



December 1, 2021

Mayor and City Council
City of Escondido
Via Email

RE: ENU OPPOSITION to eminent domain action in favor of Oak Creek

Dear Mayor and City Council,

Escondido Neighbors United (ENU) is a neighborhood organization with a long history with Oak Creek. ENU strenuously opposes the proposed action recommended by staff to take part of Felicita Park by eminent domain.

This action is nothing short of cannibalizing a historic public park asset to enrich a private developer, and one with a poor record at that.

ENU was active throughout the environmental review process regarding Oak Creek in 2014-2015. Our priority concerns included impacts of the development on contamination related to Chatham and concerns related to stormwater and non-stormwater drainage from the project into the creek, impacting our precious Felicita Park and creek, and then into our Quiet Hills Neighborhood.

ENU has never supported the attempt by, then New Urban West, to externalize their drainage issues. Neither, as has been stated repeatedly, did the County of San Diego.

It is inaccurate to suggest, as it does in the staff report, that just because an entity does not sue over a project there is de-facto concurrence. ENU's concerns are well documented, and although ENU did not bring legal action against the project, we **never** concurred with the project or with their plan to externalize their drainage issues.

Further, it is not credible to suggest, as it does in the staff report, that the addition of two 72-inch drainage pipes is not related to increases from drainage from the project. This project essentially paves and hardens most of 47 acres of land which was originally open farmland.

Although ENU opposed the project, we offered several recommendations to reduce our issues of highest concern around creek protection and drainage. One of our primary

recommendations was that the number of homes be reduced. By reducing the amount of impervious surface and increasing the amount of area where infiltration of stormwater may occur, the volume and velocity of stormwater discharged into the creek would be reduced. This would have reduced the volume of sediment that would be discharged into the creek and reduce erosion and scouring in the creek. These requests fell on deaf ears and now the developers want to move forward with their project on the backs of our public park.

The major concerns with offsite flows are two-fold. This project and Felicita Park are located on top of the Chatham groundwater contamination plume. More scouring of the creek in the Park may lead to additional discharge of contaminants from the Chatham plume, which already 'daylight' (when the contamination is released into the air) into the Creek near the site.

Second, inadequate retention and drainage from the site will worsen sedimentation, siltation, flooding flows, and other issues that degrade the designated beneficial uses of the creek, such as Contact and Non-contact Water Recreation, Wildlife Habitat, and Warm Freshwater Habitat. This reduces the use of the creek to support wildlife, and park users and the public's enjoyment of the creek, especially in Quiet Hills.

A February 20, 2020 letter from the City of Escondido made suggestions about how to resolve issues. Rather than addressing all the issues, KB Home's response was to sue the City of Escondido and now has resulted in the proposed exercise of eminent domain. Such bad behavior should not be rewarded by the city.

KB Home also caused significant violations of the stormwater regulations and was cited with a Stop Work order by the city and a Notice of Violation from the Regional Board. KB Home is an experienced home builder and they know the rules--or should. In this case, KB Home didn't do what needed to be done until they were caught and reported to authorities. Only **then** did they take appropriate action.

Another issue that warrants your attention is the fact that KB Home, after purchasing the property and entitlements, asked for changes to accommodate its needs. The lesson here is that KB Home **can and has** changed its plans based on conditions. Now, they need to change its plan again to accommodate the drainage issues and locate a solution on-site.

It is not unreasonable to think that such an experienced company would read the relevant mitigation requirements prior to making such an investment. It is neither our problem nor the park's that they were not paying attention. **These rules and conditions were well-known in advance.** Unfortunately, we are sorry to once again see a developer seeking to exploit a natural area, in this case our park, to meet their profit margins. It is completely unacceptable.

In closing, we want to **register our strongest objection** to this eminent domain action.

Eminent domain is **not** in the public interest or a necessity for the project. It was **not** planned in the manner most compatible with the greatest public good, the impacts of this action promise to extend **far beyond** the headwall and riprap area so the action does not propose adequate real property, and there is **no** acceptable compensation for the loss of public parkland. The record does not ensure that recreational, biological, and cultural resources are protected in the historic public park. The required findings cannot be made.

We attached and incorporate our previous letters into the record.

In closing, the city should not be bailing out a moneyed interest by degrading a public asset.

Sincerely,

Escondido Neighbors United

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