

### **Report to the Planning Commission**

DATE ISSUED: November 1, 2018 REPORT NO. PC-18-068

HEARING DATE: November 8, 2018

SUBJECT: In-N-Out Burger, Process Five

PROJECT NUMBER: 449166

OWNER/APPLICANT: In-N-Out Burgers, Owner/Applicant

#### **SUMMARY**

<u>Issues</u>: Should the Planning Commission recommend City Council approve an application for a public right-of-way vacation, public utility easement vacation, and site improvements with a deviation to parking for an existing commercial restaurant, located at 4375 Kearny Mesa Road within the Kearny Mesa Community Planning area?

<u>Staff Recommendation</u>: Recommend to City Council the **Approval** of Public Right-of-Way Vacation No. 1581087, Easement Vacation No. 1581089, and Planned Development Permit No. 1824217.

<u>Community Planning Group Recommendation</u>: On October 19, 2016, the Kearny Mesa Planning Group voted 9-0-0 to recommend approval of the proposed project without conditions.

<u>Environmental Review</u>: This project was determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA sections 15305 (Minor Alterations and Land Use Limitations) and 15311 (Accessory Structures). This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on February 14, 2018, and the opportunity to appeal that determination ended March 1, 2018.

<u>Fiscal Impact Statement</u>: Costs associated with the processing of this project are paid by applicant deposit.

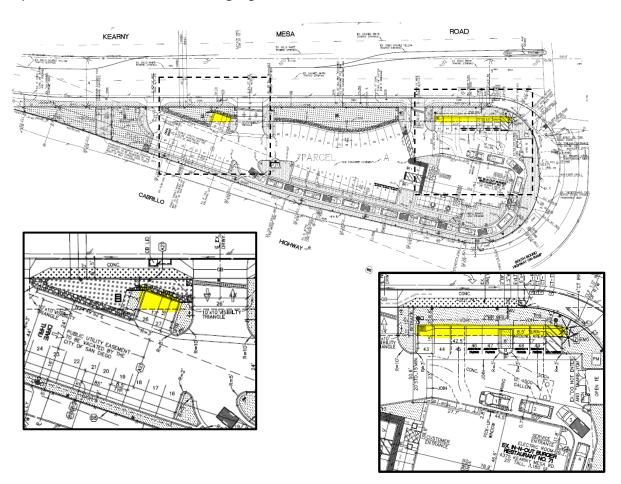
<u>Housing Impact Statement</u>: The continued use of the site for commercial purposes and the proposed actions would have no effect on the provision of housing.

#### **BACKGROUND**

The 1.027-acre project site is located at 4375 Kearny Mesa Road, southwest of the State Route 163 (SR-163 freeway) on-ramp at the end of Armour Street (Attachments 1-3). The project site is in the IL-3-1 Zone and designated for General Commercial uses within the Kearny Mesa Community Plan. The irregularly-shaped project site abuts the freeway transversely and is bounded by the freeway on-ramp at the end of Armour Street to the north and Kearny Mesa Road to the west. This results in an irregular, triangular-shaped lot with frontage on Kearny Mesa Road only and bounded by freeway on all remaining sides. The project site is within an urban, developed commercial area and is surrounded by commercial uses to the north and west. The existing In-N-Out Burger drive-thru and dine-in restaurant was approved through Building Permit No. B-001609-91 in 1991. At the time of approval, the site was subject to the M-1A Zone regulations.

### **DISCUSSION**

### Proposed Site Plan with Deviation Highlighted:



#### **Project Description:**

The In-N-Out project (Project) proposes site improvements, including a longer drive-thru queue (19 cars versus 13 cars), new driveway curb cuts and modifications, additional parking, and other improvements that address issues related to the operation of the existing In-N-Out restaurant. The

project will close two existing driveways, replacing them with three new driveways located farther from the SR-163 freeway on-ramp. To improve site circulation, and provide for safer ingress and egress, the Project requests a deviation to allow the proposed parking spaces to encroach into the front yard setback 10'-9" where a 5'-0" encroachment is allowed by the IL-3-1 Zone (see Project-Related Issues below).

Additionally, the Project proposes to vacate a 0.164-acre portion of an unimproved public right-of-way easement (Kearny Mesa Road) and an unused 0.160-acre portion of an easement for public utility, ingress and egress, and drainage purposes. These easements were acquired by the City in 1948 through a dedication on a map for the purposes of creating the Kearny Mesa Road public right-of-way running parallel to the freeway. These easements are mapped along the eastern portion of the property and create the rear boundary of the property. In 1951, 1953, 1957, and 1961 additional portions of the right-of-way easement were dedicated to the City through subsequent deeds and dedications on maps. Since that time, the Kearny Mesa Road improvements were diverted west (with sewer and water facilities) along the project frontage, with only drainage facilities located at the southern portion of the property. The City will reserve an additional five feet to bring the drainage easement to current 15-foot-wide City standard. The City has no future plans to improve the Kearny Mesa Road right-of-way paralleling the freeway, therefore the vacation is appropriate.

### <u>Project Approvals</u>:

The Project requests a Process Five, Public Right-of-Way Vacation to summarily vacate the portions of unimproved Kearny Mesa Road, pursuant to San Diego Municipal Code (SDMC) section 125.0910. It also requests a Process Two, Easement Vacation to vacate the unutilized easement located within portions of the unimproved road, pursuant to SDMC section 125.1010. The project also requires a Process Four, Planned Development Permit to deviate from the IL-3-1 Zone regulations limiting parking within the front yard setback, pursuant to SDMC section 126.0602. Pursuant to SDMC section 112.0103, all actions will be consolidated under this application and processed at the highest level of authority, the City Council.

#### **Community Plan Analysis:**

The Kearny Mesa Community Plan (Plan) designates the site for General Commercial uses with the primary goal of revitalizing retail areas by "improving motor vehicle, bicycle, and pedestrian circulation on and off site and by improving the aesthetic quality of retail development," as noted in the Plan's Commercial Element. The proposed Project will implement this goal to improve motor vehicle circulation by reorganizing the drive-thru queue at In-N-Out. Drive-thru restaurants of similar size of the Project require queuing for five (5) vehicles per the SDMC. The existing site allows 13 vehicles to queue, and the proposed Project will allow 19 vehicles to queue. The Project also removes or reduces the potential for any off-site queueing by reorganizing the site and constructing new driveways farther from the freeway on-ramp. The Project increases the number of onsite parking spaces from 35 to 49, bringing the Project to current parking standards. Upgrades also include a new truncated dome curb ramp at the intersection and the installation of landscaping throughout the Project, improving public safety and improving the aesthetic quality of the development, meeting the revitalization goal of the Plan.

#### **Project-Related Issues:**

The Project will increase the total number of onsite parking spaces from 35 to 49. The previous M-1A zone required 50 percent of the site to be dedicated to parking and allowed parking to be placed 10 feet from the public right-of-way with a 10-foot landscape strip. Current regulations measure parking based on uses and do not allow such encroachments. Therefore, the Project requests a deviation to the IL-3-1 Zone regulations to allow new parking spaces to encroach into the front yard setback. The regulations allow up to a 5-foot encroachment (or 15 feet from the property line) and the Project proposes an approximately 10-foot encroachment (or 4'-3" from the property line) at the front yard adjacent to Kearny Mesa Road (see proposed Site Plan above).

The proposal would change the configuration of the driveways to utilize the irregularly-shaped project site more efficiently, allowing both additional queueing and additional parking. Queueing for the Project will be increased as allowed by the irregularly-shaped site and placement of driveways. The driveways are configured to maximize queuing on-site, reduces the potential for queueing in the right-of-way, and reorganizes the site to allow additional parking for In-N-Out. One entrance-only driveway will be located at the southern portion of the site, a two-way driveway at the middle, and an exit-only driveway located nearest the on-ramp. The deviation is necessary to place the entrance-only driveway farthest from the on-ramp while maintaining a 24-foot-wide drive-isle along the narrow portion of the irregularly-shaped lot. The deviation is also necessary for the parking spaces located near the drive thru window to maintain their current location and to be widened to City standard/accessible spaces. Some of these spaces are designated for employee parking because backup space is limited. Employees generally use these spaces outside of the busiest hours of operation, so the deviation to maintain the existing encroachment at this location is appropriate.

The popularity of the existing In-N-Out restaurant currently causes vehicles to queue into the right-of-way during its busiest times. The Project has proposed a unique solution on an irregularly-shaped lot. The Project maximizes queuing on-site, eliminates queueing in the right-of-way, and reorganizes the site to allow additional parking for In-N-Out. These improvements, with the approved deviation, will benefit the public safety and welfare by reducing pedestrian/vehicle conflicts that could occur when queuing extended into the right-of-way, or when queuing impacted onsite circulation. Therefore, staff supports this deviation as the proposed Project is a more desirable project than would be if it were to strictly adhere to the regulations.

#### **Conclusion:**

Staff has reviewed the proposed Project and all issues identified through the review process have been resolved in conformance with adopted City Council policies and regulations of the Land Development Code. Staff supports a determination that the proposed deviation is appropriate at this location, and that the proposed Project conforms to the SDMC and the Plan. In addition, staff supports the vacation of the unimproved Kearny Mesa Road at this location; therefore, staff recommends the Planning Commission recommend approval to the City Council.

#### **ALTERNATIVES**

 Recommend to City Council the approval of Public Right-of-Way Vacation No. 1581087, Easement Vacation No. 1581089, and Planned Development Permit No. 1824217, with modifications. 2. Recommend to the City Council the denial of Public Right-of-Way Vacation No. 1581087, Easement Vacation No. 1581089, and Planned Development Permit No. 1824217, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,

P.J Ei z Geral

Assistant Deputy Director
Development Services Department

Francisco Mendoza

Development Project Manager Development Services Department

### SOKOLOWSKI/FM

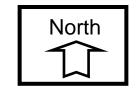
#### Attachments:

- 1. Project Location Map
- 2. Aerial Photographs
- 3. Community Plan Land Use Map
- 4. Draft Planning Commission Recommendation Resolution
- 5. Draft Permit Resolution with Findings
- 6. Draft Permit with Conditions
- 7. Draft Public Right-of-Way and Easement Vacation Resolution
- 8. Environmental Exemption
- 9. Community Planning Group Recommendation
- 10. Ownership Disclosure Statement
- 11. Project Plans



### **Project Location**

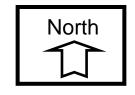
<u>In-N-Out Burger</u> Project No. 449166 – 4375 Kearny Mesa Road





### **Land Use Map**

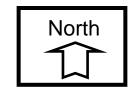
<u>In-N-Out Burger</u> Project No. 449166 – 4375 Kearny Mesa Road





### **Aerial Photograph**

<u>In-N-Out Burger</u> Project No. 449166 – 4375 Kearny Mesa Road



**ATTACHMENT 4** 

### PLANNING COMMISSION RESOLUTION NO. \_\_\_\_\_-PC

RECOMMENDING TO THE CITY COUNCIL

APPROVAL OF PUBLIC RIGHT-OF-WAY VACATION NO. 1581087, EASEMENT VACATION NO. 1581089,

AND PLANNED DEVELOPMENT PERMIT NO. 1824217

IN-N-OUT BURGER – PROJECT NO. 449166

WHEREAS, on November 8, 2018, the Planning Commission of the City of San Diego held a public hearing for the purpose of considering and recommending to the City Council of the City of San Diego approval of Public Right-Of-Way Vacation No. 1581087, Easement Vacation No. 1581089, and Planned Development Permit No. 1824217; and

WHEREAS, IN-N-OUT BURGERS, a California corporation, Owner/Permittee, requested Public Right-Of-Way Vacation No. 1581087, Easement Vacation No. 1581089, and Planned Development Permit No. 1824217 for the site improvements with a deviation to parking, a public right-of-way vacation of a portion of Kearny Mesa Road, and public utility easement vacation of a portion of a public utility, right of ingress and egress, and drainage easement located at 4375 Kearny Mesa Road, on portions of a 1.027-acre site; and

WHEREAS, the Planning Commission of the City of San Diego has considered all maps, exhibits, and written documents contained in the file for this project on record in the City of San Diego, and has considered the oral presentations given at the public hearing; NOW THEREFORE,

BE IT RESOLVED, by the Planning Commission of the City of San Diego that it hereby recommends to the City Council of the City of San Diego approval of the Public Right-Of-Way Vacation No. 1581087, Easement Vacation No. 1581089, and Planned Development Permit No. 1824217.

Francisco Mendoza Development Project Manager Development Services

Dated November 8, 2018 By a vote of: X:X:X

# CITY COUNCIL RESOLUTION NO. \_\_\_\_\_\_ PLANNED DEVELOPMENT PERMIT NO. 1824217 IN-N-OUT BURGER - PROJECT NO. 449166

WHEREAS, IN-N-OUT BURGERS, a California corporation, Owner/Permittee, filed an application with the City of San Diego for a Planned Development Permit No. 1824217 to construct site improvements with a deviation to setbacks known as the In-N-Out Burger project (Project), located at 4375 Kearny Mesa Road, and legally described as: Parcel 5 of Parcel Map No. 17213 in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County, September 16, 1993, as File No. 1993-0611252 of Official Records; and

WHEREAS, the 1.027-acre project site is in the IL-3-1 Zone, the Airport Environs Overlay Zone, the Airport Influence Area (MCAS Miramar Area 2 and Montgomery Field Review Area 1), the ALUCP Noise Contour (65-75 CNEL), the Montgomery Field Overflight Notification Area, and Montgomery Field Safety Zone 1 within the Kearny Mesa Community Plan; and

WHEREAS, on February 14, 2018, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act [CEQA] (Public Resources Code section 21000 et. seq.) under CEQA Guideline sections 15305 (a) and 15311 (b) and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112,0520; and

WHEREAS, on November 8, 2018, the Planning Commission of the City of San Diego considered Planned Development Permit No. 1824217, and pursuant to Resolution No. \_\_\_\_\_-PC, voted to recommend approval of the Permit; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on \_\_\_\_\_\_\_, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Planned Development Permit No. 1824217:

### A. PLANNED DEVELOPMENT PERMIT [SDMC Section 126.0605]

- 1. Findings for all Planned Development Permits:
  - a. The proposed development will not adversely affect the applicable land use plan.

The 1.027-acre project site is located at 4375 Kearny Mesa Road, southeast of the State Route (SR)-163 freeway on-ramp at the end of Armour Street. The irregularly-shaped project site abuts the freeway transversely and is surrounded by commercial uses to the north and west. The project site is in the IL-3-1 Zone and designated for General Commercial uses within the Kearny Mesa Community Plan (Plan). The site is developed with the In-N-Out Burger drive-thru and dine-in restaurant, approved through Building Permit No. B-001609-91 in 1991.

The Plan's Commercial Element has a primary goal of revitalizing retail areas by "improving motor vehicle, bicycle, and pedestrian circulation on and off site and by improving the aesthetic quality of retail development." The project will implement this goal to improve motor vehicle circulation by reorganizing the drive-thru queue at the In-N-Out Burger project site. The existing site allows 13 vehicles to queue, where drive-thru restaurants of similar size of the In-N-Out project require queuing for five (5) vehicles per the San Diego Municipal Code (SDMC). The proposed site configuration allows 19 vehicles to queue and removes or reduces the potential for any off-site queueing by reorganizing the site and the placement of new driveways farther from the freeway on-ramp. Upgrades also include a new truncated dome

curb ramp at the intersection and the installation of landscaping throughout the Project, improving public safety and improving the aesthetic quality of the development, meeting the revitalization goal of the Plan. Therefore, the proposed development will not adversely affect the applicable land use plan.

 The proposed development will not be detrimental to the public health, safety, and welfare.

The project site is located within a developed, urban commercial area of the City. An In-N-Out Burger drive-thru and dine-in restaurant currently operates at the site, approved through Building Permit No. B-001609-91 in 1991.

The project includes site improvements which shall comply with all applicable building, mechanical, electrical, fire code, and development regulations necessary to avoid adverse impacts upon the health, safety and general welfare of the public. The project shall comply with the permit conditions in effect for the subject property and other regulations and guidelines pertaining to the subject property pursuant to the SDMC, State and Federal laws.

In addition to on-site construction improvements, the project includes the construction of new City-standard driveways and accessible curb ramp with truncated domes adjacent to the project site. These improvements will benefit public safety and welfare by providing improvements to pedestrian pathways and increasing pedestrian access while limiting pedestrian/vehicle conflicts. Therefore, the proposed development will not be detrimental to the public health, safety, and welfare.

c. The proposed development will comply with the regulations of the Land Development Code including any proposed deviations pursuant to Section 126.0602(b)(1) that are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone, and any allowable deviations that are otherwise authorized pursuant to the Land Development Code.

The project complies with all regulations of the Land Development Code with the approval of one deviation as allowed through a Planned Development Permit. The project requests a deviation to the IL-3-1 Zone regulations to allow nine (9) parking spaces to encroach into a front yard setback. The IL-3-1 Zone regulations allow up to a 5-foot encroachment (or 15 feet from the property line) and the project proposes an approximately 10-foot encroachment (or 4'-3" from the property line) at the front yard abutting Kearny Mesa Road.

The irregularly-shaped project site abuts the freeway transversely and is surrounded by commercial uses to the north and west. The proposal would change the configuration of the driveways to be farther from the on-ramp, and is utilizing the irregularly-shaped project site to allow additional queueing during the busiest times. The driveways are configured to maximize queuing on-site, remove or reduce queueing in the right-of-way, and reorganize the site to allow additional parking for the In-N-Out Burger restaurant. Queueing for the drive-thru will be increased as allowed by the irregularly-shaped site and placement of driveways. One entrance-only driveway will be located at the southern portion of the site, a two-way driveway at the middle, and an exit-only driveway located nearest the on-ramp. The deviation is necessary to place the entrance-only driveway farthest from the on-ramp while maintaining a 24-foot-wide drive-isle along the narrow portion of the irregularly-shaped lot.

The deviation is also necessary for the parking spaces located near the drive through window to maintain their current location and to be restriped to City standard/accessible spaces. The original parking configuration was approved in 1991, under the M-1A Zone designation that allowed parking to encroach 10 feet from the public right-of-way. The existing parking spaces proposed to be restriped require a deviation to the current IL-3-1 Zone to maintain their location. Some of these spaces are designated for employee parking because backup space is limited. Employees generally use these spaces outside of the busiest hours of operation, so the deviation to maintain the existing encroachment at this location is appropriate.

The deviation proposed is appropriate for the proposed development because it allows for a more efficient use of the site, it is safer for the public and patrons, and it results in a more desirable project than if it were to strictly adhere to the regulations. If the project were to be designed in strict conformance to the development regulations of the IL-3-1 Zone, the restaurant would be under-parked, site ingress and egress would be unsafe, and site circulation would be inefficient. During its busiest times, queuing for the drive-thru has entered into the right-of-way and has created a safety hazard. The proposed development will comply with the regulations of the Land Development Code including the proposed deviation pursuant to SDMC Section 126.0602(b)(1) that is appropriate at this location and, with approval of the requested deviation, a more desirable project is achieved than would be achieved if designed in strict conformance with the development regulations of the applicable zone, and any allowable deviations that are otherwise authorized pursuant to the Land Development Code.

The above findings are supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference.

BE IT FURTHER RESOLVED, that Planned Development Permit No. 1824217 is granted to IN-N-OUT BURGERS, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

### **RECORDING REQUESTED BY**

CITY OF SAN DIEGO DEVELOPMENT SERVICES PERMIT INTAKE, MAIL STATION 501

WHEN RECORDED MAIL TO CITY CLERK MAIL STATION 2A

INTERNAL ORDER NUMBER: 24006247 SPACE ABOVE THIS LINE FOR RECORDER'S USE

# PLANNED DEVELOPMENT PERMIT NO. 1824217 IN-N-OUT BURGER - PROJECT NO. 449166 CITY COUNCIL

This Planned Development Permit No. 1824217 (Permit) is granted by the City Council of the City of San Diego to IN-N-OUT BURGERS, a California corporation, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0602. The 1.027-acre site is located at 4375 Kearny Mesa Road in the IL-3-1, Airport Environs Overlay, Airport Influence Area (MCAS Miramar Area 2 and Montgomery Field Review Area 1), ALUCP Noise Contour (65-75 CNEL), the Montgomery Field Overflight Notification Area, and Montgomery Field Safety Zone 1 Overlay Zones within the Kearny Mesa Community Plan. The project site is legally described as Parcel 5 of Parcel Map No. 17213 in the City of san Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County, September 16, 1993, as File No. 1993-0611252 of Official Records.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to construct site improvements with a deviation to setbacks described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated \_\_\_\_\_\_\_, on file in the Development Services Department. The project shall include:

- a. Site improvements including new parking spaces, new driveways, new concrete pavement and new drive-thru for 19 vehicles;
- b. A deviation to allow nine parking spaces located within the front yard setback, 4'-3" from the property line;
- c. Landscaping (planting, irrigation and landscape related improvements);
- d. Off-street parking; and

e. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

### **STANDARD REQUIREMENTS:**

- 1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36-month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by \_\_\_\_\_\_\_.
- 2. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
  - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
  - b. The Permit is recorded in the Office of the San Diego County Recorder.
- 3. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
- 4. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
- 5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
- 6. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
- 7. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

- 8. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.
- 9. All of the conditions contained in this Permit have been considered and were determined necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" conditions(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

10. The Owner/Permittee 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 Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. 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, Owner/Permittee 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 Owner/Permittee 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 Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

### **CLIMATE ACTION PLAN REQUIREMENTS:**

11. Owner/Permittee shall comply with the Climate Action Plan (CAP) Consistency Checklist stamped as Exhibit "A." Prior to issuance of any construction permit, all CAP strategies shall be noted within the first three (3) sheets of the construction plans under the heading "Climate Action Plan Requirements" and shall be enforced and implemented to the satisfaction of the Development Services Department.

#### **AIRPORT REQUIREMENTS:**

- 12. Prior to the issuance of any construction permits, the Owner/Permittee shall grant and record an avigation easement to the City of San Diego as the operator of Montgomery Field Municipal Airport for the purposes of aircraft operations, noise and other effects caused by the operation of aircraft, and for structure height if the same would interfere with the intended use of the easement. The Owner/Permittee shall use the avigation easement form provided by the City of San Diego.
- 13. Prior to submitting construction plans to the City for review, the Owner/Permittee shall place a note on all building plans indicating that an avigation easement has been granted across the property to the airport operator. The note shall include the County Recorder's recording number for the avigation easement.
- 14. Prior to the issuance of any construction permits, the Owner/Permittee shall provide a copy of the signed agreement [DS-503] and show certification on the building plans verifying that the structures do not require Federal Aviation Administration [FAA] notice for Determination of No Hazard to Air Navigation, or provide an FAA Determination of No Hazard to Air Navigation as specified in Information Bulletin 520

#### **ENGINEERING REQUIREMENTS:**

- 15. Prior to the issuance of any construction permit, the Owner/Permittee shall obtain a Right-of-Way Permit (D-Sheet) for the proposed improvements.
- 16. Prior to issuance of any construction permit, the applicant shall assure, by permit and bond, to reconstruct existing curb ramp at the corner of Kearny Mesa Road and southbound ramp of SR-163 Freeway, with current City Standard, to the satisfaction of the City Engineer.
- 17. Prior to the issuance of any construction permit, the Owner/Permittee shall obtain an Encroachment Maintenance Removal Agreement, from the City Engineer, for private storm drain pipe within Kearny Mesa Road Public Right-of-Way.
- 18. Prior to the issuance of any construction permit, the Owner/Permittee shall obtain an Encroachment Maintenance Removal Agreement, from the City Engineer, for private landscaping/irrigation adjacent to the site on Kearny Mesa Road.
- 19. Prior to the issuance of any construction permit, the Owner/Permittee shall dedicate additional five-foot-wide easement, to meet the City required 15-foot-wide drainage easement, for the existing public storm water pipe within private property, to the satisfaction of the City Engineer.
- 20. Prior to the issuance of any construction permit, the applicant shall submit a Technical Report that will be subject to final review and approval by the City Engineer, based on the Storm Water Standards in effect at the time of the construction permit issuance.
- 21. Prior to the issuance of any construction permit the Owner/Permittee shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Part 2 Construction BMP Standards Chapter 4 of the City's Storm Water Standards.

22. Prior to the issuance of any construction permit, the Owner/Permittee shall obtain an Encroachment Maintenance Removal Agreement, from the City Engineer, for private storm drain pipe within Public Storm Drain Easement on private property.

#### **LANDSCAPE REQUIREMENTS:**

- 23. Prior to the issuance of any construction permits for public improvements, the Owner/Permittee shall submit complete landscape construction documents for right-of-way improvements to the Development Services Department for approval. Improvement plans shall show, label, and dimension a 40 square-foot area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.
- 24. Prior to the issuance of any construction permit (including building shell), the Owner/Permittee shall submit complete landscape and irrigation construction documents, which are consistent with the Landscape Standards, to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Development Services Department. Construction plans shall provide a 40 square-foot area around each tree that is unencumbered by hardscape and utilities unless otherwise approved per SDMC Sec. 142.0403(b)5.
- 25. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements shown on the approved plans, including in the right-of-way, unless long-term maintenance of said landscaping will be the responsibility of another entity approved by the Development Services Department. All required landscape shall be maintained consistent with the Landscape Standards in a disease, weed, and litter free condition at all times. Severe pruning or "topping" of trees is not permitted.
- 26. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction documents is damaged or removed during demolition or construction, the Owner/Permittee shall repair and/or replace in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or Certificate of Occupancy.

### **PLANNING/DESIGN REQUIREMENTS:**

- 27. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.
- 28. All signs associated with this development shall be consistent with sign criteria established by either the approved Exhibit "A" or City-wide sign regulations.
- 29. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

#### TRANSPORTATION REQUIREMENTS:

- 30. The automobile, motorcycle and bicycle parking spaces must be constructed in accordance with the requirements of the SDMC. All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing authorized by the appropriate City decision maker in accordance with the SDMC.
- 31. Prior to the issuance of any construction permit, the Owner/Permittee shall assure, by permit and bond, closure of two existing driveways on Kearny Mesa Road and construction of a 26-footwide driveway per current City Standards, adjacent to the site on Kearny Mesa Road, to the satisfaction of City Engineer.
- 32. Prior to the issuance of any construction permit, the Owner/Permittee shall assure by permit and bond the construction of a 14-foot-wide City standard driveway (Entrance only), on the southern portion of project's frontage on Kearny Villa Road, to the satisfaction of the City Engineer.
- 33. Prior to the issuance of any construction permit, the Owner/Permittee shall assure by permit and bond the construction of a 14-foot-wide City standard driveway (Exit only), on the northern portion of the project's frontage on Kearny Villa Road, to the satisfaction of the City Engineer.
- 34. The Owner/Permittee shall provide and maintain 10 feet by 10 feet visibility triangle area on both sides of the driveways along the property line on Kearny Villa Road. No obstruction higher than 36 inches shall be located within this visibility triangle area.

#### **INFORMATION ONLY:**

- The issuance of this discretionary permit alone does not allow the immediate commencement
  or continued operation of the proposed use on site. Any operation allowed by this
  discretionary permit may only begin or recommence after all conditions listed on this permit
  are fully completed and all required ministerial permits have been issued and received final
  inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as
  conditions of approval of this Permit, may protest the imposition within ninety days of the
  approval of this development permit by filing a written protest with the City Clerk pursuant to
  California Government Code-section 66020.

• This development may	be subject to	impact fees	at the time of	of construction	permit issuance

APPROVED by the City Council of the City of San Diego on \_\_\_\_\_ and R-\_\_\_\_.

### **ATTACHMENT 6**

	Planned Development Permit No.: 1824217  Date of Approval:
AUTHENTICATED BY THE CITY OF SAN	DIEGO DEVELOPMENT SERVICES DEPARTMENT
 Tim Daly	
Development Project Manager	
NOTE: Notary acknowledgment must be attached per Civil Code section 1189 et seq.	
	by execution hereof, agrees to each and every condition of each and every obligation of Owner/Permittee hereunder.
	IN-N-OUT BURGERS a California corporation
	Owner/Permittee

By \_\_\_\_\_

Title:

NOTE: Notary acknowledgments must be attached per Civil Code section 1189 et seq.

RESOLUTION NUMBER R	
DATE OF FINAL PASSAGE	

A RESOLUTION SUMMARILY VACATING KEARNY MESA ROAD PUBLIC RIGHT-OF-WAY AND A DRAINAGE EASEMENT (PUBLIC RIGHT-OF-WAY VACATION NO. 1581087, EASEMENT VACATION NO. 1581089) IN-NOUT BURGER – PROJECT NO. 449166.

WHEREAS, California Streets and Highways Code sections 8320 *et seq.* and 8330 *et seq.* and San Diego Municipal Code sections 125.0901 *et seq.* and 125.1001 *et seq.* provide a procedure for the summary vacation of public rights-of-way and public easements by City Council resolution; and

WHEREAS, MARK S. LAMOUREUX, Engineer, acting on behalf of the owner of the underlying property, filed an application to vacate those portions of Kearny Mesa Road and those portions of a Public Utility, Right of Ingress and Egress and Drainage Purposes Easement, being described as Right-of-Way Vacation No. 1581087 and Easement Vacation No. 1581087; and

WHEREAS, Right-of-Way Vacation No. 1581087 and Easement Vacation No. 1581089 is located on property owned by IN-N-OUT BURGERS, a California corporation, and the City of San Diego, a Municipal Corporation; and

WHEREAS, in connection with Right-of-Way Vacation No. 1581087 and Easement Vacation No. 1581089, the City desires to reserve and except a public utility easement for the purposes of drainage; and

WHEREAS, the public right-of-way, or portion of the public right-of-way, is excess public right-of-way and is not required for street or highway purposes; and the public right-of-way vacation does not terminate a public service easement, unless the easement vacation satisfies the requirements of the California Streets and Highways Code section 8333; and

WHEREAS, the easement has been superseded by relocation and there are no other public facilities located within the easement and the easement has not been used for the purpose for which it was dedicated or acquired for five (5) consecutive years immediately preceding the proposed abandonment; and

WHEREAS, under Charter Section 280(a)(2), this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body, a public hearing was required by law implicating due process rights of individuals affected by the decision, and the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on \_\_\_\_\_\_\_, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that with respect to Right-of-Way Vacation No. 1581087, the Council finds that:

(a) There is no present or prospective public use for the public right-of-way, either for the facility for which it was originally acquired or for any other public use of a like nature that can be anticipated.

The 0.164-acre area of the proposed right-of-way vacation was originally created in 1948 by a dedication on a map for the purposes of creating the Kearny Mesa Road right-of-way running parallel to State Route 163 (SR-163 freeway). In 1951, 1953, 1957, and 1961 additional portions of the right-of-way were dedicated to the City of San Diego through subsequent deeds and dedications on maps. Since that time, the Kearny Mesa Road right-of-way has been diverted west of the project site. The undeveloped right-of-way is located at the rear of the project site and does not contain facilities nor is there a present or prospective use for the easement. Kearny Mesa Road has been improved and located west of the project site, which provides the necessary access to the irregularly shaped lot. Public water and sewer services are provided for the project site and the unimproved easement is not needed for providing water or sewer services. The land intended to be vacated is no longer needed as public right-of-way and is not needed to provide public circulation or services. Therefore, there is no present or prospective public use for the public right-of-way proposed to be vacated, either for the facility for which it was originally acquired or for any other public use of a like nature that can be anticipated.

### (b) The public will benefit from the action through improved use of the land made available by the vacation.

The property adjacent to the area to be vacated will benefit by the vacation of the existing right-of-way as the property will become larger and will facilitate future commercial development to the benefit of the public. Additionally, the additional area provided by the vacation will allow the project site to be redesigned to remove or reduce the potential for any unsafe off-site queueing, benefiting the public safety. The City of San Diego and the County of San Diego will benefit by the increase of property value by increasing the area of privately owned land subject to property tax and the incremental increase to the tax base. With an increase of tax revenue, the general public will benefit by the vacation of the existing right-of-way by the increase of available public funds. The public will benefit by the reduction of liability to the City of San Diego by reducing the land it controls.

### (c) The vacation does not adversely affect any applicable land use plan.

The adopted Kearny Mesa Community Plan identifies the adjacent site for general commercial development. The vacation of this portion of Kearny Mesa Road will facilitate the fullest and highest use of the land as designated by the community plan. For these reasons, the proposed vacation of this portion of Kearny Mesa Road is consistent with the policies and goals of the adopted within Kearny Mesa Community Plan and will not adversely affect the Kearny Mesa Community Plan.

### (d) The public facility for which the public right-of-way was originally acquired will not be detrimentally affected by the vacation.

The abutting project site is served by the diverted and improved Kearny Mesa Road, which provides frontage and access necessary to the public. This portion of the unimproved Kearny Mesa Road is not needed to provide public circulation, water or sewer services, because Kearny Mesa Road has been improved and located west of the project site. Electricity, telephone, cable and other services are provided through other easements on site and within the diverted Kearny Mesa Road right-of-way. The remaining public right-of-way will not be detrimentally affected by the vacation of this portion of Kearny Mesa Road in that this right-of-way is no longer necessary for the purposes it was originally acquired.

BE IT FURTHER RESOLVED, by the Council of the City of San Diego, that with respect to

Easement Vacation No. 1581089, the Council finds that:

# (a) There is no present or prospective public use for the easement, either for the facility for which it was originally acquired or for any other public use of a like nature that can be anticipated.

The area of the proposed easement vacation was originally created in 1993, ancillary to the unimproved Kearny Mesa Road public right-of-way for the purposes of servicing the public utility, right of ingress and egress, and drainage. Since that time, the Kearny Mesa Road right-of-way has

been diverted west of the project site and the easement is no longer necessary. Public services are provided by the diverted Kearny Mesa Road right-of-way fronting the project site. Public water and sewer services are provided in a different portion of the site, and the City has reserved an easement for drainage purposes only. The land intended to be vacated is no longer needed as originally required. Therefore, there is no present or prospective public use for the easement, either for the facility for which it was originally acquired or for any other public use of a like nature that can be anticipated.

### (b) The public will benefit from the action through improved use of the land made available by the vacation.

The land made available by the vacation may facilitate future commercial development to the benefit of the public. The public will benefit from the vacation as it removes unnecessary and unproductive encumbrances on the property. The increased area provided by the vacation will allow the project site to be redesigned to remove or reduce the potential for unsafe off-site queueing, benefiting the public safety. The removal of these easements will allow better site design and a more productive use of the property. Therefore, the public will benefit from the action through improved use of the land made available by the vacation.

### (c) The vacation does not adversely affect any applicable land use plan.

The vacation is located within the Kearny Mesa Community Plan which designates the site as General Commercial. The community plan does not provide guidance for the vacation of easements; however, the vacation of the easement allows greater utilization of the land with General Commercial uses. Therefore, the vacation does not adversely affect any applicable land use plan.

### (d) The public facility for which the easement was originally acquired will not be detrimentally affected by the vacation.

The public facilities for which the easement was originally acquired were not implemented. The current location of Kearny Mesa Road functions as the easement for the facilities, making the easements on the site redundant and unnecessary. The City of San Diego will reserve a drainage easement at the necessary location on the property. Therefore, the public facility for which the easement was originally acquired will not be detrimentally affected by the vacation.

BE IT FURTHER RESOLVED, that Right-of-Way Vacation No. 1581087 and Easement Vacation No. 1581089, in connection with Planned Development Permit No. 1824217, as more particularly described in the legal description marked as Exhibit "A" and shown on Drawing No. 39095-1-B, marked as Exhibit "B," which are by this reference incorporated herein and made a part hereof, is ordered vacated; and

BE IT FURTHER RESOLVED, that the City of San Diego reserves and excepts from Right-of-Way Vacation No. 1581087 and Easement Vacation No. 1581089, the permanent easement for public

utility purposes, as more particularly described hereinafter:

AN EASEMENT FOR DRAINAGE PURPOSES FROM SAID STREET AND EASEMENT VACATION, A STRIP
OF LAND 15.00 FEET IN WIDTH LYING 5.00 FEET NORTH AND 10.00 FEET SOUTH, OF THE FOLLOWING
DESCRIBED CENTER LINE: BEGINNING AT THE MOST SOUTHERLY CORNER OF SAID PARCEL 5 OF PARCEL
MAP NO. 17213; THENCE ALONG THE WESTERLY LINE OF SAID PARCEL 5 NORTH 03°56′07″ EAST 49.50
FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION, SAID POINT BEING THE CENTERLINE OF
SAID DRAINAGE EASEMENT; THENCE SOUTH 86°03′53″ EAST 32.54 FEET TO THE EASTERLY BOUNDARY
OF SAID PARCEL MAP NO. 17213. THE SIDELINES OF SAID STRIP SHALL BE LENGTHENED OR SHORTENED

BE IT FURTHER RESOLVED, that the easements reserved herein are in, under, over, upon, along, and across that portion of Kearny Mesa Road, vacated by this Document and as more particularly described in the legal description marked as Exhibit "A" and shown on Drawing No. 39095-1-B, marked as Exhibit "B."

AS TO TERMINATE IN THE EASTERLY BOUNDARY OF SAID PARCEL MAP NO. 17213.

BE IT FURTHER RESOLVED, that the Development Services Department shall record a certified copy of this resolution with attached exhibits, attested by the City Clerk under seal, in the Office of the County Recorder.

APPROVED: MARA W. ELLIOTT, City Attorney

[Attorney]
Deputy City Attorney

[Initials]:[Initials]
[Month]/[Day]/[Year]
Or.Dept:[Dept]
Document No:

### EXHIBIT "A" LEGAL DESCRIPTION

### STREET, PUBLIC UTILITY, RIGHTS OF INGRESS AND EGRESS, AND DRAINAGE EASEMENT VACATION AND DRAINAGE EASEMENT RESERVATION

VACATING THAT PORTION OF KEARNY MESA ROAD SHOWN ON PARCEL MAP NO. 17213 IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, AS PER MAP FILED IN THE OFFICE OF SAID COUNTY ON SEPTEMBER 16, 1993 AS FILE NUMBER 1993-611252 MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERLY CORNER OF SAID PARCEL 5 OF PARCEL MAP NO. 17213; THENCE NORTH 22°35′20″ EAST ALONG THE EASTERLY LINE OF SAID PARCEL 5 A DISTANCE OF 265.03 FEET (265.02 FEET PER SAID PARCEL MAP);

THENCE NORTH 17°03'43" EAST ALONG THE EASTERLY LINE OF SAID PARCEL 5 A DISTANCE OF 148.88 FEET;

THENCE NORTH 24°49′52″ EAST ALONG THE EASTERLY LINE OF SAID PARCEL 5 A DISTANCE OF 56.89 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 65.00 FEET AND TO WHICH BEGINNING A RADIAL LINE BEARS NORTH 79°37′46″ EAST, SAID BEGINNING ALSO BEING THE MOST EASTERLY CORNER OF SAID PARCEL 5;

THENCE SOUTHEASTERLY 31.27 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 27°33'37" TO THE EASTERLY RIGHT OF WAY LINE OF SAID KEARNY MESA ROAD AS SHOWN ON SAID PARCEL MAP NO. 17213:

THENCE ON A NON-TANGENT LINE SOUTH 17°03′43" WEST 175.88 FEET TO THE EASTERLY RIGHT OF WAY LINE OF SAID KEARNY MESA ROAD AS SHOWN ON SAID PARCEL MAP NO. 17213;

THENCE SOUTH 22°35'20" WEST 270.11 FEET TO THE EASTERLY RIGHT OF WAY LINE OF SAID KEARNY MESA ROAD AS SHOWN ON SAID PARCEL MAP NO. 17213;

THENCE SOUTH 19°27'19" WEST ALONG THE EASTERLY RIGHT OF WAY LINE OF SAID KEARNY MESA ROAD AS SHOWN ON SAID PARCEL MAP NO. 17213 A DISTANCE OF 47.90 FEET TO A POINT ON THE SOUTHERLY PROLONGATION OF THE WESTERLY LINE OF SAID PARCEL 5 WHICH PASSES THROUGH THE POINT OF BEGINNING;

THENCE NORTH 03°56'07" EAST ALONG SAID LAST MENTIONED PROLONGATION 55.08 FEET TO THE POINT OF BEGINNING.

THE AREA OF THE ABOVE DESCRIBED STREET VACATION LEGAL DESCRIPTION CONSISTS OF 7,162.36 SQUARE FEET OR 0.164 ACRES.

ALSO VACATING THAT CERTAIN PUBLIC UTILITY, RIGHT OF INGRESS AND EGRESS, AND DRAINAGE EASEMENT RESERVED FROM A STREET VACATION APPROVED BY CITY COUNCIL UNDER RESOLUTION NO. R-28505 ADOPTED AUGUST 9, 1993 AND RECORDED AUGUST 25, 1993 AS INSTRUMENT NO. 554207 IN SAID COUNTY.

THE AREA OF THE ABOVE DESCRIBED PUBLIC UTILITY, RIGHT OF INGRESS AND EGRESS, AND DRAINAGE EASEMENT VACATION LEGAL DESCRIPTION CONSISTS OF 6,969.34 SQUARE FEET OR 0.160 ACRES.

#### EXHIBIT "A"

### LEGAL DESCRIPTION OF STREET, PUBLIC UTILITY, RIGHTS OF INGRESS AND EGRESS, AND DRAINAGE EASEMENT VACATION AND DRAINAGE EASEMENT RESERVATION (CONTINUED)

ALSO RESERVING AN EASEMENT FOR DRAINAGE PURPOSES FROM SAID STREET AND EASEMENT VACATION, A STRIP OF LAND 15.00 FEET IN WIDTH LYING 5.00 FEET NORTH AND 10.00 FEET SOUTH OF THE FOLLOWING DESCRIBED CENTER LINE:

BEGINNING AT THE MOST SOUTHERLY CORNER OF SAID PARCEL 5 OF PARCEL MAP NO. 17213; THENCE ALONG THE WESTERLY LINE OF SAID PARCEL 5 NORTH 03°56′07" EAST 49.50 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION, SAID POINT BEING THE CENTERLINE OF SAID DRAINAGE EASEMENT;

THENCE SOUTH 86°03'53" EAST 32.54 FEET TO THE EASTERLY BOUNDARY OF SAID PARCEL MAP NO. 17213.

THE SIDELINES OF SAID STRIP SHALL BE LENGTHENED OR SHORTENED AS TO TERMINATE IN THE EASTERLY BOUNDARY OF SAID PARCEL MAP NO. 17213.

THE AREA OF THE ABOVE DESCRIBED DRAINAGE EASEMENT RESERVATION LEGAL DESCRIPTION CONSISTS OF 475.46 SQUARE FEET OR 0.011 ACRES.

ATTACHED HERETO IS A DRAWING NO. 39095-B LABELED EXHIBIT "B" AND BY THIS REFERENCE MADE A PART HEREOF.

I.O. 24006247 P.T.S. NO. 449166

THIS LEGAL DESCRIPTION WAS PREPARED BY OR UNDER THE DIRECT SUPERVISION OF THE FOLLOWING STATE OF CALIFORNIA PROFESSIONAL LAND SURVEYOR.

10-26-18

MSL ENGINEERINĞ, IŇC.

VISL ENGINEERING, INC.

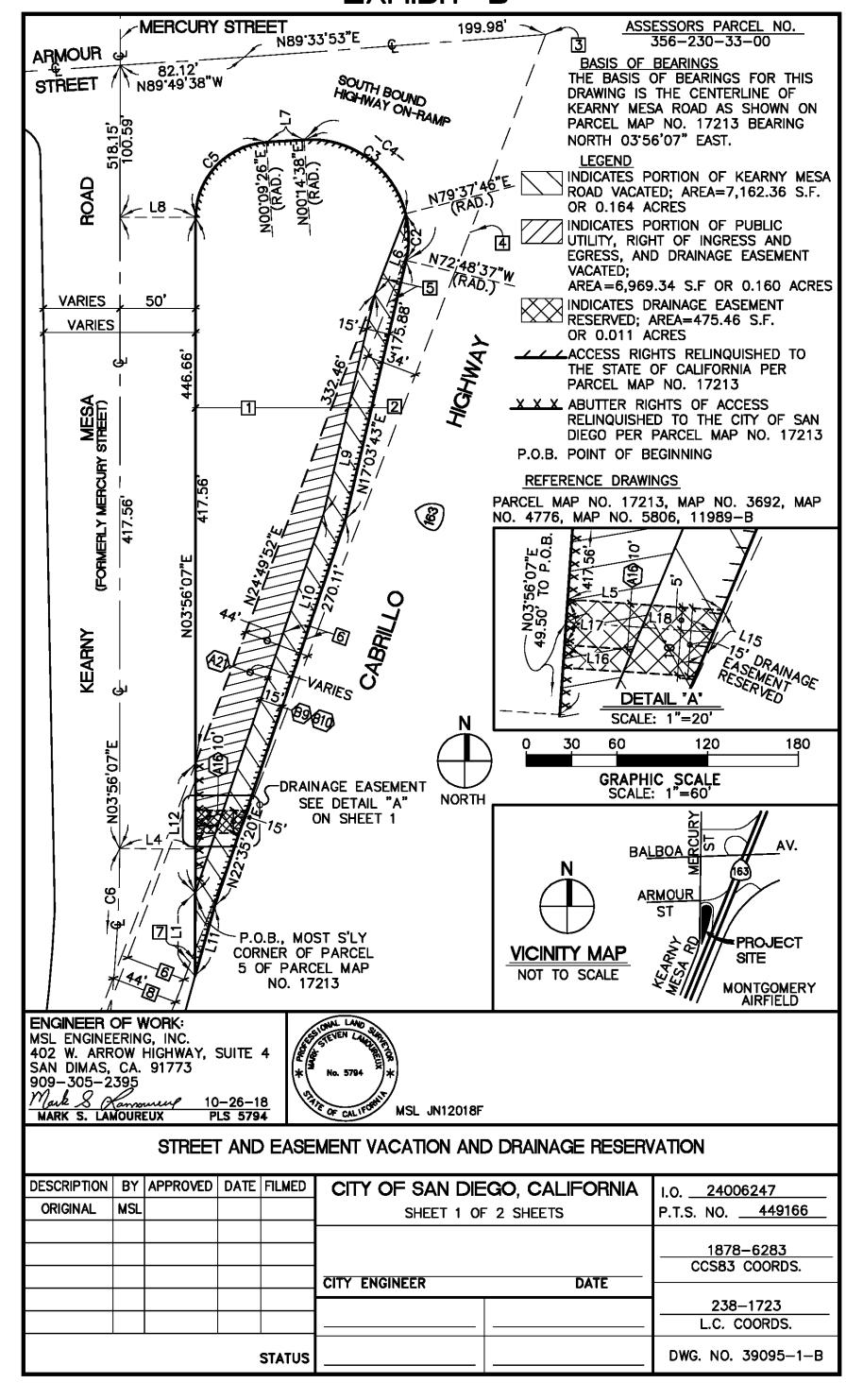
MARK S. LAMOUREUX, P.L.S. 5794 REGISTRATION EXPIRES 06-30-2020

MSL JN 12018F

COMBINED STREET AND EASEMENT VACATION AND

RESERVATION LEGAL DESCRIPTION

### EXHIBIT "B"



### EXHIBIT "B"

### **NOTES**

- PROPERTY OWNED BY IN-N-OUT BURGERS, A CALIFORNIA CORPORATION BEING PARCEL 5 OF PARCEL MAP NO. 17213 PER DOC. #2002-1101837 RECORDED 12-05-2002.
- THE PROPERTY OWNED BY THE CITY OF SAN DIEGO, A MUNICIPAL CORPORATION BEING THAT PORTION OF KEARNY MESA ROAD SHOWN ON PARCEL MAP NO. 17213 FILED SEPTEMBER 16, 1993 AS FILE #1993-611252.
- 3 N.E. CORNER MAP NO. 4776 PER PARCEL MAP NO. 17213 REC. 09-16-1993.
- WESTERLY LINE OF O.R. 2997-220 REC. 10-27-1948, O.R. PER PARCEL MAP NO. 17213 REC. 09-16-1993.
- 5 PORTION OF KEARNY MESA ROAD FEE PROPERTY DEDICATED PER MAP NO. 4776 REC. 05-29-1961 AS SHOWN ON PARCEL MAP NO. 17213 REC. 09-16-1993.
- FORTION OF KEARNY MESA ROAD FEE PROPERTY DEDICATED PER DEED RECORDED 5-6-1953 IN BOOK 4846, PAGES 487 & 490 O.R. (CITY DWG. 11793-L) PER PARCEL MAP NO. 17213 REC. 09-16-1993.
- PORTION OF KEARNY MESA ROAD FEE PROPERTY DEDICATED BY O.R. 2997-220 REC. 10-27-1948, O.R. PER PARCEL MAP NO. 17213 REC. 09-16-1993.
- B PORTION OF KEARNY MESA ROAD EASEMENT DEDICATED PER MAP NO. 3692 RECORDED 8-19-1957 AS SHOWN ON PARCEL MAP NO. 17213 REC. 09-16-1993.
- A 10.00 FOOT WIDE EASEMENT IN FAVOR OF THE CITY OF SAN DIEGO FOR DRAINAGE PURPOSES AS SHOWN ON PARCEL MAP NO. 17213.
- AN EASEMENT IN FAVOR OF THE CITY OF SAN DIEGO FOR PUBLIC UTILITIES, RIGHT OF INGRESS AND EGRESS AND DRAINAGE PURPOSES PER CITY COUNCIL RESOLUTION NO. R-282505 ADOPTED ON AUGUST 9, 1993 AND CITY DRAWING NO 17989-B AS SHOWN IN INSTRUMENT NO. 554207 RECORDED AUGUST 25, 1993.
- (B9)810 KEARNY MESA ROAD DEDICATED TO THE CITY OF SAN DIEGO PER INSTRUMENT NUMBERS 62215 AND 62216 RECORDED MAY 6, 1953 IN BOOK 4846, PAGES 487 AND 490 AS SHOWN ON PARCEL MAP NO. 17213.

	LINE TABLE				
NO.	BEARING	DISTANCE			
L1	N03'56'07"E	55.08'			
L4	N86°03'53"W(R)	50.00'			
L5	N86°03'53"W	34.23'			
L6	N24'49'52"E	56.89			
L7	N89'28'50"W	25.04'			
L8	N86°03'50"W(R)	50.00'			
L9	N17'03'43"E	148.88'			
L10	N22'35'20"E	265.03'			
L11	N19'27'19"E	47.90'			
L12	N03'56'07"E	85.50'			
L15	N22'35'20"E	10.55'			
L16	N86°03'53"W	30.85'			
L17	N03'56'07"E	10.00'			
L18	N86°03'53"W	32.54			

	CURVE DATA TABLE						
NO.	DELTA	RADIUS	LENGTH				
C2	27'33'37"	65.00'	31.27				
C3	79"23'08"	65.00'	90.06'				
C4	106'56'45"	65.00'	121.33'				
C5	8613'16"	50.00'	75.24'				
C6	19*42'22*	1,000.00'	343.94'				

ENGINEER OF WORK:

MSL ENGINEERING, INC.

402 W. ARROW HIGHWAY, SUITE 4 SAN DIMAS, CA. 91773

909-305-2395 Mark S. Kansoney 10-26-16 MARK S. LAMOUREUX PLS 5794



MSL JN12018F

### STREET AND EASEMENT VACATION AND DRAINAGE RESERVATION

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	1.024006247
ORIGINAL	MSL				SHEET 1 OF 2 SHEETS	P.T.S. NO. <u>449166</u>
					OITY FNOINEED	1878-6283 CCS83 COORDS.
					CITY ENGINEER DATE	238-1723
				STATUS		L.C. COORDS.  DWG. NO. 39095-2-B



Date of Notice: February 14, 2018

# NOTICE OF RIGHT TO APPEAL ENVIRONMENTAL DETERMINATION

### **DEVELOPMENT SERVICES DEPARTMENT**

SAP No. 24006247

PROJECT NAME / NUMBER: In-N-Out Burger / 449166

**COMMUNITY PLAN AREA: KEARNY MESA** 

**COUNCIL DISTRICT:** 6

LOCATION: 4375 KEARNY MESA RD, San Diego CA, 92111

**PROJECT DESCRIPTION:** Planned Development Permit, Easement Vacation, Public Right-of-Way Vacation to expand an existing customer parking lot from 35 to 49 automobile parking spaces, provide two motorcycle spaces, expand the existing on-site drive-through lane from accommodating 13 vehicles to 19 vehicles, vacate an existing 15' wide road and drainage easement, provide a deviation to the front setback to allow a 4'-3" front setback for parking at 4375 Kearny Mesa Rd. The 0.863 acre site is in the IL-3-1 zone of the Kearny Mesa Community Planning area. The property is within the Airport Environs Overlay Zone, ALUCP Noise Contour (65 - 75 CNEL), the Airport Influence Area (MCAS Miramar Review Area 2 and Montgomery Field Review Area 1), the FAA Part 77 Notification Area (MCAS Miramar and Montgomery Field at 437' MSL), the Montgomery Field Overflight Notification Area, Montgomery Field Safety Zone 1, Geologic Hazard 52, Outdoor Lighting Zone 3, Transit Priority Area.

ENTITY CONSIDERING PROJECT APPROVAL: City of San Diego, City Council

**ENVIRONMENTAL DETERMINATION:** Categorically exempt from CEQA pursuant to CEQA State Guidelines, Section 15311 (b), Accessory Structures, 15305 (a), Minor Alterations in Land Use Limitations.

**ENTITY MAKING ENVIRONMENTAL DETERMINATION:** City of San Diego

**STATEMENT SUPPORTING REASON FOR ENVIRONMENTAL DETERMINATION:** The City of San Diego conducted an environmental review that determined the project would not have the potential for causing a significant effect on the environment. The project would qualify to be categorically exempt from CEQA pursuant to Sections 15311 (b), 15305 (a) includes the placement of small parking lots, accessory to existing commercial that has an average slope less than 20%, which do not result in any changes in land use or density, including but not limited to minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel. The project fits the scope of this exemption, as the proposed vacation actions will result in the conveyance of unneeded existing right-of-way to an existing

parcel, and meets the front setback deviation criteria with applicable findings. In addition, the exceptions listed in CEQA Section 15300.2 would not apply.

**DEVELOPMENT PROJECT MANAGER:** 

Tim Daly

**MAILING ADDRESS:** 

1222 First Avenue, MS 501, San Diego, CA 92101-4153

**PHONE NUMBER / EMAIL:** 

(619) 446-5356 / TPDaley@sandiego.gov

On February 14, 2018 the City of San Diego made the above-referenced environmental determination pursuant to the California Environmental Quality Act (CEQA). This determination is appealable to the City Council. If you have any questions about this determination, contact the City Development Project Manager listed above.

Applications to appeal CEQA determination made by staff (including the City Manager) to the City Council must be filed in the office of the City Clerk within 10 business days from the date of the posting of this Notice (March 1, 2018). The appeal application can be obtained from the City Clerk, 202 'C' Street, Second Floor, San Diego, CA 92101.

This information will be made available in alternative formats upon request.

POSTED IN THE OFFICE OF DSD
Posted FEB 1 2 2018 pm
Removed MAR 0 1 2018
Posted by Myrolce

### **ATTACHMENT 9**

### Minutes of the Monthly Meeting of the Kearny Mesa Planning Group October 19, 2016 Serra Mesa/Kearny Mesa Library 9005 Aero Drive, San Diego, CA 92123

Planning Group Members in Attendance: John Turpit, Mark Stevens, Mark Olsson, Todd Majcher, Brian Gates, Kate Phin, Paul Young, Ping Wang, Jeff Sallen

Community Members in Attendance: Lana Quang, Geralod Gaucher, Mark Smith, Bill Atkins, Randy LaChance, Elizabeth Dickson, Seth Litecheny, Allen Young, Justin Rasas, Mike Huntoon, Andrea Rosati, Steve Slater, Robert McDowell, Wesley Quach

The Meeting was brought to order at 12:10 PM by Jeff Sallen, chair of the Kearny Mesa Planning Group. Copies of the Minutes of the Sept 21th meeting were distributed and discussed. After the members reviewed the minutes, Jeff asked for any changes or corrections. There were none and the minutes were approved 9-0-0.

#### **Public comments:**

Friends of the library is looking for donations for a new projector.

### **Agenda Items:**

### 4. KM Community Plan Monthly Update:

- Taking longer than expected- crafting outreach materials.
- Stakeholder interviews will take place in November.
- Update will begin in Dec/Jan timeframe and finish early 2019
- Why? Lots of back and forth between city and the consultant to formalize the out reach material.
- KMPG member requested that the city share with the KMPG the schedule- City agreed
- During the December KMPG meeting there will be vote for the subcommittee members.

### 5. Le Leycee School update: Approved 9-0-0

- 3<sup>rd</sup> visit
- Traffic study was signed off by the City
- Le Leycee school will pay 25 ½% of the cost of the road widening when they reach 440 students. General information on the program.
- Discussed the idea of sensitive receptors
  - Le Leycee is next door to the Jewish school
  - And previously contained a school (community college)
- KMPG stated that even though we allowed this school to move into that location, this is not a free for all for schools and other business with sensitive receptors to move in.

### 7. CUP to demolish commercial structure and construct a Communication Switch G shall be 9 Approved 9-0-0

- Previously presented to KMPG, and PG asked that a redesign be made.
- The original CUP was denied by the city.
- Completely changed the design of the building to look more like the area.
  - Asian inspired landscaping, electronic sign on building, park seating area for the public, worked closely with the Convoy District
- Comments:
  - Who will maintain park area? Charter (owner) will provide security and maintenance of the area
  - Suggestion made to talk to the City of Coronado, who had a similar project with Pac Bell

### 8. Expansion of the In-N-Out drive through and parking lot: Approved 9-0-0

- Adding parking and bigger driveway
- Current situation is a public safety issue

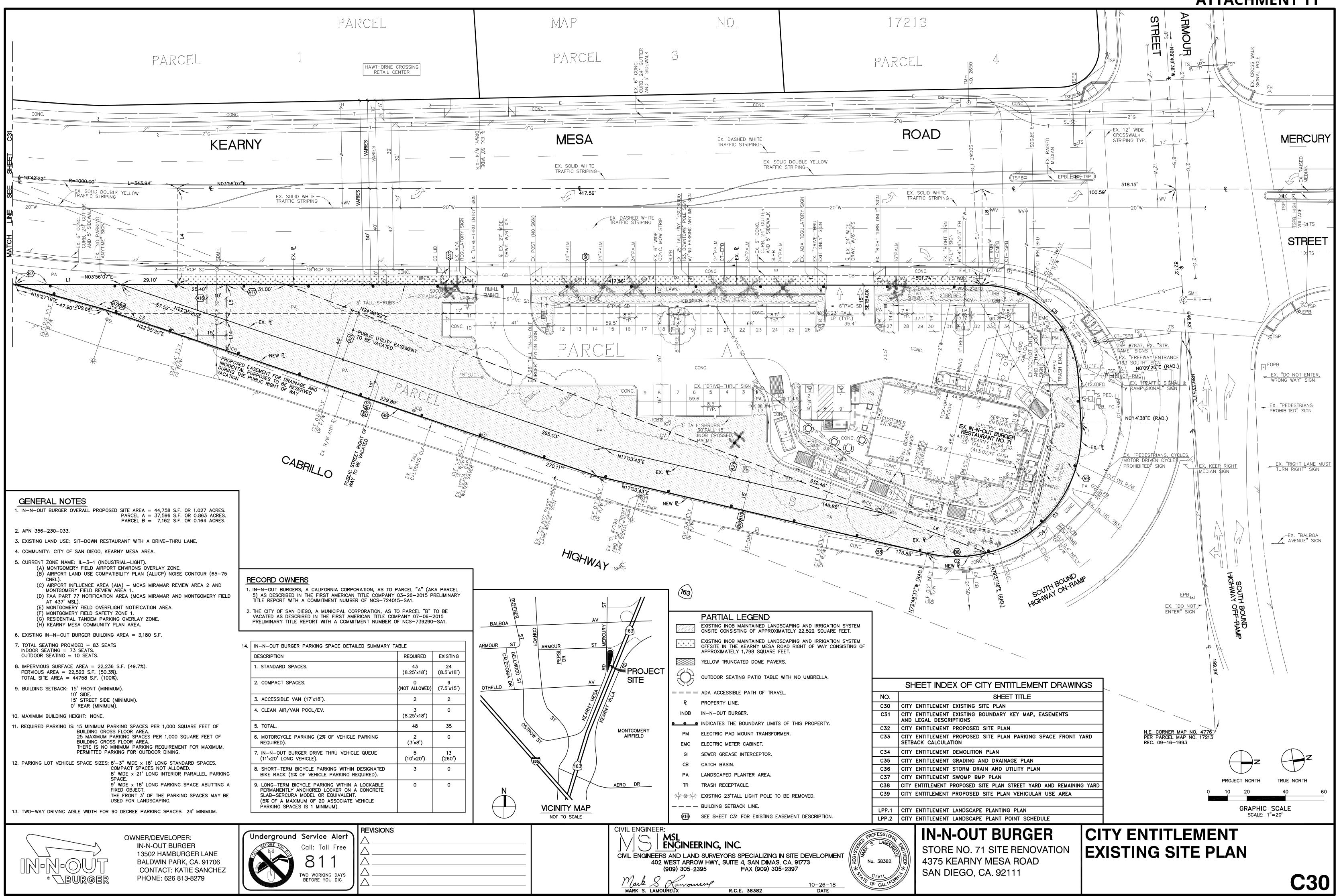
### 9. Dance studio looking to sell beer and wine

• Will return after proper application is submitted

### 10. Convoy district is having a pub crawl on Oct 30, all invited to attend

Jeff concluded the meeting at 12:50 pm.

Project Title:  IN-IN-OUT BURGERS	Project No. (For City Use Only) 449/66
Part II - To be completed when property is held by a corp	poration or partnership
Legal Status (please check):	
Corporation Limited Liability -or- General) What	State? Corporate Identification No
as identified above, will be filed with the City of San Diego or the property. Please list below the names, titles and address otherwise, and state the type of property interest (e.g., tenan in a partnership who own the property). A signature is required property. Attach additional pages if needed. Note: The application is being processed	acknowledge that an application for a permit, map or other matter, the subject property with the intent to record an encumbrance against see of all persons who have an interest in the property, recorded or its who will benefit from the permit, all corporate officers, and all partners red of at least one of the corporate officers or partners who own the cant is responsible for notifying the Project Manager of any changes in or considered. Changes in ownership are to be given to the Project esubject property. Failure to provide accurate and current ownership Additional pages attached X Yes No
Corporate/Partnership Name (type or print): In-N-Out Burgers, a California corporation	Corporate/Partnership Name (type or print):
▼ Owner	Owner Tenant/Lessee
Street Address: 13502 Hamburger Lane	Street Address:
City/State/Zip: Baldwin Park/CA/91706	City/State/Zip:
Phone No: Fax No: 626-813-8279 626-338-9173	Phone No: Fax No:
Name of Corporate Officer/Partner (type or print): Carl G. Van Fleet	Name of Corporate Officer/Partner (type or print):
Title (type or print): Executive Vice President of Planning and Development	Title (type or print):
Signature : Date: 10-23-	Signature : Date:
Corporate/Partnership Name (type or print):	Corporate/Partnership Name (type or print):
Owner Tenant/Lessee	Owner Tenant/Lessee
Street Address:	Street Address:
City/State/Zip:	City/State/Zip:
Phone No: Fax No:	Phone No: Fax No:
Name of Corporate Officer/Partner (type or print):	Name of Corporate Officer/Partner (type or print):
Title (type or print):	Title (type or print):
Signature : Date:	Signature : Date:
Corporate/Partnership Name (type or print):	Corporate/Partnership Name (type or print):
Owner Tenant/Lessee	Owner Tenant/Lessee
Street Address:	Street Address:
City/State/Zip:	City/State/Zip:
Phone No: Fax No:	Phone No: Fax No:
Name of Corporate Officer/Partner (type or print):	Name of Corporate Officer/Partner (type or print):
Title (type or print):	Title (type or print):
Signature : Date:	Signature : Date:



KEARNY

MESA

ROAD

PROJECT NORTH TRUE NORTH

GRAPHIC SCALE

SCALE 1-20

GR

### LEGAL DESCRIPTION SHOWN ON TITLE REPORT

NO. NCS-724015-SA1

REFERENCE: FIRST AMERICAN TITLE COMPANY PRELIMINARY TITLE REPORT WITH A COMMITMENT NUMBER OF NCS-724015-SA1 DATED MARCH 26, 2015, ISSUED OUT OF THEIR IRVINE, CA. OFFICE. THE TITLE OFFICER IS RUBEN MARES AT (949) 885-2445.

PARCEL A:
PARCEL 5 OF PARCEL MAP NO. 17213 IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO,
STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY
SEPTEMBER 16, 1993 AS FILE NO. 1993-0611252 OF OFFICIAL RECORDS.

APN: 356-230-33

### LEGAL DESCRIPTION SHOWN ON TITLE REPORT

NO. NCS-739290-SA1

REFERENCE: FIRST AMERICAN TITLE COMPANY PRELIMINARY TITLE REPORT WITH A COMMITMENT NUMBER OF NCS-739290-SA1 DATED JULY 06, 2015, ISSUED OUT OF THEIR IRVINE, CA. OFFICE. THE TITLE OFFICER IS RUBEN MARES AT (949) 885-2445.

PARCEL B:
"KEARNY MESA ROAD EXCESS LAND" LEGAL DESCRIPTION OF THE PROPERTY LYING EAST OF
THE KEARNY MESA IN-N-OUT BURGERS STORE NO. 71 AND WEST OF HIGHWAY 163 IN THE CITY

THAT PORTION OF THE LAND SHOWN ON PARCEL MAP NO. 17213 IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA DELINEATED AS KEARNY MESA ROAD FILED SEPTEMBER 16, 1993 AS FILE NUMBER 1993—611252 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, ON HAWTHORNE MACHINERY TRACT ACCORDING TO MAP THEREOF NO. 3692 FILED AUGUST 19, 1957, AS FILE NUMBER 125685 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, ON SEE—RYAN TRACT ACCORDING TO MAP THEREOF NO. 4776 FILED MAY 29, 1961 AS FILE NUMBER 92101 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, AND ON HAWTHORNE MACHINERY TRACT NO. 3 ACCORDING TO MAP THEREOF NO. 5806 FILED NOVEMBER 10, 1966 AS FILE NUMBER 179214 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERLY CORNER OF SAID PARCEL 5 OF PARCEL MAP NO. 17213; THENCE NORTH 22'35'20" EAST ALONG THE EASTERLY LINE OF SAID PARCEL 5 A DISTANCE OF 265.02 FEET; THENCE NORTH 17'03'43" EAST ALONG THE EASTERLY LINE OF SAID PARCEL 5 A DISTANCE OF 148.88 FEET: THENCE NORTH 24'49'52" EAST ALONG THE EASTERLY LINE OF SAID PARCEL 5 A DISTANCE OF 56.89 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 65.00 FEET AND TO WHICH BEGINNING A RADIAL LINE BEARS NORTH 79'37'46" EAST, SAID BEGINNING ALSO BEING THE MOST EASTERLY CORNER OF SAID PARCEL 5; THENCE SOUTHEASTERLY 31.27 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 27'33'37" TO AN ANGLE POINT IN THE EASTERLY RIGHT OF WAY LINE OF SAID KEARNY MESA ROAD AS SHOWN ON SAID PARCEL MAP NO. 17213: THENCE ON A NON-TANGENT LINE SOUTH 17'03'43" WEST 175.88 FEET TO AN ANGLE POINT IN THE EASTERLY RIGHT OF WAY LINE OF SAID KEARNY MESA ROAD AS SHOWN ON SAID PARCEL MAP NO. 17213; THENCE SOUTH 22'35'20" WEST 270.11 FEET TO AN ANGLE POINT IN THE EASTERLY RIGHT OF WAY LINE OF SAID KEARNY MESA ROAD AS SHOWN ON SAID PARCEL MAP NO. 17213; THENCE SOUTH 19°27'19" WEST ALONG THE EASTERLY RIGHT OF WAY LINE OF SAID KEARNY MESA ROAD AS SHOWN ON SAID PARCEL MAP NO. 17213 A DISTANCE OF 47.90 FEET TO A POINT ON THE SOUTHERLY PROLONGATION OF THE WESTERLY LINE OF SAID PARCEL 5 WHICH PASSES THROUGH THE POINT OF BEGINNING; THENCE NORTH 03°56'07" EAST ALONG SAID LAST MENTIONED PROLONGATION 55.08 FEET TO THE POINT OF BEGINNING.

THE AREA OF THE ABOVE DESCRIBED PARCEL "B" LEGAL DESCRIPTION CONSISTS OF APPROXIMATELY 7,162 SQUARE FEET OR 0.164 ACRES.

# PLOTTABLE EXCEPTIONS TO COVERAGE SHOWN ON TITLE REPORT NO. NCS-724015-SA1

REFERENCE: FIRST AMERICAN TITLE COMPANY PRELIMINARY TITLE REPORT WITH A COMMITMENT NUMBER OF NCS-724015-SA1 DATED MARCH 26, 2015 ISSUED OUT OF THEIR IRVINE, CA OFFICE. THE TITLE OFFICER IS RUBEN MARES AT (949) 885-2445.

(A8) ITEM NO. 8
THE FACT THAT THE OWNERSHIP OF SAID LAND DOES NOT INCLUDE RIGHTS OF ACCESS TO OR FROM THE STREET, HIGHWAY, OR FREEWAY ABUTTING SAID LAND, SUCH RIGHTS HAVING BEEN RELINQUISHED TO THE STATE OF CALIFORNIA BY INSTRUMENT NUMBERS 213194 AND 213195, BOTH RECORDED SEPTEMBER 21, 1971 OF OFFICIAL RECORDS OF SAN DIEGO

THIS ITEM IS ALSO SHOWN ON PARCEL MAP NO. 17213 AS PER MAP FILED SEPTEMBER 16, 1993 AS FILE NUMBER 1993—0611252 OF OFFICIAL RECORDS OF SAN DIEGO COUNTY.

THE REMAINING PROPERTY SHALL ABUT UPON AND HAVE ACCESS TO THE FRONTAGE ROAD (KEARNY MESA ROAD) WHICH WILL BE CONNECTED TO THE FREEWAY ONLY AT SUCH POINTS AS MAY BE ESTABLISHED BY PUBLIC AUTHORITY.

(A9) ITEM NO. 9
THE FACT THAT THE OWNERSHIP OF SAID LAND DOES NOT INCLUDE RIGHTS OF ACCESS TO OR FROM THE STREET, HIGHWAY, OR FREEWAY KNOWN AS HIGHWAY 163 ABUTTING SAID LAND, SUCH RIGHTS HAVE BEEN RELINQUISHED TO THE STATE OF CALIFORNIA, ITS SUCCESSORS AND ASSIGNS BY THE DOCUMENT RECORDED AUGUST 22, 1972 AS INSTRUMENT NO. 221728 OF OFFICIAL RECORDS OF SAN DIEGO COUNTY.

THIS ITEM IS ALSO SHOWN ON PARCEL MAP NO. 17213 AS PER MAP FILED SEPTEMBER 16, 1993 AS FILE NUMBER 1993-0611252 OF OFFICIAL RECORDS OF SAN DIEGO COUNTY.

TIEM NO. 12
THE TERMS AND CONDITIONS BETWEEN THE CITY OF SAN DIEGO AND THE PROPERTY OWNER
FOR THE PROPERTY OWNER TO INSTALL AND MAINTAIN AN 8" DIAMETER P.V.C. STORM DRAIN
PIPE WITHIN THE KEARNY MESA ROAD PUBLIC STREET RIGHT—OF—WAY AS SHOWN ON PLAN
FILE #AO 10857—89 UNDER CITY PERMIT NUMBER W38899 CONTAINED IN THE DOCUMENT
ENTITLED "ENCROACHMENT REMOVAL AGREEMENT" PER INSTRUMENT NO. 1992—0116301
RECORDED MARCH 03, 1992 OF OFFICIAL RECORDS OF SAN DIEGO COUNTY.

THE LOCATION OF THIS ITEM IS AT THE PHYSICAL 8" DIAMETER P.V.C. STORM DRAIN PIPE WITHIN THE STREET RIGHT-OF-WAY AS SHOWN ON MSL ENGINEERING, INC. SHEET C30.

(A16) ITEM NO. 16
A 10.00 FOOT WIDE EASEMENT IN FAVOR OF THE CITY OF SAN DIEGO FOR DRAINAGE AND INCIDENTAL PURPOSES AS DISCLOSED IN SAN DIEGO CITY COUNCIL RESOLUTION NO. R-282505 ADOPTED ON AUGUST 9, 1993 AND CITY DRAWING NO. 17989-B AS SHOWN ON PARCEL MAP NO. 17213 AS PER MAP FILED SEPTEMBER 16, 1993 AS FILE NUMBER 1993-0611252 OF OFFICIAL RECORDS OF SAN DIEGO COUNTY.

THE FACT THAT THE OWNERSHIP OF SAID LAND DOES NOT INCLUDE RIGHTS OF ACCESS TO OR FROM THE STREET OR HIGHWAY ABUTTING SAID LAND KNOWN AS KEARNY MESA ROAD, SUCH RIGHTS HAVING BEEN RELINQUISHED TO THE CITY OF SAN DIEGO PER CITY COUNCIL RESOLUTION NO. R-282505 ADOPTED ON AUGUST 9, 1953 AS CITY DRAWING NO. 17989-B AS SHOWN ON PARCEL MAP NO. 17213 AS PER MAP FILED SEPTEMBER 16, 1993 AS FILE NO. 1993-0611252 OF OFFICIAL RECORDS OF SAN DIEGO COUNTY AND AS DISCLOSED IN INSTRUMENT NO. 554207 RECORDED AUGUST 25, 1993 OF OFFICIAL RECORDS OF SAN DIEGO COUNTY

WE RECOMMEND THE FOLLOWING ITEM BE ADDED TO THE TITLE REPORT:

AN EASEMENT RESERVED AFTER THE VACATION OF KEARNY MESA ROAD BY THE CITY OF SAN DIEGO IN FAVOR OF THE CITY OF SAN DIEGO FOR PUBLIC UTILITIES, RIGHT OF INGRESS AND EGRESS AND DRAINAGE PURPOSES AS DISCLOSED IN SAN DIEGO CITY COUNCIL RESOLUTION NO. R-282505 ADOPTED ON AUGUST 9, 1993 AND CITY DRAWING NO. 17989-B PER INSTRUMENT NO. 554207 RECORDED AUGUST 25, 1993 OF OFFICIAL RECORDS OF SAN DIEGO COUNTY.

THIS ITEM IS ALSO SHOWN ON PARCEL MAP NO. 17213 AS PER MAP FILED SEPTEMBER 16, 1993 AS FILE NUMBER 1993—0611252 OF OFFICIAL RECORDS OF SAN DIEGO COUNTY.

THIS DOCUMENT STATES AMONG OTHER THINGS THAT UPON ACQUISITION OF AN ENCROACHMENT PERMIT FROM THE CITY ENGINEER PURSUANT TO THE MUNICIPAL CODE OF THE CITY, THE OWNERS OF THE UNDERLYING FEE MAY UTILIZE THE VACATED PARCEL OF LAND FOR STRUCTURES, THE PLANTING OR GROWING OF TREES, OR THE INSTALLATION OF PRIVATELY OWNED PIPELINES.

## PLOTTABLE EXCEPTIONS TO COVERAGE SHOWN ON TITLE REPORT NO. NCS-739290-SA1

REFERENCE: FIRST AMERICAN TITLE COMPANY PRELIMINARY TITLE REPORT WITH A COMMITMENT NUMBER OF NCS-739290-SA1 DATED JULY 06, 2015, ISSUED OUT OF THEIR IRVINE, CA. OFFICE. THE TITLE OFFICER IS RUBEN MARES AT (949) 885-2445.

(B7) ITEM NO. 7
WE RECOMMEND THAT THE FOLLOWING ITEM BE ADDED TO THE REFERENCED PRELIMINARY TITLE REPORT:

THE FACT THAT THE OWNERSHIP OF SAID LAND DOES NOT INCLUDE RIGHTS OF ACCESS TO OR FROM THE STREET, HIGHWAY OR FREEWAY ABUTTING SAID LAND, SUCH RIGHTS HAVING BEEN RELINQUISHED TO THE STATE OF CALIFORNIA BY INSTRUMENT NO. 107440 RECORDED OCTOBER 27, 1948 IN BOOK 2997, PAGE 220 OF OFFICIAL RECORDS OF SAN DIEGO COUNTY.

THIS ITEM IS ALSO SHOWN ON PARCEL MAP NO. 17213 AS PER MAP FILED SEPTEMBER 16, 1993 AS FILE NUMBER 1993—0611252 OF OFFICIAL RECORDS OF SAN DIEGO COUNTY.

(B8) ITEM NO. 8
WE RECOMMEND THAT THE FOLLOWING ITEM BE ADDED TO THE REFERENCED PRELIMINARY TITLE REPORT:

THE FACT THAT THE OWNERSHIP OF SAID LAND DOES NOT INCLUDE RIGHTS OF ACCESS TO OR FROM THE STREET, HIGHWAY, OR FREEWAY KNOWN AS HIGHWAY 163 ABUTTING SAID LAND, SAID RIGHTS BEING SHOWN AS RELINQUISHED AS SHOWN ON PARCEL MAP NO. 17213 AS PER MAP FILED SEPTEMBER 16, 1993 AS FILE NO. 1993—0611252 OF OFFICIAL RECORDS OF SAN DIEGO COUNTY.

WE RECOMMEND THAT THE FOLLOWING ITEM BE ADDED TO THE REFERENCED PRELIMINARY

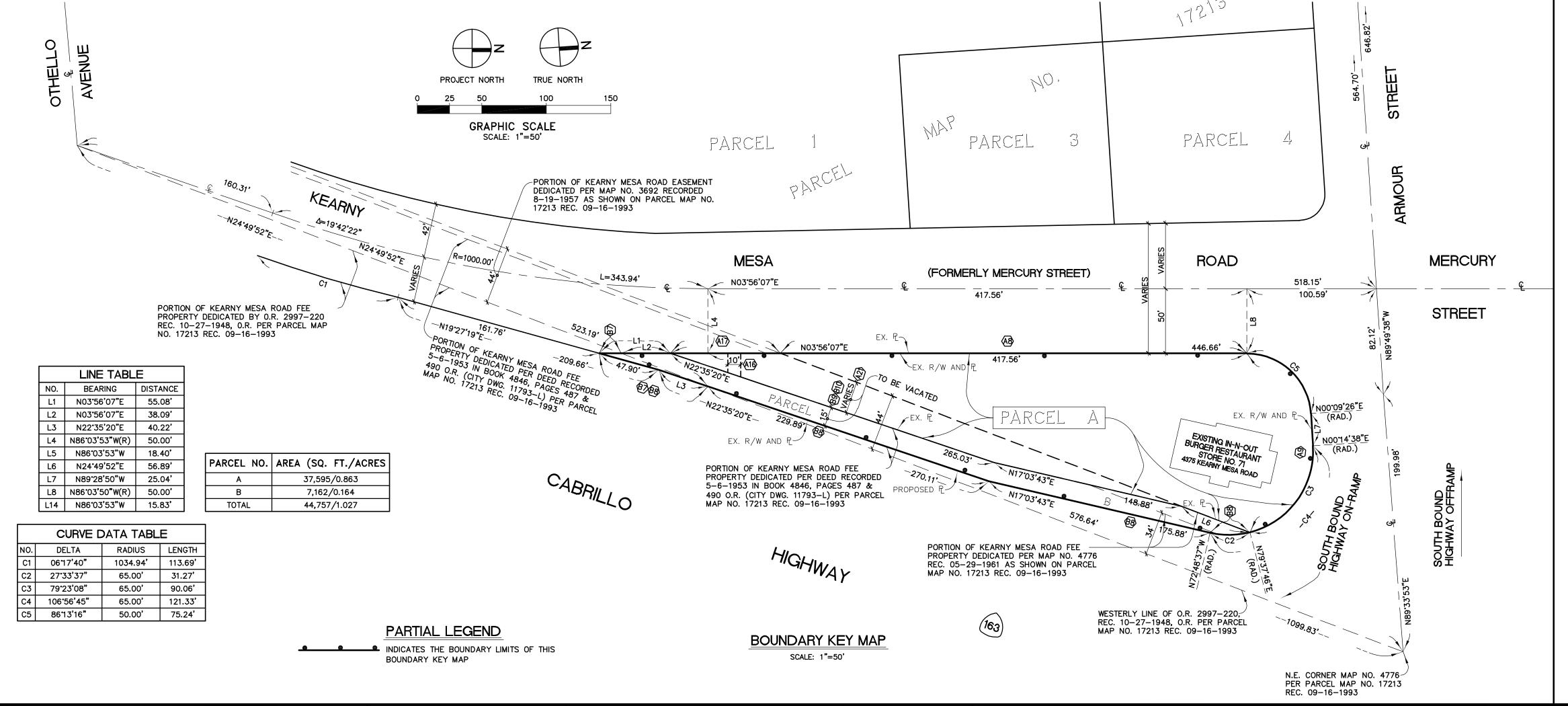
A RIGHT OF WAY IN FAVOR OF THE CITY OF SAN DIEGO FOR PUBLIC STREET AND PUBLIC ROAD AND INCIDENTAL PURPOSES ADOPTED BY THE SAN DIEGO CITY COUNCIL ON APRIL 30, 1953 AS RESOLUTION NO. 111866 AS DISCLOSED BY INSTRUMENT NO. 62215 RECORDED MAY 6, 1953 IN BOOK 4846, PAGE 487 OF OFFICIAL RECORDS OF SAN DIEGO COUNTY.

THIS ITEM IS ALSO SHOWN ON PARCEL MAP NO. 17213 AS PER MAP FILED SEPTEMBER 16, 1993 AS FILE NUMBER 1993—0611252 OF OFFICIAL RECORDS OF SAN DIEGO COUNTY.

WE RECOMMEND THAT THE FOLLOWING ITEM BE ADDED TO THE REFERENCED PRELIMINARY

A RIGHT OF WAY IN FAVOR OF THE CITY OF SAN DIEGO FOR PUBLIC STREET AND PUBLIC ROAD AND INCIDENTAL PURPOSES ADOPTED BY THE SAN DIEGO CITY COUNCIL ON APRIL 30, 1953 AS RESOLUTION NO. 111867 AS DISCLOSED BY INSTRUMENT NO. 62216 RECORDED MAY 6, 1953 IN BOOK 4846, PAGE 490 OF OFFICIAL RECORDS OF SAN DIEGO COUNTY

THIS ITEM IS ALSO SHOWN ON PARCEL MAP NO. 17213 AS PER MAP FILED SEPTEMBER 16, 1993 AS FILE NUMBER 1993-0611252 OF OFFICIAL RECORDS OF SAN DIEGO COUNTY.



IN-N-OUT

\* \BURGER

OWNER/DEVELOPER:
IN-N-OUT BURGER
13502 HAMBURGER LANE
BALDWIN PARK, CA. 91706
CONTACT: KATIE SANCHEZ
PHONE: 626 813-8279



CIVIL ENGINEER:

MSL
ENGINEERING, INC.

CIVIL ENGINEERS AND LAND SURVEYORS SPECIALIZING IN SITE DEVELOPMENT
402 WEST ARROW HWY., SUITE 4, SAN DIMAS, CA. 91773
(909) 305-2395
FAX (909) 305-2397

Mark

Mark

Mark

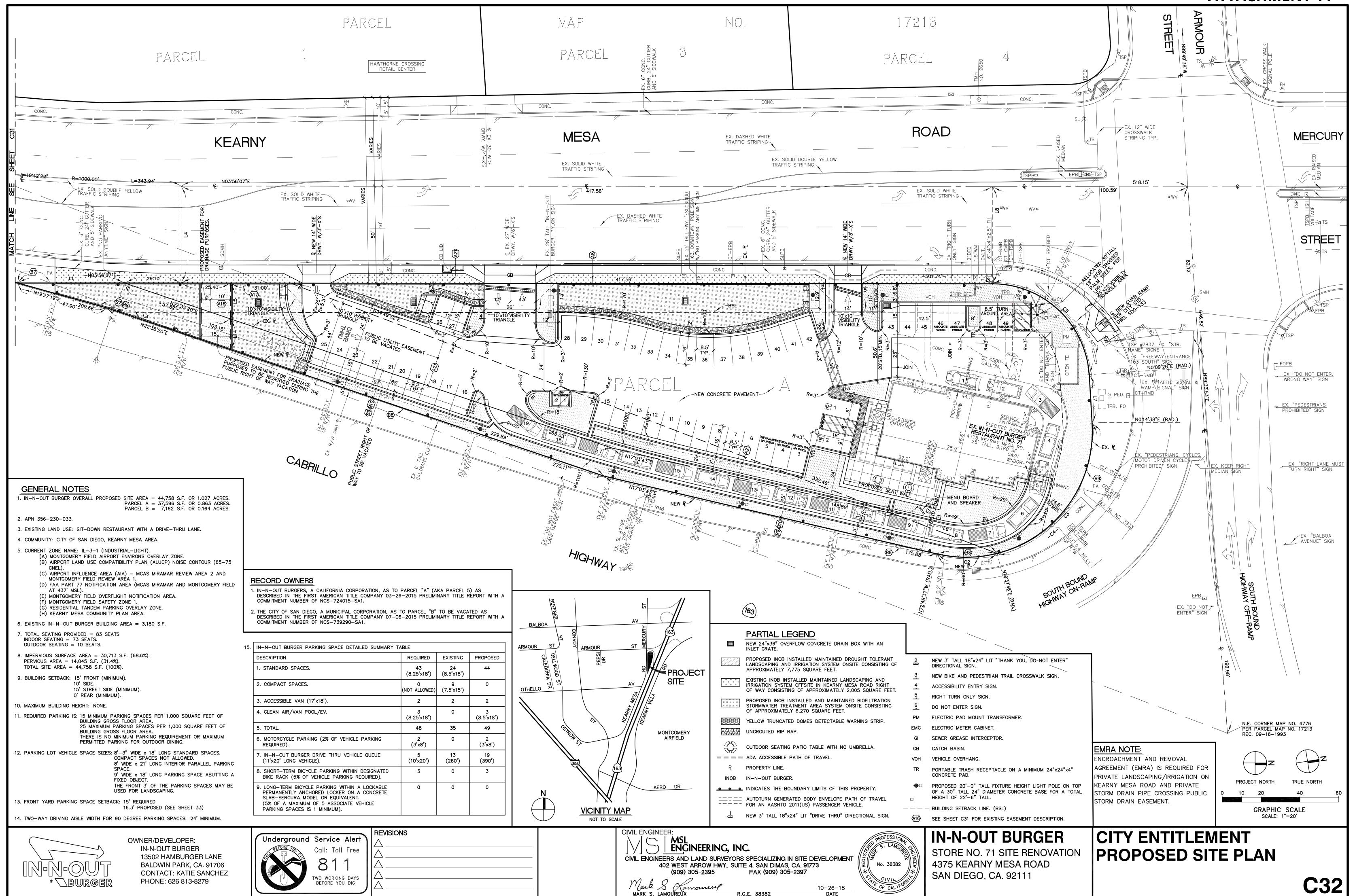
Mark

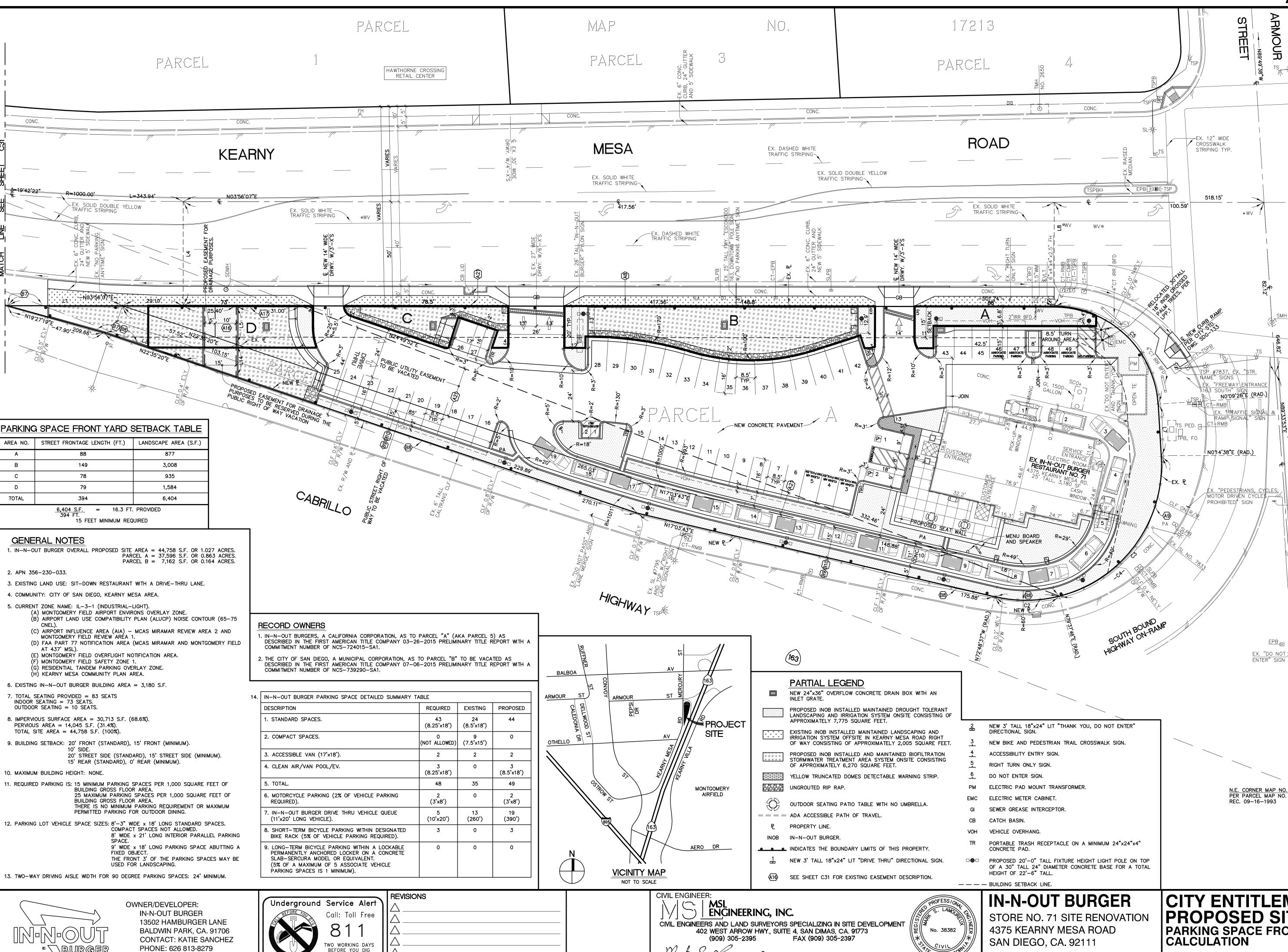
More CIVIL

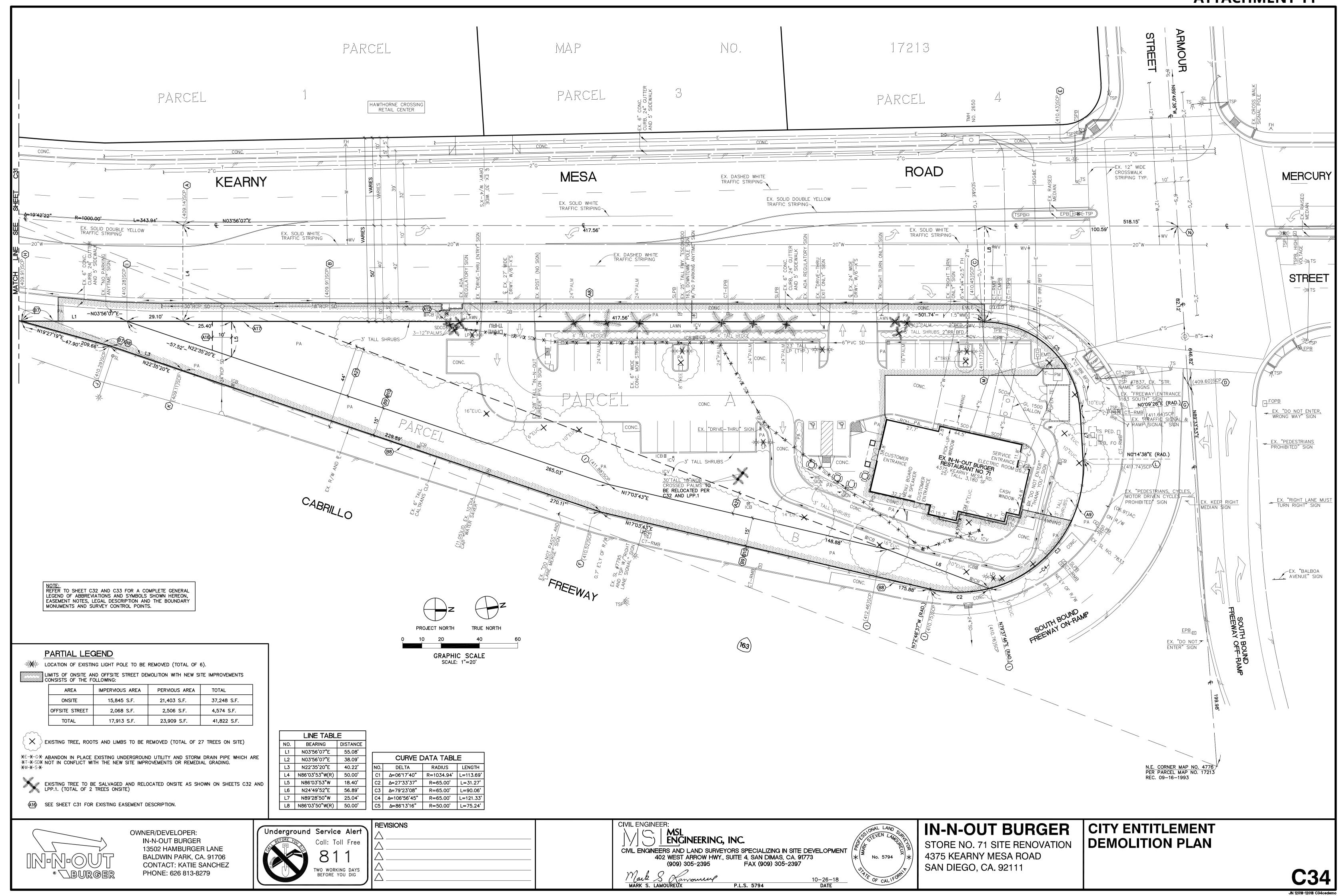
10-26-18

### IN-N-OUT BURGER

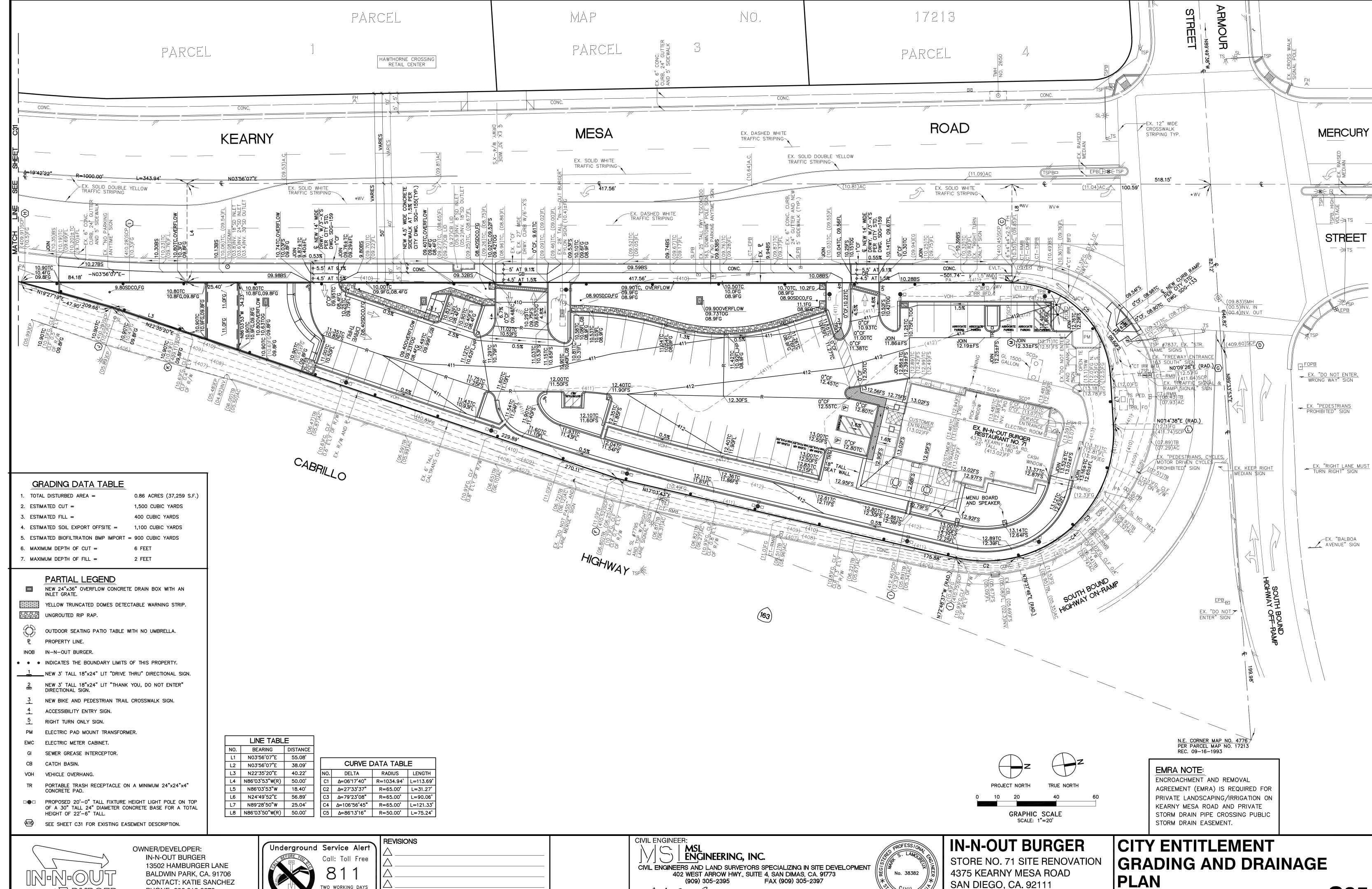
STORE NO. 71 SITE RENOVATION 4375 KEARNY MESA ROAD SAN DIEGO, CA. 92111 CITY ENTITLEMENT EXISTING
BOUNDARY KEY MAP, EASEMENTS
AND LEGAL DESCRIPTIONS







26/2018 2:51:28 PM, aaron



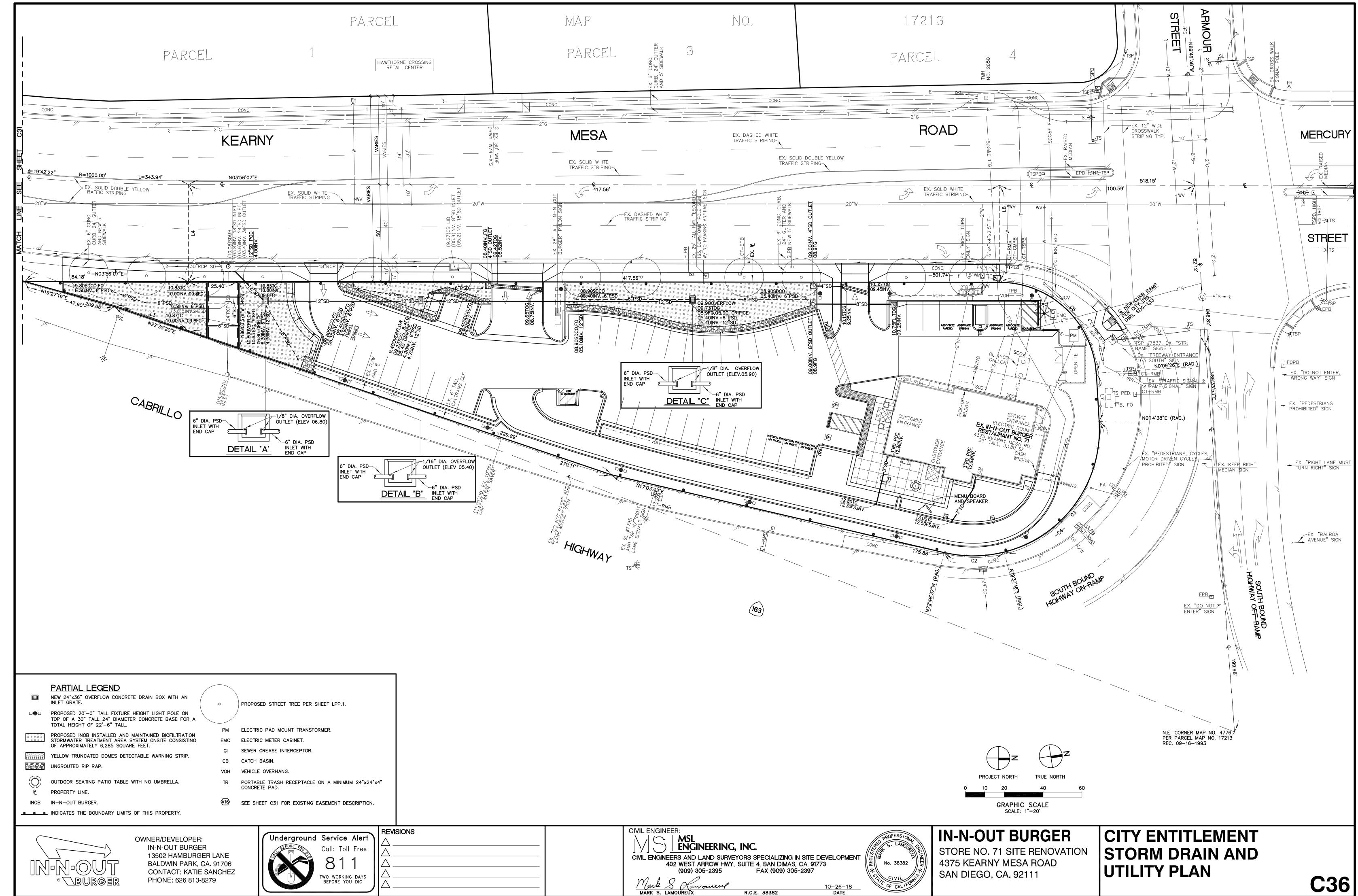
PHONE: 626 813-8279





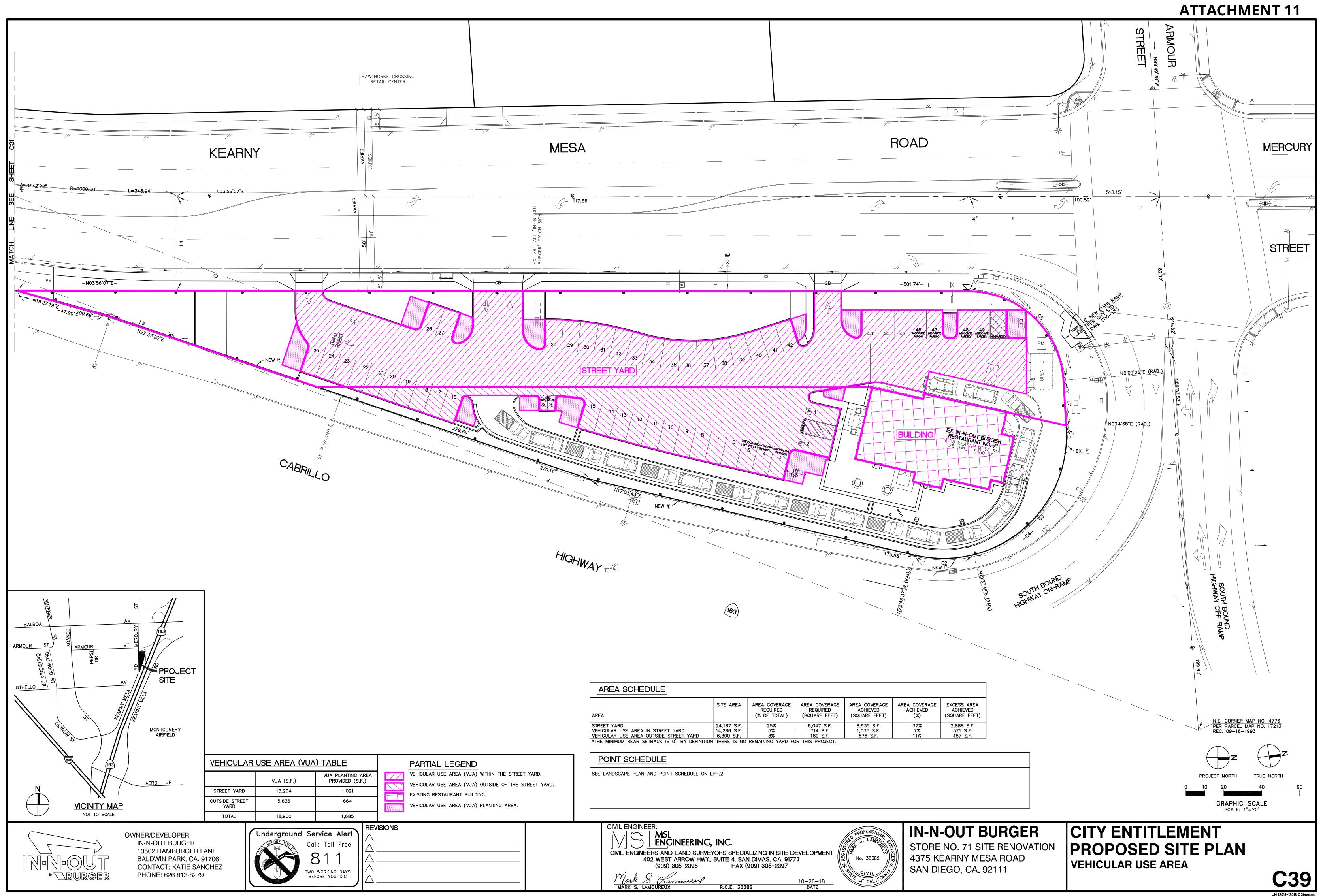
SAN DIEGO, CA. 92111

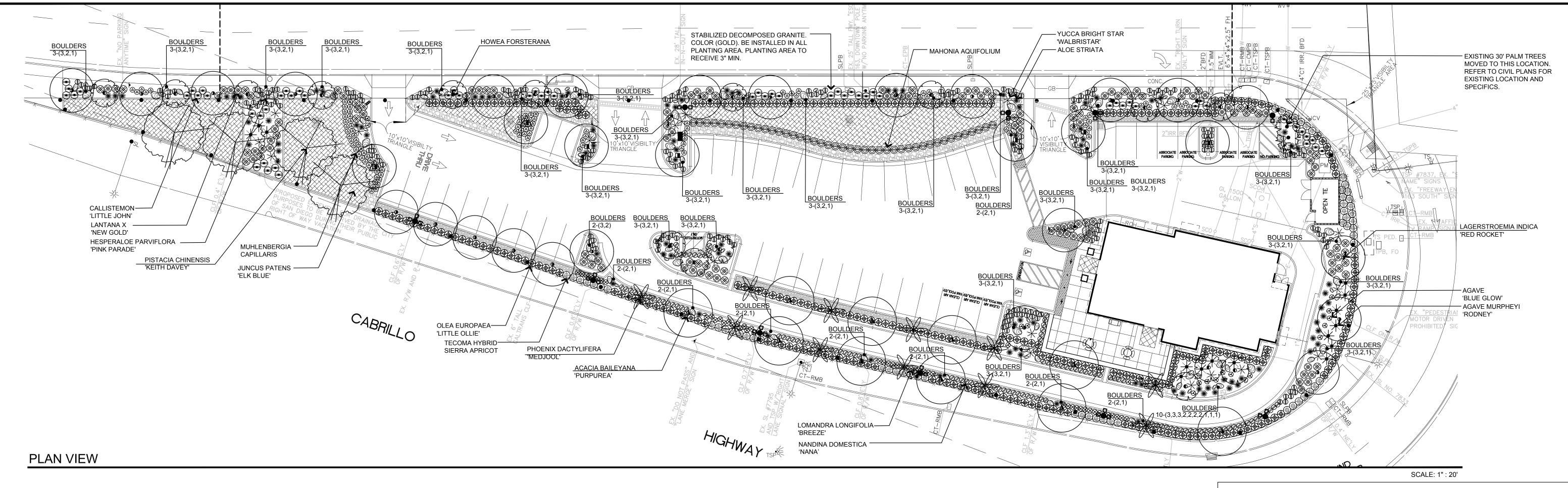
**C**35



/26/2018 2:52:40 PM, aaron

epsp





_	SYMBOL	BOTANICAL NAME	COMMON NAME	SIZE	QUANTITY	SPACING/ REMARKS	HEIGHT/ WIDTH	WUCOLS
	TREES	—— LAGERSTROEMIA INDICA 'RED ROCKET'	RED ROCKET CRAPE MYRTLE	24" BOX	+/-24	STANDARD TRUNK	15'-20'X15'-20'	MED
		LAGERSTROEMIA INDICA 'RED ROCKET'	RED ROCKET CRAPE MYRTLE	48" BOX	+/-4	STANDARD TRUNK	15'-20'X15'-20'	MED
	7	LAGERSTROEMIA INDICA 'RED ROCKET'	RED ROCKET CRAPE MYRTLE	24" BOX	+/-3	STANDARD TRUNK	15'-20'X15'-20'	MED
	<b>( )</b> —	— HOWEA FORSTERANA	KENTIA PALM	10' BTH	+/- 16	SKIN TRUNKS TO INDUSTRY STANDARDS	25'-30'X10'-12'	MED
<b>( \( \Delta \)</b>		— ACACIA BAILEYANA 'PURPUREA'	PURPLE-LEAF ACACIA	24"BOX	+/- 10	STANDARD TRUNK	30'X40'	LOW
X The state of the		PHOENIX DACTYLIFERA 'MEDJOOL'	MEDJOOL DATE PALM	15' BTH	+/- 11	SKIN TRUNKS TO INDUSTRY STANDARDS	30'-60'X20'-30'	LOW
	7	PISTACIA CHINENSIS 'KEITH DAVEY'	KEITH DAVEY CHINESE PISTACHE	24"BOX	+/- 4	STANDARD TRUNK	25'-35'X25'-35'	MED
The state of the s	~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~	EXISTING 30' PALM TREES M LOCATION AND SPECIFICS.	OVED TO THIS LOCATION. R	EFER TO CIVIL P	PLANS FOR EXISTI	NG		
	SHRUBS							
	<del></del>	— CALLISTEMON 'LITTLE JOHN'	DWARF BOTTLEBRUSH	5 GALLON	+/- 61	36" O.C.	3'X3'	LOW
	⊕ —	— OLEA EUROPAEA 'LITTLE OLLIE'	LITTLE OLLIE DWARF	5 GALLON	+/- 306	36" O.C.	4'-6'X4'-6'	LOW
	*	— AGAVE MURPHEYI 'RODNEY'	VARIEGATED MURPHEY'S AGAVE	5 GALLON	+/- 15	PER PLAN	3'X3'	LOW
	*	— YUCCA BRIGHT STAR	BRIGHT STAR YUCCA	5 GALLON	+/-20	PER PLAN	1'-2'X5'	LOW
	*	'WALBRISTAR' — ALOE STRIATA	CORAL ALOE	5 GALLON	+/-96	PER PLAN	3'X3'	LOW
	⊗	— AGAVE 'BLUE GLOW'	BLUE GLOW AGAVE	5 GALLON	+/- 19	PER PLAN	2'X3'	LOW
	⊗ ——	— LANTANA X 'NEW GOLD'	NEW GOLD LANTANA	1 GALLON	+/- 139	36" O.C.	12"-15"X18"-24"	LOW
	<b>•</b>	- HESPERALOE PARVIFLORA	PINK PARADE	5 GALLON	+/- 193	PER PLAN	3-4"X3'-4'	LOW
		'PINK PARADE' — MUHLENBERGIA	PINK MUHLY	1 GALLON	+/- 112	PER PLAN	2'-3'X2'-3'	MED
	<b>—</b>	CAPILLARIS  TECOMA HYBRID	SIERRA APRICOT	5 GALLON	+/- 60	PER PLAN	3'X4'-5'	LOW
	⊗ ——	'SIERRA APRICOT' — LOMANDRA LONGIFOLIA	ESPERANZA DWARF MAT RUSH	1 GALLON	+/- 46	PER PLAN	2'-3'X2'X4'	LOW
	Ø ——	'BREEZE'  NANDINA DOMESTICA	DWARF HEAVENLY	5 GALLON	+/- 121	PER PLAN	5'-6'X2'-3'	LOW
	⊕	'NANA' — MAHONIA AQUIFOLIUM	BAMBOO OREGON GRAPE	5 GALLON	+/- 43	PER PLAN	4'-6'X4'-5'	LOW
		— JUNCUS PATENS	ELK BLUE CALIFORNIA	1 GALLON	3,972 SQ.FT.	12" O.C.	2'X2'	LOW

### LANDSCAPE BOLLI DER LEGEND OF ABBREVIATIONS

BOULDER # SIZE TYPE/ COLOR/ MANUFACTURER  0 1 1' X 2' X 3' BOULDER/ COLOR: DESERT MARBLE SOUTHWEST BOULDER & STONE TEL: 877-792-7625  © 2 2' X 4' X 3' BOULDER/ COLOR: DESERT MARBLE SOUTHWEST BOULDER & STONE TEL: 877-792-7625  © 3 3' X 3' X 3' BOULDER/ COLOR: DESERT MARBLE SOUTHWEST BOULDER & STONE TEL: 877-792-7625  BOULDER PLACEMENT (GROUPINGS) SHALL BE REVIEWED BY THE LANDSCAPE ARCHITECT PRIOR TO PLACEMENT.	LANDSO	APL DOU	LUEN LEGEND OF ADDREVIATIONS	CALLOUT
SOUTHWEST BOULDER & STONE TEL: 877-792-7625  © 2 2' X 4' X 3' BOULDER/ COLOR: DESERT MARBLE SOUTHWEST BOULDER & STONE TEL: 877-792-7625  # OF BOULDERS IN THE GROUP  BOULDER PER LEC  BOULDER & STONE TEL: 877-792-7625  BOULDER & STONE TEL: 877-792-7625  BOULDER PLACEMENT (GROUPINGS) SHALL BE REVIEWED BY THE	BOULDER#	SIZE	TYPE/ COLOR/ MANUFACTURER	J.
SOUTHWEST BOULDER & STONE TEL: 877-792-7625  3 3' X 3' X 3' BOULDER/ COLOR: DESERT MARBLE SOUTHWEST BOULDER & STONE TEL: 877-792-7625  BOULDER REFER NUMBER PER LEG SOUTHWEST BOULDER & STONE TEL: 877-792-7625  BOULDER PLACEMENT (GROUPINGS) SHALL BE REVIEWED BY THE	<i>o</i> 1	1' X 2' X 3'	SOUTHWEST BOULDER & STONE	
SOUTHWEST BOULDER & STONE TEL: 877-792-7625  BOULDER PLACEMENT (GROUPINGS) SHALL BE REVIEWED BY THE	<b>(</b> ) 2	2' X 4' X 3'	SOUTHWEST BOULDER & STONE	
· ·	© 3	3' X 3' X 3'	SOUTHWEST BOULDER & STONE	
		,	,	

STABILIZED DECOMPOSED GRANITE. COLOR (GOLD). BE INSTALLED IN ALL

ROCK WITH WEED BARRIER AS INDICATED TO RECEIVE 3" TO 8" SIZE COBBLE. CONTRACTOR SHALL INFILL JOINTS WITH DG.  $^{+/-}$  574 S.F.

PLANTING AREA. PLANTING AREA TO RECEIVE 3" MIN.

REFER TO CIVIL DRAWINGS SHEET C32 FOR THE FOLLOWING ITEMS

-ALL TABULATION OF SITE ITEMS INCLUDING PERMEABLE AND NON

-LABELING OF ALL EXISTING AND PROPOSED BUILDINGS,

CONTRACTOR SHALL PROVIDE AND AGRONOMIC SOILS

REPORT ONCE ALL GRADING HAS BEEN COMPLETED ONSITE.

IT IS THE INTENT TO PROVIDE AN IRRIGATION DESIGN UTILIZING DRIP IRRIGATION SYSTEM FOR THE ENTIRE SITE BURIED A CONSTANT 4"

PROTECTION. THE IRRIGATION SYSTEM SHALL BE CONTROLLED BY A

SMART CONTROLLER WITH ONSITE WEATHER SENSOR AND REMOTE

OPERATION THROUGH THE INTERNET FROM CENTRAL LOCATION.

CONTROLLER SHALL BE A TYPE WHICH AUTOMATICALLY ADJUSTS RUNTIMES AND FREQUENCIES BASED, NOT ONLY ON HISTORICAL ET,

BELOW FINISH GRADE AND STAPLED DOWN @ 5' INTERVALS FOR ADDED

SHOWN

SQUARE FOOTAGE NOTE: TOTAL TURF AREA: 0 S.F.

PERMEABLE SURFACES.

AGRONOMIC SOILS REPORT:

LANDSCAPE IRRIGATION INTENT:

BUT ACTUAL ONSITE WEATHER CONDITIONS.

TOTAL PLANTING AREA: 16,050 S.F.

CIVIL DRAWINGS REFERENCE NOTE:

-DIMENSIONS OF ALL PROPERTY LINES

TOTAL LANDSCAPE AREA: 16,050 S.F. (100%)

STRUCTURES, AND LANDSCAPING ELEMENTS.

NOTES:		
1. A MINIMUM ROOT ZONE OF 40SF IN AREA SHA	ALL BE PROVIDED FOR A	٦LL
TREES. THE MINIMUM DIMENSION FOR THIS A	AREA SHALL BE 5 FEET,	PER

SDMC 142.0403(B)(5). 2. MINIMUM TREE SEPARATION DISTANCE -TRAFFIC SIGNALS / STOP SIGNS - 20 FEET -UNDERGROUND UTILITY LINES - 5 FEET (10' FOR SEWER) -ABOVE GROUND UTILITY STRUCTURES- 10 FEET -DRIVEWAY (ENTRIES) - 10 FEET

3. "TREE ROOT BARRIERS SHALL BE INSTALLED WHERE TREES ARE PLACED WITHIN 5 FEET OF PUBLIC IMPROVEMENTS INCLUDING WALKS, CURBS, OR STREET PAVEMENTS OR WHERE NEW PUBLIC IMPROVEMENTS ARE PLACED ADJACENT TO EXISTING TREES. THE ROOT BARRIER WILL NOT WRAP AROUND THE ROOT BALL." PLEASE CLEARLY IDENTIFY THE INSTALLATION OF ROOT

BARRIERS IN THE LOCATIONS SUBJECT TO THESE CONDITIONS PER

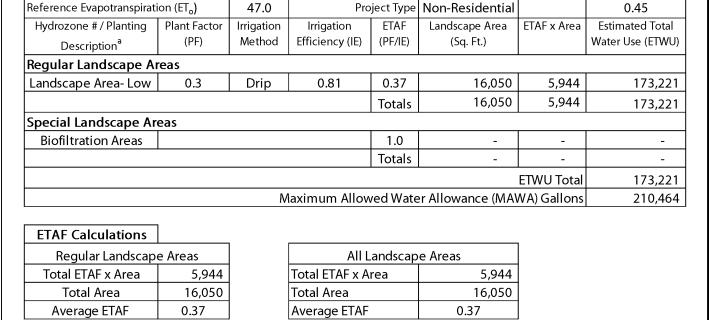
-INTERSECTIONS (INTERSECTING CURB LINES OF TWO STREETS) - 25 FEET

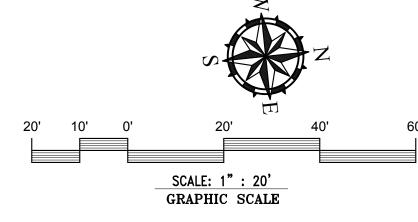
142.0403(B). 4. TREES SHALL BE MAINTAINED SO THAT ALL BRANCHES OVER PEDESTRIAN WALKWAYS ARE 6 FEET ABOVE THE WALKWAY GRADE AND BRANCHES OVER VEHICULAR TRAVEL WAYS ARE 16 FEET ABOVE THE GRADE OF THE TRAVEL WAY PER THE SAN DIEGO MUNICIPAL CODE, SECTION 142.0403(B)(10).

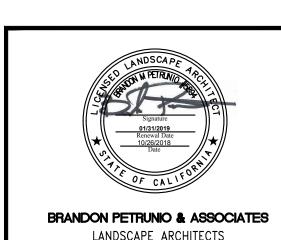
5. IF ANY REQUIRED LANDSCAPE INDICATED ON THE APPROVED CONSTRUCTION DOCUMENT PLANS IS DAMAGED OR REMOVED DURING DEMOLITION OR CONSTRUCTION, IT SHALL BE REPAIRED AND/OR REPLACED IN KIND AND EQUIVALENT SIZE PER THE APPROVED DOCUMENTS TO THE SATISFACTION OF THE DEVELOPMENT SERVICES DEPARTMENT WITHIN 30 DAYS OF DAMAGE.

6. MAINTENANCE: ALL REQUIRED LANDSCAPE AREAS SHALL BE MAINTAINED BY IN-N-OUT BURGER. LANDSCAPE AND IRRIGATION AREAS IN THE PUBLIC RIGHT-OF-WAY SHALL BE MAINTAINED BY IN-N-OUT BURGER. THE LANDSCAPE AREAS SHALL BE MAINTAINED FREE OF DEBRIS AND LITTER, AND ALL PLANT MATERIAL SHALL BE MAINTAINED IN A HEALTHY GROWING CONDITION. DISEASED OR DEAD PLANT MATERIAL SHALL BE SATISFACTORILY TREATED OR REPLACED PER THE CONDITIONS OF THE PERMIT.

7. IRRIGATION: AN AUTOMATIC, ELECTRICALLY CONTROLLED IRRIGATION SYSTEM SHALL BE PROVIDED AS REQUIRED BY LDC 142.0403(C) FOR PROPER IRRIGATION, DEVELOPMENT, AND MAINTENANCE OF THE VEGETATION IN A HEALTHY, DISEASE-RESISTANT CONDITION. THE DESIGN OF THE SYSTEM SHALL PROVIDE ADEQUATE SUPPORT FOR THE VEGETATION SELECTED. THE TYPE OF IRRIGATION SYSTEM PROPOSED SHALL BE DRIP AND OR BUBBLER.







LANDSCAPE ARCHITECTS PH: (424) 235-8940 MOBILE: (951)312-9943 EMAIL: brandon@bpalas.com



OWNER/DEVELOPER IN-N-OUT BURGER 13502 HAMBURGER LANE BALDWIN PARK, CA 91706 CONTACT: KATIE SANCHEZ PHONE: 626 813-8279



GRAY RUSH

'ELK BLUE'

REVISIONS



**IN-N-OUT BURGER** STORE NO. 71 SITE RENOVATION 4375 KEARNY MESA ROAD

SAN DIEGO, CA. 92111

**CITY ENTITLEMENT** LANDSCAPE PLANTING **PLAN** 



