

PUBLIC HEARING ITEM

**LOCAL AGENCY FORMATION COMMISSION**  
**EXECUTIVE OFFICER'S REPORT**

FOR MEETING OF: OCTOBER 5, 2015

**Proposal**

"Oak Creek Reorganization" (City of Escondido)  
(RO15-02)

**Proponent**

City of Escondido, by resolution

**Description/Justification**

*The proposed "Oak Creek Reorganization" has 100% consent of the affected landowners and does not involve a change to the City of Escondido's adopted sphere of influence; therefore, the proposal does not require a public hearing. However, to provide expanded public notification this item has been placed in the public hearing section of the LAFCO agenda.*

Proposed by resolution of the City of Escondido is a reorganization involving annexation of approximately 50.70-acres of unincorporated territory to the City of Escondido, with a concurrent detachment of the proposal area from County Service Area (CSA) No. 135 (San Diego Regional Communications System); and exclusion of the proposal area from the Rincon Del Diablo Municipal Water District (MWD) Improvement District E (ID "E"). The proposed reorganization area is contiguous to the incorporated boundary of the City of Escondido and is located within the City's adopted sphere of influence.

The proposed "Oak Creek Reorganization" is necessary for the subject unincorporated territory to receive urban services from the City of Escondido; the concurrent detachment and exclusion of the proposal area are required to avoid creating an overlap of service responsibilities between the City and the Districts following the proposed reorganization. The County of San Diego Board of Supervisors has adopted a Master Property Tax Agreement with the City of Escondido that will govern any property tax transfer resulting from the reorganization.

The proposed "Oak Creek Reorganization" area includes ten unincorporated parcels totaling approximately 44.27-acres, and approximately 6.43-acres of existing roadway territory, including adjacent frontage segments of Hamilton Lane (approximately 2,110-feet), Felicita Road (approximately 2,300-feet), and Miller Avenue (approximately 670-feet).

The City of Escondido has adopted development plans and environmental determinations

for a 65-unit single-family residential project on seven of the ten parcels within the proposed reorganization area. The development project area consists of approximately 38.13-acres, with the following approximate acreages for the seven unincorporated parcels: APN 238-370-01 (6.45-acres); APN 238-370-04 (2.62-ac); APN 238-370-05 (6.86-ac); APN 238-370-06 (8.59-ac); APN 238-370-07 (1.04-ac); APN 238-370-08 (1.52-ac); and, APN 238-380-01 (11.05-ac).

The proposed reorganization area also includes three additional unincorporated parcels totaling approximately 6.14-acres: APN 238-110-39 (2.34-acres) which is developed with a religious facility that operates under a Major Use Permit granted by the County of San Diego (MUP3300 01-024); and APNs 238-110-25 (1.11-ac) and 238-110-35 (2.69-ac), which are undeveloped and are designated for single-family residential use in the Escondido General Plan.

The landowners of the additional parcels were surveyed and have requested inclusion in the proposed “Oak Creek Reorganization” to receive future urban services from the City of Escondido. No development is proposed for the additional parcels at this time; however, any future development on the parcels following reorganization would be governed by the City of Escondido’s General Plan, zoning designation, and environmental review. The three additional parcels are recommended to be included within the proposal area to create a more logical and orderly incorporated boundary following the proposed reorganization to Escondido.

## ***Land Use***

### ***Existing***

The proposed reorganization area consists of unincorporated territory located within the County of San Diego’s North County Metro Community Planning Area. The County of San Diego General Plan designation for the proposed reorganization area is Village Residential 2.9 (VR-2.9; 2.9 dwelling units per acre). The present County zoning designation for the proposal area is Rural Residential (RR, up to 2.9 du/acre, 15,000 sf minimum lot size); and Limited Agriculture (A-70, up to 2.9 du/ac, 15,000 sf minimum lot size).

The proposal area is surrounded by single-family residential uses, with I-15 adjacent on the east, and Felicita County Park adjacent on the southwest. The development project site currently contains a residential unit, agricultural uses, open space, and a seasonal pond in the southwest corner of the site. The proposal area is located west of the Escondido Valley with elevations ranging from 575 to 675 feet above mean sea level.

The proposed reorganization area presently supports 13 vegetation communities: southern cottonwood-willow riparian forest, freshwater marsh, emergent wetland (disturbed), coast live oak woodland, southern coast live oak riparian forest, Diegan coastal sage scrub, non-native grassland, eucalyptus woodland, non-native vegetation, intensive agriculture, extensive agriculture, disturbed habitat, and developed.

The western portion of the proposal territory is located in a *Zone A* floodplain as mapped on the current effective Flood Insurance Rate Map (FIRM) produced by the Federal

Emergency Management Agency (FEMA). Zone A floodplains are considered a Special Flood Hazard Area (SFHA) that will be inundated by a 100-year flood event. The proposal area is underlain by undocumented fill, alluvium, colluvium and granitic bedrock.

Two drainages flow southerly through the development project site and converge near the seasonal pond: the westerly drainage crosses south under Hamilton Lane via a 5-foot by 5-foot concrete culvert; the easterly drainage crosses south under Hamilton Lane via a 72-inch diameter culvert. The easterly drainage is designated as the East Fork of the Felicita Creek Hydrologic Sub Area (HSA 5.23) by the State Water Resources Control Board. The two drainages converge and then join with additional runoff from a lined ditch on the east side of Miller Avenue that discharges into the site's eastern boundary. All onsite runoff then flows to the southwest through a 60-inch diameter culvert under Felicita Road, and converges with the West Fork of Felicita Creek within the adjacent Felicita County Park. The Felicita Creek East Fork and West Fork confluence then continues to flow south to the Lake Hodges Reservoir (HSA 5.21).

### *Proposed*

The City of Escondido General Plan designates the proposed reorganization area as Residential - Estate II (Large Lot Single-Family Residential, up to 2 dwelling units per acre). The Escondido General Plan Land Use Element describes the Estate II designation as applicable to areas that are on the edge of urban development or in areas that are already characterized by an estate development pattern.

The City of Escondido has adopted prezoning for the proposal area as: Planned Development - Residential 1.75 (PD-R 1.75; up to 1.75 dwelling units per acre) for the seven parcels that comprise the proposed development project area; and, Residential Estates (RE-20; 20,000 sf min lot size) for the three additional parcels.

The City of Escondido has conditionally approved a Tentative Subdivision Map with Grading Exemptions and a Specific Alignment Plan; and a Preliminary, Master and Precise Development Plan (SUB 13-0002, PHG 13-0017) for the construction of 65 single-family residences on approximately 37.59-acres of the proposed reorganization area (1.73 dwelling units per acre). The Preliminary, Master and Precise Development Plan specifies the project's residential lot clustering, establishes development standards, and provides architectural and landscape designs. Proposed residential lot sizes range from approximately 10,000 square feet (SF) to 22,500 SF, with an average lot size of 12,585 SF.

The City's approved Grading Exemptions allow for a 2:1 cut slope up to 35 feet high where the City's Grading Ordinance permits up to a 20-foot-high cut slope; and a 2:1 combination cut/fill slope up to 17 feet high where the City's Grading Ordinance permits up to a 10-foot-high fill slope. Proposed grading would include elevating a portion of the development project area to raise the residential pads above the 100-year flood inundation area; and construction of several bio-retention/detention basins to manage the flow of storm water exiting the site.

The Specific Alignment Plan identifies the project's transportation improvements to adjacent roadways that are included in the proposed reorganization area: the frontage

segments of Felicita Road (approximately 2,300-feet) and Hamilton Lane (approximately 2,110-feet); an approximate 80-foot segment of Hamilton Lane west of the Felicita/Hamilton intersection; and an approximate 670-foot frontage segment of Miller Avenue.

The Specific Alignment Plan calls for widening of the Felicita Road and Hamilton Lane roadways to City standards, and construction of street improvements such as curbs, sidewalks, lighting, and signage; however, full street improvements are proposed only for the sides of the roadways that will front incorporated territory following the reorganization to the City of Escondido. The City states that its conditions for half-street improvements to the incorporated frontages were adopted in response to requests of the adjacent unincorporated residents to maintain a “rural” atmosphere on the unincorporated side of the roadways.

### ***Environmental Review***

In accordance with the California Environmental Quality Act (CEQA), the City of Escondido has reviewed and certified a Final Environmental Impact Report (FEIR), CEQA Findings, and a Mitigation, Monitoring, and Reporting Program (MMRP) for the Oak Creek residential development project and the proposed reorganization (Log No. ENV 13-0006; SCH #2014041092) as required by the California Environmental Quality Act (CEQA). The Final EIR determined that no potentially significant environmental impacts were identified for the following categories: Aesthetics; Agricultural Resources; Greenhouse Gas Emissions; Land Use; Public Services; Recreation; Transportation and Traffic; and Utilities and Service Systems.

The City of Escondido’s Final EIR determined that potentially significant environmental impacts would result from the proposed Oak Creek development project in relation to the following categories: Air Quality; Biological Resources; Cultural Resources; Geology and Soils; Hazards and Hazardous Materials; Hydrology and Water Quality; and Noise.

### ***Mitigation, Monitoring, and Reporting Program (MMRP)***

The Mitigation, Monitoring, and Reporting Program (MMRP) adopted by the City for the project includes mitigation measures intended to reduce the identified potential significant environmental impacts to less than significant levels. The Final EIR identified potentially significant environmental impacts to Air Quality, Cultural Resources, Geology and Soils, and Noise from the construction of the Oak Creek development, including grading and site preparation activities. The City’s MMRP includes Best Management Practices (BMPs) for the project’s construction activities to mitigate the potentially significant impacts to Air Quality, Cultural Resources, Geology and Soils, and Noise to below a level of significance.

### ***Agricultural Resources***

The proposed development site contains ongoing agricultural uses that will be discontinued following the proposed reorganization and subsequent residential development. Approximately 25.1 acres of the proposed reorganization area contain either class I soils (FaC, Fallbrook sandy loam, 5 to 9 percent slopes) or class II soils (BIC, Bonsall sandy

loam, 2 to 9 percent slopes; PfC, Placentia sandy loam, thick surface, 2 to 9 percent slopes; and RaC, Ramona sandy loam, 5 to 9 percent slopes). The presence of class I or class II soils on territory that has not been used for non-agricultural purposes qualifies the affected proposal area as *prime agricultural land* under Government Code Section 56064.

As the proposed Oak Creek development will convert the identified *prime agricultural land* from agricultural uses to residential, the developer has agreed to purchase agricultural mitigation credits from either a California land trust, authorized to accept grants by the Department of Conservation's California Farmland Conservancy Program, or the San Diego County Purchase of Agricultural Conservation Easement (PACE) Program Mitigation Bank, in an amount sufficient to acquire an agricultural conservation easement over land of annual economic productivity equal to that of the 25.1 acres lost through development.

### *Biological Resources*

The Final EIR identified potentially significant environmental impacts to Biological Resources, including special status species, riparian habitat and other sensitive natural communities, jurisdictional waters, and trees. The Oak Creek development approvals include the conservation of approximately 13.93-acres of biological open space within four open space lots. The biological open space areas are primarily located in drainage basins along the western site boundary and north-central portion of the site that drain to a seasonal pond in the southwestern corner of the development site.

The biological open space areas include a number of sensitive natural communities including coast live oak woodland, southern willow riparian forest, the seasonal pond, Diegan coastal sage scrub, freshwater marsh, and disturbed wetland habitat. The biological open space areas are required to be restored and preserved, including contouring a portion of the stream channel, removal of non-native species, and seeding/planting with a mix of native shrubs and trees. A biological resource buffer that varies in width from 0 feet to approximately 135 feet from existing native vegetation would be provided to separate the on-site biological open space areas from the proposed residential lot lines.

The City states that approximately 247 mature trees would be removed during construction of the proposed Oak Creek development. The City's MMRP and development approval conditions include a Tree Management and Preservation Plan that proposes to replace the impacted trees with 453 landscape area tree plantings and a minimum of 1,500 to 2,000 native tree plantings in the preserved woodlands/riparian areas.

### *Hazards and Hazardous Materials*

The Final EIR identified potentially significant environmental impacts related to Hazards and Hazardous Materials during construction of the Oak Creek project with the accidental release of hazardous materials; and with the implementation of the proposed traffic calming improvements for Felicita Road as part of the development project's emergency response and evacuation plans.

The Final EIR included Environmental Site Assessments that identified the Chatham Brothers Barrel Yard site as a nearby source of contamination potentially affecting groundwater beneath the development project site (currently measured as present between 17 and 26 feet below ground surface). The Chatham Brothers Barrel Yard is located approximately 0.3 mile northwest of the Oak Creek project site and was historically used for waste oil and solvent recycling. As a result, groundwater beneath the barrel yard site and the local vicinity is known to be contaminated with trichloroethylene (TCE), which is designated as a volatile organic compound (VOC). Remedial actions are underway on the Chatham Brothers Barrel Yard site under the oversight of the State of California Department of Toxic Substances Control (DTSC).

The Final EIR Environmental Site Assessments included soil and soil vapor sampling and analysis to evaluate potential risks posed by any chlorinated VOC concentrations in soil vapor arising from the underlying contaminant plume in groundwater that originates from the Chatham Brothers Barrel Yard Site. The City states that the soil and soil vapor sampling results indicated that no VOCs were present in soil vapor at levels above applicable regulatory thresholds (California Human Health Screening Levels, or CHHSL); however, fill soils with elevated concentrations of arsenic and hydrocarbon-impacted soils were detected at the project site.

The City has adopted mitigation measures for remediation of the on-site arsenic and petroleum hydrocarbon-impacted soil. The excavation and off-site disposal of up to 1,353 cubic yards of contaminated soil would be overseen by the Department of Toxic Substance Control (DTSC), the California Department of Fish and Wildlife (CDFW), and the Regional Water Quality Control Board (RWQCB) for portions of the development project site near Felicita Creek.

Prior to issuance of a grading permit, the City has also required the property owners to record a deed restriction on the title for the development project site that will prohibit the use or extraction of groundwater beneath the project site for any purpose; and record a deed restriction on all residential lots within the development that prohibits any future property owner from installing more than the maximum allowable impervious surface area.

### *Hydrology and Water Quality*

The Final EIR identified potentially significant environmental impacts related to Hydrology and Water Quality from the construction of single-family residential units within a 100-year flood hazard area and the placement of fill to elevate the residential pads that may impede or redirect flows within the designated 100-year flood hazard area. The City's development approvals require the project to model stormwater flow through the channel system as part of final project engineering to meet FEMA requirements.

The development project includes construction of a storm drain system and flood attenuation/bio-retention basins to convey runoff and mitigate any increase in peak flow from the project site. The City states that the hydrology improvements would mitigate the runoff from a 100-year peak storm event to equal or less than pre-project conditions.

Prior to occupancy of the residential units, a Letter of Map Revision (LOMR) is required

from the Federal Emergency Management Agency (FEMA) certifying that all residential lots within the development project been elevated above the base flood level of the 100-year floodplain.

### *Transportation and Traffic*

The proposed Oak Creek residential project is projected to generate 780 new vehicle trips (780 ADT) associated with new residents. Primary access to the residential development would be provided approximately 800 feet north of the Felicita Road/Miller Avenue intersection via a gated, private street extending from Felicita Road across from the Felicita County Park. Additional gated emergency access to Hamilton Lane would be provided from the northern ends of two cul-de-sacs within the development project.

The City's adopted Specific Alignment Plan involves widening the frontage segments of both Felicita Road and Hamilton Lane; construction of half-street roadway improvements (sidewalks and curbs) along the frontages of Felicita Road, Hamilton Lane, and Miller Avenue; and implementation of a traffic calming plan for Felicita Road from Hamilton Lane south to Clarence Lane that includes speed limit signage, crosswalk warning signage, bicycle lanes, and a roundabout at the intersection of Felicita Road and Park Drive. As part of widening the east side of Felicita Road, a retaining wall varying in height from 1 to 6 feet would be constructed to minimize grading impacts to the adjacent Felicita Creek riparian habitat.

### **Public Services**

#### *Fire*

The proposed reorganization area is presently located within the authorized structural fire protection and emergency medical services area of the Rincon Del Diablo Municipal Water District (MWD) Improvement District "E" (ID "E"). The Rincon Del Diablo MWD provides fire protection and emergency medical services to the unincorporated territory within ID "E" by contractual agreement with the City of Escondido Fire Department. The City Fire Department's closest station is Fire Station #5, Felicita, which is located approximately 500-feet north of the proposal area at 2319 Felicita Road. Fire Station #5 houses one paramedic fire engine, one ambulance and one brush engine.

Following the proposed reorganization, the proposal area would remain within the sphere of influence and the authorized water service area of the Rincon Del Diablo MWD; however, the proposal area would be excluded from ID "E" and the City of Escondido would assume responsibility for the provision of structural fire protection and emergency medical services to the subject territory.

#### *Police*

Police protection is presently provided to the proposed reorganization area by the San Diego County Sheriff from its San Marcos Substation at 182 Santar Place, San Marcos, with an estimated 5.3 minute response time for priority calls, and 30+ minutes for non-priority calls. Following reorganization, the City of Escondido would assume responsibility

for provision of police protection services from its station located at 1163 North Centre City Parkway, Escondido, with an estimated 5.0 minute response time to the proposal area for priority calls, and 6.5 minutes for non-priority calls.

### *Sewer*

The proposed reorganization area is not presently located within the service area of an authorized sewer service provider. Following the proposed reorganization, the City of Escondido would provide sewer service to the proposal area from existing 8" sewer pipelines in Hamilton Lane and Felicita Road. The City estimates that the proposed 65-unit Oak Creek project would generate approximately 15,000 gallons of wastewater per day. The City of Escondido Utilities Department Wastewater Division reports the current sewer treatment capacity of the City's Hale Avenue Resource Recovery Facility (HARRF) as 18 million gallons per day with an average daily flow of 15.6 million gallons per day.

### *Water*

The proposal territory is currently located within the authorized water service area and adopted sphere of influence of the Rincon Del Diablo MWD; no change to the water service arrangement is proposed as part of the subject reorganization to the City of Escondido. Rincon Del Diablo MWD has existing water pipelines in Hamilton Lane and Felicita Road that will be extended to serve the development project. Rincon Del Diablo MWD estimates an average per unit water demand of 510 gallons per day. The average demand for the 65-unit Oak Creek project is estimated at 33,150 gallons per day.

In August 2014, responding to state-wide emergency drought conditions, the Board of Directors for the Rincon Del Diablo MWD activated Level 2 of its Drought Response Plan and temporarily amended the ordinance to continue to allow new water meters. On May 14, 2015, The San Diego County Water Authority announced additional imported water allocation restrictions for its member agencies; Rincon Del Diablo MWD has been designated for a 32% emergency water conservation regulation.

The Rincon Del Diablo MWD Board has indicated that Level 2 provisions for suspending consideration of water availability certifications and rescinding outstanding certifications for all commercial projects and residential projects of more than one home may be considered at a later date, unless the project is necessary to protect the public's health, safety, and welfare and/or the applicant provides substantial evidence of an enforceable commitment that water demands for the project will be offset prior to the provision of a new water meter(s) to the satisfaction of the District.

### ***Potential Proposal Area Modification***

As submitted, the proposed "Oak Creek Reorganization" area includes frontage segments of Felicita Road (approximately 2,300-feet) and Hamilton Lane (approximately 2,110-feet); an approximate 80-foot segment of Hamilton Lane west of the Felicita/Hamilton intersection; and a 670-foot frontage segment of Miller Avenue. Following reorganization to the City of Escondido, an approximate 565-foot segment of Hamilton Lane between Felicita



Road and the City's present incorporated boundary to the west would remain unincorporated.

Hamilton Lane originates just east of the proposal area and extends west approximately 9,470-feet (1.8-miles) where it terminates at Jenna Place. Presently, approximately 6,800-feet (1.3-miles, or 72%) of Hamilton Lane is located within the incorporated boundary of Escondido west of the proposed reorganization area. Approval of the submitted reorganization would result in 94% of the 1.8-mile roadway being located within the City of Escondido, with only the approximate 565-foot segment of Hamilton Lane remaining unincorporated.

To avoid potential jurisdictional confusion regarding roadway maintenance and emergency services responsibilities, and to include the entirety of the approximate 1.8-mile Hamilton Lane roadway within the City of Escondido, the LAFCO Preliminary Staff Report recommended a modification of the proposed "Oak Creek Reorganization" area to include the adjacent 565-foot unincorporated segment of Hamilton Lane.

In response to the Preliminary Staff Report, the City of Escondido and the County of San Diego both sent letters regarding the Oak Creek proposal and the potential modification to include the subject segment of Hamilton Lane (See Attachments). The agency letters are summarized as follows:

#### *City of Escondido*

The City of Escondido, in a letter dated June 5, 2015, indicated opposition to the modification of the proposed reorganization area to include the affected Hamilton Lane segment for the following reasons:

- The potential annexation of this modification area was not included in the Oak Creek project plans approved by the City and was not addressed in any of the four comment letters received from LAFCO during the project entitlement process.
- Hamilton Lane is identified as a Local Collector and the current condition of this section of Hamilton Lane does not meet City standards. Future street improvements in this area would be expensive given the location of existing power poles on both sides of the street and the need to acquire additional right-of-way from adjacent County properties. The City's initial engineering estimate indicates a cost of approximately \$700,000 for design, environmental review, construction, undergrounding overhead utilities, and right-of-way acquisition. There is a high probability that road construction in this area would impact adjacent leach fields and septic systems. The anticipated cost of a public sewer extension and connection of impacted properties to sewer is estimated to be an additional \$250,000 for an unanticipated total project cost of approximately \$950,000. There has been no consultation or coordination with the affected unincorporated residents because annexation of the modification area was never proposed or recommended during the two-year entitlement process. The City states that it would have required the project applicant to address these issues had there been any indication that annexation of this area would be required.

- The Environmental Impact Report that has been certified for the project, upon which LAFCO is relying, does not include any environmental analysis of the modification area or the improvements that would be required for the City to accept this area.
- Inclusion of the modification area would require additional action on the part of the Escondido City Council to concur with the modified reorganization area. Should the Hamilton Lane segment be included in the reorganization, the City requests the final staff report include a discussion acknowledging the City's inability to accept the modified reorganization in the absence of a commitment from the Oak Creek developer to improve the unincorporated segment to Local Collector standards (or as otherwise determined by the City of Escondido Engineering Division).
- Inclusion of the modification area into the reorganization creates a County island where one does not presently exist.

### *County of San Diego*

In a letter dated July 10, 2015, the County of San Diego stated that County Department of Public Works – Transportation staff concurred with the potential modification to include the Hamilton Lane segment within the “Oak Creek Reorganization” proposal area. The County stated that *“Piecemeal incorporation of parcels and roadway facilities creates confusion between agencies’ departments responsible for roadway maintenance. This confusion can lead to segments of roadway, within adjacent jurisdictions, being neglected or having duplicated maintenance expenditures.”* The County letter also restated previous concerns raised by the County Department of Parks and Recreation regarding potential impacts to the adjacent Felicita County Park from construction of the Oak Creek development project.

### *Escondido Citizens United Opposition Letter*

Additionally, in a letter dated April 22, 2015, a local community group entitled *Escondido Neighbors United* stated its opposition to the proposed “Oak Creek Reorganization” and residential development project for the following reasons:

- The proposed “Oak Creek Reorganization” is not orderly and creates jurisdictional islands of the proposal area.
- Community issues have not been resolved regarding potential environmental impacts from the proposed development.
- Annexation does not promote logical and efficient public services for cities and special districts and creates additional burdens on them regarding jurisdictional roadway segmentation and water supply reductions due to existing drought conditions.
- The proposed project creates an unmitigated burden on Felicita Park, a County resource, and is inconsistent with the Escondido General Plan commitments to recreation.
- The reorganization application has many areas of omission or deficiencies

regarding off-site contamination of local groundwater and on-site groundwater and soil vapor pollution.

The *Escondido Neighbors United* letter concludes with a request for recommendation of denial of the proposed reorganization as inappropriate and inconsistent with LAFCO rules and goals.

#### *LAFCO Staff Response*

The proposed “Oak Creek Reorganization” area is contiguous to the City of Escondido’s incorporated territory at the intersection of Felicita Road and Hamilton Lane, and is located within the City’s adopted sphere of influence. The City’s tentative development approvals for the proposal area have been conditioned to comply with the City’s General Plan and pre-zoning designations, and have undergone environmental review in accordance with the California Environmental Quality Act (CEQA). No challenge to the City’s environmental determinations for the development project and proposed reorganization was filed during the timeframe afforded by CEQA. Therefore, the proposed “Oak Creek Reorganization” represents orderly growth in conformance with the annexing city’s planning documents, adopted sphere of influence, and environmental determinations under CEQA.

When considering city annexations, one of the components in determining a logical and orderly incorporated boundary is to identify how the unincorporated proposal area will interface with the annexing city’s circulation system. The inclusion of relevant unincorporated roadways within a proposal area is intended to encourage the efficient provision of the annexing city’s municipal services to the proposed annexation area and allow for the annexing city to assume responsibility for roadway maintenance and emergency services.

In many city annexation proposals, the proposed annexation area will include existing unincorporated roadways that were not originally constructed to the annexing city’s standards of width or include full street improvements such as curbs and sidewalks. While an annexing city may condition its local development and annexation approvals on the provision of improvements to certain city standards for roadways or other public facilities, LAFCO is not allowed to impose any condition on an annexing local agency with respect to the standards or frequency of maintenance of any existing street or road within the annexed territory [Government Code Section 56886.7(a)]. In addition, LAFCO may not impose a condition which requires a local agency to improve an existing public facility which is not owned by the agency [Government Code Section 56886.7(b)].

LAFCO staff conducted a field visit to the proposal site and does concur with the City’s conclusion that widening the unincorporated Hamilton Lane segment to the same City standards as the adjacent incorporated segments could result in impacts to the existing unincorporated residences. The seven existing unincorporated single-family residences fronting the northern portion of the Hamilton Lane segment are setback approximately 30-feet from the roadway, and each uses the roadway frontage for driveway access. Two of the four unincorporated single-family residences fronting the southern portion of the roadway segment have larger setbacks than the north side, but each side of the

unincorporated segment of Hamilton Lane would lose approximately 15-20 feet of frontage space with widening to City standards and construction of full street improvements.

LAFCO staff also concurs with the County of San Diego that inclusion of the Hamilton Lane segment would help to avoid potential jurisdictional confusion regarding responsibility for roadway maintenance and emergency services. While inclusion of the roadway segment would create an island of unincorporated territory, Government Code Section 56375(m) allows the Commission to waive the island restriction if the Commission finds that application of the restrictions would be detrimental to the orderly development of the community and that the island area cannot reasonably be annexed to another city or incorporated as a new city.

The potential unincorporated island is presently enclosed by the City of Escondido's incorporated territory on three sides, is located within the City's adopted sphere of influence, and cannot reasonably be annexed to another city or incorporated as a new city; therefore, the Commission may waive the island restriction and modify the proposal area to include the Hamilton Lane segment if so inclined.

The City's adopted environmental review for the proposal did not consider the potential inclusion of the Hamilton Lane segment or any improvements to the affected roadway; however, we believe that a modification of the proposal area to include the existing roadway segment would be categorically exempt from environmental review under CEQA per Section 15319(a) of the State CEQA Guidelines (Annexations of Existing Facilities).

The City states that inclusion of the Hamilton Lane roadway segment would jeopardize the City's ability to accept the reorganization in the absence of a commitment from the Oak Creek developer to improve the segment to Local Collector standards (or as otherwise determined by the City of Escondido Engineering Division); however, the City's adopted development conditions for the Oak Creek project have deferred full street improvements to the unincorporated side of the affected roadways in response to the neighboring unincorporated residents' desire to "maintain a rural atmosphere."

As the subject Hamilton Lane segment contains existing single-family residences located within 30 feet to the roadway, widening the roadway segment to City standards may not be feasible or desired in relation to the anticipated impacts to the unincorporated residences. The City's willingness to defer full street improvements to the unincorporated sides of the roadways within the proposed reorganization area indicates that the City may have some discretion over applying its requirements for street improvements and may waive or defer such improvements when appropriate.

Nonetheless, Hamilton Lane is presently located within the City's adopted sphere of influence and General Plan Circulation Element. Exclusion of the roadway segment would result in approximately 94% of Hamilton Lane being located within the incorporated City following the reorganization and enable the continued potential for jurisdictional confusion regarding maintenance and emergency service provision. Inclusion of the roadway segment would result in 100% of Hamilton Lane being within the incorporated territory of the City and help to avoid any potential jurisdictional confusion regarding roadway maintenance and emergency services following the reorganization.

## ***Conclusion and Recommendation***

The proposed “Oak Creek Reorganization” proposal has been initiated by resolution of the City of Escondido and has received 100% consent from the affected landowners. The proposed reorganization is necessary for the subject unincorporated territory to receive urban services from the City of Escondido; the concurrent detachment and exclusion of the proposal area are required to avoid creating an overlap of service responsibilities between the City and the Districts following the proposed reorganization. The subject special districts have not indicated opposition to the concurrent detachments of the proposal area. The County of San Diego Board of Supervisors has adopted a Master Property Tax Agreement with the City of Escondido that will govern any property tax transfer resulting from the reorganization.

The City of Escondido’s tentative development approvals for the proposal area have been conditioned to comply with the City’s General Plan and pre-zoning designations, and have undergone environmental review in accordance with the California Environmental Quality Act (CEQA). Therefore, it is recommended that the proposed “Oak Creek Reorganization” to the City of Escondido be approved.

Your Commission is requested to review and provide direction regarding two options for approval of the proposed reorganization: one option would be to modify the proposed reorganization area to include the approximate 565-foot adjacent Hamilton Lane segment and result in 100% of Hamilton Lane being located within the incorporated territory of the City of Escondido; the other option would be to not modify the submitted proposal area, leave the adjacent Hamilton Lane roadway segment as unincorporated, and result in approximately 94% of the roadway being located within the incorporated territory of the City of Escondido following the proposed reorganization.

### **General Plan/Zoning:**

County of San Diego General Plan: North County Metro Community Plan: Village Residential 2.9 (VR-2.9; 2.9 dwelling units per acre)

County of San Diego zoning: Rural Residential (RR, up to 2.9 du/acre, 15,000 sf minimum lot size); and Limited Agriculture (A-70, up to 2.9 du/ac, 15,000 sf minimum lot size)

City of Escondido General Plan: Estate II (up to 2 du/ac, 20,000 SF min. lot size, 10,000 SF min. lot size with clustering)

City of Escondido pre-zoning: Planned Development-Residential 1.75 (PD-R 1.75; up to 1.75du/ac); and Residential Estate (RE-20, up to 2 dwelling units per acre; 20,000 SF min. lot size)

**Location:** North of West Via Rancho Parkway, east of Felicita Road, south of west Citracado Parkway, and west of I-15. (Thos. Bros. pgs. 1129/J7 & 1149/J1)

### **Executive Officer Recommendation**

- (1) Provide direction regarding the potential inclusion of the approximate 565-foot

unincorporated segment of Hamilton Lane within the proposed “Oak Creek Reorganization” area: if the submitted proposal area is expanded to include the roadway segment for the reasons set forth in the Executive Officer’s Report, find that the reorganization of the roadway segment is categorically exempt from environmental review pursuant to Section 15319(a) of the State CEQA Guidelines (Annexations of Existing Facilities); and,

- (2) Certify, pursuant to Section 15091 of the State CEQA Guidelines, that the Commission has reviewed and considered the attached EIR. The mitigation measures approved by the City of Escondido for the impacts identified in the attached EIR have been adopted by the City of Escondido, and that the mitigation is within the jurisdiction of the City and not LAFCO because the affected resources and services will be within the city limits upon annexation; and
- (3) Approve the reorganization involving annexation to the City of Escondido and concurrent detachment from County Service Area No. 135 (San Diego Regional Communications System) and exclusion from Rincon Del Diablo Municipal Water District Improvement District “E”; and,
- (4) Adopt the form of resolution approving this reorganization for the reasons set forth in the Executive Officer’s Report, waiving the Conducting Authority proceedings according to Government Code Section 56663(c), and ordering the reorganization subject to the following conditions:

Payment of City of Escondido fees and State Board of Equalization charges.

Respectfully submitted,

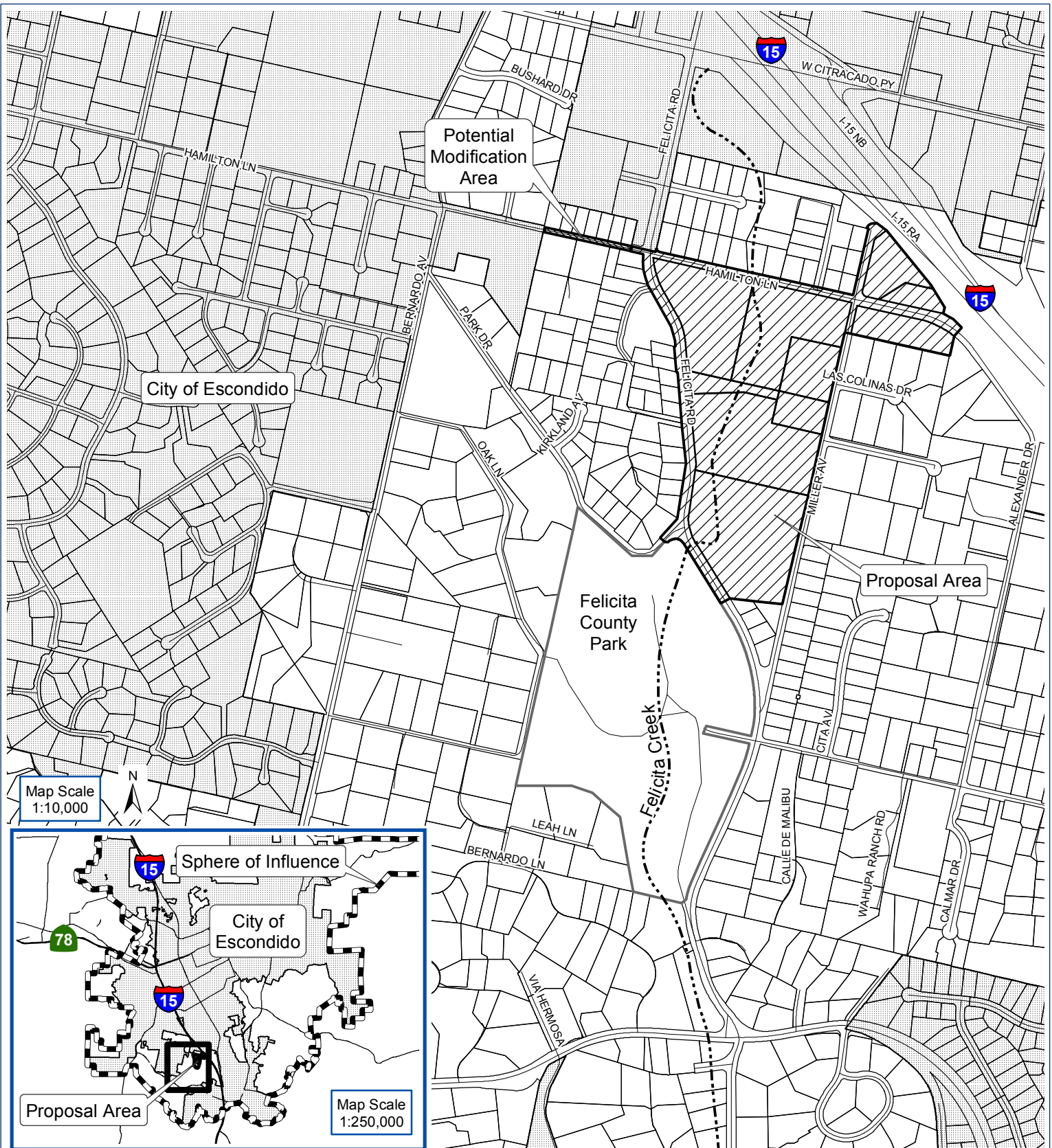
MICHAEL D. OTT  
Executive Officer

ROBERT BARRY, AICP  
Local Governmental Analyst

MDO:RB:ra




### **Attachments**

- (1) Vicinity Map
- (2) City of Escondido Final Environmental Impact Report (Log No. ENV-13-0006; SCH 2014041092), January 6, 2015 (distributed to Commission on CD)
- (3) City of Escondido letter, June 5, 2015
- (4) County of San Diego letter, July 10, 2015
- (5) Escondido Neighbors United letter, April 2, 2015



RO15-02

## PROPOSED "OAK CREEK REORGANIZATION" (CITY OF ESCONDIDO)

-  Proposal Area
-  City of Escondido
-  Sphere of Influence

# **ITEM 7**

## **ATTACHMENT 2**

**“OAK CREEK REORGANIZATION”**

**(CITY OF ESCONDIDO)**

**(REF NO.: RO15-02)**

**City of Escondido Final Environmental Impact Report  
(Log No. ENV-13-0006; SCH 2014041092),**

**January 6, 2015**

**THIS DOCUMENT IS NOT INCLUDED**

**IN THE AGENDA PACKAGE.**

**IT IS AVAILABLE ON OUR WEBSITE:**

**[www.sdlafco.org](http://www.sdlafco.org)**





Barbara J. Redlitz, AICP  
Director of Community Development  
Planning Division  
201 North Broadway, Escondido, CA 92025  
Phone: 760-839-4671 Fax: 760-839-4313

June 5, 2015

RECEIVED

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JUN 11 2015

ATTACHMENT 3

Robert Barry  
LAFCO  
9335 Hazard Way, Suite 200  
San Diego, CA 92123

SAN DIEGO LAFCO

RE: "Oak Creek Reorganization" (City of Escondido)  
Ref. No. RO15-02 (City File Nos. SUB 13-0002, ENV 13-0006)

Dear Mr. Barry:

Thank you for sending a copy of the LAFCO preliminary staff report for the proposed Oak Creek Reorganization. The City appreciates the close coordination with LAFCO staff over the course of this project and your assistance in placing the item on the LAFCO agenda.

The City of Escondido supports the preliminary staff report as drafted with one exception. The preliminary report includes a recommendation on Page 8 that the City annex an additional segment of Hamilton Lane located west of Felicita Road (modification area). While the recommendation initially appears to have some merit, the City respectfully requests the proposed recommendation be eliminated for the following reasons:

1. The potential annexation of this modification area was not included in the Oak Creek project plans approved by the City and was not addressed in any of the four comment letters received from LAFCO during the project entitlement process.
2. Hamilton Lane is identified as a Local Collector and the current condition of this section of Hamilton Lane does not meet City standards. Future street improvements in this area would be expensive given the location of existing power poles on both sides of the street and the need to acquire additional right-of-way from adjacent County properties. Our initial engineering estimate indicates a cost of approximately \$700,000 for design, environmental review, construction, undergrounding overhead utilities, and right-of-way acquisition. There is a high probability that road construction in this area would impact adjacent leach fields and septic systems. The anticipated cost of a public sewer extension and connection of impacted properties to sewer is estimated to be an

Mr. Robert Barry  
June 5, 2015  
Page 2

additional \$250,000 for an unanticipated total project cost of approximately \$950,000. There has been no consultation or coordination with the affected residents because annexation of the modification area was never proposed or recommended during the two-year entitlement process. The City would have required the project applicant to address these issues had there been any indication that annexation of this area would be required.

3. The Environmental Impact Report that has been certified for the project, upon which LAFCO is relying for your action, does not include any environmental analysis of the modification area or the improvements that would be required for the City to accept this area.
4. Inclusion of the modification area into the annexation would require additional action on the part of the Escondido City Council to concur with the new LAFCO recommendation. Should LAFCO staff continue to recommend this segment be included in the annexation, we request the final staff report include a discussion acknowledging the new LAFCO requirement jeopardizes the City's ability to accept the annexation in the absence of a commitment from the Oak Creek developer to improve the segment to Local Collector standards (or as otherwise determined by the City of Escondido Engineering Division).
5. Inclusion of the modification area into the annexation creates a County island where now one does not exist.

We appreciate the assistance LAFCO staff has provided to this point and look forward to resolving this last remaining issue in the final staff report for the proposed Oak Creek Reorganization Project. Please contact me directly at [bmartin@escondido.org](mailto:bmartin@escondido.org) or (760) 839-4557 if you have any questions or need additional information.

Sincerely,



Bill Martin, AICP  
Deputy Planning Director

Copy: Barbara Redlitz, Director of Community Development  
Julie Procopio, Assistant Director Public Works, Engineering  
Jason Han, New Urban West, Inc.



# County of San Diego

7

ATTACHMENT 4

**MARK WARDLAW**  
DIRECTOR  
PHONE (619) 694-2962  
FAX (619) 694-2555

**PLANNING & DEVELOPMENT SERVICES**  
5510 OVERLAND AVENUE, SUITE 310, SAN DIEGO, CA 92123  
[www.sdcountry.ca.gov/pds](http://www.sdcountry.ca.gov/pds)

**DARREN GRETHER**  
ASSISTANT DIRECTOR  
PHONE (619) 694-2962  
FAX (619) 694-2555

July 10, 2015

Michael D. Ott  
Executive Officer  
San Diego Local Agency Formation Commission  
9335 Hazard Way, Suite 200  
San Diego, CA 92123

Via email to: [mike.ott@sdcounty.ca.gov](mailto:mike.ott@sdcounty.ca.gov)

## **COMMENTS ON THE OAK CREEK REORGANIZATION (City of Escondido)**

The County of San Diego has received and reviewed the notice regarding the Oak Creek Reorganization dated May 22, 2015. We appreciate the opportunity to comment. County Planning & Development Services, the Department of Public Works and the Department of Parks and Recreation have completed their review and have the following comments regarding the reorganization of unincorporated lands within San Diego County seeking to receive urban services from the City of Escondido. The County understands the objective of reorganization to avoid the duplication and overlap of services between the City of Escondido and the multiple Districts currently providing services or ability to provide services for currently undeveloped properties within District boundaries. Please note that our comments should not be construed as support for the project or the annexation.

### **Transportation**

County DPW Transportation staff concur with LAFCO's recommendation that the approximate 565-foot unincorporated segment of Hamilton Lane west of Felicita Road be included as part of the "Oak Creek Reorganization". Piecemeal incorporation of parcels and roadway facilities creates confusion between agencies' departments responsible for roadway maintenance. This confusion can lead to segments of roadway, within adjacent jurisdictions, being neglected or having duplicated maintenance expenditures.

### **Parks and Recreation**

The County Department of Parks and Recreation (DPR) previously raised and still have concerns with the impact and mitigation determinations of the City of Escondido's EIR for the Oak Creek project regarding drainage improvements, easements on park property, park user access and pedestrian safety (correspondence dated 8/29/14, 1/27/15, 3/3/15).

Granting of an easement to the City of Escondido for flood control purposes will remove that portion of Felicita Park from the ability to be used for recreational purposes. Therefore, the County should be compensated for this loss of parkland pursuant to the Park Preservation Act. The City and project applicant should coordinate with Jason Hemmens, Deputy Director of Parks and Recreation, at (619) 966-1342, to determine how the County will be compensated for loss of parkland.

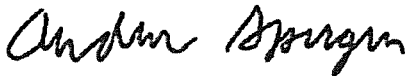
The County DPR has informed the applicant that the following will be necessary to construct and maintain the portion of the proposed flood control facility located within Felicita Park:

1. An easement granted by the County to the City of Escondido for flood control purposes;
2. An access easement granted by the County to the City of Escondido to maintain the flood control facility; and
3. Right of Entry permit or temporary construction easement to work on any portion of Felicita Park outside a granted flood control easement.

If you have any questions regarding DPR comments, please contact Marcus Lubich, Park Project Manager, at (858) 966-1348, or via email at [Marcus.Lubich@sdcounty.ca.gov](mailto:Marcus.Lubich@sdcounty.ca.gov).

The County appreciates the opportunity to participate in the environmental review process for this project. We look forward to providing additional assistance at your request. If you have any questions regarding these comments, please contact Eric Lardy, Planning Manager, at (858) 694- 3052, or via email at [eric.lardy@sdcounty.ca.gov](mailto:eric.lardy@sdcounty.ca.gov)

Sincerely,



ANDREW SPURGIN, AICP  
Chief  
Advance Planning Division  
Planning & Development Services

Email cc:

Adam Wilson, Policy Advisor, Board of Supervisors, District 2  
Mel Milstein, Chief of Staff, Board of Supervisors, District 3  
Chris Livoni, Policy Advisor, Board of Supervisors, District 5  
Conor McGee, CAO Staff Officer, LUEG  
Richard Chin, Associate Transportation Specialist, DPW  
Marcus Lubich, Park Project Manager, DPR  
Peter Elchar AICP, Land Use/Environmental Planner, PDS

# Escondido Neighbors United

## ATTACHMENT 5

An alliance of engaged residents working for the benefit of rural, urban, and natural communities in the Escondido Area.

April 2, 2015

Mr. Michael Ott, Executive Officer  
Mr. Robert Barry, Local Governmental Analyst  
LAFCO  
9335 Hazard Way, Suite 200  
San Diego, CA 92123

**RE: Escondido Neighbors United Opposition to Oak Creek Annexation.**

Dear Messrs Ott and Barry:

Escondido Neighbors United (ENU) is a local community group active in the SW Escondido area working to protect the environment and local communities. We are very committed with preserving the community, environmental, and cultural aspects of the Felicita Creek area. We have been active in the Oak Creek development process for many months. We oppose the annexation of this land to the city and urge your opposition as well.

According to the LAFCO website, the Commission Goals are to:

- Encourage orderly growth
- Promote logical and efficient public services for cities and special districts
- Streamline governmental structure
- Discourage premature conversion of prime agricultural and open space lands to urban uses

This project does not comply with these goals as stated below.

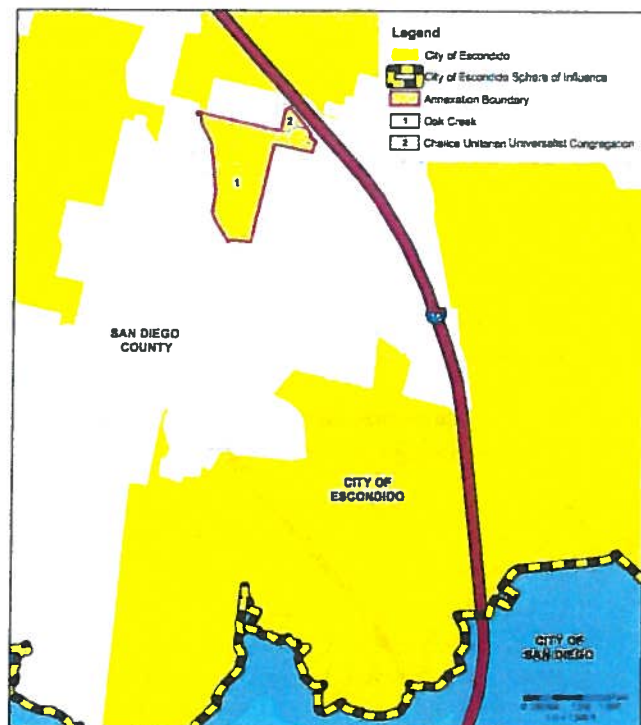
### 1. Annexation request is not orderly and creates annexation islands.

One graphic really says it all. The Oak Creek proposed annexation creates **two** jurisdictional 'islands' where none exists now. Currently, areas marked as 1 and 2 are County land and are white on the map.

The city's rationale that there is contiguity across the I-15 for the county island (Monticello neighborhood) is not rational. There is no way to access the neighborhood physically from County land after the annexation.

The new city development will be surrounded by County on all eight sides of the annexed area. The city's rationale that a 'point-to-point' is acceptable is more theoretical and is not the basis of orderly development.

The Escondido General Plan was promoted to voters as a means to address infill islands. However, it was not supposed to create more islands where none existed before.



This issue begs for the ‘reasonable person’ standard. Any reasonable person looking at this map sees two jurisdictional islands. The proposed annexation conflicts with the LAFCO rules of orderly development and we ask that it be opposed by your office.

## **2. Community issues have not been resolved.**

The application is misleading in that it would lead one to believe that most of the community issues have been resolved. They have not. The finding on page 22 of the application should be checked to reflect that community issues have **not** been resolved. We have offered multiple suggestions on how issues could be resolved and neither the city nor the developer have agreed to make the changes. Our concerns remain and include:

- Project storm water BMPs are only sized to 50% imperviousness of development site, the deferral to the HOA for maintenance and enforcement is unreliable, and downstream impacts would be severe if the BMPs fail or are not maintained. The recent series of violations due to City’s failure to enforce storm water rules<sup>1</sup> raises significant concerns about the future compliance here. We have asked that BMPs be sized to assume 100% of development site as impervious to prevent future impacts;
- Project will cause the loss or damage of 200 native oak trees many of which are avoidable through better project design;
- Project does not reasonable avoid impacts to on-site wetlands also avoidable through better project design;
- Project proposed minimum development buffer from habitat is zero feet and is out of compliance with the Escondido General Plan;
- Project locates some homes over contamination areas;
- There is no requirement to notify neighbors in the event of an air quality upset or exceedance; and,
- A walled-in, gated development is inconsistent with open, rural community character and will reduce the values of adjacent properties.

We have included our comment letters of February 25, 2015 and one from our counsel, Everett DeLano for your review. Further, we have included an annotated version of the Opinion Editorial written by two local residents and published in the San Diego UT on February 28, 2015.

## **3. Annexation does not promote logical and efficient public services for cities and special districts and creates additional burdens on them.**

In addition to the confusion around the jurisdictional islands discussed above, Hamilton Road will alternate back and forth between being a County and City road. The same is true for areas of Miller Road. This does not create a logical or efficient landscape of public services in the areas of public safety, road maintenance, code compliance and other issues. Last, the construction of so many homes in excess of 4,000 *sf* during a drought should not be supported. Yesterday’s announcement of a mandatory reduction of 25% water use is another reason why more, water-use intensive homes should not be constructed during this severe drought.

## **4. Project creates unmitigated burden on Felicita Park, a County resource and is inconsistent with the Escondido General Plan commitments to recreation.**

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<sup>1</sup> Regional Water Board, Notice of Violation R9-2015-0024 of Order R9-2007-0001 to the City of Escondido, February 10, 2015. The NOV states, in part, *"While the City seems to be able to identify issues in need of correction, the City lacks an effective enforcement process to resolve the deficiencies and bring the facilities back into compliance with Order No. R9-2007-0001."*

The EIR for the Escondido General Plan stated that it is in deficit for parklands for its residents by an estimated 97 acres<sup>2</sup>. This project adds 65 new houses, but proposes no new parkland. It will create a major increase in use of Felicita Park without offering additional funding to the County for management. Further, the runoff could cause a major impact to Felicita Creek and exacerbate erosion of the creek and parklands.

**5. The application has many areas of omission or deficiencies.**

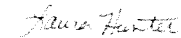
The application contains no mention of the fact that the property has been impacted by the industrial contaminated ground water plumes from the Chatham Barrel Yard- a State Superfund site- located up-gradient of the site. Both groundwater and soil vapor pollution has been documented on the site. While the plume is not under the entirety of the site, it is found, at various depths, under about a third of the site including under an estimated six home sites. ENU has requested that either the homes above the plumes be removed or, at a minimum, required to include soil vapor barriers to ensure protection of future residents. The proposed deed restriction on any new groundwater wells is appropriate and we support it, but it is not mentioned in the application.

We do not understand why the information on page 12 of the application is not filled out.

**In closing, we request that you recommend denial of this annexation as inappropriate and inconsistent with LAFCO rules and goals.**

Please contact Laura Hunter at (619) 997-9983 with any questions. Thank you for the opportunity to comment on this important issue for our region. We look forward to meeting with you once the staff recommendation is released.

Sincerely,



Laura Hunter  
Escondido Neighbors United

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<sup>2</sup> Escondido General Plan EIR 4.15-18.