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## STAFF REPORT

### REGULAR MEETING OF THE SAN MARCOS PLANNING COMMISSION

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**MEETING DATE:** October 15, 2018

**SUBJECT:** Consideration of Abandonment of Two Irrevocable Offers of Dedication for Public Highway Purposes  
PA18-0005

**APN:** 679-040-08-00, 679-040-04-00, 679-040-05-00, 222-121-16-00, 222-121-14-00, 222-121-37-00, 222-121-34-00, 222-121-12-00, and 222-121-11-00

## RECOMMENDATION

APPROVE a Resolution recommending that the City Council adopt a resolution to abandon the right to accept two irrevocable offers of dedication for public highway purposes.

## INTRODUCTION

Two separate offers to dedicate real property for public highway purposes were made to the City pursuant to Government Code section 7050 (Offers of Dedication). The City recorded the Offers of Dedication in the Office of the San Diego County Recorder on March 27, 1974 and April 21, 1975. The Offers of Dedication affect portions of real property as illustrated on the attached Exhibit A/Vicinity Map. Parcel maps processed in the area identified these Offers of Dedication as the extension of Twin Oaks Valley Road. With the development of the San Elijo Hills Specific Plan, Twin Oaks Valley Road now turns into San Elijo Road, which extends in a westerly direction. Attebury Road, which is an existing private road, serves several properties along a similar alignment to the Offers of Dedication.

Pursuant to Government Code section 7050, once the City recorded the Offers of Dedication, the offers became irrevocable. However, the City Council never formally accepted or rejected the offers in accordance with Section 7050. Staff was contacted in March 2018 by two property owners in the area adjacent to those portions of real property that are the subject of the Offers of Dedication with a request that the City abandon the Offers of Dedication, which would remove the encumbrances from the title of several nearby properties. Thereby allowing the

affected property owners to sell and/or develop their properties without the encumbrance on their title.

## DISCUSSION

Government Code section 7050 provides that an irrevocable offer of dedication of real property for any public purpose may be terminated and the right to accept such offer abandoned in the same manner as the process for summary vacation of streets or highways pursuant to Streets and Highways Code sections 8300 et seq. The Offers of Dedication also expressly provide that the rights to accept the Offers of Dedication may be abandoned in the same manner "as is prescribed for the vacation of streets or highways" by Streets and Highways Code sections 8300 et seq.

In accordance with Section 8313 of the Streets and Highways Code, if a General Plan has been adopted by a local agency, the local agency must comply with the procedures for summary vacation of streets or highways prescribed in Government Code section 65402. That section requires the proposed action to be submitted to and reported upon by the local planning agency as to the conformity of the proposed action with the adopted General Plan.

If the Planning Commission reports to the City Council that the abandonment of the Offers of Dedication conforms to the City's General Plan, the City Council can adopt a resolution pursuant to Streets and Highways Code section 8333(a), which allows the abandonment if the easement has not been used for the purpose for which it was dedicated for five consecutive years immediately preceding the proposed abandonment; or Streets and Highways Code section 8333(c), which allows the abandonment if the easement is determined to be excess and there are no other public facilities located within the easement.

After reviewing the limits of the Offers of Dedication, the existing road infrastructure, and the City's General Plan, staff concluded that a public road along the alignment shown in the Offers of Dedication is not needed, is not consistent with the current alignment of Twin Oaks Valley Road and is not included in the Mobility Element of the City's General Plan. The existing limits of Twin Oaks Valley Road, San Elijo Road and Attebury Road, as improved, are consistent with the Mobility Element of the City's General Plan. Additionally, staff determined that those portions of real property that are the subject of the Offers of Dedication have not been used for public



highway purposes for at least five consecutive years, it is not reasonably foreseeable that the property would be used for future highway purposes, and there are no other public facilities located within the subject easements. Accordingly, abandoning the Offers of Dedication is not inconsistent with and conforms to the City's General Plan.

It is recommended that the Planning Commission approve the attached Resolution recommending that the City Council adopt a resolution to abandon the right to accept two irrevocable offers of dedication for public highway purposes.

## **PUBLIC OUTREACH**

Staff sent a letter on July 11, 2018 to property owners whose properties are affected by the irrevocable offers of dedication and/or who are immediately adjacent to the properties that are the subject of the irrevocable offers of dedication to make them aware of the City's intent to vacate the offers. One property owner responded to the notice seeking clarification on the scope of the abandonment. Staff explained that all of the existing easements would remain intact and the abandonment of the offers of dedication would simply remove the City's current rights to accept the offers of dedication for public highway purposes.

## **ENVIRONMENTAL DETERMINATION**

Staff recommends a finding of no physical effect and/or an exemption under CEQA, as the proposed abandonment is not a project within the meaning of Section 15378 of the CEQA Guidelines because there is no potential for it to result in a physical change in the environment, either directly or indirectly. Additionally, even if the proposed abandonment was considered a project subject to CEQA, it would be exempt pursuant to Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that there is no possibility it would have a significant effect on the environment.

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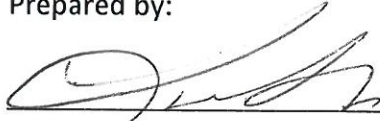
## **ATTACHMENT(S)**

Adopting Resolution PC 18-4734

A - Vicinity Map

B – Aerial Map

Prepared by:



Lewis Clapp, Senior Civil Engineer

Reviewed by:



Peter Kuey, Principal Civil Engineer

Approved and Submitted by:



Karen Brindley, Planning Manager

RESOLUTION PC 18-4734

A RESOLUTION OF THE PLANNING COMMISSION OF  
THE CITY OF SAN MARCOS, CALIFORNIA,  
RECOMMENDING CITY COUNCIL APPROVAL OF A  
RESOLUTION ABANDONING TWO IRREVOCABLE  
OFFERS OF DEDICATION FOR PUBLIC HIGHWAY  
PURPOSES

PA18-0005  
City of San Marcos

WHEREAS, two separate offers to dedicate real property for public highway purposes were made to the City of San Marcos pursuant to Government Code section 7050 (Offers of Dedication); and

WHEREAS, the Offers of Dedication were recorded with the San Diego County Recorder's Office on March 27, 1974 and April 21, 1975 as document numbers 74-076241 and 75-092241, respectively, as shown in Exhibits "A" and "B" attached hereto and incorporated by reference on the parcels noted below:

Assessor Parcel Numbers: 679-040-08-00, 679-040-04-00, 679-040-05-00, 222-121-16-00, 222-121-14-00, 222-121-37-00 222-121-34-00, 222-121-12-00 and 222-121-11-00

WHEREAS, pursuant to Government Code section 7050, once the City recorded the Offers of Dedication, the offers became irrevocable; however, the City Council never formally accepted or rejected the offers; and

WHEREAS, the Offers of Dedication cloud the title of several properties, and the City received a request to abandon the offers from at least two nearby property owners. Abandoning the offers would remove the encumbrances from their title, thereby allowing the affected property owners to develop and/or sell their properties; and

WHEREAS, Government Code section 7050 provides that an irrevocable offer of dedication of real property for any public purpose may be terminated and the right to accept such offer abandoned in the same manner as the process for summary vacation of streets or highways pursuant to Streets and Highways Code sections 8300 et seq.; and

WHEREAS, the Offers of Dedication also expressly provide that the right to accept the Offers of Dedication may be abandoned in the same manner as the process for summary vacation of streets or highways pursuant to Streets and Highways Code sections 8300 et seq.; and

WHEREAS, if a General Plan has been adopted by a local agency, Streets and Highways Code section 8313 further requires the local agency to comply with the procedures prescribed in Government Code section 65402 for summary vacation of streets or highways; and

WHEREAS, Government Code section 65402 requires the proposed action to be submitted to and reported upon by the local planning agency as to the conformity of the proposed action with the adopted General Plan; and

WHEREAS, in compliance with Government Code section 65402, the proposed abandonment of the Offers of Dedication are submitted to the Planning Commission to report upon their conformance with the City's General Plan; and

WHEREAS, if the Planning Commission reports to the City Council that the abandonment of the Offers of Dedication conforms to the City's General Plan, the City Council would need to adopt a resolution stating the facts and authority under which the proposed action is made; and

WHEREAS, the Development Services Department did study said request and determined that those portions of real property that are the subject of the Offers of Dedication, which are located to the south of Twin Oaks Valley Road, are not consistent with the current alignment of Twin Oaks Valley Road and are not included in the Mobility Element of the City's General Plan; and

WHEREAS, Streets and Highways Code section 8333(a) expressly permits the summary vacation of a public service easement if the easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation; and

WHEREAS, the Development Services Department further determined that those portions of real property that are the subject of the Offers of Dedication have not been used for public highway purposes for at least five consecutive years immediately preceding the

date of this Resolution, and it is not reasonably foreseeable that the property would be used for future public highway purposes; and

WHEREAS, Streets and Highways Code section 8333(c) further permits the summary vacation of a public service easement if the easement is determined to be excess by the easement holder and there are no other public facilities located within the easement; and

WHEREAS, the Development Services Department further determined that there are no other public facilities located within the subject easement, and abandoning the Offers of Dedication would have no effect on existing improvements or easements that may be installed or overlap with the Offers of Dedication; and

WHEREAS, pursuant to Government Code section 65402, the Development Services Department concluded that abandoning the Offers of Dedication is consistent with the City's General Plan.

NOW, THEREFORE, the Planning Commission of the City of San Marcos, does hereby resolve as follows:

A. The foregoing recitals are true and correct and are hereby incorporated by reference into this Resolution.

B. In accordance with Government Code section 65402, the Planning Commission finds that the abandonment of the right to accept those portions of real property that are the subject of the Offers of Dedication is in conformance with the City of San Marcos General Plan.

C. The Planning Commission's decision is based on the following findings and determinations:

1. Those portions of real property that are the subject of the Offers of Dedication encumber the title of nearby property owners desiring to develop and/or sell their properties.

2. Those portions of real property that are the subject of the Offers of Dedication have not been used for public highway purposes for at least five consecutive years immediately preceding the date of this

Resolution, and it is not reasonably foreseeable that the property would be used for future public highway purposes.

3. Those portions of real property that are the subject of the Offers of Dedication are excess as public highway purposes, and there are no other public facilities located within the subject easements.

D. The Planning Commission recommends that the City Council adopt a resolution to abandon the right to accept those portions of real property that are the subject of the Offers of Dedication as described in Exhibits A and B for public highway purposes.

E. A finding of no physical effect and/or an exemption under CEQA (EX 18-034), is recommended to the City Council as the proposed abandonment is not a project within the meaning of Section 15378 of the CEQA Guidelines because there is no potential for it to result in a physical change in the environment, either directly or indirectly. Additionally, even if the proposed abandonment was considered a project subject to CEQA, it would be exempt pursuant to Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that there is no possibility it would have a significant effect on the environment

PASSED AND ADOPTED by the Planning Commission of the City of San Marcos, State of California, at a regular meeting held on this 15th day of October, 2018, by the following roll call vote:

AYES: COMMISSIONERS:  
NOES: COMMISSIONERS:  
ABSENT: COMMISSIONERS:



APPROVED:

\_\_\_\_\_  
Kevin Norris, Chairman  
SAN MARCOS CITY PLANNING COMMISSION

ATTEST:

\_\_\_\_\_  
Susie Neveu, Office Specialist  
SAN MARCOS PLANNING COMMISSION

**ATTACHMENTS:**

Exhibit A – Irrevocable Offer of Dedication (Document No. 74-076241)  
Exhibit B – Irrevocable Offer of Dedication (Document No. 75-092241)

WHEN RECORDED, PLEASE MAIL  
THIS INSTRUMENT TO: 1091

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

FILE/PAGE NO. 74-076241

RECORDED IN OFFICE OF  
CO. REAL PROPERTY DIV.

MAR 27 1 31 PM '74

OFFICIAL RECORDS  
SAN DIEGO COUNTY

NO TRANSFER TAX DUE

SPACE ABOVE FOR RECORDING FEE ONLY

NO FEE

**IRREVOCABLE OFFER TO DEDICATE REAL PROPERTY  
FOR PUBLIC HIGHWAY**

Project: TH 9003-1

W.O.: K61008

Parcel: 74-0203 A

Assessor's Parcel: 222-110-30  
72-5

LAURA L. PETERSON, a widow

hereinafter designated Grantor(s), represent that she is the owner(s) of the hereinafter described real property and for valuable consideration, receipt of which is acknowledged, hereby make(s) an Irrevocable Offer of Dedication of the hereinafter described real property for the following public purpose:

**PUBLIC HIGHWAY**

The real property referred to above is situate in the unincorporated area of the County of San Diego, State of California, and is more particularly described as follows:

Parcel 74-0203 A (2-21-74) (400)

Those portions of Section 26 and Section 27, Township 12 South, Range 3 West, San Bernardino Meridian in the County of San Diego, State of California, according to United States Government Survey, included in that land conveyed to Laura L. Peterson by Decree of Final Distribution in Superior Court of the State of California, Case No. PN 1178 recorded the 3rd day of February 1971 at File/Page No. 21270 in the Office of the Recorder of said County, described as follows:

A strip of land 60.00 feet in width lying 30.00 feet on each side of the following described centerline:

Beginning at the Southeast corner of said Section 27; thence Northerly along the Easterly line of said Section 27, North  $01^{\circ}13'49''$  East, 1381.82 feet to the Southerly line of the Northeast Quarter of the Southeast Quarter of said Section 27; thence along said Southerly line South  $89^{\circ}51'14''$  West, 786.32 feet, thence South  $27^{\circ}46'02''$  West, 16.57 feet to the TRUE POINT OF BEGINNING; thence North  $27^{\circ}46'02''$  East, 1687.95 feet to the beginning of a tangent 900.00 foot radius curve,

(RPP Form 10-7/12/72)

74-076241

ACENDA #3.10

This Offer of Dedication is made pursuant to Section 7050 of the Government Code of the State of California and may be accepted at any time by the city council of the city within which such real property is located at the time of acceptance or, if located in the unincorporated territory, by the Board of Supervisors of the County of San Diego.

This Offer of Dedication may be terminated and the right to accept such offer abandoned in the same manner as is prescribed for the vacation of streets or highways by Part 3 of Division 9 or Chapter 2 of Division 2 of Streets and Highways Code of the State of California, whichever is applicable. Such termination and abandonment may be made by the city council of the city within which such real property is located, or if located in the unincorporated territory, by the Board of Supervisors of the County of San Diego.

This Offer of Dedication shall be irrevocable and shall be binding on the Grantor (s) her heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF the Grantor (s) has caused this Irrevocable Offer of Dedication to be executed this 5 day of March, 19 74

Laura L. Peterson  
Laura L. Peterson

I certify on behalf of the Board of Supervisors of the County of San Diego pursuant to authority conferred by Resolution of said Board adopted on October 12, 1971 that the County of San Diego consents to the making of the foregoing Irrevocable Offer and consents to recordation thereof by its duly authorized officer.

Dated March 15, 1974

200  
gm

R. Y. PFLIMLIN  
Director, Real Property Division



STATE OF California  
County of San Diego

On March 5, 19 74, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Laura L. Peterson

known to me to be the person she whose name is subscribed to the within instrument, and acknowledged that she executed the same.

Witness my hand and official seal.

Betty J. Beach  
Notary Public in and for said County and State

74-076241

WHEN RECORDED, PLEASE MAIL  
THIS INSTRUMENT TO:

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

NO TRANSFER TAX DUE

43

FILE/PAGE NO. **75-092241**  
BOOK 1973  
RECORDED REQUEST OF

CO. REAL PROPERTY DIV.  
**APR 21 2 16 PM '75**

OFFICIAL RECORDS  
SAN DIEGO COUNTY, CALIF.  
HARLEY F. BLOOM  
RECORDER

NO FEE

SPACE ABOVE FOR RECORDER'S USE ONLY

**IRREVOCABLE OFFER TO DEDICATE REAL PROPERTY**  
FOR.....PUBLIC HIGHWAY.....

TM 10513  
Project: .....Twin Oaks Valley Road  
W. O.: .....TE0200  
Parcel: .....75-0213-A  
Assessor's Parcel: .....222-120-09  
Log No.: 157-2

.....ROBERT H. WEBER.....

hereinafter designated Grantor(s), represent that .....he/she/it..... the owner(s) of the hereinafter described real property and for valuable consideration, receipt of which is acknowledged, hereby make(s) an Irrevocable Offer of Dedication of the hereinafter described real property for the following public purpose:

PUBLIC HIGHWAY

The real property referred to above is situate in the unincorporated area of the County of San Diego, State of California, and is more particularly described as follows:

Parcel No. 75-0213-A (3-18-75) (7r&)

A strip of land 60.00 feet in width in that portion of the Northwest Quarter of Section 26, Township 12 South, Range 3 West, San Bernardino Meridian, according to United States Government Survey, in the County of San Diego, State of California, conveyed to Robert H. Weber in deed recorded in the Office of the County Recorder of San Diego County, August 19, 1974 as File/Page No. 74-224878, the sidelines of said strip lying 30.00 feet on each side of the following described centerline:

Commencing at a point in the Westerly line of said Northwest Quarter of Section 26 distant thereon North 01°27'29" West, 18.85 feet from the Southwest corner thereof; thence North 29°56'56" East, a distance of 51.13 feet to the beginning of a tangent 900 foot radius curve, concave Southeasterly; thence Northeasterly along the arc of said curve, through a central angle of 34°48'08", a distance of 546.67 feet to the TRUE POINT OF BEGINNING; thence continuing Northeasterly along the arc of said curve, through a central angle of 16°52'42", a distance of 265.12 feet; thence tangent to

(RPD Form 10—7/12/72)

75-092241

AGENDA #3.12



This Offer of Dedication is made pursuant to Section 7050 of the Government Code of the State of California and may be accepted at any time by the city council of the city within which such real property is located at the time of acceptance or, if located in the unincorporated territory, by the Board of Supervisors of the County of San Diego.

This Offer of Dedication may be terminated and the right to accept such offer abandoned in the same manner as is prescribed for the vacation of streets or highways by Part 3 of Division 9 or Chapter 2 of Division 2 of Streets and Highways Code of the State of California, whichever is applicable. Such termination and abandonment may be made by the city council of the city within which such real property is located, or if located in the unincorporated territory, by the Board of Supervisors of the County of San Diego.

This Offer of Dedication shall be Irrevocable and shall be binding on the Grantor(s) his heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF the Grantor(s) has caused this Irrevocable Offer of Dedication to be executed this 31<sup>st</sup> day of MARCH, 1975.

Robert H. Weber  
ROBERT H. WEBER

I certify on behalf of the Board of Supervisors of the County of San Diego pursuant to authority conferred by Resolution of said Board adopted on October 12, 1971 that the County of San Diego consents to the making of the foregoing Irrevocable Offer and consents to recordation thereof by its duly authorized officer.

Dated April 4/1975

[Signature]  
B. J. PELMILIN  
Director, Real Property Division

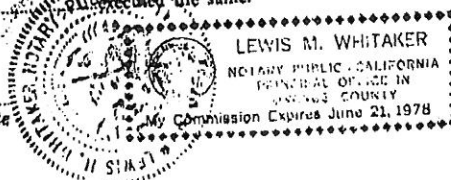
STATE OF California ss.  
County of Orange

On MARCH 31, 1975, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Robert H. Weber

known to me to be the person he whose name is subscribed to the within instrument, and acknowledged that he executed the same.

Witness my hand and official seal.

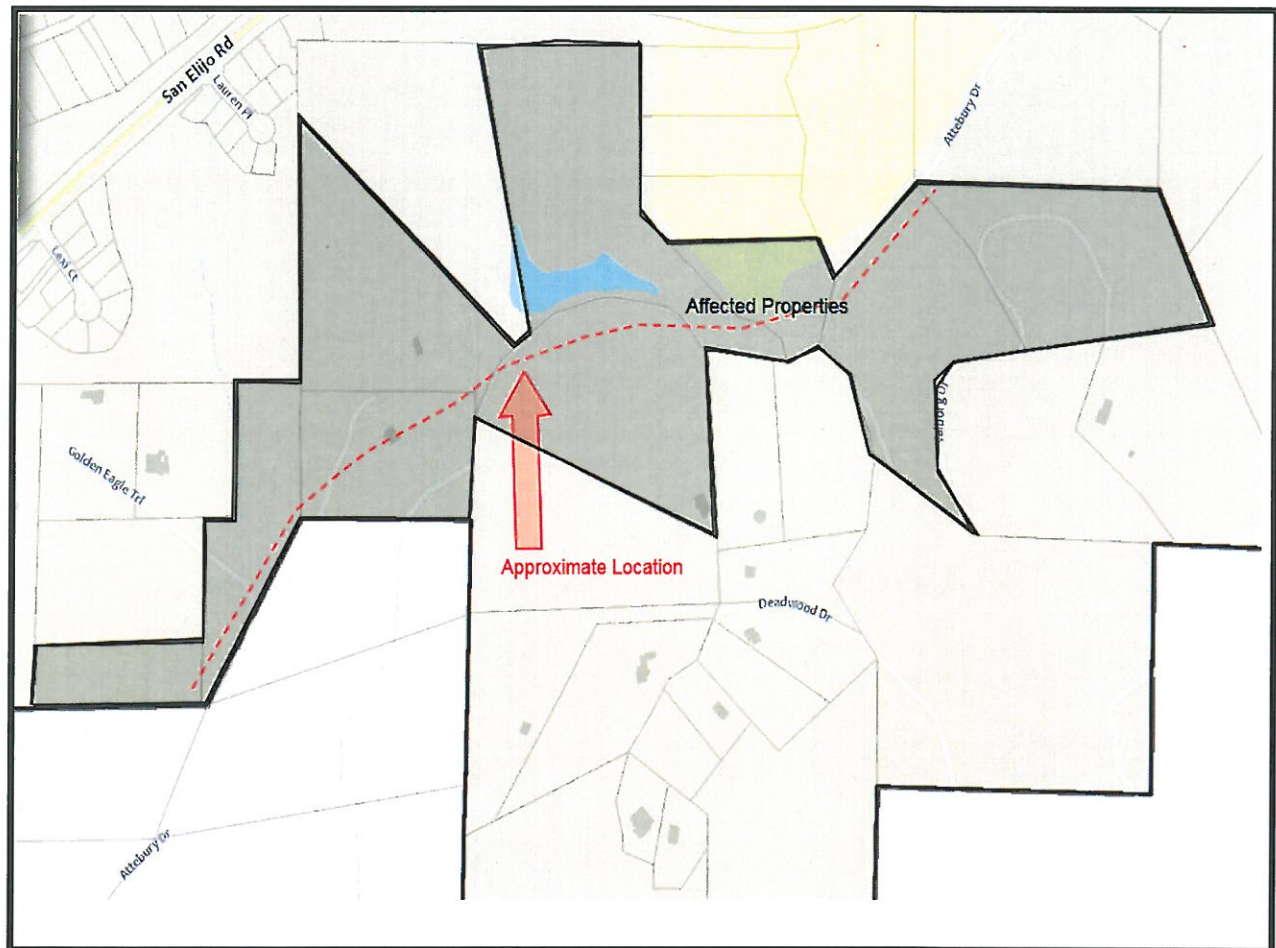
Lewis M. Whitaker  
Notary Public in and for said County and State



75-092241

**ATTACHMENT A**

**Vicinity Map**



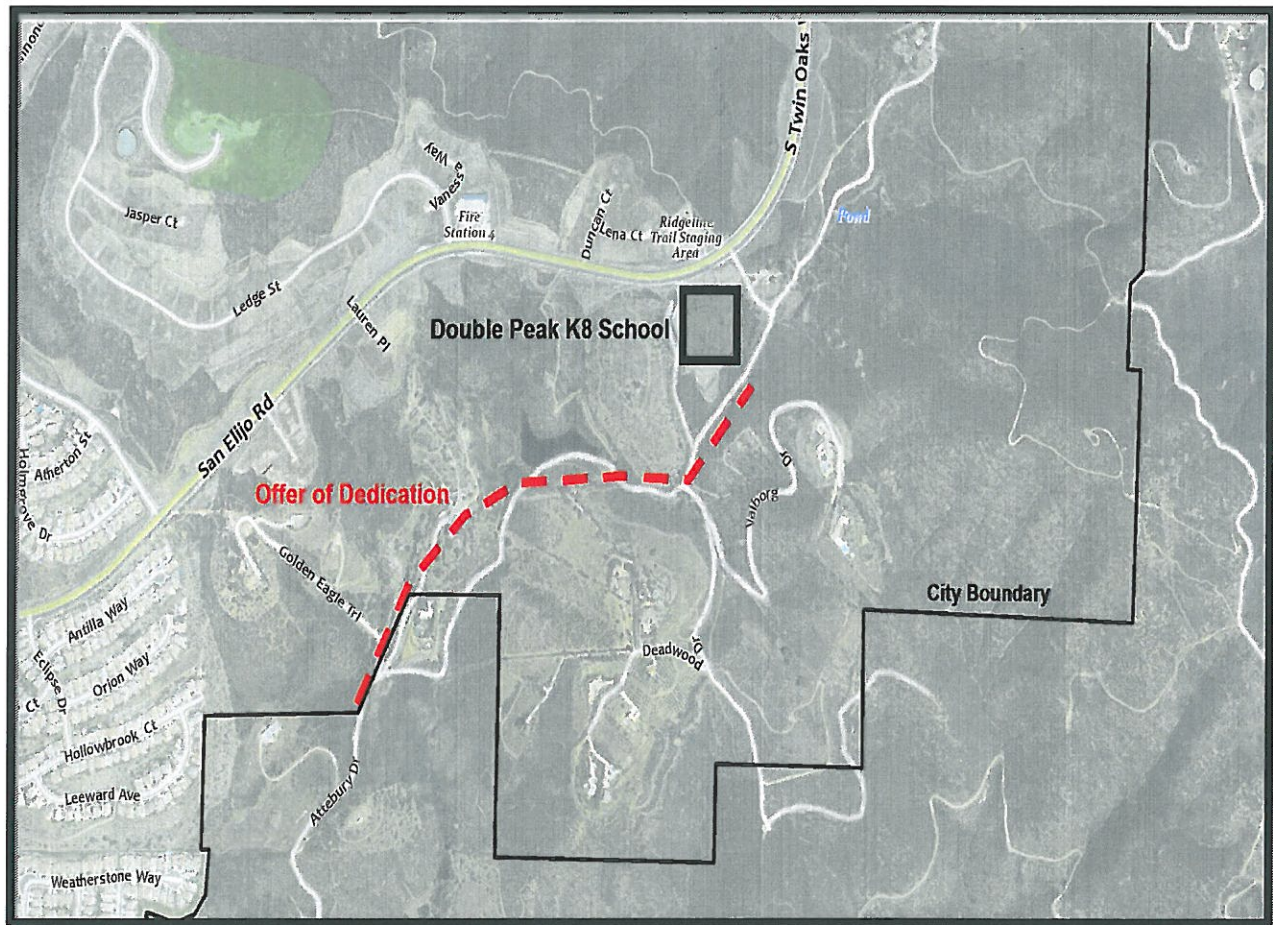
**PA18-0005**

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AGENDA #3.14

## ATTACHMENT B

### Aerial Map



North

PA18-0005

APNs: 679-040-08-00, 679-040-04-00, 679-040-05-00, 222-121-16-00, 222-121-14-00, 222-121-37-00, 222-121-34-00, 222-121-12-00, and 222-121-11-00

AGENDA #3.15