



DATE: November 17, 2020

File: UP 20-01

TO: ZONING ADMINISTRATOR

FROM: Dexter O'Connell, Associate Planner. dexter.oconnell@chicoca.gov

RE: Use Permit 20-01 (Chico Electric Solar Primary Use)
Parcel at Yosemite Drive, Donner Lane, and Trinity Lane. APN 018-160-047

RECOMMENDATION

Planning staff recommends that the Zoning Administrator find that this project is categorically exempt from further environmental review and approve Use Permit 20-01 (Chico Electric Solar Primary Use) based on the findings and subject to the recommended conditions of approval.

BACKGROUND AND ANALYSIS

This is a request for a Use Permit to allow a solar collector array as a primary use in the OS2 (Secondary Open Space) zone district. The site consists of a single parcel with frontage on Yosemite Drive, Donner Lane and Trinity Lane (see **Attachment A**, Location Map) containing a well and pump, as well as a thoroughly treed slope of open space.

The site consists of approximately 1.61 acres and is designated Secondary Open Space (SOS) on the General Plan Land Use Diagram and zoned OS2 (Secondary Open Space). Pursuant to Chico Municipal Code (CMC) Section 19.50.020, Table 4-12, a use permit is needed to authorize a utility services use in the OS2 zone district. The proposed solar collector array is considered such a use.

The project involves the installation of 51 solar collectors arranged in two banks of 24 and one bank of 3 on the eastern end of the property (see **Attachment B**, Site Plan). Authorization of the Use Permit would allow the construction of the collector array, as well as abandoning any City interest in the previously-conditioned requirement for the establishment of an "easement for flowage" over the portion of the parcel where the collectors will be installed (see **Attachment C**).

DISCUSSION

The applicant originally sought an electrical permit for the proposed the solar panels through the Building Division in December of 2019, at which point it was determined by Staff that the applicant must first obtain approval of a Conditional Use Permit from the Planning Division.

Conditions of approval for the original subdivision of California Park required the placement of an "easement for flowage" over the entirety of the subject parcel. That condition of approval represents a Health and Safety issue, and the abandonment of the condition through the approval of this Use Permit would facilitate the legal placement of the collector array at the proposed location.

No parking or other site improvements are required except those necessary to install the collector array. Significant tree removal is proposed (see **Attachment D**, Tree Removal and Mitigation Plan) and appropriate mitigation is required by Condition #7.

Any expansion of the solar array beyond what is shown on the site plan would, per Condition #3, require further evaluation of potential impacts and modification of this Use Permit in conjunction with a noticed Public Hearing.

Chico Municipal Code Section 19.50.020 allows utility services uses in the OS2 zone district, subject to use permit approval, and this use is appropriately qualified in that category, though Chico Electric is not a Public Utility.

This proposed use has the full support of the Neighborhood Association, who as stewards of the property, have shepherded it through the process consistent with General Plan policy PPF5-1.1.3, which encourages the cooperative development of public facilities.

This use is also consistent with General Plan Goals and Policies including SUS-4.3 encouraging green development practices like Solar Energy, SUS-6.2.3 which implements the Climate Action Plan, and OS-4.3 encouraging the reduction in Greenhouse Gas Emissions.

ENVIRONMENTAL REVIEW

The project is categorically exempt from environmental review per CEQA Guidelines Section 15303 as construction of a limited number of new small facilities or structures.

FINDINGS

Following a public hearing, the Zoning Administrator may approve a use permit application, with or without conditions, only if all of the following findings can be made:

Use Permit Findings

- A. *The proposed use is allowed within the subject zoning district and complies with all of the applicable provisions of Chapter 19.24 (Use Permits).*

Chico Municipal Code Section 19.50.020 allows utility services uses in the OS2 zone district, subject to use permit approval. This use permit has been processed in accordance with the requirements of Chapter 19.24.

- B. *The proposed use would not be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of the proposed use.*

No impacts to the health, safety, or welfare of the neighborhood have been identified. While trees will be removed, they will be mitigated appropriately, and neighbors will

benefit from the clean energy provided. The project has been conditioned to receive additional review and approval if additional trees are removed.

- C. *The proposed use will not be detrimental and/or injurious to property and improvements in the neighborhood of the proposed use, as well as the general welfare of the City.*

The proposed solar collector array will not generate any significant new impacts to traffic or to public improvements (as conditioned to mitigate for tree removal) in the area as the project is located in a vacant open space area. No aspects of the project have been deemed to be detrimental to the general welfare of the City.

- D. *The proposed use will be consistent with the policies, standards, and land use designations established by the General Plan.*

The proposed use is consistent with the site's General Plan land use designation and several actions, policies and goals found in the General Plan including SUS-4.3, SUS-6.2.3, and OS-4.3 as discussed above.

- E. *The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity.*

The solar collectors will serve the well and pump on the subject parcel and uses including the lake aeration system on surrounding properties. While the proposed solar collectors would be visible from certain view areas from neighboring properties and roads, the collector arrays have been positioned in the center of an area surrounded by trees that also allow for solar access and partial screening from public views.

CONDITIONS OF PROJECT APPROVAL

1. Use Permit 20-01 authorizes the construction of solar collector arrays in substantial accord with the "Site Plan to Accompany Use Permit 20-01 (Chico Electric Solar Primary Use)" and in compliance with all other conditions of approval.
2. The applicant shall provide a note on the front page of all building plans that the project shall be constructed in compliance with UP 20-01.
3. Any expansion of the solar collector array shall be authorized only by a modification of this Use Permit in a noticed public hearing.
4. The requirement for an "Easement for Flowage" to be established over this entire parcel required as a Condition of Approval of California Park Subdivision No. 1-A is hereby abandoned with respect to the portion of the parcel upon which the solar collector array will be located.
5. The applicant shall comply with all other State and Local Code provisions, including those

of the Building Division, Public Works Department, Fire Department, and Butte County Environmental Health. The applicant is responsible for contacting these offices to verify the need for permits.

6. The applicant shall pay all development impact fees required by the Building Division, Public Works Department, Fire Department, Butte County Environmental Health, and any other entity requiring such fees related to this project prior to the issuance of a Certificate of Occupancy.
7. Applicant shall obtain written approval from the City of Chico's Urban Forester prior to removal of any trees. As required by CMC 16.66, any trees removed and requiring mitigation shall be replaced as follows:
 - a) On-site. For every six inches DBH removed, a new 15-gallon tree shall be planted on-site. Replacement trees shall be of similar species, unless otherwise approved by the urban forest manager, and shall be placed in areas dedicated for tree plantings. New plantings' survival shall be ensured for three years after the date of planting and shall be verified by the applicant upon request by the director. If any replacement trees die or fail within the first three years of their planting, then the applicant shall pay an in-lieu fee as established by a fee schedule adopted by the City Council.
 - b) Off-site. If it is not feasible or desirable to plant replacement trees on-site, payment of an in-lieu fee as established by a fee schedule adopted by the City Council shall be required.
 - c) Replacement trees shall not receive credit as satisfying shade or street tree requirements otherwise mandated by the municipal code.
 - d) Tree removal shall be subject to the in-lieu fee payment requirements set forth CMC16.66 and fee schedule adopted by the City Council.
 - e) All trees not approved for removal shall be preserved on and adjacent to the project site. A tree preservation plan, including fencing around drip lines and methods for excavation within the drip lines of protected trees to be preserved shall be prepared by the project developer pursuant to CMC 16.66.110 and 19.68.060 for review and approval by planning staff prior to any ground-disturbing activities.
8. In specific, tree mitigation shall be per the provided Tree Mitigation Table..
9. The applicant shall defend, indemnify, and hold harmless the City of Chico, its boards and commissions, officers and employees against and from any and all liabilities, demands, claims, actions or proceedings and costs and expenses incidental thereto (including costs of defense, settlement and reasonable attorney's fees), which any or all of them may suffer, incur, be responsible for or pay out as a result of or in connection with any challenge to or claim regarding the legality, validity, processing or adequacy associated with: (i) this requested entitlement; (ii) the proceedings undertaken in connection with the adoption or approval of this entitlement; (iii) any subsequent approvals or permits relating to this entitlement; (iv) the processing of occupancy permits and (v) any amendments to the approvals for this entitlement. The City of Chico shall promptly notify the applicant of any

claim, action or proceeding which may be filed and shall cooperate fully in the defense, as provided for in Government code section 66474.9.

10. If during ground disturbing activities, any bones, pottery fragments or other potential cultural resources are encountered, the applicant or their supervising contractor shall cease all work within the area of the find and notify the Community Development Department. A professional archaeologist who meets the Secretary of the Interior's Professional Qualification Standards for prehistoric and historic archaeology and who is familiar with the archaeological record of Butte County, shall be retained by the applicant to evaluate the significance of the find. Community Development Department staff shall notify all local tribes on the consultation list maintained by the State of California Native American Heritage Commission, to provide local tribes the opportunity to monitor evaluation of the site. Site work shall not resume until the archaeologist conducts sufficient research, testing and analysis of the archaeological evidence to make a determination that the resource is either not cultural in origin or not potentially significant. If a potentially significant resource is encountered, the archaeologist shall prepare a mitigation plan for review and approval by the Community Development Department, including recommendations for total data recovery, Tribal monitoring, disposition protocol, or avoidance, if applicable. All measures determined by the Community Development Director to be appropriate shall be implemented pursuant to the terms of the archaeologist's report. The preceding requirement shall be incorporated into construction contracts and documents to ensure contractor knowledge and responsibility for the proper implementation.

PUBLIC CONTACT

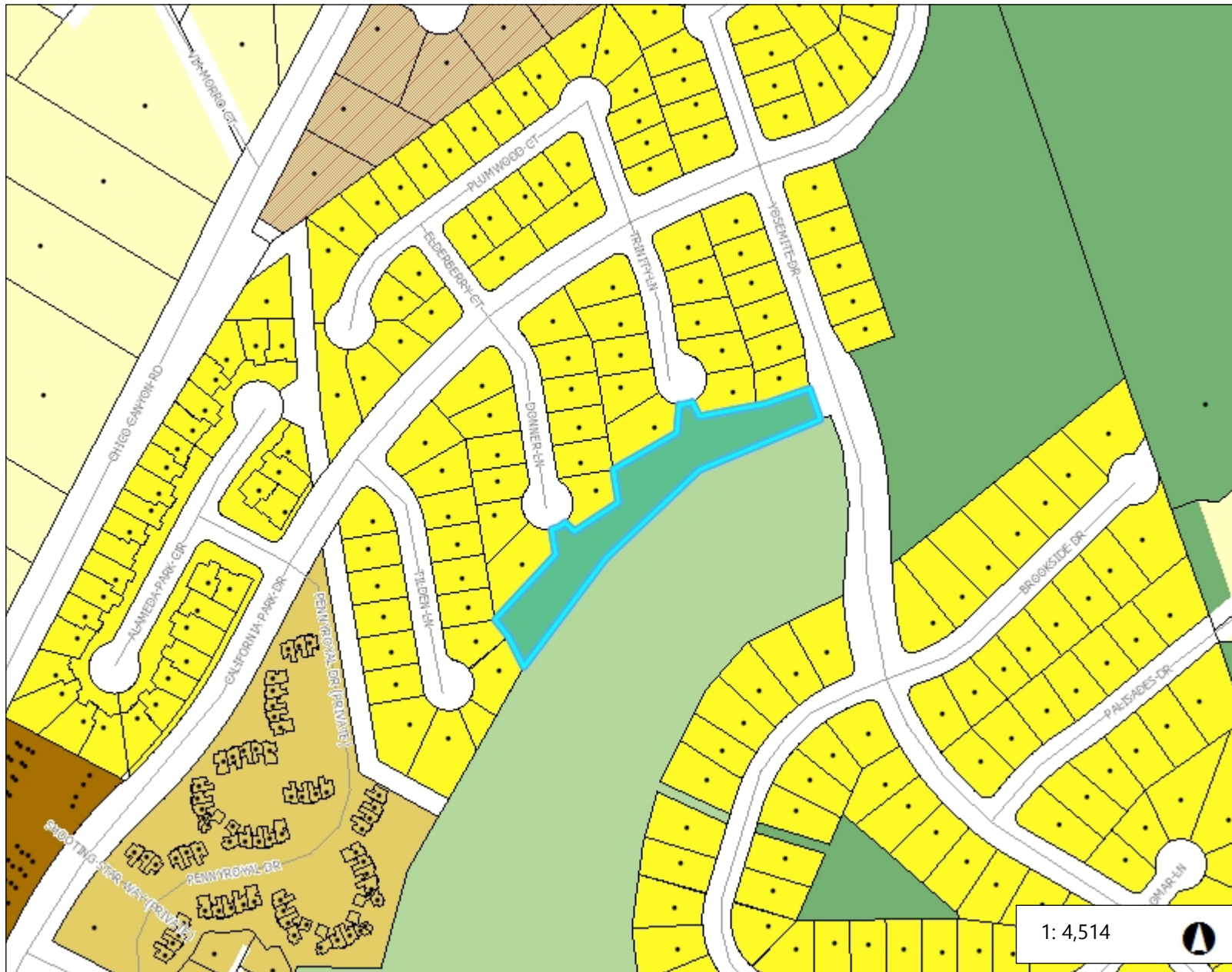
A notice was published in the Chico Enterprise Record 10 days prior to the meeting date and notices were mailed out to all property owners and tenants within 500 feet of the project site

DISTRIBUTION:

Mike Sawley, Zoning Administrator
Jason Plumb, Chico Electric. 36 W Eaton Road, Chico, CA 95973. jplumb@chicoelectric.com
Gary Taylor. Gary@Hignell.com
Janet Pearce. jcpearce2015@gmail.com

ATTACHMENTS:

- A. Location Map
- B. Site Plan
- C. Development Engineering Memo Regarding Easement
- D. Tree Removal and Mitigation Plan



Legend

- Addresses
- Assessor Parcels
- Plan Area
- ROW
- RS-3 Suburban Residential 3 acre
- RS-2 Suburban Residential 2 acre
- RS-1 Suburban Residential 1 acre
- RS-20 Suburban Residential 20,000
- R1-15 Low Density Residential 15,000
- R1-10 Low Density Residential 10,000
- R1 Low Density Residential
- R2 Medium Density Residential
- R3 Medium-High Density Residential
- R4 High Density Residential
- RMU Residential Mixed Use
- OR Office Residential
- OC Office Commercial
- CN Neighborhood Commercial
- CC Community Commercial
- DS Downtown South
- DN Downtown North
- CS Services Commercial
- CR Regional Commercial
- ML Light Manufacturing
- MG General Manufacturing
- IOMU Industrial Office Mixed-Use

Notes

752.3 0 376.17 752.3 Feet

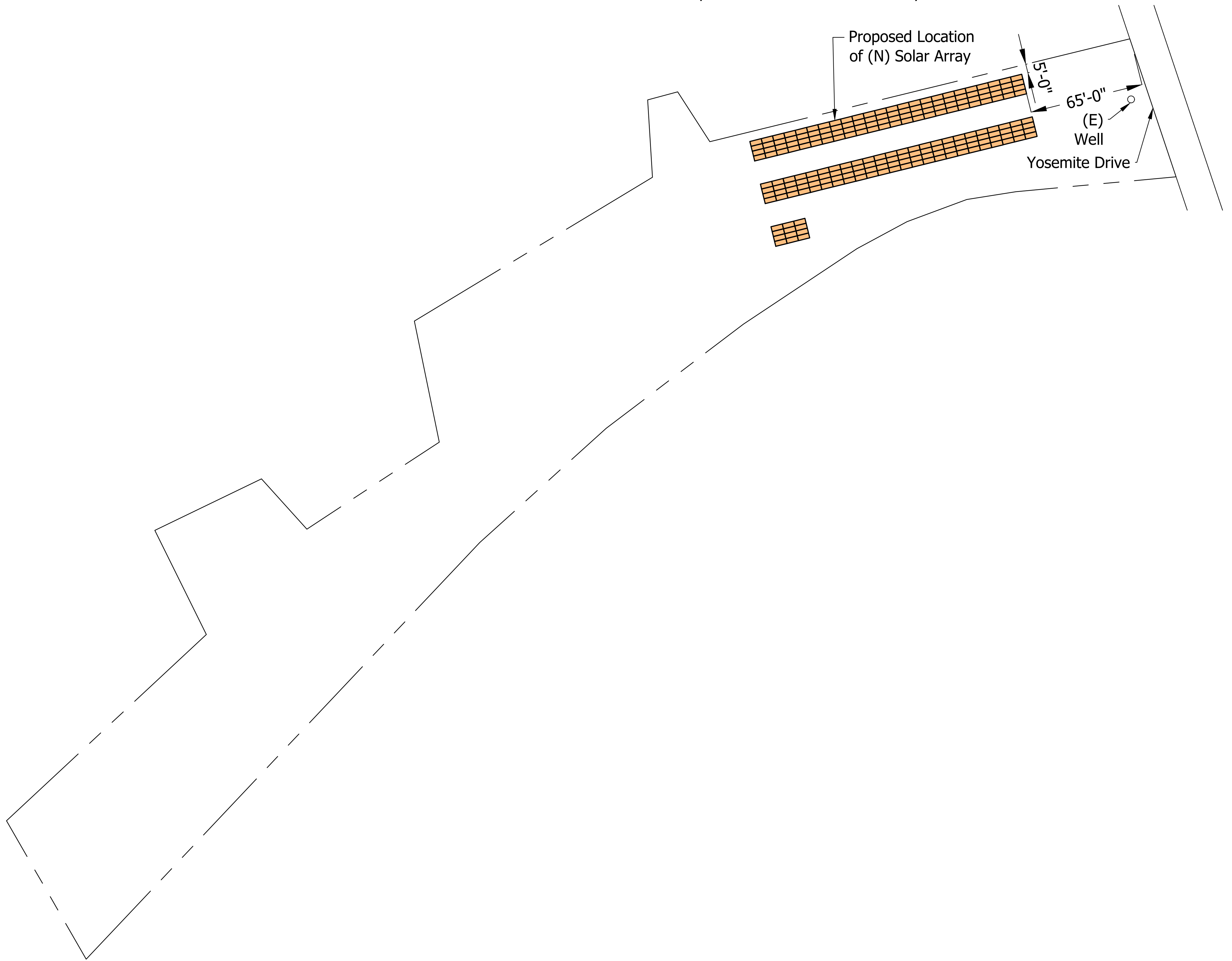
WGS_1984_Web_Mercator_Auxiliary_Sphere
© Latitude Geographics Group Ltd.

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

*Solar to be located at:
 "Common area east of Yosemite Dr. and south of Trinity Lane"

**Clear brush to be kept in area 10' around solar arrays



A **PLOT PLAN**
 1" = 70'-0"



Drawings and written material appearing herein constitute original and unpublished work of Chico Electric and may not be duplicated, used or disclosed without prior written consent of Chico Electric.

ELECTRICAL CONTRACTING, SOLAR ENERGY & SERVICE

CHICO ELECTRIC

Office: (530) 891-1933
 Fax: (530) 891-6749

CA Lic. #454345
 36 W. Eaton Road Chico, CA 95973 www.chicoelectric.com

DATE: 10/5/20
 DRAWN: JP
 CHECKED: RS
 PROJECT: 19-4684
 SCALE: As Noted

Address: Chico, CA
 APN: 018-160-047-000

Cal Park

SHEET:
Plot
 Attachment B

We, CITY SCIENCES CORPORATION, a California Corporation, as owner of the land included within CALIFORNIA PARK SUBDIVISION UNIT NO. ONE A as shown on the annexed map and FIRST AMERICAN TITLE INSURANCE COMPANY, a California Corporation, as Trustee under Deed of Trust dated August 30, 1971 and recorded August 31, 1971, in Book 1697 Page 511 Butte County Official Records do hereby certify that we are the only persons whose consent is necessary to pass clear title to said land and we do hereby consent to the preparation and recordation of said map as shown within the colored borderlines. California Park Drive, Alameda Park Circle, Trinity Lane, Donner Lane, Tilden Lane, Yosemite Drive, Bruce Road and E. 8th Street are hereby offered for dedication for public use for City Street purposes. We also offer for dedication for public use, and do hereby dedicate for specific purposes, the following:

(a) Rights of way and easements for water, gas, sewer, and drainage pipes, and for overhead and underground wires for electric and telephone service, together with any and all appurtenances appertaining thereto, on, over, and under those strips of land lying along the frontage of all lots and between the rear and/or side lines of lots and the lines designated "P.U.E." and/or "DRAINAGE EASEMENT".

(b) Easement for light and air over those strips of land lying between the front and/or side lines of lots as required by City of Chico Ordinance or as shown hereon and designated "SETBACK LINE", said strips to be kept open and free of structures.

(c) Easement for flowage over Parcels A, B, C and D as shown hereon, said easements to be kept open and free of structures.

CITY SCIENCES CORPORATION,
a California Corporation

John N. Graham, Jr.
JOHN N. GRAHAM, JR.
President

June W. Graham
JUNE W. GRAHAM
Secretary

FIRST AMERICAN TITLE INSURANCE COMPANY,
a California Corporation

Jack D. Brown
JACK D. BROWN
Assistant Secretary

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss

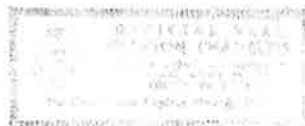
On this 8th day of December, 1971, before me Irwin R. Laags a Notary Public in and for the County of Los Angeles, personally appeared JOHN N. GRAHAM, JR. and JUNE W. GRAHAM known to me to be the President and Secretary respectively of CITY SCIENCES CORPORATION, the Corporation that executed the within instrument and acknowledged to me that said Corporation executed the same.



Notary Public Irwin R. Laags
My Commission expires MAR 6, 1973
Number 217068

STATE OF CALIFORNIA)
COUNTY OF BUTTE) ss

On this 7th day of MARCH, 1972, before me Clayton Chambers a Notary Public in and for the County of Butte, personally appeared JACK D. BROWN known to me to be the Assistant Secretary of FIRST AMERICAN TITLE INSURANCE COMPANY, the Corporation that executed the within instrument and acknowledged to me that said Corporation executed the same.



Notary Public Clayton Chambers
My Commission expires MAY 8, 1973

I, WALTER B. GRIMES, do hereby certify that I am a Registered Civil Engineer of the State of California, that the annexed map of CALIFORNIA PARK SUBDIVISION UNIT NO. ONE A correctly represents a survey made under my supervision in October, 1971, that it is true and complete as shown, that monuments shown thereon exist and are of the character and occupy the positions shown and are sufficient to enable the survey to be retraced.

Walter B. Grimes
WALTER B. GRIMES R.C.E. 7294



I, F. H. SEELY JR., AUDITOR of the County of Butte, State of California, do hereby certify that there are no tax liens against CALIFORNIA PARK SUBDIVISION UNIT NO. ONE A as herein set forth, or unpaid State, County, Municipal or Local taxes or special assessments collected as taxes, except taxes or special assessments not yet payable. Taxes or special assessments which are a lien but not yet payable I estimate to be in the amount of \$2,600.00.

F. H. Seely, Jr.
F. H. SEELY JR., County Auditor

I, CLARK NELSON, COUNTY CLERK of the County of Butte, State of California, do hereby acknowledge the receipt of satisfactory security in the Auditor's estimated amount of \$2,600.00 to insure payment of taxes which are a lien but not yet payable.

Clark A. Nelson by _____
CLARK NELSON - County Clerk Deputy

I, JOHN P. HOOLE, SECRETARY of the PLANNING COMMISSION of the City of Chico, State of California, do hereby certify that the annexed final map of CALIFORNIA PARK SUBDIVISION UNIT NO. ONE A conforms substantially with the subdivision design shown on the revised Tentative Map which was approved by this commission on the 6th day of December, 1971.

John P. Hoole
JOHN P. HOOLE
Secretary of the Planning Commission

I, ALLAN J. SAVITZ, CITY ENGINEER of the City of Chico, State of California, do hereby certify that I have examined the final map of CALIFORNIA PARK SUBDIVISION UNIT NO. ONE A, that it is substantially the same as appeared on the Tentative Map on file and any approved alterations thereof, that all the provisions of the Subdivision Map Act of the Statutes of California and any local ordinances applicable at the time of approval of said Tentative Map have been complied with and I am satisfied that the map is technically correct.

Allan J. Savitz
ALLAN J. SAVITZ R.C.E. 11838

I, the undersigned, TAX COLLECTOR of the City of Chico, State of California, do hereby certify that there are no liens against CALIFORNIA PARK SUBDIVISION UNIT NO. ONE A as herein set forth for unpaid State, County, Municipal or Local taxes, or special assessments collected as taxes for the fiscal year commencing July 1, 1971, and ending June 30, 1972, except taxes or assessments not yet payable. Taxes or special assessments which are a lien against said subdivision but not yet payable I estimate to be in the amount of \$-0-.

I do hereby acknowledge the receipt of satisfactory security in the foregoing estimated amount of NONE to insure payment of taxes which are a lien but not yet payable.

John H. Naughton
City Tax Collector

I, BARBARA EVANS, CITY CLERK of the City of Chico, State of California, do hereby certify that on the 16th day of May, 1972, the City Council of the City of Chico did officially approve the subdivision map of CALIFORNIA PARK SUBDIVISION UNIT NO. ONE A. California Park Drive, Alameda Park Circle, Trinity Lane, Donner Lane, Tilden Lane, Yosemite Drive, Bruce Road and E. 8th Street as shown within the colored border lines on said map and offered for dedication were accepted on behalf of the City for City Street purposes.

Barbara Evans
BARBARA EVANS City Clerk

Recorded in the office of the Recorder of the County of Butte, State of California at the request of Mid Valley Title and Escrow Co. this 15 day of June, 1972, at 9:00 A.M. in Map Book 36 at Pages 85, 86, 87, 88, Serial No. 55119

Louise Klueder by _____
LOUISE KLUENDER - County Recorder Deputy

Subd. # 47

CALIFORNIA PARK SUBDIVISION UNIT NO. ONE - A

PORTIONS OF SECTIONS 17, 18, & 19, T. 22N., R. 2E., M.D.B. & M.
CHICO BUTTE COUNTY CALIFORNIA

OWNER AND SUBDIVIDER
CITY SCIENCES CORPORATION
ENGINO, CALIFORNIA

SCALE 1" = 100'

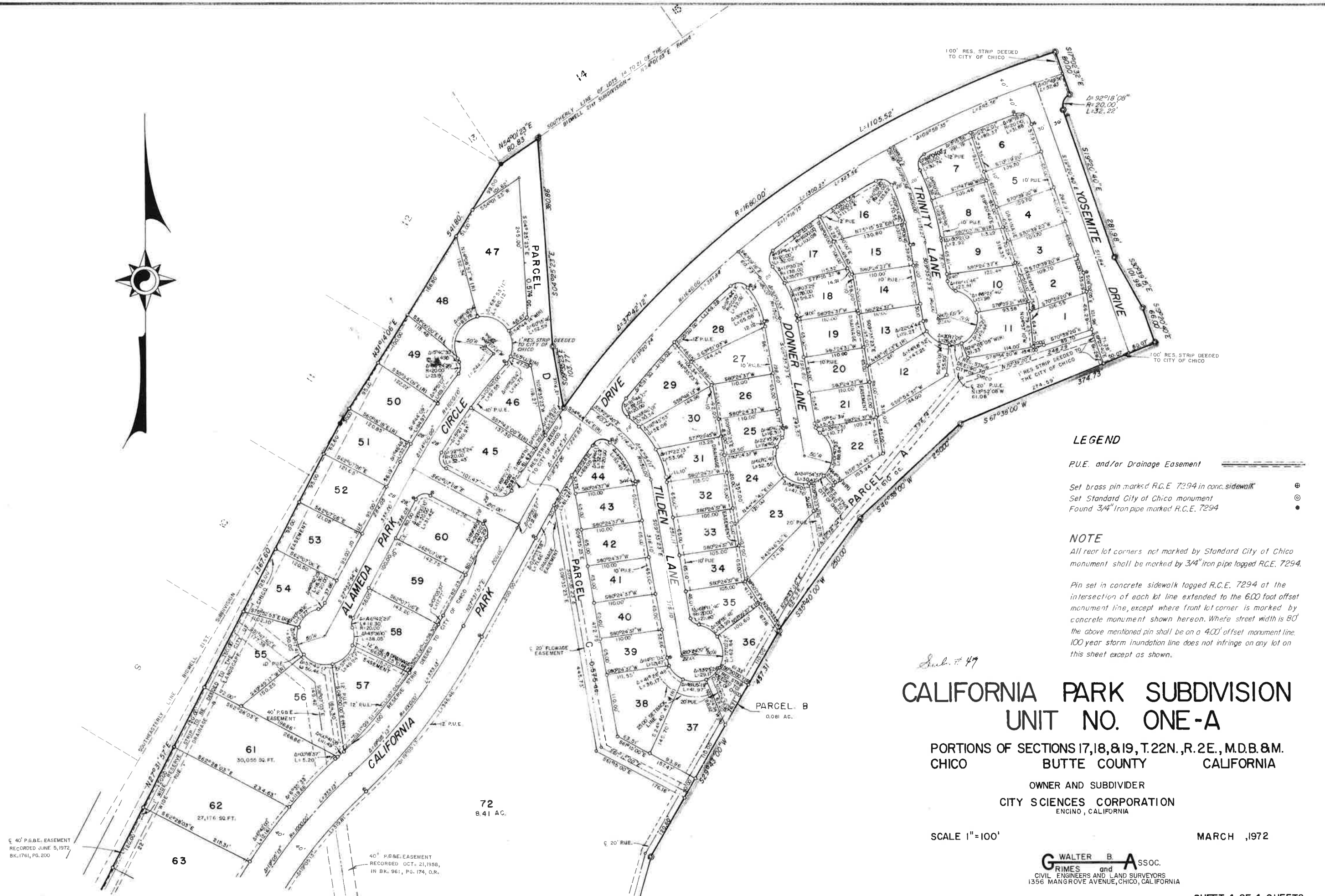
MARCH, 1972

WALTER B. GRIMES and ASSOC.
CIVIL ENGINEERS AND LAND SURVEYORS
1356 MANGROVE AVENUE, CHICO, CALIFORNIA

SHEET 1 OF 4 SHEETS

Attachment C

3-14-72



LEGEND

P.U.E. and/or Drainage Easement

- Set brass pin marks R.C.E. 7294 in conc. sidewalk
- Set Standard City of Chico monument
- Found 3/4" Iron pipe marked R.C.E. 7294

NOTE

All rear lot corners not marked by Standard City of Chico monument shall be marked by 3/4" iron pipe tagged R.C.E. 7294.

Pin set in concrete sidewalk tagged R.C.E. 7294 at the intersection of each lot line extended to the 6.00 foot offset monument line, except where front lot corner is marked by concrete monument shown hereon. Where street width is 80' the above mentioned pin shall be on a 4.00' offset monument line. 100 year storm inundation line does not infringe on any lot on this sheet except as shown.

**CALIFORNIA PARK SUBDIVISION
UNIT NO. ONE-A**

PORTIONS OF SECTIONS 17, 18, & 19, T. 22N., R. 2E., M.D.B. & M.
CHICO BUTTE COUNTY CALIFORNIA

OWNER AND SUBDIVIDER
CITY SCIENCES CORPORATION
ENCINO, CALIFORNIA

SCALE 1" = 100'

MARCH, 1972

G. WALTER B. ASSOC.
RIMES and
CIVIL ENGINEERS AND LAND SURVEYORS
1356 MANGROVE AVENUE, CHICO, CALIFORNIA

SHEET 4 OF 4 SHEETS

40' P.G.B.E. EASEMENT
RECORDED JUNE 5, 1972
BK. 1761, PG. 200

40' P.G.B.E. EASEMENT
RECORDED OCT. 21, 1956,
IN BK. 961, PG. 174, O.R.

1-25-72 2-22-72 Attachment C
2-22-72



1.6m Solar Proje

TREE MITIGATION TABLE

tree #	Species	DBH	Total mitigated caliper"	>40" Circ?	Mitigation required?
1	Live oak	12	12		Y
2	Live oak	8,5	13	41	Y
3	Live oak	6,4	0	N	N
4	Live oak	16	16		Y
5	Live oak	5	0		N
5A	Live oak	6,4	0	N	N
6	Live oak	6,6,6,	18	66	Y
7	Live oak	5,4	0	N	N
8	Live oak	28	28		Y
9	Live oak	4,4,4,4	16	50	Y
10	Live oak	9,5	14	44	Y
11	Live oak	8	8		Y
12	Live oak	8,8	16	50	Y
13	Live oak	9,9	18	57	Y
14	Valley oak	24	24		Y
15	Live oak	8	8		Y
16	Live oak	8	8		Y
17	Live oak	8	8		Y
18	Live oak	8,7,6	21	65	Y
19	Live oak	10,10,4	24	75	Y
20	Live oak	12,8,4,6	30	125	Y
21	Pine	24	24		Y
22	Live oak	2	0		N
23	Live oak	6	6		Y
24	Live oak	5	0		N
25	Live oak	12	12		Y
26a	Live oak	7,4	0		n
26	Blue oak	12	12		Y
27	Live oak	5	0		N
28	Live oak	8,8	16	50	Y
29	Live oak	7	7		Y
30	Live oak	6	6		Y
31	Live oak	3	0		N
32	Live oak	10	10		Y
33	Live oak	10	10		Y
34	Live oak	12	12		Y
35	Live oak	12	12		Y
36	Live oak	8	8		Y

TOTAL MITIGATED INCHES 417

NUMBER OF TREES TO BE MITIGATED 69.5
 FEE IN LIEU OF PLANTING \$ 36,869.75