



*The County of San Diego*

# Planning Commission Hearing Report

---

<b>Date:</b>	October 14, 2016	<b>Case/File No.:</b>	PDS2015-AP-15-001 PDS2015-REZ-15-010 PDS2015-CC-15-0009 PDS2015-CC-15-0100 PDS2016-BC-16-0050
<b>Place:</b>	County Conference Center 5520 Overland Avenue San Diego, CA 92123	<b>Project:</b>	McMillan Agricultural Preserve Establishment
<b>Time:</b>	9:00 a.m.	<b>Location:</b>	Lazy H Drive and Glenair Way
<b>Agenda Item:</b>	#5	<b>General Plan:</b>	Semi-Rural (SR-10)
<b>Appeal Status:</b>	Board of Supervisors is the final decision maker	<b>Zoning:</b>	A70 (Limited Agriculture)
<b>Applicant/Owner:</b>	McMillan Trust	<b>Community:</b>	Valley Center
<b>Environmental:</b>	CEQA Exempt	<b>APNs:</b>	132-081-42-00,133-010-12-00,133-010-13-00,133-010-14-00,133-010-15-00,133-010-16-00,133-301-43-00,133-420-04-00,133-420-05-00,133-420-06-00,133-420-07-00,133-420-08-00,133-420-15-00,133-420-16-00,133-420-19-00

---

## A. EXECUTIVE SUMMARY

### 1. Requested Actions

This is a request for the Planning Commission to evaluate the proposed project, which is an Agricultural Preserve (Preserve) Establishment and associated Zoning Reclassification (Rezone) to add the Agricultural Preserve (A) Special Area Regulations to the subject property. Both the Preserve Establishment and Rezone requests are under the jurisdiction of the Board of Supervisors (Board). Pursuant to Section 7502 of the Zoning Ordinance, the Planning Commission shall make a recommendation for the Rezone to the Board. Planning & Development Services (PDS) recommends that the Planning Commission take the following actions:

- a. Recommend to the Board to adopt the Environmental Findings included in Attachment A, which includes the finding exempting the project from the California Environmental Quality Act (CEQA) pursuant to Section 15317 of the CEQA Guidelines.
- b. Recommend to the Board to adopt the Ordinance for Zoning Reclassification PDS2015-REZ-15-010 titled AN ORDINANCE CHANGING THE ZONING CLASSIFICATION OF CERTAIN PROPERTY IN THE VALLEY CENTER COMMUNITY PLAN AREA (Attachment B).
- c. Grant Certificate of Compliance (PDS2015-CC-15-0009 and PDS2015-CC-15-0010) and Boundary Adjustment (PDS2016-BC-16-0050), which includes the requirements and conditions set forth in the Notice of Conditional Approval (Attachment C).

**2. Key Requirements for Requested Actions**

- a. Is the proposed project consistent with the vision, goals, and polices of the General Plan?
- b. Does the project comply with the policies set forth under the Community Plan?
- c. Is the proposed project consistent with the County's Zoning Ordinance (Ordinance)?
- d. Is the project consistent with other applicable County regulations?
- e. Does the project comply with the CEQA?

**B. REPORT SUMMARY**

The purpose of this staff report is to provide the Planning Commission with the information necessary to consider the proposed Preserve Establishment, the associated Rezone, and environmental findings prepared in accordance with CEQA. The Planning Commission shall grant the Conditional Approval for the CC and BC, and make a recommendation for the Rezone to the Board. The Board shall consider and make a final decision on the Preserve Establishment and the Rezone. In addition, the Board may authorize the Director of Department of General Services to sign the Williamson Act Contract on behalf of the Board.

The applicant proposes a Preserve Establishment and a Rezone to place approximately 303 acres of active agricultural lands in a preserve in the Valley Center Community Planning Area. The Preserve Establishment would allow the property owner to then enter a portion or the entire property into a Williamson Act Contract (Contract) pursuant to the California Land Conservation Act of 1965, and the Rezone would add an "A" Special Area designator to the subject property to aid in the implementation of the Williamson Act.

A Boundary Adjustment and Certificate of Compliance are also included to ensure the individual lots within the preserve would meet the minimum parcel size as set forth in Board Policy I-38. In addition, the Boundary Adjustment would move a small sliver of property covered by the open space easement from the proposed Contract boundary.

Based on staff's analysis, it is the Department's position that the required findings pursuant to Board Policy I-38 can be made and recommends approval of the Rezone, Boundary Adjustment and Certificate of Compliance.

**C. DEVELOPMENT PROPOSAL**

**1. Project Description**

The project is a request to place approximately 303 acres of active agricultural lands in a preserve to allow the property owner to subsequently enter a portion or the entire site into a Contract. Currently, the applicant’s proposal is to enter approximately 223 acres into the Contract after the preserve is established. In order to aid in the implementation of the Contract with the intent to encourage the preservation of productive agricultural lands, an “A” Special Area designator would be added through the proposed rezone to the subject property to restrict uses that are allowed on the project site pursuant to Sections 5105 and 5110 of the Ordinance. The property is currently in active agricultural production consisting entirely of tree crops, including avocado and citrus groves.

**2. Subject Property and Surrounding Land Uses**

The 303-acre site is located within the Valley Center Community Plan Area in unincorporated San Diego County, and is located South of Highway 76, west of Pauma Heights Road, and east of Lazy H Drive as shown in Figure 1. The site is currently occupied with existing tree crops, farm manager and employee housing, accessory structures and a reservoir. The project site is subject to the Semi-Rural General Plan Regional Category, Land Use Designation Semi-Rural (SR-10), and Limited Agricultural (A70) zoning regulations. Surrounding land uses immediately adjacent to the site include rural residential, agricultural and tribal lands as shown in Figure 2.

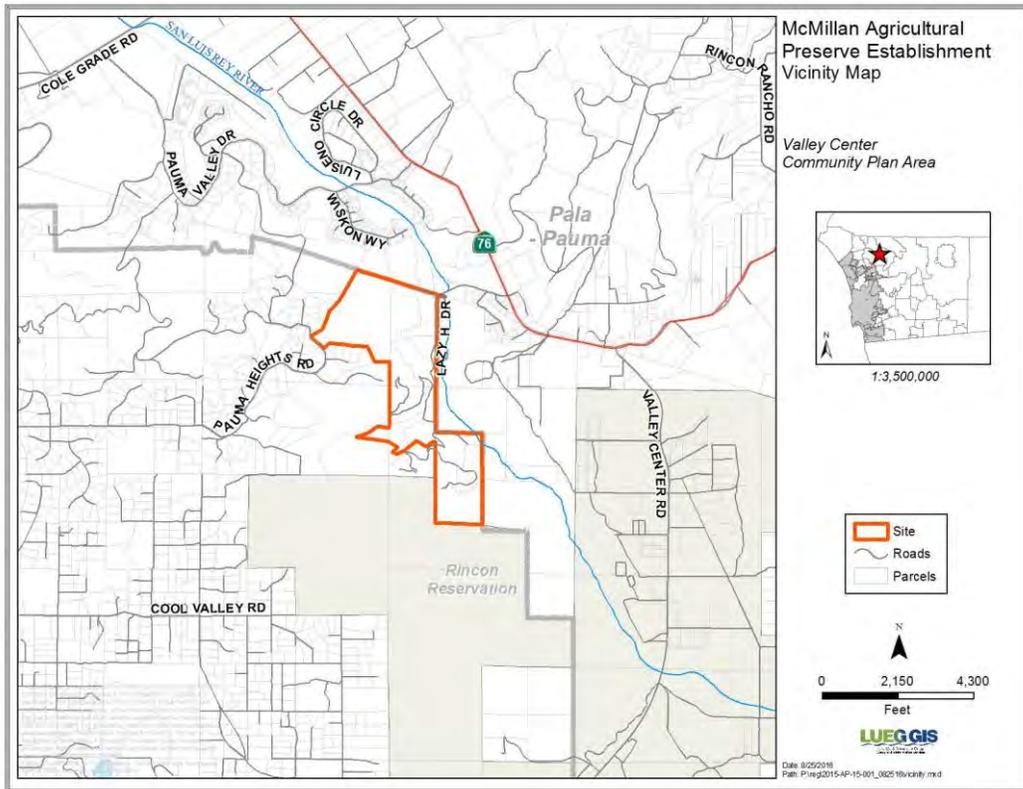


Figure 1: Vicinity Map

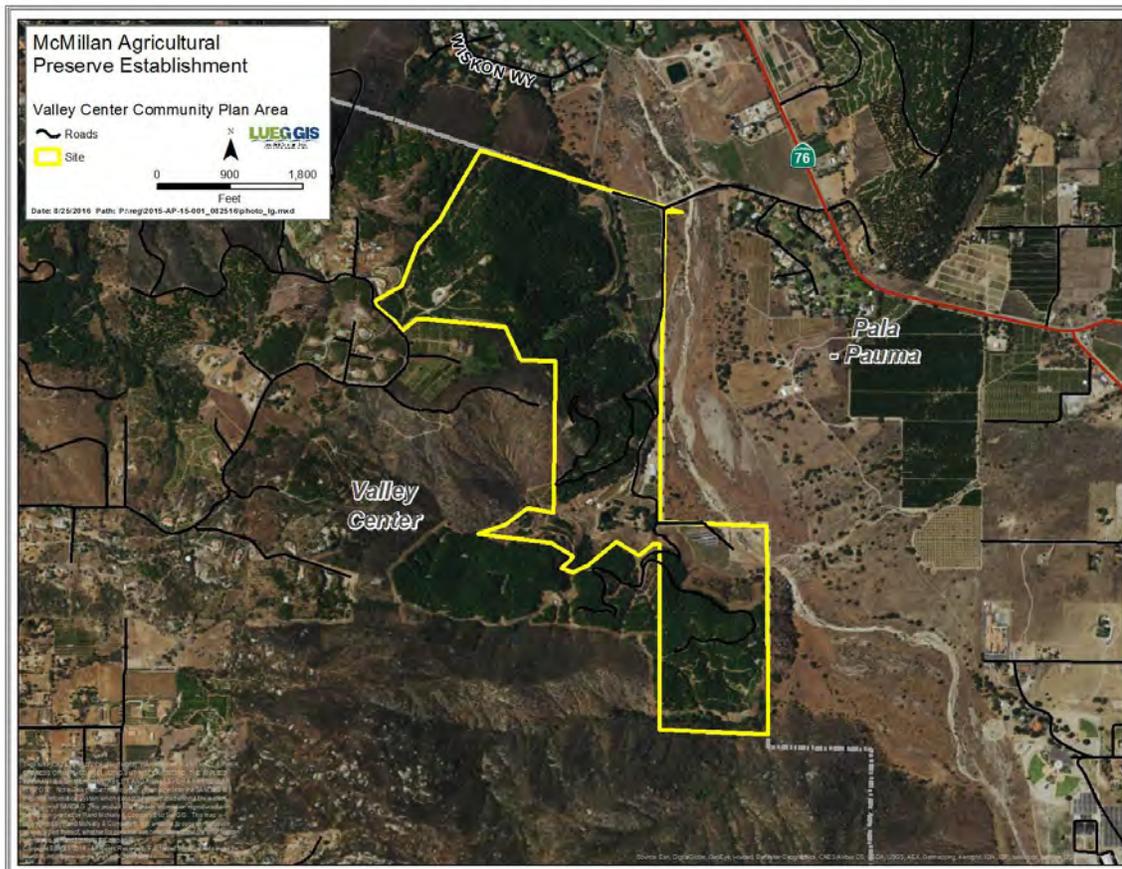


Figure 2: Aerial Photo

Table C-1: Surrounding Zoning and Land Uses

Location	General Plan	Zoning	Adjacent Streets	Description
North	Rural Lands, Village Residential	A70, RS	SR-76	Residential and Vacant Land
East	Rural Lands	A70, RR	SR-76, Lazy H Drive	Vacant Land, Residential, and Agriculture
South	Tribal Lands, Rural Lands	Indian Reservation, A70	N/A	Vacant Land
West	Rural Lands, Semi-Rural Residential	A70	Pauma Heights Road	Vacant Land, Agriculture, Residential

## **D. ANALYSIS AND DISCUSSION**

The project has been reviewed to ensure it conforms to the all the relevant ordinances and guidelines, including, but not limited to, the San Diego County General Plan, Valley Center Community Plan, the Zoning Ordinance and CEQA Guidelines. A detailed discussion of the project analysis and consistency with applicable codes, policies and ordinances is as follows:

### **1. Project Analysis**

Board Policy I-38 establishes policies for the implementation of the California Land Conservation Act of 1965, also commonly known as the Williamson Act. In 1965, the State Legislature added to the Government Code Sections 51200 et. seq., which authorized the County to establish agricultural preserves. The project proposes the establishment of a preserve and placement of eligible land under Contract after the preserve is established. An agricultural preserve is an area devoted to agricultural use, open space use, recreational use, or any combination of such uses, and compatible uses which are designated by the County. They are established for the purpose of defining the boundaries of those areas within which the County will be willing to enter into contracts pursuant to the Williamson Act. Landowners within a preserve may enter into a Contract with the County to restrict their land to the uses stated above while assessing the land based on its restricted use rather than on its market value, ultimately reducing property tax obligation.

#### **I) CRITERIA FOR ESTABLISHMENT OF PRESERVES**

- a. **PUBLIC BENEFIT.** An agricultural preserve shall be created only when its establishment will be of benefit to the public.

##### **FINDING:**

The proposal will be of benefit to the public by preserving existing productive agricultural lands that provide local sources of produce for the San Diego Region.

- b. **ELIGIBLE AREAS.** Subject to the other requirements set forth in these criteria, applications shall be accepted from all geographical areas of the County. However, it is the intent of the BOARD to look more favorably upon applications for agricultural preserves for areas which are in the path of development. Areas in the path of development would include those areas designated as being within an urban land use classification in the General Plan or areas presently having such urban level services such as sewer and water or a reasonable expectation of having those services in the near future.

##### **FINDING:**

The proposed agricultural preserve is located in an area subject to the Semi-Rural General Plan Category, Land Use Designation of Semi-Rural (SR-10) within the Valley Center Community Plan Area, located between the edge of existing residential development of the Valley Center and Pala-Pauma. The subject property is currently served by existing infrastructure and urban level services, such as sewer and water. Based on the current outward growth and development patterns of these two communities, as well as the development potential of the subject property, it can be reasonably concluded that the proposed agricultural preserve is in the path of development.

- c. UNREASONABLE TAX BURDEN. The establishment of the agricultural preserve and consequent reduction in assessed value of land, if any, shall not place an unreasonable tax burden on other property owners. To assist in determining any possible tax burden, the Auditor and Controller prior to establishment of a preserve, shall make a study of the potential impact of the preserve on local taxing agencies and submit a report thereon to the Board of Supervisors.

**FINDING:**

This action will reduce the property tax revenue from the subject site. Based on information provided by the Auditor and Controller, Property Tax Divisions, it is estimated that this action will reduce property tax revenue by \$169,909.32. For additional information, see Attachment D.

- d. MINIMUM PRESERVE SIZE. The minimum size of an agricultural preserve shall be 100 acres, provided that in order to meet this requirement the preserve may include two or more ownerships if they are contiguous. Consideration will be given to the establishment of smaller preserves where there are exceptional circumstances. Exceptional circumstances shall include those situations where smaller preserves are justified due to the unique characteristics of the agricultural enterprises of the County and where such preserves would be consistent with the County General Plan.

**FINDING:**

The proposed preserve encompasses approximately 303 acres of privately-owned agricultural land. All parcels contained within the proposed preserve are contiguous. The proposed preserve meets and exceeds the minimum preserve size of 100 acres in accordance with Board Policy I-38.

- II) MINIMUM OWNERSHIP SIZE. The resolution authorizing each agricultural preserve shall prescribe minimum ownership sizes that landowners must meet to be eligible for a contract. For improved agricultural land and on which there may be a dwelling or dwellings, provided said dwellings are for the use of the immediate family or employees engaged in the agricultural production on the premises, the recommended minimum ownership size for the various agricultural activities are:

- a. Grazing 80 acres
- b. Dairy Farming 40 acres
- c. Cattle Breeding 40 acres
- d. Horse Breeding 40 acres
- e. Poultry 10 acres
- f. Dairies 20 acres
- g. Tree Crops 10 acres
- h. Truck Crops 10 acres
- i. Flowers (Field) 10 acres
- j. Flowers (Hothouse) 10 acres

For recreation use or open space the recommended minimum ownership size is 20 acres. Any of the above specified minimum acreages may be reduced when there are exceptional circumstances that warrant a reduction in the required areas. Ownerships existing at the time of establishment of a preserve shall be exempted from the foregoing minimum acreages.

**FINDING:**

The proposed preserve boundary includes active agricultural production. All parcels contained within the proposed preserve are under the ownership of the McMillan Trust. The existing productive agricultural land consists entirely of tree crops, which includes approximately 210 acres of avocado, 20 acres of grapefruit, 10.5 acres of pomegranate, and 14 acres of persimmon groves. As such, the proposed preserve would meet the minimum ownership size of 10 acres for tree crops in accordance with Board Policy I-38.

- III) ZONING REGULATIONS. Zoning regulations shall be applied to all lands included in the agricultural preserve and shall permit only agricultural uses, open space use, recreational use and other uses determined to be compatible with such uses. The application of such zoning regulations shall be considered concurrently with any action to establish or expand an agricultural preserve so that both shall become effective simultaneously.

**FINDING:**

All parcels contained within the proposed preserve are zoned A70 (Limited Agricultural). Establishment of the proposed preserve would be compatible with the existing zoning for the subject property because it allows for the conservation of the existing agricultural operation. The proposed Rezone of the subject property would maintain the current zoning of A70, but would add the Agricultural Preserve (A) Special Area designator. The addition of the "A" designator is intended to encourage the preservation of productive agricultural lands and is required for any and all parcels designated as being within a preserve in accordance with the California Land Conservation Act of 1965.

IV) CONTRACT CRITERIA

- a. ELIGIBLE LAND. To be eligible to file an application for an agricultural preserve and enter in a contract with the County an applicant must meet all of the following criteria:
  - (1) Own land which was subject to density reduction as a result of the General Plan Update, adopted by the Board of Supervisors August 3, 2011.

**FINDING:**

All parcels proposed to be included within the proposed preserve were subjected to a density reduction as a result of the General Plan Update, adopted by the Board on August 3, 2011. Under the previous General Plan designation (Multiple Rural Use), development potential of the subject property ranged from 1 dwelling unit per 4, 8, or 20 acres, depending on the slope. Based on the slope of the subject site, the total potential yield was 39 dwelling units. Following the General Plan Update, the Land Use Designation for the site was changed to Semi-Rural (SR-10). The current

development potential of the subject property ranges from 1 dwelling unit per 10 or 20 acres, depending on the percent slope; total potential yield is 18 units.

- (2) Own land which was sufficient in size to allow for subdivision when considering the density assigned by the applicable land use designation under the previous General Plan (that was in effect prior to August 3, 2011).

**FINDING:**

Under the previous General Plan, the Land Use Designation for the site was Multiple Rural Use (1 dwelling unit per 4, 8, or 10 acres). All parcels proposed to be included within the proposed preserve are currently sufficient in size to have allowed for subdivision when considering the density assigned by the applicable land use designation under both the previous General Plan and General Plan Update.

- (3) Own land devoted to agricultural use, open space use, as defined in subdivision (o), Section 51201 Government Code, recreational use, as defined in subdivision (n), Section 51201 Government Code, or combination thereof.

**FINDING:**

All parcels to be included within the proposed Contract currently are, and would continue to be, devoted to agricultural use.

- (4) The owner must be willing to restrict the use of his/her land to the uses set forth in the standard contract form which is made part of the resolution establishing an agricultural preserve. Summary definitions of these uses are:
  - (a) Agricultural use means use of the land for purposes of producing agricultural commodities for commercial purposes.
  - (b) Open space means the use of the land to preserve its natural characteristic beauty, or openness for the benefit of the public, if such land is in:
    - (i) A scenic highway corridor
    - (ii) A wildlife habitat
    - (iii) A saltpond
    - (iv) A managed wetland
    - (v) A submerged area
  - (c) Recreational use means the use of the land by the public with or without charge, for uses such as: walking, hiking, picnicking, camping, swimming, boating, fishing, hunting, or other outdoor games or sports. Any fee charged for recreational use of land shall be in a reasonable amount and shall not have the effect of unduly limiting its use by the public. Owners who file an application for the purpose of

using their land for recreational use must apply for and obtain approval of a use permit in accordance with the County Zoning Ordinance.

**FINDING:**

The site is currently occupied by an active commercial agricultural operation. There is no plan to utilize the site for recreational purpose.

- b. ELIGIBLE OWNERSHIPS. To be eligible to enter into a contract with the County, an applicant must comply with the recommended minimum ownership size provisions of Section 2, above.

**FINDING:**

The proposed Contract lands would comply with the minimum ownership sizes, as previously discussed under the finding under Section 2 above.

- c. LIMITATION ON THE DIVISION OF LAND. Each contract shall contain a provision prohibiting an owner from dividing his/her land so as to create a parcel of land having a net area of less than the prescribed minimum to be determined by the Board of Supervisors. The Director of the Department of Planning and Development Services shall recommend a prescribed minimum in accordance with the minimums specified in Section 2, above, and in relation to the characteristic and use of the land.

**FINDING:**

The applicant does not intend to modify the existing agricultural operations at the property, including any expansion or reduction of operations or changes to the methods of agricultural production. Since the existing agricultural use of the property consists entirely of tree crops, the minimum parcel size of 10 acres as identified in Board Policy I-38 would be prescribed for the proposed preserve. The applicant proposes two lot merger requests for purposes of meeting the minimum parcel size. All other parcels proposed to be included within the preserve currently meet the minimum parcel size requirement of 10 acres for tree crops.

- d. NONCONFORMING USES TO BE ELIMINATED. All land in an agricultural preserve shall be used only for agricultural purposes for producing agricultural commodities, or for recreational or open space uses and uses compatible therewith. Any other uses which may have existed prior to the establishment of a preserve shall be treated as legal nonconforming uses as such uses are defined in the Zoning Ordinance, provided that any nonconforming use shall be eliminated from any land with respect to which a contract is executed, and such contract shall not be effective until such nonconforming use is eliminated.

**FINDING:**

The site has historically been in active agricultural production and used for agricultural purposes. All existing structures on the property are consistent with the A70 zoning designation. There are two existing open space easements on two parcels within the

proposed preserve. Open space is compatible with the purpose of establishing a preserve, in that the intent of both is to preclude designated land from future development. Compatibility between agricultural and open space uses is also identified in General Plan Policy COS-6.3, Compatibility with Recreation and Open Space, of the Conservation and Open Space Element, which identifies open space uses as an effective buffer between agriculture and development that is potentially incompatible with agricultural uses. The County's Guidelines for Determining Significance and Report Format and Content Requirements for Agricultural Resources (Guidelines) defines lands that are compatible with agricultural uses as those consisting of existing agricultural lands, protected resource lands and lands that are primarily rural residential. Protected resource lands are further defined as lands with agricultural, wildlife habitat, open space or other natural resource easements that restrict the conversion of such land to urban or industrial uses. These statements from the County's General Plan and Guidelines demonstrate that the existing open space easements on the subject property are not viewed as nonconforming uses. They facilitate the preservation of viable agricultural lands by precluding future development of the site and providing a buffer from future development of the surrounding area.

## **2. Project Issue**

As shown in Figures 3 and 4, portions of the proposed agricultural preserve contain an existing open space easement. Based on a research on aerial photos, the open space areas have been utilized for agricultural purpose as an avocado and/or citrus farm since at least 1980, prior to the dedication of the open space in 1981. While open spaces are allowed to be included in an agricultural preserve; in this case, the open space easement restrictions would limit the scope of agricultural use. Due to the "grandfather-in" status, the property owner would not be allowed to remove any existing trees or plant any new trees within the open spaces unless they are vacated. As set forth in the Williamson Act, Government Code section 51238.1 requires that the (Contract) land shall "not significantly compromise the long-term productive agricultural capability of the subject contracted parcel". The applicant agreed to exclude the parcels that contain the open space easement from the proposed Contract boundary, and a boundary adjustment is included to move a small sliver of property covered by the open space easement from the proposed Contract boundary. Refer to Figures 5 and 6 for the proposed preserve and Contract boundary.



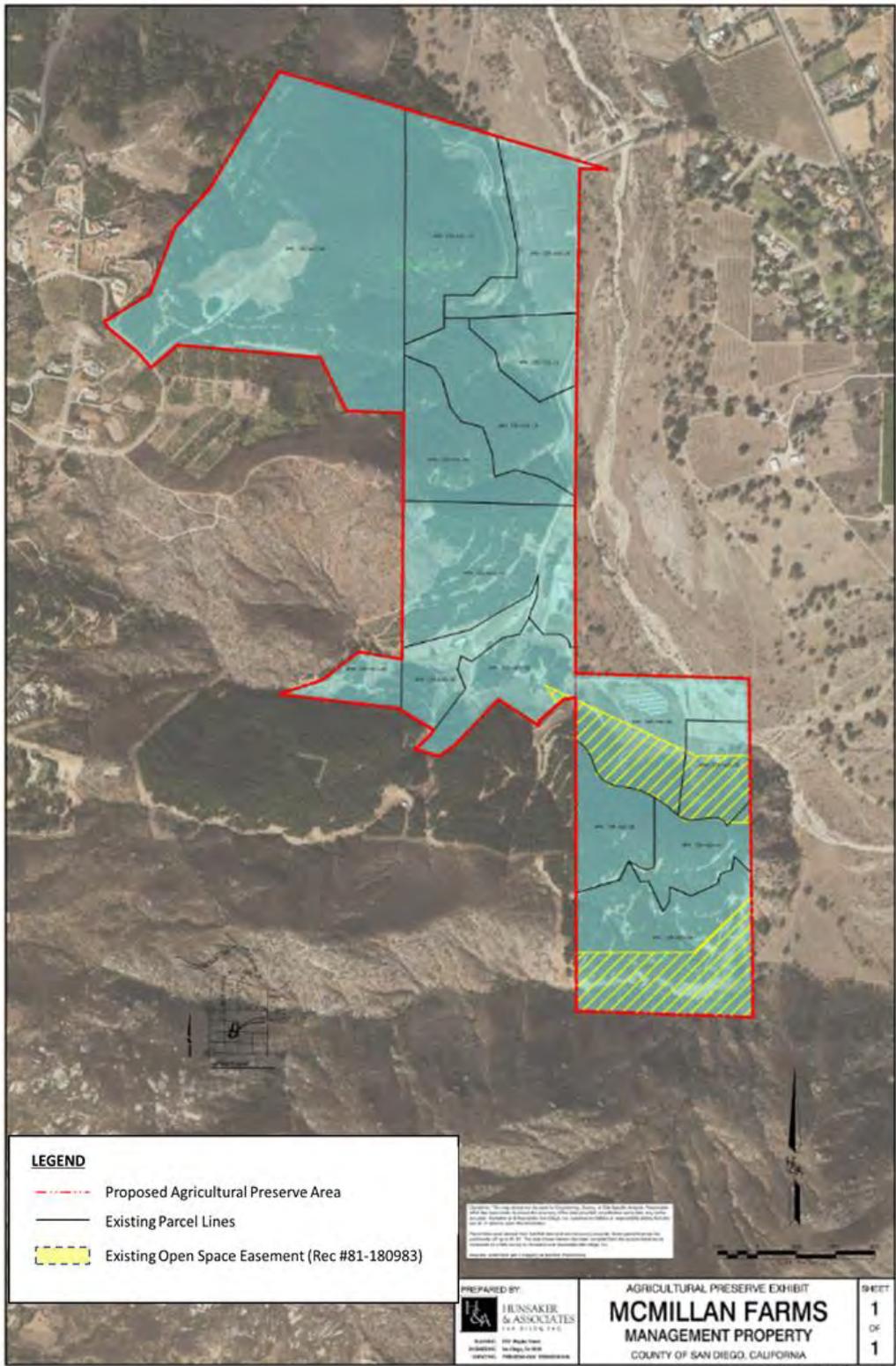


Figure 5: Proposed agricultural preserve boundary

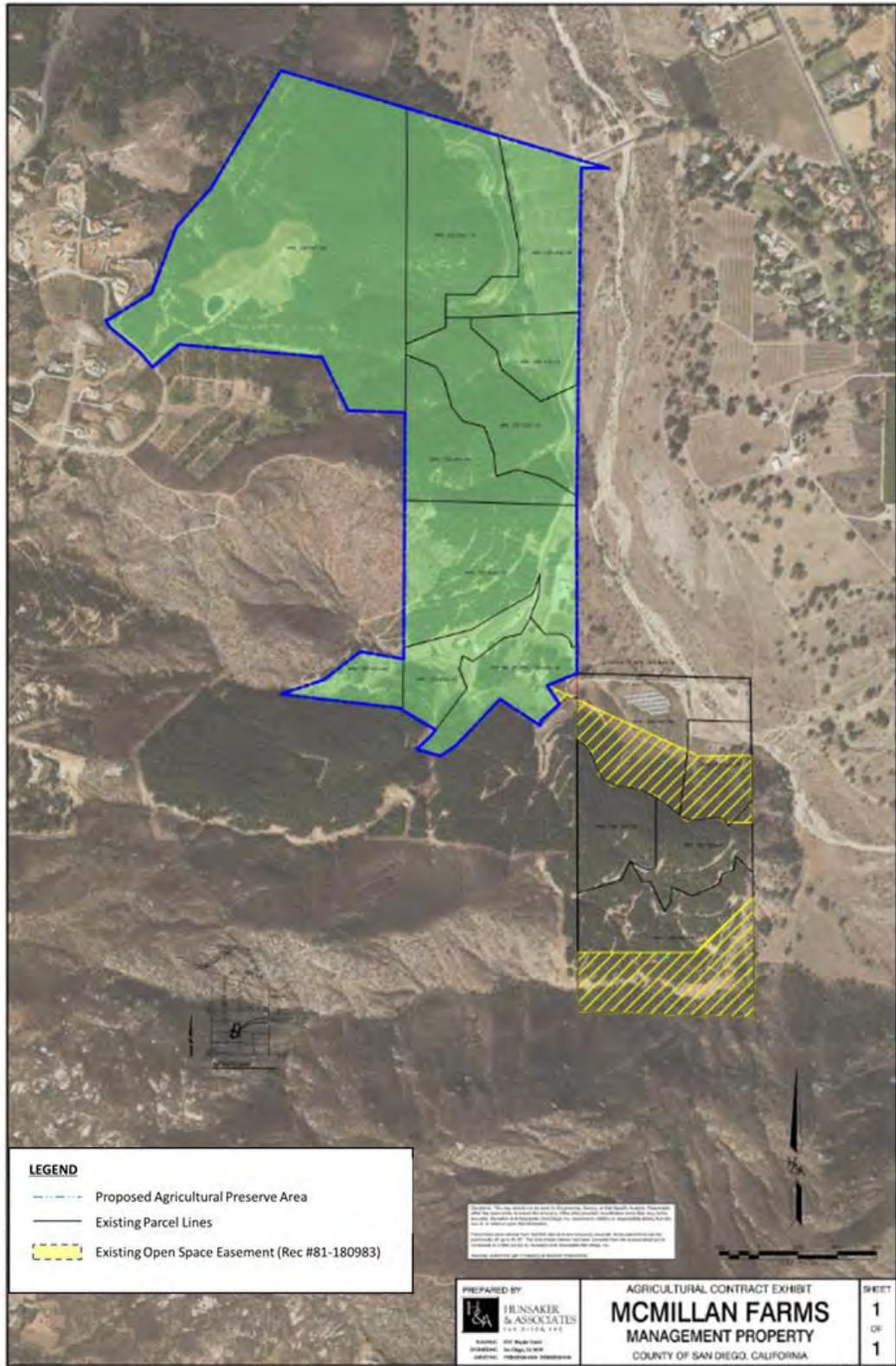


Figure 6: Proposed Williamson Act Contract boundary

3. **General Plan Consistency**

The proposed project is consistent with the following relevant General Plan goals, policies, and actions as described in Table D-1.

Table D-1: General Plan Conformance

General Plan Policy	Explanation of Project Conformance
<p><b>Guiding Principle 8.</b> Preserve agriculture as an integral component of the region’s economy, character, and open space network.</p>	<p>The project proposes to place approximately 303 acres of active agricultural land within a preserve and portion of the site under Contract subsequently. This would ensure that the land would continue to be used for agricultural purposes, thus ensuring that the existing agricultural operation on the subject property continues to contribute to the region’s economy, character, and open space network.</p>
<p><b>Policy COS-6.2 – Protection of Agricultural Operations.</b> Protect existing agricultural operations from encroachment of incompatible land uses.</p>	<p>The project would protect the existing agricultural operations on the project site by establishing a preserve and placing eligible lands under Contract. This would ensure that the existing agricultural operation on the subject site be protected and the site would be dedicated for agricultural use in perpetuity. Further, projects that are located near an agricultural operation or Contract land would require to make a finding per the County’s Guidelines to ensure the proposed use would not result in conflicts with Contract lands.</p>
<p><b>Policy COS-6.4 – Conservation Easements.</b> Support the acquisition or voluntary dedication of agriculture conservation easements and programs that preserve agricultural lands.</p>	<p>The project applicant is voluntarily proposing to place approximately 303 acres of active agricultural land into a preserve. This would essentially conserve the land for agricultural uses in perpetuity.</p>

4. **Community Plan Consistency**

The project is located within the Valley Center Community Plan Area. The proposed project is consistent with the following applicable goals, policies, and actions of the Valley Center Community Plan, as described in Table D-2.

Table D-2: Community Plan Conformance

Community Plan Policy	Explanation of Project Conformance
<p><b>Community Character Goal 1B.</b> Preserve and maintain the overall rural and agricultural character of the semi-rural areas.</p>	<p>The project would preserve the property for agricultural uses and would preclude any development on the site, thus maintaining the rural character of the site and surrounding area.</p>
<p><b>Land Use Agricultural Policy and</b></p>	<p>The project proposes the formation of a</p>

<p><b>Recommendation 2.</b> Encourage the formation of Agricultural Preserves in areas with active agricultural operations and in locations that will be optimal for future agricultural production.</p>	<p>preserve, consisting of approximately 303 acres of land with existing active agricultural operations.</p>
<p><b>Open Space Goal.</b> Support a system of open space that is adequate to preserve the unique natural elements of the community, enhance recreational opportunities, conserve scenic resources, and retain the rural community character.</p>	<p>The project would conserve approximately 303 acres for agricultural and open space uses, which would preserve the natural elements of the site and surrounding area and maintain the rural character of the Valley Center community.</p>
<p><b>Open Space Policy and Recommendation 7.</b> Support low intensity land use zoning in undeveloped mapped floodplains, such as agricultural and low density residential zoning, to protect downstream areas from flooding hazards, to minimize impacts on wildlife habitat, and to provide scenic open space.</p>	<p>The project includes a Rezone to add the “A” Special Area designator to the subject site, ensuring that the property would be used for agriculture or compatible uses as identified in the Agricultural Preserve Area Regulations (Section 5100 – 5110).</p>

**5. Zoning Ordinance Consistency**

The proposed project is subject to the Limited Agricultural (A70) zone, and complies with all applicable zoning requirements. The project includes a Rezone of the property to include the “A” Special Area designator. The Planning Commission should consider whether the included conditions of approval ensure compatibility of the proposed project with the surrounding properties and overall community character.

Table D-3: Zoning Ordinance Development Regulations

CURRENT ZONING REGULATIONS			CONSISTENT?
Use Regulation:	A70	A70	Yes, no change in use is proposed.
Animal Regulation:	L	L	Yes
Density:	-	-	N/A
Lot Size:	4 ac	8 ac	Would subject to the minimum lot size of 10 acres as set forth by terms of the Contract.
Building Type:	C	C	N/A
Height:	G	G	N/A
Lot Coverage:	-	-	N/A
Setback:	C	C	N/A
Open Space:	-	-	N/A
Special Area Regulations:	-	POR F	Project includes a Rezone to include the "A" Special Area designator.

**6. Applicable County Regulations**

Table D-4: Applicable Regulations

County Regulation Policy	Explanation of Project Conformance
1 Board Policy I-38	See discussion under Project Analysis for conformance with Board Policy I-38.
2 Resource Protection Ordinance (RPO)	The project complies with the RPO. The project does not include any construction or development that would have an impact on existing RPO Wetlands, RPO Sensitive Habitat Lands, or RPO Steep Slope Lands on the subject property.

**7. California Environmental Quality Act (CEQA) Compliance**

The project has been reviewed for compliance with CEQA and it has been determined that the project qualifies for a Categorical Exemption under CEQA Guidelines Section 15317 – Open Space Contracts or Easements (Class 17). Class 17 consists of the establishment of agricultural preserves, the making and renewing of open space contracts under the Williamson Act, or the acceptance of easements or fee interests in order to maintain the open space character of the area. The applicant proposes the formation of an approximately 3030-acre preserve and placement of all eligible lands within the proposed preserve under Williamson Act contract. Accordingly, the project is consistent with the Class 17 Categorical Exemption, and a Notice of Exemption dated August 31, 2016 has been prepared.

Review of the project indicates that the project is not in an environmentally sensitive location; will not have a cumulative effect on the environment; is not located on a hazardous waste site; will not

cause substantial change in the significance of a historical resource; and will not result in damage to a scenic highway. Therefore, the project does not trigger any of the exceptions identified in CEQA Guidelines Section 15300.2 prohibiting the use of an exemption. See Attachment A for the environmental documentation.

**E. COMMUNITY PLANNING GROUP**

On February 8, 2016, the Valley Center Community Planning Group voted 13-0-0-2 (13 Ayes, 0 Noes, 0 Abstained, 2 Vacant/Absent) to formally recommend approval of the project without conditions (Attachment E).

**F. PUBLIC INPUT**

The project was noticed to the surrounding property owners upon application submittal. No comments were received as a result of the public notices sent at the time of the application submittal, during processing of the permit, or at the Community Group Meeting.

**G. RECOMMENDATIONS**

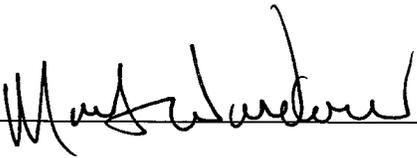
Staff recommends that the Planning Commission make the following recommendations to the Board of Supervisors:

- a. Adopt the Environmental Findings which includes the finding exempting the project CEQA pursuant to Section 15317 of the CEQA Guidelines (Attachment A).
- b. Adopt the Ordinance for Zoning Reclassification PDS2015-REZ-15-010 titled AN ORDINANCE CHANGING THE ZONING CLASSIFICATION OF THE MCMILLAN PEROPERTIES IN THE VALLEY CENTER COMMUNITY PLAN AREA (Attachment B).
- c. Grant Certificate of Compliance (PDS2015-CC-15-0009 and PDS2015-CC-15-0010) and Boundary Adjustment (PDS2016-BC-16-0050), which includes the requirements and conditions set forth in the Notice of Conditional Approval (Attachment C).

---

<b>Report Prepared By:</b> Michelle Chan, Project Manager 858-495-5428 <a href="mailto:michelle.chan@sdcountry.ca.gov">michelle.chan@sdcountry.ca.gov</a>	<b>Report Approved By:</b> Mark Wardlaw, Director 858-694-2962 <a href="mailto:mark.wardlaw@sdcountry.ca.gov">mark.wardlaw@sdcountry.ca.gov</a>
--	--

---

AUTHORIZED REPRESENTATIVE:  \_\_\_\_\_

MARK WARDLAW, DIRECTOR

**ATTACHMENTS:**

Attachment A - Environmental Documentation

Attachment B - Ordinance Changing Zoning Classification PDS2015-REZ-15-010

Attachment C - Notice of Conditional Approvals for Boundary Adjustment and Certificate of Compliance

Attachment D - Tax Assessment

Attachment E - Public Documentation

Attachment F - Resolution to the Board of Supervisors Establishing the Agricultural Preserve No.125

Attachment G - Draft Williamson Act Contract PDS2015-AP-15-001

Attachment H - Planning Documentation

Attachment I - Ownership Disclosure

## **Attachment A – Environmental Documentation**

**ENVIRONMENTAL FINDINGS**  
**FOR MCMILLAN AGRICULTURAL PRESERVE ESTABLISHMENT**  
PDS2015-AP-15-001, PDS2015-REZ-15-010, PDS2015-CC-15-0099M PDS2015-CC-15-0100;  
PDS2016-BC-16-0050

**I. CEQA FINDINGS**

Find that the proposed project is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines section 15317 for the reasons stated in the Notice of Exemption.

## NOTICE OF EXEMPTION

TO: Recorder/County Clerk  
Attn: James Scott  
1600 Pacific Highway, M.S. A33  
San Diego, CA 92101

FROM: County of San Diego  
Planning & Development Services, M.S. O650  
Attn: Project Planning Division Section Secretary

**SUBJECT: FILING OF NOTICE OF EXEMPTION IN COMPLIANCE WITH PUBLIC RESOURCES CODE SECTION 21108 OR 21152**

Project Name: McMillan Farm Agricultural Preserve Establishment  
Project Location: Lazy H Drive and Glenair Way, Pauma Valley  
Project Applicant: McMillan Trust  
Address: 29379 Rancho California Road, Suite 201, Temecula, CA 92591  
Telephone Number: 951-676-2045

Project Description: The applicant proposes an agricultural preserve establishment and a rezone for placing approximately 303 acres of active agricultural lands in an agricultural preserve in the Valley Center Community Planning Area. The establishment of the agricultural preserve would allow the property owner to subsequently enter a portion or the entire property into a Williamson Act Contract (Contract) pursuant to the California Land Conservation Act of 1965, and the rezone would add an "A" special area designation to the subject property to aid in the implementation of the Williamson Act.

Agency Approving Project: County of San Diego

County Contact Person: Michelle Chan Telephone Number: 858-495-5428

Date Form Completed: August 31, 2016

This is to advise that the County of San Diego \_\_\_\_\_ (County decision-making body) has approved the above described project on \_\_\_\_\_ (date/item #) and found the project to be exempt from the CEQA under the following criteria:

- Exempt status and applicable section of the CEQA ("C") and/or State CEQA Guidelines ("G"): (check only one)
  - Declared Emergency [C 21080(b)(3); G 15269(a)]
  - Emergency Project [C 21080(b)(4); G 15269(b)(c)]
  - Statutory Exemption. C Section:
  - Categorical Exemption. G Section: 15317
    - G 15061(b)(3) - It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment and the activity is not subject to the CEQA.
    - G 15182 - Residential Projects Pursuant to a Specific Plan
    - G 15183 - Projects Consistent with a Community Plan, General Plan, or Zoning
    - Activity is exempt from the CEQA because it is not a project as defined in Section 15378.
- Mitigation measures  were  were not made a condition of the approval of the project.
- A Mitigation reporting or monitoring plan  was  was not adopted for this project.

Statement of reasons why project is exempt: The project is exempt from CEQA because it involves establishment of an agricultural preserve. It has been determined that the project is not in an environmentally sensitive location; will not have a cumulative effect on the environment; is not on a hazardous waste site; will not cause substantial change in the significance of a historical resource; and will not result in damage to a scenic highway.

The following is to be filled in only upon formal project approval by the appropriate County of San Diego decision-making body.

Signature: \_\_\_\_\_ Telephone: (858) 495-5428

Name (Print): Michelle Chan Title: Land Use & Environmental Planner

This Notice of Exemption has been signed and filed by the County of San Diego.

This notice must be filed with the Recorder/County Clerk as soon as possible after project approval by the decision-making body. The Recorder/County Clerk must post this notice within 24 hours of receipt and for a period of not less than 30 days. At the termination of the posting period, the Recorder/County Clerk must return this notice to the Department address listed above along with evidence of the posting period. The originating Department must then retain the returned notice for a period of not less than twelve months. Reference: CEQA Guidelines Section 15062.

**Attachment B – Ordinance Changing Zoning  
Classification PDS2015-REZ-15-010**

ORDINANCE NO. \_\_\_\_\_(NEW SERIES)

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION OF CERTAIN PROPERTY IN THE VALLEY CENTER COMMUNITY PLAN, REF: REZ15-010

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The zoning classification of the real property described below is hereby changed as follows:

The existing zoning classification is as follows:

**132-081-42-00 and 133-301-43-00**

OLD ZONE: Use Regulations A70, Animal Designator L, Density --, Lot Size 4 Ac, Building Type C, Maximum Floor Area --, Floor Area Ratio --, Height G, Lot Coverage --, Setbacks C, Open Space --, Special Area Regulations --.

**133-010-12-00,133-010-13-00,133-010-14-00,133-010-15-00,133-010-16-00,133-420-04-00,133-420-05-00,133-420-06-00,133-420-07-00,133-420-08-00,133-420-15-00,133-420-16-00,133-420-19-00**

OLD ZONE: Use Regulations A70, Animal Designator L, Density --, Lot Size 4 Ac, Building Type C, Maximum Floor Area --, Floor Area Ratio --, Height G, Lot Coverage --, Setbacks C, Open Space --, Special Area Regulations POR F.

The zoning classification is changed to read as follows:

**132-081-42-00 and 133-301-43-00**

NEW ZONE: Use Regulations A70, Animal Designator L, Density --, Lot Size 4 Ac, Building Type C, Maximum Floor Area --, Floor Area Ratio --, Height G, Lot Coverage --, Setbacks C, Open Space --, Special Area Regulations A.

**133-010-12-00,133-010-13-00,133-010-14-00,133-010-15-00,133-010-16-00,133-420-04-00,133-420-05-00,133-420-06-00,133-420-07-00,133-420-08-00,133-420-15-00,133-420-16-00,133-420-19-00**

NEW ZONE: Use Regulations A70, Animal Designator L, Density --, Lot Size 4 Ac, Building Type C, Maximum Floor Area --, Floor Area Ratio --, Height G, Lot Coverage --, Setbacks C, Open Space --, Special Area Regulations POR F, A.

Description of affected real property:

See Exhibit "A" for the legal description of the affected property.

Section 2. Effective Date. This Ordinance shall take effect and be in force thirty (30) days after the date of its passage, and before the expiration of fifteen (15) days after its passage, a summary shall be published once with the names of the members voting for and against the same in the San Diego Daily Transcript, a newspaper of general circulation published in the County of San Diego.

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**AGRICULTURAL PRESERVE**

**PARCEL A:** (APN: 132-081-42)

ALL THAT PORTION OF FRACTIONAL SECTION 21, TOWNSHIP 10 SOUTH, RANGE 1 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO OFFICIAL PLAT THEREOF, DESCRIBED AS PARCEL "A" IN THAT CERTAIN CERTIFICATE OF COMPLIANCE RECORDED MARCH 1, 1991 AS INSTRUMENT NO. 1991-0090029 OF OFFICIAL RECORDS.

**PARCEL B:** (INTENTIONALLY OMMITED)

**PARCEL C:** (APN: 133-010-13, 14, 15 & 16)

PARCELS 1, 2, 3 AND 4 OF PARCEL MAP NO. 14041, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY ON NOVEMBER 22, 1985.

**PARCEL D:** (APN: 133-010-12 & 133-420-15)

THOSE PORTIONS OF THE WEST HALF OF THE SOUTHWEST QUARTER OF FRACTIONAL SECTION 22 AND THAT PORTION OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 27, ALL IN TOWNSHIP 10 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO OFFICIAL PLAT THEREOF, DESCRIBED AS PARCEL "B-1" IN THAT CERTAIN CERTIFICATE OF COMPLIANCE RECORDED OCTOBER 25, 1985 AS INSTRUMENT NO. 85-399911 OF OFFICIAL RECORDS.

**PARCEL E:** (APN: 133-420-16)

THAT PORTION OF PARCEL 1 OF PARCEL MAP NO. 14061, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF

SAN DIEGO COUNTY, DECEMBER 9, 1985, DESCRIBED AS PARCEL "A" OF THAT CERTAIN CERTIFICATE OF COMPLIANCE RECORDED JANUARY 14, 1993 AS INSTRUMENT NO. 1993-0023822 OF OFFICIAL RECORDS.

**PARCEL F:** (APN: 133-301-43 & 133-420-19)

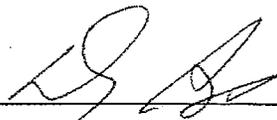
THAT PORTION OF PARCEL 3 OF PARCEL MAP NO. 14061, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 9, 1985 TOGETHER WITH THAT PORTION OF THE NORTH HALF OF SECTION 28, TOWNSHIP 10 SOUTH, RANGE 1 WEST, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS PARCEL "B" OF THAT CERTAIN CERTIFICATE OF COMPLIANCE RECORDED FEBRUARY 1, 1990 AS INSTRUMENT NO. 1990-058700 OF OFFICIAL RECORDS.

**PARCEL G:** (APN: 133-420-04)

THAT PORTION OF THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 10 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, IN THE UNINCORPORATED AREA OF THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO OFFICIAL PLAT THEREOF, DESCRIBED AS PARCEL "C-1" OF THAT CERTAIN CERTIFICATE OF COMPLIANCE RECORDED OCTOBER 25, 1985 AS INSTRUMENT NO. 85-399911 OF OFFICIAL RECORDS.

**PARCEL H:** (APN: 133-420-05-06-07 & 08)

PARCELS 1, 2, 3 AND 4 OF PARCEL MAP NO. 14452, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY ON SEPTEMBER 5, 1986.

  
\_\_\_\_\_  
DOUGLAS B. STROUP  
HUNSAKER & ASSOCIATES SAN DIEGO, INC.

6/30/2016  
P.L.S. 8553



**Attachment C – Notice of Conditional Approvals  
for Boundary Adjustment and Certificate of  
Compliance**



# County of San Diego

**MARK WARDLAW**  
DIRECTOR  
PHONE (858) 694-2962  
FAX (858) 694-2555

PLANNING & DEVELOPMENT SERVICES  
5510 OVERLAND AVENUE, SUITE 310, SAN DIEGO, CA 92123  
www.sdcounty.ca.gov/pds

**DARREN GRETLER**  
ASSISTANT DIRECTOR  
PHONE (858) 694-2962  
FAX (858) 694-2555

October 14, 2016

**PROJECT NAME:** McMillan Farm  
**RECORD ID:** PDS2015-CC-15-0099; **ENVIRONMENTAL LOG NO.:** N/A  
**PROJECT ADDRESS:** Lazy H Drive and Glenair Way, Pauma Valley  
**APN:** 133-420-05-00, 133-420-07-00

## NOTICE OF CONDITIONAL APPROVAL – C/C15-0099

In accordance with Section 81.903, failure to comply with these conditions within **6 months** from the date of this notice shall terminate all proceedings with respect to this application.

If you are dissatisfied with the decision of the Director of Planning & Development Services or the conditions of approval, you may appeal to the Planning Commission as provided in Section 81.615 or Section 81.1106 of the Subdivision Ordinance. Any such appeal shall be filed with the secretary of the Planning Commission within 10 days of the date of this notice. (The attached form explains this procedure)

Approval of this Certificate of Compliance is subject to the following conditions:

- A. Provide a plat with property owner(s) signature(s).

### **CEQA REQUIREMENTS AND ENVIRONMENTAL ISSUES:**

1. PROJECT QUALIFIES FOR AN EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)
2. "NOTICE: The issuance of this conditional approval by the County of San Diego does not authorize the applicant for said project to violate any federal, state, or county laws, ordinances, regulations, or policies including, but not limited to, the federal endangered species act and any amendments thereto."

If you have any questions regarding these requirements, we encourage you to contact Michelle Chan, Project Manager, at (858) 495-5428 or by e-mail at [Michelle.Chan@sdcounty.ca.gov](mailto:Michelle.Chan@sdcounty.ca.gov).

**PLANNING & DEVELOPMENT SERVICES  
MARK WARDLAW, DIRECTOR**

**BY:**

**Donald Chase, Planning Manager  
Project Planning**

**cc: Jack Henthorn, Jack Henthorn & Associates, P.O. Box 237, Carlsbad, CA 92018**

330C-Notice of Conditional Approval - COC



# County of San Diego

**MARK WARDLAW**  
DIRECTOR  
PHONE (858) 694-2962  
FAX (858) 694-2555

PLANNING & DEVELOPMENT SERVICES  
5510 OVERLAND AVENUE, SUITE 310, SAN DIEGO, CA 92123  
www.sdcounty.ca.gov/pds

**DARREN GRETLER**  
ASSISTANT DIRECTOR  
PHONE (858) 694-2962  
FAX (858) 694-2555

October 14, 2016

**PROJECT NAME:** McMillan Farm  
**RECORD ID:** PDS2015-CC-15-0100; **ENVIRONMENTAL LOG NO.:** N/A  
**PROJECT ADDRESS:** Lazy H Derive and Glenair Way, Pauma Valley  
**APN:** 133-010-14-00, 133-010-15-00

## NOTICE OF CONDITIONAL APPROVAL – C/C15-0100

In accordance with Section 81.903, failure to comply with these conditions within **6 months** from the date of this notice shall terminate all proceedings with respect to this application.

If you are dissatisfied with the decision of the Director of Planning & Development Services or the conditions of approval, you may appeal to the Planning Commission as provided in Section 81.615 or Section 81.1106 of the Subdivision Ordinance. Any such appeal shall be filed with the secretary of the Planning Commission within 10 days of the date of this notice. (The attached form explains this procedure)

Approval of this Certificate of Compliance is subject to the following conditions:

- A. Provide a plat with property owner(s) signature(s).

### **CEQA REQUIREMENTS AND ENVIRONMENTAL ISSUES:**

1. PROJECT QUALIFIES FOR AN EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)
2. "NOTICE: The issuance of this conditional approval by the County of San Diego does not authorize the applicant for said project to violate any federal, state, or county laws, ordinances, regulations, or policies including, but not limited to, the federal endangered species act and any amendments thereto."

If you have any questions regarding these requirements, we encourage you to contact Michelle Chan, Project Manager, at (858) 495-5428 or by e-mail at [Michelle.Chan@sdcounty.ca.gov](mailto:Michelle.Chan@sdcounty.ca.gov).

**PLANNING & DEVELOPMENT SERVICES  
MARK WARDLAW, DIRECTOR**

**BY:**

**Donald Chase, Planning Manager  
Project Planning**

**cc: Jack Henthorn, Jack Henthorn & Associates, P.O. Box 237, Carlsbad, CA 92018**

330C-Notice of Conditional Approval - COC



# County of San Diego

**MARK WARDLAW**  
DIRECTOR  
PHONE (858) 694-2962  
FAX (858) 694-2555

PLANNING & DEVELOPMENT SERVICES  
5510 OVERLAND AVENUE, SUITE 310, SAN DIEGO, CA 92123  
www.sdcounty.ca.gov/pds

**DARREN GRETLER**  
ASSISTANT DIRECTOR  
PHONE (858) 694-2962  
FAX (858) 694-2555

October 14, 2016

**PROJECT NAME:** McMillan Farm  
**RECORD ID:** PDS2015-CC-15-0099; **ENVIRONMENTAL LOG NO.:** N/A  
**PROJECT ADDRESS:** Lazy H Derive and Glenair Way, Pauma Valley  
**APN:** 133-420-16-00, 133-420-04-00

## NOTICE OF CONDITIONAL APPROVAL – B/C16-0050

In accordance with Section 81.903(c), this conditional approval shall be valid for **6 months** from the date of the conditional approval. If within this six-month period the applicant submits documentation to the Director showing that the applicant has met all the conditions listed in the conditional approval, the Director shall approve the lot line adjustment. **If the applicant does not submit the required documentation within the six-month period the conditional approval shall expire.** If the applicant applies for an extension before the six month period expires the Director may grant the applicant one extension, not to exceed an additional six months, to submit the required documentation.

If you are dissatisfied with the decision of the Director of Planning & Development Services or the conditions of approval, you may appeal to the Planning Commission as provided in Section 81.615 or Section 81.1102 of the Subdivision Ordinance. Any such appeal shall be filed with the secretary of the Planning Commission within 10 days of the date of this notice. (The attached form explains this procedure)

Approval of this Boundary Adjustment/Certificate of Compliance is subject to the following conditions:

- A. Convey the entire property in a Grant Deed(s) as shown. The Grant Deed must be recorded and include the following statement:

“The real property described herein conforms to the approved Boundary Adjustment BC16-0050 and said approval requires that this deed be recorded on or before **October 14, 2017** otherwise this deed is null and void”.

- B. The Plat must include property owner's or owners' signature(s).

**CEQA REQUIREMENTS AND ENVIRONMENTAL ISSUES:**

1. PROJECT QUALIFIES FOR AN EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)
2. "NOTICE: The issuance of this conditional approval by the County of San Diego does not authorize the applicant for said project to violate any federal, state, or county laws, ordinances, regulations, or policies including, but not limited to, the federal endangered species act and any amendments thereto."

**NOTE:** It is the applicant's responsibility to notify their mortgage lenders and/or any other interests in the properties affected by a lot line adjustment.

If you have any questions regarding these requirements, we encourage you to contact Michelle Chan, Project Manager at (858) 495-5428 or by e-mail at [Michelle.Chan@sdcounty.ca.gov](mailto:Michelle.Chan@sdcounty.ca.gov).

PLANNING & DEVELOPMENT SERVICES  
MARK WARDLAW, DIRECTOR

BY:

Donald Chase, Planning Manager  
Project Planning

cc: Jack Henthorn, Jack Henthorn and Associates, P.O. Box 237, Carlsbad, CA 92018  
Jimmy Elmore, Hunsaker & Associates, 9707 Waples Street, San Diego, CA 92121

**Attachment D – Tax Assessment**

Proposed Agricultural Preserve/Williamson Act  
Land Assessment and Estimated Tax Revenue Loss

Applicant: McMillan

Fiscal Year 2016/17

Tax Rate Area	Assessed Value of Land			Estimated Decrease in AV	Tax Rate	Estimated Tax Revenue Loss
	Acreage	Current	Williamson Act			
94032	83.32	4,455,932	341,779	4,114,153	1.10225	45,348.25
94058	129.29	6,915,880	530,348	6,385,532	1.10225	70,384.53
94073	4.88	260,919	20,018	240,901	1.10225	2,655.33
94144	85.79	4,584,867	351,911	4,232,956	1.07540	45,521.21
	303.28	16,217,598	1,244,056	14,973,542		163,909.32

Fiscal Impact of Proposed Agricultural Preserve  
Williamson Act on Taxing Agencies

Agency	Estimated Tax Revenue						
	Current		Williamson Act		Loss*		
	1% Revenue	Debt Service	1% Revenue	Debt Service	1% Revenue	Debt Service	Total
County General	26,092.89	-	2,001.65	-	24,091.24	-	24,091.24
County Library	5,111.61	-	392.12	-	4,719.49	-	4,719.49
County Street Lighting	-	-	-	-	-	-	-
PRD 1000 Zone 21	-	-	-	-	-	-	-
County Flood Control	-	-	-	-	-	-	-
CSA 135 Regional Radio	-	-	-	-	-	-	-
Valley Center FPD	3,544.86	-	271.93	-	3,272.93	-	3,272.93
Upper San Luis Rey RCD	62.66	-	4.81	-	57.85	-	57.85
Valley Center Cemetery Dist.	158.71	-	12.18	-	146.53	-	146.53
Valley Center-Pauma Unified	70,418.76	3,123.38	5,401.63	239.54	65,017.13	2,883.84	67,900.97
Escondido Union High	-	4,999.88	-	383.54	-	4,616.34	4,616.34
Palomar Community College	12,199.36	2,849.42	935.84	218.58	11,263.52	2,630.84	13,894.36
County Office of Ed	5,105.65	-	391.66	-	4,713.99	-	4,713.99
ERAF	25,192.35	-	1,932.57	-	23,259.78	-	23,259.78
Palomar Health	4,496.07	3,811.14	344.90	292.36	4,151.17	3,518.78	7,669.95
RCD of Greater SD County	0.09	-	0.01	-	0.08	-	0.08
Valley Center MWD	8,892.01	-	682.13	-	8,209.88	-	8,209.88
Metropolitan Water District	-	567.62	-	43.54	-	524.08	524.08
CWA Valley Center MWD	587.02	-	45.03	-	541.99	-	541.99
Valley Center Parks & Rec	313.94	-	24.08	-	289.86	-	289.86
<b>Total</b>	<b>162,175.98</b>	<b>15,351.44</b>	<b>12,440.54</b>	<b>1,177.56</b>	<b>149,735.44</b>	<b>14,173.88</b>	<b>163,909.32</b>

\*The loss of 1% Revenue is an impact to the Taxing Agency. The loss of Debt Service would be an impact to other taxpayers within the district to cover the loss.

## **Attachment E – Public Documentation**



County of San Diego, Planning & Development Services  
**COMMUNITY PLANNING OR SPONSOR  
GROUP PROJECT RECOMMENDATION**  
ZONING DIVISION

Record ID(s): PDS2015-REZ-15-010, PDS2015-AP-15-001

Project Name: McMillan Ag Preserve

Planning/Sponsor Group: Valley Center

Results of Planning/Sponsor Group Review

Meeting Date: Feb. 8<sup>th</sup>, 2016

A. Comments made by the group on the proposed project.

B. **Advisory Vote:** The Group  **Did**  **Did Not** make a formal recommendation, approval or denial on the project at this time.

If a formal recommendation was made, please check the appropriate box below:

- MOTION:**
- Approve without conditions
  - Approve with recommended conditions
  - Deny
  - Continue

VOTE: 13 Yes 0 No 0 Abstain 2 Vacant/Absent

C. Recommended conditions of approval:

Reported by: L. Womelferwood Position: Group Member Date: 2/9/16

Please email recommendations to **BOTH EMAILS**;  
Project Manager listed in email (in this format): Firstname.Lastname@sdcounty.ca.gov and to  
CommunityGroups.LUEG@sdcounty.ca.gov

5510 OVERLAND AVE, SUITE 110, SAN DIEGO, CA 92123 • (858) 565-5981 • (888) 267-8770

<http://www.sdcounty.ca.gov/pds>



**Attachment F – Resolution to the Board of  
Supervisors Establishing the Agricultural  
Preserve No.125**

RESOLUTION OF THE BOARD OF SUPERVISORS  
ESTABLISHING THE AGRICULTURAL PRESERVE NO. 125

ON MOTION of Supervisor \_\_\_\_\_, seconded by Supervisor \_\_\_\_\_, the following Resolution is adopted:

WHEREAS, a proposal has been made, for the establishment of an agricultural preserve pursuant to the California Land Conservation Act of 1965; the Williamson Act (Government Code, Section 15200 et seq.) hereinafter referred to as the "Act"; and

WHEREAS, written notice of the proposal has been given to the Local Agency Formation Commission in accordance with Section 51233 of the Act; and

WHEREAS, pursuant to the Act, the Board of Supervisors has held a public hearing on a proposal to establish an agricultural preserve as hereinafter set forth, notice of said public hearing having been given as required by law; and

WHEREAS, the establishment of the Agricultural Preserve No. 125 will not have a significant effect on the environment; and

WHEREAS, Planning & Development Services has reported that the establishment of this agricultural preserve is consistent with the County General Plan; and

WHEREAS, it appears that an agricultural preserve should be established as hereinafter set forth; NOW THEREFORE

BE IT FOUND, DETERMINED AND DECLARED that:

1. The hearing be closed;
2. The establishment of this agricultural preserve will not have a significant effect on the environment because (a) it can be seen with certainty that there is no possibility that the establishment of this agricultural preserve may have a significant effect on the environment; and (b) the establishment of this agricultural preserve is an action to preserve a natural resource and for the protection of the environment, which actions are Categorical Exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15317 of the State CEQA Guidelines; and
3. The establishment of this agricultural preserve is consistent with the County General Plan; and

ACCORDINGLY, BE IT RESOLVED AND ORDERED as follows:

1. That pursuant to the Act, an agricultural preserve, including all of the lands described in Exhibit "A" and shown on Exhibit C", a map of such agricultural preserve hereto attached, is hereby established; and
2. That said agricultural preserve shall be known and designated as the McMillan Agricultural Preserve No. 125; and
3. That said agricultural preserve shall be administered pursuant to the terms of the Act; and
4. That the owner of land devoted to an agricultural use and located within said agricultural preserve may enter into a contract with the County of San Diego provided said land meets the requirements set forth in Exhibit "B" of Document No. \_\_\_\_\_ as registered with the Clerk of the Board of Supervisors and satisfies the minimum ownership size criteria set forth in Section 3 of the Board of Supervisors' Policy I-38; and
5. That all land within said agricultural preserve that becomes the subject of a contract shall have the use thereof restricted as set forth in said document; and
6. That any contract entered into with respect to land within said agricultural preserve shall be substantially in the form set forth in said document and marked Exhibit "D" and said Exhibit "B" shall be made a part thereof. When Exhibit "B" is incorporated in any contract, the Director of Planning & Development Services shall determine a limitation on division of the subject land established pursuant to the standard specified in Section 5(c) of the Board of Supervisors' Policy I-38. Said limitation shall be entered in the spaces provided in Section 4 of the said Exhibit "B" and the same figures shall be entered in the space provided in Section 2 of said Exhibit "B".
7. It is directed that the Clerk of the Board of Supervisors file this Resolution and the map attached thereto with the County Recorder of the County of San Diego.

PASSED AND ADOPTED by the Board of Supervisors of the County of San Diego, State of California, this \_\_\_\_\_ day of \_\_\_\_\_, by the following vote:

AYES:

NOES:

ABSENT:

**Attachment G – Draft Williamson Act Contract  
PDS2015-AP-15-001**

WHEN RECORDED, PLEASE MAIL THIS INSTRUMENT TO:

Clerk, Board of Supervisors  
San Diego County Administration Center  
1600 Pacific Highway  
San Diego, California 92101

SPACE ABOVE FOR RECORDER'S USE ONLY

LAND CONSERVATION CONTRACT 15-001

Agricultural Preserve No. 125

THIS CONTRACT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, by and between McMillan Trust dated November 9, 2005, hereinafter referred to as "Owner", and the County of San Diego, a political subdivision of the State of California (County), with reference to the following facts:

RECITALS

A. Owner owns certain land ("Property") located in County of San Diego, State of California, legally described in Exhibit "A" attached hereto; and

B. The Property is presently devoted to agricultural uses, recreational uses, open space, or a combination thereof, as further described in Exhibit "B" attached hereto; and

C. The Property lies within an agricultural preserve heretofore established by the County by Resolution, adopted on \_\_\_\_\_ (Exhibit "B" and designated as the McMillan Agricultural Preserve, also known as Agricultural Preserve No. 125 (the "Agricultural Preserve"); and

D. Owner and County desire to limit the use of the Property to agricultural and compatible uses, all as hereinafter defined; and

E. Whereas, the inclusion of the property in an agricultural preserve and the execution and approval of this contract constitute a determination that the highest and best use of the property during the term of this contract, or any renewal of it, is for agricultural and compatible uses;

NOW, THEREFORE, both Owner and County in consideration of the mutual promises, covenants and conditions in this Contract and the substantial public benefits to be derived from the Contract, do hereby agree as follows:

1. CONTRACT. This Contract is made and entered into pursuant to the California Land Conservation Act of 1965 (California Government Code Sections 51200 *et seq.*), as amended as of the date first above written (the "Act"), and the County's rules and regulations for the administration of agricultural preserves, adopted pursuant to the California Land Conservation Act, and is subject to all the provisions of the Act.

2. TERM. This Contract shall take effect on \_\_\_\_\_, (the "Effective Date"), and shall remain in effect for a period of ten years therefrom and during any renewals of this Contract as provided in Section 3; provided, however, each first day of January shall be the "Renewal Date" of the contract..

3. RENEWAL; NOTICE OF NONRENEWAL. This Contract shall be automatically renewed for a period of one year on the first day of the first January following the Effective Date, and on the first day of each January thereafter unless (a) written notice of nonrenewal is served by the Owner to the County at least 90 days prior to any Renewal Date; or (2) written notice of nonrenewal is served by the County on the Owner at least 60 days prior to any Renewal Date.

Under no circumstances shall a notice of renewal to either party be required to effectuate the automatic renewal of this Contract.

If either party serves notice of intent in any year not to renew this Contract, this Contract shall remain in effect for the balance of the period remaining on the term since the original execution or the renewal of this Contract, as the case may be, provided, however, that the County may at any time prior to the next Renewal Date following submittal of its notice of nonrenewal withdraw such notice. Upon receipt by Owner of a notice from the County of nonrenewal, Owner may make written protest of such nonrenewal. Upon request of the Owner, the Board of Supervisors of the County ("Board") may authorize Owner to serve a notice of nonrenewal on any portion (less than all) of the Property subject to this Contract.

4. AUTHORIZED USES. During the term of this Contract and any and all renewals thereof, the Property shall not be used for any purpose other than the following: agricultural or uses compatible therewith ("Compatible Uses") as specified in Exhibit "C" attached hereto.

5. ADDITION OR ELIMINATION OF AUTHORIZED USES. The Board may from time to time during the term of this Contract, or any renewals thereof, by Resolution, amend the Resolution establishing the Agricultural Preserve in order to add to those authorized uses, or to eliminate a use, listed in Exhibit "C", provided, however, that authorized uses shall at all times remain uniform throughout the Agricultural Preserve add shall be consistent with uses authorized under Government Code Section 51200 *et. seq.*.. No such amendment of the Resolution establishing the Agricultural

Preserve enacted during the term of this Contract, or any renewal thereof, which eliminates any use permitted on the Property shall be applicable to this Contract unless the Owner consents to such elimination.

6. POLICE POWER. Nothing in this Contract shall be construed to limit any exercise by the Board of the police power, nor shall anything in this Contract be construed to limit the adoption or readoption or amendment of any zoning ordinance or land use ordinance, regulation, or restriction pursuant to the Planning and Zoning Law (Sections 6500 et seq., Government Code) or otherwise.

7. ZONING. This Contract shall not be construed to authorize the establishment or continuation of any use of real property contrary to any provision of The Zoning Ordinance (Ordinance No. 5281 [New Series]), including any amendments thereto, whether adopted before or after the effect date hereof.

8. EMINENT DOMAIN.

(a) Except as provided in Subdivision (d) of this Section 8, when any action in eminent domain for the condemnation of the fee title of an entire parcel of land subject to this Contract is filed or when that land is acquired in lieu of eminent domain for a public improvement by a public agency or person or whenever there is any such action or acquisition by the Federal government or any person, instrumentality, or agency acting under authority or power of the Federal government, this Contract shall be deemed null and void as to the land actually being condemned or so acquired as of the date the action is filed, and for the purposes of establishing the value of the land, this contract shall be deemed never to have existed. Upon the termination of the proceeding, this Contract shall be null and void for all land actually taken or acquired.

(b) Except as provided in Subdivision (d) of this Section 8, when such an action to condemn or acquire less than all of a parcel of land subject to this Contract is commenced, this Contract shall be deemed null and void as to the land actually condemned or acquired and shall be disregarded in the valuation process only as to the land actually being taken, unless the remaining land subject to this Contract will be adversely affected by the condemnation, in which case the value of that damage shall be computed without regard to this Contract.

(c) The land actually taken as described in Sections 8(a) and (b) shall thereafter be removed from this Contract. Under no circumstances, however, shall land that is not actually taken cease to be subject to this Contract, except as otherwise provided in the Act.

(d) The provisions of Subdivisions (a) and (b) of this Section 8 shall not apply to, or have any force or effect with respect to (i) the filing of any action in

eminent domain for the condemnation of any easement for the erection, construction, alteration, maintenance, or repair of any gas, electric, water, or communication facilities by any public agency (including the County) or public utility or to the acquisition of any such easement by any public agency (including the County) or public utility, or (ii) the filing of any action in eminent domain by any public agency (including the County) for the condemnation of the fee title or lesser estate for the establishment, construction (including the widening and realignment) and maintenance of any road, street, or highway, whether existing or planned for the future, depicted on the Mobility Element of the San Diego County General Plan adopted by the Board (including any amendments thereto adopted by the Board prior to the date of this Contract) or depicted on the plat attached to this Contract and marked Exhibit "D", or to the acquisition of any such fee title or lesser estate for such purposes by the State of California or any public agency (including the County). The filing of any such action in eminent domain for the condemnation of or the acquisition of any such easement, fee title, or lesser estate shall not terminate, nullify, or void this Contract and in the event of the filing of any such action in eminent domain or acquisition, this Contract shall be considered in the valuation process of such action.

9. NO PAYMENT BY COUNTY. The Owner shall not receive any payment of money from the County in consideration of the obligations undertaken by Owner hereunder, it being recognized and agreed that Owner's consideration for the execution of this Contract is the substantial public benefit to be derived therefrom, and the advantage which will accrue to the Owner as a result of the effect on the assessed valuation of the Property of the imposition of the limitations on its use contained herein.

10. CANCELLATION. Upon payment of the prescribed application fee, Owner may petition the Board for cancellation of this Contract as to all or any part of the Property which may then be subject to this Contract. The Board may grant tentative approval for cancellation in accordance with the provisions of Section 51282 *et seq.* of the Act after a public hearing has been held in accordance with the provisions of Section 51284 of the Act, provided it makes one of the following findings:

(a) That the cancellation is consistent with the purposes of the Act. For purposes of this Section, cancellation shall be "consistent with the purposes of the Act" only if the Board makes all of the following additional findings:

1. That the cancellation is for land for which a notice of nonrenewal has been served pursuant to Section 51245 of the Act;
2. That cancellation is not likely to result in the removal of adjacent lands from agricultural use;

3. That cancellation is for an alternative use which is consistent with the applicable provisions of the County's General Plan;
4. That cancellation will not result in discontinuous patterns of urban development; and
5. That there is no "proximate non-contracted land" (as defined below) which is both available and "suitable" (as defined below) for the use to which it is proposed the Property subject to this Contract be put, or, that development of the Property subject to this Contract would provide more contiguous patterns of urban development than development of proximate non-contracted land.

(b) That cancellation is in the public interest. For purposes of this Section, cancellation shall be "in the public interest" only if the Board makes the following additional findings:

1. That other public concerns substantially outweigh the objectives of the Act; and
2. That there is no "proximate non-contracted land" which is both available and suitable for the use to which it is proposed the Property subject to this Contract be put, or, that development of the Property would provide more contiguous patterns of urban development than development of proximate non-contracted land.

For the purposes of this Section, the term "proximate non-contracted land" shall mean land not restricted by a land conservation contract pursuant to the Act, and which is sufficiently close to the Property that it can serve as a practical alternative for the use which is proposed for the Property.

For the purposes of this Section, the term "suitable" for the proposed use means that the salient features of the proposed use can be served by such proximate non-contracted land. Such proximate non-contracted land may either be a single parcel, or a combination of contiguous or discontinuous parcels.

(c) For purposes of Section 10(a) and (b), the uneconomic character of an existing agricultural use shall not by itself be sufficient reason for cancellation of this Contract. The uneconomic character of the existing use may be considered only if there is no other reasonable or comparable agricultural use to which the Property may be put.

(d) The Owner's petition for cancellation of this Contract must be accompanied by a proposal for a specified alternative use of the Property. The level of specificity required in such proposal shall be that necessary to permit the Board to make the findings required. The proposal for the alternative use must list those governmental agencies known by the Owner to have permit authority related to the proposed alternative use, and the provisions and requirements of Section 51283.4 of the Act shall be fully applicable thereto.

(e) Prior to any action by the Board giving tentative approval to the cancellation of the Contract, the County Assessor ("Assessor") shall determine the full cash value of the Property as though it were free from the restrictions of this Contract. The Assessor shall multiply such value by the most recent County ratio announced pursuant to Section 401 of the California Revenue and Taxation Code, and shall certify the product thereof to the Board as the cancellation valuation ("Cancellation Valuation") of the Property for the purpose of determining the cancellation fee hereinafter specified.

(f) Prior to giving tentative approval to the cancellation of this Contract, the Board shall determine the amount of cancellation fees to be paid prior to the cancellation becoming effective. Those fees shall be as follows:

1. The fee required by Section 51283 of the Act in the amount of 12½ percent of the cancellation valuation as certified by the Assessor. This fee may only be waived or reduced in accordance with Subdivision (c) of Section 51283 of the Act.
2. An additional County fee, pursuant to Section 51240 of the Act, in an amount equal to the amount of the above State mandated fee described in Section (f)(1) above, provided that if cancellation occurs after the expiration of the first 5 year period of the term of this Contract, said County fee shall be reduced by an amount equal to 1.25 percent of the certified cancellation valuation for each year after 5 years that has been completed.

Such fees are hereinafter collectively referred to as the "Cancellation Fee".

(g) The Board of Supervisors may waive or defer payment of the cancellation fee or any portion thereof collected pursuant to Section 51283 of the Act in accordance with Subdivision (c) of Section 51283 of the Act.

(h) Upon approval by the Board of the above-mentioned cancellation petition and payment of the Cancellation Fee, the Clerk of the Board shall record in the office of the County Recorder a certificate which shall set forth the name of

the owner of such land at the time the Contract is canceled, together with the amount of the Cancellation Fee specified by the Board pursuant to Article 5 of the Act (Section 51281 et seq., of the Act) and a legal description of the Property. This Contract, or such portion thereof as is appropriate, shall be finally canceled as of the date of recording such certificate.

(I) Upon tentative approval by the Board of the cancellation petition, and payment of the Cancellation Fee, the Clerk of the Board of Supervisors shall record in the office of the County Recorder a certificate which shall set forth the name of the owner of the Property or such applicable portion thereof, at the time the Contract is canceled, together with the amount of the Cancellation Fee specified by the Board of Supervisors as being due pursuant to Article 5 of the Act (Section 51281 et seq.), the contingency of waiver or deferment of payment thereof, and a legal description of the property. The Contract shall be canceled, as of the date of recording of such certificate; provided, however, that to the extent the Cancellation Fee has not yet been paid or waived, a lien shall be created and attached against all or such portion of the Property described therein, and any other real property owned by the person named therein as the owner thereof, located within this County. Such lien shall be in favor of the County, shall have the force, effect, and priority of a judgment lien, and shall remain in effect until the unwaived portion of the Cancellation Fee is paid in full. Upon the payment of the Cancellation Fee or any portion thereof, the Clerk of the Board shall record with the County Recorder a written certificate of the release in whole or in part of said lien.

11. ANNEXATION TO A CITY. Upon the annexation by a city or the incorporation of a city of any portion of the Property then subject to this Contract, the city shall succeed to all rights, duties, and powers of the County under this Contract and shall have all the powers specified in the Act for cities to enlarge, diminish, or disestablish an agricultural preserve within their jurisdiction.

12. DIVISION OF LAND - MINIMUM SIZE OF PARCELS. The Owner shall not divide the Property in manner contrary to the restrictions on the division of land set forth in Exhibit "B" attached hereto.

13. CONTRACT BIDS SUCCESSORS. This Contract shall constitute a covenant running with the land described, and shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the Owner. In the event the Property subject to this Contract or any portion thereof is divided, the owner of any resulting parcel may exercise, independent of any other owner of a portion of the divided Property, any of the rights of the Owner of this Contract, including the right to give notice of nonrenewal, as provided in Paragraph 3, and to petition for cancellation, as provided in Paragraph 10. The effect of any such action by the owner of a parcel created by the division of the Property or any portion thereof subject to this

Contract shall not be imputed to the owners of the remaining parcels of the divided land and shall have no effect on this Contract as it applies to the remaining parcels of the divided land.

14. REMOVAL OF LAND FROM PRESERVE. Removal of any land under this Contract from an agricultural preserve, either by change of boundaries of the preserve or disestablishment of the preserve, shall be the equivalent of a notice of nonrenewal by the County to the Owner pursuant to Section 3, provided, that, the County shall, at least 60 days prior to the next Renewal Date following such removal, serve a notice of nonrenewal on Owner as provided in Section 51245 of the Act. Such notice of nonrenewal shall be recorded in such form as may be required by County pursuant to any ordinance of the County existing as of the Effective Date of this Contract, or as may be later enacted, if any.

15. CONVEYANCE CONTRARY TO CONTRACT. Any conveyance, contract, or authorization (whether oral or written) by the Owner or his successors-in-interest which would permit the use of the Property or create a division of the Property contrary to the terms of this Contract, or any renewal thereof, may be declared void by the Board; such declaration, or the provisions of this Contract, may be enforced by the County by an action filed in the Superior Court of the County for the purpose of compelling compliance or restraining a breach thereof.

16. OWNER TO PROVIDE INFORMATION. The Owner, upon request of the County, shall provide information requested relating to the Owner's obligations under this Contract.

17. NOTICE. Any notice given pursuant to this Contract may, in addition to any other method authorized by law, be given by United States mail, postage prepaid. Notice to the County shall be addressed as follows:

Clerk of the Board of Supervisors  
Room 402 County Administration Center  
1600 Pacific Highway  
San Diego, California 92101

Notice of the Owner shall be addressed as follows:

McMillan Trust  
29379 Rancho California Road, Suite 201  
Temecula, CA 92591

18. Exculpatory clause. The Owner shall hold the County harmless from any demand, claim, cause of action or action for damages involving the Owner's interest or rights in and to the real property described herein. Person or persons signing this Contract

represent that they are Owners of the real property entitled to and possessing the authority to enter into this Contract and to bind the real property in accordance with this Contract.

19. Costs of litigation. In case the County shall, without any fault on its part, be made a party to any litigation commenced by or against Owner, the Owner shall and will pay all costs together with reasonable attorney's fees incurred by or imposed upon County by or in connection with such litigation; further, Owner shall and will pay all costs and reasonable attorney's fees that may be incurred or paid by County in enforcing the covenants and agreements of this Contract.

IN WITNESS WHEREOF, the Owner and the County have executed this Contract on the day first above written.

McMillan Trust dated November 9, 2005

\_\_\_\_\_  
Gary L McMillan, Trustee

This is to certify that the foregoing contract is hereby executed on behalf of the Board of Supervisors of said County of San Diego pursuant to authority conferred by Policy I-38 of said Board, adopted on August 22, 1989 (Minute Item 47) and the County consents to recordation thereof by its duly authorized officer.

Date \_\_\_\_\_

By \_\_\_\_\_  
**APRIL F. HEINZE, P.E.,**  
Director of General Services

NOTE: All signatures of owners must be acknowledged before a notary public officer authorized to take acknowledgements.

**EXHIBIT "A"**  
**LEGAL DESCRIPTION OF PROPERTY**

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**AGRICULTURAL CONTRACT AREA**

**PARCEL A:** (APN: 132-081-42)

ALL THAT PORTION OF FRACTIONAL SECTION 21, TOWNSHIP 10 SOUTH, RANGE 1 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO OFFICIAL PLAT THEREOF, DESCRIBED AS PARCEL "A" IN THAT CERTAIN CERTIFICATE OF COMPLIANCE RECORDED MARCH 1, 1991 AS INSTRUMENT NO. 1991-0090029 OF OFFICIAL RECORDS.

**PARCEL B:** (INTENTIONALLY OMMITED)

**PARCEL C:** (APN: 133-010-13, 14, 15 & 16)

PARCELS 1, 2, 3 AND 4 OF PARCEL MAP NO. 14041, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY ON NOVEMBER 22, 1985.

**PARCEL D:** (APN: 133-010-12 & 133-420-15)

THOSE PORTIONS OF THE WEST HALF OF THE SOUTHWEST QUARTER OF FRACTIONAL SECTION 22 AND THAT PORTION OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 27, ALL IN TOWNSHIP 10 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO OFFICIAL PLAT THEREOF, DESCRIBED AS PARCEL "B-1" IN THAT CERTAIN CERTIFICATE OF COMPLIANCE RECORDED OCTOBER 25, 1985 AS INSTRUMENT NO. 85-399911 OF OFFICIAL RECORDS.

**PARCEL E:** (PORTION OF APN: 133-420-16)

THAT PORTION OF PARCEL 1 OF PARCEL MAP NO. 14061, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF

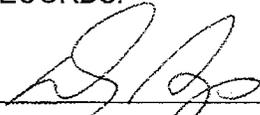
SAN DIEGO COUNTY, DECEMBER 9, 1985, DESCRIBED AS PARCEL "A" OF THAT CERTAIN CERTIFICATE OF COMPLIANCE RECORDED JANUARY 14, 1993 AS INSTRUMENT NO. 1993-0023822 OF OFFICIAL RECORDS.

**EXCEPTING** THEREFROM THAT PORTION BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

**BEGINNING** AT THE POINT OF INTERSECTION OF THE SOUTHERLY LINE OF SAID PARCEL "A" WITH THE SOUTHWESTERLY LINE OF PARCEL 1 OF THAT CERTAIN OPEN SPACE EASEMENT DOCUMENT, RECORDED JUNE 10, 1981 AS FILE NO. 81-180983 OF OFFICIAL RECORDS, SAID POINT BEING SOUTH 33°31'32" EAST, 171.39 FEET FROM THE NORTHWEST CORNER OF SAID PARCEL 1; THENCE NORTHWESTERLY ALONG SAID SOUTHWESTERLY LINE, NORTH 33°31'32" WEST, 171.39 FEET TO SAID NORTHWEST CORNER; THENCE LEAVING SAID SOUTHWESTERLY LINE NORTH 67°49'10" EAST, 246.32 FEET TO A POINT ON THE EASTERLY LINE OF SAID PARCEL 1 OF PARCEL MAP 14061; THENCE SOUTHERLY ALONG SAID EASTERLY LINE, SOUTH 00°09'55" EAST 181.05 FEET TO THE SOUTHERLY LINE OF SAID PARCEL "A"; THENCE LEAVING SAID EASTERLY LINE, WESTERLY ALONG SAID SOUTHERLY LINE, SOUTH 77°45'15" WEST, 96.79 FEET; THENCE SOUTH 48°56'47" WEST, 52.21 FEET TO THE **POINT OF BEGINNING**.

**PARCEL F:** (APN: 133-301-43 & 133-420-19)

THAT PORTION OF PARCEL 3 OF PARCEL MAP NO. 14061, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 9, 1985 TOGETHER WITH THAT PORTION OF THE NORTH HALF OF SECTION 28, TOWNSHIP 10 SOUTH, RANGE 1 WEST, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS PARCEL "B" OF THAT CERTAIN CERTIFICATE OF COMPLIANCE RECORDED FEBRUARY 1, 1990 AS INSTRUMENT NO. 1990-058700 OF OFFICIAL RECORDS.

  
\_\_\_\_\_  
DOUGLAS B. STROUP  
HUNSAKER & ASSOCIATES SAN DIEGO, INC.

6/30/2016  
P.L.S. 8553



**EXHIBIT "B"**  
**RESOLUTION ESTABLISHING THE AGRICULTURAL PRESERVE NO. 125**

EXHIBIT "B"

LAND CONSERVATION CONTRACT NO. 15-001

McMillan Agricultural Preserve No. 125

Section 1. In the above named Agricultural Preserve, only the following uses are permitted:

A. The following agricultural uses:

1. Agricultural crops.
2. Fruit trees, nut trees, vines and horticultural stock for producing trees, vines, and other horticultural stock.
3. Flowers and vegetables.
4. The keeping of the following poultry and animals:
  - a. Poultry, rabbits, chinchillas, hamsters, and other small animals; provided not more than 25 of any 1 or combination thereof may be kept on the premises.
  - b. Horses as a private stable.
  - c. Bovine animals, sheep, goats, and swine as follows:
    - (1) On any premises having a net area of less than one and one-half acres there may be kept a maximum of two of any one or combination of said animals.
    - (2) On any premises having a net area of not less than one and one-half acres but not more than four acres, there may be kept a maximum of eight of any one or combination of said animals provided that the number of such animals shall not exceed one animal per one-half acre of area.
    - (3) On any premises having a net area of more than four acres, eight of any one or combination of said animals may be kept, and in addition thereto there may be kept one bovine animal or one sheep per acre of area in excess of said four acres.
5. Buildings and structures necessary and incidental to the agricultural use of the land. ||

B. The following compatible uses:

1. One family dwelling incidental to the agricultural use of the land for the residence of the owner and his family or the lessee of the owner and the lessee's family. Owner or lessee shall be construed to include:
  - a. Stockholders in a family corporation.
  - b. Beneficiaries of family trusts and estates.
  - c. Owners of individual interests in the fee.
2. The following accessory buildings and structures: private garages; swimming pools, children's playhouses; radio and television receiving antennas; shops; offices; and other required for the conduct of the compatible uses as permitted by this Section.
3. Guest houses for the sole use of persons employed on the premises or for temporary use of guests of the occupants of the premises. A guest house shall have no kitchen facility and shall not be rented or otherwise used as a separate dwelling.
4. Home Occupations. Home occupation means an occupation customarily conducted entirely within a dwelling by the occupant of the dwelling as a secondary use in connection with which there is no display, no stock in trade or commodity sold upon the premises, and no person employed.
5. Processing for market of crops raised on premises, or on other property owned or leased by the processor.
6. One stand for the display and sale of only those products produced on the premises, or on other property owned or leased by the vendor; provided that it does not exceed an area of 200 square feet, and is located not nearer than 15 feet to any street or highway.
7. Farm employee housing, exclusive of trailer coaches and mobilehomes.
8. Farm labor camps, exclusive of trailer coaches and mobilehomes, on premises having a net area of not less than ten acres.
9. The following signs:

- a. One (1) unlighted sign not larger than 12 square feet in area pertaining only to the sale, lease, or hire of only the particular building, property, or premises upon which displayed.
  - b. One (1) sign not larger than 12 square feet in area identifying and advertising products produced on the premises.
  - c. One sign not larger than four square feet in area identifying the premises as being associated with a trade organization, or as producing products under a registered trade name.
  - d. One nameplate not exceeding two square feet in area containing the name and occupation of the occupant on the premises.
10. The erection, construction, alteration, or maintenance of gas, electric, water, or communication facilities, unless the Board of Supervisors makes a finding after notice and hearing that any or all such facilities are not a compatible use.
11. The following uses, provided a Major Use Permit authorizing such use is issued by the Planning Commission or Board of Supervisors of the County of San Diego. Such Major Use Permit shall be applied for, considered, granted, or denied in the manner prescribed by The Zoning Ordinance of the County of San Diego for the application for, consideration, granting, or denying of applications for Major Use Permits under that Ordinance.
- a. Packing or processing plants for farm crops.
  - b. Aviaries.
  - c. The following farm employee housing and farm labor camps:
    - (1) Farm employee housing containing one or more trailer coaches or mobilehomes.
    - (2) Farm labor camps containing one or more trailer coaches or mobilehomes.
    - (3) Farm labor camps on premises having a net area of ten acres or less.
  - d. Public stables.
  - e. Kennels.

- f. Chinchillas.
  - g. Radio or television transmitter.
  - h. Airport (landing strip).
  - i. Livestock auction yard.
  - j. Animal waste processing.
12. The establishment, widening, realignment, or improvement of any road, street, or highway, whether existing or planned for the future, depicted on the Mobility Element of the San Diego County General Plan including any amendments thereto heretofore adopted by the Board of Supervisors.
13. The location and construction of any improvements specified in Section 51238 of the Government Code when located or constructed by a public agency or public utility, unless the Board of Supervisors makes a finding pursuant to said Section 51238 that such improvements are not compatible uses.
- C. The following recreational uses, provided a Major Use Permit authorizing such use is issued by the Planning Commission or Board of Supervisors of the County of San Diego. Such Major Use Permit shall be applied for, considered, granted, or denied in the manner prescribed by The Zoning Ordinance of the County of San Diego for the application for, consideration, granting, or denying of applications for Major Use Permits under that Ordinance.
- 1. Use of land by the public, with or without charge, for any of the following:
    - a. Walking.
    - b. Hiking.
    - c. Picnicking.
    - d. Camping.
    - e. Swimming.
    - f. Boating.
    - g. Fishing.

- h. Hunting.
- i. Other outdoor games or sports for which facilities are provided for public participation.

Any fee charged for the recreational use of land as defined herein shall be in a reasonable amount and shall not have the effect of unduly limiting its use by the public.

D. The use or maintenance of the land within said Agricultural Preserve in such a manner as to preserve its natural characteristics, beauty, and openness for the benefit and enjoyment of the public, to provide essential habitat for wildlife, or for the solar evaporation of sea water in the course of salt production for commercial purposes is authorized and such use shall be defined as "Open Space Uses" if such land is within:

1. A scenic highway corridor, as defined in Subdivision (i) of Section 51201, Government Code.
2. A wildlife habitat area, as defined in Subdivision (j) of Section 51201, Government Code.
3. A saltpond, as defined in Subdivision (k) of Section 51201, Government Code.
4. A managed wetland area, as defined in Subdivision (l) of Section 51201, Government Code.
5. A submerged area, as defined in Subdivision (m) of Section 51201, Government Code.

Section 2. Notwithstanding the provisions of Section 1., no dwelling, guest house, farm employee housing, or farm labor camp shall be constructed, erected, or maintained upon any premises containing an area of less than 10 acres; provided, however, one single-family dwelling may be constructed and maintained on the premises subject to this Ordinance.

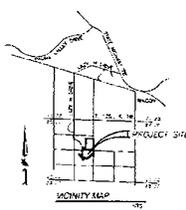
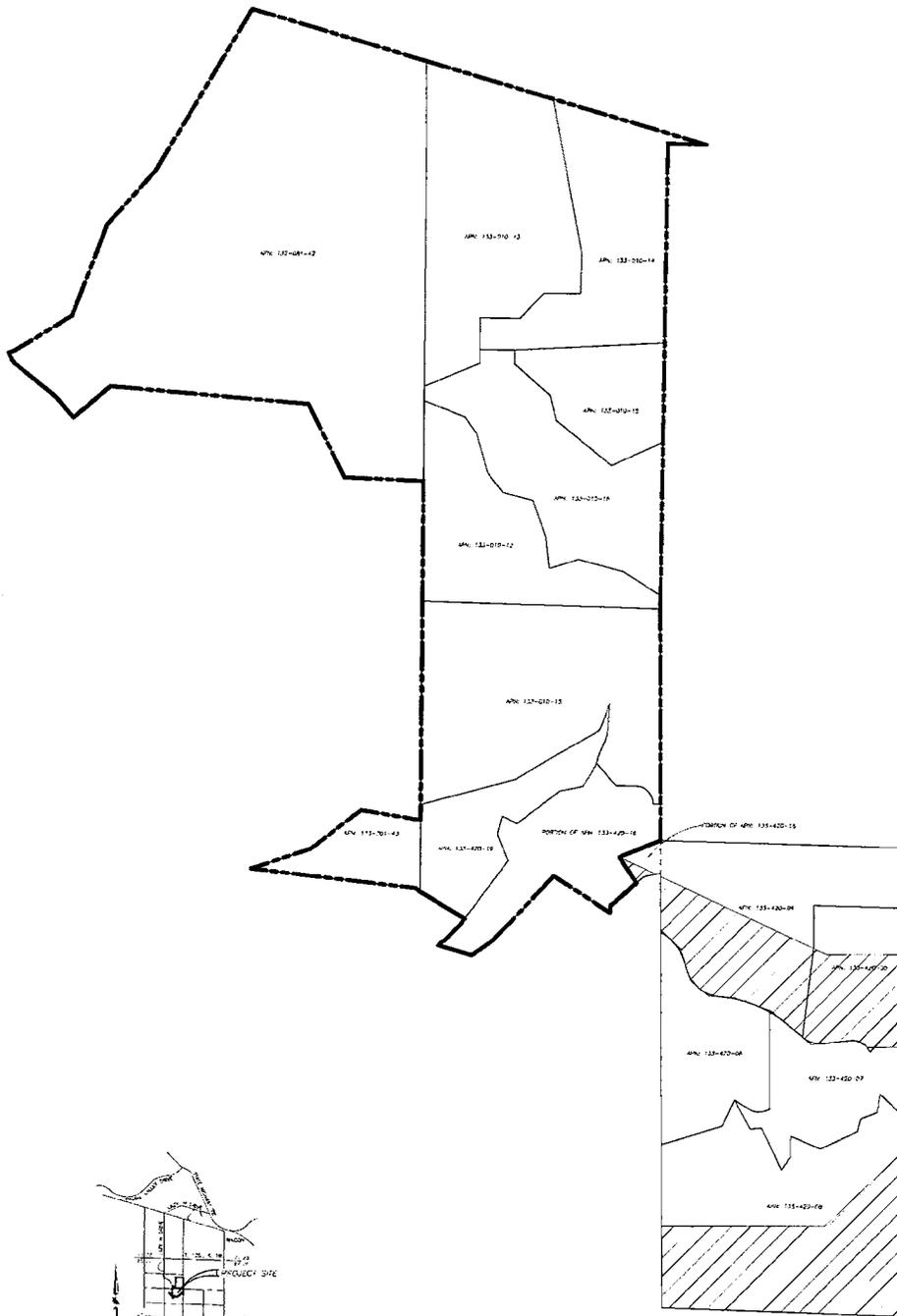
Section 3. Nothing herein shall be construed to authorize the establishment or continuation of a use of real property contrary to any provision of The Zoning Ordinance (Ordinance No. 5281 [New Series] of the County of San Diego) including amendments thereto, heretofore or hereafter adopted.

Section 4. The premises subject to this Contract shall not be divided so as to create a parcel of land having an area of less than 10 acres, provided that this restriction shall not be construed as prohibiting the owner of the premises having an area of more than 10 acres (hereinafter referred to as the Grantor) from conveying to the owner of contiguous premises subject to a contract of equal or longer unexpired term a parcel containing less than 10 acres for the purpose of enlarging such contiguous premises where the remainder of the Grantor's premises after such conveyance has an area of not less than 10 acres.

Section 5. "Area" means an area of land inclusive of that land within easements or rights-of-way for roads, streets, and/or highways.

Section 6. Definitions. The definition of words set forth in The Zoning Ordinance of the County of San Diego shall apply to the words used herein unless otherwise specifically defined herein.

**EXHIBIT "D"  
PLAT OF PROPERTY**

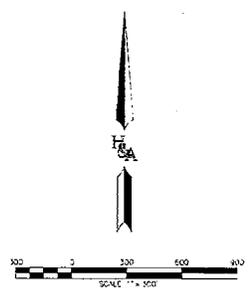


**LEGEND**

— PROPOSED AGRICULTURAL CONTRACT AREA (222.28 AC)

— EXISTING PARCEL LINES

▨ ESMT FOR OPEN SPACE REC. 6/10/1981 AS DOC. NO. 81-180983.



PREPARED BY:  
**HUNSAKER & ASSOCIATES**  
 SAN DIEGO, CALIF.  
 PLANNING: 6707 WASH. ST. #100  
 INCORPORATED: 1961  
 REGISTERED: 1961  
 LICENSE NO.: 13388/0000-014

AGRICULTURAL CONTRACT EXHIBIT  
**MCMILLAN FARMS**  
 MANAGEMENT PROPERTY  
 COUNTY OF SAN DIEGO, CALIFORNIA

SHEET  
 1  
 OF  
 1

11-5 1974-0007

## **Attachment H – Planning Documentation**

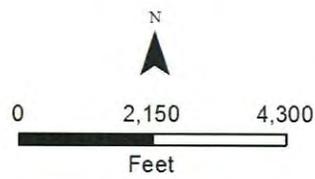
# McMillan Agricultural Preserve Establishment Vicinity Map

Valley Center Community Plan Area

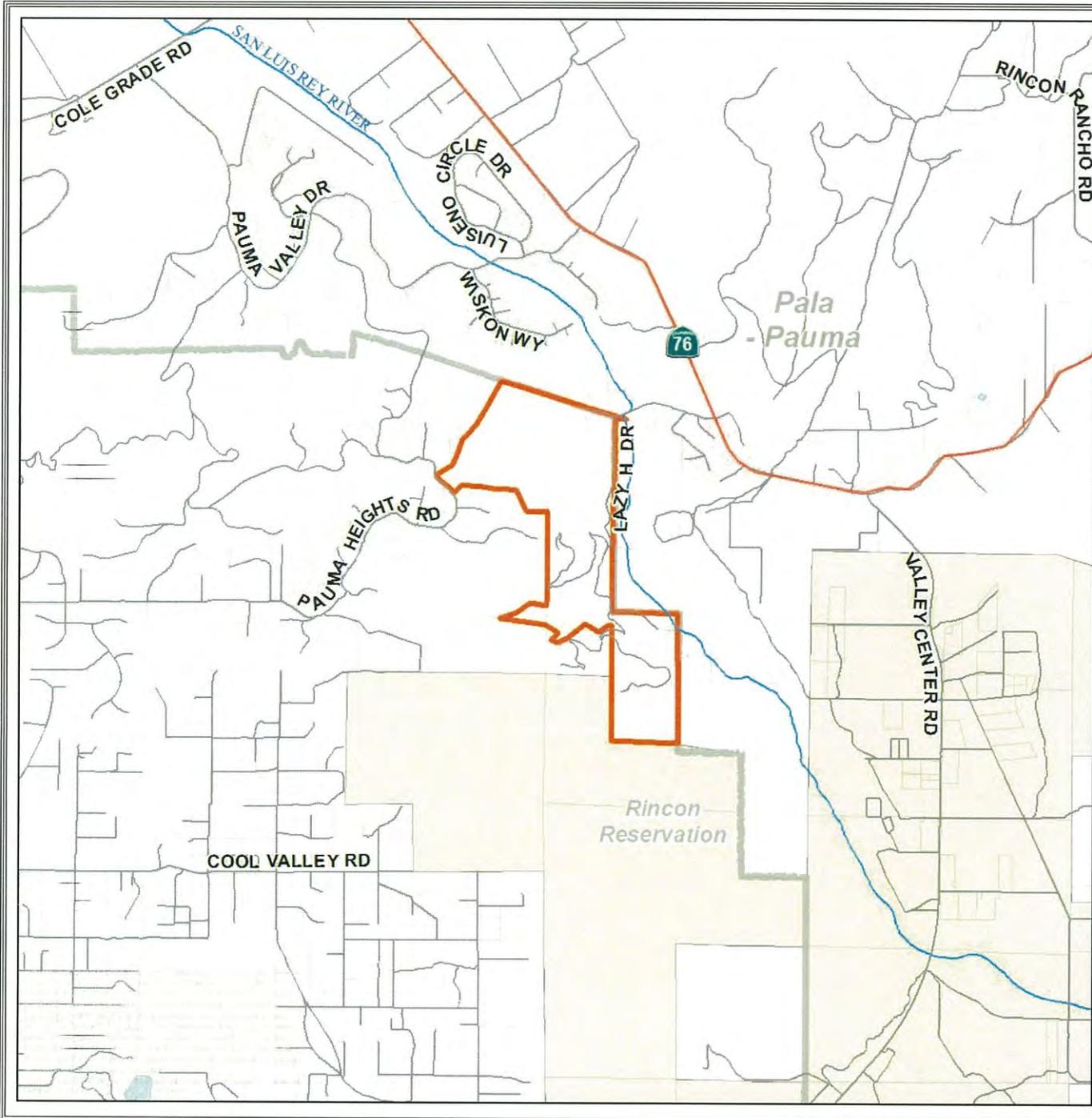


1:3,500,000

- Site
- Roads
- Parcels



Date: 8/25/2016  
Path: P:\reg\2015-AP-15-001\_082515\vicinity.mxd

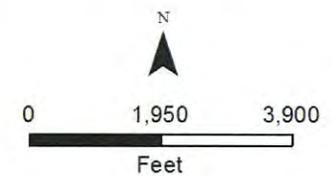


# McMillan Agricultural Preserve Establishment General Plan Map

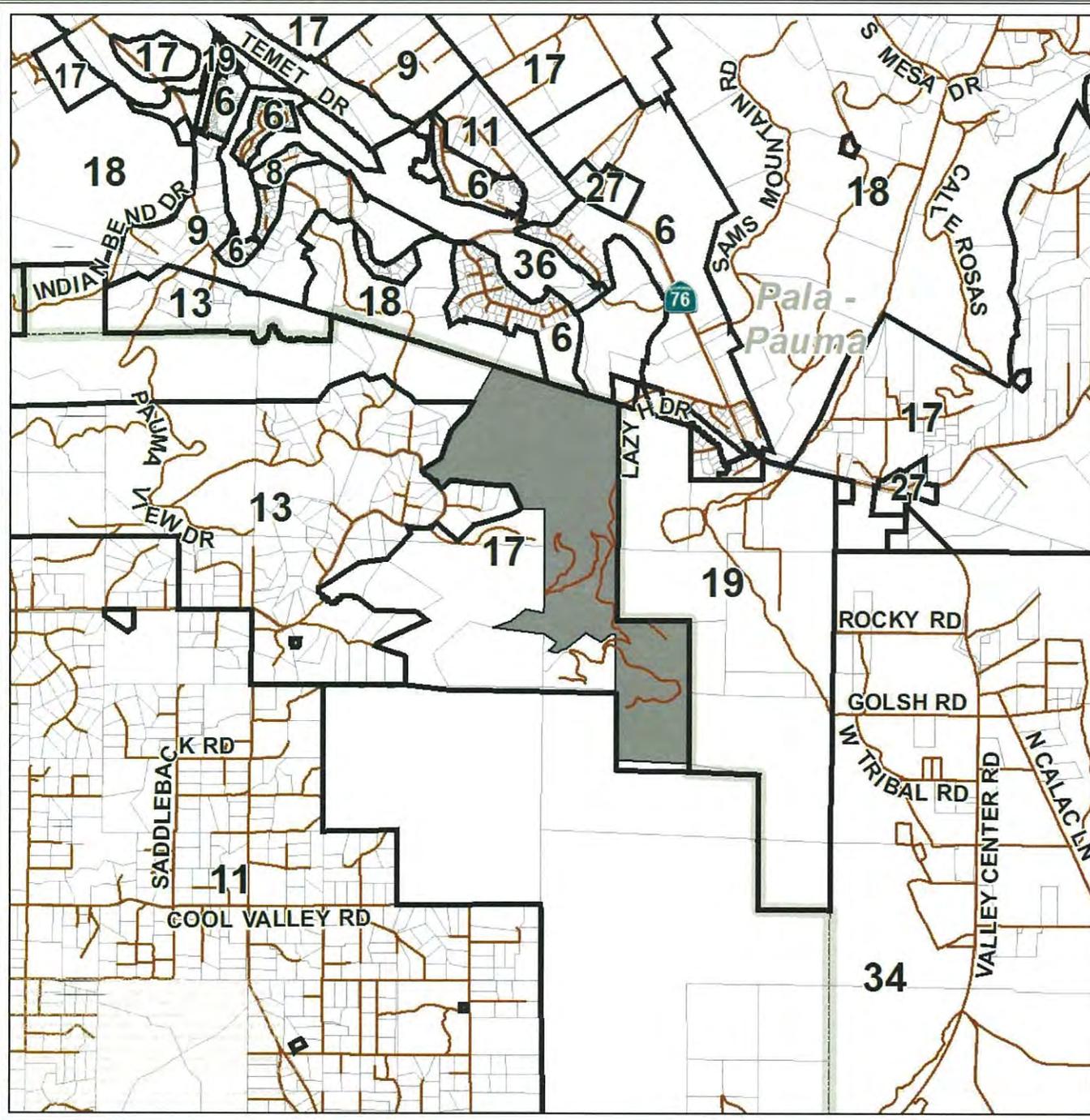
Valley Center  
Community Plan Area

- (6) Village Residential (VR-4.3)
- (8) Village Residential (VR-2)
- (9) Semi-Rural Residential (SR-1)
- (11) Semi-Rural Residential (SR-2)
- (13) Semi-Rural Residential (SR-4)
- (17) Semi-Rural Residential (SR-10)
- (18) Rural Lands (RL-20)
- (19) Rural Lands (RL-40)
- (27) Rural Commercial
- (32) Public/Semi-Public Facilities
- (33) Public Agency Lands
- (34) Tribal Lands
- (36) Open Space (Recreation)

	Site
	Roads
	Parcels
	Planning



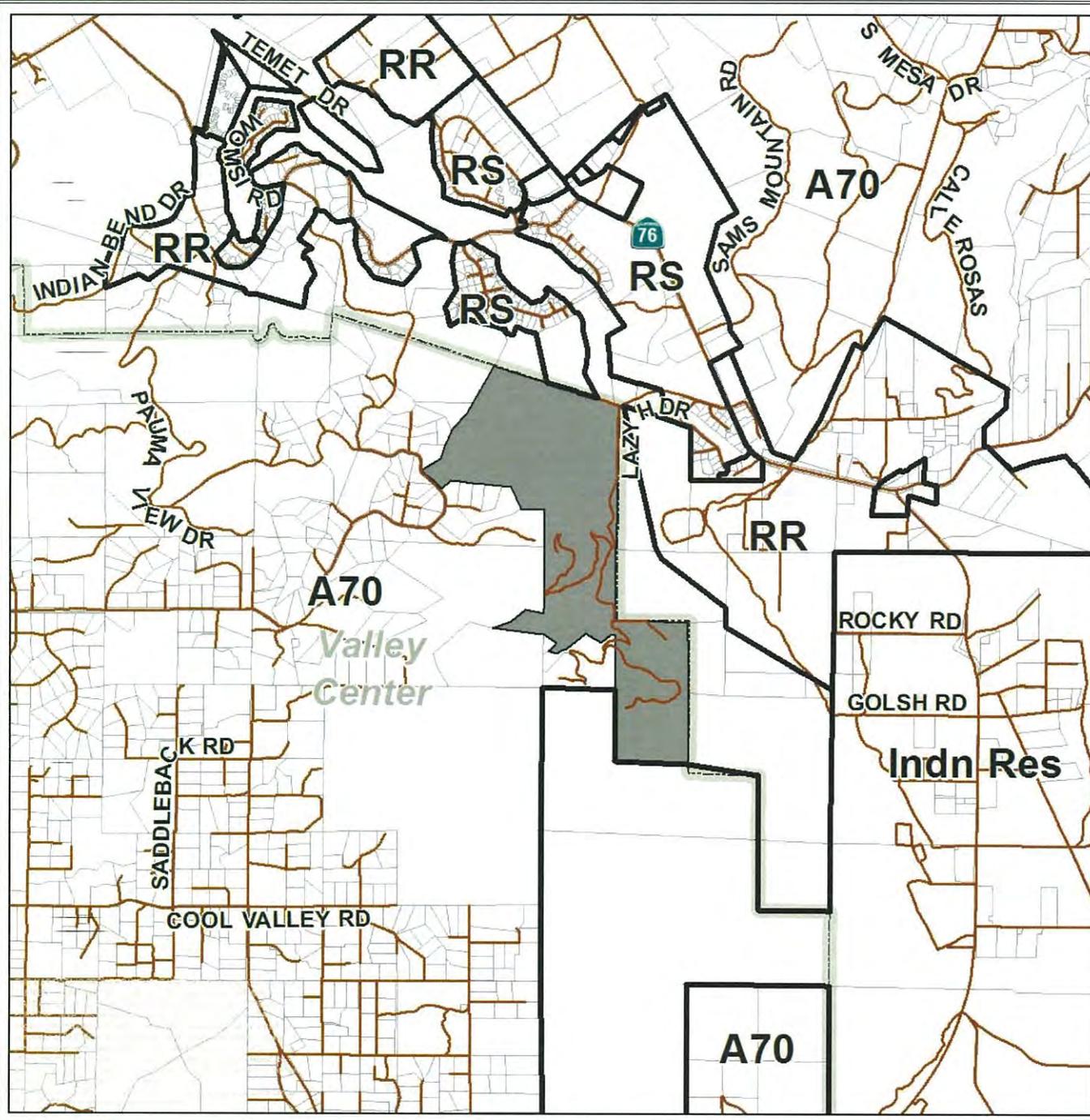
Date: 8/25/2016  
Path: P:\reg\2015-AP-15-001\_082516\plan.mxd



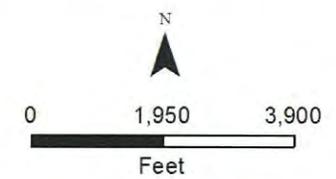
# McMillan Agricultural Preserve Establishment Zoning Map

Valley Center  
Community Plan Area

- A70 - Limited Agricultural
- C36 - General Commercial
- C42 - Visitor Serving Commercial
- Indn Res - Indian Reservation
- RR - Rural Residential
- RS - Single Family Residential
- S80 - Open Space
- S86 - Parking



	Site
	Roads
	Parcels
	Zoning



Date: 8/25/2016  
Path: P:\reg\2015-AP-15-001\_082516\zoning.mxd



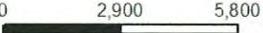


Palomar  
Mountain

# McMillan Agricultural Preserve Establishment

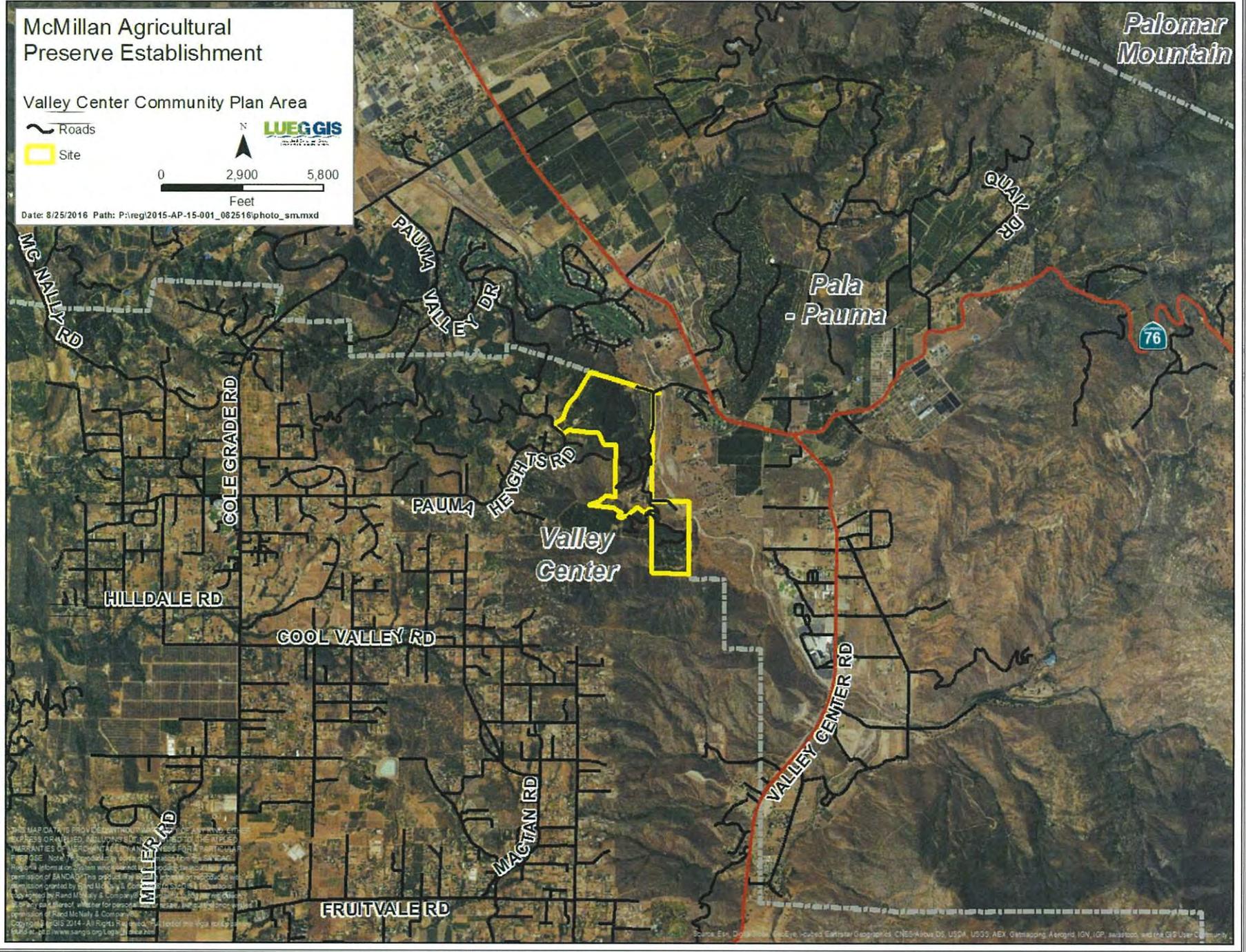
## Valley Center Community Plan Area

 Roads  
 Site

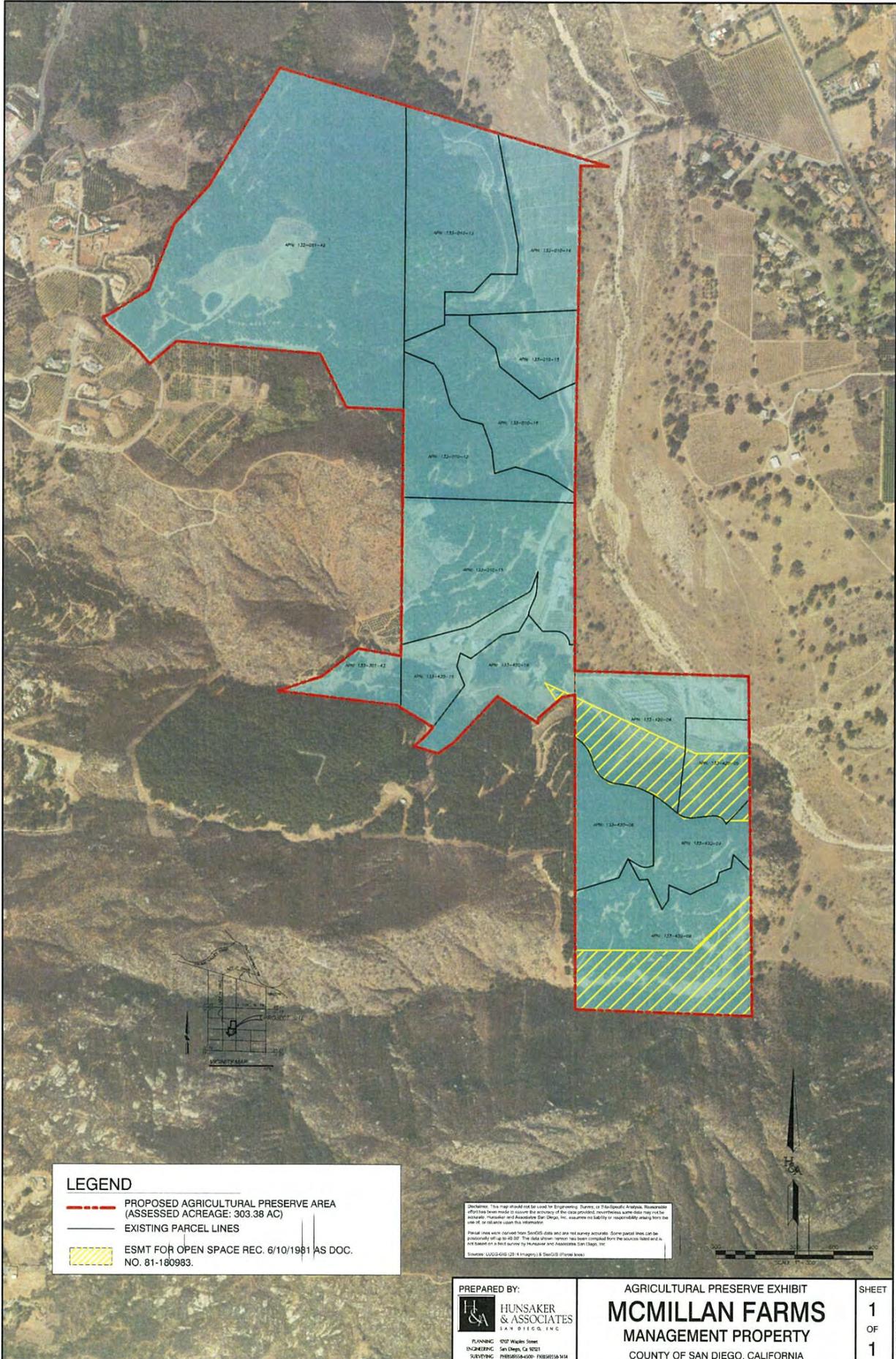
 N  
 0 2,900 5,800  
 Feet

 LUEGGIS  
LAND USE & GIS

Date: 8/25/2016 Path: P:\regl\2015-AP-15-001\_082516\photo\_sm.mxd



THIS MAP DATA PROVIDED BY THE U.S. GEOLOGICAL SURVEY AND THE U.S. DEPARTMENT OF AGRICULTURE. THE U.S. GEOLOGICAL SURVEY AND THE U.S. DEPARTMENT OF AGRICULTURE MAKE NO WARRANTY OF ACCURACY OR COMPLETENESS FOR THESE DATA. THE USER ASSUMES ALL LIABILITY FOR ANY DAMAGE, INCLUDING REASONABLE ATTORNEY'S FEES, ARISING FROM THE USE OF THESE DATA. THE U.S. GEOLOGICAL SURVEY AND THE U.S. DEPARTMENT OF AGRICULTURE ARE NOT RESPONSIBLE FOR ANY DAMAGE, INCLUDING REASONABLE ATTORNEY'S FEES, ARISING FROM THE USE OF THESE DATA. THE U.S. GEOLOGICAL SURVEY AND THE U.S. DEPARTMENT OF AGRICULTURE MAKE NO WARRANTY OF ACCURACY OR COMPLETENESS FOR THESE DATA. THE USER ASSUMES ALL LIABILITY FOR ANY DAMAGE, INCLUDING REASONABLE ATTORNEY'S FEES, ARISING FROM THE USE OF THESE DATA.



**LEGEND**

- PROPOSED AGRICULTURAL PRESERVE AREA (ASSESSED ACREAGE: 303.38 AC)
- EXISTING PARCEL LINES
- ESMT FOR OPEN SPACE REC. 6/10/1981 AS DOC. NO. 81-180983.

Disclaimer: This map should not be used for Engineering, Survey, or Real Estate Analysis. Responsibility for the use of this map is solely the responsibility of the user. Hunsaker & Associates, Inc. does not warrant the accuracy of the data shown on this map. The data shown herein has been compiled from the sources listed and is not based on a field survey by Hunsaker & Associates, Inc. (Survey: LAG-010-128-4 Imagery & Data © 2014)

PREPARED BY:  
 **HUNSAKER & ASSOCIATES**  
 SAN DIEGO, INC.  
 PLANNING: 6707 Weldon Street  
 INCORPORATED: San Diego, CA 92121  
 SURVEYING: PMS08054-000; PMS08156-114

AGRICULTURAL PRESERVE EXHIBIT  
**MCMILLAN FARMS**  
 MANAGEMENT PROPERTY  
 COUNTY OF SAN DIEGO, CALIFORNIA

SHEET  
 1  
 OF  
 1



**Attachment I – Ownership Disclosure**



County of San Diego, Planning & Development Services  
**APPLICANT'S DISCLOSURE OF OWNERSHIP INTERESTS ON APPLICATION FOR ZONING PERMITS/ APPROVALS**  
ZONING DIVISION

PDS 2015-REZ-15-010

Record ID(s) \_\_\_\_\_

Assessor's Parcel Number(s) 132-081-42, 132-110-03, 133-010-12, 133-010-13, 133-010-14, 133-010-15, 133-010-16, 133-301-43, 133

Ordinance No. 4544 (N.S.) requires that the following information must be disclosed at the time of filing of this discretionary permit. The application shall be signed by all owners of the property subject to the application or the authorized agent(s) of the owner(s), pursuant to Section 7017 of the Zoning Ordinance. **NOTE:** Attach additional pages if necessary.

A. List the names of all persons having any *ownership interest* in the property involved.

Gary L & Patricia A McMillan, Co-Trustees of the  
McMillan Trust Dated 11/09/2005

B. If any person identified pursuant to (A) above is a corporation or partnership, list the names of all individuals owning more than 10% of the shares in the corporation or owning any partnership interest in the partnership.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

C. If any person identified pursuant to (A) above is a non-profit organization or a trust, list the names of any persons serving as director of the non-profit organization or as trustee or beneficiary or trustor of the trust.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**NOTE: Section 1127 of The Zoning Ordinance defines Person as:** "Any individual, firm, copartnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver syndicate, this and any other county, city and county, city, municipality, district or other political subdivision, or any other group or combination acting as a unit."

Gary L. McMillan  
Signature of Applicant  
GARY L. McMILLAN  
Print Name  
11-13-15  
Date

SDC PDS RCVD 11-20-15  
**REZ15-010**

