Demolition plans and contract specifications shall incorporate any necessary abatement measures for the removal of materials containing lead-based paint to the satisfaction of the City of Solana Beach Planning and Building Department. The measures shall be consistent with the abatement work plan prepared for the project and conducted by a California-licensed lead/asbestos abatement contractor.

Implementation of these mitigation measures will reduce the potential impacts to hazardous materials to a level that is less than significant.

### ***Reference***

DEIR Section 3.7, Hazards and Hazardous Materials.

### **Upset and Accident Conditions Involving the Release Of Hazardous Materials**

#### ***Impact***

The proposed project site appears on the DTSC HAZNET listings because several tons of asbestos-containing waste; therefore impacts would be potentially significant, requiring mitigation.

***Finding***

Pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the project that will substantially lessen or avoid the significant effect as identified in the FEIR to a level below significance.

***Facts in Support of Finding***

According to the EDR report obtained for the project, the project site appears on the DTSC HAZNET listings because several tons of asbestos-containing waste from the project site was disposed of at various times between 2004 and 2013 in a San Diego County landfill under the Uniform Hazardous Waste Manifest system. Therefore, impacts associated with the reasonably foreseeable accidental release of hazardous materials during construction would be potentially significant and mitigation measures HAZ-1 and HAZ-2 would be required to reduce impacts to less than significant levels.

***Reference***

DEIR Section 6, Alternatives.

**Hazardous Emissions or Hazardous Materials within One-Quarter Mile of a School*****Impact***

The St. James Catholic Church and school campus is located immediately to the west of, and adjacent to, the project site. Due to site proximity, there is a potential for impacts associated with hazardous emissions and handling of materials including the removal of asbestos and lead-containing materials within 0.25 miles of a school during construction.

***Finding***

Pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the project that will substantially lessen or avoid the significant effect as identified in the FEIR to a level below significance.

***Facts in Support of Finding***

The St. James Catholic Church and school campus is located immediately to the west of, and adjacent to, the project site. Although not within 0.25 miles of the project site, Earl Warren Middle School and the Santa Fe Christian Schools are located approximately 0.4 miles to the north and west, respectively, of the project site. As described in DEIR Section 3.7.4(A), the demolition and construction of the proposed project would involve handling, transporting, storing, and disposing of



hazardous materials; however, with compliance with federal, state, and local laws and regulations for hazardous materials handling, and with the implementation of mitigation listed in this section regarding asbestos and lead-based paint during the demolition phases of the project, the project would not present a substantial hazard to nearby schools. As discussed in DEIR Section 3.2, Air Quality, the project would not result in significant impacts associated with air quality emissions. Further, as discussed in DEIR Section 3.7.4(B), the project site shows no evidence of adverse environmental hazards and would not result in a substantial hazard from the accidental release of hazardous materials. Due to site proximity, there is a potential for impacts associated with hazardous emissions and handling of materials including the removal of asbestos and lead-containing materials within 0.25 miles of a school during construction. This would be a potentially significant impact, and mitigation measures HAZ-1 and HAZ-2 (asbestos survey performed by the County Department of Environmental Health and lead-based-paint survey performed by a Certified Lead Inspector/Assessor, respectively) would be required.

Mitigation measure HAZ-1 provides as follows:

**HAZ-1:** Prior to the start of demolition, an asbestos survey shall be performed by the County of San Diego (County) Department of Environmental Health (DEH), Occupational Health Program (OHP) for all on-site structures that will be disturbed by demolition activities in accordance with County Administrative Manual Asbestos Policy 0050-01-9. The survey shall cover the entire building to be demolished, document the location and types of asbestos found, and determine whether any on-site abatement of asbestos-containing materials is necessary. If asbestos is located during the survey, an abatement work plan shall be prepared by the applicant and approved by County DEH in compliance with local, state, and federal regulations for removal of such materials. The work plan shall include specifications for the proper removal and disposal of asbestos. The County DEH, OHP, or its designee will monitor project applicant's implementation of the asbestos work plan to ensure that proper controls are implemented and to ensure compliance with the work plan requirements and abatement contractor specifications. Any necessary asbestos sampling and abatement shall be done by a California Occupational Safety and Health Administration (Cal/OSHA)-certified asbestos consultant/contractor and all costs associated with such sampling and abatement shall be paid for by the project applicant.

In addition, the project applicant shall comply with all San Diego Air Pollution Control District and Cal/OSHA have notification requirements pertaining to the disturbance of asbestos-containing materials. When applicable, the project applicant shall make these notifications prior to the activity as follows:

- A. 10-day notification to the San Diego Air Pollution Control District for renovation/demolition activities. (Note: These are 10 working days; asbestos activities can start on the 11th day. Working days means Monday through Friday, including holidays that fall on these days.)
- B. 24-hour notification to Cal/OSHA.

Mitigation measure HAZ-2 provides as follows:

**HAZ-2:** Prior to the start of demolition, a lead-based-paint survey shall be performed by a Certified Lead Inspector/Assessor as defined in Title 17, California Code of Regulations, Section 35005, approved by the City and paid for by the project applicant, for all on-site structures that will be disturbed by demolition activities in accordance with local, state, and federal regulations. The survey shall cover the entire building to be demolished, document the location and types of lead-based paint found, and determine whether any on-site abatement of lead-based paint is necessary. If lead-based paint is located during the survey, an abatement work plan shall be prepared by the County DEH in compliance with local, state, and federal regulations for any necessary removal of such materials. The work plan shall include specifications for the proper removal and disposal of lead-based paint. The project applicant shall implement the work plan and shall be responsible for payment of all fees and costs associated with preparation and implementation of the work plan. The County DEH, OHP, or its designee will monitor project applicant's implementation of the lead-based paint work plan to ensure that proper controls are implemented and to ensure compliance with the work plan requirements and abatement contractor specifications.

The applicant shall retain a California-licensed lead-based-paint abatement contractor, approved by the City, for the removal work and proper removal methodology as outlined by Cal/OSHA (8 CCR 1529), and all other applicable federal, state, and local regulations regarding the removal, transport, and disposal of lead-containing material shall be applied. The lead-based-paint abatement work plan shall include a monitoring plan to be conducted by a qualified consultant during abatement activities to ensure compliance with the work plan requirements and abatement contractor specifications. The work plan shall include provisions for construction worker training, worker protection, and conducting exposure assessments as needed. As part of the work plan, construction contractors shall consult federal OSHA regulations (29 CFR 1926.62) and Cal/OSHA regulations (8 CCR 1532.1) regarding lead in construction standards for complete requirements. Demolition plans and contract specifications shall incorporate any necessary abatement measures for the removal of materials containing lead-based paint to the

satisfaction of the City of Solana Beach Planning and Building Department. The measures shall be consistent with the abatement work plan prepared for the project and conducted by a California-licensed lead/asbestos abatement contractor.

Implementation of these mitigation measures will reduce the potential impacts to hazardous materials to a level that is less than significant.

### ***Reference***

DEIR Section 3.7, Hazards and Hazardous Materials.

### **List of Hazardous Materials Sites Creating a Hazard to the Public or the Environment**

### ***Impact***

Because the project site is included on the HAZNET listing identifying potential asbestos-containing waste, and demolition of the existing buildings may involve removal of asbestos, impacts would be potentially significant.

### ***Finding***

Pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the project that will substantially lessen or avoid the significant effect as identified in the FEIR to a level below significance.

### ***Facts in Support of Finding***

According to the EDR report obtained for the project, which included the results from searches of multiple databases and hazardous materials sites lists, the project site appears on the Department of Toxic Substances Control HAZNET listings because several tons of asbestos-containing waste were removed from the project site between 2004 and 2013 and disposed of in a San Diego County landfill under the Uniform Hazardous Waste Manifest System. The project site was not found on any other list of hazardous materials sites. Several sites were located in the vicinity of the project site. Solana Beach Plaza, located approximately 0.65 miles to the northwest of the project site, was listed on the EnviroStor database for known places of release of hazardous substances. The Signature Group property, located approximately 0.23 miles to the northeast of the project site, was listed for a known release of hazardous materials into soils. CBS Scientific Company Inc., located approximately 0.47 miles to the northwest of the project site, was also listed for a known release of hazardous materials into soils. Although these sites have been recorded for known release of hazardous substances, both the distance and the type of release (soil only) makes it unlikely that any of these listed sites would affect the proposed project. Because the project site is included on the HAZNET listing identifying potential asbestos-containing waste, and demolition

of the existing buildings may involve removal of asbestos, as discussed in Section 3.7.4(A), impacts would be potentially significant, and mitigation measure HAZ-1 (asbestos survey performed by the County Department of Environmental Health) would be required.

Mitigation measure HAZ-1 provides as follows:

**HAZ-1:** Prior to the start of demolition, an asbestos survey shall be performed by the County of San Diego (County) Department of Environmental Health (DEH), Occupational Health Program (OHP) for all on-site structures that will be disturbed by demolition activities in accordance with County Administrative Manual Asbestos Policy 0050-01-9. The survey shall cover the entire building to be demolished, document the location and types of asbestos found, and determine whether any on-site abatement of asbestos-containing materials is necessary. If asbestos is located during the survey, an abatement work plan shall be prepared by the applicant and approved by County DEH in compliance with local, state, and federal regulations for removal of such materials. The work plan shall include specifications for the proper removal and disposal of asbestos. The County DEH, OHP, or its designee will monitor project applicant's implementation of the asbestos work plan to ensure that proper controls are implemented and to ensure compliance with the work plan requirements and abatement contractor specifications. Any necessary asbestos sampling and abatement shall be done by a California Occupational Safety and Health Administration (Cal/OSHA)-certified asbestos consultant/contractor and all costs associated with such sampling and abatement shall be paid for by the project applicant.

In addition, the project applicant shall comply with all San Diego Air Pollution Control District and Cal/OSHA notification requirements pertaining to the disturbance of asbestos-containing materials. When applicable, the project applicant shall make these notifications prior to the activity as follows:

- A. 10-day notification to the San Diego Air Pollution Control District for renovation/demolition activities. (Note: These are 10 working days; asbestos activities can start on the 11th day. Working days means Monday through Friday, including holidays that fall on these days.)
- B. 24-hour notification to Cal/OSHA.

Implementation of this mitigation measure will reduce the potential impacts to hazardous materials to a level that is less than significant.

*Reference*

DEIR Section 3.7, Hazards and Hazardous Materials.

**6.5 Noise****Exposure of Persons to or Generation of Noise Levels in Excess of Standards***Impact*

The proposed project would result in temporary but significant impacts from noise during the construction phase.

*Finding*

Pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the project that will substantially lessen or avoid the significant effect as identified in the FEIR to a level below significance.

*Facts in Support of Finding*

Existing residential land uses to the north, south, and east are located within approximately 50 to 100 feet of the project boundaries. The closest point of construction activities to these receivers would be approximately 50 feet, and the furthest would be approximately 800 feet. The nearest receivers are located approximately 200 feet away from the acoustic center of construction activity (the idealized point from which the energy sum of all construction activity noise near and far would be centered). A construction noise level of 88 A-weighted decibels equivalent sound level (dBA  $L_{eq}$ ) at 50 feet would attenuate to approximately 76 dBA  $L_{eq}$  at 200 feet from the source. This noise level is substantially higher than the typical ambient daytime noise levels measured in the area. Noise levels of this magnitude would be readily audible and would dominate the noise environment in the area during construction operations. During short periods of time, construction activities would take place within approximately 50 feet of the nearest sensitive receptors to the north, south, and west; during these periods, noise levels could be as high as 82 dBA  $L_{eq}$ . As a result, the proposed project would result in temporary but significant impacts from noise during the construction phase. Therefore, mitigation measures NOI-1 through NOI-7 (locate vehicle staging areas and stockpiling as far as is practicable from existing nearby noise sensitive uses; construction activities be limited to between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, and between the hours of 8:00 a.m. and 7:00 p.m. on Saturday; noise complaint response program; require noise control equipment (mufflers or silencers); noise monitoring by a Qualified Noise Consultant during the demolition and grading; restrictions on construction within 50 feet of sensitive receptors; immediately alter construction activities to achieve compliance when levels are exceeded) would be implemented.

Mitigation Measure NOI-1 provides as follows:

**NOI-1:** During all phases of construction, vehicle staging areas and stockpiling shall be located as far as is practicable from existing nearby noise sensitive uses.

Mitigation Measure NOI-2 provides as follows:

**NOI-2:** In compliance with the City of Solana Beach Municipal Code Noise Ordinance, the applicant shall require that construction activities be limited to between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, and between the hours of 8:00 a.m. and 7:00 p.m. on Saturday, with the exception of legal holidays during which time construction will not be permitted.

Mitigation Measure NOI-3 provides as follows:

**NOI-3:** Prior to issuance of any demolition or grading permit, the applicant shall establish a noise complaint response program subject to the approval of the City and shall respond to any noise complaints received for this project by measuring noise levels at the affected receptor site. The noise complaint response program shall require that all residences and noise-sensitive land uses within 50 feet of construction site shall be notified of the construction. The notification will describe the activities anticipated, provide dates and hours, and provide contact information with a description of a complaint and response procedure. Additionally, as part of the noise complaint response program, the applicant shall designate a “Construction Liaison” who will be responsible for notifying the City and Engineer and responding to any local complaints about construction noise. The liaison will determine the cause of the noise complaints (starting too early, bad muffler, etc.) and institute reasonable measures, approved by the City Engineer, to correct the problem within 48 hours after receiving a complaint.

If a noise complaint is registered that cannot be resolved by the Construction Liaison, then the applicant shall retain a Qualified Noise Consultant to conduct noise measurements at the location where the complaint was registered. If the noise level exceeds an Leq(8) of 75 A-weighted decibels (dBA; i.e., more than 75 dBA for more than 8 hours during any 24-hour period when measured at or within an adjacent residential property), the applicant shall implement noise reduction measures, such as portable sound attenuation walls, use of quieter equipment, shift of construction schedule to avoid the presence of sensitive receptors, etc., to reduce noise levels, to the satisfaction of the City Engineer. The determination of appropriate resolutions to noise complaints shall be sent to the complainant and City Engineer within 48 hours after the receipt of a complaint.

Mitigation Measure NOI-4 provides as follows:

**NOI-4:** The applicant shall require that all construction equipment be operated with mandated noise control equipment (mufflers or silencers). Enforcement will be accomplished by random field inspections during construction activities, by a qualified noise consultant, retained by the project applicant and approved by, to the satisfaction of the City Engineer.

Mitigation Measure NOI-5 provides as follows:

**NOI-5:** Prior to the issuance of a Demolition or Grading Permit, the applicant shall provide a written and signed letter to the Director of Community Development, stating that a Qualified Noise Consultant has been hired to conduct noise monitoring during the demolition and grading phases of construction. The Qualified Noise Consultant shall periodically monitor noise levels to ensure compliance with the Solana Beach Municipal Code Noise Ordinance sections dealing with construction noise and shall notify the City in writing within 24 hours of any exceedance of the Noise Ordinance.

Mitigation Measure NOI-6 provides as follows:

**NOI-6:** The following measures are required of all construction activities implemented under the proposed project:

- Stationary noise-generating equipment shall be located as far as reasonable from sensitive receptors when sensitive receptors adjoin or are within 50 feet of the construction site.
- Unnecessary idling of internal combustion engines (i.e., in excess of 5 minutes) shall be prohibited.

Mitigation Measure NOI-7 provides as follows:

**NOI-7:** In the event construction noise levels are exceeded, the applicant shall immediately alter construction activities to achieve compliance instance. Compliance shall be achieved through the installation of temporary noise barriers around construction areas adjacent to, or within 50 feet off, residences, schools or other noise-sensitive land uses along the north, west, and south sides of the project site. Where required to reduce noise levels in compliance with City regulations, temporary noise barriers shall be constructed of material with a minimum weight of 3 pounds per square foot with no gaps or perforations. Noise barriers may be constructed of, but are not limited to, 0.625-inch plywood, 0.625-inch oriented strand board, or hay bales. These barriers shall be a minimum of 8 feet in height and shall extend the full length

of the demolition, grading or construction area. Monitoring of compliance shall also be required following installation of any required noise barriers.

Implementation of these mitigation measures will reduce the potential impacts from noise to a level that is less than significant.

### ***Reference***

DEIR Section 3.10, Noise.

### **Permanent Increase in Ambient Noise Levels**

#### ***Impact***

Noise levels from on-site operational activities, such as heating, ventilation, and air conditioning (HVAC) noise, would be potentially significant.

#### ***Finding***

Pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the project that will substantially lessen or avoid the significant effect as identified in the FEIR to a level below significance.

#### ***Facts in Support of Finding***

Existing residential land uses to the north, south, and east are located within approximately 50 to 100 feet of the project boundaries. The project would result in an increase in traffic noise levels of 1 decibel (dB) or less, which is not a substantial increase. However, as discussed in Threshold A, noise levels from on-site operational activities, such as HVAC noise, would be potentially significant. Impacts would be reduced to less than significant with implementation of mitigation measure NOI-8 (installation of sound barriers or the specifications that the HVAC units do not exceed a sound pressure level of 45 dBA at a distance of 25 feet).

Mitigation measure NOI-8 provides as follows:

**NOI-8:** Prior to final inspection the project applicant shall establish to the satisfaction of the City Engineer that through either the installation of sound barriers or the specifications of the heating, ventilating, and air conditioning (HVAC) units installed for the project, that the HVAC units do not exceed a sound pressure level of 45 dBA at a distance of 25 feet, on or off site. An example of an HVAC unit producing less than 45 dBA at a distance of 25 feet is the Trane 4DCY4024.



Implementation of this mitigation measure will reduce the potential impact from noise to a level that is less than significant.

### ***Reference***

DEIR Section 3.10, Noise.

### **Temporary or Periodic Increase in Ambient Noise**

#### ***Impact***

Noise from construction of the proposed project would result in a substantial increase in temporary noise levels above existing ambient noise levels. Therefore, the impacts due to noise levels from construction would be potentially significant.

#### ***Finding***

Pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the project that will substantially lessen or avoid the significant effect as identified in the Final EIR to a level below significance.

#### ***Facts in Support of Finding***

A construction noise level of 88 dBA  $L_{eq}$  at 50 feet would attenuate to approximately 76 dBA  $L_{eq}$  at 200 feet from the source. This noise level is substantially higher than the typical ambient daytime noise levels measured in the area. Noise levels of this magnitude would be readily audible and would dominate the noise environment in the area during construction operations. As such, noise from construction of the proposed project would result in temporary noise levels, which would be well above existing ambient noise levels and are considered substantial increases. Therefore, the impacts due to noise levels from construction would be potentially significant. Therefore, mitigation measures NOI-1 through NOI-7 (locate vehicle staging areas and stockpiling as far as is practicable from existing nearby noise sensitive uses; construction activities be limited to between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, and between the hours of 8:00 a.m. and 7:00 p.m. on Saturday; noise complaint response program; require noise control equipment (mufflers or silencers); noise monitoring by a Qualified Noise Consultant during the demolition and grading; restrictions on construction within 50 feet of sensitive receptors; immediately alter construction activities to achieve compliance when levels are exceeded) would be implemented. These mitigation measures are set forth in full above and in Section 3.10 of the DEIR and are incorporated herein by this reference. Implementation of these mitigation measures will reduce the potential impacts from noise to a level that is less than significant.

*Reference*

DEIR Section 3.10, Noise.

**6.6 Tribal Cultural Resources****Listed in the California Register or Local Register of Historical Resources***Impact*

The potential for intact, unknown, subsurface prehistoric archaeological materials to be present in the project site is considered very low; however, there is the potential for the inadvertent discovery of tribal cultural resources during ground-disturbing activities.

*Finding*

Pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the project that will substantially lessen or avoid the significant effect as identified in the FEIR to a level below significance.

*Facts in Support of Finding*

Although there are no known tribal cultural resources on site, there is the potential for the inadvertent discovery of tribal cultural resources during ground-disturbing activities. Implementation of mitigation measures CUL-1 and CUL-3, previously identified in Chapter 3.5 of this DEIR, would ensure potential impacts to tribal cultural resources would not be substantial. CUL-1 specifically addresses the Viejas Band of Kumeyaay Indians' request for a Kumeyaay cultural monitor to monitor ground-disturbing activities associated with the proposed project. Implementation of mitigation measures CUL-1 and CUL-3 (archaeological monitor and a Native American (Kumeyaay) monitor, paleontological mitigation, contact the County coroner) would reduce potential impacts to tribal cultural resources to a less-than-significant level. Therefore, impacts would be less than significant with mitigation incorporated. These mitigation measures are set forth in full above and in Section 3.13 of the DEIR and are incorporated herein by this reference. Implementation of these mitigation measures will reduce the potential impacts to tribal cultural resources to a level that is less than significant.

**Listed in the California Register or Local Register of Historical Resources*****Impact***

The potential for intact, unknown, subsurface prehistoric archaeological materials to be present on the project site is considered very low; however, there is the potential for the inadvertent discovery of tribal cultural resources during ground-disturbing activities.

***Finding***

Pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the project that will substantially lessen or avoid the significant effect as identified in the FEIR to a level below significance.

***Facts in Support of Finding***

Although there are no known tribal cultural resources on site, there is the potential for the inadvertent discovery of tribal cultural resources during ground-disturbing activities. Implementation of mitigation measures CUL-1 and CUL-3, previously identified in Chapter 3.5 of this DEIR, would ensure potential impacts to tribal cultural resources would not be substantial. CUL-1 specifically addresses the Viejas Band of Kumeyaay Indians' request for a Kumeyaay cultural monitor to monitor ground-disturbing activities associated with the proposed project. Implementation of mitigation measures CUL-1 and CUL-3 (archaeological monitor and a Native American (Kumeyaay) monitor, paleontological mitigation, contact the County coroner) would reduce potential impacts to tribal cultural resources to a less-than-significant level. Therefore, impacts would be less than significant with mitigation incorporated. These mitigation measures are set forth in full above and in Section 3.13 of the DEIR and are incorporated herein by this reference. Implementation of these mitigation measures will reduce the potential impacts to tribal cultural resources to a level that is less than significant.

**Resource Determined by the Lead Agency to be Significant per PRC Section 5024.1*****Impact***

There is the potential for unknown or buried tribal cultural resources to be present at the project site. Therefore, impacts are considered potentially significant.

***Finding***

Pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the project that will substantially lessen or avoid the significant effect as identified in the FEIR to a level below significance.

### *Facts in Support of Finding*

Based on information gathered from the Cultural Resources Study for the proposed project (Appendix G), the Native American Heritage Commission, and consultation with Native American Tribes who are traditionally and culturally affiliated with the geographic area, there are no known tribal cultural resources within the project area. However, given the poor ground surface visibility during the pedestrian survey and the close proximity of SDI-10238, there is still the potential for unknown or buried resources to be present at the project site. Implementation of mitigation measure CUL-1, previously identified in Chapter 3.5, would provide for the presence of a qualified archaeological and Kumeyaay cultural monitor(s) during ground-disturbing activities that would be able to identify any previously unidentified Tribal cultural resources, to prevent inadvertent disturbance of any intact cultural deposits that may be present. Should any resources be identified, implementation of mitigation measures CUL-1 and CUL-3 (archaeological monitor and a Native American (Kumeyaay) monitor, paleontological mitigation, contact the County coroner) would ensure proper handling and treatment of such resources by providing for a formal evaluation and opportunity to mitigate impacts to such discoveries. With implementation of mitigation measures CUL-1 and CUL-3, previously identified in Chapter 3.5 of this DEIR, potentially significant impacts to tribal cultural resources would be reduced to a level of less than significant. Therefore, impacts would be less than significant with mitigation incorporated. These mitigation measures are set forth in full above and in Section 3.13 of the DEIR and are incorporated herein by this reference. Implementation of these mitigation measures will reduce the potential impacts to tribal cultural impacts to a level that is less than significant.

## **7 FINDINGS REGARDING CUMULATIVE SIGNIFICANT EFFECTS**

CEQA requires a Lead Agency to evaluate the cumulative impacts of a proposed project (CEQA Guidelines Section 15130(a)). Cumulative impacts are those which are considered significant when viewed in combination with the impacts of other closely related past, present, and reasonably foreseeable future projects (CEQA Guidelines Section 15355). Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.

The DEIR analyzes cumulative impacts by compiling a list of past, present and reasonably anticipated future projects producing related or cumulative impacts, including projects outside the agency's jurisdiction (CEQA Guidelines Section 15130(b)(1)(A)). The list of "past, present and reasonably anticipated future projects" should include related projects which already have been constructed, are presently under construction, are approved but not yet under construction, and are not yet approved but are under environmental review at the time the DEIR is prepared (CEQA Guidelines Section 15130). The list must include not only projects under review by the Lead Agency, but also those under review by other relevant public agencies.

The cumulative projects considered in the DEIR generally included those projects within the City or nearby areas of adjacent cities.

The DEIR considered 21 past, present, and reasonably foreseeable projects within the vicinity of the project in evaluating potential cumulative impacts. The analysis of the project's potential significant cumulative impacts is found in DEIR Chapter 4, Cumulative Impacts. Chapter 4 also includes a detailed description of the cumulative projects in Table 4-1. Based on the information and analysis provided in Chapter 4, the DEIR determined that the potential cumulative impacts of the project would be less than significant for all resources. Pursuant to CEQA Guidelines Section 15091, therefore, no findings regarding cumulative impacts are required.

## **8 FINDINGS REGARDING PROJECT ALTERNATIVES**

In accordance with CEQA Guidelines Section 15126.6(a), an EIR must contain a discussion of “a range of reasonable alternatives to a project, or the location of a project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.” Section 15126.6(f) further states that “the range of alternatives in an EIR is governed by the ‘rule of reason’ that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice.” Thus, the following discussion focuses on project alternatives that are capable of eliminating significant environmental impacts or substantially reducing them as compared to the proposed project, even if the alternative would impede the attainment of some project objectives, or would be more costly. In accordance with CEQA Guidelines Section 15126.6(f)(1), among the factors that may be taken into account when addressing the feasibility of alternatives are: (1) site suitability; (2) economic viability; (3) availability of infrastructure; (4) general plan consistency; (5) other plans or regulatory limitations; (6) jurisdictional boundaries; and (7) whether the proponent can reasonably acquire, control, or otherwise have access to the alternative site.

As stated above from CEQA Guidelines Section 15126(a), an EIR shall address a reasonable range of alternatives that would “feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project.” This DEIR found that the proposed project would have less-than-significant impacts, with and without incorporation of mitigation measures, in all environmental issue areas; no impacts resulting from the proposed project would remain significant and unavoidable.

The alternatives presented and considered in the DEIR constitute a reasonable range of alternatives necessary to permit a reasoned choice among the options available to the City and/or the project proponent.

Three alternatives are under consideration:

1. Originally Proposed Project (Reduced Export)
2. Single Phase Construction
3. No Project Alternative

The No Project (No Build) Alternative is a required element of an EIR pursuant to CEQA Guidelines Section 15126.6(e) that examines the environmental effects that would occur if the project were not to proceed.

Because all of the potential significant impacts of the proposed project can be reduced or avoided to a level below significance by the implementation of feasible mitigation measures, no findings regarding project alternatives are required.

# CEQA FINDINGS OF FACT

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## 1 INTRODUCTION

The City of Solana Beach hereby makes the following Findings of Fact concerning the Final Environmental Impact Report (FEIR) (SCH no. 2014111028) for the Solana Highlands Revitalization Project Single Phase Alternative (selected project) pursuant to the California Environmental Quality Act (CEQA), California Public Resources Code Section 21000, et seq., and its implementing regulations, California Code of Regulations, Title 14, Section 15000 et seq. (CEQA Guidelines).

The FEIR was prepared for the proposed project to identify and evaluate the potential impacts on the environment which would result from revitalizing of the existing Solana Highlands apartment complex, including provision of affordable housing and a reasonable range of alternatives including the selected project. The selected project would result in the same type and extent of development as the proposed project, but construction would be completed within a single phase of approximately 24 months rather than the three-phase, 39-month construction period of the proposed project. The City of Solana Beach (City) is Lead Agency under CEQA.

The selected project would involve the demolition of a total of 198 existing residential units on the site and construction of a new apartment complex consisting of 228 new multi-family residential units, and 32 affordable senior housing units, for a total of 260 new units in 24 buildings on site. The selected project would result in a net increase of 62 residential units. The selected project is located on 13.4 acres at 661 to 781 South Nardo Avenue and 821 Stevens Avenue in the City of Solana Beach in north coastal San Diego County, California.

Grading for the selected project would be designed to lower the elevation of the project site to create new, flatter pads that would accommodate the increased density and improve internal circulation for pedestrians and vehicles. The selected project would involve a single construction phase, necessitating ending existing leases on units. Required permits for the selected project would include a Development Review Permit, a Structure Development Permit, an Affordable Housing Plan, a Waiver of Development Standards, a Sewer Easement Abandonment Permit, a Development Agreement, an Adjustment Plan/Tentative Parcel Map, permits that may be required by other agencies including a Coastal Development Permit, and a development agreement with the City for the proposed density bonus.

Pursuant to CEQA Guidelines Section 15132, the FEIR consists of the following components:

- Copies of the written comment letters from responsible agencies and the general public concerning the Draft Environmental Impact Report (DEIR), along with the City's responses

as the Lead Agency to significant environmental points raised in this and other communication received during the comment, review, and consultation process;

- The DEIR, including appendices;
- An Errata presenting changes made to the EIR in strikeout/underline format) in response to public comment; and
- A Mitigation Monitoring and Reporting Program (MMRP).

The potential environmental effects, mitigation measures, and alternatives analyzed in the DEIR, the public comments and responses thereto, and the public outreach and public participation described in the DEIR have influenced the design of the proposed project and its selected alternatives. These analyses found in the DEIR and the public outreach processes reflect the City's commitment to incorporate into the final project design the environmental considerations identified during the CEQA process.

## **2 SELECTED PROJECT DESCRIPTION**

### **2.1 Selected Project Location**

The selected project site encompasses approximately 13.4 acres on three parcels (Assessor's Parcel Numbers 298-260-33, 298-281-10, and 298-164-22). The selected project is located at 661 to 781 South Nardo Avenue and 821 Stevens Avenue in the City of Solana Beach in north coastal San Diego County, California.

### **2.2 Selected Project Components**

The selected project would involve the demolition of a total of 198 existing residential units on the site and construction of a new apartment complex consisting of 228 new multi-family residential units, and 32 affordable senior housing units, for a total of 260 new units in 24 buildings on site. The selected project would result in a net increase of 62 residential units. The selected project is located on 13.4 acres at 661 to 781 South Nardo Avenue and 821 Stevens Avenue in the City of Solana Beach in north coastal San Diego County, California.

The selected project would result in the same type and extent of development as the proposed project, but construction would be completed within a single phase of approximately 24 months (compared to the three-phase proposed project's 39-month construction duration that also included partial occupancy). The selected project is intended to substantially reduce the severity of potentially significant impacts of the proposed project due to construction noise and the period of exposure to environmental effects associated with air quality within the surrounding neighborhood by substantially reducing the duration of construction.



Residential buildings would range in height from two to three stories and would provide a total of 12 studio apartments, 128 one-bedroom units, and 120 two-bedroom units. The three-story affordable senior building would contain all 12 of the studio apartments, 15 of the one-bedroom units, and 5 of the two-bedroom units, with the balance of the project comprised of 113 one-bedroom and 115 two-bedroom units. Additionally, the selected project would include a small private park along South Nardo Avenue to reduce effects to public and private views in proximity to the existing greenspace on site.

The site would be divided into three neighborhoods: Bungalow, Valley View, and Lifestyle. The existing four entrances to the site located off South Nardo Avenue would be reduced to two driveways for the main apartment complex. The first driveway would be located along the northwest portion of South Nardo Avenue in approximately the same location as the existing driveway in this location. The second driveway would become the main driveway located closer to Stevens Avenue along the eastern portion of South Nardo Avenue. The senior-designated building would be served by a third driveway, located off of Stevens Avenue in approximately the same location as the existing driveway that currently serves the off-site units owned by the applicant. The selected project would replace the existing 311 on-site parking spaces and provide 525 on-site parking spaces. There would be 233 garage spaces, a minimum of 22 covered spaces, and up to 270 uncovered spaces. Traffic-calming measures along South Nardo Avenue would be constructed as part of the selected project.

This selected project would require that all existing residents living on site re-locate to other housing for the duration of construction. The increased intensity (approximate doubling) of construction activity would increase worker-related trips, would be offset by the elimination of on-site residential occupants during construction under the selected project compared to the proposed project.

Earthwork for the selected project would result in 176,000 cubic yards of cut and 22,000 cubic yards of fill, with 154,000 cubic yards of export. Exported material would be assessed for suitability for use with the City's Sand Compatibility and Opportunistic Use Program (SCOUP), and any material identified as suitable would be placed on the City's beaches; otherwise, soil export is assumed to be transported to the Otay Landfill as the maximum haul distance/impact for the purposes of this analysis.

The applicant would be required to enter into a Development Agreement with the City requiring a percentage of the apartments to be deed-restricted at specific affordability levels. In conjunction with City of Solana Beach Municipal Code (SBMC) and California law, the provision of the affordable apartments allows the applicant to receive a bonus in the selected project's density, allowing additional market-rate apartments to also be constructed.

SBMC Section 17.20.050, and California state law allow for the waiver of development standards for projects applying for a density bonus. Grading of the site is intended to achieve the proposed density and number of units that would allow for the inclusion of 32 affordable housing units and related density bonus. The City requires that height standards be measured from the lower of existing grade or proposed grade. Therefore, in some areas, fill would be placed below proposed buildings, walls, or fences and is included as part of the proposed height calculation.

### **2.3 Project Objectives**

CEQA requires that an EIR include a statement of the project objectives (CEQA Guidelines Section 15124(b)). The proposed project and alternatives is intended to accomplish the following objectives:

- Revitalize, modernize, and update the existing project site, which currently includes the 194-unit Solana Highlands apartment complex and four multi-family units, with the development of 260 new apartments to replace the existing units, parking, a separate leasing facility/club house building, recreational amenities, a system of internal and interconnected paths, and landscaping throughout the site.
- Maximize contribution to the City’s share of the San Diego Association of Governments regional housing needs allocation goals of 150 affordable housing units by providing 32 new affordable senior units in the City via California’s density bonus law and the City’s density bonus ordinance.
- Provide for new residential development in the City that is environmentally sustainable and incorporates best practices for water conservation, use of recycled water for landscaping, “green” construction methods, and energy efficiency.
- Enhance community character and provide for a revitalized residential development that has fewer impacts on local circulation by providing off-site traffic-calming measures on South Nardo Avenue, reducing the number of site driveways, relocating the primary entrance closer to main transportation arterials, and optimizing internal circulation and increasing on-site parking.
- Use beach-sand-quality materials targeted for off-site export for beach nourishment as part of the City’s SCOUNP.
- Provide new landscaping and increased building setbacks at certain locations along South Nardo Avenue to enhance the streetscape.

## 2.4 Discretionary Actions

This DEIR is intended to provide environmental documentation pursuant to CEQA to evaluate the potential environmental effects associated with the proposed project and alternatives. As such, the DEIR covers all discretionary permits proposed as part of the project or selected alternative.

The following approvals have been requested from the City for the selected project:

- Development Review Permit
- Structure Development Permit
- Affordable Housing Plan
- Density Bonus and Waiver of Development Standards: Building Height and Wall, Fence, and Retaining Wall Height Waiver (interior of property, as well as front, side, and rear yard setbacks)
- Approval of a Fee Waiver
- Sewer Easement Abandonment Permit
- Development Agreement
- Ministerial Parcel Map

The City will utilize the FEIR and associated supporting documentation in its decision to approve the required discretionary permits. Additional agencies can use this FEIR and supporting documentation in their decision-making process to issue additional approvals. Permits that may be required by other agencies, include, but are not limited to, a Coastal Development Permit from the California Coastal Commission, a General Construction Permit, and approval of a site-specific Stormwater Pollution Prevention Plan.

## 3 PUBLIC PARTICIPATION

CEQA establishes mechanisms to inform the public and decision makers about the nature of the proposed project and the extent and types of impacts that the project and its alternatives would have on the environment, should the project or an alternative be implemented. Pursuant to CEQA Guidelines Section 15082, the City circulated a Notice of Preparation, (NOP) dated November 14, 2014, to interested agencies, organizations, and parties. The NOP was also sent to the State Clearinghouse at the California Office of Planning and Research. The State Clearinghouse assigned a state identification number (SCH no. 2014111028) to this DEIR.

The NOP is intended to encourage public participation and interagency communication regarding the proposed action so that agencies, organizations, and individuals are afforded an opportunity to

respond with specific comments and/or questions regarding the scope and content of the EIR. A public scoping meeting was held on November 20, 2014, at the City of Solana Beach City Council Chambers (635 South Highway 101) to gather additional public input. The 30-day public scoping period ended on December 14, 2014.

Comments received during the NOP public scoping period were considered during the preparation of this DEIR. The NOP and comments are included in Appendix A to the DEIR. Comment letters were received as a result of the NOP and public scoping meeting and covered a variety of topics, including transportation/circulation, population and housing, noise, water supply, safety hazards, and recreation. Appendix A contains the transcript of the scoping meeting and comment letters that were received during the NOP public scoping period. Since the release of the NOP, the applicant conducted further public engagement, and made revisions to the proposed project (2017) and submitted a revised site plan and grading plan to the City.

In addition to the public scoping meeting held on November 20, 2014, the City made the DEIR available for public review and comment pursuant to CEQA Guidelines section 15088. The public review and comment period began on June 19, 2018 and ended on August 2, 2018. The City received 23 comment letters during the public comment period from interested public agencies and individuals. Additionally, 2 comment letters were received after the close of the public comment period. These comments and the City's written responses to the comments are contained in Chapter 2, Response To Comments of the FEIR.

### **3.1 Record of Proceedings**

For the purposes of CEQA and the findings contained herein, the record of the administrative proceedings for the City's decision concerning certification of the FEIR for the selected project includes, but is not limited to, the following documents:

- The Notice of Preparation (NOP), dated November 14, 2014
- The DEIR and Appendices, dated June 2018
- The Final EIR including Errata, Comments and Responses to Comments, and the DEIR and Appendices
- The Mitigation Monitoring and Reporting Program (MMRP)
- All documents and other materials listed as references and/or incorporated by reference in the DEIR, FEIR, and the appendices thereto
- Findings and resolutions adopted by the City in connection with the selected project
- Reports, studies, memoranda, maps, staff reports, or other planning documents relating to the selected project prepared by City staff and consultants to the applicant or City

- All documents and other materials submitted to the City by other public agencies or members of the public in connection with the selected project through the close of the public hearing at which the selected project was approved
- The minutes, recordings, and transcripts of public hearings held by the City concerning the FEIR and the selected project
- Matters of common knowledge to the City
- Documents expressly cited or referenced in these findings, in addition to those cited above
- Other materials required to be included in the record of proceedings by California Public Resources Code Section 21167.6(e)

The documents and materials that constitute the record of administrative proceedings are maintained at the City of Solana Beach’s Community Development Department at 635 South Highway 101, Solana Beach, California 92075. The custodian for these records is the City Clerk.

## **4 FINDINGS PURSUANT TO CEQA**

### **4.1 Purpose**

CEQA requires the City to make written findings of fact for each significant environmental impact identified in the FEIR (Public Resources Code Section 21081; CEQA Guidelines Section 15091). The purpose of findings of fact is to systematically restate the potentially significant effects of the selected project on the environment and to determine the feasibility of mitigation measures and alternatives identified in the FEIR that would avoid or substantially lessen these potentially significant effects. If significant impacts cannot be avoided or reduced to below a level of significance by the implementation of all feasible mitigation measures, the City must review the alternatives identified in the FEIR and determine whether they are feasible. These findings of fact set forth the reasons, and the evidence in support of, the City’s determinations regarding the mitigation of potentially significant environmental impacts.

### **4.2 Terminology**

A “finding” is a written statement made by the City that explains how the City has chosen to address each significant impact and alternative identified in the FEIR. Each finding identifies a potentially significant impact and provides an ultimate conclusion regarding each significant impact, supported by substantial evidence and an explanation of how the evidence supports the conclusion.

For each potentially significant impact identified in the DEIR, CEQA requires the City to make a written finding reaching one or more of the following conclusions:

1. Changes or alterations have been required in, or incorporated into, the selected project that mitigate or avoid the significant effect;
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency; or
3. Specific legal, economic, social, or technological, or other considerations, including considerations for the provision of employment opportunities for highly trained works, make infeasible the mitigation measures or alternatives identified in the Final EIR (Pub. Res. Code Section 21081 (a); CEQA Guidelines Section 15091 (a)).

A mitigation measure or an alternative is considered “feasible” if it is capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors (Public Resources Code Section 21061.1; CEQA Guidelines Section 15364).

#### **4.3 Legal Effect**

To the extent that these findings conclude that mitigation measures identified in the FEIR are feasible and have not been modified, superseded, or withdrawn, the City hereby binds itself to implement those measures. These findings are not merely informational, but constitute a binding set of obligations upon the City and responsible agencies that take effect upon the City’s adoption of the resolutions certifying the FEIR and approving the proposed project or a selected alternative.

#### **4.4 Mitigation Monitoring and Report Program**

In adopting these findings, the City also adopts an MMRP pursuant to Public Resources Code Section 21081.6. This program is designed to ensure the proposed project or a selected alternative implements the identified mitigation measures in conjunction with the proposed project or a selected alternative. The program is set forth in the Solana Highlands Revitalization Project Mitigation Monitoring and Reporting Program (MMRP), which is included in the FEIR as Chapter 4.

## **5 SUMMARY OF IMPACTS**

Chapter 6 of the DEIR presents the Environmental Impact Analysis of the Alternatives compared to that analysis contained in Chapter 3 of the DEIR, which presents the Environmental Impact Analysis of the proposed project. Based on the analysis contained in DEIR Chapter 3 and Chapter 6, the FEIR concludes that the selected project will have no significant impacts and require no mitigation measures with respect to the following issues:

- Aesthetics

- Greenhouse Gas Emissions
- Geology and Soils
- Hydrology and Water Quality
- Land Use and Planning
- Population and Housing
- Public Services Utilities and Service Systems
- Transportation and Traffic
- Recreation
- Energy

Based on the analysis contained in DEIR Chapter 3 and Chapter 6, the FEIR concludes that the selected alternative will have potentially significant impacts that can be avoided or reduced to a level below significance by the implementation of feasible mitigation measures with respect to the following issues:

- Air Quality
- Biological Resources
- Cultural Resources
- Hazards and Hazardous Materials
- Noise
- Tribal Cultural Resources

Based on the analysis contained in DEIR Chapter 3 and Chapter 6, the FEIR concludes that the selected project will not have any significant unavoidable impacts and that all significant impacts of the selected project can be avoided or reduced to a level below significance by implementation of the mitigation measures identified in the FEIR and the MMRP.

## 6 FINDINGS REGARDING SIGNIFICANT DIRECT, INDIRECT, AND CUMULATIVE EFFECTS MITIGATED TO LESS THAN SIGNIFICANT

### 6.1 Air Quality

#### Substantial Pollutant Concentrations

##### *Impact*

The results of the Health Risk Assessment demonstrate that the toxic air contaminants exposure from construction diesel exhaust emissions would result in cancer risk on site above the 10 in 1 million threshold; therefore, the selected project may expose sensitive receptors to substantial pollutant concentrations and would result in a potentially significant impact.

##### *Finding*

Pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the selected project that will substantially lessen or avoid the significant effect identified in the DEIR to a level of below significance.

##### *Facts in Support of Finding*

The results of the Health Risk Assessment demonstrate that the toxic air contaminants exposure from construction diesel exhaust emissions would result in cancer risk on site above the 10 in 1 million threshold. The Chronic Hazard Index for the selected project would be less than 1. Toxic air contaminants emissions from construction activities of the selected project may expose sensitive receptors to substantial pollutant concentrations and would result in a potentially significant impact; therefore, mitigation measure AQ-1 (health risk construction measures) is required to reduce the emissions of diesel particulate matter from construction and the associated health risk. Mitigation measure AQ-1 provides as follows:

- AQ-1:** To reduce the potential for health risks as a result of construction of the project the Applicant shall:
- A. Prior to the start of construction activities, the project applicant, or its designee, shall ensure that all diesel-powered excavators, forklifts, paving equipment, rollers, rubber tired dozers, scrapers, and tractors/loaders/backhoes, are powered with CARB certified Tier 4 Interim engines, except where the project applicant establishes to the satisfaction of the City that Tier 4 Interim equipment is not available.



- All other diesel-powered construction equipment will be classified as Tier 3 or higher, at a minimum, except where the project applicant establishes to the satisfaction of the City that Tier 3 equipment is not available.

In the case where the applicant is unable to secure a piece of equipment that meets the Tier 4 Interim requirement, the applicant may upgrade another piece of equipment to compensate (from Tier 4 Interim to Tier 4 Final).

Engine Tier requirements in accordance with this measure shall be incorporated on all construction plans. As the construction fleet details assumed for this analysis were based on best available data at the time of preparation (June 2018), construction fleet and operating scenarios may change once a contractor is selected prior to construction anticipated to be mid-2020.

- B. Prior to the commencement of any demolition, grading or construction activity on the project site, if the applicant makes any changes to the fleet construction, the applicant will conduct a supplemental health risk assessment (HRA) to ensure that the health risk associated with the construction scenario at the time of construction is no greater risk than the 10 in one million as stated in the EIR.

All emissions for criteria pollutants would be well below the San Diego Air Pollution Control District thresholds. In addition, construction best management practices would be implemented to further limit exposure of sensitive receptors to criteria pollutants, consistent with San Diego Air Pollution Control District Rule 55. With implementation of mitigation measure AQ-1, the emissions of diesel particulate matter are significantly reduced compared to the unmitigated scenario. Implementation of this mitigation measure will reduce the potential impact to air quality to a level that is less than significant.

### *Reference*

DEIR Section 6.5.2, Alternative 7 – Single Phase Construction, and DEIR Section 3.2, Air Quality.

## **6.2 Biological Resources**

### **Candidate, Sensitive, or Special-Status Species**

***Impact***

The selected project has the potential to directly and indirectly impact nesting birds as a result of construction-related disturbance.

***Finding***

Pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the selected project that will substantially lessen or avoid the significant effect identified in the Final EIR to a level below significance.

***Facts in Support of Finding***

Based on community feedback regarding site design changes to reduce building pad elevations to minimize effects on potential private off-site views of the site and provide senior affordable housing on-site, it is anticipated that all on-site trees (including both non-native and native) may be removed and replaced. Where removal of native trees cannot be avoided, per Land Use Plan (LUP) Policy 3.52, they must be replaced on a 1:1 ratio per LUP Policy 3.53 (City of Solana Beach 2013). As provided in the proposed Landscape Plan (Figure 2-6 of the DEIR), native trees including 5 California sycamore trees and 10 large (84-inch box) coast live oak trees would be incorporated into the selected project landscaping, thereby replacing the number of existing native trees removed. In addition, to ensure the loss of existing mature native trees is mitigated in accordance with LUP Policy 3.53, mitigation measure BIO-1 requires a Tree Protection Plan.

Mitigation measure BIO-1 provides as follows:

**BIO-1:** Prior to certificate of occupancy, the applicant shall complete, to the satisfaction of the City of Solana Beach, a Tree Protection Plan. As required by Policy 3.53 of the Land Use Plan, the applicant shall replace all native trees (five sycamores) at a 1:1 ratio, and shall ensure maturity and viability of the root zone. Further, based on the removal of other trees on site as a result of development, and as outlined in the project's Tree Inventory and Protection Plan, the applicant shall provide an arborist's certification that the replacement trees are in good health and thriving. Monitoring will occur three times during year 1, twice during year 2, and annually during years 3 through 5. Following each monitoring inspection, a monitoring report will be provided by the arborist as notification to the City of Solana Beach that the trees are healthy and establishing. The final monitoring report will provide certification that the trees are healthy and established. Should any of the trees die during the monitoring period, they will be replaced by a minimum 72-inch box tree and will be monitored for the remainder of the 5 year period. Declining trees will

be provided appropriate measures to improve health or structural condition, or the tree(s) will be replaced.

Policy 3.32 of the Solana Beach LUP requires surveys and an appropriate disturbance setback, if necessary, where opportunities for birds to nest exists. The selected project would be required under LUP Policy 3.32 to conduct nesting bird surveys prior to ground-disturbing activities. Mitigation measure BIO-2 provides as follows:

**BIO-2:** The project biologist shall conduct pre-construction surveys in the proposed project impact area and a 500-foot buffer around the impact area no earlier than 7 days prior to any on-site grading and construction activities that would occur during the nesting/breeding season of special-status birds or birds protected under the Migratory Bird Treaty Act. Pre-construction surveys shall be conducted between January 1 and September 15, or as determined by the project biologist. The purpose of the pre-construction surveys shall be to determine whether occupied nests are present in the impact zone or within 500 feet of the impact zone boundary. In addition, surveys shall be conducted every 2 weeks for sensitive nesting birds during the breeding season.

If occupied nests are found, then the limits of construction to avoid occupied nests shall be established by the project biologist in the field with flagging, fencing, or other appropriate barriers (e.g., 300 to 500 feet), and construction personnel shall be instructed about the sensitivity of nest areas. If nesting sensitive birds are detected at any time during the breeding season, the California Department of Fish and Wildlife shall be notified, and the project biologist shall serve as a weekly construction monitor during those periods when construction activities are to occur near active nest areas (i.e., within 100 feet of setback) to avoid inadvertent impacts to nests. The project biologist may adjust the 250-foot or 500-foot setback at his or her discretion depending on the species and the location of the nest (e.g., if the nest is well protected in an area buffered by dense vegetation). Once the nest is no longer occupied for the season, construction may proceed.

With implementation of mitigation measures BIO-1 and BIO-2, operational impacts to nesting birds would be less than significant, as native trees would be replaced at a 1:1 ratio. Implementation of these mitigation measures will reduce the potential impacts to biological resources to a level that is less than significant.

***Reference***

DEIR Section 6.5.2, Alternative 7 – Single Phase Construction, and DEIR Section 3.3, Biological Resources.

**Local Policies or Ordinances*****Impact***

The selected project would require the removal of all mature trees on site that could potentially provide habitat for sensitive species; impacts would be potentially significant.

***Finding***

Pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the selected project that will substantially lessen or avoid the significant effect as identified in the FEIR to a level below significance.

***Facts in Support of Finding***

The LUP requires the protection of native trees, including oak, manzanita, sycamore, cottonwood, willow, and toyon trees. There are five sycamore trees located on site. Under the LUP, development must be sited and designed to avoid removal of trees and encroachment into the root zone of each tree. Where the removal of trees cannot be avoided by any feasible alternative, replacement trees must be provided.

Therefore, as the selected project would require the removal of all mature trees on site that could potentially provide habitat for sensitive species, impacts would be potentially significant. With implementation of mitigation measures BIO-1 and BIO-2 (tree protection plan, pre-construction surveys) the selected project would not conflict with the LUP.

Mitigation measure BIO-1 provides as follows:

**BIO-1:** Prior to certificate of occupancy, the applicant shall complete, to the satisfaction of the City of Solana Beach, a Tree Protection Plan. As required by Policy 3.53 of the Land Use Plan, the applicant shall replace all native trees (five sycamores) at a 1:1 ratio, and shall ensure maturity and viability of the root zone. Further, based on the removal of other trees on site as a result of development, and as outlined in the project's Tree Inventory and Protection Plan, the applicant shall provide an arborist's certification that the replacement trees are in good health and thriving. Monitoring will occur three times during year 1, twice during year 2, and annually during years 3 through 5. Following each monitoring inspection, a monitoring

report will be provided by the arborist as notification to the City of Solana Beach that the trees are healthy and establishing. The final monitoring report will provide certification that the trees are healthy and established. Should any of the trees die during the monitoring period, they will be replaced by a minimum 72-inch box tree and will be monitored for the remainder of the 5 year period. Declining trees will be provided appropriate measures to improve health or structural condition, or the tree(s) will be replaced.

Mitigation measure BIO-2 provides as follows:

**BIO-2:** The project biologist shall conduct pre-construction surveys in the proposed project impact area and a 500-foot buffer around the impact area no earlier than 7 days prior to any on-site grading and construction activities that would occur during the nesting/breeding season of special-status birds or birds protected under the Migratory Bird Treaty Act. Pre-construction surveys shall be conducted between January 1 and September 15, or as determined by the project biologist. The purpose of the pre-construction surveys shall be to determine whether occupied nests are present in the impact zone or within 500 feet of the impact zone boundary. In addition, surveys shall be conducted every 2 weeks for sensitive nesting birds during the breeding season.

If occupied nests are found, then the limits of construction to avoid occupied nests shall be established by the project biologist in the field with flagging, fencing, or other appropriate barriers (e.g., 300 to 500 feet), and construction personnel shall be instructed about the sensitivity of nest areas. If nesting sensitive birds are detected at any time during the breeding season, the California Department of Fish and Wildlife shall be notified, and the project biologist shall serve as a weekly construction monitor during those periods when construction activities are to occur near active nest areas (i.e., within 100 feet of setback) to avoid inadvertent impacts to nests. The project biologist may adjust the 250-foot or 500-foot setback at his or her discretion depending on the species and the location of the nest (e.g., if the nest is well protected in an area buffered by dense vegetation). Once the nest is no longer occupied for the season, construction may proceed.

The selected project would be consistent with all other relevant goals and policies within the Solana Beach General Plan, Solana Beach Municipal Code, and LUP regarding the preservation and protection of biological resources. Implementation of these mitigation measures will reduce the potential impacts to biological resources to a level that is less than significant.

### *Reference*

DEIR Section 6.5.2, Alternative 7 – Single Phase Construction, and DEIR Section 3.3, Biological Resources.

## **6.3 Cultural Resources**

### **Archaeological Resources**

#### *Impact*

In the unexpected event that grading and excavation activities during construction of the selected project unearth intact archaeological materials, a potential significant impact could result.

#### *Finding*

Pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the selected project that will substantially lessen or avoid the significant effect as identified in the FEIR to a level below significance.

#### *Facts in Support of Finding*

The potential for intact, unknown, subsurface prehistoric archaeological materials to be present on the selected project site is considered very low because the site has been fully developed since the 1970s. However, in the unexpected event that grading and excavation activities during construction of the selected project unearth intact archaeological materials, a potential impact could result. Given the poor ground surface visibility during the pedestrian survey and the close proximity of SDI-10238, archaeological monitoring is recommended during any ground disturbance that extends beyond previously disturbed depths, in order to protect any previously unknown subsurface cultural deposits, including during any pre-construction soil testing and the initial grading of the site. In the event that any previously undetected cultural resources are encountered, all work should cease in the vicinity of the discovery in order to evaluate findings and determine whether additional archaeological work is needed. Therefore, impacts to archaeological resources would be potentially significant, and mitigation measure CUL-1 (archaeological monitor and a Native American (Kumeyaay) monitor) would be required.

Mitigation measure CUL-1 provides as follows:

**CUL-1:** Prior to the start of any ground-disturbing activity, the project applicant shall retain an archaeological monitor and a Native American (Kumeyaay) monitor, approved by the City of Solana Beach (City), to monitor ground-disturbing activities associated with the proposed project, including but not limited to grading, excavation, brush clearance, and grubbing. The archaeological and Native American monitors shall conduct preconstruction cultural resources worker sensitivity training to bring awareness to personnel of actions to be taken in the event of a cultural resources discovery. The duration and timing of monitoring shall be determined by the qualified archaeologist in consultation with the City.

Initially, all ground-disturbing activities associated with the proposed project shall be monitored. However, the qualified archaeologist, based on observations of soil stratigraphy or other factors, and subject to the approval of the City, may reduce the level of monitoring as warranted. In the event that cultural resources are unearthed during ground-disturbing activities, the archaeological monitor shall have the authority to halt or redirect ground-disturbing activities away from the vicinity of the find so that the find can be evaluated. If the find is determined to be potentially significant, the archaeologist, in consultation with the City and appropriate Native American monitor and group(s) (if the find is a prehistoric or Native American resource), shall develop a treatment plan. Construction activities shall be redirected to other work areas until the treatment plan has been implemented or the qualified archaeologist determines that work can resume in the vicinity of the find.

Implementation of this mitigation measure will reduce the potential impact to archaeological resources to a level that is less than significant.

### *Reference*

DEIR Section 6.5.2, Alternative 7 – Single Phase Construction, and DEIR Section 3.5, Cultural Resources.

### **Paleontological Resources**

#### *Impact*

Due to the depth of excavation during grading activities, there is a potential to encounter unknown paleontological resources. Therefore, impacts to unknown paleontological resources would be potentially significant.

***Finding***

Pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the selected project that will substantially lessen or avoid the significant effect as identified in the FEIR to a level below significance.

***Facts in Support of Finding***

Most paleontological resources are not exposed at the surface, and most fossils are found during earthmoving activities when geologic features are exposed. The City is almost entirely developed, so the likelihood of encountering subsurface paleontological or archaeological resources is greatest on sites that have been minimally excavated in the past (e.g., undeveloped parcels, vacant lots, and lots containing surface parking; undeveloped areas around historic buildings; under buildings with post, pier, slab, or shallow wall foundations without basements). Previously excavated areas, such as the selected project site, are generally considered to have a low potential for paleontological or archaeological resources because the soil containing the archaeological resources has been removed.

However, due to the depth of excavation during grading activities, there is a potential to encounter unknown paleontological resources. Because the exact depths of any potential sensitive resources are unknown, in the event that unexpected intact paleontological resources are unearthed during ground-disturbing activities, impacts would be potentially significant, and mitigation measure CUL-2 (paleontological mitigation) would be required.

Mitigation measure CUL-2 provides as follows:

**CUL-2:** Prior to the start of any ground-disturbing activity, the project applicant shall retain a qualified paleontologist (an individual with an MS or PhD in paleontology or geology who is familiar with paleontological procedures and techniques, who is knowledgeable in the geology and paleontology of San Diego County (County), and who has worked as a paleontological mitigation project supervisor in the County for a least 1 year) who shall attend the pre-construction meeting to consult with the grading and excavation contractors concerning excavation schedules, paleontological field techniques, and safety issues. A paleontological monitor (an individual who has experience in the collection and salvage of fossil materials, working under the direction of a qualified paleontologist) shall be on site on a full-time basis during the original cutting of previously undisturbed deposits of high paleontological resource potential (e.g., Quaternary terrace and landslide deposits correlative with the Bay Point Formation and Torrey Sandstone) to inspect exposures for contained fossils.

In the event that paleontological resources are discovered or unearthed during project subsurface activities, all earth-disturbing work within 50 feet of the find



shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist. The paleontologist shall notify the City to determine procedures that should be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the proposed project on the qualities that make the resource important. The plan shall be submitted to the City for review and approval prior to implementation.

Implementation of this mitigation measure will reduce the potential impact to paleontological resources to a level that is less than significant.

### ***Reference***

DEIR Section 6.5.2, Alternative 7 – Single Phase Construction, and DEIR Section 3.5, Cultural Resources.

### **Human Remains**

#### ***Impact***

In the unexpected event that human remains are unearthed during construction activities, impacts would be potentially significant.

#### ***Finding***

Pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the selected project that will substantially lessen or avoid the significant effect as identified in the EIR to a level below significance.

#### ***Facts in Support of Finding***

No cultural resources were identified within the Area of Potential Effect in the records search or during the pedestrian field survey. The selected project site is not currently being used, nor has it historically been used, as a cemetery, and there is no evidence that the site has been used for any human burials. There is a low probability of encountering human remains during ground-disturbing activities.

However, unanticipated discoveries of human remains require handling in accordance with California Public Resources Code, Section 5097.98, which states that in the event that human remains are discovered during construction, construction activity shall be halted and the area shall be protected until consultation and treatment can occur as prescribed by law. In the unexpected event that human remains are unearthed during construction activities, impacts would be

potentially significant, and mitigation measure CUL-3 (contact the County coroner) would be required.

Mitigation measure CUL-3 provides as follows:

**CUL-3:** In the event of accidental discovery of any human remains during construction of the proposed project, the applicant is responsible for the discovery and shall contact the County coroner immediately. Construction activities shall be halted in accordance with Section 15064.4(e)(1) of the California Environmental Quality Act Guidelines and Section 7050.5 of the California Health and Safety Code. If the remains are found to be Native American, California Health and Safety Code, Section 7050.5(c), and California Public Resources Code, Section 5097.98 (as amended by Assembly Bill 2641), shall be followed by the City

Implementation of this mitigation measure will reduce the potential impact to cultural resources to a level that is less than significant.

### *Reference*

DEIR Section 6.5.2, Alternative 7 – Single Phase Construction, and DEIR Section 3.5, Cultural Resources.

## **6.4 Hazards and Hazardous Materials**

### **Routine Transport, Use, or Disposal of Hazardous Materials**

#### *Impact*

The potential exists that additional asbestos-containing materials would be encountered during the demolition phases of the selected project. Therefore, impacts would be potentially significant.

#### *Finding*

Pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the selected project that will substantially lessen or avoid the significant effect as identified in the FEIR to a level below significance.

#### *Facts in Support of Finding*

Department of Toxic Substances Control HAZNET records indicate that approximately 10.95 tons of asbestos were removed from the site in 2004; approximately 0.84 tons of asbestos were removed and disposed of in 2005 and 2006; 3.2 tons and 1.6 tons were removed in separate disposals in 2010; 1.2 tons were removed in 2011; and 4.8 tons were removed in 2013. Due to the history of

asbestos-containing materials on site, the potential exists that additional asbestos-containing materials could be encountered during the demolition phase of the selected project. This would be a potentially significant impact, and mitigation measures HAZ-1 and HAZ-2 (asbestos survey performed by the County Department of Environmental Health and lead-based-paint survey performed by a Certified Lead Inspector/Assessor, respectively) would be required.

Mitigation measure HAZ-1 provides as follows:

**HAZ-1:** Prior to the start of demolition, an asbestos survey shall be performed by the County of San Diego (County) Department of Environmental Health (DEH), Occupational Health Program (OHP) for all on-site structures that will be disturbed by demolition activities in accordance with County Administrative Manual Asbestos Policy 0050-01-9. The survey shall cover the entire building to be demolished, document the location and types of asbestos found, and determine whether any on-site abatement of asbestos-containing materials is necessary. If asbestos is located during the survey, an abatement work plan shall be prepared by the applicant and approved by County DEH in compliance with local, state, and federal regulations for removal of such materials. The work plan shall include specifications for the proper removal and disposal of asbestos. The County DEH, OHP, or its designee will monitor project applicant's implementation of the asbestos work plan to ensure that proper controls are implemented and to ensure compliance with the work plan requirements and abatement contractor specifications. Any necessary asbestos sampling and abatement shall be done by a California Occupational Safety and Health Administration (Cal/OSHA)-certified asbestos consultant/contractor and all costs associated with such sampling and abatement shall be paid for by the project applicant.

In addition, the project applicant shall comply with all San Diego Air Pollution Control District and Cal/OSHA notification requirements pertaining to the disturbance of asbestos-containing materials. When applicable, the project applicant shall make these notifications prior to the activity as follows:

- A. 10-day notification to the San Diego Air Pollution Control District for renovation/demolition activities. (Note: These are 10 working days; asbestos activities can start on the 11th day. Working days means Monday through Friday, including holidays that fall on these days.)
- B. 24-hour notification to Cal/OSHA.

Mitigation measure HAZ-2 provides as follows:

**HAZ-2:** Prior to the start of demolition, a lead-based-paint survey shall be performed by a Certified Lead Inspector/Assessor as defined in Title 17, California Code of Regulations, Section 35005, approved by the City and paid for by the project applicant, for all on-site structures that will be disturbed by demolition activities in

accordance with local, state, and federal regulations. The survey shall cover the entire building to be demolished, document the location and types of lead-based paint found, and determine whether any on-site abatement of lead-based paint is necessary. If lead-based paint is located during the survey, an abatement work plan shall be prepared by the County DEH in compliance with local, state, and federal regulations for any necessary removal of such materials. The work plan shall include specifications for the proper removal and disposal of lead-based paint. The project applicant shall implement the work plan and shall be responsible for payment of all fees and costs associated with preparation and implementation of the work plan. The County DEH, OHP, or its designee will monitor project applicant's implementation of the lead-based paint work plan to ensure that proper controls are implemented and to ensure compliance with the work plan requirements and abatement contractor specifications.

The applicant shall retain a California-licensed lead-based-paint abatement contractor, approved by the City, for the removal work and proper removal methodology as outlined by Cal/OSHA (8 CCR 1529), and all other applicable federal, state, and local regulations regarding the removal, transport, and disposal of lead-containing material shall be applied. The lead-based-paint abatement work plan shall include a monitoring plan to be conducted by a qualified consultant during abatement activities to ensure compliance with the work plan requirements and abatement contractor specifications. The work plan shall include provisions for construction worker training, worker protection, and conducting exposure assessments as needed. As part of the work plan, construction contractors shall consult federal OSHA regulations (29 CFR 1926.62) and Cal/OSHA regulations (8 CCR 1532.1) regarding lead in construction standards for complete requirements. Demolition plans and contract specifications shall incorporate any necessary abatement measures for the removal of materials containing lead-based paint to the satisfaction of the City of Solana Beach Planning and Building Department. The measures shall be consistent with the abatement work plan prepared for the project and conducted by a California-licensed lead/asbestos abatement contractor.

Implementation of these mitigation measures will reduce the potential impacts to hazardous materials to a level that is less than significant.

### *Reference*

DEIR Section 6.5.2, Alternative 7 – Single Phase Construction, and DEIR Section 3.7, Hazards and Hazardous Materials.

## Upset and Accident Conditions Involving the Release Of Hazardous Materials

### *Impact*

The project site appears on the DTSC HAZNET listings because several tons of asbestos-containing waste; therefore impacts would be potentially significant, requiring mitigation.

### *Finding*

Pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the selected project that will substantially lessen or avoid the significant effect as identified in the FEIR to a level below significance.

### *Facts in Support of Finding*

According to the EDR report obtained for the proposed project, the site appears on the DTSC HAZNET listings because several tons of asbestos-containing waste from the project site was disposed of at various times between 2004 and 2013 in a San Diego County landfill under the Uniform Hazardous Waste Manifest system. Therefore, impacts associated with the reasonably foreseeable accidental release of hazardous materials during construction would be potentially significant and mitigation measures HAZ-1 and HAZ-2 would be required to reduce impacts to less than significant levels.

Mitigation measure HAZ-1 provides as follows:

**HAZ-1:** Prior to the start of demolition, an asbestos survey shall be performed by the County of San Diego (County) Department of Environmental Health (DEH), Occupational Health Program (OHP) for all on-site structures that will be disturbed by demolition activities in accordance with County Administrative Manual Asbestos Policy 0050-01-9. The survey shall cover the entire building to be demolished, document the location and types of asbestos found, and determine whether any on-site abatement of asbestos-containing materials is necessary. If asbestos is located during the survey, an abatement work plan shall be prepared by the applicant and approved by County DEH in compliance with local, state, and federal regulations for removal of such materials. The work plan shall include specifications for the proper removal and disposal of asbestos. The County DEH, OHP, or its designee will monitor project applicant's implementation of the asbestos work plan to ensure that proper controls are implemented and to ensure compliance with the work plan requirements and abatement contractor specifications. Any necessary asbestos sampling and abatement shall be done by a California Occupational Safety and Health Administration (Cal/OSHA)-certified asbestos consultant/contractor and all costs associated with such sampling and abatement shall be paid for by the project applicant.

In addition, the project applicant shall comply with all San Diego Air Pollution Control District and Cal/OSHA notification requirements pertaining to the disturbance of asbestos-containing materials. When applicable, the project applicant shall make these notifications prior to the activity as follows:

- A. 10-day notification to the San Diego Air Pollution Control District for renovation/demolition activities. (Note: These are 10 working days; asbestos activities can start on the 11th day. Working days means Monday through Friday, including holidays that fall on these days.)
- B. 24-hour notification to Cal/OSHA.

Mitigation measure HAZ-2 provides as follows:

**HAZ-2:** Prior to the start of demolition, a lead-based-paint survey shall be performed by a Certified Lead Inspector/Assessor as defined in Title 17, California Code of Regulations, Section 35005, approved by the City and paid for by the project applicant, for all on-site structures that will be disturbed by demolition activities in accordance with local, state, and federal regulations. The survey shall cover the entire building to be demolished, document the location and types of lead-based paint found, and determine whether any on-site abatement of lead-based paint is necessary. If lead-based paint is located during the survey, an abatement work plan shall be prepared by the County DEH in compliance with local, state, and federal regulations for any necessary removal of such materials. The work plan shall include specifications for the proper removal and disposal of lead-based paint. The project applicant shall implement the work plan and shall be responsible for payment of all fees and costs associated with preparation and implementation of the work plan. The County DEH, OHP, or its designee will monitor project applicant's implementation of the lead-based paint work plan to ensure that proper controls are implemented and to ensure compliance with the work plan requirements and abatement contractor specifications.

The applicant shall retain a California-licensed lead-based-paint abatement contractor, approved by the City, for the removal work and proper removal methodology as outlined by Cal/OSHA (8 CCR 1529), and all other applicable federal, state, and local regulations regarding the removal, transport, and disposal of lead-containing material shall be applied. The lead-based-paint abatement work plan shall include a monitoring plan to be conducted by a qualified consultant during abatement activities to ensure compliance with the work plan requirements and abatement contractor specifications. The work plan shall include provisions for construction worker training, worker protection, and conducting exposure assessments as needed. As part of the work plan, construction contractors shall consult federal OSHA regulations (29 CFR 1926.62) and Cal/OSHA regulations (8 CCR 1532.1) regarding lead in construction standards for complete requirements.

Demolition plans and contract specifications shall incorporate any necessary abatement measures for the removal of materials containing lead-based paint to the satisfaction of the City of Solana Beach Planning and Building Department. The measures shall be consistent with the abatement work plan prepared for the project and conducted by a California-licensed lead/asbestos abatement contractor.

Implementation of these mitigation measures will reduce the potential impacts to hazardous materials to a level that is less than significant.

### ***Reference***

DEIR Section 6.5.2, Alternative 7 – Single Phase Construction, and DEIR Section 3.7, Hazards and Hazardous Materials.

### **Hazardous Emissions or Hazardous Materials within One-Quarter Mile of a School**

#### ***Impact***

The St. James Catholic Church and school campus is located immediately to the west of, and adjacent to, the project site. Due to site proximity, there is a potential for impacts associated with hazardous emissions and handling of materials including the removal of asbestos and lead-containing materials within 0.25 miles of a school during construction.

#### ***Finding***

Pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the selected project that will substantially lessen or avoid the significant effect as identified in the FEIR to a level below significance.

#### ***Facts in Support of Finding***

The St. James Catholic Church and school campus is located immediately to the west of, and adjacent to, the project site. Although not within 0.25 miles of the project site, Earl Warren Middle School and the Santa Fe Christian Schools are located approximately 0.4 miles to the north and west, respectively, of the project site. As described in DEIR Section 3.7.4(A), the demolition and construction of the selected project would involve handling, transporting, storing, and disposing of hazardous materials; however, with compliance with federal, state, and local laws and regulations for hazardous materials handling, and with the implementation of mitigation listed in this section regarding asbestos and lead-based paint during the demolition phase of the selected project, the selected project would not present a substantial hazard to nearby schools. As discussed in DEIR Section 6.5.2, Alternative 7 – Single Phase Construction, the selected project would not result in significant impacts associated with air quality emissions. Further, as discussed in DEIR

Section 3.7.4(B), the site shows no evidence of adverse environmental hazards and would not result in a substantial hazard from the accidental release of hazardous materials. Due to site proximity, there is a potential for impacts associated with hazardous emissions and handling of materials including the removal of asbestos and lead-containing materials within 0.25 miles of a school during construction. This would be a potentially significant impact, and mitigation measures HAZ-1 and HAZ-2 (asbestos survey performed by the County Department of Environmental Health and lead-based-paint survey performed by a Certified Lead Inspector/Assessor, respectively) would be required.

Mitigation measure HAZ-1 provides as follows:

**HAZ-1:** Prior to the start of demolition, an asbestos survey shall be performed by the County of San Diego (County) Department of Environmental Health (DEH), Occupational Health Program (OHP) for all on-site structures that will be disturbed by demolition activities in accordance with County Administrative Manual Asbestos Policy 0050-01-9. The survey shall cover the entire building to be demolished, document the location and types of asbestos found, and determine whether any on-site abatement of asbestos-containing materials is necessary. If asbestos is located during the survey, an abatement work plan shall be prepared by the applicant and approved by County DEH in compliance with local, state, and federal regulations for removal of such materials. The work plan shall include specifications for the proper removal and disposal of asbestos. The County DEH, OHP, or its designee will monitor project applicant's implementation of the asbestos work plan to ensure that proper controls are implemented and to ensure compliance with the work plan requirements and abatement contractor specifications. Any necessary asbestos sampling and abatement shall be done by a California Occupational Safety and Health Administration (Cal/OSHA)-certified asbestos consultant/contractor and all costs associated with such sampling and abatement shall be paid for by the project applicant.

In addition, the project applicant shall comply with all San Diego Air Pollution Control District and Cal/OSHA notification requirements pertaining to the disturbance of asbestos-containing materials. When applicable, the project applicant shall make these notifications prior to the activity as follows:

- a. 10-day notification to the San Diego Air Pollution Control District for renovation/demolition activities. (Note: These are 10 working days; asbestos activities can start on the 11th day. Working days means Monday through Friday, including holidays that fall on these days.)
- b. 24-hour notification to Cal/OSHA.

Mitigation measure HAZ-2 provides as follows:

**HAZ-2:** Prior to the start of demolition, a lead-based-paint survey shall be performed by a Certified Lead Inspector/Assessor as defined in Title 17, California Code of



Regulations, Section 35005, approved by the City and paid for by the project applicant, for all on-site structures that will be disturbed by demolition activities in accordance with local, state, and federal regulations. The survey shall cover the entire building to be demolished, document the location and types of lead-based paint found, and determine whether any on-site abatement of lead-based paint is necessary. If lead-based paint is located during the survey, an abatement work plan shall be prepared by the County DEH in compliance with local, state, and federal regulations for any necessary removal of such materials. The work plan shall include specifications for the proper removal and disposal of lead-based paint. The project applicant shall implement the work plan and shall be responsible for payment of all fees and costs associated with preparation and implementation of the work plan. The County DEH, OHP, or its designee will monitor project applicant's implementation of the lead-based paint work plan to ensure that proper controls are implemented and to ensure compliance with the work plan requirements and abatement contractor specifications.

The applicant shall retain a California-licensed lead-based-paint abatement contractor, approved by the City, for the removal work and proper removal methodology as outlined by Cal/OSHA (8 CCR 1529), and all other applicable federal, state, and local regulations regarding the removal, transport, and disposal of lead-containing material shall be applied. The lead-based-paint abatement work plan shall include a monitoring plan to be conducted by a qualified consultant during abatement activities to ensure compliance with the work plan requirements and abatement contractor specifications. The work plan shall include provisions for construction worker training, worker protection, and conducting exposure assessments as needed. As part of the work plan, construction contractors shall consult federal OSHA regulations (29 CFR 1926.62) and Cal/OSHA regulations (8 CCR 1532.1) regarding lead in construction standards for complete requirements. Demolition plans and contract specifications shall incorporate any necessary abatement measures for the removal of materials containing lead-based paint to the satisfaction of the City of Solana Beach Planning and Building Department. The measures shall be consistent with the abatement work plan prepared for the project and conducted by a California-licensed lead/asbestos abatement contractor.

Implementation of these mitigation measures will reduce the potential impacts to hazardous materials to a level that is less than significant.

### ***Reference***

DEIR Section 6.5.2, Alternative 7 – Single Phase Construction, and DEIR Section 3.7, Hazards and Hazardous Materials.

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## List of Hazardous Materials Sites Creating a Hazard to the Public or the Environment

### *Impact*

Because the project site is included on the HAZNET listing identifying potential asbestos-containing waste, and demolition of the existing buildings may involve removal of asbestos, impacts would be potentially significant.

### *Finding*

Pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the selected project that will substantially lessen or avoid the significant effect as identified in the FEIR to a level below significance.

### *Facts in Support of Finding*

According to the EDR report obtained for the site, which included the results from searches of multiple databases and hazardous materials sites lists, the project site appears on the Department of Toxic Substances Control HAZNET listings because several tons of asbestos-containing waste were removed from the site between 2004 and 2013 and disposed of in a San Diego County landfill under the Uniform Hazardous Waste Manifest System. The site was not found on any other list of hazardous materials sites. Several sites were located in the vicinity of the site. Solana Beach Plaza, located approximately 0.65 miles to the northwest of the project site, was listed on the EnviroStor database for known places of release of hazardous substances. The Signature Group property, located approximately 0.23 miles to the northeast of the site, was listed for a known release of hazardous materials into soils. CBS Scientific Company Inc., located approximately 0.47 miles to the northwest of the site, was also listed for a known release of hazardous materials into soils. Although these sites have been recorded for known release of hazardous substances, both the distance and the type of release (soil only) makes it unlikely that any of these listed sites would affect the selected project. Because the site is included on the HAZNET listing identifying potential asbestos-containing waste, and demolition of the existing buildings may involve removal of asbestos, as discussed in Section 3.7.4(A), impacts would be potentially significant, and mitigation measure HAZ-1 (asbestos survey performed by the County Department of Environmental Health) would be required.

Mitigation measure HAZ-1 provides as follows:

**HAZ-1:** Prior to the start of demolition, an asbestos survey shall be performed by the County of San Diego (County) Department of Environmental Health (DEH), Occupational Health Program (OHP) for all on-site structures that will be disturbed by demolition activities in accordance with County Administrative Manual Asbestos Policy 0050-01-9. The survey shall cover the entire building to be demolished, document the

location and types of asbestos found, and determine whether any on-site abatement of asbestos-containing materials is necessary. If asbestos is located during the survey, an abatement work plan shall be prepared by the applicant and approved by County DEH in compliance with local, state, and federal regulations for removal of such materials. The work plan shall include specifications for the proper removal and disposal of asbestos. The County DEH, OHP, or its designee will monitor project applicant's implementation of the asbestos work plan to ensure that proper controls are implemented and to ensure compliance with the work plan requirements and abatement contractor specifications. Any necessary asbestos sampling and abatement shall be done by a California Occupational Safety and Health Administration (Cal/OSHA)-certified asbestos consultant/contractor and all costs associated with such sampling and abatement shall be paid for by the project applicant.

In addition, the project applicant shall comply with all San Diego Air Pollution Control District and Cal/OSHA notification requirements pertaining to the disturbance of asbestos-containing materials. When applicable, the project applicant shall make these notifications prior to the activity as follows:

- A. 10-day notification to the San Diego Air Pollution Control District for renovation/demolition activities. (Note: These are 10 working days; asbestos activities can start on the 11th day. Working days means Monday through Friday, including holidays that fall on these days.)
- B. 24-hour notification to Cal/OSHA.

Implementation of this mitigation measure will reduce the potential impacts to hazardous materials to a level that is less than significant.

### *Reference*

DEIR Section 6.5.2, Alternative 7 – Single Phase Construction, and DEIR Section 3.7, Hazards and Hazardous Materials.

## **6.5 Noise**

### **Exposure of Persons to or Generation of Noise Levels in Excess of Standards**

#### *Impact*

The selected project would result in temporary but significant impacts from noise during the construction phase.

***Finding***

Pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the selected project that will substantially lessen or avoid the significant effect as identified in the FEIR to a level below significance.

***Facts in Support of Finding***

Existing residential land uses to the north, south, and east are located within approximately 50 to 100 feet of the project boundaries. The closest point of construction activities to these receivers would be approximately 50 feet, and the furthest would be approximately 800 feet. The nearest receivers are located approximately 200 feet away from the acoustic center of construction activity (the idealized point from which the energy sum of all construction activity noise near and far would be centered). A construction noise level of 91 A-weighted decibels equivalent sound level (dBA  $L_{eq}$ ) at 50 feet would attenuate to approximately 79 dBA  $L_{eq}$  at 200 feet from the source. This noise level is substantially higher than the typical ambient daytime noise levels measured in the area. Noise levels of this magnitude would be readily audible and would dominate the noise environment in the area during construction operations. During short periods of time, construction activities would take place within approximately 50 feet of the nearest sensitive receptors to the north, south, and west; during these periods, noise levels could be as high as 85 dBA  $L_{eq}$ . As a result, the selected project would result in temporary but significant impacts from noise during the construction phase. Therefore, mitigation measures NOI-1 through NOI-7 (locate vehicle staging areas and stockpiling as far as is practicable from existing nearby noise sensitive uses; construction activities be limited to between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, and between the hours of 8:00 a.m. and 7:00 p.m. on Saturday; noise complaint response program; require noise control equipment (mufflers or silencers); noise monitoring by a Qualified Noise Consultant during the demolition and grading; restrictions on construction within 50 feet of sensitive receptors; immediately alter construction activities to achieve compliance when levels are exceeded) would be implemented.

Mitigation Measure NOI-1 provides as follows:

**NOI-1:** During all phases of construction, vehicle staging areas and stockpiling shall be located as far as is practicable from existing nearby noise sensitive uses.

Mitigation Measure NOI-2 provides as follows:

**NOI-2:** In compliance with the City of Solana Beach Municipal Code Noise Ordinance, the applicant shall require that construction activities be limited to between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, and between the hours of 8:00

a.m. and 7:00 p.m. on Saturday, with the exception of legal holidays during which time construction will not be permitted.

Mitigation Measure NOI-3 provides as follows:

**NOI-3:** Prior to issuance of any demolition or grading permit, the applicant shall establish a noise complaint response program subject to the approval of the City and shall respond to any noise complaints received for this project by measuring noise levels at the affected receptor site. The noise complaint response program shall require that all residences and noise-sensitive land uses within 50 feet of construction site shall be notified of the construction. The notification will describe the activities anticipated, provide dates and hours, and provide contact information with a description of a complaint and response procedure. Additionally, as part of the noise complaint response program, the applicant shall designate a “Construction Liaison” who will be responsible for notifying the City and Engineer and responding to any local complaints about construction noise. The liaison will determine the cause of the noise complaints (starting too early, bad muffler, etc.) and institute reasonable measures, approved by the City Engineer, to correct the problem within 48 hours after receiving a complaint.

If a noise complaint is registered that cannot be resolved by the Construction Liaison, then the applicant shall retain a Qualified Noise Consultant to conduct noise measurements at the location where the complaint was registered. If the noise level exceeds an  $Leq(8)$  of 75 A-weighted decibels (dBA; i.e., more than 75 dBA for more than 8 hours during any 24-hour period when measured at or within an adjacent residential property), the applicant shall implement noise reduction measures, such as portable sound attenuation walls, use of quieter equipment, shift of construction schedule to avoid the presence of sensitive receptors, etc., to reduce noise levels, to the satisfaction of the City Engineer. The determination of appropriate resolutions to noise complaints shall be sent to the complainant and City Engineer within 48 hours after the receipt of a complaint.

Mitigation Measure NOI-4 provides as follows:

**NOI-4:** The applicant shall require that all construction equipment be operated with mandated noise control equipment (mufflers or silencers). Enforcement will be accomplished by random field inspections during construction activities, by a qualified noise consultant, retained by the project applicant and approved by, to the satisfaction of the City Engineer.

Mitigation Measure NOI-5 provides as follows:

**NOI-5:** Prior to the issuance of a Demolition or Grading Permit, the applicant shall provide a written and signed letter to the Director of Community Development, stating that a Qualified Noise Consultant has been hired to conduct noise monitoring during the demolition and grading phases of construction. The Qualified Noise Consultant shall periodically monitor noise levels to ensure compliance with the Solana Beach Municipal Code Noise Ordinance sections dealing with construction noise and shall notify the City in writing within 24 hours of any exceedance of the Noise Ordinance.

Mitigation Measure NOI-6 provides as follows:

**NOI-6:** The following measures are required of all construction activities implemented under the proposed project:

- Stationary noise-generating equipment shall be located as far as reasonable from sensitive receptors when sensitive receptors adjoin or are within 50 feet of the construction site.
- Unnecessary idling of internal combustion engines (i.e., in excess of 5 minutes) shall be prohibited.

Mitigation Measure NOI-7 provides as follows:

**NOI-7:** In the event construction noise levels are exceeded, the applicant shall immediately alter construction activities to achieve compliance instance. Compliance shall be achieved through the installation of temporary noise barriers around construction areas adjacent to, or within 50 feet off, residences, schools or other noise-sensitive land uses along the north, west, and south sides of the project site. Where required to reduce noise levels in compliance with City regulations, temporary noise barriers shall be constructed of material with a minimum weight of 3 pounds per square foot with no gaps or perforations. Noise barriers may be constructed of, but are not limited to, 0.625-inch plywood, 0.625-inch oriented strand board, or hay bales. These barriers shall be a minimum of 8 feet in height and shall extend the full length of the demolition, grading or construction area. Monitoring of compliance shall also be required following installation of any required noise barriers.

Implementation of these mitigation measures will reduce the potential impacts from noise to a level that is less than significant.

### ***Reference***

DEIR Section 6.5.2, Alternative 7 – Single Phase Construction, and DEIR Section 3.10, Noise.

## **Permanent Increase in Ambient Noise Levels**

### ***Impact***

Noise levels from on-site operational activities, such as heating, ventilation, and air conditioning (HVAC) noise, would be potentially significant.

### ***Finding***

Pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the selected project that will substantially lessen or avoid the significant effect as identified in the FEIR to a level below significance.

### ***Facts in Support of Finding***

Existing residential land uses to the north, south, and east are located within approximately 50 to 100 feet of the project boundaries. The selected project would result in an increase in traffic noise levels of 1 decibel (dB) or less, which is not a substantial increase. However, as discussed in Threshold A, noise levels from on-site operational activities, such as HVAC noise, would be potentially significant. Impacts would be reduced to less than significant with implementation of mitigation measure NOI-8 (installation of sound barriers or the specifications that the HVAC units do not exceed a sound pressure level of 45 dBA at a distance of 25 feet).

Mitigation measure NOI-8 provides as follows:

**NOI-8:** Prior to final inspection the project applicant shall establish to the satisfaction of the City Engineer that through either the installation of sound barriers or the specifications of the heating, ventilating, and air conditioning (HVAC) units installed for the project, that the HVAC units do not exceed a sound pressure level of 45 dBA at a distance of 25 feet, on or off site. An example of an HVAC unit producing less than 45 dBA at a distance of 25 feet is the Trane 4DCY4024.

Implementation of this mitigation measure will reduce the potential impact from noise to a level that is less than significant.

### ***Reference***

DEIR Section 6.5.2, Alternative 7 – Single Phase Construction, and DEIR Section 3.10, Noise.

## **Temporary or Periodic Increase in Ambient Noise**

### ***Impact***

Noise from construction of the selected project would result in a substantial increase in temporary noise levels above existing ambient noise levels. Therefore, the impacts due to noise levels from construction would be potentially significant.

### ***Finding***

Pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the selected project that will substantially lessen or avoid the significant effect as identified in the FEIR to a level below significance.

### ***Facts in Support of Finding***

A construction noise level of 91 dBA Leq at 50 feet would attenuate to approximately 79 dBA Leq at 200 feet from the source. This noise level is substantially higher than the typical ambient daytime noise levels measured in the area. Noise levels of this magnitude would be readily audible and would dominate the noise environment in the area during construction operations. As such, noise from construction of the proposed project would result in temporary noise levels, which would be well above existing ambient noise levels and are considered substantial increases. Therefore, the impacts due to noise levels from construction would be potentially significant. Therefore, mitigation measures NOI-1 through NOI-7 (locate vehicle staging areas and stockpiling as far as is practicable from existing nearby noise sensitive uses; construction activities be limited to between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, and between the hours of 8:00 a.m. and 7:00 p.m. on Saturday; noise complaint response program; require noise control equipment (mufflers or silencers); noise monitoring by a Qualified Noise Consultant during the demolition and grading; restrictions on construction within 50 feet of sensitive receptors; immediately alter construction activities to achieve compliance when levels are exceeded) would be implemented. These mitigation measures are set forth in full above and in Section 3.10 of the DEIR and are incorporated herein by this reference. Implementation of these mitigation measures will reduce the potential impacts from noise to a level that is less than significant.

### ***Reference***

DEIR Section 6.5.2, Alternative 7 – Single Phase Construction, and DEIR Section 3.10, Noise.



## 6.6 Tribal Cultural Resources

### Listed in the California Register or Local Register of Historical Resources

#### *Impact*

The potential for intact, unknown, subsurface prehistoric archaeological materials to be present in the project site is considered very low; however, there is the potential for the inadvertent discovery of tribal cultural resources during ground-disturbing activities.

#### *Finding*

Pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the selected project that will substantially lessen or avoid the significant effect as identified in the FEIR to a level below significance.

#### *Facts in Support of Finding*

Although there are no known tribal cultural resources on site, there is the potential for the inadvertent discovery of tribal cultural resources during ground-disturbing activities. Implementation of mitigation measures CUL-1 and CUL-3, previously identified in Chapter 3.5 of this DEIR, would ensure potential impacts to tribal cultural resources would not be substantial. CUL-1 specifically addresses the Viejas Band of Kumeyaay Indians' request for a Kumeyaay cultural monitor to monitor ground-disturbing activities associated with the selected project. Implementation of mitigation measures CUL-1 and CUL-3 (archaeological monitor and a Native American (Kumeyaay) monitor, paleontological mitigation, contact the County coroner) would reduce potential impacts to tribal cultural resources to a less-than-significant level. Therefore, impacts would be less than significant with mitigation incorporated. These mitigation measures are set forth in full above and in Section 3.13 of the DEIR and are incorporated herein by this reference. Implementation of these mitigation measures will reduce the potential impacts to tribal cultural resources to a level that is less than significant.

Mitigation measure CUL-1 provides as follows:

- CUL-1** Prior to the start of any ground-disturbing activity, the project applicant shall retain an archaeological monitor and a Native American (Kumeyaay) monitor, approved by the City of Solana Beach (City), to monitor ground-disturbing activities associated with the proposed project, including but not limited to grading, excavation, brush clearance, and grubbing. The archaeological and Native American monitors shall conduct preconstruction cultural resources worker sensitivity training to bring awareness to personnel of actions to be taken in the event of a cultural resources

discovery. The duration and timing of monitoring shall be determined by the qualified archaeologist in consultation with the City.

Initially, all ground-disturbing activities associated with the proposed project shall be monitored. However, the qualified archaeologist, based on observations of soil stratigraphy or other factors, and subject to the approval of the City, may reduce the level of monitoring as warranted. In the event that cultural resources are unearthed during ground-disturbing activities, the archaeological monitor shall have the authority to halt or redirect ground-disturbing activities away from the vicinity of the find so that the find can be evaluated. If the find is determined to be potentially significant, the archaeologist, in consultation with the City and appropriate Native American monitor and group(s) (if the find is a prehistoric or Native American resource), shall develop a treatment plan. Construction activities shall be redirected to other work areas until the treatment plan has been implemented or the qualified archaeologist determines that work can resume in the vicinity of the find.

Mitigation measure CUL-3 provides as follows:

**CUL-3** In the event of accidental discovery of any human remains during construction of the proposed project, the applicant is responsible for the discovery and shall contact the County coroner immediately. Construction activities shall be halted in accordance with Section 15064.4(e)(1) of the California Environmental Quality Act Guidelines and Section 7050.5 of the California Health and Safety Code. If the remains are found to be Native American, California Health and Safety Code, Section 7050.5(c), and California Public Resources Code, Section 5097.98 (as amended by Assembly Bill 2641), shall be followed by the City.

### ***Reference***

DEIR Section 6.5.2, Alternative 7 – Single Phase Construction, DEIR Section 3.5, Cultural Resources, and DEIR Section 3.13, Tribal Cultural Resources.

### **Listed in the California Register or Local Register of Historical Resources**

### ***Impact***

The potential for intact, unknown, subsurface prehistoric archaeological materials to be present on the site is considered very low; however, there is the potential for the inadvertent discovery of tribal cultural resources during ground-disturbing activities.

***Finding***

Pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the selected project that will substantially lessen or avoid the significant effect as identified in the FEIR to a level below significance.

***Facts in Support of Finding***

Although there are no known tribal cultural resources on site, there is the potential for the inadvertent discovery of tribal cultural resources during ground-disturbing activities. Implementation of mitigation measures CUL-1 and CUL-3, would ensure potential impacts to tribal cultural resources would not be substantial. CUL-1 specifically addresses the Viejas Band of Kumeyaay Indians' request for a Kumeyaay cultural monitor to monitor ground-disturbing activities associated with the selected project. Implementation of mitigation measures CUL-1 and CUL-3 (archaeological monitor and a Native American (Kumeyaay) monitor, paleontological mitigation, contact the County coroner) would reduce potential impacts to tribal cultural resources to a less-than-significant level. Therefore, impacts would be less than significant with mitigation incorporated. These mitigation measures are set forth in full above and in Section 3.13 of the DEIR and are incorporated herein by this reference. Implementation of these mitigation measures will reduce the potential impacts to tribal cultural resources to a level that is less than significant.

Mitigation measure CUL-1 provides as follows:

**CUL-1** Prior to the start of any ground-disturbing activity, the project applicant shall retain an archaeological monitor and a Native American (Kumeyaay) monitor, approved by the City of Solana Beach (City), to monitor ground-disturbing activities associated with the proposed project, including but not limited to grading, excavation, brush clearance, and grubbing. The archaeological and Native American monitors shall conduct preconstruction cultural resources worker sensitivity training to bring awareness to personnel of actions to be taken in the event of a cultural resources discovery. The duration and timing of monitoring shall be determined by the qualified archaeologist in consultation with the City.

Initially, all ground-disturbing activities associated with the proposed project shall be monitored. However, the qualified archaeologist, based on observations of soil stratigraphy or other factors, and subject to the approval of the City, may reduce the level of monitoring as warranted. In the event that cultural resources are unearthed during ground-disturbing activities, the archaeological monitor shall have the authority to halt or redirect ground-disturbing activities away from the vicinity of the find so that the find can be evaluated. If the find is determined to be potentially significant, the archaeologist, in consultation with the City and appropriate Native

American monitor and group(s) (if the find is a prehistoric or Native American resource), shall develop a treatment plan. Construction activities shall be redirected to other work areas until the treatment plan has been implemented or the qualified archaeologist determines that work can resume in the vicinity of the find.

Mitigation measure CUL-3 provides as follows:

**CUL-3** In the event of accidental discovery of any human remains during construction of the proposed project, the applicant is responsible for the discovery and shall contact the County coroner immediately. Construction activities shall be halted in accordance with Section 15064.4(e)(1) of the California Environmental Quality Act Guidelines and Section 7050.5 of the California Health and Safety Code. If the remains are found to be Native American, California Health and Safety Code, Section 7050.5(c), and California Public Resources Code, Section 5097.98 (as amended by Assembly Bill 2641), shall be followed by the City.

### *Reference*

DEIR Section 6.5.2, Alternative 7 – Single Phase Construction, DEIR Section 3.5, Cultural Resources, and DEIR Section 3.13, Tribal Cultural Resources.

### **Resource Determined by the Lead Agency to be Significant per PRC Section 5024.1**

### *Impact*

There is the potential for unknown or buried tribal cultural resources to be present at the project site. Therefore, impacts are considered potentially significant.

### *Finding*

Pursuant to CEQA Guidelines Section 15091(a)(1), changes or alterations are required in, or incorporated into, the selected project that will substantially lessen or avoid the significant effect as identified in the FEIR to a level below significance.

### *Facts in Support of Finding*

Based on information gathered from the Cultural Resources Study for the proposed project and its selected alternatives (Appendix G), the Native American Heritage Commission, and consultation with Native American Tribes who are traditionally and culturally affiliated with the geographic area, there are no known tribal cultural resources within the project area. However, given the poor ground surface visibility during the pedestrian survey and the close proximity of SDI-10238, there is still the potential for unknown or buried resources to be present at the project site.

Implementation of mitigation measure CUL-1, previously identified in Chapter 3.5, would provide for the presence of a qualified archaeological and Kumeyaay cultural monitor(s) during ground-disturbing activities that would be able to identify any previously unidentified Tribal cultural resources, to prevent inadvertent disturbance of any intact cultural deposits that may be present. Should any resources be identified, implementation of mitigation measures CUL-1 and CUL-3 (archaeological monitor and a Native American (Kumeyaay) monitor, paleontological mitigation, contact the County coroner) would ensure proper handling and treatment of such resources by providing for a formal evaluation and opportunity to mitigate impacts to such discoveries. With implementation of mitigation measures CUL-1 and CUL-3, previously identified in Chapter 3.5 of this DEIR, potentially significant impacts to tribal cultural resources would be reduced to a level of less than significant. Therefore, impacts would be less than significant with mitigation incorporated. These mitigation measures are set forth in full above and in Section 3.13 of the DEIR and are incorporated herein by this reference. Implementation of these mitigation measures will reduce the potential impacts to tribal cultural impacts to a level that is less than significant.

Mitigation measure CUL-1 provides as follows:

**CUL-1** Prior to the start of any ground-disturbing activity, the project applicant shall retain an archaeological monitor and a Native American (Kumeyaay) monitor, approved by the City of Solana Beach (City), to monitor ground-disturbing activities associated with the proposed project, including but not limited to grading, excavation, brush clearance, and grubbing. The archaeological and Native American monitors shall conduct preconstruction cultural resources worker sensitivity training to bring awareness to personnel of actions to be taken in the event of a cultural resources discovery. The duration and timing of monitoring shall be determined by the qualified archaeologist in consultation with the City.

Initially, all ground-disturbing activities associated with the proposed project shall be monitored. However, the qualified archaeologist, based on observations of soil stratigraphy or other factors, and subject to the approval of the City, may reduce the level of monitoring as warranted. In the event that cultural resources are unearthed during ground-disturbing activities, the archaeological monitor shall have the authority to halt or redirect ground-disturbing activities away from the vicinity of the find so that the find can be evaluated. If the find is determined to be potentially significant, the archaeologist, in consultation with the City and appropriate Native American monitor and group(s) (if the find is a prehistoric or Native American resource), shall develop a treatment plan. Construction activities shall be redirected to other work areas until the treatment plan has been implemented or the qualified archaeologist determines that work can resume in the vicinity of the find.

Mitigation measure CUL-3 provides as follows:

**CUL-3** In the event of accidental discovery of any human remains during construction of the proposed project, the applicant is responsible for the discovery and shall contact the County coroner immediately. Construction activities shall be halted in accordance with Section 15064.4(e)(1) of the California Environmental Quality Act Guidelines and Section 7050.5 of the California Health and Safety Code. If the remains are found to be Native American, California Health and Safety Code, Section 7050.5(c), and California Public Resources Code, Section 5097.98 (as amended by Assembly Bill 2641), shall be followed by the City.

### *Reference*

DEIR Section 6.5.2, Alternative 7 – Single Phase Construction, DEIR Section 3.5, Cultural Resources, and DEIR Section 3.13, Tribal Cultural Resources.

## **7 FINDINGS REGARDING CUMULATIVE SIGNIFICANT EFFECTS**

CEQA requires a Lead Agency to evaluate the cumulative impacts of a proposed project (CEQA Guidelines Section 15130(a)). Cumulative impacts are those which are considered significant when viewed in combination with the impacts of other closely related past, present, and reasonably foreseeable future projects (CEQA Guidelines Section 15355). Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.

The DEIR analyzes cumulative impacts by compiling a list of past, present and reasonably anticipated future projects producing related or cumulative impacts, including projects outside the agency’s jurisdiction (CEQA Guidelines Section 15130(b)(1)(A)). The list of “past, present and reasonably anticipated future projects” should include related projects which already have been constructed, are presently under construction, are approved but not yet under construction, and are not yet approved but are under environmental review at the time the DEIR is prepared (CEQA Guidelines Section 15130). The list must include not only projects under review by the Lead Agency, but also those under review by other relevant public agencies.

The cumulative projects considered in the DEIR generally included those projects within the City or nearby areas of adjacent cities. The DEIR considered 21 past, present, and reasonably foreseeable projects within the vicinity of the project in evaluating potential cumulative impacts. The analysis of the proposed project’s potential significant cumulative impacts is found in DEIR Chapter 4, Cumulative Impacts. Chapter 4 also includes a detailed description of the cumulative projects in Table 4-1. Based on the information and analysis provided in Chapter 4, Cumulative Effects, and Section 6.5.2, Alternative 7 – Single Phase Construction, the DEIR determined that the potential cumulative impacts of the project would be less than significant for all resources.

Pursuant to CEQA Guidelines Section 15091, therefore, no findings regarding cumulative impacts are required.

## **8 FINDINGS REGARDING PROJECT ALTERNATIVES**

In accordance with CEQA Guidelines Section 15126.6(a), an EIR must contain a discussion of “a range of reasonable alternatives to a project, or the location of a project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.” Section 15126.6(f) further states that “the range of alternatives in an EIR is governed by the ‘rule of reason’ that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice.” Thus, the following discussion focuses on project alternatives that are capable of eliminating significant environmental impacts or substantially reducing them as compared to the proposed project, even if the alternative would impede the attainment of some project objectives, or would be more costly. In accordance with CEQA Guidelines Section 15126.6(f)(1), among the factors that may be taken into account when addressing the feasibility of alternatives are: (1) site suitability; (2) economic viability; (3) availability of infrastructure; (4) general plan consistency; (5) other plans or regulatory limitations; (6) jurisdictional boundaries; and (7) whether the proponent can reasonably acquire, control, or otherwise have access to the alternative site.

As stated above from CEQA Guidelines Section 15126(a), an EIR shall address a reasonable range of alternatives that would “feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project.” This DEIR found that the selected project would have less-than-significant impacts, with and without incorporation of mitigation measures, in all environmental issue areas; no impacts resulting from the selected project would remain significant and unavoidable.

The alternatives presented and considered in the DEIR constitute a reasonable range of alternatives necessary to permit a reasoned choice among the options available to the City and/or the project proponent.

Three alternatives are under consideration in addition to the proposed project:

1. Originally Proposed Project (Reduced Export)
2. Single Phase Construction (selected)
3. No Project Alternative

The No Project (No Build) Alternative is a required element of an EIR pursuant to CEQA Guidelines Section 15126.6(e) that examines the environmental effects that would occur if the project were not to proceed.

While all of the potential significant impacts of the proposed project can be reduced or avoided to a level below significance by the implementation of feasible mitigation measures, the City has determined that the balance of environmental concerns regarding the duration of construction (prolonged impacts associated with air quality and noise), the Single Phase Construction alternative is approved as the selected project. Because all of the potential significant impacts of the selected project can be reduced or avoided to a level below significance by the implementation of feasible mitigation measures, no findings regarding project alternatives are required.



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**RESOLUTION NO. 2018-132**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, CONDITIONALLY APPROVING A DEVELOPMENT REVIEW PERMIT, STRUCTURE DEVELOPMENT PERMIT, VESTING TENTATIVE PARCEL MAP AND AFFORDABLE HOUSING AGREEMENT FOR THE SOLANA HIGHLANDS RESIDENTIAL COMMUNITY AND AFFORDABLE SENIOR HOUSING PROJECT AT 661-781 SOUTH NARDO DRIVE AND 821 STEVENS AVENUE.**

**APPLICANT: H.G. Fenton**

**CASE NO.: 17-14-29 DRP/SDP/VTPM/AFFORDABLE HOUSING AGREEMENT**

**WHEREAS**, H.G. Fenton (hereinafter referred to as "Applicant") has submitted an application for a Development Review Permit (DRP) and Structure Development Permit (SDP) subject to Title 17 (Zoning), of the Solana Beach Municipal Code (SBMC); and

**WHEREAS**, the applicant is also requesting approval of a Vesting Tentative Parcel Map (VTPM) which would modify the property from three lots to two lots; and

**WHEREAS**, at the public hearing on December 5, 2018, the City Council received and considered evidence concerning the proposed application as revised; and

**WHEREAS**, the public hearing was conducted pursuant to the provisions of Solana Beach Municipal Code Section 17.72.030; and

**WHEREAS**, the City Council of the City of Solana Beach certified the Final Environmental Impact Report (FEIR), and adopted a Mitigation Monitoring and Reporting Program (MMRP) and Findings of Fact for the Solana Highlands project in accordance with the California Environmental Quality Act and the State CEQA Guidelines via Resolution 2018-131; and

**WHEREAS**, this decision is based upon the evidence presented at the hearing, and any information the City Council gathered by viewing the site and the area as disclosed at the hearing.

**NOW THEREFORE**, the City Council of the City of Solana Beach, California, does resolve as follows:

1. That the foregoing recitations are true and correct.
2. That the City Council has adopted and certified the FEIR in compliance with CEQA pursuant to Sections 15161 of the State CEQA Guidelines, adopted the MMRP, and made the required Findings of Fact.

3. That the request for a DRP, SDP and VTPM for the Solana Highlands project , a residential development consisting of 260 residences (including 32 affordable senior units) consisting of studios, one and two bedrooms, 10,287 square feet of clubhouse/leasing office space, 261,266 square feet of landscaped area, 65,434 square feet of open space, 525 on-site parking spaces including 233 garages, 22 covered spaces and 270 open/guest spaces, is conditionally approved based upon the following Findings and subject to the following Conditions:

#### 4. FINDINGS

##### **A. In accordance with Section 17.68.040 (Development Review Permit) of the City of Solana Beach Municipal Code, the City Council finds the following:**

- I. The proposed project is consistent with the General Plan and all applicable requirements of SBMC Title 17 (Zoning Ordinance), including special regulations, overlay zones and specific plans.

General Plan Consistency: The proposed project is consistent with the General Plan, which designates the property as High Density Residential (HR). Multi-family residential development under this category will range between 13 and 20 dwelling units per acre. Other compatible uses such as accessory dwelling units, home occupations, religious institutions, educational institutions, parks and recreation facilities, and public utilities are permitted or conditionally permitted. Assuming maximum development and an average household size of 2.4 persons per unit, population densities in these areas could be as high as approximately 48 persons per acre. Most of Solana Beach's high density residential development is located in the southwestern portion of the city (i.e., along the coastal bluffs south of the Plaza and in the area generally bounded by Via de la Valle, Solana Circle, Nardo Avenue, and Stevens Avenue). The project is proposing 260 residential units or 19.4 dwelling units per acre. The project could be found to be consistent with the following General Plan policies in the Land Use (LU) Element for High Density Residential land uses: The proposed Project is may be found consistent with the General Plan, which designates the property as High Density Residential (HR) and may be found to be consistent with the following General Plan policies in the City's Land Use (LU) Element for residential land uses:

**Policy LU-1.1:** Encourage the development and protection of healthy residential neighborhoods by ensuring sensitive transitions between those neighborhoods and adjoining areas and preventing deterioration through rehabilitation and maintenance efforts.

**Policy LU-1.2:** The City's land use plan shall include residential land uses comprising a range of housing types, locations, and densities.

**Policy LU-1.3:** In order to protect the rental housing stock, protect purchasers of dwelling units, assure consistency with the general plan density requirements, assure adequate parking, and assure adequate public facilities, conversion of existing apartments to condominiums or other similar forms of subdivision shall be regulated pursuant to City zoning and subdivision ordinances. The regulations shall ensure that conversion of apartments to condominiums or other similar types of subdivisions will meet current standards for the construction of new condominiums or other similar types of multi-family dwellings within the city.

**Policy LU-1.4:** Pursue opportunities to improve and protect existing residential neighborhoods by enhancing the pedestrian and bicycle experience, implementing traffic calming measures where appropriate, and providing convenient access to schools, parks, beaches, and other amenities and services.

**Policy LU-6.6:** Promote infill development, redevelopment, rehabilitation, and reuse efforts that protect and contribute positively to existing neighborhoods and surrounding areas.

**Policy LU-6.7:** Promote appropriate transitions in building height and bulk which are sensitive to the visual and physical character of adjacent neighborhoods.

The project is consistent with the following General Plan programs and goals in the City's Housing Element which the City is committed to implementing the housing goals, including regional housing needs assessment / local share goals and affordable housing goals, including:

- (1) Continuing to implement the density bonus and affordable housing ordinances.
- (2) Addressing and mitigating constraints to housing development.
- (3) Providing 32 affordable housing units for the elderly (seniors) as an identified "Special Needs Group" in the Housing Element. The

continued affordability of these units will be ensured for 55 years, and that the rents be limited to those affordable to low income households.

- (4) Meeting the local share of the Regional Housing Needs Assessment (RHNA) as established by SANDAG by providing a portion of the 150 affordable units the City must provide under State law.
- (5) Developing a site that was identified as having development potential for 260 dwelling units in the City's Housing Element.
- (6) Achieving the need for housing rehabilitation to preserve neighborhood quality.

The proposed project is also consistent with the requirements of Title 17 in that the proposed project density of 19.4 is within the allowable density of up to 20 units per acre in the HR zone. As designed the project meets the minimum lot area of 10,000 square feet in that each lot will be 1.25 acres and 11.64 acres in size, respectively. The proposed buildings will have a minimum front yard setback of 25 feet, side yard setback of 10 feet and rear yard setback of 25 feet as required in the HR zone. Per the City's parking ordinance, the project requires 494 parking spaces. The applicant is consistent with the parking ordinance requirement by providing 525 parking spaces on-site.

II. The proposed development complies with the following development review criteria set forth in Solana Beach Municipal Code Section 17.68.040.F:

- (1) Relationship with Adjacent Land Uses: The development shall be designed in a manner compatible with and where feasible, complimentary to existing and potential development in the immediate vicinity of the project site. Site planning on the perimeter of the development shall give consideration to the protection of surrounding areas from potential adverse effects, as well as protection of the property from adverse surrounding influences.

The subject lot is located within the High Residential Density (HR) Zone. According to SBMC 17.20.010 this zone allows 13 to 20 dwelling units/net acre and is intended for multiple-family attached units such as apartments and condominium buildings. Such areas are located in close proximity to major community facilities, commercial centers and transportation routes. It is intended that development in this zone utilize innovative site planning, and provide on-site recreational amenities.

No significant adverse effects upon neighboring properties have been identified or are anticipated to occur from the project implementation. As conditioned, the proposed project gives consideration to the protection of surrounding areas from potential adverse effects and provides protection of the property from adverse surrounding influences. Additionally, the City Council has certified the FEIR for this project found project impacts not to occur, to be less than significant, or to be less than significant with mitigation in all the topic areas analyzed.

- (2) **Building and Structure Placement:** Buildings and structures shall be sited and designed in a manner which visually and functionally enhances their intended use.

The Project includes a total of 24 buildings including one affordable senior housing building (Building 25) and one clubhouse/leasing center (Building 19). All parking would be provided onsite in either the form of a garage or surface parking including covered and uncovered and includes 233 garages, 22 covered spaces and 270 open/guest spaces.

Fifteen of the 24 buildings would be two stories in height and nine of the Buildings would be three stories in height. In general, the buildings located along South Nardo Avenue would be two stories and the buildings that are internal to the site would be three stories. The affordable senior building would also be three stories and is located at the southeast corner of the site.

The project includes a total of 260 units with a breakdown as follows:

- (a) 12 studio apartments that are 420 square feet in size
- (b) 128 one-bedroom apartments ranging in size from 517 to 954 square feet
- (c) 120 two-bedroom apartments ranging in size from 731 to 1,212 square feet.

Each unit proposes private open space in the form of patios for the units on the ground floor and balconies for the units on the second floor.

Project amenities on site would include a recreation facility/clubhouse building and associated recreation facilities such as a pool, spa, barbecue areas, walking paths, and passive usable open space. Additionally, the project would include a small private

park along South Nardo Avenue to reduce effects to public and private views in proximity to the existing greenspace on site.

The SBMC includes development standards for high density residential development based on the zone in which the project is located, including required setbacks, maximum FAR, and building height. The requested development standard waivers notwithstanding, the proposed Project meets or exceeds all required setbacks, and is below the maximum allowable FAR.

Required parking and landscaping standards are contained in the City's Off Street Parking Design Manual (OSPDM).

The highest point of the Project is 149.5 above Mean Sea Level (MSL), measured at Story Pole #39, with the Project 25 feet at that location. The maximum height of the Project is 47.1' above the lowest point of the existing/proposed grade at Story Pole #86 where the project site elevation is 116 feet above MSL at that location. The Applicant has requested a waiver of the 30 foot height standard for the proposed Project.

- (3) Landscaping: The removal of significant native vegetation shall be minimized. Replacement vegetation and landscaping shall be compatible with the vegetation of the surrounding area. Trees and other large plantings shall not obstruct significant views when installed or at maturity.

Per SBMC 17.56.040, the proposed development is subject to the City's Water Efficient Landscape Regulations. The existing site contains developed areas and vegetation consisting of both native trees and non-native ornamental trees, shrubs and other plant species.

The conceptual landscaping plan for the Project proposes 261,266 square feet of landscape area which is equal to approximately 45% of the project site. During construction of the proposed Project, it is anticipated that all of the existing trees, shrubs and other vegetation would be removed as part of the proposed Project due to the extent of grading that is proposed on site to lower pad elevations.

The Project has been conditioned to comply with the LCP LUP Policy 3.53 regarding mitigation for native tree species removed from a project site. The inclusion of 5 California Sycamores would replace the existing mature 5 California Sycamores on site in accordance with City LCP requirements for native tree mitigation.

The Project would include the installation of mature (boxed) trees to reduce visual and aesthetic effects from the loss of the existing vegetation on site. Larger shade trees would include approximately 10 84-inch box Coast Live Oaks along the southern edge of the site and approximately 60 trees that would be a mix of Coast Live Oaks, Aleppo Pines, and California Sycamores, in 24-inch boxes throughout the site. A further mix of trees ranging in size and style includes over 400 trees to be planted on site.

The landscape plan includes the use of native species and/or drought-tolerant plant material. No invasive or potentially invasive species would be used. Planting is intended to be a connecting device linking the various pieces of the project site and design styles. The landscape plan uses plant material to help define spaces, create/encourage circulation paths, emphasize entry points, and provide softness and scale to the architecture. Evergreen, deciduous, and flowering material are proposed throughout the site and mature native trees are proposed. New landscaping would use significantly less water than the current landscaping, as the proposed project would use reclaimed water for all landscape uses and would also comply with all California landscape water-usage standards.

The Applicant's conceptual landscape plan has been reviewed by the City's third-party landscape architect who has recommended approval of the conceptual landscape plan. The Applicant would be required to submit detailed construction landscape drawings that would be reviewed by the City's third-party landscape architect for conformance with the conceptual plan. In addition, the City's third-party landscape architect would perform inspections during the construction phase of the project. A separate condition has been added to require that native or drought-tolerant and non-invasive plant materials and water-conserving irrigation systems are required to be incorporated into the landscaping to the extent feasible.

- (4) Roads, Pedestrian Walkways, Parking and Storage Areas: Any development involving more than one building or structure shall provide common access roads and pedestrian walkways. Parking and outside storage areas, where permitted, shall be screened from view, to the extent feasible, by existing topography, by the placement of buildings and structures, or by landscaping and plantings.

Residential projects in the City are required to comply with parking standards in the SBMC 17.52. The parking requirements for the



affordable senior housing element are per the State bonus density code (CGC 65915(p)). Although this maximum required parking ratio applies to the entire property, the Applicant is complying with SBMC Chapter 17.52 for the market-rate portion of the site (e.g., 228 units).

The proposed Project meets or exceeds the parking requirements for automobile and motorcycle parking as outlined in SBMC 17.52. The project includes 525 onsite parking spaces, 50 bicycle spaces, 17 motorcycle spaces and 9 accessible spaces.

Pedestrian paths are provided throughout the site to facilitate internal pedestrian circulation across and within the site.

Vehicular access to the site would be provided from two driveway locations on South Nardo Drive. In addition, direct access to the affordable senior housing building would be provided from the existing curb cut serving the existing multi-family units off Stevens Avenue located south of the intersection of South Nardo Drive and Stevens Avenue.

All entrances would provide full movement driveways allowing inbound and outbound movements. The Project driveways are proposed to be unsignalized.

Pedestrian access to and from the project site would be provided via new and/or improved perimeter sidewalks along South Nardo Drive and Stevens Avenue.

- (5) Grading: To the extent feasible, natural topography and scenic features of the site shall be retained and incorporated into the proposed development. Any grading or earth-moving operations in connection with the proposed development shall be planned and executed so as to blend with the existing terrain both on and adjacent to the site. Existing exposed or disturbed slopes shall be landscaped with native or naturalized non-native vegetation and existing erosion problems shall be corrected.

Grading is proposed in the amount of 175,000 cubic yards with 154,000 cubic yards of soil to be exported off-site. The project site varies from an elevation of approximately 61 to 68 feet above MSL, sloping upward from southeast to northwest. The majority of the proposed grading is intended to facilitate a general lowering of elevations on the site to address the potential for private view impairment and to facilitate internal circulation for pedestrians as well as vehicles.

The Engineering Department has included a condition of approval that the Applicant shall participate in the Sand Compatibility and Opportunistic Use Program (SCOUP) and deposit soil exports on city beaches if the Applicant's soil engineer determines that any or all of the soil to be exported is compatible with beach sediments in accordance with the City's SCOUP permits.

- (6) Lighting: Light fixtures for walkways, parking areas, driveways, and other facilities shall be provided in sufficient number and at proper locations to assure safe and convenient nighttime use. All light fixtures shall be appropriately shielded so that no light or glare is transmitted or reflected in such concentrated quantities or intensities as to be detrimental to the surrounding areas per SBMC 17.60.060 (Exterior Lighting Regulations).

Conditional approval of this Project includes the requirement that all new exterior lighting fixtures be in conformance with the City-Wide Lighting Regulations of the Zoning Ordinance (SBMC 17.60.060). All light fixtures will be shielded so that no light or glare is transmitted or reflected in such concentrated quantities or intensities as to be detrimental to the surrounding area. Adequate lighting shall be provided in all parking areas used by the public for safe pedestrian and vehicular movement. A minimum lighting level of 0.2 foot-candles is required for all parking areas. All lights provided to illuminate any loading space or parking area shall be designed, adjusted, and shielded to avoid casting light toward public roads and adjoining residential properties.

- (7) Usable Open Space: Recreational facilities proposed within required usable open space shall be located and designed to maintain essential open space values.

The Project is a high density residential development within the HR Zone and, pursuant to the SBMC, requires common usable open space in the amount of 250 square feet per residential unit for a total of 65,000 square feet. The proposed project provides a total of 65,434 square feet of open space.

In addition, as designed, each of the proposed residential units has its own patio (first floor units) or balcony (for second floor units) that is directly accessed from the residence.

The proposed project includes passive usable open space areas. Additionally, the proposed project would include a small fenced park area, along South Nardo Avenue.

The site currently has a recorded easement as part of the County of San Diego's approval of Special Use Permit No. P. 68-187 prior to the City's incorporation. The language of the recorded easement specifically allows for amendments to the original Special Use Permit (SUP) as well as additional activities authorized by the Grantee. By virtue of city incorporation, the City is now holds the recorded easement's Grantee interest. As such, the site is subject to the City's zoning regulations. Provided that all the required findings for issuance of the City's Development Review Permit (DRP) can be made, it would constitute the Grantee's authorization and act as an amendment to the SUP or supersede the SUP in its entirety. .

- III. All required permits and approvals including variances, conditional use permits, comprehensive sign plans, and coastal development permits have been obtained prior to or concurrently with the development review permit.

All required permits and approvals, including the SDP, VTPM and Affordable Housing Agreement are being processed concurrently with the Development Review Permit.

The Project is also located within the Coastal Zone as the entire City of Solana Beach is within the Coastal Zone. As a condition of project approval, the Applicant will be required to obtain a Coastal Development Permit, Waiver, or Exemption from the California Coastal Commission prior to the issuance of a building permit by the City.

- IV. If the development project also requires a permit or approval to be issued by a State or federal agency, the City Council may conditionally approve the development review permit upon the applicant obtaining the required permit or approval from the other agency.

The Applicant is required to obtain approval from the California Coastal Commission prior to issuance of building permits. The FEIR that was certified for this project does not include mitigation measures that require permits or approval from other agencies. The Mitigation Monitoring and Reporting Program (MMRP) was adopted for this project as a part of certification of the FEIR. All applicant proposed project design features are included as conditions of project approval.

**B. In accordance with Section 17.63.040 (Structure Development Permit) of the Solana Beach Municipal Code, the City Council finds the following:**

1. The Applicant for the Structure Development Permit has made a reasonable attempt to resolve the view impairment issues with the person(s) requesting

View Assessment. Since 2014, the Applicant has changed the project design to address claims filed in 2015 by lowering the overall elevation/grade of the site. Additional modifications have been made to address 2018 view claims. The key changes include, but are not limited to, dropping building pads between 3 feet and 17.5 feet, moving the secondary driveway 114.5 east resulting in Buildings 5 and 10 to be moved westerly, lowered Building 12 ridgeline 6 additional feet to address 2018 claim, lowered Building 13 ridgeline additional 4.5 feet to address 2018 claim, and relocated units from Building 12 to accommodate the dropped roofline.

2. There is no public property adjacent to the site, except right-of-way therefore, the proposed structures do not significantly impair a view from public property.
3. The proposed structures are designed and situated in such a manner as to minimize impairment of views. The Applicant has dropped building pads onsite by increasing the amount of soil to be excavated and exported off site. The proposed export of materials has lowered building pads between 3 feet and 17.5 feet. Additionally, reduced building heights from three stories to two stories has resulted in lowering of rooflines by as much as 19 feet from the original 2014 proposed project.
4. There is no significant cumulative view impairment caused by granting the application. There have been no new or proposed projects in the area that would contribute to cumulative view impairment impacts. As described in the staff report the Applicant has revised the project since 2014 to address all potential private view impairments.
5. The proposed structures are compatible with the immediate neighborhood character. The Applicant has designed the project with similar architectural features, materials, roof types and colors that can be found in the surrounding neighborhoods.

The Applicant will be required to show compliance with the approved maximum height and three-dimensional building envelope that was approved by the SDP at the time of submittal for a building permit and also prior to requesting a framing inspection.

**C. In accordance with Chapter 16.17 (Vesting Tentative Parcel Map) of the Solana Beach Municipal Code, the City Council finds the following:**

- I. That the proposed lot or parcel was not approved or recorded less than two years prior to the filing for approval of the subject vesting tentative parcel map.
- II. That the proposed lot or parcel was a legally created lot or parcel.

- III. That the proposed subdivisions proposes creation of less than 5 lots.
  - IV. That the vesting tentative parcel map meets the requirement of this code.
  - V. That the proposed lot or parcel was not part of an approved tentative parcel map wherein the parcel map requirement was previously waived.
  - VI. That the proposed map is consistent with applicable general and specific plans and applicable provisions of SBMC Title 17 as previously outlined in the DRP and SDP findings.
  - VII. That the site is physically suitable for the type of development.
  - VIII. That the site is physically suitable for the proposed density of development as demonstrated in the site plan and grading plan.
  - IX. That the design of the subdivision or the proposed improvements would not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat as analyzed in the EIR.
  - X. That the design of the subdivision will not cause serious public health problems as analyzed in the EIR.
  - XI. The design of the subdivision will not conflict with easements of record or easements established by court judgement, acquired by the public at large, for access through or use of property within the proposed subdivision and that alternate easements, for access or for use, will be provided and that these will be substantially equivalent to ones previously acquired by the public.
- D. In accordance with California Government Code Section 65863 (No Net Loss Findings), requiring cities to demonstrate that it has adequate capacity to accommodate its regional housing need, the City Council finds the following:**
- I. The City's 2013 – 2017 Housing Element identified Solana Highlands as having a capacity for 260 total units, resulting in a net increase of 66 units, and that the 66 units could be constructed at a density suitable for lower income housing. The proposed project contains 260 total units, but results in a net increase of only 62 units and contains only 32 lower income units. Section 65863(b)(2) requires the City to demonstrate that the remaining sites identified in the Housing Element are adequate to accommodate the City's share of the regional housing need for lower income housing.

- II. The City's total lower income need for the 2013-2021 period was 150 units. The City has approved 10 lower income units on South Sierra Street (the Pearl). If 32 low income units are approved in Solana Highlands, the City's remaining lower income RHNA will total 108 units.
- III. The Housing Element identified sites for up to 280 lower income units, significantly more than the 150 required. The four largest sites remaining (City Hall (14 units), 140 South Sierra Parking Lot (20 units), and North County Transit District Station (113 units)) together can accommodate 147 lower income units, well in excess of the 108 units required. Therefore the City has more than adequate sites to accommodate the City's share of the regional housing need for lower income housing.

## 5. CONDITIONS

Prior to use or development of the property in reliance on this permit, the Applicant shall provide for and adhere to the following conditions:

### A. Community Development Department Conditions:

- I. The Applicant shall pay required Public Facilities Fees and Park Fees, as established by SBMC Section 17.72.020 and Resolution 1987-36.
- II. The Applicant shall pay the required Public Art Fee for the net increase of 62 units prior to building permit issuance. If the proposed public art is approved by the Council and installed according to the approved plan, the Public Art Fee can be refunded at the building final inspection.
- III. Building Permit plans must be in substantial conformance with the plans presented to the City Council on November 14, 2018 and located in the project file dated October 2018.
- IV. Prior to requesting a framing inspection, the Applicant will be required to submit a height certification, signed by a licensed land surveyor, certifying that the maximum building height of the structure does not exceed 149.5 above Mean Sea Level (MSL), measured at Story Pole #39 and 47.1' above the lowest point of the existing/proposed grade at Story Pole #86 as measured from the lower of the existing or proposed grade, and is in conformance with the plans as approved by the City Council on November 14, 2018 and the certified story pole plot plan.
- V. The Applicant shall obtain required California Coastal Commission (CCC) approval of a Coastal Development Permit, Waiver or Exemption as determined necessary by the CCC, prior to the issuance of a grading or building permit by the City.

- VI. The Applicant will be required to provide a full Landscape Documentation Package in compliance with SBMC Chapter 17.56 prior to building permit issuance, which will be reviewed and inspected by the City's third-party landscape professional.
- VII. Native or drought tolerant and non-invasive plant materials and water conserving irrigation systems shall be incorporated into proposed landscaping to the extent feasible.
- VIII. Any new exterior lighting fixtures shall be in conformance with the City-Wide Lighting Regulations of SBMC Section 17.60.060.
- IX. Fifty-seven (57) guest parking spaces shall be marked as permanent guest spaces and may not be assigned or reserved for any tenant, occupant or employee.
- X. A Parking Management Plan, as approved by the City Manager, shall be in place to manage available parking to meet the needs of residents and avoid widespread resident use of adjacent street parking. The Parking Management Plan shall allocate spaces depending on the number of bedrooms and contain provisions in tenant leases that clearly restrict the garage space from impeding the ability to park an automobile in the garage and allow garages to be inspected periodically.
- XI. All light fixtures shall be appropriately shielded so that no light or glare is transmitted or reflected in such concentrated quantities or intensities that render them detrimental to the surrounding area.
- XII. If nesting sensitive birds are detected at any time during the breeding season, the California Department of Fish and Wildlife shall be notified and an appropriate disturbance set-back will be determined and imposed until the young-of-the-year are no longer reliant upon the nest. The set-back or buffer shall be no less than 100 feet. CDFW shall be notified in nesting sensitive birds are detected at the project site or in the immediate surrounding area during the breeding season. An appropriate set-back or buffer shall be determined by the qualified project biologist.
- XIII. The proposed preliminary Landscape Concept Plan includes the use of indigenous and/or drought-tolerant plant material, where feasible. No invasive or potentially invasive species would be used. The City shall review and approve the applicant's Landscape Concept Plan and confirm inclusion of drought-tolerant plant material
- XIV. Per Solana Beach Municipal Code (SBMC) Section 17.20.040(J), the proposed project is required to meet a minimum of 250 square feet per unit of usable open space. Therefore, 260 units would require a

minimum of 65,000 square feet of usable open space. As shown in Draft EIR Figure 2-6, the project would provide 65,065 square feet of usable open space (250 square feet per unit). The City shall review final project site plans to confirm the incorporation of required useable open space.

- XV. In addition to the measures that are part of Title 24, the project would include the following energy-efficiency measures in its design:
- (1) Electric vehicle charging stations for residents and guests
  - (2) Photovoltaic panels
  - (3) Low water use appliances, in-home fixtures, and irrigation
  - (4) Low VOC (volatile organic compound) paints
  - (5) Community recycling program
  - (6) Energy Star appliances
  - (7) Energy-efficient LED lighting, appliance, and heating, ventilation, and air conditioning (HVAC) design
  - (8) Saltwater pool with solar heating
  - (9) Building insulation elements installed under the inspection of the Home Energy Rating System (HERS) rating agency
  - (10) Drought-tolerant landscaping
  - (11) Possible reclaimed water use for irrigation
  - (12) Walking paths and bicycle lockers to promote more sustainable lifestyles for residents, employees, and guests. The applicant shall incorporate the identified and approved energy-efficiency measures into project design.
- XVI. Construction shall only occur between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, and between the hours of 8:00 a.m. and 7:00 p.m. on Saturday. Construction activities shall not occur on Sunday or holidays.
- XVII. All of the conditions of this project are continuing conditions. Failure of the Applicant to comply with any or all of said conditions at any time may result in the revocation of the permits granted for the development and use of the property



- XVIII. The City may elect to acquire beach grade material from the project, up to a maximum of 150,000 cubic yards per the City's SCOUN regulatory permits, at a market-rate value as determined by estimates of the price of comparable material, and at a maximum cost based on funding availability in Beach Sand Mitigation Fund held in trust for the City by SANDAG. The applicant shall be responsible for all costs associated with transporting the material to the beach.
- XIX. Any project plan sheets that were not updated from the original submittal shall be corrected to be consistent with the site plan reviewed and approved by City Council. Revised plans shall be submitted to the Community Development Department to the Director's satisfaction prior to plan check submittal.
- XX. Prior to the issuance of building permits, the project Applicant shall demonstrate to the City Manager that the project has an agreement in place to purchase 100 percent green power (electricity) from the City's Community Choice Aggregation (CCA) program, Solana Energy Alliance (SEA) "SEA Green" product, or, if this program is not in place, any successor CCA program or the San Diego Gas & Electric EcoChoice program. All house meter electricity accounts and all future residential tenant agreements for the proposed project shall require that all tenants opt in to either the City's SEA Green program (100 percent renewable power) or, if this program is not in place, any equivalent SEA successor program, or the San Diego Gas & Electric EcoChoice program. If the EcoChoice program is the only option, proof of enrollment in the EcoChoice program shall be provided to the City prior to obtaining building permits. The project applicant shall be responsible for paying the monthly charge related to customer usage.
- XXI. At least 10 working days prior to demolition or removal of existing on-site structures, the project Applicant shall submit an Asbestos Removal, Renovation, and Demolition Operations Notice of Intentions to the County of San Diego Air Pollution Control District. The Notice of Intentions must include:
- (1) The name and company of the person completing the notification form.
  - (2) The type of notice (i.e., whether the notice is an original notification, a revision to an existing notification, including the type of revision, or a cancellation of an existing notification).
  - (3) Type of operation (i.e., whether the operation(s) is a renovation, demolition, emergency renovation, emergency demolition, or planned renovation).

- (4) The facility name, address, building number, suite number, room number, city, state, and zip code.
- (5) The facility owner's name, address, city, state, zip code, contact person and title, and phone number.
- (6) The removal contractor's name, address, city, state, zip code, contractor's license number, contact person and title, and phone number.
- (7) The demolition contractor's name, address, city, state, zip code, contractor's license number, contact person and title, and phone number.
- (8) A description of the facility, including the number of floors, the number of dwelling units, age of the facility, and the past and present use of the facility.
- (9) Scheduled start and completion dates of renovation operations and/or of demolition operations.
- (10) The work practices, equipment, and engineering controls to be used in demolition operations.
- (11) Description of procedures to be followed in the event that unexpected regulated asbestos-containing material (RACM) is found or any Category I Nonfriable asbestos-containing material (ACM) or Category II Nonfriable ACM becomes crumbled, pulverized, broken into smaller pieces, or reduced to powder.
- (12) The name, address, city, state, zip code, contact person and title, and phone number of the waste transporter for all demolition debris containing no asbestos.
- (13) A certification that at least one person trained in accordance with San Diego Air Pollution Control District Regulation XII, District Rule No. 1206 Subsection (f)(8) will supervise the stripping and removal described by this notification.
- (14) Information about the individual conducting the facility survey including: name, company, title, mailing address and phone number, and the certification number for the Environmental Protection Agency (EPA) approved Building Inspector Course passed by the individual.
- (15) The condition of each ACM identified by the facility survey to be removed, stripped, or disturbed, or a statement that no ACM to be

disturbed by renovation or demolition operations has been identified at the facility.

- (16) The procedure(s), including analytical methods, used to detect the presence of RACM, Category I Nonfriable ACM, and Category II Nonfriable ACM.
- (17) For all ACM to be removed, stripped, or disturbed, the categorization of each material containing more than one percent asbestos as friable ACM, Category I Nonfriable ACM, or Category II Nonfriable ACM.
- (18) A description of the facility components containing ACM to be removed, stripped, or disturbed.
- (19) An estimate for the total amount of ACM to be removed, stripped, or disturbed from the facility including the surface area in square feet of other facility components, or volume in cubic feet if square footage cannot be established in the course of renovation or demolition operations regulated by this rule.
- (20) The specific work practices, equipment, and engineering controls that will be used to remove each ACM.
- (21) The name, address, city, state, zip code, contact person and title, and phone number of the waste transporter for all ACWM.
- (22) The name, address, city, state, zip code, and phone number of the waste disposal site for all ACWM.
- (23) In addition, a copy of the Asbestos Survey must be maintained on site for the duration of the project.

## **B. Affordable Housing Conditions**

- I. The Affordable Housing Agreement shall be executed and recorded against the entire property prior to the recordation of any parcel map or final subdivision map or issuance of building permits for the project, whichever occurs first.
- II. The affordable housing agreement and other required agreements shall be prepared by the City at the Applicant's expense.
- III. As proposed by the Owner, and to comply with the provisions of the City's Affordable Housing Ordinance (SBMC Chapter 17.70) and density bonus law (Government Code Section 65915 and SBMC Section 17.20.050), the project shall provide 32 Affordable Senior Units that are

affordable to lower income households (as defined in Section 50079.5 of the Health & Safety Code) at affordable rent (as defined in Section 50053 of the Health & Safety Code) for a 55-year period.

- IV. Construction of Affordable Senior Units. The Affordable Senior Units shall be constructed concurrently with construction of the Market Rate Units. To ensure concurrent construction, the City shall not issue a building permit for the 115th Market Rate Unit until it has issued a building permit for the 32nd Affordable Senior Unit, and the City shall not issue a certificate of occupancy or approve a final inspection for the 115th Market Rate Unit until it has issued a certificate of occupancy or approved a final inspection for the 32nd Affordable Senior Unit.
- V. Senior Housing Characteristics. The design of the Affordable Senior Units shall include all of the elements required by Civil Code Section 51.2(d) or successor provision. The Affordable Senior Units shall be inspected by the City prior to occupancy to determine that they meet the construction and other standards required by this Agreement and by State law.
- VI. Appearance. The design, appearance, and general quality of the Affordable Senior Units shall be compatible with those of the Market Rate Units and consistent with the designs of the Market Rate Units.
- VII. Amenities for Affordable Senior Units. Owner shall provide a furnished common indoor meeting space of at least one thousand (1,000) square feet for residents of the Affordable Senior Units and landscaped outdoor open space and recreation space of at least eight thousand (8,000) square feet adjacent to the Affordable Senior Units, as shown in the plans included in the City Approvals. Tenants of the Affordable Senior Units shall have access to the meeting space and outdoor space at no additional cost.
- VIII. Indemnity for Fee Waiver

The City has granted a fee waiver in the amount of \$500,00 under the Affordable Housing Ordinance with the intention that any financial assistance provided by the City through the fee waiver or by other means meets the exception set forth in Labor Code Sections 1720(c)(3) (a public subsidy that is de minimis in the context of the project) and Section 1720(c)(1) (private residential projects) to the general requirement that state prevailing wages be paid in connection with construction work that is paid for in whole or in part out of public funds. However, to the extent other funding sources or a future court or the Department of Industrial Relations determination require the payment of prevailing wages on the Project under the Labor Code, then Owner shall

comply with the prevailing wage requirements attached to these conditions (Contingent Prevailing Wage Requirements). Owner shall indemnify, hold harmless and defend (with counsel reasonably selected by the City), to the extent not prohibited by applicable law, the City, its councilmembers, commissioners, officials, employees and agents, against any claim for damages, compensation, fines, penalties or other amounts arising out of the failure or alleged failure of any person or entity (including the Owner, or its contractors or subcontractors) to pay prevailing wages as determined pursuant to Labor Code Sections 1720 et seq., to hire apprentices in accordance with Labor Code Sections 1777.5 et seq., or to comply with the other applicable provisions of Labor Code Sections 1720 et seq., 1725.5, 1771, 1771.1, 1771.4, 1776, 1777.5 et seq., 1810-1815 and the implementing regulations of the DIR in connection with the work performed in connection with the project. *[See Contingent Prevailing Wage Requirements below.]*

IX. Section 66020 Right to Protest

Developer is hereby notified, as required by Government Code Section 66020, that the approved plans and the conditions of approval and ordinances governing fees and exactions in effect at the time the project is approved constitute written notice of the description of the dedications, reservations, amount of fees and other exactions related to the project. As of the date of project approval, the 90 day period has begun in which developer may protest any dedications, reservations, fees or other exactions imposed by the City. Failure to file a protest in compliance with all of the requirements of Government Code Section 66020 will result in a legal bar to challenging the dedications, reservations, fees or other exactions.

X. CONTINGENT PREVAILING WAGE REQUIREMENTS

To the extent other funding sources or a future court or the Department of Industrial Relations (the "DIR") determination require the payment of prevailing wages on the Project under the Labor Code, the following shall apply:

- (1) In accordance with Labor Code Sections 1725.5 and 1771.1, the Owner shall and shall cause its contractors and subcontractors to pay prevailing wages in the construction of the Project as those wages are determined pursuant to Labor Code Sections 1720 et seq. and the implementing regulations of the Department of Industrial Relations (the "DIR"), to employ apprentices as required by Labor Code Sections 1777.5 et seq., and the implementing regulations of the DIR and comply with the other applicable

provisions of Labor Code Sections 1720 et seq., 1777.5 et seq., and implementing regulations of the DIR.

- (2) All calls for bids, bidding materials and the construction contract documents for the Project must specify that:
  - (a) No contractor or subcontractor may be listed on a bid proposal nor be awarded a contract for the Project unless registered with the DIR pursuant to Labor Code Section 1725.5.
  - (b) The Project is subject to compliance monitoring and enforcement by the DIR.
- (3) The Owner, as the agent of the "awarding body", shall register the Project as required by Labor Code Section 1773.3 as set forth in the DIR's online form PWC-100 "Form PWC-100) within two (2) days after entering into the construction contract and shall continue to update Form PWC-100 within two (2) days after new information becomes available that must be reported on Form PWC-100 (for example, new subcontractor hired).]
- (4) In accordance with Labor Code Sections 1725.5 and 1771.1, the Owner shall require that its contractors and subcontractors be registered with the DIR, and maintain such registration as required by the DIR.
- (5) Pursuant to Labor Code Section 1771.4, the Project is subject to compliance monitoring and enforcement by the DIR. The Owner shall and shall require its contractor sand subcontractors to submit payroll and other records electronically to the DIR pursuant to Labor Code Sections 1771.4 and 1776 et seq., or in such other format as required by the DIR.
- (6) The Owner shall and shall cause its contractors and subcontractors to keep and retain such records as are necessary to determine if prevailing wages have been paid as required pursuant to Labor Code Sections 1720 et seq., and that apprentices have been employed as required by Labor Code Section 1777.5 et seq., and shall, within ten (10) days of request by the City, provide to the City such records and other documentation reasonably requested by the City.
- (7) The Owner shall and shall cause its respective contractors and subcontractors to comply with all other applicable provisions of Labor Code, including without limitation, Labor Code Sections 1720 et seq., 1725.5, 1771, 1771.1, 1771.4, 1776, 1777.5 et seq.,

1810-1815 and implementing regulations of the DIR in connection with construction of the Project or any other work undertaken or in connection with the Property.

Copies of the currently applicable current per diem prevailing wages are available from the DIR website, [www.dir.ca.gov](http://www.dir.ca.gov). The Owner shall cause its respective contractors to post the applicable prevailing rates of per diem wages at the Project site and to post job site notices, in compliance with Title 8 California Code of Regulations 16451(d) or as otherwise as required by the DIR.

### C. Fire Department Conditions

The following are conditions of approval and are based on the Alternate Materials and Methods Request (AMMR) approved and dated March 26, 2018:

- I. **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. Exception: Single-Family residential driveways; serving no more than **two** 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.
- II. The hose pull shall be measured by an approved route around the exterior of each building.
- III. The Civil Engineer on record to verify that fire access turn-around, width and grade shall comply with the California Fire Code, local amendments and the ability for Solana Beach fire apparatus to maneuver for emergency responses.
- IV. The minimum unobstructed inside turning radius shall be 28'.
- V. **DEAD ENDS:** All 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.
- VI. **GRADE:** The gradient for a 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).

- (1) The Civil Engineer on record to verify that fire access turn-around, width and grade shall comply with the California Fire Code, local amendments and the ability for Solana Beach fire apparatus to maneuver for emergency responses.

**VII. FIRE HYDRANTS AND FIRE FLOWS:** The applicant shall provide fire hydrants of a type, number, and location satisfactory to the Solana Beach 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.

- (1) Fire Flow shall be provided per CFC Appendix B. A maximum reduction in fire flow of is 50 percent with an approved fire sprinkler system.
- (2) Fire hydrants shall be provided per CFC Appendix C (number, spacing, and type).

**VIII. GATES:** All 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 Solana Beach Fire Department standards.

**IX. 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 and shall be charged a reasonable fee for updating all response maps.

**X. 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.

XI. **POSTING OR STRIPING ROADWAYS “NO PARKING FIRE LANE”:** Fire Department access roadways, when required, shall be properly identified as per Solana Beach Fire Department standards. The means by which fire lanes are designated shall be maintained in a clean and legible condition at all times and be replaced or repaired when necessary to provide adequate visibility.

XII. **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 Solana Beach Fire Department.

XIII. **ADDRESS NUMBERS: STREET 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.

- (1) Directories shall provide to identify buildings/addresses.

XIV. **AUTOMATIC FIRE SPRINKLER SYSTEM:** Structures shall be protected by an automatic fire sprinkler system designed and installed to the satisfaction of the Fire Department.

- (1) NFPA 13 fire sprinkler systems proposed as a mitigation measure shall not be used for area increase or height increase per the approved Alternate Materials & Methods Mitigation.

XV. **CLASS “A” ROOF:** All structures shall be provided with a Class “A” Roof covering to the satisfaction of the Solana Beach Fire Department.

- XVI. **WET STANDPIPE SYSTEM:** A Class I or Class III combined wet standpipe system is required. Standpipe system shall be designed and installed per NFPA 14 and Solana Beach Fire Department requirements.
- (1) Proposed Class I combined wet standpipe shall be in locations approved by the Fire Department.
- XVII. **FIRE ALARM SYSTEM:** A California State Fire Marshal listed fire alarm system is required and shall be designed and installed per NFPA 72, California Fire Code and Solana Beach Fire Department requirements.
- XVIII. **SOLAR PHOTOVOLTAIC INSTALLATIONS (Solar Panels):** Solar Photovoltaic systems shall be installed per the California Fire Code and Solana Beach Fire Department requirements.
- XIX. **FIRE-RESISTANCE CONSTRUCTION:** Building #16, Building #20 and Building #23 shall be separated by a *fire wall* as defined by the California Building Code to create a separate building.

**D. Engineering Department Conditions:**

The Engineering Department has completed our review of the subject project, and based on the plans dated September 8, 2018 and Vesting Tentative Parcel Map dated November 5, 2018, we recommend the following conditions of approval:

**I. GRADING**

Obtain a grading permit in accordance with Chapter 15.40 of the Solana Beach Municipal Code. If approved by City Council, grading of the project site may be phased pursuant to the phasing as proposed in the development of the project. Conditions prior to the issuance of a grading permit shall include, but not be limited to the following:

- (1) The grading plan shall be prepared by a registered engineer and approved by the City Engineer. On-site grading design and construction shall be in accordance with Chapter 15.40 of the Solana Beach Municipal Code.
- (2) A soils report shall be prepared by a registered soil engineer and approved by the City Engineer. All necessary measures shall be taken and implemented to assure slope stability, erosion control and soil integrity. The grading plan shall incorporate all recommendations contained in the soils report.
- (3) The Structural setback zone, shown on the exhibit included in the "Updated Slope Stability Analysis, Solana Highlands, Solana

Beach, California, by Geocon, Inc., dated August 16, 2018, Revised August 28, 2018" should be incorporated into the grading plan. No habitable structures allowed in this zone.

- (4) All drainage should be directed away from the top of the existing and proposed cut slopes between the proposed development and existing properties.
- (5) All recommendations of the Hydrology Report (such as on site detention basins), prepared by Pasco Laret Suiter & Associates, shall be incorporated into the Grading Plan and approved by the City Engineer.
- (6) A storm water detention easement or maintenance agreement shall be recorded for maintenance of the detention basin by the property owner in perpetuity, prior to the occupancy of the first building on this project.
- (7) All retaining walls and drainage structures shall be shown on the grading plans. Retaining walls shown on the grading plan shall conform to the San Diego Regional Standards or be designed by a licensed civil engineer. Engineering calculations for all designed walls with a surcharge and nonstandard walls shall be submitted at grading plan check. Retaining walls may not exceed the allowable height within the property line setback as determined by the City of Solana Beach Municipal Code or as shown on approved exhibits as part of this discretionary action.
- (8) The applicant is responsible to protect the adjacent properties during construction. If any grading or other types of construction are anticipated beyond the property lines, the applicant shall obtain a written permission from the adjoining property owners for incidental grading or construction that may occur and submit the letter to the City Engineer prior to the anticipated work.
- (9) Pay grading plan check fee in accordance with the current Engineering Fee Schedule at initial grading plan submittal. Inspection fees shall be paid prior to issuance of the grading permit.
- (10) Obtain and submit grading security in a form prescribed by the City Engineer.
- (11) Obtain haul permit for import / export of soil. The applicant shall transport all excavated material to a legal disposal site.

- (12) Submit certification from the Engineer of Record and the Soils Engineer that all public or private drainage facilities and finished grades are functioning and installed in accordance with the approved plans. This shall be accomplished by the Engineer of record incorporating as-built conditions on the Mylar grading plans and obtaining signatures of the Engineer of Record and the Soil Engineer certifying the as-built conditions.
- (13) An Erosion Control Plan shall be prepared. Best management practices shall be developed and implemented to manage storm water and non-storm water discharges from the site at all times during excavation and grading activities. Erosion prevention shall be emphasized as the most important measure for keeping sediment on site during excavation and grading activities. Sediment controls shall be used as a supplement to erosion prevention for keeping sediment on site.
- (14) Show all proposed on-site private drainage facilities intended to discharge water run-off. Elements of this design shall include a hydrologic and hydraulic analysis verifying the adequacy of the facilities and identify any easements or structures required to properly convey the drainage. The construction of drainage structures shall comply with the standards set forth by the San Diego Regional Standard Drawings.
- (15) The Applicant shall submit a storm water management plan to demonstrate to the satisfaction of the City Engineer that the project does not increase storm water runoff or peak discharge from the existing condition, and that the requirements of SBMC 13.10 Storm Water Management and the RWQCB Final Order R9-2013-0001 are met.
- (16) No increased cross lot drainage shall be allowed.
- (17) Submit certification from a registered civil engineer and soil engineering that all public or private drainage facilities and finished grades are functioning and installed in accordance with the approved plans. This shall be accomplished by engineer of record incorporating as-built conditions on the Mylar grading plans and obtaining signatures of the engineer of record and soil engineer certifying the as-built conditions.
- (18) All construction demolition materials shall be recycled according to the City's Construction and Demolition recycling program and an approved waste management plan shall be submitted.

- (19) The applicant shall enter into an Encroachment, Removal, and Liability Agreement for any proposed private work in the Public right of way; including but not limited to grading, landscaping, installation of irrigation system, etc.
- (20) Slopes adjacent to site boundaries shall be set back in accordance with SBMC 15.40.140.

## II. PUBLIC IMPROVEMENTS

The following engineering conditions (1 thru 13 under Public Improvements) are required to improve the existing roadway network adjacent to and in general vicinity of the proposed project boundary consistent with the City's circulation element and implementing certain recommendations of the City's Comprehensive Active Transportation Strategies (CATS) Program in satisfaction of the Traffic Impact Fee (TIF) requirement. The applicant shall obtain an Engineering permit for construction of public improvements to the satisfaction of the City Engineer as follows:

- (1) The applicant shall be responsible for enhancement to the operation of Turfwood driveway access at Valley Avenue. These Enhancements may include but not be limited to:
  - (a) Modification of the traffic signal timing at the intersection of Valley Avenue and Stevens Avenue to provide for a more efficient egress at the Turfwood Lane access. The proposed signal timing enhancement may include construction of additional loop detectors on northbound Valley Avenue and associated communication and control equipment in the cabinet at a cost not to exceed \$50,000.
  - (b) Striping the Turfwood driveway for a distance of approximately 50 feet from Valley Avenue to accommodate one inbound lane, one outbound left turn lane, and one outbound right turn lane. Additionally, the applicant shall install "Keep Clear" legend on Valley Avenue at Turfwood driveway.
  - (c) Working with the City Engineer and the adjacent property owner to improve the sight visibility line for vehicles exiting Turfwood Lane. If the adjacent property owner is uncooperative, the applicant is not obligated to provide any improvements outside of the existing right of way.

- (d) Installation of a "Solar Powered Electronic Speed Sign" on Southbound Stevens Avenue or other means to calm traffic approaching Turfwood driveway access.
- (2) Applicant shall modify the Traffic signal at Nardo Avenue and Stevens Avenue to install a signal indicator for traffic calming purposes to emphasize a safe right turn on red from eastbound Nardo to southbound Stevens Avenue at a cost not to exceed \$50,000.
  - (3) On west side of Valley Avenue, south of Nardo Avenue provide appropriate regulatory signs to prohibit left turn out of the proposed driveway for the senior housing complex.
  - (4) On south Nardo Avenue west of Stevens Avenue install a raised concrete median and corresponding signage, striping, and pavement legends to channelize traffic. This may require elimination of on-street parking along South Nardo on both side of the street.
  - (5) On northwest, southwest, and northeast corner of South Nardo Avenue and Fresca Street, install concrete curb extensions. This will require elimination of 2 on-street parking spaces along south side of Nardo Avenue. The proposed curb extensions shall be designed to accommodate ADA compatible pedestrian ramps on both sides of Nardo Avenue. The applicant shall also install thermoplastic continental cross walk for pedestrian crossing at the stop-controlled north leg of South Nardo Avenue/Fresca Street and a solar powered pedestrian crossing flashing sign with corresponding signage.
  - (6) On Nardo Avenue install raised concrete chokers with sufficient lengths and widths; one at approximately 230 feet west of Fresca Street and a second one at approximately 360 feet east of Nardito Lane. The applicant shall enter into an Encroachment Maintenance and Removal Agreement (EMRA) for maintenance of any landscaping and irrigation system in these features. Additionally the applicant shall install two "Solar Powered Electronic Speed Signs" within this segment of Nardo Avenue.
  - (7) On South Nardo Avenue between East Solana Circle and Nardito Lane install a speed table (a long, flat speed bump), a thermoplastic continental crosswalk for pedestrian crossing and a solar powered pedestrian flashing sign with corresponding signage and striping.

- (8) On both sides of South Nardo between Solana Circle and Stevens Avenue install Sharrow marking pavement legends.
- (9) Construct all sewer lateral connections to the City sewer main consistent with City Standards.
- (10) Construct all proposed driveway entrances to the project on South Nardo Avenue and Valley Avenue consistent with City Standards.
- (11) Construct all storm drain connections to the City curb or storm drain system consistent with City Standards.
- (12) The existing sewer main serving this property, proposed to be replaced, shall be abandoned in the public right-of-way by plugging the street manhole connection and plugging the pipe at the right-of-way line. The sewer connection(s) for 821 Stevens Avenue shall be capped at the main.
- (13) Extend the existing recycled waterline from Stevens Avenue to the project's point of connection on Nardo Avenue. The applicant shall coordinate with Santa Fe Irrigation District, San Elijo Joint Powers Authority and County Health Department for this extension project. All irrigation system including the ones in the public right of way shall be provided by recycled water.

### III. SEWER FEES

The Applicant shall pay in full, at occupancy the one-time sewer capacity/connection fees of \$4,500.00 per Equivalent Dwelling Unit (EDU). The EDU assignment is per SBMC 14.08.060.

- (1) Pay in full, at occupancy the prorated portion of the current annual sewer charge for the remainder of the fiscal year. For FY 2018/19 the annual fee is \$665.67 per EDU. This condition shall be phased based on the prorated number of units in each phase
- (2) The applicant shall be entitled to credit all existing Sewer Capacity in use by the project and is required to pay fees only on net additional Equivalent Dwelling Units (EDU's) as proposed by this project.

### IV. VESTING TENTATIVE PARCEL MAP

- (1) A Parcel Map shall be prepared and recorded in accordance with Chapter 16.32 of SBMC Prior to obtaining a building permit or grading permit.

- (2) Provide a Subdivision Map Guarantee within ten days before recording the Vesting Parcel Map.
- (3) Pay Parcel Map plan check fee in accordance with the current Engineering Fee Schedule.
- (4) The applicant shall comply with Section 66436 of the Government Code by furnishing to the City Engineer a certification from each public utility and each public entity owning easements within the proposed subdivision stating that: (a) they have received from the developer a copy of the proposed Parcel Map; (b) they object or do not object to the filing of the Parcel Map without their signature; (c) in the case of a street dedication affected by their existing easement, they will sign a "subordination certificate" or "joint use certificate" on the map when required by the governing body.
- (5) Existing lot lines as shown on Vesting Tentative Parcel Map (VTPM) sheet G.1.1 of the DRP plans are in conflict with proposed development. The applicant shall prepare and record, to the satisfaction of the City Engineer, a Vesting Parcel Map or compatible document prior to issuance of the first building permit.
- (6) All easements, private and public utility easements, including but not limited to SDG&E, water, sewer, and storm drain shall be properly abandoned and when needed exchanged to the satisfaction of the City Engineer prior to the issuance of the first building permit.
- (7) According to sheet G.1.1 of the DRP exhibit, there is an access easements providing legal access to adjacent properties. Appropriate arrangements are be made to replace the access easement to the existing legal parcels.
- (8) The approval and recordation of the Parcel Map shall supersede and effectively amend previous development approvals, specifically SUP P68-187 approved by the County of San Diego January 24, 1969 and modified May 22, 1970. All existing open space easements will be abandoned concurrently.
- (9) Prior to the recordation of the Parcel Map, a "Regulatory Agreement and Declaration of restricted covenants" shall be in place and recorded against the property to the Satisfaction of the City Manager.
- (10) That prior to recordation of the Parcel Map a resolution summarily vacating the existing public sewer easement shall be recorded.



- V. CONDITIONS PRIOR TO OCCUPANCY SHALL INCLUDE, BUT NOT LIMITED TO THE FOLLOWING:
- (1) Underground all new utility services, including but not limited to electrical and telephone.
  - (2) Complete to the satisfaction of the City Engineer all grading, paving, public improvements, landscaping, and drainage improvements. With the approval of this application, the City Manager is authorized to allow interim occupancy for a portion of the project subject to acceptance of all required public and private improvements for the said portion of development and assurance for construction of the remainder of improvements to the satisfaction of the City Engineer.
  - (3) The Applicant shall pay all Development Impact Fees levied at the time of project approval. Development Impact Fees shall be based on the net increase of 62 units, unless otherwise provided.
6. ENFORCEMENT: Pursuant to SBMC 17.72.120(B) failure to satisfy any and all of the above-mentioned conditions of approval is subject to the imposition of penalties as set forth in SBMC Chapters 1.16 and 1.18 in addition to any applicable revocation proceedings.
7. EXPIRATION: Given the size and nature of the proposed project and the potential for displacement of approximately 500 Solana Beach residents during construction, all entitlement approvals for the project will expire 60 months after the date of Coastal Commission approval unless the Applicant has commenced construction prior to that date, and diligently pursued construction to completion. An extension of the approvals may be granted by the City Council.
8. INDEMNIFICATION AGREEMENT: The Applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify the Applicant of any claim, action, or proceeding. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and the Applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Applicant shall not be required to pay or perform any settlement unless such settlement is approved by Applicant.

9. NOTICE TO APPLICANT: Pursuant to Government Code Section 66020, you are hereby notified that the 90-day period to protest the imposition of the fees, dedications, reservations or other exactions described in this resolution commences on the effective date of this resolution. To protest the imposition of any fee, dedications, reservations or other exactions described in this resolution you must comply with the provisions of Government Code Section 66020. Generally, the resolution is effective upon expiration of the tenth day following the date of adoption of this resolution, unless the resolution is appealed or called for review as provided in the Solana Beach Zoning Ordinance.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Solana Beach, California, held on the 5<sup>th</sup> day of December 2018, by the following vote:

AYES: Councilmembers –

NOES: Councilmembers –

ABSENT: Councilmembers –

ABSTAIN: Councilmembers –

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DAVID A. ZITO, Mayor

APPROVED AS TO FORM:

ATTEST:

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JOHANNA N. CANLAS, City Attorney

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ANGELA IVEY, City Clerk



**KEYSER MARSTON ASSOCIATES**  
ADVISORS IN PUBLIC/PRIVATE REAL ESTATE DEVELOPMENT

**MEMORANDUM**

**ADVISORS IN:**  
Real Estate  
Affordable Housing  
Economic Development

**BERKELEY**  
A. Jerry Keyser  
Timothy C. Kelly  
Debbie M. Kern  
David Doezema  
Kevin Feeney

**LOS ANGELES**  
Kathleen H. Head  
James A. Rabe  
Gregory D. Soo-Hoo  
Kevin E. Engstrom  
Julie L. Romey  
Tim R. Bretz

**SAN DIEGO**  
Paul C. Marra

**To:** Greg Wade, City Manager  
City of Solana Beach

**From:** Kathleen Head

**Date:** November 29, 2018

**Subject:** Solana Highlands: Fee Reduction Analysis

At your request, Keyser Marston Associates, Inc. (KMA) evaluated the fee reduction request submitted to the City of Solana Beach (City) by H.G. Fenton (Applicant) as part of the entitlement process for the three parcels that make up a 13.4 acre development site located at 661-781 South Nardo Avenue and 821 Stevens Avenue (Site). The fee reduction request is being proposed under the auspices of Solana Beach Municipal Code Section 17.70.045 (MC Section 17.70.045).

The Applicant is proposing to utilize the California Government Code Sections 65915-65918 (Section 65915) density bonus to allow for the 260 apartment units to be developed on the Site. The "Proposed Project" includes the following components:

1. A 228-unit market rate component; and
2. A 32-unit component in which all of the units are proposed to be rented to low income senior citizens under the affordable rent standards imposed by Section 65915.

## **BACKGROUND STATEMENT**

### **Zoning Standards**

1. The Site's existing zoning allows for the development of up to 20 units per net acre of land. The Site's net land area totals 10.3 acres, which allows for the development of 206 units.
2. The Applicant is proposing to develop 260 units, which represents a 26.2% density bonus.
3. The Applicant is proposing to use low income units to fulfill the affordability requirements imposed by the Section 65915 density bonus. To qualify for the proposed density bonus, the project must include at least 31 low income units. The Proposed Project includes 32 low income units, which complies with the Section 65915 requirements.

### **Development Standards Waivers**

The Applicant has requested waivers of the following development standards that would otherwise physically preclude the development of the 260 units that are allowed under the Section 65915 density bonus:

1. A building height increase;
2. Wall and fence height increases; and
3. Additional retaining wall height.

For the purposes of this fee reduction analysis, KMA has assumed that the requested development standards waivers will be granted by the City.

### **Affordable Rent Standards**

The affordable rent calculation methodology applied by Section 65915 (c) (1) are tied to requirements imposed by California Health and Safety Code (H&SC) Section 50053. In addition, Section 65915 (c) (1) requires that the units must be subject to income and affordability covenants that remain in place for at least 55 years.

## Fee Reduction Proposal

MC Section 17.70.045 provides the City Council with the authority to provide assistance to affordable housing projects when it determines that the assistance is necessary to meet housing needs identified in the City's Housing Element. The City Council can grant or deny an assistance request at its sole discretion.

The Applicant is requesting that the City grant a \$500,000 reduction in the fees that would otherwise be assessed on the Proposed Project. The purpose of the KMA analysis is to assist the City in determining if the requested fee reduction is warranted by the Proposed Project's financial characteristics.

## ANALYSIS

### Organization

The assumptions and conclusions of the KMA financial analysis are presented in a Summary Table that follows this memorandum. The detailed analyses are presented in the following Appendices:

Appendix A:	Market Rate Component Pro Forma Analysis
Appendix B:	Low Income Component Pro Forma Analysis
Appendix C:	Rent Survey

### Scope of Development

#### *Market Rate Component*

1. The 228-unit market rate component includes the following unit mix:
  - a. 113 one-bedroom units at an average size of 816 square feet of gross leasable area (GLA); and
  - b. 115 two-bedroom units at an average size of 1,108 square feet of GLA.
2. The parking for the market rate component is allocated as follows:
  - a. One-bedroom units at 1.5 spaces per unit;

- b. Two-bedroom units at 2.0 spaces per unit; and
- c. One guest parking space is provided for every four units.

***Low Income Component***

1. The 32-unit low income component includes the following unit mix:
  - a. 12 studio units at an average size of 420 square feet of GLA;
  - b. 15 one-bedroom units at an average size of 517 square feet of GLA; and
  - c. 5 two-bedroom units at an average size of 756 square feet of GLA.
2. In accordance with Section 65915 (p) (1), the parking provided to the low income units is set as follows:
  - a. Studio and one-bedroom units at 1.0 space per unit;
  - b. Two bedroom units at 2.0 spaces per unit; and
  - c. No guest parking spaces are provided.

**Financial Analysis Assumptions**

KMA prepared separate pro forma analyses for the market rate component and the low income component. The following outlines the assumptions applied in the analyses:

***Development Cost Estimates***

**Property Acquisition Costs**

The Applicant acquired the Site in 2015 at a cost of \$52.97 million, or approximately \$91 per square foot of land area. KMA pro rated these costs between the two project components based on the percentage share of the total gross building area (GBA) located in each component. The resulting allocation is as follows:

<u>Project Component</u>	<u>Allocation</u>
Market Rate Component	92.8%
Low Income Component	7.2%
<b>Total</b>	<b>100.0%</b>

Other Pro Rated Costs

KMA allocated the following costs using the same methodology as was applied to the property acquisition costs. The total costs for each of these line items are presented in the following table:

Entitlements	\$1,740,000
Relocation Assistance	\$1,365,000
Demolition	\$1,100,000
On-Site Improvements	\$8,756,000
Public Permits and Fees	\$2,568,000

Direct Costs

KMA estimated the direct costs as follows:

1. Parking costs are estimated at average cost of \$2,500 per space.
2. The building costs are estimated at \$150 per square feet of GBA.
3. A 20% allowance is provided for contractor costs, profit and contingencies.

Indirect Costs

The indirect costs are estimated as follows:

1. Architecture, engineering and consulting costs are estimated at 10% of direct costs.
2. Taxes, insurance, legal and accounting costs are estimated at 2% of direct costs.

3. Marketing and leasing costs are set at \$1,500 per unit.
4. A Developer Fee equal to 5% of direct costs is provided.
5. A soft cost contingency allowance equal to 5% of other indirect costs is provided.

#### Financing Costs

1. The interest costs incurred during the construction period are based on the following assumptions:
  - a. A 24 month construction period;
  - b. A 7% interest rate; and
  - c. A 100% average outstanding balance on the land acquisition costs and a 40% average outstanding balance on the construction costs.
2. The loan origination fees are estimated at 2.0 points, and the loan amount is based on a 60% loan to cost ratio.

#### ***Stabilized Net Operating Income***

The following outlines the assumptions used to estimate the stabilized net operating income for the two components of the Proposed Project:

#### Income

1. Rents:
  - a. KMA undertook a survey of apartment projects (Appendix C) to assist in projecting the achievable rents for the market rate units. Based on the survey results, and a 15% premium for new construction, KMA estimated the rents as follows:
    - i. One-bedroom units at \$2,560 per month, which equates to \$3.14 per square foot of GLA; and
    - ii. Two-bedroom units at \$3,130 per month, which equates to \$2.83 per square foot of GLA.



- b. Using the H&SC Section 50053 calculation methodology, and the 2018 utilities allowances published by the Housing Authority of the County of San Diego, the current low income rents are estimated as follows:<sup>1</sup>
  - i. Studio units at \$835 per month;
  - ii. One-bedroom units at \$949 per month; and
  - iii. Two-bedroom units at \$1,062 per month.
2. A \$75 per unit per month allowance is provided for miscellaneous income.
3. A 5% vacancy and collection allowance is provided.

#### Operating Expenses

1. General operating expenses are estimated at \$5,000 per unit per year.
2. Property tax costs are estimated based on the estimated value of each component, and a 1.10% property tax rate.
3. A \$150 per unit per year allowance is provided to fund a reserve for future capital repairs.

#### **Financial Analysis Components**

The purpose of the KMA analysis is to evaluate whether the proposed fee reduction is warranted by the economic characteristics of the Proposed Project. The pro forma analyses are presented in Appendices A and B, and are organized as follows:

1. Table 1 provides the development cost estimates.
2. Table 2 provides estimates of the stabilized net operating income.
3. Table 3 presents the estimated stabilized return on total investment.

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<sup>1</sup> The utilities allowances are based on the Applicant's assumption that the tenants will be required to pay for gas heat, electric cooking, basic electricity, and air conditioning.

## Financial Analysis Results

The results of the pro forma analyses can be summarized as follows:

	Market Rate Component	Low Income Component
Total Development Cost	\$125,321,000	\$10,073,000
Stabilized Net Operating Income	\$5,265,000	\$164,000
<u>Stabilized Return on Total Investment</u>		
Before Fee Reduction	4.20%	1.63%
After Fee Reduction	N/A	1.71%

## FINDINGS

MC Section 17.70.045 is intended to provide the City Council with the opportunity, but not the requirement, to provide assistance to affordable housing projects that meet housing needs identified in the City's Housing Element. The purpose of the preceding financial analysis is to assist the City Council in determining whether a fee reduction is warranted by the Proposed Project's economic characteristics.

The findings that can be derived from the KMA analysis are as follows:

### Market Rate Component

The Section 65915 density bonus allows the Proposed Project to include 22 more market rate units than are allowed under the Site's existing zoning. It should be assumed that these additional market rate units enhance the Proposed Project's financial viability. Nonetheless, the market rate component is only projected to generate a 4.20% stabilized return on total investment.

A 4.20% stabilized return on total investment is lower than the threshold return that would typically be demanded by investors for this type of project. However, in this instance, the Applicant has already invested a significant amount of money in property acquisition and entitlement costs. Therefore, they may be willing to proceed with a project that generates a substandard return as a means of recouping sunk costs.

### **Low Income Component**

The low income component of the Proposed Project is effectively a breakeven proposition at a 1.63% stabilized return on total investment. Typically it would be assumed that the additional market rate units allowed by the Section 65915 density bonus would assist in making up for this deficiency. However, given the marginal investment return generated by the market rate component of the project, the low income component must stand on its own.

It is KMA's assumption that for the low income component the Applicant will either partner with or convey the development rights to a dedicated affordable housing developer. In turn, that developer will likely obtain outside leveraging sources such as Tax-Exempt Multifamily Bonds and 4% Low Income Housing Tax Credits to enhance the low income component's financial viability.

### **CONCLUSIONS**

The Proposed Project demonstrates the financial need for assistance related to the provision of 32 low income units. Moreover, it is clear that a \$500,000 fee reduction will not provide a windfall profit to the Applicant. As such, on strictly financial grounds, it can be concluded that the requested fee reduction is warranted by the Proposed Project's economic characteristics.

TABLE 1

SUMMARY TABLE  
 DENSITY BONUS ANALYSIS - FEE REDUCTION ANALYSIS  
 SOLANA HIGHLANDS  
 SOLANA BEACH, CALIFORNIA

	MARKET RATE COMPONENT 228 MARKET RATE UNITS	LOW INCOME COMPONENT 32 LOW INCOME UNITS
<b>I. <u>Unit Mix</u></b>		
Market Rate Units		
One Bedroom	113	
Two Bedrooms	115	
Low Income Units		
Studios		12
One Bedroom		15
Two Bedrooms		5
<b>Total Units</b>	<b>228</b>	<b>32</b>
Average Unit Size (Sf of GLA)	963	518
<b>II. Gross Building Area (Sf)</b>	<b>226,873</b>	<b>17,591</b>
<b>III. Total Development Cost</b>	<b>\$125,321,000</b>	<b>\$10,073,000</b>
Per Unit	\$549,700	\$314,800
<b>IV. <u>Stabilized Net Operating Income</u></b>		
<b>A. <u>Income (Per Unit Per Month)</u></b>		
Market Rate Rent		
One Bedroom	\$2,560	
Two Bedrooms	\$3,130	
Low Income Rent		
Studios		\$835
One Bedroom		\$949
Two Bedrooms		\$1,062
Other Income	\$75	\$75
<b>B. <u>Operating Expenses (Per Unit Per Year)</u></b>		
General Operating Expenses	\$5,000	\$5,000
Property Taxes	5,079	1,125
Reserves Deposits	150	150
<b>Total Operating Expenses (Per Unit Per Year)</b>	<b>\$10,229</b>	<b>\$6,275</b>
<b>Total Stabilized Net Operating Income</b>	<b>\$5,265,000</b>	<b>\$164,000</b>
<b>V. <u>Stabilized Return on Total Investment</u></b>		
Before Fee Reduction	4.20%	1.63%
After Fee Reduction	N/A	1.71%

**APPENDIX A**

**PRO FORMA ANALYSIS  
MARKET RATE COMPONENT: 228 MARKET RATE UNITS  
SOLANA HIGHLANDS  
DENSITY BONUS ANALYSIS - FEE REDUCTION ANALYSIS  
SOLANA BEACH, CALIFORNIA**

APPENDIX A - TABLE 1

ESTIMATED DEVELOPMENT COSTS  
 MARKET RATE COMPONENT: 228 MARKET RATE UNITS  
 SOLANA HIGHLANDS  
 DENSITY BONUS ANALYSIS - FEE REDUCTION ANALYSIS  
 SOLANA BEACH, CALIFORNIA

I.	Property Acquisition	1	92.8% of Total Cost		\$49,163,000
II.	<u>Implementation Costs</u>	2			
	Entitlements		92.8% of Total Cost		\$1,615,000
	Relocation Assistance		92.8% of Total Cost		1,267,000
	Demolition Costs		92.8% of Total Cost		1,021,000
	<b>Total Implementation Costs</b>				<b>\$3,903,000</b>
III.	<u>Direct Costs</u>				
	On-Site Improvements		92.8% of Total Cost		\$8,126,000
	Parking Costs		457 Spaces	\$2,500 /Space	1,143,000
	Building Costs		226,873 Sf of GBA	\$150 /Sf of GBA	34,031,000
	Contractor/DC Contingency Allow		20% Other Direct Costs		8,660,000
	<b>Total Direct Costs</b>				<b>\$51,960,000</b>
IV.	<u>Indirect Costs</u>				
	Arch, Engineering & Consulting		10.0% Direct Costs		\$5,196,000
	Public Permits & Fees	3	92.8% of Total Cost		2,383,000
	Taxes, Ins, Legal & Accounting		2.0% Direct Costs		1,039,000
	Marketing/Leasing		228 Units	\$1,500 /Unit	342,000
	Developer Fee		5.0% Direct Costs		2,598,000
	Soft Cost Contingency Allowance		5.0% Other Indirect Costs		578,000
	<b>Total Indirect Costs</b>				<b>\$12,136,000</b>
V.	<u>Financing Costs</u>				
	Interest During Construction				
	Land	4	\$49,163,000 Cost	7.0% Interest	\$6,883,000
	Construction	5	\$76,158,000 Cost	7.0% Interest	4,265,000
	Loan Origination Fees		\$45,694,800 Loan	2.00 Points	914,000
	<b>Total Financing Costs</b>				<b>\$12,062,000</b>
VI.	<b>Total Development Cost</b>		228 Units	\$549,700 /Unit	\$125,321,000
	<b>Total Construction Cost</b>		228 Units	\$334,000 /Unit	\$76,158,000

<sup>1</sup> The property acquisition costs are based on the Applicant's stated acquisition cost. The property was acquired in 2015. The cost equates to approximately \$91 per square foot of land area.

<sup>2</sup> Based on estimates provided by the Applicant.

<sup>3</sup> Based on a City staff estimate of \$2,567,931 for the entire project. This equates to approximately \$10.50 per square foot of GBA.

<sup>4</sup> Assumes an 24 month construction period and a 100% average outstanding balance.

<sup>5</sup> Assumes an 24 month construction period and a 40% average outstanding balance.

APPENDIX A - TABLE 2

STABILIZED NET OPERATING INCOME  
 MARKET RATE COMPONENT: 228 MARKET RATE UNITS  
 SOLANA HIGHLANDS  
 DENSITY BONUS ANALYSIS - FEE REDUCTION ANALYSIS  
 SOLANA BEACH, CALIFORNIA

<b>I. <u>Income</u></b>				
Market Rate Units	<sup>1</sup>			
One Bedroom		113 Units	\$2,560 /Unit/Month	\$3,472,000
Two Bedrooms		115 Units	\$3,130 /Unit/Month	4,320,000
Other Income		228 Units	\$75 /Unit/Month	205,000
<b>Gross Income</b>				<b>\$7,997,000</b>
Vacancy & Collection Allowance		5.0% Gross Income		(400,000)
<b>Effective Gross Income</b>				<b>\$7,597,000</b>
<b>II. <u>Operating Expenses</u></b>				
General Operating Expenses		228 Units	\$5,000 /Unit	\$1,140,000
Property Taxes	<sup>2</sup>	228 Units	\$5,079 /Unit	1,158,000
Reserves Deposits		228 Units	\$150 /Unit	34,000
<b>Total Operating Expenses</b>		228 Units	(\$10,230) /Unit	<b>(\$2,332,000)</b>
<b>III. <u>Stabilized Net Operating Income</u></b>				<b>\$5,265,000</b>

<sup>1</sup> Market rents are estimated at a weighted average of \$2.96 per square foot of gross leasable area.

<sup>2</sup> Based on the net operating income capitalized at a 5% rate, and a 1.1% tax rate.

**APPENDIX A - TABLE 3**

**STABILIZED RETURN ON TOTAL INVESTMENT  
MARKET RATE COMPONENT: 228 MARKET RATE UNITS  
SOLANA HIGHLANDS  
DENSITY BONUS ANALYSIS - FEE REDUCTION ANALYSIS  
SOLANA BEACH, CALIFORNIA**

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I.	Stabilized Net Operating Income	See APPENDIX A - TABLE 2	\$5,265,000
II.	Total Development Cost	See APPENDIX A - TABLE 1	\$125,321,000
III.	<b>Stabilized Return on Total Investment</b>		<b>4.20%</b>



**APPENDIX B**

**PRO FORMA ANALYSIS  
LOW INCOME COMPONENT: 32 LOW INCOME UNITS  
SOLANA HIGHLANDS  
DENSITY BONUS ANALYSIS - FEE REDUCTION ANALYSIS  
SOLANA BEACH, CALIFORNIA**

APPENDIX B - TABLE 1

ESTIMATED DEVELOPMENT COSTS  
 LOW INCOME COMPONENT: 32 LOW INCOME UNITS  
 SOLANA HIGHLANDS  
 DENSITY BONUS ANALYSIS - FEE REDUCTION ANALYSIS  
 SOLANA BEACH, CALIFORNIA

I.	Property Acquisition	<sup>1</sup>	7.2% of Total Cost		\$3,812,000
II.	<b>Implementation Costs</b>	<sup>2</sup>			
	Entitlements		7.2% of Total Cost		\$125,000
	Relocation Assistance		7.2% of Total Cost		98,000
	Demolition Costs		7.2% of Total Cost		79,000
	<b>Total Implementation Costs</b>				<b>\$302,000</b>
III.	<b>Direct Costs</b>				
	On-Site Improvements		7.2% of Total Cost		\$630,000
	Parking Costs		37 Spaces	\$2,500 /Space	93,000
	Building Costs		17,591 Sf of GBA	\$150 /Sf of GBA	2,639,000
	Contractor/DC Contingency Allow		20% Other Direct Costs		672,000
	<b>Total Direct Costs</b>				<b>\$4,034,000</b>
IV.	<b>Indirect Costs</b>				
	Arch, Engineering & Consulting		10.0% Direct Costs		\$403,000
	Public Permits & Fees	<sup>3</sup>	7.2% of Total Cost		185,000
	Taxes, Ins, Legal & Accounting		2.0% Direct Costs		81,000
	Marketing/Leasing		32 Units	\$1,500 /Unit	48,000
	Developer Fee		5.0% Direct Costs		202,000
	Soft Cost Contingency Allowance		5.0% Other Indirect Costs		46,000
	<b>Total Indirect Costs</b>				<b>\$965,000</b>
V.	<b>Financing Costs</b>				
	Interest During Construction				
	Land	<sup>4</sup>	\$3,812,000 Cost	7.0% Interest	\$534,000
	Construction	<sup>5</sup>	\$6,261,000 Cost	7.0% Interest	351,000
	Loan Origination Fees		\$3,756,600 Loan	2.00 Points	75,000
	<b>Total Financing Costs</b>				<b>\$960,000</b>
VI.	<b>Total Development Cost</b>		32 Units	\$314,800 /Unit	\$10,073,000
	<b>Total Construction Cost</b>		32 Units	\$195,700 /Unit	\$6,261,000

<sup>1</sup> The property acquisition costs are based on the Applicant's stated acquisition cost. The property was acquired in 2015. The cost equates to approximately \$91 per square foot of land area.

<sup>2</sup> Based on estimates provided by the Applicant.

<sup>3</sup> Based on a City staff estimate of \$2,567,931 for the entire project. This equates to approximately \$10.50 per square foot of GBA.

<sup>4</sup> Assumes an 24 month construction period and a 100% average outstanding balance.

<sup>5</sup> Assumes an 24 month construction period and a 40% average outstanding balance.

APPENDIX B - TABLE 2

STABILIZED NET OPERATING INCOME  
 LOW INCOME COMPONENT: 32 LOW INCOME UNITS  
 SOLANA HIGHLANDS  
 DENSITY BONUS ANALYSIS - FEE REDUCTION ANALYSIS  
 SOLANA BEACH, CALIFORNIA

<b>I. <u>Income</u></b>				
Low Income Units	<sup>1</sup>			
Studios		12 Units	\$835 /Unit/Month	\$120,000
One Bedroom		15 Units	\$949 /Unit/Month	171,000
Two Bedrooms		5 Units	\$1,062 /Unit/Month	64,000
Other Income		32 Units	\$75 /Unit/Month	29,000
<b>Gross Income</b>				<b>\$384,000</b>
Vacancy & Collection Allowance		5.0% Gross Income		(19,000)
<b>Effective Gross Income</b>				<b>\$365,000</b>
<b>II. <u>Operating Expenses</u></b>				
General Operating Expenses		32 Units	\$5,000 /Unit	\$160,000
Property Taxes	<sup>2</sup>	32 Units	\$1,125 /Unit	36,000
Reserves Deposits		32 Units	\$150 /Unit	\$5,000
<b>Total Operating Expenses</b>		32 Units	(\$6,280) /Unit	<b>(\$201,000)</b>
<b>III. <u>Stabilized Net Operating Income</u></b>				<b>\$164,000</b>

<sup>1</sup> Based on the standards imposed by California Government Code Section 65915, and the 2018 San Diego County household incomes published by the California Department of Housing & Community Development. The utilities allowances are set at \$24 for Studios units; \$33 for One Bedroom units and \$42 for Two Bedrooms units based on the Housing Authority of the County of San Diego utility allowances effective on July 1, 2018. Assumes gas heating, electric cooking; basic electric; and air conditioning.

<sup>2</sup> Based on the net operating income capitalized at a 5% rate, and a 1.1% tax rate.

APPENDIX B - TABLE 3

STABILIZED RETURN ON TOTAL INVESTMENT  
 LOW INCOME COMPONENT: 32 LOW INCOME UNITS  
 SOLANA HIGHLANDS  
 DENSITY BONUS ANALYSIS - FEE REDUCTION ANALYSIS  
 SOLANA BEACH, CALIFORNIA

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Stabilized Return on Total Investment Before Fee Reduction

I.	Stabilized Net Operating Income	See APPENDIX B - TABLE 2	\$164,000
II.	Total Development Cost	See APPENDIX B - TABLE 1	\$10,073,000
III.	Stabilized Return on Total Investment		1.63%

Stabilized Return on Total Investment After Fee Reduction

I.	Stabilized Net Operating Income	See APPENDIX B - TABLE 2	\$164,000
II.	<u>Net Development Cost</u>		
	Total Development Cost	See APPENDIX B - TABLE 1	\$10,073,000
	(Less) Proposed Fee Reduction		<u>(500,000)</u>
	Net Development Cost		\$9,573,000
III.	Stabilized Return on Total Investment		1.71%

**APPENDIX C**

**RENT SURVEY**

**SOLANA HIGHLANDS**

**DENSITY BONUS ANALYSIS - FEE REDUCTION ANALYSIS**

**SOLANA BEACH, CALIFORNIA**

APPENDIX C

RENT SURVEY  
 SOLANA HIGHLANDS  
 DENSITY BONUS ANALYSIS - FEE REDUCTION ANALYSIS  
 SOLANA BEACH, CALIFORNIA

Name	Address	# of Units	Unit Size (Sf)	Average Rent	
				Total	Per Sf
<b>Studio Units</b>					
Sandpiper Apartment Homes	833 S Cedros Ave	50	398	\$1,743	\$4.38
Solana Mar Apartments	309 N Solana Hills Dr	29	450	\$1,837	\$4.08
Ocean Crest Apartments	871-877 Stevens Ave	11	690	\$1,895	\$2.75
The Beach Colony	2801 Camino Del Mar	26	456	\$1,977	\$4.34
The Terraces at Del Mar	526 Camino Del Mar	8	400	\$1,450	\$3.63
	Minimum		398	\$1,450	\$2.75
	Maximum		690	\$1,977	\$4.38
	Weighted Average		448	\$1,809	\$4.03
<b>One-Bedroom Units</b>					
115-121 N Acacia Ave	115-121 N Acacia Ave	4	657	\$1,008	\$1.53
Sandpiper Apartment Homes	833 S Cedros Ave	2	700	\$2,295	\$3.28
Solana Highlands	701 S Nardo Ave	84	689	\$1,977	\$2.87
Elan Solana Pointe	764 S Nardo Ave	12	730	\$1,850	\$2.53
Sierra Seaside Flats	305 S Sierra Ave	10	750	\$2,157	\$2.88
Solana Mar Apartments	309 N Solana Hills Dr	64	608	\$2,048	\$3.37
Ocean Crest Apartments	871-877 Stevens Ave	50	894	\$2,125	\$2.38
Silverado Senior Community	805 Valley Ave	80	560	\$1,326	\$2.37
Elan Beachhouse Del Mar Apartments	2515 Camino Del Mar	10	750	\$1,850	\$2.47
The Beach Colony	2801 Camino Del Mar	40	730	\$2,373	\$3.25
Cardiff By The Sea	2170 Carol View Drive	60	775	\$1,845	\$2.38
1809-1811 Montgomery Ave	1809-1811 Montgomery Ave	2	900	\$1,845	\$2.05
Ocean Avenue by the Sea	1345 Ocean Ave	2	735	\$2,137	\$2.91
Los Arboles Apartments	201 4th Street	26	785	\$2,487	\$3.17
The Terraces at Del Mar	526 Camino Del Mar	35	749	\$1,875	\$2.50
Carmel Creek	11724 Carmel Creek Rd	90	799	\$2,101	\$2.63
Altura	11921 Carmel Creek Rd	44	845	\$2,735	\$3.24
Del Mar Ridge Apartments	12629 El Camino Real	40	894	\$2,220	\$2.48
	Minimum		560	\$1,008	\$1.53
	Maximum		900	\$2,735	\$3.37
	Weighted Average		740	\$2,019	\$2.73

APPENDIX C

RENT SURVEY  
 SOLANA HIGHLANDS  
 DENSITY BONUS ANALYSIS - FEE REDUCTION ANALYSIS  
 SOLANA BEACH, CALIFORNIA

Name	Address	# of Units	Unit Size (Sf)	Average Rent	
				Total	Per Sf
Two-Bedroom Units					
222 S Helix Ave	222 S Helix Ave	4	1,050	\$1,392	\$1.33
Solana Valley Apartments	820 Hernandez Street	18	800	\$1,855	\$2.32
Solana Highlands	701 S Nardo Ave	102	917	\$2,340	\$2.55
Elan Solana Pointe	764 S Nardo Ave	20	950	\$2,245	\$2.36
Solana Mar Apartments	309 N Solana Hills Dr	31	1,000	\$2,730	\$2.73
Ocean Crest Apartments	871-877 Stevens Ave	85	1,012	\$2,230	\$2.20
Elan Beachhouse Del Mar Apartments	2515 Camino Del Mar	10	980	\$3,450	\$3.52
The Beach Colony	2801 Camino Del Mar	20	966	\$2,893	\$2.99
Palma de la Reina	5533 Cancha De Golf	54	1,021	\$2,772	\$2.71
Bel Mondo Condos	5533 Cancha De Golf	58	1,137	\$2,706	\$2.38
Cardiff By The Sea	2170 Carol View Drive	207	1,033	\$2,263	\$2.19
Ocean Avenue by the Sea	1345 Ocean Ave	4	824	\$2,725	\$3.31
Los Arboles Apartments	201 4th Street	59	1,047	\$3,325	\$3.18
The Terraces at Del Mar	526 Camino Del Mar	10	1,100	\$2,500	\$2.27
Carmel Creek	11724 Carmel Creek Rd	198	1,129	\$2,651	\$2.35
Altura	11921 Carmel Creek Rd	103	1,141	\$3,101	\$2.72
Del Mar Ridge Apartments	12629 El Camino Real	110	1,314	\$2,680	\$2.04
Signature Point	13006 Signature Point	172	1,088	\$3,045	\$2.80
Maui Apartments	425 Stratford Court	16	825	\$1,056	\$1.28
	Minimum		800	\$1,056	\$1.28
	Maximum		1,314	\$3,450	\$3.52
	Weighted Average		1,073	\$2,635	\$2.46

Source: Costar, November 2018

Public Correspondence Received



## Joseph Lim

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**From:** Greg Wade  
**Sent:** Thursday, November 15, 2018 7:01 PM  
**To:** Leslea Meyerhoff; 'Matthew Valerio'  
**Cc:** Joseph Lim; Johanna; mhogan@hgdlaw.com; Mo Sammak  
**Subject:** FW: Comments to Solana highlands FEIR and suggested conditions of approval

FYI.



**Gregory Wade**  
**City Manager**  
**City of Solana Beach**  
**Phone: (858) 720-2431**  
**Fax: (858) 792-6531**  
**www.cityofsolanabeach.org**

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**From:** Steve Scott <[srscott54@gmail.com](mailto:srscott54@gmail.com)>  
**Sent:** Sunday, November 11, 2018 2:10 PM  
**To:** Angela Ivey <[aivey@cosb.org](mailto:aivey@cosb.org)>  
**Subject:** Comments to Solana highlands FEIR and suggested conditions of approval

Dear Ms. Ivey:

The proposed Solana Highlands project approval, while providing beneficial senior affordable housing that supports a density bonus as well as assisting the City meeting its housing element requirements should also include the following conditions of approval:

- 1) The DEIR TIA is based on a forecast model and that the real time ADT generation may/will differ from the DEIR TIA forecast model. These differences may occur due to increased density per unit which is undetected and/or unenforced, possibly a more transient occupant profile than modeled or some other factor but it might make sense to true up the TIA post stabilization to determine whether the TIA was accurate or not. If not, there should be additional mitigation to ensure the impacts are less than significant level. If the applicant is increasing the density, gaining a density bonus to help the City meet its affordable housing supply, the City has a fiduciary responsibility to the community to ensure the project traffic impacts are less than significant level and as of now the City has no tool/project covenant to ensure recourse conformance. This true up could also be a condition of approval.
- 2) A condition of approval should be a single phase construction time frame. The proposed, 3 phase, 39 month schedule negatively impacts the community ( traffic, air quality, noise etc.) and puts the public at risk for a greater duration given the conflicts between vehicular traffic and construction traffic.
- 3) Project Design features/project approval conditions should include:
  - Pocket park at the corner of Nardo and Stevens. There needs to be a better sense of arrival for the community as you approach Nardo from Stevens as a well as some additional community benefit.
  - Eliminate all vehicle parking on Nardo to improve public safety. The applicant has provided for additional on site parking to meet their projected occupancy/vehicle needs. Plus the City should use this project as a case study to demonstrate the benefits of ride sharing resulting in the elimination of on street

parking. The project should also clearly designate ride sharing access, queuing as well as back of house areas, service areas so the neighboring residents/property owners clearly understand hours of operations and potential issues with noise, equipment, light and other related operations and safety equipment.

- Non contiguous sidewalks to improve the walkability and connectivity of Nardo to Stevens and to Solana Circle. There is also a beautification aspect that is a community benefit as well as ties the Stevens Ave traffic calming/beautification improvements.
- The cross walk at Nardo and Nardito should be upgraded with the flashing lights triggered by touch pads served by solar. This should be in addition to the recommendation to paint the crosswalk. This should be an on going operational and maintenance requirement of the applicant, the term of which would be concurrent with the affordable housing covenant.

4) The potential for dirt haulers to queue on Stevens Ave in the median if they cannot queue on site is unacceptable and unsafe given the existing traffic calming improvements, the concentration of schools and other related traffic/conflicts that would/will occur with the construction equipment. They can queue at the Fairgrounds dirt lot on Jimmy Durante as that would be a lot safer for the Solana Beach community. The City should require the applicant, similar to the proposed DEIR project alternatives, propose an alternative queuing area that benefits the community and immediate neighbors versus the project applicant.

5) What is the City's agreement with the project applicant to maintain, sweep and repair Nardo and Stevens due to the heavy equipment, dirt haulers and other service providers that will accelerate the wear and tear on these streets throughout the construction period? Will the C of O be conditioned upon these streets being delivered in a similar condition as prior to commencement of construction or pay an equivalent fee to the City so the City can execute this?

6) As part of the project approval how is the City addressing any errors in the project EIR...lets say ADT generation exceeds the TIA and mitigation is required or there are lighting issues that impact the neighboring property owners or the raised median configurations on Nardo become public safety issues or additional traffic mitigation may be required on either Stevens or Nardo...how is the City protecting the neighboring residences?

Regards,

Steve Scott  
524 South Granados Ave  
858 204 5214

## Joseph Lim

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**From:** John Wilson III <jwilson3@me.com>  
**Sent:** Tuesday, November 27, 2018 8:53 AM  
**To:** Joseph Lim; Greg Wade  
**Cc:** David Zito; Jewel Edson; Judy Hegenauer; Lesa Heebner; Peter Zahn; Katie Benson; Leslea Meyerhoff, AICP  
**Subject:** Re: Notice of appeal of decision/recommendation of the View Assessment Commission made meeting on October 16, 2018

Hi Joseph/Greg,

Per Greg's e-mail below, I want to confirm the City Council will be addressing the VAC's recommendation regarding my view claim appeal in regards to the pending Solana Highlands development to be discussed at the scheduled December 5<sup>th</sup> meeting.

Specifically, I am hoping for further exploration of the "tool kit" inspired suggestion of VAC Chair Paul Bishop, and endorsed by Pat Coad, at the 10/16/18 VAC meeting, which was to consider altering the portion of building 13 which is causing the unacceptable view impairment. Options include:

- Lowering (a portion of) building 13's 3-story 9 foot ceiling heights by 6", resulting in an overall reduction of 18" of the finished height of building 13
- An alteration of the roof design or additional grading allowing the same overall 18" reduction, if possible

Can you please confirm this will be on the agenda and also explain how this works and what I can do to prepare?

Will council members be able to personally view story poles from my property prior to addressing at the 12/5 meeting, to get a full understanding of my view impairment situation?

Thanks very much,  
john

John Wilson III  
654 S Nardo Ave  
Solana Beach, CA 92075  
(858) 531-6823

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**From:** Greg Wade  
**Sent:** Wednesday, October 31, 2018 2:26 PM  
**To:** 'John Wilson III' <jwilson3@me.com>  
**Cc:** David Zito <dzito@cosb.org>; Jewel Edson <jedson@cosb.org>; Judy Hegenauer <jhegenauer@cosb.org>; Lesa Heebner <lheebner@cosb.org>; Peter Zahn <pzahn@cosb.org>; Joseph Lim <jlim@cosb.org>; Johanna <jcanlas@mcdougalllove.com>; Katie Benson <kbenson@cosb.org>; Leslea Meyerhoff, AICP <leslea.meyerhoff@att.net>  
**Subject:** RE: Notice of appeal of decision/recommendation of the View Assessment Commission made meeting on October 16, 2018

Mr. Wilson ~

The City received your email below and has reviewed your request for a second View Assessment Commission (VAC) hearing to consider your View Assessment Claim (Claim) regarding the Solana Highlands project.

Having reviewed your request, it has been determined that your Claim was properly reviewed and considered and the recommendation made by the VAC was appropriately rendered in compliance with Chapter 17.63 of the Solana Beach Municipal Code (SBMC). The VAC's recommendation was made following a duly-noticed VAC hearing during which each VAC member appropriately and independently considered your Claim on its merits according to the required findings of Chapter 17.63 of the SBMC. Not only does the SBMC contain no provision for a second VAC hearing after a review and recommendation has already been made, but a review of your request has determined that a second VAC hearing is not warranted.

It is important to note, however, that the VAC's decision in this case is only a recommendation to the City Council. Therefore, you have the option to request that the City Council address the VAC's recommendation during their consideration of the project on December 5, 2018. It should also be noted that, had the VAC recommended support of your Claim, that recommendation, too, would be subject to reconsideration by the City Council if the Applicant in this case requested it.

If you have any questions regarding this determination, please contact Joe Lim or me.

Thank you.



**Gregory Wade**  
**City Manager**  
**City of Solana Beach**  
**Phone: (858) 720-2431**  
**Fax: (858) 792-6531**  
**[www.cityofsolanabeach.org](http://www.cityofsolanabeach.org)**

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**From:** John Wilson III <[jlwilson3@me.com](mailto:jlwilson3@me.com)>

**Sent:** Sunday, October 28, 2018 4:03 PM

**To:** Greg Wade <[gwade@cosb.org](mailto:gwade@cosb.org)>; Joseph Lim <[jlim@cosb.org](mailto:jlim@cosb.org)>; City Attorney <[attorney@cosb.org](mailto:attorney@cosb.org)>

**Cc:** Katie Benson <[kbenson@cosb.org](mailto:kbenson@cosb.org)>; Leslea Meyerhoff, AICP <[leslea.meyerhoff@att.net](mailto:leslea.meyerhoff@att.net)>; David Zito <[dzito@cosb.org](mailto:dzito@cosb.org)>; Jewel Edson <[jedson@cosb.org](mailto:jedson@cosb.org)>; Judy Hegenauer <[jhegenauer@cosb.org](mailto:jhegenauer@cosb.org)>; Lesa Heebner <[lheebner@cosb.org](mailto:lheebner@cosb.org)>; Peter Zahn <[pzahn@cosb.org](mailto:pzahn@cosb.org)>

**Subject:** RE: Notice of appeal of decision/recommendation of the View Assessment Commission made meeting on October 16, 2018

October 28, 2018

**From:** John A Wilson III, 654 South Nardo Avenue Solana Beach

**To:** Greg Wade, Joseph Lim, and Johanna Canalas, Esq.

**Copies to:** David Zito, Jewel Edson, Judy Hegenauer, Lesa Heebner, and Peter Zahn

**RE: Notice of appeal of decision/recommendation of the View Assessment Commission made meeting on October 16, 2018 for view claim by John Wilson concerning the Solana Highlands Apartments project.**

This letter constitutes notice of my appeal of the decision / recommendation of the View Assessment Commission (VAC) made during their meeting on October 16, 2018 concerning my view claim regarding the Solana Highlands Apartments project.

In addition, I am requesting that my view claim be considered again by the VAC due to the various irregularities and improper procedures implemented at the October 16<sup>th</sup> VAC meeting concerning my view claim. My request for the VAC to reconsider my view claim is based on the following:

- (1) The VAC's evaluation of my view claim was unfairly impacted and prejudiced by the City Attorney prohibiting attendees at the meeting from submitting speaker slips and not allowing the public to provide their information and comments to the VAC regarding what they saw as the blockage of my view caused by the proposed buildings. By not allowing the public to submit speaker slips the VAC did not receive all of the information from the attendees who had witnessed and evaluated my view. The failure to accept relevant information from the public potentially influenced the VAC members in their decisions and conclusions.
- (2) By not allowing the public in attendance that came to address the VAC to submit speaker slips, the VAC was improperly denied the opportunity to receive and consider information from the public on the view issues in response to presentations by the City, the developer or on my view claim presentation. This information could have potentially influenced the VAC member in their decisions and conclusions.
- (3) One VAC Commissioner (Dean Pasco) who voted to deny my view claim admitted in testimony that he did not properly witness / inspect my view claim from my primary viewing area following the developer's final modifications to the story poles. Since I was requesting additional relief of view impairment of only 18 inches, it is critical that all VAC members personally viewed the actual view impairment represented by the final story pole modifications to properly understand the view impairment they were to vote on. Otherwise, the VAC members are not evaluating the same story pole string lines.
- (4) The biased presentation made by City staff (Leslea Meyerhoff) and comments made during the meeting by City staff (Joseph Lim) improperly influenced the VAC members and gave the impression that the City staff had concluded that the developer had made extensive modifications to the project and that those modifications minimized the view impairment as much as possible, and therefore the blockage of my lagoon view was the best it could be.

**REQUESTED ACTION:** I respectfully request that I be allowed the opportunity to have my view claim presented again to the VAC. This could be easily done at the same time any and all other view claims for the project are presented and evaluated by the VAC. This would allow the VAC to follow the proper procedures to correctly and fairly conduct the meeting.

I look forward to your response and to receiving a list of potential new dates to again present my view claim. There should be reasonable advance notice to allow me and the other view claimants proper time to reasonably prepare for and attend the meeting, given our busy lives with jobs, family, travel plans, etc.

Sincerely,

John W. Wilson III

## Joseph Lim

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**From:** Dana <sunflac@aol.com>  
**Sent:** Thursday, November 29, 2018 7:47 AM  
**To:** Lesa Heebner; Greg Wade; Joseph Lim; Leslea Meyerhoff, AICP; David Zito; Peter Zahn; Katie Benson; Jewel Edson; Judy Hegenauer  
**Subject:** 401 Bay Meadows Way Turfwood in relation to View Claim/DRP and Solana Highlands proposal

Hello all

Thank you again for being receptive to the many issues the residents closest to the proposed Solana Highlands project have. As you know I am in the unfortunate position of being physically closest to the project and, as proposed, the effects it will have on my home and life are not acceptable.

I appreciate our View Claims being opened up again as they were not properly addressed. The VAC said they could make all findings at the November 20 meeting however they didn't give any explanation of how or why.

My claim is not only about view it is about the DRP as well. The project as proposed shows buildings with balconies and windows looking directly into my home including my master bedroom and my office where I work 8+ hours a day. The noise, dirt, pollution, light, etc are not acceptable nor is the loss of privacy. I have asked HG Fenton and John La Raia to move a section of the building – all they did was lower it so it's more directly looking into my home. I'm requesting a small section of Building 15 be moved to somewhere on the interior of their property or a reduction in units approved to remove part of Building 15.

The other issue of importance is a large Acacia tree next to my backyard/office fence. Originally it was thought this tree was on Turfwood property and wouldn't be affected. We are still waiting for the final property line survey however it appears some of the tree roots may be on Fenton Property. According to John La Raia they are grading all the way to the property line and the tree most likely will be removed. According to Joe Lim and looking at their "plans" they are not grading to the property line so there shouldn't be a reason to remove the tree.

Without that Acacia tree my hillside becomes a barren dirt pile and any privacy I had is completely gone. That tree also acts as a screen for noise, light, pollution from the apartments (they toss things over the fence constantly) and blocks some of the mass and size of the buildings they are proposing. I realize they have a "landscape" plan to plant large trees however that is years into the project, there is no guarantee those trees will grow/thrive and it really does nothing to replace the Acacia tree if they remove it.

I am asking City Council to make a condition of the project approval that the Acacia tree stays as is – there is no reason they need cut it down. I am also asking for a section of Building 15 to be moved or removed.

I would like to invite all of you to come by my home to see exactly what I am talking about. Peter and David you are scheduled to come by Saturday morning – I won't be home but Barbara Wiedner will be here and let you in. She'll call me when you get here so I can explain. If anybody else can join you that's great. If not I'm available until around 1130 am today or anytime next week.

Thank you again for your time and consideration- it is sincerely appreciated.

Dana

Dana Flach

[sunflac@aol.com](mailto:sunflac@aol.com)

858 735 9270

401 Bay Meadows Way Turfwood

Solana Beach CA 92075

Sent from Mail for Windows 10



## CITY OF SOLANA BEACH


FAX (858) 792-6513 / (858) 755-1782

635 SOUTH HIGHWAY 101 • SOLANA BEACH • CALIFORNIA 92075-2215 • (858) 720-2400

### OPINION OF THE CITY ATTORNEY

TO: Honorable Mayor and City Councilmembers  
Citizens of the City of Solana Beach

CC: Greg Wade, City Manager

FROM: Johanna N. Canlas, City Attorney 

DATE: November 29, 2018

RE: 1970 Grant of Open-Space Easement on Solana Highlands Property

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#### Issue

The Office of the City Attorney for the City of Solana Beach has been asked to issue a public opinion on what impact, if any, the Grant of Open-Space Easement (the "Easement") (Exhibit A) filed on July 6, 1970 as document no. 118110 in the San Diego County Recorder's Office may have on the Solana Highlands property (the "Property") and the proposed project (the "Project").

#### Background

Before the City of Solana Beach (the "City") was incorporated, the County of San Diego ("County"), on January 24, 1969, approved San Diego Special Use Permit No. P 68-187 (the "SUP") for the development of the Property. On May 22, 1970, the County modified the SUP. As part of that modification, the former Property owner granted the Easement to the County, which the County accepted.

The Easement states:

- (i) no portion of the Open Space shall be graded, excavated or filled except in compliance with said Special Use Permit No. P 68-187 (as the same may be from time to time amended) or an authorization by Grantee in implementation thereof and (ii) no natural or artificial improvements shall be constructed, installed, erected, permitted or maintained (other than the natural and artificial improvements complying with said Special Use Permit No. 68-187 (as the same may be from time to time amended) or an authorization by Grantee in implementation thereof).

As the successor to the County upon incorporation, the City now holds the Easement's Grantee interest. Any development of the Property is now subject to the City's zoning, permit



requirements, and development regulations. H.G. Fenton is the current Property owner and the applicant on Development Review Permit (DRP)/Structure Development Permit (SDP) 17-14-29 Solana Highlands Apartments – 661-781 South Nardo Ave, Solana Beach.

### Analysis

“It is fundamental that the language of a grant of an easement determines the scope of the easement.” *Schmidt v. Bank of America, NA*. (2014) 223 Cal.App.4th 1489, 1499 (citation omitted). “If the language is clear and explicit in the conveyance, there is no occasion for the use of parol evidence to show the nature and extent of the rights acquired.” *Scrubby v. Vintage Grapevine, Inc.* (1995) 37 Cal.App.4th 697, 702; *see also* Civil Code § 1638 (“The language of a contract is to govern its interpretation, if the language is clear and explicit, and does not involve an absurdity.”)

First, it bears noting that the 1970 Easement is not truly an “open space easement” as that term is now commonly referred to in today’s vernacular. Open space easements today are generally created to preserve for public use or enjoyment the natural or scenic character of such open-space land and to preserve valuable natural habitat in perpetuity.

Here, there was no natural habitat to preserve on the Property after construction of the original project on or around 1970 and no such natural habitat exists on the Property today. The Easement does not contain language enumerating findings that the grant of the Easement is for public use or purpose. In fact, the recorded document explicitly calls out that “[n]either this instrument nor its acceptance by Grantee shall authorize any member of the general public to enter upon the Subject Land, including the Open Space, or any part thereof.” (emphasis added). In addition, there is no language in the grant that the Easement would exist in perpetuity. To the contrary, the plain language repeatedly and explicitly provides for future amendments or as authorized by Grantee. Therefore, the Easement is more comparable to, can be more appropriately characterized as and has the same function that a project-specific recorded development permit condition commonly does today.

The Easement provides that no portion of the Property may be graded and no improvements may be constructed except as permitted by the SUP as it “may be from time to time amended” or unless the Grantee (now the City) otherwise authorizes such activity.

Here, the plain language of the Easement prohibits those activities not permitted by the SUP, allows those activities permitted by the SUP, allows amendments to the SUP and allows the Grantee to authorize additional activities. That the Easement is subject to amendments and modifications by future authorizations by the Grantee is clear and explicit.

As noted above, the proposed Project is subject to the City’s zoning regulations. Specifically, both a DRP and SDP are required for the development of the Property. Specific findings are required in order for these discretionary permits to be approved.

### Conclusion

The Easement has no impact on the Property except to require the necessary permits and approvals for activities not currently contemplated by the SUP. The City's DRP/SDP process would constitute such an authorization and act as an amendment to the SUP or supersede the SUP in its entirety provided that all the required findings for issuance of a DRP/SDP can be made.

When Recorded Mail To:

~~John F. McEvoy, Esq.~~  
~~Deputy County Counsel~~  
~~302 County Administration~~  
~~Center~~  
~~San Diego, California~~  
*clerk of Bd. of Supv.*  
*# 45*

Space Below for Recorder's Use

977  
118110  
RECORDED REQUEST OF  
*Co. Engineer*  
JUL 6 4 39 PM '70  
JUL 1970  
OFFICIAL RECORDS  
SAN DIEGO COUNTY, CALIF.  
A.S. RAY, RECORDER  
NO FEE

GRANT OF OPEN-SPACE EASEMENT  
(San Diego Special Use Permit No. P 68-187)

WHEREAS:

1. The undersigned TURF CLUB VIEW LIMITED, a limited partnership, ("Grantor") is the holder of the fee simple estate in and to the land in the County of San Diego, State of California, described in Exhibit "A" attached hereto ("the Subject Land"); which estate is or may be subject to real estate taxes, assessments, conditions, covenants, restrictions and easements all as the same may be of record; and
2. Grantor desires to erect improvements on, and otherwise develop, the Subject Land in compliance with Special Use Permit No. P 68-187 of the COUNTY OF SAN DIEGO, a political subdivision of the State of California ("Grantee"); and
3. Said Special Use Permit requires, as a condition precedent to the issuance of Grantee's Building Permit authorizing such erection and development, this grant; and

4. Grantor has executed and acknowledged, and does deliver to Grantee, this grant in order to induce Grantee to issue to Grantor said Building Permit.

NOW, THEREFORE, for the consideration recited above, Grantor does hereby grant to Grantee a negative easement over, upon, across and under all portions of the Subject Land not covered by a building or carport shown on Exhibit "B" attached hereto (which portions are herein referred to as "the Open Space"), to wit, that (i) no portion of the Open Space shall be graded, excavated or filled except in compliance with said Special Use Permit No. P 68-187 (as the same may be from time to time amended) or an authorization by Grantee in implementation thereof and (ii) no natural or artificial improvements shall be constructed, installed, erected, permitted or maintained (other than the natural and artificial improvements complying with said Special Use Permit No. 68-187 (as the same may be from time to time amended) or an authorization by Grantee in implementation thereof) and, further, each such permitted natural or artificial improvement shall be constructed, installed, erected, permitted and maintained in compliance with said Special Use Permit No. P 68-187 (as the same may be from time to time amended) or an authorization by Grantee in implementation thereof.

TOGETHER with the right, but not the obligation, to enter upon the Subject Land for the purposes of (i) removing any natural or artificial improvement in or on the Open Space which shall not be permitted hereunder and (ii) installing or maintaining any natural or artificial improvement permitted hereunder.

NEITHER this instrument nor its acceptance by Grantee shall authorize any member of the general public to enter upon the Subject Land, including the Open Space, or any part thereof.

Dated: June 24, 1970.

Accepted:

COUNTY OF SAN DIEGO

By H.M. Taylor

TURF CLUB VIEW LIMITED  
A Limited Partnership  
By: H. D. DEVELOPMENT  
General Partner

By H. D. O'HARA  
H. D. O'HARA, President

By James M. Watkins  
JAMES M. WATKINS, General Partner

COUNTY OF SAN DIEGO)  
  ) SS  
STATE OF CALIFORNIA)

On this 25<sup>th</sup> day of June, 1970, before me, the undersigned, a notary public in and for said County and State, personally appeared (i) H. D. O'Hara, known to me to be the President, and \_\_\_\_\_ known to me to be the \_\_\_\_\_ of H. D. Development, the corporation that executed the within instrument and known to me to be the persons who executed the within instrument on behalf of said corporation, said corporation being known to me to be one of the partners of Turf Club View Limited, the partnership that executed the within instrument, and acknowledged to me that such corporation executed the same as such partner pursuant to its by-laws or a resolution of its Board of Directors, and (ii) James M. Watkins, known to me to be one of the partners of the partnership that executed the within instrument, and acknowledged to me that such partnership executed the same.

WITNESS my hand and official seal.

Helene Kaufman  
Notary Public HELENE KAUFMAN  
Printed Name of Notary Public  
My Commission Expires 1/3/71





CONSENT TO GRANT OF OPEN-SPACE EASEMENT

912

The undersigned, beneficiaries under that certain Deed of Trust dated March 25, 1970, recorded April 2, 1970, File/Page No. 57106, Official Records of San Diego County, California, hereby consent to the foregoing "Grant of Open-Space Easement."

Dated: June 26, 1970

Paul M. Thomas, Jr.  
PAUL M. THOMAS, JR.

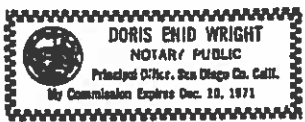
Michael C. Fletcher  
MICHAEL C. FLETCHER

STATE OF CALIFORNIA )  
COUNTY OF SAN DIEGO ) SS

On June 26th, 1970, before me, the undersigned, a Notary Public in and for said County and State, personally appeared PAUL M. THOMAS, JR. and MICHAEL C. FLETCHER, known to me to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same.

WITNESS my hand and official seal.

Doris Enid Wright  
Notary Public in and for said County and State  
DORIS ENID WRIGHT  
Printed Name of Notary Public  
My Commission Expires 12-10-71



-5-

COUNTY RECORDER:

Please file this document with the Board of Supervisors, Hall Sta. #45.  
Document HAS BEEN APPROVED & RECORDED BY Co. ENR. (See stamp)

CLERK OF BOARD OF SUPERVISORS:

Please file attached recorded document with proposed subdivision:

TURF CLUB VIEW

T. H. No. 2799-1 Rec. Map No. 6672

County Engineer As per Report

This is to certify that the interest in real property conveyed  
by the Deed or Grant dated June 25, 19 70 320  
from TURF CLUB VIEW LIMITED, a Limited Partnership, to the  
County of San Diego, a political corporation and/or Governmental agency,  
is hereby accepted by order of the undersigned officer or agent on  
behalf of the Board of Supervisors of San Diego County, pursuant to  
authority conferred by resolution of said Board of Supervisors adopted  
on July 1, 1970, and the grantee consents to recordation thereof by its duly  
authorized officer.

Date July 1 19 70.

Board of Supervisors  
of San Diego County

By *H. J. [Signature]*  
County Engineer



THE LAND REFERRED TO IN THIS REPORT IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SAN DIEGO, AND IS DESCRIBED AS FOLLOWS:

"TURF CLUB VIEW", BEING A SUBDIVISION OF A PORTION OF THE EAST HALF OF SECTION 2, TOWNSHIP 14 SOUTH, RANGE 4 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHERLY BOUNDARY OF SOLANA DEL MAR, ACCORDING TO MAP THEREOF NO. 5839, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, WITH THE EASTERLY LINE OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 2; THENCE SOUTH  $2^{\circ}04'27''$  WEST ALONG SAID EASTERLY LINE 449.79 FEET TO THE NORTHEAST CORNER OF THE LAND DESCRIBED IN DEED TO EDWIN R. STEVENS RECORDED OCTOBER 6, 1919, AS DOCUMENT NO. 19716, IN BOOK 793, PAGE 425 OF DEEDS; THENCE ALONG THE NORTHERLY LINE OF SAID LAND NORTH  $89^{\circ}34'34''$  WEST 826.29 FEET TO THE NORTHWEST CORNER OF SAID STEVENS LAND, BEING IN THE EASTERLY BOUNDARY OF THAT PARCEL OF LAND DESCRIBED IN DEED TO SPENCER WARD, ET UX, RECORDED DECEMBER 10, 1937 AS DOCUMENT NO. 74279 IN BOOK 732, PAGE 10 OF OFFICIAL RECORDS; THENCE ALONG SAID EASTERLY BOUNDARY NORTH  $1^{\circ}54'07''$  EAST -RECORD NORTH  $1^{\circ}21'50''$  EAST- 27.30 FEET; THENCE NORTH  $1^{\circ}56'27''$  EAST 236.14 FEET -RECORD NORTH  $1^{\circ}23'$  EAST 236.12 FEET- TO AN ANGLE POINT IN SAID BOUNDARY OF WARD'S LAND; THENCE CONTINUING ALONG SAID BOUNDARY NORTH  $88^{\circ}01'23''$  WEST 179.80 FEET -RECORD NORTH  $88^{\circ}32'50''$  WEST 179.81 FEET- TO AN ANGLE POINT; THENCE NORTH  $2^{\circ}04'27''$  EAST 210.00 FEET -RECORD NORTH  $1^{\circ}33'$  EAST 210.10 FEET- TO THE CENTER LINE OF THE COUNTY ROAD KNOWN AS NARDO AVENUE, AS DESCRIBED IN DEED TO THE COUNTY OF SAN DIEGO, RECORDED JANUARY 20, 1937 AS DOCUMENT NO. 3484, IN BOOK 613, PAGE 165 OF OFFICIAL RECORDS; THENCE ALONG SAID CENTER LINE AS FOLLOWS:

SOUTH  $67^{\circ}34'38''$  EAST 23.02 FEET -RECORD SOUTH  $68^{\circ}05'$  EAST 22.98 FEET- TO THE BEGINNING OF A TANGENT 200.00 FOOT RADIUS CURVE CONCAVE NORTHERLY; THENCE EASTERLY ALONG SAID CURVE 204.82 FEET THROUGH AN ANGLE OF  $98^{\circ}40'32''$  -RECORD 204.90 FEET THROUGH AN ANGLE OF  $98^{\circ}42'1''$ ; THENCE TANGENT TO SAID CURVE NORTH  $53^{\circ}44'50''$  EAST 182.26 FEET -RECORD NORTH  $53^{\circ}13'$  EAST 182.33 FEET- TO THE BEGINNING OF A TANGENT 250.00 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY; THENCE NORTHEASTERLY ALONG SAID CURVE 156.62 FEET THROUGH AN ANGLE OF  $35^{\circ}33'41''$  -RECORD 156.57 FEET THROUGH AN ANGLE OF  $35^{\circ}53'1''$ ; THENCE TANGENT TO SAID CURVE NORTH  $17^{\circ}51'09''$  EAST 92.49 FEET -RECORD NORTH  $17^{\circ}20'$  EAST 92.79 FEET- TO THE BEGINNING OF A TANGENT 150.00 FOOT RADIUS CURVE CONCAVE SOUTHERLY; THENCE CLOCKWISE AND ALONG SAID CURVE 316.44 FEET THROUGH AN ANGLE OF  $120^{\circ}52'22''$  -RECORD 316.34 FEET THROUGH AN ANGLE OF  $120^{\circ}50'1''$ ; THENCE TANGENT TO SAID CURVE SOUTH  $41^{\circ}16'29''$  EAST 149.43 FEET -RECORD SOUTH  $41^{\circ}30'$  EAST 149.30 FEET- TO THE BEGINNING

917  
OF A TANGENT 1000.00' FOOT RADIUS CURVE CONCAVE SOUTHWESTERLY;  
THENCE SOUTHEASTERLY ALONG SAID CURVE 167.49 FEET THROUGH AN  
ANGLE OF  $9^{\circ}35'47''$  -RECORD 161.73 FEET THROUGH AN ANGLE OF  $9^{\circ}16'1''$ -  
THENCE TANGENT TO SAID CURVE SOUTH  $31^{\circ}40'42''$  EAST -RECORD SOUTH  
 $32^{\circ}34'$  EAST 158.43 FEET TO THE POINT OF BEGINNING.





# STAFF REPORT CITY OF SOLANA BEACH

**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Gregory Wade, City Manager  
**MEETING DATE:** December 5, 2018  
**ORIGINATING DEPT:** Engineering Department  
**SUBJECT:** **Public Hearing: Consideration of Resolution 2018-149 for Fiscal Year 2019-2020 Community Development Block Grant Funds – ADA Pedestrian Ramp Improvements**

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## **BACKGROUND:**

The City of Solana Beach is eligible to apply for Federal Community Development Block Grant (CDBG) funding administered locally through the County of San Diego Department of Housing and Community Development (County). The County has recommended that the City target Americans with Disabilities Act (ADA) improvements to improve the accessibility and safety for persons with disabilities, which is one of the CDBG goals. The City Council has approved previous annual CDBG applications to construct ADA compliant pedestrian ramps at public street intersections throughout the City.

For the upcoming application, Staff prepared for Council's consideration a new list of street intersections that may be improved with ADA compliant pedestrian ramps (Attachment 1, Exhibit A). This item is before the City Council to consider approving the list and authorizing Staff to apply for the Fiscal Year (FY) 2019-20 CDBG funding program.

## **DISCUSSION:**

The County has indicated that the anticipated CDBG funding will be approximately \$70,000 for this grant application, which consists of our annual allocation and a roll-over from the previous fiscal year. The City's annual allocation has typically been approximately \$50,000. The ramps listed in Attachment 1, Exhibit A, are at locations with pedestrian ramps that do not meet current standards. The number of ramps to be constructed will be adjusted to match the available funding. As this Council action has been advertised as a public hearing, any information, comments, and testimony received

CITY COUNCIL ACTION:

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on this item will be attached to this report and sent to the County along with the City's application.

The need for ADA ramps will continue to decline as many of the ramps have already been installed throughout the City using CDBG funds. For this reason, Staff will be working with the County to identify other eligible projects for CDBG funds.

Last year, the City Council elected to request and program funds for eligible public service agencies. The maximum allowable allocation for public services is 15% of the City's total annual CDBG allocation, which was approximately \$6,000 last year. While public services are an eligible use of the funds, the County has indicated it will not accept an application for public services given the small amount of funding and the associated administrative costs with such an allocation.

**CEQA COMPLIANCE STATEMENT:**

This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301(c) of the State CEQA Guidelines.

**FISCAL IMPACT:**

There is no impact to the General Fund due to the use of Federal CDBG Funds. Staff anticipates that the City will receive grant funding of approximately \$70,000 for FY 2019-20. Staff will program the funds for the ADA pedestrian ramps in the proposed FY 2019-20 CIP Budget.

**WORK PLAN:**

N/A

**OPTIONS:**

- Approve Staff recommendations and approve the CDBG application.
- Provide alternative direction.

**DEPARTMENT RECOMMENDATION:**

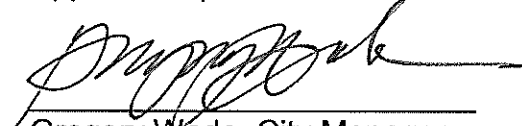
Staff recommends that the City Council:

1. Conduct the Public Hearing: Open the public hearing, Report Council disclosures, Receive public testimony, Close the public hearing.
2. Adopt Resolution 2018-149:

- a. Finding that the funding request and project implementation are exempt from the California Environmental Quality Act pursuant to the State CEQA Guidelines.
- b. Approving the list of public street ADA ramp locations.
- c. Requesting FY 2019-20 Community Development Block Grant Funds for ADA pedestrian ramp improvements at various public street intersections listed in Attachment 1, Exhibit A.
- d. Finding that all of FY 2019-20 CDBG funds, presently estimated at a total of \$70,000, are designated to be used for ADA pedestrian ramp improvements.
- e. Authorizing the City Manager to execute the County contract for management and implementation of the CDBG program.

**CITY MANAGER'S RECOMMENDATION:**

Approve Department Recommendation

  
\_\_\_\_\_  
Gregory Wade, City Manager

Attachments:

1. Resolution No. 2018-149

## RESOLUTION 2018-149

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, REQUESTING FISCAL YEAR 2019-2020 COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS FOR ADA PEDESTRIAN RAMPS

**WHEREAS**, the City Council of the City of Solana Beach participates in the Community Development Block Grant (CDBG) Program as administered through the County of San Diego as the City is not eligible to submit as an "Entitlement City"; and

**WHEREAS**, the City desires to utilize the CDBG funds for ADA improvements to improve the accessibility and safety for persons with disabilities; and

**WHEREAS**, on December 5, 2018, the City Council held a duly noticed public hearing to consider the application of requesting CDBG funds; and

**WHEREAS**, Section 15301(c) of the State CEQA Guidelines categorically exempts operation, repairs, maintenance or minor alteration to existing streets, sidewalks, gutters and similar facilities.

**NOW, THEREFORE**, the City Council of the City of Solana Beach, California, does resolve as follows:

1. That the above recitations are true and correct.
2. That the City Council finds the funding request and project implementation are exempt from the California Environmental Quality Act pursuant to Section 15301(c) the State CEQA Guidelines.
3. That the City Council approves the list of public street ADA Ramp Locations (Exhibit A).
4. That the City Council requests the Fiscal Year (FY) 2019/20 Community Development Block Grant Funds for ADA pedestrian ramp improvements at various public street intersections listed in Exhibit A.
5. That the City Council finds that all of FY 2019/20 CDBG funds, presently estimated at a total of \$70,000, are designated to be used for ADA pedestrian ramp improvements.

6. That the City Council authorizes the City Manager to execute the County contract for management and implementation of the CDBG project.

**PASSED AND ADOPTED** this 5th day of December, 2018 at a special meeting of the City Council of the City of Solana Beach, California by the following vote:

AYES: Councilmembers –  
NOES: Councilmembers –  
ABSENT: Councilmembers –  
ABSTAIN: Councilmembers –

\_\_\_\_\_  
DAVID A. ZITO, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
JOHANNA N. CANLAS, City Attorney

\_\_\_\_\_  
ANGELA IVEY, City Clerk



**EXHIBIT A  
Resolution 2018-149**

**City of Solana Beach  
FY 2019-20 CDBG Application**

**Proposed ADA Ramps Locations**

<b>No.</b>	<b>Cross Streets</b>		<b>Corner</b>
1	Santa Elena	San Mario	NE/SE
2	Santa Sabina	San Mario	NE/SE
3	Santa Marta	San Mario	NW/SW
4	Santa Camelia	Santa Petra	NW/NE/SE/SW
5	Sun Valley Road	Camino Santa Barbara	SE
6	Sun Valley Road	Camino Ynez	SW/SE
7	Lomas Santa Fe Dr	Rios Ave	SW
8	Lomas Santa Fe Dr	Cedros Ave	SW/SE

All locations listed above have non-standard ramps to be removed and replaced with current ADA ramp standards.